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SENATE—Thursday, June 27, 2002

The Senate met at 9:31 a.m. and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer to Almighty God, the supreme Judge of the world, will be led by the Senate Chaplain, the Rev. Dr. Lloyd J. Ogilvie. Dr. Ogilvie, please.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Creator, Sustainer and Providential source of all our blessings. We praise you for the freedom of religion in America guaranteed by the Bill of Rights and the Constitution. There is no separation between God and State. With gratitude we declare our motto "In God we trust." Though that trust may be expressed in different religions, we do proclaim You as ultimate Sovereign of our Nation. Our Founders declared their trust in You and in each stage of our development You have guided us through peril and prosperity, peace and war. Thank You for Your faithfulness to respond to our confession of trust in You.

It is with reverence that in a moment we will repeat the words of commitment to trust You which are part of our Pledge of Allegiance to our flag: "One Nation under God, indivisible."

Help us to savor these words this morning. May we never lose a profound sense of awe and wonder over the privilege You have given us to live in this religiously free land. Renew our sense of accountability to You, and never take for granted the freedom we enjoy or the accountability we have to You. As we declare our convictions in the Pledge, we affirm that patriotism is an essential expression of our trust in You.

Specifically for today and its pressing agenda and challenges we affirm we are one Senate united under You to lead a nation that is free to say confidently, "In God We Trust."

God our Sovereign, we continue the work of this busy week with the words and music of the Fourth of July celebration sounding in our souls. We pray together today, remembering the first prayer of dependence prayed for the

delegates to the Continental Congress in 1774 that eventually led to the Declaration of Independence in 1776.

Now before the fireworks begin, work in us the fire of that same dependence on You that has been the secret of truly great leaders throughout our history. We pray for the women and men of this Senate. Enlarge their hearts until they are big enough to contain the gift of Your Spirit; expand their minds until they are capable of thinking Your thoughts; deepen their mutual trust so that they can work harmoniously for what is best for this Nation. You know all the legislation to be debated and voted on before recess. Grant the Senators an unprecedented dependence on You, an unreserved desire to seek Your will, and an unlimited supply of Your supernatural strength.

With renewed dependence on You and renewed interdependence on one another as fellow patriots, help us to be willing, in the spirit of our Founders, to stake our reliance on You and pledge our lives, fortunes, and sacred honor for the next stage of Your strategy for America: God bless America! Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore [Mr. BYRD] led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THANKING THE CHAPLAIN

Mr. DASCHLE. Mr. President, I know I speak for all of our colleagues in thanking Chaplain Ogilvie for his wonderful prayer this morning. He spoke for all of us. We are one nation under God, and we reaffirm that today as

Americans—not as Republicans or as Democrats—and we do so proudly.

SCHEDULE

Mr. DASCHLE. Mr. President, there will be a vote on cloture at 10:30 this morning. The time between now and then will be divided equally between the Republican leader or his designee, who will have the first half of the time, and the Democratic leader or his designee for the second half. Senators should be aware that within the next 50 minutes, we will have a cloture vote, and we will proceed in an effort to try to complete work on the Defense bill today.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for up to 10 minutes each. The first half of the time shall be under the control of the Republican leader or his designee; the second half of the time shall be under the control of the majority leader or his designee.

Who seeks recognition?

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. REED). Without objection, it is so ordered.

The Senator from Minnesota should be aware that the time is presently controlled by the Republican leader.

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I ask the Senator from Minnesota how long he is intending to speak?

Mr. WELLSTONE. I say to my colleague from Texas, probably about 3 minutes. I want to talk about disaster assistance in Minnesota.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senator from Minnesota be allowed to speak for approximately 3 to 4 minutes, after which I ask unanimous consent to be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

FLOODS IN MINNESOTA

Mr. WELLSTONE. Mr. President, as any number of my colleagues may have noted, if they have been watching CNN, northwest Minnesota in the last 3 weeks has been deluged by heavy rainfall causing disasters in 13 northwestern Minnesota counties. We have had massive flooding.

Earlier this week, the President rightly declared these counties disaster areas, which will bring much needed FEMA assistance to individuals and businesses. More help is needed, and the Minnesota Farm Service Agency has estimated that we have 2 million acres in northwest Minnesota that are affected by the flooding, and the losses are expected to be about 70 percent. Most of the producers have carried crop insurance, but the crop insurance cannot come close to compensating for these losses. What I am worried about is FEMA can help us with public infrastructure and SBA can help some of our small businesses, but we need disaster relief for our farmers. Without disaster relief, there is no future for them at all.

The President and the administration are saying that there will not be any more disaster relief money and that whatever assistance goes to these farmers has to come from the farm bill. In other words, money has to be taken from other farmers, taken from corn growers, wheat growers, soybean growers. The President and the administration are saying that our farmers cannot expect any relief until the year 2008, no matter what. That is not going to work for northwestern Minnesota.

The farm bill which we passed is not a disaster assistance bill. It is a bill to stabilize farm income. It is a bill about the rural economies, but it is not about disaster relief. Disaster relief is all about "there but the grace of God go I"—fire in Arizona, drought in South Dakota, flooding in northwest Minnesota.

When the Congress decides to help areas affected by hurricanes and fires, we do not tell people to pull their emergency assistance out of somebody else's highway fund.

Sometimes the Federal Government needs to be there for people, and this is one of those cases. I will be visiting northwest Minnesota again this week

on Saturday afternoon. It is very important that the administration provide this much needed assistance. I do not think as a Senator, in the almost 12 years I have been in the Senate, I have ever voted against disaster relief for any part of the country, because, again, I think this goes to the essence of who we are as a community. Nobody asked for the flooding. Nobody asked for 2 million acres of farmland, 70 percent of it, to be destroyed. Nobody asks for hurricanes or tornados. Nobody asked for the drought. It is "there but for the grace of God go I." We come together as a community and we provide the help for people. That is what disaster relief is about.

I come to the floor to call on the administration to change their mind and to make a commitment to providing this assistance. We had it in the farm bill in the Senate. It was taken out in conference committee for 2001. Now we are talking about even more damage for 2002.

There is no more important issue for the State of Minnesota than to get the help for these farmers. Otherwise, they will not be there. It will be all over. I appeal to the White House: Please change your mind on this matter. We need the help in Minnesota. There will be other States that will need the assistance, as well.

I yield the floor.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Texas is recognized.

Mr. WARNER. Mr. President, the Senator from Texas has an important measure, which I have reviewed. Given the current status of the bill, it is questionable whether it can be brought up on the bill. The Senator is anxious to speak about it. I suggest the Senator send the amendment to the desk and leave it there, making it part of the RECORD as a colloquy.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent the amendment be brought up, and I will speak on it, after which I will withdraw the amendment.

The PRESIDING OFFICER. The Senate is not currently on the bill. The Senate is in a period of morning business.

Mr. WARNER. At some point it may be reviewed in committee or by the Senate, but it is important to be part of the RECORD.

Mrs. HUTCHISON. When does morning business end?

Mr. REID. After the cloture vote.

The PRESIDING OFFICER. Morning business is scheduled to end at 10:30.

Mrs. HUTCHISON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent it be in order for me to call up amendment No. 3928 to the Defense authorization bill.

Mr. REID. Reserving the right to object, I have no objection for calling the bill up as long as the amendment will be withdrawn subsequently.

Mrs. HUTCHISON. That is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003—Resumed

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2514) to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 3928

The PRESIDING OFFICER (Mr. MILLER). The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for herself, Mr. BINGAMAN, Mr. LOTT, Mr. STEVENS, Mr. INOUE, Mr. BUNNING, Mrs. FEINSTEIN, Mr. CRAIG, Ms. COLLINS, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. BOND, Mr. DOMENICI, Mr. BAYH, Mr. NELSON of Nebraska, Mr. BURNS, and Ms. SNOWE, proposes amendment No. 3928.

Mrs. HUTCHISON. I ask unanimous consent reading of the amendment be dispensed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To specify additional selection criteria for the 2005 round of defense base closures and realignments under the Defense Base Closure and Realignment Act of 1990)

At the end of subtitle B of title XXVIII, add the following:

SEC. 2814. ADDITIONAL SELECTION CRITERIA FOR 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

(a) ADDITIONAL SELECTION CRITERIA.—Section 2913 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

“(d) ADDITIONAL CONSIDERATIONS.—The selection criteria for military installations shall also address the following:

“(1) Force structure and mission requirements through 2020, as specified by the document entitled ‘Joint Vision 2020’ issued by the Joint Chiefs of Staff, including—

“(A) mobilization requirements; and

“(B) requirements for utilization of facilities by the Department of Defense and by

other departments and agencies of the United States, including—

“(i) joint use by two or more Armed Forces; and

“(ii) use by one or more reserve components.

“(2) The availability and condition of facilities, land, and associated airspace, including—

“(A) proximity to mobilization points, including points of embarkation for air or rail transportation and ports; and

“(B) current, planned, and programmed military construction.

“(3) Considerations regarding ranges and airspace, including—

“(A) uniqueness; and

“(B) existing or potential physical, electromagnetic, or other encroachment.

“(4) Force protection.

“(5) Costs and effects of relocating critical infrastructure, including—

“(A) military construction costs at receiving military installations and facilities;

“(B) environmental costs, including costs of compliance with Federal and State environmental laws;

“(C) termination costs and other liabilities associated with existing contracts or agreements involving outsourcing or privatization of services, housing, or facilities used by the Department;

“(D) effects on co-located entities of the Department;

“(E) effects on co-located Federal agencies;

“(F) costs of transfers and relocations of civilian personnel, and other workforce considerations.

“(6) Homeland security requirements.

“(7) State or local support for a continued presence by the Department, including—

“(A) current or potential public or private partnerships in support of Department activities; and

“(B) the capacity of States and localities to respond positively to economic effects and other effects.

“(8) Applicable lessons from previous rounds of defense base closure and realignment, including disparities between anticipated savings and actual savings.

“(9) Anticipated savings and other benefits, including—

“(A) enhancement of capabilities through improved use of remaining infrastructure; and

“(B) the capacity to relocate units and other assets.

“(10) Any other considerations that the Secretary of Defense determines appropriate.”.

(b) **WEIGHTING OF CRITERIA FOR TRANSPARENCY PURPOSES.**—Subsection (a) of such section 2913 is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

“(2) **WEIGHTING OF CRITERIA.**—At the same time the Secretary publishes the proposed criteria under paragraph (1), the Secretary shall publish in the Federal Register the formula proposed to be used by the Secretary in assigning weight to the various proposed criteria in making recommendations for the closure or realignment of military installations inside the United States under this part in 2005.”.

Mrs. HUTCHISON. Mr. President, I rise today to speak in support of an amendment that 16 of my colleagues on both sides of the aisle have cosponsored. The amendment is very straightforward. It is to improve the minimum

criteria for the 2005 BRAC Commission, that the military and the department must follow when evaluating the Nation's military infrastructure. The amendment would also make the process more transparent.

I want to be clear that by offering this amendment, I do not intend to revisit the debate we had last year. While this Chamber remains sharply divided over the merits of another round of base closures, we can certainly agree a round of closures riddled with mistakes could be more costly than no closures at all.

In fiscal year 2002, the National Defense Authorization Act unleashed a powerful bureaucratic process when it authorized another round of closures in 2005. The Pentagon has often said that there are 20 to 25 percent excess military structures and that nine members of the commission may well recommend the closure of as many as 100 military installations in this Nation.

Those are not decisions to be taken lightly. We have seen from the Vieques fiasco that once a national asset like a training range is closed, it cannot be replaced.

We have also seen past commissions commit costly blunders. In 1995, the commission recommended the closure of Reese Air Force Base in Lubbock, TX. The Air Force said it had surplus undergraduate training capacity. Only a few years later, the Air Force reported it was nearly 2,000 pilots short of its authorized end strength. At great expense to the taxpayer, the Air Force responded by standing up Moody Air Force Base.

In 1995, Fort Buchanan, Puerto Rico was realigned, and all of its housing was conveyed to the community. Two years later, U.S. Army South was relocated there from Panama. The Secretary was forced to come back to Congress to seek permission to rescind the housing conveyance.

In 1995, Fort Greeley, AK, was realigned, its tenants relocated, and the housing area was relinquished. Five years later, the decision was made to utilize Greeley as the critical test bed for our emerging national missile defense system.

As we can see, even in peacetime, correctly forecasting requirements, even just a few years into the future, is nearly impossible.

The authorization bill already directs the commissioners to consider a handful of very broad criteria when evaluating our military infrastructure. But in an era where the meaning of commonly understood words is a matter of debate, specificity is everything.

The amendment goes one step further. The Commissioners are authorized to consider additional criteria, many not included in last year's authorization bill. One of these is force protection. The threat posed by terrorists to our forces has been dem-

onstrated too vividly to leave this out. Look at Khobar Towers, look at the USS *Cole*. We must have force protection wherever our troops are in the field, and it should be an additional criterion for any enduring installation.

Lessons learned from previous rounds of closures include the disparities between anticipated and actual savings is another suggested criterion—who could oppose this commonsense suggestion?

Of course, there are bases overseas as well as those in America that are affected by the base-closing commission, so the criteria in this amendment are in no way exhaustive or restrictive. The Commission may consider any other criteria it considers appropriate. But it is an attempt to enumerate a minimum number of criteria that would have to be addressed by the Commission when they are making their very important decisions potentially closing as many as 100 military installations.

In addition to sharpening focus, this amendment would also increase transparency. It requires the formula to be used in assigning weight to the various criteria to be published in the Federal Register. By permitting greater insight into the workings of the Commission, we can reduce some of the anxiety communities will experience as we near 2005. Greater transparency will also help us limit the number of potential and very costly mistakes.

We will place a tremendous amount of trust in the nine members of the Commission. Their decisions will impact hundreds of communities across our Nation. It is entirely reasonable to demand a degree of transparency into the process.

In a recent letter, the general counsel of the Department of Defense wrote to express the Department's opposition to this amendment. The counsel justifies the Department's opposition by arguing that the proposed criteria “are redundant to existing provisions,” and “the proposed requirement to weight the selection criteria is unnecessary.”

As an example of this alleged redundancy, the counsel points out that our amendment requires that the selection process address “force structure and mission requirements through 2020,” and that the current law also requires the Secretary of Defense to develop a force structure plan based on, among other factors, an assessment of the probable threats to national security through 2025.

This is true. However, the general counsel fails to mention that the current law requires the Secretary of Defense to submit the plan in support of the Department's fiscal year 2005 budget. That budget will not be submitted to Congress until February or March of 2004, months after the December 31, 2003 deadline for publishing the proposed criteria for base closing in the Federal Register. Without our amendment, the criteria will be established

before the Secretary has reported his assessment of our long-term threat, the necessary force structure, and hence the most appropriate infrastructure needs of the military.

Members of this administration have said on previous occasions that doing a BRAC before our future force structure has been determined is like getting the cart before the horse.

The general counsel also contended in the letter that the amendment's requirements that the criteria be weighted is unnecessary because the current law:

... requires the Secretary of Defense to ensure that military value is the primary consideration. . . .

True. Our legislation would not change this. The real question is, Exactly how will the Department measure military value? Clearly, there are many factors that comprise this measurement. The current law contains at least five components of military value. Is it unreasonable to ask which of these is the more important? They can't all be of equal value. At some point the Commission will rank them, giving each criterion a different relative weight. All we are seeking is insight into the process. Without knowledge of how the Commission weights the criteria, we will once again be left, as we have seen in past BRACs, with a secretive process in which the nine members of the Commission go into a room with a list of bases and then reappear with a final list of closures. There is no public insight into the Commission's rationale at this point.

Our legislation would require that the relative weighting be published, and thus provide the public with a greater understanding of the process.

I think the general counsel's response shows a level of misunderstanding of the concern that people have about base closings. This has been a secretive process in the past, one in which there has been no necessity to reveal the rationale and the Commission has not.

I do not doubt the Department will eventually start looking at these criteria more carefully. I certainly hope, before we go into this 2005 round, which will probably be the last round of base closures, that the Department will report on what our 20-year strategy is going to be, what our necessary force strength will be, and what our training infrastructure requirements will be.

Today we don't know that. We could not know that today for 2020. The Department has not put that forward. Clearly the Department has been focusing on the war on terrorism, as they should. But to go into the next round of base closings, we must determine what our threats are going to be for 20 years and assess just how much it is going to cost to close a base or how much it would cost if we need to reopen it.

It is clear that did not happen in all cases during the 1995 round. Costs continue to be much more than were estimated by the Commission.

The environmental cleanup is still costing us hundreds of millions of dollars in the Military Construction Subcommittee, where I am the ranking member, and we are paying costs that were never envisioned by the 1995 base-closing commission.

I am going to withdraw my amendment because I do think the Department of Defense has other concerns that are clearly taking priority at this time, and I understand that. But I am going to keep this amendment alive for the future because I believe the Department needs to come forth with weighted criteria, with a clear 20-year strategy before they set the criteria for base closings.

We need to know what the war on terrorism is going to entail over the next 20 years. How are we going to protect our troops wherever they may be? How are we going to make sure we have the training capability that we thought we had at Vieques, but then all of a sudden people protested and we withdrew? So now we do not have a good live-firing training range for the Navy to substitute.

How could we possibly go forward in 2005 without this information?

I urge the Department of Defense to work with me to come up with clear, weighted criteria prior to the 2005 round of base closings.

I withdraw the amendment and yield the floor.

The PRESIDING OFFICER. The amendment is withdrawn.

The time is controlled by the majority leader or his designee.

Mr. WARNER. Mr. President, I just wished 2 minutes for comment.

Mr. REID. I have a problem. We have a lot of time after the cloture vote. Senator STABENOW has about 30 minutes of material to jam into 20 minutes, so I think we should start with that.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

PRESCRIPTION DRUG PRICES

Ms. STABENOW. Mr. President, I rise this morning to speak about an incredibly important subject that affects every senior, every family, every worker, every business owner in our country. This is something we have been talking about for a long time but we are now poised to act. I want to commend our Senate majority leader, Senator DASCHLE, for understanding the critical nature of prescription drug prices for our seniors, for our families, for our businesses in the country, and for scheduling this debate in July, an important time in the midst of so many issues that we know are pressing. He understands—and I appreciate that

our leadership understands—the critical nature of our seniors having to struggle to get their prescription drugs every day and the gigantic rising costs for our business community. The fact is that workers have to negotiate pay freezes in order to have the health care they need.

This is an issue that affects everybody. We have the opportunity to act in the Senate. There are those who will be acting in the House of Representatives on a plan that, with all due respect, I believe and many colleague believe, just isn't good enough. We have the opportunity to do the right thing to make a real difference to provide for a Medicare prescription drug plan that will pay for the majority of the bill for the average senior, and also lower prices for everyone.

I want to share with colleagues today results from a study that was done by Families U.S.A. and released on Monday that tracks the rising prices of prescription drugs. It continues to be astounding. They have indicated that over the 5-year period—from January 1997 to January of this year—the prices of the prescription drugs most frequently used by older Americans rose, on average, 27.6 percent—way above the rate of inflation.

No wonder our seniors are having to choose between food and paying the electric bill and getting their medicine. No wonder our small business community is seeing premiums rise by 30 or 40 percent. The Big Three automakers in my State are struggling with the huge price increases for health insurance.

We are seeing an explosion of prices for prescription drugs which is absolutely not sustainable, and it is absolutely not justified.

Let me read from two of the many examples that were given by Families U.S.A. Premarin, an estrogen replacement drug, rose 17.5 percent—nearly seven times the rate of inflation. Lipitor, which we hear so much about, a cholesterol-lowering drug, rose 13.5 percent—more than five times the rate of inflation.

That is astounding when we look at the fact that the taxpayers of America underwrite basic research; we provide tax incentives, tax credits, and tax deductions so the drug companies can write off the cost of research. We give them patents so they do not have competition for up to 20 years in order to recover their costs. Then we see the highest prices in the world being paid by our seniors—being paid by everyone in the United States. This explosion in prices makes no sense.

I am so pleased, as we come to this debate in the Senate, that out of the debate we will include not only a Medicare prescription drug benefit, which is authored by the Presiding Officer, as well as Senator GRAHAM of Florida, Senator KENNEDY, and many of us who join together to provide real coverage

and real help for seniors, but we also intend to tackle the pricing issue.

One of the things I found astounding in this study is the fact that up to 10 top generic drugs—in other words, unadvertised brands that are equivalent to the advertised brands, but they just don't cost as much—of the 10 generic drugs, 9 did not increase in price at all last year. Nine out of ten of the generic drugs looked at did not increase at all. On the other hand, by contrast, only 3 of the 40 brand-named drugs did not increase last year.

I have talked about the fact that in our plan we provide incentives and encourage the use of unadvertised brands. We will be offering important amendments to close loopholes which allow brand-name companies to stop the generic companies from going on the market to compete with lower prices.

These are very important issues.

We have two goals in the Senate: To provide a real Medicare prescription drug benefit, and at the same time to lower prices for everyone.

We want to open the border to Canada so we can get prescription drugs at lower prices. We want to provide other opportunities, such as tackling exorbitant costs of advertising that cause these prescription drugs to rise so quickly.

What does this mean for real people? We know there is a real difference between the House and the Senate. The House plan will cover about 15 to 20 percent of the average bill for an average senior. We are looking at covering 70 to 80 percent—a huge difference.

What does that mean to the average senior?

I have set up a Prescription Drug People's Lobby in Michigan where we ask people to come to my Web site. They can log onto my Web site by logging onto Senator DEBBIE STABENOW, and they can find out what we are doing to lower prices and to provide Medicare prescription drug coverage. I have asked people to share their stories and their struggles. I want to share two of those today.

Shawn Somerville from Ypsilanti, MI, is a granddaughter who is expressing great concern for her grandmother. She said:

Just this last Christmas, my grandmother was hospitalized because she stopped taking her prescription so she could afford Christmas presents for all of us grandkids. She later died from an undiagnosed ulcer. It was very sad to me that these drugs are so expensive.

Do they need to be?

Do they need to be? No, Shawn. They do not need to be.

We don't need another grandma choosing not taking her medicine this Christmas so she can buy Christmas presents for her grandchildren. This is the United States of America. We can do better. It is shameful that we have not done better. We intend in the Senate to come forward with a plan that will do better.

I have been getting e-mail from the Prescription Drug People's Lobby from around the country. I will share one more before turning to my colleague from Minnesota, who has been such a leader on this issue.

This is from Lydell Howard from Inglewood, CA. She wrote:

My grandfather, Esco Howard, a 75-year-old retired LTV Steel worker recently experienced what we thought to be impossible. He and his spouse in March 2002 were sent a letter to advise them that they would no longer be covered by a medical plan as provided by LTV Steel, as of March 31, 2002. This was due to the financial constraints of the company.

This is happening all across our country.

We (the family and grandparents included) were devastated. What would they do? How could they then survive?

What would they do?

Since March 31, my grandparents have been faced with exorbitant medical prescription costs. Their finances absorbed by the cost of medical and prescription costs, now average nearly \$900 per month for prescription costs alone, with an income of about \$1,300 per month.

Nine hundred dollars a month. That is hard to fathom—somebody retired coming up with \$900 a month.

This way of living is terrorizing seniors, disabled persons, and their families. This movement to expand Medicare to include a description plan is the answer. But it also must be affordable to all people of concern.

Lydell Howard, I couldn't agree more. That is what this is all about—providing real medical help, and real Medicare help for prescriptions for your grandparents, and making sure prescriptions are affordable to everyone.

I will say, as I have said so many times before, that we know this is an uphill battle. There are six drug company lobbyists for every Member of the Senate. People have to be involved and have their voices heard in order for us to be successful.

I will conclude by once again encouraging people to join us by going to fairdrugprices.org, and sign a petition calling on Congress to act—get involved and share your stories with us.

I now yield to my colleague from Minnesota, who has been such a champion and a voice for people on this issue and so many others. I know he is standing up every day on behalf of our seniors and our families to lower prescription drug prices.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I would like to not rush through this. We only have 10 minutes. I will use 5 minutes and then yield 5 minutes to my colleague from Florida, who has been such a leader on this issue, along with the Presiding Officer. Listen, I could go through this for hours. I don't know how to do this in 5 minutes, but let me try.

I thank the Senator from Michigan. I think people get a whole lot more faith in politics and then people in politics when they not only campaign and say they are going to do something but, once in the Senate, they make this their passion and their goal. I say to the Senator from Michigan, you have done that. Every single day you have been focused on prescription drug coverage for people. I thank you for that.

The House has a plan, and I simply have to point out to the Senate that I do not see it as a great step forward. I see it as a great leap sideways. I think people will come to see it the same way. People in Minnesota will.

There are a number of problems. Part of it is ideological. When we passed Medicare in 1965, it was an enormous step forward. I will tell you, for my mom and dad, who are no longer alive, it made all the difference in the world. It meant there would be coverage for them.

This was a Government program that, really, I put in the same category as Social Security. It was an enormous step forward, not just for senior citizens but made our country better. It made us a better country.

What we want to do on the Senate side is extend prescription drugs as a part of Medicare. On the House side, basically what they are saying is, there is no guarantee of any benefit. But what they do say is, seniors will be entitled to some sort of coverage through drug-only insurance plans or through Medicare HMOs. By the way, a number of these private health insurance plans, I say to my colleagues from Ohio and Michigan, are telling me they are not going to provide the coverage for them because it will not work for them. The only people it will work for are people who will not need it, and they will not have a large enough pool, so it will not be profitable.

But on the House side, apparently Republicans have said they do not want to extend this on to Medicare, in which case, really, they are interested in going down the road of privatizing Medicare. We are not.

The second point is a real important one. If you are going to have prescription drug coverage that works for people, you have to keep the copays or deductibles sufficiently low and premiums sufficiently low so they can afford it. And it has to provide real catastrophic coverage. That is what people worry about the most.

On the House side, you have this peculiar feature of between \$2,000 and \$3,700 there is no coverage. While people continue to pay premiums, they do not get any coverage. I think probably close to half of the senior citizens in this country actually are paying more than the \$2,000 in expenses for prescription drugs; and they do not get any coverage whatsoever in the House plan. It does not make a whole lot of sense.

This is truly one of those examples where the Devil is in the details.

I guarantee you, when senior citizens—and it is not just about senior citizens; it is their children and their families; we are all in this together—see there isn't any coverage, people are going to say: What is this about? This does not meet our needs.

The third issue which is important to me is that the House plan says we want to make sure that low-income seniors—the profile is not very high; it is not true the majority of senior citizens are “greedy geezers” playing all the swank golf courses around the country—probably a full 75 percent have incomes below \$30,000 or \$35,000 a year.

For low-income seniors, the House says, of course we would not have people paying, that it would be coverage they could afford, it would be free coverage, except then they have an assets test so that if you have a savings account of more than \$2,000, or you have a car that is worth \$4,500, or you have a burial plot worth more than \$1,500, you would not necessarily be eligible for any help whatsoever. That strikes me as being stingy. To tell you the truth, it defies common sense. We ought not to be having this kind of stringent assets test when it comes to whether people can afford prescription drugs.

My final point—and I could spend a lot of time on this—I am a cosponsor of the Senate bill. I think it is extremely important. I thank both my colleagues. I would love to see us have some cost containment. I think we should do it. I could talk about three options, but with only 30 seconds, I am only going to talk about one, because I have been working on it for several years. And so have Senator STABENOW, Senator DORGAN, and Senator JEFFORDS.

I do believe at the very minimum we ought to allow our citizens to reimport these prescription drugs from Canada, according to all of the FDA safety guidelines. There is no reason in the world why our pharmacists, our wholesalers, and our families cannot reimport drugs, where they can get a 30-, 40-, or 50-percent discount. There is no reason whatsoever. I grant you, the pharmaceutical industry will not like this.

But what we also have to do is make sure there is a way we can reduce the costs. I think that would be a helpful addition to what I think is a very important piece of legislation.

I say to my colleagues, I think the House bill is a nonstarter. I think it is a great leap backwards. I think we have a much stronger bill. I look forward to the debate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, first, I commend my two colleagues for their eloquent statements. I commend the

Presiding Officer for his great leadership on this effort to pass a prescription drug benefit this year.

The most fundamental reform for our Nation's Medicare Program is its transformation from a program that has focused, since 1965, on dealing with people's needs after they were sick enough to go to the doctor or the hospital and to create a modern commitment to good health.

Access to medications is an absolutely central part of that commitment to good health. Access to medications not only helps people live longer, happier, healthier lives, but it also will help Medicare save money.

These truths are particularly important to the most vulnerable of our elderly, those who are too well off to qualify for Medicaid, the program for poor Americans, but are too poor to afford their medically necessary prescription drugs.

There are approximately 10 million older Americans living on an annual income of \$13,000 or less per year. Of that 10 million, 5.5 million have no prescription drug coverage because they do not qualify for Medicaid.

These Americans face the tough choices of deciding whether they can afford their prescription drugs. One example of this is Mrs. Olga Butler of a beautiful community in central Florida, Avon Park.

Mrs. Butler receives a monthly Social Security check of \$672, which makes her barely over the income limit for Medicaid coverage. This means that the 67-year-old Olga has to pay for her own medications, sometimes having to make the choice among food, rent, and her prescriptions.

Olga is on Lipitor and clonidine for her hypertension and high cholesterol. She pays \$95 per month for Lipitor and \$22 per month for clonidine. These prescription drugs not only improve the quality of Olga's life, but they are helpful in warding off a possible stroke or heart attack, for which she is at great risk.

In addition to the personal devastation of having a stroke or a heart attack, these would cause significant additional costs to the Medicare Program.

An average hospitalization for a typical stroke patient costs Medicare \$7,127.59. Physicians' time, tests, and consultations will add, on average, another \$1,600 cost to Medicare. This is an avoidable event.

If Olga can continue to take her medications, chances are she will not have a stroke, she will not have a heart attack, and, if she is fortunate, she will not need further hospitalizations, nursing facility care, and rehabilitation services. This, of course, is expensive, but it is also avoidable.

You might ask, why are you discussing this issue of the poor, but

above Medicaid eligibility, elderly? Don't both competing prescription drug plans that have been offered for Medicare offer similar benefits to Olga Butler? The answer is, not quite.

Under the House Republican plan, which I understand may be debated today and where I know there are considerable misgivings among Members on both sides of the aisle, maybe one of the reasons for those misgivings is the fact that, before Olga can receive any help with her drug costs, she must pass an assets test. An assets test?

For the first time in the history of Medicare—for the first time since 1965—we are about to impose an assets test in order for a low-income Medicare beneficiary to be eligible for prescription drug assistance.

What does this mean to Olga Butler? It means she must deplete her life's savings to less than \$4,000, sell off her furniture and personal property that is worth more than \$2,000, get rid of her burial fund if it exceeds \$1,500, and sell her car, if it has a value of more than \$4,500—all of these in order to qualify for low income assistance under the inadequate Republican proposal.

I ask unanimous consent for an additional 5 minutes to complete my remarks.

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. GRAHAM. Mr. President, I look forward to an opportunity to continue to outline the circumstances under which Olga would be disadvantaged if the plan being considered in the House today were to improvidently be adopted.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

The PRESIDING OFFICER. Under the previous order, the Senate will now continue consideration of S. 2514 which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2514) to authorize appropriations for fiscal year 2003 for the military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Mr. WARNER. Parliamentary inquiry: My understanding is the Senate now, by previous order, proceeds to the cloture vote; am I correct?

The PRESIDING OFFICER. The Senator is correct.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII, of the Standing Rules of the Senate, hereby move to bring to a close the debate on S. 2514, the Defense authorization bill:

Harry Reid, Jon Corzine, Richard Durbin, Tom Harkin, Carl Levin, Mary Landrieu, Tom Carper, Ben Nelson, Ron Wyden, Daniel Akaka, Debbie Stabenow, Evan Bayh, Maria Cantwell, Herb Kohl, John Edwards, Jeff Bingaman, and Joseph Lieberman.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule is waived.

The question is, Is it the sense of the Senate that debate on S. 2514, a bill to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from New York (Mr. SCHUMER) is necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The yeas and nays resulted—yeas 98, nays 0, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—98

Akaka	Dorgan	Lugar
Allard	Durbin	McCain
Allen	Edwards	McConnell
Baucus	Ensign	Mikulski
Bayh	Enzi	Miller
Bennett	Feingold	Murkowski
Biden	Feinstein	Murray
Bingaman	Fitzgerald	Nelson (FL)
Bond	Frist	Nelson (NE)
Boxer	Graham	Nickles
Breaux	Gramm	Reed
Brownback	Grassley	Reid
Bunning	Gregg	Roberts
Burns	Hagel	Rockefeller
Byrd	Harkin	Santorum
Campbell	Hatch	Sarbanes
Cantwell	Hollings	Sessions
Carnahan	Hutchinson	Shelby
Carper	Hutchison	Smith (NH)
Chafee	Inhofe	Smith (OR)
Cleland	Inouye	Snowe
Clinton	Jeffords	Specter
Cochran	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kerry	Thomas
Corzine	Kohl	Thompson
Craig	Kyl	Thurmond
Crapo	Landrieu	Torricelli
Daschle	Leahy	Voinovich
Dayton	Levin	Warner
DeWine	Lieberman	Wellstone
Dodd	Lincoln	Wyden
Domenici	Lott	

NOT VOTING—2

Helms Schumer

The PRESIDING OFFICER. On this vote, the yeas are 98, the nays are 0. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Nevada is recognized.

Mr. REID. Mr. President, it is my understanding we are now postcloture on the Defense authorization bill and amendments that are germane can now be offered; is that correct?

The PRESIDING OFFICER. The Senator is correct.

The Senator from Georgia is recognized.

AMENDMENT NO. 4033

Mr. CLELAND. I thank the Chair. I call up amendment No. 4033.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. CLELAND], for himself and Mr. MCCAIN, proposes an amendment numbered 4033.

Mr. CLELAND. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase active duty end strengths)

On page 91, strike lines 1 through 4, and insert the following:

- (1) The Army, 485,000.
- (2) The Navy, 379,200.
- (3) The Marine Corps, 175,000.
- (4) The Air Force, 362,500.

Mr. CLELAND. Mr. President, I thank my colleague and friend, my Vietnam brother, Senator MCCAIN, for joining me in offering an amendment that I think is critical to the future of our military forces and particularly critical to the future outcome of the war against catastrophic terrorism. That phrase "catastrophic terrorism," I borrow from Senator Sam Nunn, who once occupied this seat in this august body and whose opinion in terms of military and defense matters I respect tremendously.

Today I introduce, along with Senator MCCAIN, an amendment to the Defense authorization bill that begins to address the concerns expressed by the uniformed leadership of the Armed Forces and reinforced by visits to our soldiers, sailors, airmen, marines, and their families around the world.

President Franklin Roosevelt once said to the members of his generation—which includes my mother and father. My father served at Pearl Harbor after the attack, so I grew up with the notion that this Nation should respond wholeheartedly to an attack on itself—"To some generations, much is given. From some generations much is required. This generation has a rendezvous with destiny." I think this generation has our own rendezvous with destiny and that destiny is to win the war against catastrophic terrorism, to defend our homeland and to hang together as Americans while we are doing it.

Regarding our efforts militarily, I support the President and our military commanders 100 percent. However, I

also firmly believe we must increase the numbers of our active duty military personnel if we are to be able to fight the war on catastrophic terrorism successfully. Our military is currently winning the battle. But we will lose the war if we continue to ignore the fact that our forces are critically over-deployed and being asked to do too much with too little.

There is a Latin phrase which tells us, "If you wish for peace, prepare for war." The United States is increasing its resources to prepare to fight this war. This Defense authorization bill represents the largest defense authorization bill in American history—\$394 billion. Additionally, we are dramatically increasing our intelligence capabilities, especially human intelligence. We are boosting the CIA with more money and people, while the FBI is creating a super squad aimed at fighting terrorism around the globe. In the past 2 weeks, the President requested Congress create a Cabinet office of Homeland Security.

We are very fortunate to have a superb military force that is highly-skilled, highly-trained and highly-motivated.

The problem is that they are also over-committed. Our forces are over-deployed and they won't be able to do it much longer. We are out of balance, with our commitments far outpacing our troop levels, and the situation is only getting worse. As can be seen on this chart, as the size of our force structure has continually declined since Vietnam, the number of contingency deployments has continued to grow with no end in sight. As a matter of fact, we all read in the papers almost daily where our military forces have been expanded in terms of commitments—to Yemen, Pakistan, the Philippines, the Republic of Georgia, and so on.

Since the end of Operation Desert Storm in 1991, the armed forces have downsized by more than half a million personnel. I do not think the American people really understand we won Desert Storm in 1991 with half a million more people on active duty, trained and ready to fight, than we have now. We do not have those half a million people, and our commitments have continued to increase. Today, a Desert-Storm size deployment to Iraq would require 86 percent of the Army's deployable end strength around the world, including all stateside deployable personnel, all overseas-deployed personnel, and most forward-stationed personnel.

Contrast that drop in personnel with the dramatic rise in the number of deployments for the same time frame. The Army alone is deployed in over 100 countries, with over 10,000 troops in Bosnia, Croatia and Hungary.

Even more dramatic is the fact that deployments have increased 300 percent

since 1989, and the fall of the Soviet Union. The tempo of those deployments has increased from one every four years to one every 14 weeks.

That was prior to September 11. In the war on terrorism, we now face a far broader challenge and for a longer, unspecified duration. The Department of Defense has ordered new deployments in the last several months to Afghanistan, Yemen, the Philippines, Georgia, and Pakistan. To make this possible, we have activated more than 80,000 guard and reserve troops and instituted stop-loss for certain active and reserve component specialties. "Stop-loss" means you are not getting out of the military; we have a war on. That is what "stop-loss" means.

This is not a way to fight a war when our strategic national interests are at stake. The President has rightly told the country to be prepared for a long war. That is highly appropriate. However, the Department of Defense requested only a modest increase, a little over 2,000 personnel, in Marine Corps personnel this year. In the face of mounting evidence that our people and their families are hurting from the strain of this new war, there are no current plans by Department of Defense to increase end-strength for American soldiers, sailors or airmen. The Department of Defense may not have plans to increase our end-strength authorization, but I do, along with Senator McCain and others.

As the chairman of the Personnel Subcommittee of the Senate Armed Services Committee, I propose to authorize an increase of 5,000 personnel for the Army, 3,500 for the Navy, 3,500 for the Air Force and 2,400 additional Marines as part of the fiscal year 2003 budget. This represents an increased authorization of 12,000 personnel beyond the administration's request. This initial increase begins to address the needs of the armed forces, the needs they themselves feel are crucial.

During the past year, most of the senior uniformed leadership in Washington and around the globe have related manpower concerns and the strain it has created on their service either in testimony or in the media. It is time to respond to their concerns.

Recently, two-regional combatant commanders testified that their forces were stretched thin and inadequate to carry out their assigned missions if operations in the war on catastrophic terror continued at their current pace. I see no sign the war is abating. I see every sign it is escalating. In addition, the Joint Chiefs of Staff have apparently cited manpower needs as one criteria leading to a recommended delay in any possible military action against Iraq; a conclusion also reached during a Pentagon computer-simulated exercise this past Spring.

This authorization process is inevitably about setting priorities, and this

amendment addresses the crucial need of our most important resource and highest priority, the men and women who serve in our armed forces.

In addition to this needed increase in authorized end-strength for the next fiscal year, I had hoped to offer a sense of the Senate resolution that would demonstrate the commitment of this body to the continuing need to address authorized end-strength levels as we fight this war on terror and simultaneously meet this Nation's military commitments around the globe. However, this resolution was ruled non-germaine and cloture prevents its offering. This does not negate the fact that there is a need for almost 26,000 additional personnel over a 5-year period to meet the shortages expressed by our senior uniformed leadership, soldiers, and families. My plan would bring our current commitments and authorized troop levels into greater balance.

If fully implemented, over the course of a 5-year period, the Army would grow by over 1 percent annually resulting in an army end-strength of an additional 25,000 extra soldiers.

The Air Force would require an increase of 2,500 airmen in fiscal year 2004 and 2,000 in fiscal year 2005.

The Navy would have a requirement for 1,000 additional sailors in fiscal year 2004.

This responsible and incremental increase in authorization acknowledges that the activation of the reserve components and stop-loss are only temporary fixes to a larger problem. In addition, this plan begins the dialogue on the long term personnel needs that this new war on terror requires. Though this multi-year plan will not be included in this bill, I will continue to pursue this issue within this body. It is imperative that we continue to recognize that this is a long term problem that must be addressed with long term plans in order to meet the commitment our young service men and women deserve.

Just a personal note: I have been on the short end of a no-cost, guns and butter policy before. It was called Vietnam. I don't want to hide the costs of the war on catastrophic terrorism. I don't want to see this happen again. In Vietnam, we had the men but not the mission. The draft easily provided us with the personnel we needed but never answered the question of how to properly use the troops we were putting in harm's way. American soldiers paid the price. In the war on terrorism, we have the mission, but we do not have the people. American servicemen and women will pay the price again if we do not act.

Right now, our military is on a collision course with the reality of families they do not see, training they are not receiving and divisions borrowing from each other to meet requirements and

survive. We can prevent tomorrow's losses, but we have to act today. We must be on the strategic offensive against catastrophic terrorism with enough people and resources to make the terrorist lose. I support the Defense Department's internal look at reallocating spaces to the warfighting units. This however, should be complimentary to a plan to provide the most critical weapon in our arsenal—American service men and women. I respectfully request that my distinguished colleagues join me in supporting our men and women in uniform by providing them what they need to fight and win this war on terrorism and meet our commitments abroad at the same time.

I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I rise in support of the amendment by my friend, Senator CLELAND of Georgia. The reality is there are some 80,000 reservists who are now being extended on active duty—some of those reservists voluntarily, some involuntarily—because of the dramatically increased commitments of manpower as a result of the war on terror precipitated by the events on September 11.

Some of our most valued members of the military are our reservists. They have filled incredibly important and vital missions in defense of this country not only since September 11 but in every previous conflict in which we have been engaged in the last century.

Right now, many of these men and women who are being involuntarily extended believe they have performed the function of a reservist, and that is to be called up in time of an emergency. Their lives have been disrupted; they are having to tell their families they do not know when they will be able to return to their homes, their families, and their jobs. Remember, these reservists, the overwhelming majority of them, have jobs and homes in their communities in which they live. Many of them are very far away from home on ships at sea and overseas in many places.

The reality is, as patriotic as these men and women are, they are not going to remain in the reserves if they are forced to remain involuntarily for an extended period of time.

The Pentagon has been very reluctant to increase the end strength of the military, which means that men and women who would be in active-duty forces would then take up these duties presently being performed by reservists. The reason is pretty obvious.

What it does is it increases costs rather dramatically. When you look at the personnel costs associated with enlarging the size of the military, they have a very significant budgetary impact.

The Cleland amendment tries to increase end strength because we know we are in a protracted war, we are in a war that will not end soon, and it will require an increased number of personnel in the military. Senator CLELAND's amendment is rather simple. It increases the allowed end strength—in other words, to the layperson, this is the allowed number of men and women in the military. It gives significant flexibility to the Secretary of Defense and the administration.

But we need to send a signal to all of the military that we are willing to increase the size and strength of the military to whatever degree is necessary to successfully prosecute the war on terror. Part of that, obviously, reservists being extended involuntarily, is that we do not have enough men and women in the military. We are willing to provide the weapons systems, the increased procurement—some of it far less necessary than the increased number of personnel in the active-duty armed services.

Senator CLELAND, who keeps in very close touch with the men and women in the military, including those very large numbers who are based in the State of Georgia, and I have come to the conclusion that we need very badly to increase end strength, maintain the viability of the reserves, but also to successfully prosecute the war on terror.

I thank Senator CLELAND for his amendment. It is a worthy amendment. It provides a great deal of flexibility to the Defense Department. We need to send a signal, especially to the reservists who are being extended involuntarily for an indefinite period of time, that we intend to increase the size of our military so they will not have to.

Here is a reality: They are not going to keep these men and women in the reserves if they believe they are going to be involuntarily extended. Senator CLELAND has information about how many times reservists have been called up, particularly in recent conflicts, including that in the Persian Gulf.

At least those conflicts were of relatively short duration. But these men and women who held jobs in their own communities and were members of the Reserves did serve their country at considerable sacrifice.

I thank Senator CLELAND for his amendment. I strongly support it, and I hope my colleagues will support it as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I share the views as expressed by our distin-

guished colleague from Arizona and, indeed, the distinguished colleague from Georgia, about the problems facing the men and women in the Armed Forces today, particularly the Reserves, the Guard, and others. They have very loyally and patriotically accepted the call to leave their families, their jobs, and go on an active duty status.

Further, both Senators are quite accurate as to the current stress that is being put on the active force, now augmented by the call-ups of the Guard and Reserve—nevertheless, the total force as we refer to it today—the stress that is being put on them and their families by the deployments worldwide. I take absolutely no exception to their observations.

I at this point want to seek some clarity as to the interpretation of the amendment before I ask the Chair to call up a second-degree amendment to see if, in fact, that may not be necessary.

I say to my distinguished colleagues—either Senator may answer—is this amendment paid for by offsets from other provisions in the bill?

Mr. CLELAND. I thank the Senator from Virginia for his support. This amendment is discretionary. There is no money to pay for it, so it is therefore discretionary on the services. If they meet this increased end strength, they have to take it out of their own hides. So it is discretionary upon the services.

Mr. WARNER. My next question would be: title X governs this process of the end strengths and has done so for many years. The practice of the committees of the armed services—certainly the Senate committee—is simply to establish new end strengths and then they are incorporated into the continuing language of title X, which is in permanent law and does not need to be revised annually. Does this amendment in any way revise the provisions of title X?

Mr. CLELAND. The distinguished Senator is correct. This does not revise title X.

Mr. WARNER. If I understood the Senator, it does not in any way seek to revise the language in permanent law of title X?

Mr. CLELAND. That is correct.

Mr. WARNER. I say to my distinguished colleagues, it has been the practice of the conference committee on the authorization side each year, in reconciling the differences between the House and the Senate—if the Senator from Georgia first would recite his understanding as to what is in the House bill now? And, should this measure be adopted on the floor today, what would be the differences that the House and the Senate would have to reconcile?

Mr. CLELAND. I say to my distinguished colleague from Virginia, my understanding from staff is that the House has raised the floor—the floor,

not the ceiling. It has raised the floor. And we do not. We just establish a new ceiling that is discretionary.

Mr. WARNER. Mr. President, if I understand it, the Senator quite accurately pointed out there is a floor in the House bill. We do not have a floor, it is your understanding, in the Senate bill; is that correct?

Mr. CLELAND. The Senator is correct.

Mr. WARNER. So that issue would, then, be before the conference?

Mr. CLELAND. That is correct.

Mr. WARNER. Let's assume for purposes of this debate that the approximate cost of the amendment, I say to the Senator from Georgia, would be about \$500 million; is that correct?

Mr. CLELAND. The Senator from Virginia is correct.

Mr. WARNER. Would it not be incumbent upon the Senate conferees to find within this bill that will be passed shortly the \$500 million in order to accept the provisions reconciled, as you say, by the House and the Senate?

Mr. CLELAND. I say to my distinguished friend from Virginia, as far as I know, it is discretionary upon the conference committee because it is based on a discretionary item, independent of the budget. It is not an obligation, to my understanding, of the conference committee to come up with the money.

Mr. WARNER. I say, Mr. President, that my recollection—having had the privilege of serving as a conferee for, I think, all the 24 years I have been here—is that it has been the practice that on this type of legislation, although it is discretionary—that is, in the manpower area—it has been incumbent upon the Senate to find within our bill the \$500 million for purposes of reconciliation in the conference. That has been our practice.

Mr. MCCAIN addressed the Chair.

Mr. WARNER. If I could finish, I will then be glad to yield. If that be the case, I should like to alert colleagues that we would have to look at all the programs, the full scope and full range of all programs in our bill to generate that \$500 million. The consequences would be that in some areas there would have to be reductions in those measures which Senators thus far have believed were secure as a part of this bill. Would I not be correct?

Mr. CLELAND. No, that is not my understanding. I say to my distinguished colleague from Virginia, my understanding is that this addresses the floor, not the ceiling. It has not been the intent and is not the intent of this amendment to take away from any other part of the Defense authorization bill. It is the intent of this amendment to authorize the services, if they so desire, to go to a new level of troop authorization if they can find the money. It is discretionary upon them and discretionary to the conference committee.

Mr. WARNER. The Senator from Arizona wished to address the issue.

Mr. MCCAIN. I wish to respond to the Senator from Virginia. We have other items in this bill—which is authorizing how many billions of dollars?

Mr. WARNER. About \$379 billion.

Mr. MCCAIN. About \$379 billion, which, in the view of most objective observers, would probably not have the priority of the men and women in the military. I know of no higher priority. That is the reason why the Senator from Georgia and I made a tough decision here, saying: Look, we will leave it up to the conference to find the money. I could give the Senator a list of projects that are authorized in this bill, which I think, according to most objective observers, many of which could be described as porkbarrel projects, which have a far lower priority than that of the men and women in the military.

We are facing an urgent problem. We are facing a serious problem. We think it deserves the attention of the Senate and, following passage, of the conference. It is not unusual to put in a provision on the floor that is not funded. That is why we do have conferences. Certain tradeoffs are made. There will be tradeoffs made between the conferees from the Senate and the House.

I understand the difficulty that is entailed, but I also understand better the difficulty that right now the men and women in the military are having in carrying out their functions, their duties, and their missions.

I hope the Senator will understand that we believe this issue is transcendent to a \$500 million out of a \$379 billion piece of legislation.

I thank my friend from Virginia. I understand it places a very tough burden on both the Senator from Virginia and the Senator from Michigan, who will be in charge of carrying this bill through the conference. I thank my colleague.

Mr. LEVIN. Will the Senator from Virginia yield?

Mr. WARNER. Yes.

Mr. LEVIN. The Senator from Georgia and the Senator from Arizona have identified a very critical unmet need. In fact, the Army has already indicated it is going to try within its own funds to increase its end strength. So by the time we actually get to conference, we may find that they have already achieved what this amendment urges them to do and authorizes them to do.

That is the point, No. 1.

No. 2, it seems very clear from the answers of the Senator from Georgia that this is a discretionary matter—that it does not raise the floor; it raises the ceiling, unlike the House, which does raise the floor. The amendment of the Senator from Georgia raises the ceiling but leaves the floor where it is. Therefore, the discretion remains.

Given those clear responses I think this amendment is something we should support because I think the responses leave the discretion with the Department of Defense, unlike the House bill. That makes this a conferenceable item.

Mr. WARNER. If I could ask my chairman, and, indeed, the sponsors, I am sympathetic to what our two colleagues are trying to do. What I am endeavoring to do is make clear the responsibility of the conferees once we get there. That is my basic concern because I have an obligation, as, indeed, my chairman does, in the conference to try to protect the integrity of the Senate bill, which has hundreds of different items from throughout this Chamber on both sides of the aisle.

What is the chairman's view? Are we or are we not obligated? I believe, with the traditions of the past, that the Senate conferees would be obligated to find the 1-2 billion dollars. What is the chairman's view on that?

Mr. LEVIN. That we should also try to maintain the Senate position on this, which is that the ceiling would be raised and the floor would not be raised. That remains. It leaves it as a discretionary matter, as the Senator from Georgia clearly said, with the Department of Defense.

We would do our best, as we always have, to find the funding for that higher level. We may leave it up to the military to find it within their own funds with the direction from us in report language—the conference managers' language directing the military to find it within their own funds.

There are a lot of possibilities.

But the point the Senator from Georgia made, and the Senator from Arizona as cosponsor made, it seems to me, is that it is unassailable that we have overused our reservists. We have to find a way to correct that. This is an effort to push us in that direction. It leaves it as a conferenceable issue because the floor in the House is raised to where the ceiling is, but in the Senate bill, with the amendment of the Senator from Georgia, if adopted, the floor remains the same. It is the ceiling which is raised.

It gives us some important added impetus to add end strength—as it should.

I think we all agree that we have to find a way to do this in order to reduce the overuse of reservists.

Mr. WARNER. Mr. President, I have another question for the chairman and the sponsors. Again, I am sympathetic to what we are trying to do. But at the same time, I find within the existing framework of the law—that is title X—I would like to read that:

Section (c) item (1) increase the end strength authorized pursuant to subsection (a)(1)(B) for a fiscal year for any of the armed forces by a number equal to not more than 2 percent of that end strength.

The existing law gives the Secretary of Defense the right to go to not only

the end strength submitted by our two colleagues—that is roughly 1 percent over the current table in our bill—but could go to even another percent of 2 percent.

It is not clear to this Senator exactly what the pending amendment does that the Secretary does not already have the authority to do. Everything that the pending amendment, one way or another, urges be done, he has the right. I say this respectfully to the distinguished Senator from Michigan, our chairman.

Yesterday, on missile defense, let's say it was a top priority of the Senate to focus this, as the Senator from Arizona said, to cure the problems associated. Fine. I have no objection to that. But I do not like to see the Senate adopt an amendment which does nothing to change the authority of the Secretary of Defense under the existing law.

The question is, What does this amendment do that existing law does not permit the Secretary of Defense to do?

Mr. LEVIN. I would say there are two answers to that.

First, since this would be a new level—a new ceiling—the Secretary of Defense would have authority to go 2 percent above this additional level. The ceiling would be higher. So the Secretary would have that same discretionary 2 percent, but it would be above a higher ceiling.

That is the first answer.

The second answer, it seems to me, is that the Senator from Georgia and the Senator from Arizona have identified in their amendment a problem which we all understand exists, and they have focused this issue into an amendment.

That amendment, if adopted, it seems to me, gives additional momentum. We have to seek new ways to try to meet that end strength—to try to fund it. We have to look to additional ways to try to fund it because the tradition which the Senator from Virginia pointed out is that we have traditionally funded the authorized end strength. That means we have one of two options, or three. Either we have to tell the Department of Defense that they have to find the funds to do this within their own funds or we have to find the funds to do it at our own conference, or the third option is that we would begin a new tradition, which is that we don't fund the authorized level. That would be the least desirable of all three.

But, nonetheless, it would be a new tradition.

Let me just sort of summarize that. We can either direct inside of our conference report that the Department of Defense fund the authorized end strength with the amendment of the Senator from Georgia, or we can find the funds ourselves to do that in conference, or we can just simply not follow the tradition, which I happen to

think is a good tradition, but, nonetheless, is an option.

Mr. WARNER. If I understood my chairman, one of the options is to direct the Department to fund the levels in this amendment.

Mr. LEVIN. Within their own funds.

Mr. WARNER. I understand that. But clearly the Secretary of Defense may not exercise the discretion which our colleague from Georgia leaves in place to go to that end strength. So we can't direct them to do something unless the Secretary of Defense takes a prior action; that is, exercise the discretion to go to this new end strength level. Am I not correct?

Mr. LEVIN. I think our conference could actually direct the Secretary of Defense to do it out of their own funds. I think that is an option.

Mr. WARNER. But still under the amendment of the Senator from Georgia maintains the discretion to go to new levels or not.

Mr. LEVIN. That is right. I am talking about what the conference report does. The Senator's amendment leaves that discretion there. But because of the tradition, we fund that authorized level, which the Senator from Virginia has pointed out, and we may decide to look to a different approach which would be to direct the Secretary of Defense to meet that level out of his own funds. It is a different approach, but it is an important amendment.

Mr. WARNER. Mr. President, that is an entirely different step with the conference taking that action. Then we would be taking the discretion away from the Secretary that he now has with regard to these end strengths. I would not favor that because of the following reasons: We reposed by law, in the Constitution, the Commander in Chief who in turn selects his Secretary of Defense. I think they must be given the maximum latitude possible as the executive branch. They are the managers.

I am always concerned when the Congress tries to mandate that they should do A, B, or C when it is their collective judgment that A, B, or C not be done.

I hope in the conference we don't reach that. But let me just point out the following.

Mr. LEVIN. If the Senator will yield on that point, we do mandate end strength. It is called the floor.

Mr. WARNER. With discretion.

Mr. LEVIN. No, not on the floor.

Mr. WARNER. I understand. But when we put in our end strength, the Secretary still has the discretion. To the credit of our Secretary, he has, if I understand—and I pose this to the Senator from Georgia as a question—already exercised his discretion with regard to the Marine Corps, and has gone to that level with the Marine Corps and found the funding to achieve it in this bill.

Am I not correct?

Mr. CLELAND. As the Senator pointed out, it was in the President's budget request—that the only increase in personnel asked for was about 2,300 personnel in the Marine Corps. That is in the President's budget. That is a request of us which we accede to in this Defense authorization bill.

My amendment says, in effect, that basically this is inadequate. Other services need additional strength, and this authorizes the services to go to a higher end strength if they can find the money.

Mr. WARNER. Fine. But am I not correct that the Secretary has already taken the action to meet the purport of the amendment by the Senator from Georgia as regards the Marine Corps?

Mr. CLELAND. It seems to me the President of the United States, in his budget, authorized 2,300 additional personnel and gave the money for that, and we have included that in the Defense authorization bill. What this amendment says is that in the collective judgment of those of us who are involved in this personnel debate, that is not adequate enough to meet the needs of our commitments, especially in this new war we are fighting.

You can see here the tremendous imbalance we have presently. These lines shown on the chart have to begin coming together. We have to begin matching our personnel with our commitments or else we will continue to strain our personnel to the limit. That is why we have the authorization for the Army, the Navy, and the Air Force, as well as the Marine Corps, to go to a higher level.

Mr. WARNER. Mr. President, that was essentially a reiteration of your basic argument for the amendment.

My question was very narrow, very focused, and required, really, a yes or no answer.

Has not the President already, with the Secretary of Defense preparation of the budget, reached the figures for the Marine Corps with an increase and paid for it?

Mr. CLELAND. The Senator is correct.

Mr. WARNER. That is all I wanted to establish. So that shows the Secretary of Defense is proceeding in an orderly manner, at least with one service, to achieve the goals the Senator from Georgia has been reciting.

Mr. CLELAND. The Senator is correct.

Mr. WARNER. Fine. And it is my thought that in due course the Secretary of Defense will address each of the other services. So long as it is my understanding from this important colloquy that in no way does your amendment alter title X, alter that discretion, then, Mr. President, I shall not bring up my second-degree amendment to it. The purposes of that amendment have been achieved during the course of this colloquy.

The PRESIDING OFFICER (Mr. CORZINE). The Senator from Michigan.

Mr. LEVIN. Mr. President, I hope we can now adopt this amendment.

I thank the Senator from Georgia for his persistence on this issue. He has identified a critically important unmet need for this country. We have reservists who have been away from their jobs for a much longer period of time than anyone intended. We have to address that issue.

The Army has told us they are going to do their best to address this issue. The Navy has listed the increase in end strength as their No. 1 unfunded priority.

So I think the need is there. The focus upon this unmet need by the Senators from Georgia and Arizona will help us to, hopefully, advance this to the point where we can actually find the funds for the increase in end strength. One way or the other, we have to address this issue.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the concerns of the Senator from Virginia, and perhaps others, have been satisfied. We are prepared to accept the amendment on a voice vote.

Mr. CLELAND. Mr. President, I thank the distinguished Senator from Virginia for his colloquy which has clarified this issue. It has helped gain support for the amendment. I thank the distinguished chairman, Senator LEVIN, for his help. And I thank especially my colleague, Senator MCCAIN, for pushing this issue forward.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not the question is on agreeing to amendment No. 4033.

The amendment (No. 4033) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 3975

Ms. LANDRIEU. Mr. President, I would like to call up amendment No. 2514, which I understand has already been recommended for inclusion in the managers' package and has been cleared on both sides.

The PRESIDING OFFICER. Would the Senator restate the amendment number, please.

Ms. LANDRIEU. Mr. President, I will send that amendment up in just a moment. But I understand this amendment has been accepted on both sides and may be included in the managers' package. I want to take a minute to explain this amendment in a little more detail, if I may.

The PRESIDING OFFICER (Mr. LEVIN). Without objection, it is so ordered.

Ms. LANDRIEU. Thank you, Mr. President.

The underlying amendment we have been considering in regard to this particular subject has to do with our shipbuilding program and the importance of our Navy to the strength of our forces.

Let me first, though, thank Senator CLELAND and Senator MCCAIN for their very excellent work in calling to our attention another shortage, if you will, which is our end strength, our shortage of personnel, of people we can actually send to the front lines, wherever those front lines might be. More and more, it is clear to us some of those front lines might be here on our own home soil, but also we need men and women to support our soldiers and sailors and airmen who have to be deployed miles and miles away from our homeland.

So I thank them for their good work. I am proud to be able to support that amendment as well.

But I bring to the Senate this particular amendment on shipbuilding because it points to yet another unfortunate shortfall of our overall defense structure. Now is a time when we really have to focus and make tough decisions about how we are going to allocate these resources, again trying to meet the President in his total budget request, which this Senate has done, this Congress has done, and is in the process of doing under the leadership of Senator LEVIN and Senator WARNER.

But within that total amount we are allocating for defense, there is some real debate about how that money should be allocated and spent, and that is what this broad debate is about.

One of the issues I want to spend a few minutes speaking about is shipbuilding. I would like to begin by reading into the RECORD just a short clip from the American Shipbuilding Association entitled "The Defense Shipbuilding Industrial Base—An Industry At Risk," which was written in May of 2001.

This report says:

In 1987, the United States had a naval fleet of 594 ships. Today, the fleet numbers 316 and is dropping. The annual numbers of naval ships procured is at the lowest level since 1932; the size of the Navy's fleet is the smallest since the year before we entered World War I; and while the fleet has been cut almost in half, the number of overseas deployments has increased 300 percent.

As you can see from the chart, this is one of our mighty aircraft carriers and is one of the Navy's pride and joy. We just do not have enough aircraft carriers and other different elements of our fleet.

This report goes on to say:

Our Commanders-in-Chief are on record that they cannot meet the Nation's military and foreign policy strategy with a fleet of less than 360 ships, yet Navy budgets [we are considering today] are providing for a fleet of fewer than 200 ships.

This is unacceptable. It cannot stand. We need to change these trend lines.

Continuing:

This disconnect between national requirements and budgets increases the risk of instability in many regions of the world, jeopardizes the lives of Americans, jeopardizes our economic prosperity, and threatens our peace and national security.

The historically low rate of naval ship production over the past eight years has also severely weakened the very industry upon which the Navy depends today and tomorrow for its ships. If decisive action is not taken now to reverse the decline in naval ship production, the Nation [could potentially] lose the industrial capability to restore the fleet to the level the Nation requires to maintain global peace and stability.

It is the role of our military leaders to define the forces they require to meet their military missions.

Let me tell you why this is important as related to the Navy, let's say, and the production of airplanes for our Air Force.

There is a difference, not that we don't need both; we need a robust Air Force as well as a robust Navy. But the way that we prepare and build and invest is different. Because of the magnitude of ships, because we don't order them by the thousands, we order them by tens and twenties, not thousands, the same sort of procedures cannot be effectively applied. We need to understand those differences.

This report goes on to say:

For example, a fighter pilot or commercial passenger is in an airplane for only a limited number of hours, whereas a ship is a self-sustained city at sea that serves as home to sailors for months on end. The production time of an airplane is measured months, the production time of a ship is measured in years. With respect to government orders, the airplanes of the same design are bought in quantities of hundreds whereas ships are procured in quantities of tens or even less, and each ship of a class is highly customized. The same holds true in commercial transactions, where only one or two ships of the same design will be bought by an individual customer and each customer demands customized designs. Airlines buy quantities of aircraft that are in production for commercial market in competition with other models being produced. Another major difference is that there are a limited number of countries with airplane manufacturers versus the number of countries with shipbuilders. Therefore, there are many more international competitors for ship orders than for planes.

Given these differences, it is not surprising that a Department of Defense acquisition policy tailored for planes will not work for ships.

Therefore, I have offered this amendment which will help to move us in a direction to increase our production level and turn around the disturbing trend line.

The next chart I have illustrates the trend line. We have been on a shipbuilding program. We were well on our way in 1997 to 1998, 1999 and 2000, moving up. No one has worked harder than Senator KENNEDY, who is the chair of this subcommittee and has added to the President's budget some significant shipbuilding, and the Presiding Officer,

as chairman of the Armed Services Committee, has done an outstanding job trying to change this trend line.

This amendment, which has been accepted, will make this trend line go in a more positive direction. As you know, there is a great need.

There is an old quote about the military that says: When it comes to debating matters of war, it is the amateurs who talk about strategies and the experts who talk about logistics. This is because so much of the planning that goes into war is centered on two simple questions: How are we going to get the troops to the fight; and how are we going to supply them once they get there?

The answer to both of these questions is a strong and robust Navy. The conflict in Afghanistan today clearly demonstrates this.

Again, not to say that the Air Force and the Army don't have to meet spectacular and important missions, but we cannot be the strong and vital force we need to be to fight this war on terrorism, to support our allies around the world, and to project power around the world without a robust Navy. This amendment will help us to move in that direction.

In an environment where we cannot afford basing rights for our troops, the ships of our Navy become floating sovereign bases a world away from American soil. Our campaign in Afghanistan proves this point. Currently, 30 percent of our Navy is deployed in support of Operation Enduring Freedom, and a majority of our fighter sorties, 85 percent flown over Afghanistan, were sea-based. So if we don't have the ships to serve, not only as supply lines but as places where our troops can be secured while they carry out the missions and the battle, we will be seriously crippled in our efforts.

All of the Marines and many special operations troops that have served in Afghanistan were based on ships. There is no doubt if we did not have a sizable Navy, we would not be able to execute as well as we are in our Afghanistan campaign.

Furthermore, there is no doubt that even with a 318-ship Navy, it has been stretched very thin. Even though we are in a time of war and even though we are about to approve the largest increase in defense spending in the last two decades, we are simply not procuring naval ships at a rate that will sustain a strong Navy in the future. If the size of our Navy fleet continues to decline, I fear we will not be able to carry out the missions before us.

Essentially, this amendment states that it is a national policy of the United States to maintain a strong and robust Navy, with the appropriate number of ships to protect our interests both at home and abroad. Congress has done this before in asserting our policy regarding missile defense, which

we have just successfully debated and on which we have come to consensus.

This amendment would require the Secretary of Defense to lay out the budgetary plans necessary to maintain a strong Navy. The underlying amendment requires DOD to submit an annual ship construction plan as part of the DOD budget. Each year the Secretary of Defense must provide a plan for the construction of combatant and support ships that support the national security strategy or, if we have no such strategy, will support what is called for in the QDR, the Quadrennial Defense Review.

If the national security strategy or the QDR, if it calls for 318 ships, or if it would call for 375 ships with 12 carrier groups and 12 amphibious ready groups, as Admiral Clark, Chief of Naval Operations, has testified to as recently as February, whatever number is decided on, the Secretary must provide in detail budget plans for the construction of these ships.

Of course, it looks out over 30 consecutive years. It is not something we are trying to do next year. This amendment will require the details of such plan to be included. It is consistent with and strengthens the underlying bill, on which the Presiding Officer has worked so hard and effectively. The plan must describe the necessary ship force, how many carriers, submarines, destroyers, transport ships, et cetera.

It also requires that the estimated levels of funding necessary to carry out the plan and a discussion of the procurement strategies on which the estimated funding levels are based.

Finally, it requires a certification from the Secretary of Defense. The Secretary must certify that both the current budget and the future year's defense programs submitted to Congress provide for funding ship construction for the Navy at a level that is sufficient for the procurement of ships provided for in the plan.

I am pleased this amendment was accepted. Shipbuilding is important to our overall defense plan. The industry itself is important to so many of our States, our industrial complex from California to Maine to Louisiana. As a Senator from Louisiana, I am particularly proud of what our companies and our businesses, both large and small, contribute to the shipbuilding strength and capability of America.

From a defense perspective, as well as an industrial base perspective, as well as from economic strength, this amendment is very important as we structure a Department of Defense that can fight the new wars, that can take us to new places in ways that we can be confident we can fight and stand strong for American values and democracy for ourselves, for our interests, and to help our allies around the world.

We fight every day to get good, solid land bases to operate. We are going to

build or are in the process of building some of the finest airplanes ever created. Those are important to our Army and our Air Force. But our Navy cannot be shortchanged. If it is, it will be to our peril and to democracies everywhere.

We are fighting battles where we have no land bases from which to launch and supplies cannot be moved across land. They have to be based on the sea. We cannot do that without a strong Navy.

For Louisiana, this is important, but it is much bigger than our State. It is important to the Nation.

So I thank the Senate for their acknowledgement of the importance of this amendment. I also thank the subcommittee, led by Senator KENNEDY, who, through his hard work, has added three ships to the underlying budget. We added a submarine, a DDG-51, and a LPD-17.

I also thank Senator REED for his work on shipbuilding. He has done an outstanding job. Again, we have added to the President's request. I was proud to support that in the underlying bill. This amendment takes us a step even further to make sure our Navy is strong, robust, and can support the great work and great mission of our armed services and our defense.

(Mrs. CLINTON assumed the chair.)

Mr. LEVIN. Will the Senator yield for a quick comment?

Ms. LANDRIEU. Yes.

Mr. LEVIN. I congratulate the Senator on her amendment, which we have accepted. It takes an important step in assuring that we are going to have the kind of Navy that we need, for which our Quadrennial Defense Review provides. Her amendment is going to help us get to the point we must reach that not only identifies the need, but the roadmap. Her amendment makes an important contribution.

As chairman of the Emerging Threats Subcommittee, she has become a true expert. She was way ahead of her time in identifying the threats that have befallen us. As chair of that subcommittee, she has become an expert on the Navy. Her contribution to the committee is immense, and I thank her for that.

Ms. LANDRIEU. I thank the chairman. I wish to acknowledge the work of the Senator from Virginia as well, who, of course, led the Navy as Secretary of the Navy for many years and now serves in such a distinguished capacity. Truly, his voice has been one, over the last several decades, that has helped to keep our Navy strong. He was instrumental in helping us make some real progress in this area of the underlying bill.

I thank the Senator from Virginia for his support of this amendment because without his support we would not have been able to adopt it. I thank him for the work he does on shipbuilding for our Nation.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Madam President, I thank our colleague, a valued member of the committee.

We can clear two amendments; am I correct?

Mr. LEVIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Madam President, we will continue to clear amendments. The Senator from Virginia was on the floor with the distinguished majority whip last night clearing a package of amendments. The amendment I am going to offer was in that package. Simply because of clerical oversight—and staff had worked 15 hours yesterday—it was dropped.

AMENDMENT NO. 4169

Mr. WARNER. Madam President, I send this amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment is in order.

The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 4169.

Mr. WARNER. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To temporarily authorize higher partial basic allowance for housing for certain members assigned to privatized housing)

On page 130, between lines 6 and 7, insert the following:

SEC. 604. TEMPORARY AUTHORITY FOR HIGHER RATES OF PARTIAL BASIC ALLOWANCE FOR HOUSING FOR CERTAIN MEMBERS ASSIGNED TO HOUSING UNDER ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING.

(a) **AUTHORITY.**—The Secretary of Defense may prescribe and, under section 403(n) of title 37, United States Code, pay for members of the Armed Forces (without dependents) in privatized housing higher rates of partial basic allowance for housing than those that are authorized under paragraph (2) of such section 403(n).

(b) **MEMBERS IN PRIVATIZED HOUSING.**—For the purposes of this section, a member of the Armed Forces (without dependents) is a member of the Armed Forces (without dependents) in privatized housing while the member is assigned to housing that is acquired or constructed under the authority of subchapter IV of chapter 169 of title 10, United States Code.

(c) **TREATMENT OF HOUSING AS GOVERNMENT QUARTERS.**—For purposes of section 403 of title 37, United States Code, a member of the

Armed Forces (without dependents) in privatized housing shall be treated as residing in quarters of the United States or a housing facility under the jurisdiction of the Secretary of a military department while a higher rate of partial allowance for housing is paid for the member under this section.

(d) **PAYMENT TO PRIVATE SOURCE.**—The partial basic allowance for housing paid for a member at a higher rate under this section may be paid directly to the private sector source of the housing to whom the member is obligated to pay rent or other charge for residing in such housing if the private sector source credits the amount so paid against the amount owed by the member for the rent or other charge.

(e) **TERMINATION OF AUTHORITY.**—Rates prescribed under subsection (a) may not be paid under the authority of this section in connection with contracts that are entered into after December 31, 2007, for the construction or acquisition of housing under the authority of subchapter IV of chapter 169 of title 10, United States Code.

Mr. WARNER. Madam President, this is an amendment requested by the Department of Defense relating to certain basic allowances for housing in order to facilitate efforts to construct barracks for the most junior enlisted personnel. I understand it has been cleared on the other side.

Mr. LEVIN. The amendment has been cleared.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4169) was agreed to.

Mr. WARNER. Madam President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4170

Mr. WARNER. Madam President, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 4170.

Mr. WARNER. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To set aside \$20,000,000 for the disposal of obsolete vessels of the National Defense Reserve Fleet)

At the end of subtitle A of title III, add the following:

SEC. 305. DISPOSAL FOR OBSOLETE VESSELS OF THE NATIONAL DEFENSE RESERVE FLEET.

Of the amount authorized to be appropriated by section 301(a)(2) for operation and maintenance for the Navy, \$20,000,000 may be available, without fiscal year limitation if so provided in appropriations Acts, for expenses related to the disposal of obsolete vessels in the Maritime Administration National Defense Reserve Fleet.

Mr. WARNER. Madam President, this amendment relates to the MARAD ob-

solete vessels, which are currently in the James River and are becoming a very serious hazard to the environment. I spoke earlier this morning with the chairman of the Commerce Committee, Senator HOLLINGS. He agrees that this amendment is in the interest of all parties and expresses his support for it.

The amendment would simply transfer a certain sum of money—the same sum having been designated in the House bill—for the purpose of enabling MARAD to proceed to correct this potential environmental problem and, hopefully, removing these vessels at the earliest possible date.

Madam President, this amendment would make additional funding available in fiscal year 2003 for the disposal of obsolete vessels in the National Defense Reserve Fleet, also known as the “Ghost Fleet.” Because of their interest in this issue, I have worked with Senators HOLLINGS and MCCAIN to develop this amendment and believe that I have their support. Both Senators, however, have made it clear that the funding language for disposal of obsolete National Defense Reserve Fleet vessels included in section 3501 of H.R. 4546 is preferred to the funding language included in this amendment. I appreciate your concerns and will ensure that these concerns are considered in conference.

Since 1994, the Maritime Administration or MARAD has been compelled to rely exclusively on the domestic scrapping market because of environmental concerns related to overseas ship sales and scrapping. Until October 2000, however, MARAD was statutorily prohibited from paying for scrapping services, which effectively precluded the use of the domestic market. After the prohibition was removed, MARAD disposal efforts were further hampered by inadequate funding.

The amendment provides that \$20 million be made available for MARAD disposal of obsolete vessels, an \$8.9 million increase to the budget request. The additional funding will address a funding shortfall and hopefully help to avoid an environmental nightmare.

There are 135 obsolete vessels in the fleet slated for scrapping, 29 of those vessels are considered a high risk to the environment, and 23 of those high risk vessels are located in the James River near Ft. Eustis, Virginia. Such vessels contain large amounts of oil contamination and other hazardous substances, such as asbestos and polychlorinated biphenyls (PCBs). These vessels pose a risk to the environment because their advance age and poor condition could result in the release of hazardous substances near sensitive environmental habitats.

A growing number of regulators, marine inspectors, environmentalists, and workers who oversee the “Ghost Fleet” suggest that an environmental disaster

is likely—if not imminent. In 1999, the fleet barely survived the 40 mph winds and rough water caused by Tropical Storm Floyd. Although none of the vessels leaked, 30 vessels broke away from their moorings resulting in a two week recovery effort and a \$3 million investment in a new mooring system. Given the current condition of the fleet, disaster may occur with or without another severe storm. For example, the *Mormac Wave* is a 40-year old retired cargo carrier with peeling lead paint and thick, jet black oil that has leaked from holding tanks to form a 3-foot-deep lagoon in the rusted hull of the vessel. Although workers who maintain the *Wave* and other deteriorated vessels endeavor to keep the nightmare from becoming a reality, they are fighting a losing battle.

As a result, it is vital that Congress ensure that MARAD have adequate resources to address this problem. It is my hope that the additional funding authorized by this amendment will help to accelerate the scrapping of vessels that are in the worst condition, most of which are located on the James River.

Mr. LEVIN. Madam President, the amendment is cleared on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4170) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

AMENDMENT NO. 3975

Ms. LANDRIEU. Madam President, at this time I call up amendment No. 3975.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 3975.

Ms. LANDRIEU. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for military charters between military installations and local school districts, to provide credit enhancement initiatives to promote military charter school facility acquisition, construction, and renovation, and for other purposes)

At the end of division A, add the following new title:

TITLE XIII—MILITARY CHARTER SCHOOLS**Subtitle A—Stable Transitions in Education for Armed Services' Dependent Youth****SEC. 1301. SHORT TITLE.**

This subtitle may be cited as the “Stable Transitions in Education for Armed Services’ Dependent Youth Act”.

SEC. 1302. FINDINGS.

Congress finds that—

(1) States are establishing new and higher academic standards for students in kindergarten through grade 12;

(2) no Federal funding streams are specifically designed to help States and school districts with the costs of providing military or mobile students who are struggling academically, with the extended learning time and accelerated curricula that the students need to meet high academic standards;

(3) forty-eight States now require State accountability tests to determine student grade-level performance and progress;

(4) nineteen States currently rate the performance of all schools or identify low-performing schools through State accountability tests;

(5) sixteen States now have the power to close, take over, or overhaul chronically failing schools on the basis of those tests;

(6) fourteen States provide high-performing schools with monetary rewards on the basis of those tests;

(7) nineteen States currently require students to pass State accountability tests to graduate from secondary school;

(8) six States currently link student promotion to results on State accountability tests;

(9) thirty-seven States have a process in place that allows charters to be a useful tool to bridge the gap created by frequent school changes;

(10) excessive percentages of students are not meeting their State standards and are failing to perform at high levels on State accountability tests; and

(11) among mobile students, a common thread is that school transcripts are not easily transferred and credits are not accepted between public school districts in the United States.

SEC. 1303. PURPOSE.

The purpose of this subtitle is to provide Federal support through a new demonstration program to States and local educational agencies, to enable the States and local educational agencies to develop models for high quality military charter schools that are specifically designed to help mobile military dependent students attending public school make a smooth transition from one school district to another, even across State lines, and achieve a symbiotic relationship between military installations and these school districts.

SEC. 1304. DEFINITIONS.

In this subtitle:

(1) **ELEMENTARY SCHOOL; SECONDARY SCHOOL; LOCAL EDUCATIONAL AGENCY; STATE EDUCATIONAL AGENCY.**—The terms “elementary school”, “secondary school”, “local educational agency”, and “State educational agency” have the meanings given such terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) **MILITARY INSTALLATION.**—The term “military installation” has the meaning given such term in section 2687(e)(1) of title 10, United States Code.

(3) **MILITARY DEPENDENT STUDENT.**—The term “military dependent student” means an elementary school or secondary school student who has a parent who is a member of

the Armed Forces, including a member of a reserve component of the Armed Forces, without regard to whether the member is on active duty or full-time National Guard duty (as defined in section 101(d) of title 10, United States Code.

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Defense.

(5) **STUDENT.**—The term “student” means an elementary school or secondary school student.

SEC. 1305. GRANTS TO STATES.

(a) **GRANTS AUTHORIZED.**—

(1) **IN GENERAL.**—From amounts appropriated under section 1310, the Secretary, in consultation with the Secretary of Education, shall establish a demonstration program through which the Secretary shall make grants to State educational agencies, on a competitive basis, to enable the State educational agencies to assist local educational agencies in establishing and maintaining high quality military charter schools.

(2) **DISTRIBUTION RULE.**—In awarding grants under this subtitle the Secretary shall ensure that such grants serve not more than 10 States and not more than 35 local educational agencies with differing demographics.

(3) **SPECIAL LOCAL RULE.**—

(A) **NONPARTICIPATING STATE.**—If a State chooses not to participate in the demonstration program assisted under this subtitle or does not have an application approved under subsection (c), then the Secretary may award a grant directly to a local educational agency in the State to assist the local educational agency in carrying out high quality military charter schools.

(B) **LOCAL EDUCATIONAL AGENCY APPLICATION.**—To be eligible to receive a grant under this paragraph, a local educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(C) **REGULATIONS.**—The Secretary shall promulgate such regulations as the Secretary determines necessary to carry out this paragraph.

(b) **ELIGIBILITY AND SELECTION.**—

(1) **ELIGIBILITY.**—For a State educational agency to be eligible to receive a grant under subsection (a), the State served by the State educational agency shall—

(A) have in effect all standards and assessments required under section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311);

(B) compile and annually distribute to parents a public school report card that, at a minimum, includes information on student and school performance for each of the assessments required under section 1111 of the Elementary and Secondary Education Act of 1965;

(C) require each military charter school assisted under this subtitle to be an independent public school;

(D) require each military charter school assisted under this subtitle to operate under an initial 5-year charter granted by a State charter authority, with specified check points and renewal, as required by State law; and

(E) require each military charter school assisted under this subtitle to participate in the State’s testing program.

(2) **SELECTION.**—In selecting State educational agencies to receive grants under this section, the Secretary shall make the selections in a manner consistent with the purpose of this subtitle.

(c) **APPLICATION.**—

(1) **IN GENERAL.**—To be eligible to receive a grant under this section, a State educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) **CONTENTS.**—Such application shall include—

(A) information describing specific measurable goals and objectives to be achieved in the State through the military charter schools carried out under this subtitle, which may include specific measurable annual educational goals and objectives relating to—

(i) increased student academic achievement;

(ii) decreased student dropout rates;

(iii) governance, parental involvement plans, and disciplinary policies;

(iv) a military charter school admissions policy that requires a minimum of 60 percent military dependent elementary school or secondary school students, and a maximum of 80 percent of military dependent students, except where such percentages are impossible to maintain because of the demographics of the area around the military installation;

(v) liability and other insurance coverage, business and accounting practices, and the procedures and methods employed by the chartering authority in monitoring the school; and

(vi) such other factors as the State educational agency may choose to measure; and

(B) information on criteria, established or adopted by the State, that—

(i) the State will use to select local educational agencies for participation in the military charter schools carried out under this subtitle; and

(ii) at a minimum, will assure that grants provided under this subtitle are provided to—

(I) the local educational agencies in the State that are sympathetic to, and take actions to ease the transition burden upon, such local educational agencies’ military dependent students;

(II) the local educational agencies in the State that have the highest percentage of military dependent students impacting the local school system or not meeting basic or minimum required standards for State assessments required under section 1111 of the Elementary and Secondary Education Act of 1965; and

(III) an assortment of local educational agencies serving urban, suburban, and rural areas, and impacted by a local military installation.

SEC. 1306. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

(a) **IN GENERAL.**—

(1) **FIRST YEAR.**—Except as provided in paragraph (3), for the first year that a State educational agency receives a grant under this subtitle, the State educational agency shall use the funds made available through the grant to make grants to eligible local educational agencies in the State to pay for the Federal share of the cost of planning for or carrying out the military charter school programs.

(2) **SUCCEEDING YEARS.**—Except as provided in paragraph (3), for the second and third year that a State educational agency receives a grant under this subtitle, the State educational agency shall use the funds made available through the grant to make grants to eligible local educational agencies in the State to pay for the Federal share of the cost

of carrying out the military charter school programs.

(3) **TECHNICAL ASSISTANCE AND PLANNING ASSISTANCE.**—The State educational agency may use not more than 5 percent of the grant funds received under this subtitle for a fiscal year—

(A) to provide to the local educational agencies technical assistance that is aligned with the curriculum of the local educational agencies for the programs;

(B) to enable the local educational agencies to obtain such technical assistance from entities other than the State educational agency that have demonstrated success in using the curriculum; and

(C) to assist the local educational agencies in evaluating activities carried out under this subtitle.

(b) **APPLICATION.**—

(1) **IN GENERAL.**—To be eligible to receive a grant under this section, a local educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the Secretary or the State educational agency may require.

(2) **CONTENTS.**—Each such application shall include, to the greatest extent practicable—

(A) information that—

(i) demonstrates that the local educational agency will carry out a military charter school program funded under this section—

(I) that provides intensive high quality programs that are aligned with challenging State content and student performance standards, and that is focused on reinforcing and boosting the core academic skills and knowledge of students who are struggling academically, as determined by the State;

(II) that focuses on accelerated learning, rather than remediation, so that students served through the program will master the high level skills and knowledge needed to meet the highest State standards or to perform at high levels on all State assessments required under section 1111 of the Elementary and Secondary Education Act of 1965;

(III) that is based on, and incorporates best practices developed from, research-based charter school methods and practices;

(IV) that has a proposed curriculum that is directly aligned with State content and student performance standards;

(V) for which only teachers who are certified and licensed, and are otherwise fully qualified teachers, provide academic instruction to students enrolled in the program;

(VI) that offers to staff in the program professional development and technical assistance that are aligned with the approved curriculum for the program; and

(VII) that incorporates a parental involvement component that seeks to involve parents in the program's topics and students' daily activities; and

(ii) may include—

(I) the proposed curriculum for the military charter school program;

(II) the local educational agency's plan for recruiting highly qualified and highly effective teachers to participate in the program; and

(III) a schedule for the program that indicates that the program is of sufficient duration and intensity to achieve the State's goals and objectives described in section 1305(c)(2)(A);

(B) an outline indicating how the local educational agency will utilize applicable Federal, State, local, or public funds, other than funds made available through the grant, to support the program;

(C) an explanation of how the local educational agency will ensure that the instruc-

tion provided through the program will be provided by qualified teachers;

(D) an explanation of the types of intensive training or professional development, aligned with the curriculum of the program, that will be provided for staff of the program;

(E) an explanation of the facilities to be used for the program;

(F) an explanation regarding the duration of the periods of time that students and teachers in the program will have contact for instructional purposes (such as the hours per day and days per week of that contact, and the total length of the program);

(G) an explanation of the proposed student-to-teacher ratio for the program, analyzed by grade level;

(H) an explanation of the grade levels that will be served by the program;

(I) an explanation of the approximate cost per student for the program;

(J) an explanation of the salary costs for teachers in the program;

(K) a description of a method for evaluating the effectiveness of the program at the local level;

(L) information describing specific measurable goals and objectives, for each academic subject in which the program will provide instruction, that are consistent with, or more rigorous than, the adequate yearly progress goals established by the State under section 1111 of the Elementary and Secondary Education Act of 1965;

(M) a description of how the local educational agency will involve parents and the community in the program in order to raise academic achievement;

(N) a description of how the local educational agency will acquire any needed technical assistance that is aligned with the curriculum of the local educational agency for the program, from the State educational agency or other entities with demonstrated success in using the curriculum; and

(O) a statement of a clearly defined goal for providing counseling and other transition burden relief for military dependent children.

(c) **PRIORITY.**—In making grants under this section, the State educational agency shall give priority to local educational agencies that demonstrate a high level of need for the military charter school programs.

(d) **FEDERAL SHARE.**—

(1) **IN GENERAL.**—The Federal share of the cost described in subsection (a) is 50 percent.

(2) **NON-FEDERAL SHARE.**—The non-Federal share of the cost may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

SEC. 1307. SUPPLEMENT NOT SUPPLANT.

Funds appropriated pursuant to the authority of this subtitle shall be used to supplement and not supplant other Federal, State, local, or private funds expended to support military charter school programs.

SEC. 1308. REPORTS.

(a) **STATE REPORTS.**—Each State educational agency that receives a grant under this subtitle shall annually prepare and submit to the Secretary a report. The report shall describe—

(1) the method the State educational agency used to make grants to eligible local educational agencies and to provide assistance to schools under this subtitle;

(2) the specific measurable goals and objectives described in section 1305(c)(2)(A) for the State as a whole and the extent to which the State met each of the goals and objectives in the year preceding the submission of the report;

(3) the specific measurable goals and objectives described in section 1306(b)(2)(L) for each of the local educational agencies receiving a grant under this subtitle in the State and the extent to which each of the agencies met each of the goals and objectives in that preceding year;

(4) the steps that the State educational agency will take to ensure that any such local educational agency that did not meet the goals and objectives in that year will meet the goals and objectives in the year following the submission of the report, or the plan that the State educational agency has for revoking the grant awarded to such an agency and redistributing the grant funds to existing or new military charter school programs;

(5) how eligible local educational agencies and schools used funds provided by the State educational agency under this subtitle;

(6) the degree to which progress has been made toward meeting the goals and objectives described in section 1305(c)(2)(A); and

(7) best practices for the Secretary to share with interested parties.

(b) **REPORT TO CONGRESS.**—The Secretary shall annually prepare and submit to Congress a report. The report shall describe—

(1) the methods the State educational agencies used to make grants to eligible local educational agencies and to provide assistance to schools under this subtitle;

(2) how eligible local educational agencies and schools used funds provided under this subtitle; and

(3) the degree to which progress has been made toward meeting the goals and objectives described in sections 1305(c)(2)(A) and 1306(b)(2)(L).

(c) **GOVERNMENT ACCOUNTING OFFICE REPORT TO CONGRESS.**—The Comptroller General of the United States shall conduct a study regarding the demonstration program carried out under this subtitle and the impact of the program on student achievement. The Comptroller General shall prepare and submit to Congress a report containing the results of the study.

SEC. 1309. ADMINISTRATION.

(a) **FEDERAL.**—The Secretary shall develop program guidelines for and oversee the demonstration program carried out under this subtitle.

(b) **LOCAL.**—The commander of each military installation served by a military charter school assisted under this subtitle shall establish a nonprofit corporation or an oversight group to provide the applicable local educational agency with oversight and guidance regarding the day-to-day operations of the military charter school.

SEC. 1310. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

(1) \$5,000,000 for fiscal year 2003;

(2) \$7,000,000 for fiscal year 2004;

(3) \$9,000,000 for fiscal year 2005;

(4) \$11,000,000 for fiscal year 2007; and

(5) \$13,000,000 for fiscal year 2008.

SEC. 1311. TERMINATION.

The authority provided by this subtitle terminates 5 years after the date of enactment of this Act.

Subtitle B—Credit Enhancement Initiatives To Promote Military Charter School Facility Acquisition, Construction, and Renovation

SEC. 1321. CREDIT ENHANCEMENT INITIATIVES TO PROMOTE MILITARY CHARTER SCHOOL FACILITY ACQUISITION, CONSTRUCTION, AND RENOVATION.

Title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7201 et seq.)

is amended by adding at the end the following:

"PART E—CREDIT ENHANCEMENT INITIATIVES TO PROMOTE MILITARY CHARTER SCHOOL FACILITY ACQUISITION, CONSTRUCTION, AND RENOVATION.

"SEC. 5701. PURPOSE.

"The purpose of this part is to provide grants to eligible entities to permit the eligible entities to establish or improve innovative credit enhancement initiatives that assist military charter schools to address the cost of acquiring, constructing, and renovating facilities.

"SEC. 5702. GRANTS TO ELIGIBLE ENTITIES.

"(a) GRANTS FOR INITIATIVES.—

"(1) IN GENERAL.—The Secretary shall use 100 percent of the amount available to carry out this part to award grants to eligible entities that have applications approved under this part, to enable the eligible entities to carry out innovative initiatives for assisting military charter schools to address the cost of acquiring, constructing, and renovating facilities by enhancing the availability of loans or bond financing.

"(2) NUMBER OF GRANTS.—The Secretary shall award not less than 4 grants under this part in each fiscal year.

"(b) GRANTEE SELECTION.—

"(1) DETERMINATION.—The Secretary shall evaluate each application submitted, and shall determine which applications are of sufficient quality to merit approval and which are not.

"(2) MINIMUM GRANTS.—The Secretary shall award at least—

"(A) 1 grant to an eligible entity described in section 5710(1)(A);

"(B) 1 grant to an eligible entity described in section 5710(1)(B); and

"(C) 1 grant to an eligible entity described in section 5710(1)(C),

if applications are submitted that permit the Secretary to award the grants without approving an application that is not of sufficient quality to merit approval.

"(c) GRANT CHARACTERISTICS.—Grants under this part shall be in sufficient amounts, and for initiatives of sufficient scope and quality, so as to effectively enhance credit for the financing of military charter school acquisition, construction, or renovation.

"(d) SPECIAL RULE.—In the event the Secretary determines that the funds available to carry out this part are insufficient to permit the Secretary to award not less than 4 grants in accordance with subsections (a) through (c)—

"(1) subsections (a)(2) and (b)(2) shall not apply; and

"(2) the Secretary may determine the appropriate number of grants to be awarded in accordance with subsections (a)(1), (b)(1), and (c).

"SEC. 5703. APPLICATIONS.

"(a) IN GENERAL.—To receive a grant under this part, an eligible entity shall submit to the Secretary an application in such form as the Secretary may reasonably require.

"(b) CONTENTS.—An application submitted under subsection (a) shall contain—

"(1) a statement identifying the activities proposed to be undertaken with funds received under this part, including how the eligible entity will determine which military charter schools will receive assistance, and how much and what types of assistance the military charter schools will receive;

"(2) a description of the involvement of military charter schools in the application's development and the design of the proposed activities;

"(3) a description of the eligible entity's expertise in capital market financing;

"(4) a description of how the proposed activities will—

"(A) leverage private sector financing capital, to obtain the maximum amount of private sector financing capital, relative to the amount of government funding used, to assist military charter schools; and

"(B) otherwise enhance credit available to military charter schools;

"(5) a description of how the eligible entity possesses sufficient expertise in education to evaluate the likelihood of success of a military charter school program for which facilities financing is sought;

"(6) in the case of an application submitted by a State governmental entity, a description of the actions that the entity has taken, or will take, to ensure that military charter schools within the State receive the funding the schools need to have adequate facilities;

"(7) an assurance that the eligible entity will give priority to funding initiatives that assist military charter schools in which students have demonstrated academic excellence or improvement during the 2 consecutive academic years preceding submission of the application; and

"(8) such other information as the Secretary may reasonably require.

"SEC. 5704. MILITARY CHARTER SCHOOL OBJECTIVES.

"An eligible entity receiving a grant under this part shall use the funds received through the grant, and deposited in the reserve account established under section 5705(a), to assist 1 or more military charter schools to access private sector capital to accomplish 1 or more of the following objectives:

"(1) The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of a military charter school) in improved or unimproved real property that is necessary to commence or continue the operation of a military charter school.

"(2) The construction of new facilities, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operation of a military charter school.

"(3) The payment of startup costs, including the costs of training teachers and purchasing materials and equipment, including instructional materials and computers, for a military charter school.

"SEC. 5705. RESERVE ACCOUNT.

"(a) IN GENERAL.—For the purpose of assisting military charter schools to accomplish the objectives described in section 5704, an eligible entity receiving a grant under this part shall deposit the funds received through the grant (other than funds used for administrative costs in accordance with section 5706) in a reserve account established and maintained by the eligible entity for that purpose. The eligible entity shall make the deposit in accordance with State and local law and may make the deposit directly or indirectly, and alone or in collaboration with others.

"(b) USE OF FUNDS.—Amounts deposited in such account shall be used by the eligible entity for 1 or more of the following purposes:

"(1) Guaranteeing, insuring, and reinsuring bonds, notes, evidences of debt, loans, and interests therein, the proceeds of which are used for an objective described in section 5704.

"(2) Guaranteeing and insuring leases of personal and real property for such an objective.

"(3) Facilitating financing for such an objective by identifying potential lending sources, encouraging private lending, and carrying out other similar activities that directly promote lending to, or for the benefit of, military charter schools.

"(4) Facilitating the issuance of bonds by military charter schools, or by other public entities for the benefit of military charter schools, for such an objective, by providing technical, administrative, and other appropriate assistance (including the recruitment of bond counsel, underwriters, and potential investors and the consolidation of multiple military charter school projects within a single bond issue).

"(c) INVESTMENT.—Funds received under this part and deposited in the reserve account shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities.

"(d) REINVESTMENT OF EARNINGS.—Any earnings on funds received under this part shall be deposited in the reserve account established under subsection (a) and used in accordance with subsection (b).

"SEC. 5706. LIMITATION ON ADMINISTRATIVE COSTS.

"An eligible entity that receives a grant under this part may use not more than 0.25 percent of the funds received through the grant for the administrative costs of carrying out the eligible entity's responsibilities under this part.

"SEC. 5707. AUDITS AND REPORTS.

"(a) FINANCIAL RECORD MAINTENANCE AND AUDIT.—The financial records of each eligible entity receiving a grant under this part shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.

"(b) REPORTS.—

"(1) ELIGIBLE ENTITY ANNUAL REPORTS.—Each eligible entity receiving a grant under this part annually shall submit to the Secretary a report of the eligible entity's operations and activities under this part.

"(2) CONTENTS.—Each such annual report shall include—

"(A) a copy of the eligible entity's most recent financial statements, and any accompanying opinion on such statements, prepared by the independent public accountant auditing the financial records of the eligible entity;

"(B) a copy of any report made on an audit of the financial records of the eligible entity that was conducted under subsection (a) during the reporting period;

"(C) an evaluation by the eligible entity of the effectiveness of the entity's use of the Federal funds provided under this part in leveraging private funds;

"(D) a listing and description of the military charter schools served by the eligible entity with such Federal funds during the reporting period;

"(E) a description of the activities carried out by the eligible entity to assist military charter schools in meeting the objectives set forth in section 5704; and

"(F) a description of the characteristics of lenders and other financial institutions participating in the activities undertaken by the eligible entity under this part during the reporting period.

"(3) SECRETARIAL REPORT.—The Secretary shall review the reports submitted under paragraph (1) and shall provide a comprehensive annual report to Congress on the activities conducted under this part.

“SEC. 5708. NO FULL FAITH AND CREDIT FOR GRANTEE OBLIGATIONS.

“No financial obligation of an eligible entity entered into pursuant to this part (such as an obligation under a guarantee, bond, note, evidence of debt, or loan) shall be an obligation of, or guaranteed in any respect by, the United States. The full faith and credit of the United States is not pledged to the payment of funds that may be required to be paid under any obligation made by an eligible entity pursuant to any provision of this part.

“SEC. 5709 RECOVERY OF FUNDS.

“(a) IN GENERAL.—The Secretary, in accordance with chapter 37 of title 31, United States Code, shall collect—

“(1) all of the funds in a reserve account established by an eligible entity under section 5705(a), if the Secretary determines, not earlier than 2 years after the date on which the entity first received funds under this part, that the entity has failed to make substantial progress in carrying out the purposes described in section 5705(b); or

“(2) all or a portion of the funds in a reserve account established by an eligible entity under section 5705(a), if the Secretary determines that the eligible entity has permanently ceased to use all or a portion of the funds in such account to accomplish any purpose described in section 5705(b).

“(b) EXERCISE OF AUTHORITY.—The Secretary shall not exercise the authority provided in subsection (a) to collect from any eligible entity any funds that are being properly used to achieve 1 or more of the purposes described in section 5705(b).

“(c) PROCEDURES.—The provisions of sections 451, 452, and 458 of the General Education Provisions Act (20 U.S.C. 1234, 1234a, 1234g) shall apply to the recovery of funds under subsection (a).

“(d) CONSTRUCTION.—This section shall not be construed to impair or affect the authority of the Secretary to recover funds under part D of the General Education Provisions Act (20 U.S.C. 1234 et seq.).

“SEC. 5710. DEFINITIONS.

“In this part:

“(1) ELIGIBLE ENTITY.—The term ‘eligible entity’ means—

“(A) a public entity, such as a military installation as defined in section 2687(e)(1) of title 10, United States Code;

“(B) a private nonprofit entity; or

“(C) a consortium of entities described in subparagraphs (A) and (B).

“(2) MILITARY CHARTER SCHOOL.—The term ‘military charter school’ has the meaning given such term by regulations promulgated by the Secretary of Defense.

“SEC. 5711. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this part \$10,000,000 for fiscal year 2003 and each succeeding fiscal year.”

SEC. 1322. INCOME EXCLUSION FOR INTEREST PAID ON LOANS BY MILITARY CHARTER SCHOOLS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by inserting after section 139 the following new section:

“SEC. 139A. INTEREST ON MILITARY CHARTER SCHOOL LOANS.

“(a) EXCLUSION.—Gross income does not include interest on any military charter school loan.

“(b) MILITARY CHARTER SCHOOL LOAN.—For purposes of this section:

“(1) IN GENERAL.—The term ‘military charter school loan’ means any indebtedness incurred by a military charter school.

“(2) MILITARY CHARTER SCHOOL.—The term ‘military charter school’ means an institution defined as a military charter school by the Secretary of Defense.”

(b) CONFORMING AMENDMENT.—The table of sections for such part III is amended by inserting after the item relating to section 139 the following:

“Sec. 139A. Interest on military charter school loans.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of enactment of this Act, with respect to indebtedness incurred after the date of enactment of this Act.

Ms. LANDRIEU. Madam President, there have been many very good amendments brought to the floor that have been accepted, which have strengthened the underlying bill. I want to speak for a moment about this amendment in the hopes that, if we cannot adopt it today, at least we will begin a very serious discussion of this issue. It is an issue that the occupant of the chair has worked on very hard on in her career, and many Members on both sides of the aisle feel strongly about—that is, education and the quality of education in our country.

This particular amendment is in relation to the quality of education afforded to the hundreds of thousands of dependents of our men and women in the military. I will begin by expressing an overall thought that we are becoming wiser and wiser in Congress on this issue of education, recognizing that it truly is an issue of economic development.

It truly is an issue of strengthening our Nation. We cannot have an economically strong and militarily secure nation moving in a progressive way without an excellent school system. No matter where a child is born—rural or urban, on the east coast or west coast—if we do not do a better job as a nation of giving our children a quality education, the future of our Nation will not be as bright, and it could put us in jeopardy.

I also make the argument that for our military, the same holds true. It is not just about providing our military with the most extraordinary weapons. It is not just about training our military men and women to the highest levels. It is not just providing them the basics in terms of fair compensation and health care. We have an obligation to make sure, when our men and women sign up to be in our military and they have made these sacrifices, that we provide them, between the Department of Defense and the Department of Education, a quality education for their children.

When we send our soldiers into battle, we want them focused on the battle and mission at hand. We do not want them worried, as they naturally would be, about spouses and dependents at home, about their happiness, about their comfort, about their security. It

makes our military stronger when we provide good, quality-of-life issues for their families at home. One of the ways we can do that is by improving the schools for military dependents.

There are over 800,000 children who are military dependents out of an overall force strength of 1.4 million adults connected to the military. Many of them are school-age children. Because of the specific demands of our military, which are very unlike the civilian sector because of the way it is structured, many move every 2 years. Some military move from the east coast to the west coast, moving families with them. It is very difficult providing an excellent education generally, and yet the military has even more challenges.

What is the solution? I offer this amendment—and hopefully we will begin discussing it—to strengthen our military schools in the United States in a creative way. This amendment will set up the possibility of a pilot program to help create military charter schools around the Nation in partnership with local public school systems to provide an opportunity not only for our military dependents, but this framework will also help communities that have a large military presence. The benefit overall is that the community gets a better school, a school that has the opportunity to provide an excellent education.

The second benefit is that our military children have that opportunity, as well as the children whose families might not have any connection to the military. It gives them an introduction into what military life can be like.

This is a partnership. It is a pilot program that will help establish charter schools, and that is basically what this amendment attempts to do.

Also with this amendment, which is an important consideration for military children as they move from community to community, there is created for the first time what we call an academic passport. It helps to stabilize and standardize the curriculum without micromanaging, without dictating what the curriculum should be. It tries to set up a new approach or a new framework for our local elementary and secondary education districts for use throughout the country to set up a standardized curriculum so that if children have to move from community to community, they can keep up as one school might require 3 years of a foreign language or 2 years of algebra or 1 year of algebra, or a whole different curriculum. That is part of this amendment. It is something about which military families feel very strongly. I hope that with this new pilot program to help create charter schools with a new academic passport, we can begin to focus some of our resources—again, not all within the Department of Defense; some of this is within the jurisdiction of the Department of Education—to

create something exciting and wonderful for these 800,000 children.

Madam President, 600,000 of these children are in public schools today, at great stress sometimes to those public districts; 100,000 of these children are either in private schools or are home schooled; and only 32,000 of the 800,000 are in Department of Defense schools. As shown on this map, these schools are concentrated in a few States. There are only 32,000 children, as I said, of 800,000 dependents. Some of them are overseas; approximately 73,000 are overseas; 32,000 of our military children are in schools in New York, Kentucky, Virginia, North Carolina, South Carolina, Georgia, and Alabama.

As my colleagues can see, dependent children of military personnel are in public schools throughout the country. Sometimes they are good public schools; sometimes they are not so good. We are working hard to make every public school excellent, but I think we have a special obligation to our military families to make sure that those children are getting an excellent education.

I would like to tell you why with a chart that shows the percentage and status of degrees among the general population and our military population.

If you look at the general population, nonofficers in our military, 91.5 percent have only a high school degree or GED—91 percent. In our general population, it is about 80 percent—20 percent have college degrees or above; 75 to 80 percent have only high school. This is a very upwardly mobile group of Americans. These are men and women with great discipline, great patriotism, great commitment to the Nation. Obviously, they are serving their country, but they are committed to their families and their communities.

As one can see, the officers exceed the general population at large. Almost 40 percent have advanced degrees; 50 percent or more have bachelor degrees. This is a very upwardly mobile population. If we can provide excellent schools and opportunities for this 91 percent, I think we will be doing a very good job in helping to strengthen our military but also helping our country be a better place. It is truly something on which we should focus more.

In conclusion, let me show a picture of a school of which I am very proud. It might be one of the first military charters, if not the first, in the Nation. This is a school we are building and will actually be cutting the ribbon for this week in Belle Chasse, LA. This is a state-of-the-art, brandnew public school in Plaquemines Parish.

There is a very important naval reserve base there. It is 90,000 square feet, 37 classrooms, a gymnasium, cafeteria, a media center, a youth center, administrative offices, and although one cannot tell exactly from this picture, won-

derful classrooms and a very high-tech communication and computer system. Six hundred of the children from this military base will be able to attend a state-of-the-art school that was built in a public-private partnership. I am very hopeful this model, based on this amendment—which, again, I am offering only for consideration and will ask to be withdrawn in a moment so we can consider it at a future time—will be something we can share with the rest of the Nation and help build opportunities for our military dependents to go to excellent schools and to help the local school districts to give nonmilitary children an opportunity to attend world-class, first-class centers of education.

I think we can work all day long on pay raises, on building more ships, and on building a stronger Air Force, but truly I think focusing on educational opportunities, both for the adults in our military but particularly for their children, will help us build morale, help us improve retention, will help us strengthen our military in the intermediate and the long term, and it is something that, with a little creativity and a little bit of thinking outside of the box, I am convinced we could finance the construction of these schools by reordering some of the streams of revenue and end up coming out with some excellent facilities around this Nation to serve both our military and our nonmilitary families and do a great job for our Defense Department and a great job for our country. That is what this amendment does.

AMENDMENT NO. 3975 WITHDRAWN

Ms. LANDRIEU. I ask unanimous consent that amendment No. 3975 be withdrawn until a further time.

The PRESIDING OFFICER. The amendment is withdrawn.

Ms. LANDRIEU. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Madam President, I rise today to speak on one of the most important pieces of legislation that we will consider this year; that is, the National Defense Authorization Act for Fiscal Year 2003. This important bill authorizes funding to strengthen our military, to address the challenges of today, and to anticipate the threats of tomorrow.

We are a nation at war. This bill recognizes the critical role that our Armed Forces play in the war against terrorism and in securing our homeland. It will help ensure that our troops are better paid, better housed, and better equipped than ever before. I

had the privilege of visiting our troops in central Asia last January. I was a member of the first bipartisan Senate delegation to visit our troops on the front lines in the war zone. I was inspired by the patriotism and professionalism of our men and women in uniform.

As long as they know our Nation is united behind them, they are willing to bear any hardship no matter how harsh, undertake any mission no matter how dangerous, and willingly risk their lives each and every day just by doing their jobs.

The obligation on us, in return, is clear. The legislation before the Senate recognizes our obligation to improve the quality of service for our American forces who need and deserve the finest equipment and the best resources to combat any threat.

For example, the bill includes a 4.1-percent across-the-board pay raise for our military personnel and an increase in the housing allowance that will reduce the average out-of-pocket expenses for off-post housing to 7.5 percent in 2002. This represents significant progress toward the goal of eliminating by 2005 the need for our military personnel to reach into their own pockets to pay for housing. I also support, and cosponsored, an amendment adopted by the Senate earlier this week that will repeal the prohibition on concurrent receipt of non-disability retired military pay and veteran's disability pay for our military retirees, eliminating an inequity and allowing these veterans to collect the full amount they have earned.

This bill also begins to address the needs and concerns of our reserve forces. Specifically, it includes a study that will require the Department of Defense to assess the compensation and benefits of our reservists, who have been called upon more and more to serve our country and protect our freedoms. Under the total force concept, more than 80,000 Selected Reserve and National Guard personnel are now on active duty, nearly 9 months after the attacks of September 11. This study is the first step to ensuring that our reservists receive the compensation and benefits that are proportional to the commitment and services that they provide.

While the bill reflects significant investments in our national defense—including a significant increase to respond to the attacks of September 11—it will take several years of sustained increases in defense spending to completely recover from the “procurement holiday” of previous years.

I stand with the majority of the Armed Services Committee that believes more needs to be done to address the shipbuilding shortfalls that this administration inherited from the previous administration.

The Navy's shipbuilding program simply is not adequate to meet the

needs of a more dangerous world. I am particularly concerned about the under-funding of the Navy's destroyer, or "DDG-51" program, which serves as the backbone of the Navy's surface fleet. This bill fully funds only two DDG-51s next year despite the clear need for a third. I am therefore pleased that the Senate version of the bill does include an increase of \$125 million above the administration's request toward the procurement of an additional much-needed destroyer.

During the committee markup, Senator WARNER, with my strong support, offered an alternative shipbuilding proposal that would have provided even more to meet the need for more ships through an additional \$1 billion. Also, the alternative would have provided multi-year authority and additional advanced procurement for several shipbuilding programs. Further, it would have restored \$690 million of the almost \$900 million cut in various missile defense programs. I am very disappointed that this shipbuilding initiative was rejected in committee on a straight party-line vote as, ultimately, there will be a high price to pay if this shipbuilding trend is not reversed. We are making some progress. The out-year budgets for the Department of Defense have improved markedly in investing more resources into rebuilding our Naval Fleet.

I am encouraged and optimistic, however, that the Navy and its industry partners have heard our concerns about this egregious shortfall. Just recently an agreement was reached by the Navy, General Dynamics and Northrop Grumman Ship Systems to transfer ship construction between the two corporations' shipyards. The terms of this agreement is based on adding two additional DDG ships to the Navy's FY 2003 shipbuilding plan, which will be awarded to the Bath Iron Works in my State. Bath Iron Works has a long tradition of producing quality ships for the Navy. This agreement will immediately transfer DDG 102 to the Bath Iron Works facility for construction.

Further, as a result of this agreement, the Navy is expected to realize significant net cost savings on these programs, which could then be used to further invest in additional shipbuilding initiatives. The increased number of DDGs at Bath should provide increased stability and predictability at the yard, and maintain the critical surface combatant work force for the industrial base to remain competitive for the DD(X) family-of-ships.

The swap agreement has also led to discussions and a tentative agreement on the price and terms of a new DDG multi-year procurement. This contract, once awarded, will provide seven ships over the next four years, including three DDG swap option ships that Bath alone will have the opportunity to bid on. This new multi-year procurement

contract will be the largest contract award in Bath's history. Let me state that again, this pending multi-year contract will be the largest contract awarded in Bath's history, and begin to remedy the shortfall in our naval fleet.

While the debate continues on how to transform our armed forces, the Senate is taking action to support our armed forces and the administration's priorities. I would like to take this opportunity to acknowledge and thank Chairman LEVIN and our senior Republican, Senator WARNER, for their tireless efforts to tackle the tough issues and produce an authorization bill that funds a number of critical priorities and provides support for the men and women of our armed forces.

Our armed forces stand ready. Now it is our responsibility to equip and support our men and women to meet the threats and challenges of today and those of tomorrow.

I believe the legislation before us is a strong step in the right direction, and I am pleased to have had an opportunity to shape this legislation as a member of the Senate Armed Services Committee.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Madam President, On May 14, Department of Defense officials announced that they intended to classify details of future flight tests of the national missile defense system. This occurred after the Senate Armed Services Committee had completed its work on the Defense authorization bill, so we were unable to address this issue in the committee version of the bill. The issue needs to be addressed, however.

The administration claims that placing a shroud of secrecy around the national missile defense testing program is necessary to prevent details of its operation from being revealed to potential enemies. One can argue whether such secrecy is truly needed, since we are many years away from deployment an effective national missile defense systems.

What is not arguable is that Congress has a right and obligation to know the results of such critical tests, regardless of whether they are classified.

The amendment offered by Senator REED and myself would ensure that Congress gets regular reports, classified as necessary, on the results of each national missile defense flight test, 120 days following the test.

The reports should describe the objectives of each test, and whether the

objectives were met. Such information is absolutely essential for Congress to be able to understand and evaluate the performance of the national missile defense system.

The word in the modified amendment is "thorough." This amendment ensures that constitutionally mandated oversight will, in fact, continue to be respected.

I hope all of my colleagues will support this important amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 4029

Mr. REED. Madam President, I call up amendment No. 4029.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED] for himself and Mr. LEVIN proposes an amendment numbered 4029.

Mr. REED. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require a report on the results of each flight test of the Ground-based Midcourse national missile defense system)

On page 34, after line 23, insert the following:

SEC. 226. REPORTS ON FLIGHT TESTING OF GROUND-BASED MIDCOURSE NATIONAL MISSILE DEFENSE SYSTEM.

(a) REQUIREMENT.—The Director of the United States Missile Defense Agency shall submit to the congressional defense committees a report on each flight test of the Ground-based Midcourse national missile defense system. The report shall be submitted not later than 90 days after the date of the test.

(b) CONTENT.—A report on a flight test under subsection (a) shall include the following matters:

(1) A detailed discussion of the content and objectives of the test.

(2) For each test objective, a statement regarding whether the objective was achieved.

(3) For any test objective not achieved—

(A) a detailed discussion describing the reasons for not achieving the objective; and

(B) a discussion of any plans for future tests to achieve the objective.

(c) FORMAT.—The reports required under subsection (a) shall be submitted in unclassified form, with a classified annex as necessary.

AMENDMENT NO. 4029, AS MODIFIED

Mr. REED. Madam President, I also at this time seek unanimous consent to send a modification of the amendment to the desk and have it reported.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Madam President, reserving the right to object—I shall not—the Senator submitted the amendment to me. I have been in consultation with the Department of Defense. We came back with certain modifications. The Senator has modified this amendment consistent with those recommendations that I received from the Department of Defense.

I have no objection to the Senator modifying the amendment.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 4029), as modified, is as follows:

On page 34, after line 23, insert the following:

SEC. 226. REPORTS ON FLIGHT TESTING OF GROUND-BASED MIDCOURSE NATIONAL MISSILE DEFENSE SYSTEM.

(a) REQUIREMENT.—The Director of the United States Missile Defense Agency shall submit to the congressional defense committees a report on each flight test of the Ground-based Midcourse national missile defense system. The report shall be submitted not later than 120 days after the date of the test.

(b) CONTENT.—A report on a flight test under subsection (a) shall include the following matters:

(1) A thorough discussion of the content and objectives of the test.

(2) For each test objective, a statement regarding whether the objective was achieved.

(3) For any test objective not achieved—

(A) a thorough discussion describing the reasons for not achieving the objective; and

(B) a discussion of any plans for future tests to achieve the objective.

(c) FORMAT.—The reports required under subsection (a) shall be submitted in classified form and unclassified form.

Mr. REED. I thank the Senator from Virginia for his help on this amendment.

I think this is an opportune time to call for passage of the amendment prior to any other discussion at this time. I urge passage of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. WARNER. We have no objection, Madam President.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4029), as modified, was agreed to.

Mr. LEVIN. Madam President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Madam President, I congratulate the Senator from Rhode Island on his amendment. I think he may want to take a minute to describe it. I will yield the floor for that purpose, and then I would like to add a comment on it of my own.

I yield the floor.

Mr. REID. Madam President, I have spoken to the two managers of the bill. It appears this is the last hurdle before final passage of this legislation. The staff is working now on a unanimous consent agreement. We will have final passage at or around 2 o'clock today.

Mr. LEVIN. Sounds good.

Mr. WARNER. Madam President, may I say to the distinguished leader that we have, as I am sure each manager has, tried to contact all offices and all Senators who have expressed any desire to either speak or submit

amendments otherwise. But, as I understand it, we will hopefully vote around 2 o'clock. Can we allow a reasonable period such that if there is anything I have left undone Senators may contact me, or reciprocate on your side? Perhaps we can get a unanimous consent request in 15 or 20 minutes to lock in the vote at 2 o'clock.

Mr. REID. It takes the staff a while to do the unanimous consent request. It will take 15 or 20 minutes to do that.

Mr. LEVIN. If the Senator from Nevada will yield for an additional question, there are a number of amendments which I understand may be worked out between now and 2 o'clock.

Mr. WARNER. The Senator is correct.

Mr. REID. We would make sure that any consent allows that to take place.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Madam President, I thank the Senator from Virginia for his help and cooperation, and the Senator from Michigan for his accommodation.

This is an amendment that responds to an announcement made by the Missile Defense Agency shortly after the conclusion of our committee deliberations. The announcement was that they would classify the details of all future flight tests of the national missile defense system—now called the land-based midcourse system.

I believe Congress needs information of that kind. I also believe those unclassified portions of the tests should be available to a broader community, particularly the scientific community.

The amendment that has been agreed to and included in this bill would require the Missile Defense Agency to provide to the Congress within 120 days a thorough report of the details of the tests. And it would include both an unclassified format and a classified format so that those items the Defense Department and the Missile Defense Agency believes should be secret will be kept secret, and it will be reported to us in a classified form.

Let me say that one of the persistent criticisms of the first test of the missile defense system—the land-based midcourse system—was the fact that the tests were unrealistic. In fact, this criticism—particularly by the scientific community—led the Missile Defense Agency to adopt a much more realistic, thorough, and exhaustive test process for our missile defense system.

That criticism, in effect, has been very helpful to the development of the national missile defense. I think it is something that should be encouraged—certainly not discouraged.

This view is also shared widely in many other places. Yesterday USA Today had an editorial which said "The Pentagon policy wrongly shields missile defense data."

They went on to point out that past scientific commentary about the per-

formance of weapons systems has been very valuable in terms of improving those systems. They point specifically to the Patriot system. Initially, the Defense Department claimed that the Patriot was wildly successful in the gulf war.

It turned out that a scientist at MIT was able to look at some of the news video. He observed, based on his scientific training, that these claims were dubious. In fact, he proved to be correct. Once the Pentagon publicly acknowledged that the effectiveness of the Patriot was not as they had originally claimed, it was the beginning of serious work to accelerate the development of additional improvements. That improvement is now the PAC-3 system, a much more capable system.

I believe honestly that the Defense Department would have tried to move to a better version of Patriot anyway, but certainly the public scrutiny of this type of information helped that process move forward much more expeditiously.

As USA Today points out, we could spend up to \$100 billion under the administration's missile defense plan. As they say:

Taxpayers deserve assurances beyond the Pentagon's word that the system works.

This is particularly important when, at the same time the Missile Defense Agency is talking about putting a much broader cloak of secrecy around what they do, they are also saying they want to have a contingent deployment of missile systems as early as 2004.

Again, some of these tests are not even scheduled to take place until after that date. Yet they are talking about a system in which they want to have something ready by 2004.

I fear that the pressure to put something in the field by 2004 will overcome the willingness to be as clear and transparent as you want them to be about these tests.

I hope this amendment will reinforce the Defense Department's view that these details are useful for the Congress and, in unclassified form, useful for the scientific community.

As a former director of operational testing, Phil Coyle, stated in a Washington Post article, on June 11, the new classification policy that is being proposed by the Missile Defense Agency is, in his words, "not justified by either the progress and tests so far or by the realisms of the test."

We are still at a very rudimentary stage, a stage in which details of the test will help inform the Congress, will help inform scientific observers, and, I hope, will help us keep this system on track and keep the system, in effect, honest, so that if people are looking closely, all the t's will be crossed and all the i's dotted.

I must also say, at this point, too, that General Kadish, particularly, has committed himself and budget dollars

to ensure that a much more realistic and much more rigorous form of testing is employed. That is commendable and, indeed, is supported in the underlying legislation by our authorization.

Testing and reporting of results is very important because, as I mentioned many times, the comments of outside authorities, scientists, are very useful. The Union of Concerned Scientists, for example, prepared a report about the first several tests of the ground-based midcourse system. They made several valuable suggestions.

First, they suggested that you make the end game more realistic. By that, they meant we make the engagement with the kill vehicle and the enemy warhead much more realistic than the tests were at that stage. That is being done, not solely because of the UCS recommendation, but certainly it helped move along, I think, the concentration on more realism.

They also talked about more realistic test conditions. Some of these things do not strike me, at this juncture, as particularly sensitive information.

They talked about the geometry of the interception, whether it is the same flight track for the enemy warhead as well as for the interception vehicle, the kill vehicle.

The time of day: If we are only testing at the same time of day, when atmospheric conditions and sunlight or starlight are most opportune to discriminate a warhead from decoys, that is not a realistic test.

The weather conditions: Are we testing in foul weather as well as fair weather?

The flyout range, the altitude of the intercept—there are many things that are very important. And we should have an idea, on an unclassified and classified basis, of these parameters. And the scientific community should at least have an indication, on an unclassified basis, of what is taking place.

I believe the amendment is important. It is useful. I am extraordinarily pleased that the ranking member, the Senator from Virginia, was helpful in getting this done so expeditiously.

One final point, we are simply codifying what I believe and what I know to be the intent of the Department of Defense.

In that same USA Today article previously mentioned, Secretary Aldridge wrote:

There is not now, and can never be, any component of this missile defense program classified beyond the reach of the security clearances of its congressional overseers. Congress' constitutionally mandated oversight will always be respected.

That constitutionally mandated oversight has been codified in this amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. EDWARDS). The Senator From Virginia.

Mr. WARNER. Mr. President, I make these few remarks concerning the Reed amendment now before the Senate.

With the modifications that I have proposed and the majority has accepted, I am not objecting to the inclusion of this amendment in the defense authorization bill. These modifications were at the request of the Department of Defense. But I do have concerns with its substance, concerns that are shared by the Administration and, specifically, the Director of the Missile Defense Agency.

This amendment offered by Senator REED would require the Director of the Missile Defense Agency to submit a report to the congressional defense committees on each flight test of the ground-based midcourse missile defense system, what we used to call the national missile defense system. This amendment would add an additional three to five reports a year to the long and continually growing list of reports that the Missile Defense Agency must submit to Congress annually.

Last year, at the insistence of our majority, the defense authorization act required several reports to Congress on missile defense. I strove, with some success, to assure that those reports were consistent with what Congress requires of other defense programs. This year, the bill our majority crafted in committee imposes five new reporting requirements related to missile defense, including annual operational assessments on research and development programs, annual assessments of military requirements for all Missile Defense Agency programs, and detailed cost information on several missile defense programs—information, I might add, that in some cases simply isn't available.

My specific concerns are, as follows:

First, this amendment requires a report on every single flight test of the national missile defense system. I am unaware of any other program in the Department of Defense for which we in Congress impose such detailed reporting requirements. As I stated earlier, my intent last year was to make reporting requirements on missile defense programs consistent with those for other defense programs.

Second, this amendment adds to the already substantial reporting burden on the Missile Defense Agency. I would note that the Secretary of Defense, in a letter to Chairman LEVIN and me, informed us that our bill, even prior to this amendment, "would impose a number of burdensome statutory restrictions that would undermine our ability to manage the [missile defense] program effectively." The Office of Management and Budget reiterated this view. A few moments ago, I spoke to General Kadish, the Director of the Missile Defense Agency, who echoed these concerns even as he reiterated his willingness to provide Congress

with all information on tests to facilitate our legitimate oversight function.

Third, Congress already has a process to gain all the information that it desires on a test or tests. We need simply ask for a report or a briefing, and the Missile Defense Agency has responded, is responding, and will respond. I have heard no allegation that information on tests has been denied to the appropriate committee, or is not available on request.

I fully concur with those who believe that Congress should have access to all relevant information related to missile defense tests. I have relayed the assurances I received that the Missile Defense Agency will provide us with this information. All members, and staff with appropriate clearances, will have access to this information. Indeed, Committee staff received a classified briefing related to targets and countermeasures prior to the last long-range missile defense test.

In the interest of comity and the desire to complete work on this important legislation expeditiously, I will not oppose inclusion of this amendment in the pending bill. I will work during our conference with the House to improve the provisions on missile defense.

Mr. President, we had to handle this amendment very expeditiously in order to achieve our 2 o'clock objective to have final passage. I did review it very carefully with the Department of Defense. We did make the technical changes. But I would have to say that I hope there is no inference, from this amendment as it now has been amended, that the Department would not have responded to the Congress had the Congress requested any information under any tests.

So the amendment points up the importance of and the interest in the Congress, but at the same time Congress could have obtained the same information, as required by this amendment, had it taken the initiative. Am I not correct in that, I ask the Senator?

Mr. REED. If the Senator will yield, you are absolutely correct. What I would suggest is, because of the highly technical nature of the whole program, often we do not know what questions to ask at times. As a result, with this reporting requirement, I think we will fulfill our constitutional obligation.

I guess I would respond, finally, by saying there is a saying from a famous poet from New England, Robert Frost: "Good fences make good neighbors." Perhaps if we look at this as a good fence, we will be better neighbors with our friends in MDA.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I was in discussion with the President pro tempore of the Senate on something very important; and that is when he is going to give his Fourth of July speech, at

which I try to be present every year. I think we may be fortunate enough that the Senator may give that speech this afternoon when we finish this bill sometime.

I think I am now in a position to enter a unanimous consent request for this bill.

Mr. President, I ask unanimous consent that following passage of S. 2514, it be in order for the Senate to consider, en bloc, the following calendar items: Nos. 371, 372, 373—these are S. 2515, S. 2516, and S. 2517—that all after the enacting clause be stricken in each bill, and that the following divisions of S. 2514, as passed by the Senate, be inserted in lieu thereof, as follows: S. 2515, division A; S. 2516, division B; and S. 2517, division C; that the bills be read three times, passed, and the motion to reconsider be laid upon the table, en bloc; that the consideration of these items appear separately in the RECORD.

I further ask unanimous consent that with respect to S. 2515, S. 2516, and S. 2517, as passed, that if the Senate receives a message from the House with regard to any of these measures, the Senate insist on its amendment or disagree to the House amendment, and agree to or request a conference with the House on the disagreeing votes of the two Houses; and that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. WYDEN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I wish to discuss with the distinguished leader from Nevada and the chairman of the committee and the distinguished minority member the amendment I have with Senator SMITH.

This is an extremely important amendment. We have been trying to work out the details with respect to the majority and minority. I want to make sure that our right to offer that amendment is protected.

It is not clear to me, with respect to the unanimous consent request posed by the distinguished Senator from Nevada, that our right to offer the Wyden-Smith amendment, which is of enormous importance to the State of Oregon, would be protected. If I could yield to the distinguished chairman and ranking member so this point could be clarified, I am speaking on behalf of both myself and the Senator from Oregon.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent the Senator from Florida be recognized for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Reserving the right to object, it is my understanding there is no amendment connected with this; is that correct?

Mr. NELSON of Florida. It is an amendment that has already been adopted.

Mr. WARNER. I thank the Senator. The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I wanted to again thank the leadership of our Armed Services Committee, the distinguished Senators from Michigan and Virginia, respectively, the chairman and ranking member of our committee, for the acceptance last evening of an amendment I had offered that was cosponsored by a number of Senators, including several on our Armed Services Committee, concerning a requirement that the Department of Defense will do an investigation and will report to the Congress on a regular basis about the biological and chemical testing that may have put some of our service men and women and, indeed, some civilians in harm's way.

Certainly, that wasn't the original intent when these tests were conducted back in the fifties, sixties, and seventies. But, indeed, that has been the upshot of what we now find out, in some cases, 30, 40 years later—even a half century later—that there may have been exposure that is causing our veterans to now need to know what the whole truth is in order to fix the past mistakes where veterans have been exposed to toxic substances, particularly from this chemical and biological testing, and to get full disclosure of this testing because it has been classified over the past number of decades. The veterans of this country certainly have a right to know, particularly with regard to getting them to come in and get the health care they need if, in fact, the health care is required.

Now, that is a general statement. Let me kind of flush it out with some specifics. In the sixties and the seventies, ships of ours in the Pacific were gassed with biological and chemical substances and, in some cases, simulants or simulations of those substances. That was a program under the acronym of SHAD, Shipboard Hazard and Defense. It was ostensibly to test those ships' ability to react and protect themselves if an enemy came out and suddenly tried to put these biological or chemical agents on our ships in order to immobilize and to kill our Navy.

In some cases, we were told these were not the actual materials, such as

nerve gas, but that it was a simulant of nerve gas. Years later, decades later, we are finding that these simulants that were used are having an effect on the people who were sprayed; and, indeed, there actually may have been some exposure to the actual chemical and biological agents instead of just the simulants. There were 113 of these tests. Only 6 have been declassified. Of those 6, a population of 4,300 veterans have been identified to be contacted and, to date, only 622 have been written to when the Department of Defense declassified it, gave it to the Veterans' Administration. They wrote the letters and said: If you are having any effects, come into the veterans medical facility. Of those 622, a good number of them were in Florida, which is how I first started hearing about this.

Senator CLELAND will have hearings this fall on this very same issue, but what we are going to look into in this amendment, just attached last night to DOD, is the shipboard gassing in the sixties and seventies.

What Senator CLELAND's committee is going to look into is the overall testing because, lo and behold, I started getting all of these ruminations coming out of Florida about some mysterious tests that were conducted in the fifties at the old Boca Raton Airfield, an old World War II airfield, and an 85-acre parcel to the north that apparently is still undeveloped. But guess what has grown up around it. Florida Atlantic University, one of our major universities, was built on this site. The Boca Raton Airport, one of the major general aviation airports in Florida, is right there.

When I requested this information from the DOD back in February, as the junior Senator from Florida, DOD wrote back and said it is classified. Well, thank goodness that Senator LEVIN, our chairman, has tasked Senator CLELAND, our Personnel Subcommittee chairman, to get into this because our committee is clearly capable of handling classified information.

So I want the leadership to know how much I appreciate them doing this so the veterans will have full disclosure—were they in harm's way?—now that we are just finding out three and four decades later, certainly incited by these letters that, as we speak, are being mailed out to these veterans all over the country.

Thanks to the chairman and the ranking member, they accepted this amendment, which will be etched into law in our DOD authorization bill. Then, as we pursue the larger bill, including all the tests, other than just SHAD, Senator CLELAND's subcommittee will get into this investigation.

It is my understanding that Senator ROCKEFELLER, the chairman of the Veterans' Affairs Committee, is also interested in having hearings on this very

same subject. I am so grateful to the leadership of this body, on behalf of the veterans of Florida in my case, and on behalf of the veterans of this country, to find out what happened—to peel back the onion and see what really happened—and if there is a problem, we can get these veterans into the medical facilities.

I thank the chairman for making this possible. I thank the distinguished assistant majority leader for giving me this time.

I yield the floor.

Mr. LEVIN. Mr. President, I thank Senator NELSON for his determination and passion on this issue. It will benefit the veterans who may have been affected. We are happy to work with him. Hopefully, his leadership will produce the critically necessary information we need to help with their medical situation. They are all in his debt and this body is as well.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I understand Senator HUTCHINSON has some remarks he would like to give in offering an amendment, and then after 10 minutes he will withdraw that amendment. I want to make sure he is in agreement with this before I ask unanimous consent.

I ask unanimous consent that Senator HUTCHINSON be recognized for 10 minutes to offer an amendment, and then at the end of that 10 minutes to withdraw the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arkansas.

AMENDMENT NO. 4069

Mr. HUTCHINSON. Mr. President, I call up amendment No. 4069.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Arkansas [Mr. HUTCHINSON] proposes an amendment numbered 4069.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle A of title III, add the following:

SEC. 305. CLARA BARTON CENTER FOR DOMESTIC PREPAREDNESS.

Of the amount authorized to be appropriated by section 301(a)(5) for operation and maintenance for defensewide activities,

\$3,000,000 shall be available for the Clara Barton Center for Domestic Preparedness, Arkansas.

Mr. HUTCHINSON. I thank the Chair.

Mr. President, I appreciate my colleagues giving me an opportunity to speak on this amendment. I think it is very important to our country. It is a matter that, after cloture, is not germane, and I intend to withdraw it. But I give notice that this is an important issue for our country and I intend to talk about it in the future. It is a matter that is critical to the protection of our military.

Today we are deploying our troops across the world to fight the war on terrorism, and it is clear our enemies have been actively attempting to acquire biological weapons.

We know Saddam Hussein has been relentless in his pursuit of biological weapons. Yet even with this knowledge, we continue today to deploy our troops without adequate vaccine protection. The shortage of anthrax vaccine, due to the failure of BioPort, has been well publicized. However, as we meet today, our military has no stocks of vaccines against a range of other pathogens that we know could be used against our troops.

According to unclassified documents released by the Pentagon, there are at least 10 nations right now pursuing biological weapons programs. Based on media reports, we know these nations include Iraq, Iran, and North Korea. In 1998, the Department of Defense instituted a program to vaccinate all uniformed military personnel against anthrax, but because of the debacle that has occurred since then, the resulting vaccine shortage, that program was curtailed and is only now beginning to get back in motion.

Today, only 526,000 service members have received any vaccine doses. The vast majority of these have received fewer than the recommended six doses. Soon it is expected that DOD will announce a new anthrax policy whereby only troops being deployed to so-called high-risk areas will be vaccinated. I look forward to learning what areas are designated as high-risk areas. Given what occurred on 9-11, even the Pentagon itself should qualify.

The tragedy of this situation is that there is no reason for us to be in this position. The DOD over a decade ago realized our nation needed a reliable source of vaccine. The private sector is simply unable to meet the requirement for vaccines against biological weapons. The production of these products is not profitable, the need is too small, the infrastructure costs are too high, and the liability is too great.

There is no greater proponent of the private sector than I. However, throughout the past decade private industry has declined to participate in this market. In fact, the only company

that is chosen to contract with the Pentagon is BioPort. We know that has not been an altogether satisfactory experience.

This problem has been examined many times over the past decade. In fact, it has been studied twice by the Department of Defense. Both times, the conclusion was that our Nation needed a government-owned, contractor-operated vaccine production facility. This is referred to as a GOCO.

In January of 1991, Project Badger presented a report to DOD entitled "Long Term Expansion of Production Capability for Medical Defense Against Biological Warfare Agents." That is a long title, but the conclusion was that we needed to construct a Government-owned facility to provide assured manufacture of products against agents of biological origin.

At that time, DOD began site selection. They began planning for such a facility. In 1994, they prepared a study entitled "Department of Defense Vaccine Production Facility: An Economic Analysis of Alternatives."

They were moving ahead. Then, the previous administration reversed course and decided to rely solely upon the commercial sector. After dumping over \$120 million, we are only now beginning to receive anthrax vaccine. We do not want to repeat that.

In November of 2000, the Department of Defense completed another in-depth study of a potential GOCO, which included detailed cost and design estimates. In February of 2001, the Department prepared a comprehensive life cycle cost estimate.

Finally, last July the Pentagon released its latest study, "Report on Biological Warfare Defense Vaccine Research & Development Programs." This study once again came to the same conclusion, was prepared by a team of DOD personnel, industry leaders, and academics, and it included a letter from former Surgeon General David Satcher, all of it endorsing the concept of a GOCO.

Since September 11, the establishment of a GOCO has been recommended by other organizations outside the Department of Defense.

In November of 2001, the Institute of Medicine at the National Academies issued a statement saying:

The establishment of a government-owned, contract-operated facility for research, development, and production of vaccines is essential.

I repeat, the Institute of Medicine concluded that such a facility is essential. In December of 2001, the Advisory Panel to Assess Domestic Response Capabilities for Terrorism, headed by former Virginia Gov. Jim Gilmore, issued a report, with their recommendation:

The establishment of a government-owned, contractor-operated national facility for the research, development and production of

vaccines and therapeutics for specified infectious, especially contagious diseases, is needed.

I offered an amendment to our DOD authorization bill, a critical bill for our troops, that I believe would provide protection for our men and women in uniform. This amendment was cosponsored by Senator HUTCHISON of Texas, Senator MIKULSKI of Maryland, Senator LINCOLN of Arkansas, Senator SARBANES of Maryland, and Senator ROBERTS of Kansas. All of them have cosponsored it. They recognize that it would ensure that our troops receive the protection they require. We have seen DOD study the matter twice; we have seen the Institute of Medicine-issued opinion; former Surgeon General Satcher recommended the building of a GOCO.

All of these independent evaluations have concluded the same, and it is simply this: The private sector, for all of the good that it does, cannot, against some of the boutique biological pathogens and threats that may exist now and in the future against our troops and against our civilian population, and will not in the future see this as a profitable commercial venture.

The insurance for the American people, and the insurance for our men and women in uniform, is to have a Government-owned production facility, contractor-operated, to ensure that vaccine will always be available if and when it is needed.

I will withdraw the amendment I have offered. However, I will continue to bring this issue before the Senate. Our troops deserve more, I believe, than they are getting right now, and I intend to continue to pursue this issue as long as it takes until our troops are protected, whether it is through the homeland security bill or the Defense appropriations bill or other vehicles we may have, because this is vitally important.

It is important for our country. It is important for our troops. It is the right thing to do. We have waited too long to act, and should delay no longer.

AMENDMENT NO. 4069 WITHDRAWN

Mr. HUTCHINSON. I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is withdrawn.

Mr. HUTCHINSON. I thank the Chair, and I yield the floor.

Mr. LEVIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4060

Mr. WYDEN. Mr. President, I call up amendment No. 4060 that I offer on be-

half of myself and Senator SMITH of Oregon.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. WYDEN], for himself and Mr. SMITH of Oregon, proposes an amendment numbered 4060.

Mr. WYDEN. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To authorize with an offset, \$4,800,000 for personnel and procurement for the Oregon Army National Guard for purposes of Search and Rescue (SAR) and Medical Evacuation (MEDEVAC) missions in adverse weather conditions)

At the end of subtitle A of title X, add the following:

SEC. 1010. AVAILABILITY OF AMOUNTS FOR OREGON ARMY NATIONAL GUARD FOR SEARCH AND RESCUE AND MEDICAL EVACUATION MISSIONS IN ADVERSE WEATHER CONDITIONS.

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR ARMY PROCUREMENT.—The amount authorized to be appropriated by section 101(1) for procurement for the Army for aircraft is hereby increased by \$3,000,000.

(b) AVAILABILITY.—Of the amount authorized to be appropriated by section 101(1) for procurement for the Army for aircraft, as increased by subsection (a), \$3,000,000 shall be available for the upgrade of three UH-60L Blackhawk helicopters of the Oregon Army National Guard to the capabilities of UH-60Q Search and Rescue model helicopters, including Star Safire FLIR, Breeze-Eastern External Rescue Hoist, and Air Methods COTS Medical Systems upgrades, in order to improve the utility of such UH-60L Blackhawk helicopters in search and rescue and medical evacuation missions in adverse weather conditions.

(c) INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.—The amount authorized to be appropriated by section 421 for military personnel is hereby increased by \$1,800,000.

(d) AVAILABILITY.—Of the amount authorized to be appropriated by section 421 for military personnel, as increased by subsection (c), \$1,800,000 shall be available for up to 26 additional personnel for the Oregon Army National Guard.

(e) OFFSET.—The amount authorized to be appropriated by section 301(a)(1) for operation and maintenance for the Army is hereby reduced by \$4,800,000, with the amount of the reduction to be allocated to Base Operations Support (Servicewide Support).

Mr. WYDEN. Mr. President, the Pacific Northwest must have a search and rescue capability. The vast expanses of Federal land in our part of the country mean our citizens constantly face the risk of disasters and accidents, far from help. Local communities, many of them with tiny populations, do not have the resources to provide search and rescue services to the extraordinarily large surrounding wilderness areas.

The amendment I offer this afternoon on behalf of myself and Senator SMITH is a compromise. It would not have

been our first choice. In an effort to work with our colleagues and appeal to our colleagues on a bipartisan basis, we offer this compromise to preserve a search and rescue capability in our region. Without this capability, the Pacific Northwest faces the certain loss of lives for disasters, fires, and accidents that are unique to our region.

This amendment authorizes a total of \$4.8 million to the Oregon National Guard to upgrade three Blackhawk helicopters of the National Oregon Guard to the capabilities of the UH-60Q search and rescue helicopters similar to upgrades in the past. It would increase the authorization for military personnel by \$1.8 million to ensure the Oregon Guard can respond to emergencies that require rapid medical attention.

Particularly during this season we are concerned about the host of possibilities that can strike our local communities, tragedies we have already seen won in recent difficulties in our region. We cannot afford to play Russian roulette with the safety, health, and security of our citizens.

I urge my colleagues to support the Wyden-Smith amendment that we have worked on with both the majority and the minority for many days.

I reserve my time to speak later in the debate.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. I thank my colleague for being a partner in this cause to preserve in the Pacific Northwest a search and rescue capability.

Mr. President, I rise today to introduce an amendment with Senator WYDEN to preserve a truly invaluable search and rescue capability in the Pacific Northwest.

On May 30, all eyes in Oregon and across the nation watched as brave Oregonians put themselves in harms way to rescue climbers on Mt. Hood.

The rescuers included members of the Oregon National Guard, the Portland Mountain Rescue, and the Air Force Reserve 939th Air Rescue Wing, whose members have been lauded for scores of rescues on Mt. Hood and the Oregon Coast, not to mention rescues in our neighboring state of Washington. In fact this rescue wing volunteers for these types of rescues.

Recently, nine climbers were swept into a 20-foot deep crevasse on Mt. Hood. Tragically, three of the climbers did not survive, but the skills of the rescuers ensured that others would survive.

This rescue highlighted the skills of the Rescue Wing and the importance Oregonians place on the Wing's capabilities in the region. While adverse wind conditions most likely sent one of the helicopters into an inevitable crash, the highly skilled pilot of the 939th ensured that the crew survived and that all on the ground were unharmed.

Just one week prior, the 939th rescued a sick climber from Mt. Hood's Sandy Glacier. I believe this rescue highlights the Wing's capabilities: Late in the evening, the 304th Rescue Squadron used its night vision capabilities to spot the climber at an elevation of 8,750 feet.

The Pave Hawk, equipped with a hoist, lowered down Steve Rollins of Portland Mountain Rescue onto the Glacier to assess the climber. After being secured to the hoist, the climber and rescuer were raised into the helicopter and transported to safety.

Mr. President, Oregonians were devastated to hear of Air Force plans to take away the 939th Search and Rescue Wing out of the state.

Oregonians realize that the 939th's mission is to rescue our brave men in combat. In fact, we believe that the members of the 939th are among the very best trained in the nation. We know this because we know the Oregon terrain and we have witnessed firsthand their skill under most challenging conditions.

My original amendment with Senator WYDEN would have prohibited the use of funds to take this search and rescue unit away from the Pacific Northwest. Senator WYDEN and I understand the committee members have a problem with this amendment and we therefore introduced another amendment that would not interfere with the Air Force's force structure.

The managers have told Senator WYDEN and me that they would support this compromise: it authorizes a total of \$4.8 million for the Oregon National Guard to be able to perform this mission.

I appreciate the assistance from Senators WARNER, LEVIN, LOTT and STEVENS, and look forward to working with them on this important issue.

Mr. President, let me close by illustrating why this is so important to me and all Oregonians.

The pioneer spirit of the Oregon Trail did not end with the settlement of the valleys of Oregon. That spirit and bravery is very much still alive in my state.

But Oregonians cannot go any further west. They can only go up—into the skies and into the mountains. It is there that the modern-day pioneers meet with both triumph and tragedy, and their lessons are learned.

The lessons of last week on Mt. Hood are harsh one that remind us of human frailty and the unbending forces of nature.

Not unlike the tragic events of the last year, what I saw in the recovery on Mt. Hood also illustrates the bravery and compassion inherent in us all, and I want that spirit to continue in Oregon.

Mr. President, this is the spirit that is the bedrock of America's Armed Forces. It is clear to me that removing

the 939th from Oregon would truly be a tragedy without a lesson.

Again, on May 30, Oregonians became aware of a unit called the 939th. Prior to that, very few Oregonians would have any idea it was there, even though throughout the year, every year, the 939th has saved people trapped in natural disasters or engaged in recreational activities or sometimes just going about their business.

Truly, what they saw on May 30 was a tragedy that unfolded on national television when nine hikers climbing Mount Hood lost footing, fell into a crevice in which a number of them were killed. Many different units, from police, the Oregon National Guard, and the Air Force 939th search and rescue, came to their rescue.

They volunteered to do this. The 939th is always training to be prepared to help in military situations. They say these real-life situations are truly the best training they can have. In the course of training, they have saved countless human lives.

About a year ago, Senator WYDEN and I were informed that the Air Force was to move the 939th from Oregon. I am not one to interfere with basing decisions of the Air Force. When this happened, it was clear to every Oregonian that we needed them. So Senator WYDEN and I tried to make the case a few weeks ago that they ought to stay. Senator MCCAIN of Arizona pointed out we should not be telling the Air Force where to base their people. I think he has a good point.

Senator WYDEN and I are offering a compromise to say, fine, let us have the upgrades in the helicopters. Let us have the personnel for the Oregon National Guard. By the way, these upgrades have been made available in most of the 50 States, but not Oregon. All we are saying is we need some military component in the Pacific Northwest. The 939th is going to Arizona. I do not begrudge that to my colleagues from Arizona. I love Arizona and I love my colleagues. My Udall ancestry is all from there and I want Arizonans to have all the search and rescue capability they need. But, doggone it, why take it from Oregon and say you cannot have any comparable replacement? We are talking peanuts here when it comes to issues of life and death.

So I plead with my colleagues to allow this authorization because the whole country had the case made for them on national TV when they saw this rescue effort tragically end in a crash but with no additional loss of human life.

I wish the 939th well as they go to Arizona. This \$4.8 million that it takes to upgrade these helicopters and to provide some personnel is precious little to ask in an authorization as gargantuan as this. So I appeal to the hearts and the feelings of all 50 States. Don't leave the Pacific Northwest without this capacity.

I have the privilege of sitting in Mark Hatfield's seat. Mark Hatfield, for reasons of personal conscience, was not a big advocate of military expenditure. The military money went in other places. He brought other kinds of expenditures to Oregon, I grant you. But what little we have probably puts Oregon the 50th of 50 States in receiving military appropriations. I say \$4.8 million is not too much to ask.

I yield the floor and ask for the consideration and votes of colleagues on both sides of the aisle.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I have spoken to the proponents of this bill and Senators MCCAIN and KYL. I do not know how much more time the Senators from Oregon want. They originally told me they wanted about 10 minutes. I think they used about that. The Senators from Arizona indicated they would take about 15 minutes, 20 at the most—10 for Senator KYL and Senator MCCAIN, in reverse order.

I am not asking unanimous consent at this time, but I hope that would be about all we need to talk on this amendment. We will have a vote on it. We were very close at one time to final passage. We will propound some unanimous consent requests in the near future, but I am indicating to Senators, maybe there will not be too much more talk on this?

Mr. WYDEN. Will the Senator yield?

Mr. REID. I am happy to yield.

Mr. WYDEN. It is not clear to me what the Senators from Arizona intend. Certainly I understand the desire of the distinguished Senator from Nevada to move expeditiously. I think both of us will try to do that.

Mr. MCCAIN. If the Senator will yield, I say to Senator REID we are going to have to, because of a previous unanimous consent agreement, get unanimous consent to allow a second-degree amendment to be considered. That would have to be the first order for us, to be able to get that.

Mr. REID. I understand.

Mr. MCCAIN. We were seeking that because we were under the impression, clearly a false one, that the Wyden-Smith amendment would be ruled, postcloture, nongermane. The Wyden-Smith amendment is germane so we had wanted to propose a second-degree amendment. If one of the Senators from Oregon objects, then obviously we hear the objection.

Could I be recognized, Mr. President?

The PRESIDING OFFICER (Mr. CARPER). The Senator from Arizona.

Mr. MCCAIN. I ask unanimous consent a second-degree amendment on behalf of myself and Senator KYL, to the Smith amendment, be taken up at this time.

Mr. WYDEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCAIN. Mr. President, I regret Senator WYDEN chooses to take what I think is an unwise course because I have to tell Senator WYDEN now that I will fight in the conference—and I will be a conferee—to have it either amended as we want it done or to take it out completely.

I think I may have the support of my colleagues because it really is unreasonable of Senator WYDEN to object because it was clear, and everybody is clear, that we were under the impression that the amendment was non-germane. We would have filed a second-degree amendment if it had been germane.

I do not question the choice of the Senator from Oregon, but I can assure the Senator from Oregon that, No. 1, Senator KYL and I could care less whether it went to Arizona or Alaska or New Jersey. I have steadfastly opposed micromanaging any of the services.

By the way—Senator KYL is going to want to talk about this a little bit—it is up to \$69,000 per person we are going to expend on this, which is quite a remarkable expense that they have.

Second, if the Oregon National Guard wants to spend money, let them take it out of their existing funds. They are perfectly capable, under their budgetary and decisionmaking process, to make a decision that they want to upgrade their aircraft with the existing funds that they have.

I do not think Senator KYL and I would demand a vote on this. I will leave it up to Senator KYL. But I assure Senator WYDEN I would not have treated him in the same fashion. But I yield the floor.

Mr. WYDEN. Will the Senator yield?

Mr. MCCAIN. I have already yielded the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I want to make clear how extensive the efforts have been on the part of Senator SMITH and myself to work with the Senator from Arizona, to work with all of our colleagues on this issue. We have tried again and again. The distinguished Senator—

Mr. MCCAIN. Will the Senator yield on that point? Has the Senator ever said a word directly to me about his amendment?

The PRESIDING OFFICER. The Senator has the floor.

Mr. WYDEN. If I might finish? The fact is, we have come to the distinguished Senator from Arizona and discussed this several times. In fact, we discussed it at some length the night the Senator was unwilling to support another bipartisan effort to reach out to the distinguished Senator. I want to make it clear, I think he knows—

Mr. MCCAIN. Will the Senator yield on that point? Will the Senator yield on that point?

Mr. WYDEN. I will be glad to yield as soon as I finish.

Mr. MCCAIN. I didn't think he would.

Mr. WYDEN. I will be happy to yield to my colleague. As he knows from our work on the Senate Commerce Committee, I worked with the Senator from Arizona again and again because I appreciate his counsel and his wisdom. Yes, we have talked about this subject. We talked about it, in fact, the night that Senator SMITH and I tried another effort to come up with a bipartisan approach that would satisfy the Senator from Arizona. Today, we do feel that we have to go forward and protect our constituents.

People in Arizona are, in fact, going to be protected. As Senator SMITH said, the 939th is going to go to Arizona. That means the two Senators from Arizona, both of whom I value as good friends and worked with on many subjects, are going to have protection for their constituents.

What we have said is, now that Arizona is going to be protected, let us try another approach, an approach that is not injurious to the Senators from Arizona, so that our citizens, in an area where there are vast amounts of Federal land and great risks for our citizens, can also be protected. So it is in that context that I seek to have this move forward today in conjunction with Senator SMITH.

Finally, as I yield to my good friend from Arizona, I want to say to him that I will continue to work with him on this issue and virtually everything else that conceivably comes before the U.S. Senate because I value his input and his counsel.

We have worked together on a whole host of questions. Now, if the Senator from Arizona desires me to yield to him, I am glad to yield to the distinguished Senator.

Mr. MCCAIN. I thank my friend from Oregon. The fact is I have never had a direct conversation with the Senator from Oregon on this issue. He knows it and I know it.

Mr. WYDEN. I have to reclaim my time to say that is factually wrong. The night we tried to have the compromise, we in fact talked about it on several occasions.

Now I am happy to yield further to the Senator from Arizona.

Mr. MCCAIN. I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Let me say, first of all, it gives me no great pleasure to oppose an amendment offered by two of my best friends in the Senate, one Republican and one Democrat, good colleagues with whom we have worked on a lot of things.

This is not a matter of Arizona v. Oregon. It came to my attention on the night the senior Senator from Oregon was mentioning that there was an ob-

jection to the inclusion of an item in the managers' amendment to the supplemental appropriations bill which a number of Senators—Senator GRAMM of Texas, our colleague Senator MCCAIN, and I believe some others in this part of the Chamber were going through the managers' amendment to the supplemental appropriations bill. We objected to a whole variety of amendments which attempted to either spend money or micromanage money in ways inappropriate in our view at that time.

That is when this matter first came to my attention because a Member of the other side mentioned to me there was a managers' relating to the State of Arizona. Naturally, I was curious when I saw that the Air Force's 939th unit was going to be moved from Oregon to Arizona and that the amendment of the Senator from Oregon would have stopped that. I didn't know about it at the time. We objected to that and a variety of other things because we believed it was inappropriate to be on the supplemental appropriations bill.

Now our colleagues from Oregon have determined that they should not interfere with the movement of that unit to Arizona. But they want to make up for its loss through the amendment they are presenting here—I think that is a fair way to present it—as a result of which they want to take \$3 million from the Army's active-duty operations and maintenance account for upgrades of helicopters; \$3 million will be spent for procurement of helicopters and \$1.8 million for the 26 Oregon National Guard personnel.

If I am incorrect, correct me. I believe those numbers are correct.

The fact that I don't view this as Arizona v. Oregon is illustrated by the fact that the unit will move to Arizona, and Arizona is no worse off.

I speak on this matter having nothing in terms of a parochial interest involved but, rather, because I have taken President Bush and Secretary Rumsfeld at their word. And Senator MCCAIN and I have worked for many months—in fact, a number of years, even before President Bush came into office—trying to preserve as much in the way of funding for our military as possible to be spent in an efficient way and not be wasted.

It is one reason we both support and are cosponsors of the base closing amendment, notwithstanding the fact that it jeopardizes at least one or maybe two Air Force bases. In at least one round, we had a major base closed. We are willing to take that risk for the State of Arizona because we believe we are United States Senators and we have an interest first to protect the United States of America and to protect our constituents to the extent we can. But when it comes to national security and national defense, we don't

play around with it. I don't put parochial interests ahead of the interests of America in its defense.

When the President says, I don't have enough money for defense and I have to spend every nickel we get in the wisest possible way, and when the Secretary of Defense says, I am going to husband these resources and allocate them in the following way, then I don't think it is a good idea for Congress to say, because we want something for our home State, we are going to take money out of the Army's active-duty operations and maintenance account—almost \$5 million—and put it into our State because we want a search and rescue mission for people who get into trouble in our beautiful mountains.

That is not right. I have no doubt that the local communities around Mount Hood and some of these other areas may not have the tax base to pay for this themselves. But the State of Oregon is on television—I have seen the ads, and they look great because they happen in the prettiest country in the world. You see the ads: "Come to Oregon"—I believe it is. I won't give the exact quotation of the ad. But they are very effective ads.

There is a great deal to come to Oregon for. Their beautiful mountains are part of that. If the State of Oregon, I think, with its multimillion-dollar budget—over a billion-dollar State budget—has enough money to urge people to come to the State of Oregon to enjoy its beauties, then I think they also have the ability to provide for their safety when they are there if \$4.8 million is the difference; in other words, to provide some mechanism for the State to be sure people needing rescue on the side of a mountain could be rescued.

I have no idea what this unit is going to be doing in Arizona. We don't have big, beautiful snowcaps. We have a couple of them, but not the same kind of tourist attractions as the mountains in Oregon. The training, I believe, could be for the number of illegal aliens who come across the border to be rescued. About 50 or 60 have died already this year. Maybe that is what they intend to do. But I don't know. That is really, in a way, beside the point.

Neither State, nor any other State, should be seeking to take active-duty account money from the Defense Department and using it for what is a parochial need. I don't say parochial in a negative sense, but a local need, a need that could be satisfied by the people of the State.

That is reason for our opposition. It is not an Arizona v. Oregon issue, as the Senator from Oregon was himself being very clear. We don't believe we should be micromanaging the military, let alone taking money from the active-duty accounts.

I regret we are not able to offer the second-degree amendment because that

would have prevented this, in effect. But it would require people from Oregon to make some choices about the \$9 million we just added last night in this bill for Oregon. They will be able to move that money around and make the choices themselves as to where they want to get the funding. But it wouldn't have to come from active-duty accounts.

I hope if this amendment is adopted—I urge my colleagues not to allow it to be adopted—that there will be some discussion along the lines the Senator from Oregon was alluding to earlier. I don't think at the end of the day, as it is going right now, this is going to result in a conclusion that will be desirable from the standpoint of our colleagues from Oregon.

I appreciate what they are trying to do. Again, it gives me no pleasure to oppose them. But I think, if we have any concern at all about our active-duty troops, if we have any concern about spending money wisely, and keeping U.S. Federal military missions focused on our military and not the parochial needs of individual States to rescue people who may get into trouble, we should keep our eye on that ball, vote against this amendment, and allow the Defense Department to spend the money the way it wants to and help the State of Oregon get its funding in some other way.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, I would like to tell the Senator exactly what the 939th will do in Arizona. They will train. They will look for opportunities to help in a civic way to be relevant to the people of Arizona and to rescue them because they want to be ready for combat situations. So they are going to look for opportunities to save the lives of Arizonians. God bless them in that effort.

What is the Defense budget? Probably \$300 billion which we are going to vote for, and we are talking about \$4.8 million.

I think what is really lost in my friends' comments is the role of the National Guard and the national defense. It is growing. It is not declining. National Guard people are looking all the time to do the same thing as the Air Force's 939th unit.

To suggest that somehow the Oregon National Guard is irrelevant to the national defense is just demonstrably false. As we speak, there are many Oregon National Guard units in Bosnia, Kosovo, and Afghanistan. They are deployed. I think the National Guard's role is growing. It is not diminishing.

To have these kinds of capacities, which many other States have, in Oregon is entirely reasonable, and it is entirely fair. I don't begrudge the Air Force moving the 939 to Arizona.

I am not sure I am very comfortable hearing that out of \$300 billion, the Air

Force can't allow \$4.8 million for the State of Oregon when Oregonians are taxpayers too. We contribute to the national defense, and we get less in defense dollars than probably any State in America. Is that right? I say it is wrong. I say we ought to get some help here today on the floor of the Senate.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I wish to pick up on a remark of the Senator from Arizona. Again, he knows how much I enjoy working with him. We have worked together on the forest fires and a whole host of issues that are important.

I wish to address my friend's comments with respect to the contribution Oregon makes to our national security and why Senator SMITH and I see this as being important to our military and why it is a very constructive expenditure as it relates to the military.

For example, my colleague from Arizona said our State does not have high mountains. Well, the State of Oregon does. The State of Oregon—and we are very proud of them—have many high mountains. Those high mountains are part of a very good training ground for our military.

The Department of Defense has consistently said—as both of the Senators from Arizona know because they are very knowledgeable in military policy—that we ought to, as a nation, be strengthening our search and rescue capability.

I think my good friend, Senator KYL, has pointed out one of the aspects that Arizona lacks and with which Oregon can assist, and that is training as it relates to dealing with rescues from high mountains. The fact is, the people in the Northwest have been trained to rescue men and women wounded in combat. The value to our Nation of having this national training ground and this capability is a central reason why we are in support of this effort.

I am very hopeful that our colleagues will approve our bipartisan amendment.

I want to wrap up by way of saying I certainly do not consider this an Oregon against Arizona kind of battle. I am going to continue to work with both of my colleagues on this issue, but it seems to me that when we have tried to be considerate of the State of Arizona throughout this process, we would just hope that our colleagues would be willing to address these concerns that our constituents have, especially when we are showing that the contribution that Oregonians make is a contribution that advances our national security, advances our military well-being, and particularly makes a contribution that Senator KYL has said cannot be made in terms of training people in Arizona.

Mr. President, I yield at this time and reserve the right to respond to comments that might be made further.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, the Pentagon says: The Pacific Northwest will continue to have a "very robust rescue capability." There are 109 rescue-capable helicopters in the Pacific Northwest and units on alert in Salem and Astoria. Assets include CH-47s on alert for high-altitude rescue, recovered mishap HH-60. Long-range, over-water missions are covered by the California Air National Guard.

In summary:

The Pacific Northwest will continue to have a very robust search and rescue force even after the assets from the 939th wing are moved to active duty units.

I have to tell the Senator from Oregon, the 939th is moving to active duty units in Arizona. It will not be practicing on civilians. There are two major bases in Arizona: Luke Air Force Base and Davis Monthan Air Force Base. They will be there ready to conduct search and rescue missions in case those many training flights that take place from both those bases suffer a mishap. That is what they will be doing.

They will also be patrolling our border from time to time because, as Jon said, people have died crossing the desert. But their primary mission will be to support the flight operations out of two major Air Force bases.

Mr. SMITH of Oregon. Will my colleague yield?

Mr. McCAIN. Sure.

Mr. SMITH of Oregon. I say to my friend—and I really mean that—you made my point. They will be focused on military missions. They will volunteer for these real-life rescue missions. They will save people in the desert.

Mr. McCAIN. They won't volunteer.

Mr. SMITH of Oregon. They do volunteer. That is what they do in Oregon.

Mr. McCAIN. They are an active duty unit now when they move.

Mr. SMITH of Oregon. All the helicopters you just named—all those helicopters—we are just asking them to get the upgrade. Other States have received them. We have not.

Mr. McCAIN. I thank my colleague.

We have probably wasted way too much of the Senate's time on this issue.

One, the administration opposes it. And the Army opposes it. The Army says, you are taking the money out of the U.S. Army's operating funds, which they badly need. According to them, insufficient infrastructure funding decreases readiness. They do not have enough money. And now you are going to take the money out of operations and maintenance for our active duty men and women—active duty men and women—in the military, and you are going to move it to the Guard.

All we are saying is—if you and your colleague would have allowed us—take the money out of the Guard units; shift

it around to your own priorities in the National Guard. That seems eminently fair to me.

The Guard is very well funded. You are talking about the overall funding. The Guard is very well funded as well. I am not going to take too much more time on this.

The administration opposes it. The Army opposes it. We oppose it. It is something, frankly, that is unnecessary. To have this kind of transfer of funds, when our active duty military is already very short of funds, I think is a mistake.

Again, I think we could have solved this very easily with a second-degree amendment, if it had been allowed, that the money would have been taken out of existing Guard funds. Then you could upgrade it or do whatever you wanted to with Guard funds instead of taking it away from the men and women in the military.

I will tell the Senator from Oregon, there are too many people living in barracks that were built during the Korean war. There are too many people who are on active duty who have insufficient housing, lifestyles, quarters, and other basic amenities of life. And we are an all-volunteer force.

You are taking the money from the active duty personnel in order to satisfy what your perceived needs are of the Guard in the State of Oregon. I do not think that is fair to the active duty men and women in the military.

I yield the floor. And I don't think we have any further debate.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, just to be very brief, with regard to the amount of time the Guard has spent overseas, they might as well be active duty people. These are people who have served our country with extraordinary valor all over the world. They could just as well be called active duty military.

I hope our colleagues support this bipartisan amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 4060.

The amendment (No. 4060) was agreed to.

Mr. LEVIN. Mr. President, we have one amendment which has been cleared.

Mr. WARNER. Mr. President, do we have that amendment reconsidered and tabled?

Mr. REID. I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4077, AS MODIFIED

Mr. LEVIN. Mr. President, I call up amendment No. 4077, on behalf of Senators MILLER and CLELAND, and send a modification of the amendment to the desk.

The PRESIDING OFFICER. Is there objection to the amendment being modified?

Mr. WARNER. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. MILLER, for himself and Mr. CLELAND, proposes an amendment numbered 4077, as modified.

Mr. LEVIN. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

(Purpose: To authorize \$1,900,000 for procurement for the Marine Corps for upgrading live fire range target movers and to bring live fire range radio controls into compliance with Federal Communications Commission narrow band requirements)

In subtitle C of title I, strike "(reserved)" and insert the following:

SEC. 121. MARINE CORPS LIVE FIRE RANGE IMPROVEMENTS.

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated by section 102(b) for procurement for the Marine Corps is hereby increased by \$1,900,000, with the amount of the increase to be allocated to Training Devices.

(b) AVAILABILITY.—(1) Of the amount authorized to be appropriated by section 102(b) for procurement for the Marine Corps, as increased by subsection (a), \$1,900,000 shall be available as follows:

(A) For upgrading live fire range target movers.

(B) To bring live fire range radio controls into compliance with Federal Communications Commission narrow band requirements.

(2) Amounts available under paragraph (1) for the purposes set forth in that paragraph are in addition to any other amounts available in this Act for such purposes.

(c) OFFSETTING REDUCTION.—The amount authorized to be appropriated by section 103(1) for the C-17 interim contractor support is reduced by \$1,900,000.

Mr. LEVIN. Mr. President, this amendment, as modified, would add, with an offset, \$1.9 million for buying upgrades for Marine Corps training devices to support live-fire training and live-fire range control systems.

I believe the amendment has been cleared.

Mr. WARNER. Mr. President, the chairman is correct.

The PRESIDING OFFICER. Without objection, the amendment, as modified, is agreed to.

The amendment (No. 4077), as modified, was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I renew my previous unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Our Republican leader has reviewed this and approves it.

Mr. REID. It is two pages long. I did not want to read it again. It is spread on the RECORD. I send a copy of it to the desk in case there is any misunderstanding.

I ask approval of the unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

Mr. REID. Mr. President, we are going to have the vote on final passage at 3:15. As most know, Secretary Rumsfeld is going to be here at 2:45 for a short period of time. But that will give everyone time to visit with him. Then we would start a vote at 3:15.

NUNN-LUGAR EXPANSION ACT

Mr. LUGAR. Mr. President, I rise today to engage in a colloquy with the chairman of the Armed Services Committee, Senator LEVIN, and the chairman of the Foreign Relations Committee, Senator BIDEN, to discuss the legislative intent of the Nunn-Lugar Expansion Act.

I appreciate Chairman LEVIN's strong support for my bill. Under his leadership the Armed Services Committee adopted the bill and included it as section 1203 of the fiscal year 2003 Authorization bill. Furthermore, Chairman BIDEN is a cosponsor of the bill and his support is critical to the successful implementation of the nonproliferation authorities provided to the Secretary of Defense.

Section 1203 seeks to capitalize on the unique nonproliferation asset the Nunn-Lugar Program has created at the Department of Defense. An impressive cadre of talented scientists, technicians, negotiators, and managers has been assembled by the Defense Department to implement non-proliferation programs and to respond to proliferation emergencies. Equally impressive credentials are held by other agencies such as the Department of Energy, State Department, and Nuclear Regulatory Commission. Section 1203 acknowledges the unique skills held by various agencies and seeks to broaden the President's menu of response options. Our legislation rejects a "one size fits all" response and provides another department with the authorization to respond to a proliferation threat.

As the United States and our allies have sought to address the threats posed by terrorism and weapons of mass destruction in the aftermath of September 11, we have come to the realization that, in many cases, we lack an appropriate assortment of tools to address these threats. Beyond Russia and other states of the former Soviet Union, Nunn-Lugar-style cooperative threat reduction programs aimed at weapons dismantlement and counterproliferation do not exist. The ability to apply the Nunn-Lugar model to

states outside the former Soviet Union would provide our President with another tool to confront the threats associated with weapons of mass destruction.

If the President determines that we must move more quickly than traditional consultation procedures allow, the legislation provides that authority to launch emergency operations. We must not allow a proliferation or WMD threat to "go critical" because we lacked the foresight to empower the President to respond with a variety of options.

In the former Soviet Union the value of being able to respond to proliferation emergencies has been clearly demonstrated. Under Nunn-Lugar the U.S. has undertaken time-sensitive missions like Project Sapphire in Kazabstan and Operation Auburn Endeavor in Georgia that have kept highly vulnerable weapons and materials of mass destruction from being proliferated. But these endeavors have also illustrated the inherent problems of the inter-agency process in addressing time sensitive threats. We have seen on more than one occasion that teams of lawyers haggling over agency prerogatives and turf have delayed responses to critical threats. We must not allow this to continue. We cannot permit the intersection of terrorism and weapons of mass destruction.

This type of scenario does not mean Congress will abandon its oversight responsibilities or the Administration should be continue and coordinate its actions to ensure the most seamless and effective response. Section 1203 requires extensive reporting requirements if action is taken under emergency circumstances. Furthermore, this legislation is not a blank check. We expect this legislation to be implemented with close consultation between relevant agencies. But at the same time, the legislative authority provided therein enables the President to avoid inter-agency logjams that would retard urgent American action.

Mr. BIDEN. I am delighted to join with my dear friend and colleague, Senator LUGAR, in supporting section 1203 of this bill. The Nunn-Lugar program and the several nonproliferation programs that have developed over the last decade were born in the need to secure excess weapons and dangerous materials and technology in the former Soviet Union. They have not yet fully achieved that objective, but they have accomplished far more than anybody other than Senators NUNN and LUGAR foresaw a decade ago. The record of former Soviet weapons and materials secured and destroyed, and of former weapons scientists given useful and honorable work, is a testament to the importance of positive incentives in foreign and strategic policy.

Proliferation is a worldwide threat, and there are sensitive materials and

technology in many countries. Section 1203 is rightly designed to permit Nunn-Lugar activities the former Soviet Union, when there are opportunities to ensure that sensitive materials will never be acquired by rogue status of terrorists.

I am pleased that Senator LUGAR spoke of the need to give the President the authority to act in such cases. The current language of section 1203 could be construed to permit the Secretary of Defense to pursue such opportunities on his own, absent specific direction from the President. In my view, that might invite the Secretary of Defense to initiate sensitive foreign activities without the knowledge or support of the Secretary of State. I understand that this was not the intent of the managers, Senator LUGAR, or cosponsors of this bill. Because this was clearly not the intent, I understand the managers will work to clarify the language of section 1203 in conference so as to make clear that the authority to order these operations resides in the President, not in the Secretary of Defense. That will be a very useful contribution, and I commend them for it. I understand also that the conferees will make clear that the authority to draw funds from other programs will extend only to other Department of Defense programs, and I appreciate that clarification.

I would hope that the managers of the bill would also see fit to broaden the list of receipts of the reports required by section 1203. The Foreign Relations Committees of Congress have a legitimate interest in knowing when sensitive non-proliferation programs are to be instituted overseas. I understand that this concern will be kept in mind in conference, and I thank the managers for that courtesy.

Mr. LEVIN. I want to thank the sponsors of the legislation that was included as section 1203 in the fiscal year 2003 National Defense Authorization bill for bringing this matter to my attention. Of course the responsibility to initiate and expand the type of activities provided for in section 1203 of the bill rests ultimately with the President. As you are the original sponsors of this provision, I will honor your request and will urge the conferees to make the needed changes during the conference process.

THE PRICE-ANDERSON ACT

Mr. SMITH of New Hampshire. Mr. President, in March of this year, when we passed the energy bill, Senator VOINOVICH offered an amendment to reauthorize the Price-Anderson Act that passed overwhelmingly 78-21. The Price-Anderson Act expires on August 1, 2002. This act sets up a system of insurance and indemnification to protect the public against losses stemming from nuclear accidents. It has served the nation well since the 1950s and has been reauthorized three times. Price-

Anderson has been amended over the years so that the utility industry that operates nuclear reactors is charged premiums for this insurance. The private Department of Energy (DOE) contractors that are involved in strategic weapons production, clean up of national security sites, nuclear research and technology, as well as other related national priorities are indemnified by the government. In keeping with the directions in the current law both the DOE and the Nuclear Regulatory Commission (NRC) have issued reports urging renewal. The provisions of the Voinovich amendment to the energy bill to reauthorize this legislation were crafted in consonance with these reports. In the Defense authorization bill we are now considering, there is a provision to only renew the authority for the private DOE contractors. There is strong justification for doing so, since a lapse in the authority will affect important cleanup and defense programs as I mentioned before. Private industry must be indemnified properly before undertaking these important national projects. Reauthorization is vital to national defense and must be considered on "must do" legislation such as the defense bill. However, the NRC provision of Price-Anderson, one that falls under the jurisdiction of the Environment & Public Works Committee, is not included in this bill. Historically, in the reauthorization of Price-Anderson, we have never separated the DOE contractor provision from the NRC licensee provision. The three previous renewals of Price-Anderson have extended both the DOE and NRC portions of the Act at the same time for identical time periods. As the ranking member of the Environment & Public Works Committee and as a senior member of the Armed Services Committee, it was my hope that we could ensure that these two provisions of Price-Anderson be moved through the legislative process as one package, and not be separated. Due to the need of keeping non-military provisions off of the Defense Authorization bill while the bill is under consideration by the Senate, adding the NRC provision of Price-Anderson will not be possible at this time. However, it is certainly the hope of this Senator that the DOE and the NRC provisions of Price-Anderson remain on as close of a parallel legislative tracks as is possible, however that can be accomplished.

Mr. INHOFE. I am in complete agreement with my colleague. Should we let this authority lapse, it will jeopardize national security programs. Therefore, we must act in this bill with the provisions that cover the private DOE contractors. However, we must try to get the entire act renewed as recommended by the administration and the agencies that have help to develop, modify and oversee its activities over the past

nearly half century that have served us so well. I strongly believe that it vital to pass full and comprehensive reauthorization of the Price-Anderson Act. The law has worked well and has been considered a model in other countries. It insures against terrorism against the plants and has been studied in an attempt to help fashion the terrorism insurance recently passed in this body. I would urge that we do what we can in this body to get Price-Anderson renewed in the most expeditious fashion. I want to thank my colleagues on both the Armed Services Committee and the Environment and Public Works Committee, of which I am the ranking member of the Nuclear Subcommittee, and I look forward to working with them so that we may pass comprehensive Price-Anderson reauthorization during the 107th Congress.

Mr. VOINOVICH. I Thank my colleagues for their commitment to this issue that is of the utmost national importance. I add my support to the idea that we should keep the pieces of this legislation together. I certainly agree that we should make certain that our private DOE contractors do not experience a protracted lapse in authority that will surely delay the implementation of important programs. But I want to point out that energy security and national security are very much related, and both are integral parts of our overall economic security. Nuclear power, science and technology are vital to this country. Nuclear generation provides 20 percent of our electricity and is the largest contributor to avoiding emissions. If we are to meet the future demands for electricity we will have to build more nuclear plants to augment the present fleet. All over the world, nations are considering building new nuclear facilities. The current administration wants to move forward with new plants that use new, more efficient nuclear technologies that reduce the volume of spent fuel and have even more safety features than the current plants which have unparalleled safety records. The original law was put together to support both aspects of nuclear operations. They have worked very well together. I would agree with my fellow Senators who have just spoken on this matter. I was proud to have introduced the original Price-Anderson reauthorization bill and was very pleased when the Senate voted overwhelming to include my Price-Anderson amendment on the energy bill. It is important that we reauthorize the entirety of this statute and I look forward to continuing to work with my fellow Senators to ensure that the Price-Anderson Act is reauthorized this Congress.

Mr. WARNER. I agree with my colleagues that reauthorization of Price-Anderson, both for DOE contractors and for NRC licensees is a priority for the Nation. I am hopeful that these

two provisions to extend Price-Anderson will soon be enacted into law.

Mr. ALLARD. Mr. President, we just passed an amendment which will require the Missile Defense Agency to provide yet another report. While we accepted this amendment, I believe it is redundant and wasteful.

The criticism of MDA for classifying information on targets and countermeasures for future missile defense tests has been surprising, at best. The Missile Defense Agency (MDA) informed us some time ago that such information would be classified as testing becomes more sophisticated.

From the last three successful long-range intercept test successes, MDA has begun a progressive and more rigorous testing program to evaluate emerging and evolving technologies. These technologies include countermeasure to missile defenses that our adversaries might use and the means MDA devises to overcome those countermeasures. MDA has laid in a structure and process to identify likely or possible countermeasures and to assess their potential effectiveness; and to identify and assess possible counter-countermeasures.

I can't resist noting that the majority has cut about half the funding for this function in its missile defense proposals in this bill. I think if they were that concerned about countermeasures, perhaps they wouldn't have made this cut.

After MDA has identified these countermeasures, it designs and builds them. That's the only way MDA can test against them. Detailed knowledge of ballistic missile defense countermeasures techniques—techniques that we may be developing ourselves to test the strengths and weakness of our missile defense systems—could lead our adversaries to develop capabilities that can defeat our systems.

I don't believe anyone wants to reveal information that might compromise our security. We should not share information on targets and countermeasures with the likes of Iran, Iraq, and North Korea.

I fully concur with those who believe that Congress should have access to all relevant information related to missile defense tests. MDA has assured me that it will provide us with this information. All members, and staff with appropriate clearances, will have access to this information. Indeed, staff received classified information related to targets and countermeasures prior to the last long-range missile defense test.

To those who suggest that this move is designed to disguise or hide missile defense test failures, I would note that test successes or failures really can't be hidden.

Congress will have access to all the information, classified or otherwise. Not all information will be classified.

it will be clear to the public whether the interceptor hit the target or not. Classification may actually make it harder for MDA to demonstrate success to the public because it can't make details of the test public. Details of almost all military tests are classified. Have we ever explained to our adversaries how to defeat stealth technologies? Why would we do so with missile defense technology?

The decision to classify this information meets the criteria of Executive order 12958 that guides all DOD agencies in decisions on these matters. This executive order notes that information can be classified if it relates to "military plans, weapons systems, or operations" and "vulnerabilities or capabilities of systems. . . relating to the national security"; or if release of the information could reasonably be expected to "reveal information that would assist in the development or use of weapons of mass destruction."

I believe MDA countermeasures and targets information qualifies in all three categories.

Is classification premature? I don't think so. We hope to have early missile defense capabilities in the field in the not too distant future. These capabilities will be based on test assets. Publicly revealing the weaknesses of our test systems to our adversaries simply doesn't make any sense.

At this time, I would also like to make a few more points regarding the original cuts made by the Majority to the missile defense programs.

While I am very happy that the \$814 million cut was restored by the Warner/Allard amendment, I am concerned that there is confusion that the second degree amendment in some way reflects that this Senate believes that the President does not have the flexibility to spend the money as he fits between missile defense and counter-terrorism. As a matter of fact, according to the Office of Management and Budget, as well as the chairman, the second degree amendment does not preclude the President from deciding where to spend the money—missile defense or counter-terrorism. And that is certainly my understanding, as well as the ranking member of the Armed Service Committee.

One of the major criticisms stated by the majority is the expenditure rates for Ballistic Missile Defense projects, particularly the rate of expenditure in the BMD System program element.

The Missile Defense Agency is attempting to develop a single integrated ballistic missile defense system capable of attacking missiles of varying ranges in all phases of flight and defeating missiles of all ranges.

Thus MDA has shifted from an element-centric approach with a focus on THAAD, PAC-3, NTW, NMD etc., to a system-centric approach that knits each of the elements into an integrated

whole. The goal is to develop a seamless tool-kit of sensors, shooters, platforms battle management, and command and control assets that function as a single integrated BMD system.

Critical to this refocusing are integration efforts to tie disparate BMD projects into a coordinated whole. The BMD System program element is key to success in the endeavor.

But the chairman seems to argue that some funding will be left over at the end of fiscal year 2002 and thus not all the funding requested for fiscal year 2003 will be needed.

I strongly disagree and several points need to be made.

The 2002 budget was approved late. The FY 2002 defense authorization act wasn't signed until January of this year, at the end of the first quarter of the fiscal year. MDA projects—and all other DOD projects—were late in getting FY 2002 funds.

The expenditures that the chairman cited are already out of date. The figures he used were the expenditure figures from March 31, less than three months after MDA started receiving 2002 funds. The figure updated for the end of April is already about \$100 million.

The end of year expenditure projection for this program element is about half the funds appropriated. More than 90 percent will be obligated. These figures are well within expected ranges.

I have the Missile Defense Agency projections for all their major project activities. All appear to be within expected ranges.

It is also very important to remember that the funding request in the BMD System program element is all R&D money. R&D funding is available for obligation for two years and available for expenditure until disbursed or rescinded. Congress provides extended availability for R&D funding specifically to help assure funding stability and planning and contractual flexibility.

If we accept the argument that we can cut funding in this program element because MDA will have Fiscal Year 02 funds left over, we have to accept the argument that the whole rationale for providing extended availability for R&D funding is flawed. We may as well go ahead and cut all R&D programs that have any funding left over from the previous year.

I don't think any one believes we should do that.

Citing an outdated expenditure figure for this program element so early in the fiscal year is simply misleading and I believe misguided.

Another concern I had with the Majority's cuts was the \$147 million reduction in program operations. This reduction may sound mundane but is critical to the success of the programs.

The majority has justified the cuts on grounds that the funding is redun-

dant and excessive. The committee report notes that program operations are adequately funded in each Missile Defense Agency project and the program operations funds justified in separate lines in each program element simply aren't needed. So the Armed Services Committee bill cuts each and every one of these funding lines.

But this justification is simply wrong. It is simply mistaken to state that the funding for program operation is redundant to funding elsewhere in the MDA budget. Not only is it mistaken, this funding reduction is extraordinarily damaging to the Missile Defense Agency.

What are "program operations?" Program operations are people. They provide the basic support for any program. They provide information technology support—the computer support people. They provide communications support. They provide security. They provide contract support. They support basic infrastructure and facilities.

It is true that this work is done at the project level. The THAAD project funds program operations unique to the THAAD project. Each MDA projects fund program operations unique to that project.

But the simple fact is that the program operations funds in each project are not used for same purposes as the funds that have been cut in Armed Services Committee bill. The funds cut by the Committee bill are not for activities unique to any particular project. They are for common program support.

The funds identified in the MDA budget for program operations will be used to support government and contractors for common program support at Missile Defense Agency Headquarters and for the service executive agents for missile defense programs. The Missile Defense Agency is required by law—Section 251 (d) of the Fiscal Year 1996 National Defense Authorization Act to request these funds in separate program elements.

This bill cuts almost all of this funding—\$147 million of \$185 million requested, or nearly 80 percent.

What does this cut do?

This reduction cuts nearly 1,000 people who provide basic support for Missile Defense Agency projects and activities. Army Space and Missile Defense Command will lose almost 400 people. The Army Program Executive Office for Air and Missile Defense will lose another 60. Missile Defense Agency Headquarters will lose around 400. The Navy and Air Force will lose about 75.

Heres how MDA describes the impact:

The majority of Army SMDC and Army PEO-AMD staffs would be eliminated.

Air Force and Navy organizations responsible for centralized management and/or sharing of common program management costs would be eliminated.

All contract support at MDA for program operations would be eliminated; computer

center and thus computers shut down; no security (technical or physical), no staffing for supply/mail room, cleaning, and facility maintenance; no contractor support for common acquisition management functions performed by MDA, e.g. contracting, financial management, cost estimating, human resources.

That is an incredible hit on any organization.

Could MDA recover by redirecting funds to cover these functions? If these cuts survive the process, MDA would have to move money into activities in direct contravention of Congressional intent which is usually a pretty bad idea.

But even if MDA were to try use project funds to perform these program-wide activities, the agency would be in the position of trying to use new people to do many of these jobs. The Missile Defense Agency simply could not do this in anything approaching a timely manner. Consider contracting support. The whole thrust of the missile defense program has changed, moving toward a single integrated missile defense system and away from autonomous "stove-piped" systems. This will inevitably mean contract changes as the architecture evolves. Yet MDA's institutional memory would have been surgically excised by this reduction at precisely the time it is needed most. So MDA would take a double hit—a cut to project funds to pay for program operations, and inefficient and ineffective program operations because all the people who did that job will have been fired.

The 80 percent reduction to program operation is just one example of how damaging the missile defense reductions in this bill. It is inconsistent with good management, current law, and common sense. I cannot say if the majority simply erred in this reduction, or if the intent was to cripple the organization.

Another program that was hit hard by the majority's missile defense cuts deals with countermeasures—which for me makes these cuts even more surprising.

Many critics on the majority side have argued that simply countermeasures can render missile defenses ineffective. They have criticized missile defense technology and testing as too simple, and not sensitive enough to the measures our enemies might take to defeat our defenses. The former Director of Operational Test and Evaluation Phil Coyle used to make this argument in his official capacity and had many recommendations about how to improve what he saw as deficiencies. The chairman of the Senate Armed Services Committee just recently repeated the view that simply countermeasures may be able to defeat missile defenses.

The Missile Defense Agency agreed that countermeasures represent a significant challenge, and has structured

a significant part of its program to meet this challenge. Here's what they have done:

MDA moved from an architecture that relied very heavily on intercepting enemy missiles and warheads in their terminal phase, the final phase of flight as these weapons approach their target, to an architecture that seeks to intercept missiles and warheads in all phases flight-boost phase right after launch, and midcourse as the missiles and warheads fly ballistically toward their target as well as terminal phase. Countermeasures to defenses in any one phase of flight are greatly complicated by attacking missiles in all phases of flight.

MDA initiated technology efforts in the midcourse defense segment to develop counter-countermeasures and advanced kill vehicles to defeat countermeasures that our adversaries may develop or deploy.

MDA initiated a "Red, White, and Blue" team and a process to objectively assess the types of countermeasures that might be developed and deployed and the countermeasures that could be developed to counter them. The Red team assesses the likelihood and technical feasibility and effectiveness of various countermeasures; the Blue team assesses ways to defeat the countermeasures and does basic technical work to produce the counter-countermeasures; and the White team is the referee to make sure that proposals and assessments from the Red and Blue teams are fair.

Given the concerns expressed by our majority about the ability of adversaries to produce countermeasures that defeat our defenses, you would thank that these efforts would among those receiving the strongest support in this bill. If you thought that, you would be wrong. This bill decimates each of these approaches.

The bill makes extraordinarily deep reductions in boost phase intercept projects. The Airborne Laser program—cut by about a quarter—there is almost no funding for anything beyond the first prototype aircraft. Funding for space-based kinetic boost phase interceptors is eliminated. Funding for sea-based boost phase interceptors is eliminated. Space-based laser? That was killed last year. And the bill makes a \$52 million reduction to Navy mid-course missile defense, and concept development and risk reduction effort to produce Navy missile defenses against medium, intermediate, and long-range missiles.

The bill cuts all the funding—100 percent of the funding—for the next generation kill vehicle and midcourse counter-countermeasures. This leaves the midcourse segment with no follow-on technology to defeat any advanced countermeasures our adversaries might develop or obtain and then deploy.

The bill cuts almost half of the funding for the Red, White and Blue team.

This reduction is part of the 2/3 reduction to Ballistic Missile Defense System program element. A key project in that program element is system engineering and analysis. That's where the Red, White and Blue team is funded. This bill decimates this key effort.

These reductions severely damage the effort to defeat BMD countermeasures—an effort that everyone—Republicans, Democrats, MDA, and missile defense critics—believes is critical. The rationale for these reductions, to be charitable, is unclear.

Let me end my statement by summarizing some of the majority's arguments which we have heard during the course of this debate.

First, funding is not adequately justified or unclear what product will be provided.

Not true.

The committee has received hundreds of pages of justification which describes in tremendous detail activities and products in each program element. I admit that not all of the detail was available at the beginning of the budget cycle because the National Team—which plans the activities—was just standing up. It is all available now.

Many of these important activities and products included in System Engineering & Integration are: concept development and system architecture; trade studies and analysis; functional allocation; BMD element (e.g. PAC-3, ABL, THAAD) specifications; verification of text objectives; engineering process controls; configuration management; interface specification; architecture definition; threat databases; modeling and simulation; test infrastructure and target requirement definition; schedule baseline; specialty engineering; and data management.

For Battle Management/Command and Control these activities include: definition of intelligence and sensor inputs; specifications; definition of interfaces; mission planning across BMD elements BM/C2 test planning, assessments BM/C2 system performance BM/C20T&E plans; BM/D2 transition plans; order of battle definition communications architecture message definition and formats network management information assurance wargaming support; and BM/C2 verification and test.

Here is an example of some of these activities:

System and element capability specification: \$17.8 million.

Description: The system capability specifications provide design requirements for system integrators and element contractors to use in development and testing. It enables contractors to understand the context in which they are designing elements and to be more innovative in ensuring that their element meets its requirements and milestones in the BMD system. The system capability specification document describes the BMD system in

terms of functions and performance based capabilities, shows the allocation of those capabilities the elements in the BMD system, and identifies methods to verify those capabilities at the system level. Element and component capability specifications documents describe the functions and capabilities of BMD system elements and components as they are allocated in the systems capabilities specifications. For new elements these documents may provide a very complete description of functions and capabilities and allocations to major subsystems. For existing elements, the documents may be higher level and might serve as the basis for engineering change proposals to bring the element into compliance with BMD system allocations and specifications. These documents are reviewed quarterly and updated annually.

The committee got over 100 pages of similar material describing these activities in a minute detail.

The second argument is that the funding is redundant.

Again, not true.

There is a semantic problem in considering "system engineering." System engineering takes place at the system level and the at the element level. The system level effort integrates all the disparate elements into a seamless whole. At the element level—or perhaps we would better call this "element engineering"—provides for integration between the parts of an element. For example, the THAAD program spends about 10 percent of its funding on "system engineering" to assure that the THAAD components—radar, missile, launcher, BMC2—work together seamlessly.

This is not the same work that is being done at the BMD system level. The system engineering and integration across elements of the BMD system is being done at a much more detailed level and more systematically than in the past. This is new or expanded work. On reason this work hasn't been done so much is the past is because of the former ABM Treaty constraints.

A third argument is that the funding is premature.

Once again, not true.

Much of this work has not been done before. It is needed to implement the new concept of missile defense as a single integrated system. If this work isn't started and can't continue now—the effectiveness of all missile defense systems will be degraded; deployment of effective missile defense will be delayed; costs will increase, since each element will have to "carry more of the load" and element-centric work will have to be redone later to make it compatible with a single integrated system. The start or expansion of this work coincides with establishment and stand-up of the National Team.

As I mentioned earlier but I believe is important to reiterate, it has also

been argued that some funding will be left over at the end of fiscal year 2002 and thus not all the funding requested for fiscal year 2003 will be needed. Although the 2002 budget was approved late, the obligation and expenditure rate in System Engineering and Integration is well within expected ranges.

The funding request is all R&D money. R&D funding is available for obligation for two years and available for expenditure until disbursed or rescinded. Congress provides extended availability for R&D funding to help assure funding stability and planning and contractual flexibility.

If we accept the argument that we can cut funding in this program element because MDA will FY 02 funds left over, we have to accept the argument that the whole rationale for providing extended availability for R&D funding is flawed. We may as well go ahead and cut all R&D programs that have any funding left over from the previous year.

Fourth, that the funding is excessive.

Once again, not true.

MDA's BMD system level engineering and integration funding request, at 2 percent of the MDA budget of the budget, is modest.

Standard text (Essentials of Project and Systems Engineering Management) estimates requested resources for systems engineering to be 4–8 percent of total project cost. Costs tend to be higher for complicated projects.

MDA's system and element level engineering and integration funding is low compared to other programs.

What other programs spend on system engineering:

V-22—7.2 percent.

B-1b—14.3 percent.

V-22 (Marine)—11.5 percent.

F-22—5.5 percent.

E-3A AWACS—13 percent.

Safeguard—16 percent.

Patriot—19 percent.

E-4 Airborne Command post—12 percent.

Pershing II—21 percent.

JTIDS—12 percent.

Here's what Ballistic Missile Defense spends on system engineering:

Ground-based Midcourse—6.9 percent.

THAAD (03)—10 percent.

BMDs SE&I—2 percent.

These figures are not at all out of line with other complex DOD programs. The BMDs systems engineering funding is low by comparison—particularly given that we haven't done this mission before. This mission is almost uniquely complex.

In conclusion—the BMDs funding reductions aim at the heart of what MDA is trying to do and how MDA is trying to do it. I believe the funding reductions are completely unjustified and I am glad we made some progress in getting these very important missile defense programs back on track.

Mr. JEFFORDS. Mr. President, I would like to thank the managers of

the bill, Senators LEVIN and WARNER, for not including proposals that the Administration has put forward that would undermine many of our environmental laws, in either the legislation that was reported by the Armed Services Committee and the final legislation that we are voting on today. I would also like to make clear my continuing concern with these proposals and my opposition to any efforts to include them in conference on the DoD authorization bill.

Title XII of the administration's National Defense Authorization Act for Fiscal Year 2003 contains several provisions that not only fall within the jurisdiction of the Committee on Environment and Public Works, which I chair, but proposes changes to our environmental laws that are unnecessary, broad, and—judging from the volume of mail I already have received—very controversial. The administration contends that these changes are needed for military readiness and training. However, it has not been demonstrated that is the case.

One provision could permanently extend the timeline for DoD's conformity analysis, required under the Clean Air Act, by 3 years for all activities broadly referred to as military readiness activities, without regard to whether there is a national security emergency or other need for such an extension.

Another provision attempts to permanently exempt the DoD from broad aspects of Resource Conservation and Recovery Act, RCRA, regulation and cleanup. The proposal significantly changes the definition of "solid waste," the crux of the RCRA statute. The proposal would exempt munitions that were deposited, incident to their normal and expected use on an operational range. The proposal also may exempt munitions wastes that remain after the range becomes "non-operational" a term not found in environmental law—prohibiting EPA and preempting the states from regulating the cleanup of the vast majority of unexploded ordnance, explosives and related materials that contaminate closed, transferring and transferred training ranges.

By exempting munitions-related materials from RCRA, the proposal could prohibit EPA and states from acting to address munitions-related environmental contamination that is not on a range at all, but has migrated from the range entirely off-site. The exemption also extends to any facility—not just training ranges—with munitions-type waste, which may include plants that manufacture explosives and other manufacturing facilities run by defense contractors. It is possible that the exemption also would extend to waste streams from the manufacture of explosives since the exemption covers "constituents."

The proposal also provides exemptions from the Comprehensive Environmental Response Compensation and Liability Act or Superfund. "Explosives unexploded ordnance, munitions, munition fragments or constituents thereof" would be permanently exempted from the definition of "release" under Superfund. In addition, because the definition of "solid waste" under RCRA triggers coverage as a "hazardous waste" under Superfund, the broad RCRA exemption would exempt munitions waste from regulation, i.e., clean-up, under Superfund. This could similarly tie the hands of the states to compel cleanup.

By affecting the definition of "hazardous substance," the proposal may preclude states and natural resources trustees from pursuing restoration of areas contaminated by munitions waste—this affects the "natural resource damages" section of the Superfund law. The proposal also may eliminate authority under section 104 of the Superfund law to clean up a release or respond to substantial threat of a release of hazardous substances on training ranges—and, as discussed above, possibly off-site and at manufacturing facilities as well.

The proposal would exempt the Department of Defense from the requirement of the Endangered Species Act of designating critical habitat on all "lands, or other geographical areas, owned or controlled by the Department, or designated for its use" if an Integrated Natural Resources Management Plan—INRMP—has been developed pursuant to the Sikes Act. The Sikes Act requires military installations to prepare plans that integrate the protection of natural resources on military lands with the use of military lands for military training. If the Fish and Wildlife Service determines that the plan "addresses special management consideration or protection," they can decide not to designate critical habitat. Although the Service in the past has excluded some bases from critical habitat designation based on an INRMP, in numerous other decisions, the Service has expressly found that an INRMP would not provide adequate protection in lieu of critical habitat designation.

Under the Endangered Species Act, the Service is required to consider "the impact on national security" when designating critical habitat. This proposal would preclude the Service from designating critical habitat if an INRMP has been completed.

The proposal would authorize military readiness activities under the Migratory Bird Treaty Act—MBTA—without further action by the Secretary of the Interior. It would exempt the DOD from the requirement, applicable to everyone else and founded on treaties between the United States and Canada, Mexico, Russia, and Japan,

that they obtain a permit from the Fish and Wildlife Service before killing migratory birds or destroying their eggs. Such action could be carried out without any assessment of biological impact, effort to mitigate or seek alternatives, oversight or accountability.

In March of 2002, a court ruled that the MBTA applied to training activities at the Farallon de Medinilla range in the Western Pacific and enjoined the Navy from continuing the bombing activities there. The Navy has applied for a special purpose permit under the MBTA allowing for incidental take and are completing the biological justification. While the MBTA does not have an exemption for national security, it does provide for permits to be issued if the urgency of the training is determined by the Secretary of the Interior to be compelling justification and there can be compensation for the biological benefits of birds that may be taken.

It is my hope that during the conference with the House on this legislation, the provisions in the House bill amending the Endangered Species Act and the Migratory Bird Treaty Act be deleted. The Committee on Environment and Public Works is the appropriate committee to examine the need for any such environmental legislation and to act upon any such legislation.

Mr. BYRD. Mr. President, I have serious concerns about the amendments that have just been adopted to add \$814 million to either missile defense funding or combating terrorism. We have heard a day and a half of debate on these amendments, which relate to one of the great issues of our national defense policy. I am stunned that these important amendments were accepted without a rollcall vote.

My concern with these amendments are numerous. The supposed offset for these additional funds is, at the moment, nothing more than a work of fiction. Supposedly, the Office of Management and Budget, in its mid-session review of the budget, will revise downward its estimate of the inflation rate. Not only is this report yet to be released, but also we are making budget decisions based upon projections that may or may not pan out.

In addition, the amendments backtrack on cuts in the missile defense program made by the Armed Services Committee. As a member of that committee, I think that we made the right choices on trimming a missile defense budget request that was far too large to support a program that remains in an elementary phrase. By pouring so much money so quickly into missile defense programs, we are only encouraging a rush to failure. I am especially alarmed that these amendments allow for more missile defense funding at a time when the programs are becoming increasingly shrouded in secrecy, as if the Pentagon wishes to stifle public de-

bate about the utility and effectiveness of anti-missile systems.

The amendments leave the decision about whether to use \$814 million for missile defense or for combating terrorism entirely to the President. There is an alarming trend in Congress to simply delegate the decisions on many important issues to the Chief Executive. The President is the Commander-in-Chief of the military, but the Constitution charges Congress with the authority to "raise and support armies" and to "provide and maintain a navy." The Founding Fathers of this country clearly intended to have Congress determine how the funds intended for our national defense would be allocated.

The amendments adopted today delegate, from the Congress to the President, the decision of how to use \$814 million. It is an avoidance of our constitutional responsibilities. The amendment offered by the chairman of the Armed Services Committee establishes the top priority for these funds to be used for combating terrorism at home and abroad, but I have no idea for what purposes these funds could be used. I do not know whether I would have supported this amendment, but it is profoundly disappointing that Senators did not have the opportunity to cast their vote on this proposal.

I had even greater concerns about the underlying amendment, offered by the ranking member of the Armed Services Committee. As I said before, I question the source of the \$814 million, the potential for the funds to restore the well-justified cuts in missile defense programs, and its delegation to the President of an important decision on the funding of our military. But again, I did not have the opportunity to register my vote.

I hope that my colleagues would take a more careful look at what powers we invest in the President. We should also take a look at how we dispose of such important business as increasing the missile defense budget by \$814 million. We must never allow ourselves to be absolved of our constitutional responsibilities to decide and vote on matters of such great importance.

Mr. FRIST. Mr. President, I thank the distinguished chairman and ranking member of the Senate Armed Services Committee for their assistance and support in authorizing funding for a military construction project of critical importance to the State of Tennessee and the United States. I also thank the skilled staff members on the Senate Armed Services Committee who assisted this action: George Lauffer and Michael McCord.

The amendment in question was advanced by FRED THOMPSON and I to authorize \$8.4 million in funding for the construction of a Composite Aircraft Maintenance Complex at Berry Field Guard Base in Nashville, TN. This important project is vital to the combat

readiness for the 118th Air Wing of the Tennessee Air National Guard. Currently, the 118th is housed in a variety of substandard buildings, some of which are more than 40 years old. This collection of buildings encroaches upon the aircraft clear zone making it difficult for personnel to work and drill, impeding combat readiness and jeopardizing aircraft safety. Aircraft cannot be moved into hangars properly or left on jacks due to wind conditions. All of these problems combine to create significant safety problems and increase the amount of time it takes to repair damaged aircraft. In addition, the 118th needs nine airfield waivers to operate and continue its mission. By constructing this new complex, several of those waivers will be eliminated and the base will be a safer and more efficient place to accomplish its vital mission.

I would like my colleagues to know that the 118th played a vital role in the immediate response to the 9-11 tragedy and continues to contribute importantly to the ongoing national security needs of the country. One item of human interest occurred within an hour after the World Trade Center was attacked by terrorists and all of the Nation's aircraft were grounded by the President. The 118th was called and given approval to fly a donated liver from Nashville to a little girl in Houston, TX. At that time, only three non-fighter aircraft were in the air over the United States—Air Force One, its supporting tanker, and a lone C-130 from the 118th. In the shadow of thousands of people killed in New York City that day, the 118th had the privilege of helping to save a life.

In the weeks after September 11, the 118th was given numerous alert missions requiring Tennessee Air Guardsmen to be on call 24 hours a day, 7 days a week. The aircraft and maintenance personnel were sleeping in an old converted aircraft hangar at night and prepared to fly anywhere at any time.

Early in the month of October 2001, the 118th was again called for an extremely vital mission of National Security and Homeland Security Support. The 118th was one of only five C-130 units deployed for Operation Noble Eagle-QRF (Quick Reaction Force). Their mission was to deploy as soon as possible to a forward base, and be ready for 24/7 operations with a 1-hour alert call out. The 118th proudly performed this mission faster and better than any other Air National Guard, Air Force Reserve, or Active Duty unit. Within 22 hours of notification, the 118th had aircraft in the air moving forward, and was the sole C-130 unit operationally ready at the 48-hour mark.

Over the next 4 months—between October 2001 and February 2002—the 118th became the standard to which other units trained in relation to the QRF. The 118th maintained operational read-

iness with one-third of the unit deployed, and still preserved exceptionally high training standards at home station.

To date, the 118th has activated more than 340 individuals to support the worldwide mission. The unit is currently supporting Air Mobility Command with 33 percent of its aircraft on a daily basis flying active duty missions. Back at home station, Command and Control has been operating 24/7 ever since September 11. The 118th Command Post and Crisis Action Team have played a critical role in the direction and guidance of the unit's response to every assignment and emergency that has arisen. The base medical department, normally two full-time people, has increased to 13 in order to support the increasing number of wing personnel now on active duty.

In conclusion, on behalf of the men and women of the 118th Airlift Wing, Senator THOMPSON and myself, I would like to thank the chairman, ranking member, and our Senate colleagues for authorizing this important funding.

Mr. BIDEN. Mr. President, the Senate returned yesterday to an issue which, in recent years, has polarized our debate on national security and foreign policy. An amendment proposed by Senator WARNER allowed the President to add \$814 million to the research and development budget for missile defense, money that was not recommended by the Armed Services Committee.

It also provided the President the authority to allocate these funds to "antiterrorism" projects, but I have no reason to believe the President would choose this latter option.

Senator WARNER's amendment was passed with a second-degree amendment by Senator LEVIN that emphasized that combating terrorism should be the top priority for the use of these funds, although the President could still allocate the entire \$814 million to missile defense activities.

It has been my hope that the formal U.S. withdrawal from the Anti-Ballistic Missile Treaty, an event which took place less than 2 weeks ago, would emerge as a real turning point in the debate over national missile defense. From this point forward, I fervently wish that officials of all stripes—executive and legislative, Democratic and Republican—will be freed to evaluate missile defense as we would any other major defense initiative.

The touchstone for evaluating any missile defense must be the test that the American people sent us here to propound: Will this program make the United States more secure, or less so? Will national missile defense be operationally effective under real-world conditions, or will it remain a system that no commander can rely on?

Yesterday's passage of the Warner amendment was not a final decision on

the future of national missile defense, nor was it a referendum on the President's decision to withdraw from the ABM Treaty. Even if the amendment had fallen, the Senate would still have authorized \$6.8 billion in fiscal year 2003 on missile defense activities, a significant sum of money of any measure.

The proponents of the Warner amendment contended that an \$814 million reduction in an administration request totaling \$7.6 billion would seriously hamper our Nation's efforts to move forward on missile defense. Let's take a closer look at a couple of these reductions proposed by the Armed Services Committee:

A cut of \$200 million for a number of overhead activities, variously described as "Program Operations" or "Systems Engineering and Integration," which are repeated multiple times in the administration's budget request. The administration cited this particular cut as an attempt by missile defense opponents to block the effective integration of missile defense components.

Despite repeated requests by the Armed Services Committee, however, the Missile Defense Agency never justified these duplicative requests or explained how they would fit together to enhance system integration.

A reduction of \$30 million, requested by the administration for the purchase of a second Airborne Laser prototype aircraft. However, the Pentagon does not plan to test the first Airborne laser aircraft until fiscal year 2005. Doesn't it make sense to delay the purchase of a second model until you get some feedback from the testing of the initial model? After all, there are real questions regarding payload and beam stability in bad weather, which relate as much to the aircraft as to the laser.

Contrary to what missile defense advocates contended, the Armed Services Committee did not set out to destroy our national missile defense effort. If that has been their intention the committee would have cut far more than \$814 million in a \$7.6 billion budget.

This debate was also over priorities. How should the United States spend an extra national defense dollar: On missile defense or on other more pressing needs? In my view, when we consider underfunded antiterrorism missions, one stands out above the beyond the others.

Our first line of defense in today's world should be to ensure that rogue states and terrorists never obtain weapons of mass destruction or the materials needed to make them. We spend between \$1 and \$2 billion a year toward this goal. We are nowhere close to the levels recommended by numerous outside experts, including the bipartisan task force headed by Howard Baker and Lloyd Cutler a year ago, which advocated spending approximately \$3 billion per year.

The committee's original reduction would still have provided funding for our missile defense efforts that was four to six times what we spend on threat reduction programs. Putting aside the overall merits of national missile defense, I ask one simple question: Why can't we show the same sense of urgency and offer the same level of resources in combating the more immediate risk to a more anonymous nuclear weapon delivered without a ballistic missile, but hidden in the hull of a ship or smuggled in the trunk of a compact car?

Were this any other weapons system but national missile defense, I doubt the Senate would have amended such a modest and sensible committee-recommended funding reduction. Major weapons programs often encounter problems. My friends on the Armed Services Committee are all too familiar with unpredictable testing schedules, skyrocketing budgets, and the need to maintain effective oversight with respect to all weapons programs. And so it is with national missile defense.

The Armed Services Committee recommended some judicious cuts in missile defense funding on account of a lack of clarity and a lack of justification by administration officials. I believe the Senate should have rejected the Warner amendment.

Neither could I support the Levin second-degree amendment. I understood the chairman's intentions—to send a clear message that this body views antiterrorism missions as the greatest priority for our Nation.

He was absolutely right—that is our No. 1 priority. But the second-degree amendment still enabled the President to dedicate some, or even all, of the additional \$814 million towards missile defense.

The administration did not prove the case for additional funding for missile defense beyond the \$6.8 billion recommended by the Armed Services Committee. Our Nation faces too many threats for which we are not adequately prepared, to justify spending this additional funding on missile defense.

Regardless of what each of us may think or believe on national missile defense, it does not deserve an exemption from the basic principles of rational budgeting and honest oversight which govern every other Pentagon acquisition program.

Mr. DURBIN. Mr. President, I rise today to express my concerns about the serious wilderness and public lands management problems created by title XIV of the House version of the Defense Authorization Act. This provision was added in the chairman's mark at the behest of Representative JIM HANSEN. Title XIV would profoundly impact land management of nearly 11 million acres of non-military public

lands falling underneath the Utah Test and Training Range airspace in western Utah.

No hearings were held in either the House or Senate to consider the possible consequences of the sweeping and controversial provisions in title XIV. While the House Resource and Senate Energy Committees would be appropriate venues for such hearings, hearings were not held in these committees, and they were not held in the House or Senate Armed Services Committees. No General Accounting Office or Department of Defense report has ever demonstrated the need for the provisions contained in title XIV. The Department of Defense has never requested the kind of control over non-military public land mandated by the provisions in title XIV.

In truth, title XIV is an attack without justification on the traditional management of wilderness and other nonmilitary public lands.

I wish to add my voice to the voices of Representative IKE SKELTON and 19 other House Democrats serving on the Armed Services Committee who noted in the committee report that:

"The military use language of title XIV is unprecedented and not found in any other law. Ironically, these provisions set a standard for wilderness management that would provide less protection to the wilderness areas designated by title XIV than the protections available to non-designated public lands. Millions of acres of designated wilderness and millions more acres of public land underlie military airspace across the United States. None of these lands have or need the restrictive language that title XIV would apply to wilderness and public lands in Utah.

"Language in title XIV would strip the authority of the Secretary of the Interior to determine where and whether facilities and equipment are placed on public lands within wilderness areas. Another provision allows the Secretary of the Air Force to unilaterally close or restrict access to wilderness and WSAs outside the boundaries of the UTTR and the Dugway Proving Grounds. These provisions are unprecedented, and no clear rationale has been given to warrant this change from existing law. Moreover, title XIV creates a different standard for access and military use for land in Utah than is applicable to all other public land areas of the United States.

"Furthermore, title XIV requires the Secretary of the Interior to gain the prior concurrence of the Secretary of the Air Force and the commander-in-chief of the military forces of the State of Utah before developing, maintaining, or revising land use plans required by Federal law for millions of acres of public lands in Utah. Is it unwise policy, to say the least, for a Cabinet secretary's role to be subordinate to a

service secretary and a state military commanders."

Taken together, the provisions in title XIV go far beyond any language ever included in enacted wilderness legislation, they put in place unprecedented high levels of Department of Defense control for all nonmilitary public lands falling underneath the airspace of the Utah test and Training Range, and they designate as wilderness, albeit wilderness in name only, merely a small portion of lands included in America's Redrock Wilderness Act, S. 786, of which I am the lead sponsor.

I urge those Senators who will serve conferees on the Defense Authorization Act to work for the removal of title XIV in conference.

I also would like to speak for a moment on two additional provisions within the Department of Defense authorization bill that passed out of the House, HR 4546. These measures weaken protections for endangered species and migratory birds.

I would like to state for the record that there are existing provisions that allow for case-by-case exemptions to address national security interests. For example, section 7(j) of the Endangered Species Act, ESA, gives the Secretary of Defense the authority to secure an exemption from the ESA's provisions whenever the Secretary finds it necessary for reasons of national security. Moreover, title 10 U.S.C. 2014 specifically empowers the President to resolve any conflicts between the DOD and other executive agencies that affect training or readiness. These waivers should be invoked on a case-by-case basis, rather than giving the DOD a blanket exemption to ignore laws that protect the air and water in and around our military facilities, the health of the people who live on and nearby bases, and America's wildlife and public lands.

Again, I urge my colleagues who will serve on the conference for this bill to reject any permanent weakening of or permanent waivers enabling the circumvention of our Nation's environment and public health laws.

Mr. BUNNING. Mr. President, I was proud to support the recent passage of S. 2514, the National Defense Authorization Act for fiscal year 2003. This bill continues to strengthen our military and is vital to the war on terrorism.

This is the most important bill we have debated in the Senate all year. The threats against us are real and I am pleased the Senate acted swiftly in passing this strong defense package. This bill authorizes \$393.4 billion for national defense. That is \$43 billion above the 2002 level, and the largest defense spending increase in over 20 years.

We are in this war against terrorism for the long haul and our increased

military funding is justified. We now have troops on the ground in Afghanistan, the Philippines, and many other places we could not have foreseen before September 11. Depending on what happens as we fight this war, we may have to deploy our troops elsewhere to contain and battle threats against our Nation and freedoms.

This bill focuses on five objectives for our national defense.

First, it improves the compensation and quality of life for our soldiers, retirees and their families. For the fourth year in a row this bill includes a 4.1 percent across the board pay raise for all military personnel, with a targeted pay raise between 5.5 and 6.5 percent for mid-career personnel. A new assignment incentive pay of up to \$1,500 per month is authorized to encourage personnel to volunteer for hard-to-fill positions and assignments.

The bill rewards our retirees and disabled veterans. The bill authorizes concurrent receipt of retired military pay and veterans' disability compensation for all disabled military retirees eligible for non-disability retirement.

For our troops with families, this bill increases the housing allowance, with the goal of eliminating average out-of-pocket housing expenses by 2005. And on our installations, \$640 million is being added above the budget request to improve and replace facilities. This will help improve the housing, dining and recreation facilities for our trainees and troops.

These quality of life issues boost the morale of our troops, and send a strong signal that we in congress and across the Nation appreciate their defense of America and her freedoms.

Secondly, this bill also contains those necessary readiness funds to allow the services to conduct the full range of their assigned missions. We have added \$126 million for firing range enhancements so that we can properly and effectively train our troops to fight and win.

And to show that defense is a top priority for our Nation, this bill authorizes the administration's \$10 billion request to cover the operating costs of the ongoing war on terrorism for next year. After speaking with various military leaders and hearing their testimony before the Senate Armed Services Committee, we heard how important the issue of readiness is for every branch of the military today. This bill addresses this important issue by funding the most pressing shortfalls.

Third, in this bill we also address the goal of improving efficiency and increasing savings with DOD programs and operations. These savings will allow us to redirect and focus on high-priority programs within the DOD.

Some of these provisions include \$400 million in anticipated savings by deferring spending on financial systems that would not be consistent with those fi-

nancial management systems available and used by non-government entities. Soon we will have a system to better keep track of valuable DOD and service funds. This brings not only savings, but accountability to the DOD and the services. Although the DOD's mission is more unique than any other Federal department, it is not immune to wasteful and duplicative spending which we often see in other Federal departments.

Furthermore, this bill holds a provision requiring the DOD to establish new internal controls to address repeat problems with the abuse of credit cards we have seen for the purchase of non-essential and questionable travel spending by military and civilian personnel. And with the \$393.4 billion we are authorizing in this bill, it is imperative now more than ever that we have a real sense of accountability for oversight reasons and for the sake of making sure we are giving the taxpayers the biggest bang for the buck. After all, this bill spends more than \$1 billion a day on national defense activities. For that price, the taxpayers should get their money's worth.

Fourth, this bill also helps our military meet more non-traditional threats. We increased funding for fighting these threats to help secure our nuclear weapons and materials at Department of Energy facilities, and defend against chemical and biological weapons and other weapons of mass destruction.

Finally, our Senate Armed Services Committee wanted to be sure that our military always stay on the cutting edge of new technologies and strategies to meet the threats of the 21st century. Promoting and embracing transformation of our forces is not easy. But it is essential. This bill helps us to promote a new mind set for the future. I know it is tough to wean ourselves off of some of the legacy systems and structures in place in our armed forces. And I know that some in our armed forces are skeptical about change. But we have to begin to think differently. The world is changing, and not necessarily for the better. Our military has to keep up with that change.

While I did vote for this bill in the Senate Armed Services Committee, I did not agree with the fact that it originally slashed missile defense spending by just over \$800 million. This drastically altered President Bush's national security strategy and made our Nation and allies more vulnerable to a possible missile attack.

But thankfully we found a way on the Senate floor during the bill's consideration to move just over \$800 million back to President Bush's missile defense priorities to protect America. I was proud to cosponsor an amendment which fulfilled this obligation by using expected DOD inflationary savings and adjustments. This offset was responsible because it did not cut any other

valuable DOD programs needed to strengthen our military. And I was pleased that this was a bipartisan effort by the Senate with the amendment's unanimous acceptance.

But, thankfully this amendment was accepted. Without it, this vital bill was jeopardized. After all, Secretary Rumsfeld, in a letter to the Senate Armed Services Committee wrote, "if the missile defense provisions in the Senate Armed Services Committee's version of the bill were to be adopted by Congress, I would recommend to the President that he veto the Fiscal Year 2003 National Defense Authorization Act." So, its inclusion helped pave the way to an optimistic path to President Bush's desk.

Finally, we have had a very intense debate about the Crusader Artillery System. I would like to note that while I supported the compromise Levin amendment last week over the Crusader program, I remain concerned about our ability to effectively support our troops with adequate fire support. Right now we are vastly under-gunned in artillery by some nations. Our own artillery systems could not even meet our needs during the Gulf war more than a decade ago. And those systems have not significantly changed since then.

The possibility of shifting funds from Crusader to other indirect fire weapons concerns me in that we are again delaying when we will actually deploy sufficient fire support to protect our armed forces. The DOD hopes to speed up the deployment of these new technologies so they would be available around the same time Crusader will be. I am concerned about our ability to meet this time line.

Throwing money at a program does not necessarily mean you can magically speed up its development. Some things just take time, and Crusader is a lot farther along in the development process than many of these other technologies. I will be watching this process closely to ensure that effective indirect fire support capability reaches our troops quickly.

Overall, this is a solid bill. The sooner we get this bill to President Bush, then the better chance we have at providing our military with the essential training and strength resources to fight terrorism or anything else that seeks to destroy America, our people and our freedoms.

Mr. ROBERTS, Mr. President, I wish to clarify my comments concerning my amendment to authorize, with an offset, \$1,000,000 for research, development, test, and evaluation, defense-wide, for analysis and assessment of efforts to counter possible agroterrorist attacks. The amendment was adopted June 26 by voice vote. I stated then that the \$1,000,000 was destined for the In-House Laboratory Independent Research (PE 0601103D8Z) account. In

fact, the funds will be applied to the Chemical and Biological Defense Program (PE 0601384BP) account. The intent of the amendment, however, remains the same. It is still my hope that universities with established expertise in the agricultural sciences can conduct studies and exercises that lead to better coordination between Federal, State, and local authorities as they attempt to detect, deter, and respond to large scale coordinated attacks on U.S. agriculture. I envision universities assisting the Department of Defense in determining what role—if any—our military or defense agencies play in countering agroterrorism. I thank my colleagues for supporting amendment No. 4138.

Mrs. FEINSTEIN. Mr. President, I rise today to thank the leadership on both sides of the aisle for clearing an amendment I introduced with my colleague from Alaska, Senator STEVENS, to prohibit the use of nuclear armed interceptors as part of a Ballistic Missile Defense System (BMDS).

Senators LEVIN and WARNER have shown tremendous leadership by working hard to address this important issue, and I want to personally thank them for their efforts.

I want to comment briefly on the details of the amendment because I feel so strongly, as do my colleagues in the Senate, that both Chambers of Congress move to prohibit nuclear armed interceptors.

A nuclear armed interceptor is a defensive missile that uses a nuclear, rather than conventional, explosive tip to destroy its target. It is based on the premise that a large blast will overwhelm all of the components of an enemy missile.

The Washington Post reported in April of this year that the Pentagon was pursuing plans to resume research and testing of nuclear armed interceptors as part of a Ballistic Missile Defense System (BMDS).

I think this would be a great mistake and would endanger the health and safety of all Americans.

The Post reported on April 11 that the Defense Science Board, a research body within the Department of Defense, received encouragement from Secretary Rumsfeld to consider using nuclear tipped warheads for a missile defense system.

On April 17, Senator STEVENS and I, at an Appropriations Defense Subcommittee hearing, asked General Kadish of the Missile Defense Agency to refute the Washington Post story. He responded that his agency would not conduct research into nuclear warheads.

To further clarify the point, we also asked Secretary Rumsfeld to address the allegation in writing. He also assured us the Pentagon would no longer encourage such testing.

Inexplicably, in this year's House Armed Services Committee report on

the House passed Defense authorization bill, there is language sanctioning nuclear interceptor research. The report states:

The Department may investigate other options for ballistic missile defense nuclear armed interceptors, blast fragment warheads . . . as alternatives to current approaches . . .

This troubling development led Senator STEVENS and me to introduce today's amendment, which prohibits any funds from being used for nuclear armed interceptors.

Our amendment simply states:

None of the funds authorized to be appropriated by this or any other Act may be used for research, development, test, evaluation, procurement or deployment of nuclear armed interceptors of a missile defense system.

The use of nuclear armed interceptors represents a deeply troubling departure from the missile defense testing that has occurred up to this point.

For the past year, the Pentagon has been pursuing a technically problematic approach to missile defense.

They have attempted to "hit a bullet with a bullet."

This means that the missile defense system has to individually hit each incoming warhead in order to eliminate the total threat.

But under this system, the Missile Defense Agency still fails to address the decoy warheads and other countermeasures that force our systems to rapidly determine which is the actual warhead to be targeted and which is simply a decoy.

This core dilemma led the Pentagon to explore the concept of using a nuclear armed interceptor to destroy all of the incoming warheads, real and decoy alike.

Instead of targeting a particular missile, a nuclear tipped interceptor would be exploded in the vicinity of the missile, ensuring the destruction of the missile and any others objects around it.

This approach raises serious questions about the confidence the Missile Defense Agency appears to have in its current "Hit a Bullet with a Bullet" plan.

But perhaps more importantly, this approach overlooks a laundry list of catastrophic side-effects that would accompany a nuclear blast in the atmosphere.

Even a low-yield nuclear blast in the atmosphere would have grave consequences on public health and on the global economy.

Atmospheric winds could potentially spread fall-out over American or allied sovereign territory, the very territory we are trying to protect from nuclear attack.

Add the possibility of intercepting a chemical or biological warhead, and we exponentially increase the risk of spreading spores or chemical agents over a wide area.

The Electromagnetic Pulse (EMP) from an overhead nuclear blast would severely disrupt and most likely permanently damage U.S. and foreign satellites.

These are the very satellite systems we rely on to provide us with early warning and key intelligence for national security operations.

I think we all can see the serious ramifications of pursuing such an ill-advised policy, and I believe that this amendment is needed to prevent us from going down this path.

As Senators from two States that could feel the brunt of radiological, chemical or biological fall-out in the event of a missile defense activation, we are compelled to act.

But make no mistake about it, every State in the Union faces the specter of contamination.

Given the language included in the House bill promoting nuclear intercept research, it is critical the Senate take a leadership role by preventing such research and testing.

I urge my colleagues to support this amendment and inject some common sense into the debate over the future of missile defense.

Ms. SNOWE. Mr. President, I rise to speak on the Senate version of the FY2003 National Defense authorization bill.

As a former member of the Senate Armed Services Committee and former chair of the Seapower Subcommittee, I fully appreciate the hard work and long hours my colleagues in the Senate and their counterparts in the House have dedicated to the completion of the bill.

There are many important provisions in this bill. However, there are also some critical defense requirements which were overlooked. And I would like to take a moment to address those concerns.

First and foremost, with the enormous increase in the defense budget overall, I am deeply troubled that we would fail to sustain the size of our naval fleet, which has played such a critical role in the war on terror.

Admiral Robert J. Natter, Commander in Chief of the U.S. Atlantic Fleet, captured it best when he said "We fight them here, or we can fight them there—it's America's choice." And he continued "I'd prefer to fight them there, because I know we can beat them."

Well, we can't fight them there without a Navy. In the opening days of Operation Enduring Freedom, our Navy fired over 90 Tomahawk cruise missiles aimed at crippling Taliban air defenses. The Navy executed the majority of the air strikes in the land war. Aircraft-carrier based fighter and strike aircraft launched 60 to 80 missions a day dropping thousands of bombs on terrorists and Taliban targets. More than 50 Navy ships participated in the

action. I am proud of our Navy, but the fact of the matter is, if we do not increase the ship procurement rate, the size and strength of our fleet is going to be diminished.

If we allow this to happen, we are doing future generations a great disservice. Because the reality is that, when the United States is unable, for whatever reason, to launch military strikes from ground bases in a region where U.S. interests are at stake, there are times when our Navy may be the only option.

Yet, the fleet was stretched too thin even before Operation Enduring Freedom. When I was chair of the Senate Seapower Subcommittee, I heard this time and again from senior Navy officials. As the war on terror continues, I believe it is more important than ever that we maintain a fleet large enough and strong enough to project the power we need in order to safeguard U.S. interests.

These are the facts. The Administration proposed in its budget to procure five new Navy ships in Fiscal Year 2003 and a total of 34 new Navy ships through Fiscal Year 2007. This is an average of 6.8 new ships per year. But we need 8.9 ships per year just to maintain a 310-ship fleet.

The size of the fleet could fall to 263 ships by 2015 to 2025 if we do not reverse this trend. Last year, Secretary Rumsfeld painted an even more dire picture, estimating that the Navy could end up with a 230 ship Navy in the 2025 time frame without substantial increases in the build rate. Contrast this with the size of our fleet in 1987 when we had 568 ships.

I know that the administration recognizes the problem, and I credit them with understanding the need to build more ships in the future. The DOD and the Navy have acknowledged the need to build more ships. Last year, a study conducted by the Office of the Secretary of Defense concluded that the Navy should have 340 ships. Navy officials put the number at 370-380. And they should know. They are the men and women who are responsible for our forward deployed forces. But we need to help them by taking action. Whatever the ultimate number, we need to reverse the current trend and begin to build a bigger fleet. But we need to begin to produce more ships now, because there is not doubt that the size of our naval fleet is a vital matter of national security. We can't afford to wait any longer.

We can't afford to risk this essential component of our world-wide defense force. After all, 80 percent of the planet's population lives along the coastal plains of the world, and it is the Navy that has the capability that is imperative if we are to maintain military superiority and defend America's national interests in the 21st century. For even with today's rapidly changing

and diverse security threats, there is no foreseeable future that would have our security interests best served by a diminished naval fleet.

Despite the fact that Secretary England has endorsed funding for a third destroyer, for example, this bill fails to fund an additional ship. To maintain readiness and to sustain the industrial base, we desperately need a third destroyer authorized and funded in fiscal year 2003.

Even to maintain a 116-ship surface combatant force, given the projected service life of 35 years for DDG-51 Class ships, requires a sustained replacement rate of over three ships per year. If you assume a 30-year service life, which is more realistic historically, sustaining even the 116-ship surface combatant force would require annual procurement of almost four DDGs each year.

And at a rate of only two destroyers a year, it may be difficult to sustain the yards that have historically built these critical platforms. That is why I was pleased to team with Senator COLINS to extend the multi-year procurement rate for DDG destroyers through fiscal year 2007. As chair of the Seapower Subcommittee, I secured procurement authorization for three DDGs annually through fiscal year 2005, and this bill extends that authorization for an additional two years. It is still imperative to add a third destroyer to the fiscal year 2003 budget, but this multi-year procurement is a step in the right direction.

While I am very concerned about the failure to fully fund the shipbuilding accounts, I do believe credit is due in some other important areas. For example, the bill does make some invaluable personnel contributions. The measure includes a 4.1 percent across-the-board pay raise for all military personnel, with an additional targeted pay raise for the mid-career force. It includes a provision authorizing the concurrent receipt of military retirement pay and veterans disability compensation for military retirees with disabilities, an effort which I have long supported.

The bill also reaffirms Congress's commitment to the war on terror by funding requirements needed to support our Soldiers, Marines, Sailors, and Airmen who are on the front lines with the planes, vehicles, ships and armaments they need to carry out their critical missions.

The bill would set aside \$10 billion, as requested by the administration, to fund ongoing operations in the war against international terrorism during fiscal year 2003. And it includes substantial funding to meet asymmetrical terrorist threats including chemical, biological, and nuclear weapons and develop the agility, mobility, and survivability necessary to meet the challenges of the future.

It would increase by \$199.7 million funding to enhance the security of nu-

clear materials and nuclear weapons at Department of Energy facilities. It would increase funding for U.S. Special Operations Command by \$42.7 million. Defenses against chemical and biological weapons and other efforts to combat weapons of mass destruction would see an increase of \$30.5 million. And the bill would find the request of over \$2 billion for force protection improvements to DOD installations around the world.

Finally, the bill would also make possible continued improvements in the Navy's human resources services with the authorization of \$1.5 million for operation of a pilot human resources call center in Machias, Maine under an amendment I worked to include in the bill.

This call center went on-line in January of this year. I worked hard with the Navy to locate this facility in Washington County, ME to help compensate for the loss of military personnel at the Cutler Naval Computer and Telecommunications station in Cutler, a communication center used to provide contact with U.S. submarines in the North Atlantic, Mediterranean and Arctic seas. At its peak there were 220 people working at the base—110 civilians and 110 Navy personnel.

The call center establishes a single national employee benefits center for the Department of the Navy to standardize the "call in capability" of services currently performed in eight separate Human Resources Service Centers. This center integrates developed computer and internet technologies to provide updated information immediately to Navy civilians and beneficiaries who make inquiries.

In closing, let me say that I hope during the House-Senate conference on the defense authorization that we will be able to build on the foundation that has been set in this bill and make it an even stronger bill.

Mr. FEINGOLD. Mr. President, I will vote against the National Defense Authorization Act for fiscal year 2003. I regret that the Senate has missed another opportunity to reorient the thinking—and spending—of the Pentagon.

I strongly support our men and women in uniform in the ongoing fight against global terrorism and in their other missions, both at home and abroad. I commend the members of the National Guard and Reserves and their families for the sacrifices they have made to protect our security and freedom. More than 85,000 National Guard and Reserve forces have been called to active duty since September 11, including personnel from a number of units in Wisconsin. All members of our military and their families—active duty, National Guard, and Reserves—deserve our sincere thanks for their commitment to protect this country and to undertake the fight against terrorism in

the wake of the horrific attacks of September 11.

Each year that I have been a Member of this body, I have expressed my concern about the priorities of the Pentagon and about the process by which we consider the Department of Defense authorization and appropriations bills. I am troubled that the Department of Defense does not receive the same scrutiny as other parts of our Federal budget. This time of unprecedented national crisis underscores the need for the Congress and the administration to take a hard look at the Pentagon's budget to ensure that scarce taxpayer dollars are targeted to those programs that are necessary to defend our country in the post-cold war world and to ensure that our Armed Forces have the resources they need for the battles ahead.

There can be no doubt that Congress should provide the resources necessary to fight and win the battle against terrorism. There should also be no doubt that this ongoing campaign should not be used as an excuse to continue to drastically increase an already bloated defense budget.

When adjusted for inflation, the spending authorized by this bill, as it was reported to the Senate by the Armed Services Committee, represents the largest increase in defense spending since 1966. Just how big is this increase? The whopping \$393.4 billion authorized by this bill is \$152.2 billion more than combined defense budgets of the United Kingdom, Japan, Russia, France, Germany, Saudi Arabia, India, China, South Korea, Taiwan, Iran, Pakistan, Syria, Iraq, North Korea, Yugoslavia, Libya, Sudan, and Cuba.

The \$46 billion increase over fiscal year 2002 alone is more than the Defense budgets of any one of these 19 countries. The country with the second-largest defense budget, the United Kingdom, spent just \$34.8 billion in 2001. This bill authorizes a defense budget that is more than 11 times greater than that of our closest ally.

A strong national defense is crucial to the peace and stability of our Nation. But a strong economy is also essential to national security. We must not focus on one to the detriment of the other. Many of the expensive weapons systems that are authorized in this bill have little or nothing to do with the fight against terrorism, which is often cited as the reason for the \$46 billion increase in defense spending contained in this bill. I am concerned that if we continue down this path, defense spending will spiral further out of control, perhaps putting other areas of our economy at risk.

I am pleased that the Senate adopted an amendment to cut funding for the Army's Crusader mobile artillery program. I support the Secretary of Defense's decision to cancel this outdated program. Last month, I introduced legislation that would terminate the Cru-

sader program, saving taxpayers an estimated \$10 billion over the life of the program. I commend the Secretary of Defense for his efforts to transform our military to meet the challenges of the 21st Century and beyond, and agree that cold war-era dinosaurs such as the Crusader should be terminated.

I regret that so little progress has been made to transform the military for these new challenges. The hard-fought battle to terminate the Crusader program—a program that was canceled by the Secretary of Defense—stands as an example of how difficult it is to change the mind-set of the Pentagon and the Congress. The beleaguered Crusader is the poster child for an obsolete, cold war-era program, yet there are those in the Congress and at the Pentagon who are digging in their heels and trying desperately to save it. The termination of a weapon system such as the Crusader is an example of the hard decisions that this body will have to make as we face the realities of the federal budget and as we seek to provide our Armed Forces with the equipment they will need to fight the battles of the future.

I am pleased that this bill authorizes an increase in full-time manning for the Army National Guard. As we continue to call upon the Guard and Reserves for active-duty missions that are longer in duration, the role of the full-time Army National Guard personnel who support these missions becomes increasingly important. The Army National Guard relies heavily on Active Guard/Reserves and Military Technicians to perform a wide variety of essential day-to-day operations, ranging from equipment maintenance to leadership and staff roles.

According to Lieutenant General Roger C. Schultz, Director of the Army National Guard, "Increased full time support is an absolute necessity for Army National Guard units as the Army places greater reliance on the Army National Guard to provide trained and ready soldiers in support of Homeland Security efforts, as well as forces for theater Commander in Chiefs in support of the National Military Strategy. These full time personnel are the vital link for the traditional part time Army National Guard commanders working to achieve expected readiness goals. Units that are understrength in full time support personnel have difficulty maintaining pace with current elevated Operational Tempo. Consequently, many units fail to attain and maintain readiness levels."

This bill authorizes 724 additional Active Guard/Reserve positions and 487 additional military technicians, which, according to the National Guard Bureau, are the minimum essential requirements for full-time manning for the Army National Guard. These increases match those contained in an amendment that I offered to the fiscal

year 2003 budget resolution that was adopted unanimously during the Budget Committee's mark-up earlier this year.

I am troubled that the Senate added to the bill the \$814.3 million that the Armed Services Committee cut from the President's request for national missile defense by the unfortunate adoption of an amendment offered by the ranking member of the committee, Mr. WARNER. The amendment would allow the President to spend this money on missile defense or on defense activities to combat terrorism at home and abroad. This bill, as reported to the Senate, includes \$6.8 billion for the still unproven missile defense system. While I did not originally oppose legislation authorizing development of a missile defense system, I remain skeptical about the need for such a system. Congress should maintain tight cost controls over this system, as the Armed Services Committee attempted to do by cutting \$814.3 million for a number of questionable aspects of the Administration's request. I am still concerned that the \$6.8 billion in the bill is far too much for this program, but these cuts were a step in the right direction.

I am also concerned that the proposed offset for the additional funding in the Warner amendment comes from "amounts that the Secretary determines unnecessary by reason of a revision of assumptions regarding inflation that are applied as a result of the mid-session review of the budget conducted by the Office of Management and Budget during the spring and early summer of 2002." This flimsy accounting gimmick should not be cited as an offset. In reality, there is no offset for this spending increase.

I am pleased that the Senate adopted a language offered by the chairman of the committee, Mr. LEVIN, that directs that priority for allocating any funds made available to the Department by a lower rate of inflation be given to "activities for protecting the American people at home and abroad by combating terrorism at home and abroad." Clearly, the proposed missile defense system does not fit this definition. But I am troubled by the underlying Warner amendment because I oppose giving the President the option to spend additional funding on missile defense.

I am pleased that the committee included in the bill language that will help to improve congressional oversight of the missile defense program by, one, requiring that the Director of Operational Test and Evaluation conduct an annual operational assessment of the program and that the Joint Requirements Oversight Council review the cost schedule and performance criteria for the program, and, two, requiring that the Secretary conduct a review of the major elements of the missile defense program and report to Congress cost and schedule information

similar to that required for other major defense programs.

Turning to another issue, I continue to be concerned about the Marine Corps' troubled V-22 Osprey program. I met recently with Colonel Dan Schultz, the Marines' V-22 Program Manager, and others to discuss the status of this program and to express my concerns about the Osprey. I appreciate Colonel Schultz' commitment to ensuring that the Osprey is a safe and effective aircraft and his thoughtful approach to the new flight testing program, which began on May 29.

The safety of our men and women in uniform should continue to be top priority as we consider the Osprey's future.

I am troubled that the Osprey nearly made it to a Milestone III production decision in late 2000 with extensive problems in its hydraulics system and flight control software. While I appreciate the hard work that the Marines and the contractors have done to correct these problems, I remain concerned that there is no clear answer for why these deadly problems, which combined to cause the December 2000 crash that killed four Marines, weren't discovered much earlier.

I am also troubled by the lack of concrete information about how to avoid the dangerous vortex ring state, which occurs when the Osprey descends too rapidly. I remain concerned about the effect that the vortex ring state could have on the ability of the Osprey to perform in combat, especially if a pilot has to make a fast exit from a hostile situation. I will monitor closely planned extensive testing that the Marine Corps has planned to study this phenomenon and ways to help pilots avoid it.

The ongoing flight tests should provide a definitive assessment of the aircraft's capabilities. If the Osprey is not up to the job, then the Defense Department should be prepared to consider other alternatives that will meet the needs of the Marine Corps in a safe and cost-effective manner. I will work to ensure that Congress maintains strict oversight of the testing program.

In addition, I will oppose any attempt to increase procurement of the Osprey beyond the minimum sustaining rate until the Marine Corps has demonstrated that the Osprey is safe and effective and meets or exceeds all of its performance criteria. I am still not convinced that the Osprey will work, and whether it can be made to work in a cost-effective manner.

In sum, as I have said time and time again, there are millions upon millions of dollars in this bill that are being spent on outdated or questionable or unwanted programs. This money would be better spent on programs that truly improve our readiness and modernize our Armed Forces. This money also would be better spent on efforts to im-

prove the morale of our forces, such as ensuring that all of our men and women in uniform have a decent standard of living or providing better housing for our Armed Forces and their families. For those reasons, I will oppose this bill.

Mr. JEFFORDS. Mr. President, I want to thank the chairman, the ranking member, and the staff of the Senate Armed Services Committee for their efforts to address my concerns with the current funding situation for the National Guard Competitive Sports Program. I hope this issue can be resolved in conference.

Mr. President, our world as we know it changed dramatically after the events of September 11, 2001. I believe we must support the President of the United States in a time of war and I think the Fiscal Year 2003 National Defense Authorization Act does exactly that. However, I think we must not lose sight of the fact that we still rely on an all-volunteer force to man the ranks of our military. This means we must, even in a time of war, continue to have a robust retention and recruiting program, especially if the war on terrorism becomes a lengthy one. The best recruiting and retention programs are those that enable the services to get out and interact with the public, which brings me to an issue I would like to see rectified in conference.

We need a minor change in current law, which would allow National Guard units to use a small amount of appropriated funds to sponsor sports competitions and send Guard members to those competitions. As the law reads now, only non-appropriated funds may be used to cover expenses such as health, pay, and personal expenses for participating National Guard members. Unlike our active forces, the National Guard does not have access to non-appropriated funds as they do not own or operate non-appropriated fund generating functions, such as military exchanges, commissaries, and the like.

Unlike Active Duty military personnel who have all health, pay, and personal expenses covered while participating in competitive sports, National Guard members are not on duty while competing in sporting events, and thus are not covered. For example, if a National Guard member suffers an injury while competing at the marksmanship competition, the service member must pay for the incurred health costs although the individual was competing with his or her Guard unit. And, unfortunately, placing National Guard members on orders, as occur when military reservists participate in these competitions, is not a solution to the coverage issue.

The senior Senator from Vermont and I had hoped to offer an amendment to allow the National Guard to spend a limited amount of appropriated funds, capped at \$2.5 million per year, on its

sports program. It should be emphasized that we only seek to allow the National Guard to participate in the same manner as Active Duty military. The House overwhelmingly passed a National Guard Sports amendment offered by Representative BEREUTER to their Fiscal Year 2003 National Defense Act, which is identical to the change I seek. I urge the chairman and ranking member to adopt the Bereuter provision in the House bill when the Fiscal Year 2003 National Defense Authorization Act goes to conference.

On 17 June 2002, Colonel Willie Davenport, Chief of the National Guard Bureau's Office of Sports Management passed away while on travel between duty stations. I did not know Colonel Davenport, but my staff informs me that he was by all appearances a gentle, modest, and gracious man. My staff worked extensively with Colonel Davenport in preparing an amendment concerning National Guard Sports. I read the Guard's recent press release concerning Colonel Davenport, and I was quite impressed by his accomplishments as a teacher, mentor, coach, and soldier. What many may not know is that Colonel Davenport while serving as a soldier was also a five-time Olympian. He won Gold in the 110-meter high hurdles while representing the United States in the 1968 summer Olympics in Mexico City, and that was only the beginning. Colonel Davenport went on from there to represent the Army and the United States in a variety of capacities in the competitive sports world. He coached the All-Army Track and Field Team from 1993-1996, which was undefeated all 4 years. Colonel Davenport in his capacity as a teacher, mentor, coach, soldier and Olympian made a very positive, and lasting impression on a good number of young men and women who came to know, work, and enjoy his company. A man of his character and accomplishment will be missed. We know that he has prepared a good number of others to continue to light the path ahead. Colonel Davenport had a dream. His dream was to develop a program that would train and sponsor premier Army and Air National Guard athletes for international competition.

Colonel Davenport's National Guard Competitive Events Sports Program provides National Guard members with an opportunity to hone their training-related skills, such as running, swimming, and marksmanship, in a competitive atmosphere. As the National Guard actively recruits new members, this can be another feature in recruitment and retention programs for certain members of the National Guard. Through these competitions, National Guard members can qualify for higher-level national and international competitions, including the Pan American Games and the Olympics.

National Guard members who compete in athletic and small arms competitions could then do so with members of the Active Duty military. Bringing Active, Reserve, and National Guard components together at these competitive sports events will help build greater service component cohesiveness.

While recruiting, retention, esprit de corps, and community support have always been important to maintaining a strong National Guard structure, they have become even more critical as we wage the war on terrorism during which our men and women in the National Guard are more frequently called into duty overseas and to provide security on the homeland.

The National Guard needs a change in the law if Colonel Davenport's National Guard Competitive Events Sports Program is going to survive. The National Guard must be able to sponsor competitions and send its members to those competitions, as they are an important tool and incentive to recruit and retain some of America's best and brightest.

This issue is important to the Vermont Guard and the National Guard as a whole. I hope we can provide the National Guard with the authority they need to have a robust sports program.

Ms. SNOWE. Mr. President, I rise today to speak in favor of the amendment offered by my friend and colleague, Senator HUTCHISON, regarding base closures.

Last year, with the passage of the fiscal year 2002 National Defense Authorization Act, Congress authorized a round of base closures in fiscal year 2005. So we are now on a path to a base closure round in 3 years.

Even before the horrific attacks of September 11, 2001, there were serious questions about both the integrity of the base closing process itself as well as the actual benefits. Now, with the U.S. in the midst of a war on terror, with no end in sight, I do not believe base closure is a wise path. Instead, Congress was pressed to authorize a base closure round in the dark.

Proponents of base closure claim that efforts to reduce infrastructure have not kept pace with our post cold war military force reductions, and that bases must be downsized proportionate to the reduction in total force strength. However, there is no straight line corollary between the size of our forces and the infrastructure required to support them.

Since the end of the cold war, through fiscal year 01, we reduced the military force structure by about 36 percent and reduced the defense budget by about 40 percent. But while the size of the armed services has decreased, the number of contingencies that our service members have been called upon to respond to in the last decade has

dramatically increased. And, keep in mind, once property is relinquished and remediated, it is permanently lost as a military asset for all practical purposes.

In addition, advocates of base closure allege that billions of dollars will be saved. And yet, the Department of Defense has admitted that savings will not be immediate—that approximately \$10 billion would be needed for up-front environmental and other costs; and that savings would not materialize for years.

This is why I was pleased to team with Senator HUTCHISON in her effort to establish some basic criteria designed to guide the process, and I deeply regret that the Senate will not have the opportunity to adopt these provisions.

Senator HUTCHISON's provision, of which I am an original cosponsor, would set criteria for the base closure process—to make the process less political, less subjective, and more objective.

The Hutchison amendment would have made sure that the process accounts for force structure and mission requirements, force protection, homeland security requirements, proximity to mobilization points, costs of relocating infrastructure including military construction costs, compliance with environmental laws, contract termination costs, unique characteristics of existing facilities, and State and local support for a continued presence by the military.

I want to protect the military's critical readiness and operational assets. I want to protect the home port berthing for our ships and submariners, the airspace that our aircraft fly in and the training areas and ranges that our armed forces require to support and defend our nation and its interests. I want to protect the economic viability of communities in every State. And I want to make absolutely sure that this Nation maintains the military infrastructure it will need in the years to come to support the war on terror.

In short, we must not degrade the readiness of our armed forces by closing more bases. I thank Senator HUTCHISON for her leadership on this important issue, and I remain hopeful that if we press ahead with this ill-conceived base closure round in just 3 years time we will have an opportunity to at least establish sound, basic ground rules.

Mr. WELLSTONE. Mr. President, I rise to address the subject of our Nation's security needs in the context of the Defense authorization bill presently before the Senate.

I believe we must provide the best possible training, equipment, and preparation for our military forces, so they can effectively carry out whatever peacekeeping, humanitarian, war-fighting, or other missions they are

given. They deserve the targeted pay raises of 4–6 percent, the incentive pay for difficult-to-fill assignments, and the upgrades to currently substandard housing contained in this bill. Under an amendment adopted by the Senate, the women who serve our country overseas in the Armed Forces will be able to obtain safe, privately funded abortions in overseas military hospitals. For many years running, those in our armed forces have been suffering from a declining quality of life, despite rising military Pentagon budgets. The pressing needs of our dedicated men and women in uniform, and those of their families, must be addressed as they continue to be mobilized in the war against terrorism in response to the attacks of September 11. This bill goes far in addressing those needs, and I will vote for it today.

This bill also addresses a fundamental unfairness in the treatment of America's veterans by allowing concurrent receipt of military retiree benefits and VA disability benefits. Under current law, if you are career military and you earned a military pension, and you also have service-connected disability as a veteran, your military pension will be reduced by the amount you receive in VA disability payments. As a result, hundreds of thousands of American veterans, men and women who have served their country, are being cheated out of retirement benefits by this bizarre rule and it is time to make a change. Our disabled veterans have earned their retirement and deserve to receive fair treatment.

Last year we passed this same legislation in the Senate, but it was gutted in the House. The Defense Department says it will recommend a veto of this bill if we restore these benefits. But I do not believe that the President will veto legislation to restore the benefits earned by disabled veterans, while career military men and women are overseas fighting for their country, at great risk to their lives. Instead of making threats, let's sit down and get this done for America's vets.

I also believe the bill addresses some of the serious flaws in the process by which the Defense Department summarily terminated the Crusader Artillery system. I strongly believe in fair, transparent, and informed government-decision making processes, which did not occur in the case of the Crusader. Three Defense secretaries, three Army secretaries, and three Army chiefs of staff, as well as numerous administration officials, testified in support of the Crusader. Yet within a few weeks of this testimony, the Secretary of Defense abruptly terminated the Crusader. The decision was made without consultation with the Joint Chiefs of Staff, without consultation with the Army, and without consultation with members of Congress. The Senate

adopted an amendment which would require the Army Chief of Staff and Secretary of Defense to conduct a serious study of the best way to provide for the Army's need for indirect fire support. At the same time, it provides the Secretary of Defense, following the study, a full range of options. These include termination to continued funding of Crusader, to funding alternative systems to meet battlefield requirements.

Another issue I consider to be extremely important in relation to this bill has to do with our own military presence in the Republic of Colombia. As you know, under Plan Colombia, restrictions were placed on the number of U.S. troops and contract personnel in Colombia at any given time. Initially, a 500 troop, 300 contractor limitation was in place. Over time, however, the Senate has acted to address the needs of the Departments of Defense and State by shifting the ration of troop and contractors to 1:1. As a result of recent Foreign Operations Appropriations legislation, the troop cap dropped from 500 to 400, while the contractor cap was lifted from 300 to 400 personnel.

Frankly, I am concerned that attempts may be made to raise the troop and contractor caps in Colombia. I have long argued that the United States should be careful and targeted in how it approaches the conflict in Colombia. I'm sure that most Senators would agree that it is important to retain the present limitations on U.S. troops and contractors in Colombia at 800 thru 400 troops, 400 contractors. Moreover, it is my understanding that the Department of Defense has not asked for the troop cap to be raised in Colombia, nor has the administration sought to have the troop cap waived. For this reason, I would like to be on record in support of present troop and contractor limitations in Colombia.

Although I expect future debate on the contentious issues surrounding U.S. policy in the Andes, I think it is important for the Senate to be clear on this component of our aid to Colombia. I am concerned that we are getting deeper and deeper into a devastating civil conflict with myriad violent actors of ill repute. That said, I continue to hold out hope that the Congress can work with the administration to craft a policy for Colombia that reflects the best of American values, and acknowledges the economic and social needs of Colombia's beleaguered population. The administration should retain the troop and contractor caps in Colombia, and Congress should be adequately consulted should they decide to seek any such change.

I also have concerns about the bill, especially about its missile defense provisions. The initial committee language would have cut total funding for missile defense from \$7.6 billion to \$6.8 billion. The Senate adopted an amendment to restore the entire \$814.3 mil-

lion that the Senate Armed Services Committee cut from missile defense, with the President being given the option of spending the funds on either missile defense programs or on combating terrorism. It was not my preference that the cut be restored, but I agree with the Senate's unanimous sentiment that these funds be used for the urgent priority of combating terrorism, and my strong hope is that the President will not disregard the will of the Senate and use these funds for missile defense instead.

I have long been a critic of Ballistic Missile Defense, BMD, and I still have strong reservations about the feasibility, cost, and rationale for such a system. The last time I addressed missile defense on the Senate floor was on September 25, exactly two weeks after terrorists destroyed the World Trade Center. I argued then that pressing ahead on BMD would make the U.S. less rather than more secure. Instead, I suggested the Senate give homeland defense the high priority it deserves by transferring funds to it from missile defense programs.

Given the justifiable concerns of Americans about possible terrorist attacks on U.S. nuclear facilities, it makes more sense to use the funds to protect our citizens against a priority threat rather than to counter a low priority threat with a very costly system that a number of informed scientists believe may never work.

Under Chairman LEVIN's leadership, the committee eased the effects of the administration's April decision to provide emergency funding for only 7 percent of Energy Secretary Abraham's request for \$398 million to improve security of nuclear weapons and waste. In a letter sent by Secretary Abraham to OMB Director Mitchell Daniels obtained by the New York Times, the Secretary stressed that the \$398 million he was requesting was "a critical down payment to the safety and security of our nation and its people." I couldn't agree more. But the administration obviously didn't agree and approved only \$26 million.

The April 23rd New York Times article on the matter made clear that the programs covered by the DOE request are vital to the protection of the United States from terrorist attack. Unbelievably, funding was turned down for several programs designed to safeguard nuclear weapons and weapons material in storage, including: \$41 million to reduce the number of places where weapons-grade plutonium and uranium were stored; \$12 million to detect explosives in packages and vehicles at DOE sites; \$13 million to improve perimeter barriers and fences; \$30 million to improve DOE computers, including the ability to communicate critical cyber-threat and incident information; and \$34 million for increasing security at DOE laboratories.

Who can argue that BMD funding for programs that can't be justified by DOD or are duplicative should take priority over programs designed to deter terrorist actions against U.S. nuclear weapons, weapons materials, and weapons laboratories? Just a few days ago, reports of possible terrorist use of a dirty bomb against the United States caused widespread public alarm. I am sure the American people would be even more alarmed by a threatened terrorist attack against DOE nuclear facilities.

An attack by ballistic missiles is one of the least likely threats we face. Much more probable threats which a missile defense won't address are nuclear, biological or chemical attacks using planes, boats, trucks or suitcases. And as we are all aware even an impenetrable missile defense would have been useless against the assault on the World Trade Center. In short, I remain convinced that a national missile defense would be ineffective in preventing attacks by rogue states or terrorists.

While the intelligence community continues to devote considerable resources to estimating both the threat of an ICBM and unconventional attack on the United States, it still finds that unconventional attacks are the more likely of the two. For example, recent testimony by the National Intelligence Officer, NIO, for Strategic and Nuclear Programs, before a subcommittee of the Senate Governmental Affairs Committee repeated previous intelligence community judgments that U.S. territory is more likely to be struck by non-missile means of delivering weapons of mass destruction, WMD, than by ICBM's. His remarks were based on an unclassified version of a National Intelligence Estimate, NIE, that was released in January entitled: "Foreign Missile Developments and the Ballistic Missile Threat Through 2015." NIE's represent the collective judgment of the U.S. intelligence community.

In testifying on why using non-missile means of delivering WMD's are the more likely option, the NIO adduced reasons similar to those cited before by other intelligence sources. Compared to ICBM's, he said, non-missile means are "less costly, easier to acquire, and more reliable and adequate . . . and also can be used with attribution."

The NIO meant by this that non-missile means have the advantage of being used without imperiling those responsible, while ICBM's have "signatures" enabling the U.S. to quickly identify the attackers. Consequently, countries like North Korea, Iran, and Iraq which he said could be capable of launching missiles at the U.S. by 2015, would be risking a devastating counterattack by the United States. The key question of why these countries would risk destruction by firing an ICBM at us, when non-missiles can be used without

a return address has yet to be revealed by intelligence or defense sources. North Korean, Iraqi, and Iranian leaders are evil, but they aren't suicidal.

The NIO noted some states armed with missiles have shown "a willingness to use chemical weapons with other delivery means," adding that U.S. territory is more likely to be attacked with non-missile WMD by terrorists. He concluded the intelligence community believes that the U.S. will face a growing missile threat because missiles have become important regional weapons for numerous countries and provide a level of prestige, coercive diplomacy and deterrence unmatched by non-missile means.

But this thesis has been ably refuted by Joseph Cirincione, head of the Carnegie Endowment's Nuclear Proliferation Program. In a February speech before the American Association for the Advancement of Science he argued that the U.S. is facing a declining ballistic missile threat rather than the increasing threat the intelligence community sees.

Cirincione focuses on the 1998 Rumsfeld Commission study which assessed the ballistic missile threat to the United States and took a much more alarmist view than intelligence assessments that had examined the same issue. The Rumsfeld Commission found that North Korea and Iran were devoting "extraordinary resources" to developing ballistic missiles capabilities that pose "a substantial and immediate danger to the U.S., its vital interests and its allies."

The Rumsfeld Commission report was an outgrowth of harsh attacks by several leading members of Congress on 1993 and 1995 NIE's. The 1993 NIE concluded that only China and several states of the former Soviet Union had the capability to attack the continental U.S. with land-based ballistic missiles, adding that "... the probability is low that any other country will acquire this capability during the next 15 years." In a similar vein, the 1995 NIE, said: "The Intelligence Community judges that in the next 15 years no country other than the major declared nuclear powers [i.e. Russia and China] will develop a ballistic missile that could threaten the contiguous 48 states or Canada."

In the aftermath of harsh congressional criticism of the estimates, a congressionally mandated panel in December 1996 led by former Bush Administration CIA Director Robert Gates reviewed the 1995 NIE. The panel concurred with the NIE, finding that it was unlikely the continental U.S. would face an ICBM threat from a third world country before 2010 "even taking into account the acquisition of foreign hardware and technical assistance, and that case is even stronger than was presented in the estimate."

Apparently displeased by the Gates panel report as much as they were by

the 1995 NIE, Congress mandated the Rumsfeld Commission panel which finally provided a different answer. The 1998 Commission report concluded that a new nation could plausibly field an ICBM "with little or no warning." In the aftermath, the intelligence community adopted the "could standard" which became apparent in the 1999 NIE. That consensus report contained the following dissent from one of the intelligence agencies involved in producing the NIE: Some analysts believe that the prominence given to missiles countries "could" develop gives more credence than is warranted to developments that may prove implausible.

The "could" standard was one of three major changes made to assessment methodology. The other shifts were to substantially reduce the range of missiles considered serious threats by shifting from threats to 48 continental States to threats to any of the land mass of the 50 States and changing the time line from when a country would first deploy a long-range missile to when a country could first test a long-range missile. The geographic criterion change had the effect of shortening missile range by some 3,000 miles, the distance from Seattle to the western-most tip of Alaska's Aleutian Islands. In effect, this means the North Korea's medium-range ballistic missile the Taepodong-1 could be considered the same threat as an ICBM. The time line shift represents a decrease of five years, which previous estimates said was the difference between first test and likely deployment. Moreover, the new NIE's don't require a successful test.

The net effect of these three changes was to shift the goal posts in the direction indicated by the Rumsfeld Commission. These shifts account for almost all of the differences between the 1999 and 2001 NIE's and earlier estimates. Rather than representing some new, dramatic increase in the ballistic missile threat, they represent lowered standards for judging the threat.

Despite administration optimism about developing BMD and the prospects for quick deployment, prominent scientists and missile experts remain skeptical. Here are a few examples. Richard Garwin of the Council on Foreign Relations, a member of the Rumsfeld Commission, and a leading expert in military applications of science, is dubious about the administration's approach to BMD and its rationale for pursuing it.

A report in the Dallas Morning News quotes Garwin as questioning the emphasis on destroying missiles in mid-course, warning "it's not a sensible thing to do." He says the major flaw is that an enemy can defeat the system by such means as concealing the payload bomb in a balloon the size of a house so that hitting the balloon would have little chance of disabling the

weapon. Deploying numerous, sophisticated decoys would also be an effective counter-measure.

Garwin suspects DOD money is going to the mid-course approach because its proponents aren't really hoping to use BMD against rogue states as they claim, but are aiming at "China first, then Russia." He reasons that while ships or land-based launch sites would be suitable for shooting down Iraqi or North Korean missiles in boost-phase, they would be useless against Russia and China. A mid-course strategy, however, could counter a limited missile attack from those nations. The implications are chilling. I hope and pray that Garwin is wrong about BMD's true mission, because if Russia and China reach the same conclusion, we may be in for a renewed nuclear arms race.

Dr. Garwin now questions the rationale for BMD, despite his participation in the Rumsfeld Commission which assessed the ballistic missile threat to the United States. He was quoted in a June 12 news wire report as stating: "Fifteen million . . . cargo containers enter the United States every year with a minute chance of being inspected. Why should a nation with a few ICBM's risk their being destroyed pre-emptively when other means are available for delivery?"

Steven Weinberg, a Nobel Laureate in physics, is one of the most prominent and trenchant scientific critics of BMD. He strongly believes that it would be smarter to put the billions pouring into missile defense into other homeland security efforts. Weinberg points out that if the U.S. deploys BMD, intelligence analysts estimate China will sharply expand its arsenal from about 20 ICBM's to 200 or so. Should this occur both India and Pakistan would probably also expand their nuclear arsenals. As we all know, the last thing the world needs is a spiraling nuclear arms race in South Asia.

Weinberg believes a BMD system would be fatally flawed. He contends that missile defenses are easy to defeat. The attacker surrounding his warheads with decoys, he says always has the last move. He makes a persuasive case that a ballistic missile attack on the United States is an unlikely threat. The real danger we face, he says, is the spread of nuclear material that can be set off without missiles. He concludes that President Bush is pursuing "a missile defense undertaken for its own sake, rather than any application it may have in defending our own country." While I doubt this is an accurate characterization of the President's motives, I agree with Weinberg's conclusion that the spread of nuclear materials is now a much more serious threat to our country than a ballistic missile attack.

Both distinguished missile experts and the media have opposed the Administration's new secrecy policy

which will classify previously unclassified materials regarding targets and countermeasures to be used in flight intercept test of the Ground-Based Mid-course Defense system.

Such secrecy is both undesirable and unnecessary. BMD development has benefitted much from public scrutiny by physicists and other scientists, weapons experts, watchdog groups, and the press. Cutting off access would be clearly counterproductive. Philip Coyle, who served as Assistant Secretary of Defense and DOD's Director of Operational Test and Evaluation from 1994–2001 is one of the nation's foremost experts on missile defense. He argues that it will take some 20 developmental tests costing \$100 million a piece and may take years before testing with realistic decoys can start. Coyle believes secrecy is premature since there's "no danger" the test program will be in a position to "give away any secrets" for years to come.

Coyle also is dismayed that MDA is withholding information from the Pentagon's own independent review offices, such as the Director of Operational Test and Evaluation. Current laws give the Director rights to unfettered access to all major DOD acquisition programs. Who can argue with Coyle when he says that if independent review of testing is stifled DOD itself won't be able "to make reasonable judgements about the program's viability."

The final issue I want to raise is the matter of the adequacy of current testing. Two years ago I joined Senator DURBIN in introducing an amendment to require more realistic testing of the national missile defense system. At the time I stated on the floor that missile defense testing used at that time proved little or nothing: "Current testing determines whether or not the system works against cooperative targets on a test range. This methodology is insufficient to determine the technological feasibility of the system against likely threats. At present, even if the tests had been hailed as total successes, they would have proved nothing more than the system is unproven against real threats. . . . Current testing does not take countermeasures into account."

Unfortunately, what I said was true 2 years ago is still true today. Philip Coyle has recently said that the missile defense program "is not at the point where the types of decoys being used have even begun to be representative of the likely enemy countermeasures against missile defense." He noted that so far the decoys used have been "round balloons which don't look at all like a target re-entry vehicle." Coyle who may know more about BMD testing than anyone, concluded "it may be the end of this decade before . . . testing with 'real world decoys' can begin."

The administration plans to rush a rudimentary missile defense system

into the field beginning in 2004. Few scientists believe that it will be an effective system. Dr. David Wright, Senior Scientist, Union of Concerned Scientists and an MIT research physicist recently charged that "rather than waiting until the technical issues are addressed, it is rushing [to deploy] immature defense systems. . . . These systems will not provide 'emergency capability' against real-world threats, only the illusion of capability." I couldn't agree more with Dr. Wright.

I still agree with the U.S. intelligence community, noted scientists and missile experts that ballistic missiles are one of the least likely threats we face. Much more probable threats are WMD attacks using planes, boats, trucks, or suitcases. Eminent scientists are skeptical of Administration optimism about prospects for developing and quickly deploying BMD. I fully share their skepticism.

The new DOD secrecy policy which will classify previously unclassified material regarding targets and countermeasure used in BMD is undesirable and indefensible. I strongly oppose MDA withholding information from the Pentagon's own independent review offices and applaud the Committee bill for requiring these offices to provide Congress and DOD with annual assessments of the military utility and potential operational effectiveness of major missile defense programs.

In conclusion, I believe in maintaining a strong national defense. We face a number of credible threats in the world today, including terrorism and the proliferation of weapons of mass destruction. We must make sure we carefully identify the threats we face and tailor our defense spending to meet them. We could do a better job of that than this bill does, and I hope that as we move to conference, the committee will make every effort to transfer funds from relatively low-priority programs to those designed to meet the urgent and immediate anti-terrorism and defense of our forces.

Mrs. CARNAHAN. Mr. President, I am very pleased that the Senate has agreed to accept an amendment to the Defense Department authorization bill which will protect small businesses that contract with our armed forces. I thank Senator KERRY for his leadership on this issue. I am proud to have worked with him on this amendment, on behalf of the men and women who are living the American dream by starting and growing their own businesses.

The amendment that I cosponsored with Senator KERRY is very simple. It seeks to preserve opportunities for small businesses across the country to contract with the United States Army to provide goods and services for our soldiers. The Secretary of the Army recently developed a plan to consolidate procurement contracts. Our amend-

ment requires the Secretary to report to Congress on the effect that this consolidation plan has on the participation of small businesses in Army procurement.

I share the Secretary's goal of getting the most for taxpayers' money. And I want to ensure that our procurement policies are efficient. But I believe that the best procurement policies enable all businesses, large and small, to compete for contracts. After all, any economist will tell you that competition will drive prices down and quality up. When the Government consolidates many contracts into one enormous, unwieldy contract, it is nearly impossible for small or local businesses to compete.

I have met with many small business owners from Missouri who have told me that they are anxious to provide quality goods and services to our military; but too often their businesses have been unable to compete because we have bundled together so many diverse procurement needs into one contract that only very large corporations have the capacity to fill the entire contract. Such a system does not benefit our military or our taxpayers.

I am a cosponsor of the Small Business Federal Contractor Safeguard Act, S. 2466. This legislation addresses the problem of consolidated or bundled contracts. Of course, the Government should do all it can to take advantage of economies of scale in production or other benefits that can result from a large contract with a single supplier. Nothing in our legislation would prevent large contracts that serve a genuine economic purpose. However, I am concerned that too often contracts are bundled together simply for the sake of bureaucratic efficiency. This is a disservice to us all, and I am hopeful that the Senate will soon act on S. 2466.

I am concerned that the Army's decision to proactively consolidate contracts is a step in the wrong direction. The Army has assured me that they have considered the interests of small businesses. Our amendment simply asks the Army to report back to Congress on their progress as they reform their procurement policies. I hope that the report will be filled with good news. I hope that we will learn of the Army exceeding small business participation goals. I look forward to reading such a report. But I believe that it is imperative that we follow this issue closely. We must ensure that our military is prepared to take full advantage of the tremendous opportunities available from contracting with small businesses across the country.

I thank my colleagues for joining me in asking that the Secretary of the Army provide us with this important report.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have spoken to the two managers, staffs on

both sides. It appears it would be better to vote now on final passage of this most important bill. I should alert all Members that later this afternoon, when Secretary Rumsfeld's briefing is completed, we will have another vote on a resolution dealing with the Pledge of Allegiance.

The PRESIDING OFFICER. The Senator from Arizona?

Mr. KYL. Would the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Would it be possible to lock in the vote at 3:15? I am sorry.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I would like to express my profound appreciation to the distinguished Senator from Michigan for his able assistance. We have worked together, this is our 24th year on bills of this matter.

Again, I think we have achieved a bill which is in the best interest of the country. I thank you, sir. I thank all members of the Armed Services Committee. I thank all staff persons on the Armed Services Committee, particularly my able assistant, the chief of staff on the Republican side, Ms. Ansley, and her counterpart—maybe the word “counterpart” is a little soft—her partner, David Lyles.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, let me thank my ranking member. I can't imagine having someone to work with who is better than Senator WARNER. This has been a long relationship and a trusting relationship. It makes all the difference in getting legislation addressed, much less passed in this body.

I thank my staff, David Lyles, and crew, Judy Ansley and her staff, who, again, worked in a bipartisan way to make this bill happen, to make it possible for us to pass it. I think this is almost record time. This is only the second time in the last 10 years, I believe, where we have been able to pass the Defense authorization bill prior to July 1.

We have resolved our differences in a way which has contributed to the security of the Nation. We have had our disagreements. We are here to have disagreements, to try to resolve them, and where we can't resolve them by compromise, to have votes. That is what we have done. We again succeeded.

I also thank our majority leader, Senator DASCHLE. I thank Senator LOTT, Senator NICKLES, and particularly, I single out, to his embarrassment, again, Senator REID of Nevada. He makes the wheels run on this floor. He provides the oil and the grease which makes it possible for the wheels of this little buggy of ours to keep going. Without him, I can't imagine how we would be able to function as ef-

ficiently as we do with all of the inefficiencies to which we all know the Senate is subjected.

Mr. WARNER. I join my colleague in thanking our distinguished majority leader and Republican leader, who worked hand in hand with us, and, indeed, the majority whip. I would only revise one thing about the majority whip: He does use, as he drives the buggy, the whip. But he uses it judiciously and fairly. I received a little crack this morning myself, as did one other colleague from the other side. It was equal.

At any rate, he succeeded, and I thank my dear friend. I have the utmost admiration for him.

The PRESIDING OFFICER. The deputy majority leader.

Mr. REID. Mr. President, working with these two experienced veterans, competent legislators has been a pleasure.

UNANIMOUS CONSENT AGREEMENT—S. 2690

Mr. REID. Mr. President, I also ask unanimous consent that immediately, following the vote on passage of the DOD bill, the Senate proceed to consideration of S. 2690, introduced earlier today by Senator HUTCHINSON and others, which reaffirms the reference to one nation under God in the Pledge of Allegiance; further, I ask the bill then be immediately read the third time, and the Senate proceed to a vote on passage of the bill with no intervening action or debate at 3:20 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask for the yeas and nays on passage of S. 2690.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, I ask unanimous consent that rule XII, paragraph 4, be waived in relation to the Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask for the yeas and nays on final passage of S. 2514.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. REID. Mr. President, I ask that S. 2514 be read the third time, and the Senate then vote on passage of S. 2514 without any intervening action or debate.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for the third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote “yea.”

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 2, as follows:

[Rollcall Vote No. 165 Leg.]

YEAS—97

Akaka	Durbin	McConnell
Allard	Edwards	Mikulski
Allen	Ensign	Miller
Baucus	Enzi	Murkowski
Bayh	Feinstein	Murray
Bennett	Fitzgerald	Nelson (FL)
Biden	Frist	Nelson (NE)
Bingaman	Graham	Nickles
Bond	Gramm	Reed
Boxer	Grassley	Reid
Breaux	Gregg	Roberts
Brownback	Hagel	Rockefeller
Bunning	Harkin	Santorum
Burns	Hatch	Sarbanes
Campbell	Hollings	Schumer
Cantwell	Hutchinson	Sessions
Carnahan	Hutchison	Shelby
Carper	Inhofe	Smith (NH)
Chafee	Inouye	Smith (OR)
Cleland	Jeffords	Snowe
Clinton	Johnson	Specter
Cochran	Kennedy	Stabenow
Collins	Kerry	Stevens
Conrad	Kohl	Thomas
Corzine	Kyl	Thompson
Craig	Landrieu	Thurmond
Crapo	Leahy	Torricelli
Daschle	Levin	Voinovich
Dayton	Lieberman	Warner
DeWine	Lincoln	Wellstone
Dodd	Lott	Wyden
Domenici	Lugar	
Dorgan	McCain	

NAYS—2

Byrd

Feingold

NOT VOTING—1

Helms

The bill (S. 2514), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

The PRESIDING OFFICER. The provisions of the order will be executed.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

The bill (S. 2515) to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 2003

The bill (S. 2516) to authorize appropriations for fiscal year 2003 for military construction, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

DEPARTMENT OF ENERGY NATIONAL SECURITY ACT FOR FISCAL YEAR 2003

The bill (S. 2517) to authorize appropriations for fiscal year 2003 for defense activities of the Department of Energy, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. REID. Mr. President, I now ask unanimous consent that the Senate proceed to the consideration of Calendar No. 379, H.R. 4546, the House companion measure; that all after the enacting clause be stricken and the text of S. 2514, as passed by the Senate, be inserted in lieu thereof; that the bill be read a third time, passed and the motion to reconsider be laid upon the table; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate, with the above occurring without further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4546), as amended, was read the third time and passed.

The PRESIDING OFFICER (Mr. CARPER) appointed Mr. LEVIN, Mr. KENNEDY, Mr. BYRD, Mr. LIEBERMAN, Mr. CLELAND, Ms. LANDRIEU, Mr. REED, Mr. AKAKA, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mrs. CARNAHAN, Mr. DAYTON, Mr. BINGAMAN, Mr. WARNER, Mr. THURMOND, Mr. MCCAIN, Mr. SMITH of New Hampshire, Mr. INHOFE, Mr. SANTORUM, Mr. ROBERTS, Mr. ALLARD, Mr. HUTCHINSON, Mr. SESSIONS, Ms. COLLINS, and Mr. BUNNING conferees on the part of the Senate.

PROVIDING FOR CONDITIONAL ADJOURNMENT OR RECESS OF BOTH HOUSES OF CONGRESS

Mr. DASCHLE. I ask unanimous consent that the Senate proceed to the immediate consideration of the adjournment resolution, that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 125) was agreed to, as follows:

S. CON. RES. 125

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, June 27, 2002, or Friday, June 28, 2002, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until 12:00 noon on Monday, July 8, 2002, or until such other time on that day as may be specified in the motion to recess or adjourn, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the leg-

islative day of Thursday, June 27, 2002, Friday, June 28, 2002, or Saturday, June 29, 2002, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2:00 p.m. on Monday, July 8, 2002, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

MORNING BUSINESS

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business until the hour of 3:20 p.m., when I understand the next vote will occur.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Arkansas.

TO REAFFIRM THE REFERENCE TO ONE NATION UNDER GOD IN THE PLEDGE OF ALLEGIANCE

The PRESIDING OFFICER. Under a previous order, the Senate will proceed to the consideration of S. 2690.

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

The bill (S. 2690) to reaffirm the reference to "One Nation Under God" in the Pledge of Allegiance bill.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. At 3:20 this afternoon we will vote on a piece of legislation I introduced to reaffirm Congress' commitment to the Pledge of Allegiance and our national motto "In God we trust." I hope my colleagues will join me in this reaffirmation. Many already have.

I ask unanimous consent the list of 32 Senators as original cosponsors be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ORIGINAL COSPONSORS OF S. 2690

Mr. Sessions, Mr. Lott, Mr. Nichols, Mr. Burns, Ms. Collins, Mrs. Hutchison, Mr. Helms, Mr. Inhoff.

Mr. Campbell, Mr. Roberts, Mr. DeWine, Mr. McConnell, Mr. Shelby, Mr. Bennett, Mr. Stevens, Mr. Voinovich.

Mr. Phil Gramm, Mr. George Allen, Mr. Ensign, Mr. Bob Smith, Mr. Bunning, Mr. Enzi, Mr. Hagel, Mr. Lugar.

Mr. Bond, Mr. Murkowski, Mr. Craig, Mr. Thomas, Mr. Crapo, Mr. Brownback, Mr. Domenici, Mr. Kyl, Mr. Zell Miller.

Mr. HUTCHINSON. Yesterday's decision by the Ninth Circuit Court of Ap-

peals in *Newdow v. U.S. Congress* was, in a word, outrageous. It is inexplicable that this man so seriously objected to his daughter having to listen and watch others recite the pledge at their school. Keep in mind, in this country no one can be forced to recite the Pledge of Allegiance. It is simply a matter of respect.

It is appalling that this court took the time and judicial resources to resuscitate this case which the district court had already dismissed for failing to state a claim. This complaint was a mess. The plaintiff, Dr. Newdow, who represented himself, asked a Federal court to order the President to change a law. The court took great pains to find a claim in Mr. Newdow's complaint and then to rule in his favor.

He did this at a time when Federal judicial resources are very strained. The Nation is trying to function in the speedy manner required by the sixth amendment, with 89 judicial vacancies, a staggering number, representing 10 percent of the Federal judiciary.

According to the Judicial Conference, in the past three decades, a U.S. Courts of Appeals judges' average caseload increased by nearly 200 percent. In light of these strained resources, it is appalling to me that the court took time to resuscitate this very flawed case.

The Pledge of Allegiance plays a very important part in the citizenship experience of every American. It is part of the patriotic thread that weaves us all together in times of crisis and times of celebration.

If the ninth circuit's interpretation of the establishment clause stands, many national ceremonies and celebrations will be negatively impacted. Singing of songs with references to God on government property will be prohibited. For example, songs such as "Star Spangled Banner," "God Bless America," and "America the Beautiful," which Americans sing every Fourth of July on the steps of this building. But such references are not just important in ties of celebration. On September 11 we stood on the steps of the Capitol and sang "God Bless America." Countless Americans uttered the phrase "God Bless America" and prayed together in public spaces. This ruling could prohibit that.

Judge Ferdinand Fernandez wisely dissented from this decision. His words have been quoted before. He said it beautifully. Such phrases as "In God we trust" or "under God" have no tendency to establish a religion in this country or to suppress anyone's exercise or nonexercise of religion. He went on, in eloquent terms, and defends his dissent.

I believe this ruling will be soundly rejected. I was so pleased that yesterday the majority leader and the minority leader moved the Senate very quickly in expressing its disapproval

immediately following the ruling yesterday. The Ninth Circuit is not unfamiliar with going out on a limb, and the Supreme Court is not unfamiliar with striking it down. This circuit is the most overturned circuit in the country.

There is certainly nothing wrong with pushing the envelope and using an original interpretation on novel issues of law, but this court repeatedly makes rulings which countervail standing precedent. Instead of administering justice, it seems some judges in the ninth circuit are far more interested in making social policy statements. It is not what the Constitution asks them to do and it is not what the American people pay them for.

The first amendment prohibits Congress from passing any law establishing a religion. Coming as they did from a land with an established religion where those of other faiths were not well tolerated, they set the highest value on freedom of religion. But they were not advocating freedom from religion.

By passing this legislation today the Senate will make clear that we understand the Founders' intention. We will reiterate our support for the Pledge of Allegiance as codified and our national motto, "In God we trust."

Finally, I commend the Judiciary Committee today in voting out the nomination of Lavenski Smith to the Eighth Circuit Court of Appeals. Lavenski Smith, who is from the State of Arkansas will make an outstanding jurist on the Federal bench. He is supremely well qualified as a former member of the Arkansas Supreme Court. He understands the proper role of the judiciary.

I applaud the committee's unanimous vote today. I believe if we did not have the vacancies on the Federal bench to the extent that we now have them, the decision from the Ninth Circuit would not have occurred. In Judge Smith's confirmation hearings last month, he expressed his unshakable respect for an adherence to precedent. He said even when it goes against his personal beliefs, he would follow precedence. Clearly, we need people like Lavenski Smith on the bench.

I am pleased that the Judiciary Committee has taken this step. I am also pleased that the Senate will, today, make clear to the Federal judiciary, our reaffirmation of our Pledge of Allegiance and our national motto "In God we trust."

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. HUTCHINSON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUTCHINSON. Madam President, I ask unanimous consent that

Senator ZELL MILLER be added as an original cosponsor on the bill on which we are about to vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUTCHINSON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. SESSIONS. Madam President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Madam President, I would like to speak in support of the legislation proposed by Senator HUTCHINSON from Arkansas. I am a cosponsor and helped draft this legislation. I would say this: This is not an itty-bitty issue. This is a big issue. The Congress and States and cities have been expressing a desire to have, and be allowed to have, an expression of faith in the public life of America. The courts have been on a trend for decades now to constrict that.

The opinion out of the Ninth Circuit is not as aberrational as some would think. The Supreme Court, in my view, has been inconsistent and unclear. It has cracked down on some very small instances of public expression of faith. Our courts have made decisions such as constraining a valedictorian's address at a high school. Certainly our prayer in schools has been rigorously constricted or eliminated in any kind of normal classroom setting, as has the prayer at football games.

I will just say we hope the courts will reconsider some of their interpretations of the establishment clause and the free exercise clause of the first amendment and help heal the hurt in this country.

The PRESIDING OFFICER. The hour of 3:20 has arrived.

Mr. DASCHLE. Madam President, I wish to announce this will be a final rollcall vote of the day and the week. Our next rollcall vote will occur Tuesday morning following the July Fourth recess. Senators should be on notice that we will have a vote that morning and votes throughout the day and the week.

I yield the floor.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered.

The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 166 Leg.]

YEAS—99

Akaka	Dorgan	Lugar
Allard	Durbin	McCain
Allen	Edwards	McConnell
Baucus	Ensign	Mikulski
Bayh	Enzi	Miller
Bennett	Feingold	Murkowski
Biden	Feinstein	Murray
Bingaman	Fitzgerald	Nelson (FL)
Bond	Frist	Nelson (NE)
Boxer	Graham	Nickles
Breaux	Gramm	Reed
Brownback	Grassley	Reid
Bunning	Gregg	Roberts
Burns	Hagel	Rockefeller
Byrd	Harkin	Santorum
Campbell	Hatch	Sarbanes
Cantwell	Hollings	Schumer
Carnahan	Hutchinson	Sessions
Carper	Hutchison	Shelby
Chafee	Inhofe	Smith (NH)
Cleland	Inouye	Smith (OR)
Clinton	Jeffords	Snowe
Cochran	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kerry	Stevens
Corzine	Kohl	Thomas
Craig	Kyl	Thompson
Crapo	Landrieu	Thurmond
Daschle	Leahy	Torricelli
Dayton	Levin	Voinovich
DeWine	Lieberman	Warner
Dodd	Lincoln	Wellstone
Domenici	Lott	Wyden

NOT VOTING—1

Helms

The bill (S. 2690) was passed, as follows:

S. 2690

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds the following:

(1) On November 11, 1620, prior to embarking for the shores of America, the Pilgrims signed the Mayflower Compact that declared: "Having undertaken, for the Glory of God and the advancement of the Christian Faith and honor of our King and country, a voyage to plant the first colony in the northern parts of Virginia,".

(2) On July 4, 1776, America's Founding Fathers, after appealing to the "Laws of Nature, and of Nature's God" to justify their separation from Great Britain, then declared: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness".

(3) In 1781, Thomas Jefferson, the author of the Declaration of Independence and later the Nation's third President, in his work titled "Notes on the State of Virginia" wrote: "God who gave us life gave us liberty. And can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are of the Gift of God. That they are not to be violated but with His wrath? Indeed, I tremble for my country when I reflect that God is just; that his justice cannot sleep forever.".

(4) On May 14, 1787, George Washington, as President of the Constitutional Convention, rose to admonish and exhort the delegates and declared: "If to please the people we offer what we ourselves disapprove, how can we afterward defend our work? Let us raise a standard to which the wise and the honest can repair; the event is in the hand of God!"

(5) On July 21, 1789, on the same day that it approved the Establishment Clause concerning religion, the First Congress of the United States also passed the Northwest Ordinance, providing for a territorial government for lands northwest of the Ohio River, which declared: "Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."

(6) On September 25, 1789, the First Congress unanimously approved a resolution calling on President George Washington to proclaim a National Day of Thanksgiving for the people of the United States by declaring, "a day of public thanksgiving and prayer, to be observed by acknowledging, with grateful hearts, the many signal favors of Almighty God, especially by affording them an opportunity peaceably to establish a constitution of government for their safety and happiness."

(7) On November 19, 1863, President Abraham Lincoln delivered his Gettysburg Address on the site of the battle and declared: "It is rather for us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion—that we here highly resolve that these dead shall not have died in vain—that this Nation, under God, shall have a new birth of freedom—and that Government of the people, by the people, for the people, shall not perish from the earth."

(8) On April 28, 1952, in the decision of the Supreme Court of the United States in *Zorach v. Clauson*, 343 U.S. 306 (1952), in which school children were allowed to be excused from public schools for religious observances and education, Justice William O. Douglas, in writing for the Court stated: "The First Amendment, however, does not say that in every and all respects there shall be a separation of Church and State. Rather, it studiously defines the manner, the specific ways, in which there shall be no concern or union or dependency one on the other. That is the common sense of the matter. Otherwise the State and religion would be aliens to each other—hostile, suspicious, and even unfriendly. Churches could not be required to pay even property taxes. Municipalities would not be permitted to render police or fire protection to religious groups. Policemen who helped parishioners into their places of worship would violate the Constitution. Prayers in our legislative halls; the appeals to the Almighty in the messages of the Chief Executive; the proclamations making Thanksgiving Day a holiday; 'so help me God' in our courtroom oaths—these and all other references to the Almighty that run through our laws, our public rituals, our ceremonies would be flouting the First Amendment. A fastidious atheist or agnostic could even object to the supplication with which the Court opens each session: 'God save the United States and this Honorable Court.'"

(9) On June 15, 1954, Congress passed and President Eisenhower signed into law a statute amending the Pledge of Allegiance to read: "I pledge allegiance to the Flag of the

United States of America and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all."

(10) On July 20, 1956, Congress proclaimed that the national motto of the United States is "In God We Trust", and that motto is inscribed above the main door of the Senate, behind the Chair of the Speaker of the House of Representatives, and on the currency of the United States.

(11) On June 17, 1963, in the decision of the Supreme Court of the United States in *Abington School District v. Schempp*, 374 U.S. 203 (1963), in which compulsory school prayer was held unconstitutional, Justices Goldberg and Harlan, concurring in the decision, stated: "But untutored devotion to the concept of neutrality can lead to invocation or approval of results which partake not simply of that noninterference and noninvolvement with the religious which the Constitution commands, but of a brooding and pervasive devotion to the secular and a passive, or even active, hostility to the religious. Such results are not only not compelled by the Constitution, but, it seems to me, are prohibited by it. Neither government nor this Court can or should ignore the significance of the fact that a vast portion of our people believe in and worship God and that many of our legal, political, and personal values derive historically from religious teachings. Government must inevitably take cognizance of the existence of religion and, indeed, under certain circumstances the First Amendment may require that it do so."

(12) On March 5, 1984, in the decision of the Supreme Court of the United States in *Lynch v. Donnelly*, 465 U.S. 668 (1984), in which a city government's display of a nativity scene was held to be constitutional, Chief Justice Burger, writing for the Court, stated: "There is an unbroken history of official acknowledgment by all three branches of government of the role of religion in American life from at least 1789. . . [E]xamples of reference to our religious heritage are found in the statutorily prescribed national motto 'In God We Trust' (36 U.S.C. 186), which Congress and the President mandated for our currency, see (31 U.S.C. 5112(d)(1) (1982 ed.)), and in the language 'One Nation under God', as part of the Pledge of Allegiance to the American flag. That pledge is recited by many thousands of public school children—and adults—every year. . . Art galleries supported by public revenues display religious paintings of the 15th and 16th centuries, predominantly inspired by one religious faith. The National Gallery in Washington, maintained with Government support, for example, has long exhibited masterpieces with religious messages, notably the Last Supper, and paintings depicting the Birth of Christ, the Crucifixion, and the Resurrection, among many others with explicit Christian themes and messages. The very chamber in which oral arguments on this case were heard is decorated with a notable and permanent—not seasonal—symbol of religion: Moses with the Ten Commandments. Congress has long provided chapels in the Capitol for religious worship and meditation."

(13) On June 4, 1985, in the decision of the Supreme Court of the United States in *Wallace v. Jaffree*, 472 U.S. 38 (1985), in which a mandatory moment of silence to be used for meditation or voluntary prayer was held unconstitutional, Justice O'Connor, concurring in the judgment and addressing the contention that the Court's holding would render the Pledge of Allegiance unconstitutional because Congress amended it in 1954 to add

the words "under God," stated "In my view, the words 'under God' in the Pledge, as codified at (36 U.S.C. 172), serve as an acknowledgment of religion with 'the legitimate secular purposes of solemnizing public occasions, [and] expressing confidence in the future.'"

(14) On November 20, 1992, the United States Court of Appeals for the 7th Circuit, in *Sherman v. Community Consolidated School District 21*, 980 F.2d 437 (7th Cir. 1992), held that a school district's policy for voluntary recitation of the Pledge of Allegiance including the words "under God" was constitutional.

(15) The 9th Circuit Court of Appeals erroneously held, in *Newdow v. U.S. Congress*, (9th Cir. June 26, 2002) that the Pledge of Allegiance's use of the express religious reference "under God" violates the First Amendment to the Constitution, and that, therefore, a school district's policy and practice of teacher-led voluntary recitations of the Pledge of Allegiance is unconstitutional.

(16) The erroneous rationale of the 9th Circuit Court of Appeals in *Newdow* would lead to the absurd result that the Constitution's use of the express religious reference "Year of our Lord" in Article VII violates the First Amendment to the Constitution, and that, therefore, a school district's policy and practice of teacher-led voluntary recitations of the Constitution itself would be unconstitutional.

SEC. 2. ONE NATION UNDER GOD.

(a) REAFFIRMATION.—Section 4 of title 4, United States Code, is amended to read as follows:

"§ 4. Pledge of allegiance to the flag; manner of delivery

"The Pledge of Allegiance to the Flag: 'I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all,' should be rendered by standing at attention facing the flag with the right hand over the heart. When not in uniform men should remove their headdress with their right hand and hold it at the left shoulder, the hand being over the heart. Persons in uniform should remain silent, face the flag, and render the military salute."

(b) CODIFICATION.—In codifying this subsection, the Office of the Law Revision Council shall make no change in section 4, title 4, United States Code, but shall show in the historical and statutory notes that the 107th Congress reaffirmed the exact language that has appeared in the Pledge for decades.

SEC. 3. REAFFIRMING THAT GOD REMAINS IN OUR MOTTO.

(a) REAFFIRMATION.—Section 302 of title 36, United States Code, is amended to read as follows:

"§ 302. National motto

"'In God we trust' is the national motto."

(b) CODIFICATION.—In codifying this subsection, the Office of the Law Revision Council shall make no change in section 302, title 36, United States Code, but shall show in the historical and statutory notes that the 107th Congress reaffirmed the exact language that has appeared in the Motto for decades.

Mr. DASCHLE. I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT REQUEST—
H.R. 3009

Mr. DASCHLE. Madam President, I ask the Chair to lay before the Senate a message from the House with respect to H.R. 3009.

The PRESIDING OFFICER. The clerk will state the message.

Mr. LOTT. Reserving the right to object, Madam President.

Mr. DASCHLE. I withdraw the request, Madam President.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. CAMPBELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. Madam President, I ask unanimous consent to speak for 6 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREST MANAGEMENT

Mr. CAMPBELL. Madam President, I rise today to talk about forest management, although I am certainly sad it has taken the current catastrophic wildfires out West to get some attention on this issue.

On May 18, before most of the fires had started and were underway, I held a field hearing for the Energy Committee in Golden, CO, to review coordination of firefighting efforts. The four intergovernmental witnesses all expressed serious concern that Colorado's unnaturally dense forests pose serious risk of unnaturally hot burning and unmanageable fires, increasing the danger to both people and property. Unfortunately, that worry became a very real, unimaginable reality for much of the West.

In our State alone just this year, we have had over 350,000 acres burn. As of yesterday, the Hayman fire east of I-25 between Denver and Colorado Springs had burned in excess of 137,000 acres, much of it in the all-important South Platte watershed of the City of Denver.

While the fire is now 70 percent contained, over 1,200 residents are at risk and many lost their homes. In fact, 618 homes and structures burned, and it has cost over \$26 million so far in fighting this fire. The Forest Service tells us much of this fire is in an area of diseased and stressed timber, some of which they have been attempting to clean up, but opponents are delaying this needed management through courtroom appeals and litigation.

It is important to note that large parts of the area that has burned are in the areas that were designated as roadless during the Clinton administration, under the Clinton management plan.

We have the Million Fire near the little town of South Fork, CO, near Wolf Creek Pass. That fire is not big by the standards of this summer, but it has already consumed over 8,500 acres, and it is right on the outskirts of the town of South Fork. We have lost 13 homes and buildings in that fire. The resource managers tell us it is burning in an area of spruce and ponderosa pine already killed by insects.

History shows many of proposed salvage sales on the Rio Grande National Forest have also been opposed by opponents of cleaning the forests, and they have had difficulty getting proactive thinning and sanitation harvesting through the NEPA process. The agency tells us that nearly 100 additional homes and commercial buildings are currently threatened and that the town's watershed is also in the line of fire.

Finally, just near where I live in Durango, CO, what is called the Missionary Ridge fire, which I am sure you have seen on CNN and a number of other networks, is 15 miles from the town of Durango, CO—in fact, I can see it from my front porch—and it is burning that way. Ten subdivisions are endangered, over 1,150 residences are being evacuated, and we have lost 71 homes and outbuildings. The municipal watersheds of the towns of Durango and Bayfield are threatened, as well as numerous businesses, radio towers, and homes.

The interesting part of that fire is it is burning mostly in RARE II roadless areas. Last week, when I was home, the fire was only about 2 miles from the city limits of the town of Durango with zero containment and certainly has had a devastating impact on the morale of the community, on the structures, and on tourism, which is the backbone and mainstay of our economy.

All of those fires I have mentioned have really been eclipsed and overshadowed by the huge fire in Arizona in the Coconino National Forest, not far from the White River National Forest.

I am reminded of 1996, when there was an effort by the Forest Service to do some fuels reduction in the Coconino Forest. They were prevented from doing so by an environmental lawsuit under the Endangered Species Act which contended that the fuels reduction would disturb the goshawk, a small hawk. Later that same year, there was a fire that did start in that forest, and it destroyed everything in its path, including the goshawk nests. Now we have almost the same catastrophic fire in the White River National Forest.

Time and again, we hear from Colorado firefighters who are frustrated they can't seem to get ahead of the fires. I submit we cannot seem to get ahead of some of the lawsuits that block our responsible management of

the forests, and we won't be able to get any place under control until we do. This year so far, we have had over 300 fires nationwide, and the fire season is just starting.

The science is certain: Thinning forests at natural levels significantly reduces the threat of wildfires. Yet the constant threat of environmental lawsuits has resulted in what has been described by the Forest Service as "analysis paralysis." The Forest Service is now forced to study and assess proposed actions, not for the right reasons, but because of any potential action in the courts, in anticipation of a flurry of lawsuits and appeals by some extreme groups. Dale Bosworth, Chief of the Forest Service, testified before our committee that they are now using over 40 percent of their agency work and a good deal of their resources, about \$250 million a year, that could have gone to save lives and property. Instead, they are using it to prepare for court actions against opponents of cleaning the forest.

Environmental groups are proud of that obstruction-through-litigation strategy because every dollar we spend in litigating is one less dollar we spend on managing the forest. They do acknowledge, however, that forests are unnaturally dense.

In Colorado, normally we have 50 trees per acre. But now we see stands of 200, 500, and 800 trees per acre, representing unmanageable fuel loads. Many of these trees are dying from insect infestation, which increases the fire risk. Yet environmentalists still oppose any thinning or removal of dead timber except if it is near homes or around homes. They argue that thinning other parts of the forest grants unnecessary footholds for the "big, bad" timber industry that will ravage the landscape. It is interesting that what they completely ignore is that industry thinning on national forests is done under very close scrutiny of the National Environmental Policy Act.

What about lawsuits in the name of animals? On the one hand, environmentalists sue land managers to keep them from thinning because the action might disturb all manner of species. On the other hand, they ignore the complete devastation that catastrophic fires such as the ones we are experiencing do to the same species.

I spoke to one firefighter last week. He told me that the 150-foot flames in the Mission Ridge fire were traveling so fast and were so intense that birds in flight were actually being burned out of the air. Certainly, most small animals that are land animals have no chance at all. That includes the spotted owl, the red squirrel, Preble's meadow jumping mouse, and hundreds of animals on the endangered species list.

In arguing against thinning, environmentalists also ignore the very real

long-term damage that large and intense fires have on soil and watersheds. Over 70 percent of our Nation's water comes from waterbodies in our forests. Yet, these environmental groups would prohibit thinning around watersheds, such as the South Platte project. I would have thought that they would support such efforts, especially after the Buffalo Creek fire of 1996, which cost the city of Denver millions of dollars to restore water quality.

Environmentalists oppose improving the safety of our watersheds because they fear losing the Clinton-era "roadless rule," which provides that no new roads can be built where none exist. Their prized "roadless rule" effectively acts as a wilderness designation requiring an act of Congress.

It is ironic that the "roadless rule" that environmentalists hold so dear was recently ruled illegal by a Federal judge in Idaho because the public comment period was grossly inadequate, stating, "Justice hurried on a proposal of this magnitude is Justice denied."

I am a big supporter of grass roots initiatives—local communities should be involved in land management decisions. Opportunities for public comment and participation are important aspects of environmental law. However, these opportunities are being poisoned by radical groups too interested in legitimizing their own worth to contributors than in collaboratively working for the betterment of our Nation's resources.

Some of these organizations have effectively paralyzed responsible forest management practices, thus contributing to poor forest health. In fact, 73 million acres of national forest are at risk from severe wildland fires. In the West, more than half of the rangeland riparian area on the National Forest System do not meet standards for healthy watersheds, and one in six acres in the Rocky Mountain and Plains states is making no progress toward improvement. All this in the name of environmentalism.

Forest Service Chief Dale Bosworth recently acknowledged that the Hayman Fire near Denver would not have been nearly as severe had forest thinning projects gone forward.

I am unwilling to allow our forest's health and environmental quality to continue deteriorating simply because a minority of environmental organizations have thrown science and good sense out of the window in the name of their own political agenda while completely avoiding the tragedy of the 14 deaths of firefighters from the Storm King Fire of 1994 or the recent loss of five firefighters in a bus wreck while on their way to fight fire in Colorado.

I have seen the negative effect that some environmental organizations have had in the West for a long time. But enough is enough—something has to change. It is unfortunate that it has

taken tragic fires like the ones raging out West to get the Nation and the media to acknowledge the same.

I hope, as we move from this Congress to the next, we will look for more positive ways to achieve responsible forest management.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DAYTON). Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the Senator from Delaware, Mr. CARPER, be recognized for 3 minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Delaware is recognized for 3 minutes.

AMTRAK

Mr. CARPER. Mr. President, the attention of a lot of people in the Northwest and in the Midwest and in California has been drawn to the potential shutdown not just of the Amtrak passenger rail service, but commuter rail service in Boston, New York, Philadelphia, Wilmington, Delaware, Chicago, Los Angeles, and a lot of places in between.

Amtrak has sought to negotiate a loan from a consortium of private lenders. Literally in the middle of the negotiation, the administration put on the table its restructuring plan for Amtrak. That plan was, in my view, a "dismantling" plan for Amtrak. That was the end of the negotiations with the private lenders, for the most part.

Now Amtrak faces a difficult decision as to when to begin curtailing and shutting down its operations. When they do that, it will have a cascading effect on the operations of many commuter railroads in America as well.

The Secretary of the Department of Transportation, Norman Mineta, was before one of our committees today testifying. Knowing him as an old colleague and somebody who I respect, I think he is in a tough spot. I have not been inside his heart to see what he would want to do in his heart. Given that independence, I think he would favor going ahead with the loan guarantee, or support the Congress in going through and including a \$200 million emergency supplemental for Amtrak. The administration, which created this crisis before us, is now still in a very good position to end the crisis, the threat. They can do that by saying, yes, we will provide the full loan guarantee, or we will support the appropriation from the Congress.

Our thanks to the chairman of the Appropriations Committee, Senator BYRD, and Senator STEVENS, the ranking Republican, for their willingness to support \$200 million in the emergency supplemental to help us get through this difficult time, and later this fall we will resolve more fully the passenger rail service in this country.

I have said for a long time—and I will say it again today—the problem with passenger rail service in this country is we have never provided adequate capital support for passenger rail service. We need to do that, to find an earmark source of revenue. I hope in the months to come we will debate that and come to a consensus on that point.

I thank the Chair.

UNANIMOUS CONSENT REQUEST— H.R. 3009

Mr. REID. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House with respect to H.R. 3009; that the Senate disagree to the House amendment, agree to the request for a conference with the House on the disagreeing votes of the two Houses; and that the Chair be authorized to appoint conferees on behalf of the Senate: three on behalf of the majority and two on behalf of the minority.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Reserving the right to object.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Mr. President, we have had a number of discussions with respect to how many conferees the Senate would want to have involved in this very important conference that will deal with trade issues on which we spent a great deal of time in the Senate, including the Andean trade authority, as well as the overall large trade assistance bill and the Trade Promotion Act—three very important pieces included in this one bill.

As we look at this, I think this is going to be one of the most important conferences we are going to deal with this year.

The House has a small number of conferees to the underlying bill, but they have a number of conferees to different sections to the bill. I suspect there is a total number of House conferees involved that would probably run in the 18 range.

We have members of the Finance Committee who worked very hard on this important legislation, and I had hoped that we could get an 8-to-7 or 7-to-6 ratio, or at minimum 6 to 5 to accommodate members of the Finance Committee who are on the subcommittee of jurisdiction and who have put a lot of work into this. I have even tried to say: OK, maybe we can make it work at 5 to 4, but we have not been able to get that worked out.

I think for the Senate to be limited to only five conferees on a bill of this magnitude and as complicated as this is, and as many people who worked so hard on it, that it would not be an acceptable arrangement at this time. So I have to object.

The PRESIDING OFFICER. Objection has been heard.

Mr. REID. Mr. President, I am disappointed, but I certainly understand.

UNANIMOUS CONSENT REQUEST— H.R. 7

Mr. REID. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, after consultation with the Republican leader, and prior to the August recess, the Senate proceed to the consideration of H.R. 7, the charitable deductions bill, as reported by the Finance Committee, and that it be considered under the following limitation: That there be 4 hours for debate on the bill equally divided between the chairman and ranking member of the Finance Committee; that there be one substitute amendment in order to be offered by the majority leader or his designee; that the debate time shall come from the time on the bill; that upon the disposition of the substitute amendment and the use or yielding back of time, the bill be read a third time and the Senate vote on final passage of the bill, without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Mr. President, this bill has not been filed and the amendment mentioned is a brandnew amendment which was received at 3:10 p.m. today. I really do not have any idea what is contained in this complete substitute, but I do know we would be unable to clear it for consent at this time. We are working right now to get in touch with Senator GRASSLEY and others to make sure they are familiar with this and have had a chance to look over the substitute amendment to make sure there is no problem with it.

I had hoped we had been able to clear this earlier today, and I hope that if we are not going out of session right away, we might even have a chance to come back, if I can get this cleared, later this afternoon. But until I can do a hotline on it and check with the senior member on the Finance Committee about the substitute amendment, I have to object at this time. I emphasize, I think maybe we can clear it before the afternoon is done. I hope we can come back to it.

The PRESIDING OFFICER. Objection has been heard.

Mr. REID. Mr. President, I say to my friend, the distinguished Republican

leader, Senator DASCHLE will be here tomorrow and maybe even tomorrow something can be worked out. My understanding is the President wants this badly, and I hope we can work it out.

UNANIMOUS CONSENT REQUEST— S. 1140

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 210, S. 1140; that the bill be read a third time and passed; that the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Reserving the right to object.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Mr. President, I have to say, I have no objection to this legislation. In fact, I am a cosponsor of this legislation. It has been discussed and considered for quite some time now, and with the overwhelming support it has, it should move forward.

However, on behalf of a Senator on my side of the aisle who is now in the Judiciary Committee in a meeting and could not be here at this particular time, I am going to have to object on his behalf, but I do want to say this: I do not agree. I believe this is legislation we should pass, and this is the last time I am going to have anybody on this side of the aisle object on this issue. Any Senator who has further objection is going to have to do it himself. As a courtesy to a Senator who is currently tied up, I do object.

The PRESIDING OFFICER. Objection has been heard.

Mr. REID. Mr. President, I am truly disappointed. People from Nevada and all over the country need this legislation. As the majority leader said, we should work out some way to move this forward. It is too bad one Senator is holding this up.

UNANIMOUS CONSENT REQUEST— S. 1991

Mr. REID. Mr. President, I ask unanimous consent that the majority leader, following consultation with the Republican leader, may proceed to the consideration of Calendar No. 404, S. 1991, the Amtrak authorization bill, at a time to be determined.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Mr. President, again reserving the right to object.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. This is legislation we need to consider. It needs to be considered in the full light of day with amendments in order. We did have a full consider-

ation of the bill in the Commerce Committee with amendments offered. Some were adopted and some were rejected. I voted for the legislation.

We need to move forward on the reform of Amtrak. We are in the process of putting additional money in Amtrak right now, and I support both the loan the administration is working out and perhaps additional money in the supplemental.

Having said that, I do note also that we have to make tough choices. Do we want a national rail passenger system or not? If we do, we have to figure out what kind of reforms we can put in place that will save money or provide additional money; what lines are we going to keep open and keep running or not; if and how much we are going to have to pay for it.

If the American people, through their Representatives and Senators, do not want to vote for additional funds, then that is one choice. I spoke passionately on the floor in 1997 when we passed Amtrak reform legislation. I made a commitment on this floor and to the American people that I supported this because I thought it could become self-supporting. I was wrong. I have to admit that. Now the question is, Do we want to continue to have Amtrak or not? I think we should. I still think it is an important mode of transportation we should not sacrifice. But the Congress is going to have to come to terms with reform.

There are some Senators who object to moving to it at this time. I believe specifically Senator McCain has indicated he has an objection to it. So while I do not agree with the objection, I do agree that the timing is such that we would not be able to give it full and appropriate consideration, in view of other issues to which we have already agreed to go. Therefore, I object.

The PRESIDING OFFICER. Objection has been heard.

UNANIMOUS CONSENT REQUEST— EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to executive session for consideration of the following nominations on the calendar: Nos. 810, 825 through 828, 840, 862 through 867, 887 through 889; I further ask that the nominations be confirmed, en bloc; that the motions to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate then resume legislative session.

Before the Chair rules, I wish to indicate this request is with respect to 15 judicial nominations, some of which have been on the calendar since May 2. These are nominations that are pending in the Senate, not in the Judiciary Committee. They are ready for consideration by the entire Senate with only one exception; I know of no objections.

I will be giving a statement with regard to this matter later, but in consideration of Senator REID's and others' time, I thought I would make this unanimous consent request first and make my statement on this matter later.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, as we speak, there are negotiations going on at the White House dealing with a wide range of appointments and nominations. I hope this can be worked out. I was confident a day or two ago that the majority leader and the Republican leader, together with the White House, had worked something out on nominations on which we could move forward, but that did not come to be. We also know there is someone on the other side of the aisle who has asked that we on his behalf object, and I am doing that now. I object.

The PRESIDING OFFICER. The objection has been heard.

The Republican leader.

Mr. LOTT. Mr. President, I understand there may be another unanimous consent request in a moment, but it could lead to some discussion back and forth, so at this time I yield myself leader time so I can address the issue that was just objected to.

The PRESIDING OFFICER. The Senator has that right.

Mr. LOTT. Mr. President, the Senate, the American people, and the House of Representatives have all expressed their outrage at the decision by the Ninth Circuit Court of Appeals yesterday which ruled that the Pledge of Allegiance is unconstitutional because it contains the phrase "under God." People are understandably stunned and find it not only unbelievable, but indefensible.

Senators and the American people are shocked that two Federal circuit judges were capable of making such an absurd decision. The fact that they did points up, once again, how vitally important these Federal judicial appointments are in guiding not only the country's present, but its future as well. Judges are important at every level, but particularly at the appellate court, the circuit court level.

This preposterous decision about the Pledge of Allegiance, which Senators have been outraged about, was handed down by three circuit court judges who voted 2-1 that reciting the Pledge violated the Constitution's Establishment Clause protections.

I should note that the vigorous dissent in the case was filed by Judge Ferdinand Fernandez, who was appointed by the first President Bush, and who went into great detail since echoed by many members of this chamber—as to

why the other two judges views and reading of the law are both unfounded and inappropriate.

An interesting fact about these three judges is that two of the three are actually on senior status which means they are not considered active judges and are semi-retired. The fact that semi-retired judges were deciding is an indication in and of itself that there are problems in this circuit court and there are clearly major problems in the Ninth Circuit Court of Appeals.

Mr. President, we have been arguing for years about how the Ninth Circuit should be changed. It is a huge circuit which includes not only Hawaii and California, but Nevada, Arizona, Idaho, Oregon, Washington, and Montana as well. It is not surprising that the states in the circuit also have very different cultural views of the world. Therefore, geographically and ideologically, many Senators encompassed by the Ninth Circuit want it split into at least two, if not three, circuits.

The Ninth Circuit is also by far the court that has been reversed the most by the United States Supreme Court. Indeed, the 9th Circuit decisions that have been reviewed by the Supreme Court have been reversed over 80% of the time over the last 6 years. And these have not been close cases in the Supreme Court either. On average, the Ninth Circuit's decisions have received just two votes from the Supreme Court's nine justices.

Mr. President, I should also point that one of the judges who did decide to hold that the Pledge of Allegiance to the flag is unconstitutional was Stephen Reinhardt. This active judge, who was appointed in the last year of Jimmy Carter's Presidency, holds the record for the most unanimous reversals by the Supreme Court in a single court term—five. He has been reversed a total of 11 times since the court's 1996-1997 term. He has been involved in such infamous, ridiculous decisions as striking down California's "three strikes and you're out" criminal law this spring. He has a long record of other extremely unpopular and, in my opinion, inaccurate and unfounded interpretations of the law and/or the Constitution. So, this judge has engaged in a pattern of using his position on the court to become an activist for social change instead of interpreting the law as passed and voted on by Congress or as written by the Nation's Framers.

Twenty-eight active judges are authorized for the Ninth Circuit and five of those seats are vacant. Due to the heavy caseload in the Circuit, all five of those vacancies have been declared judicial emergencies by the Administrative Office of the Courts. President Bush has nominated individuals to fill three of those five vacancies, one from Hawaii who is supported by both of the Democrat Senators from his state has

pending on the Executive Calendar since May 16, another from California has been held up in the Committee since June 22nd of last year without even a hearing, and the third from Nevada has been in the Committee for two months.

As we can see from this case that has everyone up in arms, these circuit judges do make a difference, and that is why President Bush's Circuit Court nominees are being held up. He and I agree that we should not be putting judges on the appellate courts who will render decisions such as this. The judgment of such judges really has to be questioned by the vast majority of Americans.

Despite the vacancies and the judicial emergencies on the Ninth Circuit and all the federal circuits, the Senate continues to have a problem confirming judges without undue and unjustifiable delay. There are some 45 judicial nominees pending before the Senate at one level or another. Yet, we have not confirmed one judge since before the Memorial Day Recess.

As I have already noted, as of this morning, there were 15 judges on the Executive Calendar who are ready to go if a few Senators would only let them. Three of the 15 are Circuit Court judges. And there are several circuits around the country that are having real problems handling their caseloads because they do not have enough judges to fill all of their seats—indeed one circuit, the Sixth, has half of its 16 judgeships vacant.

Around the country there are 89 judicial vacancies. Thirty-one are Circuit Court vacancies, 17 of which have been declared judicial emergencies by the Administrative Office of the Courts and the Judiciary Committee is holding 11 nominees President Bush has named to fill those 17 emergencies. There are currently 57 vacancies at the District Court level, 18 of which have been declared judicial emergencies.

I expect we are going to hear arguments back and forth about the numbers, well, it is because you guys did not confirm enough judges during the President Clinton's last 2 years. But whatever the history may have been, we have a problem now with our circuits that must and can be fixed.

Mr. President, another example of how important these judicial appointments can be and what the effect on the nation can be is the decision handed down by the Supreme Court today by a 5-4 vote upholding Cleveland's school voucher program. Frankly, I was amazed it was that close. Again, it points up the importance of even a single judge on the Supreme Court or on a circuit court.

I think that says a lot about the real reasons behind what is going on in the Committee with the President's judicial nominees. There are a number of people in the Senate who say that if

the President tries to put a conservative, strict constructionist judge on the Supreme Court who will follow the law and not write it from the bench as the judges did in the Pledge of Allegiance case they are going to oppose him no matter how temperamentally, professionally, intellectually, or ethically qualified he or she is.

However, as I have said before, many of us on this side of the aisle, voted for Justice Ginsburg when she went through the Senate when President Clinton was in office. We knew we would not agree with most if not all of her future decisions but we felt we had to admit that she was competent, ethical, and qualified for the job despite our philosophically differences with her.

There are several other Clinton judges, particularly one or two out in the California circuit, that I voted whose future decisions I will probably live to regret for as long as I live. But there is something worse than bad judges, I guess, and that is no judges, which then expands the power of the bad judges like Judge Goodwin and Judge Reinhardt that are on the Circuit Courts of Appeal now.

I will take a moment to note that the Supreme Courts 5-to-4 decision on school vouchers will prove immensely important to thousands of low-income parents whose children are trapped in failing schools. Low-income children need an education even more than other children since it is often their only means of escaping poverty for the rest of their lives. So, when public schools are not succeeding, they and their parents shouldn't be sentenced to failure year after year. They deserve a system and a process that offers them a hand up, and if need be a hand out of a failing school, to find another avenue to succeed. The Supreme Court upheld a process where the money that is being expended on their child in a failing school, or in a school that is drug infested or riddled with crime, can be used instead to lift the child out of the failure and into a setting where they can get an real academically sound education. Is that such an awful result for the thousands of low-income children trapped in dysfunctional and failing schools?

In Philadelphia, PA, I understand the State has taken over the running of the public schools. What a tragedy.

When Cleveland's system was failing, the city seized the initiative to try and improve things, and so have other areas. In this Cleveland's case, they put in place a voucher program that is working. It is helping children get an education that will last the rest of their lives.

Mr. President, getting back to the absurd decision in San Francisco, it is easy for us all to say the Pledge of Allegiance with gusto and mean it, but we need to look behind this decision—

how in the world it happened. It is that America's voters understand that these Federal judgeships, and who fills them, do make a difference in the kind of society that not only will we live in, but our children's children will live in. That is why I have tried to find a way to get an agreement to move the President's eminently qualified nominees.

Senator DASCHLE and I have been talking about it for about 3 weeks. I thought we had it all worked out. I think, frankly, we did have it worked out, but now our friend Senator MCCAIN says he is going to object to any and all nominations until he gets some sort of guarantee with regard to a nominee for the Federal Election Commission (FEC). Her nomination was not agreed to for 5 months, and now that the President has started the routine vetting process in order to formally send her nomination to the Senate, Senator MCCAIN is saying that if the nomination is not moved on immediately, he is going to hold up every single nomination pending in the Senate.

The investigation and FBI clearance process, for all nominees—and this is a Democrat nominee—usually takes about 2 months now and she will have to go through that process the same as everyone else. So, the President could not appoint her right now if he wanted to. She has not had the clearance check. So, evidently every nominee is going to be held up today, this week, and all of July over a single nominee to the FEC. That means that lifetime appointments of Federal judges on the circuit and district courts, both Democrat and Republican, some who have been waiting for a year or more, will have to wait for months on this single nominee who could not be confirmed today even if everyone was in agreement about her.

I do not get it, Mr. President. I think this is a real sad commentary and not becoming, quite frankly, of the Senate, if she should allow this unjustifiable obstruction of all nominees to occur.

I have made an effort, as has Senator DASCHLE. I thought we had made real progress and were ready to go forward with an agreement that would move nonjudicial nominations, judicial nominees, marshals, U.S. attorneys, and a lot of folks who have been waiting a long time. Then we hit a stone wall yet again.

I had hoped that one way to do overcome this obstacle would be to move these nominees en bloc. As everyone knows, I do not usually move to Executive Calendar nominations on my own because that is normally the majority leader's prerogative, but if all else fails, you have to take advantage of whatever avenue is available to you.

I hope the American people, and the Senate, will take another look at these judicial nominations—and how we can move them and get them confirmed. If

it is a continuation of tit for tat when will it ever end? Maybe it will fall to my lot—no pun intended—to some day say that we are going to end this, and we are going to move these nominations unless there is a big ethical problem or they are obviously not qualified.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Before the Republican leader leaves, I am not going to give a long statement regarding judicial appointments because I have done that on a number of occasions. Suffice it to say, the majority leader went through this. As has been said by the majority leader, and I have said it on a number of occasions, this is not tit for tat, this is not payback time.

I served and practiced law for many years and argued cases before the Ninth Circuit. I have two sons in the Ninth Circuit—Leif Reid is the administrative assistant for the circuit judge; the other was a law clerk to the chief judge—and I am familiar with the circuit. There are very fine men and women serving in that court. I am not here today to defend in any way President Nixon's appointment to the court or President Carter's appointment to the court the two people who wrote that decision. We would all acknowledge it is wrong. I am confident that the Ninth Circuit, when they meet en banc, will stay that decision made by the two judges.

UNANIMOUS CONSENT REQUEST

Mr. REID. I ask unanimous consent that upon completion of the county reform bill, the Senate proceed to immediate consideration of Calendar No. 414, S. 2039, the National Aviation Capacity Expansion Act for 2002.

The PRESIDING OFFICER. Is there objection?

Mr. FITZGERALD. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. REID. It is unfortunate we cannot get consent to move forward with this bill. It is a bill that enjoys strong bipartisan support.

In April, the Commerce Committee voted 19 to 4 in favor of this very important legislation. More than 60 Senators indicated their support by sending a letter to the two leaders asking for this bill to come before the Senate immediately. I simply believe this is a national priority. I have flown into O'Hare many times and understand how busy and important that airport is for the country, not just for the people of Illinois. I believe we have the votes to pass this bill and to do so very quickly.

I say to my friend, the junior Senator from Illinois, to object to this point only delays the inevitable and stands in the way of addressing a national aviation capacity problem in the Chicago region which affects the whole country. It jeopardizes jobs and stalls

economic development. I am very disappointed.

Mr. DURBIN. Will the Senator yield?

Mr. REID. I am happy to yield to my friend.

Mr. DURBIN. I thank the majority whip for the unanimous consent request and would like to ask him a question as to whether he has any plans or discussion with the majority leader in reference to proceeding on this matter.

Mr. REID. I have spoken to the majority leader on several occasions. This legislation enjoys strong support and is a priority for the majority leader. It is fair to say the majority leader will use all appropriate avenues to bring this legislation to final passage.

When an impressive coalition and supermajority of the Senate, labor, business, aircraft controllers, pilots, airlines, general aviation, and five former Secretaries of Transportation write, call, or in some way visit with the majority leader in support of this legislation, it is hard for the majority leader to ignore this, I respond to my friend.

Mr. DURBIN. If the majority whip will continue to yield, the purpose of this unanimous consent request was to make it clear on the record what I personally believed would occur when my colleague from the State of Illinois objected. There were some who said that would not happen, that once this bill had been reported from the committee, had gone through the regular order, with two hearings before the Senate Commerce Committee, on which my colleague from Illinois serves, a hearing both in Chicago as well as in Washington, when ample opportunity had been given both sides to present their point of view, when amendments were considered and offered by my colleague from Illinois, when the final vote on the committee was a substantial bipartisan vote of 19 to 4, it was the belief—and I am sorry to say the mistaken belief—of some of my colleagues in the Senate that my colleague from Illinois would accept a debate on this issue and would accept the consequences, up or down.

Apparently that is not to be the case. It leads us in a position, today, where those colleagues on the floor who have any doubt in their mind should have it dispelled. The objection by the Senator from Illinois makes it clear that he is prepared to delay this as long as possible.

The Senator from Nevada has put his finger on the issue. What is at stake is the safety of O'Hare, the world's busiest airport. What is at stake is the efficiency of that airport. What is at stake are hundreds of thousands of jobs in Illinois and literally the future of our economy. That may sound like hyperbole from a Senator, but what I have said is supported by the Chamber of Commerce on a national and State basis, the national AFL-CIO and the

State AFL-CIO, all of the major business organizations, economic development organizations which support this bill and oppose the position taken by the junior Senator from Illinois.

This is not a bill just being offered by me but, rather, with the cooperation and the active participation of my colleague, Senator GRASSLEY of Iowa, Senator HARKIN as well, and a bipartisan coalition. As the majority whip has noted, 61 Senators have signed on in support of this bill and sent a letter to the majority leader and Republican leader to indicate that support. My junior colleague from the State of Illinois certainly does not have that kind of support. He has said he is going to try to delay this and try to avoid it for as long as possible.

In making this unanimous consent and making this statement, I hope it is clear on the record that at this point in time we will use any appropriate means to bring this issue forward. We will not be enslaved by the threat of filibuster. I say to my colleague from the State of Illinois, if he will accept a debate on this issue for a reasonable period of time, offer the amendments, and bring it up for a vote, I will accept the consequences. Let the Senate make its decision, yes or no. If the merits of his argument are compelling, he will succeed. If they are not compelling, he will lose. The same is true for my position. That is the nature of the legislative body. It is the nature of fair play. I hope my colleague from the State of Illinois will reconsider his dedication to these delays.

NINTH CIRCUIT OPINION

Mr. REID. Mr. President, while I still have the floor, I will respond more specifically to my friend, but I want to go off subject a little bit with some good news.

As I just stated, I had a couple of sons who worked the Ninth Circuit. My son Leif Reid is administrative assistant to the Ninth Circuit. He just called the cloakroom and indicated the Ninth Circuit stayed the order that was issued yesterday. The pledge is intact. He is faxing me the opinion of the court.

I am, frankly, amazed they did it as quickly as they did, but I am happy they did this.

Back to O'Hare, again I am speaking—and I rarely do this, but on this occasion I am speaking for the majority leader of the Senate, TOM DASCHLE. Senator DASCHLE has authorized me to say to Senator DURBIN that he will use all his options, all the options of the Senate, to pass this legislation this year.

On behalf of the many people who support this legislation, I say to my friend, Senator DURBIN, he has done great work on this issue. I appreciate the support of Senator GRASSLEY and Senator HARKIN but especially the Senator from Illinois for his hard work on

behalf of frustrated fliers everywhere. We have frustrated fliers at McCarran in Las Vegas, the sixth busiest airport in America. This is unfortunate to frustrated fliers. When fliers at O'Hare are less frustrated, we have more people coming to Las Vegas. It affects not only the Chicago area, the State of Illinois, but the entire country. That is a massive airport and is a feeder to the rest of the world.

I salute Senator DURBIN for such patience. The Senate is going to act on this legislation in some way. There are ways to do this. We are going to do it in some way, shape, or form, and we will do it as quickly as we can. The Senator has the full support of the majority leader.

Mr. DURBIN. I ask unanimous consent to be recognized for 10 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I again thank my colleague from the State of Nevada. Let me explain for a moment what the issue is before us so those who are not familiar with it can come to understand it. O'Hare is pretty well known across America. It is our busiest airport. In the year 2001, despite September 11, it turned out to have more flights and passengers than virtually any airport in America.

But O'Hare is an airport that was designed and built in 1959, 43 years ago, with an anticipated annual volume of 20 million passengers. It now has some 67 million passengers annually. The runways that were designed in 1959 were designed to standards and expectations of that era—standards and expectations that have changed dramatically.

What we have seen in 43 years is larger planes, more frequent flights, changes in air traffic control. All of these have challenged O'Hare and every airport in the country to modernize. But O'Hare has been stuck with the same runway configuration now for over 40 years.

Part of it has to do with politics because in my State of Illinois the Governor has the final word when it comes to the construction of airports. Politically, it meant that a Democratic mayor of Chicago and a Republican mayor from some other part of our State would rarely find common ground or agreement on the future of O'Hare. But last year, there was finally a breakthrough. Gov. George Ryan, a Republican, and Mayor Richard Daley of Chicago, a Democrat, came to an agreement about how to change O'Hare, modernize it, improve it, and make it safer. Many people thought it could not occur, but it did happen, and because of that decision and because of that agreement we now have a chance to make that airport modern and safe by 21st century standards.

Some say that seems to be obvious. Who would object to it? It turns out

that a handful of communities around O'Hare naturally are concerned about the prospects of changing flight patterns or expanding service to that airport. They would object, as one might expect.

The elected officials in that area created a coalition to oppose these changes at O'Hare. My colleague in the Senate, the junior Senator from Illinois, has announced his opposition to any plans to change O'Hare. I understand that. But there comes a moment in time when you have to say: What is in the best interests of our entire State? What is in the best interests of the region? What is in the best interests of the Nation?

I think what the people of Illinois have said in overwhelming numbers is they believe this historic agreement is in our best interests. We have the support, as I mentioned earlier, of the National Chamber of Commerce, the Illinois State Chamber of Commerce, the National AFL-CIO, the Illinois State AFL-CIO, the Airline Pilots Association, the air traffic controllers, general aviation, virtually all major airlines. They have all signed onto this.

So as some might suggest, this is a unanimous opinion of the experts in aviation that this plan moving forward makes sense.

Of course, every item in the planned agreement between the Governor and the mayor would be subject to the same types of scrutiny and restriction as any other airport design. What I have here is the report of the Committee on Commerce, Science, and Transportation, which presents this bill, S. 2039, to the Senate. They make it clear here in precise language:

Nothing in the bill guarantees any funding for the O'Hare or Peotone project, or mandates that a specific set of runway configurations be approved, as the FAA retains all its existing discretion to analyze, review, and, if all relevant tests are met, approve the O'Hare project.

They go on to to say:

The FAA has discretion to modify the plan, if necessary, for efficiency, safety, or other concerns.

It says of the bill that it:

Requires any redesign plan to conform with the Clean Air Act and to conform with all other environmental mandates to the maximum extent possible, while requiring the State use its customarily practices to analyze any Clean Air Act requirements.

And it goes on to say this bill:

Provides no Federal priority for federal funding of any O'Hare projects, including the runway design plan.

My colleague will stand up here and tell you what I said is a lie; it is not true. But what I put before you is the report of his committee, which says in black and white that the FAA has the last word. The FAA can reject it. The FAA can say this runway plan will not work. He can stand here, as he has repeatedly, and say those words are not true. I stand behind the committee, his

committee, and the report they have given to the Senate.

I think what they have said is true because I wrote the bill and I know what is in it. When the Senator from Illinois offered an amendment in committee and said: I want to make sure the FAA has the last word, we said we will take the amendment. We accept it. Still, it is not enough.

It has really come down to the point where it will never be enough when it comes down to what my colleague is asking for in this bill.

We have a situation where we have 61 Senators here who have signed onto a letter to the leadership, saying they are prepared to move forward on this bill. I can tell you an additional two Senators this week have told me they are prepared to support this as well. Another 10 Senators on the Republican side of the aisle have said they will support it when it comes to a vote. So the vote will be substantial.

The question before us, though, is when and where this will take place. The Senator from Illinois, my colleague, has made it clear by his objection that he is prepared to filibuster this bill. He has said as much—in Illinois and here in Washington. It is no great surprise.

But some of my colleagues in the Senate have said: Oh, no, he won't do that; when it is all over, he is going to bring it up and offer his amendments and take a vote and then it will all be over.

I said: No, I don't think so. Let's go ahead and make this unanimous consent request so it is clear on the record his intention and design to lead this to a filibuster, and I think we have done that today. In the course of doing that, I think what we have established is that we have to find whatever appropriate means are available, working to bring this issue for a vote in the Senate.

I am prepared to accept the decision of the Senate on this issue. I think that is why we are elected to this body, to bring our best ideas forward and say to the assembled Senators: We hope you will support us. If you do not, then it is understood we have lost our day, our opportunity. But I think now, in the best interests of safety at O'Hare, hundreds of thousands of jobs in our State, and the best interests of business in the region, that we should pass this bill as quickly as possible.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I come to the floor just to compliment the distinguished Senator from Illinois for his determination and the effort that he continues to make to ensure success. I will guarantee that before the end of this session, one way or the other, we are going to resolve this successfully. We will do whatever it takes to ensure that the people of Illinois, the business

community at and around O'Hare and the tremendous service it provides are protected and that the priority it deserves is given on the Senate floor.

The Senator from Illinois has been relentless in his determination and in his advocacy. He has spoken in the caucus on countless occasions, in leadership, and on the Senate floor. I just wanted to assure him publicly, as I have privately, that we will continue to work on this until we get it done. It will happen.

I am convinced that 95, maybe 98 Senators support what the Senator from Illinois is attempting to do. I have every confidence that once we get to the vote, it is going to be overwhelming. So I will assure the Senator that we will continue to work with him and find a way to do it and make sure that it gets done in a time that will send the right message to the people of Illinois, the people of Chicago, the people who are concerned about safety, concerned about jobs, concerned about economic development—that the Senate understands that and, thanks to the leadership of the Senator from Illinois, we are going to deliver.

I simply wanted to add my voice to the many who support the Senator's efforts. I appreciate very much his coming to the floor this afternoon, again, to reiterate the extraordinary importance that this issue and this project has for the people of his State. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I express my appreciation for this expression of personal support from the majority leader. I thank him. He has been cooperative from the start. He understands, as we all do, this is not a Chicago issue. This is a national issue. It is an issue that Senators across the Nation understand as we sit, hour after weary hour, in airports, wondering: What is wrong at O'Hare now?

What is wrong is a 40-year-old runway design that needs to be modernized; it needs to be safer; it needs to be improved. We cannot allow this issue to die. For the good of that airport, for national aviation, for jobs in Illinois, stopping this bill is a job killer in a State that needs jobs desperately. Stopping this bill is a business killer in a State that desperately needs businesses to expand. Stopping this bill is putting a dagger in the heart of the single most important public works project in the history of our State. I am not going to let that happen without a fight. I am happy to have the majority leader in my corner.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

The Senator is recognized.

Mr. FITZGERALD. I thank the Chair.

Mr. President, I would like to respond to what my colleague from Illinois just said. I think there are a number of points that were glossed over.

I do oppose Senator DURBIN's bill with respect to O'Hare. Mr. DURBIN said it is necessary to pass this bill in order to expand O'Hare Airport. But I would point out that never in the history of our country, that I am aware of, has any airport in this country had a special bill mandating that the FAA approve its particular expansion plans.

The fact is, if Mayor Daley of Chicago wants to expand O'Hare Airport, he can simply file an application with the FAA to expand O'Hare Airport. The trouble is, if that were the case—if Mayor Daley were simply to file an application similar to all the other airports in the country—his application would have to be judged on the mere merits.

So Senator DURBIN and Mayor Daley came up with the idea of drafting a statute. They put that into bill form and are now asking Congress to pass it.

The purpose of that bill is twofold:

No. 1, the bill would straightjacket the FAA so that they would have no choice but to approve Mayor Daley's specific runway design at O'Hare Airport.

I could go on for a very long time. But maybe I will save that for a later date to tell you why it is in fact a bad runway design that Mayor Daley is trying to mandate in Federal law.

The bill of Senator DURBIN—I don't care what the committee report says—says that the FAA shall implement a Federal policy in favor of approving six parallel runways running in the east-west direction at O'Hare Airport. It says east-west. It is very specific.

I take issue with my colleague's comments or suggestions that the FAA could change it. In fact, it would be illegal for the FAA to reposition those runways in a northwest-southeast direction. Mayor Daley's and Senator DURBIN's exact runway design will be locked into Federal statutory law if my colleague's bill passes.

That is one of the objectives my colleague has. He wants to straightjacket the FAA, put a gun to the FAA's head, and force them to approve a bad runway design that has never been reviewed by any Federal aviation expert. It has never been tested in any modeling. In fact, it appears to be the back-of-a-napkin design.

Mayor Daley was before the Senate Commerce Committee, and he admitted that the city of Chicago had never itself done any studies to back up that design.

There is another goal my colleague is trying to accomplish with S. 2039. Right now, the city of Chicago has the power to condemn lands around O'Hare Airport and communities around O'Hare Airport, provided Mayor Daley gets a permit from the State of Illinois

to do that. Senator DURBIN's bill would remove the requirement that Mayor Daley get a permit from the State before he condemns the communities around O'Hare. They cannot pass legislation in the State senate that would get rid of the permit requirement. So they have decided to come to Congress in Washington and to strip away the State's law and permit requirement at the Federal level.

If my colleague's bill passes, that will mean Mayor Daley could condemn all the communities around O'Hare without getting a permit from anybody. He would have an unfettered ability to condemn properties in communities that are outside the city of Chicago.

Imagine if the mayor of Minneapolis could go willy-nilly and condemn communities all around Minneapolis. Imagine what the communities around Minneapolis would think.

I think the State legislature was wise in imposing a requirement that the mayor of Chicago, before he goes out and condemns communities around his city, get a permit from the State of Illinois. I think the Federal Government would unbalance that wise State law if we were to remove that permit requirement.

If one person had the ability to willy-nilly condemn all parts of the Chicago area around O'Hare Airport, that would literally give the mayor of Chicago unfettered license to run over anybody he wanted at any time he wanted. I don't think this body should be part of conferring that kind of unfettered ability to run over people on the mayor of Chicago.

There are delays at O'Hare Airport right now. That is no doubt true. I stood right here 2 years ago and warned Congress not to lift the delay controls at O'Hare Airport. From 1969 to 1999—for 30 years—the FAA had delay controls at O'Hare Airport so that the airlines didn't schedule more flights than the airport had the capacity to handle.

In 1999, Congress took off the delay controls, allowing the airlines to schedule more flights than O'Hare had the capacity to handle. I warned that we would have horrible delays if we lifted those delay controls. That happened. There were interim studies by the FAA which showed that if the delay controls at O'Hare were lifted, delays would go up exponentially, and they have.

In my judgment, that was a deliberate attempt by United Airlines and American Airlines to cause delays at O'Hare and to build pressure to further expand O'Hare in an attempt to block a third airport which has been needed in Chicago for nearly 30 years. That is what we now see.

I also note that while Senator DURBIN's legislation would require the FAA, or force, or command the FAA to

approve a runway expansion plan at O'Hare that would increase the capacity of the runways by 78 percent, at the same time the plan is to build new terminals which would only add 12 new gates.

This is a very bizarre plan that Congress is entering into. We are going to expand runway capacity by 78 percent, but we are only going to add 12 new gates. That really means that once runway capacity is expanded at O'Hare, it will be possible under this plan to land a plane but you will have nowhere to park it. It doesn't make any sense. It is not appropriate for Congress to be wresting control of airport design from the FAA and curtailing the FAA's discretion. We should leave the FAA's discretion intact.

If Senator DURBIN believes his runway design for O'Hare Airport has merit, then he should file an application with the FAA and see if the FAA approves it. He should not seek an end-run around the rules that all the other airports in the country abide by, nor should this body be part of stripping away the State of Illinois' requirement that the mayor of the city of Chicago get a permit before he condemns properties and communities that are outside the city of Chicago.

It is not right to give the mayor of Chicago unfettered ability to run over anyone he wants at any time he wants.

S. 2039 is an unfortunate piece of legislation. I will do everything I can to prevent its passage.

I note one good development. The House of Representatives took this bill up in just the last couple of days—I believe on Wednesday—a House companion bill to S. 2039. The House committee stripped out the language that had the effect of putting a straightjacket around the FAA and commanding the FAA to approve a specific runway design at O'Hare Airport. Even the House committee recognizes the impropriety of Congress putting a gun to the head of the FAA and forcing them to approve a specific runway design.

The House legislation simply allows Chicago to file a plan with the FAA and to be considered the same way any other airport expansion program or proposal is considered anywhere else in the country. Unfortunately, however, the House legislation does have the language giving the mayor of the city of Chicago unfettered condemnation authority, which I think is, as I pointed out earlier, a big mistake.

So with that, I do look forward to the debate. I am sure the debate will be coming. And if I cannot defeat this legislation, I ultimately want to change or modify it to make it less egregious than it now is. In its current form, it is such an egregious piece of legislation that I think it would be inappropriate for our Senate to devote time to it when we have Medicare prescription

drug issues, homeland security, and 13 appropriations bills we still have not addressed.

With that, Mr. President, I thank this body for affording me this time to speak. I yield the floor and wish all my colleagues a good Fourth of July recess.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NELSON of Florida). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. REID pertaining to the introduction of S. 2697 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that we proceed to a period of morning business, with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PATENT AND TRADEMARK AUTHORIZATION ACT OF 2002

Mr. LEAHY. Mr. President, I am pleased that the Senate passed a bill which I introduced, the Patent and Trademark Authorization Act of 2002, which was reported out of the Judiciary Committee last week without objection. I appreciate that Senators HATCH, CANTWELL, REID, BENNETT and CARPER joined with me in co-sponsoring this bill.

This bill, the Patent and Trademark Authorization Act of 2002, will send a strong message to America's innovators and inventors that the Congress intends to protect and enhance our patent system. The PTO serves a critical role in the promotion and development of commercial activity in the United States by granting patents and trademark registrations to our Nation's innovators and businesses.

The costs of running the PTO are entirely paid for by fees collected by the PTO from users, individuals and companies that seek to benefit from patent and trademark protections. However, since 1992 Congress has diverted over \$800 million of those fees for other government programs unrelated to the PTO.

This bill sends a strong message that Congress should appropriate to the PTO a funding level equal to these fees. The reason for this is simple: the creation of intellectual property by Americans, individuals and businesses, is a

massive positive driving force for our economy and is a huge plus for our trade balance with the rest of the world. In recent years, the number of patent applications has risen dramatically, and that trend is expected to continue. Our patent examiners are very overworked, and emerging areas such as biotechnology and business method patents may overwhelm the system.

If fully implemented as intended, this bill can greatly assist the PTO in issuing quality patents more quickly, which means more investment, more jobs and greater productivity for American businesses.

The House of Representatives has passed a bill, H.R. 2047, which contains some similar provisions but just for fiscal year 2002 regarding the authorization of appropriations. That bill, H.R. 2047, was also passed by the Senate but amended to include the text of S. 1754, as reported out of the Judiciary Committee. This will provide the Congress the greatest opportunity to get this reform on the President's desk for signature.

Note that the Judiciary Committee reported out a substitute bill, with the assistance of Senator HATCH, which simply moved back some dates in S. 1754, as originally introduced. I am including a short explanation of S. 1754, as reported. This explanation also applies to the version of H.R. 2047 as passed by the Senate.

Section 1 of the bill sets forth the title, "The Patent and Trademark Office Authorization Act of 2002."

Section 2 authorizes Congress to appropriate to the PTO, in each of fiscal years 2003 through 2008, an amount equal to the fees estimated by the Secretary of Commerce to be collected in each of the next 5 fiscal years. The Secretary shall make this report to the Congress by February 15 of each such fiscal year.

This bill thus sets forth the goal, strongly supported by users of the patent system, that the PTO should have a budget equal to the fees collected for each year. In recent years, the appropriations' committees have not provided annual appropriations equal to the fees collected. This bill sets forth the wishes of the committee, and now the Senate as a whole, that the PTO be funded at levels determined by the anticipated fee collections.

Section 3 of the bill directs the PTO to develop, in the next three years, an electronic system for the filing and processing of all patent and trademark applications that is user friendly and that will allow the Office to process and maintain electronically the contents and history of all applications. Of the amount appropriated under section 2, section 3 authorizes Congress to appropriate not more than \$50 million in fiscal years 2003 and 2004 for the electronic filing system. The PTO is working on this electronic system.

In section 4, the bill requires the Secretary of Commerce to annually report to the Judiciary Committees of the House of Representatives and the Senate on the progress made in implementing its strategic plan. The PTO issued a short version of its "21st Century Strategic Plan" on June 3, 2002, which is available on their website.

The bill also contains two sections which will clarify two provisions of current law and thus provide certainty and guidance to the PTO as well as inventors and businesses.

Section 5 of S. 1754 expands the scope of matters that may be raised during the reexamination process to a level which had been the case for many years. In background, Congress established the patent reexamination system in 1980 for three purposes: to attempt to settle patent validity questions quickly and less expensively than litigation; to allow courts to rely on PTO expertise; and, third, to reinforce investor confidence in the certainty of patent rights by affording an opportunity to review patents of doubtful validity.

This system of encouraging third parties to pursue reexamination as an efficient method of settling patent disputes is still a good idea. However, by clarifying current law this bill increases the discretion of the PTO and enhances the effectiveness of the reexamination process. It does this by permitting the use of relevant evidence that was considered by the PTO, but not necessarily cited. Thus, adding this new language to current law will help prevent the misuse of defective patents, especially those concerning business method patents.

It permits a reexamination based on prior art cited by an applicant that the examiner failed to adequately consider. Thus, this change allows the PTO to correct some examiner errors that it would not otherwise be able to correct. In a sense it deals with *In re Portola Packaging*, 110 F.3d 786, Fed. Cir. 1997, in a manner which should reduce the number of cases which will be handled in Federal court in a manner that fully protects the rights of interested parties, and the public interest. Thus, section 5 does not change the basic approach of current law but rather eliminates a presumption which could be wrong, allowing for mistakes to be fixed without expensive litigation.

Section 6 of the bill modestly improves the usefulness of inter partes reexamination procedures by enhancing the ability of third-party requesters to participate in that process by allowing such a third party to appeal an adverse reexamine decision in Federal court or to participate in the appeal brought by the patentee. This may make inter partes reexamination a somewhat more attractive option for challenging a patent in that a third party should feel more comfortable that the courts can

be accessed to rectify a mistaken reexamination decision. This section should increase the use of the reexamine system and thus decrease the number of patent matters adjudicated in Federal court.

I look forward to working with the other body to assure that this bill becomes law as soon as possible. I appreciate the work of Herb Wamsley of the Intellectual Property Owners Association on this bill, and of Marla Grossman who worked with us in this effort. Also, I want to thank Mike Kirk of the American Intellectual Property Law Association for his help on these patent fee matters over the years.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in August 2001 in Monmouth County, NJ. Seven people assaulted a 23-year-old learning disabled man with hearing and speech impediments. The victim was lured to a party, bound, and physically and verbally assaulted for three hours. Later, he was taken to a wooded area where the torture continued until he was able to escape. The perpetrators were sentenced on multiple counts in connection with the incident, including aggravated assault and harassment by bias intimidation.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

GETTING ANSWERS

Mr. DORGAN. Mr. President, during England's darkest hour in 1940, Winston Churchill spoke of an unwavering sense of purpose. "You ask, what is our aim? I can answer in one word: it is victory, victory at all costs, victory in spite of all terror," he told members of Parliament.

Sixty years later, we here in the United States are fighting a different kind of terror, terrorists who hide in caves and plan the murder of thousands of innocent Americans, but our resolve to defeat it matches that of Churchill. Some have expressed concerns that the investigations of how our intelligence and law enforcement authorities handled information prior to 9-11 will weaken our efforts to defeat terrorists.

Frankly, I think the questions that are being raised will strengthen our efforts to defeat terrorism. We have a lot of good men and women working in the CIA, the FBI and other agencies. But evidence, we have learned in recent months, suggests that there is a layer of bureaucracy and resistance in the management of some of these critical agencies that stifles the efforts of good law enforcement and good intelligence when tracking terrorists.

We have to fix that. Our job is to prevent the next act of terror and if the bureaucracy is clogging the arteries of our intelligence and law enforcement agencies, then we have to get rid of it.

Consider this: six months after Mohammed Atta and Marwan Al-Shehhi flew huge jets into the World Trade Center, the U.S. Immigration and Naturalization Service inexplicably sent notice their visa status had been changed from travel to student. In recent weeks, reports indicate a Phoenix FBI agent alerted headquarters of his suspicions about Middle Eastern men taking flight lessons. Minneapolis agent Coleen Rowley has complained bitterly that her office's efforts to obtain a search warrant about a suspected hijacker were ignored. Now the CIA says that it was tracking two of those who committed terrorist's acts on 9-11, but there is controversy over whether the FBI was actually notified. As a result the terrorists moved in and out of our country with ease. These and other reports, in recent months, raise real concerns about how these federal intelligence and law enforcement agencies are working to prevent future acts of terrorism.

When people begin to raise questions about these issues, some claim that the intent is to criticize President Bush.

President Bush, indeed any President, would have moved heaven and earth to prevent the catastrophe of 9-11 if he had received any advance warning. These inquiries are not about the President or the White House. They are about the effectiveness of our Federal agencies in the war against terrorism here at home.

The information disclosed in recent months about some of the failures of these agencies has come from people working inside the agencies. These are employees of the FBI and other agencies who are blowing the whistle on agency managers who fail to see the gravity of this situation and refuse to take appropriate actions.

For example, Minneapolis FBI agents were admonished by their superiors for sharing information with the CIA in the case of suspected terrorist, Zacarias Moussaoui, who had links to Osama bin Laden. That is unacceptable. These agencies need to work together. Preventing the next terrorist act is a tough job, and we will succeed only if we have all of the resources working full time and cooperating fully.

In recent months and weeks, the head of Homeland Security has warned our country the terrorist attacks against the United States could happen at any time. That's why these agencies and their officials have to be fighting the battle against terrorists, not turf battles between their agencies.

Big, bureaucratic and slow doesn't get it anymore. We deserve better from these agencies. What if there is critical information right now in the possession of one agency that is not sharing it with another? Are those who dropped the ball last year in these agencies. The same ones we now rely on to prevent another terrorist nightmare?

The answer to these questions is why this is such an urgent matter. We, the President, the Congress and the American people, deserve the unvarnished facts so that we can move ahead and protect our country, so I say let's do these investigations. Let's make sure that they don't turn into a circus. As Sergeant Joe Friday used to say, "Just the facts, ma'am." Let's use those facts to make the changes these agencies so that the men and women of the FBI, the CIA and other agencies who are very capable and serve America well, are able to do their jobs successfully.

Only then, as Winston Churchill did, can we finally win the war against terrorism.

PLEDGE OF ALLEGIANCE

Mr. ALLARD. Mr. President, I would like to speak on the ridiculous ruling of the Ninth U.S. Circuit Court of Appeals. Literally ridiculous; it deserves to be ridiculed. It was a 2-1 decision, so there is, at least, one judge on the Court who can rule based on the same legal and civic theory that the rest of the country has been operating under for the last 226 years.

I cannot accept removing "under God" from the Pledge of Allegiance. This ruling is appalling. I never thought I would see the day when saying the Pledge of Allegiance would be declared unconstitutional by a court. I certainly did not think I would see it on the day I placed my hand on a Holy Bible and made an Oath at my swearing in.

The Magna Carta of 1215, considered the initial codification of Western democratic theory, clearly shows that power is granted from "above." Not "above" from a judge's bench, but higher—from an Almighty Power. Every major assertion of our fundamental political thought references God, and not in passing, but as a cornerstone of human life.

Sometimes it is again literally a cornerstone. The Jefferson Memorial has quotes from that great man, which contain references to God carved into the stone. The Lincoln Memorial also has a testament to that President's

commitment to God cut into the very marble. Anyone reading his Second Inaugural must know his view of a daily presence of God in the affairs of man and in the political life of this nation. The Holocaust Memorial facade quotes scriptures. So does our Library of Congress, Union Station, Constitution Hall, and many others.

Even William Shakespeare's Puck is quoted referring to God over outside the Folger Shakespeare Theater—in a quote that I think rings especially true regarding certain court rulings—"Lord, What fools these mortals be." Lord, what foolish rulings these judges make. There has already been discussions on this floor regarding our coins, our money, and this very Chamber. I don't bring these up just to worry aloud as to whether they are soon to be ruled against as well, but to show that our nation was incorporated under God, and an attempt to excise God from this Republic is wrong and lacking in historical and legal insight.

Our citizens are free from an official state religion—not forced to be free from religious thought.

When President Eisenhower signed the law adding "under God" to the pledge, he was not doing so in attempt to lead this Nation down a Godly path. It was not using the bully pulpit to attempt to steer a course. He was affirming that this nation has already consistently and thoroughly incorporated belief in and submission to God.

We separated ourselves from the United Kingdom under the laws of Nature's God, claiming the unalienable rights we were endowed with by our Creator and appealing to the Supreme Judge of the world for recititude of our intentions. We have continued this way ever since—no matter what the Ninth might say.

Finally, I want to make it clear that I am not merely upset about the fact that the Pledge of Allegiance was ruled against. I want to also speak against the ongoing assault on our basic religious beliefs. As my friend Senator SESSIONS voiced earlier, this is just another result of a dangerous and radical viewpoint that is held by an irresponsible few. Few as they are compared to our citizens as a whole, there are far too many in this body and elsewhere who express beliefs and support for radical judges that cannot help but lead us to these types of decisions. We do not jump from a nation that believes itself endowed by its Creator with unalienable rights to a nation where the Pledge of Allegiance can be ruled unconstitutional without many intervening steps along the way. Those of us who oppose the many small steps taken down this path welcome those who finally stand aghast at where we end up. I hope this body and the Nation will move to correct the error.

REPORT ON TRIP TO BULGARIA, MACEDONIA, KOSOVO, SLOVAKIA, SLOVENIA AND BRUSSELS

Mr. VOINOVICH. Mr. President, over the Memorial Day recess, I joined seven members of the House of Representatives to participate in the spring meeting of the NATO Parliamentary Assembly. Twice a year, legislators from NATO member countries and seventeen countries that have been given "associate" status—including NATO aspirants and members of the Partnership for Peace program—gather to discuss significant issues facing the Alliance.

At the forefront of the agenda this year were issues related to the war on terrorism, and questions that will be raised when NATO heads of state meet in Prague this November, including: the future direction of the Alliance; the growing gap in military capabilities between the United States and our European allies; and the selection of new members.

This was the third year that I have participated in the NATO Parliamentary Assembly's spring gathering. The meeting took on a new urgency as the Alliance continues to confront a changed international security environment in the aftermath of the terrorist attacks on September 11th. As parliamentarians discussed the military campaign in Afghanistan and the role of NATO in the war on terror, I reminded my European counterparts of the need to invest in the defense budgets of their respective countries. Without fundamental military capabilities such as strategic airlift and command and control systems, the European contribution to the global war on terrorism will continue to be limited.

It was clear throughout the meeting that the events of 9-11 have impacted discussions in many areas, including expansion of the Alliance. During consideration of a Declaration on NATO Enlargement, I introduced an amendment calling attention to the significant threats that terrorism and the proliferation of weapons of mass destruction pose to NATO countries, and recognizing that as NATO considers enlargement, the Alliance remains open to tolerant, democratic societies, which embrace values that terrorism seeks to destroy.

As the meeting progressed, I also expressed my strong support for a robust round of enlargement during the Summit of the Alliance in Prague later this year. I share the President's vision of enlargement, articulated in Warsaw, Poland last June, when he said that as we approach Prague: "We should not calculate how little we can get away with, but how much we can do to advance the cause of freedom."

Yet while the Alliance should extend invitations to a number of countries in Prague, I believe it is premature to single out countries for membership at

this point. Instead, we should continue to encourage aspirants to make progress on their membership action plans and move forward with democratic, economic and judicial reforms.

As such, during consideration of the Declaration on NATO Enlargement, I joined Congressman DOUG BEREUTER, the chairman of the U.S. delegation, and other members of the United States Congress at the meeting in abstaining from a vote on an amendment that identified seven countries as ready for membership in the Alliance. Despite U.S. concerns, the amendment was adopted.

While I do not disagree that the countries listed in the amendment—Bulgaria, Romania, Slovakia, Slovenia, Estonia, Latvia and Lithuania—have made some strides in their preparations to join NATO, there are serious discussions that must take place between now and November regarding the selection of new members.

This spring's NATO Parliamentary meeting was especially important to its host country, Bulgaria, which hopes to receive an invitation to join the Alliance in Prague. I remain very interested in discussion about NATO enlargement, and while in Sofia, I was glad to have opportunity to visit with Prime Minister Simeon Saxe-Coburg-Gothé and President Georgi Parvanov to discuss Bulgaria's work to join the Alliance. I also met with Defense Minister Nikolay Svinarov and Foreign Minister Solomon Passy, who I have met with previously in my office in Washington, DC.

My first official visit outside of the NATO session was with Bulgaria's Defense Minister, Nikolay Svinarov. Just minutes before our meeting, Mr. Svinarov spoke to the NATO PA's Committee on Defense and Security, outlining Bulgaria's plans to move forward with defense reforms. His presentation was clear, and I congratulated him on his effort to describe Bulgaria's progress on the defense portion of the membership action plan (MAP). While noting the progress that has been made, I encouraged him to follow through on the vision that he articulated to the NATO parliamentarians. I was impressed with Bulgaria's plan; however, it is evident that there is still a lot of work to be done to implement their ambitious agenda for military reform.

My impressions were reaffirmed several days later when I visited Graf Ignatievo air base, near the city of Plovdiv. The enthusiasm of the officers and pilots at the base was evident. Since 2001, the Bulgarian government has invested in modernization of base infrastructure, upgrading the runway and the flight line and renovating buildings and training facilities. While this is certainly a positive development, I was concerned with the equipment at the base, including Soviet-era

MiG-29 and MiG-21 aircraft. While the MiG-21s will be retired, the Bulgarians hope to upgrade their MiG-29s by 2004, with the goal of full NATO interoperability. There are serious questions not only about whether or not this can actually be done, but also whether this is money wisely spent. As NATO considers questions about military capabilities, it will be important to consider how NATO members and aspirant countries can best invest limited defense dollars to contribute to the overall mission of the Alliance. As Bulgaria continues with defense reforms, this will be one factor to consider.

Bulgaria must also confront challenges in other areas, including the need to move forward with judicial reforms. The government must take action to combat corruption and organized crime. I discussed this issue with Prime Minister Saxe-Coburg-Gothé and President Purvanov, as well as Foreign Minister Passy.

Perhaps one of the most eye-opening conversation I had during my trip to Bulgaria was with FBI Special Agent Victor Moore, who is working with the Bulgarian government and local NGOs to combat human trafficking. As a member of the Helsinki Commission and an active participant in the annual meetings of the OSCE Parliamentary Assembly, I have worked on this issue with Congressman CHRIS SMITH—who has a long record of work to combat the trafficking of men, women and children. I also follow the efforts of the Southeast European Cooperative Initiative (SECI), which aims to combat trans-border crime in the region.

SECI has spearheaded an initiative to combat human trafficking in southeast Europe, and Vic Moore's efforts are tied directly to their objectives. Of his eleven years in the FBI, he spent nine of them working on drug enforcement in New York City. In Bulgaria, he is working to give law enforcement personnel the skills they need to investigate and prosecute human trafficking cases. The Bulgarian government has formed a multi-agency task force, which has liberated more than 160 women, issued 60 arrest warrants and captured approximately 60 traffickers. This important work should continue. I believe it is important that the government take continued steps to strengthen the rule of law and reform the judicial systems. This will be important as NATO evaluates the progress of aspirant countries later this year.

In all of my conversations in Sofia, one thing was clear: the people of Bulgaria, and the members of government who represent them, want to join NATO. Over a breakfast meeting with members of the U.S. delegation at the home of our Ambassador to Bulgaria Jim Pardew, President Parvanov said that there is complete public and political consensus on NATO in Bulgaria.

I am hopeful Bulgaria's enthusiasm for NATO membership remains high,

and the government stays committed to critical reform efforts.

After participating in the NATO Parliamentary Assembly meeting in Sofia, I traveled to Macedonia, Kosovo, Slovakia, Slovenia and Brussels to evaluate the situation in southeast Europe, and to examine progress in Macedonia, Slovakia and Slovenia as they work to join NATO.

Following my arrival in Skopje on Tuesday, May 28, 2002, I had the opportunity to visit with our Ambassador to Macedonia, Larry Butler, and his team at the U.S. Embassy. This was my third trip to Macedonia as a member of the U.S. Senate. I first traveled to Macedonia during the war and visited Stankovic refugee camp; my second trip was in February 2000, and I met with President Trajkovski, Prime Minister Goergievski, and ethnic Albanian leader Arben Xhaferi. At that time, our focus was on Kosovo. Since the spring of 2001, all eyes have been in Macedonia.

In August 2001, following the outbreak of violence in the spring by ethnic Albanian rebels from Macedonia and Kosovo, the government's political parties came together to sign a peace agreement. The plan—called the Ohrid Framework Agreement—called for the passage of laws and constitutional reforms to address concerns of Macedonia's ethnic Albanian minority, which makes up approximately one-third of the country's population.

At the time of my visit last month, the government was expected to pass a final package of laws to implement the Ohrid Framework Agreement. This was a primary topic of discussion in my conversations with our Ambassador and staff at the U.S. embassy, as well as President Trajkovski and Mr. Xhaferi. While the parliament did not act in the days immediately following my visit, as hoped, I was pleased to learn that fifteen of the seventeen outstanding laws were passed last Thursday, June 20, 2002. I am hopeful that action on the remaining issues will be taken soon.

During my meeting with Arben Xhaferi, he stressed the importance of the international community's involvement in Macedonia. He said the United States should continue to play a role in Macedonia—both with its military presence and financial assistance. While I agree with Mr. Xhaferi that U.S. involvement in the region is important, I stressed to him that the people of Macedonia—regardless of ethnicity—must take action to improve the situation in their country. While the international community can play a helpful role, ultimately, things are in the hands of the people and their elected leaders. As such, I encouraged Mr. Xhaferi to move forward with efforts to implement democratic and economic reforms, and to promote respect for the rule of law. I also shared with him my

strong concern with organized crime, corruption and human trafficking in the region, and urged him to take action in this area.

During my meetings, it was also clear that demarcation of the border between Macedonia and Kosovo has become a significant political issue in both Macedonia and Kosovo. Some in Macedonia would like to move forward with the demarcation of border, recognized by the U.N. Security Council, which was formally agreed upon by Macedonia and the Federal Republic of Yugoslavia in March 2001.

Judging from my conversations in Kosovo, however, it was evident that there is not yet a consensus regarding the right time to put down markers along the border. This issue must be approached with caution.

I am also hopeful that free and fair parliamentary elections will take place in Macedonia on September 15, 2002, as planned. The United States and members of the international community, including the European Union, should do everything in their power to stress to leaders in Macedonia the importance of permitting people to go to the polls without incidence this fall.

On Wednesday, May 29, 2002, I spent the day in Kosovo. It was my third trip to Kosovo since February 2000, and the fourth full day that I have spent there. During my time in the Senate, I have been very active on issues affecting southeast Europe, and I have been particularly concerned with the situation of ethnic minorities and respect for minority rights throughout the region—in Bosnia-Herzegovina, Croatia, and the Federal Republic of Yugoslavia, as well as Kosovo. As such, I was glad to have the opportunity to examine this issue in Kosovo last month.

I spent time with the Head of UNMIK Michael Steiner, as well as Commander of KFOR General Valentin. I also met with President Rugova and Prime Minister Rexhepi, and Serb leaders Rada Trajkovic and Ljubomir Stanojkovic. I met with Ambassador John Menzies and his team at the U.S. Office in Pristina, and I was glad to visit with General Lute at KFOR Main and some of our troops at Camp Bondsteel, as well as Ambassador Pascal Fieschi, who heads the OSCE Mission in Kosovo.

Around the time of my visit, the Organization for Security and Cooperation and Europe (OSCE) and the U.N. High Commission on Refugees (UNHCR) released the Ninth Assessment of the Situation of Ethnic Minorities in Kosovo, which describes the quality of life experienced by Kosovo's minority groups.

My impressions after spending time in Kosovo last month reaffirm many of the conclusions reached in the OSCE-UNHCR report: while there has been some improvement for ethnic minorities, there is still a long way to go.

My first reaction was that things seem somewhat better now than they were when I visited nearly 3 years ago. I attribute this to several factors, including work done by the international community, including UNMIK, KFOR, the OSCE and others, as well as the interest that the people of Kosovo have shown in creating their own government following parliamentary elections last November and the election of new leadership in March. I believe the participation of the Serbian minority in the parliamentary elections last November was very important, as was the cooperation of the FRY government, which encourage Kosovar Serbs to vote.

Additionally, I was impressed with the "benchmark" goals that have been outlined by UNMIK, which call for progress in key areas, including respect for the rule of law, strengthening democratic institutions, and building a civil society.

The benchmarks paper also emphasizes respect for minority rights and refugee returns, which deserve attention both from the international community and from the newly elected leadership in Kosovo.

This document is very important, as it lays out a plan for Kosovo. It will be critical for the international community to refer to this document from time to time to assess progress and, as necessary, to redouble efforts in certain areas. In the past, I have been concerned that the international community has not been focused in its vision of Kosovo, and this document offers a positive step in the right direction.

To make real progress, however, we must encourage Michael Steiner and UNMIK to develop a strategic plan and a critical path for the implementation of the benchmark goals. When I attend the OSCE Parliamentary Assembly meeting in Berlin this July, I will encourage the Head of the OSCE Mission in Kosovo, Pascal Fieschi, to do so. This will allow UNMIK to monitor progress on the benchmark goals.

While in Kosovo, I also met with the Commander of KFOR, General Valentin, and discussed with him the security situation in the region. He is optimistic, and believes that there is progress every day. He said things are much better than they were three years ago. Ambassador Fieschi was also encouraged that things have gotten better for Kosovo's minorities, though he indicated that change has been slow.

While I agree that things are somewhat better, the findings in the OSCE-UNHCR report are less upbeat. With regard to security and freedom of movement, the report reads: "Despite the decrease in serious incidents of violence, harassment, intimidation and humiliation of members of minority communities in Kosovo continued to prevail as a feature of daily life." This

affects all of Kosovo's minorities, including Serbs, Roma, Egyptians, Bosniaks, Croats, Albanians, Turks and others.

Serb leaders Rada Trajkovic and Ljubomir Stanojkovic discussed the situation for the Serbian minority with me over lunch in Gracanica, which was my third visit to the city. Though there are still many concerns which must be addressed, I got the general impression that things are somewhat better for the Serbs than they were two years ago. I am encouraged that Dr. Trajkovic and Mr. Stanojkovic are active and participating with the new government, and I believe it is important that they continue to call on others to do the same. I believe it is essential that Serbs participate in the municipal elections this October and take advantage of the opportunity to participate and have a voice at the table of government.

During my visit, I met with Ibrahim Rugova, who was elected President in March. This was my second meeting with Mr. Rugova—we visited when I was in Kosovo in February 2000. At that time, I also met with ethnic Albanian leaders Hashim Thaci and Rexhep Oosja. Two years ago, as Mr. Rugova and others continued to call for independence, I expressed my belief that there could be little serious discussion on independence until the rights of all people in Kosovo—including minorities—were protected. During our meeting in May, I again stressed this point.

In addition to President Rugova, I also met with the new Prime Minister of Kosovo, Bajram Rexhepi, and discussed with him the situation in Kosovo. I was impressed with him during our meeting. He seems to clearly understand work that needs to be done, focusing on the need for refugee returns and respect for minority rights, as well as the need to stimulate economic development. He reminded me that U.S. leadership in Kosovo, and the region at large, is still very important.

While I was pleased that everyone I spoke with during my meetings in Kosovo last month, including President Rugova, Prime Minister Rexhepi, and Michael Steiner, was committed to refugee returns, I am concerned because there are still more minorities leaving Kosovo than returning. With regard to returns, the OSCE-UNHCR report notes that if more people are to actually return, it will "require much more meaningful and broad progress on the main issues," such as security, freedom of movement, essential services and employment.

I also believe it is critical that Mr. Steiner and UNMIK articulate a clear action plan for returns. Additionally, following my visit to Kosovo, I remain very concerned with the situation in Mitrovica, which remains divided between north and south. I believe the only way to achieve any progress will

be if the international community works with the elected leadership in Kosovo to find a solution. While there are different schools of thought as to what should happen in Mitrovica, it is imperative that discussion continues and the parties act to normalize life for all the city's residents. This should happen quickly, and any plan on decentralization to give local communities more a stronger voice should be finalized before the municipal elections in the fall.

I also believe we must watch the situation along the border with Macedonia carefully. This issue has become controversial in both Kosovo and Macedonia. While some in Macedonia would like to move forward with the demarcation of the border, this is a sensitive issue which must be approached calmly and rationally. The people of Kosovo do not support this border agreement, and at the end of May, the Kosovo Assembly passed a resolution denouncing the border agreement—which Michael Steiner immediately annulled. I believe there should be discussion on this matter, with all involved parties together at one table.

Following my time in Kosovo, I traveled to the Slovak Republic to discuss the country's aspirations to join the NATO Alliance, and to assess their progress as they continue to participate in the membership action plan process. Though my time was limited, I was pleased to finally have the chance to travel to Slovakia—which was the only country aspiring to join the NATO Alliance that I had yet to visit.

While in Bratislava, I spent time with our Ambassador to Slovakia, Ron Weiser, who is working hard to promote the merits of democracy, the rule of law and a free market economy as the country looks toward membership in NATO. I believe his work is important in the months leading to parliamentary elections this September, which could be a determining factor in Slovakia's candidacy for NATO membership.

During my visit, I had the opportunity to meet with Prime Minister Mikulas Dzurinda, who has pushed forward with critical economic and democratic reforms in Slovakia since becoming prime minister in 1998. His government has placed a top priority on joining NATO and the European Union. Prime Minister Dzurinda and I discussed ongoing efforts to liberalize the economy, strengthen democratic institutions and modernize the country's armed forces. We also talked about the importance of respecting minority rights including the rights of the country's ethnic Hungarian community. Additional, I expressed my strong concern with the problems of organized crime, corruption and human trafficking in central and eastern Europe, and encouraged the Prime Minister and

his government to move forward with efforts to address these problems.

I also met with Robert Fico, leader of the Smer (Direction) political party, who hopes to be the country's next prime minister. Young and charismatic, Fico's animate campaign signs were all around town as we drove from one meeting to the next. Fico and his colleague also expressed their strong support for Slovakia's membership in NATO and the European Union. As the polls are close, it is possible that he could play a role in the formation of the next government.

Following my arrival at the Bratislava airport, I met with Defense State Secretary Ratislav Kacer. We discussed ongoing defense reforms, and the country's efforts to increase defense spending. During my time in public service, I have often said it is important to "work harder and smarter," and do more with less." Mr. Kacer knew of my philosophy, and said this could be helpful to Slovakia as the country works to modernize with limited resources. He reiterated the country's strong support of NATO, and said the government has aligned its own national defense priorities with issues important to the Alliance.

Additionally, I have the opportunity to visit with ethnic Hungarian Leader Mr. Laszlo Dobos, who was a member of Slovakia's parliament during the 1990s. Dr. Dobos is founder and chairman of Madach Posonium, as a Hungarian non-governmental organization that operates Hungarian bookstores in Slovakia and publishes Hungarian periodicals. We discussed a number of issues of concern to Slovakia's Hungarian community, including higher education and greater autonomy for local governments.

During all meetings in Slovakia, I noted that the upcoming elections will be very important to the future of the country. Voters will decide the direction of the Slovak Republic—and whether it moves toward membership in NATO and the EU, or whether it is left behind as others join the broader European Community of democracies. Values are the hallmark of the NATO alliance, and I believe it is critical that Slovakia embraces the ideals of democracy, the rule of law and respect for human rights, consistent with the current government, and break with the leadership of Vladimir Meciar that has been of strong concern to the United States, the European Union and other members of the international community in the past.

I was also glad to have the opportunity to visit Slovakia to talk about the country's work to join the NATO Alliance. I have long followed developments in Slovenia, and I believe the country is in a very good position as we approach the NATO summit in Prague.

Slovenia has made considerable progress on democratic, economic and

defense reforms, and there is continued discussion on the merits of NATO membership in the public. At the same time, it is important that the government act to bolster public support for NATO, which has continued to hover around 50 percent. It is also imperative that the country work to increase its defense budget to the 2 percent mark. Currently, Slovenia allocates approximately 1.5 percent of GDP for its armed forces.

During my time in Slovenia I had the opportunity to visit with President Milan Kucan, who I have known for many years. We discussed the country's work to join NATO, as well as its progress in efforts to prepare for membership in the European Union. With regard to public opinion, President Kucan indicated that public support for NATO is not a problem. He said people want to discuss the implications of membership in the Alliance and debate the merits of joining NATO. We also discussed Slovenia's progress on military reforms, as well as the country's interest in working to promote security and stability in southeast Europe.

I again discussed these issues and found the same enthusiasm for Slovenia's membership in NATO and the European Union with members of the Slovenian parliament, including the President of Parliament Borut Pahor, President of the Foreign Affairs Committee Jelko Kacin and President of the Defense Committee Doran Marsic. Even the opposition expressed a solid commitment to moving forward with efforts to join the NATO Alliance. During consideration of a resolution on whether or not to have a national referendum on Slovenia's membership in NATO before the Prague summit, there was a very strong consensus that this should not happen until after the November meeting—with 63 agreeing that this should not happen immediately, with 9 opposing.

I also discussed these issues with Prime Minister Janez Drnovšek, who has recently announced his intention to run for President of Slovenia, as well as Minister of Defense Anton Grizold. Additionally, I visited with our ambassador, John Young, and discussed the country's strong candidacy for membership in both NATO and the European Union. I am hopeful that public support for NATO membership will continue to grow, and I am glad that this will be an enlightened decision in Slovenia given the high level of discussion on the issue.

Following meetings in Slovenia on Friday, May 31, 2002, I traveled to Brussels to visit with our Ambassador to NATO, Nick Burns, and the director of Javier Solana's Balkans Task Force, Mr. Stefan Lehne.

During my meeting with Stefan Lehne, I discussed my long interest in southeast Europe and impressions from my recent visits to Macedonia and

Kosovo. I spoke with him about my strong concern with political situation in Macedonia, and urged the European Union to remain involved in efforts to bring all parties to the table to discuss disagreements over the order between Macedonia and Kosovo. I also told him I believe it is essential that the international community do everything in its power to encourage the Macedonian government to remain committed to free and fair parliamentary elections scheduled for this September.

We also discussed my interest in the Stability Pact—in particular, the Stability Pact's Quick Start Infrastructure Projects. I believe it is critical that the Pact make its intentions clear on the Quick Start projects.

Finally, we discussed my concern with organized crime, corruption and trafficking in human beings, drugs and weapons that plague many countries in central and eastern Europe. I encouraged Mr. Lehne to make these problems a top priority, as they undermine efforts on behalf of the international community to promote democratic reforms and respect for the rule of law in many of Europe's new democracies.

With Ambassador Nick Burns, I discussed my interest in NATO enlargement and observations from my visits to Bulgaria, Macedonia, Slovakia and Slovenia. While I share the vision of President Bush for a large round of enlargement in Prague, I expressed to Ambassador Burns my strong concern with the need for continued action in candidate countries.

As we approach Prague, we must decide whether each candidate country has gone far enough to take the necessary steps to join the Alliance. And as we answer that question, we will also ask whether or not action is still needed, and whether reforms are best encouraged if that country is extended an invitation at Prague, or if that country is instead asked to continue reforms while looking toward the next round of enlargement. These will be difficult questions, and we must be prepared to answer them.

I look forward to continued discussion with the administration and my colleagues in the Senate on NATO enlargement in the months ahead, and I encourage NATO aspirant countries to take as many steps as they can between now and November to address issues outlined in their respective Membership Action Plans.

Additionally, I will continue to be active and involved in the Senate on issues affecting southeast Europe. We had a very productive Helsinki Commission hearing to examine the situation for ethnic minorities in Kosovo earlier this month, and I will continue to discuss this issue when I participate in the annual meeting of the OSCE Parliamentary Assembly next week.

ADDITIONAL STATEMENTS

CHILDREN'S AID SOCIETY OF
SOUTHEASTERN MICHIGAN CELEBRATES 140TH ANNIVERSARY

• Mr. LEVIN. Mr. President, I would like to congratulate the Children's Aid Society of Southeastern Michigan (CAS) on its 140th anniversary. In that time CAS has been an organization dedicated in service to children, youth, and families. For nearly a century and a half, CAS has been a dynamic and compassionate presence in the Michigan community.

CAS, the oldest child welfare agency in Michigan, is a non-profit, non-sectarian private organization dedicated to the preservation and quality of family life in Southeastern Michigan based in Detroit. Begun in 1862 by members of the Presbyterian Church to help Civil War orphans, CAS has expanded in the years since to help hundreds of thousands of troubled children and families. CAS aims to build strength within the family unit by providing a variety of comprehensive child and family-focused services, seeking to create the foundation for a better and healthier society.

The services that CAS provides are innovative and humanistic, viewing each individual and problem as unique. For example, the Work Works program gives high-risk youth between the ages of 13 and 17 training in employment skills and helps them in finding a job. Alumni of the program help other staff teach the skills of positive self-esteem, work ethics, and job readiness. Another program, Moving Families in the Right Direction, aims to prevent delinquency and school dropout by strengthening family functioning and relationships. Staff go into homes, schools, and the community to conduct counseling sessions and group work with youth between the ages of 10 and 17 who have been referred to them by the Police Department or Juvenile Court. By giving at-risk children and families early attention, CAS tries to help prevent the family break-up and juvenile delinquency that plagues so much of our country today. CAS also provides day care and has programs for early childhood education, mental health, child abuse, teen families, and parents.

Southeastern Michigan and the larger Detroit metropolitan area are deeply indebted to the work CAS has done for families and children over the last 140 years. Year in and year out CAS has fought to hold families together and ensure the welfare of children. The vital support services that CAS provides help children and parents deal with the difficult personal and societal issues they face in the 21st century. Having performed these important social services for over 140 years is indeed a tremendous accomplishment and deserves hearty commendation.

I know my Senate colleagues will join me in congratulating the Children's Aid Society of Southeastern Michigan for 140 years of success and in wishing it a fruitful future that only adds to its rich legacy of compassion.●

EDS' 40TH ANNIVERSARY

• Mrs. HUTCHISON. Mr. President. I extend my congratulations to EDS and to its employees on the company's 40th anniversary. On June 27, 1962, Electronic Data Systems was incorporated in Texas, and EDS is still headquartered in Plano, TX. The company's initial goal was simply to help companies use their computers more effectively. Since then, EDS has been a leader in the information-technology services industry.

EDS has flourished by adapting to its clients' needs and by providing information-technology and business-consulting services to every sector of the global economy. Evolving from a staff of fewer than 30 to a team of more than 140,000 employees in 50 States and more than 60 countries, EDS helps companies to excel in the digital economy.

In the 1960s, when the business world's use of computers was still novel, EDS recognized an opportunity to help companies use their computers effectively. In the 1970s, EDS expanded into new international markets, which today include some of its fastest-growing opportunities. Over the last two decades, personal computers and Web-based business models have changed the way people and businesses interact and access information. EDS has worked to ensure the strategic technological alignment of its clients in light of these developments.

EDS prides itself on consistently demonstrating resourcefulness and innovation, such as in aiding disaster recovery and providing information security in business continuity efforts. Responding quickly to unmet needs is a hallmark of successful businesses, such as EDS.

I commend EDS for its vitality and innovation, and send the people of EDS best wishes for the future.●

THE VANNEVAR BUSH AWARD FOR
SCIENCE AND TECHNOLOGY TO
ERICH BLOCH

• Mr. LIEBERMAN. Mr. President, I rise to bring to my colleagues' attention the fact that the National Science Board, NSB, has honored Erich Bloch as the 24th recipient of the Vannevar Bush Award for Science and Technology, its highest award for scientific achievement and statesmanship. Mr. Bloch's record of innovation and leadership in the advanced technology sector and the immense impact that his career has had on the field make him especially deserving of lofty praise. He received the award on May 7 in Washington, DC.

Mr. Bloch is a member of the President's Council of Advisors on Science and Technology, a distinguished fellow at the Council on Competitiveness, a former director of the National Science Foundation, and an outspoken supporter of fundamental research in leading innovation. He occupies a senior statesman status in science and engineering and has been a longtime supporter of science and mathematics education programs funded by the Federal Government.

Erich Bloch is a visionary innovator of enormous stature—in both high technology for the private sector—and in the organization and objectives of science and engineering research. Eamon Kelly, National Science Board chair, stated in announcing the honor. "He has been an exceptionally effective communicator of the benefits of public funding for science and technology, and a leader in establishing widely emulated mechanisms for productive partnerships in research and education across public, academic, and private sectors.

Before moving to Washington to become the National Science Foundation's only director from industry, Mr. Bloch was a famed electrical engineer at IBM and was one of the key figures responsible for IBM's STRETCH Computer Systems Engineering Project and in the groundbreaking developments of the IBM Systems 360. Until the 1960s, every computer model was generally designed independently, and at times individual machines were custom modified for a particular customer. The advent of the IBM-360 family of computers changed this forever. All these machines had the same user instruction set, taking advantage of IBM's engineering leadership in powerful disk drive systems. On the smaller machines, many of the more complex instructions were done in microcode rather than in hardware. Mr. Bloch headed IBM's development of the solid logic technology program, which provided IBM with the microelectronics technology for the System/360. Mr. Bloch's leadership ability was one of the key reasons for the success of the System/360. His strategy was to work around organizational structures and, as technical problems were identified, to assign groups or individuals who offered the best proposals. Mr. Bloch was the first to develop an IBM product with a ferrite core memory—a significant achievement in the search for memory technology. Mr. Bloch's accomplishments on the system, and the developments that occurred as part of his management style, helped revolutionize the computer industry and led to his receiving the 1985 National Medal of Technology with his IBM colleagues, Frederick P. Brooks, Jr., and Bob O. Evans.

In his 6-year term as NSF director, Erich Bloch built national support for advances in high-performance computing and networking. Mr. Bloch's important leadership in transitioning

NSFNET to a commercialized Internet helped create an immense economic and societal impact from the 1990s to today. Mr. Bloch supported NSF's take over of the Defense Department's ARPANET, creating the government-owned and managed NSFNET connected to five university-based super-computer centers via a 56-Kbps backbone. NSFNET replaced ARPANET in 1990 and expanded to include a variety of regional networks that linked universities into the backbone network. The only other wide-area networks in existence, all government owned, supported only limited numbers of specialized contractors and researchers. Mr. Bloch supported key colleagues at NSF, like Steve Wolff, and they had the vision to see the power of networking in the academic and research communities, and in the process created a powerful user base, the first real customer base, that would not let the networking revolution stop. Just 10 years later, the Internet was "owned" by no one and managed by a wide variety of commercial and nonprofit organizations on a decentralized basis. NSFNET's backbone operated at 45 Mbps, which was raised to 155 Mbps after NSFNET was decommissioned. NSFNET was decommissioned in 1995 when there was enough commercial Internet service providers, web browsers, and search engines to sustain the networks, operations, and management—nearly 60,000 networks were connected to the backbone. Now, 61.4 percent of the U.S. population has online access according to the latest Nielsen Net Ratings.

According to a report published by the policy division of non-profit corporation SRI International entitled "The Role of NSF's Support of engineering in Enabling Technological Innovation," Erich Bloch played an important leadership role in three key decisions that spurred today's Internet. First, he influenced the NSF decision to make NSFNET an "open" network rather than one that served supercomputer researchers exclusively. NSF decided to make NSFNET a three-tiered, distributed network consisting of backbone, regional or mid-level networks, and local, initially campus-based, networks. Finally, NSF decided to make the Internet self-supporting, and a series of decisions Mr. Bloch backed concerning the implementation of the self-supporting Internet led to its burgeoning. DARPA in the '70's developed the prototype for the Internet, ARPANET. Assisted by Erich Bloch's leadership, NSF played a crucial role in transitioning NSFNET in the 1980s into the remarkable Internet system so important to us today.

Internet innovation was not Mr. Bloch's only role at NSF. Before his arrival at NSF, the agency largely saw computing as a research tool for existing science disciplines. As detailed in

the book, "Funding the Revolution" by the National Research Council, Mr. Bloch treated computing as a new scientific field in its own right, both a new science and an interdisciplinary science connector. Mr. Bloch created a new science directorate at NSF entirely for computing, consolidating all of NSF's computing initiatives in one place, and recruited another famed computer pioneer, Gordon Bell of DEC, to head it up. Computer science was now on a par with the established physical and biological sciences and budgeting at NSF grew from \$23 million in 1984 to \$100 million in 1986 and has continued to rise since then. While NSF had followed distantly behind DARPA's leadership in computing, under Erich Bloch it came into its own and began sponsoring important scientific computing advances.

Erich Bloch has always realized government's significant role in technology development, in coordination with the academic and commercial sectors. In receiving this award, he acknowledged that, "we have learned that in these days of rapid development and keen competition much is to be gained from cooperative activities." He continued that, "the global market is a reality" due to the development of computers, communication networks and IT. "This paradigm change has pushed science and technology to the forefront of policy issues and policy considerations, here and across the globe."

Along with Erich Bloch's key contributions to computing and the Internet and his foresightedness in matters of public policy, he deserves acclaim for the role that he has played in education. His creation of the NSF engineering research centers and science and technology centers reflect his belief in knowledge transfer. He brought together university scientists and industry researchers to provide educational benefits and help transform engineering education as well as to extend fundamental research benefits to industry. In education, Mr. Bloch also oversaw NSF's support of system wide reform for K-12 math and science education, including emphasis on participation by women and minorities in science and engineering. During his tenure, the budget for education and human resources more than tripled and NSF's overall budget increased to \$2 billion.

As a distinguished fellow with the Council on Competitiveness, a private, non-profit organization dedicated to furthering U.S. economic leadership, Mr. Bloch continues to advocate policies that promote the effective use of innovation in the development of the U.S. economy. He is also a member of the President's Council of Advisors on Science and Technology, has been a distinguished visiting professor at George Mason University, has been

awarded 13 honorary degrees from major universities and ten major awards and medals, and serves as a member of numerous boards in both the public and private sectors.

For his remarkable vision, innovation, and continued contributions to the advanced technology sector and to the national interest in the economy and education, Erich Bloch is most deserving of the venerable Vannevar Bush Award. Very few can boast of having made similar contributions to society. I am delighted to bring this honor to the attention of my colleagues, awarded to a computer and Internet pioneer, a visionary research administrator and science educator, to the attention of my colleagues and to express my sincere congratulations to Mr. Bloch.●

ANTI-SEMITISM IN EUROPE

● Mr. SMITH of Oregon. Mr. President, I rise today to call attention to an editorial in today's Washington Post. Anti-Defamation League Director Abe Foxman has written an excellent piece on the recent wave of anti-Semitism in Europe. The Anti-Defamation League today released a telling survey on anti-Semitic attitudes in America and abroad and the results are nothing less than chilling. I would call on all my colleagues to take a look at this important survey and recommit ourselves to stopping all prejudice—particularly anti-Semitism both here and in Europe.

I ask to have today's editorial by Abe Foxman printed in the RECORD.

The editorial follows:

EUROPE'S ANTI-ISRAEL EXCUSE

(By Abraham H. Foxman—Thursday, June 27, 2002)

Throughout history a constant barometer for judging the level of hate and exclusion vs. the level of freedom and democracy in any society has been anti-Semitism—how a country treats its Jewish citizens. Jews have been persecuted and delegitimized throughout history because of their perceived differences. Any society that can understand and accept Jews is typically more democratic, more open and accepting of "the other." The predictor has held true throughout the ages.

During the Holocaust, Jews and other minorities of Europe were dispatched to the camps and, ultimately, their deaths in an environment rife with anti-Semitism. Nearly 60 years later in a modern, democratic Europe that presumably had shed itself of the legacy of that era, Jews have again come under attack. During the past year and a half a troubling epidemic of anti-Jewish hatred, not isolated to any one country or community, has produced a climate of intimidation and fear in the Jewish communities of Europe. Never, as a Holocaust survivor, did I believe we would witness another eruption of anti-Semitism of such magnitude, in Europe of all places. But the resiliency of anti-Semitism is unparalleled. It rears its ugly head in far-flung places, like Malaysia and Japan, where there are no Jews.

The Anti-Defamation League has been taking the pulse of anti-Semitism in America

for more than 40 years. Never did I expect that we would have to do the same in Europe, given the history and our expectation that European anti-Semitism, while not eradicated, would be so marginal and so rejected that it would not be a major concern.

What we found in the countries we surveyed—Britain, France, Germany, Belgium, and Denmark—was shocking and disturbing. Classical anti-Semitism, coupled with a new form fueled by anti-Israel sentiment, has become a potent and dangerous mix in countries with enormous Muslim and Arab populations.

More than 1 million Jews live in these five nations, and their communities are under siege. Who would have believed that we would see the burning of synagogues and attacks on Jewish students, rabbis, Jewish institutions and Jewish-owned property?

While European leaders have attempted to explain away these attacks as a fleeting response to events in the Middle East and not the harbinger of a more insidious and deeply ingrained hatred, the attitudes of average Europeans paint a far different picture. Among the 2,500 people polled in late May and early June as part of our survey, 45 percent admitted to their perception that Jews are more loyal to Israel than their own country, while 30 percent agreed with the statement that Jews have too much power in the business world. Perhaps most telling, 62 percent said they believe the outbreak of anti-Semitic violence in Europe is the result of anti-Israel sentiment, not anti-Jewish feeling. The contrariness of their own attitudes suggest that Europeans are loath to admit that hatred of Jews is making a comeback.

This view may make Europeans more comfortable in the face of what is happening in their countries, by suggesting that this time around, Jews are not the innocent victims but are themselves the victimizers in the Middle East. But the incredibly biased reaction against Israel seen in the poll—despite the fact that Israel under former prime minister Ehud Barak offered the Palestinians an independent state, and despite the fact that Palestinians have carried out a sustained campaign of terrorism against Israeli civilians—speaks to a repressed hostility to Jews that may not be socially acceptable in post-Holocaust Europe. Still, even with such constraints, some 30 percent of Europeans are not averse to expressing their anti-Semitic beliefs openly and directly.

Meanwhile, the Europeans have been tepid in their support for the U.S. war on terrorism and especially the Bush administration's efforts to broker an end to Israeli-Palestinian bloodshed. The Europeans seek to appease Saddam Hussein and other threats to the Western world while blaming Israel, not the Palestinian Authority, for the crisis. All while they minimize the extent of anti-Semitism in Europe and fail to immediately condemn horrific acts of harassment and vandalism. The message to Europe's burgeoning immigrant population is that there is a certain level of acceptance for intolerance.

It is time for Europe to assume responsibility for a situation of its own making. The combination of significant, openly expressed anti-Jewish bias together with irrational anti-Israel opinions creates a climate of great concern for the Jews of Europe. It is not surprising that in such an atmosphere Muslim residents feel free to attack Jewish students and religious institutions not because they are Israelis but because they are Jews. And it is not surprising that some European officials have begun telling Jewish

leaders to advise their numbers to avoid public displays of Jewishness, instead of promising to protect their Jewish communities.

European leaders and officials must see what is going on for what it is—outright anti-Semitism—and condemn the revival of this ancient hatred that had its greatest manifestations on the same continent.

They must acknowledge that the anti-Israel vilification across Western Europe is unacceptable. The recent comparisons of Israelis to Nazis, to Jews as the executors of "massacres" and even as the killers of Christ—these do not fall into the category of legitimate criticism of a sovereign state. They create the very climate that questions the future of Jewish life in Europe.●

PASSING OF JUSTIN W. DART, JR.

● Mr. KENNEDY. Mr. President, I rise today to give tribute to the memory of Justin W. Dart, Jr., the greatest warrior in the fight for the rights of disabled persons. After nearly half a century of tireless advocacy for the civil rights of oppressed people in America and around the world, my friend Justin Dart passed away on Saturday with his wife and partner Yoshiko Dart at his side.

He was often called the Martin Luther King of the disability rights movement even though he called himself "just a foot soldier for the cause of freedom." Justin received five Presidential appointments, and was awarded the Presidential Medal of Freedom, our Nation's highest civilian honor. And without Justin, the Americans with Disabilities Act would never have become the law of the land. Justin's dedication to his vision of a "revolution of empowerment" brought together a fragmented community to march for freedom for Americans with disabilities. He taught us that disabled does not mean unable.

When President Bush signed the Americans with Disabilities Act into law and gave the first pen to Justin, he protested the fact that only three disability activists were on the podium, because he believed that the ADA would never have been accomplished without the power of hundreds of people with disabilities who made the difference. When he finally received the Presidential Medal of Freedom, Justin sent out replicas of this award to hundreds of disability rights activists across the country, writing that "this award belongs to you."

Even in his final words to us he talks of the power and importance of equal rights for all people. Disabled people across the country and around the world owe a great debt to Justin Dart for his love and his commitment to Justice. He is a hero not just to those with disabilities, but to all of us who learned from him and served with him in the great causes he inspired.

As President Kennedy once said, "As the dust of centuries has passed over our cities, we too will be remembered, not for our victories or defeats in bat-

tle or in politics, but for our contribution to the human spirit." Justin Dart brought the human spirit of the disability movement to life, and his spirit will live on through the lives of those he touched.●

HEROES OF OPERATION ENDURING FREEDOM

● Mr. MURKOWSKI. Mr. President, I am pleased to insert in the RECORD the heroic accounts of the 354th Wing and 18th Fighter Squadron at Eielson Air Force Base in Anchorage, AK, for the vital role they played in Operation Enduring Freedom.

The accounts that follow describe the daring mission of three pilots who were involved in a difficult rescue operation. Both Alaska, and the Nation, appreciate and honor their heroism that helped to save lives. I, along with my fellow colleagues, am extremely proud of our men and women who are at this very moment, much like the 354th Wing and 18th Fighter Squadron were doing, defending freedom and democracy around the world.

Today we are a Nation at war. A war against the evil of terrorism. Make no mistake, there are evil people in this world. There are people whose sole purpose on this earth is to harm and kill innocent people. Let us not forget what happened in our country just a short time ago. America's freedom, our freedom, the freedom of this Chamber and of millions of people all over the world, are protected by the men and women who serve in the armed forces.

It is with utmost respect and appreciation that I share the heroic events that took place during Operation Enduring Freedom. But before I do, let me personally comment on why lives were saved based upon the acts of three fine soldiers. It all comes down to training. Our military has an extraordinary ability to prepare our soldiers for battle. Our soldiers are the best in the world. I commend the armed forces for preparing our soldiers for battle and for bringing them home safely. It is no coincidence that our soldiers, who face grave and dire situations, prevail.

Thirty nine lives were saved because of the actions of Lieutenant Colonel Burt A. Bartley, Captain James R. Sears, Jr. and Captain Andrew J. Lipina. The tale of this mission surely seems unreal. A MH-47 helicopter was shot out of the sky. The enemy was fast closing on the downed helicopter where 10 injured soldiers were in need of immediate medical attention. Time was of the essence. Instantly, a rescue operation was put into motion. And this was no simple rescue.

When the enemy is armed and looking to kill, it is imperative that all available resources are put to their maximum utilization. After all available artillery were depleted, a 500 pound bomb was dropped within 100

meters of the crash site, creating a barrier between the wounded soldiers and the advancing enemy. 100 meters, the length of a football field. This allowed the rescue operation to be successfully carried out. As you will read, this was America at its best. I applaud the heroism and bravery of all those involved in this daring rescue.

I ask that the summary of the heroic actions of the 354th Wing and 18th Fighter Squadron at Eielson Air Force Base, be printed in the RECORD.

The material follows:

CITATION TO ACCOMPANY THE AWARD OF THE
SILVER STAR TO BURT A. BARTLEY

Lieutenant Colonel Burt A. Bartley distinguished himself by heroism and courageous action as F-16CG flight lead, 18th Fighter Squadron, in support of Operation ENDURING FREEDOM. Upon learning of a downed MH-47 helicopter, Lieutenant Colonel Bartley departed assigned airspace to immediately support the recovery of thirty-nine personnel on board. Enroute to the site, Lieutenant Colonel Bartley established deconfliction with two Unmanned Aerial Vehicles (UAV) and two F-15Es near the crash site to provide maximum support to the rescue effort. With the F-15Es out of ammunition, Lieutenant Colonel Bartley immediately employed 20mm cannon fire to neutralize the enemy troops that were directly firing upon the survivors. He made two strafing runs with little regard for his own safety into rapidly rising mountainous terrain, and directly in the face of the same small arms fire that downed the helicopter. He then provided a rapid talk-on to his wingman, who was experiencing radio problems, to suppress the advancing enemy troops. His skill and determination forced the enemy troops to stop the attack on the downed helicopter crew and friendly forces and concentrate on digging in for cover approximately 50 meters from the crashed MH-47. After expending all 500 rounds of 20mm ammunition he stayed with the Ground Forward Air Controller (GFAC) on the radio while his wingman passed all critical information to command and control assets and located the tanker. His actions resulted in the flight's ability to maintain continuous contact with the GFAC and continue to threaten the advancing enemy forces for over two and a half hours. Upon returning to the crash site, the GFAC reported that the previously pinned down enemy had begun to close in on their position again. After his wingman had verified from command and control that no other airborne assets had 20mm or light ordnance, Lieutenant Colonel Bartley informed the GFAC of the impending danger and at the GFAC's request dropped 500 pound bombs within 100 meters of the crash site in order to keep the enemy forces at bay. Meanwhile, a second GFAC reported two more critically wounded soldiers requiring immediate evacuation. Lieutenant Colonel Bartley pinned down the enemy, and directed his wingman to coordinate for the air evacuation. He offered to escort the helicopters through the area with numerous small arms threats and Rocket Propelled Grenades. His quick thinking and superior coordination allowed friendly forces to maintain a secure location in extremely close proximity to the impact points and undoubtedly saved the lives of 21 uninjured survivors and 10 wounded in the crash site, and enabled the safe recovery of all 39 Americans. The undaunted leadership, extreme heroism and

courageous actions of Lieutenant Colonel Bartley are consistent with the highest traditions of the United States Air Force.

ANDREW J. LIPINA: DISTINGUISHED FLYING
CROSS NARRATIVE

Captain Andrew J. Lipina distinguished himself by extraordinary heroism and gallantry in action as F-16CG fighter pilot, 18th Expeditionary Fighter Squadron, in support of Operation ENDURING FREEDOM. During the third day of Operation ANACONDA, Captain Lipina learned of a downed MH-47 helicopter with the survivors actively taking fire, and departed assigned airspace to immediately support the recovery effort. Thirty-nine personnel were on board when a Rocket Propelled Grenade (RPG) attack disabled their aircraft. Enroute to the site Captain Lipina quickly took control of external communication and coordinated with command and control assets to relocate air refueling tanker assets to support the rescue effort. He further deconflicted with two Unmanned Aerial Vehicles (UAV) and two F-15Es near the crash site. His formation quickly coordinated with the Ground Forward Air Controller (GFAC) to establish situational awareness. With the F-15E out of ammunition, Captain Lipina immediately employed 20mm cannon fire to neutralize the enemy troops that were directly firing upon the survivors from within 100 meters. He made two strafing runs, each closer to the crash site than the previous, with little regard for his own safety in order to help protect them from being overrun. These strafing passes were not only into rapidly rising mountainous terrain, but also directly in the face of the same small arms that downed the helicopter. His skill and determination forced the enemy troops to stop the attack on the downed helicopter crew and friendly forces and concentrate on digging in under the cover of a tree located approximately 50 meters from the crashed MH-47. After expending all 500 rounds of 20mm ammunition he coordinated with command and control assets to inform them of the disposition of friendly casualties and the location of their tanker. With their assigned tanker experiencing a air-refueling malfunction, Captain Lipina rapidly pointed the formation to the next closest tanker and masterfully coordinated to move it toward the crash site. Upon returning to the crash site from air refueling, the GFAC reported that the previously pinned down enemy had begun to close in on their position again. His actions resulted in the flight's ability to maintain continuous contact with the GFAC and continue to threaten the advancing enemy forces for over two and a half hours. After he had verified from command and control that no other airborne assets had 20mm or light ordnance, Captain Lipina's flight lead dropped 500 pound bombs within 100 meters of the crash site in order to keep the enemy forces at bay. Captain Lipina expertly sanitized the area for MANPADS and anti-aircraft artillery in the hostile and hazardous region of the downed helicopter. This was extremely important since a previous flight has been engaged by MANPADS. Meanwhile a second GFAC reported two critically wounded soldiers requiring immediate air evacuation. While his lead continued to work on pinning down the enemy, Captain Lipina began to coordinate for the air evacuation and offered his remaining bombs to escort the rescue helicopters through an area with numerous small arms and RPG threats. Additionally, he coordinated for other assets to move into position to support the survivors on the

ground. The undaunted courage and heroism of Captain Lipina undoubtedly saved the lives of 21 uninjured survivors and 10 wounded in the crash site and enabled the safe recovery of all 39 Americans.

JAMES R. SEARS JR.: DISTINGUISHED FLYING
CROSS NARRATIVE

Captain James R. Sears Jr. distinguished himself by heroism and extraordinary achievement while participating in aerial flight as F-16CG flight lead, 18th Expeditionary Fighter Squadron on 20 January 2002. Captain Sears distinguished himself as On Scene Commander for a downed CH-53 in a heavily defended area of Taliban control in Northern Afghanistan during Operation ENDURING FREEDOM. During the Combat Search and Rescue he organized, directed, and controlled a total of 13 aircraft including three Unmanned Aerial Vehicles, five helicopters, one C-130, two F-16s, and two F-18s. He rapidly developed a deconfliction plan that ensured the safety of all assets and allowed them to operate within a five nautical mile radius of the downed helicopter.

After receiving the initial coordinates of the crash site he realized they were over one nautical mile off the actual location in heavily mountainous terrain. After a diligent, methodical search of the area, Captain Sears was able to get his eyes on the site, provide a perfect talk-on for his wingman, and direct the other support assets to the crash site. Using on-board sensors, Captain Sears was quickly able to pass updated coordinates to the thousandth of a degree to command and control agencies without compromising the safety of the entire rescue operation. He expertly sanitized the 60 nautical mile ingress and egress route through enemy territory.

Captain Sears then executed the demanding task of rescue escort for two helicopters. This involved maintaining visual contact and constant coverage while flying over 300 knots faster and being 15,000 feet higher than the helicopters. Captain Sears, in conjunction with command and control assets, coordinated a plan to move three separate tankers close enough to the crash site to ensure constant command for the entire time on scene. Captain Sears' flawless flight leadership allowed him to intercept and visually identify a Red Cross aircraft flying in the vicinity of the downed helicopter, not identifiable by electronic means or talking to command and control assets, ensuring the safety of the entire rescue effort. Captain Sears passed off On Scene Commander duties to two United States Navy F-18s after 4.5 hours on scene. Captain Sears' tireless efforts and tremendous focus was unprecedented considering in his single-seat F-16 he flew more than 3500 miles, logged 11.1 hours, and ten air refuelings requiring more than 120,000 pounds of fuel to be unloaded through hostile territory. Captain Sears' courage, superior airmanship, and unwavering devotion to duty in the face of personal danger were instrumental in accomplishing this hazardous mission and were in keeping with the highest traditions of the U.S. Air Force.●

TO JAN OMUNDSON AND PAM ELJ

● Mr. DAYTON. Mr. President, on many occasions in the past year and a half, I have come to the floor on behalf of steelworkers and their families who live on Minnesota's Iron Range in northeastern Minnesota. Like other steel-producing regions, the Iron Range

has been hard hit by unfair foreign imports, devastating the United States steel and iron ore industries. And last year, Minnesota's Iron Range economy was rocked by the bankruptcy and closure of the LTV Steel Mining Company in Hoyt Lakes.

When the LTV Steel Mining Company closed, 1,400 employees were thrown out of work. Many of these men and women had dedicated their entire working lives to LTV. They are hard-working people with families and bills to pay. In addition to the layoffs, 1,700 retirees lost portions of their pensions and all of their health insurance and life insurance.

But if you know anything about Minnesota, you understand that in hard times we pull together and we persevere. This is especially true about the hardworking people of the Iron Range.

Today, I'd like to recognize two very unselfish Minnesotans, Jan Omundson and Pam Elj, who have gone above and beyond the call of normal duty to help the people hurt by the LTV closing.

For the past 3 months, Jan and Pam traveled more than 160 round-trip miles each day, from the Cities of Duluth and Virginia respectively, to help hundreds of displaced LTV employees and retirees understand their health care options. When an economic tragedy like this strikes a community, it's often a very painful, stressful, and confusing time for the families affected. Thanks to Jan and Pam, people affected now have a much better understanding of their benefits and their rights.

In her role as coordinator of the Arrowhead Area Agency on Aging's State Health Insurance Assistance Program, Jan Omundson led this team effort by organizing dozens of informational meetings to educate displaced LTV workers and retirees regarding their options. She was assisted by Pam Elj, who is a counselor with the Arrowhead Economic Opportunity Agency's Senior Insurance Advocacy Program. Together, they met with hundreds of retirees, displaced workers, and their families and outlined detailed and valuable information about options for health care coverage.

Jan and Pam were key to the success of this effort and it would not have been possible without the support and resources of the Arrowhead Regional Development Commission, the Arrowhead Economic Opportunity Agency, the Hoyt Lakes Community Credit Union, the City of Biwabik, and Blue Cross/Blue Shield of Minnesota.

I thank them all for their dedication and assistance during this very difficult time.●

COMMUNITY HERO

● Mr. SMITH of Oregon. Mr. President, today I salute a community leader in my home State of Oregon. I want to

recognize the efforts of Susan Abravanel, Education Coordinator at SOLV, a nonprofit organization in Oregon, in advocating for service-learning, one of the most exciting educational initiatives taking hold in our Nation today.

Service-learning gives students the opportunity to learn through community service, but it is important to note that it is much more than just community service. It is a method of classroom instruction that engages a student's intellect through hands-on work outside the classroom that benefits the community at large. Research shows that students participating in service-learning make gains on achievement tests, complete their homework more often, and increase their grade point averages.

In addition to producing academic gains, service-learning is also associated with both increased attendance and reduced dropout rates. It is clear to educators across the country that service-learning helps students feel more connected to their own education while strengthening their connection to their community as well. It is for all of these reasons that Susan Abravanel is working so hard to advocate for service-learning in classrooms in Oregon and across the nation.

Ms. Abravanel is working closely with my office and with education leaders in Oregon to ensure that my home state remains a national leader in service-learning. Just 2 months ago, I introduced a bill with my colleague, Senator EDWARDS, to strengthen our Nation's commitment to service-learning. I feel confident that this bill will soon become law and that with Ms. Abravanel's continued efforts both here in Washington, DC and at home in Oregon, students will continue to benefit from an education tied to civic engagement.

Ms. Abravanel exemplifies the type of engaged citizen our schools must endeavor to produce, and her persistence will ensure that future generations of Americans will give back to their communities just as she has. I would also like to note that Susan isn't just concerned about education, her interests and efforts in Portland's Jewish community are well known and highly appreciated, she is the new President of the Oregon chapter of the American Jewish Committee. I look forward to working with Susan in her new role at the AJC and thank her for her continuing devotion to service-learning.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 12:29 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3180. An act to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact.

H.R. 3764. An act to authorize appropriations for the Securities and Exchange Commission.

H.R. 4070. An act to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

H.R. 4477. An act to amend title 18, United States Code, with respect to crimes involving the transportation of persons and sex tourism.

H.R. 4598. An act to provide for the sharing of homeland security information by Federal intelligence and law enforcement agencies with State and local entities.

H.R. 5018. An act to direct the Capitol Police Board to take steps to promote the retention of current officers and members of the Capitol Police and the recruitment of new officers and members of the Capitol Police, and for other purposes.

The message also announced that the House insists upon its amendment to the amendment of the Senate to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members to be the managers of the conference on the part of the House:

From the Committee on Ways and Means, for consideration of the House amendment and the Senate amendment, and modifications committed to conference: Mr. THOMAS, Mr. CRANE, and Mr. RANGEL.

From the Committee on Education and the Workforce, for consideration of section 603 of the Senate amendment, and modifications committed to conference: Mr. BOEHNER, Mr. SAM JOHNSON of Texas, and Mr. GEORGE MILLER of California.

From the Committee on Energy and Commerce, for consideration of section 603 of the Senate amendment, and modifications committed to conference: Mr. TAUZIN, Mr. BILIRAKIS, and Mr. DINGELL.

From the Committee on Government Reform, for consideration of section 344 of the House amendment and section 1143 of the Senate amendment, and modifications committed to conference: Mr. BURTON of Indiana, Mr. BARR of Georgia, and Mr. WAXMAN.

From the Committee on the Judiciary, for consideration of sections 111, 601 and 701 of the Senate amendment, and modifications committed to conference: Mr. SENNENBRENNER., Mr. CABLE and Mr. CONYERS.

From the Committee on Rules for considerations of sections 2103, 2105, and 2104 of the House amendment and sections 2103, 2105, and 2104 of the Senate amendment, and modifications committed to conference: Mr. DRIER, Mr. LINDEN and Mr. HASTINGS of Florida.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3180. An act to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact; to the Committee on the Judiciary.

H.R. 3764. An act to authorize appropriations for the Securities and Exchange Commission; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 4070. An act to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes; to the Committee on Finance.

H.R. 4477. An act to amend title 18, United States Code, with respect to crimes involving the transportation of persons and sex tourism; to the Committee on the Judiciary.

H.R. 4598. An act to provide for the sharing of homeland security information by Federal intelligence and law enforcement agencies with State and local entities; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 3937. An act to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3389. An act to reauthorize the National Sea Grant College Program Act, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-7621. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hydrogen Peroxide; An Amendment to an Exemption from the Requirement of a Tolerance; Technical Correction" (FRL6835-3) received on June 18, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7622. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pesticide Tolerance Nomenclature Changes; Technical Amendment" (FRL6835-2) received on June 18, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7623. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pesticide Tolerance Nomenclature Changes; Technical Amendment" (FRL7180-1) received on June 18, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7624. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Rambutan, Longan, and Litchi from Hawaii" (Doc. No. 98-127-2) received on June 24, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7625. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Citrus Canker; Packing in the Quarantined Area" (Doc. No. 99-080-2) received on June 24, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7626. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Pine Shoot Beetle; Addition to Quarantined Areas" (Doc. No. 02-017-1) received on June 24, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7627. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Gypsy Moth Generally Infested Areas" (Doc. No. 02-053-1) received on June 24, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7628. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report on the profitability of the credit card operations of depository institutions for the year 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-7629. A communication from the Senior Paralegal, Regulations, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Capital: Qualifying Mortgage Loan, Interest Rate Risk Component, and Miscellaneous Changes" (RIN1550-AB45) received on June 20, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-7630. A communication from the Senior Paralegal, Regulations, Office of Thrift Su-

pervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Risk-Based Capital Standards: Claims on Securities Firms" (RIN1550-AB11) received on June 20, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-7631. A communication from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, the report of a rule entitled "International Banking Activities: Capital Equivalency Deposits" (12 CFR Part 28) received on June 24, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-7632. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Regulation C (Home Mortgage Disclosure)" (Doc. No. R-1120) received on June 24, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-7633. A communication from the Deputy Secretary, Division of Market Regulation, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Commission Guidance on the Application of Certain Provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, and Rules thereunder to Trading in Security Futures Products" received on June 24, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-7634. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Commonwealth of Puerto Rico; Control of Emissions from Existing Hospital, Medical, and Infectious Waste Incinerators" (FRL7232-4) received on June 18, 2002; to the Committee on Environment and Public Works.

EC-7635. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Louisiana; Control of Emissions of Volatile Organic Compounds from Industrial Wastewater Facilities" (FRL7234-3) received on June 18, 2002; to the Committee on Environment and Public Works.

EC-7636. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Civil Monetary Penalty Inflation Adjustment Rule" (FRL7231-7) received on June 18, 2002; to the Committee on Environment and Public Works.

EC-7637. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Determination of Nonattainment as of November 15, 1999, and Reclassification of the Baton Rouge Ozone Nonattainment Area" (FRL7235-9) received on June 18, 2002; to the Committee on Environment and Public Works.

EC-7638. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Interim Final Determination that State has Corrected the Rule Deficiencies and Deferral of Sanctions, Ventura County Air Pollution Control District, State of California" (FRL7235-7) received on June 18, 2002;

to the Committee on Environment and Public Works.

EC-7639. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Wisconsin: Final Authorization of State Hazardous Waste Management Program Revision" (FRL7237-2) received on June 24, 2002; to the Committee on Environment and Public Works.

EC-7640. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revision to the California State Implementation Plan, South Coast Air Quality Management District" (FRL7227-2) received on June 24, 2002; to the Committee on Environment and Public Works.

EC-7641. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revision to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District" (FRL7227-6) received on June 24, 2002; to the Committee on Environment and Public Works.

EC-7642. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revision to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District" (FRL7220-4) received on June 24, 2002; to the Committee on Environment and Public Works.

EC-7643. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Arizona" (FRL7233-6) received on June 24, 2002; to the Committee on Environment and Public Works.

EC-7644. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; and Designation of Areas for Air Quality Planning Purposes: Arizona" (FRL7233-5) received on June 24, 2002; to the Committee on Environment and Public Works.

EC-7645. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Sandpoint, Idaho, Air Quality Implementation Plan" (FRL7232-1) received on June 24, 2002; to the Committee on Environment and Public Works.

EC-7646. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland Visible Emissions and Open Fire Amendments; Corrections" (FRL7236-8) received on June 24, 2002; to the Committee on Environment and Public Works.

EC-7647. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air

Quality Implementation Plans; Wisconsin; Excess Volatile Organic Compound Emissions Fee Rule" (FRL7226-8) received on June 24, 2002; to the Committee on Environment and Public Works.

EC-7648. A communication from the Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "NASA Grant and Cooperative Agreement Handbook—Miscellaneous Changes" (14 CFR Part 1260) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7649. A communication from the Attorney-Advisor, Bureau of Transportation Statistics, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Air Carrier Traffic and Capacity Data by Nonstop Segment On-Flight Market" (RIN2139-AA08) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7650. A communication from the Attorney-Advisor, Transportation Security Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Private Charter Security Rules" (RIN2110-AA05) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7651. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Ohio River Miles 252.0 to 253.0, Middleport, Ohio" ((RIN2115-AA97) (2002-0088)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7652. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Port of Tampa, FL" ((RIN2115-AA97) (2002-0090)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7653. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; St. Croix, U.S. Virgin Islands" ((RIN2115-AA97) (2002-0091)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7654. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; San Juan, Puerto Rico" ((RIN2115-AA97) (2002-0092)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7655. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Buffalo River, Buffalo, NY" ((RIN2115-AA97) (2002-0093)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7656. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Navy Pier, Lake Michigan, Chicago Harbor, IL" ((RIN2115-AA97) (2002-0095)) re-

ceived on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7657. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Atlantic Avenue Bridge (SR 806), Atlantic Intracoastal Waterway, mile 1039.6, Delray Beach, FL" ((RIN2115-AE47) (2002-0056)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7658. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Ohio River Miles 269.0 to 270.0, Gallipolis, Ohio" ((RIN2115-AA97) (2002-0087)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7659. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Silver Dollar Casino Cup Hydroplane Races, Lake Washington, WA" ((RIN2115-AA97) (2002-0089)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7660. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Long Island Sound Marine Inspection and Captain of the Port Zone" ((RIN2115-AA97) (2002-0102)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7661. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations; SLR; Naticoke River, Sharptown, MD" ((RIN2115-AE46) (2002-0015)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7662. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Kill Van Kull Channel, Newark Bay Channel, South Elizabeth Channel, Elizabeth Channel, Port Newark Channel and New Jersey Pierhead Channel, New York and New Jersey" ((RIN2115-AA97) (2002-0096)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7663. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Tampa Bay and Crystal River, FL" ((RIN2115-AA97) (2002-0097)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7664. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations; SLR; Back River, Hampton, Virginia" ((RIN2115-AE46) (2002-0016)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7665. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of

a rule entitled "Safety/Security Zone Regulations; Fort Vancouver Fireworks Display, Columbia River, Vancouver, Washington" ((RIN2115-AA97) (2002-0098)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7666. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Liquefied Hazardous Gas Tank Vessels, San Pedro Bay, California" ((RIN2115-AA97) (2002-0099)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7667. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Ports of Jacksonville and Canaveral, FL" ((RIN2115-AA97) (2002-0100)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7668. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Hatchett Creek (US 41), Gulf Intracoastal Waterway, Venice, Sarasota County, FL" ((RIN2115-AE47) (2002-0057)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7669. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Atlantic Intracoastal Waterway, mile 1069.4 at Dania Beach, Broward County, FL" ((RIN2115-AE47) (2002-0058)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7670. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regulated Navigation Areas; Chesapeake Bay Entrance and Hampton Roads, VA and Adjacent Waters" ((RIN2115-AE84) (2002-0009)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7671. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Ohio River mile 34.6 to 35.1, Shippingport, Pennsylvania" ((RIN2115-AA97) (2002-0101)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7672. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations; Norfolk Harbor, Elizabeth River, Norfolk and Portsmouth, Virginia" ((RIN2115-AE46) (2002-0017)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7673. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations; Northeast River, North East, Maryland" ((RIN2115-AE46) (2002-0018)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7674. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations; SLR; SAIL MOBILE 2002, Port of Mobile, Mobile, Alabama" ((RIN2115-AE46) (2002-0019)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7675. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Racine Harbor, Lake Michigan, Racine, Wisconsin" ((RIN2115-AA97) (2002-0094)) received on June 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7676. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Hazardous Materials: Requirements for Maintenance, Reclassification, Repair and Use of DOT Specification Cylinders" (RIN2137-AD58) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7677. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 767-200, 300, and 300F Series Airplanes" ((RIN2120-AA64) (2002-0287)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7678. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 777-200 and 300 Series Airplanes" ((RIN2120-AA64) (2002-0288)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7679. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Air Tractor Inc. Models AT 502, 502A, 502B, and 503A" ((RIN2120-AA64) (2002-0289)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7680. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Security Considerations for the Flightdeck on Foreign Operated Transport Category Airplanes; Request for Comments" (RIN2120-AH70) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7681. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter Deutschland Model EC135 Helicopters" ((RIN2120-AA64) (2002-0285)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7682. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bell Helicopter Textron, Inc. Model 205A, 205A1, 205B, 212, 412, 412EP, and 412CF Helicopters" ((RIN2120-AA64) (2002-0286)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7683. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Gulfstream Aerospace LP Model Galaxy and Gulfstream 200 Airplanes" ((RIN2120-AA64) (2002-0291)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7684. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Aircraft Company Model 390 Airplanes" ((RIN2120-AA64) (2002-0290)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7685. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (30); Amdt. No. 3009" ((RIN2120-AA65) (2002-0038)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7686. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (46); Amdt. No. 3007" ((RIN2120-AA65) (2002-0040)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7687. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Calipatria, CA" ((RIN2120-AA66) (2002-0095)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7688. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Thens, OH" ((RIN2120-AA66) (2002-0094)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7689. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (76); Amdt. 3008" ((RIN2120-AA65) (2002-0039)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7690. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (42); Amdt. No. 3010" ((RIN2120-AA65) (2002-0037)) received on June 24, 2002; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1175: A bill to modify the boundary of Vicksburg National Military Park to include the property known as Pemberton's Headquarters, and for other purposes. (Rept. No. 107-183).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

H.R. 1384: To amend the National Trails System Act to designate the route in Arizona and New Mexico which the Navajo and Mescalero Apache Indian tribes were forced to walk in 1863 and 1864, for study for potential addition to the National Trails System. (Rept. No. 107-184).

H.R. 2234: A bill to revise the boundary of the Tumacacori National Historical Park in the State of Arizona. (Rept. No. 107-185).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 2037: A bill to mobilize technology and science experts to respond quickly to the threats posed by terrorist attacks and other emergencies, by providing for the establishment of a national emergency technology guard, a technology reliability advisory board, and a center for evaluating antiterrorism and disaster response technology within the National Institute of Standards and Technology. (Rept. No. 107-186).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2428: A bill to amend the National Sea Grant College Program Act. (Rept. No. 107-187).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, without amendment:

H.R. 3322: A bill to authorize the Secretary of the Interior to construct an education and administrative center at the Bear River Migratory Bird Refuge in Box Elder County, Utah.

H.R. 3958: A bill to provide a mechanism for the settlement of claims of the State of Utah regarding portions of the Bear River Migratory Bird Refuge located on the shore of the Great Salt Lake, Utah.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 281: A resolution designating the week beginning August 25, 2002, as "National Fraud Against Senior Citizens Awareness Week".

S. Res. 284: A resolution expressing support for "National Night Out" and requesting that the President make neighborhood crime prevention, community policing, and reduction of school crime important priorities of the Administration.

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment:

S. 1339: A bill to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

S. 2134: A bill to allow American victims of state sponsored terrorism to receive compensation from blocked assets of those states.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 2633: A bill to prohibit an individual from knowingly opening, maintaining, managing, controlling, renting, leasing, making available for use, or profiting from any place for the purpose of manufacturing, distributing, or using any controlled substance, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEVIN for the Committee on Armed Services.

Air Force nomination of Gen. Ralph E. Eberhart.

Army nomination of Brig. Gen. John M. Urias.

Army nominations beginning Brig. Gen. George W.S. Read and ending Col. Larry Knightner, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2002.

Army nominations beginning Brig. Gen. Edwin E. Spain III and ending Col. Dennis E. Lutz, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2002.

Army nomination of Brig. Gen. Joseph G. Webb, Jr.

Army nominations beginning Brig. Gen. Wayne M. Erck and ending Col. John P. McLaren, Jr., which nominations were received by the Senate and appeared in the Congressional Record on June 11, 2002.

Navy nomination of Rear Adm. Phillip M. Balisle.

Navy nomination of Rear Adm. Robert F. Willard.

Air Force nominations beginning Brigadier General Robert Damon Bishop, Jr. and ending Brigadier General Stephen G. Wood, which nominations were received by the Senate and appeared in the Congressional Record on February 15, 2002.

Mr. LEVIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Army nominations beginning Timothy C * Beaulieu and ending William E Wheeler, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2002.

Army nominations beginning Duane A Belote and ending Neal E * Woollen, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2002.

Army nominations beginning John C Aupke and ending Steven R Young, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2002.

Army nominations beginning Ann M Altman and ending Angelia L * Wherry, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2002.

Army nominations beginning Ryo S Chun and ending John K Zaugg, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2002.

Marine Corps nominations beginning Derek M Abbey and ending Mark D Zimmer, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2002.

Army nomination of Michael J. Meese.

Army nominations beginning Steven A. Beyer and ending James F. Roth, which

nominations were received by the Senate and appeared in the Congressional Record on June 5, 2002.

Army nomination of Jay A. Jupiter.

Army nomination of Andrew D. Magnet.

Army nominations beginning Bernard Coleman and ending Michael A. Stone, which nominations were received by the Senate and appeared in the Congressional Record on June 5, 2002.

Air Force nomination of Sharon G. Harris.

Air Force nominations beginning Nicola A. * Choate and ending Nicholas G. * Viyouth, which nominations were received by the Senate and appeared in the Congressional Record on June 7, 2002.

Air Force nominations beginning Kathleen N. Echiverri and ending Jeffrey E. Haymond, which nominations were received by the Senate and appeared in the Congressional Record on June 7, 2002.

Army nomination of Robert A. Mason.

Army nominations beginning Richard E. Humston and ending Dwight D. Riggs, which nominations were received by the Senate and appeared in the Congressional Record on June 7, 2002.

Army nomination of Nanette S. Patton.

By Mr. LEAHY for the Committee on the Judiciary.

Lavenski R. Smith, of Arkansas, to be United States Circuit Judge for the Eighth Circuit.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ENSIGN:

S. 2688. A bill to amend title XVIII of the Social Security Act to waive the part B late enrollment penalty for military retirees who enroll by December 31, 2003, and to provide a special part B enrollment period for such retirees; to the Committee on Finance.

By Mr. LEVIN (for himself and Ms. STABENOW):

S. 2689. A bill to establish a United States-Canada customs inspection pilot project; to the Committee on Finance.

By Mr. HUTCHINSON (for himself, Mr. SESSIONS, Mr. LOTT, Ms. COLLINS, Mr. BURNS, Mrs. HUTCHISON, Mr. HELMS, Mr. INHOFE, Mr. CAMPBELL, Mr. ROBERTS, Mr. DEWINE, Mr. SHELBY, Mr. ALLEN, Mr. ENSIGN, Mr. SMITH of New Hampshire, Mr. BENNETT, Mr. STEVENS, Mr. VOINOVICH, Mr. GRAMM, Mr. MCCONNELL, Mr. BROWNBACK, Mr. NICKLES, Mr. BUNNING, Mr. ENZI, Mr. HAGEL, Mr. LUGAR, Mr. BOND, Mr. MURKOWSKI, Mr. CRAIG, Mr. THOMAS, Mr. CRAPO, Mr. DOMENICI, Mr. KYL, Mr. MILLER, Mr. ALLARD, and Mr. WARNER):

S. 2690. A bill to reaffirm the reference to one Nation under God in the Pledge of Allegiance; considered and passed.

By Mr. FEINGOLD:

S. 2691. A bill to amend the Communications Act of 1934 to facilitate an increase in programming and content on radio that is locally and independently produced, to facilitate competition in radio programming, radio advertising, and concerts, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CORZINE (for himself, Mr. TORRICELLI, Mr. DURBIN, and Mr. NELSON of Florida):

S. 2692. A bill to provide additional funding for the second round of empowerment zones and enterprise communities; to the Committee on Finance.

By Mr. DORGAN (for himself and Mr. CORZINE):

S. 2693. A bill to amend the Internal Revenue Code of 1986 to encourage retirement savings for individuals by providing a refundable credit for individuals to deposit in a Social Security Plus account, and for other purposes; to the Committee on Finance.

By Mr. ALLEN (for himself and Mr. WARNER):

S. 2694. A bill to extend Federal recognition to the Chickahominy Tribe, the Chickahominy Indian Tribe—Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Tribe, and the Nansemond Tribe; to the Committee on Indian Affairs.

By Mr. FRIST (for himself, Mr. FEINGOLD, and Mr. LUGAR):

S. 2695. A bill to amend the Foreign Assistance Act of 1961 to extend the authority for debt reduction, debt-for-nature swaps, and debt buybacks to nonconcessional loans and credits made to developing countries with tropical forests; to the Committee on Foreign Relations.

By Mr. BINGAMAN:

S. 2696. A bill to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. REID (for himself, Mrs. BOXER, Mrs. CLINTON, Mr. LIEBERMAN, and Mr. SARBANES):

S. 2697. A bill to require the Secretary of the Interior to implement the final rule to phase out snowmobile use in Yellowstone National Park, John D. Rockefeller Jr. Memorial Parkway, and Grand Teton National Park, and snowplane use in Grand Teton National Park; to the Committee on Energy and Natural Resources.

By Mr. ROCKEFELLER:

S. 2698. A bill to establish a grant program for school renovation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER:

S. 2699. A bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BIDEN (for himself, Mr. THURMOND, Mr. CONRAD, Mr. CLELAND, Mrs. CLINTON, Mr. ROCKEFELLER, Mr. MILLER, Mr. DEWINE, Mr. COCHRAN, Mr. DURBIN, Mr. LUGAR, Ms. COLLINS, Mr. SESSIONS, Mr. KERRY, Mr. BREAUX, Mr. DODD, Mr. DORGAN, Mr. HELMS, Mr. BAUCUS, Mrs. BOXER, Mr. JOHNSON, Ms. LANDRIEU, Mr. GRASSLEY, Mr. ROBERTS, Mr. LEVIN, Mr. REID, Mr. LEAHY, Mr. MCCAIN, Mr. HOLLINGS, Mr. SARBANES, Mr. VOINOVICH, Mr. INHOFE, Mrs. MURRAY, Mr. GREGG, Ms. MIKULSKI, Mr. DOMENICI, Mr. HUTCHINSON, Mrs. LINCOLN, Mr. SANTORUM, Mr. CRAPO, Mr.

BUNNING, Mr. CRAIG, Mr. STEVENS, Mr. AKAKA, Mr. NELSON of Florida, Mr. CARPER, Mr. INOUE, Mr. HAGEL, Mr. FEINGOLD, Mr. WARNER, Mr. BINGAMAN, and Mr. DAYTON):

S. Res. 293. A resolution designating the week of November 10 through November 16, 2002, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mr. SPECTER, Mr. DASCHLE, Mr. DODD, Mr. TORRICELLI, Mr. FEINGOLD, Mr. DAYTON, Ms. STABENOW, Mr. DURBIN, Mr. JEFFORDS, Mr. KENNEDY, Mr. INOUE, Ms. CANTWELL, Mr. LEAHY, Mr. WYDEN, Mrs. BOXER, Mr. REED, Mr. AKAKA, Mr. HARKIN, Mrs. CLINTON, Mr. REID, Mrs. MURRAY, Mr. CORZINE, Mr. BINGAMAN, Ms. MIKULSKI, Mr. BAYH, Mr. LEVIN, Mr. WELLSTONE, Mr. KERRY, Ms. COLLINS, Mr. LIEBERMAN, Ms. LANDRIEU, Mr. EDWARDS, Mr. SMITH of Oregon, Mr. BIDEN, Mr. SCHUMER, Mr. CHAFEE, Mr. SARBANES, Mr. KOHL, Mrs. CARNAHAN, Mr. CARPER, Mr. NELSON of Florida, and Mr. CLELAND):

S. Res. 294. A resolution to amend rule XLII of the Standing Rules of the Senate to prohibit employment discrimination in the Senate based on sexual orientation; to the Committee on Rules and Administration.

By Mr. CAMPBELL (for himself, Mr. AKAKA, Mr. DOMENICI, Mr. COCHRAN, and Ms. STABENOW):

S. Res. 295. A resolution commemorating the 32nd Anniversary of the Policy of Indian Self-Determination; to the Committee on the Judiciary.

By Mr. DASCHLE:

S. Con. Res. 125. A concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives; considered and agreed to.

By Mr. REID (for himself, Mr. CRAIG, Mrs. FEINSTEIN, and Ms. STABENOW):

S. Con. Res. 126. A concurrent resolution expressing the sense of Congress regarding Scleroderma; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 326

At the request of Ms. COLLINS, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 326, a bill to amend title XVIII of the Social Security Act to eliminate the 15 percent reduction in payment rates under the prospective payment system for home health services and to permanently increase payments for such services that are furnished in rural areas.

S. 346

At the request of Mr. MURKOWSKI, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 346, a bill to amend chapter 3 of title 28, United States Code, to divide the Ninth Judicial Circuit of the United States into two circuits, and for other purposes.

S. 454

At the request of Mr. BINGAMAN, the name of the Senator from California

(Mrs. BOXER) was added as a cosponsor of S. 454, a bill to provide permanent funding for the Bureau of Land Management Payment in Lieu of Taxes program and for other purposes.

S. 572

At the request of Mr. CHAFEE, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 572, a bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 677

At the request of Mr. FRIST, his name was added as a cosponsor of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1156

At the request of Mr. SMITH of Oregon, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1156, a bill to amend the Consumer Product Safety Act to provide that low-speed electric bicycles are consumer products subject to such Act.

S. 1220

At the request of Mr. BREAUX, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1220, a bill to authorize the Secretary of Transportation to establish a grant program for the rehabilitation, preservation, or improvement of railroad track.

S. 1339

At the request of Mr. LEAHY, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1339, a bill to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

S. 1379

At the request of Mr. KENNEDY, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1379, a bill to amend the Public Health Service Act to establish an Office of Rare Diseases at the National Institutes of Health, and for other purposes.

S. 1394

At the request of Mr. ENSIGN, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. 1394, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 1476

At the request of Mr. CLELAND, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1476, a bill to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 1777

At the request of Mrs. CLINTON, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1777, a bill to authorize assistance for individuals with disabilities in foreign countries, including victims of landmines and other victims of civil strife and warfare, and for other purposes.

S. 2013

At the request of Mr. WELLSTONE, his name was added as a cosponsor of S. 2013, a bill to clarify the authority of the Secretary of Agriculture to prescribe performance standards for the reduction of pathogens in meat, meat products, poultry, and poultry products processed by establishments receiving inspection services.

S. 2055

At the request of Ms. CANTWELL, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 2055, a bill to make grants to train sexual assault nurse examiners, law enforcement personnel, and first responders in the handling of sexual assault cases, to establish minimum standards for forensic evidence collection kits, to carry out DNA analyses of samples from crime scenes, and for other purposes.

S. 2428

At the request of Mr. KERRY, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 2428, a bill to amend the National Sea Grant College Program Act.

S. 2438

At the request of Mr. SARBANES, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 2438, a bill to amend the Truth in Lending Act to protect consumers against predatory practices in connection with high cost mortgage transactions, to strengthen the civil remedies available to consumers under existing law, and for other purposes.

S. 2455

At the request of Mr. ENSIGN, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2455, a bill to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes.

S. 2480

At the request of Mr. LEAHY, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 2480, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.

S. 2490

At the request of Mr. TORRICELLI, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 2490, a bill to amend title XVIII of the Social Security Act to ensure the quality of, and access to, skilled nursing facility services under the medicare program.

S. 2513

At the request of Mr. BIDEN, the names of the Senator from Utah (Mr. HATCH), the Senator from Illinois (Mr. DURBIN), the Senator from California (Mrs. FEINSTEIN), and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 2513, a bill to assess the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence.

S. 2528

At the request of Mr. DOMENICI, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 2528, a bill to establish a National Drought Council within the Federal Emergency Management Agency, to improve national drought preparedness, mitigation, and response efforts, and for other purposes.

S. 2536

At the request of Ms. STABENOW, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2536, a bill to amend title XIX of the Social Security Act to clarify that section 1927 of that Act does not prohibit a State from entering into drug rebate agreements in order to make outpatient prescription drugs accessible and affordable for residents of the State who are not otherwise eligible for medical assistance under the medicaid program.

S. 2570

At the request of Ms. COLLINS, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2570, a bill to temporarily increase the Federal medical assistance percentage for the medicaid program, and for other purposes.

S. 2613

At the request of Mr. LIEBERMAN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2613, a bill to amend section 507 of the Omnibus Parks and Public Lands Management Act of 1996 to authorize additional appropriations for historically black colleges and universities, to decrease the cost-sharing requirement relating to the additional appropriations, and for other purposes.

S. 2622

At the request of Mr. HOLLINGS, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 2622, a bill to authorize the President to posthumously award a gold medal on behalf of Congress to Joseph A. De Laine in recognition of his contributions to the Nation.

S. 2633

At the request of Mr. BIDEN, the names of the Senator from Utah (Mr. HATCH), the Senator from Vermont (Mr. LEAHY), and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2633, a bill to prohibit an individual from knowingly opening, maintaining, managing, controlling, renting, leasing, making available for use, or profiting from any place for the purpose of manufacturing, distributing, or using any controlled substance, and for other purpose.

S. 2637

At the request of Mr. CONRAD, the name of the Senator from Texas (Mr. GRAMM) was added as a cosponsor of S. 2637, a bill to amend the Internal Revenue Code of 1986 and the Surface Mining Control and Reclamation Act of 1977 to protect the health benefits of retired miners and to restore stability and equity to the financing of the United Mine Workers of America Combined Benefit Fund and 1992 Benefit Plan by providing additional sources of revenue to the Fund and Plan, and for other purposes.

S. 2647

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2647, a bill to require that activities carried out by the United States in Afghanistan relating to governance, reconstruction and development, and refugee relief and assistance will support the basic human rights of women and women's participation and leadership in these areas.

S. RES. 266

At the request of Mr. ROBERTS, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Res. 266, a resolution designating October 10, 2002, as "Put the Brakes on Fatalities Day."

S. RES. 284

At the request of Mr. BIDEN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Res. 284, a resolution expressing

support for "National Night Out" and requesting that the President make neighborhood crime prevention, community policing, and reduction of school crime important priorities of the Administration.

S. CON. RES. 119

At the request of Mr. BURNS, the names of the Senator from Georgia (Mr. CLELAND), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Georgia (Mr. MILLER), and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. Con. Res. 119, a concurrent resolution honoring the United States Marines killed in action during World War II while participating in the 1942 raid on Makin Atoll in the Gilbert Islands and expressing the sense of Congress that a site in Arlington National Cemetery, near the Space Shuttle Challenger Memorial at the corner of Memorial and Farragut Drives, should be provided for a suitable monument to the Marine Raiders.

S. CON. RES. 121

At the request of Mr. HUTCHINSON, the names of the Senator from Colorado (Mr. CAMPBELL) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. Con. Res. 121, a concurrent resolution expressing the sense of Congress that there should be established a National Health Center Week for the week beginning on August 18, 2002, to raise awareness of health services provided by community, migrant, public housing, and homeless health centers.

S. CON. RES. 122

At the request of Ms. SNOWE, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. Con. Res. 122, a concurrent resolution expressing the sense of Congress that security, reconciliation, and prosperity for all Cypriots can be best achieved within the context of membership in the European Union which will provide significant rights and obligations for all Cypriots, and for other purposes.

AMENDMENT NO. 3922

At the request of Mr. HUTCHINSON, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of amendment No. 3922 proposed to S. 2514, an original bill to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 3983

At the request of Mr. STEVENS, his name was added as a cosponsor of amendment No. 3983 intended to be proposed to S. 2514, an original bill to authorize appropriations for fiscal year

2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 4094

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 4094 proposed to S. 2514, an original bill to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 4134

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 4134 proposed to S. 2514, an original bill to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 4143

At the request of Ms. LANDRIEU, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of amendment No. 4143 proposed to S. 2514, an original bill to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD:

S. 2691. A bill to amend the Communications Act of 1934 to facilitate an increase in programming and content on radio that is locally and independently produced, to facilitate competition in radio programming, radio advertising, and concerts, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. FEINGOLD. Mr. President, I rise today to introduce legislation that will promote competition in the radio and concert industries.

This legislation will begin to address many of the concerns that I have heard from my constituents regarding the concentration of ownership in the radio and concert industry and its effect on consumers, artists, local businesses, and ticket prices.

A few weeks ago, I began discussing with my colleagues a number of concerns that I have been hearing from Wisconsinites. Anti-competitive practices are hurting local radio station owners, local businesses, consumers, and artists.

During the debate of the 1996 Telecommunications Act, I joined a number of my colleagues in opposing the deregulation of radio ownership rules because of concerns about its effect on consumers, artists, and local radio stations.

Passage of this act was an unfortunate example of the influence of soft money in the political process. As my colleagues will recall, I have consistently said that this act was bought and paid for by soft money. Everyone was at the table, except for the consumers.

We have enacted legislation to rid the system of this loophole in campaign finance law, but we must also repair the damage that it allowed.

In just five years since its passage, the effects of the Telecommunications Act have been far worse than we imagined. While I opposed this act because of its anti-consumer bias, I did not predict that the elimination of the national radio ownership caps and relaxation of local ownership caps would have triggered such a tremendous wave of consolidation and harmed such as diverse range of interests.

This legislation did not simply raise the national ownership limits on radio stations, it eliminated them all together. It also dramatically altered the local radio station ownership limits through the implementation of a tiered ownership system that allowed a company to own more radio stations in the larger markets.

When the 1996 Telecommunications Act became law there were approximately 5,100 owners of radio stations. Today, there are only about 3,800 owners, a decrease of about 25 percent.

Concentration at the local levels are unprecedented.

At the same time that ownership of radio stations has become increasingly concentrated, some large radio station ownership groups have also bought promotion services and advertising.

I have been hearing from people at home in Wisconsin, from Radio station owners, artists, broadcasters, and concert promoters who are being pushed out by anti-competitive practices, practices that result from an increasingly concentrated market.

I am very concerned that these levels of concentration are pushing independent radio station owners and concert promoters out of business. And I am concerned that a few companies are leveraging their cross-ownership of radio, concert promotion, and venues in an anti-competitive manner.

My legislation addresses these concerns by prohibiting any entity that owns radio stations, concert promotion

services, or venues from leveraging their cross-ownership in anti-competitive manner. Under this proposal, the FCC would revoke the license of any radio station that uses its cross ownership of promotion services or venues to prevent access to the airwaves, venues, or in other anti-competitive ways.

For example, if an owner of a radio station and promotion service hindered access to the airwaves of a rival promoter, then the owner would be subject to penalties.

My legislation will also ensure that any future consolidation does not result in these anti-competitive practices. It will strengthen the FCC merger review process by requiring the FCC to scrutinize the mergers of large radio station ownership groups to consider the effect of national and local concentration on independent radio stations, concert promoters and consumers.

At the same time, it will also curb future local consolidation by preventing any upward revision of the limitation of multiple ownership of radio stations in local markets.

It will also close a loophole that currently allows large radio ownership companies to exceed the cap by "warehousing stations" through a third party. In these arrangements, large radio owners control a station through a third party, but the stations are not accounted for in their local ownership cap.

Finally, my legislation will also address many of the problems created by the consolidation in the radio industry, such as the new forms of payola. This legislation will require the FCC to modernize the Federal payola prohibition to prevent these large radio station ownership groups from leveraging their power to extract money or other consideration from artists, such as forcing them to play concerts for free.

Radio is a public medium and we must ensure that it serves the public good. The concentration of ownership, in the radio and concert industry, has caused great harm to people and businesses that have been involved in and concerned about the industry for generations.

It also harms the flow of creativity and ideas that artists seek to contribute to our society. This concentration does a disservice to our society at every level of the industry, and it must be addressed.

I urge my colleagues to join me to cosponsor this legislation to help to restore competition to the radio and concert industry by putting independent radio stations and concert promoters on a level playing field in the marketplace. This will help promote competition, local input, and diversity, and promote consumer choices.

By Mr. CORZINE (for himself, Mr. TORRICELLI, Mr. DURBIN, and Mr. NELSON of Florida):

S. 2692. A bill to provide additional funding for the second round of empowerment zones and enterprise communities; to the Committee on Finance.

Mr. CORZINE. Mr. President, today I am introducing legislation, "The Round II Empowerment Zone/Enterprise Community, EZ/EC, Flexibility Act of 2002," to provide funding for the Round II Enterprise Zone/Enterprise Community program. I want to thank and acknowledge Senators TORRICELLI, DURBIN and NELSON of Florida for their cosponsorship of this bill.

This legislation would encourage economic development throughout the EZ/EC program, particularly to the 15 Round II urban and 5 rural empowerment zones that were designated in 1999. Each of those communities has put together strong strategic initiatives to promote economic growth.

The legislation would help ensure that these Round II communities will be provided with the funding they have been promised. The bill also would authorize the use of EZ/EC grants as a match for other relevant Federal programs. This would provide the EZ/EC program with maximum flexibility to implement initiatives at the local level.

The Enterprise Zone/Enterprise Community program was created to provide Federal assistance over ten years in designated urban and rural communities that would fuel economic revitalization and job growth. The program does so primarily by providing federal grants to communities and tax and regulatory relief to help communities attract and retain businesses.

Unfortunately, an inequity now exists between the way Round I and Round II EZs and ECs have been funded. Those communities that won EZ designations in the initial round, in 1994, received full funding from the Congress, which made all grant awards available for use within the first two years of designation. However, EZs and ECs designated in Round II did not receive this same funding authority.

Federal benefits promised to the Round IIs included funding grants of \$100 million for each urban zone, \$40 million for each rural zone and about \$3 million for each Enterprise Community over a ten-year period beginning in 1999. In reliance on those "promised" funds, Round II zones prepared strategic plans for economic revitalization based on the availability of that funding. However, unlike Round I designees, who received a full funding up front, Round II zones have received a mere fraction of the funding promise.

The lack of a certain, predictable funding stream will ultimately undermine the ability of Round II EZs/ECs to effectively implement their economic growth strategies in their designated communities. And that's a shame, because the EZ/EC initiative has produced real results.

In fact, I'm proud to say that one of the best Round II EZs is located in Cumberland County, NJ. The Cumberland County Empowerment Zone, a collaborative effort of the communities of Bridgeton, Millville, Vineland and Port Norris, has been a model EZ, and committed all the funds made available to it by HUD.

Since the creation of the EZ, Cumberland County has witnessed more than 100 housing units rehabbed, renovated or newly built. A \$4 million loan pool has been created to fund community and small business reinvestment. The EZ also has led to the funding for over 60 economic development initiatives, utilizing more than \$11 million in funding to leverage \$120 million in private, public and tax exempt bond financing.

These are real results. And if the Federal commitment to the EZ continues, over 1,100 new jobs will be created in the County over the next year and a half alone.

Cumberland County is just one example of how the EZ/EC initiative has brought hope and promise to communities throughout America. We need to do more to support and build on these initiatives. Now is the time for Congress to fulfill the promise made to Round II EZs and ECs.

I urge my colleagues to cosponsor this legislation, and hope the Senate will expedite its consideration.

By Mr. DORGAN (for himself and Mr. CORZINE):

S. 2693: A bill to amend the Internal Revenue Code of 1986 to encourage retirement savings for individuals by providing a refundable credit for individuals to deposit in a Social Security Plus account, and for other purposes; to the Committee on Finance.

Mr. DORGAN. Mr. President, the Board of Trustees for the Social Security Trust Fund issued its annual report in March describing the financial health of the Trust Fund and its outlook for the future. The report shows that the financial condition of the Trust Fund over the next few decades has improved somewhat since last year, that is, the Social Security program is now expected to remain solvent for three additional years through 2041. This is welcome news for the tens of millions of baby boomers who will depend on this program in the coming decades.

However, this latest Trustees' report also makes clear that the Social Security program still faces significant long-term financial challenges. This finding was not unexpected. In fact, there is already bipartisan agreement in Congress that we will need to make some careful changes to the Social Security system in order to guarantee the solvency of the Social Security Trust Fund beyond 2041. Today, Senator CORZINE of New Jersey and I are

introducing legislation that we think should be part of those reform discussions.

Our legislation, called the Social Security Plus Account Act, builds upon two fundamental principles: One, the underlying guaranteed defined benefit approach of the current Social Security program should not be scrapped or weakened. Social Security has become the foundation of the Nation's retirement system, something that people can always count on. At a time when private employers are shifting more retirement saving risks onto the shoulders of their employees through the use of defined contribution plans like 401(k) plans rather than traditional defined benefit pension plans, the need to retain Social Security's basic guaranteed payment is paramount.

Second, this legislation recognizes that Congress must do more to encourage families and individuals, especially those of modest means, to increase their savings and to build a retirement nest egg. Specifically, our legislation provides for the creation of new tax-favored retirement savings accounts that individuals and families could access to supplement, but not replace, their expected future Social Security benefits.

Unlike many reform proposals, this legislation leaves the Social Security program intact. Many privatization plans force you to choose between individual accounts and the loss of Social Security's guaranteed benefit at current levels. Our proposal calls for personal accounts as an "add-on" to Social Security. This is an important distinction from the "carve-out" accounts featured in privatization plans. Privatization plans will inevitably reduce traditional guaranteed benefits. Our approach would not.

Under this legislation, eligible individuals can set up and make tax-favored contributions of up to \$2,000 to a new Social Security Plus Account, SSPA. To provide an extra savings boost for low- and moderate-income families, our legislation would require the Federal Government to provide matching contributions between 25 and 100 percent for married couples with adjusted gross income below \$100,000, \$50,000 for singles. The \$2,000 limit applies to the total of the individual's own contribution and the Federal match. This will make it much more affordable for low and moderate earners to fully fund their accounts.

Like traditional individual retirement accounts, SSPAs can grow tax-free. For example, if an individual aged 30 who files a joint return and has annual earnings of about \$25,000 contributes \$500 to a SSPA, the Federal Government would match that contribution with a \$500 contribution to the account. If that individual contributes \$500 in cash each year to the account for 32 years, earning 5-percent interest per year, until retirement at age 62, he

or she would have some \$80,000 available for distribution from the account. This amount grows to \$160,000 if the individual is able to contribute the maximum in each year.

Let's take another example. Assume that an individual who is forty years old, files a joint return and has annual adjusted gross income of \$80,000. If he or she could make the maximum permissible contribution each year until reaching age 62, along with an annual government match of \$400, he or she might expect to have at least \$160,128 available at retirement.

Under our legislation, the accrued amounts that are paid out or distributed when the holder of a SSPA retires, dies or becomes disabled are treated like Social Security benefits and a portion of the distributions would be taxed only above certain threshold amounts.

Now I fully understand that we may not be able to enact this legislation this year or next. Regrettably, last year's highly-touted projected budget surpluses have vanished for at least the next several years and resources are now scarce. The massive tax cuts put in place in the summer of 2001, and scheduled to take full effect over a period of years, will make finding adequate funds for many of the Nation's critical spending priorities even more difficult.

However, many of the privatization proposals would require massive infusions from the Treasury general revenue fund to offset the transition and other costs for even partial privatization initiatives. If such resources are available, it seems to me that we would better serve our citizens by using these scarce resources to enact Social Security Plus Accounts that will help them save for retirement but not put the underlying Social Security program at risk.

The current Social Security system has served us well for many years and will continue to do so if we make some adjustments. Still we all know that Social Security reform is needed. I remain committed to working on a bipartisan basis to address the long-term solvency issues facing Social Security and to improve retirement savings. And we do need to implement appropriate Social Security reforms as soon as our resources will allow us. Needlessly delaying efforts to shore up Social Security for the long term would likely require more severe action.

We certainly can't afford to make matters worse in the interim. A number of us in the Senate are concerned by the proposals offered by President Bush and some in Congress to eliminate the guaranteed basis of Social Security and replace it, in part with private accounts. The suggestion to "privatize" Social Security, or to invest a portion or all of the trust funds in the stock market, has been supported by

the large investment banking houses and many others who believe that doing so would produce higher returns and improve the solvency of the system.

Several of the President's Commission on Social Security privatization plans would divert some of the payroll taxes that are currently being collected. Some of the proposals would use well over \$1 trillion from the Social Security Trust Fund. This would immediately and adversely impact the financial well-being of the Social Security Trust Fund, putting in jeopardy both current and future Social Security benefits.

I do not believe that investing the proceeds of the Social Security system in the stock market through individual accounts provides the kind of stability and certainty we need for the management of the Social Security program. Social Security is intended to provide what its name suggests, security. Stock market investments do not provide this secure foundation. They increase, on average, over certain time periods. But people don't retire at average times. They retire at particular times.

This point is mostly glossed over by the President's Commission to Strengthen Social Security. The Commission issued its final report last December that included several reform options that would allow workers to invest in personal retirement accounts, but reduce their traditional guaranteed Social Security benefit. In my judgment, no one, including the President's Commission, has provided a satisfactory answer to the question of what happens to people who retire when the market is down if we change Social Security, even partly, from a social insurance program to a stock market investment program. This is not mere polemics. The Enron debacle, the boom and bust of the dot com companies of the late 1990s, and the declining stock prices of recent weeks all serve as stark reminders to all of us about the perils of investing in the stock market.

Again, I will be working for appropriate reforms to extend the life of the Social Security Trust Fund so future generations can rely on Social Security. Social Security Plus Accounts can provide a much-needed supplement to the basic program, but would do so without undermining it. They do not reform the program by themselves, but are designed to be part of a responsible reform package.

For many of our nation's seniors, Social Security is the difference between poverty and a dignified retirement. When President Franklin D. Roosevelt signed the Social Security program into law in 1935 he said "We can never insure one-hundred percent of the population against one-hundred percent of the hazards and vicissitudes of life. But we have tried to frame a law which will

give some measure of protection to the average citizen and his family against poverty ridden old age." The importance of his words and his new social insurance plan are reflected in Social Security's overwhelming success today. Let's make sure that the promise and security of Social Security is kept for many generations to come.

I urge my colleagues to consider supporting this proposal in the context of comprehensive Social Security reforms considered by the Senate. Below I've provided a detailed summary of the Social Security Plus Account Act to more fully explain how the new savings accounts would work.

I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SOCIAL SECURITY PLUS ACCOUNT ACT OF 2002 *In general*

This legislation creates new tax-favored Social Security Plus Accounts (SSPA). Generally, an eligible individual with at least \$5,000 of annual earnings and who is not a dependent of another taxpayer or a full-time college student may contribute up to \$2,000 to a SSPA for each year until he or she reaches the age of 70½. An individual whose modified adjusted gross income exceeds \$150,000 (\$300,000 for a married individual) is ineligible to make a contribution to a SSPA.

A 20-percent refundable tax credit is allowed for eligible contributions to a SSPA. In addition, the federal government will match a percentage of a SSPA contribution for taxpayers with modified adjusted gross income (AGI) below a certain level (see below).

Amounts in SSPAs that are distributed for permissible purposes are subject to favorable income tax treatment and are not subject to penalty.

An eligible individual shall file a designation of the SSPA to which the match is made, along with his or her tax return for the year (or if no return is filed, on a form prescribed by the Secretary of the Treasury) not later than the due date for filing such return (including extensions) or the 15th day of April, whichever is later.

Matching contributions

In the case of an eligible individual, the federal government makes a matching contribution to the SSPA. This is accomplished as refundable tax credit for the tax year in an amount equal to the matching contribution. The allowable credit is treated as an overpayment of tax which may only be transferred to a SSPA.

The Secretary of the Treasury will make matching contributions to the SSPAs of taxpayers with modified AGI below a certain level. The applicable percentage shall be according to the following:

In the case of an individual filing a joint return:

The applicable percentage is:

If modified adjusted gross income is:	
\$30,000 or less	100
Over \$30,000 but not over \$60,000	50
Over \$60,000 but not over \$100,000	25
Over \$100,000	zero
In the case of a head of household:	
\$22,500 or less	100

The applicable percentage is:

Over \$22,500 but not over \$45,000	50
Over \$45,000 but not over \$75,000	25
Over \$75,000	zero
In the case of any other individual:	
\$15,000 or less	100
Over \$15,000 but not over \$30,000	50
Over \$30,000 but not over \$50,000	25
Over \$50,000	zero

Maximum contributions

The maximum annual contribution to a SSPA each year is \$2,000—including both the individual and matching contributions. As such, the maximum annual contribution would be \$1,000 for those in the lowest bracket (with a \$1,000 maximum match), \$1,333.33 for the middle bracket (with a \$667 maximum match) and \$1,600 for the next bracket (with a \$400 maximum match). Those in the highest bracket with earnings over \$100,000 could contribute \$2,000 (with no match).

Minimum contributions

The minimum annual contribution must be sufficient to ensure that the total deposit is \$200 (i.e. the lowest bracket would have to contribute at least \$100, the middle bracket would have to contribute at least \$133, the next bracket at least \$160, and the highest bracket at least \$200).

Tax treatment of SSPAs

Similar to traditional individual retirement accounts (IRAs), amounts contributed to a SSPA would be tax-favored and accounts would grow tax-free. However, amounts paid or distributed out of a SSPA would be taxable like Social Security benefits. That is, up to 50% of SSPA benefits are taxable for taxpayers whose income plus 50% of their benefits exceed \$25,000 for individuals and \$32,000 for couples. Up to 85% of SSPA benefits are taxable for taxpayers whose income plus benefits exceeds \$34,000 for individuals and \$44,000 for couples.

10-percent penalty for disqualified distributions

Distributions that are not made from a SSPA after retirement, death, disability or not used for catastrophic medical expenses exceeding 7.5% of AGI are includible in gross income and are subject to regular tax rates and a 10-percent penalty. Matching contributions from the federal government may be distributed from an SSPA only after retirement, at death or in the event of disability.

Mr. CORZINE. Mr. President, I am pleased to join today with Senator DORGAN in introducing legislation, the Social Security Plus Account Act of 2002, that would create new tax-favored Social Security Plus Accounts to supplement the existing Social Security program.

Although the Social Security Trust Fund is now projected to remain solvent for almost 40 years, I share the interest of a broad range of leaders in exploring ways to extend solvency further into the future. At this point, it remains unclear when Social Security reform will be debated. However, Senator DORGAN and I are introducing this legislation in the hope that it will be considered when that debate moves forward.

As most of my colleagues know, last year President Bush appointed a commission to recommend ways to move toward privatization of Social Security. Last December, that commission

issued a report that included proposals to establish privatized accounts into which a portion of Social Security contributions would be diverted. The Bush Commission's proposals included deep cuts in guaranteed benefits, cuts that for some current workers would exceed 25 percent, and for future retirees would exceed 45 percent.

I strongly oppose these cuts. In my view, they would take the security out of Social Security. That would undermine the central goal of the program.

At the same time, I recognize that, by itself, Social Security will not provide sufficient funds for many retirees in the future. That is why it is important that Americans save on their own to prepare for retirement. I therefore support other government initiatives to promote private savings, such as individual retirement accounts and 401(k) plans.

The proposal for Social Security Plus Accounts in this legislation takes the concept of an IRA or 401(k) account, and builds on it. These new accounts would provide an additional and more powerful savings incentive for many Americans, especially middle class workers and those with more modest incomes. Under our legislation, the government would match contributions by taxpayers with incomes below certain levels. In addition, all contributions would provide immediate tax relief: a tax cut equal to 20 percent of the contribution. Moreover, when a person takes money out of an account at retirement, the proceeds would be treated in the same manner as Social Security benefits, meaning that some or all proceeds could be withdrawn tax free.

A Social Security Plus Account would provide a useful supplement to our Social Security system, without weakening that system in any way. Unlike the proposals of the Bush Social Security Commission, these new accounts would not force a reduction in traditional Social Security benefits. This difference is critical.

Senator DORGAN and I recognize that the establishment of Social Security Plus Accounts would require resources that are not presently available. We therefore appreciate that action on our legislation will have to wait until later, when we have more financing. However, we believe it important to put our proposal on the table today, to help ensure that when the appropriate time comes, our colleagues understand that there is more than one way to establish personal accounts. The right way, as proposed in this legislation, is to establish accounts that supplement Social Security, without draining the Social Security Trust Fund, without cutting benefits, and without undermining Social Security's promise to Americans who have paid into the system in good faith.

I want to thank Senator DORGAN for his leadership in this effort. I look forward to working with him to ensure

that we find new and better ways to promote savings, without undermining the basic guarantees provided through Social Security.

By Mr. ALLEN (for himself and Mr. WARNER):

S. 2694. A bill to extend Federal recognition to the Chickahominy Tribe, the Chickahominy Indian Tribe—Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Tribe, and the Nansemond Tribe; to the Committee on Indian Affairs.

Mr. ALLEN. Mr. President, I rise in support of Virginia's Indian Tribes and to introduce a bill to extend Federal recognition to six of Virginia's Indian Tribes.

These Tribes have a rich tradition and history, not only for Virginia, but also for the Nation as a whole. My bill will recognize the Chickahominy Tribe; the Chickahominy Tribe Eastern Division; the Upper Mattaponi Tribe; the Rappahannock Tribe; the Monacan Tribe; and the Nansemond Tribe.

The title of the bill is the "Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act". For me, this legislation also has a very personal aspect to it. Thomasina Jordan was a dear friend of mine. As Governor of Virginia, I appointed Thomasina as Chair of the Virginia Council on Indians, and she served as an advisor to me in many ways over the years. Thomasina was a great leader and civil rights activist in Virginia, paving the way for this legislation. Regrettably, she passed away in 1999 after a long and courageous battle with cancer. I offer this legislation in her memory as her last battle on earth was for Federal recognition of Virginia's tribes. Thomasina's efforts to ensure equal rights and recognition to all American Indians continue today in spirit because she was able to have an effect on the lives of so many individuals and encourage many to join her quest for fairness, honor and justice.

The American Indians in Virginia contribute to the diverse, exciting nature and heritage of the Commonwealth of Virginia. Virginians are united in their desire to honor these first residents and I am pleased that Senator WARNER and I are able to join Virginia's House Delegation in offering this legislation.

There are more than 550 federally recognized Tribes in the United States. While no Tribes have been federally recognized in Virginia, the Commonwealth of Virginia has recognized the eight main tribes. According to the U.S. Census Bureau, there are over 21,000 American Indians living in Virginia.

"Federally recognized" means these tribes and groups can enjoy a special legal relationship with the U.S. government where no decisions about their

lands and people are made without Indian consent. It is important that we give Federal recognition to these proud Virginia tribes so that they can not only be honored in the manner they deserve but also for the many benefits that federal recognition would provide.

Members of federally recognized tribes, most importantly, can qualify for grants for higher education opportunities.

There is absolutely no reason why American Indian Tribes in Virginia should not share in the same benefits that so many Indian tribes around the country enjoy.

The Indian Tribes in Virginia have one of the longest histories of any Indian tribe in America, which is a remarkable point considering none of the tribes in Virginia are federally recognized. As Virginia approaches the 400th anniversary of the 1607 founding of Jamestown, the first permanent English settlement in North America, it is crucial that the role of Indian tribes in Virginia in the development of our Commonwealth and our country are properly recognized and appreciated.

There are three routes that an Indian Tribe can pursue in order to receive Federal recognition. One, the tribe can apply for administrative recognition through the Bureau of Indian Affairs, which all these Virginia Tribes have done. Two, a tribe can gain Federal recognition through an act of Congress. And three, the tribe can obtain Federal recognition through legal proceedings in the court system.

There has been a sharp increase in recent years of the number of tribes seeking Federal recognition via an application to the Bureau of Indian Affairs. However, the General Accounting Office recently reported that, while the workload at the Bureau of Indian Affairs has increased dramatically, the resources to handle the large volume of applications has actually decreased. Since 1978, the Bureau of Indian Affairs has processed only 32 of the 150 applications it received, deciding favorably on only 12 of them. In fact, BIA averages only 1.3 completed applications a year. The route of Federal recognition through the Bureau of Indian Affairs and Bureau of Acknowledgment and Recognition is a cumbersome and lengthy process, which has taken sometimes over 20 years for an application to be decided upon.

In 1999, the Virginia General Assembly passed a resolution calling on the U.S. Congress to grant Federal recognition to the tribes in Virginia. Identical legislation to what I introduce today has already been introduced in the House. I join my House colleagues, Mr. MORAN of Virginia, Mrs. JO ANN DAVIS of Virginia, Mr. TOM DAVIS of Virginia, Mr. SCOTT, Mr. SCHROCK, Mr. BOUCHER, and Mr. FORBES in this important endeavor.

The precedent has already been set for the second route for attainment of Federal recognition, through an act of Congress. Since the 93rd Congress (1973–1974), Congress has restored Federal recognition to eighteen tribes and has granted seven new Federal recognitions to tribes. In 2000, Congress passed a law to grant new Federal recognition to the Shawnee Indians as a separate tribe from the Cherokee Nation of Oklahoma and another law to restore Federal recognition to the tribe of Graton Rancheria of California. It is time that Virginia's tribes receive the same recognition.

The main goal of this legislation is to establish a more equitable relationship between the tribes and the State and Federal Government.

While I understand that some may have a concern that Federal recognition of Indian tribes may lead to the establishment of gaming operations within a State, this is not the case. As a result of the 1988 Indian Gaming Regulatory Act, federally recognized Indian Tribes can conduct only the gaming operations that are authorized by State law. Tribes are unable to operate casinos, slot machines or card games unless approved by a specific State/Tribe Compact. My bill includes language restating this point to make it clear that nothing in the Act provides an exception to the Indian Gaming Regulatory Act. Ultimately, it gives proper coverage under Virginia law so as not to provide special gaming privileges.

This legislation not only lays out the path for granting Federal recognition to six American Indian Tribes in Virginia, but it also honors and details the proud history of each of the six Tribes.

The Virginia tribes have fought hard to retain their heritage and cultural identity, and it is my hope that this legislation be seen as a way to recognize this identity.

As Americans, we need to appreciate the many contributions American Indians have made to our Nation in order to make it the great country it is today. Thomasina Jordan once wrote: "We belong to this land. For 10,000 years we have been here. We were never a conquered people. The dominant society needed us to survive in 1607, and it needs American Indians and our spiritual values to survive in the next millennium." The Commonwealth of Virginia has realized that it needs its proud Indian tribes. This bill is another step toward recognizing and appreciating this special relationship.

By Mr. FRIST (for himself, Mr. FEINGOLD, and Mr. LUGAR):

S. 2695. A bill to amend the Foreign Assistance Act of 1961 to extend the authority for debt reduction, debt-for-nature swaps, and debt buybacks to nonconsessional loans and credits made to developing countries with tropical

forests; to the Committee on Foreign Relations.

Mr. FRIST. Mr. President, today I rise to introduce, with Senator FEINGOLD and Senator LUGAR, a bill that could have a far-reaching impact in preserving some of the most pristine tropical forest in the world.

We seek to amend the Tropical Forest Conservation Act, TFCA, a law passed in 1998. The TFCA has led to the preservation of thousands of acres of tropical forest, particularly in the Americas, by allowing low and middle income countries to engage in debt-for-nature "swaps." The TFCA allows eligible governments to divert resources currently needed for debt service toward the conservation and management of disappearing rain forests.

Our amendment to TFCA would expand the use of this successful program. Our change would allow more tropical forests to be preserved. Under TFCA, countries are limited to using concessional debt for making swaps. Concessional debt is special low-interest loans reserved for the poorest countries to exchange non-concessional debt, e.g. Export-Import bank loans, etc. for preserved forest land. This change will not only increase the potential for swaps in countries with concessional debt, but also make some countries newly eligible for the program.

One example of a country that is not currently eligible for TFCA, but that has great potential for using the expanded program, is the African nation of Gabon. Gabon has some extraordinary, pristine forest land that deserves to be preserved.

In the fall of 2000, the National Geographic Society sponsored a 2000-mile, 15-month expedition through Central Africa by Dr. Mike Fay, a well known conservationist. Dr. Fay traveled through some of the last unexplored regions on earth, including the Langoue forest in Gabon. His expedition encountered a remarkable variety of species and habitat that are in danger of disappearing unless we help Gabon's government preserve it. Dr. Fay's observations of the Langoue Forest are compelling. Here are some excerpts from his report:

"[T]here's a river in almost the dead center of Gabon called the Ivindo which has an amazing set of waterfalls. It's a big river, probably a hundred or so meters wide, of slow, black water, and it drains almost all of northeastern Gabon. These chutes, these waterfalls—two in particular called Mingouli and Kongou—make this place an attraction.

An Italian named Giuseppe Vassallo, who died about a year and a half ago . . . promoted this place as a national park because he said it was the best forest in Gabon. He talked about it and lobbied for it and cajoled people, but it just never quite happened. We walked across this block that he'd always talked about, and I actually flew over it with him in '98 . . .

And we discovered the highest concentration of giant elephants that we'd seen on the

entire walk. It's probably the only place left in the central African forest with elephants that are abundant and with a large percentage of very large males, tusks that no one has seen in a very long time, one hundred pounds on a side. Giant elephants, it's something you just don't see because they've been pouched out of the population. [And] naive gorillas, something that we hadn't seen on the entire trip. You can tell they're naive because when they see you they don't run away, they don't look alarmed, they don't act alarmed, they don't vocalize. The males don't charge at all and they get very curious. They come to see you and they approach well within the danger zone. They sit there for hours and they just stare as if it's something they've never seen before, and it's pretty obvious that they haven't.

You travel a little bit farther along and there's this mountain that we'd been navigating toward for a few weeks, and it's again full of elephants, and it's got all kinds of beautiful topography and rocky cliffs. It's a real sort hidden forest, and it really gives you a feeling of great isolation being up on this mountain plateau. So we started walking south of the mountain and pretty soon we came upon an elephant trail that lead us a little bit astray. It lead us to the east of where we wanted to go but we kept on following it and it just got bigger and bigger and bigger. I looked at the map and it was obvious that it was navigating us right toward a clearing. Long before you get to an elephant clearing you can tell where you're going, because the elephant trail opens up to like two meters wide, it's covered with dung, and there's a huge amount that are on these "highways." It's a lot like how major highway arteries in the States get bigger as they go into the city, that's basically what it is for elephants, it's an "elephant city." So, we get there, and there it is, this clearing that no one has ever seen before, no conservationist even could have imagined existed in Gabon. This place is just abounding with wildlife and you think "This place really is what old Giuseppe said it was." Even though he had never walked in it, it was as if he just knew this place was the best. The place is called Langoue and it still exists.

There are about 1.2 million acres in the Langoue Forest that are completely untouched. Experts familiar with the region estimate that more than 700,000 acres at the heart of the forest could be preserved for about \$3.5 million. This part of the forest includes the naive gorillas, the giant elephants, and the waterfalls.

At the very modest cost, our amendment will give nations like Gabon a new tool for preserving their remaining tropical forest, for the benefit of the people of Gabon, and for the benefit of mankind.

I ask unanimous consent that the full text of the interview with Dr. Fay and the text of a letter from Conservation International appear at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From National Geographic News, Aug. 9, 2001]

INTERVIEW: MIKE FAY IS ON A TREK TO PRESERVE FOREST IN GABON
(By Andrew Jones)

Last year, conservationist J. Michael Fay completed a 2,000-mile (3,218-kilometer), fif-

teen-month walk through central Africa in some of the world's most pristine forests. Now, the expedition leader for the National Geographic Society and an ecologist for the Wildlife Conservation Society has undertaken another challenge: a personal campaign to preserve nearly 250,000 hectares (618,000 acres) of forest in Gabon as a national park.

National Geographic News: You were in the African bush for fifteen months. How has that changed your perspective on conservation?

Dr. J. Michael Fay: As a conservationist, I would say it's a double-edged sword. Because when you're out there, you realize how much is left. There's such abundance—it's so huge, it goes on forever. You can walk for fifteen months and basically be in the woods the whole time and not have to traverse areas that are inhabited by humans. And you think, "Wow, that's cool. This place is at the ends of the Earth; it will never be touched." Then you look at the map and the logging activity and you look at the human expansion and you think, "This place is all going to disappear in the next seven to ten years."

It makes you wake up to the fact that human beings, even in the 21st century, still don't regard natural resources as something precious. Because if they did, there would be a worldwide effort to preserve these places rather than extract wood out of them as quickly as possible with zero regard for ecosystems, while wasting most of that wood before you get it to the market. So from my perspective, it was pretty depressing.

NG News: do you think there's anyone in particular to blame? Or is there no one person or group we can point to as the source of the problem?

Fay: I think the human species is what it is. It evolved to extract as many resources as it possibly could from the environment to survive better and better. That's kind of what humans are programmed to do. And to do the opposite of that, to conserve, I think is a very difficult thing for people to even comprehend, let alone enact. It's kind of counter-evolutionary, and I think it takes a lot of education and a lot of foresight. If humans want to survive on this planet without having some kind of catastrophic event take out large percentages of the population someday in the future, then they're going to have to make that shift. A lot of people talk about it, a lot of people understand it, but it's really hard to make that last jump and actually say, "Okay, I'm going to make a switch."

NG News: You're now trying to have nearly 250,000 hectares of forest land in Gabon designated as a national park. Why did you choose that particular area?

Fay: Well, there's a river in almost the dead center of Gabon called the Ivindo which has an amazing set of waterfalls. It's a big river, probably a hundred or so meters wide, of slow, black water, and it drains almost all of northeastern Gabon. These chutes, these waterfalls—two in particular called Mingouli and Kongou—make this place an attraction.

An Italian named Giuseppe Vassallo, who died about a year and a half ago . . . promoted this place as a national park because he said it was the best forest in Gabon. He talked about it and lobbied for it and cajoled people, but it just never quite happened. We walked across this block that he'd always talked about, and I actually flew over it with him in '98. We looked at the logging companies coming in from the west at a very rapid rate, and so we tried to design a walk in this place that didn't go through any logging.

And we discovered the highest concentration of giant elephants that we'd seen on the entire walk. It's probably the only place left in the central African forest with elephants that are abundant and with a large percentage of every large males—tusks that no one has seen in a very long time, one hundred pounds on a side. Giant elephants—it's something you just don't see because they've been poached out of the population. [And] naive gorillas—something that we hadn't seen on the entire trip. You can tell they're naive because when they see you they don't run away, they don't look alarmed, they don't act alarmed, they don't vocalize. The males don't charge at all and they get very curious. They come to see you and they approach well within the danger zone. They sit there for hours and they just stare as if it's something they've never seen before, and it's pretty obvious that they haven't.

You travel a little bit farther along and there's this mountain that we'd been navigating toward for a few weeks, and it's again full of elephants, and it's got all kinds of beautiful topography and rocky cliffs. It's a real sort of hidden forest, and it really gives you a feeling of great isolation being up on this mountain plateau.

So we started walking south of the mountain and pretty soon we came upon an elephant trail that lead us a little bit astray. It lead us to the east of where we wanted to go but we kept on following it and it just got bigger and bigger and bigger. I looked at the map and it was obvious that it was navigating us right toward a clearing. Long before you get to an elephant clearing you can tell where you're going, because the elephant trail opens up to like two meters wide, it's covered with dung, and there's a huge amount of track that are on these "highways." It's a lot like how major highway arteries in the States get bigger as they go into the city—that's basically what it is for elephants—it's an "elephant city." So, we get there, and there it is—this clearing that no one has ever seen before, no conservationist even could have imagined existed in Gabon. This place is just abounding with wildlife and you think "This place really is what old Giuseppe said it was." Even though he had never walked in it, it was as if he just knew this place was the best. The place is called Langoue and it still exists.

If you look at the map from a land-use perspective though, you realize that the entire block has been given away to many different logging companies, and they're working their way into Langoue as fast as we can talk. They're going to log that entire area, and there's still about 500,000 hectares [1,235,500 acres] that are completely virgin, untouched forest. But because of the sheer number of logging companies in there, the potential to log that block completely very quickly is very high. So we're launching a campaign with the government and the logging companies and the conservation community and with the general public to try and create a national park in this place. That means pushing back time. That means going back in time essentially four or five years [ago], when there were no logging concessions in this place. And that's difficult to do. And it's expensive.

NG News: How much money are you looking to raise?

Fay: Well, if we had three and a half million dollars today, right now, we can go into Gabon tomorrow and negotiate the logging rights for those concessions and maybe preserve 300,000 hectares [741,000 acres] of that forest, which includes those native gorillas,

the giant elephants, the clearing on the mountain and the waterfalls. We could start that process quite easily tomorrow. But surprisingly, finding three and a half million dollars for conservation, in this world that has too much money, is very difficult.

NG News: Where have you been looking for funding?

Fay: Everywhere. You know, we don't have a major coordinated fund-raising effort that we're investing lots of money into. We're trying to do it on the cheap, I guess you could say. We're trying to use the media coverage that we've received and use the connections that we have from a number of sources. We have raised well over a million dollars already, but we . . . need three and a half million dollars, and without it we're not gonna get that national park. . . . When you look at the exploitation of the resources in those countries it's not done for the consumption of Gabonese or Congolese, it's done primarily for the consumption of Americans, Asians, and Europeans. And people need to be responsible for that. They can't just blithely keep going farther afield and exploiting the wilderness without having to pay some attention to that fact, without having to pay up. . . . We get all upset when the U.S. government wants to go drilling in [the Arctic National Wildlife Refuge]. But when an oil company wants to drill in the most pristine place in Gabon, we don't say "boo." And that has to change. People need to be responsible globally if they're going to exploit globally. It has to be a two-way street.

NG News: How do you propose to monitor the park and protect it from such threats as poaching, logging, and bushmeat hunting?

Fay: It's that double-edged sword again. The place is very isolated right now. So we're looking at a four-pronged approach. The first prong was to basically get a team on the ground . . . to protect that clearing and get a presence in there that says to people, "There's somebody looking after this place." People have taken an interest in it, people have recognized that it's something that needs to be protected. . . . We have money from the U.S. Fish and Wildlife Service to establish a camp and a team on the ground. So that's prong number one.

Prong number two is the buy-back. We need to negotiate with logging companies and with the Gabonese government to find out how much it is going to cost and which blocks we can get. We're dealing with ten different blocks, each about 25,000 hectares (62,000 acres) . . . and each one takes a separate negotiation essentially. We have the green light from the Gabonese forestry minister to start this process.

The third prong of the effort is to establish a trust fund so that management will take place there in the long term. Trust funds not only create a situation where you can get funding for a place like that, but you also have a much broader management base . . . because if there's an international trust fund then there's an international board. And if there's an international board, people are going to be interested in keeping this place in a state that this fund was set up to preserve. Over the years national governments in Africa have shown great interest and have collaborated in international conservation efforts in their countries. This is seen as positive and we have had great success in the past with these associations.

And then the fourth thing is to actually establish a long-term presence on the ground, which again requires some sort of international collaboration between the conserva-

tion organization and the national government. It relies on funding from the outside rather than inside the country. We have a grant to pay for the ground action for the next three years and the effort to negotiate the national park. So we're making pretty good progress on our four prongs. But we've only completed about 10 to 30 percent of the 100 percent that we need to go on all four of those demands. So, there's still a lot of work to be done.

There are some positive elements to build on. Along the megatransect route there are already some protected areas. The idea is to preserve and fully protect about one tenth of the entire forest. We need to be pragmatic by setting reasonable targets that we can accomplish.

CONSERVATION INTERNATIONAL,
Washington, DC, June 26, 2002.

Hon. BILL FRIST,

U.S. Senate, 416 Russell Senate Office Building,
Washington, DC

DEAR SENATOR FRIST: Conservation International applauds your leadership in sponsoring legislation to strengthen the Tropical Forest Conservation Act (TFCA). Through making nonconcessional debt eligible for TFCA treatment, this legislation paves the way for substantial conservation gains by allowing additional countries to participate in debt-for-nature swaps.

Gabon is a good example. The country contains some of the world's most pristine and biologically important tropical forests—forests that shelter an incredible diversity of wildlife including populations of gorillas and chimpanzees so wild as to never before have encountered human beings. Protecting Gabon's forests is an urgent priority of the conservation community. It is also important to Gabon's future. These forests are essential to maintaining hydrological patterns, protecting water quality and quantity, and offering development opportunities in the form of a potentially significant ecotourism market. As you well know, their exploitation poses an additional risk of exposing human beings to deadly disease. In fact, the most recent Ebola outbreak occurred in Gabon.

Gabon should be a strong candidate for debt relief under the Tropical Forest Conservation Act: it has abundant, critical, and threatened tropical forests; it has a stable political regime; it seeks resources for conservation; and it owes debts to the United States. Unfortunately, the TFCA's narrow construction prohibits Gabon from seeking debt treatment under the Act. Your legislation would change this.

Conservation International has a long history of participating in debt-for-nature swaps and has significant private resources to bring to the table in support of public/private partnerships under the TFCA. In fact, we recently worked with The Nature Conservancy and World Wildlife Fund to contribute a total of \$1.1 million to a TFCA deal in Peru, which leveraged \$5.5 million in U.S. Government funds and generated \$10.6 million in local currency payments for conservation of Peru's forests. With passage of your legislation, CI anticipates additional opportunities to work with the U.S. and key tropical forest countries to simultaneously achieve conservation and debt relief.

Thank you once again for your leadership.

Sincerely,

NICHOLAS LAPHAM,
Senior Director for Policy.

By Mr. BINGAMAN:

S. 2696. A bill to clear title to certain real property in New Mexico associated

with the Middle Rio Grande Project, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, today I am pleased to introduce the Albuquerque Biological Park Title Clarification Act. This bill would assist the City of Albuquerque, NM by clearing its title to two parcels of land located along the Rio Grande. More specifically, it would allow the city to move forward with its plans to improve the properties as part of a Biological Park Project, a city funded initiative to create a premier environmental educational center for its citizens and the entire State of New Mexico.

The Biological Park Project has been in the works since 1987 when the city began to develop an aquarium and botanic garden along the banks of the Rio Grande. The facilities constitutes just a portion of the overall project. In pursuit of the balance of the project, the city, in 1997, purchased two properties from the Middle Rio Grande Conservancy District, MRGCD, for \$3,875,000. The first property, Tingley Beach, had been leased by the city from MRGCD since 1931 and used for public park purposes. The second property, San Gabriel Park, had been leased by the city since 1963, and also used for public park purposes.

In the year 2000, the city's plan were interrupted when the U.S. Bureau of Reclamation claimed that in 1953 it had acquired ownership of all of MRGCD's property that is associated with the Middle Rio Grande Project. The United States' assertion called into question the validity of the 1997 transaction between the city and MRGCD. Both MRGCD and the city dispute the United States' claim of ownership.

This dispute is delaying the city's progress in developing the Biological Park Project. If the matter is simply left to litigation, the delay will be both indefinite and unnecessary. Reclamation has already determined that the two properties are surplus to the needs of the Middle Rio Grande Project. Moreover, this history of this issue indicates that Reclamation had once considered releasing its interest in the properties for \$1.00 each. Obviously, the Federal interest in these properties is low while the local interest is very high. Moreover, this bill would address only the status of the two properties at issue. The general dispute concerning title to project works is left for the courts to decide.

I hope my colleagues will work with me to help resolve this issue which is important to the citizens of my state. While much of what we do here in the Congress is complex and time-consuming work, we should also have the ability to move quickly when necessary and appropriate to solve local problems caused by federal actions. I

therefore urge my colleagues to support this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2696

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Albuquerque Biological Park Title Clarification Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that:

(1) In 1997, the City of Albuquerque, New Mexico paid \$3,875,000 to the Middle Rio Grande Conservancy District to acquire two parcels of land known as Tingley Beach and San Gabriel Park.

(2) The City intends to develop and improve Tingley Beach and San Gabriel Park as part of its Albuquerque Biological Park Project.

(3) In 2000, the City's title to Tingley Beach and San Gabriel Park was clouded by the Bureau of Reclamation's assertion that MRGCD had earlier transferred its assets, including Tingley Beach and San Gabriel Park, to the United States as part of a 1953 grant of easement associated with the Middle Rio Grande Project.

(4) The City's ability to continue developing the Albuquerque Biological Park Project has been hindered by the cloud on its title.

(5) The United States' claim of ownership is disputed by the City and MRGCD in *Rio Grande Silvery Minnow v. John W. Keys, III*, No. CV 99-1320 JP/RLP-ACE (D. N.M. filed Nov. 15 1999).

(6) Tingley Beach and San Gabriel Park are surplus to the needs of the Middle Rio Grande Project.

(b) PURPOSE.—The purpose of this Act is to disclaim on behalf of the United States, any right, title, and interest it may have in and to Tingley Beach and San Gabriel Park, thereby removing the cloud on the City's title to these lands.

SEC. 3. DEFINITIONS.

In this Act:

(a) CITY.—The term "City" means the City of Albuquerque, New Mexico.

(b) MIDDLE RIO GRANDE CONSERVANCY DISTRICT.—The terms "Middle Rio Grande Conservancy District" and "MRGCD" mean a political subdivision of the State of New Mexico, created in 1925 to provide and maintain flood protection and drainage, and maintenance of ditches, canals, and distribution system for irrigation in the Middle Rio Grande Valley.

(c) MIDDLE RIO GRANDE PROJECT.—The term "Middle Rio Grande Project" means the federal reclamation project on the Middle Rio Grande authorized by the Flood Control Act of 1948 (Public Law 80-858; 62 Stat. 1179) and the Flood Control Act of 1950 (Public Law 81-516).

(d) SAN GABRIEL PARK.—The term "San Gabriel Park" means the tract of land containing 40.2236 acres, more or less, situated within Section 12, and Section 13, T10N, R2E, N.M.P.M., City of Albuquerque, Bernalillo County, New Mexico, and described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances in a Special Warranty Deed conveying the property from MRGCD to the City, dated November 25, 1997.

(e) TINGLEY BEACH.—The term "Tingley Beach" means the tract of land containing 25.2005 acres, more or less, situated within Section 13 and Section 24, T10N, R2E, N.M.P.M., City of Albuquerque, Bernalillo County, New Mexico, and described by New Mexico State Plane Grid Bearings (Central Zone) and ground distances in a Special Warranty Deed conveying the property from MRGCD to the City, dated November 25, 1997.

SEC. 4. DISCLAIMER OF PROPERTY INTEREST.

(a) IN GENERAL.—As of the date of enactment of this Act, the United States—

(1) disclaims any right, title, and interest it may have in and to Tingley Beach and San Gabriel Park; and

(2) recognizes as valid the special warranty deeds dated November 25, 1997, conveying Tingley Beach and San Gabriel Park from MRGCD to the City.

(b) OTHER FEDERAL ACTION.—The Secretary of the Interior shall take any and all actions to ensure that future maps, property descriptions, or other documents generated in association with the Middle Rio Grande Project, are consistent with this Act.

SEC. 5. OTHER RIGHTS, TITLE, AND INTERESTS UNAFFECTED.

(a) IN GENERAL.—Except as expressly provided in section 4, nothing in this Act shall be construed to affect any right, or interest in and to any land associated with the Middle Rio Grande Project.

(b) ONGOING LITIGATION.—Nothing contained in this Act shall be construed to affect or otherwise interfere with any position set forth by any party in the lawsuit pending before the United States District Court for the District of New Mexico, No. CV 99-1320 JP/RLP-ACE, entitled *Rio Grande Silvery Minnow v. John W. Keys, III*, concerning the right, title, or interest in and to any property associated with the Middle Rio Grande Project.

By Mr. REID (for himself, Mrs. BOXER, Mrs. CLINTON, Mr. LIEBERMAN, and Mr. SARBANES):
S. 2697. A bill to require the Secretary of the Interior to implement the final rule to phase out snowmobile use in Yellowstone National Park, John D. Rockefeller, Jr. Memorial Parkway, and Grant Teton National Park, and snowplane use in Grand Teton National Park; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, in Yellowstone National Park last winter, park rangers wore respirators. This isn't some kind of a joke, this is the truth. In Yellowstone National Park, the park rangers wore respirators because the air was so clouded and fogged with the pollution from snowmobiles that they had to do that to preserve their health.

Earlier this week, the Bush administration decided to open Yellowstone and Grand Teton National Parks to snowmobile traffic. In doing so, they chose to ignore an avalanche of public comments that strongly supported the banning of snowmobiles in these two magnificent national parks. They chose pollution over protection.

Mr. President, this isn't the first failing grade of this administration's environmental report card. I am sorry to say it probably won't be the last. It is,

however, particularly disappointing in light of the Yellowstone National Park's importance to the American people.

Today, I join with Senators BOXER, CLINTON, and LIEBERMAN to introduce the Yellowstone Protection Act to shield America's first national park from a relapse of damaging snowmobile traffic.

Congressmen RUSH HOLT and CHRISTOPHER SHAYS are introducing a similar bill in the House of Representatives today. I salute them for their bipartisan leadership on this most important issue.

When Congress established the National Park Service, we directed it to "conserve the scenery and the natural and historic objects and the wildlife" of our parks "unimpaired for the enjoyment of future generations."

Mr. President, I have given speeches talking about Government and the things we should be proud of. Near the top of the list every time is our national park system. We are the envy of the world with these magnificent parks, as well we should be. To think that people who work in the parks must wear respirators because of the smog caused by snowmobiles, that is hard to imagine.

In January of 2001, the National Park Service did the right thing. Wisely, it adopted a rule to phase out snowmobile use in the park. After carefully studying the science, examining the law, and reviewing the comments of the American people, it determined—the Park Service did—that the use of snowmobiles was inconsistent with the mission of Yellowstone National Park.

Yet despite that historic decision and the overwhelming evidence that led to it, despite the science the EPA said was among the best it had ever seen, despite the support of over 80 percent of the people commenting on this issue, the National Park Service, under pressure from the administration and special interests, decided on Tuesday to roll back this commonsense rule.

The Bush administration chose to ignore science, environmental laws, and public opinion.

The Yellowstone Protection Act simply codifies the original National Park Service rule that would have banned snowmobiles in the park.

Yellowstone Park is the birthplace of our park system. Congress created the National Park Service to protect Yellowstone and other parks.

Yellowstone Park should serve as a guiding light for our protection of natural resources, not as a canary in a coal mine.

Today, we must act to protect Yellowstone just as our forefathers did in 1872, when they established this magnificent national park. They made a farsighted decision to guarantee that each new generation would inherit a healthy and vibrant Yellowstone.

This Congress must step forward to uphold what Congress began 130 years ago.

This legislation requires the management of Yellowstone and Grand Teton National Parks to be guided by law and informed by science, not dictated and directed by special interests.

We have suffered through the work that has been done by the Bush administration with the environment—whether it is arsenic in the water, whether it is stopping children from having their blood tested for lead, whether it is making it easier for power generators to dump millions of tons of pollutants in the air, whether it is easing up on Superfund legislation, refusing to fund Superfund legislation—all these things you would think would be enough. But, no, it is not enough. Now they have to say that Smokey the Bear must wear a respirator. I think that is too much.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2697

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Yellowstone Protection Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The January 22, 2001, rule phasing out snowmobile use in Yellowstone National Park, Grand Teton National Park, and the John D. Rockefeller, Jr. Memorial Parkway was made by professionals in the National Park Service who based their decision on law, 10 years of scientific study, and extensive public process.

(2) An environmental impact statement that formed the basis for the rule concluded that snowmobile use is impairing or adversely impacting air quality, natural soundscapes, wildlife, public and employee health and safety, and visitor enjoyment. According to the Environmental Protection Agency, the environmental impact statement had "among the most thorough and substantial science base that we have seen supporting a NEPA document".

(3) The National Park Service concluded that snowmobile use is violating the mission given to the agency by Congress—to manage the parks "in such manner and by such means as will leave them unimpaired for the enjoyment of future generations". The National Park Service also found that snowmobile use is "inconsistent with the requirements of the Clean Air Act, Executive Orders 11644 and 11989 [by Presidents Nixon and Carter, relating to off-road vehicle use on public lands], the NPS's general snowmobile regulations and NPS management objectives for the parks".

(4) In order to maintain winter visitor access, the Park Service outlined a plan to use the already existing mode of winter transportation known as snowcoaches, which are mass transit, oversnow vehicles similar to vans. The final rule states that a snowcoach transit system "would reduce adverse impacts on park resources and values, better

provide for public safety, and provide for public enjoyment of the park in winter".

(5) The National Park Service Air Resources Division determined that despite being outnumbered by automobiles 16 to 1 during the course of a year, snowmobiles produce up to 68 percent of Yellowstone's carbon monoxide pollution and up to 90 percent of the park's annual hydrocarbon emissions.

(6) Noise from snowmobiles routinely disrupts natural sounds and natural quiet at popular Yellowstone attractions. A February 2000 "percent time audible" study found snowmobile noise present more than 90 percent of the time at 8 of 13 sites.

(7) In Yellowstone's severe winter climate, snowmobile traffic regularly disturbs and harasses wildlife. In October 2001, 18 eminent scientists warned the Secretary of the Interior that "ignoring this information would not be consistent with the original vision intended to keep our national parks unimpaired for future generations". National Park Service regulations allow snowmobile use only when that use "will not disturb wildlife..." (36 CFR 2.18(c)).

(8) At Yellowstone's west entrance, park rangers and fee collectors suffer from symptoms of carbon monoxide poisoning due to snowmobile exhaust. According to National Park Service records, in December 2000, a dozen park employees filed medical complaints citing sore throats, headaches, lethargy, eye irritation, and tightness in the lungs. Their supervisor requested more staff at the west entrance, not because of a need for additional personnel to cover the work there, but so the supervisor could begin rotating employees more frequently out of the "fume cloud" for the sake of their health. In 2002, for the first time in National Park history, rangers were issued respirators to wear while performing their duties.

(9) The public opportunity to engage in the environmental impact study process was extensive and comprehensive. During the 3-year environmental impact study process and rulemaking, there were 4 opportunities for public consideration and comment. The Park Service held 22 public hearings in regional communities such as West Yellowstone, Cody, Jackson, and Idaho Falls, and across the Nation. The agency received over 70,000 individual comments. At each stage of the input process, support for phasing out snowmobiles grew, culminating in a 4-to-1 majority in favor of the rule in early 2001. More recently, 82 percent of those commenting wrote in favor of the National Park Service decision to phase out snowmobile use in the parks.

SEC. 3. FINAL RULE CODIFIED.

Beginning on the date of the enactment of this Act, the Secretary of the Interior shall implement the final rule to phase out snowmobile use in Yellowstone National Park, the John D. Rockefeller Jr. Memorial Parkway, and Grand Teton National Park, and snowplane use in Grand Teton National Park, as published in the Federal Register on January 22, 2001 (66 Fed. Reg. 7260-7268). The Secretary shall not have the authority to modify or supersede any provision of that final rule.

By Mr. ROCKEFELLER:

S. 2698. A bill to establish a grant program for school renovation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER:

S. 2699. A bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, today I am introducing two bills aimed at addressing our national school infrastructure crisis. Schools across America have been allowed to fall into ill repair, and in some school districts, there is a serious need for new school construction.

The Department of Education has found that the average age of a public school building in this country is 42 years old, an age when buildings tend to deteriorate. In 1995, the GAO found that the unmet need for school construction and renovation in the United States was a staggering \$112 billion.

When our schools are in poor condition, our children suffer and our Nation suffers. Studies have shown that children in well-kept schools perform better than children in deteriorating buildings. Certainly our children deserve the advantages that come with studying in a safe, clean, modern environment. The state of our schools is unacceptable, and it is our responsibility to do all we can to remedy this situation.

These bills are the first pieces of my education agenda for 2002. In addition to investing in school construction, we must also invest in school leadership. Within the next few weeks, I intend to promote initiatives for school principals and incentives to recruit and retain teachers. School leadership will be essential in meeting the higher standards set by our new Leave No Child Behind Act, and principals play a pivotal role. I will be pushing legislation to ensure that we invest in leadership programs to help principals be bold leaders of reform. Also, I intend to introduce tax incentives to reward highly qualified teachers as a way to recruit and retain the best and the brightest for our classrooms. Building leadership among principals and teachers is as essential to quality education as modern schools.

These efforts build on my ongoing education efforts on math and science and technology. In 1996, I was proud to sponsor the E-Rate program with Senator SNOWE to connect our classroom to the Internet because our students must be connected to modern technology to gain the skills needed for the 21st century. This year, I am working hard to enact the National Math and Science Partnership Act to authorize almost a \$1 billion a year for five years for the National Science Foundation to invest in promoting quality math and science education. The combination of these legislative initiatives should help provide the essential resources and leadership necessary to achieve our education goals.

I can see the effects of deteriorating school buildings in my State of West

Virginia. There alone, the need for school construction, renovation, and repair is rapidly approaching a staggering \$2 billion over the next 10 years, a sum West Virginia cannot meet without assistance.

West Virginia has, in the past, benefited greatly from Federal programs designed to improve the quality of school buildings, and the money we've received has been put to excellent use. Funding made available by the Qualified Zone Academy Bond program, a program in which the Federal Government authorizes the states to sell school construction bonds and then pays the interest to the bond holders, has provided my state with over \$4 million in bond funding since 1998. This money has been used to renovate science labs, install wireless computer equipment, remove asbestos, and provide modular classrooms, among many other valuable projects. Another program, a direct funding initiative included in the FY 2001 final budget agreement, has also been a great success in West Virginia and across the nation.

Many schools in my State are unable to take advantage of school bondings because some local communities are so needy that they cannot afford even the low- or no-interest loans that program makes available. And when areas which are already disadvantaged are hit with natural disasters, such as the heart-breaking catastrophic flooding West Virginia has now suffered two years in a row, school districts cannot be expected to keep up with their infrastructure needs.

The direct funding initiative in the 2001 budget made \$1.2 billion in grants available for emergency school renovation and repair and technology improvements across America. West Virginia was fortunate to receive nearly \$8 million in funding from the program, enabling our schools to replace roofs, fix faulty wiring and sewage systems, remove asbestos, and make themselves better prepared for fire emergencies.

The success stories from these programs prove that we can make a real impact in the quality of schools in our nation. I am proud to introduce two bills today designed to build upon these past successes: the America's Better Classroom Act and the Building Our Children's Future Act.

The America's Better Classroom Act is designed to expand and build upon the success of the Qualified Zone Academy Bond, or the QZAB program. It expands this program by \$2.8 billion so even more school districts will be able to take advantage of the low- or no-interest school construction loans that it provides. QZAB's are aimed at schools in disadvantaged areas. To qualify, a school must be located in an empowerment zone, enterprise community, or 35 per cent of its students must be eligible for free or reduced lunch.

In addition to expanding the QZAB program, the America's Better Classroom Act creates a new \$22 billion bonding program designed to help all school districts meet their renovation needs. Funding to states will be allocated based on the Title I funding formula. In this way, many more school districts will have the opportunity to reap the benefits of no- or low-interest loans for school renovation and repair. This legislation is similar to a House bill sponsored by Congresswoman NANCY JOHNSON and Congressman CHARLIE RANGEL. I look forward to working with the House colleagues on this crucial program.

The second bill I introduce today is the Building Our Children's Future Act, a \$5 billion initiative designed to help schools that, due to poverty, high growth, or unforeseen disaster, are unable to meet their repair and renovation needs. Many districts that are facing these difficult challenges find themselves so strapped that they cannot even afford to pay back the principle on an interest-free loan. These areas need direct help, and this grant program provides it.

The Building Our Children's Future Act gives each State funding based on Title I, with a priority to target funding to schools that have been damaged or destroyed by a natural disaster or are located in a high poverty or high growth areas, defined by the state. This makes certain that states have the flexibility to put the money where it is needed the most.

The bill also recognizes that not all renovation needs are the same. In the 21st century, providing students and teachers with access to technology will be a critical part of keeping schools up-to-date. Likewise, we have made a commitment to assist states in covering the costs of special education, a commitment that will undoubtedly require renovation and construction to accommodate special needs. For this reason, the Building Our Children's Future Act sets aside a portion of its funds for states to make technology improvements and carry out programs under the Individuals with Disabilities Education Act.

Finally, the Building Our Children's Future Act also makes money available to schools with high Native American populations and schools located in outlying areas, so that no group will be left behind as we seek to remedy our school infrastructure crisis.

I believe that America's Better Classroom Act and the Building Our Children's Future Act are important steps toward giving our children the learning environments they deserve. When our schools are in disrepair, we cannot expect our educational system to be any different. I hope you will join me in supporting these two bills and, in doing so, join me in supporting the futures of our children and our Nation.

STATEMENTS ON SUBMITTED
RESOLUTIONS

SENATE RESOLUTION 293—DESIGNATING THE WEEK OF NOVEMBER 10 THROUGH NOVEMBER 16, 2002, AS "NATIONAL VETERANS AWARENESS WEEK" TO EMPHASIZE THE NEED TO DEVELOP EDUCATIONAL PROGRAMS REGARDING THE CONTRIBUTIONS OF VETERANS TO THE COUNTRY

Mr. BIDEN (for himself, Mr. THURMOND, Mr. CONRAD, Mr. CLELAND, Mrs. CLINTON, Mr. ROCKEFELLER, Mr. MILLER, Mr. DEWINE, Mr. COCHRAN, Mr. DURBIN, Mr. LUGAR, Ms. COLLINS, Mr. SESSIONS, Mr. KERRY, Mr. BREAUX, Mr. DODD, Mr. DORGAN, Mr. HELMS, Mr. BAUCUS, Mrs. BOXER, Mr. JOHNSON, Ms. LANDRIEU, Mr. GRASSLEY, Mr. ROBERTS, Mr. LEVIN, Mr. REID, Mr. LEAHY, Mr. MCCAIN, Mr. HOLLINGS, Mr. SARBANES, Mr. VOINOVICH, Mr. INHOFE, Mrs. MURRAY, Mr. GREGG, Ms. MIKULSKI, Mr. DOMENICI, Mr. HUTCHINSON, Mrs. LINCOLN, Mr. SANTORUM, Mr. CRAPO, Mr. BUNNING, Mr. CRAIG, Mr. STEVENS, Mr. AKAKA, Mr. NELSON of Florida, Mr. CARPER, Mr. INOUE, Mr. HAGEL, Mr. FEINGOLD, Mr. WARNER, Mr. BINGAMAN, and Mr. DAYTON) submitted the following resolution; which was referred to the Committee on the Judiciary

S. RES. 293

Whereas tens of millions of Americans have served in the Armed Forces of the United States during the past century;

Whereas hundreds of thousands of Americans have given their lives while serving in the Armed Forces during the past century;

Whereas the contributions and sacrifices of the men and women who served in the Armed Forces have been vital in maintaining our freedoms and way of life;

Whereas the advent of the all-volunteer Armed Forces has resulted in a sharp decline in the number of individuals and families who have had any personal connection with the Armed Forces;

Whereas this reduction in familiarity with the Armed Forces has resulted in a marked decrease in the awareness by young people of the nature and importance of the accomplishments of those who have served in our Armed Forces, despite the current educational efforts of the Department of Veterans Affairs and the veterans service organizations;

Whereas our system of civilian control of the Armed Forces makes it essential that the future leaders of the Nation understand the history of military action and the contributions and sacrifices of those who conduct such actions; and

Whereas on October 30, 2001, President George W. Bush issued a proclamation urging all Americans to observe November 11 through November 17, 2001, as National Veterans Awareness Week: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of November 10 through November 16, 2002, as "National Veterans Awareness Week" for the purpose of emphasizing educational efforts directed at elementary and secondary school students concerning the contributions and sacrifices of veterans; and

(2) requests that the President issue a proclamation calling on the people of the United States to observe National Veterans Awareness Week with appropriate educational activities.

Mr. BIDEN. Mr. President, today I have the honor of joining with 50 of my colleagues in submitting a resolution expressing the sense of the Senate that the week that includes Veterans' Day this year be designated as "National Veterans Awareness Week." This marks the third year in a row that I have introduced such a resolution, which has been adopted unanimously by the Senate on both previous occasions.

The purpose of National Veterans Awareness Week is to serve as a focus for educational programs designed to make students in elementary and secondary schools aware of the contributions of veterans and their importance in preserving American peace and prosperity. This goal takes on particular importance and immediacy this year as we find ourselves at war in the wake of the attack against us on our own territory.

Why do we need such an educational effort? In a sense, this action has become necessary because we are victims of our own success with regard to the superior performance of our armed forces. The plain fact is that there are just fewer people around now who have had any connection with military service. For example, as a result of tremendous advances in military technology and the resultant productivity increases, our current armed forces now operate effectively with a personnel roster that is one-third less in size than just 10 years ago. In addition, the success of the all-volunteer career-oriented force has led to much lower turnover of personnel in today's military than in previous eras when conscription was in place. Finally, the number of veterans who served during previous conflicts, such as World War II, when our military was many times larger than today, is inevitably declining.

The net result of these changes is that the percentage of the entire population that has served in the Armed Forces is dropping rapidly, a change that can be seen in all segments of society. Whereas during World War II it was extremely uncommon to find a family in America that did not have one of its members on active duty, now there are numerous families that include no military veterans at all. As a consequence of this lack of opportunity for contacts with veterans, many of our young people have little or no connection with or knowledge about the important historical and ongoing role of men and women who have served in the military. This omission seems to have persisted despite ongoing educational efforts by the Department of Veterans Affairs and the veterans service organizations.

This lack of understanding about military veterans' important role in our society can have potentially serious repercussions. In our country, civilian control of the armed forces is the key tenet of military governance. A citizenry that is oblivious to the capabilities and limitations of the armed forces, and to its critical role throughout our history can make decisions that have unexpected and unwanted consequences. Even more important, general recognition of the importance of those individual character traits that are essential for military success, such as patriotism, selflessness, sacrifice and heroism, is vital to maintaining these key aspects of citizenship in the armed forces and even throughout the population at large.

Among today's young people, a generation that has grown up largely during times of peace and extraordinary prosperity and has embraced a "me first" attitude, it is perhaps even more important to make sure that there is solid understanding of what it has taken to attain this level of comfort and freedom. Even in the midst of our ongoing war against terrorism, with Americans in uniform finding themselves in harm's way around the world, many young people seem to be totally divorced from the implications of the conflict that is raging.

The failure of our children to understand why a military is important, why our society continues to depend on it for ultimate survival, and why a successful military requires integrity and sacrifice, will have predictable consequences as these youngsters become of voting age. Even though military service is a responsibility that is no longer shared by a large segment of the population, as it has been in the past, knowledge of the contributions of those who have served in the Armed Forces is as important as it has ever been. To the extent that many of us will not have the opportunity to serve our country in uniform, we must still remain cognizant of our responsibility as citizens to fulfill the obligations, we owe, both tangible and intangible, to those who do serve and who do sacrifice on our behalf.

The importance of this issue was brought home to me two years ago by Samuel I. Cashdollar, who was then a 13-year-old seventh grader at Lewes Middle School in Lewes, DE. Samuel won the Delaware VFW's Youth Essay Contest that year with a powerful presentation titled "How Should We Honor America's Veterans?" Samuel's essay pointed out that we have Nurses' Week, Secretaries' Week, and Teachers' Week, to rightly emphasize the importance of these occupations, but the contributions of those in uniform tend to be overlooked. We don't want our children growing up to think that Veterans Day has simply become a synonym for department store sale, and we

don't want to become a Nation where more high school seniors recognize the name Britney Spears than the name Dwight Eisenhower.

National Veterans Awareness Week complements Veterans Day by focusing on education as well as commemoration, on the contributions of the many in addition to the heroism and service of the individual. National Veterans Awareness Week also presents an opportunity to remind ourselves of the contributions and sacrifices of those who have served in peacetime as well as in conflict; both groups work unending hours and spend long periods away from their families under conditions of great discomfort so that we all can live in a land of freedom and plenty.

Last year, my resolution designating National Veterans Awareness Week had 58 cosponsors and was approved in the Senate by unanimous consent. Responding to that resolution, President Bush issued a proclamation urging our citizenry to observe National Veterans Awareness Week. I ask my colleagues to continue this trend of support for our veterans by endorsing this resolution again this year. Our children and our children's children will need to be well informed about what veterans have accomplished in order to make appropriate decisions as they confront the numerous worldwide challenges that they are sure to face in the future.

SENATE RESOLUTION 294—TO AMEND RULE XLII OF THE STANDING RULES OF THE SENATE TO PROHIBIT EMPLOYMENT DISCRIMINATION IN THE SENATE BASED ON SEXUAL ORIENTATION

Mrs. FEINSTEIN (for herself, Mr. SPECTER, Mr. DASCHLE, Mr. DODD, Mr. TORRICELLI, Mr. FEINGOLD, Mr. DAYTON, Ms. STABENOW, Mr. DURBIN, Mr. JEFFORDS, Mr. KENNEDY, Mr. INOUE, Ms. CANTWELL, Mr. LEAHY, Mr. WYDEN, Mrs. BOXER, Mr. REED, Mr. AKAKA, Mr. HARKIN, Mrs. CLINTON, Mr. REID, Mrs. MURRAY, Mr. CORZINE, Mr. BINGAMAN, Ms. MIKULSKI, Mr. BAYH, Mr. LEVIN, Mr. WELLSTONE, Mr. KERRY, Ms. COLLINS, Mr. LIEBERMAN, Ms. LANDRIEU, Mr. EDWARDS, Mr. SMITH of Oregon, Mr. BIDEN, Mr. SCHUMER, Mr. CHAFEE, Mr. SARBANES, Mr. KOHL, Mrs. CARNAHAN, Mr. CARPER, Mr. NELSON of Florida, and Mr. CLELAND) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 294

Resolved,
SECTION 1. AMENDMENT TO THE STANDING RULES OF THE SENATE.

Paragraph 1 of rule XLII of the Standing Rules of the Senate is amended by striking "or state of physical handicap" and inserting "state of physical handicap, or sexual orientation".

Mrs. FEINSTEIN. Mr. President, I rise today to submit a resolution to

prohibit employment discrimination in the United States Senate based on sexual orientation.

The resolution would amend the Standing Rules of the Senate by adding "sexual orientation" to "race, color, religion, sex, national origin, age, or state of physical handicap" in the anti-discrimination provision of rule 42, which governs the Senate's employment practices.

I am very pleased that 41 of my colleagues, Senators SPECTER, DASCHLE, DODD, TORRICELLI, FEINGOLD, DAYTON, STABENOW, DURBIN, JEFFORDS, KENNEDY, INOUE, CANTWELL, LEAHY, WYDEN, BOXER, REED, AKAKA, HARKIN, CLINTON, REID, MURRAY, CORZINE, BINGAMAN, MIKULSKI, BAYH, LEVIN, WELLSTONE, KERRY, COLLINS, LIEBERMAN, LANDRIEU, EDWARDS, SMITH of Oregon, BIDEN, SCHUMER, CHAFEE, SARBANES, KOHL, CARNAHAN, CARPER, and NELSON of Florida, have joined me in submitting this resolution today.

By amending the current rule, it would forbid any Senate member, officer or employee from terminating, refusing to hire, or otherwise discriminating against an individual with respect to promotion, compensation, or any other privilege of employment, on the basis of that individual's sexual orientation.

Senate employees currently have no recourse available to them should they become a victim of this type of employment discrimination.

If the rules are amended, any Senate employee that encountered discrimination based on their sexual orientation would have the option of reporting it to the Senate Ethics Committee. The Ethics Committee could then investigate the claim and recommend discipline for any Senate member, officer or employee found to have violated the rule.

Unfortunately, the Senate is already well behind other establishments of the U.S. Government in this area of anti-discrimination.

By 1996, at least 13 cabinet level agencies, including the Departments of Justice, Agriculture, Transportation, Health and Human Services, Interior, Housing and Urban Development, Labor, and Energy, in addition to the General Accounting Office, General Services Administration, Internal Revenue Service, the Federal Reserve System, Office of Personnel Management, and the White House had already issued policy statements forbidding sexual orientation discrimination.

In 1998, Executive Order 13087 was issued to prohibit sexual orientation discrimination in the Federal executive branch, including civilian employees of the military departments and sundry other governmental entities.

That Executive order now covers approximately 2 million Federal civilian workers, yet, four years later, there are still employees of the United States Senate that are unprotected.

In taking this step toward addressing discrimination, the Senate would join not only the Executive Branch, but also 294 Fortune 500 companies, 23 State governments and 252 local governments that have already prohibited workplace discrimination based on sexual orientation.

Currently, at least 68 Senators have already adopted written policies for their congressional offices indicating that sexual orientation is not a factor in their employment decisions.

Now, I urge my colleagues to join me by making this policy universal for the Senate, rather than relying on a patchwork of protection that only covers some of the Senate's employees.

SENATE RESOLUTION 295—COMMEMORATING THE 32ND ANNIVERSARY OF THE POLICY OF INDIAN SELF-DETERMINATION

Mr. CAMPBELL (for himself, Mr. AKAKA, Mr. DOMENICI, Mr. COCHRAN, and Ms. STABENOW) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 295

Whereas the United States of America and the Sovereign Indian Tribes contained within its boundaries have had a long and mutually beneficial relationship since the beginning of the Republic.

Whereas the United States has recognized this special legal and political relationship and its trust responsibility to the Indian Tribes as reflected in the Federal Constitution, treaties, numerous court decisions, Federal statutes, executive orders, and course of dealing;

Whereas Federal policy toward the Indian Tribes has vacillated through history and often failed to uphold the government-to-government relationship that has endured for more than 200 years;

Whereas these Federal policies included the wholesale removal of Indian tribes and their members from their aboriginal homelands, attempts to assimilate Indian people into the general culture, as well as the termination of the legal and political relationship between the United States and the Indian tribes;

Whereas President Richard M. Nixon, in his 'Special Message to Congress on Indian Affairs' on July 8, 1970, recognized that the Indian Tribes constitute a distinct and valuable segment of the American federalist system, whose members have made significant contributions to the United States and to American culture;

Whereas President Nixon determined that Indian Tribes, as local governments, are best able to discern the needs of their people and are best situated to determine the direction of their political and economic futures;

Whereas in his 'Special Message' President Nixon recognized that the policies of legal and political termination on the one hand, and paternalism and excessive dependence on the other, devastated the political, economic, and social aspects of life in Indian America, and had to be radically altered;

Whereas in his 'Special message' President Nixon set forth the foundation for a new, more enlightened Federal Indian policy grounded in economic self-reliance and political self-determination; and

Whereas this Indian self-determination policy has endured as the most successful policy of the United States in dealing with the Indian Tribes because it rejects the failed policies of termination and paternalism and recognized 'the integrity and right to continued existence of all Indian Tribal and Alaska native governments, recognizing that cultural pluralism is a source of national strength';

Now, therefore, be it

Resolved, That the Senate of the United States recognizes the unique role of the Indian Tribes and their members in the United States, and commemorates the vision and leadership of President Nixon, and every succeeding President, in fostering the policy of Indian Self-Determination

Mr. CAMPBELL. Mr. President, I am pleased to submit today a resolution to commemorate the anniversary of a little-noticed but critical event that took place 32 years ago this summer.

In July 1970, President Richard M. Nixon delivered his now-famous "Special Message to the Congress on Indian Affairs" that revolutionized how our Nation deals with Native governments and Native people from Florida to Alaska, from Maine to Hawaii.

With centuries of ill-conceived and misdirected Federal policies and practices behind us, I am happy to say that the Nixon Indian policy continues as the bedrock of America's promise to Native Americans.

In his Message to Congress, the President made the case for a more enlightened Federal Indian policy. Citing historical injustices as well as the practical failure of all previous Federal policies regarding Indian Nations, President Nixon called for the rejection of both the "termination" policy of the 1950s and the "excessive dependence" on the Federal Government by Indian tribes and people fostered by Federal paternalism.

Nixon observed that "[t]he first Americans—the Indians—are the most deprived and most isolated group in our Nation. On virtually every scale of measurement—employment, income, education, health—the condition of the Indian people rank at the bottom."

Thirty-two years later, Indians continue to suffer high rates of unemployment, are mired in poverty, and still rank at or near the bottom of nearly every social and economic indicator in the Nation. Nonetheless, there is cause for hope that the conditions of Native Americans are improving, however slowly.

The twin pillars of the policy change initiated in 1970 are political self determination and economic self reliance. Without doubt, the most enduring legacy of the 1970 Message is the Indian self determination policy best embodied in the Indian Self Determination and Education Assistance Act of 1975, amended several times since then.

This Act, which has consistently been supported, promoted, and expanded with bipartisan support, authorizes Indian tribes to assume re-

sponsibility for and administer programs and services formerly provided by the Federal Government.

As of 2001, nearly one-half of all Bureau of Indian Affairs, BIA, and Indian Health Service, IHS, programs and services have been assumed by tribes under the Indian Self Determination Act.

With this transfer of resources and decision making authority, tribal governments have succeeded in improving the quality of services to their citizens, developed more sophisticated tribal governing structures and practices, improved their ability to govern, and strengthened their economies.

Self determination contracting and compacting has improved the efficiency of Federal programs and services and at the same time have devolved control over these resources from Washington, DC to the local, tribal governments which are much more in tune with the needs of their own people.

As steps are taken to provide tribes the tools they need to develop vigorous economies and generate tribal revenues, our policy in Congress and across the Federal Government should be to encourage and assist tribes to expand self determination and self governance into other agencies and programs, and in the process help Native people to achieve real and measurable success in improving their standard of living.

The challenge of the Nixon Message was not only to the Federal Government but to the tribes themselves: that by building strong tribal governments and more robust economies, real independence and true self determination can be achieved.

Our experience has shown that any cooperative efforts between the United States and the tribes must include a solemn assurance that the special relationship will endure and will not be terminated because of the fits and starts of periodic economic success enjoyed by some Indian tribes.

President Nixon wisely realized that the mere threat of termination results in a tendency toward an unhealthy dependence on the Federal Government which has plagued Native people for decades. As President Nixon himself knew, Native people are not hapless bystanders in this process. His Message recognized that the story of the Indian in America is one of "endurance, survival, of adaptation and creativity in the face of overwhelming obstacles."

The persistence and tenacity of Native people has been the foundation in forging a more enlightened Indian policy and with the assistance of the United States will, I am confident, result in true self determination for Native people in the United States.

I urge my colleagues to join me in recognizing the Nixon Message and our collective efforts over time in making Indian self determination a reality.

SENATE CONCURRENT RESOLUTION 125—PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND A CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

Mr. DASCHLE submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 125

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, June 27, 2002, or Friday, June 28, 2002, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until 12:00 noon on Monday, July 8, 2002, or until such other time on that day as may be specified in the motion to recess or adjourn, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Thursday, June 27, 2002, Friday, June 28, 2002, or Saturday, June 29, 2002, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2:00 p.m. on Monday, July 8, 2002, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

SENATE CONCURRENT RESOLUTION 126—EXPRESSING THE SENSE OF CONGRESS REGARDING SCLERODERMA

Mr. REID (for himself, Mr. CRAIG, Mrs. FEINSTEIN, and Ms. STABENOW) submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 126

Whereas Scleroderma is a debilitating and potentially fatal autoimmune disease with a broad range of symptoms that may be either localized or systemic;

Whereas Scleroderma may attack vital internal organs, including the heart, esophagus, lungs, and kidneys, and may do so without causing any external symptoms;

Whereas more than 300,000 people in the United States suffer from Scleroderma;

Whereas the symptoms of Scleroderma include hardening and thickening of the skin, swelling, disfigurement of the hands, spasms of blood vessels causing severe discomfort in the fingers and toes, weight loss, joint pain, difficulty swallowing, extreme fatigue, and ulcerations on the fingertips which are slow to heal;

Whereas people with advanced Scleroderma may be unable to perform even the simplest tasks;

Whereas 80 percent of the people suffering from Scleroderma are women between the ages of 25 and 55;

Whereas Scleroderma is the fifth leading cause of death among all autoimmune diseases for women who are 65 years old or younger;

Whereas the wide range of symptoms and localized and systemic variations of Scleroderma make it difficult to diagnose;

Whereas the average diagnosis of Scleroderma is made 5 years after the onset of symptoms;

Whereas the cause of Scleroderma is still unknown and there is no known cure;

Whereas Federal funding for Scleroderma research is less than for other diseases of similar prevalence; and

Whereas the estimated annual direct and indirect costs of Scleroderma in the United States are \$1,500,000,000: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) private organizations and health care providers should be recognized for their efforts to promote awareness and research of Scleroderma;

(2) the people of the United States should make themselves aware of the symptoms of Scleroderma and contribute to the fight against Scleroderma;

(3) the Federal Government should promote awareness regarding Scleroderma, adequately fund research projects regarding Scleroderma within the fiscal budget, and continue to consider ways to improve the quality of health care services provided for Scleroderma patients, including making prescription medication more affordable;

(4) the National Institutes of Health should continue to play a leadership role in the fight against Scleroderma by—

(A) working more closely with private organizations and researchers to find a cure for Scleroderma;

(B) funding research projects regarding Scleroderma conducted by private organizations and researchers;

(C) holding a Scleroderma symposium which would bring together distinguished scientists and clinicians from across the United States to determine the most important priorities in Scleroderma research;

(D) supporting the formation of small workgroups composed of experts from diverse but related scientific fields to study Scleroderma;

(E) conducting more genetic, environmental, and clinical research regarding Scleroderma;

(F) training more basic and clinical scientists to carry out such research; and

(G) providing for better dissemination of the information learned from such research; and

(5) the Centers for Disease Control and Prevention should give priority to the establishment of a national epidemiological study to better track the incidence of Scleroderma and to gather information about the disease that could lead to a cure.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4166. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 4167. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 4168. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

SA 4169. Mr. WARNER proposed an amendment to the bill S. 2514, supra.

SA 4170. Mr. WARNER proposed an amendment to the bill S. 2514, supra.

SA 4171. Mr. McCAIN (for himself and Mr. KYL) submitted an amendment intended to be proposed to amendment SA 4060 proposed by Mr. WYDEN (for himself and Mr. SMITH of Oregon) to the bill (S. 2514) supra; which was ordered to lie on the table.

SA 4172. Mr. REID (for Mr. LIEBERMAN (for himself and Mr. THOMPSON)) proposed an amendment to the bill S. 803, to enhance the management and promotion of electronic Government services and processes by establishing an Office of Electronic Government within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes.

TEXT OF AMENDMENTS

SA 4166. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table, as follows:

Strike the matter proposed to be inserted and insert the following:

(a) FISCAL YEAR 2003.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 2003, as follows:

- (1) The Army, 480,000.
- (2) The Navy, 375,700.
- (3) The Marine Corps, 175,000.
- (4) The Air Force, 359,000.

(b) AUTHORITY TO EXCEED.—Upon a determination of the Secretary of Defense that it is necessary in the national security interests of the United States, the active duty personnel strengths of the Armed Forces may exceed the authorized strengths provided under paragraphs (1), (2), and (4) of subsection (a) as follows:

- (1) For the Army, by not more than 5,000.
- (2) For the Navy, by not more than 3,500.
- (3) For the Air Force, by not more than 3,500.

SA 4167. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table, as follows:

At the end of subtitle D of title X, add the following:

SEC. 1046. SENSE OF CONGRESS ON ENHANCEMENT OF NATIONAL SECURITY COUNCIL.

(a) FINDINGS.—Congress makes the following findings:

(1) The President received no specific information or warning of the terrorist attacks on September 11, 2001.

(2) Every effort should be taken immediately to prevent a similar failure of intelligence in the future.

(3) In light of the terrorist attacks on September 11, 2001, it is clear that the United States should have a domestic intelligence service as well as a foreign intelligence service.

(4) The Federal Bureau of Investigation moved immediately after September 11, 2001, to organize a domestic intelligence service and coordinate and communicate with the Central Intelligence Agency.

(5) The National Security Council is responsible for providing both domestic and foreign intelligence for the President.

(6) The National Security Council is comprised of the Vice President, the Secretary of State, and the Secretary of Defense, and the National Security Council focuses on international threats and foreign policy.

(7) The National Security Council either failed to receive, or failed to analyze in a timely manner, intelligence that could have facilitated the interdiction of the terrorist attacks on September 11, 2001.

(8) The National Security Council must give equal treatment to homeland security, requiring a flow of timely reports not only from the Central Intelligence Agency and the Defense Intelligence Agency, but also from the Federal Bureau of Investigation, the Customs Services, the Coast Guard, the Border Patrol, the Immigration and Naturalization Service, and other departments and agencies of the Federal Government, as well as domestic law enforcement agencies.

(9) The reorganization and strengthening of the National Security Council should occur immediately and cannot and should not await the establishment of a Department of Homeland Security.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should issue immediately an Executive Order enhancing the National Security Council in order to provide for the more timely delivery of intelligence to, and analysis of intelligence for, the President.

SA 4168. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the Bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —HOMELAND SECURITY INFORMATION SHARING

SEC. 1. SHORT TITLE.

This Act may be cited as the "Homeland Security Information Sharing Act".

SEC. 2. FINDINGS AND SENSE OF CONGRESS.

(a) FINDINGS.—The Congress finds the following:

(1) The President received no specific information or warning of the terrorist attacks on September 11, 2001.

(2) Every effort should be taken immediately to prevent a similar failure of intelligence in the future.

(3) In light of the terrorist attacks on September 11, 2001, it is clear that the United States should have a domestic intelligence service as well as a foreign intelligence service.

(4) The Federal Bureau of Investigation moved immediately after September 11, 2001, to organize a domestic intelligence service and coordinate and communicate with the Central Intelligence Agency.

(5) The National Security Council is responsible for providing both domestic and foreign intelligence for the President.

(6) The National Security Council is comprised of the Vice President, the Secretary of State, and the Secretary of Defense, and the National Security Council focuses on international threats and foreign policy.

(7) The National Security Council either failed to receive, or failed to analyze in a timely manner, intelligence that could have facilitated the interdiction of the terrorist attacks on September 11, 2001.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal State, and local entities should share homeland security information to the maximum extent practicable, with special emphasis on hard-to-reach urban and rural communities.

SA 4169. Mr. WARNER proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 130, between lines 6 and 7, insert the following:

SEC. 604. TEMPORARY AUTHORITY FOR HIGHER RATES OF PARTIAL BASIC ALLOWANCE FOR HOUSING FOR CERTAIN MEMBERS ASSIGNED TO HOUSING UNDER ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING.

(a) AUTHORITY.—The Secretary of Defense may prescribe and, under section 403(n) of title 37, United States Code, pay for members of the Armed Forces (without dependents) in privatized housing higher rates of partial basic allowance for housing than those that are authorized under paragraph (2) of such section 403(n).

(b) MEMBERS IN PRIVATIZED HOUSING.—For the purposes of this section, a member of the Armed Forces (without dependents) is a member of the Armed Forces (without dependents) in privatized housing while the member is assigned to housing that is acquired or constructed under the authority of subchapter IV of chapter 169 of title 10, United States Code.

(c) TREATMENT OF HOUSING AS GOVERNMENT QUARTERS.—For purposes of section 403 of title 37, United States Code, a member of the Armed Forces (without dependents) in privatized housing shall be treated as residing in quarters of the United States or a housing facility under the jurisdiction of the Secretary of a military department while a higher rate of partial allowance for housing is paid for the member under this section.

(d) PAYMENT TO PRIVATE SOURCE.—The partial basic allowance for housing paid for a member at a higher rate under this section may be paid directly to the private sector source of the housing to whom the member

is obligated to pay rent or other charge for residing in such housing if the private sector source credits the amount so paid against the amount owed by the member for the rent or other charge.

(e) TERMINATION OF AUTHORITY.—Rates prescribed under subsection (a) may not be paid under the authority of this section in connection with contracts that are entered into after December 31, 2007, for the construction or acquisition of housing under the authority of subchapter IV of chapter 169 of title 10, United States Code.

SA 4170. Mr. WARNER proposed an amendment to the bill S. 2514, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle A of title III, add the following:

SEC. 305. DISPOSAL OF OBSOLETE VESSELS OF THE NATIONAL DEFENSE RESERVE FLEET.

Of the amount authorized to be appropriated by section 301(a)(2) for operation and maintenance for the Navy, \$20,000,000 may be available, without fiscal year limitation if so provided in appropriations Acts, for expenses related to the disposal of obsolete vessels in the Maritime Administration National Defense Reserve Fleet.

SA 4171. Mr. MCCAIN (for himself and Mr. KYL) submitted an amendment intended to be proposed to amendment SA 4060 proposed by Mr. WYDEN (for himself and Mr. SMITH of Oregon) to the bill (S. 2514) to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 3, strike lines 1 through 5, and insert the following:

(e) OFFSET.—The amount authorized to be appropriated by section 2601(1)(A), and, within that amount, the amount that is available for a military construction project for a Reserve Center in Lane County, Oregon, are hereby reduced by \$4,800,000.

SA 4172. Mr. REID (for Mr. LIEBERMAN (for himself and Mr. THOMPSON)) proposed an amendment to the bill S. 803, to enhance the management and promotion of electronic Government services and processes by establishing an Office of Electronic Government within the Office of Management and Budget, and by establishing a broad framework of measures that require using internet-based information technology to enhance citizen access to Government information and services, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “E-Government Act of 2002”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

TITLE I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

Sec. 101. Management and promotion of electronic Government services.
Sec. 102. Conforming amendments.

TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

Sec. 201. Definitions.
Sec. 202. Federal agency responsibilities.
Sec. 203. Compatibility of Executive agency methods for use and acceptance of electronic signatures.
Sec. 204. Federal Internet portal.
Sec. 205. Federal courts.
Sec. 206. Regulatory agencies.
Sec. 207. Accessibility, usability, and preservation of Government information.

Sec. 208. Privacy provisions.
Sec. 209. Federal Information Technology workforce development.
Sec. 210. Common protocols for geographic information systems.
Sec. 211. Share-in-savings program improvements.
Sec. 212. Integrated reporting study and pilot projects.
Sec. 213. Community technology centers.
Sec. 214. Enhancing crisis management through advanced information technology.
Sec. 215. Disparities in access to the Internet.
Sec. 216. Notification of obsolete or counterproductive provisions.

TITLE III—GOVERNMENT INFORMATION SECURITY

Sec. 301. Information security.
TITLE IV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES
Sec. 401. Authorization of appropriations.
Sec. 402. Effective dates.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The use of computers and the Internet is rapidly transforming societal interactions and the relationships among citizens, private businesses, and the Government.

(2) The Federal Government has had uneven success in applying advances in information technology to enhance governmental functions and services, achieve more efficient performance, increase access to Government information, and increase citizen participation in Government.

(3) Most Internet-based services of the Federal Government are developed and presented separately, according to the jurisdictional boundaries of an individual department or agency, rather than being integrated cooperatively according to function or topic.

(4) Internet-based Government services involving interagency cooperation are especially difficult to develop and promote, in part because of a lack of sufficient funding mechanisms to support such interagency cooperation.

(5) Electronic Government has its impact through improved Government performance and outcomes within and across agencies.

(6) Electronic Government is a critical element in the management of Government, to be implemented as part of a management

framework that also addresses finance, procurement, human capital, and other challenges to improve the performance of Government.

(7) To take full advantage of the improved Government performance that can be achieved through the use of Internet-based technology requires strong leadership, better organization, improved interagency collaboration, and more focused oversight of agency compliance with statutes related to information resource management.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To provide effective leadership of Federal Government efforts to develop and promote electronic Government services and processes by establishing an Administrator of a new Office of Electronic Government within the Office of Management and Budget.

(2) To promote use of the Internet and other information technologies to provide increased opportunities for citizen participation in Government.

(3) To promote interagency collaboration in providing electronic Government services, where this collaboration would improve the service to citizens by integrating related functions, and in the use of internal electronic Government processes, where this collaboration would improve the efficiency and effectiveness of the processes.

(4) To improve the ability of the Government to achieve agency missions and program performance goals.

(5) To promote the use of the Internet and emerging technologies within and across Government agencies to provide citizen-centric Government information and services.

(6) To reduce costs and burdens for businesses and other Government entities.

(7) To promote better informed decision-making by policy makers.

(8) To promote access to high quality Government information and services across multiple channels.

(9) To make the Federal Government more transparent and accountable.

(10) To transform agency operations by utilizing, where appropriate, best practices from public and private sector organizations.

(11) To provide enhanced access to Government information and services in a manner consistent with laws regarding protection of personal privacy, national security, records retention, access for persons with disabilities, and other relevant laws.

TITLE I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

SEC. 101. MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES.

(a) IN GENERAL.—Title 44, United States Code, is amended by inserting after chapter 35 the following:

“CHAPTER 36—MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

“Sec.

“3601. Definitions.

“3602. Office of Electronic Government.

“3603. Chief Information Officers Council.

“3604. E-Government Fund.

“3605. E-Government report.

“§ 3601. Definitions

“In this chapter, the definitions under section 3502 shall apply, and the term—

“(1) ‘Administrator’ means the Administrator of the Office of Electronic Government established under section 3602;

“(2) ‘Council’ means the Chief Information Officers Council established under section 3603;

“(3) ‘electronic Government’ means the use by the Government of web-based Internet applications and other information technologies, combined with processes that implement these technologies, to—

“(A) enhance the access to and delivery of Government information and services to the public, other agencies, and other Government entities; or

“(B) bring about improvements in Government operations that may include effectiveness, efficiency, service quality, or transformation;

“(4) ‘enterprise architecture’—

“(A) means—

“(i) a strategic information asset base, which defines the mission;

“(ii) the information necessary to perform the mission;

“(iii) the technologies necessary to perform the mission; and

“(iv) the transitional processes for implementing new technologies in response to changing mission needs; and

“(B) includes—

“(i) a baseline architecture;

“(ii) a target architecture; and

“(iii) a sequencing plan;

“(5) ‘Fund’ means the E-Government Fund established under section 3604;

“(6) ‘interoperability’ means the ability of different operating and software systems, applications, and services to communicate and exchange data in an accurate, effective, and consistent manner;

“(7) ‘integrated service delivery’ means the provision of Internet-based Federal Government information or services integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction; and

“(8) ‘tribal government’ means the governing body of any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

“§ 3602. Office of Electronic Government

“(a) There is established in the Office of Management and Budget an Office of Electronic Government.

“(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

“(c) The Administrator shall assist the Director in carrying out—

“(1) all functions under this chapter;

“(2) all of the functions assigned to the Director under title II of the E-Government Act of 2002; and

“(3) other electronic government initiatives, consistent with other statutes.

“(d) The Administrator shall assist the Director and the Deputy Director for Management and work with the Administrator of the Office of Information and Regulatory Affairs in setting strategic direction for implementing electronic Government, under relevant statutes, including—

“(1) chapter 35;

“(2) division E of the Clinger-Cohen Act of 1996 (division E of Public Law 104-106; 40 U.S.C. 1401 et seq.);

“(3) section 552a of title 5 (commonly referred to as the Privacy Act);

“(4) the Government Paperwork Elimination Act (44 U.S.C. 3504 note);

“(5) the Government Information Security Reform Act; and

“(6) the Computer Security Act of 1987 (40 U.S.C. 759 note).

“(e) The Administrator shall work with the Administrator of the Office of Information and Regulatory Affairs and with other offices within the Office of Management and Budget to oversee implementation of electronic Government under this chapter, chapter 35, the E-Government Act of 2002, and other relevant statutes, in a manner consistent with law, relating to—

“(1) capital planning and investment control for information technology;

“(2) the development of enterprise architectures;

“(3) information security;

“(4) privacy;

“(5) access to, dissemination of, and preservation of Government information;

“(6) accessibility of information technology for persons with disabilities; and

“(7) other areas of electronic Government.

“(f) Subject to requirements of this chapter, the Administrator shall assist the Director by performing electronic Government functions as follows:

“(1) Advise the Director on the resources required to develop and effectively operate and maintain Federal Government information systems.

“(2) Recommend to the Director changes relating to Governmentwide strategies and priorities for electronic Government.

“(3) Provide overall leadership and direction to the executive branch on electronic Government by working with authorized officials to establish information resources management policies and requirements, and by reviewing performance of each agency in acquiring, using, and managing information resources.

“(4) Promote innovative uses of information technology by agencies, particularly initiatives involving multiagency collaboration, through support of pilot projects, research, experimentation, and the use of innovative technologies.

“(5) Oversee the distribution of funds from, and ensure appropriate administration and coordination of, the E-Government Fund established under section 3604.

“(6) Coordinate with the Administrator of General Services regarding programs undertaken by the General Services Administration to promote electronic government and the efficient use of information technologies by agencies.

“(7) Lead the activities of the Chief Information Officers Council established under section 3603 on behalf of the Deputy Director for Management, who shall chair the council.

“(8) Assist the Director in establishing policies which shall set the framework for information technology standards for the Federal Government under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), to be developed by the National Institute of Standards and Technology and promulgated by the Secretary of Commerce, taking into account, if appropriate, recommendations of the Chief Information Officers Council, experts, and interested parties from the private and nonprofit sectors and State, local, and tribal governments, and maximizing the use of commercial standards as appropriate, as follows:

“(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

“(B) Consistent with the process under section 207(d) of the E-Government Act of 2002,

standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

“(C) Standards and guidelines for Federal Government computer system efficiency and security.

“(9) Sponsor ongoing dialogue that—

“(A) shall be conducted among Federal, State, local, and tribal government leaders on electronic Government in the executive, legislative, and judicial branches, as well as leaders in the private and nonprofit sectors, to encourage collaboration and enhance understanding of best practices and innovative approaches in acquiring, using, and managing information resources;

“(B) is intended to improve the performance of governments in collaborating on the use of information technology to improve the delivery of Government information and services; and

“(C) may include—

“(i) development of innovative models—

“(I) for electronic Government management and Government information technology contracts; and

“(II) that may be developed through focused discussions or using separately sponsored research;

“(ii) identification of opportunities for public-private collaboration in using Internet-based technology to increase the efficiency of Government-to-business transactions;

“(iii) identification of mechanisms for providing incentives to program managers and other Government employees to develop and implement innovative uses of information technologies; and

“(iv) identification of opportunities for public, private, and intergovernmental collaboration in addressing the disparities in access to the Internet and information technology.

“(10) Sponsor activities to engage the general public in the development and implementation of policies and programs, particularly activities aimed at fulfilling the goal of using the most effective citizen-centered strategies and those activities which engage multiple agencies providing similar or related information and services.

“(11) Oversee the work of the General Services Administration and other agencies in developing the integrated Internet-based system under section 204 of the E-Government Act of 2002.

“(12) Coordinate with the Administrator of the Office of Federal Procurement Policy to ensure effective implementation of electronic procurement initiatives.

“(13) Assist Federal agencies, including the General Services Administration, the Department of Justice, and the United States Access Board in—

“(A) implementing accessibility standards under section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d); and

“(B) ensuring compliance with those standards through the budget review process and other means.

“(14) Oversee the development of enterprise architectures within and across agencies.

“(15) Assist the Director and the Deputy Director for Management in overseeing agency efforts to ensure that electronic Government activities incorporate adequate, risk-based, and cost-effective security compatible with business processes.

“(16) Administer the Office of Electronic Government established under section 3602.

“(17) Assist the Director in preparing the E-Government report established under section 3605.

“(g) The Director shall ensure that the Office of Management and Budget, including the Office of Electronic Government, the Office of Information and Regulatory Affairs, and other relevant offices, have adequate staff and resources to properly fulfill all functions under the E-Government Act of 2002.

“§ 3603. Chief Information Officers Council

“(a) There is established in the executive branch a Chief Information Officers Council.

“(b) The members of the Council shall be as follows:

“(1) The Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the Council.

“(2) The Administrator of the Office of Electronic Government.

“(3) The Administrator of the Office of Information and Regulatory Affairs.

“(4) The chief information officer of each agency described under section 901(b) of title 31.

“(5) The chief information officer of the Central Intelligence Agency.

“(6) The chief information officer of the Department of the Army, the Department of the Navy, and the Department of the Air Force, if chief information officers have been designated for such departments under section 3506(a)(2)(B).

“(7) Any other officer or employee of the United States designated by the chairperson.

“(c)(1) The Administrator of the Office of Electronic Government shall lead the activities of the Council on behalf of the Deputy Director for Management.

“(2)(A) The Vice Chairman of the Council shall be selected by the Council from among its members.

“(B) The Vice Chairman shall serve a 1-year term, and may serve multiple terms.

“(3) The Administrator of General Services shall provide administrative and other support for the Council.

“(d) The Council is designated the principal interagency forum for improving agency practices related to the design, acquisition, development, modernization, use, operation, sharing, and performance of Federal Government information resources.

“(e) In performing its duties, the Council shall consult regularly with representatives of State, local, and tribal governments.

“(f) The Council shall perform functions that include the following:

“(1) Develop recommendations for the Director on Government information resources management policies and requirements.

“(2) Share experiences, ideas, best practices, and innovative approaches related to information resources management.

“(3) Assist the Administrator in the identification, development, and coordination of multiagency projects and other innovative initiatives to improve Government performance through the use of information technology.

“(4) Promote the development and use of common performance measures for agency information resources management under this chapter and title II of the E-Government Act of 2002.

“(5) Work as appropriate with the National Institute of Standards and Technology and the Administrator to develop recommendations on information technology standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) and promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), as follows:

“(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

“(B) Consistent with the process under section 207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

“(C) Standards and guidelines for Federal Government computer system efficiency and security.

“(6) Work with the Office of Personnel Management to assess and address the hiring, training, classification, and professional development needs of the Government related to information resources management.

“(7) Work with the Archivist of the United States to assess how the Federal Records Act can be addressed effectively by Federal information resources management activities.

“§ 3604. E-Government Fund

“(a)(1) There is established in the Treasury of the United States the E-Government Fund.

“(2) The Fund shall be administered by the Administrator of the General Services Administration to support projects approved by the Director, assisted by the Administrator of the Office of Electronic Government, that enable the Federal Government to expand its ability, through the development and implementation of innovative uses of the Internet or other electronic methods, to conduct activities electronically.

“(3) Projects under this subsection may include efforts to—

“(A) make Federal Government information and services more readily available to members of the public (including individuals, businesses, grantees, and State and local governments);

“(B) make it easier for the public to apply for benefits, receive services, pursue business opportunities, submit information, and otherwise conduct transactions with the Federal Government; and

“(C) enable Federal agencies to take advantage of information technology in sharing information and conducting transactions with each other and with State and local governments.

“(b)(1) The Administrator shall—

“(A) establish procedures for accepting and reviewing proposals for funding;

“(B) consult with interagency councils, including the Chief Information Officers Council, the Chief Financial Officers Council, and other interagency management councils, in establishing procedures and reviewing proposals; and

“(C) assist the Director in coordinating resources that agencies receive from the Fund with other resources available to agencies for similar purposes.

“(2) When reviewing proposals and managing the Fund, the Administrator shall observe and incorporate the following procedures:

“(A) A project requiring substantial involvement or funding from an agency shall be approved by a senior official with agency-wide authority on behalf of the head of the agency, who shall report directly to the head of the agency.

“(B) Projects shall adhere to fundamental capital planning and investment control processes.

“(C) Agencies shall identify in their proposals resource commitments from the agencies involved and how these resources would be coordinated with support from the Fund, and include plans for potential continuation

of projects after all funds made available from the Fund are expended.

“(D) After considering the recommendations of the interagency councils, the Director, assisted by the Administrator, shall have final authority to determine which of the candidate projects shall be funded from the Fund.

“(E) Agencies shall assess the results of funded projects.

“(c) In determining which proposals to recommend for funding, the Administrator—

“(1) shall consider criteria that include whether a proposal—

“(A) identifies the group to be served, including citizens, businesses, the Federal Government, or other governments;

“(B) indicates what service or information the project will provide that meets needs of groups identified under subparagraph (A);

“(C) ensures proper security and protects privacy;

“(D) is interagency in scope, including projects implemented by a primary or single agency that—

“(i) could confer benefits on multiple agencies; and

“(ii) have the support of other agencies; and

“(E) has performance objectives that tie to agency missions and strategic goals, and interim results that relate to the objectives; and

“(2) may also rank proposals based on criteria that include whether a proposal—

“(A) has Governmentwide application or implications;

“(B) has demonstrated support by the public to be served;

“(C) integrates Federal with State, local, or tribal approaches to service delivery;

“(D) identifies resource commitments from nongovernmental sectors;

“(E) identifies resource commitments from the agencies involved;

“(F) uses web-based technologies to achieve objectives;

“(G) identifies records management and records access strategies;

“(H) supports more effective citizen participation in and interaction with agency activities that further progress toward a more citizen-centered Government;

“(I) directly delivers Government information and services to the public or provides the infrastructure for delivery;

“(J) supports integrated service delivery;

“(K) describes how business processes across agencies will reflect appropriate transformation simultaneous to technology implementation; and

“(L) is new or innovative and does not supplant existing funding streams within agencies.

“(d) The Fund may be used to fund the integrated Internet-based system under section 204 of the E-Government Act of 2002.

“(e) None of the funds provided from the Fund may be transferred to any agency until 15 days after the Administrator of the General Services Administration has submitted to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the appropriate authorizing committees of the Senate and the House of Representatives, a notification and description of how the funds are to be allocated and how the expenditure will further the purposes of this chapter.

“(f)(1) The Director shall report annually to Congress on the operation of the Fund,

through the report established under section 3605.

“(2) The report under paragraph (1) shall describe—

“(A) all projects which the Director has approved for funding from the Fund; and

“(B) the results that have been achieved to date for these funded projects.

“(g)(1) There are authorized to be appropriated to the Fund—

“(A) \$45,000,000 for fiscal year 2003;

“(B) \$50,000,000 for fiscal year 2004;

“(C) \$100,000,000 for fiscal year 2005;

“(D) \$150,000,000 for fiscal year 2006; and

“(E) such sums as are necessary for fiscal year 2007.

“(2) Funds appropriated under this subsection shall remain available until expended.

“§ 3605. E-Government report

“(a) Not later than March 1 of each year, the Director shall submit an E-Government status report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

“(b) The report under subsection (a) shall contain—

“(1) a summary of the information reported by agencies under section 202(f) of the E-Government Act of 2002;

“(2) the information required to be reported by section 3604(f); and

“(3) a description of compliance by the Federal Government with other goals and provisions of the E-Government Act of 2002.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for title 44, United States Code, is amended by inserting after the item relating to chapter 35 the following:

“[36. Management and Promotion of Electronic Government Services .. 3601”.

SEC. 102. CONFORMING AMENDMENTS.

(a) ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.—

(1) IN GENERAL.—The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) is amended by inserting after section 112 the following:

“SEC. 113. ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.

“The Administrator of General Services shall consult with the Administrator of the Office of Electronic Government on programs undertaken by the General Services Administration to promote electronic Government and the efficient use of information technologies by Federal agencies.”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for the Federal Property and Administrative Services Act of 1949 is amended by inserting after the item relating to section 112 the following:

“Sec. 113. Electronic Government and information technologies.”.

(b) MODIFICATION OF DEPUTY DIRECTOR FOR MANAGEMENT FUNCTIONS.—Section 503(b) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (5), (6), (7), (8), and (9), as paragraphs (6), (7), (8), (9), and (10), respectively; and

(2) by inserting after paragraph (4) the following:

“(5) Chair the Chief Information Officers Council established under section 3603 of title 44.”.

(c) OFFICE OF ELECTRONIC GOVERNMENT.—

(1) IN GENERAL.—Chapter 5 of title 31, United States Code, is amended by inserting after section 506 the following:

“§ 507. Office of Electronic Government

“The Office of Electronic Government, established under section 3602 of title 44, is an office in the Office of Management and Budget.”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 31, United States Code, is amended by inserting after the item relating to section 506 the following:

“507. Office of Electronic Government.”.

TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

SEC. 201. DEFINITIONS.

Except as otherwise provided, in this title the definitions under sections 3502 and 3601 of title 44, United States Code, shall apply.

SEC. 202. FEDERAL AGENCY RESPONSIBILITIES.

(a) IN GENERAL.—The head of each agency shall be responsible for—

(1) complying with the requirements of this Act (including the amendments made by this Act), the related information resource management policies and guidance established by the Director of the Office of Management and Budget, and the related information technology standards promulgated by the Secretary of Commerce;

(2) ensuring that the information resource management policies and guidance established under this Act by the Director, and the information technology standards promulgated under this Act by the Secretary of Commerce are communicated promptly and effectively to all relevant officials within their agency; and

(3) supporting the efforts of the Director and the Administrator of the General Services Administration to develop, maintain, and promote an integrated Internet-based system of delivering Federal Government information and services to the public under section 204.

(b) PERFORMANCE INTEGRATION.—

(1) Agencies shall develop performance measures that demonstrate how electronic government enables progress toward agency objectives, strategic goals, and statutory mandates.

(2) In measuring performance under this section, agencies shall rely on existing data collections to the extent practicable.

(3) Areas of performance measurement that agencies should consider include—

(A) customer service;

(B) agency productivity; and

(C) adoption of innovative information technology, including the appropriate use of commercial best practices.

(4) Agencies shall link their performance goals to key groups, including citizens, businesses, and other governments, and to internal Federal Government operations.

(5) As appropriate, agencies shall work collectively in linking their performance goals to groups identified under paragraph (4) and shall use information technology in delivering Government information and services to those groups.

(c) AVOIDING DIMINISHED ACCESS.—When promulgating policies and implementing programs regarding the provision of Government information and services over the Internet, agency heads shall consider the impact on persons without access to the Internet, and shall, to the extent practicable—

(1) ensure that the availability of Government information and services has not been diminished for individuals who lack access to the Internet; and

(2) pursue alternate modes of delivery that make Government information and services

more accessible to individuals who do not own personal computers or lack access to the Internet.

(d) **ACCESSIBILITY TO PEOPLE WITH DISABILITIES.**—All actions taken by Federal departments and agencies under this Act shall be in compliance with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

(e) **SPONSORED ACTIVITIES.**—Agencies shall sponsor activities that use information technology to engage the public in the development and implementation of policies and programs.

(f) **CHIEF INFORMATION OFFICERS.**—The Chief Information Officer of each of the agencies designated under chapter 36 of title 44, United States Code (as added by this Act) shall be responsible for—

(1) participating in the functions of the Chief Information Officers Council; and

(2) monitoring the implementation, within their respective agencies, of information technology standards promulgated under this Act by the Secretary of Commerce, including common standards for interconnectivity and interoperability, categorization of Federal Government electronic information, and computer system efficiency and security.

(g) **E-GOVERNMENT STATUS REPORT.**—

(1) **IN GENERAL.**—Each agency shall compile and submit to the Director an annual E-Government Status Report on—

(A) the status of the implementation by the agency of electronic government initiatives;

(B) compliance by the agency with this Act; and

(C) how electronic Government initiatives of the agency improve performance in delivering programs to constituencies.

(2) **SUBMISSION.**—Each agency shall submit an annual report under this subsection—

(A) to the Director at such time and in such manner as the Director requires;

(B) consistent with related reporting requirements; and

(C) which addresses any section in this title relevant to that agency.

(h) **USE OF TECHNOLOGY.**—Nothing in this Act supersedes the responsibility of an agency to use or manage information technology to deliver Government information and services that fulfill the statutory mission and programs of the agency.

(i) **NATIONAL SECURITY SYSTEMS.**—

(1) **INAPPLICABILITY.**—Except as provided under paragraph (2), this title does not apply to national security systems as defined in section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452).

(2) **APPLICABILITY.**—Sections 202, 203, 210, and 214 of this title do apply to national security systems to the extent practicable and consistent with law.

SEC. 203. COMPATIBILITY OF EXECUTIVE AGENCY METHODS FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

(a) **PURPOSE.**—The purpose of this section is to achieve interoperable implementation of electronic signatures for appropriately secure electronic transactions with Government.

(b) **ELECTRONIC SIGNATURES.**—In order to fulfill the objectives of the Government Paperwork Elimination Act (Public Law 105-277; 112 Stat. 2681-749 through 2681-751), each Executive agency (as defined under section 105 of title 5, United States Code) shall ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Director.

(c) **AUTHORITY FOR ELECTRONIC SIGNATURES.**—The Administrator of General Serv-

ices shall support the Director by establishing a framework to allow efficient interoperability among Executive agencies when using electronic signatures, including processing of digital signatures.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the General Services Administration, to ensure the development and operation of a Federal bridge certification authority for digital signature compatibility, or for other activities consistent with this section, \$8,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 204. FEDERAL INTERNET PORTAL.

(a) **IN GENERAL.**—

(1) **PUBLIC ACCESS.**—The Director shall work with the Administrator of the General Services Administration and other agencies to maintain and promote an integrated Internet-based system of providing the public with access to Government information and services.

(2) **CRITERIA.**—To the extent practicable, the integrated system shall be designed and operated according to the following criteria:

(A) The provision of Internet-based Government information and services directed to key groups, including citizens, business, and other governments, and integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction.

(B) An ongoing effort to ensure that Internet-based Government services relevant to a given citizen activity are available from a single point.

(C) Access to Federal Government information and services consolidated, as appropriate, with Internet-based information and services provided by State, local, and tribal governments.

(D) Access to Federal Government information held by 1 or more agencies shall be made available in a manner that protects privacy, consistent with law.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the General Services Administration \$15,000,000 for the maintenance, improvement, and promotion of the integrated Internet-based system for fiscal year 2003, and such sums as are necessary for fiscal years 2004 through 2007.

SEC. 205. FEDERAL COURTS.

(a) **INDIVIDUAL COURT WEBSITES.**—The Chief Justice of the United States, the chief judge of each circuit and district, and the chief bankruptcy judge of each district shall establish with respect to the Supreme Court or the respective court of appeals, district, or bankruptcy court of a district, a website that contains the following information or links to websites with the following information:

(1) Location and contact information for the courthouse, including the telephone numbers and contact names for the clerk's office and justices' or judges' chambers.

(2) Local rules and standing or general orders of the court.

(3) Individual rules, if in existence, of each justice or judge in that court.

(4) Access to docket information for each case.

(5) Access to the substance of all written opinions issued by the court, regardless of whether such opinions are to be published in the official court reporter, in a text searchable format.

(6) Access to all documents filed with the courthouse in electronic form, described under subsection (c).

(7) Any other information (including forms in a format that can be downloaded) that the court determines useful to the public.

(b) **MAINTENANCE OF DATA ONLINE.**—

(1) **UPDATE OF INFORMATION.**—The information and rules on each website shall be updated regularly and kept reasonably current.

(2) **CLOSED CASES.**—Electronic files and docket information for cases closed for more than 1 year are not required to be made available online, except all written opinions with a date of issuance after the effective date of this section shall remain available online.

(c) **ELECTRONIC FILINGS.**—

(1) **IN GENERAL.**—Except as provided under paragraph (2), each court shall make any document that is filed electronically publicly available online. A court may convert any document that is filed in paper form to electronic form. To the extent such conversions are made, all such electronic versions of the document shall be made available online.

(2) **EXCEPTIONS.**—Documents that are filed that are not otherwise available to the public, such as documents filed under seal, shall not be made available online.

(3) **PRIVACY AND SECURITY CONCERNS.**—The Judicial Conference of the United States may promulgate rules under this subsection to protect important privacy and security concerns.

(d) **DOCKETS WITH LINKS TO DOCUMENTS.**—The Judicial Conference of the United States shall explore the feasibility of technology to post online dockets with links allowing all filings, decisions, and rulings in each case to be obtained from the docket sheet of that case.

(e) **COST OF PROVIDING ELECTRONIC DOCKETING INFORMATION.**—Section 303(a) of the Judiciary Appropriations Act, 1992 (28 U.S.C. 1913 note) is amended in the first sentence by striking "shall hereafter" and inserting "may, only to the extent necessary,".

(f) **TIME REQUIREMENTS.**—Not later than 2 years after the effective date of this title, the websites under subsection (a) shall be established, except that access to documents filed in electronic form shall be established not later than 4 years after that effective date.

(g) **DEFERRAL.**—

(1) **IN GENERAL.**—

(A) **ELECTION.**—

(i) **NOTIFICATION.**—The Chief Justice of the United States, a chief judge, or chief bankruptcy judge may submit a notification to the Administrative Office of the United States Courts to defer compliance with any requirement of this section with respect to the Supreme Court, a court of appeals, district, or the bankruptcy court of a district.

(ii) **CONTENTS.**—A notification submitted under this subparagraph shall state—

(I) the reasons for the deferral; and

(II) the online methods, if any, or any alternative methods, such court or district is using to provide greater public access to information.

(B) **EXCEPTION.**—To the extent that the Supreme Court, a court of appeals, district, or bankruptcy court of a district maintains a website under subsection (a), the Supreme Court or that court of appeals or district shall comply with subsection (b)(1).

(2) **REPORT.**—Not later than 1 year after the effective date of this title, and every year thereafter, the Judicial Conference of the United States shall submit a report to the Committees on Governmental Affairs and the Judiciary of the Senate and the Committees on Government Reform and the

Judiciary of the House of Representatives that—

(A) contains all notifications submitted to the Administrative Office of the United States Courts under this subsection; and

(B) summarizes and evaluates all notifications.

SEC. 206. REGULATORY AGENCIES.

(a) PURPOSES.—The purposes of this section are to—

(1) improve performance in the development and issuance of agency regulations by using information technology to increase access, accountability, and transparency; and

(2) enhance public participation in Government by electronic means, consistent with requirements under subchapter II of chapter 5 of title 5, United States Code, (commonly referred to as the Administrative Procedures Act).

(b) INFORMATION PROVIDED BY AGENCIES ONLINE.—To the extent practicable as determined by the agency in consultation with the Director, each agency (as defined under section 551 of title 5, United States Code) shall ensure that a publicly accessible Federal Government website includes all information about that agency required to be published in the Federal Register under section 552(a)(1) of title 5, United States Code.

(c) SUBMISSIONS BY ELECTRONIC MEANS.—To the extent practicable, agencies shall accept submissions under section 553(c) of title 5, United States Code, by electronic means.

(d) ELECTRONIC DOCKETING.—

(1) IN GENERAL.—To the extent practicable, as determined by the agency in consultation with the Director, agencies shall ensure that a publicly accessible Federal Government website contains electronic dockets for rulemakings under section 553 of title 5, United States Code.

(2) INFORMATION AVAILABLE.—Agency electronic dockets shall make publicly available online to the extent practicable, as determined by the agency in consultation with the Director—

(A) all submissions under section 553(c) of title 5, United States Code; and

(B) other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code, whether or not submitted electronically.

(e) TIME LIMITATION.—Agencies shall implement the requirements of this section consistent with a timetable established by the Director and reported to Congress in the first annual report under section 3605 of title 44 (as added by this Act).

SEC. 207. ACCESSIBILITY, USABILITY, AND PRESERVATION OF GOVERNMENT INFORMATION.

(a) PURPOSE.—The purpose of this section is to improve the methods by which Government information, including information on the Internet, is organized, preserved, and made accessible to the public.

(b) DEFINITIONS.—In this section, the term—

(1) “Committee” means the Interagency Committee on Government Information established under subsection (c); and

(2) “directory” means a taxonomy of subjects linked to websites that—

(A) organizes Government information on the Internet according to subject matter; and

(B) may be created with the participation of human editors.

(c) INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this title, the Director shall establish the Interagency Committee on Government Information.

(2) MEMBERSHIP.—The Committee shall be chaired by the Director or the designee of the Director and—

(A) shall include representatives from—

(i) the National Archives and Records Administration;

(ii) the offices of the Chief Information Officers from Federal agencies; and

(iii) other relevant officers from the executive branch; and

(B) may include representatives from the Federal legislative and judicial branches.

(3) FUNCTIONS.—The Committee shall—

(A) engage in public consultation to the maximum extent feasible, including consultation with interested communities such as public advocacy organizations;

(B) conduct studies and submit recommendations, as provided under this section, to the Director and Congress; and

(C) share effective practices for access to, dissemination of, and retention of Federal information.

(4) TERMINATION.—The Committee may be terminated on a date determined by the Director, except the Committee may not terminate before the Committee submits all recommendations required under this section.

(d) CATEGORIZING OF INFORMATION.—

(1) COMMITTEE FUNCTIONS.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit recommendations to the Director on—

(A) the adoption of standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers; and

(ii) in ways that are interoperable across agencies;

(B) the definition of categories of Government information which should be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(2) FUNCTIONS OF THE DIRECTOR.—Not later than 180 days after the submission of recommendations under paragraph (1), the Director shall issue policies—

(A) requiring that agencies use standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers;

(ii) in ways that are interoperable across agencies; and

(iii) that are, as appropriate, consistent with the standards promulgated by the Secretary of Commerce under section 3602(f)(8) of title 44, United States Code;

(B) defining categories of Government information which shall be required to be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Director shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(e) PUBLIC ACCESS TO ELECTRONIC INFORMATION.—

(1) COMMITTEE FUNCTIONS.—Not later than 1 year after the date of enactment of this Act,

the Committee shall submit recommendations to the Director and the Archivist of the United States on—

(A) the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) the imposition of timetables for the implementation of the policies and procedures by agencies.

(2) FUNCTIONS OF THE ARCHIVIST.—Not later than 180 days after the submission of recommendations by the Committee under paragraph (1), the Archivist of the United States shall issue policies—

(A) requiring the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) imposing timetables for the implementation of the policies, procedures, and technologies by agencies.

(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Archivist of the United States shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(f) AVAILABILITY OF GOVERNMENT INFORMATION ON THE INTERNET.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, each agency shall—

(A) consult with the Committee and solicit public comment;

(B) determine which Government information the agency intends to make available and accessible to the public on the Internet and by other means;

(C) develop priorities and schedules for making that Government information available and accessible;

(D) make such final determinations, priorities, and schedules available for public comment;

(E) post such final determinations, priorities, and schedules on the Internet; and

(F) submit such final determinations, priorities, and schedules to the Director, in the report established under section 202(g).

(2) UPDATE.—Each agency shall update determinations, priorities, and schedules of the agency, as needed, after consulting with the Committee and soliciting public comment, if appropriate.

(g) ACCESS TO FEDERALLY FUNDED RESEARCH AND DEVELOPMENT.—

(1) DEVELOPMENT AND MAINTENANCE OF GOVERNMENTWIDE REPOSITORY AND WEBSITE.—

(A) REPOSITORY AND WEBSITE.—The Director of the National Science Foundation, working with the Director of the Office of Science and Technology Policy and other relevant agencies, shall ensure the development and maintenance of—

(i) a repository that fully integrates, to the maximum extent feasible, information about research and development funded by the Federal Government, and the repository shall—

(I) include information about research and development funded by the Federal Government and performed by—

(aa) institutions not a part of the Federal Government, including State, local, and foreign governments; industrial firms; educational institutions; not-for-profit organizations; federally funded research and development center; and private individuals; and

(bb) entities of the Federal Government, including research and development laboratories, centers, and offices; and

(II) integrate information about each separate research and development task or award, including—

(aa) the dates upon which the task or award is expected to start and end;

(bb) a brief summary describing the objective and the scientific and technical focus of the task or award;

(cc) the entity or institution performing the task or award and its contact information;

(dd) the total amount of Federal funds expected to be provided to the task or award over its lifetime and the amount of funds expected to be provided in each fiscal year in which the work of the task or award is ongoing;

(ee) any restrictions attached to the task or award that would prevent the sharing with the general public of any or all of the information required by this subsection, and the reasons for such restrictions; and

(ff) such other information as may be determined to be appropriate; and

(ii) 1 or more websites upon which all or part of the repository of Federal research and development shall be made available to and searchable by Federal agencies and non-Federal entities, including the general public, to facilitate—

(I) the coordination of Federal research and development activities;

(II) collaboration among those conducting Federal research and development;

(III) the transfer of technology among Federal agencies and between Federal agencies and non-Federal entities; and

(IV) access by policymakers and the public to information concerning Federal research and development activities.

(B) OVERSIGHT.—The Director of the Office of Management and Budget shall issue any guidance determined necessary to ensure that agencies provide all information requested under this subsection.

(2) AGENCY FUNCTIONS.—Any agency that funds Federal research and development under this subsection shall provide the information required to populate the repository in the manner prescribed by the Director of the Office of Management and Budget.

(3) COMMITTEE FUNCTIONS.—Not later than 18 months after the date of enactment of this Act, working with the Director of the Office of Science and Technology Policy, and after consultation with interested parties, the Committee shall submit recommendations to the Director on—

(A) policies to improve agency reporting of information for the repository established under this subsection; and

(B) policies to improve dissemination of the results of research performed by Federal agencies and federally funded research and development centers.

(4) FUNCTIONS OF THE DIRECTOR.—After submission of recommendations by the Committee under paragraph (3), the Director shall report on the recommendations of the Committee and Director to Congress, in the E-Government report under section 3605 of title 44 (as added by this Act).

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation for the de-

velopment, maintenance, and operation of the Governmentwide repository and website under this subsection—

(A) \$2,000,000 in each of the fiscal years 2003 through 2005; and

(B) such sums as are necessary in each of the fiscal years 2006 and 2007.

(h) PUBLIC DOMAIN DIRECTORY OF PUBLIC FEDERAL GOVERNMENT WEBSITES.—

(1) ESTABLISHMENT.—Not later than 2 years after the effective date of this title, the Director and each agency shall—

(A) develop and establish a public domain directory of public Federal Government websites; and

(B) post the directory on the Internet with a link to the integrated Internet-based system established under section 204.

(2) DEVELOPMENT.—With the assistance of each agency, the Director shall—

(A) direct the development of the directory through a collaborative effort, including input from—

- (i) agency librarians;
- (ii) information technology managers;
- (iii) program managers;
- (iv) records managers;
- (v) Federal depository librarians; and
- (vi) other interested parties; and

(B) develop a public domain taxonomy of subjects used to review and categorize public Federal Government websites.

(3) UPDATE.—With the assistance of each agency, the Administrator of the Office of Electronic Government shall—

(A) update the directory as necessary, but not less than every 6 months; and

(B) solicit interested persons for improvements to the directory.

(i) STANDARDS FOR AGENCY WEBSITES.—Not later than 18 months after the effective date of this title, the Director shall promulgate guidance for agency websites that include—

(1) requirements that websites include direct links to—

(A) descriptions of the mission and statutory authority of the agency;

(B) the electronic reading rooms of the agency relating to the disclosure of information under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act);

(C) information about the organizational structure of the agency; and

(D) the strategic plan of the agency developed under section 306 of title 5, United States Code; and

(2) minimum agency goals to assist public users to navigate agency websites, including—

- (A) speed of retrieval of search results;
- (B) the relevance of the results;
- (C) tools to aggregate and disaggregate data; and
- (D) security protocols to protect information.

SEC. 208. PRIVACY PROVISIONS.

(a) PURPOSE.—The purpose of this section is to ensure sufficient protections for the privacy of personal information as agencies implement citizen-centered electronic Government.

(b) PRIVACY IMPACT ASSESSMENTS.—

(1) RESPONSIBILITIES OF AGENCIES.—

(A) IN GENERAL.—An agency shall take actions described under subparagraph (B) before—

- (i) developing or procuring information technology that collects, maintains, or disseminates information that includes any identifier permitting the physical or online contacting of a specific individual; or
- (ii) initiating a new collection of information that—

(I) will be collected, maintained, or disseminated using information technology; and

(II) includes any identifier permitting the physical or online contacting of a specific individual, if the information concerns 10 or more persons.

(B) AGENCY ACTIVITIES.—To the extent required under subparagraph (A), each agency shall—

- (i) conduct a privacy impact assessment;
- (ii) ensure the review of the privacy impact assessment by the Chief Information Officer, or equivalent official, as determined by the head of the agency; and
- (iii) if practicable, after completion of the review under clause (ii), make the privacy impact assessment publicly available through the website of the agency, publication in the Federal Register, or other means.

(C) SENSITIVE INFORMATION.—Subparagraph (B)(iii) may be modified or waived for security reasons, or to protect classified, sensitive, or private information contained in an assessment.

(D) COPY TO DIRECTOR.—Agencies shall provide the Director with a copy of the privacy impact assessment for each system for which funding is requested.

(2) CONTENTS OF A PRIVACY IMPACT ASSESSMENT.—

(A) IN GENERAL.—The Director shall issue guidance to agencies specifying the required contents of a privacy impact assessment.

(B) GUIDANCE.—The guidance shall—

- (i) ensure that a privacy impact assessment is commensurate with the size of the information system being assessed, the sensitivity of personally identifiable information in that system, and the risk of harm from unauthorized release of that information; and
- (ii) require that a privacy impact assessment address—

- (I) what information is to be collected;
- (II) why the information is being collected;
- (III) the intended use of the agency of the information;
- (IV) with whom the information will be shared;
- (V) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;
- (VI) how the information will be secured; and

(VII) whether a system of records is being created under section 552a of title 5, United States Code, (commonly referred to as the Privacy Act).

(3) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall—

- (A) develop policies and guidelines for agencies on the conduct of privacy impact assessments;
- (B) oversee the implementation of the privacy impact assessment process throughout the Government; and
- (C) require agencies to conduct privacy impact assessments of existing information systems or ongoing collections of personally identifiable information as the Director determines appropriate.

(c) PRIVACY PROTECTIONS ON AGENCY WEBSITES.—

(1) PRIVACY POLICIES ON WEBSITES.—

(A) GUIDELINES FOR NOTICES.—The Director shall develop guidance for privacy notices on agency websites used by the public.

(B) CONTENTS.—The guidance shall require that a privacy notice address, consistent with section 552a of title 5, United States Code—

- (i) what information is to be collected;

(ii) why the information is being collected;

(iii) the intended use of the agency of the information;

(iv) with whom the information will be shared;

(v) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(vi) how the information will be secured; and

(vii) the rights of the individual under section 552a of title 5, United States Code (commonly referred to as the Privacy Act), and other laws relevant to the protection of the privacy of an individual.

(2) **PRIVACY POLICIES IN MACHINE-READABLE FORMATS.**—The Director shall issue guidance requiring agencies to translate privacy policies into a standardized machine-readable format.

SEC. 209. FEDERAL INFORMATION TECHNOLOGY WORKFORCE DEVELOPMENT.

(a) **PURPOSE.**—The purpose of this section is to improve the skills of the Federal workforce in using information technology to deliver Government information and services.

(b) **IN GENERAL.**—In consultation with the Director, the Chief Information Officers Council, and the Administrator of General Services, the Director of the Office of Personnel Management shall—

(1) analyze, on an ongoing basis, the personnel needs of the Federal Government related to information technology and information resource management;

(2) oversee the development of curricula, training methods, and training priorities that correspond to the projected personnel needs of the Federal Government related to information technology and information resource management; and

(3) assess the training of Federal employees in information technology disciplines, as necessary, in order to ensure that the information resource management needs of the Federal Government are addressed.

(c) **EMPLOYEE PARTICIPATION.**—Subject to information resource management needs and the limitations imposed by resource needs in other occupational areas, and consistent with their overall workforce development strategies, agencies shall encourage employees to participate in occupational information technology training.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Office of Personnel Management for the implementation of this section, \$7,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 210. COMMON PROTOCOLS FOR GEOGRAPHIC INFORMATION SYSTEMS.

(a) **PURPOSES.**—The purposes of this section are to—

(1) reduce redundant data collection and information; and

(2) promote collaboration and use of standards for government geographic information.

(b) **DEFINITION.**—In this section, the term “geographic information” means information systems that involve locational data, such as maps or other geospatial information resources.

(c) **IN GENERAL.**—

(1) **COMMON PROTOCOLS.**—The Secretary of the Interior, working with the Director and through an interagency group, and working with private sector experts, State, local, and tribal governments, commercial and international standards groups, and other interested parties, shall facilitate the development of common protocols for the development, acquisition, maintenance, distribu-

tion, and application of geographic information. If practicable, the Secretary of the Interior shall incorporate intergovernmental and public private geographic information partnerships into efforts under this subsection.

(2) **INTERAGENCY GROUP.**—The interagency group referred to under paragraph (1) shall include representatives of the National Institute of Standards and Technology and other agencies.

(d) **DIRECTOR.**—The Director shall oversee—

(1) the interagency initiative to develop common protocols;

(2) the coordination with State, local, and tribal governments, public private partnerships, and other interested persons on effective and efficient ways to align geographic information and develop common protocols; and

(3) the adoption of common standards relating to the protocols.

(e) **COMMON PROTOCOLS.**—The common protocols shall be designed to—

(1) maximize the degree to which unclassified geographic information from various sources can be made electronically compatible and accessible; and

(2) promote the development of interoperable geographic information systems technologies that shall—

(A) allow widespread, low-cost use and sharing of geographic data by Federal agencies, State, local, and tribal governments, and the public; and

(B) enable the enhancement of services using geographic data.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this section, for each of the fiscal years 2003 through 2007.

SEC. 211. SHARE-IN-SAVINGS PROGRAM IMPROVEMENTS.

Section 5311 of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106; 110 Stat. 692; 40 U.S.C. 1491) is amended—

(1) in subsection (a)—

(A) by striking “the heads of two executive agencies to carry out” and inserting “heads of executive agencies to carry out a total of 5 projects under”;

(B) by striking “and” at the end of paragraph (1);

(C) by striking the period at the end of paragraph (2) and inserting “; and”;

(D) by adding at the end the following:

“(3) encouraging the use of the contracting and sharing approach described in paragraphs (1) and (2) by allowing the head of the executive agency conducting a project under the pilot program—

“(A) to retain, until expended, out of the appropriation accounts of the executive agency in which savings computed under paragraph (2) are realized as a result of the project, up to the amount equal to half of the excess of—

“(i) the total amount of the savings; over

“(ii) the total amount of the portion of the savings paid to the private sector source for such project under paragraph (2); and

“(B) to use the retained amount to acquire additional information technology.”;

(2) in subsection (b)—

(A) by inserting “a project under” after “authorized to carry out”;

(B) by striking “carry out one project and”;

(3) in subsection (c), by inserting before the period “and the Administrator for the Office of Electronic Government”;

(4) by inserting after subsection (c) the following:

“(d) **REPORT.**—

“(1) **IN GENERAL.**—After 5 pilot projects have been completed, but no later than 3 years after the effective date of this subsection, the Director shall submit a report on the results of the projects to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

“(2) **CONTENTS.**—The report under paragraph (1) shall include—

“(A) a description of the reduced costs and other measurable benefits of the pilot projects;

“(B) a description of the ability of agencies to determine the baseline costs of a project against which savings would be measured; and

“(C) recommendations of the Director relating to whether Congress should provide general authority to the heads of executive agencies to use a share-in-savings contracting approach to the acquisition of information technology solutions for improving mission-related or administrative processes of the Federal Government.”.

SEC. 212. INTEGRATED REPORTING STUDY AND PILOT PROJECTS.

(a) **PURPOSES.**—The purposes of this section are to—

(1) enhance the interoperability of Federal information systems;

(2) assist the public, including the regulated community, in electronically submitting information to agencies under Federal requirements, by reducing the burden of duplicate collection and ensuring the accuracy of submitted information; and

(3) enable any person to integrate and obtain similar information held by 1 or more agencies under 1 or more Federal requirements without violating the privacy rights of an individual.

(b) **DEFINITIONS.**—In this section, the term—

(1) “agency” means an Executive agency as defined under section 105 of title 5, United States Code; and

(2) “person” means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, interstate body, or agency or component of the Federal Government.

(c) **REPORT.**—

(1) **IN GENERAL.**—Not later than 3 years after the date of enactment of this Act, the Director shall oversee a study, in consultation with agencies, the regulated community, public interest organizations, and the public, and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on progress toward integrating Federal information systems across agencies.

(2) **CONTENTS.**—The report under this section shall—

(A) address the integration of data elements used in the electronic collection of information within databases established under Federal statute without reducing the quality, accessibility, scope, or utility of the information contained in each database;

(B) address the feasibility of developing, or enabling the development of, software, including Internet-based tools, for use by reporting persons in assembling, documenting, and validating the accuracy of information electronically submitted to agencies under nonvoluntary, statutory, and regulatory requirements;

(C) address the feasibility of developing a distributed information system involving, on a voluntary basis, at least 2 agencies, that—

(i) provides consistent, dependable, and timely public access to the information holdings of 1 or more agencies, or some portion of such holdings, including the underlying raw data, without requiring public users to know which agency holds the information; and

(ii) allows the integration of public information held by the participating agencies;

(D) address the feasibility of incorporating other elements related to the purposes of this section at the discretion of the Director; and

(E) make recommendations that Congress or the executive branch can implement, through the use of integrated reporting and information systems, to reduce the burden on reporting and strengthen public access to databases within and across agencies.

(d) **PILOT PROJECTS TO ENCOURAGE INTEGRATED COLLECTION AND MANAGEMENT OF DATA AND INTEROPERABILITY OF FEDERAL INFORMATION SYSTEMS.**—

(1) **IN GENERAL.**—In order to provide input to the study under subsection (c), the Director shall designate, in consultation with agencies, a series of no more than 5 pilot projects that integrate data elements. The Director shall consult with agencies, the regulated community, public interest organizations, and the public on the implementation of the pilot projects.

(2) **GOALS OF PILOT PROJECTS.**—

(A) **IN GENERAL.**—Each goal described under subparagraph (B) shall be addressed by at least 1 pilot project each.

(B) **GOALS.**—The goals under this paragraph are to—

(i) reduce information collection burdens by eliminating duplicative data elements within 2 or more reporting requirements;

(ii) create interoperability between or among public databases managed by 2 or more agencies using technologies and techniques that facilitate public access; and

(iii) develop, or enable the development of, software to reduce errors in electronically submitted information.

(3) **INPUT.**—Each pilot project shall seek input from users on the utility of the pilot project and areas for improvement. To the extent practicable, the Director shall consult with relevant agencies and State, tribal, and local governments in carrying out the report and pilot projects under this section.

(e) **PRIVACY PROTECTIONS.**—The activities authorized under this section shall afford protections for—

(1) confidential business information consistent with section 552(b)(4) of title 5, United States Code, and other relevant law;

(2) personal privacy information under sections 552(b)(6) and (7)(C) and 552a of title 5, United States Code, and other relevant law; and

(3) other information consistent with section 552(b)(3) of title 5, United States Code, and other relevant law.

SEC. 213. COMMUNITY TECHNOLOGY CENTERS.

(a) **PURPOSES.**—The purposes of this section are to—

(1) study and enhance the effectiveness of community technology centers, public libraries, and other institutions that provide computer and Internet access to the public; and

(2) promote awareness of the availability of on-line government information and services, to users of community technology centers, public libraries, and other public facilities that provide access to computer technology and Internet access to the public.

(b) **STUDY AND REPORT.**—Not later than 2 years after the effective date of this title, the Secretary of Education, in consultation with the Secretary of Housing and Urban Development, the Secretary of Commerce, the Director of the National Science Foundation, and the Director of the Institute of Museum and Library Services, shall—

(1) conduct a study to evaluate the best practices of community technology centers that have received Federal funds; and

(2) submit a report on the study to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

(C) the Committee on Government Reform of the House of Representatives; and

(D) the Committee on Education and the Workforce of the House of Representatives.

(c) **CONTENTS.**—The report under subsection (b) may consider—

(1) an evaluation of the best practices being used by successful community technology centers;

(2) a strategy for—

(A) continuing the evaluation of best practices used by community technology centers; and

(B) establishing a network to share information and resources as community technology centers evolve;

(3) the identification of methods to expand the use of best practices to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public;

(4) a database of all community technology centers that have received Federal funds, including—

(A) each center's name, location, services provided, director, other points of contact, number of individuals served; and

(B) other relevant information;

(5) an analysis of whether community technology centers have been deployed effectively in urban and rural areas throughout the Nation; and

(6) recommendations of how to—

(A) enhance the development of community technology centers; and

(B) establish a network to share information and resources.

(d) **COOPERATION.**—All agencies that fund community technology centers shall provide to the Department of Education any information and assistance necessary for the completion of the study and the report under this section.

(e) **ASSISTANCE.**—

(1) **IN GENERAL.**—The Secretary of the Department of Education shall work with other relevant Federal agencies, and other interested persons in the private and nonprofit sectors to—

(A) assist in the implementation of recommendations; and

(B) identify other ways to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public.

(2) **TYPES OF ASSISTANCE.**—Assistance under this subsection may include—

(A) contribution of funds;

(B) donations of equipment, and training in the use and maintenance of the equipment; and

(C) the provision of basic instruction or training material in computer skills and Internet usage.

(f) **ONLINE TUTORIAL.**—

(1) **IN GENERAL.**—The Secretary of Education, in consultation with the Director of the Institute of Museum and Library Serv-

ices, the Director of the National Science Foundation, other relevant agencies, and the public, shall develop an online tutorial that—

(A) explains how to access Government information and services on the Internet; and

(B) provides a guide to available online resources.

(2) **DISTRIBUTION.**—The Secretary of Education shall distribute information on the tutorial to community technology centers, public libraries, and other institutions that afford Internet access to the public.

(g) **PROMOTION OF COMMUNITY TECHNOLOGY CENTERS.**—In consultation with other agencies and organizations, the Department of Education shall promote the availability of community technology centers to raise awareness within each community where such a center is located.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Department of Education for the study of best practices at community technology centers, for the development and dissemination of the online tutorial, and for the promotion of community technology centers under this section—

(1) \$2,000,000 in fiscal year 2003;

(2) \$2,000,000 in fiscal year 2004; and

(3) such sums as are necessary in fiscal years 2005 through 2007.

SEC. 214. ENHANCING CRISIS MANAGEMENT THROUGH ADVANCED INFORMATION TECHNOLOGY.

(a) **PURPOSE.**—The purpose of this section is to improve how information technology is used in coordinating and facilitating information on disaster preparedness, response, and recovery, while ensuring the availability of such information across multiple access channels.

(b) **IN GENERAL.**—

(1) **STUDY ON ENHANCEMENT OF CRISIS RESPONSE.**—Not later than 90 days after the date of enactment of this Act, the Federal Emergency Management Agency shall enter into a contract to conduct a study on using information technology to enhance crisis preparedness, response, and consequence management of natural and manmade disasters.

(2) **CONTENTS.**—The study under this subsection shall address—

(A) a research and implementation strategy for effective use of information technology in crisis response and consequence management, including the more effective use of technologies, management of information technology research initiatives, and incorporation of research advances into the information and communications systems to—

(i) the Federal Emergency Management Agency; and

(ii) other Federal, State, and local agencies responsible for crisis preparedness, response, and consequence management; and

(B) opportunities for research and development on enhanced technologies into areas of potential improvement as determined during the course of the study.

(3) **REPORT.**—Not later than 2 years after the date on which a contract is entered into under paragraph (1), the Federal Emergency Management Agency shall submit a report on the study, including findings and recommendations to—

(A) the Committee on Governmental Affairs of the Senate; and

(B) the Committee on Government Reform of the House of Representatives.

(4) **INTERAGENCY COOPERATION.**—Other Federal departments and agencies with responsibility for disaster relief and emergency assistance shall fully cooperate with the Federal Emergency Management Agency in carrying out this section.

(5) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Federal Emergency Management Agency for research under this subsection, such sums as are necessary for fiscal year 2003.

(c) **PILOT PROJECTS.**—Based on the results of the research conducted under subsection (b), the Federal Emergency Management Agency shall initiate pilot projects or report to Congress on other activities that further the goal of maximizing the utility of information technology in disaster management. The Federal Emergency Management Agency shall cooperate with other relevant agencies, and, if appropriate, State, local, and tribal governments, in initiating such pilot projects.

SEC. 215. DISPARITIES IN ACCESS TO THE INTERNET.

(a) **STUDY AND REPORT.**—

(1) **STUDY.**—Not later than 90 days after the date of enactment of this Act, the Director of the National Science Foundation shall request that the National Academy of Sciences, acting through the National Research Council, enter into a contract to conduct a study on disparities in Internet access for online Government services.

(2) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the Director of the National Science Foundation shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a final report of the study under this section, which shall set forth the findings, conclusions, and recommendations of the National Research Council.

(b) **CONTENTS.**—The report under subsection (a) shall include a study of—

(1) how disparities in Internet access influence the effectiveness of online Government services, including a review of—

(A) the nature of disparities in Internet access;

(B) the affordability of Internet service;

(C) the incidence of disparities among different groups within the population; and

(D) changes in the nature of personal and public Internet access that may alleviate or aggravate effective access to online Government services;

(2) how the increase in online Government services is influencing the disparities in Internet access and how technology development or diffusion trends may offset such adverse influences; and

(3) related societal effects arising from the interplay of disparities in Internet access and the increase in online Government services.

(c) **RECOMMENDATIONS.**—The report shall include recommendations on actions to ensure that online Government initiatives shall not have the unintended result of increasing any deficiency in public access to Government services.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the National Science Foundation \$950,000 in fiscal year 2003 to carry out this section.

SEC. 216. NOTIFICATION OF OBSOLETE OR COUNTERPRODUCTIVE PROVISIONS.

If the Director of the Office of Management and Budget makes a determination that any provision of this Act (including any amendment made by this Act) is obsolete or counterproductive to the purposes of this

Act, as a result of changes in technology or any other reason, the Director shall submit notification of that determination to—

(1) the Committee on Governmental Affairs of the Senate; and

(2) the Committee on Government Reform of the House of Representatives.

TITLE III—GOVERNMENT INFORMATION SECURITY

SEC. 301. INFORMATION SECURITY.

(a) **ADDITION OF SHORT TITLE.**—Subtitle G of title X of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-266) is amended by inserting after the heading for the subtitle the following new section:

“SEC. 1060. SHORT TITLE.

“This subtitle may be cited as the ‘Government Information Security Reform Act.’”

(b) **CONTINUATION OF AUTHORITY.**—

(1) **IN GENERAL.**—Section 3536 of title 44, United States Code, is repealed.

(2) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 35 of title 44, United States Code, is amended by striking the item relating to section 3536.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

Except for those purposes for which an authorization of appropriations is specifically provided in title I or II, including the amendments made by such titles, there are authorized to be appropriated such sums as are necessary to carry out titles I and II for each of fiscal years 2003 through 2007.

SEC. 402. EFFECTIVE DATES.

(a) **TITLES I AND II.**—

(1) **IN GENERAL.**—Except as provided under paragraph (2), titles I and II and the amendments made by such titles shall take effect 120 days after the date of enactment of this Act.

(2) **IMMEDIATE ENACTMENT.**—Sections 207, 214, 215, and 216 shall take effect on the date of enactment of this Act.

(b) **TITLES III AND IV.**—Title III and this title shall take effect on the date of enactment of this Act.

NOTICES OF HEARINGS/MEETINGS

JOINT COMMITTEE ON PRINTING

Mr. DAYTON. Mr. President, I wish to announce that the Joint Committee on Printing will meet in SR-301, Russell Senate Office Building, on Wednesday, July 10, 2002, at 11:00 a.m. The Committee will meet to hold a hearing to receive testimony from The Honorable Mitchell E. Daniels, Jr., Director, Office of Management and Budget; The Honorable Michael F. DiMario, Public Printer, United States Government Printing Office; Ms. Julia F. Wallace, Regional Depository Librarian, representing the American Library Association, the American Association of Law Libraries, the Association of Research Libraries, and the Medical Library Association; Mr. Benjamin Y. Cooper, Executive Vice President for Public Affairs, Printing Industries of America; and Mr. William J. Boarman, President, Printing, Publishing and Media Workers Sector, Communications Workers of America, on Federal Government printing and public access to government documents.

Individuals and organizations interested in submitting a statement for the hearing record are requested to call Mr. Matthew McGowan, Staff Director of the Joint Committee on Printing, on 224-3244. For further information regarding the hearing, please contact Mr. McGowan.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, June 27, 2002, at 10 a.m. to conduct an oversight hearing on “The Preliminary Findings of the Commission on Affordable Housing and Health Facility Needs for Seniors in the 21st Century.”

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Thursday, June 27, 2002, at 9:30 a.m. to conduct a business meeting to consider the following: S. 351, the Mercury Reduction and Disposal Act of 2001; S. 556, the Clean Power Act of 2002; S. 2664, the First Responder Terrorism Preparedness Act of 2002; H.R. 3322, the Bear River Migratory Bird Refuge Visitor Center Act; H.R. 3958, the Bear River Migratory Bird Refuge Settlement Act of 2002; and Subpoena for new source review documentation to the Environmental Protection Agency.

The business meeting will be held in SD-406.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, June 27, 2002 at 10 a.m. to consider the Nomination of Charlotte A. Lane, of West Virginia, to be a member of the United States International Trade Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 27, 2002 at 2:30 p.m. to hold a hearing relating to Human Rights in Central Asia.

Agenda

Witnesses

Panel 1: The Honorable Lorne Craner, Assistant Secretary for Democracy,

Human Rights, and Labor, Department of State, Washington, DC; the Honorable J.D. Crouch, Assistant Secretary for International Security Policy, Department of Defense, Washington, DC; and Mr. Lynn Pascoe, Deputy Assistant Secretary for Central Asia, Department of State, Washington, DC.

Panel 2: Ms. Martha Brill Olcott, Senior Associate, Carnegie Endowment for International Peace, Washington, DC; and the Honorable William Courtney, Former U.S. Ambassador to Kazakhstan and Georgia, Former Senior Advisor to the National Security Council, Senior Vice President, National Security Programs, DynCorp, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Government Affairs be authorized to meet on Thursday, June 27, 2002 at 1 p.m. for the purpose of holding a hearing to "Review the Relationship Between a Department of Homeland Security and the Intelligence Community."

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on "Title IX: Building on 30 Years of Progress" during the session of the Senate on Thursday, June 27, 2002, at 2:30 p.m. in SD-430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, June 27, 2002, at 10 a.m., in SD-226.

Agenda

Nominations

Lavenski R. Smith to be a U.S. Circuit Court Judge for the Eighth Circuit, and John M. Rogers to be a U.S. Circuit Court Judge for the Sixth Circuit.

Bills

S. 2134, Terrorism Victim's Access to Compensation Act of 2002 [Harkin/Allen];

H.R. 3375, Embassy Employee Compensation Act [Blunt];

S. 486, Innocent Protection Act [Leahy/Smith];

S. 2633, Reducing Americans' Vulnerability to Ecstasy Act [Biden/Grassley];

S. 862, State Criminal Alien Assistance Program Reauthorization Act of 2001 [Feinstein/Kyl/Durbin/Cantwell];

S. 1339, Persian Gulf POW/MIA Accountability Act of 2001 [Campbell/

Kohl/Thurmond/Feinstein/Sessions/Schumer/McConnell/Durbin/Cantwell/Leahy];

S. 2395, Anticounterfeiting Amendments of 2002 [Biden]; and

S. 2513, DNA Sexual Assault Justice Act of 2002 [Biden/Cantwell/Clinton/Carper].

Resolutions

S. Res. 281, A resolution designating the week beginning August 25, 2002, as "National Fraud Against Senior Citizens Awareness Week". [Levin/Snowe];

S. Res. 284, A resolution expressing support for "National Night Out" and requesting that the President make neighborhood crime prevention, community policing, and reduction of school crime important priorities of the Administration. [Biden].

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Judicial Nominations" on Thursday, June 27, 2002 at 2 p.m. in Dirksen Room 226.

Agenda

Dennis Shedd, 4th Circuit; Terrence McVerry, Western District of Pennsylvania; and Arthur Schuab, Western District of Pennsylvania.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE AND THE APPROPRIATIONS SUBCOMMITTEE ON TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on the Surface Transportation and Merchant Marine and the Appropriations Subcommittee on Transportation be authorized to meet on Thursday, June 27, 2002, at 9:30 a.m. on Cross Border Trucking Issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Ms. LANDRIEU. Mr. President, I ask unanimous consent that privilege of the floor be granted to Cathy Haverstock, a legislative fellow in my office, for the remainder of the debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations reported earlier today by the Armed Services Committee: Calendar Nos. 894 through 902 and all the nominations placed on the Secretary's desk.

I ask further that the nominations be confirmed, the motions to reconsider be laid on the table, any statements thereon be printed at the appropriate place in the RECORD as though read; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session, with the preceding all occurring without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The nominations were considered and confirmed, as follows:

AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Gen. Ralph E. Eberhart, 7375

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brigadier General Robert Damon Bishop, Jr., 9524
Brigadier General Robert W. Chedister, 3487
Brigadier General Trudy H. Clark, 2591
Brigadier General Richard L. Comer, 4255
Brigadier General Craig R. Cooning, 4416
Brigadier General Scott S. Custer, 2467
Brigadier General Felix Dupre, 5938
Brigadier General Edward R. Ellis, 9696
Brigadier General Leonard D. Fox, 1435
Brigadier General Terry L. Gabreski, 2941
Brigadier General Michael C. Gould, 3374
Brigadier General Jonathan S. Gration, 9630
Brigadier General William W. Hodges, 4545
Brigadier General Donald J. Hoffman, 5449
Brigadier General John L. Hudson, 5860
Brigadier General Claude R. Kehler, 6600
Brigadier General Christopher A. Kelly, 6369
Brigadier General Paul J. Lebras, 9625
Brigadier General John W. Rosa, Jr., 3351
Brigadier General Ronald F. Sams, 5888
Brigadier General Kevin J. Sullivan, 2930
Brigadier General Mark A. Welsh, III, 4911
Brigadier General Stephen G. Wood, 7553

ARMY

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. John M. Urias, 6022

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. George W. S. Read, 1278

To be brigadier general

Col. Larry Knightner, 5133

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Edwin E. Spain, III, 8277

To be brigadier general

Col. Dennis E. Lutz, 9078

The following named officer for appointment as Assistant Surgeon General/Chief of

the Dental Corps, United States Army and for appointment to the grade indicated under title 10, U.S.C., section 3039:

To be major general

Brig. Gen. Joseph G. Webb, Jr., 9082

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Wayne M. Erck, 5508

Brig. Gen. Charles E. McCartney, Jr., 5546

Brig. Gen. Bruce E. Robinson, 2520

To be brigadier general

Col. David L. Evans, 3875

Col. William C. Kirkland, 4541

Col. James B. Mallory, III, 5088

Co. John P. McLaren, Jr., 4730

NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Phillip M. Balisle, 3385

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Robert F. Willard, 1564

NOMINATIONS PLACED ON THE SECRETARY'S DESK

AIR FORCE

PN1860 Air Force nomination of Sharon G. Harris, which was received by the Senate and appeared in the Congressional Record of June 7, 2002.

PN1861 Air Force nominations (3) beginning *Nicola A. Choate, and ending *Nicholas G. Viyouh, which nominations were received by the Senate and appeared in the Congressional Record of June 7, 2002.

PN1862 Air Force nominations (2) beginning Kathleen N. Echiverri, and ending Jeffrey E. Haymond, which nominations were received by the Senate and appeared in the Congressional Record of June 7, 2002.

ARMY

PN1809 Army nominations (14) beginning *Timothy C. Beaulieu, and ending William E. Wheeler, which nominations were received by the Senate and appeared in the Congressional Record of June 4, 2002.

PN1810 Army nominations (14) beginning Duane A. Belote, and ending *Neal E. Woolen, which nominations were received by the Senate and appeared in the Congressional Record of June 4, 2002.

PN1811 Army nominations (35) beginning John C. Aupke, and ending Steven R. Young, which nominations were received by the Senate and appeared in the Congressional Record of June 4, 2002.

PN1812 Army nominations (78) beginning Ann M. Altman, and ending *Angelia L. Wherry, which nominations were received by the Senate and appeared in the Congressional Record of June 4, 2002.

PN1813 Army nominations (123) beginning Ryo S. Chun, and ending John K. Zaugg, which nominations were received by the Senate and appeared in the Congressional Record of June 4, 2002.

PN1830 Army nomination of Michael J. Meese, which was received by the Senate and appeared in the Congressional Record of June 5, 2002.

PN1831 Army nominations (4) beginning Steven A. Beyer, and ending James F. Roth, which nominations were received by the Senate and appeared in the Congressional Record of June 5, 2002.

PN1832 Army nomination of Jay A. Jupiter, which were received by the Senate and appeared in the Congressional Record of June 5, 2002.

PN1833 Army nomination of Andrew D. Magnet, which were received by the Senate and appeared in the Congressional Record of June 5, 2002.

PN1834 Army nominations (9) beginning Bernard Coleman, and ending Michael A. Stone, which nominations were received by the Senate and appeared in the Congressional Record of June 5, 2002.

PN1865 Army nomination of Robert A. Mason, which was received by the Senate and appeared in the Congressional Record of June 7, 2002.

PN1866 Army nominations (3) beginning Richard E. Humston, and ending Dwight D. Riggs, which nominations were received by the Senate and appeared in the Congressional Record of June 7, 2002.

PN1889 Army nomination of Nanette S. Patton, which was received by the Senate and appeared in the Congressional Record of June 7, 2002.

MARINE CORPS

PN1814 Marine Corps nominations (1278) beginning Derek M. Abbey, and ending Mark D. Zimmer, which nominations were received by the Senate and appeared in the Congressional Record of June 4, 2002.

NOMINATION OF GEN. R.E. EBERHART

Mr. ALLARD. Mr. President, I would like to take this opportunity to congratulate General Ralph E. Eberhart, United States Air Force, on his appointment to serve as the first Commander-in-Chief of Northern Command as well as the commander of NORAD. General Eberhart's qualifications for this very important position are impeccable, and I have absolutely no doubt that he will bring the same success to Northern Command as he did to US Space Command.

Before General Eberhart departs US Space Command, I want to express my most sincere appreciation to him for his steadfast advocacy of military space capabilities over the past two years. His visionary leadership and dedication as the Commander-in-Chief of US Space Command and, until recently, Air Force Space Command, has truly brought military space into a new era. When he took command of US Space Command in February 2000, our country had just completed Operation Allied Force in Kosovo. At that time we recognized the value that space-based capabilities bring to the flight. GPS-guided weapons were the preferred munition and satellite communications provided double the bandwidth available in Desert Storm. Since Operation Allied Force, General Eberhart was able to increase the effectiveness of these very same capabilities by pressing for the integration of space capabilities with air, maritime and land assets. US Space Command's contributions are the hallmarks of Operation Enduring Freedom.

When military historians look back at Operation Enduring Freedom, they will note the extreme effectiveness bombs delivered with pinpoint accuracy within minutes of being requested by soldiers on the ground. They will note persistent surveillance and near-real time threat information beamed to cockpits. These capabilities would not be possible if it weren't for US Space Command. Space-based capabilities are an enabler of not just the Air Force's transformation, but also the Navy and Army.

General Eberhart's leadership of NORAD during Operation Noble Eagle is equally impressive. After September 11, NORAD went from having 14 aircraft on alert to more than 100. General Eberhart faced the challenges of supporting continuous combat air patrols, including all the supporting logistics such as tankers and integrating NATO AWACS. The change in focus of NORAD since Sept 11 is not, unfortunately, temporary and points our nation's need for a Unified Command to address threats to the United States as well as operations in North America.

North Command is crucial to our national security. I am very proud to host this command in Colorado and sincerely look forward to continue working with General Eberhart.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MEASURE PLACED ON THE CALENDAR—H.R. 3937

Mr. REID. Mr. President, I understand that H.R. 3937 has been read for the first time and is now awaiting its second reading.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I ask then, Mr. President, that H.R. 3937 be read for a second time, but I object to any further proceedings.

The PRESIDING OFFICER. The clerk will read the bill for the second time.

The legislative clerk read as follows:

A bill (H.R. 3937) to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

The PRESIDING OFFICER. Objection having been heard, the bill will be placed on the calendar.

E-GOVERNMENT ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 439, S. 803.

The PRESIDING OFFICER. The clerk will report the title.

The legislative clerk read as follows:

A bill (S. 803) to enhance the management and promotion of the electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Omit the parts in black brackets and insert the parts printed in italic.]

S. 803

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE; TABLE OF CONTENTS.]

[(a) SHORT TITLE.—This Act may be cited as the “E-Government Act of 2001”.]

[(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

[Sec. 1. Short title; table of contents.]

[Sec. 2. Findings and purposes.]

[TITLE I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES]

[Sec. 101. Federal Chief Information Officer.]

[Sec. 102. Office of Information Policy and Office of Information and Regulatory Affairs.]

[Sec. 103. Management and promotion of electronic Government services.]

[TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES]

[Sec. 201. Federal agency responsibilities.]

[Sec. 202. Compatibility of executive agency methods for use and acceptance of electronic signatures.]

[Sec. 203. Online Federal telephone directory.]

[Sec. 204. Online National Library.]

[Sec. 205. Federal courts.]

[Sec. 206. Regulatory agencies.]

[Sec. 207. Integrated reporting feasibility study and pilot projects.]

[Sec. 208. Online access to federally funded research and development.]

[Sec. 209. Common protocols for geographic information systems.]

[Sec. 210. Share-In-Savings Program improvements.]

[Sec. 211. Enhancing crisis management through advanced information technology.]

[Sec. 212. Federal Information Technology Training Center.]

[Sec. 213. Community technology centers.]

[Sec. 214. Disparities in access to the Internet.]

[Sec. 215. Accessibility, usability, and preservation of Government information.]

[Sec. 216. Public domain directory of Federal Government websites.]

[Sec. 217. Standards for agency websites.]

[Sec. 218. Privacy protections.]

[Sec. 219. Accessibility to people with disabilities.]

[Sec. 220. Notification of obsolete or counterproductive provisions.]

[TITLE III—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATE]

[Sec. 301. Authorization of appropriations.]

[Sec. 302. Effective date.]

[SEC. 2. FINDINGS AND PURPOSES.]

[(a) FINDINGS.—Congress finds the following:

[(1) The use of computers and the Internet is rapidly transforming societal interactions and the relationships among citizens, private businesses, and the Government.]

[(2) The Federal Government has had uneven success in applying advances in information technology to enhance Governmental functions and services, achieve more efficient performance, and increase access to Government information and citizen participation in Government.]

[(3) Most Internet-based services of the Federal Government are developed and presented separately, according to the jurisdictional boundaries of an individual department or agency, rather than being integrated cooperatively according to function.]

[(4) Internet-based Government services involving interagency cooperation are especially difficult to develop and promote, in part because of a lack of funding mechanisms to support such interagency cooperation.]

[(5) To take full advantage of the improved Government performance that can be achieved through the use of Internet-based technology requires new leadership, better organization, improved interagency collaboration, and more focused oversight of agency compliance with statutes related to information resource management.]

[(b) PURPOSES.—The purposes of this Act are the following:

[(1) To provide effective leadership of Federal Government efforts to develop and promote electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget.]

[(2) To establish measures that require using Internet-based information technology to enhance citizen access to Government information and services, improve Government efficiency and reduce Government operating costs, and increase opportunities for citizen participation in Government.]

[(3) To promote interagency collaboration in providing electronic Government services, where this collaboration would improve the service to citizens by integrating related function.]

[(4) To promote interagency collaboration in the use of internal electronic Government processes, where this collaboration would improve the efficiency and effectiveness of the processes.]

[TITLE I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES]

[SEC. 101. FEDERAL CHIEF INFORMATION OFFICER.]

[(a) ESTABLISHMENT.—Section 502 of title 31, United States Code, is amended—

[(1) by redesignating subsections (d), (e), and (f), as subsections (e), (f), and (g), respectively; and

[(2) by inserting after subsection (c) the following:

[(“d) The Office has a Federal Chief Information Officer appointed by the President, by and with the advice and consent of the Senate. The Federal Chief Information Officer shall provide direction, coordination, and oversight of the development, application, and management of information resources by the Federal Government.”.]

[(b) COMPENSATION.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

[(“Federal Chief Information Officer.”.)]

[(c) MODIFICATION OF DEPUTY DIRECTOR FOR MANAGEMENT FUNCTIONS.—Section 503(b)(2)(D) of title 31, United States Code, is amended by striking “and statistical policy” and inserting “collection review”.]

[(d) OFFICE OF INFORMATION POLICY.—

[(1) IN GENERAL.—Chapter 5 of title 31, United States Code, is amended by inserting after section 506 the following:

[(“§ 507. Office of Information Policy

[(“The Office of Information Policy, established under section 3503 of title 44, is an office in the Office of Management and Budget.”.)]

[(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 31, United States Code, is amended by inserting after the item relating to section 506 the following:

[(“507. Office of Information Policy.”.)]

[(e) PRIVACY ACT FUNCTIONS.—

[Section 552a(v) of title 5, United States Code (commonly referred to as the Privacy Act) is amended to read as follows:

[(“v) OFFICE OF MANAGEMENT AND BUDGET RESPONSIBILITIES.—The Director of the Office of Management and Budget shall—

[(“1) develop and, after notice and opportunity for public comment, prescribe guidelines and regulations for the use of agencies in implementing the provisions of this section;

[(“2) provide continuing assistance to and oversight of the implementation of this section by agencies; and

[(“3) delegate all of the functions to be performed by the Director under this section to the Federal Chief Information Officer.”.)]

[(f) ACQUISITIONS OF INFORMATION TECHNOLOGY.—

[(1) RESPONSIBILITIES AND FUNCTIONS.—Section 5111 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1411) is amended—

[(A) by inserting “(a) IN GENERAL.—” before “In fulfilling”; and

[(B) by adding at the end the following:

[(“b) DELEGATION.—The Director shall delegate all of the responsibilities and functions to be performed by the Director under this title to the Federal Chief Information Officer.”.)]

[(2) INFORMATION TECHNOLOGY ACQUISITION PILOT PROGRAMS.—Section 5301(a)(1) of the Clinger-Cohen Act of 1996 (40 U.S.C. 1471(a)(1)) is amended by striking “Administrator for the Office of Information and Regulatory Affairs” and inserting “Federal Chief Information Officer”.]

[(g) FEDERAL COMPUTER SYSTEMS STANDARDS AND GUIDELINES.—

[(1) PROMULGATION.—Section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441) is amended—

[(A) by striking “Secretary of Commerce” each place it appears and inserting “Federal Chief Information Officer” in each such place; and

[(B) by striking “Secretary” each place it appears and inserting “Federal Chief Information Officer” in each such place.]

[(2) SUBMISSION.—Section 20(a)(4) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(a)(4)) is amended by striking “Secretary of Commerce” and inserting “Federal Chief Information Officer”.]

[(h) INFORMATION TECHNOLOGY FUND.—Section 110(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757(a)) is amended by adding at the end the following:

[(“3) The Administrator’s decisions with regard to obligations of and expenditures from the Fund shall be made after consultation with the Federal Chief Information Officer, with respect to those programs that—

["(A) promote the use of information technology to agencies; or

["(B) are intended to facilitate the efficient management, coordination, operation, or use of those information technologies.".

[(i) ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.—

[(1) IN GENERAL.—The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) is amended by inserting after section 112 the following:

["SEC. 113. ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.

["The Administrator of General Services shall consult with the Federal Chief Information Officer on programs undertaken by the General Services Administration to promote electronic Government and the efficient use of information technologies by Federal agencies.".

[(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for the Federal Property and Administrative Services Act of 1949 is amended by inserting after the item relating to section 112 the following:

["Sec. 113. Electronic Government and information technologies.".

[(j) GOVERNMENT PAPERWORK ELIMINATION.—The Government Paperwork Elimination Act (44 U.S.C. 3504 note) is amended—

[(1) by redesignating sections 1709 and 1710 as sections 1710 and 1711, respectively; and

[(2) by inserting after section 1708 the following:

["SEC. 1709. DELEGATION OF FUNCTIONS TO FEDERAL CHIEF INFORMATION OFFICER.

["The Director of the Office of Management and Budget shall delegate all of the functions to be performed by the Director under this title to the Federal Chief Information Officer.".

[(SEC. 102. OFFICE OF INFORMATION POLICY AND OFFICE OF INFORMATION AND REGULATORY AFFAIRS.

[(a) ESTABLISHMENT.—

[(1) IN GENERAL.—Section 3503 of title 44, United States Code, is amended to read as follows:

["§ 3503. Office of Information Policy and Office of Information and Regulatory Affairs

["(a)(1) There is established in the Office of Management and Budget an office to be known as the Office of Information Policy.

["(2) The Office shall be administered by the Federal Chief Information Officer established under section 502(d) of title 31. The Director shall delegate to the Federal Chief Information Officer the authority to administer all functions under this chapter, except those delegated to the Administrator of the Office of Information and Regulatory Affairs under subsection (b)(2). Any such delegation shall not relieve the Director of responsibility for the administration of such function.

["(b)(1) There is established in the Office of Management and Budget an office to be known as the Office of Information and Regulatory Affairs.

["(2) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall delegate to the Administrator the authority to administer all functions under this chapter explicitly relating to information collection review. Any such delegation shall not relieve the Director of responsibility for the administration of such functions.".

[(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 35 of title 44, United States Code, is amended by

striking the item relating to section 3503 and inserting the following:

["§ 3503. Office of Information Policy and Office of Information and Regulatory Affairs.".

[(b) PROMOTION OF INFORMATION TECHNOLOGY.—Section 3504(h)(5) of title 44, United States Code, is amended by inserting "direct the Federal Chief Information Officer and the Administrator of the Office of Information and Regulatory Affairs, acting jointly, to" after "(5)".

[(c) COORDINATION OF INFORMATION COLLECTION REVIEWS.—

[(1) INFORMATION COLLECTION REVIEW.—Section 3502 of title 44, United States Code is amended—

[(A) by redesignating paragraphs (6) through (14) as paragraphs (7) through (15), respectively; and

[(B) by inserting after paragraph (5) the following:

["(6) the term 'information collection review' means those functions described under section 3504(c) and related functions;".

[(2) COORDINATION.—Section 3504 of title 44, United States Code, is amended—

[(A) by redesignating paragraph (2) as paragraph (3); and

[(B) by inserting after paragraph (1) the following:

["(2) The Director shall ensure that the Office of Information Policy and the Office of Information and Regulatory Affairs coordinate their efforts in applying the principles developed and implemented under this section to information collection reviews.".

[(d) REFERENCES.—Reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Office of Information and Regulatory Affairs or the Administrator of the Office of Information and Regulatory Affairs, respectively, shall be deemed a reference to—

[(1) the Office of Information Policy or the Federal Chief Information Officer, respectively, with respect to functions described under section 3503(a) of title 44, United States Code (as amended by section 103 of this Act); and

[(2) the Office of Information and Regulatory Affairs or the Administrator of the Office of Information and Regulatory Affairs, respectively, with respect to functions described under section 3503(b) of such title (as amended by section 103 of this Act).

[(e) ADDITIONAL CONFORMING AMENDMENTS.—

[(1) RECOMMENDED LEGISLATION.—After consultation with the appropriate committees of Congress, the Director of the Office of Management and Budget shall prepare and submit to Congress recommended legislation containing technical and conforming amendments to reflect the changes made by this Act.

[(2) SUBMISSION TO CONGRESS.—Not later than 6 months after the effective date of this Act, the Director of the Office of Management and Budget shall submit the recommended legislation referred to under paragraph (1).

[(SEC. 103. MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES.

[(a) IN GENERAL.—Title 44, United States Code, is amended by inserting after chapter 35 the following:

["CHAPTER 36—MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

["Sec.

["§ 3601. Definitions.

["§ 3602. Federal Chief Information Officer functions.

["§ 3603. Chief Information Officers Council.

["§ 3604. E-Government Fund.

["§ 3601. Definitions

["In this chapter, the definitions under section 3502 shall apply, and the term—

["(1) 'Council' means the Chief Information Officers Council established under section 3603;

["(2) 'Cross-Sector Forum' means the Cross-Sector Forum on Information Resources Management established under section 3602(a)(10);

["(3) 'Fund' means the E-Government Fund established under section 3604;

["(4) 'interoperability' means the ability of different software systems, applications, and services to communicate and exchange data in an accurate, effective, and consistent manner; and

["(5) 'integrated service delivery' means the provision of Internet-based Federal Government information or services integrated according to function rather than separated according to the boundaries of agency jurisdiction.

["§ 3602. Federal Chief Information Officer functions

["(a) Subject to the direction and approval of the Director of the Office of Management and Budget, and subject to requirements of this chapter, the Federal Chief Information Officer shall perform information resources management functions as follows:

["(1) Perform all functions of the Director, including all functions delegated by the President to the Director, relating to information resources management.

["(2) Perform the following functions with respect to information resources management:

["(A) Under section 5112 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1412), review agency budget requests related to information technology capital planning and investment.

["(B) Under section 5113 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1413), evaluate the investments referred to under subparagraph (A) with respect to performance and results.

["(C) Review legislative proposals related to information technology capital planning and investment.

["(D) Advise the Director on the resources required to develop and effectively operate and maintain Federal Government information systems.

["(E) Recommend to the Director changes relating to Governmentwide strategies and priorities for information resources management.

["(3) Provide overall leadership and direction to the executive branch on information policy by establishing information resources management policies and requirements, and by reviewing each agency's performance in acquiring, using, and managing information resources.

["(4) Promote innovative uses of information technology by agencies, particularly initiatives involving multiagency collaboration, through support of pilot projects, research, experimentation, and the use of innovative technologies.

["(5) Administer the distribution of funds from the E-Government Fund established under section 3604.

["(6) Consult with the Administrator of General Services regarding the use of the Information Technology Fund established

under section 110 of the Federal Property and Administrative Coordinate Services Act of 1949 (40 U.S.C. 757), and coordinate with the Administrator of General Services regarding programs undertaken by the General Services Administration to promote electronic Government and the efficient use of information technologies by agencies.

["(7) Chair the Chief Information Officers Council established under section 3603.

["(8) Establish and promulgate information technology standards for the Federal Government under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441) based on the recommendations of the National Institute of Standards and Technology, taking into account, if appropriate, recommendations of the Chief Information Officers Council, experts, and interested parties from the private and nonprofit sectors and State, local, and tribal governments, as follows:

["(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

["(B) Standards and guidelines for categorizing and electronically labeling Federal Government electronic information, to enhance electronic search capabilities.

["(C) Standards and guidelines for Federal Government computer system efficiency and security.

["(9) Establish a regular forum for consulting and communicating with leaders in information resources management in the legislative and judicial branches to encourage collaboration and enhance understanding of best practices and innovative approaches in acquiring, using, and managing information resources.

["(10) Establish a regular forum for consulting and communicating with leaders in information resources management in State, local, and tribal governments (including the National Association of State Information Resources Executives) to encourage collaboration and enhance understanding of best practices and innovative approaches in acquiring, using, and managing information resources.

["(11) Establish a regular forum for consulting and communicating with program managers and leaders in information resources management in the regulatory executive branch agencies to encourage collaboration and enhance understanding of best practices and innovative approaches related to the acquisition, use, and management of information resources in regulatory applications.

["(12) Establish a Cross-Sector Forum on Information Resources Management, subject to the Federal Advisory Committee Act (5 U.S.C. App.), as a periodic colloquium with representatives from Federal agencies (including Federal employees who are not supervisors or management officials as such terms are defined under section 7103(a) (10) and (11), respectively) and the private, nonprofit, and academic sectors, to encourage collaboration and enhance understanding of best practices and innovative approaches in acquiring, using, and managing information resources. The Cross-Sector Forum shall be used for the following:

["(A) To develop innovative models for Government information resources management and for Government information technology contracts. These models may be developed through focused Cross-Sector Forum discussions or using separately sponsored research.

["(B) To identify opportunities for performance-based shared-savings contracts as

a means of increasing the quantity and quality of Government information and services available through the Internet.

["(C) To identify opportunities for public-private collaboration in using Internet-based technology to increase the efficiency of Government-to-business transactions.

["(D) To identify mechanisms for providing incentives to program managers and other Government employees to develop and implement innovative uses of information technologies.

["(E) To identify opportunities for public-private collaboration in addressing the disparities in access to the Internet and information technology.

["(F) To develop guidance to advise agencies and private companies on any relevant legal and ethical restrictions.

["(13) Direct the establishment, maintenance, and promotion of an integrated Internet-based system of delivering Government information and services to the public. To the extent practicable, the integrated system shall be designed and operated according to the following criteria:

["(A) The provision of Internet-based Government information and services integrated according to function rather than separated according to the boundaries of agency jurisdiction.

["(B) An ongoing effort to ensure that all Internet-based Government services relevant to a given citizen activity are available from a single point.

["(C) Standardized methods for navigating Internet-based Government information and services.

["(D) The consolidation of Federal Government information and services with Internet-based information and services provided by State, local, and tribal governments.

["(14) Coordinate with the Administrator of the Office of Federal Procurement Policy to ensure effective implementation of electronic procurement initiatives.

["(15) Assist Federal agencies, the United States Access Board, the General Services Administration, and the Attorney General in—

["(A) implementing accessibility standards under section 508 of the Rehabilitation Act of 1973 (29 U.S.C. section 794d); and

["(B) ensuring compliance with those standards through the budget review process and other means.

["(16) Administer the Office of Information Policy established under section 3503.

["(b) The Director of the Office of Management and Budget shall consult with the Federal Chief Information Officer on each agency budget request and legislative proposal described under subsection (a)(2).

["(c) The Federal Chief Information Officer shall appoint the employees of the Office. The Director of the Office of Management and Budget shall ensure that the Office of Information Policy has adequate employees and resources to properly fulfill all functions delegated to the Office and the Federal Chief Information Officer.

["(d) There are authorized to be appropriated \$15,000,000 for the establishment, maintenance, and promotion of the integrated Internet-based system established under subsection (a)(13) for fiscal year 2002, and such sums as are necessary for fiscal years 2003 through 2006.

["§ 3603. Chief Information Officers Council

["(a) There is established in the executive branch a Chief Information Officers Council.

["(b) The members of the Council shall be as follows:

["(1) The chief information officer of each agency described under section 901(b) of title 31.

["(2) The chief information officer of the Central Intelligence Agency.

["(3) The chief information officer of the Department of the Army, the Department of the Navy, and the Department of the Air Force, if chief information officers have been designated for these departments under section 3506(a)(2)(B).

["(4) Any other officers or employees of the United States designated by the Federal Chief Information Officer.

["(c)(1) The Federal Chief Information Officer shall be the Chairman of the Council.

["(2)(A) The Deputy Chairman of the Council shall be selected by the Council from among its members.

["(B) The Deputy Chairman shall serve a 1-year term, and may serve multiple terms.

["(3) The Administrator of General Services shall provide administrative and other support for the Council, including resources provided through the Information Technology Fund established under section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757).

["(d) The Council is designated the principal interagency forum for improving agency practices related to the design, acquisition, development, modernization, use, operation, sharing, and performance of Federal Government information resources. The Council shall perform the following functions:

["(1) Develop recommendations for the Federal Chief Information Officer on Government information resources management policies and requirements.

["(2) Assist the Federal Chief Information Officer in developing and maintaining the Governmentwide strategic information resources management plan required under section 3506.

["(3) Share experiences, ideas, best practices, and innovative approaches related to information resources management.

["(4) Assist the Federal Chief Information Officer in the identification, development, and coordination of multiagency projects and other innovative initiatives to improve Government performance through the use of information technology.

["(5) Provide recommendations to the Federal Chief Information Officer regarding the distribution of funds from the E-Government Fund established under section 3604.

["(6) Coordinate the development and use of common performance measures for agency information resources management under section 5123 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1423).

["(7) Work as appropriate with the National Institute of Standards and Technology to develop recommendations for the Federal Chief Information Officer on information technology standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) and promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), as follows:

["(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

["(B) Standards and guidelines for categorizing and electronically labeling Government electronic information, to enhance electronic search capabilities.

["(C) Standards and guidelines for Federal Government computer system efficiency and security.

“(8) Work with the Office of Personnel Management to assess and address the hiring, training, classification, and professional development needs of the Government related to information resources management.

“§ 3604. E-Government Fund

“(a) There is established in the Treasury of the United States an E-Government Fund, which shall be available without fiscal year limitation.

“(b) The Fund shall be used to fund interagency information technology projects, and other innovative uses of information technology. The Fund shall be operated as follows:

“(1) Any member of the Council, including the Federal Chief Information Officer, may propose a project to be funded from the Fund.

“(2) On a regular basis, an appropriate committee within the Council shall review candidate projects for funding eligibility, and make recommendations to the Federal Chief Information Officer on which projects should be funded from the Fund. The review committee shall consider the following:

“(A) The relevance of this project in supporting the missions of the affected agencies and other statutory provisions.

“(B) The usefulness of interagency collaboration on this project in supporting integrated service delivery.

“(C) The usefulness of this project in illustrating a particular use of information technology that could have broader applicability within the Government.

“(D) The extent to which privacy and information security will be provided in the implementation of the project.

“(E) The willingness of the agencies affected by this project to provide matching funds.

“(F) The availability of funds from other sources for this project.

“(3) After considering the recommendations of the Council, the Federal Chief Information Officer shall have final authority to determine which of the candidate projects shall be funded from the Fund.

“(c) The Fund may be used to fund the integrated Internet-based system under section 3602(a)(13).

“(d) None of the funds provided from the Fund may be transferred to any agency until 15 days after the Federal Chief Information Officer has submitted to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the appropriate authorizing committees of the Senate and the House of Representatives, a notification and description of how the funds are to be allocated and how the expenditure will further the purposes of this chapter.

“(e) The Federal Chief Information Officer shall submit an annual report to the President and Congress on the operation of the Fund. The report shall describe—

“(1) all projects which the Federal Chief Information Officer has approved for funding from the Fund;

“(2) the results that have been achieved to date for these funded projects; and

“(3) any recommendations for changes to the amount of capital appropriated annually for the Fund, with a description of the basis for any such recommended change.

“(f) There are authorized to be appropriated to the Fund \$200,000,000 in each of the fiscal years 2002 through 2004, and such sums as may be necessary for fiscal years 2005 and 2006.”.

“(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for title 44, United States Code, is amended by inserting after the item relating to chapter 35 the following:

“36. Management and Promotion of Electronic Government Services .. 3601”.

“TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

“SEC. 201. FEDERAL AGENCY RESPONSIBILITIES.

“(a) IN GENERAL.—The head of each agency shall be responsible for—

“(1) complying with the requirements of this Act (including the amendments made by this Act) and the related information resource management policies and information technology standards established by the Federal Chief Information Officer;

“(2) ensuring that the policies and standards established by the Federal Chief Information Officer and the Chief Information Officers Council are communicated promptly and effectively to all relevant managers with information resource management responsibilities within their agency; and

“(3) supporting the efforts of the Federal Chief Information Officer to develop, maintain, and promote an integrated Internet-based system of delivering Federal Government information and services to the public under chapter 36 of title 44, United States Code (as added by section 103 of this Act).

“(b) CHIEF INFORMATION OFFICERS.—The Chief Information Officer of each of the agencies designated under chapter 36 of title 44, United States Code (as added by section 103 of this Act), shall be responsible for—

“(1) participating in the functions of the Chief Information Officers Council; and

“(2) monitoring the implementation, within their respective agencies, of information technology standards established by the Federal Chief Information Officer, including common standards for interconnectivity and interoperability, categorization and labeling of Federal Government electronic information, and computer system efficiency and security.

“(c) E-GOVERNMENT STATUS REPORT.—

“(1) IN GENERAL.—Each agency shall compile and submit to the Federal Chief Information Officer an E-Government Status Report on the current status of agency information and agency services available online.

“(2) CONTENT.—Each report under this subsection shall contain—

“(A) a list and brief description of the agency services available online;

“(B) a list, by number and title, of the 25 most frequently requested agency forms available online, annotated to indicate which forms can be submitted to the agency electronically; and

“(C) a summary of the type, volume, general topical areas, and currency of agency information available online.

“(3) SUBMISSION.—Not later than March 1, of each year, each agency shall submit a report under this subsection to the Federal Chief Information Officer.

“(4) CONSOLIDATION OF REPORTS.—Section 3516(a)(2) of title 31, United States Code, is amended—

“(A) by redesignating subparagraph (C) as subparagraph (D); and

“(B) by inserting after subparagraph (B) the following:

“(‘(C) Any E-Government Status Report under section 201(c) of the E-Government Act of 2001.’.”.

“SEC. 202. COMPATIBILITY OF EXECUTIVE AGENCY METHODS FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

“(a) ELECTRONIC SIGNATURES.—In order to fulfill the objectives of the Government Paperwork Elimination Act (Public Law 105-277; 112 Stat. 2681-749 through 2681-751), each Executive agency (as defined under section 105 of title 5, United States Code) shall ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant procedures and standards promulgated by the Director of the Office of Management and Budget.

“(b) BRIDGE AUTHORITY FOR DIGITAL SIGNATURES.—The Administrator of the General Services Administration shall support the Director of the Office of Management and Budget by establishing the Federal bridge certification authority which shall provide a central authority to allow efficient interoperability among Executive agencies when certifying digital signatures.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the General Services Administration, to ensure the development and operation of a Federal bridge certification authority for digital signature compatibility, \$7,000,000 in fiscal year 2002, and such sums as may be necessary for each fiscal year thereafter.

“SEC. 203. ONLINE FEDERAL TELEPHONE DIRECTORY.

“(a) IN GENERAL.—

“(1) DEVELOPMENT.—The Administrator of the General Services Administration, in coordination with the Chief Information Officers Council, shall develop and promulgate an online Federal telephone directory.

“(2) ORGANIZATION.—Information in the online Federal telephone directory shall be organized and retrievable both by function and by agency name.

“(3) TELEPHONE DIRECTORIES.—Information compiled for publication in the online Federal telephone directory shall be provided to local telephone book publishers, to encourage publication and dissemination of functionally arranged directories in local Federal blue pages.

“(b) EXECUTIVE AGENCIES.—

“(1) IN GENERAL.—Each Executive agency (as defined under section 105 of title 5, United States Code) shall publish an online agency directory, accessible by electronic link from the online Federal telephone directory.

“(2) CONTENT.—Each agency directory—

“(A) shall include telephone numbers and electronic mail addresses for principal departments and principal employees, subject to security restrictions and agency judgment; and

“(B) shall be electronically searchable.

“SEC. 204. ONLINE NATIONAL LIBRARY.

“(a) IN GENERAL.—The Director of the National Science Foundation, the Secretary of the Smithsonian Institution, the Director of the National Park Service, the Director of the Institute of Museum and Library Services, and the Librarian of Congress shall establish an Online National Library after consultation with—

“(1) the private sector;

“(2) public, research, and academic libraries;

“(3) historical societies;

“(4) archival institutions; and

“(5) other cultural and academic organizations.

“(b) FUNCTIONS.—The Online National Library—

“(1) shall provide public access to an expanding database of educational resource

materials, including historical documents, photographs, audio recordings, films, and other media as appropriate, that are significant for education and research in United States history and culture;

[(2) shall be functionally integrated, so that a user may have access to the resources of the Library without regard to the boundaries of the contributing institutions; and

[(3) shall include educational resource materials across a broad spectrum of United States history and culture, including the fields of mathematics, science, technology, liberal arts, fine arts, and humanities.

[(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of developing, expanding, and maintaining this Online National Library, there are authorized to be appropriated—

[(1) to the National Science Foundation \$5,000,000 in fiscal year 2002, and such sums as may be necessary for each fiscal year thereafter; and

[(2) to the Library of Congress \$5,000,000 in fiscal year 2002, and such sums as may be necessary for each fiscal year thereafter.

[SEC. 205. FEDERAL COURTS.]

[(a) INDIVIDUAL COURT WEBSITES.—The Chief Justice of the United States and the chief judge of each circuit and district shall establish with respect to the Supreme Court or the respective court of appeal or district (including the bankruptcy court of that district) a website, that contains the following information or links to websites with the following information:

[(1) Location and contact information for the courthouse, including the telephone numbers and contact names for the clerk's office and justices' or judges' chambers.

[(2) Local rules and standing or general orders of the court.

[(3) Individual rules, if in existence, of each justice or judge in that court.

[(4) Access to docket information for each case.

[(5) Access to the substance of all written opinions issued by the court, regardless of whether such opinions are to be published in the official court reporter, in a text searchable format.

[(6) Access to all documents filed with the courthouse in electronic form, described under subsection (c)(2).

[(7) Any other information (including forms in a format that can be downloaded) that the court determines useful to the public.

[(b) MAINTENANCE OF DATA ONLINE.—

[(1) UPDATE OF INFORMATION.—The information and rules on each website shall be updated regularly and kept reasonably current.

[(2) CLOSED CASES.—Electronic files and docket information for cases closed for more than 1 year are not required to be made available online, except all written opinions with a date of issuance after the effective date of this section shall remain available online.

[(c) ELECTRONIC FILINGS.—

[(1) IN GENERAL.—Each court shall make any document that is filed electronically publicly available online. A court may convert any document that is filed in paper form to electronic form. To the extent such conversions are made, all such electronic versions of the document shall be made available online.

[(2) EXCEPTIONS.—

[(A) IN GENERAL.—Documents that are filed that are not otherwise available to the public, such as documents filed under seal, shall not be made available online.

[(B) LIMITATION.—

[(i) IN GENERAL.—A party, witness, or other person with an interest may file a motion with the court to redact any document that would be made available online under this section.

[(ii) REDACTION.—A redaction under this subparagraph shall be made only to—

[(I) the electronic form of the document made available online; and

[(II) the extent necessary to protect important privacy concerns.

[(C) PRIVACY CONCERNS.—The Judicial Conference of the United States may promulgate rules under this subsection to protect important privacy concerns.

[(d) DOCKETS WITH LINKS TO DOCUMENTS.—The Judicial Conference of the United States, in consultation with the Federal Chief Information Officer, shall explore the feasibility of technology to post online dockets with links allowing all filings, decisions, and rulings in each case to be obtained from the docket sheet of that case.

[(e) COST OF PROVIDING ELECTRONIC DOCKETING INFORMATION.—Section 503(a) of the Judiciary Appropriations Act, 1992 (28 U.S.C. 1913 note) is amended in the first sentence by striking "shall hereafter" and inserting "may, only to the extent necessary,".

[(f) TIME REQUIREMENTS.—Not later than 2 years after the effective date of this Act, the websites under subsection (a) shall be established, except that access to documents filed in electronic form shall be established not later than 4 years after that effective date.

[(g) OPT OUT.—

[(1) IN GENERAL.—

[(A) ELECTION.—

[(i) NOTIFICATION.—The Chief Justice of the United States or a chief judge may submit a notification to the Administrative Office of the United States Courts to elect not to comply with any requirement of this section with respect to the Supreme Court, a court of appeals, or district (including the bankruptcy court of that district).

[(ii) CONTENTS.—A notification submitted under this subparagraph shall state—

[(I) the reasons for the noncompliance; and

[(II) the online methods, if any, or any alternative methods, such court or district is using to provide greater public access to information.

[(B) EXCEPTION.—To the extent that the Supreme Court, a court of appeals, or district maintains a website under subsection (a), the Supreme Court or that court of appeals or district shall comply with subsection (b)(1).

[(2) REPORT.—Not later than 1 year after the effective date of this Act, the Judicial Conference of the United States shall submit a report to the Committees on Governmental Affairs and the Judiciary of the Senate and the Committees on Government Reform and the Judiciary of the House of Representatives that—

[(A) contains all notifications submitted to the Administrative Office of the United States Courts under this subsection; and

[(B) summarizes and evaluates all notifications.

[SEC. 206. REGULATORY AGENCIES.]

[(a) INFORMATION PROVIDED BY AGENCIES ONLINE.—To the extent practicable, each agency (as defined under section 551 of title 5, United States Code) shall—

[(1) establish a website with information about that agency; and

[(2) post on the website all information—

[(A) required to be published in the Federal Register under section 552(a)(1) of title 5, United States Code; and

[(B) made available for public inspection and copying under section 552(a) (2) and (5) of title 5, United States Code, after the effective date of this section.

[(b) COMPLIANCE.—An agency may comply with subsection (a)(2) by providing hypertext links on a website directing users to other websites where such information may be found. To the extent that an agency provides hypertext links, the agency shall provide clear instructions to users on how to access the information sought within the external website to which the links direct users.

[(c) SUBMISSIONS BY ELECTRONIC MEANS.—To the extent practicable, agencies shall accept submissions under section 553(c) of title 5, United States Code, by electronic means, including e-mail and telefacsimile.

[(d) ELECTRONIC DOCKETING.—

[(1) IN GENERAL.—To the extent practicable, agencies shall, in consultation with the Federal Chief Information Officer, and in connection with the forum established under section 3602(a)(10) of title 44, United States Code (as added by section 103 of this Act), establish and maintain on their websites electronic dockets for rulemakings under section 553 of title 5, United States Code.

[(2) INFORMATION AVAILABLE.—Agency electronic dockets shall make publicly available online—

[(A) all agency notices, publications, or statements in connection with each rulemaking; and

[(B) to the extent practicable, all submissions under section 553(c) of title 5, United States Code, whether or not submitted electronically.

[(e) OPT OUT.—

[(1) IN GENERAL.—

[(A) NOTIFICATION.—An agency may submit a notification to the Federal Chief Information Officer to elect to not comply with any requirement of subsection (d).

[(B) CONTENTS.—A notification submitted under this paragraph shall state—

[(i) the reasons for the noncompliance; and

[(ii) the online methods, if any, or any alternative methods, the agency is using to provide greater public access to regulatory proceedings.

[(2) REPORT.—Not later than October 1, of each year, the Federal Chief Information Officer shall submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives that—

[(A) contains all notifications submitted to the Federal Chief Information Officer under this subsection; and

[(B) summarizes and evaluates all notifications.

[(f) TIME LIMITATION.—To the extent practicable, agencies shall implement subsections (a) and (b) not later than 2 years after the effective date of this Act, and subsection (c) not later than 4 years after that effective date.

[SEC. 207. INTEGRATED REPORTING FEASIBILITY STUDY AND PILOT PROJECTS.]

[(a) PURPOSES.—The purposes of this section are to—

[(1) enhance the interoperability of Federal information systems;

[(2) assist the public, including the regulated community, in electronically submitting information to agencies under Federal requirements, by reducing the burden of duplicate collection and ensuring the accuracy of submitted information; and

[(3) enable any person to integrate and obtain similar information held by 1 or more agencies under 1 or more Federal requirements without violating the privacy rights of an individual.

[(b) DEFINITIONS.—In this section, the term—

[(1) “agency” means an Executive agency as defined under section 105 of title 5, United States Code; and

[(2) “person” means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, interstate body, or agency or component of the Federal Government.

[(c) REPORT.—

[(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Federal Chief Information Officer shall conduct a study and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on the feasibility of integrating Federal information systems across agencies.

[(2) CONTENT.—The report under this section shall—

[(A) address the feasibility of integrating data elements used in the electronic collection of information within databases established under Federal statute without reducing the quality, accessibility, scope, or utility of the information contained in each database;

[(B) address the feasibility of developing, or enabling the development of, software, including Internet-based tools, for use by reporting persons in assembling, documenting, and validating the accuracy of information electronically submitted to agencies under nonvoluntary, statutory, and regulatory requirements; and

[(C) address the feasibility of developing a distributed information system involving, on a voluntary basis, at least 2 agencies, that—

[(i) provides consistent, dependable, and timely public access to the information holdings of 1 or more agencies, or some portion of such holdings, including the underlying raw data, without requiring public users to know which agency holds the information;

[(ii) provides methods for input on improving the quality and integrity of the data, including correcting errors in submission, consistent with the need to archive changes made to the data; and

[(iii) allows any person to integrate public information held by the participating agencies;

[(D) address the feasibility of incorporating other elements related to the purposes of this section at the discretion of the Federal Chief Information Officer; and

[(E) make recommendations that Congress or the executive branch can implement, through the use of integrated reporting and information systems, to reduce the burden on reporting and strengthen public access to databases within and across agencies.

[(d) PILOT PROJECTS TO ENCOURAGE INTEGRATED COLLECTION AND MANAGEMENT OF DATA AND INTEROPERABILITY OF FEDERAL INFORMATION SYSTEMS.—

[(1) IN GENERAL.—In order to provide input to the study under subsection (c) the Federal Chief Information Officer shall implement a series of no more than 5 pilot projects that integrate data elements. The Federal Chief Information Officer shall consult with agencies, the regulated community, public interest organizations, and the public on the implementation.

[(2) GOALS OF PILOT PROJECTS.—

[(A) IN GENERAL.—Each goal described under subparagraph (B) shall be addressed by at least 1 pilot project each.

[(B) GOALS.—The goals under this paragraph are to—

[(i) reduce information collection burdens by eliminating duplicative data elements within 2 or more reporting requirements;

[(ii) create interoperability between or among public databases managed by 2 or more agencies using technologies and techniques that facilitate public access; and

[(iii) develop, or enable the development, of software to reduce errors in electronically submitted information.

[(3) INPUT.—Each pilot project shall seek input from users on the utility of the pilot project and areas for improvement.

[(e) CONSULTATION IN PREPARING THE REPORT AND PILOT PROJECT.—The Federal Chief Information Officer shall coordinate with the Office of Information and Regulatory Affairs, and to the extent practicable, shall work with relevant agencies, and State, tribal, and local governments in carrying out the report and pilot projects under this section.

[(f) PRIVACY PROTECTIONS.—The activities authorized in this section shall afford protections for confidential business information consistent with section 552(b)(4) of title 5, United States Code and personal privacy information under section 552a of title 5, United States Code and other relevant law.

[SEC. 208. ONLINE ACCESS TO FEDERALLY FUNDED RESEARCH AND DEVELOPMENT.]

[(a) DEFINITIONS.—In this section, the term—

[(1) “essential information” shall include—

[(A) information identifying any person performing research and development under an agreement and the agency providing the funding;

[(B) an abstract describing the research;

[(C) references to published results; and

[(D) other information determined appropriate by the interagency task force convened under this section; and

[(2) “federally funded research and development”—

[(A) shall be defined by the interagency task force, with reference to applicable Office of Management and Budget circulars and Department of Defense regulations; and

[(B) shall include funds provided to—

[(i) institutions other than the Federal Government; and

[(ii) Federal research and development centers.

[(b) INTERAGENCY TASK FORCE.—The Federal Chief Information Officer shall—

[(1) convene an interagency task force to—

[(A) review databases, owned by the Federal Government and other entities, that collect and maintain data on federally funded research and development to—

[(i) determine areas of duplication; and

[(ii) identify data that is needed but is not being collected or efficiently disseminated to the public or throughout the Government;

[(B) develop recommendations for the Federal Chief Information Officer on standards for the collection and electronic dissemination of essential information about federally funded research and development that addresses public availability and agency coordination and collaboration; and

[(C) make recommendations to the Federal Chief Information Officer on—

[(i) which agency or agencies should develop and maintain databases and a website containing data on federally funded research and development;

[(ii) whether to continue using existing databases, to use modified versions of databases, or to develop another database;

[(iii) the appropriate system architecture to minimize duplication and use emerging technologies;

[(iv) criteria specifying what federally funded research and development projects should be included in the databases; and

[(v) standards for security of and public access to the data; and

[(2) not later than 1 year of the date of enactment of this Act, after offering an opportunity for public comment, promulgate standards and regulations based on the recommendations, including a determination as to which agency or agencies should develop and maintain databases and a website containing data on federally funded research and development.

[(c) MEMBERSHIPS.—The interagency task force shall consist of the Federal Chief Information Officer and representatives from—

[(1) the Department of Commerce;

[(2) the Department of Defense;

[(3) the Department of Energy;

[(4) the Department of Health and Human Services;

[(5) the National Aeronautics and Space Administration;

[(6) the National Archives and Records Administration;

[(7) the National Science Foundation;

[(8) the National Institute of Standards and Technology; and

[(9) any other agency determined by the Federal Chief Information Officer.

[(d) CONSULTATION.—The task force shall consult with—

[(1) Federal agencies supporting research and development;

[(2) members of the scientific community;

[(3) scientific publishers; and

[(4) interested persons in the private and nonprofit sectors.

[(e) DEVELOPMENT AND MAINTENANCE OF DATABASE AND WEBSITE.—

[(1) IN GENERAL.—

[(A) DATABASE AND WEBSITE.—The agency or agencies determined under subsection (b)(2), with the assistance of any other agency designated by the Federal Chief Information Officer, shall develop—

[(i) a database if determined to be necessary by the Federal Chief Information Officer; and

[(ii) a centralized, searchable website for the electronic dissemination of information reported under this section, with respect to information made available to the public and for agency coordination and collaboration.

[(B) CONFORMANCE TO STANDARDS.—The website and any necessary database shall conform to the standards promulgated by the Federal Chief Information Officer.

[(2) LINKS.—Where the results of the federally funded research have been published, the website shall contain links to the servers of the publishers if possible. The website may include links to other relevant websites containing information about the research.

[(3) OTHER RESEARCH.—The website may include information about published research not funded by the Federal Government, and links to the servers of the publishers.

[(4) DEVELOPMENT AND OPERATION.—The Federal Chief Information Officer shall oversee the development and operation of the website. The website shall be operational not later than 2 years after the date of enactment of this Act.

[(f) PROVISION OF INFORMATION.—Any agency that funds research and development meeting the criteria promulgated by the Federal Chief Information Officer shall provide the required information in the manner prescribed by the Federal Chief Information Officer. An agency may impose reporting requirements necessary for the implementation of this section on recipients of Federal funding as a condition of the funding.

[(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the development and maintenance of the centralized website and any necessary database under this section, \$1,000,000 in fiscal year 2002, \$5,000,000 in fiscal year 2003, and such sums as may be necessary for fiscal years 2004 through 2006.]

[SEC. 209. COMMON PROTOCOLS FOR GEOGRAPHIC INFORMATION SYSTEMS.]

[(a) IN GENERAL.—The Secretary of the Interior, in consultation with the National Institute of Standards and Technology and other agencies, private sector experts, commercial and international standards groups, and other interested parties, shall facilitate the development of common protocols for the development, acquisition, maintenance, distribution, and application of geographic information.]

[(b) FEDERAL CHIEF INFORMATION OFFICER.—The Federal Chief Information Officer shall—

[(1) oversee the interagency initiative to develop common protocols;

[(2) coordinate with State, local, and tribal governments and other interested persons on aligning geographic information; and

[(3) promulgate the standards relating to the protocols.]

[(c) COMMON PROTOCOLS.—The common protocols shall be designed to—

[(1) maximize the degree to which unclassified geographic information from various sources can be made electronically compatible; and

[(2) promote the development of interoperable geographic information systems technologies that will allow widespread, low-cost use and sharing of geographic data by Federal agencies, State, local, and tribal governments, and the public.]

[SEC. 210. SHARE-IN-SAVINGS PROGRAM IMPROVEMENTS.]

[Section 5311 of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106; 110 Stat. 692; 40 U.S.C. 1491) is amended—

[(1) in subsection (a)—

[(A) by striking “the heads of two executive agencies to carry out” and inserting “heads of executive agencies to carry out a total of five projects under”;

[(B) by striking “and” at the end of paragraph (1);

[(C) by striking the period at the end of paragraph (2) and inserting “; and”;

[(D) by adding at the end the following:

[(“3) encouraging the use of the contracting and sharing approach described in paragraphs (1) and (2) by allowing the head of the executive agency conducting a project under the pilot program—

[(“A) to retain, out of the appropriation accounts of the executive agency in which savings computed under paragraph (2) are realized as a result of the project, up to the amount equal to half of the excess of—

[(“i) the total amount of the savings; over

[(“ii) the total amount of the portion of the savings paid to the private sector source for such project under paragraph (2); and

[(“B) to use the retained amount to acquire additional information technology.”;

[(2) in subsection (b)—

[(A) by inserting “a project under” after “authorized to carry out”;

[(B) by striking “carry out one project and”;

[(3) by striking subsection (c) and inserting the following:

[(“c) EVOLUTION BEYOND PILOT PROGRAM.—

(1) The Administrator may provide general authority to the heads of executive agencies to use a share-in-savings contracting ap-

proach to the acquisition of information technology solutions for improving mission-related or administrative processes of the Federal Government if—

[(“A) after reviewing the experience under the five projects carried out under the pilot program under subsection (a), the Administrator finds that the approach offers the Federal Government an opportunity to improve its use of information technology and to reduce costs; and

[(“B) issues guidance for the exercise of that authority.]

[(“2) For the purposes of paragraph (1), a share-in-savings contracting approach provides for contracting as described in paragraph (1) of subsection (a) together with the sharing and retention of amounts saved as described in paragraphs (2) and (3) of that subsection.]

[(“3) In exercising the authority provided to the Administrator in paragraph (1), the Administrator shall consult with the Federal Chief Information Officer.]

[(“d) AVAILABILITY OF RETAINED SAVINGS.—(1) Amounts retained by the head of an executive agency under subsection (a)(3) or (c) shall, without further appropriation, remain available until expended and may be used by the executive agency for any of the following purposes:

[(“A) The acquisition of information technology.]

[(“B) Support for share-in-savings contracting approaches throughout the agency including—

[(“i) education and training programs for share-in-savings contracting;

[(“ii) any administrative costs associated with the share-in-savings contract from which the savings were realized; or

[(“iii) the cost of employees who specialize in share-in-savings contracts.]

[(“2) Amounts so retained from any appropriation of the executive agency not otherwise available for the acquisition of information technology shall be transferred to any appropriation of the executive agency that is available for such purpose.”.]

[SEC. 211. ENHANCING CRISIS MANAGEMENT THROUGH ADVANCED INFORMATION TECHNOLOGY.]

[(a) IN GENERAL.—

[(1) STUDY ON ENHANCEMENT OF CRISIS RESPONSE.—Not later than 90 days after the date of enactment of this Act, the Federal Emergency Management Agency shall enter into a contract with the National Research Council of the National Academy of Sciences to conduct a study on using information technology to enhance crisis response and consequence management of natural and manmade disasters.]

[(2) CONTENT.—The study under this subsection shall address—

[(A) a research and implementation strategy for effective use of information technology in crisis response and consequence management, including the more effective use of technologies, management of information technology research initiatives, and incorporation of research advances into the information and communications systems of—

[(i) the Federal Emergency Management Agency; and

[(ii) other Federal, State, and local agencies responsible for crisis response and consequence management; and

[(B) opportunities for research and development on enhanced technologies for—

[(i) improving communications with citizens at risk before and during a crisis;

[(ii) enhancing the use of remote sensor data and other information sources for plan-

ning, mitigation, response, and advance warning;

[(iii) building more robust and trustworthy systems for communications in crises;

[(iv) facilitating coordinated actions among responders through more interoperable communications and information systems; and

[(v) other areas of potential improvement as determined during the course of the study.]

[(3) REPORT.—Not later than 2 years after the date on which a contract is entered into under paragraph (1), the National Research Council shall submit a report on the study, including findings and recommendations to—

[(A) the Committee on Governmental Affairs of the Senate;

[(B) the Committee on Government Reform of the House of Representatives; and

[(C) the Federal Emergency Management Agency.]

[(4) INTERAGENCY COOPERATION.—The Federal Emergency Management Agency and other Federal departments and agencies with responsibility for disaster relief and emergency assistance shall fully cooperate with the National Research Council in carrying out this section.]

[(5) EXPEDITED PROCESSING OF SECURITY CLEARANCES.—For the purpose of facilitating the commencement of the study under this section, the Federal Emergency Management Agency and other relevant agencies shall expedite to the fullest extent possible the processing of security clearances that are necessary for the National Research Council.]

[(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Emergency Management Agency for research under this subsection, \$800,000 for fiscal year 2002.]

[(b) PILOT PROJECTS.—Based on the results of the research conducted under subsection (a), the Federal Chief Information Officer shall initiate pilot projects with the goal of maximizing the utility of information technology in disaster management. The Federal Chief Information Officer shall cooperate with the Federal Emergency Management Agency, other relevant agencies, and, if appropriate, State, local, and tribal governments, in initiating such pilot projects.]

[SEC. 212. FEDERAL INFORMATION TECHNOLOGY TRAINING CENTER.]

[(a) IN GENERAL.—In consultation with the Federal Chief Information Officer, the Chief Information Officers Council, and the Administrator of General Services, the Director of the Office of Personnel Management shall establish and operate a Federal Information Technology Training Center (in this section referred to as the “Training Center”).

[(b) FUNCTIONS.—The Training Center shall—

[(1) analyze, on an ongoing basis, the personnel needs of the Federal Government related to information technology and information resource management;

[(2) design curricula, training methods, and training schedules that correspond to the projected personnel needs of the Federal Government related to information technology and information resource management; and

[(3) recruit and train Federal employees in information technology disciplines, as necessary, at a rate that ensures that the Federal Government's information resource management needs are met.]

[(c) CURRICULA.—The curricula of the Training Center—

[(1) shall cover a broad range of information technology disciplines corresponding to the specific needs of Federal agencies;

[(2) shall be adaptable to achieve varying levels of expertise, ranging from basic non-occupational computer training to expert occupational proficiency in specific information technology disciplines, depending on the specific information resource management needs of Federal agencies;

[(3) shall be developed and applied according to rigorous academic standards; and

[(4) shall be designed to maximize efficiency through the use of self-paced courses, online courses, on-the-job training, and the use of remote instructors, wherever such features can be applied without reducing training effectiveness or negatively impacting academic standards.

[(d) **EMPLOYEE PARTICIPATION.**—Subject to information resource management needs and the limitations imposed by resource needs in other occupational areas, agencies shall encourage their employees to participate in the occupational information technology curricula of the Training Center.

[(e) **AGREEMENTS FOR SERVICE.**—Employees who participate in full-time training at the Training Center for a period of 6 months or longer shall be subject to an agreement for service after training under section 4108 of title 5, United States Code.

[(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Office of Personnel Management for developing and operating the Training Center, \$7,000,000 in fiscal year 2002, and such sums as may be necessary for each fiscal year thereafter.

[SEC. 213. COMMUNITY TECHNOLOGY CENTERS.]

[(a) **STUDY AND REPORT.**—Not later than 2 years after the effective date of this Act, the Secretary of Education, in consultation with the Secretary of Agriculture, the Secretary of Housing and Urban Development, the National Telecommunications and Information Administration, and the Federal Chief Information Officer, shall—

[(1) conduct a study to evaluate the best practices of community technology centers that receive Federal funds; and

[(2) submit a report on the study to—

[(A) the Committee on Governmental Affairs of the Senate;

[(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

[(C) the Committee on Government Reform of the House of Representatives; and

[(D) the Committee on Education and the Workforce of the House of Representatives.

[(b) **CONTENT.**—The report shall include—

[(1) an evaluation of the best practices being used by successful community technology centers;

[(2) a strategy for—

[(A) continuing the evaluation of best practices used by community technology centers; and

[(B) establishing a network to share information and resources as community technology centers evolve;

[(3) the identification of methods to expand the use of best practices to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public;

[(4) a database of all community technology centers receiving Federal funds, including—

[(A) each center's name, location, services provided, director, other points of contact, number of individuals served; and

[(B) other relevant information;

[(5) an analysis of whether community technology centers have been deployed effectively in urban and rural areas throughout the Nation; and

[(6) recommendations of how to—

[(A) enhance the development of community technology centers; and

[(B) establish a network to share information and resources.

[(c) **COOPERATION.**—All agencies that fund community technology centers shall provide to the Department of Education any information and assistance necessary for the completion of the study and the report under this section.

[(d) **ASSISTANCE.**—

[(1) **IN GENERAL.**—The Federal Chief Information Officer shall work with the Department of Education, other relevant Federal agencies, and other interested persons in the private and nonprofit sectors to—

[(A) assist in the implementation of recommendations; and

[(B) identify other ways to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public.

[(2) **TYPES OF ASSISTANCE.**—Assistance under this paragraph may include—

[(A) contribution of funds;

[(B) donations of equipment, and training in the use and maintenance of the equipment; and

[(C) the provision of basic instruction or training material in computer skills and Internet usage.

[(e) **TRAINING CENTER.**—The Federal Information Technology Training Center established under section 212 of this Act shall make applicable information technology curricula available to members of the public through the community technology centers.

[(f) **ONLINE TUTORIAL.**—

[(1) **IN GENERAL.**—The Secretary of Education, in consultation with the Federal Chief Information Officer, the National Science Foundation, and other interested persons, shall develop an online tutorial that—

[(A) explains how to access information and services on the Internet; and

[(B) provides a guide to available online resources.

[(2) **DISTRIBUTION.**—The Secretary of Education shall distribute information on the tutorial to community technology centers, public libraries, and other institutions that afford Internet access to the public.

[(g) **PROMOTION OF COMMUNITY TECHNOLOGY CENTERS.**—In consultation with other agencies and organizations, the Department of Education shall promote the availability of community technology centers to raise awareness within each community where such a center is located.

[(h) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Department of Education for the study of best practices at community technology centers, for the development and dissemination of the online tutorial, and for the promotion of community technology centers under this section \$2,000,000 in fiscal year 2002, \$2,000,000 in fiscal year 2003, and such sums as are necessary in fiscal years 2004 through 2006.

[SEC. 214. DISPARITIES IN ACCESS TO THE INTERNET.]

[(a) **STUDY AND REPORT.**—Not later than 1 year after the effective date of this Act—

[(1) the Federal Chief Information Officer shall enter into an agreement with a nonprofit, nonpartisan organization to conduct a study on disparities in Internet access across various demographic distributions; and

[(2) the nonprofit, nonpartisan organization shall conduct the study and submit a report to—

[(A) the Committee on Governmental Affairs of the Senate; and

[(B) the Committee on Government Reform of the House of Representatives.

[(b) **CONTENT.**—The report shall include a study of—

[(1) how disparities in Internet access influence the effectiveness of online Government services;

[(2) how the increase in online Government services is influencing the disparities in Internet access; and

[(3) any related societal effects arising from the interplay of disparities in Internet access and the increase in online Government services.

[(c) **RECOMMENDATIONS.**—The report shall include recommendations on actions to ensure that online Government initiatives shall not have the unintended result of increasing any deficiency in public access to Government services.

[(d) **POLICY CONSIDERATIONS.**—When promulgating policies and implementing programs regarding the provision of services over the Internet, the Federal Chief Information Officer and agency heads shall—

[(1) consider the impact on persons without access to the Internet; and

[(2) ensure that the availability of Government services has not been diminished for individuals who lack access to the Internet.

[(e) **TECHNOLOGY CONSIDERATIONS.**—To the extent feasible, the Federal Chief Information Officer and agency heads shall pursue technologies that make Government services and information more accessible to individuals who do not own computers or have access to the Internet.

[(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$950,000 in fiscal year 2002 to carry out this section.

[SEC. 215. ACCESSIBILITY, USABILITY, AND PRESERVATION OF GOVERNMENT INFORMATION.]

[(a) **DEFINITIONS.**—In this section, the term—

[(1) “agency” has the meaning given under section 3502(1) of title 44, United States Code;

[(2) “Board” means the Advisory Board on Government Information established under subsection (b);

[(3) “Government information” means information created, collected, processed, disseminated, or disposed of by or for the Federal Government;

[(4) “information” means any communication or representation of knowledge such as facts, data, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms; and

[(5) “permanent public access” means the process by which applicable Government information that has been disseminated on the Internet is preserved for current, continuous, and future public access.

[(b) **ADVISORY BOARD.**—

[(1) **ESTABLISHMENT.**—There is established the Advisory Board on Government Information. The Board shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

[(2) **MEMBERS.**—The Federal Chief Information Officer shall appoint the members of the Board who shall include representatives from appropriate agencies and interested persons from the public, private, and nonprofit sectors.

[(3) **FUNCTIONS.**—The Board shall conduct studies and submit recommendations as provided by this section to the Federal Chief Information Officer.

[(4) **TERMINATION.**—The Board shall terminate 3 years after the effective date of this Act.

[(c) CATALOGUING AND INDEXING STANDARDS.—

[(1) AGENCY FUNCTIONS.—

[(A) REPORTS.—Not later than 180 days after the effective date of this Act, each agency shall submit a report to the Board on all cataloguing and indexing standards used by that agency, including taxonomies being used to classify information.

[(B) PRIORITIES AND SCHEDULES.—Not later than 180 days after the issuance of a circular or the promulgation of proposed regulations under paragraph (3), each agency shall consult with interested persons and develop priorities and schedules for making the agency indexing and cataloguing standards fully interoperable with other standards in use in the Federal Government.

[(2) BOARD FUNCTIONS.—The Board shall—

[(A) not later than 1 year after the effective date of this Act—

[(i) review cataloguing and indexing standards used by agencies; and

[(ii) determine whether the systems using those standards are generally recognized, in the public domain, and interoperable; and

[(B) not later than 18 months after the effective date of this Act—

[(i) consult interested persons;

[(ii) analyze and determine agency public domain standards that are not fully interoperable with other standards; and

[(iii) recommend priorities and schedules for making such standards fully interoperable.

[(3) FEDERAL CHIEF INFORMATION OFFICER FUNCTIONS.—

[(A) PROHIBITION OF PROPRIETARY SYSTEMS.—

[(i) IN GENERAL.—After the submission of recommendations by the Board under paragraph (2) and public notice and opportunity for comment, the Federal Chief Information Officer shall prohibit agencies from using any system the Federal Chief Information Officer determines to be proprietary.

[(ii) WAIVER.—The Federal Chief Information Officer may waive the application of clause (i), if the Federal Chief Information Officer determines there is a compelling reason to continue the use of the system.

[(B) INTEROPERABILITY STANDARDS.—Not later than 18 months after the effective date of this Act and after public notice and opportunity for comment, the Office of Management and Budget, acting through the Federal Chief Information Officer, shall issue a circular or promulgate proposed and final regulations requiring the interoperability standards of cataloguing and indexing standards used by agencies.

[(d) PERMANENT PUBLIC ACCESS STANDARDS.—

[(1) AGENCY FUNCTIONS.—

[(A) REPORT TO BOARD.—Not later than 180 days after the effective date of this Act, each agency shall submit a report to the Board on any action taken by the agency to—

[(i) preserve public access to information disseminated by the Federal Government on the Internet; and

[(ii) set standards and develop policies to ensure permanent public access to information disseminated by the Federal Government on the Internet.

[(B) COMPLIANCE WITH REGULATIONS.—Not later than 1 year after the issuance of the circular or the promulgation of final regulations under paragraph (3), and on October 1, of each year thereafter, each agency shall submit a report on compliance of that agency with such regulations to—

[(i) the Federal Chief Information Officer;

[(ii) the Committee on Governmental Affairs of the Senate; and

[(iii) the Committee on Government Reform of the House of Representatives.

[(2) BOARD FUNCTIONS.—

[(A) RECOMMENDED STANDARDS.—Not later than 30 months after the effective date of this Act and after consultation with interested persons, the Board shall submit recommendations to the Federal Chief Information Officer on standards for permanent public access to information disseminated by the Federal Government on the Internet.

[(B) CONTENTS.—The recommendations under subparagraph (A) shall include—

[(i) a definition of the types of information to which the standards apply; and

[(ii) the process by which an agency—

[(I) applies that definition to information disseminated by the agency on the Internet; and

[(II) implements permanent public access.

[(3) FEDERAL CHIEF INFORMATION OFFICER FUNCTIONS.—

[(A) IN GENERAL.—After the submission of recommendations by the Board under paragraph (2) and public notice and opportunity for comment, the Office of Management and Budget, acting through the Federal Chief Information Officer, shall issue a circular or promulgate proposed and final regulations establishing permanent public access standards for agencies.

[(B) COMPLIANCE.—The Federal Chief Information Officer shall—

[(i) work with agencies to ensure timely and ongoing compliance with this subsection; and

[(ii) post agency reports on a centralized searchable database, with a link to the integrated Internet-based system established under section 3602(a)(13) of title 44, United States Code, as added by this Act.

[(c) INVENTORIES.—

[(1) AGENCY FUNCTIONS.—

[(A) IN GENERAL.—

[(i) INVENTORIES.—Not later than 180 days after the effective date of this Act, each agency shall inventory agency websites, including all directories and subdirectories of such websites established by the agency or contractors of the agency.

[(ii) INDIVIDUAL DOCUMENTS.—Nothing in this paragraph shall preclude an agency from inventorying individual documents on a website.

[(iii) ASSISTANCE.—The Federal Chief Information Officer and the General Services Administration shall assist agencies with inventories under this subsection.

[(B) COMPLETION OF INVENTORY.—Each agency shall complete inventories in accordance with the circular issued or regulations promulgated under paragraph (3) and post the inventories on the Internet.

[(2) BOARD FUNCTIONS.—Not later than 1 year after the effective date of this Act, the Board shall—

[(A) consult with interested parties;

[(B) identify for inventory purposes all classes of Government information, except classes of information—

[(i) the existence of which is classified; or

[(ii) is of such a sensitive nature, that disclosure would harm the public interest; and

[(C) make recommendations on—

[(i) the classes of information to be inventoried; and

[(ii) how the information within those classes should be inventoried.

[(3) FEDERAL CHIEF INFORMATION OFFICER FUNCTIONS.—

[(A) GUIDANCE.—After submission of recommendations by the Board under paragraph (2) and public notice and opportunity for comment, the Office of Management and

Budget, acting through the Chief Information Officer, shall issue a circular or promulgate proposed and final regulations to provide guidance and requirements for inventorying under this subsection.

[(B) CONTENTS.—The circular or regulations under this paragraph shall include—

[(i) requirements for the completion of inventories of some portion of Government information identified by the Board;

[(ii) the scope of required inventories;

[(iii) a schedule for completion; and

[(iv) the classes of information required to be inventoried by law.

[(C) LINKING OF INVENTORIES.—The Federal Chief Information Officer shall link inventories posted by agencies under this subsection to the integrated Internet-based system established under section 3602(a)(13) of title 44, United States Code, as added by this Act.

[(f) STATUTORY AND REGULATORY REVIEW.—Not later than 180 days after the effective date of this Act, the General Accounting Office shall—

[(1) conduct a review of all statutory and regulatory requirements of agencies to list and describe Government information;

[(2) analyze the inconsistencies, redundancies, and inadequacies of such requirements; and

[(3) submit a report on the review and analysis to—

[(A) the Federal Chief Information Officer;

[(B) the Committee on Governmental Affairs of the Senate; and

[(C) the Committee on Government Reform of the House of Representatives.

[(g) CATALOGUING AND INDEXING DETERMINATIONS.—

[(1) AGENCY FUNCTIONS.—

[(A) PRIORITIES AND SCHEDULES.—Not later than 180 days after the issuance of a circular or the promulgation of proposed regulations under paragraph (3), each agency shall consult with interested persons and develop priorities and schedules for cataloguing and indexing Government information. Agency priorities and schedules shall be made available for public review and comment and shall be linked on the Internet to an agency's inventories.

[(B) COMPLIANCE WITH REGULATIONS.—Not later than 1 year after the issuance of the circular or the promulgation of final regulations under paragraph (3), and on October 1, of each year thereafter, each agency shall submit a report on compliance of that agency with such circular or regulations to—

[(i) the Federal Chief Information Officer;

[(ii) the Committee on Governmental Affairs of the Senate; and

[(iii) the Committee on Government Reform of the House of Representatives.

[(2) BOARD FUNCTIONS.—The Board shall—

[(A) not later than 1 year after the effective date of this Act—

[(i) review the report submitted by the General Accounting Office under subsection (f); and

[(ii) review the types of Government information not covered by cataloguing or indexing requirements; and

[(B) not later than 18 months after receipt of agency inventories—

[(i) consult interested persons;

[(ii) review agency inventories; and

[(iii) make recommendations on—

[(I) which Government information should be catalogued and indexed; and

[(II) the priorities for the cataloguing and indexing of that Government information, including priorities required by statute or regulation.

[(3) FEDERAL CHIEF INFORMATION OFFICER FUNCTIONS.—

[(A) IN GENERAL.—After the submission of recommendations by the Board under paragraph (2) and public notice and opportunity for comment, the Office of Management and Budget, acting through the Federal Chief Information Officer, shall issue a circular or promulgate proposed and final regulations that—

[(i) specify which Government information is required to be catalogued and indexed; and

[(ii) establish priorities for the cataloging and indexing of that information.

[(B) COMPLIANCE.—The Federal Chief Information Officer shall—

[(i) work with agencies to ensure timely and ongoing compliance with this subsection; and

[(ii) post agency reports and indexes and catalogues on a centralized searchable database, with a link to the integrated Internet-based system established under section 3602(a)(13) of title 44, United States Code, as added by this Act.

[(h) AVAILABILITY OF GOVERNMENT INFORMATION ON THE INTERNET.—Not later than 1 year after the completion of the agency inventory referred to under subsection (e)(1)(B), each agency shall—

[(1) consult with the Board and interested persons;

[(2) determine which Government information the agency intends to make available and accessible to the public on the Internet and by other means;

[(3) develop priorities and schedules for making that Government information available and accessible;

[(4) make such final determinations, priorities, and schedules available for public comment; and

[(5) post such final determinations, priorities, and schedules on an agency website with a link to the integrated Internet-based system established under section 3602(a)(13) of title 44, United States Code, as added by this Act.

[SEC. 216. PUBLIC DOMAIN DIRECTORY OF FEDERAL GOVERNMENT WEBSITES.]

[(a) DEFINITIONS.—In this section, the term—

[(1) “agency” has the meaning given under section 3502(1) of title 44, United States Code; and

[(2) “directory” means a taxonomy of subjects linked to websites that is created with the participation of human editors.

[(b) ESTABLISHMENT.—Not later than 2 years after the effective date of this Act, the Federal Chief Information Officer and each agency shall—

[(1) develop and establish a public domain directory of Federal Government websites; and

[(2) post the directory on the Internet with a link to the integrated Internet-based system established under section 3602(a)(13) of title 44, United States Code, as added by this Act.

[(c) DEVELOPMENT.—With the assistance of each agency, the Federal Chief Information Officer shall—

[(1) direct the development of the directory through a collaborative effort, including input from—

[(A) agency librarians;

[(B) Federal depository librarians; and

[(C) other interested parties; and

[(2) develop a public domain taxonomy of subjects used to review and categorize Federal Government websites.

[(d) UPDATE.—With the assistance of each agency, the Federal Chief Information Officer shall—

[(1) update the directory; and

[(2) solicit interested persons for improvements to the directory.

[SEC. 217. STANDARDS FOR AGENCY WEBSITES.]

[(1) Not later than 1 year after the effective date of this Act, the Federal Chief Information Officer shall promulgate standards and criteria for agency websites that include—

[(1) requirements that websites include direct links to—

[(A) privacy statements;

[(B) descriptions of the mission and statutory authority of the agency;

[(C) the electronic reading rooms of the agency relating to the disclosure of information under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act);

[(D) agency regulations, rules, and rulemakings;

[(E) information about the organizational structure of the agency, with an outline linked to the agency on-line staff directory; and

[(F) the strategic plan of the agency developed under section 306 of title 5, United States Code; and

[(2) minimum agency goals to assist public users to navigate agency websites, including—

[(A) speed of retrieval of search results;

[(B) the relevance of the results; and

[(C) tools to aggregate and disaggregate data.

[SEC. 218. PRIVACY PROVISIONS.]

[(a) DEFINITIONS.—In this section, the term—

[(1) “agency” has the meaning given under section 551(1) of title 5, United States Code;

[(2) “information system” means a discrete set of information resources organized for the collection, processing, maintenance, transmission, and dissemination of information, in accordance with defined procedures that—

[(A) electronically collects or maintains personally identifiable information on 10 or more individuals; or

[(B) makes personally identifiable information available to the public; and

[(3) “personally identifiable information” means individually identifiable information about an individual, including—

[(A) a first and last name;

[(B) a home or other physical address including street name and name of a city or town;

[(C) an e-mail address;

[(D) a telephone number;

[(E) a social security number;

[(F) a credit card number;

[(G) a birth date, birth certificate number, or a place of birth; and

[(H) any other identifier that the Federal Chief Information Officer determines permits the identification of physical or online contacting of a specific individual.

[(b) PRIVACY IMPACT ASSESSMENTS.—

[(1) RESPONSIBILITIES OF AGENCIES.—

[(A) IN GENERAL.—Before developing or procuring an information system, or initiating a new collection of personally identifiable information that will be collected, processed, maintained, or disseminated electronically, an agency shall—

[(i) conduct a privacy impact assessment;

[(ii) submit the assessment to the Federal Chief Information Officer; and

[(iii) after completion of any review conducted by the Federal Chief Information Officer, where practicable—

[(I) publish the assessment in the Federal Register; or

[(II) disseminate the assessment electronically.

[(B) SENSITIVE INFORMATION.—Subparagraph (A)(iii) may be modified or waived to protect classified, sensitive, or private information contained in an assessment.

[(2) CONTENTS OF A PRIVACY IMPACT ASSESSMENT.—A privacy impact assessment shall include—

[(A) a description of—

[(i) the information to be collected;

[(ii) the purpose for the collection of the information and the reason each item of information is necessary and relevant;

[(iii)(I) any notice that will be provided to persons from whom information is collected; and

[(II) any choice that an individual who is the subject of the collection of information shall have to decline to provide information;

[(iv) the intended uses of the information and proposed limits on other uses of the information;

[(v) the intended recipients or users of the information and any limitations on access to or reuse or redisclosure of the information;

[(vi) the period for which the information will be retained;

[(vii) whether and by what means the individual who is the subject of the collection of information—

[(I) shall have access to the information about that individual; or

[(II) may exercise other rights under section 552a of title 5, United States Code; and

[(viii) security measures that will protect the information;

[(B) an assessment of the potential impact on privacy relating to risks and mitigation of risks; and

[(C) other information and analysis required under guidance issued by the Federal Chief Information Officer.

[(3) RESPONSIBILITIES OF THE FEDERAL CHIEF INFORMATION OFFICER.—The Federal Chief Information Officer shall—

[(A)(i) develop policies and guidelines for agencies on the conduct of privacy impact assessments; and

[(ii) oversee the implementation of the privacy impact assessment process throughout the Government;

[(B) require agencies to conduct privacy impact assessments in—

[(i) developing or procuring an information system; or

[(ii) planning for the initiation of a new collection of personally identifiable information;

[(C) require agencies to conduct privacy impact assessments of existing information systems or ongoing collections of personally identifiable information as the Federal Chief Information Officer determines appropriate;

[(D) assist agencies in developing privacy impact assessment policies; and

[(E) encourage officers and employees of an agency to consult with privacy officers of that agency in completing privacy impact assessments.

[(c) PRIVACY PROTECTIONS ON AGENCY WEBSITES.—

[(1) PRIVACY POLICIES ON WEBSITES.—

[(A) GUIDELINES FOR NOTICES.—The Federal Chief Information Officer shall develop guidelines for privacy notices on agency websites.

[(B) CONTENTS.—The guidelines shall require that a privacy notice include a description of—

[(i) information collected about visitors to the agency's website;

[(ii) the intended uses of the information collected;

[(iii) the choices that an individual may have in controlling collection or disclosure of information relating to that individual;

[(iv) the means by which an individual may be able to—

[(I) access personally identifiable information relating to that individual that is held by the agency; and

[(II) correct any inaccuracy in that information;

[(v) security procedures to protect information collected online;

[(vi) the period for which information will be retained; and

[(vii) the rights of an individual under statutes and regulations relating to the protection of individual privacy, including section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and section 552 of that title (commonly referred to as the Freedom of Information Act).

[(2) **PRIVACY POLICIES IN MACHINE-READABLE FORMATS.**—

[(A) **IN GENERAL.**—The Federal Chief Information Officer shall promulgate guidelines and standards requiring agencies to translate privacy policies into a standardized machine-readable format.

[(B) **WAIVER OR MODIFICATION.**—The Federal Chief Information Officer may waive or modify the application of subparagraph (A), if the Federal Chief Information Officer determines that—

[(i) such application is impracticable; or

[(ii) a more practicable alternative shall be implemented.

[(C) **NOTIFICATION.**—Not later than 30 days after granting a waiver or modification under subparagraph (B), the Federal Chief Information Officer shall notify the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives of the reasons for the waiver or modification.

[SEC. 219. ACCESSIBILITY TO PEOPLE WITH DISABILITIES.

[All actions taken by Federal departments and agencies under this Act shall be in compliance with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

[SEC. 220. NOTIFICATION OF OBSOLETE OR COUNTERPRODUCTIVE PROVISIONS.

[If the Federal Chief Information Officer makes a determination that any provision of this Act (including any amendment made by this Act) is obsolete or counterproductive to the purposes of this Act, as a result of changes in technology or any other reason, the Federal Chief Information Officer shall submit notification of that determination to—

[(1) the Committee on Governmental Affairs of the Senate; and

[(2) the Committee on Government Reform of the House of Representatives.

[TITLE III—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATE

[SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

[Except for those purposes for which an authorization of appropriations is specifically provided in this Act, including the amendments made by this Act, there are authorized to be appropriated such sums as may be necessary to carry out this Act for each of fiscal years 2002 through 2006.

[SEC. 302. EFFECTIVE DATE.

[This Act and the amendments made by this Act shall take effect 120 days after the date of enactment of this Act.]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “E-Government Act of 2002”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purposes.

TITLE I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

Sec. 101. Management and promotion of Electronic Government services.

Sec. 102. Conforming amendments.

TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

Sec. 201. Definitions.

Sec. 202. Federal agency responsibilities.

Sec. 203. Compatibility of Executive agency methods for use and acceptance of electronic signatures.

Sec. 204. Federal Internet portal.

Sec. 205. Federal courts.

Sec. 206. Regulatory agencies.

Sec. 207. Accessibility, usability, and preservation of Government information.

Sec. 208. Privacy provisions.

Sec. 209. Federal Information Technology workforce development.

Sec. 210. Common protocols for geographic information systems.

Sec. 211. Share-in-savings program improvements.

Sec. 212. Integrated reporting study and pilot projects.

Sec. 213. Community technology centers.

Sec. 214. Enhancing crisis management through advanced information technology.

Sec. 215. Disparities in access to the Internet.

Sec. 216. Notification of obsolete or counterproductive provisions.

TITLE III—GOVERNMENT INFORMATION SECURITY

Sec. 301. Information security.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

Sec. 401. Authorization of appropriations.

Sec. 402. Effective dates.

SEC. 2. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—Congress finds the following:

(1) The use of computers and the Internet is rapidly transforming societal interactions and the relationships among citizens, private businesses, and the Government.

(2) The Federal Government has had uneven success in applying advances in information technology to enhance governmental functions and services, achieve more efficient performance, increase access to Government information, and citizen participation in Government.

(3) Most Internet-based services of the Federal Government are developed and presented separately, according to the jurisdictional boundaries of an individual department or agency, rather than being integrated cooperatively according to function.

(4) Internet-based Government services involving interagency cooperation are especially difficult to develop and promote, in part because of a lack of sufficient funding mechanisms to support such interagency cooperation.

(5) Electronic Government has its impact through improved Government performance and outcomes within and across agencies.

(6) Electronic Government is a critical element in the management of Government, to be implemented as part of a management framework that also addresses finance, procurement, human capital, and other challenges to improve the performance of Government.

(7) To take full advantage of the improved Government performance that can be achieved through the use of Internet-based technology requires new leadership, better organization, improved interagency collaboration, and more focused oversight of agency compliance with statutes related to information resource management.

(b) **PURPOSES.**—The purposes of this Act are the following:

(1) To provide effective leadership of Federal Government efforts to develop and promote electronic Government services and processes by establishing an Administrator of a new Office of Electronic Government within the Office of Management and Budget.

(2) To promote use of the Internet and other information technologies to provide increased opportunities for citizen participation in Government.

(3) To promote interagency collaboration in providing electronic Government services, where this collaboration would improve the service to citizens by integrating related functions, and in the use of internal electronic Government processes, where this collaboration would improve the efficiency and effectiveness of the processes.

(4) To improve the ability of the Government to achieve agency missions and program performance goals.

(5) To promote the use of the Internet and emerging technologies within and across Government agencies to provide citizen-centric services.

(6) To reduce costs and burdens for businesses and other Government entities.

(7) To promote better informed decisionmaking by policy makers.

(8) To promote access to high quality information and services across multiple channels, available to customers through the channels which are preferred by the customer.

(9) To make the Federal Government more transparent and accountable.

(10) To transform agency operations by utilizing, where appropriate, best practices from public and private sector organizations.

TITLE I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

SEC. 101. MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES.

(a) **IN GENERAL.**—Title 44, United States Code, is amended by inserting after chapter 35 the following:

“CHAPTER 36—MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

“Sec.

“3601. Definitions.

“3602. Office of Electronic Government.

“3603. Chief Information Officers Council.

“3604. E-Government Fund.

“3605. E-Government report.

“§ 3601. Definitions

“In this chapter, the definitions under section 3502 shall apply, and the term—

“(1) ‘Administrator’ means the Administrator of the Office of Electronic Government established under section 3602;

“(2) ‘Council’ means the Chief Information Officers Council established under section 3603;

“(3) ‘electronic Government’ means the use by the Government of web-based Internet applications and other digital technologies, combined with processes that implement these technologies, to—

“(A) enhance the access to and delivery of Government information and services to the public, other agencies, and other Government entities; or

“(B) bring about improvements in Government operations that may include effectiveness, efficiency, service quality, or transformation;

“(4) ‘enterprise architecture’ means a framework for incorporating business processes, information flows, applications, and infrastructure to support agency and interagency goals;

“(5) ‘Fund’ means the E-Government Fund established under section 3604;

“(6) ‘interoperability’ means the ability of different software systems, applications, and services to communicate and exchange data in an accurate, effective, and consistent manner; and

“(7) ‘integrated service delivery’ means the provision of Internet-based Federal Government information or services integrated according to function rather than separated according to the boundaries of agency jurisdiction.

“§3602. Office of Electronic Government

“(a) There is established in the Office of Management and Budget an Office of Electronic Government.

“(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

“(c) The Administrator shall assist the Director in carrying out—

“(1) all functions under this chapter;

“(2) all of the functions assigned to the Director under title II of the E-Government Act of 2002; and

“(3) other electronic government initiatives, consistent with other statutes.

“(d) The Administrator shall assist the Director and the Deputy Director for Management and work with the Administrator of the Office of Information and Regulatory Affairs in setting strategic direction for implementing electronic Government, under relevant statutes, including—

“(1) chapter 35;

“(2) division E of the Clinger-Cohen Act of 1996 (division E of Public Law 104-106; 40 U.S.C. 1401 et seq.);

“(3) section 552a of title 5 (commonly referred to as the Privacy Act);

“(4) the Government Paperwork Elimination Act (44 U.S.C. 3504 note);

“(5) the Government Information Security Reform Act; and

“(6) the Computer Security Act of 1987 (40 U.S.C. 759 note).

“(e) The Administrator shall work with the Administrator of the Office of Information and Regulatory Affairs and with other offices within the Office of Management and Budget to oversee implementation of electronic Government under this chapter, chapter 35, the E-Government Act of 2002, and other relevant statutes relating to—

“(1) capital planning and investment control for information technology;

“(2) the development of enterprise architectures;

“(3) information security;

“(4) privacy;

“(5) access to, dissemination of, and preservation of Government information; and

“(6) other areas of electronic Government.

“(f) Subject to requirements of this chapter, the Administrator shall assist the Director by performing electronic Government functions as follows:

“(1) Advise the Director on the resources required to develop and effectively operate and maintain Federal Government information systems.

“(2) Recommend to the Director changes relating to Governmentwide strategies and priorities for electronic Government.

“(3) Provide overall leadership and direction to the executive branch on electronic Government by working with authorized officials to establish information resources management policies and requirements, and by reviewing performance of each agency in acquiring, using, and managing information resources.

“(4) Promote innovative uses of information technology by agencies, particularly initiatives involving multiagency collaboration, through support of pilot projects, research, experimentation, and the use of innovative technologies.

“(5) Oversee the distribution of funds from, and ensure appropriate administration of, the E-Government Fund established under section 3604.

“(6) Coordinate with the Administrator of General Services regarding programs undertaken by the General Services Administration to promote electronic government and the efficient use of information technologies by agencies.

“(7) Lead the activities of the Chief Information Officers Council established under section 3603 on behalf of the Deputy Director for Management, who shall chair the council.

“(8) Assist the Director in establishing policies which shall set the framework for information technology standards for the Federal Government under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), to be developed by the National Institute of Standards and Technology and promulgated by the Secretary of Commerce, taking into account, if appropriate, recommendations of the Chief Information Officers Council, experts, and interested parties from the private and nonprofit sectors and State, local, and tribal governments, and maximizing the use of commercial standards as appropriate, as follows:

“(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

“(B) Standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

“(C) Standards and guidelines for Federal Government computer system efficiency and security.

“(9) Sponsor ongoing dialogue that—

“(A) shall be conducted among Federal, State, local, and tribal government leaders on electronic Government in the executive, legislative, and judicial branches to encourage collaboration and enhance understanding of best practices and innovative approaches in acquiring, using, and managing information resources;

“(B) is intended to improve the performance of governments in collaborating on the use of information technology to improve the delivery of information and services; and

“(C) may include—

“(i) development of innovative models—

“(I) for electronic Government management and Government information technology contracts; and

“(II) that may be developed through focused discussions or using separately sponsored research;

“(ii) identification of opportunities for public-private collaboration in using Internet-based technology to increase the efficiency of Government-to-business transactions;

“(iii) identification of mechanisms for providing incentives to program managers and other Government employees to develop and implement innovative uses of information technologies; and

“(iv) identification of opportunities for public, private, and intergovernmental collaboration in addressing the disparities in access to the Internet and information technology.

“(10) Oversee the work of the General Services Administration and other agencies in developing the integrated Internet-based system under section 204 of the E-Government Act of 2002.

“(11) Coordinate with the Administrator of the Office of Federal Procurement Policy to ensure effective implementation of electronic procurement initiatives.

“(12) Assist Federal agencies, including the General Services Administration and the Department of Justice, and the United States Access Board in—

“(A) implementing accessibility standards under section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d); and

“(B) ensuring compliance with those standards through the budget review process and other means.

“(13) Oversee the development of enterprise architectures within and across agencies.

“(14) Administer the Office of Electronic Government established under section 3602.

“(15) Assist the Director in preparing the E-Government report established under section 3605.

“(g) The Director shall ensure that the Office of Management and Budget, including the Office of Electronic Government, the Office of Information and Regulatory Affairs, and other relevant offices, have adequate staff and resources to properly fulfill all functions under the E-Government Act of 2002.

“§3603. Chief Information Officers Council

“(a) There is established in the executive branch a Chief Information Officers Council.

“(b) The members of the Council shall be as follows:

“(1) The Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the Council.

“(2) The Administrator of the Office of Electronic Government.

“(3) The Administrator of the Office of Information and Regulatory Affairs.

“(4) The chief information officer of each agency described under section 901(b) of title 31.

“(5) The chief information officer of the Central Intelligence Agency.

“(6) The chief information officer of the Department of the Army, the Department of the Navy, and the Department of the Air Force, if chief information officers have been designated for such departments under section 3506(a)(2)(B).

“(7) Any other officer or employee of the United States designated by the chairperson.

“(c)(1) The Administrator of the Office of Electronic Government shall lead the activities of the Council on behalf of the Deputy Director for Management.

“(2)(A) The Vice Chairman of the Council shall be selected by the Council from among its members.

“(B) The Vice Chairman shall serve a 1-year term, and may serve multiple terms.

“(3) The Administrator of General Services shall provide administrative and other support for the Council.

“(d) The Council is designated the principal interagency forum for improving agency practices related to the design, acquisition, development, modernization, use, operation, sharing, and performance of Federal Government information resources.

“(e) The Council shall perform the following functions:

“(1) Develop recommendations for the Director on Government information resources management policies and requirements.

“(2) Share experiences, ideas, best practices, and innovative approaches related to information resources management.

“(3) Assist the Administrator in the identification, development, and coordination of multi-agency projects and other innovative initiatives to improve Government performance through the use of information technology.

“(4) Promote the development and use of common performance measures for agency information resources management under this chapter and title II of the E-Government Act of 2002.

“(5) Work as appropriate with the National Institute of Standards and Technology and the Administrator to develop recommendations on information technology standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) and promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), as follows:

“(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

“(B) Standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

“(C) Standards and guidelines for Federal Government computer system efficiency and security.

“(6) Work with the Office of Personnel Management to assess and address the hiring, training, classification, and professional development needs of the Government related to information resources management.

“§3604. E-Government Fund

“(a)(1) There is established in the General Services Administration the E-Government Fund.

“(2) The Fund shall be administered by the Administrator of the General Services Administration to support projects approved by the Director, assisted by the Administrator of the Office of Electronic Government, that enable the Federal Government to expand its ability, through the development and implementation of innovative uses of the Internet or other electronic methods, to conduct activities electronically.

“(3) Projects under this subsection may include efforts to—

“(A) make Federal information and services more readily available to members of the public (including individuals, businesses, grantees, and State and local governments);

“(B) make it easier for the public to apply for benefits, receive services, pursue business opportunities, submit information, and otherwise conduct transactions with the Federal Government; and

“(C) enable Federal agencies to take advantage of information technology in sharing information and conducting transactions with each other and with State and local governments.

“(b)(1) The Administrator shall—

“(A) establish procedures for accepting and reviewing proposals for funding; and

“(B) consult with interagency councils, including the Chief Information Officers Council, the Chief Financial Officers Council, and other interagency management councils, in establishing procedures and reviewing proposals.

“(2) When reviewing proposals and managing the Fund, the Administrator shall observe and incorporate the following procedures:

“(A) A project requiring substantial involvement or funding from an agency shall be approved by a senior official with agencywide authority on behalf of the head of the agency, who shall report directly to the head of the agency.

“(B) Projects shall adhere to fundamental capital planning and investment control processes.

“(C) Agencies shall assess the results of funded projects.

“(D) Agencies shall identify in their proposals resource commitments from the agencies involved, and include plans for potential continuation of projects after all funds made available from the Fund are expended.

“(E) After considering the recommendations of the interagency councils, the Director, assisted by the Administrator, shall have final authority to determine which of the candidate projects shall be funded from the Fund.

“(c) In determining which proposals to recommend for funding, the Administrator—

“(1) shall consider criteria that include whether a proposal—

“(A) identifies the customer group to be served, including citizens, businesses, the Federal Government, or other governments;

“(B) indicates what service or information the project will provide that meets needs of customers;

“(C) directly delivers services to the public or provides the infrastructure for delivery;

“(D) ensures proper security and protects privacy;

“(E) is interagency in scope, including projects implemented by a primary or single agency that—

“(i) could confer benefits on multiple agencies; and

“(ii) have the support of other agencies;

“(F) supports integrated service delivery;

“(G) describes how business processes across agencies will reflect appropriate transformation simultaneous to technology implementation;

“(H) has performance objectives that tie to agency missions and strategic goals, and interim results that relate to the objectives; and

“(I) is new or innovative and does not supplant existing funding streams within agencies; and

“(2) may also rank proposals based on criteria that include whether a proposal—

“(A) has Governmentwide application or implications;

“(B) has demonstrated support by the customers to be served;

“(C) integrates Federal with State, local, or tribal approaches to service delivery;

“(D) identifies resource commitments from nongovernmental sectors;

“(E) identifies resource commitments from the agencies involved; and

“(F) uses web-based technologies to achieve objectives.

“(d) The Fund may be used to fund the integrated Internet-based system under section 204 of the E-Government Act of 2002.

“(e) None of the funds provided from the Fund may be transferred to any agency until 15 days after the Administrator of the General Services Administration has submitted to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the appropriate authorizing committees of the Senate and the House of Representatives, a notification and description of how the funds are to be allocated and how the expenditure will further the purposes of this chapter.

“(f)(1) The Director shall report annually to Congress on the operation of the Fund, through the report established under section 3605.

“(2) The report shall describe—

“(A) all projects which the Director has approved for funding from the Fund; and

“(B) the results that have been achieved to date for these funded projects.

“(g)(1) There are authorized to be appropriated to the Fund—

“(A) \$45,000,000 for fiscal year 2003;

“(B) \$50,000,000 for fiscal year 2004;

“(C) \$100,000,000 for fiscal year 2005;

“(D) \$150,000,000 for fiscal year 2006; and

“(E) such sums as are necessary for fiscal year 2007.

“(2) Funds appropriated under this subsection shall remain available until expended.

“§3605. E-Government report

“(a) Not later than March 1 of each year, the Director shall submit an E-Government status report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

“(b) The report shall contain—

“(1) a summary of the information reported by agencies under section 202 (f) of the E-Government Act of 2002;

“(2) the information required to be reported by section 3604(f); and

“(3) a description of compliance by the Federal Government with other goals and provisions of the E-Government Act of 2002.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for title 44, United

States Code, is amended by inserting after the item relating to chapter 35 the following:

“36. Management and Promotion of Electronic Government Services ... 3601”.

SEC. 102. CONFORMING AMENDMENTS.

(a) ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.—

(1) IN GENERAL.—The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) is amended by inserting after section 112 the following:

“SEC. 113. ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.

“The Administrator of General Services shall consult with the Administrator of the Office of Electronic Government on programs undertaken by the General Services Administration to promote electronic Government and the efficient use of information technologies by Federal agencies.”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for the Federal Property and Administrative Services Act of 1949 is amended by inserting after the item relating to section 112 the following:

“Sec. 113. Electronic Government and information technologies.”.

(b) MODIFICATION OF DEPUTY DIRECTOR FOR MANAGEMENT FUNCTIONS.—Section 503(b) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (5), (6), (7), (8), and (9), as paragraphs (6), (7), (8), (9), and (10), respectively; and

(2) by inserting after paragraph (4) the following:

“(5) Chair the Chief Information Officers Council established under section 3603 of title 44.”.

(c) OFFICE OF ELECTRONIC GOVERNMENT.—

(1) IN GENERAL.—Chapter 5 of title 31, United States Code, is amended by inserting after section 506 the following:

“§507. Office of Electronic Government

“The Office of Electronic Government, established under section 3602 of title 44, is an office in the Office of Management and Budget.”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 31, United States Code, is amended by inserting after the item relating to section 506 the following:

“507. Office of Electronic Government.”.

TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

SEC. 201. DEFINITIONS.

Except as otherwise provided, in this title the definitions under sections 3502 and 3601 of title 44, United States Code, shall apply.

SEC. 202. FEDERAL AGENCY RESPONSIBILITIES.

(a) IN GENERAL.—The head of each agency shall be responsible for—

(1) complying with the requirements of this Act (including the amendments made by this Act), the related information resource management policies and guidance established by the Director of the Office of Management and Budget, and the related information technology standards promulgated by the Secretary of Commerce;

(2) ensuring that the information resource management policies and guidance established under this Act by the Director, and the information technology standards promulgated under this Act by the Secretary of Commerce are communicated promptly and effectively to all relevant officials within their agency; and

(3) supporting the efforts of the Director and the Administrator of the General Services Administration to develop, maintain, and promote an integrated Internet-based system of delivering Federal Government information and services to the public under section 204.

(b) PERFORMANCE INTEGRATION.—

(1) Agencies shall develop performance measures that demonstrate how electronic government enables progress toward agency objectives and strategic goals.

(2) In measuring performance under this section, agencies shall rely on existing data collections to the extent practicable.

(3) Areas of performance measurement that agencies should consider include—

(A) customer service;

(B) agency productivity; and

(C) adoption of innovative information technology, including the appropriate use of commercial best practices.

(4) Agencies shall link their performance goals to key customer segments, including citizens, businesses, and other governments, and to internal Federal Government operations.

(5) As appropriate, agencies shall work collectively in linking their performance goals to key customer segments and shall use information technology in delivering information and services to common customer groups.

(c) **AVOIDING DIMINISHED ACCESS.**—When promulgating policies and implementing programs regarding the provision of information and services over the Internet, agency heads shall consider the impact on persons without access to the Internet, and shall, to the extent practicable—

(1) ensure that the availability of Government services and information has not been diminished for individuals who lack access to the Internet; and

(2) pursue alternate modes of delivery that make Government services and information more accessible to individuals who do not own computers or lack access to the Internet.

(d) **ACCESSIBILITY TO PEOPLE WITH DISABILITIES.**—All actions taken by Federal departments and agencies under this Act shall be in compliance with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

(e) **CHIEF INFORMATION OFFICERS.**—The Chief Information Officer of each of the agencies designated under chapter 36 of title 44, United States Code (as added by this Act) shall be responsible for—

(1) participating in the functions of the Chief Information Officers Council; and

(2) monitoring the implementation, within their respective agencies, of information technology standards promulgated under this Act by the Secretary of Commerce, including common standards for interconnectivity and interoperability, categorization of Federal Government electronic information, and computer system efficiency and security.

(f) E-GOVERNMENT STATUS REPORT.—

(1) **IN GENERAL.**—Each agency shall compile and submit to the Director an E-Government Status Report on—

(A) the status of the implementation by the agency of electronic government initiatives;

(B) compliance by the agency with this Act; and

(C) how electronic Government initiatives of the agency improve performance in delivering programs to constituencies.

(2) **SUBMISSION.**—Each agency shall submit a report under this subsection—

(A) to the Director at such time and in such manner as the Director requires; and

(B) consistent with related reporting requirements.

(g) **USE OF TECHNOLOGY.**—Nothing in this Act supersedes the responsibility of an agency to use information technology to deliver information and services that fulfill the statutory mission and programs of the agency.

SEC. 203. COMPATIBILITY OF EXECUTIVE AGENCY METHODS FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

(a) **PURPOSE.**—The purpose of this section is to achieve interoperable implementation of elec-

tronic signatures for secure electronic government.

(b) **ELECTRONIC SIGNATURES.**—In order to fulfill the objectives of the Government Paperwork Elimination Act (Public Law 105-277; 112 Stat. 2681-749 through 2681-751), each Executive agency (as defined under section 105 of title 5, United States Code) shall ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant procedures and standards promulgated by the Director.

(c) **AUTHORITY FOR ELECTRONIC SIGNATURES.**—The Administrator of General Services shall support the Director by establishing a framework to allow efficient interoperability among Executive agencies when using electronic signatures, including certification of digital signatures.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the General Services Administration, to ensure the development and operation of a Federal bridge certification authority for digital signature compatibility, or for other activities consistent with this section, \$8,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 204. FEDERAL INTERNET PORTAL.

(a) **IN GENERAL.**—

(1) **PUBLIC ACCESS.**—The Director shall work with the Administrator of the General Services Administration and other agencies to maintain and promote an integrated Internet-based system of providing the public with access to Government information and services.

(2) **CRITERIA.**—To the extent practicable, the integrated system shall be designed and operated according to the following criteria:

(A) The provision of Internet-based Government information and services directed to key customer groups, including citizens, business, and other governments, and integrated according to function rather than separated according to the boundaries of agency jurisdiction.

(B) An ongoing effort to ensure that Internet-based Government services relevant to a given citizen activity are available from a single point.

(C) Access to Federal Government information and services consolidated, as appropriate, with Internet-based information and services provided by State, local, and tribal governments.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the General Services Administration \$15,000,000 for the maintenance, improvement, and promotion of the integrated Internet-based system for fiscal year 2003, and such sums as are necessary for fiscal years 2004 through 2007.

SEC. 205. FEDERAL COURTS.

(a) **INDIVIDUAL COURT WEBSITES.**—The Chief Justice of the United States, the chief judge of each circuit and district, and the chief bankruptcy judge of each district shall establish with respect to the Supreme Court or the respective court of appeals, district, or bankruptcy court of a district, a website that contains the following information or links to websites with the following information:

(1) Location and contact information for the courthouse, including the telephone numbers and contact names for the clerk's office and justices' or judges' chambers.

(2) Local rules and standing or general orders of the court.

(3) Individual rules, if in existence, of each justice or judge in that court.

(4) Access to docket information for each case.

(5) Access to the substance of all written opinions issued by the court, regardless of whether such opinions are to be published in the official court reporter, in a text searchable format.

(6) Access to all documents filed with the courthouse in electronic form, described under subsection (c).

(7) Any other information (including forms in a format that can be downloaded) that the court determines useful to the public.

(b) MAINTENANCE OF DATA ONLINE.—

(1) **UPDATE OF INFORMATION.**—The information and rules on each website shall be updated regularly and kept reasonably current.

(2) **CLOSED CASES.**—Electronic files and docket information for cases closed for more than 1 year are not required to be made available online, except all written opinions with a date of issuance after the effective date of this section shall remain available online.

(c) ELECTRONIC FILINGS.—

(1) **IN GENERAL.**—Except as provided under paragraph (2), each court shall make any document that is filed electronically publicly available online. A court may convert any document that is filed in paper form to electronic form. To the extent such conversions are made, all such electronic versions of the document shall be made available online.

(2) EXCEPTIONS.—

(A) **IN GENERAL.**—Documents that are filed that are not otherwise available to the public, such as documents filed under seal, shall not be made available online.

(B) LIMITATION.—

(i) **IN GENERAL.**—A party, witness, or other person with an interest may file a motion with the court to redact any document that would be made available online under this section.

(ii) **REDACTION.**—A redaction under this subparagraph shall be made only to—

(I) the electronic form of the document made available online; and

(II) the extent necessary to protect important privacy concerns.

(3) **PRIVACY AND SECURITY CONCERNS.**—The Judicial Conference of the United States may promulgate rules under this subsection to protect important privacy and security concerns.

(d) **DOCKETS WITH LINKS TO DOCUMENTS.**—The Judicial Conference of the United States shall explore the feasibility of technology to post online dockets with links allowing all filings, decisions, and rulings in each case to be obtained from the docket sheet of that case.

(e) **COST OF PROVIDING ELECTRONIC DOCKETING INFORMATION.**—Section 303(a) of the Judiciary Appropriations Act, 1992 (28 U.S.C. 1913 note) is amended in the first sentence by striking "shall hereafter" and inserting "may, only to the extent necessary,".

(f) **TIME REQUIREMENTS.**—Not later than 2 years after the effective date of this title, the websites under subsection (a) shall be established, except that access to documents filed in electronic form shall be established not later than 4 years after that effective date.

(g) DEFERRAL.—**(1) IN GENERAL.—****(A) ELECTION.—**

(i) **NOTIFICATION.**—The Chief Justice of the United States, a chief judge, or chief bankruptcy judge may submit a notification to the Administrative Office of the United States Courts to defer compliance with any requirement of this section with respect to the Supreme Court, a court of appeals, district, or the bankruptcy court of a district.

(ii) **CONTENTS.**—A notification submitted under this subparagraph shall state—

(I) the reasons for the deferral; and

(II) the online methods, if any, or any alternative methods, such court or district is using to provide greater public access to information.

(B) **EXCEPTION.**—To the extent that the Supreme Court, a court of appeals, district, or bankruptcy court of a district maintains a website under subsection (a), the Supreme Court or that court of appeals or district shall comply with subsection (b)(1).

(2) **REPORT.**—Not later than 1 year after the effective date of this title, and every year thereafter, the Judicial Conference of the United

States shall submit a report to the Committees on Governmental Affairs and the Judiciary of the Senate and the Committees on Government Reform and the Judiciary of the House of Representatives that—

(A) contains all notifications submitted to the Administrative Office of the United States Courts under this subsection; and

(B) summarizes and evaluates all notifications.

SEC. 206. REGULATORY AGENCIES.

(a) PURPOSES.—The purposes of this section are to—

(1) improve performance in the development and issuance of agency regulations by using information technology to increase access, accountability, and transparency; and

(2) enhance public participation in Government by electronic means, consistent with requirements under subchapter II of chapter 5 of title 5, United States Code, (commonly referred to as the Administrative Procedures Act).

(b) INFORMATION PROVIDED BY AGENCIES ONLINE.—To the extent practicable as determined by the agency in consultation with the Director, each agency (as defined under section 551 of title 5, United States Code) shall ensure that a publicly accessible Federal Government website includes all information about that agency required to be published in the Federal Register under section 552(a)(1) of title 5, United States Code.

(c) SUBMISSIONS BY ELECTRONIC MEANS.—To the extent practicable, agencies shall accept submissions under section 553(c) of title 5, United States Code, by electronic means, including e-mail and telefacsimile.

(d) ELECTRONIC DOCKETING.—

(1) IN GENERAL.—To the extent practicable, as determined by the agency in consultation with the Director, agencies shall ensure that a publicly accessible Federal Government website contains electronic dockets for rulemakings under section 553 of title 5, United States Code.

(2) INFORMATION AVAILABLE.—Agency electronic dockets shall make publicly available online to the extent practicable, as determined by the agency in consultation with the Director—

(A) all submissions under section 553(c) of title 5, United States Code; and

(B) other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code, whether or not submitted electronically.

(e) TIME LIMITATION.—Agencies shall implement the requirements of this section consistent with a timetable established by the Director and reported to Congress in the first annual report under section 3605 of title 44 (as added by this Act).

SEC. 207. ACCESSIBILITY, USABILITY, AND PRESERVATION OF GOVERNMENT INFORMATION.

(a) PURPOSE.—The purpose of this section is to improve the methods by which Government information, including information on the Internet, is organized, preserved, and made accessible to the public.

(b) DEFINITIONS.—In this section, the term—

(1) “agency” has the meaning given under section 3502(1) of title 44, United States Code;

(2) “Committee” means the Interagency Committee on Government Information established under subsection (c);

(3) “directory” means a taxonomy of subjects linked to websites that—

(A) organizes Government information on the Internet according to subject matter; and

(B) may be created with the participation of human editors;

(4) “Government information” means information created, collected, processed, disseminated, or disposed of by or for the Federal Government; and

(5) “information” means any communication or representation of knowledge such as facts, data, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms.

(c) INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this title, the Director shall establish the Interagency Committee on Government Information.

(2) MEMBERSHIP.—The Committee shall be chaired by the Director or the designee of the Director and—

(A) shall include representatives from—

(i) the National Archives and Records Administration;

(ii) the offices of the Chief Information Officers from Federal agencies; and

(iii) other relevant officers from the executive branch; and

(B) may include representatives from the Federal legislative and judicial branches.

(3) FUNCTIONS.—The Committee shall—

(A) engage in public consultation to the maximum extent feasible, including consultation with interested communities such as public advocacy organizations;

(B) conduct studies and submit recommendations, as provided under this section, to the Director and Congress;

(C) act as a resource to assist agencies in the effective implementation of policies derived from this Act; and

(D) share effective practices for access to, dissemination of, and retention of Federal information.

(4) TERMINATION.—The Committee shall terminate on a date determined by the Director, except the Committee may not terminate before the Committee submits all recommendations required under this section.

(d) CATEGORIZING OF INFORMATION.—

(1) COMMITTEE FUNCTIONS.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit recommendations to the Director on—

(A) the adoption of standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers; and

(iii) in ways that are interoperable across agencies;

(B) the definition of categories of Government information which should be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(2) FUNCTIONS OF THE DIRECTOR.—Not later than 180 days after the submission of recommendations under paragraph (1), the Director shall issue policies—

(A) requiring the adoption of standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers; and

(ii) in ways that are interoperable across agencies;

(B) defining categories of Government information which shall be required to be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(3) COMPLIANCE REPORT.—After the submission of agency reports under paragraph (4), the Director shall—

(A) annually report to Congress on compliance with this subsection in the E-Government report under section 3605 of title 44, United States Code (as added by this Act); and

(B) modify the policies, as needed, in consultation with the Committee and interested parties.

(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 202(f), on compliance of that agency with the policies issued under paragraph (2)(A).

(e) PUBLIC ACCESS TO ELECTRONIC INFORMATION.—

(1) COMMITTEE FUNCTIONS.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit recommendations to the Director and the Archivist of the United States on—

(A) the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) the imposition of timetables for the implementation of the policies and procedures by agencies.

(2) FUNCTIONS OF THE ARCHIVIST.—Not later than 180 days after the submission of recommendations by the Committee under paragraph (1), the Archivist of the United States shall issue policies—

(A) requiring the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) imposing timetables for the implementation of the policies, procedures, and technologies by agencies.

(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Archivist of the United States shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 202(f), on compliance of that agency with the policies issued under paragraph (2)(A).

(5) FUNCTIONS OF THE DIRECTOR.—After the submission of agency reports under paragraph (4), the Director shall annually report to Congress on compliance with this subsection in the E-Government report under section 3605 of title 44 (as added by this Act).

(f) EDUCATIONAL RESOURCE MATERIALS.—

(1) COMMITTEE FUNCTIONS.—

(A) IDENTIFICATION OF AGENCIES.—Not later than 90 days after the date of enactment of this Act, the Committee shall identify agencies involved in disseminating educational resources materials.

(B) RECOMMENDATIONS.—Not later than 15 months after the date of enactment of this Act, working with the Librarian of Congress, the Archivist of the United States, the Director or the Institute of Museum and Library Services, and the agencies previously identified by the Committee, and after consultation with interested parties, including libraries, historical societies, archival institutions, and other cultural and academic organizations, the Committee shall submit recommendations to the Director on—

(i) policies to promote coordinated access to educational resources materials on the Internet; and

(ii) the imposition of timetables for the implementation of the policies by agencies, where appropriate.

(2) FUNCTIONS OF THE DIRECTOR.—

(A) Not later than 180 days after the submission of recommendations by the Committee under paragraph (1)(B), the Director shall issue policies—

(i) promoting coordinated access to educational resources materials on the Internet; and

(ii) imposing timetables for the implementation of the policies by agencies, as appropriate.

(B) After the submission of agency reports under paragraph (3), the Director shall—

(i) annually report to Congress on compliance with this subsection in the E-Government report under section 3605 of title 44 (as added by this Act); and

(ii) refine the policies, as needed, in consultation with the Committee and interested parties.

(3) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established in section 202(f), on compliance of that agency with the policies issued under paragraph (2)(A).

(g) AVAILABILITY OF GOVERNMENT INFORMATION ON THE INTERNET.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, each agency shall—

(A) consult with the Committee and solicit public comment;

(B) determine which Government information the agency intends to make available and accessible to the public on the Internet and by other means;

(C) develop priorities and schedules for making that Government information available and accessible;

(D) make such final determinations, priorities, and schedules available for public comment;

(E) post such final determinations, priorities, and schedules on the Internet; and

(F) submit such final determinations, priorities, and schedules to the Director, in the report established under section 202(f).

(2) UPDATE.—Each agency shall update determinations, priorities, and schedules of the agency, as needed, after consulting with the Committee and soliciting public comment, if appropriate.

(h) ACCESS TO FEDERALLY FUNDED RESEARCH AND DEVELOPMENT.—

(1) DEFINITIONS.—In this subsection, the term—

(A) “essential information” shall include—

(i) the name, mission, and annual budget authority for research and development of all Federal agencies, constituent bureaus of agencies, the constituent programs of such bureaus, and the constituent projects of such programs; and

(ii) details on every separable research and development task performed intramurally within the Federal entities described under clause (i) on every extramural research and development award made by the Federal entities described under clause (i), and on every individual research and development task or award, including field work proposals, made by a federally funded research and development center, including—

(I) the unique identifying number of the task or award;

(II) the dates upon which the research and development task or award is expected to start and end;

(III) an abstract describing the objective and the scientific and technical focus of the research and development task or award;

(IV) the name of the principal person or persons performing the research and development, their contact information and institutional affiliations, and the geographic location of the institution;

(V) the total amount of Federal funds expected to be provided to the research and development task or award over its lifetime and the amount of funds expected to be provided in each fiscal year in which the work of the research and development task or award is ongoing;

(VI) the type of legal instrument under which the research and development funds were transferred to the recipient;

(VII) the name and location of any industrial partner formally involved in the performance of the research and development task or award;

(VIII) any restrictions attached to the task or award that would prevent the sharing with the general public of any or all of the information determined to be essential information, and the reasons for such restrictions; and

(IX) such other information as may be determined to be appropriate; and

(B) “Federal research and development”—

(i) means those activities which constitute basic research, applied research, and development as defined by the Director; and

(ii) shall include all funds spent on Federal research and development that are provided to—

(I) institutions and entities not a part of the Federal Government, including—

(aa) State, local, and foreign governments;

(bb) industrial firms;

(cc) educational institutions;

(dd) not-for-profit organizations;

(ee) federally funded research and development centers; and

(ff) private individuals; and

(II) entities of the Federal Government, including research and development laboratories, centers, and offices.

(2) DEVELOPMENT AND MAINTENANCE OF GOVERNMENTWIDE DATABASE AND WEBSITE.—

(A) DATABASE AND WEBSITE.—The Director of the National Science Foundation, working with the Director of the Office of Management and Budget and the Director of the Office of Science and Technology Policy, shall develop and maintain—

(i) a database that fully integrates, to the maximum extent feasible, all essential information on Federal research and development that is gathered and maintained by Federal agencies; and

(ii) 1 or more websites upon which all or part of the database of Federal research and development shall be made available to and searchable by Federal agencies and non-Federal entities, including the general public, to facilitate—

(I) the coordination of Federal research and development activities;

(II) collaboration among those conducting Federal research and development;

(III) the transfer of technology among Federal agencies and between Federal agencies and non-Federal entities; and

(IV) access by policymakers and the public to information concerning Federal research and development activities.

(B) OVERSIGHT.—The Director of the Office of Management and Budget shall oversee the development and operation of the database and website and issue any guidance determined necessary to ensure that agencies provide all essential information requested under this subsection.

(3) AGENCY FUNCTIONS.—

(A) IN GENERAL.—Any agency that funds Federal research and development of this subsection shall—

(i) provide the information required to populate the database in the manner prescribed by the Director of the Office of Management and Budget; and

(ii) report annually to the Director, in the report established under section 202(f), on compliance of that agency with the requirements established under this subsection.

(B) REQUIREMENTS.—An agency may impose reporting requirements necessary for the implementation of this section on recipients of Federal research and development funding as a condition of receiving the funding.

(4) COMMITTEE FUNCTIONS.—Not later than 1 year after the date of enactment of this Act, working with the Director of the Office of Science and Technology Policy, and after consultation with interested parties, the Committee shall submit recommendations to the Director on—

(A) policies to improve agency reporting of information for the database established under this subsection; and

(B) policies to improve dissemination of the results of research performed by Federal agencies and federally funded research and development centers.

(5) FUNCTIONS OF THE DIRECTOR.—

(A) RECOMMENDATIONS.—After submission of recommendations by the Committee under paragraph (4), the Director shall report on the recommendations of the Committee and Director to Congress, in the E-Government report under section 3605 of title 44 (as added by this Act).

(B) COMPLIANCE.—The Director shall annually report to Congress on agency compliance with the requirements established under paragraph (3).

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation for the development, maintenance, and operation of the governmentwide database and website under this subsection—

(A) \$2,000,000 in each of the fiscal years 2003 through 2005; and

(B) such sums as are necessary in each of the fiscal years 2006 and 2007.

(i) PUBLIC DOMAIN DIRECTORY OF FEDERAL GOVERNMENT WEBSITES.—

(1) ESTABLISHMENT.—Not later than 2 years after the effective date of this title, the Director and each agency shall—

(A) develop and establish a public domain directory of Federal Government websites; and

(B) post the directory on the Internet with a link to the integrated Internet-based system established under section 204.

(2) DEVELOPMENT.—With the assistance of each agency, the Director shall—

(A) direct the development of the directory through a collaborative effort, including input from—

(i) agency librarians;

(ii) information technology managers;

(iii) program managers;

(iv) records managers;

(v) Federal depository librarians; and

(vi) other interested parties; and

(B) develop a public domain taxonomy of subjects used to review and categorize Federal Government websites.

(3) UPDATE.—With the assistance of each agency, the Administrator of the Office of Electronic Government shall—

(A) update the directory as necessary, but not less than every 6 months; and

(B) solicit interested persons for improvements to the directory.

(j) STANDARDS FOR AGENCY WEBSITES.—Not later than 1 year after the effective date of this title, the Director shall promulgate guidance for agency websites that include—

(1) requirements that websites include direct links to—

(A) descriptions of the mission and statutory authority of the agency;

(B) the electronic reading rooms of the agency relating to the disclosure of information under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act);

(C) information about the organizational structure of the agency, with an outline linked to the agency online staff directory; and

(D) the strategic plan of the agency developed under section 306 of title 5, United States Code; and

(2) minimum agency goals to assist public users to navigate agency websites, including—

(A) speed of retrieval of search results;

(B) the relevance of the results; and

(C) tools to aggregate and disaggregate data.

SEC. 208. PRIVACY PROVISIONS.

(a) PURPOSE.—The purpose of this section is to ensure sufficient protections for the privacy of personal information as agencies implement citizen-centered electronic Government.

(b) **PRIVACY IMPACT ASSESSMENTS.**—
(1) **RESPONSIBILITIES OF AGENCIES.**—

(A) **IN GENERAL.**—An agency shall take actions described under subparagraph (B) in subsection (b)(1)(B), before—

(i) developing or procuring information technology that collects, maintains, or disseminates information that includes any identifier permitting the physical or online contacting of a specific individual; or

(ii) initiating a new collection of information that—

(I) will be collected, maintained, or disseminated electronically; and

(II) includes any identifier permitting the physical or online contacting of a specific individual, if the information concerns 10 or more persons.

(B) **AGENCY ACTIVITIES.**—To the extent required under subparagraph (A), each agency shall—

(i) conduct a privacy impact assessment;

(ii) ensure the review of the privacy impact assessment by the Chief Information Officer, or equivalent official, as determined by the head of the agency; and

(iii) if practicable, after completion of the review under clause (ii), make the privacy impact assessment publicly available, through the website of the agency, publication in the Federal Register, or other means.

(C) **SENSITIVE INFORMATION.**—Subparagraph (B)(iii) may be modified or waived to protect classified, sensitive, or private information contained in an assessment.

(D) **COPY TO DIRECTOR.**—Agencies shall provide the Director with a copy of the privacy impact assessment for each system for which funding is requested.

(2) **CONTENTS OF A PRIVACY IMPACT ASSESSMENT.**—

(A) **IN GENERAL.**—The Director shall issue guidance to agencies specifying the required contents of a privacy impact assessment.

(B) **GUIDANCE.**—The guidance shall—

(i) ensure that a privacy impact assessment is commensurate with the size of the information system being assessed, the sensitivity of personally identifiable information in that system, and the risk of harm from unauthorized release of that information; and

(ii) require that a privacy impact assessment address—

(I) what information is to be collected;

(II) why the information is being collected;

(III) the intended use of the agency of the information;

(IV) with whom the information will be shared;

(V) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(VI) how the information will be secured; and

(VII) whether a system of records is being created under section 552a of title 5, United States Code, (commonly referred to as the Privacy Act).

(3) **RESPONSIBILITIES OF THE DIRECTOR.**—The Director shall—

(A) develop policies and guidelines for agencies on the conduct of privacy impact assessments;

(B) oversee the implementation of the privacy impact assessment process throughout the Government; and

(C) require agencies to conduct privacy impact assessments of existing information systems or ongoing collections of personally identifiable information as the Director determines appropriate.

(c) **PRIVACY PROTECTIONS ON AGENCY WEBSITES.**—

(1) **PRIVACY POLICIES ON WEBSITES.**—

(A) **GUIDELINES FOR NOTICES.**—The Director shall develop guidance for privacy notices on agency websites.

(B) **CONTENTS.**—The guidance shall require that a privacy notice address—

(i) what information is to be collected;

(ii) why the information is being collected;

(iii) the intended use of the agency of the information;

(iv) with whom the information will be shared;

(v) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(vi) how the information will be secured; and

(vii) a statement of the rights of the individual under section 552a of title 5, United States Code (commonly referred to as the Privacy Act), and other laws relevant to the protection of the privacy of an individual.

(2) **PRIVACY POLICIES IN MACHINE-READABLE FORMATS.**—The Director shall issue guidance requiring agencies to translate privacy policies into a standardized machine-readable format.

SEC. 209. FEDERAL INFORMATION TECHNOLOGY WORKFORCE DEVELOPMENT.

(a) **PURPOSE.**—The purpose of this section is to improve the skills of the Federal workforce in using information technology to deliver information and services.

(b) **IN GENERAL.**—In consultation with the Director, the Chief Information Officers Council, and the Administrator of General Services, the Director of the Office of Personnel Management shall oversee the development and operation of a Federal Information Technology Training Center (in this section referred to as the "Training Center").

(c) **FUNCTIONS.**—The Training Center shall—

(1) analyze, on an ongoing basis, the personnel needs of the Federal Government related to information technology and information resource management;

(2) oversee the development of curricula, training methods, and training schedules that correspond to the projected personnel needs of the Federal Government related to information technology and information resource management; and

(3) oversee the training of Federal employees in information technology disciplines, as necessary, at a rate that ensures that the information resource management needs of the Federal Government are met.

(d) **EMPLOYEE PARTICIPATION.**—Subject to information resource management needs and the limitations imposed by resource needs in other occupational areas, and consistent with their overall workforce development strategies, agencies shall encourage employees to participate in the occupational information technology curricula of the Training Center.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Office of Personnel Management for overseeing the development and operation of the Training Center, \$7,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 210. COMMON PROTOCOLS FOR GEOGRAPHIC INFORMATION SYSTEMS.

(a) **PURPOSES.**—The purposes of this section are to—

(1) reduce redundant data collection and information; and

(2) promote collaboration and use of standards for government geographic information.

(b) **DEFINITION.**—In this section, the term "geographic information" means information systems that involve locational data, such as maps or other geospatial information resources.

(c) **IN GENERAL.**—

(1) **COMMON PROTOCOLS.**—The Secretary of the Interior, working with the Director and through an interagency group, and working with private sector experts, State, local, and

tribal governments, commercial and international standards groups, and other interested parties, shall facilitate the development of common protocols for the development, acquisition, maintenance, distribution, and application of geographic information. If practicable, the Secretary of the Interior shall incorporate intergovernmental and public private geographic information partnerships into efforts under this subsection.

(2) **INTERAGENCY GROUP.**—The interagency group referred to under paragraph (1) shall include representatives of the National Institute of Standards and Technology and other agencies.

(d) **DIRECTOR.**—The Director shall—

(1) oversee the interagency initiative to develop common protocols;

(2) oversee the coordination with State, local, and tribal governments, public private partnerships, and other interested persons on effective and efficient ways to align geographic information and develop common protocols; and

(3) oversee the adoption of common standards relating to the protocols.

(e) **COMMON PROTOCOLS.**—The common protocols shall be designed to—

(1) maximize the degree to which unclassified geographic information from various sources can be made electronically compatible and accessible; and

(2) promote the development of interoperable geographic information systems technologies that shall—

(A) allow widespread, low-cost use and sharing of geographic data by Federal agencies, State, local, and tribal governments, and the public; and

(B) enable the enhancement of services using geographic data.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this section, for each of the fiscal years 2003 through 2007.

SEC. 211. SHARE-IN-SAVINGS PROGRAM IMPROVEMENTS.

Section 5311 of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106; 110 Stat. 692; 40 U.S.C. 1491) is amended—

(1) in subsection (a)—

(A) by striking "the heads of two executive agencies to carry out" and inserting "heads of executive agencies to carry out a total of 5 projects under";

(B) by striking "and" at the end of paragraph (1);

(C) by striking the period at the end of paragraph (2) and inserting "; and"; and

(D) by adding at the end the following:

"(3) encouraging the use of the contracting and sharing approach described in paragraphs (1) and (2) by allowing the head of the executive agency conducting a project under the pilot program—

"(A) to retain, out of the appropriation accounts of the executive agency in which savings computed under paragraph (2) are realized as a result of the project, up to the amount equal to half of the excess of—

"(i) the total amount of the savings; over

"(ii) the total amount of the portion of the savings paid to the private sector source for such project under paragraph (2); and

"(B) to use the retained amount to acquire additional information technology.";

(2) in subsection (b)—

(A) by inserting "a project under" after "authorized to carry out"; and

(B) by striking "carry out one project and"; and

(3) in subsection (c), by inserting before the period "and the Administrator for the Office of Electronic Government"; and

(4) by inserting after subsection (c) the following:

“(d) REPORT.—

“(1) **IN GENERAL.**—After 5 pilot projects have been completed, but no later than 3 years after the effective date of this subsection, the Director shall submit a report on the results of the projects to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

“(2) CONTENTS.—The report shall include—

“(A) a description of the reduced costs and other measurable benefits of the pilot projects;

“(B) a description of the ability of agencies to determine the baseline costs of a project against which savings would be measured; and

“(C) recommendations of the Director relating to whether Congress should provide general authority to the heads of executive agencies to use a share-in-savings contracting approach to the acquisition of information technology solutions for improving mission-related or administrative processes of the Federal Government.”.

SEC. 212. INTEGRATED REPORTING STUDY AND PILOT PROJECTS.

(a) **PURPOSES.**—The purposes of this section are to—

(1) enhance the interoperability of Federal information systems;

(2) assist the public, including the regulated community, in electronically submitting information to agencies under Federal requirements, by reducing the burden of duplicate collection and ensuring the accuracy of submitted information; and

(3) enable any person to integrate and obtain similar information held by 1 or more agencies under 1 or more Federal requirements without violating the privacy rights of an individual.

(b) DEFINITIONS.—In this section, the term—

(1) “agency” means an Executive agency as defined under section 105 of title 5, United States Code; and

(2) “person” means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, interstate body, or agency or component of the Federal Government.

(c) REPORT.—

(1) **IN GENERAL.**—Not later than 3 years after the date of enactment of this Act, the Director shall conduct a study and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on progress toward integrating Federal information systems across agencies.

(2) **CONTENTS.**—The report under this section shall—

(A) address the integration of data elements used in the electronic collection of information within databases established under Federal statute without reducing the quality, accessibility, scope, or utility of the information contained in each database;

(B) address the feasibility of developing, or enabling the development of, software, including Internet-based tools, for use by reporting persons in assembling, documenting, and validating the accuracy of information electronically submitted to agencies under nonvoluntary, statutory, and regulatory requirements; and

(C) address the feasibility of developing a distributed information system involving, on a voluntary basis, at least 2 agencies, that—

(i) provides consistent, dependable, and timely public access to the information holdings of 1 or more agencies, or some portion of such holdings, including the underlying raw data, without requiring public users to know which agency holds the information; and

(ii) allows the integration of public information held by the participating agencies;

(D) address the feasibility of incorporating other elements related to the purposes of this section at the discretion of the Director; and

(E) make recommendations that Congress or the executive branch can implement, through the use of integrated reporting and information systems, to reduce the burden on reporting and strengthen public access to databases within and across agencies.

(d) PILOT PROJECTS TO ENCOURAGE INTEGRATED COLLECTION AND MANAGEMENT OF DATA AND INTEROPERABILITY OF FEDERAL INFORMATION SYSTEMS.—

(1) **IN GENERAL.**—In order to provide input to the study under subsection (c), the Director shall designate a series of no more than 5 pilot projects that integrate data elements. The Director shall consult with agencies, the regulated community, public interest organizations, and the public on the implementation.

(2) GOALS OF PILOT PROJECTS.—

(A) **IN GENERAL.**—Each goal described under subparagraph (B) shall be addressed by at least 1 pilot project each.

(B) **GOALS.**—The goals under this paragraph are to—

(i) reduce information collection burdens by eliminating duplicative data elements within 2 or more reporting requirements;

(ii) create interoperability between or among public databases managed by 2 or more agencies using technologies and techniques that facilitate public access; and

(iii) develop, or enable the development, of software to reduce errors in electronically submitted information.

(3) **INPUT.**—Each pilot project shall seek input from users on the utility of the pilot project and areas for improvement. To the extent practicable, the Director shall consult with relevant agencies and State, tribal, and local governments in carrying out the report and pilot projects under this section.

(e) **PRIVACY PROTECTIONS.**—The activities authorized under this section shall afford protections for—

(1) confidential business information consistent with section 552(b)(4) of title 5, United States Code, and other relevant law; and

(2) personal privacy information under section 552a of title 5, United States Code, and other relevant law.

SEC. 213. COMMUNITY TECHNOLOGY CENTERS.

(a) **PURPOSES.**—The purposes of this section are to—

(1) study and enhance the effectiveness of community technology centers, public libraries, and other institutions that provide computer and Internet access to the public; and

(2) promote awareness of the availability of on-line government information and services, to users of community technology centers, public libraries, and other public facilities that provide access to computer technology and Internet access to the public.

(b) **STUDY AND REPORT.**—Not later than 2 years after the effective date of this title, the Secretary of Education, in consultation with the Secretary of Housing and Urban Development, the Secretary of Commerce, the Director of the National Science Foundation, and the Director of the Office of Management and Budget, shall—

(1) conduct a study to evaluate the best practices of community technology centers that receive Federal funds; and

(2) submit a report on the study to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

(C) the Committee on Government Reform of the House of Representatives; and

(D) the Committee on Education and the Workforce of the House of Representatives.

(c) CONTENTS.—The report may consider—

(1) an evaluation of the best practices being used by successful community technology centers;

(2) a strategy for—

(A) continuing the evaluation of best practices used by community technology centers; and

(B) establishing a network to share information and resources as community technology centers evolve;

(3) the identification of methods to expand the use of best practices to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public;

(4) a database of all community technology centers receiving Federal funds, including—

(A) each center's name, location, services provided, director, other points of contact, number of individuals served; and

(B) other relevant information;

(5) an analysis of whether community technology centers have been deployed effectively in urban and rural areas throughout the Nation; and

(6) recommendations of how to—

(A) enhance the development of community technology centers; and

(B) establish a network to share information and resources.

(d) **COOPERATION.**—All agencies that fund community technology centers shall provide to the Department of Education any information and assistance necessary for the completion of the study and the report under this section.

(e) ASSISTANCE.—

(1) **IN GENERAL.**—The Director of the Office of Management and Budget shall work with the Secretary of the Department of Education, other relevant Federal agencies, and other interested persons in the private and nonprofit sectors to—

(A) assist in the implementation of recommendations; and

(B) identify other ways to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public.

(2) **TYPES OF ASSISTANCE.**—Assistance under this paragraph may include—

(A) contribution of funds;

(B) donations of equipment, and training in the use and maintenance of the equipment; and

(C) the provision of basic instruction or training material in computer skills and Internet usage.

(f) ONLINE TUTORIAL.—

(1) **IN GENERAL.**—The Secretary of Education, in consultation with the Director of the Office of Management and Budget, the Director of the National Science Foundation, other relevant agencies, and the public, shall develop an online tutorial that—

(A) explains how to access Government information and services on the Internet; and

(B) provides a guide to available online resources.

(2) **DISTRIBUTION.**—The Secretary of Education shall distribute information on the tutorial to community technology centers, public libraries, and other institutions that afford Internet access to the public.

(g) **PROMOTION OF COMMUNITY TECHNOLOGY CENTERS.**—In consultation with other agencies and organizations, the Department of Education shall promote the availability of community technology centers to raise awareness within each community where such a center is located.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Department of Education for the study of best practices at community technology centers, for the development and dissemination of the online tutorial, and for the promotion of community technology centers under this section—

- (1) \$2,000,000 in fiscal year 2003;
- (2) \$2,000,000 in fiscal year 2004; and
- (3) such sums as are necessary in fiscal years 2005 through 2007.

SEC. 214. ENHANCING CRISIS MANAGEMENT THROUGH ADVANCED INFORMATION TECHNOLOGY.

(a) **PURPOSE.**—The purpose of this section is to improve how information technology is used in coordinating and facilitating information on disaster preparedness and response while ensuring the availability of such information across multiple access channels.

(b) **IN GENERAL.**—

(1) **STUDY ON ENHANCEMENT OF CRISIS RESPONSE.**—Not later than 90 days after the date of enactment of this Act, the Federal Emergency Management Agency shall enter into a contract to conduct a study on using information technology to enhance crisis response and consequence management of natural and manmade disasters.

(2) **CONTENTS.**—The study under this subsection shall address—

(A) a research and implementation strategy for effective use of information technology in crisis response and consequence management, including the more effective use of technologies, management of information technology research initiatives, and incorporation of research advances into the information and communications systems of—

(i) the Federal Emergency Management Agency; and

(ii) other Federal, State, and local agencies responsible for crisis response and consequence management; and

(B) opportunities for research and development on enhanced technologies into areas of potential improvement as determined during the course of the study.

(3) **REPORT.**—Not later than 2 years after the date on which a contract is entered into under paragraph (1), the Federal Emergency Management Agency shall submit a report on the study, including findings and recommendations to—

(A) the Committee on Governmental Affairs of the Senate; and

(B) the Committee on Government Reform of the House of Representatives.

(4) **INTERAGENCY COOPERATION.**—Other Federal departments and agencies with responsibility for disaster relief and emergency assistance shall fully cooperate with the Federal Emergency Management Agency in carrying out this section.

(5) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Federal Emergency Management Agency for research under this subsection, such sums as are necessary for fiscal year 2003.

(c) **PILOT PROJECTS.**—Based on the results of the research conducted under subsection (a), the Federal Emergency Management Agency shall initiate pilot projects or report to Congress on other activities that further the goal of maximizing the utility of information technology in disaster management. The Federal Emergency Management Agency shall cooperate with other relevant agencies, and, if appropriate, State, local, and tribal governments, in initiating such pilot projects.

SEC. 215. DISPARITIES IN ACCESS TO THE INTERNET.

(a) **STUDY AND REPORT.**—

(1) **STUDY.**—Not later than 90 days after the date of enactment of this Act, the Director of the National Science Foundation shall request that the National Academy of Sciences, acting through the National Research Council, enter into a contract to conduct a study on disparities in Internet access for online Government services.

(2) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the Director of

the National Science Foundation shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a final report of the study under this section, which shall set forth the findings, conclusions, and recommendations of the Council.

(b) **CONTENTS.**—The report shall include a study of—

(1) how disparities in Internet access influence the effectiveness of online Government services, including a review of—

(A) the nature of disparities in Internet access;

(B) the affordability of Internet service;

(C) the incidence of disparities among different groups within the population; and

(D) changes in the nature of personal and public Internet access that may alleviate or aggravate effective access to online Government services;

(2) how the increase in online Government services is influencing the disparities in Internet access and how technology development or diffusion trends may offset such adverse influences; and

(3) related societal effects arising from the interplay of disparities in Internet access and the increase in online Government services.

(c) **RECOMMENDATIONS.**—The report shall include recommendations on actions to ensure that online Government initiatives shall not have the unintended result of increasing any deficiency in public access to Government services.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the National Science Foundation \$950,000 in fiscal year 2003 to carry out this section.

SEC. 216. NOTIFICATION OF OBSOLETE OR COUNTERPRODUCTIVE PROVISIONS.

If the Director of the Office of Management and Budget makes a determination that any provision of this Act (including any amendment made by this Act) is obsolete or counterproductive to the purposes of this Act, as a result of changes in technology or any other reason, the Director shall submit notification of that determination to—

(1) the Committee on Governmental Affairs of the Senate; and

(2) the Committee on Government Reform of the House of Representatives.

TITLE III—GOVERNMENT INFORMATION SECURITY

SEC. 301. INFORMATION SECURITY.

(a) **ADDITION OF SHORT TITLE.**—Subtitle G of title X of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-266) is amended by inserting after the heading for the subtitle the following new section:

“SEC. 1060. SHORT TITLE.

“This subtitle may be cited as the ‘Government Information Security Reform Act’.”

(b) **CONTINUATION OF AUTHORITY.**—

(1) **IN GENERAL.**—Section 3536 of title 44, United States Code, is repealed.

(2) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 35 of title 44, United States Code, is amended by striking the item relating to section 3536.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

Except for those purposes for which an authorization of appropriations is specifically provided in title I or II, including the amendments made by such titles, there are authorized to be appropriated such sums as are necessary to carry out titles I and II for each of fiscal years 2003 through 2007.

SEC. 402. EFFECTIVE DATES.

(a) **TITLES I AND II.**—

(1) **IN GENERAL.**—Except as provided under paragraph (2), titles I and II and the amendments made by such titles shall take effect 120 days after the date of enactment of this Act.

(2) **IMMEDIATE ENACTMENT.**—Sections 207, 214, 215, and 216 shall take effect on the date of enactment of this Act.

(b) **TITLES III AND IV.**—Title III and this title shall take effect on the date of enactment of this Act.

Amend the title so as to read: “A bill to enhance the management and promotion of electronic Government services and processes by establishing an Office of Electronic Government within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes.”

Mr. MCCAIN. Mr. President, I urge my colleagues to pass S. 803, the E-Government Act of 2002. I believe that this bill will play an important role in making the Federal Government more responsive to our citizens.

The Internet would seem to be an ideal way for our constituents, especially those farthest from Washington, to get information and contact the government. However, many of our constituents complain that it is hard to access information from the government because the various agencies are not all prepared to deal with the advancements of the “digital age.” Meanwhile, some agencies are using the Internet in groundbreaking ways to improve their processes. In addition, the public has found that “e-government” programs have made interactions with the Federal Government more friendly and time-efficient. Today, it is easier for American citizens to find out about a government program, look up a regulation, apply for a grant, or download educational materials by using the Internet than by contacting a distant Federal agency.

This legislation has a number of provisions to promote innovative thinking in the field of “e-government,” while also assisting Federal departments and agencies in crossing into the 21st Century. The legislation establishes an Office of Electronic Government, headed by a Senate-confirmed administrator, within the Office of Management and Budget. This new administrator will sponsor a dialogue between government agencies, the public, and private and non-profit entities to spur creative new ideas for “e-government.” In addition the administrator will direct “e-government” initiatives, and oversee an interagency “e-government” fund to invest in cross-cutting projects with government-wide application. The bill also promotes the use of the Internet and other technologies to provide more information and better services to Americans through Internet strategies, such as the Federal “FirstGov” portal.

Finally, the bill includes a number of provisions that should make it easier for the public to access information about Federal scientific research, the Federal courts, and other areas of interest.

I would like especially to commend my friends, Senators LIEBERMAN and THOMPSON, the chairman and ranking member of the Government Affairs Committee, for their hard work on this legislation. This legislation addresses a complex issue that effects many agencies throughout government and its development required persistence and careful thought. The result of their efforts will improve Federal Government operations, and make the Government more responsive to the citizens we represent.

Mr. REID. Mr. President, it is my understanding Senators LIEBERMAN and THOMPSON have a substitute amendment that is at the desk. I ask unanimous consent that the amendment be considered and agreed to; that the motion to reconsider be laid upon the table; that the committee substitute amendment, as amended, be agreed to; that the bill, as amended, be read a third time and passed; that the motion to reconsider be laid upon the table, without intervening action or debate; that the title amendment be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4172) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The bill (S. 803), as amended, was read the third time and passed.

(The bill will be printed in a future edition of the RECORD.)

The title was amended so as to read: "A bill to enhance the management and promotion of electronic Government services and processes by establishing an Office of Electronic Government within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes."

ORDER FOR BILL TO BE PRINTED—S. 2514

Mr. REID. Mr. President, I ask unanimous consent that S. 2514, as passed by the Senate, be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL FRAUD AGAINST SENIOR CITIZENS AWARENESS WEEK

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 454, S. Res. 281.

The PRESIDING OFFICER. The clerk will report the title.

The legislative clerk read as follows:

A resolution (S. Res. 281) designating the week beginning August 25, 2002, as "National Fraud Against Senior Citizens Awareness Week."

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 281) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 281

Whereas perpetrators of mail, telemarketing, and Internet fraud frequently target their schemes at senior citizens because seniors are often vulnerable and trusting people;

Whereas, as victims of such schemes, many senior citizens have been robbed of their hard-earned life savings and frequently pay an emotional cost, losing not only their money, but also their self-respect and dignity;

Whereas perpetrators of fraudulent schemes against American seniors often operate outside the United States, reaching their victims through the mail, telephone lines, and the Internet;

Whereas the Deceptive Mail Prevention and Enforcement Act increased the power of the United States Postal Service to protect consumers against those who use deceptive mailings featuring games of chance, sweepstakes, skill contests, and facsimile checks;

Whereas the Postal Inspection Service responded to 66,000 mail fraud complaints, arrested 1,691 mail fraud offenders, convicted 1,477 such offenders, and initiated 642 civil or administrative actions in fiscal year 2001;

Whereas mail fraud investigations by the Postal Inspection Service in fiscal year 2001 resulted in over \$1,200,000,000 in court-ordered and voluntary restitution payments;

Whereas the Postal Inspection Service, in an effort to curb cross-border fraud, is involved in 3 major fraud task forces with law enforcement officials in Canada, namely, Project Colt in Montreal, The Strategic Partnership in Toronto, and Project Emptor in Vancouver;

Whereas consumer awareness is the best protection from fraudulent schemes; and

Whereas it is vital to increase public awareness of the enormous impact that fraud has on senior citizens in the United States, and to educate the public, senior citizens, their families, and their caregivers about the signs of fraudulent activities and how to report suspected fraudulent activities to the appropriate authorities: Now, therefore, be it

Resolved, That the Senate—
(1) designates the week beginning August 25, 2002, as "National Fraud Against Senior Citizens Awareness Week"; and

(2) requests the President to issue a proclamation calling on the people of the United States to observe the week with appropriate activities and programs to—

(A) prevent the purveyors of fraud from victimizing senior citizens in the United States; and

(B) educate and inform the public, senior citizens, their families, and their caregivers about fraud perpetrated through mail, telemarketing, and the Internet.

HISTORICAL SIGNIFICANCE OF 100TH ANNIVERSARY OF KOREAN IMMIGRATION TO UNITED STATES

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 185 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 185) recognizing the historical significance of the 100th anniversary of Korean immigration to the United States.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent that the resolution and preamble be agreed; that the motion to reconsider be laid upon the table; and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 185) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 185

Whereas missionaries from the United States played a central role in nurturing the political and religious evolution of modern Korea, and directly influenced the early Korean immigration to the United States;

Whereas in December 1902, 56 men, 21 women, and 25 children left Korea and traveled across the Pacific Ocean on the S.S. Gaelic and landed in Honolulu, Hawaii on January 13, 1903;

Whereas the early Korean-American community was united around the common goal of attaining freedom and independence for their colonized mother country;

Whereas members of the early Korean-American community served with distinction in the Armed Forces of the United States during World War I, World War II, and the Korean Conflict;

Whereas on June 25, 1950, Communist North Korea invaded South Korea with approximately 135,000 troops, thereby initiating the involvement of approximately 5,720,000 personnel of the United States Armed Forces who served during the Korean Conflict to defeat the spread of communism in Korea and throughout the world;

Whereas casualties in the United States Armed Forces during the Korean Conflict included 54,260 dead (of whom 33,665 were battle deaths), 92,134 wounded, and 8,176 listed as missing in action or prisoners of war;

Whereas in the early 1950s, thousands of Koreans, fleeing from war, poverty, and desolation, came to the United States seeking opportunities;

Whereas Korean-Americans, like waves of immigrants to the United States before them, have taken root and thrived in the United States through strong family ties, robust community support, and countless hours of hard work;

Whereas Korean immigration to the United States has invigorated business, church, and academic communities in the United States;

Whereas according to the 2000 United States Census, Korean-Americans own and operate 135,571 businesses across the United States that have gross sales and receipts of \$46,000,000,000 and employ 333,649 individuals with an annual payroll of \$5,800,000,000;

Whereas the contributions of Korean-Americans to the United States include, the invention of the first beating heart operation for coronary artery heart disease, the development of the nectarine, a 4-time Olympic gold medalist, and achievements in engineering, architecture, medicine, acting, singing, sculpture, and writing;

Whereas Korean-Americans play a crucial role in maintaining the strength and vitality of the United States-Korean partnership;

Whereas the United States-Korean partnership helps undergird peace and stability in the Asia-Pacific region and provides economic benefits to the people of the United States and Korea and to the rest of the world; and

Whereas beginning in 2003, more than 100 communities throughout the United States will celebrate the 100th anniversary of Korean immigration to the United States: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the achievements and contributions of Korean-Americans to the United States over the past 100 years; and

(2) requests that the President issue a proclamation calling on the people of the United States and interested organizations to observe the anniversary with appropriate programs, ceremonies, and activities.

ORDERS FOR FRIDAY, JUNE 28, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m., Friday, June 28; that immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and the Senate be in a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. There will be no rollcall votes tomorrow. There will be morning business. The next rollcall vote will occur Tuesday morning, July 9.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:32 p.m., adjourned until Friday, June 28, 2002, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 27, 2002:

DEPARTMENT OF STATE

LINDA ELLEN WATT, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PANAMA.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be admiral

VICE ADM. EDMUND P. GIAMBASTIANI JR.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate June 27, 2002:

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

GEN. RALPH E. EBERHART

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL ROBERT DAMON BISHOP, JR.
BRIGADIER GENERAL ROBERT W. CHEDISTER
BRIGADIER GENERAL TRUDY H. CLARK
BRIGADIER GENERAL RICHARD L. COMER
BRIGADIER GENERAL CRAIG R. COONING
BRIGADIER GENERAL SCOTT S. CUSTER
BRIGADIER GENERAL FELIX DUPRE
BRIGADIER GENERAL EDWARD R. ELLIS
BRIGADIER GENERAL LEONARD D. FOX
BRIGADIER GENERAL TERRY L. GABRESKI
BRIGADIER GENERAL MICHAEL C. GOULD
BRIGADIER GENERAL JONATHAN S. GRATTON
BRIGADIER GENERAL WILLIAM W. HODGES
BRIGADIER GENERAL DONALD J. HOFFMAN
BRIGADIER GENERAL JOHN L. HUDSON
BRIGADIER GENERAL CLAUDE R. KEHLER
BRIGADIER GENERAL CHRISTOPHER A. KELLY
BRIGADIER GENERAL PAUL J. LEBRAS
BRIGADIER GENERAL JOHN W. ROSA, JR.
BRIGADIER GENERAL RONALD F. SAMS
BRIGADIER GENERAL KEVIN J. SULLIVAN
BRIGADIER GENERAL MARK A. WELSH III
BRIGADIER GENERAL STEPHEN G. WOOD

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. JOHN M. URIAS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. GEORGE W. S. READ

To be brigadier general

COL. LARRY KNIGHTNER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. EDWIN E. SPAIN III

To be brigadier general

COL. DENNIS E. LUTZ

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS ASSISTANT SURGEON GENERAL/CHIEF OF THE DENTAL CORPS, UNITED STATES ARMY AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 3039:

To be major general

BRIG. GEN. JOSEPH G. WEBB, JR.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. WAYNE M. ERCK
BRIG. GEN. CHARLES E. MCCARTNEY, JR.
BRIG. GEN. BRUCE E. ROBINSON

To be brigadier general

COL. DAVID L. EVANS
COL. WILLIAM C. KIRKLAND
COL. JAMES B. MALLORY III
COL. JOHN P. MCLAREN, JR.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. PHILLIP M. BALISLE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. ROBERT F. WILLARD

AIR FORCE NOMINATION OF SHARON G. HARRIS.

AIR FORCE NOMINATIONS BEGINNING * NICOLA A. CHOATE AND ENDING * NICHOLAS G. VIYUOH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 7, 2002.

AIR FORCE NOMINATIONS BEGINNING KATHLEEN N. ECHIVERRI AND ENDING JEFFREY E. HAYMOND, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 7, 2002.

ARMY NOMINATIONS BEGINNING * TIMOTHY C. BEAULIEU AND ENDING WILLIAM E. WHEELER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 4, 2002.

ARMY NOMINATIONS BEGINNING DUANE A. BELOTE AND ENDING * NEAL E. WOOLLEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 4, 2002.

ARMY NOMINATIONS BEGINNING JOHN C. AUPKE AND ENDING STEVEN R. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 4, 2002.

ARMY NOMINATIONS BEGINNING ANN M. ALTMAN AND ENDING * ANGELIA L. WHERRY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 4, 2002.

ARMY NOMINATIONS BEGINNING RYO S. CHUN AND ENDING JOHN K. ZAUGG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 4, 2002.

ARMY NOMINATION OF MICHAEL J. MEESE.

ARMY NOMINATIONS BEGINNING STEVEN A. BEYER AND ENDING JAMES F. ROTH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 5, 2002.

ARMY NOMINATION OF JAY A. JUPITER.

ARMY NOMINATION OF ANDREW D. MAGNET.

ARMY NOMINATIONS BEGINNING BERNARD COLEMAN AND ENDING MICHAEL A. STONE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 5, 2002.

ARMY NOMINATION OF ROBERT A. MASON.

ARMY NOMINATIONS BEGINNING RICHARD E. HUMSTON AND ENDING DWIGHT D. RIGGS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 7, 2002.

ARMY NOMINATION OF NANETTE S. PATTON.

MARINE CORPS NOMINATIONS BEGINNING DEREK M. ABBEY AND ENDING MARK D. ZIMMER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 4, 2002.

HOUSE OF REPRESENTATIVES—Thursday, June 27, 2002

The House met at 10 a.m.

The Reverend Frederick J. Huscher, Chaplain, Riverside County Sheriff's Department, Riverside, California, offered the following prayer:

O gracious and loving Lord, quiet our restless mind so that our hearts may speak honestly in prayer and our spirits may listen carefully to Your counsel and instruction. As sovereign Lord, You have placed into our simple hands the overwhelming responsibility to mold the course of this great Nation. Lest pride cause us to forget that we are but Your appointed servants, cause us to strive shoulder to shoulder to maintain the noble heritage that we are a free Nation under God by Your divine will and grace. May Your Spirit direct our hearts and mind to seek only what is right and pure for the people of this land, to make decisions which protect our freedoms and promote the well-being of Your people. O God, we honor You as the Lord of this Nation. May our ministry glorify Your name and be a blessing to this land. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. WALDEN of Oregon. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALDEN of Oregon. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 348, nays 59, answered “present” 1, not voting 26, as follows:

[Roll No. 267]

YEAS—348

Abercrombie	Bachus	Barrett
Ackerman	Baker	Bartlett
Akin	Baldacci	Barton
Andrews	Ballenger	Bass
Armey	Barcia	Becerra
Baca	Barr	Bentsen

Bereuter	Fossella	Latham	Roemer	Shuster	Tiberi
Berkley	Frank	LaTourette	Rogers (KY)	Simmons	Tierney
Berman	Frelinghuysen	Leach	Rogers (MI)	Simpson	Toomey
Biggert	Frost	Lee	Ros-Lehtinen	Skeen	Turner
Bilirakis	Gallegly	Levin	Ross	Skelton	Upton
Bishop	Ganske	Lewis (CA)	Rothman	Smith (MI)	Velazquez
Blagojevich	Gekas	Lewis (GA)	Roybal-Allard	Smith (NJ)	Vitter
Blumenauer	Gephardt	Lewis (KY)	Royce	Smith (TX)	Walden
Blunt	Gibbons	Linder	Rush	Snyder	Walsh
Boehert	Gilchrest	Lipinski	Ryan (WI)	Solis	Wamp
Boehner	Gillmor	Lofgren	Ryun (KS)	Souder	Watkins (OK)
Bonilla	Gilman	Lowey	Sanders	Spratt	Watson (CA)
Bonior	Gonzalez	Lucas (KY)	Sawyer	Stearns	Watt (NC)
Bono	Goode	Lucas (OK)	Saxton	Stenholm	Watts (OK)
Boozman	Goodlatte	Luther	Schiff	Stump	Weiner
Boswell	Gordon	Lynch	Schrock	Sullivan	Weldon (FL)
Boucher	Goss	Maloney (NY)	Scott	Sununu	Weldon (PA)
Boyd	Graham	Manzullo	Sensenbrenner	Sweeney	Wexler
Brady (TX)	Granger	Markey	Serrano	Tanner	Whitfield
Brown (SC)	Graves	Mascara	Sessions	Tauscher	Wicker
Bryant	Green (WI)	Matheson	Shadegg	Taylor (NC)	Wilson (NM)
Burr	Greenwood	Matsui	Shaw	Terry	Wilson (SC)
Burton	Grucci	McCarthy (MO)	Shays	Thomas	Wolf
Buyer	Gutierrez	McCarthy (NY)	Sherman	Thornberry	Woodley
Callahan	Gutknecht	McCollum	Sherwood	Thune	Young (FL)
Calvert	Hall (OH)	McCrery	Shimkus	Thurman	
Camp	Hall (TX)	McHugh	Shows	Tiahrt	
Cannon	Hansen	McInnis			
Cantor	Harman	McIntyre			
Capito	Hart	McKeon			
Capps	Hastings (WA)	McKinney			
Cardin	Hayes	Meehan			
Castle	Hayworth	Meeks (NY)			
Chabot	Herger	Menendez			
Chambliss	Hill	Mica			
Clayton	Hilleary	Miller-			
Clement	Hinojosa	McDonald			
Coble	Hobson	Miller, Dan			
Collins	Hoefel	Miller, Gary			
Combest	Hoekstra	Miller, Jeff			
Cooksey	Holden	Mink			
Cox	Holt	Mollohan			
Cramer	Honda	Moran (KS)			
Crenshaw	Hooley	Moran (VA)			
Crowley	Horn	Morella			
Cubin	Hostettler	Murtha			
Culberson	Houghton	Myrick			
Cummings	Hoyer	Nadler			
Cunningham	Hulshof	Napolitano			
Davis (CA)	Hunter	Neal			
Davis (FL)	Hyde	Nethercutt			
Davis, Jo Ann	Inslee	Ney			
Davis, Tom	Isakson	Norwood			
Deal	Issa	Ortiz			
DeGette	Istook	Osborne			
Delahunt	Jackson (IL)	Ose			
DeLauro	Jefferson	Otter			
DeLay	Jenkins	Pallone			
DeMint	John	Pascarell			
Deutsch	Johnson (CT)	Paul			
Diaz-Balart	Johnson (IL)	Payne			
Dingell	Johnson, Sam	Pelosi			
Doggett	Jones (NC)	Pence			
Dooley	Jones (OH)	Peterson (PA)			
Doolittle	Kanjorski	Peterson (PA)			
Doyle	Kaptur	Phelps			
Dreier	Keller	Pickering			
Duncan	Kelly	Pitts			
Dunn	Kennedy (RI)	Platts			
Edwards	Kerns	Pombo			
Ehlers	Kildee	Pomeroy			
Emerson	Kilpatrick	Portman			
Engel	Kind (WI)	Pryce (OH)			
Eshoo	King (NY)	Putnam			
Etheridge	Kingston	Quinn			
Evans	Kirk	Radanovich			
Everett	Kleczka	Rahall			
Farr	Knollenberg	Rangel			
Ferguson	Kolbe	Regula			
Flake	LaHood	Rehberg			
Fletcher	Lampson	Reyes			
Foley	Langevin	Reynolds			
Forbes	Lantos	Rivers			
Ford	Larson (CT)	Rodriguez			

Green (TX)	Johnson, E. B.	Price (NC)
Hastings (FL)	Kennedy (MN)	Ramstad
Hefley	Kucinich	Sabo
Hilliard	Larsen (WA)	Sánchez
Jackson-Lee	LoBiondo	Sandlin
(TX)	McDermott	Schaffer
Johnson, E. B.	McGovern	Schakowsky
Kennedy (MN)	McNulty	Slaughter
Kucinich	Miller, George	Strickland
Larsen (WA)	Moore	Stupak
LoBiondo	Obey	Taylor (MS)
McDermott	Oliver	Thompson (CA)
McGovern	Pastor	Thompson (MS)
McNulty	Peterson (MN)	Udall (CO)
Miller, George		Udall (NM)
Moore		Visclosky
Obey		Waters
Oliver		Weller
Pastor		Wu
Peterson (MN)		Wynn

NAYS—59

Aderholt	Allen	Baird	Baldwin	Berry	Borski	Brady (PA)	Brown (FL)	Brown (OH)	Capuano	Carson (IN)	Carson (OK)	Clyburn	Condit	Costello	Crane	Davis (IL)	DeFazio	English	Filner
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Green (TX)	Hastings (FL)	Hefley	Hilliard	Jackson-Lee	(TX)	Johnson, E. B.	Kennedy (MN)	Kucinich	Larsen (WA)	LoBiondo	McDermott	McGovern	McNulty	Miller, George	Moore	Obey	Oliver	Pastor	Peterson (MN)
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Price (NC)	Ramstad	Sabo	Sánchez	Sandlin	Schaffer	Schakowsky	Slaughter	Strickland	Stupak	Taylor (MS)	Thompson (CA)	Thompson (MS)	Udall (CO)	Udall (NM)	Visclosky	Waters	Weller	Wu	Wynn
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ANSWERED “PRESENT”—1

Tancredo

NOT VOTING—26

Clay	Conyers	Coyne	Dicks	Ehrlich	Fattah	Hinchey	Israel	LaFalce	Maloney (CT)	Meek (FL)	Northup	Nussle	Oberstar	Owens	Oxley	Riley	Rohrabacher	Roukema	Smith (WA)	Stark	Tauzin	Towns	Traficant	Waxman	Young (AK)
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□ 1029

So the Journal was approved.
The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Oklahoma (Mr. WATTS) come forward and lead the House in the Pledge of Allegiance.

Mr. WATTS of Oklahoma led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Barcia	Fattah	Hastings (FL)
Clay	Fletcher	Hinchey
Ehrlich	Gephardt	Hoekstra

Hooley	Moore	Tauzin
Hunter	Northup	Trafficant
Hyde	Oberstar	Vitter
Israel	Platts	Watkins (OK)
Kanjorski	Reyes	Wu
Keller	Riley	Wynn
LaFalce	Roukema	Young (AK)
Meek (FL)	Rush	

□ 1054

Mr. HINOJOSA, Ms. MCCOLLUM and Mr. OXLEY changed their vote from "aye" to "no".

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. ISRAEL. Mr. Speaker, I was absent from votes this morning so that I could be in New York to be with my children as they go away for the summer. I missed two votes. Were I here I would have voted as follows:

Rollcall Vote 267, on Approving the Journal: "yea"; and

Rollcall Vote 268, that the House Adjourn: "no."

SUPPORTING THE PLEDGE OF ALLEGIANCE

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, in the dark hours after September 11 there was one thing that brought a Nation together, young and old, rich and poor, black and white, Hispanics, and that was the Pledge of Allegiance to the flag of this great Nation. As men and women were toiling to rescue victims in Washington, Pennsylvania and New York, our hearts and minds turned to God to ask for divine guidance as we struggled with this difficult time.

In my morning run this morning I visited the Jefferson, Lincoln and Roosevelt memorials to bear witness to the inscriptions of their most memorable speeches to this Nation, each citing God's divine guidance in creating the Nation.

Now, judges of the Ninth Circuit of the left coast of the United States have decided that this Pledge of Allegiance is unconstitutional. The ACLU may be applauding a ruling, but their victory will be short-lived. One Nation under God, indivisible, with liberty and justice for all; behind me "In God We Trust," in a Nation God guides us in a country where free people worship.

I reject the court's ruling. I urge Congress to immediately undertake a constitutional amendment, and I salute every man and woman in uniform who serves this Nation being guided by God's love and inspiration.

RETURN LUDWIG KOONS

(Mr. LAMPSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAMPSON. Mr. Speaker, again I rise to talk about international child abduction and the case of Ludwig Koons who is being kept illegally in Rome, Italy. The injustice that is being done to this family is outrageous and an example of what thousands of American parents and children face each day.

Ludwig Koons was born in New York and was abducted from his family residence to Rome by his mother, Ilona Staller. Mr. Koons was awarded custody in the United States, but the Italian courts have refused to accept any American jurisdiction. The father has been deemed the fit parent by the courts and by U.S. and by Italian psychologists who have stated that Ludwig is in grave danger and must be returned to his father. Yet he remains captive in Italy, being held by the Italian government and by his mother who is a porn star who lives in a pornographic compound.

Mr. Speaker, every day Members of this body and this administration speak about family values. Family values. I can think of no better way to demonstrate our commitment to family values than to return Ludwig Koons to his father now. We must bring our children home.

AMERICA IS ONE NATION UNDER GOD

(Mr. REHBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REHBERG. Mr. Speaker, one Nation under God. These four solemn words form the very backbone of our great democracy. In one short breath these patriotic words in the Pledge of Allegiance from which they are proudly spoken have guided the American experiment in democracy for generations.

Yesterday, through a gross example of misguided judicial activism, two Federal judges stripped these words from the American vocabulary. It is bizarre decisions like this that have given the Ninth Circuit the dubious distinction of being the most overturned court in the Nation. In one year alone, 26 of the Ninth Circuit's 27 rulings were thrown out.

This decision further brings the light the desperate need for the other body to quick blocking President Bush's judicial nominees and supply our courts with qualified judges that will interpret, not rewrite, the Constitution. I hope the Senate is listening.

Mr. Speaker, I do pledge allegiance to the flag; and I am proud to say that, despite the beliefs of the Ninth Circuit, this is still one Nation under God.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair would remind

all Members to not urge action by the other body.

□ 1100

INSURANCE PROTECTION ACT

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, my silence today reflects the fact that the Republicans gagged me by presenting to this House an Insurance Protection Act that takes away the rights of my mother and your mother and your father to be able to have a real guaranteed prescription drug benefit through Medicare that initially was signed by the President of the United States, Lyndon Baines Johnson, in 1965. I am gagged today, but I will not remain silent because I live in America; and I will fight this fight to get a real Medicare drug benefit for the American people. We will fight and we will win.

HONORING BAKER PRICE FALLS

(Mrs. MYRICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MYRICK. Mr. Speaker, I want to honor a truly amazing young man from my district in North Carolina. Baker Price Falls spent his life serving others and serving the Lord. He would have turned 26 today, but sadly he passed away this year from leukemia. He spent his life doing missions work. Whether he was working in the inner city of Philadelphia or D.C. or doing missions work over in Mexico or Alaska, he desired to be a servant for the Lord. As a member of the Harley Davidson Owners group in Gastonia, he spent that opportunity as well in service to the Lord. Baker was attending the University of Nations in Kona, Hawaii, where he was training for missions work in Africa, and in order to attend school he sold his most prized possession, which was his Harley.

Unfortunately, before he left for Africa, he was diagnosed with leukemia. Even in sickness he was a light and an inspiration to all who knew him and came around him during that time. He was always smiling and always faithful, and he was a witness of God's love even in very difficult circumstances. A very special person, we will always remember him.

PROTECTING AIR QUALITY

(Mr. PRICE of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of North Carolina. Mr. Speaker, I am proud to inform colleagues that North Carolina has become the first southern State to impose tough new pollution standards on aging coal-fired power plants.

This bipartisan legislation is an initiative of Governor Mike Easley, with the collaboration of industry and of environmental and public health advocates. It requires plants to reduce their sulfur dioxide and nitrogen oxide emissions by 74 and 78 percent, respectively. These standards will improve the quality of life for North Carolinians, and they will save lives by reducing the incidence and severity of respiratory illness.

Ironically, as North Carolina takes steps to improve air quality, the Bush administration has proposed a major step backward, actually weakening the Clean Air Act. The EPA's proposed loosening of "new source review" regulations would allow thousands of the country's biggest polluters to avoid installing pollution-control equipment as they update and modernize their plants. So even though North Carolina will be doing its part to reduce pollution that causes ozone and acid rain, our State will continue to be stricken by pollution from other States.

North Carolina has taken a significant step, Mr. Speaker. I am hopeful that this will stiffen EPA's spine, to give all Americans the protection they need.

THE CALIFORNIA JUDICIARY

(Mr. ISSA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ISSA. Mr. Speaker, it is no surprise that yesterday the Ninth Circuit ruled in complete and total disregard for the wishes of the people of California. I heard earlier speakers address the House and talk of the vacancies, and there are five on the Ninth Circuit, specifically because of the inaction of the Senate; and I would like to associate myself with those who have called for the Senate to take appropriate action.

But more importantly here today as a Californian, I want to make it very clear that when we are called the "left coast," they are only speaking about our courts; they are only speaking about the insane actions that often come from our judiciary. They are not speaking about the people of California up and down the State who embrace America's core values, including one Nation under God, indivisible.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair would again remind all Members that it is not ap-

propriate during debate to urge action by the other body.

OUTRAGE OVER PRESCRIPTION DRUG RULE

(Mr. GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Speaker, we are one Nation under God, but God please help this House of Representatives. For the outrageous procedure that the Committee on Rules did this morning, we need God's blessing. For years and years seniors in our country have needed a prescription drug benefit, and yet early this morning Medicare was styled as a Soviet-style health care plan in the Committee on Rules, Medicare that was passed and had provided health care for seniors for over 35 years called Soviet care.

Well, the Soviet concern is what the procedure is today in the House of Representatives, not allowing an option except on the Republican prescription drug bill that is so filled with holes, it leaks so bad, no senior will be able to get any prescription drugs. They will not have these lifesaving pharmaceuticals. Now they are not turning on their electricity, they are taking half prescriptions, and yet the Republicans today are giving them a sieve to be able to sift through.

SHOCKED AND APPALLED BY NINTH CIRCUIT'S DECISION

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, like most Americans I believe in this country, I believe in God, and I believe in the power and importance of allegiance to our flag. As such, like millions of Americans, I was shocked and appalled by the Ninth Circuit's pledge decision.

Mr. Speaker, we open this House in prayer to God. The walls of this temple of democracy bear His name, but it is unconstitutional for our children to name God as they acknowledge their fealty to that very same Nation? Sadly, Mr. Speaker, this decision is part of a 35-year effort by radical secularists who would twist the freedom of religion into a freedom from religion.

We must reject this course of judiciary decisions. I pledge myself to fight every decision by the judiciary that seeks to drive expressions of faith, the Ten Commandments and voluntary prayer from schools, out of every corner of American life, so help me God.

MEDICARE WITHERING ON THE VINE

(Mr. McDERMOTT asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, the Republican candidate for President several years ago proudly voted against Medicare. The former Speaker, Mr. Gingrich, said that he hoped that Medicare would wither on the vine. Many of us wondered what he really meant.

Today, in the Committee on Rules, we found out the truth. A gentleman from Georgia on the Committee on Rules said that there are two proposals before us today, the Republican proposal and a Soviet-style program. When pressed, he said we all know Medicare is a Soviet-style program.

There is where we are. The Republican plan is a plan to privatize Medicare, first by doing the drug benefit and then extending it into the rest. It is a Trojan horse designed to get rid of Medicare, and everybody who votes for that bill today will be setting that in motion.

My mother, my colleagues' mothers, their grandfathers, their fathers, they do not want Medicare to wither on the vine; but this House is prepared to prevent us from giving even an alternative to the American people. That is what Soviets do.

RECOGNIZING GREATER MIAMI JEWISH FEDERATION AND MI- CHAEL-ANN RUSSEL JEWISH COMMUNITY CENTER

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize the Greater Miami Jewish Federation and the Michael-Ann Russel Jewish Community Center to commend them for their efforts on the Interfaith Solidarity with Israel rally which recently took place in my home district of Miami.

I want to especially thank Rachel Sapoznik, international division chairwoman from the Greater Miami Jewish Federation, Fanny Hanono and Avy Weberman from the Michael-Ann Russell Jewish Community Center for their tireless efforts in making this rally a giant success. The event included a variety of speakers from different religious denominations, parochial schools, youth groups and community organizations.

The rally provided an opportunity for folks to voice their support for the State of Israel and gave them specific information on the different ways that they can help both of our countries fight the international war on terrorism.

I want to especially thank those organizers of the Interfaith Solidarity with Israel rally for uniting our community in its support for this embattled country.

AMERICA'S SENIORS WANT GUARANTEED ACCESS TO MEDICINES

(Mrs. CHRISTENSEN asked and was given permission to address the House for 1 minute.)

Mrs. CHRISTENSEN. Mr. Speaker, left to the Republican sham prescription drug bill, our parents, including individuals with disabilities, will find themselves at the mercy of private HMOs having to search for a plan. America's seniors want guaranteed access to the medicines their doctors prescribe at prices they can afford, and they depend on that guarantee for help and for life.

The only bill on the floor today guarantees no prescription drug benefit. The plan the Republicans are trying to force on this country does nothing to curb soaring drug prices, not enough to restore provider payments and does everything to benefit private insurance companies.

Our plan, the Dingell bill, honors our responsibilities to this Nation's seniors, gives them coverage for any drug their doctor prescribes, and guarantees that beneficiaries always have coverage, with lower monthly premiums and a lower out-of-pocket maximum. Our plan beats theirs any day and in any way. That is why we are being denied a chance to offer it.

That is not fair to us, their colleagues, and it disrespects those who sent us here; but it is most unfair to the seniors and their families who need real help with medication now.

ENERGY INDEPENDENCE THROUGH FUEL CELLS

(Mrs. BIGGERT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BIGGERT. Mr. Speaker, I rise this morning to highlight the promise and the potential of fuel cells in hydrogen to help us gain greater energy independence in a way that is safe, clean and renewable.

Often called minipower plants, fuel cells could hold the key to energy independence for America. In an article entitled "Squeaky Clean," the magazine *The Economist* referred to fuel cells as the next big thing, and the most promising fuel cells operate on hydrogen, which the magazine *Physics Today* referred to as the fuel of the future.

We know their potential. Zero emissions. Water and heat are the only by-products, and when both heat and electricity are used, fuel cells can obtain more than 80 percent efficiency.

Researchers at our national science labs, corporations, universities and small businesses are working hard to help us realize the potential of fuel cells.

America has the ingenuity and the expertise to meet our future energy demands, and fuel cells can help us to do

so in an environmentally responsible way that sets a standard for the world.

WOMEN AND PRESCRIPTION DRUGS

(Ms. SOLIS asked and was given permission to address the House for 1 minute.)

Ms. SOLIS. Mr. Speaker, women in this country need a Medicare drug benefit now. In the State of California, 56 percent of Medicare recipients are women. These elderly women have on the average spent about 10 percent of the cost for prescription drugs there, but this year alone their costs went up about 20 percent; and for people from my district particularly, this is a very, very extreme hardship.

Most are on fixed incomes and cannot afford those costs, and they believe the plan that is being proposed by the Republicans today will actually make their lives worse. I know that because their plan will help to benefit HMOs and insurance companies and it is a farce. They are saying that our current drug benefit program is a Soviet-style form of government. That cannot be farther from the truth.

When I go into my senior citizen centers, the first thing people ask me is, HILDA SOLIS, you are my representative, why is there not a better benefit program so I can pay for my treatment that I need to control my diabetes, to get my insulin, to pay for the things that I need to survive?

Let us do the right thing today. Let us vote for a Democratic substitute that is fair for all people.

ASTONISHMENT AND OUTRAGE AT RULING OF NINTH CIRCUIT COURT OF APPEALS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, today I rise to express my astonishment and outrage at the ruling of the Ninth Circuit Court of Appeals, which declared the Pledge of Allegiance to be unconstitutional. Mr. Speaker, what could this court be thinking? Under their reasoning, our money would be unconstitutional, the Presidential oath would be unconstitutional, and yes, this very Chamber, the House of Representatives, would be unconstitutional.

To call the Pledge of Allegiance unconstitutional is the highest embarrassment for our judicial system, and this ruling undermines everything our Nation stands for, principles set back in 1776, as well as the Declaration of Independence, which by the way includes the word God as well.

Mr. Speaker, is the very document that announced our Nation's independence also unconstitutional? Next week

we will be celebrating our Nation's independence, and I hope every American will remember and celebrate our Nation's traditions, including expressing our unity as one Nation under God, indivisible, with liberty and justice for all, and may God bless America.

REPUBLICANS DENYING OUR SENIORS RELIEF THEY NEED

(Mr. DOGGETT asked and was given permission to address the House for 1 minute.)

Mr. DOGGETT. Mr. Speaker, today Republicans refuse to permit consideration of a prescription drug plan for our seniors on the very same day that one of their leaders condemns the basic Medicare program as a Soviet-style program. The Republicans have no prescription drug plan, only a scheme to privatize Medicare and to protect prescription drug manufacturers. They want to turn seniors over to HMOs with no guaranteed deductible, no guaranteed premium, and no guaranteed benefit. Some plan.

The House Republican leadership has once again pledged its allegiance to the pharmaceutical manufacturers who are the price gougers that forcing our seniors to pay the highest prices of any people in the entire world. Little wonder that these same manufacturers are already on the airwaves across America paying millions for ads to defend their Republican House partners who are trying today to deny our seniors the relief they so very desperately need.

□ 1115

LIBERAL COURTS ERR AGAIN

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, our liberal friends in the Federal courts have erred again. The 14th amendment says that no State, and I quote, "shall deprive any person of life, liberty, or property without due process of law." Yet late last year the Supreme Court ruled that this guaranteed doctors the right to impale partially-born babies in the skull with scissors and extract them dead from their mother's birth canals.

The first amendment says America cannot have an official State church, like England has, and I quote, "Congress shall make no law respecting an establishment of religion." Yet a Federal judge in my district has recently ruled that the Ten Commandments have to be taken down from the county courthouse wall where they have stood for 82 years.

The first amendment says, "Congress shall make no law prohibiting the free exercise of religion." Yet, despite this, the 9th Circuit court ruled yesterday

that in school children are not allowed to recite the Pledge of Allegiance any more, even though they have been doing it since 1892.

Mr. Speaker, the judicial branch of government is out of control. They are making a mockery of our Constitution. The Congress and the President must stand up to the radical activist judges and make things right again.

HOUSE DIVIDED ON PRESCRIPTION DRUG PLAN

(Mr. CROWLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CROWLEY. Mr. Speaker, 9 months ago I stood on this floor and talked about the attack upon my great city, the City of New York. Never before in my 4 years in this Congress had I felt this House and this country more united than at that moment.

The pundits began to speak, and they began to ask questions like, how long would it last; how long would this House stay united; and would it be the Democrats or the Republicans who would blink first? Unfortunately, it has been the Republicans.

Today, they offer a prescription drug plan without giving the opportunity for this side of the aisle to present our plan, without having a fair vote up and down on both. They know the Democratic side would win. This bill, our bill, would win the day.

It appears in the middle of the night that there was an election held, that there are now 436 Members of Congress. Robert Ingram, I do not know which State he is from, but he has already proven himself to be a great fund-raiser for the Republican side of the aisle. He has raised \$250,000 from GlaxoSmithKline, apparently his former company; from Pfizer, \$150,000; from Merck, \$150,000. The money is where this bill follows, and the American people are going to know about it.

This House has been brought asunder not by the Democrats but by the Republicans today, by their actions. It is intolerable, and the American people should know about it and know fully what happens today.

PRAISING MANCOR CAROLINA

(Mr. JOE WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I rise to commemorate the 50th anniversary of Mancor Carolina, located in Lugoff, in Kershaw County, South Carolina.

In 1987, Mancor opened a manufacturing business with 45 employees, serving customers such as Dana Corporation and Mack Trucks.

In 1998, Dilip Teppara became Vice President and General Manager of

Mancor Carolina. During the last 4 years, under Mr. Teppara's leadership, Mancor has more than doubled its sales; and the company has grown to nearly 175 employees.

Mancor Carolina is now a major supplier to companies such as Dana in Lugoff, Freightliner in Gaffney, John Deere in Augusta, Komatsu in Newberry, Caterpillar, and Mack Trucks in Winnsboro. Mancor is one of the largest private employers in Kershaw County, and the company is undergoing a multimillion dollar expansion which will create new jobs for the community.

I want to commend Mr. Poul Hansen, Mr. Preben Ostberg, and Mr. Art Church for their vision in making Mancor Carolina a world-class manufacturing company. Most importantly, though, the success of Mancor Carolina is due to its employees and their families. Mancor would not be where it is today without their commitment, sacrifice, and dedication.

KEEP MEDICARE PUBLIC

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, 37 years ago, the majority Republicans voted against the creation of Medicare, which has turned out to be probably the single best program the U.S. government has ever sponsored.

Republican leader Newt Gingrich said that Medicare should wither on the vine. The Republicans, in the late 1990s, proceeded to cut \$250 billion from Medicare. Today, our Republican leader in the Committee on Rules labeled Medicare a Soviet-style program. In my 10 years in Congress, the only people I have found that are hostile to Medicare, that do not like the Medicare program, are my Republican friends on that side of the aisle.

Today, we have a choice. We have a choice between a Medicare prescription drug plan written for America's seniors or a private insurance plan written, the Republican's private insurance plan, written by and for the drug companies, which will privatize Medicare.

Let us keep Medicare public, let us pass a prescription drug benefit that works for seniors, not for the drug companies.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2003

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 461 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 461

Resolved, That at any time after the adoption of this resolution the Speaker may, pur-

suant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 5010) making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2 of rule XXI are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. That upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to consider concurrent resolutions providing for adjournment of the House and Senate during the month of July.

The SPEAKER pro tempore (Mr. LATOURETTE). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST); pending which I yield myself such time as I may consume. During consideration of the resolution, all time yielded is for purposes of debate only.

Yesterday, the Committee on Rules met and granted an open rule for H.R. 5010, the fiscal year 2003 Department of Defense Appropriations Act. The rule provides for 1 hour of general debate equally divided between the chairman and ranking minority member of the Committee on Appropriations.

This is a fair and open rule for a very important bill. It cannot get any better than that. The rule allows any Member to offer any amendment to the bill, as long as their amendment complies with the normal rules of the House.

The defense appropriations bill provides the tools and the resources for our military to wage an aggressive war against terrorism while defending our Nation against an ever-changing military threat. In our global campaign against global terror, our military must have every resource, every tool, every weapon and every advantage they need for the missions to come.

I agree with President Bush when he says that there is no silver bullet, no

single event or single action that is going to suddenly make the threat of terrorism disappear. This broad-based and sustained effort will continue until terrorism is routed out. The situation is similar to the Cold War, when continuous pressure from many nations caused communism to collapse from within. We will press the fight as long as it takes, and we will prevail.

I am very pleased that this bill makes significant improvements in the quality of life of the men and women who serve in the Armed Forces. These improvements include a 4.1 percent military personnel pay raise and targeted pay raises to mid-grade non-commissioned officers; generous housing allowances that will significantly decrease service personnel's out-of-pocket housing expenses; and access to quality health care.

We can never pay our men and women in uniform on a scale that matches the magnitude of their sacrifice, but this bill reflects our respect for their selfless service.

Today, more than ever, we also owe those in uniform the resources they need to maintain a very high state of readiness. Our enemies rely upon surprise and deception. They used to rely upon the fact that they thought we were soft, but I do not think they think that way anymore.

Our forces must be ready to deploy to any point on the globe on short notice. This bill increases operation and maintenance by over \$9.7 billion. Our Nation must have, and will have, ready forces that can bring victory to our country and safety to our people.

The world's best soldiers, sailors, airmen and Marines also deserve the world's best weaponry. To ensure that, our Nation must invest in procurement. This defense bill contains about \$70.3 billion for procurement. The Nation must give our military the weapons it needs to meet the threats of our future. If the war against terror means we must find terror wherever it exists, pull it out by its roots, and bring people to justice, our military must have the means to achieve the objective.

To that end, Mr. Speaker, I urge my colleagues to support this rule and to support the underlying bill. Because now, more than ever, we must improve our national security.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Over the past several months, Mr. Speaker, the world has seen the skill, courage and professionalism of the United States military. America's men and women in uniform have done everything this country has asked of them, and they have done it well. So I am pleased to report that the defense appropriations bill on the floor today provides them with the resources they need to continue to ensure our national security.

I would like to commend the chairman of the Committee on Appropriations, the gentleman from Florida (Mr. YOUNG); the ranking Democrat, the gentleman from Wisconsin (Mr. OBEY); the subcommittee chairman, the gentleman from California (Mr. LEWIS); and the subcommittee ranking member, the gentleman from Pennsylvania (Mr. MURTHA), for the tremendous job they have done to support America's troops and to protect Americans here at home. The bill represents the bipartisan support this Congress has for our troops and the war on terrorism.

Overall, it provides nearly \$34 billion more for national defense than we spent last year. It reflects the homeland security priorities for which Democrats have fought so hard, including \$385 million for the chemical and biological defense program, and it funds substantial quality of life improvements for America's men and women in uniform and their families.

In particular, this bill includes a 4.1 percent military pay raise and even larger increases for the mid-grade non-commissioned officers whom the armed services must retain. To improve military health care, it significantly increases funding for the Defense Health Program, some \$141 million above the President's request.

I also am pleased that this bill continues to fund the wide range of weapons programs that will ensure America's military superiority throughout the world. For instance, it includes \$4.1 billion to procure 23 F-22 Raptor aircraft, the next-generation air dominance fighter for the Air Force. It also provides \$882 million for research and development for this aircraft.

Additionally, the bill provides \$3.5 billion for continued development of the Joint Strike Fighter, the high-technology multi-role fighter of the future for the Air Force, the Navy and the Marines; and it includes \$1 billion for 11 V-22 aircraft.

In sum, Mr. Speaker, this bill does a good job of providing needed resources to our troops for the fiscal year that begins on October 1, but I would be remiss if I did not call attention to the more pressing problem facing America's military right now. Specifically, U.S. troops are fighting the war on terrorism around the world at this very moment. They are winning, but they desperately need additional resources now for the remainder of this fiscal year.

Mr. Speaker, it is no secret that the Armed Forces will have to take drastic steps if they do not get help soon. The Army could have to cancel training exercises, for instance; and the Air Force could have to severely cut flight hours.

That is why both the House and the Senate passed the emergency supplemental appropriations bill with substantial bipartisan support. Unfortunately, that bill is still stuck in a con-

ference committee. Why? Because Republican leaders are playing a high-stakes game of political chicken with our troops.

□ 1130

They are trying to use the wartime spending bill to hide the fact that they have increased America's national debt and are raiding Social Security.

Make no mistake, America's debt is increasing because of the fiscally irresponsible tax plan Republicans passed last year. But House Republican leaders are desperate to disguise that fact from the American people, so they are holding hostage the wartime emergency spending supplemental bill.

Mr. Speaker, House Democrats have repeatedly tried to work with Republicans to ensure the United States does not default on its debt. We have offered to help pass a bipartisan, short-term increase in the debt limit. All we ask is that Republicans join us in an honest, comprehensive budget summit so we can stop the fiscal irresponsibility that is rating the Social Security trust fund.

Unfortunately, Republican leaders are afraid to take responsibility for their actions. They are afraid that a straight up-or-down vote to raise the debt ceiling will highlight the rising tide of red ink Republicans have created.

That sort of budgetary dishonesty is bad enough, but holding up the emergency supplemental spending bill that our troops need is beyond the pale. Simply put, it is a particularly shameful form of war profiteering.

Mr. Speaker, it does not have to be that way. Historically, Democrats and Republicans in Congress have worked together to support America's national defense. On the floor today, we are doing just that with the spending bill for the next fiscal year.

I urge the Republican leadership to stop holding hostage the emergency wartime supplemental spending bill. Have the courage to increase the debt separately and free the supplemental.

How, Mr. Speaker, can the Republican leadership let this body adjourn for the Fourth of July recess, our most patriotic celebration, without tending to the needs of the men and women who are defending our flag and our country in every corner of this globe? To me, it is an abdication of the responsibilities we, the elected Members of the House of Representatives, have to our constituents and to our country.

If the Republican majority wants to govern, now is the time to show the country that they are capable of doing so. Pass a separate debt limit and bring up the supplemental that is so desperately needed right now by every branch of the armed services.

If the Republican leadership will do that, then we can pass the supplemental with an overwhelmingly bipartisan majority and get the troops the

assistance that they need today. We are providing the assistance in this legislation that is before us that they need starting October 1, and that is good and we all support that. But what about the months of July, August, and September? Let us move on and provide that help also.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin (Mr. OBEY), the ranking member on the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, this is a bipartisan bill. It is a bipartisan rule. Both ought to be supported. The bill itself will pass overwhelmingly after the House is finished disposing of it. I want to congratulate all of those who had anything to do with putting it together, most especially the gentleman from California (Mr. LEWIS) and the gentleman from Pennsylvania (Mr. MURTHA).

Having said that, I cannot help but noting how ironic it is that on the same day that the House will be debating the bill that provides the resources to enable our military to defend this country and to take the battle to terrorists around the world, how ironic it is that this House on another bill coming up later today will not stand up for the very values that we are today buttressing by the funding that we are providing in this bill.

What will happen today, in my view, on the rule on prescription drugs will demonstrate that the biggest threat to this democracy and the biggest threat to the average citizen just trying to get through the day and pay their bills, the biggest threat to them is not from any foreign power. The biggest threat is from some of their own representatives who will refuse to practice democracy here at home.

We are shortly going to be considering a prescription drug bill which is of, by, and for the pharmaceutical industry. It is designed not to solve the problem of seniors who face mounting drug costs. It is designed to block us from being able to provide any comprehensive, meaningful relief by providing a guaranteed benefit under Medicare.

It is apparent to me that those who run this House have determined that the only way they can win with their proposal is to avoid giving the elected representatives of every senior in America an opportunity to choose how we can most effectively solve the problem of runaway prescription drug prices.

It seems to me that a Congress which can produce legislation such as we have before us this morning is a Congress that ought not to be afraid to provide choice in the way we deal with the problems of our senior citizens. We

hear the Republican leadership of this Congress prattle on to an almost nauseating degree about the need for us to provide choice programs in schools; but they are apparently afraid to give us the opportunity to choose among alternatives when it comes to dealing with what is probably the biggest financial crisis that our senior citizens have today.

I am going to support this rule, and I will support this bill; but it is a sad day when the elected leadership of this House, who more than any other have a responsibility to defend democratic values, decide instead that the only way they can win is by crushing those same democratic values.

Make no mistake about it, the prescription drug bill which is coming at us today is not designed to solve a problem. It is designed to prevent Members of this House from producing a comprehensive alternative that will solve the problem. It says to America's seniors, you are going to have to accept the fact that we have decided in our infinite wisdom that the only solution we will provide for the problem is a subsidizing of insurance companies.

Mr. Speaker, that is not what the average senior expects. It is not what our constituents, regardless of age, elected us to come here to do. Before this day is over, it will be a shameful day in the history of democracy in this House.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. HAYES).

Mr. HAYES. Mr. Speaker, I thank the gentlewoman for yielding me this time.

The irony today that we stand before this body and ask for the needed resources and assets that our men in uniform need to protect our freedom and our liberty and our heritage, we stand here under the very appropriate words "In God We Trust," but yet a judge in California, with the stroke of a pen, would undo these things that we fight for. I hope that irony is not lost on us today.

Mr. Speaker, I rise in support of the rule that will allow for consideration of H.R. 5010, the defense appropriations bill for fiscal year 2003. The tragic events of September 11, 2001, have thrust our Nation's military into the spotlight and called to duty the brave men and women of the U.S. Armed Forces. Once again, U.S. citizens are rallying behind them in strong support of the harrowing mission they have been called upon to do; and today the United States Congress has a duty to pass this important legislation that will help provide the necessary resources for these brave men and women to do their job.

This legislation first and foremost takes care of our most vital asset in the military, our people. It provides every servicemember with a 4.1 percent pay raise. It approves housing allow-

ances for the buy-down of service personnel's out-of-pocket housing expenses from 11.3 to 7.5 percent in 2003. For the soldiers and airmen in my district at Fort Bragg and Pope Air Force Base, the ability to adequately care for their families and train for the mission for which they are called are the two issues which are second to none. I believe this legislation makes significant progress in these areas.

The defense appropriations bill for fiscal year 2003 builds upon our work from last year and continues to reverse the decline of military readiness by funding key operations, maintenance, and training accounts. This financial support devoted to our national security is long in coming. We must adequately provide the men and women from Fort Bragg and Pope Air Force Base and all of our military personnel who are currently prosecuting the war on terrorism adequate and necessary resources to do their job.

I would like to specifically mention that this bill provides some funding for some key capabilities for our U.S. Special Forces, whose anniversary we celebrated last week. While they, alongside members from all our Armed Forces, serve in Afghanistan and all over the world today, we show our support by providing the funding necessary to effectively and safely do their job. The \$354.7 billion we are voting on today will help do that. It is targeted at two of the most critical areas crucial to maintaining a quality of life and readiness. Furthermore, this bill funds the development and testing of an effective ballistic missile defense system.

Mr. Speaker, it is gross injustice and misfortune that it took the tragedy in September to focus the public eye on the need for a more robust defense budget; but I feel the legislation in front of us takes that step, and the rule provides for its consideration. I urge Members to vote strongly in favor of the bill.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, at a time when this country is prepared to spend up to \$400 billion for the military and an extra \$50 billion for defense, \$37 billion for homeland security, I think it is appropriate to ask how we can create peace around the world.

Last summer, I introduced H.R. 2459, legislation to create a Cabinet-level Department of Peace which embodies a broad-based approach to peaceful, non-violent conflict resolution at domestic and international levels. The mission of the Department is to make non-violence an organizing principle in our society and to help create conditions for a more peaceful world where someday we can make war itself archaic. Over 43 Members of Congress support this bill.

The Department would be headed by a Secretary of Peace appointed by the

President with the advice and consent of the Senate. Domestically, the Department would be responsible for developing policies which address issues, including domestic violence, child abuse, mistreatment of the elderly. Internationally, the Department would analyze foreign policy and make recommendations to the President on matters pertaining to national security, including the protection of human rights and the prevention and de-escalation on armed and unarmed international conflict.

I have received thousands of letters of support and e-mails from all over the United States and all over the world in support of a Department of Peace. People are demanding an end to violence. They are demanding an end to war, and the Department of Peace can be instrumental in realizing this goal.

We are in a new millennium, and the time has come to review age-old challenges with new thinking, wherein we can conceive of peace as simply not being the absence of violence, but the active presence and the capacity for a higher evolution of human awareness, of respect, trust and integrity; wherein we all may tap the infinite capabilities of humanity to transform consciousness and conditions which impel or compel violence at a personal, group,

or national level toward developing a new understanding of, and a commitment to, compassion and love.

We have above the Speaker the words "In God We Trust." Let us place our faith in our capacity to go beyond weapons as instruments of resolving international conflict and believe in our own ability to evolve and to make a difference. The Department of Peace is a path toward just that.

□ 1145

Mr. FROST. Mr. Speaker, I urge adoption of the rule.

Mr. Speaker, I yield back the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. LATOURETTE). Pursuant to House Resolution 461 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5010.

□ 1145

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5010) making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes, with Mr. CAMP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California (Mr. LEWIS) and the gentleman from Pennsylvania (Mr. MURTHA) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Chairman, I yield myself such time as I may consume.

It is my privilege to rise today and join the gentleman from Pennsylvania (Mr. MURTHA) to take up the defense appropriations bill for the year 2003. We have been allocated adequate time on both sides. This bill involves an expenditure of some \$354.7 billion on behalf of our national defense, and at this point, I would like to insert for the RECORD a summary of this bill, by appropriations account.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE I					
MILITARY PERSONNEL					
Military Personnel, Army.....	23,752,384	27,079,392	26,832,217	+3,079,833	-247,175
Military Personnel, Navy.....	19,551,484	22,074,901	21,874,395	+2,322,911	-200,506
Military Personnel, Marine Corps.....	7,345,340	8,558,887	8,504,172	+1,158,832	-54,715
Military Personnel, Air Force.....	19,724,014	22,142,585	21,957,757	+2,233,743	-184,828
Reserve Personnel, Army.....	2,670,197	3,398,555	3,373,455	+703,258	-25,100
Reserve Personnel, Navy.....	1,654,523	1,927,152	1,897,352	+242,829	-29,800
Reserve Personnel, Marine Corps.....	471,200	557,883	553,983	+82,783	-3,900
Reserve Personnel, Air Force.....	1,061,160	1,243,904	1,236,904	+175,744	-7,000
National Guard Personnel, Army.....	4,041,695	5,128,988	5,070,188	+1,028,493	-58,800
National Guard Personnel, Air Force.....	1,784,654	2,135,611	2,124,411	+339,757	-11,200
Total, title I, Military Personnel.....	82,056,651	94,247,858	93,424,834	+11,368,183	-823,024
TITLE II					
OPERATION AND MAINTENANCE					
Operation and Maintenance, Army.....	22,335,074	23,961,173	23,942,768	+1,607,694	-18,405
Operation and Maintenance, Navy.....	26,876,636	28,697,235	29,121,836	+2,245,200	+424,601
Operation and Maintenance, Marine Corps.....	2,931,934	3,310,542	3,579,359	+647,425	+268,817
Operation and Maintenance, Air Force.....	26,026,789	26,772,768	27,587,959	+1,561,170	+815,191
Operation and Maintenance, Defense-Wide.....	12,773,270	14,169,258	14,850,377	+2,077,107	+681,119
Operation and Maintenance, Army Reserve.....	1,771,246	1,880,110	1,976,710	+205,464	+96,600
Operation and Maintenance, Navy Reserve.....	1,003,690	1,159,734	1,239,309	+235,619	+79,575
Operation and Maintenance, Marine Corps Reserve.....	144,023	185,532	189,532	+45,509	+4,000
Operation and Maintenance, Air Force Reserve.....	2,024,866	2,135,452	2,165,604	+140,738	+30,152
Operation and Maintenance, Army National Guard.....	3,768,058	4,049,567	4,231,967	+463,909	+182,400
Operation and Maintenance, Air National Guard.....	3,988,961	4,062,445	4,113,010	+124,049	+50,565
Overseas Contingency Operations Transfer Fund 1/.....	50,000	50,000	---	-50,000	-50,000
United States Court of Appeals for the Armed Forces...	9,096	9,614	9,614	+518	---
Environmental Restoration, Army.....	389,800	395,900	395,900	+6,100	---
Environmental Restoration, Navy.....	257,517	256,948	256,948	-569	---
Environmental Restoration, Air Force.....	385,437	389,773	389,773	+4,336	---
Environmental Restoration, Defense-Wide.....	23,492	23,498	23,498	+6	---
Environmental Restoration, Formerly Used Defense Sites	222,255	212,102	212,102	-10,153	---
Overseas Humanitarian, Disaster, and Civic Aid.....	49,700	58,400	58,400	+8,700	---
Former Soviet Union Threat Reduction.....	---	416,700	416,700	+416,700	---
Support for International Sporting Competition, Defense	15,800	19,000	19,000	+3,200	---
Defense emergency response fund 2/.....	---	19,460,616	---	---	-19,460,616
Total, title II, Operation and maintenance.....	105,047,644	131,676,367	114,780,366	+9,732,722	-16,896,001
TITLE III					
PROCUREMENT					
Aircraft Procurement, Army.....	1,984,391	2,061,027	2,214,369	+229,978	+153,342
Missile Procurement, Army.....	1,079,330	1,642,296	1,112,772	+33,442	-529,524
Procurement of Weapons and Tracked Combat Vehicles, Army.....	2,193,746	2,248,558	2,248,358	+54,612	-200
Procurement of Ammunition, Army.....	1,200,465	1,159,426	1,207,560	+7,095	+48,134
Other Procurement, Army.....	4,183,736	5,168,453	6,017,380	+1,833,644	+848,927
Aircraft Procurement, Navy.....	7,938,143	8,203,955	8,682,655	+744,512	+478,700
Weapons Procurement, Navy.....	1,429,592	1,832,617	2,384,617	+955,025	+552,000
Procurement of Ammunition, Navy and Marine Corps.....	461,399	1,015,152	1,167,130	+705,731	+151,978
Shipbuilding and Conversion, Navy.....	9,490,039	8,191,194	8,127,694	-1,362,345	-63,500
Other Procurement, Navy.....	4,270,976	4,347,024	4,631,299	+360,323	+284,275

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
Procurement, Marine Corps.....	995,442	1,288,383	1,369,383	+373,941	+81,000
Aircraft Procurement, Air Force.....	10,567,038	12,067,405	12,492,730	+1,925,692	+425,325
Missile Procurement, Air Force.....	2,989,524	3,575,162	3,185,439	+195,915	-389,723
Procurement of Ammunition, Air Force.....	866,644	1,133,864	1,290,764	+424,120	+156,900
Other Procurement, Air Force.....	8,085,863	10,523,946	10,622,660	+2,536,797	+98,714
Procurement, Defense-Wide.....	2,389,490	2,688,515	3,457,405	+1,067,915	+768,890
National Guard and Reserve Equipment.....	699,130	---	---	-699,130	---
Defense Production Act Purchases	40,000	73,057	73,057	+33,057	---
Total, title III, Procurement.....	60,864,948	67,220,034	70,285,272	+9,420,324	+3,065,238
TITLE IV					
RESEARCH, DEVELOPMENT, TEST AND EVALUATION					
Research, Development, Test and Evaluation, Army 3/..	7,106,074	6,820,333	7,447,160	+341,086	+626,827
Research, Development, Test and Evaluation, Navy.....	11,498,506	12,496,065	13,562,218	+2,063,712	+1,066,153
Research, Development, Test and Evaluation, Air Force.	14,669,931	17,564,984	18,639,392	+3,969,461	+1,074,408
Research, Development, Test and Evaluation, Defense-Wide.....	15,415,275	16,598,863	17,863,462	+2,448,187	+1,264,599
Operational Test and Evaluation, Defense.....	231,855	222,054	242,054	+10,199	+20,000
Total, title IV, Research, Development, Test and Evaluation.....	48,921,641	53,702,299	57,754,286	+8,832,645	+4,051,987
TITLE V					
REVOLVING AND MANAGEMENT FUNDS					
Defense Working Capital Funds.....	1,312,986	1,499,656	1,832,956	+519,970	+333,300
National Defense Sealift Fund: Ready Reserve Force	432,408	934,129	944,129	+511,721	+10,000
Total, title V, Revolving and Management Funds..	1,745,394	2,433,785	2,777,085	+1,031,691	+343,300
TITLE VI					
OTHER DEPARTMENT OF DEFENSE PROGRAMS					
Defense Health Program:					
Operation and maintenance.....	17,659,475	14,234,041	13,916,791	-3,742,684	-317,250
Procurement.....	267,915	278,742	283,743	+15,828	+5,001
Research and development.....	463,804	67,214	400,214	-63,590	+333,000
Total, Defense Health Program.....	18,391,194	14,579,997	14,600,748	-3,790,446	+20,751
Chemical Agents & Munitions Destruction, Army:					
Operation and maintenance.....	739,020	974,238	974,238	+235,218	---
Procurement.....	164,158	213,278	213,278	+49,120	---
Research, development, test and evaluation.....	202,379	302,683	302,683	+100,304	---
Total, Chemical Agents.....	1,105,557	1,490,199	1,490,199	+384,642	---
Drug Interdiction and Counter-Drug Activities, Defense	842,581	848,907	859,907	+17,326	+11,000
Office of the Inspector General.....	152,021	157,165	157,165	+5,144	---
Total, title VI, Other Department of Defense Programs.....	20,491,353	17,076,268	17,108,019	-3,383,334	+31,751
TITLE VII					
RELATED AGENCIES					
Central Intelligence Agency Retirement and Disability System Fund.....	212,000	212,000	212,000	---	---
Intelligence Community Management Account.....	160,429	147,754	162,254	+1,825	+14,500
Transfer to Department of Justice.....	(42,752)	(34,100)	(34,100)	(-8,652)	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
Payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund.....	67,500	25,000	25,000	-42,500	---
National Security Education Trust Fund.....	8,000	8,000	8,000	---	---
Total, title VII, Related agencies.....	447,929	392,754	407,254	-40,675	+14,500

TITLE VIII

GENERAL PROVISIONS

Additional transfer authority (Sec. 8005).....	(2,000,000)	(2,500,000)	(2,500,000)	(+500,000)	---
Indian Financing Act incentives (Sec. 8021).....	8,000	---	8,000	---	+8,000
FFRDCs.....	-40,000	---	---	+40,000	---
Disposal & lease of DOD real property (Sec. 8035).....	19,000	29,730	29,730	+10,730	---
Overseas Mil Fac Invest Recovery (Sec. 8038).....	3,362	---	1,000	-2,362	+1,000
Rescissions (Sec. 8050).....	-531,475	---	-192,932	+338,543	-192,932
Excess Foreign Currency Cash Balance (Sec. 8082).....	-240,000	---	-615,000	-375,000	-615,000
Travel Cards (Sec. 8087).....	8,000	10,000	10,000	+2,000	---
Defense Cooperation Account (Sec. 8109).....	---	5,000	5,000	+5,000	---
United Service Organizations.....	8,500	---	---	-8,500	---
Transfer within SCN (Sec. 8130).....	---	---	---	---	---
Government Purchase Card (Sec. 8103).....	-100,000	---	-97,000	+3,000	-97,000
National D-Day Museum.....	4,250	---	---	-4,250	---
American Red Cross.....	3,500	---	---	-3,500	---
Newmark.....	8,500	---	---	-8,500	---
Fisher House (Sec. 8099).....	1,700	---	2,000	+300	+2,000
Zero emission steam technology demo.....	1,700	---	---	-1,700	---
CAAS/Contract Growth (Sec. 8100).....	-1,650,000	---	-51,000	+1,599,000	-51,000
Utilities.....	-105,000	---	---	+105,000	---
Tethered Aerostat Radar System	3,000	---	---	-3,000	---
Fairchild Air Force Base	6,000	---	---	-6,000	---
Army Acquisition Restructuring	-5,000	---	---	+5,000	---
USS Alabama Museum Memorial	4,200	---	---	-4,200	---
Special Needs Learning Center	3,500	---	---	-3,500	---
Eisenhower Commission	2,600	---	---	-2,600	---
Travel cost growth	-262,000	---	---	+262,000	---
Legislative liaison savings	-50,000	---	---	+50,000	---
Reserve Component Incentive and Bonus programs	10,000	---	---	-10,000	---
Fort Des Moines Memorial Grant	4,500	---	---	-4,500	---
Clear Radar Upgrade	8,000	---	---	-8,000	---
Defense Counter-Terrorism Fellowship prog.....	17,900	---	---	-17,900	---
Padgett Thomas Barracks	15,000	---	---	-15,000	---
USS Intrepid Museum Memorial	4,250	---	---	-4,250	---
Armed Forces Retirement Home	5,200	---	---	-5,200	---
Working Capital Funds Cash Balance (Sec.8112).....	---	---	-470,000	-470,000	-470,000
Working Capital Funds Excess Carryover (Sec. 8113)....	---	---	-475,000	-475,000	-475,000
Ctr for Mil Recruiting Assessment & Vet Emp(Sec. 8115)	---	---	4,000	+4,000	+4,000
Army Venture Capital Funds (Sec. 8105).....	---	---	17,000	+17,000	+17,000
Total, title VIII, General Provisions.....	-2,832,813	44,730	-1,824,202	+1,008,611	-1,868,932

TITLE IX

COUNTER-TERRORISM & DEFENSE AGAINST
WEAPONS OF MASS DESTRUCTION

Counter-Terrorism & Operational Response Transfer Fund	478,000	---	---	-478,000	---
Transfer to Department of Justice.....	(10,000)	---	---	(-10,000)	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
Former Soviet Union Threat Reduction.....	403,000	---	---	-403,000	---
Total, title IX, Counter-terrorism and Defense Against Weapons of Mass Destruction.....	881,000	---	---	-881,000	---
Total for the bill (net).....	317,623,747	366,794,095	354,712,914	+37,089,167	-12,081,181
OTHER APPROPRIATIONS					
Emergency Response Fund (P.L. 107-117).....	3,395,600	---	---	-3,395,600	---
Net grand total (including other appropriations)	321,019,347	366,794,095	354,712,914	+33,693,567	-12,081,181
CONGRESSIONAL BUDGET RECAP					
Scorekeeping adjustments:					
Stockpile collections (unappropriated).....	-150,000	---	---	+150,000	---
O&M, Army transfer to National Park Service:					
Defense function.....	-1,000	---	---	+1,000	---
Nondefense function.....	1,000	---	---	-1,000	---
Disabled military retiree payments (mandatory)....	55,000	55,000	55,000	---	---
Military personnel accounts (discretionary)...	-55,000	-55,000	-55,000	---	---
Total adjustments.....	-150,000	---	---	+150,000	---
Adjusted total (incl scorekeeping adjustments) 4/	320,869,347	366,794,095	354,712,914	+33,843,567	-12,081,181
Appropriations.....	(321,400,822)	(366,794,095)	354,905,846	(+33,505,024)	(-11,888,249)
Rescissions.....	(-531,475)	---	(-192,932)	(+338,543)	(-192,932)
Total (including adjustments).....	320,869,347	366,794,095	354,712,914	+33,843,567	-12,081,181
Amount in this bill.....	(321,019,347)	(366,794,095)	354,712,914	(+33,693,567)	(-12,081,181)
Scorekeeping adjustments.....	(-150,000)	---	---	(+150,000)	---
Total mandatory and discretionary.....	320,869,347	366,794,095	354,712,914	+33,843,567	-12,081,181
Mandatory.....	267,000	267,000	267,000	---	---
Discretionary.....	320,602,347	366,527,095	354,445,914	+33,843,567	-12,081,181

Footnotes:

1. Budget amendment (H. Doc. 107-189) reduced Overseas Contingency Operations Transfer Fund by \$2,632,000.
2. The FY 2003 budget request for the "Defense Emergency Response Fund" was reduced by \$594,384,000 and transferred to Military Construction.
3. Budget Amendment (H. Doc. 107-219) terminated the Army's Crusader artillery program of \$475,609,000 and reallocated these funds to other R&D, Army programs.
4. The fiscal year 2003 budget request was adjusted to not include \$3,412,561,000, the proposed cost to cover the accrued costs related to retirement benefits of Civil Service Retirement System employees and retiree health benefits for all civilian employees.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
RECAPITULATION					
Title I - Military Personnel.....	82,056,651	94,247,858	93,424,834	+11,368,183	-823,024
Title II - Operation and Maintenance.....	105,047,644	131,676,367	114,780,366	+9,732,722	-16,896,001
Title III - Procurement.....	60,864,948	67,220,034	70,285,272	+9,420,324	+3,065,238
Title IV - Research, Development, Test and Evaluation.....	48,921,641	53,702,299	57,754,286	+8,832,645	+4,051,987
Title V - Revolving and Management Funds.....	1,745,394	2,433,785	2,777,085	+1,031,691	+343,300
Title VI - Other Department of Defense Programs.....	20,491,353	17,076,268	17,108,019	-3,383,334	+31,751
Title VII - Related agencies.....	447,929	392,754	407,254	-40,675	+14,500
Title VIII - General provisions (net).....	-2,832,813	44,730	-1,824,202	+1,008,611	-1,868,932
Title IX - Counter-terrorism & Defense against Weapons of Mass Destruction (net).....	881,000	---	---	-881,000	---
Total, Department of Defense (in this bill).....	317,623,747	366,794,095	354,712,914	+37,089,167	-12,081,181
Other appropriations.....	3,395,600	---	---	-3,395,600	---
Total DoD funding available (net).....	321,019,347	366,794,095	354,712,914	+33,693,567	-12,081,181
Scorekeeping adjustments.....	-150,000	---	---	+150,000	---
Total mandatory and discretionary.....	320,869,347	366,794,095	354,712,914	+33,843,567	-12,081,181

Mr. Chairman, I reserve the balance of my time.

Mr. MURTHA. Mr. Chairman, I yield myself such time as I may consume.

We did the best we could do with the amount of money we had available. This is a good bill.

Mr. SCOTT. Mr. Chairman, I am pleased to rise in support of this legislation to provide for the FY 2003 Department of Defense appropriations. I extend my appreciation to both Subcommittee Chairman LEWIS and Ranking Member MURTHA for this bipartisan legislation.

I have the pleasure of representing portions of the Hampton Roads area—home to Newport News Shipyard and the world's largest naval base, Norfolk Naval base. The recently released 2000 census figures show that the Hampton Roads area is the military capital of the United States. We have 91,615 men and women in uniform that live in the Hampton Roads metropolitan area, more than anywhere else in the country. For these men and women, I am especially pleased that the appropriations bill funds a 4.1 percent pay increase and increases the basic housing allowance for our hardworking military personnel. Now more than ever, it is important that we show our appreciation for our men and women in uniform.

I would also like to compliment the Committee for appropriating \$250 million for the new carrier, CVN-77. Since 9-11, we have overextended the use of our current carriers. Given the new threats we face, it is appropriate that we proceed with the construction of the new carrier. This is also an item for which the entire Virginia Delegation worked very hard to secure appropriations.

In addition to the funding for the new carrier, funding to allow for the construction of the fourth *Virginia* class submarine is vitally important.

Finally, I would like to thank the Subcommittee for funding that would go to science programs at historically black colleges and universities and for institutions serving Hispanic students.

Mr. SHAYS. Mr. Chairman, last year, as it has since 1990, the General Accounting Office (GAO) declared that Department of Defense's financial management systems pose a high risk of fraud, waste and mismanagement.

To get a better understanding of how the acquisition and procurement processes should operate, the House Government Reform Committee, National Security, Veterans Affairs and International Relations Subcommittee asked GAO to follow a defense inventory item from the initial idea through procurement and operation. They reviewed the procurement, accounting, control and payment processes for the Joint Lightweight Integrated Suit Technology (JLIST), a chemical and biological protection garment for use by military personnel.

The General Accounting Office found DOD's nonintegrated data systems and processes are wasting money and degrading readiness. Despite pledges to the Subcommittee 2 years ago to fix scattered inventory controls, DOD still cannot provide a real-time accounting of the location and condition of critical protective equipment.

As a result, as DOD procures hundreds of thousands of new JLIST garments annually,

some military units have formally declared JLIST garment surpluses while others cannot get enough suits for training. While DOD is scheduled to procure 2.8 million more JLIST garments for approximately \$100 each, GAO found some had been auctioned on the Internet for less than \$3 each.

This form of waste directly affects readiness. When the chemical alarms again sound in the desert, U.S. forces will need those suits. Transformation of DOD's last-century financial management systems into a 21st Century enterprise architecture is a critical element of their ability to survive, and prevail, against tomorrow's threats.

DOD has been bogged down by scores of outdated data information systems that do not allow commanders and managers to make effective management decisions. The Secretary of Defense has stated, "One of my highest priorities is to have reliable, accurate and timely financial management information upon which to make the most effective business decisions," and has tasked the Under Secretary of Defense (Comptroller) to achieve this goal.

The use of chemical and biological weapons is a very real threat. The Comptroller must have the tools to assure military inventory, such as the JLIST and other protective equipment, and medical supplies, is readily available when needed. Except for system changes that are the results of statutory directives, the Department and its components should not allocate any funding to modify any system that is part of DOD's current financial management environment without the approval of the Comptroller. In granting this approval, the Under Secretary of Defense should assure that a valid business case has been made and that the systems modifications or enhancements comply with the new enterprise architecture DOD is attempting to implement.

Mr. CHAMBLISS. Mr. Chairman, I strongly support the FY03 National Defense Appropriations Act, which provides critical resources for our military to ensure that they have the adequate training, modern equipment, and sufficient resources to do their job in protection of our nation. I am proud of the work this Congress has done in crafting a bill that will support our troops and their families.

This bill is important for our nation. Our troops deserve a pay raise—and we provide that to them. We provide our troops and their families quality health care and benefits, which they are entitled to in return for their service and sacrifice for our nation. We provide significant funds for the development of technologies that are needed for our missile defense systems so that we are better prepared to meet the future threats this country faces. We increase the resources available to combat terrorism, which now is an immediate threat to the people of the United States. We increase key readiness accounts so that we continue to increase our capabilities to support our warfighters who are actively engaged in protecting American interests around the globe.

Let me say that this bill is also important to Georgia. We fully funded the president's budget requests for vital modern aircraft for our Air Force, include the F-22 advanced tactical fighter, the C-17, the C-130 and JSTARS and I oppose attempts to decrease funding for

these critical weapons systems that our troops need to successfully fight and win a war.

Mr. Chairman, terrorism and our national security are not temporary problems, but perpetual reminders of the uncertainty of the days ahead and the need for our continued support for a strong national defense. I encourage my colleagues to join me in supporting our military and our President by voting for this bill and ensuring that the men and women in uniform who serve our nation valiantly everyday to protect and defend our freedom have the resources which they need to do their job and win the war on terrorism.

Mr. PASTOR. Mr. Chairman, it has come to my attention that the application of precisely controlled heat has shown excellent results in the treatment of benign and malignant skin disease. I am aware of the great potential of the ThermoMed Instrument in this regard and the published results of physicians using it. Impressive benefits including high cure rates, non-invasive and safe treatment, rapid healing and excellent cosmetic results, confirm the applicability of this new technology for the curative treatment of diseased tissue. Accordingly, I encourage the Department of Defense to conduct clinical evaluation of the ThermoMed Instrument and its applications for treating armed forces deployed around the world.

Mr. BENTSEN. Mr. Chairman, today I rise in support of H.R. 5010, important legislation that provides \$354.7 billion appropriations to the Department of Defense (DoD), supporting the honorable men and women, at home and abroad, who are in service to the nation at this critical time. As our nation continues to face the most pressing military and defense priorities in its history, we must continue to provide adequate and secure funding for the continuing war on terrorism, and the DoD remains at the forefront of these vigilant efforts.

Mr. Chairman, I do have concerns about placing this measure first in our annual drive to pass appropriations bills, as we run the risk of drying up the well of funds available for the other funding measures. However, I am pleased that the Appropriations Committee has approved appropriate, responsible increases in funding for military personnel and operations and management over the Fiscal Year 2002 budget, as the DoD infrastructure must be capable of handling continuing and unanticipated demands in the global fight against terrorism.

More importantly, I am pleased that H.R. 5010 provides \$11 million in federal funds for the Texas Training and Technology for Trauma and Terrorism (T5) program, \$9.5 million for the Biology, Education, Screening, Chemoprevention, and Treatment (BESCT) lung cancer program at University of Texas (U.T.) M.D. Anderson Cancer Center, and \$500,000 to the 147th Fighter Squadron of the U.S. Air Force's Texas Air National Guard to obtain chiropractic health care services. As the Texas delegation's lead sponsor of these projects, I have worked with the Memorial Hermann Hospital, Texas Heart Institute, and M.D. Anderson Cancer Center in my district, and the House Appropriations Committee, to secure funding as part of H.R. 5010.

Mr. Chairman, the T5 program is a collaborative effort with Memorial Hermann Hospital, the Texas Heart Institute, and M.D. Anderson

Cancer Center, that focuses on improving emergency care. The goal of the program is to identify the best ways of protecting Houston, and any other cities, from the mortality and cost of terrorism and other disasters. The T5 program is the successor program to the acclaimed University of Texas-Army collaboration known as DREAMS (Disaster Relief and Emergency Medical Services). This program will develop cutting-edge digital technology to link ambulances, hospitals, and LifeFlight helicopters to ensure faster diagnosis and treatment for patients; it establishes a Center for Disaster Preparedness that will focus on developing training programs for public health workers, emergency medical technicians, physicians, nurses, and public health programs in bioterrorism and disaster preparedness; and T5 establishes a new Army Training Center at the University of Texas Research Park where Army personnel undergo training in chemical and biological defenses and trauma surgery. The \$11 million approved for this program represents the first federal support for the project. In the past, I helped secure \$38 million for DREAMS, the previous program that T5 is modeled after. Memorial Hermann Hospital, Texas Heart Institute and M.D. Anderson Cancer Center are to be commended for their leadership in developing the medical technologies and treatments of the 21st Century.

In addition to that funding, the \$9.5 million approved in H.R. 5010 for the BESCT lung cancer program at the U.T. M.D. Anderson Center is the fourth installment in a five-year plan to provide comprehensive services for lung cancer patients, including smoking cessation, early diagnosis, inhibition of cancer development in active and former smokers, and improved treatment and survival for patients with active lung cancer. In the past, I helped secure \$18 million for this program as part of the Appropriations process. Mr. Speaker, lung cancer is the leading cause of cancer death in the United States today, killing more than 160,000 individuals a year. Research for this disease has not received adequate funding in proportion to the number of lung cancer patients who are suffering from this disease. I am pleased that U.T. M.D. Anderson's ambitious and vital program will have the funds necessary to help save lives and reduce health care costs.

H.R. 5010 also provides \$750,000 for the 147th Fighter Squadron of the U.S. Air Force's Texas Air National Guard, which will enhance chiropractic health care services on the campus of Texas Chiropractic College in Pasadena, Texas. This funding will allow the Moody Clinic at the Texas Chiropractic College and the 147th Fighter Squadron to provide the men and women of the Texas Air National Guards with the resources to help provide new diagnostic imaging assets and other tools that will enhance chiropractic, pain management, and related health care services. At a time when many of our military are facing increased stress in service to our nation, I believe that this is a much needed first step in both relieving some of their pain and advancing chiropractic medicine.

Mr. Chairman, as H.R. 5010 provides critical funding for these and other important and timely programs, I urge my colleagues to join me in supporting this measure, to support our

Armed Forces in their efforts to fight terrorism at home and abroad, and to provide homeland defense and protection to keep America strong and freedom alive.

Mr. SIMMONS. Mr. Chairman, I rise in support of H.R. 5010, the Department of Defense Appropriations Act for Fiscal Year 2003 and I ask my colleagues to support this important legislation.

This year's annual defense appropriations bill is good for both America and for my home state of Connecticut. This legislation provides the resources needed to fight the war on terrorism and build our nation's military infrastructure and readiness.

This legislation continues our efforts at transforming our military for the threats of the future. The bill contains \$4.1 billion for 23, F-22 fighter aircraft, each of which are powered by two F135 engines assembled by Pratt and Whitney in Middletown, Connecticut. The F-22 will ensure that the U.S. maintains air dominance in any conflict in the years ahead.

The bill also continues our efforts at having the Pentagon buy smarter and more efficiently through continued research and development of the Joint Strike Fighter, now designated the F-35 and powered by the Pratt and Whitney award-winning F-135 engine system. Variants of one aircraft, the F-35, will eventually replace four aircraft, the F-16, the A-10, and the AV-8B and F-18 C/D, bringing important cost savings not only in production but in the maintenance and operation over the life of each aircraft.

Building on our transformation to a more mobile force the bill approves \$3.7 billion to procure 12, C-17 Globemaster III transport aircraft; each of which are powered by four Pratt and Whitney F117 engines. The C-17 is the workhorse of getting our military to the fight and will be for years to come.

For our Army, this bill contains funds for 4 additional Black Hawk helicopters, built by Sikorsky in Connecticut, for a total of 31 aircraft. Our ground troops greatly benefit from the speed, reliability, and safety of this first-class helicopter.

For our Navy, this bill allocates \$1.49 billion for one new Virginia Class attack submarine and over \$1.03 billion for Trident Class submarine conversion. The Virginia Class and Trident conversion programs assure America's continual dominance of the seas well into the 21st century. Electric Boat, located in my district, has been manufacturing submarines for over a century. It manufactures the Virginia Class and designs much of the Trident conversion.

For these systems, the bill includes an additional \$7 million for research and development of new payloads and sensors for submarines, much of which will be done at Electric Boat, in Groton, Connecticut.

As every regional military commander will attest, our Navy is stretched thin, especially our submarine force. These investments will add significant capability to the commanders in the field at low cost and low risk to the taxpayer. We must do continue to invest more in our submarine force.

Finally, this bill again addresses the needs of our best asset in our military: our troops. The bill funds a 4.1 percent military pay raise and selected targeted pay raises to mid-grade

and non-commissioned officers. It approves housing allowances to bring down military personnel's out-of-pocket housing expenses from 11.3 percent to 7.5 percent. For years much of the nation has taken the men and women in the military for granted. This brings needed relief to these gallant personnel.

This is just a partial list of the support this legislation gives our men and women in uniform. When we pass this bill we will be providing for the financial and housing needs of our servicemen and women, who stand ready to go into harm's way anywhere in the world to defend our nation and our interests. It also allocates resources to continue our military's transformation to meet the challenges of tomorrow and it responds to the realities of the war on terrorism and sets us on course to meet the new challenges that unquestionably lie ahead.

When I came to Congress I pledged to do more to help Connecticut's defense industries and the men and women who work so hard 24 hours a day, seven days a week, to defend our nation. Looking at this legislation, I am pleased with what has been provided thus far and I look forward to building on these successes.

Mr. Chairman, this bill is a well-crafted bill to meet many of the needs of our military. I urge my colleagues to support the bill.

Mr. WATTS of Oklahoma. Mr. Chairman, I rise to explain why the United States Army needed to develop the Crusader Advanced Field Artillery System, and still very much needs the Crusader technologies for near future cannon artillery protection for our combat soldiers.

I stand here as the Congressman representing the U.S. Army Field Artillery Center at Fort Sill, Oklahoma. For decades, Fort Sill has been recognized as the Center for Excellence in field artillery for the United States, for NATO, in fact, for the world over. I champion Crusader because it is a superior weapon system that will equip our combat soldiers with the best field artillery system in the world—not the 9th best, behind China, Iran, North Korea and Russia. Crusader's leap-ahead mobility, lethality, and responsiveness is what our modern battlefield requirements dictate.

Countless news articles, speeches, testimony and letters emphasize that the U.S. Army has needed an advanced field artillery system for over a decade. The need for greater mobility in our self-propelled cannon howitzer became embarrassingly apparent during Desert Storm when our existing howitzers could not keep pace with the maneuver force.

Poor performance in Desert Storm accelerated the Army's planning for a major new artillery system that began in 1985. By mid-1993, the requirements for the advanced field artillery system and armored resupply vehicle were approved, and development commenced. In 1996, a major design change from a liquid propellant to a solid propellant for this system altered the development and deployment schedule.

Then came Governor George Bush's 1999 Citadel speech asserting that our heavy forces must be lighter. Shortly thereafter, Army Chief of Staff General Eric Shinseki directed that the Crusader howitzer become deployable as a system on a single C-17 sortie. That transformational forward-thinking General called it

right. The Crusader team put the howitzer on a diet.

Lighter weight, more mobility was the upside of the trade off. The down side was a delay in deployment from FY2005 to FY2008.

Next, then Governor Bush debated Senator JOHN MCCAIN in New Hampshire and uttered the word "Crusader" when asked for an example of a weapon system a President Bush might terminate. But Governor Bush was talking about a 60-ton howitzer. By 2001, the Army requirements already incorporated the weight reduction to 40 tons.

Maybe President Bush and his staff zeroed in to kill a platform they thought was still too heavy at 60 tons. Maybe that is why the Defense Acquisition Executive, Undersecretary Pete Aldridge, penned a memo to Secretary of Defense Rumsfeld urging a Crusader briefing for the President, actually calling it "Crusader II" as if to emphasize its transformation. Aldridge's memo stated:

"In response to the President's continued concern over Crusader, I have prepared the attached that could be used as a memorandum for the President or a talking paper for a personal discussion. As we have said before the current Crusader II is not the 60-ton Crusader of the past. . . . The paper is written to return to basics: Why we need artillery; what are the artillery characteristics desired; and, what is the best artillery option (Paladin or Crusader II). A side-by-side comparison of Paladin and Crusader II clearly shows the comparative advantage of Crusader II."

In the proposed memorandum to the President, the bottom line "Recommendation" stated:

"Proceed with the development of Crusader II. It has the firefighting features, to include lethality, deployability and mobility, we need. The alternative is to surrender the technological gains made in this program and defer the qualitative edge we require relative to potential adversaries well into the next decade. Crusader II is a success story well worth sustaining."

All the way through February, March and April, reports, testimony, and other statements from the Department of Defense, the Department of the Army, the General Accounting Office, etc. reflected support for Crusader.

Out of the blue, by early May, the Defense Department decided to voice opposition to the Crusader. Surprising many in Government, media and even in our military, Pentagon officials undertook a unilateral campaign to reverse years of Army testimony in support for a weapons system which I believe is vital to our combat soldiers in fighting and winning wars.

The Crusader meets the needs of the 21st Century and the mission of transformation of U.S. Army weaponry. As Secretary Aldridge's memo noted, Crusader is deployable as a system anywhere in the world on a single C-17. It is reliable and versatile, prepared to perform in many different climates with many different scenarios. Crusader's characteristics of survivability and lethality make it a weapon to be feared by enemies of freedom—a word dear to president Bush.

I will never know what exactly caused the about-face, change of heart at the Pentagon over Crusader. Earlier this month, some of my

colleagues and I sent a letter to Defense Secretary Donald Rumsfeld requesting documentation on, among other issues, an Assessment of Alternatives that would justify the abrupt decision to cancel the Crusader system. I never received a written response to my request. Nor did I ever receive the documents I requested, even in a personal meeting I had with the Deputy Secretary of Defense. Perhaps those documents, which should exist, do not. Perhaps I will never know.

What I do know, however, is that our ground forces need a balance in weaponry. They need fire support that includes missiles, rockets, helicopters, aircraft, gunfire and cannons. No matter how modern the warfare, battles cannot be fought, nor won, using only computers.

With great prescience, our forefathers drafted the United States Constitution giving the Congress the power "to raise and support armies." And, I am proud to say that the Congress, in its wisdom, has taken a different, and more studied approach to its decision-making on the Crusader.

For example, the House Armed Services Committee recommended, and the full House approved, full funding for FY 2003 for the Crusader Advanced Field Artillery System. This action included funding to complete the Assessment of Alternatives (AOA) study by which the Army normally determines how its new weapons system stacks up against predecessor and alternative systems.

The Senate just voted 93-3 to permit the Assessment of Alternatives study to proceed as well.

Today the House will vote on the recommendation of the House Appropriations Committee to take the logical next step. Acknowledging the last eight years of work, Costing roughly \$2 billion to develop the Crusader system, the House Appropriations Committee report emphasizes that the major technological advances achieved by the Crusader program must be retained. The report lists as examples of Crusader's technological advances: a liquid cooled cannon; ammunition auto loader mechanism; digital fire control and targeting computers; and a glass cockpit.

The Committee report recommends that Crusader's technical team and facilities be retained to further develop an organic indirect fire cannon artillery system. Accordingly, the House Appropriations Committee has recommended a total of \$368.5 million to provide for integrating cannon technologies with a suitable platform, and munitions, and to insure that such a system can be delivered not later than Fiscal Year 2008. Under the circumstances, the House Appropriations Committee has taken a good approach.

Remember, however, our combat soldiers continue to be at risk. We cannot afford any more delay in delivering them an advanced artillery system like Crusader. Therefore, as final action, the Congress must ensure that we provide the army with sufficient funding to deliver an indirect fire cannon and platform no later than FY 2008.

Before I close, I want to quote from a letter written by the former Commanding General of the Field Artillery Center at Fort Sill, Major General Leo J. Baxter (RET). General Baxter wrote:

"I have watched the development and maturity of many Army programs, none of which has matched the performance and capabilities of Crusader. Crusader is the answer for fire support in the future. It provides the close fire support necessary for our troops to maneuver on the battlefield. It also can provide the long-range precision fires enabled by Excalibur. Unlike air power, which certainly is important, Crusader will be available 24/7 and in all weather. The Defense Department has yet to specifically explain what new system will provide this support and then they will be ready. They simply are winging it and putting fighting men at risk."

In voting on the DOD Appropriations bill, including the provision on Crusader, you can rely on my words, or those of General Baxter. Or you can take your lead from the strong endorsements of over two dozen retired 4-Star Generals who bring to bear some 1,000 years of first-hand experience in the art of warfare. Many of the 4-Star Generals listed have supported Crusader in articles and letters, which I circulated earlier and place in the CONGRESSIONAL RECORD today. Many of these statements express grave concerns about the abrupt decision to cancel Crusader without first consulting with the Army leadership. In fact, the House Appropriations Committee Report expresses the same concern.

To a man, these Generals believe that the Army has waited too long already for robust advanced field artillery with Crusader's capabilities. These Army generals know best the battlefield requirements in any scenarios because they have fought and taken fire in many of them. Many of these Generals have personally witnessed the Crusader prototype, which has successfully fired over 6,500 rounds in Yuma, Arizona. I urge all of you to review these Generals' compelling statements.

Crusader's performance has earned support for full funding in the House-passed DOD Authorization bill, and FY2003 Appropriations for its next iteration deployable by FY2008.

I urge my colleagues to support the House authorization position and continued development of this technology on this critical artillery system.

Mr. GREEN of Texas. Mr. Chairman, I want to express my disappointment that the Appropriations Committee included \$94 million to fund the Department of the Navy's Military Sealift Command purchase of T-5 Tankers.

As I have stated to the Chairman and the Ranking Member of the Defense Appropriations Subcommittee, I believe the Military Sealift Command has not determined the actual cost of exercising their buyout option—particularly by underestimating the purchase costs of the ships and by not taking into account lease and other termination costs.

There is no cost penalty for waiting until future fiscal years to purchase these vessels, when the T-5 Tankers will be older and will have a lower residual value.

However, Mr. Chairman, I note that the Committee acknowledged the excellent operating history of the T-5 Tankers by conditioning any changes in operating contracts resulting from this new acquisition strategy on a certification to the Committee that the readiness and efficiency attained in the current operation of these tankers be maintained.

Knowing how the Committee operates, it would be my understanding that such certification to the Committee is not pro forma, but substantive, supported by facts and timely submitted before agreements are executed affecting T-5 Tanker operators or operating personnel responsible for meeting the Defense Energy Support center's military fuel resupply needs.

The current T-5 Tankers operator with this excellent record, Ocean Shipholdings, Inc.—a Texas-based company—has long expressed its hope that the Navy will extend the existing leases when they expire. At the time Ocean Shipholdings is willing to renegotiate its operating contract in a fashion which secures these ships under operating rates beneficial to the Navy.

The Congress has been struggling to find additional funding to procure advanced combatant vessels and auxiliary craft for the Navy mission; using current procurement funds to purchase aging vessel already under lease is not the best use of those funds. It will reduce the funds available to the Navy for new vessel construction.

Ocean Shipholdings designed and built these five unique and environmentally compliant double-hulled ocean going oil tankers. These U.S. flag T-5 Tankers were completed in 1985 and 1986, at which time they were purchased and then leased back by private sector leasing companies.

The T-5 Tankers were then Time Chartered to the Military Sealift Command for a term of 20 years to transport petroleum fuels globally to meet the requirements of the Defense Energy Support Center under the Defense Logistics Agency.

Ocean Shipholdings was awarded the prime contract to manage, operate and maintain the T-5 Tankers for the term of the 20-year Time Charters. This included crew, maintenance, insurance, drydocking and logistics support on a turnkey basis.

Under the operation of Ocean Shipholdings, the T-5 Tanker fleet has reliably moved clean petroleum products worldwide for the Navy over the last sixteen years in some of the most hostile ocean environments, including Antarctica and Arctic seaports.

Ocean Shipholdings has a perfect safety and environmental record in the operation of the T-5 fleet, has maintained all five ships in full operating status and continuous deployment for sixteen years, and has established comprehensive in-house protocols and contractual arrangements for oil pollution response.

During Operation Desert Storm, this Texas-based tanker operator ran the T-5s in the war zone effectively and continuously with U.S. citizen officers and crew.

Instead of using scarce resources for the purchase of these T-5 Tankers in this time of increasing burdens on U.S. military global operations, maintaining the current leases will ensure the continued efficient operation of these T-5 Tankers by Ocean Shipholdings—while meeting the Defense Energy Support Center's requirements for global movement of defense fuels.

Extending the ship leases and Ocean Shipholdings operating contract—at rates favorable to the Navy and taxpayers—are the

most stable and prudent courses of action to meet the Navy's defense fuels needs over the next decade.

As this bill moves through conference committee, I hope my colleagues will insist that the Navy maintain the same level of readiness and efficiency already experienced in the operation of these tankers by retaining their relationship with Ocean Shipholdings.

Mr. SABO. Mr. Chairman, I rise in support of this bill, and want to thank Mr. LEWIS and Mr. MURTHA for their fine work, particularly on the provisions related to the Army Crusader artillery program.

The gentlemen have been fair and responsive to my concerns that the Administration acted hastily in recommending cancellation of the Crusader program.

I am also grateful for the hard work of the staff—especially Greg Dahlberg, Bill Gnacek, Kevin Roper, Paul Juola and Letitia White—who helped the Subcommittee sort through these complex issues and produce a good bill.

Mr. Chairman, over the past two months, I have become increasingly convinced that the administration is wrong in asking Congress to terminate Crusader. I believe there is too much risk.

No one can argue that U.S. Army artillery is seriously outdated. Crusader was on-track and on budget to give us a fast, accurate, world-class artillery system to support and protect American soldiers in combat—by 2008.

Mr. Chairman, let me stress that date—2008. In military procurement terms, that is practically tomorrow. It puzzles me that we are at this point.

Clearly, we must maintain a robust heavy artillery development program. Therefore, I have pressed hard to ensure that this bill gives very clear direction to the Army regarding our intent for the follow-on artillery program.

For this challenging task, we give the Army a strict deadline and strong guidance to leverage the best elements of the Crusader program, the breakthrough technologies and the intellectual property, including the technical workforce, as they develop and field the next-generation heavy artillery system.

To underscore this point, I want to read from the bill:

Immediately upon termination of the Crusader Artillery System program, the Secretary of the Army shall enter into a contract to leverage technologies developed with funds invested in fiscal year 2002 and prior years under the Crusader Artillery System program . . . and other Army development programs in order to develop and field, by 2008, a Non-Line of Sight (NLOS) Objective Force artillery system and Resupply Vehicle variants of the Future Combat System.

I think I speak for many when I say that we will be watching their progress closely.

Mr. EDWARDS. Mr. Chairman, I rise today in support of the overall bill, which does a lot of good things for our service men and women and for our nation's defense.

I appreciate the good work of the Subcommittee Chairman, Mr. LEWIS and the Ranking Member, Mr. MURTHA in drafting this bill.

However, I have serious concerns over the Pentagon's cancellation of the Crusader artillery system—a decision that this bill ratifies.

We are blessed as a nation with soldiers who are willing to serve and sacrifice to de-

fend our freedom. Our Army is the envy of the world. Our artillery, however, is not.

The Paladin artillery system, fielded today, is outgunned by at least 12 different countries, including all three countries in the Axis of Evil.

Remember, any war with Iran, Iraq or North Korea is going to be completely unlike Afghanistan. In each of these hypothetical conflicts, we will need heavy ground forces, just like the Gulf War, but we will face artillery systems superior to our own.

One of the Army's top priorities over the last decade has been to give our soldiers artillery support that is second to none, the Crusader, a program that has been on time and under budget.

On February 27, Deputy Secretary of Defense Paul Wolfowitz said:

I'm not one of those people who think that I can bet the farm on not needing artillery 10 years from now. And I think this [the Crusader] is the best artillery system available.

On February 28, the Army Chief of Staff, General Eric Shinseki, said:

Crusader's ability to keep up with ground maneuver forces, its longer range, its high rate of fire, its precision, would be a significant increase to the potential shortage of fire we have today.

Suddenly, in direct conflict with the President's Budget, the Pentagon reversed its unwavering support for Crusader and announced its cancellation.

The Administration has said they'll have alternatives in production by 2008. If that does not happen, the delay will put thousands of soldiers at undue risk.

Given the administration's commitment to cancel Crusader, I think the subcommittee leadership did its best to preserve funding for alternatives.

In conclusion, I believe the Pentagon think tank gurus have prematurely canceled Crusader. Canceling Crusader with nothing ready to take its place is putting the cart before the horse. However, I will work with them to get an effective alternative on line.

I hope those who killed the Crusader now feel an enormous responsibility to field a new artillery system by 2008. Delay in doing so could, God forbid, be measured in soldiers' lives lost in combat after 2008.

Mr. Chairman, I would finally like to include in the RECORD a statement by Congressman NORM DICKS and myself.

ADDITIONAL VIEWS OF HON. NORMAN D. DICKS
AND HON. CHET EDWARDS
THE GAMBLE ON CRUSADER

The Administration's recent decision to terminate the Crusader artillery system is a decision fraught with risk. Risk that we hope will not end up costing soldier's lives.

The Crusader self-propelled howitzer has been under development for the last eight years. This program is running under budget and on schedule with fielding of the first new howitzer set for 2008. The Crusader has been considered by the Army to be its highest priority acquisition program, because it would rectify the one glaring operational weakness that endangers the Army's battlefield success—heavy artillery support.

Currently, our Army is outgunned in heavy artillery by at least 12 different countries (including all 3 countries in the so-called "Axis of Evil")—a situation the Crusader would rectify. It is estimated that as many

as 40 countries could soon have artillery systems that out-range the Army's current howitzer—the Paladin—and that 28 countries are developing artillery-delivered high precision munitions to complement these systems. Clearly, most other countries around the world plan on making high performance heavy artillery a mainstay of their military force for some time to come.

Last month, the Administration took the highly unusual step of deciding to cancel the Crusader program in the middle of the budget cycle. This action was taken without consultation with the Army's military leadership, and over their strong substantive objection. This decision will fundamentally alter the role that U.S. heavy artillery will play in future battles, yet we have seen very little evidence of any serious analytical effort to support this radical departure from the Army's accepted doctrine.

The Administration has essentially made a giant strategic bet on behalf of our land forces that the combination of future advances in precision cannon and rocket munitions (as distinguished from precision bombs and missiles) combined with hoped for perfection of real time target identification and selection technology (based on ubiquitous "24/7" all weather surveillance capabilities) will supplant the need to replace the Army's outdated Paladin howitzer with a system that shoots farther and faster.

This decision depends upon unproven technology and unproven tactics—betting that more traditional lethality and combat overmatch capabilities can be replaced by precision and speed. It is a decision that—as the Army's vaunted "Crusader talking points" said—"could put soldier's lives at risk" if the Department's hypothetical assumptions about how and where future wars will be fought turn out to be wrong.

What is somewhat puzzling to us in that the Army's artillery upgrade plan that the Secretary of Defense has now rejected calls for improvements in both areas—lethality and precision. The Army's Crusader plan that was devised in the last Administration and endorsed in the first two Bush Administration budgets called for fielding the new world-class Crusader howitzer by 2008 giving the U.S. Army an artillery system that is operationally and technologically superior to any artillery system in the world. The second part of the Army's plan was to perfect and field the GPS-guided Excalibur projectile to shoot from the Crusader within 3 to 5 years after the Crusader was in the force. The combination of Crusader and Excalibur would give the Army a truly devastating capability to support its soldiers—combining unprecedented accuracy with vastly superior rate of fire and range.

The Army had a prudent and affordable plan that recognized the possibility that developing precision-guided cannon projectiles and rocket systems is a difficult task that may end up falling short of expectations. Contrary to popular wisdom, precision-guided cannon and rocket systems are not perfected yet. Shooting sensitive high-tech precision guidance systems out of cannons exerts several hundred times the G-forces exerted on air-delivered precision-guided bombs and missiles such as JDAM or Tomahawk, and the cost that contractors propose charging to overcome these factors is very high at the current time. For instance, the Army's published plans call for paying \$222,000 per round for the first 9,417 Excalibur projectiles when and if they are perfected.

This is 7 times greater than the Secretary of Defense' target price of \$33,000 per round, and many experts question whether this target price will ever be achieved. It seems the Army had a very prudent plan—both from a warfighting perspective and from a development and cost risk perspective—that the Secretary of Defense summarily and unilaterally rejected.

So what is the Army left with under the Administration's new plan? In essence, the Army will be left with the outdated Paladin howitzer that sits on a 40-year-old chassis design that has already been upgraded six different times. The Paladin of the future will continue to shoot standard 155mm ammunition at low rates of fire and at substandard ranges as well as the new Excalibur precision projectile if it can be perfected, if the Paladin chassis can be shown to withstand the additional forces generated by firing this new round.

Whether Excalibur works or not, the Administration now plans on keeping the Paladin in the force until 2032 when the Future Combat System will finally phase it out.

The Administration explains that the risk of keeping the Paladin is acceptable because the greater precision and range of Excalibur rounds and the projected availability of fire support systems such as Guided MLRS and air-delivered precision munitions can cover the existing indirect fire support shortfall. Aside from the issues of bad weather, responsiveness, and ability to support the close fight, this new plan discounts many of the traditional roles of artillery that depend upon volume of fire over accuracy—such as fire to suppress enemy attacks, and cover fire to protect friendly troop movements or to protect sectors of a battlefield. Rate of fire is completely discounted as a priority under the new plan.

It does not overstate the case to say that Army military leaders do not support this plan—they see too much risk. While the Administration points to skirmishes in Afghanistan to support its bet on precision, many of our military leaders worry about the potential major battles that could erupt in Korea or other theaters where mechanized forces will determine the outcome. A high level Defense Department official echoed these exact concerns just 3 months ago when discussing the Crusader:

"Unless we want to have no new artillery facing North Korea's artillery, we need something. We have to remember, it's not just a matter of fighting on horseback with satellites and B-52s as we did in Afghanistan. We still face Kim Jung-II in North Korea. We still face Saddam Hussein in Iraq. We face others who use conventional weapons and the question then becomes do you want to modernize those or do you not.—Dov Zakheim, Comptroller, Department of Defense. Comments on The News House With Jim Lehrer March 18, 2002."

The Crusader decision also signals a troubling change of direction about how we will equip and fight our future force. Over the last several decades there has been a consensus that we should take maximum advantage of America's Scientific and technological strength to field military systems and devise military strategy and tactics to achieve decisive "combat overmatch" capabilities against any potential opponent. General Michael E. Ryan, former Air Force Chief of Staff, succinctly summed up the combat overmatch philosophy as follows: "I'm not interested in fair fights. What I'm interested in is a 100 to nothing score, not 51-49."

This philosophy has proven its worth—not only does it save American lives on the battlefield, but it is an effective way to win the peace. Our vastly superior military capabilities cause potential adversaries to think twice before confronting us or our allies militarily, which contributes significantly to world peace and stability. This was not always the case, and we must continue to work at keeping this edge.

Of all the military services, it is perhaps most important for the Army to continue with the philosophy of "combat overmatch" through superior technology. Unlike the Air Force and the Navy, we have a small Army compared to other countries. Currently, eight other armies in the world outnumber our Army. We make up for this with superior people, superior leadership, and superior technology, but numbers still matter if we let our technological edge slip.

It is disturbing that the Defense Department seems willing to rest on the laurels of past administrations and go back to a philosophy of "just enough." The Crusader would provide US military personnel with the best technology in the world that meets a known deficiency of a military service that American industry has shown it can deliver on time and on budget. The Crusader system is a state-of-the-art heavy artillery system that has already produced 7 new patents from its new technology. Over 6,000 test rounds have already been fired and the system is meeting or exceeding range, rate-of-fire, and reliability requirements by all accounts.

It is simply hard to understand why a system that meets the biggest Army warfighting deficiency is being scrapped.

If the President persists in demanding the termination of the Crusader, the weaknesses of the outdated Paladin (with or without the Excalibur projectile) make it imperative that we expedite the development and fielding of the Objective Force next generation artillery system. American soldiers do not deserve to continue to endure the risks of substandard artillery support. This deficiency must be eliminated as quickly as possible.

We therefore support the Committee position of adding \$173 million to the \$195 million budget request for development of the Objective Force artillery system in order to field a new system by 2008. This would accelerate the Army's old schedule by four to six years. This acceleration is possible only if the Army uses the existing Crusader engineering team and leverages the technology advances garnered with the Army's \$2 billion investment that has already been spent on Crusader development.

Following are some of the detailed answers received from DOD to our specific questions on the Crusader that have been raised in the course of this debate.

1. How does the Crusader compare to other top foreign systems? Why don't we simply buy one of those systems?

A comparison of the most advanced artillery systems in the global marketplace available to our allies shows why the Army believes the Crusader is a superior artillery system. The Crusader delivers more firepower, is more mobile, protects its crew better, weighs less, uses fewer crewmembers, and is the only system that can be fully networked on the battlefield.

COMPARISON OF MODERN SELF-PROPELLED HOWITZERS

	Crusader (U.S.)*	Paladin (U.S.)	G6 (S. Africa)	AS90 (U.K.)	PzH2000 (Germany)
Max Range (km)*	40	30	30	37.4	37.4
Max Rate of Fire*	10 to 12/Minute. Indefinitely.	4/minute for 3	3/minute	6/minute for 3	6-8 minute for 3
Crew Size (howitzer + resupply veh.)	3 + 3	4 + 4	6+resupply crew	5+resupply crew	5+resupply crew
Curb Wt. (ton)	40	27	52	46.3	54+
Combat Wt. (ton)	50	32	55.6	50.7	60.3
Horsepower	1500	440	520	660	991
Projectile Qty.	48	39	45	58	60
Accuracy	96m @ 30km	232m@30km	Unknown	246m@30km	200m@km
Simultaneous rounds on target (MRSI Capability)	4-10 rounds	N/A	Unknown	Unknown	2-6 rounds
Highway speed (km/hr)*	67	60	85	52	62.5
X-Country Speed (km/hr)*	48	27	30	25	45
NBC Macro Protection	Yes	No	No	No	No
Resupply Vehicle	Yes/Automated	Yes/Manual	No	No	No
U.S. Command & Control	Yes	Yes/Not All	No	No	No

Notes:

¹ G6 is a South African howitzer, AS90 is from the United Kingdom, and PzH2000 is German.

² * indicates a key performance parameter (KPP). An additional KPP is the ability to automatically transfer 48 rounds from the resupply vehicle to the howitzer within 10.4 minutes, including maneuver time to link the vehicles—no other system can meet this requirement.

³ CEP is circular error probability.

⁴ MRSI is multiple round simultaneous impact capability.

⁵ NBC is nuclear (radiological) biological warfare, and chemical warfare crew protection.

Maximum Rate of Fire is at all deflections and quadrants using all projectile and fuse combinations.

2. How Much Does Crusader Cost?

A two-vehicle Crusader system (howitzer and resupply vehicle) could be procured for about \$10.01 million (recurring production costs, FY 01 constant dollars) which is about 70% of the cost of one Army Blackhawk helicopter. In budget terms, the total procurement cost of \$7 billion for 480 systems (another \$4 billion is for development) is substantial in and of itself, but in terms of the total Defense budget the Army's planned average appropriation level of about \$1 billion per year represents about one percent of the Army's annual budget, and about 3 tenths of one percent of the annual Defense Department budget. The total cost of the entire Crusader procurement is less than one year's worth of research for the missile defense program.

3. How much are the new Excalibur and guided MLRS munitions expected to cost, and how does that compare to standard 155mm ammunition?

Excalibur. The latest February 12, 2002 Army estimate pegged the future Excalibur program acquisition cost for the first 9,417 unitary projectiles at \$222,000 per round, or a total cost of \$2.1 billion. The Army could purchase nearly half of the entire Crusader fleet (209 out of 480 systems) for the cost of the first 10,000 rounds of Excalibur ammunition. The Administration's target unit cost for Excalibur unitary is \$33,000 per round for 200,000 rounds, a seven-fold decrease compared to the current price, for a total cost of \$6.6 billion. In addition, the Administration plans on buying an additional 40,264 Excalibur senior-fused (infra-red sensing skeet bomblets) projectiles at \$96,000 per round, for a total cost of \$3.9 billion. The past Army track record in precision/smart munitions programs (SADARM, MSTAR, BAT, WAM, Copperhead) does not support this cost reduction assumption. But assuming the Army can attain these "best cost" estimates the cost of the first 200,000 rounds of Excalibur unitary and 40,000 rounds of Excalibur sensor-fused projectiles would cost \$10.5 billion, more than one and half times the total cost of the Crusader procurement (\$7 billion). If the \$33,000 "best cost" estimate for Excalibur unitary cannot be reached and the price can be reduced by only 50% to say, \$100,000 per round, the total cost for Excalibur unitary projectiles sky-rockets to over \$20 billion in order to attain the Army's initial 200,000-unit inventory objective. In any case, it would require annual appropriations of well over \$1 billion per year in order to finance the Excalibur production rate efficiencies used as the basis for the target cost

estimate—something that is unprecedented for one type of round of Army ammunition. It is also expected that the Army Excalibur inventory objective over time would increase well above 200,000 units.

Guided MLRS. The latest Army estimates peg the expected cost of Guided MLRS unitary rockets at \$65,000 per unit. Assuming that the Army would fire a minimum of two rockets per target, the cheapest "kill" cost for a truck or a tank using guided MLRS would be \$130,000. Each salvo of 12 MLRS rockets would cost \$780,000 for unitary warheads (equivalent to the cost of 3,250 155mm projectiles).

Non-precision 155mm HE ammunition. The Army's most recent purchase of M107 HE 155mm projectiles was \$240 per round for 155,000 rounds. M795 HE rounds are estimated to cost between \$500 and \$770 per round.

Inventory. The Army has an inventory of over 4.2 million 155mm HE rounds already paid for. There are no Excalibur projectiles or Guided MLRS rockets in the current inventory.

4. The Army has the best tank, the best infantry fighting vehicle, and the best attack helicopter in the world. Why has the Army operated so long with an inferior heavy artillery system?

During the late 1970's and 1980's the Army introduced new families of fighting systems that included the Abrams tank, Bradley fighting vehicle, air defense systems and helicopters such as Apache and Blackhawk. Due to fiscal constraints and diverging priorities in the mid 80's, the field artillery was forced to skip a generation of cannon modernization.

During that time period, the Army developed the Multiple Launch Rocket System (MLRS) to satisfy its deficiency in deep attack and Paladin was developed as an interim solution for its cannon deficiencies. Consequently, Paladin was a simple product improvement to the old M 109 that lacked mobility, lethality, and survivability. Because of the limitations of the chassis, Paladin lacks the potential or significant product improvement.

5. Can indirect cannon fire support missions be accomplished by greater investment in other systems—aircraft, missiles, and rockets?

U.S. ground forces have traditionally required a mix of rocket, missile and cannon systems to meet their fire support requirements. Cannons have historically provided close support to the maneuver arms on a 24-hour all weather basis. Although the unique characteristics that made cannon systems

ideal for this mission are becoming less distinct as the capabilities of precision and smart munitions are improved, several distinct characteristics are likely to remain.

Flexibility and responsiveness. Flexibility and responsiveness are probably the cannon's hallmark. The close combat environment demands the ability to rapidly accommodate change. Cannon systems are more responsive to rapidly changing battle conditions because they carry a readily available quantity and variety of munitions and can rapidly change from one type of munition to another as required. Cannons reload by individual rounds vice pods for rockets/missiles. Rocket/missile pods can only accommodate one type of munition at a time. Often, the type of rocket/missile pod loaded may not be the optimum munition required for the specific target. Fires and effects coordinators then face what can be a dilemma. They must either search for launchers loaded with the correct munition, fire the launcher loaded with the less than optimum munition, or direct reload. Launcher reload operations can take approximately 7-20 minutes, making them less than ideal in a time critical situation. Aircraft carry limited amounts and types of munitions and must land to reconfigure or replenish their load. Aircraft reload cycles are generally much longer than missile and rocket systems. Army data indicated that a Crusader battalion could provide 130 tons of munitions in one hour, and 900 rounds in close support before the first aircraft sorties arrives on station.

Continuous Fires. Cannon systems are more capable of providing continuous fires (fires without gaps over a period of time) than are rocket/missile launchers and aircraft. With an actively cooled cannon, and fully automated rearm and resupply provided by Crusader resupply vehicles, the capability to provide continuous fires is greatly enhanced. Cannons have the capability to shift from target to target quickly—a matter of seconds in many cases. While launches do well in providing massed fires, there can often experience unacceptable gaps for reloading operation in sustaining fires.

Employment in Proximity to Friendly Forces. Providing fires in close proximity to friendly forces is an essential fire support task in the close fight. The minimum safe distance as measured by bursting radius is considerably smaller for cannons compared to existing rocket/missile systems. Final protective fires and "danger close" missions end up placing fires extremely close to friendly forces. The smaller bursting radius of cannon munitions enables the

"echelonment of fires" whereby the infantry uses a succession of cannon and mortar systems interchangeably to maximize the coverage of fires until they must be shifted or lifted. Close fires require accuracy, responsiveness, timely delivery, and "controlled" (or limited) effects (burst radius), to reduce risk to supported forces. Cannon artillery can be employed much closer to our forces and is an absolute necessity in the close support role since it can be employed in all weather, in all terrain, day or night. Weather can severely hamper close air support. For instance, during the Kosovo air campaign, 56% of sorties were aborted due to weather. Of those sorties executed, 33% were adversely affected by weather, resulting in less than half of the targets being effectively engaged.

Sustainability. According to the Army, the logistical footprint for cannons is generally smaller than for rocket/missile launchers based on ammunition weight and cube size.

Cost of Munitions. Cannon munitions have historically been less expensive than rockets or missiles on a per-unit cost basis, and they provide a larger family of munitions to select from to deal with battlefield dynamics. Compared to the expected range of cost for new precision guided cannon and rocket munitions, the cost per round of non-precision 15mm cannon projectiles is cheaper on the order of 140-925 to one (see #3 above).

6. Will there be a void in indirect fire support without Crusader?

Possibly. According to the requirement that was developed by the Army and approved by the Joint Requirements Council of the Joint Chiefs of Staff, the Paladin was judged to be not mobile enough to keep up with our mechanized force in a maneuver-dominated fight. The Army is also concerned that the Paladin's range and rate-of-fire limitations prevent it from providing the required counter-fire "umbrella" for our forces. In addition to the significant increase in mobility, range, and rate-of-fire, Crusader provides the responsive, continuous fires and mobility required for fast moving close combat operations. Its automated ammunition handling and resupply system combined with an actively cooled cannon provide accurate sustained fires where needed in the required volume. Crusader interoperability with Joint and all Army command and control networks assures that effects are delivered when needed; providing direct link capability to any platform on the battlefield.

7. How old is Paladin and how much longer would it need to be in the force if Crusader is canceled? Can Paladin be upgraded to meet many of the Crusader requirements?

The M109 series howitzer design began in the mid-1950s and entered service in 1961. Paladin is the sixth modification to the M109 design—no Paladins are new howitzers. While maintaining virtually the same chassis, engine, transmission, and basic suspension, the Paladin's weight has grown by one third from 24 tons to 32 tons. The armament system has grown from a 24 caliber cannon with a range of 14 kilometers to a 39 caliber cannon with a range of 30 kilometers.

The Crusader was planned to remain in the force beyond 2032. If Crusader is not available and the M109 series howitzer must be continued in its place, it is probable that it too would be in the field in 2032. This would mean that the M109 series howitzer would be in the field 70 years after it initially entered service. The soldiers in 2030 could be fighting with the same howitzer used by their great grandfathers.

The Army evaluated the prospect of improving Paladin during the Cost and Oper-

ational Effectiveness Analysis completed for Crusader's Milestone 1 decision and the Congressional report delivered in December 2000. The analysis shows that to attain Crusader's rate-of-fire (10-12 RPM), cross country mobility (39-48 KPH) and firing range (40-50 KM), Paladin would require an automated ammunition handling system, increased horsepower, improved suspension, and a cooled 56 caliber cannon. Paladin lacks sufficient growth capacity in the chassis to allow these improvements. To strengthen the chassis to withstand these stresses would require replacing or significant design changes in the hull structure, hydraulics, engine, transmission and suspension sub-systems.

8. Is Crusader rate of fire oversold because it can't be resupplied at high enough rates? What is the logistical plan to resupply Crusader during maximum rates of fire?

Ammunition resupply has been an issue that has plagued artillerymen for years. Because Crusader has a fully automated resupply system, it allows a 300% improvement in resupply operations. The key to successfully achieving this new resupply requirement will be the fielding of fully automated resupply vehicles (RSVs) that can rearm a Crusader howitzer with 48 rounds and refuel it in 10 minutes—a 50% improvement. One technique employs two resupply vehicles (RSV's) per howitzer battery in the vicinity of the firing area to conduct rearming and refueling, two RSVs in hide areas with full loads of ammunition, and two RSVs uploading at the Logistics Resupply Point. Other methods may be employed, depending on the individual tactical situation, and considerations of distances that have to be traveled between the locations. The introduction of the wheeled RSV gives the commander enhanced flexibility to conduct resupply operations depending on the threat. For example, when facing a high counter fire threat, the commander could deploy the tracked resupply vehicles forward providing maximum protection for the crew while using the wheeled vehicles to upload and transport ammunition in the less vulnerable rear positions and transfer the ammunition to the tracked carriers. In a low counter fire threat, the commander could also deploy the wheeled vehicles forward maximizing through put of ammunition. The automatic resupply and cannon autoloader capability is a major technological leap forward for the Army, which has never had this capability before.

9. What force structure was sacrificed in anticipation of fielding Crusader? Will structure be added back if Crusader is terminated? What will that cost?

In anticipation of the increased firepower and productivity of the Crusader system, the Army reduced force structure in both maneuver and fire support units by 25 percent in the mid-1990s. The Army reduced Paladin and all other cannon battalions from three batteries of eight howitzers (3x8) to three batteries of six howitzers (3x6). MLRS battalions were also reduced to 3 batteries of 6 launchers each (down from 8 or 9 launchers each), at the same time, Army tactics were changed to take full advantage of the speed of its tanks, Bradley fighting vehicles the Crusader, and other situation awareness capabilities, increasing the planned battle space for Army forces by over 200 percent. Termination of the Crusader will necessitate a reexamination of Army force structure, tactics, techniques, and procedures.

10. What are remaining development and cost risks of the Crusader?

The Army has testified that it rates the Crusader program a moderate to low risk for

technical performance, cost, and schedule. The software build for Crusader is on schedule and within cost estimates. The range and rate-of-fire key performance parameters are being demonstrated with the first prototype vehicle at Yuma Proving Grounds and the resupply and mobility are on schedule for demonstration in 2002. Over 6,000 test firings have shown the Crusader to be 142% more accurate to date than Paladin. Accuracy improvements come from: A new projectile tracking system that removes meteorological errors; Precision pointing with electric drives; thermal management; Muzzle velocity management; On-board projectile weighting; and Inertial reference unit coupled to GPS to null out position errors.

The program has been focusing significant effort on building the reliability of the system in order to remove soldiers from the technical and manual operational aspect of fighting a weapon system.

11. How much does the Crusader weigh and what can carry it?

The Crusader howitzer was redesigned several years ago to reduce its weight from 60 tons to 40 tons. Under the Army's current plan, Crusader artillery would be either prepositioned or moved by sea as part of a counterattack corps. If needed, Crusader systems could be airlifted on C-17 or C-5B aircraft. Deployments by airlift would most likely entail a battery of 3 Crusader systems to meet special contingencies. Crusader airlift ranges would be:

Nautical Miles

C-17:		
2 howitzers (84 tons)	2,276	
1 howitzer and 1 resupply vehicle		
(w) (73 tons)	2,782	
C-5B:		
2 howitzers (84 tons)	3,200	
1 howitzer and 1 resupply vehicle		
(w) (73 tons)	3,500	

Mr. NUSSLE. Mr. Chairman, I rise today in support of H.R. 5010, the Defense Appropriations Act for Fiscal Year 2003. This piece of legislation is perhaps the most important component of our wartime budget for America. It is the first bill we are considering pursuant to the 302(b) allocations filed by the Appropriations Committee on June 24. I am happy to report that it is consistent with the levels established in H. Con. Res. 353, the House concurrent resolution on the budget for fiscal year 2003, which we subsequently deemed as having the effect of a conference report on the resolution. The budget resolution provided \$393.8 billion in budget authority for national defense, including \$10 billion for a war reserve fund. This bill funds the bulk of that commitment. The rest is funded in separate military construction and energy and water appropriations bills.

H.R. 5010 provides \$354.446 billion in new discretionary budget authority, which is \$1 million less than the 302(b) allocation to the House Appropriations Subcommittee on Defense. Outlays of \$345.328 billion are \$782 million below the subcommittee's allocation. The bill contains no emergency-designated new budget authority, but does include \$1.9 billion worth of BA savings including \$945 million in Working Capital Revolving Fund reductions, \$615 million in foreign currency savings and \$195 million worth of rescissions of previously enacted BA.

Accordingly, the bill complies with section 302(f) of the Budget Act, which prohibits consideration of bills in excess of an appropriations subcommittee's 302(b) allocation of

budget authority and outlays established in the budget resolution.

This bill represents the House's unwavering commitment to win the war against terrorism. But in addition to combating terrorism, H.R. 5010 follows the blueprint set forth in the resolution to give every service member a 4.1-percent pay raise, increased housing allowances, and incentive pay.

Finally, section 201 of the budget resolution provided for a \$10-billion reserve fund to continue military operations in fiscal year 2003. The Appropriations Committee has advised that it will deal with the war reserve fund when the Pentagon provides more budgetary detail about how it plans to spend the \$10 billion.

In conclusion, I express my support for H.R. 5010 and yield back the balance of my time.

Mr. BEREUTER. Mr. Chairman, this Member rises in strong support for H.R. 5010, the Defense appropriations bill for FY 2003. This Member would like to offer particular thanks to the Chairman of the Subcommittee on Department of Defense Appropriations, the distinguished gentleman from California (Mr. LEWIS) and the Ranking Minority Member on the Subcommittee on Department of Defense Appropriations, the distinguished gentleman from Pennsylvania (Mr. MURTHA) for their work on this important bill.

This Member sincerely thanks the Committee on Appropriations for including \$2.75 million in fiscal year 2003 for the Air National Guard's Project ALERT. Currently, Project ALERT serves as an on-line training tool developed and used by the Nebraska National Guard in collaboration with the Department of Defense, the National Guard Bureau, the University of Nebraska, and Nebraska Educational Television. The \$2.75 million appropriated in H.R. 5010 will assist with the development of the new courses and the modification of existing courses.

Indeed, the implications of Project ALERT extend nationwide and to components of both the active and reserve military forces. Allowing military forces to complete some training courses on their own time, as Project ALERT does, provides an opportunity to cut on-site training costs and time and to maximize exercise time. For the U.S. military to meet the challenges it will face during the current war on terrorism and throughout the 21st Century, it is crucial that Congress invest in innovative and flexible training tools such as Project ALERT.

Furthermore, this Member is very appreciative that the Committee has approved the appropriation of \$4 million for a bioprocessing facility at the University of Nebraska-Lincoln, giving (UNL).

These funds will be used for the third phase of the project to establish and validate a current Good Manufacturing Practices (cGMP) processing facility with the capability to make vaccines as therapeutic countermeasures against biological warfare agents. Two cGMP pilot plants, one dedicated to yeast/bacterial culture and the other dedicated to mammalian cell culture will be built within the new Chemical Engineering building on the UNL campus. The funds will be used to build and equip the laboratories.

This will be a commercial-grade facility, giving UNL the capability, if required by the De-

partment of Defense (DoD), to make vaccines against biological warfare agents and products that can be used as therapeutic countermeasures to treat people who have been exposed to biological agents. UNL is currently doing this on a smaller level and is well suited to pursue this expansion. These facilities certainly will enhance our nation's ability to respond to biological warfare.

In closing, Mr. Chairman, this Member urges his colleagues to support H.R. 5010.

Mr. CALVERT. Mr. Chairman, I rise today in strong support of the Defense Appropriations Act for Fiscal Year 2003. This bill provides our armed forces with the resources to fight terrorism and strengthens military quality of life, readiness, infrastructure and modernization programs. I would like to commend Chairman LEWIS, Ranking Member MURTHA and their staffs for their bipartisan work in putting this bill together.

The bill also includes funding for 12 new C-17 airlifters along with other acquisitions and improvements for our cargo and tanker fleet. Combat forces cannot fight, peacekeepers cannot keep the peace and humanitarian aid cannot be distributed without an effective, rapid global mobility force. Continuing to build up our cargo and tanker fleet will help ensure that the United States military can continue to effectively deliver both guns and butter anytime, anywhere.

Mr. GARY G. MILLER of California. Mr. Chairman, I wish to thank the distinguished Chairman of the Defense Appropriations Subcommittee, Congressman LEWIS, and Full Committee Chairman YOUNG for the incredible amount of work they and their Committees have put into this bill. The American people deserve a bill that provides for the defense of our nation and this bill puts us well on the way to a fully restored and invigorated military.

Earlier this year it came to my attention that across the Armed Services, Tuition Assistance funds had been exhausted for Fiscal Year 2002. As many Members know, the Tuition Assistance Program, commonly referred to as TA, provides soldiers, sailors, airmen, and marines the opportunity to construct an educational plan and have up to 75 percent of their tuition paid by their branch of service for amounts up to \$3,500 per year. It's an extremely popular program and a great opportunity for our men and women in uniform to pursue a degree while serving their country. Unfortunately, instead of having this educational benefit available to them, our service members are confronted with a budget shortfall for 2002.

These men and women have put their lives on hold to serve their country; our nation should never put their educational plans on hold because of the exhaustion of TA dollars. That's why I am especially thankful to Chairman YOUNG, Chairman LEWIS, and their staffs for taking a close look at this program, which seeks to give our men and women in uniform greater access to higher education and eventually the dream of obtaining a college degree.

This bill includes a substantial increase in Tuition Assistance dollars—over \$90 million in all. That's a twenty-five percent increase for this important program. So again, I thank the gentleman from California for bringing a bill to the floor that fully funds the President's re-

quest for Tuition Assistance and allows our service members the full measure of their educational benefits.

Mr. STARK. Mr. Chairman, I rise in opposition to the Defense Appropriation Act for FY 2003. This bill is full of all the usual pork.

On September 11, we were tragically shown how easy it is to defeat conventional defenses and deliver a weapon of mass destruction anywhere in the United States. This bill calls for spending billions on programs that don't directly respond to this basic security concern. In fact, most of this money will do nothing to help defend our country from terrorism or stop terrorist elements overseas.

We have now wasted over \$100 billion on several different versions of a national missile defense system. If we continue to spend at this level for the next ten years, we will spend more than \$200 billion. Why would anyone spend billions developing ICBMs when it would be far more cost effective and technologically feasible to put it on a boat, a plane, or in a cargo container?

We also are going to spend \$7.6 billion on two advanced strike fighters designed to combat advanced tactical aircraft and penetrate enemy countries with integrated air defense systems. Yet, we are more threatened by those with the capability of building bombs in their basements than our most sophisticated adversaries, all of whom don't even possess these specialized air defenses. Will these multi-million dollar fighter planes help us? No. But, we are going to throw billions of dollars after these defense contractors anyway.

Finally, when the Administration decided to cancel the \$11 billion Crusader mobile howitzer, the Republican Leadership refused to consider my amendment supporting the Administration's decision. Later when they saw the wisdom of cutting this program to put toward current homeland security needs, they still left a few hundred million in an account to continue to fund an identical artillery system. Why? To give more pork to our poor defense contractors.

It is time this Congress realizes: more money for unneeded and outdated programs will not improve our national security. We need to be wise in our defense spending. That is why I oppose this bill and urge my colleagues to vote against it.

Mr. BLUMENAUER. Mr. Chairman, I intend to support this bill before us today, but I have grave reservations about several of its provisions.

This bill spends \$354.7 billion, \$33.7 billion more than the current level. \$7.4 billion of that is for the misguided missile defense system, which costs too much and is not in the best interest of the country. At this critical time in our nation's struggle against terrorism, we must spend our resources wisely on America's most immediate defense needs. Missile defense is not among them.

There are a few broader dimensions in this bill that are encouraging to me. The bill provides no funds for the outmoded Crusader mobile howitzer, a weapons system designed for a war from an age long past. I was pleased to see that the bill fully funds the President's request for the Defense Environmental Restoration Account.

I especially appreciate the emerging recognition by the Subcommittee of the importance of addressing the problem of

unexploded ordnance (UXO), the bombs and shells that did not go off as intended and subsequently litter the landscape. I am pleased to be working with the Subcommittee leadership on this issue. We have made a step in the right direction toward getting the federal government to clean up after itself and be a good steward of the land. As we continue to consider defense appropriations funding as the year progresses, I hope that we will be able to address the critical needs for UXO research & development and cleanup.

Mr. MURTHA. Mr. Chairman, I yield back the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule. During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

H.R. 5010

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2003, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

Mr. LEWIS of California (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 115, line 16, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. KUCINICH. Mr. Chairman, I reserve the right to object. Mr. Chairman, if I can have an inquiry of the gentleman from Pennsylvania.

Mr. MURTHA. This just opens the bill up.

Mr. KUCINICH. A number of Members have amendments that might be relevant earlier in the bill. I just wondered, Will this open the process up to amendments at any point?

Mr. MURTHA. That is right.

Mr. KUCINICH. So all of our amendments, then, would have a chance to be brought forward. I thank the gentleman.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the remainder of the bill through page 115, line 16, is as follows:

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$26,832,217,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$21,874,395,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$8,504,172,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$21,957,757,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$3,373,455,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States

Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$1,897,352,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$553,983,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$1,236,904,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$5,070,188,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$2,124,411,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed \$10,818,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, \$23,942,768,000: *Provided*, That of the funds appropriated in this paragraph, not less than \$355,000,000 shall be made available only for conventional ammunition care and maintenance.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed \$4,415,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, \$29,121,836,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, \$3,579,359,000.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed \$7,902,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, \$27,587,959,000: *Provided*, That notwithstanding any other provision of law, that of the funds available under this heading, \$750,000 shall only be available to the Secretary of the Air Force for a grant to Florida Memorial College for the purpose of funding minority aviation training: *Provided further*, That of the amount provided under this heading, not less than \$2,000,000 shall be obligated for the deployment of Air Force active and Reserve aircrews that perform combat search and rescue operations to operate and evaluate the United Kingdom's Royal Air Force EH-101 helicopter, to receive training using that helicopter, and to exchange operational techniques and procedures regarding that helicopter.

OPERATION AND MAINTENANCE, DEFENSE-WIDE
(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, \$14,850,377,000, of which not to exceed \$25,000,000 may be available for the CINC initiative fund account; and of which not to exceed \$34,500,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided*, That notwithstanding any other provision of law, of the funds provided in this Act for Civil Military programs under this heading, \$750,000 shall be available for a grant for Outdoor Odyssey, Roaring Run, Pennsylvania, to support the Youth De-

velopment and Leadership program and Department of Defense STARBASE program: *Provided further*, That none of the funds appropriated or otherwise made available by this Act may be used to plan or implement the consolidation of a budget or appropriations liaison office of the Office of the Secretary of Defense, the office of the Secretary of a military department, or the service headquarters of one of the Armed Forces into a legislative affairs or legislative liaison office: *Provided further*, That \$4,675,000, to remain available until expended, is available only for expenses relating to certain classified activities, and may be transferred as necessary by the Secretary to operation and maintenance appropriations or research, development, test and evaluation appropriations, to be merged with and to be available for the same time period as the appropriations to which transferred: *Provided further*, That any ceiling on the investment item unit cost of items that may be purchased with operation and maintenance funds shall not apply to the funds described in the preceding proviso: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

OPERATION AND MAINTENANCE, ARMY
RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$1,976,710,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$1,239,309,000.

OPERATION AND MAINTENANCE, MARINE CORPS
RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$189,532,000.

OPERATION AND MAINTENANCE, AIR FORCE
RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$2,165,604,000.

OPERATION AND MAINTENANCE, ARMY
NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other

than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), \$4,231,967,000.

OPERATION AND MAINTENANCE, AIR NATIONAL
GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things, hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, \$4,113,010,000.

UNITED STATES COURT OF APPEALS FOR THE
ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, \$9,614,000, of which not to exceed \$2,500 can be used for official representation purposes.

ENVIRONMENTAL RESTORATION, ARMY
(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, \$395,900,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, NAVY
(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, \$256,948,000, to remain available until transferred: *Provided*, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to

be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, AIR FORCE
(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, \$389,773,000, to remain available until transferred: *Provided*, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, DEFENSE-WIDE
(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, \$23,498,000, to remain available until transferred: *Provided*, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, FORMERLY
USED DEFENSE SITES
(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, \$212,102,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

OVERSEAS HUMANITARIAN, DISASTER, AND
CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2547, and 2551 of title 10,

United States Code), \$58,400,000, to remain available until September 30, 2004.

FORMER SOVIET UNION THREAT REDUCTION

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, \$416,700,000, to remain available until September 30, 2005.

SUPPORT FOR INTERNATIONAL SPORTING
COMPETITIONS, DEFENSE

For logistical and security support for international sporting competitions (including pay and non-travel related allowances only for members of the Reserve Components of the Armed Forces of the United States called or ordered to active duty in connection with providing such support), \$19,000,000, to remain available until expended.

TITLE III
PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$2,214,369,000, to remain available for obligation until September 30, 2005, of which not less than \$225,675,000 shall be available for the Army National Guard and Army Reserve: *Provided*, That of the funds made available under this heading, \$45,000,000 shall be available only to support a restructured CH-47F helicopter upgrade program that increases the production rate to 48 helicopters per fiscal year by fiscal year 2005: *Provided further*, That funds in the immediately preceding proviso shall not be made available until the Secretary of the Army has certified to the congressional defense committees that the Army intends to budget for the upgrade of the entire CH-47 fleet that is planned to be part of the Objective Force.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing

purposes, \$1,112,772,000, to remain available for obligation until September 30, 2005, of which not less than \$168,580,000 shall be available for the Army National Guard and Army Reserve.

PROCUREMENT OF WEAPONS AND TRACKED
COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$2,248,358,000, to remain available for obligation until September 30, 2005, of which not less than \$40,849,000 shall be available for the Army National Guard and Army Reserve.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,207,560,000, to remain available for obligation until September 30, 2005, of which not less than \$124,716,000 shall be available for the Army National Guard and Army Reserve.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of not to exceed 40 passenger motor vehicles for replacement only; and the purchase of 6 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$180,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$6,017,380,000, to remain available for obligation until September 30, 2005, of which not less than \$1,129,578,000 shall be available for the Army National Guard and Army Reserve.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare

parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$8,682,655,000, to remain available for obligation until September 30, 2005, of which not less than \$19,644,000 shall be available for the Navy Reserve and Marine Corps Reserve.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$2,384,617,000, to remain available for obligation until September 30, 2005.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,167,130,000, to remain available for obligation until September 30, 2005, of which not less than \$18,162,000 shall be for the Navy Reserve and Marine Corps Reserve.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier Replacement Program (CY), \$250,000,000;
Carrier Replacement Program (AP-CY), \$243,703,000;
Virginia Class Submarine, \$1,490,652,000;
Virginia Class Submarine (AP-CY), \$706,309,000;
SSGN Conversion, \$404,305,000;
SSGN Conversion (AP-CY), \$421,000,000;
CVN Refueling Overhauls (AP-CY), \$296,781,000;
Submarine Refueling Overhauls, \$231,292,000;
Submarine Refueling Overhauls (AP-CY), \$88,257,000;

DDG-51, \$2,273,002,000;
DDG-51 (AP-CY), \$74,000,000;
LPD-17, \$596,492,000;
LPD-17 (AP-CY), \$8,000,000;
LCU (X), \$9,756,000;
Outfitting, \$300,608,000;
LCAC SLEP, \$81,638,000;
Mine Hunter SWATH, \$7,000,000; and
Completion of Prior Year Shipbuilding Programs, \$644,899,000;

In all: \$8,127,694,000, to remain available for obligation until September 30, 2007: *Provided*, That additional obligations may be incurred after September 30, 2007, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: *Provided further*, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 141 passenger motor vehicles for replacement only, and the purchase of 3 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$240,000 per unit for one unit and not to exceed \$125,000 per unit for the remaining two units; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$4,631,299,000, to remain available for obligation until September 30, 2005, of which not less than \$19,869,000 shall be for the Naval Reserve.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of not to exceed 28 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, \$1,369,383,000, to remain available for obligation until September 30, 2005, of which not less than \$253,724,000 shall be available for the Marine Corps Reserve.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, lease, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned

tion of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, \$12,492,730,000, to remain available for obligation until September 30, 2005, of which not less than \$312,700,000 shall be available for the Air National Guard and Air Force Reserve: *Provided*, That of the amount provided under this heading, not less than \$207,000,000 shall be used only for the producibility improvement program directly related to the F-22 aircraft program: *Provided further*, That amounts provided under this heading shall be used for the advance procurement of 15 C-17 aircraft.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, \$3,185,439,000, to remain available for obligation until September 30, 2005.

PROCUREMENT OF AMMUNITION, AIR FORCE

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,290,764,000, to remain available for obligation until September 30, 2005, of which not less than \$120,200,000 shall be available for the Air National Guard and Air Force Reserve.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 263 passenger motor vehicles for replacement only, and the purchase of 2 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$232,000 per vehicle; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned

equipment layaway, \$10,622,660,000, to remain available for obligation until September 30, 2005, of which not less than \$167,600,000 shall be available for the Air National Guard and Air Force Reserve.

PROCUREMENT, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 99 passenger motor vehicles for replacement only; the purchase of 4 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$250,000 per vehicle; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, \$3,457,405,000, to remain available for obligation until September 30, 2005: *Provided*, That funds provided under this heading for Patriot Advanced Capability-3 (PAC-3) missiles may be used for procurement of critical parts for PAC-3 missiles to support production of such missiles in future fiscal years.

DEFENSE PRODUCTION ACT PURCHASES

For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), \$73,057,000 to remain available until expended.

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$7,447,160,000, to remain available for obligation until September 30, 2004.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$13,562,218,000, to remain available for obligation until September 30, 2004: *Provided*, That funds appropriated in this paragraph which are available for the V-22 may be used to meet unique operational requirements of the Special Operations Forces.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$18,639,392,000, to remain available for obligation until September 30, 2004.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research

projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, \$17,863,462,000, to remain available for obligation until September 30, 2004.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation, in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, \$242,054,000, to remain available for obligation until September 30, 2004.

TITLE V

REVOLVING AND MANAGEMENT FUNDS DEFENSE WORKING CAPITAL FUNDS

For the Defense Working Capital Funds, \$1,832,956,000: *Provided*, That during fiscal year 2003, funds in the Defense Working Capital Funds may be used for the purchase of not to exceed 315 passenger carrying motor vehicles for replacement only for the Defense Security Service, and the purchase of not to exceed 7 vehicles for replacement only for the Defense Logistics Agency.

NATIONAL DEFENSE SEALIFT FUND

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), and for the necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, \$944,129,000, to remain available until expended: *Provided*, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: *Provided further*, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: *Provided further*, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That, notwithstanding any other provision of law, \$10,000,000 of the funds available under this heading shall be available in addition to other amounts otherwise available, only to finance the cost of constructing additional sealift capacity.

TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For expenses, not otherwise provided for, for medical and health care programs of the

Department of Defense, as authorized by law, \$14,600,748,000, of which \$13,916,791,000 shall be for Operation and maintenance, of which not to exceed 2 percent shall remain available until September 30, 2004; of which \$283,743,000, to remain available for obligation until September 30, 2005, shall be for Procurement; of which \$400,214,000, to remain available for obligation until September 30, 2004, shall be for Research, development, test and evaluation, and of which not less than \$10,000,000 shall be available for HIV prevention educational activities undertaken in connection with U.S. military training, exercises, and humanitarian assistance activities conducted primarily in African nations.

CHEMICAL AGENTS AND MUNITIONS

DESTRUCTION, ARMY

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, \$1,490,199,000, of which \$974,238,000 shall be for Operation and maintenance to remain available until September 30, 2004, \$213,278,000 shall be for Procurement to remain available until September 30, 2005, and \$302,683,000 shall be for Research, development, test and evaluation to remain available until September 30, 2004.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, \$859,907,000: *Provided*, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

Office of the Inspector General

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$157,165,000, of which \$155,165,000 shall be for Operation and maintenance, of which not to exceed \$700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which \$2,000,000 to remain available until September 30, 2005, shall be for Procurement.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain the proper funding level for continuing the operation of the Central

Intelligence Agency Retirement and Disability System, \$212,000,000.

INTELLIGENCE COMMUNITY MANAGEMENT
ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, \$162,254,000, of which \$24,252,000 for the Advanced Research and Development Committee shall remain available until September 30, 2004: *Provided*, That of the funds appropriated under this heading, \$34,100,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, \$1,500,000 for Procurement shall remain available until September 30, 2005 and \$1,000,000 for Research, development, test and evaluation shall remain available until September 30, 2004: *Provided further*, That the National Drug Intelligence Center shall maintain the personnel and technical resources to provide timely support to law enforcement authorities and the intelligence community by conducting document and computer exploitation of materials collected in Federal, State, and local law enforcement activity associated with counter-drug, counter-terrorism, and national security investigations and operations.

PAYMENT TO KAHŌ'OLAWĒ

ISLAND CONVEYANCE, REMEDIATION, AND
ENVIRONMENTAL RESTORATION FUND

For payment to Kahō'olawē Island Conveyance, Remediation, and Environmental Restoration Fund, as authorized by law, \$25,000,000, to remain available until expended.

NATIONAL SECURITY EDUCATION TRUST FUND

For the purposes of title VIII of Public Law 102-183, \$8,000,000, to be derived from the National Security Education Trust Fund, to remain available until expended.

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided*, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further*, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: *Provided further*, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited

for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed \$2,500,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: *Provided further*, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: *Provided further*, That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to May 1, 2003.

(TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds: *Provided further*, That transfers may be made between working capital funds and the "Foreign Currency Fluctuations, Defense" appropriation and the "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of \$20,000,000 in any 1 year of the contract or

that includes an unfunded contingent liability in excess of \$20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of \$20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed \$500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement.

Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

C-130 aircraft; and
F/A-18E and F engine.

SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to the Congress as of September 30 of each year: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a non-reimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8010. (a) During fiscal year 2003, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2004 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2004 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2004.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8011. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the 50 United States, its territories, and the District of Columbia, 125,000 civilian workyears: *Provided*, That workyears shall be applied as defined in the Federal Personnel Manual: *Provided further*, That workyears expended in dependent student hiring programs for disadvantaged youths shall not be included in this workyear limitation.

SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8013. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this subsection applies only to active components of the Army.

SEC. 8014. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That this section and subsections (a), (b), and (c) of 10 U.S.C. 2461 shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Javits-Wagner-O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or (3) is planned to be converted to performance by a qualified firm under 51 percent ownership by an Indian tribe, as defined in section 450b(e) of title 25, United States Code, or a Native Hawaiian organization, as defined in section 637(a)(15) of title 15, United States Code.

(TRANSFER OF FUNDS)

SEC. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2301 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain

are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured outside the United States exceeds the aggregate cost of the components produced or manufactured in the United States: *Provided further*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8017. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: *Provided*, That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 8018. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may, by executive agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: *Provided*, That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: *Provided further*, That the Department of Defense's budget submission for fiscal year 2004 shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: *Provided further*, That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: *Provided further*, That each such executive agreement with a NATO member host nation shall be

reported to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate 30 days prior to the conclusion and endorsement of any such agreement established under this provision.

SEC. 8019. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M-1 Carbines, M-1 Garand rifles, M-14 rifles, .22 caliber rifles, .30 caliber rifles, or M-1911 pistols.

SEC. 8020. No more than \$500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8021. In addition to the funds provided elsewhere in this Act, \$8,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): *Provided*, That a subcontractor at any tier shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544).

SEC. 8022. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A-76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 48 months after initiation of such study for a multi-function activity.

SEC. 8023. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8024. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8025. (a) Of the funds for the procurement of supplies or services appropriated by this Act, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) During the current fiscal year, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase "qualified nonprofit agency for the blind or other severely handicapped" means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46-48).

SEC. 8026. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made

available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount.

SEC. 8027. During the current fiscal year, and from any funds available to the Department of Defense, the Department is authorized to incur obligations of not to exceed \$350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: *Provided*, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

SEC. 8028. Of the funds made available in this Act, not less than \$23,003,000 shall be available for the Civil Air Patrol Corporation, of which \$21,503,000 shall be available for Civil Air Patrol Corporation operation and maintenance to support readiness activities which includes \$1,500,000 for the Civil Air Patrol counterdrug program: *Provided*, That funds identified for "Civil Air Patrol" under this section are intended for and shall be for the exclusive use of the Civil Air Patrol Corporation and not for the Air Force or any unit thereof.

SEC. 8029. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administered by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: *Provided*, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2003 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2003, not more than 6,277 staff years of technical effort (staff years) may be funded for defense FFRDCs: *Provided*, That of the specific amount referred to previously in this subsection, not more than 1,029 staff years may be funded for the defense studies and analysis FFRDCs.

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2004 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

SEC. 8030. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for

use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: *Provided*, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: *Provided further*, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

SEC. 8031. For the purposes of this Act, the term "congressional defense committees" means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

SEC. 8032. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided*, That the Senior Acquisition Executive of the military department or defense agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further*, That Office of Management and Budget Circular A-76 shall not apply to competitions conducted under this section.

SEC. 8033. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2002. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the

Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8034. Appropriations contained in this Act that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8035. Amounts deposited during the current fiscal year to the special account established under 40 U.S.C. 485(h)(2) and to the special account established under 10 U.S.C. 2667(d)(1) are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 485(h)(2)(A) and (B) and 10 U.S.C. 2667(d)(1)(B), to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.

SEC. 8036. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the defense agencies.

SEC. 8037. Notwithstanding any other provision of law, funds available for "Drug Interdiction and Counter-Drug Activities, Defense" may be obligated for the Young Marines program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8038. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101-510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8039. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

(b) PROCESSING OF REQUESTS.—The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

(c) RESOLUTION OF HOUSING UNIT CONFLICTS.—The Operation Walking Shield program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b).

(d) INDIAN TRIBE DEFINED.—In this section, the term "Indian tribe" means any recognized Indian tribe included on the current

list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103-454; 108 Stat. 4792; 25 U.S.C. 479a-1).

SEC. 8040. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than \$100,000.

SEC. 8041. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 2004 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2004 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2004 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

SEC. 8042. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2004: *Provided*, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended: *Provided further*, That any funds appropriated or transferred to the Central Intelligence Agency for agent operations and for covert action programs authorized by the President under section 503 of the National Security Act of 1947, as amended, shall remain available until September 30, 2004.

SEC. 8043. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8044. Of the funds appropriated to the Department of Defense under the heading "Operation and Maintenance, Defense-Wide", not less than \$10,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8045. Amounts collected for the use of the facilities of the National Science Center

for Communications and Electronics during the current fiscal year and hereafter pursuant to section 1459(g) of the Department of Defense Authorization Act, 1986, and deposited to the special account established under subsection 1459(g)(2) of that Act are appropriated and shall be available until expended for the operation and maintenance of the Center as provided for in subsection 1459(g)(2).

SEC. 8046. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8047. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than \$25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8048. (a) Except as provided in subsections (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the lim-

itations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to field operating agencies funded within the National Foreign Intelligence Program.

SEC. 8049. Notwithstanding section 303 of Public Law 96-487 or any other provision of law, the Secretary of the Navy is authorized to lease real and personal property at Naval Air Facility, Adak, Alaska, pursuant to 10 U.S.C. 2667(f), for commercial, industrial or other purposes: *Provided*, That notwithstanding any other provision of law, the Secretary of the Navy may remove hazardous materials from facilities, buildings, and structures at Adak, Alaska, and may demolish or otherwise dispose of such facilities, buildings, and structures.

(RESCISSIONS)

SEC. 8050. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

"Aircraft Procurement, Army, 2002/2004", \$3,000,000;

"Missile Procurement, Army, 2002/2004", \$28,350,000;

"Procurement of Weapons and Tracked Combat Vehicles, Army, 2002/2004", \$9,500,000;

"Procurement of Ammunition, Army, 2002/2004", \$25,500,000;

"Procurement, Marine Corps, 2002/2004", \$4,682,000;

"Aircraft Procurement, Air Force, 2002/2004", \$23,500,000;

"Missile Procurement, Air Force, 2002/2004", \$26,900,000;

"Research, Development, Test and Evaluation, Army, 2002/2003", \$2,500,000;

"Research, Development, Test and Evaluation, Navy, 2002/2003", \$2,000,000; and

"Research, Development, Test and Evaluation, Air Force, 2002/2003", \$67,000,000.

SEC. 8051. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8052. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8053. During the current fiscal year, funds appropriated in this Act are available to compensate members of the National Guard for duty performed pursuant to a plan submitted by a Governor of a State and approved by the Secretary of Defense under section 112 of title 32, United States Code: *Provided*, That during the performance of such duty, the members of the National Guard shall be under State command and control: *Provided further*, That such duty shall be treated as full-time National Guard duty for purposes of sections 12602(a)(2) and (b)(2) of title 10, United States Code.

SEC. 8054. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for

reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) aggregate: *Provided*, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8055. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the civilian medical and medical support personnel assigned to military treatment facilities below the September 30, 2002 level: *Provided*, That the Service Surgeons General may waive this section by certifying to the congressional defense committees that the beneficiary population is declining in some catchment areas and civilian strength reductions may be consistent with responsible resource stewardship and capitation-based budgeting.

SEC. 8056. (a) LIMITATION ON PENTAGON RENOVATION COSTS.—Not later than the date each year on which the President submits to Congress the budget under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to Congress a certification that the total cost for the planning, design, construction, and installation of equipment for the renovation of wedges 2 through 5 of the Pentagon Reservation, cumulatively, will not exceed four times the total cost for the planning, design, construction, and installation of equipment for the renovation of wedge 1.

(b) ANNUAL ADJUSTMENT.—For purposes of applying the limitation in subsection (a), the Secretary shall adjust the cost for the renovation of wedge 1 by any increase or decrease in costs attributable to economic inflation, based on the most recent economic assumptions issued by the Office of Management and Budget for use in preparation of the budget of the United States under section 1104 of title 31, United States Code.

(c) EXCLUSION OF CERTAIN COSTS.—For purposes of calculating the limitation in subsection (a), the total cost for wedges 2 through 5 shall not include—

(1) any repair or reconstruction cost incurred as a result of the terrorist attack on the Pentagon that occurred on September 11, 2001;

(2) any increase in costs for wedges 2 through 5 attributable to compliance with new requirements of Federal, State, or local laws; and

(3) any increase in costs attributable to additional security requirements that the Secretary of Defense considers essential to provide a safe and secure working environment.

(d) CERTIFICATION COST REPORTS.—As part of the annual certification under subsection (a), the Secretary shall report the projected cost (as of the time of the certification) for—

(1) the renovation of each wedge, including the amount adjusted or otherwise excluded for such wedge under the authority of paragraphs (2) and (3) of subsection (c) for the period covered by the certification; and

(2) the repair and reconstruction of wedges 1 and 2 in response to the terrorist attack on the Pentagon that occurred on September 11, 2001.

(e) DURATION OF CERTIFICATION REQUIREMENT.—The requirement to make an annual

certification under subsection (a) shall apply until the Secretary certifies to Congress that the renovation of the Pentagon Reservation is completed.

SEC. 8057. Notwithstanding any other provision of law, that not more than 35 percent of funds provided in this Act for environmental remediation may be obligated under indefinite delivery/indefinite quantity contracts with a total contract value of \$130,000,000 or higher.

SEC. 8058. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(TRANSFER OF FUNDS)

SEC. 8059. Appropriations available in this Act under the heading "Operation and Maintenance, Defense-Wide" for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8060. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: *Provided*, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That this restriction shall not apply to the purchase of "commercial items", as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.

SEC. 8061. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8062. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8063. Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate

in any manufacturing extension program financed by funds appropriated in this or any other Act.

SEC. 8064. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State (as defined in section 381(d) of title 10, United States Code) which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided*, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

SEC. 8065. None of the funds made available in this or any other Act may be used to pay the salary of any officer or employee of the Department of Defense who approves or implements the transfer of administrative responsibilities or budgetary resources of any program, project, or activity financed by this Act to the jurisdiction of another Federal agency not financed by this Act without the express authorization of Congress: *Provided*, That this limitation shall not apply to transfers of funds expressly provided for in Defense Appropriations Acts, or provisions of Acts providing supplemental appropriations for the Department of Defense.

SEC. 8066. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) COVERED ACTIVITIES.—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8067. To the extent authorized by chapter VI of chapter 148 of title 10, United

States Code, the Secretary of Defense may issue loan guarantees in support of United States defense exports not otherwise provided for: *Provided*, That the total contingent liability of the United States for guarantees issued under the authority of this section may not exceed \$15,000,000,000: *Provided further*, That the exposure fees charged and collected by the Secretary for each guarantee shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States: *Provided further*, That the Secretary shall provide quarterly reports to the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate and the Committees on Appropriations, Armed Services, and International Relations in the House of Representatives on the implementation of this program: *Provided further*, That amounts charged for administrative fees and deposited to the special account provided for under section 2540c(d) of title 10, shall be available for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under subchapter VI of chapter 148 of title 10, United States Code.

SEC. 8068. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

SEC. 8069. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions or agents to the Johnston Atoll for the purpose of storing or demilitarizing such munitions or agents.

(b) The prohibition in subsection (a) shall not apply to any obsolete World War II chemical munition or agent of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8070. During the current fiscal year, no more than \$30,000,000 of appropriations made in this Act under the heading "Operation and Maintenance, Defense-Wide" may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8071. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510, as amended (31 U.S.C. 1551 note): *Provided*, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: *Provided further*, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

SEC. 8072. Funds appropriated in title II of this Act and for the Defense Health Program in title VI of this Act for supervision and administration costs for facilities maintenance and repair, minor construction, or design projects may be obligated at the time the reimbursable order is accepted by the performing activity: *Provided*, That for the purpose of this section, supervision and administration costs includes all in-house Government cost.

SEC. 8073. During the current fiscal year, the Secretary of Defense may waive reimbursement of the cost of conferences, seminars, courses of instruction, or similar educational activities of the Asia-Pacific Center for Security Studies for military officers and civilian officials of foreign nations if the Secretary determines that attendance by such personnel, without reimbursement, is in the national security interest of the United States: *Provided*, That costs for which reimbursement is waived pursuant to this section shall be paid from appropriations available for the Asia-Pacific Center.

SEC. 8074. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8075. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: *Provided*, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: *Provided further*, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8076. None of the funds appropriated in title IV of this Act may be used to procure

end-items for delivery to military forces for operational training, operational use or inventory requirements: *Provided*, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: *Provided further*, That this restriction does not apply to programs funded within the National Foreign Intelligence Program: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8077. None of the funds made available in this Act may be used to approve or license the sale of the F-22 advanced tactical fighter to any foreign government.

SEC. 8078. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

(b) Subsection (a) applies with respect to—

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50-65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8079. Funds made available to the Civil Air Patrol in this Act under the heading "Drug Interdiction and Counter-Drug Activities, Defense" may be used for the Civil Air Patrol Corporation's counterdrug program, including its demand reduction program involving youth programs, as well as operational and training drug reconnaissance missions for Federal, State, and local government agencies; and for equipment needed for mission support or performance: *Provided*, That the Department of the Air Force should waive reimbursement from the Federal, State, and local government agencies for the use of these funds.

SEC. 8080. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all

credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) **WAIVER.**—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) **REPORT.**—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

SEC. 8081. The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental equipment of the Department of Defense, at no cost to the Department of Defense, to Indian health service facilities and to federally-qualified health centers (within the meaning of section 1905(1)(2)(B) of the Social Security Act (42 U.S.C. 1396d(1)(2)(B))).

SEC. 8082. The total amount appropriated in this Act is hereby reduced by \$615,000,000 to reflect savings from favorable foreign currency fluctuations, to be derived as follows:

“Military Personnel, Army”, \$154,000,000;
 “Military Personnel, Navy”, \$11,000,000;
 “Military Personnel, Marine Corps”, \$21,000,000;
 “Military Personnel, Air Force”, \$49,000,000;
 “Operation and Maintenance, Army”, \$189,000,000;
 “Operation and Maintenance, Navy”, \$40,000,000;
 “Operation and Maintenance, Marine Corps”, \$3,000,000;
 “Operation and Maintenance, Air Force”, \$80,000,000; and
 “Operation and Maintenance, Defense-Wide”, \$68,000,000.

SEC. 8083. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T-AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

SEC. 8084. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

SEC. 8085. Notwithstanding any other provision of law, funds appropriated in this Act under the heading “Research, Development, Test and Evaluation, Defense-Wide” for any advanced concept technology demonstration project may only be obligated 30 days after a report, including a description of the project

and its estimated annual and total cost, has been provided in writing to the congressional defense committees: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

SEC. 8086. Notwithstanding any other provision of law, for the purpose of establishing all Department of Defense policies governing the provision of care provided by and financed under the military health care system’s case management program under 10 U.S.C. 1079(a)(17), the term “custodial care” shall be defined as care designed essentially to assist an individual in meeting the activities of daily living and which does not require the supervision of trained medical, nursing, paramedical or other specially trained individuals: *Provided*, That the case management program shall provide that members and retired members of the military services, and their dependents and survivors, have access to all medically necessary health care through the health care delivery system of the military services regardless of the health care status of the person seeking the health care: *Provided further*, That the case management program shall be the primary obligor for payment of medically necessary services and shall not be considered as secondarily liable to title XIX of the Social Security Act, other welfare programs or charity based care.

SEC. 8087. During the current fiscal year, refunds attributable to the use of the Government travel card, refunds attributable to the use of the Government Purchase Card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance accounts of the Department of Defense which are current when the refunds are received.

SEC. 8088. (a) **REGISTERING FINANCIAL MANAGEMENT INFORMATION TECHNOLOGY SYSTEMS WITH DOD CHIEF INFORMATION OFFICER.**—None of the funds appropriated in this Act may be used for a mission critical or mission essential financial management information technology system (including a system funded by the defense working capital fund) that is not registered with the Chief Information Officer of the Department of Defense. A system shall be considered to be registered with that officer upon the furnishing to that officer of notice of the system, together with such information concerning the system as the Secretary of Defense may prescribe. A financial management information technology system shall be considered a mission critical or mission essential information technology system as defined by the Under Secretary of Defense (Comptroller).

(b) **CERTIFICATIONS AS TO COMPLIANCE WITH FINANCIAL MANAGEMENT MODERNIZATION PLAN.**—(1) During the current fiscal year, a financial management major automated information system may not receive Milestone A approval, Milestone B approval, or full rate production, or their equivalent, within the Department of Defense until the Under Secretary of Defense (Comptroller) certifies, with respect to that milestone, that the system is being developed and managed in accordance with the Department’s Financial Management Modernization Plan. The Under Secretary of Defense (Comptroller) may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1).

(c) **CERTIFICATIONS AS TO COMPLIANCE WITH CLINGER-COHEN ACT.**—(1) During the current fiscal year, a major automated information system may not receive Milestone A approval, Milestone B approval, or full rate production approval, or their equivalent, within the Department of Defense until the Chief Information Officer certifies, with respect to that milestone, that the system is being developed in accordance with the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.). The Chief Information Officer may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1). Each such notification shall include, at a minimum, the funding baseline and milestone schedule for each system covered by such a certification and confirmation that the following steps have been taken with respect to the system:

- (A) Business process reengineering.
- (B) An analysis of alternatives.
- (C) An economic analysis that includes a calculation of the return on investment.
- (D) Performance measures.
- (E) An information assurance strategy consistent with the Department’s Global Information Grid.

(d) **DEFINITIONS.**—For purposes of this section:

(1) The term “Chief Information Officer” means the senior official of the Department of Defense designated by the Secretary of Defense pursuant to section 3506 of title 44, United States Code.

(2) The term “information technology system” has the meaning given the term “information technology” in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

(3) The term “major automated information system” has the meaning given that term in Department of Defense Directive 5000.1.

SEC. 8089. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: *Provided*, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8090. None of the funds provided in this Act may be used to transfer to any non-governmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of “armor penetrator”, “armor piercing (AP)”, “armor piercing incendiary (API)”, or “armor-piercing incendiary-tracer (API-T)”, except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant

to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

SEC. 8091. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under 10 U.S.C. 2667, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in 32 U.S.C. 508(d), or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

SEC. 8092. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided*, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: *Provided further*, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: *Provided further*, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8093. During the current fiscal year, under regulations prescribed by the Secretary of Defense, the Center of Excellence for Disaster Management and Humanitarian Assistance may also pay, or authorize payment for, the expenses of providing or facilitating education and training for appropriate military and civilian personnel of foreign countries in disaster management, peace operations, and humanitarian assistance.

SEC. 8094. (a) The Department of Defense is authorized to enter into agreements with the Veterans Administration and federally-funded health agencies providing services to Native Hawaiians for the purpose of establishing a partnership similar to the Alaska Federal Health Care Partnership, in order to maximize Federal resources in the provision of health care services by federally-funded health agencies, applying telemedicine technologies. For the purpose of this partnership, Native Hawaiians shall have the same status as other Native Americans who are eligible for the health care services provided by the Indian Health Service.

(b) The Department of Defense is authorized to develop a consultation policy, consistent with Executive Order No. 13084 (issued May 14, 1998), with Native Hawaiians for the purpose of assuring maximum Native Hawaiian participation in the direction and administration of governmental services so as to render those services more responsive to the needs of the Native Hawaiian community.

(c) For purposes of this section, the term "Native Hawaiian" means any individual who is a descendant of the aboriginal people

who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

SEC. 8095. Of the amounts appropriated in this Act for the Arrow missile defense program under the heading "Research, Development, Test and Evaluation, Defense-Wide", \$131,700,000 shall be made available for the purpose of continuing the Arrow System Improvement Program (ASIP), continuing ballistic missile defense interoperability with Israel, and continuing development of an Arrow production capability in the United States.

SEC. 8096. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8097. Of the amounts appropriated in this Act under the heading, "Operation and Maintenance, Defense-Wide", \$68,000,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government.

SEC. 8098. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104-208; 110 Stat. 3009-111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2003.

SEC. 8099. In addition to amounts provided in this Act, \$2,000,000 is hereby appropriated for "Defense Health Program", to remain available for obligation until expended: *Provided*, That notwithstanding any other provision of law, these funds shall be available only for a grant to the Fisher House Foundation, Inc., only for the construction and furnishing of additional Fisher Houses to meet the needs of military family members when confronted with the illness or hospitalization of an eligible military beneficiary.

SEC. 8100. The total amount appropriated in Title II of this Act is hereby reduced by \$51,000,000, to reflect savings attributable to improvements in the management of advisory and assistance services contracted by the military departments, to be derived as follows:

"Operation and Maintenance, Army", \$11,000,000;
 "Operation and Maintenance, Navy", \$10,000,000; and
 "Operation and Maintenance, Air Force", \$30,000,000.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8101. Of the amounts appropriated in this Act under the heading "Shipbuilding and Conversion, Navy," \$644,899,000 shall be available until September 30, 2003, to fund prior year shipbuilding cost increases: *Provided*, That upon enactment of this Act, the Secretary of Defense shall transfer such funds to the following appropriations in the amount specified: *Provided further*, That the amounts transferred shall be merged with and shall be available for the same purposes as the appropriations to which transferred:

To:
 Under the heading, "Shipbuilding and Conversion, Navy, 1996/2003":

LPD-17 Amphibious Transport Dock Ship Program, \$232,681,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1998/2003":

DDG-51 Destroyer Program, \$47,400,000;
 New SSN, \$156,682,000;
 Under the heading, "Shipbuilding and Conversion, Navy, 1999/2003":
 LPD-17 Amphibious Transport Dock Ship Program, \$10,000,000;
 DDG-51 Destroyer Program, \$56,736,000;
 New SSN, \$120,000,000;
 Under the heading, "Shipbuilding and Conversion, Navy, 2000/2003":
 DDG-51 Destroyer Program, \$21,200,000;
 Under the heading, "Shipbuilding and Conversion, Navy, 2001/2008":
 DDG-51 Destroyer Program, \$200,000.

SEC. 8102. The Secretary of the Navy may settle, or compromise, and pay any and all admiralty claims under 10 U.S.C. 7622 arising out of the collision involving the U.S.S. GREENEVILLE and the EHIME MARU, in any amount and without regard to the monetary limitations in subsections (a) and (b) of that section: *Provided*, That such payments shall be made from funds available to the Department of the Navy for operation and maintenance.

SEC. 8103. The total amount appropriated in Title II of this Act is hereby reduced by \$97,000,000, to reflect savings attributable to improved supervision in determining appropriate purchases to be made using the Government purchase card, to be derived as follows:

"Operation and Maintenance, Army", \$24,000,000;
 "Operation and Maintenance, Navy", \$29,000,000;
 "Operation and Maintenance, Marine Corps", \$3,000,000;
 "Operation and Maintenance, Air Force", \$27,000,000; and
 "Operation and Maintenance, Defense-Wide", \$14,000,000.

SEC. 8104. Funds provided for the current fiscal year or hereafter for Operation and Maintenance for the Armed Forces may be used, notwithstanding any other provision of law, for the purchase of ultralightweight camouflage net systems as unit spares.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8105. During the current fiscal year and hereafter, notwithstanding any other provision of law, the Secretary of Defense may transfer not more than \$20,000,000 of unobligated balances remaining in a Research, Development, Test and Evaluation, Army appropriation account during the last fiscal year before the account closes under section 1552 of title 31 United States Code, to a current Research, Development, Test and Evaluation, Army appropriation account to be used only for the continuation of the Venture Capital Fund demonstration, as originally approved in Section 8150 of Public Law 107-117, to pursue high payoff technology and innovations in science and technology: *Provided*, That any such transfer shall be made not later than July 31 of each year: *Provided further*, That funds so transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That, no funds for programs, projects, or activities designated as special congressional interest items in DD Form 1414 shall be eligible for transfer under the authority of this section: *Provided further*, That any unobligated balances transferred under this authority may be restored to the original appropriation if required to cover unexpected upward adjustments: *Provided further*, That the Secretary

of the Army shall provide an annual report to the House and Senate Appropriations Committees no later than 15 days prior to the annual transfer of funds under authority of this section describing the sources and amounts of funds proposed to be transferred, summarizing the projects funded under this demonstration program (including the name and location of project sponsors) to date, a description of the major program accomplishments to date, and an overall assessment of the benefits of this demonstration program compared to the goals expressed in the legislative history accompanying Section 8150 of Public Law 107-117.

SEC. 8106. Notwithstanding any other provision of law or regulation, the Secretary of Defense may exercise the provisions of 38 U.S.C. 7403(g) for occupations listed in 38 U.S.C. 7403(a)(2) as well as the following:

Pharmacists, Audiologists, and Dental Hygienists.

(A) The requirements of 38 U.S.C. 7403(g)(1)(A) shall apply.

(B) The limitations of 38 U.S.C. 7403(g)(1)(B) shall not apply.

SEC. 8107. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2003 until the enactment of the Intelligence Authorization Act for fiscal year 2003.

SEC. 8108. Section 1111(c) of title 10 is amended in the first sentence by striking "may" after the Secretary of Defense and inserting "shall" after the Secretary of Defense.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8109. During the current fiscal year, amounts in or credited to the Defense Co-operation Account under 10 U.S.C. 2608(b) are hereby appropriated and shall be available for obligation and expenditure consistent with the purposes for which such amounts were contributed and accepted for transfer by the Secretary of Defense to such appropriations or funds of the Department of Defense as the Secretary shall determine, to be merged with and to be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided*, That the Secretary shall provide written notification to the congressional defense committees 30 days prior to such transfer: *Provided further*, That the Secretary of Defense shall report to the Congress quarterly all transfers made pursuant to this authority: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense.

SEC. 8110. Notwithstanding section 1116(c) of title 10, United States Code, payments into the Department of Defense Medicare-Eligible Retiree Health Care Fund for fiscal year 2003 under section 1116(a) of such title shall be made from funds available in this Act for the pay of military personnel.

SEC. 8111. None of the funds in this Act may be used to initiate a new start program without prior notification to the Office of Secretary of Defense and the congressional defense committees.

SEC. 8112. The amount appropriated in title II of this Act is hereby reduced by \$470,000,000 to reflect Working Capital Fund cash balance and rate stabilization adjustments, to be derived as follows:

"Operation and Maintenance, Navy", \$440,000,000; and

"Operation and Maintenance, Air Force", \$30,000,000.

SEC. 8113. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by \$475,000,000, to reduce excess funded carry-over, to be derived as follows:

"Operation and Maintenance, Army", \$48,000,000;

"Operation and Maintenance, Navy", \$285,000,000;

"Operation and Maintenance, Marine Corps", \$8,000,000; and

"Operation and Maintenance, Air Force", \$134,000,000.

SEC. 8114. Notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this or any other appropriations Acts may be obligated for the purpose of transferring the Medical Free Electron Laser (MFEL) Program from the Department of Defense to any other Government agency.

SEC. 8115. (a) In addition to the amounts provided elsewhere in this Act, the amount of \$4,000,000 is hereby appropriated to the Department of Defense for "Operation and Maintenance, Army National Guard". Such amount shall be made available to the Secretary of the Army only to make a grant in the amount of \$4,000,000 to the entity specified in subsection (b) to facilitate access by veterans to opportunities for skilled employment in the construction industry.

(b) The entity referred to in subsection (a) is the Center for Military Recruitment, Assessment and Veterans Employment, a non-profit labor-management co-operation committee provided for by section 302(c)(9) of the Labor-Management Relations Act, 1947 (29 U.S.C. 186(c)(9)), for the purposes set forth in section 6(b) of the Labor Management Co-operation Act of 1978 (29 U.S.C. 175a note).

SEC. 8116. (a) During the current fiscal year, funds available to the Secretary of a military department for Operation and Maintenance may be used for the purposes stated in subsection (b) to support chaplain-led programs to assist members of the Armed Forces and their immediate family members in building and maintaining a strong family structure.

(b) The purposes referred to in subsection (a) are costs of transportation, food, lodging, supplies, fees, and training materials for members of the Armed Forces and their family members while participating in such programs, including participation at retreats and conferences.

SEC. 8117. (a) COMMISSION ON ADEQUACY OF ARMED FORCES TRAINING FACILITIES.—The Secretary of Defense shall establish an advisory committee under section 173 of title 10, United States Code, to assess the availability of adequate training facilities for the Armed Forces in the United States and overseas and the adverse impact of residential and industrial encroachment, requirements of environmental laws, and other factors on military training and the coordination of military training among the United States and its allies.

(b) MEMBERS.—The advisory committee shall be composed of persons who are not active-duty members of the Armed Forces or officers or employees of the Department of Defense.

(c) REPORT.—Not later than July 31, 2003, the advisory committee shall submit to the Secretary of Defense and the congressional defense committees a report containing the results of the assessment and such recommendations as the committee considers necessary.

(d) FUNDING.—Funds for the activities of the advisory committee shall be provided

from amounts appropriated for operation and maintenance for Defense-Wide activities for fiscal year 2003.

SEC. 8118. (a) LIMITATION ON ADDITIONAL NMCI CONTRACT WORK STATIONS.—Notwithstanding section 814 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-215) or any other provision of law, the total number of work stations provided under the Navy-Marine Corps Intranet contract (as defined in subsection (i) of such section 814) may not exceed 160,000 work stations until the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Chief Information Officer of the Department of Defense certify to the congressional defense committees that all of the conditions specified in subsection (b) have been satisfied.

(b) CONDITIONS.—The conditions referred to in subsection (a) are the following:

(1) There is a full transition of not less than 20,000 work stations to the Navy-Marine Corps Intranet.

(2) Those work stations undergo operational test and evaluation—

(A) to evaluate and demonstrate the ability of the infrastructure and services of the Navy-Marine Corps Intranet to support Department of the Navy operational, office, and business functionality and processes; and

(B) to evaluate the effectiveness and suitability of the Navy-Marine Corps Intranet to support accomplishment of Navy and Marine Corps missions.

(3) The Director of Operational Test and Evaluation of the Department of Defense completes an assessment of the operational test and evaluation and provides the results of the assessment and recommendations to the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Chief Information Officer of the Department of Defense.

(4) The Under Secretary of Defense for Acquisition, Technology, and Logistics and the Chief Information Officer of the Department of Defense determine that the results of the test and evaluation are acceptable.

SEC. 8119. None of the funds in this Act, excluding funds provided for advance procurement of fiscal year 2004 aircraft, may be obligated for acquisition of more than 16 F-22 aircraft until the Under Secretary of Defense for Acquisition, Technology, and Logistics has provided to the congressional defense committees:

(a) A formal risk assessment which identifies and characterizes the potential cost, technical, schedule or other significant risks resulting from increasing the F-22 procurement quantities prior to the conclusion of Dedicated Initial Operational Test and Evaluation (DIOT&E) of the aircraft: *Provided*, That such risk assessment shall evaluate based on the best available current information (1) the range of potential additional program costs (compared to the program costs assumed in the President's fiscal year 2003 budget) that could result from retrofit modifications to F-22 production aircraft that are placed under contract or delivered to the government prior to the conclusion of DIOT&E and (2) a cost-benefit analysis comparing, in terms of unit cost and total program cost, the cost advantages of increasing aircraft production at this time to the potential cost of retrofitting production aircraft once DIOT&E has been completed;

(b) Certification that any future retrofit costs to F-22 production aircraft, ordered or delivered prior to the conclusion of DIOT&E, that result from changes required from developmental or operational test and evaluation will not increase the total F-22 program

cost as estimated in the President's fiscal year 2003 budget; and

(c) Certification that increasing the F-22 production quantity for fiscal year 2003 beyond 16 airplanes involves lower risk and lower total program cost than staying at that quantity, or he submits a revised production plan, funding plan and test schedule.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8120. Section 305(a) of the Emergency Supplemental Act, 2002 (division B of Public Law 107-117; 115 Stat. 2300), is amended by adding at the end the following new sentences: "From amounts transferred to the Pentagon Reservation Maintenance Revolving Fund pursuant to the preceding sentence, not to exceed \$305,000,000 may be transferred to the Defense Emergency Response Fund, but only in amounts necessary to reimburse that fund (and the category of that fund designated as 'Pentagon Repair/Upgrade') for expenses charged to that fund (and that category) between September 11, 2001, and January 10, 2002, for reconstruction costs of the Pentagon Reservation. Funds transferred to the Defense Emergency Response Fund pursuant to this section shall be available only for reconstruction, recovery, force protection, or security enhancements for the Pentagon Reservation."

SEC. 8121. (a) **TERMINATION OF CRUSADER ARTILLERY SYSTEM.**—Consistent with the budget amendment to the fiscal year 2003 President's Budget submitted to Congress on May 29, 2002, for termination of the Crusader Artillery System, the Department of Defense is authorized to terminate the Crusader program. Such termination shall be carried out in a prudent and deliberate manner in order to provide for the orderly termination of the program.

(b) **ACCELERATION OF OTHER INDIRECT FIRE SYSTEMS.**—Of the funds appropriated or otherwise made available in this Act, under the heading "Research, Development, Test, and Evaluation, Army", \$305,109,000 shall be available only to accelerate the development, demonstration, and fielding of indirect fire platforms, precision munitions, and related technology.

(c) **ACCELERATION OF OBJECTIVE FORCE ARTILLERY AND RESUPPLY SYSTEMS.**—(1) Immediately upon termination of the Crusader Artillery System program, the Department of the Army shall enter into a contract to leverage technologies developed with funds invested in fiscal year 2002 and prior years under the Crusader Artillery System program, the Future Scout and Cavalry System program, the Composite Armored Vehicle program, and other Army development programs in order to develop and field, by 2008, a Non-Line of Sight (NLOS) Objective Force artillery system and Resupply Vehicle variants of the Future Combat System.

(2) Of the funds appropriated or otherwise made available in this Act under the heading "Research, Development, Test, and Evaluation, Army", \$368,500,000 is available only for the Objective Force Indirect Fire Systems for the Army to implement this subsection: *Provided*, That none of the funds in this or any other Act shall be available for research, development, test, or evaluation of any Objective Force or Future Combat System indirect fire system until the Secretary of the Army has submitted a written certification to the congressional defense committees that a contract has been awarded pursuant to subsection (c)(1) containing a program plan and schedule for production and fielding a Future Combat System Non-Line of Sight Objective Force artillery system and Resupply Vehicle variants by 2008.

SEC. 8122. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriations Act.

AMENDMENT OFFERED BY MR. TIERNEY

Mr. TIERNEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TIERNEY:

In the item relating to "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE", after the dollar amount, insert the following: "(reduced by \$44,393,000)".

Mr. LEWIS of California. Mr. Chairman, I reserve a point of order on the amendment. We have not seen it.

The CHAIRMAN. The point of order is reserved.

Mr. TIERNEY. Mr. Chairman, this defense appropriations bill allocates some \$44.4 million for space-based boost interceptors, the so-called kinetic interceptors. According to Philip Coyle, who was the Pentagon's chief testing evaluator last year in testimony before our Committee on Government Reform, he indicated that this particular test program has been pushed back indefinitely and that it is nowhere near ready to be moved forward in terms of construction. It has not been tested adequately.

Mr. LEWIS of California. Point of order, Mr. Chairman. Could the gentleman provide me a copy of the amendment, please? I have not seen it.

Mr. TIERNEY. We can. If we had more time of when this was going to happen, we would have been happy to do it ahead of time. Somebody is going to have to help you out on the floor with that.

The CHAIRMAN. The gentleman may proceed.

Mr. TIERNEY. Again, I go to the point of Philip Coyle, who was the director of the operations and testing evaluation program for the Pentagon, who came out clearly and has testified before committees in this House and has made it quite known publicly on the record both while he was in office and since his retirement from the last administration that the testing regime for this national missile defense is nowhere near adequate for us to have any level of confidence that it will be workable, particularly within the time frame that this administration has now set forth, which they claim they are going to have a system workable by 2004. Certainly moving forward and looking at their proposed space-based matters, they are nowhere near that date, or any date within a decade or more beyond that, for deployment.

However, within this budget they have some \$44.4 million for space-based boost interceptors or the so-called kinetic interceptors and it makes no common sense at all to move forward on this until there has been a formalized plan that lays out specifically how

the system can demonstrate its effectiveness and establish some reasonable time frame for accomplishing the goals that the administration has in mind.

I simply put forth for this body's deliberation and consideration the fact that we are spending money here well before it is appropriate to do so, that the general practice had been in this House and should be in this House that first we test and evaluate matters for their ability to work so that we can have some confidence in their reliability before we move forward.

It has been the experience of programs in the past that when we fail to test first before we deploy and construct, we get burned. We end up spending a considerable amount of money and losing a lot of time going back to the beginning to start construction over again in accordance with the tests and the evaluation. We have done that time after time. In fact, that is why this House passed a law setting up the Department of Operational Testing and Evaluation. Now we seem intent on ignoring the advice of that body and the comments of its director and moving forward and funding things well before their time, well before they have been adequately tested and well before, certainly, they have met the kind of evaluation that would give us any reasonable confidence that this would be a reliable system.

We have many other things, Mr. Chairman, that we could be spending money on within the defense budget. Homeland security is only one of those that certainly has a higher priority than space-based laser systems that so far have proved well beyond our grasp and have not been adequately tested.

I ask that we have some consideration for that, that we strike this \$44.4 million from the budget, find a better use for it next time around, and move forward with reasonable testing and reasonable assumptions that we are not going to build something with this Congress' assent until it has been shown to have been adequately tested and shown to be able to work.

Mr. KUCINICH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Tierney amendment. The bill before us today provides \$121.8 million for the initial construction of an inadequately tested mid-course missile defense system based in Fort Greely, Alaska. The Tierney amendment would cut these funds from Fort Greely construction.

To start Fort Greely construction is premature, it is technologically infeasible, and it is unrealistic. Fort Greely construction is the first step in what would become a larger system whose final price tag would be \$238 billion by the year 2025. And no one knows if it even can work. Do the taxpayers not deserve some amount of confidence? Do the taxpayers not deserve to know that a \$238 billion initiative is being started

with the knowledge that it is at least possible? Because right now no one knows if it is possible or not. No problem here. Just go right ahead and spend the money, and we will figure out later on if it is possible.

According to the Pentagon's former chief investigator, Philip Coyle, testing on a national missile defense program is unrealistic and it is behind schedule. At a recent congressional briefing, Philip Coyle and missile defense expert Dr. Lisbeth Gronlund of the Union of Concerned Scientists testified that 15 of 17 critical components needed for interceptor deployment at Fort Greely will not be completed by the year 2004. Why? The technology simply is not at the required level. No problem here. Just spend the money, regardless.

Up to the present time, missile tests have failed to distinguish the target from a decoy except when the decoy has been made unrealistically easy to detect and smash, kind of like putting up a "hit me" sign electronically. There is even reason to question the success of the decoy hits. A General Accounting Office investigation found that defense contractors who conducted decoy tests found serious flaws in a 1997 test that the contractors had claimed was successful. I think America is learning about corruption involving corporations.

The administration has promised to have this site at least partially operational by 2004. However, the Defense Department has moved to put these accelerated plans under greater secrecy from Congress and the public by exempting missile defense projects from planning and reporting requirements, ending reports to Congress with detailed cost estimates and timetables and pulling the plug on disclosing the results of missile defense tests to the public. Can there be any greater example of why there is an urgent need to get a handle on this program?

The taxpayers are being asked to give this program a blank check, and no one even knows that it works. As a matter of fact, we have got plenty of evidence that it does not work, and it is all going to be hush-hush, a secret. With evidence of testing flaws in the past, it is a little bit too much to go along with the military contractors who are saying, Just trust us. How is Congress or the public expected to take military contractors' word or the Pentagon's word on the success of missile defense tests? And think of what it means to the American people if we rely on this to protect us and the results of tests have been phonied up. Yet all this money is being spent, instead of putting money where it really ought to be, developing technologies for peaceful resolution of our conflicts.

The missile defense system is being built when the Defense Department does not have the tools to make it

work. Construction is being rushed ahead on false premises and false promises. The Department of Defense has failed to successfully test the main components of the missile defense program. Now, as more money is being sought for this boondoggle, the Department of Defense refuses to show where the money is going or how it is being used. The American taxpayers have a right to demand how their hard-earned tax dollars are being spent on programs in every place in government. And here it becomes even more important when the defense of our country is on the line.

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If Congress appropriates these funds, it will be impossible to hold the Department of Defense accountable. Congress should not continue to throw good money after bad. Vote "yes" on the Tierney amendment.

The CHAIRMAN. Does the gentleman from California (Mr. LEWIS) still reserve his point of order?

Mr. LEWIS of California. Mr. Chairman, I do not believe a point of order applies to this amendment. So let me say, I was going to rise and suggest that we oppose the amendment.

The gentleman who is speaking to the amendment, however, talked about a program that was going to spend X number of tens of millions of dollars, and claiming we do not know if it will work or not. But the amendment he is speaking to essentially, Mr. Chairman, would eliminate research on that very program to determine its feasibility, and whether it will work.

The CHAIRMAN. So the gentleman withdraws his point of order.

Is there anyone else who wishes to be heard on the amendment?

Mr. DOGGETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this month, like thousands of proud parents from around the country, I attended the graduation ceremonies for my two daughters, one an educator, one a physician. As I watched my oldest prepare to return to our hometown with her physician husband, both of them to care for people there, I was mindful of the guidance given to doctors from as far back as we can remember: "First, do no harm."

I think that the Administration and supporters of this bill would do well to heed this cornerstone of medicine as they continue to pursue an insular defense policy—without the agreement of many of our allies, and without truly the consent of this Congress. This misguided policy emphasizes nuclear missile defense from space and abandons the Antiballistic Missile Treaty, which has played such an important role in keeping nuclear Armageddon at bay.

The Administration has also abandoned the wisdom, extensive writing, and testimony of Dr. Steven Weinberg,

a Nobel-Prize-winning physicist at the University of Texas at Austin, who concludes that this system will "harm our security," not strengthen it.

There is no shortage of reasons why a space-based "Star Wars" sequel is undesirable. It targets too many of our resources toward the least likely threat. We all know and are reminded each evening on the nightly news that terrorists have many other ways to deliver destruction to our country and threaten the security of our families. Perhaps the least likely way is some type of missile that would be clearly identified as to its source and which could be the target of a space-based missile defense system.

The Star Wars plan diverts billions of dollars that we need to meet the obligation to our children, to our seniors, to our families, and to address other more immediate homeland security needs. Of course, NMD also requires the technology to hit a bullet with a bullet, to distinguish the bullet from the decoys, and to target bullets that come in a wobbly fashion and a nonwobbly fashion. Doing all of this requires what I suggest is truly a "faith-based initiative," because it takes immense faith to believe that such a space-based system will even work.

But chief among the reasons to oppose this plan and to support the Tierney amendment is that admonition to our physicians: "First, do no harm."

In working to build a world worthy of our children, the false security of space-based missile defense is far outweighed by the warning of former defense Secretary William Perry, that "even a relatively small deployment of defensive weapons could trigger a considerable nuclear arms race." With all of the recent loose talk in Washington about first strikes, about increased reliance on nuclear weapons and new ways with new weapons, this is not talk and this is not a system that adds to the security of our families; it jeopardizes that security.

Intercontinental ballistic missiles are hardly America's greatest threat. The most serious nuclear threat we have is that there are so many weapons here and abroad that remain on hair-trigger alert and the risk that some nuclear device will be smuggled into our country on a truck, in a boat, or by some other means that could expose us to danger.

Now, the Administration and this bill seek over \$44 million for space-based boost interceptors. The sky is the limit. This is part of a broader package where we spent billions of dollars already and billions more are being requested over time. I think we need to draw a line at the heavens.

If wisdom's price is suffering, we cannot afford to belatedly learn that proceeding unilaterally with Star Wars is going to get the job done. It is not enough to learn by and by if the system works. It is not enough to let "by

and by" be the words to spend more and more taxpayer resources on a system that does not work.

The modern version of the Hippocratic oath states, "A prevention is preferable to a cure." Instead of spending billions to try to build a shield to blunt the sword, our focus should be on the resources, on the diplomacy, to keep that sword from ever being forged or drawn in the first place.

Mr. Chairman, I urge support of the Tierney amendment. I believe it will add to the security of American families.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. TIERNEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. TIERNEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Massachusetts (Mr. TIERNEY) will be postponed.

The CHAIRMAN. Are there further amendments?

Mr. LINDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of this legislation.

Mr. Chairman, I rise in support of both this rule and the underlying legislation, H.R. 5010, the Fiscal Year 2003 Defense Appropriations bill. This is an open and fair rule that will allow the House to work its will on the Defense Appropriations bill.

Over the past decade, the Armed Forces of this country have excelled beyond our expectations. Since 1991, the U.S. military has been involved in over 40 different conflicts around the globe—nearly four times the number of engagements than the previous four and a half decades! Yet this government, more specifically the previous Administration, has asked our men and women to perform more of these duties with increasingly less support. I believe that time has come to put an end to this policy, and to provide the support our men and women in uniform deserve.

That is why I rise in support of H.R. 5010. This legislation represents the largest increase in defense spending in two decades, and provides a 4.1 percent increase in pay for our military personnel, adequate funding to maintain our current defense systems, and provides support for new, innovative systems, including full funding for the F-22. The F-22, built primarily by the dedicated men and women of Lockheed Martin in my home state of Georgia, will revolutionize our nation's Air Force, save the lives of American pilots, and ensure that the United States retains its dominance over the skies.

In addition to the best possible equipment, this legislation also ensures our support for the best possible training for our increasingly called-upon military reservists, such as funding for flight training devices for the 94th Airlift Wing at Dobbins Air Reserve Base in Marietta, Georgia.

As an individual who has served in U.S. Air Force myself, I am pleased to see this Administration and this Congress realize the significance of our military to freedom and democracy. I have worked closely with my good friend, Subcommittee Chairman JERRY LEWIS, to provide the best for our nation's military, and I thank him not only for his leadership on this legislation, but also for his commitment to defending the citizens of this country.

This past January, President Bush stood before this House and announced his intention to rebuild our military, to lead this nation against the scourge of international terrorism, and to root out those who seek to harm the citizens of this country. He has delivered on his promise, Mr. Chairman, and it is now time for us to deliver on ours. That is why I urge my colleagues to vote for this rule, vote for the underlying legislation, and give our men and women in uniform the support, dedication, and commitment that they have given to us.

Mr. DICKS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of this bill.

Mr. Chairman, I rise in strong support of the FY03 Defense Appropriations Act, and I want to thank Chairman LEWIS and Ranking Member MURTHA for putting together a great defense bill. This bill will substantially improve the lives of the soldiers, sailors, and airmen of the U.S. armed services as they carry on the nation's defense. I particularly want to make note of the Committee's work to fully fund the conversion of the Trident submarine into an SSGN conventional strike platform. Last year, Chairman LEWIS, Mr. MURTHA and our entire subcommittee added over \$300 million to the FY02 Defense bill to get this program started. Today's bill includes \$907 million to refuel and convert two Tridents into SSGNs. This bill also takes the first step in realizing the Air Force's vision for a common Widebody Aircraft to use for Intelligence Surveillance and Reconnaissance. It includes \$596 million to purchase and outfit one 767 aircraft as the first Air Force Multimission Command and Control Aircraft (MC2A). I also want to commend the Committee for including \$10 million to fund a new medical technology, Remote Acoustic Hemostatis, which can be used by field medics to stop traumatic bleeding on the battlefield. In my home district, we lost a fine soldier, Sgt. 1st Class Nathan Chapman of Ft. Lewis, in Afghanistan due to catastrophic bleeding. I believe this technology will let us prevent this kind of death in a few years.

As good as this bill is, Mr. Chairman, it does include one glaring weakness. The committee struck the best balance for meeting our defense obligations that it could given the top line constraints imposed by the Budget Committee and the Republican leadership. However, it barely begins to address what I call the Crisis in Procurement. The committee's recommendation of \$70,285,272,000 for defense procurement is an increase of \$9,420,324,000 over the amount approved for fiscal year 2002, and it is an increase of \$3,065,238,000 over the President's budget request. However, despite the committee's best efforts, it has not changed the fundamental fact that the Defense Department procurement budget is in crisis.

Numerous reputable studies performed in the last several years have affirmed this growing crisis. Even the most conservative analysis conducted by the Congressional Budget Office has found that the procurement budget needs to be increased to at least \$94 billion in order to sustain the military force structure that has now been ratified in the Quadrennial Defense Review. Other credible outside studies have reached estimates of over \$120 billion. DOD's own studies on procurement needs, performed by the individual Services and the Joint Chiefs of Staff, show a requirement for \$100–110 billion. The Navy has testified to Congress that it faces a procurement shortfall of \$10 billion a year, and CBO estimates that including the Marine Corps this shortfall is \$12 billion. The Air Force has told Congress of a shortfall of \$14 billion, and the Army has a shortfall estimated by CBO at \$5 billion a year.

The effects of this crisis are all too visible in the procurement programs and in the condition of military equipment and service maintenance budget. The cost and length of individual procurement programs have reached absurdity as buy quantities are reduced to minimum levels driving up unit costs. Drawn out procurement programs mean that average equipment ages are increasing rapidly. The average age of Air Force aircraft has increased by 24 percent in the last decade. Navy aircraft average age has increased 21 percent since 1990. The average age of Army helicopters has increased 12 percent since 1990. These increases have occurred even as force structure is reduced and the oldest equipment is retired. Furthermore, the current rate of procurement of Navy ships will lead to a fleet of only 230 ships by 2030.

The impact on operation and maintenance budgets is severe. The number of maintenance hours required for each aircraft flying hour is skyrocketing. For example, the Air Force had a 293 percent increase in the number of maintenance hours per flying hour on the F-15E from 1992 to 1999. The Navy experienced a 227 percent increase in the number of maintenance hours per flying hour on the F-14 in the same period. The direct effect is a dramatic increase in the Air Force budget for flying hours, more than 45 percent above inflation in the last five years. And the Navy's cost of Aviation Depot Level Repairables increased 68 percent between 1996 and 1999.

The President's proposed \$48 billion increase for defense spending contained only a \$7.6 billion increase for procurement. That means that despite the crisis in procurement spending, if the committee had accepted the President's budget recommendation, growth in procurement funds for fiscal year 2003 would have been slower than the growth in the overall defense budget. The fiscal year 2003 budget request follows the first Bush defense budget in which procurement was actually lower than the last defense budget of the Clinton Administration. More important, the size of the shortfall in procurement funding is more than 4 times the increase proposed for procurement in the President's FY03 budget.

The credibility of studies by the Joint Chiefs of Staff, CBO and the other higher estimates are strongly reinforced by a consideration of the historical patterns of defense spending. The current budget for procurement is less

than half what it was at the peak of the Reagan years in 1985 when considered in constant dollars. Operations and maintenance spending, on the other hand, now exceeds the peak of the Reagan years even though our military force structure is about one third smaller. As a result, procurement, which was 25 percent of the defense budget in 1980 under President Carter, and 34 percent in 1985, is now only 19 percent of the budget. This historically low level is inadequate for sustaining our current force structure, let alone for transforming the military into a 21st Century fighting force.

There remains one more chance this year to begin addressing the crisis in procurement when the Department of Defense requests and the committee considers the \$10 billion contingency fund for FY03. This fund must begin the process of modernizing our oldest military equipment. The longer we delay in facing up to this problem, the greater the cost of the solution and the more severe the crisis in both condition and quantity of the systems that we ask our military to use in our nation's defense. We owe it to our men and women in uniform and to the entire nation to step up to this crisis in procurement and commit ourselves to provide the sustained level of resources that will solve it.

AMENDMENT OFFERED BY MR. KUCINICH

Mr. KUCINICH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Will the gentleman transmit the amendment to the Chair.

Mr. LEWIS of California. Mr. Chairman, we have not seen the amendment.

The Clerk read as follows:

Amendment offered by Mr. KUCINICH:

At the end of the bill (before the short title), insert the following new section:

SEC. . Of the total amount appropriated pursuant to this Act for any component of the Department of Defense that the Director of the Office of Management and Budget has identified (as of the date of the enactment of this Act) under subsection (c) of section 3515 of title 31, United States Code, as being required to have audited financial statements meeting the requirements of subsection (b) of that section, not more than 99 percent may be obligated until the Inspector General of the Department of Defense expresses an opinion on the audited financial statements of that component pursuant to section 3521(e) of title 31, United States Code.

Mr. LEWIS of California. Mr. Chairman, I reserve a point of order on the amendment.

Mr. KUCINICH. Mr. Chairman, today I am offering an amendment to the Defense Appropriations bill that will withhold 1 percent of the budget of any component of the Department of Defense from being obligated if that component has not passed the test of the Department of Defense Inspector General audit.

This extraordinary measure is required to protect the taxpayer, since no major part of the Pentagon has ever passed the test of an independent audit since audits were mandated by the CFO Act in 1990.

The GAO found in its 2001 High-Risk Series Report that, of 22 high-risk op-

erations listed in the GAO report, six are Department of Defense programs, more than any other agency.

According to the report, DOD could not match \$22 billion worth of expenditures to the items they purchased. The Navy wrote off as lost over \$3 billion worth of in-transit inventory. The Department of Defense also purchases material it does not need. Based on current requirements, over \$1.6 billion of inventory should not have been ordered. Nor are these problems recent phenomena.

In March, 2000, the Pentagon Inspector General found that, of \$7.6 trillion in accounting entries, \$2.3 trillion were not supported, and this is a quote, "were not supported by adequate audit trails or is sufficient evidence to determine their validity."

At a March, 2001, hearing of the Committee on Government Reform Subcommittee on National Security, Veterans' Affairs, and International Relations, of which I am the ranking member, United States Comptroller General David Walker gave the Department of Defense an F on financial management. When asked, he admitted that it is probably the worst of any Federal agency in this respect.

Bad accounting practices have left troops vulnerable to biological and chemical weapon attacks, and I want every Member of the House to follow this. At a hearing last week of the same Committee on Government Reform subcommittee, the GAO reported on the results of their effort to track a single procurement item through the maze of different accounting, inventory and financial management systems at the Department of Defense.

The GAO chose one item, a suit worn by service members to protect themselves in the event of a chemical or biological weapon attack. Obviously, in light of the anthrax attacks and our military's deployment and prospective deployment to various parts of the world, these suits are extremely sought after. The Department is spending over a billion dollars to buy these suits at \$200 apiece. The Pentagon has plans to buy 4.4 million of these suits, but to date they have issued only a quarter of these.

According to the official in charge of this program, service members have been clamoring for these suits to protect them from biological and chemical weapon attacks. Despite the intense demand within the military, the GAO found that the Pentagon is simultaneously selling the same suits at a deep discount on the Internet for \$3 apiece. That is a 99 percent discount from what it cost the U.S. taxpayers. The Pentagon's accounting systems are so bad that several military units actually thought they had an excess of the protective suits. As a result, they went ahead and resold their suits to the public through actions and on the Inter-

net. Our troops have been left unprotected from biological and chemical attacks by bad accounting practices in the Department of Defense, and the taxpayer continues to have their money mistreated.

Mr. Chairman, we even had testimony in committee this week that says that of 1.6 million protective suits that have been requisitioned, the Pentagon cannot even locate 1.2 million. I want to say that again. Of 1.6 million protective suits that have been requisitioned, the Pentagon cannot locate 1.2 million suits that would be used to put on our troops so they would be able to be protected against any chemical or biological weapons attack.

We have an obligation to the men and women who serve to say that the Department of Defense has to be accountable. My amendment withholds only 1 percent of defense funding to encourage the Department of Defense to follow the law to ensure taxpayer money is accounted for, to ensure that the men and women who serve will get the equipment that they need, to make sure that our national defense will be the highest priority; and we cannot do that if we do not have any ability to control the spending and if we do not have any ability to monitor where all of these materials are.

They cannot locate 1.2 million protective suits. Can the Members imagine that on the eve of the difficulties we have with Iraq?

The CHAIRMAN. The time of the gentleman from Ohio (Mr. KUCINICH) has expired.

(On request of Mr. DOGGETT, and by unanimous consent, Mr. KUCINICH was allowed to proceed for 1 additional minute.)

Mr. DOGGETT. Mr. Chairman, will the gentleman yield?

Mr. KUCINICH. I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Chairman, is the gentleman aware that the President's budget, a new feature of it, was to give a performance grade on all the different agencies in government and that on the very issues that the gentleman from Ohio is talking about, the Office of Management and Budget itself gave an F, a failing grade, to the Department of Defense? If the gentleman could answer on that and if you could tell us how the security of our men and women in arms, in harm's way, is advanced by the kind of accounting failures that would test even the talents of Arthur Andersen to justify.

Mr. KUCINICH. Mr. Chairman, obviously, the gentleman from Texas's (Mr. DOGGETT) question is well taken because the Pentagon cannot pass a test of an audit. Not only that, but they do not know where their equipment is. Here is a case where 1.2 million protective suits cannot be located. That is incomprehensible. That ought to cause people at the high levels in the Army to shake in their boots.

Mr. DOGGETT. Mr. Chairman, does the gentleman from Ohio (Mr. KUCINICH) think it would be better if we gave them more money to manage?

Mr. KUCINICH. Mr. Chairman, think about that. Of course they should not have more money. The point of this amendment is that we take away 1 percent until they could pass an independent audit.

□ 1215

POINT OF ORDER

Mr. LEWIS of California. Mr. Chairman, because this is legislation on an appropriations bill, and just as importantly, because we did not have the courtesy of seeing it before the case, I must object to the amendment.

The CHAIRMAN. The gentleman insists on his point of order?

Mr. LEWIS of California. I insist on my point of order, Mr. Chairman.

Mr. KUCINICH. Mr. Chairman, would the gentleman please restate his point of order?

Mr. LEWIS of California. I object on the ground that this is legislation on an appropriations bill; and because of that, it is subject to a point of order, I believe, and I place that point of order and I object.

The CHAIRMAN. Does the gentleman from Ohio (Mr. KUCINICH) wish to be heard on the point of order?

Mr. KUCINICH. I certainly do.

The CHAIRMAN. The gentleman from Ohio is recognized.

Mr. KUCINICH. Mr. Chairman, I want to state that as a matter of law, this amendment complies with the rules of the House. The Department of Defense Inspector General is required by the Chief Financial Officers Act of 1990 to perform audits. There can be no dispute about that.

This law requires the Inspector General to report its findings to Congress. It cannot be disputed. The Comptroller General of the United States sets accounting standards for the United States Government, absolutely true. These standards are required to be followed by the Inspector General in the Chief Financial Officers Act of 1990.

Mr. Chairman, I have just stated chapter and verse why this amendment is in order. It is not legislating on an appropriation bill. Anyone familiar with these laws, with the Inspector General act, with the Chief Financial Officers Act, with the comptroller general's responsibilities for setting accounting standards, and with the standards required to be followed by the IG and the chief financial officer knows that we certainly are in a position of being able to offer this amendment and to call on a vote on it.

The CHAIRMAN. Does the gentleman from California (Mr. LEWIS) wish to be heard further on this point of order?

Mr. LEWIS of California. Mr. Chairman, I have made a point of order because this is legislation on an appro-

priations bill, and it violates clause 2, rule XXI. I understand the rule is that an amendment to a general appropriation bill shall not be in order if it changes existing law.

Further, Mr. Chairman, it is my understanding that expressing an opinion is not required under the CFO act.

I ask for a ruling of the Chair.

The CHAIRMAN. The Chair is prepared to rule on the point of order.

The gentleman from California (Mr. LEWIS) makes a point of order that the amendment changes existing law in violation of clause 2 of rule XXI. The gentleman from Ohio (Mr. KUCINICH) has the burden to show that the amendment does not change existing law.

In the opinion of the Chair, the gentleman has failed to meet his burden as to showing that, under law, the Inspector General is required to express an opinion on the financial statements, beyond the general auditing requirement in 31 U.S.C. 3521(e).

The point of order is sustained.

Are there any further amendments?

AMENDMENT OFFERED BY MR. SPRATT

Mr. SPRATT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SPRATT:

Page 34, line 2, after the dollar amount, insert "(reduced by \$30,000,000)(increased by \$30,000,000)".

Mr. SPRATT. Mr. Chairman, this amendment would take \$30 million out of the space-based kinetic intercept program, leaving \$14 or \$15 million for concept definition, which is the status of it anyway, and instead, shift that \$30 million to another program, a vitally important program as part of missile defense which has been debited by this bill, the airborne laser bill.

So it would not decrease by any means the total amount appropriated by this bill for ballistic missile defense. It would simply reallocate within those accounts \$30 million, shifting it, as I said, from the space-based boost phase interceptor over to the airborne laser system to make up for 50 percent of a cut which the committee has made in that particular program.

Mr. Chairman, some 15 years ago when the SDI program, Strategic Defense Initiative, was first begun, it was to be a layered defense. There were to be ground-based layers and space-based layers.

One of the space-based layers was a space-based intercept system. It would have been a satellite which would have housed many different smaller satellites, each of which would have housed many different interceptors, each of which could be fired at missiles as they were launched, or even in the midcourse, as they came towards the United States.

The problem with this system, in addition to the fact of being an enormous system, was that in a fixed orbit in

space a target this large with that many interceptors on it was a very valuable target and a very vulnerable target; and any country able to fire at us an ICBM that really put us at risk would also be able to build what is called a DANASAT, a direct ascent ASAT, to take out that defensive system.

So to avoid the inherent vulnerability of having predeployed satellites in space, the idea of Brilliant Pebbles was conceived. This system, the SBI system, was abandoned and Brilliant Pebbles was taken up.

The idea of Brilliant Pebbles was to make this target not so valuable and not so vulnerable by making each satellite a single interceptor. Each would have been self-sufficient and able to sense what was coming on and able to propel itself towards that oncoming missile and take it out.

Members can imagine how daunting this technology is. Because the technology was so daunting and the cost of lift and other things was so enormously expensive, the Brilliant Pebbles program was abandoned, as well.

We have spent substantial sums of money, therefore, on space-based interceptors and boost phase interceptors in space. We have abandoned both. We should learn from our mistakes. We should learn from our mistakes and concentrate on what has worked and put our assets where they are likely to pay off in the near term. That is exactly what we are trying to do today.

I am not opposed to boost-phase intercept. In fact, what I am trying to do is shift some money from a system not likely to work any time soon into a system that shows the promise of being an effective space-based or boost-phase interceptor, the ABL, the airborne laser.

Why do I do this? One reason for doing it is that if we look at what the Missile Defense Agency, the BMD agency is doing today, we will see they have a full plate, a fuller plate than they have had since SDI began. They are developing a ground-based midcourse interceptor; they are developing two or three variations on a ship-based midcourse interceptor and a ship-based boost-phase interceptor; they are developing theater systems like the PAC-3, the THAAD, the MEADs. They are developing laser systems, airborne laser systems, and space-based laser systems.

They need to winnow down some of these systems and focus on what works and try to bring those things that are most feasible to fruition, as opposed to going off in pursuit of a million different ideas. So that is what we would try to do here, refine the focus of the program on a system that is likely to work, taking out of a system that has been proven not to work in at least two iterations over the last 15 years.

Let me say that this system right now, this so-called space-based boost-

phase intercept system, is relatively, relative to the defense budget, a small system. It is \$23 million, or \$23.8 million is the funding level for this year. The President requested \$54.4 million. We would leave in the budget \$14 million for this program; but as I said, we would shift the program.

Now, it does not seem like it is really crowding anything out at that level of funding. What we have to do is look at what the MDA, the Missile Defense Agency, has provided us in a backup and justification charts for the cost growth they expect in this particular program, the boost-phase intercept program. They expect the cost to go up to \$510 million.

The CHAIRMAN. The time of the gentleman from South Carolina (Mr. SPRATT) has expired.

(By unanimous consent, Mr. SPRATT was allowed to proceed for 2 additional minutes.)

Mr. SPRATT. Mr. Chairman, this program will go from today's modest level to \$510 million in just 10 years. When it gets to that level, it is going to crowd out and preclude something else.

The ABL, on the other hand, the airborne laser, needs money to buy, number one, a second airframe, a Boeing 747; and, number two, and even more critically, it needs some money to buy long lead time items that will make this airframe a suitable platform for a laser that will weigh 200,000 to 250,000 pounds and has to have absolute stability if it is going to work and be functional at all.

What we would put back in this budget, we would take the money out of one program and put it back in the ABL so we could buy those critical long lead items. If we do not buy those critical items, if we let the \$30 million deletion stand in this budget, we are going to find that this program is going to be stretched out and out and out, and it is not going to be ready to be tested to determine whether or not the power system, the laser system, will have the power necessary to be an effective system by the year 2005 or 2007.

Mr. Chairman, this is a very constructive amendment, and it does not take a dime out of the overall program. It will enhance the prospects for boost-phase intercept. It will ensure that the money we are spending on ballistic missile defense is being spent more effectively and is being spent towards accomplishing the purposes that we have set out for the program.

I urge support for this amendment.

Mr. LEWIS of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I was going to rise to try and strike this item on a point of order, but the gentleman from South Carolina is such a quality gentleman, he had done the homework on this amendment in a fashion so that it is not subject to a point of order.

But in the meantime, let me say that the thrust of his amendment, really an intent, has essentially the same purpose as the amendment that I did object to, regard space-based missile defense. He does speak to the question of putting funding back into airborne laser.

I might mention to the gentleman that this bill increases funding for that program, increases it enough so that the Department will have a decision to make whether they want to put the money into a more robust program or to go to the second aircraft. So I think we have really met that challenge within the work of the bill.

On the other hand, the question relative to space-based kinetic energy I think is a matter that was fully discussed in the authorizing committee and on that bill as it moved through the House.

The CHAIRMAN. Does any other Member wish to be heard on the amendment?

Mr. DICKS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I believe the gentleman has made a very important case here. The Airborne Laser program is one I have followed closely. I think it is on the verge of being tested, and I just want to commend the gentleman from South Carolina (Mr. SPRATT), who I think is the most knowledgeable person in the Congress on these issues, for the good work that he has done over the years in following these issues.

We do not want to do anything to slow down this first test on the airborne laser so we can find out that it will work. In fact, last year I urged the committee to put money in so we would not let the test be delayed. So I urge the committee to adopt the Spratt amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina (Mr. SPRATT).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. LEWIS of California. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from South Carolina (Mr. SPRATT) will be postponed.

Mr. BLUMENAUER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, one of the areas that I am most deeply concerned about in the course of our dealing with the Department of Defense deals with the consequences of military activity over the course of the last 2 centuries. Unfortunately, we have left a legacy of unexploded ordnance, toxic waste that is involved from border to border, from coast to coast. It is in every State and virtually every congressional district.

Unexploded ordnance, UXO, as we talk about it, is left over from military

training exercises at some 2,000 formerly used defense sites and closed bases in every State; and in fact, we really do not have an inventory of actually how many millions of acres; it may be 10 million, it may be 50 million.

□ 1230

These sites include bombing ranges, testing facilities that were once located in underpopulated areas. However, we find that, today, distance is no longer a protective factor; and sites are now often bordered by housing developments or schools or contained within parks and other public lands.

Recently, there was a gentleman rototilling in his yard in a subdivision in Arlington, Texas.

Mr. MURTHA. Mr. Chairman, will the gentleman yield?

Mr. BLUMENAUER. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, we think this amendment is a very important area. We will take a look at it and see if we cannot add money to this field. There is no question in mind that the gentleman has hit an area that a lot of Members are interested in. We will take care of the problem.

Mr. BLUMENAUER. Reclaiming my time, I appreciate the gentleman's comments and interest; and I guess I do not need to get up and thump the tub any further. But I would be interested if the chairman of the committee has any observations about the work that we may be able to do to deal with the research and development and the cleanup of unexploded ordnance.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. BLUMENAUER. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman bringing up this important subject. I could not respond any better than my colleagues from Pennsylvania did, and we look forward to working with the gentleman.

Mr. BLUMENAUER. Mr. Chairman, I deeply appreciate the gentleman's interest and activities; and, too, I look forward to working with the gentleman.

I would note that there appears to be a growing awareness on the part of Members across the country. I will save my stump speech, but I would just mention that there is one site we had a hearing on yesterday that is still, the campus of the American University, that 84 years after World War II we are still cleaning up chemical weapons.

I think there is lot we can do. I appreciate the assurance and look forward to working with the gentleman.

Mr. KENNEDY of Rhode Island. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just want to rise to commend the chairman, the gentleman from California (Mr. LEWIS), and the

ranking member, the gentleman from Pennsylvania (Mr. MURTHA), for their excellent work on this bill. I look forward to working with them on the training of our National Guard. I know that the Guard is about to deploy in Pennsylvania. General Centraccio in my home State of Rhode Island has been very active in making sure our Guard is prepared and trained.

We are relying on the Guard more than ever, and they are part of our total force, especially in this war on terrorism. I think they need to get the needed training and equipment that they need to do their job successfully.

I know this bill goes a long way to doing that. I look forward to working with the gentleman from Pennsylvania (Mr. MURTHA) to ensure that they continue to get the best training available.

I rise today to commend Chairman LEWIS and Congressman MURTHA for their work on this legislation. Their task hasn't been an enviable one, given the limited budget allocations that they were forced to work with.

In the end, they made it work. Looking at the bill that they produced, everyone can see that Chairman LEWIS and Congressman MURTHA are dedicated to our military and the security of our Nation at home and abroad. The safety and security of our Nation and the training and readiness of our military came first—just as it should.

I'd also like to associate myself with the comments of Mr. MURTHA made when the Appropriations Committee was discussing this legislation.

He expressed his belief in the importance of ensuring that our soldiers receive the best training in the world to fight in our war on terrorism. He reminded us that the National Guard and the Reserves are a vital component in winning this war. He mentioned that the Pennsylvania Guard is about to deploy to Bosnia to initiate operations. In Rhode Island, General Centraccio is leading the Rhode Island Guard on a similar course. These Guard personnel are dedicated men and women, average American citizens, who are putting their lives on the line for their country.

As Mr. MURTHA mentioned, we owe it to them to ensure that they have the absolute best training and equipment available to do their job right in areas like marksmanship which I know is important to both Mr. MURTHA and Mr. LEWIS.

I deeply appreciate the opportunity to work with the Committee on these and other issues. I look forward to continuing the good work we have begun to ensure that our men and women in uniform have access to the best training available.

AMENDMENT OFFERED BY MR. KUCINICH

Mr. KUCINICH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KUCINICH:

At the end of the bill (before the short title), insert the following new section:

SEC. . Of the total amount appropriated pursuant to this Act for any component of the Department of Defense that the Director of the Office of Management and Budget has identified (as of the date of the enactment of this Act) under subsection (c) of section 3515

of title 31, United States Code, as being required to have audited financial statements meeting the requirements of subsection (b) of that section, not more than 99 percent may be obligated until the Inspector General of the Department of Defense submits an audit of that component pursuant to section 3521(e) of title 31, United States Code.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. KUCINICH. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I want the gentleman to know I am inclined to accept his amendment if we do not have to spend a lot of time discussing it, since we have discussed the matter already.

Mr. KUCINICH. Mr. Chairman, I want to thank the gentleman and certainly would yield to his higher wisdom.

Mr. LEWIS of California. Mr. Chairman, with that, we will accept the amendment if we can move forward.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. KUCINICH).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TIERNEY

Mr. TIERNEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TIERNEY:

In the item relating to "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE", after the dollar amount, insert the following: "(reduced by \$121,800,000)".

Mr. TIERNEY. Mr. Chairman, this particular matter, an amendment, goes to reducing the budget by \$121.8 million that is now earmarked for the construction of five silos at Fort Greely. This does not deal with research but rather the construction.

You will remember that earlier in our remarks we talked about the fact that the Department of Operational Testing and Evaluation had come before committees in this Congress to indicate that the national missile defense system, particularly this mid-range system, is nowhere near a point where it had been tested adequately to sufficiently give anybody confidence in its reliability; and, in fact, the experts and director of that department had indicated we should not move forward with construction until we adequately test it.

The fact of matter is that is why Congress passed the act setting up the Office of Operational Testing and Evaluation, because we had in the past allowed services to go forward and build weapons systems that were not adequately tested, resulting in enormous losses of money and great losses of time in trying to build the defense of this country. So the fact of the matter here is we concentrate on the premature construction and not the research of this.

You will remember that when Mr. Coyle, who was the former director of that agency, came before Congress and testified that the testing regime was

inadequate, the answer we got from the Department of Defense was to pull it in and say they will now do an entirely different system of testing. This one would lump all the research and development and construction together, and it would be more difficult to separate one out from the other. They would also do what they call the capabilities-based system, as opposed to a system where we set out goals and tried to meet those goals as we went forward and we could measure and identify the progress in developing a system and whether or not it was working.

When asked about the real capabilities of these Fort Greely interceptors, General Ronald Kadish, the head of the Missile Defense Agency, seems to be of two minds. On one hand, he calls it a limited capability, a residual protection, not perfect by any means, but then he testified before the Committee on Armed Services in February and said he had high confidence that this would be capable to be put in place by 2004.

The fact of the matter is that that is not the case, and because it is not the case we should not be spending money to construct something that has not been adequately tested.

Now the problem that we have here is that usually we would have a Test and Evaluation Master Plan, or what we call a TEMP, by which we could judge where this is going, but the administration has not given us one. We would devise specific tests and goals and time lines. That was originally due in June. It has yet to be completed. It has now been pushed off to the fall, maybe later.

Normally, as an alternative, Congress would have certain minimum requirements established by military planners in so-called operational requirements documents, but the administration has canceled those as of January.

Pentagon officials have also failed to deliver many other technical documents, including the program implementation plan. So, essentially, they are leaving us all out there without any guide or direction as to whether or not we can measure the progress on this. They are ignoring the technology. They are rushing ahead on construction without any thoughtful testing regimen and forcing us to get a situation where we will have to retroactively correct mistakes and errors, costing billions of dollars and a great deal of time.

So we had a hearing and a briefing. We called in Mr. Coyle, and we called in people of the Union of Concerned Scientists, experts on this matter, for specific questioning about whether or not these programs and aspects of it, separate components of it, were really going to be operational and capable by 2004. We learned that that will not be the case.

We first asked about the X-Band Radar System. The Pentagon thought this system is essential to any ground-based system. We were told that it will not be in place by 2004.

Then we asked about the space-based infrared satellite system, the so-called SBIRS. We were told that those would not be in place near operational and capable by 2004. In fact, we are looking a decade or more out on that.

We then talked about whether or not we would have a Cobra Dane Radar as a substitute for the X-Band Radar, even though it would not come anywhere remotely close to doing all of the things that the X-Band Radar was called upon doing; and we were told at best that would be extremely limited and would not serve the purposes of testing or having it be operational at that point in time.

We talked about whether or not flight tests would be conducted with significant information being provided by the interceptor before the launch, because essentially that is what we have been doing. We have been telling the interceptor ahead of time where the target is. You can bet no enemy is going to do that.

By 2004, Mr. Coyle and the Union of Concerned Scientists told us that we would not have had a single test conducted without advanced information on trajectory for the incoming missile given to the interceptor. Nor would we have an opportunity to have any tests done without first telling the interceptor where the launch location was. So it is noes all the way down the line to there.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. TIERNEY) has expired.

(By unanimous consent, Mr. TIERNEY was allowed to proceed for 2 additional minutes.)

Mr. TIERNEY. Mr. Chairman, we then asked whether or not the flight intercept tests by 2004 would be able to tell us whether or not countermeasures would be effectively taken into account in the test; and we were told that, no, that would not be done.

We then asked whether or not it was important to test the system for different kinds of weather, and we were told it was, but those types of tests would not be done by 2004.

We asked whether or not there would be a simple target sweep or a complex target sweep and whether or not there would be tests done on complex target sweeps, and we were told that that would not be done.

We talked about the fact that, so far, any target has had a beacon on it so that the enemy setting it up would have to have a red light telling it where it was to be hit, and they said there would be no test without the beacon being on target ahead of time.

So right on down the line we have had a system of boosters that have

been plagued with problems, and we were told that any booster productivity by 2004 would be extremely unlikely. More likely that is a decade out. So we are using a booster system that will not even be the final one when this becomes operational.

Mr. Chairman, the bottom line on all of there is there is no way we should start building this, no way we should start building it until it is fully tested. We cannot under any conditions, by the former operations and technical person at the Pentagon, have this in place and operational and capable by 2004.

Why are we spending taxpayers' hard-earned money when we have so many other needs in defense? Primary among those are homeland security issues, pay for our troops, housing for our troops, right on down the line. Instead, just because someone treats this program like religion, we are out here allowing them to get away with starting to build something that we have not tested. We are throwing good money after bad.

The worst part of it is, Mr. Chairman, that now the Pentagon tells us, because they were found out about how bad their testing regime is, now they will classify everything so nobody will get the information.

You can bet every time they have a test they will tell you it is a success. What they will not tell you is that they are testing it knowing where the launch point was, knowing what the trajectory was, knowing there is a beacon on the target, knowing there are no countermeasures, knowing everyone will know the answer before it starts, and that does not serve the American taxpayer well in the defense of this country.

Mr. LEWIS of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take the 5 minutes, but the gentleman is a member of the authorizing committee and he knows full well this has to do with authorizing policy. The fact is, we have begun spending money and we have already provided a considerable amount of money to build those silos in Alaska, that are designed to do the testing he says we are not interested in doing.

The reality is that this amendment takes the heart out of our ability to even consider ground-based missile defense, which is pretty fundamental when we consider possibilities for protecting our country in the future.

Because of that, I very, very strongly object to this amendment. I would do so even if I did not object to the fact that the gentleman did not discuss it with us before we came to the floor.

Mr. KUCINICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to thank the gentleman from Massachusetts (Mr. TIERNEY) for the work he has done on

this and ask the gentleman if he would answer a question.

In looking at this presentation here, am I to understand that what the people in charge of this program have done is that they have basically failed to prove in any way that this system can work?

Mr. TIERNEY. Mr. Chairman, will the gentleman yield?

Mr. KUCINICH. I yield to the gentleman from Massachusetts.

Mr. TIERNEY. Mr. Chairman, that is absolutely accurate, and when they failed to do that they then tried to change the nature in which they proceed with the system to make it harder to measure, and now they are trying to classify it.

If I could add one word and make note of what the chairman said, this is strictly a matter of money in this case. It identifies only construction issues and not research issues and in no other way impedes the Department of Defense moving forward research on this. In fact, the very point is, let us research and know what it is we are building before we start throwing bad money after good.

Mr. KUCINICH. Reclaiming my time, I appreciate what the gentleman says. Let us just conduct our own simulation here.

Here is an incoming missile. Is there going to be a beacon on an incoming missile?

□ 1245

Mr. TIERNEY. Mr. Chairman, the way they have structured it so far, there will not be any tests before 2004 where the beacon will not be present.

Mr. KUCINICH. So there is an incoming missile for this test that has a beacon on it?

Mr. TIERNEY. Mr. Chairman, it or some of the target suite will have a missile beacon on it.

Mr. KUCINICH. Have they had tests where they had a beacon on it and they failed that test?

Mr. TIERNEY. It is possible, though some of the earlier tests had that scenario.

Mr. KUCINICH. Mr. Chairman, so they had earlier tests when even when they put a sign on it that said hit me, they were still unsuccessful?

Mr. TIERNEY. That is right.

Mr. KUCINICH. Mr. Chairman, so from my colleague's recitation here, what my colleague is saying basically and what has been testified to is that the tests have been basically tricked up to make it appear that this system works?

Mr. TIERNEY. I am saying that the testimony was from the Pentagon's own person, the person who was in charge of doing operational testing and evaluation, Mr. Coyle. It was his job on behalf of the Pentagon, as directed by this Congress, to evaluate whether or not the testing regime was adequate,

and it was not. It was basically found that all of these things would not be ready by 2004 and that the whole testing program fell short of giving us any reasonable amount of confidence that the system would be reliable.

Mr. KUCINICH. Mr. Chairman, reclaiming my time, let us just go over this now. My colleague is saying that in these tests they are giving advance information, this missile coming in, they have advance information on what the trajectory is going to be and what the speed is going to be and what time it is going to be launched and where it is going to be launched from and what the countermeasures might be; and even though they have advance information, they still cannot make this work?

Mr. TIERNEY. Mr. Chairman, will the gentleman yield?

Mr. KUCINICH. I yield to the gentleman from Massachusetts.

Mr. TIERNEY. Mr. Chairman, they have a history of having failures. They have had some successes, but none of the successes without those additional components.

Mr. KUCINICH. Reclaiming my time, where they have had success, they have been given advance information. Now in a real life scenario are they likely to have advance information on trajectory and speed and launch time? Is that likely?

Mr. TIERNEY. Mr. Chairman, will the gentleman yield?

Mr. KUCINICH. I yield to the gentleman from Massachusetts.

Mr. TIERNEY. Mr. Chairman, no, it is not likely; and Mr. Coyle made that point, that they do not have the realistic testing scenarios in place and planned for execution before 2004. That is what they should be doing. They should be having realistic scenarios in place and done and completed and be evaluated before we get to the point of building. We have a very bad history in this country, prior to the legislation we passed to set up Mr. Coyle's Department, of having built things before they were adequately tested.

Mr. KUCINICH. So basically we have a system here where they are testing technology, but they are not accepting the results?

Mr. TIERNEY. Mr. Chairman, we have a system here where they are testing, and they have not tested adequately to get to the point to where they should be constructing.

Mr. KUCINICH. If we were to adopt the gentleman's amendment, how would this effect a beneficial purpose for the American taxpayers?

Mr. TIERNEY. Mr. Chairman, if the gentleman would yield, it would at least stop them from starting to build something that they have not adequately tested. They could continue to research. They could continue to move in the direction of trying to find a way to make a system like this work; but

we would not be spending money on building something only to run the extreme risk of having to change it later on at a higher cost and much delay in the program, and that money could then be used more fruitfully on some of the higher priorities of our defense, including homeland security.

Mr. KUCINICH. Mr. Chairman, I want to thank the gentleman for his work on this, and I am supporting his amendment.

Mr. TIAHRT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, what I really appreciate about this country is that we can have an open forum and allow two lawyers to talk about rocket science. What the gentleman just brought up here is 12 parameters on a rocket test. I would like to talk just a little bit about speaking on only 12 parameters on a rocket test. The facts of the matter is that there will probably be close to 12,000 parameters addressed in the series of tests that we are going to be doing out of Fort Greely, Alaska. I think before I go on, I want to talk a little bit about why we are going to have these tests.

There is a need to have protection from incoming intercontinental ballistic missiles. Today we know that Russia has those capabilities as do some of the former Soviet countries that were part of the former Soviet Union, USSR. We know China has that capability. India is working on that capability. North Korea is working on that capability and has launched a three-stage rocket. Fortunately, the third stage did not fire, but it is just a matter of time.

Iran, Iraq is also pursuing this technology; but we are not doing it for today. Listening to the previous discussion, it sounded like we were expecting something to be ready either by this December or we should not do it at all. This is a very complex system, but this is a complex system that has had successful tests; and even the gentleman admitted, yes, there have been some successes.

The success was that we fired a rocket off out of the Pacific, a second intercepting rocket was launched from a land-based location, and in essence, a bullet hit a bullet thousands of miles from the location from where either of these rockets were launched, thousands of miles, a bullet hitting a bullet, tremendous success, wonderful success.

I do not think we can get two lawyers, one on each end of the Capitol, have them shoot at each other, ever get a hit on a bullet; but these scientists were able to do this at thousands of miles, a tremendous technical achievement.

We are expecting it to happen immediately, or we should do not it at all? Well, it is going to take time to continue this technology so that we can be

successful in protecting, not ourselves necessarily, but our posterity, our children. North Korea does not have an intercontinental ballistic missile yet, but they will have. Countries that are rogue nations, with rogue leaders will have that capability in the future. We do have a constitutional requirement to provide for the common defense of our citizens. We cannot do it without a system like this. It does not happen overnight. We have to work on it over time. We have to invest time; we have to invest money. We have to expect some failures. But it is an incredible technology.

For us to shut the water off on this is very shortsighted. It ignores the future. It ignores the safety of our citizens, my children, our children. We cannot turn our backs on this. It is a reality. It is an achievable technology. It is a necessity, and for us to stop this is very shortsighted and I think, hopefully, improbable. I think that is the general feeling here in the House is that we should provide for the common defense of our children, and that is a viable means of doing that.

One of the other things I wanted to say about the location is that Fort Greely, Alaska, is probably the best location to run this battery of tests, to measure these parameters. The location has been studied. Construction has already started. It is very important that we continue with this program; and I think that the Pentagon, the administration, the rocket scientists have a very good plan. It is a well-thought-out plan. It measures every facet. It starts with a design concept. It develops documents as to what test requirements are going to be required, what the statement of work, the total environment of this test activity, every little stress point on these rockets that is going to be measured. It is going to be able to hit a bullet with a bullet, thousands of miles over the Pacific or over areas remote from our country; and that is something that we need to think about as a priority for our children, because the reality is, it is going to occur.

My colleagues cannot convince me that Mu'ammar Qadhafi or Saddam Hussein or some future despot is not going to want to use that leverage on America. How do we protect ourselves from that? We have to have a system, an umbrella around our citizens, around our children. So, Mr. Chairman, I ask that this amendment be opposed and that we continue on with the business of the day.

Mr. HINCHEY. Mr. Chairman, I move to strike the requisite number of words.

I, first of all, want to congratulate the chairman of the subcommittee as well as the ranking member for constructing a very good bill. There is no question that this is a very good piece of legislative work. Nevertheless, I rise

here this afternoon to support this amendment because I think it makes a very constructive improvement to the legislation that we are currently considering.

A week ago today, the Bush administration unilaterally withdrew the United States of America from the antiballistic missile treaty which had been in effect since 1972. This is a treaty which has stood the American people and the people of the world in good stead for 30 years. It has had the effect of reducing tensions, reducing the likelihood of a nuclear attack by any country; and it is a treaty that I think ought to continue to be in existence, but the administration withdrew us from that treaty so that they could begin the construction of these facilities in Alaska and elsewhere.

In doing so, the allegation is, and we have just heard an exposition of that from the gentleman from Kansas just a moment ago, that all of this is designed to improve our security; but in fact, I think what we are seeing is the opposite is happening. As a result of our withdrawal from the ABM treaty, the Russian military is already talking and pressuring the leadership in Russia to put their missiles on higher alert. They are already discussing multiple, independently targeted reentry vehicles, in other words, MIRVing the system, putting more warheads on their missiles. In other words, the effect of the withdrawal from the treaty has already begun to increase tensions on both sides and putting the Russian nuclear missile system on a higher position of alert.

What this amendment does is prevent the expenditure of \$181-plus million for the construction of these silos. It is a very thoughtful and very prudent initiative, and it is one that we ought to follow. We ought to follow it because the expenditure of that money is premature; and if we do expend it and this construction goes forward, it is going to increase tensions additionally even further.

We have also heard it expressed very, very clearly that the physics of this system has not been proved, not in any sense. The success that we heard about just a moment ago is a false success. It is a success that has demonstrated over and over again that in spite of the fact that we know where the launch is coming from, what time the launch is occurring, the trajectory of that launch, where the missile will be at a precise moment in time, in spite of that, the tests have failed over and over and over again. There has been some minimal success, but the preponderance has been failure.

Such that, as we heard from the gentleman from Massachusetts (Mr. TIERNEY) a moment ago, Phillip Coyle, who is the former Pentagon chief investigator, said earlier this year in February that some aspects of this tall

order are virtually impossible; and the overwhelming evidence from the scientific community agrees with that. Scientists over and over and over again studying the physics tell us that we have not tested this system enough to demonstrate that it is going to work; the physics of it are impossible.

So what we are offered here today is an opportunity to improve this bill, reduce the expenditures by \$181 million, and instead of increasing tensions and reducing national security, to improve national security by the adoption of this amendment.

I support the amendment, and I hope that the House will do so as well.

Mr. DEFAZIO. Mr. Chairman, I move to strike the requisite number of words.

I had not intended to speak on this amendment, but heard the gentleman before me when I just came back from the energy conference to my office. I believe there is a credible nuclear threat against the United States of America. There is a possibility that a rogue nation or terrorist group will deliver a nuclear device to the United States of America, but it will not be on the tip of a missile.

This misbegotten technology, if it ever worked, would not defend against a depressed launched trajectory missile from a submarine, against stealth missiles, against bombers, against all those other threats. But not even those are the real threats, and that is not the real failing of this. It will not defend against the container, one of the 500 million that come to the United States every year. That is the most likely vehicle for a nuclear bomb in the United States of America. A simple bomb attached to a GPS device gets to a certain point in the United States and it blows up.

□ 1300

And guess what? While we are spending \$100 billion or more of our hard-earned tax dollars to try and take this totally failed and continually failing system, one that has to be notified in advance, has to have a GPS device tracking the incoming missile, one that cannot take on any sort of devices that would cloak or hide the missile or in any way make it more difficult to hit, they are going to be attacking us in another way.

It is a real shame. The one thing we have that really works are our satellites and our detection capability. The second that one of those rogue nations launches a missile against the United States, we will know it, and in 20 minutes that nation would no longer exist.

They are not going to launch missiles against the United States. They might buy a junk freighter, they might sneak it into a container, or they might put it in a van and drive it across the border from Mexico or Canada. There is a

whole bunch of ways they might deliver a nuclear weapon to the United States. And while we are wasting money on this program to enrich the defense contractors with failing technology, they will be making their plans.

It is just extraordinary to me after 9-11, when they commandeered our civilian aircraft and used them as weapons of mass destruction, that we are still obsessed with trying to build technology to fight a threat that does not exist.

Yes, the North Koreans. The North Koreans once launched a missile that, if it had worked, might have reached the United States; and someday they might have two or three of them. Well, the leader of North Korea might be nuts, but he is not nuts enough that he wants to turn his country into nuclear glass.

Our assurance of deterrence, mutually assured destruction, in this case, is not mutually assured. They might hit some tiny corner of the United States, which would be very tragic, and I doubt very much they will even try to do that, but we would totally devastate them. That is not the way they will deliver these threats.

There are credible threats. Let us invest some of this money in a technology to screen the 500 million containers coming into the United States, to screen the Mexican semis that are about to start streaming across the border to all points in the United States with no inspection.

How do my colleagues think they are going to deliver it? They are not going to try to build a missile and then shoot it at us and let us detect it. They will put it in a truck, they will put it in a container, maybe a suitcase or maybe a van. And while we are wasting all this money for technology that probably will not work anyway, they are going to be planning a credible attack.

Mr. DOGGETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in the aftermath of September 11, there is even more interest than usual in rushing legislation through the House. Certainly all of us respect the time, effort, and expertise of this subcommittee in trying to develop the best bill. There is not a Member of this House that does not want to provide every dollar that is essential to securing the future of America and of every American family. But I believe it is appropriate, as is happening here on the floor of the House today, that we at least devote as much time to this expenditure of \$354 billion of taxpayer money as we normally allot to a bill naming a post office.

I commend the gentleman from Massachusetts for his courage in advancing these amendments, because the most recent sequel of the Administration's *Star Wars* plans is considerably similar

to the most recent sequel of the *Star Wars* movie. It depends in the main on gimmicks and special effects.

One of our colleagues has told us today about the success of one of a number of tests that was done with a bullet hitting a bullet. If my colleagues believe that our adversaries will choose a clear night, will announce the launch time to us, will ensure there is good weather along the full route of the missile, and, in addition, they will place a homing beacon in the missile they are firing at American cities, then, perhaps, with those disclaimers, this is a system worth considering, with one major exception. Because even under those circumstances, even under the best-case scenario, I have yet to hear a single official or a single advocate who has any knowledge about this system who is willing to say that it will be 100 percent successful.

Indeed, most people who have explored this realize that the whole Fort Greely plan is based on the premise: "Build it and it will work". And when it works, it will not work 100 percent of the time.

Well, consider with me again the tremendous horror that we all feel as we reflect on September 11, the damage, the destruction, that gouge in the earth that one can see at Ground Zero in New York City; and think for a moment how much worse it would have been if it had been a nuclear device and how many more tens of thousands of families would have suffered, as so many have already suffered from September 11.

Are we to accept as a security system for American families a system that can permit just one New York City or one Chicago or one Austin, Texas that was 85 or 95 percent effective in stopping most of the missiles from coming in? I suggest that is like going out in the rain with an umbrella full of holes. It is better to consider whether there is not a better way to stay dry than to use that kind of leaky umbrella.

It builds a sense of false security. It encourages adventurism. It encourages a foreign policy that promises the American people 100 percent security when, in fact, experts agree we are going to expose some Americans to a nuclear catastrophe to an extent that we have never seen in the history of the world. It would make a Hiroshima or a Nagasaki look like a small disaster in comparison.

I would suggest that, there is not an expert around that does not think if we build at Fort Greely and begin this kind of effort that we will not have more missiles designed to be targeted to the United States by our potential adversaries.

If the Chinese build more missiles, and there has been a suggestion that they would as a result of this kind of construction at Fort Greely, what impact might that have on the Indians

who are a little closer than San Francisco to China? If the Indians begin building more missiles because the Chinese are building more missiles, what impact might that have on the Pakistanis right across the border? And if the Pakistanis build more missiles, what impact might that have on the Iranians, with whom they have had some competition in Afghanistan? And if the Iranians build more missiles, what impact might that have on Israel? And if Israel builds more, what impact might that have on Egypt?

What we are looking at in Fort Greely is the beginning of a system that will lead to destabilization and to an arms race, the ultimate effect of which will be jeopardizing the security of American families.

It is because we share a commitment as deep as the advocates for this bill in the desire to defend our country that we speak out today against *Star Wars* and in favor of the amendment of the gentleman from Massachusetts, because we believe the true security of our Nation rests on stopping the false security of this phony *Star Wars* system.

Mr. FRELINGHUYSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the bill and to oppose this amendment and particularly to thank the chairman, the gentleman from California (Mr. LEWIS), and the ranking member, the gentleman from Pennsylvania (Mr. MURTHA), for their work with me, as well as the gentleman from Minnesota (Mr. SABO), on finding a proper replacement for the Crusader.

I want to thank the gentlemen and staff for all their work in protecting those technologies and the brain trust that goes with those jobs.

Mr. Chairman, I rise today in strong support of the Fiscal Year 2003 Defense Appropriations bill. I thank Chairman LEWIS and Congressman MURTHA, the ranking member, as well as their staff, for their work.

We are still a nation at war, and our first and foremost priority at this time must be to the men and women we have called upon to fight. Rightfully, this is the first of the regular FY03 Appropriations bills that this body will consider, and that it should be the first of the FY03 appropriations bills to be sent to the President's desk for his signature.

Since the tragic events of September 11, we have asked a great deal of our military. And Congress has acted to provide them with additional funds to purchase ammunition and equipment, to pay them better wages, and to make sure their families have a decent place to live, access to health care, while their loved ones are fighting for our freedom in Afghanistan, the Balkans, South Korea, the Middle East and around the globe.

But while it is important that we continue to meet the immediate needs of our armed forces, we must begin to look ahead at their future needs, and focus on what investments are truly worthy.

When it comes to war, we want overwhelming superiority in every way. We want our soldiers, sailors, airmen and marines, along with their guard and reserve components, to have the most advanced, most revolutionary, most lethal systems possible.

I am pleased that this bill contains \$57.7 billion for research and development on the next generation of fighter jets, ammunition rounds, communications equipment, unmanned aerial vehicles and other critical weapons. This is \$4 billion over the President's request and \$8 billion over last year's level.

However, this bill does not contain funding for one critical R&D project—the Crusader Self-propelled Howitzer, which Secretary of Defense Donald Rumsfeld proposed terminating. This system would have brought revolutionary technologies to the battlefield and provided a true "leap ahead" from the currently fielded Paladin.

While this bill on the floor today meets the administration's objective of terminating the Crusader program, this committee has recognized the need for ground-based indirect fire support capabilities, and it supports a large leap ahead toward developing the Army's next generation of these systems. I want to take this opportunity to thank Chairman LEWIS and Mr. MURTHA and his staff for working closely with me and Mr. SABO to shape the direction of the Army's replacement for the Crusader. They have put in long hours, and I believe they have crafted a compromise which keeps the Crusader's "brain trust" intact while moving ahead with the development of a lighter, more mobile, more lethal system.

Air superiority alone cannot win all our nation's future wars. We must maintain robust ground warfare capabilities, including a range of direct and indirect fire support systems. Our soldiers on the ground need direct and indirect fire support systems that can hit their targets, day or night, rain or shine.

One system that will fill that need to provide ground-based fire support is the Lightweight 155mm Towed Howitzer, which the committee has fully funded. This joint Marine Corps and Army program will provide a means for our soldiers to fire the Excalibur precision munition round. The importance of getting this system in the hands of our soldiers and Marines, sooner rather than later, is more critical given the cancellation of Crusader.

Further, to address future indirect fire support needs, the Committee has provided \$368.5 million to begin development of a future Army objective force vehicle. These funds include \$195.5 million for the maturation and transfer of indirect fire support capabilities from the Crusader, as was requested in the President's recent FY03 Budget Amendment. Additionally, the Committee provided \$173 million for the integration of revolutionary cannon technologies onto a new, lighter platform.

As a result of the language so carefully crafted by the chairman and his staff this will allow us to harness the "brain trust" behind the development of Crusader's revolutionary technologies—the liquid-cooled cannon, automated loading mechanism, crew compartment and software—and imbed them in a lighter, more mobile, more lethal replacement system.

Many of the scientists and engineers responsible for developing these revolutionary Crusader technologies work for the Program Manager for Crusader at Picatinny Arsenal in my district.

I am confident that Picatinny's "brain trust" is up to the challenge of developing a system that possesses the capabilities and advances that Crusader would bring to the battlefield in a package that is half the weight, and can become part of the Army's arsenal within the next six years.

Also contained in this bill is funding for a broad range of projects at Picatinny in areas as diverse as homeland defense, smart munitions, nanotechnology and environmental remediation, which I support because they provide our soldiers in the field with the tools they need to win.

I urge my colleagues to stand in support of the men and women who are fighting on behalf of our nation, and to vote for this bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. TIERNEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. TIERNEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Massachusetts (Mr. TIERNEY) will be postponed.

AMENDMENT OFFERED BY MR. COLLINS

Mr. COLLINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLLINS:

At the end of the bill (before the short title), insert the following new section:

SEC. ____ . None of the funds provided in this Act may be used to relocate the headquarters of the United States Army, South, from Fort Buchanan, Puerto Rico, to a location in the continental United States.

Mr. COLLINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. COLLINS. Mr. Chairman, I rise to offer this amendment to the defense appropriations bill as a technical correction to a situation dealing with the Army South Headquarters. I have discussed this with Chairman LEWIS, Chairman HOBSON, and Chairman YOUNG; and I do believe that the Chair also discussed it with the ranking member.

Mr. MURTHA. Mr. Chairman, will the gentleman yield?

Mr. COLLINS. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, we have no problem with the amendment.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. COLLINS. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, we have no objection to the amendment.

Mr. COLLINS. Mr. Chairman, I thank the chairman and the ranking member for their support of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. COLLINS).

The amendment was agreed to.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: The first amendment offered by the gentleman from Massachusetts (Mr. TIERNEY), the amendment offered by the gentleman from South Carolina (Mr. SPRATT), and the second amendment offered by the gentleman from Massachusetts (Mr. TIERNEY).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. TIERNEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Massachusetts (Mr. TIERNEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was refused.

The CHAIRMAN. The noes prevailed by voice vote, so the amendment is rejected.

AMENDMENT OFFERED BY MR. SPRATT

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from South Carolina (Mr. SPRATT) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was refused.

The CHAIRMAN. The ayes prevailed by voice vote, so the amendment is agreed to.

AMENDMENT OFFERED BY MR. TIERNEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Massachusetts (Mr. TIERNEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 112, noes 314, not voting 8, as follows:

[Roll No. 269]

AYES—112

Abercrombie	Hoeffel	Oberstar
Ackerman	Holt	Obey
Baird	Honda	Olver
Baldwin	Hooley	Owens
Barrett	Inslee	Paul
Becerra	Jackson (IL)	Payne
Berkley	Jackson-Lee	Pelosi
Blumenauer	(TX)	Price (NC)
Bonior	Jefferson	Rahall
Brown (FL)	Jones (OH)	Rangel
Brown (OH)	Kind (WI)	Rivers
Capps	Klecza	Roybal-Allard
Cardin	Kucinich	Rush
Carson (IN)	LaFalce	Sanders
Clay	Larsen (WA)	Sawyer
Clayton	Leach	Schakowsky
Clyburn	Lee	Serrano
Conyers	Levin	Sherman
Coyne	Lewis (GA)	Smith (WA)
Crowley	Lofgren	Solis
Davis (IL)	Lowe	Stark
DeFazio	Luther	Strickland
DeGette	Lynch	Stupak
Delahunt	Maloney (NY)	Thompson (CA)
Doggett	Markey	Tierney
Duncan	McCarthy (MO)	Towns
Ehlers	McCollum	Udall (CO)
Engel	McDermott	Udall (NM)
Eshoo	McGovern	Velazquez
Evans	McKinney	Waters
Farr	McNulty	Watson (CA)
Fattah	Meehan	Watt (NC)
Filner	Meek (FL)	Waxman
Frank	Meeks (NY)	Weiner
Gephardt	Miller, George	Woolsey
Hastings (FL)	Morella	Wu
Hilliard	Nadler	Wynn
Hinchey	Neal	

NOES—314

Aderholt	Capuano	Ferguson
Akin	Carson (OK)	Flake
Andrews	Castle	Fletcher
Armey	Chabot	Foley
Baca	Chambliss	Forbes
Bachus	Clement	Ford
Baker	Coble	Fossella
Baldacci	Collins	Frelinghuysen
Ballenger	Combest	Frost
Barcia	Condit	Gallegly
Barr	Cooksey	Ganske
Bartlett	Costello	Gekas
Barton	Cox	Gibbons
Bass	Cramer	Gilchrest
Bentsen	Crane	Gillmor
Bereuter	Crenshaw	Gilman
Berman	Cubin	Gonzalez
Berry	Culberson	Goode
Biggert	Cummings	Goodlatte
Bilirakis	Cunningham	Gordon
Bishop	Davis (CA)	Goss
Blagojevich	Davis (FL)	Graham
Blunt	Davis, Jo Ann	Granger
Boehert	Davis, Tom	Graves
Bonilla	Deal	Green (TX)
Bono	DeLauro	Green (WI)
Boozman	DeLay	Greenwood
Borski	DeMint	Grucci
Boswell	Deutsch	Gutierrez
Boucher	Diaz-Balart	Gutknecht
Boyd	Dicks	Hall (OH)
Brady (PA)	Dingell	Hall (TX)
Brady (TX)	Dooley	Hansen
Brown (SC)	Doolittle	Harman
Bryant	Doyle	Hart
Burton	Dreier	Hastings (WA)
Buyer	Dunn	Hayes
Callahan	Edwards	Hayworth
Calvert	Ehrlich	Hefley
Camp	Emerson	Herger
Cannon	English	Hill
Cantor	Etheridge	Hilleary
Capito	Everett	Hinojosa

Hobson	Miller, Dan	Sessions
Hoekstra	Miller, Gary	Shadegg
Holden	Miller, Jeff	Shaw
Horn	Mink	Shays
Hostettler	Mollohan	Sherwood
Houghton	Moore	Shimkus
Hoyer	Moran (KS)	Shows
Hulshof	Moran (VA)	Shuster
Hunter	Murtha	Simmons
Hyde	Myrick	Simpson
Isakson	Napolitano	Skeen
Israel	Nethercutt	Skelton
Issa	Ney	Slaughter
Istook	Norwood	Smith (MI)
Jenkins	Nussle	Smith (NJ)
John	Ortiz	Smith (TX)
Johnson (CT)	Osborne	Snyder
Johnson (IL)	Ose	Souder
Johnson, E. B.	Otter	Spratt
Johnson, Sam	Oxley	Stearns
Jones (NC)	Pallone	Stenholm
Kanjorski	Pasciella	Stump
Kaptur	Pastor	Sullivan
Keller	Pence	Sununu
Kelly	Peterson (MN)	Sweeney
Kennedy (MN)	Peterson (PA)	Tancredo
Kennedy (RI)	Petri	Tanner
Kerns	Phelps	Tauscher
Kildee	Pickering	Tauzin
Kilpatrick	Pitts	Taylor (MS)
King (NY)	Platts	Taylor (NC)
Kingston	Pombo	Terry
Kirk	Pomeroy	Thomas
Knollenberg	Portman	Thompson (MS)
Kolbe	Pryce (OH)	Thornberry
LaHood	Putnam	Thune
Lampson	Quinn	Thurman
Langevin	Radanovich	Tiahrt
Lantos	Ramstad	Tiberi
Larson (CT)	Regula	Toomey
Latham	Rehberg	Turner
LaTourette	Reyes	Upton
Lewis (CA)	Reynolds	Visclosky
Lewis (KY)	Riley	Vitter
Linder	Rodriguez	Walden
Lipinski	Roemer	Walsh
LoBiondo	Rogers (KY)	Wamp
Lucas (KY)	Rogers (MI)	Watkins (OK)
Lucas (OK)	Rohrabacher	Weldon (FL)
Maloney (CT)	Ros-Lehtinen	Weldon (PA)
Manzullo	Ross	Weller
Mascara	Rothman	Wexler
Matheson	Royce	Whitfield
Matsui	Ryan (WI)	Wicker
McCrery	Ryun (KS)	Wilson (NM)
McHugh	Sanchez	Wilson (SC)
McInnis	Sandlin	Wolf
McIntyre	Saxton	Young (AK)
McKeon	Schaffer	Young (FL)
Menendez	Schiff	
Mica	Schrock	
Millender-	Scott	
McDonald	Sensenbrenner	

NOT VOTING—8

Allen	McCarthy (NY)	Sabo
Boehner	Northup	Traficant
Burr	Roukema	

□ 1336

Mrs. TAUSCHER and Messrs. OTTER, GEKAS, LANGEVIN, CANTOR, PICKERING, KENNEDY of Rhode Island, HINOJOSA and TOM DAVIS of Virginia changed their vote from “aye” to “no.”

Messrs. INSLEE, WYNN and SAWYER changed their vote from “no” to “aye.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read the last two lines of the bill.

The Clerk read as follows:

This Act may be cited as the “Department of Defense Appropriations Act, 2003”.

The CHAIRMAN. There being no further amendments to the bill, under the rule the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SHIMKUS) having assumed the chair, Mr. CAMP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5010) making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes, pursuant to House Resolution 461, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Under clause 10 of rule XX, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, this vote will be followed by two 5-minute votes on motions to suspend the rules on the following measures:

House Concurrent Resolution 424;
H.R. 3034.

The vote was taken by electronic device, and there were—yeas 413, nays 18, not voting 3, as follows:

[Roll No. 270]

YEAS—413

Abercrombie	Boyd	Culberson
Ackerman	Brady (PA)	Cummings
Aderholt	Brady (TX)	Cunningham
Akin	Brown (FL)	Davis (CA)
Allen	Brown (SC)	Davis (FL)
Andrews	Bryant	Davis (IL)
Armey	Burr	Davis, Jo Ann
Baca	Burton	Davis, Tom
Bachus	Buyer	Deal
Baird	Callahan	DeGette
Baker	Calvert	Delahunt
Baldracci	Camp	DeLauro
Ballenger	Cannon	DeLay
Barcia	Cantor	DeMint
Barr	Capito	Deutsch
Barrett	Capps	Diaz-Balart
Bartlett	Capuano	Dicks
Barton	Cardin	Dingell
Bass	Carson (IN)	Doggett
Becerra	Carson (OK)	Dooley
Bentsen	Castle	Doolittle
Bereuter	Chabot	Doyle
Berkley	Chambliss	Dreier
Berman	Clay	Duncan
Berry	Clayton	Dunn
Biggart	Clement	Edwards
Bilirakis	Clyburn	Ehlers
Bishop	Coble	Ehrlich
Blagojevich	Collins	Emerson
Blumenauer	Combest	Engel
Blunt	Condit	English
Boehlert	Cooksey	Eshoo
Boehner	Costello	Etheridge
Bonilla	Cox	Evans
Bonior	Coyne	Everett
Bono	Cramer	Farr
Boozman	Crane	Fattah
Borski	Crenshaw	Ferguson
Boswell	Crowley	Flake
Boucher	Cubin	Fletcher
Foley		
Forbes		
Ford		
Fossella		
Frelinghuysen		
Frost		
Gallegly		
Ganske		
Gekas		
Gephardt		
Gibbons		
Gilchrest		
Gillmor		
Gilman		
Gonzalez		
Goode		
Goodlatte		
Gordon		
Goss		
Graham		
Granger		
Graves		
Green (TX)		
Green (WI)		
Greenwood		
Grucci		
Gutierrez		
Gutknecht		
Hall (OH)		
Hall (TX)		
Hansen		
Harman		
Hart		
Hastings (FL)		
Hastings (WA)		
Hayes		
Hayworth		
Hefley		
Herger		
Hill		
Hilleary		
Hilliard		
Hinchey		
Hinojosa		
Hobson		
Hoefel		
Hoekstra		
Holden		
Holt		
Honda		
Hooley		
Horn		
Hostettler		
Houghton		
Hoyer		
Hulshof		
Hunter		
Hyde		
Inlee		
Isakson		
Israel		
Issa		
Istook		
Jackson-Lee		
(TX)		
Jefferson		
Jenkins		
John		
Johnson (CT)		
Johnson (IL)		
Johnson, E. B.		
Johnson, Sam		
Jones (NC)		
Jones (OH)		
Kanjorski		
Kaptur		
Keller		
Kelly		
Kennedy (MN)		
Kennedy (RI)		
Kerns		
Kildee		
Kilpatrick		
Kind (WI)		
King (NY)		
Kingston		
Kirk		
Klecza		
Rahall		
Kolbe		
LaFalce		
LaHood		
Lampson		
Langevin		
Lantos		
Larsen (WA)		
Larson (CT)		
Latham		
LaTourette		
Leach		
Levin		
Lewis (CA)		
Lewis (GA)		
Lewis (KY)		
Linder		
Lipinski		
LoBiondo		
Lofgren		
Lowey		
Lucas (KY)		
Lucas (OK)		
Luther		
Lynch		
Maloney (CT)		
Maloney (NY)		
Manzullo		
Markey		
Mascara		
Matheson		
Matsui		
McCarthy (MO)		
McCarthy (NY)		
McCollum		
McCrery		
McGovern		
McHugh		
McInnis		
McIntyre		
McKeon		
McNulty		
Meehan		
Meek (FL)		
Meeks (NY)		
Menendez		
Mica		
Millender-		
McDonald		
Miller, Dan		
Miller, Gary		
Miller, Jeff		
Mink		
Mollohan		
Moore		
Moran (KS)		
Moran (VA)		
Morella		
Murtha		
Myrick		
Nadler		
Napolitano		
Neal		
Nethercutt		
Ney		
Norwood		
Nussle		
Oberstar		
Obey		
Oliver		
Ortiz		
Osborne		
Ose		
Otter		
Owens		
Oxley		
Pallone		
Pasciella		
Pastor		
Pelosi		
Pence		
Peterson (MN)		
Peterson (PA)		
Petri		
Phelps		
Pickering		
Pitts		
Platts		
Pombo		
Pomeroy		
Portman		
Price (NC)		
Pryce (OH)		
Putnam		
Quinn		
Radanovich		
Rahall		
Ramstad		
Rangel		
Regula		
Rehberg		
Reyes		
Reynolds		
Riley		
Rivers		
Rodriguez		
Roemer		
Rogers (KY)		
Rogers (MI)		
Rohrabacher		
Ros-Lehtinen		
Ross		
Rothman		
Roybal-Allard		
Royce		
Rush		
Ryan (WI)		
Ryun (KS)		
Sabo		
Sanchez		
Sandlin		
Sawyer		
Saxton		
Schaffer		
Schiff		
Schrock		
Scott		
Sensenbrenner		
Sessions		
Shadegg		
Shaw		
Shays		
Sherwood		
Shimkus		
Shows		
Shuster		
Simmons		
Simpson		
Skeen		
Skelton		
Slaughter		
Smith (MI)		
Smith (NJ)		
Smith (TX)		
Smith (WA)		
Snyder		
Solis		
Souder		
Spratt		
Stearns		
Stenholm		
Strickland		
Stump		
Stupak		
Sullivan		
Sununu		
Sweeney		
Tancredo		
Tanner		
Tauscher		
Tauzin		
Taylor (MS)		
Taylor (NC)		
Terry		
Thomas		
Thompson (CA)		
Thompson (MS)		
Thornberry		
Thune		
Thurman		
Tiahrt		
Tiberi		
Tierney		
Toomey		
Towns		
Turner		
Udall (CO)		
Udall (NM)		
Upton		
Velazquez		
Visclosky		
Vitter		
Walden		
Walsh		
Wamp		
Waters		
Watkins (OK)		
Watson (CA)		
Watt (NC)		
Watts (OK)		
Waxman		
Weiner		
Weldon (FL)		
Weldon (PA)		
Weller		
Wexler		
Whitfield		
Wicker		

Wilson (NM) Wu Young (FL)
Wilson (SC) Wynn
Wolf Young (AK)

NAYS—18

Baldwin Jackson (IL) Paul
Brown (OH) Kucinich Payne
Conyers Lee Sanders
DeFazio McDermott Schakowsky
Filner McKinney Stark
Frank Miller, George Woolsey

NOT VOTING—3

Northup Roukema Traficant

□ 1359

Messrs. BROWN of Ohio, JACKSON of Illinois, and PAYNE and Ms. BALDWIN changed their vote from “yea” to “nay.”

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER
PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to clause 8 of rule XX, the Chair will now resume proceedings on motions to suspend the rules on which the Chair postponed further proceedings in the following order:

House Concurrent Resolution 424, by the yeas and nays.

H.R. 3034, by the yeas and nays.

The Chair will reduce to 5 minutes the time for each electronic vote in this series.

COMMENDING CONTRIBUTIONS OF
ROOFING PROFESSIONALS INVOLVED IN REBUILDING OF PEN-TAGON

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 424.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. SULLIVAN) that the House suspend the rules and agree to concurrent resolution, H. Con. Res. 424, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 428, nays 0, not voting 6, as follows:

[Roll No. 271]

YEAS—428

Abercrombie Ballenger Bilirakis
Ackerman Barcia Bishop
Aderholt Barr Blagojevich
Akin Barrett Blumenauer
Allen Bartlett Blunt
Andrews Barton Boehlert
Armey Bass Boehner
Baca Becerra Bonior
Bachus Bereuter Bono
Baird Berkley Boozman
Baker Bertran Boswell
Baldacci Berry
Baldwin Biggert

Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons

Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleccka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)

Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Norwood
Nussle
Oberstar
Obey
Oliver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascarell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer

Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson

NOT VOTING—6

Bentsen Northup Slaughter
Brown (OH) Roukema Traficant

□ 1410

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FRANK SINATRA POST OFFICE
BUILDING

The SPEAKER pro tempore (Mr. SHIMKUS). The unfinished business is the question of suspending the rules and passing the bill, H.R. 3034.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. SULLIVAN) that the House suspend the rules and pass the bill, H.R. 3034, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 427, nays 0, not voting 7, as follows:

[Roll No. 272]

YEAS—427

Abercrombie Barrett Boehlert
Ackerman Bartlett Boehner
Aderholt Barton Bonilla
Akin Bass Bonior
Allen Becerra Bono
Andrews Bentsen Boozman
Armey Bereuter Borski
Baca Berkley Boswell
Bachus Berman Boucher
Baird Berry Boyd
Baker Biggert Brady (PA)
Baldacci Bilirakis Brady (TX)
Baldwin Bishop Brown (FL)
Ballenger Blagojevich Brown (OH)
Barcia Blumenauer Brown (SC)
Barr Blunt Bryant

Burr	Granger	Maloney (NY)	Ryun (KS)	Smith (WA)	Towns
Burton	Graves	Manzullo	Sabo	Snyder	Turner
Callahan	Green (TX)	Markley	Sanchez	Solis	Udall (CO)
Calvert	Green (WI)	Mascara	Sanders	Souder	Udall (NM)
Camp	Greenwood	Matheson	Sandlin	Spratt	Upton
Cannon	Grucci	Matsui	Sawyer	Stark	Velazquez
Cantor	Gutierrez	McCarthy (MO)	Saxton	Stearns	Visclosky
Capito	Gutknecht	McCarthy (NY)	Schaffer	Stenholm	Vitter
Capps	Hall (OH)	McCollum	Schakowsky	Strickland	Walden
Capuano	Hall (TX)	McCrery	Schiff	Stump	Walsh
Cardin	Hansen	McDermott	Schrock	Stupak	Wamp
Carson (IN)	Hart	McGovern	Scott	Sullivan	Waters
Carson (OK)	Hastings (FL)	McHugh	Sensenbrenner	Sununu	Watkins (OK)
Castle	Hastings (WA)	McInnis	Serrano	Sweeney	Watson (CA)
Chabot	Hayes	McIntyre	Sessions	Tancredo	Watt (NC)
Chambliss	Hayworth	McKeon	Shadegg	Tanner	Watts (OK)
Clay	Hefley	McKinney	Shaw	Tauscher	Waxman
Clayton	Herger	McNulty	Shays	Tauzin	Weiner
Clement	Hill	Meehan	Sherman	Taylor (MS)	Weldon (FL)
Clyburn	Hilleary	Meek (FL)	Sherwood	Taylor (NC)	Weldon (PA)
Coble	Hilliard	Meeks (NY)	Shimkus	Terry	Weller
Collins	Hinchee	Menendez	Shoemaker	Thomas	Wexler
Combest	Hinojosa	Mica	Shuster	Thompson (CA)	Whitfield
Condit	Hobson	Millender-	Simmons	Thompson (MS)	Wilson (NM)
Conyers	Hoefel	McDonald	Simpson	Thornberry	Wilson (SC)
Cooksey	Hoekstra	Miller, Dan	Skeen	Thune	Wolf
Costello	Holden	Miller, Gary	Skelton	Thurman	Woolsey
Cox	Holt	Miller, George	Slaughter	Tiahrt	Wu
Coyne	Honda	Miller, Jeff	Smith (MI)	Tiberi	Wynn
Cramer	Hooley	Mink	Smith (NJ)	Tierney	Young (AK)
Crane	Horn	Mollohan	Smith (TX)	Toomey	Young (FL)
Crenshaw	Hostettler	Moore			
Crowley	Houghton	Moran (KS)			
Cubin	Hoyer	Moran (VA)			
Cummings	Hulshof	Morella			
Cunningham	Hunter	Murtha			
Davis (CA)	Hyde	Myrick			
Davis (FL)	Inslee	Nadler			
Davis (IL)	Isakson	Napolitano			
Davis, Jo Ann	Israel	Neal			
Davis, Tom	Issa	Nethercutt			
Deal	Istook	Ney			
DeFazio	Jackson (IL)	Norwood			
DeGette	Jackson-Lee	Nussle			
DeLauro	(TX)	Oberstar			
DeLay	Jefferson	Obey			
DeMint	Jenkins	Olver			
Deutsch	John	Ortiz			
Diaz-Balart	Johnson (CT)	Osborne			
Dicks	Johnson (IL)	Ose			
Dingell	Johnson, E. B.	Otter			
Doggett	Johnson, Sam	Owens			
Dooley	Jones (NC)	Oxley			
Doornick	Jones (OH)	Pallone			
Doyle	Kanjorski	Pascarell			
Dreier	Kaptur	Pastor			
Duncan	Keller	Paul			
Dunn	Kelly	Payne			
Edwards	Kennedy (MN)	Pelosi			
Ehlers	Kennedy (RI)	Pence			
Ehrlich	Kerns	Peterson (MN)			
Emerson	Kildee	Peterson (PA)			
Engel	Kilpatrick	Petri			
English	Kind (WI)	Phelps			
Eshoo	King (NY)	Pickering			
Etheridge	Kingston	Pitts			
Evans	Kirk	Platts			
Everett	Kleczka	Pombo			
Farr	Knollenberg	Pomeroy			
Fattah	Kolbe	Portman			
Ferguson	Kucinich	Price (NC)			
Filner	LaFalce	Pryce (OH)			
Flake	LaHood	Putnam			
Fletcher	Lampson	Quinn			
Foley	Langevin	Radanovich			
Forbes	Lantos	Rahall			
Ford	Larsen (WA)	Ramstad			
Fossella	Larson (CT)	Rangel			
Frank	Latham	Regula			
Frelinghuysen	LaTourette	Rehberg			
Frost	Leach	Reyes			
Gallegly	Lee	Reynolds			
Ganske	Levin	Riley			
Gekas	Lewis (CA)	Rivers			
Gephardt	Lewis (GA)	Rodriguez			
Gibbons	Lewis (KY)	Roemer			
Gilchrest	Linder	Rogers (KY)			
Gillmor	Lipinski	Rogers (MI)			
Gilman	LoBiondo	Rohrabacher			
Gonzalez	Lofgren	Ros-Lehtinen			
Goode	Lowey	Ross			
Goodlatte	Lucas (KY)	Rothman			
Gordon	Lucas (OK)	Roybal-Allard			
Goss	Luther	Royce			
Graham	Lynch	Rush			
	Maloney (CT)	Ryan (WI)			

NOT VOTING—7

Buyer Northrup Wicker
Culberson Roukema
Harman Traficant

□ 1419

Mr. FRANK changed his vote from “nay” to “yea.”

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 5010, just passed, and that I may include tabular and extraneous material at the appropriate place in the RECORD.

The SPEAKER pro tempore (Mr. SHIMKUS). Is there objection to the request of the gentleman from California?

There was no objection.

COMMENDING MEMBERS AND STAFF OF COMMITTEE ON APPROPRIATIONS

(Mr. LEWIS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of California. Mr. Speaker, I would like to clarify the Committee's intent regarding the “SPY-1 Solid State Radar.” the Committee intends that the entire amount contained in the President's budget under the Sea Based Midcourse for Sea Based Solid State Radar development be used for the development of the S-Band SPY-1E radar.

Mr. Speaker, I did not take the time earlier for we were about to pass the first appropriations bill of the year in

record time. There was a small little train wreck that got in the way of that record time; and, thus, I will take a moment that I would have taken earlier to express my appreciation for those who made this success possible.

Both the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) have been very, very helpful in the work of Committee on Appropriations this year as it deals with national defense. I want to take a moment to especially express my appreciation to the gentleman from Pennsylvania (Mr. MURTHA), my partner in this business, for we never would have been able to accomplish the level of bipartisan support we had in the House as demonstrated by the vote without his assistance.

Beyond that, we were both blessed with very, very fine staff on both sides of the aisle who do a fine job. Kevin Roper on my side and Greg Dahlberg on the other side help lead a team of staff people who worked endless hours, weekends, night and day to make sure this bill is not just successful but that it is done in a highly professional manner, and for that we very much appreciate their work.

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 463 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 463

Resolved, That it shall be in order at any time on the legislative day of Thursday, June 27, 2002, for the Speaker to entertain motions that the House suspend the rules relating to the resolution (H. Res. 459) expressing the sense of the House of Representatives that Newdow v. U.S. Congress was erroneously decided, and for other purposes.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I consume.

H. Res. 463 provides that it shall be in order at any time on the legislative day of Thursday, June 27, 2002, for the Speaker to entertain motions that the House suspend the rules relating to the resolution, H. Res. 459, expressing the sense of the House of Representatives that Newdow versus U.S. Congress was erroneously decided.

Yesterday was a sad day for the millions and millions of Americans who understand and appreciate the significance of the Pledge of Allegiance.

Incredibly, the Ninth Circuit Court of Appeals decided to overturn a 1954 act

of Congress, which added the phrase "under God" to the Pledge of Allegiance, ruling that these two words violated the Constitution's Establishment Clause which requires the separation of church and state.

This fatally-flawed ruling, taken to its logical endpoint, would indicate that our currency, which contains the phrase "In God We Trust," is unconstitutional. Clearly, that is not true, but, in the meantime, the Ninth Circuit has issued this inexplicable ruling.

This decision, if not overturned by the U.S. Supreme Court, will force a number of Western States to remove this important phrase from the Pledge of Allegiance.

I am proud to stand with my colleagues today on both sides of the aisle as we fight to protect our American heritage. In bringing the underlying legislation, H. Res. 459, to the floor, we are reaffirming our commitment to bedrock values and beliefs that have made the United States of America the greatest country on Earth. I firmly believe that the Pledge of Allegiance should continue to include the entire phrase "One Nation Under God."

I want to thank the chairman of the House Committee on the Judiciary, the gentleman from Wisconsin (Mr. SEN-SENRENNER), for his leadership in bringing this important legislation to the House floor so quickly, given that the Ninth Circuit's ruling was handed down only yesterday afternoon.

I urge my colleagues and fellow Americans getting ready to celebrate the birth of our country next week to remember the spirit that made us a great Nation.

The phrase "One Nation Under God" reflects a spiritual belief that was so important to our forefathers, a belief in God that was instrumental to the founding of our country. I believe we, as members of Congress, we have a duty and an obligation to express our vigorous disagreement with this ruling, rather than simply allow it to stand unchallenged.

On a personal note, Mr. Speaker, in 1976, in the Georgia legislature, my friend, Tommy Tolbert, and I provided an amendment to the education bill that required every class in Georgia to make available at some point during every day the Pledge of Allegiance for the students in those classes throughout Georgia; and now some clown from the Ninth Circuit, as it has been called, decides that the Congress did not know what it was doing in 1954.

I urge my colleagues to join me in supporting this rule and then supporting the underlying legislation which will allow the House to go on record in regard to this out-of-touch ruling.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleague, the gentleman from Georgia (Mr. LINDER), for yielding me the customary time.

Mr. Speaker, this rule provides for the consideration of H. Res. 459 under suspension of the rules. The underlying resolution expresses the sense of this House that Newdow versus U.S. Congress was erroneously decided.

Mr. Speaker, I urge my colleagues to support this rule and to support the underlying resolution.

Yesterday, a three-judge panel of the Ninth Circuit Courts of Appeals ruled that the Pledge of Allegiance is unconstitutional. It is difficult to describe that decision as anything but just plain dumb.

I strongly support the separation of church and State, and I strongly support the provision in the first amendment that prohibits government from establishing State-sponsored religion. The first amendment protects American citizens from government interference in their spiritual lives. It allows people to worship as they wish, and it allows them to refuse to worship at all.

The Pledge of Allegiance hardly rises to the level of a mandated national religion. The phrase "One Nation Under God" is similar to "In God We Trust" on our currency or "God Bless America" sung at high school graduations or even sung on the floor of this House. These invocations of God have more to do with tradition and heritage than with the government forcing people to believe or practice a certain type of faith.

Every day in the well of this House a Member leads us in the Pledge of Allegiance. I had the honor of leading the Pledge of Allegiance just last week. The Pledge is a way for all of us come together, regardless of party or ideology, and express our love for this Nation and our commitment to our democracy. But we also have the right not to say the Pledge at all.

As the Supreme Court ruled in 1963, it is unconstitutional to force people to say the Pledge. And the resolution before us states that the United States Congress recognizes the right of those who do not share the beliefs expressed in the Pledge to refrain from its recitation.

But here come a panel of the often-overturned Ninth Circuit, interestingly enough led by an appointee of the Nixon administration, charging into a nonexistent breach, issuing a divisive and unnecessary ruling. There are so many important issues facing our Nation, and I can say honestly that I have never had a constituent rush up to me in Worcester or Attleboro or Fall River to demand that we remove "under God" from the Pledge of Allegiance.

Indeed, yesterday's ruling only serves to trivialize the very real issues of church/state separation that deserve a

full and fair hearing before all the branches of government. But the Constitution also protects the right of American citizens to have their day in court. That is what the plaintiff in this case has done; and because of the structure of our government, Congress cannot overturn that decision. We can only express our disapproval, which this resolution does in very clear and appropriate terms.

It will be up to the full Ninth Circuit and possibly the Supreme Court itself to toss this ruling into the dustbin of history where it belongs. In the meantime, Congress has the right to call yesterday's decision what it was, a big fat mistake. I urge my colleagues to support the rule and to support the resolution.

Mr. Speaker, I enter into the RECORD today's editorials from the New York Times, the Washington Post and the Los Angeles Times on this issue, as follows:

[From the New York Times, June 27, 2002]

"ONE NATION UNDER GOD"

Half a century ago, at the height of anti-Communist fervor, Congress added the words, "under God" to the Pledge of Allegiance. It was a petty attempt to link patriotism with religious piety, to distinguish us from the godless Soviets. But after millions of repetitions over the years, the phrase has become part of the backdrop of American life, just like the words "In God We Trust" on our coins and "God bless America" uttered by presidents at the end of important speeches.

Yesterday, the United States Court of Appeals for the Ninth Circuit in California ruled 2 to 1 that those words in the pledge violate the First Amendment, which says that "Congress shall make no law respecting an establishment of religion." The majority sided with Michael Newdow, who had complained that his daughter is injured when forced to listen to public school teachers lead students daily in a pledge that includes the assertion that there is a God.

This is a well-meaning ruling, but it lacks common sense. A generic two-word reference to God tucked inside a rote civic exercise is not a prayer. Mr. Newdow's daughter is not required to say either the words "under God" or even the pledge itself, as the Supreme Court made clear in a 1943 case involving Jehovah's Witnesses. In the pantheon of real First Amendment concerns, this one is off the radar screen.

The practical impact of the ruling is inviting a political backlash for a matter that does not rise to a constitutional violation. We wish the words had not been added back in 1954. But just the way removing a well-lodged foreign body from an organism may sometimes be more damaging than letting it stay put, removing those words would cause more harm than leaving them in. By late afternoon yesterday, virtually every politician in Washington was rallying loudly behind the pledge in its current form.

Most important, the ruling trivializes the critical constitutional issue of separation of church and state. There are important battles to be fought virtually every year over issues of prayer in school and use of government funds to support religious activities. Yesterday's decision is almost certain to be overturned on appeal. But the sort of rigid overreaction that characterized it will not

make genuine defense of the First Amendment any easier.

[From the Washington Post, June 27, 2002]

ONE NATION UNDER BLANK

In the many battles over how high the church-state wall should be, there has always been a certain category of official invocations of God that has gone untouched. Legislative prayer has been upheld by the Supreme Court, for example. Court sessions begin by asking that "God save this honorable court." America's national motto says "In God We Trust." And the Pledge of Allegiance, since 1954, has described this country as "One nation under God, indivisible." At least it did until yesterday—when a panel of the 9th U.S. Circuit Court of Appeals struck down the words "under God" as an establishment of religion in violation of the First Amendment.

If the court were writing a parody, rather than deciding an actual case, it could hardly have produced a more provocative holding than striking down the Pledge of Allegiance while this country is at war. We believe in strict separation between church and state, but the pledge is hardly a particular danger spot crying out for judicial policing. And having a court strike it down can only serve to generate unnecessary political battles and create a fundraising bonanza for the many groups who will rush to its defense. Oh, yes, it can also invite a reversal, and that could mean establishing a precedent that sanctions a broader range of official religious expression than the pledge itself.

All of this might be justified if there were any real question as to the constitutionality of the 1954 law that added God to the pledge. But while the Supreme Court has never specifically considered the question, the justices have left little doubt how they would do so. Even former justice William Brennan—a fierce high-waller—once wrote "I would suggest that such practices as the designation of 'In God We Trust' as our national motto, or the references to God contained in the Pledge of Allegiance to the flag can best be understood . . . as a form of 'ceremonial deism' protected from Establishment Clause scrutiny chiefly because they have lost through rote repetition any significant religious content." Other justices have likewise presumed the answer to the question, and no court of appeals should blithely generate a political firestorm—one that was already beginning yesterday—just to find out whether they meant what they said.

As Judge Ferdinand Fernandez pointed out in dissent, the establishment clause tolerates quite a few instances of "ceremonial deism": Is it okay to sing "God Bless America" or "America the Beautiful" at official events? Is American currency unconstitutional? The answer must be, as Judge Fernandez argues, that in certain expressions "it is obvious that [the] tendency to establish religion in this country or to interfere with the free exercise (or non-exercise) of religion is de minimis." Amen.

[From the Los Angeles Times, June 27, 2002]

A GODFORSAKEN RULING

A panel of the U.S. 9th Circuit Court of Appeals has ruled 2 to 1 that the Pledge of Allegiance—you know, "I pledge allegiance to the flag of the United States of America . . ."—is unconstitutional. And the reason? Because of that phrase "under God" inserted by Congress 48 years ago.

The court said an atheist or holder of non-Judeo-Christian beliefs could see these words

as an endorsement of monotheism, even though students can opt out.

"A profession that we are a nation 'under God' is identical, for establishment clause purposes, to a profession that we are a nation 'under Jesus,' a nation 'under Vishnu,' a nation 'under Zeus' or a nation 'under no god' because none of these professions can be neutral with respect to religion," wrote Judge Alfred Goodwin.

It's a fundamentally silly ruling, which deserves to be tossed out, as was the initial suit by a Sacramento atheist. For now, erasing the pledge applies only to 9th Circuit states—California, Alaska, Arizona, Hawaii, Idaho, Montana, Nevada, Oregon and Washington. Implementation of the ruling is suspended pending appeals.

The original 1892 pledge didn't contain the phrase "under God," which was added after a vigorous debate during a period of loyalty oaths and Red-baiting. The Cold War insertion of the phrase in 1954 clearly was driven as much by ideology as religion. That said, for all the overheated and dire predictions voiced then, the "under God" phrase has in no way led to establishment of an official state religion. Further, the U.S. Supreme Court ruled in 1943 that it was unconstitutional to force pledge recitations. Thus the 9th Circuit decision is a cure without an ailment.

In fact, references to the Almighty have long been an integral part of everyday American life—honest to God. That's not too surprising for a nation initially organized by Europeans fleeing persecution for practicing their beliefs in God. The pledge ("one nation under God, indivisible, with liberty and justice for all") is recited daily by millions, with few, if any, enforcement problems over which words someone mumbles or skips.

When taking office, many government officials, including judges, take an oath invoking God. Court witnesses swear to tell the truth "so help me God." In fact, the Supreme Court, where this case should go with Godspeed, opens sessions with a reference to God.

And what about that oppressive song "God Bless America" that the entire Congress sang on government property after Sept. 11? Then there's the problem of U.S. currency, which may now be unconstitutional because it says, "In God We Trust." The appeal should come swiftly. God willing, it will.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, today I rise in strong support of this rule and the underlying resolution. Also, I rise today in outrage and indignation over yet the latest manifestation of an ongoing assault on the rights of Americans who cherish their beliefs and their commitment to God.

This is not just about the Pledge of Allegiance, although forcing people to excise God from this voluntary oath is bad enough. A liberal left coalition has been trying to do their best for decades to neuter American traditions that is based on God, beliefs and traditions that Americans have held dear for two centuries.

We see it in the attack on the rights of the Boy Scouts to have God in their scout oaths and have a high moral

standard. We see it in our schools when they preempt Christmas programs and instead make them holiday programs. We see it at city halls when all of a sudden a manger scene or some recognition of Hanukkah are left out during those holy months. We see it when the courthouse takes down the Ten Commandments; and we see it when the National Endowment for the Arts subsidizes art works, supposed, so-called art work that attacks Christianity but then passes when it comes to religious works.

□ 1430

Yes, getting God out of the Pledge of Allegiance is bad; but it is part of an attempt, an overall attempt to use the judicial system to attack our fundamental liberties, especially the liberties of those of us who believe in God.

This is one reason why many of us are so concerned about who controls the United States Senate, because it will be the United States Senate who controls who is on the Supreme Court. No one has ever been forced to pray or to acknowledge God, but the liberal coalition that is involved in taking this Pledge and eliminating God from the Pledge are using our courts to attack the freedom of those who do believe in God and attack our rights to our expression.

Today, those of us who believe in God, those of us who cherish liberty need to unite to make sure that those who would use our court system, especially on to the Supreme Court, are defeated in their attempts to neuter America of its traditional recognition of God. I for one stand for liberty, and together we will keep God in our Pledge of Allegiance; and we will defeat this war to sever America and Americans from our religious traditions, and we will protect our people's precious rights to have their faith in God and to express it; and at the same time, we will protect those who do not believe in God.

This is, as I say, a fundamental attack by atheists as part of a liberal left coalition to attack the rights of us who do believe in God to express that, and we need to unite with believers and nonbelievers together for human liberty, which is what America is all about.

Mr. MCGOVERN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania (Mr. HOLDEN).

Mr. HOLDEN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in strong support of the rule and of the underlying resolution. I, like all of my colleagues and the entire American people, are outraged at the Ninth Circuit Court of Appeals, who have declared the Pledge of Allegiance unconstitutional because of the words "under God."

Mr. Speaker, patriotism is at an all-time high in rise since September 11 as we stand united behind our Commander in Chief and as we stand behind those brave men and women who wear the uniform daily and are fighting the war on terrorism in Afghanistan and across the world.

This decision could not have come at a worse time. This decision was ill advised. It was ridiculous, and we need to send a clear message that we are going to stand as a Congress to see that the words "under God" stay in the Pledge of Allegiance, or what will be next?

Mr. Speaker, above the Chair's head, "In God We Trust." Will that be the next thing to be attacked? Our currency, "In God We Trust." Will that be the next to be attacked? We need to stand united and send a clear message that we are not going to adhere to this ridiculous decision, and I hope it will be overturned as quickly as possible.

Mr. LINDER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Speaker, I rise to proudly support the rule and this resolution. One Nation under God, indivisible. If we look in this great Chamber, behind the Speaker, "In God We Trust." My colleagues may not be able to see, but right in front of me, lining this Chamber, there are historical figures. The most central historical figure is Moses, the 10 Commandants. If we look to the symbol of our Nation, the eagle, under the eagle are the words "e pluribus unum," "for many there is one."

This Pledge has united school children across our country for generation after generation. It is a uniting force, indivisible. It is not a force of division in our country. It recognizes that our country under God, our liberty under God, our unity under God.

We need to make sure that this out-of-control court is put back in place and that our traditions and our expressions are maintained, whatever it takes.

The dissenting judge in this case says, In God we trust or under God have no tendency to establish a religion in this country or to suppress anyone's exercise or nonexercise of religion except in the fevered eye of persons who most fervently would like to drive all tincture of religion out of the public life. The dissenting judge goes on to say that by this logic "America the Beautiful," "God Bless America," "The Star Spangled Banner," our currency would be wiped away.

We must stop it now. We must stop it today, and we must reestablish that our country is one Nation under God, indivisible, with liberty and justice for all.

Mr. MCGOVERN. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I thank my colleague for yielding me the time.

Mr. Speaker, I rise in strong support of this rule, this resolution, and the Pledge of Allegiance. Yesterday, a Federal court ruled that the recitation of the Pledge is unconstitutional and all because it contains the words "under God." Mr. Speaker, I strongly oppose this ruling, and I know that I speak for my constituents when I say that the court should reverse itself or the Supreme Court should overrule it. If they do not, then this Congress should act to protect the Pledge of Allegiance.

For decades, Americans have said the Pledge of Allegiance as a way to show their respect and love for this country. We say it every day we are in session here on the floor of the people's House. The pledge is a statement reaffirming our belief in our country and the values for which it stands. Now more than ever those values, liberty, justice, equality, are so needed.

I urge my colleagues to support this resolution and to support the Pledge.

Mr. LINDER. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Illinois (Mr. HYDE), my friend.

Mr. HYDE. Mr. Speaker, we ought to thank the court. It brought us together, Democrats and Republicans, in unanimity, something that is seldom seen around here.

Actually, though, the court's decision embarrasses us. We have been living in a dream world. Back in the Mayflower Compact in 1620, first sentence, "in the name of God, amen."

If we go on through that to the Declaration of Independence, "We hold these truths to be self-evident, that all men are created equal and are endowed by their creator, with certain inalienable rights, among which are life, liberty and the pursuit of happiness." Our human rights are the endowment from the Creator. That is a fundamental premise of America, and it is in our birth certificate, the Declaration of Independence.

The Treaty of Paris, which resolved the Revolutionary War, mentions God.

Abraham Lincoln on November 19, 1863, in a cold, windy little cemetery in Pennsylvania asked a very haunting question, whether this Nation, conceived in liberty and dedicated to the proposition that all men are created equal, can long endure, and the end of that greatest speech in American literature, he says that we here highly resolve but that these dead shall not have died in vain and that this Nation, under God, shall have a new birth of freedom and that government of the people, by the people and for the people shall not perish from the Earth.

So we are embarrassed by the decision. We have been barking up the wrong tree. We thought it was a good thing to acknowledge the fatherhood of God, to acknowledge our debt to Provi-

dence and to do so in a public way. The Supreme Court in 1892, in a case called Church of the Holy Trinity versus the U.S. said, "This is a religious Nation." That same court in 1951, in a case called Zorach said, We are a religious people whose institutions presuppose a supreme being.

So this decision by these three judges, two of the three judges in the Ninth Circuit, is based on a total lack of respect, if not knowledge, of American history, of American culture, of American tradition. It is an embarrassment; and we as a coequal branch of government ought to rise up and say no, no, it is wrong, and acknowledge, continue to acknowledge the primacy of the supreme being who has blessed this country for more than 225 years.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I thank the gentleman for yielding me the time.

I rise here in support of this resolution. I am a graduate of Cleveland public schools, and I can remember as a little girl at Miles Standish Elementary School learning the Pledge of Allegiance to the flag and it being so important to me. In third grade, we learned French, and we even learned how to say the Pledge of Allegiance in French in that third grade class; and here I stand 53 years old, and I am still able to remember that I said: Je jure fidelite au drapeau des Etats-Unis d'Amerique et a la Republique qu'il represente, une Nation sous Dieu, and so forth. We learned it in French and it was very important to me as I thought about it.

I too am embarrassed by the Ninth Circuit Court. I am embarrassed that this court would take a pledge, when we make allegiance to our country, and try and take it out of context and move on; but I am even more disappointed today in the United States Supreme Court, because I come from the great city of Cleveland.

Today this United States Supreme Court made the decision that vouchers were not unconstitutional, that vouchers in the establishment clause could be used to pay for religious education with public dollars. I was very interested in the decision. It said that parents have a choice to where they send their children, that the dollars go to the parents, and so, therefore, it is not a violation of the establishment clause.

The dissenting justices, who I agree with, said but it is clear based on the facts in this case that 96.6 percent of the students of the Cleveland public schools go to religious institutions and there are very few other options other than religious institutions for these children to go to.

Many of my colleagues know that before I came to this body I served as a judge, and I was very proud to be a

judge, and I am very proud of the profession of judges that I sat with and that I served with. But I have to say that these two decisions yesterday, decision in regard to the Pledge of Allegiance to the United States of America and today's decision by the U.S. Supreme Court with regard to vouchers has disappointed me.

The last thing I would say, Mr. Speaker, is as we talk about the importance of this Pledge of Allegiance to the United States, lest we not remember that portion which says with liberty and justice for all, let us make sure that all get liberty and justice.

Mr. LINDER. Mr. Speaker, I am pleased to yield such time as he might consume to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, George Washington was quoted as saying, "An atheist is a person with no invisible means of support," and I think that that person that brought this lawsuit forward, I do not think, I know, he has got the right to feel like he does; but it is also our right to detest that particular point of view.

We stand here today, I do not care if someone is a Christian, Muslim, Jew, I think to denounce that decision that was made in Ninth Circuit Court, and I would tell my colleagues, there was a time in my own life, I was raised in a Christian family, had to go to church every Sunday. When I got out on my own, I could not say that I actually knew that there was a God at one time.

On May 10, 1972, over the skies of Vietnam, my aircraft was hit with a surface-to-air missile and the airplane started going out of control, and it actually rolled upside down; and like many people, the only time I would ever ask for God's help was when I was in trouble. I remember thinking, God, get me out of this, I do not want to be a prisoner of war or die. The airplane righted itself as I took the stick and put it to the left side, and I remember thinking, God did not have anything to do with this, it was just my superior flying skills that righted this airplane; but about that time, the airplane went back upside down, and I remember thinking, God, I did not mean it, get me out of here.

I will tell the people that are atheist or do not support this resolution, all they have to do is get on their knees and say a prayer and I do not care what religion they are, somebody is going to listen.

□ 1445

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman of the Committee on Rules for yielding me this time and also for the very fine presentation that he made today. I think he clarified the debate

that will be framed even more as we move into general debate.

I would like to just briefly, though there is much that I can say from the patriotic perspective and my love for this country, but more importantly the great honor I take in saying the Pledge to the United States of America every day, and would encourage the young people of America to take as much pride in pledging loyalty to their Nation. But I do want to speak to the appropriateness of the resolution as it is constructed, and that is a disagreement with the context and the decision of the particular court.

I am very much respectful of the independence of the three branches of government, the executive, the judiciary and the legislative; and so it is appropriate that the context is such that we express disagreement, but I will expand more in terms of debate and discussion on the language that is in this court opinion that suggests that our children will be put in untenable positions of choosing between participation in an exercise with religious context or protesting. That is not accurate.

In fact, what actually occurs is the right of freedom of religion and speech. The speaker has freedom of speech under the first amendment, and the individual who chooses not to say the Pledge of Allegiance has the freedom of religion. Therefore, I am unsure of the line of analysis that the court has made to suggest that one is protesting and that it is untenable. That individual is expressing their freedom of religion by their decision as to not express themselves through the Pledge of Allegiance to the United States of America.

I would hope that as this decision makes its way through to the Supreme Court we will once and for all understand the context of the first amendment, that is the freedom of expression, the freedom of religion, and the choice to do so.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume, and I would close by urging my colleagues to support this rule and support the underlying resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume, and I urge my colleagues to support this resolution and to support the underlying bill.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SENSE OF HOUSE THAT NEWDOW V. U.S. CONGRESS WAS ERRONEOUSLY DECIDED

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and

agree to the resolution (H. Res. 459) expressing the sense of the House of Representatives that Newdow v. U.S. Congress was erroneously decided, and for other purposes.

The Clerk read as follows:

H. RES 459

Whereas on June 26, 2002, the Ninth Circuit Court of Appeals held that the Pledge of Allegiance is an unconstitutional endorsement of religion, stating that it "impermissibly takes a position with respect to the purely religious question of the existence and identity of God," and places children in the "untenable position of choosing between participating in an exercise with religious content or protesting."

Whereas the Pledge of Allegiance is not a prayer or a religious practice, the recitation of the pledge is not a religious exercise.

Whereas the Pledge of Allegiance is the verbal expression of support for the United States of America, and its effect is to instill support for the United States of America.

Whereas the United States Congress recognizes the right of those who do not share the beliefs expressed in the Pledge to refrain from its recitation.

Whereas this ruling is contrary to the vast weight of Supreme Court authority recognizing that the mere mention of God in a public setting is not contrary to any reasonable reading of the First Amendment. The Pledge of Allegiance is a recognition of the fact that many people believe in God and the value that our culture has traditionally placed on the role of religion in our founding and our culture. The Supreme Court has recognized that governmental entities may, consistent with the First Amendment, recognize the religious heritage of America.

Whereas the notion that a belief in God permeated the Founding of our Nation was well recognized by Justice Brennan, who wrote in *School District of Abington Township v. Schempp*, 374 U.S. 203, 304 (1963) (Brennan, J., concurring), that "[t]he reference to divinity in the revised pledge of allegiance . . . may merely recognize the historical fact that our nation was believed to have been founded 'under God.' Thus reciting the pledge may be no more of a religious exercise than the reading aloud of Lincoln's Gettysburg Address, which contains an allusion to the same historical fact."

Whereas this ruling treats any religious reference as inherently evil and is an attempt to remove such references from the public arena.

Now, therefore, be it resolved by the House of Representatives, That it is the sense of the House of Representatives that—

(1) the Pledge of Allegiance, including the phrase "One Nation, under God," reflects the historical fact that a belief in God permeated the Founding and development of our Nation; and

(2) The Ninth Circuit's ruling is inconsistent with the U.S. Supreme Court's First Amendment jurisprudence that the Pledge of Allegiance and similar expressions are not unconstitutional expressions of religious belief; and

(3) The phrase "One Nation, under God," should remain in the Pledge of Allegiance and

(4) the Ninth Circuit Court of appeals should agree to rehear this ruling en banc in order to reverse this constitutionally infirm and historically incorrect ruling.

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from

Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on House Resolution 459, the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, yesterday, the Ninth Circuit Court of Appeals in San Francisco topped itself, not an easy accomplishment for the court of appeals with the dubious record of being most likely to be reversed by the U.S. Supreme Court. It did so by ruling in *Newdow v. U.S. Congress* that the voluntary recitation of the Pledge of Allegiance by public school students is an unconstitutional endorsement of religion and, thus, a violation of the first amendment's establishment clause.

Immediately following this decision, I introduced House Resolution 459, expressing the sense of the House that the *Newdow* case was erroneously decided by the Ninth Circuit and the court should agree to rehear this ruling en banc.

The Ninth Circuit ruling treated the word God as a poison pill. Rarely has any court, even the notoriously liberal Ninth Circuit, shown such disdain for the will of the people, an act of Congress and our American traditions. What is next, a court ruling taking "In God We Trust" off the money, which the dissenting judge expressed his concern about? Or how about banning the performance of God Bless America from 4th of July celebrations at local courthouses and in parks next week?

Any fourth grader knows that the Pledge of Allegiance is not a prayer or a religious practice. Therefore, its recitation is not a religious exercise. Rather, as my resolution states, it is a verbal expression of support for the United States of America, and its effect is to instill support for the United States of America.

In truth, yesterday's ruling is the latest in a string of rulings by misguided courts misinterpreting the Constitution's establishment clause. Under *West Virginia Board of Education v. Barnette*, cited by the Supreme Court in 1943 and which is still good law, individuals cannot be compelled to recite the Pledge of Allegiance, and in this case children were not compelled to say the Pledge.

We recognize the right of those who do not share the beliefs expressed in the Pledge not to participate, but this ruling treats the mere reference to re-

ligion as inherently evil and coercive. It is simply a barefaced attempt to remove all religious references from the public arena by those who disagree. In effect, it is a heckler's veto.

Our Nation's founders based their claim of independence upon the laws of nature and nature's God. The Founders of our Nation declared all men to be endowed with inalienable rights by their creator and urged their revolution relying upon the protection of divine providence. Thus, God is referred to or alluded to four times in the Declaration of Independence and countless times in other documents.

In the years since the ratification of the Constitution, beginning with President George Washington's administration, religious services have been conducted in government buildings, including the halls of Congress. The Supreme Court begins each session with "God Save the United States and this Honorable Court." The Supreme Court has upheld the offering of a prayer by a publicly-funded chaplain to open legislative sessions. Lower Federal courts continue to uphold the constitutionality of the Federal Government's Christmas holiday as well as the placement of In God We Trust on our currency. If the Pledge of Allegiance is unconstitutional, then certainly these traditions and even the Declaration of Independence are as well.

The fact of the matter is that these statements of patriotism reflect the love Americans feel for their country and recognizes the fact that our Nation was founded by brave men who stood on the principle that all men possess inalienable rights endowed not by man but by God. This view continues to be shared by most Americans today.

In this time of profound challenges facing our Nation, the last thing our citizens need is two irresponsible judges using the Pledge of Allegiance to promote what can only be characterized as an effort to purge the public arena of all religious references.

Yesterday's ruling is dumb. It is an insult to the brave men that founded our Nation and preserved it for over 200 years, and we in Congress should do whatever it takes to void this laughable ruling.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I believe the reasoning in the majority opinion in this case is sound. It outlines how the phrase "under God" is in violation of all of the differing standards developed by the Supreme Court over the last 50 years to evaluate challenges under the establishment clause of the first amendment to our Constitution.

Nevertheless, Mr. Speaker, I tend to agree with the dissent in this case; and the operative language that persuaded me is language on page 9132, which

says, "But, legal world abstractions and ruminations aside, when all is said and done, the danger that 'under God' in our Pledge of Allegiance will tend to bring about a theocracy or suppress somebody's beliefs is so minuscule as to be de minimis. The danger that phrase presents to our first amendment's freedoms is picayune at most. Judges, including Supreme Court Justices, have recognized the lack of danger in that and similar expressions for decades, if not for centuries."

But whatever we think of the decision, Mr. Speaker, the only thing worse than the decision is the spectacle of the Members of the United States House of Representatives putting aside discussions of prescription drug benefits under Medicare to take up and pass this resolution. When we were sworn in, we promised to uphold the Constitution, and it is important to acknowledge that any court ruling based on constitutional rights will be unpopular. If the issue were popular, the litigant would vindicate his rights using the normal democratic process. Obviously, the fact that the litigant had to rely on constitutional rights means that he was in the minority.

This is the way it always is with constitutional rights. An individual does not need a constitutional right of freedom of speech to say something popular. They only need it when the majority has the legislative and police power to stop them from expressing their views, and the decision will obviously not be politically popular.

In that light, Mr. Speaker, what Members of Congress think of the decision is irrelevant. If the judicial branch finds the Pledge to be unconstitutional, which I do not believe it will ultimately do, no bill we can pass will change that.

Mr. Speaker, because the decision is based on constitutional rights, it will always be unpopular, and what we think about the decision is irrelevant, and because we have important business to address, I would hope that this resolution will be defeated.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. DELAY), the majority whip.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding me this time.

I just want to answer the last speaker. That kind of attitude that thinks that when a judge speaks that that is the law of the land, well, it does not work that way by the Constitution. There are checks and balances in our Constitution, and what Congress does is relevant to what the judiciary does.

Congress is going to stand up in this particular case and fight the judiciary of this country and stop them from running amuck. There is accountability built into the Constitution, as long as this Congress understands that

they have a responsibility to defend the Constitution against a runaway judiciary.

It appears that this Ninth Circuit Court of Appeals has experienced another short-circuit. This court went way too far, and we know that. This Congress is committed to righting that court's wrongs, starting right here, right now, today.

Now, according to this absurd logic, the following could be in danger of being outlawed:

The four mentions of God in the Declaration of Independence that made our country free; the oath that each President takes to uphold the Constitution, which holds our Nation together; the words etched right here above the Speaker in this august institution that helps govern our Nation; the phrase that begins with each U.S. Supreme Court session, "God Save the United States;" the oath of witnesses to tell the truth in courts that protect us; our own currency that keeps our Nation prosperous; and the singing of God bless America on the steps of this Capitol that signaled yesterday our resolve.

So as my colleagues can see, this absurd decision was made by a court run amuck; and I urge all our Members, of all political stripes, to send a very clear message and put the stars and stripes, along with the words "God Bless America" as the banner for their .gov websites.

As upset as we all are, once again we must summon the best in us to defend this one Nation, under God, indivisible, with liberty and justice for all. This Congress is not going to let anyone strip our Nation of our proud heritage; not now, not ever.

□ 1500

Mr. SCOTT. Mr. Speaker, I yield 30 seconds to myself.

Mr. Speaker, on constitutional issues, the judicial branch and the Supreme Court is the law of the land, even if those decisions are unpopular.

If we had to wait for school integration to be popular in America, people in many States would still be going to segregated schools. It is important that we note that the Supreme Court is the law of the land on constitutional issues.

Mr. Speaker, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I indicated earlier today that I adhere to the loyalty Pledge that is taken by all of us to pledge allegiance to the United States of America and find comfort in the fact that since 1954, we have been able to say "one nation under God, indivisible." I say it without hesitation, and I support this resolution.

Allow me, however, to track an understanding for the American people. I

think that is important. It is likewise important to acknowledge the status and the position as it relates to the laws of the land that the courts have. My colleague from Virginia is absolutely correct. When we look to the courts, we look to them to establish a body of law; and, of course, the Congress has a responsibility as an equal in the lineage of hierarchy in this Nation, judicial, legislative and executive, to speak its will and its mind.

What I consider the resolution today is a Congress speaking its will and its mind. It is speaking to the American people. It is saying all is well. It is suggesting to them its interruption of the utilization of the Pledge of Allegiance, something that is done most mornings in our schools around the Nation, most times at ceremonial activities, and certainly after September 11, recognizing the privilege we have in this country to pledge allegiance to the flag of the United States of America.

But allow me to take the first amendment again and refer us to it as I read from the Constitution of the United States which says "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press or the right of the people peaceably to assemble and to petition the government for a redress of grievances."

Mr. Speaker, I believe the first amendment is the first amendment because the Founding Fathers thought this had to be one of the highest tenets of our democracy. Why? Because our country was founded on those who were fleeing from persecution.

I would take issue, and I have the right now as I am debating on this floor, I have a right to take issue, I have a right to make a statement of what I believe in, is that in pledging allegiance to the flag or not pledging allegiance to the flag, Americans are exercising their freedom of religion. It is not classified or should not be classified as forcing someone to protest. An individual is absolutely within their right to exercise their freedom of religion.

I disagree with the decision of this particular court, but I do believe it has the right to move forward through the judicial process to express its view as well.

Let me share the dissent of the court that I think is accurate. Judge Ferdinand Fernandez pointed out in dissent: "The establishment clause tolerates quite a few instances of ceremonial deism. Is it okay to sing 'God Bless America' or 'America The Beautiful' at official events? Is American currency unconstitutional?"

The answer must be, as Judge Ferdinand Fernandez argues, that in certain expressions it is obvious that the tendency to establish religion in this country ought to interfere with the free ex-

ercise or nonexercise of religion is de minimus.

My point is to take that a step further and suggest that the first amendment allows one to exercise their religious faith. In not saying the Pledge of Allegiance, it is exercised. It is not a protest. I say it. I willingly say it. I believe it should be said. I do not believe it is unconstitutional. I believe this resolution is intact and appropriate because it allows an equal, independent branch of government to express its viewpoint on a decision that is made. We all have to adhere to the procedures of this lands, the democracy as it works; and that is a republic, three branches of government. We will watch this case as it goes forward. I proudly rise to support this resolution because I believe the interpretation is accurate.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I am a little bit disturbed that what the gentleman from Virginia (Mr. SCOTT) seemed to have said was that Congress should never question a court decision that is based on constitutional grounds. Had he and I been in Congress before the Civil War when the Supreme Court decided the Dred Scott case, I am sure both of us would be asking the House of Representatives to go on record opposing that decision as being misguided. We are doing something similar to that today.

Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. CHABOT).

Mr. Speaker, as chairman of the Subcommittee on the Constitution, I rise in strong support of this resolution and against the court's decision. The Ninth Circuit Court of Appeals' ruling that the Pledge of Allegiance is an unconstitutional endorsement of religion is a complete misinterpretation of constitutional law. I would hope that this outrageous decision by this three-judge panel will be quickly overturned by the full Ninth Circuit Court or, if necessary, by the United States Supreme Court.

Incredibly, while Americans are pulling together following the horrific events of September 11, a panel of liberal Federal judges has chosen to challenge the time-honored Pledge of Allegiance. Like most Americans, I reject the court's unconscionable decision and stand resolutely with my colleagues today as we vote overwhelmingly to oppose this attack on an American symbol that we all hold dear.

Mr. Speaker, for all of the veterans who risked their lives for our country, for all the servicemen and servicewomen who serve today, and for all of our children who recite the Pledge every morning with respect and admiration, I urge my colleagues to support this resolution and condemn the court's decision.

Mr. SCOTT. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I indicated my support for this resolution because I believe this is an appropriate comment time by the House. Let me also suggest to Members, however, that what happens with this kind of approach, and I am at this moment thinking of this because it is of such concern to me, my colleague from Ohio mentioned this, and the distinguished chairman mentioned the Dred Scott case, and none of us would claim to be in the House at that time in the 1800s. Maybe we are looking quite young at this point, but I would join him in asking for a commentary on that case.

Likewise, some of us are going to be asking for a comment on the question dealing with the constitutionality of vouchers. We happen to believe that that fosters segregation, as opposed to opening the doors of opportunity. What this does, in fact, is I hope out of the spirit of bipartisanship, and I certainly hope the distinguished majority whip was not suggesting that this issue is liberal or conservative, we are all over the lot on this particular legislative initiative. I support it, but I am going to be looking for bipartisan support when it comes to discussing what I think is an untimely decision on the voucher issue, and certainly an untimely issue as I review it, dealing with the question of drug testing. What we are trying to do here is improve the constitutional rights and freedoms of Americans, not diminish them.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. HYDE), the former chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, I just want to comment on what has been said by the gentleman from Virginia (Mr. SCOTT) and the gentlewoman from Texas (Ms. JACKSON-LEE).

I could not disagree more. What they are saying is because this is *de minimis*, because that was in the dissenting view, therefore, it is okay to let it go. That is a way of standing on two stools. That is a way of having it both ways because it is not important.

Well, I do not think that it is unimportant. I do not think that it is trivial. I think acknowledging the primacy of almighty God is of transcendent importance, and I guess *de minimis* is in the minds of the analysts; but I could not disagree more. In addition to the Dred Scott case, *Plessy v. Ferguson*, there is a whole line of cases that I am sure the gentleman from Virginia (Mr. SCOTT), my distinguished learned friend, would disagree with and not invest them with a dignity because they come from the Court.

And, lastly, I point out to my dear friend, the gentlewoman from Houston, Texas (Ms. JACKSON-LEE), that the first amendment has two parts: the establishment and the free exercise.

Mr. SCOTT. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, if the distinguished gentleman from Illinois (Mr. HYDE) would listen, the chairman, he has misinterpreted my entire remarks. I quoted from the dissent, and what I said was out of the dissent of Judge Fernandez, I believe, that any commentary about God is *de minimis* in terms of saying that someone is practicing religion. I support the fact that saying "under God" is not violating religious freedom.

Mr. HYDE. Mr. Speaker, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, it is "*de minimis*" that offends me.

Ms. JACKSON-LEE of Texas. It is in the court's ruling.

Mr. HYDE. Mr. Speaker, I understand the court's ruling, and it was in the editorial in the Washington Post; but I disagree.

Ms. JACKSON-LEE of Texas. It is in the dissent.

Mr. HYDE. I disagree.

Ms. JACKSON-LEE of Texas. Mr. Speaker, in reclaiming my time, if the gentleman from Illinois (Mr. HYDE) disagrees, would he please indicate that he is disagreeing because he does not like the term "*de minimis*" used by the judge who is supporting his position, because I am supporting the position that we have a right to comment on it and am supporting the resolution. Please make sure that is clarified.

Mr. HYDE. Mr. Speaker, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Illinois.

Mr. HYDE. I object to "*de minimis*" from whatever source.

Ms. JACKSON-LEE of Texas. I will cite that to the Washington Post.

Mr. SCOTT. Mr. Speaker, how much time remains on both sides?

The SPEAKER pro tempore (Mr. SHIMKUS). Both sides have exactly 10½ minutes remaining.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me this time.

The game is just beginning. We are in the first inning of what may turn out to be a long game in trying to overturn this decision by the Ninth Circuit. We must remember that this was only a three-judge panel, not representing necessarily the total views of all the Ninth Circuit. In that regard, we have directed that a letter be sent to the presiding judge of the Ninth Circuit to ask that they reconsider the decision rendered by the three-judge panel, which is within our right to ask and which is within the right of the Ninth

Circuit to reconsider. So now we stretch out the possibilities that we have to overturn this decision. If they do the right thing and overturn their own panel, the game has ended. If not, then the game stretches on to the Supreme Court, which will undoubtedly undertake this case.

We will be guided when we see it go to the Supreme Court with the fact that another circuit has found just the opposite of what the Ninth Circuit may be leading to draw, and so we are strengthened by the resolve that when it goes to the Supreme Court we will have precedent on the other side of the issue and we will have in front of the Supreme Court in the final innings of this game the undoubted wholesome fulsome support of the American people.

The Supreme Court of the United States cannot, cannot, discount the popular will of the people of the United States in this regard. So my ultimate position in all of this is that this will not stand even if we have to then undertake a constitutional amendment if the Supreme Court should disappoint us in this particular issue; and if that happens, all the more reason why we can say this will not stand because Americans stand together.

Mr. SCOTT. Mr. Speaker, prior to yielding to the gentleman from Maryland (Mr. HOYER), the gentleman from Illinois (Mr. HYDE), chairman of the committee, indicated what would happen if we had taken a position on *Plessy v. Ferguson* or *Dred Scott*. The litigants in those cases, Mr. Speaker, lost and I suspect that the Congress might have even approved of that.

Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. HOYER).

□ 1515

Mr. HOYER. I thank the gentleman for yielding me this time.

Mr. Speaker, our Nation's greatness derives not only from our commitment to tolerance and a profound belief in the separation of church and state but also from the fact that we have always been, and hopefully will always be, a Nation of faith.

Our Declaration of Independence which we celebrate 1 week from today avowed, and I quote, "firm reliance on the protection of divine providence." Every one of our 43 Presidents has said a prayer or invoked God during their inaugural address. And our Pledge of Allegiance has included the phrase "one Nation under God" since 1954, harkening back to, 100 years prior to that, the remarks of President Lincoln in his Gettysburg address.

Yesterday, the Ninth Circuit Court of Appeals held that the acknowledgment of a power greater than ourselves or the state was somehow unconstitutional, notwithstanding the language of Thomas Jefferson in the Declaration of Independence that we hold these

truths to be self-evident that all men are created equal and endowed, not by the state, not by the majority, but by their creator with certain unalienable rights, and among these are life, liberty and the pursuit of happiness. That is what we acknowledge when we say "in God we trust." That is what we acknowledge when we say "one Nation under God, indivisible with liberty and justice for all."

I adamantly disagree with this misguided decision which runs counter to our cultural and historical traditions. I have high hopes that upon reflection that either the Ninth Circuit itself or the Supreme Court will reverse this erroneous and harmful decision.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. PENCE), a member of the Committee on the Judiciary.

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding me this time.

Like most Americans, Mr. Speaker, I believe in this country, I believe in God, and I believe in the power and importance of allegiance to our flag. So I rise today in strong support of the resolution. Like millions of Americans, I was shocked and appalled by the Ninth Circuit's ruling that references to God in the Pledge of Allegiance are unconstitutional.

Mr. Speaker, we opened this House in prayer to God today. The walls of this temple of democracy bear His name. But we are told that it is unconstitutional for our children to name God as they acknowledge their fealty to that very same Nation.

Sadly, this decision is part of a 35-year history by radical secularists who would twist the freedom of religion into freedom from religion. We must reject this course of judiciary decisions. We must pass the resolution and reaffirm a right understanding.

I pledge myself to fight every decision by the judiciary, including this one, that seeks to drive expressions of faith, the Ten Commandments, and voluntary prayer out of schools and out of every corner of American life, so help me God.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I rise to support this resolution. I want to particularly commend the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman, for bringing this resolution to the floor in a speedy fashion.

The American people are crying out for action. Here we are in the midst of a war. Our homeland has been attacked. The faith that many Americans have had has been rekindled. And now we are faced with this overreaching, inappropriate act of a court that is misinterpreting our Constitution.

There will be a lot of talk about the power of the judiciary versus the power

of the legislative branch. But I would just like to remind all of our colleagues that the Constitution begins with "we the people" and that it has really vested in the American people the authority to make decisions, and they ultimately decide what will happen.

I believe that today the American people are clearly crying out, "Overturn this decision."

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Speaker, I rise in opposition to this ruling which found our Pledge of Allegiance unconstitutional. The Pledge of Allegiance is a sacred oath all Americans take to uphold the values of freedom and independence for which so many veterans have fought and died. It is an outrage that today as our brave men and women are overseas defending our great country against the threat of terrorism, these words that represent the very core of the American values come under attack.

I ask my colleagues and the American people again to show our independence and protest the Ninth Circuit Court of Appeals decision by joining together as "one Nation under God" to recite the Pledge of Allegiance on that day we celebrate soon, 226 years of independence, on July 4. I ask all Americans to stop what they are doing on that day this July 4 and with hand over heart recite the Pledge that has reminded millions of schoolchildren each and every day of why America is the greatest Nation on the face of the Earth.

Mr. SCOTT. Mr. Speaker, I yield 2½ minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentleman for yielding me this time.

Let me say at the outset that when the vote is put on this resolution, I intend to vote "present." I have had a discussion with the gentleman from Virginia (Mr. SCOTT) earlier today about whether I agree or disagree with the court's opinion, the majority opinion, a 2-1 opinion, a part of the court; and I told him I thought I agreed more with the dissent in the case than I do with the majority.

But that is almost a side issue here. The real issue is what the gentleman from Pennsylvania (Mr. GEKAS) started to say, I think, was that the process is still continuing. Three people have entered a decision, a 2-1 decision. That decision no doubt will be reviewed by the entire circuit court and no doubt ultimately be reviewed by the United States Supreme Court. And while I recognize that this body has a prerogative to express an opinion about anything it wants to express an opinion about, I just do not think that I want to be a party to joining in the collective ex-

pression of an opinion of the legislative side of government to the judicial side of government on this issue, particularly when the case is still pending before the court and we do not know its ultimate disposition.

I have strong opinions about this issue. I think the Bill of Rights' first amendment and other amendments in the Bill of Rights was intended to protect those who are in the minority. Obviously, people who do not believe in some God are in the minority; but they are entitled to have their rights protected, too, and not to be in a coercive setting, so I can certainly understand the decision, although I do not necessarily agree with it. I just think at this juncture this body should not be expressing itself on this issue.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding time, and I commend Chairman SENSENBRENNER for bringing this measure to the floor at this time.

Mr. Speaker, I rise in strong support of H. Res. 459, expressing the sense of Congress that *Newdow v. U.S. Congress* was erroneously decided by the Ninth Circuit Court of Appeals. The Federal court's decision is truly an insult to our Nation, a disgrace and an absurdity of justice. Moreover, it defies the basic principles of reason and good judgment. It is particularly outrageous that such a ruling was made at a time when our Nation's dedicated men and women are fighting an ongoing war against global terrorism, the very epitome of evil. What kind of message does this court's ruling send to our enemies? What message does it send to our patriotic military personnel out there on the front lines?

Accordingly, I urge the court to rehear the ruling with all due speed and overturn this egregious injustice perpetrated against the very principles upon which our great Nation was founded.

Mr. SENSENBRENNER. Mr. Speaker, I yield 30 seconds to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding me this time.

I just want to, I guess, me-too-it as much as possible on this. I think it is incredible that at a time when our Nation is at war, when we have suffered one of the greatest domestic tragedies in our history, that a court would be so out of touch with America that they would say this is what we need at this point in time, reversing all the other court decisions.

I certainly stand in strong support of this resolution. I just want to say when I was in Afghanistan back in January, one of the proudest things I saw were all the young men and women on the USS *Theodore Roosevelt* saluting the

flag which Rudy Giuliani had flown over the rubble of the World Trade Center. I am glad that they also said the Pledge and that they know that we are one Nation under God.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. PICKERING), the cosponsor with me of this resolution.

Mr. PICKERING. Mr. Speaker, I rise proudly as a cosponsor of this resolution. For over a generation now, our courts have taken the wrong path, eliminating prayer from schools, eliminating Christmas from our court-houses. They are saying today in our courts that access to child pornography is a constitutionally guaranteed right, and today they are saying that saying the Pledge of Allegiance is unconstitutional.

Something is wrong. They are trying to drive God from the public square, and this is their fallacy. We believe that our creator endows all men with the right to life, liberty and the pursuit of happiness. History shows that every godless state every time trampled on the rights of life, liberty and the pursuit of happiness. Under God and through our creator, we have our rights. We must never forget that. We must protect it so those who disagree with us will have their rights protected as well.

I urge my colleagues to continue standing for the expression of our freedom under God.

Mr. SCOTT. Mr. Speaker, I yield the balance of my time to the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary.

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Michigan is recognized for 5½ minutes.

Mr. CONYERS. Mr. Speaker, I would like to begin by commending the chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), and the manager of this measure, the gentleman from Virginia (Mr. SCOTT), for the excellent way that they have conducted it. It has been a fair and, I think, revealing discussion that is so important. I cannot help but also note that the former chairman of the Committee on the Judiciary, the gentleman from Illinois (Mr. HYDE), has considered this an issue of great importance, as has our colleague, the gentleman from North Carolina (Mr. WATT), and the gentleman from Texas (Ms. JACKSON-LEE). This is important.

This radical secularist decision was rendered by Judge Alfred T. Goodwin, appointed by past President, Richard Milhouse Nixon. And so for all of you who are leading the attack on the left, I do not know this judge and I do not know what his position was, but he passed muster in the Senate, he was reviewed and favorably considered by a sitting Republican President, and I think that it is very important that no

one question the right of the Members of the House of Representatives to express their opinion on this decision or any other decision.

What I fear is that it may be intended by some for political gain. But that is not a new feature in the course of our discourse in the House of Representatives. Or some who may be trying to discredit the judiciary in general for the work of two people on the Ninth Circuit.

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Certainly, the three-judge panel of the Ninth Circuit Court of Appeals appears to have presented a ruling that runs counter to the existing precedent regarding the establishment clause, and as someone with great respect for our Pledge of Allegiance, I do not believe its recitation substantively infringes on freedom of religion.

Now, interestingly enough, just hours ago the United States Supreme Court ruled in a 5-4 decision that taxpayer funds can be used in voucher programs to support parochial schools. This ruling has been regarded generally as the worst church-state ruling in the last 50 years. Do we have any resolution on that one?

The Supreme Court today upheld the random drug testing of high school children, even those not suspected of wrongdoing. It is hard to imagine an opinion more objectionable from a privacy standpoint, but do we have anyone calling for a resolution of a program on that?

And then I have colleagues who come to the floor claiming that this is a shocking sign of some fundamental defect in the judiciary. Now, unlike *Bush v. Gore*, this decision can be appealed, and where there is a strong probability that it will be overturned. This has been observed as just the first step in a judicial process that usually and ultimately gets it right. From *Plessy v. Ferguson* to *Brown v. the Board of Education*, to the issue of executing mentally impaired prisoners, the courts who may have originally lost their way ultimately find it again.

But lost in today's debate and in the resolution before us is the value of our judicial system, the crown jewel of our democracy.

Our Founders, in their wisdom, created a system of checks and balances. Independent judges with lifetime tenure were given the tremendous responsibility of interpreting the Constitution. So it is no surprise over the years that the judiciary has ultimately been the greatest protector of our rights and our liberties. The fact that one panel of the Ninth Circuit that has rendered this opinion should do nothing, I hope, to diminish from Members our general, overarching respect for the judiciary.

All of this might be justified if there was any real question as to the constitutionality of the 1954 law that added God to the pledge. But

while the Supreme Court has never specifically considered the question, the justices have left little doubt how they would do so. Even former Justice William Brennan—a fierce high-waller—once wrote “I would suggest that such practices as the designation of ‘In God We Trust’ as our national motto, or the references to God contained in the Pledge of Allegiance to the flag can best be understood . . . as a form a ‘ceremonial deism’ protected from Establishment Clause scrutiny chiefly because they have lost through rote repetition any significant religious content.” Other justices have likewise presumed the answer to the question and no court of appeals should blithely generate a political firestorm—one that was already beginning yesterday—just to find out whether they meant what they said.

Half a century ago, at the height of anti-Communist fervor, Congress added the words “under God” to the Pledge of Allegiance. It was a petty attempt to link patriotism with religious piety, to distinguish us from the godless Soviets. But after millions of repetitions over the years, the phrase has become part of the backdrop of American life, just like the words “In God We Trust” on our coins and “God Bless America” uttered by Presidents at the end of important speeches.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, I agree with my distinguished ranking member, the gentleman from Michigan (Mr. CONYERS), that the Congress should not pass resolutions like this every time some of us disagree with a court decision. However, this court decision was so out of bounds in terms of basic American values as well as judicial precedent that I think that we would be remiss in our responsibilities as representatives in an equal branch of government not to express the fact that we strongly disagree with what the two judges that struck down the Pledge of Allegiance decided yesterday. So that is why this resolution is here before us.

If we look at the consequences of this decision becoming law, they are just mind-boggling. We have heard about the currency being placed at risk. Maybe we ought to pay those two in rubles or euros or something that does not have the offensive motto “In God We Trust” on it.

The Declaration of Independence refers to God either directly or indirectly in four separate places, and the signers of the Declaration of Independence called upon divine providence to support the revolution against the English crown. What if that is unconstitutional? Would Queen Elizabeth come back here to reclaim her sovereignty? I do not think so.

But I think that it is important that while the Court has a chance to change its mind rather than writing something in that can only be overturned by a constitutional amendment, that we express ourselves, and that is exactly what we are doing in this resolution.

Mr. Speaker, I could not believe the contorted logic that the two judges

that were in the majority in the Newdow case used yesterday. They said that because all of the other kids except Mr. Newdow's daughter got up and recited the Pledge of Allegiance, they were coercing her to do the same. Now, that is ridiculous.

The Court, since 1943, has said, you cannot compel everybody to say the Pledge of Allegiance, and those who voluntarily do not wish to participate are perfectly and legally able to sit down and not do so. But to use the logical extension of the Court's contorted thinking, it gives every heckler and every dissident a veto over what the majority would like to do and to do it in a way that does not coerce somebody who is not in the majority from doing something against their own principles or their own beliefs. This resolution tells the court that they were wrong, that they should review and reverse.

Mr. BARR of Georgia. Mr. Speaker, I rise today to support passage of H. Res. 459, "Expressing the Sense of the House of Representatives that *Newdow v. U.S. Congress* was Erroneously Decided."

The Pledge of Allegiance is as much of a child's school day, as English, Math, or even recess. Yesterday, two activists jurists sitting on the 9th Circuit Court of Appeals in California robbed children in its nine states and two territories of the privilege of following the tradition in which their parents and grandparents proudly took part.

I am fully aware of the significance of the 1st Amendment's Establishment Clause, and I wholeheartedly believe in its purpose—to prevent establishment of a state-sponsored religion—which was at the heart of our fight for independence against the English crown. However, jurists who interpret this vital clause of the Bill of Rights to prohibit even references to God, as in the Pledge of Allegiance, are way off base. If this decision is allowed to stand, can we next assume the 9th Circuit will require the San Francisco mint to cease producing U.S. currency with the motto, "In God We Trust?" Or perhaps, we can look forward to these distinguished jurists prohibiting the singing of our National Anthem at government sponsored events?

The Supreme Court has already established that a person cannot be compelled to recite the Pledge of Allegiance. However, this opinion cites dicta from concurring Supreme Court opinion, which has absolutely no controlling authority, stating that the Pledge of Allegiance, "constitutes a government endorsement of religion because it sends a message to unbelievers, 'that they are outsiders of the political community, and an accompanying message to adherents that they are insider, favored by the political community.'"

Nothing could be further from the truth, which is why the Supreme Court has rejected this argument. These ceremonial references to "God" neither endorse religion, nor coerce anyone into adhering to a specific religion. The inclusion of phrases like "Under God" or "In God We Trust" is solely a reference to America's long-standing reverence for our creator, and to the freedom and liberties that have been bestowed upon us.

Thankfully, not all the judges of the 9th Circuit are as irrational as the authors of this opinion. Judge Fernandez, writing in his dissent, stated that, "what religion clause of the 1st Amendment require is neutrality; that those clauses are, in effect, an early kind of equal protection provision and assure that government will neither discriminate for nor against a religion or religions." This rationale is precisely what was intended when the Bill of Rights was adopted and I am confident the full 9th Circuit, or if necessary the Supreme Court, will recognize this on appeal.

This point also underscores the necessity of pushing politics aside and confirming federal judges who understand the Constitution and will use common sense and rationality in reaching decisions.

Mr. Speaker, this is a nation "under God." It always has been. If the Republic is to endure, it must always remain so. I believe that Francis Scott Key stated it best, when he penned our national anthem in 1814, while observing the valiant defense of Fort McHenry:

"Oh! thus be it ever, when freemen shall stand

Between their loved homes and the war's desolation!

Blest with victory and peace, may the heaven-rescued land

Praise the Power that hath made and preserved us a nation.

Then conquer we must, for our cause it is just,

And this be our motto: "In God is our trust."

A handful of judges in ivory towers may not understand this; but our Founding Fathers did, and the overwhelming majority of Americans do. I urge you to vote "aye" on H. Res. 459.

Mr. TRAFICANT. Mr. Speaker, today, I am deeply saddened to hear that a court in California has ruled that the Pledge of Allegiance is unconstitutional.

After September 11, America turned to prayer. Churches, community groups, colleges, all of America prayed for the victims, their families, and our great Nation. On the sides of buildings and in car windows and even on the roofs of houses the words "God Bless America" could be seen in every city and every town across the country. People everywhere donned red white and blue ribbons in support of our military forces and preachers everywhere called our great Nation to prayer. Every morning a moment of silent prayer was offered up for the victims of this great tragedy, wayward souls who had not set foot in a church in years found themselves on their knees praying for America.

And now, now after that great outpouring of faith, a court in San Francisco has decided that the Pledge of Allegiance is unconstitutional because it mentions God. "One Nation, under God with Liberty and Justice for all." Beam me up! I ask, what is next? Will we remove "In God we Trust" from our currency and from the House chamber? Will we deny members of Congress the right to recite the Pledge of Allegiance every morning? The courts started their assault on God by banning school prayer. The courts then banned the public display of the Christmas nativity scene. The courts banned students from writing papers about Jesus. Even in my home state of Ohio, the courts have ruled that our state motto "With God All Things Are Possible" is

unconstitutional! Unbelievable. I am continually amazed at the utter stupidity of the American political system that continues to rationalize, debate, and deny the importance of God and why our founders placed in it our Constitution. The founders never intended to separate God from our schools; the founders simply intended to ensure that there would not be one State-sponsored religion, period. My colleagues know it, I know it, and the American people know it. I think that these judges should be tied to a chain link fence and flogged with a copy of the Constitution! They are so concerned with pleasing the FBI, the CIA, and the IRS so they won't lose their lifetime appointments, that God has become background music in a doctor's office!

I would like to commend my colleagues in both the House and the Senate for supporting God and supporting the Pledge of Allegiance. I also commend our President for taking a strong stand on religion and for fighting for our country's religious freedoms. Freedoms that are taken for granted every single day, but all it takes is one voice. One atheist who does not believe that God has a place in our schools, and those simple freedoms are taken away. I urge this Congress to take whatever steps and means are necessary to invite and allow God back into our schoolrooms.

Mr. GREEN to Texas. Mr. Speaker, today I introduce a constitutional amendment that would protect the rest of the nation from the erroneous and ill-timed decision by the 9th Circuit Court of Appeals that the Pledge of Allegiance violates the First Amendment's stricture against the establishment of a state religion.

The 9th Circuit, while arguing that this ruling is a logical extension of previous United States Supreme Court decisions, is seeking to protect citizens from the advance of a non-existent theocracy. Religion and government have existed side-by-side in our nation for over 200 years, and we still have yet to establish an official religion for America.

Writing for the majority, Judge Alfred Goodwin asserts that the "profession that we are a nation 'under God' is identical * * * to a profession that we are a nation 'under Jesus,' a nation 'under Vishnu,' a nation 'under Zeus,' or a nation 'under no god,' because none of these professions can be neutral with respect to religion."

I disagree, and echo the thoughts of Judge Ferdinand Fernandez, who contended that there is only a "minuscule" risk that the use of the phrase "under God" would "bring about a theocracy or suppress someone's beliefs." According to his colleagues, he wrote, "'God Bless America' and 'America the Beautiful' will be gone [from public places] for sure, and . . . currency beware!"

Newspapers across the country were quick to respond, with the Los Angeles Times, the San Francisco Chronicle, The Sun Jose Mercury-News, and The San Diego Union-Journal all attacking the decision of the California-based court. They were not alone, though, as nationally prominent papers known for their dedication to the First Amendment like The New York Times and The Washington Post also weighed in with their criticism of the court.

As for the timing of the issuance of this decision, the 9th Circuit chose a time when our

nation is still actively engaged in the war against terror, with our troops still present in Afghanistan, searching for al-Qaeda and Taliban operatives, providing logistical assistance and training to Philippine troops in their pursuit of the al-Qaeda ally organization Abu Sayyaf, and with the wounds of September 11 still fresh in the memory of all Americans.

I ask my colleagues to join me as cosponsors of this important legislation, and I hope that it will receive speedy consideration by this House.

Mr. CRANE. Mr. Speaker, I rise in strong support of this Resolution, which recognizes that the outrageous decision rendered by a three-judge panel in San Francisco yesterday has no basis in law. I am referring, of course, to the Ninth Circuit Court of Appeals decision yesterday to declare the Pledge of Allegiance unconstitutional.

Mr. Speaker, I have read the Court's opinion, which argues that the inclusion of the words "under God" in the Pledge of Allegiance violates the religious clauses of the Constitution of the United States. Specifically, we are told it violates the Establishment Clause, which reads as follows: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

Putting the pieces together, this means that the Ninth Circuit has determined that phrases such as "under God," or "In God We Trust" tend to establish a religion, or to suppress anyone's exercise of religion." This conclusion is absurd on its face.

The phrase "under God" when read in the Pledge of Allegiance, acknowledges that our rights are derived from our Creator. That is principle upon which our country was founded. How this qualifies as an attempt to suppress anyone's exercise of religion, or how it tends to establish a religion, I'll never know. And while I will not force anybody to believe what I believe, neither will I sit still while the ability of my fellow citizens to practice religion is trampled upon by a court that failed U.S. history 101.

I am saddened by this ruling, but what is most unfortunate is that I am not surprised by it. I saw this coming from a mile away, Mr. Speaker. It is the logical conclusion to a judicial philosophy promulgated over the past 30 years by the politically correct.

Mr. Speaker, I pray this travesty of justice will wake the Daschle-led Senate up so that they might fulfill their Constitutional obligation and confirm President Bush's nominees.

Mr. CUNNINGHAM. Mr. Speaker, I rise today to join my colleagues in condemning the Ninth Circuit Court's ruling striking down the Pledge of Allegiance as unconstitutional. This decision is unpatriotic—particularly at this time when our nation is at war. We should be embracing symbols of national unity like our pledge of allegiance, but instead the Ninth Circuit Court is attacking them.

The argument against the pledge is above all, unreasonable. By declaring the inclusion of the phrase "under God" as unconstitutional, the ruling implies that any mention of "God" is equally inappropriate. Remember—the Declaration of Independence and the Constitution refer to "the Lord" and "Creator", our currency reads "In God We Trust", and even the oaths

we take as Congressional members speak of "God". These references are embedded in the very foundation of our country and national identity—if we stand by and allow this change to the pledge, what will be next? Where do we draw the line?

Mr. Speaker, this court decision will only lessen the already declining respect for our national symbols and for the liberties for which they stand. Yet devaluing an American symbol is unfortunately something that America has been seen before. As you know, in 1989 the US Supreme Court ruled that desecration of an American flag was a permissible and constitutional right. Nevertheless, public disrespect for such a well-known symbol only weakens the sense of a united people. When we do not protect our flag and the god-granted liberties it represents, decisions such as the one declared yesterday will certainly continue.

It is just as essential for Congress to pass House Resolution 459 today as it is to pass the flag burning amendment. We must send a strong message to the courts of America: we value our liberties. We take pride in symbols of national unity. We will fight to protect the pledge and the flag to which we profess our allegiance.

Mr. OXLEY. Mr. Speaker, I stand in strong support of H. Res. 459, which I am proud to cosponsor. I am deeply troubled, but sadly not surprised, that the action of this San Francisco-based court compels us to consider this resolution today.

Mr. Speaker, the Pledge of Allegiance is one of the first things that children learn to recite in school. Adults still place their hands over their hearts when they say it. This simple thirty-one-word affirmation of our great country encompasses the affection and devotion of Americans young and old toward their flag and their nation.

Two years ago, in a court decision equally as absurd as this Newdow decision, a three-judge panel of the Sixth U.S. Circuit Court of Appeals struck down Ohio's official state motto, "With God All Things Are Possible." The Court sided with the American Civil Liberties Union in declaring that the motto expresses a "particular affinity toward Christianity," in violation of the Establishment clause.

Mr. Speaker the Ohio motto decision was ultimately overturned, just as this outrageous decision will be overturned. Our Pledge of Allegiance, along with our Biblically based national motto "In God We Trust," stands as a testament to the undeniable religious foundation of our country. "In God We Trust" has been upheld in the courts time and again as a proper reflection of our nation's enduring faith.

It's too often overlooked that the First Amendment's Establishment clause—"Congress shall make no law respecting an establishment of religion"—is followed by the phrase "or prohibiting the free exercise thereof." My constituents are tired of having their free religious exercise attacked by fringe groups in the name of separation of church and state. The Ninth Circuit Court's action is nothing more than political correctness run rampant.

When President Eisenhower approved the addition of the words "under God" to the Pledge of Allegiance in 1954, he said, "In this

way we are reaffirming the transcendence of religious faith in America's heritage and future; in this way we shall constantly strengthen those spiritual weapons which forever will be our country's most powerful resource in peace and war." During this time of war, when people across the nation gather in their homes and places of worship to pray for the safety of our men and women in uniform, the Ninth Circuit's assault on our nation's faith-based foundation cannot stand. It flies in the face of common sense, and blatantly ignores a plethora of court precedents.

When we pledge allegiance to our flag, we are not saluting a mere piece of cloth. Our flag is the most visible symbol of our nation—a unifying force in our nation of nearly 300 million. Since the Supreme Court invalidated state flag protection laws in 1989, the legislatures in each of the 50 states have passed resolutions petitioning Congress to propose a flag protection amendment to the Constitution. People across the nation—and across the political spectrum—support the right of everyone to affirm the religious foundation of our country through our Pledge.

My hometown of Findlay, Ohio, is known as Flag City USA. Major downtown thoroughfares are lined with flags in a patriotic salute to the greatness of America. Nearby Arlington, Ohio, which I am also privileged to represent enjoys the designation Flag Village USA. The messages I am receiving from Findlay, Arlington and throughout my district are clear: we are one nation under God, despite this ludicrous court action. I know that my constituents and all Americans are saying the Pledge of Allegiance a little louder and with even more pride.

Mr. KLECZKA. Mr. Speaker, I strongly oppose yesterday's 9th U.S. Circuit Court of Appeals decision holding that the use of "under God" in the Pledge of Allegiance is unconstitutional.

The case in question originated from a lawsuit filed by a parent who felt that the use of the phrase "under God" impinged on his daughter's First Amendment rights since he believed that it constituted a sanction of religion in the public school she attends.

This decision was clearly erroneous and I find it abhorrent, as do the vast majority of Americans. It was based upon a total lack of respect if not knowledge of the traditions, the values, and the history of our nation. From the very beginning, as the Declaration of Independence points out, our founding fathers established this land based on the idea that individuals were endowed not by man, but by "their Creator with certain unalienable Rights."

The Pledge of Allegiance is a revered expression of patriotism recited by millions of citizens every day. When it is spoken, it instills support for the United States and reflects the love that Americans feel for their country. The Pledge does not violate the separation between church and state since it is not a religious statement, but a verbal expression of Americans' affection for our country.

As the dissenting judge pointed out, similar brief references such as the "In God We Trust" that appears on our currency and the opening call of the Supreme Court, "God save the United States and this honorable court" have always been accepted. I am hopeful that

the 9th Circuit Court as a whole reverses the decision of this three judge panel or that the Supreme Court takes up the case and overturns this badly mistaken ruling.

This morning we were proud to recite the Pledge of Allegiance on the House floor as we do each day. I am a co-author of the resolution before us, H. Res. 459, that expresses the opinion of Congress that the court's judgment was in error. The measure calls for "under God" to remain in the Pledge, and for the decision to be reversed. I urge my colleagues to support this measure.

Mr. SHAYS. Mr. Speaker, I rise in strong support of H. Res. 459, Expressing the Sense of the House of Representatives that *Newdow v. U.S. Congress* was Erroneously Decided.

"One Nation, under God," reflects the fact that a belief in God permeated the founding and development of our Nation.

The Pledge of Allegiance is not a prayer of part of a religious service. It is a statement of our commitment as citizens to our great Nation and the role God played in it.

Yesterday, the Ninth U.S. Circuit Court of Appeals confused the issue of separation of church and state with the foundation on which our nation was built. "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness." So reads our Declaration of Independence.

As a new nation we claimed our freedom from any monarch in the Declaration of Independence and inherently in the U.S. Constitution because of "certain unalienable rights" guaranteed to us by our Creator.

President Abraham Lincoln, in his second inaugural address, spoke of God 13 times, not in an effort to unite church and state but to unite our Nation at the conclusion of one of the most devastating periods in U.S. history, the War Between the States.

Speaking of the Northern blue and Southern grey, this is what Abraham Lincoln said: "Both read the same Bible, and pray to the same God; and each invokes his aid against the other. It may seem strange that any men should dare to ask a just God's assistance in wringing their bread from the sweat of other men's faces; but let us judge not, that we be not judged. The prayers of both could not be answered—that of neither has been answered fully."

Abraham Lincoln continued, "With malice toward none; with charity for all; with firmness in the right as God gives us to see the right."

Today, we as Americans need to seek the right as God gives us to see this right, and continue to ask God's blessing on our great Nation, whose 226th year of freedom we celebrate next week.

Mr. CHAMBLISS. Mr. Speaker, I rise today in support of House Resolution 459, Expressing the Sense of the House of Representatives that *Newdow v. U.S. Congress* was Erroneously Decided.

I do this on behalf of all Georgians who share my outrage with the Ninth Circuit ruling that our "Pledge of Allegiance" is unconstitutional.

For many years, liberals have been unsuccessful in achieving their objectives through

the consent of the governed and have turned to activist judges who are willing to distort the Constitution and erase from all public forums any mention of religion and our country's rich religious heritage. Mr. Speaker, the First Amendment guarantees us freedom of religion.

Is it any wonder that this year alone, the Ninth Circuit Court has been overruled 12 times by the Supreme Court. But in a larger sense, this ruling is further evidence that our nation is facing a judicial crisis. Liberal special interests are working tirelessly to prohibit the confirmation of President Bush's judicial nominees in order to further pack the courts with liberal judges who will promote their liberal agenda thus guaranteeing that ruling such as this will become the norm.

Mr. Speaker, I urge my colleagues to pass this resolution, I urge the Department of Justice to immediately appeal this decision and work to have it overturned. I urge confirmation of the President's judicial nominees. To date, only 28% of the President's circuit court nominees have been confirmed. The ruling yesterday in San Francisco demonstrates that the time has run out for holding up the President's nominees. We need the President's judges. We need them now.

Mr. UDALL of Colorado. Mr. Speaker, I support this resolution—not because I necessarily agree that the recent decisions it addresses is "inconsistent with the U.S. Supreme Court's First Amendment jurisprudence" as the resolution says, but because I do agree that "the Ninth Circuit Court of Appeals should agree to rehear" the matter.

I am not a lawyer, and have not had a chance to carefully review the decision. So, I am not prepared to conclude that its author—a long-serving judge originally appointed by President Nixon—was clearly wrong as a matter of law. However, it is my understanding that another appeals court, in a similar case, has ruled differently. So, I definitely think the issue needs to be resolved, either through reconsideration or by the Supreme Court.

I also strongly agree with the part of the resolution which states that "the United States Congress recognizes the right of those who do not share the beliefs expressed in the Pledge to refrain from its recitation."

I am proud to recite the Pledge of Allegiance because I personally agree that, as the resolution states, "the Pledge of Allegiance is not a prayer or a religious practice" and its recitation "is not a religious exercise" but instead "the verbal expression of support for the United States of America." However, I think it is not a good idea for the Congress to attempt to define what constitutes a religious practice or a prayer. So, I am uncomfortable with the parts of the resolution dealing with those points. The resolution is only an expression of opinion, of course, but still I would have preferred if those clauses had been omitted.

Similarly, I am not sure it is correct to say, as the resolution does, that the court's decision "treats any religious reference as inherently evil and is an attempt to remove such references from the public arena." That seems to me to be a bit of a stretch, especially since under our legal system the courts rule only on cases brought to them, and—unlike the political branches of the government—do not have complete control over their agenda.

On balance, however, and for the reasons I have outlined, I am generally in agreement with the resolution, and so I will vote for it.

Mr. CRENSHAW. Mr. Speaker, yesterday, the Ninth Circuit Court of Appeals held that the Pledge of Allegiance is an unconstitutional endorsement of religion. The Court stated that the Pledge "impermissibly takes a position with respect to the purely religious question of the existence and identity of God." Furthermore, the Court concluded that the Pledge places children in the "untenable position of choosing between participating in an exercise with religious content or protesting."

I vehemently disagree with the Court and rise in strong support of H. Res. 459, a resolution expressing the sense of the House of Representatives that this case was erroneously decided. The Court's ruling is contrary to the vast weight of Supreme Court authority recognizing that the mere mention of God in a public setting is not contrary to any reasonable reading of the First Amendment.

The Pledge of Allegiance is not a religious service or a prayer, but it is a statement of historical beliefs. The Pledge represents everything that unites us. It is a reminder of the ideals that we all share—patriotism, loyalty, and love of country. While I firmly believe in the separation of church and state, I also believe that the Constitution was not designed to drive religious expression out of public sight.

Our people are part of a culture where many believe in God and value the fact that religion played an important role in the founding of this great nation. The United States Ninth Circuit Court of Appeals is firmly out of touch with what is good and right in America and with the vast majority of this country's people and I trust that this fundamentally flawed decision will be quickly overturned.

Mr. Speaker, it is with great pride that I added my name as a cosponsor to this resolution and I urge my colleagues to join me and send a strong message to all Americans that they should be proud of the religious heritage of America by supporting H. Res. 459.

Mr. TERRY. Mr. Speaker, I rise in support of H. Res. 459 to firmly denounce yesterday's outrageous court ruling that the Pledge of Allegiance "is an unconstitutional endorsement of religion and cannot be recited in schools."

The Pledge of Allegiance is an American tradition that instills patriotism, gratitude, and respect in our children. Many of us grew up pledging allegiance to the flag each morning in our school rooms—an honor I want my children to experience. Many of us also have family and friends who fought in foreign wars under the red, white, and blue of Old Glory. The Pledge of Allegiance affirms the strength, unity, sacrifice, and a commitment symbolized by the flag under which they fought and bled.

The late Red Skelton ended his now-famous patriotic commentary on the Pledge of Allegiance by saying "since I was a small boy, two states have been added to our country, and two words have been added to the Pledge of Allegiance: Under God. Wouldn't it be a pity if someone said that is a prayer, and that would be eliminated from schools, too?" If allowed to stand, the Ninth Circuit Court of Appeals' ruling would make this fear a reality.

Generations of school children would be denied their right as Americans to publicly express gratitude to those who aided to secure the blessings of freedom.

We were all inspired by the firemen who risked their lives to stand atop the smoking, 70-story debris of the World Trade Towers to unfurl the American flag and recite the Pledge of Allegiance in its honor. In the face of such selfless bravery, it is more evident than ever that we are indeed a nation "under God."

The First Amendment to the United States Constitution affirms that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . ." Our nation's founding fathers sought to ensure freedom of religion, not freedom from religion, as the two Ninth Circuit Federal judges have erroneously and dangerously concluded. I agree with the dissenting Judge Fernandez, who wrote that "such phrases as 'in God we trust,' or 'under God,' have no tendency to establish a religion in this country or to suppress anyone's exercise, or non-exercise, of religion," except in the eyes of those who "most fervently would like to drive all tincture of religion out of the public life."

I urge my colleagues to join me in supporting H. Res. 459 to ensure that generations of children can pledge allegiance to our flag and understand the sacrifices, values, and patriotism that have made our country great.

Mr. CASTLE. Mr. Speaker, I rise today in strong support of H. Res 459 expressing the Sense of the House of Representatives that the 9th Circuit court of Appeals exercised poor judgment in deciding 2 to 1 that the phrase "under God" in the Pledge of Allegiance violated the Establishment Clause of the First Amendment. Today, the House of Representatives joins the Senator, which voted unanimously, to object publicly to this decision.

Because our Constitution only grants the Supreme Court the power to make a final interpretation of the Constitution, Congress cannot overturn this decision. However, it is entirely appropriate for Congress to express its collective opinion about this 9th Circuit decision. I hope the Supreme Court is listening as it will likely hear the appeal on this case.

The Pledge of Allegiance is not a prayer. It is an expression of support for our nation just as "In God We Trust" is on our currency or singing the song "God Bless America." These phrases are a form of ceremonial deism, not an establishment of religion. Anyone who thinks the Pledge of Allegiance will lead us to abandon democracy and establish a theocracy is wrong. I hope they will come to realize that attempt to extinguish the phrase "God" from the public forum is really an attempt to extinguish an important element of our nation history.

Finally, it is worthwhile to note that the important principle of separation of church and state is already preserved. Under current law, student are not required to recite the Pledge of Allegiance. It is part of their freedom of speech to refrain from reciting it. Let's not forget that it is also the freedom of speech of other students to recite the Pledge of Allegiance. I respect that the Supreme Court will ultimately make its own independent judgment. However, I sincerely hope that it will reverse the 9th Circuit decision.

Mr. CARDIN. Mr. Speaker, I rise today in strong support of H. Res. 459, expressing the sense of the House of Representatives that the decision of the U.S. Court of Appeals for the Ninth Circuit in the case of *Newdow v. U.S. Congress* was wrongly decided. I believe that students should be able to continue to recite the full Pledge of Allegiance, including the phrase "under God," if they so chose, as the Pledge is a central part of the heritage of the United States.

Mr. Speaker, the day after the terrorist attacks of September 11, 2001, I took the floor of the House to remind members about the history and importance of our flag to the United States. On September 12, 2001, I stated:

Mr. Speaker, it was 187 years ago this very evening that in Baltimore, Maryland, at Fort McHenry, this Nation, this young Nation, won its second war of independence. It was the beginning of the end of the War of 1812. Francis Scott Key on this very evening 187 years ago wrote his inspirational poem that became our National Anthem.

In that third verse, he wrote some words that are helpful for us this evening:

From the terror of flight or the gloom of the grave,
And the Star-Spangled Banner in triumph
doth wave.

We survived the attack by a hostile power and became the strongest Nation in the world, and we will survive this attack on our democratic principles, and we will grow even stronger.

Mr. Speaker, the Pledge of Allegiance is a simple, eloquent statement of American values. For more than four decades, school children have recited it in classrooms across the country. Students pledge allegiance not only to the flag, but to the nation and our values and principles.

I was heartened to see Americans all across our great nation pause for the Pledge on June 14, Flag Day. The Supreme Court, Mr. Speaker, regularly opens its proceedings with the injunction "God save the United States and this Honorable Court." Congress opens its business for the day with a prayer and the Pledge of Allegiance, as do many of our state legislatures. We should continue this fine tradition in our public institutions of government, as well as our schools.

At this most trying time for our nation, when American values and our democracy are under attack from terrorist both at home and abroad. Congress should send a clear message to the nation that we believe the Pledge of Allegiance continues to unite us.

Mr. Speaker, I urge passage of this resolution.

Mrs. ROUKEMA. Mr. Speaker, I am shocked and appalled by the U.S. Court of Appeals for the Ninth Circuit's ruling of the Pledge of Allegiance as unconstitutional. This outrageous decision allows a tiny minority to impose its atheistic views on the vast majority of Americans of all faiths. At the same time, it has no legal foundation.

The Pledge of Allegiance is based on the same fundamental legal principles that established our Nation under the Constitution.

This nation has experienced a tremendous rise in patriotism and we continue to take every opportunity to express our pride in this

country. Yet we have now been told that the Pledge of Allegiance is a biased statement and an injury to hear that we are "one Nation, under God." How ridiculous!

I am strongly opposed to this court decision and urge all Americans to join me in expressing contempt for this ruling.

This case must be appealed to the U.S. Supreme Court in an expedited fashion.

Mr. OTTER. Mr. Speaker, today I rise in support of the resolution introduced by my colleague, representative BOB RILEY opposing the ruling of the 9th circuit court that the Pledge of Allegiance is unconstitutional. This is just the kind of ridiculous decision we in the West have come to expect from the 9th Circuit. In an attempt to impose political correctness on society at the expense of freedom, these judges have ignored the real intent of the framers of the Constitution. The First Amendment says nothing about separating church and state. What it does is prohibit the government from establishing a state religion or laws prohibiting free exercise of religion. What's next? Are they going to declare U.S. currency unconstitutional because it bears the words "In God We Trust?" Religious freedom is the one common unifying quality that makes us a peace loving, God-fearing nation. We are all Americans, and the Pledge of Allegiance stands as a testament to the citizens of this Nation, and their commitment to each other as Americans.

Mr. SMITH of Texas. Mr. Speaker, the Ninth Circuit Court of Appeals ruling yesterday treats the reference of God as one would treat profanity. Religious references in public discourse are wrongly under attack.

The Constitution guarantees us that government will not 'establish' a religion, but it also provides every American—even students—the right to freely express their views. We are 'one nation under God' and we have the right to say it.

I urge my colleagues to support this resolution.

Mr. HORN. Mr. Speaker, yesterday, the Ninth U.S. Circuit Court of Appeals ruled in a 2-1 decision that the words "under God" as recited in the Pledge of Allegiance were unconstitutional. The case was brought before the panel of three judges by Michael A. Newdow, a self-described atheist who protested the requirement of the pledge at his second-grader's school in the Elk Grove Unified School District in Sacramento, California. His case had previously been dismissed by the U.S. District Court.

Writing for the majority, Judge Alfred T. Goodwin found that Newdow had standing as a parent to "challenge a practice that interferes with his right to direct the religious education of his daughter." Following the precedent established by the Supreme Court in related school prayer cases, the Court ultimately decided that the 1954 Act, which placed the words "under God" in the Pledge was unconstitutional because it violated the Establishment Clause of the First Amendment. The ruling will affect nine states in the western United States: Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington.

This decision will not be implemented for several months, and an appeal to the Supreme Court will likely be the next step. I urge

Attorney General Ashcroft to take steps to begin these proceedings as soon as possible.

Congress already is protesting this decision as well. The day the decision was announced, members of the House of Representatives gathered on the steps of the Capitol building and proudly recited that Pledge of Allegiance. In addition, on Thursday, June 27, H. Res. 459 was introduced on the House floor. This legislation expresses the view of Congress that *Newdow v. U.S. Congress* was erroneously decided. If necessary, I would support a constitutional amendment protecting the right to recite the pledge in schools and other public settings.

As cited in H. Res. 459, the Pledge of Alliance, including the phrase "One Nation, under God," reflects the historical fact that a belief in God permeated the founding and development of our Nation. This is evident in many other cultural elements, including our currency and many patriotic songs, such as "God Bless America." In this time of uncertainty, it is important to remember and uphold the symbols of our Nation, which honor our heritage and draw us together as one people.

Mr. GILMAN. Mr. Speaker, I rise in response to the U.S. 9th Circuit Court of Appeals' declaration that the Pledge of Allegiance is unconstitutional because it contains the words "under God" which were added by Congress in 1954.

The Federal Court's decision is an insult to our Nation and a disgrace and an absurdity of justice. It is an obvious misinterpretation of the Constitution, one which violates the basic principles of reason and good judgment.

The ruling, if allowed to stand, means schoolchildren in the nine western states covered by the Court (Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon and Washington) can no longer recite the Pledge.

Accordingly, I urge the Attorney General to expeditiously appeal this decision to the Supreme Court. Each day that this unbelievable finding stands is another day that the Federal judiciary should hide its head in embarrassment.

Mr. SIMPSON. Mr. Speaker, I rise today to condemn the absurd logic of the Ninth Circuit Court of Appeals in its decision regarding the Pledge of Allegiance and renew my call for much needed reform to stop the unchecked abuses of this court.

We in the West have long known the Ninth Circuit is a court out of touch with reality. Yesterday's ruling, however, marks a new low for this court and is an affront to the principles on which our nation was founded.

The Ninth Circuit, without question, is the most overturned appeals court in the nation. The 1996–1997 session alone saw 95 percent of its cases reviewed by the Supreme Court overturned—and the wholesale rejection of this court's decision continues to this day.

I call upon my colleagues in the House to support legislation I put forward last year that would split the Ninth Circuit into two courts and put an end to this cycle of wasteful and irresponsible rulings. My constituents deserve better, the people of the nation deserve better, and the constitution deserves better.

Mr. Speaker, yesterday the 9th Circuit Court of Appeals ruled that the Pledge of Allegiance is unconstitutional. This is an outrage to me,

to Congress, to the man on the street, and to the children who will be told they can no longer say the pledge in school! I am livid over the court's brainless decision. I pledge to support every effort to overturn this horrible decision.

The court's decision stating that the words "under God" amounts to a government endorsement of religion shows just how out of step these liberal judges are with the American people. They state that saying God is akin to saying Jesus, Vishnu, or Zeus. This is blatantly nearsighted because the term God refers to God in the concept that is personal to every single person and does not refer to any certain idea of deity. Furthermore, the Pledge of Allegiance is not a prayer or a religious practice and thus the recitation of the pledge is not a religious exercise but rather it is an expression of support and loyalty for the United States. In Justice Brennan's concurring opinion in *School District of Abington Township v. Schempp*, 374 U.S. 203, 304 (1963) he stated, "the reference to divinity in the revised pledge of allegiance . . . may merely recognize the historical fact that our Nation was believed to have been founded 'under God.' Thus reciting the pledge may be no more of a religious exercise than the reading aloud of Lincoln's Gettysburg Address, which contains an allusion to the same historical fact." And Justice Blackmun writing for the Court in *County of Allegheny v. American Civil Liberties Union Greater Pittsburgh Chapter*, 109 S. Ct. 3086, 3106 (1989) stated. "Our previous opinions have considered in dicta the motto and the Pledge characterizing them as consistent with the proposition that government may not communicate an endorsement of religious belief."

Even before Congress added "under God" in 1954 to the pledge, the Supreme Court had ruled no one could be forced to recite the pledge. The court's decision yesterday said simply having to hear it every day violates the First Amendment ban on the establishment of religion. However, as Judge Fernandez points out in his dissenting opinion, "in *West Virginia Board of Education v. Barnette* the Supreme Court did not say that the Pledge could not be recited in the presence of Jehovah's Witness children; it merely said that they did not have to recite it. That fully protected their constitutional rights by precluding the government from trenching upon 'the sphere of intellect and spirit. As the Court pointed out, their religiously based refusal' to participate in the ceremony would not interfere with or deny rights of others to do so."

Essentially this court has with this opinion developed the idea of a coercive environment. However, the law doesn't normally condition ones behavior on how it will affect others around them. Instead, we are told to avert our eyes and turn our heads away from something we find objectionable. In *Cohen v. California*, the Court found that epithets on the back of a war protestor's jacket, worn in public places, was constitutionally protected speech—the rights of unwilling viewers do not outweigh the speaker's. With this decision, the court gives any statement which may appear to be religious, no matter how innocuous, less protection than any other speech. Religion should be a more highly protected value, not a less pro-

tected value. At the very least it deserves equal protection.

If this case is allowed to stand what will be next? Our national motto "In God We Trust" which is emblazoned on our money and above the Speaker of the House's chair? Or the singing of songs such as "God Bless America" or "America the Beautiful" in public? Or how about congressional prayers or the president's periodic invocation of the deity? Or maybe even the crosses at Arlington National Cemetery and our national military cemeteries across the country?

The Pledge, like the National Anthem, is one of few remaining vestiges of the old idea of civic inculcation. It reminds us that despite the fact that we are all from diverse ethnic, religious, and racial backgrounds we remain a part of the same republic. The key to our unity is a shared commitment to the republican ideas of liberty and justice. The sanctioning of our oath under God is not merely an assertion of religious belief, but an appeal for divine blessing of this rather strange and mysterious grand experiment. Out Pledge, National Anthem, national motto and civic prayers help remind our citizens that there are more spiritual ties that bind us than natural affinities that divide us.

Mr. NETHERCUTT. Mr. Speaker, I rise in support of House Resolution 459, to express the sense of Congress that the decision made in *Newdow v. U.S. Congress* was erroneous.

Yesterday, the Ninth Circuit Court of Appeals, the Federal Court that has jurisdiction over my constituents in Eastern Washington, ruled that our nation's Pledge of Allegiance is unconstitutional. The Ninth Circuit has a long history of bad rulings, and has had more decisions overturned by the Supreme Court than any other circuit. This decision once again proves that the Ninth Circuit needs a common-sense judge from the Eastern District of Washington to bring a voice of reason to the federal appellate bench.

The Pledge of Allegiance, recited by Americans of every age, is an affirmation of our principles of democracy, justice and individual liberty. The declaration of our being "one nation under God" is at the heart and soul of America and her distinguished history.

This case and decision should serve as a strong reminder to the U.S. Senate that it should fulfill its responsibilities to confirm President Bush's judicial nominees.

Mr. Speaker, the ruling in *Newdow v. U.S. Congress* eliminates a constitutionally protected "genuine choice" by disallowing students across the Nation from proclaiming their love for these United States through the Pledge of Allegiance. To do so is wrong. We must encourage our Nation's youth to believe in whatever religion they choose, for those beliefs set guiding principles that turn our youth into the outstanding leaders of tomorrow.

Mr. UNDERWOOD. Mr. Speaker, I rise today in support of House Resolution 459 expressing the sense of the House of Representatives that the court ruling in *Newdow v. U.S. Congress* as erroneously decided. By supporting this resolution we recognize the meaning of the Pledge of Allegiance and embrace the significance of its recitation by our nation's schoolchildren.

Since arriving in Congress in 1993, I have had the privilege of leading this House in the

Honda Scott Stark

ANSWERED "PRESENT"—11

Ackerman	Gutierrez	Oberstar
Blumenauer	Hastings (FL)	Velazquez
Capuano	McDermott	Watt (NC)
Frank	Nadler	

NOT VOTING—5

Berman	LaFalce	Traficant
Greenwood	Roukema	

□ 1616

Mr. GUTIERREZ changed his vote from "yea" to "present."

Mr. NADLER and Mr. McDERMOTT changed their vote from "nay" to "present."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. GREENWOOD. Mr. Speaker, on rollcall No. 273 I was unavoidably detained by duties related to my investigation of Worldcom in a interview room without audible vote notification bells. Had I been present, I would have voted "yea."

PROVIDING FOR CONSIDERATION OF H.R. 5011, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2003

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 462 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 462

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 5011) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions of the bill for failure to comply with clause 2 of rule XXI are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage with-

out intervening motion except one motion to recommit with or without instructions.

SEC. 2. House Resolution 421 is laid on the table.

The SPEAKER pro tempore (Mr. ISAKSON). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. McGOVERN), and I believe this is the first time we have done a rule together, welcome, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

On Wednesday, the Committee on Rules met and granted an open rule for the Military Construction Appropriations Act for the fiscal year 2003. H.R. 5011 recognizes the dedication and commitment of our troops by providing for their most basic needs, improved military facilities, including housing and medical.

Mr. Speaker, we must honor the most basic commitments we have made to the men and women of our Armed Forces. We must ensure reasonable quality of life to recruit and retain the best and the brightest to America's fighting forces. Most importantly, we must do all in our power to ensure a strong, able, dedicated American military, so that this Nation will be ever vigilant and ever prepared.

H.R. 5011 provides nearly \$1.2 billion for barracks and \$151 million for hospital and medical facilities for troops and their families. It also provides \$2.9 billion to operate and maintain existing housing units and \$1.3 billion for new housing units.

Military families also have a tremendous need for quality child care, especially single parents and families in which one or both parents may face lengthy deployments. To help meet this need, the bill provides \$18 million for child development centers.

Mr. Speaker, this is a fair and an open rule for consideration of the fiscal year 2003 military construction appropriations bill. I urge my colleagues to support the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume, and I thank the gentlewoman from North Carolina (Mrs. MYRICK) for yielding me the customary 30 minutes.

Mr. Speaker, we have before us a fair and open rule for H.R. 5011, the military construction appropriations for fiscal year 2003. The rule provides for 1 hour of general debate, waives all points of order against consideration of the bill, allows for all germane amendments to be offered with priority accorded to those preprinted in the CONGRESSIONAL RECORD, and provides for

one motion to recommit with or without instructions.

This is a fair rule, and I urge my colleagues to vote for it.

I would like to express my appreciation for the work of the gentleman from Ohio (Mr. HOBSON), the chairman, and the gentleman from Massachusetts (Mr. OLVER), the ranking member of the Subcommittee on Military Construction, along with the gentleman from Florida (Mr. YOUNG), the Committee on Appropriations chairman, and the gentleman from Wisconsin (Mr. OBEY), the ranking member, for continuing the tradition of strong bipartisan support in the drafting of the military construction appropriations bill.

This is a very difficult year for the Committee on Appropriations, and I commend the gentleman from Ohio (Mr. HOBSON) and the gentleman from Massachusetts (Mr. OLVER) for bringing to this House a very fine bill, given the limited amount of funds allocated for military construction needs.

Mr. Speaker, the President's fiscal year 2003 request for military construction was \$1.6 billion, or 15 percent below the fiscal year 2002 enacted levels. However, included in the defense emergency response fund as part of the defense appropriations bill was approximately \$594 million worth of military construction projects. These projects were subsequently transferred over to the jurisdiction of the military construction request, resulting in the bill before us today. This combined request for military construction, therefore, now contains \$542 million more than the President requested but still remains \$522 million below last year's enacted levels.

Mr. Speaker, I believe it is incumbent upon all of us, the administration and Congress alike, to ensure that our forces have appropriate operational and training facilities, maintenance and production facilities, and research and development facilities. Yet each of these categories face significant reductions in funding in this bill.

According to the Pentagon, 68 percent of the Department's facilities have serious deficiencies that might impede mission readiness or they are so deteriorated that they cannot support mission requirements. The current reductions in funding for construction in these facility categories mean that the rates at which buildings are renovated or replaced has just increased from 83 years to 150 years.

Mr. Speaker, I keep hearing that we are engaged in a long-term struggle against a global enemy. So I find it difficult to believe that while we can find the funds to increase the defense budget by \$48 billion, we cannot find the funds to bring our operational facilities up to standard.

Mr. Speaker, I firmly believe that our uniformed men and women and

their families deserve decent housing and accommodations, both here at home and abroad. We need to ensure that all personnel in all branches of service have a quality place to live and work, both at home and abroad; and I commend the committee for continuing to provide increased funding for dormitories in overseas construction; but again, through no fault of the committee, the funding provided does not come near to meeting the need. According to the Department of Defense, 180,000 of the 300,000 units of military housing are substandard. Mr. Speaker, this is a national scandal.

We also need to ensure that security is improved around all our military bases, installations and other sites both in the United States, its territories and abroad. I know that this is a matter of deep concern for both the chairman and the ranking member. In last year's emergency supplemental in response to September 11 and in this bill, we have made progress in this area; but again, much more needs to be done and done quickly.

This is not the first time that this committee has lamented the shortfalls in funding for basic military construction priorities, but we now live in a changed world, Mr. Speaker. Poor facility conditions are not only unsafe, they hamper readiness and decrease troop retention. The events of September 11 require both the administration and the Congress to provide significantly greater funds for these purposes.

Clearly, the President's request for fiscal year 2003 was inadequate. Clearly, the committee has done as fine a job as anyone could in bringing forward a bill worthy of bipartisan support; but clearly, this Congress, in a bipartisan manner, must bring this urgent matter to the attention of the White House so that the next budget does not continue to ignore these significant national security needs. I know I speak for all my colleagues when I pledge that I will be happy to work with the chairman and the ranking member on any such initiative.

Mr. Speaker, I urge adoption of this rule and this bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield as much time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding me the time, and I would like to first congratulate her on her very strong commitment to our Nation's military and also for her ascension to the chairmanship of the very important Republican Study Committee, which is an entity within the Republican Conference that spends a great deal of time focused on the na-

tional security of the United States of America, and I believe she will provide stellar leadership there.

Mr. Speaker, this is a very important measure. I had a lengthy conversation this morning with the gentleman from Pennsylvania (Mr. MURTHA), the ranking minority member of the Subcommittee on Defense, Committee on Appropriations; and we were talking about our Nation's military forces, and we were reminded of the fact that we have an all-volunteer Army, all-volunteer military. And in light of that, it is very important for the United States Congress to provide the resources that will ensure that we attract the most capable individuals to serve in the military. It seems to me that one of the most important things for us to do is to make sure that in the area of military construction that we do just that.

I would like to join in congratulating my good friends, the gentleman from Florida (Mr. YOUNG), the gentleman from Wisconsin (Mr. OBEY), and the leadership of this subcommittee, the gentleman from Ohio (Mr. HOBSON) and the gentleman from Massachusetts (Mr. OLVER), for their strong leadership and dedication to this shared goal.

I appreciate the gentleman from Massachusetts' (Mr. MCGOVERN) comment about the fact that we continue to pursue this in a bipartisan way, and it is good to see this bipartisan sense here in this institution as we look at this important issue.

The numbers were outlined very well by our colleague from North Carolina. One issue that was not mentioned was the fact that there are resources in here to deal specifically with counterterrorism, and I saw that there is roughly \$582 million to deal specifically with that question, to ensure that as we proceed with military construction, that the safety and security of the men and women in uniform, as well as those families of theirs, are addressed.

So I believe that we have got a good measure here that is going to be brought forth under an open amendment process that will allow for the consideration of different ideas; but the fact that we have come together with strong agreement from both Democrats and Republicans is I think a great testimony to the success of the work of the Committee on Appropriations.

Mr. MCGOVERN. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. OLVER), who is the ranking Democrat on the Subcommittee on Military Construction of the Committee on Appropriations.

Mr. OLVER. Mr. Speaker, I thank the gentleman from Massachusetts for yielding me time.

Mr. Speaker, I rise this afternoon to support this open rule for the consideration of the military construction appropriations bill. Because of the leader-

ship of the gentleman from Ohio (Mr. HOBSON), the chairman of this subcommittee, the underlying bill is a good bill developed in a bipartisan way, as he has always done in the years that he and I have served together in the positions of Chair and ranking member, respectively, of the committee; and I urge the Members to support this rule.

□ 1630

Mrs. MYRICK. Mr. Speaker, I yield 4 minutes to my friend and neighbor, the gentleman from North Carolina (Mr. HAYES).

Mr. HAYES. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, today I rise in support of the rule, but first let me pay particular tribute to the gentleman from Ohio (Mr. HOBSON) and the gentleman from Massachusetts (Mr. OLVER), chairman and ranking member, who have a keen awareness of the need for the best of military housing and also an aggressive posture towards pursuing and solving the problems that we have faced in the past, and I appreciate their support for that.

I rise in strong support of the rule that will allow for consideration of H.R. 5011, the Military Construction Appropriations bill for 2003. This bill provides over \$10 billion for military construction projects. Providing adequate housing and facilities for our men and women in uniform enables them to better do their job. Having safe and secure housing allows servicemen and women to know that their families are out of harm's way while they are deployed or serving our country overseas. This assurance is a key component of our Nation's military readiness, and today we take steps to further improve and also to modernize the housing and facilities for our military families.

Mr. Speaker, I would like to highlight a significant component of the MILCON Appropriations bill which will help all soldiers at Fort Bragg, North Carolina. Since I came to Congress, I have been working to secure funds for the Soldier Support Center at Fort Bragg. This center, to be named in honor of General Hugh Shelton, currently recovering from a spinal cord injury, will provide a one-stop in-and-out-processing facility for soldiers at Fort Bragg. Today we take the first step in providing the first half of the funding for this important resource for the epicenter of the universe, Fort Bragg, North Carolina.

Mr. Speaker, in addition to providing funds for MILCON, I would also like to take this opportunity to highlight some of the innovative projects to leverage private capital that individual services are currently pursuing. At Fort Bragg in my district in North Carolina, the Army is getting under way with a project called Residential

Community Initiative, or RCI. Through RCI, the Army has decided upon a private contractor to build several thousand homes on post and to renovate many, many others. This contractor was awarded a 50-year, multi-million dollar contract and will be responsible for the homes for the next 50 years. I am hopeful that this will create both improved housing for our soldiers and their families but also generate many economic opportunities for the greater Fayetteville community. This innovative way to use private capital to fix some of our most serious family housing problems will provide the best housing for our soldier, the best value for the taxpayer, and maximum benefit for our community.

The tragic events of September 11, 2001, have thrust our Nation's military into the spotlight and called to duty the brave men and women of the U.S. Armed Forces. Once again, U.S. citizens are rallying behind them in strong support of the harrowing mission that they have been called upon to perform. Our U.S. Congress has the duty and the opportunity to pass the Military Construction Appropriations bill for 2003. Please join me in supporting this rule that enables us to provide the necessary facilities and security for these brave men and women who are protecting us and our country and our freedom. We are ever grateful.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, let me thank the gentleman from Massachusetts (Mr. MCGOVERN) for yielding me this time, and I want to urge my colleagues to support the rule and the underlying bill.

Mr. Speaker, I take this time to congratulate the gentleman from Massachusetts (Mr. OLVER) and the gentleman from Ohio (Mr. HOBSON) on a very fine Military Construction bill. I particularly want to thank the gentleman from Ohio (Mr. HOBSON) for his help in regards to a facility at the Naval Academy, that he has been very helpful in the new ethics center that will be constructed at the United States Naval Academy.

Eight years ago a private fund-raising group began working with the Naval Academy and the Academy's Foundation to build a new ethics center and Jewish Chapel in Annapolis. While the Jewish Chapel facility will be entirely funded and endowed privately, the subcommittee's action reflects the fact that a significant portion of this new center will be used for an ethics center and a general Academy classroom, office, and common space.

Mr. Speaker, this will be a tremendous addition to the Naval Academy in Annapolis. It would not have been possible without the help of the gentleman from Ohio (Mr. HOBSON). I really want

to take this time to thank him for his efforts on this behalf.

Mrs. MYRICK. Mr. Speaker, may I inquire how much time we have remaining on this side, please?

The SPEAKER pro tempore (Mr. ISAKSON). The gentlewoman from North Carolina has 21½ minutes, and the gentleman from Massachusetts (Mr. MCGOVERN) has 23 minutes.

Mrs. MYRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG), the distinguished chairman of the Committee on Appropriations.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentlewoman from North Carolina (Mrs. MYRICK) for yielding me this time on this very important rule on this very important bill. As she has pointed out, this is an open rule; and I would say to my colleagues, Mr. Speaker, that since I became chairman of this committee, I have never, ever asked for anything other than an open rule so that Members would have an opportunity to be part of the appropriations process. So this is an open rule as we always ask for on all bills.

I had asked the gentleman from California (Mr. LEWIS), I wanted to make a few comments not only on the rule but on the bill, the defense bill that we moved earlier today under the gentleman from California (Mr. LEWIS) and the bill we moved this afternoon under the gentleman from Ohio (Mr. HOBSON), chairman, and the gentleman from Massachusetts (Mr. OLVER), ranking minority member, both very good bills. We had made a commitment to move the defense bill first. We have now done that. We now will be moving the Military Construction bill.

We are keeping our commitment on schedule, and so I wanted to take just a few minutes, besides mentioning the open rule, to mention the fact that this bill goes directly to the quality of life for America's men and women who serve in uniform. A lot of the money in this bill goes for housing for those who serve in the military.

I would suggest to my colleagues, Mr. Speaker, that if they ever have an extra couple of hours, they might want to visit some military bases and look firsthand at some of the housing and where our troops are quartered; and I think they would come back here demanding even more money than this bill provides to provide decent housing for the military in those cases where the housing really is not all that good.

I think if one of us took our kids to a college or a university and we saw housing like some of our military live in, we would put them back in the car and take them back home. We would not let them live like we are requiring some of our military to live. So this bill goes a long way towards solving that problem.

But I must point out that there is a much longer way to go. There is still a lot of work that needs to be done.

I want to compliment again the gentleman from Ohio (Mr. HOBSON) for the good work in producing this bill in a bipartisan fashion, along with the gentleman from Massachusetts (Mr. OLVER). They have done a really good job. I do not think there is any controversy to this bill whatsoever, and it should move quickly.

I just want to point out also that, on the defense bill that I did not speak on earlier today, trying to save time, that the staff and the chairman and the ranking member and the members of that subcommittee worked long, hard hours, days, nights. Oftentimes we hear that about the staff. But in the case of the chairman, the gentleman from California (Mr. LEWIS), he was here on weekends, late at night; and he was here every step of the way. That is why the bill he produced, along with the gentleman from Pennsylvania (Mr. MURTHA), was such a good bill. It was really well-thought-out, and it does a good job for our Nation's defense.

So, Mr. Speaker, I am proud to be supportive of this rule; and I am very proud to be supportive of this good bill that adds considerably to the quality of life for our men and women who serve in our uniform.

Mr. Speaker, I thank the gentlewoman for yielding me this time. She has done an outstanding job on this good rule; and she has an interesting closing comment, I think, which I support enthusiastically when she makes it.

Mr. MCGOVERN. Mr. Speaker, I yield 4 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's courtesy in yielding me this time to speak on this bill.

I, too, would like to express my appreciation to the chairman, the gentleman from Ohio (Mr. HOBSON), the gentleman from Massachusetts (Mr. OLVER), and to our good friend, the gentleman from California (Mr. FARR), who have been focusing on one aspect of the military construction budget which deals with the problem of unexploded ordnance, the bombs and shells and military toxins, that have been left over and littered across the landscape, really, of these 206 facilities across the country.

The subcommittee, for the first time as near as I can tell in history, focused on this issue. They brought people together from the various services, looked at the context of the problem, talked to the experts; and, for the first time, we are having an inventory of this problem. We are at a time when there are a number of bases around the country, it is no secret, that probably should be closed. There are a lot of reasons why we are not going ahead with that process.

One of the reasons, candidly, is that people are concerned about what they

get stuck with when they are over. I think of what has happened with Fort Ord. Despite hundreds of millions of dollars and 11 years of work, we have not yet been able to quite put all those pieces together and finish the job.

What this subcommittee has done here today is the culmination of work that is going to make a difference not just cleaning up these sites, long overdue, it is going to help reorder the process within the Department of Defense so that, at a time when we are giving unprecedented sums of money to the Department of Defense, we will be able to take a little bit of it to be able to make sure that we are not leaving hazards for communities to deal with for years to come.

Mr. Speaker, one of the more important things is that not only are we going to be focusing the attention within the Department of Defense, but the technology that will be developed as we learn to do a better job cleaning up after ourselves is going to make a difference for the other over 2,000 sites across the country, in every State, in most of the congressional districts, that are represented here in this body. We are going to learn to do a better job.

Last but not least, it is going to have international implications. Because, sadly, Mr. Speaker, every single day we have children around the world who are killed from unexploded ordnance, the legacy of what has happened in Africa, in the Balkans, and in Southeast Asia. With the help of the subcommittee in focusing on doing a better job, we are going to learn how to clean up that toxic legacy. It is going to make a difference not just with the men and women we have on our military bases, not just for the communities that are going to inherit lands that they can put in more productive uses, but I think it will make a difference for the quality of life for millions of people around the world.

My only concern is that it looks like there is a little less money than we had last year. At the rate we are going, it is going to take us in the neighborhood of 100 years or more to clean up after ourselves. I am hopeful in the course of the process, as we go through the conferencing, there may be a possibility of putting the money behind it that is necessary.

It is not going to get any cheaper to clean up after ourselves. The liability and the problems are only going to grow over time. And, ironically, the more money we spend to do it right, it will drive down the unit cost, it is going to return the land to productive uses, and it will make the ultimate cleanup cheaper.

I appreciate deeply what the gentleman from Ohio (Mr. HOBSON) and the gentleman from Massachusetts (Mr. OLVER) have done and the committee has done, as well as the work of the

gentleman from California (Mr. FARR). I am hopeful this body will get behind it to give the rest of the push that is needed to make sure we do the job right on the part of our military service and people around the world.

Mrs. MYRICK. Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. DAN MILLER).

Mr. DAN MILLER of Florida. Mr. Speaker, I rise in support of the rule and for the basic bill behind it, the military construction bill.

I happen to serve on the Subcommittee on Military Construction, and it is a pleasure to serve with the gentleman from Ohio (Mr. HOBSON), chairing that committee for the past 4 years, and the gentleman from Massachusetts (Mr. OLVER), also. It is a bipartisan committee and a bipartisan bill.

My congressional district in Florida, beautiful area in southwest Florida, does not have any military facilities and does not really have any major military contractors, so I approach this bill not from my particular district but what is right for this country and right for our soldiers and what will keep the military strong and prepared, as it was for the events that developed after September 11.

I know that Chairman HOBSON in the past 4 years has been working hard to improve the quality of life. The key to being prepared, as we needed to be starting in September of last year, is to have a strong military but also a military that is committed and prepared to go into action at any time; and key to that is the quality of life. That is something that we have been working on now for a number of years.

In my congressional district, we have lots of retired military people, a lot of veterans. A lot of them are World War II generation, or the Korean War generation, even World War I generation. But it is a different military today with the volunteer military. People do not live in the barracks with a hundred other soldiers. Nowadays, we need to have facilities for people to volunteer to be in the military and to be willing to stay and to serve, whether it is at Fort Bragg in North Carolina or in Naples or in Korea, or wherever we have our soldiers stationed around the world.

Quality of life is really critical in this job. As a businessman, before I came to the Congress, one of the things I learned is you need to keep your employees happy. You want to avoid a turnover in your employees. You want to have employees stay and not move on because of the cost of training people. If you can keep an employee for a number of years and keep that employee happy and contented, they will do a good job. And that is exactly what we need to do in the military, is to attract the good people and to provide an environment so that they feel proud and they are satisfied in their job.

□ 1645

So in the past few years, we have had success. Several years ago I went with the gentleman from Ohio (Mr. HOBSON) to Naples. We saw where 10,000 sailors are based in Naples, Italy, and the Sixth Fleet works out of there.

The facilities were in a volcano. We had to move our facilities to take our sailors out of this area. The facilities were almost World War II era. The fact is, they were not very good accommodations. It was cramped quarters. When sailors came ashore, they had to go back to the ship at night.

Over the past few years, we have been able to create the basic enlisted man's quarters. So instead of the sailors coming ashore and having to go to the ship at night and sleep in bunks, they were able to stay overnight in facilities with two people to a room.

We spent a lot of money on child development centers. We have them throughout the country at military facilities because we want to allow the families to be able to stay there with their children.

In Sicily, I saw facilities where instead of a barracks with 50 people in it, we had semi-private rooms like college dormitories. When I was in college, we had bathrooms down the hallway, but it is a different world today.

We have to provide facilities that will allow the military to be happy and their families satisfied in accommodations that are safe. Their children can go to a day care program, elementary and middle and secondary schools. That is what this bill is about, is providing the facilities for the quality of life.

It is also things like runways, the command and control centers. We do not see them because they are top secret, but we need to have places where our admirals and generals can control things that are going on in Afghanistan. I commend the chairman for putting together a very good bipartisan bill. I hope Members will support the bill.

Mr. MCGOVERN. Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. FREYLINGHUYSEN).

Mr. FREYLINGHUYSEN. Mr. Speaker, I rise today in strong support of this rule and the 2003 MILCON appropriations bill. I thank the gentleman from Ohio (Mr. HOBSON) and the ranking member and their staff for their hard work. We know the gentleman from Ohio (Mr. HOBSON) to be a driven man on this issue. And working with the ranking member, one thing we do know on the Committee on Appropriations is that both of those gentlemen, their staff and members of that subcommittee, have personally flown around this world and Nation visiting these Naval, Air and Army bases to see the working and living conditions of

the people who put their lives on the line, of whom we are most appreciative.

They know, as all Members of Congress should know, that nearly 70 percent of the young people in the military today are in uniform or married, and their needs are great. This committee and the Chair and ranking member have been true advocates for decent and affordable housing for those in the military who cannot often afford decent housing. They have been in the forefront of supporting them.

They have also been in the forefront of promoting the expansion of day care centers so that those who are in the military, the men and women, can be on the front lines and make sure that their children are provided for in a very safe and clean environment with professionals looking after their youngsters.

In addition, this is a committee that has worked hard to consolidate military operations around the world here domestically, as well as in foreign installations. Through that, they have lowered the maintenance and operating costs of military bases and saved the taxpayers an incredible amount of money.

Mr. Speaker, part of the job of this subcommittee, and while I do not serve on it, is their recognition that we need in this day and age after September to recognize the absolute safety and security of our military personnel, and in many cases they are living in housing arrangements in precarious situations, and this committee has worked very hard to address that need.

I would also like to thank the gentleman from Ohio (Mr. HOBSON) and the ranking member for including funding in this and previous bills to complete the construction of the high-energy propellant facility at Picatinny Arsenal in my congressional district in New Jersey. This facility is needed to support the development of future weapons systems, include propellants, propellant charges and igniters, as well as support the development of new manufacturing technologies in a timely and cost-effective manner.

It is through this committee that this armament center known as Picatinny Arsenal, which provides 90 percent of the Army's lethality, has been able to put together a unified software engineering center bringing all of these talented men and women under one roof as well as upgrade something as basic as the electrical system of the base which had not been updated since World War II.

This committee's mission is important. It looks after the needs of our soldiers. This rule and this bill need our full support.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I, too, congratulate the gentleman from Ohio (Mr. HOBSON) and the gentleman from Massachusetts (Mr. OLVER), the ranking member, for the outstanding job they have done in crafting this bill.

I have enjoyed serving on the Subcommittee on Military Construction and the Subcommittee on Defense; and I feel very proud of the fact that today these two bills are going to pass the House overwhelmingly, and it is because of the good work of not only these two subcommittees, but the good work of the gentleman from California (Mr. LEWIS) and the gentleman from Pennsylvania (Mr. MURTHA) and the staff. We have outstanding staff on the Committee on Appropriations, particularly on military construction and defense. They should be commended for their good work. They work very effectively with the Members.

Mr. Speaker, I want to echo what has been said here. This is a bill that directly affects quality of life. In my area in the State of Washington, we have Fort Lewis where Army transformation is occurring. In this bill, there is a new barracks facility replaced at Fort Lewis. Also a new barracks facility at the Puget Sound Naval Shipyard, and many other items of great importance.

Over the years, I have always believed if we keep these bases modern and updated and give the sailors and the civilian workers a quality place to work, it will certainly help us with retention of both our military personnel and our good civilian workers.

I wanted to rise and strongly urge passage of the rule and passage of this bill. This is a good bill which has been worked out on a purely bipartisan basis. I too commend the chairman and the ranking member for their diligence in going all over the world to look at these facilities and to be able to give the members of the committee their best advice on what needs to be done at these facilities.

We have to remember, we still have kids in Korea. I have been there many times. We have worked hard to fix those facilities; but there is still work to be done at these bases around the world, and we need to continue to do it.

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Speaker, I rise as a member of this committee to speak in favor of the rule. But in doing so, I think it is necessary to point out for the record that the leadership of this committee, it is exceptional. It is truly bipartisan. It is led by the gentleman from Ohio (Mr. HOBSON) and the ranking member, the gentleman from Massachusetts (Mr. OLVER). The committee is not just a numbers committee. This committee is changing

the definition of what is often said about men and women in uniform about their quality of life.

We have dumped the old military style of designing and deciding what should be the appropriate size for a military living room or a military kitchen. We have turned this process into what all other communities do, and that is building to community standards.

The housing that we are building for the military now could win architectural awards, and the people who live in them are absolutely delighted that they can live in some of the prettiest homes in America, which are really built for community standards, where there is child care, where they can walk to work, if possible, and all of the other concepts that cities around this Nation are looking towards. We are letting the military lead the way, and it is being done by the leadership of this committee.

I stand here today in support of the rule and in support of the bill, but also in support of the attitude or the direction which this committee is taking to make sure that the quality of life for the military is an exemplary life for how all Americans can live, and that we do not in the future drive by military housing and military bases and say, oh, look at the way government builds its stuff. This is the kind of building and architecture that we are going to be proud of, and they are going to be proud to live in it. And if the welfare and morale of the men and women who are fighting for our country is upheld, I think their soldiering will be a lot better.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, all morning we have been extolling our patriotic values; but as our uniformed men and women know so well, there is a significant gap between our rhetoric and our actions. This House can no longer ignore the long-standing needs to repair, renovate, replace and build the operational facilities and housing needs necessary for a modern military charged with protecting the United States from the scourge of global terrorism.

I urge my colleagues to support this rule and support H.R. 5011, and I call upon the administration to provide sufficient funding in the future to address these significant national security priorities.

As I said in the beginning, I want to commend all those involved in coming up with the bill. My only regret is the necessary funding that I think our uniformed men and women deserve, and what the American people expect us to provide to them, is not here; and hopefully we can work on that in the coming budget cycle.

Mr. Speaker, I yield 7 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I take this time for the purpose of inquiring of the gentlewoman if she might explain the parliamentary procedure, this mystery motion, that the gentlewoman is about to offer as an addition to the rule that we are now talking about, military construction, which we are all in favor of. But I keep hearing rumors that we might suddenly be faced with a parliamentary situation where we are talking about increasing the debt ceiling. I yield to the gentlewoman for the purpose of explaining thoroughly to the body since there might not be any time to debate this.

Mrs. MYRICK. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentlewoman from North Carolina.

Mrs. MYRICK. Mr. Speaker, this is Senate 2578 to amend title 31 of the United States Code, and this is at the end of the resolution without an intervention of any point of order we would consider this; and this title 31 of the United States Code is to increase the public debt limit, and it would be considered as a bill as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except for 1 hour of debate on the bill equally divided and controlled by the chairman and the ranking minority member of the Committee on Ways and Means, and one motion to commit, and this has been shared with the minority.

□ 1700

Mr. STENHOLM. If I understood, this would be another one of the rules that provides for no debate and no discussion, no amendments. Debate for 1 hour, but no amendments.

Mrs. MYRICK. No, it provides for 1 hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

Mr. STENHOLM. I misspoke. But if Members on this side would have an amendment of which we believe would be a better way to proceed regarding increasing the debt limit, which many of us are prepared to give the President what he has asked for as a clean debt ceiling increase, but we have a little different idea about how that ought to be done. But I understand the gentlewoman's rule that will be coming will again preclude Members on the minority side from having an opportunity to amend; is that correct?

Mrs. MYRICK. This is providing a straight up and down vote.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from California.

Mr. DREIER. I thank my friend for yielding. I would just like to clarify this. Over the last several weeks, we have had many of my friends on the other side of the aisle join with us in

saying it is very important for us to as quickly as possible take action to increase the debt ceiling. The procedure which has just been outlined by my friend from Charlotte would in fact allow for the full hour of consideration and the Members of the minority will have an opportunity to offer a motion to recommit.

Mr. STENHOLM. But no amendment.

Mr. DREIER. No, there would not be an amendment. This would be a standard procedure as would have come forth from the Committee on Ways and Means. So I think it is a very appropriate one. And I think that we should try and move just as expeditiously as possible on this.

Mr. STENHOLM. Looking at the rule, it says that there will be 1 hour of debate and one motion to commit. Commit to what?

Mrs. MYRICK. It is to commit it back to committee.

Mr. STENHOLM. So it is not a motion to recommit?

Mrs. MYRICK. It is to commit it back to the Senate, because the House would be acting on the Senate bill.

Mr. STENHOLM. Then just about the time I think that I have seen every most unusual political circumstance on this floor, we get another one that is real interesting in this regard. But if I understand the gentleman from California correctly, this provides for a clean increase of \$450 billion in the debt ceiling, so all who vote for this are voting to borrow an additional \$450 billion clean. It is not going to be added to the military construction. It is a simple take-up of the Senate bill; and if 218 Members vote to borrow that money, it is clean.

Mr. DREIER. If the gentleman will yield, I think that my friend is among those who has advocated an increase in the debt ceiling. I may be wrong on that.

Mr. STENHOLM. No, the gentleman is correct; but not in the manner in which the gentleman is proposing.

Mr. DREIER. Let me say, if the gentleman would continue to yield, that this is the second manner in which we have proposed this. We have already passed language out of here that would allow for conferees in the supplemental appropriations bill to consider increasing the debt ceiling, and now we have come up with a second procedure. People have said that they want to have this done just as quickly as possible. I do not know if it would be possible for us to put into place a procedure that would satisfy my friend, but we share the same goal.

Mr. STENHOLM. Reclaiming my time, I think you are getting very close to satisfying me.

Mr. DREIER. Great. That is reassuring.

Mr. STENHOLM. But I would say to the gentleman that I would feel a whole lot better about the procedure if

you allowed the Moore-Spratt bill as a substitute amendment so that we might have a true expression; and then after we have had that true expression, then I certainly would intend to join with the majority in seeing that we do not bring our country to the edge of default. My problem is with the procedure, but it sounds to me like you are getting there.

Mr. DREIER. If my friend will yield further, I just want to express my appreciation for his understanding of our desire to find a procedure around which we can just as quickly as possible do something that we both want to do and that is ensure that we do not see a default and go ahead and have us pay our bills.

Mr. STENHOLM. With all due respect, I understand why you are doing what you are doing. I continue to be extremely disappointed in the lack of consideration for minority views in this body. The last time I got into this exchange, I was reminded that at one time I was in the majority. And I would remind my friends on that side when we were in the majority I often sided with you on fairness. This again is not a fair rule, but I understand the rule of majority; and I appreciate the time and clarification because, as I understand it, we were about to vote on this with no debate, no discussion, there was going to be a lot of confusion regarding this; but now I think more people will have a little better understanding of the confusion.

Mr. DREIER. I appreciate my friend's kind words.

Mr. MCGOVERN. Mr. Speaker, I yield myself the balance of my time.

I would urge that Members who are trying to follow what is going on right here on the floor right now to vote "no" on the previous question on the amendment and resolution so that we have an opportunity to be able to amend the rule and be able to bring up the Spratt-Moore-Stenholm alternative on the debt limit so we could actually have a debate and we can do this right.

Mr. Speaker, I yield back the balance of my time.

AMENDMENT OFFERED BY MRS. MYRICK

Mrs. MYRICK. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. MYRICK:

At the end of the resolution add the following:

SEC. 3. That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (S. 2578) to amend title 31 of the United States Code to increase the public debt limit. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; and (2) one motion to commit.

Mrs. MYRICK. Mr. Speaker, I yield myself such time as I may consume.

In conclusion, this is a good rule and it is a very good bill.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the amendment and on the resolution.

The SPEAKER pro tempore (Mr. ISAKSON). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCGOVERN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

There will be 5-minute votes on the amendment and on the resolution after this vote.

The vote was taken by electronic device, and there were—yeas 221, nays 210, not voting 3, as follows:

[Roll No. 274]

YEAS—221

Aderholt	Ehrlich	Kerns
Akin	Emerson	King (NY)
Armey	English	Kingston
Bachus	Everett	Kirk
Baker	Ferguson	Knollenberg
Ballenger	Flake	Kolbe
Barr	Fletcher	LaHood
Bartlett	Foley	Latham
Barton	Forbes	LaTourette
Bass	Fossella	Leach
Bereuter	Frelinghuysen	Lewis (CA)
Biggert	Gallegly	Lewis (KY)
Bilirakis	Ganske	Linder
Blunt	Gekas	LoBiondo
Boehlert	Gibbons	Lucas (OK)
Boehner	Gilchrest	Manzullo
Bonilla	Gillmor	McCrery
Bono	Gilman	McHugh
Boozman	Goode	McInnis
Brady (TX)	Goodlatte	McKeon
Brown (SC)	Goss	Mica
Bryant	Graham	Miller, Dan
Burr	Granger	Miller, Gary
Burton	Graves	Miller, Jeff
Buyer	Green (WI)	Moran (KS)
Callahan	Greenwood	Morella
Calvert	Grucci	Myrick
Camp	Gutknecht	Nethercutt
Cannon	Hansen	Ney
Cantor	Hart	Northup
Capito	Hastings (WA)	Norwood
Castle	Hayes	Nussle
Chabot	Hayworth	Osborne
Chambliss	Hefley	Ose
Coble	Herger	Otter
Collins	Hilleary	Oxley
Combest	Hobson	Paul
Cooksey	Hoekstra	Pence
Cox	Horn	Peterson (PA)
Crane	Hostettler	Petri
Crenshaw	Houghton	Pickering
Cubin	Hulshof	Pitts
Culberson	Hunter	Platts
Cunningham	Hyde	Pombo
Davis, Jo Ann	Isakson	Portman
Davis, Tom	Issa	Pryce (OH)
Deal	Istook	Putnam
DeLay	Jenkins	Quinn
DeMint	Johnson (CT)	Radanovich
Diaz-Balart	Johnson (IL)	Ramstad
Doolittle	Johnson, Sam	Regula
Dreier	Jones (NC)	Rehberg
Duncan	Keller	Reynolds
Dunn	Kelly	Riley
Ehlers	Kennedy (MN)	Rogers (KY)

Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson

Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi

Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—210

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Coveters
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)

Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Klecza
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-
McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha

Nadler
Napolitano
Neal
Oberstar
Obey
Oliver
Ortiz
Owens
Pallone
Pascarell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

□ 1732

Mr. HONDA, Ms. BROWN of Florida, Mr. GEORGE MILLER of California, and Mr. OBERSTAR changed their vote from “yea” to “nay.”

Mr. AKIN changed his vote from “nay” to “yea.”

So the previous question was ordered.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. MCGOVERN. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman will state it.

Mr. MCGOVERN. Mr. Speaker, are Members to understand that voting “yes” on this amendment is a vote to bring up the \$450 billion debt limit increase passed by the Senate, but under a rule that does not allow for a House Democratic alternative or any amendments and that does not allow the House to debate the return to fiscal responsibility?

The SPEAKER pro tempore. The Chair will not interpret the amendment. The interpretation of the amendment is for each and every Member of this body to decide.

The question is on the amendment offered by the gentlewoman from North Carolina (Mrs. MYRICK).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCGOVERN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 219, noes 211, not voting 4, as follows:

[Roll No. 275]

AYES—219

Aderholt	Chambliss	Ganske
Akin	Coble	Gekas
Armey	Collins	Gibbons
Bachus	Combest	Gilchrest
Baker	Cooksey	Gillmor
Ballenger	Cox	Gilman
Barr	Crane	Goode
Bartlett	Crenshaw	Goodlatte
Barton	Cubin	Goss
Bass	Culberson	Graham
Bereuter	Cunningham	Granger
Biggert	Davis, Jo Ann	Graves
Bilirakis	Davis, Tom	Green (WI)
Blunt	Deal	Greenwood
Boehlert	DeLay	Grucci
Boehner	DeMint	Gutknecht
Bonilla	Diaz-Balart	Hansen
Bono	Doolittle	Hart
Boozman	Dreier	Hastings (WA)
Brady (TX)	Duncan	Hayes
Brown (SC)	Dunn	Hayworth
Bryant	Ehlers	Hefley
Burr	Ehrlich	Herger
Burton	Emerson	Hilleary
Buyer	English	Hobson
Callahan	Everett	Hoekstra
Calvert	Ferguson	Horn
Camp	Flake	Hostettler
Cannon	Fletcher	Houghton
Cantor	Foley	Hulshof
Capito	Forbes	Hunter
Castle	Frelinghuysen	Hyde
Chabot	Gallegly	Isakson

NOT VOTING—3

Engel Roukema Traficant

Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood

Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus

Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Waldeen
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—211

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett

Dooley
Doyle
Edwards
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)

Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-
McDonald
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascarell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy

Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff

Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)

NOT VOTING—4

□ 1743

So the amendment was agreed to.
The result of the vote was announced
as above recorded.

The SPEAKER pro tempore. The
question is on the resolution, as
amended.

The question was taken; and the
Speaker pro tempore announced that
the ayes appeared to have it.

Mr. McGOVERN. Mr. Speaker, on
that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This is a
5-minute vote.

The vote was taken by electronic de-
vice, and there were—yeas 269, nays
160, not voting 5, as follows:

[Roll No. 276]

YEAS—269

Aderholt
Akin
Army
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Berkley
Biggers
Bilirakis
Bishop
Blunt
Boehert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw

Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gillman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)

Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
Kilpatrick
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Lantos
Larson (CT)
Latham
LaTourette

Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Maloney (CT)
Maloney (NY)
Manzullo
McCarthy (MO)
McCrery
McHugh
McInnis
McKeon
McKinney
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nadler
Nethercutt
Ney
Northup
Norwood
Ortiz
Osborne
Ose
Otter
Oxley
Pastor
Paul
Pelosi
Pence
Peterson (PA)
Petri
Pickering

Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rodriguez
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sabo
Saxton
Schaffer
Schiff
Schrock
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Slaughter
Smith (MI)

Smith (NJ)
Smith (TX)
Snyder
Souder
Spratt
Stearns
Stenholm
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauszin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Udall (CO)
Udall (NM)
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—160

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berman
Berry
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capuano
Carson (IN)
Carson (OK)
Clay
Clayton
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Doggett
Dooley
Doyle
Edwards
Eshoo
Evans
Farr

Filner
Ford
Frank
Gephardt
Gonzalez
Green (TX)
Gutierrez
Hall (OH)
Harman
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Inslee
Israel
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
John
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Skelton
Luther
Lynch
Markey
Mascara
Matheson
Matsui
McCarthy (NY)

McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-
McDonald
Miller, George
Mink
Moore
Moran (VA)
Napolitano
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascarell
Payne
Peterson (MN)
Phelps
Rahall
Rangel
Rivers
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sanchez
Sanders
Sawyer
Schakowsky
Serrano
Sherman
Shows
Skelton
Smith (WA)
Solis
Stark
Strickland
Stupak
Tauscher
Taylor (MS)

Thompson (CA)	Turner	Watt (NC)
Thompson (MS)	Velazquez	Waxman
Thurman	Visclosky	Wexler
Tierney	Waters	Woolsey
Towns	Watson (CA)	Wu

NOT VOTING—5

Baca	Fattah	Traficant
Engel	Roukema	

□ 1756

Messrs. ISRAEL, LUTHER and MENENDEZ and Ms. SANCHEZ changed their vote from “yea” to “nay.”

Mr. PASTOR changed his vote from “nay” to “yea.”

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HOBSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5011 and that I may include tabular and extraneous material.

The SPEAKER pro tempore (Mr. ISAKSON). Is there objection to the request of the gentleman from Ohio?

There was no objection.

MILITARY CONSTRUCTION
APPROPRIATIONS ACT, 2003

The SPEAKER pro tempore. Pursuant to House Resolution 462 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5011.

□ 1757

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5011) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes, with Mr. GILLMOR in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Ohio (Mr. HOBSON) and the gentleman from Massachusetts (Mr. OLVER) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. HOBSON).

Mr. HOBSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is my pleasure to present the House recommendation for the military construction appropriations bill for fiscal year 2003. This legislation provides funds for many types of construction projects on military installations here in the United States and abroad. Projects range from barracks and housing to urban assault training ranges and runways.

I want to particularly thank my ranking member, the gentleman from Massachusetts (Mr. OLVER), for his help in producing this bipartisan bill. I also want to thank the committee on both sides of the aisle and the staff on both sides of the aisle. We have worked together in unison to produce a bipartisan bill.

In my opinion, the projects included in this bill are vital to the security of the United States, especially at this time. Equally important, the project contributes to the health and safety of the troops and their families and the quality of life and their training.

**COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003**
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
Military construction, Army.....	1,778,256	1,450,438	1,414,557	-363,699	-35,881
Defense emergency response fund (DERF).....	---	100,000	100,000	+100,000	---
Rescission.....	-36,400	---	-18,676	+17,724	-18,676
Emergency appropriations (P.L. 107-117).....	20,700	---	---	-20,700	---
Total.....	1,762,556	1,550,438	1,495,881	-266,675	-54,557
Military construction, Navy.....	1,144,221	884,661	1,036,335	-107,886	+151,674
Defense emergency response fund (DERF).....	---	220,730	209,430	+209,430	-11,300
Rescission.....	-19,588	---	-1,340	+18,248	-1,340
Emergency appropriations (P.L. 107-117).....	2,000	---	---	-2,000	---
Total.....	1,126,633	1,105,391	1,244,425	+117,792	+139,034
Military construction, Air Force.....	1,194,880	644,090	783,705	-411,175	+139,615
Defense emergency response fund (DERF).....	---	190,597	180,597	+180,597	-10,000
Rescission.....	-4,000	---	-10,281	-6,281	-10,281
Emergency appropriations (P.L. 107-117).....	46,700	---	---	-46,700	---
Total.....	1,237,580	834,687	954,021	-283,559	+119,334
Military construction, Defense-wide.....	840,558	740,535	876,366	+35,808	+135,831
Defense emergency response fund (DERF).....	---	31,300	24,700	+24,700	-6,600
Rescissions.....	-69,280	---	-2,976	+66,304	-2,976
Emergency appropriations (P.L. 107-117).....	35,000	---	---	-35,000	---
Total.....	806,278	771,835	898,090	+91,812	+126,255
Total, Active components.....	4,933,047	4,262,351	4,592,417	-340,630	+330,066
Military construction, Army National Guard.....	405,565	101,595	159,672	-245,893	+58,077
Military construction, Air National Guard.....	253,386	53,473	110,680	-142,706	+57,207
Defense emergency response fund (DERF).....	---	8,933	8,933	+8,933	---
Total.....	253,386	62,406	119,613	-133,773	+57,207
Military construction, Army Reserve.....	167,019	58,779	99,059	-67,960	+40,280

**COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003**
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
Military construction, Naval Reserve.....	53,201	51,554	68,704	+15,503	+17,150
Defense emergency response fund (DERF).....	---	7,117	7,117	+7,117	---
Rescission.....	-925	---	---	+925	---
Total.....	52,276	58,671	75,821	+23,545	+17,150
Military construction, Air Force Reserve.....	74,857	31,900	69,200	-5,657	+37,300
Defense emergency response fund (DERF).....	---	6,076	6,076	+6,076	---
Total.....	74,857	37,976	75,276	+419	+37,300
Total, Reserve components.....	953,103	319,427	529,441	-423,662	+210,014
Total, Military construction.....	5,886,150	4,581,778	5,121,858	-764,292	+540,080
Appropriations.....	(5,911,943)	(4,017,025)	(4,618,278)	(-1,293,665)	(+601,253)
Defense emergency response fund.....	---	(584,753)	(536,853)	(+536,853)	(-27,900)
Emergency appropriations.....	(104,400)	---	---	(-104,400)	---
Rescissions.....	(-130,193)	---	(-33,273)	(+96,920)	(-33,273)
North Atlantic Treaty Organization Security Investment Program.....	162,600	168,200	168,200	+5,600	---
Family housing, Army:					
Construction.....	312,742	283,346	283,346	-29,396	---
Rescission.....	---	---	-4,920	-4,920	-4,920
Operation and maintenance.....	1,089,573	1,119,007	1,119,007	+29,434	---
Total, Family housing, Army.....	1,402,315	1,402,353	1,397,433	-4,882	-4,920
Family housing, Navy and Marine Corps:					
Construction.....	331,780	375,700	380,268	+48,488	+4,568
Rescission.....	---	---	-2,652	-2,652	-2,652
Operation and maintenance.....	910,095	867,788	867,788	-42,307	---
Total, Family housing, Navy and Marine Corps.....	1,241,875	1,243,488	1,245,404	+3,529	+1,916

**COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003**
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
Family housing, Air Force:					
Construction.....	550,703	676,694	689,824	+139,121	+13,130
Rescission.....	---	---	-8,782	-8,782	-8,782
Operation and maintenance.....	844,715	844,419	844,419	-296	---
Defense emergency response fund (DERF).....	---	29,631	29,631	+29,631	---
Total, Family housing, Air Force.....	1,395,418	1,550,744	1,555,092	+159,674	+4,348
Family housing, Defense-wide:					
Construction.....	250	5,480	5,480	+5,230	---
Operation and maintenance.....	43,762	42,395	42,395	-1,367	---
Total, Family housing, Defense-wide.....	44,012	47,875	47,875	+3,863	---
Department of Defense Family Housing Improvement Fund.....	2,000	2,000	2,000	---	---
Homeowners assistance fund, Defense.....	10,119	---	---	-10,119	---
(By transfer).....	(7,730)	---	---	(-7,730)	---
Total, Family housing.....	4,095,739	4,246,460	4,247,804	+152,065	+1,344
Base realignment and closure account.....	632,713	545,138	545,138	-87,575	---
(Transfer out).....	(-7,730)	---	---	(+7,730)	---
Total.....	632,713	545,138	545,138	-87,575	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 2002
AND BUDGET REQUESTS AND AMOUNTS RECOMMENDED IN THE BILL FOR 2003
(Amounts in Thousands)

	FY 2002 Enacted	FY 2003 Request	Bill	Bill vs. Enacted	Bill vs. Request
GENERAL PROVISIONS					
General provision (sec. 130).....	-60,000	---	---	+60,000	---
General provision (sec. 132).....	-112,802	---	---	+112,802	---
Total, General provisions.....	-172,802	---	---	+172,802	---
Grand total:					
New budget (obligational) authority.....	10,604,400	9,541,576	10,083,000	-521,400	+541,424
Appropriations.....	(10,630,193)	(8,947,192)	(9,566,143)	(-1,064,050)	(+618,951)
Defense emergency response fund.....	---	(594,384)	(566,484)	(+566,484)	(-27,900)
Emergency appropriations.....	(104,400)	---	---	(-104,400)	---
Rescissions.....	(-130,193)	---	(-49,627)	(+80,566)	(-49,627)
(Transfer out).....	(-7,730)	---	---	(+7,730)	---
(By transfer).....	(7,730)	---	---	(-7,730)	---

Mr. Chairman, I reserve the balance of my time.

□ 1800

Mr. OLVER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a fair and bipartisan bill that deserves the full support of all the Members of this Congress. The chairman has done an excellent job with the resources that he has been given; however, we are looking at a bill that is \$522 million, which is 5 percent below last year's enacted bill which of course was signed by the President, and last year's level was determined before 9-11. I think most of us would agree that in the wake of 9-11 there is much more that we should be doing, including funding critical force protection projects like perimeter fencing and better inspection stations to secure access to our bases, including building safer barracks for our troops in locations so they are not sleeping right next to the public highways, including providing security and protection for stockpiles of old chemical weapons while we get about the destruction of those stockpiles, and including making certain that we have the capacity in our labs and in our pharmaceutical supplies to meet multiple acts of biological warfare.

Mr. Chairman, in the years that I have had the privilege to serve as ranking member of this Subcommittee on Military Construction under the excellent leadership of the gentleman from Ohio (Chairman HOBSON), we have made real progress in a bipartisan way in improving housing for singles and for families, in improving the workplaces for the men and women who serve America both at home and overseas. And this bill continues our progress. But because of the cut from last year's funding, it continues our progress more slowly in addressing the backlog of needs. Yet it does make an important contribution to our efforts to address the shortfall of military housing and making decent, safe workplaces available to our servicemen and women. We cannot continue, however, that progress if we face additional cutting in the coming years.

Mr. Chairman, finally, I want to thank the staff from both sides of the aisle who have worked so hard to put this bill together: Valerie Baldwin, Brian Potts, Mary Arnold, and Luis James for the majority and of course Tom Forhan for the minority. And I especially want to thank Suzy DuMont of my personal staff after years of dedicated service to the First Congressional District of Massachusetts. This will be Suzy's last MILCON bill. Suzy has served my district and this subcommittee well. She has been a valuable member of my staff, and I wish her all the best as the gentleman from Massachusetts' (Mr. MEEHAN) legislative director.

I urge the Members of the body to support this bill.

Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. FARR), a member of the subcommittee.

Mr. FARR of California. Mr. Chairman, I want to thank the gentleman from Massachusetts (Mr. OLVER), the ranking member, for yielding me this time.

I rise to engage the distinguished chairman of the Subcommittee on Military Construction in a colloquy.

I appreciate this opportunity to have this colloquy with the gentleman from Ohio (Mr. HOBSON) to clarify and explain certain language in the bill relating to Fort Ord in my district. The bill in section 130 prohibits the Army from expending any money to prepare legal documents relating to the title transfer of lands at Fort Ord that are intended for the purposes of housing development.

If I may ask the chairman, is my characterization of section 130 correct to his understanding?

Mr. HOBSON. Mr. Chairman, will the gentleman yield?

Mr. FARR of California. I yield to the gentleman from Ohio.

Mr. HOBSON. Mr. Chairman, that is correct. Section 130 limits the ability of the Army to prepare documents having to do with the transfer of land at Fort Ord that is planned for housing development.

Mr. FARR of California. Mr. Chairman, if the Chairman will indulge me, I would like to explain to him and my other colleagues that this language was inserted into the bill not because of any action or misaction by the Army, but as a signal to the Fort Ord community that the thousands of acres of Federal land being given to the reuse authority for free should be used to mitigate the housing crunch on the central coast of California.

Despite local governments acknowledging the need for upwards of 23,000 new units to meet the housing demand, the plans for housing development at Fort Ord contain insufficient, if not meager, units available to the local workforce. Instead, that free Federal land will be used to build megamansions out of financial reach for our local workers.

With the language in this bill, title transfers are put on hold until the plans for housing development at Fort Ord reflect a better mix of affordable housing. The local reuse authority is aware of the urgent nature of this language and today's debate and has agreed to re-examine the housing development plans at Fort Ord. I feel confident that eventually this limitation on the Army can be lifted and land transfers for housing development at Fort Ord can proceed again.

I appreciate the Chairman's support and assistance in the matter. He has been a tremendous help in signaling to

the Fort Ord community its need to concentrate on affordable housing, given the valuable land that is being given to them.

Mr. HOBSON. Mr. Chairman, I am pleased to be able to assist the gentleman on this matter. Affordable housing is a critical issue, not just at Fort Ord but around the country. Where valuable assets are being given outright to communities as they are under base closure circumstances, those assets ought to be used in a manner that best benefits that community and are not simply sold to the highest bidder.

These are never easy issues because it means discord between Federal and local governments, but I commend the gentleman for confronting this difficult matter. I too am confident that it will be resolved in such a way that more affordable homes will soon be made available at Fort Ord.

Mr. FARR of California. Mr. Chairman, I thank the gentleman for his remarks.

Mr. HOBSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Chairman, I thank the distinguished chairman and the ranking member for yielding some time to me, and I just wanted to discuss something with the chairman and enter into a colloquy about the aviation support facility at Fort Stewart/Hunter in Savannah, Georgia.

Mr. HOBSON. Mr. Chairman, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from Ohio.

Mr. HOBSON. Mr. Chairman, clearly the Military Construction, Army National Guard account is a project that plans and designs an aviation support facility at the Fort Stewart/Hunter Army airfield in Georgia, which I might add I have landed at. The amount listed in the report is \$1,158,000; however, the amount actually required for the project is \$1,580,000. Unfortunately, an error was made in the report that we plan to rectify as this legislation moves forward.

The gentleman from Massachusetts (Mr. OLVER), the ranking member of the subcommittee, agrees this correction is necessary.

Mr. KINGSTON. Mr. Chairman, I certainly thank the gentleman from Ohio (Mr. HOBSON), and I thank the gentleman from Massachusetts (Mr. OLVER) as well; and I also appreciate the visit that the gentleman made to that very facility a little over a year ago. As my colleague knows from the visit, the facility is very dilapidated and soldiers need a little more elbow room, and they do not certainly need to be operating out of a building that is falling apart.

Just recently, in fact, they have moved into a temporary tent facility;

but unfortunately, that even leaks when it rains and in Savannah, Georgia, we get some heavy rains from time to time. Recently, one of my staffers was down there to visit with them, and they actually had to leave the tent because the leak was so bad.

I know that the gentleman from Ohio (Mr. HOBSON) and the ranking member, and certainly the distinguished chairman who has also visited some of the facilities in Georgia, know the importance of providing our troops with the best facility possible and that these funds will go a long way to helping our servicemen and women. So I thank the gentleman again for everything that he has done in support of Fort Stewart/Hunter and all the other bases and posts in Georgia.

Mr. HOBSON. Mr. Chairman, I am pleased to make these changes, especially for such a worthwhile project.

Mr. OLVER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. EDWARDS), also a member of the subcommittee.

Mr. EDWARDS. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I am going to be brief, but I would like to make several comments. First, I want to, as a member of the committee, commend the gentleman from Ohio (Mr. HOBSON), the chairman, and the gentleman from Massachusetts (Mr. OLVER), the ranking Democratic member, for working together on a bipartisan basis once again to do the work of our country and to provide the best services, giving a certain amount of dollars for our servicemen and women. They have done an outstanding job of leading this committee, and I thank them for that.

I especially want to applaud them for their continued efforts to fight for better housing for overseas servicemen and women, people who do not have a constituency back here with a Member of Congress fighting for better housing for them, people who have been forgotten in decades past but now have two leaders in this House fighting for them.

I want to commend their leadership on the new innovative RCI program, the Residential Community Initiative program, that is going to combine private expertise and resources with public resources to get a better bang for the buck out of the taxpayers' money we spend and improve housing for our military men and women.

The one concern I do want to say, Mr. Chairman, is at the end of the day, this appropriation bill is a half a billion dollars below what we spent last year. That was not the responsibility of the subcommittee chairman or the ranking member. That decision was made above our pay grade; but as we go into next year, I hope we can send a message to the leadership of this House and to the administration that America's battles and wars cannot just be won with tech-

nology. They have to be won with the best and brightest of our young men and women willing to put on their uniform, risk their lives and serve our country; and I think it does send as a bad message to many of them that we are spending half a billion dollars less this year on military construction programs.

I would remind all of us, Mr. Chairman, that it is estimated that 60 percent of the servicemen and women living in government-provided housing are living in housing that does not even meet minimum DOD standards. We can do better; but today, given the money that this subcommittee was afforded, the gentleman from Ohio (Mr. HOBSON) and the gentleman from Massachusetts (Mr. OLVER) did an outstanding job, and I thank them and commend them for their great efforts.

Mr. NUSSLE. Mr. Chairman, I rise today in support of H.R. 5011, the Military Construction Appropriations Act for Fiscal Year 2003. It is the second bill we are considering pursuant to the 302(b) allocations filed by the Appropriations Committee on June 24th. I am pleased to report that it is consistent with the levels established in H. Con. Res. 353, the House concurrent resolution on the budget for fiscal year 2003, which we subsequently deemed as having the effect of a conference report on the resolution. The budget resolution provided \$393.8 billion in budget authority for national defense, including \$10 billion for a war reserve fund. This bill funds the military construction and family housing portion of that commitment to our men and women in uniform.

H.R. 5011 provides \$10.1 billion in new budget authority and \$10.1 billion in outlays for fiscal year 2003. It is therefore equal in budget authority and outlays to the 302(b) allocation to the House Subcommittee on Military Construction Appropriations. It does not contain emergency-designated new BA. It does include \$50 million worth of rescissions of previously enacted BA and \$3 million in related outlays.

Accordingly, the bill complies with section 302(f) of the Budget Act, which prohibits consideration of bills in excess of an appropriations subcommittee's 302(b) allocation of budget authority and outlays established in the budget resolution.

H.R. 5011 represents this House's solemn commitment to the quality of life of those who put their lives on the line every day for our freedom. It not only addresses the long-term infrastructure problems at military bases, it sustains barracks, family housing, medical facilities, and child support centers across the country and at bases overseas. It also provides infrastructure funding for National Guard and Reserve troops who now find themselves on the front lines of the war against terrorism.

In conclusion, I express my support for H.R. 5011.

Mr. UNDERWOOD. Mr. Chairman, I rise in support of H.R. 5011, the bill making appropriations for our nation's military construction needs for Fiscal Year 2003. This bill is important legislation that will strengthen our nation's defense capability in addition to directly benefiting our nation's military community by im-

proving the quality of life for our dedicated military personnel and their families.

The bill ensures that the infrastructure and facilities at our military installations get needed attention. Towards this end, I am especially pleased that this bill includes \$75 million in military construction projects for Guam, protecting its strategic role to our national security in the Western Pacific.

I am most pleased that this bill includes funding for Phase III of the Guam Army National Guard Readiness Center. The funding will complete the remaining designs for this Armory and provide for necessary training, assembly, and physical fitness space that will allow for demanded readiness and mission capability levels to be fulfilled. Moreover, the bill includes \$15 million for a new on-base water supply system for Andersen Air Force Base, a project that will provide a reliable and safe water supply system essential for mission, fire protection, living conditions, and quality of life. Additionally, I am pleased that the bill includes roughly \$17 million to continue the replacement of Andersen's hydrant fuel system, funding that will equip the base with the largest fuel capability in the entire Pacific.

The people of Guam welcome this significant continuation in military construction activity and appreciate the recognition this funding provides for our people in uniform, particularly the Guam Army National Guard. I urge passage of H.R. 5011 as it bolsters our national defense, advances our readiness and supports our men and women in uniform. I commend the Chairman, Mr. HOBSON, and the Ranking Member, Mr. OLVER, for their work in bringing this legislation to the floor today. As always, their leadership has been integral in the annual appropriations process and I thank them for their efforts on behalf of our nation's military and the people of Guam.

Ms. LEE. Mr. Chairman, the House GOP Leadership has gagged Democrats, seniors, and our disabled community by not allowing the chance to first offer and debate a real prescription drug plan. This undermines our democracy, and the true meaning of representative government.

The growing elderly community, most of whom live on a fixed income, consistently pay ridiculously high costs for prescription drugs. Many in the disabled community, who are often ignored in this debate, are also forced to pay an enormous amount. The high price of prescription drugs must not concern the Republican member in this House, because they are only willing to cover less than 25% of the Medicare beneficiaries. This is opposite of the Democratic substitute that would have guaranteed a benefit to everyone.

Democrats know that we must provide government guaranteed comprehensive drug coverage. Under the Democratic plan we would have ensured that seniors, and people with disabilities have affordable, comprehensive, and guaranteed access to prescription drug coverage. But nothing Democratic really matters here today. The Republican plan allows privatization. They continue to protect their big business donors and corporate bedfellows.

In my own district, Oakland, CA, elderly and disabled are paying up to \$2,000 more a year for basic drugs than those in Canada, Europe, and Japan. This another example of dramatic

price discrimination. Democrats understand that this is unfair and we implore seniors across the country to stand up to the bully-tactics that the Republicans continue to use.

Women need prescription drugs too! More than half of the nearly 40 million Medicare beneficiaries are women. Let me remind the Republicans that although insurance plans routinely cover prescription drugs, they fail to cover prescription contraceptives and related medical visits and exams. Women on Medicare spend 20% more than men on prescription drugs, especially since prescription drugs are important for treating chronic illnesses which increase in age.

Maybe Republicans need to be reminded that the average woman on Medicare spends 22% of her income on out-of-pocket health care expenses, including prescription drugs. And this is worse for poor women without insurance. For poor women this figure rises to 53%.

I'm sure that seniors, the disabled community, and women would like to know what they could received under the Democratic plan: a \$25 monthly premium; a \$100 yearly deductible; 80/20 cost sharing between Medicare beneficiaries, a \$2,000 maximum for medicare beneficiaries, and a sliding scale for low income individuals for up to 150% of median income. But we have been muzzled. We cannot even debate a real prescription drug plan. What a shame! What a sham.

Mr. STRICKLAND. Mr. Chairman, for much of the twentieth century, our great steel companies churned and poured out the material used to build our nation creating the skeletons of our battleships, military equipment and installations. Today, during floor consideration of the Military Construction Appropriations Act of 2003 (H.R. 5011), I intended to offer an amendment to ensure that only domestic steel could be used for military construction. However, due to restrictions under the rule for funding limitations, my amendment was subject to a point of order and was not offered. For the record, I would like to fully explain the intent of this amendment.

Mr. Speaker, my amendment to Section 108 of H.R. 5011 was designed to help American industry ailing from the effects of globalization. Section 108 currently states that no funds appropriated in H.R. 5011 may be used for procurement of steel for construction projects or activities for which American Steel producers have been denied the opportunity to compete for such steel procurement. While I support this provision, the goal of my amendment was to strengthen that Section and require that the funds made available in H.R. 5011 would be spent on purchasing equipment, products or systems which contain steel manufactured in the United States. In other words, competition is good, but I wanted to go one step further and guarantee our military construction contracts involve U.S. steel. Our national defense depends on a healthy U.S. steel industry and it makes sense to offer some federal guarantees to this struggling industry at this critical time. I will continue to work with my colleagues in the House and the Senate to ensure the dollars we spend will protect the security of America, protect American jobs and the livelihood of the American Steel worker.

Mr. OLVER. Mr. Chairman, I yield back the balance of my time.

Mr. HOBSON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule. During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that has been printed in the designated place in the CONGRESSIONAL RECORD, and those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

H.R. 5011

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated for military construction, family housing, and base realignment and closure functions administered by the Department of Defense, for the fiscal year ending September 30, 2003, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

Mr. HOBSON. Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 22, line 7, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The text of the bill from page 2, line 5, through page 22, line 7, is as follows:

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, \$1,514,557,000, to remain available until September 30, 2007: *Provided*, That of this amount, not to exceed \$158,664,000 shall be available for study, planning, design, architect and engineer services, and host nation support, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Army" under Public Law 107-64, \$5,000,000 are rescinded.

MILITARY CONSTRUCTION, NAVY

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, \$1,245,765,000, to remain available until September 30, 2007: *Provided*, That of this amount, not to exceed \$94,825,000 shall be available for study, planning, design, architect and engineer services,

as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, \$964,302,000, to remain available until September 30, 2007: *Provided*, That of this amount, not to exceed \$78,951,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, DEFENSE-WIDE

(INCLUDING RESCISSION AND TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, \$901,066,000, to remain available until September 30, 2007: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed \$45,432,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of this amount, \$84,400,000 shall not be available until five days after the Army notifies the Senate and House appropriations committees that it is able to meet milestones for construction of chemical weapons destruction facilities agreed upon by the Office of the Secretary of Defense and the Office of Management and Budget.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$159,672,000, to remain available until September 30, 2007.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$119,613,000, to remain available until September 30, 2007.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$99,059,000, to remain available until September 30, 2007.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$75,821,000, to remain available until September 30, 2007.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$75,276,000, to remain available until September 30, 2007.

**NORTH ATLANTIC TREATY ORGANIZATION
SECURITY INVESTMENT PROGRAM**

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in Military Construction Authorization Acts and section 2806 of title 10, United States Code, \$168,200,000, to remain available until expended.

**FAMILY HOUSING CONSTRUCTION, ARMY
(INCLUDING RESCISSION)**

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration, as authorized by law, \$283,346,000, to remain available until September 30, 2007.

**FAMILY HOUSING OPERATION AND
MAINTENANCE, ARMY**

For expenses of family housing for the Army for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$1,119,007,000.

**FAMILY HOUSING CONSTRUCTION, NAVY AND
MARINE CORPS
(INCLUDING RESCISSION)**

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration, as authorized by law, \$380,268,000, to remain available until September 30, 2007.

**FAMILY HOUSING OPERATION AND
MAINTENANCE, NAVY AND MARINE CORPS**

For expenses of family housing for the Navy and Marine Corps for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$867,788,000.

**FAMILY HOUSING CONSTRUCTION, AIR FORCE
(INCLUDING RESCISSION)**

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration, as authorized by law,

\$689,824,000, to remain available until September 30, 2007.

**FAMILY HOUSING OPERATION AND
MAINTENANCE, AIR FORCE**

For expenses of family housing for the Air Force for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$874,050,000.

**FAMILY HOUSING CONSTRUCTION, DEFENSE-
WIDE**

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration, as authorized by law, \$5,480,000, to remain available until September 30, 2007.

**FAMILY HOUSING OPERATION AND
MAINTENANCE, DEFENSE-WIDE**

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for operation and maintenance, leasing, and minor construction, as authorized by law, \$42,395,000.

**DEPARTMENT OF DEFENSE FAMILY HOUSING
IMPROVEMENT FUND**

For the Department of Defense Family Housing Improvement Fund, \$2,000,000, to remain available until expended, for family housing initiatives undertaken pursuant to section 2883 of title 10, United States Code, providing alternative means of acquiring and improving military family housing, and supporting facilities.

BASE REALIGNMENT AND CLOSURE ACCOUNT

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101-510), \$545,138,000, to remain available until expended.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in Military Construction Appropriations Acts shall be expended for payments under a cost-plus-a-fixed-fee contract for construction, where cost estimates exceed \$25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in Military Construction Appropriations Acts shall be used for purchase of land or land easements in excess of 100 percent of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except: (1) where there is a determination of value by a Federal court; (2)

purchases negotiated by the Attorney General or his designee; (3) where the estimated value is less than \$25,000; or (4) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in Military Construction Appropriations Acts shall be used to: (1) acquire land; (2) provide for site preparation; or (3) install utilities for any family housing, except housing for which funds have been made available in annual Military Construction Appropriations Acts.

SEC. 107. None of the funds appropriated in Military Construction Appropriations Acts for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in Military Construction Appropriations Acts may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds appropriated in Military Construction Appropriations Acts may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 111. None of the funds appropriated in Military Construction Appropriations Acts may be obligated for architect and engineer contracts estimated by the Government to exceed \$500,000 for projects to be accomplished in Japan, in any NATO member country, or in countries bordering the Arabian Sea, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds appropriated in Military Construction Appropriations Acts for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Sea, may be used to award any contract estimated by the Government to exceed \$1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 percent: *Provided further*, That this section shall not apply to contract awards for military construction on Kwajalein Atoll for which the lowest responsive and responsible bid is submitted by a Marshallese contractor.

SEC. 113. The Secretary of Defense is to inform the appropriate committees of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed \$100,000.

SEC. 114. Not more than 20 percent of the appropriations in Military Construction Appropriations Acts which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year.

SEC. 115. Funds appropriated to the Department of Defense for construction in prior

years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 117. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project: (1) are obligated from funds available for military construction projects; and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

SEC. 118. During the 5-year period after appropriations available to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation "Foreign Currency Fluctuations, Construction, Defense" to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred.

SEC. 119. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with an annual report by February 15, containing details of the specific actions proposed to be taken by the Department of Defense during the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization, Japan, Korea, and United States allies bordering the Arabian Sea to assume a greater share of the common defense burden of such nations and the United States.

SEC. 120. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991, to be merged with, and to be available for the same purposes and the same time period as that account.

SEC. 121. (a) No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the "Buy American Act").

(b) No funds made available under this Act shall be made available to any person or entity who has been convicted of violating the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the "Buy American Act").

SEC. 122. (a) In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) In providing financial assistance under this Act, the Secretary of the Treasury shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 123. Subject to 30 days prior notification to the Committees on Appropriations, such additional amounts as may be determined by the Secretary of Defense may be transferred to the Department of Defense Family Housing Improvement Fund from amounts appropriated for construction in "Family Housing" accounts or construction of military unaccompanied housing projects in "Military Construction" accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: *Provided*, That appropriations made available to the Fund shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169, title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing and supporting facilities.

SEC. 124. (a) Not later than 60 days before issuing any solicitation for a contract with the private sector for military family housing the Secretary of the military department concerned shall submit to the congressional defense committees the notice described in subsection (b).

(b)(1) A notice referred to in subsection (a) is a notice of any guarantee (including the making of mortgage or rental payments) proposed to be made by the Secretary to the private party under the contract involved in the event of—

(A) the closure or realignment of the installation for which housing is provided under the contract;

(B) a reduction in force of units stationed at such installation; or

(C) the extended deployment overseas of units stationed at such installation.

(2) Each notice under this subsection shall specify the nature of the guarantee involved and assess the extent and likelihood, if any, of the liability of the Federal Government with respect to the guarantee.

(c) In this section, the term "congressional defense committees" means the following:

(1) The Committee on Armed Services and the Military Construction Subcommittee, Committee on Appropriations of the Senate.

(2) The Committee on Armed Services and the Military Construction Subcommittee, Committee on Appropriations of the House of Representatives.

SEC. 125. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, amounts may be transferred from the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 and from funds appropriated for the operation and maintenance of the military departments contained in Title II of the Department of Defense Appropriations Act, 2003, to the fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to pay for expenses associated with the

Homeowners Assistance Program. Any amounts transferred shall be merged with and be available for the same purposes and for the same time period as the fund to which transferred.

SEC. 126. Notwithstanding this or any other provision of law, funds appropriated in Military Construction Appropriations Acts for operations and maintenance of family housing shall be the exclusive source of funds for repair and maintenance of all family housing units, including general or flag officer quarters: *Provided*, That not more than \$35,000 per unit may be spent annually for the maintenance and repair of any general or flag officer quarters without 30 days advance prior notification to the appropriate committees of Congress: *Provided further*, That the Under Secretary of Defense (Comptroller) is to report annually to the Committees on Appropriations all operations and maintenance expenditures for each individual general or flag officer quarters for the prior fiscal year.

SEC. 127. Notwithstanding any other provision of law, the Secretary of the Navy is authorized to use funds received pursuant to section 2601 of title 10, United States Code, for the construction, improvement, repair, and maintenance of the historic residences located at Marine Corps Barracks, 8th and I Streets, Washington, D.C.: *Provided*, That the Secretary notifies the appropriate committees of Congress 30 days in advance of the intended use of such funds: *Provided further*, That this section remains effective until September 30, 2006.

SEC. 128. Of the funds provided in previous Military Construction Appropriations Acts, a total of \$44,627,000 is hereby rescinded, as of the date of enactment of this Act, from the following accounts in the specified amounts to reflect savings from favorable foreign currency fluctuations:

"Military Construction, Army", \$13,676,000.

"Military Construction, Navy", \$1,340,000.

"Military Construction, Air Force", \$10,281,000.

"Military Construction, Defense-wide", \$2,976,000.

"Family Housing Construction, Army", \$4,920,000.

"Family Housing Construction, Navy", \$2,652,000.

"Family Housing Construction, Air Force", \$3,782,000.

SEC. 129. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 130. None of the funds made available in this Act may be used to prepare any documents relating to the conveyance out of United States ownership of real property at former Fort Ord, California, intended for use for housing development, as defined in the redevelopment plan for Fort Ord.

SEC. 131. Amounts appropriated for a military construction project at Camp Kyle, Korea, relating to construction of a physical fitness center, as authorized by section 8160 of the Department of Defense Appropriations Act, 2000 (Public Law 106-79; 113 Stat. 1274), shall be available instead for a similar project at Camp Bonifas, Korea.

AMENDMENT OFFERED BY MR. COLLINS

Mr. COLLINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLLINS:

At the end of the bill (before the short title), insert the following new section:

SEC. _____. None of the funds provided in this Act may be used to relocate the headquarters of the United States Army, South, from Fort Buchanan, Puerto Rico, to a location in the continental United States.

Mr. COLLINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. HOBSON. Mr. Chairman, if the gentleman will yield, we are prepared to accept the amendment.

Mr. OLVER. Mr. Chairman, if the gentleman will yield, we also are prepared to accept the amendment.

Mr. COLLINS. Mr. Chairman, I would like to say thanks to the gentleman from Ohio (Mr. HOBSON), the chairman, and to the gentleman from Massachusetts (Mr. OLVER), the ranking member, and also to the full committee chairman for funding a chapel at Fort Benning, Georgia, one that burned previously this year; and it was the most desired MILCON project at Fort Benning by the chief of the infantry, Major General Paul Eaton. I thank them very much on behalf of the families that are there.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. COLLINS).

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments?

If not, the Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Military Construction Appropriations Act, 2003".

Mr. OBEY. Mr. Chairman, I move to strike the last word.

I wonder, Mr. Chairman, if the Chair could inform us how much time this bill has taken today in comparison to how much time the defense appropriation bill took earlier in the day. I know the gentleman from Pennsylvania was interested.

Mr. HOBSON. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Ohio.

Mr. HOBSON. Mr. Chairman, we hope we have completed within our time allotment to preserve our win of previous years, and that is only due to the cooperation of all the Members. So I am not going to talk anymore because I may overstay my time.

□ 1815

The CHAIRMAN (Mr. GILLMOR). Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. NUSSLE) having assumed the chair, Mr. GILLMOR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5011) making appropriations for

military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes, pursuant to House Resolution 462, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 426, nays 1, not voting 7, as follows:

[Roll No. 277]

YEAS—426

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin

Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
DeLaHunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Etheridge
Evans
Everett
Farr

Fattah
Ferguson
Filner
Flake
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)

Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Klecza
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
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Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)

Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascarell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabu
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff

Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—7

Brown (SC)
Engel
Gordon
Miller, George
Roukema
Tierney
Traficant

□ 1839

Ms. SANCHEZ changed her vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. BROWN of South Carolina. Mr. Speaker, on rollcall No. 277 I was unavoidably detained. Had I been present, I would have voted "yea."

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a bill and concurrent resolution of the following titles in which the concurrence of the House is requested:

S. 2690. An act to reaffirm the reference to one Nation under God in the Pledge of Allegiance.

S. Con. Res. 125. Concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives.

INCREASING PUBLIC DEBT LIMIT

Mr. THOMAS. Mr. Speaker, pursuant to House Resolution 462, I call up Senate bill (S. 2578) to amend title 31 of the United States Code to increase the public debt limit, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The text of S. 2578 is as follows:

S. 2578

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking "\$5,950,000,000,000" and inserting "\$6,400,000,000,000".

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to House Resolution 462, the gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, more than a month ago, this House passed H.R. 4775 by a vote of 280-138, a clear bipartisan majority. That bill created the ability to address the debt limit. For over a month, the Senate has not responded to addressing the debt limit.

However, recently the Senate sent to the House S. 2578, a bill to raise the debt limit. Debt-limit bills usually originate in the House. In fact, the last time this situation faced the House was in 1946. In 1946, the Senate sent the House a debt ceiling bill. On the floor

of the House then-majority leader John McCormick referred that bill to the Committee on the Judiciary. The House did not consider the attempt by the Senate to initiate debt-limit legislation.

So today, in the act of considering a Senate-initiated debt-limit bill, we are in a situation which, based upon the data provided to me by the Parliamentarians, could be considered to be an unprecedented situation. But given the circumstances surrounding the way in which we are required to take this bill up, it should not be considered a precedent because for over a month we could have been engaging in the historical usual pattern of addressing debt limit.

It is quite true that that measure that was presented to the House in 1946 was a Senate bill to lower the debt limit, not to raise it. That is why the House, in attempting to preserve its prerogative, felt comfortable in referring the bill to the Committee on the Judiciary from which it never surfaced. But a bill to lower the debt limit, as Members appreciate, does not contain within it the need to act, as does a bill that increases the debt limit.

The failure of the Senate to act on the invitation to address the debt limit by the House means that the Senate has successfully run down the clock by which we could utilize the House initiation of addressing the debt limit. So as far as the chairman of the Committee on Ways and Means is concerned, the measure before us should not be considered a change in the historic relationship between the House and the Senate over the origination of debt-limit legislation; but, rather the action taken today is a one-time acknowledgment of the exigencies of the circumstances facing the House. We are dealing with this purely to facilitate the movement of this bill to the President's desk, and it should not be interpreted as a precedent-changing situation.

Mr. Speaker, I reserve the balance of my time.

□ 1845

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

A lot of strange things are happening on the Republican watch as the Committee on Ways and Means loses all of its jurisdiction. I was just about to blame the Republican leadership; and, lo and behold, it is the Senate that is responsible. Every time I get ready to be critical of the Republican leadership for bypassing the House rules, by creating rules to pass legislation, I hear my distinguished and talented and intellectual chairman say, "This is not unprecedented. This is just the first time it is happening because what is unprecedented is what the other body is doing. Shame on the other body."

Let me tell you this. We are the keepers of the tradition of the House,

and these rules are being violated each and every day. Who would think at a time of war when our Nation is still in recession, where we are trying to bring our wounds together, where we recognize that, sure, we lost 5 or \$6 trillion in the surplus, it was not the Republicans' fault, it was because the economy let us down. But now that we are asked to increase the debt ceiling, we are no longer Republicans and Democrats, we are Americans, and we are going to say, yes, let's do it.

Why? Because Republicans are trustworthy? Of course we cannot say that. Because we come together when the full faith and credit of the United States is at stake. When that flag goes up, then we have no choice except to increase the debt ceiling. It is just the same as finding out at home that when you find out that your credit has run out, you can start pointing fingers, but if you need an extension or the mortgage is going to be foreclosed, then you have to get the extension.

All we want to know is, what did you do with the money? How are you going to spend the additional money that you are going to borrow? And if the Senate is so irresponsible, why did the House not act sooner? Why did the Committee on Ways and Means not come together in a bipartisan way and bring something to the floor?

Mr. Speaker, the Senate may have a lot of things that they are doing in an unprecedented way, and they should be subject perhaps to a lot of criticism. But the inadequacy of the House leadership and the fact that my historically prestigious committee is losing jurisdiction each and every day under Republican leadership, let us not blame that on the Senate.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

I am trying to understand how the Committee on Ways and Means is losing jurisdiction when the chairman of the committee and the ranking member are debating a bill brought to us by a rule which allows no amendments, exactly the way in which legislation coming from the Committee on Ways and Means is always dealt with.

I think if you have really followed this debate over time, you will understand the dynamics of the debate. If we do not do it, we get criticized. If we do it, we get criticized. If in fact the measure before us, which originated in the Senate and is the work product of the Senate leadership and the gentleman from New York finds the Senate's language and structure unacceptable, then his problem is with the leadership of the Senate, not of the leadership of this House.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. McDERMOTT), a senior

member of the Committee on Ways and Means.

Mr. McDERMOTT. Mr. Speaker, I always am impressed by the chairman of the committee's use of words. He said that we are out here because of the exigencies of circumstances. What he means is, we made a mess and we got to fix it. It is a mess that did not have to happen.

Mr. Speaker, I refer to an op-ed of Sunday, February 11, 2001, by Robert Rubin that is called *A Prosperity Easy to Destroy*. It says in short:

The proposed tax cut of roughly \$2 trillion—\$1.6 trillion of tax cuts plus \$400 billion of interest on debt that would otherwise have been retired—would substantially diminish the fiscal position of the Federal Government, and would create a serious threat of deficits on the nonentitlement side of the Federal budget.

This was all predicted in February of last year. We came out here, and we have been told, "You can spend all you want, you can give it all away, you can do all these things."

He actually even predicted that there would not be any money for a prescription drug benefit. Ha. Mr. Rubin knew very well. He is the guy that brought us out of the mess that you created between 1980 and 1992. Two Republicans, Mr. Reagan, Mr. Bush, they dug the hole, we dug us out of it, and now you are back into it and you call it the exigencies of circumstances. Why do you not admit you have made a mess? You cannot get the votes for your prescription drug benefit because it is inadequate and everybody knows it. You are privatizing Medicare and you are trying to hide this debt raising right underneath the prescription drug benefit.

If you are lucky and you can squeeze the votes out of your people, the press tomorrow will talk about Republicans pass inadequate drug benefit. They will never mention this business about the mess you created fiscally in this country. You ought to be ashamed of yourself bringing it out here like this.

The article referred to is as follows: [From the New York Times, Feb. 11, 2001]

A PROSPERITY EASY TO DESTROY

(By Robert E. Rubin)

I had not intended to get involved in the public debate on fiscal policy at this point, but I feel so strongly that a tax cut of the magnitude proposed is a serious error in economic policy that I felt a need to speak.

The proposed tax cut of roughly \$2 trillion—\$1.6 trillion of tax cuts plus \$400 billion of interest on debt that would otherwise have been retired—would substantially diminish the fiscal position of the federal government, and would create a serious threat of deficits on the non-entitlement side of the federal budget. That, in turn, could increase interest rates and recreate the loss of consumer and business confidence associated with the deficits of the late 80's and early 90's.

Over the last 20 years, our nation has seen the benefits of fiscal discipline, and also the

adverse consequences of a lack of fiscal discipline. Big tax cuts are a fast way back to deficits and economic stress. From these experiences, there are lessons that should guide policymakers. First, we gain greatly when our nation is clearly committed to budgetary discipline and lose greatly when it is not. Second, it is wise to be prudent—we should avoid committing ourselves to dramatic courses of action that are hard to reverse in the face of the inherent uncertainties of any projections. Third, we have a duty not to pass on burdens to the next generation when we can act today. The size of the proposed tax cut fails all these tests.

Instead, the fiscal discipline that was so central to the remarkable economic conditions of the past eight years is the best path for both our short-term and long-term economic well-being. A brief look back can provide very useful guidance for going forward.

In 1992, the unemployment rate was over 7 percent, the fiscal deficit was \$290 billion and projected by the Congressional Budget Office to grow to over \$500 billion in 2001 from there, the federal debt had quadrupled over the preceding 12 years and was projected to double again by 2001, and the prevailing view was that economic conditions would remain mediocre well into the future.

The economic transformation that followed included massive job creation, rising incomes, low inflation, unemployment now at 4.2 percent, and today's large current and projected surpluses. Many factors contributed to this transformation, including globalization, new technologies, vast corporate restructuring and our flexible labor and capital markets. But I think there is no doubt that key and indispensable to this was the restoration of fiscal discipline, beginning with the deficit reduction program of 1993.

Just how dramatic a change in economic policy this was is evidenced by the vituperativeness of opposition, with strident prediction of vast increases in unemployment and recession.

Instead, fiscal discipline contributed greatly to lower interest rates and, very, very importantly, restoration of confidence by consumers and business after deficits had come to symbolize a much broader set of concerns about our ability to manage our affairs. The result was increased demand; increased investment, especially in the new technologies; increased productivity; and sustained growth in gross domestic product, jobs and incomes.

We are now in the process of unwinding the excesses that, in my view, inevitably develop after an extended period of good times. To minimize the difficulty and duration of that unwinding and to best realize our very favorable longer-term prospects, we should continue with our hard-won fiscal discipline and not adopt a greatly outsized tax cut that seriously threatens the federal government's fiscal soundness.

There is broad agreement amongst virtually all mainstream economists that a tax cut this year is unlikely to provide meaningful economic stimulus to deal with whatever adverse circumstances may occur this year. Moreover, if a tax cut is desired for short-term stimulative purposes, the vast preponderance of the one proposed—which affects later years—is largely irrelevant. Instead, a front-end-loaded, moderate tax cut, or even a special rebate aimed at working people with the highest propensity to spend, would maximize current economic impact. The point would be to achieve increased short-term demand without causing a level of fiscal deterioration that would, on balance, damage confidence.

The serious threat of the proposed tax cut to fiscal soundness becomes apparent when you look at the numbers a little more closely. The surplus of \$5.6 trillion as projected by the C.B.O. is roughly \$2.1 trillion after deducting Social Security and Medicare surpluses—as many members of Congress in both parties have advocated—and making realistic adjustments to better represent future spending on current discretionary programs and tax revenues. Since the proposed tax cut would cost \$2 trillion, or \$2.2 trillion if an alternative minimum tax adjustment is included, it would entirely use up the remaining surplus, with no additional debt reduction. And that leaves nothing for special programs that already have broad support, like a prescription drug benefit or a greater increase in defense spending for a missile defense system, or other purposes or additional tax cuts, all of which are almost sure to happen this year or over the next few years. These spending increases and the additional tax cuts could well cost between \$500 billion and \$1 trillion, leading to a deficit under this analysis of the C.B.O. projections.

Moreover, five-year budget forecasts, to say nothing of 10-year forecasts, are highly unreliable—just look at the forecasts that were made five or 10 years ago. Thus, even if you favored a very large tax cut as the preferred use for available surplus—which I emphatically do not—even a moderate degree of prudence would suggest waiting a few years to see whether or not the projected surpluses are actually occurring, meanwhile paying down debt. That would also be in plenty of time to deal with any concerns about the uses that might be made of the surplus after the debt is retired. The suggestion that tax cuts could be rescinded if projected surpluses don't materialize seems unlikely politically.

The political impetus in Washington is toward tax cuts and spending. Real progress has been made over the past decade toward a political mindset of discipline, but that is always highly vulnerable, and a very large tax cut is a significant step back to the political mindset that produced the deficits and quadrupling of the debt from 1980 to 1992.

The imperative for maintaining our fiscal discipline and not taking a risk of losing the current opportunity to retire the publicly held debt of the federal government is increased by the importance of putting the federal government in the best possible position to meet the Social Security and Medicare requirements of future generations, when the federal budget is projected to be in deficit again.

All of this is independent of the question of how best to use the surplus available on a fiscally sound basis. My own preference would be to divide this between debt reduction, a more moderate tax cut predominantly favoring middle-income and lower-income people, and special initiatives in important areas like education and health care. Others have different views. But we should all agree that it would be profoundly unwise to seriously risk the hard-won fiscal discipline that has brought so many benefits to our nation.

We have had a remarkable eight years after a far more difficult period, including a recession in 1990. We should learn from experience and stay with a landmark change in strategy that worked, not take the path that experience suggests poses a real threat to our economic well-being.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. STENHOLM), one of the outstanding Members of the House.

Mr. STENHOLM. Mr. Speaker, I thank the gentleman for yielding me this time. I want to make it very clear that this side of the aisle has been in favor of raising the debt ceiling clean since at least March. We have made repeated offers. What we are not in favor of doing is increasing the debt ceiling with a blank check to continue to borrow money without changing our economic game plan.

I join with Chairman THOMAS in his opening remarks because it is in the same spirit that he referenced back to 1946 that we attempted to have an offer of an amendment today to lower the amount of debt ceiling from \$450 billion to a \$150 billion increase. That is exactly the same spirit in which it was done in 1946. We asked for that to be made in order, but the rule once again denied the minority an opportunity to have a clean up and down vote on an alternative.

I do not understand why we continue to have the inability to have debate on issues as important as the debt ceiling is. I hope no one makes the argument that we are here as obstructionists. We are here today positively saying we will offer in the motion to commit—recommit, commit, whatever the new terminology is—this bill back to the Committee on Ways and Means with an instant recall at \$150 billion so that we might have another look at the budget prior to the end of this fiscal year when CBO re-estimates.

It is fiscally irresponsible for this group, this House, to stand on this floor and increase by \$450 billion without revisiting the economic game plan that we are under. Take a look at State after State after State in which governors are having to make tough decisions. Here we are no longer tax and spend, we are borrow and spend. That is exactly what this resolution will do. Those who vote for it today will be voting to borrow and spend another \$450 billion with the exact same economic game plan that has gotten us into the problem that we are in today.

I do not understand this. I do not understand why, once again, the chairman comes on, and no one comes over and debates.

Where is the debate?

Mr. RANGEL. Where is the debate? Well, I guess it is all on the outside. I can understand the problem.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN), a senior member of the Committee on Ways and Means.

Mr. LEVIN. Mr. Speaker, Democrats will vote to raise the debt ceiling when there is a plan to reverse fiscal irresponsibility. There is no plan. The fiscal irresponsibility began right here in this U.S. House of Representatives under your majority, and now you try to shift the blame to the Senate, trying to obscure the fact that the irresponsibility commenced right here.

We told you that the sheer size of the tax cut made all of your plan a risky gamble. We warned you the projections of future budget surpluses were not written in stone. As it turned out, they were written in sand, in substantial part because of your policies.

We have gone from surpluses as far as the eye could see to deficits as far as the eye can see. You are diverting Social Security and Medicare to pay for your tax cuts and other irresponsible programs. The majority has compounded its irresponsibility, as I have said, by tonight saying raise the debt ceiling without any plan to stem the red ink in this budget. It is another \$450 billion that will come where? From Social Security and Medicare payroll taxes. You have no plan. All you are trying to do is to shift the blame.

This Congress is obliged to raise the debt ceiling, we are obliged to pay our debts, but we should not just write a blank check, which is what you want. We need a plan to stop this raid on Social Security and Medicare.

I urge my colleagues to vote "no" on this resolution, to vote "no" until you become fiscally responsible with the funds of our fellow and sister citizens.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

They wanted to know where is the debate? I am trying to figure out what it is that I am supposed to debate. The gentleman from Michigan comes on the floor and says Democrats will vote to increase the debt limit. The measure in front of us is to increase the debt limit. But the gentleman then said he asked his colleagues to vote "no" on the resolution.

Which position are you supposed to debate? Yes or no? I find it interesting that if they knew last year prior to September 11 that we were going to have all of those problems associated with the tragedy around the 11th and the consequent commitment by this President to carry the war to the terrorists and they were prescient enough to know that the country was going to face that situation, gee, I wish they would have let us know that was going to happen. We could have taken some procedures and some steps that would have certainly been far more humane than what occurred.

I find that people who are more than willing to use hindsight as the reason for taking a position rather interesting when shortly they will also urge their colleagues to vote "no" on the Medicare package. Only this time their argument is going to be that we do not spend enough. We are only going to spend \$350 billion.

The beauty of the Democrats' ability to debate is they are masters at compartmentalizing. Right now it is, "You spendthrifts, we have to raise the debt limit." Several hours from now it will be, "You cheapskates, you are not will-

ing to spend enough to help the seniors."

And they say, why are you not willing to debate? I am trying to figure out which Democrat I am supposed to debate. The one that is complaining the Republicans are spendthrifts and we have to raise the debt limit? Or the one who is saying, you are cheapskates, you are not willing to spend enough, \$800 billion, to help seniors.

I guess the problem I have is that the gentleman from Florida (Mr. HASTINGS) in characterizing a Member several days ago puts me in exactly that dilemma.

Mr. Speaker, I yield the balance of my time and yield the control of the time to the gentleman from Texas (Mr. ARMEY), the majority leader.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the gentleman from Texas will control the time for the majority.

There was no objection.

Mr. RANGEL. Mr. Speaker, I yield to the distinguished leader. We were calling for debate. We did not know you were going to bring out the leader. We want to hear what he has to say about this since the chairman of Committee on Ways and Means is confused.

Mr. ARMEY. Mr. Speaker, I am happy to yield 2 minutes to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Speaker, I thank the gentleman for yielding time.

I am a farmer. I think, just for the sake of being honest and not hoodwinking the American people, maybe we should get this, if you will, discussion out of the hay mound and down on the barn floor where we can chew it up seriously.

□ 1900

The fact is, maybe I would make an analogy that my family that I love went out and spent more money than they should and now the question is, do we pay that credit card bill? So, reluctantly, probably as one of the most fiscal Members of this Congress, I say, look, we have to pay our bills.

The problem has been on that spending. Let me give my colleagues an example. If we held the line on spending since President Clinton came into office in 1994 we would not have this problem today. That is not just Democrat control; it is the Republican control. There is an overzealousness to spend, and that is what we have been doing.

Let me give my colleagues this example. In 1998, we passed and executed a plan designed to balance the budget by 2002. That is what we promised in 1998. That budget projected fiscal 2002, this year's revenues, at just under \$1.89 trillion. Actual revenues, even after the tax cut, were way in excess of that, according to CBO, and now are expected to come in over \$2 trillion, or

more than 5 percent above the projection. However, it was spending. Our projection in 1998 for outlays were under \$1.89 trillion and are now expected to be \$110 billion higher than we projected. It should be clear that it is spending.

Now, this tough question: I do not want to vote to increase the debt ceiling without some kind of a plan like every family has, like every business has, to say, look, we are going to borrow a little more, but we are going to have to pay it back sometime. How are we going to eventually pay it back so that we do not leave this mortgage to our kids?

Mr. Speaker, we have a situation where the \$35 billion in increased defense expenditures and \$6 billion expanded homeland are part of the problem. We have to deal with that national security problem. Let us pass this debt ceiling, but, likewise, let us move ahead and have a plan of how we are going to repay this debt so that we do not leave it to our kids.

Mr. RANGEL. Mr. Speaker, I agree with the gentleman. All we need is a plan.

Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. NEAL), a member of the Committee on Ways and Means.

Mr. NEAL of Massachusetts. Mr. Speaker, I thank the gentleman for yielding me this time.

The gentleman from Michigan (Mr. SMITH) is precisely on target with his comments. During the 1990s, we understood the need to balance the budget. What was the result? It created the greatest period of economic growth in the history of the Nation. The chairman of the Committee on Ways and Means says, hindsight, it is easy. It is foresight that we undertook in the 1990s. We prepared for the rainy day; that was the whole notion: a national disaster, international conflict, a downturn in the economy.

That is why we do not understand a reckless \$2 trillion tax cut. We should have been focused on the items that we might not have been able to control in the near or far future.

Unemployment has gone from 4 percent to 6 percent, the budget deficit is at \$250 billion, and a Wall Street analyst said yesterday, the economy and the markets right now are in the midst of a full-blown corporate governance shock. Stock market numbers are down, the value of the dollar has dropped considerably, retail sales have dropped along with consumer confidence, and we continue right down this road.

Now here is the point that I find most focused tonight and the one that I think troubles me perhaps far more than anything else. There were Members on the other side of this body who were going to impeach Secretary Rubin, going to impeach him. Actually,

the Committee on Financial Services in this House held hearings on impeaching Bob Rubin because of the debt ceiling question. They would not vote to raise that debt ceiling under any circumstances.

Tonight, the argument is, well, if we had better hindsight, it would be much easier for us to undertake these sorts of initiatives.

The point that we have reached is because of the tax cut, and we have to focus on that issue, and we have to understand it and keep it in perspective. At the same time that we discuss this, American companies are allowed to sneak out of this Nation in a time of war in the dark of night to Bermuda to escape what they contend to be corporate taxes.

Mr. Speaker, \$48 billion more, \$38 billion more for homeland security. The chairman was mistaken. The problem is not hindsight; the problem is vision and foresight.

Mr. ARMEY. Mr. Speaker, I am happy to yield 2 minutes to the gentleman from Pennsylvania (Mr. TOOMEY).

Mr. TOOMEY. Mr. Speaker, I am amazed that I am hearing talk over here about where is the Republican plan to get out of the predicament that we are in. The obvious question is, where is the Democrat plan? Where has it been? Where is the budget?

I sit on the Committee on the Budget. The Democrats did not have a budget in committee, they did not have a budget on this House Floor, and they have the nerve to come down here and say, where is our plan?

We put a budget together. We put a budget on this floor. We passed it on this floor. We have a plan. They may disagree with it, but they did not have the courage to put a budget on the floor and have an honest debate about it and have an honest vote about it.

Let me tell my colleagues what the plan would look like if we had one. It would be all about more spending, and they know that. I know they do not like tax cuts, but what they wanted to do with that money is they wanted to spend it. I have not been here all that long, this is only my fourth year, but each and every single time that we have had an appropriation bill on this floor, if we did not all agree, and on many we do, but when we did not agree, what was the objection on their side? It was always that it does not spend enough.

Well, let me tell my colleagues, we cannot spend our way into a deficit unless we are spending too much. And the Democrat plan, that I must infer, since they will not put one on the table, can only be that they want to spend even more money.

The Democrats also know for a fact that the big problem that we face is the result of an economic slowdown and a war that we are engaged in. The

fact is, if it had not been for the tax cut that we passed last year, I do not know what kind of condition this economy would be in, but it would clearly be in much worse shape than it is in now.

Mr. Speaker, I urge my colleagues to adopt this measure.

Mr. RANGEL. Mr. Speaker, I did not want to embarrass them by saying we told you so, but since he asked for it, I yield 3 minutes to the gentleman from South Carolina (Mr. SPRATT), the distinguished ranking member of the Committee on the Budget, to tell them what our plan was.

Mr. SPRATT. Mr. Speaker, just 18 short months ago, OMB and Treasury both told us that there would be no need to raise the debt ceiling for at least 7 years, not until 2008. OMB told us that they foresaw surpluses coming that would total \$5.6 trillion over the next 10 years.

A year later, when OMB sent up its budget, the budget that we are now working upon, it contained a simple pie chart. Look at page S-415. According to OMB's own pie chart, 40 percent of the surplus was a massive miscalculation. It did not take sufficient account of the economy; it technically was deficient. Seventeen percent of the surplus was wiped out by spending increases, much of it for defense, and 43 percent, 43 percent of the projected \$5.6 billion surplus, according to OMB's calculation, had been wiped out by the tax cuts, or would be wiped out by the tax cuts enacted last June.

Mr. Speaker, this is the chart, this is the line on this chart right here, this blue line at the bottom, that we would have followed had we followed the budget resolution that we proposed, had we not taken the proposal that the Republicans made and that the President made. This, instead, is the chart that, the line that we are on, the red chart, that is additional debt. That is the bottom line.

This is a bar chart that shows us where we might have been with the publicly-held debt. We could have retired all of the publicly-held debt if we had husbanded our resources and earnestly tried to do it. We had that opportunity. We would have actually paid off most of the publicly-held debt; and, instead, we are going to accumulate \$2.8 trillion in additional debt because of the budget that we adopted 2 years ago and still now are implementing.

That is why we find ourselves tonight in June, 2002, not June, 2008, but June, 2002, raising the debt ceiling by \$450 billion. Many of us Democrats will not support this bill before us because last year in 2001 we proposed a budget.

Speaking of compartmentalizing, we had a budget. We proposed a framework for the budget, and we proposed to set aside in our resolution one-third of the surplus to be used for debt retirement until we had finally reached some

agreement for making Social Security/Medicare solvent far into the future. We wanted to commit that extra third of the surplus for that purpose, and our Republican colleagues roundly rejected the idea. They passed a massive tax cut that left no room for error, and that is why we are here tonight slipping through in the space of 1 hour a \$450 billion increase in the debt.

We believe that the Government has to meet its obligation, but we do not want to make the Treasury play games with our trust funds. Many of us on this side will vote for a debt increase of \$150 billion. This allows us to meet our obligations to our creditors and at the same time meet our obligations to our children, passing a budget that gets us back in balance.

Mr. ARMEY. Mr. Speaker, it is with great pleasure I yield 4 minutes to the gentleman from Iowa (Mr. NUSSLE), the distinguished chairman of the Committee on the Budget.

Mr. NUSSLE. Mr. Speaker, I thank the gentleman for yielding.

First of all, there is nobody in the House of Representatives with more integrity when it comes to numbers on the budget than the gentleman from South Carolina (Mr. SPRATT), and I commend him for what he just said. Except there are a couple of things that he may have forgotten to mention and a couple of rest of the stories.

First of all, it is true that the Democrats last year introduced a budget plan. Of course, they did not have a majority. They could not even get a majority of their own caucus to support the plan, but, yes, some of them did have a plan. If that plan would have been adopted, not only would we be into Social Security this year but we would also be standing here on the floor today knocking up against the debt ceiling.

So you can say you had a plan and you can say that maybe your surplus projections may have been a little bit better, but do not tell us that you were not into Social Security and do not tell us that you were not knocking up against the debt ceiling.

That is last year. Now let us talk about this year. There is no minority plan. There were a couple of members of the Blue Dog Caucus that came forward with our budget with a trigger. So they took our plan, and there is a plan called the House Budget, which we passed in the House and which we have now deemed and which the President has accepted and which we are operating under and which we passed two appropriation bills today and which we will also pass a prescription drug bill later, that is operating in the House of Representatives and is operating for this Federal Government.

We have a plan. There is a challenge with regard to the plan, and I wish you would direct your attention to the other body which has nothing, no bud-

et, no plan, no ideas on what to do. Yes, they rushed through a debt ceiling increase and put it over here and we will deal with it today, but when we talk about plans, you do have to at least smile a little bit, and I do see a few of you smiling, that you do not have a plan, and that is when we are talking about plans, the plan that is not there.

But there are a few Members with integrity who are coming to the floor today and putting forward ideas, their ideas for increased spending. There is going to be a prescription drug benefit that is going to come forward from the Democrats a little bit later. It will be, and I think my colleague from the Committee on Ways and Means said earlier it was going to be somewhere in the \$600 billion range. Folks, we are getting it scored; and my guess is it could be over a trillion dollars of new mandatory spending.

Oh, but do not worry about that. Let us compartmentalize that. Because we are going to deal with the Republicans and the debt ceiling today, even though we do not have a plan.

And the other thing that many Members with integrity come forward with, they say, you know what, that tax cut that we passed last year was too much, it was way too much, and so let us not do anything about that either except maybe roll it back. That is called a tax increase.

So the plan is foggy, but we are starting to see what the minority side is starting to come up with. It is called higher taxes and more spending, higher taxes and more spending. Now tell me how that plan does not knock up against the debt ceiling?

So I understand you can come to the floor today, and part of not governing means that you do not have to make a choice and you do not have to make a plan and that is fine. You get to have that luxury. But let us just recall history. For 40 years, this trillions of dollars that have been added to the debt were added to the debt by a Democratic-controlled Congress.

□ 1915

It was only over the last 5 years that that debt has started to be reduced. By almost half a trillion dollars that debt was reduced. I think that is a pretty good track record.

One other thing I would just mention, for those who predicted back in February that all this would happen. They have forgotten September 11. September 11 is why we are here. That is why we have to do this today.

Let us vote to increase the debt limit and be responsible about the plan to get us back into fiscal responsibility.

Mr. RANGEL. Mr. Speaker, I yield 15 seconds to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, I ask unanimous consent to have made in

order an amendment to this bill in the form of H.R. 4758, which is a plan to raise the debt and at the same time commit this Congress to balancing the budget again by the year 2007.

The SPEAKER pro tempore (Mr. SIMPSON). Under the Speaker's announced guidelines, the Chair will not recognize request to offer an amendment that would not be germane to the bill.

Mr. SPRATT. I can ask unanimous consent.

The SPEAKER pro tempore. The Chair will not recognize for such unanimous consent requests.

PARLIAMENTARY INQUIRIES

Mr. STENHOLM. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. STENHOLM. Mr. Speaker, it is my understanding that by unanimous consent this body may do almost anything if we all agree, all 435.

The debate has been that we have no plan. The gentleman from South Carolina (Mr. SPRATT) offers a plan by unanimous consent. This seems to be or would be in order, unless there is objection from the other side.

The SPEAKER pro tempore. There are certain unanimous consent requests that require clearance from both sides of the aisle. Among those are a request for consideration of non-germane amendments to bills, which this would be.

Mr. STENHOLM. Further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. STENHOLM. Again, from the rules that the Chair is reading, this is what I thought I was interpreting, that by unanimous consent we may adjust a rule, if there is no objection from the other side. I hear no objection.

The SPEAKER pro tempore. These are the Speaker's announced and published guidelines for recognition of unanimous consent requests. The Chair will not recognize those unanimous consent requests that have not been cleared by both sides.

Mr. STENHOLM. Mr. Speaker, further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. STENHOLM. Mr. Speaker, I now inquire of the chairman of the Committee on the Budget if he would, by unanimous consent, agree, so that we might clear up the problems that the Speaker is having with this, what I consider to be, very fair request.

I have heard objection.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I was smiling, as the gentleman recorded, because I had not seen the chairman of the Committee on the Budget since we lost the \$4 trillion. Welcome back.

Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. TURNER).

Mr. TURNER. Mr. Speaker, we are debating tonight this bill because our fiscal house is in total disarray. After 8 years of shrinking deficits, and finally reaching one true surplus in fiscal year 2000, we have seen over the last months a deteriorating fiscal condition that has allowed us to be bumping up against the \$5.95 trillion statutory debt ceiling, when we were told by Secretary O'Neill just a year ago we would not reach it until 2008.

The truth of the matter is that we need to return to fiscal responsibility. We need to stop raiding the Social Security trust fund. If any corporate executive in America raided the employees' retirement trust funds, they would be thrown into jail. Yet we are doing it tonight.

The truth is, the Democrats have laid out a plan. That plan has been introduced in the form of legislation. That plan says we will agree to a \$150 billion increase in the debt ceiling immediately and no further increase until we have a plan to return us to a balanced budget by 2007, until we establish spending caps to control our spending, and until we strengthen and extend the pay-go rules.

That is the Democratic plan. That is what this House should be approving tonight.

Mr. ARMEY. Mr. Speaker, I reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. RANGEL. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. RANGEL. If the majority has no further speakers, is it possible they could give us their time, because we have a lot of speakers?

The SPEAKER pro tempore. The gentleman from Texas may yield his time if he wishes.

Mr. ARMEY. With all due respect, Mr. Speaker, I was advised by my daddy not to waste time.

Mr. RANGEL. Mr. Speaker, I did not hear what he said. If they do not have any speakers, we have a lot of speakers.

Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I thank my friend, the gentleman from New York, for yielding time to me.

Mr. Speaker, I rise in opposition to this bill. For every \$100 the Federal Government is spending, we are now bringing in about \$90 worth of revenue. The way we are making up the other \$10 is to borrow it. Some of it comes from the Social Security trust fund, and the rest of it comes from the private capital markets. We have reached our limit, or we are about to reach our limit as to what we can borrow.

Logic tells us that what we ought to do is sit down and figure out how we got here. I think it is true that the ter-

rorist attack had something to do with that, indisputably. I think it is true that the recession had a lot to do with it, indisputably. But the other side has to admit that the \$2 trillion tax cut that they recklessly put through this House last year also has got something to do with it.

The two parties ought to come together, discuss the alternatives, extend the debt ceiling tonight by an amount necessary to cover us during that period of time, and put our house back in order. That is a reasonable, sensible approach, which is why the other side will not let it get to the floor.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Utah (Mr. MATHESON).

(Mr. MATHESON asked and was given permission to revise and extend his remarks.)

Mr. MATHESON. Mr. Speaker, I thank the gentleman from New York for yielding time to me.

There is no question that circumstances have changed from where we were a year ago. We acknowledge that we have this war on terrorism. We have homeland security concerns, so the situation has changed.

We ought to change the way we are figuring out what we are doing about the budget. If we have to go borrow more money from a bank to buy a car or a house, we have to tell the bank a story about how we are going to pay them back. That is just common sense. But we do not have that story here. We are not telling people that story. We are telling the American people we want to borrow more money that is going to be on their backs and the next generation and the next generation, with no story about how we are going to pay it back.

So let us all agree that the situation has changed. Let us all agree that we have a tough job ahead of us. Let us roll up our sleeves and work together and come up with some kind of plan on a going-forward basis to put us back in a position of fiscal responsibility.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. DOGGETT), a distinguished member of the Committee on Ways and Means.

Mr. DOGGETT. Mr. Speaker, it was only a few months ago that Republicans were telling us we would not need to touch this debt ceiling until 2008, and feigned concern that we would probably pay down so much debt that we would hurt the economy.

Well, we know that in the meantime much has happened, but one of these developments is the impact of one tax break after another for their wealthy Republican friends and another is that corporate tax abuse has been totally ignored to the extent that some corporations in this country actually have the arrogance, at a time of national security need, to renounce their citizenship, move their mailbox to Bermuda

or some other foreign island, and evade their United States taxes at the same time our deficits continue to mount.

It is not just a spending issue, though there have been plenty of spending bills in this House that I have voted against. A loss of tax revenues also contributes to the deficit and a total disinterest and disregard for this aspect of the problem by the Republican leadership.

I do not believe there is a carpet big enough to sweep underneath all the mess that Republicans have made of our budget. After a few years of paying down the deficit, when Americans enjoyed the benefits of lower interest rates to purchase homes and cars, we now face a return to years of one deficit after another. How incredible that at the offer of a unanimous consent resolution to at least say, can we not agree in a bipartisan fashion that by the year 2007 we will be off this deficit financing and we will have a balanced budget, their answer is no; to object, to refuse to consider a commitment to having a balanced budget by at least the year 2007.

We do have a default issue tonight, not about the debt. Rather it is a default in leadership; it is a default in responsibility. We have heard so much talk lately about intelligence failures, but one of the most obvious is the inability to grasp that when the elite do not pay their fair share, like these corporations that are heading offshore, the rest of us have to pick up the tab.

Then Republicans come, as they are tonight, and ask to use our Social Security cards as their credit card for more spending and more tax breaks.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to my friend, the gentleman from Arkansas (Mr. BERRY).

Mr. BERRY. Mr. Speaker, I want to thank the gentleman from New York (Mr. RANGEL) for yielding time to me, and also for his great friendship and leadership.

Mr. Speaker, we have heard the other side come to this floor this evening and talk about this debt as if we did not have good sense over here.

Now, if we are doing so good, Mr. Speaker, how come we are broke? I just do not quite understand that. It is like we did not have enough sense to tell the difference between turnip greens and butter beans.

If we are doing so good, if this plan that the gentleman from Iowa kept referring to a while ago is working so well, how come we are broke? How come we need to borrow another \$450 billion, not from ourselves, but from our children and grandchildren, for crying out loud?

Who in their right mind would want to do something like that? Why would we want to come to this floor and borrow another \$450 billion from our children and grandchildren and have no idea how we are going to pay it back?

Mr. ARMEY. Mr. Speaker, for a refreshing change in pace, I am more

than pleased to yield 4 minutes to the distinguished gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, when I was elected in 1987, I had one big desire: to get our country's financial house in order and to balance the Federal budget. That was my desire. I did not feel I really had an opportunity to really have an impact on that until John Kasich came and started offering amendments to cut spending in 1989, and more and more of us started to join with him.

Then in 1994 a major change happened: Republicans had an opportunity to lead this House and to try to get our country's financial house in order. We did that by 1997, and in 1998 we ended deficit spending. In 1999 we ended using Social Security reserves. That happened. That is a fact. It was a bipartisan effort.

There are times I voted to increase the national debt, and there are times I voted not to. But when I hear a colleague who has pushed the farm bill so hard talk to us about not increasing the deficit, I think, did that not contribute to increasing the national debt? Is that not a part of spending? When I see some of my colleagues who voted for the defense budget, did that not help increase the national debt?

Now, I also voted for the tax cut. So did a number of Democrats. When the Senate had a chance to repeal the tax cut, only three of them wanted to repeal it. Now, I was uncomfortable when we had a debate to increase the national debt, and it was kind of put into something else. I heard my colleagues say, let us have it clean. So I asked my leadership, and others did, as well, let us have it clean.

There were some who said the \$750 billion increase, as the President proposed, is simply so high because it might push us beyond even the election of the President. So when there was an effort by Senator DASCHLE and Republicans jointly to come in with \$450 billion and to have it clean, I pleaded with my House leadership to just take it right off this desk and send it to the President. That is what we have an opportunity of doing.

I really think, and I know why my colleagues on this side of the aisle are tempted to do it, there are things they do not like, and this is a way for them to illustrate their contempt, their anger, all the things that are pent up.

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I just cannot imagine you would do it on this issue, not on this issue. I cannot imagine that we would tomorrow risk the fact that this may not pass. And, you know what? It may not pass. Maybe you will succeed in getting some Republicans, a few, to vote against it, and maybe my Democratic colleagues will convince the rest of

their conference to make a political game of this. In the end, we are simply pushing another debate on this until February, 2003, the next Congress. Maybe the Democrats will be in charge. Maybe the Republicans. But we will have to wrestle with this issue.

But for me there is no question. I voted for the tax cut. I did not vote for the farm bill. I thought the farm bill was an outrage. I think it kind of sent a message that is unfortunate. I voted for the defense bill. I voted for the 9-11 costs. So in the end when you see the votes go up and if my Democratic colleagues are successful in convincing most of their colleagues to vote against this and this goes down, I think tomorrow people will know where the problem is.

This is Senator DASCHLE's bill. It is a Democratic bill in the Senate that we have an opportunity to take off this desk and pass it, and any alteration to this sends it right back to the Senate.

I sincerely hope my colleagues remember, if they voted for the farm bill, that they have some obligations. If they voted for the defense bill, they have some obligations. And the tax cuts which my colleagues are concerned about really have not taken effect. They have come in years in the future. But the one thing that did take effect was the \$300 or the \$500 or the \$600 payment. The Democratic proposal. Thank God. Because as we went into this recession more spending and tax cuts have made this recession less. So I salute my colleagues for making this recession less by spending more and making the debt ceiling increase necessary.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. TANNER), a member of the Committee on Ways and Means.

Mr. TANNER. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL) for yielding me time.

I personally do not care whether it is a Democrat or Republican bill. What we have got in this country is a \$6 trillion debt. We are paying a billion dollars a day interest, and all we have asked for is a plan of some kind to get us out of this hole before we pass another \$450 billion authority to borrow money. If anybody thinks that is unreasonable, I would like to debate that point. There is not a business or a family listening tonight anywhere in this country that would run their own business like we are running the Nation's business, borrowing another \$450 billion with absolutely no plan.

The plan we are operating under does not balance for the next decade without using Social Security trust funds. Now, if anybody can convince the American people that that is a reasonable approach to this Nation's financial problems, I would like to talk to them because it is absolutely, I tell you what you can do. You can bamboozle people

a little while, but the American public is not stupid by any stretch of the imagination, and they know that year after year of red ink is sooner or later going to catch up with us and with our children.

I will tell you something else. The most insidious tax raise, tax hike in the world is borrowing money because you pay interest year after year after year, today a billion dollars a day in interest because our predecessors and us did not have the fortitude to either cut the programs we do not like and do not need or to raise the revenue for the ones that we do. That is where we are. This is shifting responsibility, and it is a generational mugging.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, I have got right here in front of me, it took me 5 months to compile this, I have got the votes of every one of the Democratic leadership, every single time, from the gentleman from Missouri (Mr. GEPHARDT), the gentleman from California (Ms. PELOSI), the gentleman from New York (Mr. RANGEL), the gentleman from Maryland (Mr. HOYER), right on down the list, every single time that you voted to take 100 percent of the money out of the Social Security trust fund.

For 40 years your budgets used money out of the Social Security trust fund. When I came here, we had \$5 trillion of debt. The gentleman just said, and he is right, not quite a billion dollars a day but almost a billion dollars a day we pay on the interest when we came here.

Now, if you pay down \$500 billion it does not take a mathematician to figure if you are paying a billion dollars a day and there is 365 days in a year, you will end up with a lot more billions of dollars. And it keeps going up, and it keeps going up because you cannot pay it down.

I heard the gentleman from Missouri (Mr. GEPHARDT) every single day when I was on the floor in the minority come in and talk, oh, the lady in the red dress. I am sorry. We need a middle-class tax cut. But in 1993, when you had the House, the White House and the Senate, you could not help yourselves. You increased the tax on the middle class. You increased the tax on Social Security. You took every dime out of the Social Security trust fund. You cut veterans COLAs. You cut military COLAs. You called it a deficit reduction plan.

But yet when Republicans came we eliminated that Social Security tax. We gave a middle-class tax cut. And our policies, not one single Democrat bill or budget, not one Democrat budget from the President ever passed. As a matter of fact, Republicans brought up your budgets to show how bad they were.

And for you to get up here and day after day talk about tax breaks for the rich, I talked to some of my colleagues. I said, what are you talking about? You know that is not true. And they said, it is gamesmanship. You lowered the bar too low in this House.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota (Mr. POMEROY), a member of Committee on Ways and Means.

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding me time.

There is a lot of partisan finger pointing, name calling, creative history interpretation. That is not going to get us anywhere. We have a problem on our hands. If we were a family running in the red we would sit at the kitchen table and figure this out. And the answer is not going to be, I got it, let us go to the bank and get the biggest line of credit we possibly can and let everything go the same.

That is what the majority is proposing tonight. They are proposing simply to increase the line of credit and keep on borrowing. Let the wagons roll.

We have to do different than that. We have asked, as we consider this motion, for an alternative to be considered one that would allow the debt to increase through the period of August, avoid any default on obligations of the government before then but require a plan, a plan to come before us to get us to a balanced budget in 7 years.

Let us not talk about partisan antics in the past, Republican or Democrat. Let us together agree. We need a plan. We need it now. And that is what we asked for with the substitute.

I could not be more dismayed that there was an objection and it will not even be allowed to be considered. Because this plan, this strategy of going up with the kind of debt increase they are looking at is the height of irresponsibility. In the next decade, 78 million Americans will turn 65; and the tap each will bring on Social Security and Medicare will strain the Nation's resources in a way it was never strained before.

What we need to do this decade is pay down the debt, not add to the debt. We are leaving for our children a crushing financial burden, if we, now that it is our time in control, and the baby boomers are in the workforce in full force, do not pay our way but merely run up the debt. So we ask the majority for a plan, a plan to be resolved in August of this year before the election, not swept under the rug, not kicked into next year, but now. How are we going to pay our own way?

We were not paying our own way now. That is why you have sought the debt increase. This is ultimately taking money coming in from Social Security and spending it on other government programs. Our children will pick up the tab. It is wrong. Vote this down.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I thank the gentleman from Texas (Mr. ARMEY), the distinguished majority leader for yielding me time.

I rise today as a conservative Member of this institution, Mr. Speaker. I did not come here to increase the government's debt. I came here believing, as so many people I represent believe, that if you owe debts, pay debts.

I spoke to an elderly woman on a radio program in Richmond, Indiana, today in the heart of the heartland district that I represent. Mr. Speaker, she said with fear in her voice that she was worried that a conservative like me would not support raising the debt ceiling and would put at risk her Social Security check. She assumed that my loathing of red ink would cause me to vote in such a way or fail to act in such a way that it would jeopardize her benefits and the benefits of people that she loves.

Well, I assured her then and I rise today to assure all of those that are listening, Mr. Speaker, that I will not do that. I truly believe if you owe debts, pay debts. I am a member of a majority in this institution that has repaid the national debt nearly a half of a trillion dollars. We have balanced the budget last year, adopted a plan to actually redeem all of the public debt over the next decade. We were on track, Mr. Speaker, to meet that goal, even after the President's tax cut was adopted.

And then, though it is convenient tonight to forget it on the other side of the aisle, that a recession struck America; and then, of course, as we all experienced here, the devastation in New York City and at the Pentagon. 9-11 struck and hundreds of billions of dollars that the CBO and the OMB and every independent organization in America predicted would be there was no longer there.

The result is that our government now needs to keep its promise to the American people, to all of various entitlement programs, but maybe most especially the program that that elderly woman asked about this morning.

We must raise the statutory debt limit. The truth is they have no budget. They have no credibility on debt reduction. They have no plan to guarantee the full faith and credit. They have no plan for that little old lady in Richmond, Indiana.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to my friend from Kansas (Mr. MOORE).

Mr. MOORE. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL) for yielding me time.

Mr. Speaker, I speak in opposition to the bill on the floor at the present time. Kansas families live by three simple rules. Number one, do not spend

more money than you make. Number two, pay off your debts. Number three, invest in basics in the future.

The basics for our country are national defense, Social Security and Medicare, a highway system, things we all would agree on. The basics for a family are food, shelter and education, health care, things, again, we all would agree on. And yet in this Congress, in this Congress, after we got our budget back in balance, we started down the wrong road again.

Now I do not blame anybody in this Congress for a recession. I do not blame anybody in this Congress for what happened on 9-11 and certainly not the President. And I voted for tax cut, so I do not blame anybody for that as causing the problem we are in. But I think we need to move back to fiscal responsibility.

Initially, Secretary O'Neill asked for a \$750 billion increase in the debt limit. I think that is an outrageous blank check to give to this Congress. Now they are asking for \$450 billion dollars. I think the appropriate amount is \$150 billion and move to a plan to get us back to balance. Just to work together, Republicans and Democrats, to get us back to balance.

Mr. ARMEY. Mr. Speaker, how much time is remaining?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Texas (Mr. ARMEY) has 7½ minutes remaining. The gentleman from New York (Mr. RANGEL) has 5 minutes remaining.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Speaker, I thank the gentleman for yielding me time.

I did not plan to speak on this at all. I was up in my office and could not help but, watching some of the proceedings, I could not help understanding that there is something amiss here to have people, individuals on the Democrat side of the aisle who have voted for nearly every spending program that has been put up, who vote for the airline bail out, who vote for the farm bill, who vote for the education bill, spending bill after spending bill, none of which I voted for and yet I am over here saying to vote for this bill.

Now, how can somebody spend like a drunken sailor and then all of a sudden find religion when it comes to raising the debt limit? This is just like eating a big meal and walking out on the bill. There are only a few people in this House who could in good conscience vote against this bill, and they have spoken. And to see this display of people standing up and saying, we cannot raise the debt limit, that is not responsible, after voting to spend and spend and spend, it is just more than I could take. So I had to come here and talk about it.

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Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Speaker, I thank the gentleman for yielding me the time.

We have heard the debate tonight. There is one question that lingers. Where are the fiscally responsible members of the Republican House of Representatives? So many of my colleagues campaigned, as many Democrats did, on the virtues of the balanced budget and paying down the debt.

The plan that has been outlined here tonight that was offered as an amendment in the Committee on the Budget by me and others addresses all the concerns that have been expressed. It gives discretion for us to spend some money on security. It allows time to get back to a balanced budget and paying down the debt.

On September 11, thank God we had economic security. We had a balanced budget. We were on our way to paying down the debt. It kept us strong. It keeps us strong. We could not ignore that. We need to get back to it.

The arguments my colleagues make about tax cuts would be better arguments if we did not have the debt in the trillions of dollars, over \$4 trillion. The interest payment 2 years ago on that debt exceeded more than we spent on Medicare every year. Now a number of us are worried about the health of the economy.

If we continue down this path without adopting the plan that has been advocated tonight, we will start to drive interest rates up again and we will really be in trouble. I urge rejection of this bill. Let us adopt the plan.

Mr. ARMEY. Mr. Speaker, I have one speaker left. I reserve my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

At the appropriate time the minority would hope that common sense and fairness would allow us to send this bill to the Committee on Ways and Means and have it reported out the right way with the right amount of increase in the debt.

Mr. Speaker, it is my great honor to yield the remaining time that is left to our distinguished leader from Missouri (Mr. GEPHARDT) in order to close this argument on behalf of the minority.

Mr. GEPHARDT. Mr. Speaker, I rise to urge Members to vote for the motion to commit, which will be presented in a few moments, and if that motion to commit is not passed, I urge Members to vote against the bill.

The power to budget and to pass economic plans carries with it the responsibility to, if it is necessary, raise debt ceilings to accommodate the budget, the economic plan that we are operating under. The economic plan we are operating under is one propounded by

the President and the Republican majority in the House. That is their prerogative and that is their right. There was not real collaboration on that plan. There was no need for that collaboration. That also is their right.

If that is the plan that is in place and that plan now leads to deficits and spending Social Security dollars against everything that we said together that we did not want to do because we passed the lockbox at least five times, then it seems to me it is incumbent upon the people who propose that plan to vote to increase the debt ceiling to accommodate the results that that plan has caused.

I have said many times that I would vote tonight or anytime to raise the debt ceiling by \$150 billion. I use that amount because I think it is sufficient to buy us a couple of more months' time to try to work out a bipartisan budget that will begin to move us back in the right direction, because I think that is what we ought to do.

I have said to the President that we should have a negotiation, we should have a summit, we should have a meeting, a bipartisan meeting, to try to work out a new budget for our country. I know we cannot get everything we want, and I know that the other side cannot get everything they want; but we had a tragedy in this country on 9-11 that no one anticipated. My colleagues can bet that every family who lost somebody on 9-11 has had a budget conference around their dining room table to come up with a new budget, given the fact that many of them lost their breadwinner or winners on 9-11.

Just as those families suffered tragedy on 9-11, the American families suffered a tragedy on 9-11; and as many of us argued when the budget was on the floor, we should take care of those contingencies if they happen. Well, if 9-11 is not a contingency that happened, I do not know what is. We are faced with a hole in security responsibilities. We are faced with fighting a war in many countries abroad. If that is not a new contingency, I do not know what is.

As an American family, Democrats, Republican, Independents, whatever, we are all Americans tonight; and we ought to be sitting around a table in these next 2 months working out a new budget for America that does not lead us back into all these deficits and spending Social Security dollars that all of us together said we did not want to do.

So in the name of common sense, I ask that we come together tonight. We could get 435 votes to pass \$150 billion increase in the debt ceiling and move this country back into a budget that will be good for all Americans at war, fighting for our country, fighting against terrorism, and fighting for American values.

I urge my friends on the other side of the aisle to vote for the motion to com-

mit and let us get back to an American budget that is good for all the American people.

Mr. ARMEY. Mr. Speaker, I yield myself the remaining time.

I have here a letter from the Concord Coalition, a nonpartisan group of distinguished American citizens who concern themselves daily with such matters as balanced budgets; and according to the Concord Coalition, it says that "it is clear that the debt limit must be increased. The Senate has acted and now it is up to the House. Republicans and Democrats alike should put the Nation's creditworthiness ahead of political considerations."

The Concord Coalition goes on to say that "the House must be prepared to act on a stand alone debt limit increase in time to avoid a crisis." It also calls upon us to be nonpartisan or bipartisan.

Mr. Speaker, what in the world could possibly be more bipartisan than to have the Republican majority leader of the House of Representatives schedule for debate and a vote a Senate-passed bill that is authored by the Senate Democrat majority leader? The head of the Democrat Party, the highest-ranking Democrat in America wrote this bill. What could possibly be more bipartisan than the tribute we Republicans are standing here paying to the distinguished leadership of the gentleman from South Dakota, the head of the Democrat Party?

Mr. Speaker, irony of ironies, the gentleman from South Dakota's own party's leadership in this House stands here in militant opposition to the head of their own party's plan to raise the debt ceiling. What are we to make of this partisanship? A party turning upon itself in defiance of the Concord Coalition. What are we to do?

Mr. Speaker, we have before us Senate bill 2578 authored, as I have said, by the highest-ranking elected Democrat in America today, the Senate majority leader, Senator DASCHLE from South Dakota, a bill which when brought to the floor in the other body was passed with a vote of 37 loyal Senate Democrats and 31 thoughtful Senate Republicans. What a bipartisan effort that was. Was it not applauded by even The Washington Post for the spirit of bipartisanship?

Every author of bipartisanship in America stood in reverence at the action in the other body, for the collegiality around the Senate Democrat leader's plan, and yet we bring it to this floor and it is mocked, mocked by members of his own party. Oh, be still my heart. What am I to do with this? What can we say?

Are there 37 brave Democrat souls in this body, loyal to their own party's leadership, afflicted with affection for the gentleman from South Dakota who will stand up and say to the Concord Coalition count me in, I am with my

leader, I will vote for Senator DASCHLE's plan? Are there 37 brave souls in this body? Oh, I pray, Mr. Speaker, I pray that they will present themselves.

Let me say, Mr. Speaker, how disappointing it is to see the rejection of that leadership by a bill offered as a motion to commit, in the form of a bill offered by a small band of Members of the Senator's own party who do not even claim to be in the mainstream of their party. These Blue Dogs are treacherous. They are treacherous, Mr. Speaker.

I prevail upon my friends from the other side of the aisle. Look at the example that came before you from the other side of the building. Check the record of how your own, very own Democrat Senator voted. Please vote with him. Save yourselves the embarrassment of having to go home and answer this question at your local party gathering. Do not put yourself in a position where some wonderful lady who has labored in your party for years looks at you with horrified disappointment in her eyes and says why did you vote with that small band of renegades in our party and against the plan offered by our distinguished party leader, the majority leader of the United States Senate, the distinguished Senator DASCHLE?

I cannot believe it. There are times when every party must call upon their own rank and file, men and women of the cloth on the Democrat side of the aisle. Stand by your man. This is your opportunity. Do what is good for America; and oh, yes, those of you in the press, please report my gallant effort to stand here in this well today and defend, yea, defend the good-faith offering of the highest-elected Democrat in America from this unconscionable assault perpetrated against him by, yes, members of his own party. It saddens me to no end.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). The Chair would remind Members that it is not in order to cast reflections on Senators.

Ms. SLAUGHTER. Mr. Speaker, I rise in strong opposition to S. 2578, legislation to raise the debt ceiling by \$450 billion without engaging in a real debate on how to get our nation's fiscal house back in order.

Mr. Speaker, before the House signs off on permanently raising the debt ceiling to \$6.4 trillion, I think it would be helpful to take a step back and look at how we got here. It was not September 11th or the war on terrorism or even last year's recession that caused this predicament. Months before the impact of September 11th was realized in the budget, U.S. Treasury Secretary Paul O'Neill asked Congress to raise the debt limit by \$750 million in response to deepening deficits that resulted primarily from the President's tax cut. By the Administration's own estimates, last year's tax cut—the one that I cautioned “left no room for error”—is responsible for 43 per-

cent of the total deterioration in our fiscal picture.

So, here we are today, being told by the majority that if we vote against S. 2578, we are being irresponsible. Well, isn't that the pot calling the kettle black? Under their watch, our budget experienced the most dramatic reversal in history, losing \$4 trillion in projected surpluses in one year. To my mind, permanently raising the debt ceiling in the absence of a plan to get us back to surpluses is the epitome of fiscal irresponsibility.

Mr. Speaker, last year, the majority's budget asserted that there would be no need to increase the debt limit until 2009. But here we are, poised to consider legislation raising the debt ceiling to \$6.4 trillion without being given a chance to offer a plan. Mr. Speaker, it is disgraceful that the majority has decided to block debate on a credible plan to address the short-term crisis and undo our present fiscal mess. My Democratic colleagues, Representatives SPRATT and MOORE, sought to offer a measure that would immediately increase debt limit by \$150 billion with the requirement that the President submit a revised budget that is in balance by 2007 without borrowing from Social Security. Regrettably, Mr. Speaker, this reasonable alternative never saw the light of day.

Mr. Speaker, I am simply unwilling to write the federal government a virtual blank check that may or may not keep us in the black until the midterm elections in November. Mr. Speaker, every day, Americans pay \$1 billion in interest on our national debt. That's about 16 cents of every dollar they pay in taxes—just to make the interest payment, not even to pay down the debt itself. Moreover, the indirect costs of raising the debt limit and the return to deficits prevent long-term interest rates high for Americans struggling to make mortgage, car, or credit card payments, even as the Federal Reserve has dramatically reduced short term rates.

Mr. Speaker, I urge my colleagues to join me in rejecting this measure and forcing the Republican Leadership to work with the minority to develop a real plan to deal with the deficits that now stretch as far as the eye can see. Until we have a realistic budget that eliminates those deficits, increasing the statutory debt ceiling is pure folly.

Mr. BLUMENAUER. Mr. Speaker, the Treasury Secretary made it clear weeks ago that Congress would have to increase the Federal Government's debt ceiling. Since that time, many of us have been requesting an open debate on a bill to increase the debt ceiling.

How can the Republican leadership explain the debt ceiling increase added to the debate of the military construction appropriations bill by way of a procedural hijacking? This legislative ambush blocks any amendments from being offered, including the Democrats' intent to limit the increase to \$150 billion as opposed to the Republican's increase of \$450 billion.

I am ready to assure the debt limit is sufficient to meet our obligations, however, I vote against this measure because this chamber and the American people deserve that we conduct business of this manner with a full debate and consideration of reasoned amendments that will clarify a blueprint for fiscal responsibility.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 462, the Senate bill is considered as having been read for amendment and the previous question is ordered.

The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

MOTION TO COMMIT OFFERED BY MR. MOORE

Mr. MOORE. Mr. Speaker, I offer a motion to commit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. MOORE. In its current form, yes, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to commit.

The Clerk read as follows:

Mr. MOORE moves that the bill S. 2578 be committed to the Committee on Ways and Means with instructions to report the same back to the House forthwith with the following amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking “\$5,950,000,000,000” and inserting “\$6,100,000,000,000”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kansas (Mr. MOORE) is recognized for 5 minutes in support of his motion to commit.

Mr. MOORE. Mr. Speaker, the majority leader is leaving this Congress at the end of this term, and he might have a career as a comedian, but this is a very, very serious matter.

Tonight, we are talking, Mr. Speaker, about raising the debt limit of this country. We are, at present, approximately \$5.9 trillion in debt. Certainly nobody in this body wants to see the United States of America default on its financial obligations. That will not happen. That is not an option.

But the majority leader has not provided all the information from the Concord Coalition, because I want to quote from their letter. “An increase of roughly \$250 billion would be sufficient for now without providing a blank check.” And yet they are asking, the majority leader is asking for \$450 billion. We are offering \$150 billion, and I think that is sufficient.

If we spend further, we are into Social Security and Medicare, and the people of America need to understand that, Mr. Speaker. That is wrong. We can come together and come up with a plan to meet the obligations of this country without invading Social Security and Medicare.

Mr. Speaker, I yield to the gentleman from South Carolina (Mr. SPRATT), the ranking member of the Committee on the Budget.

Mr. SPRATT. Mr. Speaker, we are not trying to stop an increase in the

debt ceiling. Here is what we are trying to stop.

This year, in the most dramatic fiscal reversal we have seen in the time many of us have served in this House, our budget will be in deficit to the tune of \$320 billion. Next year, according to our best calculation, our budget will be in deficit by \$373 billion. Over the next 10 years, by \$2.785 trillion. That is what we seek to stop.

If my colleagues vote for the bill instead of the motion to commit, what they will be voting for is fiscal denial instead of fiscal discipline. They will be voting for a little absolution, a ticket past the next election, a ticket past the next budget resolution, but we will simply put off dealing with this problem, this serious problem, this dramatic reversal.

We wanted to present a plan that would have allowed the budget to be increased by \$150 billion and then another \$100 billion without any obstacle. But, after that, we could only increase it if we had in place a budget that would be back in balance by 2007. That is what we really seek.

In the absence of being able to offer that plan, what we offer instead is the closest thing to it, an increase in the debt ceiling of \$150 billion which will bring us back to this problem which we will have to address but will allow us to keep to our obligation to our creditors and, at the same time, allow us to keep our obligation to our children and not leave them burdened with overwhelming debt.

Mr. MOORE. Mr. Speaker, I yield to the gentleman from Texas Mr. STENHOLM.

Mr. STENHOLM. Mr. Speaker, I want to begin by congratulating my Republican colleagues for tonight voting to borrow the money to pay for their policies. I am disappointed, though, that they did not come to the floor with the same enthusiasm defending the vote to borrow the money that they did when they passed the policies that put us into debt. With the exception of the majority leader; his enthusiasm for borrowing \$450 billion is unprecedented.

The need to increase the debt limit is not the result of September 11. In fact, the Secretary of the Treasury came to us last August predicting that we were going to have to borrow money when we were looking at the economic game plan that we were under. We agree on this side unanimously, well, almost unanimously, that we need to increase the debt limit by \$150 billion tonight, and we will get over 400 votes to do it. What we object to is providing a blank check to borrow \$450 billion to stay on the same economic game plan.

Now, my friend from Arizona made the comments about the spending. I would point out that every single spending vote this year that has occurred has come under the Republican-

passed budget that we supported in the Blue Dogs but that my colleagues would never allow us to have the trigger on. So do not blame us for the spending when it is the Republican budget that we are spending to. In fact, we agree that we should not increase spending more than the President has asked us to spend.

That is not the issue tonight. The issue tonight is whether or not we are going to have a new economic game plan or whether we should borrow \$450 billion with a blank check to continue spending.

Now, I am perfectly willing to roll up my sleeves in a bipartisan way and work with the majority if they would just let us. But we will have a pharmaceutical bill on the floor later tonight in which we will be denied an opportunity to vote on. My Republican colleagues denied us an opportunity to have the Hill bill, the Moore bill on the floor today, and yet the chairman said a moment ago, where is the debate?

I have been begging my colleagues to debate me on whether we should borrow \$450 billion or \$150 billion. When we vote for the bill, we are borrowing \$450. We could do it at \$150 and be fiscally responsible. That is the issue. Vote for the motion to commit.

Mr. NUSSLE. Mr. Speaker, I rise in opposition to the motion to commit.

Mr. Speaker, I cannot help but recall the minority leader's comments when he said there was no collaboration, that there was no discussion, that there was no working together.

I seem to remember a lot of working together, a lot of collaboration that got us to this point. I seem to remember a number of late-night meetings in September, when, in a bipartisan way, we decided to reach into that surplus, and there was not much left, but to reach into that surplus and take money and deal with the emergency. I seem to remember a bill that we voted on nearly unanimously to pay for a war against terrorism. Bipartisan. We reached in another time and did the same thing. I seem to remember a bill that came to the floor in a bipartisan way that said, you know what, that pre-attack recession has gotten worse and we need an economic stimulus.

So let us reach in there again and let us make sure that we deal with the economy the way we did with the war and the way we did with the emergency.

Now, all of a sudden, the minority leader rushes to the floor and says, gosh, there was no collaboration, no one talked to us, no one consulted us. Now we need a plan all of a sudden. We have had a plan: It is called deal with the circumstances that were dealt last September. That was our plan. And we did it together. We did it together.

So tonight we have to do together what the other body did with the Senate Daschle bill, and that is to increase

the debt limit to deal with the cards that we were dealt.

Now, if my colleagues want a plan, present one, but do not come down here and blame the tax cuts without having the courage or the guts to give us a plan to raise those taxes back up again.

And, no, I will not yield, because I am tired of my colleagues coming down here and demagoguing tax cuts and not having one ounce of guts to tell us their plan to increase those taxes back up. No, I will not yield, and I will not yield to Members who come in here and say, oh, gosh, but you are doing all the spending, when tonight my colleagues' bill on prescription drugs will be three times the bill that we offer on prescription drugs.

The applause is there, but where is the guts to vote for the increase in the debt ceiling to pay for it? That is called tax and spend, and we have seen it before. We are not going to allow it again.

Mr. Speaker, I yield to the gentleman from Texas (Mr. ARMEY), the distinguished majority leader.

Mr. ARMEY. Mr. Speaker, when we come down to the final analysis, we have before us a bill authored by Senator DASCHLE, the highest-ranking elected Democrat in America; and in the judgment of the Senator, \$450 billion was the right compromise between what was asked by the Secretary of the Treasury and what others might have proposed to him.

Thirty-seven Democrat colleagues agreed with the Senator as they passed this bill to the House.

POINT OF ORDER

Mr. SPRATT. Mr. Speaker, I object to the references to the other body, when the Chair has previously advised the other side that it is improper to refer to action in the other body in support of the motion and which they are supposed to argue otherwise independently against.

The SPEAKER pro tempore. The Chair will remind all Members not to characterize the position of a Senator on a legislation issue.

Mr. ARMEY. Mr. Speaker, if we were to amend this substitute, something else for what the other body has sent us, it would go back to the other body and then we would be up in the air again. There is so much that would be left to uncertainty: the difficult financial gymnastics of the Secretary of the Treasury, already beleaguered by our delay.

It turns out that the \$450 billion increase in the debt limit is exactly the same increase that we passed in 1997 at the request of the then Democrat administration, President Clinton; and, having done so, we found ourselves free to not revisit this issue for 5 years. Five years.

POINT OF ORDER

Mr. RANGEL. Mr. Speaker, I object to the gentleman characterizing the

ex-President of the United States of America, President Clinton, who actually brought about the surplus that we used to enjoy.

The SPEAKER pro tempore. The gentleman's objection is not well taken.

Mr. ARMEY. Mr. Speaker, as I said, in 1997, we passed a debt limit increase of \$450 billion at the request of the President that was in office at that time. It lasted for 5 years that we did not have to revisit this issue. That was a good thing. Because for several years prior to this majority taking over the House, we did not revisit it in the House because we had something called the Gephardt rule. That rule said the House never had to deal with these issues; they would just be done automatically. That was comfortable, but it did not in fact give us this wonderful opportunity to rejoice in this.

Well, what was my point? In 1997, we passed a debt limit increase of \$450 billion, exactly the request that has been sent to this body by the other body, authored by the majority leader in the other body, voted for by 37 Members of the other body, and that will take us perhaps for a while.

This substitute that my colleagues are being asked to vote for guarantees us the right to come back and deal with this issue in September or October. We will be guaranteed the right to do this again.

Now, I just do not believe we have got that many more entertaining speeches left in us.

I say vote against the substitute, the motion to commit, and vote for the Senate majority leader's bill.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to commit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to commit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MOORE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to a minimum of 5 minutes the time for any electronic vote on the question of passage of the Senate bill.

The vote was taken by electronic device, and there were—yeas 207, nays 222, not voting 6, as follows:

[Roll No. 278]

YEAS—207

Abercrombie	Baldacci	Berkley
Ackerman	Baldwin	Berman
Allen	Barcia	Berry
Andrews	Barrett	Calvert
Baca	Becerra	Blagojevich
Baird	Bentsen	Blumenauer

Bonior	Hoyer	Oliver
Borski	Inslee	Ortiz
Boswell	Israel	Owens
Boucher	Jackson (IL)	Pallone
Boyd	Jackson-Lee	Pascarell
Brady (PA)	(TX)	Pastor
Brown (FL)	Jefferson	Payne
Brown (OH)	John	Pelosi
Capps	Johnson, E. B.	Peterson (MN)
Capuano	Jones (OH)	Phelps
Cardin	Kanjorski	Pomeroy
Carson (IN)	Kaptur	Price (NC)
Carson (OK)	Kennedy (RI)	Rahall
Clay	Kildee	Rangel
Clayton	Kilpatrick	Reyes
Clement	Kind (WI)	Rivers
Clyburn	Kleczka	Rodriguez
Conyers	Kucinich	Roemer
Costello	LaFalce	Ross
Coyne	Lampson	Rothman
Cramer	Langevin	Roybal-Allard
Crowley	Lantos	Rush
Cummings	Larsen (WA)	Sabo
Davis (CA)	Larson (CT)	Sanchez
Davis (FL)	Lee	Sanders
Davis (IL)	Levin	Sandlin
DeFazio	Lewis (GA)	Sawyer
DeGette	Lipinski	Schakowsky
DeLaHunt	Lofgren	Schiff
DeLauro	Lowey	Scott
Deutsch	Lucas (KY)	Serrano
Dicks	Luther	Sherman
Dingell	Lynch	Shows
Doggett	Maloney (CT)	Skelton
Dooley	Maloney (NY)	Slaughter
Doyle	Markey	Smith (WA)
Edwards	Mascara	Snyder
Eshoo	Matheson	Solis
Etheridge	Matsui	Spratt
Evans	McCarthy (MO)	Stark
Farr	McCarthy (NY)	Stenholm
Fattah	McCollum	Strickland
Filner	McDermott	Stupak
Ford	McGovern	Tanner
Frank	McIntyre	Tauscher
Frost	McKinney	Thompson (CA)
Gephardt	McNulty	Thompson (MS)
Gonzalez	Meehan	Thurman
Gordon	Meek (FL)	Tierney
Green (TX)	Meeks (NY)	Towns
Gutierrez	Menendez	Turner
Hall (OH)	Millender	Udall (CO)
Hall (TX)	McDonald	Udall (NM)
Harman	Miller, George	Velazquez
Hastings (FL)	Mink	Visclosky
Hill	Mollohan	Waters
Hilliard	Moore	Watson (CA)
Hinchev	Moran (VA)	Watt (NC)
Hinojosa	Murtha	Waxman
Hoefel	Nadler	Weiner
Holden	Napolitano	Wexler
Holt	Neal	Woolsey
Honda	Oberstar	Wynn
Hooley	Obey	

NAYS—222

Aderholt	Cantor	English
Akin	Capito	Everett
Armey	Castle	Ferguson
Bachus	Chabot	Flake
Baker	Chambliss	Fletcher
Ballenger	Coble	Foley
Barr	Collins	Forbes
Bartlett	Combest	Fossella
Barton	Condit	Frelinghuysen
Bass	Cooksey	Galleghy
Bereuter	Cox	Ganske
Biggert	Crane	Gekas
Bilirakis	Crenshaw	Gibbons
Blunt	Cubin	Gilchrest
Boehlert	Culberson	Gillmor
Boehner	Cunningham	Gilman
Bonilla	Davis, Jo Ann	Goode
Bono	Davis, Tom	Goodlatte
Boozman	Deal	Goss
Brady (TX)	DeLay	Graham
Brown (SC)	DeMint	Granger
Bryant	Diaz-Balart	Graves
Burr	Doolittle	Green (WI)
Burton	Dreier	Greenwood
Buyer	Duncan	Grucci
Callahan	Dunn	Gutknecht
Calvert	Ehlers	Hansen
Camp	Ehrlich	Hart
Cannon	Emerson	Hastert

Hastings (WA)	Mica	Shadegg
Hayes	Miller, Dan	Shaw
Hayworth	Miller, Gary	Shays
Hefley	Miller, Jeff	Sherwood
Herger	Moran (KS)	Shimkus
Hilleary	Morella	Shuster
Hobson	Myrick	Simmons
Hoekstra	Nethercutt	Simpson
Horn	Ney	Skeen
Hostettler	Northup	Smith (MI)
Houghton	Norwood	Smith (NJ)
Hulshof	Nussle	Smith (TX)
Hunter	Osborne	Souder
Hyde	Ose	Stearns
Isakson	Otter	Stump
Issa	Paul	Sullivan
Istook	Pence	Sununu
Jenkins	Peterson (PA)	Sweeney
Johnson (CT)	Petri	Tancred
Johnson (IL)	Pickering	Tauzin
Johnson, Sam	Pitts	Taylor (MS)
Jones (NC)	Platts	Taylor (NC)
Keller	Pombo	Terry
Kelly	Portman	Thomas
Kennedy (MN)	Pryce (OH)	Thornberry
Kerns	Putnam	Thune
King (NY)	Quinn	Tiahrt
Kingston	Radanovich	Tiberi
Kirk	Ramstad	Toomey
Knollenberg	Regula	Upton
Kolbe	Rehberg	Vitter
LaHood	Reynolds	Walden
Latham	Riley	Walsh
LaTourette	Rogers (KY)	Wamp
Leach	Rogers (MI)	Watkins (OK)
Lewis (CA)	Rohrabacher	Watts (OK)
Lewis (KY)	Ros-Lehtinen	Weldon (FL)
Linder	Royce	Weller
LoBiondo	Ryan (WI)	Whitfield
Lucas (OK)	Ryun (KS)	Wicker
Manzullo	Saxton	Wilson (NM)
McCrery	Schaffer	Wolf
McHugh	Schrock	Wu
McInnis	Sensenbrenner	Young (AK)
McKeon	Sessions	Young (FL)

NOT VOTING—6

Engel	Roukema	Weldon (PA)
Oxley	Trafigant	Wilson (SC)

□ 2034

Messrs. SOUDER, SHADEGG, BURR of North Carolina, and WU changed their vote from “yea” to “nay.”

Mr. ROTHMAN and Mr. DELAHUNT changed their vote from “nay” to “yea.”

So the motion to commit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. RANGEL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 215, noes 214, answered “present” 1, not voting 5, as follows:

[Roll No. 279]

AYES—215

Aderholt	Bilirakis	Burr
Akin	Blunt	Burton
Armey	Boehlert	Buyer
Bachus	Boehner	Callahan
Baker	Bonilla	Calvert
Ballenger	Bono	Camp
Barton	Boozman	Cannon
Bass	Brady (TX)	Cantor
Bereuter	Brown (SC)	Capito
Biggert	Bryant	Castle

Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler

Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
Kucinich
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad

Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—214

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barr
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)

Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Duncan
Edwards
Eshoo
Etheridge
Evans
Farr

Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Goode
Gordon
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooey
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
John

Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Moran (KS)
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Oliver
Ortiz
Owens
Pallone
Pascarell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez

Meeks (NY)
Menendez
Millender-
McDonald
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Oliver
Ortiz
Owens
Pallone
Pascarell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez

Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Wamp
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

ANSWERED "PRESENT"—1

Bartlett

NOT VOTING—5

Engel
Hayes

Oxley
Roukema

Traficant

□ 2047

Mrs. TAUSCHER changed her vote from "present" to "no."

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. HAYES. Mr. Speaker, on rollcall No. 279 I was detained on the floor by legislative business. Had I voted, I would have voted "present."

MEDICARE MODERNIZATION AND PRESCRIPTION DRUG ACT OF 2002

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 465 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 465

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order (except those arising under section 302(f) of the Congressional Budget Act of 1974) to consider in the House the bill (H.R. 4954) to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize and reform payments and the regulatory structure of the Medicare Program, and for other purposes. The bill shall be considered as read for amendment. In lieu of the amendment recommended by the Committee on Ways and Means, the amendment

in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. All points of order against the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) two hours of debate on the bill, as amended, with one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means and one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce; and (2) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Mrs. SLAUGHTER), pending which I yield myself such time as I may consume.

Mr. Speaker, H. Res. 465 is a closed rule that provides 2 hours of debate in the House, with 1 hour equally divide and controlled by the chairman and ranking minority member of the Committee on Ways and Means and 1 hour equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce.

H. Res. 465 waives all points of order against consideration of the bill, except those arising under section 302(f) of the Congressional Budget Act of 1974. H. Res. 465 provides that in lieu of the amendment recommended by the Committee on Ways and Means, the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted.

The rule waives all points of order against the bill as amended and provides one motion to recommit, with or without instructions.

Mr. Speaker, I urge my colleagues to join me in approving this rule so that the full House can proceed to consider this important Medicare reform legislation. The underlying bill is critically important legislation that is designed to provide much-needed financial assistance to seniors to ease the burden of the rising costs of prescription drugs.

H.R. 4954 seeks to improve the Medicare program by introducing free market forces in order to bring down drug prices and medical costs overall by introducing competition to a program that currently has none.

In addition to unleashing market forces on prescription drug prices, the bill seeks to move the Medicare+Choice program into a more competitive structure, the durable medical equipment and off-the-shelf orthotics are subject to competitive bidding and, finally, Medicare contractors will bid competitively for business. All of these

reform elements will help move Medicare in the right direction, and our seniors will surely reap the benefits of a more consumer-friendly and patient-sensitive Medicare.

The House voted on similar legislation in the 106th Congress but was unable to reach agreement with the other body and the Clinton White House in order to enact a law to help our seniors. Well, with our new administration under President Bush now in office, I believe the House of Representatives needs to seize the historic opportunity to move a Medicare prescription drug benefit proposal through the 107th Congress in order to give our President a chance to sign such important legislation into law.

I applaud the hard work and leadership of my friends and colleagues, the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means, and the gentleman from Louisiana (Mr. TAUZIN), the chairman of the Committee on Energy and Commerce, and their respective ranking members in bringing this legislation to the House floor today.

I urge my colleagues on both sides of the aisle to support H. Res. 465, a rule that will allow the House to consider and pass legislation that will improve the lives of millions of seniors across the country by providing them affordable prescription drugs.

Mr. Speaker, I neglected to say earlier that all time yielded in the pursuit of passage of the rule is yielded for the purpose of debate only.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from Georgia for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, with the rule before us today, this body is being asked to hand over one of the most popular government programs in history to private insurance companies. Medicare is a critical program, a program that benefits a wide spectrum of our constituents and one that American families have come to depend on for their loved ones in need. But today, in a cynical nod to the pharmaceutical industry, the leadership has shut out any meaningful debate. No Democrat substitute will be allowed, no amendments to guarantee affordable prescription drugs for our seniors will be permitted, and anyone voicing dissent has been silenced.

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Indeed, in the wee hours of this morning in the Committee on Rules, one of my colleagues made it clear that he wanted the free market to determine drug prices, and declared that Medicare was, attention, a Soviet-style program, echoing the sentiment made by his former leader, Newt Gingrich, that Medicare should be allowed "to wither on the vine."

Make no mistake: the contempt for Medicare runs deep within this leadership, as it does for other vital social programs. By calling Medicare Soviet-style, we can be certain that this is not a mandate to ensure the future of the program, but rather, the opposite.

Mr. LINDER. Mr. Speaker, will the gentlewoman yield? She is misquoting something I said, and I would like to respond to it.

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman has not been yielded to.

Mr. LINDER. Will the gentlewoman yield?

Ms. SLAUGHTER. No, I want to finish my statement.

Mr. LINDER. She referred directly.

The SPEAKER pro tempore. The time is controlled by the gentlewoman from New York.

Ms. SLAUGHTER. But rather the opposite, a call to leave seniors to the mercies of the private sector and the free market, rather than guarantee them livable, affordable health care.

My constituents and others around the Nation are reeling from public programs that have been turned over to the so-called free market. Utility rates, cable rates, you name it, the free market has ensured exorbitant prices with diminished service. Pensions and retirement security have taken a similar beating.

Moreover, the timing of this proposal could not be worse. The proposal places the program in the private sector at a time when private insurers have dropped Medicare+Choice beneficiaries by the thousands.

Private insurers will inevitably alter plans and move in and out of markets, leading to unpredictability for our seniors. A given drug might be covered one month, but not the next. Premiums could double from year to year without warning.

The rule before us is one of the most heavy-handed procedures to come out of the Committee on Rules, and given the last few weeks, that is saying something. Amendment after amendment was blocked from floor consideration.

My colleague, the gentlewoman from Florida (Mrs. THURMAN), and the gentleman from Maine (Mr. ALLEN) had a remarkably sensible idea of requiring that prescription drug plans negotiate with pharmaceuticals for lower prescription drug prices, a necessity before we put a Federal program on top of them. Canada does it, and France does it, Germany, Italy, Japan, Britain.

Virtually every developed country in the world has committed itself to negotiating lower drug prices for its citizens. Even the United States demonstrated remarkable success when negotiating Cipro prices during the anthrax attacks last fall.

But under this rule, this very sensible amendment will not be permitted.

This is even more remarkable when we consider that the underlying bill prohibits the Federal Government from pushing for lower prescription prices.

My colleagues, the gentleman from New Jersey (Mr. PALLONE) and the gentlewoman from California (Mrs. CAPPS), attempted to ensure that all seniors have the option of prescription drug coverage, especially in those geographic areas where insurance companies choose not to offer a plan. Under the current bill, there is no guarantee that seniors will have access to coverage at all if insurers should decide not to cover their area.

The amendment will never see the light of day, however, under this rule. Instead, we are left with a fundamentally flawed document that fails our constituents on every level. The proposed plan would be administered through either HMOs or drug-only insurance plans.

The fact that drug-only insurance plans do not exist in the private market does not deter proponents from their privatization agenda. In fact, they are so bent on privatizing the drug benefit that they are prepared to bribe private plans with a subsidy as large as 99.99 percent in order to get them to offer drug coverage to seniors, regardless of the quality of the service or extent of the benefit.

Mr. Speaker, a little more history may be in order. The Medicare program was originally created because the private sector did not offer affordable and reliable health insurance to the elderly and the disabled. Health care has certainly changed in the past 30 years, but what has not changed is the fact that the private market does not want to ensure people who are old, disabled, and likely to need care.

Mr. Speaker, the inadequacies in this bill continue, and I will highlight them briefly. The measure penalizes seniors who receive aid with prescription drug costs from charitable, church, or State programs by not counting the costs paid by those parties toward the individual's Medicare deductible.

Seniors may actually have to drop out of programs like New York's Elderly Prescription Insurance Coverage, the EPIC program, in an attempt to obtain their Medicare benefits.

The proposal has numerous gaps that leave seniors without coverage while requiring them to pay premiums. For example, earlier this month I received a letter from a 71-year-old constituent who must take medication to prevent a recurrence of a potentially dangerous, deadly fungal lung infection. The drug costs her nearly \$1,000 a month. Under the majority plan, this woman would still pay well over \$3,000 a year for this medication, and in addition, she would have to drop out of New York's program, which is currently helping her with these expenses.

The proposal includes copayments, premiums, and deductibles that will be

unaffordable for many low- and middle-income seniors. The \$35-per-month premium is a suggested amount and certainly not a guarantee. Insurers could choose to charge double or triple that amount if they chose to.

The bill is opposed by numerous respected organizations, including the National Council on Aging, AARP, Families U.S.A., and the National Committee to Preserve Social Security and Medicare.

Mr. Speaker, the majority has taken the proverbial sow's ear and is trying to convince America it is a silk purse. My constituents are not fooled, and I hope my colleagues will not be, either.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I express my opposition to this sham bill that is harmful to senior women.

Mr. Speaker, studies show that older women live an average of six years longer than men. Often widowed and living alone, the average woman age 65 and older struggles to survive on an annual income of \$15,615.

During her lifetime she probably spent 17 years out of the workforce caring for children, and perhaps 18 years caring for elderly parents. Her retirement income is also smaller because she probably did not receive a pension, and was paid less than most men.

As a result, she receives lower Social Security benefits. She spends a larger percentage of her income on housing costs—leaving less money for necessary expenses like utilities, food, and health care. This is a particularly difficult problem because the average older woman spends 20 percent of her income each year on out-of-pocket health care costs.

Even though Medicare is not typically thought of as a woman's program, it's central to a woman's well-being. Because women live longer than their male counterparts, they also rely on Medicare and its benefits longer.

While Medicare provides women with critical access to health care, gaps in the program leave women vulnerable to unaffordable out-of-pocket costs. According to the Kaiser Family Foundation, women account for nearly 7 in 10 Medicare beneficiaries with incomes below the poverty level.

Similarly, access to affordable prescription drugs is a woman's issue. Why? Because women make up a large portion of consumers purchasing prescription drugs.

Women have a greater rate of health problems since they live longer. They have lower incomes, which make access to affordable prescription drugs more difficult. In addition, because of age, women report more chronic conditions that require ongoing treatment, accompanied by a regimen of costly drugs.

As the costs of prescription drugs continue to rise these out-of-pocket expenses will continue to take a higher percentage of older women's limited monthly income. Where do we draw the line? When will we enact a drug benefit that will allow all seniors to live out their lives without being forced to choose between food or medicine?

It's time we start considering women's needs when we debate prescription drug proposals.

Sadly, the GOP's Medicare modernization plan will only perpetuate persistent health care disparities among women because it creates new gaps in coverage.

If the GOP plan prevails, seniors won't feel any more certain about their benefits—in fact, the GOP proposal allows plans to vary their benefits and premiums from one region to another; from one plan to another and, the GOP plan provides no guarantees. Their plan would privatize prescription drug plans like an HMO . . . not put the plan under Medicare. Our seniors need more stability and certainty than that—especially older women who are counting on Congress to provide a real solution to the high cost of prescription drugs.

Women are major stakeholders in the debate over Medicare's future and a prescription drug benefit. Policies that expand access to outpatient prescription drugs and long-term care would help fill coverage gaps that drive up out-of-pocket spending for women.

Conversely, policies that erode coverage or that shift costs to beneficiaries could affect women, especially those with low incomes.

Older women are one of the nation's most at-risk groups, and a prescription drug benefit must meet their needs. Understanding the full implications of proposed reforms for aging women must be an essential component of efforts to preserve and protect Medicare for generations to come.

Under the GOP plan, there will be no real winners—only struggling survivors, seniors who manage to make ends meet.

For my constituents and the older women in this country, merely getting by is not good enough, so instead, let's make everyone a winner by enacting a prescription drug benefit that guarantees seniors and women real assistance.

After a lifetime of taking care of their families, older women deserve better than what the Republican leadership is proposing. That's why I strongly urge my colleagues to stop further debate on this sham of a proposal and get serious about providing genuine relief to Medicare recipients.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I express my opposition to this bill that is particularly harmful to senior women, like my mother.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I express my opposition to this sham bill that is particularly harmful to senior women. This is a shame.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON of Indiana. Mr. Speaker, I express my opposition to this bill that does not allow senior women to be able to afford to live, particularly those senior women who suffer from cardiovascular disease.

Mr. Speaker, I rise in support of the American people. The same American people who

have been paying too much for prescription drugs and have been waiting for years for Congress to pass a fair Medicare prescription drug benefit. This plan that the Republican leadership has brought to the floor is a sham.

Where is the benefit for our seniors who are living on a fixed income and cannot afford such a high co-payment? Where is the benefit for the women who, because they were stay at home mothers and did not earn a pension, cannot afford the prescription drugs that are needed for a better quality of life.

The costs of prescription drugs for seniors are rising at a rate greater than that of inflation.

Senior women must be accounted for and given a platform regarding prescription drug benefits because they make up almost 60% of the Medicare population. Without affordable benefits, women will be forced to pay extremely high costs for prescription drugs that they already struggle to afford.

We need a plan that makes prescription drugs more affordable for the people who cannot live without these products. What the Republicans are proposing is not help for seniors, but more heartache.

The "plan" the Republicans have drawn up would not be a benefit to anyone except the insurance companies.

Forcing Medicare recipients into private plans which cover less than half of the costs of prescription drugs is not a benefit?

A plan that forces Medicare recipients to pay for a gap in coverage of at least \$1,800 a year is not a benefit!

A plan that does not guarantee the same coverage for the entire country, that seniors in Indiana could pay a higher premium than those in a different part of the country, is not a benefit!

There are over 844,835 people on Medicare in my state of Indiana. That is 14% of the population. 44% of these people are under 200% of the federal poverty level. I will not go home and tell them that I gave away their security to a private company trying to make money off of their health.

Prescription drug benefits are particularly crucial for women because they tend to live an average of 6 years longer than men and are more likely to suffer from prolonged chronic illness. Senior women have a longer period of time to incur out of pocket cost to pay for prescription drugs and deserve to be provided with considerable benefits.

Not only do women tend to live longer than men, but they are also at an unfair disadvantage where their income is concerned. The average annual income for women age 65 and older is \$15,615, which is only half of the annual income of men. Recent surveys indicate that eight out of ten women on Medicare, approximately 17 million women, use prescription drugs regularly and most pay for these medications themselves. Senior women have a limited income and must receive affordable prescription drug benefits that they can rely on.

How dare the Republicans try to give to the seniors of this country a plan that is not equal to what they receive as Members of Congress! They have stated over and over that seniors deserve the same coverage as Members of Congress.

When the non-partisan Congressional Research Service did a comparison of the drug

benefit under the Blue Cross-Blue Shield Standard option available to Federal Employees to the Democrat and Republican prescription drug plans, they found that the Republican plan would give about 40% of the coverage Members of Congress receive, but the Democratic plan would give comparable coverage.

In addition, when given the opportunity to rectify this gap in coverage, the Republicans on the Committee voted against giving this same coverage.

Whay type of thinking is this?

Give the minority a voice! Let there be a vote on the Democratic Medicare Prescription Drug benefit, a plan that actually helps seniors and does not hurt them!

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Mrs. NAPOLITANO).

Mrs. NAPOLITANO. Mr. Speaker, I express my opposition to this shameful bill that is particularly harmful to our senior women who live longer and have the largest consumption of purchases of drugs.

PARLIAMENTARY INQUIRY

Mr. LINDER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Georgia will state his parliamentary inquiry.

Mr. LINDER. Mr. Speaker, at what point does this series of speeches become credited against their time?

The SPEAKER pro tempore. After their request for unanimous consent to revise and extend their remarks in opposition, the Chair will count against the minority's time any speeches that are given. To this point, the Chair has not heard any.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK of Hawaii. Mr. Speaker, I rise on behalf of my constituents to oppose the rule and the passage of this bill as a fatal step towards privatization of Social Security.

Mr. Speaker, I rise today to urge my colleagues to oppose the Republican's prescription drug benefit plan because it does not provide a meaningful prescription drug benefit.

There are 40 million elderly and disabled people enrolled in Medicare. They need Medicare to obtain basic health care coverage. Unfortunately, the program has a very limited prescription drug benefit. Since Congress created Medicare in 1965, it has struggled to find a way to create an adequate prescription drug benefit.

Prescription drug expenditures have grown at a double-digit rate almost every year since 1980. Congress needs to act now to help those currently in the system and the estimated 77 million Americans who will be in Medicare by 2030. These Americans expect to obtain affordable prescription drugs through Medicare. Congress cannot wait any longer. It must create a prescription drug benefit.

Even though creating a prescription drug benefit is one of the most important bills of

this Congress, the Republican leadership has prohibited members of the House from offering amendments or even voting on the Democrat's substitute. Since the Republicans began their rule, they have imposed "gag" rules to prevent a full debate on many important issues. In a chamber dedicated to the principles of democracy and a free and open debate, it is unacceptable for the Republican leadership to prevent members from even considering other prescription drug plans or amending the Republican plan. The House should have an opportunity to amend the bill created by the Republican leadership because it is flawed. It is not a guaranteed Medicare benefit. It relies on HMOs and other private insurance companies, who may restrict benefits at any time.

The Republican's bill (H.R. 4954) does not create a defined prescription drug benefit under Medicare. It subsidizes private insurance companies, who will offer prescription drug coverage to Medicare beneficiaries. This plan leaves the elderly alone in a fight with private insurance companies to obtain the prescription drug coverage they need.

H.R. 4954 does not specifically define the type of benefit that insurance companies must provide. The insurance companies can create strict rules that limit access to certain expensive drugs that could hurt a company's bottom line. Doctors will prescribe medicine without any assurance that seniors will be able to obtain them through their private insurer.

Additionally, insurance companies can limit which pharmacies participate in their network. Seniors in rural areas may be forced to travel many miles to find a pharmacy that is "acceptable" to their private insurance provider.

By relying on private insurers, the elderly will not even know how much their monthly premium will cost. The Republicans think it will be \$35 per month. It might be higher. It might be lower. Premiums could vary from county to county and year to year. The monthly premiums in the Republican's prescription drug benefit plan could rise beyond the resources of the disabled and the elderly. In Nevada, the only state where a similar plan is offered, premiums exceed \$80 per month.

The Republican plan does not provide sufficient coverage. It covers less than a quarter of Medicare beneficiaries' estimated drug costs over the next 10 years, and the complicated coverage formula has a large hole. After providing partial coverage on the first \$2,000 seniors spend on prescription drugs, the Republican plan does not provide any additional help until they pay \$3,800. It does not cover expenses between \$2,000 and \$3,800. The elderly must find a way to pay for these expenses by themselves.

America needs a prescription drug plan that truly helps the elderly obtain the drugs they desperately need. We do not need a plan that exposes Medicare beneficiaries to the whims of private insurance companies who are more interested in profits than providing comprehensive benefits.

Under the Democratic proposal, which the Republicans refused to debate: the monthly premium is locked in at \$25, the annual deductible is only \$100, Medicare pays 80% of seniors' drug costs up to \$2,000, and there is a \$2,000 out-of-pocket limit per beneficiary per year.

The Democratic proposal fully integrates prescription drug benefits into the Medicare program. It allows the elderly to rely on their governmental prescription drug benefit, rather than depending on the generosity of profit driven insurance companies.

This House has an opportunity to pass legislation to help disabled and elderly women obtain affordable prescription drugs. I urge my colleagues to support the Democratic plan to create a simple prescription drug plan that helps all seniors pay for the skyrocketing cost of prescription drugs. I urge my colleagues to vote against the Republican bill because it fails to do this.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would advise the gentlewoman from New York that one came close to debate.

Ms. SLAUGHTER. Mr. Speaker, we will watch it.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. ROYBAL-ALLARD).

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise to express my strong opposition to this irresponsible bill that is particularly harmful to women.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Florida (Mrs. THURMAN).

Mrs. THURMAN. Mr. Speaker, I express my opposition to this rule and to this sham bill that is particularly harmful to senior women.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY of New York. Mr. Speaker, I express my opposition to this sham bill that is particularly harmful to senior women.

I have seen much in my lifetime, but nothing like the blatant disregard for America's seniors by House Republican Leadership. Prescription Drugs is a life and death issue affecting millions of seniors.

This body should not be forced to debate a bill severely lacking in substance and without even the opportunity for a discussion on an alternative.

Unfortunately, there is no room for discussion.

There is no room for options.

There is no chance for an open, constructive and spirited debate on what America's seniors need most—a Prescription Drug Benefit under Medicare.

The bill before us today is nothing but a sham proposal, which does nothing to provide a real, guaranteed prescription drug benefit to our nation's seniors.

I was a nurse before I came to Congress. Let me tell you what this bill does not do for America's seniors.

This bill does not bring down the cost of prescription drugs.

This bill does not guarantee a prescription drug benefit for seniors; and This bill does not guarantee coverage for any drug prescribed by their doctor.

What the bill does do, however, is to provide benefits to insurance companies.

As a nurse, the worst aspect of this bill to me is that the higher your drug bills get, the less help you get with paying those bills.

Our seniors deserve a plan that is guaranteed and affordable. They should not have to worry about coverage gaps, or which pharmacy they can go to for their prescription drugs.

And they certainly shouldn't be limited to which drugs their doctor can prescribe.

We owe our seniors more than vague promises. We owe them a prescription drug benefit that will be there whenever they need it, and for whatever drug their doctor prescribes.

We owe it to the American people not to support this sham Prescription Drug Bill.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Speaker, I express my opposition to this sham bill that is particularly harmful to senior women, my sisters, and my mother.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK. Mr. Speaker, I express my opposition to this sham Republican bill that is harmful to women all over America.

Mr. Speaker, I rise today to stress the importance of providing a meaningful prescription drug benefit for seniors in our nation. We have paid lip service for too long and now is the time for Members of Congress to deliver good on our word.

However, while we need to enact a prescription drug coverage under Medicare, we cannot afford to enact a benefit that is anything less than what seniors deserve—a meaningful benefit that is voluntary and universal and will provide seniors with affordable prescription drugs. The plan that Republicans plan to offer does not meet these important goals.

Most importantly, the proposed Republican plan does not provide seniors with the promise of guaranteed universal coverage. What does this mean? The Republican plan relies on private insurance plans or Medicare HMOs to offer prescription drug coverage to seniors and offers no concrete or strict guidelines for benefits. Simply put, Republicans have put the industry's interests above those of seniors. Seniors will be given no guarantee of meaningful drug coverage and will be at the mercy of the private industry. Seniors have worked too hard and contributed too much to this nation for us to give them anything but the best we can. And, Mr. Speaker, the Republican plan is definitely not the best we can do—it is far from it.

Democrats are committed to providing a universal, comprehensive drug benefit through Medicare for all seniors. We also are committed to addressing the high cost of prescription drugs that have skyrocketed out of control. It is time for Congress to deliver on our promise and provide seniors with a true prescription drug benefit. Anything less is unsatisfactory.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Minnesota (Ms. MCCOLLUM).

Ms. MCCOLLUM. Mr. Speaker, I express my opposition to this sham bill that is particularly harmful to senior women.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Florida (Ms. BROWN).

Ms. BROWN of Florida. Mr. Speaker, I ask unanimous consent to revise and extend my remarks, and I rise against this shameful GOP prescription drug so-called benefit that is very much against my grandmother and all of the grandmothers in this country.

Mr. CUNNINGHAM. Mr. Speaker, I object. I object to the last one.

The SPEAKER pro tempore. There was objection to the statement of the gentlewoman from Florida.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Florida (Mrs. MEEK).

Mrs. MEEK of Florida. Mr. Speaker, this is a sham bill. I represent senior women very seriously.

Mr. Speaker, I rise in strong opposition to both the "sham" prescription drug bill that the Republican leadership has brought to the floor today, and to the unconscionable Rule that the Republican Leadership has proposed, a Rule that denies the Democrats an opportunity to offer a Substitute bill providing real prescription drug coverage through Medicare.

Mr. Speaker, no one in America should have to choose between buying medicine or food, between paying their utility bills or their drug store account, between taking their medicine or living in pain and discomfort. Yet this is the problem that many of our people face every day and we all know it. "Miracle drugs," no matter how innovative or effective, are worthless to those who cannot afford them. Yet today there are huge numbers of seniors who are unable to follow their doctor's orders because they cannot afford the medications their doctors prescribe.

The problem is obvious and so is the solution. Unfortunately, it involves the one thing that our people want and that the Republican Leadership steadfastly refuses to provide: a real prescription drug benefit through Medicare.

The Republican Leadership knows that American people want a real prescription drug benefit through Medicare. The Republican Leadership's efforts to pass this bill are attempt to create an illusion for the voters this fall. They want to give their candidates a talking point with the voters so they can say that they support prescription drug coverage without actually having to provide it. This is a sham. Our seniors deserve much better.

Mr. Speaker, America's seniors, particularly older women, need comprehensive prescription drug coverage through Medicare and fair drug pricing. The Republican bill on the floor provides neither. The Republican bill is unworkable, unreliable and grossly inadequate.

Mr. Speaker, America's seniors do not want to be left to their own devices and sent on a wild goose chase shopping for private drug plans with no guaranteed benefits, plans that private health insurers do not even want to

offer. They should not have to join an HMO that tells them where they are able to fill their prescriptions in order to get drug coverage. They deserve the reductions in drug prices that can only be obtained if we pass a real prescription drug bill that takes advantage of the purchasing power of Medicare's 40 million beneficiaries.

While I am outraged by the Republican Leadership's refusal to allow the Democrats an opportunity to offer a Substitute, I certainly understand the reason for it and so do the American people. The Republican Leadership will not allow the Democrats to offer a Substitute because they know their bill cannot withstand a "side by side" comparison with the Democratic Substitute.

The Democratic Substitute that the Republican Leadership will not allow to be debated and voted on has a yearly out of pocket limit on drug costs of \$2000. Why would the Republican Leadership want to highlight the fact that under their bill, seniors will have to pay 100% of their drug costs between \$2000 and \$3700 when nearly one-half of all seniors have drug costs over \$2000 and would be subject to this gap in coverage?

Why would the Republican Leadership want a comparison between a Republican bill that will force seniors into private HMO's and restrict patients' choice of drugs and pharmacies and a Democratic Substitute that guarantees affordable, dependable, comprehensive drug coverage at a uniform price while preserving freedom of choice for seniors?

Why should seniors in different states pay different premiums for the exact same benefits as the Republican bill will permit?

Now some will in this body will contend that a real comprehensive prescription drug benefit through Medicare is simply not affordable. I say that anybody that can find the funds to grant the bloated tax relief for the rich that this House has provided, including \$1.2 trillion in estate tax relief for the millionaires in this country, surely can find a way to pay for a real prescription drug benefit. It's simply a matter of our priorities.

Mr. Speaker, the affordability of providing a real prescription drug benefit is a fair subject for debate and should be debated. But this surely is a reason why the Democratic Substitute needs to be debated and voted upon. It is not a reason to keep the Democratic Substitute from the floor. If a Member of this body believes that we cannot afford the real prescription drug benefit that the Democratic Substitute provides, then I say: vote against it.

So the reasons for the Republican Leadership's approach to this issue are clear as they are deplorable. They want a press release for the fall elections, not a real drug benefit and they don't want to take the heat that would come from a side by side comparison of the Republican "pretend" bill and the Democratic Substitute.

I urge all my Colleagues. Reject this unfair, one-sided process. Let's have a full and fair debate and produce a real prescription drug benefit. Defeat the proposed rule; pass a fair rule that allows a Democratic Substitute; Vote for the Democratic Substitute and reject the Republican Leadership's bill.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to

the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I express my opposition to this bill because it does hurt senior women, in particular, and is another big windfall for the corporate industry.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I rise to express my opposition to this bogus bill that will hurt older women.

Mr. Speaker, today, prescription drugs play a larger role in modern medicine than ever before. Prescription drugs are used as complements to surgical procedures, as substitutes for surgery, and to help reduce future health risks and treat many chronic health conditions. Yet those who need them the most, older adults, and we know that the majority of seniors are women, often find themselves without either affordable prescription drugs coverage or the means to pay for their prescription drugs needs.

Women on average live longer and are more likely to suffer from prolonged chronic illness. In fact, women on Medicare spend nearly 20% more for prescription drugs than men. And—with women's poverty rates twice that of men, prescription drug costs take a bigger bite out of women's limited income.

It is a shame that we are not considering a real prescription drug benefit today, one that would benefit all seniors. Under the Republican bill, the more a senior woman spends for prescription drugs, the less coverage she gets. For some reason, the Republican bill forces seniors, your mother, your grandmother, to pay a higher percentage of costs as their needs increase. Mr. Speaker, does this makes any sense?

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-MCDONALD. Mr. Speaker, I express my opposition to this bill that is particularly harmful to senior women.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Speaker, I express my opposition to this shameful bill that is particularly harmful to the senior women in my district.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I express my opposition to this bill.

(The following sentence was delivered in Spanish.)

Mr. Speaker, for all of the old women who can hear me loud and clear, this is another tactic for the Republicans to take away your medication.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

Mr. Speaker, I express my strong opposition to this pitiful bill that denies senior women across America access to affordable prescription drugs because the Republicans gave all the money away to companies like Enron in tax cuts, and they were not deserved.

Mr. CUNNINGHAM. Mr. Speaker, I object.

The SPEAKER pro tempore. An objection is heard to the last request to revise and extend.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I rise against the Republican no-benefit prescription drug proposal that is harmful to seniors in my State.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Speaker, I express my opposition to this unacceptable bill that is particularly harmful to senior women in my district.

Mr. Speaker, I rise today to talk about H.R. 4954, the Medicare Modernization and Prescription Drug Act and its implications for our seniors. In particular, I would like to discuss how women fare under this proposal before us.

Women are literally the face of Medicare. They comprise 58 percent of the Medicare population at age 65 and represent 71 percent of beneficiaries at age 85. Any potential prescription drug plan must be evaluated with regard to its impact on women—if it works for women, it works for everyone.

When Medicare was established in the 1960s, the biggest need was insurance coverage for hospital stays and doctor visits, not prescription drugs. The focus then was on providing relief for acute conditions, not chronic.

Today more than 88 percent of Medicare's 42 million beneficiaries use prescription drugs. The average senior takes four prescriptions daily and fills an average of 18 prescriptions a year.

The use of prescription drugs is more pronounced among women. Beginning at midlife, women have a higher incidence of chronic illness than men. The average woman age 65 and over lives nearly seven years longer than the average man and relies on Medicare for her health insurance coverage for more years.

While most women on Medicare use prescription drugs regularly, over 1/4 of these beneficiaries—nearly six million women—lack any prescription drug coverage.

Out-of-pocket spending for prescription drugs place a disproportionate burden on older women who have retirement incomes that are roughly half than those of men. In 2000, the average income for women over 65 was \$15,638, compared to \$29,329 for men.

Even though women have significantly smaller incomes than men, they spend a larger proportion of their income on out-of-pocket

health costs. Women over 65 spend 20 percent in comparison to the 17 percent spent by men. These expenses increase to 27 percent for women 85 and older.

Older women are one of our nation's most vulnerable groups and providing affordable prescription drug coverage is critical to improving their quality of life.

Unfortunately, the proposal before us today does not achieve this objective. This legislation does not guarantee any specific benefit. Instead, the bill provides subsidies to insurance companies to provide private insurance to seniors. The coverage and \$33 premium mentioned today would only be available to beneficiaries who can find a private plan that offers it. All these figures depend on what HMOs and private drug insurance plans want to charge.

H.R. 4954 provides less than one-quarter of the amount seniors are estimated to pay for prescription drugs over 10 years. In fact, it leaves seniors wholly responsible for costs between \$2000 and \$3700. Nearly half of all seniors' annual drug costs are above \$2000. I cannot support a plan that subjects seniors to a gap in coverage. These seniors will not receive any help with their drug bills for at least part of the year, even though they continue to pay premiums.

I am committed to passing a fair prescription drug plan under Medicare that does not stifle innovation or eliminate choice in coverage. Seniors need assistance in order to obtain prescription drugs to treat or prevent illness.

In addition, I am disappointed that today's activities will not include a discussion of an alternative bill. As our senior population continues to grow, we must take a comprehensive look at all of our options in order to provide seniors with real benefits.

Instead of H.R. 4954, I support a meaningful prescription drug benefit that does not handicap our seniors at a time when they most need assistance. The plan I support builds on the existing Medicare system and provides seniors with guaranteed benefits, premiums, and cost sharing for all beneficiaries. Not estimates. The federal government would use the collective bargaining clout of all Medicare beneficiaries to negotiate fair drug prices and these savings would be passed on to our seniors.

American seniors want, need, and deserve real prescription drug coverage. The Medicare Modernization and Prescription Drug Act establishes a complex program that offers modest benefits at most.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Ms. VELÁZQUEZ).

Ms. VELÁZQUEZ. Mr. Speaker, I express my opposition to this sham bill that is a giveaway to the pharmaceutical industry at the expense of seniors and especially women in our country.

Mr. Speaker, I rise today in opposition to this legislation. While we all agree that today's elderly need and deserve a prescription drug benefit, I am afraid this proposal is not the answer.

If we are lucky enough, our parents are still with us. And we know how they can live

longer and more active lives with the new medical treatments that exist today. Some of our parents already face—and some of us in the not so distant future may face—the issue of drug affordability—drugs that help us to live life to the fullest.

We are in the middle of a health care crisis in this Nation. Drug prices rose 17 percent last year alone—after five years of double-digit spikes. The prices of popular and heavily-marketed drugs increased even more—an incredible 34 percent.

No one doubts that something must be done—and fast. But passing legislation that makes two wrongs does not make a right. As Ranking member of the Small Business Committee, I want to point out how this plan fails in two critical ways.

First, it fails our seniors. It does nothing to provide a comprehensive, affordable drug benefit with Medicare. Second, it fails small community pharmacists. These pharmacists serve a vital purpose in our communities. The corner drug stores anchor our neighborhoods and the local pharmacist counsels our seniors about their medications.

Once again, through the lens of this proposal, we see who the Republicans care about most—big business—the pharmaceuticals, the health care companies. Not the little people—seniors citizens that give so much back to our communities and the corner drug stores they visit and depend on each and every day.

Mr. Speaker, this is a bad plan. It enriches a handful of corporations at the expense of seniors and the small businesses across the country that serve them—without even delivering on the promise of comprehensive, affordable prescription drug coverage.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Michigan (Ms. RIVERS).

Ms. RIVERS. Mr. Speaker, I express my opposition to this terrible bill that is particularly harmful to senior women.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. WATSON).

Ms. WATSON of California. Mr. Speaker, I rise to express my opposition to this most deceptive bill that is particularly harmful to my 92-year-old mother and other senior women.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Speaker, I express my opposition to this sham bill that is particularly harmful to older women who live longer, have more diseases, have less money, and need prescription drugs that they can afford.

Women live longer, suffer from more diseases, have less money when they retire and must pay more for their prescriptions. 65 percent of Social Security recipients are women—75 percent of the low income retired persons are women. The majority of those need real prescription help, not this bill which does nothing to help sick older women.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Wisconsin (Ms. BALDWIN).

Ms. BALDWIN. Mr. Speaker, I rise to express my opposition to this bill, which I deem to be a betrayal of the women of the Greatest Generation.

Mr. Speaker, I urge my colleagues to vote against this sham of a bill. It lays the groundwork to privatize Medicare and does not provide a real, guaranteed, defined benefit that our seniors desperately need.

The Republican bill that is on the floor today forces seniors to shop around for prescription drug coverage through Medicare HMOs and private insurance plans. The prices and benefits under this private coverage would vary from region to region, so that a senior in Wisconsin would have to pay a different premium than a senior in Florida for the exact same benefit. These geographic disparities are simply unacceptable.

There are no assurances in this bill that prescription drugs will be affordable. In fact, this bill would cover less than one-fifth of the estimated drug costs of Medicare beneficiaries over the next ten years. In addition, there is a huge gap in coverage. Seniors who need more than 2,000 worth of drugs a year must pay 100% out-of-pocket, and keep paying premiums, until they reach the \$3,700 out-of-pocket cap. Millions of seniors will fall into this gaping hole. I believe all seniors deserve affordable prescription drug coverage, and we should not help some seniors cover their drug costs while leaving others out in the cold.

Seniors will not be guaranteed access to the drugs they need or to their local pharmacies. The bill would allow private insurance plans to limit access to covered drugs, even if the drugs are on an approved list. Seniors would be restricted to certain pharmacy providers or would be forced to pay higher costs to use the pharmacy of their choice, even a pharmacy they have been using for years. I know many seniors in my district who have developed relationships with their pharmacists over the years and would hate to have to go to another provider or pay extra to keep going to their same trusted pharmacist.

I hear from seniors in my district who cannot afford their prescriptions. They send me receipts for their drug bills and ask me how they are supposed to afford their rising drug costs on a fixed budget. They take less than the required dosage to save money, which puts their health at even greater risk.

I support the Democratic proposal that adds a new Part D in Medicare to provide voluntary prescription drug coverage for all Medicare beneficiaries. This proposal would provide the same benefits, premiums and cost sharing for all beneficiaries no matter where they live. It guarantees fair drug prices by giving the Secretary of the Department of Health and Human Services the authority to use the collective bargaining clout of all 40 million Medicare beneficiaries to negotiate drug prices. Savings will then be passed on to seniors. Unlike the Republican bill, there are no gaps in coverage in the Democratic proposal. Coverage is provided for any drug a senior's doctor prescribes. Seniors will be able to choose where to fill their prescriptions and will not have to

join an HMO or a private insurance plan to get drug coverage. This is the proposal seniors have been waiting for. Unfortunately, it is not the proposal that was brought to the floor today.

Today we are voting on a bill that is a sad mockery of what the seniors in our country deserve. Instead of providing a comprehensive Medicare prescription drug benefit for America's seniors, the Republicans have decided to make sure this bill suits big drug companies. Close ties to the pharmaceutical industry have influenced this bill at the expense of our seniors. That is just plain wrong for the retirees of the greatest generation who worked hard, lived through the depression won a war, and raised their families.

Seniors need a comprehensive prescription drug benefit that is affordable and dependable for all—with no gaps or gimmicks in coverage. The Republican proposal fails on all these counts. I urge my colleagues to vote against H.R. 4954.

□ 2115

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I rise in opposition to this pathetic excuse for a bill that is particularly harmful to senior women and to persons with disabilities.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. SANCHEZ).

Ms. SANCHEZ. Mr. Speaker, I rise in opposition to this sham bill that is particularly harmful to senior women, the heart and the soul of our families.

Mr. Speaker, I rise today to express my strong opposition to the Republican prescription drug bill, H.R. 4954. This bill, while unfair to millions of seniors, is particularly harmful to women.

Women make up a large portion of consumers purchasing prescription drugs. For this reason alone, women's health care needs must be considered as we debate prescription drug proposals. And unfortunately, I am hard-pressed to find many of my women colleagues who were consulted as this bill was drafted. It is no surprise, therefore, that this GOP bill ignores health problems unique to women.

At least one-third of Medicare beneficiaries, many of them women, do not have coverage for drugs—and others are forced to create a patchwork of coverage that simply doesn't get the job done. Too often, women and seniors are left choosing between food and medicine.

Thanks to Medicare, millions of women have dignity and security in their retirement years. Millions of women have avoided poverty and lived better lives. But today, with all of the incredible medical advances coupled with the rising cost of prescription drugs, it's vital that the country pull together to pass a meaningful Medicare prescription drug plan for all women—and all senior citizens.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to this destructive insurance protection act that hurts the grandmothers, mothers, aunts and sisters and all of seniors and those disabled and provides zero benefits to Americans.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I rise in opposition to this rule that would not allow a Democratic substitute and to the underlying bill.

I rise against the rule and the Republican bill. I regret for America's seniors that a Democratic alternative was not allowed. Medicare provides health care coverage to forty million retired and disabled Americans.

For decades, Medicare has worked to provide needed, lifesaving health care to millions, but it is missing a fundamental component: a prescription drug benefit.

If we have courage, this Congress can make history and give our nation's seniors what they desperately need: a real, and meaningful prescription drug plan.

I am proud to join my Democratic colleagues, led by Mr. DINGELL, Mr. RANGEL, Mr. STARK, and Mr. BROWN, as an original cosponsor of H.R. 5019, the "Medicare Prescription Drug Benefit and Discount Act."

I come to the floor to discuss two points:

Number 1: unlike the Republican drug plan, the Democratic plan is simple because it builds upon a proven model—Medicare.

Just like seniors pay a Part B premium today for doctor visits, under our plan, seniors would pay a voluntary Part D premium of \$25 per month for drug coverage. For that, Medicare or the government will pay 80 percent of drug costs after a \$100 deductible. And no senior will have to pay more than \$2,000 in costs per year.

There is an urgent need for this plan. The most recent data indicates that almost 40 percent of seniors—an estimated 11 million—have no drug coverage. Problems are particularly acute for low income seniors and seniors over the age of 85 (the majority whom are women). Additionally, those older Americans who do have coverage find that their coverage is often inadequate for their needs.

The Democratic plan is a real plan with real numbers, not estimates.

Point 2: the Republican plan does nothing to bring down the cost of prescription drugs. The Democratic plan is the only plan that provides real Medicare prescription drug coverage for our seniors by stopping soaring drug costs.

Under the buying power of Medicare, through competition and bargaining we can rein in drug costs. Prescription drug costs are too high for our older Americans. They need help now!

For instance, let's look at the cost of Prevacid. Prevacid is an ulcer medication, and the second most widely used drug by American seniors. The cost for this prescription is on average \$137.54 per month in New York City—but only \$45.02 in the United Kingdom, a price differential of 206 percent.

Or look at Celebrex, a popular arthritis medication and a drug needed by many older

women, especially, since older women are stricken more often than men by arthritis. According to a Government Reform Committee report released by Mr. WEINER and myself, a monthly supply of this drug costs \$86.26 in New York City. In France, a monthly supply of Celebrex costs only \$30.60. This is a price differential of 182 percent. Seniors in New York City without drug coverage must pay almost three times as much as purchasers in France.

Prices for prescriptions have risen 10 percent per year for the last several years, leading to over \$37 billion in profits last year for the giant drug companies. While these corporations wallow in their spoils, seniors suffer without coverage.

Mr. Speaker, we must pass the Democratic prescription drug plan without delay. It is built on a proven model, Medicare. The Republican plan only offers gap-ridden coverage. The Republican bill is about privatization. The Republican plan is all about election year politics.

For the sake of our seniors, we must pass the Democratic plan, and we must pass it now.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. HARMAN).

Ms. HARMAN. Mr. Speaker, on behalf of seniors in my district, particularly women, and in particular veterans, I express my strong opposition to this bill.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, I rise in opposition to this rule on behalf of the senior women in my district and around this country who live longer than men and pay far more money for prescription drugs.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I enter my objection and opposition to this irresponsible bill that will do nothing to help the senior women of this country.

Every day, millions of American seniors are forced to choose between buying prescription drugs and buying food. The Republican leadership in Congress has responded to this crisis with H.R. 4954, a prescription drug bill that does nothing to help them.

The Republican bill would force seniors who want prescription drug coverage to get it from private insurance companies, but the bill provides no guarantee that insurance companies will offer prescription drug policies. Even the Health Insurance Association of America has admitted that insurance companies will not offer drug-only policies. So the Republican plan is guaranteed to fail.

Furthermore, even if prescription drug policies do become available, the premiums, deductibles and co-payments will vary widely. Low-income seniors could be denied the drugs they need if they cannot afford the co-payments. For many middle-income seniors, the benefits would be so limited that it would not be worthwhile for them to enroll. H.R. 4954 is

a poor excuse for a prescription drug plan for our nation's senior citizens.

The Democrats have proposed a prescription drug plan that would provide a guaranteed prescription drug benefit under Medicare to all seniors who want one.

This bill would ensure that all seniors who choose to participate would pay the same low premiums and receive the same benefits.

Beneficiaries could choose to obtain their prescriptions from any willing pharmacy and would be guaranteed coverage for any drug their doctor prescribes.

Premiums and co-payments would be waived for seniors who are living under 150% of the poverty level.

The bill would use the collective bargaining clout of all 40 million Medicare beneficiaries to negotiate fair and reasonable drug prices.

Finally, no senior would have to pay more than \$2 thousand per year in out-of-pocket expenses for the prescriptions they need.

It is time that Congress make prescription drugs available to all seniors who need them. I urge my colleagues to oppose H.R. 4954 and support the Democratic plan to provide guaranteed prescription drug coverage to all seniors who desire it.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Georgia (Ms. MCKINNEY).

Ms. MCKINNEY. Mr. Speaker, I rise in opposition to this bill which is a sham and does nothing for seniors in my district, in my State and in my country.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I rise to express my opposition to the bill that will be considered this evening on behalf of my constituents, especially the senior women that I represent. They deserve a great deal more and much better and all the women of the country do.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I rise in opposition to this sham bill which is a cruel hoax on the American people, especially cruel to America's senior women who raised our families and deserve better.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise in opposition to this insurance industry, pharmaceutical written bill that does not drive down the cost of prescription drugs or cover most of America's seniors and is very harmful to women in this country, those tomorrow, and those who are in older generations.

Mr. LINDER. Mr. Speaker, I, too, enjoyed that parade; and I particularly enjoyed the fact that they had not a particular thing to say about the bill.

To say something about impact the bill and how it impacts women, I yield such time as she may consume to the gentlewoman from Connecticut (Mrs. JOHNSON), who wrote the bill.

Mrs. JOHNSON of Connecticut. Mr. Speaker, we have had a parade of my colleagues from the other side claim that this legislation is harmful to senior women. I wonder how they could have so lost touch with the lives of women in America and women in their districts. This bill represents the greatest leap forward in women's health since the passage of Medicare.

I was polite to you, and I ask that you be polite to me.

For the very first time, women, particularly low-income women, will have their prescriptions covered. Perhaps you did not read the bill. You know and I know that women live longer than men. The great majority of seniors are women. Perhaps you did not know that retired women are living on half the income of retired men, that the average income of retired men in America is \$30,000 and the average income of retired women is \$15,000 and of retired women over 85 is \$10,000.

Under this bill those low-income women will receive 100 percent of the costs of their drugs, of their premiums, of the deductible, and of the co-insurance up to maybe 2 to \$5. They will have a right to charge that much co-insurance. That is an incredible boon to these women. They will have the security of knowing that every dollar of their prescription costs up to \$2,000 will be covered if your income is under 175 percent of poverty, and that is 44 percent of all seniors.

Yes, this is a wonderful thing for women in America. Yes, this bill is a giant step forward for seniors in America. Yes, this is the greatest leap forward for women in health care since the founding of Medicare. And once you have read the bill, I will be happy to talk with you about details. But there can be no arguing with the fact that the first \$2,000 of drug expense for people under 175 percent of poverty is completely covered and, by saving the State \$40 billion, they will be able to go up that ladder of income.

So let us try to talk about the facts tonight, let us have a little less theater, let us have a little more discussion about the details of the legislation, and let us try to do America proud as we talk about the need for prescription drugs in Medicare.

Mr. THOMAS. Mr. Speaker, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to the gentleman from California.

Mr. THOMAS. As women enter their senior years, in terms of the problems they have with osteoporosis, do we include in this bill additional money to assist in mammography?

Mrs. JOHNSON of Connecticut. We certainly do. We fix all the problems

with reimbursements for mammography so they will be more accessible to the women of America. Furthermore, we provide access for something that is extremely important to women, more important to women than men, and that is access to disease management plans to manage chronic illness. It is women who are plagued with four, five, and six chronic illnesses.

Mr. THOMAS. Mr. Speaker, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to the gentleman from California.

Mr. THOMAS. Is it not true that during their working lives men very often have physicals? In fact, it is oftentimes part of their professional occupation to get a physical periodically, and many times women who are not working do not get that physical?

Mrs. JOHNSON of Connecticut. Absolutely.

Mr. THOMAS. Is it not true in this bill that, for the first time, every senior who becomes Medicare eligible, that means every woman, gets a free physical?

Mrs. JOHNSON of Connecticut. Every woman gets a free physical under this bill, and for the first time they have an option for a plan that provides entirely free preventative benefits across the board to men and women.

So this is an enormous advancement for women because women are the ones who get the poorest health care throughout their lives, and they will have an option to a plan that has free preventive benefits across the board and, if they choose it, and they will all get a free baseline physical when they enter Medicare. Yes, a great advancement for senior women.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. MCGOVERN. Mr. Speaker, I rise in strong opposition to this sham bill and to this woefully inadequate bill offered by the majority.

Every Member of this House knows that the number one issue facing senior citizens is the soaring cost of prescription drugs. Our seniors need relief and real relief now.

My Republican colleagues go on about how they support giving our seniors relief, and then they send this poor excuse for a benefit bill to the House floor. This guarantees seniors nothing, nothing. It is a bad bill. And to make matters worse, the gentlewoman from Connecticut (Mrs. JOHNSON) gets up and tells us how wonderful and strong her bill is. Yet she and the Republican leadership make it unamendable. No substitute. No amendments. No bipartisanship. Two hours total debate. That is it.

How sad. How outrageous. If there ever should have been an open and fair process, it should have been today. There were even good Republican

amendments that were offered before the Committee on Rules that were ruled out of order. But, no, you are afraid you might lose because deep in your hearts you know that your bill is nothing more than a political soundbite and you deserve to lose.

Vote "no" on this rule and vote "no" on this bad bill.

Mr. LINDER. Mr. Speaker, I yield 3 minutes to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Speaker, I stand before you today to offer my remarks on the prescription drug plan.

On May 1, 2002, four of my constituents boarded a bus, traveled from Martinsburg, West Virginia, to Washington, D.C., to offer their voice and their story on how the prescription drug dilemma has reshaped their lives. That day I heard each of their voices; and, unfortunately, it is a voice I hear and we all hear all too often.

At each of the town meetings I have had the majority of the questions deal with the high cost of prescription drugs. After one particular town meeting a young lady approached me. She showed me a list of prescription drugs that her mother was taking and the cost of each drug listed besides it. Looking at the list my heart sank. These figures were staggering. Additionally, because of the high cost of her mother's medication, lack of Medicare coverage for her mother, this young woman who had a family of her own was paying for her mother's medication.

Is this right, Mr. Speaker? No, it is not.

Our seniors deserve the peace of mind of knowing that they can and will be able to afford their prescriptions. Anxiety over the affordability of prescribed medications should not spoil one's golden years. That is why I am standing here tonight.

I am choosing to stand here and tell you that Medicare needs to offer prescription drug benefit. To be blunt, we need to offer it. We needed to offer it yesterday or the day before or the day before. This situation should be resolved.

It is our duty as representatives to represent the people's voice, and their voice says now is the time. I urge all of my colleagues to stand up, pass this rule, pass the Medicare prescription drug legislation which is extremely beneficial to the senior women of America.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, this rule does not allow Democrats an opportunity to say that we think we have a better idea. The majority found it very difficult to get enough votes to support the pharmaceutical industry, but it would just seem to me that it is not a rule against Democrats. It is not a rule

even against the integrity of the House. It is a rule against the senior citizens who really deserve better treatment than they are getting.

Mr. Speaker, I yield to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the distinguished ranking member of the Committee on Ways and Means.

There may be no more serious issue that we consider on the floor of this House this year. The gentlewoman from West Virginia (Mrs. CAPITO) that just spoke said why it was so important. She is right. This issue is critically important to the women that she mentioned, critically important to the individuals that the gentlewoman from Connecticut (Mrs. JOHNSON) mentioned, and I would say critically important to the citizens that every one of the women on this side of the aisle represent and came and said they were concerned about and, therefore, are not supporting this rule.

The gentlewoman from Connecticut said she was polite to those people, and she was. But I suggest to the gentlewoman that this rule is not polite. This rule denigrates the importance and seriousness of this issue.

When your side took over in 1995, Gerald Solomon, the then-chairman of the Committee on Rules, said this, "The guiding principals will be openness and fairness. The Rules Committee will no longer rig the procedure to contrive a pre-determined outcome. From now on the Rules Committee will clear the stage for debate and let the House work its will."

You have, of course, retreated from that statement. You have not honored the seriousness of this issue.

□ 2130

The gentlewoman from Connecticut who the gentleman from California (Mr. THOMAS) says wrote this bill will not have the opportunity to defend this bill against an alternative that can be fully debated as to whether or not the seniors to whom she refers will, in fact, be protected.

The gentlewoman served with Bill Gradison. Bill Gradison for those who are relatively new to the House was a member of the Committee on Ways and Means and one of the senior members of the Committee on Ways and Means, and then Bill Gradison left here, and he went to head up the Insurance Industries Association in this country.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, he went to the insurance industry and what does Bill Gradison say, a Republican, not a Democrat, a member of the Committee on Ways and Means, retired, what does he say? A member representing the insurance agency, he says this bill will not work. That is what Bill Gradison says, and the shame on this democratic

body is that an issue that all of us agree is so critically important will not be fully debated consistent with the principle that Mr. Solomon enunciated in 1995 when the reformers took over this House.

How sad it is, how sad it is that we come here at this hour to debate one of America's most important issues, affecting millions and millions and millions of people. All of us, all of us have heard the lament of those individuals, be they female or male, who cannot pay their prescription drugs. It is our duty to reject this rule and to have a full and fair debate, consistent with the Solomon principles.

Mr. LINDER. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise to speak in support of the rule. For years I have been an avid supporter of prescription drug coverage for senior citizens. Why? Because I have a mom whose prescription drugs amount to over 50 percent of her Social Security check.

Today, I rise to speak for all of those who have moms and dads on Medicare. The minority does not have a serious bill. They have a \$1 trillion election year gimmick that will bankrupt Medicare.

This is a good and fair rule because it allows a vote on the only credible plan that has been carefully and thoughtfully designed to help seniors by lowering drug costs, guaranteeing coverage and providing choices.

Under the Republican plan, every senior will be eligible for coverage. We guarantee this coverage. It cannot be taken away. The Democrat plan, however, phases out coverage. It is essentially an experiment. Mr. Speaker, seniors cannot afford an experiment. They need real, credible coverage that they can rely on.

This bill will help our seniors. This is a good rule for a long-awaited and much-needed legislation and we must pass it. I urge my colleagues to join me in voting "yes" on the rule and "yes" on final passage of the bill for my mom and everyone's mom and dad that is on Medicare.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Speaker, I rise on behalf of my 83-year-old mother and millions like her across this country who work for decades, in her case, in the factories of New Jersey, now has Alzheimer's and spends over half of her Social Security check on prescription drugs and but for my sister and my assistance would not live with the dignity that she deserves. There is a difference between Republicans and Democrats on prescription drugs, and that is why Republicans will not even let us debate our proposal here on the floor of the House of Representatives.

The denial of a vote on the Democratic proposal for a universal, affordable, guaranteed benefit under Medicare is a corruption of this institution by the Republican majority, by the way, for an industry that has given them millions in campaign contributions.

There is a difference in who benefits. Democrats cover all seniors. My colleagues subsidize big insurance companies and cover less than a quarter of seniors' costs. There is a difference in what seniors will pay. Democrats guarantee a \$25 monthly premium with low out-of-pocket expenses. My colleagues leave those decisions to the whims of corporations. Plenty of opportunity for more corporate greed.

No senior in America should have to choose between paying their rent, putting food on the table, and having access to life-enhancing drugs.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair would ask the courtesy of all Members in not exceeding the time that has been yielded to them.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. LATHAM).

Mr. LATHAM. Mr. Speaker, I thank the gentleman from Georgia for yielding me the time, and I thank the Speaker for this time.

This is a long time coming. This is so important for people like my mother who is 85 years old, living in a town of 168 people in Alexander, Iowa. This is not only a bill that is going to help her to be able to afford her prescription drugs and to enhance her length of life and quality of life; but just as importantly, in rural America, this bill is going to make sure that there is access to quality health care in rural America.

There is a lot of work that has gone into this bill, and I would like to see any other proposal out there that has brought together so many people when we look at the American Hospital Association, the AMA, the physical therapists, the National Association of Home Care, the National Rural Health Care Association, all coming together in support of this very, very important legislation.

Mr. Speaker, I have been very proud to serve on the Speaker's Prescription Drug Action Team, and I want to thank the Speaker and all the chairmen of the committees that have worked so hard on this bill and to the successful end which is really going to address the problems that we have.

I also want to congratulate my three Republican colleagues from Iowa (Mr. LEACH), (Mr. NUSSLE), and (Mr. GANSKE) for working as a team to try and make sure that we did get relief in Iowa. We have the lowest reimbursement for our hospitals in the country by a wide margin. This bill is going to

take a giant step toward keeping those rural hospitals open, to keep the kind of high-quality health care providers on the job and serving in Iowa. It is absolutely critical that we continue to have the physicians, the nurses, the home health care folks available for my mother.

Mr. Speaker, this is a great evening, and I support the rule and the bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, some of the comments that are being made by my colleagues on the other side, both on the floor and in the Committee on Rules, have been very upsetting to me.

I rise in opposition to the rule, but I heard the gentlewoman from Virginia just say that the rule was fair because it allows an up-or-down vote on what is the only good bill dealing with prescription drugs. That is not what fairness is about. That is not what democracy is about.

I asked this morning in the Committee on Rules that the Democratic substitute and three other amendments that would lead to price reductions and another amendment that would provide a guaranteed Medicare benefit be placed in order. All were denied. My colleague may not agree with me, but the gentlewoman from Virginia should not suggest that the only thing that should be considered is what they think is the right thing. That is not the way a democracy operates.

The other thing that upset me was that I heard the gentlewoman from Connecticut say that we should just read the bill. Let me tell my colleague, I read the bill. We have not had a lot of time to read the Republican bill, but I read it. There is nothing in it. It is not a Medicare benefit. It does not guarantee any benefit. It does not tell us what the premium is going to be. It does not tell us what the deductible is going to be. It does not tell us anything about whether it is going to be available anywhere, and there is no price reduction.

The gentlewoman from Connecticut mentioned the passage of Medicare, but she was very proud of the fact this morning in the Committee on Rules that this was not a Medicare bill and that it operated through private insurance and through market competition and was not part of Medicare because she said that Medicare oftentimes does not work now and we need to change it.

Then the gentleman from Georgia actually said in response to the gentleman from Massachusetts (Mr. MCGOVERN) when I spoke about how we wanted a Medicare guarantee and we wanted this to be under Medicare, the gentleman from Massachusetts (Mr. MCGOVERN) said it is unfortunate that the gentleman from Georgia (Mr. LINDER) made a reference to the Medicare prescription drug program as a Soviet-

style model program, and the gentleman from Georgia (Mr. LINDER) said, well, it is; and he said it several times.

The problem is that the Republicans do not like Medicare. They do not want this to be a Medicare program because they never liked Medicare, and they want it to wither on the vine, and they do not want to provide any benefit for senior citizens in this country.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume. That was some of the gentleman's more interesting prose. I am sure there is a kernel of thought in there, but I did not detect it.

Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means.

Mr. THOMAS. Mr. Speaker, the parade on the other side of the aisle which repeated the mantra that it was a sham bill, cruel hoax, harmful to women and the disabled, in case anybody really thinks that is true, I am wondering why then when we look at the more than 90 organizations that support this bill, have names such as the Visiting Nurses Association, the Pennsylvania Women's Health Alliance, the National Spinal Cord Injury Association, the National Coalition for Women With Heart Disease, the National Alliance for the Mentally Ill of Pennsylvania, American Parkinson's Association of Vermont, the Epilepsy Foundation of Mississippi, having someone parade to the microphone and repeat some mantra, as though it was some kind of a fixed statement that meant anything really does embarrass me, when if we look at the organizations and more that I just repeated who every day help the people that my colleagues say are not helped are for this bill. Someone is wrong, and it is not them.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

The Democrats are standing with AARP, the National Committee to Preserve Social Security and Medicare, the Alliance for Retired Americans, National Council on the Aging, National Senior Citizens Law Center, Families USA, the National Partnership for Women and Families, the AFL and countless others who represent America's 40 million Medicare beneficiaries.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I thank the distinguished gentlewoman for yielding me the time.

We have got a remarkable thing here before us, a closed rule. We have got a bill on which there were never any hearings, a bill that just drips defects, a bill that is opposed by almost everybody that knows anything about pharmaceuticals and about the needs of the

senior citizens and a bill that is opposed by every single responsible major organization of senior citizens.

We cannot offer amendments to it. They cannot be cut-and-bite amendments. There is no possibility of us offering a substitute to it. This is what my colleagues call democracy on that side of the aisle? This is the way we treat the concerns and the rights and the interests of our senior citizens? I wonder how many of them like what they are seeing tonight on television as they watch this body engage in debate which is at best fraudulent and which is at worst just plain outrageous.

The hard fact of the matter is we cannot offer amendments on this side at all, but we can bring to attention the fact that this is going to significantly damage, if not in fact destroy, most of the plans that on behalf of industry and labor offer to retirees the right to have prescription pharmaceuticals as a part of the medical care program of the company which offers that particular benefit.

That is an outrage. There is no way that we can address here what the amount is that is going to be charged for the program. In other words, in this legislation, there is nothing anywhere which tells how much the senior citizen is going to pay to whom for what. That is all left up to some kind of nebulous understanding between the Secretary and an insurance company. There is no correction for that particular problem.

Is that bad? Of course. But there is worse. There is not a nickel's worth of subsidy for the health care of a senior citizen in this legislation. Do my colleagues know where the money goes in the legislation that is before us? To an insurance company. The insurance company can offer whatever benefits it wants or no benefits, but it is going to get a big fat subsidy.

With companies like Arthur Andersen I am sure that we will have an accounting system which will make that look good, but the simple fact of the matter is the benefits that are going to come under this legislation are not going to come to citizens. They are going to go to a bunch of cold-hearted, steely-eyed insurance companies that are going to be interested in maximizing benefits. In fact, there is not one plan which will be offered by insurance companies that is not going to be heavily subsidized.

Mr. Speaker, I rise in strong opposition to this abominable closed rule. On the most important issue to face this Congress, the Republican leadership has decided to prevent a single amendment to be offered, and in particular, a Democratic substitute.

There is no secret why we Democrats are not being allowed to offer a substitute, even a substitute that requires no waivers of the rules. It is not because our substitute has no merit. It is because it has so much merit, it would pass.

Let me explain why the rule needs to be defeated so that we can offer the Democratic substitute.

Unlike the bill introduced by our Republican colleagues, our substitute can be simply explained, because it is built on a simple, known, and effective model—Medicare itself.

Just like seniors pay a voluntary premium for Part B medical costs such as doctor visits, our bill provides for a voluntary Part D drug premium of \$25 per month. For that, the Government will pay 80% of drug costs after a \$100 deductible. And no senior will have to pay more than \$2,000 in costs per year.

These are real numbers, not estimates. The benefits and the \$25 monthly premium are specified on the first page of the substitute. Unfortunately, there are no such guarantees in the Republican bill.

On top of that, we will be arming seniors with the most potent protection from soaring drug costs. Forty million seniors banded together under the buying power of Medicare, we can begin to use the necessary bargaining power to rein in high drug prices.

This is not price controls; it is competition and bargaining. We saw that the Government was effective in negotiating a competitive price for the prescription drug Cipro during the anthrax outbreak. Why shouldn't we do the same for other life saving drugs for seniors?

In contrast to our simple and effective prescription drug benefit, the Republican bill is a complex scheme that would make Rube Goldberg blush. In fact, it is not a drug benefit at all. It is a host of subsidies to private insurers in the hope that they will offer a drug-only benefit to seniors. Will they? Time and again they have told us "no."

Why would the Republicans put forward such a model? Well, quite simply they have a larger agenda—they want to privatize all of Medicare, and this is just another step. That is the only reason why seniors are not even given a choice of getting the benefit through their traditional Medicare provider.

Any why don't they endorse our plan? Our plan is simple; it is comprehensive; it is what seniors want. The Republicans have raised just one issue: they say it costs too much. Well, I can tell you that we can afford it. It is just a matter of priorities.

Should that priority be making the estate tax repeal on the wealthiest people permanent, which will cost \$750 billion in the decade that the permanent repeal is effective, or should it be enacting a critical health program that will help all of our seniors?

Our prescription drug benefit has the strong support of organizations representing millions of seniors, such as the National Committee to Preserve Social Security and Medicare, the alliance for Retired Americans, the National Council on Aging, and AARP. They recognize our benefit is a good value for seniors.

The substitute also includes provisions to shore up the Medicare fee-for-service system such as increased payments to hospitals, doctors, and nursing homes. Senior citizens and individuals with disabilities depend on Medicare fee-for-service an ensuring its continued viability has always been a priority for Democrats.

It is a good substitute, and I hope my colleagues will vote against the rule, so that it can be offered.

□ 2145

Mr. LINDER. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Speaker, I rise in proud support of the rule and the effort of this body. It is an historic opportunity for us.

If we put the politics and the extreme language aside, these are the facts: \$350 billion will go to our seniors for prescription drugs, to our rural hospitals, to our health community centers, to those who need it most.

In my home State of Mississippi, 55 percent of all seniors live at the rate that will get the fixed income assistance, which means no deductible, no premium, only a copayment of \$2 to \$5 per prescription drug, an enormous benefit for the seniors who need it most. Fifty-five percent of seniors in Mississippi.

If we look at those who have catastrophic occurrences in their life, when drug costs exceed \$3,700, they will see no cost over that. Those most in need will be helped. It is responsible, it is reasonable, it is right. I urge the Members to follow and support the rule.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. HONDA).

Mr. HONDA. Mr. Speaker, I rise to express my opposition of this prescription drug proposal.

Mr. Speaker, the elderly and disabled have waited long enough for a prescription drug benefit in Medicare and for relief from the high cost of prescription drug prices. While the Republicans have been busy voting on permanent tax cuts and attending lavish fundraisers by the pharmaceutical industry, seniors throughout the country have been waiting for Congress to take action. All seniors need relief from prescription drug prices, and they need it now.

However, the Republican prescription drug bill completely fails the test of a real Medicare drug benefit. The Republican bill has no guaranteed minimum benefit, no guaranteed, affordable monthly premium, and no guarantee of fair drug prices. To add insult to injury, their bill leaves a huge coverage gap. Seniors who need more than \$2,000 worth of drugs must pay one hundred percent out-of-pocket, and keep paying premiums, until they reach the \$3,700 out-of-pocket cap.

Mr. Speaker, the Democrats have an alternative we had hoped to offer. Under the Democratic plan, seniors and individuals with disabilities will be able to keep making the choices that matter. Seniors will not be forced to join an HMO. They will not be forced to join a private insurance plan that will restrict their access to needed drugs, deny coverage for the medicine their doctors prescribe, or force them to change pharmacies. And unlike the Republican plan, our plan has no gap—beneficiaries will always have coverage.

But the Republican Leadership is denying Democrats the opportunity to offer our alternative. They are denying our right to participate in a fair, democratic debate about pre-

scription drugs. The time is now for a real, meaningful, and affordable Medicare prescription drug benefit. Unfortunately, it looks like this Republican-led House won't be providing one anytime soon.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, I acknowledge my sisters in Congress as we rise in opposition to this terrible rule.

One of the proudest days of my life was when I was sworn into this body, the symbol of our democracy. But today I am sad for the House and for this country. The process the majority has used to produce their Medicare bill is completely contrary to the principles of our Constitution. A bill was rammed through committee that will not give seniors an affordable, reliable, comprehensive benefit; seniors, most of whom are women.

Now the majority is refusing to allow a free and fair debate on the issue. Why? They know their bill will not work. They know seniors will not get affordable drug coverage from insurance companies, and they know so many seniors will get no help with their medications, and they are afraid they would lose.

I can accept losing in a fair fight, but I cannot accept this anti-democratic attempt to muzzle fair debate. We should reject this rule, have a full debate on the needs of our seniors, and pass a real prescription drug benefit.

Mr. LINDER. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Mr. Speaker, this bill is important and overdue for our Nation's 13 million seniors. Our seniors deserve prescription drug coverage now. They do not deserve the Democrat's election-year gimmick.

The average senior saves 44 percent on current drug costs under our plan. Mr. Speaker, our plan gives seniors immediate relief from the rising cost of prescription drugs by providing a discount of up to 25 percent off the top of the overall drug cost.

Just last week, Health and Human Services Secretary Tommy Thompson released a study showing our plan would save seniors more money than our friends on the other side of the aisle. In addition to the immediate discount and cost sharing, our plan includes catastrophic protection, 100 percent prescription drug coverage for low-income seniors, and more Medicare choices and savings.

I support the passage of this bill and this rule, and I urge my colleagues to do the same.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR. Mr. Speaker, about 2 weeks ago, I got on a bus with some

seniors from my State of Michigan, and we went over to Ontario, Canada, to buy some prescription drugs. They got these drugs at 60, 70, 80, 90, 110 percent less than what they would have to pay in the United States, drugs like Lipitor and Celebrex.

They deserve a secure retirement. A secure retirement means not having to choose between medication and rent, medication and food, medication and transportation. It also means not having to go to another country to buy medicines that they need. That is an outrage.

We have the power in this institution to change that. We have had the power to change that for the last 8 years, and we have not done a damn thing about it, if my colleagues will pardon my language.

The Republicans have turned a blind eye to the plight of our mothers and our fathers and our grandparents. They have been blinded by the money and the power of the pharmaceutical lobby, and the Republicans are putting up roadblocks to prescription drugs time after time after time.

It is time for real reform, not a sham proposal. I ask my colleagues to open their eyes to the reality of what is happening in the country and give us some decent options to vote on.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume to remind my friend from Michigan that, about 10 years ago, they had the power to change it with overwhelming majorities in both bodies and the Presidency, and they chose not to do it then, too.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BARTON).

Mr. BARTON of Texas. Mr. Speaker, I rise in support of the rule, even though I had an amendment that I would have liked to have offered that was not made in order on prescription drug savings accounts.

This is not the fairest rule. We could have made in order a Democratic alternative. But for a first start, I think it is a fair enough rule.

This is a good plan that will be on the floor. It spends \$350 billion over 10 years to provide a prescription drug benefit and some Medicare reforms for the providers. The drug benefit comes to a population where we have about 30 million senior citizens on Medicare, and 70 percent of those seniors have some prescription drug coverage under private medigap policies. Of those that do not have any prescription drug benefits, 50 percent of them have drug costs that are less than \$1,000 a year, and only about 700,000 have drug costs that are over \$5,000 a year.

Now, if you are one of those 700,000 or it is your mother or your father, your grandmother, your grandfather, your aunt or your uncle, that is a big problem. But to say that a prescription drug benefit that is going to provide

\$31 billion a year to provide coverage for prescription drugs is not at least a good start, I think is just flat hypocritical.

Now, I think we can do more. I would like for us to do more. I would like to, at some point in time, make in order an option for those that want to use a prescription drug savings account to have that option; and, hopefully, later this year, we will get that.

I would point out that if the plan that is before us were to become law and it is a bad plan, it is optional. There is nothing mandatory about this plan that is going to be on the floor.

I would also point out that the provider benefits in the bill, which are over \$4 billion a year, there is almost universal support for in the provider community.

So this is a good start. I would hope we would vote for the rule and have the debate.

Ms. SLAUGHTER. Mr. Speaker, may I inquire as to the time remaining on both sides?

The SPEAKER pro tempore (Mr. LATOURETTE). The gentlewoman from New York (Ms. SLAUGHTER) has 10 minutes remaining, and the gentleman from Georgia (Mr. LINDER) has 11 minutes remaining.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I thank my friend from New York for yielding me this time.

Last week, the Committee on Energy and Commerce was marking up the prescription drug bill. Last Wednesday, we stopped at 5 p.m. in the afternoon when we should have been working into the evening. Why? Because my friends on that side of the aisle went to a Republican fund-raiser underwritten by the prescription drug companies.

The Chair of that dinner was the CEO of a British drug company who donated \$250,000 to the Republican Party. There were hundreds of thousands of other dollars donated by drug companies that night.

The next day, Mr. Speaker, when we went back for the markup, every amendment that Democrats offered that the drug companies did not like, surprise, was voted down. An amendment that said seniors should get the same drug benefits that Members of Congress get was voted down on a party line vote because the drug company sat in the back of the room and said no.

Every amendment we voted on that the drug companies did not like, to close the gap in all the out-of-pocket expenses that seniors had to pay, if the drug companies did not like it, they sat back in the back of the room and said no.

Vote for the Democratic plan written for seniors.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. BROWN of Ohio. Vote "no" on the Republican plan written by the drug companies for the drug companies.

The SPEAKER pro tempore. The gentleman's time has expired.

Ms. SLAUGHTER. I was going to yield that gentleman another 30 seconds.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members need to heed the gavel, and the Chair would respectfully ask that, when the gavel is pounding, the Members cease speaking so that the gentlewoman from New York (Ms. SLAUGHTER) could yield additional time, which is her desire.

Mr. LINDER. Mr. Speaker, I am pleased to yield 2 minutes to my friend, the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, as many of my colleagues in this body know, I practiced internal medicine for many years before coming to the House. Indeed, I still see patients about once a month at the veterans' clinic in my congressional district. I lived this problem on a daily basis. I practiced internal medicine. Mainly what I did was I wrote prescriptions mainly for senior citizens, and I dealt personally with the struggles that many of them face in paying for their drugs.

My primary concern is getting a bill, and frankly I was very disappointed we did not get a bill 2 years ago, and I think the reason we did not get a bill is because some people thought they could capitalize on it in the campaign, and I have to honestly say this is *deja vu* all over again. We are starting out very, very poorly.

I have heard that they have not had a chance. We had two committees mark up this bill. The Committee on Ways and Means spent 13 hours on it. They were in until 2 a.m. The Committee on Energy and Commerce went all night. We hear these claims that the pharmaceutical company is giving us all this money. Do I assume the Democratic party has never taken any pharmaceutical money?

I will tell the Members what we need. We need a plan. We need some kind of plan, and this is step one. We have to go to conference with the Senate. Then we have to negotiate in conference, and many of you people who are over there demagoguing this issue are going to be in that conference committee. We are going to have plenty of opportunities to get a very, very good bill to help our seniors.

But if we keep on with this attitude, I am going to tell my folks back home, forget it. It is going to be kicked off into the campaign again. People are going to hope they are going to get an advantage, and I do not think anybody is going to get an advantage, and the people who are going to suffer are the senior citizens.

I want to say one other thing. We do not want a plan that stifles innovation. If you stifle innovation, I can tell you I used to write prescriptions for people and give them to them, new pills that kept them alive, and without those pills, they would have died.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida (Mrs. THURMAN).

Mrs. THURMAN. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I want the people of the fifth district's voices to be heard tonight, too. First of all, I want to say that this debate tonight is not about the provider givebacks in this bill. This debate is about the most important issue facing the American people and the issue that every Member of this Congress and including the President ran on in the last election.

And let us make it clear, today I went to the Committee on Rules because the people in the fifth district said to me, we want the cost of drugs down, we are tired of seeing on the TV people going to Canada to buy their medicines cheaper, or why is it that industrialized nations, our competitors, are buying their drugs at a lesser cost?

Just to give you some examples, how about Zocor? In industrialized nations their average pricing is about \$65. In the fifth district, it is \$104. We need to bring these costs down.

Mr. LINDER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Speaker, I wish my friend, the gentleman from Maryland (Mr. HOYER), was here because he played the Solomon card, and I have great respect for Jerry Solomon, and I say *semper fi* to Jerry, who is probably watching these proceedings and chuckling.

Mr. Speaker, I support this rule. We labored hard for over 25 hours in the Committee on Energy and Commerce, and I know my friends on the Committee on Ways and Means worked deeply as hard. It is not a perfect bill. In fact, the bill coming to the floor stripped out my language on orphan drugs, help for Lou Gehrig's disease, Crohn's disease and Tourette's disease.

But this bill has some positive aspects. First, it fits within the budget. This is critical because any amendment either on the floor would add to the bill which would strip it on a budget point of order or it would shortchange the prescription drug benefit or shortchange the hospital benefits.

Illinois offers a pharmaceutical assistance program for dual eligibles. This bill will assume Federal responsibility for dual eligibles, saving Illinois \$2 billion over 8 years.

□ 2200

Individuals who make 175 percent of poverty level will receive full cost-

sharing assistance. This covers 34 percent of Illinois' Medicare population, 549,000 people. It increases payments to all hospitals in 2003. It increases payments to community hospitals. It increases DSH payments, adds a 10 percent increase to rural home health care agencies, increases by 10 percent hospice payments.

Mr. Speaker, it is a finely crafted bill that went through the committee process. It is not a perfect bill. It is a bill that we can pass on the floor tonight. I commend my colleagues and look forward to passing this bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. PELOSI), the Democratic whip.

Ms. PELOSI. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, 37 years ago when Medicare first came into existence, there was a big fight over it. The Democrats wholeheartedly supported it. The Republicans opposed it. They still oppose Medicare.

Over the years, they have made statements to that effect. Newt Gingrich when he was Speaker said that he would like to see Medicare, in his words, wither on the vine. And the Republican leader of the House, the gentleman from Texas (Mr. ARMEY) said that Medicare should be no part of a free world. In the debate in the Committee on Rules last night, the gentleman from Georgia (Mr. LINDER) referred to it as a Soviet-style model, what the Democrats were proposing. A Soviet-style model.

They did not support it then. They do not support it now. It is no wonder they have proposed this cruel hoax on America's seniors. To pretend they have a prescription drug benefit that is a guarantee is simply not true. They offer no guarantee, merely a suggestion.

The Republican bill does not contain any defined premium or assurances that prescription drugs will be affordable. In the one State where such a program exists, the monthly premium is \$85 per month. That is in Nevada.

Less than one-fifth of the estimated cost of Medicare beneficiaries over the next 10 years will be covered in this bill. The Republican bill does not provide guaranteed access to the drugs seniors need or access to their local pharmacy.

If we had been allowed to present a substitute tonight, which this rule prevents, the Democratic substitute would have provided a guaranteed, affordable prescription drug benefit for all seniors that will amount to an entitlement under Medicare. The gentleman from Texas (Mr. BARTON) said before this is optional; it is not mandatory. He said that himself on the floor here.

Mr. Speaker, imagine a situation where we could have prescription drug

benefits for all of our seniors, the quality of life that it would produce, and the cost savings to our budget.

Mr. LINDER. Mr. Speaker, I yield myself 30 seconds to point out a couple of things in the previous statement.

Mr. Speaker, Mr. Gingrich did not ever say Medicare would wither on the vine. This was played out on CNN very clearly when they played the whole statement, not the botched statement the Democrats have been running. He said if we bring competition into the system, the Health Care Financing Administration would wither on the vine.

Secondly, I will point out that the Democrats had a majority here for 40 years. When I first came here, they had a huge majority in both bodies, and the President was a Democratic; and they did not even offer one. I think it is fair to say that the Republicans are making the effort.

Mr. Speaker, I yield 1 minute to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I rise in support of the rule and urge Members to also support the bill.

The Centers for Medicaid and Medicare Services did a poll checking out this bill. They estimated that virtually all of the Medicare beneficiaries, that is at least 95 percent of them, would opt for this drug coverage. I doubt that 95 percent of Medicare recipients would be interested in their proposal, but this proposal provides seniors with coverage for prescription drugs that they cannot get today. That means the choice they currently make of leaving that prescription drug bag on the counter because they cannot afford it or paying for it and taking it home is no longer a choice they have to make. They pay for it because they have coverage, they take it home, and their health improves.

All of the senior citizens that I have met with in my district have been asking me to please help them get the coverage for the prescription drugs they need to stay healthy and out of the hospital. That is all they ask. The women and the men. That is what we give them in our bill. I urge support.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, what we have on the floor today is a pitiful, pathetic, puny, pretend plan; a pretend plan that pretends to offer seniors prescription drug care, prescription drugs; but what it really does is gives a lot of money to the insurance companies and says please, we hope you will do something for our seniors, maybe. That is all it is.

They are too something, I will not say what because my words might be taken down, but they will not permit the Democratic plan, which is a straight plan for Medicare to pay for 80 percent of the cost of prescription

drugs, to be offered on this floor because they do not have confidence that they could win the debate. They will not permit the two plans to be offered on this floor to be debated because they are afraid in the light of day if the American people see it, they would say, We want a plan. We want what they call the Soviet-style plan, which is what they characterize Medicare as for the last 40 years.

They did not want it then. They still do not want it. And they certainly do not want Medicare coverage for prescription drugs. They want to give more money to the insurance companies and say we hope they will provide it. Fat chance.

Mr. LINDER. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky (Mr. FLETCHER).

Mr. FLETCHER. Mr. Speaker, this evening we are addressing one of the most pressing health care issues in America. I am very disappointed that my colleagues on the other side of the aisle, when we marked up the budget, they absolutely set aside no amount of money, zip. They did nothing to set aside any money for prescription drugs for seniors. There was no plan in order to provide the funding for the plan that they offered in the committee; and it was a \$973 billion plan offered in the committee. There was no way of paying for it. This burden was going to be on our children and grandchildren, and the other side of the aisle offered no single way of paying for it.

Mr. Speaker, they talked about taxes, but they did not offer the tax increase that would have been required. Are they taking it from Social Security? That is where it would have had to come from. Now they talk about controlling cost.

We eliminated the best prices which eliminated the floor. Congressional Budget Office estimates this has the most cost-controlling policy of any plan offered. That means we are going to provide the most competitive prices for drugs. I encourage Members to support the rule and the bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. BERRY).

Mr. BERRY. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, this rule is a fraud. This bill is a fraud. They have come to the floor and said that they are going to do something about prescription drugs for our seniors. Not a dime of this money goes to buy any medicine. It goes to the insurance companies.

I wondered, as I listened to this debate this evening, if my colleagues on the other side of the aisle have bought into the philosophy of that old philosopher and spiritual leader, Brother Dave Gardner, who said, "When you get a man down, kick him because it gives him incentive to rise above himself."

They have got our senior citizens down, and now they want to kick them. The Greatest Generation that lived through the Depression, fought World War II and built this Nation, and now we are going to just kick them one more time. And if we cannot kick them, we are going to trick them and try to make them think that we are going to buy them some prescription medicine. This bill does not buy them anything.

Mr. Speaker, this rule should not pass and this bill should not pass because everyone who votes for it is going to have to live forever with the fact that they mistreated our senior citizens, the Greatest Generation one more time.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, I would like to speak to my colleagues on the other side of the aisle. The gentlewoman from New York (Ms. SLAUGHTER) and I have been friends for a long time. I have a mom. I have a grandmother that is 93 years old. I have a mother-in-law and two daughters. They just left topside.

What we resent on this side, and they know the gamesmanship when they had the majority, but the inferences that Republicans do not care about our families is wrong. We do. I would give my life for my family. And I would not give a dime to drug companies if I thought it was going to hurt.

Let me give an example. I had pneumonia a couple of years ago; and when I went to the doctor, the price of Augmentin was \$110. My wife had prescription drug insurance through the school system where she is a teacher. That drug instead of \$110 was \$17. That is the free market private system, and we want more and more people to be included in that.

Now, I understand if the other side of the aisle wants a government-controlled health care plan like the former First Lady tried to do with health care. That is their prerogative, but we think that is wrong. We do care about our people. No child should have to apologize because they go to get a drug, and like the President sat right up here, President Clinton, and we take care of that. But to give the inference that Republicans do not care about our families is wrong because we do. We care very much.

I would also say that the gentlewoman from California (Ms. PELOSI), who spoke previously, since 1988, every single year she voted to take 100 percent of the money out of the Social Security trust fund, and here is the documentation.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am told that our physicians

take a Hippocratic oath, and that oath says when someone is in need and trusts the physician, do no harm.

I am sad to say that the insurance companies and the Republicans have gotten together, and they are doing great harm. The Republican insurance protection act: value, zero. Zero benefits. Zero to Mom, zero to Dad, zero benefits to the disabled. It is a shame. Realize that our sick seniors are on a roller coaster. Their premiums are not guaranteed, deductibles are high. She is not assured that she will be able to buy the drugs at the pharmacy she trusts, and she gets nothing for a big part of the year, even though she keeps paying premiums.

Mr. Speaker, the Member from Florida said everybody takes money, the Democrats took money. But the Democrats did not take \$31 million 5 days before we were supposed to come to the floor of the House and deny us a substitute in order for us to be able to debate this bill on behalf of the American people.

Mr. LINDER. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, after looking at this issue from many different angles and for many different weeks, I am going to support this rule. There is a lot more left to do that I am going to be a part of, and I am proud to see that a number of our Members of our leadership have agreed to in terms of addressing and lowering the cost of prescription drugs. But as I listen to this rhetoric tonight, and so much of it is totally uncalled for, one has to believe the statement made in the New Republic in June that the Democrats want this issue on the table because it is an election year, they do not want the bill, they want the issue. I am listening to this, and I know there are a lot of Democrats who want the policy, but I cannot help but think tonight that the Democrats want the politics.

□ 2215

You have to ask yourself, where is your plan? Where is your plan? We know that Mr. DASCHLE and some of the folks across the hall have one, but it is a trillion-dollar plan which will bankrupt Medicare. As you say, you do not like our plan. Well, our plan does not bankrupt Medicare. If you want to protect Medicare, why do you want to bankrupt it?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair would again ask all Members to yield to the gavel.

Ms. SLAUGHTER. Mr. Speaker, we had a plan. We had a fine plan. We just could not bring it out here before the American people.

Mr. Speaker, I yield 1½ minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise this evening in opposition to this rule. There is something very, very, very wrong in this House; and my Republican colleagues know it. You know it because you always speak of choice. You always speak about competition. You are always talking about new ideas. But you will not allow them to come to the floor of the House of Representatives.

I represent 650,000 people. The gentleman that just came to the podium said, "Where is your plan?" It is right here. But you are afraid to debate it. Why do you not stand up, be men and women, and debate it? Do not be afraid of ideas. So we will protest.

You know that the Democrats since the 1960s and before that have had a love affair with Medicare. You will never drive a wedge between us and Medicare. That is what we wanted to offer. We wanted to bring our plan to the floor of the House. Perhaps you have the votes to beat that, but the disgrace is that you waved the flag and then you waived the democratic rules.

Shame on you. Shame on you for doing that. Go home and explain that to good Republicans, to good independents and to the Democrats in your district. They would never, ever accept that. That is why there is frustration and anger on this side. We can debate these things, but you are afraid to. You do not want to hear an idea, you do not want to hear about choice, and you do not want to hear about competition.

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I yield myself the balance of my time.

We have had an interesting debate here. We had a parade of female Democrats march down citing the mantra that this bill does nothing for senior women. In fact, not one of them spoke with any particularity to the bill. We had the gentlewoman from Connecticut (Mrs. JOHNSON) step up right after that and list time after time after time where this was of benefit for women across the country and most particularly low-income women.

Women have been abused by our social service programs from Social Security through Medicare. This is the first time that any party or any Congress has made an effort to fix that. This is a genuine improvement on this current circumstance.

Facts do not cease to exist just because they are ignored.

It was a fact that, some time ago, the Democrats controlled this body for 40 years and controlled the White House from time to time in the midst of that and never once put forth this important program.

It was a fact that when I came here in 1993 they had overwhelming majorities and a President who was enthusiastic about taking over the health care system. But they did not ever put on the floor for a discussion or debate any

prescription drug program for either side to consider.

It is a fact that the Democrats had an opportunity to put forth a program that fit within the budget agreement that was passed by this House, a discipline that this body and this side of the House took seriously. We put forth a bill that fit within the discipline. They did not. This is our proposal. This is our rule. We urge support for it.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered. The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 218, nays 213, not voting 4, as follows:

[Roll No. 280]

YEAS—218

Aderholt	Dreier	Johnson (CT)
Akin	Duncan	Johnson (IL)
Armey	Dunn	Johnson, Sam
Bachus	Ehlers	Keller
Baker	Ehrlich	Kelly
Ballenger	Emerson	Kennedy (MN)
Barr	English	Kerns
Bartlett	Everett	King (NY)
Barton	Ferguson	Kingston
Bass	Flake	Kirk
Bereuter	Fletcher	Knollenberg
Biggert	Foley	Kolbe
Bilirakis	Forbes	LaHood
Blunt	Fossella	Latham
Boehlert	Frelinghuysen	LaTourette
Boehner	Galleghy	Leach
Bonilla	Ganske	Lewis (CA)
Bono	Gekas	Lewis (KY)
Boozman	Gibbons	Linder
Brady (TX)	Gilchrest	LoBiondo
Brown (SC)	Gillmor	Lucas (OK)
Bryant	Gilman	Manzullo
Burr	Goode	McCrery
Burton	Goodlatte	McHugh
Buyer	Goss	McInnis
Callahan	Graham	McKeon
Calvert	Granger	Mica
Camp	Graves	Miller, Dan
Cannon	Green (WI)	Miller, Gary
Cantor	Greenwood	Miller, Jeff
Capito	Grucci	Moran (KS)
Castle	Hansen	Myrick
Chabot	Hart	Nethercutt
Chambliss	Hastert	Ney
Coble	Hastings (WA)	Northup
Collins	Hayes	Norwood
Combest	Hayworth	Nussle
Cooksey	Hefley	Osborne
Cox	Herger	Ose
Crane	Hilleary	Otter
Crenshaw	Hobson	Oxley
Cubin	Hoekstra	Paul
Culberson	Horn	Pence
Cunningham	Hostettler	Peterson (PA)
Davis, Jo Ann	Houghton	Petri
Davis, Tom	Hulshof	Pickering
Deal	Hunter	Pitts
DeLay	Hyde	Platts
DeMint	Isakson	Pombo
Diaz-Balart	Issa	Portman
Doolittle	Jenkins	Pryce (OH)

Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw

Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry

Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—213

Abercrombie	Hall (OH)	Mollohan
Ackerman	Hall (TX)	Moore
Allen	Harman	Moran (VA)
Andrews	Hastings (FL)	Morella
Baca	Hill	Murtha
Baird	Hilliard	Nadler
Baldacci	Hinchey	Napolitano
Baldwin	Hinojosa	Neal
Barcia	Hoeffel	Oberstar
Barrett	Holden	Obey
Becerra	Holt	Oliver
Bentsen	Honda	Ortiz
Berkley	Hooley	Owens
Berman	Hoyer	Pallone
Berry	Inslee	Pascarell
Bishop	Israel	Pastor
Blagojevich	Istook	Payne
Blumenauer	Jackson (IL)	Pelosi
Bonior	Jackson-Lee	Peterson (MN)
Borski	(TX)	Phelps
Boswell	Jefferson	Pomeroy
Boucher	John	Price (NC)
Boyd	Johnson, E. B.	Rahall
Brady (PA)	Jones (NC)	Rangel
Brown (FL)	Jones (OH)	Reyes
Brown (OH)	Kanjorski	Rivers
Capps	Kaptur	Rodriguez
Capuano	Kennedy (RI)	Roemer
Cardin	Kildee	Ross
Carson (IN)	Kilpatrick	Rothman
Carson (OK)	Kind (WI)	Roybal-Allard
Clayton	Kleczka	Rush
Clement	Kucinich	Sabo
Clyburn	LaFalce	Sanchez
Condit	Lampson	Sanders
Conyers	Langevin	Sandlin
Costello	Lantos	Sawyer
Coyne	Larsen (WA)	Schakowsky
Cramer	Larson (CT)	Schiff
Crowley	Lee	Scott
Cummings	Levin	Serrano
Davis (CA)	Lewis (GA)	Sherman
Davis (FL)	Lipinski	Shows
Davis (IL)	Lofgren	Skelton
DeFazio	Lowe	Slaughter
DeGette	Lucas (KY)	Smith (WA)
Delahunt	Luther	Snyder
DeLauro	Lynch	Solis
Deutsch	Maloney (CT)	Spratt
Dicks	Maloney (NY)	Stark
Dingell	Markey	Stenholm
Doggett	Mascara	Strickland
Dooley	Matheson	Stupak
Doyle	Matsui	Tanner
Edwards	McCarthy (MO)	Tauscher
Eshoo	McCarthy (NY)	Taylor (MS)
Etheridge	McCollum	Thompson (CA)
Evans	McDermott	Thompson (MS)
Farr	McGovern	Thurman
Fattah	McIntyre	Tierney
Filner	McKinney	Towns
Ford	McNulty	Turner
Frank	Meehan	Udall (CO)
Frost	Meek (FL)	Udall (NM)
Gephardt	Meeks (NY)	Velázquez
Gonzalez	Menendez	Viscosky
Gordon	Millender-	Waters
Green (TX)	McDonald	Watson (CA)
Gutierrez	Miller, George	Watt (NC)
Gutknecht	Mink	

Waxman
Weiner

Wexler
Woolsey

Wu
Wynn

NOT VOTING—4

Clay
Engel

Roukema
Traficant

□ 2243

Mr. WEINER, Ms. KAPTUR, and Mr. BECERRA changed their vote from “yea” to “nay.”

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 2245

Mrs. JOHNSON of Connecticut. Mr. Speaker, pursuant to House Resolution 465, I call up the bill (H.R. 4954) to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize and reform payments and the regulatory structure of the Medicare Program, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. THORNBERRY). Pursuant to House Resolution 465, the bill is considered as read for amendment.

The text of H.R. 4954 is as follows:

H.R. 4954

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; REFERENCES TO BIPA AND SECRETARY; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Medicare Modernization and Prescription Drug Act of 2002”.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) BIPA; SECRETARY.—In this Act:

(1) BIPA.—The term “BIPA” means the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106-554.

(2) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services.

(d) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; amendments to Social Security Act; references to BIPA and Secretary; table of contents.

TITLE I—MEDICARE PRESCRIPTION DRUG BENEFIT

Sec. 101. Establishment of a medicare prescription drug benefit.

“PART D—VOLUNTARY PRESCRIPTION DRUG BENEFIT PROGRAM

“Sec. 1860A. Benefits; eligibility; enrollment; and coverage period.

“Sec. 1860B. Requirements for qualified prescription drug coverage.

“Sec. 1860C. Beneficiary protections for qualified prescription drug coverage.

“Sec. 1860D. Requirements for prescription drug plan (PDP) sponsors; contracts; establishment of standards.

“Sec. 1860E. Process for beneficiaries to select qualified prescription drug coverage.

“Sec. 1860F. Submission of bids.

“Sec. 1860G. Premium and cost-sharing subsidies for low-income individuals.

“Sec. 1860H. Subsidies for all medicare beneficiaries for qualified prescription drug coverage.

“Sec. 1860I. Medicare Prescription Drug Trust Fund.

“Sec. 1860J. Definitions; treatment of references to provisions in part C.

Sec. 102. Offering of qualified prescription drug coverage under the Medicare+Choice program.

Sec. 103. Medicaid amendments.

Sec. 104. Medigap transition.

Sec. 105. Medicare prescription drug discount card endorsement program.

TITLE II—MEDICARE+CHOICE REVITALIZATION AND MEDICARE+CHOICE COMPETITION PROGRAM

Subtitle A—Medicare+Choice Revitalization

Sec. 201. Medicare+Choice improvements.

Sec. 202. Making permanent change in Medicare+Choice reporting deadlines and annual, coordinated election period.

Sec. 203. Avoiding duplicative State regulation.

Sec. 204. Specialized Medicare+Choice plans for special needs beneficiaries.

Sec. 205. Medicare MSAs.

Sec. 206. Extension of reasonable cost and SHMO contracts.

Subtitle B—Medicare+Choice Competition Program

Sec. 211. Medicare+Choice competition program.

Sec. 212. Demonstration program for competitive-demonstration areas.

Sec. 213. Conforming amendments.

TITLE III—RURAL HEALTH CARE IMPROVEMENTS

Sec. 301. Reference to full market basket increase for sole community hospitals.

Sec. 302. Enhanced disproportionate share hospital (DSH) treatment for rural hospitals and urban hospitals with fewer than 100 beds.

Sec. 303. 2-year phased-in increase in the standardized amount in rural and small urban areas to achieve a single, uniform standardized amount.

Sec. 304. More frequent update in weights used in hospital market basket.

Sec. 305. Improvements to critical access hospital program.

Sec. 306. Extension of temporary increase for home health services furnished in a rural area.

Sec. 307. Reference to 10 percent increase in payment for hospice care furnished in a frontier area and rural hospice demonstration project.

Sec. 308. Reference to priority for hospitals located in rural or small urban areas in redistribution of unused graduate medical education residencies.

Sec. 309. GAO study of geographic differences in payments for physicians' services.

Sec. 310. Providing safe harbor for certain collaborative efforts that benefit medically underserved populations.

TITLE IV—PROVISIONS RELATING TO PART A

Subtitle A—Inpatient Hospital Services

Sec. 401. Revision of acute care hospital payment updates.

Sec. 402. 2-year increase in level of adjustment for indirect costs of medical education (IME).

Sec. 403. Recognition of new medical technologies under inpatient hospital PPS.

Sec. 404. Phase-in of Federal rate for hospitals in Puerto Rico.

Sec. 405. Reference to provision relating to enhanced disproportionate share hospital (DSH) payments for rural hospitals and urban hospitals with fewer than 100 beds.

Sec. 406. Reference to provision relating to 2-year phased-in increase in the standardized amount in rural and small urban areas to achieve a single, uniform standardized amount.

Sec. 407. Reference to provision for more frequent updates in the weights used in hospital market basket.

Sec. 408. Reference to provision making improvements to critical access hospital program for more frequent updates in the weights used in hospital market basket.

Subtitle B—Skilled Nursing Facility Services

Sec. 411. Payment for covered skilled nursing facility services.

Subtitle C—Hospice

Sec. 421. Coverage of hospice consultation services.

Sec. 422. 10 percent increase in payment for hospice care furnished in a frontier area.

Sec. 423. Rural hospice demonstration project.

Subtitle D—Other Provisions

Sec. 431. Demonstration project for use of recovery audit contractors for part A services.

TITLE V—PROVISIONS RELATING TO PART B

Subtitle A—Physicians' Services

Sec. 501. Revision of updates for physicians' services.

Sec. 502. Studies on access to physicians' services.

Sec. 503. MedPAC report on payment for physicians' services.

Subtitle B—Other Services

Sec. 511. Competitive acquisition of certain items and services.

Sec. 512. Payment for ambulance services.

Sec. 513. 1-year extension of moratorium on therapy caps; provisions relating to reports.

Sec. 514. Accelerated implementation of 20 percent coinsurance for hospital outpatient department (OPD) services; other OPD provisions.

Sec. 515. Coverage of an initial preventive physical examination.

Sec. 516. Renal dialysis services.

TITLE VI—PROVISIONS RELATING TO PARTS A AND B

Subtitle A—Home Health Services

Sec. 601. Elimination of 15 percent reduction in payment rates under the prospective payment system.

Sec. 602. Establishment of reduced copayment for a home health service episode of care for certain beneficiaries.

Sec. 603. Update in home health services.

Sec. 604. OASIS Task Force; suspension of certain OASIS data collection requirements pending Task Force submittal of report.

Sec. 605. MedPAC study on medicare margins of home health agencies.

Subtitle B—Direct Graduate Medical Education

Sec. 611. Extension of update limitation on high cost programs.

Sec. 612. Redistribution of unused resident positions.

Subtitle C—Other Provisions

Sec. 621. Modifications to Medicare Payment Advisory Commission (MedPAC).

Sec. 622. Demonstration project for disease management for certain medicare beneficiaries with diabetes.

Sec. 623. Demonstration project for medical adult day care services.

TITLE VII—MEDICARE BENEFITS ADMINISTRATION

Sec. 701. Establishment of Medicare Benefits Administration.

TITLE VIII—REGULATORY REDUCTION AND CONTRACTING REFORM

Subtitle A—Regulatory Reform

Sec. 801. Construction; definition of supplier.

Sec. 802. Issuance of regulations.

Sec. 803. Compliance with changes in regulations and policies.

Sec. 804. Reports and studies relating to regulatory reform.

Subtitle B—Contracting Reform

Sec. 811. Increased flexibility in medicare administration.

Sec. 812. Requirements for information security for medicare administrative contractors.

Subtitle C—Education and Outreach

Sec. 821. Provider education and technical assistance.

Sec. 822. Small provider technical assistance demonstration program.

Sec. 823. Medicare provider ombudsman; medicare beneficiary ombudsman.

Sec. 824. Beneficiary outreach demonstration program.

Subtitle D—Appeals and Recovery

Sec. 831. Transfer of responsibility for medicare appeals.

Sec. 832. Process for expedited access to review.

Sec. 833. Revisions to medicare appeals process.

Sec. 834. Prepayment review.

Sec. 835. Recovery of overpayments.

Sec. 836. Provider enrollment process; right of appeal.

Sec. 837. Process for correction of minor errors and omissions on claims without pursuing appeals process.

Sec. 838. Prior determination process for certain items and services; advance beneficiary notices.

Subtitle E—Miscellaneous Provisions

Sec. 841. Policy development regarding evaluation and management (E & M) documentation guidelines.

Sec. 842. Improvement in oversight of technology and coverage.

Sec. 843. Treatment of hospitals for certain services under medicare secondary payor (MSP) provisions.

Sec. 844. EMTALA improvements.

Sec. 845. Emergency Medical Treatment and Active Labor Act (EMTALA) Technical Advisory Group.

Sec. 846. Authorizing use of arrangements with other hospice programs to provide core hospice services in certain circumstances.

Sec. 847. Application of OSHA bloodborne pathogens standard to certain hospitals.

Sec. 848. BIPA-related technical amendments and corrections.

Sec. 849. Conforming authority to waive a program exclusion.

Sec. 850. Treatment of certain dental claims.

Sec. 851. Annual publication of list of national coverage determinations.

TITLE IX—MEDICAID, PUBLIC HEALTH, AND OTHER HEALTH PROVISIONS

Subtitle A—Medicaid Provisions

Sec. 901. National Bipartisan Commission on the Future of Medicaid.

Sec. 902. GAO study on medicaid drug payment system.

Subtitle B—Internet Pharmacies

Sec. 911. Findings.

Sec. 912. Amendment to Federal Food, Drug, and Cosmetic Act.

Sec. 913. Public education.

Sec. 914. Study regarding coordination of regulatory activities.

Sec. 915. Effective date.

Subtitle C—Promotion of Electronic Prescription

Sec. 921. Program of grants to health care providers to implement electronic prescription drug programs.

Subtitle D—Treatment of Rare Diseases

Sec. 931. NIH Office of Rare Diseases at National Institutes of Health.

Sec. 932. Rare disease regional centers of excellence.

Subtitle E—Other Provisions Relating to Drugs

Sec. 941. GAO study regarding direct-to-consumer advertising of prescription drugs.

Sec. 942. Certain health professions programs regarding practice of pharmacy.

"SUBPART 3—PHARMACIST WORKFORCE PROGRAMS

"Sec. 771. Public service announcements.

"Sec. 772. Demonstration project.

"Sec. 773. Information technology.

"Sec. 774. Authorization of appropriations.

TITLE X—HEALTH-CARE RELATED TAX PROVISIONS

Sec. 1001. Eligibility for Archer MSA's extended to account holders of Medicare+Choice MSA's.

Sec. 1002. Adjustment of employer contributions to Combined Benefit Fund to reflect medicare prescription drug subsidy payments.

Sec. 1003. Expansion of human clinical trials qualifying for orphan drug credit.

TITLE I—MEDICARE PRESCRIPTION DRUG BENEFIT

SEC. 101. ESTABLISHMENT OF A MEDICARE PRESCRIPTION DRUG BENEFIT.

(a) IN GENERAL.—Title XVIII is amended—

(1) by redesignating part D as part E; and

(2) by inserting after part C the following new part:

"PART D—VOLUNTARY PRESCRIPTION DRUG BENEFIT PROGRAM

"SEC. 1860A. BENEFITS; ELIGIBILITY; ENROLLMENT; AND COVERAGE PERIOD.

"(a) PROVISION OF QUALIFIED PRESCRIPTION DRUG COVERAGE THROUGH ENROLLMENT IN PLANS.—Subject to the succeeding provisions of this part, each individual who is entitled to benefits under part A or is enrolled under part B is entitled to obtain qualified prescription drug coverage (described in section 1860B(a)) as follows:

"(1) MEDICARE+CHOICE PLAN.—If the individual is eligible to enroll in a Medicare+Choice plan that provides qualified prescription drug coverage under section 1851(j), the individual may enroll in the plan and obtain coverage through such plan.

"(2) PRESCRIPTION DRUG PLAN.—If the individual is not enrolled in a Medicare+Choice plan that provides qualified prescription drug coverage, the individual may enroll under this part in a prescription drug plan (as defined in section 1860J(a)(5)).

Such individuals shall have a choice of such plans under section 1860E(d).

"(b) GENERAL ELECTION PROCEDURES.—

"(1) IN GENERAL.—An individual eligible to make an election under subsection (a) may elect to enroll in a prescription drug plan under this part, or elect the option of qualified prescription drug coverage under a Medicare+Choice plan under part C, and to change such election only in such manner and form as may be prescribed by regulations of the Administrator of the Medicare Benefits Administration (appointed under section 1808(b)) (in this part referred to as the 'Medicare Benefits Administrator') and only during an election period prescribed in or under this subsection.

"(2) ELECTION PERIODS.—

"(A) IN GENERAL.—Except as provided in this paragraph, the election periods under this subsection shall be the same as the coverage election periods under the Medicare+Choice program under section 1851(e), including—

"(i) annual coordinated election periods; and

"(ii) special election periods.

In applying the last sentence of section 1851(e)(4) (relating to discontinuance of a Medicare+Choice election during the first year of eligibility) under this subparagraph, in the case of an election described in such section in which the individual had elected or is provided qualified prescription drug coverage at the time of such first enrollment, the individual shall be permitted to enroll in a prescription drug plan under this part at the time of the election of coverage under the original fee-for-service plan.

"(B) INITIAL ELECTION PERIODS.—

"(i) INDIVIDUALS CURRENTLY COVERED.—In the case of an individual who is entitled to benefits under part A or enrolled under part B as of November 1, 2004, there shall be an initial election period of 6 months beginning on that date.

"(ii) INDIVIDUAL COVERED IN FUTURE.—In the case of an individual who is first entitled to benefits under part A or enrolled under part B after such date, there shall be an initial election period which is the same as the initial enrollment period under section 1837(d).

"(C) ADDITIONAL SPECIAL ELECTION PERIODS.—The Administrator shall establish special election periods—

“(i) in cases of individuals who have and involuntarily lose prescription drug coverage described in subsection (c)(2)(C);

“(ii) in cases described in section 1837(h) (relating to errors in enrollment), in the same manner as such section applies to part B;

“(iii) in the case of an individual who meets such exceptional conditions (including conditions provided under section 1851(e)(4)(D)) as the Administrator may provide; and

“(iv) in cases of individuals (as determined by the Administrator) who become eligible for prescription drug assistance under title XIX under section 1935(d).

“(c) GUARANTEED ISSUE; COMMUNITY RATING; AND NONDISCRIMINATION.—

“(1) GUARANTEED ISSUE.—

“(A) IN GENERAL.—An eligible individual who is eligible to elect qualified prescription drug coverage under a prescription drug plan or Medicare+Choice plan at a time during which elections are accepted under this part with respect to the plan shall not be denied enrollment based on any health status-related factor (described in section 2702(a)(1) of the Public Health Service Act) or any other factor.

“(B) MEDICARE+CHOICE LIMITATIONS PERMITTED.—The provisions of paragraphs (2) and (3) (other than subparagraph (C)(i), relating to default enrollment) of section 1851(g) (relating to priority and limitation on termination of election) shall apply to PDP sponsors under this subsection.

“(2) COMMUNITY-RATED PREMIUM.—

“(A) IN GENERAL.—In the case of an individual who maintains (as determined under subparagraph (C)) continuous prescription drug coverage since the date the individual first qualifies to elect prescription drug coverage under this part, a PDP sponsor or Medicare+Choice organization offering a prescription drug plan or Medicare+Choice plan that provides qualified prescription drug coverage and in which the individual is enrolled may not deny, limit, or condition the coverage or provision of covered prescription drug benefits or increase the premium under the plan based on any health status-related factor described in section 2702(a)(1) of the Public Health Service Act or any other factor.

“(B) LATE ENROLLMENT PENALTY.—In the case of an individual who does not maintain such continuous prescription drug coverage (as described in subparagraph (C)), a PDP sponsor or Medicare+Choice organization may (notwithstanding any provision in this title) adjust the premium otherwise applicable or impose a pre-existing condition exclusion with respect to qualified prescription drug coverage in a manner that reflects additional actuarial risk involved. Such a risk shall be established through an appropriate actuarial opinion of the type described in subparagraphs (A) through (C) of section 2103(c)(4).

“(C) CONTINUOUS PRESCRIPTION DRUG COVERAGE.—An individual is considered for purposes of this part to be maintaining continuous prescription drug coverage on and after the date the individual first qualifies to elect prescription drug coverage under this part if the individual establishes that as of such date the individual is covered under any of the following prescription drug coverage and before the date that is the last day of the 63-day period that begins on the date of termination of the particular prescription drug coverage involved (regardless of whether the individual subsequently obtains any of the following prescription drug coverage):

“(i) COVERAGE UNDER PRESCRIPTION DRUG PLAN OR MEDICARE+CHOICE PLAN.—Qualified prescription drug coverage under a prescription drug plan or under a Medicare+Choice plan.

“(ii) MEDICAID PRESCRIPTION DRUG COVERAGE.—Prescription drug coverage under a medicaid plan under title XIX, including through the Program of All-inclusive Care for the Elderly (PACE) under section 1934, through a social health maintenance organization (referred to in section 4104(c) of the Balanced Budget Act of 1997), or through a Medicare+Choice project that demonstrates the application of capitation payment rates for frail elderly medicare beneficiaries through the use of an interdisciplinary team and through the provision of primary care services to such beneficiaries by means of such a team at the nursing facility involved.

“(iii) PRESCRIPTION DRUG COVERAGE UNDER GROUP HEALTH PLAN.—Any outpatient prescription drug coverage under a group health plan, including a health benefits plan under the Federal Employees Health Benefit Plan under chapter 89 of title 5, United States Code, and a qualified retiree prescription drug plan as defined in section 1860H(f)(1), but only if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a qualified prescription drug plan.

“(iv) PRESCRIPTION DRUG COVERAGE UNDER CERTAIN MEDIGAP POLICIES.—Coverage under a medicare supplemental policy under section 1882 that provides benefits for prescription drugs (whether or not such coverage conforms to the standards for packages of benefits under section 1882(p)(1)), but only if the policy was in effect on January 1, 2005, and if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a qualified prescription drug plan.

“(v) STATE PHARMACEUTICAL ASSISTANCE PROGRAM.—Coverage of prescription drugs under a State pharmaceutical assistance program, but only if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a qualified prescription drug plan.

“(vi) VETERANS' COVERAGE OF PRESCRIPTION DRUGS.—Coverage of prescription drugs for veterans under chapter 17 of title 38, United States Code, but only if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a qualified prescription drug plan.

“(D) CERTIFICATION.—For purposes of carrying out this paragraph, the certifications of the type described in sections 2701(e) of the Public Health Service Act and in section 9801(e) of the Internal Revenue Code shall also include a statement for the period of coverage of whether the individual involved had prescription drug coverage described in subparagraph (C).

“(E) DISCLOSURE.—

“(i) IN GENERAL.—Each entity that offers coverage of the type described in clause (ii), (iv), (v), or (vi) of subparagraph (C) shall provide for disclosure, consistent with standards established by the Administrator, of whether such coverage provides benefits at least equivalent to the benefits under a qualified prescription drug plan.

“(ii) WAIVER OF LIMITATIONS.—An individual may apply to the Administrator to waive the requirement that coverage of such type provide benefits at least equivalent to the benefits under a qualified prescription drug plan, if the individual establishes that the individual was not adequately informed that such coverage did not provide such level of benefits.

“(F) CONSTRUCTION.—Nothing in this section shall be construed as preventing the disenrollment of an individual from a prescription drug plan or a Medicare+Choice plan based on the termination of an election described in section 1851(g)(3), including for non-payment of premiums or for other reasons specified in subsection (d)(3), which takes into account a grace period described in section 1851(g)(3)(B)(i).

“(3) NONDISCRIMINATION.—A PDP sponsor offering a prescription drug plan shall not establish a service area in a manner that would discriminate based on health or economic status of potential enrollees.

“(d) EFFECTIVE DATE OF ELECTIONS.—

“(1) IN GENERAL.—Except as provided in this section, the Administrator shall provide that elections under subsection (b) take effect at the same time as the Administrator provides that similar elections under section 1851(e) take effect under section 1851(f).

“(2) NO ELECTION EFFECTIVE BEFORE 2005.—In no case shall any election take effect before January 1, 2005.

“(3) TERMINATION.—The Administrator shall provide for the termination of an election in the case of—

“(A) termination of coverage under both part A and part B; and

“(B) termination of elections described in section 1851(g)(3) (including failure to pay required premiums).

“SEC. 1860B. REQUIREMENTS FOR QUALIFIED PRESCRIPTION DRUG COVERAGE.

“(a) REQUIREMENTS.—

“(1) IN GENERAL.—For purposes of this part and part C, the term ‘qualified prescription drug coverage’ means either of the following:

“(A) STANDARD COVERAGE WITH ACCESS TO NEGOTIATED PRICES.—Standard coverage (as defined in subsection (b)) and access to negotiated prices under subsection (d).

“(B) ACTUARIALLY EQUIVALENT COVERAGE WITH ACCESS TO NEGOTIATED PRICES.—Coverage of covered outpatient drugs which meets the alternative coverage requirements of subsection (c) and access to negotiated prices under subsection (d), but only if it is approved by the Administrator, as provided under subsection (c).

“(2) PERMITTING ADDITIONAL OUTPATIENT PRESCRIPTION DRUG COVERAGE.—

“(A) IN GENERAL.—Subject to subparagraph (B), nothing in this part shall be construed as preventing qualified prescription drug coverage from including coverage of covered outpatient drugs that exceeds the coverage required under paragraph (1), but any such additional coverage shall be limited to coverage of covered outpatient drugs.

“(B) DISAPPROVAL AUTHORITY.—The Administrator shall review the offering of qualified prescription drug coverage under this part or part C. If the Administrator finds that, in the case of a qualified prescription drug coverage under a prescription drug plan or a Medicare+Choice plan, that the organization or sponsor offering the coverage is engaged in activities intended to discourage enrollment of classes of eligible medicare beneficiaries obtaining coverage through the plan on the basis of their higher likelihood of utilizing prescription drug coverage, the Administrator may terminate the contract with the sponsor or organization under this part or part C.

“(3) APPLICATION OF SECONDARY PAYOR PROVISIONS.—The provisions of section 1852(a)(4) shall apply under this part in the same manner as they apply under part C.

“(b) STANDARD COVERAGE.—For purposes of this part, the ‘standard coverage’ is coverage of covered outpatient drugs (as defined in

subsection (f) that meets the following requirements:

“(1) DEDUCTIBLE.—The coverage has an annual deductible—

“(A) for 2005, that is equal to \$250; or

“(B) for a subsequent year, that is equal to the amount specified under this paragraph for the previous year increased by the percentage specified in paragraph (5) for the year involved.

Any amount determined under subparagraph (B) that is not a multiple of \$10 shall be rounded to the nearest multiple of \$10.

“(2) LIMITS ON COST-SHARING.—

“(A) IN GENERAL.—The coverage has cost-sharing (for costs above the annual deductible specified in paragraph (1) and up to the initial coverage limit under paragraph (3)) as follows:

“(i) FIRST COPAYMENT RANGE.—For costs above the annual deductible specified in paragraph (1) and up to amount specified in subparagraph (C), the cost-sharing—

“(I) is equal to 20 percent; or

“(II) is actuarially equivalent (using processes established under subsection (e)) to an average expected payment of 20 percent of such costs.

“(ii) SECONDARY COPAYMENT RANGE.—For costs above the amount specified in subparagraph (C) and up to the initial coverage limit, the cost-sharing—

“(I) is equal to 50 percent; or

“(II) is actuarially consistent (using processes established under subsection (e)) with an average expected payment of 50 percent of such costs.

“(B) USE OF TIERED COPAYMENTS.—Nothing in this part shall be construed as preventing a PDP sponsor from applying tiered copayments, so long as such tiered copayments are consistent with subparagraph (A).

“(C) INITIAL COPAYMENT THRESHOLD.—The amount specified in this subparagraph—

“(i) for 2005, is equal to \$1,000; or

“(ii) for a subsequent year, is equal to the amount specified in this subparagraph for the previous year, increased by the annual percentage increase described in paragraph (5) for the year involved.

Any amount determined under clause (ii) that is not a multiple of \$10 shall be rounded to the nearest multiple of \$10.

“(3) INITIAL COVERAGE LIMIT.—Subject to paragraph (4), the coverage has an initial coverage limit on the maximum costs that may be recognized for payment purposes (above the annual deductible)—

“(A) for 2005, that is equal to \$2,000; or

“(B) for a subsequent year, that is equal to the amount specified in this paragraph for the previous year, increased by the annual percentage increase described in paragraph (5) for the year involved.

Any amount determined under subparagraph (B) that is not a multiple of \$25 shall be rounded to the nearest multiple of \$25.

“(4) CATASTROPHIC PROTECTION.—

“(A) IN GENERAL.—Notwithstanding paragraph (3), the coverage provides benefits with no cost-sharing after the individual has incurred costs (as described in subparagraph (C)) for covered outpatient drugs in a year equal to the annual out-of-pocket threshold specified in subparagraph (B).

“(B) ANNUAL OUT-OF-POCKET THRESHOLD.—For purposes of this part, the ‘annual out-of-pocket threshold’ specified in this subparagraph—

“(i) for 2005, is equal to \$4,500; or

“(ii) for a subsequent year, is equal to the amount specified in this subparagraph for the previous year, increased by the annual

percentage increase described in paragraph (5) for the year involved.

Any amount determined under clause (ii) that is not a multiple of \$100 shall be rounded to the nearest multiple of \$100.

“(C) APPLICATION.—In applying subparagraph (A)—

“(i) incurred costs shall only include costs incurred for the annual deductible (described in paragraph (1)), cost-sharing (described in paragraph (2)), and amounts for which benefits are not provided because of the application of the initial coverage limit described in paragraph (3); and

“(ii) such costs shall be treated as incurred only if they are paid by the individual, under section 1860G, or under title XIX and the individual is not reimbursed (through insurance or otherwise) by another person for such costs.

“(5) ANNUAL PERCENTAGE INCREASE.—For purposes of this part, the annual percentage increase specified in this paragraph for a year is equal to the annual percentage increase in average per capita aggregate expenditures for covered outpatient drugs in the United States for medicare beneficiaries, as determined by the Administrator for the 12-month period ending in July of the previous year.

“(c) ALTERNATIVE COVERAGE REQUIREMENTS.—A prescription drug plan or Medicare+Choice plan may provide a different prescription drug benefit design from the standard coverage described in subsection (b) so long as the following requirements are met and the plan applies for, and receives, the approval of the Administrator for such benefit design:

“(1) ASSURING AT LEAST ACTUARIALLY EQUIVALENT COVERAGE.—

“(A) ASSURING EQUIVALENT VALUE OF TOTAL COVERAGE.—The actuarial value of the total coverage (as determined under subsection (e)) is at least equal to the actuarial value (as so determined) of standard coverage.

“(B) ASSURING EQUIVALENT UNSUBSIDIZED VALUE OF COVERAGE.—The unsubsidized value of the coverage is at least equal to the unsubsidized value of standard coverage. For purposes of this subparagraph, the unsubsidized value of coverage is the amount by which the actuarial value of the coverage (as determined under subsection (e)) exceeds the actuarial value of the subsidy payments under section 1860H with respect to such coverage.

“(C) ASSURING STANDARD PAYMENT FOR COSTS AT INITIAL COVERAGE LIMIT.—The coverage is designed, based upon an actuarially representative pattern of utilization (as determined under subsection (e)), to provide for the payment, with respect to costs incurred that are equal to the initial coverage limit under subsection (b)(3), of an amount equal to at least the sum of the following products:

“(i) FIRST COPAYMENT RANGE.—The product of—

“(I) the amount by which the initial copayment threshold described in subsection (b)(2)(C) exceeds the deductible described in subsection (b)(1); and

“(II) 100 percent minus the cost-sharing percentage specified in subsection (b)(2)(A)(i)(I).

“(ii) SECONDARY COPAYMENT RANGE.—The product of—

“(I) the amount by which the initial coverage limit described in subsection (b)(3) exceeds the initial copayment threshold described in subsection (b)(2)(C); and

“(II) 100 percent minus the cost-sharing percentage specified in subsection (b)(2)(A)(ii)(I).

“(2) CATASTROPHIC PROTECTION.—The coverage provides for beneficiaries the catastrophic protection described in subsection (b)(4).

“(d) ACCESS TO NEGOTIATED PRICES.—

“(1) IN GENERAL.—Under qualified prescription drug coverage offered by a PDP sponsor or a Medicare+Choice organization, the sponsor or organization shall provide beneficiaries with access to negotiated prices (including applicable discounts) used for payment for covered outpatient drugs, regardless of the fact that no benefits may be payable under the coverage with respect to such drugs because of the application of cost-sharing or an initial coverage limit (described in subsection (b)(3)). Insofar as a State elects to provide medical assistance under title XIX for a drug based on the prices negotiated by a prescription drug plan under this part, the requirements of section 1927 shall not apply to such drugs.

“(2) DISCLOSURE.—The PDP sponsor or Medicare+Choice organization shall disclose to the Administrator (in a manner specified by the Administrator) the extent to which discounts or rebates made available to the sponsor or organization by a manufacturer are passed through to enrollees through pharmacies and other dispensers or otherwise. The provisions of section 1927(b)(3)(D) shall apply to information disclosed to the Administrator under this paragraph in the same manner as such provisions apply to information disclosed under such section.

“(e) ACTUARIAL VALUATION; DETERMINATION OF ANNUAL PERCENTAGE INCREASES.—

“(1) PROCESSES.—For purposes of this section, the Administrator shall establish processes and methods—

“(A) for determining the actuarial valuation of prescription drug coverage, including—

“(i) an actuarial valuation of standard coverage and of the reinsurance subsidy payments under section 1860H;

“(ii) the use of generally accepted actuarial principles and methodologies; and

“(iii) applying the same methodology for determinations of alternative coverage under subsection (c) as is used with respect to determinations of standard coverage under subsection (b); and

“(B) for determining annual percentage increases described in subsection (b)(5).

“(2) USE OF OUTSIDE ACTUARIES.—Under the processes under paragraph (1)(A), PDP sponsors and Medicare+Choice organizations may use actuarial opinions certified by independent, qualified actuaries to establish actuarial values.

“(f) COVERED OUTPATIENT DRUGS DEFINED.—

“(1) IN GENERAL.—Except as provided in this subsection, for purposes of this part, the term ‘covered outpatient drug’ means—

“(A) a drug that may be dispensed only upon a prescription and that is described in subparagraph (A)(i) or (A)(ii) of section 1927(k)(2); or

“(B) a biological product described in clauses (i) through (iii) of subparagraph (B) of such section or insulin described in subparagraph (C) of such section,

and such term includes a vaccine licensed under section 351 of the Public Health Service Act and any use of a covered outpatient drug for a medically accepted indication (as defined in section 1927(k)(6)).

“(2) EXCLUSIONS.—

“(A) IN GENERAL.—Such term does not include drugs or classes of drugs, or their medical uses, which may be excluded from coverage or otherwise restricted under section 1927(d)(2), other than subparagraph (E) thereof (relating to smoking cessation agents), or under section 1927(d)(3).

“(B) AVOIDANCE OF DUPLICATE COVERAGE.—A drug prescribed for an individual that would otherwise be a covered outpatient drug under this part shall not be so considered if payment for such drug is available under part A or B for an individual entitled to benefits under part A and enrolled under part B.

“(3) APPLICATION OF FORMULARY RESTRICTIONS.—A drug prescribed for an individual that would otherwise be a covered outpatient drug under this part shall not be so considered under a plan if the plan excludes the drug under a formulary and such exclusion is not successfully appealed under section 1860C(f)(2).

“(4) APPLICATION OF GENERAL EXCLUSION PROVISIONS.—A prescription drug plan or Medicare+Choice plan may exclude from qualified prescription drug coverage any covered outpatient drug—

“(A) for which payment would not be made if section 1862(a) applied to part D; or

“(B) which are not prescribed in accordance with the plan or this part.

Such exclusions are determinations subject to reconsideration and appeal pursuant to section 1860C(f).

“SEC. 1860C. BENEFICIARY PROTECTIONS FOR QUALIFIED PRESCRIPTION DRUG COVERAGE.

“(a) GUARANTEED ISSUE, COMMUNITY-RELATED PREMIUMS, ACCESS TO NEGOTIATED PRICES, AND NONDISCRIMINATION.—For provisions requiring guaranteed issue, community-rated premiums, access to negotiated prices, and nondiscrimination, see sections 1860A(c)(1), 1860A(c)(2), 1860B(d), and 1860F(b), respectively.

“(b) DISSEMINATION OF INFORMATION.—

“(1) GENERAL INFORMATION.—A PDP sponsor shall disclose, in a clear, accurate, and standardized form to each enrollee with a prescription drug plan offered by the sponsor under this part at the time of enrollment and at least annually thereafter, the information described in section 1852(c)(1) relating to such plan. Such information includes the following:

“(A) Access to covered outpatient drugs, including access through pharmacy networks.

“(B) How any formulary used by the sponsor functions.

“(C) Co-payments and deductible requirements, including the identification of the tiered or other co-payment level applicable to each drug (or class of drugs).

“(D) Grievance and appeals procedures.

“(2) DISCLOSURE UPON REQUEST OF GENERAL COVERAGE, UTILIZATION, AND GRIEVANCE INFORMATION.—Upon request of an individual eligible to enroll under a prescription drug plan, the PDP sponsor shall provide the information described in section 1852(c)(2) (other than subparagraph (D)) to such individual.

“(3) RESPONSE TO BENEFICIARY QUESTIONS.—Each PDP sponsor offering a prescription drug plan shall have a mechanism for providing specific information to enrollees upon request. The sponsor shall make available on a timely basis, through an Internet website and in writing upon request, information on specific changes in its formulary.

“(4) CLAIMS INFORMATION.—Each PDP sponsor offering a prescription drug plan must

furnish to enrolled individuals in a form easily understandable to such individuals an explanation of benefits (in accordance with section 1806(a) or in a comparable manner) and a notice of the benefits in relation to initial coverage limit and annual out-of-pocket threshold for the current year, whenever prescription drug benefits are provided under this part (except that such notice need not be provided more often than monthly).

“(c) ACCESS TO COVERED BENEFITS.—

“(1) ASSURING PHARMACY ACCESS.—

“(A) IN GENERAL.—The PDP sponsor of the prescription drug plan shall secure the participation in its network of a sufficient number of pharmacies that dispense (other than by mail order) drugs directly to patients to ensure convenient access (as determined by the Administrator and including adequate emergency access) for enrolled beneficiaries, in accordance with standards established under section 1860D(e) that ensure such convenient access.

“(B) USE OF POINT-OF-SERVICE SYSTEM.—A PDP sponsor shall establish an optional point-of-service method of operation under which—

“(i) the plan provides access to any or all pharmacies that are not participating pharmacies in its network; and

“(ii) the plan may charge beneficiaries through adjustments in premiums and copayments any additional costs associated with the point-of-service option.

The additional copayments so charged shall not count toward the application of section 1860B(b).

“(2) USE OF STANDARDIZED TECHNOLOGY.—

“(A) IN GENERAL.—The PDP sponsor of a prescription drug plan shall issue (and re-issue, as appropriate) such a card (or other technology) that may be used by an enrolled beneficiary to assure access to negotiated prices under section 1860B(d) for the purchase of prescription drugs for which coverage is not otherwise provided under the prescription drug plan.

“(B) STANDARDS.—

“(i) DEVELOPMENT.—The Administrator shall provide for the development of national standards relating to a standardized format for the card or other technology referred to in subparagraph (A). Such standards shall be compatible with standards established under part C of title XI.

“(ii) APPLICATION OF ADVISORY TASK FORCE.—The advisory task force established under subsection (d)(3)(B)(ii) shall provide recommendations to the Administrator under such subsection regarding the standards developed under clause (i).

“(3) REQUIREMENTS ON DEVELOPMENT AND APPLICATION OF FORMULARIES.—If a PDP sponsor of a prescription drug plan uses a formulary, the following requirements must be met:

“(A) PHARMACY AND THERAPEUTIC (P&T) COMMITTEE.—The sponsor must establish a pharmacy and therapeutic committee that develops and reviews the formulary. Such committee shall include at least one physician and at least one pharmacist both with expertise in the care of elderly or disabled persons and a majority of its members shall consist of individuals who are a physician or a pharmacist (or both).

“(B) FORMULARY DEVELOPMENT.—In developing and reviewing the formulary, the committee shall base clinical decisions on the strength of scientific evidence and standards of practice, including assessing peer-reviewed medical literature, such as randomized clinical trials, pharmacoeconomic studies, outcomes research data, and such other

information as the committee determines to be appropriate.

“(C) INCLUSION OF DRUGS IN ALL THERAPEUTIC CATEGORIES.—The formulary must include drugs within each therapeutic category and class of covered outpatient drugs (although not necessarily for all drugs within such categories and classes).

“(D) PROVIDER EDUCATION.—The committee shall establish policies and procedures to educate and inform health care providers concerning the formulary.

“(E) NOTICE BEFORE REMOVING DRUGS FROM FORMULARY.—Any removal of a drug from a formulary shall take effect only after appropriate notice is made available to beneficiaries and physicians.

“(F) GRIEVANCES AND APPEALS RELATING TO APPLICATION OF FORMULARIES.—For provisions relating to grievances and appeals of coverage, see subsections (e) and (f).

“(d) COST AND UTILIZATION MANAGEMENT; QUALITY ASSURANCE; MEDICATION THERAPY MANAGEMENT PROGRAM.—

“(1) IN GENERAL.—The PDP sponsor shall have in place with respect to covered outpatient drugs—

“(A) an effective cost and drug utilization management program, including medically appropriate incentives to use generic drugs and therapeutic interchange, when appropriate;

“(B) quality assurance measures and systems to reduce medical errors and adverse drug interactions, including a medication therapy management program described in paragraph (2) and for years beginning with 2006, an electronic prescription program described in paragraph (3); and

“(C) a program to control fraud, abuse, and waste.

Nothing in this section shall be construed as impairing a PDP sponsor from applying cost management tools (including differential payments) under all methods of operation.

“(2) MEDICATION THERAPY MANAGEMENT PROGRAM.—

“(A) IN GENERAL.—A medication therapy management program described in this paragraph is a program of drug therapy management and medication administration that is designed to assure, with respect to beneficiaries with chronic diseases (such as diabetes, asthma, hypertension, and congestive heart failure) or multiple prescriptions, that covered outpatient drugs under the prescription drug plan are appropriately used to achieve therapeutic goals and reduce the risk of adverse events, including adverse drug interactions.

“(B) ELEMENTS.—Such program may include—

“(i) enhanced beneficiary understanding of such appropriate use through beneficiary education, counseling, and other appropriate means;

“(ii) increased beneficiary adherence with prescription medication regimens through medication refill reminders, special packaging, and other appropriate means; and

“(iii) detection of patterns of overuse and underuse of prescription drugs.

“(C) DEVELOPMENT OF PROGRAM IN COOPERATION WITH LICENSED PHARMACISTS.—The program shall be developed in cooperation with licensed pharmacists and physicians.

“(D) CONSIDERATIONS IN PHARMACY FEES.—The PDP sponsor of a prescription drug program shall take into account, in establishing fees for pharmacists and others providing services under the medication therapy management program, the resources and time used in implementing the program.

“(3) ELECTRONIC PRESCRIPTION PROGRAM.—

“(A) IN GENERAL.—An electronic prescription drug program described in this paragraph is a program that includes at least the following components, consistent with national standards established under subparagraph (B):

“(i) ELECTRONIC TRANSMITTAL OF PRESCRIPTIONS.—Prescriptions are only received electronically, except in emergency cases and other exceptional circumstances recognized by the Administrator.

“(ii) PROVISION OF INFORMATION TO PRESCRIBING HEALTH CARE PROFESSIONAL.—The program provides, upon transmittal of a prescription by a prescribing health care professional, for transmittal by the pharmacist to the professional of information that includes—

“(I) information (to the extent available and feasible) on the drugs being prescribed for that patient and other information relating to the medical history or condition of the patient that may be relevant to the appropriate prescription for that patient;

“(II) cost-effective alternatives (if any) for the use of the drug prescribed; and

“(III) information on the drugs included in the applicable formulary.

To the extent feasible, such program shall permit the prescribing health care professional to provide (and be provided) related information on an interactive, real-time basis.

“(B) STANDARDS.—

“(i) DEVELOPMENT.—The Administrator shall provide for the development of national standards relating to the electronic prescription drug program described in subparagraph (A). Such standards shall be compatible with standards established under part C of title XI.

“(ii) ADVISORY TASK FORCE.—In developing such standards and the standards described in subsection (c)(2)(B)(i) the Administrator shall establish a task force that includes representatives of physicians, hospitals, pharmacists, and technology experts and representatives of the Departments of Veterans Affairs and Defense and other appropriate Federal agencies to provide recommendations to the Administrator on such standards, including recommendations relating to the following:

“(I) The range of available computerized prescribing software and hardware and their costs to develop and implement.

“(II) The extent to which such systems reduce medication errors and can be readily implemented by physicians and hospitals.

“(III) Efforts to develop a common software platform for computerized prescribing.

“(IV) The cost of implementing such systems in the range of hospital and physician office settings, including hardware, software, and training costs.

“(V) Implementation issues as they relate to part C of title XI, and current Federal and State prescribing laws and regulations and their impact on implementation of computerized prescribing.

“(iii) DEADLINES.—

“(I) The Administrator shall constitute the task force under clause (ii) by not later than April 1, 2003.

“(II) Such task force shall submit recommendations to Administrator by not later than January 1, 2004.

“(III) The Administrator shall develop and promulgate the national standards referred to in clause (ii) by not later than July 1, 2004.

“(C) REFERENCE TO AVAILABILITY OF GRANT FUNDS.—Grant funds are authorized under section 3990 of the Public Health Service Act to provide assistance to health care pro-

viders in implementing electronic prescription drug programs.

“(4) TREATMENT OF ACCREDITATION.—Section 1852(e)(4) (relating to treatment of accreditation) shall apply to prescription drug plans under this part with respect to the following requirements, in the same manner as they apply to Medicare+Choice plans under part C with respect to the requirements described in a clause of section 1852(e)(4)(B):

“(A) Paragraph (1) (including quality assurance), including medication therapy management program under paragraph (2).

“(B) Subsection (c)(1) (relating to access to covered benefits).

“(C) Subsection (g) (relating to confidentiality and accuracy of enrollee records).

“(5) PUBLIC DISCLOSURE OF PHARMACEUTICAL PRICES FOR EQUIVALENT DRUGS.—Each PDP sponsor shall provide that each pharmacy or other dispenser that arranges for the dispensing of a covered outpatient drug shall inform the beneficiary at the time of purchase of the drug of any differential between the price of the prescribed drug to the enrollee and the price of the lowest cost generic drug covered under the plan that is therapeutically equivalent and bioequivalent.

“(e) GRIEVANCE MECHANISM, COVERAGE DETERMINATIONS, AND RECONSIDERATIONS.—

“(1) IN GENERAL.—Each PDP sponsor shall provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the sponsor provides covered benefits) and enrollees with prescription drug plans of the sponsor under this part in accordance with section 1852(f).

“(2) APPLICATION OF COVERAGE DETERMINATION AND RECONSIDERATION PROVISIONS.—A PDP sponsor shall meet the requirements of paragraphs (1) through (3) of section 1852(g) with respect to covered benefits under the prescription drug plan it offers under this part in the same manner as such requirements apply to a Medicare+Choice organization with respect to benefits it offers under a Medicare+Choice plan under part C.

“(3) REQUEST FOR REVIEW OF TIERED FORMULARY DETERMINATIONS.—In the case of a prescription drug plan offered by a PDP sponsor that provides for tiered cost-sharing for drugs included within a formulary and provides lower cost-sharing for preferred drugs included within the formulary, an individual who is enrolled in the plan may request coverage of a nonpreferred drug under the terms applicable for preferred drugs if the prescribing physician determines that the preferred drug for treatment of the same condition is not as effective for the individual or has adverse effects for the individual.

“(f) APPEALS.—

“(1) IN GENERAL.—Subject to paragraph (2), a PDP sponsor shall meet the requirements of paragraphs (4) and (5) of section 1852(g) with respect to drugs not included on any formulary in the same manner as such requirements apply to a Medicare+Choice organization with respect to benefits it offers under a Medicare+Choice plan under part C.

“(2) FORMULARY DETERMINATIONS.—An individual who is enrolled in a prescription drug plan offered by a PDP sponsor may appeal to obtain coverage for a covered outpatient drug that is not on a formulary of the sponsor if the prescribing physician determines that the formulary drug for treatment of the same condition is not as effective for the individual or has adverse effects for the individual.

“(g) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—A PDP sponsor shall meet

the requirements of section 1852(h) with respect to enrollees under this part in the same manner as such requirements apply to a Medicare+Choice organization with respect to enrollees under part C.

“SEC. 1860D. REQUIREMENTS FOR PRESCRIPTION DRUG PLAN (PDP) SPONSORS; CONTRACTS; ESTABLISHMENT OF STANDARDS.

“(a) GENERAL REQUIREMENTS.—Each PDP sponsor of a prescription drug plan shall meet the following requirements:

“(1) LICENSURE.—Subject to subsection (c), the sponsor is organized and licensed under State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State in which it offers a prescription drug plan.

“(2) ASSUMPTION OF FINANCIAL RISK.—

“(A) IN GENERAL.—Subject to subparagraph (B) and section 1860E(d)(2), the entity assumes full financial risk on a prospective basis for qualified prescription drug coverage that it offers under a prescription drug plan and that is not covered under section 1860H.

“(B) REINSURANCE PERMITTED.—The entity may obtain insurance or make other arrangements for the cost of coverage provided to any enrolled member under this part.

“(3) SOLVENCY FOR UNLICENSED SPONSORS.—In the case of a sponsor that is not described in paragraph (1), the sponsor shall meet solvency standards established by the Administrator under subsection (d).

“(b) CONTRACT REQUIREMENTS.—

“(1) IN GENERAL.—The Administrator shall not permit the election under section 1860A of a prescription drug plan offered by a PDP sponsor under this part, and the sponsor shall not be eligible for payments under section 1860G or 1860H, unless the Administrator has entered into a contract under this subsection with the sponsor with respect to the offering of such plan. Such a contract with a sponsor may cover more than one prescription drug plan. Such contract shall provide that the sponsor agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

“(2) NEGOTIATION REGARDING TERMS AND CONDITIONS.—The Administrator shall have the same authority to negotiate the terms and conditions of prescription drug plans under this part as the Director of the Office of Personnel Management has with respect to health benefits plans under chapter 89 of title 5, United States Code. In negotiating the terms and conditions regarding premiums for which information is submitted under section 1860F(a)(2), the Administrator shall take into account the subsidy payments under section 1860H and the adjusted community rate (as defined in section 1854(f)(3)) for the benefits covered.

“(3) INCORPORATION OF CERTAIN MEDICARE+CHOICE CONTRACT REQUIREMENTS.—The following provisions of section 1857 shall apply, subject to subsection (c)(5), to contracts under this section in the same manner as they apply to contracts under section 1857(a):

“(A) MINIMUM ENROLLMENT.—Paragraphs (1) and (3) of section 1857(b).

“(B) CONTRACT PERIOD AND EFFECTIVENESS.—Paragraphs (1) through (3) and (5) of section 1857(c).

“(C) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—Section 1857(d).

“(D) ADDITIONAL CONTRACT TERMS.—Section 1857(e); except that in applying section 1857(e)(2) under this part—

“(i) such section shall be applied separately to costs relating to this part (from costs under part C);

“(ii) in no case shall the amount of the fee established under this subparagraph for a plan exceed 20 percent of the maximum amount of the fee that may be established under subparagraph (B) of such section; and

“(iii) no fees shall be applied under this subparagraph with respect to Medicare+Choice plans.

“(E) INTERMEDIATE SANCTIONS.—Section 1857(g).

“(F) PROCEDURES FOR TERMINATION.—Section 1857(h).

“(4) RULES OF APPLICATION FOR INTERMEDIATE SANCTIONS.—In applying paragraph (3)(E)—

“(A) the reference in section 1857(g)(1)(B) to section 1854 is deemed a reference to this part; and

“(B) the reference in section 1857(g)(1)(F) to section 1852(k)(2)(A)(ii) shall not be applied.

“(c) WAIVER OF CERTAIN REQUIREMENTS TO EXPAND CHOICE.—

“(1) IN GENERAL.—In the case of an entity that seeks to offer a prescription drug plan in a State, the Administrator shall waive the requirement of subsection (a)(1) that the entity be licensed in that State if the Administrator determines, based on the application and other evidence presented to the Administrator, that any of the grounds for approval of the application described in paragraph (2) has been met.

“(2) GROUNDS FOR APPROVAL.—The grounds for approval under this paragraph are the grounds for approval described in subparagraph (B), (C), and (D) of section 1855(a)(2), and also include the application by a State of any grounds other than those required under Federal law.

“(3) APPLICATION OF WAIVER PROCEDURES.—With respect to an application for a waiver (or a waiver granted) under this subsection, the provisions of subparagraphs (E), (F), and (G) of section 1855(a)(2) shall apply.

“(4) LICENSURE DOES NOT SUBSTITUTE FOR OR CONSTITUTE CERTIFICATION.—The fact that an entity is licensed in accordance with subsection (a)(1) does not deem the entity to meet other requirements imposed under this part for a PDP sponsor.

“(5) REFERENCES TO CERTAIN PROVISIONS.—For purposes of this subsection, in applying provisions of section 1855(a)(2) under this subsection to prescription drug plans and PDP sponsors—

“(A) any reference to a waiver application under section 1855 shall be treated as a reference to a waiver application under paragraph (1); and

“(B) any reference to solvency standards shall be treated as a reference to solvency standards established under subsection (d).

“(d) SOLVENCY STANDARDS FOR NON-LICENSED SPONSORS.—

“(1) ESTABLISHMENT.—The Administrator shall establish, by not later than October 1, 2003, financial solvency and capital adequacy standards that an entity that does not meet the requirements of subsection (a)(1) must meet to qualify as a PDP sponsor under this part.

“(2) COMPLIANCE WITH STANDARDS.—Each PDP sponsor that is not licensed by a State under subsection (a)(1) and for which a waiver application has been approved under subsection (c) shall meet solvency and capital adequacy standards established under paragraph (1). The Administrator shall establish certification procedures for such PDP sponsors with respect to such solvency standards in the manner described in section 1855(c)(2).

“(e) OTHER STANDARDS.—The Administrator shall establish by regulation other

standards (not described in subsection (d)) for PDP sponsors and plans consistent with, and to carry out, this part. The Administrator shall publish such regulations by October 1, 2003.

“(f) RELATION TO STATE LAWS.—

“(1) IN GENERAL.—The standards established under this part shall supersede any State law or regulation (other than State licensing laws or State laws relating to plan solvency, except as provided in subsection (d)) with respect to prescription drug plans which are offered by PDP sponsors under this part.

“(2) PROHIBITION OF STATE IMPOSITION OF PREMIUM TAXES.—No State may impose a premium tax or similar tax with respect to premiums paid to PDP sponsors for prescription drug plans under this part, or with respect to any payments made to such a sponsor by the Administrator under this part.

“SEC. 1860E. PROCESS FOR BENEFICIARIES TO SELECT QUALIFIED PRESCRIPTION DRUG COVERAGE.

“(a) IN GENERAL.—The Administrator shall establish a process for the selection of the prescription drug plan or Medicare+Choice plan which offer qualified prescription drug coverage through which eligible individuals elect qualified prescription drug coverage under this part.

“(b) ELEMENTS.—Such process shall include the following:

“(1) Annual, coordinated election periods, in which such individuals can change the qualifying plans through which they obtain coverage, in accordance with section 1860A(b)(2).

“(2) Active dissemination of information to promote an informed selection among qualifying plans based upon price, quality, and other features, in the manner described in (and in coordination with) section 1851(d), including the provision of annual comparative information, maintenance of a toll-free hotline, and the use of non-Federal entities.

“(3) Coordination of elections through filing with a Medicare+Choice organization or a PDP sponsor, in the manner described in (and in coordination with) section 1851(c)(2).

“(c) MEDICARE+CHOICE ENROLLEE IN PLAN OFFERING PRESCRIPTION DRUG COVERAGE MAY ONLY OBTAIN BENEFITS THROUGH THE PLAN.—An individual who is enrolled under a Medicare+Choice plan that offers qualified prescription drug coverage may only elect to receive qualified prescription drug coverage under this part through such plan.

“(d) ASSURING ACCESS TO A CHOICE OF QUALIFIED PRESCRIPTION DRUG COVERAGE.—

“(1) CHOICE OF AT LEAST TWO PLANS IN EACH AREA.—

“(A) IN GENERAL.—The Administrator shall assure that each individual who is entitled to benefits under part A or enrolled under part B and who is residing in an area in the United States has available, consistent with subparagraph (B), a choice of enrollment in at least two qualifying plans (as defined in paragraph (5)) in the area in which the individual resides, at least one of which is a prescription drug plan.

“(B) REQUIREMENT FOR DIFFERENT PLAN SPONSORS.—The requirement in subparagraph (A) is not satisfied with respect to an area if only one PDP sponsor or Medicare+Choice organization offers all the qualifying plans in the area.

“(2) GUARANTEEING ACCESS TO COVERAGE.—In order to assure access under paragraph (1) and consistent with paragraph (3), the Administrator may provide financial incentives (including partial underwriting of risk) for a PDP sponsor to expand the service area

under an existing prescription drug plan to adjoining or additional areas or to establish such a plan (including offering such a plan on a regional or nationwide basis), but only so long as (and to the extent) necessary to assure the access guaranteed under paragraph (1).

“(3) LIMITATION ON AUTHORITY.—In exercising authority under this subsection, the Administrator—

“(A) shall not provide for the full underwriting of financial risk for any PDP sponsor;

“(B) shall not provide for any underwriting of financial risk for a public PDP sponsor with respect to the offering of a nationwide prescription drug plan; and

“(C) shall seek to maximize the assumption of financial risk by PDP sponsors or Medicare+Choice organizations.

“(4) REPORTS.—The Administrator shall, in each annual report to Congress under section 1808(f), include information on the exercise of authority under this subsection. The Administrator also shall include such recommendations as may be appropriate to minimize the exercise of such authority, including minimizing the assumption of financial risk.

“(5) QUALIFYING PLAN DEFINED.—For purposes of this subsection, the term ‘qualifying plan’ means a prescription drug plan or a Medicare+Choice plan that includes qualified prescription drug coverage.

“SEC. 1860F. SUBMISSION OF BIDS.

“(a) SUBMISSION OF BIDS AND RELATED INFORMATION.—

“(1) IN GENERAL.—Each PDP sponsor shall submit to the Administrator information of the type described in paragraph (2) in the same manner as information is submitted by a Medicare+Choice organization under section 1854(a)(1).

“(2) TYPE OF INFORMATION.—The information described in this paragraph is the following:

“(A) Information on the qualified prescription drug coverage to be provided.

“(B) Information on the actuarial value of the coverage.

“(C) Information on the bid for the coverage, including an actuarial certification of—

“(i) the actuarial basis for such bid;

“(ii) the portion of such bid attributable to benefits in excess of standard coverage; and

“(iii) the reduction in such bid resulting from the subsidy payments provided under section 1860H.

“(D) Such other information as the Administrator may require to carry out this part.

“(3) REVIEW.—The Administrator shall review the information filed under paragraph (2) for the purpose of conducting negotiations under section 1860D(b)(2).

“(b) UNIFORM BID.—

“(1) IN GENERAL.—The bid for a prescription drug plan under this section may not vary among individuals enrolled in the plan in the same service area.

“(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed as preventing the imposition of a late enrollment penalty under section 1860A(c)(2)(B).

“(c) COLLECTION.—

“(1) USE OF ELECTRONIC FUNDS TRANSFER MECHANISM OR, AT BENEFICIARY'S OPTION, WITHHOLDING FROM SOCIAL SECURITY PAYMENT.—In accordance with regulations, a PDP sponsor may encourage that enrollees under a plan make payment of the premium established by the plan under this part through an electronic funds transfer mechanism, such as automatic charges of an account at a financial institution or a credit or

debit card account, or, at the option of an enrollee, through withholding from benefit payments in the manner provided under section 1840 with respect to monthly premiums under section 1839. All such amounts shall be credited to the Medicare Prescription Drug Trust Fund.

“(2) OFFSETTING.—Reductions in premiums for coverage under parts A and B as a result of a selection of a Medicare+Choice plan may be used to reduce the premium otherwise imposed under paragraph (1).

“(3) PAYMENT OF PLANS.—PDP plans shall receive payment based on bid amounts in the same manner as Medicare+Choice organizations receive payment based on bid amounts under section 1853(a)(1)(A)(ii) except that such payment shall be made from the Medicare Prescription Drug Trust Fund.

“(d) ACCEPTANCE OF BENCHMARK AMOUNT AS FULL PREMIUM FOR SUBSIDIZED LOW-INCOME INDIVIDUALS IF NO STANDARD (OR EQUIVALENT) COVERAGE IN AN AREA.—

“(1) IN GENERAL.—If there is no standard prescription drug coverage (as defined in paragraph (2)) offered in an area, in the case of an individual who is eligible for a premium subsidy under section 1860G and resides in the area, the PDP sponsor of any prescription drug plan offered in the area (and any Medicare+Choice organization that offers qualified prescription drug coverage in the area) shall accept the benchmark bid amount (under section 1860G(b)(2)) as payment in full for the premium charge for qualified prescription drug coverage.

“(2) STANDARD PRESCRIPTION DRUG COVERAGE DEFINED.—For purposes of this subsection, the term ‘standard prescription drug coverage’ means qualified prescription drug coverage that is standard coverage or that has an actuarial value equivalent to the actuarial value for standard coverage.

“SEC. 1860G. PREMIUM AND COST-SHARING SUBSIDIES FOR LOW-INCOME INDIVIDUALS.

“(a) INCOME-RELATED SUBSIDIES FOR INDIVIDUALS WITH INCOME BELOW 150 PERCENT OF FEDERAL POVERTY LEVEL.—

“(1) FULL PREMIUM SUBSIDY AND REDUCTION OF COST-SHARING FOR INDIVIDUALS WITH INCOME BELOW 150 PERCENT OF FEDERAL POVERTY LEVEL.—In the case of a subsidy eligible individual (as defined in paragraph (4)) who is determined to have income that does not exceed 150 percent of the Federal poverty level, the individual is entitled under this section—

“(A) to an income-related premium subsidy equal to 100 percent of the amount described in subsection (b)(1); and

“(B) subject to subsection (c), to the substitution for the beneficiary cost-sharing described in paragraphs (1) and (2) of section 1860B(b) (up to the initial coverage limit specified in paragraph (3) of such section) of amounts that do not exceed \$2 for a multiple source or generic drug (as described in section 1927(k)(7)(A)) and \$5 for a non-preferred drug.

“(2) SLIDING SCALE PREMIUM SUBSIDY AND REDUCTION OF COST-SHARING FOR INDIVIDUALS WITH INCOME ABOVE 150, BUT BELOW 175 PERCENT, OF FEDERAL POVERTY LEVEL.—In the case of a subsidy eligible individual who is determined to have income that exceeds 150 percent, but does not exceed 175 percent, of the Federal poverty level, the individual is entitled under this section to—

“(A) an income-related premium subsidy determined on a linear sliding scale ranging from 100 percent of the amount described in subsection (b)(1) for individuals with incomes at 150 percent of such level to 0 per-

cent of such amount for individuals with incomes at 175 percent of such level; and

“(B) subject to subsection (c), to the substitution for the beneficiary cost-sharing described in paragraphs (1) and (2) of section 1860B(b) (up to the initial coverage limit specified in paragraph (3) of such section) of amounts that do not exceed \$2 for a multiple source or generic drug (as described in section 1927(k)(7)(A)) and \$5 for a non-preferred drug.

“(3) CONSTRUCTION.—Nothing in this section shall be construed as preventing a PDP sponsor from reducing to 0 the cost-sharing otherwise applicable to generic drugs.

“(4) DETERMINATION OF ELIGIBILITY.—

“(A) SUBSIDY ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, subject to subparagraph (D), the term ‘subsidy eligible individual’ means an individual who—

“(i) is eligible to elect, and has elected, to obtain qualified prescription drug coverage under this part;

“(ii) has income below 175 percent of the Federal poverty line; and

“(iii) meets the resources requirement described in section 1905(p)(1)(C).

“(B) DETERMINATIONS.—The determination of whether an individual residing in a State is a subsidy eligible individual and the amount of such individual’s income shall be determined under the State medicaid plan for the State under section 1935(a). In the case of a State that does not operate such a medicaid plan (either under title XIX or under a statewide waiver granted under section 1115), such determination shall be made under arrangements made by the Administrator.

“(C) INCOME DETERMINATIONS.—For purposes of applying this section—

“(i) income shall be determined in the manner described in section 1905(p)(1)(B); and

“(ii) the term ‘Federal poverty line’ means the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

“(D) TREATMENT OF TERRITORIAL RESIDENTS.—In the case of an individual who is not a resident of the 50 States or the District of Columbia, the individual is not eligible to be a subsidy eligible individual but may be eligible for financial assistance with prescription drug expenses under section 1935(e).

“(E) TREATMENT OF CONFORMING MEDIGAP POLICIES.—For purposes of this section, the term ‘qualified prescription drug coverage’ includes a medicare supplemental policy described in section 1860H(b)(4).

“(5) INDEXING DOLLAR AMOUNTS.—

“(A) FOR 2006.—The dollar amounts applied under paragraphs (1)(B) and (2)(B) for 2006 shall be the dollar amounts specified in such paragraph increased by the annual percentage increase described in section 1860B(b)(5) for 2006.

“(B) FOR SUBSEQUENT YEARS.—The dollar amounts applied under paragraphs (1)(B) and (2)(B) for a year after 2006 shall be the amounts (under this paragraph) applied under paragraph (1)(B) or (2)(B) for the preceding year increased by the annual percentage increase described in section 1860B(b)(5) (relating to growth in medicare prescription drug costs per beneficiary) for the year involved.

“(b) PREMIUM SUBSIDY AMOUNT.—

“(1) IN GENERAL.—The premium subsidy amount described in this subsection for an individual residing in an area is the benchmark bid amount (as defined in paragraph

(2)) for qualified prescription drug coverage offered by the prescription drug plan or the Medicare+Choice plan in which the individual is enrolled.

“(2) BENCHMARK BID AMOUNT DEFINED.—For purposes of this subsection, the term ‘benchmark bid amount’ means, with respect to qualified prescription drug coverage offered under—

“(A) a prescription drug plan that—

“(i) provides standard coverage (or alternative prescription drug coverage the actuarial value is equivalent to that of standard coverage), the bid amount for enrollment under the plan under this part (determined without regard to any subsidy under this section or any late enrollment penalty under section 1860A(c)(2)(B)); or

“(ii) provides alternative prescription drug coverage the actuarial value of which is greater than that of standard coverage, the bid amount described in clause (i) multiplied by the ratio of (I) the actuarial value of standard coverage, to (II) the actuarial value of the alternative coverage; or

“(B) a Medicare+Choice plan, the portion of the bid amount that is attributable to statutory drug benefits (described in section 1853(a)(1)(A)(ii)(II)).

“(c) RULES IN APPLYING COST-SHARING SUBSIDIES.—

“(1) IN GENERAL.—In applying subsections (a)(1)(B) and (a)(2)(B), nothing in this part shall be construed as preventing a plan or provider from waiving or reducing the amount of cost-sharing otherwise applicable.

“(2) LIMITATION ON CHARGES.—In the case of an individual receiving cost-sharing subsidies under subsection (a)(1)(B) or (a)(2)(B), the PDP sponsor may not charge more than \$5 per prescription.

“(3) APPLICATION OF INDEXING RULES.—The provisions of subsection (a)(4) shall apply to the dollar amount specified in paragraph (2) in the same manner as they apply to the dollar amounts specified in subsections (a)(1)(B) and (a)(2)(B).

“(d) ADMINISTRATION OF SUBSIDY PROGRAM.—The Administrator shall provide a process whereby, in the case of an individual who is determined to be a subsidy eligible individual and who is enrolled in prescription drug plan or is enrolled in a Medicare+Choice plan under which qualified prescription drug coverage is provided—

“(1) the Administrator provides for a notification of the PDP sponsor or Medicare+Choice organization involved that the individual is eligible for a subsidy and the amount of the subsidy under subsection (a);

“(2) the sponsor or organization involved reduces the premiums or cost-sharing otherwise imposed by the amount of the applicable subsidy and submits to the Administrator information on the amount of such reduction; and

“(3) the Administrator periodically and on a timely basis reimburses the sponsor or organization for the amount of such reductions.

The reimbursement under paragraph (3) with respect to cost-sharing subsidies may be computed on a capitated basis, taking into account the actuarial value of the subsidies and with appropriate adjustments to reflect differences in the risks actually involved.

“(e) RELATION TO MEDICAID PROGRAM.—

“(1) IN GENERAL.—For provisions providing for eligibility determinations, and additional financing, under the medicaid program, see section 1935.

“(2) MEDICAID PROVIDING WRAP AROUND BENEFITS.—The coverage provided under this

part is primary payor to benefits for prescribed drugs provided under the medicaid program under title XIX.

“(3) COORDINATION.—The Administrator shall develop and implement a plan for the coordination of prescription drug benefits under this part with the benefits provided under the medicaid program under title XIX, with particular attention to insuring coordination of payments and prevention of fraud and abuse. In developing and implementing such plan, the Administrator shall involve the Secretary, the States, the data processing industry, pharmacists, and pharmaceutical manufacturers, and other experts.

“SEC. 1860H. SUBSIDIES FOR ALL MEDICARE BENEFICIARIES FOR QUALIFIED PRESCRIPTION DRUG COVERAGE.

“(a) SUBSIDY PAYMENT.—In order to reduce premium levels applicable to qualified prescription drug coverage for all medicare beneficiaries, to reduce adverse selection among prescription drug plans and Medicare+Choice plans that provide qualified prescription drug coverage, and to promote the participation of PDP sponsors under this part, the Administrator shall provide in accordance with this section for payment to a qualifying entity (as defined in subsection (b)) of the following subsidies:

“(1) DIRECT SUBSIDY.—In the case of an individual enrolled in a prescription drug plan, Medicare+Choice plan, or qualified retiree prescription drug plan, a direct subsidy equal to a percentage (specified by the Administrator consistent with subsection (d)(2)) of an amount equal to the actuarial value of the standard drug coverage provided under the respective plan.

“(2) SUBSIDY THROUGH REINSURANCE.—The reinsurance payment amount (as defined in subsection (c)) for excess costs incurred in providing qualified prescription drug coverage—

“(A) for individuals enrolled with a prescription drug plan under this part;

“(B) for individuals enrolled with a Medicare+Choice plan that provides qualified prescription drug coverage under part C; and

“(C) for individuals who are enrolled in a qualified retiree prescription drug plan.

This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Administrator to provide for the payment of amounts provided under this section.

“(b) QUALIFYING ENTITY DEFINED.—For purposes of this section, the term ‘qualifying entity’ means any of the following that has entered into an agreement with the Administrator to provide the Administrator with such information as may be required to carry out this section:

“(1) A PDP sponsor offering a prescription drug plan under this part.

“(2) A Medicare+Choice organization that provides qualified prescription drug coverage under a Medicare+Choice plan under part C.

“(3) The sponsor of a qualified retiree prescription drug plan (as defined in subsection (f)).

“(c) REINSURANCE PAYMENT AMOUNT.—

“(1) IN GENERAL.—Subject to subsection (d)(2) and paragraph (4), the reinsurance payment amount under this subsection for a qualifying covered individual (as defined in subsection (g)(1)) for a coverage year (as defined in subsection (g)(2)) is equal to the sum of the following:

“(A) For the portion of the individual’s gross covered prescription drug costs (as defined in paragraph (3)) for the year that exceeds the initial copayment threshold specified in section 1860B(b)(2)(C), but does not ex-

ceed the initial coverage limit specified in section 1860B(b)(3), an amount equal to 30 percent of the allowable costs (as defined in paragraph (2)) attributable to such gross covered prescription drug costs.

“(B) For the portion of the individual’s gross covered prescription drug costs for the year that exceeds the annual out-of-pocket threshold specified in 1860B(b)(4)(B), an amount equal to 80 percent of the allowable costs attributable to such gross covered prescription drug costs.

“(2) ALLOWABLE COSTS.—For purposes of this section, the term ‘allowable costs’ means, with respect to gross covered prescription drug costs under a plan described in subsection (b) offered by a qualifying entity, the part of such costs that are actually paid (net of average percentage rebates) under the plan, but in no case more than the part of such costs that would have been paid under the plan if the prescription drug coverage under the plan were standard coverage.

“(3) GROSS COVERED PRESCRIPTION DRUG COSTS.—For purposes of this section, the term ‘gross covered prescription drug costs’ means, with respect to an enrollee with a qualifying entity under a plan described in subsection (b) during a coverage year, the costs incurred under the plan (including costs attributable to administrative costs) for covered prescription drugs dispensed during the year, including costs relating to the deductible, whether paid by the enrollee or under the plan, regardless of whether the coverage under the plan exceeds standard coverage and regardless of when the payment for such drugs is made.

“(4) INDEXING DOLLAR AMOUNTS.—

“(A) AMOUNTS FOR 2005.—The dollar amounts applied under paragraph (1) for 2005 shall be the dollar amounts specified in such paragraph.

“(B) FOR 2006.—The dollar amounts applied under paragraph (1) for 2006 shall be the dollar amounts specified in such paragraph increased by the annual percentage increase described in section 1860B(b)(5) for 2006.

“(C) FOR SUBSEQUENT YEARS.—The dollar amounts applied under paragraph (1) for a year after 2006 shall be the amounts (under this paragraph) applied under paragraph (1) for the preceding year increased by the annual percentage increase described in section 1860B(b)(5) (relating to growth in medicare prescription drug costs per beneficiary) for the year involved.

“(D) ROUNDING.—Any amount, determined under the preceding provisions of this paragraph for a year, which is not a multiple of \$10 shall be rounded to the nearest multiple of \$10.

“(d) ADJUSTMENT OF PAYMENTS.—

“(1) ESTIMATION OF PAYMENTS.—The Administrator shall estimate—

“(A) the total payments to be made (without regard to this subsection) during a year under this section; and

“(B) the total payments to be made by qualifying entities for standard coverage under plans described in subsection (b) during the year.

“(2) ADJUSTMENT.—The Administrator shall proportionally adjust the payments made under this section for a coverage year in such manner so that—

“(A) the total of the payments made for the year under this section is equal to 65 percent of the total payments described in paragraph (1)(B) during the year; and

“(B) the ratio of the total of the payments made for direct subsidies under subsection (a)(1) for the year to the total of the payments made for reinsurance subsidies for the

year under subsection (a)(2) is equal to the ratio of 35 to 30.

“(3) RISK ADJUSTMENT.—To the extent the Administrator determines it appropriate to avoid risk selection, the payments made for direct subsidies under subsection (a)(1) are subject to adjustment based upon risk factors specified by the Administrator.

“(e) PAYMENT METHODS.—

“(1) IN GENERAL.—Payments under this section shall be based on such a method as the Administrator determines. The Administrator may establish a payment method by which interim payments of amounts under this section are made during a year based on the Administrator’s best estimate of amounts that will be payable after obtaining all of the information.

“(2) SOURCE OF PAYMENTS.—Payments under this section shall be made from the Medicare Prescription Drug Trust Fund.

“(f) QUALIFIED RETIREE PRESCRIPTION DRUG PLAN DEFINED.—

“(1) IN GENERAL.—For purposes of this section, the term ‘qualified retiree prescription drug plan’ means employment-based retiree health coverage (as defined in paragraph (3)(A)) if, with respect to an individual enrolled (or eligible to be enrolled) under this part who is covered under the plan, the following requirements are met:

“(A) ASSURANCE.—The sponsor of the plan shall annually attest, and provide such assurances as the Administrator may require, that the coverage meets or exceeds the requirements for qualified prescription drug coverage.

“(B) AUDITS.—The sponsor (and the plan) shall maintain, and afford the Administrator access to, such records as the Administrator may require for purposes of audits and other oversight activities necessary to ensure the adequacy of prescription drug coverage, and the accuracy of payments made.

“(C) PROVISION OF CERTIFICATION OF PRESCRIPTION DRUG COVERAGE.—The sponsor of the plan shall provide for issuance of certifications of the type described in section 1860A(c)(2)(D).

“(2) LIMITATION ON BENEFIT ELIGIBILITY.—No payment shall be provided under this section with respect to an individual who is enrolled under a qualified retiree prescription drug plan unless the individual is—

“(A) enrolled under this part;

“(B) is covered under the plan; and

“(C) is eligible to obtain qualified prescription drug coverage under section 1860A but did not elect such coverage under this part (either through a prescription drug plan or through a Medicare+Choice plan).

“(3) DEFINITIONS.—As used in this section:

“(A) EMPLOYMENT-BASED RETIREE HEALTH COVERAGE.—The term ‘employment-based retiree health coverage’ means health insurance or other coverage of health care costs for individuals enrolled under this part (or for such individuals and their spouses and dependents) based on their status as former employees or labor union members.

“(B) SPONSOR.—The term ‘sponsor’ means a plan sponsor, as defined in section 3(16)(B) of the Employee Retirement Income Security Act of 1974.

“(g) GENERAL DEFINITIONS.—For purposes of this section:

“(1) QUALIFYING COVERED INDIVIDUAL.—The term ‘qualifying covered individual’ means an individual who—

“(A) is enrolled with a prescription drug plan under this part;

“(B) is enrolled with a Medicare+Choice plan that provides qualified prescription drug coverage under part C; or

“(C) is enrolled for benefits under this title and is covered under a qualified retiree prescription drug plan.

“(2) COVERAGE YEAR.—The term ‘coverage year’ means a calendar year in which covered outpatient drugs are dispensed if a claim for payment is made under the plan for such drugs, regardless of when the claim is paid.

“SEC. 1860I. MEDICARE PRESCRIPTION DRUG TRUST FUND.

“(a) IN GENERAL.—There is created on the books of the Treasury of the United States a trust fund to be known as the ‘Medicare Prescription Drug Trust Fund’ (in this section referred to as the ‘Trust Fund’). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1), and such amounts as may be deposited in, or appropriated to, such fund as provided in this part. Except as otherwise provided in this section, the provisions of subsections (b) through (i) of section 1841 shall apply to the Trust Fund in the same manner as they apply to the Federal Supplementary Medical Insurance Trust Fund under such section.

“(b) PAYMENTS FROM TRUST FUND.—

“(1) IN GENERAL.—The Managing Trustee shall pay from time to time from the Trust Fund such amounts as the Administrator certifies are necessary to make—

“(A) payments under section 1860G (relating to low-income subsidy payments);

“(B) payments under section 1860H (relating to subsidy payments); and

“(C) payments with respect to administrative expenses under this part in accordance with section 201(g).

“(2) TRANSFERS TO MEDICAID ACCOUNT FOR INCREASED ADMINISTRATIVE COSTS.—The Managing Trustee shall transfer from time to time from the Trust Fund to the Grants to States for Medicaid account amounts the Administrator certifies are attributable to increases in payment resulting from the application of a higher Federal matching percentage under section 1935(b).

“(c) DEPOSITS INTO TRUST FUND.—

“(1) LOW-INCOME TRANSFER.—There is hereby transferred to the Trust Fund, from amounts appropriated for Grants to States for Medicaid, amounts equivalent to the aggregate amount of the reductions in payments under section 1903(a)(1) attributable to the application of section 1935(c).

“(2) APPROPRIATIONS TO COVER GOVERNMENT CONTRIBUTIONS.—There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, to the Trust Fund, an amount equivalent to the amount of payments made from the Trust Fund under subsection (b), reduced by the amount transferred to the Trust Fund under paragraph (1).

“(d) RELATION TO SOLVENCY REQUIREMENTS.—Any provision of law that relates to the solvency of the Trust Fund under this part shall take into account the Trust Fund and amounts receivable by, or payable from, the Trust Fund.

“SEC. 1860J. DEFINITIONS; TREATMENT OF REFERENCES TO PROVISIONS IN PART C.

“(a) DEFINITIONS.—For purposes of this part:

“(1) COVERED OUTPATIENT DRUGS.—The term ‘covered outpatient drugs’ is defined in section 1860B(f).

“(2) INITIAL COVERAGE LIMIT.—The term ‘initial coverage limit’ means such limit as established under section 1860B(b)(3), or, in the case of coverage that is not standard coverage, the comparable limit (if any) established under the coverage.

“(3) MEDICARE PRESCRIPTION DRUG TRUST FUND.—The term ‘Medicare Prescription Drug Trust Fund’ means the Trust Fund created under section 1860I(a).

“(4) PDP SPONSOR.—The term ‘PDP sponsor’ means an entity that is certified under this part as meeting the requirements and standards of this part for such a sponsor.

“(5) PRESCRIPTION DRUG PLAN.—The term ‘prescription drug plan’ means health benefits coverage that—

“(A) is offered under a policy, contract, or plan by a PDP sponsor pursuant to, and in accordance with, a contract between the Administrator and the sponsor under section 1860D(b);

“(B) provides qualified prescription drug coverage; and

“(C) meets the applicable requirements of the section 1860C for a prescription drug plan.

“(6) QUALIFIED PRESCRIPTION DRUG COVERAGE.—The term ‘qualified prescription drug coverage’ is defined in section 1860B(a).

“(7) STANDARD COVERAGE.—The term ‘standard coverage’ is defined in section 1860B(b).

“(b) APPLICATION OF MEDICARE+CHOICE PROVISIONS UNDER THIS PART.—For purposes of applying provisions of part C under this part with respect to a prescription drug plan and a PDP sponsor, unless otherwise provided in this part such provisions shall be applied as if—

“(1) any reference to a Medicare+Choice plan included a reference to a prescription drug plan;

“(2) any reference to a provider-sponsored organization included a reference to a PDP sponsor;

“(3) any reference to a contract under section 1857 included a reference to a contract under section 1860D(b); and

“(4) any reference to part C included a reference to this part.”.

(b) ADDITIONAL CONFORMING CHANGES.—

(1) CONFORMING REFERENCES TO PREVIOUS PART D.—Any reference in law (in effect before the date of the enactment of this Act) to part D of title XVIII of the Social Security Act is deemed a reference to part E of such title (as in effect after such date).

(2) CONFORMING AMENDMENT PERMITTING WAIVER OF COST-SHARING.—Section 1128B(b)(3) (42 U.S.C. 1320a-7b(b)(3)) is amended—

(A) by striking “and” at the end of subparagraph (E);

(B) by striking the period at the end of subparagraph (F) and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(G) the waiver or reduction of any cost-sharing imposed under part D of title XVIII.”.

(3) SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this subtitle.

(c) STUDY ON TRANSITIONING PART B PRESCRIPTION DRUG COVERAGE.—Not later than January 1, 2004, the Medicare Benefits Administrator shall submit a report to Congress that makes recommendations regarding methods for providing benefits under part D of title XVIII of the Social Security Act for outpatient prescription drugs for which benefits are provided under part B of such title.

SEC. 102. OFFERING OF QUALIFIED PRESCRIPTION DRUG COVERAGE UNDER THE MEDICARE+CHOICE PROGRAM.

(a) IN GENERAL.—Section 1851 (42 U.S.C. 1395w-21) is amended by adding at the end the following new subsection:

“(j) AVAILABILITY OF PRESCRIPTION DRUG BENEFITS.—

“(1) OFFER OF QUALIFIED PRESCRIPTION DRUG COVERAGE.—

“(A) IN GENERAL.—A Medicare+Choice organization may not offer prescription drug coverage (other than that required under parts A and B) to an enrollee under a Medicare+Choice plan unless such drug coverage is at least qualified prescription drug coverage and unless the requirements of this subsection with respect to such coverage are met.

“(B) CONSTRUCTION.—Nothing in this subsection shall be construed as—

“(i) requiring a Medicare+Choice plan to include coverage of qualified prescription drug coverage; or

“(ii) permitting a Medicare+Choice organization from providing such coverage to an individual who has not elected such coverage under section 1860A(b).

For purposes of this part, an individual who has not elected qualified prescription drug coverage under section 1860A(b) shall be treated as being ineligible to enroll in a Medicare+Choice plan under this part that offers such coverage.

“(2) COMPLIANCE WITH ADDITIONAL BENEFICIARY PROTECTIONS.—With respect to the offering of qualified prescription drug coverage by a Medicare+Choice organization under a Medicare+Choice plan, the organization and plan shall meet the requirements of section 1860C, including requirements relating to information dissemination and grievance and appeals, in the same manner as they apply to a PDP sponsor and a prescription drug plan under part D and shall submit to the Administrator the information described in section 1860F(a)(2). The Administrator shall waive such requirements to the extent the Administrator determines that such requirements duplicate requirements otherwise applicable to the organization or plan under this part.

“(3) AVAILABILITY OF PREMIUM AND COST-SHARING SUBSIDIES FOR LOW-INCOME ENROLLEES AND DIRECT AND REINSURANCE SUBSIDY PAYMENTS FOR ORGANIZATIONS.—For provisions—

“(A) providing premium and cost-sharing subsidies to low-income individuals receiving qualified prescription drug coverage through a Medicare+Choice plan, see section 1860G; and

“(B) providing a Medicare+Choice organization with direct and insurance subsidy payments for providing qualified prescription drug coverage under this part, see section 1860H.

“(4) TRANSITION IN INITIAL ENROLLMENT PERIOD.—Notwithstanding any other provision of this part, the annual, coordinated election period under subsection (e)(3)(B) for 2005 shall be the 6-month period beginning with November 2004.

“(5) QUALIFIED PRESCRIPTION DRUG COVERAGE; STANDARD COVERAGE.—For purposes of this part, the terms ‘qualified prescription drug coverage’ and ‘standard coverage’ have the meanings given such terms in section 1860B.”.

(b) CONFORMING AMENDMENTS.—Section 1851 (42 U.S.C. 1395w-21) is amended—

(1) in subsection (a)(1)—

(A) by inserting “(other than qualified prescription drug benefits)” after “benefits”;

(B) by striking the period at the end of subparagraph (B) and inserting a comma; and

(C) by adding after and below subparagraph (B) the following:

“and may elect qualified prescription drug coverage in accordance with section 1860A.”; and

(2) in subsection (g)(1), by inserting “and section 1860A(c)(2)(B)” after “in this subsection”.

(c) **EFFECTIVE DATE.**—The amendments made by this section apply to coverage provided on or after January 1, 2005.

SEC. 103. MEDICAID AMENDMENTS.

(a) **DETERMINATIONS OF ELIGIBILITY FOR LOW-INCOME SUBSIDIES.**—

(1) **REQUIREMENT.**—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(A) by striking “and” at the end of paragraph (64);

(B) by striking the period at the end of paragraph (65) and inserting “; and”; and

(C) by inserting after paragraph (65) the following new paragraph:

“(66) provide for making eligibility determinations under section 1935(a).”.

(2) **NEW SECTION.**—Title XIX is further amended—

(A) by redesignating section 1935 as section 1936; and

(B) by inserting after section 1934 the following new section:

“SPECIAL PROVISIONS RELATING TO MEDICARE PRESCRIPTION DRUG BENEFIT

“SEC. 1935. (a) **REQUIREMENT FOR MAKING ELIGIBILITY DETERMINATIONS FOR LOW-INCOME SUBSIDIES.**—As a condition of its State plan under this title under section 1902(a)(66) and receipt of any Federal financial assistance under section 1903(a), a State shall—

“(1) make determinations of eligibility for premium and cost-sharing subsidies under (and in accordance with) section 1860G;

“(2) inform the Administrator of the Medicare Benefits Administration of such determinations in cases in which such eligibility is established; and

“(3) otherwise provide such Administrator with such information as may be required to carry out part D of title XVIII (including section 1860G).

“(b) **PAYMENTS FOR ADDITIONAL ADMINISTRATIVE COSTS.**—

“(1) **IN GENERAL.**—The amounts expended by a State in carrying out subsection (a) are, subject to paragraph (2), expenditures reimbursable under the appropriate paragraph of section 1903(a); except that, notwithstanding any other provision of such section, the applicable Federal matching rates with respect to such expenditures under such section shall be increased as follows (but in no case shall the rate as so increased exceed 100 percent):

“(A) For expenditures attributable to costs incurred during 2005, the otherwise applicable Federal matching rate shall be increased by 10 percent of the percentage otherwise payable (but for this subsection) by the State.

“(B)(i) For expenditures attributable to costs incurred during 2006 and each subsequent year through 2013, the otherwise applicable Federal matching rate shall be increased by the applicable percent (as defined in clause (ii)) of the percentage otherwise payable (but for this subsection) by the State.

“(ii) For purposes of clause (i), the ‘applicable percent’ for—

“(I) 2006 is 20 percent; or

“(II) a subsequent year is the applicable percent under this clause for the previous year increased by 10 percentage points.

“(C) For expenditures attributable to costs incurred after 2013, the otherwise applicable Federal matching rate shall be increased to 100 percent.

“(2) **COORDINATION.**—The State shall provide the Administrator with such information as may be necessary to properly allocate administrative expenditures described in paragraph (1) that may otherwise be made for similar eligibility determinations.”.

(b) **PHASED-IN FEDERAL ASSUMPTION OF MEDICAID RESPONSIBILITY FOR PREMIUM AND COST-SHARING SUBSIDIES FOR DUALY ELIGIBLE INDIVIDUALS.**—

(1) **IN GENERAL.**—Section 1903(a)(1) (42 U.S.C. 1396b(a)(1)) is amended by inserting before the semicolon the following: “, reduced by the amount computed under section 1935(c)(1) for the State and the quarter”.

(2) **AMOUNT DESCRIBED.**—Section 1935, as inserted by subsection (a)(2), is amended by adding at the end the following new subsection:

“(c) **FEDERAL ASSUMPTION OF MEDICAID PRESCRIPTION DRUG COSTS FOR DUALY-ELIGIBLE BENEFICIARIES.**—

“(1) **IN GENERAL.**—For purposes of section 1903(a)(1), for a State that is one of the 50 States or the District of Columbia for a calendar quarter in a year (beginning with 2005) the amount computed under this subsection is equal to the product of the following:

“(A) **MEDICARE SUBSIDIES.**—The total amount of payments made in the quarter under section 1860G (relating to premium and cost-sharing prescription drug subsidies for low-income medicare beneficiaries) that are attributable to individuals who are residents of the State and are entitled to benefits with respect to prescribed drugs under the State plan under this title (including such a plan operating under a waiver under section 1115).

“(B) **STATE MATCHING RATE.**—A proportion computed by subtracting from 100 percent the Federal medical assistance percentage (as defined in section 1905(b)) applicable to the State and the quarter.

“(C) **PHASE-OUT PROPORTION.**—The phase-out proportion (as defined in paragraph (2)) for the quarter.

“(2) **PHASE-OUT PROPORTION.**—For purposes of paragraph (1)(C), the ‘phase-out proportion’ for a calendar quarter in—

“(A) 2005 is 90 percent;

“(B) a subsequent year before 2014, is the phase-out proportion for calendar quarters in the previous year decreased by 10 percentage points; or

“(C) a year after 2013 is 0 percent.”.

(c) **MEDICAID PROVIDING WRAP-AROUND BENEFITS.**—Section 1935, as so inserted and amended, is further amended by adding at the end the following new subsection:

“(d) **ADDITIONAL PROVISIONS.**—

“(1) **MEDICAID AS SECONDARY PAYOR.**—In the case of an individual who is entitled to qualified prescription drug coverage under a prescription drug plan under part D of title XVIII (or under a Medicare+Choice plan under part C of such title) and medical assistance for prescribed drugs under this title, medical assistance shall continue to be provided under this title for prescribed drugs to the extent payment is not made under the prescription drug plan or the Medicare+Choice plan selected by the individual.

“(2) **CONDITION.**—A State may require, as a condition for the receipt of medical assistance under this title with respect to pre-

scription drug benefits for an individual eligible to obtain qualified prescription drug coverage described in paragraph (1), that the individual elect qualified prescription drug coverage under section 1860A.”.

(d) **TREATMENT OF TERRITORIES.**—

(1) **IN GENERAL.**—Section 1935, as so inserted and amended, is further amended—

(A) in subsection (a) in the matter preceding paragraph (1), by inserting “subject to subsection (e)” after “section 1903(a)”;

(B) in subsection (c)(1), by inserting “subject to subsection (e)” after “1903(a)(1)”; and

(C) by adding at the end the following new subsection:

“(e) **TREATMENT OF TERRITORIES.**—

“(1) **IN GENERAL.**—In the case of a State, other than the 50 States and the District of Columbia—

“(A) the previous provisions of this section shall not apply to residents of such State; and

“(B) if the State establishes a plan described in paragraph (2) (for providing medical assistance with respect to the provision of prescription drugs to medicare beneficiaries), the amount otherwise determined under section 1108(f) (as increased under section 1108(g)) for the State shall be increased by the amount specified in paragraph (3).

“(2) **PLAN.**—The plan described in this paragraph is a plan that—

“(A) provides medical assistance with respect to the provision of covered outpatient drugs (as defined in section 1860B(f)) to low-income medicare beneficiaries; and

“(B) assures that additional amounts received by the State that are attributable to the operation of this subsection are used only for such assistance.

“(3) **INCREASED AMOUNT.**—

“(A) **IN GENERAL.**—The amount specified in this paragraph for a State for a year is equal to the product of—

“(i) the aggregate amount specified in subparagraph (B); and

“(ii) the amount specified in section 1108(g)(1) for that State, divided by the sum of the amounts specified in such section for all such States.

“(B) **AGGREGATE AMOUNT.**—The aggregate amount specified in this subparagraph for—

“(i) 2005, is equal to \$20,000,000; or

“(ii) a subsequent year, is equal to the aggregate amount specified in this subparagraph for the previous year increased by annual percentage increase specified in section 1860B(b)(5) for the year involved.

“(4) **REPORT.**—The Administrator shall submit to Congress a report on the application of this subsection and may include in the report such recommendations as the Administrator deems appropriate.”.

(2) **CONFORMING AMENDMENT.**—Section 1108(f) (42 U.S.C. 1308(f)) is amended by inserting “and section 1935(e)(1)(B)” after “Subject to subsection (g)”.

SEC. 104. MEDIGAP TRANSITION.

(a) **IN GENERAL.**—Section 1882 (42 U.S.C. 1395ss) is amended by adding at the end the following new subsection:

“(v) **COVERAGE OF PRESCRIPTION DRUGS.**—

“(1) **IN GENERAL.**—Notwithstanding any other provision of law, except as provided in paragraph (3) no new medicare supplemental policy that provides coverage of expenses for prescription drugs may be issued under this section on or after January 1, 2005, to an individual unless it replaces a medicare supplemental policy that was issued to that individual and that provided some coverage of expenses for prescription drugs.

“(2) **ISSUANCE OF SUBSTITUTE POLICIES IF OBTAIN PRESCRIPTION DRUG COVERAGE UNDER PART D.**—

“(A) IN GENERAL.—The issuer of a medicare supplemental policy—

“(i) may not deny or condition the issuance or effectiveness of a medicare supplemental policy that has a benefit package classified as ‘A’, ‘B’, ‘C’, ‘D’, ‘E’, ‘F’, or ‘G’ (under the standards established under subsection (p)(2)) and that is offered and is available for issuance to new enrollees by such issuer;

“(ii) may not discriminate in the pricing of such policy, because of health status, claims experience, receipt of health care, or medical condition; and

“(iii) may not impose an exclusion of benefits based on a pre-existing condition under such policy,

in the case of an individual described in subparagraph (B) who seeks to enroll under the policy not later than 63 days after the date of the termination of enrollment described in such paragraph and who submits evidence of the date of termination or disenrollment along with the application for such medicare supplemental policy.

“(B) INDIVIDUAL COVERED.—An individual described in this subparagraph is an individual who—

“(i) enrolls in a prescription drug plan under part D; and

“(ii) at the time of such enrollment was enrolled and terminates enrollment in a medicare supplemental policy which has a benefit package classified as ‘H’, ‘I’, or ‘J’ under the standards referred to in subparagraph (A)(i) or terminates enrollment in a policy to which such standards do not apply but which provides benefits for prescription drugs.

“(C) ENFORCEMENT.—The provisions of paragraph (4) of subsection (s) shall apply with respect to the requirements of this paragraph in the same manner as they apply to the requirements of such subsection.

“(3) NEW STANDARDS.—In applying subsection (p)(1)(E) (including permitting the NAIC to revise its model regulations in response to changes in law) with respect to the change in benefits resulting from title I of the Medicare Modernization and Prescription Drug Act of 2002, with respect to policies issued to individuals who are enrolled under part D, the changes in standards shall provide for at least two benefit packages (other than the core benefit package) that may provide for coverage of cost-sharing with respect to qualified prescription drug coverage under such part, except that such coverage may not cover the prescription drug deductible under such part. Two benefit packages shall be consistent with the following:

“(A) FIRST NEW POLICY.—The policy described in this subparagraph has the following benefits, notwithstanding any other provision of this section relating to a core benefit package:

“(i) Coverage of 50 percent of the cost-sharing otherwise applicable, except coverage of 100 percent of any cost-sharing otherwise applicable for preventive benefits.

“(ii) No coverage of the part B deductible.

“(iii) Coverage for all hospital coinsurance for long stays (as in the current core benefit package).

“(iv) A limitation on annual out-of-pocket expenditures to \$4,000 in 2005 (or, in a subsequent year, to such limitation for the previous year increased by an appropriate inflation adjustment specified by the Secretary).

“(B) SECOND NEW POLICY.—The policy described in this subparagraph has the same benefits as the policy described in subparagraph (A), except as follows:

“(i) Substitute ‘75 percent’ for ‘50 percent’ in clause (i) of such subparagraph.

“(ii) Substitute ‘\$2,000’ for ‘\$4,000’ in clause (iv) of such subparagraph.

“(4) CONSTRUCTION.—Any provision in this section or in a medicare supplemental policy relating to guaranteed renewability of coverage shall be deemed to have been met through the offering of other coverage under this subsection.”.

SEC. 105. MEDICARE PRESCRIPTION DRUG DISCOUNT CARD ENDORSEMENT PROGRAM.

Title XVIII is amended by inserting after section 1806 the following new section:

“MEDICARE PRESCRIPTION DRUG DISCOUNT CARD ENDORSEMENT PROGRAM

“SEC. 1807. (a) IN GENERAL.—The Secretary (or the Medicare Benefits Administrator pursuant to section 1808(c)(3)(C)) shall establish a program—

“(1) to endorse prescription drug discount card programs that meet the requirements of this section; and

“(2) to make available to medicare beneficiaries information regarding such endorsed programs.

“(b) REQUIREMENTS FOR ENDORSEMENT.—The Secretary may not endorse a prescription drug discount card program under this section unless the program meets the following requirements:

“(1) SAVINGS TO MEDICARE BENEFICIARIES.—The program passes on to medicare beneficiaries who enroll in the program discounts on prescription drugs, including discounts negotiated with manufacturers.

“(2) PROHIBITION ON APPLICATION ONLY TO MAIL ORDER.—The program applies to drugs that are available other than solely through mail order.

“(3) BENEFICIARY SERVICES.—The program provides pharmaceutical support services, such as education and counseling, and services to prevent adverse drug interactions.

“(4) INFORMATION.—The program makes available to medicare beneficiaries through the Internet and otherwise information, including information on enrollment fees, prices charged to beneficiaries, and services offered under the program, that the Secretary identifies as being necessary to provide for informed choice by beneficiaries among endorsed programs.

“(5) DEMONSTRATED EXPERIENCE.—The entity operating the program has demonstrated experience and expertise in operating such a program or a similar program.

“(6) QUALITY ASSURANCE.—The entity has in place adequate procedures for assuring quality service under the program.

“(7) ADDITIONAL BENEFICIARY PROTECTIONS.—The program meets such additional requirements as the Secretary identifies to protect and promote the interest of medicare beneficiaries, including requirements that ensure that beneficiaries are not charged more than the lower of the negotiated retail price or the usual and customary price.

“(c) PROGRAM OPERATION.—The Secretary shall operate the program under this section consistent with the following:

“(1) PROMOTION OF INFORMED CHOICE.—In order to promote informed choice among endorsed prescription drug discount card programs, the Secretary shall provide for the dissemination of information which compares the costs and benefits of such programs in a manner coordinated with the dissemination of educational information on Medicare+Choice plans under part C.

“(2) OVERSIGHT.—The Secretary shall provide appropriate oversight to ensure compliance of endorsed programs with the require-

ments of this section, including verification of the discounts and services provided.

“(3) USE OF MEDICARE TOLL-FREE NUMBER.—The Secretary shall provide through the 1-800-medicare toll free telephone number for the receipt and response to inquiries and complaints concerning the program and programs endorsed under this section.

“(4) DISQUALIFICATION FOR ABUSIVE PRACTICES.—The Secretary shall revoke the endorsement of a program that the Secretary determines no longer meets the requirements of this section or that has engaged in false or misleading marketing practices.

“(5) ENROLLMENT PRACTICES.—A medicare beneficiary may not be enrolled in more than one endorsed program at any time.

“(d) TRANSITION.—The Secretary shall provide for an appropriate transition and discontinuation of the program under this section at the time prescription drug benefits first become available under part D.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the program under this section.”.

TITLE II—MEDICARE+CHOICE REVITALIZATION AND MEDICARE+CHOICE COMPETITION PROGRAM

Subtitle A—Medicare+Choice Revitalization

SEC. 201. MEDICARE+CHOICE IMPROVEMENTS.

(a) EQUALIZING PAYMENTS BETWEEN FEE-FOR-SERVICE AND MEDICARE+CHOICE.—

(1) IN GENERAL.—Section 1853(c)(1) (42 U.S.C. 1395w-23(c)(1)) is amended by adding at the end the following:

“(D) BASED ON 100 PERCENT OF FEE-FOR-SERVICE COSTS.—

“(i) IN GENERAL.—For 2003 and 2004, the adjusted average per capita cost for the year involved, determined under section 1876(a)(4) for the Medicare+Choice payment area for services covered under parts A and B for individuals entitled to benefits under part A and enrolled under part B who are not enrolled in a Medicare+Choice plan under this part for the year, but adjusted to exclude costs attributable to payments under section 1886(h).

“(ii) INCLUSION OF COSTS OF VA AND DOD MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES.—In determining the adjusted average per capita cost under clause (i) for a year, such cost shall be adjusted to include the Secretary's estimate, on a per capita basis, of the amount of additional payments that would have been made in the area involved under this title if individuals entitled to benefits under this title had not received services from facilities of the Department of Veterans Affairs or the Department of Defense.”.

(2) CONFORMING AMENDMENT.—Such section is further amended, in the matter before subparagraph (A), by striking “or (C)” and inserting “(C), or (D)”.

(b) REVISION OF BLEND.—

(1) REVISION OF NATIONAL AVERAGE USED IN CALCULATION OF BLEND.—Section 1853(c)(4)(B)(i)(II) (42 U.S.C. 1395w-23(c)(4)(B)(i)(II)) is amended by inserting “who (with respect to determinations for 2003 and for 2004) are enrolled in a Medicare+Choice plan” after “the average number of medicare beneficiaries”.

(2) CHANGE IN BUDGET NEUTRALITY.—Section 1853(c) (42 U.S.C. 1395w-23(c)) is amended—

(A) in paragraph (1)(A), by inserting “(for a year before 2003)” after “multiplied”; and

(B) in paragraph (5), by inserting “(before 2003)” after “for each year”.

(c) REVISION IN MINIMUM PERCENTAGE INCREASE FOR 2003 AND 2004.—Section

1853(c)(1)(C) (42 U.S.C. 1395w-23(c)(1)(C)) is amended by striking clause (iv) and inserting the following:

“(iv) For 2002, 102 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for 2001.

“(v) For 2003 and 2004, 103 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.

“(iv) For 2005 and each succeeding year, 102 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.”.

(d) INCLUSION OF COSTS OF DOD AND VA MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES IN CALCULATION OF MEDICARE+CHOICE PAYMENT RATES.—Section 1853(c)(3) (42 U.S.C. 1395w-23(c)(3)) is amended—

(1) in subparagraph (A), by striking “subparagraph (B)” and inserting “subparagraphs (B) and (E)”, and

(2) by adding at the end the following new subparagraph:

“(E) INCLUSION OF COSTS OF DOD AND VA MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES.—In determining the area-specific Medicare+Choice capitation rate under subparagraph (A) for a year (beginning with 2003), the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) shall be adjusted to include in the rate the Secretary’s estimate, on a per capita basis, of the amount of additional payments that would have been made in the area involved under this title if individuals entitled to benefits under this title had not received services from facilities of the Department of Defense or the Department of Veterans Affairs.”.

(e) ANNOUNCEMENT OF REVISED MEDICARE+CHOICE PAYMENT RATES.—Within 2 weeks after the date of the enactment of this Act, the Secretary shall determine, and shall announce (in a manner intended to provide notice to interested parties) Medicare+Choice capitation rates under section 1853 of the Social Security Act (42 U.S.C. 1395w-23) for 2003, revised in accordance with the provisions of this section.

(f) MEDPAC STUDY OF AAPCC.—

(1) STUDY.—The Medicare Payment Advisory Commission shall conduct a study that assesses the method used for determining the adjusted average per capita cost (AAPCC) under section 1876(a)(4) of the Social Security Act (42 U.S.C. 1395mm(a)(4)). Such study shall examine—

(A) the bases for variation in such costs between different areas, including differences in input prices, utilization, and practice patterns;

(B) the appropriate geographic area for payment under the Medicare+Choice program under part C of title XVIII of such Act; and

(C) the accuracy of risk adjustment methods in reflecting differences in costs of providing care to different groups of beneficiaries served under such program.

(2) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Commission shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include recommendations regarding changes in the methods for computing the adjusted average per capita cost among different areas.

SEC. 202. MAKING PERMANENT CHANGE IN MEDICARE+CHOICE REPORTING DEADLINES AND ANNUAL, COORDINATED ELECTION PERIOD.

(a) CHANGE IN REPORTING DEADLINE.—Section 1854(a)(1) (42 U.S.C. 1395w-24(a)(1)), as

amended by section 532(b)(1) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, is amended by striking “2002, 2003, and 2004 (or July 1 of each other year)” and inserting “2002 and each subsequent year (or July 1 of each year before 2002)”.

(b) DELAY IN ANNUAL, COORDINATED ELECTION PERIOD.—Section 1851(e)(3)(B) (42 U.S.C. 1395w-21(e)(3)(B)), as amended by section 532(c)(1)(A) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, is amended by striking “and after 2005, the month of November before such year and with respect to 2003, 2004, and 2005” and inserting “, the month of November before such year and with respect to 2003 and any subsequent year”.

(c) ANNUAL ANNOUNCEMENT OF PAYMENT RATES.—Section 1853(b)(1) (42 U.S.C. 1395w-23(b)(1)), as amended by section 532(d)(1) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, is amended by striking “and after 2005 not later than March 1 before the calendar year concerned and for 2004 and 2005” and inserting “not later than March 1 before the calendar year concerned and for 2004 and each subsequent year”.

(d) REQUIRING PROVISION OF AVAILABLE INFORMATION COMPARING PLAN OPTIONS.—The first sentence of section 1851(d)(2)(A)(ii) (42 U.S.C. 1395w-21(d)(2)(A)(ii)) is amended by inserting before the period the following: “to the extent such information is available at the time of preparation of materials for the mailing”.

SEC. 203. AVOIDING DUPLICATIVE STATE REGULATION.

(a) IN GENERAL.—Section 1856(b)(3) (42 U.S.C. 1395w-26(b)(3)) is amended to read as follows:

“(3) RELATION TO STATE LAWS.—The standards established under this subsection shall supersede any State law or regulation (other than State licensing laws or State laws relating to plan solvency) with respect to Medicare+Choice plans which are offered by Medicare+Choice organizations under this part.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 204. SPECIALIZED MEDICARE+CHOICE PLANS FOR SPECIAL NEEDS BENEFICIARIES.

(a) TREATMENT AS COORDINATED CARE PLAN.—Section 1851(a)(2)(A) (42 U.S.C. 1395w-21(a)(2)(A)) is amended by adding at the end the following new sentence: “Specialized Medicare+Choice plans for special needs beneficiaries (as defined in section 1859(b)(4)) may be any type of coordinated care plan.”.

(b) SPECIALIZED MEDICARE+CHOICE PLAN FOR SPECIAL NEEDS BENEFICIARIES DEFINED.—Section 1859(b) (42 U.S.C. 1395w-29(b)) is amended by adding at the end the following new paragraph:

“(4) SPECIALIZED MEDICARE+CHOICE PLANS FOR SPECIAL NEEDS BENEFICIARIES.—

“(A) IN GENERAL.—The term ‘specialized Medicare+Choice plan for special needs beneficiaries’ means a Medicare+Choice plan that exclusively serves special needs beneficiaries (as defined in subparagraph (B)).

“(B) SPECIAL NEEDS BENEFICIARY.—The term ‘special needs beneficiary’ means a Medicare+Choice eligible individual who—

“(i) is institutionalized (as defined by the Secretary);

“(ii) is entitled to medical assistance under a State plan under title XIX; or

“(iii) meets such requirements as the Secretary may determine would benefit from en-

rollment in such a specialized Medicare+Choice plan described in subparagraph (A) for individuals with severe or disabling chronic conditions.”.

(c) RESTRICTION ON ENROLLMENT PERMITTED.—Section 1859 (42 U.S.C. 1395w-29) is amended by adding at the end the following new subsection:

“(f) RESTRICTION ON ENROLLMENT FOR SPECIALIZED MEDICARE+CHOICE PLANS FOR SPECIAL NEEDS BENEFICIARIES.—In the case of a specialized Medicare+Choice plan (as defined in subsection (b)(4)), notwithstanding any other provision of this part and in accordance with regulations of the Secretary and for periods before January 1, 2007, the plan may restrict the enrollment of individuals under the plan to individuals who are within one or more classes of special needs beneficiaries.”.

(d) REPORT TO CONGRESS.—Not later than December 31, 2005, the Medicare Benefits Administrator shall submit to Congress a report that assesses the impact of specialized Medicare+Choice plans for special needs beneficiaries on the cost and quality of services provided to enrollees. Such report shall include an assessment of the costs and savings to the Medicare program as a result of amendments made by subsections (a), (b), and (c).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall take effect upon the date of the enactment of this Act.

(2) DEADLINE FOR ISSUANCE OF REQUIREMENTS FOR SPECIAL NEEDS BENEFICIARIES; TRANSITION.—No later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue final regulations to establish requirements for special needs beneficiaries under section 1859(b)(4)(B)(iii) of the Social Security Act, as added by subsection (b).

SEC. 205. MEDICARE MSAS.

(a) EXEMPTION FROM QUALITY ASSURANCE PROGRAM REQUIREMENT.—

(1) IN GENERAL.—Section 1852(e)(1) (42 U.S.C. 1395w-22(e)(1)) is amended by inserting “(other than MSA plans)” after “Medicare+Choice plans”.

(2) CONFORMING AMENDMENTS.—Section 1852 (42 U.S.C. 1395w-22) is amended—

(A) in subsection (c)(1)(I), by inserting before the period at the end the following: “if required under such section”; and

(B) in subparagraphs (A) and (B) of subsection (e)(2), by striking “, a non-network MSA plan,” and “, NON-NETWORK MSA PLANS,” each place it appears.

(b) MAKING PROGRAM PERMANENT AND ELIMINATING CAP.—Section 1851(b)(4) (42 U.S.C. 1395w-21(b)(4)) is amended—

(1) in the heading of subparagraph (A), by striking “ON A DEMONSTRATION BASIS”;

(2) by striking the first sentence of subparagraph (A); and

(3) by striking the second sentence of subparagraph (C).

(c) APPLYING LIMITATIONS ON BALANCE BILLING.—Section 1852(k)(1) (42 U.S.C. 1395w-22(k)(1)) is amended by inserting “or with an organization offering a MSA plan” after “section 1851(a)(2)(A)”.

(d) ADDITIONAL AMENDMENT.—Section 1851(e)(5)(A) (42 U.S.C. 1395w-21(e)(5)(A)) is amended—

(1) by adding “or” at the end of clause (i);

(2) by striking “, or” at the end of clause (ii) and inserting a semicolon; and

(3) by striking clause (iii).

SEC. 206. EXTENSION OF REASONABLE COST AND SHMO CONTRACTS.

(a) REASONABLE COST CONTRACTS.—

(1) IN GENERAL.—Section 1876(h)(5)(C) (42 U.S.C. 1395mm(h)(5)(C)) is amended—

(A) by inserting “(i)” after “(C)”;

(B) by inserting before the period the following: “, except (subject to clause (ii)) in the case of a contract for an area which is not covered in the service area of 1 or more coordinated care Medicare+Choice plans under part C”; and

(C) by adding at the end the following new clause:

“(ii) In the case in which—

“(I) a reasonable cost reimbursement contract includes an area in its service area as of a date that is after December 31, 2003;

“(II) such area is no longer included in such service area after such date by reason of the operation of clause (i) because of the inclusion of such area within the service area of a Medicare+Choice plan; and

“(III) all Medicare+Choice plans subsequently terminate coverage in such area;

such reasonable cost reimbursement contract may be extended and renewed to cover such area (so long as it is not included in the service area of any Medicare+Choice plan).”.

(2) STUDY.—The Medicare Benefits Administrator shall conduct a study of an appropriate transition for plans offered under reasonable cost contracts under section 1876 of the Social Security Act on and after January 1, 2005. Such a transition may take into account whether there are one or more coordinated care Medicare+Choice plans being offered in the areas involved. Not later than February 1, 2004, the Administrator shall submit to Congress a report on such study and shall include recommendations regarding any changes in the amendment made by paragraph (1) as the Administrator determines to be appropriate.

(b) EXTENSION OF SOCIAL HEALTH MAINTENANCE ORGANIZATION (SHMO) DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Section 4018(b)(1) of the Omnibus Budget Reconciliation Act of 1987 is amended by striking “the date that is 30 months after the date that the Secretary submits to Congress the report described in section 4014(c) of the Balanced Budget Act of 1997” and inserting “December 31, 2004”.

(2) SHMOs OFFERING MEDICARE+CHOICE PLANS.—Nothing in such section 4018 shall be construed as preventing a social health maintenance organization from offering a Medicare+Choice plan under part C of title XVIII of the Social Security Act.

Subtitle B—Medicare+Choice Competition Program

SEC. 211. MEDICARE+CHOICE COMPETITION PROGRAM.

(a) SUBMISSION OF BID AMOUNTS.—Section 1854 (42 U.S.C. 1395w–24) is amended—

(1) by amending the heading to read as follows:

“SUBMISSION OF BID AMOUNTS”;

(2) in subsection (a)(1)(A)—

(A) by striking “(A)” and inserting “(A)(i) if the following year is before 2005.”; and

(B) by inserting before the semicolon at the end the following: “ or (ii) if the following year is 2005 or later, the information described in paragraph (6)(A)”;

(3) by adding at the end of subsection (a) the following:

“(6) SUBMISSION OF BID AMOUNTS BY MEDICARE+CHOICE ORGANIZATIONS.—

“(A) INFORMATION TO BE SUBMITTED.—The information described in this subparagraph is as follows:

“(i) The monthly aggregate bid amount for provision of all items and services under this part and the actuarial basis for determining such amount.

“(ii) The proportions of such bid amount that are attributable to—

“(I) the provision of statutory non-drug benefits (such portion referred to in this part as the ‘unadjusted non-drug monthly bid amount’);

“(II) the provision of statutory prescription drug benefits; and

“(III) the provision of non-statutory benefits;

and the actuarial basis for determining such proportions.

“(iii) Such additional information as the Administrator may require to verify the actuarial bases described in clauses (i) and (ii).

“(B) STATUTORY BENEFITS DEFINED.—For purposes of this part:

“(i) The term ‘statutory non-drug benefits’ means benefits under parts A and B.

“(ii) The term ‘statutory prescription drug benefits’ means benefits under part D.

“(iii) The term ‘statutory benefits’ means statutory prescription drug benefits and statutory non-drug benefits.

“(C) ACCEPTANCE AND NEGOTIATION OF BID AMOUNTS.—The Administrator has the authority to negotiate regarding monthly bid amounts submitted under subparagraph (A) (and the proportion described in subparagraph (A)(ii)). The Administrator may reject such a bid amount or proportion if the Administrator determines that such amount or proportion is not supported by the actuarial bases provided under subparagraph (A).”.

(b) PROVIDING FOR BENEFICIARY SAVINGS FOR CERTAIN PLANS.—

(1) IN GENERAL.—Section 1854(b) (42 U.S.C. 1395w–24(b)) is amended—

(A) by adding at the end of paragraph (1) the following new subparagraph:

“(C) BENEFICIARY REBATE RULE.—

“(i) REQUIREMENT.—The Medicare+Choice plan shall provide to the enrollee a monthly rebate equal to 75 percent of the average per capita savings (if any) described in paragraph (3) applicable to the plan and year involved.

“(ii) FORM OF REBATE.—A rebate required under this subparagraph shall be provided—

“(I) through the crediting of the amount of the rebate towards the Medicare+Choice monthly supplementary beneficiary premium or the premium imposed for prescription drug coverage under part D;

“(II) through a direct monthly payment (through electronic funds transfer or otherwise); or

“(III) through other means approved by the Medicare Benefits Administrator,

or any combination thereof.”; and

(B) by adding at the end the following new paragraph:

“(3) COMPUTATION OF AVERAGE PER CAPITA MONTHLY SAVINGS.—For purposes of paragraph (1)(C)(i), the average per capita monthly savings referred to in such paragraph for a Medicare+Choice plan and year is computed as follows:

“(A) DETERMINATION OF STATE-WIDE AVERAGE RISK ADJUSTMENT.—

“(i) IN GENERAL.—The Medicare Benefits Administrator shall determine, at the same time rates are promulgated under section 1853(b)(1) (beginning with 2005), for each State the average of the risk adjustment factors to be applied to enrollees under section 1853(a)(1)(A) in that State. In the case of a State in which a Medicare+Choice plan was offered in the previous year, the Administrator may compute such average based upon risk adjustment factors applied in that State in a previous year.

“(ii) TREATMENT OF NEW STATES.—In the case of a State in which no Medicare+Choice

plan was offered in the previous year, the Administrator shall estimate such average. In making such estimate, the Administrator may use average risk adjustment factors applied to comparable States or applied on a national basis.

“(B) DETERMINATION OF RISK ADJUSTED BENCHMARK AND RISK-ADJUSTED BID.—For each Medicare+Choice plan offered in a State, the Administrator shall—

“(i) adjust the fee-for-service area-specific non-drug benchmark amount by the applicable average risk adjustment factor computed under subparagraph (A); and

“(ii) adjust the unadjusted non-drug monthly bid amount by such applicable average risk adjustment factor.

“(C) DETERMINATION OF AVERAGE PER CAPITA MONTHLY SAVINGS.—The average per capita monthly savings described in this subparagraph is equal to the amount (if any) by which—

“(i) the risk-adjusted benchmark amount computed under subparagraph (B)(i), exceeds

“(ii) the risk-adjusted bid computed under subparagraph (B)(ii).

“(D) AUTHORITY TO DETERMINE RISK ADJUSTMENT FOR AREAS OTHER THAN STATES.—The Administrator may provide for the determination and application of risk adjustment factors under this paragraph on the basis of areas other than States.”.

(2) COMPUTATION OF FEE-FOR-SERVICE AREA-SPECIFIC NON-DRUG BENCHMARK.—Section 1853 (42 U.S.C. 1395w–23) is amended by adding at the end the following new subsection:

“(j) COMPUTATION OF FEE-FOR-SERVICE AREA-SPECIFIC NON-DRUG BENCHMARK AMOUNT.—For purposes of this part, the term ‘fee-for-service area-specific non-drug benchmark amount’ means, with respect to a Medicare+Choice payment area for a month in a year, an amount equal to the greater of the following (but in no case less than ½ of the rate computed under subsection (c)(1), without regard to subparagraph (A), for the year):

“(1) BASED ON 100 PERCENT OF FEE-FOR-SERVICE COSTS IN THE AREA.—An amount equal to ½ of 100 percent (for 2005 through 2007, or 95 percent for 2008 and years thereafter) of the adjusted average per capita cost for the year involved, determined under section 1876(a)(4) for the Medicare+Choice payment area, for the area and the year involved, for services covered under parts A and B for individuals entitled to benefits under part A and enrolled under part B who are not enrolled in a Medicare+Choice plan under this part for the year, and adjusted to exclude from such cost the amount the Medicare Benefits Administrator estimates is payable for costs described in subclauses (I) and (II) of subsection (c)(3)(C)(i) for the year involved and also adjusted in the manner described in subsection (c)(1)(D)(ii) (relating to inclusion of costs of VA and DOD military facility services to medicare-eligible beneficiaries).

“(2) MINIMUM MONTHLY AMOUNT.—The minimum amount specified in this paragraph is the amount specified in subsection (c)(1)(B)(iv) for the year involved.”.

(c) PAYMENT OF PLANS BASED ON BID AMOUNTS.—

(1) IN GENERAL.—Section 1853(a)(1)(A) (42 U.S.C. 1395w–23) is amended by striking “in an amount” and all that follows and inserting the following: “in an amount determined as follows:

“(i) PAYMENT BEFORE 2005.—For years before 2005, the payment amount shall be equal to ½ of the annual Medicare+Choice capitation rate (as calculated under subsection (c)) with respect to that individual for that area,

reduced by the amount of any reduction elected under section 1854(f)(1)(E) and adjusted under clause (iii).

“(ii) PAYMENT FOR STATUTORY NON-DRUG BENEFITS BEGINNING WITH 2005.—For years beginning with 2005—

“(I) PLANS WITH BIDS BELOW BENCHMARK.—In the case of a plan for which there are average per capita monthly savings described in section 1854(b)(3)(C), the payment under this subsection is equal to the unadjusted non-drug monthly bid amount, adjusted under clause (iii), plus the amount of the monthly rebate computed under section 1854(b)(1)(C)(i) for that plan and year.

“(II) PLANS WITH BIDS AT OR ABOVE BENCHMARK.—In the case of a plan for which there are no average per capita monthly savings described in section 1854(b)(3)(C), the payment amount under this subsection is equal to the fee-for-service area-specific non-drug benchmark amount, adjusted under clause (iii).

“(iii) DEMOGRAPHIC ADJUSTMENT, INCLUDING ADJUSTMENT FOR HEALTH STATUS.—The Administrator shall adjust the payment amount under clause (i), the unadjusted non-drug monthly bid amount under clause (ii)(I), and the fee-for-service area-specific non-drug benchmark amount under clause (ii)(II) for such risk factors as age, disability status, gender, institutional status, and such other factors as the Administrator determines to be appropriate, including adjustment for health status under paragraph (3), so as to ensure actuarial equivalence. The Administrator may add to, modify, or substitute for such adjustment factors if such changes will improve the determination of actuarial equivalence.

“(iv) REFERENCE TO SUBSIDY PAYMENT FOR STATUTORY DRUG BENEFITS.—In the case in which an enrollee is enrolled under part D, the Medicare+Choice organization also is entitled to a subsidy payment amount under section 1860H.”.

(d) CONFORMING AMENDMENTS.—

(1) PROTECTION AGAINST BENEFICIARY SELECTION.—Section 1852(b)(1)(A) (42 U.S.C. 1395w-22(b)(1)(A)) is amended by adding at the end the following: “The Administrator shall not approve a plan of an organization if the Administrator determines that the benefits are designed to substantially discourage enrollment by certain Medicare+Choice eligible individuals with the organization.”.

(2) CONFORMING AMENDMENT TO PREMIUM TERMINOLOGY.—Subparagraphs (A) and (B) of section 1854(b)(2) (42 U.S.C. 1395w-24(b)(2)) are amended to read as follows:

“(A) MEDICARE+CHOICE MONTHLY BASIC BENEFICIARY PREMIUM.—The term ‘Medicare+Choice monthly basic beneficiary premium’ means, with respect to a Medicare+Choice plan—

“(i) described in section 1853(a)(1)(A)(ii)(I) (relating to plans providing rebates), zero; or

“(ii) described in section 1853(a)(1)(A)(ii)(II), the amount (if any) by which the unadjusted non-drug monthly bid amount exceeds the fee-for-service area-specific non-drug benchmark amount.

“(B) MEDICARE+CHOICE MONTHLY SUPPLEMENTAL BENEFICIARY PREMIUM.—The term ‘Medicare+Choice monthly supplemental beneficiary premium’ means, with respect to a Medicare+Choice plan, the portion of the aggregate monthly bid amount submitted under clause (i) of subsection (a)(6)(A) for the year that is attributable under such section to the provision of nonstatutory benefits.”.

(3) REQUIREMENT FOR UNIFORM BID AMOUNTS.—Section 1854(c) (42 U.S.C. 1395w-24(c)) is amended to read as follows:

“(c) UNIFORM BID AMOUNTS.—The Medicare+Choice monthly bid amount submitted under subsection (a)(6) of a Medicare+Choice organization under this part may not vary among individuals enrolled in the plan.”.

(4) PERMITTING BENEFICIARY REBATES.—

(A) Section 1851(h)(4)(A) (42 U.S.C. 1395w-21(h)(4)(A)) is amended by inserting “except as provided under section 1854(b)(1)(C)” after “or otherwise”.

(B) Section 1854(d) (42 U.S.C. 1395w-24(d)) is amended by inserting “, except as provided under subsection (b)(1)(C),” after “and may not provide”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and premiums for months beginning with January 2005.

SEC. 212. DEMONSTRATION PROGRAM FOR COMPETITIVE-DEMONSTRATION AREAS.

(a) IDENTIFICATION OF COMPETITIVE-DEMONSTRATION AREAS FOR DEMONSTRATION PROGRAM; COMPUTATION OF CHOICE NON-DRUG BENCHMARKS.—Section 1853, as amended by section 211(b)(2), is amended by adding at the end the following new subsection:

“(k) ESTABLISHMENT OF COMPETITIVE DEMONSTRATION PROGRAM.—

“(1) DESIGNATION OF COMPETITIVE-DEMONSTRATION AREAS AS PART OF PROGRAM.—

“(A) IN GENERAL.—For purposes of this part, the Administrator shall establish a demonstration program under which the Administrator designates Medicare+Choice areas as competitive-demonstration areas consistent with the following limitations:

“(i) LIMITATION ON NUMBER OF AREAS THAT MAY BE DESIGNATED.—The Administrator may not designate more than 4 areas as competitive-demonstration areas.

“(ii) LIMITATION ON PERIOD OF DESIGNATION OF ANY AREA.—The Administrator may not designate any area as a competitive-demonstration area for a period of more than 2 years.

The Administrator has the discretion to decide whether or not to designate as a competitive-demonstration area an area that qualifies for such designation.

“(B) QUALIFICATIONS FOR DESIGNATION.—For purposes of this title, a Medicare+Choice area (which is a metropolitan statistical area or other area with a substantial number of Medicare+Choice enrollees) may not be designated as a ‘competitive-demonstration area’ for a 2-year period beginning with a year unless the Administrator determines, by such date before the beginning of the year as the Administrator determines appropriate, that—

“(i) there will be offered during the open enrollment period under this part before the beginning of the year at least 2 Medicare+Choice plans (in addition to the fee-for-service program under parts A and B), each offered by a different Medicare+Choice organization; and

“(ii) during March of the previous year at least 50 percent of the number of Medicare+Choice eligible individuals who reside in the area were enrolled in a Medicare+Choice plan.

“(2) CHOICE NON-DRUG BENCHMARK AMOUNT.—For purposes of this part, the term ‘choice non-drug benchmark amount’ means, with respect to a Medicare+Choice payment area for a month in a year, the sum of the 2 components described in paragraph (3) for the area and year. The Administrator shall compute such benchmark amount for each competitive-demonstration area before the beginning of each annual, coordinated election period under section 1851(e)(3)(B) for

each year (beginning with 2005) in which it is designated as such an area.

“(3) 2 COMPONENTS.—For purposes of paragraph (2), the 2 components described in this paragraph for an area and a year are the following:

“(A) FEE-FOR-SERVICE COMPONENT WEIGHTED BY NATIONAL FEE-FOR-SERVICE MARKET SHARE.—The product of the following:

“(i) NATIONAL FEE-FOR-SERVICE MARKET SHARE.—The national fee-for-service market share percentage (determined under paragraph (5)) for the year.

“(ii) FEE-FOR-SERVICE AREA-SPECIFIC NON-DRUG BID.—The fee-for-service area-specific non-drug bid (as defined in paragraph (6)) for the area and year.

“(B) M+C COMPONENT WEIGHTED BY NATIONAL MEDICARE+CHOICE MARKET SHARE.—The product of the following:

“(i) NATIONAL MEDICARE+CHOICE MARKET SHARE.—1 minus the national fee-for-service market share percentage for the year.

“(ii) WEIGHTED AVERAGE OF PLAN BIDS IN AREA.—The weighted average of the plan bids for the area and year (as determined under paragraph (4)(A)).

“(4) DETERMINATION OF WEIGHTED AVERAGE BIDS FOR AN AREA.—

“(A) IN GENERAL.—For purposes of paragraph (3)(B)(ii), the weighted average of plan bids for an area and a year is the sum of the following products for Medicare+Choice plans described in subparagraph (C) in the area and year:

“(i) PROPORTION OF EACH PLAN’S ENROLLEES IN THE AREA.—The number of individuals described in subparagraph (B), divided by the total number of such individuals for all Medicare+Choice plans described in subparagraph (C) for that area and year.

“(ii) MONTHLY NON-DRUG BID AMOUNT.—The unadjusted non-drug monthly bid amount.

“(B) COUNTING OF INDIVIDUALS.—The Administrator shall count, for each Medicare+Choice plan described in subparagraph (C) for an area and year, the number of individuals who reside in the area and who were enrolled under such plan under this part during March of the previous year.

“(C) EXCLUSION OF PLANS NOT OFFERED IN PREVIOUS YEAR.—For an area and year, the Medicare+Choice plans described in this subparagraph are plans that are offered in the area and year and were offered in the area in March of the previous year.

“(5) COMPUTATION OF NATIONAL FEE-FOR-SERVICE MARKET SHARE PERCENTAGE.—The Administrator shall determine, for a year, the proportion (in this subsection referred to as the ‘national fee-for-service market share percentage’) of Medicare+Choice eligible individuals who during March of the previous year were not enrolled in a Medicare+Choice plan.

“(6) FEE-FOR-SERVICE AREA-SPECIFIC NON-DRUG BID.—For purposes of this part, the term ‘fee-for-service area-specific non-drug bid’ means, for an area and year, the amount described in section 1853(j)(1) for the area and year, except that any reference to a percent of less than 100 percent shall be deemed a reference to 100 percent.”.

(b) APPLICATION OF CHOICE NON-DRUG BENCHMARK IN COMPETITIVE-DEMONSTRATION AREAS.—

(1) IN GENERAL.—Section 1854 is amended—

(A) in subsection (b)(1)(C)(i), as added by section 211(b)(1)(A), by striking “(i) REQUIREMENT.—If” and inserting “(i) REQUIREMENT FOR NON-COMPETITIVE-DEMONSTRATION AREAS.—In the case of a Medicare+Choice payment area that is not a competitive-demonstration area designated under section 1853(k)(1), if”;

(B) in subsection (b)(1)(C), as so added, by inserting after clause (i) the following new clause:

“(ii) REQUIREMENT FOR COMPETITIVE-DEMONSTRATION AREAS.—In the case of a Medicare+Choice payment area that is designated as a competitive-demonstration area under section 1853(k)(1), if there are average per capita monthly savings described in paragraph (4) for a Medicare+Choice plan and year, the Medicare+Choice plan shall provide to the enrollee a monthly rebate equal to 75 percent of such savings.”;

(C) by adding at the end of subsection (b), as amended by section 211(b)(1), the following new paragraph:

“(4) COMPUTATION OF AVERAGE PER CAPITA MONTHLY SAVINGS FOR COMPETITIVE-DEMONSTRATION AREAS.—For purposes of paragraph (1)(C)(ii), the average per capita monthly savings referred to in such paragraph for a Medicare+Choice plan and year shall be computed in the same manner as the average per capita monthly savings is computed under paragraph (3) except that the reference to the fee-for-service area-specific non-drug benchmark in paragraph (3)(B)(i) (or to the benchmark amount as adjusted under paragraph (3)(C)(i)) is deemed to be a reference to the choice non-drug benchmark amount (or such amount as adjusted in the manner described in paragraph (3)(B)(i)).”; and

(D) in subsection (d), as amended by section 211(d)(4), by inserting “and subsection (b)(1)(D)” after “subsection (b)(1)(C).”.

(2) CONFORMING AMENDMENTS.—

(A) PAYMENT OF PLANS.—Section 1853(a)(1)(A)(ii), as amended by section 211(c)(1), is amended—

(i) in subclause (I), by inserting “(or, in the case of a competitive-demonstration area, the choice non-drug benchmark amount)” after “benchmark amount”; and

(ii) in subclauses (I) and (II), by inserting “(or, in the case of a competitive-demonstration area, described in section 1854(b)(4))” after “section 1854(b)(1)(C).”.

(B) DEFINITION OF MONTHLY BASIC PREMIUM.—Section 1854(b)(2)(A)(ii), as amended by section 211(d)(2), is amended by inserting “(or, in the case of a competitive-demonstration area, the choice non-drug benchmark amount)” after “benchmark amount”.

(C) PREMIUM ADJUSTMENT.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

“(h)(1) In the case of an individual who resides in a competitive-demonstration area designated under section 1851(k)(1) and who is not enrolled in a Medicare+Choice plan under part C, the monthly premium otherwise applied under this part (determined without regard to subsections (b) and (f) or any adjustment under this subsection) shall be adjusted as follows: If the fee-for-service area-specific non-drug bid (as defined in section 1853(k)(6)) for the Medicare+Choice area in which the individual resides for a month—

“(A) does not exceed the choice non-drug benchmark (as determined under section 1853(k)(2)) for such area, the amount of the premium for the individual for the month shall be reduced by an amount equal to 75 percent of the amount by which such benchmark exceeds such fee-for-service bid; or

“(B) exceeds such choice non-drug benchmark, the amount of the premium for the individual for the month shall be adjusted to ensure that—

“(i) the sum of the amount of the adjusted premium and the choice non-drug benchmark for the area, is equal to

“(ii) the sum of the unadjusted premium plus amount of the fee-for-service area-specific non-drug bid for the area.

“(2) Nothing in this subsection shall be construed as preventing a reduction under paragraph (1)(A) in the premium otherwise applicable under this part to zero or from requiring the provision of a rebate to the extent such premium would otherwise be required to be less than zero.

“(3) The adjustment in the premium under this subsection shall be effected in such manner as the Medicare Benefits Administrator determines appropriate.

“(4) In order to carry out this subsection (insofar as it is effected through the manner of collection of premiums under 1840(a)), the Medicare Benefits Administrator shall transmit to the Commissioner of Social Security—

“(A) at the beginning of each year, the name, social security account number, and the amount of the adjustment (if any) under this subsection for each individual enrolled under this part for each month during the year; and

“(B) periodically throughout the year, information to update the information previously transmitted under this paragraph for the year.”.

(d) CONFORMING AMENDMENT.—Section 1844(c) (42 U.S.C. 1395w(c)) is amended by inserting “and without regard to any premium adjustment effected under section 1839(h)” before the period at the end.

(e) REPORT ON DEMONSTRATION PROGRAM.—Not later than 6 months after the date on which the designation of the 4th competitive-demonstration area under section 1851(k)(1) of the Social Security Act ends, the Medicare Payment Advisory Commission shall submit to Congress a report on the impact of the demonstration program under the amendments made by this section, including such impact on premiums of medicare beneficiaries, savings to the medicare program, and on adverse selection.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and premiums for periods beginning on or after January 1, 2005.

SEC. 213. CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS RELATING TO BIDS.—

(1) Section 1854 (42 U.S.C. 1395w-24) is amended—

(A) in the heading by inserting “AND BID AMOUNTS” after “PREMIUMS”;

(B) in the heading of subsection (a), by inserting “AND BID AMOUNTS” after “PREMIUMS”; and

(C) in subsection (a)(5)(A), by inserting “paragraphs (2), (3), and (4) of” after “filed under”.

(b) ADDITIONAL CONFORMING AMENDMENTS.—

(1) ANNUAL DETERMINATION AND ANNOUNCEMENT OF CERTAIN FACTORS.—Section 1853(b) (42 U.S.C. 1395w-23(b)) is amended—

(A) in paragraph (1), by striking “the calendar year concerned” and all that follows and inserting the following: “the calendar year concerned with respect to each Medicare+Choice payment area, the following:

“(A) PRE-COMPETITION INFORMATION.—For years before 2005, the following:

“(i) MEDICARE+CHOICE CAPITATION RATES.—The annual Medicare+Choice capitation rate for each Medicare+Choice payment area for the year.

“(ii) ADJUSTMENT FACTORS.—The risk and other factors to be used in adjusting such rates under subsection (a)(1)(A) for payments for months in that year.

“(B) COMPETITION INFORMATION.—For years beginning with 2005, the following:

“(i) BENCHMARKS.—The fee-for-service area-specific non-drug benchmark under section 1853(j) and, if applicable, the choice non-drug benchmark under section 1853(k)(2), for the year involved and, if applicable, the national fee-for-service market share percentage.

“(ii) ADJUSTMENT FACTORS.—The adjustment factors applied under section 1853(a)(1)(A)(iii) (relating to demographic adjustment), section 1853(a)(1)(B) (relating to adjustment for end-stage renal disease), and section 1853(a)(3) (relating to health status adjustment).

“(iii) PROJECTED FEE-FOR-SERVICE BID.—In the case of a competitive area, the projected fee-for-service area-specific non-drug bid (as determined under subsection (k)(6)) for the area.

“(iv) INDIVIDUALS.—The number of individuals counted under subsection (k)(4)(B) and enrolled in each Medicare+Choice plan in the area.”; and

(B) in paragraph (3), by striking “in sufficient detail” and all that follows up to the period at the end.

(2) REPEAL OF PROVISIONS RELATING TO ADJUSTED COMMUNITY RATE (ACR).—

(A) IN GENERAL.—Subsections (e) and (f) of section 1854 (42 U.S.C. 1395w-24) are repealed.

(B) CONFORMING AMENDMENT.—Section 1839(a)(2) (42 U.S.C. 1395r(a)(2)) is amended by striking “, and to reflect” and all that follows and inserting a period.

(3) PROSPECTIVE IMPLEMENTATION OF NATIONAL COVERAGE DETERMINATIONS.—Section 1852(a)(5) (42 U.S.C. 1395w-22(a)(5)) is amended to read as follows:

“(5) PROSPECTIVE IMPLEMENTATION OF NATIONAL COVERAGE DETERMINATIONS.—The Secretary shall only implement a national coverage determination that will result in a significant change in the costs to a Medicare+Choice organization in a prospective manner that applies to announcements made under section 1853(b) after the date of the implementation of the determination.”.

(4) PERMITTING GEOGRAPHIC ADJUSTMENT TO CONSOLIDATE MULTIPLE MEDICARE+CHOICE PAYMENT AREAS IN A STATE INTO A SINGLE STATEWIDE MEDICARE+CHOICE PAYMENT AREA.—Section 1853(d)(3) (42 U.S.C. 1395w-23(e)(3)) is amended—

(A) by amending clause (i) of subparagraph (A) to read as follows:

“(i) to a single statewide Medicare+Choice payment area.”; and

(B) by amending subparagraph (B) to read as follows:

“(B) BUDGET NEUTRALITY ADJUSTMENT.—In the case of a State requesting an adjustment under this paragraph, the Medicare Benefits Administrator shall initially (and annually thereafter) adjust the payment rates otherwise established under this section for Medicare+Choice payment areas in the State in a manner so that the aggregate of the payments under this section in the State shall not exceed the aggregate payments that would have been made under this section for Medicare+Choice payment areas in the State in the absence of the adjustment under this paragraph.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and premiums for periods beginning on or after January 1, 2005.

TITLE III—RURAL HEALTH CARE IMPROVEMENTS

SEC. 301. REFERENCE TO FULL MARKET BASKET INCREASE FOR SOLE COMMUNITY HOSPITALS.

For provision eliminating any reduction from full market basket in the update for inpatient hospital services for sole community hospitals, see section 401.

SEC. 302. ENHANCED DISPROPORTIONATE SHARE HOSPITAL (DSH) TREATMENT FOR RURAL HOSPITALS AND URBAN HOSPITALS WITH FEWER THAN 100 BEDS.

(a) BLENDING OF PAYMENT AMOUNTS.—

(1) IN GENERAL.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended by adding at the end the following new clause:

“(xiv)(I) In the case of discharges in a fiscal year beginning on or after October 1, 2002, subject to subclause (II), there shall be substituted for the disproportionate share adjustment percentage otherwise determined under clause (iv) (other than subclause (I) or under clause (viii), (x), (xi), (xii), or (xiii), the old blend proportion (specified under subclause (III)) of the disproportionate share adjustment percentage otherwise determined under the respective clause and 100 percent minus such old blend proportion of the disproportionate share adjustment percentage determined under clause (vii) (relating to large, urban hospitals).

“(II) Under subclause (I), the disproportionate share adjustment percentage shall not exceed 10 percent for a hospital that is not classified as a rural referral center under subparagraph (C).

“(III) For purposes of subclause (I), the old blend proportion for fiscal year 2003 is 80 percent, for each subsequent year (through 2006) is the old blend proportion under this subclause for the previous year minus 20 percentage points, and for each year beginning with 2007 is 0 percent.”.

(2) CONFORMING AMENDMENTS.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(A) in each of subclauses (II), (III), (IV), (V), and (VI) of clause (iv), by inserting “subject to clause (xiv) and” before “for discharges occurring”;

(B) in clause (viii), by striking “The formula” and inserting “Subject to clause (xiv), the formula”; and

(C) in each of clauses (x), (xi), (xii), and (xiii), by striking “For purposes” and inserting “Subject to clause (xiv), for purposes”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to discharges occurring on or after October 1, 2002.

SEC. 303. 2-YEAR PHASED-IN INCREASE IN THE STANDARDIZED AMOUNT IN RURAL AND SMALL URBAN AREAS TO ACHIEVE A SINGLE, UNIFORM STANDARDIZED AMOUNT.

Section 1886(d)(3)(A)(iv) (42 U.S.C. 1395ww(d)(3)(A)(iv)) is amended—

(1) by striking “(iv) For discharges” and inserting “(iv)(I) Subject to the succeeding provisions of this clause, for discharges”; and

(2) by adding at the end the following new subclauses:

“(II) For discharges occurring during fiscal year 2003, the average standardized amount for hospitals located other than in a large urban area shall be increased by ½ of the difference between the average standardized amount determined under subclause (I) for hospitals located in large urban areas for such fiscal year and such amount determined (without regard to this subclause) for other hospitals for such fiscal year.

“(III) For discharges occurring in a fiscal year beginning with fiscal year 2004, the Sec-

retary shall compute an average standardized amount for hospitals located in any area within the United States and within each region equal to the average standardized amount computed for the previous fiscal year under this subparagraph for hospitals located in a large urban area (or, beginning with fiscal year 2005, for hospitals located in any area) increased by the applicable percentage increase under subsection (b)(3)(B)(i).”.

SEC. 304. MORE FREQUENT UPDATE IN WEIGHTS USED IN HOSPITAL MARKET BASKET.

(a) MORE FREQUENT UPDATES IN WEIGHTS.—After revising the weights used in the hospital market basket under section 1886(b)(3)(B)(iii) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(iii)) to reflect the most current data available, the Secretary shall establish a frequency for revising such weights in such market basket to reflect the most current data available more frequently than once every 5 years.

(b) REPORT.—Not later than October 1, 2003, the Secretary shall submit a report to Congress on the frequency established under subsection (a), including an explanation of the reasons for, and options considered, in determining such frequency.

SEC. 305. IMPROVEMENTS TO CRITICAL ACCESS HOSPITAL PROGRAM.

(a) REINSTATEMENT OF PERIODIC INTERIM PAYMENT (PIP).—Section 1815(e)(2) (42 U.S.C. 1395g(e)(2)) is amended—

(1) by striking “and” at the end of subparagraph (C);

(2) by adding “and” at the end of subparagraph (D); and

(3) by inserting after subparagraph (D) the following new subparagraph:

“(E) inpatient critical access hospital services.”.

(b) CONDITION FOR APPLICATION OF SPECIAL PHYSICIAN PAYMENT ADJUSTMENT.—Section 1834(g)(2) (42 U.S.C. 1395m(g)(2)) is amended by adding after and below subparagraph (B) the following:

“The Secretary may not require, as a condition for applying subparagraph (B) with respect to a critical access hospital, that each physician providing professional services in the hospital must assign billing rights with respect to such services, except that such subparagraph shall not apply to those physicians who have not assigned such billing rights.”.

(c) FLEXIBILITY IN BED LIMITATION FOR HOSPITALS WITH STRONG SEASONAL CENSUS FLUCTUATIONS.—Section 1820 (42 U.S.C. 1395i-4) is amended—

(1) in subsection (c)(2)(B)(iii), by inserting “subject to paragraph (3)” after “(iii) provides”;

(2) by adding at the end of subsection (c) the following new paragraph:

“(3) INCREASE IN MAXIMUM NUMBER OF BEDS FOR HOSPITALS WITH STRONG SEASONAL CENSUS FLUCTUATIONS.—

“(A) IN GENERAL.—In the case of a hospital that demonstrates that it meets the standards established under subparagraph (B), the bed limitations otherwise applicable under paragraph (2)(B)(iii) and subsection (f) shall be increased by 5 beds.

“(B) STANDARDS.—The Secretary shall specify standards for determining whether a critical access hospital has sufficiently strong seasonal variations in patient admissions to justify the increase in bed limitation provided under subparagraph (A).”; and

(3) in subsection (f), by adding at the end the following new sentence: “The limitations in numbers of beds under the first sentence

are subject to adjustment under subsection (c)(3).”.

(d) 5-YEAR EXTENSION OF THE AUTHORIZATION FOR APPROPRIATIONS FOR GRANT PROGRAM.—Section 1820(j) (42 U.S.C. 1395i-4(j)) is amended by striking “through 2002” and inserting “through 2007”.

(e) EFFECTIVE DATES.—

(1) REINSTATEMENT OF PIP.—The amendments made by subsection (a) shall apply to payments made on or after January 1, 2003.

(2) PHYSICIAN PAYMENT ADJUSTMENT CONDITION.—The amendment made by subsection (b) shall be effective as if included in the enactment of section 403(d) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (113 Stat. 1501A-371).

(3) FLEXIBILITY IN BED LIMITATION.—The amendments made by subsection (c) shall apply to designations made on or after January 1, 2003, but shall not apply to critical access hospitals that were designated as of such date.

SEC. 306. EXTENSION OF TEMPORARY INCREASE FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.

(a) IN GENERAL.—Section 508(a) BIPA (114 Stat. 2763A-533) is amended—

(1) by striking “24-MONTH INCREASE BEGINNING APRIL 1, 2001” and inserting “IN GENERAL”; and

(2) by striking “April 1, 2003” and inserting “January 1, 2005”.

(b) CONFORMING AMENDMENT.—Section 547(c)(2) of BIPA (114 Stat. 2763A-553) is amended by striking “the period beginning on April 1, 2001, and ending on September 30, 2002,” and inserting “a period under such section”.

SEC. 307. REFERENCE TO 10 PERCENT INCREASE IN PAYMENT FOR HOSPICE CARE FURNISHED IN A FRONTIER AREA AND RURAL HOSPICE DEMONSTRATION PROJECT.

For—

(1) provision of 10 percent increase in payment for hospice care furnished in a frontier area, see section 422; and

(2) provision of a rural hospice demonstration project, see section 423.

SEC. 308. REFERENCE TO PRIORITY FOR HOSPITALS LOCATED IN RURAL OR SMALL URBAN AREAS IN REDISTRIBUTION OF UNUSED GRADUATE MEDICAL EDUCATION RESIDENCIES.

For provision providing priority for hospitals located in rural or small urban areas in redistribution of unused graduate medical education residencies, see section 612.

SEC. 309. GAO STUDY OF GEOGRAPHIC DIFFERENCES IN PAYMENTS FOR PHYSICIANS' SERVICES.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of differences in payment amounts under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w-4) for physicians' services in different geographic areas. Such study shall include—

(1) an assessment of the validity of the geographic adjustment factors used for each component of the fee schedule;

(2) an evaluation of the measures used for such adjustment, including the frequency of revisions; and

(3) an evaluation of the methods used to determine professional liability insurance costs used in computing the malpractice component, including a review of increases in professional liability insurance premiums and variation in such increases by State and physician specialty and methods used to update the geographic cost of practice index and relative weights for the malpractice component.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a). The report shall include recommendations regarding the use of more current data in computing geographic cost of practice indices as well as the use of data directly representative of physicians' costs (rather than proxy measures of such costs).

SEC. 310. PROVIDING SAFE HARBOR FOR CERTAIN COLLABORATIVE EFFORTS THAT BENEFIT MEDICALLY UNDERSERVED POPULATIONS.

(a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C. 1320a-7(b)(3)) is amended—

(1) in subparagraph (E), by striking “and” after the semicolon at the end;

(2) in subparagraph (F), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

“(G) any remuneration between a public or nonprofit private health center entity described under clause (i) or (ii) of section 1905(l)(2)(B) and any individual or entity providing goods, items, services, donations or loans, or a combination thereof, to such health center entity pursuant to a contract, lease, grant, loan, or other agreement, if such agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center entity.”.

(b) RULEMAKING FOR EXCEPTION FOR HEALTH CENTER ENTITY ARRANGEMENTS.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary of Health and Human Services (in this subsection referred to as the “Secretary”) shall establish, on an expedited basis, standards relating to the exception described in section 1128B(b)(3)(G) of the Social Security Act, as added by subsection (a), for health center entity arrangements to the antikickback penalties.

(B) FACTORS TO CONSIDER.—The Secretary shall consider the following factors, among others, in establishing standards relating to the exception for health center entity arrangements under subparagraph (A):

(i) Whether the arrangement between the health center entity and the other party results in savings of Federal grant funds or increased revenues to the health center entity.

(ii) Whether the arrangement between the health center entity and the other party expands or enhances a patient's freedom of choice.

(iii) Whether the arrangement between the health center entity and the other party protects a health care professional's independent medical judgment regarding medically appropriate treatment.

The Secretary may also include other standards and criteria that are consistent with the intent of Congress in enacting the exception established under this section.

(2) INTERIM FINAL EFFECT.—No later than 180 days after the date of enactment of this Act, the Secretary shall publish a rule in the Federal Register consistent with the factors under paragraph (1)(B). Such rule shall be effective and final immediately on an interim basis, subject to such change and revision, after public notice and opportunity (for a period of not more than 60 days) for public comment, as is consistent with this subsection.

TITLE IV—PROVISIONS RELATING TO PART A

Subtitle A—Inpatient Hospital Services

SEC. 401. REVISION OF ACUTE CARE HOSPITAL PAYMENT UPDATES.

Subclause (XVIII) of section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended to read as follows:

“(XVIII) for fiscal year 2003, the market basket percentage increase for sole community hospitals and such increase minus 0.25 percentage points for other hospitals, and”.

SEC. 402. 2-YEAR INCREASE IN LEVEL OF ADJUSTMENT FOR INDIRECT COSTS OF MEDICAL EDUCATION (IME).

Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) in subclause (VI) by striking “and” at the end;

(2) by redesignating subclause (VII) as subclause (IX);

(3) in subclause (VIII) as so redesignated, by striking “2002” and inserting “2004”; and

(4) by inserting after subclause (VI) the following new subclause:

“(VII) during fiscal year 2003, ‘c’ is equal to 1.47;

“(VIII) during fiscal year 2004, ‘c’ is equal to 1.45; and”.

SEC. 403. RECOGNITION OF NEW MEDICAL TECHNOLOGIES UNDER INPATIENT HOSPITAL PPS.

(a) IMPROVING TIMELINESS OF DATA COLLECTION.—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)) is amended by adding at the end the following new clause:

“(vii) Under the mechanism under this subparagraph, the Secretary shall provide for the addition of new diagnosis and procedure codes in April 1 of each year, but the addition of such codes shall not require the Secretary to adjust the payment (or diagnosis-related group classification) under this subsection until the fiscal year that begins after such date.”.

(b) ELIGIBILITY STANDARD.—

(1) MINIMUM PERIOD FOR RECOGNITION OF NEW TECHNOLOGIES.—Section 1886(d)(5)(K)(vi) (42 U.S.C. 1395ww(d)(5)(K)(vi)) is amended—

(A) by inserting “(I)” after “(vi)”; and

(B) by adding at the end the following new subclause:

“(II) Under such criteria, a service or technology shall not be denied treatment as a new service or technology on the basis of the period of time in which the service or technology has been in use if such period ends before the end of the 2-to-3-year period that begins on the effective date of implementation of a code under ICD-9-CM (or a successor coding methodology) that enables the identification of a significant sample of specific discharges in which the service or technology has been used.”.

(2) ADJUSTMENT OF THRESHOLD.—Section 1886(d)(5)(K)(ii)(I) (42 U.S.C. 1395ww(d)(5)(K)(ii)(I)) is amended by inserting—

“(applying a threshold specified by the Secretary that is the lesser of 50 percent of the national average standardized amount for operating costs of inpatient hospital services for all hospitals and all diagnosis-related groups or one standard deviation for the diagnosis-related group involved)” after “is inadequate”.

(3) CRITERION FOR SUBSTANTIAL IMPROVEMENT.—Section 1886(d)(5)(K)(vi) (42 U.S.C. 1395ww(d)(5)(K)(vi)) is amended by paragraph (1), is further amended by adding at the end the following subclause:

“(III) The Secretary shall by regulation provide for further clarification of the criteria applied to determine whether a new service or technology represents an advance

in medical technology that substantially improves the diagnosis or treatment of beneficiaries. Under such criteria, in determining whether a new service or technology represents an advance in medical technology that substantially improves the diagnosis or treatment of beneficiaries, the Secretary shall deem a service or technology as meeting such requirement if the service or technology is a drug or biological that is designated under section 506 or 526 of the Federal Food, Drug, and Cosmetic Act, approved under section 314.510 or 601.41 of title 21, Code of Federal Regulations, or designated for priority review when the marketing application for such drug or biological was filed or is a medical device for which an exemption has been granted under section 520(m) of such Act, for which priority review has been provided under section 515(d)(5) of such Act, or is a substantially equivalent device for which an expedited review is provided under section 513(f) of such Act.”.

(4) PROCESS FOR PUBLIC INPUT.—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)), as amended by paragraph (1), is amended—

(A) in clause (i), by adding at the end the following: “Such mechanism shall be modified to meet the requirements of clause (viii).”; and

(B) by adding at the end the following new clause:

“(viii) The mechanism established pursuant to clause (i) shall be adjusted to provide, before publication of a proposed rule, for public input regarding whether a new service or technology not described in the second sentence of clause (vi)(III) represents an advance in medical technology that substantially improves the diagnosis or treatment of beneficiaries as follows:

“(I) The Secretary shall make public and periodically update a list of all the services and technologies for which an application for additional payment under this subparagraph is pending.

“(II) The Secretary shall accept comments, recommendations, and data from the public regarding whether the service or technology represents a substantial improvement.

“(III) The Secretary shall provide for a meeting at which organizations representing hospitals, physicians, medicare beneficiaries, manufacturers, and any other interested party may present comments, recommendations, and data to the clinical staff of the Centers for Medicare & Medicaid Services before publication of a notice of proposed rulemaking regarding whether service or technology represents a substantial improvement.”.

(c) PREFERENCE FOR USE OF DRG ADJUSTMENT.—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)) is further amended by adding at the end the following new clause:

“(ix) Before establishing any add-on payment under this subparagraph with respect to a new technology, the Secretary shall seek to identify one or more diagnosis-related groups associated with such technology, based on similar clinical or anatomical characteristics and the cost of the technology. Within such groups the Secretary shall assign an eligible new technology into a diagnosis-related group where the average costs of care most closely approximate the costs of care of using the new technology. In such case, no add-on payment under this subparagraph shall be made with respect to such new technology and this clause shall not affect the application of paragraph (4)(C)(iii).”.

(d) IMPROVEMENT IN PAYMENT FOR NEW TECHNOLOGY.—Section 1886(d)(5)(K)(ii)(III) (42 U.S.C. 1395ww(d)(5)(K)(ii)(III)) is amended by

inserting after “the estimated average cost of such service or technology” the following: “(based on the marginal rate applied to costs under subparagraph (A))”.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The Secretary shall implement the amendments made by this section so that they apply to classification for fiscal years beginning with fiscal year 2004.

(2) RECONSIDERATIONS OF APPLICATIONS FOR FISCAL YEAR 2003 THAT ARE DENIED.—In the case of an application for a classification of a medical service or technology as a new medical service or technology under section 1886(d)(5)(K) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(K)) that was filed for fiscal year 2003 and that is denied—

(A) the Secretary shall automatically reconsider the application as an application for fiscal year 2004 under the amendments made by this section; and

(B) the maximum time period otherwise permitted for such classification of the service or technology shall be extended by 12 months.

SEC. 404. PHASE-IN OF FEDERAL RATE FOR HOSPITALS IN PUERTO RICO.

Section 1886(d)(9) (42 U.S.C. 1395ww(d)(9)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking “for discharges beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987, and September 30, 1997, 75 percent)” and inserting “the applicable Puerto Rico percentage (specified in subparagraph (E))”; and

(B) in clause (ii), by striking “for discharges beginning in a fiscal year beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987, and September 30, 1997, 25 percent)” and inserting “the applicable Federal percentage (specified in subparagraph (E))”; and

(2) by adding at the end the following new subparagraph:

“(E) For purposes of subparagraph (A), for discharges occurring—

“(i) between October 1, 1987, and September 30, 1997, the applicable Puerto Rico percentage is 75 percent and the applicable Federal percentage is 25 percent;

“(ii) on or after October 1, 1997, and before October 1, 2003, the applicable Puerto Rico percentage is 50 percent and the applicable Federal percentage is 50 percent;

“(iii) during fiscal year 2004, the applicable Puerto Rico percentage is 45 percent and the applicable Federal percentage is 55 percent;

“(iv) during fiscal year 2005, the applicable Puerto Rico percentage is 40 percent and the applicable Federal percentage is 60 percent;

“(v) during fiscal year 2006, the applicable Puerto Rico percentage is 35 percent and the applicable Federal percentage is 65 percent;

“(vi) during fiscal year 2007, the applicable Puerto Rico percentage is 30 percent and the applicable Federal percentage is 70 percent; and

“(vii) on or after October 1, 2007, the applicable Puerto Rico percentage is 25 percent and the applicable Federal percentage is 75 percent.”.

SEC. 405. REFERENCE TO PROVISION RELATING TO ENHANCED DISPROPORTIONATE SHARE HOSPITAL (DSH) PAYMENTS FOR RURAL HOSPITALS AND URBAN HOSPITALS WITH FEWER THAN 100 BEDS.

For provision enhancing disproportionate share hospital (DSH) treatment for rural hospitals and urban hospitals with fewer than 100 beds, see section 302.

SEC. 406. REFERENCE TO PROVISION RELATING TO 2-YEAR PHASE-IN INCREASE IN THE STANDARDIZED AMOUNT IN RURAL AND SMALL URBAN AREAS TO ACHIEVE A SINGLE, UNIFORM STANDARDIZED AMOUNT.

For provision phasing in over a 2-year period an increase in the standardized amount for rural and small urban areas to achieve a single, uniform, standardized amount, see section 303.

SEC. 407. REFERENCE TO PROVISION FOR MORE FREQUENT UPDATES IN THE WEIGHTS USED IN HOSPITAL MARKET BASKET.

For provision providing for more frequent updates in the weights used in hospital market basket, see section 304.

SEC. 408. REFERENCE TO PROVISION MAKING IMPROVEMENTS TO CRITICAL ACCESS HOSPITAL PROGRAM.

For provision providing making improvements to critical access hospital program, see section 305.

Subtitle B—Skilled Nursing Facility Services

SEC. 411. PAYMENT FOR COVERED SKILLED NURSING FACILITY SERVICES.

(a) TEMPORARY INCREASE IN NURSING COMPONENT OF PPS FEDERAL RATE.—Section 312(a) of BIPA is amended by adding at the end the following new sentence: “The Secretary of Health and Human Services shall increase by 8 percent the nursing component of the case-mix adjusted Federal prospective payment rate specified in Tables 3 and 4 of the final rule published in the Federal Register by the Health Care Financing Administration on July 31, 2000 (65 Fed. Reg. 46770) and as subsequently updated under section 1888(e)(4)(E)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(4)(E)(ii)), effective for services furnished on or after October 1, 2002, and before October 1, 2005.”.

(b) ADJUSTMENT TO RUGS FOR AIDS RESIDENTS.—

(1) IN GENERAL.—Paragraph (12) of section 1888(e) (42 U.S.C. 1395yy(e)) is amended to read as follows:

“(12) ADJUSTMENT FOR RESIDENTS WITH AIDS.—

“(A) IN GENERAL.—Subject to subparagraph (B), in the case of a resident of a skilled nursing facility who is afflicted with acquired immune deficiency syndrome (AIDS), the per diem amount of payment otherwise applicable shall be increased by 128 percent to reflect increased costs associated with such residents.

“(B) SUNSET.—Subparagraph (A) shall not apply on and after such date as the Secretary certifies that there is an appropriate adjustment in the case mix under paragraph (4)(G)(i) to compensate for the increased costs associated with residents described in such subparagraph.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after October 1, 2003.

Subtitle C—Hospice

SEC. 421. COVERAGE OF HOSPICE CONSULTATION SERVICES.

(a) COVERAGE OF HOSPICE CONSULTATION SERVICES.—Section 1812(a) (42 U.S.C. 1395d(a)) is amended—

(1) by striking “and” at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting “; and”; and

(3) by inserting after paragraph (4) the following new paragraph:

“(5) for individuals who are terminally ill, have not made an election under subsection (d)(1), and have not have previously received services under this paragraph, services that

are furnished by a physician who is the medical director or an employee of a hospice program and that consist of—

“(A) an evaluation of the individual’s need for pain and symptom management;

“(B) counseling the individual with respect to end-of-life issues and care options; and

“(C) advising the individual regarding advanced care planning.”.

(b) PAYMENT.—Section 1814(i) (42 U.S.C. 1395f(i)) is amended by adding at the end the following new paragraph:

“(4) The amount paid to a hospice program with respect to the services under section 1812(a)(5) for which payment may be made under this part shall be equal to an amount equivalent to the amount established for an office or other outpatient visit for evaluation and management associated with presenting problems of moderate severity under the fee schedule established under section 1848(b), other than the portion of such amount attributable to the practice expense component.”.

(c) CONFORMING AMENDMENT.—Section 1861(dd)(2)(A)(i) (42 U.S.C. 1395x(dd)(2)(A)(i)) is amended by inserting before the comma at the end the following: “and services described in section 1812(a)(5)”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services provided by a hospice program on or after January 1, 2004.

SEC. 422. 10 PERCENT INCREASE IN PAYMENT FOR HOSPICE CARE FURNISHED IN A FRONTIER AREA.

(a) IN GENERAL.—Section 1814(i)(1) (42 U.S.C. 1395f(i)(1)) is amended by adding at the end the following new subparagraph:

“(D) With respect to hospice care furnished in a frontier area on or after January 1, 2003, and before January 1, 2008, the payment rates otherwise established for such care shall be increased by 10 percent. For purposes of this subparagraph, the term ‘frontier area’ means a county in which the population density is less than 7 persons per square mile.”.

(b) REPORT ON COSTS.—Not later than January 1, 2007, the Comptroller General of the United States shall submit to Congress a report on the costs of furnishing hospice care in frontier areas. Such report shall include recommendations regarding the appropriateness of extending, and modifying, the payment increase provided under the amendment made by subsection (a).

SEC. 423. RURAL HOSPICE DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary shall conduct a demonstration project for the delivery of hospice care to medicare beneficiaries in rural areas. Under the project medicare beneficiaries who are unable to receive hospice care in the home for lack of an appropriate caregiver are provided such care in a facility of 20 or fewer beds which offers, within its walls, the full range of services provided by hospice programs under section 1861(dd) of the Social Security Act (42 U.S.C. 1395x(dd)).

(b) SCOPE OF PROJECT.—The Secretary shall conduct the project under this section with respect to no more than 3 hospice programs over a period of not longer than 5 years each.

(c) COMPLIANCE WITH CONDITIONS.—Under the demonstration project—

(1) the hospice program shall comply with otherwise applicable requirements, except that it shall not be required to offer services outside of the home or to meet the requirements of section 1861(dd)(2)(A)(iii) of the Social Security Act; and

(2) payments for hospice care shall be made at the rates otherwise applicable to such care under title XVIII of such Act. The Secretary may require the program to comply with such additional quality assurance standards for its provision of services in its facility as the Secretary deems appropriate.

(d) REPORT.—Upon completion of the project, the Secretary shall submit a report to Congress on the project and shall include in the report recommendations regarding extension of such project to hospice programs serving rural areas.

Subtitle D—Other Provisions

SEC. 431. DEMONSTRATION PROJECT FOR USE OF RECOVERY AUDIT CONTRACTORS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a demonstration project under this section (in this section referred to as the “project”) to demonstrate the use of recovery audit contractors under the Medicare Integrity Program in identifying and recouping overpayments under the medicare program for services for which payment is made under part A of title XVIII of the Social Security Act. Under the project—

(1) payment may be made to such a contractor on a contingent basis;

(2) a percentage of the amount recovered may be retained by the Secretary and shall be available to the program management account of the Centers for Medicare & Medicaid Services; and

(3) the Secretary shall examine the efficacy of such use with respect to duplicative payments, accuracy of coding, and other payment policies in which overpayments arise.

(b) SCOPE AND DURATION.—The project shall cover at least 2 States and at least 3 contractors and shall last for not longer than 3 years.

(c) WAIVER.—The Secretary of Health and Human Services shall waive such provisions of title XVIII of the Social Security Act as may be necessary to provide for payment for services under the project in accordance with subsection (a).

(d) QUALIFICATIONS OF CONTRACTORS.—

(1) IN GENERAL.—The Secretary shall enter into a recovery audit contract under this section with an entity only if the entity has staff that has knowledge of and experience with the payment rules and regulations under the medicare program or the entity has or will contract with another entity that has such knowledgeable and experienced staff.

(2) INELIGIBILITY OF CERTAIN CONTRACTORS.—The Secretary may not enter into a recovery audit contract under this section with an entity to the extent that the entity is a fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h), a carrier under section 1842 of such Act (42 U.S.C. 1395u), or a Medicare Administrative Contractor under section 1874A of such Act, or any other entity that carries out the type of activities with respect to providers of services under part A that would constitute a conflict of interest, as determined by the Secretary.

(3) PREFERENCE FOR ENTITIES WITH DEMONSTRATED PROFICIENCY WITH PRIVATE INSURERS.—In awarding contracts to recovery audit contractors under this section, the Secretary shall give preference to those entities that the Secretary determines have demonstrated proficiency in recovery audits with private insurers or under the medicare program under title XIX of such Act.

(e) REPORT.—The Secretary of Health and Human Services shall submit to Congress a

report on the project not later than 6 months after the date of its completion. Such reports shall include information on the impact of the project on savings to the medicare program and recommendations on the cost-effectiveness of extending or expanding the project.

TITLE V—PROVISIONS RELATING TO PART B

Subtitle A—Physicians’ Services

SEC. 501. REVISION OF UPDATES FOR PHYSICIANS’ SERVICES.

(a) UPDATE FOR 2003 THROUGH 2005.—

(1) IN GENERAL.—Section 1848(d) (42 U.S.C. 1395w-4(d)) is amended by adding at the end the following new paragraphs:

“(5) UPDATE FOR 2003.—The update to the single conversion factor established in paragraph (1)(C) for 2003 is 2 percent.

“(6) SPECIAL RULES FOR UPDATE FOR 2004 AND 2005.—The following rules apply in determining the update adjustment factors under paragraph (4)(B) for 2004 and 2005:

“(A) USE OF 2002 DATA IN DETERMINING ALLOWABLE COSTS.—

“(i) The reference in clause (ii)(I) of such paragraph to April 1, 1996, is deemed to be a reference to January 1, 2002.

“(ii) The allowed expenditures for 2002 is deemed to be equal to the actual expenditures for physicians’ services furnished during 2002, as estimated by the Secretary.

“(B) 1 PERCENTAGE POINT INCREASE IN GDP UNDER SGR.—The annual average percentage growth in real gross domestic product per capita under subsection (f)(2)(C) for each of 2003, 2004, and 2005 is deemed to be increased by 1 percentage point.”.

(2) CONFORMING AMENDMENT.—Paragraph (4)(B) of such section is amended, in the matter before clause (i), by inserting “and paragraph (6)” after “subparagraph (D)”.

(b) USE OF 10-YEAR ROLLING AVERAGE IN COMPUTING GROSS DOMESTIC PRODUCT.—

(1) IN GENERAL.—Section 1848(f)(2)(C) (42 U.S.C. 1395w-4(f)(2)(C)) is amended—

(A) by striking “projected” and inserting “annual average”; and

(B) by striking “from the previous applicable period to the applicable period involved” and inserting “during the 10-year period ending with the applicable period involved”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to computations of the sustainable growth rate for years beginning with 2002.

(c) ELIMINATION OF TRANSITIONAL ADJUSTMENT.—Section 1848(d)(4)(F) (42 U.S.C. 1395w-4(d)(4)(F)) is amended by striking “subparagraph (A)” and all that follows and inserting “subparagraph (A), for each of 2001 and 2002, of -0.2 percent.”

SEC. 502. STUDIES ON ACCESS TO PHYSICIANS’ SERVICES.

(a) GAO STUDY ON BENEFICIARY ACCESS TO PHYSICIANS’ SERVICES.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on access of medicare beneficiaries to physicians’ services under the medicare program. The study shall include—

(A) an assessment of the use by beneficiaries of such services through an analysis of claims submitted by physicians for such services under part B of the medicare program;

(B) an examination of changes in the use by beneficiaries of physicians’ services over time;

(C) an examination of the extent to which physicians are not accepting new medicare beneficiaries as patients.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the

Comptroller General shall submit to Congress a report on the study conducted under paragraph (1). The report shall include a determination whether—

(A) data from claims submitted by physicians under part B of the medicare program indicate potential access problems for medicare beneficiaries in certain geographic areas; and

(B) access by medicare beneficiaries to physicians’ services may have improved, remained constant, or deteriorated over time.

(b) STUDY AND REPORT ON SUPPLY OF PHYSICIANS.—

(1) STUDY.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to conduct a study on the adequacy of the supply of physicians (including specialists) in the United States and the factors that affect such supply.

(2) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the study described in paragraph (1), including any recommendations for legislation.

SEC. 503. MEDPAC REPORT ON PAYMENT FOR PHYSICIANS’ SERVICES.

Not later than 1 year after the date of the enactment of this Act, the Medicare Payment Advisory Commission shall submit to Congress a report on the effect of refinements to the practice expense component of payments for physicians’ services in the case of services for which there are no physician work relative value units, after the transition to a full resource-based payment system in 2002, under section 1848 of the Social Security Act (42 U.S.C. 1395w-4). Such report shall examine the following matters by physician specialty:

(1) The effect of such refinements on payment for physicians’ services.

(2) The interaction of the practice expense component with other components of and adjustments to payment for physicians’ services under such section.

(3) The appropriateness of the amount of compensation by reason of such refinements.

(4) The effect of such refinements on access to care by medicare beneficiaries to physicians’ services.

(5) The effect of such refinements on physician participation under the medicare program.

Subtitle B—Other Services

SEC. 511. COMPETITIVE ACQUISITION OF CERTAIN ITEMS AND SERVICES.

(a) IN GENERAL.—Section 1847 (42 U.S.C. 1395w-3) is amended to read as follows:

“COMPETITIVE ACQUISITION OF CERTAIN ITEMS AND SERVICES

“SEC. 1847. (a) ESTABLISHMENT OF COMPETITIVE ACQUISITION PROGRAMS.—

“(1) IMPLEMENTATION OF PROGRAMS.—

“(A) IN GENERAL.—The Secretary shall establish and implement programs under which competitive acquisition areas are established throughout the United States for contract award purposes for the furnishing under this part of competitively priced items and services (described in paragraph (2)) for which payment is made under this part. Such areas may differ for different items and services.

“(B) PHASED-IN IMPLEMENTATION.—The programs shall be phased-in among competitive acquisition areas over a period of not longer than 3 years in a manner so that the competition under the programs occurs in—

“(i) at least ⅓ of such areas in 2004; and

“(ii) at least ⅔ of such areas in 2005.

“(C) WAIVER OF CERTAIN PROVISIONS.—In carrying out the programs, the Secretary

may waive such provisions of the Federal Acquisition Regulation as are necessary for the efficient implementation of this section, other than provisions relating to confidentiality of information and such other provisions as the Secretary determines appropriate.

“(2) ITEMS AND SERVICES DESCRIBED.—The items and services referred to in paragraph (1) are the following:

“(A) DURABLE MEDICAL EQUIPMENT AND INHALATION DRUGS USED IN CONNECTION WITH DURABLE MEDICAL EQUIPMENT.—Covered items (as defined in section 1834(a)(13)) for which payment is otherwise made under section 1834(a), other than items used in infusion, and inhalation drugs used in conjunction with durable medical equipment.

“(B) OFF-THE-SHELF ORTHOTICS.—Orthotics (described in section 1861(s)(9)) for which payment is otherwise made under section 1834(h) which require minimal self-adjustment for appropriate use and does not require expertise in trimming, bending, molding, assembling, or customizing to fit to the patient.

“(3) EXEMPTION AUTHORITY.—In carrying out the programs under this section, the Secretary may exempt—

“(A) areas that are not competitive due to low population density; and

“(B) items and services for which the application of competitive acquisition is not likely to result in significant savings.

“(b) PROGRAM REQUIREMENTS.—

“(1) IN GENERAL.—The Secretary shall conduct a competition among entities supplying items and services described in subsection (a)(2) for each competitive acquisition area in which the program is implemented under subsection (a) with respect to such items and services.

“(2) CONDITIONS FOR AWARDED CONTRACT.—

“(A) IN GENERAL.—The Secretary may not award a contract to any entity under the competition conducted in a competitive acquisition area pursuant to paragraph (1) to furnish such items or services unless the Secretary finds all of the following:

“(i) The entity meets quality and financial standards specified by the Secretary or developed by accreditation entities or organizations recognized by the Secretary.

“(ii) The total amounts to be paid under the contract (including costs associated with the administration of the contract) are expected to be less than the total amounts that would otherwise be paid.

“(iii) Beneficiary access to a choice of multiple suppliers in the area is maintained.

“(iv) Beneficiary liability is limited to the applicable percentage of contract award price.

“(B) QUALITY STANDARDS.—The quality standards specified under subparagraph (A)(i) shall not be less than the quality standards that would otherwise apply if this section did not apply and shall include consumer services standards. The Secretary shall consult with an expert outside advisory panel composed of an appropriate selection of representatives of physicians, practitioners, and suppliers to review (and advise the Secretary concerning) such quality standards.

“(3) CONTENTS OF CONTRACT.—

“(A) IN GENERAL.—A contract entered into with an entity under the competition conducted pursuant to paragraph (1) is subject to terms and conditions that the Secretary may specify.

“(B) TERM OF CONTRACTS.—The Secretary shall rebid contracts under this section not less often than once every 3 years.

“(4) LIMIT ON NUMBER OF CONTRACTORS.—

“(A) IN GENERAL.—The Secretary may limit the number of contractors in a competitive acquisition area to the number needed to meet projected demand for items and services covered under the contracts. In awarding contracts, the Secretary shall take into account the ability bidding entities to furnish items or services in sufficient quantities to meet the anticipated needs of beneficiaries for such items or services in the geographic area covered under the contract on a timely basis.

“(B) MULTIPLE WINNERS.—The Secretary shall award contracts to more than one entity submitting a bid in each area for an item or service.

“(5) PARTICIPATING CONTRACTORS.—Payment shall not be made for items and services described in subsection (a)(2) furnished by a contractor and for which competition is conducted under this section unless—

“(A) the contractor has submitted a bid for such items and services under this section; and

“(B) the Secretary has awarded a contract to the contractor for such items and services under this section.

“(6) AUTHORITY TO CONTRACT FOR EDUCATION, OUTREACH AND COMPLAINT SERVICES.—The Secretary may enter into a contract with an appropriate entity to address complaints from beneficiaries who receive items and services from an entity with a contract under this section and to conduct appropriate education of and outreach to such beneficiaries with respect to the program.

“(c) ANNUAL REPORTS.—The Secretary shall submit to Congress an annual management report on the programs under this section. Each such report shall include information on savings, reductions in cost-sharing, access to items and services, and beneficiary satisfaction.

“(d) DEMONSTRATION PROJECT FOR CLINICAL LABORATORY SERVICES.—

“(1) IN GENERAL.—The Secretary shall conduct a demonstration project on the application of competitive acquisition under this section to clinical diagnostic laboratory tests—

“(A) for which payment is otherwise made under section 1833(h) or 1834(d)(1) (relating to colorectal cancer screening tests); and

“(B) which are furnished without a face-to-face encounter between the individual and the hospital or physician ordering the tests.

“(2) TERMS AND CONDITIONS.—Such project shall be under the same conditions as are applicable to items and services described in subsection (a)(2).

“(3) REPORT.—The Secretary shall submit to Congress—

“(A) an initial report on the project not later than December 31, 2004; and

“(B) such progress and final reports on the project after such date as the Secretary determines appropriate.”

(b) CONTINUATION OF CERTAIN DEMONSTRATION PROJECTS.—Notwithstanding the amendment made by subsection (a), with respect to demonstration projects implemented by the Secretary under section 1847 of the Social Security Act (42 U.S.C. 1395w-3) (relating to the establishment of competitive acquisition areas) that was in effect on the day before the date of the enactment of this Act, each such demonstration project may continue under the same terms and conditions applicable under that section as in effect on that date.

(c) REPORT ON DIFFERENCES IN PAYMENT FOR LABORATORY SERVICES.—Not later than 18 months after the date of the enactment of

this Act, the Comptroller General of the United States shall submit to Congress a report that analyzes differences in reimbursement between public and private payors for clinical diagnostic laboratory services.

SEC. 512. PAYMENT FOR AMBULANCE SERVICES.

(a) PHASE-IN PROVIDING FLOOR USING BLEND OF FEE SCHEDULE AND REGIONAL FEE SCHEDULES.—Section 1834(l) (42 U.S.C. 1395m(l)) is amended—

(1) in paragraph (2)(E), by inserting “consistent with paragraph (10)” after “in an efficient and fair manner”;

(2) by redesignating the paragraph (8) added by section 221(a) of BIPA as paragraph (9); and

(3) by adding at the end the following new paragraph:

“(10) PHASE-IN PROVIDING FLOOR USING BLEND OF FEE SCHEDULE AND REGIONAL FEE SCHEDULES.—In carrying out the phase-in under paragraph (2)(E) for each level of service furnished in a year before January 1, 2007, the portion of the payment amount that is based on the fee schedule shall not be less than the following blended rate of the fee schedule under paragraph (1) and of a regional fee schedule for the region involved:

“(A) For 2003, the blended rate shall be based 20 percent on the fee schedule under paragraph (1) and 80 percent on the regional fee schedule.

“(B) For 2004, the blended rate shall be based 40 percent on the fee schedule under paragraph (1) and 60 percent on the regional fee schedule.

“(C) For 2005, the blended rate shall be based 60 percent on the fee schedule under paragraph (1) and 40 percent on the regional fee schedule.

“(D) For 2006, the blended rate shall be based 80 percent on the fee schedule under paragraph (1) and 20 percent on the regional fee schedule.

For purposes of this paragraph, the Secretary shall establish a regional fee schedule for each of the 9 Census divisions using the methodology (used in establishing the fee schedule under paragraph (1)) to calculate a regional conversion factor and a regional mileage payment rate and using the same payment adjustments and the same relative value units as used in the fee schedule under such paragraph.”

(b) ADJUSTMENT IN PAYMENT FOR CERTAIN LONG TRIPS.—Section 1834(l), as amended by subsection (a), is further amended by adding at the end the following new paragraph:

“(11) ADJUSTMENT IN PAYMENT FOR CERTAIN LONG TRIPS.—In the case of ground ambulance services furnished on or after January 1, 2003, and before January 1, 2008, regardless of where the transportation originates, the fee schedule established under this subsection shall provide that, with respect to the payment rate for mileage for a trip above 50 miles the per mile rate otherwise established shall be increased by $\frac{1}{4}$ of the payment per mile otherwise applicable to such miles.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to ambulance services furnished on or after January 1, 2003.

SEC. 513. 1-YEAR EXTENSION OF MORATORIUM ON THERAPY CAPS; PROVISIONS RELATING TO REPORTS.

(a) 1-YEAR EXTENSION OF MORATORIUM ON THERAPY CAPS.—Section 1833(g)(4) (42 U.S.C. 1395l(g)(4)) is amended by striking “and 2002” and inserting “2002 and 2003”.

(b) PROMPT SUBMISSION OF OVERDUE REPORTS ON PAYMENT AND UTILIZATION OF OUTPATIENT THERAPY SERVICES.—Not later than

December 31, 2002, the Secretary shall submit to Congress the reports required under section 4541(d)(2) of the Balanced Budget Act of 1997 (relating to alternatives to a single annual dollar cap on outpatient therapy) and under section 221(d) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (relating to utilization patterns for outpatient therapy).

(c) IDENTIFICATION OF CONDITIONS AND DISEASES JUSTIFYING WAIVER OF THERAPY CAP.—

(1) STUDY.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to identify conditions or diseases that should justify conducting an assessment of the need to waive the therapy caps under section 1833(g)(4) of the Social Security Act (42 U.S.C. 1395l(g)(4)).

(2) REPORTS TO CONGRESS.—Not later than July 1, 2003, the Secretary shall submit to Congress a preliminary report on the conditions and diseases identified under paragraph (1) and not later than September 1, 2003, a final report on the conditions and diseases so identified.

(d) GAO STUDY OF PATIENT ACCESS TO PHYSICAL THERAPIST SERVICES.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on access to physical therapist services in States authorizing such services without a physician referral and in States that require such a physician referral. The study shall—

(A) examine the use of and referral patterns for physical therapist services for patients age 50 and older in States that authorize such services without a physician referral and in States that require such a physician referral;

(B) examine the use of and referral patterns for physical therapist services for patients who are medicare beneficiaries; and

(C) examine the delivery of physical therapists' services within the facilities of Department of Defense; and

(D) analyze the potential impact on medicare beneficiaries and on expenditures under the medicare program of eliminating the need for a physician referral for physical therapist services under the medicare program.

(2) REPORT.—The Comptroller General shall submit to Congress a report on the study conducted under paragraph (1) by not later than 1 year after the date of the enactment of this Act.

SEC. 514. ACCELERATED IMPLEMENTATION OF 20 PERCENT COINSURANCE FOR HOSPITAL OUTPATIENT DEPARTMENT (OPD) SERVICES; OTHER OPD PROVISIONS.

(a) ACCELERATED IMPLEMENTATION OF COINSURANCE REDUCTIONS.—Section 1833(t)(8)(C)(ii) (42 U.S.C. 1395l(t)(8)(C)(ii)) is amended by striking subclauses (III) through (V) and inserting the following:

“(III) For procedures performed in 2004, 45 percent.

“(IV) For procedures performed in 2005, 40 percent.

“(V) For procedures performed in 2006, 2007, 2008 and 2009, 35 percent.

“(VI) For procedures performed in 2010, 30 percent.

“(VII) For procedures performed in 2011, 25 percent.

“(VIII) For procedures performed in 2012 and thereafter, 20 percent.”

(b) TREATMENT OF TEMPERATURE MONITORED CRYOABLATION.—

(1) IN GENERAL.—Section 1833(t)(6)(A)(ii) (42 U.S.C. 1395l(t)(6)(A)(ii)) is amended by striking “or temperature monitored cryoablation”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) applies to payment for services furnished on or after January 1, 2003.

SEC. 515. COVERAGE OF AN INITIAL PREVENTIVE PHYSICAL EXAMINATION.

(a) COVERAGE.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), is amended—

(1) in subparagraph (U), by striking “and” at the end;

(2) in subparagraph (V), by inserting “and” at the end; and

(3) by adding at the end the following new subparagraph:

“(W) an initial preventive physical examination (as defined in subsection (ww));”.

(b) SERVICES DESCRIBED.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

“Initial Preventive Physical Examination

“(ww) The term ‘initial preventive physical examination’ means physicians’ services consisting of a physical examination with the goal of health promotion and disease detection and includes items and services specified by the Secretary in regulations.”.

(c) PAYMENT AS PHYSICIANS’ SERVICES.—Section 1848(j)(3) (42 U.S.C. 1395w-4(j)(3)) by inserting “(2)(W),” after “(2)(S),”.

(d) OTHER CONFORMING AMENDMENTS.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) in paragraph (1)—

(A) by striking “and” at the end of subparagraph (H);

(B) by striking the semicolon at the end of subparagraph (I) and inserting “, and”; and

(C) by adding at the end the following new subparagraph:

“(J) in the case of an initial preventive physical examination, which is performed not later than 6 months after the date the individual’s first coverage period begins under part B;” and

(2) in paragraph (7), by striking “or (H)” and inserting “(H), or (J)”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2004, but only for individuals whose coverage period begins on or after such date.

SEC. 516. RENAL DIALYSIS SERVICES.

(a) REPORT ON DIFFERENCES IN COSTS IN DIFFERENT SETTINGS.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report containing—

(1) an analysis of the differences in costs of providing renal dialysis services under the medicare program in home settings and in facility settings;

(2) an assessment of the percentage of overhead costs in home settings and in facility settings; and

(3) an evaluation of whether the charges for home dialysis supplies and equipment are reasonable and necessary.

(b) RESTORING COMPOSITE RATE EXCEPTIONS FOR PEDIATRIC FACILITIES.—

(1) IN GENERAL.—Section 422(a)(2) of BIPA is amended—

(A) in subparagraph (A), by striking “and (C)” and inserting “, (C), and (D)”;

(B) in subparagraph (B), by striking “In the case” and inserting “Subject to subparagraph (D), in the case”; and

(C) by adding at the end the following new subparagraph:

“(D) INAPPLICABILITY TO PEDIATRIC FACILITIES.—Subparagraphs (A) and (B) shall not apply, as of October 1, 2002, to pediatric facilities that do not have an exception rate described in subparagraph (C) in effect on such date. For purposes of this subparagraph, the term ‘pediatric facility’ means a

renal facility at least 50 percent of whose patients are individuals under 18 years of age.”.

(2) CONFORMING AMENDMENT.—The fourth sentence of section 1881(b)(7) (42 U.S.C. 1395rr(b)(7)) is amended by striking “The Secretary” and inserting “Subject to section 422(a)(2) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, the Secretary”.

(c) INCREASE IN RENAL DIALYSIS COMPOSITE RATE FOR SERVICES FURNISHED IN 2004.—Notwithstanding any other provision of law, with respect to payment under part B of title XVIII of the Social Security Act for renal dialysis services furnished in 2004, the composite payment rate otherwise established under section 1881(b)(7) of such Act (42 U.S.C. 1395rr(b)(7)) shall be increased by 1.2 percent.

TITLE VI—PROVISIONS RELATING TO PARTS A AND B

Subtitle A—Home Health Services

SEC. 601. ELIMINATION OF 15 PERCENT REDUCTION IN PAYMENT RATES UNDER THE PROSPECTIVE PAYMENT SYSTEM.

(a) IN GENERAL.—Section 1895(b)(3)(A) (42 U.S.C. 1395fff(b)(3)(A)) is amended to read as follows:

“(A) INITIAL BASIS.—Under such system the Secretary shall provide for computation of a standard prospective payment amount (or amounts) as follows:

“(i) Such amount (or amounts) shall initially be based on the most current audited cost report data available to the Secretary and shall be computed in a manner so that the total amounts payable under the system for fiscal year 2001 shall be equal to the total amount that would have been made if the system had not been in effect and if section 1861(v)(1)(L)(ix) had not been enacted.

“(ii) For fiscal year 2002 and for the first quarter of fiscal year 2003, such amount (or amounts) shall be equal to the amount (or amounts) determined under this paragraph for the previous fiscal year, updated under subparagraph (B).

“(iii) For 2003, such amount (or amounts) shall be equal to the amount (or amounts) determined under this paragraph for fiscal year 2002, updated under subparagraph (B) for 2003.

“(iv) For 2004 and each subsequent year, such amount (or amounts) shall be equal to the amount (or amounts) determined under this paragraph for the previous year, updated under subparagraph (B).

Each such amount shall be standardized in a manner that eliminates the effect of variations in relative case mix and area wage adjustments among different home health agencies in a budget neutral manner consistent with the case mix and wage level adjustments provided under paragraph (4)(A). Under the system, the Secretary may recognize regional differences or differences based upon whether or not the services or agency are in an urbanized area.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 501 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106-554).

SEC. 602. ESTABLISHMENT OF REDUCED COPAYMENT FOR A HOME HEALTH SERVICE EPISODE OF CARE FOR CERTAIN BENEFICIARIES.

(a) PART A.—

(1) IN GENERAL.—Section 1813(a) (42 U.S.C. 1395e(a)) is amended by adding at the end the following new paragraph:

“(5)(A)(i) Subject to clause (ii), the amount payable for home health services furnished

to the individual under this title for each episode of care beginning in a year (beginning with 2003) shall be reduced by a copayment equal to the copayment amount specified in subparagraph (B)(ii) such year.

“(ii) The copayment under clause (i) shall not apply—

“(I) in the case of an individual who has been determined to be a qualified medicare beneficiary (as defined in section 1905(p)(1)) or otherwise to be entitled to medical assistance under section 1902(a)(10)(A) or 1902(a)(10)(C); and

“(II) in the case of an episode of care which consists of 4 or fewer visits.

“(B)(i) The Secretary shall estimate, before the beginning of each year (beginning with 2003), the national average payment under this title per episode for home health services projected for the year involved.

“(ii) For each year the copayment amount under this clause is equal to 1.5 percent of the national average payment estimated for the year involved under clause (i). Any amount determined under the preceding sentence which is not a multiple of \$5 shall be rounded to the nearest multiple of \$5.

“(iii) There shall be no administrative or judicial review under section 1869, 1878, or otherwise of the estimation of average payment under clause (i).”.

(2) **TIMELY IMPLEMENTATION.**—Unless the Secretary of Health and Human Services otherwise provides on a timely basis, the copayment amount specified under section 1813(a)(5)(B)(ii) of the Social Security Act (as added by paragraph (1)) for 2003 shall be deemed to be \$40.

(b) **CONFORMING PROVISIONS.**—

(1) Section 1833(a)(2)(A) (42 U.S.C. 1395l(a)(2)(A)) is amended by inserting “less the copayment amount applicable under section 1813(a)(5)” after “1895”.

(2) Section 1866(a)(2)(A)(i) (42 U.S.C. 1395cc(a)(2)(A)(i)) is amended—

(A) by striking “or coinsurance” and inserting “, coinsurance, or copayment”; and

(B) by striking “or (a)(4)” and inserting “(a)(4), or (a)(5)”.

SEC. 603. UPDATE IN HOME HEALTH SERVICES.

(a) **CHANGE TO CALENDAR YEAR UPDATE.**—

(1) **IN GENERAL.**—Section 1895(b) (42 U.S.C. 1395fff(b)(3)) is amended—

(A) in paragraph (3)(B)(i)—

(i) by striking “each fiscal year (beginning with fiscal year 2002)” and inserting “fiscal year 2002 and for each subsequent year (beginning with 2003)”; and

(ii) by inserting “or year” after “the fiscal year”;

(B) in paragraph (3)(B)(ii)—

(i) in subclause (II), by striking “fiscal year” and inserting “year” and by redesignating such subclause as subclause (III); and

(ii) in subclause (I), by striking “each of fiscal years 2002 and 2003” and inserting the following: “fiscal year 2002, the home health market basket percentage increase (as defined in clause (iii)) minus 1.1 percentage points;

“(II) 2003”;

(C) in paragraph (3)(B)(iii), by inserting “or year” after “fiscal year” each place it appears;

(D) in paragraph (3)(B)(iv)—

(i) by inserting “or year” after “fiscal year” each place it appears; and

(ii) by inserting “or years” after “fiscal years”; and

(E) in paragraph (5), by inserting “or year” after “fiscal year”.

(2) **TRANSITION RULE.**—The standard prospective payment amount (or amounts) under section 1895(b)(3) of the Social Security

Act for the calendar quarter beginning on October 1, 2002, shall be such amount (or amounts) for the previous calendar quarter.

(b) **CHANGES IN UPDATES FOR 2003, 2004, AND 2005.**—Section 1895(b)(3)(B)(ii) (42 U.S.C. 1395fff(b)(3)(B)(ii)), as amended by subsection (a)(1)(B), is amended—

(1) in subclause (II), by striking “the home health market basket percentage increase (as defined in clause (iii)) minus 1.1 percentage points” and inserting “2.0 percentage points”;

(2) by striking “or” at the end of subclause (II);

(3) by redesignating subclause (III) as subclause (V); and

(4) by inserting after subclause (II) the following new subclause:

“(III) 2004, 1.0 percentage points;

“(IV) 2005, the home health market basket percentage increase (as defined in clause (iii)) minus 0.8 percentage points; or”.

(c) **PAYMENT ADJUSTMENT.**—

(1) **IN GENERAL.**—Section 1895(b)(5) (42 U.S.C. 1395fff(b)(5)) is amended “5 percent” and inserting “3 percent”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to years beginning with 2003.

SEC. 604. OASIS TASK FORCE; SUSPENSION OF CERTAIN OASIS DATA COLLECTION REQUIREMENTS PENDING TASK FORCE SUBMITTAL OF REPORT.

(a) **ESTABLISHMENT.**—The Secretary of Health and Human Services shall establish and appoint a task force (to be known as the “OASIS Task Force”) to examine the data collection and reporting requirements under OASIS. For purposes of this section, the term “OASIS” means the Outcome and Assessment Information Set required by reason of section 4602(e) of Balanced Budget Act of 1997 (42 U.S.C. 1395fff note).

(b) **COMPOSITION.**—The OASIS Task Force shall be composed of the following:

(1) Staff of the Centers for Medicare & Medicaid Services with expertise in post-acute care.

(2) Representatives of home health agencies.

(3) Health care professionals and research and health care quality experts outside the Federal Government with expertise in post-acute care.

(4) Advocates for individuals requiring home health services.

(c) **DUTIES.**—

(1) **REVIEW AND RECOMMENDATIONS.**—The OASIS Task Force shall review and make recommendations to the Secretary regarding changes in OASIS to improve and simplify data collection for purposes of—

(A) assessing the quality of home health services; and

(B) providing consistency in classification of patients into home health resource groups (HHRGs) for payment under section 1895 of the Social Security Act (42 U.S.C. 1395fff).

(2) **SPECIFIC ITEMS.**—In conducting the review under paragraph (1), the OASIS Task Force shall specifically examine—

(A) the 41 outcome measures currently in use;

(B) the timing and frequency of data collection; and

(C) the collection of information on comorbidities and clinical indicators.

(3) **REPORT.**—The OASIS Task Force shall submit a report to the Secretary containing its findings and recommendations for changes in OASIS by not later than 18 months after the date of the enactment of this Act.

(d) **SUNSET.**—The OASIS Task Force shall terminate 60 days after the date on which

the report is submitted under subsection (c)(2).

(e) **NONAPPLICATION OF FACCA.**—The provisions of the Federal Advisory Committee Act shall not apply to the OASIS Task Force.

(f) **SUSPENSION OF OASIS REQUIREMENT FOR COLLECTION OF DATA ON NON-MEDICARE AND NON-MEDICAID PATIENTS PENDING TASK FORCE REPORT.**—

(1) **IN GENERAL.**—During the period described in paragraph (2), the Secretary of Health and Human Services may not require, under section 4602(e) of the Balanced Budget Act of 1997 or otherwise under OASIS, a home health agency to gather or submit information that relates to an individual who is not eligible for benefits under either title XVIII or title XIX of the Social Security Act.

(2) **PERIOD OF SUSPENSION.**—The period described in this paragraph—

(A) begins on January 1, 2003, and

(B) ends on the last day of the 2nd month beginning after the date the report is submitted under subsection (c)(2).

SEC. 605. MEDPAC STUDY ON MEDICARE MARGINS OF HOME HEALTH AGENCIES.

(a) **STUDY.**—The Medicare Payment Advisory Commission shall conduct a study of payment margins of home health agencies under the home health prospective payment system under section 1895 of the Social Security Act (42 U.S.C. 1395fff). Such study shall examine whether systematic differences in payment margins are related to differences in case mix (as measured by home health resource groups (HHRGs)) among such agencies. The study shall use the partial or full-year cost reports filed by home health agencies.

(b) **REPORT.**—Not later than 2 years after the date of the enactment of this Act, the Commission shall submit to Congress a report on the study under subsection (a).

Subtitle B—Direct Graduate Medical Education

SEC. 611. EXTENSION OF UPDATE LIMITATION ON HIGH COST PROGRAMS.

Section 1886(h)(2)(D)(iv) (42 U.S.C. 1395ww(h)(2)(D)(iv)) is amended—

(1) in subclause (I)—

(A) by striking “AND 2002” and inserting “THROUGH 2012”;

(B) by striking “during fiscal year 2001 or fiscal year 2002” and inserting “during the period beginning with fiscal year 2001 and ending with fiscal year 2012”; and

(C) by striking “subject to subclause (III),”;

(2) by striking subclause (II); and

(3) in subclause (III)—

(A) by redesignating such subclause as subclause (II); and

(B) by striking “or (II)”.

SEC. 612. REDISTRIBUTION OF UNUSED RESIDENT POSITIONS.

(a) **IN GENERAL.**—Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended—

(1) in subparagraph (F), by inserting “subject to subparagraph (I),” after “October 1, 1997,”;

(2) in subparagraph (H), by inserting “subject to subparagraph (I),” after “subparagraphs (F) and (G),”;

(3) by adding at the end the following new subparagraph:

“(I) REDISTRIBUTION OF UNUSED RESIDENT POSITIONS.—

“(i) REDUCTION IN LIMIT BASED ON UNUSED POSITIONS.—

“(I) **IN GENERAL.**—If a hospital’s resident level (as defined in clause (iii)(I)) is less than the otherwise applicable resident limit (as defined in clause (iii)(II)) for each of the reference periods (as defined in subclause (II)),

effective for cost reporting periods beginning on or after January 1, 2003, the otherwise applicable resident limit shall be reduced by 75 percent of the difference between such limit and the reference resident level specified in subclause (III) (or subclause (IV) if applicable).

“(II) REFERENCE PERIODS DEFINED.—In this clause, the term ‘reference periods’ means, for a hospital, the 3 most recent consecutive cost reporting periods of the hospital for which cost reports have been settled (or, if not, submitted) on or before September 30, 2001.

“(III) REFERENCE RESIDENT LEVEL.—Subject to subclause (IV), the reference resident level specified in this subclause for a hospital is the highest resident level for the hospital during any of the reference periods.

“(IV) ADJUSTMENT PROCESS.—Upon the timely request of a hospital, the Secretary may adjust the reference resident level for a hospital to be the resident level for the hospital for the cost reporting period that includes July 1, 2002.

“(i) REDISTRIBUTION.—

“(I) IN GENERAL.—The Secretary is authorized to increase the otherwise applicable resident limits for hospitals by an aggregate number estimated by the Secretary that does not exceed the aggregate reduction in such limits attributable to clause (i) (without taking into account any adjustment under subclause (IV) of such clause).

“(II) EFFECTIVE DATE.—No increase under subclause (I) shall be permitted or taken into account for a hospital for any portion of a cost reporting period that occurs before July 1, 2003, or before the date of the hospital's application for an increase under this clause. No such increase shall be permitted for a hospital unless the hospital has applied to the Secretary for such increase by December 31, 2004.

“(III) CONSIDERATIONS IN REDISTRIBUTION.—In determining for which hospitals the increase in the otherwise applicable resident limit is provided under subclause (I), the Secretary shall take into account the need for such an increase by specialty and location involved, consistent with subclause (IV).

“(IV) PRIORITY FOR RURAL AND SMALL URBAN AREAS.—In determining for which hospitals and residency training programs an increase in the otherwise applicable resident limit is provided under subclause (I), the Secretary shall first distribute the increase to programs of hospitals located in rural areas or in urban areas that are not large urban areas (as defined for purposes of subsection (d)) on a first-come-first-served basis (as determined by the Secretary) based on a demonstration that the hospital will fill the positions made available under this clause and not to exceed an increase of 25 full-time equivalent positions with respect to any hospital.

“(V) APPLICATION OF LOCALITY ADJUSTED NATIONAL AVERAGE PER RESIDENT AMOUNT.—With respect to additional residency positions in a hospital attributable to the increase provided under this clause, notwithstanding any other provision of this subsection, the approved FTE resident amount is deemed to be equal to the locality adjusted national average per resident amount computed under subparagraph (E) for that hospital.

“(VI) CONSTRUCTION.—Nothing in this clause shall be construed as permitting the redistribution of reductions in residency positions attributable to voluntary reduction programs under paragraph (6) or as affecting the ability of a hospital to establish new

medical residency training programs under subparagraph (H).

“(iii) RESIDENT LEVEL AND LIMIT DEFINED.—In this subparagraph:

“(I) RESIDENT LEVEL.—The term ‘resident level’ means, with respect to a hospital, the total number of full-time equivalent residents, before the application of weighting factors (as determined under this paragraph), in the fields of allopathic and osteopathic medicine for the hospital.

“(II) OTHERWISE APPLICABLE RESIDENT LIMIT.—The term ‘otherwise applicable resident limit’ means, with respect to a hospital, the limit otherwise applicable under subparagraphs (F)(i) and (H) on the resident level for the hospital determined without regard to this subparagraph.”.

(b) NO APPLICATION OF INCREASE TO IME.—Section 1886(d)(5)(B)(v) (42 U.S.C. 1395ww(d)(5)(B)(v)) is amended by adding at the end the following: “The provisions of clause (i) of subparagraph (I) of subsection (h)(4) shall apply with respect to the first sentence of this clause in the same manner as it applies with respect to subparagraph (F) of such subsection, but the provisions of clause (ii) of such subparagraph shall not apply.”.

(c) REPORT ON EXTENSION OF APPLICATIONS UNDER REDISTRIBUTION PROGRAM.—Not later than July 1, 2004, the Secretary shall submit to Congress a report containing recommendations regarding whether to extend the deadline for applications for an increase in resident limits under section 1886(h)(4)(I)(ii)(II) of the Social Security Act (as added by subsection (a)).

Subtitle C—Other Provisions

SEC. 621. MODIFICATIONS TO MEDICARE PAYMENT ADVISORY COMMISSION (MEDPAC).

(a) EXAMINATION OF BUDGET CONSEQUENCES.—Section 1805(b) (42 U.S.C. 1395b-6(b)) is amended by adding at the end the following new paragraph:

“(8) EXAMINATION OF BUDGET CONSEQUENCES.—Before making any recommendations, the Commission shall examine the budget consequences of such recommendations, directly or through consultation with appropriate expert entities.”.

(b) CONSIDERATION OF EFFICIENT PROVISION OF SERVICES.—Section 1805(b)(2)(B)(i) (42 U.S.C. 1395b-6(b)(2)(B)(i)) is amended by inserting “the efficient provision of” after “expenditures for”.

(c) ADDITIONAL REPORTS.—

(1) DATA NEEDS AND SOURCES.—The Medicare Payment Advisory Commission shall conduct a study, and submit a report to Congress by not later than June 1, 2003, on the need for current data, and sources of current data available, to determine the solvency and financial circumstances of hospitals and other medicare providers of services.

(2) USE OF TAX-RELATED RETURNS.—Using return information provided under Form 990 of the Internal Revenue Service, the Commission shall submit to Congress, by not later than June 1, 2003, a report on the following:

(A) Investments and capital financing of hospitals participating under the medicare program and related foundations.

(B) Access to capital financing for private and for not-for-profit hospitals.

SEC. 622. DEMONSTRATION PROJECT FOR DISEASE MANAGEMENT FOR CERTAIN MEDICARE BENEFICIARIES WITH DIABETES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a demonstration project under this section (in this

section referred to as the “project”) to demonstrate the impact on costs and health outcomes of applying disease management to certain medicare beneficiaries with diagnosed diabetes. In no case may the number of participants in the project exceed 30,000 at any time.

(b) VOLUNTARY PARTICIPATION.—

(1) ELIGIBILITY.—Medicare beneficiaries are eligible to participate in the project only if—

(a) they are Hispanic, as determined by the Secretary;

(A) they meet specific medical criteria demonstrating the appropriate diagnosis and the advanced nature of their disease;

(B) their physicians approve of participation in the project; and

(C) they are not enrolled in a Medicare+Choice plan.

(2) BENEFITS.—A medicare beneficiary who is enrolled in the project shall be eligible—

(A) for disease management services related to their diabetes; and

(B) for payment for all costs for prescription drugs without regard to whether or not they relate to the diabetes, except that the project may provide for modest cost-sharing with respect to prescription drug coverage.

(c) CONTRACTS WITH DISEASE MANAGEMENT ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall carry out the project through contracts with up to three disease management organizations. The Secretary shall not enter into such a contract with an organization unless the organization demonstrates that it can produce improved health outcomes and reduce aggregate medicare expenditures consistent with paragraph (2).

(2) CONTRACT PROVISIONS.—Under such contracts—

(A) such an organization shall be required to provide for prescription drug coverage described in subsection (b)(2)(B);

(B) such an organization shall be paid a fee negotiated and established by the Secretary in a manner so that (taking into account savings in expenditures under parts A and B of the medicare program under title XVIII of the Social Security Act) there will be no net increase, and to the extent practicable, there will be a net reduction in expenditures under the medicare program as a result of the project; and

(C) such an organization shall guarantee, through an appropriate arrangement with a reinsurance company or otherwise, the prohibition on net increases in expenditures described in subparagraph (B).

(3) PAYMENTS.—Payments to such organizations shall be made in appropriate proportion from the Trust Funds established under title XVIII of the Social Security Act.

(4) WORKING GROUP.—The Secretary shall establish within the Department of Health and Human Services a working group consisting of employees of the Department to carry out the following:

(A) To oversee the project.

(B) To establish policy and criteria for medicare disease management programs within the Department, including the establishment of policy and criteria for such programs.

(C) To identify targeted medical conditions and targeted individuals.

(D) To select areas in which such programs are carried out.

(E) To monitor health outcomes under such programs.

(F) To measure the effectiveness of such programs in meeting any budget neutrality requirements.

(G) Otherwise to serve as a central focal point within the Department for dissemination of information on medicare disease management programs.

(d) APPLICATION OF MEDIGAP PROTECTIONS TO DEMONSTRATION PROJECT ENROLLEES.—(1) Subject to paragraph (2), the provisions of section 1882(s)(3) (other than clauses (i) through (iv) of subparagraph (B)) and 1882(s)(4) of the Social Security Act shall apply to enrollment (and termination of enrollment) in the demonstration project under this section, in the same manner as they apply to enrollment (and termination of enrollment) with a Medicare+Choice organization in a Medicare+Choice plan.

(2) In applying paragraph (1)—

(A) any reference in clause (v) or (vi) of section 1882(s)(3)(B) of such Act to 12 months is deemed a reference to the period of the demonstration project; and

(B) the notification required under section 1882(s)(3)(D) of such Act shall be provided in a manner specified by the Secretary of Health and Human Services.

(e) DURATION.—The project shall last for not longer than 3 years.

(f) WAIVER.—The Secretary of Health and Human Services shall waive such provisions of title XVIII of the Social Security Act as may be necessary to provide for payment for services under the project in accordance with subsection (c)(3).

(g) REPORT.—The Secretary of Health and Human Services shall submit to Congress an interim report on the project not later than 2 years after the date it is first implemented and a final report on the project not later than 6 months after the date of its completion. Such reports shall include information on the impact of the project on costs and health outcomes and recommendations on the cost-effectiveness of extending or expanding the project.

(h) GAO STUDY ON DISEASE MANAGEMENT PROGRAMS.—The Comptroller General of the United States shall conduct a study that compares disease management programs under title XVIII of the Social Security Act with such programs conducted in the private sector, including the prevalence of such programs and programs for case management. The study shall identify the cost-effectiveness of such programs and any savings achieved by such programs. The Comptroller General shall submit a report on such study to Congress by not later than 18 months after the date of the enactment of this Act.

SEC. 623. DEMONSTRATION PROJECT FOR MEDICAL ADULT DAY CARE SERVICES.

(a) ESTABLISHMENT.—Subject to the succeeding provisions of this section, the Secretary of Health and Human Services shall establish a demonstration project (in this section referred to as the “demonstration project”) under which the Secretary shall, as part of a plan of an episode of care for home health services established for a medicare beneficiary, permit a home health agency, directly or under arrangements with a medical adult day care facility, to provide medical adult day care services as a substitute for a portion of home health services that would otherwise be provided in the beneficiary's home.

(b) PAYMENT.—

(1) IN GENERAL.—The amount of payment for an episode of care for home health services, a portion of which consists of substitute medical adult day care services, under the demonstration project shall be made at a rate equal to 95 percent of the amount that would otherwise apply for such home health services under section 1895 of the Social Se-

curity Act (42 U.S.C. 1395fff). In no case may a home health agency, or a medical adult day care facility under arrangements with a home health agency, separately charge a beneficiary for medical adult day care services furnished under the plan of care.

(2) BUDGET NEUTRALITY FOR DEMONSTRATION PROJECT.—Notwithstanding any other provision of law, the Secretary shall provide for an appropriate reduction in the aggregate amount of additional payments made under section 1895 of the Social Security Act (42 U.S.C. 1395fff) to reflect any increase in amounts expended from the Trust Funds as a result of the demonstration project conducted under this section.

(c) DEMONSTRATION PROJECT SITES.—The project established under this section shall be conducted in not more than 5 sites in States selected by the Secretary that license or certify providers of services that furnish medical adult day care services.

(d) DURATION.—The Secretary shall conduct the demonstration project for a period of 3 years.

(e) VOLUNTARY PARTICIPATION.—Participation of medicare beneficiaries in the demonstration project shall be voluntary. The total number of such beneficiaries that may participate in the project at any given time may not exceed 15,000.

(f) PREFERENCE IN SELECTING AGENCIES.—In selecting home health agencies to participate under the demonstration project, the Secretary shall give preference to those agencies that—

(1) are currently licensed or certified to furnish medical adult day care services; and

(2) have furnished medical adult day care services to medicare beneficiaries for a continuous 2-year period before the beginning of the demonstration project.

(g) WAIVER AUTHORITY.—The Secretary may waive such requirements of title XVIII of the Social Security Act as may be necessary for the purposes of carrying out the demonstration project, other than waiving the requirement that an individual be homebound in order to be eligible for benefits for home health services.

(h) EVALUATION AND REPORT.—The Secretary shall conduct an evaluation of the clinical and cost effectiveness of the demonstration project. Not later 30 months after the commencement of the project, the Secretary shall submit to Congress a report on the evaluation, and shall include in the report the following:

(1) An analysis of the patient outcomes and costs of furnishing care to the medicare beneficiaries participating in the project as compared to such outcomes and costs to beneficiaries receiving only home health services for the same health conditions.

(2) Such recommendations regarding the extension, expansion, or termination of the project as the Secretary determines appropriate.

(i) DEFINITIONS.—In this section:

(1) HOME HEALTH AGENCY.—The term “home health agency” has the meaning given such term in section 1861(o) of the Social Security Act (42 U.S.C. 1395x(o)).

(2) MEDICAL ADULT DAY CARE FACILITY.—The term “medical adult day care facility” means a facility that—

(A) has been licensed or certified by a State to furnish medical adult day care services in the State for a continuous 2-year period;

(B) is engaged in providing skilled nursing services and other therapeutic services directly or under arrangement with a home health agency;

(C) meets such standards established by the Secretary to assure quality of care and such other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the facility; and

(D) provides medical adult day care services.

(3) MEDICAL ADULT DAY CARE SERVICES.—The term “medical adult day care services” means—

(A) home health service items and services described in paragraphs (1) through (7) of section 1861(m) furnished in a medical adult day care facility;

(B) a program of supervised activities furnished in a group setting in the facility that—

(i) meet such criteria as the Secretary determines appropriate; and

(ii) is designed to promote physical and mental health of the individuals; and

(C) such other services as the Secretary may specify.

(4) MEDICARE BENEFICIARY.—The term “medicare beneficiary” means an individual entitled to benefits under part A of this title, enrolled under part B of this title, or both.

TITLE VII—MEDICARE BENEFITS ADMINISTRATION

SEC. 701. ESTABLISHMENT OF MEDICARE BENEFITS ADMINISTRATION.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 105, is amended by inserting after 1806 the following new section:

“MEDICARE BENEFITS ADMINISTRATION

“SEC. 1808. (a) ESTABLISHMENT.—There is established within the Department of Health and Human Services an agency to be known as the Medicare Benefits Administration.

“(b) ADMINISTRATOR; DEPUTY ADMINISTRATOR; CHIEF ACTUARY.—

“(1) ADMINISTRATOR.—

“(A) IN GENERAL.—The Medicare Benefits Administration shall be headed by an administrator to be known as the ‘Medicare Benefits Administrator’ (in this section referred to as the ‘Administrator’) who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall be in direct line of authority to the Secretary.

“(B) COMPENSATION.—The Administrator shall be paid at the rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

“(C) TERM OF OFFICE.—The Administrator shall be appointed for a term of 5 years. In any case in which a successor does not take office at the end of an Administrator's term of office, that Administrator may continue in office until the entry upon office of such a successor. An Administrator appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term.

“(D) GENERAL AUTHORITY.—The Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control over all personnel and activities thereof.

“(E) RULEMAKING AUTHORITY.—The Administrator may prescribe such rules and regulations as the Administrator determines necessary or appropriate to carry out the functions of the Administration. The regulations prescribed by the Administrator shall be subject to the rulemaking procedures established under section 553 of title 5, United States Code.

“(F) **AUTHORITY TO ESTABLISH ORGANIZATIONAL UNITS.**—The Administrator may establish, alter, consolidate, or discontinue such organizational units or components within the Administration as the Administrator considers necessary or appropriate, except as specified in this section.

“(G) **AUTHORITY TO DELEGATE.**—The Administrator may assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees of the Administration as the Administrator may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Administrator.

“(2) **DEPUTY ADMINISTRATOR.**—

“(A) **IN GENERAL.**—There shall be a Deputy Administrator of the Medicare Benefits Administration who shall be appointed by the President, by and with the advice and consent of the Senate.

“(B) **COMPENSATION.**—The Deputy Administrator shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

“(C) **TERM OF OFFICE.**—The Deputy Administrator shall be appointed for a term of 5 years. In any case in which a successor does not take office at the end of a Deputy Administrator's term of office, such Deputy Administrator may continue in office until the entry upon office of such a successor. A Deputy Administrator appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term.

“(D) **DUTIES.**—The Deputy Administrator shall perform such duties and exercise such powers as the Administrator shall from time to time assign or delegate. The Deputy Administrator shall be Acting Administrator of the Administration during the absence or disability of the Administrator and, unless the President designates another officer of the Government as Acting Administrator, in the event of a vacancy in the office of the Administrator.

“(3) **CHIEF ACTUARY.**—

“(A) **IN GENERAL.**—There is established in the Administration the position of Chief Actuary. The Chief Actuary shall be appointed by, and in direct line of authority to, the Administrator of such Administration. The Chief Actuary shall be appointed from among individuals who have demonstrated, by their education and experience, superior expertise in the actuarial sciences. The Chief Actuary may be removed only for cause.

“(B) **COMPENSATION.**—The Chief Actuary shall be compensated at the highest rate of basic pay for the Senior Executive Service under section 5382(b) of title 5, United States Code.

“(C) **DUTIES.**—The Chief Actuary shall exercise such duties as are appropriate for the office of the Chief Actuary and in accordance with professional standards of actuarial independence.

“(4) **SECRETARIAL COORDINATION OF PROGRAM ADMINISTRATION.**—The Secretary shall ensure appropriate coordination between the Administrator and the Administrator of the Centers for Medicare & Medicaid Services in carrying out the programs under this title.

“(c) **DUTIES; ADMINISTRATIVE PROVISIONS.**—

“(1) **DUTIES.**—

“(A) **GENERAL DUTIES.**—The Administrator shall carry out parts C and D, including—

“(i) negotiating, entering into, and enforcing, contracts with plans for the offering of

Medicare+Choice plans under part C, including the offering of qualified prescription drug coverage under such plans; and

“(ii) negotiating, entering into, and enforcing, contracts with PDP sponsors for the offering of prescription drug plans under part D.

“(B) **OTHER DUTIES.**—The Administrator shall carry out any duty provided for under part C or part D, including demonstration projects carried out in part or in whole under such parts, the programs of all-inclusive care for the elderly (PACE program) under section 1894, the social health maintenance organization (SHMO) demonstration projects (referred to in section 4104(c) of the Balanced Budget Act of 1997), and through a Medicare+Choice project that demonstrates the application of capitation payment rates for frail elderly medicare beneficiaries through the use of a interdisciplinary team and through the provision of primary care services to such beneficiaries by means of such a team at the nursing facility involved).

“(C) **PRESCRIPTION DRUG CARD.**—The Administrator shall carry out section 1807 (relating to the medicare prescription drug discount card endorsement program).

“(D) **NONINTERFERENCE.**—In carrying out its duties with respect to the provision of qualified prescription drug coverage to beneficiaries under this title, the Administrator may not—

“(i) require a particular formulary or institute a price structure for the reimbursement of covered outpatient drugs;

“(ii) interfere in any way with negotiations between PDP sponsors and Medicare+Choice organizations and drug manufacturers, wholesalers, or other suppliers of covered outpatient drugs; and

“(iii) otherwise interfere with the competitive nature of providing such coverage through such sponsors and organizations.

“(E) **ANNUAL REPORTS.**—Not later March 31 of each year, the Administrator shall submit to Congress and the President a report on the administration of parts C and D during the previous fiscal year.

“(2) **STAFF.**—

“(A) **IN GENERAL.**—The Administrator, with the approval of the Secretary, may employ, without regard to chapter 31 of title 5, United States Code, other than sections 3110 and 3112, such officers and employees as are necessary to administer the activities to be carried out through the Medicare Benefits Administration. The Administrator shall employ staff with appropriate and necessary expertise in negotiating contracts in the private sector.

“(B) **FLEXIBILITY WITH RESPECT TO COMPENSATION.**—

“(i) **IN GENERAL.**—The staff of the Medicare Benefits Administration shall, subject to clause (ii), be paid without regard to the provisions of chapter 51 (other than section 5101) and chapter 53 (other than section 5301) of such title (relating to classification and schedule pay rates).

“(ii) **MAXIMUM RATE.**—In no case may the rate of compensation determined under clause (i) exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

“(C) **LIMITATION ON FULL-TIME EQUIVALENT STAFFING FOR CURRENT CMS FUNCTIONS BEING TRANSFERRED.**—The Administrator may not employ under this paragraph a number of full-time equivalent employees, to carry out functions that were previously conducted by the Centers for Medicare & Medicaid Services and that are conducted by the Adminis-

trator by reason of this section, that exceeds the number of such full-time equivalent employees authorized to be employed by the Centers for Medicare & Medicaid Services to conduct such functions as of the date of the enactment of this Act.

“(3) **REDELEGATION OF CERTAIN FUNCTIONS OF THE CENTERS FOR MEDICARE & MEDICAID SERVICES.**—

“(A) **IN GENERAL.**—The Secretary, the Administrator, and the Administrator of the Centers for Medicare & Medicaid Services shall establish an appropriate transition of responsibility in order to redelegate the administration of part C from the Secretary and the Administrator of the Centers for Medicare & Medicaid Services to the Administrator as is appropriate to carry out the purposes of this section.

“(B) **TRANSFER OF DATA AND INFORMATION.**—The Secretary shall ensure that the Administrator of the Centers for Medicare & Medicaid Services transfers to the Administrator of the Medicare Benefits Administration such information and data in the possession of the Administrator of the Centers for Medicare & Medicaid Services as the Administrator of the Medicare Benefits Administration requires to carry out the duties described in paragraph (1).

“(C) **CONSTRUCTION.**—Insofar as a responsibility of the Secretary or the Administrator of the Centers for Medicare & Medicaid Services is redelegated to the Administrator under this section, any reference to the Secretary or the Administrator of the Centers for Medicare & Medicaid Services in this title or title XI with respect to such responsibility is deemed to be a reference to the Administrator.

“(d) **OFFICE OF BENEFICIARY ASSISTANCE.**—

“(1) **ESTABLISHMENT.**—The Secretary shall establish within the Medicare Benefits Administration an Office of Beneficiary Assistance to coordinate functions relating to outreach and education of medicare beneficiaries under this title, including the functions described in paragraph (2). The Office shall be separate operating division within the Administration.

“(2) **DISSEMINATION OF INFORMATION ON BENEFITS AND APPEALS RIGHTS.**—

“(A) **DISSEMINATION OF BENEFITS INFORMATION.**—The Office of Beneficiary Assistance shall disseminate, directly or through contract, to medicare beneficiaries, by mail, by posting on the Internet site of the Medicare Benefits Administration and through a toll-free telephone number, information with respect to the following:

“(i) Benefits, and limitations on payment (including cost-sharing, stop-loss provisions, and formulary restrictions) under parts C and D.

“(ii) Benefits, and limitations on payment under parts A and B, including information on medicare supplemental policies under section 1882.

Such information shall be presented in a manner so that medicare beneficiaries may compare benefits under parts A, B, D, and medicare supplemental policies with benefits under Medicare+Choice plans under part C.

“(B) **DISSEMINATION OF APPEALS RIGHTS INFORMATION.**—The Office of Beneficiary Assistance shall disseminate to medicare beneficiaries in the manner provided under subparagraph (A) a description of procedural rights (including grievance and appeals procedures) of beneficiaries under the original medicare fee-for-service program under parts A and B, the Medicare+Choice program under part C, and the Voluntary Prescription Drug Benefit Program under part D.

“(e) MEDICARE POLICY ADVISORY BOARD.—

“(1) ESTABLISHMENT.—There is established within the Medicare Benefits Administration the Medicare Policy Advisory Board (in this section referred to the ‘Board’). The Board shall advise, consult with, and make recommendations to the Administrator of the Medicare Benefits Administration with respect to the administration of parts C and D, including the review of payment policies under such parts.

“(2) REPORTS.—

“(A) IN GENERAL.—With respect to matters of the administration of parts C and D, the Board shall submit to Congress and to the Administrator of the Medicare Benefits Administration such reports as the Board determines appropriate. Each such report may contain such recommendations as the Board determines appropriate for legislative or administrative changes to improve the administration of such parts, including the topics described in subparagraph (B). Each such report shall be published in the Federal Register.

“(B) TOPICS DESCRIBED.—Reports required under subparagraph (A) may include the following topics:

“(i) FOSTERING COMPETITION.—Recommendations or proposals to increase competition under parts C and D for services furnished to medicare beneficiaries.

“(ii) EDUCATION AND ENROLLMENT.—Recommendations for the improvement to efforts to provide medicare beneficiaries information and education on the program under this title, and specifically parts C and D, and the program for enrollment under the title.

“(iii) IMPLEMENTATION OF RISK-ADJUSTMENT.—Evaluation of the implementation under section 1853(a)(3)(C) of the risk adjustment methodology to payment rates under that section to Medicare+Choice organizations offering Medicare+Choice plans that accounts for variations in per capita costs based on health status and other demographic factors.

“(iv) DISEASE MANAGEMENT PROGRAMS.—Recommendations on the incorporation of disease management programs under parts C and D.

“(v) RURAL ACCESS.—Recommendations to improve competition and access to plans under parts C and D in rural areas.

“(C) MAINTAINING INDEPENDENCE OF BOARD.—The Board shall directly submit to Congress reports required under subparagraph (A). No officer or agency of the United States may require the Board to submit to any officer or agency of the United States for approval, comments, or review, prior to the submission to Congress of such reports.

“(3) DUTY OF ADMINISTRATOR OF MEDICARE BENEFITS ADMINISTRATION.—With respect to any report submitted by the Board under paragraph (2)(A), not later than 90 days after the report is submitted, the Administrator of the Medicare Benefits Administration shall submit to Congress and the President an analysis of recommendations made by the Board in such report. Each such analysis shall be published in the Federal Register.

“(4) MEMBERSHIP.—

“(A) APPOINTMENT.—Subject to the succeeding provisions of this paragraph, the Board shall consist of seven members to be appointed as follows:

“(i) Three members shall be appointed by the President.

“(ii) Two members shall be appointed by the Speaker of the House of Representatives, with the advice of the chairmen and the ranking minority members of the Committees on Ways and Means and on Energy and Commerce of the House of Representatives.

“(iii) Two members shall be appointed by the President pro tempore of the Senate with the advice of the chairman and the ranking minority member of the Senate Committee on Finance.

“(B) QUALIFICATIONS.—The members shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their education and experience in health care benefits management, exceptionally qualified to perform the duties of members of the Board.

“(C) PROHIBITION ON INCLUSION OF FEDERAL EMPLOYEES.—No officer or employee of the United States may serve as a member of the Board.

“(5) COMPENSATION.—Members of the Board shall receive, for each day (including travel time) they are engaged in the performance of the functions of the board, compensation at rates not to exceed the daily equivalent to the annual rate in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

“(6) TERMS OF OFFICE.—

“(A) IN GENERAL.—The term of office of members of the Board shall be 3 years.

“(B) TERMS OF INITIAL APPOINTEES.—As designated by the President at the time of appointment, of the members first appointed—

“(i) one shall be appointed for a term of 1 year;

“(ii) three shall be appointed for terms of 2 years; and

“(iii) three shall be appointed for terms of 3 years.

“(C) REAPPOINTMENTS.—Any person appointed as a member of the Board may not serve for more than 8 years.

“(D) VACANCY.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Board shall be filled in the manner in which the original appointment was made.

“(7) CHAIR.—The Chair of the Board shall be elected by the members. The term of office of the Chair shall be 3 years.

“(8) MEETINGS.—The Board shall meet at the call of the Chair, but in no event less than three times during each fiscal year.

“(9) DIRECTOR AND STAFF.—

“(A) APPOINTMENT OF DIRECTOR.—The Board shall have a Director who shall be appointed by the Chair.

“(B) IN GENERAL.—With the approval of the Board, the Director may appoint, without regard to chapter 31 of title 5, United States Code, such additional personnel as the Director considers appropriate.

“(C) FLEXIBILITY WITH RESPECT TO COMPENSATION.—

“(i) IN GENERAL.—The Director and staff of the Board shall, subject to clause (ii), be paid without regard to the provisions of chapter 51 and chapter 53 of such title (relating to classification and schedule pay rates).

“(ii) MAXIMUM RATE.—In no case may the rate of compensation determined under clause (i) exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

“(D) ASSISTANCE FROM THE ADMINISTRATOR OF THE MEDICARE BENEFITS ADMINISTRATION.—The Administrator of the Medicare Benefits Administration shall make available to the Board such information and other assistance as it may require to carry out its functions.

“(10) CONTRACT AUTHORITY.—The Board may contract with and compensate government and private agencies or persons to carry out its duties under this subsection, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

“(f) FUNDING.—There is authorized to be appropriated, in appropriate part from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund (including the Medicare Prescription Drug Account), such sums as are necessary to carry out this section.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) TIMING OF INITIAL APPOINTMENTS.—The Administrator and Deputy Administrator of the Medicare Benefits Administration may not be appointed before March 1, 2003.

(3) DUTIES WITH RESPECT TO ELIGIBILITY DETERMINATIONS AND ENROLLMENT.—The Administrator of the Medicare Benefits Administration shall carry out enrollment under title XVIII of the Social Security Act, make eligibility determinations under such title, and carry out part C of such title for years beginning or after January 1, 2005.

(4) TRANSITION.—Before the date the Administrator of the Medicare Benefits Administration is appointed and assumes responsibilities under this section and section 1807 of the Social Security Act, the Secretary of Health and Human Services shall provide for the conduct of any responsibilities of such Administrator that are otherwise provided under law.

(c) MISCELLANEOUS ADMINISTRATIVE PROVISIONS.—

(1) ADMINISTRATOR AS MEMBER OF THE BOARD OF TRUSTEES OF THE MEDICARE TRUST FUNDS.—Section 1817(b) and section 1841(b) (42 U.S.C. 1395i(b), 1395t(b)) are each amended by striking “and the Secretary of Health and Human Services, all ex officio,” and inserting “the Secretary of Health and Human Services, and the Administrator of the Medicare Benefits Administration, all ex officio,”.

(2) INCREASE IN GRADE TO EXECUTIVE LEVEL III FOR THE ADMINISTRATOR OF THE CENTERS FOR MEDICARE & MEDICAID SERVICES; LEVEL FOR MEDICARE BENEFITS ADMINISTRATOR.—

(A) IN GENERAL.—Section 5314 of title 5, United States Code, by adding at the end the following:

“Administrator of the Centers for Medicare & Medicaid Services.”

“Administrator of the Medicare Benefits Administration.”.

(B) CONFORMING AMENDMENT.—Section 5315 of such title is amended by striking “Administrator of the Health Care Financing Administration.”.

(C) EFFECTIVE DATE.—The amendments made by this paragraph take effect on January 1, 2003.

TITLE VIII—REGULATORY REDUCTION AND CONTRACTING REFORM

Subtitle A—Regulatory Reform

SEC. 801. CONSTRUCTION; DEFINITION OF SUPPLIER.

(a) CONSTRUCTION.—Nothing in this title shall be construed—

(1) to compromise or affect existing legal remedies for addressing fraud or abuse, whether it be criminal prosecution, civil enforcement, or administrative remedies, including under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act); or

(2) to prevent or impede the Department of Health and Human Services in any way from

its ongoing efforts to eliminate waste, fraud, and abuse in the medicare program.

Furthermore, the consolidation of medicare administrative contracting set forth in this Act does not constitute consolidation of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund or reflect any position on that issue.

(b) **DEFINITION OF SUPPLIER.**—Section 1861 (42 U.S.C. 1395x) is amended by inserting after subsection (c) the following new subsection:

“Supplier

“(d) The term ‘supplier’ means, unless the context otherwise requires, a physician or other practitioner, a facility, or other entity (other than a provider of services) that furnishes items or services under this title.”.

SEC. 802. ISSUANCE OF REGULATIONS.

(a) **CONSOLIDATION OF PROMULGATION TO ONE A MONTH.**—

(1) **IN GENERAL.**—Section 1871 (42 U.S.C. 1395hh) is amended by adding at the end the following new subsection:

“(d)(1) Subject to paragraph (2), the Secretary shall issue proposed or final (including interim final) regulations to carry out this title only on one business day of every month.

“(2) The Secretary may issue a proposed or final regulation described in paragraph (1) on any other day than the day described in paragraph (1) if the Secretary—

“(A) finds that issuance of such regulation on another day is necessary to comply with requirements under law; or

“(B) finds that with respect to that regulation the limitation of issuance on the date described in paragraph (1) is contrary to the public interest.

If the Secretary makes a finding under this paragraph, the Secretary shall include such finding, and brief statement of the reasons for such finding, in the issuance of such regulation.

“(3) The Secretary shall coordinate issuance of new regulations described in paragraph (1) relating to a category of provider of services or suppliers based on an analysis of the collective impact of regulatory changes on that category of providers or suppliers.”.

(2) **GAO REPORT ON PUBLICATION OF REGULATIONS ON A QUARTERLY BASIS.**—Not later than 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the feasibility of requiring that regulations described in section 1871(d) of the Social Security Act be promulgated on a quarterly basis rather than on a monthly basis.

(3) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to regulations promulgated on or after the date that is 30 days after the date of the enactment of this Act.

(b) **REGULAR TIMELINE FOR PUBLICATION OF FINAL RULES.**—

(1) **IN GENERAL.**—Section 1871(a) (42 U.S.C. 1395hh(a)) is amended by adding at the end the following new paragraph:

“(3)(A) The Secretary, in consultation with the Director of the Office of Management and Budget, shall establish and publish a regular timeline for the publication of final regulations based on the previous publication of a proposed regulation or an interim final regulation.

“(B) Such timeline may vary among different regulations based on differences in the complexity of the regulation, the number and scope of comments received, and other

relevant factors, but shall not be longer than 3 years except under exceptional circumstances. If the Secretary intends to vary such timeline with respect to the publication of a final regulation, the Secretary shall cause to have published in the Federal Register notice of the different timeline by not later than the timeline previously established with respect to such regulation. Such notice shall include a brief explanation of the justification for such variation.

“(C) In the case of interim final regulations, upon the expiration of the regular timeline established under this paragraph for the publication of a final regulation after opportunity for public comment, the interim final regulation shall not continue in effect unless the Secretary publishes (at the end of the regular timeline and, if applicable, at the end of each succeeding 1-year period) a notice of continuation of the regulation that includes an explanation of why the regular timeline (and any subsequent 1-year extension) was not complied with. If such a notice is published, the regular timeline (or such timeline as previously extended under this paragraph) for publication of the final regulation shall be treated as having been extended for 1 additional year.

“(D) The Secretary shall annually submit to Congress a report that describes the instances in which the Secretary failed to publish a final regulation within the applicable regular timeline under this paragraph and that provides an explanation for such failures.”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act. The Secretary shall provide for an appropriate transition to take into account the backlog of previously published interim final regulations.

(c) **LIMITATIONS ON NEW MATTER IN FINAL REGULATIONS.**—

(1) **IN GENERAL.**—Section 1871(a) (42 U.S.C. 1395hh(a)), as amended by subsection (b), is further amended by adding at the end the following new paragraph:

“(4) If the Secretary publishes notice of proposed rulemaking relating to a regulation (including an interim final regulation), insofar as such final regulation includes a provision that is not a logical outgrowth of such notice of proposed rulemaking, that provision shall be treated as a proposed regulation and shall not take effect until there is the further opportunity for public comment and a publication of the provision again as a final regulation.”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to final regulations published on or after the date of the enactment of this Act.

SEC. 803. COMPLIANCE WITH CHANGES IN REGULATIONS AND POLICIES.

(a) **NO RETROACTIVE APPLICATION OF SUBSTANTIVE CHANGES.**—

(1) **IN GENERAL.**—Section 1871 (42 U.S.C. 1395hh), as amended by section 802(a), is amended by adding at the end the following new subsection:

“(e)(1)(A) A substantive change in regulations, manual instructions, interpretative rules, statements of policy, or guidelines of general applicability under this title shall not be applied (by extrapolation or otherwise) retroactively to items and services furnished before the effective date of the change, unless the Secretary determines that—

“(i) such retroactive application is necessary to comply with statutory requirements; or

“(ii) failure to apply the change retroactively would be contrary to the public interest.”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to substantive changes issued on or after the date of the enactment of this Act.

(b) **TIMELINE FOR COMPLIANCE WITH SUBSTANTIVE CHANGES AFTER NOTICE.**—

(1) **IN GENERAL.**—Section 1871(e)(1), as added by subsection (a), is amended by adding at the end the following:

“(B)(i) Except as provided in clause (ii), a substantive change referred to in subparagraph (A) shall not become effective before the end of the 30-day period that begins on the date that the Secretary has issued or published, as the case may be, the substantive change.

“(ii) The Secretary may provide for such a substantive change to take effect on a date that precedes the end of the 30-day period under clause (i) if the Secretary finds that waiver of such 30-day period is necessary to comply with statutory requirements or that the application of such 30-day period is contrary to the public interest. If the Secretary provides for an earlier effective date pursuant to this clause, the Secretary shall include in the issuance or publication of the substantive change a finding described in the first sentence, and a brief statement of the reasons for such finding.

“(C) No action shall be taken against a provider of services or supplier with respect to noncompliance with such a substantive change for items and services furnished before the effective date of such a change.”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to compliance actions undertaken on or after the date of the enactment of this Act.

(c) **RELiance ON GUIDANCE.**—

(1) **IN GENERAL.**—Section 1871(e), as added by subsection (a), is further amended by adding at the end the following new paragraph:

“(2)(A) If—

“(i) a provider of services or supplier follows the written guidance (which may be transmitted electronically) provided by the Secretary or by a medicare contractor (as defined in section 1889(g)) acting within the scope of the contractor's contract authority, with respect to the furnishing of items or services and submission of a claim for benefits for such items or services with respect to such provider or supplier;

“(ii) the Secretary determines that the provider of services or supplier has accurately presented the circumstances relating to such items, services, and claim to the contractor in writing; and

“(iii) the guidance was in error; the provider of services or supplier shall not be subject to any sanction (including any penalty or requirement for repayment of any amount) if the provider of services or supplier reasonably relied on such guidance.

“(B) Subparagraph (A) shall not be construed as preventing the recoupment or repayment (without any additional penalty) relating to an overpayment insofar as the overpayment was solely the result of a clerical or technical operational error.”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act but shall not apply to any sanction for which notice was provided on or before the date of the enactment of this Act.

SEC. 804. REPORTS AND STUDIES RELATING TO REGULATORY REFORM.

(a) **GAO STUDY ON ADVISORY OPINION AUTHORITY.**—

(1) STUDY.—The Comptroller General of the United States shall conduct a study to determine the feasibility and appropriateness of establishing in the Secretary authority to provide legally binding advisory opinions on appropriate interpretation and application of regulations to carry out the medicare program under title XVIII of the Social Security Act. Such study shall examine the appropriate timeframe for issuing such advisory opinions, as well as the need for additional staff and funding to provide such opinions.

(2) REPORT.—The Comptroller General shall submit to Congress a report on the study conducted under paragraph (1) by not later than January 1, 2004.

(b) REPORT ON LEGAL AND REGULATORY INCONSISTENCIES.—Section 1871 (42 U.S.C. 1395hh), as amended by section 803(a), is amended by adding at the end the following new subsection:

“(f)(1) Not later than 2 years after the date of the enactment of this subsection, and every 2 years thereafter, the Secretary shall submit to Congress a report with respect to the administration of this title and areas of inconsistency or conflict among the various provisions under law and regulation.

“(2) In preparing a report under paragraph (1), the Secretary shall collect—

“(A) information from individuals entitled to benefits under part A or enrolled under part B, or both, providers of services, and suppliers and from the Medicare Beneficiary Ombudsman and the Medicare Provider Ombudsman with respect to such areas of inconsistency and conflict; and

“(B) information from medicare contractors that tracks the nature of written and telephone inquiries.

“(3) A report under paragraph (1) shall include a description of efforts by the Secretary to reduce such inconsistency or conflicts, and recommendations for legislation or administrative action that the Secretary determines appropriate to further reduce such inconsistency or conflicts.”.

Subtitle B—Contracting Reform

SEC. 811. INCREASED FLEXIBILITY IN MEDICARE ADMINISTRATION.

(a) CONSOLIDATION AND FLEXIBILITY IN MEDICARE ADMINISTRATION.—

(1) IN GENERAL.—Title XVIII is amended by inserting after section 1874 the following new section:

“CONTRACTS WITH MEDICARE ADMINISTRATIVE CONTRACTORS

“SEC. 1874A. (a) AUTHORITY.—

“(1) AUTHORITY TO ENTER INTO CONTRACTS.—The Secretary may enter into contracts with any eligible entity to serve as a medicare administrative contractor with respect to the performance of any or all of the functions described in paragraph (4) or parts of those functions (or, to the extent provided in a contract, to secure performance thereof by other entities).

“(2) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract with respect to the performance of a particular function described in paragraph (4) only if—

“(A) the entity has demonstrated capability to carry out such function;

“(B) the entity complies with such conflict of interest standards as are generally applicable to Federal acquisition and procurement;

“(C) the entity has sufficient assets to financially support the performance of such function; and

“(D) the entity meets such other requirements as the Secretary may impose.

“(3) MEDICARE ADMINISTRATIVE CONTRACTOR DEFINED.—For purposes of this title and title XI—

“(A) IN GENERAL.—The term ‘medicare administrative contractor’ means an agency, organization, or other person with a contract under this section.

“(B) APPROPRIATE MEDICARE ADMINISTRATIVE CONTRACTOR.—With respect to the performance of a particular function in relation to an individual entitled to benefits under part A or enrolled under part B, or both, a specific provider of services or supplier (or class of such providers of services or suppliers), the ‘appropriate’ medicare administrative contractor is the medicare administrative contractor that has a contract under this section with respect to the performance of that function in relation to that individual, provider of services or supplier or class of provider of services or supplier.

“(4) FUNCTIONS DESCRIBED.—The functions referred to in paragraphs (1) and (2) are payment functions, provider services functions, and functions relating to services furnished to individuals entitled to benefits under part A or enrolled under part B, or both, as follows:

“(A) DETERMINATION OF PAYMENT AMOUNTS.—Determining (subject to the provisions of section 1878 and to such review by the Secretary as may be provided for by the contracts) the amount of the payments required pursuant to this title to be made to providers of services, suppliers and individuals.

“(B) MAKING PAYMENTS.—Making payments described in subparagraph (A) (including receipt, disbursement, and accounting for funds in making such payments).

“(C) BENEFICIARY EDUCATION AND ASSISTANCE.—Providing education and outreach to individuals entitled to benefits under part A or enrolled under part B, or both, and providing assistance to those individuals with specific issues, concerns or problems.

“(D) PROVIDER CONSULTATIVE SERVICES.—Providing consultative services to institutions, agencies, and other persons to enable them to establish and maintain fiscal records necessary for purposes of this title and otherwise to qualify as providers of services or suppliers.

“(E) COMMUNICATION WITH PROVIDERS.—Communicating to providers of services and suppliers any information or instructions furnished to the medicare administrative contractor by the Secretary, and facilitating communication between such providers and suppliers and the Secretary.

“(F) PROVIDER EDUCATION AND TECHNICAL ASSISTANCE.—Performing the functions relating to provider education, training, and technical assistance.

“(G) ADDITIONAL FUNCTIONS.—Performing such other functions as are necessary to carry out the purposes of this title.

“(5) RELATIONSHIP TO MIP CONTRACTS.—

“(A) NONDUPLICATION OF DUTIES.—In entering into contracts under this section, the Secretary shall assure that functions of medicare administrative contractors in carrying out activities under parts A and B do not duplicate activities carried out under the Medicare Integrity Program under section 1893. The previous sentence shall not apply with respect to the activity described in section 1893(b)(5) (relating to prior authorization of certain items of durable medical equipment under section 1834(a)(15)).

“(B) CONSTRUCTION.—An entity shall not be treated as a medicare administrative contractor merely by reason of having entered into a contract with the Secretary under section 1893.

“(6) APPLICATION OF FEDERAL ACQUISITION REGULATION.—Except to the extent inconsistent with a specific requirement of this title, the Federal Acquisition Regulation applies to contracts under this title.

“(b) CONTRACTING REQUIREMENTS.—

“(1) USE OF COMPETITIVE PROCEDURES.—

“(A) IN GENERAL.—Except as provided in laws with general applicability to Federal acquisition and procurement or in subparagraph (B), the Secretary shall use competitive procedures when entering into contracts with medicare administrative contractors under this section, taking into account performance quality as well as price and other factors.

“(B) RENEWAL OF CONTRACTS.—The Secretary may renew a contract with a medicare administrative contractor under this section from term to term without regard to section 5 of title 41, United States Code, or any other provision of law requiring competition, if the medicare administrative contractor has met or exceeded the performance requirements applicable with respect to the contract and contractor, except that the Secretary shall provide for the application of competitive procedures under such a contract not less frequently than once every five years.

“(C) TRANSFER OF FUNCTIONS.—The Secretary may transfer functions among medicare administrative contractors consistent with the provisions of this paragraph. The Secretary shall ensure that performance quality is considered in such transfers. The Secretary shall provide public notice (whether in the Federal Register or otherwise) of any such transfer (including a description of the functions so transferred, a description of the providers of services and suppliers affected by such transfer, and contact information for the contractors involved).

“(D) INCENTIVES FOR QUALITY.—The Secretary shall provide incentives for medicare administrative contractors to provide quality service and to promote efficiency.

“(2) COMPLIANCE WITH REQUIREMENTS.—No contract under this section shall be entered into with any medicare administrative contractor unless the Secretary finds that such medicare administrative contractor will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, quality of services provided, and other matters as the Secretary finds pertinent.

“(3) PERFORMANCE REQUIREMENTS.—

“(A) DEVELOPMENT OF SPECIFIC PERFORMANCE REQUIREMENTS.—In developing contract performance requirements, the Secretary shall develop performance requirements applicable to functions described in subsection (a)(4).

“(B) CONSULTATION.—In developing such requirements, the Secretary may consult with providers of services and suppliers, organizations representing individuals entitled to benefits under part A or enrolled under part B, or both, and organizations and agencies performing functions necessary to carry out the purposes of this section with respect to such performance requirements.

“(C) INCLUSION IN CONTRACTS.—All contractor performance requirements shall be set forth in the contract between the Secretary and the appropriate medicare administrative contractor. Such performance requirements—

“(i) shall reflect the performance requirements developed under subparagraph (A), but may include additional performance requirements;

“(ii) shall be used for evaluating contractor performance under the contract; and
 “(iii) shall be consistent with the written statement of work provided under the contract.”

“(4) INFORMATION REQUIREMENTS.—The Secretary shall not enter into a contract with a medicare administrative contractor under this section unless the contractor agrees—

“(A) to furnish to the Secretary such timely information and reports as the Secretary may find necessary in performing his functions under this title; and

“(B) to maintain such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of the information and reports under subparagraph (A) and otherwise to carry out the purposes of this title.

“(5) SURETY BOND.—A contract with a medicare administrative contractor under this section may require the medicare administrative contractor, and any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

“(c) TERMS AND CONDITIONS.—

“(1) IN GENERAL.—A contract with any medicare administrative contractor under this section may contain such terms and conditions as the Secretary finds necessary or appropriate and may provide for advances of funds to the medicare administrative contractor for the making of payments by it under subsection (a)(4)(B).

“(2) PROHIBITION ON MANDATES FOR CERTAIN DATA COLLECTION.—The Secretary may not require, as a condition of entering into, or renewing, a contract under this section, that the medicare administrative contractor match data obtained other than in its activities under this title with data used in the administration of this title for purposes of identifying situations in which the provisions of section 1862(b) may apply.

“(d) LIMITATION ON LIABILITY OF MEDICARE ADMINISTRATIVE CONTRACTORS AND CERTAIN OFFICERS.—

“(1) CERTIFYING OFFICER.—No individual designated pursuant to a contract under this section as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payments certified by the individual under this section.

“(2) DISBURSING OFFICER.—No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by such officer under this section if it was based upon an authorization (which meets the applicable requirements for such internal controls established by the Comptroller General) of a certifying officer designated as provided in paragraph (1) of this subsection.

“(3) LIABILITY OF MEDICARE ADMINISTRATIVE CONTRACTOR.—No medicare administrative contractor shall be liable to the United States for a payment by a certifying or disbursing officer unless in connection with such payment or in the supervision of or selection of such officer the medicare administrative contractor acted with gross negligence.

“(4) INDEMNIFICATION BY SECRETARY.—

“(A) IN GENERAL.—Subject to subparagraphs (B) and (D), in the case of a medicare administrative contractor (or a person who is a director, officer, or employee of such a contractor or who is engaged by the con-

tractor to participate directly in the claims administration process) who is made a party to any judicial or administrative proceeding arising from or relating directly to the claims administration process under this title, the Secretary may, to the extent the Secretary determines to be appropriate and as specified in the contract with the contractor, indemnify the contractor and such persons.

“(B) CONDITIONS.—The Secretary may not provide indemnification under subparagraph (A) insofar as the liability for such costs arises directly from conduct that is determined by the judicial proceeding or by the Secretary to be criminal in nature, fraudulent, or grossly negligent. If indemnification is provided by the Secretary with respect to a contractor before a determination that such costs arose directly from such conduct, the contractor shall reimburse the Secretary for costs of indemnification.

“(C) SCOPE OF INDEMNIFICATION.—Indemnification by the Secretary under subparagraph (A) may include payment of judgments, settlements (subject to subparagraph (D)), awards, and costs (including reasonable legal expenses).

“(D) WRITTEN APPROVAL FOR SETTLEMENTS.—A contractor or other person described in subparagraph (A) may not propose to negotiate a settlement or compromise of a proceeding described in such subparagraph without the prior written approval of the Secretary to negotiate such settlement or compromise. Any indemnification under subparagraph (A) with respect to amounts paid under a settlement or compromise of a proceeding described in such subparagraph are conditioned upon prior written approval by the Secretary of the final settlement or compromise.

“(E) CONSTRUCTION.—Nothing in this paragraph shall be construed—

“(i) to change any common law immunity that may be available to a medicare administrative contractor or person described in subparagraph (A); or

“(ii) to permit the payment of costs not otherwise allowable, reasonable, or allocable under the Federal Acquisition Regulations.”.

(2) CONSIDERATION OF INCORPORATION OF CURRENT LAW STANDARDS.—In developing contract performance requirements under section 1874A(b) of the Social Security Act, as inserted by paragraph (1), the Secretary shall consider inclusion of the performance standards described in sections 1816(f)(2) of such Act (relating to timely processing of reconsiderations and applications for exemptions) and section 1842(b)(2)(B) of such Act (relating to timely review of determinations and fair hearing requests), as such sections were in effect before the date of the enactment of this Act.

(b) CONFORMING AMENDMENTS TO SECTION 1816 (RELATING TO FISCAL INTERMEDIARIES).—Section 1816 (42 U.S.C. 1395h) is amended as follows:

(1) The heading is amended to read as follows:

“PROVISIONS RELATING TO THE
ADMINISTRATION OF PART A”.

(2) Subsection (a) is amended to read as follows:

“(a) The administration of this part shall be conducted through contracts with medicare administrative contractors under section 1874A.”.

(3) Subsection (b) is repealed.

(4) Subsection (c) is amended—

(A) by striking paragraph (1); and

(B) in each of paragraphs (2)(A) and (3)(A), by striking “agreement under this section”

and inserting “contract under section 1874A that provides for making payments under this part”.

(5) Subsections (d) through (i) are repealed.

(6) Subsections (j) and (k) are each amended—

(A) by striking “An agreement with an agency or organization under this section” and inserting “A contract with a medicare administrative contractor under section 1874A with respect to the administration of this part”; and

(B) by striking “such agency or organization” and inserting “such medicare administrative contractor” each place it appears.

(7) Subsection (l) is repealed.

(c) CONFORMING AMENDMENTS TO SECTION 1842 (RELATING TO CARRIERS).—Section 1842 (42 U.S.C. 1395u) is amended as follows:

(1) The heading is amended to read as follows:

“PROVISIONS RELATING TO THE
ADMINISTRATION OF PART B”.

(2) Subsection (a) is amended to read as follows:

“(a) The administration of this part shall be conducted through contracts with medicare administrative contractors under section 1874A.”.

(3) Subsection (b) is amended—

(A) by striking paragraph (1);

(B) in paragraph (2)—

(i) by striking subparagraphs (A) and (B);

(ii) in subparagraph (C), by striking “carriers” and inserting “medicare administrative contractors”; and

(iii) by striking subparagraphs (D) and (E);

(C) in paragraph (3)—

(i) in the matter before subparagraph (A), by striking “Each such contract shall provide that the carrier” and inserting “The Secretary”;

(ii) by striking “will” the first place it appears in each of subparagraphs (A), (B), (F), (G), (H), and (L) and inserting “shall”;

(iii) in subparagraph (B), in the matter before clause (i), by striking “to the policyholders and subscribers of the carrier” and inserting “to the policyholders and subscribers of the medicare administrative contractor”;

(iv) by striking subparagraphs (C), (D), and (E);

(v) in subparagraph (H)—

(I) by striking “if it makes determinations or payments with respect to physicians’ services,”; and

(II) by striking “carrier” and inserting “medicare administrative contractor”;

(vi) by striking subparagraph (I);

(vii) in subparagraph (L), by striking the semicolon and inserting a period;

(viii) in the first sentence, after subparagraph (L), by striking “and shall contain” and all that follows through the period; and

(ix) in the seventh sentence, by inserting “medicare administrative contractor,” after “carrier,”; and

(D) by striking paragraph (5);

(E) in paragraph (6)(D)(iv), by striking “carrier” and inserting “medicare administrative contractor”; and

(F) in paragraph (7), by striking “the carrier” and inserting “the Secretary” each place it appears.

(4) Subsection (c) is amended—

(A) by striking paragraph (1);

(B) in paragraph (2), by striking “contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B),” and inserting “contract under section 1874A that provides for making payments under this part”;

(C) in paragraph (3)(A), by striking “subsection (a)(1)(B)” and inserting “section 1874A(a)(3)(B)”;

(D) in paragraph (4), by striking “carrier” and inserting “medicare administrative contractor”;

(E) by striking paragraphs (5) and (6).

(5) Subsections (d), (e), and (f) are repealed.

(6) Subsection (g) is amended by striking “carrier or carriers” and inserting “medicare administrative contractor or contractors”.

(7) Subsection (h) is amended—

(A) in paragraph (2)—

(i) by striking “Each carrier having an agreement with the Secretary under subsection (a)” and inserting “The Secretary”;

(ii) by striking “Each such carrier” and inserting “The Secretary”;

(B) in paragraph (3)(A)—

(i) by striking “a carrier having an agreement with the Secretary under subsection (a)” and inserting “medicare administrative contractor having a contract under section 1874A that provides for making payments under this part”;

(ii) by striking “such carrier” and inserting “such contractor”;

(C) in paragraph (3)(B)—

(i) by striking “a carrier” and inserting “a medicare administrative contractor” each place it appears; and

(ii) by striking “the carrier” and inserting “the contractor” each place it appears; and

(D) in paragraphs (5)(A) and (5)(B)(iii), by striking “carriers” and inserting “medicare administrative contractors” each place it appears.

(8) Subsection (1) is amended—

(A) in paragraph (1)(A)(iii), by striking “carrier” and inserting “medicare administrative contractor”;

(B) in paragraph (2), by striking “carrier” and inserting “medicare administrative contractor”.

(9) Subsection (p)(3)(A) is amended by striking “carrier” and inserting “medicare administrative contractor”.

(10) Subsection (q)(1)(A) is amended by striking “carrier”.

(d) EFFECTIVE DATE; TRANSITION RULE.—

(1) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on October 1, 2004, and the Secretary is authorized to take such steps before such date as may be necessary to implement such amendments on a timely basis.

(B) CONSTRUCTION FOR CURRENT CONTRACTS.—Such amendments shall not apply to contracts in effect before the date specified under subparagraph (A) that continue to retain the terms and conditions in effect on such date (except as otherwise provided under this Act, other than under this section) until such date as the contract is let out for competitive bidding under such amendments.

(C) DEADLINE FOR COMPETITIVE BIDDING.—The Secretary shall provide for the letting by competitive bidding of all contracts for functions of medicare administrative contractors for annual contract periods that begin on or after October 1, 2009.

(D) WAIVER OF PROVIDER NOMINATION PROVISIONS DURING TRANSITION.—During the period beginning on the date of the enactment of this Act and before the date specified under subparagraph (A), the Secretary may enter into new agreements under section 1816 of the Social Security Act (42 U.S.C. 1395h) without regard to any of the provider nomination provisions of such section.

(2) GENERAL TRANSITION RULES.—The Secretary shall take such steps, consistent with paragraph (1)(B) and (1)(C), as are necessary to provide for an appropriate transition from contracts under section 1816 and section 1842 of the Social Security Act (42 U.S.C. 1395h, 1395u) to contracts under section 1874A, as added by subsection (a)(1).

(3) AUTHORIZING CONTINUATION OF MIP FUNCTIONS UNDER CURRENT CONTRACTS AND AGREEMENTS AND UNDER ROLLOVER CONTRACTS.—The provisions contained in the exception in section 1893(d)(2) of the Social Security Act (42 U.S.C. 1395ddd(d)(2)) shall continue to apply notwithstanding the amendments made by this section, and any reference in such provisions to an agreement or contract shall be deemed to include a contract under section 1874A of such Act, as inserted by subsection (a)(1), that continues the activities referred to in such provisions.

(e) REFERENCES.—On and after the effective date provided under subsection (d)(1), any reference to a fiscal intermediary or carrier under title XI or XVIII of the Social Security Act (or any regulation, manual instruction, interpretive rule, statement of policy, or guideline issued to carry out such titles) shall be deemed a reference to an appropriate medicare administrative contractor (as provided under section 1874A of the Social Security Act).

(f) REPORTS ON IMPLEMENTATION.—

(1) PLAN FOR IMPLEMENTATION.—By not later than October 1, 2003, the Secretary shall submit a report to Congress and the Comptroller General of the United States that describes the plan for implementation of the amendments made by this section. The Comptroller General shall conduct an evaluation of such plan and shall submit to Congress, not later than 6 months after the date the report is received, a report on such evaluation and shall include in such report such recommendations as the Comptroller General deems appropriate.

(2) STATUS OF IMPLEMENTATION.—The Secretary shall submit a report to Congress not later than October 1, 2007, that describes the status of implementation of such amendments and that includes a description of the following:

(A) The number of contracts that have been competitively bid as of such date.

(B) The distribution of functions among contracts and contractors.

(C) A timeline for complete transition to full competition.

(D) A detailed description of how the Secretary has modified oversight and management of medicare contractors to adapt to full competition.

SEC. 812. REQUIREMENTS FOR INFORMATION SECURITY FOR MEDICARE ADMINISTRATIVE CONTRACTORS.

(a) IN GENERAL.—Section 1874A, as added by section 811(a)(1), is amended by adding at the end the following new subsection:

“(e) REQUIREMENTS FOR INFORMATION SECURITY.—

“(1) DEVELOPMENT OF INFORMATION SECURITY PROGRAM.—A medicare administrative contractor that performs the functions referred to in subparagraphs (A) and (B) of subsection (a)(4) (relating to determining and making payments) shall implement a contractor-wide information security program to provide information security for the operation and assets of the contractor with respect to such functions under this title. An information security program under this paragraph shall meet the requirements for information security programs imposed on Federal agencies under section 3534(b)(2) of

title 44, United States Code (other than requirements under subparagraphs (B)(ii), (F)(iii), and (F)(iv) of such section).

“(2) INDEPENDENT AUDITS.—

“(A) PERFORMANCE OF ANNUAL EVALUATIONS.—Each year a medicare administrative contractor that performs the functions referred to in subparagraphs (A) and (B) of subsection (a)(4) (relating to determining and making payments) shall undergo an evaluation of the information security of the contractor with respect to such functions under this title. The evaluation shall—

“(i) be performed by an entity that meets such requirements for independence as the Inspector General of the Department of Health and Human Services may establish; and

“(ii) test the effectiveness of information security control techniques for an appropriate subset of the contractor’s information systems (as defined in section 3502(8) of title 44, United States Code) relating to such functions under this title and an assessment of compliance with the requirements of this subsection and related information security policies, procedures, standards and guidelines.

“(B) DEADLINE FOR INITIAL EVALUATION.—

“(i) NEW CONTRACTORS.—In the case of a medicare administrative contractor covered by this subsection that has not previously performed the functions referred to in subparagraphs (A) and (B) of subsection (a)(4) (relating to determining and making payments) as a fiscal intermediary or carrier under section 1816 or 1842, the first independent evaluation conducted pursuant to subparagraph (A) shall be completed prior to commencing such functions.

“(ii) OTHER CONTRACTORS.—In the case of a medicare administrative contractor covered by this subsection that is not described in clause (i), the first independent evaluation conducted pursuant to subparagraph (A) shall be completed within 1 year after the date the contractor commences functions referred to in clause (i) under this section.

“(C) REPORTS ON EVALUATIONS.—

“(i) TO THE INSPECTOR GENERAL.—The results of independent evaluations under subparagraph (A) shall be submitted promptly to the Inspector General of the Department of Health and Human Services.

“(ii) TO CONGRESS.—The Inspector General of the Department of Health and Human Services shall submit to Congress annual reports on the results of such evaluations.”.

(b) APPLICATION OF REQUIREMENTS TO FISCAL INTERMEDIARIES AND CARRIERS.—

(1) IN GENERAL.—The provisions of section 1874A(e)(2) of the Social Security Act (other than subparagraph (B)), as added by subsection (a), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

(2) DEADLINE FOR INITIAL EVALUATION.—In the case of such a fiscal intermediary or carrier with an agreement or contract under such respective section in effect as of the date of the enactment of this Act, the first evaluation under section 1874A(e)(2)(A) of the Social Security Act (as added by subsection (a)), pursuant to paragraph (1), shall be completed (and a report on the evaluation submitted to the Secretary) by not later than 1 year after such date.

Subtitle C—Education and Outreach**SEC. 821. PROVIDER EDUCATION AND TECHNICAL ASSISTANCE.**

(a) COORDINATION OF EDUCATION FUNDING.—
(1) IN GENERAL.—The Social Security Act is amended by inserting after section 1888 the following new section:

“PROVIDER EDUCATION AND TECHNICAL ASSISTANCE

“SEC. 1889. (a) COORDINATION OF EDUCATION FUNDING.—The Secretary shall coordinate the educational activities provided through medicare contractors (as defined in subsection (g), including under section 1893) in order to maximize the effectiveness of Federal education efforts for providers of services and suppliers.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(3) REPORT.—Not later than October 1, 2003, the Secretary shall submit to Congress a report that includes a description and evaluation of the steps taken to coordinate the funding of provider education under section 1889(a) of the Social Security Act, as added by paragraph (1).

(b) INCENTIVES TO IMPROVE CONTRACTOR PERFORMANCE.—

(1) IN GENERAL.—Section 1874A, as added by section 811(a)(1) and as amended by section 812(a), is amended by adding at the end the following new subsection:

“(f) INCENTIVES TO IMPROVE CONTRACTOR PERFORMANCE IN PROVIDER EDUCATION AND OUTREACH.—In order to give medicare administrative contractors an incentive to implement effective education and outreach programs for providers of services and suppliers, the Secretary shall develop and implement a methodology to measure the specific claims payment error rates of such contractors in the processing or reviewing of medicare claims.”.

(2) APPLICATION TO FISCAL INTERMEDIARIES AND CARRIERS.—The provisions of section 1874A(f) of the Social Security Act, as added by paragraph (1), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

(3) GAO REPORT ON ADEQUACY OF METHODOLOGY.—Not later than October 1, 2003, the Comptroller General of the United States shall submit to Congress and to the Secretary a report on the adequacy of the methodology under section 1874A(f) of the Social Security Act, as added by paragraph (1), and shall include in the report such recommendations as the Comptroller General determines appropriate with respect to the methodology.

(4) REPORT ON USE OF METHODOLOGY IN ASSESSING CONTRACTOR PERFORMANCE.—Not later than October 1, 2003, the Secretary shall submit to Congress a report that describes how the Secretary intends to use such methodology in assessing medicare contractor performance in implementing effective education and outreach programs, including whether to use such methodology as a basis for performance bonuses. The report shall include an analysis of the sources of identified errors and potential changes in systems of contractors and rules of the Secretary that could reduce claims error rates.

(c) PROVISION OF ACCESS TO AND PROMPT RESPONSES FROM MEDICARE ADMINISTRATIVE CONTRACTORS.—

(1) IN GENERAL.—Section 1874A, as added by section 811(a)(1) and as amended by section

812(a) and subsection (b), is further amended by adding at the end the following new subsection:

“(g) COMMUNICATIONS WITH BENEFICIARIES, PROVIDERS OF SERVICES AND SUPPLIERS.—

“(1) COMMUNICATION STRATEGY.—The Secretary shall develop a strategy for communications with individuals entitled to benefits under part A or enrolled under part B, or both, and with providers of services and suppliers under this title.

“(2) RESPONSE TO WRITTEN INQUIRIES.—Each medicare administrative contractor shall, for those providers of services and suppliers which submit claims to the contractor for claims processing and for those individuals entitled to benefits under part A or enrolled under part B, or both, with respect to whom claims are submitted for claims processing, provide general written responses (which may be through electronic transmission) in a clear, concise, and accurate manner to inquiries of providers of services, suppliers and individuals entitled to benefits under part A or enrolled under part B, or both, concerning the programs under this title within 45 business days of the date of receipt of such inquiries.

“(3) RESPONSE TO TOLL-FREE LINES.—The Secretary shall ensure that each medicare administrative contractor shall provide, for those providers of services and suppliers which submit claims to the contractor for claims processing and for those individuals entitled to benefits under part A or enrolled under part B, or both, with respect to whom claims are submitted for claims processing, a toll-free telephone number at which such individuals, providers of services and suppliers may obtain information regarding billing, coding, claims, coverage, and other appropriate information under this title.

“(4) MONITORING OF CONTRACTOR RESPONSES.—

“(A) IN GENERAL.—Each medicare administrative contractor shall, consistent with standards developed by the Secretary under subparagraph (B)—

“(i) maintain a system for identifying who provides the information referred to in paragraphs (2) and (3); and

“(ii) monitor the accuracy, consistency, and timeliness of the information so provided.

“(B) DEVELOPMENT OF STANDARDS.—

“(1) IN GENERAL.—The Secretary shall establish and make public standards to monitor the accuracy, consistency, and timeliness of the information provided in response to written and telephone inquiries under this subsection. Such standards shall be consistent with the performance requirements established under subsection (b)(3).

“(ii) EVALUATION.—In conducting evaluations of individual medicare administrative contractors, the Secretary shall take into account the results of the monitoring conducted under subparagraph (A) taking into account as performance requirements the standards established under clause (i). The Secretary shall, in consultation with organizations representing providers of services, suppliers, and individuals entitled to benefits under part A or enrolled under part B, or both, establish standards relating to the accuracy, consistency, and timeliness of the information so provided.”.

“(C) DIRECT MONITORING.—Nothing in this paragraph shall be construed as preventing the Secretary from directly monitoring the accuracy, consistency, and timeliness of the information so provided.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect October 1, 2003.

(3) APPLICATION TO FISCAL INTERMEDIARIES AND CARRIERS.—The provisions of section 1874A(g) of the Social Security Act, as added by paragraph (1), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

(d) IMPROVED PROVIDER EDUCATION AND TRAINING.—

(1) IN GENERAL.—Section 1889, as added by subsection (a), is amended by adding at the end the following new subsections:

“(b) ENHANCED EDUCATION AND TRAINING.—

“(1) ADDITIONAL RESOURCES.—There are authorized to be appropriated to the Secretary (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) \$25,000,000 for each of fiscal years 2004 and 2005 and such sums as may be necessary for succeeding fiscal years.

“(2) USE.—The funds made available under paragraph (1) shall be used to increase the conduct by medicare contractors of education and training of providers of services and suppliers regarding billing, coding, and other appropriate items and may also be used to improve the accuracy, consistency, and timeliness of contractor responses.

“(c) TAILORING EDUCATION AND TRAINING ACTIVITIES FOR SMALL PROVIDERS OR SUPPLIERS.—

“(1) IN GENERAL.—Insofar as a medicare contractor conducts education and training activities, it shall tailor such activities to meet the special needs of small providers of services or suppliers (as defined in paragraph (2)).

“(2) SMALL PROVIDER OF SERVICES OR SUPPLIER.—In this subsection, the term ‘small provider of services or supplier’ means—

“(A) a provider of services with fewer than 25 full-time-equivalent employees; or

“(B) a supplier with fewer than 10 full-time-equivalent employees.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2003.

(e) REQUIREMENT TO MAINTAIN INTERNET SITES.—

(1) IN GENERAL.—Section 1889, as added by subsection (a) and as amended by subsection (d), is further amended by adding at the end the following new subsection:

“(d) INTERNET SITES; FAQs.—The Secretary, and each medicare contractor insofar as it provides services (including claims processing) for providers of services or suppliers, shall maintain an Internet site which—

“(1) provides answers in an easily accessible format to frequently asked questions, and

“(2) includes other published materials of the contractor,

that relate to providers of services and suppliers under the programs under this title (and title XI insofar as it relates to such programs).”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2003.

(f) ADDITIONAL PROVIDER EDUCATION PROVISIONS.—

(1) IN GENERAL.—Section 1889, as added by subsection (a) and as amended by subsections (d) and (e), is further amended by adding at the end the following new subsections:

“(e) ENCOURAGEMENT OF PARTICIPATION IN EDUCATION PROGRAM ACTIVITIES.—A medicare contractor may not use a record of attendance at (or failure to attend) educational activities or other information gathered during an educational program conducted under this section or otherwise by the Secretary to select or track providers of services or suppliers for the purpose of conducting any type of audit or prepayment review.

“(f) CONSTRUCTION.—Nothing in this section or section 1893(g) shall be construed as providing for disclosure by a medicare contractor of information that would compromise pending law enforcement activities or reveal findings of law enforcement-related audits.

“(g) DEFINITIONS.—For purposes of this section, the term ‘medicare contractor’ includes the following:

“(1) A medicare administrative contractor with a contract under section 1874A, including a fiscal intermediary with a contract under section 1816 and a carrier with a contract under section 1842.

“(2) An eligible entity with a contract under section 1893.

Such term does not include, with respect to activities of a specific provider of services or supplier an entity that has no authority under this title or title IX with respect to such activities and such provider of services or supplier.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

SEC. 822. SMALL PROVIDER TECHNICAL ASSISTANCE DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a demonstration program (in this section referred to as the “demonstration program”) under which technical assistance described in paragraph (2) is made available, upon request and on a voluntary basis, to small providers of services or suppliers in order to improve compliance with the applicable requirements of the programs under medicare program under title XVIII of the Social Security Act (including provisions of title XI of such Act insofar as they relate to such title and are not administered by the Office of the Inspector General of the Department of Health and Human Services).

(2) FORMS OF TECHNICAL ASSISTANCE.—The technical assistance described in this paragraph is—

(A) evaluation and recommendations regarding billing and related systems; and

(B) information and assistance regarding policies and procedures under the medicare program, including coding and reimbursement.

(3) SMALL PROVIDERS OF SERVICES OR SUPPLIERS.—In this section, the term “small providers of services or suppliers” means—

(A) a provider of services with fewer than 25 full-time-equivalent employees; or

(B) a supplier with fewer than 10 full-time-equivalent employees.

(b) QUALIFICATION OF CONTRACTORS.—In conducting the demonstration program, the Secretary shall enter into contracts with qualified organizations (such as peer review organizations or entities described in section 1893(g)(2) of the Social Security Act, as inserted by section 5(f)(1)) with appropriate expertise with billing systems of the full range of providers of services and suppliers to provide the technical assistance. In awarding such contracts, the Secretary shall consider any prior investigations of the entity’s work by the Inspector General of Department of

Health and Human Services or the Comptroller General of the United States.

(c) DESCRIPTION OF TECHNICAL ASSISTANCE.—The technical assistance provided under the demonstration program shall include a direct and in-person examination of billing systems and internal controls of small providers of services or suppliers to determine program compliance and to suggest more efficient or effective means of achieving such compliance.

(d) AVOIDANCE OF RECOVERY ACTIONS FOR PROBLEMS IDENTIFIED AS CORRECTED.—The Secretary shall provide that, absent evidence of fraud and notwithstanding any other provision of law, any errors found in a compliance review for a small provider of services or supplier that participates in the demonstration program shall not be subject to recovery action if the technical assistance personnel under the program determine that—

(1) the problem that is the subject of the compliance review has been corrected to their satisfaction within 30 days of the date of the visit by such personnel to the small provider of services or supplier; and

(2) such problem remains corrected for such period as is appropriate.

The previous sentence applies only to claims filed as part of the demonstration program and lasts only for the duration of such program and only as long as the small provider of services or supplier is a participant in such program.

(e) GAO EVALUATION.—Not later than 2 years after the date of the date the demonstration program is first implemented, the Comptroller General, in consultation with the Inspector General of the Department of Health and Human Services, shall conduct an evaluation of the demonstration program. The evaluation shall include a determination of whether claims error rates are reduced for small providers of services or suppliers who participated in the program and the extent of improper payments made as a result of the demonstration program. The Comptroller General shall submit a report to the Secretary and the Congress on such evaluation and shall include in such report recommendations regarding the continuation or extension of the demonstration program.

(f) FINANCIAL PARTICIPATION BY PROVIDERS.—The provision of technical assistance to a small provider of services or supplier under the demonstration program is conditioned upon the small provider of services or supplier paying an amount estimated (and disclosed in advance of a provider’s or supplier’s participation in the program) to be equal to 25 percent of the cost of the technical assistance.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to carry out the demonstration program—

(1) for fiscal year 2004, \$1,000,000, and

(2) for fiscal year 2005, \$6,000,000.

SEC. 823. MEDICARE PROVIDER OMBUDSMAN; MEDICARE BENEFICIARY OMBUDSMAN.

(a) MEDICARE PROVIDER OMBUDSMAN.—Section 1868 (42 U.S.C. 1395ee) is amended—

(1) by adding at the end of the heading the following: “; MEDICARE PROVIDER OMBUDSMAN”;

(2) by inserting “PRACTICING PHYSICIANS ADVISORY COUNCIL.—(1)” after “(a)”;

(3) in paragraph (1), as so redesignated under paragraph (2), by striking “in this section” and inserting “in this subsection”;

(4) by redesignating subsections (b) and (c) as paragraphs (2) and (3), respectively; and

(5) by adding at the end the following new subsection:

“(b) MEDICARE PROVIDER OMBUDSMAN.—The Secretary shall appoint within the Department of Health and Human Services a Medicare Provider Ombudsman. The Ombudsman shall—

“(1) provide assistance, on a confidential basis, to providers of services and suppliers with respect to complaints, grievances, and requests for information concerning the programs under this title (including provisions of title XI insofar as they relate to this title and are not administered by the Office of the Inspector General of the Department of Health and Human Services) and in the resolution of unclear or conflicting guidance given by the Secretary and medicare contractors to such providers of services and suppliers regarding such programs and provisions and requirements under this title and such provisions; and

“(2) submit recommendations to the Secretary for improvement in the administration of this title and such provisions, including—

“(A) recommendations to respond to recurring patterns of confusion in this title and such provisions (including recommendations regarding suspending imposition of sanctions where there is widespread confusion in program administration), and

“(B) recommendations to provide for an appropriate and consistent response (including not providing for audits) in cases of self-identified overpayments by providers of services and suppliers.

The Ombudsman shall not serve as an advocate for any increases in payments or new coverage of services, but may identify issues and problems in payment or coverage policies.”.

(b) MEDICARE BENEFICIARY OMBUDSMAN.—Title XVIII, as amended by sections 105 and 701, is amended by inserting after section 1808 the following new section:

“MEDICARE BENEFICIARY OMBUDSMAN

“SEC. 1809. (a) IN GENERAL.—The Secretary shall appoint within the Department of Health and Human Services a Medicare Beneficiary Ombudsman who shall have expertise and experience in the fields of health care and education of (and assistance to) individuals entitled to benefits under this title.

“(b) DUTIES.—The Medicare Beneficiary Ombudsman shall—

“(1) receive complaints, grievances, and requests for information submitted by individuals entitled to benefits under part A or enrolled under part B, or both, with respect to any aspect of the medicare program;

“(2) provide assistance with respect to complaints, grievances, and requests referred to in paragraph (1), including—

“(A) assistance in collecting relevant information for such individuals, to seek an appeal of a decision or determination made by a fiscal intermediary, carrier, Medicare+Choice organization, or the Secretary; and

“(B) assistance to such individuals with any problems arising from disenrollment from a Medicare+Choice plan under part C; and

“(3) submit annual reports to Congress and the Secretary that describe the activities of the Office and that include such recommendations for improvement in the administration of this title as the Ombudsman determines appropriate.

The Ombudsman shall not serve as an advocate for any increases in payments or new

coverage of services, but may identify issues and problems in payment or coverage policies.

“(c) **WORKING WITH HEALTH INSURANCE COUNSELING PROGRAMS.**—To the extent possible, the Ombudsman shall work with health insurance counseling programs (receiving funding under section 4360 of Omnibus Budget Reconciliation Act of 1990) to facilitate the provision of information to individuals entitled to benefits under part A or enrolled under part B, or both regarding Medicare+Choice plans and changes to those plans. Nothing in this subsection shall preclude further collaboration between the Ombudsman and such programs.”.

(c) **DEADLINE FOR APPOINTMENT.**—The Secretary shall appoint the Medicare Provider Ombudsman and the Medicare Beneficiary Ombudsman, under the amendments made by subsections (a) and (b), respectively, by not later than 1 year after the date of the enactment of this Act.

(d) **FUNDING.**—There are authorized to be appropriated to the Secretary (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to carry out the provisions of subsection (b) of section 1868 of the Social Security Act (relating to the Medicare Provider Ombudsman), as added by subsection (a)(5) and section 1809 of such Act (relating to the Medicare Beneficiary Ombudsman), as added by subsection (b), such sums as are necessary for fiscal year 2003 and each succeeding fiscal year.

(e) **USE OF CENTRAL, TOLL-FREE NUMBER (1-800-MEDICARE).**—

(1) **PHONE TRIAGE SYSTEM; LISTING IN MEDICARE HANDBOOK INSTEAD OF OTHER TOLL-FREE NUMBERS.**—Section 1804(b) (42 U.S.C. 1395b-2(b)) is amended by adding at the end the following: “The Secretary shall provide, through the toll-free number 1-800-MEDICARE, for a means by which individuals seeking information about, or assistance with, such programs who phone such toll-free number are transferred (without charge) to appropriate entities for the provision of such information or assistance. Such toll-free number shall be the toll-free number listed for general information and assistance in the annual notice under subsection (a) instead of the listing of numbers of individual contractors.”.

(2) **MONITORING ACCURACY.**—

(A) **STUDY.**—The Comptroller General of the United States shall conduct a study to monitor the accuracy and consistency of information provided to individuals entitled to benefits under part A or enrolled under part B, or both, through the toll-free number 1-800-MEDICARE, including an assessment of whether the information provided is sufficient to answer questions of such individuals. In conducting the study, the Comptroller General shall examine the education and training of the individuals providing information through such number.

(B) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subparagraph (A).

SEC. 824. BENEFICIARY OUTREACH DEMONSTRATION PROGRAM.

(a) **IN GENERAL.**—The Secretary shall establish a demonstration program (in this section referred to as the “demonstration program”) under which medicare specialists employed by the Department of Health and Human Services provide advice and assistance to individuals entitled to benefits under part A of title XVIII of the Social Security

Act, or enrolled under part B of such title, or both, regarding the medicare program at the location of existing local offices of the Social Security Administration.

(b) **LOCATIONS.**—

(1) **IN GENERAL.**—The demonstration program shall be conducted in at least 6 offices or areas. Subject to paragraph (2), in selecting such offices and areas, the Secretary shall provide preference for offices with a high volume of visits by individuals referred to in subsection (a).

(2) **ASSISTANCE FOR RURAL BENEFICIARIES.**—The Secretary shall provide for the selection of at least 2 rural areas to participate in the demonstration program. In conducting the demonstration program in such rural areas, the Secretary shall provide for medicare specialists to travel among local offices in a rural area on a scheduled basis.

(c) **DURATION.**—The demonstration program shall be conducted over a 3-year period.

(d) **EVALUATION AND REPORT.**—

(1) **EVALUATION.**—The Secretary shall provide for an evaluation of the demonstration program. Such evaluation shall include an analysis of—

(A) utilization of, and satisfaction of those individuals referred to in subsection (a) with, the assistance provided under the program; and

(B) the cost-effectiveness of providing beneficiary assistance through out-stationing medicare specialists at local offices of the Social Security Administration.

(2) **REPORT.**—The Secretary shall submit to Congress a report on such evaluation and shall include in such report recommendations regarding the feasibility of permanently out-stationing medicare specialists at local offices of the Social Security Administration.

Subtitle D—Appeals and Recovery

SEC. 831. TRANSFER OF RESPONSIBILITY FOR MEDICARE APPEALS.

(a) **TRANSITION PLAN.**—

(1) **IN GENERAL.**—Not later than October 1, 2003, the Commissioner of Social Security and the Secretary shall develop and transmit to Congress and the Comptroller General of the United States a plan under which the functions of administrative law judges responsible for hearing cases under title XVIII of the Social Security Act (and related provisions in title XI of such Act) are transferred from the responsibility of the Commissioner and the Social Security Administration to the Secretary and the Department of Health and Human Services.

(2) **GAO EVALUATION.**—The Comptroller General of the United States shall evaluate the plan and, not later than the date that is 6 months after the date on which the plan is received by the Comptroller General, shall submit to Congress a report on such evaluation.

(b) **TRANSFER OF ADJUDICATION AUTHORITY.**—

(1) **IN GENERAL.**—Not earlier than July 1, 2004, and not later than October 1, 2004, the Commissioner of Social Security and the Secretary shall implement the transition plan under subsection (a) and transfer the administrative law judge functions described in such subsection from the Social Security Administration to the Secretary.

(2) **ASSURING INDEPENDENCE OF JUDGES.**—The Secretary shall assure the independence of administrative law judges performing the administrative law judge functions transferred under paragraph (1) from the Centers for Medicare & Medicaid Services and its contractors.

(3) **GEOGRAPHIC DISTRIBUTION.**—The Secretary shall provide for an appropriate geo-

graphic distribution of administrative law judges performing the administrative law judge functions transferred under paragraph (1) throughout the United States to ensure timely access to such judges.

(4) **HIRING AUTHORITY.**—Subject to the amounts provided in advance in appropriations Act, the Secretary shall have authority to hire administrative law judges to hear such cases, giving priority to those judges with prior experience in handling medicare appeals and in a manner consistent with paragraph (3), and to hire support staff for such judges.

(5) **FINANCING.**—Amounts payable under law to the Commissioner for administrative law judges performing the administrative law judge functions transferred under paragraph (1) from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund shall become payable to the Secretary for the functions so transferred.

(6) **SHARED RESOURCES.**—The Secretary shall enter into such arrangements with the Commissioner as may be appropriate with respect to transferred functions of administrative law judges to share office space, support staff, and other resources, with appropriate reimbursement from the Trust Funds described in paragraph (5).

(c) **INCREASED FINANCIAL SUPPORT.**—In addition to any amounts otherwise appropriated, to ensure timely action on appeals before administrative law judges and the Departmental Appeals Board consistent with section 1869 of the Social Security Act (as amended by section 521 of BIPA, 114 Stat. 2763A-534), there are authorized to be appropriated (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to the Secretary such sums as are necessary for fiscal year 2004 and each subsequent fiscal year to—

(1) increase the number of administrative law judges (and their staffs) under subsection (b)(4);

(2) improve education and training opportunities for administrative law judges (and their staffs); and

(3) increase the staff of the Departmental Appeals Board.

(d) **CONFORMING AMENDMENT.**—Section 1869(f)(2)(A)(i) (42 U.S.C. 1395ff(f)(2)(A)(i)), as added by section 522(a) of BIPA (114 Stat. 2763A-543), is amended by striking “of the Social Security Administration”.

SEC. 832. PROCESS FOR EXPEDITED ACCESS TO REVIEW.

(a) **EXPEDITED ACCESS TO JUDICIAL REVIEW.**—Section 1869(b) (42 U.S.C. 1395ff(b)) as amended by BIPA, is amended—

(1) in paragraph (1)(A), by inserting “, subject to paragraph (2),” before “to judicial review of the Secretary’s final decision”;

(2) in paragraph (1)(F)—

(A) by striking clause (ii);

(B) by striking “PROCEEDING” and all that follows through “DETERMINATION” and inserting “DETERMINATIONS AND RECONSIDERATIONS”; and

(C) by redesignating subclauses (I) and (II) as clauses (i) and (ii) and by moving the indentation of such subclauses (and the matter that follows) 2 ems to the left; and

(3) by adding at the end the following new paragraph:

“(2) **EXPEDITED ACCESS TO JUDICIAL REVIEW.**—

“(A) **IN GENERAL.**—The Secretary shall establish a process under which a provider of services or supplier that furnishes an item or service or an individual entitled to benefits

under part A or enrolled under part B, or both, who has filed an appeal under paragraph (1) may obtain access to judicial review when a review panel (described in subparagraph (D)), on its own motion or at the request of the appellant, determines that no entity in the administrative appeals process has the authority to decide the question of law or regulation relevant to the matters in controversy and that there is no material issue of fact in dispute. The appellant may make such request only once with respect to a question of law or regulation in a case of an appeal.

“(B) PROMPT DETERMINATIONS.—If, after or coincident with appropriately filing a request for an administrative hearing, the appellant requests a determination by the appropriate review panel that no review panel has the authority to decide the question of law or regulations relevant to the matters in controversy and that there is no material issue of fact in dispute and if such request is accompanied by the documents and materials as the appropriate review panel shall require for purposes of making such determination, such review panel shall make a determination on the request in writing within 60 days after the date such review panel receives the request and such accompanying documents and materials. Such a determination by such review panel shall be considered a final decision and not subject to review by the Secretary.

“(C) ACCESS TO JUDICIAL REVIEW.—

“(i) IN GENERAL.—If the appropriate review panel—

“(I) determines that there are no material issues of fact in dispute and that the only issue is one of law or regulation that no review panel has the authority to decide; or

“(II) fails to make such determination within the period provided under subparagraph (B);

then the appellant may bring a civil action as described in this subparagraph.

“(ii) DEADLINE FOR FILING.—Such action shall be filed, in the case described in—

“(I) clause (i)(I), within 60 days of date of the determination described in such subparagraph; or

“(II) clause (i)(II), within 60 days of the end of the period provided under subparagraph (B) for the determination.

“(iii) VENUE.—Such action shall be brought in the district court of the United States for the judicial district in which the appellant is located (or, in the case of an action brought jointly by more than one applicant, the judicial district in which the greatest number of applicants are located) or in the district court for the District of Columbia.

“(iv) INTEREST ON AMOUNTS IN CONTROVERSY.—Where a provider of services or supplier seeks judicial review pursuant to this paragraph, the amount in controversy shall be subject to annual interest beginning on the first day of the first month beginning after the 60-day period as determined pursuant to clause (ii) and equal to the rate of interest on obligations issued for purchase by the Federal Hospital Insurance Trust Fund and by the Federal Supplementary Medical Insurance Trust Fund for the month in which the civil action authorized under this paragraph is commenced, to be awarded by the reviewing court in favor of the prevailing party. No interest awarded pursuant to the preceding sentence shall be deemed income or cost for the purposes of determining reimbursement due providers of services or suppliers under this Act.

“(D) REVIEW PANELS.—For purposes of this subsection, a ‘review panel’ is a panel con-

sisting of 3 members (who shall be administrative law judges, members of the Departmental Appeals Board, or qualified individuals associated with a qualified independent contractor (as defined in subsection (c)(2)) or with another independent entity) designated by the Secretary for purposes of making determinations under this paragraph.”.

(b) APPLICATION TO PROVIDER AGREEMENT DETERMINATIONS.—Section 1866(h)(1) (42 U.S.C. 1395cc(h)(1)) is amended—

(1) by inserting “(A)” after “(h)(1)”; and

(2) by adding at the end the following new subparagraph:

“(B) An institution or agency described in subparagraph (A) that has filed for a hearing under subparagraph (A) shall have expedited access to judicial review under this subparagraph in the same manner as providers of services, suppliers, and individuals entitled to benefits under part A or enrolled under part B, or both, may obtain expedited access to judicial review under the process established under section 1869(b)(2). Nothing in this subparagraph shall be construed to affect the application of any remedy imposed under section 1819 during the pendency of an appeal under this subparagraph.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to appeals filed on or after October 1, 2003.

(d) EXPEDITED REVIEW OF CERTAIN PROVIDER AGREEMENT DETERMINATIONS.—

(1) TERMINATION AND CERTAIN OTHER IMMEDIATE REMEDIES.—The Secretary shall develop and implement a process to expedite proceedings under sections 1866(h) of the Social Security Act (42 U.S.C. 1395cc(h)) in which the remedy of termination of participation, or a remedy described in clause (i) or (iii) of section 1819(h)(2)(B) of such Act (42 U.S.C. 1395i-3(h)(2)(B)) which is applied on an immediate basis, has been imposed. Under such process priority shall be provided in cases of termination.

(2) INCREASED FINANCIAL SUPPORT.—In addition to any amounts otherwise appropriated, to reduce by 50 percent the average time for administrative determinations on appeals under section 1866(h) of the Social Security Act (42 U.S.C. 1395cc(h)), there are authorized to be appropriated (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to the Secretary such additional sums for fiscal year 2004 and each subsequent fiscal year as may be necessary. The purposes for which such amounts are available include increasing the number of administrative law judges (and their staffs) and the appellate level staff at the Departmental Appeals Board of the Department of Health and Human Services and educating such judges and staffs on long-term care issues.

SEC. 833. REVISIONS TO MEDICARE APPEALS PROCESS.

(a) REQUIRING FULL AND EARLY PRESENTATION OF EVIDENCE.—

(1) IN GENERAL.—Section 1869(b) (42 U.S.C. 1395ff(b)), as amended by BIPA and as amended by section 832(a), is further amended by adding at the end the following new paragraph:

“(3) REQUIRING FULL AND EARLY PRESENTATION OF EVIDENCE BY PROVIDERS.—A provider of services or supplier may not introduce evidence in any appeal under this section that was not presented at the reconsideration conducted by the qualified independent contractor under subsection (c), unless there is good cause which precluded the introduction of such evidence at or before that reconsideration.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2003.

(b) USE OF PATIENTS’ MEDICAL RECORDS.—Section 1869(c)(3)(B)(i) (42 U.S.C. 1395ff(c)(3)(B)(i)), as amended by BIPA, is amended by inserting “(including the medical records of the individual involved)” after “clinical experience”.

(c) NOTICE REQUIREMENTS FOR MEDICARE APPEALS.—

(1) INITIAL DETERMINATIONS AND REDETERMINATIONS.—Section 1869(a) (42 U.S.C. 1395ff(a)), as amended by BIPA, is amended by adding at the end the following new paragraph:

“(4) REQUIREMENTS OF NOTICE OF DETERMINATIONS AND REDETERMINATIONS.—A written notice of a determination on an initial determination or on a redetermination, insofar as such determination or redetermination results in a denial of a claim for benefits, shall include—

“(A) the specific reasons for the determination, including—

“(i) upon request, the provision of the policy, manual, or regulation used in making the determination; and

“(ii) as appropriate in the case of a redetermination, a summary of the clinical or scientific evidence used in making the determination;

“(B) the procedures for obtaining additional information concerning the determination or redetermination; and

“(C) notification of the right to seek a redetermination or otherwise appeal the determination and instructions on how to initiate such a redetermination or appeal under this section.

The written notice on a redetermination shall be provided in printed form and written in a manner calculated to be understood by the individual entitled to benefits under part A or enrolled under part B, or both.”.

(2) RECONSIDERATIONS.—Section 1869(c)(3)(E) (42 U.S.C. 1395ff(c)(3)(E)), as amended by BIPA, is amended—

(A) by inserting “be written in a manner calculated to be understood by the individual entitled to benefits under part A or enrolled under part B, or both, and shall include (to the extent appropriate)” after “in writing,”; and

(B) by inserting “and a notification of the right to appeal such determination and instructions on how to initiate such appeal under this section” after “such decision,”.

(3) APPEALS.—Section 1869(d) (42 U.S.C. 1395ff(d)), as amended by BIPA, is amended—

(A) in the heading, by inserting “; NOTICE” after “SECRETARY”; and

(B) by adding at the end the following new paragraph:

“(4) NOTICE.—Notice of the decision of an administrative law judge shall be in writing in a manner calculated to be understood by the individual entitled to benefits under part A or enrolled under part B, or both, and shall include—

“(A) the specific reasons for the determination (including, to the extent appropriate, a summary of the clinical or scientific evidence used in making the determination);

“(B) the procedures for obtaining additional information concerning the decision; and

“(C) notification of the right to appeal the decision and instructions on how to initiate such an appeal under this section.”.

(4) SUBMISSION OF RECORD FOR APPEAL.—Section 1869(c)(3)(J)(i) (42 U.S.C. 1395ff(c)(3)(J)(i)) by striking “prepare” and

inserting "submit" and by striking "with respect to" and all that follows through "and relevant policies".

(d) QUALIFIED INDEPENDENT CONTRACTORS.—

(1) ELIGIBILITY REQUIREMENTS OF QUALIFIED INDEPENDENT CONTRACTORS.—Section 1869(c)(3) (42 U.S.C. 1395ff(c)(3)), as amended by BIPA, is amended—

(A) in subparagraph (A), by striking "sufficient training and expertise in medical science and legal matters" and inserting "sufficient medical, legal, and other expertise (including knowledge of the program under this title) and sufficient staffing"; and

(B) by adding at the end the following new subparagraph:

"(K) INDEPENDENCE REQUIREMENTS.—

"(i) IN GENERAL.—Subject to clause (ii), a qualified independent contractor shall not conduct any activities in a case unless the entity—

"(I) is not a related party (as defined in subsection (g)(5));

"(II) does not have a material familial, financial, or professional relationship with such a party in relation to such case; and

"(III) does not otherwise have a conflict of interest with such a party.

"(ii) EXCEPTION FOR REASONABLE COMPENSATION.—Nothing in clause (i) shall be construed to prohibit receipt by a qualified independent contractor of compensation from the Secretary for the conduct of activities under this section if the compensation is provided consistent with clause (iii).

"(iii) LIMITATIONS ON ENTITY COMPENSATION.—Compensation provided by the Secretary to a qualified independent contractor in connection with reviews under this section shall not be contingent on any decision rendered by the contractor or by any reviewing professional."

(2) ELIGIBILITY REQUIREMENTS FOR REVIEWERS.—Section 1869 (42 U.S.C. 1395ff), as amended by BIPA, is amended—

(A) by amending subsection (c)(3)(D) to read as follows:

"(D) QUALIFICATIONS FOR REVIEWERS.—The requirements of subsection (g) shall be met (relating to qualifications of reviewing professionals); and

(B) by adding at the end the following new subsection:

"(g) QUALIFICATIONS OF REVIEWERS.—

"(1) IN GENERAL.—In reviewing determinations under this section, a qualified independent contractor shall assure that—

"(A) each individual conducting a review shall meet the qualifications of paragraph (2);

"(B) compensation provided by the contractor to each such reviewer is consistent with paragraph (3); and

"(C) in the case of a review by a panel described in subsection (c)(3)(B) composed of physicians or other health care professionals (each in this subsection referred to as a 'reviewing professional'), each reviewing professional meets the qualifications described in paragraph (4) and, where a claim is regarding the furnishing of treatment by a physician (allopathic or osteopathic) or the provision of items or services by a physician (allopathic or osteopathic), each reviewing professional shall be a physician (allopathic or osteopathic).

"(2) INDEPENDENCE.—

"(A) IN GENERAL.—Subject to subparagraph (B), each individual conducting a review in a case shall—

"(i) not be a related party (as defined in paragraph (5));

"(ii) not have a material familial, financial, or professional relationship with such a party in the case under review; and

"(iii) not otherwise have a conflict of interest with such a party.

"(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

"(i) prohibit an individual, solely on the basis of a participation agreement with a fiscal intermediary, carrier, or other contractor, from serving as a reviewing professional if—

"(I) the individual is not involved in the provision of items or services in the case under review;

"(II) the fact of such an agreement is disclosed to the Secretary and the individual entitled to benefits under part A or enrolled under part B, or both, (or authorized representative) and neither party objects; and

"(III) the individual is not an employee of the intermediary, carrier, or contractor and does not provide services exclusively or primarily to or on behalf of such intermediary, carrier, or contractor;

"(ii) prohibit an individual who has staff privileges at the institution where the treatment involved takes place from serving as a reviewer merely on the basis of having such staff privileges if the existence of such privileges is disclosed to the Secretary and such individual (or authorized representative), and neither party objects; or

"(iii) prohibit receipt of compensation by a reviewing professional from a contractor if the compensation is provided consistent with paragraph (3).

For purposes of this paragraph, the term 'participation agreement' means an agreement relating to the provision of health care services by the individual and does not include the provision of services as a reviewer under this subsection.

"(3) LIMITATIONS ON REVIEWER COMPENSATION.—Compensation provided by a qualified independent contractor to a reviewer in connection with a review under this section shall not be contingent on the decision rendered by the reviewer.

"(4) LICENSURE AND EXPERTISE.—Each reviewing professional shall be—

"(A) a physician (allopathic or osteopathic) who is appropriately credentialed or licensed in one or more States to deliver health care services and has medical expertise in the field of practice that is appropriate for the items or services at issue; or

"(B) a health care professional who is legally authorized in one or more States (in accordance with State law or the State regulatory mechanism provided by State law) to furnish the health care items or services at issue and has medical expertise in the field of practice that is appropriate for such items or services.

"(5) RELATED PARTY DEFINED.—For purposes of this section, the term 'related party' means, with respect to a case under this title involving a specific individual entitled to benefits under part A or enrolled under part B, or both, any of the following:

"(A) The Secretary, the medicare administrative contractor involved, or any fiduciary, officer, director, or employee of the Department of Health and Human Services, or of such contractor.

"(B) The individual (or authorized representative).

"(C) The health care professional that provides the items or services involved in the case.

"(D) The institution at which the items or services (or treatment) involved in the case are provided.

"(E) The manufacturer of any drug or other item that is included in the items or services involved in the case.

"(F) Any other party determined under any regulations to have a substantial interest in the case involved."

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall be effective as if included in the enactment of the respective provisions of subtitle C of title V of BIPA, (114 Stat. 2763A–534).

(4) TRANSITION.—In applying section 1869(g) of the Social Security Act (as added by paragraph (2)), any reference to a medicare administrative contractor shall be deemed to include a reference to a fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and a carrier under section 1842 of such Act (42 U.S.C. 1395u).

SEC. 834. PREPAYMENT REVIEW.

(a) IN GENERAL.—Section 1874A, as added by section 811(a)(1) and as amended by sections 812(b), 821(b)(1), and 831(c)(1), is further amended by adding at the end the following new subsection:

"(h) CONDUCT OF PREPAYMENT REVIEW.—

"(1) CONDUCT OF RANDOM PREPAYMENT REVIEW.—

"(A) IN GENERAL.—A medicare administrative contractor may conduct random prepayment review only to develop a contractor-wide or program-wide claims payment error rates or under such additional circumstances as may be provided under regulations, developed in consultation with providers of services and suppliers.

"(B) USE OF STANDARD PROTOCOLS WHEN CONDUCTING PREPAYMENT REVIEWS.—When a medicare administrative contractor conducts a random prepayment review, the contractor may conduct such review only in accordance with a standard protocol for random prepayment audits developed by the Secretary.

"(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing the denial of payments for claims actually reviewed under a random prepayment review.

"(D) RANDOM PREPAYMENT REVIEW.—For purposes of this subsection, the term 'random prepayment review' means a demand for the production of records or documentation absent cause with respect to a claim.

"(2) LIMITATIONS ON NON-RANDOM PREPAYMENT REVIEW.—

"(A) LIMITATIONS ON INITIATION OF NON-RANDOM PREPAYMENT REVIEW.—A medicare administrative contractor may not initiate non-random prepayment review of a provider of services or supplier based on the initial identification by that provider of services or supplier of an improper billing practice unless there is a likelihood of sustained or high level of payment error (as defined in subsection (i)(3)(A)).

"(B) TERMINATION OF NON-RANDOM PREPAYMENT REVIEW.—The Secretary shall issue regulations relating to the termination, including termination dates, of non-random prepayment review. Such regulations may vary such a termination date based upon the differences in the circumstances triggering prepayment review."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendment made by subsection (a) shall take effect 1 year after the date of the enactment of this Act.

(2) DEADLINE FOR PROMULGATION OF CERTAIN REGULATIONS.—The Secretary shall first issue regulations under section 1874A(h) of the Social Security Act, as added by subsection (a), by not later than 1 year after the date of the enactment of this Act.

(3) APPLICATION OF STANDARD PROTOCOLS FOR RANDOM PREPAYMENT REVIEW.—Section 1874A(h)(1)(B) of the Social Security Act, as added by subsection (a), shall apply to random prepayment reviews conducted on or after such date (not later than 1 year after the date of the enactment of this Act) as the Secretary shall specify.

(c) APPLICATION TO FISCAL INTERMEDIARIES AND CARRIERS.—The provisions of section 1874A(h) of the Social Security Act, as added by subsection (a), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

SEC. 835. RECOVERY OF OVERPAYMENTS.

(a) IN GENERAL.—Section 1893 (42 U.S.C. 1395ddd) is amended by adding at the end the following new subsection:

“(f) RECOVERY OF OVERPAYMENTS.—

“(1) USE OF REPAYMENT PLANS.—

“(A) IN GENERAL.—If the repayment, within 30 days by a provider of services or supplier, of an overpayment under this title would constitute a hardship (as defined in subparagraph (B)), subject to subparagraph (C), upon request of the provider of services or supplier the Secretary shall enter into a plan with the provider of services or supplier for the repayment (through offset or otherwise) of such overpayment over a period of at least 6 months but not longer than 3 years (or not longer than 5 years in the case of extreme hardship, as determined by the Secretary). Interest shall accrue on the balance through the period of repayment. Such plan shall meet terms and conditions determined to be appropriate by the Secretary.

“(B) HARDSHIP.—

“(i) IN GENERAL.—For purposes of subparagraph (A), the repayment of an overpayment (or overpayments) within 30 days is deemed to constitute a hardship if—

“(I) in the case of a provider of services that files cost reports, the aggregate amount of the overpayments exceeds 10 percent of the amount paid under this title to the provider of services for the cost reporting period covered by the most recently submitted cost report; or

“(II) in the case of another provider of services or supplier, the aggregate amount of the overpayments exceeds 10 percent of the amount paid under this title to the provider of services or supplier for the previous calendar year.

“(ii) RULE OF APPLICATION.—The Secretary shall establish rules for the application of this subparagraph in the case of a provider of services or supplier that was not paid under this title during the previous year or was paid under this title only during a portion of that year.

“(iii) TREATMENT OF PREVIOUS OVERPAYMENTS.—If a provider of services or supplier has entered into a repayment plan under subparagraph (A) with respect to a specific overpayment amount, such payment amount under the repayment plan shall not be taken into account under clause (i) with respect to subsequent overpayment amounts.

“(C) EXCEPTIONS.—Subparagraph (A) shall not apply if—

“(i) the Secretary has reason to suspect that the provider of services or supplier may file for bankruptcy or otherwise cease to do business or discontinue participation in the program under this title; or

“(ii) there is an indication of fraud or abuse committed against the program.

“(D) IMMEDIATE COLLECTION IF VIOLATION OF REPAYMENT PLAN.—If a provider of services

or supplier fails to make a payment in accordance with a repayment plan under this paragraph, the Secretary may immediately seek to offset or otherwise recover the total balance outstanding (including applicable interest) under the repayment plan.

“(E) RELATION TO NO FAULT PROVISION.—Nothing in this paragraph shall be construed as affecting the application of section 1870(c) (relating to no adjustment in the cases of certain overpayments).

“(2) LIMITATION ON RECOUPMENT.—

“(A) IN GENERAL.—In the case of a provider of services or supplier that is determined to have received an overpayment under this title and that seeks a reconsideration by a qualified independent contractor on such determination under section 1869(b)(1), the Secretary may not take any action (or authorize any other person, including any medicare contractor, as defined in subparagraph (C)) to recoup the overpayment until the date the decision on the reconsideration has been rendered. If the provisions of section 1869(b)(1) (providing for such a reconsideration by a qualified independent contractor) are not in effect, in applying the previous sentence any reference to such a reconsideration shall be treated as a reference to a redetermination by the fiscal intermediary or carrier involved.

“(B) COLLECTION WITH INTEREST.—Insofar as the determination on such appeal is against the provider of services or supplier, interest on the overpayment shall accrue on and after the date of the original notice of overpayment. Insofar as such determination against the provider of services or supplier is later reversed, the Secretary shall provide for repayment of the amount recouped plus interest at the same rate as would apply under the previous sentence for the period in which the amount was recouped.

“(C) MEDICARE CONTRACTOR DEFINED.—For purposes of this subsection, the term ‘medicare contractor’ has the meaning given such term in section 1889(g).

“(3) LIMITATION ON USE OF EXTRAPOLATION.—A medicare contractor may not use extrapolation to determine overpayment amounts to be recovered by recoupment, offset, or otherwise unless—

“(A) there is a sustained or high level of payment error (as defined by the Secretary by regulation); or

“(B) documented educational intervention has failed to correct the payment error (as determined by the Secretary).

“(4) PROVISION OF SUPPORTING DOCUMENTATION.—In the case of a provider of services or supplier with respect to which amounts were previously overpaid, a medicare contractor may request the periodic production of records or supporting documentation for a limited sample of submitted claims to ensure that the previous practice is not continuing.

“(5) CONSENT SETTLEMENT REFORMS.—

“(A) IN GENERAL.—The Secretary may use a consent settlement (as defined in subparagraph (D)) to settle a projected overpayment.

“(B) OPPORTUNITY TO SUBMIT ADDITIONAL INFORMATION BEFORE CONSENT SETTLEMENT OFFER.—Before offering a provider of services or supplier a consent settlement, the Secretary shall—

“(i) communicate to the provider of services or supplier—

“(I) that, based on a review of the medical records requested by the Secretary, a preliminary evaluation of those records indicates that there would be an overpayment;

“(II) the nature of the problems identified in such evaluation; and

“(III) the steps that the provider of services or supplier should take to address the problems; and

“(ii) provide for a 45-day period during which the provider of services or supplier may furnish additional information concerning the medical records for the claims that had been reviewed.

“(C) CONSENT SETTLEMENT OFFER.—The Secretary shall review any additional information furnished by the provider of services or supplier under subparagraph (B)(ii). Taking into consideration such information, the Secretary shall determine if there still appears to be an overpayment. If so, the Secretary—

“(i) shall provide notice of such determination to the provider of services or supplier, including an explanation of the reason for such determination; and

“(ii) in order to resolve the overpayment, may offer the provider of services or supplier—

“(I) the opportunity for a statistically valid random sample; or

“(II) a consent settlement.

The opportunity provided under clause (ii)(I) does not waive any appeal rights with respect to the alleged overpayment involved.

“(D) CONSENT SETTLEMENT DEFINED.—For purposes of this paragraph, the term ‘consent settlement’ means an agreement between the Secretary and a provider of services or supplier whereby both parties agree to settle a projected overpayment based on less than a statistically valid sample of claims and the provider of services or supplier agrees not to appeal the claims involved.

“(6) NOTICE OF OVER-UTILIZATION OF CODES.—The Secretary shall establish, in consultation with organizations representing the classes of providers of services and suppliers, a process under which the Secretary provides for notice to classes of providers of services and suppliers served by the contractor in cases in which the contractor has identified that particular billing codes may be overutilized by that class of providers of services or suppliers under the programs under this title (or provisions of title XI insofar as they relate to such programs).

“(7) PAYMENT AUDITS.—

“(A) WRITTEN NOTICE FOR POST-PAYMENT AUDITS.—Subject to subparagraph (C), if a medicare contractor decides to conduct a post-payment audit of a provider of services or supplier under this title, the contractor shall provide the provider of services or supplier with written notice (which may be in electronic form) of the intent to conduct such an audit.

“(B) EXPLANATION OF FINDINGS FOR ALL AUDITS.—Subject to subparagraph (C), if a medicare contractor audits a provider of services or supplier under this title, the contractor shall—

“(i) give the provider of services or supplier a full review and explanation of the findings of the audit in a manner that is understandable to the provider of services or supplier and permits the development of an appropriate corrective action plan;

“(ii) inform the provider of services or supplier of the appeal rights under this title as well as consent settlement options (which are at the discretion of the Secretary);

“(iii) give the provider of services or supplier an opportunity to provide additional information to the contractor; and

“(iv) take into account information provided, on a timely basis, by the provider of services or supplier under clause (iii).

“(C) EXCEPTION.—Subparagraphs (A) and (B) shall not apply if the provision of notice

or findings would compromise pending law enforcement activities, whether civil or criminal, or reveal findings of law enforcement-related audits.

“(8) STANDARD METHODOLOGY FOR PROBE SAMPLING.—The Secretary shall establish a standard methodology for medicare contractors to use in selecting a sample of claims for review in the case of an abnormal billing pattern.”.

(b) EFFECTIVE DATES AND DEADLINES.—

(1) USE OF REPAYMENT PLANS.—Section 1893(f)(1) of the Social Security Act, as added by subsection (a), shall apply to requests for repayment plans made after the date of the enactment of this Act.

(2) LIMITATION ON RECOUPMENT.—Section 1893(f)(2) of the Social Security Act, as added by subsection (a), shall apply to actions taken after the date of the enactment of this Act.

(3) USE OF EXTRAPOLATION.—Section 1893(f)(3) of the Social Security Act, as added by subsection (a), shall apply to statistically valid random samples initiated after the date that is 1 year after the date of the enactment of this Act.

(4) PROVISION OF SUPPORTING DOCUMENTATION.—Section 1893(f)(4) of the Social Security Act, as added by subsection (a), shall take effect on the date of the enactment of this Act.

(5) CONSENT SETTLEMENT.—Section 1893(f)(5) of the Social Security Act, as added by subsection (a), shall apply to consent settlements entered into after the date of the enactment of this Act.

(6) NOTICE OF OVERUTILIZATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall first establish the process for notice of overutilization of billing codes under section 1893A(f)(6) of the Social Security Act, as added by subsection (a).

(7) PAYMENT AUDITS.—Section 1893A(f)(7) of the Social Security Act, as added by subsection (a), shall apply to audits initiated after the date of the enactment of this Act.

(8) STANDARD FOR ABNORMAL BILLING PATTERNS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall first establish a standard methodology for selection of sample claims for abnormal billing patterns under section 1893(f)(8) of the Social Security Act, as added by subsection (a).

SEC. 836. PROVIDER ENROLLMENT PROCESS; RIGHT OF APPEAL.

(a) IN GENERAL.—Section 1866 (42 U.S.C. 1395cc) is amended—

(1) by adding at the end of the heading the following: “; ENROLLMENT PROCESSES”; and

(2) by adding at the end the following new subsection:

“(j) ENROLLMENT PROCESS FOR PROVIDERS OF SERVICES AND SUPPLIERS.—

“(1) ENROLLMENT PROCESS.—

“(A) IN GENERAL.—The Secretary shall establish by regulation a process for the enrollment of providers of services and suppliers under this title.

“(B) DEADLINES.—The Secretary shall establish by regulation procedures under which there are deadlines for actions on applications for enrollment (and, if applicable, renewal of enrollment). The Secretary shall monitor the performance of medicare administrative contractors in meeting the deadlines established under this subparagraph.

“(C) CONSULTATION BEFORE CHANGING PROVIDER ENROLLMENT FORMS.—The Secretary shall consult with providers of services and suppliers before making changes in the provider enrollment forms required of such pro-

viders and suppliers to be eligible to submit claims for which payment may be made under this title.

“(2) HEARING RIGHTS IN CASES OF DENIAL OR NON-RENEWAL.—A provider of services or supplier whose application to enroll (or, if applicable, to renew enrollment) under this title is denied may have a hearing and judicial review of such denial under the procedures that apply under subsection (h)(1)(A) to a provider of services that is dissatisfied with a determination by the Secretary.”.

(b) EFFECTIVE DATES.—

(1) ENROLLMENT PROCESS.—The Secretary shall provide for the establishment of the enrollment process under section 1866(j)(1) of the Social Security Act, as added by subsection (a)(2), within 6 months after the date of the enactment of this Act.

(2) CONSULTATION.—Section 1866(j)(1)(C) of the Social Security Act, as added by subsection (a)(2), shall apply with respect to changes in provider enrollment forms made on or after January 1, 2003.

(3) HEARING RIGHTS.—Section 1866(j)(2) of the Social Security Act, as added by subsection (a)(2), shall apply to denials occurring on or after such date (not later than 1 year after the date of the enactment of this Act) as the Secretary specifies.

SEC. 837. PROCESS FOR CORRECTION OF MINOR ERRORS AND OMISSIONS ON CLAIMS WITHOUT PURSUING APPEALS PROCESS.

The Secretary shall develop, in consultation with appropriate medicare contractors (as defined in section 1889(g) of the Social Security Act, as inserted by section 821(a)(1)) and representatives of providers of services and suppliers, a process whereby, in the case of minor errors or omissions (as defined by the Secretary) that are detected in the submission of claims under the programs under title XVIII of such Act, a provider of services or supplier is given an opportunity to correct such an error or omission without the need to initiate an appeal. Such process shall include the ability to resubmit corrected claims.

SEC. 838. PRIOR DETERMINATION PROCESS FOR CERTAIN ITEMS AND SERVICES; ADVANCE BENEFICIARY NOTICES.

(a) IN GENERAL.—Section 1869 (42 U.S.C. 1395ff(b)), as amended by sections 521 and 522 of BIPA and section 833(d)(2)(B), is further amended by adding at the end the following new subsection:

“(h) PRIOR DETERMINATION PROCESS FOR CERTAIN ITEMS AND SERVICES.—

“(1) ESTABLISHMENT OF PROCESS.—

“(A) IN GENERAL.—With respect to a medicare administrative contractor that has a contract under section 1874A that provides for making payments under this title with respect to eligible items and services described in subparagraph (C), the Secretary shall establish a prior determination process that meets the requirements of this subsection and that shall be applied by such contractor in the case of eligible requesters.

“(B) ELIGIBLE REQUESTER.—For purposes of this subsection, each of the following shall be an eligible requester:

“(i) A physician, but only with respect to eligible items and services for which the physician may be paid directly.

“(ii) An individual entitled to benefits under this title, but only with respect to an item or service for which the individual receives, from the physician who may be paid directly for the item or service, an advance beneficiary notice under section 1879(a) that payment may not be made (or may no longer be made) for the item or service under this title.

“(C) ELIGIBLE ITEMS AND SERVICES.—For purposes of this subsection and subject to paragraph (2), eligible items and services are items and services which are physicians' services (as defined in paragraph (4)(A) of section 1848(f) for purposes of calculating the sustainable growth rate under such section).

“(2) SECRETARIAL FLEXIBILITY.—The Secretary shall establish by regulation reasonable limits on the categories of eligible items and services for which a prior determination of coverage may be requested under this subsection. In establishing such limits, the Secretary may consider the dollar amount involved with respect to the item or service, administrative costs and burdens, and other relevant factors.

“(3) REQUEST FOR PRIOR DETERMINATION.—

“(A) IN GENERAL.—Subject to paragraph (2), under the process established under this subsection an eligible requester may submit to the contractor a request for a determination, before the furnishing of an eligible item or service involved as to whether the item or service is covered under this title consistent with the applicable requirements of section 1862(a)(1)(A) (relating to medical necessity).

“(B) ACCOMPANYING DOCUMENTATION.—The Secretary may require that the request be accompanied by a description of the item or service, supporting documentation relating to the medical necessity for the item or service, and any other appropriate documentation. In the case of a request submitted by an eligible requester who is described in paragraph (1)(B)(ii), the Secretary may require that the request also be accompanied by a copy of the advance beneficiary notice involved.

“(4) RESPONSE TO REQUEST.—

“(A) IN GENERAL.—Under such process, the contractor shall provide the eligible requester with written notice of a determination as to whether—

“(i) the item or service is so covered;

“(ii) the item or service is not so covered; or

“(iii) the contractor lacks sufficient information to make a coverage determination.

If the contractor makes the determination described in clause (ii), the contractor shall include in the notice a description of the additional information required to make the coverage determination.

“(B) DEADLINE TO RESPOND.—Such notice shall be provided within the same time period as the time period applicable to the contractor providing notice of initial determinations on a claim for benefits under subsection (a)(2)(A).

“(C) INFORMING BENEFICIARY IN CASE OF PHYSICIAN REQUEST.—In the case of a request in which an eligible requester is not the individual described in paragraph (1)(B)(ii), the process shall provide that the individual to whom the item or service is proposed to be furnished shall be informed of any determination described in clause (i) (relating to a determination of non-coverage) and the right (referred to in paragraph (6)(B)) to obtain the item or service and have a claim submitted for the item or service.

“(5) EFFECT OF DETERMINATIONS.—

“(A) BINDING NATURE OF POSITIVE DETERMINATION.—If the contractor makes the determination described in paragraph (4)(A)(i), such determination shall be binding on the contractor in the absence of fraud or evidence of misrepresentation of facts presented to the contractor.

“(B) NOTICE AND RIGHT TO REDETERMINATION IN CASE OF A DENIAL.—

“(i) IN GENERAL.—If the contractor makes the determination described in paragraph (4)(A)(ii)—

“(I) the eligible requester has the right to a redetermination by the contractor on the determination that the item or service is not so covered; and

“(II) the contractor shall include in notice under paragraph (4)(A) a brief explanation of the basis for the determination, including on what national or local coverage or noncoverage determination (if any) the determination is based, and the right to such a redetermination.

“(ii) DEADLINE FOR REDETERMINATIONS.—The contractor shall complete and provide notice of such redetermination within the same time period as the time period applicable to the contractor providing notice of redeterminations relating to a claim for benefits under subsection (a)(3)(C)(ii).

“(6) LIMITATION ON FURTHER REVIEW.—

“(A) IN GENERAL.—Contractor determinations described in paragraph (4)(A)(ii) or (4)(A)(iii) (and redeterminations made under paragraph (5)(B)), relating to pre-service claims are not subject to further administrative appeal or judicial review under this section or otherwise.

“(B) DECISION NOT TO SEEK PRIOR DETERMINATION OR NEGATIVE DETERMINATION DOES NOT IMPACT RIGHT TO OBTAIN SERVICES, SEEK REIMBURSEMENT, OR APPEAL RIGHTS.—Nothing in this subsection shall be construed as affecting the right of an individual who—

“(i) decides not to seek a prior determination under this subsection with respect to items or services; or

“(ii) seeks such a determination and has received a determination described in paragraph (4)(A)(ii), from receiving (and submitting a claim for) such items services and from obtaining administrative or judicial review respecting such claim under the other applicable provisions of this section. Failure to seek a prior determination under this subsection with respect to items and services shall not be taken into account in such administrative or judicial review.

“(C) NO PRIOR DETERMINATION AFTER RECEIPT OF SERVICES.—Once an individual is provided items and services, there shall be no prior determination under this subsection with respect to such items or services.”.

(b) EFFECTIVE DATE; TRANSITION.—

(1) EFFECTIVE DATE.—The Secretary shall establish the prior determination process under the amendment made by subsection (a) in such a manner as to provide for the acceptance of requests for determinations under such process filed not later than 18 months after the date of the enactment of this Act.

(2) TRANSITION.—During the period in which the amendment made by subsection (a) has become effective but contracts are not provided under section 1874A of the Social Security Act with medicare administrative contractors, any reference in section 1869(g) of such Act (as added by such amendment) to such a contractor is deemed a reference to a fiscal intermediary or carrier with an agreement under section 1816, or contract under section 1842, respectively, of such Act.

(3) LIMITATION ON APPLICATION TO SGR.—For purposes of applying section 1848(f)(2)(D) of the Social Security Act (42 U.S.C. 1395w-4(f)(2)(D)), the amendment made by subsection (a) shall not be considered to be a change in law or regulation.

(c) PROVISIONS RELATING TO ADVANCE BENEFICIARY NOTICES; REPORT ON PRIOR DETERMINATION PROCESS.—

(1) DATA COLLECTION.—The Secretary shall establish a process for the collection of in-

formation on the instances in which an advance beneficiary notice (as defined in paragraph (4)) has been provided and on instances in which a beneficiary indicates on such a notice that the beneficiary does not intend to seek to have the item or service that is the subject of the notice furnished.

(2) OUTREACH AND EDUCATION.—The Secretary shall establish a program of outreach and education for beneficiaries and providers of services and other persons on the appropriate use of advance beneficiary notices and coverage policies under the medicare program.

(3) GAO REPORT ON USE OF ADVANCE BENEFICIARY NOTICES.—Not later than 18 months after the date on which section 1869(g) of the Social Security Act (as added by subsection (a)) takes effect, the Comptroller General of the United States shall submit to Congress a report on the use of advance beneficiary notices under title XVIII of such Act. Such report shall include information concerning the providers of services and other persons that have provided such notices and the response of beneficiaries to such notices.

(4) GAO REPORT ON USE OF PRIOR DETERMINATION PROCESS.—Not later than 18 months after the date on which section 1869(g) of the Social Security Act (as added by subsection (a)) takes effect, the Comptroller General of the United States shall submit to Congress a report on the use of the prior determination process under such section. Such report shall include—

(A) information concerning the types of procedures for which a prior determination has been sought, determinations made under the process, and changes in receipt of services resulting from the application of such process; and

(B) an evaluation of whether the process was useful for physicians (and other suppliers) and beneficiaries, whether it was timely, and whether the amount of information required was burdensome to physicians and beneficiaries.

(5) ADVANCE BENEFICIARY NOTICE DEFINED.—In this subsection, the term “advance beneficiary notice” means a written notice provided under section 1879(a) of the Social Security Act (42 U.S.C. 1395pp(a)) to an individual entitled to benefits under part A or B of title XVIII of such Act before items or services are furnished under such part in cases where a provider of services or other person that would furnish the item or service believes that payment will not be made for some or all of such items or services under such title.

Subtitle E—Miscellaneous Provisions

SEC. 841. POLICY DEVELOPMENT REGARDING EVALUATION AND MANAGEMENT (E & M) DOCUMENTATION GUIDELINES.

(a) IN GENERAL.—The Secretary may not implement any new documentation guidelines for evaluation and management physician services under the title XVIII of the Social Security Act on or after the date of the enactment of this Act unless the Secretary—

(1) has developed the guidelines in collaboration with practicing physicians (including both generalists and specialists) and provided for an assessment of the proposed guidelines by the physician community;

(2) has established a plan that contains specific goals, including a schedule, for improving the use of such guidelines;

(3) has conducted appropriate and representative pilot projects under subsection (b) to test modifications to the evaluation and management documentation guidelines;

(4) finds that the objectives described in subsection (c) will be met in the implementation of such guidelines; and

(5) has established, and is implementing, a program to educate physicians on the use of such guidelines and that includes appropriate outreach.

The Secretary shall make changes to the manner in which existing evaluation and management documentation guidelines are implemented to reduce paperwork burdens on physicians.

(b) PILOT PROJECTS TO TEST EVALUATION AND MANAGEMENT DOCUMENTATION GUIDELINES.—

(1) IN GENERAL.—The Secretary shall conduct under this subsection appropriate and representative pilot projects to test new evaluation and management documentation guidelines referred to in subsection (a).

(2) LENGTH AND CONSULTATION.—Each pilot project under this subsection shall—

(A) be voluntary;

(B) be of sufficient length as determined by the Secretary to allow for preparatory physician and medicare contractor education, analysis, and use and assessment of potential evaluation and management guidelines; and

(C) be conducted, in development and throughout the planning and operational stages of the project, in consultation with practicing physicians (including both generalists and specialists).

(3) RANGE OF PILOT PROJECTS.—Of the pilot projects conducted under this subsection—

(A) at least one shall focus on a peer review method by physicians (not employed by a medicare contractor) which evaluates medical record information for claims submitted by physicians identified as statistical outliers relative to definitions published in the Current Procedures Terminology (CPT) code book of the American Medical Association;

(B) at least one shall focus on an alternative method to detailed guidelines based on physician documentation of face to face encounter time with a patient;

(C) at least one shall be conducted for services furnished in a rural area and at least one for services furnished outside such an area; and

(D) at least one shall be conducted in a setting where physicians bill under physicians' services in teaching settings and at least one shall be conducted in a setting other than a teaching setting.

(4) BANNING OF TARGETING OF PILOT PROJECT PARTICIPANTS.—Data collected under this subsection shall not be used as the basis for overpayment demands or post-payment audits. Such limitation applies only to claims filed as part of the pilot project and lasts only for the duration of the pilot project and only as long as the provider is a participant in the pilot project.

(5) STUDY OF IMPACT.—Each pilot project shall examine the effect of the new evaluation and management documentation guidelines on—

(A) different types of physician practices, including those with fewer than 10 full-time-equivalent employees (including physicians); and

(B) the costs of physician compliance, including education, implementation, auditing, and monitoring.

(6) PERIODIC REPORTS.—The Secretary shall submit to Congress periodic reports on the pilot projects under this subsection.

(c) OBJECTIVES FOR EVALUATION AND MANAGEMENT GUIDELINES.—The objectives for modified evaluation and management documentation guidelines developed by the Secretary shall be to—

(1) identify clinically relevant documentation needed to code accurately and assess coding levels accurately;

(2) decrease the level of non-clinically pertinent and burdensome documentation time and content in the physician's medical record;

(3) increase accuracy by reviewers; and

(4) educate both physicians and reviewers.

(d) **STUDY OF SIMPLER, ALTERNATIVE SYSTEMS OF DOCUMENTATION FOR PHYSICIAN CLAIMS.**—

(1) **STUDY.**—The Secretary shall carry out a study of the matters described in paragraph (2).

(2) **MATTERS DESCRIBED.**—The matters referred to in paragraph (1) are—

(A) the development of a simpler, alternative system of requirements for documentation accompanying claims for evaluation and management physician services for which payment is made under title XVIII of the Social Security Act; and

(B) consideration of systems other than current coding and documentation requirements for payment for such physician services.

(3) **CONSULTATION WITH PRACTICING PHYSICIANS.**—In designing and carrying out the study under paragraph (1), the Secretary shall consult with practicing physicians, including physicians who are part of group practices and including both generalists and specialists.

(4) **APPLICATION OF HIPAA UNIFORM CODING REQUIREMENTS.**—In developing an alternative system under paragraph (2), the Secretary shall consider requirements of administrative simplification under part C of title XI of the Social Security Act.

(5) **REPORT TO CONGRESS.**—(A) Not later than October 1, 2004, the Secretary shall submit to Congress a report on the results of the study conducted under paragraph (1).

(B) The Medicare Payment Advisory Commission shall conduct an analysis of the results of the study included in the report under subparagraph (A) and shall submit a report on such analysis to Congress.

(e) **STUDY ON APPROPRIATE CODING OF CERTAIN EXTENDED OFFICE VISITS.**—The Secretary shall conduct a study of the appropriateness of coding in cases of extended office visits in which there is no diagnosis made. Not later than October 1, 2004, the Secretary shall submit a report to Congress on such study and shall include recommendations on how to code appropriately for such visits in a manner that takes into account the amount of time the physician spent with the patient.

(f) **DEFINITIONS.**—In this section—

(1) the term “rural area” has the meaning given that term in section 1886(d)(2)(D) of the Social Security Act, 42 U.S.C. 1395ww(d)(2)(D); and

(2) the term “teaching settings” are those settings described in section 415.150 of title 42, Code of Federal Regulations.

SEC. 842. IMPROVEMENT IN OVERSIGHT OF TECHNOLOGY AND COVERAGE.

(a) **IMPROVED COORDINATION BETWEEN FDA AND CMS ON COVERAGE OF BREAKTHROUGH MEDICAL DEVICES.**—

(1) **IN GENERAL.**—Upon request by an applicant and to the extent feasible (as determined by the Secretary), the Secretary shall, in the case of a class III medical device that is subject to premarket approval under section 515 of the Federal Food, Drug, and Cosmetic Act, ensure the sharing of appropriate information from the review for application for premarket approval conducted by the Food and Drug Administration for coverage decisions under title XVIII of the Social Security Act.

(2) **PUBLICATION OF PLAN.**—Not later than 6 months after the date of the enactment of

this Act, the Secretary shall submit to appropriate Committees of Congress a report that contains the plan for improving such coordination and for shortening the time lag between the premarket approval by the Food and Drug Administration and coding and coverage decisions by the Centers for Medicare & Medicaid Services.

(3) **CONSTRUCTION.**—Nothing in this subsection shall be construed as changing the criteria for coverage of a medical device under title XVIII of the Social Security Act nor premarket approval by the Food and Drug Administration and nothing in this subsection shall be construed to increase premarket approval application requirements under the Federal Food, Drug, and Cosmetic Act.

(b) **COUNCIL FOR TECHNOLOGY AND INNOVATION.**—Section 1868 (42 U.S.C. 1395ee), as amended by section 821(a), is amended by adding at the end the following new subsection:

“(c) **COUNCIL FOR TECHNOLOGY AND INNOVATION.**—

“(1) **ESTABLISHMENT.**—The Secretary shall establish a Council for Technology and Innovation within the Centers for Medicare & Medicaid Services (in this section referred to as ‘CMS’).

“(2) **COMPOSITION.**—The Council shall be composed of senior CMS staff and clinicians and shall be chaired by the Executive Coordinator for Technology and Innovation (appointed or designated under paragraph (4)).

“(3) **DUTIES.**—The Council shall coordinate the activities of coverage, coding, and payment processes under this title with respect to new technologies and procedures, including new drug therapies, and shall coordinate the exchange of information on new technologies between CMS and other entities that make similar decisions.

“(4) **EXECUTIVE COORDINATOR FOR TECHNOLOGY AND INNOVATION.**—The Secretary shall appoint (or designate) a noncareer appointee (as defined in section 3132(a)(7) of title 5, United States Code) who shall serve as the Executive Coordinator for Technology and Innovation. Such executive coordinator shall report to the Administrator of CMS, shall chair the Council, shall oversee the execution of its duties, and shall serve as a single point of contact for outside groups and entities regarding the coverage, coding, and payment processes under this title.”.

(c) **GAO STUDY ON IMPROVEMENTS IN EXTERNAL DATA COLLECTION FOR USE IN THE MEDICARE INPATIENT PAYMENT SYSTEM.**—

(1) **STUDY.**—The Comptroller General of the United States shall conduct a study that analyzes which external data can be collected in a shorter time frame by the Centers for Medicare & Medicaid Services for use in computing payments for inpatient hospital services. The study may include an evaluation of the feasibility and appropriateness of using of quarterly samples or special surveys or any other methods. The study shall include an analysis of whether other executive agencies, such as the Bureau of Labor Statistics in the Department of Commerce, are best suited to collect this information.

(2) **REPORT.**—By not later than October 1, 2003, the Comptroller General shall submit a report to Congress on the study under paragraph (1).

(d) **IOM STUDY ON LOCAL COVERAGE DETERMINATIONS.**—

(1) **STUDY.**—The Secretary shall enter into an arrangement with the Institute of Medicine of the National Academy of Sciences under which the Institute shall conduct a study on local coverage determinations (in-

cluding the application of local medical review policies) under the medicare program under title XVIII of the Social Security Act. Such study shall examine—

(A) the consistency of the definitions used in such determinations;

(B) the types of evidence on which such determinations are based, including medical and scientific evidence;

(C) the advantages and disadvantages of local coverage decisionmaking, including the flexibility it offers for ensuring timely patient access to new medical technology for which data are still being collected;

(D) the manner in which the local coverage determination process is used to develop data needed for a national coverage determination, including the need for collection of such data within a protocol and informed consent by individuals entitled to benefits under part A of title XVIII of the Social Security Act, or enrolled under part B of such title, or both; and

(E) the advantages and disadvantages of maintaining local medicare contractor advisory committees that can advise on local coverage decisions based on an open, collaborative public process.

(2) **REPORT.**—Such arrangement shall provide that the Institute shall submit to the Secretary a report on such study by not later than 3 years after the date of the enactment of this Act. The Secretary shall promptly transmit a copy of such report to Congress.

(e) **METHODS FOR DETERMINING PAYMENT BASIS FOR NEW LAB TESTS.**—Section 1833(h) (42 U.S.C. 1395l(h)) is amended by adding at the end the following:

“(8)(A) The Secretary shall establish by regulation procedures for determining the basis for, and amount of, payment under this subsection for any clinical diagnostic laboratory test with respect to which a new or substantially revised HCPCS code is assigned on or after January 1, 2004 (in this paragraph referred to as ‘new tests’).

“(B) Determinations under subparagraph (A) shall be made only after the Secretary—

“(i) makes available to the public (through an Internet site and other appropriate mechanisms) a list that includes any such test for which establishment of a payment amount under this subsection is being considered for a year;

“(ii) on the same day such list is made available, causes to have published in the Federal Register notice of a meeting to receive comments and recommendations (and data on which recommendations are based) from the public on the appropriate basis under this subsection for establishing payment amounts for the tests on such list;

“(iii) not less than 30 days after publication of such notice convenes a meeting, that includes representatives of officials of the Centers for Medicare & Medicaid Services involved in determining payment amounts, to receive such comments and recommendations (and data on which the recommendations are based);

“(iv) taking into account the comments and recommendations (and accompanying data) received at such meeting, develops and makes available to the public (through an Internet site and other appropriate mechanisms) a list of proposed determinations with respect to the appropriate basis for establishing a payment amount under this subsection for each such code, together with an explanation of the reasons for each such determination, the data on which the determinations are based, and a request for public written comments on the proposed determination; and

“(v) taking into account the comments received during the public comment period, develops and makes available to the public (through an Internet site and other appropriate mechanisms) a list of final determinations of the payment amounts for such tests under this subsection, together with the rationale for each such determination, the data on which the determinations are based, and responses to comments and suggestions received from the public.

“(C) Under the procedures established pursuant to subparagraph (A), the Secretary shall—

“(i) set forth the criteria for making determinations under subparagraph (A); and

“(ii) make available to the public the data (other than proprietary data) considered in making such determinations.

“(D) The Secretary may convene such further public meetings to receive public comments on payment amounts for new tests under this subsection as the Secretary deems appropriate.

“(E) For purposes of this paragraph:

“(i) The term ‘HCPCS’ refers to the Health Care Procedure Coding System.

“(ii) A code shall be considered to be ‘substantially revised’ if there is a substantive change to the definition of the test or procedure to which the code applies (such as a new analyte or a new methodology for measuring an existing analyte-specific test).”

SEC. 843. TREATMENT OF HOSPITALS FOR CERTAIN SERVICES UNDER MEDICARE SECONDARY PAYOR (MSP) PROVISIONS.

(a) IN GENERAL.—The Secretary shall not require a hospital (including a critical access hospital) to ask questions (or obtain information) relating to the application of section 1862(b) of the Social Security Act (relating to medicare secondary payor provisions) in the case of reference laboratory services described in subsection (b), if the Secretary does not impose such requirement in the case of such services furnished by an independent laboratory.

(b) REFERENCE LABORATORY SERVICES DESCRIBED.—Reference laboratory services described in this subsection are clinical laboratory diagnostic tests (or the interpretation of such tests, or both) furnished without a face-to-face encounter between the individual entitled to benefits under part A or enrolled under part B, or both, and the hospital involved and in which the hospital submits a claim only for such test or interpretation.

SEC. 844. EMTALA IMPROVEMENTS.

(a) PAYMENT FOR EMTALA-MANDATED SCREENING AND STABILIZATION SERVICES.—

(1) IN GENERAL.—Section 1862 (42 U.S.C. 1395y) is amended by inserting after subsection (c) the following new subsection:

“(d) For purposes of subsection (a)(1)(A), in the case of any item or service that is required to be provided pursuant to section 1867 to an individual who is entitled to benefits under this title, determinations as to whether the item or service is reasonable and necessary shall be made on the basis of the information available to the treating physician or practitioner (including the patient’s presenting symptoms or complaint) at the time the item or service was ordered or furnished by the physician or practitioner (and not on the patient’s principal diagnosis). When making such determinations with respect to such an item or service, the Secretary shall not consider the frequency with which the item or service was provided to the patient before or after the time of the admission or visit.”

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items and services furnished on or after January 1, 2003.

(b) NOTIFICATION OF PROVIDERS WHEN EMTALA INVESTIGATION CLOSED.—Section 1867(d) (42 U.S.C. 1395dd(d)) is amended by adding at the end the following new paragraph:

“(4) NOTICE UPON CLOSING AN INVESTIGATION.—The Secretary shall establish a procedure to notify hospitals and physicians when an investigation under this section is closed.”

(c) PRIOR REVIEW BY PEER REVIEW ORGANIZATIONS IN EMTALA CASES INVOLVING TERMINATION OF PARTICIPATION.—

(1) IN GENERAL.—Section 1867(d)(3) (42 U.S.C. 1395dd(d)(3)) is amended—

(A) in the first sentence, by inserting “or in terminating a hospital’s participation under this title” after “in imposing sanctions under paragraph (1)”; and

(B) by adding at the end the following new sentences: “Except in the case in which a delay would jeopardize the health or safety of individuals, the Secretary shall also request such a review before making a compliance determination as part of the process of terminating a hospital’s participation under this title for violations related to the appropriateness of a medical screening examination, stabilizing treatment, or an appropriate transfer as required by this section, and shall provide a period of 5 days for such review. The Secretary shall provide a copy of the report on the organization’s report to the hospital or physician consistent with confidentiality requirements imposed on the organization under such part B.”

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to terminations of participation initiated on or after the date of the enactment of this Act.

SEC. 845. EMERGENCY MEDICAL TREATMENT AND ACTIVE LABOR ACT (EMTALA) TECHNICAL ADVISORY GROUP.

(a) ESTABLISHMENT.—The Secretary shall establish a Technical Advisory Group (in this section referred to as the “Advisory Group”) to review issues related to the Emergency Medical Treatment and Active Labor Act (EMTALA) and its implementation. In this section, the term “EMTALA” refers to the provisions of section 1867 of the Social Security Act (42 U.S.C. 1395dd).

(b) MEMBERSHIP.—The Advisory Group shall be composed of 19 members, including the Administrator of the Centers for Medicare & Medicaid Services and the Inspector General of the Department of Health and Human Services and of which—

(1) 4 shall be representatives of hospitals, including at least one public hospital, that have experience with the application of EMTALA and at least 2 of which have not been cited for EMTALA violations;

(2) 7 shall be practicing physicians drawn from the fields of emergency medicine, cardiology or cardiothoracic surgery, orthopedic surgery, neurosurgery, obstetrics-gynecology, and psychiatry, with not more than one physician from any particular field;

(3) 2 shall represent patients;

(4) 2 shall be staff involved in EMTALA investigations from different regional offices of the Centers for Medicare & Medicaid Services; and

(5) 1 shall be from a State survey office involved in EMTALA investigations and 1 shall be from a peer review organization, both of whom shall be from areas other than the regions represented under paragraph (4).

In selecting members described in paragraphs (1) through (3), the Secretary shall

consider qualified individuals nominated by organizations representing providers and patients.

(c) GENERAL RESPONSIBILITIES.—The Advisory Group—

(1) shall review EMTALA regulations;

(2) may provide advice and recommendations to the Secretary with respect to those regulations and their application to hospitals and physicians;

(3) shall solicit comments and recommendations from hospitals, physicians, and the public regarding the implementation of such regulations; and

(4) may disseminate information on the application of such regulations to hospitals, physicians, and the public.

(d) ADMINISTRATIVE MATTERS.—

(1) CHAIRPERSON.—The members of the Advisory Group shall elect a member to serve as chairperson of the Advisory Group for the life of the Advisory Group.

(2) MEETINGS.—The Advisory Group shall first meet at the direction of the Secretary. The Advisory Group shall then meet twice per year and at such other times as the Advisory Group may provide.

(e) TERMINATION.—The Advisory Group shall terminate 30 months after the date of its first meeting.

(f) WAIVER OF ADMINISTRATIVE LIMITATION.—The Secretary shall establish the Advisory Group notwithstanding any limitation that may apply to the number of advisory committees that may be established (within the Department of Health and Human Services or otherwise).

SEC. 846. AUTHORIZING USE OF ARRANGEMENTS WITH OTHER HOSPICE PROGRAMS TO PROVIDE CORE HOSPICE SERVICES IN CERTAIN CIRCUMSTANCES.

(a) IN GENERAL.—Section 1861(dd)(5) (42 U.S.C. 1395x(dd)(5)) is amended by adding at the end the following new subparagraph:

“(D) In extraordinary, exigent, or other non-routine circumstances, such as unanticipated periods of high patient loads, staffing shortages due to illness or other events, or temporary travel of a patient outside a hospice program’s service area, a hospice program may enter into arrangements with another hospice program for the provision by that other program of services described in paragraph (2)(A)(ii)(I). The provisions of paragraph (2)(A)(ii)(II) shall apply with respect to the services provided under such arrangements.”

(b) CONFORMING PAYMENT PROVISION.—Section 1814(i) (42 U.S.C. 1395f(i)) is amended by adding at the end the following new paragraph:

“(4) In the case of hospice care provided by a hospice program under arrangements under section 1861(dd)(5)(D) made by another hospice program, the hospice program that made the arrangements shall bill and be paid for the hospice care.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to hospice care provided on or after the date of the enactment of this Act.

SEC. 847. APPLICATION OF OSHA BLOODBORNE PATHOGENS STANDARD TO CERTAIN HOSPITALS.

(a) IN GENERAL.—Section 1866 (42 U.S.C. 1395cc) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (R), by striking “and” at the end;

(B) in subparagraph (S), by striking the period at the end and inserting “, and”; and

(C) by inserting after subparagraph (S) the following new subparagraph:

“(T) in the case of hospitals that are not otherwise subject to the Occupational Safety

and Health Act of 1970, to comply with the Bloodborne Pathogens standard under section 1910.1030 of title 29 of the Code of Federal Regulations (or as subsequently redesignated)."; and

(B) by adding at the end of subsection (b) the following new paragraph:

"(4)(A) A hospital that fails to comply with the requirement of subsection (a)(1)(T) (relating to the Bloodborne Pathogens standard) is subject to a civil money penalty in an amount described in subparagraph (B), but is not subject to termination of an agreement under this section.

"(B) The amount referred to in subparagraph (A) is an amount that is similar to the amount of civil penalties that may be imposed under section 17 of the Occupational Safety and Health Act of 1970 for a violation of the Bloodborne Pathogens standard referred to in subsection (a)(1)(T) by a hospital that is subject to the provisions of such Act.

"(C) A civil money penalty under this paragraph shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A are imposed and collected under that section."

(b) **EFFECTIVE DATE.**—The amendments made by this subsection (a) shall apply to hospitals as of July 1, 2003.

SEC. 848. BIPA-RELATED TECHNICAL AMENDMENTS AND CORRECTIONS.

(a) **TECHNICAL AMENDMENTS RELATING TO ADVISORY COMMITTEE UNDER BIPA SECTION 522.**—(1) Subsection (i) of section 1114 (42 U.S.C. 1314)—

(A) is transferred to section 1862 and added at the end of such section; and

(B) is redesignated as subsection (j).

(2) Section 1862 (42 U.S.C. 1395y) is amended—

(A) in the last sentence of subsection (a), by striking "established under section 1114(f)"; and

(B) in subsection (j), as so transferred and redesignated—

(i) by striking "under subsection (f)"; and

(ii) by striking "section 1862(a)(1)" and inserting "subsection (a)(1)".

(b) **TERMINOLOGY CORRECTIONS.**—(1) Section 1869(c)(3)(I)(ii) (42 U.S.C. 1395ff(c)(3)(I)(ii)), as amended by section 521 of BIPA, is amended—

(A) in subclause (III), by striking "policy" and inserting "determination"; and

(B) in subclause (IV), by striking "medical review—policies" and inserting "coverage determinations".

(2) Section 1852(a)(2)(C) (42 U.S.C. 1395w-22(a)(2)(C)) is amended by striking "policy" and "POLICY" and inserting "determination" each place it appears and "DETERMINATION", respectively.

(c) **REFERENCE CORRECTIONS.**—Section 1869(f)(4) (42 U.S.C. 1395ff(f)(4)), as added by section 522 of BIPA, is amended—

(1) in subparagraph (A)(iv), by striking "subclause (I), (II), or (III)" and inserting "clause (i), (ii), or (iii)";

(2) in subparagraph (B), by striking "clause (i)(IV)" and "clause (i)(III)" and inserting "subparagraph (A)(iv)" and "subparagraph (A)(iii)", respectively; and

(3) in subparagraph (C), by striking "clause (i)", "subclause (IV)" and "subparagraph (A)" and inserting "subparagraph (A)", "clause (iv)" and "paragraph (1)(A)", respectively each place it appears.

(d) **OTHER CORRECTIONS.**—Effective as if included in the enactment of section 521(c) of BIPA, section 1154(e) (42 U.S.C. 1320c-3(e)) is amended by striking paragraph (5).

(e) **EFFECTIVE DATE.**—Except as otherwise provided, the amendments made by this sec-

tion shall be effective as if included in the enactment of BIPA.

SEC. 849. CONFORMING AUTHORITY TO WAIVE A PROGRAM EXCLUSION.

The first sentence of section 1128(c)(3)(B) (42 U.S.C. 1320a-7(c)(3)(B)) is amended to read as follows: "Subject to subparagraph (G), in the case of an exclusion under subsection (a), the minimum period of exclusion shall be not less than five years, except that, upon the request of the administrator of a Federal health care program (as defined in section 1128B(f)) who determines that the exclusion would impose a hardship on individuals entitled to benefits under part A of title XVIII or enrolled under part B of such title, or both, the Secretary may waive the exclusion under subsection (a)(1), (a)(3), or (a)(4) with respect to that program in the case of an individual or entity that is the sole community physician or sole source of essential specialized services in a community."

SEC. 850. TREATMENT OF CERTAIN DENTAL CLAIMS.

(a) **IN GENERAL.**—Section 1862 (42 U.S.C. 1395y) is amended by inserting after subsection (c) the following new subsection:

"(d)(1) Subject to paragraph (2), a group health plan (as defined in subsection (a)(1)(A)(v)) providing supplemental or secondary coverage to individuals also entitled to services under this title shall not require a medicare claims determination under this title for dental benefits specifically excluded under subsection (a)(12) as a condition of making a claims determination for such benefits under the group health plan.

"(2) A group health plan may require a claims determination under this title in cases involving or appearing to involve inpatient dental hospital services or dental services expressly covered under this title pursuant to actions taken by the Secretary."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date that is 60 days after the date of the enactment of this Act.

SEC. 851. ANNUAL PUBLICATION OF LIST OF NATIONAL COVERAGE DETERMINATIONS.

The Secretary shall provide, in an appropriate annual publication available to the public, a list of national coverage determinations made under title XVIII of the Social Security Act in the previous year and information on how to get more information with respect to such determinations.

TITLE IX—MEDICAID, PUBLIC HEALTH, AND OTHER HEALTH PROVISIONS

Subtitle A—Medicaid Provisions

SEC. 901. NATIONAL BIPARTISAN COMMISSION ON THE FUTURE OF MEDICAID.

(a) **ESTABLISHMENT.**—There is established a commission to be known as the National Bipartisan Commission on the Future of Medicaid (in this section referred to as the "Commission").

(b) **DUTIES OF THE COMMISSION.**—The Commission shall—

(1) review and analyze the long-term financial condition of the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(2) identify the factors that are causing, and the consequences of, increases in costs under the Medicaid program, including—

(A) the impact of these cost increases upon State budgets, funding for other State programs, and levels of State taxes necessary to fund growing expenditures under the Medicaid program;

(B) the financial obligations of the Federal government arising from the Federal match-

ing requirement for expenditures under the Medicaid program; and

(C) the size and scope of the current program and how the program has evolved over time;

(3) analyze potential policies that will ensure both the financial integrity of the Medicaid program and the provision of appropriate benefits under such program;

(4) make recommendations for establishing incentives and structures to promote enhanced efficiencies and ways of encouraging innovative State policies under the Medicaid program;

(5) make recommendations for establishing the appropriate balance between benefits covered, payments to providers, State and Federal contributions and, where appropriate, recipient cost-sharing obligations;

(6) make recommendations on the impact of promoting increased utilization of competitive, private enterprise models to contain program cost growth, through enhanced utilization of private plans, pharmacy benefit managers, and other methods currently being used to contain private sector health-care costs;

(7) make recommendations on the financing of prescription drug benefits currently covered under Medicaid programs, including analysis of the current Federal manufacturer rebate program, its impact upon both private market prices as well as those paid by other government purchasers, recent State efforts to negotiate additional supplemental manufacturer rebates and the ability of pharmacy benefit managers to lower drug costs;

(8) review and analyze such other matters relating to the Medicaid program as the Commission deems appropriate; and

(9) analyze the impact of impending demographic changes upon Medicaid benefits, including long term care services, and make recommendations for how best to appropriately divide State and Federal responsibilities for funding these benefits.

(c) **MEMBERSHIP.**—

(1) **NUMBER AND APPOINTMENT.**—The Commission shall be composed of 17 members, of whom—

(A) four shall be appointed by the President;

(B) six shall be appointed by the Majority Leader of the Senate, in consultation with the Minority Leader of the Senate, of whom not more than 4 shall be of the same political party;

(C) six shall be appointed by the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives, of whom not more than 4 shall be of the same political party; and

(D) one, who shall serve as Chairman of the Commission, appointed jointly by the President, Majority Leader of the Senate, and the Speaker of the House of Representatives.

(2) **DEADLINE FOR APPOINTMENT.**—Members of the Commission shall be appointed by not later than December 1, 2002.

(3) **TERMS OF APPOINTMENT.**—The term of any appointment under paragraph (1) to the Commission shall be for the life of the Commission.

(4) **MEETINGS.**—The Commission shall meet at the call of its Chairman or a majority of its members.

(5) **QUORUM.**—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under subsection (e).

(6) **VACANCIES.**—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made not later than 30 days after the Commission

is given notice of the vacancy and shall not affect the power of the remaining members to execute the duties of the Commission.

(7) **COMPENSATION.**—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(8) **EXPENSES.**—Each member of the Commission shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

(d) **STAFF AND SUPPORT SERVICES.**—

(1) **EXECUTIVE DIRECTOR.**—

(A) **APPOINTMENT.**—The Chairman shall appoint an executive director of the Commission.

(B) **COMPENSATION.**—The executive director shall be paid the rate of basic pay for level V of the Executive Schedule.

(2) **STAFF.**—With the approval of the Commission, the executive director may appoint such personnel as the executive director considers appropriate.

(3) **APPLICABILITY OF CIVIL SERVICE LAWS.**—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

(4) **EXPERTS AND CONSULTANTS.**—With the approval of the Commission, the executive director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(5) **PHYSICAL FACILITIES.**—The Administrator of the General Services Administration shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

(e) **POWERS OF COMMISSION.**—

(1) **HEARINGS AND OTHER ACTIVITIES.**—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) **STUDIES BY GAO.**—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) **COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE AND OFFICE OF THE CHIEF ACTUARY OF HCFA.**—

(A) The Director of the Congressional Budget Office or the Chief Actuary of the Centers for Medicare & Medicaid Services, or both, shall provide to the Commission, upon the request of the Commission, such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) **DETAIL OF FEDERAL EMPLOYEES.**—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) **TECHNICAL ASSISTANCE.**—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) **USE OF MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) **OBTAINING INFORMATION.**—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(8) **ADMINISTRATIVE SUPPORT SERVICES.**—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) **PRINTING.**—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

(f) **REPORT.**—Not later than March 1, 2004, the Commission shall submit a report to the President and Congress which shall contain a detailed statement of only those recommendations, findings, and conclusions of the Commission.

(g) **TERMINATION.**—The Commission shall terminate 30 days after the date of submission of the report required in subsection (f).

(h) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$1,500,000 to carry out this section.

SEC. 902. GAO STUDY ON MEDICAID DRUG PAYMENT SYSTEM.

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study on the reimbursement under the medicaid program for covered outpatient drugs. Such study shall examine—

(1) the extent to which such reimbursements for a drug exceed the acquisition costs for that drug;

(2) the services and resources associated with dispensing a prescription and any additional payments available to compensate for expenses for these services and resources; and

(3) efforts undertaken by States to change the levels of such reimbursement and the price data they use in effecting such change.

(b) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a) and shall include in such report such recommendations for changes for legislative or administrative action regarding medicaid reimbursement methodologies for outpatient prescription drugs, and their application to the medicare program, as the Comptroller General deems appropriate.

Subtitle B—Internet Pharmacies

SEC. 911. FINDINGS.

The Congress finds as follows:

(1) Legitimate Internet sellers of prescription drugs can offer substantial benefits to consumers. These potential benefits include convenience, privacy, valuable information, competitive prices, and personalized services.

(2) Unlawful Internet sellers of prescription drugs may dispense inappropriate, contaminated, counterfeit, or subpotent prescription drugs that could put at risk the health and safety of consumers.

(3) Unlawful Internet sellers have exposed consumers to significant health risks by knowingly filling invalid prescriptions, such as prescriptions based solely on an online questionnaire, or by dispensing prescription drugs without any prescription.

(4) Consumers may have difficulty distinguishing legitimate from unlawful Internet sellers, as well as foreign from domestic Internet sellers, of prescription drugs.

SEC. 912. AMENDMENT TO FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(a) **IN GENERAL.**—Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 503A the following:

“SEC. 503B. INTERNET PRESCRIPTION DRUG SALES.

“(a) **DEFINITIONS.**—For purposes of this section:

“(1) **CONSUMER.**—The term ‘consumer’ means a person (other than an entity licensed or otherwise authorized under Federal or State law as a pharmacy or to dispense or distribute prescription drugs) that purchases or seeks to purchase prescription drugs through the Internet.

“(2) **HOME PAGE.**—The term ‘home page’ means the entry point or main web page for an Internet site.

“(3) **INTERNET.**—The term ‘Internet’ means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected worldwide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio, including electronic mail.

“(4) **INTERSTATE INTERNET SELLER.**—

“(A) **IN GENERAL.**—The term ‘interstate Internet seller’ means a person whether in the United States or abroad, that engages in, offers to engage in, or causes the delivery or sale of a prescription drug through the Internet and has such drug delivered directly to the consumer via the Postal Service, or any private or commercial interstate carrier to a consumer in the United States who is residing in a State other than the State in which the seller’s place of business is located. This definition excludes a person who only delivers a prescription drug to a consumer, such as an interstate carrier service.

“(B) **EXEMPTION.**—With respect to the consumer involved, the term ‘interstate Internet seller’ does not include a person described in subparagraph (A) whose place of business is located within 75 miles of the consumer.

“(5) **LINK.**—The term ‘link’ means either a textual or graphical marker on a web page that, when clicked on, takes the consumer to another part of the Internet, such as to another web page or a different area on the same web page, or from an electronic message to a web page.

“(6) **PHARMACY.**—The term ‘pharmacy’ means any place licensed or otherwise authorized as a pharmacy under State law.

“(7) **PRESCRIBER.**—The term ‘prescriber’ means an individual, licensed or otherwise authorized under applicable Federal and State law to issue prescriptions for prescription drugs.

“(8) **PRESCRIPTION DRUG.**—The term ‘prescription drug’ means a drug under section 503(b)(1).

“(9) VALID PRESCRIPTION.—The term ‘valid prescription’ means a prescription that meets the requirements of section 503(b)(1) and other applicable Federal and State law.

“(10) WEB SITE; SITE.—The terms ‘web site’ and ‘site’ mean a specific location on the Internet that is determined by Internet protocol numbers or by a domain name.

“(b) REQUIREMENTS FOR INTERSTATE INTERNET SELLERS.—

“(1) IN GENERAL.—Each interstate Internet seller shall comply with the requirements of this subsection with respect to the sale of, or the offer to sell, prescription drugs through the Internet and shall at all times display on its web site information in accordance with paragraph (2).

“(2) WEB SITE DISCLOSURE INFORMATION.—An interstate Internet seller shall post in a visible and clear manner (as determined by regulation) on the home page of its web site, or on a page directly linked to such home page—

“(A) the street address of the interstate Internet seller's place of business, and the telephone number of such place of business;

“(B) each State in which the interstate Internet seller is licensed or otherwise authorized as a pharmacy, or if the interstate Internet seller is not licensed or otherwise authorized by a State as a pharmacy, each State in which the interstate Internet seller is licensed or otherwise authorized to dispense prescription drugs, and the type of State license or authorization;

“(C) in the case of an interstate Internet seller that makes referrals to or solicits on behalf of a prescriber, the name of each prescriber, the street address of each such prescriber's place of business, the telephone number of such place of business, each State in which each such prescriber is licensed or otherwise authorized to prescribe prescription drugs, and the type of such license or authorization; and

“(D) a statement that the interstate Internet seller will dispense prescription drugs only upon a valid prescription.

“(3) DATE OF POSTING.—Information required to be posted under paragraph (2) shall be posted by an interstate Internet seller—

“(A) not later than 90 days after the effective date of this section if the web site of such seller is in operation as of such date; or

“(B) on the date of the first day of operation of such seller's web site if such site goes into operation after such date.

“(4) QUALIFYING STATEMENTS.—An interstate Internet seller shall not indicate in any manner that posting disclosure information on its web site signifies that the Federal Government has made any determination on the legitimacy of the interstate Internet seller or its business.

“(5) DISCLOSURE TO STATE LICENSING BOARDS.—An interstate Internet seller licensed or otherwise authorized to dispense prescription drugs in accordance with applicable State law shall notify each State entity that granted such licensure or authorization that it is an interstate Internet seller, the name of its business, the Internet address of its business, the street address of its place of business, and the telephone number of such place of business.

“(6) REGULATIONS.—The Secretary is authorized to promulgate such regulations as are necessary to carry out the provisions of this subsection. In issuing such regulations, the Secretary—

“(A) shall take into consideration disclosure formats used by existing interstate Internet seller certification programs; and

“(B) shall in defining the term ‘place of business’ include provisions providing that

such place is a single location at which employees of the business perform job functions, and not a post office box or similar locale.”

(b) PROHIBITED ACTS.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

“(bb) The failure to post information required under section 503B(b)(2) or for knowingly making a materially false statement when posting such information as required under such section or violating section 503B(b)(4).”

SEC. 913. PUBLIC EDUCATION.

The Secretary of Health and Human Services shall engage in activities to educate the public about the dangers of purchasing prescription drugs from unlawful Internet sources. The Secretary should educate the public about effective public and private sector consumer protection efforts, as appropriate, with input from the public and private sectors, as appropriate.

SEC. 914. STUDY REGARDING COORDINATION OF REGULATORY ACTIVITIES.

Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services, after consultation with the Attorney General, shall submit to Congress a report providing recommendations for coordinating the activities of Federal agencies regarding interstate Internet sellers that operate from foreign countries and for coordinating the activities of the Federal Government with the activities of governments of foreign countries regarding such interstate Internet sellers.

SEC. 915. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect 1 year after the date of enactment of this Act, except that the authority of the Secretary of Health and Human Services to commence the process of rule-making is effective on the date of enactment of this Act.

Subtitle C—Promotion of Electronic Prescription

SEC. 921. PROGRAM OF GRANTS TO HEALTH CARE PROVIDERS TO IMPLEMENT ELECTRONIC PRESCRIPTION DRUG PROGRAMS.

Part P of title III of the Public Health Service Act is amended by inserting after section 399N the following new section:

“SEC. 399O. GRANTS TO HEALTH CARE PROVIDERS TO IMPLEMENT ELECTRONIC PRESCRIPTION DRUG PROGRAMS

“(a) IN GENERAL.—The Secretary is authorized to make grants for the purpose of assisting health care providers who prescribe drugs and biologicals in implementing electronic prescription programs described in section 1860C(d)(3) of the Social Security Act.

“(b) APPLICATION.—No grant may be made under this section except pursuant to a grant application that is submitted in a time, manner, and form approved by the Secretary.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 2004, such sums as may be appropriate to carry out this section.”

Subtitle D—Treatment of Rare Diseases

SEC. 931. NIH OFFICE OF RARE DISEASES AT NATIONAL INSTITUTES OF HEALTH.

Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.), as amended by Public Law 107-84, is amended by inserting after section 404E the following:

“OFFICE OF RARE DISEASES

“SEC. 404F. (a) ESTABLISHMENT.—There is established within the Office of the Director

of NIH an office to be known as the Office of Rare Diseases (in this section referred to as the ‘Office’), which shall be headed by a Director (in this section referred to as the ‘Director’), appointed by the Director of NIH.

“(b) DUTIES.—

“(1) IN GENERAL.—The Director of the Office shall carry out the following:

“(A) The Director shall recommend an agenda for conducting and supporting research on rare diseases through the national research institutes and centers. The agenda shall provide for a broad range of research and education activities, including scientific workshops and symposia to identify research opportunities for rare diseases.

“(B) The Director shall, with respect to rare diseases, promote coordination and cooperation among the national research institutes and centers and entities whose research is supported by such institutes.

“(C) The Director, in collaboration with the directors of the other relevant institutes and centers of the National Institutes of Health, may enter into cooperative agreements with and make grants for regional centers of excellence on rare diseases in accordance with section 404G.

“(D) The Director shall promote the sufficient allocation of the resources of the National Institutes of Health for conducting and supporting research on rare diseases.

“(E) The Director shall promote and encourage the establishment of a centralized clearinghouse for rare and genetic disease information that will provide understandable information about these diseases to the public, medical professionals, patients and families.

“(F) The Director shall biennially prepare a report that describes the research and education activities on rare diseases being conducted or supported through the national research institutes and centers, and that identifies particular projects or types of projects that should in the future be conducted or supported by the national research institutes and centers or other entities in the field of research on rare diseases.

“(G) The Director shall prepare the NIH Director's annual report to Congress on rare disease research conducted by or supported through the national research institutes and centers.

“(2) PRINCIPAL ADVISOR REGARDING ORPHAN DISEASES.—With respect to rare diseases, the Director shall serve as the principal advisor to the Director of NIH and shall provide advice to other relevant agencies. The Director shall provide liaison with national and international patient, health and scientific organizations concerned with rare diseases.

“(c) DEFINITION.—For purposes of this section, the term ‘rare disease’ means any disease or condition that affects less than 200,000 persons in the United States.

“(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as already have been appropriated for fiscal year 2002, and \$4,000,000 for each of the fiscal years 2003 through 2006.”

SEC. 932. RARE DISEASE REGIONAL CENTERS OF EXCELLENCE.

Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.), as amended by section 1021, is further amended by inserting after section 404F the following:

“RARE DISEASE REGIONAL CENTERS OF EXCELLENCE

“SEC. 404G. (a) COOPERATIVE AGREEMENTS AND GRANTS.—

“(1) IN GENERAL.—The Director of the Office of Rare Diseases (in this section referred

to as the 'Director'), in collaboration with the directors of the other relevant institutes and centers of the National Institutes of Health, may enter into cooperative agreements with and make grants to public or private nonprofit entities to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for regional centers of excellence for clinical research into, training in, and demonstration of diagnostic, prevention, control, and treatment methods for rare diseases.

“(2) **POLICIES.**—A cooperative agreement or grant under paragraph (1) shall be entered into in accordance with policies established by the Director of NIH.

“(b) **COORDINATION WITH OTHER INSTITUTES.**—The Director shall coordinate the activities under this section with similar activities conducted by other national research institutes, centers and agencies of the National Institutes of Health and by the Food and Drug Administration to the extent that such institutes, centers and agencies have responsibilities that are related to rare diseases.

“(c) **USES FOR FEDERAL PAYMENTS UNDER COOPERATIVE AGREEMENTS OR GRANTS.**—Federal payments made under a cooperative agreement or grant under subsection (a) may be used for—

“(1) staffing, administrative, and other basic operating costs, including such patient care costs as are required for research;

“(2) clinical training, including training for allied health professionals, continuing education for health professionals and allied health professions personnel, and information programs for the public with respect to rare diseases; and

“(3) clinical research and demonstration programs.

“(d) **PERIOD OF SUPPORT; ADDITIONAL PERIODS.**—Support of a center under subsection (a) may be for a period of not to exceed 5 years. Such period may be extended by the Director for additional periods of not more than 5 years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

“(e) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there are authorized to be appropriated such sums as already have been appropriated for fiscal year 2002, and \$20,000,000 for each of the fiscal years 2003 through 2006.”

Subtitle E—Other Provisions Relating to Drugs

SEC. 941. GAO STUDY REGARDING DIRECT-TO-CONSUMER ADVERTISING OF PRESCRIPTION DRUGS.

(a) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study for the purpose of determining—

(1) whether and to what extent there have been increases in utilization rates of prescription drugs that are attributable to guidance regarding direct-to-consumer advertising of such drugs that has been issued by the Food and Drug Administration under section 502(n) of the Federal Food, Drug, and Cosmetic Act; and

(2) if so, whether and to what extent such increased utilization rates have resulted in increases in the costs of public or private health plans, health insurance, or other health programs.

(b) **CERTAIN DETERMINATIONS.**—The study under subsection (a) shall include determinations of the following:

(1) The extent to which advertisements referred to in such subsection have resulted in

effective consumer education about the prescription drugs involved, including an understanding of the risks of the drugs relative to the benefits.

(2) The extent of consumer satisfaction with such advertisements.

(3) The extent of physician satisfaction with the advertisements, including determining whether physicians believe that the advertisements interfere with the exercise of their medical judgment by influencing consumers to prefer advertised drugs over alternative therapies.

(4) The extent to which the advertisements have resulted in increases in health care costs for taxpayers, for employers, or for consumers due to consumer decisions to seek advertised drugs rather than lower-costs alternative therapies.

(5) The extent to which the advertisements have resulted in decreases in health care costs for taxpayers, for employers, or for consumers due to decreased hospitalization rates, fewer physician visits (not related to hospitalization), lower treatment costs, or reduced instances of employee absences to care for family members with diseases or disorders.

(c) **REPORT.**—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report providing the findings of the study under subsection (a).

SEC. 942. CERTAIN HEALTH PROFESSIONS PROGRAMS REGARDING PRACTICE OF PHARMACY.

Part E of title VII of the Public Health Service Act (42 U.S.C. 294n et seq.) is amended by adding at the end the following subpart:

“Subpart 3—Pharmacist Workforce Programs

“SEC. 771. PUBLIC SERVICE ANNOUNCEMENTS.

“(a) **PUBLIC SERVICE ANNOUNCEMENTS.**—

“(1) **IN GENERAL.**—The Secretary shall develop and issue public service announcements that advertise and promote the pharmacist profession, highlight the advantages and rewards of being a pharmacist, and encourage individuals to enter the pharmacist profession.

“(2) **METHOD.**—The public service announcements described in subsection (a) shall be broadcast through appropriate media outlets, including television or radio, in a manner intended to reach as wide and diverse an audience as possible.

“(b) **STATE AND LOCAL PUBLIC SERVICE ANNOUNCEMENTS.**—

“(1) **IN GENERAL.**—The Secretary shall award grants to entities to support State and local advertising campaigns through appropriate media outlets to promote the pharmacist profession, highlight the advantages and rewards of being a pharmacist, and encourage individuals to enter the pharmacist profession.

“(2) **USE OF FUNDS.**—An entity that receives a grant under subsection (a) shall use funds received through such grant to acquire local television and radio time, place advertisements in local newspapers, and post information on billboards or on the Internet, in order to—

“(A) advertise and promote the pharmacist profession;

“(B) promote pharmacist education programs;

“(C) inform the public of public assistance regarding such education programs;

“(D) highlight individuals in the community that are presently practicing as pharmacists to recruit new pharmacists; and

“(E) provide any other information to recruit individuals for the pharmacist profession.

“(3) **METHOD.**—The campaigns described in subsection (a) shall be broadcast on television or radio, placed in newspapers as advertisements, or posted on billboards or the Internet, in a manner intended to reach as wide and diverse an audience as possible.

“SEC. 772. DEMONSTRATION PROJECT.

“(a) **IN GENERAL.**—The Secretary shall establish a demonstration project to enhance the participation of individuals who are pharmacists in the National Health Service Corps Loan Repayment Program described in section 338B.

“(b) **SERVICES.**—Services that may be provided by pharmacists pursuant to the demonstration project established under this section include medication therapy management services to assure that medications are used appropriately by patients, to enhance patients' understanding of the appropriate use of medications, to increase patients' adherence to prescription medication regimens, to reduce the risk of adverse events associated with medications, and to reduce the need for other costly medical services through better management of medication therapy. Such services may include case management, disease management, drug therapy management, patient training and education, counseling, drug therapy problem resolution, medication administration, the provision of special packaging, or other services that enhance the use of prescription medications.

“(c) **PROCEDURE.**—The Secretary may not provide assistance to an individual under this section unless the individual agrees to comply with all requirements described in sections 338B and 338D.

“(d) **LIMITATIONS.**—The demonstration project described in this section shall provide for the participation of—

“(1) individuals to provide services in rural and urban areas; and

“(2) enough individuals to allow the Secretary to properly analyze the effectiveness of such project.

“(e) **DESIGNATIONS.**—The demonstration project described in this section, and any pharmacists who are selected to participate in such project, shall not be considered by the Secretary in the designation of a health professional shortage area under section 332 during fiscal years 2003 through 2005.

“(f) **RULE OF CONSTRUCTION.**—This section shall not be construed to require any State to participate in the project described in this section.

“(g) **REPORT.**—The Secretary shall prepare and submit a report on the project to—

“(A) the Committee on Health, Education, Labor, and Pensions of the Senate;

“(B) the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the Senate;

“(C) the Committee on Energy and Commerce of the House of Representatives; and

“(D) the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the House of Representatives.

“SEC. 773. INFORMATION TECHNOLOGY.

“(a) **GRANTS AND CONTRACTS.**—The Secretary may make awards of grants or contracts to qualifying schools of pharmacy for the purpose of assisting such schools in acquiring and installing computer-based systems to provide pharmaceutical education. Education provided through such systems

may be graduate education, professional education, or continuing education. The computer-based systems may be designed to provide on-site education, or education at remote sites (commonly referred to as distance learning), or both.

“(b) **QUALIFYING SCHOOL OF PHARMACY.**—For purposes of this section, the term ‘qualifying school of pharmacy’ means a school of pharmacy (as defined in section 799B) that requires students to serve in a clinical rotation in which pharmacist services are part of the curriculum.

“**SEC. 774. AUTHORIZATION OF APPROPRIATIONS.**—“For the purpose of carrying out this subpart, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 through 2006.”.

TITLE X—HEALTH-CARE RELATED TAX PROVISIONS

SEC. 1001. ELIGIBILITY FOR ARCHER MSA'S EXTENDED TO ACCOUNT HOLDERS OF MEDICARE+CHOICE MSA'S.

(a) **IN GENERAL.**—Subparagraph (B) of section 220(c)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following new clause:

“(iii) **MEDICARE+CHOICE MSA'S.**—In the case of an individual who is covered under an MSA plan (as defined in section 1859(b)(3) of the Social Security Act) which such individual elected under section 1851(a)(2)(B) of such Act—

“(I) such plan shall be treated as a high deductible health plan for purposes of this section.

“(II) subsection (b)(2)(A) shall be applied by substituting ‘100 percent’ for ‘65 percent’ with respect to such individual.

“(III) with respect to such individual, the limitation under subsection (d)(1)(A)(ii) shall be 100 percent of the highest annual deductible limitation under section 1859(b)(3)(B) of the Social Security Act.

“(IV) paragraphs (4), (5), and (7) of subsection (b) and paragraph (1)(A)(iii) of this subsection shall not apply with respect to such individual, and

“(V) the limitation which would (but for this subclause) apply under subsection (b)(1) with respect to such individual for any taxable year shall be reduced (but not below zero) by the amount which would (but for subsection 106(b)) be includible in such individual's gross income for the taxable year.”.

(b) **ACCOUNTS NOT COUNTED AGAINST NUMERICAL LIMITS.**—

(1) **IN GENERAL.**—Paragraph (3) of section 220(j) of such Code is amended—

(A) in the heading, by striking “PREVIOUSLY UNINSURED” and inserting “CERTAIN”;

(B) in subparagraph (A), by striking “by not counting the Archer MSA of any previously uninsured individual.” and inserting “by not counting—

“(i) the Archer MSA of any previously uninsured individual, and

“(ii) the Archer MSA of any eligible individual who qualifies as such an individual by reason of subsection (c)(2)(B)(iii).”.

(2) **REPORTING REQUIREMENT.**—Subparagraph (A) of section 220(j)(4) of such Code is amended in clause (ii) by striking “and” at the end, in clause (iii) by striking the period and inserting “, and”, and by adding at the end the following new clause:

“(iv) the number of such accounts which are accounts of eligible individuals who qualify as such individuals by reason of subsection (c)(2)(B)(iii).”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 1002. ADJUSTMENT OF EMPLOYER CONTRIBUTIONS TO COMBINED BENEFIT FUND TO REFLECT MEDICARE PRESCRIPTION DRUG SUBSIDY PAYMENTS.

Section 9704(b) of the Internal Revenue Code of 1986 (relating to health benefit premium) is amended by adding at the end the following new paragraph:

“(4) **ADJUSTMENTS FOR MEDICARE PRESCRIPTION DRUG SUBSIDIES.**—The trustees of the Combined Fund shall decrease the per beneficiary premium for each plan year in which a subsidy payment is provided to it under section 1860H of the Social Security Act by the amount which would place the Combined Fund in the same financial position as if such subsidy payment had not been received.”.

SEC. 1003. EXPANSION OF HUMAN CLINICAL TRIALS QUALIFYING FOR ORPHAN DRUG CREDIT.

(a) **IN GENERAL.**—Paragraph (2) of section 45C(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(C) **TREATMENT OF CERTAIN EXPENSES INCURRED BEFORE DESIGNATION.**—For purposes of subparagraph (A)(ii)(I), if a drug is designated under section 526 of the Federal Food, Drug, and Cosmetic Act not later than the due date (including extensions) for filing the return of tax under this subtitle for the taxable year in which the application for such designation of such drug was filed, such drug shall be treated as having been designated on the date that such application was filed.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to expenses incurred after the date of the enactment of this Act.

The **SPEAKER** pro tempore. In lieu of the amendment recommended by the Committee on Ways and Means, the amendment in the nature of a substitute printed in House Report 107-553 is adopted.

The text of the amendment in the nature of a substitute printed in House Report 107-553 is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; REFERENCES TO BIPA AND SECRETARY; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Medicare Modernization and Prescription Drug Act of 2002”.

(b) **AMENDMENTS TO SOCIAL SECURITY ACT.**—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) **BIPA; SECRETARY.**—In this Act:

(1) **BIPA.**—The term “BIPA” means the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106-554.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of Health and Human Services.

(d) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; amendments to Social Security Act; references to BIPA and Secretary; table of contents.

TITLE I—MEDICARE PRESCRIPTION DRUG BENEFIT

Sec. 101. Establishment of a Medicare prescription drug benefit.

“PART D—VOLUNTARY PRESCRIPTION DRUG BENEFIT PROGRAM

“Sec. 1860A. Benefits; eligibility; enrollment; and coverage period.

“Sec. 1860B. Requirements for qualified prescription drug coverage.

“Sec. 1860C. Beneficiary protections for qualified prescription drug coverage.

“Sec. 1860D. Requirements for prescription drug plan (PDP) sponsors; contracts; establishment of standards.

“Sec. 1860E. Process for beneficiaries to select qualified prescription drug coverage.

“Sec. 1860F. Submission of bids and premiums.

“Sec. 1860G. Premium and cost-sharing subsidies for low-income individuals.

“Sec. 1860H. Subsidies for all Medicare beneficiaries for qualified prescription drug coverage.

“Sec. 1860I. Medicare Prescription Drug Trust Fund.

“Sec. 1860J. Definitions; treatment of references to provisions in part C.

Sec. 102. Offering of qualified prescription drug coverage under the Medicare+Choice program.

Sec. 103. Medicaid amendments.

Sec. 104. Medigap transition.

Sec. 105. Medicare prescription drug discount card endorsement program.

Sec. 106. GAO study of the effectiveness of the new prescription drug program.

TITLE II—MEDICARE+CHOICE REVITALIZATION AND MEDICARE+CHOICE COMPETITION PROGRAM

Subtitle A—Medicare+Choice Revitalization

Sec. 201. Medicare+Choice improvements.

Sec. 202. Making permanent change in Medicare+Choice reporting deadlines and annual, coordinated election period.

Sec. 203. Avoiding duplicative State regulation.

Sec. 204. Specialized Medicare+Choice plans for special needs beneficiaries.

Sec. 205. Medicare MSAs.

Sec. 206. Extension of reasonable cost and SHMO contracts.

Subtitle B—Medicare+Choice Competition Program

Sec. 211. Medicare+Choice competition program.

Sec. 212. Demonstration program for competitive-demonstration areas.

Sec. 213. Conforming amendments.

TITLE III—RURAL HEALTH CARE IMPROVEMENTS

Sec. 301. Reference to full market basket increase for sole community hospitals.

Sec. 302. Enhanced disproportionate share hospital (DSH) treatment for rural hospitals and urban hospitals with fewer than 100 beds.

Sec. 303. 2-year phased-in increase in the standardized amount in rural and small urban areas to achieve a single, uniform standardized amount.

Sec. 304. More frequent update in weights used in hospital market basket.

- Sec. 305. Improvements to critical access hospital program.
- Sec. 306. Extension of temporary increase for home health services furnished in a rural area.
- Sec. 307. Reference to 10 percent increase in payment for hospice care furnished in a frontier area and rural hospice demonstration project.
- Sec. 308. Reference to priority for hospitals located in rural or small urban areas in redistribution of unused graduate medical education residencies.
- Sec. 309. GAO study of geographic differences in payments for physicians' services.
- Sec. 310. Providing safe harbor for certain collaborative efforts that benefit medically underserved populations.
- Sec. 311. Relief for certain non-teaching hospitals.

TITLE IV—PROVISIONS RELATING TO PART A

Subtitle A—Inpatient Hospital Services

- Sec. 401. Revision of acute care hospital payment updates.
- Sec. 402. 2-year increase in level of adjustment for indirect costs of medical education (IME).
- Sec. 403. Recognition of new medical technologies under inpatient hospital PPS.
- Sec. 404. Phase-in of Federal rate for hospitals in Puerto Rico.
- Sec. 405. Reference to provision relating to enhanced disproportionate share hospital (DSH) payments for rural hospitals and urban hospitals with fewer than 100 beds.
- Sec. 406. Reference to provision relating to 2-year phased-in increase in the standardized amount in rural and small urban areas to achieve a single, uniform standardized amount.
- Sec. 407. Reference to provision for more frequent updates in the weights used in hospital market basket.
- Sec. 408. Reference to provision making improvements to critical access hospital program.
- Sec. 409. GAO study on improving the hospital wage index.

Subtitle B—Skilled Nursing Facility Services

- Sec. 411. Payment for covered skilled nursing facility services.

Subtitle C—Hospice

- Sec. 421. Coverage of hospice consultation services.
- Sec. 422. 10 percent increase in payment for hospice care furnished in a frontier area.
- Sec. 423. Rural hospice demonstration project.

Subtitle D—Other Provisions

- Sec. 431. Demonstration project for use of recovery audit contractors for part A services.

TITLE V—PROVISIONS RELATING TO PART B

Subtitle A—Physicians' Services

- Sec. 501. Revision of updates for physicians' services.
- Sec. 502. Studies on access to physicians' services.
- Sec. 503. MedPAC report on payment for physicians' services.

- Sec. 504. 1-year extension of treatment of certain physician pathology services under medicare.
- Sec. 505. Physician fee schedule wage index revision.

Subtitle B—Other Services

- Sec. 511. Competitive acquisition of certain items and services.
- Sec. 512. Payment for ambulance services.
- Sec. 513. 2-year extension of moratorium on therapy caps; provisions relating to reports.
- Sec. 514. Coverage of an initial preventive physical examination.
- Sec. 515. Renal dialysis services.
- Sec. 516. Improved payment for certain mammography services.
- Sec. 517. Waiver of part B late enrollment penalty for certain military retirees; special enrollment period.
- Sec. 518. Coverage of cholesterol and blood lipid screening.

TITLE VI—PROVISIONS RELATING TO PARTS A AND B

Subtitle A—Home Health Services

- Sec. 601. Elimination of 15 percent reduction in payment rates under the prospective payment system.
- Sec. 602. Update in home health services.
- Sec. 603. OASIS Task Force; suspension of certain OASIS data collection requirements pending Task Force submittal of report.
- Sec. 604. MedPAC study on medicare margins of home health agencies.
- Sec. 605. Clarification of treatment of occasional absences in determining whether an individual is confined to the home.

Subtitle B—Direct Graduate Medical Education

- Sec. 611. Extension of update limitation on high cost programs.
- Sec. 612. Redistribution of unused resident positions.

Subtitle C—Other Provisions

- Sec. 621. Modifications to Medicare Payment Advisory Commission (MedPAC).
- Sec. 622. Demonstration project for disease management for certain medicare beneficiaries with diabetes.
- Sec. 623. Demonstration project for medical adult day care services.
- Sec. 624. Publication on final written guidance concerning prohibitions against discrimination by national origin with respect to health care services.

TITLE VII—MEDICARE BENEFITS ADMINISTRATION

- Sec. 701. Establishment of Medicare Benefits Administration.

TITLE VIII—REGULATORY REDUCTION AND CONTRACTING REFORM

Subtitle A—Regulatory Reform

- Sec. 801. Construction; definition of supplier.
- Sec. 802. Issuance of regulations.
- Sec. 803. Compliance with changes in regulations and policies.
- Sec. 804. Reports and studies relating to regulatory reform.

Subtitle B—Contracting Reform

- Sec. 811. Increased flexibility in medicare administration.
- Sec. 812. Requirements for information security for medicare administrative contractors.

Subtitle C—Education and Outreach

- Sec. 821. Provider education and technical assistance.
- Sec. 822. Small provider technical assistance demonstration program.
- Sec. 823. Medicare provider ombudsman; medicare beneficiary ombudsman.
- Sec. 824. Beneficiary outreach demonstration program.

Subtitle D—Appeals and Recovery

- Sec. 831. Transfer of responsibility for medicare appeals.
- Sec. 832. Process for expedited access to review.
- Sec. 833. Revisions to medicare appeals process.
- Sec. 834. Prepayment review.
- Sec. 835. Recovery of overpayments.
- Sec. 836. Provider enrollment process; right of appeal.
- Sec. 837. Process for correction of minor errors and omissions on claims without pursuing appeals process.
- Sec. 838. Prior determination process for certain items and services; advance beneficiary notices.

Subtitle E—Miscellaneous Provisions

- Sec. 841. Policy development regarding evaluation and management (E & M) documentation guidelines.
- Sec. 842. Improvement in oversight of technology and coverage.
- Sec. 843. Treatment of hospitals for certain services under medicare secondary payor (MSP) provisions.
- Sec. 844. EMTALA improvements.
- Sec. 845. Emergency Medical Treatment and Labor Act (EMTALA) Technical Advisory Group.
- Sec. 846. Authorizing use of arrangements with other hospice programs to provide core hospice services in certain circumstances.
- Sec. 847. Application of OSHA bloodborne pathogens standard to certain hospitals.
- Sec. 848. BIPA-related technical amendments and corrections.
- Sec. 849. Conforming authority to waive a program exclusion.
- Sec. 850. Treatment of certain dental claims.
- Sec. 851. Annual publication of list of national coverage determinations.

TITLE IX—MEDICAID PROVISIONS

- Sec. 901. National Bipartisan Commission on the Future of Medicaid.
- Sec. 902. Disproportionate share hospital (DSH) payments.
- Sec. 903. Medicaid pharmacy assistance program.

TITLE I—MEDICARE PRESCRIPTION DRUG BENEFIT

SEC. 101. ESTABLISHMENT OF A MEDICARE PRESCRIPTION DRUG BENEFIT.

- (a) IN GENERAL.—Title XVIII is amended—
- (1) by redesignating part D as part E; and
 - (2) by inserting after part C the following new part:

“PART D—VOLUNTARY PRESCRIPTION DRUG BENEFIT PROGRAM

“SEC. 1860A. BENEFITS; ELIGIBILITY; ENROLLMENT; AND COVERAGE PERIOD.

“(a) PROVISION OF QUALIFIED PRESCRIPTION DRUG COVERAGE THROUGH ENROLLMENT IN PLANS.—Subject to the succeeding provisions of this part, each individual who is entitled to benefits under part A or is enrolled under part B is entitled to obtain qualified prescription drug coverage (described in section 1860B(a)) as follows:

“(1) **MEDICARE+CHOICE PLAN.**—If the individual is eligible to enroll in a Medicare+Choice plan that provides qualified prescription drug coverage under section 1851(j), the individual may enroll in the plan and obtain coverage through such plan.

“(2) **PRESCRIPTION DRUG PLAN.**—If the individual is not enrolled in a Medicare+Choice plan that provides qualified prescription drug coverage, the individual may enroll under this part in a prescription drug plan (as defined in section 1860J(a)(5)).

Such individuals shall have a choice of such plans under section 1860E(d).

“(b) **GENERAL ELECTION PROCEDURES.**—

“(1) **IN GENERAL.**—An individual eligible to make an election under subsection (a) may elect to enroll in a prescription drug plan under this part, or elect the option of qualified prescription drug coverage under a Medicare+Choice plan under part C, and to change such election only in such manner and form as may be prescribed by regulations of the Administrator of the Medicare Benefits Administration (appointed under section 1808(b)) (in this part referred to as the ‘Medicare Benefits Administrator’) and only during an election period prescribed in or under this subsection.

“(2) **ELECTION PERIODS.**—

“(A) **IN GENERAL.**—Except as provided in this paragraph, the election periods under this subsection shall be the same as the coverage election periods under the Medicare+Choice program under section 1851(e), including—

“(i) annual coordinated election periods; and

“(ii) special election periods.

In applying the last sentence of section 1851(e)(4) (relating to discontinuance of a Medicare+Choice election during the first year of eligibility) under this subparagraph, in the case of an election described in such section in which the individual had elected or is provided qualified prescription drug coverage at the time of such first enrollment, the individual shall be permitted to enroll in a prescription drug plan under this part at the time of the election of coverage under the original fee-for-service plan.

“(B) **INITIAL ELECTION PERIODS.**—

“(i) **INDIVIDUALS CURRENTLY COVERED.**—In the case of an individual who is entitled to benefits under part A or enrolled under part B as of November 1, 2004, there shall be an initial election period of 6 months beginning on that date.

“(ii) **INDIVIDUAL COVERED IN FUTURE.**—In the case of an individual who is first entitled to benefits under part A or enrolled under part B after such date, there shall be an initial election period which is the same as the initial enrollment period under section 1837(d).

“(C) **ADDITIONAL SPECIAL ELECTION PERIODS.**—The Administrator shall establish special election periods—

“(i) in cases of individuals who have and involuntarily lose prescription drug coverage described in subsection (c)(2)(C);

“(ii) in cases described in section 1837(h) (relating to errors in enrollment), in the same manner as such section applies to part B;

“(iii) in the case of an individual who meets such exceptional conditions (including conditions provided under section 1851(e)(4)(D)) as the Administrator may provide; and

“(iv) in cases of individuals (as determined by the Administrator) who become eligible for prescription drug assistance under title XIX under section 1935(d).

“(3) **INFORMATION ON PLANS.**—Information described in section 1860C(b)(1) on prescription drug plans shall be made available during open enrollment periods.

“(c) **GUARANTEED ISSUE; COMMUNITY RATING; AND NONDISCRIMINATION.**—

“(1) **GUARANTEED ISSUE.**—

“(A) **IN GENERAL.**—An eligible individual who is eligible to elect qualified prescription drug coverage under a prescription drug plan or Medicare+Choice plan at a time during which elections are accepted under this part with respect to the plan shall not be denied enrollment based on any health status-related factor (described in section 2702(a)(1) of the Public Health Service Act) or any other factor.

“(B) **MEDICARE+CHOICE LIMITATIONS PERMITTED.**—The provisions of paragraphs (2) and (3) (other than subparagraph (C)(i), relating to default enrollment) of section 1851(g) (relating to priority and limitation on termination of election) shall apply to PDP sponsors under this subsection.

“(2) **COMMUNITY-RATED PREMIUM.**—

“(A) **IN GENERAL.**—In the case of an individual who maintains (as determined under subparagraph (C)) continuous prescription drug coverage since the date the individual first qualifies to elect prescription drug coverage under this part, a PDP sponsor or Medicare+Choice organization offering a prescription drug plan or Medicare+Choice plan that provides qualified prescription drug coverage and in which the individual is enrolled may not deny, limit, or condition the coverage or provision of covered prescription drug benefits or vary or increase the premium under the plan based on any health status-related factor described in section 2702(a)(1) of the Public Health Service Act or any other factor.

“(B) **LATE ENROLLMENT PENALTY.**—In the case of an individual who does not maintain such continuous prescription drug coverage (as described in subparagraph (C)), a PDP sponsor or Medicare+Choice organization may (notwithstanding any provision in this title) adjust the premium otherwise applicable or impose a pre-existing condition exclusion with respect to qualified prescription drug coverage in a manner that reflects additional actuarial risk involved. Such a risk shall be established through an appropriate actuarial opinion of the type described in subparagraphs (A) through (C) of section 2103(c)(4).

“(C) **CONTINUOUS PRESCRIPTION DRUG COVERAGE.**—An individual is considered for purposes of this part to be maintaining continuous prescription drug coverage on and after the date the individual first qualifies to elect prescription drug coverage under this part if the individual establishes that as of such date the individual is covered under any of the following prescription drug coverage and before the date that is the last day of the 63-day period that begins on the date of termination of the particular prescription drug coverage involved (regardless of whether the individual subsequently obtains any of the following prescription drug coverage):

“(i) **COVERAGE UNDER PRESCRIPTION DRUG PLAN OR MEDICARE+CHOICE PLAN.**—Qualified prescription drug coverage under a prescription drug plan or under a Medicare+Choice plan.

“(ii) **MEDICAID PRESCRIPTION DRUG COVERAGE.**—Prescription drug coverage under a medicaid plan under title XIX, including through the Program of All-inclusive Care for the Elderly (PACE) under section 1934, through a social health maintenance organization (referred to in section 4104(c) of the

Balanced Budget Act of 1997), or through a Medicare+Choice project that demonstrates the application of capitation payment rates for frail elderly medicare beneficiaries through the use of an interdisciplinary team and through the provision of primary care services to such beneficiaries by means of such a team at the nursing facility involved.

“(iii) **PRESCRIPTION DRUG COVERAGE UNDER GROUP HEALTH PLAN.**—Any outpatient prescription drug coverage under a group health plan, including a health benefits plan under the Federal Employees Health Benefit Plan under chapter 89 of title 5, United States Code, and a qualified retiree prescription drug plan as defined in section 1860H(f)(1), but only if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a qualified prescription drug plan.

“(iv) **PRESCRIPTION DRUG COVERAGE UNDER CERTAIN MEDIGAP POLICIES.**—Coverage under a medicare supplemental policy under section 1882 that provides benefits for prescription drugs (whether or not such coverage conforms to the standards for packages of benefits under section 1882(p)(1)), but only if the policy was in effect on January 1, 2005, and if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a qualified prescription drug plan.

“(v) **STATE PHARMACEUTICAL ASSISTANCE PROGRAM.**—Coverage of prescription drugs under a State pharmaceutical assistance program, but only if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a qualified prescription drug plan.

“(vi) **VETERANS’ COVERAGE OF PRESCRIPTION DRUGS.**—Coverage of prescription drugs for veterans under chapter 17 of title 38, United States Code, but only if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a qualified prescription drug plan.

“(D) **CERTIFICATION.**—For purposes of carrying out this paragraph, the certifications of the type described in sections 2701(e) of the Public Health Service Act and in section 9801(e) of the Internal Revenue Code shall also include a statement for the period of coverage of whether the individual involved had prescription drug coverage described in subparagraph (C).

“(E) **DISCLOSURE.**—

“(i) **IN GENERAL.**—Each entity that offers coverage of the type described in clause (iii), (iv), (v), or (vi) of subparagraph (C) shall provide for disclosure, consistent with standards established by the Administrator, of whether such coverage provides benefits at least equivalent to the benefits under a qualified prescription drug plan.

“(ii) **WAIVER OF LIMITATIONS.**—An individual may apply to the Administrator to waive the requirement that coverage of such type provide benefits at least equivalent to the benefits under a qualified prescription drug plan, if the individual establishes that the individual was not adequately informed that such coverage did not provide such level of benefits.

“(F) **CONSTRUCTION.**—Nothing in this section shall be construed as preventing the disenrollment of an individual from a prescription drug plan or a Medicare+Choice plan based on the termination of an election described in section 1851(g)(3), including for non-payment of premiums or for other reasons specified in subsection (d)(3), which takes into account a grace period described in section 1851(g)(3)(B)(i).

“(3) NONDISCRIMINATION.—A PDP sponsor offering a prescription drug plan shall not establish a service area in a manner that would discriminate based on health or economic status of potential enrollees.

“(d) EFFECTIVE DATE OF ELECTIONS.—

“(1) IN GENERAL.—Except as provided in this section, the Administrator shall provide that elections under subsection (b) take effect at the same time as the Administrator provides that similar elections under section 1851(e) take effect under section 1851(f).

“(2) NO ELECTION EFFECTIVE BEFORE 2005.—In no case shall any election take effect before January 1, 2005.

“(3) TERMINATION.—The Administrator shall provide for the termination of an election in the case of—

“(A) termination of coverage under both part A and part B; and

“(B) termination of elections described in section 1851(g)(3) (including failure to pay required premiums).

“SEC. 1860B. REQUIREMENTS FOR QUALIFIED PRESCRIPTION DRUG COVERAGE.

“(a) REQUIREMENTS.—

“(1) IN GENERAL.—For purposes of this part and part C, the term ‘qualified prescription drug coverage’ means either of the following:

“(A) STANDARD COVERAGE WITH ACCESS TO NEGOTIATED PRICES.—Standard coverage (as defined in subsection (b)) and access to negotiated prices under subsection (d).

“(B) ACTUARIALLY EQUIVALENT COVERAGE WITH ACCESS TO NEGOTIATED PRICES.—Coverage of covered outpatient drugs which meets the alternative coverage requirements of subsection (c) and access to negotiated prices under subsection (d), but only if it is approved by the Administrator, as provided under subsection (c).

“(2) PERMITTING ADDITIONAL OUTPATIENT PRESCRIPTION DRUG COVERAGE.—

“(A) IN GENERAL.—Subject to subparagraph (B), nothing in this part shall be construed as preventing qualified prescription drug coverage from including coverage of covered outpatient drugs that exceeds the coverage required under paragraph (1), but any such additional coverage shall be limited to coverage of covered outpatient drugs.

“(B) DISAPPROVAL AUTHORITY.—The Administrator shall review the offering of qualified prescription drug coverage under this part or part C. If the Administrator finds that, in the case of a qualified prescription drug coverage under a prescription drug plan or a Medicare+Choice plan, that the organization or sponsor offering the coverage is engaged in activities intended to discourage enrollment of classes of eligible medicare beneficiaries obtaining coverage through the plan on the basis of their higher likelihood of utilizing prescription drug coverage, the Administrator may terminate the contract with the sponsor or organization under this part or part C.

“(3) APPLICATION OF SECONDARY PAYOR PROVISIONS.—The provisions of section 1852(a)(4) shall apply under this part in the same manner as they apply under part C.

“(b) STANDARD COVERAGE.—For purposes of this part, the ‘standard coverage’ is coverage of covered outpatient drugs (as defined in subsection (f)) that meets the following requirements:

“(1) DEDUCTIBLE.—The coverage has an annual deductible—

“(A) for 2005, that is equal to \$250; or

“(B) for a subsequent year, that is equal to the amount specified under this paragraph for the previous year increased by the percentage specified in paragraph (5) for the year involved.

Any amount determined under subparagraph (B) that is not a multiple of \$10 shall be rounded to the nearest multiple of \$10.

“(2) LIMITS ON COST-SHARING.—

“(A) IN GENERAL.—The coverage has cost-sharing (for costs above the annual deductible specified in paragraph (1) and up to the initial coverage limit under paragraph (3)) as follows:

“(i) FIRST COPAYMENT RANGE.—For costs above the annual deductible specified in paragraph (1) and up to amount specified in subparagraph (C), the cost-sharing—

“(I) is equal to 20 percent; or

“(II) is actuarially equivalent (using processes established under subsection (e)) to an average expected payment of 20 percent of such costs.

“(ii) SECONDARY COPAYMENT RANGE.—For costs above the amount specified in subparagraph (C) and up to the initial coverage limit, the cost-sharing—

“(I) is equal to 50 percent; or

“(II) is actuarially consistent (using processes established under subsection (e)) with an average expected payment of 50 percent of such costs.

“(B) USE OF TIERED COPAYMENTS.—Nothing in this part shall be construed as preventing a PDP sponsor from applying tiered copayments, so long as such tiered copayments are consistent with subparagraph (A).

“(C) INITIAL COPAYMENT THRESHOLD.—The amount specified in this subparagraph—

“(i) for 2005, is equal to \$1,000; or

“(ii) for a subsequent year, is equal to the amount specified in this subparagraph for the previous year, increased by the annual percentage increase described in paragraph (5) for the year involved.

Any amount determined under clause (ii) that is not a multiple of \$10 shall be rounded to the nearest multiple of \$10.

“(3) INITIAL COVERAGE LIMIT.—Subject to paragraph (4), the coverage has an initial coverage limit on the maximum costs that may be recognized for payment purposes—

“(A) for 2005, that is equal to \$2,000; or

“(B) for a subsequent year, that is equal to the amount specified in this paragraph for the previous year, increased by the annual percentage increase described in paragraph (5) for the year involved.

Any amount determined under subparagraph (B) that is not a multiple of \$25 shall be rounded to the nearest multiple of \$25.

“(4) CATASTROPHIC PROTECTION.—

“(A) IN GENERAL.—Notwithstanding paragraph (3), the coverage provides benefits with no cost-sharing after the individual has incurred costs (as described in subparagraph (C)) for covered outpatient drugs in a year equal to the annual out-of-pocket threshold specified in subparagraph (B).

“(B) ANNUAL OUT-OF-POCKET THRESHOLD.—For purposes of this part, the ‘annual out-of-pocket threshold’ specified in this subparagraph—

“(i) for 2005, is equal to \$3,700; or

“(ii) for a subsequent year, is equal to the amount specified in this subparagraph for the previous year, increased by the annual percentage increase described in paragraph (5) for the year involved.

Any amount determined under clause (ii) that is not a multiple of \$100 shall be rounded to the nearest multiple of \$100.

“(C) APPLICATION.—In applying subparagraph (A)—

“(i) incurred costs shall only include costs incurred for the annual deductible (described in paragraph (1)), cost-sharing (described in paragraph (2)), and amounts for which benefits are not provided because of the applica-

tion of the initial coverage limit described in paragraph (3); and

“(ii) such costs shall be treated as incurred only if they are paid by the individual (or by another individual, such as a family member, on behalf of the individual), under section 1860G, or under title XIX and the individual (or other individual) is not reimbursed through insurance or otherwise, a group health plan, or other third-party payment arrangement for such costs.

“(5) ANNUAL PERCENTAGE INCREASE.—For purposes of this part, the annual percentage increase specified in this paragraph for a year is equal to the annual percentage increase in average per capita aggregate expenditures for covered outpatient drugs in the United States for medicare beneficiaries, as determined by the Administrator for the 12-month period ending in July of the previous year.

“(c) ALTERNATIVE COVERAGE REQUIREMENTS.—A prescription drug plan or Medicare+Choice plan may provide a different prescription drug benefit design from the standard coverage described in subsection (b) so long as the Administrator determines (based on an actuarial analysis by the Administrator) that the following requirements are met and the plan applies for, and receives, the approval of the Administrator for such benefit design:

“(1) ASSURING AT LEAST ACTUARIALLY EQUIVALENT COVERAGE.—

“(A) ASSURING EQUIVALENT VALUE OF TOTAL COVERAGE.—The actuarial value of the total coverage (as determined under subsection (e)) is at least equal to the actuarial value (as so determined) of standard coverage.

“(B) ASSURING EQUIVALENT UNSUBSIDIZED VALUE OF COVERAGE.—The unsubsidized value of the coverage is at least equal to the unsubsidized value of standard coverage. For purposes of this subparagraph, the unsubsidized value of coverage is the amount by which the actuarial value of the coverage (as determined under subsection (e)) exceeds the actuarial value of the subsidy payments under section 1860H with respect to such coverage.

“(C) ASSURING STANDARD PAYMENT FOR COSTS AT INITIAL COVERAGE LIMIT.—The coverage is designed, based upon an actuarially representative pattern of utilization (as determined under subsection (e)), to provide for the payment, with respect to costs incurred that are equal to the initial coverage limit under subsection (b)(3), of an amount equal to at least the sum of the following products:

“(i) FIRST COPAYMENT RANGE.—The product of—

“(I) the amount by which the initial copayment threshold described in subsection (b)(2)(C) exceeds the deductible described in subsection (b)(1); and

“(II) 100 percent minus the cost-sharing percentage specified in subsection (b)(2)(A)(i)(I).

“(ii) SECONDARY COPAYMENT RANGE.—The product of—

“(I) the amount by which the initial coverage limit described in subsection (b)(3) exceeds the initial copayment threshold described in subsection (b)(2)(C); and

“(II) 100 percent minus the cost-sharing percentage specified in subsection (b)(2)(A)(i)(I).

“(2) CATASTROPHIC PROTECTION.—The coverage provides for beneficiaries the catastrophic protection described in subsection (b)(4).

“(d) ACCESS TO NEGOTIATED PRICES.—

“(1) IN GENERAL.—Under qualified prescription drug coverage offered by a PDP sponsor

or a Medicare+Choice organization, the sponsor or organization shall provide beneficiaries with access to negotiated prices (including applicable discounts) used for payment for covered outpatient drugs, regardless of the fact that no benefits may be payable under the coverage with respect to such drugs because of the application of cost-sharing or an initial coverage limit (described in subsection (b)(3)). Insofar as a State elects to provide medical assistance under title XIX for a drug based on the prices negotiated by a prescription drug plan under this part, the requirements of section 1927 shall not apply to such drugs. The prices negotiated by a prescription drug plan under this part, by a Medicare+Choice plan with respect to covered outpatient drugs, or by a qualified retiree prescription drug plan (as defined in section 1860H(f)(1)) with respect to such drugs on behalf of individuals entitled to benefits under part A or enrolled under part B, shall (notwithstanding any other provision of law) not be taken into account for the purposes of establishing the best price under section 1927(c)(1)(C).

“(2) DISCLOSURE.—The PDP sponsor or Medicare+Choice organization shall disclose to the Administrator (in a manner specified by the Administrator) the extent to which discounts or rebates made available to the sponsor or organization by a manufacturer are passed through to enrollees through pharmacies and other dispensers or otherwise. The provisions of section 1927(b)(3)(D) shall apply to information disclosed to the Administrator under this paragraph in the same manner as such provisions apply to information disclosed under such section.

“(e) ACTUARIAL VALUATION; DETERMINATION OF ANNUAL PERCENTAGE INCREASES.—

“(1) PROCESSES.—For purposes of this section, the Administrator shall establish processes and methods—

“(A) for determining the actuarial valuation of prescription drug coverage, including—

“(i) an actuarial valuation of standard coverage and of the reinsurance subsidy payments under section 1860H;

“(ii) the use of generally accepted actuarial principles and methodologies; and

“(iii) applying the same methodology for determinations of alternative coverage under subsection (c) as is used with respect to determinations of standard coverage under subsection (b); and

“(B) for determining annual percentage increases described in subsection (b)(5).

“(2) USE OF OUTSIDE ACTUARIES.—Under the processes under paragraph (1)(A), PDP sponsors and Medicare+Choice organizations may use actuarial opinions certified by independent, qualified actuaries to establish actuarial values, but the Administrator shall determine whether such actuarial values meet the requirements under subsection (c)(1).

“(f) COVERED OUTPATIENT DRUGS DEFINED.—

“(1) IN GENERAL.—Except as provided in this subsection, for purposes of this part, the term ‘covered outpatient drug’ means—

“(A) a drug that may be dispensed only upon a prescription and that is described in subparagraph (A)(i) or (A)(ii) of section 1927(k)(2); or

“(B) a biological product described in clauses (i) through (iii) of subparagraph (B) of such section or insulin described in subparagraph (C) of such section,

and such term includes a vaccine licensed under section 351 of the Public Health Service Act and any use of a covered outpatient

drug for a medically accepted indication (as defined in section 1927(k)(6)).

“(2) EXCLUSIONS.—

“(A) IN GENERAL.—Such term does not include drugs or classes of drugs, or their medical uses, which may be excluded from coverage or otherwise restricted under section 1927(d)(2), other than subparagraph (E) thereof (relating to smoking cessation agents), or under section 1927(d)(3).

“(B) AVOIDANCE OF DUPLICATE COVERAGE.—A drug prescribed for an individual that would otherwise be a covered outpatient drug under this part shall not be so considered if payment for such drug is available under part A or B for an individual entitled to benefits under part A and enrolled under part B.

“(3) APPLICATION OF FORMULARY RESTRICTIONS.—A drug prescribed for an individual that would otherwise be a covered outpatient drug under this part shall not be so considered under a plan if the plan excludes the drug under a formulary and such exclusion is not successfully appealed under section 1860C(f)(2).

“(4) APPLICATION OF GENERAL EXCLUSION PROVISIONS.—A prescription drug plan or Medicare+Choice plan may exclude from qualified prescription drug coverage any covered outpatient drug—

“(A) for which payment would not be made if section 1862(a) applied to part D; or

“(B) which are not prescribed in accordance with the plan or this part.

Such exclusions are determinations subject to reconsideration and appeal pursuant to section 1860C(f).

“SEC. 1860C. BENEFICIARY PROTECTIONS FOR QUALIFIED PRESCRIPTION DRUG COVERAGE.

“(a) GUARANTEED ISSUE, COMMUNITY-RATED PREMIUMS, ACCESS TO NEGOTIATED PRICES, AND NONDISCRIMINATION.—For provisions requiring guaranteed issue, community-rated premiums, access to negotiated prices, and nondiscrimination, see sections 1860A(c)(1), 1860A(c)(2), 1860B(d), and 1860F(b), respectively.

“(b) DISSEMINATION OF INFORMATION.—

“(1) GENERAL INFORMATION.—A PDP sponsor shall disclose, in a clear, accurate, and standardized form to each enrollee with a prescription drug plan offered by the sponsor under this part at the time of enrollment and at least annually thereafter, the information described in section 1852(c)(1) relating to such plan. Such information includes the following:

“(A) Access to covered outpatient drugs, including access through pharmacy networks.

“(B) How any formulary used by the sponsor functions, including the drugs included in the formulary.

“(C) Co-payments and deductible requirements, including the identification of the tiered or other co-payment level applicable to each drug (or class of drugs).

“(D) Grievance and appeals procedures.

Such information shall also be made available on request to prospective enrollees during annual open enrollment periods.

“(2) DISCLOSURE UPON REQUEST OF GENERAL COVERAGE, UTILIZATION, AND GRIEVANCE INFORMATION.—Upon request of an individual eligible to enroll under a prescription drug plan, the PDP sponsor shall provide the information described in section 1852(c)(2) (other than subparagraph (D)) to such individual.

“(3) RESPONSE TO BENEFICIARY QUESTIONS.—Each PDP sponsor offering a prescription drug plan shall have a mechanism for pro-

viding specific information to enrollees upon request. The sponsor shall make available on a timely basis, through an Internet website and in writing upon request, information on specific changes in its formulary.

“(4) CLAIMS INFORMATION.—Each PDP sponsor offering a prescription drug plan must furnish to enrolled individuals in a form easily understandable to such individuals an explanation of benefits (in accordance with section 1806(a) or in a comparable manner) and a notice of the benefits in relation to initial coverage limit and annual out-of-pocket threshold for the current year, whenever prescription drug benefits are provided under this part (except that such notice need not be provided more often than monthly).

“(c) ACCESS TO COVERED BENEFITS.—

“(1) ASSURING PHARMACY ACCESS.—

“(A) IN GENERAL.—The PDP sponsor of the prescription drug plan shall secure the participation in its network of a sufficient number of pharmacies that dispense (other than by mail order) drugs directly to patients to ensure convenient access (as determined by the Administrator and including adequate emergency access) for enrolled beneficiaries, in accordance with standards established under section 1860D(e) that ensure such convenient access.

“(B) USE OF POINT-OF-SERVICE SYSTEM.—A PDP sponsor shall establish an optional point-of-service method of operation under which—

“(i) the plan provides access to any or all pharmacies that are not participating pharmacies in its network; and

“(ii) the plan may charge beneficiaries through adjustments in premiums and copayments any additional costs associated with the point-of-service option.

The additional copayments so charged shall not count toward the application of section 1860B(b).

“(2) USE OF STANDARDIZED TECHNOLOGY.—

“(A) IN GENERAL.—The PDP sponsor of a prescription drug plan shall issue (and re-issue, as appropriate) such a card (or other technology) that may be used by an enrolled beneficiary to assure access to negotiated prices under section 1860B(d) for the purchase of prescription drugs for which coverage is not otherwise provided under the prescription drug plan.

“(B) STANDARDS.—

“(i) DEVELOPMENT.—The Administrator shall provide for the development of national standards relating to a standardized format for the card or other technology referred to in subparagraph (A). Such standards shall be compatible with standards established under part C of title XI.

“(ii) APPLICATION OF ADVISORY TASK FORCE.—The advisory task force established under subsection (d)(3)(B)(ii) shall provide recommendations to the Administrator under such subsection regarding the standards developed under clause (i).

“(3) REQUIREMENTS ON DEVELOPMENT AND APPLICATION OF FORMULARIES.—If a PDP sponsor of a prescription drug plan uses a formulary, the following requirements must be met:

“(A) PHARMACY AND THERAPEUTIC (P&T) COMMITTEE.—The sponsor must establish a pharmacy and therapeutic committee that develops and reviews the formulary. Such committee shall include at least one practicing physician and at least one practicing pharmacist both with expertise in the care of elderly or disabled persons and a majority of its members shall consist of individuals who are a practicing physician or a practicing pharmacist (or both).

“(B) FORMULARY DEVELOPMENT.—In developing and reviewing the formulary, the committee shall base clinical decisions on the strength of scientific evidence and standards of practice, including assessing peer-reviewed medical literature, such as randomized clinical trials, pharmacoeconomic studies, outcomes research data, and such other information as the committee determines to be appropriate.

“(C) INCLUSION OF DRUGS IN ALL THERAPEUTIC CATEGORIES.—The formulary must include drugs within each therapeutic category and class of covered outpatient drugs (although not necessarily for all drugs within such categories and classes).

“(D) PROVIDER EDUCATION.—The committee shall establish policies and procedures to educate and inform health care providers concerning the formulary.

“(E) NOTICE BEFORE REMOVING DRUGS FROM FORMULARY.—Any removal of a drug from a formulary shall take effect only after appropriate notice is made available to beneficiaries and physicians.

“(F) GRIEVANCES AND APPEALS RELATING TO APPLICATION OF FORMULARIES.—For provisions relating to grievances and appeals of coverage, see subsections (e) and (f).

“(d) COST AND UTILIZATION MANAGEMENT; QUALITY ASSURANCE; MEDICATION THERAPY MANAGEMENT PROGRAM.—

“(1) IN GENERAL.—The PDP sponsor shall have in place with respect to covered outpatient drugs—

“(A) an effective cost and drug utilization management program, including medically appropriate incentives to use generic drugs and therapeutic interchange, when appropriate;

“(B) quality assurance measures and systems to reduce medical errors and adverse drug interactions, including a medication therapy management program described in paragraph (2) and for years beginning with 2006, an electronic prescription program described in paragraph (3); and

“(C) a program to control fraud, abuse, and waste.

Nothing in this section shall be construed as impairing a PDP sponsor from applying cost management tools (including differential payments) under all methods of operation.

“(2) MEDICATION THERAPY MANAGEMENT PROGRAM.—

“(A) IN GENERAL.—A medication therapy management program described in this paragraph is a program of drug therapy management and medication administration that is designed to assure, with respect to beneficiaries with chronic diseases (such as diabetes, asthma, hypertension, and congestive heart failure) or multiple prescriptions, that covered outpatient drugs under the prescription drug plan are appropriately used to achieve therapeutic goals and reduce the risk of adverse events, including adverse drug interactions.

“(B) ELEMENTS.—Such program may include—

“(i) enhanced beneficiary understanding of such appropriate use through beneficiary education, counseling, and other appropriate means;

“(ii) increased beneficiary adherence with prescription medication regimens through medication refill reminders, special packaging, and other appropriate means; and

“(iii) detection of patterns of overuse and underuse of prescription drugs.

“(C) DEVELOPMENT OF PROGRAM IN COOPERATION WITH LICENSED PHARMACISTS.—The program shall be developed in cooperation with

licensed and practicing pharmacists and physicians.

“(D) CONSIDERATIONS IN PHARMACY FEES.—The PDP sponsor of a prescription drug program shall take into account, in establishing fees for pharmacists and others providing services under the medication therapy management program, the resources and time used in implementing the program.

“(3) ELECTRONIC PRESCRIPTION PROGRAM.—

“(A) IN GENERAL.—An electronic prescription drug program described in this paragraph is a program that includes at least the following components, consistent with national standards established under subparagraph (B):

“(i) ELECTRONIC TRANSMITTAL OF PRESCRIPTIONS.—Prescriptions are only received electronically, except in emergency cases and other exceptional circumstances recognized by the Administrator.

“(ii) PROVISION OF INFORMATION TO PRESCRIBING HEALTH CARE PROFESSIONAL.—The program provides, upon transmittal of a prescription by a prescribing health care professional, for transmittal by the pharmacist to the professional of information that includes—

“(I) information (to the extent available and feasible) on the drugs being prescribed for that patient and other information relating to the medical history or condition of the patient that may be relevant to the appropriate prescription for that patient;

“(II) cost-effective alternatives (if any) for the use of the drug prescribed; and

“(III) information on the drugs included in the applicable formulary.

To the extent feasible, such program shall permit the prescribing health care professional to provide (and be provided) related information on an interactive, real-time basis.

“(B) STANDARDS.—

“(i) DEVELOPMENT.—The Administrator shall provide for the development of national standards relating to the electronic prescription drug program described in subparagraph (A). Such standards shall be compatible with standards established under part C of title XI.

“(ii) ADVISORY TASK FORCE.—In developing such standards and the standards described in subsection (c)(2)(B)(i) the Administrator shall establish a task force that includes representatives of physicians, hospitals, pharmacists, and technology experts and representatives of the Departments of Veterans Affairs and Defense and other appropriate Federal agencies to provide recommendations to the Administrator on such standards, including recommendations relating to the following:

“(I) The range of available computerized prescribing software and hardware and their costs to develop and implement.

“(II) The extent to which such systems reduce medication errors and can be readily implemented by physicians and hospitals.

“(III) Efforts to develop a common software platform for computerized prescribing.

“(IV) The cost of implementing such systems in the range of hospital and physician office settings, including hardware, software, and training costs.

“(V) Implementation issues as they relate to part C of title XI, and current Federal and State prescribing laws and regulations and their impact on implementation of computerized prescribing.

“(iii) DEADLINES.—

“(I) The Administrator shall constitute the task force under clause (ii) by not later than April 1, 2003.

“(II) Such task force shall submit recommendations to Administrator by not later than January 1, 2004.

“(III) The Administrator shall develop and promulgate the national standards referred to in clause (ii) by not later than January 1, 2005.

“(C) REFERENCE TO AVAILABILITY OF GRANT FUNDS.—Grant funds are authorized under section 399O of the Public Health Service Act to provide assistance to health care providers in implementing electronic prescription drug programs.

“(4) TREATMENT OF ACCREDITATION.—Section 1852(e)(4) (relating to treatment of accreditation) shall apply to prescription drug plans under this part with respect to the following requirements, in the same manner as they apply to Medicare+Choice plans under part C with respect to the requirements described in a clause of section 1852(e)(4)(B):

“(A) Paragraph (1) (including quality assurance), including medication therapy management program under paragraph (2).

“(B) Subsection (c)(1) (relating to access to covered benefits).

“(C) Subsection (g) (relating to confidentiality and accuracy of enrollee records).

“(5) PUBLIC DISCLOSURE OF PHARMACEUTICAL PRICES FOR EQUIVALENT DRUGS.—Each PDP sponsor shall provide that each pharmacy or other dispenser that arranges for the dispensing of a covered outpatient drug shall inform the beneficiary at the time of purchase of the drug of any differential between the price of the prescribed drug to the enrollee and the price of the lowest cost generic drug covered under the plan that is therapeutically equivalent and bioequivalent.

“(e) GRIEVANCE MECHANISM, COVERAGE DETERMINATIONS, AND RECONSIDERATIONS.—

“(1) IN GENERAL.—Each PDP sponsor shall provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the sponsor provides covered benefits) and enrollees with prescription drug plans of the sponsor under this part in accordance with section 1852(f).

“(2) APPLICATION OF COVERAGE DETERMINATION AND RECONSIDERATION PROVISIONS.—A PDP sponsor shall meet the requirements of paragraphs (1) through (3) of section 1852(g) with respect to covered benefits under the prescription drug plan it offers under this part in the same manner as such requirements apply to a Medicare+Choice organization with respect to benefits it offers under a Medicare+Choice plan under part C.

“(3) REQUEST FOR REVIEW OF TIERED FORMULARY DETERMINATIONS.—In the case of a prescription drug plan offered by a PDP sponsor that provides for tiered cost-sharing for drugs included within a formulary and provides lower cost-sharing for preferred drugs included within the formulary, an individual who is enrolled in the plan may request coverage of a nonpreferred drug under the terms applicable for preferred drugs if the prescribing physician determines that the preferred drug for treatment of the same condition is not as effective for the individual or has adverse effects for the individual.

“(f) APPEALS.—

“(1) IN GENERAL.—Subject to paragraph (2), a PDP sponsor shall meet the requirements of paragraphs (4) and (5) of section 1852(g) with respect to drugs not included on any formulary in the same manner as such requirements apply to a Medicare+Choice organization with respect to benefits it offers under a Medicare+Choice plan under part C.

“(2) FORMULARY DETERMINATIONS.—An individual who is enrolled in a prescription drug plan offered by a PDP sponsor may appeal to obtain coverage for a covered outpatient drug that is not on a formulary of the sponsor if the prescribing physician determines that the formulary drug for treatment of the same condition is not as effective for the individual or has adverse effects for the individual.

“(g) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—A PDP sponsor shall meet the requirements of section 1852(h) with respect to enrollees under this part in the same manner as such requirements apply to a Medicare+Choice organization with respect to enrollees under part C.

“SEC. 1860D. REQUIREMENTS FOR PRESCRIPTION DRUG PLAN (PDP) SPONSORS; CONTRACTS; ESTABLISHMENT OF STANDARDS.

“(a) GENERAL REQUIREMENTS.—Each PDP sponsor of a prescription drug plan shall meet the following requirements:

“(1) LICENSURE.—Subject to subsection (c), the sponsor is organized and licensed under State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State in which it offers a prescription drug plan.

“(2) ASSUMPTION OF FINANCIAL RISK FOR UNSUBSIDIZED COVERAGE.—

“(A) IN GENERAL.—Subject to subparagraph (B) and section 1860E(d)(2), the entity assumes full financial risk on a prospective basis for qualified prescription drug coverage that it offers under a prescription drug plan and that is not covered under section 1860H.

“(B) REINSURANCE PERMITTED.—The entity may obtain insurance or make other arrangements for the cost of coverage provided to any enrolled member under this part.

“(3) SOLVENCY FOR UNLICENSED SPONSORS.—In the case of a sponsor that is not described in paragraph (1), the sponsor shall meet solvency standards established by the Administrator under subsection (d).

“(b) CONTRACT REQUIREMENTS.—

“(1) IN GENERAL.—The Administrator shall not permit the election under section 1860A of a prescription drug plan offered by a PDP sponsor under this part, and the sponsor shall not be eligible for payments under section 1860G or 1860H, unless the Administrator has entered into a contract under this subsection with the sponsor with respect to the offering of such plan. Such a contract with a sponsor may cover more than one prescription drug plan. Such contract shall provide that the sponsor agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

“(2) NEGOTIATION REGARDING TERMS AND CONDITIONS.—The Administrator shall have the same authority to negotiate the terms and conditions of prescription drug plans under this part as the Director of the Office of Personnel Management has with respect to health benefits plans under chapter 89 of title 5, United States Code. In negotiating the terms and conditions regarding premiums for which information is submitted under section 1860F(a)(2), the Administrator shall take into account the subsidy payments under section 1860H and the adjusted community rate (as defined in section 1854(f)(3)) for the benefits covered.

“(3) INCORPORATION OF CERTAIN MEDICARE+CHOICE CONTRACT REQUIREMENTS.—The following provisions of section 1857 shall apply, subject to subsection (c)(5), to contracts under this section in the same manner as they apply to contracts under section 1857(a):

“(A) MINIMUM ENROLLMENT.—Paragraphs (1) and (3) of section 1857(b).

“(B) CONTRACT PERIOD AND EFFECTIVENESS.—Paragraphs (1) through (3) and (5) of section 1857(c).

“(C) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—Section 1857(d).

“(D) ADDITIONAL CONTRACT TERMS.—Section 1857(e); except that in applying section 1857(e)(2) under this part—

“(i) such section shall be applied separately to costs relating to this part (from costs under part C);

“(ii) in no case shall the amount of the fee established under this subparagraph for a plan exceed 20 percent of the maximum amount of the fee that may be established under subparagraph (B) of such section; and

“(iii) no fees shall be applied under this subparagraph with respect to Medicare+Choice plans.

“(E) INTERMEDIATE SANCTIONS.—Section 1857(g).

“(F) PROCEDURES FOR TERMINATION.—Section 1857(h).

“(4) RULES OF APPLICATION FOR INTERMEDIATE SANCTIONS.—In applying paragraph (3)(E)—

“(A) the reference in section 1857(g)(1)(B) to section 1854 is deemed a reference to this part; and

“(B) the reference in section 1857(g)(1)(F) to section 1852(k)(2)(A)(ii) shall not be applied.

“(c) WAIVER OF CERTAIN REQUIREMENTS TO EXPAND CHOICE.—

“(1) IN GENERAL.—In the case of an entity that seeks to offer a prescription drug plan in a State, the Administrator shall waive the requirement of subsection (a)(1) that the entity be licensed in that State if the Administrator determines, based on the application and other evidence presented to the Administrator, that any of the grounds for approval of the application described in paragraph (2) has been met.

“(2) GROUNDS FOR APPROVAL.—The grounds for approval under this paragraph are the grounds for approval described in subparagraph (B), (C), and (D) of section 1855(a)(2), and also include the application by a State of any grounds other than those required under Federal law.

“(3) APPLICATION OF WAIVER PROCEDURES.—With respect to an application for a waiver (or a waiver granted) under this subsection, the provisions of subparagraphs (E), (F), and (G) of section 1855(a)(2) shall apply.

“(4) LICENSURE DOES NOT SUBSTITUTE FOR OR CONSTITUTE CERTIFICATION.—The fact that an entity is licensed in accordance with subsection (a)(1) does not deem the entity to meet other requirements imposed under this part for a PDP sponsor.

“(5) REFERENCES TO CERTAIN PROVISIONS.—For purposes of this subsection, in applying provisions of section 1855(a)(2) under this subsection to prescription drug plans and PDP sponsors—

“(A) any reference to a waiver application under section 1855 shall be treated as a reference to a waiver application under paragraph (1); and

“(B) any reference to solvency standards shall be treated as a reference to solvency standards established under subsection (d).

“(d) SOLVENCY STANDARDS FOR NON-LICENSED SPONSORS.—

“(1) ESTABLISHMENT.—The Administrator shall establish, by not later than October 1, 2003, financial solvency and capital adequacy standards that an entity that does not meet the requirements of subsection (a)(1) must meet to qualify as a PDP sponsor under this part.

“(2) COMPLIANCE WITH STANDARDS.—Each PDP sponsor that is not licensed by a State under subsection (a)(1) and for which a waiver application has been approved under subsection (c) shall meet solvency and capital adequacy standards established under paragraph (1). The Administrator shall establish certification procedures for such PDP sponsors with respect to such solvency standards in the manner described in section 1855(c)(2).

“(e) OTHER STANDARDS.—The Administrator shall establish by regulation other standards (not described in subsection (d)) for PDP sponsors and plans consistent with, and to carry out, this part. The Administrator shall publish such regulations by October 1, 2003.

“(f) RELATION TO STATE LAWS.—

“(1) IN GENERAL.—The standards established under this part shall supersede any State law or regulation (other than State licensing laws or State laws relating to plan solvency, except as provided in subsection (d)) with respect to prescription drug plans which are offered by PDP sponsors under this part.

“(2) PROHIBITION OF STATE IMPOSITION OF PREMIUM TAXES.—No State may impose a premium tax or similar tax with respect to premiums paid to PDP sponsors for prescription drug plans under this part, or with respect to any payments made to such a sponsor by the Administrator under this part.

“SEC. 1860E. PROCESS FOR BENEFICIARIES TO SELECT QUALIFIED PRESCRIPTION DRUG COVERAGE.

“(a) IN GENERAL.—The Administrator shall establish a process for the selection of the prescription drug plan or Medicare+Choice plan which offer qualified prescription drug coverage through which eligible individuals elect qualified prescription drug coverage under this part.

“(b) ELEMENTS.—Such process shall include the following:

“(1) Annual, coordinated election periods, in which such individuals can change the qualifying plans through which they obtain coverage, in accordance with section 1860A(b)(2).

“(2) Active dissemination of information to promote an informed selection among qualifying plans based upon price, quality, and other features, in the manner described in (and in coordination with) section 1851(d), including the provision of annual comparative information, maintenance of a toll-free hotline, and the use of non-Federal entities.

“(3) Coordination of elections through filing with a Medicare+Choice organization or a PDP sponsor, in the manner described in (and in coordination with) section 1851(c)(2).

“(c) MEDICARE+CHOICE ENROLLEE IN PLAN OFFERING PRESCRIPTION DRUG COVERAGE MAY ONLY OBTAIN BENEFITS THROUGH THE PLAN.—An individual who is enrolled under a Medicare+Choice plan that offers qualified prescription drug coverage may only elect to receive qualified prescription drug coverage under this part through such plan.

“(d) ASSURING ACCESS TO A CHOICE OF QUALIFIED PRESCRIPTION DRUG COVERAGE.—

“(1) CHOICE OF AT LEAST TWO PLANS IN EACH AREA.—

“(A) IN GENERAL.—The Administrator shall assure that each individual who is entitled to benefits under part A or enrolled under part B and who is residing in an area in the United States has available, consistent with subparagraph (B), a choice of enrollment in at least two qualifying plans (as defined in paragraph (5)) in the area in which the individual resides, at least one of which is a prescription drug plan.

“(B) REQUIREMENT FOR DIFFERENT PLAN SPONSORS.—The requirement in subparagraph (A) is not satisfied with respect to an area if only one PDP sponsor or Medicare+Choice organization offers all the qualifying plans in the area.

“(2) GUARANTEEING ACCESS TO COVERAGE.—In order to assure access under paragraph (1) and consistent with paragraph (3), the Administrator may provide financial incentives (including partial underwriting of risk) for a PDP sponsor to expand the service area under an existing prescription drug plan to adjoining or additional areas or to establish such a plan (including offering such a plan on a regional or nationwide basis), but only so long as (and to the extent) necessary to assure the access guaranteed under paragraph (1).

“(3) LIMITATION ON AUTHORITY.—In exercising authority under this subsection, the Administrator—

“(A) shall not provide for the full underwriting of financial risk for any PDP sponsor;

“(B) shall not provide for any underwriting of financial risk for a public PDP sponsor with respect to the offering of a nationwide prescription drug plan; and

“(C) shall seek to maximize the assumption of financial risk by PDP sponsors or Medicare+Choice organizations.

“(4) REPORTS.—The Administrator shall, in each annual report to Congress under section 1808(f), include information on the exercise of authority under this subsection. The Administrator also shall include such recommendations as may be appropriate to minimize the exercise of such authority, including minimizing the assumption of financial risk.

“(5) QUALIFYING PLAN DEFINED.—For purposes of this subsection, the term ‘qualifying plan’ means a prescription drug plan or a Medicare+Choice plan that includes qualified prescription drug coverage.

“SEC. 1860F. SUBMISSION OF BIDS AND PREMIUMS.

“(a) SUBMISSION OF BIDS, PREMIUMS, AND RELATED INFORMATION.—

“(1) IN GENERAL.—Each PDP sponsor shall submit to the Administrator the information described in paragraph (2) in the same manner as information is submitted by a Medicare+Choice organization under section 1854(a)(1).

“(2) INFORMATION SUBMITTED.—The information described in this paragraph is the following:

“(A) COVERAGE PROVIDED.—Information on the qualified prescription drug coverage to be provided.

“(B) ACTUARIAL VALUE.—Information on the actuarial value of the coverage.

“(C) BID AND PREMIUM.—Information on the bid and the premium for the coverage, including an actuarial certification of—

“(i) the actuarial basis for such bid and premium;

“(ii) the portion of such bid and premium attributable to benefits in excess of standard coverage; and

“(iii) the reduction in such bid and premium resulting from the subsidy payments provided under section 1860H.

“(D) ADDITIONAL INFORMATION.—Such other information as the Administrator may require to carry out this part.

“(3) REVIEW OF INFORMATION AND APPROVAL OF PREMIUMS.—The Administrator shall review the information filed under paragraph (2) for the purpose of conducting negotiations under section 1860D(b)(2). The Administrator, using the information provided (in-

cluding the actuarial certification under paragraph (2)(C)) shall approve the premium submitted under this subsection only if the premium accurately reflects both (A) the actuarial value of the benefits provided, and (B) the 67 percent subsidy provided under section 1860H for the standard benefit. The Administrator shall apply actuarial principles to approval of a premium under this part in a manner similar to the manner in which those principles are applied in establishing the monthly part B premium under section 1839.

“(b) UNIFORM BID AND PREMIUM.—

“(1) IN GENERAL.—The bid and premium for a prescription drug plan under this section may not vary among individuals enrolled in the plan in the same service area.

“(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed as preventing the imposition of a late enrollment penalty under section 1860A(c)(2)(B).

“(c) COLLECTION.—

“(1) BENEFICIARY’S OPTION OF PAYMENT THROUGH WITHHOLDING FROM SOCIAL SECURITY PAYMENT OR USE OF ELECTRONIC FUNDS TRANSFER MECHANISM.—In accordance with regulations, a PDP sponsor shall permit each enrollee, at the enrollee’s option, to make payment of premiums under this part through withholding from benefit payments in the manner provided under section 1840 with respect to monthly premiums under section 1839 or through an electronic funds transfer mechanism (such as automatic charges of an account at a financial institution or a credit or debit card account) or otherwise. All such amounts shall be credited to the Medicare Prescription Drug Trust Fund.

“(2) OFFSETTING.—Reductions in premiums for coverage under parts A and B as a result of a selection of a Medicare+Choice plan may be used to reduce the premium otherwise imposed under paragraph (1).

“(3) PAYMENT OF PLANS.—PDP plans shall receive payment based on bid amounts in the same manner as Medicare+Choice organizations receive payment based on bid amounts under section 1853(a)(1)(A)(ii) except that such payment shall be made from the Medicare Prescription Drug Trust Fund.

“(d) ACCEPTANCE OF BENCHMARK AMOUNT AS FULL PREMIUM FOR STANDARD LOW-INCOME INDIVIDUALS IF NO STANDARD (OR EQUIVALENT) COVERAGE IN AN AREA.—

“(1) IN GENERAL.—If there is no standard prescription drug coverage (as defined in paragraph (2)) offered in an area, in the case of an individual who is eligible for a premium subsidy under section 1860G and resides in the area, the PDP sponsor of any prescription drug plan offered in the area (and any Medicare+Choice organization that offers qualified prescription drug coverage in the area) shall accept the benchmark bid amount (under section 1860G(b)(2)) as payment in full for the premium charge for qualified prescription drug coverage.

“(2) STANDARD PRESCRIPTION DRUG COVERAGE DEFINED.—For purposes of this subsection, the term ‘standard prescription drug coverage’ means qualified prescription drug coverage that is standard coverage or that has an actuarial value equivalent to the actuarial value for standard coverage.

“SEC. 1860G. PREMIUM AND COST-SHARING SUBSIDIES FOR LOW-INCOME INDIVIDUALS.

“(a) INCOME-RELATED SUBSIDIES FOR INDIVIDUALS WITH INCOME BELOW 175 PERCENT OF FEDERAL POVERTY LEVEL.—

“(1) FULL PREMIUM SUBSIDY AND REDUCTION OF COST-SHARING FOR INDIVIDUALS WITH INCOME BELOW 150 PERCENT OF FEDERAL POVERTY

LEVEL.—In the case of a subsidy eligible individual (as defined in paragraph (4)) who is determined to have income that does not exceed 150 percent of the Federal poverty level, the individual is entitled under this section—

“(A) to an income-related premium subsidy equal to 100 percent of the amount described in subsection (b)(1); and

“(B) subject to subsection (c), to the substitution for the beneficiary cost-sharing described in paragraphs (1) and (2) of section 1860B(b) (up to the initial coverage limit specified in paragraph (3) of such section) of amounts that do not exceed \$2 for a multiple source or generic drug (as described in section 1927(k)(7)(A)) and \$5 for a non-preferred drug.

“(2) SLIDING SCALE PREMIUM SUBSIDY AND REDUCTION OF COST-SHARING FOR INDIVIDUALS WITH INCOME ABOVE 150, BUT BELOW 175 PERCENT, OF FEDERAL POVERTY LEVEL.—In the case of a subsidy eligible individual who is determined to have income that exceeds 150 percent, but does not exceed 175 percent, of the Federal poverty level, the individual is entitled under this section to—

“(A) an income-related premium subsidy determined on a linear sliding scale ranging from 100 percent of the amount described in subsection (b)(1) for individuals with incomes at 150 percent of such level to 0 percent of such amount for individuals with incomes at 175 percent of such level; and

“(B) subject to subsection (c), to the substitution for the beneficiary cost-sharing described in paragraphs (1) and (2) of section 1860B(b) (up to the initial coverage limit specified in paragraph (3) of such section) of amounts that do not exceed \$2 for a multiple source or generic drug (as described in section 1927(k)(7)(A)) and \$5 for a non-preferred drug.

“(3) CONSTRUCTION.—Nothing in this section shall be construed as preventing a PDP sponsor from reducing to 0 the cost-sharing otherwise applicable to generic drugs.

“(4) DETERMINATION OF ELIGIBILITY.—

“(A) SUBSIDY ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, subject to subparagraph (D), the term ‘subsidy eligible individual’ means an individual who—

“(i) is eligible to elect, and has elected, to obtain qualified prescription drug coverage under this part;

“(ii) has income below 175 percent of the Federal poverty line; and

“(iii) meets the resources requirement described in section 1905(p)(1)(C).

“(B) DETERMINATIONS.—The determination of whether an individual residing in a State is a subsidy eligible individual and the amount of such individual’s income shall be determined under the State medicaid plan for the State under section 1935(a) or by the Social Security Administration. In the case of a State that does not operate such a medicaid plan (either under title XIX or under a statewide waiver granted under section 1115), such determination shall be made under arrangements made by the Administrator. There are authorized to be appropriated to the Social Security Administration such sums as may be necessary for the determination of eligibility under this subparagraph.

“(C) INCOME DETERMINATIONS.—For purposes of applying this section—

“(i) income shall be determined in the manner described in section 1905(p)(1)(B); and

“(ii) the term ‘Federal poverty line’ means the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation

Act of 1981) applicable to a family of the size involved.

“(D) TREATMENT OF TERRITORIAL RESIDENTS.—In the case of an individual who is not a resident of the 50 States or the District of Columbia, the individual is not eligible to be a subsidy eligible individual but may be eligible for financial assistance with prescription drug expenses under section 1935(e).

“(E) TREATMENT OF CONFORMING MEDIGAP POLICIES.—For purposes of this section, the term ‘qualified prescription drug coverage’ includes a medicare supplemental policy described in section 1860H(b)(4).

“(5) INDEXING DOLLAR AMOUNTS.—

“(A) FOR 2006.—The dollar amounts applied under paragraphs (1)(B) and (2)(B) for 2006 shall be the dollar amounts specified in such paragraph increased by the annual percentage increase described in section 1860B(b)(5) for 2006.

“(B) FOR SUBSEQUENT YEARS.—The dollar amounts applied under paragraphs (1)(B) and (2)(B) for a year after 2006 shall be the amounts (under this paragraph) applied under paragraph (1)(B) or (2)(B) for the preceding year increased by the annual percentage increase described in section 1860B(b)(5) (relating to growth in medicare prescription drug costs per beneficiary) for the year involved.

“(b) PREMIUM SUBSIDY AMOUNT.—

“(1) IN GENERAL.—The premium subsidy amount described in this subsection for an individual residing in an area is the benchmark bid amount (as defined in paragraph (2)) for qualified prescription drug coverage offered by the prescription drug plan or the Medicare+Choice plan in which the individual is enrolled.

“(2) BENCHMARK BID AMOUNT DEFINED.—For purposes of this subsection, the term ‘benchmark bid amount’ means, with respect to qualified prescription drug coverage offered under—

“(A) a prescription drug plan that—

“(i) provides standard coverage (or alternative prescription drug coverage the actuarial value is equivalent to that of standard coverage), the bid amount for enrollment under the plan under this part (determined without regard to any subsidy under this section or any late enrollment penalty under section 1860A(c)(2)(B)); or

“(ii) provides alternative prescription drug coverage the actuarial value of which is greater than that of standard coverage, the bid amount described in clause (i) multiplied by the ratio of (I) the actuarial value of standard coverage, to (II) the actuarial value of the alternative coverage; or

“(B) a Medicare+Choice plan, the portion of the bid amount that is attributable to statutory drug benefits (described in section 1853(a)(1)(A)(ii)(II)).

“(c) RULES IN APPLYING COST-SHARING SUBSIDIES.—

“(1) IN GENERAL.—In applying subsections (a)(1)(B) and (a)(2)(B), nothing in this part shall be construed as preventing a plan or provider from waiving or reducing the amount of cost-sharing otherwise applicable.

“(2) LIMITATION ON CHARGES.—In the case of an individual receiving cost-sharing subsidies under subsection (a)(1)(B) or (a)(2)(B), the PDP sponsor may not charge more than \$5 per prescription.

“(3) APPLICATION OF INDEXING RULES.—The provisions of subsection (a)(4) shall apply to the dollar amount specified in paragraph (2) in the same manner as they apply to the dollar amounts specified in subsections (a)(1)(B) and (a)(2)(B).

“(d) ADMINISTRATION OF SUBSIDY PROGRAM.—The Administrator shall provide a

process whereby, in the case of an individual who is determined to be a subsidy eligible individual and who is enrolled in prescription drug plan or is enrolled in a Medicare+Choice plan under which qualified prescription drug coverage is provided—

“(1) the Administrator provides for a notification of the PDP sponsor or Medicare+Choice organization involved that the individual is eligible for a subsidy and the amount of the subsidy under subsection (a);

“(2) the sponsor or organization involved reduces the premiums or cost-sharing otherwise imposed by the amount of the applicable subsidy and submits to the Administrator information on the amount of such reduction; and

“(3) the Administrator periodically and on a timely basis reimburses the sponsor or organization for the amount of such reductions.

The reimbursement under paragraph (3) with respect to cost-sharing subsidies may be computed on a capitated basis, taking into account the actuarial value of the subsidies and with appropriate adjustments to reflect differences in the risks actually involved.

“(e) RELATION TO MEDICAID PROGRAM.—

“(1) IN GENERAL.—For provisions providing for eligibility determinations, and additional financing, under the medicaid program, see section 1935.

“(2) MEDICAID PROVIDING WRAP AROUND BENEFITS.—The coverage provided under this part is primary payor to benefits for prescribed drugs provided under the medicaid program under title XIX.

“(3) COORDINATION.—The Administrator shall develop and implement a plan for the coordination of prescription drug benefits under this part with the benefits provided under the medicaid program under title XIX, with particular attention to insuring coordination of payments and prevention of fraud and abuse. In developing and implementing such plan, the Administrator shall involve the Secretary, the States, the data processing industry, pharmacists, and pharmaceutical manufacturers, and other experts.

“SEC. 1860H. SUBSIDIES FOR ALL MEDICARE BENEFICIARIES FOR QUALIFIED PRESCRIPTION DRUG COVERAGE.

“(a) SUBSIDY PAYMENT.—In order to reduce premium levels applicable to qualified prescription drug coverage for all medicare beneficiaries consistent with an overall subsidy level of 67 percent, to reduce adverse selection among prescription drug plans and Medicare+Choice plans that provide qualified prescription drug coverage, and to promote the participation of PDP sponsors under this part, the Administrator shall provide in accordance with this section for payment to a qualifying entity (as defined in subsection (b)) of the following subsidies:

“(1) DIRECT SUBSIDY.—In the case of an individual enrolled in a prescription drug plan, Medicare+Choice plan that provides qualified prescription drug coverage, or qualified retiree prescription drug plan, a direct subsidy equal to 37 percent of the total payments made by a qualifying entity for standard coverage under the respective plan.

“(2) SUBSIDY THROUGH REINSURANCE.—The reinsurance payment amount (as defined in subsection (c)), which in the aggregate is 30 percent of such total payments, for excess costs incurred in providing qualified prescription drug coverage—

“(A) for individuals enrolled with a prescription drug plan under this part;

“(B) for individuals enrolled with a Medicare+Choice plan that provides qualified prescription drug coverage; and

“(C) for individuals who are enrolled in a qualified retiree prescription drug plan.

This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Administrator to provide for the payment of amounts provided under this section.

“(b) QUALIFYING ENTITY DEFINED.—For purposes of this section, the term ‘qualifying entity’ means any of the following that has entered into an agreement with the Administrator to provide the Administrator with such information as may be required to carry out this section:

“(1) A PDP sponsor offering a prescription drug plan under this part.

“(2) A Medicare+Choice organization that provides qualified prescription drug coverage under a Medicare+Choice plan under part C.

“(3) The sponsor of a qualified retiree prescription drug plan (as defined in subsection (f)).

“(c) REINSURANCE PAYMENT AMOUNT.—

“(1) IN GENERAL.—Subject to subsection (d)(1)(B) and paragraph (4), the reinsurance payment amount under this subsection for a qualifying covered individual (as defined in subsection (g)(1)) for a coverage year (as defined in subsection (g)(2)) is equal to the sum of the following:

“(A) For the portion of the individual’s gross covered prescription drug costs (as defined in paragraph (3)) for the year that exceeds the initial copayment threshold specified in section 1860B(b)(2)(C), but does not exceed the initial coverage limit specified in section 1860B(b)(3), an amount equal to 30 percent of the allowable costs (as defined in paragraph (2)) attributable to such gross covered prescription drug costs.

“(B) For the portion of the individual’s gross covered prescription drug costs for the year that exceeds the annual out-of-pocket threshold specified in 1860B(b)(4)(B), an amount equal to 80 percent of the allowable costs attributable to such gross covered prescription drug costs.

“(2) ALLOWABLE COSTS.—For purposes of this section, the term ‘allowable costs’ means, with respect to gross covered prescription drug costs under a plan described in subsection (b) offered by a qualifying entity, the part of such costs that are actually paid (net of average percentage rebates) under the plan, but in no case more than the part of such costs that would have been paid under the plan if the prescription drug coverage under the plan were standard coverage.

“(3) GROSS COVERED PRESCRIPTION DRUG COSTS.—For purposes of this section, the term ‘gross covered prescription drug costs’ means, with respect to an enrollee with a qualifying entity under a plan described in subsection (b) during a coverage year, the costs incurred under the plan (including costs attributable to administrative costs) for covered prescription drugs dispensed during the year, including costs relating to the deductible, whether paid by the enrollee or under the plan, regardless of whether the coverage under the plan exceeds standard coverage and regardless of when the payment for such drugs is made.

“(4) INDEXING DOLLAR AMOUNTS.—

“(A) AMOUNTS FOR 2005.—The dollar amounts applied under paragraph (1) for 2005 shall be the dollar amounts specified in such paragraph.

“(B) FOR 2006.—The dollar amounts applied under paragraph (1) for 2006 shall be the dollar amounts specified in such paragraph increased by the annual percentage increase described in section 1860B(b)(5) for 2006.

“(C) FOR SUBSEQUENT YEARS.—The dollar amounts applied under paragraph (1) for a

year after 2006 shall be the amounts (under this paragraph) applied under paragraph (1) for the preceding year increased by the annual percentage increase described in section 1860B(b)(5) (relating to growth in medicare prescription drug costs per beneficiary) for the year involved.

“(D) ROUNDING.—Any amount, determined under the preceding provisions of this paragraph for a year, which is not a multiple of \$10 shall be rounded to the nearest multiple of \$10.

“(d) ADJUSTMENT OF PAYMENTS.—

“(1) ADJUSTMENT OF REINSURANCE PAYMENTS TO ASSURE 30 PERCENT LEVEL OF SUBSIDY THROUGH REINSURANCE.—

“(A) ESTIMATION OF PAYMENTS.—The Administrator shall estimate—

“(i) the total payments to be made (without regard to this subsection) during a year under subsections (a)(2) and (c); and

“(ii) the total payments to be made by qualifying entities for standard coverage under plans described in subsection (b) during the year.

“(B) ADJUSTMENT.—The Administrator shall proportionally adjust the payments made under subsections (a)(2) and (c) for a coverage year in such manner so that the total of the payments made under such subsections for the year is equal to 30 percent of the total payments described in subparagraph (A)(ii).

“(2) RISK ADJUSTMENT FOR DIRECT SUBSIDIES.—To the extent the Administrator determines it appropriate to avoid risk selection, the payments made for direct subsidies under subsection (a)(1) are subject to adjustment based upon risk factors specified by the Administrator. Any such risk adjustment shall be designed in a manner as to not result in a change in the aggregate payments made under such subsection.

“(e) PAYMENT METHODS.—

“(1) IN GENERAL.—Payments under this section shall be based on such a method as the Administrator determines. The Administrator may establish a payment method by which interim payments of amounts under this section are made during a year based on the Administrator's best estimate of amounts that will be payable after obtaining all of the information.

“(2) SOURCE OF PAYMENTS.—Payments under this section shall be made from the Medicare Prescription Drug Trust Fund.

“(f) QUALIFIED RETIREE PRESCRIPTION DRUG PLAN DEFINED.—

“(1) IN GENERAL.—For purposes of this section, the term ‘qualified retiree prescription drug plan’ means employment-based retiree health coverage (as defined in paragraph (3)(A)) if, with respect to an individual enrolled (or eligible to be enrolled) under this part who is covered under the plan, the following requirements are met:

“(A) ASSURANCE.—The sponsor of the plan shall annually attest, and provide such assurances as the Administrator may require, that the coverage meets or exceeds the requirements for qualified prescription drug coverage.

“(B) AUDITS.—The sponsor (and the plan) shall maintain, and afford the Administrator access to, such records as the Administrator may require for purposes of audits and other oversight activities necessary to ensure the adequacy of prescription drug coverage, and the accuracy of payments made.

“(C) PROVISION OF CERTIFICATION OF PRESCRIPTION DRUG COVERAGE.—The sponsor of the plan shall provide for issuance of certifications of the type described in section 1860A(c)(2)(D).

“(2) LIMITATION ON BENEFIT ELIGIBILITY.—No payment shall be provided under this section with respect to an individual who is enrolled under a qualified retiree prescription drug plan unless the individual is—

“(A) enrolled under this part;

“(B) is covered under the plan; and

“(C) is eligible to obtain qualified prescription drug coverage under section 1860A but did not elect such coverage under this part (either through a prescription drug plan or through a Medicare+Choice plan).

“(3) DEFINITIONS.—As used in this section:

“(A) EMPLOYMENT-BASED RETIREE HEALTH COVERAGE.—The term ‘employment-based retiree health coverage’ means health insurance or other coverage of health care costs for individuals enrolled under this part (or for such individuals and their spouses and dependents) based on their status as former employees or labor union members.

“(B) SPONSOR.—The term ‘sponsor’ means a plan sponsor, as defined in section 3(16)(B) of the Employee Retirement Income Security Act of 1974.

“(g) GENERAL DEFINITIONS.—For purposes of this section:

“(1) QUALIFYING COVERED INDIVIDUAL.—The term ‘qualifying covered individual’ means an individual who—

“(A) is enrolled with a prescription drug plan under this part;

“(B) is enrolled with a Medicare+Choice plan that provides qualified prescription drug coverage under part C; or

“(C) is enrolled for benefits under this title and is covered under a qualified retiree prescription drug plan.

“(2) COVERAGE YEAR.—The term ‘coverage year’ means a calendar year in which covered outpatient drugs are dispensed if a claim for payment is made under the plan for such drugs, regardless of when the claim is paid.

“SEC. 1860I. MEDICARE PRESCRIPTION DRUG TRUST FUND.

“(a) IN GENERAL.—There is created on the books of the Treasury of the United States a trust fund to be known as the ‘Medicare Prescription Drug Trust Fund’ (in this section referred to as the ‘Trust Fund’). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1), and such amounts as may be deposited in, or appropriated to, such fund as provided in this part. Except as otherwise provided in this section, the provisions of subsections (b) through (i) of section 1841 shall apply to the Trust Fund in the same manner as they apply to the Federal Supplementary Medical Insurance Trust Fund under such section.

“(b) PAYMENTS FROM TRUST FUND.—

“(1) IN GENERAL.—The Managing Trustee shall pay from time to time from the Trust Fund such amounts as the Administrator certifies are necessary to make—

“(A) payments under section 1860G (relating to low-income subsidy payments);

“(B) payments under section 1860H (relating to subsidy payments); and

“(C) payments with respect to administrative expenses under this part in accordance with section 201(g).

“(2) TRANSFERS TO MEDICAID ACCOUNT FOR INCREASED ADMINISTRATIVE COSTS.—The Managing Trustee shall transfer from time to time from the Trust Fund to the Grants to States for Medicaid account amounts the Administrator certifies are attributable to increases in payment resulting from the application of a higher Federal matching percentage under section 1935(b).

“(c) DEPOSITS INTO TRUST FUND.—

“(1) LOW-INCOME TRANSFER.—There is hereby transferred to the Trust Fund, from amounts appropriated for Grants to States for Medicaid, amounts equivalent to the aggregate amount of the reductions in payments under section 1903(a)(1) attributable to the application of section 1935(c).

“(2) APPROPRIATIONS TO COVER GOVERNMENT CONTRIBUTIONS.—There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, to the Trust Fund, an amount equivalent to the amount of payments made from the Trust Fund under subsection (b), reduced by the amount transferred to the Trust Fund under paragraph (1).

“(d) RELATION TO SOLVENCY REQUIREMENTS.—Any provision of law that relates to the solvency of the Trust Fund under this part shall take into account the Trust Fund and amounts receivable by, or payable from, the Trust Fund.

“SEC. 1860J. DEFINITIONS; TREATMENT OF REFERENCES TO PROVISIONS IN PART C.

“(a) DEFINITIONS.—For purposes of this part:

“(1) COVERED OUTPATIENT DRUGS.—The term ‘covered outpatient drugs’ is defined in section 1860B(f).

“(2) INITIAL COVERAGE LIMIT.—The term ‘initial coverage limit’ means such limit as established under section 1860B(b)(3), or, in the case of coverage that is not standard coverage, the comparable limit (if any) established under the coverage.

“(3) MEDICARE PRESCRIPTION DRUG TRUST FUND.—The term ‘Medicare Prescription Drug Trust Fund’ means the Trust Fund created under section 1860I(a).

“(4) PDP SPONSOR.—The term ‘PDP sponsor’ means an entity that is certified under this part as meeting the requirements and standards of this part for such a sponsor.

“(5) PRESCRIPTION DRUG PLAN.—The term ‘prescription drug plan’ means health benefits coverage that—

“(A) is offered under a policy, contract, or plan by a PDP sponsor pursuant to, and in accordance with, a contract between the Administrator and the sponsor under section 1860D(b);

“(B) provides qualified prescription drug coverage; and

“(C) meets the applicable requirements of the section 1860C for a prescription drug plan.

“(6) QUALIFIED PRESCRIPTION DRUG COVERAGE.—The term ‘qualified prescription drug coverage’ is defined in section 1860B(a).

“(7) STANDARD COVERAGE.—The term ‘standard coverage’ is defined in section 1860B(b).

“(b) APPLICATION OF MEDICARE+CHOICE PROVISIONS UNDER THIS PART.—For purposes of applying provisions of part C under this part with respect to a prescription drug plan and a PDP sponsor, unless otherwise provided in this part such provisions shall be applied as if—

“(1) any reference to a Medicare+Choice plan included a reference to a prescription drug plan;

“(2) any reference to a provider-sponsored organization included a reference to a PDP sponsor;

“(3) any reference to a contract under section 1857 included a reference to a contract under section 1860D(b); and

“(4) any reference to part C included a reference to this part.”.

(b) ADDITIONAL CONFORMING CHANGES.—

(1) CONFORMING REFERENCES TO PREVIOUS PART D.—Any reference in law (in effect before the date of the enactment of this Act) to

part D of title XVIII of the Social Security Act is deemed a reference to part E of such title (as in effect after such date).

(2) CONFORMING AMENDMENT PERMITTING WAIVER OF COST-SHARING.—Section 1128B(b)(3) (42 U.S.C. 1320a-7b(b)(3)) is amended—

(A) by striking “and” at the end of subparagraph (E);

(B) by striking the period at the end of subparagraph (F) and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(G) the waiver or reduction of any cost-sharing imposed under part D of title XVIII.”.

(3) SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this subtitle.

(c) STUDY ON TRANSITIONING PART B PRESCRIPTION DRUG COVERAGE.—Not later than January 1, 2004, the Medicare Benefits Administrator shall submit a report to Congress that makes recommendations regarding methods for providing benefits under part D of title XVIII of the Social Security Act for outpatient prescription drugs for which benefits are provided under part B of such title.

SEC. 102. OFFERING OF QUALIFIED PRESCRIPTION DRUG COVERAGE UNDER THE MEDICARE+CHOICE PROGRAM.

(a) IN GENERAL.—Section 1851 (42 U.S.C. 1395w-21) is amended by adding at the end the following new subsection:

“(j) AVAILABILITY OF PRESCRIPTION DRUG BENEFITS.—

“(1) OFFER OF QUALIFIED PRESCRIPTION DRUG COVERAGE.—

“(A) IN GENERAL.—A Medicare+Choice organization may not offer prescription drug coverage (other than that required under parts A and B) to an enrollee under a Medicare+Choice plan unless such drug coverage is at least qualified prescription drug coverage and unless the requirements of this subsection with respect to such coverage are met.

“(B) CONSTRUCTION.—Nothing in this subsection shall be construed as—

“(i) requiring a Medicare+Choice plan to include coverage of qualified prescription drug coverage; or

“(ii) permitting a Medicare+Choice organization from providing such coverage to an individual who has not elected such coverage under section 1860A(b).

For purposes of this part, an individual who has not elected qualified prescription drug coverage under section 1860A(b) shall be treated as being ineligible to enroll in a Medicare+Choice plan under this part that offers such coverage.

“(2) COMPLIANCE WITH ADDITIONAL BENEFICIARY PROTECTIONS.—With respect to the offering of qualified prescription drug coverage by a Medicare+Choice organization under a Medicare+Choice plan, the organization and plan shall meet the requirements of section 1860C, including requirements relating to information dissemination and grievance and appeals, in the same manner as they apply to a PDP sponsor and a prescription drug plan under part D and shall submit to the Administrator the information described in section 1860F(a)(2). The Administrator shall waive such requirements to the extent the Administrator determines that such requirements duplicate requirements

otherwise applicable to the organization or plan under this part.

“(3) AVAILABILITY OF PREMIUM AND COST-SHARING SUBSIDIES FOR LOW-INCOME ENROLLEES AND DIRECT AND REINSURANCE SUBSIDY PAYMENTS FOR ORGANIZATIONS.—For provisions—

“(A) providing premium and cost-sharing subsidies to low-income individuals receiving qualified prescription drug coverage through a Medicare+Choice plan, see section 1860G; and

“(B) providing a Medicare+Choice organization with direct and insurance subsidy payments for providing qualified prescription drug coverage under this part, see section 1860H.

“(4) TRANSITION IN INITIAL ENROLLMENT PERIOD.—Notwithstanding any other provision of this part, the annual, coordinated election period under subsection (e)(3)(B) for 2005 shall be the 6-month period beginning with November 2004.

“(5) QUALIFIED PRESCRIPTION DRUG COVERAGE; STANDARD COVERAGE.—For purposes of this part, the terms ‘qualified prescription drug coverage’ and ‘standard coverage’ have the meanings given such terms in section 1860B.”.

(b) CONFORMING AMENDMENTS.—Section 1851 (42 U.S.C. 1395w-21) is amended—

(1) in subsection (a)(1)—

(A) by inserting “(other than qualified prescription drug benefits)” after “benefits”;.

(B) by striking the period at the end of subparagraph (B) and inserting a comma; and

(C) by adding after and below subparagraph (B) the following:

“and may elect qualified prescription drug coverage in accordance with section 1860A.”; and

(2) in subsection (g)(1), by inserting “and section 1860A(c)(2)(B)” after “in this subsection”.

(c) EFFECTIVE DATE.—The amendments made by this section apply to coverage provided on or after January 1, 2005.

SEC. 103. MEDICAID AMENDMENTS.

(a) DETERMINATIONS OF ELIGIBILITY FOR LOW-INCOME SUBSIDIES.—

(1) REQUIREMENT.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(A) by striking “and” at the end of paragraph (64);

(B) by striking the period at the end of paragraph (65) and inserting “; and”; and

(C) by inserting after paragraph (65) the following new paragraph:

“(66) provide for making eligibility determinations under section 1935(a).”.

(2) NEW SECTION.—Title XIX is further amended—

(A) by redesignating section 1935 as section 1936; and

(B) by inserting after section 1934 the following new section:

“SPECIAL PROVISIONS RELATING TO MEDICARE PRESCRIPTION DRUG BENEFIT

“SEC. 1935. (a) REQUIREMENT FOR MAKING ELIGIBILITY DETERMINATIONS FOR LOW-INCOME SUBSIDIES.—As a condition of its State plan under this title under section 1902(a)(66) and receipt of any Federal financial assistance under section 1903(a), a State shall—

“(1) make determinations of eligibility for premium and cost-sharing subsidies under (and in accordance with) section 1860G;

“(2) inform the Administrator of the Medicare Benefits Administration of such determinations in cases in which such eligibility is established; and

“(3) otherwise provide such Administrator with such information as may be required to

carry out part D of title XVIII (including section 1860G).

“(b) PAYMENTS FOR ADDITIONAL ADMINISTRATIVE COSTS.—

“(1) IN GENERAL.—The amounts expended by a State in carrying out subsection (a) are, subject to paragraph (2), expenditures reimbursable under the appropriate paragraph of section 1903(a); except that, notwithstanding any other provision of such section, the applicable Federal matching rates with respect to such expenditures under such section shall be increased as follows (but in no case shall the rate as so increased exceed 100 percent):

“(A) For expenditures attributable to costs incurred during 2005, the otherwise applicable Federal matching rate shall be increased by 10 percent of the percentage otherwise payable (but for this subsection) by the State.

“(B)(i) For expenditures attributable to costs incurred during 2006 and each subsequent year through 2013, the otherwise applicable Federal matching rate shall be increased by the applicable percent (as defined in clause (ii)) of the percentage otherwise payable (but for this subsection) by the State.

“(ii) For purposes of clause (i), the ‘applicable percent’ for—

“(I) 2006 is 20 percent; or

“(II) a subsequent year is the applicable percent under this clause for the previous year increased by 10 percentage points.

“(C) For expenditures attributable to costs incurred after 2013, the otherwise applicable Federal matching rate shall be increased to 100 percent.

“(2) COORDINATION.—The State shall provide the Administrator with such information as may be necessary to properly allocate administrative expenditures described in paragraph (1) that may otherwise be made for similar eligibility determinations.”.

(b) PHASED-IN FEDERAL ASSUMPTION OF MEDICAID RESPONSIBILITY FOR PREMIUM AND COST-SHARING SUBSIDIES FOR DUALY ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—Section 1903(a)(1) (42 U.S.C. 1396b(a)(1)) is amended by inserting before the semicolon the following: “, reduced by the amount computed under section 1935(c)(1) for the State and the quarter”.

(2) AMOUNT DESCRIBED.—Section 1935, as inserted by subsection (a)(2), is amended by adding at the end the following new subsection:

“(c) FEDERAL ASSUMPTION OF MEDICAID PRESCRIPTION DRUG COSTS FOR DUALY-ELIGIBLE BENEFICIARIES.—

“(1) IN GENERAL.—For purposes of section 1903(a)(1), for a State that is one of the 50 States or the District of Columbia for a calendar quarter in a year (beginning with 2005) the amount computed under this subsection is equal to the product of the following:

“(A) MEDICARE SUBSIDIES.—The total amount of payments made in the quarter under section 1860G (relating to premium and cost-sharing prescription drug subsidies for low-income medicare beneficiaries) that are attributable to individuals who are residents of the State and are entitled to benefits with respect to prescribed drugs under the State plan under this title (including such a plan operating under a waiver under section 1115).

“(B) STATE MATCHING RATE.—A proportion computed by subtracting from 100 percent the Federal medical assistance percentage (as defined in section 1905(b)) applicable to the State and the quarter.

“(C) PHASE-OUT PROPORTION.—The phase-out proportion (as defined in paragraph (2)) for the quarter.

“(2) PHASE-OUT PROPORTION.—For purposes of paragraph (1)(C), the ‘phase-out proportion’ for a calendar quarter in—

“(A) 2005 is 90 percent;

“(B) a subsequent year before 2014, is the phase-out proportion for calendar quarters in the previous year decreased by 10 percentage points; or

“(C) a year after 2013 is 0 percent.”.

(c) MEDICAID PROVIDING WRAP-AROUND BENEFITS.—Section 1935, as so inserted and amended, is further amended by adding at the end the following new subsection:

“(d) ADDITIONAL PROVISIONS.—

“(1) MEDICAID AS SECONDARY PAYOR.—In the case of an individual who is entitled to qualified prescription drug coverage under a prescription drug plan under part D of title XVIII (or under a Medicare+Choice plan under part C of such title) and medical assistance for prescribed drugs under this title, medical assistance shall continue to be provided under this title for prescribed drugs to the extent payment is not made under the prescription drug plan or the Medicare+Choice plan selected by the individual.

“(2) CONDITION.—A State may require, as a condition for the receipt of medical assistance under this title with respect to prescription drug benefits for an individual eligible to obtain qualified prescription drug coverage described in paragraph (1), that the individual elect qualified prescription drug coverage under section 1860A.”.

(d) TREATMENT OF TERRITORIES.—

(1) IN GENERAL.—Section 1935, as so inserted and amended, is further amended—

(A) in subsection (a) in the matter preceding paragraph (1), by inserting “subject to subsection (e)” after “section 1903(a)”;

(B) in subsection (c)(1), by inserting “subject to subsection (e)” after “1903(a)(1)”;

(C) by adding at the end the following new subsection:

“(e) TREATMENT OF TERRITORIES.—

“(1) IN GENERAL.—In the case of a State, other than the 50 States and the District of Columbia—

“(A) the previous provisions of this section shall not apply to residents of such State; and

“(B) if the State establishes a plan described in paragraph (2) (for providing medical assistance with respect to the provision of prescription drugs to medicare beneficiaries), the amount otherwise determined under section 1108(f) (as increased under section 1108(g)) for the State shall be increased by the amount specified in paragraph (3).

“(2) PLAN.—The plan described in this paragraph is a plan that—

“(A) provides medical assistance with respect to the provision of covered outpatient drugs (as defined in section 1860B(f)) to low-income medicare beneficiaries; and

“(B) assures that additional amounts received by the State that are attributable to the operation of this subsection are used only for such assistance.

“(3) INCREASED AMOUNT.—

“(A) IN GENERAL.—The amount specified in this paragraph for a State for a year is equal to the product of—

“(i) the aggregate amount specified in subparagraph (B); and

“(ii) the amount specified in section 1108(g)(1) for that State, divided by the sum of the amounts specified in such section for all such States.

“(B) AGGREGATE AMOUNT.—The aggregate amount specified in this subparagraph for—

“(i) 2005, is equal to \$20,000,000; or

“(ii) a subsequent year, is equal to the aggregate amount specified in this subparagraph for the previous year increased by annual percentage increase specified in section 1860B(b)(5) for the year involved.

“(4) REPORT.—The Administrator shall submit to Congress a report on the application of this subsection and may include in the report such recommendations as the Administrator deems appropriate.”.

(2) CONFORMING AMENDMENT.—Section 1108(f) (42 U.S.C. 1308(f)) is amended by inserting “and section 1935(e)(1)(B)” after “Subject to subsection (g)”.

(e) AMENDMENT TO BEST PRICE.—Section 1927(c)(1)(C)(i) (42 U.S.C. 1396r-8(c)(1)(C)(i)) is amended—

(1) by striking “and” at the end of subclause (III);

(2) by striking the period at the end of subclause (IV) and inserting “; and”; and

(3) by adding at the end the following new subclause:

“(V) any prices charged which are negotiated by a prescription drug plan under part D of title XVIII, by a Medicare+Choice plan under part C of such title with respect to covered outpatient drugs, or by a qualified retiree prescription drug plan (as defined in section 1860H(f)(1)) with respect to such drugs on behalf of individuals entitled to benefits under part A or enrolled under part B of such title.”.

SEC. 104. MEDIGAP TRANSITION.

(a) IN GENERAL.—Section 1882 (42 U.S.C. 1395ss) is amended by adding at the end the following new subsection:

“(v) COVERAGE OF PRESCRIPTION DRUGS.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, except as provided in paragraph (3) no new medicare supplemental policy that provides coverage of expenses for prescription drugs may be issued under this section on or after January 1, 2005, to an individual unless it replaces a medicare supplemental policy that was issued to that individual and that provided some coverage of expenses for prescription drugs.

“(2) ISSUANCE OF SUBSTITUTE POLICIES IF OBTAIN PRESCRIPTION DRUG COVERAGE UNDER PART D.—

“(A) IN GENERAL.—The issuer of a medicare supplemental policy—

“(i) may not deny or condition the issuance or effectiveness of a medicare supplemental policy that has a benefit package classified as ‘A’, ‘B’, ‘C’, ‘D’, ‘E’, ‘F’, or ‘G’ (under the standards established under subsection (p)(2)) and that is offered and is available for issuance to new enrollees by such issuer;

“(ii) may not discriminate in the pricing of such policy, because of health status, claims experience, receipt of health care, or medical condition; and

“(iii) may not impose an exclusion of benefits based on a pre-existing condition under such policy,

in the case of an individual described in subparagraph (B) who seeks to enroll under the policy not later than 63 days after the date of the termination of enrollment described in such paragraph and who submits evidence of the date of termination or disenrollment along with the application for such medicare supplemental policy.

“(B) INDIVIDUAL COVERED.—An individual described in this subparagraph is an individual who—

“(i) enrolls in a prescription drug plan under part D; and

“(ii) at the time of such enrollment was enrolled and terminates enrollment in a

medicare supplemental policy which has a benefit package classified as ‘H’, ‘I’, or ‘J’ under the standards referred to in subparagraph (A)(i) or terminates enrollment in a policy to which such standards do not apply but which provides benefits for prescription drugs.

“(C) ENFORCEMENT.—The provisions of paragraph (4) of subsection (s) shall apply with respect to the requirements of this paragraph in the same manner as they apply to the requirements of such subsection.

“(3) NEW STANDARDS.—In applying subsection (p)(1)(E) (including permitting the NAIC to revise its model regulations in response to changes in law) with respect to the change in benefits resulting from title I of the Medicare Modernization and Prescription Drug Act of 2002, with respect to policies issued to individuals who are enrolled under part D, the changes in standards shall only provide for substituting for the benefit packages that included coverage for prescription drugs two benefit packages that may provide for coverage of cost-sharing with respect to qualified prescription drug coverage under such part, except that such coverage may not cover the prescription drug deductible under such part. The two benefit packages shall be consistent with the following:

“(A) FIRST NEW POLICY.—The policy described in this subparagraph has the following benefits, notwithstanding any other provision of this section relating to a core benefit package:

“(i) Coverage of 50 percent of the cost-sharing otherwise applicable, except coverage of 100 percent of any cost-sharing otherwise applicable for preventive benefits.

“(ii) No coverage of the part B deductible.

“(iii) Coverage for all hospital coinsurance for long stays (as in the current core benefit package).

“(iv) A limitation on annual out-of-pocket expenditures to \$4,000 in 2005 (or, in a subsequent year, to such limitation for the previous year increased by an appropriate inflation adjustment specified by the Secretary).

“(B) SECOND NEW POLICY.—The policy described in this subparagraph has the same benefits as the policy described in subparagraph (A), except as follows:

“(i) Substitute ‘75 percent’ for ‘50 percent’ in clause (i) of such subparagraph.

“(ii) Substitute ‘\$2,000’ for ‘\$4,000’ in clause (iv) of such subparagraph.

“(4) CONSTRUCTION.—Any provision in this section or in a medicare supplemental policy relating to guaranteed renewability of coverage shall be deemed to have been met through the offering of other coverage under this subsection.”.

SEC. 105. MEDICARE PRESCRIPTION DRUG DISCOUNT CARD ENDORSEMENT PROGRAM.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1806 the following new sections:

“MEDICARE PRESCRIPTION DRUG DISCOUNT CARD ENDORSEMENT PROGRAM

“SEC. 1807. (a) IN GENERAL.—The Secretary (or the Medicare Benefits Administrator pursuant to section 1808(c)(3)(C)) shall establish a program—

“(1) to endorse prescription drug discount card programs that meet the requirements of this section; and

“(2) to make available to medicare beneficiaries information regarding such endorsed programs.

“(b) REQUIREMENTS FOR ENDORSEMENT.—The Secretary may not endorse a prescription drug discount card program under this

section unless the program meets the following requirements:

“(1) SAVINGS TO MEDICARE BENEFICIARIES.—The program passes on to medicare beneficiaries who enroll in the program discounts on prescription drugs, including discounts negotiated with manufacturers.

“(2) PROHIBITION ON APPLICATION ONLY TO MAIL ORDER.—The program applies to drugs that are available other than solely through mail order.

“(3) BENEFICIARY SERVICES.—The program provides pharmaceutical support services, such as education and counseling, and services to prevent adverse drug interactions.

“(4) INFORMATION.—The program makes available to medicare beneficiaries through the Internet and otherwise information, including information on enrollment fees, prices charged to beneficiaries, and services offered under the program, that the Secretary identifies as being necessary to provide for informed choice by beneficiaries among endorsed programs.

“(5) DEMONSTRATED EXPERIENCE.—The entity operating the program has demonstrated experience and expertise in operating such a program or a similar program.

“(6) QUALITY ASSURANCE.—The entity has in place adequate procedures for assuring quality service under the program.

“(7) OPERATION OF ASSISTANCE PROGRAM.—The entity meets such requirements relating to solvency, compliance with financial reporting requirements, audit compliance, and contractual guarantees as the Secretary finds necessary for the participation of the sponsor in the low-income assistance program under section 1807A.

“(8) ENROLLMENT FEES.—The program may charge an annual enrollment fee, but the amount of such annual fee may not exceed \$25.

“(9) ADDITIONAL BENEFICIARY PROTECTIONS.—The program meets such additional requirements as the Secretary identifies to protect and promote the interest of medicare beneficiaries, including requirements that ensure that beneficiaries are not charged more than the lower of the negotiated retail price or the usual and customary price.

The prices negotiated by a prescription drug discount card program endorsed under this section shall (notwithstanding any other provision of law) not be taken into account for the purposes of establishing the best price under section 1927(c)(1)(C).

“(c) PROGRAM OPERATION.—The Secretary shall operate the program under this section consistent with the following:

“(1) PROMOTION OF INFORMED CHOICE.—In order to promote informed choice among endorsed prescription drug discount card programs, the Secretary shall provide for the dissemination of information which compares the prices and services of such programs in a manner coordinated with the dissemination of educational information on Medicare+Choice plans under part C.

“(2) OVERSIGHT.—The Secretary shall provide appropriate oversight to ensure compliance of endorsed programs with the requirements of this section, including verification of the discounts and services provided.

“(3) USE OF MEDICARE TOLL-FREE NUMBER.—The Secretary shall provide through the 1-800-medicare toll free telephone number for the receipt and response to inquiries and complaints concerning the program and programs endorsed under this section.

“(4) SANCTIONS FOR ABUSIVE PRACTICES.—The Secretary may implement intermediate sanctions or may revoke the endorsement of a program in the case of a program that the

Secretary determines no longer meets the requirements of this section or that has engaged in false or misleading marketing practices.

“(5) ENROLLMENT PRACTICES.—A medicare beneficiary may not be enrolled in more than one endorsed program at any time. A medicare beneficiary may change the endorsed program in which the beneficiary is enrolled, but may not make such change until the beneficiary has been enrolled in a program for a minimum period of time specified by the Secretary.

“(d) TRANSITION.—The Secretary shall provide for an appropriate transition and discontinuation of the program under this section at the time prescription drug benefits first become available under part D.

“(e) ENDORSEMENT CONDITION.—The Secretary shall require, as condition of endorsement under of a prescription drug discount card program under this section that the program implement policies and procedures to safeguard the use and disclosure of program beneficiaries' individually identifiable health information in a manner consistent with the Federal regulations (concerning the privacy of individually identifiable health information) promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the program under this section and section 1807A.

“TRANSITIONAL PRESCRIPTION DRUG ASSISTANCE PROGRAM FOR LOW-INCOME BENEFICIARIES

“SEC. 1807A. (a) PURPOSE.—The purpose of this section is to provide low-income medicare beneficiaries with immediate assistance in the purchase of covered outpatient prescription drugs during the period before the program under part D becomes effective.

“(b) FUNDS AVAILABLE; ALLOTMENTS.—

“(1) APPROPRIATIONS; TOTAL ALLOTMENTS.—

“(A) APPROPRIATIONS.—For the purpose of carrying out this section, there is appropriated, out of any money in the Treasury not otherwise appropriated—

“(i) for fiscal year 2003, \$300,000,000;

“(ii) for fiscal year 2004, \$2,100,000,000; and

“(iii) for fiscal year 2005, \$500,000,000.

“(2) ALLOTMENTS.—

“(A) AMONG RESIDENTS OF 50 STATES AND THE DISTRICT OF COLUMBIA.—Subject to subparagraph (B), the amount appropriated under subparagraph (A) for each fiscal year shall be allotted among the 50 States and the District of Columbia based upon the Secretary's estimate of each State's or District's proportion of the total number of medicare beneficiaries with income below 175 percent of the Federal poverty line residing in all such States and the District. The Secretary shall determine the amount of the allotment for each such State and District not later than July 1, 2003.

“(B) AMONG RESIDENTS OF TERRITORIES.—Of the amount appropriated under subparagraph (A) for a fiscal year, the Secretary shall allot a percentage (determined consistent with the allotment provided to territories under the State children's health insurance program under section 2104(c)) among the commonwealths and territories described in section 2104(c)(3) in the same proportion as the allotment proportion under such program is allowed among such commonwealths and territories.

“(3) AVAILABILITY OF AMOUNTS ALLOTTED.—Amounts allotted with respect to a State pursuant to this subsection for a fiscal year

shall remain available for expenditure through the end of the fiscal year in which benefits are first available under part D. Any funds allotted to States that are not obligated revert to the General Fund of the Treasury.

“(4) LIMITATION.—In no case shall the total amount of payments for assistance to eligible individuals (and administrative costs) in a State for a fiscal year (and previous fiscal years) under this section exceed the amount of the allotments with respect to that State in that year (and previous fiscal years). Nothing in this section shall be construed as preventing a State from providing, with its own funds, pharmaceutical assistance that is in addition to the assistance funded under this section.

“(c) ELIGIBILITY.—

“(1) IN GENERAL.—Taking into account the amounts allotted with respect to each State under subsection (b) and the minimum dollar value on assistance per eligible individual specified by the Secretary under subsection (d)(3), the Secretary shall establish guidelines for the establishment by each State of eligibility standards consistent with paragraph (2).

“(2) ELIGIBILITY RESTRICTIONS.—In no case shall an individual residing in a State be eligible for assistance under this section unless the individual—

“(A) is entitled to benefits under part A or enrolled under part B;

“(B) has income that is at or below a percentage (specified under the State eligibility plan under paragraph (1), but not to exceed 175 percent) of the Federal poverty line; and

“(C) meets the resources requirement described in section 1905(p)(1)(C);

“(D) is enrolled under a prescription drug discount card program (or under an alternative program authorized under subsection (d)(1)(B)); and

“(E) is not eligible for coverage of, or assistance for, outpatient prescription drugs under any of the following:

“(i) A medicare plan under title XIX (including under any waiver approved under section 1115).

“(ii) Enrollment under a group health plan or health insurance coverage.

“(iii) Enrollment under a medicare supplemental insurance policy.

“(iv) Chapter 55 of title 10, United States Code (relating to medical and dental care for members of the uniformed services).

“(v) Chapter 17 of title 38, United States Code (relating to Veterans' medical care).

“(vi) Enrollment under a plan under chapter 89 of title 5, United States Code (relating to the Federal employees' health benefits program).

“(vii) The Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

“(3) INCOME DETERMINATIONS.—The provisions of section 1860G(4)(C) shall apply for purposes of applying this subsection.

“(d) FORM OF ASSISTANCE AND AMOUNT OF BENEFITS.—

“(1) IN GENERAL.—

“(A) THROUGH PROGRAM SPONSOR.—Subject to subparagraph (B), the assistance under this section to an eligible individual shall be in the form of a discount (as identified by the sponsor to the Secretary) provided by the sponsor of a prescription drug discount card program to eligible individuals who are enrolled in such program.

“(B) THROUGH ALTERNATIVE STATE PROGRAM.—A State may apply to the Secretary for authorization to provide the assistance under this section to an eligible individual through a State pharmaceutical assistance

program or private program of pharmaceutical assistance. The Secretary shall not authorize the use of such a program unless the Secretary finds that the program—

“(i) was in existence before the date of the enactment of this section; and

“(ii) is reasonably designed to provide for pharmaceutical assistance for a number of individuals, and in a scope, that is not less than the number of individuals, and minimum required amount, that would occur if the provisions of this subparagraph had not applied in the State.

“(2) GUIDANCE; MINIMUM LEVEL OF ASSISTANCE.—The Secretary shall establish guidelines for how the program under this section will operate. Based upon the aggregate amount appropriated in each fiscal year and other relevant factors, the Secretary shall establish a minimum amount of assistance that is available, subject to paragraph (4)(B), to each eligible individual for each calendar quarter (or other period specified by the Secretary) and provide guidance to sponsors regarding how assistance funds may be provided to eligible individuals consistent with such amount and funding limitations.

“(3) RELATIONSHIP TO DISCOUNTS.—The assistance provided under this section is in addition to the discount otherwise available to individuals enrolled in prescription drug discount card programs who are not eligible individuals.

“(4) LIMITATION ON ASSISTANCE.—

“(A) IN GENERAL.—The assistance under this section for an eligible individual shall be limited to assistance—

“(i) for covered outpatient drugs (as defined in section 1860B(f)) and for enrollment fees imposed under prescription drug discount card programs; and

“(ii) for expenses incurred—

“(I) on and after the date the individual is both enrolled in the prescription drug discount card program and determined to be an eligible individual under this section; and

“(II) before the date benefits are first available under the program under part D.

“(B) AUTHORITY.—The Secretary shall take such steps as may be necessary to assure compliance with the expenditure limitations described in subsection (b)(4).

“(e) PAYMENT OF FEDERAL SUBSIDY TO SPONSORS.—

“(1) IN GENERAL.—The Secretary shall make payment (within the allotments for each State, less the administrative payments made subsection (f)(2) to each State) to the sponsor of the prescription drug discount card program (or to a State or other entity operating a program under subsection (d)(1)(B)) in which an eligible individual is enrolled of the amount of the assistance provided by the sponsor pursuant to this section.

“(2) PERIODIC PAYMENTS.—Payments under this subsection (and subsection (f)(2)) shall be made on a monthly or other periodic installment basis, based upon estimates of the Secretary and shall be reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section for any prior period and with respect to which adjustment has not already been made under this paragraph.

“(f) STATE RESPONSIBILITIES.—

“(1) ELIGIBILITY DETERMINATIONS.—As a condition for the payment of Federal financial participation to a State under section 1903(a) for periods during which assistance is available under this section, the State must submit to the Secretary an eligibility plan under which the State—

“(A) establishes eligibility standards consistent with the provisions of this section;

“(B) conducts determinations of eligibility and income in the same manner as the State is required to make eligibility and income determinations described in section 1860G(a)(4); and

“(C) communicates to the Secretary (or the Secretary's designee) determinations of eligibility or discontinuation of eligibility under this section.

The Secretary shall provide a method for communicating with sponsors concerning the identity of eligible individuals.

“(2) COVERAGE OF ADMINISTRATIVE COSTS.—Of the amount allotted with respect to a State under subsection (b), the Secretary shall pay to the State the amount of its administrative costs in carrying out this subsection, but not to exceed 10 percent of the amount of such allotment to the State. The provisions of subsection (e)(2) shall apply to such payments.

“(g) DEFINITIONS.—For purposes of this section:

“(1) ELIGIBLE INDIVIDUAL.—The term ‘eligible individual’ means an individual who is determined by a State to be eligible for assistance under this section.

“(2) PRESCRIPTION DRUG DISCOUNT CARD PROGRAM.—The term ‘prescription drug discount card program’ means such a program that is endorsed under section 1807.

“(3) SPONSOR.—The term ‘sponsor’ means the sponsor of a prescription drug discount card program, or, in the case of a program authorized under subsection (d)(1)(B), the State or other entity operating the program.

“(4) STATE.—The term ‘State’ has the meaning given such term for purposes of title XIX.”

(b) CONFORMING AMENDMENT.—Section 1927(c)(1)(C)(i)(V) (42 U.S.C. 1396r-8(c)(1)(C)(i)(V)), as added by section 103(e), is amended by striking “or by a qualified retiree prescription drug plan (as defined in section 1860H(f)(1))” and inserting “by a qualified retiree prescription drug plan (as defined in section 1860H(f)(1)), or by a prescription drug discount card program endorsed under section 1807”.

SEC. 106. GAO STUDY OF THE EFFECTIVENESS OF THE NEW PRESCRIPTION DRUG PROGRAM.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on the effectiveness of the prescription drug program provided under part D of title XVIII of the Social Security Act. Such study shall—

(1) report—

(A) the percentage of eligible individuals who enrolled in the program;

(B) the demographic characteristics (including health status) of such enrollees;

(C) the number and type of qualified prescription drug coverage available to such individuals; and

(D) the premiums imposed for enrollment in different areas;

(2) evaluate the processes and methods developed by the Administrator and the decisions reached by outside actuaries to determine the actuarial valuation of prescription drug coverage; and

(3) assess whether the subsidy payments under such part accomplished its stated goals of reducing premium levels for all beneficiaries, reducing adverse selection, and promoting participation of PDP sponsors.

(b) REPORT.—Not later January 1, 2006, the Comptroller General shall submit a report to Congress on the study conducted under subsection (a).

TITLE II—MEDICARE+CHOICE REVITALIZATION AND MEDICARE+CHOICE COMPETITION PROGRAM

Subtitle A—Medicare+Choice Revitalization

SEC. 201. MEDICARE+CHOICE IMPROVEMENTS.

(a) EQUALIZING PAYMENTS BETWEEN FEE-FOR-SERVICE AND MEDICARE+CHOICE.—

(1) IN GENERAL.—Section 1853(c)(1) (42 U.S.C. 1395w-23(c)(1)) is amended by adding at the end the following:

“(D) BASED ON 100 PERCENT OF FEE-FOR-SERVICE COSTS.—

“(i) IN GENERAL.—For 2003 and 2004, the adjusted average per capita cost for the year involved, determined under section 1876(a)(4) for the Medicare+Choice payment area for services covered under parts A and B for individuals entitled to benefits under part A and enrolled under part B who are not enrolled in a Medicare+Choice plan under this part for the year, but adjusted to exclude costs attributable to payments under section 1886(h).

“(ii) INCLUSION OF COSTS OF VA AND DOD MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES.—In determining the adjusted average per capita cost under clause (i) for a year, such cost shall be adjusted to include the Secretary's estimate, on a per capita basis, of the amount of additional payments that would have been made in the area involved under this title if individuals entitled to benefits under this title had not received services from facilities of the Department of Veterans Affairs or the Department of Defense.”

(2) CONFORMING AMENDMENT.—Such section is further amended, in the matter before subparagraph (A), by striking “or (C)” and inserting “(C), or (D)”.

(b) REVISION OF BLEND.—

(1) REVISION OF NATIONAL AVERAGE USED IN CALCULATION OF BLEND.—Section 1853(c)(4)(B)(i)(II) (42 U.S.C. 1395w-23(c)(4)(B)(i)(II)) is amended by inserting “who (with respect to determinations for 2003 and for 2004) are enrolled in a Medicare+Choice plan” after “the average number of medicare beneficiaries”.

(2) CHANGE IN BUDGET NEUTRALITY.—Section 1853(c) (42 U.S.C. 1395w-23(c)) is amended—

(A) in paragraph (1)(A), by inserting “(for a year before 2003)” after “multiplied”; and

(B) in paragraph (5), by inserting “(before 2003)” after “for each year”.

(c) REVISION IN MINIMUM PERCENTAGE INCREASE FOR 2003 AND 2004.—Section 1853(c)(1)(C) (42 U.S.C. 1395w-23(c)(1)(C)) is amended by striking clause (iv) and inserting the following:

“(iv) For 2002, 102 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for 2001.

“(v) For 2003 and 2004, 103 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.

“(vi) For 2005 and each succeeding year, 102 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.”

(d) INCLUSION OF COSTS OF DOD AND VA MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES IN CALCULATION OF MEDICARE+CHOICE PAYMENT RATES.—Section 1853(c)(3) (42 U.S.C. 1395w-23(c)(3)) is amended—

(1) in subparagraph (A), by striking “subparagraph (B)” and inserting “subparagraphs (B) and (E)”, and

(2) by adding at the end the following new subparagraph:

“(E) INCLUSION OF COSTS OF DOD AND VA MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES.—In determining the area-specific Medicare+Choice capitation rate under subparagraph (A) for a year (beginning with 2003), the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) shall be adjusted to include in the rate the Secretary’s estimate, on a per capita basis, of the amount of additional payments that would have been made in the area involved under this title if individuals entitled to benefits under this title had not received services from facilities of the Department of Defense or the Department of Veterans Affairs.”.

(e) **ANNOUNCEMENT OF REVISED MEDICARE+CHOICE PAYMENT RATES.**—Within 4 weeks after the date of the enactment of this Act, the Secretary shall determine, and shall announce (in a manner intended to provide notice to interested parties) Medicare+Choice capitation rates under section 1853 of the Social Security Act (42 U.S.C. 1395w–23) for 2003, revised in accordance with the provisions of this section.

(f) **MEDPAC STUDY OF AAPCC.**—

(1) **STUDY.**—The Medicare Payment Advisory Commission shall conduct a study that assesses the method used for determining the adjusted average per capita cost (AAPCC) under section 1876(a)(4) of the Social Security Act (42 U.S.C. 1395mm(a)(4)). Such study shall examine—

(A) the bases for variation in such costs between different areas, including differences in input prices, utilization, and practice patterns;

(B) the appropriate geographic area for payment under the Medicare+Choice program under part C of title XVIII of such Act; and

(C) the accuracy of risk adjustment methods in reflecting differences in costs of providing care to different groups of beneficiaries served under such program.

(2) **REPORT.**—Not later than 9 months after the date of the enactment of this Act, the Commission shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include recommendations regarding changes in the methods for computing the adjusted average per capita cost among different areas.

(g) **REPORT ON IMPACT OF INCREASED FINANCIAL ASSISTANCE TO MEDICARE+CHOICE PLANS.**—Not later than July 1, 2003, the Secretary of Health and Human Services shall submit to Congress a report that describes the impact of additional financing provided under this Act and other Acts (including the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 and BIPA) on the availability of Medicare+Choice plans in different areas and its impact on lowering premiums and increasing benefits under such plans.

SEC. 202. MAKING PERMANENT CHANGE IN MEDICARE+CHOICE REPORTING DEADLINES AND ANNUAL, COORDINATED ELECTION PERIOD.

(a) **CHANGE IN REPORTING DEADLINE.**—Section 1854(a)(1) (42 U.S.C. 1395w–24(a)(1)), as amended by section 532(b)(1) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, is amended by striking “2002, 2003, and 2004 (or July 1 of each other year)” and inserting “2002 and each subsequent year (or July 1 of each year before 2002)”.

(b) **DELAY IN ANNUAL, COORDINATED ELECTION PERIOD.**—Section 1851(e)(3)(B) (42 U.S.C. 1395w–21(e)(3)(B)), as amended by section 532(c)(1)(A) of the Public Health Security and Bioterrorism Preparedness and Response Act

of 2002, is amended by striking “and after 2005, the month of November before such year and with respect to 2003, 2004, and 2005” and inserting “, the month of November before such year and with respect to 2003 and any subsequent year”.

(c) **ANNUAL ANNOUNCEMENT OF PAYMENT RATES.**—Section 1853(b)(1) (42 U.S.C. 1395w–23(b)(1)), as amended by section 532(d)(1) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, is amended by striking “and after 2005 not later than March 1 before the calendar year concerned and for 2004 and 2005” and inserting “not later than March 1 before the calendar year concerned and for 2004 and each subsequent year”.

(d) **REQUIRING PROVISION OF AVAILABLE INFORMATION COMPARING PLAN OPTIONS.**—The first sentence of section 1851(d)(2)(A)(ii) (42 U.S.C. 1395w–21(d)(2)(A)(ii)) is amended by inserting before the period the following: “to the extent such information is available at the time of preparation of materials for the mailing”.

SEC. 203. AVOIDING DUPLICATIVE STATE REGULATION.

(a) **IN GENERAL.**—Section 1856(b)(3) (42 U.S.C. 1395w–26(b)(3)) is amended to read as follows:

“(3) **RELATION TO STATE LAWS.**—The standards established under this subsection shall supersede any State law or regulation (other than State licensing laws or State laws relating to plan solvency) with respect to Medicare+Choice plans which are offered by Medicare+Choice organizations under this part.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 204. SPECIALIZED MEDICARE+CHOICE PLANS FOR SPECIAL NEEDS BENEFICIARIES.

(a) **TREATMENT AS COORDINATED CARE PLAN.**—Section 1851(a)(2)(A) (42 U.S.C. 1395w–21(a)(2)(A)) is amended by adding at the end the following new sentence: “Specialized Medicare+Choice plans for special needs beneficiaries (as defined in section 1859(b)(4)) may be any type of coordinated care plan.”.

(b) **SPECIALIZED MEDICARE+CHOICE PLAN FOR SPECIAL NEEDS BENEFICIARIES DEFINED.**—Section 1859(b) (42 U.S.C. 1395w–29(b)) is amended by adding at the end the following new paragraph:

“(4) **SPECIALIZED MEDICARE+CHOICE PLANS FOR SPECIAL NEEDS BENEFICIARIES.**—

“(A) **IN GENERAL.**—The term ‘specialized Medicare+Choice plan for special needs beneficiaries’ means a Medicare+Choice plan that exclusively serves special needs beneficiaries (as defined in subparagraph (B)).

“(B) **SPECIAL NEEDS BENEFICIARY.**—The term ‘special needs beneficiary’ means a Medicare+Choice eligible individual who—

“(i) is institutionalized (as defined by the Secretary);

“(ii) is entitled to medical assistance under a State plan under title XIX; or

“(iii) meets such requirements as the Secretary may determine would benefit from enrollment in such a specialized Medicare+Choice plan described in subparagraph (A) for individuals with severe or disabling chronic conditions.”.

(c) **RESTRICTION ON ENROLLMENT PERMITTED.**—Section 1859 (42 U.S.C. 1395w–29) is amended by adding at the end the following new subsection:

“(f) **RESTRICTION ON ENROLLMENT FOR SPECIALIZED MEDICARE+CHOICE PLANS FOR SPECIAL NEEDS BENEFICIARIES.**—In the case of a specialized Medicare+Choice plan (as defined

in subsection (b)(4)), notwithstanding any other provision of this part and in accordance with regulations of the Secretary and for periods before January 1, 2007, the plan may restrict the enrollment of individuals under the plan to individuals who are within one or more classes of special needs beneficiaries.”.

(d) **REPORT TO CONGRESS.**—Not later than December 31, 2005, the Medicare Benefits Administrator shall submit to Congress a report that assesses the impact of specialized Medicare+Choice plans for special needs beneficiaries on the cost and quality of services provided to enrollees. Such report shall include an assessment of the costs and savings to the Medicare program as a result of amendments made by subsections (a), (b), and (c).

(e) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—The amendments made by subsections (a), (b), and (c) shall take effect upon the date of the enactment of this Act.

(2) **DEADLINE FOR ISSUANCE OF REQUIREMENTS FOR SPECIAL NEEDS BENEFICIARIES; TRANSITION.**—No later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue final regulations to establish requirements for special needs beneficiaries under section 1859(b)(4)(B)(iii) of the Social Security Act, as added by subsection (b).

SEC. 205. MEDICARE MSAS.

(a) **EXEMPTION FROM REPORTING ENROLLEE ENCOUNTER DATA.**—

(1) **IN GENERAL.**—Section 1852(e)(1) (42 U.S.C. 1395w–22(e)(1)) is amended by inserting “(other than MSA plans)” after “Medicare+Choice plans”.

(2) **CONFORMING AMENDMENTS.**—Section 1852 (42 U.S.C. 1395w–22) is amended—

(A) in subsection (c)(1)(I), by inserting before the period at the end the following: “if required under such section”; and

(B) in subparagraphs (A) and (B) of subsection (e)(2), by striking “, a non-network MSA plan,” and “, NON-NETWORK MSA PLANS,” each place it appears.

(b) **MAKING PROGRAM PERMANENT AND ELIMINATING CAP.**—Section 1851(b)(4) (42 U.S.C. 1395w–21(b)(4)) is amended—

(1) in the heading, by striking “ON A DEMONSTRATION BASIS”;

(2) by striking the first sentence of subparagraph (A); and

(3) by striking the second sentence of subparagraph (C).

(c) **APPLYING LIMITATIONS ON BALANCE BILLING.**—Section 1852(k)(1) (42 U.S.C. 1395w–22(k)(1)) is amended by inserting “or with an organization offering a MSA plan” after “section 1851(a)(2)(A)”.

(d) **ADDITIONAL AMENDMENT.**—Section 1851(e)(5)(A) (42 U.S.C. 1395w–21(e)(5)(A)) is amended—

(1) by adding “or” at the end of clause (i);

(2) by striking “, or” at the end of clause (i) and inserting a semicolon; and

(3) by striking clause (iii).

SEC. 206. EXTENSION OF REASONABLE COST AND SHMO CONTRACTS.

(a) **REASONABLE COST CONTRACTS.**—

(1) **IN GENERAL.**—Section 1876(h)(5)(C) (42 U.S.C. 1395mm(h)(5)(C)) is amended—

(A) by inserting “(i)” after “(C)”;

(B) by inserting before the period the following: “, except (subject to clause (ii)) in the case of a contract for an area which is not covered in the service area of 1 or more coordinated care Medicare+Choice plans under part C”; and

(C) by adding at the end the following new clause:

“(ii) In the case in which—

“(I) a reasonable cost reimbursement contract includes an area in its service area as of a date that is after December 31, 2003;

“(II) such area is no longer included in such service area after such date by reason of the operation of clause (i) because of the inclusion of such area within the service area of a Medicare+Choice plan; and

“(III) all Medicare+Choice plans subsequently terminate coverage in such area; such reasonable cost reimbursement contract may be extended and renewed to cover such area (so long as it is not included in the service area of any Medicare+Choice plan).”.

(2) **STUDY.**—The Medicare Benefits Administrator shall conduct a study of an appropriate transition for plans offered under reasonable cost contracts under section 1876 of the Social Security Act on and after January 1, 2005. Such a transition may take into account whether there are one or more coordinated care Medicare+Choice plans being offered in the areas involved. Not later than February 1, 2004, the Administrator shall submit to Congress a report on such study and shall include recommendations regarding any changes in the amendment made by paragraph (1) as the Administrator determines to be appropriate.

(b) **EXTENSION OF SOCIAL HEALTH MAINTENANCE ORGANIZATION (SHMO) DEMONSTRATION PROJECT.**—

(1) **IN GENERAL.**—Section 4018(b)(1) of the Omnibus Budget Reconciliation Act of 1987 is amended by striking “the date that is 30 months after the date that the Secretary submits to Congress the report described in section 4014(c) of the Balanced Budget Act of 1997” and inserting “December 31, 2004”.

(2) **SHMOS OFFERING MEDICARE+CHOICE PLANS.**—Nothing in such section 4018 shall be construed as preventing a social health maintenance organization from offering a Medicare+Choice plan under part C of title XVIII of the Social Security Act.

Subtitle B—Medicare+Choice Competition Program

SEC. 211. MEDICARE+CHOICE COMPETITION PROGRAM.

(a) **SUBMISSION OF BID AMOUNTS.**—Section 1854 (42 U.S.C. 1395w–24) is amended—

(1) in the heading by inserting “AND BID AMOUNTS” after “PREMIUMS”;

(2) in subsection (a)(1)(A)—

(A) by striking “(A)” and inserting “(A)(i) if the following year is before 2005.”; and

(B) by inserting before the semicolon at the end the following: “or (ii) if the following year is 2005 or later, the information described in paragraph (6)(A)”;

(3) by adding at the end of subsection (a) the following:

“(6) **SUBMISSION OF BID AMOUNTS BY MEDICARE+CHOICE ORGANIZATIONS.**—

“(A) **INFORMATION TO BE SUBMITTED.**—The information described in this subparagraph is as follows:

“(i) The monthly aggregate bid amount for provision of all items and services under this part and the actuarial basis for determining such amount.

“(ii) The proportions of such bid amount that are attributable to—

“(I) the provision of statutory non-drug benefits (such portion referred to in this part as the ‘unadjusted non-drug monthly bid amount’);

“(II) the provision of statutory prescription drug benefits; and

“(III) the provision of non-statutory benefits;

and the actuarial basis for determining such proportions.

“(iii) Such additional information as the Administrator may require to verify the actuarial bases described in clauses (i) and (ii).

“(B) **STATUTORY BENEFITS DEFINED.**—For purposes of this part:

“(i) The term ‘statutory non-drug benefits’ means benefits under parts A and B.

“(ii) The term ‘statutory prescription drug benefits’ means benefits under part D.

“(iii) The term ‘statutory benefits’ means statutory prescription drug benefits and statutory non-drug benefits.

“(C) **ACCEPTANCE AND NEGOTIATION OF BID AMOUNTS.**—The Administrator has the authority to negotiate regarding monthly bid amounts submitted under subparagraph (A) (and the proportion described in subparagraph (A)(ii)). The Administrator may reject such a bid amount or proportion if the Administrator determines that such amount or proportion is not supported by the actuarial bases provided under subparagraph (A).”.

(b) **PROVIDING FOR BENEFICIARY SAVINGS FOR CERTAIN PLANS.**—

(1) **IN GENERAL.**—Section 1854(b) (42 U.S.C. 1395w–24(b)) is amended—

(A) by adding at the end of paragraph (1) the following new subparagraph:

“(C) **BENEFICIARY REBATE RULE.**—

“(i) **REQUIREMENT.**—The Medicare+Choice plan shall provide to the enrollee a monthly rebate equal to 75 percent of the average per capita savings (if any) described in paragraph (3) applicable to the plan and year involved.

“(iii) **FORM OF REBATE.**—A rebate required under this subparagraph shall be provided—

“(I) through the crediting of the amount of the rebate towards the Medicare+Choice monthly supplementary beneficiary premium or the premium imposed for prescription drug coverage under part D;

“(II) through a direct monthly payment (through electronic funds transfer or otherwise); or

“(III) through other means approved by the Medicare Benefits Administrator, or any combination thereof.”; and

(B) by adding at the end the following new paragraph:

“(3) **COMPUTATION OF AVERAGE PER CAPITA MONTHLY SAVINGS.**—For purposes of paragraph (1)(C)(i), the average per capita monthly savings referred to in such paragraph for a Medicare+Choice plan and year is computed as follows:

“(A) **DETERMINATION OF STATE-WIDE AVERAGE RISK ADJUSTMENT.**—

“(i) **IN GENERAL.**—The Medicare Benefits Administrator shall determine, at the same time rates are promulgated under section 1853(b)(1) (beginning with 2005), for each State the average of the risk adjustment factors to be applied to enrollees under section 1853(a)(1)(A) in that State. In the case of a State in which a Medicare+Choice plan was offered in the previous year, the Administrator may compute such average based upon risk adjustment factors applied in that State in a previous year.

“(ii) **TREATMENT OF NEW STATES.**—In the case of a State in which no Medicare+Choice plan was offered in the previous year, the Administrator shall estimate such average. In making such estimate, the Administrator may use average risk adjustment factors applied to comparable States or applied on a national basis.

“(B) **DETERMINATION OF RISK ADJUSTED BENCHMARK AND RISK-ADJUSTED BID.**—For each Medicare+Choice plan offered in a State, the Administrator shall—

“(i) adjust the fee-for-service area-specific non-drug benchmark amount by the applica-

ble average risk adjustment factor computed under subparagraph (A); and

“(ii) adjust the unadjusted non-drug monthly bid amount by such applicable average risk adjustment factor.

“(C) **DETERMINATION OF AVERAGE PER CAPITA MONTHLY SAVINGS.**—The average per capita monthly savings described in this subparagraph is equal to the amount (if any) by which—

“(i) the risk-adjusted benchmark amount computed under subparagraph (B)(i), exceeds

“(ii) the risk-adjusted bid computed under subparagraph (B)(ii).

“(D) **AUTHORITY TO DETERMINE RISK ADJUSTMENT FOR AREAS OTHER THAN STATES.**—The Administrator may provide for the determination and application of risk adjustment factors under this paragraph on the basis of areas other than States.”.

(2) **COMPUTATION OF FEE-FOR-SERVICE AREA-SPECIFIC NON-DRUG BENCHMARK.**—Section 1853 (42 U.S.C. 1395w–23) is amended by adding at the end the following new subsection:

“(j) **COMPUTATION OF FEE-FOR-SERVICE AREA-SPECIFIC NON-DRUG BENCHMARK AMOUNT.**—For purposes of this part, the term ‘fee-for-service area-specific non-drug benchmark amount’ means, with respect to a Medicare+Choice payment area for a month in a year, an amount equal to the greater of the following (but in no case less than 1/2 of the rate computed under subsection (c)(1), without regard to subparagraph (A), for the year):

“(1) **BASED ON 100 PERCENT OF FEE-FOR-SERVICE COSTS IN THE AREA.**—An amount equal to 1/2 of 100 percent (for 2005 through 2007, or 95 percent for 2008 and years thereafter) of the adjusted average per capita cost for the year involved, determined under section 1876(a)(4) for the Medicare+Choice payment area, for the area and the year involved, for services covered under parts A and B for individuals entitled to benefits under part A and enrolled under part B who are not enrolled in a Medicare+Choice plan under this part for the year, and adjusted to exclude from such cost the amount the Medicare Benefits Administrator estimates is payable for costs described in subclauses (I) and (II) of subsection (c)(3)(C)(i) for the year involved and also adjusted in the manner described in subsection (c)(1)(D)(ii) (relating to inclusion of costs of VA and DOD military facility services to medicare-eligible beneficiaries).

“(2) **MINIMUM MONTHLY AMOUNT.**—The minimum amount specified in this paragraph is the amount specified in subsection (c)(1)(B)(iv) for the year involved.”.

(c) **PAYMENT OF PLANS BASED ON BID AMOUNTS.**—

(1) **IN GENERAL.**—Section 1853(a)(1)(A) (42 U.S.C. 1395w–23) is amended by striking “in an amount” and all that follows and inserting the following: “in an amount determined as follows:

“(i) **PAYMENT BEFORE 2005.**—For years before 2005, the payment amount shall be equal to 1/2 of the annual Medicare+Choice capitation rate (as calculated under subsection (c)) with respect to that individual for that area, reduced by the amount of any reduction elected under section 1854(f)(1)(E) and adjusted under clause (iii).

“(ii) **PAYMENT FOR STATUTORY NON-DRUG BENEFITS BEGINNING WITH 2005.**—For years beginning with 2005—

“(I) **PLANS WITH BIDS BELOW BENCHMARK.**—In the case of a plan for which there are average per capita monthly savings described in section 1854(b)(3)(C), the payment under this subsection is equal to the unadjusted non-drug monthly bid amount, adjusted

under clause (iii), plus the amount of the monthly rebate computed under section 1854(b)(1)(C)(i) for that plan and year.

“(II) PLANS WITH BIDS AT OR ABOVE BENCHMARK.—In the case of a plan for which there are no average per capita monthly savings described in section 1854(b)(3)(C), the payment amount under this subsection is equal to the fee-for-service area-specific non-drug benchmark amount, adjusted under clause (iii).

“(iii) DEMOGRAPHIC ADJUSTMENT, INCLUDING ADJUSTMENT FOR HEALTH STATUS.—The Administrator shall adjust the payment amount under clause (i), the unadjusted non-drug monthly bid amount under clause (ii)(I), and the fee-for-service area-specific non-drug benchmark amount under clause (ii)(II) for such risk factors as age, disability status, gender, institutional status, and such other factors as the Administrator determines to be appropriate, including adjustment for health status under paragraph (3), so as to ensure actuarial equivalence. The Administrator may add to, modify, or substitute for such adjustment factors if such changes will improve the determination of actuarial equivalence.

“(iv) REFERENCE TO SUBSIDY PAYMENT FOR STATUTORY DRUG BENEFITS.—In the case in which an enrollee is enrolled under part D, the Medicare+Choice organization also is entitled to a subsidy payment amount under section 1860H.”

(d) CONFORMING AMENDMENTS.—

(1) PROTECTION AGAINST BENEFICIARY SELECTION.—Section 1852(b)(1)(A) (42 U.S.C. 1395w-22(b)(1)(A)) is amended by adding at the end the following: “The Administrator shall not approve a plan of an organization if the Administrator determines that the benefits are designed to substantially discourage enrollment by certain Medicare+Choice eligible individuals with the organization.”

(2) CONFORMING AMENDMENT TO PREMIUM TERMINOLOGY.—Subparagraphs (A) and (B) of section 1854(b)(2) (42 U.S.C. 1395w-24(b)(2)) are amended to read as follows:

“(A) MEDICARE+CHOICE MONTHLY BASIC BENEFICIARY PREMIUM.—The term ‘Medicare+Choice monthly basic beneficiary premium’ means, with respect to a Medicare+Choice plan—

“(i) described in section 1853(a)(1)(A)(ii)(I) (relating to plans providing rebates), zero; or

“(ii) described in section 1853(a)(1)(A)(ii)(II), the amount (if any) by which the unadjusted non-drug monthly bid amount exceeds the fee-for-service area-specific non-drug benchmark amount.

“(B) MEDICARE+CHOICE MONTHLY SUPPLEMENTAL BENEFICIARY PREMIUM.—The term ‘Medicare+Choice monthly supplemental beneficiary premium’ means, with respect to a Medicare+Choice plan, the portion of the aggregate monthly bid amount submitted under clause (i) of subsection (a)(6)(A) for the year that is attributable under such section to the provision of nonstatutory benefits.”

(3) REQUIREMENT FOR UNIFORM BID AMOUNTS.—Section 1854(c) (42 U.S.C. 1395w-24(c)) is amended to read as follows:

“(c) UNIFORM BID AMOUNTS.—The Medicare+Choice monthly bid amount submitted under subsection (a)(6) of a Medicare+Choice organization under this part may not vary among individuals enrolled in the plan.”

(4) PERMITTING BENEFICIARY REBATES.—

(A) Section 1851(h)(4)(A) (42 U.S.C. 1395w-21(h)(4)(A)) is amended by inserting “except as provided under section 1854(b)(1)(C)” after “or otherwise”.

(B) Section 1854(d) (42 U.S.C. 1395w-24(d)) is amended by inserting “, except as provided

under subsection (b)(1)(C),” after “and may not provide”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and premiums for months beginning with January 2005.

SEC. 212. DEMONSTRATION PROGRAM FOR COMPETITIVE-DEMONSTRATION AREAS.

(a) IDENTIFICATION OF COMPETITIVE-DEMONSTRATION AREAS FOR DEMONSTRATION PROGRAM; COMPUTATION OF CHOICE NON-DRUG BENCHMARKS.—Section 1853, as amended by section 211(b)(2), is amended by adding at the end the following new subsection:

“(k) ESTABLISHMENT OF COMPETITIVE DEMONSTRATION PROGRAM.—

“(1) DESIGNATION OF COMPETITIVE-DEMONSTRATION AREAS AS PART OF PROGRAM.—

“(A) IN GENERAL.—For purposes of this part, the Administrator shall establish a demonstration program under which the Administrator designates Medicare+Choice areas as competitive-demonstration areas consistent with the following limitations:

“(i) LIMITATION ON NUMBER OF AREAS THAT MAY BE DESIGNATED.—The Administrator may not designate more than 4 areas as competitive-demonstration areas.

“(ii) LIMITATION ON PERIOD OF DESIGNATION OF ANY AREA.—The Administrator may not designate any area as a competitive-demonstration area for a period of more than 2 years.

The Administrator has the discretion to decide whether or not to designate as a competitive-demonstration area an area that qualifies for such designation.

“(B) QUALIFICATIONS FOR DESIGNATION.—For purposes of this title, a Medicare+Choice area (which is a metropolitan statistical area or other area with a substantial number of Medicare+Choice enrollees) may not be designated as a ‘competitive-demonstration area’ for a 2-year period beginning with a year unless the Administrator determines, by such date before the beginning of the year as the Administrator determines appropriate, that—

“(i) there will be offered during the open enrollment period under this part before the beginning of the year at least 2 Medicare+Choice plans (in addition to the fee-for-service program under parts A and B), each offered by a different Medicare+Choice organization; and

“(ii) during March of the previous year at least 50 percent of the number of Medicare+Choice eligible individuals who reside in the area were enrolled in a Medicare+Choice plan.

“(2) CHOICE NON-DRUG BENCHMARK AMOUNT.—For purposes of this part, the term ‘choice non-drug benchmark amount’ means, with respect to a Medicare+Choice payment area for a month in a year, the sum of the 2 components described in paragraph (3) for the area and year. The Administrator shall compute such benchmark amount for each competitive-demonstration area before the beginning of each annual, coordinated election period under section 1851(e)(3)(B) for each year (beginning with 2005) in which it is designated as such an area.

“(3) 2 COMPONENTS.—For purposes of paragraph (2), the 2 components described in this paragraph for an area and a year are the following:

“(A) FEE-FOR-SERVICE COMPONENT WEIGHTED BY NATIONAL FEE-FOR-SERVICE MARKET SHARE.—The product of the following:

“(i) NATIONAL FEE-FOR-SERVICE MARKET SHARE.—The national fee-for-service market share percentage (determined under paragraph (5)) for the year.

“(ii) FEE-FOR-SERVICE AREA-SPECIFIC NON-DRUG BID.—The fee-for-service area-specific non-drug bid (as defined in paragraph (6)) for the area and year.

“(B) M+C COMPONENT WEIGHTED BY NATIONAL MEDICARE+CHOICE MARKET SHARE.—The product of the following:

“(i) NATIONAL MEDICARE+CHOICE MARKET SHARE.—1 minus the national fee-for-service market share percentage for the year.

“(ii) WEIGHTED AVERAGE OF PLAN BIDS IN AREA.—The weighted average of the plan bids for the area and year (as determined under paragraph (4)(A)).

“(4) DETERMINATION OF WEIGHTED AVERAGE BIDS FOR AN AREA.—

“(A) IN GENERAL.—For purposes of paragraph (3)(B)(ii), the weighted average of plan bids for an area and a year is the sum of the following products for Medicare+Choice plans described in subparagraph (C) in the area and year:

“(i) PROPORTION OF EACH PLAN’S ENROLLEES IN THE AREA.—The number of individuals described in subparagraph (B), divided by the total number of such individuals for all Medicare+Choice plans described in subparagraph (C) for that area and year.

“(ii) MONTHLY NON-DRUG BID AMOUNT.—The unadjusted non-drug monthly bid amount.

“(B) COUNTING OF INDIVIDUALS.—The Administrator shall count, for each Medicare+Choice plan described in subparagraph (C) for an area and year, the number of individuals who reside in the area and who were enrolled under such plan under this part during March of the previous year.

“(C) EXCLUSION OF PLANS NOT OFFERED IN PREVIOUS YEAR.—For an area and year, the Medicare+Choice plans described in this subparagraph are plans that are offered in the area and year and were offered in the area in March of the previous year.

“(5) COMPUTATION OF NATIONAL FEE-FOR-SERVICE MARKET SHARE PERCENTAGE.—The Administrator shall determine, for a year, the proportion (in this subsection referred to as the ‘national fee-for-service market share percentage’) of Medicare+Choice eligible individuals who during March of the previous year were not enrolled in a Medicare+Choice plan.

“(6) FEE-FOR-SERVICE AREA-SPECIFIC NON-DRUG BID.—For purposes of this part, the term ‘fee-for-service area-specific non-drug bid’ means, for an area and year, the amount described in section 1853(j)(1) for the area and year, except that any reference to a percent of less than 100 percent shall be deemed a reference to 100 percent.”

(b) APPLICATION OF CHOICE NON-DRUG BENCHMARK IN COMPETITIVE-DEMONSTRATION AREAS.—

(1) IN GENERAL.—Section 1854 is amended—

(A) in subsection (b)(1)(C)(i), as added by section 211(b)(1)(A), by striking “(i) REQUIREMENT.—The” and inserting “(i) REQUIREMENT FOR NON-COMPETITIVE-DEMONSTRATION AREAS.—In the case of a Medicare+Choice payment area that is not a competitive-demonstration area designated under section 1853(k)(1), the”;

(B) in subsection (b)(1)(C), as so added, by inserting after clause (i) the following new clause:

“(ii) REQUIREMENT FOR COMPETITIVE-DEMONSTRATION AREAS.—In the case of a Medicare+Choice payment area that is designated as a competitive-demonstration area under section 1853(k)(1), if there are average per capita monthly savings described in paragraph (4) for a Medicare+Choice plan and year, the Medicare+Choice plan shall provide to the enrollee a monthly rebate equal to 75 percent of such savings.”

(C) by adding at the end of subsection (b), as amended by section 211(b)(1), the following new paragraph:

“(4) COMPUTATION OF AVERAGE PER CAPITA MONTHLY SAVINGS FOR COMPETITIVE-DEMONSTRATION AREAS.—For purposes of paragraph (1)(C)(ii), the average per capita monthly savings referred to in such paragraph for a Medicare+Choice plan and year shall be computed in the same manner as the average per capita monthly savings is computed under paragraph (3) except that the reference to the fee-for-service area-specific non-drug benchmark amount in paragraph (3)(B)(i) (or to the benchmark amount as adjusted under paragraph (3)(C)(i)) is deemed to be a reference to the choice non-drug benchmark amount (or such amount as adjusted in the manner described in paragraph (3)(B)(i)).”; and

(D) in subsection (d), as amended by section 211(d)(4), by inserting “and subsection (b)(1)(D)” after “subsection (b)(1)(C)”.

(2) CONFORMING AMENDMENTS.—

(A) PAYMENT OF PLANS.—Section 1853(a)(1)(A)(ii), as amended by section 211(c)(1), is amended—

(i) in subclause (I), by inserting “(or, in the case of a competitive-demonstration area, the choice non-drug benchmark amount)” after “unadjusted non-drug monthly bid amount”; and

(ii) in subclauses (I) and (II), by inserting “(or, in the case of a competitive-demonstration area, described in section 1854(b)(4))” after “section 1854(b)(3)(C)”.

(B) DEFINITION OF MONTHLY BASIC PREMIUM.—Section 1854(b)(2)(A)(ii), as amended by section 211(d)(2), is amended by inserting “(or, in the case of a competitive-demonstration area, the choice non-drug benchmark amount)” after “benchmark amount”.

(C) PREMIUM ADJUSTMENT.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

“(h)(1) In the case of an individual who resides in a competitive-demonstration area designated under section 1851(k)(1) and who is not enrolled in a Medicare+Choice plan under part C, the monthly premium otherwise applied under this part (determined without regard to subsections (b) and (f) or any adjustment under this subsection) shall be adjusted as follows: If the fee-for-service area-specific non-drug bid (as defined in section 1853(k)(6)) for the Medicare+Choice area in which the individual resides for a month—

“(A) does not exceed the choice non-drug benchmark (as determined under section 1853(k)(2)) for such area, the amount of the premium for the individual for the month shall be reduced by an amount equal to 75 percent of the amount by which such benchmark exceeds such fee-for-service bid; or

“(B) exceeds such choice non-drug benchmark, the amount of the premium for the individual for the month shall be adjusted to ensure that—

“(i) the sum of the amount of the adjusted premium and the choice non-drug benchmark for the area, is equal to

“(ii) the sum of the unadjusted premium plus amount of the fee-for-service area-specific non-drug bid for the area.

“(2) Nothing in this subsection shall be construed as preventing a reduction under paragraph (1)(A) in the premium otherwise applicable under this part to zero or from requiring the provision of a rebate to the extent such premium would otherwise be required to be less than zero.

“(3) The adjustment in the premium under this subsection shall be effected in such manner as the Medicare Benefits Administrator determines appropriate.

“(4) In order to carry out this subsection (insofar as it is effected through the manner of collection of premiums under 1840(a)), the Medicare Benefits Administrator shall transmit to the Commissioner of Social Security—

“(A) at the beginning of each year, the name, social security account number, and the amount of the adjustment (if any) under this subsection for each individual enrolled under this part for each month during the year; and

“(B) periodically throughout the year, information to update the information previously transmitted under this paragraph for the year.”.

(D) CONFORMING AMENDMENT.—Section 1844(c) (42 U.S.C. 1395w(c)) is amended by inserting “and without regard to any premium adjustment effected under section 1839(h)” before the period at the end.

(E) REPORT ON DEMONSTRATION PROGRAM.—Not later than 6 months after the date on which the designation of the 4th competitive-demonstration area under section 1851(k)(1) of the Social Security Act ends, the Medicare Payment Advisory Commission shall submit to Congress a report on the impact of the demonstration program under the amendments made by this section, including such impact on premiums of medicare beneficiaries, savings to the medicare program, and on adverse selection.

(F) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and premiums for periods beginning on or after January 1, 2005.

SEC. 213. CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS RELATING TO BIDS.—

(1) Section 1854 (42 U.S.C. 1395w–24) is amended—

(A) in the heading of subsection (a), by inserting “AND BID AMOUNTS” after “PREMIUMS”; and

(B) in subsection (a)(5)(A), by inserting “paragraphs (2), (3), and (4) of” after “filed under”.

(b) ADDITIONAL CONFORMING AMENDMENTS.—

(1) ANNUAL DETERMINATION AND ANNOUNCEMENT OF CERTAIN FACTORS.—Section 1853(b) (42 U.S.C. 1395w–23(b)) is amended—

(A) in paragraph (1), by striking “the respective calendar year” and all that follows and inserting the following: “the calendar year concerned with respect to each Medicare+Choice payment area, the following:

“(A) PRE-COMPETITION INFORMATION.—For years before 2005, the following:

“(i) MEDICARE+CHOICE CAPITATION RATES.—The annual Medicare+Choice capitation rate for each Medicare+Choice payment area for the year.

“(ii) ADJUSTMENT FACTORS.—The risk and other factors to be used in adjusting such rates under subsection (a)(1)(A) for payments for months in that year.

“(B) COMPETITION INFORMATION.—For years beginning with 2005, the following:

“(i) BENCHMARKS.—The fee-for-service area-specific non-drug benchmark under section 1853(j) and, if applicable, the choice non-drug benchmark under section 1853(k)(2), for the year involved and, if applicable, the national fee-for-service market share percentage.

“(ii) ADJUSTMENT FACTORS.—The adjustment factors applied under section 1853(a)(1)(A)(iii) (relating to demographic adjustment), section 1853(a)(1)(B) (relating to adjustment for end-stage renal disease), and section 1853(a)(3) (relating to health status adjustment).

“(iii) PROJECTED FEE-FOR-SERVICE BID.—In the case of a competitive area, the projected fee-for-service area-specific non-drug bid (as determined under subsection (k)(6)) for the area.

“(iv) INDIVIDUALS.—The number of individuals counted under subsection (k)(4)(B) and enrolled in each Medicare+Choice plan in the area.”; and

(B) in paragraph (3), by striking “in sufficient detail” and all that follows up to the period at the end.

(2) REPEAL OF PROVISIONS RELATING TO ADJUSTED COMMUNITY RATE (ACR).—

(A) IN GENERAL.—Subsections (e) and (f) of section 1854 (42 U.S.C. 1395w–24) are repealed.

(B) CONFORMING AMENDMENT.—Section 1839(a)(2) (42 U.S.C. 1395r(a)(2)) is amended by striking “, and to reflect” and all that follows and inserting a period.

(3) PROSPECTIVE IMPLEMENTATION OF NATIONAL COVERAGE DETERMINATIONS.—Section 1852(a)(5) (42 U.S.C. 1395w–22(a)(5)) is amended to read as follows:

“(5) PROSPECTIVE IMPLEMENTATION OF NATIONAL COVERAGE DETERMINATIONS.—The Secretary shall only implement a national coverage determination that will result in a significant change in the costs to a Medicare+Choice organization in a prospective manner that applies to announcements made under section 1853(b) after the date of the implementation of the determination.”.

(4) PERMITTING GEOGRAPHIC ADJUSTMENT TO CONSOLIDATE MULTIPLE MEDICARE+CHOICE PAYMENT AREAS IN A STATE INTO A SINGLE STATEWIDE MEDICARE+CHOICE PAYMENT AREA.—Section 1853(d)(3) (42 U.S.C. 1395w–23(e)(3)) is amended—

(A) by amending clause (i) of subparagraph (A) to read as follows:

“(i) to a single statewide Medicare+Choice payment area.”; and

(B) by amending subparagraph (B) to read as follows:

“(B) BUDGET NEUTRALITY ADJUSTMENT.—In the case of a State requesting an adjustment under this paragraph, the Medicare Benefits Administrator shall initially (and annually thereafter) adjust the payment rates otherwise established under this section for Medicare+Choice payment areas in the State in a manner so that the aggregate of the payments under this section in the State shall not exceed the aggregate payments that would have been made under this section for Medicare+Choice payment areas in the State in the absence of the adjustment under this paragraph.”.

(D) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and premiums for periods beginning on or after January 1, 2005.

TITLE III—RURAL HEALTH CARE IMPROVEMENTS

SEC. 301. REFERENCE TO FULL MARKET BASKET INCREASE FOR SOLE COMMUNITY HOSPITALS.

For provision eliminating any reduction from full market basket in the update for inpatient hospital services for sole community hospitals, see section 401.

SEC. 302. ENHANCED DISPROPORTIONATE SHARE HOSPITAL (DSH) TREATMENT FOR RURAL HOSPITALS AND URBAN HOSPITALS WITH FEWER THAN 100 BEDS.

(a) BLENDING OF PAYMENT AMOUNTS.—

(1) IN GENERAL.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended by adding at the end the following new clause:

“(xiv)(I) In the case of discharges in a fiscal year beginning on or after October 1, 2002, subject to subclause (II), there shall be substituted for the disproportionate share

adjustment percentage otherwise determined under clause (iv) (other than subclause (I)) or under clause (viii), (x), (xi), (xii), or (xiii), the old blend proportion (specified under subclause (III)) of the disproportionate share adjustment percentage otherwise determined under the respective clause and 100 percent minus such old blend proportion of the disproportionate share adjustment percentage determined under clause (vii) (relating to large, urban hospitals).

“(II) Under subclause (I), the disproportionate share adjustment percentage shall not exceed 10 percent for a hospital that is not classified as a rural referral center under subparagraph (C).

“(III) For purposes of subclause (I), the old blend proportion for fiscal year 2003 is 80 percent, for each subsequent year (through 2006) is the old blend proportion under this subclause for the previous year minus 20 percentage points, and for each year beginning with 2007 is 0 percent.”.

(2) CONFORMING AMENDMENTS.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(A) in each of subclauses (II), (III), (IV), (V), and (VI) of clause (iv), by inserting “subject to clause (xiv) and” before “for discharges occurring”;

(B) in clause (viii), by striking “The formula” and inserting “Subject to clause (xiv), the formula”;

(C) in each of clauses (x), (xi), (xii), and (xiii), by striking “For purposes” and inserting “Subject to clause (xiv), for purposes”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to discharges occurring on or after October 1, 2002.

SEC. 303. 2-YEAR PHASED-IN INCREASE IN THE STANDARDIZED AMOUNT IN RURAL AND SMALL URBAN AREAS TO ACHIEVE A SINGLE, UNIFORM STANDARDIZED AMOUNT.

Section 1886(d)(3)(A)(iv) (42 U.S.C. 1395ww(d)(3)(A)(iv)) is amended—

(1) by striking “(iv) For discharges” and inserting “(iv)(I) Subject to the succeeding provisions of this clause, for discharges”;

(2) by adding at the end the following new subclauses:

“(II) For discharges occurring during fiscal year 2003, the average standardized amount for hospitals located other than in a large urban area shall be increased by ½ of the difference between the average standardized amount determined under subclause (I) for hospitals located in large urban areas for such fiscal year and such amount determined (without regard to this subclause) for other hospitals for such fiscal year.

“(III) For discharges occurring in a fiscal year beginning with fiscal year 2004, the Secretary shall compute an average standardized amount for hospitals located in any area within the United States and within each region equal to the average standardized amount computed for the previous fiscal year under this subparagraph for hospitals located in a large urban area (or, beginning with fiscal year 2005, for hospitals located in any area) increased by the applicable percentage increase under subsection (b)(3)(B)(i).”.

SEC. 304. MORE FREQUENT UPDATE IN WEIGHTS USED IN HOSPITAL MARKET BASKET.

(a) MORE FREQUENT UPDATES IN WEIGHTS.—After revising the weights used in the hospital market basket under section 1886(b)(3)(B)(iii) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(iii)) to reflect the most current data available, the Secretary

shall establish a frequency for revising such weights in such market basket to reflect the most current data available more frequently than once every 5 years.

(b) REPORT.—Not later than October 1, 2003, the Secretary shall submit a report to Congress on the frequency established under subsection (a), including an explanation of the reasons for, and options considered, in determining such frequency.

SEC. 305. IMPROVEMENTS TO CRITICAL ACCESS HOSPITAL PROGRAM.

(a) REINSTATEMENT OF PERIODIC INTERIM PAYMENT (PIP).—Section 1815(e)(2) (42 U.S.C. 1395g(e)(2)) is amended—

(1) by striking “and” at the end of subparagraph (C);

(2) by adding “and” at the end of subparagraph (D); and

(3) by inserting after subparagraph (D) the following new subparagraph:

“(E) inpatient critical access hospital services”;

(b) CONDITION FOR APPLICATION OF SPECIAL PHYSICIAN PAYMENT ADJUSTMENT.—Section 1834(g)(2) (42 U.S.C. 1395m(g)(2)) is amended by adding after and below subparagraph (B) the following:

“The Secretary may not require, as a condition for applying subparagraph (B) with respect to a critical access hospital, that each physician providing professional services in the hospital must assign billing rights with respect to such services, except that such subparagraph shall not apply to those physicians who have not assigned such billing rights.”.

(c) FLEXIBILITY IN BED LIMITATION FOR HOSPITALS.—Section 1820 (42 U.S.C. 1395i-4) is amended—

(1) in subsection (c)(2)(B)(iii), by inserting “subject to paragraph (3)” after “(iii) provides”;

(2) by adding at the end of subsection (c) the following new paragraph:

“(3) INCREASE IN MAXIMUM NUMBER OF BEDS FOR HOSPITALS WITH STRONG SEASONAL CENSUS FLUCTUATIONS.—

“(A) IN GENERAL.—Subject to subparagraph (C), in the case of a hospital that demonstrates that it meets the standards established under subparagraph (B) and has not made the election described in subsection (f)(2)(A), the bed limitations otherwise applicable under paragraph (2)(B)(iii) and subsection (f) shall be increased by 5 beds.

“(B) STANDARDS.—The Secretary shall specify standards for determining whether a critical access hospital has sufficiently strong seasonal variations in patient admissions to justify the increase in bed limitation provided under subparagraph (A).”; and

(3) in subsection (f)—

(A) by inserting “(1)” after “(f)”; and

(B) by adding at the end the following new paragraph:

“(2)(A) A hospital may elect to treat the reference in paragraph (1) to ‘15 beds’ as a reference to ‘25 beds’, but only if no more than 10 beds in the hospital are at any time used for non-acute care services. A hospital that makes such an election is not eligible for the increase provided under subsection (c)(3)(A).

“(B) The limitations in numbers of beds under the first sentence of paragraph (1) are subject to adjustment under subsection (c)(3).”.

(d) 5-YEAR EXTENSION OF THE AUTHORIZATION FOR APPROPRIATIONS FOR GRANT PROGRAM.—Section 1820(j) (42 U.S.C. 1395i-4(j)) is amended by striking “through 2002” and inserting “through 2007”.

(e) PROHIBITION OF RETROACTIVE RECOMPENSATION.—The Secretary shall not re-

coup (or otherwise seek to recover) overpayments made for outpatient critical access hospital services under part B of title XVIII of the Social Security Act, for services furnished in cost reporting periods that began before October 1, 2002, insofar as such overpayments are attributable to payment being based on 80 percent of reasonable costs (instead of 100 percent of reasonable costs minus 20 percent of charges).

(f) EFFECTIVE DATES.—

(1) REINSTATEMENT OF PIP.—The amendments made by subsection (a) shall apply to payments made on or after January 1, 2003.

(2) PHYSICIAN PAYMENT ADJUSTMENT CONDITION.—The amendment made by subsection (b) shall be effective as if included in the enactment of section 403(d) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (113 Stat. 1501A-371).

(3) FLEXIBILITY IN BED LIMITATION.—The amendments made by subsection (c) shall apply to designations made on or after January 1, 2003, but shall not apply to critical access hospitals that were designated as of such date.

SEC. 306. EXTENSION OF TEMPORARY INCREASE FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.

(a) IN GENERAL.—Section 508(a) BIPA (114 Stat. 2763A-533) is amended—

(1) by striking “24-MONTH INCREASE BEGINNING APRIL 1, 2001” and inserting “IN GENERAL”; and

(2) by striking “April 1, 2003” and inserting “January 1, 2005”.

(b) CONFORMING AMENDMENT.—Section 547(c)(2) of BIPA (114 Stat. 2763A-553) is amended by striking “the period beginning on April 1, 2001, and ending on September 30, 2002,” and inserting “a period under such section”.

SEC. 307. REFERENCE TO 10 PERCENT INCREASE IN PAYMENT FOR HOSPICE CARE FURNISHED IN A FRONTIER AREA AND RURAL HOSPICE DEMONSTRATION PROJECT.

For—

(1) provision of 10 percent increase in payment for hospice care furnished in a frontier area, see section 422; and

(2) provision of a rural hospice demonstration project, see section 423.

SEC. 308. REFERENCE TO PRIORITY FOR HOSPITALS LOCATED IN RURAL OR SMALL URBAN AREAS IN REDISTRIBUTION OF UNUSED GRADUATE MEDICAL EDUCATION RESIDENCIES.

For provision providing priority for hospitals located in rural or small urban areas in redistribution of unused graduate medical education residencies, see section 612.

SEC. 309. GAO STUDY OF GEOGRAPHIC DIFFERENCES IN PAYMENTS FOR PHYSICIANS' SERVICES.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of differences in payment amounts under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w-4) for physicians' services in different geographic areas. Such study shall include—

(1) an assessment of the validity of the geographic adjustment factors used for each component of the fee schedule;

(2) an evaluation of the measures used for such adjustment, including the frequency of revisions; and

(3) an evaluation of the methods used to determine professional liability insurance costs used in computing the malpractice component, including a review of increases in professional liability insurance premiums and variation in such increases by State and physician specialty and methods used to update the geographic cost of practice index

and relative weights for the malpractice component.

(b) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a). The report shall include recommendations regarding the use of more current data in computing geographic cost of practice indices as well as the use of data directly representative of physicians' costs (rather than proxy measures of such costs).

SEC. 310. PROVIDING SAFE HARBOR FOR CERTAIN COLLABORATIVE EFFORTS THAT BENEFIT MEDICALLY UNDERSERVED POPULATIONS.

(a) **IN GENERAL.**—Section 1128B(b)(3) (42 U.S.C. 1320a-7(b)(3)), as amended by section 101(b)(2), is amended—

(1) in subparagraph (F), by striking “and” after the semicolon at the end;

(2) in subparagraph (G), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

“(H) any remuneration between a public or nonprofit private health center entity described under clause (i) or (ii) of section 1905(l)(2)(B) and any individual or entity providing goods, items, services, donations or loans, or a combination thereof, to such health center entity pursuant to a contract, lease, grant, loan, or other agreement, if such agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center entity.”.

(b) **RULEMAKING FOR EXCEPTION FOR HEALTH CENTER ENTITY ARRANGEMENTS.**—

(1) **ESTABLISHMENT.**—

(A) **IN GENERAL.**—The Secretary of Health and Human Services (in this subsection referred to as the “Secretary”) shall establish, on an expedited basis, standards relating to the exception described in section 1128B(b)(3)(H) of the Social Security Act, as added by subsection (a), for health center entity arrangements to the antikickback penalties.

(B) **FACTORS TO CONSIDER.**—The Secretary shall consider the following factors, among others, in establishing standards relating to the exception for health center entity arrangements under subparagraph (A):

(i) Whether the arrangement between the health center entity and the other party results in savings of Federal grant funds or increased revenues to the health center entity.

(ii) Whether the arrangement between the health center entity and the other party restricts or limits a patient's freedom of choice.

(iii) Whether the arrangement between the health center entity and the other party protects a health care professional's independent medical judgment regarding medically appropriate treatment.

The Secretary may also include other standards and criteria that are consistent with the intent of Congress in enacting the exception established under this section.

(2) **INTERIM FINAL EFFECT.**—No later than 180 days after the date of enactment of this Act, the Secretary shall publish a rule in the Federal Register consistent with the factors under paragraph (1)(B). Such rule shall be effective and final immediately on an interim basis, subject to such change and revision, after public notice and opportunity (for a period of not more than 60 days) for public comment, as is consistent with this subsection.

SEC. 311. RELIEF FOR CERTAIN NON-TEACHING HOSPITALS.

(a) **IN GENERAL.**—In the case of a non-teaching hospital that meets the condition of subsection (b), in each of fiscal years 2003, 2004, and 2005 the amount of payment made to the hospital under section 1886(d) of the Social Security Act for discharges occurring during such fiscal year only shall be increased as though the applicable percentage increase (otherwise applicable to discharges occurring during such fiscal year under section 1886(b)(3)(B)(i) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(i)) had been increased by 5 percentage points. The previous sentence shall be applied for each such fiscal year separately without regard to its application in a previous fiscal year and shall not affect payment for discharges for any hospital occurring during a fiscal year after fiscal year 2005.

(b) **CONDITION.**—A non-teaching hospital meets the condition of this subsection if—

(1) it is located in a rural area and the amount of the aggregate payments under subsection (d) of section 1886 of the Social Security Act for hospitals located in rural areas in the State for their cost reporting periods beginning during fiscal year 1999 is less than the aggregate allowable operating costs of inpatient hospital services (as defined in subsection (a)(4) of such section) for all subsection (d) hospitals in such areas in such State with respect to such cost reporting periods; or

(2) it is located in an urban area and the amount of the aggregate payments under subsection (d) of such section for hospitals located in urban areas in the State for their cost reporting periods beginning during fiscal year 1999 is less than 103 percent of the aggregate allowable operating costs of inpatient hospital services (as defined in subsection (a)(4) of such section) for all subsection (d) hospitals in such areas in such State with respect to such cost reporting periods.

The amounts under paragraphs (1) and (2) shall be determined by the Secretary of Health and Human Services based on data of the Medicare Payment Advisory Commission.

(c) **DEFINITIONS.**—For purposes of this section:

(1) **NON-TEACHING HOSPITAL.**—The term “non-teaching hospital” means, for a cost reporting period, a subsection (d) hospital (as defined in subsection (d)(1)(B) of section 1886 of the Social Security Act, 42 U.S.C. 1395ww) that is not receiving any additional payment under subsection (d)(5)(B) of such section or a payment under subsection (h) of such section for discharges occurring during the period. A subsection (d) hospital that receives additional payments under subsection (d)(5)(B) or (h) of such section shall, for purposes of this section, also be treated as a non-teaching hospital unless a chairman of a department in the medical school with which the hospital is affiliated is serving or has been appointed as a clinical chief of service in the hospital.

(2) **RURAL; URBAN.**—The terms “rural” and “urban” have the meanings given such terms for purposes of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)).

TITLE IV—PROVISIONS RELATING TO PART A

Subtitle A—Inpatient Hospital Services

SEC. 401. REVISION OF ACUTE CARE HOSPITAL PAYMENT UPDATES.

Subclause (XVIII) of section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended to read as follows:

“(XVIII) for fiscal year 2003, the market basket percentage increase for sole community hospitals and such increase minus 0.25 percentage points for other hospitals, and”.

SEC. 402. 2-YEAR INCREASE IN LEVEL OF ADJUSTMENT FOR INDIRECT COSTS OF MEDICAL EDUCATION (IME).

Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) in subclause (VI) by striking “and” at the end;

(2) by redesignating subclause (VII) as subclause (IX);

(3) in subclause (IX) as so redesignated, by striking “2002” and inserting “2004”; and

(4) by inserting after subclause (VI) the following new subclause:

“(VII) during fiscal year 2003, ‘c’ is equal to 1.47;

“(VIII) during fiscal year 2004, ‘c’ is equal to 1.45; and”.

SEC. 403. RECOGNITION OF NEW MEDICAL TECHNOLOGIES UNDER INPATIENT HOSPITAL PPS.

(a) **IMPROVING TIMELINESS OF DATA COLLECTION.**—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)) is amended by adding at the end the following new clause:

“(vii) Under the mechanism under this subparagraph, the Secretary shall provide for the addition of new diagnosis and procedure codes in April 1 of each year, but the addition of such codes shall not require the Secretary to adjust the payment (or diagnosis-related group classification) under this subsection until the fiscal year that begins after such date.”.

(b) **ELIGIBILITY STANDARD.**—

(1) **MINIMUM PERIOD FOR RECOGNITION OF NEW TECHNOLOGIES.**—Section 1886(d)(5)(K)(vi) (42 U.S.C. 1395ww(d)(5)(K)(vi)) is amended—

(A) by inserting “(I)” after “(vi)”; and

(B) by adding at the end the following new subclause:

“(II) Under such criteria, a service or technology shall not be denied treatment as a new service or technology on the basis of the period of time in which the service or technology has been in use if such period ends before the end of the 2-to-3-year period that begins on the effective date of implementation of a code under ICD-9-CM (or a successor coding methodology) that enables the identification of a significant sample of specific discharges in which the service or technology has been used.”.

(2) **ADJUSTMENT OF THRESHOLD.**—Section 1886(d)(5)(K)(ii)(I) (42 U.S.C. 1395ww(d)(5)(K)(ii)(I)) is amended by inserting “(applying a threshold specified by the Secretary that is the lesser of 50 percent of the national average standardized amount for operating costs of inpatient hospital services for all hospitals and all diagnosis-related groups or one standard deviation for the diagnosis-related group involved)” after “is inadequate”.

(3) **CRITERION FOR SUBSTANTIAL IMPROVEMENT.**—Section 1886(d)(5)(K)(vi) (42 U.S.C. 1395ww(d)(5)(K)(vi)), as amended by paragraph (1), is further amended by adding at the end the following subclause:

“(III) The Secretary shall by regulation provide for further clarification of the criteria applied to determine whether a new service or technology represents an advance in medical technology that substantially improves the diagnosis or treatment of beneficiaries. Under such criteria, in determining whether a new service or technology represents an advance in medical technology that substantially improves the diagnosis or treatment of beneficiaries, the Secretary

shall deem a service or technology as meeting such requirement if the service or technology is a drug or biological that is designated under section 506 or 526 of the Federal Food, Drug, and Cosmetic Act, approved under section 314.510 or 601.41 of title 21, Code of Federal Regulations, or designated for priority review when the marketing application for such drug or biological was filed or is a medical device for which an exemption has been granted under section 520(m) of such Act, or for which priority review has been provided under section 515(d)(5) of such Act.”.

(4) **PROCESS FOR PUBLIC INPUT.**—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)), as amended by paragraph (1), is amended—

(A) in clause (i), by adding at the end the following: “Such mechanism shall be modified to meet the requirements of clause (viii).”; and

(B) by adding at the end the following new clause:

“(viii) The mechanism established pursuant to clause (i) shall be adjusted to provide, before publication of a proposed rule, for public input regarding whether a new service or technology not described in the second sentence of clause (vi)(III) represents an advance in medical technology that substantially improves the diagnosis or treatment of beneficiaries as follows:

“(I) The Secretary shall make public and periodically update a list of all the services and technologies for which an application for additional payment under this subparagraph is pending.

“(II) The Secretary shall accept comments, recommendations, and data from the public regarding whether the service or technology represents a substantial improvement.

“(III) The Secretary shall provide for a meeting at which organizations representing hospitals, physicians, medicare beneficiaries, manufacturers, and any other interested party may present comments, recommendations, and data to the clinical staff of the Centers for Medicare & Medicaid Services before publication of a notice of proposed rule-making regarding whether service or technology represents a substantial improvement.”.

(c) **PREFERENCE FOR USE OF DRG ADJUSTMENT.**—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)) is further amended by adding at the end the following new clause:

“(ix) Before establishing any add-on payment under this subparagraph with respect to a new technology, the Secretary shall seek to identify one or more diagnosis-related groups associated with such technology, based on similar clinical or anatomical characteristics and the cost of the technology. Within such groups the Secretary shall assign an eligible new technology into a diagnosis-related group where the average costs of care most closely approximate the costs of care of using the new technology. In such case, no add-on payment under this subparagraph shall be made with respect to such new technology and this clause shall not affect the application of paragraph (4)(C)(iii).”.

(d) **IMPROVEMENT IN PAYMENT FOR NEW TECHNOLOGY.**—Section 1886(d)(5)(K)(ii)(III) (42 U.S.C. 1395ww(d)(5)(K)(ii)(III)) is amended by inserting after “the estimated average cost of such service or technology” the following: “(based on the marginal rate applied to costs under subparagraph (A))”.

(e) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The Secretary shall implement the amendments made by this section so that they apply to classification for fiscal years beginning with fiscal year 2004.

(2) **RECONSIDERATIONS OF APPLICATIONS FOR FISCAL YEAR 2003 THAT ARE DENIED.**—In the case of an application for a classification of a medical service or technology as a new medical service or technology under section 1886(d)(5)(K) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(K)) that was filed for fiscal year 2003 and that is denied—

(A) the Secretary shall automatically reconsider the application as an application for fiscal year 2004 under the amendments made by this section; and

(B) the maximum time period otherwise permitted for such classification of the service or technology shall be extended by 12 months.

SEC. 404. PHASE-IN OF FEDERAL RATE FOR HOSPITALS IN PUERTO RICO.

Section 1886(d)(9) (42 U.S.C. 1395ww(d)(9)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking “for discharges beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987, and September 30, 1997, 75 percent)” and inserting “the applicable Puerto Rico percentage (specified in subparagraph (E))”; and

(B) in clause (ii), by striking “for discharges beginning in a fiscal year beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987, and September 30, 1997, 25 percent)” and inserting “the applicable Federal percentage (specified in subparagraph (E))”; and

(2) by adding at the end the following new subparagraph:

“(E) For purposes of subparagraph (A), for discharges occurring—

“(i) between October 1, 1987, and September 30, 1997, the applicable Puerto Rico percentage is 75 percent and the applicable Federal percentage is 25 percent;

“(ii) on or after October 1, 1997, and before October 1, 2003, the applicable Puerto Rico percentage is 50 percent and the applicable Federal percentage is 50 percent;

“(iii) during fiscal year 2004, the applicable Puerto Rico percentage is 45 percent and the applicable Federal percentage is 55 percent;

“(iv) during fiscal year 2005, the applicable Puerto Rico percentage is 40 percent and the applicable Federal percentage is 60 percent;

“(v) during fiscal year 2006, the applicable Puerto Rico percentage is 35 percent and the applicable Federal percentage is 65 percent;

“(vi) during fiscal year 2007, the applicable Puerto Rico percentage is 30 percent and the applicable Federal percentage is 70 percent; and

“(vii) on or after October 1, 2007, the applicable Puerto Rico percentage is 25 percent and the applicable Federal percentage is 75 percent.”.

SEC. 405. REFERENCE TO PROVISION RELATING TO ENHANCED DISPROPORTIONATE SHARE HOSPITAL (DSH) PAYMENTS FOR RURAL HOSPITALS AND URBAN HOSPITALS WITH FEWER THAN 100 BEDS.

For provision enhancing disproportionate share hospital (DSH) treatment for rural hospitals and urban hospitals with fewer than 100 beds, see section 302.

SEC. 406. REFERENCE TO PROVISION RELATING TO 2-YEAR PHASED-IN INCREASE IN THE STANDARDIZED AMOUNT IN RURAL AND SMALL URBAN AREAS TO ACHIEVE A SINGLE, UNIFORM STANDARDIZED AMOUNT.

For provision phasing in over a 2-year period an increase in the standardized amount for rural and small urban areas to achieve a single, uniform, standardized amount, see section 303.

SEC. 407. REFERENCE TO PROVISION FOR MORE FREQUENT UPDATES IN THE WEIGHTS USED IN HOSPITAL MARKET BASKET.

For provision providing for more frequent updates in the weights used in hospital market basket, see section 304.

SEC. 408. REFERENCE TO PROVISION MAKING IMPROVEMENTS TO CRITICAL ACCESS HOSPITAL PROGRAM.

For provision providing making improvements to critical access hospital program, see section 305.

SEC. 409. GAO STUDY ON IMPROVING THE HOSPITAL WAGE INDEX.

(a) **STUDY.**—

(1) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study on the improvements that can be made in the measurement of regional differences in hospital wages reflected in the hospital wage index under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)).

(2) **EXAMINATION OF USE OF METROPOLITAN STATISTICAL AREAS (MSAS).**—The study shall specifically examine the use of metropolitan statistical areas for purposes of computing and applying the wage index and whether the boundaries of such areas accurately reflect local labor markets. In addition, the study shall examine whether regional inequities are created as a result of infrequent updates of such boundaries and policies of the Bureau of the Census relating to commuting criteria.

(3) **WAGE DATA.**—The study shall specifically examine the portions of the hospital cost reports relating to wages, and methods for improving the accuracy of the wage data and for reducing inequities resulting from differences among hospitals in the reporting of wage data.

(b) **CONSULTATION WITH OMB.**—The Comptroller General shall consult with the Director of Office of Management and Budget in conducting the study under subsection (a)(2).

(c) **REPORT.**—Not later than May 1, 2003, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a) and shall include in the report such recommendations as may be appropriate on—

(1) changes in the definition of labor market areas used for purposes of the area wage index under section 1886 of the Social Security Act; and

(2) improvements in methods for the collection of wage data.

Subtitle B—Skilled Nursing Facility Services

SEC. 411. PAYMENT FOR COVERED SKILLED NURSING FACILITY SERVICES.

(a) **TEMPORARY INCREASE IN NURSING COMPONENT OF PPS FEDERAL RATE.**—Section 312(a) of BIPA is amended by adding at the end the following new sentence: “The Secretary of Health and Human Services shall increase by 12, 10, and 8 percent the nursing component of the case-mix adjusted Federal prospective payment rate specified in Tables 3 and 4 of the final rule published in the Federal Register by the Health Care Financing Administration on July 31, 2000 (65 Fed. Reg. 46770) and as subsequently updated under section 1888(e)(4)(E)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(4)(E)(ii)), effective for services furnished during fiscal years 2003, 2004, and 2005, respectively.”.

(b) **ADJUSTMENT TO RUGS FOR AIDS RESIDENTS.**—

(1) **IN GENERAL.**—Paragraph (12) of section 1888(e) (42 U.S.C. 1395yy(e)) is amended to read as follows:

“(12) **ADJUSTMENT FOR RESIDENTS WITH AIDS.**—

“(A) IN GENERAL.—Subject to subparagraph (B), in the case of a resident of a skilled nursing facility who is afflicted with acquired immune deficiency syndrome (AIDS), the per diem amount of payment otherwise applicable shall be increased by 128 percent to reflect increased costs associated with such residents.

“(B) SUNSET.—Subparagraph (A) shall not apply on and after such date as the Secretary certifies that there is an appropriate adjustment in the case mix under paragraph (4)(G)(i) to compensate for the increased costs associated with residents described in such subparagraph.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after October 1, 2003.

Subtitle C—Hospice

SEC. 421. COVERAGE OF HOSPICE CONSULTATION SERVICES.

(a) COVERAGE OF HOSPICE CONSULTATION SERVICES.—Section 1812(a) (42 U.S.C. 1395d(a)) is amended—

(1) by striking “and” at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting “; and”; and

(3) by inserting after paragraph (4) the following new paragraph:

“(5) for individuals who are terminally ill, have not made an election under subsection (d)(1), and have not previously received services under this paragraph, services that are furnished by a physician who is either the medical director or an employee of a hospice program and that consist of—

“(A) an evaluation of the individual’s need for pain and symptom management;

“(B) counseling the individual with respect to end-of-life issues and care options; and

“(C) advising the individual regarding advanced care planning.”.

(b) PAYMENT.—Section 1814(i) (42 U.S.C. 1395f(i)) is amended by adding at the end the following new paragraph:

“(4) The amount paid to a hospice program with respect to the services under section 1812(a)(5) for which payment may be made under this part shall be equal to an amount equivalent to the amount established for an office or other outpatient visit for evaluation and management associated with presenting problems of moderate severity under the fee schedule established under section 1848(b), other than the portion of such amount attributable to the practice expense component.”.

(c) CONFORMING AMENDMENT.—Section 1861(dd)(2)(A)(i) (42 U.S.C. 1395x(dd)(2)(A)(i)) is amended by inserting before the comma at the end the following: “and services described in section 1812(a)(5)”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services provided by a hospice program on or after January 1, 2004.

SEC. 422. 10 PERCENT INCREASE IN PAYMENT FOR HOSPICE CARE FURNISHED IN A FRONTIER AREA.

(a) IN GENERAL.—Section 1814(i)(1) (42 U.S.C. 1395f(i)(1)) is amended by adding at the end the following new subparagraph:

“(D) With respect to hospice care furnished in a frontier area on or after January 1, 2003, and before January 1, 2008, the payment rates otherwise established for such care shall be increased by 10 percent. For purposes of this subparagraph, the term ‘frontier area’ means a county in which the population density is less than 7 persons per square mile.”.

(b) REPORT ON COSTS.—Not later than January 1, 2007, the Comptroller General of the

United States shall submit to Congress a report on the costs of furnishing hospice care in frontier areas. Such report shall include recommendations regarding the appropriateness of extending, and modifying, the payment increase provided under the amendment made by subsection (a).

SEC. 423. RURAL HOSPICE DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary shall conduct a demonstration project for the delivery of hospice care to medicare beneficiaries in rural areas. Under the project medicare beneficiaries who are unable to receive hospice care in the home for lack of an appropriate caregiver are provided such care in a facility of 20 or fewer beds which offers, within its walls, the full range of services provided by hospice programs under section 1861(dd) of the Social Security Act (42 U.S.C. 1395x(dd)).

(b) SCOPE OF PROJECT.—The Secretary shall conduct the project under this section with respect to no more than 3 hospice programs over a period of not longer than 5 years each.

(c) COMPLIANCE WITH CONDITIONS.—Under the demonstration project—

(1) the hospice program shall comply with otherwise applicable requirements, except that it shall not be required to offer services outside of the home or to meet the requirements of section 1861(dd)(2)(A)(iii) of the Social Security Act; and

(2) payments for hospice care shall be made at the rates otherwise applicable to such care under title XVIII of such Act.

The Secretary may require the program to comply with such additional quality assurance standards for its provision of services in its facility as the Secretary deems appropriate.

(d) REPORT.—Upon completion of the project, the Secretary shall submit a report to Congress on the project and shall include in the report recommendations regarding extension of such project to hospice programs serving rural areas.

Subtitle D—Other Provisions

SEC. 431. DEMONSTRATION PROJECT FOR USE OF RECOVERY AUDIT CONTRACTORS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a demonstration project under this section (in this section referred to as the “project”) to demonstrate the use of recovery audit contractors under the Medicare Integrity Program in identifying underpayments and overpayments and recouping overpayments under the medicare program for services for which payment is made under part A of title XVIII of the Social Security Act. Under the project—

(1) payment may be made to such a contractor on a contingent basis;

(2) a percentage of the amount recovered may be retained by the Secretary and shall be available to the program management account of the Centers for Medicare & Medicaid Services; and

(3) the Secretary shall examine the efficacy of such use with respect to duplicative payments, accuracy of coding, and other payment policies in which inaccurate payments arise.

(b) SCOPE AND DURATION.—The project shall cover at least 2 States and at least 3 contractors and shall last for not longer than 3 years.

(c) WAIVER.—The Secretary of Health and Human Services shall waive such provisions of title XVIII of the Social Security Act as may be necessary to provide for payment for services under the project in accordance with subsection (a).

(d) QUALIFICATIONS OF CONTRACTORS.—

(1) IN GENERAL.—The Secretary shall enter into a recovery audit contract under this section with an entity only if the entity has staff that has knowledge of and experience with the payment rules and regulations under the medicare program or the entity has or will contract with another entity that has such knowledgeable and experienced staff.

(2) INELIGIBILITY OF CERTAIN CONTRACTORS.—The Secretary may not enter into a recovery audit contract under this section with an entity to the extent that the entity is a fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h), a carrier under section 1842 of such Act (42 U.S.C. 1395u), or a Medicare Administrative Contractor under section 1874A of such Act.

(3) PREFERENCE FOR ENTITIES WITH DEMONSTRATED PROFICIENCY WITH PRIVATE INSURERS.—In awarding contracts to recovery audit contractors under this section, the Secretary shall give preference to those entities that the Secretary determines have demonstrated proficiency in recovery audits with private insurers or under the medicaid program under title XIX of such Act.

(e) REPORT.—The Secretary of Health and Human Services shall submit to Congress a report on the project not later than 6 months after the date of its completion. Such reports shall include information on the impact of the project on savings to the medicare program and recommendations on the cost-effectiveness of extending or expanding the project.

TITLE V—PROVISIONS RELATING TO PART B

Subtitle A—Physicians’ Services

SEC. 501. REVISION OF UPDATES FOR PHYSICIANS’ SERVICES.

(a) UPDATE FOR 2003 THROUGH 2005.—

(1) IN GENERAL.—Section 1848(d) (42 U.S.C. 1395w-4(d)) is amended by adding at the end the following new paragraphs:

“(5) UPDATE FOR 2003.—The update to the single conversion factor established in paragraph (1)(C) for 2003 is 2 percent.

“(6) SPECIAL RULES FOR UPDATE FOR 2004 AND 2005.—The following rules apply in determining the update adjustment factors under paragraph (4)(B) for 2004 and 2005:

“(A) USE OF 2002 DATA IN DETERMINING ALLOWABLE COSTS.—

“(i) The reference in clause (ii)(I) of such paragraph to April 1, 1996, is deemed to be a reference to January 1, 2002.

“(ii) The allowed expenditures for 2002 is deemed to be equal to the actual expenditures for physicians’ services furnished during 2002, as estimated by the Secretary.

“(B) 1 PERCENTAGE POINT INCREASE IN GDP UNDER SGR.—The annual average percentage growth in real gross domestic product per capita under subsection (f)(2)(C) for each of 2003, 2004, and 2005 is deemed to be increased by 1 percentage point.”.

(2) CONFORMING AMENDMENT.—Paragraph (4)(B) of such section is amended, in the matter before clause (i), by inserting “and paragraph (6)” after “subparagraph (D)”.

(3) NOT TREATED AS CHANGE IN LAW AND REGULATION IN SUSTAINABLE GROWTH RATE DETERMINATION.—The amendments made by this subsection shall not be treated as a change in law for purposes of applying section 1848(f)(2)(D) of the Social Security Act (42 U.S.C. 1395w-4(f)(2)(D)).

(b) USE OF 10-YEAR ROLLING AVERAGE IN COMPUTING GROSS DOMESTIC PRODUCT.—

(1) IN GENERAL.—Section 1848(f)(2)(C) (42 U.S.C. 1395w-4(f)(2)(C)) is amended—

(A) by striking "projected" and inserting "annual average"; and

(B) by striking "from the previous applicable period to the applicable period involved" and inserting "during the 10-year period ending with the applicable period involved".

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to computations of the sustainable growth rate for years beginning with 2002.

(c) **ELIMINATION OF TRANSITIONAL ADJUSTMENT.**—Section 1848(d)(4)(F) (42 U.S.C. 1395w-4(d)(4)(F)) is amended by striking "subparagraph (A)" and all that follows and inserting "subparagraph (A), for each of 2001 and 2002, of -0.2 percent."

(d) **GAO STUDY OF MEDICARE PAYMENT FOR INHALATION THERAPY.**—

(1) **STUDY.**—The Comptroller General of the United States shall conduct a study to examine the adequacy of current reimbursements for inhalation therapy under the medicare program.

(2) **REPORT.**—Not later than May 1, 2003, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1).

SEC. 502. STUDIES ON ACCESS TO PHYSICIANS' SERVICES.

(a) **GAO STUDY ON BENEFICIARY ACCESS TO PHYSICIANS' SERVICES.**—

(1) **STUDY.**—The Comptroller General of the United States shall conduct a study on access of medicare beneficiaries to physicians' services under the medicare program. The study shall include—

(A) an assessment of the use by beneficiaries of such services through an analysis of claims submitted by physicians for such services under part B of the medicare program;

(B) an examination of changes in the use by beneficiaries of physicians' services over time;

(C) an examination of the extent to which physicians are not accepting new medicare beneficiaries as patients.

(2) **REPORT.**—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1). The report shall include a determination whether—

(A) data from claims submitted by physicians under part B of the medicare program indicate potential access problems for medicare beneficiaries in certain geographic areas; and

(B) access by medicare beneficiaries to physicians' services may have improved, remained constant, or deteriorated over time.

(b) **STUDY AND REPORT ON SUPPLY OF PHYSICIANS.**—

(1) **STUDY.**—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to conduct a study on the adequacy of the supply of physicians (including specialists) in the United States and the factors that affect such supply.

(2) **REPORT TO CONGRESS.**—Not later than 2 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the study described in paragraph (1), including any recommendations for legislation.

SEC. 503. MEDPAC REPORT ON PAYMENT FOR PHYSICIANS' SERVICES.

Not later than 1 year after the date of the enactment of this Act, the Medicare Payment Advisory Commission shall submit to Congress a report on the effect of refinements to the practice expense component of payments for physicians' services, after the transition to a full resource-based payment

system in 2002, under section 1848 of the Social Security Act (42 U.S.C. 1395w-4). Such report shall examine the following matters by physician specialty:

(1) The effect of such refinements on payment for physicians' services.

(2) The interaction of the practice expense component with other components of and adjustments to payment for physicians' services under such section.

(3) The appropriateness of the amount of compensation by reason of such refinements.

(4) The effect of such refinements on access to care by medicare beneficiaries to physicians' services.

(5) The effect of such refinements on physician participation under the medicare program.

SEC. 504. 1-YEAR EXTENSION OF TREATMENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES UNDER MEDICARE.

Section 542(c) of BIPA is amended by striking "2-year period" and inserting "3-year period".

SEC. 505. PHYSICIAN FEE SCHEDULE WAGE INDEX REVISION.

(a) **INDEX REVISION.**—

(1) **IN GENERAL.**—Subject to paragraph (2), notwithstanding any other provision of law, for purposes of payment under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w-4) for physicians' services furnished during 2004, in no case may the work geographic index otherwise calculated under subsection (e)(1)(A)(iii) of such section be less than 0.985.

(2) **SECRETARIAL DISCRETION.**—Paragraph (1) shall not take effect or be in force if the Secretary determines, taking into account the report of the Comptroller General under subsection (b)(2), that there is no sound economic rationale for the implementation of such paragraph.

(3) **EXEMPTION FROM LIMITATION ON ANNUAL ADJUSTMENTS.**—Any increase in expenditures attributable to paragraph (1) during 2004 shall not be taken into account in applying section 1848(c)(2)(B)(ii)(II) of the Social Security Act (42 U.S.C. 1395w-4(c)(2)(B)(ii)(II)) for that year.

(b) **GAO REPORT.**—

(1) **EVALUATION.**—As part of the study on geographic differences in payments for physicians' services conducted under section 309, the Comptroller General shall evaluate the following:

(A) Whether there is a sound economic basis for the implementation of the adjustment under subsection (a)(1) in those areas in which the adjustment applies.

(B) The effect of such adjustment on physician location and retention in areas affected by such adjustment, taking into account—

(i) differences in recruitment costs and retention rates for physicians, including specialists, between large urban areas and other areas; and

(ii) the mobility of physicians, including specialists, over the last decade.

(C) The appropriateness of establishing a floor of 1.0 for the work geographic index.

(2) **REPORT.**—By not later than September 1, 2003, the Comptroller General shall submit to Congress and to the Secretary a report on the evaluation conducted under paragraph (1).

Subtitle B—Other Services

SEC. 511. COMPETITIVE ACQUISITION OF CERTAIN ITEMS AND SERVICES.

(a) **IN GENERAL.**—Section 1847 (42 U.S.C. 1395w-3) is amended to read as follows:

"COMPETITIVE ACQUISITION OF CERTAIN ITEMS AND SERVICES

"SEC. 1847. (a) ESTABLISHMENT OF COMPETITIVE ACQUISITION PROGRAMS.—

"(1) IMPLEMENTATION OF PROGRAMS.—

"(A) **IN GENERAL.**—The Secretary shall establish and implement programs under which competitive acquisition areas are established throughout the United States for contract award purposes for the furnishing under this part of competitively priced items and services (described in paragraph (2)) for which payment is made under this part. Such areas may differ for different items and services.

"(B) **PHASED-IN IMPLEMENTATION.**—The programs shall be phased-in among competitive acquisition areas over a period of not longer than 3 years in a manner so that the competition under the programs occurs in—

"(i) at least 1/3 of such areas in 2004; and

"(ii) at least 2/3 of such areas in 2005.

"(C) **WAIVER OF CERTAIN PROVISIONS.**—In carrying out the programs, the Secretary may waive such provisions of the Federal Acquisition Regulation as are necessary for the efficient implementation of this section, other than provisions relating to confidentiality of information and such other provisions as the Secretary determines appropriate.

"(2) **ITEMS AND SERVICES DESCRIBED.**—The items and services referred to in paragraph (1) are the following:

"(A) **DURABLE MEDICAL EQUIPMENT AND INHALATION DRUGS USED IN CONNECTION WITH DURABLE MEDICAL EQUIPMENT.**—Covered items (as defined in section 1834(a)(13)) for which payment is otherwise made under section 1834(a), other than items used in infusion, and inhalation drugs used in conjunction with durable medical equipment.

"(B) **OFF-THE-SHELF ORTHOTICS.**—Orthotics (described in section 1861(s)(9)) for which payment is otherwise made under section 1834(h) which require minimal self-adjustment for appropriate use and does not require expertise in trimming, bending, molding, assembling, or customizing to fit to the patient.

"(3) **EXEMPTION AUTHORITY.**—In carrying out the programs under this section, the Secretary may exempt—

"(A) areas that are not competitive due to low population density; and

"(B) items and services for which the application of competitive acquisition is not likely to result in significant savings.

"(b) **PROGRAM REQUIREMENTS.**—

"(1) **IN GENERAL.**—The Secretary shall conduct a competition among entities supplying items and services described in subsection (a)(2) for each competitive acquisition area in which the program is implemented under subsection (a) with respect to such items and services.

"(2) **CONDITIONS FOR AWARDED CONTRACT.**—

"(A) **IN GENERAL.**—The Secretary may not award a contract to any entity under the competition conducted in a competitive acquisition area pursuant to paragraph (1) to furnish such items or services unless the Secretary finds all of the following:

"(i) The entity meets quality and financial standards specified by the Secretary or developed by accreditation entities or organizations recognized by the Secretary.

"(ii) The total amounts to be paid under the contract (including costs associated with the administration of the contract) are expected to be less than the total amounts that would otherwise be paid.

"(iii) Beneficiary access to a choice of multiple suppliers in the area is maintained.

“(iv) Beneficiary liability is limited to the applicable percentage of contract award price.

“(B) QUALITY STANDARDS.—The quality standards specified under subparagraph (A)(i) shall not be less than the quality standards that would otherwise apply if this section did not apply and shall include consumer services standards. The Secretary shall consult with an expert outside advisory panel composed of an appropriate selection of representatives of physicians, practitioners, and suppliers to review (and advise the Secretary concerning) such quality standards.

“(3) CONTENTS OF CONTRACT.—

“(A) IN GENERAL.—A contract entered into with an entity under the competition conducted pursuant to paragraph (1) is subject to terms and conditions that the Secretary may specify.

“(B) TERM OF CONTRACTS.—The Secretary shall rebid contracts under this section not less often than once every 3 years.

“(4) LIMIT ON NUMBER OF CONTRACTORS.—

“(A) IN GENERAL.—The Secretary may limit the number of contractors in a competitive acquisition area to the number needed to meet projected demand for items and services covered under the contracts. In awarding contracts, the Secretary shall take into account the ability of bidding entities to furnish items or services in sufficient quantities to meet the anticipated needs of beneficiaries for such items or services in the geographic area covered under the contract on a timely basis.

“(B) MULTIPLE WINNERS.—The Secretary shall award contracts to more than one entity submitting a bid in each area for an item or service.

“(5) PARTICIPATING CONTRACTORS.—Payment shall not be made for items and services described in subsection (a)(2) furnished by a contractor and for which competition is conducted under this section unless—

“(A) the contractor has submitted a bid for such items and services under this section; and

“(B) the Secretary has awarded a contract to the contractor for such items and services under this section.

“(6) AUTHORITY TO CONTRACT FOR EDUCATION, OUTREACH AND COMPLAINT SERVICES.—The Secretary may enter into a contract with an appropriate entity to address complaints from beneficiaries who receive items and services from an entity with a contract under this section and to conduct appropriate education of and outreach to such beneficiaries with respect to the program.

“(c) ANNUAL REPORTS.—The Secretary shall submit to Congress an annual management report on the programs under this section. Each such report shall include information on savings, reductions in cost-sharing, access to items and services, and beneficiary satisfaction.

“(d) DEMONSTRATION PROJECT FOR CLINICAL LABORATORY SERVICES.—

“(1) IN GENERAL.—The Secretary shall conduct a demonstration project on the application of competitive acquisition under this section to clinical diagnostic laboratory tests—

“(A) for which payment is otherwise made under section 1833(h) or 1834(d)(1) (relating to colorectal cancer screening tests); and

“(B) which are furnished without a face-to-face encounter between the individual and the hospital or physician ordering the tests.

“(2) TERMS AND CONDITIONS.—Such project shall be under the same conditions as are applicable to items and services described in subsection (a)(2).

“(3) REPORT.—The Secretary shall submit to Congress—

“(A) an initial report on the project not later than December 31, 2004; and

“(B) such progress and final reports on the project after such date as the Secretary determines appropriate.”.

(b) CONTINUATION OF CERTAIN DEMONSTRATION PROJECTS.—Notwithstanding the amendment made by subsection (a), with respect to demonstration projects implemented by the Secretary under section 1847 of the Social Security Act (42 U.S.C. 1395w-3) (relating to the establishment of competitive acquisition areas) that was in effect on the day before the date of the enactment of this Act, each such demonstration project may continue under the same terms and conditions applicable under that section as in effect on that date.

(c) REPORT ON DIFFERENCES IN PAYMENT FOR LABORATORY SERVICES.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that analyzes differences in reimbursement between public and private payors for clinical diagnostic laboratory services.

SEC. 512. PAYMENT FOR AMBULANCE SERVICES.

(a) PHASE-IN PROVIDING FLOOR USING BLEND OF FEE SCHEDULE AND REGIONAL FEE SCHEDULES.—Section 1834(l) (42 U.S.C. 1395m(1)) is amended—

(1) in paragraph (2)(E), by inserting “consistent with paragraph (10)” after “in an efficient and fair manner”;

(2) by redesignating the paragraph (8) added by section 221(a) of BIPA as paragraph (9); and

(3) by adding at the end the following new paragraph:

“(10) PHASE-IN PROVIDING FLOOR USING BLEND OF FEE SCHEDULE AND REGIONAL FEE SCHEDULES.—In carrying out the phase-in under paragraph (2)(E) for each level of service furnished in a year before January 1, 2007, the portion of the payment amount that is based on the fee schedule shall not be less than the following blended rate of the fee schedule under paragraph (1) and of a regional fee schedule for the region involved:

“(A) For 2003, the blended rate shall be based 20 percent on the fee schedule under paragraph (1) and 80 percent on the regional fee schedule.

“(B) For 2004, the blended rate shall be based 40 percent on the fee schedule under paragraph (1) and 60 percent on the regional fee schedule.

“(C) For 2005, the blended rate shall be based 60 percent on the fee schedule under paragraph (1) and 40 percent on the regional fee schedule.

“(D) For 2006, the blended rate shall be based 80 percent on the fee schedule under paragraph (1) and 20 percent on the regional fee schedule.

For purposes of this paragraph, the Secretary shall establish a regional fee schedule for each of the 9 Census divisions using the methodology (used in establishing the fee schedule under paragraph (1)) to calculate a regional conversion factor and a regional mileage payment rate and using the same payment adjustments and the same relative value units as used in the fee schedule under such paragraph.”.

(b) ADJUSTMENT IN PAYMENT FOR CERTAIN LONG TRIPS.—Section 1834(l), as amended by subsection (a), is further amended by adding at the end the following new paragraph:

“(11) ADJUSTMENT IN PAYMENT FOR CERTAIN LONG TRIPS.—In the case of ground ambulance services furnished on or after January

1, 2003, and before January 1, 2008, regardless of where the transportation originates, the fee schedule established under this subsection shall provide that, with respect to the payment rate for mileage for a trip above 50 miles the per mile rate otherwise established shall be increased by $\frac{1}{4}$ of the payment per mile otherwise applicable to such miles.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to ambulance services furnished on or after January 1, 2003.

SEC. 513. 2-YEAR EXTENSION OF MORATORIUM ON THERAPY CAPS; PROVISIONS RELATING TO REPORTS.

(a) 2-YEAR EXTENSION OF MORATORIUM ON THERAPY CAPS.—Section 1833(g)(4) (42 U.S.C. 1395l(g)(4)) is amended by striking “and 2002” and inserting “2002, 2003, and 2004”.

(b) PROMPT SUBMISSION OF OVERDUE REPORTS ON PAYMENT AND UTILIZATION OF OUTPATIENT THERAPY SERVICES.—Not later than December 31, 2002, the Secretary shall submit to Congress the reports required under section 4541(d)(2) of the Balanced Budget Act of 1997 (relating to alternatives to a single annual dollar cap on outpatient therapy) and under section 221(d) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (relating to utilization patterns for outpatient therapy).

(c) IDENTIFICATION OF CONDITIONS AND DISEASES JUSTIFYING WAIVER OF THERAPY CAP.—

(1) STUDY.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to identify conditions or diseases that should justify conducting an assessment of the need to waive the therapy caps under section 1833(g)(4) of the Social Security Act (42 U.S.C. 1395l(g)(4)).

(2) REPORTS TO CONGRESS.—Not later than September 1, 2003, the Secretary shall submit to Congress a preliminary report on the conditions and diseases identified under paragraph (1) and not later than December 31, 2003, a final report on the conditions and diseases so identified.

(d) GAO STUDY OF PATIENT ACCESS TO PHYSICAL THERAPIST SERVICES.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on access to physical therapist services in States authorizing such services without a physician referral and in States that require such a physician referral. The study shall—

(A) examine the use of and referral patterns for physical therapist services for patients age 50 and older in States that authorize such services without a physician referral and in States that require such a physician referral;

(B) examine the use of and referral patterns for physical therapist services for patients who are medicare beneficiaries;

(C) examine the potential effect of prohibiting a physician from referring patients to physical therapy services owned by the physician and provided in the physician's office;

(D) examine the delivery of physical therapists' services within the facilities of Department of Defense; and

(E) analyze the potential impact on medicare beneficiaries and on expenditures under the medicare program of eliminating the need for a physician referral and physician certification for physical therapist services under the medicare program.

(2) REPORT.—The Comptroller General shall submit to Congress a report on the study conducted under paragraph (1) by not later than 1 year after the date of the enactment of this Act.

SEC. 514. COVERAGE OF AN INITIAL PREVENTIVE PHYSICAL EXAMINATION.

(a) **COVERAGE.**—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(1) in subparagraph (U), by striking “and” at the end;

(2) in subparagraph (V), by inserting “and” at the end; and

(3) by adding at the end the following new subparagraph:

“(W) an initial preventive physical examination (as defined in subsection (ww));”.

(b) **SERVICES DESCRIBED.**—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

“Initial Preventive Physical Examination

“(ww) The term ‘initial preventive physical examination’ means physicians’ services consisting of a physical examination with the goal of health promotion and disease detection and includes items and services (excluding clinical laboratory tests), as determined by the Secretary, consistent with the recommendations of the United States Preventive Services Task Force.”.

(c) **WAIVER OF DEDUCTIBLE AND COINSURANCE.**—

(1) **DEDUCTIBLE.**—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)) is amended—

(A) by striking “and” before “(6)”, and

(B) by inserting before the period at the end the following: “, and (7) such deductible shall not apply with respect to an initial preventive physical examination (as defined in section 1861(ww))”.

(2) **COINSURANCE.**—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(A) in clause (N), by inserting “(or 100 percent in the case of an initial preventive physical examination, as defined in section 1861(ww))” after “80 percent”; and

(B) in clause (O), by inserting “(or 100 percent in the case of an initial preventive physical examination, as defined in section 1861(ww))” after “80 percent”.

(d) **PAYMENT AS PHYSICIANS’ SERVICES.**—Section 1848(j)(3) (42 U.S.C. 1395w-4(j)(3)) is amended by inserting “(2)(W),” after “(2)(S),”.

(e) **OTHER CONFORMING AMENDMENTS.**—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) in paragraph (1)—

(A) by striking “and” at the end of subparagraph (H);

(B) by striking the semicolon at the end of subparagraph (I) and inserting “, and”; and

(C) by adding at the end the following new subparagraph:

“(J) in the case of an initial preventive physical examination, which is performed not later than 6 months after the date the individual’s first coverage period begins under part B;” and

(2) in paragraph (7), by striking “or (H)” and inserting “(H), or (J)”.

(f) **EFFECTIVE DATE.**—The amendments made by this section shall apply to services furnished on or after January 1, 2004, but only for individuals whose coverage period begins on or after such date.

SEC. 515. RENAL DIALYSIS SERVICES.

(a) **REPORT ON DIFFERENCES IN COSTS IN DIFFERENT SETTINGS.**—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report containing—

(1) an analysis of the differences in costs of providing renal dialysis services under the medicare program in home settings and in facility settings;

(2) an assessment of the percentage of overhead costs in home settings and in facility settings; and

(3) an evaluation of whether the charges for home dialysis supplies and equipment are reasonable and necessary.

(b) **RESTORING COMPOSITE RATE EXCEPTIONS FOR PEDIATRIC FACILITIES.**—

(1) **IN GENERAL.**—Section 422(a)(2) of BIPA is amended—

(A) in subparagraph (A), by striking “and (C)” and inserting “, (C), and (D)”; and

(B) in subparagraph (B), by striking “In the case” and inserting “Subject to subparagraph (D), in the case”; and

(C) by adding at the end the following new subparagraph:

“(D) **INAPPLICABILITY TO PEDIATRIC FACILITIES.**—Subparagraphs (A) and (B) shall not apply, as of October 1, 2002, to pediatric facilities that do not have an exception rate described in subparagraph (C) in effect on such date. For purposes of this subparagraph, the term ‘pediatric facility’ means a renal facility at least 50 percent of whose patients are individuals under 18 years of age.”.

(2) **CONFORMING AMENDMENT.**—The fourth sentence of section 1881(b)(7) (42 U.S.C. 1395rr(b)(7)) is amended by striking “The Secretary” and inserting “Subject to section 422(a)(2) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, the Secretary”.

(c) **INCREASE IN RENAL DIALYSIS COMPOSITE RATE FOR SERVICES FURNISHED IN 2004.**—Notwithstanding any other provision of law, with respect to payment under part B of title XVIII of the Social Security Act for renal dialysis services furnished in 2004, the composite payment rate otherwise established under section 1881(b)(7) of such Act (42 U.S.C. 1395rr(b)(7)) shall be increased by 1.2 percent.

SEC. 516. IMPROVED PAYMENT FOR CERTAIN MAMMOGRAPHY SERVICES.

(a) **EXCLUSION FROM OPD FEE SCHEDULE.**—Section 1833(t)(1)(B)(iv) (42 U.S.C. 1395l(t)(1)(B)(iv)) is amended by inserting before the period at the end the following: “and does not include screening mammography (as defined in section 1861(jj)) and unilateral and bilateral diagnostic mammography”.

(b) **ADJUSTMENT TO TECHNICAL COMPONENT.**—For diagnostic mammography performed on or after January 1, 2004, for which payment is made under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w-4), the Secretary, based on the most recent cost data available, shall provide for an appropriate adjustment in the payment amount for the technical component of the diagnostic mammography.

(c) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to mammography performed on or after January 1, 2004.

SEC. 517. WAIVER OF PART B LATE ENROLLMENT PENALTY FOR CERTAIN MILITARY RETIREES; SPECIAL ENROLLMENT PERIOD.

(a) **WAIVER OF PENALTY.**—

(1) **IN GENERAL.**—Section 1839(b) (42 U.S.C. 1395r(b)) is amended by adding at the end the following new sentence: “No increase in the premium shall be effected for a month in the case of an individual who is 65 years of age or older, who enrolls under this part during 2001, 2002, or 2003, and who demonstrates to the Secretary before December 31, 2003, that the individual is a covered beneficiary (as defined in section 1072(5) of title 10, United States Code). The Secretary of Health and Human Services shall consult with the Secretary of Defense in identifying individuals described in the previous sentence.”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to premiums for months beginning with January

2003. The Secretary of Health and Human Services shall establish a method for providing rebates of premium penalties paid for months on or after January 2003 for which a penalty does not apply under such amendment but for which a penalty was previously collected.

(b) **MEDICARE PART B SPECIAL ENROLLMENT PERIOD.**—

(1) **IN GENERAL.**—In the case of any individual who, as of the date of the enactment of this Act, is 65 years of age or older, is eligible to enroll but is not enrolled under part B of title XVIII of the Social Security Act, and is a covered beneficiary (as defined in section 1072(5) of title 10, United States Code), the Secretary of Health and Human Services shall provide for a special enrollment period during which the individual may enroll under such part. Such period shall begin as soon as possible after the date of the enactment of this Act and shall end on December 31, 2003.

(2) **COVERAGE PERIOD.**—In the case of an individual who enrolls during the special enrollment period provided under paragraph (1), the coverage period under part B of title XVIII of the Social Security Act shall begin on the first day of the month following the month in which the individual enrolls.

SEC. 518. COVERAGE OF CHOLESTEROL AND BLOOD LIPID SCREENING.

(a) **COVERAGE.**—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended by section 514(a), is amended—

(1) in subparagraph (V), by striking “and” at the end;

(2) in subparagraph (W), by inserting “and” at the end; and

(3) by adding at the end the following new subparagraph:

“(X) cholesterol and other blood lipid screening tests (as defined in subsection (XX));”.

(b) **SERVICES DESCRIBED.**—Section 1861 (42 U.S.C. 1395x), as amended by section 514(b), is amended by adding at the end the following new subsection:

“Cholesterol and Other Blood Lipid Screening Test

“(xx)(1) The term ‘cholesterol and other blood lipid screening test’ means diagnostic testing of cholesterol and other lipid levels of the blood for the purpose of early detection of abnormal cholesterol and other lipid levels.

“(2) The Secretary shall establish standards, in consultation with appropriate organizations, regarding the frequency and type of cholesterol and other blood lipid screening tests, except that such frequency may not be more often than once every 2 years.”.

(c) **FREQUENCY.**—Section 1862(a)(1) (42 U.S.C. 1395y(a)(1)), as amended by section 514(e), is amended

(1) by striking “and” at the end of subparagraph (I);

(2) by striking the semicolon at the end of subparagraph (J) and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

“(K) in the case of a cholesterol and other blood lipid screening test (as defined in section 1861(xx)(1)), which is performed more frequently than is covered under section 1861(xx)(2).”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to tests furnished on or after January 1, 2004.

TITLE VI—PROVISIONS RELATING TO PARTS A AND B

Subtitle A—Home Health Services

SEC. 601. ELIMINATION OF 15 PERCENT REDUCTION IN PAYMENT RATES UNDER THE PROSPECTIVE PAYMENT SYSTEM.

(a) IN GENERAL.—Section 1895(b)(3)(A) (42 U.S.C. 1395fff(b)(3)(A)) is amended to read as follows:

“(A) INITIAL BASIS.—Under such system the Secretary shall provide for computation of a standard prospective payment amount (or amounts) as follows:

“(i) Such amount (or amounts) shall initially be based on the most current audited cost report data available to the Secretary and shall be computed in a manner so that the total amounts payable under the system for fiscal year 2001 shall be equal to the total amount that would have been made if the system had not been in effect and if section 1861(v)(1)(L)(ix) had not been enacted.

“(ii) For fiscal year 2002 and for the first quarter of fiscal year 2003, such amount (or amounts) shall be equal to the amount (or amounts) determined under this paragraph for the previous fiscal year, updated under subparagraph (B).

“(iii) For 2003, such amount (or amounts) shall be equal to the amount (or amounts) determined under this paragraph for fiscal year 2002, updated under subparagraph (B) for 2003.

“(iv) For 2004 and each subsequent year, such amount (or amounts) shall be equal to the amount (or amounts) determined under this paragraph for the previous year, updated under subparagraph (B).

Each such amount shall be standardized in a manner that eliminates the effect of variations in relative case mix and area wage adjustments among different home health agencies in a budget neutral manner consistent with the case mix and wage level adjustments provided under paragraph (4)(A). Under the system, the Secretary may recognize regional differences or differences based upon whether or not the services or agency are in an urbanized area.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 501 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106-554).

SEC. 602. UPDATE IN HOME HEALTH SERVICES.

(a) CHANGE TO CALENDAR YEAR UPDATE.—

(1) IN GENERAL.—Section 1895(b) (42 U.S.C. 1395fff(b)(3)) is amended—

(A) in paragraph (3)(B)(i)—

(i) by striking “each fiscal year (beginning with fiscal year 2002)” and inserting “fiscal year 2002 and for each subsequent year (beginning with 2003)”; and

(ii) by inserting “or year” after “the fiscal year”;

(B) in paragraph (3)(B)(ii)—

(i) in subclause (II), by striking “fiscal year” and inserting “year” and by redesignating such subclause as subclause (III); and

(ii) in subclause (I), by striking “each of fiscal years 2002 and 2003” and inserting the following: “fiscal year 2002, the home health market basket percentage increase (as defined in clause (iii)) minus 1.1 percentage points;

“(II) 2003”;

(C) in paragraph (3)(B)(iii), by inserting “or year” after “fiscal year” each place it appears;

(D) in paragraph (3)(B)(iv)—

(i) by inserting “or year” after “fiscal year” each place it appears; and

(ii) by inserting “or years” after “fiscal years”; and

(E) in paragraph (5), by inserting “or year” after “fiscal year”.

(2) TRANSITION RULE.—The standard prospective payment amount (or amounts) under section 1895(b)(3) of the Social Security Act for the calendar quarter beginning on October 1, 2002, shall be such amount (or amounts) for the previous calendar quarter.

(b) CHANGES IN UPDATES FOR 2003, 2004, AND 2005.—Section 1895(b)(3)(B)(ii) (42 U.S.C. 1395fff(b)(3)(B)(ii)), as amended by subsection (a)(1)(B), is amended—

(1) in subclause (II), by striking “the home health market basket percentage increase (as defined in clause (iii)) minus 1.1 percentage points” and inserting “2.0 percentage points”;

(2) by striking “or” at the end of subclause (II);

(3) by redesignating subclause (III) as subclause (V); and

(4) by inserting after subclause (II) the following new subclause:

“(III) 2004, 1.1 percentage points;

“(IV) 2005, 2.7 percentage points; or”.

(c) PAYMENT ADJUSTMENT.—

(1) IN GENERAL.—Section 1895(b)(5) (42 U.S.C. 1395fff(b)(5)) is amended by striking “5 percent” and inserting “3 percent”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to years beginning with 2003.

SEC. 603. OASIS TASK FORCE; SUSPENSION OF CERTAIN OASIS DATA COLLECTION REQUIREMENTS PENDING TASK FORCE SUBMITTAL OF REPORT.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish and appoint a task force (to be known as the “OASIS Task Force”) to examine the data collection and reporting requirements under OASIS. For purposes of this section, the term “OASIS” means the Outcome and Assessment Information Set required by reason of section 4602(e) of Balanced Budget Act of 1997 (42 U.S.C. 1395fff note).

(b) COMPOSITION.—The OASIS Task Force shall be composed of the following:

(1) Staff of the Centers for Medicare & Medicaid Services with expertise in post-acute care.

(2) Representatives of home health agencies.

(3) Health care professionals and research and health care quality experts outside the Federal Government with expertise in post-acute care.

(4) Advocates for individuals requiring home health services.

(c) DUTIES.—

(1) REVIEW AND RECOMMENDATIONS.—The OASIS Task Force shall review and make recommendations to the Secretary regarding changes in OASIS to improve and simplify data collection for purposes of—

(A) assessing the quality of home health services; and

(B) providing consistency in classification of patients into home health resource groups (HHRGs) for payment under section 1895 of the Social Security Act (42 U.S.C. 1395fff).

(2) SPECIFIC ITEMS.—In conducting the review under paragraph (1), the OASIS Task Force shall specifically examine—

(A) the 41 outcome measures currently in use;

(B) the timing and frequency of data collection; and

(C) the collection of information on comorbidities and clinical indicators.

(3) REPORT.—The OASIS Task Force shall submit a report to the Secretary containing its findings and recommendations for changes in OASIS by not later than 18 months after the date of the enactment of this Act.

(d) SUNSET.—The OASIS Task Force shall terminate 60 days after the date on which the report is submitted under subsection (c)(2).

(e) NONAPPLICATION OF FACA.—The provisions of the Federal Advisory Committee Act shall not apply to the OASIS Task Force.

(f) SUSPENSION OF OASIS REQUIREMENT FOR COLLECTION OF DATA ON NON-MEDICARE AND NON-MEDICAID PATIENTS PENDING TASK FORCE REPORT.—

(1) IN GENERAL.—During the period described in paragraph (2), the Secretary of Health and Human Services may not require, under section 4602(e) of the Balanced Budget Act of 1997 or otherwise under OASIS, a home health agency to gather or submit information that relates to an individual who is not eligible for benefits under either title XVIII or title XIX of the Social Security Act.

(2) PERIOD OF SUSPENSION.—The period described in this paragraph—

(A) begins on January 1, 2003, and

(B) ends on the last day of the 2nd month beginning after the date the report is submitted under subsection (c)(2).

SEC. 604. MEDPAC STUDY ON MEDICARE MARGINS OF HOME HEALTH AGENCIES.

(a) STUDY.—The Medicare Payment Advisory Commission shall conduct a study of payment margins of home health agencies under the home health prospective payment system under section 1895 of the Social Security Act (42 U.S.C. 1395fff). Such study shall examine whether systematic differences in payment margins are related to differences in case mix (as measured by home health resource groups (HHRGs)) among such agencies. The study shall use the partial or full-year cost reports filed by home health agencies.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Commission shall submit to Congress a report on the study under subsection (a).

SEC. 605. CLARIFICATION OF TREATMENT OF OCCASIONAL ABSENCES IN DETERMINING WHETHER AN INDIVIDUAL IS CONFINED TO THE HOME.

(a) IN GENERAL.—The penultimate sentence of section 1814(a) (42 U.S.C. 1395f(a)) and the penultimate sentence of section 1835(a) (42 U.S.C. 1395n(a)) are each amended to read as follows: “Any other absence of an individual from the home shall not so disqualify the individual if the absence is infrequent or of relatively short duration, such as an occasional trip to the barber or a walk around the block, and is not inconsistent with the assessment underlying the individual’s plan of care for home health services.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle B—Direct Graduate Medical Education

SEC. 611. EXTENSION OF UPDATE LIMITATION ON HIGH COST PROGRAMS.

Section 1886(h)(2)(D)(iv) (42 U.S.C. 1395ww(h)(2)(D)(iv)) is amended—

(1) in subclause (I)—

(A) by striking “AND 2002” and inserting “THROUGH 2012”;

(B) by striking “during fiscal year 2001 or fiscal year 2002” and inserting “during the period beginning with fiscal year 2001 and ending with fiscal year 2012”; and

(C) by striking “subject to subclause (III),”;

(2) by striking subclause (II); and

(3) in subclause (III)—

(A) by redesignating such subclause as subclause (II); and

(B) by striking “or (II)”.

SEC. 612. REDISTRIBUTION OF UNUSED RESIDENT POSITIONS.

(a) IN GENERAL.—Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended—

(1) in subparagraph (F)(i), by inserting “subject to subparagraph (I),” after “October 1, 1997,”;

(2) in subparagraph (H)(i), by inserting “subject to subparagraph (I),” after “subparagraphs (F) and (G),”;

(3) by adding at the end the following new subparagraph:

“(I) REDISTRIBUTION OF UNUSED RESIDENT POSITIONS.—

“(i) REDUCTION IN LIMIT BASED ON UNUSED POSITIONS.—

“(I) IN GENERAL.—If a hospital’s resident level (as defined in clause (iii)(I)) is less than the otherwise applicable resident limit (as defined in clause (iii)(II)) for each of the reference periods (as defined in subclause (II)), effective for cost reporting periods beginning on or after January 1, 2003, the otherwise applicable resident limit shall be reduced by 75 percent of the difference between such limit and the reference resident level specified in subclause (III) (or subclause (IV) if applicable).

“(II) REFERENCE PERIODS DEFINED.—In this clause, the term ‘reference periods’ means, for a hospital, the 3 most recent consecutive cost reporting periods of the hospital for which cost reports have been settled (or, if not, submitted) on or before September 30, 2001.

“(III) REFERENCE RESIDENT LEVEL.—Subject to subclause (IV), the reference resident level specified in this subclause for a hospital is the highest resident level for the hospital during any of the reference periods.

“(IV) ADJUSTMENT PROCESS.—Upon the timely request of a hospital, the Secretary may adjust the reference resident level for a hospital to be the resident level for the hospital for the cost reporting period that includes July 1, 2002.

“(ii) REDISTRIBUTION.—

“(I) IN GENERAL.—The Secretary is authorized to increase the otherwise applicable resident limits for hospitals by an aggregate number estimated by the Secretary that does not exceed the aggregate reduction in such limits attributable to clause (i) (without taking into account any adjustment under subclause (IV) of such clause).

“(II) EFFECTIVE DATE.—No increase under subclause (I) shall be permitted or taken into account for a hospital for any portion of a cost reporting period that occurs before July 1, 2003, or before the date of the hospital’s application for an increase under this clause. No such increase shall be permitted for a hospital unless the hospital has applied to the Secretary for such increase by December 31, 2004.

“(III) CONSIDERATIONS IN REDISTRIBUTION.—In determining for which hospitals the increase in the otherwise applicable resident limit is provided under subclause (I), the Secretary shall take into account the need for such an increase by specialty and location involved, consistent with subclause (IV).

“(IV) PRIORITY FOR RURAL AND SMALL URBAN AREAS.—In determining for which hospitals and residency training programs an increase in the otherwise applicable resident limit is provided under subclause (I), the

Secretary shall first distribute the increase to programs of hospitals located in rural areas or in urban areas that are not large urban areas (as defined for purposes of subsection (d)) on a first-come-first-served basis (as determined by the Secretary) based on a demonstration that the hospital will fill the positions made available under this clause and not to exceed an increase of 25 full-time equivalent positions with respect to any hospital.

“(V) APPLICATION OF LOCALITY ADJUSTED NATIONAL AVERAGE PER RESIDENT AMOUNT.—With respect to additional residency positions in a hospital attributable to the increase provided under this clause, notwithstanding any other provision of this subsection, the approved FTE resident amount is deemed to be equal to the locality adjusted national average per resident amount computed under subparagraph (E) for that hospital.

“(VI) CONSTRUCTION.—Nothing in this clause shall be construed as permitting the redistribution of reductions in residency positions attributable to voluntary reduction programs under paragraph (6) or as affecting the ability of a hospital to establish new medical residency training programs under subparagraph (H).

“(iii) RESIDENT LEVEL AND LIMIT DEFINED.—In this subparagraph:

“(I) RESIDENT LEVEL.—The term ‘resident level’ means, with respect to a hospital, the total number of full-time equivalent residents, before the application of weighting factors (as determined under this paragraph), in the fields of allopathic and osteopathic medicine for the hospital.

“(II) OTHERWISE APPLICABLE RESIDENT LIMIT.—The term ‘otherwise applicable resident limit’ means, with respect to a hospital, the limit otherwise applicable under subparagraphs (F)(i) and (H) on the resident level for the hospital determined without regard to this subparagraph.”.

(b) NO APPLICATION OF INCREASE TO IME.—Section 1886(d)(5)(B)(v) (42 U.S.C. 1395ww(d)(5)(B)(v)) is amended by adding at the end the following: “The provisions of clause (i) of subparagraph (I) of subsection (h)(4) shall apply with respect to the first sentence of this clause in the same manner as it applies with respect to subparagraph (F) of such subsection, but the provisions of clause (ii) of such subparagraph shall not apply.”.

(c) REPORT ON EXTENSION OF APPLICATIONS UNDER REDISTRIBUTION PROGRAM.—Not later than July 1, 2004, the Secretary shall submit to Congress a report containing recommendations regarding whether to extend the deadline for applications for an increase in resident limits under section 1886(h)(4)(I)(ii)(II) of the Social Security Act (as added by subsection (a)).

Subtitle C—Other Provisions

SEC. 621. MODIFICATIONS TO MEDICARE PAYMENT ADVISORY COMMISSION (MEDPAC).

(a) EXAMINATION OF BUDGET CONSEQUENCES.—Section 1805(b) (42 U.S.C. 1395b-6(b)) is amended by adding at the end the following new paragraph:

“(8) EXAMINATION OF BUDGET CONSEQUENCES.—Before making any recommendations, the Commission shall examine the budget consequences of such recommendations, directly or through consultation with appropriate expert entities.”.

(b) CONSIDERATION OF EFFICIENT PROVISION OF SERVICES.—Section 1805(b)(2)(B)(i) (42 U.S.C. 1395b-6(b)(2)(B)(i)) is amended by inserting “the efficient provision of” after “expenditures for”.

(c) ADDITIONAL REPORTS.—

(1) DATA NEEDS AND SOURCES.—The Medicare Payment Advisory Commission shall conduct a study, and submit a report to Congress by not later than June 1, 2003, on the need for current data, and sources of current data available, to determine the solvency and financial circumstances of hospitals and other medicare providers of services. The Commission shall examine data on uncompensated care, as well as the share of uncompensated care accounted for by the expenses for treating illegal aliens.

(2) USE OF TAX-RELATED RETURNS.—Using return information provided under Form 990 of the Internal Revenue Service, the Commission shall submit to Congress, by not later than June 1, 2003, a report on the following:

(A) Investments and capital financing of hospitals participating under the medicare program and related foundations.

(B) Access to capital financing for private and for not-for-profit hospitals.

SEC. 622. DEMONSTRATION PROJECT FOR DISEASE MANAGEMENT FOR CERTAIN MEDICARE BENEFICIARIES WITH DIABETES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a demonstration project under this section (in this section referred to as the “project”) to demonstrate the impact on costs and health outcomes of applying disease management to certain medicare beneficiaries with diagnosed diabetes. In no case may the number of participants in the project exceed 30,000 at any time.

(b) VOLUNTARY PARTICIPATION.—

(1) ELIGIBILITY.—Medicare beneficiaries are eligible to participate in the project only if—

(A) they are a member of a health disparity population (as defined in section 485E(d) of the Public Health Service Act), such as Hispanics;

(B) they meet specific medical criteria demonstrating the appropriate diagnosis and the advanced nature of their disease;

(C) their physicians approve of participation in the project; and

(D) they are not enrolled in a Medicare+Choice plan.

(2) BENEFITS.—A medicare beneficiary who is enrolled in the project shall be eligible—

(A) for disease management services related to their diabetes; and

(B) for payment for all costs for prescription drugs without regard to whether or not they relate to the diabetes, except that the project may provide for modest cost-sharing with respect to prescription drug coverage.

(c) CONTRACTS WITH DISEASE MANAGEMENT ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall carry out the project through contracts with up to three disease management organizations. The Secretary shall not enter into such a contract with an organization unless the organization demonstrates that it can produce improved health outcomes and reduce aggregate medicare expenditures consistent with paragraph (2).

(2) CONTRACT PROVISIONS.—Under such contracts—

(A) such an organization shall be required to provide for prescription drug coverage described in subsection (b)(2)(B);

(B) such an organization shall be paid a fee negotiated and established by the Secretary in a manner so that (taking into account savings in expenditures under parts A and B of the medicare program under title XVIII of the Social Security Act) there will be no net increase, and to the extent practicable, there

will be a net reduction in expenditures under the medicare program as a result of the project; and

(C) such an organization shall guarantee, through an appropriate arrangement with a reinsurance company or otherwise, the prohibition on net increases in expenditures described in subparagraph (B).

(3) PAYMENTS.—Payments to such organizations shall be made in appropriate proportion from the Trust Funds established under title XVIII of the Social Security Act.

(d) APPLICATION OF MEDIGAP PROTECTIONS TO DEMONSTRATION PROJECT ENROLLEES.—(1) Subject to paragraph (2), the provisions of section 1882(s)(3) (other than clauses (i) through (iv) of subparagraph (B)) and 1882(s)(4) of the Social Security Act shall apply to enrollment (and termination of enrollment) in the demonstration project under this section, in the same manner as they apply to enrollment (and termination of enrollment) with a Medicare+Choice organization in a Medicare+Choice plan.

(2) In applying paragraph (1)—

(A) any reference in clause (v) or (vi) of section 1882(s)(3)(B) of such Act to 12 months is deemed a reference to the period of the demonstration project; and

(B) the notification required under section 1882(s)(3)(D) of such Act shall be provided in a manner specified by the Secretary of Health and Human Services.

(e) DURATION.—The project shall last for not longer than 3 years.

(f) WAIVER.—The Secretary of Health and Human Services shall waive such provisions of title XVIII of the Social Security Act as may be necessary to provide for payment for services under the project in accordance with subsection (c)(3).

(g) REPORT.—The Secretary of Health and Human Services shall submit to Congress an interim report on the project not later than 2 years after the date it is first implemented and a final report on the project not later than 6 months after the date of its completion. Such reports shall include information on the impact of the project on costs and health outcomes and recommendations on the cost-effectiveness of extending or expanding the project.

(h) WORKING GROUP ON MEDICARE DISEASE MANAGEMENT PROGRAMS.—The Secretary shall establish within the Department of Health and Human Services a working group consisting of employees of the Department to carry out the following:

(1) To oversee the project.

(2) To establish policy and criteria for medicare disease management programs within the Department, including the establishment of policy and criteria for such programs.

(3) To identify targeted medical conditions and targeted individuals.

(4) To select areas in which such programs are carried out.

(5) To monitor health outcomes under such programs.

(6) To measure the effectiveness of such programs in meeting any budget neutrality requirements.

(7) Otherwise to serve as a central focal point within the Department for dissemination of information on medicare disease management programs.

(i) GAO STUDY ON DISEASE MANAGEMENT PROGRAMS.—The Comptroller General of the United States shall conduct a study that compares disease management programs under title XVIII of the Social Security Act with such programs conducted in the private sector, including the prevalence of such pro-

grams and programs for case management. The study shall identify the cost-effectiveness of such programs and any savings achieved by such programs. The Comptroller General shall submit a report on such study to Congress by not later than 18 months after the date of the enactment of this Act.

SEC. 623. DEMONSTRATION PROJECT FOR MEDICAL ADULT DAY CARE SERVICES.

(a) ESTABLISHMENT.—Subject to the succeeding provisions of this section, the Secretary of Health and Human Services shall establish a demonstration project (in this section referred to as the “demonstration project”) under which the Secretary shall, as part of a plan of an episode of care for home health services established for a medicare beneficiary, permit a home health agency, directly or under arrangements with a medical adult day care facility, to provide medical adult day care services as a substitute for a portion of home health services that would otherwise be provided in the beneficiary’s home.

(b) PAYMENT.—

(1) IN GENERAL.—The amount of payment for an episode of care for home health services, a portion of which consists of substitute medical adult day care services, under the demonstration project shall be made at a rate equal to 95 percent of the amount that would otherwise apply for such home health services under section 1895 of the Social Security Act (42 U.S.C. 1395fff). In no case may a home health agency, or a medical adult day care facility under arrangements with a home health agency, separately charge a beneficiary for medical adult day care services furnished under the plan of care.

(2) BUDGET NEUTRALITY FOR DEMONSTRATION PROJECT.—Notwithstanding any other provision of law, the Secretary shall provide for an appropriate reduction in the aggregate amount of additional payments made under section 1895 of the Social Security Act (42 U.S.C. 1395fff) to reflect any increase in amounts expended from the Trust Funds as a result of the demonstration project conducted under this section.

(c) DEMONSTRATION PROJECT SITES.—The project established under this section shall be conducted in not more than 5 States selected by the Secretary that license or certify providers of services that furnish medical adult day care services.

(d) DURATION.—The Secretary shall conduct the demonstration project for a period of 3 years.

(e) VOLUNTARY PARTICIPATION.—Participation of medicare beneficiaries in the demonstration project shall be voluntary. The total number of such beneficiaries that may participate in the project at any given time may not exceed 15,000.

(f) PREFERENCE IN SELECTING AGENCIES.—In selecting home health agencies to participate under the demonstration project, the Secretary shall give preference to those agencies that are currently licensed or certified through common ownership and control to furnish medical adult day care services.

(g) WAIVER AUTHORITY.—The Secretary may waive such requirements of title XVIII of the Social Security Act as may be necessary for the purposes of carrying out the demonstration project, other than waiving the requirement that an individual be homebound in order to be eligible for benefits for home health services.

(h) EVALUATION AND REPORT.—The Secretary shall conduct an evaluation of the clinical and cost effectiveness of the demonstration project. Not later 30 months after

the commencement of the project, the Secretary shall submit to Congress a report on the evaluation, and shall include in the report the following:

(1) An analysis of the patient outcomes and costs of furnishing care to the medicare beneficiaries participating in the project as compared to such outcomes and costs to beneficiaries receiving only home health services for the same health conditions.

(2) Such recommendations regarding the extension, expansion, or termination of the project as the Secretary determines appropriate.

(i) DEFINITIONS.—In this section:

(1) HOME HEALTH AGENCY.—The term “home health agency” has the meaning given such term in section 1861(o) of the Social Security Act (42 U.S.C. 1395x(o)).

(2) MEDICAL ADULT DAY CARE FACILITY.—The term “medical adult day care facility” means a facility that—

(A) has been licensed or certified by a State to furnish medical adult day care services in the State for a continuous 2-year period;

(B) is engaged in providing skilled nursing services and other therapeutic services directly or under arrangement with a home health agency;

(C) meets such standards established by the Secretary to assure quality of care and such other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the facility; and

(D) provides medical adult day care services.

(3) MEDICAL ADULT DAY CARE SERVICES.—The term “medical adult day care services” means—

(A) home health service items and services described in paragraphs (1) through (7) of section 1861(m) furnished in a medical adult day care facility;

(B) a program of supervised activities furnished in a group setting in the facility that—

(i) meet such criteria as the Secretary determines appropriate; and

(ii) is designed to promote physical and mental health of the individuals; and

(C) such other services as the Secretary may specify.

(4) MEDICARE BENEFICIARY.—The term “medicare beneficiary” means an individual entitled to benefits under part A of this title, enrolled under part B of this title, or both.

SEC. 624. PUBLICATION ON FINAL WRITTEN GUIDANCE CONCERNING PROHIBITIONS AGAINST DISCRIMINATION BY NATIONAL ORIGIN WITH RESPECT TO HEALTH CARE SERVICES.

Not later than January 1, 2003, the Secretary shall issue final written guidance concerning the application of the prohibition in title VI of the Civil Rights Act of 1964 against national origin discrimination as it affects persons with limited English proficiency with respect to access to health care services under the medicare program.

TITLE VII—MEDICARE BENEFITS ADMINISTRATION

SEC. 701. ESTABLISHMENT OF MEDICARE BENEFITS ADMINISTRATION.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 105, is amended by inserting after 1806 the following new section:

“MEDICARE BENEFITS ADMINISTRATION

“SEC. 1808. (a) ESTABLISHMENT.—There is established within the Department of Health and Human Services an agency to be known as the Medicare Benefits Administration.

“(b) ADMINISTRATOR; DEPUTY ADMINISTRATOR; CHIEF ACTUARY.—

“(1) ADMINISTRATOR.—

“(A) IN GENERAL.—The Medicare Benefits Administration shall be headed by an administrator to be known as the ‘Medicare Benefits Administrator’ (in this section referred to as the ‘Administrator’) who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall be in direct line of authority to the Secretary.

“(B) COMPENSATION.—The Administrator shall be paid at the rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

“(C) TERM OF OFFICE.—The Administrator shall be appointed for a term of 5 years. In any case in which a successor does not take office at the end of an Administrator’s term of office, that Administrator may continue in office until the entry upon office of such a successor. An Administrator appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term.

“(D) GENERAL AUTHORITY.—The Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control over all personnel and activities thereof.

“(E) RULEMAKING AUTHORITY.—The Administrator may prescribe such rules and regulations as the Administrator determines necessary or appropriate to carry out the functions of the Administration. The regulations prescribed by the Administrator shall be subject to the rulemaking procedures established under section 553 of title 5, United States Code.

“(F) AUTHORITY TO ESTABLISH ORGANIZATIONAL UNITS.—The Administrator may establish, alter, consolidate, or discontinue such organizational units or components within the Administration as the Administrator considers necessary or appropriate, except as specified in this section.

“(G) AUTHORITY TO DELEGATE.—The Administrator may assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees of the Administration as the Administrator may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Administrator.

“(2) DEPUTY ADMINISTRATOR.—

“(A) IN GENERAL.—There shall be a Deputy Administrator of the Medicare Benefits Administration who shall be appointed by the President, by and with the advice and consent of the Senate.

“(B) COMPENSATION.—The Deputy Administrator shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

“(C) TERM OF OFFICE.—The Deputy Administrator shall be appointed for a term of 5 years. In any case in which a successor does not take office at the end of a Deputy Administrator’s term of office, such Deputy Administrator may continue in office until the entry upon office of such a successor. A Deputy Administrator appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term.

“(D) DUTIES.—The Deputy Administrator shall perform such duties and exercise such

powers as the Administrator shall from time to time assign or delegate. The Deputy Administrator shall be Acting Administrator of the Administration during the absence or disability of the Administrator and, unless the President designates another officer of the Government as Acting Administrator, in the event of a vacancy in the office of the Administrator.

“(3) CHIEF ACTUARY.—

“(A) IN GENERAL.—There is established in the Administration the position of Chief Actuary. The Chief Actuary shall be appointed by, and in direct line of authority to, the Administrator of such Administration. The Chief Actuary shall be appointed from among individuals who have demonstrated, by their education and experience, superior expertise in the actuarial sciences. The Chief Actuary may be removed only for cause.

“(B) COMPENSATION.—The Chief Actuary shall be compensated at the highest rate of basic pay for the Senior Executive Service under section 5382(b) of title 5, United States Code.

“(C) DUTIES.—The Chief Actuary shall exercise such duties as are appropriate for the office of the Chief Actuary and in accordance with professional standards of actuarial independence.

“(4) SECRETARIAL COORDINATION OF PROGRAM ADMINISTRATION.—The Secretary shall ensure appropriate coordination between the Administrator and the Administrator of the Centers for Medicare & Medicaid Services in carrying out the programs under this title.

“(c) DUTIES; ADMINISTRATIVE PROVISIONS.—

“(1) DUTIES.—

“(A) GENERAL DUTIES.—The Administrator shall carry out parts C and D, including—

“(i) negotiating, entering into, and enforcing, contracts with plans for the offering of Medicare+Choice plans under part C, including the offering of qualified prescription drug coverage under such plans; and

“(ii) negotiating, entering into, and enforcing, contracts with PDP sponsors for the offering of prescription drug plans under part D.

“(B) OTHER DUTIES.—The Administrator shall carry out any duty provided for under part C or part D, including demonstration projects carried out in part or in whole under such parts, the programs of all-inclusive care for the elderly (PACE program) under section 1894, the social health maintenance organization (SHMO) demonstration projects (referred to in section 4104(c) of the Balanced Budget Act of 1997), and through a Medicare+Choice project that demonstrates the application of capitation payment rates for frail elderly medicare beneficiaries through the use of a interdisciplinary team and through the provision of primary care services to such beneficiaries by means of such a team at the nursing facility involved).

“(C) PRESCRIPTION DRUG CARD.—The Administrator shall carry out section 1807 (relating to the medicare prescription drug discount card endorsement program).

“(D) NONINTERFERENCE.—In carrying out its duties with respect to the provision of qualified prescription drug coverage to beneficiaries under this title, the Administrator may not—

“(i) require a particular formulary or institute a price structure for the reimbursement of covered outpatient drugs;

“(ii) interfere in any way with negotiations between PDP sponsors and Medicare+Choice organizations and drug manufacturers, wholesalers, or other suppliers of covered outpatient drugs; and

“(iii) otherwise interfere with the competitive nature of providing such coverage through such sponsors and organizations.

“(E) ANNUAL REPORTS.—Not later March 31 of each year, the Administrator shall submit to Congress and the President a report on the administration of parts C and D during the previous fiscal year.

“(2) STAFF.—

“(A) IN GENERAL.—The Administrator, with the approval of the Secretary, may employ, without regard to chapter 31 of title 5, United States Code, other than sections 3110 and 3112, such officers and employees as are necessary to administer the activities to be carried out through the Medicare Benefits Administration. The Administrator shall employ staff with appropriate and necessary expertise in negotiating contracts in the private sector.

“(B) FLEXIBILITY WITH RESPECT TO COMPENSATION.—

“(i) IN GENERAL.—The staff of the Medicare Benefits Administration shall, subject to clause (ii), be paid without regard to the provisions of chapter 51 (other than section 5101) and chapter 53 (other than section 5301) of such title (relating to classification and schedule pay rates).

“(ii) MAXIMUM RATE.—In no case may the rate of compensation determined under clause (i) exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

“(C) LIMITATION ON FULL-TIME EQUIVALENT STAFFING FOR CURRENT CMS FUNCTIONS BEING TRANSFERRED.—The Administrator may not employ under this paragraph a number of full-time equivalent employees, to carry out functions that were previously conducted by the Centers for Medicare & Medicaid Services and that are conducted by the Administrator by reason of this section, that exceeds the number of such full-time equivalent employees authorized to be employed by the Centers for Medicare & Medicaid Services to conduct such functions as of the date of the enactment of this Act.

“(3) REDELEGATION OF CERTAIN FUNCTIONS OF THE CENTERS FOR MEDICARE & MEDICAID SERVICES.—

“(A) IN GENERAL.—The Secretary, the Administrator, and the Administrator of the Centers for Medicare & Medicaid Services shall establish an appropriate transition of responsibility in order to redelegate the administration of part C from the Secretary and the Administrator of the Centers for Medicare & Medicaid Services to the Administrator as is appropriate to carry out the purposes of this section.

“(B) TRANSFER OF DATA AND INFORMATION.—The Secretary shall ensure that the Administrator of the Centers for Medicare & Medicaid Services transfers to the Administrator of the Medicare Benefits Administration such information and data in the possession of the Administrator of the Centers for Medicare & Medicaid Services as the Administrator of the Medicare Benefits Administration requires to carry out the duties described in paragraph (1).

“(C) CONSTRUCTION.—Insofar as a responsibility of the Secretary or the Administrator of the Centers for Medicare & Medicaid Services is redelegated to the Administrator under this section, any reference to the Secretary or the Administrator of the Centers for Medicare & Medicaid Services in this title or title XI with respect to such responsibility is deemed to be a reference to the Administrator.

“(d) OFFICE OF BENEFICIARY ASSISTANCE.—

“(1) ESTABLISHMENT.—The Secretary shall establish within the Medicare Benefits Administration an Office of Beneficiary Assistance to coordinate functions relating to outreach and education of medicare beneficiaries under this title, including the functions described in paragraph (2). The Office shall be separate operating division within the Administration.

“(2) DISSEMINATION OF INFORMATION ON BENEFITS AND APPEALS RIGHTS.—

“(A) DISSEMINATION OF BENEFITS INFORMATION.—The Office of Beneficiary Assistance shall disseminate, directly or through contract, to medicare beneficiaries, by mail, by posting on the Internet site of the Medicare Benefits Administration and through a toll-free telephone number, information with respect to the following:

“(i) Benefits, and limitations on payment (including cost-sharing, stop-loss provisions, and formulary restrictions) under parts C and D.

“(ii) Benefits, and limitations on payment under parts A and B, including information on medicare supplemental policies under section 1882.

Such information shall be presented in a manner so that medicare beneficiaries may compare benefits under parts A, B, D, and medicare supplemental policies with benefits under Medicare+Choice plans under part C.

“(B) DISSEMINATION OF APPEALS RIGHTS INFORMATION.—The Office of Beneficiary Assistance shall disseminate to medicare beneficiaries in the manner provided under subparagraph (A) a description of procedural rights (including grievance and appeals procedures) of beneficiaries under the original medicare fee-for-service program under parts A and B, the Medicare+Choice program under part C, and the Voluntary Prescription Drug Benefit Program under part D.

“(e) MEDICARE POLICY ADVISORY BOARD.—

“(1) ESTABLISHMENT.—There is established within the Medicare Benefits Administration the Medicare Policy Advisory Board (in this section referred to the ‘Board’). The Board shall advise, consult with, and make recommendations to the Administrator of the Medicare Benefits Administration with respect to the administration of parts C and D, including the review of payment policies under such parts.

“(2) REPORTS.—

“(A) IN GENERAL.—With respect to matters of the administration of parts C and D, the Board shall submit to Congress and to the Administrator of the Medicare Benefits Administration such reports as the Board determines appropriate. Each such report may contain such recommendations as the Board determines appropriate for legislative or administrative changes to improve the administration of such parts, including the topics described in subparagraph (B). Each such report shall be published in the Federal Register.

“(B) TOPICS DESCRIBED.—Reports required under subparagraph (A) may include the following topics:

“(i) FOSTERING COMPETITION.—Recommendations or proposals to increase competition under parts C and D for services furnished to medicare beneficiaries.

“(ii) EDUCATION AND ENROLLMENT.—Recommendations for the improvement to efforts to provide medicare beneficiaries information and education on the program under this title, and specifically parts C and D, and the program for enrollment under the title.

“(iii) IMPLEMENTATION OF RISK-ADJUSTMENT.—Evaluation of the implementation under section 1853(a)(3)(C) of the risk adjust-

ment methodology to payment rates under that section to Medicare+Choice organizations offering Medicare+Choice plans that accounts for variations in per capita costs based on health status and other demographic factors.

“(iv) DISEASE MANAGEMENT PROGRAMS.—Recommendations on the incorporation of disease management programs under parts C and D.

“(v) RURAL ACCESS.—Recommendations to improve competition and access to plans under parts C and D in rural areas.

“(C) MAINTAINING INDEPENDENCE OF BOARD.—The Board shall directly submit to Congress reports required under subparagraph (A). No officer or agency of the United States may require the Board to submit to any officer or agency of the United States for approval, comments, or review, prior to the submission to Congress of such reports.

“(3) DUTY OF ADMINISTRATOR OF MEDICARE BENEFITS ADMINISTRATION.—With respect to any report submitted by the Board under paragraph (2)(A), not later than 90 days after the report is submitted, the Administrator of the Medicare Benefits Administration shall submit to Congress and the President an analysis of recommendations made by the Board in such report. Each such analysis shall be published in the Federal Register.

“(4) MEMBERSHIP.—

“(A) APPOINTMENT.—Subject to the succeeding provisions of this paragraph, the Board shall consist of seven members to be appointed as follows:

“(i) Three members shall be appointed by the President.

“(ii) Two members shall be appointed by the Speaker of the House of Representatives, with the advice of the chairmen and the ranking minority members of the Committees on Ways and Means and on Energy and Commerce of the House of Representatives.

“(iii) Two members shall be appointed by the President pro tempore of the Senate with the advice of the chairman and the ranking minority member of the Senate Committee on Finance.

“(B) QUALIFICATIONS.—The members shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their education and experience in health care benefits management, exceptionally qualified to perform the duties of members of the Board.

“(C) PROHIBITION ON INCLUSION OF FEDERAL EMPLOYEES.—No officer or employee of the United States may serve as a member of the Board.

“(5) COMPENSATION.—Members of the Board shall receive, for each day (including travel time) they are engaged in the performance of the functions of the board, compensation at rates not to exceed the daily equivalent to the annual rate in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

“(6) TERMS OF OFFICE.—

“(A) IN GENERAL.—The term of office of members of the Board shall be 3 years.

“(B) TERMS OF INITIAL APPOINTEES.—As designated by the President at the time of appointment, of the members first appointed—

“(i) one shall be appointed for a term of 1 year;

“(ii) three shall be appointed for terms of 2 years; and

“(iii) three shall be appointed for terms of 3 years.

“(C) REAPPOINTMENTS.—Any person appointed as a member of the Board may not serve for more than 8 years.

“(D) VACANCY.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Board shall be filled in the manner in which the original appointment was made.

“(7) CHAIR.—The Chair of the Board shall be elected by the members. The term of office of the Chair shall be 3 years.

“(8) MEETINGS.—The Board shall meet at the call of the Chair, but in no event less than three times during each fiscal year.

“(9) DIRECTOR AND STAFF.—

“(A) APPOINTMENT OF DIRECTOR.—The Board shall have a Director who shall be appointed by the Chair.

“(B) IN GENERAL.—With the approval of the Board, the Director may appoint, without regard to chapter 31 of title 5, United States Code, such additional personnel as the Director considers appropriate.

“(C) FLEXIBILITY WITH RESPECT TO COMPENSATION.—

“(i) IN GENERAL.—The Director and staff of the Board shall, subject to clause (ii), be paid without regard to the provisions of chapter 51 and chapter 53 of such title (relating to classification and schedule pay rates).

“(ii) MAXIMUM RATE.—In no case may the rate of compensation determined under clause (i) exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

“(D) ASSISTANCE FROM THE ADMINISTRATOR OF THE MEDICARE BENEFITS ADMINISTRATION.—The Administrator of the Medicare Benefits Administration shall make available to the Board such information and other assistance as it may require to carry out its functions.

“(10) CONTRACT AUTHORITY.—The Board may contract with and compensate government and private agencies or persons to carry out its duties under this subsection, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

“(f) FUNDING.—There is authorized to be appropriated, in appropriate part from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund (including the Medicare Prescription Drug Account), such sums as are necessary to carry out this section.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) TIMING OF INITIAL APPOINTMENTS.—The Administrator and Deputy Administrator of the Medicare Benefits Administration may not be appointed before March 1, 2003.

(3) DUTIES WITH RESPECT TO ELIGIBILITY DETERMINATIONS AND ENROLLMENT.—The Administrator of the Medicare Benefits Administration shall carry out enrollment under title XVIII of the Social Security Act, make eligibility determinations under such title, and carry out part C of such title for years beginning or after January 1, 2005.

(4) TRANSITION.—Before the date the Administrator of the Medicare Benefits Administration is appointed and assumes responsibilities under this section and section 1807 of the Social Security Act, the Secretary of Health and Human Services shall provide for the conduct of any responsibilities of such Administrator that are otherwise provided under law.

(c) MISCELLANEOUS ADMINISTRATIVE PROVISIONS.—

(1) ADMINISTRATOR AS MEMBER OF THE BOARD OF TRUSTEES OF THE MEDICARE TRUST FUNDS.—Section 1817(b) and section 1841(b) (42 U.S.C. 1395i(b), 1395t(b)) are each amended by striking “and the Secretary of Health and Human Services, all ex officio,” and inserting “the Secretary of Health and Human Services, and the Administrator of the Medicare Benefits Administration, all ex officio.”.

(2) INCREASE IN GRADE TO EXECUTIVE LEVEL III FOR THE ADMINISTRATOR OF THE CENTERS FOR MEDICARE & MEDICAID SERVICES; LEVEL FOR MEDICARE BENEFITS ADMINISTRATOR.—

(A) IN GENERAL.—Section 5314 of title 5, United States Code, by adding at the end the following:

“Administrator of the Centers for Medicare & Medicaid Services .

“Administrator of the Medicare Benefits Administration.”.

(B) CONFORMING AMENDMENT.—Section 5315 of such title is amended by striking “Administrator of the Health Care Financing Administration.”.

(C) EFFECTIVE DATE.—The amendments made by this paragraph take effect on January 1, 2003.

TITLE VIII—REGULATORY REDUCTION AND CONTRACTING REFORM Subtitle A—Regulatory Reform

SEC. 801. CONSTRUCTION; DEFINITION OF SUPPLIER.

(a) CONSTRUCTION.—Nothing in this title shall be construed—

(1) to compromise or affect existing legal remedies for addressing fraud or abuse, whether it be criminal prosecution, civil enforcement, or administrative remedies, including under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act); or

(2) to prevent or impede the Department of Health and Human Services in any way from its ongoing efforts to eliminate waste, fraud, and abuse in the medicare program.

Furthermore, the consolidation of medicare administrative contracting set forth in this Act does not constitute consolidation of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund or reflect any position on that issue.

(b) DEFINITION OF SUPPLIER.—Section 1861 (42 U.S.C. 1395x) is amended by inserting after subsection (c) the following new subsection:

“Supplier

“(d) The term ‘supplier’ means, unless the context otherwise requires, a physician or other practitioner, a facility, or other entity (other than a provider of services) that furnishes items or services under this title.”.

SEC. 802. ISSUANCE OF REGULATIONS.

(a) CONSOLIDATION OF PROMULGATION TO ONCE A MONTH.—

(1) IN GENERAL.—Section 1871 (42 U.S.C. 1395hh) is amended by adding at the end the following new subsection:

“(d)(1) Subject to paragraph (2), the Secretary shall issue proposed or final (including interim final) regulations to carry out this title only on one business day of every month.

“(2) The Secretary may issue a proposed or final regulation described in paragraph (1) on any other day than the day described in paragraph (1) if the Secretary—

“(A) finds that issuance of such regulation on another day is necessary to comply with requirements under law; or

“(B) finds that with respect to that regulation the limitation of issuance on the date

described in paragraph (1) is contrary to the public interest.

If the Secretary makes a finding under this paragraph, the Secretary shall include such finding, and brief statement of the reasons for such finding, in the issuance of such regulation.

“(3) The Secretary shall coordinate issuance of new regulations described in paragraph (1) relating to a category of provider of services or suppliers based on an analysis of the collective impact of regulatory changes on that category of providers or suppliers.”.

(2) GAO REPORT ON PUBLICATION OF REGULATIONS ON A QUARTERLY BASIS.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the feasibility of requiring that regulations described in section 1871(d) of the Social Security Act be promulgated on a quarterly basis rather than on a monthly basis.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to regulations promulgated on or after the date that is 30 days after the date of the enactment of this Act.

(b) REGULAR TIMELINE FOR PUBLICATION OF FINAL RULES.—

(1) IN GENERAL.—Section 1871(a) (42 U.S.C. 1395hh(a)) is amended by adding at the end the following new paragraph:

“(3)(A) The Secretary, in consultation with the Director of the Office of Management and Budget, shall establish and publish a regular timeline for the publication of final regulations based on the previous publication of a proposed regulation or an interim final regulation.

“(B) Such timeline may vary among different regulations based on differences in the complexity of the regulation, the number and scope of comments received, and other relevant factors, but shall not be longer than 3 years except under exceptional circumstances. If the Secretary intends to vary such timeline with respect to the publication of a final regulation, the Secretary shall cause to have published in the Federal Register notice of the different timeline by not later than the timeline previously established with respect to such regulation. Such notice shall include a brief explanation of the justification for such variation.

“(C) In the case of interim final regulations, upon the expiration of the regular timeline established under this paragraph for the publication of a final regulation after opportunity for public comment, the interim final regulation shall not continue in effect unless the Secretary publishes (at the end of the regular timeline and, if applicable, at the end of each succeeding 1-year period) a notice of continuation of the regulation that includes an explanation of why the regular timeline (and any subsequent 1-year extension) was not complied with. If such a notice is published, the regular timeline (or such timeline as previously extended under this paragraph) for publication of the final regulation shall be treated as having been extended for 1 additional year.

“(D) The Secretary shall annually submit to Congress a report that describes the instances in which the Secretary failed to publish a final regulation within the applicable regular timeline under this paragraph and that provides an explanation for such failures.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act. The Secretary shall provide for an appropriate

transition to take into account the backlog of previously published interim final regulations.

(c) LIMITATIONS ON NEW MATTER IN FINAL REGULATIONS.—

(1) IN GENERAL.—Section 1871(a) (42 U.S.C. 1395hh(a)), as amended by subsection (b), is further amended by adding at the end the following new paragraph:

“(4) If the Secretary publishes notice of proposed rulemaking relating to a regulation (including an interim final regulation), insofar as such final regulation includes a provision that is not a logical outgrowth of such notice of proposed rulemaking, that provision shall be treated as a proposed regulation and shall not take effect until there is the further opportunity for public comment and a publication of the provision again as a final regulation.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to final regulations published on or after the date of the enactment of this Act.

SEC. 803. COMPLIANCE WITH CHANGES IN REGULATIONS AND POLICIES.

(a) NO RETROACTIVE APPLICATION OF SUBSTANTIVE CHANGES.—

(1) IN GENERAL.—Section 1871 (42 U.S.C. 1395hh), as amended by section 802(a), is amended by adding at the end the following new subsection:

“(e)(1)(A) A substantive change in regulations, manual instructions, interpretative rules, statements of policy, or guidelines of general applicability under this title shall not be applied (by extrapolation or otherwise) retroactively to items and services furnished before the effective date of the change, unless the Secretary determines that—

“(i) such retroactive application is necessary to comply with statutory requirements; or

“(ii) failure to apply the change retroactively would be contrary to the public interest.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to substantive changes issued on or after the date of the enactment of this Act.

(b) TIMELINE FOR COMPLIANCE WITH SUBSTANTIVE CHANGES AFTER NOTICE.—

(1) IN GENERAL.—Section 1871(e)(1), as added by subsection (a), is amended by adding at the end the following:

“(B)(i) Except as provided in clause (ii), a substantive change referred to in subparagraph (A) shall not become effective before the end of the 30-day period that begins on the date that the Secretary has issued or published, as the case may be, the substantive change.

“(ii) The Secretary may provide for such a substantive change to take effect on a date that precedes the end of the 30-day period under clause (i) if the Secretary finds that waiver of such 30-day period is necessary to comply with statutory requirements or that the application of such 30-day period is contrary to the public interest. If the Secretary provides for an earlier effective date pursuant to this clause, the Secretary shall include in the issuance or publication of the substantive change a finding described in the first sentence, and a brief statement of the reasons for such finding.

“(C) No action shall be taken against a provider of services or supplier with respect to noncompliance with such a substantive change for items and services furnished before the effective date of such a change.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to compliance actions undertaken on or after the date of the enactment of this Act.

(c) RELIANCE ON GUIDANCE.—

(1) IN GENERAL.—Section 1871(e), as added by subsection (a), is further amended by adding at the end the following new paragraph:

“(2)(A) If—

“(i) a provider of services or supplier follows the written guidance (which may be transmitted electronically) provided by the Secretary or by a medicare contractor (as defined in section 1889(g)) acting within the scope of the contractor's contract authority, with respect to the furnishing of items or services and submission of a claim for benefits for such items or services with respect to such provider or supplier;

“(ii) the Secretary determines that the provider of services or supplier has accurately presented the circumstances relating to such items, services, and claim to the contractor in writing; and

“(iii) the guidance was in error;

the provider of services or supplier shall not be subject to any sanction (including any penalty or requirement for repayment of any amount) if the provider of services or supplier reasonably relied on such guidance.

“(B) Subparagraph (A) shall not be construed as preventing the recoupment or repayment (without any additional penalty) relating to an overpayment insofar as the overpayment was solely the result of a clerical or technical operational error.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act but shall not apply to any sanction for which notice was provided on or before the date of the enactment of this Act.

SEC. 804. REPORTS AND STUDIES RELATING TO REGULATORY REFORM.

(a) GAO STUDY ON ADVISORY OPINION AUTHORITY.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study to determine the feasibility and appropriateness of establishing in the Secretary authority to provide legally binding advisory opinions on appropriate interpretation and application of regulations to carry out the medicare program under title XVIII of the Social Security Act. Such study shall examine the appropriate timeframe for issuing such advisory opinions, as well as the need for additional staff and funding to provide such opinions.

(2) REPORT.—The Comptroller General shall submit to Congress a report on the study conducted under paragraph (1) by not later than January 1, 2004.

(b) REPORT ON LEGAL AND REGULATORY INCONSISTENCIES.—Section 1871 (42 U.S.C. 1395hh), as amended by section 803(a), is amended by adding at the end the following new subsection:

“(f)(1) Not later than 2 years after the date of the enactment of this subsection, and every 2 years thereafter, the Secretary shall submit to Congress a report with respect to the administration of this title and areas of inconsistency or conflict among the various provisions under law and regulation.

“(2) In preparing a report under paragraph (1), the Secretary shall collect—

“(A) information from individuals entitled to benefits under part A or enrolled under part B, or both, providers of services, and suppliers and from the Medicare Beneficiary Ombudsman and the Medicare Provider Ombudsman with respect to such areas of inconsistency and conflict; and

“(B) information from medicare contractors that tracks the nature of written and telephone inquiries.

“(3) A report under paragraph (1) shall include a description of efforts by the Sec-

retary to reduce such inconsistency or conflicts, and recommendations for legislation or administrative action that the Secretary determines appropriate to further reduce such inconsistency or conflicts.”.

Subtitle B—Contracting Reform**SEC. 811. INCREASED FLEXIBILITY IN MEDICARE ADMINISTRATION.**

(a) CONSOLIDATION AND FLEXIBILITY IN MEDICARE ADMINISTRATION.—

(1) IN GENERAL.—Title XVIII is amended by inserting after section 1874 the following new section:

“CONTRACTS WITH MEDICARE ADMINISTRATIVE CONTRACTORS

“SEC. 1874A. (a) AUTHORITY.—

“(1) AUTHORITY TO ENTER INTO CONTRACTS.—The Secretary may enter into contracts with any eligible entity to serve as a medicare administrative contractor with respect to the performance of any or all of the functions described in paragraph (4) or parts of those functions (or, to the extent provided in a contract, to secure performance thereof by other entities).

“(2) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract with respect to the performance of a particular function described in paragraph (4) only if—

“(A) the entity has demonstrated capability to carry out such function;

“(B) the entity complies with such conflict of interest standards as are generally applicable to Federal acquisition and procurement;

“(C) the entity has sufficient assets to financially support the performance of such function; and

“(D) the entity meets such other requirements as the Secretary may impose.

“(3) MEDICARE ADMINISTRATIVE CONTRACTOR DEFINED.—For purposes of this title and title XI—

“(A) IN GENERAL.—The term ‘medicare administrative contractor’ means an agency, organization, or other person with a contract under this section.

“(B) APPROPRIATE MEDICARE ADMINISTRATIVE CONTRACTOR.—With respect to the performance of a particular function in relation to an individual entitled to benefits under part A or enrolled under part B, or both, a specific provider of services or supplier (or class of such providers of services or suppliers), the ‘appropriate’ medicare administrative contractor is the medicare administrative contractor that has a contract under this section with respect to the performance of that function in relation to that individual, provider of services or supplier or class of provider of services or supplier.

“(4) FUNCTIONS DESCRIBED.—The functions referred to in paragraphs (1) and (2) are payment functions, provider services functions, and functions relating to services furnished to individuals entitled to benefits under part A or enrolled under part B, or both, as follows:

“(A) DETERMINATION OF PAYMENT AMOUNTS.—Determining (subject to the provisions of section 1878 and to such review by the Secretary as may be provided for by the contracts) the amount of the payments required pursuant to this title to be made to providers of services, suppliers and individuals.

“(B) MAKING PAYMENTS.—Making payments described in subparagraph (A) (including receipt, disbursement, and accounting for funds in making such payments).

“(C) BENEFICIARY EDUCATION AND ASSISTANCE.—Providing education and outreach to individuals entitled to benefits under part A

or enrolled under part B, or both, and providing assistance to those individuals with specific issues, concerns or problems.

“(D) PROVIDER CONSULTATIVE SERVICES.—Providing consultative services to institutions, agencies, and other persons to enable them to establish and maintain fiscal records necessary for purposes of this title and otherwise to qualify as providers of services or suppliers.

“(E) COMMUNICATION WITH PROVIDERS.—Communicating to providers of services and suppliers any information or instructions furnished to the medicare administrative contractor by the Secretary, and facilitating communication between such providers and suppliers and the Secretary.

“(F) PROVIDER EDUCATION AND TECHNICAL ASSISTANCE.—Performing the functions relating to provider education, training, and technical assistance.

“(G) ADDITIONAL FUNCTIONS.—Performing such other functions as are necessary to carry out the purposes of this title.

“(5) RELATIONSHIP TO MIP CONTRACTS.—

“(A) NONDUPLICATION OF DUTIES.—In entering into contracts under this section, the Secretary shall assure that functions of medicare administrative contractors in carrying out activities under parts A and B do not duplicate activities carried out under the Medicare Integrity Program under section 1893. The previous sentence shall not apply with respect to the activity described in section 1893(b)(5) (relating to prior authorization of certain items of durable medical equipment under section 1834(a)(15)).

“(B) CONSTRUCTION.—An entity shall not be treated as a medicare administrative contractor merely by reason of having entered into a contract with the Secretary under section 1893.

“(6) APPLICATION OF FEDERAL ACQUISITION REGULATION.—Except to the extent inconsistent with a specific requirement of this title, the Federal Acquisition Regulation applies to contracts under this title.

“(b) CONTRACTING REQUIREMENTS.—

“(1) USE OF COMPETITIVE PROCEDURES.—

“(A) IN GENERAL.—Except as provided in laws with general applicability to Federal acquisition and procurement or in subparagraph (B), the Secretary shall use competitive procedures when entering into contracts with medicare administrative contractors under this section, taking into account performance quality as well as price and other factors.

“(B) RENEWAL OF CONTRACTS.—The Secretary may renew a contract with a medicare administrative contractor under this section from term to term without regard to section 5 of title 41, United States Code, or any other provision of law requiring competition, if the medicare administrative contractor has met or exceeded the performance requirements applicable with respect to the contract and contractor, except that the Secretary shall provide for the application of competitive procedures under such a contract not less frequently than once every five years.

“(C) TRANSFER OF FUNCTIONS.—The Secretary may transfer functions among medicare administrative contractors consistent with the provisions of this paragraph. The Secretary shall ensure that performance quality is considered in such transfers. The Secretary shall provide public notice (whether in the Federal Register or otherwise) of any such transfer (including a description of the functions so transferred, a description of the providers of services and suppliers affected by such transfer, and contact information for the contractors involved).

“(D) INCENTIVES FOR QUALITY.—The Secretary shall provide incentives for medicare administrative contractors to provide quality service and to promote efficiency.

“(2) COMPLIANCE WITH REQUIREMENTS.—No contract under this section shall be entered into with any medicare administrative contractor unless the Secretary finds that such medicare administrative contractor will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, quality of services provided, and other matters as the Secretary finds pertinent.

“(3) PERFORMANCE REQUIREMENTS.—

“(A) DEVELOPMENT OF SPECIFIC PERFORMANCE REQUIREMENTS.—In developing contract performance requirements, the Secretary shall develop performance requirements applicable to functions described in subsection (a)(4).

“(B) CONSULTATION.—In developing such requirements, the Secretary may consult with providers of services and suppliers, organizations representing individuals entitled to benefits under part A or enrolled under part B, or both, and organizations and agencies performing functions necessary to carry out the purposes of this section with respect to such performance requirements.

“(C) INCLUSION IN CONTRACTS.—All contractor performance requirements shall be set forth in the contract between the Secretary and the appropriate medicare administrative contractor. Such performance requirements—

“(i) shall reflect the performance requirements developed under subparagraph (A), but may include additional performance requirements;

“(ii) shall be used for evaluating contractor performance under the contract; and

“(iii) shall be consistent with the written statement of work provided under the contract.

“(4) INFORMATION REQUIREMENTS.—The Secretary shall not enter into a contract with a medicare administrative contractor under this section unless the contractor agrees—

“(A) to furnish to the Secretary such timely information and reports as the Secretary may find necessary in performing his functions under this title; and

“(B) to maintain such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of the information and reports under subparagraph (A) and otherwise to carry out the purposes of this title.

“(5) SURETY BOND.—A contract with a medicare administrative contractor under this section may require the medicare administrative contractor, and any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

“(c) TERMS AND CONDITIONS.—

“(1) IN GENERAL.—A contract with any medicare administrative contractor under this section may contain such terms and conditions as the Secretary finds necessary or appropriate and may provide for advances of funds to the medicare administrative contractor for the making of payments by it under subsection (a)(4)(B).

“(2) PROHIBITION ON MANDATES FOR CERTAIN DATA COLLECTION.—The Secretary may not require, as a condition of entering into, or renewing, a contract under this section, that the medicare administrative contractor

match data obtained other than in its activities under this title with data used in the administration of this title for purposes of identifying situations in which the provisions of section 1862(b) may apply.

“(d) LIMITATION ON LIABILITY OF MEDICARE ADMINISTRATIVE CONTRACTORS AND CERTAIN OFFICERS.—

“(1) CERTIFYING OFFICER.—No individual designated pursuant to a contract under this section as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payments certified by the individual under this section.

“(2) DISBURSING OFFICER.—No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by such officer under this section if it was based upon an authorization (which meets the applicable requirements for such internal controls established by the Comptroller General) of a certifying officer designated as provided in paragraph (1) of this subsection.

“(3) LIABILITY OF MEDICARE ADMINISTRATIVE CONTRACTOR.—No medicare administrative contractor shall be liable to the United States for a payment by a certifying or disbursing officer unless in connection with such payment or in the supervision of or selection of such officer the medicare administrative contractor acted with gross negligence.

“(4) INDEMNIFICATION BY SECRETARY.—

“(A) IN GENERAL.—Subject to subparagraphs (B) and (D), in the case of a medicare administrative contractor (or a person who is a director, officer, or employee of such a contractor or who is engaged by the contractor to participate directly in the claims administration process) who is made a party to any judicial or administrative proceeding arising from or relating directly to the claims administration process under this title, the Secretary may, to the extent the Secretary determines to be appropriate and as specified in the contract with the contractor, indemnify the contractor and such persons.

“(B) CONDITIONS.—The Secretary may not provide indemnification under subparagraph (A) insofar as the liability for such costs arises directly from conduct that is determined by the judicial proceeding or by the Secretary to be criminal in nature, fraudulent, or grossly negligent. If indemnification is provided by the Secretary with respect to a contractor before a determination that such costs arose directly from such conduct, the contractor shall reimburse the Secretary for costs of indemnification.

“(C) SCOPE OF INDEMNIFICATION.—Indemnification by the Secretary under subparagraph (A) may include payment of judgments, settlements (subject to subparagraph (D)), awards, and costs (including reasonable legal expenses).

“(D) WRITTEN APPROVAL FOR SETTLEMENTS.—A contractor or other person described in subparagraph (A) may not propose to negotiate a settlement or compromise of a proceeding described in such subparagraph without the prior written approval of the Secretary to negotiate such settlement or compromise. Any indemnification under subparagraph (A) with respect to amounts paid under a settlement or compromise of a proceeding described in such subparagraph are conditioned upon prior written approval by the Secretary of the final settlement or compromise.

“(E) CONSTRUCTION.—Nothing in this paragraph shall be construed—

“(i) to change any common law immunity that may be available to a medicare administrative contractor or person described in subparagraph (A); or

“(ii) to permit the payment of costs not otherwise allowable, reasonable, or allocable under the Federal Acquisition Regulations.”.

(2) CONSIDERATION OF INCORPORATION OF CURRENT LAW STANDARDS.—In developing contract performance requirements under section 1874A(b) of the Social Security Act, as inserted by paragraph (1), the Secretary shall consider inclusion of the performance standards described in sections 1816(f)(2) of such Act (relating to timely processing of reconsiderations and applications for exemptions) and section 1842(b)(2)(B) of such Act (relating to timely review of determinations and fair hearing requests), as such sections were in effect before the date of the enactment of this Act.

(b) CONFORMING AMENDMENTS TO SECTION 1816 (RELATING TO FISCAL INTERMEDIARIES).—Section 1816 (42 U.S.C. 1395h) is amended as follows:

(1) The heading is amended to read as follows:

“PROVISIONS RELATING TO THE ADMINISTRATION OF PART A”.

(2) Subsection (a) is amended to read as follows:

“(a) The administration of this part shall be conducted through contracts with medicare administrative contractors under section 1874A.”.

(3) Subsection (b) is repealed.

(4) Subsection (c) is amended—

(A) by striking paragraph (1); and

(B) in each of paragraphs (2)(A) and (3)(A), by striking “agreement under this section” and inserting “contract under section 1874A that provides for making payments under this part”.

(5) Subsections (d) through (i) are repealed.

(6) Subsections (j) and (k) are each amended—

(A) by striking “An agreement with an agency or organization under this section” and inserting “A contract with a medicare administrative contractor under section 1874A with respect to the administration of this part”; and

(B) by striking “such agency or organization” and inserting “such medicare administrative contractor” each place it appears.

(7) Subsection (l) is repealed.

(c) CONFORMING AMENDMENTS TO SECTION 1842 (RELATING TO CARRIERS).—Section 1842 (42 U.S.C. 1395u) is amended as follows:

(1) The heading is amended to read as follows:

“PROVISIONS RELATING TO THE ADMINISTRATION OF PART B”.

(2) Subsection (a) is amended to read as follows:

“(a) The administration of this part shall be conducted through contracts with medicare administrative contractors under section 1874A.”.

(3) Subsection (b) is amended—

(A) by striking paragraph (1);

(B) in paragraph (2)—

(i) by striking subparagraphs (A) and (B);

(ii) in subparagraph (C), by striking “carriers” and inserting “medicare administrative contractors”; and

(iii) by striking subparagraphs (D) and (E);

(C) in paragraph (3)—

(i) in the matter before subparagraph (A), by striking “Each such contract shall provide that the carrier” and inserting “The Secretary”;

(ii) by striking “will” the first place it appears in each of subparagraphs (A), (B), (F), (G), (H), and (L) and inserting “shall”;

(iii) in subparagraph (B), in the matter before clause (i), by striking “to the policyholders and subscribers of the carrier” and inserting “to the policyholders and subscribers of the medicare administrative contractor”;

(iv) by striking subparagraphs (C), (D), and (E);

(v) in subparagraph (H)—

(I) by striking “if it makes determinations or payments with respect to physicians’ services,” in the matter preceding clause (i); and

(II) by striking “carrier” and inserting “medicare administrative contractor” in clause (i);

(vi) by striking subparagraph (I);

(vii) in subparagraph (L), by striking the semicolon and inserting a period;

(viii) in the first sentence, after subparagraph (L), by striking “and shall contain” and all that follows through the period; and

(ix) in the seventh sentence, by inserting “medicare administrative contractor,” after “carrier,”; and

(D) by striking paragraph (5);

(E) in paragraph (6)(D)(iv), by striking “carrier” and inserting “medicare administrative contractor”; and

(F) in paragraph (7), by striking “the carrier” and inserting “the Secretary” each place it appears.

(4) Subsection (c) is amended—

(A) by striking paragraph (1);

(B) in paragraph (2)(A), by striking “contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B),” and inserting “contract under section 1874A that provides for making payments under this part”;

(C) in paragraph (3)(A), by striking “subsection (a)(1)(B)” and inserting “section 1874A(a)(3)(B)”;

(D) in paragraph (4), in the matter preceding subparagraph (A), by striking “carrier” and inserting “medicare administrative contractor”; and

(E) by striking paragraphs (5) and (6).

(5) Subsections (d), (e), and (f) are repealed.

(6) Subsection (g) is amended by striking “carrier or carriers” and inserting “medicare administrative contractor or contractors”.

(7) Subsection (h) is amended—

(A) in paragraph (2)—

(i) by striking “Each carrier having an agreement with the Secretary under subsection (a)” and inserting “The Secretary”; and

(ii) by striking “Each such carrier” and inserting “The Secretary”;

(B) in paragraph (3)(A)—

(i) by striking “a carrier having an agreement with the Secretary under subsection (a)” and inserting “medicare administrative contractor having a contract under section 1874A that provides for making payments under this part”;

(ii) by striking “such carrier” and inserting “such contractor”;

(C) in paragraph (3)(B)—

(i) by striking “a carrier” and inserting “a medicare administrative contractor” each place it appears; and

(ii) by striking “the carrier” and inserting “the contractor” each place it appears; and

(D) in paragraphs (5)(A) and (5)(B)(iii), by striking “carriers” and inserting “medicare administrative contractors” each place it appears.

(8) Subsection (l) is amended—

(A) in paragraph (1)(A)(iii), by striking “carrier” and inserting “medicare administrative contractor”; and

(B) in paragraph (2), by striking “carrier” and inserting “medicare administrative contractor”.

(9) Subsection (p)(3)(A) is amended by striking “carrier” and inserting “medicare administrative contractor”.

(10) Subsection (q)(1)(A) is amended by striking “carrier”.

(d) EFFECTIVE DATE; TRANSITION RULE.—

(1) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on October 1, 2004, and the Secretary is authorized to take such steps before such date as may be necessary to implement such amendments on a timely basis.

(B) CONSTRUCTION FOR CURRENT CONTRACTS.—Such amendments shall not apply to contracts in effect before the date specified under subparagraph (A) that continue to retain the terms and conditions in effect on such date (except as otherwise provided under this Act, other than under this section) until such date as the contract is let out for competitive bidding under such amendments.

(C) DEADLINE FOR COMPETITIVE BIDDING.—The Secretary shall provide for the letting by competitive bidding of all contracts for functions of medicare administrative contractors for annual contract periods that begin on or after October 1, 2009.

(D) WAIVER OF PROVIDER NOMINATION PROVISIONS DURING TRANSITION.—During the period beginning on the date of the enactment of this Act and before the date specified under subparagraph (A), the Secretary may enter into new agreements under section 1816 of the Social Security Act (42 U.S.C. 1395h) without regard to any of the provider nomination provisions of such section.

(2) GENERAL TRANSITION RULES.—The Secretary shall take such steps, consistent with paragraph (1)(B) and (1)(C), as are necessary to provide for an appropriate transition from contracts under section 1816 and section 1842 of the Social Security Act (42 U.S.C. 1395h, 1395u) to contracts under section 1874A, as added by subsection (a)(1).

(3) AUTHORIZING CONTINUATION OF MIP FUNCTIONS UNDER CURRENT CONTRACTS AND AGREEMENTS AND UNDER ROLLOVER CONTRACTS.—The provisions contained in the exception in section 1893(d)(2) of the Social Security Act (42 U.S.C. 1395ddd(d)(2)) shall continue to apply notwithstanding the amendments made by this section, and any reference in such provisions to an agreement or contract shall be deemed to include a contract under section 1874A of such Act, as inserted by subsection (a)(1), that continues the activities referred to in such provisions.

(e) REFERENCES.—On and after the effective date provided under subsection (d)(1), any reference to a fiscal intermediary or carrier under title XI or XVIII of the Social Security Act (or any regulation, manual instruction, interpretative rule, statement of policy, or guideline issued to carry out such titles) shall be deemed a reference to an appropriate medicare administrative contractor (as provided under section 1874A of the Social Security Act).

(f) REPORTS ON IMPLEMENTATION.—

(1) PLAN FOR IMPLEMENTATION.—By not later than October 1, 2003, the Secretary shall submit a report to Congress and the Comptroller General of the United States that describes the plan for implementation of the amendments made by this section.

The Comptroller General shall conduct an evaluation of such plan and shall submit to Congress, not later than 6 months after the date the report is received, a report on such evaluation and shall include in such report such recommendations as the Comptroller General deems appropriate.

(2) STATUS OF IMPLEMENTATION.—The Secretary shall submit a report to Congress not later than October 1, 2007, that describes the status of implementation of such amendments and that includes a description of the following:

(A) The number of contracts that have been competitively bid as of such date.

(B) The distribution of functions among contracts and contractors.

(C) A timeline for complete transition to full competition.

(D) A detailed description of how the Secretary has modified oversight and management of medicare contractors to adapt to full competition.

SEC. 812. REQUIREMENTS FOR INFORMATION SECURITY FOR MEDICARE ADMINISTRATIVE CONTRACTORS.

(a) IN GENERAL.—Section 1874A, as added by section 811(a)(1), is amended by adding at the end the following new subsection:

“(e) REQUIREMENTS FOR INFORMATION SECURITY.—

“(1) DEVELOPMENT OF INFORMATION SECURITY PROGRAM.—A medicare administrative contractor that performs the functions referred to in subparagraphs (A) and (B) of subsection (a)(4) (relating to determining and making payments) shall implement a contractor-wide information security program to provide information security for the operation and assets of the contractor with respect to such functions under this title. An information security program under this paragraph shall meet the requirements for information security programs imposed on Federal agencies under section 3534(b)(2) of title 44, United States Code (other than requirements under subparagraphs (B)(ii), (F)(iii), and (F)(iv) of such section).

“(2) INDEPENDENT AUDITS.—

“(A) PERFORMANCE OF ANNUAL EVALUATIONS.—Each year a medicare administrative contractor that performs the functions referred to in subparagraphs (A) and (B) of subsection (a)(4) (relating to determining and making payments) shall undergo an evaluation of the information security of the contractor with respect to such functions under this title. The evaluation shall—

“(i) be performed by an entity that meets such requirements for independence as the Inspector General of the Department of Health and Human Services may establish; and

“(ii) test the effectiveness of information security control techniques for an appropriate subset of the contractor’s information systems (as defined in section 3502(8) of title 44, United States Code) relating to such functions under this title and an assessment of compliance with the requirements of this subsection and related information security policies, procedures, standards and guidelines.

“(B) DEADLINE FOR INITIAL EVALUATION.—

“(i) NEW CONTRACTORS.—In the case of a medicare administrative contractor covered by this subsection that has not previously performed the functions referred to in subparagraphs (A) and (B) of subsection (a)(4) (relating to determining and making payments) as a fiscal intermediary or carrier under section 1816 or 1842, the first independent evaluation conducted pursuant subparagraph (A) shall be completed prior to commencing such functions.

“(ii) OTHER CONTRACTORS.—In the case of a medicare administrative contractor covered by this subsection that is not described in clause (i), the first independent evaluation conducted pursuant subparagraph (A) shall be completed within 1 year after the date the contractor commences functions referred to in clause (i) under this section.

“(C) REPORTS ON EVALUATIONS.—

“(i) TO THE INSPECTOR GENERAL.—The results of independent evaluations under subparagraph (A) shall be submitted promptly to the Inspector General of the Department of Health and Human Services.

“(ii) TO CONGRESS.—The Inspector General of Department of Health and Human Services shall submit to Congress annual reports on the results of such evaluations.”.

(b) APPLICATION OF REQUIREMENTS TO FISCAL INTERMEDIARIES AND CARRIERS.—

(1) IN GENERAL.—The provisions of section 1874A(e)(2) of the Social Security Act (other than subparagraph (B)), as added by subsection (a), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

(2) DEADLINE FOR INITIAL EVALUATION.—In the case of such a fiscal intermediary or carrier with an agreement or contract under such respective section in effect as of the date of the enactment of this Act, the first evaluation under section 1874A(e)(2)(A) of the Social Security Act (as added by subsection (a)), pursuant to paragraph (1), shall be completed (and a report on the evaluation submitted to the Secretary) by not later than 1 year after such date.

Subtitle C—Education and Outreach

SEC. 821. PROVIDER EDUCATION AND TECHNICAL ASSISTANCE.

(a) COORDINATION OF EDUCATION FUNDING.—(1) IN GENERAL.—The Social Security Act is amended by inserting after section 1888 the following new section:

“PROVIDER EDUCATION AND TECHNICAL ASSISTANCE

“SEC. 1889. (a) COORDINATION OF EDUCATION FUNDING.—The Secretary shall coordinate the educational activities provided through medicare contractors (as defined in subsection (g), including under section 1893) in order to maximize the effectiveness of Federal education efforts for providers of services and suppliers.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(3) REPORT.—Not later than October 1, 2003, the Secretary shall submit to Congress a report that includes a description and evaluation of the steps taken to coordinate the funding of provider education under section 1889(a) of the Social Security Act, as added by paragraph (1).

(b) INCENTIVES TO IMPROVE CONTRACTOR PERFORMANCE.—

(1) IN GENERAL.—Section 1874A, as added by section 811(a)(1) and as amended by section 812(a), is amended by adding at the end the following new subsection:

“(f) INCENTIVES TO IMPROVE CONTRACTOR PERFORMANCE IN PROVIDER EDUCATION AND OUTREACH.—In order to give medicare administrative contractors an incentive to implement effective education and outreach programs for providers of services and suppliers, the Secretary shall develop and implement a methodology to measure the specific claims payment error rates of such contractors in

the processing or reviewing of medicare claims.”.

(2) APPLICATION TO FISCAL INTERMEDIARIES AND CARRIERS.—The provisions of section 1874A(f) of the Social Security Act, as added by paragraph (1), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

(3) GAO REPORT ON ADEQUACY OF METHODOLOGY.—Not later than October 1, 2003, the Comptroller General of the United States shall submit to Congress and to the Secretary a report on the adequacy of the methodology under section 1874A(f) of the Social Security Act, as added by paragraph (1), and shall include in the report such recommendations as the Comptroller General determines appropriate with respect to the methodology.

(4) REPORT ON USE OF METHODOLOGY IN ASSESSING CONTRACTOR PERFORMANCE.—Not later than October 1, 2003, the Secretary shall submit to Congress a report that describes how the Secretary intends to use such methodology in assessing medicare contractor performance in implementing effective education and outreach programs, including whether to use such methodology as a basis for performance bonuses. The report shall include an analysis of the sources of identified errors and potential changes in systems of contractors and rules of the Secretary that could reduce claims error rates.

(c) PROVISION OF ACCESS TO AND PROMPT RESPONSES FROM MEDICARE ADMINISTRATIVE CONTRACTORS.—

(1) IN GENERAL.—Section 1874A, as added by section 811(a)(1) and as amended by section 812(a) and subsection (b), is further amended by adding at the end the following new subsection:

“(g) COMMUNICATIONS WITH BENEFICIARIES, PROVIDERS OF SERVICES AND SUPPLIERS.—

“(1) COMMUNICATION STRATEGY.—The Secretary shall develop a strategy for communications with individuals entitled to benefits under part A or enrolled under part B, or both, and with providers of services and suppliers under this title.

“(2) RESPONSE TO WRITTEN INQUIRIES.—Each medicare administrative contractor shall, for those providers of services and suppliers which submit claims to the contractor for claims processing and for those individuals entitled to benefits under part A or enrolled under part B, or both, with respect to whom claims are submitted for claims processing, provide general written responses (which may be through electronic transmission) in a clear, concise, and accurate manner to inquiries of providers of services, suppliers and individuals entitled to benefits under part A or enrolled under part B, or both, concerning the programs under this title within 45 business days of the date of receipt of such inquiries.

“(3) RESPONSE TO TOLL-FREE LINES.—The Secretary shall ensure that each medicare administrative contractor shall provide, for those providers of services and suppliers which submit claims to the contractor for claims processing and for those individuals entitled to benefits under part A or enrolled under part B, or both, with respect to whom claims are submitted for claims processing, a toll-free telephone number at which such individuals, providers of services and suppliers may obtain information regarding billing, coding, claims, coverage, and other appropriate information under this title.

“(4) MONITORING OF CONTRACTOR RESPONSES.—

“(A) IN GENERAL.—Each medicare administrative contractor shall, consistent with standards developed by the Secretary under subparagraph (B)—

“(i) maintain a system for identifying who provides the information referred to in paragraphs (2) and (3); and

“(ii) monitor the accuracy, consistency, and timeliness of the information so provided.

“(B) DEVELOPMENT OF STANDARDS.—

“(i) IN GENERAL.—The Secretary shall establish and make public standards to monitor the accuracy, consistency, and timeliness of the information provided in response to written and telephone inquiries under this subsection. Such standards shall be consistent with the performance requirements established under subsection (b)(3).

“(ii) EVALUATION.—In conducting evaluations of individual medicare administrative contractors, the Secretary shall take into account the results of the monitoring conducted under subparagraph (A) taking into account as performance requirements the standards established under clause (i). The Secretary shall, in consultation with organizations representing providers of services, suppliers, and individuals entitled to benefits under part A or enrolled under part B, or both, establish standards relating to the accuracy, consistency, and timeliness of the information so provided.

“(C) DIRECT MONITORING.—Nothing in this paragraph shall be construed as preventing the Secretary from directly monitoring the accuracy, consistency, and timeliness of the information so provided.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect October 1, 2003.

(3) APPLICATION TO FISCAL INTERMEDIARIES AND CARRIERS.—The provisions of section 1874A(g) of the Social Security Act, as added by paragraph (1), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

(d) IMPROVED PROVIDER EDUCATION AND TRAINING.—

(1) IN GENERAL.—Section 1889, as added by subsection (a), is amended by adding at the end the following new subsections:

“(b) ENHANCED EDUCATION AND TRAINING.—

“(1) ADDITIONAL RESOURCES.—There are authorized to be appropriated to the Secretary (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) \$25,000,000 for each of fiscal years 2004 and 2005 and such sums as may be necessary for succeeding fiscal years.

“(2) USE.—The funds made available under paragraph (1) shall be used to increase the conduct by medicare contractors of education and training of providers of services and suppliers regarding billing, coding, and other appropriate items and may also be used to improve the accuracy, consistency, and timeliness of contractor responses.

“(c) TAILORING EDUCATION AND TRAINING ACTIVITIES FOR SMALL PROVIDERS OR SUPPLIERS.—

“(1) IN GENERAL.—Insofar as a medicare contractor conducts education and training activities, it shall tailor such activities to meet the special needs of small providers of services or suppliers (as defined in paragraph (2)).

“(2) SMALL PROVIDER OF SERVICES OR SUPPLIER.—In this subsection, the term ‘small provider of services or supplier’ means—

“(A) a provider of services with fewer than 25 full-time-equivalent employees; or

“(B) a supplier with fewer than 10 full-time-equivalent employees.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2003.

(e) REQUIREMENT TO MAINTAIN INTERNET SITES.—

(1) IN GENERAL.—Section 1889, as added by subsection (a) and as amended by subsection (d), is further amended by adding at the end the following new subsection:

“(d) INTERNET SITES; FAQs.—The Secretary, and each medicare contractor insofar as it provides services (including claims processing) for providers of services or suppliers, shall maintain an Internet site which—

“(1) provides answers in an easily accessible format to frequently asked questions, and

“(2) includes other published materials of the contractor,

that relate to providers of services and suppliers under the programs under this title (and title XI insofar as it relates to such programs).”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2003.

(f) ADDITIONAL PROVIDER EDUCATION PROVISIONS.—

(1) IN GENERAL.—Section 1889, as added by subsection (a) and as amended by subsections (d) and (e), is further amended by adding at the end the following new subsections:

“(e) ENCOURAGEMENT OF PARTICIPATION IN EDUCATION PROGRAM ACTIVITIES.—A medicare contractor may not use a record of attendance at (or failure to attend) educational activities or other information gathered during an educational program conducted under this section or otherwise by the Secretary to select or track providers of services or suppliers for the purpose of conducting any type of audit or prepayment review.

“(f) CONSTRUCTION.—Nothing in this section or section 1893(g) shall be construed as providing for disclosure by a medicare contractor of information that would compromise pending law enforcement activities or reveal findings of law enforcement-related audits.

“(g) DEFINITIONS.—For purposes of this section, the term ‘medicare contractor’ includes the following:

“(1) A medicare administrative contractor with a contract under section 1874A, including a fiscal intermediary with a contract under section 1816 and a carrier with a contract under section 1842.

“(2) An eligible entity with a contract under section 1893.

Such term does not include, with respect to activities of a specific provider of services or supplier an entity that has no authority under this title or title IX with respect to such activities and such provider of services or supplier.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

SEC. 822. SMALL PROVIDER TECHNICAL ASSISTANCE DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a demonstration program (in this section referred to as the “demonstration program”) under which technical assistance de-

scribed in paragraph (2) is made available, upon request and on a voluntary basis, to small providers of services or suppliers in order to improve compliance with the applicable requirements of the programs under medicare program under title XVIII of the Social Security Act (including provisions of title XI of such Act insofar as they relate to such title and are not administered by the Office of the Inspector General of the Department of Health and Human Services).

(2) FORMS OF TECHNICAL ASSISTANCE.—The technical assistance described in this paragraph is—

(A) evaluation and recommendations regarding billing and related systems; and

(B) information and assistance regarding policies and procedures under the medicare program, including coding and reimbursement.

(3) SMALL PROVIDERS OF SERVICES OR SUPPLIERS.—In this section, the term “small providers of services or suppliers” means—

(A) a provider of services with fewer than 25 full-time-equivalent employees; or

(B) a supplier with fewer than 10 full-time-equivalent employees.

(b) QUALIFICATION OF CONTRACTORS.—In conducting the demonstration program, the Secretary shall enter into contracts with qualified organizations (such as peer review organizations or entities described in section 1889(g)(2) of the Social Security Act, as inserted by section 5(f)(1) with appropriate expertise with billing systems of the full range of providers of services and suppliers to provide the technical assistance. In awarding such contracts, the Secretary shall consider any prior investigations of the entity’s work by the Inspector General of Department of Health and Human Services or the Comptroller General of the United States.

(c) DESCRIPTION OF TECHNICAL ASSISTANCE.—The technical assistance provided under the demonstration program shall include a direct and in-person examination of billing systems and internal controls of small providers of services or suppliers to determine program compliance and to suggest more efficient or effective means of achieving such compliance.

(d) AVOIDANCE OF RECOVERY ACTIONS FOR PROBLEMS IDENTIFIED AS CORRECTED.—The Secretary shall provide that, absent evidence of fraud and notwithstanding any other provision of law, any errors found in a compliance review for a small provider of services or supplier that participates in the demonstration program shall not be subject to recovery action if the technical assistance personnel under the program determine that—

(1) the problem that is the subject of the compliance review has been corrected to their satisfaction within 30 days of the date of the visit by such personnel to the small provider of services or supplier; and

(2) such problem remains corrected for such period as is appropriate.

The previous sentence applies only to claims filed as part of the demonstration program and lasts only for the duration of such program and only as long as the small provider of services or supplier is a participant in such program.

(e) GAO EVALUATION.—Not later than 2 years after the date of the date the demonstration program is first implemented, the Comptroller General, in consultation with the Inspector General of the Department of Health and Human Services, shall conduct an evaluation of the demonstration program. The evaluation shall include a determination of whether claims error rates are reduced for

small providers of services or suppliers who participated in the program and the extent of improper payments made as a result of the demonstration program. The Comptroller General shall submit a report to the Secretary and the Congress on such evaluation and shall include in such report recommendations regarding the continuation or extension of the demonstration program.

(f) FINANCIAL PARTICIPATION BY PROVIDERS.—The provision of technical assistance to a small provider of services or supplier under the demonstration program is conditioned upon the small provider of services or supplier paying an amount estimated (and disclosed in advance of a provider’s or supplier’s participation in the program) to be equal to 25 percent of the cost of the technical assistance.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to carry out the demonstration program—

(1) for fiscal year 2004, \$1,000,000, and

(2) for fiscal year 2005, \$6,000,000.

SEC. 823. MEDICARE PROVIDER OMBUDSMAN; MEDICARE BENEFICIARY OMBUDSMAN.

(a) MEDICARE PROVIDER OMBUDSMAN.—Section 1868 (42 U.S.C. 1395ee) is amended—

(1) by adding at the end of the heading the following: “; MEDICARE PROVIDER OMBUDSMAN”;

(2) by inserting “PRACTICING PHYSICIANS ADVISORY COUNCIL.—(1)” after “(a)”;

(3) in paragraph (1), as so redesignated under paragraph (2), by striking “in this section” and inserting “in this subsection”;

(4) by redesignating subsections (b) and (c) as paragraphs (2) and (3), respectively; and

(5) by adding at the end the following new subsection:

“(b) MEDICARE PROVIDER OMBUDSMAN.—The Secretary shall appoint within the Department of Health and Human Services a Medicare Provider Ombudsman. The Ombudsman shall—

“(1) provide assistance, on a confidential basis, to providers of services and suppliers with respect to complaints, grievances, and requests for information concerning the programs under this title (including provisions of title XI insofar as they relate to this title and are not administered by the Office of the Inspector General of the Department of Health and Human Services) and in the resolution of unclear or conflicting guidance given by the Secretary and medicare contractors to such providers of services and suppliers regarding such programs and provisions and requirements under this title and such provisions; and

“(2) submit recommendations to the Secretary for improvement in the administration of this title and such provisions, including—

“(A) recommendations to respond to recurring patterns of confusion in this title and such provisions (including recommendations regarding suspending imposition of sanctions where there is widespread confusion in program administration), and

“(B) recommendations to provide for an appropriate and consistent response (including not providing for audits) in cases of self-identified overpayments by providers of services and suppliers.

The Ombudsman shall not serve as an advocate for any increases in payments or new coverage of services, but may identify issues and problems in payment or coverage policies.”.

(b) **MEDICARE BENEFICIARY OMBUDSMAN.**—Title XVIII, as amended by sections 105 and 701, is amended by inserting after section 1808 the following new section:

“**MEDICARE BENEFICIARY OMBUDSMAN**

“**SEC. 1809. (a) IN GENERAL.**—The Secretary shall appoint within the Department of Health and Human Services a Medicare Beneficiary Ombudsman who shall have expertise and experience in the fields of health care and education of (and assistance to) individuals entitled to benefits under this title.

“(b) **DUTIES.**—The Medicare Beneficiary Ombudsman shall—

“(1) receive complaints, grievances, and requests for information submitted by individuals entitled to benefits under part A or enrolled under part B, or both, with respect to any aspect of the medicare program;

“(2) provide assistance with respect to complaints, grievances, and requests referred to in paragraph (1), including—

“(A) assistance in collecting relevant information for such individuals, to seek an appeal of a decision or determination made by a fiscal intermediary, carrier, Medicare+Choice organization, or the Secretary; and

“(B) assistance to such individuals with any problems arising from disenrollment from a Medicare+Choice plan under part C; and

“(3) submit annual reports to Congress and the Secretary that describe the activities of the Office and that include such recommendations for improvement in the administration of this title as the Ombudsman determines appropriate.

The Ombudsman shall not serve as an advocate for any increases in payments or new coverage of services, but may identify issues and problems in payment or coverage policies.

“(c) **WORKING WITH HEALTH INSURANCE COUNSELING PROGRAMS.**—To the extent possible, the Ombudsman shall work with health insurance counseling programs (receiving funding under section 4360 of Omnibus Budget Reconciliation Act of 1990) to facilitate the provision of information to individuals entitled to benefits under part A or enrolled under part B, or both regarding Medicare+Choice plans and changes to those plans. Nothing in this subsection shall preclude further collaboration between the Ombudsman and such programs.”

(c) **DEADLINE FOR APPOINTMENT.**—The Secretary shall appoint the Medicare Provider Ombudsman and the Medicare Beneficiary Ombudsman, under the amendments made by subsections (a) and (b), respectively, by not later than 1 year after the date of the enactment of this Act.

(d) **FUNDING.**—There are authorized to be appropriated to the Secretary (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to carry out the provisions of subsection (b) of section 1868 of the Social Security Act (relating to the Medicare Provider Ombudsman), as added by subsection (a)(5) and section 1809 of such Act (relating to the Medicare Beneficiary Ombudsman), as added by subsection (b), such sums as are necessary for fiscal year 2003 and each succeeding fiscal year.

(e) **USE OF CENTRAL, TOLL-FREE NUMBER (1-800-MEDICARE).**—

(1) **PHONE TRIAGE SYSTEM; LISTING IN MEDICARE HANDBOOK INSTEAD OF OTHER TOLL-FREE NUMBERS.**—Section 1804(b) (42 U.S.C. 1395b-2(b)) is amended by adding at the end the following: “The Secretary shall provide,

through the toll-free number 1-800-MEDICARE, for a means by which individuals seeking information about, or assistance with, such programs who phone such toll-free number are transferred (without charge) to appropriate entities for the provision of such information or assistance. Such toll-free number shall be the toll-free number listed for general information and assistance in the annual notice under subsection (a) instead of the listing of numbers of individual contractors.”

(2) **MONITORING ACCURACY.**—

(A) **STUDY.**—The Comptroller General of the United States shall conduct a study to monitor the accuracy and consistency of information provided to individuals entitled to benefits under part A or enrolled under part B, or both, through the toll-free number 1-800-MEDICARE, including an assessment of whether the information provided is sufficient to answer questions of such individuals. In conducting the study, the Comptroller General shall examine the education and training of the individuals providing information through such number.

(B) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subparagraph (A).

SEC. 824. BENEFICIARY OUTREACH DEMONSTRATION PROGRAM.

(a) **IN GENERAL.**—The Secretary shall establish a demonstration program (in this section referred to as the “demonstration program”) under which medicare specialists employed by the Department of Health and Human Services provide advice and assistance to individuals entitled to benefits under part A of title XVIII of the Social Security Act, or enrolled under part B of such title, or both, regarding the medicare program at the location of existing local offices of the Social Security Administration.

(b) **LOCATIONS.**—

(1) **IN GENERAL.**—The demonstration program shall be conducted in at least 6 offices or areas. Subject to paragraph (2), in selecting such offices and areas, the Secretary shall provide preference for offices with a high volume of visits by individuals referred to in subsection (a).

(2) **ASSISTANCE FOR RURAL BENEFICIARIES.**—The Secretary shall provide for the selection of at least 2 rural areas to participate in the demonstration program. In conducting the demonstration program in such rural areas, the Secretary shall provide for medicare specialists to travel among local offices in a rural area on a scheduled basis.

(c) **DURATION.**—The demonstration program shall be conducted over a 3-year period.

(d) **EVALUATION AND REPORT.**—

(1) **EVALUATION.**—The Secretary shall provide for an evaluation of the demonstration program. Such evaluation shall include an analysis of—

(A) utilization of, and satisfaction of those individuals referred to in subsection (a) with, the assistance provided under the program; and

(B) the cost-effectiveness of providing beneficiary assistance through out-stationing medicare specialists at local offices of the Social Security Administration.

(2) **REPORT.**—The Secretary shall submit to Congress a report on such evaluation and shall include in such report recommendations regarding the feasibility of permanently out-stationing medicare specialists at local offices of the Social Security Administration.

Subtitle D—Appeals and Recovery

SEC. 831. TRANSFER OF RESPONSIBILITY FOR MEDICARE APPEALS.

(a) **TRANSITION PLAN.**—

(1) **IN GENERAL.**—Not later than October 1, 2003, the Commissioner of Social Security and the Secretary shall develop and transmit to Congress and the Comptroller General of the United States a plan under which the functions of administrative law judges responsible for hearing cases under title XVIII of the Social Security Act (and related provisions in title XI of such Act) are transferred from the responsibility of the Commissioner and the Social Security Administration to the Secretary and the Department of Health and Human Services.

(2) **GAO EVALUATION.**—The Comptroller General of the United States shall evaluate the plan and, not later than the date that is 6 months after the date on which the plan is received by the Comptroller General, shall submit to Congress a report on such evaluation.

(b) **TRANSFER OF ADJUDICATION AUTHORITY.**—

(1) **IN GENERAL.**—Not earlier than July 1, 2004, and not later than October 1, 2004, the Commissioner of Social Security and the Secretary shall implement the transition plan under subsection (a) and transfer the administrative law judge functions described in such subsection from the Social Security Administration to the Secretary.

(2) **ASSURING INDEPENDENCE OF JUDGES.**—The Secretary shall assure the independence of administrative law judges performing the administrative law judge functions transferred under paragraph (1) from the Centers for Medicare & Medicaid Services and its contractors.

(3) **GEOGRAPHIC DISTRIBUTION.**—The Secretary shall provide for an appropriate geographic distribution of administrative law judges performing the administrative law judge functions transferred under paragraph (1) throughout the United States to ensure timely access to such judges.

(4) **HIRING AUTHORITY.**—Subject to the amounts provided in advance in appropriations Act, the Secretary shall have authority to hire administrative law judges to hear such cases, giving priority to those judges with prior experience in handling medicare appeals and in a manner consistent with paragraph (3), and to hire support staff for such judges.

(5) **FINANCING.**—Amounts payable under law to the Commissioner for administrative law judges performing the administrative law judge functions transferred under paragraph (1) from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund shall become payable to the Secretary for the functions so transferred.

(6) **SHARED RESOURCES.**—The Secretary shall enter into such arrangements with the Commissioner as may be appropriate with respect to transferred functions of administrative law judges to share office space, support staff, and other resources, with appropriate reimbursement from the Trust Funds described in paragraph (5).

(c) **INCREASED FINANCIAL SUPPORT.**—In addition to any amounts otherwise appropriated, to ensure timely action on appeals before administrative law judges and the Departmental Appeals Board consistent with section 1869 of the Social Security Act (as amended by section 521 of BIPA, 114 Stat. 2763A-534), there are authorized to be appropriated (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust

Fund) to the Secretary such sums as are necessary for fiscal year 2004 and each subsequent fiscal year to—

(1) increase the number of administrative law judges (and their staffs) under subsection (b)(4);

(2) improve education and training opportunities for administrative law judges (and their staffs); and

(3) increase the staff of the Departmental Appeals Board.

(d) CONFORMING AMENDMENT.—Section 1869(f)(2)(A)(i) (42 U.S.C. 1395ff(f)(2)(A)(i)), as added by section 522(a) of BIPA (114 Stat. 2763A–543), is amended by striking “of the Social Security Administration”.

SEC. 832. PROCESS FOR EXPEDITED ACCESS TO REVIEW.

(a) EXPEDITED ACCESS TO JUDICIAL REVIEW.—Section 1869(b) (42 U.S.C. 1395ff(b)) as amended by BIPA, is amended—

(1) in paragraph (1)(A), by inserting “, subject to paragraph (2),” before “to judicial review of the Secretary’s final decision”;

(2) in paragraph (1)(F)—

(A) by striking clause (ii);

(B) by striking “PROCEEDING” and all that follows through “DETERMINATION” and inserting “DETERMINATIONS AND RECONSIDERATIONS”; and

(C) by redesignating subclauses (I) and (II) as clauses (i) and (ii) and by moving the indentation of such subclauses (and the matter that follows) 2 ems to the left; and

(3) by adding at the end the following new paragraph:

“(2) EXPEDITED ACCESS TO JUDICIAL REVIEW.—

“(A) IN GENERAL.—The Secretary shall establish a process under which a provider of services or supplier that furnishes an item or service or an individual entitled to benefits under part A or enrolled under part B, or both, who has filed an appeal under paragraph (1) may obtain access to judicial review when a review panel (described in subparagraph (D)), on its own motion or at the request of the appellant, determines that no entity in the administrative appeals process has the authority to decide the question of law or regulation relevant to the matters in controversy and that there is no material issue of fact in dispute. The appellant may make such request only once with respect to a question of law or regulation in a case of an appeal.

“(B) PROMPT DETERMINATIONS.—If, after or coincident with appropriately filing a request for an administrative hearing, the appellant requests a determination by the appropriate review panel that no review panel has the authority to decide the question of law or regulations relevant to the matters in controversy and that there is no material issue of fact in dispute and if such request is accompanied by the documents and materials as the appropriate review panel shall require for purposes of making such determination, such review panel shall make a determination on the request in writing within 60 days after the date such review panel receives the request and such accompanying documents and materials. Such a determination by such review panel shall be considered a final decision and not subject to review by the Secretary.

“(C) ACCESS TO JUDICIAL REVIEW.—

“(i) IN GENERAL.—If the appropriate review panel—

“(I) determines that there are no material issues of fact in dispute and that the only issue is one of law or regulation that no review panel has the authority to decide; or

“(II) fails to make such determination within the period provided under subparagraph (B);

then the appellant may bring a civil action as described in this subparagraph.

“(ii) DEADLINE FOR FILING.—Such action shall be filed, in the case described in—

“(I) clause (i)(I), within 60 days of date of the determination described in such subparagraph; or

“(II) clause (i)(II), within 60 days of the end of the period provided under subparagraph (B) for the determination.

“(iii) VENUE.—Such action shall be brought in the district court of the United States for the judicial district in which the appellant is located (or, in the case of an action brought jointly by more than one applicant, the judicial district in which the greatest number of applicants are located) or in the district court for the District of Columbia.

“(iv) INTEREST ON AMOUNTS IN CONTROVERSY.—Where a provider of services or supplier seeks judicial review pursuant to this paragraph, the amount in controversy shall be subject to annual interest beginning on the first day of the first month beginning after the 60-day period as determined pursuant to clause (ii) and equal to the rate of interest on obligations issued for purchase by the Federal Hospital Insurance Trust Fund and by the Federal Supplementary Medical Insurance Trust Fund for the month in which the civil action authorized under this paragraph is commenced, to be awarded by the reviewing court in favor of the prevailing party. No interest awarded pursuant to the preceding sentence shall be deemed income or cost for the purposes of determining reimbursement due providers of services or suppliers under this Act.

“(D) REVIEW PANELS.—For purposes of this subsection, a ‘review panel’ is a panel consisting of 3 members (who shall be administrative law judges, members of the Departmental Appeals Board, or qualified individuals associated with a qualified independent contractor (as defined in subsection (c)(2)) or with another independent entity) designated by the Secretary for purposes of making determinations under this paragraph.”

(b) APPLICATION TO PROVIDER AGREEMENT DETERMINATIONS.—Section 1866(h)(1) (42 U.S.C. 1395cc(h)(1)) is amended—

(1) by inserting “(A)” after “(h)(1)”; and

(2) by adding at the end the following new subparagraph:

“(B) An institution or agency described in subparagraph (A) that has filed for a hearing under subparagraph (A) shall have expedited access to judicial review under this subparagraph in the same manner as providers of services, suppliers, and individuals entitled to benefits under part A or enrolled under part B, or both, may obtain expedited access to judicial review under the process established under section 1869(b)(2). Nothing in this subparagraph shall be construed to affect the application of any remedy imposed under section 1819 during the pendency of an appeal under this subparagraph.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to appeals filed on or after October 1, 2003.

(d) EXPEDITED REVIEW OF CERTAIN PROVIDER AGREEMENT DETERMINATIONS.—

(1) TERMINATION AND CERTAIN OTHER IMMEDIATE REMEDIES.—The Secretary shall develop and implement a process to expedite proceedings under sections 1866(h) of the Social Security Act (42 U.S.C. 1395cc(h)) in which the remedy of termination of participation, or a remedy described in clause (i) or (iii) of section 1819(h)(2)(B) of such Act (42

U.S.C. 1395i–3(h)(2)(B)) which is applied on an immediate basis, has been imposed. Under such process priority shall be provided in cases of termination.

(2) INCREASED FINANCIAL SUPPORT.—In addition to any amounts otherwise appropriated, to reduce by 50 percent the average time for administrative determinations on appeals under section 1866(h) of the Social Security Act (42 U.S.C. 1395cc(h)), there are authorized to be appropriated (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to the Secretary such additional sums for fiscal year 2004 and each subsequent fiscal year as may be necessary. The purposes for which such amounts are available include increasing the number of administrative law judges (and their staffs) and the appellate level staff at the Departmental Appeals Board of the Department of Health and Human Services and educating such judges and staffs on long-term care issues.

SEC. 833. REVISIONS TO MEDICARE APPEALS PROCESS.

(a) REQUIRING FULL AND EARLY PRESENTATION OF EVIDENCE.—

(1) IN GENERAL.—Section 1869(b) (42 U.S.C. 1395ff(b)), as amended by BIPA and as amended by section 832(a), is further amended by adding at the end the following new paragraph:

“(3) REQUIRING FULL AND EARLY PRESENTATION OF EVIDENCE BY PROVIDERS.—A provider of services or supplier may not introduce evidence in any appeal under this section that was not presented at the reconsideration conducted by the qualified independent contractor under subsection (c), unless there is good cause which precluded the introduction of such evidence at or before that reconsideration.”

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2003.

(b) USE OF PATIENTS’ MEDICAL RECORDS.—Section 1869(c)(3)(B)(i) (42 U.S.C. 1395ff(c)(3)(B)(i)), as amended by BIPA, is amended by inserting “(including the medical records of the individual involved)” after “clinical experience”.

(c) NOTICE REQUIREMENTS FOR MEDICARE APPEALS.—

(1) INITIAL DETERMINATIONS AND REDETERMINATIONS.—Section 1869(a) (42 U.S.C. 1395ff(a)), as amended by BIPA, is amended by adding at the end the following new paragraph:

“(4) REQUIREMENTS OF NOTICE OF DETERMINATIONS AND REDETERMINATIONS.—A written notice of a determination on an initial determination or on a redetermination, insofar as such determination or redetermination results in a denial of a claim for benefits, shall include—

“(A) the specific reasons for the determination, including—

“(i) upon request, the provision of the policy, manual, or regulation used in making the determination; and

“(ii) as appropriate in the case of a redetermination, a summary of the clinical or scientific evidence used in making the determination;

“(B) the procedures for obtaining additional information concerning the determination or redetermination; and

“(C) notification of the right to seek a redetermination or otherwise appeal the determination and instructions on how to initiate such a redetermination or appeal under this section.

The written notice on a redetermination shall be provided in printed form and written

in a manner calculated to be understood by the individual entitled to benefits under part A or enrolled under part B, or both.”.

(2) RECONSIDERATIONS.—Section 1869(c)(3)(E) (42 U.S.C. 1395ff(c)(3)(E)), as amended by BIPA, is amended—

(A) by inserting “be written in a manner calculated to be understood by the individual entitled to benefits under part A or enrolled under part B, or both, and shall include (to the extent appropriate)” after “in writing, ”; and

(B) by inserting “and a notification of the right to appeal such determination and instructions on how to initiate such appeal under this section” after “such decision, ”.

(3) APPEALS.—Section 1869(d) (42 U.S.C. 1395ff(d)), as amended by BIPA, is amended—

(A) in the heading, by inserting “; NOTICE” after “SECRETARY”; and

(B) by adding at the end the following new paragraph:

“(4) NOTICE.—Notice of the decision of an administrative law judge shall be in writing in a manner calculated to be understood by the individual entitled to benefits under part A or enrolled under part B, or both, and shall include—

“(A) the specific reasons for the determination (including, to the extent appropriate, a summary of the clinical or scientific evidence used in making the determination);

“(B) the procedures for obtaining additional information concerning the decision; and

“(C) notification of the right to appeal the decision and instructions on how to initiate such an appeal under this section.”.

(4) SUBMISSION OF RECORD FOR APPEAL.—Section 1869(c)(3)(J)(i) (42 U.S.C. 1395ff(c)(3)(J)(i)) by striking “prepare” and inserting “submit” and by striking “with respect to” and all that follows through “and relevant policies”.

(d) QUALIFIED INDEPENDENT CONTRACTORS.—

(1) ELIGIBILITY REQUIREMENTS OF QUALIFIED INDEPENDENT CONTRACTORS.—Section 1869(c)(3) (42 U.S.C. 1395ff(c)(3)), as amended by BIPA, is amended—

(A) in subparagraph (A), by striking “sufficient training and expertise in medical science and legal matters” and inserting “sufficient medical, legal, and other expertise (including knowledge of the program under this title) and sufficient staffing”; and

(B) by adding at the end the following new subparagraph:

“(K) INDEPENDENCE REQUIREMENTS.—

“(i) IN GENERAL.—Subject to clause (ii), a qualified independent contractor shall not conduct any activities in a case unless the entity—

“(I) is not a related party (as defined in subsection (g)(5));

“(II) does not have a material familial, financial, or professional relationship with such a party in relation to such case; and

“(III) does not otherwise have a conflict of interest with such a party.

“(ii) EXCEPTION FOR REASONABLE COMPENSATION.—Nothing in clause (i) shall be construed to prohibit receipt by a qualified independent contractor of compensation from the Secretary for the conduct of activities under this section if the compensation is provided consistent with clause (iii).

“(iii) LIMITATIONS ON ENTITY COMPENSATION.—Compensation provided by the Secretary to a qualified independent contractor in connection with reviews under this section shall not be contingent on any decision rendered by the contractor or by any reviewing professional.”.

(2) ELIGIBILITY REQUIREMENTS FOR REVIEWERS.—Section 1869 (42 U.S.C. 1395ff), as amended by BIPA, is amended—

(A) by amending subsection (c)(3)(D) to read as follows:

“(D) QUALIFICATIONS FOR REVIEWERS.—The requirements of subsection (g) shall be met (relating to qualifications of reviewing professionals).”; and

(B) by adding at the end the following new subsection:

“(g) QUALIFICATIONS OF REVIEWERS.—

“(1) IN GENERAL.—In reviewing determinations under this section, a qualified independent contractor shall assure that—

“(A) each individual conducting a review shall meet the qualifications of paragraph (2);

“(B) compensation provided by the contractor to each such reviewer is consistent with paragraph (3); and

“(C) in the case of a review by a panel described in subsection (c)(3)(B) composed of physicians or other health care professionals (each in this subsection referred to as a ‘reviewing professional’), each reviewing professional meets the qualifications described in paragraph (4) and, where a claim is regarding the furnishing of treatment by a physician (allopathic or osteopathic) or the provision of items or services by a physician (allopathic or osteopathic), each reviewing professional shall be a physician (allopathic or osteopathic).

“(2) INDEPENDENCE.—

“(A) IN GENERAL.—Subject to subparagraph (B), each individual conducting a review in a case shall—

“(i) not be a related party (as defined in paragraph (5));

“(ii) not have a material familial, financial, or professional relationship with such a party in the case under review; and

“(iii) not otherwise have a conflict of interest with such a party.

“(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

“(i) prohibit an individual, solely on the basis of a participation agreement with a fiscal intermediary, carrier, or other contractor, from serving as a reviewing professional if—

“(I) the individual is not involved in the provision of items or services in the case under review;

“(II) the fact of such an agreement is disclosed to the Secretary and the individual entitled to benefits under part A or enrolled under part B, or both, (or authorized representative) and neither party objects; and

“(III) the individual is not an employee of the intermediary, carrier, or contractor and does not provide services exclusively or primarily to or on behalf of such intermediary, carrier, or contractor;

“(ii) prohibit an individual who has staff privileges at the institution where the treatment involved takes place from serving as a reviewer merely on the basis of having such staff privileges if the existence of such privileges is disclosed to the Secretary and such individual (or authorized representative), and neither party objects; or

“(iii) prohibit receipt of compensation by a reviewing professional from a contractor if the compensation is provided consistent with paragraph (3).

For purposes of this paragraph, the term ‘participation agreement’ means an agreement relating to the provision of health care services by the individual and does not include the provision of services as a reviewer under this subsection.

“(3) LIMITATIONS ON REVIEWER COMPENSATION.—Compensation provided by a qualified

independent contractor to a reviewer in connection with a review under this section shall not be contingent on the decision rendered by the reviewer.

“(4) LICENSURE AND EXPERTISE.—Each reviewing professional shall be—

“(A) a physician (allopathic or osteopathic) who is appropriately credentialed or licensed in one or more States to deliver health care services and has medical expertise in the field of practice that is appropriate for the items or services at issue; or

“(B) a health care professional who is legally authorized in one or more States (in accordance with State law or the State regulatory mechanism provided by State law) to furnish the health care items or services at issue and has medical expertise in the field of practice that is appropriate for such items or services.

“(5) RELATED PARTY DEFINED.—For purposes of this section, the term ‘related party’ means, with respect to a case under this title involving a specific individual entitled to benefits under part A or enrolled under part B, or both, any of the following:

“(A) The Secretary, the medicare administrative contractor involved, or any fiduciary, officer, director, or employee of the Department of Health and Human Services, or of such contractor.

“(B) The individual (or authorized representative).

“(C) The health care professional that provides the items or services involved in the case.

“(D) The institution at which the items or services (or treatment) involved in the case are provided.

“(E) The manufacturer of any drug or other item that is included in the items or services involved in the case.

“(F) Any other party determined under any regulations to have a substantial interest in the case involved.”.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall be effective as if included in the enactment of the respective provisions of subtitle C of title V of BIPA, (114 Stat. 2763A–534).

(4) TRANSITION.—In applying section 1869(g) of the Social Security Act (as added by paragraph (2)), any reference to a medicare administrative contractor shall be deemed to include a reference to a fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and a carrier under section 1842 of such Act (42 U.S.C. 1395u).

SEC. 834. PREPAYMENT REVIEW.

(a) IN GENERAL.—Section 1874A, as added by section 811(a)(1) and as amended by sections 812(b), 821(b)(1), and 821(c)(1), is further amended by adding at the end the following new subsection:

“(h) CONDUCT OF PREPAYMENT REVIEW.—

“(1) CONDUCT OF RANDOM PREPAYMENT REVIEW.—

“(A) IN GENERAL.—A medicare administrative contractor may conduct random prepayment review only to develop a contractor-wide or program-wide claims payment error rates or under such additional circumstances as may be provided under regulations, developed in consultation with providers of services and suppliers.

“(B) USE OF STANDARD PROTOCOLS WHEN CONDUCTING PREPAYMENT REVIEWS.—When a medicare administrative contractor conducts a random prepayment review, the contractor may conduct such review only in accordance with a standard protocol for random prepayment audits developed by the Secretary.

“(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing the

denial of payments for claims actually reviewed under a random prepayment review.

“(D) RANDOM PREPAYMENT REVIEW.—For purposes of this subsection, the term ‘random prepayment review’ means a demand for the production of records or documentation absent cause with respect to a claim.

“(2) LIMITATIONS ON NON-RANDOM PREPAYMENT REVIEW.—

“(A) LIMITATIONS ON INITIATION OF NON-RANDOM PREPAYMENT REVIEW.—A medicare administrative contractor may not initiate non-random prepayment review of a provider of services or supplier based on the initial identification by that provider of services or supplier of an improper billing practice unless there is a likelihood of sustained or high level of payment error (as defined in subsection (i)(3)(A)).

“(B) TERMINATION OF NON-RANDOM PREPAYMENT REVIEW.—The Secretary shall issue regulations relating to the termination, including termination dates, of non-random prepayment review. Such regulations may vary such a termination date based upon the differences in the circumstances triggering prepayment review.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendment made by subsection (a) shall take effect 1 year after the date of the enactment of this Act.

(2) DEADLINE FOR PROMULGATION OF CERTAIN REGULATIONS.—The Secretary shall first issue regulations under section 1874A(h) of the Social Security Act, as added by subsection (a), by not later than 1 year after the date of the enactment of this Act.

(3) APPLICATION OF STANDARD PROTOCOLS FOR RANDOM PREPAYMENT REVIEW.—Section 1874A(h)(1)(B) of the Social Security Act, as added by subsection (a), shall apply to random prepayment reviews conducted on or after such date (not later than 1 year after the date of the enactment of this Act) as the Secretary shall specify.

(c) APPLICATION TO FISCAL INTERMEDIARIES AND CARRIERS.—The provisions of section 1874A(h) of the Social Security Act, as added by subsection (a), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

SEC. 835. RECOVERY OF OVERPAYMENTS.

(a) IN GENERAL.—Section 1893 (42 U.S.C. 1395ddd) is amended by adding at the end the following new subsection:

“(f) RECOVERY OF OVERPAYMENTS.—

“(1) USE OF REPAYMENT PLANS.—

“(A) IN GENERAL.—If the repayment, within 30 days by a provider of services or supplier, of an overpayment under this title would constitute a hardship (as defined in subparagraph (B)), subject to subparagraph (C), upon request of the provider of services or supplier the Secretary shall enter into a plan with the provider of services or supplier for the repayment (through offset or otherwise) of such overpayment over a period of at least 6 months but not longer than 3 years (or not longer than 5 years in the case of extreme hardship, as determined by the Secretary). Interest shall accrue on the balance through the period of repayment. Such plan shall meet terms and conditions determined to be appropriate by the Secretary.

“(B) HARDSHIP.—

“(i) IN GENERAL.—For purposes of subparagraph (A), the repayment of an overpayment (or overpayments) within 30 days is deemed to constitute a hardship if—

“(I) in the case of a provider of services that files cost reports, the aggregate amount of the overpayments exceeds 10 percent of the amount paid under this title to the provider of services for the cost reporting period covered by the most recently submitted cost report; or

“(II) in the case of another provider of services or supplier, the aggregate amount of the overpayments exceeds 10 percent of the amount paid under this title to the provider of services or supplier for the previous calendar year.

“(ii) RULE OF APPLICATION.—The Secretary shall establish rules for the application of this subparagraph in the case of a provider of services or supplier that was not paid under this title during the previous year or was paid under this title only during a portion of that year.

“(iii) TREATMENT OF PREVIOUS OVERPAYMENTS.—If a provider of services or supplier has entered into a repayment plan under subparagraph (A) with respect to a specific overpayment amount, such payment amount under the repayment plan shall not be taken into account under clause (i) with respect to subsequent overpayment amounts.

“(C) EXCEPTIONS.—Subparagraph (A) shall not apply if—

“(i) the Secretary has reason to suspect that the provider of services or supplier may file for bankruptcy or otherwise cease to do business or discontinue participation in the program under this title; or

“(ii) there is an indication of fraud or abuse committed against the program.

“(D) IMMEDIATE COLLECTION IF VIOLATION OF REPAYMENT PLAN.—If a provider of services or supplier fails to make a payment in accordance with a repayment plan under this paragraph, the Secretary may immediately seek to offset or otherwise recover the total balance outstanding (including applicable interest) under the repayment plan.

“(E) RELATION TO NO FAULT PROVISION.—Nothing in this paragraph shall be construed as affecting the application of section 1870(c) (relating to no adjustment in the cases of certain overpayments).

“(2) LIMITATION ON RECOUPMENT.—

“(A) IN GENERAL.—In the case of a provider of services or supplier that is determined to have received an overpayment under this title and that seeks a reconsideration by a qualified independent contractor on such determination under section 1869(b)(1), the Secretary may not take any action (or authorize any other person, including any medicare contractor, as defined in subparagraph (C)) to recoup the overpayment until the date the decision on the reconsideration has been rendered. If the provisions of section 1869(b)(1) (providing for such a reconsideration by a qualified independent contractor) are not in effect, in applying the previous sentence any reference to such a reconsideration shall be treated as a reference to a redetermination by the fiscal intermediary or carrier involved.

“(B) COLLECTION WITH INTEREST.—Insofar as the determination on such appeal is against the provider of services or supplier, interest on the overpayment shall accrue on and after the date of the original notice of overpayment. Insofar as such determination against the provider of services or supplier is later reversed, the Secretary shall provide for repayment of the amount recouped plus interest at the same rate as would apply under the previous sentence for the period in which the amount was recouped.

“(C) MEDICARE CONTRACTOR DEFINED.—For purposes of this subsection, the term ‘medi-

care contractor’ has the meaning given such term in section 1889(g).

“(3) LIMITATION ON USE OF EXTRAPO- LATION.—A medicare contractor may not use extrapolation to determine overpayment amounts to be recovered by recoupment, offset, or otherwise unless—

“(A) there is a sustained or high level of payment error (as defined by the Secretary by regulation); or

“(B) documented educational intervention has failed to correct the payment error (as determined by the Secretary).

“(4) PROVISION OF SUPPORTING DOCUMENTA- TION.—In the case of a provider of services or supplier with respect to which amounts were previously overpaid, a medicare contractor may request the periodic production of records or supporting documentation for a limited sample of submitted claims to ensure that the previous practice is not continuing.

“(5) CONSENT SETTLEMENT REFORMS.—

“(A) IN GENERAL.—The Secretary may use a consent settlement (as defined in subparagraph (D)) to settle a projected overpayment.

“(B) OPPORTUNITY TO SUBMIT ADDITIONAL INFORMATION BEFORE CONSENT SETTLEMENT OFFER.—Before offering a provider of services or supplier a consent settlement, the Secretary shall—

“(i) communicate to the provider of services or supplier—

“(I) that, based on a review of the medical records requested by the Secretary, a preliminary evaluation of those records indicates that there would be an overpayment;

“(II) the nature of the problems identified in such evaluation; and

“(III) the steps that the provider of services or supplier should take to address the problems; and

“(ii) provide for a 45-day period during which the provider of services or supplier may furnish additional information concerning the medical records for the claims that had been reviewed.

“(C) CONSENT SETTLEMENT OFFER.—The Secretary shall review any additional information furnished by the provider of services or supplier under subparagraph (B)(ii). Taking into consideration such information, the Secretary shall determine if there still appears to be an overpayment. If so, the Secretary—

“(i) shall provide notice of such determination to the provider of services or supplier, including an explanation of the reason for such determination; and

“(ii) in order to resolve the overpayment, may offer the provider of services or supplier—

“(I) the opportunity for a statistically valid random sample; or

“(II) a consent settlement.

The opportunity provided under clause (ii)(I) does not waive any appeal rights with respect to the alleged overpayment involved.

“(D) CONSENT SETTLEMENT DEFINED.—For purposes of this paragraph, the term ‘consent settlement’ means an agreement between the Secretary and a provider of services or supplier whereby both parties agree to settle a projected overpayment based on less than a statistically valid sample of claims and the provider of services or supplier agrees not to appeal the claims involved.

“(6) NOTICE OF OVER-UTILIZATION OF CODES.—The Secretary shall establish, in consultation with organizations representing the classes of providers of services and suppliers, a process under which the Secretary provides for notice to classes of providers of services and suppliers served by the contractor in cases in which the contractor has

identified that particular billing codes may be overutilized by that class of providers of services or suppliers under the programs under this title (or provisions of title XI insofar as they relate to such programs).

“(7) PAYMENT AUDITS.—

“(A) WRITTEN NOTICE FOR POST-PAYMENT AUDITS.—Subject to subparagraph (C), if a medicare contractor decides to conduct a post-payment audit of a provider of services or supplier under this title, the contractor shall provide the provider of services or supplier with written notice (which may be in electronic form) of the intent to conduct such an audit.

“(B) EXPLANATION OF FINDINGS FOR ALL AUDITS.—Subject to subparagraph (C), if a medicare contractor audits a provider of services or supplier under this title, the contractor shall—

“(i) give the provider of services or supplier a full review and explanation of the findings of the audit in a manner that is understandable to the provider of services or supplier and permits the development of an appropriate corrective action plan;

“(ii) inform the provider of services or supplier of the appeal rights under this title as well as consent settlement options (which are at the discretion of the Secretary);

“(iii) give the provider of services or supplier an opportunity to provide additional information to the contractor; and

“(iv) take into account information provided, on a timely basis, by the provider of services or supplier under clause (iii).

“(C) EXCEPTION.—Subparagraphs (A) and (B) shall not apply if the provision of notice or findings would compromise pending law enforcement activities, whether civil or criminal, or reveal findings of law enforcement-related audits.

“(8) STANDARD METHODOLOGY FOR PROBE SAMPLING.—The Secretary shall establish a standard methodology for medicare contractors to use in selecting a sample of claims for review in the case of an abnormal billing pattern.”

(b) EFFECTIVE DATES AND DEADLINES.—

(1) USE OF REPAYMENT PLANS.—Section 1893(f)(1) of the Social Security Act, as added by subsection (a), shall apply to requests for repayment plans made after the date of the enactment of this Act.

(2) LIMITATION ON RECOUPMENT.—Section 1893(f)(2) of the Social Security Act, as added by subsection (a), shall apply to actions taken after the date of the enactment of this Act.

(3) USE OF EXTRAPOLATION.—Section 1893(f)(3) of the Social Security Act, as added by subsection (a), shall apply to statistically valid random samples initiated after the date that is 1 year after the date of the enactment of this Act.

(4) PROVISION OF SUPPORTING DOCUMENTATION.—Section 1893(f)(4) of the Social Security Act, as added by subsection (a), shall take effect on the date of the enactment of this Act.

(5) CONSENT SETTLEMENT.—Section 1893(f)(5) of the Social Security Act, as added by subsection (a), shall apply to consent settlements entered into after the date of the enactment of this Act.

(6) NOTICE OF OVERUTILIZATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall first establish the process for notice of overutilization of billing codes under section 1893A(f)(6) of the Social Security Act, as added by subsection (a).

(7) PAYMENT AUDITS.—Section 1893A(f)(7) of the Social Security Act, as added by sub-

section (a), shall apply to audits initiated after the date of the enactment of this Act.

(8) STANDARD FOR ABNORMAL BILLING PATTERNS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall first establish a standard methodology for selection of sample claims for abnormal billing patterns under section 1893(f)(8) of the Social Security Act, as added by subsection (a).

SEC. 836. PROVIDER ENROLLMENT PROCESS; RIGHT OF APPEAL.

(a) IN GENERAL.—Section 1866 (42 U.S.C. 1395cc) is amended—

(1) by adding at the end of the heading the following: “; ENROLLMENT PROCESSES”; and

(2) by adding at the end of the following new subsection:

“(j) ENROLLMENT PROCESS FOR PROVIDERS OF SERVICES AND SUPPLIERS.—

“(1) ENROLLMENT PROCESS.—

“(A) IN GENERAL.—The Secretary shall establish by regulation a process for the enrollment of providers of services and suppliers under this title.

“(B) DEADLINES.—The Secretary shall establish by regulation procedures under which there are deadlines for actions on applications for enrollment (and, if applicable, renewal of enrollment). The Secretary shall monitor the performance of medicare administrative contractors in meeting the deadlines established under this subparagraph.

“(C) CONSULTATION BEFORE CHANGING PROVIDER ENROLLMENT FORMS.—The Secretary shall consult with providers of services and suppliers before making changes in the provider enrollment forms required of such providers and suppliers to be eligible to submit claims for which payment may be made under this title.

“(2) HEARING RIGHTS IN CASES OF DENIAL OR NON-RENEWAL.—A provider of services or supplier whose application to enroll (or, if applicable, to renew enrollment) under this title is denied may have a hearing and judicial review of such denial under the procedures that apply under subsection (h)(1)(A) to a provider of services that is dissatisfied with a determination by the Secretary.”

(b) EFFECTIVE DATES.—

(1) ENROLLMENT PROCESS.—The Secretary shall provide for the establishment of the enrollment process under section 1866(j)(1) of the Social Security Act, as added by subsection (a)(2), within 6 months after the date of the enactment of this Act.

(2) CONSULTATION.—Section 1866(j)(1)(C) of the Social Security Act, as added by subsection (a)(2), shall apply with respect to changes in provider enrollment forms made on or after January 1, 2003.

(3) HEARING RIGHTS.—Section 1866(j)(2) of the Social Security Act, as added by subsection (a)(2), shall apply to denials occurring on or after such date (not later than 1 year after the date of the enactment of this Act) as the Secretary specifies.

SEC. 837. PROCESS FOR CORRECTION OF MINOR ERRORS AND OMISSIONS ON CLAIMS WITHOUT PURSUING APPEALS PROCESS.

The Secretary shall develop, in consultation with appropriate medicare contractors (as defined in section 1889(g) of the Social Security Act, as inserted by section 821(a)(1)) and representatives of providers of services and suppliers, a process whereby, in the case of minor errors or omissions (as defined by the Secretary) that are detected in the submission of claims under the programs under title XVIII of such Act, a provider of services or supplier is given an opportunity to correct such an error or omission without the need

to initiate an appeal. Such process shall include the ability to resubmit corrected claims.

SEC. 838. PRIOR DETERMINATION PROCESS FOR CERTAIN ITEMS AND SERVICES; ADVANCE BENEFICIARY NOTICES.

(a) IN GENERAL.—Section 1869 (42 U.S.C. 1395ff(b)), as amended by sections 521 and 522 of BIPA and section 833(d)(2)(B), is further amended by adding at the end the following new subsection:

“(h) PRIOR DETERMINATION PROCESS FOR CERTAIN ITEMS AND SERVICES.—

“(1) ESTABLISHMENT OF PROCESS.—

“(A) IN GENERAL.—With respect to a medicare administrative contractor that has a contract under section 1874A that provides for making payments under this title with respect to eligible items and services described in subparagraph (C), the Secretary shall establish a prior determination process that meets the requirements of this subsection and that shall be applied by such contractor in the case of eligible requesters.

“(B) ELIGIBLE REQUESTER.—For purposes of this subsection, each of the following shall be an eligible requester:

“(i) A physician, but only with respect to eligible items and services for which the physician may be paid directly.

“(ii) An individual entitled to benefits under this title, but only with respect to an item or service for which the individual receives, from the physician who may be paid directly for the item or service, an advance beneficiary notice under section 1879(a) that payment may not be made (or may no longer be made) for the item or service under this title.

“(C) ELIGIBLE ITEMS AND SERVICES.—For purposes of this subsection and subject to paragraph (2), eligible items and services are items and services which are physicians' services (as defined in paragraph (4)(A) of section 1848(f) for purposes of calculating the sustainable growth rate under such section).

“(2) SECRETARIAL FLEXIBILITY.—The Secretary shall establish by regulation reasonable limits on the categories of eligible items and services for which a prior determination of coverage may be requested under this subsection. In establishing such limits, the Secretary may consider the dollar amount involved with respect to the item or service, administrative costs and burdens, and other relevant factors.

“(3) REQUEST FOR PRIOR DETERMINATION.—

“(A) IN GENERAL.—Subject to paragraph (2), under the process established under this subsection an eligible requester may submit to the contractor a request for a determination, before the furnishing of an eligible item or service involved as to whether the item or service is covered under this title consistent with the applicable requirements of section 1862(a)(1)(A) (relating to medical necessity).

“(B) ACCOMPANYING DOCUMENTATION.—The Secretary may require that the request be accompanied by a description of the item or service, supporting documentation relating to the medical necessity for the item or service, and any other appropriate documentation. In the case of a request submitted by an eligible requester who is described in paragraph (1)(B)(ii), the Secretary may require that the request also be accompanied by a copy of the advance beneficiary notice involved.

“(4) RESPONSE TO REQUEST.—

“(A) IN GENERAL.—Under such process, the contractor shall provide the eligible requester with written notice of a determination as to whether—

“(i) the item or service is so covered;

“(ii) the item or service is not so covered; or

“(iii) the contractor lacks sufficient information to make a coverage determination.

If the contractor makes the determination described in clause (iii), the contractor shall include in the notice a description of the additional information required to make the coverage determination.

“(B) DEADLINE TO RESPOND.—Such notice shall be provided within the same time period as the time period applicable to the contractor providing notice of initial determinations on a claim for benefits under subsection (a)(2)(A).

“(C) INFORMING BENEFICIARY IN CASE OF PHYSICIAN REQUEST.—In the case of a request in which an eligible requester is not the individual described in paragraph (1)(B)(ii), the process shall provide that the individual to whom the item or service is proposed to be furnished shall be informed of any determination described in clause (ii) (relating to a determination of non-coverage) and the right (referred to in paragraph (6)(B)) to obtain the item or service and have a claim submitted for the item or service.

“(5) EFFECT OF DETERMINATIONS.—

“(A) BINDING NATURE OF POSITIVE DETERMINATION.—If the contractor makes the determination described in paragraph (4)(A)(i), such determination shall be binding on the contractor in the absence of fraud or evidence of misrepresentation of facts presented to the contractor.

“(B) NOTICE AND RIGHT TO REDETERMINATION IN CASE OF A DENIAL.—

“(i) IN GENERAL.—If the contractor makes the determination described in paragraph (4)(A)(ii)—

“(I) the eligible requester has the right to a redetermination by the contractor on the determination that the item or service is not so covered; and

“(II) the contractor shall include in notice under paragraph (4)(A) a brief explanation of the basis for the determination, including on what national or local coverage or noncoverage determination (if any) the determination is based, and the right to such a redetermination.

“(ii) DEADLINE FOR REDETERMINATIONS.—The contractor shall complete and provide notice of such redetermination within the same time period as the time period applicable to the contractor providing notice of redeterminations relating to a claim for benefits under subsection (a)(3)(C)(ii).

“(6) LIMITATION ON FURTHER REVIEW.—

“(A) IN GENERAL.—Contractor determinations described in paragraph (4)(A)(ii) or (4)(A)(iii) (and redeterminations made under paragraph (5)(B)), relating to pre-service claims are not subject to further administrative appeal or judicial review under this section or otherwise.

“(B) DECISION NOT TO SEEK PRIOR DETERMINATION OR NEGATIVE DETERMINATION DOES NOT IMPACT RIGHT TO OBTAIN SERVICES, SEEK REIMBURSEMENT, OR APPEAL RIGHTS.—Nothing in this subsection shall be construed as affecting the right of an individual who—

“(i) decides not to seek a prior determination under this subsection with respect to items or services; or

“(ii) seeks such a determination and has received a determination described in paragraph (4)(A)(ii),

from receiving (and submitting a claim for) such items services and from obtaining administrative or judicial review respecting such claim under the other applicable provisions of this section. Failure to seek a prior determination under this subsection with re-

spect to items and services shall not be taken into account in such administrative or judicial review.

“(C) NO PRIOR DETERMINATION AFTER RECEIPT OF SERVICES.—Once an individual is provided items and services, there shall be no prior determination under this subsection with respect to such items or services.”.

(b) EFFECTIVE DATE; TRANSITION.—

(1) EFFECTIVE DATE.—The Secretary shall establish the prior determination process under the amendment made by subsection (a) in such a manner as to provide for the acceptance of requests for determinations under such process filed not later than 18 months after the date of the enactment of this Act.

(2) TRANSITION.—During the period in which the amendment made by subsection (a) has become effective but contracts are not provided under section 1874A of the Social Security Act with medicare administrative contractors, any reference in section 1869(g) of such Act (as added by such amendment) to such a contractor is deemed a reference to a fiscal intermediary or carrier with an agreement under section 1816, or contract under section 1842, respectively, of such Act.

(3) LIMITATION ON APPLICATION TO SGR.—For purposes of applying section 1848(f)(2)(D) of the Social Security Act (42 U.S.C. 1395w-4(f)(2)(D)), the amendment made by subsection (a) shall not be considered to be a change in law or regulation.

(c) PROVISIONS RELATING TO ADVANCE BENEFICIARY NOTICES; REPORT ON PRIOR DETERMINATION PROCESS.—

(1) DATA COLLECTION.—The Secretary shall establish a process for the collection of information on the instances in which an advance beneficiary notice (as defined in paragraph (4)) has been provided and on instances in which a beneficiary indicates on such a notice that the beneficiary does not intend to seek to have the item or service that is the subject of the notice furnished.

(2) OUTREACH AND EDUCATION.—The Secretary shall establish a program of outreach and education for beneficiaries and providers of services and other persons on the appropriate use of advance beneficiary notices and coverage policies under the medicare program.

(3) GAO REPORT REPORT ON USE OF ADVANCE BENEFICIARY NOTICES.—Not later than 18 months after the date on which section 1869(g) of the Social Security Act (as added by subsection (a)) takes effect, the Comptroller General of the United States shall submit to Congress a report on the use of advance beneficiary notices under title XVIII of such Act. Such report shall include information concerning the providers of services and other persons that have provided such notices and the response of beneficiaries to such notices.

(4) GAO REPORT ON USE OF PRIOR DETERMINATION PROCESS.—Not later than 18 months after the date on which section 1869(g) of the Social Security Act (as added by subsection (a)) takes effect, the Comptroller General of the United States shall submit to Congress a report on the use of the prior determination process under such section. Such report shall include—

(A) information concerning the types of procedures for which a prior determination has been sought, determinations made under the process, and changes in receipt of services resulting from the application of such process; and

(B) an evaluation of whether the process was useful for physicians (and other sup-

pliers) and beneficiaries, whether it was timely, and whether the amount of information required was burdensome to physicians and beneficiaries.

(5) ADVANCE BENEFICIARY NOTICE DEFINED.—In this subsection, the term “advance beneficiary notice” means a written notice provided under section 1879(a) of the Social Security Act (42 U.S.C. 1395pp(a)) to an individual entitled to benefits under part A or B of title XVIII of such Act before items or services are furnished under such part in cases where a provider of services or other person that would furnish the item or service believes that payment will not be made for some or all of such items or services under such title.

Subtitle E—Miscellaneous Provisions

SEC. 841. POLICY DEVELOPMENT REGARDING EVALUATION AND MANAGEMENT (E & M) DOCUMENTATION GUIDELINES.

(a) IN GENERAL.—The Secretary may not implement any new documentation guidelines for evaluation and management physician services under the title XVIII of the Social Security Act on or after the date of the enactment of this Act unless the Secretary—

(1) has developed the guidelines in collaboration with practicing physicians (including both generalists and specialists) and provided for an assessment of the proposed guidelines by the physician community;

(2) has established a plan that contains specific goals, including a schedule, for improving the use of such guidelines;

(3) has conducted appropriate and representative pilot projects under subsection (b) to test modifications to the evaluation and management documentation guidelines;

(4) finds that the objectives described in subsection (c) will be met in the implementation of such guidelines; and

(5) has established, and is implementing, a program to educate physicians on the use of such guidelines and that includes appropriate outreach.

The Secretary shall make changes to the manner in which existing evaluation and management documentation guidelines are implemented to reduce paperwork burdens on physicians.

(b) PILOT PROJECTS TO TEST EVALUATION AND MANAGEMENT DOCUMENTATION GUIDELINES.—

(1) IN GENERAL.—The Secretary shall conduct under this subsection appropriate and representative pilot projects to test new evaluation and management documentation guidelines referred to in subsection (a).

(2) LENGTH AND CONSULTATION.—Each pilot project under this subsection shall—

(A) be voluntary;

(B) be of sufficient length as determined by the Secretary to allow for preparatory physician and medicare contractor education, analysis, and use and assessment of potential evaluation and management guidelines; and

(C) be conducted, in development and throughout the planning and operational stages of the project, in consultation with practicing physicians (including both generalists and specialists).

(3) RANGE OF PILOT PROJECTS.—Of the pilot projects conducted under this subsection—

(A) at least one shall focus on a peer review method by physicians (not employed by a medicare contractor) which evaluates medical record information for claims submitted by physicians identified as statistical outliers relative to definitions published in the Current Procedures Terminology (CPT) code book of the American Medical Association;

(B) at least one shall focus on an alternative method to detailed guidelines based

on physician documentation of face to face encounter time with a patient;

(C) at least one shall be conducted for services furnished in a rural area and at least one for services furnished outside such an area; and

(D) at least one shall be conducted in a setting where physicians bill under physicians' services in teaching settings and at least one shall be conducted in a setting other than a teaching setting.

(4) **BANNING OF TARGETING OF PILOT PROJECT PARTICIPANTS.**—Data collected under this subsection shall not be used as the basis for overpayment demands or post-payment audits. Such limitation applies only to claims filed as part of the pilot project and lasts only for the duration of the pilot project and only as long as the provider is a participant in the pilot project.

(5) **STUDY OF IMPACT.**—Each pilot project shall examine the effect of the new evaluation and management documentation guidelines on—

(A) different types of physician practices, including those with fewer than 10 full-time-equivalent employees (including physicians); and

(B) the costs of physician compliance, including education, implementation, auditing, and monitoring.

(6) **PERIODIC REPORTS.**—The Secretary shall submit to Congress periodic reports on the pilot projects under this subsection.

(c) **OBJECTIVES FOR EVALUATION AND MANAGEMENT GUIDELINES.**—The objectives for modified evaluation and management documentation guidelines developed by the Secretary shall be to—

(1) identify clinically relevant documentation needed to code accurately and assess coding levels accurately;

(2) decrease the level of non-clinically pertinent and burdensome documentation time and content in the physician's medical record;

(3) increase accuracy by reviewers; and

(4) educate both physicians and reviewers.

(d) **STUDY OF SIMPLER, ALTERNATIVE SYSTEMS OF DOCUMENTATION FOR PHYSICIAN CLAIMS.**—

(1) **STUDY.**—The Secretary shall carry out a study of the matters described in paragraph (2).

(2) **MATTERS DESCRIBED.**—The matters referred to in paragraph (1) are—

(A) the development of a simpler, alternative system of requirements for documentation accompanying claims for evaluation and management physician services for which payment is made under title XVIII of the Social Security Act; and

(B) consideration of systems other than current coding and documentation requirements for payment for such physician services.

(3) **CONSULTATION WITH PRACTICING PHYSICIANS.**—In designing and carrying out the study under paragraph (1), the Secretary shall consult with practicing physicians, including physicians who are part of group practices and including both generalists and specialists.

(4) **APPLICATION OF HIPAA UNIFORM CODING REQUIREMENTS.**—In developing an alternative system under paragraph (2), the Secretary shall consider requirements of administrative simplification under part C of title XI of the Social Security Act.

(5) **REPORT TO CONGRESS.**—(A) Not later than October 1, 2004, the Secretary shall submit to Congress a report on the results of the study conducted under paragraph (1).

(B) The Medicare Payment Advisory Commission shall conduct an analysis of the re-

sults of the study included in the report under subparagraph (A) and shall submit a report on such analysis to Congress.

(e) **STUDY ON APPROPRIATE CODING OF CERTAIN EXTENDED OFFICE VISITS.**—The Secretary shall conduct a study of the appropriateness of coding in cases of extended office visits in which there is no diagnosis made. Not later than October 1, 2004, the Secretary shall submit a report to Congress on such study and shall include recommendations on how to code appropriately for such visits in a manner that takes into account the amount of time the physician spent with the patient.

(f) **DEFINITIONS.**—In this section—

(1) the term "rural area" has the meaning given that term in section 1886(d)(2)(D) of the Social Security Act, 42 U.S.C. 1395ww(d)(2)(D); and

(2) the term "teaching settings" are those settings described in section 415.150 of title 42, Code of Federal Regulations.

SEC. 842. IMPROVEMENT IN OVERSIGHT OF TECHNOLOGY AND COVERAGE.

(a) **IMPROVED COORDINATION BETWEEN FDA AND CMS ON COVERAGE OF BREAKTHROUGH MEDICAL DEVICES.**—

(1) **IN GENERAL.**—Upon request by an applicant and to the extent feasible (as determined by the Secretary), the Secretary shall, in the case of a class III medical device that is subject to premarket approval under section 515 of the Federal Food, Drug, and Cosmetic Act, ensure the sharing of appropriate information from the review for application for premarket approval conducted by the Food and Drug Administration for coverage decisions under title XVIII of the Social Security Act.

(2) **PUBLICATION OF PLAN.**—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to appropriate Committees of Congress a report that contains the plan for improving such coordination and for shortening the time lag between the premarket approval by the Food and Drug Administration and coding and coverage decisions by the Centers for Medicare & Medicaid Services.

(3) **CONSTRUCTION.**—Nothing in this subsection shall be construed as changing the criteria for coverage of a medical device under title XVIII of the Social Security Act nor premarket approval by the Food and Drug Administration and nothing in this subsection shall be construed to increase premarket approval application requirements under the Federal Food, Drug, and Cosmetic Act.

(b) **COUNCIL FOR TECHNOLOGY AND INNOVATION.**—Section 1868 (42 U.S.C. 1395ee), as amended by section 823(a), is amended by adding at the end the following new subsection:

"(c) **COUNCIL FOR TECHNOLOGY AND INNOVATION.**—

"(1) **ESTABLISHMENT.**—The Secretary shall establish a Council for Technology and Innovation within the Centers for Medicare & Medicaid Services (in this section referred to as 'CMS').

"(2) **COMPOSITION.**—The Council shall be composed of senior CMS staff and clinicians and shall be chaired by the Executive Coordinator for Technology and Innovation (appointed or designated under paragraph (4)).

"(3) **DUTIES.**—The Council shall coordinate the activities of coverage, coding, and payment processes under this title with respect to new technologies and procedures, including new drug therapies, and shall coordinate the exchange of information on new technologies between CMS and other entities that make similar decisions.

"(4) **EXECUTIVE COORDINATOR FOR TECHNOLOGY AND INNOVATION.**—The Secretary shall appoint (or designate) a noncareer appointee (as defined in section 3132(a)(7) of title 5, United States Code) who shall serve as the Executive Coordinator for Technology and Innovation. Such executive coordinator shall report to the Administrator of CMS, shall chair the Council, shall oversee the execution of its duties, and shall serve as a single point of contact for outside groups and entities regarding the coverage, coding, and payment processes under this title."

(c) **GAO STUDY ON IMPROVEMENTS IN EXTERNAL DATA COLLECTION FOR USE IN THE MEDICARE INPATIENT PAYMENT SYSTEM.**—

(1) **STUDY.**—The Comptroller General of the United States shall conduct a study that analyzes which external data can be collected in a shorter time frame by the Centers for Medicare & Medicaid Services for use in computing payments for inpatient hospital services. The study may include an evaluation of the feasibility and appropriateness of using of quarterly samples or special surveys or any other methods. The study shall include an analysis of whether other executive agencies, such as the Bureau of Labor Statistics in the Department of Commerce, are best suited to collect this information.

(2) **REPORT.**—By not later than October 1, 2003, the Comptroller General shall submit a report to Congress on the study under paragraph (1).

(d) **IOM STUDY ON LOCAL COVERAGE DETERMINATIONS.**—

(1) **STUDY.**—The Secretary shall enter into an arrangement with the Institute of Medicine of the National Academy of Sciences under which the Institute shall conduct a study on local coverage determinations (including the application of local medical review policies) under the medicare program under title XVIII of the Social Security Act. Such study shall examine—

(A) the consistency of the definitions used in such determinations;

(B) the types of evidence on which such determinations are based, including medical and scientific evidence;

(C) the advantages and disadvantages of local coverage decisionmaking, including the flexibility it offers for ensuring timely patient access to new medical technology for which data are still being collected;

(D) the manner in which the local coverage determination process is used to develop data needed for a national coverage determination, including the need for collection of such data within a protocol and informed consent by individuals entitled to benefits under part A of title XVIII of the Social Security Act, or enrolled under part B of such title, or both; and

(E) the advantages and disadvantages of maintaining local medicare contractor advisory committees that can advise on local coverage decisions based on an open, collaborative public process.

(2) **REPORT.**—Such arrangement shall provide that the Institute shall submit to the Secretary a report on such study by not later than 3 years after the date of the enactment of this Act. The Secretary shall promptly transmit a copy of such report to Congress.

(e) **METHODS FOR DETERMINING PAYMENT BASIS FOR NEW LAB TESTS.**—Section 1833(h) (42 U.S.C. 1395i(h)) is amended by adding at the end the following:

"(8)(A) The Secretary shall establish by regulation procedures for determining the basis for, and amount of, payment under this subsection for any clinical diagnostic laboratory test with respect to which a new or substantially revised HCPCS code is assigned on

or after January 1, 2004 (in this paragraph referred to as 'new tests').

“(B) Determinations under subparagraph (A) shall be made only after the Secretary—

“(i) makes available to the public (through an Internet site and other appropriate mechanisms) a list that includes any such test for which establishment of a payment amount under this subsection is being considered for a year;

“(ii) on the same day such list is made available, causes to have published in the Federal Register notice of a meeting to receive comments and recommendations (and data on which recommendations are based) from the public on the appropriate basis under this subsection for establishing payment amounts for the tests on such list;

“(iii) not less than 30 days after publication of such notice convenes a meeting, that includes representatives of officials of the Centers for Medicare & Medicaid Services involved in determining payment amounts, to receive such comments and recommendations (and data on which the recommendations are based);

“(iv) taking into account the comments and recommendations (and accompanying data) received at such meeting, develops and makes available to the public (through an Internet site and other appropriate mechanisms) a list of proposed determinations with respect to the appropriate basis for establishing a payment amount under this subsection for each such code, together with an explanation of the reasons for each such determination, the data on which the determinations are based, and a request for public written comments on the proposed determination; and

“(v) taking into account the comments received during the public comment period, develops and makes available to the public (through an Internet site and other appropriate mechanisms) a list of final determinations of the payment amounts for such tests under this subsection, together with the rationale for each such determination, the data on which the determinations are based, and responses to comments and suggestions received from the public.

“(C) Under the procedures established pursuant to subparagraph (A), the Secretary shall—

“(i) set forth the criteria for making determinations under subparagraph (A); and

“(ii) make available to the public the data (other than proprietary data) considered in making such determinations.

“(D) The Secretary may convene such further public meetings to receive public comments on payment amounts for new tests under this subsection as the Secretary deems appropriate.

“(E) For purposes of this paragraph:

“(i) The term ‘HCPCS’ refers to the Health Care Procedure Coding System.

“(ii) A code shall be considered to be ‘substantially revised’ if there is a substantive change to the definition of the test or procedure to which the code applies (such as a new analyte or a new methodology for measuring an existing analyte-specific test).”.

SEC. 843. TREATMENT OF HOSPITALS FOR CERTAIN SERVICES UNDER MEDICARE SECONDARY PAYOR (MSP) PROVISIONS.

(a) IN GENERAL.—The Secretary shall not require a hospital (including a critical access hospital) to ask questions (or obtain information) relating to the application of section 1862(b) of the Social Security Act (relating to medicare secondary payor provisions) in the case of reference laboratory services described in subsection (b), if the Secretary

does not impose such requirement in the case of such services furnished by an independent laboratory.

(b) REFERENCE LABORATORY SERVICES DESCRIBED.—Reference laboratory services described in this subsection are clinical laboratory diagnostic tests (or the interpretation of such tests, or both) furnished without a face-to-face encounter between the individual entitled to benefits under part A or enrolled under part B, or both, and the hospital involved and in which the hospital submits a claim only for such test or interpretation.

SEC. 844. EMTALA IMPROVEMENTS.

(a) PAYMENT FOR EMTALA-MANDATED SCREENING AND STABILIZATION SERVICES.—

(1) IN GENERAL.—Section 1862 (42 U.S.C. 1395y) is amended by inserting after subsection (c) the following new subsection:

“(d) For purposes of subsection (a)(1)(A), in the case of any item or service that is required to be provided pursuant to section 1867 to an individual who is entitled to benefits under this title, determinations as to whether the item or service is reasonable and necessary shall be made on the basis of the information available to the treating physician or practitioner (including the patient's presenting symptoms or complaint) at the time the item or service was ordered or furnished by the physician or practitioner (and not on the patient's principal diagnosis). When making such determinations with respect to such an item or service, the Secretary shall not consider the frequency with which the item or service was provided to the patient before or after the time of the admission or visit.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items and services furnished on or after January 1, 2003.

(b) NOTIFICATION OF PROVIDERS WHEN EMTALA INVESTIGATION CLOSED.—Section 1867(d) (42 U.S.C. 42 U.S.C. 1395dd(d)) is amended by adding at the end the following new paragraph:

“(4) NOTICE UPON CLOSING AN INVESTIGATION.—The Secretary shall establish a procedure to notify hospitals and physicians when an investigation under this section is closed.”.

(c) PRIOR REVIEW BY PEER REVIEW ORGANIZATIONS IN EMTALA CASES INVOLVING TERMINATION OF PARTICIPATION.—

(1) IN GENERAL.—Section 1867(d)(3) (42 U.S.C. 1395dd(d)(3)) is amended—

(A) in the first sentence, by inserting “or in terminating a hospital's participation under this title” after “in imposing sanctions under paragraph (1)”; and

(B) by adding at the end the following new sentences: “Except in the case in which a delay would jeopardize the health or safety of individuals, the Secretary shall also request such a review before making a compliance determination as part of the process of terminating a hospital's participation under this title for violations related to the appropriateness of a medical screening examination, stabilizing treatment, or an appropriate transfer as required by this section, and shall provide a period of 5 days for such review. The Secretary shall provide a copy of the organization's report to the hospital or physician consistent with confidentiality requirements imposed on the organization under such part B.”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to terminations of participation initiated on or after the date of the enactment of this Act.

SEC. 845. EMERGENCY MEDICAL TREATMENT AND LABOR ACT (EMTALA) TECHNICAL ADVISORY GROUP.

(a) ESTABLISHMENT.—The Secretary shall establish a Technical Advisory Group (in this section referred to as the “Advisory Group”) to review issues related to the Emergency Medical Treatment and Labor Act (EMTALA) and its implementation. In this section, the term “EMTALA” refers to the provisions of section 1867 of the Social Security Act (42 U.S.C. 1395dd).

(b) MEMBERSHIP.—The Advisory Group shall be composed of 19 members, including the Administrator of the Centers for Medicare & Medicaid Services and the Inspector General of the Department of Health and Human Services and of which—

(1) 4 shall be representatives of hospitals, including at least one public hospital, that have experience with the application of EMTALA and at least 2 of which have not been cited for EMTALA violations;

(2) 7 shall be practicing physicians drawn from the fields of emergency medicine, cardiology or cardiothoracic surgery, orthopedic surgery, neurosurgery, obstetrics-gynecology, and psychiatry, with not more than one physician from any particular field;

(3) 2 shall represent patients;

(4) 2 shall be staff involved in EMTALA investigations from different regional offices of the Centers for Medicare & Medicaid Services; and

(5) 1 shall be from a State survey office involved in EMTALA investigations and 1 shall be from a peer review organization, both of whom shall be from areas other than the regions represented under paragraph (4).

In selecting members described in paragraphs (1) through (3), the Secretary shall consider qualified individuals nominated by organizations representing providers and patients.

(c) GENERAL RESPONSIBILITIES.—The Advisory Group—

(1) shall review EMTALA regulations;

(2) may provide advice and recommendations to the Secretary with respect to those regulations and their application to hospitals and physicians;

(3) shall solicit comments and recommendations from hospitals, physicians, and the public regarding the implementation of such regulations; and

(4) may disseminate information on the application of such regulations to hospitals, physicians, and the public.

(d) ADMINISTRATIVE MATTERS.—

(1) CHAIRPERSON.—The members of the Advisory Group shall elect a member to serve as chairperson of the Advisory Group for the life of the Advisory Group.

(2) MEETINGS.—The Advisory Group shall first meet at the direction of the Secretary. The Advisory Group shall then meet twice per year and at such other times as the Advisory Group may provide.

(e) TERMINATION.—The Advisory Group shall terminate 30 months after the date of its first meeting.

(f) WAIVER OF ADMINISTRATIVE LIMITATION.—The Secretary shall establish the Advisory Group notwithstanding any limitation that may apply to the number of advisory committees that may be established (within the Department of Health and Human Services or otherwise).

SEC. 846. AUTHORIZING USE OF ARRANGEMENTS WITH OTHER HOSPICE PROGRAMS TO PROVIDE CORE HOSPICE SERVICES IN CERTAIN CIRCUMSTANCES.

(a) IN GENERAL.—Section 1861(dd)(5) (42 U.S.C. 1395x(dd)(5)) is amended by adding at the end the following new subparagraph:

“(D) In extraordinary, exigent, or other non-routine circumstances, such as unanticipated periods of high patient loads, staffing shortages due to illness or other events, or temporary travel of a patient outside a hospice program’s service area, a hospice program may enter into arrangements with another hospice program for the provision by that other program of services described in paragraph (2)(A)(ii)(I). The provisions of paragraph (2)(A)(ii)(II) shall apply with respect to the services provided under such arrangements.”.

(b) **CONFORMING PAYMENT PROVISION.**—Section 1814(i) (42 U.S.C. 1395f(i)), as amended by section 421(b), is amended by adding at the end the following new paragraph:

“(5) In the case of hospice care provided by a hospice program under arrangements under section 1861(dd)(5)(D) made by another hospice program, the hospice program that made the arrangements shall bill and be paid for the hospice care.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to hospice care provided on or after the date of the enactment of this Act.

SEC. 847. APPLICATION OF OSHA BLOODBORNE PATHOGENS STANDARD TO CERTAIN HOSPITALS.

(a) **IN GENERAL.**—Section 1866 (42 U.S.C. 1395cc) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (R), by striking “and” at the end;

(B) in subparagraph (S), by striking the period at the end and inserting “, and”; and

(C) by inserting after subparagraph (S) the following new subparagraph:

“(T) in the case of hospitals that are not otherwise subject to the Occupational Safety and Health Act of 1970, to comply with the Bloodborne Pathogens standard under section 1910.1030 of title 29 of the Code of Federal Regulations (or as subsequently redesignated).”; and

(2) by adding at the end of subsection (b) the following new paragraph:

“(4)(A) A hospital that fails to comply with the requirement of subsection (a)(1)(T) (relating to the Bloodborne Pathogens standard) is subject to a civil money penalty in an amount described in subparagraph (B), but is not subject to termination of an agreement under this section.

“(B) The amount referred to in subparagraph (A) is an amount that is similar to the amount of civil penalties that may be imposed under section 17 of the Occupational Safety and Health Act of 1970 for a violation of the Bloodborne Pathogens standard referred to in subsection (a)(1)(T) by a hospital that is subject to the provisions of such Act.

“(C) A civil money penalty under this paragraph shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A are imposed and collected under that section.”.

(b) **EFFECTIVE DATE.**—The amendments made by this subsection (a) shall apply to hospitals as of July 1, 2003.

SEC. 848. BIPA-RELATED TECHNICAL AMENDMENTS AND CORRECTIONS.

(a) **TECHNICAL AMENDMENTS RELATING TO ADVISORY COMMITTEE UNDER BIPA SECTION 522.**—(1) Subsection (i) of section 1114 (42 U.S.C. 1314)—

(A) is transferred to section 1862 and added at the end of such section; and

(B) is redesignated as subsection (j).

(2) Section 1862 (42 U.S.C. 1395y) is amended—

(A) in the last sentence of subsection (a), by striking “established under section 1114(f)”; and

(B) in subsection (j), as so transferred and redesignated—

(i) by striking “under subsection (f)”; and

(ii) by striking “section 1862(a)(1)” and inserting “subsection (a)(1)”.
(b) **TERMINOLOGY CORRECTIONS.**—(1) Section 1869(c)(3)(I)(ii) (42 U.S.C. 1395ff(c)(3)(I)(ii)), as amended by section 521 of BIPA, is amended—

(A) in subclause (III), by striking “policy” and inserting “determination”; and

(B) in subclause (IV), by striking “medical review policies” and inserting “coverage determinations”.

(2) Section 1852(a)(2)(C) (42 U.S.C. 1395w-22(a)(2)(C)) is amended by striking “policy” and “POLICY” and inserting “determination” each place it appears and “DETERMINATION”, respectively.

(c) **REFERENCE CORRECTIONS.**—Section 1869(f)(4) (42 U.S.C. 1395ff(f)(4)), as added by section 522 of BIPA, is amended—

(1) in subparagraph (A)(iv), by striking “subclause (I), (II), or (III)” and inserting “clause (i), (ii), or (iii)”;
(2) in subparagraph (B), by striking “clause (i)(IV)” and “clause (i)(III)” and inserting “subparagraph (A)(iv)” and “subparagraph (A)(iii)”, respectively; and

(3) in subparagraph (C), by striking “clause (i)”, “subclause (IV)” and “subparagraph (A)” and inserting “subparagraph (A)”, “clause (iv)” and “paragraph (1)(A)”, respectively each place it appears.

(d) **OTHER CORRECTIONS.**—Effective as if included in the enactment of section 521(c) of BIPA, section 1154(e) (42 U.S.C. 1320c-3(e)) is amended by striking paragraph (5).

(e) **EFFECTIVE DATE.**—Except as otherwise provided, the amendments made by this section shall be effective as if included in the enactment of BIPA.

SEC. 849. CONFORMING AUTHORITY TO WAIVE A PROGRAM EXCLUSION.

The first sentence of section 1128(c)(3)(B) (42 U.S.C. 1320a-7(c)(3)(B)) is amended to read as follows: “Subject to subparagraph (G), in the case of an exclusion under subsection (a), the minimum period of exclusion shall be not less than five years, except that, upon the request of the administrator of a Federal health care program (as defined in section 1128B(f)) who determines that the exclusion would impose a hardship on individuals entitled to benefits under part A of title XVIII or enrolled under part B of such title, or both, the Secretary may waive the exclusion under subsection (a)(1), (a)(3), or (a)(4) with respect to that program in the case of an individual or entity that is the sole community physician or sole source of essential specialized services in a community.”.

SEC. 850. TREATMENT OF CERTAIN DENTAL CLAIMS.

(a) **IN GENERAL.**—Section 1862 (42 U.S.C. 1395y) is amended by adding after subsection (g) the following new subsection:

“(h)(1) Subject to paragraph (2), a group health plan (as defined in subsection (a)(1)(A)(v)) providing supplemental or secondary coverage to individuals also entitled to services under this title shall not require a medicare claims determination under this title for dental benefits specifically excluded under subsection (a)(12) as a condition of making a claims determination for such benefits under the group health plan.
(2) A group health plan may require a claims determination under this title in cases involving or appearing to involve inpatient dental hospital services or dental services expressly covered under this title pursuant to actions taken by the Secretary.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on

the date that is 60 days after the date of the enactment of this Act.

SEC. 851. ANNUAL PUBLICATION OF LIST OF NATIONAL COVERAGE DETERMINATIONS.

The Secretary shall provide, in an appropriate annual publication available to the public, a list of national coverage determinations made under title XVIII of the Social Security Act in the previous year and information on how to get more information with respect to such determinations.

TITLE IX—MEDICAID PROVISIONS

SEC. 901. NATIONAL BIPARTISAN COMMISSION ON THE FUTURE OF MEDICAID.

(a) **ESTABLISHMENT.**—There is established a commission to be known as the National Bipartisan Commission on the Future of Medicaid (in this section referred to as the “Commission”).

(b) **DUTIES OF THE COMMISSION.**—The Commission shall—

(1) review and analyze the long-term financial condition of the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(2) identify the factors that are causing, and the consequences of, increases in costs under the medicaid program, including—

(A) the impact of these cost increases upon State budgets, funding for other State programs, and levels of State taxes necessary to fund growing expenditures under the medicaid program;

(B) the financial obligations of the Federal government arising from the Federal matching requirement for expenditures under the medicaid program; and

(C) the size and scope of the current program and how the program has evolved over time;

(3) analyze potential policies that will ensure both the financial integrity of the medicaid program and the provision of appropriate benefits under such program;

(4) make recommendations for establishing incentives and structures to promote enhanced efficiencies and ways of encouraging innovative State policies under the medicaid program;

(5) make recommendations for establishing the appropriate balance between benefits covered, payments to providers, State and Federal contributions and, where appropriate, recipient cost-sharing obligations;

(6) make recommendations on the impact of promoting increased utilization of competitive, private enterprise models to contain program cost growth, through enhanced utilization of private plans, pharmacy benefit managers, and other methods currently being used to contain private sector health-care costs;

(7) make recommendations on the financing of prescription drug benefits currently covered under medicaid programs, including analysis of the current Federal manufacturer rebate program, its impact upon both private market prices as well as those paid by other government purchasers, recent State efforts to negotiate additional supplemental manufacturer rebates and the ability of pharmacy benefit managers to lower drug costs;

(8) review and analyze such other matters relating to the medicaid program as the Commission deems appropriate; and

(9) analyze the impact of impending demographic changes upon medicaid benefits, including long term care services, and make recommendations for how best to appropriately divide State and Federal responsibilities for funding these benefits.

(c) **MEMBERSHIP.**—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 17 members, of whom—

(A) four shall be appointed by the President;

(B) six shall be appointed by the Majority Leader of the Senate, in consultation with the Minority Leader of the Senate, of whom not more than 4 shall be of the same political party;

(C) six shall be appointed by the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives, of whom not more than 4 shall be of the same political party; and

(D) one, who shall serve as Chairman of the Commission, appointed jointly by the President, Majority Leader of the Senate, and the Speaker of the House of Representatives.

(2) DEADLINE FOR APPOINTMENT.—Members of the Commission shall be appointed by not later than December 1, 2002.

(3) TERMS OF APPOINTMENT.—The term of any appointment under paragraph (1) to the Commission shall be for the life of the Commission.

(4) MEETINGS.—The Commission shall meet at the call of its Chairman or a majority of its members.

(5) QUORUM.—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under subsection (e).

(6) VACANCIES.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made not later than 30 days after the Commission is given notice of the vacancy and shall not affect the power of the remaining members to execute the duties of the Commission.

(7) COMPENSATION.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(8) EXPENSES.—Each member of the Commission shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

(d) STAFF AND SUPPORT SERVICES.—

(1) EXECUTIVE DIRECTOR.—

(A) APPOINTMENT.—The Chairman shall appoint an executive director of the Commission.

(B) COMPENSATION.—The executive director shall be paid the rate of basic pay for level V of the Executive Schedule.

(2) STAFF.—With the approval of the Commission, the executive director may appoint such personnel as the executive director considers appropriate.

(3) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

(4) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the executive director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(5) PHYSICAL FACILITIES.—The Administrator of the General Services Administration shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

(e) POWERS OF COMMISSION.—

(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) STUDIES BY GAO.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE AND OFFICE OF THE CHIEF ACTUARY OF CMS.—

(A) The Director of the Congressional Budget Office or the Chief Actuary of the Centers for Medicare & Medicaid Services, or both, shall provide to the Commission, upon the request of the Commission, such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

(f) REPORT.—Not later than March 1, 2004, the Commission shall submit a report to the President and Congress which shall contain a detailed statement of the recommendations, findings, and conclusions of the Commission.

(g) TERMINATION.—The Commission shall terminate 30 days after the date of submission of the report required in subsection (f).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$1,500,000 to carry out this section.

SEC. 902. DISPROPORTIONATE SHARE HOSPITAL (DSH) PAYMENTS.

Section 1923(f)(3) (42 U.S.C. 1396r-4(f)(3)) is amended—

(1) in subparagraph (A), by amending subparagraph (A) to read as follows:

“(A) IN GENERAL.—The DSH allotment for any State—

“(i) for fiscal year 2003 is equal to the DSH allotment for the State for fiscal year 2001 under the table in paragraph (2), without regard to paragraph (4), increased, subject to subparagraph (B) and paragraph (5), by the percentage change in the consumer price index for all urban consumers (all items; U.S. city average), for fiscal year 2001; and

“(ii) for each succeeding fiscal year is equal to the DSH allotment for the State for the previous fiscal year under this subparagraph increased, subject to subparagraph (B) and paragraph (5), by 1.7 percent or, in the case of fiscal years beginning with the fiscal year specified in subparagraph (C) for that State, the percentage change in the consumer price index for all urban consumers (all items; U.S. city average), for the previous fiscal year.”; and

(2) by adding at the end the following new subparagraph:

“(C) FISCAL YEAR SPECIFIED.—For purposes of subparagraph (A)(ii), the fiscal year specified in this subparagraph for a State is the first fiscal year for which the Secretary estimates that the DSH allotment for that State will equal (or no longer exceed) the DSH allotment for that State under the law as in effect before the date of the enactment of this subparagraph.”.

SEC. 903. MEDICAID PHARMACY ASSISTANCE PROGRAM.

Title XIX is amended—

(1) by redesignating section 1935 as section 1936; and

(2) by inserting after section 1934 the following new section:

“PHARMACY ASSISTANCE PROGRAM

“SEC. 1936. (a) IN GENERAL.—A State plan under this title may provide assistance, consistent with this section, to pharmacies in implementing the new prescription drug benefit under part D of title XVIII.

“(b) USE OF FUNDS.—Such grants may be provided to assist pharmacies—

“(1) in complying with requirements relating to electronic prescribing;

“(2) in prospective drug utilization review; and

“(3) in developing innovative medication therapy management programs using information technology.

“(c) CONDITION FOR RECEIPT.—A pharmacy is not eligible for a grant under this section unless the pharmacy demonstrates how it will operate a program that will work effectively with patients to reduce adverse drug reactions and medical errors. No grant shall be awarded under this section before January 1, 2004.

(d) PRIORITIES.—In awarding grants under this section, a State shall take into account and give priority to the needs of small or rural pharmacies and to pharmacies which service underserved areas.

“(e) FUNDING.—

“(1) TREATMENT AS MEDICAL ASSISTANCE.—Subject to paragraph (2), amounts provided under grants by a State under this section (and the reasonable administrative expenses of a State in carrying out this section, not to exceed 10 percent of the total amount awarded as grants by a State) shall be treated as the provision of medical assistance for purposes of section 1903. In applying section 1903(a)(1) with respect to such assistance, the

Federal medical assistance percentage is deemed to be 100 percent.

“(2) LIMITATION AND ALLOTMENT.—

“(A) LIMITATION.—The total amount for which Federal financial participation is available under section 1903(a) for grants and administrative expenses under this section in calendar quarters in any fiscal year is limited to \$150,000,000 in each of fiscal years 2004 through 2007.

“(B) ALLOCATION.—The Secretary shall provide a method for the allocation of the amount of funds described in subparagraph (A) in each fiscal year among the States. Such method shall take into account the distribution among States of priority pharmacies specified in subsection (d).

“(3) REQUIREMENT FOR APPLICATION.—The preceding provisions of this section shall only apply to a State if the State has filed with the Secretary an amendment to its State plan that provides for the awarding of grants under this section that is consistent with the requirements of this section.”.

The SPEAKER pro tempore. The gentlewoman from Connecticut (Mrs. JOHNSON), the gentleman from California (Mr. STARK), the gentleman from Louisiana (Mr. TAUZIN), and the gentleman from Michigan (Mr. DINGELL) each will control 30 minutes of debate on the bill.

The Chair recognizes the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in strong support of H.R. 4954 because it provides prescription drugs to all seniors as an entitlement under Medicare.

Mr. Speaker, I am honored to bring this bill to the floor of this great House. Everywhere I go, seniors look at me with worry in their eyes, concern that they will not be able to buy the prescription drugs needed to get well, worry that they will not be able to afford the many prescriptions needed to enable them to enjoy their lives and keep on with their daily activities.

Mr. Speaker, nothing is more important than assuring that our seniors have access to prescription drugs as part of Medicare, within Medicare as part of that entitlement to health services, because indeed, Medicare without prescription drugs is a mere shadow of the promise of health care security that Medicare has always represented to the seniors of our great country.

Mr. Speaker, I am very proud that this bill provides the deepest discounts on drug prices that any bill has ever brought to this floor. It is a 30 percent discount, compared to every other plan that provides a 10 percent discount.

On top of that 30 percent discount are powerful subsidies, 80 percent subsidies, up to \$1,000 in drug costs, and 50% after that. This is powerful help. For those living under 150 percent of poverty income, it will provide 100 percent of their drug cost needs up to \$2,000. For over that, States will have freed-up resources to help those that cannot afford their prescriptions.

This is a powerful benefit for our seniors right up through catastrophic cov-

erage, which provides the peace of mind that they so deserve in their senior years.

But that is not all this bill does. It goes on to provide better preventive care for our seniors and to provide those plans that are able to provide disease management, which is the only way that seniors with chronic illness are going to enjoy health in their elder years. Also, it reduces the cost of medication errors, provides safety for our seniors, compensates our providers more realistically, and in general, would strengthen our Medicare program.

I am going to go into the details of the bill later, Mr. Speaker. I will reserve my time for a discussion of this powerful new expansion of Medicare to improve the lives of the seniors of our country.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would explain, when one sells out to the insurance industry, we get the Republican bill. They free up any resources that go to the Hartford Insurance Companies.

The truth is that the average senior in this country spends \$3,059 on drugs. Under the Republican plan, they will have to spend \$1,959 out of pocket to get that \$3,000 worth of drugs. Under the bill that we would suggest, they would spend only \$691.80.

So Members can see that the Democratic plan, had we been allowed to offer it, is better. It does something for the seniors that the Republican bill does not do: it gives them the wherewithal to afford drugs. It gives them an entitlement that they are entitled to.

The Republican bill is an entitlement for the pharmaceutical industry and the insurance industry. They are the only ones who get any money under the Republican bill. Under our alternative, the seniors are entitled.

Mr. Speaker, I reserve the balance of my time.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 3½ minutes to the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means and an expert on health policy and prescription drugs.

Mr. THOMAS. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, at some point, somebody needs to talk about reality. What we have heard from the other side of the aisle is that they want to operate under democracy, that democracy does not operate here.

There is a difference between democracy and chaos. Democracy means majority rules, but it also means rights of the minority. What are some of those rights? The rights are the minority gets to participate if they play by the rules. What are the rules? That under

the budget, and they want democracy, under the budget they have the right to offer a plan which costs no more than the amount the budget provides: \$350 billion. What they presented was a plan that costs \$974 billion.

Guess what? They do not play by the rules; they do not get to offer their substitute. What they want to do is do whatever they want to do without following the rules. That is not democracy.

Secondly, what I heard from the gentleman from Florida while we were arguing the rules was, our bill does not do a pay-back to the providers. What does that mean? They are going to spend \$1 trillion, and they do not take any of it to address the fact that our physicians serving seniors have a payment system that is broken. Why is it broken? Because it is not automatic. If it were automatic, it would adjust to the market. Instead, it is an arbitrary, fixed price. But they do not even want to fix that in their bill.

Now, we have also heard several times, the latest argument was that we are in the pocket of somebody; that Republicans can only write a bill if they are in the pocket of somebody. Oftentimes we have heard that we are in the pocket of the pharmaceutical manufacturers.

Mr. Speaker, let me explain what is in this bill. The Democrats put into effect a payment called “best price.” Whenever someone says, we are going to give you the best price, you had better beware. What is “best price”? It is an arbitrary, bureaucratic, green eye shade determination of a floor of what we are going to pay.

When the Democrats ran this place and when the Democrats wrote legislation, they put in best price. Do Members know what we suggest? In this bill, we get rid of best price. What in the world would we pay if we got rid of best price? Guess what.

Do Members know that in that pocket of the pharmaceutical manufacturers that we are in there is going to be a whole lot more room for us, because the pharmaceutical manufacturers get taken out of their bottom line \$18 billion in this bill. They are denied \$18 billion by going from best price.

They have to help us solve this problem by the tune of \$18 billion, because instead of best price, guess what we ask them to do? We ask them to compete. We have all kinds of laws to produce pure drugs. Who will give it to us at the cheapest price? A modest competition produces a savings of \$18 billion applied to the benefits to seniors paid for by pharmaceutical manufacturers.

They have nothing in their bill. They have rhetoric. They have hot air. We have \$18 billion paid out of the pockets of the pharmaceutical manufacturers to help seniors.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would remind the distinguished chair of the Committee on Ways and Means that I suggested that the Republicans were in the pocket of the insurance companies, and I was about to say that when they go to bed with the pharmaceutical industry, they get a bill like this.

Mr. Speaker, I yield 2½ minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, I say to the gentleman from California (Mr. THOMAS), democracy means give the minority a substitute bill, period. That is what it means. Under the rules? Look, we go by the American rules, not the rules of the gentleman from California (Mr. THOMAS).

It is a disgrace that they do not give us the chance for a substitute. They did it on the trade bill, a motion to recommit. Now they are doing it on this.

Mr. Speaker, we will never yield to the gentleman's demeaning democracy. The gentlewoman from Connecticut (Mrs. JOHNSON) talks about "this great House." I want to talk substance, that she is demeaning this great House. She is changing this from the people's House to something else.

Mr. Speaker, this bill is a shell. It is worse than empty in the sense that it is filled with deceptions. Ten words: no set premiums, no assured benefits, and use private insurance.

The gentlewoman from Connecticut (Mrs. JOHNSON) said, let us not get into the details. I can understand why. She likes to say that 44 percent of women will be covered without cost. What she does not say is that those women are especially vulnerable to paying more than \$2,000 bucks; and after that, they fall into a deep hole of noncoverage.

This bill is not part of Medicare like hospital and physician bills, and we say, why not? They just do not like Medicare.

□ 2300

Now, the gentleman from California (Mr. THOMAS) does not like us to talk about Medicare+Choice. I can understand. That has not worked. Under Medicare+Choice if there is not enough money then you have to come to Congress. Under your bill if there is not enough money, I would call this no prescription choice, except you can run to the Secretary to get some more money.

This bill, as I said, is worse than an empty shell; and what makes it worse is you are playing the shell game with democracy.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 2 minutes and 15 seconds to the gentleman from Illinois (Mr. CRANE).

Mr. CRANE. Mr. Speaker, I rise in strong support of H.R. 4954, the Medicare Modernization and Prescription Drug Act.

When it comes to Medicare, Congress must consistently balance accessibility

of services from qualified providers, cost and financial stability of the Medicare program. This legislation does just that.

H.R. 4954 provides a long-overdue prescription drug benefit that is voluntary and available to all Medicare beneficiaries in a fiscally responsible way. Our House-passed budget provides for \$350 billion for a Medicare prescription drug benefit and modernizations to the program.

According to CBO estimates our proposed drug benefit is estimated to cost \$310 billion over 10 years and also achieves a 30 percent savings on drug costs. It is projected that in 2004 the median out-of-pocket drug costs for Medicare beneficiaries will be \$1,453. Under our proposal, \$827 of that, more than 50 percent, of the beneficiary's drug expenditures will be covered.

The Medicare Modernization and Prescription Drug Act also provides a number of reasonable and necessary adjustments to provider payments. Most importantly, this legislation includes \$21.3 billion for physicians to reverse the negative and irrational payment updates they received this year and are expected to receive next year.

The physician payment provision helps us to ensure that physicians will continue to participate in the Medicare program and provide quality health service to beneficiaries. If we do not ensure that providers are adequately reimbursed, all the new benefits that we have passed and will pass for Medicare beneficiaries will be for naught because providers will close their doors to beneficiaries.

My colleagues on the other side of the aisle argue that this legislation is an empty promise to seniors. I cannot disagree more. This package provides a prescription drug benefit that covers more than 95 percent of Medicare beneficiaries and helps to improve access to quality health care services.

Let us give our seniors access to quality health services that they deserve. Let us pass a meaningful prescription drug benefit that is voluntary and available to all Medicare beneficiaries. Let us make sure that our seniors have a choice in Medicare. Let us not play politics with America's seniors.

I urge my colleagues to support the Medicare Modernization and Prescription Drug Act.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, let me thank the gentleman from California (Mr. STARK) for yielding me time.

Mr. Speaker, this bill is fundamentally flawed. It does not use the Medicare model for providing benefits; and with Medicare, when we provide benefits for physicians or hospitals, our seniors are guaranteed those benefits. In this bill for prescription drugs, they are guaranteed nothing.

It reminds me of what we told our seniors with HMOs. Join HMOs and you will get prescription drug coverage. What happened as soon as they joined? The deductible, the co-pays went up, and the amount of coverage went down.

There is no protection in this bill on premiums like under Medicare. In Medicare, our seniors know that their Part B premium is tied to 25 percent of the cost. They know how much it will be. There is no protection in this bill as to what the premium will be set at or how much it will increase. No protections to our seniors.

In Medicare, we know that there will be a reimbursement system in our communities. You can always rely on Medicare. The underlying bill relies on private insurance. Mr. Speaker, there is no protection in this bill for those private insurance companies leaving our community.

Look what happened with the HMOs. They enrolled seniors. They brought them in, and then they left town.

Ask the people in Maryland. In 1996, we had eight HMOs writing seniors business, private insurance. Today, we have one with a capped enrollment. The private insurance companies will be there as long as they can make money; and as soon as they cannot make money, they will be gone.

There is no protection in this bill to provide prescription drugs to our seniors. It is fundamentally flawed, and we should correct it. We will have an opportunity to do it with the motion to recommit.

I urge my colleagues, if we are serious about providing prescription drug coverage for seniors, let us use the model that has worked. Let us use the Medicare model. Let us not use private insurance, solely private insurance. It has not worked in the past, and it will not work under this bill.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. MCCRERY), an esteemed member of the Subcommittee on Health of the Committee on Ways and Means.

Mr. MCCRERY. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, to those who say the benefit in this bill is not rich enough, Mr. Speaker, I would ask them to remember that Medicare spending, despite the bipartisan Balanced Budget Act of 1997, is still growing at an unsustainable rate. As a share of our gross domestic product, Medicare has grown from 1.3 percent in 1980 to more than 2.2 percent today and will hit 5 percent by the year 2030. By 2075, Medicare will be just under 10 percent of our gross domestic product.

10 percent of GDP may not seem like much until you consider that over the last four decades Federal tax revenues have averaged between 18 and 19 percent of GDP. In other words, Mr. Speaker, under current projections, unless the Federal tax burden is raised to

new and potentially economically destructive levels, Medicare, together with Social Security and Medicaid, will quickly crowd out spending on other important initiatives, including defense, homeland security, education, transportation and others.

These long-term trends will only be exacerbated by the addition of a prescription drug benefit which is not coupled with meaningful structural reform of the Medicare program.

I am pleased, therefore, that the legislation before us this evening includes the first steps towards the long-term structural reforms needed to bend the growth curve. Just as it would be irresponsible for the Congress, Mr. Speaker, not to try to help seniors with the cost of prescription drugs, it would be irresponsible to add a prescription drug benefit to Medicare without tackling these long-term trends in the growth of Medicare spending.

I hope, Mr. Speaker, that next year we will come back here on this floor and continue the kind of reforms that we started in this bill tonight so that those who are under 65 in our society will not be burdened with a tax that just cannot be sustained and continue the kind of society, the kind of economy that we enjoy in this country.

Mr. Speaker, I urge my colleagues to adopt this bill along with the minor reforms that we have this evening.

Mr. STARK. Mr. Speaker, pending recognizing the gentleman from Washington (Mr. McDERMOTT) for 2 minutes, I would just like to remind the Members that the gentleman from Louisiana (Mr. McCREERY) recalls that it was the gentlewoman from Connecticut (Mrs. JOHNSON) who voted in committee not to increase money for nursing homes. She voted against eliminating co-pays for home health care. She voted against limiting the premiums to seniors, and she voted against giving seniors a choice of going to any pharmacy. So much for her concern for the seniors.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I assume my colleague was speaking on his own time.

The SPEAKER pro tempore (Mr. THORNBERRY). The gentlewoman is correct. The gentleman was speaking on his time.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. McDERMOTT).

Mr. McDERMOTT. Mr. Speaker, this is a bad bill because there is no assured benefits and there is no set premiums because the Republicans are privatizing Medicare. They are giving this whole benefit to the private insurance companies.

Now you have to remember that the chairman of the committee chaired the Medicare Commission and spent an entire year trying to get a voucher system for senior citizens in Medicare. This is his second try. Buried in this

bill is the creation of a new private benefit management company or management authority that will handle the HMOs and will handle the private drug plans.

Now you think I am making this up, but if you take the bill, and I will bet you there is not a person on this floor that has read page 157, line 16, which prevents the Secretary of HHS from "interfering in any way with the negotiations between the private drug plans and the Medicare+Choice organizations and drug manufacturers."

Now what this is saying is that the Secretary of Health and Human Services, whoever that may be, has no ability to stand up for the people of this country, the senior citizens, the 40 million people that count on this program, and negotiate for them. She has to stand back and let the private drug programs and the pharmaceutical companies negotiate.

Now, we all saw what happened with Medicare+Choice. Hundreds of thousands of people were lured into HMOs and then were dumped out in the street; 500,000 in my State; and I do not know how many across this country. And you say, well, we did not learn anything from that. We know the private industry will take care of them. So let us give them the drug benefit. You are going to get the same thing, and it is rotten.

Everyone should vote "no" and vote "yes" on the Democratic alternative.

Mr. STARK. Mr. Speaker, I yield myself 15 seconds to remind the Members that both the gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from Florida (Mr. SHAW) voted against increasing payments to hospitals, voting against filling the Republican gap in the drug coverage, and voted against requiring drug companies to offer real discounts. So much that they care for the senior citizens of this country.

Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. KLECZKA).

Mr. KLECZKA. Mr. Speaker, we are told by my Republican colleagues that this is a powerful benefit, that this is an historic opportunity. Well, nothing could be further from the truth. For you see, Mr. Speaker, 2 years ago to the day an identical bill passed this House of Representatives. And why did it pass 2 years ago at this time and why is this bill on the floor here today? Because 4 months from now we will have the November congressional elections.

And you see, the American public wants a drug benefit. And they do not want to give one, but they keep bringing up this fig leaf 4 months, every 2 years before the Congressional elections.

But what is their bill all about? This is not a Medicare benefit like hospitals and physicians. This is a subsidy to insurance companies. We were told 2

years ago when this same bill was up that no insurance companies are going to sell these policies. For everyone who buys a policy will have a claim against the policy, and it is going to be identical to the failed experiment that the gentleman from California (Mr. THOMAS) called Medicare Choice.

Two million people have been canceled by insurance companies from that plan, and the same is going to happen here. But for a senior with drug costs of \$3,800 a year, the Republican plan will give them almost nothing. After they are charged a premium, a deductible, they pay \$150 for the first \$1,000 of costs. They pay one-half or \$500 for the next thousand. Then they have no coverage at all for any and all drug costs from \$2,000 to \$3,800. So for \$3,800 in drug costs per year the senior gets \$3,100 of extra payments out of the pocket. The benefit is \$655.

Is that what they want to give their mothers and their aging fathers? They should be ashamed of themselves.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. NUSSLE).

Mr. NUSSLE. Mr. Speaker, I rise in support of H.R. 4954, the Medicare Modernization Prescription Drug Act. It is a good bill. It fits within a budget. It fits within a budget plan. We have got a budget. We have got a plan. It meets the needs of seniors. It meets the needs of health care providers. It meets the needs for the future.

In 1965, Medicare should have included a prescription drug benefit.

□ 2315

For many years after 1965, Democrats had the opportunity to propose legislation for a prescription drug benefit. In fact as early as 1993, they controlled the House, the other body and the House down the road here, and did not do a thing for seniors on prescription drugs; and now tonight they rush in, claim that we will not let them have the substitute when in fact their substitute costs almost a trillion dollars; and that is the reason they cannot have it, because it does not fit within a budget, and it does not fit within a plan.

Mr. Speaker, just 3 hours ago they were screaming that we had to raise the debt ceiling because we were spending too much. Tonight they are claiming we are not spending enough. Vote for this bill.

I rise in support of H.R. 4954, the Medicare Modernization and Prescription Drug act of 2002. I'd like to congratulate the Committees on Ways and Means and Energy and Commerce for producing a bill that provides a much-needed Medicare prescription drug benefit within a fiscally responsible framework.

No senior should be forced to choose between the basic necessities of life and purchasing prescription drugs. This bill provides prescription drug coverage that is affordable, accessible, and completely voluntary.

Because the Medicare program has not been significantly modernized since its inception in 1965 to include a prescription drug benefit, it is not meeting the needs of Iowa seniors.

While the drug benefit is indeed important, Iowans recognize that the critical inequities in today's current Medicare program must also be addressed. While Iowa boasts the 8th highest quality of healthcare in the Nation, it is 50th in Medicare reimbursement.

Actions that affect Medicare affect Iowa's entire health care system. If health care providers leave rural areas, who will write prescriptions under the new drug benefit? Who will provide the care that cannot be provided by drugs alone? If local hospitals close, where will we take our children for emergency care?

Many of these problems have compounded since 1965, but rural health care, particularly in Iowa, is on the verge of a crisis. This bill offers significant progress toward bridging the gap between urban providers and those in rural States such as Iowa.

As a member of the House Committee on Ways and Means, I successfully amended this important legislation with Medicare's antiquated reimbursement policies in the current system in mind. My amendment is directed at the hospitals that need help the most, especially those in Iowa. It has been estimated that my amendment will provide \$123 million over the years in much-needed relief for Iowa hospitals such as Covenant in Waterloo, Mercy in Dubuque, and Regional Medical Center in my hometown of Manchester.

I am also pleased that this legislation includes an important provision recognizing the unique cost of physician work in rural areas. This provision would give the Secretary of Health and Human Services discretion to raise the minimum level of physician wages providing an increase of roughly \$7 million to physicians in Iowa.

After years of working to correct these inequities, I'm glad to see that the House of Representatives is following my lead in addressing these disparities in the current system. While this legislation is an important step forward, I will not stop working on this important issue.

Today we are adding an unquestionably important prescription drug benefit to Medicare as well as beginning to reverse the years of unjust reimbursement formulas that have burdened Iowa's hospitals and physicians. We have listened to both seniors and health care professionals.

The budgetary parameters for this bill were established in the Concurrent Resolution on the budget for Fiscal Year 2003 (H. Con. Res 353), the budget resolution that the House passed in March and then deemed enforceable in the House last month.

That budget made modernizing Medicare with, among other things, a prescription drug benefit and reforming Medicare among the highest priorities for the Congress—along with fighting the war on terrorism and encouraging economic recovery.

The budget provides \$5 billion in fiscal year 2003 and \$350 billion over 10 years to strengthen Medicare and include a prescription drug benefit. That money was specifically fenced off from the rest of a budget in a reserve fund.

This bill meets the requirements in the budget resolution and therefore I am releasing amounts in the reserve fund provided in the budget resolution to enable the House to consider the bill.

Some have said that \$350 billion is inadequate. The bottom line is that we made the maximum amount available for Medicare, given the state of the economy and the costs we face in the war against terrorism.

Indeed, the bill provides almost twice the resources for Medicare reform as the President proposed in his budget for fiscal year 2003. Unfortunately, critics of the bill failed to offer an alternative when the budget resolution was considered on the floor. And the other body has yet to even consider a budget resolution, despite the fact that they are required by law to do so by April 15.

As modified by the rule, this bill is "on budget" and within the reserve fund level of \$350 billion over 10 years. About \$310 billion of the total is for the drug benefit, around \$40 billion of additional assistance is provided to struggling Medicare providers, and the rest is for various miscellaneous but important provisions such as regulatory reform.

The modernization provisions in the bill include a Medicare+Choice competition program, regulatory reform, and the President's prescription drug discount card.

I believe that modernization efforts like the Medicare Plus Choice competition program are necessary to help address Medicare's long-term financial liabilities. I would encourage future conferees on this bill to make further reforms to address Medicare's financial liabilities, should the other body act on this legislation and allow us to have a conference.

In conclusion, this bill fulfills our commitment to enact a prescription drug benefit within Medicare that is affordable, and that is part of the overall effort to reform Medicare to make the program sustainable over the long term.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. TANNER), who realizes that the National Community Pharmacists Association states that the Republican bill penalizes beneficiaries desiring to continue their trusted relationship with their pharmacists and access to valuable pharmacist services.

Mr. TANNER. Mr. Speaker, I thank the gentleman from California (Mr. STARK) for yielding me this time.

Mr. Speaker, my problem with the bill that is under consideration tonight is in the theory behind it. My family has been in the insurance business in Tennessee for over a hundred years, and the reason we have Medicare in this country is because in the private world of insurance, there is no way that a senior citizen 80 years old with heart trouble and diabetes can buy health insurance. That is why Medicare came into being. They still could not buy it if we did not have Medicare. So what we are trying to do here is put a square peg in a round hole in that this bill tries to make an insurable product out of a benefit for which there is no risk pool for the concept, the theory of insurance to work.

Insurance does not work when every policyholder is also making a claim against their policy. By the very inception of this kind of protocol, every policyholder will be making a claim. It is simply not an insurable product. What we are going to wind up with, I am afraid, and we will be back here in a year if this passes and passes the Senate, is we are going to have a patchwork across the country of differing coverages, differing plans, differing copays, differing premiums, differing in every respect. Nobody will know for sure what they have got.

What is one to do? One will figure what one's drug payment is a year; and if it is less than what they would get if there is a plan offered and knowing they cannot go to their neighborhood pharmacy even if the pharmacy is willing to abide by the plan, if their drug benefit is more than what they are spending, they will take it. If it is less than that, they will not. So everybody that the insurance company signed up will be making a claim and will be getting more than their premium copayments. The whole structure of this thing is flawed, and that is why I cannot support it.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington (Ms. DUNN), a member of the Committee on Ways and Means.

Ms. DUNN. Mr. Speaker, one of the most important values to all seniors is that they be financially independent in their retirement, and that means they do not want to be a burden on their children and that means access to affordable health care. The high cost of prescription drugs and the lack of prescription drug coverage has caused many seniors, and especially senior women, to be very worried about their independence.

I was sorry to have witnessed early this evening my women colleagues in the opposition claiming that older women will not be helped by this bill because I have seen how older women are being forced to make tough decisions about whether to spend their limited dollars on necessary prescription drugs or other of life's necessities. Our mothers and grandmothers are outliving our fathers and our grandfathers. They are living on fewer dollars for more years, and they are far more likely to develop chronic medical conditions.

This bill does benefit women. This bill helps seniors on fixed incomes and those with high drug costs. A woman living on an income of less than \$15,000 a year will receive total assistance from this Federal Government Medicare program for prescription drugs. While all seniors will benefit because any senior can opt to buy this coverage, nearly 17 million or 44 percent of Medicare beneficiaries will qualify for additional assistance when this bill is fully implemented.

Perhaps the most important part of this bill, Mr. Speaker, is the fact that no senior under this coverage will ever have to pay more than \$3,700 a year for their total of drugs. Improving Medicare, though, is not only about providing drug benefits. It is about giving seniors access to doctors and hospitals and Medicare HMOs and other services they need. So we put some additional benefits in this bill to ensure that doctors will continue to serve seniors. We increase the reimbursements those doctors receive. We also help rural, urban, and teaching hospitals care for seniors and low-income individuals.

For Medicare HMOs this bill requires Medicare to account for military retirees in the future, which means higher Medicare+Choice reimbursements in every county in this country with military facilities.

I urge my colleagues to support this fine bill.

Mr. STARK. Mr. Speaker, I yield 15 seconds to the gentlewoman from Florida (Mrs. THURMAN).

Mrs. THURMAN. Mr. Speaker, I thank the gentleman from California (Mr. STARK) for yielding me this time.

I want to point out something here that continues to be talked about in the low-income seniors being given total prescription drugs. The problem is in the bill that we are talking about, it does not waive the asset test that beneficiaries would have to meet in order to get their benefits. So in fact the number of people who would qualify for the low-income benefit would actually be much less.

Mr. STARK. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. HOLDEN).

Mr. HOLDEN. Mr. Speaker, I rise in opposition to the bill. Those of us from rural districts and those of us from central and northeastern Pennsylvania know that the idea that we are going to turn over the administration of a prescription drug program for our senior citizens to the insurance industry, to the HMOs, and have it be fair and universal is ridiculous. In fact it is a joke.

Number one, the insurance industry wants no part of it. As the gentleman from Tennessee (Mr. TANNER) mentioned before, why would they when every policyholder is also going to file a claim? They are going to lose their shirt in this proposal. Medicare+Choice has failed across the country, but it has failed miserably in rural America. My constituents had to look at commercials coming out of the Philadelphia media market, Cadillac plan for prescription drug coverage and low premiums, and they were not able to participate. The reason they were not able to participate is because they had lower participation and lower reimbursement from Medicare.

As a result of it, we did not have universal coverage as Medicare+Choice.

We cannot make the same mistake. We need to have a divine benefit. We need to have a divine premium, and we need to have universal coverage for all our senior citizens.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself 20 seconds. I want to make a correction of the record.

Over and over again my colleagues say we do not have a defined benefit. We have a very clearly defined benefit. Do we have a defined premium? Of course not. The part B premium is not defined. That is a percentage of costs and it varies every year. Federal health employee benefit plans do not define the premium in law. It varies every year.

In our plan we do not want to set the premium in law because if we can provide a more efficient plan, we want to be able to pass on that savings through a lower premium to seniors. We are proud of our core benefit.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I thank the chairwoman for yielding me the time. I am glad that she was able to correct the record on a few misstatements that have been made this evening.

I would like to correct the record again. My friend from Pennsylvania just stood up and talked about Medicare+Choice and how this is the same. It is not. In fact, in this bill, we are helping to make Medicare+Choice work. Just because we have choked off the funding to Medicare+Choice so it does not work for our seniors, including a bunch of mine, who were not getting the right reimbursement has nothing to do with this plan. This is an entirely different plan, but it does help on Medicare+Choice, and I hope people are happy to hear that who are so concerned about it.

This is a great plan. This is exactly what our seniors need. One would never design the Medicare program today without adding prescription drugs. The other side wants to add \$1 trillion of prescription drugs. After just voting not to raise the debt limit they want to add another \$1 trillion.

We are doing this within \$350 billion, which is responsible, which is, unlike what my friend from Wisconsin said earlier, a lot different than the bill 2 years ago. It is more money, yes, because we believe it is necessary to be able to provide seniors with the coverage they need.

CBO has scored this. CBO has said that this will lower prescription drug prices more than any other bill that has been introduced in this House that has been scored by CBO. Our bill lowers drug prices more. There is a discount for all seniors. In fact, for the average senior there will be a 44 percent reduction in the drug costs. Average drug costs \$2,150, they only pay \$1,200 out of pocket. That is a savings of 44 percent.

There is another 44 percent number we ought to hear about tonight and that is for low-income seniors, which is 44 percent of seniors. They will pay no deductible. They will pay no percentage, 20 percent or 50 percent. They only have a nominal copay. They get this for free. That is 44 percent of the seniors. The very people the other side has said tonight repeatedly they are worried about, that they are not going to get a benefit, they get a total benefit.

This is precisely the kind of plan that the Republican Party has been talking about for the last couple of years, but it is even better than the one from 2 years ago. It meets the principles. It lowers the cost of prescription drugs and does that now. It guarantees all seniors drug coverage. It gives seniors more choices including Medicare+Choice.

It is a good plan. It is affordable. It is voluntary. It preserves the right to choose. I strongly urge its adoption.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Dakota (Mr. POMEROY), pending which I would point out to my distinguished colleagues that the gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from Florida (Mr. SHAW) both voted against protecting low-income seniors from higher copayments and the gaping gap in the Republican plan. So much they care for the senior citizens.

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding me the time.

At the heart of what this debate is all about is a clear choice, whether we should provide a prescription drug benefit for seniors through the Medicare program or whether we should send money to insurance companies to induce them to provide a coverage that at the present time they have said they do not want to write, prescription drug coverage for seniors.

I used to be an insurance commissioner. For 8 years it was my responsibility to protect the seniors from insurance companies in the State of North Dakota. There has not been a Member of this body that spent more time talking to seniors about insurance than me, and directions that I have received from seniors on this issue are absolutely consistent and absolutely clear. They want Medicare coverage for prescription drugs.

Not a single senior has said to me, please, I want to go buy another insurance policy; please send me more agents, I want to hear what they have to say; please give me that fine print, it is fascinating and I want to read some more of it; and by the way, I want to deal with insurance companies because I so enjoy wondering whether they are going to pay that claim or whether they will not; I so enjoy wondering whether they are going to be there when I need them or whether they will be gone and out of business.

No senior has said that. It is ludicrous on its face. They know Medicare. Medicare covers their hospital bills. Medicare covers their doctor bills. Medicare has been the program that has been so vital to preserving and promoting the health of seniors in this country for the last nearly 4 decades. We do not have to invent some new hocus pocus private sector, gosh-I-hope-it-works kind of deal. We have got Medicare and the seniors know it and they like it; and they would have preferred that plan tonight, which is why we were not allowed our substitute to have a Medicare delivery of a prescription drug benefit as opposed to the alternative the majority has advanced.

Nobody wants prescription drug coverage for seniors more than the minority in this body, and they will be opposing this version because it simply will not work. It does not get the job done. Vote it "no."

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself 10 seconds.

Under Medicare we have part A. We have part B. We have part C, and this will be part D under Medicare, providing prescription drugs to seniors to any plan sponsor, and plan sponsors may be a group of any sort, preferably companies skilled and experienced in managing drug benefits.

Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. CAMP).

Mr. CAMP. Mr. Speaker, today we have the opportunity to help seniors improve their quality of life by providing a prescription drug benefit in Medicare. On a daily basis it is reported that the cost of cutting-edge, life-saving medicines have skyrocketed, forcing those on fixed incomes to make difficult choices.

One constituent in my district had drug costs of over \$15,000 a year for him and his wife, and their Social Security check was \$21,000 a year, and there are countless other heartbreaking stories just like that one.

□ 2330

These seniors have worked hard all their lives to provide for their families, but now they can barely make ends meet.

We can all agree if Medicare were created today it would contain a prescription drug component. In Michigan alone, this bill would benefit over 1.2 million seniors. This proposal provides affordable coverage for every senior without gimmicks, without sunsets, without pie-in-the-sky proposals that cost over \$1 trillion.

Regrettably, some have sought to politicize this issue and hold other seniors and the disabled hostage to a cruel game of brinksmanship. We must strengthen and modernize Medicare. Vote for this bill.

Mr. STARK. Mr. Speaker, I yield myself 15 seconds to point out that every Republican, including the gentle-

woman from Connecticut (Mrs. JOHNSON) and the gentleman from Florida (Mr. SHAW), voted against assuring seniors that they could get the drugs that their doctor prescribes, because there is nothing in the Republican bill that guarantees the drugs that a doctor might prescribe.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, my colleagues on the Republican side have never truly embraced Medicare. They opposed it in 1965, they have talked about letting it die on the vine, and they have described it as a Soviet-style program. In fact, what we have in this bill from my Republican colleagues and friends is a bill that moves us much closer to privatizing Medicare all together.

To privatize Medicare is to ignore the lessons of the Enron scandal and the pension abuse that occurred as a result. To privatize Medicare is to turn back the clock to those bad old days before 1965 when the health care for our seniors was not guaranteed and left to the private sector.

Under this Republican plan, a senior who is paying \$250 a month in prescription drugs, and that is a lot of our seniors, would lose coverage, total coverage under this plan after August. So that, come September, come October, come November, come December, that senior would have to, out of his or her own pocket, pay for the remaining cost of all those drugs.

Under this plan, a senior who has \$5,000 in annual prescription drug costs, and there are a lot of them who do, would have to pay \$4,200 out-of-pocket out of that \$5,000 cost. Compare that to the Democratic plan, where the total cost to that senior for the \$5,000 would be \$1,380, a savings of \$2,800 between the Republican plan and the Democratic plan.

Those are the facts, and that is the difference. But we do not have a chance to put our Democratic plan for a vote here. Mr. Speaker, today, today as we speak, seniors are having to make a choice, do I buy my groceries, or do I buy my prescription drugs? Do I pay my rent, or do I buy the medication I need? We should not have them make that choice.

Give seniors what they want. They want an affordable and guaranteed benefit. The Democratic plan does that; the Republican plan does not. Let us defeat this plan.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself such time as I may consume to note that it is curious the gentleman from California keeps citing the votes that we cast against his unfunded amendments, the unfunded amendments from the other side, when he is about to cast a vote

against funding 43 percent of the seniors in California with everything, drug costs, copayments, deductibles, premiums, the whole business, 43 percent, and saving California \$5 billion under Medicaid with which they can then expand drug benefits for many other folks in their State. Too bad.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. ENGLISH).

Mr. ENGLISH. Mr. Speaker, as a member of the Subcommittee on Health of the Committee on Ways and Means, I particularly want to pay tribute to the gentlewoman from Connecticut (Mrs. JOHNSON), who has been on the receiving end of many barbs tonight. The fact is that no one has fought harder to bring a prescription drug benefit to the Medicare program; and if we are successful in that, she, perhaps more than any other Member of this body, will deserve substantial credit.

I am here tonight because I represent a district which consists of working families for whom the abstractions of this debate do not mean much but who desperately need help on their prescriptions. This program that is being proposed in this landmark legislation would give them a flexible and affordable benefit, one that would be voluntary, a program that would give them real choices, allowing them to customize their benefits. It would provide a benefit that would be very substantial, more generous in fact than the one that had been previously proposed by the Clinton administration that folks on the other side of the aisle once embraced.

This is a program that represents a \$350 billion investment in the Medicare program and one that would provide substantial benefits to seniors that would be available for a premium of about \$1 a day. At the same time, for those seniors, including many in my district who cannot afford that premium, this program would provide full coverage for low-income seniors.

What is particularly striking about this legislation is that it establishes a firm ceiling, a limit, catastrophic coverage for people who participate in this program, an ultimate limit on the amount of prescription drugs they would be liable for in a given year, a limit of \$3,700. That is extraordinarily generous, and it positions people who participate in this program to be able to have affordable drugs when they need it.

The 30 percent discount that is built into this program has been much mentioned. Let me say it also allows CMS to negotiate with the drug companies to get the best possible discount and to sharpen their pencils.

This is a great program, and I hope the House will pass it tonight.

Mr. STARK. Mr. Speaker, I recognize the gentlewoman from Florida (Mrs. THURMAN) for 15 seconds.

Mrs. THURMAN. Mr. Speaker, we keep hearing this 30 percent. Actually, there has been a letter dated by the CBO on July 26 that says that they are confused, that there has been some confusion about the meaning of the 30 percent cost management factor that CBO applied in analyzing H.R. 4954. It goes on to say, the savings are stated as a proportion of total spending and do not represent a per-prescription discount.

Mr. STARK. Mr. Speaker, I am privileged to yield 2 minutes to the gentleman from Arkansas (Mr. ROSS), who understands why the National Association of Chain Drug Stores and the National Retail Federation and other pharmacy groups have said they consider a vote for the Republican bill to be a vote against the professional pharmacy and pharmacists.

Mr. ROSS. Mr. Speaker, I do rise in opposition, strong opposition, to this bill.

Just a few months ago, I was in Glenwood, Arkansas, a small town in my district, and ran into an elderly woman who is a retired pharmacist and who just happened to be a relief pharmacist in my hometown when I was a small child growing up.

She related the story to me about how when I was a child and she was a pharmacist, if she had a prescription that cost over \$5, she would go on and fill the next one while she built up enough confidence to let the patient know it was going to cost \$5. I think that really demonstrates, more than life itself, that today's Medicare, if we think about it, was really designed for yesterday's medical care.

Health insurance companies, which are very greedy, in my opinion, make huge profits and even they cover the cost of medicine. Why? Because they know it helps patients to get well and live healthier lifestyles.

As a small town family pharmacy owner, I am sick and tired of seeing seniors leave the doors of our pharmacy without their medicine. And living in a small town, I learn a week or 10 days later where they are in the hospital running up a \$10,000 or \$20,000 Medicare bill simply because they could not afford their medicine or could not afford to take it properly. So I came to Congress to try to do something about it.

This should not be a partisan issue. I wrote a bipartisan bill alongside the gentleman from Missouri (Mrs. EMERSON), a Republican; and the Republican national leadership would not give us a hearing on our bill. They would not give us a vote on our bill.

Now, less than 5 months before, yes, another election, they are coming to us with this plan, this so-called Medicare plan, which has nothing to do with Medicare other than attempting to privatize it, written by the drug manufacturers for the drug manufacturers.

I know my colleagues have heard a lot from both sides tonight and that very few seniors are still awake listening because it is midnight, and that is the reason they are bringing it up now, but let me say this: Do not listen to them and do not listen to us. Go to the family pharmacist and ask them which plan is right for America.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. THOMAS).

Mr. THUNE. Mr. Speaker, will the gentleman yield?

Mr. THOMAS. I yield to the gentleman from South Dakota.

Mr. THUNE. Mr. Speaker, I thank the gentleman for yielding to me; and I want to commend the chairman, because I know he has worked hard, along with the gentlewoman from Connecticut, to fashion a bill that addresses these concerns.

Mr. Speaker, we have seniors in South Dakota who need prescription drug relief. We have rural providers who need relief. I also share some of the concerns the gentleman just voiced about the pharmacist, and I would inquire of the chairman whether, as this process moves forward, he would be willing to work with me to provide assurances to pharmacists, particularly those in rural areas, that their concerns will be addressed?

Mr. THOMAS. Reclaiming my time, Mr. Speaker, I appreciate the gentleman's concerns. We have moved in the direction. There are still some concerns, and I assure him that, as we move forward in Congress, we will address the concerns of pharmacists.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself 15 seconds.

I would like to point out to the gentleman from South Dakota that, while on page 18 of the other party's bill they say they require any willing provider, on page 8 of the other party's bill they say that there has to be pharmacy networks and the networks can determine cost sharing for beneficiaries outside the network.

So their bill does not provide any willing providers; and ours, at a later time, provides a lot of recognition to pharmacists.

Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank the gentlewoman from Connecticut for yielding me this time and who has worked so hard on this legislation.

It is important for citizens of my home State, Arizona, the seniors there who are still awake at what is 20 until 9, prime time in the State of Arizona, to understand exactly what we are doing in this legislation.

Despite the wailing and gnashing of teeth about process, we ought to focus on results. Here are the simple facts, Mr. Speaker: Under our plan, prescrip-

tion drug coverage under Medicare is available to every senior who wants it. Every senior who wants this plan will be eligible for coverage. We will leave no senior behind.

That is especially important when we look at the people who need the most help. The 44 percent of seniors nationwide below 175 percent of poverty, their benefit is paid for. Over \$40 billion in savings to Medicaid. Real money for real people with a real prescription drug benefit.

And this is the most compelling argument, Mr. Speaker. When we cut through all the smoke and mirrors and all the rhetoric, what seniors want, what I heard at the Mesa Senior Center a couple of weeks ago, was that seniors want prescription drug savings now. When we pass this, when the other body takes its action, our plan begins covering seniors and lowering costs as soon as 50 days after the President signs the bill into law.

Mr. Speaker, the time is now to act. If this can be moved, if this bill can become law, seniors can start realizing savings before Christmas. The perfect present to give our mothers and fathers and grandmothers and grandfathers. Support this legislation.

Mr. STARK. Mr. Speaker, I yield myself 25 seconds to remind the gentleman from Arizona that he should tell the seniors in Mesa that he has lined his own pockets with a benefit for Members of Congress which is 50 percent more generous than what he is willing to give the seniors in his home State, and that he and the gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from Florida (Mr. SHAW) voted against eliminating cost sharing for preventive benefits for seniors.

Now that again shows us how much they care for the seniors in Hartford or in Florida or in Arizona.

□ 2345

Mr. Speaker, I yield 1 minute to the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON of Indiana. Mr. Speaker, there is an old adage that says those that pay the piper name the tune. We are here tonight on a tune that was written by a \$30 million dinner a few nights ago. As I understand it, the senior citizens were not allowed to even win door prizes for prescription drugs at that event. And \$30 million would have undergirded the cost of prescription drugs for millions of seniors who need them across this country. Those that pay the piper name the tune.

When the nonpartisan Congressional Research Service did a comparison of the drug benefit under the Blue Cross/Blue Shield standard option available to Federal employees to the Democrat and Republican prescription drug plans, they found that the Republican

plan would give about 40 percent of the coverage Members of Congress receive, but the Democratic would give comparable coverage. But those that pay the piper name the tune and obviously have now begun to get their thrill on Capitol Hill.

Mr. Speaker, the senior citizens still suffer with a headache or heartache from this incredible sham that the Republicans have offered.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Speaker, I am proud to say tonight we have an opportunity to provide prescription drug coverage under Medicare for our senior citizens. Tonight we are seeing an example of two different kinds of debate. Some people want to offer partisan rhetoric for political purposes. Others want to offer policy, policy which gives a solution to the challenge we have. The bottom line is we want to provide prescription drug coverage for our seniors.

It was quoted earlier this year, one of the advisers to the Democratic leadership said, "One of the biggest worries that our policy people had was that they would actually write a good bill."

We have a good bill before us. This is a bill that increases funding for Medicare by \$350 billion, provides prescription drug coverage under Medicare, lowers the cost of prescription drugs now, guarantees all senior citizens prescription drug coverage, improves Medicare with more choices and more savings, and strengthens Medicare for the future.

The question is: What does that mean for the average senior citizen? The bottom line is under the plan that the gentleman from Connecticut (Mrs. JOHNSON) is managing before the House of Representatives, we have an opportunity to save for senior citizens real money. The overall out-of-pocket drug costs would fall by as much as 70 percent according to the Department of Human Services with the plan we have before us today.

According to a Health and Human Services study released this week, the House Republican plan would provide real relief for seniors and disabled Americans. Those who now pay full retail prices would typically see the cost of each prescription cut by 60 to 85 percent. Their overall out-of-pocket drug costs would fall as much as 70 percent, all in exchange for an affordable premium of \$34 a month.

It is projected that the average senior would save \$940 a year as a result of this plan. We have a plan that takes \$18 billion out of the pockets of the pharmaceutical companies and saves the average senior \$940. It deserves bipartisan support.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, this is one of those proposals that is perhaps best considered very late in the evening when the cover of darkness can attempt to hide the shame of the proposal. This bill is about creating the appearance of doing something when it does nothing to improve the lot of our seniors. When we get right down to it, despite the charts, the Republicans have no plan. All they offer is a placebo based on privatization. I suppose we can call it a Swiss cheese plan, but seniors get all of the holes and no cheese. There is no guaranteed deductible, no guaranteed premium, no guaranteed benefit, and there is no insurance company that has ever offered a plan of this type; and most have said that they will not be able to provide a plan of this type.

It all centers on the Republican ideological insistence that we must privatize Medicare, and that is not a prescription for reform; it is a prescription for disaster.

This very day, one of their top leaders called the plan that Lyndon Johnson signed into law and upon which millions of Americans have relied, had the audacity to call it a Soviet-style plan. They did not like Medicare then. They have never accepted it, and they are determined to use this device to privatize it.

Further, we find in the fine print of the plan in the paragraph called "non-interference," a specific command that the administrator of this program cannot act to reduce costs. This figure of \$18 billion has been pulled out of the air by a Republican Health and Human Services administrator. It has no basis in fact.

Rather, with this bill, the Republican leadership has once again pledged its allegiance to the pharmaceutical manufacturers whose price gouging forces our seniors to pay the highest prices of anyone in the world. Little wonder that those same manufacturers are continuing to pay for ads all over the country telling people that the Republican partners are great people for obstructing the help that our seniors so desperately need.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, this is an important night for the seniors in my community. I am proud the House is standing up for seniors who desperately need an affordable, permanent prescription drug plan under Medicare, and who need it right now.

The House plan gives America's seniors the right to choose the Medicare prescription plan that is best for them with catastrophic protection for the very costly illnesses, extra help for the poor who need it the most, and lower drug prices for all seniors using group buying power so drug companies will compete for our business and not the other way around.

That means for nearly half up Texas' seniors on Medicare, they will receive up to \$2,000 of essentially free medicine each year that they need, and that is real help.

Thankfully, tonight we are rejecting the alternatives, alluringly irresponsible schemes that are simply too good to be true, schemes that would bankrupt Medicare within 10 years and leave our vulnerable seniors to face grim choices. I support the Republican plan, and my seniors do as well.

Mr. STARK. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. BACA), who understands that the AARP opposes the Republican drug bill in its present form and says that it needs vast improvement before their members can support it.

Mr. BACA. Mr. Speaker, I stand in opposition to this shameful decoy that creates the illusion that it covers all seniors, when we know that it does not cover all seniors. It only covers someone as long as it only reaches a certain limit.

We have to make sure that all seniors are guaranteed coverage, make sure that they are able to get the kind of services that they need. Currently right now, they cannot even buy or put food on the table, and they have to decide between buying prescription drugs or not.

This is like an insurance plan in California, telling drivers they have the coverage, when in fact they have the coverage as long as there is no accident. The minute there is an accident, the premiums go up, and you lose the coverage. They are afraid. They are afraid to file a claim. This is the same situation that we are going to have here. We are going to have seniors that are afraid to buy drug prescriptions because their coverage will go up. They will continue to go to Tijuana and buy it cheaper because they do not have the coverage. This is shameful and a decoy. We should support the Democratic plan that covers all seniors and all individuals.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. RYAN), but in the course of doing that I want to mention that the Congressional Budget Office in their letter to us made clear that exempting Medicare prescription drug plans from Medicaid's best price drives down drug prices \$18 billion for our seniors.

Mr. RYAN of Wisconsin. Mr. Speaker, I would like to put one thing straight. The AARP does not oppose this bill.

But for the benefit of Members who are truly listening to this debate and trying to make up their minds, let me point out three distinct differences. The Democratic bill will have the consequence of pushing out private-sector-provided prescription drug coverage. The Republican bill supplements that. What the Democratic bill will do, will

have the consequence of making sure that all those employers who are providing prescription drug benefits for their employees do not do so any more so the government will pick it up so we are needlessly forcing taxpayers to pay for a benefit that the private sector is already providing.

The Republican bill includes deeper discounts on prescription drugs than the Democrat bill does. The Democrat bill is a \$1 trillion-plus bill that will do nothing more than make Medicare go broke faster. We have a problem. We have two problems. We need prescription drug coverage for our seniors. We need to give them access to deep discounts on their price of drugs, and we need to make Medicare solvent for the baby boomer generation. The Democrat bill fails in that area. The Republican bill delivers.

Mr. STARK. Mr. Speaker, I yield 15 seconds to myself to apologize to the Republicans and quote the actual words that I misspoke. The AARP does not oppose their bill, they just say that it requires improvements before our members would support their bill. I want the record to make it perfectly clear, while they do not oppose it, they do not support it.

Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. CLEMENT).

Mr. CLEMENT. Mr. Speaker, I could not support the Republican bill because we have to have fairness. It does not offer fairness. As a matter of fact, I just completed a survey in Tennessee, and the fact is that prescription drugs are twice what they are in Canada and Europe and Asia. But that is not true just in Tennessee; it is true all over the country.

There are a lot of things we could do. The Bush administration could re-import those drugs from Canada right now, and we would get a break. We have a lot of people on the border that can go across the border and get prescription drugs, a 90-day supply. There are a lot of things that we can do that are not being done.

The United States Senate Democrats have a very good plan, and we ought to look at the Senate Democrat plan because we are not going to get any justice here.

I suggest to Members, vote "no." The fact is we are subsidizing other countries. We have got price gouging going on by the pharmaceutical companies at present. We need to give relief now, and prescription drugs should be part of the Medicare package.

□ 0000

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. VITTER).

Mr. VITTER. Mr. Speaker, I rise in proud support of this Republican prescription drug plan. Prescription drug coverage is absolutely critical for sen-

iors today, and no senior should have to choose between paying for prescription drugs and paying for food or rent. So we are acting and we are producing a plan and we are passing a plan to give seniors choice. They can choose the plan that works best for their needs. It reduces their out-of-pocket costs for prescription drugs, gives them a lifetime benefit, and the plan is voluntary.

So if seniors have a plan already that they are happy with, they can stay with it. They are not going to get kicked out. But for those without coverage, this bill will help them get that coverage and cover those escalating costs of prescription drugs.

Seniors deserve a prescription drug benefit, not just talk, not just debate, and they deserve it today, and that is why we are going to act today, not talk, not debate but act, act responsibly and act within a budget that we can sustain over time.

Mr. STARK. Mr. Speaker, I am honored to yield the balance of my time to the distinguished gentlewoman from California (Ms. PELOSI), pending which I would just like to remind all the seniors in the country to review all the votes that the Republicans took against their interests in coming to this useless bill which they have brought to the floor.

The SPEAKER pro tempore (Mr. THORNBERRY). The gentlewoman from California is recognized for 3 minutes.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me this time and thank him for his leadership and that of so many other members on the Committee on Commerce and the Committee on Ways and Means for their leadership in making the distinction between what the Democrats would have proposed had the Republicans not been afraid of seeing a real prescription drug benefit plan on the floor tonight and their sham, their cruel hoax, on America's seniors that they have presented.

Why is it a cruel hoax? It is a cruel hoax because it helps pharmaceutical companies and HMOs and it does not help seniors pay for needed medication. It is a cruel hoax because there is no guaranteed coverage because insurance companies just will not offer plans. Our plan would have guaranteed coverage for all seniors through Medicare. Their plan does nothing to lower prices and ours would have lowered prices by enabling Medicare to negotiate on behalf of seniors. It goes on and on.

What is very important for me to note is that we spend annually \$70 billion on doctors under Medicare, \$140 billion on hospitals. It would be necessary to spend \$90 billion on pharmaceuticals. It sounds like a lot of money, and it is. But it is a tremendous investment in the health of the American people.

The committee on which I serve that funds the National Institutes of

Health, we have seen the progress in science since the inception of Medicare. It is miraculous what these drugs can do. Would it not be great if seniors could have the opportunity to have funding for self-administered drugs that is prevented so far and that the Republican bill does nothing to improve?

It would save seniors money. It would save the taxpayers money. Because these drugs are not only an adjunct to care and to hospitalization, they are a substitute for it. It would improve the quality of life, it would save the taxpayers money, and it would go a long way to restoring the dignity to our seniors which we owe them.

Every family in America, Mr. Speaker, is just one accident or one diagnosis away from sadness not only in terms of what it means to physical health but in terms of economic security. We have an agreement with the American people that their health is part of the strength of our country. Access and affordability are linked. Access to affordable prescription drugs is central to the health of our senior population. We owe them better than a debate on a sham bill that has no guarantee. It is a suggestion but not a guarantee. It is not a prescription drug entitlement under Medicare as what is promised and should be promised to our seniors. Again, it does nothing to address the issue of cost.

Every senior in America deserves the respect and dignity of economic and health security. The Republican bill is a cruel hoax on them. I urge a "no" vote.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself 5 seconds.

Respectfully, how could a sham bill accelerate the pace at which technology will come into Medicare for the first time ever? And I am proud of it.

Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. GRUCCI).

Mr. GRUCCI. Mr. Speaker, I thank the gentlewoman for yielding me this time. When I went back to my district and I started talking about this program and this plan for senior citizens, I was wondering what kind of reception I was going to get, what they were going to say to me, the things that they would tell me.

One of the things I saw that really lit the fire of passion in my heart on this issue and on this particular bill was when I saw the hope in the eyes of the senior citizens when they recognized for the first time ever they were going to get help on their prescription drugs, that the cost of their prescription drugs was going to come down, that they were going to be able to put hundreds of dollars back into their pockets and they were going to be able to use that for the rhetoric that we keep talking about, to buy their food, to be able

to put heat in their homes, so that instead of having to stretch their medicine, they could take it as prescribed.

I sat across the table from these senior citizens and they were not just telling me rhetoric, they were telling me how they have to live their lives. When they saw the benefits of this program coming in front of them, when they saw the opportunity to get their money back into their pockets, they had hope.

For that, Mr. Speaker, I encourage my colleagues here tonight to have a "yes" vote on this particular bill.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield the balance of my time to the gentleman from Missouri (Mr. BLUNT).

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BLUNT) is recognized for 1 minute and 40 seconds.

Mr. BLUNT. Mr. Speaker, I thank the gentleman for yielding time, the great job she has done on the floor tonight and the great job that she and the committee have done with this bill.

This is a tremendous step forward. It provides so many things that seniors need. The amount of money allocated to this bill is possible. It is within budget. Health care providers and hospitals support this bill.

The AARP in a letter to the chairman of the Committee on Ways and Means said, "We are pleased that your bill makes the voluntary prescription drug benefit permanent and maintains the entitlement nature of the Medicare program."

This is something that can actually be done. It is within a real budget. It is an amount of money that can be spent for this purpose and can start immediately. It makes a difference in the lives of seniors.

Certainly health care delivery has changed dramatically since Medicare was created. This benefit needs to be added to Medicare. It needs to be an entitlement, not an experiment. It needs to be something that we do now, not come up with an amount of money that is impossible to do for years to come.

The amount of money allocated to this bill far exceeds the amount of money that our friends on the other side of the aisle said was necessary just 2 years ago. New drugs and devices would not be a result of a government-run health care program. They will be a result of a program that maintains incentives but guarantees lower cost, guarantees access, makes this an entitlement. It is supported by health care providers for a reason. The AARP says it has great merit for a reason.

We need to do this. We need to do it now. We need to make this a reality this year.

The SPEAKER pro tempore. Pursuant to House Resolution 465, the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Michigan (Mr. DINGELL) each will control 30 additional minutes of debate.

The Chair recognizes the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Speaker, I yield myself 3½ minutes.

Mr. Speaker, I rise in strong support of H.R. 4954.

I first want to thank the gentleman from Michigan (Mr. DINGELL) and all the members of the Committee on Energy and Commerce who spent over 30 hours of markup in producing this bill. I particularly want to thank my colleagues on the other side for the spirited but I think agreeably friendly debate we had that stretched over 3 days and ended up on Thursday when we started at 9:30 and completed at 8:30 the next morning.

This is a complex piece of legislation. I have heard people describe it on the other side as a hollow bill that contains no benefits. Let me make it clear, this is a bill that spends 350 billion of American taxpayer dollars that will create a valuable new entitlement for Medicare beneficiaries, that will finally provide them with prescription drug coverage, and it will do so in a comprehensive way, ensuring that the benefit will work within a stronger Medicare system for decades to come.

I do not speak just for myself. Let me quote a letter from the AARP. The letter from the AARP says our members and virtually all older Americans need this coverage now. They are tired of excuses. They are tired of politics. They want us to pass this benefit bill now.

Here is what they said about our bill. "We are pleased that your bill makes the voluntary prescription drug benefit permanent and maintains the entitlement nature of the Medicare program."

They went on further to say, "The bill contains other favorable components as well." They talk about the coverage of the first \$2,000 in the bill and particularly the financial assistance for low-income beneficiaries with drug costs under \$2,000 as being vitally important. They also mention, and I quote, we appreciate your efforts to contain drug costs because a Medicare drug benefit bill alone without effective cost controls will be difficult to sustain. They understand we cannot bankrupt Medicare. We have got to make this system work within our budget.

But they went on to say, "You can improve this. We don't like this home health copay." It is now gone. Our committee voted it out, and it is not in the bill.

They asked us to do what we could to close the gap, the \$4,500 gap that existed between the first \$2,000 of coverage and the catastrophic coverage. We found \$18 billion by forcing the pharmaceutical companies to negotiate discounts below the so-called best price, \$18 billion from pharmaceutical companies, and we lowered that loss from \$4,500 of out-of-pocket expenses down to \$3,700. We paid \$800 more of

drug cost in the bill now, exactly what AARP asked us to do.

Finally, they said, it is important, because our research indicates that Americans are looking for stability and dependability, to ensure that private sector entities will be willing to offer coverage.

We have a letter, too, from the Health Insurance Association of America and this is what their letter says:

"The improvements contained in the proposal should make the benefit more attractive to beneficiaries. Consequently, there is now a much better chance our members will offer the benefit."

We have a comprehensive plan, a permanent plan, a voluntary entitlement within Medicare that is within budget, that insurance companies say they will be able to work under it and provide plans and what CBO says as high as 97 percent of the seniors in America will find drug coverage and participate in.

This is a great bill. Seniors want it now. They are tired of politics. Let us pass it tonight.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I listened to the chairman of our committee from Louisiana, and it bothers me because he is not looking at the bill. He is not talking about the Republican bill that is on the floor of this House. This is not a Medicare bill. This is not a Medicare program. There is nothing in this bill that is going to help the average American senior.

If you look at it, first of all, we know that it does not provide Medicare coverage, no guarantees. What it does is to give some money and throw some money to private insurance companies in the hope that somehow they are going to provide a Medicare benefit. The insurance companies have said they are not going to provide the benefit. If they were providing the benefit, we would not need a Federal program.

Let us imagine that somewhere, somehow, I do not believe it, but somewhere, somehow some private insurance company is willing to provide the plan the way the chairman describes. Why in the world would anybody buy into such a plan? Look at some of the figures that we have.

First of all, if I could use this chart, it shows very dramatically that the senior citizen is only going to get about 22 percent of their coverage paid for by the Federal Government, compared to the Democratic plan which was significantly more. Look at this so-called doughnut hole in coverage. In the beginning you are going to get, if it is even available, you will get some money in the very beginning, up to

\$1,000 and then up to \$2,000 out of pocket. But then after that there is no coverage. For 40 percent of the beneficiaries, the average senior citizen, they are going to get no coverage during this interim period.

If you are going to be in a situation, either there is no plan at all, you do not have the advantage of a plan because the private insurance companies do not provide it, or, secondly, the premium is so high, the deductible is so high or it costs so much over the course of the year that it is not even worth buying.

Who in the world would want to buy the coverage even if it was available? The answer is nobody. That is the reality of this bill.

The other thing that really bothers me here is I have heard some of my colleagues on the Republican side tonight talk about how there is going to be a 30 percent discount. I asked the gentleman from Connecticut (Mrs. JOHNSON), where is this in the bill? There is nothing in the bill that provides any discount here. She is assuming that there is going to be some competition to provide it, but they put a noninterference clause in the bill that prevents any price reduction. They do not want price reduction.

□ 0015

Mr. TAUZIN. Mr. Speaker, I note that New Jersey is going to receive \$1.5 billion in Medicaid savings directly from this bill, and 40 percent of their seniors will receive subsidized coverage of their insurance premium.

Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. BILIRAKIS), the chairman of the Subcommittee on Health of the Committee on Energy and Commerce.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for yielding me this time.

Before I get into my remarks, I would say that the gentleman from New Jersey, as usual, does not listen. When the chairman read from the AARP letter, when they said, "We are pleased that your bill makes the voluntary prescription drug benefit permanent and maintains the entitlement nature of the Medicare program," that means it is under Medicare.

Mr. Speaker, obviously, I rise in support of the bill. I believe that today's vote is another example of our commitment to getting something done for seniors this year, not just talk about it this year.

The bill creates a new entitlement under Medicare. Senior citizens and persons with disabilities will now have access to a voluntary, comprehensive prescription drug benefit. Our bill creates this benefit without jeopardizing the financial health of the overall program, which would certainly happen under the plan offered by our friends on the other side of the aisle.

During the Committee on Energy and Commerce's consideration of the bill last week, committee Democrats offered an amendment in the nature of a substitute that, while not scored, would likely cost over \$900 billion over 10 years. I was disappointed that they would offer such an irresponsible plan during such a serious debate, especially since, just last year, House Democrats included \$330 billion for a new prescription drug benefit in their proposed budget resolution.

A benefit without explanations is, of course, no benefit at all. The counterproposal offered by my colleagues does not explain how they would fund this enormous program since they did not even offer a budget resolution this year. I repeat, they did not even offer a budget resolution this year.

The fact that they have now tripled the amount they say is necessary for a prescription drug benefit tells me that, instead of being serious about a solution, they care only about outbidding Republicans in an attempt to score a political point for the November elections. After all, as has been said before, they controlled this House for 40 consecutive years and at no time did they attempt to address this problem.

We are addressing it. We want to help seniors now, not just use political rhetoric.

Our plan provides Medicare beneficiaries with meaningful, comprehensive coverage. It does not force beneficiaries into a one-size-fits-all program where bureaucrats pick their medicines. Instead, seniors will have a choice of at least two prescription drug plans which will provide the best price discounts available. The bill also puts into effect an idea presented to me some time ago by Dr. William Hale of Dunedin, Florida, to offer at government expense an initial medical physical for all beneficiaries going into the Medicare program. It is easy to envision, I think, that many diseases will be picked up at that time in their early stages and, thus, result in more healthful retirement years and ultimate health cost savings.

Mr. Speaker, H.R. 4954 places an appropriate focus on two populations that have long been, as many know, a priority of mine: the low-income senior without prescription drug coverage and the very ill senior who is in danger of impoverishing him or herself in order to pay for their medications.

The bill we are considering today includes strong protections for these vulnerable beneficiaries. It fully subsidizes cost-sharing, except for nominal copayments for Medicare beneficiaries with incomes up to 75 percent of poverty. This feature means that 44 percent of our Nation's seniors, those with incomes less than \$15,505 for singles and \$20,895 for married couples, could be eligible for full cost-sharing assistance. Mr. Speaker, \$20,895 for married

couples, could be eligible for full cost-sharing assistance.

Our bill makes needed changes to the program by raising reimbursement rates. That has been talked about.

Mr. Speaker, I hope that the Senate follows our lead and passes a bill soon so that we can begin the process of reconciling our two packages later this year. This is a good bill, a responsible plan, not a perfect plan by any means, but intended to help our seniors now, and we need to support it.

Mr. DINGELL. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from Ohio (Mr. BROWN), the ranking member of the subcommittee.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman for yielding me this time.

The Republican HMO drug plan does several things.

First of all, it begins the process of privatizing Medicare. The Republican HMO drug plan gives 30 percent less choice, 30 percent less choice for seniors' prescription drugs. The Republican HMO drug plan is an entitlement for insurance companies, not for America's seniors. It does nothing to bring drug prices down. In fact, prices in the United States will continue to be, under the Republican plan, the highest, two, three, four times what they are in other countries, the highest prices in the world. And the Republican HMO drug plan gives benefits almost twice as good to Members of Congress as it does to America's seniors. As we can see on this chart, Members of Congress have a plan worth about \$2,100. The Republican plan provides for America's seniors a plan worth about \$1,300.

Now, why would our friends on the other side of the aisle come up with a plan like this that privatizes Medicare, that gives seniors 30 percent less choices, an entitlement for insurance companies, that most outrageously gives a much better plan to Members of Congress than it does to America's seniors? Why would they do that?

I think the answer to that, Mr. Speaker, came last Wednesday afternoon when our committee, the Committee on Energy and Commerce, adjourned early at 5 o'clock so that all of the Republican Members could troop off to a \$30 million, that is \$30 million fund-raiser underwritten by the American drug and the prescription drug industry where the money went to feed the coffers of Republican Party candidates. This fund-raiser was chaired by the CEO of one of the world's largest drug companies, the CEO of Glaxo, a drug company located in England, a foreign drug company. His company gave \$250,000 to this Republican event. He was joined by \$250,000 contributions from the trade association representing the drug companies and many others.

The question, Mr. Speaker, is of voting for a plan that is written by and for the drug companies or a plan for America's seniors.

So, the next day, when Members of Congress from our committee returned to vote on legislation, to vote on this prescription drug bill, surprise: every vote cast by my Republican friends, whether it was to make the seniors' plan the same as Members of Congress, whether it was to bring prices down, whether it was to reduce out-of-pocket expenses, every time these Republican Members of Congress voted with the drug companies.

It is a question of, do we vote for legislation written by and for America's drug companies, or do we vote for legislation written for America's seniors?

Mr. TAUZIN. Mr. Speaker, Ohio, under our bill, will earn \$1.8 billion in Medicaid savings, and 38 percent of their seniors will get free premiums under our bill.

Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Kentucky (Mr. WHITFIELD), a distinguished member of our committee.

Mr. WHITFIELD. Mr. Speaker, I have been somewhat shocked, really, at the animosity expressed against our plan this evening. Medicare as it exists today uses private companies to administer the Medicare program. Under the Democratic plan, private companies will be used to administer their drug program, just as ours is.

I was looking, and in Kentucky we have 615,000 citizens under Medicare. Under this plan, the plan that we will be voting on and passing tonight, 315,000, or 50 percent of them, will basically receive free prescription drugs with a very small copay of like \$2 for generics and \$5 for name-brand drugs. So how could we possibly oppose helping seniors with this kind of a meaningful program?

We have heard a lot of discussion tonight about how horrible the drug companies are in America. I think they have the best research and development, and we are fortunate to live in a country where drugs are being discovered every day to cure serious diseases.

Mr. Speaker, I urge the support and passage of this legislation.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I thank the distinguished ranking member for yielding me this time.

Mr. Speaker, I rise tonight to speak about an issue that calls to a need of the American people. This is really a solemn moment in this Chamber, and I regret enormously that my friends on the other side of the aisle did not have enough confidence in themselves to debate here tonight two plans, not just their plan. So since it is just their plan, that is what I am going to direct my comments to.

I know you all love your mothers and fathers. So do we. We all love our families. We are talking about the American family. We are talking about senior citizens.

Now when the American people go shopping for coverage for something, what do they want? They want something that is comprehensive, they want something that is affordable, they want something that is guaranteed, and they want something that is understandable. They have come to trust the gold standard that Medicare represents.

Now my friends on the other side keep using the word "Medicare." Do we know why? It is the best marketing word in the country. But look at the fine print. What they do is they put the language down for Medicare, but they take the taxpayers' money and shift to private insurance companies, with no guarantee that there is any insurance company that is going to bring them these benefits.

So American people: Beware. Beware of false advertising. This is no more a Medicare prescription drug plan than I am a redhead.

Mr. TAUZIN. Mr. Speaker, the State of California will get \$5.1 billion in Medicaid savings under this bill, and 1.5 million California seniors, including redheads, will get free premium insurance coverage.

Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Speaker, this is a \$350 billion bill. Since when has \$350 billion been pencil dust, I ask my colleagues. That is a third of a trillion dollars.

Mr. Speaker, 37 percent of Iowan senior citizens will have no copayment, deductible, or premium. They will get this benefit free. That is not pencil dust.

We have another problem that we have not addressed, and that is that in rural States like my State, rural hospitals and other providers, the rural hospitals are going broke and other providers are not taking care of, cannot take any more Medicare patients into their practices, and this bill addresses that. This bill addresses that.

Without this bill, we would have a 15 percent cut in physician payments. Without this bill, rural hospitals in Iowa will go bankrupt. This bill provides Iowa with \$330 million in additional payments for Medicaid, and this is at a time when my State is struggling to meet its payments.

This bill helps seniors. U.S. Seniors endorses it, and Sixty Plus. It helps the providers like physicians to keep taking Medicare patients into their practices.

□ 0030

It helps keep the rural hospitals open. That is why it is endorsed by the AMA and the American Hospital Association. Ninety-five percent of seniors would find this a good deal and sign up for this bill.

This bill basically is a bird in the hand. That is worth more than two or

three in the bush. Senior citizens in Iowa are telling me that \$350 billion now will help a lot, and that is a lot better than an empty promise for two or three times more than that.

Mr. Speaker, a few winters ago, when Iowa was experiencing skyrocketing home heating bills, I received numerous letters from Iowa seniors who were forced to choose between paying their monthly heating bills or paying for their prescription drugs.

I don't believe that's a choice Iowans should have to make.

That is why this week, I have been working with my Energy and Commerce committee to pass the Medicare Modernization and Prescription Drug Act of 2002, which would provide a prescription-drug benefit for needy Iowa seniors through Medicare.

Although many members of the other party continue to treat Medicare as a political football, we are moving forward to provide immediate help to those who need it most.

Specifically, the bill includes an affordable and permanent prescription drug benefit with an average premium of \$35 per month. The bill also includes a standard benefit that would begin with a \$250 deductible and pay 80% of spending up to the first \$1,000 and 50% up to the second \$1,000. Seniors who meet the low-income criteria (50% of seniors currently without coverage) would pay less than \$5 per prescription, up to coverage limits. All participants are protected against catastrophic costs, with out-of-pocket expenditures capped at \$3,800 per year. An estimated 94% of eligible seniors in this country would participate in this plan in the first year, according to the nonpartisan Congressional Budget Office.

In addition to the drug benefit, our legislation also provides a boost to rural Iowa hospitals that, for too long, have ranked last in the country in Medicare reimbursements. The bill provides increased equity for all hospitals in rural areas, as well as increasing payments to sole community hospitals, rural home health agencies, and rural ambulance services.

Congressman NUSSLE and I also have worked to amend the legislation to provide an increase of up to \$40 million per year to Iowa's non-teaching hospitals.

These provisions are significant because the vitality of Iowa's rural hospitals is central to the economy of our state. Our bill would help ensure that Iowans living and working in rural areas have access to reliable and affordable health care.

Our prescription drug legislation contains significant provisions for lower-income Iowans. Benefit premiums for Medicare beneficiaries below 150% of poverty level would be fully subsidized, as would cost-sharing expenditures for beneficiaries under 175% of poverty. Premiums for individuals between 150% and 175% of poverty would be subsidized on a sliding-scale basis.

The Medicaid provisions would mean savings of \$337 million dollars to Iowa's state budget—needed help to our state legislators who are struggling to balance the state budget.

Has the other party proposed, a prescription drug bill of their own? Yes—a bill that irresponsibly busts the budget and risks bankrupting the entire Medicare system.

Our legislation, on the other hand, provides an immediate \$350 billion drug benefit and fits into the budget.

So, do Iowa's seniors want our prescription-drug benefit now, or the other party's empty promises of a drug benefit at some undetermined point in the future?

The answer is that Iowa seniors want help now—because they realize that a bird in the hand is better than two in the bush.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Florida (Mr. DEUTSCH).

Mr. DEUTSCH. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this bill and the two proposals, one is in front of us and one was not allowed to be in front of us, really are fundamental policy differences. What the American people want is to have prescription drugs as part of Medicare.

When Medicare was created in 1965, there are two interesting statistics. One is that the average age of Americans was 65 in 1965. It has gone up by more than 10 years. I think we consider that a high-class problem.

The second interesting statistic is that the out-of-pocket payments by seniors in America, the percentage of their income has actually gone up, even with Medicare.

One of the main reasons for both of those statistics is because of prescription drugs. We cannot conceive of a Medicare program, which is an insurance program, it is a forced insurance program, and that has been Medicare's success, we cannot conceive of that being set up today without prescription drugs.

What my colleagues on the other side of the aisle are proposing, and I do not doubt the chairman of the full committee will cite a statistic about Florida saving Medicaid dollars after I finish speaking, but that is not Medicare, Mr. Speaker. That is not Medicare.

That is not what American seniors want. It is a sham. It is misadvertising for American seniors, and they get it. They get it, and they do not want it. They do not want what Members are proposing. What they want is simple. They want an expansion of Medicare coverage for prescription drugs, because they understand on a day-to-day basis that prescription drugs are a necessary component of Medicare, and eventually the American seniors are going to get what they want, regardless of the action that we take today.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Floridians, seniors under Medicare, over 1 million will have free premiums under this bill, and the State of Florida will receive \$3.1 billion in Medicaid savings.

Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. BURR), distinguished vice chairman of the Committee on Energy and Commerce.

Mr. BURR of North Carolina. Mr. Speaker, I have listened to the debate tonight for over an hour. I have heard the word "sham" and I have heard other words used. Those words are in fact about a benefit that we are going to extend to Medicare, a benefit that had not been extended since 1965, when Medicare was created.

Mr. Speaker, tonight we have a great opportunity. We have a great opportunity to pass a bill that is not perfect, but few things in this House are. We have the opportunity to extend for seniors for the first time coverage that the majority of Americans eligible for Medicare want and need. I do not think that is a sham; I think it is a tremendous opportunity for the Congress of the United States to pass for those individuals.

Some will get up and say that "GOP" is "get old people." Maybe they ought to change the words tonight to "GOPD, Get Old People Drugs." That is what we are here to do. If we can put aside partisanship, we can pass a bill that for the first time brings drugs to the American people.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I cannot tell Members how disappointed I am that we are not discussing a Medicare bill that will really meet the needs of the American people.

We are not doing it on a bipartisan basis. Who would have thought this is a partisan issue? Both parties promised prescription drugs for seniors under the Medicare program in the last election, but the Republican plan that is before us today does not provide an adequate benefit. It does not help bring down the cost of drugs or stop excessive pharmaceutical company profits. It does not establish what the premium will be, or if it will be affordable.

Our Republican colleagues claim that the premium is set the same way the Medicare premium is now established; but that is wrong, and they know it. Medicare's premium is not set by a private insurance company that is interested first and foremost in its own profits. These premiums will be set just that way.

The Republican plan does not guarantee help with the cost of the drugs the physicians prescribe for us, and it does not ensure that we get our drugs at the local pharmacy. The fact is, this plan does not guarantee anything except subsidies for private insurance companies.

Let us put a real benefit in Medicare. Let us defeat this bill and give people the help they need. If they want to compare, for those seniors who are watching this, if they want to compare what they will get from the Republican bill and what they would have received from the Democratic bill if we had even had a chance to debate and pass

it, go to the Web site. Go to www.House.gov/reform/min, and Members will be able to compare easily on that Web site what the reality is compared to all the promises we have heard from the Republicans.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY). The Chair would remind all Members to address their remarks to the Chair.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, not only will 43 percent of the seniors in California get subsidized premiums under this bill, but the State of California safety net hospitals receive over \$63 million new dollars of help to provide health care.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I heard comments earlier tonight saying that we should not be debating so late, that nobody would be awake. My contention is it does not matter whether one is awake or asleep. We cannot get anything out of this kind of debate at all.

I do not believe I have ever heard more misrepresentations or mistruths or demagoguery on a subject in a long, long time. I could spend the night discounting some of the things, but some of the statements are just absolutely ludicrous, like people lining up over here saying that \$320 billion going into prescription drugs is going to harm people. Who in the world thinks we are going to spend \$320 billion of the taxpayers' money to harm somebody?

There are statements saying in 1964, Republicans hated Medicare; they voted against it. That is not true. That is not true at all. Republicans, in fact, the majority voted for Medicare, and not all the Democrats voted for Medicare in 1965. It was a discussion worth having back then.

But do not stand up here and say all Republicans hate Medicare. Those who continue to say that Republicans say Medicare is going to wither on the vine, I saw that speech. I have a copy of that speech. Newt Gingrich made the speech. He said that HCFA was going to wither on the vine, and that outdated organization needs to have some rework, because it is interfering with the care of patients, for pity's sakes.

There have been a lot of complaints about the rules, and not a lot of truths about the bill. This is not a perfect bill. I know that; Members know that. All of us could do better. Any one of us could write a perfect bill if we did not have to worry about a budget. We could write a perfect bill, all of us could, if we did not care about bankrupting the trust fund, but we do.

But I will tell Members what this bill will do. They can call it, say it, do any way they want to, but what this bill

will do is it will help the poorest and help the sickest seniors. We need to do it now, because this is the only game in town.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to my good friend, the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding time to me.

With all due respect to the last speaker, this is not a perfect bill; this is not even a good bill. Through all this debate, I went back to my office tonight and listened to all this.

I pulled two letters from my district, one from Vanderbilt, Michigan. A couple there has \$6,288 per year in drug costs. Under the Democratic plan, if we would ever get a chance to vote on it, they would pay \$1,637 and they would save \$4,650, or 74 percent of their drug savings.

Underneath their plan, their bill here tonight, they would have to pay \$4,096. They would only save \$2,192, or 35 percent of their drug costs.

The other couple I pulled was from Travers City, Michigan. They have \$3,240 per year on drug costs. Under the Democratic plan, they would pay \$1,028 and save \$2,212 or 68 percent. Under the Republican plan, they would pay \$2,536 and save only \$704, or 22 percent.

Do the math. The Republican plan just does not add up.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Michigan will get one and one-tenth billion dollars in this plan of Medicaid savings, and nearly 40 percent of their seniors will get subsidized premiums for their Medicare prescription drug coverage.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oregon (Mr. WALDEN) from our committee.

Mr. WALDEN of Oregon. Mr. Speaker, if we think about this, nobody has fought harder for Patients' Bill of Rights in this country than the gentleman from Georgia (Mr. NORWOOD), the gentleman from Iowa (Mr. GANSKE), and the gentleman from Kentucky (Mr. FLETCHER). They are unanimously in support of this bill.

These are careful legislators who have evaluated this bill carefully. They unanimously support it because they know it is within the budget. It will give care to those who need it the most. From the people that I represent, that is what is most important, that we put together a plan that will fit within the budget framework we have been given to operate under that will get them care, because they need help now. They need help now. They do not want partisan rhetoric. We are sick and tired of that in America.

This winter and spring, I went around and met with hospitals, doctors, patients, and seniors all across my district. The clear message was: get us help now; do what you can for us now. This bill does that. That is why organi-

zations representing these doctors and hospitals and seniors and others support it.

It will help home health care; it will help Medicare patients. This is a good plan that will make a real difference for patients. It provides prescription drugs at no cost to those who make \$15,000 or less a year in our senior community.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to my distinguished friend, the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, watch out, Grandma. Watch out, Grandpa. The GOP doctors are on their way, and boy, do they have a prescription for you. Every senior citizen gets three bitter pills to swallow:

Pill number one is a half-dose of dollars. The Republicans provide less than half the money that Democrats provide to seniors in their plan so that they will not be burdened by the soaring cost of prescription drugs, but the Republicans will not allow a vote on that plan.

Pill number two is a poison pill for Medicare. The Republicans are diverting Medicare funds into risky private drug plans with no maximum premiums and no guaranteed coverage in a cynical drive to privatize the Medicare program. But they will not allow a vote to prevent the privatization of Medicare.

Pill number three is a privacy piracy. The Republicans allow the pharmaceutical fat cats to exploit Grandma and Grandpa's sensitive medical secrets in marketing schemes without their knowledge or consent, and they will not allow a vote to protect that privacy, which is inside of the Democratic bill.

"GOP," it used to stand for "Grand Old Party." "GOP" now stands for "get old people." Vote "no" on the Republican plan tonight.

Mr. TAUZIN. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, how dare any of the Members suggest they love their mothers and fathers more than we love our mothers and fathers. How dare they suggest that we dislike our grandparents and would feed them bitter pills, and get them. How dare they make that suggestion.

My mother is alive because of Medicare. Medicare saved her life not once but three times. We are here to fight for Medicare and to improve it tonight, Republicans and Democrats alike. They have a different plan than us, but we all love our mothers and fathers. We all love our grandparents. How dare they suggest otherwise.

Mr. Speaker, I yield 1 minute to my friend, the gentleman from Michigan (Mr. UPTON).

Mr. UPTON. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I am pleased that we are moving forward tonight with a very important bill for our Nation's seniors, our moms and dads and health professionals who care for them.

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No senior should be forced to forego needed medications, take less than the prescribed dose or go without necessities in order to afford life-saving medication.

The bill before us tonight will provide much-needed comprehensive Medicare, prescriptive care for all seniors who elect to participate. For those who can least afford their prescriptions, Medicare will cover a hundred percent of these premium deductibles.

In addition to modernizing Medicare by adding a prescription drug benefit, the bill before us tonight will also help to ensure that Medicare beneficiaries continue to have ready access to high-quality community-based health care services.

The bill fixes flaws in the Medicare prescription fee schedules that are resulting in significant unintended cuts in physician payments. It also improves hospitals and skilled nursing homing reimbursement, eliminates a scheduled 15 percent cut in home health payments, puts a moratorium on the cap on physical therapy reimbursement, and takes a good first step in improving reimbursement for ambulance services.

It is a good bill. I urge my colleagues to votes yes.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I thank my ranking member from Michigan for yielding me time.

It is hard to say in one and a half minutes how much is wrong with this piece of legislation. We should have the opportunity to debate alternatives to correct the problems, but the tyranny of the majority makes that mockery of democracy.

There is one major glaring problem that should be mentioned: the gaping hole in the coverage of the drug costs that exceed \$2,000. If a senior has a \$300 monthly drug bill, they can expect to lose their drug coverage halfway through the year. But they will have to keep paying month after month for the rest of the year until they reach that catastrophic limit.

Another problem is, if seniors have other coverage from an employer or maybe some help from their church or a charitable organization, these contributions will not count as out-of-pocket expenses for that senior. So that is wrong with the bill.

There is another major disincentive for employers to provide retiree health care. It will further erode what little health care coverage we have left in our country.

Diabetes is a major illness for seniors. This bill, granted, covers insulin, but it does not pay for the syringes. So those seniors have to pay to inject the insulin we will give them. What kind of sense does this make?

Mr. Speaker, there are so many problems with this legislation we should be allowed our alternative, providing a meaningful prescription drug benefit, but the Republican majority again is afraid to allow amendments to pass.

My Republican colleague from Iowa said that their bill is a bird in the hand, but seniors, when they find out what this bill does, will be left with only bird droppings in their hands.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the seniors of Texas will receive \$1.9 billion in Medicaid savings under this bill; and 55 percent of them will have subsidized premium coverage. That is not bird droppings.

Mr. Speaker, I yield 1 minute to my friend, the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me time.

There is an extra benefit that is being conferred by passage of this bill and that is to our veterans. Veterans are experiencing two phenomena that we can help remove here tonight. One is the higher cost of medications that they are experiencing, of course. All seniors will benefit from that. But there is another idea that we have to shake away from the existing scene about our veterans and that is the long waiting lines that they are experiencing at the VA hospitals.

In our central Pennsylvania area, some 6,000 are waiting to see a doctor in waiting lines, and their medications that will be prescribed are not waiting for them because of the long lines and because of the high costs of medication. Strike a blow here for your veterans as well as the other seniors by passing this legislation, reducing the cost of prescriptions to our veterans and reducing the long lines that they are now facing in and even waiting to see a doctor at VA hospitals for the purpose of medication.

Waiting lists at veterans hospitals across the country are growing. In central Pennsylvania alone there are over 6,000 veterans waiting to be seen. Nearly 70 percent of these veterans are rated as category seven by the VA, meaning that they have no service connected disability. In fact, the vast majority of them are seeking a meeting with a VA doctor solely in order to receive assistance with their medications. They are seeking help because of the high cost of their medications or because their health plan discontinued their pharmacy benefits.

Our new Medicare prescription drug benefit will reduce out-of-pocket drug expenses for Americans by 25–30 percent. That savings may help veterans in central Pennsylvania opt out of the long waiting lines at the veterans health care facilities in Lebanon, Camp Hill,

Berks, Pottsville, and others. Veterans will be able to switch from their veterans plans to the plan we vote on today without penalty.

I have visited with VA officials in my district to discuss the problem of lengthening waiting lists. At the Lebanon VA hospital, I was told that nearly 1,800 veterans still wait to be seen by a doctor. Of those waiting, 65 percent are category seven and most likely waiting to get assistance with medication. I commended the caring individuals who run that acclaimed facility for providing outstanding healthcare. The Lebanon VA hospital has, in fact, received the highest patient satisfaction scores of all VA medical centers across the Nation. But I had to agree with them that we do not want to see these quality institutions simply turned into pharmacies. Furthermore, we do not want to see long lines of patients waiting to see a VA doctor when a drug plan that reduces their drug expenditures would work just as well.

One of the great benefits to come from passage of this prescription drug coverage bill will be the relief provided to veterans and VA hospitals. Vets will be able to choose this new drug coverage plan and opt out of the long lines at VA hospitals. Veterans who need help purchasing their medication will get real relief. Those who are waiting inordinate lengths of time on waiting lists to see a doctor at their local VA hospital may look forward to shorter waits and prompt services. Our veterans deserve no less.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Speaker, we need to tell the full truth about veterans and prescription drugs. This administration has raised the co-pay for medications that veterans get at our VA facilities from \$2 to \$7 per prescription, a \$250 increase. That is the fact.

Mr. Speaker, the assets test provided under the Republican plan makes a mockery of one of the key objectives of the Medicare prescription drug benefit, to prevent senior citizens from having to pauperize themselves to get the drugs they need. Think what this means.

It means that a frail elderly woman who qualifies for a handicapped sticker on her car because she cannot walk a short distance cannot keep a car that she cannot be confident will not break down on the highway if she wants to qualify for the assistance she needs to get the drugs her doctor prescribes.

It means that a spouse who has managed to buy a burial plot, a burial plot so that they can lie for eternity next to a husband or wife may have to sell that plot to get the prescription drugs they need to survive. For shame.

Those of you who want to give a death tax elimination for the multimillionaires in this country have no problem with requiring grandma to give up her burial plot in order to qualify for the assistance under this plan. You ought to be ashamed of yourselves.

Mr. TAUZIN. Mr. Speaker, I yield myself 15 seconds.

That claim is disingenuous. Section 1902 allows the States to waive that

means test. There is an additional section, 1115 waivers are also allowed for the States, and they can waive that means test any time they want to.

Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. GREENWOOD), the distinguished chairman of the Subcommittee on Oversight and Investigations of the Committee of Energy and Commerce.

Mr. GREENWOOD. Mr. Speaker, I do not have a single new thing to say about this issue because it has all been said over and over again. But as I have been sitting listening to the debate for these last 2 hours and looking at it and listening to the howling and the shrieking and the bellowing and the clattering of pans, I could think of nothing more than the ancient times when there was an eclipse; and as the sun was eclipsed the ancients ran out and made some noise.

For decades, the Democrats claimed to be the party that represented and cared for the seniors. They did nothing for the prescription drug benefit. Finally, our plan is eclipsing their stature; and they cannot stand it; and they are bellowing and howling. When the sun comes up tomorrow morning, we will have passed the first prescription drug plan in the history of this program. The howling will silence, and the seniors will have something to be proud of. And I am proud of you, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. TAUZIN) has 10 minutes remaining. The gentleman from Michigan (Mr. DINGELL) has 15 minutes remaining.

Mr. DINGELL. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Speaker, I would like to speak to the chairman of the committee. He says that the States can waive this requirement. In fact, they can not. The asset test was placed under title 18. The States are not able to waive this requirement under this bill.

Mr. TAUZIN. Mr. Speaker, I will yield myself 15 seconds to indicate again that our information is the States have the power to exercise the waivers under this bill.

Mr. Speaker, how much time is remaining on each side?

The SPEAKER pro tempore. The gentleman from Michigan (Mr. DINGELL) has 14¾ minutes remaining. The gentleman from Louisiana (Mr. TAUZIN) has 9¾ minutes remaining.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, with this bill Congress should be keeping a solemn promise to our seniors. But what the Republicans are doing is giving simply a fig leaf instead.

This proposal covers only about 20 percent of the expenses that seniors

will incur for prescription drugs in the next 10 years. Well, the Republicans say we are operating under budget constraints. We cannot afford to pay the 80 percent of the costs that the Democratic alternative would have offered had we been able to offer it. Why? Why do we have these budget constraints? Because their priority is not to give relief to the 40 million Americans who need the relief but to give it to the 500,000 of the very wealthiest Americans who want estate tax relief.

Take a look at this chart. Here is the number of seniors who need this prescription drug plan and need a thorough plan, 35 million. Here is the number of people who will benefit from the Republican estate tax cut that they passed a few weeks ago and that caused the budget constraints which are preventing us from passing a real benefit.

The seniors of America need to know this is why we cannot give grandma and grandpa their drugs. It is not because God came down and gave us these constraints. It is because the Republican caucus gave them to us.

Let me answer one more thing. Mr. STRICKLAND says that grandma and grandpa will not be able to buy their burial plots because of the assets test. That is under Medicare. That cannot be waived under title 18 by the State. It is nonwaivable.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from New York (Mr. ENGEL.)

Mr. ENGEL. Mr. Speaker, I thank the ranking member for yielding me time.

The fact of the matter is that the bill that we are debating today is inadequate because there is inadequate funding for the bill; and the reason there is inadequate funding for the bill is, as the previous speaker pointed out, all the money has been used up with tax relief for the very wealthy in this country, \$1.6 trillion worth of tax relief for the very wealthy people in the country. So, of course, when it comes to a prescription drug benefit we do not have enough money to provide a real meaningful plan.

We would like to debate the Democratic bill along with the Republican bill here, but we were denied the opportunity. So we do not have the ability to show why our plan is better.

The fact of the matter is, our plan is better. It will cover more seniors. It will give an entitlement under the Medicare program which is really what seniors want.

The bill we are debating today does not provide any real guaranteed benefit and simply, in my opinion, lays the groundwork to eventually privatize Medicare. The bill does not contain the entitlement to a defined benefits package as provided in the rest of the Medicare program. It only promises that seniors can shop for some kind of coverage undefined either through private

insurance plans or Medicare HMOs. The bill does not contain, again, any defined premium or assurances that prescription drugs will be affordable; and it will cover less, and listen to this, it will cover less than one-fifth of the estimated drug costs of Medicare beneficiaries over the next 10 years. There is a large gap in the coverage.

Seniors who needs more than \$2,000 worth of the drugs in the calendar year must pay for 100 percent of their drugs until they reach \$3,700. So what we are seeing here is a woefully inadequate bill, and it is an indication where sometimes when you have something it is worse than having nothing.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill that has been described as so terrible will give to the State of New York \$4.5 billion of Medicaid savings. It will cover 51 percent of New York seniors with subsidized premiums paid for by the government and will provide safety net hospitals in New York with nearly 90 million new dollars. What a terrible bill.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BARTON), the distinguished chairman of the Subcommittee on Energy and Air Quality of the Committee on Energy and Commerce.

Mr. BARTON of Texas. Mr. Speaker, I want to thank my distinguished chairman and simply tell him I am glad to be on the floor backing him up, and I look forward to tomorrow delivering one of his famous cookbooks to one of my dearest friends down in Texas who has indicated to me you need to be backed up tonight with great, great enthusiasm.

I would like to tell my good Democratic friends that I agree with them on one point, and that is the fact that the rule should have allowed you to offer your substitute. I think it would have been a neat trick to have almost to a person voted against an increase in the debt ceiling of \$450 billion and then turn right around and voted for a \$1 trillion expansion of a brand new entitlement program 2 hours later.

□ 0100

I think this is a good bill. The provider part of it is almost universally supported. I think the prescription drug benefit is a good start. I think it could be improved.

I would like at some point in time to have the ability to offer the additional option of a prescription drug savings account. Many in my district, over two-thirds of the seniors that I have talked to, have said that they would probably opt for some sort of a drug savings account if they were given that option, and I hope that later this year we could do that.

This bill that is before us for over half of the seniors in this country would pay nothing for prescription

drugs except a small copayment for the specific drug that they had to use, and I would point out that prescription drugs for most of our seniors are not of a catastrophic nature. They are of a chronic nature. They are to treat heart disease or to treat high blood pressure or cholesterol. They are something they have to take to have a lifestyle that we want them to have.

So I think my idea of a prescription drug savings account would give them a lot of options to do that, and again, I hope that we have the opportunity to offer that at some point in time.

To start the ball rolling, I agree that this bill is a good start and hope we will vote for it later this evening.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mrs. CAPPs).

Mrs. CAPPs. Mr. Speaker, I thank the ranking member for yielding time to me; and, Mr. Speaker, for seniors in my district, there is no issue more important than prescription drug coverage, but the bill before us will not offer my seniors what they need.

First, it entices insurance companies to offer the drug coverage plans. In fact, it gives them the money without any guarantee of a benefit for seniors. Medicare+Choice has shown us that just relying on private insurance companies does not work.

Second, under the majority's proposal, as a senior's drug costs increase, their benefits decrease. In fact, once a senior's costs exceed \$2,000, a senior has to spend another \$2,900 on their medications before they will get any help.

This chart here, the GOP plan, shows a calendar for seniors. Many seniors in my district pay \$400 a month. This senior paying \$400 a month will get no benefit during the first month while he is paying his deductible; but then he will get a benefit, February, March, April and May. Unfortunately, then he reaches that \$2,000. No more benefit for this senior for the entire rest of the month, and we call this is a drug benefit for our seniors? This is the plan we are voting on tonight because we have no alternative.

We are not allowed to bring a plan that our side has developed that would offer affordable, reliable prescription drug coverage for all under Medicare. For our \$25 premium, \$100 deductible, seniors would get 80 percent coverage of all their medications. This person during this time of having no coverage is not allowed to rely on a church who wants to step to their aid or family members or if they have a pension plan because of their services, they cannot use that.

This plan is the one that we must vote "yes" or "no" on tonight. We do have many alternatives. The one we wanted to put up would be a good and fair plan. No opportunity to do that because the majority is so afraid that

they will lose the opportunity to do the things that they know in their hearts they should do for this Greatest Generation. We owe our seniors a better plan than this one.

Mr. TAUZIN. Mr. Speaker, would the Chair again advise us how much time remains on each side?

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from Louisiana (Mr. TAUZIN) has 7½ minutes remaining. The gentleman from Michigan (Mr. DINGELL) has 9¼ minutes remaining.

Mr. TAUZIN. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from New Jersey (Mr. FERGUSON).

Mr. FERGUSON. Mr. Speaker, I thank the chairman for yielding me the time.

We have heard a lot tonight about facts and figures and partisan rhetoric and attacks and misrepresentations. Some of our colleagues on the other side of the aisle earlier tonight suggested that we talk about or focus on senior women. I would like to do that for a second, one in particular, my mother.

My mother, Roberta, was diagnosed almost 5 years ago with cancer, deadly form of cancer, should have been dead by now. She is alive today, thank God, because she has had access to good medical care and prescription drugs that have saved her life. Why is that so important? Because without it, she never would have met her grandkids. Our kids, 3 and 2 years old, she never would have met them. Thank God she had access to these life-changing, life-saving products, because of scientists and researchers and companies who invest hundreds of millions of dollars, indeed billions of dollars, to find the miracle cures of tomorrow.

We have to make these miracle products affordable and accessible to everyone because our seniors are too important to let this opportunity sneak by. Our grandmothers want to meet their grandkids. Let us make it happen. Pass this plan tonight.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, anyone who has been half awake for the last 2 years knows that for Republicans tax cuts for the wealthy are far more important than prescription drugs for seniors. In the room upstairs, Republicans can call Medicare a Soviet-style program; but down here on television, they say they are providing a Medicare benefit.

The Republican plan relies on private, stand-alone prescription drug insurance plans. They do not even exist now, and they probably never will. No guaranteed benefits, no guaranteed premium, no guaranteed reduction in price. Their plan is an empty promise.

We have been asked where is our plan. The truth is my colleagues will not let us vote on it. Why? Because they know that a real Medicare benefit would reduce prescription drug prices. That is not acceptable to the pharmaceutical companies, so it is not part of the Republican bill.

Many Americans may be confused by this debate. All these numbers, estimates, projections. Just remember that Republicans get most of the money from HMOs and pharmaceutical companies. This bill is great for them, but it is a fraud on America's seniors.

Mr. TAUZIN. Mr. Speaker, I am pleased to advise the great citizen of Maine that their citizens, their seniors, 40 percent of them will get subsidized and mostly fully subsidized premium coverage under this bill.

Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from Tennessee (Mr. BRYANT), a member of the Committee on Energy and Commerce.

Mr. BRYANT. Mr. Speaker, I thank the chairman for yielding me the time, and I thank the chairman for making a priority of our committee to bring forth this first prescription drug benefit that is going to be available to people eligible for Medicare.

I think it is a good bill. It offers low-cost drugs. I think it guarantees insurance coverage, and it is all done in a fiscally responsible way. It fits within our budget, and I thank again the chairman for doing this.

I know our folks in Tennessee, we have about 700,000 senior citizens, and about 45 percent of those senior citizens will be eligible for virtually cost-free drugs under this plan; and I know those citizens in Tennessee that are dual eligible, that are covered, are qualified both in Medicare and Medicaid, that would result in, when this program picks up those people from the State, in a savings of about \$565 million over the years 2005 to 2012.

So, Mr. Speaker, again I commend the gentleman from Louisiana (Mr. TAUZIN) for bringing forth this very good bill and making it a priority of this Republican Congress to give us our first-ever prescription drug benefit in the Medicare system outside the hospital.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Illinois (Mr. PHELPS).

Mr. PHELPS. Mr. Speaker, I want to thank the gentleman for what he has done in the leadership in this particular subject that has brought us here tonight.

I rise in opposition to this plan and sadly because the rhetoric I guess tonight comes to an end. After promises from both sides of the aisle and those who have run an election for the last several years who promised to do something on this particular subject, we fall short and it is sad because I wanted to

come to this body to have a true, fair debate on subjects of great priority like this, not to debate at 1:00 a.m. in the morning where we hide things from people, to say just one plan is the best plan, it is the only plan. That is not what we are about.

I am not here to promote adversity. I do not want conflicts. I want us to come together in a bipartisan manner to try to solve the very best of all plans, not just say one plan is the only plan, and say, Illinois, that I know that the gentleman is about to quote how many millions of dollars we are going to receive and help, but what could we have received? That is the question. Those people out there, constituents that I represent, will never know until the true light of day is shed on my colleagues' plan, and that is what we intend to do.

They have limited us to debate here tonight, trying to get one side of our plan more clear, under handicap conditions. That is not what we are about. That is not why we were elected, to have one party or a majority party have the only plan to make it deceptively look like it is a positive plan.

That is why we are here tonight, to debate the best, the most priority issue in the Nation, not in the wee hours in the morning just one plan, but a fair plan for all the best of all plans.

Mr. TAUZIN. Mr. Speaker, I am pleased to let my friend know that the great State of Illinois will get a great fair share of this bill, about \$2 billion in Medicaid savings, and about half a million of his senior citizens will get totally free premiums for their Medicare premium drug insurance coverage. That is a pretty good deal, pretty fair.

Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Indiana (Mr. BUYER), a distinguished member of the Committee on Energy and Commerce.

Mr. BUYER. Mr. Speaker, it took me 3 years to redesign the pharmacy benefit of military health delivery system. As the only Member of this body in this Congress to offer a prescription drug bill that has been passed and signed into law, I want to share a few observations.

Number one, I want to thank the gentleman from Hawaii (Mr. ABERCROMBIE) because we worked in a bipartisan fashion, something that has not occurred here.

Secondly, we were able to modernize a program without dulling the cutting edge of new prescription drugs.

Missing from this debate is the celebration of capitalization, a free enterprise system that avails the great minds of the world, the incentives to form at-risk entities to push the bounds of modern medicine and pharmacology to the benefit of our people and the improvements in their quality of life.

Please do not demonize these scientists and those in the medical community. Americans are living longer

with many chronic illnesses. Why? Because modern medicine and the best health care system in the world is giving them that chance. Access to these drugs is what is important. That is what the Republican drug plan is going to do.

Please vote for this bill.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida (Mrs. MEEK).

Mrs. MEEK of Florida. Mr. Speaker, first of all, this bill tonight, I have listened very carefully. It is a relief act for the insurance industry. That is what it is.

Also, the Republican plan is not a fair plan. It is not going to help all seniors. Think about that. That is the fact. It does not cover them. There is no real guarantee at all, and many of them keep getting up and saying this is the first plan. That is all they want to go out and say, this is the first plan. It does not mean anything except it is the first ever, and it is not worth doodley squat. So they run with that.

So we have got to think of three things. It will not cover all the seniors. Imagine this, seniors having to run around, trying to shop around and find a plan. That is a big hassle for older Americans. They cannot contend with all these various insurance plans that come and go. We do not know how the model is going to work. Those of us who have been around, we know it did not work in 1965; and this is just another part of it. It is not going to work now.

We should be sure tonight to vote against this relief act for the insurance agencies.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to let my dear friend, the gentlewoman from Florida (Mrs. MEEK), know that the poor seniors in her State, over 1 million of them, will get free insurance drug coverage under this bill. That is 42 percent of her seniors and the State will get \$3.1 billion of Medicaid assistance.

Mrs. MEEK of Florida. Mr. Speaker, will the gentleman yield?

Mr. TAUZIN. I yield to the gentlewoman from Florida for 15 seconds only.

Mrs. MEEK of Florida. Mr. Speaker, I did not say poor seniors. I said all seniors.

Mr. TAUZIN. Mr. Speaker, I am saying all seniors are going to get helped, but the poorest will get totally free insurance coverage.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Kentucky (Mr. FLETCHER), a new member of the Committee on Energy and Commerce.

Mr. FLETCHER. Mr. Speaker, again, prescription drugs for our seniors is probably the most pressing health care issue that we face, and I want to thank the chairman of the Committee on En-

ergy and Commerce for his leadership in bringing this to the floor, a plan that is reasonable, responsible and doable, unlike a plan that was brought up in our committee and will be brought up in the recommit motion. That is a plan that scores out at \$973 billion with absolutely no way to pay for it.

□ 0115

That means you are either going to have to increase taxes on our children, grandchildren or you are going to have to take it from education, national security, homeland security, or Social Security. Those are the only choices you have.

Let me talk just briefly. Two years ago there was a \$303 billion prescription bill plan. Who supported that? Virtually every single Democrat supported that. What happened this year? I think they have had an election year epiphany. All of a sudden, it is an election year; and we need three times as much money for it to be a reasonable plan. Is it not amazing that when we offer a plan that is reasonable, doable, it will be a plan that will provide benefits for every senior?

Let me talk about Kentucky. There are 615,000 Medicare beneficiaries that will receive help with this. Fifty percent of those in Kentucky are at 175 percent of the poverty level or below, which means they will be subsidized. It means \$459 million for Kentucky. We are a small State, but \$459 million for Kentucky, and those dual eligible for Medicare and Medicaid will get help. We are having trouble meeting our budgetary needs, so this bill is the right kind of a bill. It is a responsible bill, it is a reasonable bill, it is a doable bill, and they thought it was 2 years ago, but now in an election year, no, it is not enough.

I think we need to lay aside election-year politics, pass this thing on a bipartisan basis, and let us do what our seniors need, provide them a prescription drug bill and help for our States.

Mr. BROWN of Ohio. Mr. Speaker, I notice that my friends on the other side of the aisle talk about giving free coverage to poor seniors except for the \$2,700 out of pocket they would have to pay under the Republican private insurance plan.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Missouri (Ms. MCCARTHY).

Ms. MCCARTHY of Missouri. Mr. Speaker, I am in opposition to the measure before us and in support of the Democrat alternative that was denied.

I rise today in opposition to H.R. 4954, the Medicare Modernization and Prescription Drug Act of 2002. This "Insurance Company Protection Act" will not provide an affordable and dependable benefit for seniors. The Democratic substitute, which is being denied consideration by Republican leadership, provides comprehensive prescription drug coverage and savings to employers.

The "Insurance Company Protection Act" is an effort to privatize Medicare. This bill shifts \$68 billion in health care costs onto employers, by designing the benefit so that private plans are required to cover prescription drug costs. As a result of this increase in costs for employers, the Congressional Budget Office (CBO) estimates that one third of seniors in employer sponsored retiree plans will be dropped, leaving three million seniors who currently have employee based retiree coverage owing more for prescription drugs after this law is enacted.

The "Insurance Company Protection Act" threatens our local pharmacies. With myriad medications, seniors rely on their local pharmacists for advice and help in the management of their prescriptions. This legislation does not allow any pharmacy to be applicable for the prescription drug program, breaking many long standing relationships between pharmacist and patient.

Instead of shifting costs onto employers and seniors losing their coverage, the Democratic proposal offers a universal benefit with a \$25 a month premium, \$100 a year deductible, 80 percent of costs paid by Medicare, and a \$2,000 out of pocket limit per beneficiary per year. It provides low income subsidies to ensure that every senior can afford to participate in the Medicare Prescription Drug Plan. In addition, physicians would have received a true solution to the Medicare payment problems that threaten the program today.

The Rules Committee had an opportunity to produce a bill that provides sufficient drug coverage for our seniors by allowing a vote on the Democratic substitute. Instead, the House will vote on a plan set by industry, the "Insurance Company Protection Act," that provides no entitlement under Medicare, an inadequate and ill defined benefit, and no equality for seniors in different parts of the country. Seniors cannot even be assured that the drugs they are prescribed will be covered, or that they will be able to continue their trusted relationship with their pharmacist. With these provisions, it is not difficult to understand why every senior group opposes the bill before us. I urge my colleagues to vote against the Medicare Modernization and Prescription Drug Act.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to my friend, the gentleman from Washington State (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, why should the senior citizens of America have to settle with a big gamble about whether they are going to get prescription drugs? Why should they have to gamble that maybe, maybe an insurance company will show up when no insurance companies exist on the face of this planet today to provide this service?

When one thinks about this, the Republican plan does not provide drugs. It provides a pair of dice to roll, and that is not good enough for senior citizens. Now, you do provide them a chance maybe some of them will get prescription drugs, but this generation has taken enough chances. It took chances on Omaha Beach, it took chances on Iwo Jima, and it should not have to

have a crapshoot to see whether or not they are going to be able to get prescription drugs, and one would think after the abject failure of Medicare+Choice that you would not place your bets on a horse that has gone lame all over this country time and time again.

Mr. Speaker, we ought to reject this pathetic excuse and pass a real meaningful Medicare plan.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. TURNER).

Mr. TURNER. Mr. Speaker, we have had a lot said on this floor tonight, but what really is going to count is what is said when we get out there talking to those seniors that we are trying to help here tonight.

I traveled all over my district and collected pill bottles from those seniors, and I know how they feel, and they are going to ask some tough questions of us. If this plan passes, they are going to want to know and they are going to hand me that list of medicines they have been prescribed by their doctor and they are going to ask, are these medicines going to be covered under this plan? And if you give them an honest answer, you are going to have to say, I do not know, because you do not know.

They are going to say, how much is the premium going to be for this plan? If you give them an honest answer, you are going to say, I do not know. That is going to depend on what the insurance company that is going to carry this plan is going to charge you.

Then they may look at you and say, well, can I get this plan at my local pharmacy? You know the answer to that one. The answer is no. You are going to have to get it through mail order.

And if you look at them again and they say, this does not sound like too good a program, how do I know that this program is going to be there? The answer is you do not know because those Medicare HMOs have not been there for our seniors.

So I think what we have got to do tonight is be honest with our seniors and tell them we are passing a sham tonight, a sham that means nothing to these seniors, and what we have got to do is pass a real plan, a real Medicare plan for our seniors.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, I rise in strong opposition to this bill. The skyrocketing cost of prescription drugs is a bitter pill to swallow, and the Republican leadership's refusal to let us consider the Democratic proposal is simply bad medicine for America's seniors.

My colleagues, last year, I conducted a study which showed that seniors in Westchester County are paying from 57 percent to 128 percent more than their

counterparts in six foreign countries for the five drugs most commonly used by seniors in the United States. It also revealed that three medications frequently prescribed to seniors increased in price by at least twice the rate of inflation.

These statistics reveal to us over and over again the depth of the problem, which is growing worse by the day. Clearly, America's seniors deserve more than a hope and a prayer when it comes to ensuring their health and well-being.

The bill under consideration would, unfortunately, not guarantee benefits for seniors. Instead, it would pay subsidies to insurance companies in the hopes that they will establish drug-only insurance plans for Medicare beneficiaries. Under the Democratic plan, which we were not able to really debate this evening, Medicare would provide voluntary prescription drug coverage for all Medicare beneficiaries.

It is simply unconscionable that the Republicans are denying us a vote on the Democratic bill because perhaps they feel their Members will join us in voting for a real prescription drug benefit.

I also note that congressional action on provider payment increase and protections for Medicare-Plus Choice is long overdue.

Let us vote for a real plan. Let us have a real debate. Let us vote down this bill.

Mr. BROWN of Ohio. Mr. Speaker, I yield the balance of my time to the gentleman from Michigan (Mr. DINGELL), who will explain why the Democratic plan is written for America's seniors and the Republican plan is written by and for America's drug companies.

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from Michigan (Mr. DINGELL) is recognized for 2½ minutes.

Mr. DINGELL. Mr. Speaker, I am Mr. JOHN DINGELL. My dad was the original author of Medicare. He wrote it for and under Harry Truman's guidance and tutelage. It was a great piece of legislation. It took us 10 years to get it enacted into law. I sat in the Chair when we passed it. The Republicans, after years of fighting it, finally came along and supported it because they saw the handwriting on the wall.

I know Medicare, and this fraudulent proposal that is before the House is not Medicare. What it is is a subsidy for the insurance companies. We give a pile of money to the insurance companies that they can spend any way they want.

The counsel of the committee was inquired of by me for about 20 minutes. He could not tell us of any constraints on the insurance companies or any rights of the insured that would be protected under this Republican legislation.

That is why this is bad legislation. The insurance companies can take this money and spend it any doggone way they want, dividends, or they can give it in corporate executive salaries and bonuses. That is why it is a bad bill.

The Democratic bill is a very simple bill. What it does is it says, you pay \$25 a month, you get 80 percent of your prescription pharmaceuticals paid for by the government, and you pay 20 percent of the cost yourself. Very simple, very understandable, very plain. No great big donut hole, no disqualifications for having your expenditures counted, and you get your benefits all year round. Not like this sorry mess that my Republican colleagues would foist upon our senior citizens.

This is a bad proposal. This is a bad process. This is a situation where we do not get an honest chance to either offer an amendment or see to it it is properly explained.

But I would note one thing. Every honest senior citizen organization in the United States says this Republican bill is a bad bill, and AARP says it needs significant improvement before they can support it.

We want to give the American senior citizens Social Security in good form, Medicare in proper form, and a Medicare benefit which will take care of their needs for prescription pharmaceuticals when they come. No longer should we have a situation where American senior citizens have to decide whether they are going to pay their rent or whether they are going to eat or whether they are going to get their prescription pharmaceuticals. That is wrong.

Our bill corrects that. The Republican bill does not. Vote against their bill. Vote for the motion to recommit and my colleagues will serve their constituents well, especially their seniors.

Mr. Speaker, I include for the RECORD a letter written to the gentleman from Louisiana (Mr. TAUZIN) from AARP, which was referred to earlier.

AARP,
June 18, 2002.

Hon. W.J. TAUZIN,
Chairman, Committee on Energy and Commerce,
U.S. House of Representatives, Washington,
DC.

DEAR CHAIRMAN TAUZIN: Thank you for your initiative to move legislation through the House this year that will address the important need for prescription drug coverage in Medicare. As you know, AARP's top priority is available and affordable prescription drug coverage for all Medicare beneficiaries.

Our members, and virtually all older Americans, need this coverage now. They cannot wait any longer for protection against the increasing costs of prescription drugs.

We are pleased that your bill makes the voluntary prescription drug benefit permanent and maintains the entitlement nature of the Medicare program.

The bill contains other favorable components as well. For the approximately 50 percent of beneficiaries who are estimated to

have annual prescription drug costs of \$2,000 or less in 2005, the initial level of coinsurance in the bill should be attractive. Likewise, the financial assistance for low-income beneficiaries with drug costs under \$2,000 is vitally important.

We also appreciate your efforts to contain drug costs because a Medicare drug benefit alone, without effective cost controls will be difficult to sustain as our growing population of older Americans increases its drug utilization. While we want to ensure that cost containment mechanisms result in meaningful savings, it is critical that these mechanisms do not impede access to needed medications.

More needs to be done to ensure that a final bill provides a benefit of value to our members and a program in which Medicare beneficiaries will enroll. As the process moves forward, the issues of funding adequacy, structure, benefit viability, and other Medicare changes like the home health copay, need to be addressed.

A voluntary drug benefit must attract broad enough participation to avoid the dangers of risk selection. Our research shows that beneficiaries assess the value of the benefit by adding up the premium, coinsurance, and deductible to determine if it is a good buy. The existence of a large coverage gap is a strong disincentive to enrollment. More funds are needed to close this gap and protect the viability of the program.

Unfortunately, a substantial amount of the already limited funds allocated for a prescription drug benefit have been diverted to pay for provider reimbursement increases. We believe that providers should be paid fairly for treating Medicare patients, but Medicare beneficiaries have waited long enough for relief from high prescription drug costs. Every dollar allocated to "givebacks" package means one dollar less for a Medicare drug benefit. We firmly believe that agreement on an affordable Medicare prescription drug benefit should be reached before Congress considers additional provider reimbursement increases.

Our research also indicates that older Americans are looking for stability and dependability in coverage. Therefore, it is important to ensure that private sector entities will be willing to offer coverage.

AARP's goal is enactment this year of an affordable Medicare drug benefit that is available to all beneficiaries. This bill requires improvements before our members will provide their support. We want to work with you to assure adequate funding and resolve other issues as the process moves forward and before any legislation is enacted into law.

Sincerely,

WILLIAM D. NOVELLI,
Executive Director and CEO.

Mr. TAUZIN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this debate tonight should not be about politics. American seniors have heard all the politics they can stomach. And the AARP said it best in their letter. They said, "Our members, virtually all older Americans, need this coverage now." What coverage were they talking about? They were talking about the coverage in this bill.

Here is a quote from the AARP, and I am sorry my colleagues are in such disagreement with the AARP, but here is their quote. "We are pleased that

your bill makes the voluntary prescription drug benefit permanent and maintains the entitlement nature of the Medicare program."

Now this is not also about who loves their mother or father the most or their grandparents the most or who is willing to step up to the plate and do what they can to make sure that American citizens in their senior years have prescription drug benefits. This is about whether or not we have a plan that works. We think it does, and the AARP agrees with us.

Now let me make another point. We have heard a lot about the drug companies. I want to give my colleagues a Clinton administration statistic. The Clinton administration estimated that seniors without drug coverage pay 20 percent more for their drugs than anybody else in America with drug coverage. This bill will give seniors drug coverage. It will reduce the cost of their drugs at the expense of the pharmaceuticals.

We had the courage in the Committee on Energy and Commerce to do something our friends on the other side would not do. We got rid of the floor that pharmaceuticals will not negotiate below, and we forced the pharmaceuticals to spend \$18 billion more, lowering the cost of drugs by eliminating that floor.

This is a great bill for Americans. This makes for a great savings on the drug bills of moms and dads and grandparents. We ought to vote for it tonight.

Mr. HOYER. Mr. Speaker, This GOP drug bill is nothing but a candy-coated placebo that fails to cure the problems faced by million and millions of senior citizens who are struggling every single month to pay for life-saving prescription drugs.

The American people are just not going to swallow it.

If the FDA approved a drug that was this untested and unreliable, there would be an outcry across this great Nation for immediate congressional investigations.

Three words say it all: It won't work.

This ideological plan—which depends on private insurance drug only policies—even has insurers scratching their heads.

As Bill Gradison, our former Republican colleague in this House and the former head of the Health Insurance Association of America, recently said: "I'm very skeptical that 'drug only' private plans would work."

There's no guarantee insurers will offer drug only policies.

There's no guaranteed monthly premium. There's no defined benefit for seniors. There's no guaranteed access to the drugs you need.

The only guarantee in this bill is that it would provide inadequate coverage.

Everyone of us knows that the Republican party really wants to privatize Medicare.

This bill is the first step. A few years ago, the majority leader even told the Chicago Tribune that he "deeply resents the fact that when I'm 65, I must enroll in Medicare."

In sharp contrast, Democrats want to create a plan under Medicare that's affordable, guaranteed, universal, and voluntary.

The only argument that our Republican friends can muster against the Democratic plan is cost.

But these are the same folks who voted to give Enron \$250 Million, who voted to give a handful of other corporations billions more, who voted to eliminate the estate tax on the wealthiest estates in the country.

Vote against this shameless drug bill.

Let's adopt a plan that gives seniors the drugs they need and deserve.

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in opposition to H.R. 4954, the Medicare Modernization and Prescription Drug Act. It's a sad day for seniors all across this country and especially in my congressional district in New Mexico. It is sad because the Republican leadership has decided that the House will only consider their pharmaceutical company-backed Medicare prescription drug benefit program.

The majority does not seem to care about making affordable prescription drugs available to all of our seniors. Instead, they only care about making political capital at the expense, literally, of our low income-seniors. For Congress after Congress, Democrats have called for making affordable prescription drugs available to seniors. And now that the Republicans fear losing their majority, they have brought a bill forward that has been industry-bought and industry-paid for.

The Democrat alternative that we have proposed, and that the majority refuses to allow us to debate, has been bought and paid for by the American people, many who are seniors that have sent us here to represent their interests and not the interests of America's pharmaceutical companies. Our bill which has been endorsed by most senior advocacy groups would charge a \$25 monthly premium and a \$100 deductible and require co-payments of 20 percent up to \$2,000. After that amount, the government would pay all costs. The Democratic plan has no gaps in coverage and low-income seniors are protected under our plan. The majority says it is too expensive. Why? Because all the money was spent last year on the \$1.3 trillion Bush tax cut for the wealthy few.

The Republican proposal is a ridiculous sham that has been introduced to fool our senior citizens into believing that they will finally have a prescription drug plan under Medicare that works. Republican strategists believe that their passage of any drug bill will inoculate their candidates against criticism. Even the spokesman for House Republicans' campaign committee has been quoted in the Washington Post as saying, "The fact that the House will have passed a prescription-drug bill will take away the Democrats' ammunition, and will make Senate Democrats look worse for failing to pass it."

Are you kidding me? This shouldn't be about politics. It should be about policy. Prescription drugs are nothing more than a political game to the majority. Frankly, this is slap in the face to every American senior and not to mention insulting.

My poor constituency in New Mexico cannot afford the outrageous prices of prescription drugs. Many of them drive hundreds of miles across the U.S./Mexico border to buy affordable prescription drugs. Many of them have to

go without paying their bills in order to afford prescription drugs. Many of them have to forgo buying groceries, clothes, and other basic necessities to afford prescription drugs.

We owe it to America's seniors to do the right thing and propose a plan that offers a real prescription drug benefit. We owe it to America's seniors to be able to debate a plan that offers real prescription drug benefits. We owe it to America's seniors to debate our bill.

Our seniors deserve a prescription drug plan that works with a defined benefit plan, guaranteed premium and access, and protection for low-income seniors. The democratic alternative is the real prescription drug plan and not hoax on low-income seniors.

I urge my colleagues to vote "no" on H.R. 4954. Send this back and give us a fair vote on a real prescription drug plan.

Mr. OWENS. Mr. Speaker, H.R. 4954, the Republican Pharmaceutical Industry Protection Act, is a cruel and unusual joke perpetrated against the senior citizens of America. The Republicans are preoccupied with the goal of the prescription drug manufacturers which is to maintain the highest possible prices and profits in America. Without operating at a loss in foreign markets, these drug companies sell their products at much lower prices. They sell at lower prices because foreign government negotiators refuse to pay exorbitant prices. In suits are added to injuries when Americans are forced to pay the highest prices for drugs which our Government often play a major role in research and development. A workable and simple plan offering the necessary benefits to seniors in need can be set in motion immediately. First, lower the cost of prescription drugs by following the principles and procedures set forth in my bill, H.R. 4772, the Pharmaceutical Products Price Equity Act which I first introduced on September 25, 2000. This bill ensures that pharmaceutical companies cannot charge more than 6 percent above the average retail price of prescription drugs sold in the 5 most industrialized, free-market countries. This will ensure that pharmaceutical companies charge consumers within the U.S. prescription drug prices that are comparable to other nations.

The second simple step is to follow the program of implementation as stated in the Democratic Plan. No new HMO and insurance bureaucracy is necessary. Let the Prescription Drug Benefit Plan be an extension of the Medicare program. Instead of offering a cruel and unusual joke, this Congress should unite behind a plan which relieves the very desperate needs of many of our senior citizens.

Mr. FILNER. Mr. Speaker and colleagues, I rise today to protest the half-baked drug scheme that the GOP has jammed down Congress' throat. I find it a particular affront to our system of democracy that the Republicans blocked consideration of a plan that would easily cover all seniors.

I join hundreds of my colleagues in opposing a GOP scheme that would force America's seniors and future seniors to rely on private insurance companies or HMOs for prescription drug coverage. GOP supporters of the scheme received hundreds of thousands of dollars in campaign contributions from pharmaceutical companies and HMOs.

America's seniors deserve affordable prescription drug coverage. They should not have

to make the preposterous choice between prescription drugs and paying their rent.

The Democratic bill—on which GOP leaders refused to allow a vote—would have guaranteed voluntary prescription coverage for all Medicare beneficiaries. Medicare is available to the vast majority of people over 65. It would have a \$25 monthly premium and a deductible of \$100 per year. After that, beneficiaries would be responsible for just 20 percent of drug costs, with Medicare covering the remaining 80 percent. All costs would be covered after a beneficiary spent \$2,000 out-of-pocket.

The Republican bill guarantees no specific benefit and subsidizes insurance companies in the hope they will create private insurance plans. Many HMOs and private insurance would not want to offer coverage under the plan. Those that did would be able to devise the coverage and set the premium.

We should not be playing a shell game with something as important as our seniors' health and well-being. The Republican bill leaves our seniors out in the cold.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to urge my colleagues to support a fair and equal prescription drug plan.

Mr. Speaker, as you know, Adam Smith's economic theory of competition over monopoly has worked for our country's economy for nearly 200 years. While competition works for material items, it does not work for social services and human needs such as health care and prescription drugs. If we allow private companies to set their own premiums and encourage competition among the prescription drug plan providers, we will not cut costs, nor will we provide seniors with low premiums and co-pays.

As we have seen from health insurance providers, the most affordable insurance plans offer the least amount of coverage, while the most comprehensive plans are the most expensive. This leaves a senior, on a tight monthly budget, with the option of enrolling in a low-cost plan, or no plan at all. Therefore, by voting for this legislation, and allowing these companies to set their own premiums and deductibles, we are not guaranteeing anything to our seniors, and will be leaving the sickest ones, on the tightest budgets behind.

The Democratic plan is simply stated. There will be a \$25 premium, \$100 deductible, and 20 percent co-pay, and an out-of-pocket limit at \$2,000. However, the Republican plan is extremely complicated. Different people will pay different co-pays depending on their total prescription drug costs. And let us not forget the gap in coverage for those who exceed \$2,000 in total costs, but do not exceed their out-of-pocket cost of \$3,800, all the while continuing to pay their high premiums of \$35 per month.

In order to maintain all these different co-pays and to assure that competition is available, this bill would create a new agency called the Medicare Benefits Administration. This would only create more bureaucracy and red tape that is currently driving up the cost of health care in America. Almost 25 percent of the cost of health care is to cover the administrative overhead. We cannot add to this current horrible problem.

Not only is the Republican plan more confusing, but it will cost our seniors more. Let us

look at two examples. The first is of individuals with \$100 per month in prescription drug costs. Under the Republican plan they would pay \$892 a year, but under the Democratic plan they would pay only \$620 a year. How about those that have \$300 per month in prescription drug costs? Under the Republican plan they would pay \$2,892 a year, but under the Democratic plan they would only have to pay \$1,100; that is a difference of \$1,796 a year.

Mr. Speaker, let me close by saying that the issue of adding prescription drug coverage for Medicare recipients is long over due. But H.R. 4954 is not the answer.

Mr. RAMSTAD. Mr. Speaker, I rise today in strong support of H.R. 4954, the Medicare Modernization and Prescription Drug Act of 2002.

This is truly a monumental day for millions of seniors in America. Congress is finally addressing our greatest generation's need for a prescription drug benefit under Medicare.

Prescription drug coverage is one of the most critical issues facing our Nation. This issue has moral, medical, and economic implications for every single American.

Under this bill, seniors will no longer have to become insolvent just to pay for the prescription drugs they need. We are rescuing seniors from the terrible dilemma of paying for food or life-saving medicines.

The problem is that when the majority of people need prescription drugs most, in the later years of life, the largest insurer of the elderly does not provide prescription drug coverage. As a result, many seniors go without the drugs they need, dilute their prescriptions or forego other basic necessities to purchase vital prescription drugs. This is wrong, Mr. Speaker.

H.R. 4954 not only provides affordable prescription drug coverage, but also strengthens the Medicare system to ensure that doctors are available to treat Medicare patients and hospitals can keep their doors open to Medicare beneficiaries.

Mr. Speaker, our seniors need and deserve a Medicare system that reflects the advances in medicine that have occurred in the past 37 years since Medicare began in 1965. They also deserve prescription drug coverage under Medicare.

The Medicare Modernization and Prescription Drug Act provides a prescription drug benefit to all seniors and reforms irrational payments to doctors, hospitals, and nursing homes. The bill also strengthens the long-term financial condition of the Medicare program.

All Medicare beneficiaries are eligible for this prescription drug coverage, and seniors will save nearly 30 percent, according to the Congressional Budget Office.

Mr. Speaker, I urge my colleagues to pass this critical legislation because the seniors of America deserve a prescription drug benefit and a modernized Medicare system.

Ms. HARMAN. Mr. Speaker, tonight we are engaged in a partisan debate on what should be a bipartisan issue.

Reforming Medicare to ensure access to prescription drugs is one of the most important things we could do this year. Seniors have been promised this benefit by both parties during the past two Congresses.

Rather than engage in constructive debate, the Republican leadership has introduced a bill that does not get the job done under a rule for debate designed to prevent the consideration of any alternatives.

I intend to vote against the Republican bill because it fails to provide genuine, reliable drug coverage for seniors.

The Republican bill is confusing and unworkable. It requires seniors pay different amount in co-payments depending on how much they spend on prescription drugs overall. In fact, its benefits are likely so meager that only the sickest seniors would want to enroll—a recipe for bankruptcy of the system.

The Republican bill does not ensure discounts on all the drugs seniors need. Not only does it offer no guarantee that private plans will cover all the prescriptions seniors need, but because of high cost-sharing and premiums, it will cover only 20 percent of the average senior's drug costs in a year.

The Republican bill has a large gap in coverage. It offers seniors no assistance on drug costs between \$2,000 and \$3,700. That means that nearly half of all seniors will receive no coverage of their prescriptions for part of the year, even though they continue to pay premiums.

A Medicare prescription drug benefit must be affordable for both senior citizens and the federal government. A plan with high premiums and deductibles—or large gaps in coverage—won't help the seniors who need it most.

I believe that a Medicare drug benefit should achieve the following goals, and I am eager to work with my colleagues to achieve them:

(1) Help those who need it most first. We need to provide genuine and immediate assistance to low-income seniors and seniors who do not currently have drug coverage.

(2) Provide relief from the high and escalating cost of prescription drugs. Prescription drugs cost more in the United States than in any other nation in the world. Medicare should have the ability to negotiate lower prices for senior citizens as part of a drug benefit.

(3) Encourage new disease management techniques and innovation in the delivery of care. Medicare needs to catch up with the private sector in focusing on preventive care and the treatment of chronic conditions. Improving Medicare's coverage on these fronts will improve seniors' lives—and reduce their health care costs as well.

I hope we will be able to work in a bipartisan manner in the coming months to keep our promises to seniors and enact a fiscally responsible, meaningful law to include prescription drugs under Medicare.

Mr. WATTS of Oklahoma. Mr. Speaker, this House stepped up to the plate in March and set aside three hundred and fifty billion dollars in our budget for prescription drug coverage. What was in the Democrat budget proposal for senior citizens? Well, nothing. They didn't bother to offer a budget.

But the absence of action did not prevent the other party from criticism and condemnation. It's always easy to yell and scream when you have nothing to offer.

The plan before the House today is one that will lower the cost of prescription drugs and

help seniors get the life-saving medicine they need. It is practical, realistic, and supported by the President.

The Medicare Modernization and Prescription Drug Act of 2002 is the right remedy for a national problem. In fact, the Department of Health and Human Services recently released a report that stated: "The House Republican plan would provide real relief for seniors and disabled Americans: those who now pay full retail prices would typically see the costs of each prescription cut by 60 to 85 percent, and their overall out-of-pocket drug costs would fall by as much as 70 percent—in exchange for a stable and affordable premium starting at thirty-four dollars per month."

The Democrat plan is a prescription for higher drug costs, enriching drug companies and fiscal disaster. It is an election year gimmick that will cost over eight hundred billion dollars over ten years and lead to higher drug prices and government price controls.

The Republican plan lowers drug costs, guarantees coverage and gives seniors choices. Seniors would be able to pick the plan of their choice—because one size does not fit all. Competition will drive down costs.

Mr. Speaker, no senior should have to decide between buying food and buying medicine. I urge my colleagues to support this legislation to give seniors the life-saving drugs they need and the peace of mind they deserve.

Mr. BLUMENAUER. Mr. Speaker, the pattern denying opportunity for full debate and reasonable alternatives continues as we deal with prescription drug benefits for our Nation's seniors. The House will not be permitted to vote on the Democratic prescription alternative. Instead, we will only be allowed to consider the Republican bill, which does not provide a guaranteed drug benefit, instead offering only an HMO-style managed-drugs plan for some. Medicare was created in 1965 because most elderly people could not afford to buy expensive health insurance on the private market. Most still cannot, and we as a Congress should not in fairness impose this flawed plan on seniors.

Especially important to Oregon seniors are the regional inequities that already exist in Medicare, and that the Republican bill would allow to grow. Medicare already punishes Oregon for its size and efficiency with a Medicare reimbursement rate that is 66 percent of the national average rate per enrollee. As a result, Oregon seniors lose more than ¾ of a billion dollars every year. That represents approximately \$1,660 per enrollee that ought to be going to medical care and services. We cannot tell how much we will lose under the bill before us today.

Their bill allows many different insurance companies to deal with seniors differently from city to city, and state to state. A senior in Oregon might pay significantly more than someone in Louisiana for the same, or even a reduced benefit. All seniors paid their taxes, and they all deserve an equal benefit. Rural areas and western states have had enough of this regional healthcare discrimination!

Choice is illusory in the Republican bill because the plans they propose do not exist and there is no assurance that insurance companies will ever offer these plans.

The Democratic bill, by comparison, is simple and fair. All beneficiaries will receive the same benefits, the same low \$25 a month premiums, a lower \$2,000 out-of-pocket limit, with any pharmacy they choose—wherever they live.

Furthermore, the Democratic alternative allows the Secretary to use collective purchasing powers on behalf of 40 million beneficiaries to negotiate lower prices, as he did getting Cipro, the antibiotic used for Anthrax, in the Fall of 2001. The Republican bill has no such provision. I support the plan that helps seniors, Medicare contractors, and is fair to the taxpayers.

Mr. STRICKLAND. Mr. Speaker, the Republican prescription drug bill is a sham, and the unfair rule that brings it to the floor exposed this partisan and shameful process for what it is—a political masquerade designed to convince Americans that we have answered the plea to add a prescription drug benefit to Medicare. Make no mistake, we fall far short of that goal today. I am appalled that the Republican leadership is not willing to allow the American people the decency of comparing the bill before us to a substitute that would provide a real drug benefit for Medicare beneficiaries. This limited debate available to us speaks volumes about the quality of the proposal before us today and its lack of a meaningful prescription drug benefit for the seniors.

The Republican sham prescription drug plan would not provide a guaranteed adequate prescription drug benefit for seniors. The coverage outlined in the bill isn't the kind of coverage most Americans think of when the need for prescription drug coverage for seniors. Coverage if 80/20 only through the first \$1,000, when coverage drops to 50/50. And then there is a huge gap in coverage between \$2,000, when the initial benefits run out, and \$3,700, when catastrophic coverage finally begins. A beneficiary will receive zero benefits between \$2,000 and \$3,800 in spending, even though she will continue to pay the \$35 monthly premium.

Perhaps even worse, the bill take the first step toward privatizing Medicare by contracting this new drug benefit out to private insurance plans. In so doing, premiums, deductibles, and copayments will vary across the country—so a senior who lives in Florida will likely pay a different premium than one of my constituents in Ohio. In addition, coverage under the bill we are considering today will be unstable because plans will be able to pull out from an area when they decide it doesn't fit their business plan. Where, then do our seniors turn for prescription drug coverage? The experience of Medicare+Choice illustrates this concern: there were Medicare+Choice HMOs in my district, but every single one left. Thankfully, those seniors who did switch to an M+C plan had traditional Medicare to fall back on. This won't be the case for prescription drugs if we pass the Republican drug plan. Instead, seniors will be left without any drug plan at all if and when the private insurers leave the area.

The Democrats' prescription drug plan would provide quality, guaranteed help for seniors. Unlike the Republican plan, the Democrats' proposal would create a prescription drug benefit that is part of Medicare, thus avoiding instability or variation in premiums

that occur depending on where the beneficiary happens to live. In addition, the Democrats' plan provides much more help for seniors: there is no gap in coverage, catastrophic coverage would begin at \$2,000 rather than 3,800, and the monthly premium would be \$25. The unfair rule under which we debate this incredibly important issue means that Americans won't get to hear this comparison in detail or see how it fares in a vote. This is exactly what the Republicans want because they know their proposal can't compete with the Democrats' concrete plan, which has been endorsed by a litany of groups, including the Alliance of Retired Persons, the AARP, the AFL-CIO, AFSCME, The American Federation of Teachers, the Center for Medicare Advocacy, Families USA, the National Committee to Preserve Social Security, and Medicare, the National Council on the Aging, the National Partnership for Women and Families, and the National Senior Citizens Law Center.

Some of my colleagues will contend that the difference between our plan and theirs is the cost. They will say that the Democrats' are fiscally irresponsible and that our plan breaks the bank. On this point, I stand firm. It is a fact that this Congress has chosen to give huge tax breaks to the wealthy. The President told us we could do both: he said we could enact nearly \$2 trillion in tax cuts as well as a prescription drug benefit for America's seniors. But Congress chose to pass tax cuts for the wealthy, and we have chosen not to enact a real prescription drug benefit for seniors. If the choice is between enacting a real prescription drug benefit and giving tax breaks to the wealthy and corporations, then I am proud to choose to stand on the side of America's seniors.

The rule also means that I won't be able to vote for a bill including many commendable provisions that have clear bipartisan support. This year, doctors were hit with a 5.4 percent cut in their Medicare reimbursement, hospitals are struggling with decreases in Medicaid disproportionate share hospital (DSH) funding and shortages in other payments, home health agencies are facing a 15 percent cut in reimbursement, and most Medicare providers are struggling with an increasingly difficult regulatory burden.

Doctors and hospitals in my district provide invaluable care to Medicare and Medicaid recipients, and I hope they know that I support fixing all of these problems. I hope they do not interpret my no vote on this bill as a vote against the compromises that have been reached to address these problems. I recognize that our failure to fix these could seriously threaten the quality of care seniors and the disabled receive, and I cannot overstate my determination to continue working with my colleagues on both sides of the aisle to enact these important solutions. We have, in some cases, already done this. For example, last year, the House passed a Medicare regulatory reform package that is now also included in this bill. And even though I support a permanent fix to the formula used to calculate the physician update in Medicare, I have worked with my colleagues to reach a temporary compromise that is included in this bill. I support these and other provisions that will go a long way to ensuring providers have the resources

they need to continue to offer quality care for seniors. Therefore, it is with regret that I cannot support the bill that includes many of these solutions, and I will continue to work for their enactment this year.

I would like for all Americans to understand that the rule bringing this bill to the floor today undermines their ability to hear a full and open debate about developing a prescription drug plan for our seniors. It is shameful that politics is getting in the way of a healthy debate on the addition of a prescription drug benefit to Medicare. And it is also shameful that politics is interfering in the needed changes in Medicare reimbursements that will ensure beneficiaries continue to receive quality care. This is no way to develop thoughtful, reasonable, balanced legislation that will best serve the nation. Our seniors deserve much better.

Mr. WICKER. Mr. Speaker, I rise in support of this comprehensive package which will provide needed improvements to the Medicare system. Much of the debate on this legislation has centered on the need to add a prescription drug component to Medicare. I agree with this goal, and I support the responsible proposal put forth by the Ways and Means and Commerce Committees. The practice of medicine has significantly changed since the Medicare program was created in the 1960s, and the role of prescription drugs has dramatically increased. It is time we reform the Medicare program to reflect changing times.

However, I want to focus on other, very important parts of this legislation related to reimbursements for providers, especially those in rural America. This legislation provides a lifeline for rural America.

In my conversations with doctors, hospital administrators, and community leaders throughout Mississippi, a common concern is the decreasing ability to provide access to quality care in rural areas. The jobs of rural health care professionals are made harder by inequities in Medicare reimbursement rates between rural and urban areas. This bill goes a long way in correcting this problem by increasing the standardized amount for hospital reimbursement in small cities and rural areas to the level of urban areas in a two step process over the next 2 fiscal years. This is in addition to an increase in the market basket adjustment that all hospitals—urban, suburban, and rural—will receive.

The level of the standardized amount is especially important because this is the base with which Medicare starts when establishing reimbursement rates for specific services. Equalizing the standardized amount reduces the difference in payments caused by other parts of the Medicare reimbursement formula. But by putting urban and rural hospitals on the same footing at the beginning of the reimbursement formula, rural hospitals will benefit for years to come as changes are made to any part of the reimbursement system. This major improvement for rural hospitals will be fully implemented in just 2 years.

Other aspects of this bill provide additional benefits for home health agencies and critical access hospitals in rural America. The threat of a 15 percent reduction for home health services has been eased in recent years as Congress has continually delayed the planned reduction. This bill will eliminate the threat by

permanently repealing the 15 percent cut, allowing home health agencies to adequately prepare their financial future. Critical access hospitals are increasingly an attractive option for rural communities that would otherwise be without health care service. By improving the rules and regulations for critical access hospitals, this legislation provides more flexibility in operations and in attracting physicians to medically underserved areas.

I am also pleased this legislation includes a three site hospice pilot project which is based upon H.R. 3270, a bill which I introduced in an effort to improve options for hospice care in rural areas. I believe the current 80 percent out-patient requirement makes it economically difficult to provide inpatient hospice care in rural areas because of smaller patient populations. It is my hope that this pilot project will validate the worth of our proposal and lead to an expansion of this specialized care to rural areas across the Nation.

Mr. Speaker, this is a good bill which will improve access to quality health care, be it for prescription drugs, or care in a hospital, home health agency, or hospice. I urge support for this legislation.

Mr. SIMMONS. Mr. Speaker, in my 18 months in Congress, through the many town hall meetings, letters, e-mails and phone calls, I consistently hear the same concern from people of eastern Connecticut—the rising cost of prescription drugs.

We all heard about seniors who have cut their medication in half because they can't afford to take their entire prescription or a senior who has to choose between buying food and buying their medication. We see seniors who are confronted with this choice at supermarkets everyday. We need to lower the cost of prescription drugs for our seniors now.

This concern is not perceived, but very real. The non-partisan Congressional Budget Office estimated that in 1999, nearly 90 percent of Medicare beneficiaries filled at least one prescription. In 2001, the average Medicare beneficiary pay \$1,756 on prescription drugs annually, filling approximately 22 prescriptions in that year.

Next month, Medicare will turn 37 years old. The delivery of health care today is very different from the system of our parents and grandparents and very different from the way we cared for our seniors back in 1965.

I believe Medicare needs to be improved to better reflect these changes and strengthened for the future. If Medicare were being designed today, it would include a prescription drug benefit. Because of the remarkable advances made in prescription drugs, seniors are living longer, with a better quality of life. Unfortunately, the promise of prescription drugs is very hollow for those who cannot afford them.

Twenty-six states—including Connecticut—have already enacted some form of prescription drug assistance program and they are to be prescription drug assistance program and they are to be commended. I have long felt that the Federal Government should partner with states to help provide prescription drug relief to seniors, particularly to low-income seniors who have the greatest need.

Earlier this year, in an effort to provide immediate relief for Connecticut's seniors who

were feeling the financial pinch over paying for their medicine, I introduced "Immediate Helping Hand" legislation, which provides more than \$48 billion to states to give those who can't afford prescription drugs a "helping hand."

My bill would provide Connecticut's ConnPACE program with more than \$91 million per year and expand prescription drug coverage to thousands of seniors. My plan was a solid first step—a bridge to provide seniors with immediate assistance until Congress passed a more comprehensive prescription drug benefit through Medicare.

But as of tonight, only 51 or so legislative days remain until Congress adjourns. I've come to realize with the short window of time left, its time to roll up our sleeves and work together on this issue. If Congress really wants to give seniors a prescription drug benefit, then we would need to do it now.

The Ways and Means and the Energy and Commerce Committees have introduced a plan to provide a prescription drug benefit under Medicare that is voluntary and affordable and guarantees prescription drug coverage for all seniors. Our plan gives seniors immediate relief from the rising costs of prescription medications by providing a 30 percent discount off the top of their overall drug bill. While seniors would pay a \$35 monthly premium and a \$250 annual deductible, our bill provides 80 percent coverage for drug bills between \$251 and \$1,000 of out of pocket drug expenses and 50 percent coverage for the next \$1,000. Finally, our plan provides 100 percent catastrophic coverage for out of pocket drug expenses over \$4,500 a year, ensuring that no senior will be forced into bankruptcy because of their prescription medication bill during a long-term, serious illness.

Our plan will lower the cost of prescription drugs now by providing a discount so that seniors can better afford their medications. Our plan will guarantee all senior citizens prescription drug coverage and provide additional assistance to low-income seniors. Our plan will improve Medicare with more choices and more savings and will strengthen Medicare for the future. Our plan is a reasonable solution that provides seniors with upfront savings on the high costs of drugs now as well as guarantee them a drug benefit under Medicare that doesn't sunset and can't be taken away.

Our seniors have worked hard to save for their "Golden Years." Yet the cost of prescription drugs is depleting their savings and jeopardizing their retirement security. Under our plan, seniors will be protected from run-away drug costs.

Our plan is also of particular importance to women. Women have a higher life expectancy than men; yet often have lower incomes in their retirement and face additional costs after their husbands pass on.

Speaker HASTERT asked me to participate in a special Prescription Drug Action Team and I thank him for this opportunity. In this role, I have tried to advance the cause of providing a prescription drug benefit under Medicare by meeting with the President and members of his cabinet; hold outreach meetings with groups such as senior citizen advocates and representatives of pharmacies and drug companies; attend listening sessions at local sen-

ior centers, such as Rose City Senior Center in Norwich and the Colchester Seniors Center, and pharmacies; and participate in bipartisan discussions with other Members of Congress to find lawmakers with the same goals who will work with me to produce a plan that will help provide real relief to seniors in Connecticut as well as the rest of the country.

Our seniors should not be forced to scrimp on food and shelter just to be able to afford their medicine. Older Americans deserve more savings and more choice when they fill their prescriptions, and I hope Democrats and Republicans will join together now to see that they receive meaningful prescription drug coverage.

To delay is to deny. Let's get a prescription drug benefit signed into law now.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to speak out against H.R. 4954, what should have been called the Republican Insurance Protection Act.

When medical students become doctors, they take an oath written by Hippocrates, a great Greek philosopher and naturalist, in the year 400 BC. The underlying spirit of the Hippocratic Oath, is that when someone needs your help, when they trust you to do the right thing to improve their health, the number one priority is to do no harm.

As we design a system to get the much-needed medications to our Nation's seniors and disabled citizens on Medicare, we must keep the spirit of the Hippocratic oath in mind. These folks need our help, we have promised them that we would help them get the health care they need, and they trust us to keep that promise.

The Republican plan to privatize and compromise Medicare would be a step in the wrong direction. It is a gift to insurance companies and the pharmaceuticals industry, but does nothing for most of our seniors. If it passes, Hippocrates will probably be turning over in his grave.

Let's look at some numbers:

Let's consider one senior, she could be your mother or grandmother. She could be on a fixed income, and her doctor has decided she needs \$500 per month in prescription medications to live comfortably. Not only is she carrying a huge financial burden, but she is sick, and from talking to our constituents at home, we all know the frustration and even depression that can accompany long-term illness.

She is a member of the greatest generation, as they have been called, that generation that worked hard to give us the unprecedented prosperity and security we all have enjoyed over the past decades, and now she needs our help.

And what does the Insurance Protection Act offer her?

As the year starts, so do her bills. Her out of pocket costs rise rapidly throughout the year—\$1,000, \$2,000, \$3,000, about \$4,000, because even if she hits the catastrophic limit, she is still paying premiums that add to her burden.

And what about her benefits? They are almost non-existent for most of the year. She gets a little help at first, but it falls off rapidly. Then, for a big chunk of the year—she gets nothing, as she falls into the Republican gap.

Finally, when she hits catastrophe, her bills get covered. But, most seniors don't ever get

there—they just end up stuck in the Republican gap.

These numbers are the best we could calculate last week with the vague plan that we had been presented with. These numbers look bad, but they may be even worse. H.R. 4954 does not guarantee even this low level of benefit. It only offers subsidies to private insurance companies in hopes that they might take care of our seniors even though we don't. Associations of insurance companies have already gone on record stating they probably will not offer the drug-only plans necessary for the Republican plan to function.

The Republican plan puts this sick senior on a roller coaster. Her premiums are not guaranteed. Her deductible is high. She is not assured that she will be able to buy the drugs her doctor prescribes at the pharmacy she trusts. She gets nothing for a big part of the year, even though she keeps paying her premiums.

She gets all of the paperwork and premiums of a big government program—with none of the benefits. This is a gimmick. It is a step in the wrong direction, and it violates the principle of do no harm.

We do not have to take this step backward because, there is a choice. The Democratic alternative provides a continuous stream of aid to all of those who need it. It offers low premiums and guaranteed benefits. Yes it costs more, but it could actually be a bargain. Unlike the Republican plan which does nothing for the vast majority of seniors, the Democratic plan helps all seniors. By harnessing the bargaining power of those 40 million seniors, the Democratic plan will drive down the cost of prescription drugs. Also, new medications, especially preventive medications can save us money in the long run. By keeping people out of hospitals and emergency rooms and off of the surgeon's table, a good prescription drug bill could actually start saving us money.

But most importantly, it is what our seniors deserve. I urge my colleagues to wait for a better alternative, and vote "no" today on H.R. 4539, the Insurance Protection Plan.

Mr. SERRANO. Mr. Speaker, I rise in opposition to the bill before us and in strong support of the Democratic alternative, of which I am an original cosponsor.

The Republicans know that the American people demand prescription drug coverage for seniors. But instead of passing a bill to help our seniors, they've chosen to give \$350 billion to insurance companies, trusting them to do what's right for seniors.

This bill is a cruel joke. Republicans broke their word—they promised to help seniors and the disabled with a real Medicare prescription drug benefit, and instead passed a pathetic gimmick that will leave seniors holding the bag. This bill isn't a Medicare benefit plan for seniors, it's a Republican benefit plan for corporations.

I am an original cosponsor of an alternative bill that would provide real coverage for our seniors through Medicare. The Democratic plan fulfills our responsibility to provide for those who made this country what it is today. No senior should be forced into poverty to pay for life-saving drugs—and no senior living in poverty should be denied necessary medications.

Our plan would not only provide a meaningful prescription drug benefit, it would allow seniors and individuals with disabilities to go on making the choices that matter. The Republican bill would take choices away, offering coverage through private plans that may not allow seniors to choose their pharmacy, or their doctor. The only choice left for many seniors would be between purchasing food and purchasing drugs.

The Democratic plan is so good, in fact, that Republicans would not even let it come to a vote. They did not want to admit that their trillion dollar tax cuts for the super-rich don't leave enough money for a real benefit for seniors. But the American people are not so easily fooled. They know that Republicans put the interests of the rich ahead of the interests of seniors.

Our plan would help all Americans. It would bring down the skyrocketing price of prescription drugs, so that giant pharmaceutical companies can't inflate their profits at public expense. Medicare contractors would obtain guaranteed reductions in price, and the Secretary of Health and Human Services would be able to fight back against price gouging, using the collective bargaining power of Medicare's 40-million beneficiaries. It would stop patent abuses, bringing down drug prices for all Americans. The Secretary would also be able to encourage the use of generic drugs, set lower coinsurance for preferred drugs, enhance disease management, and strengthen beneficiary and provider education. The Republican plan would do nothing to reduce the price of prescription drugs. Tax dollars would be used to pay the same inflated prices that seniors pay today.

I urge my colleagues to make good on their promises, to defeat H.R. 4954, and to pass meaningful prescription drug coverage in Medicare for seniors and the disabled.

Mr. HINOJOSA. Mr. Speaker, I rise today in opposition to the Republican prescription drug bill. For years, our seniors have been begging for help to obtain affordable prescription drugs. The bill before us today gives relief to the large drug companies, not our vulnerable seniors.

It forces Medicare patients into multiple private drug plans, undercuts seniors' collective purchasing power, and enables the drug industry to maintain its unjustifiably high prices.

By contrast, the Democratic plan would provide voluntary prescription drug coverage for all Medicare beneficiaries. The plan curbs drug costs by allowing the Secretary to use the collective bargaining power of Medicare's 40 million beneficiaries to negotiate lower drug prices.

But we will not have the opportunity to vote on this sensible plan that is supported by the majority of Americans because the Republican leadership is afraid it would pass.

I urge my colleagues to oppose the sham Republican proposal and say no to the big drug companies. I yield back the balance of my time.

Mr. WEXLER. Mr. Speaker, prescription drug coverage has long been a top priority for a majority of Americans, and as a result, both George Bush and Al Gore pledged during the 2000 Presidential campaign to provide seniors with a comprehensive prescription drug plan

and finally put an end to the prescription drug crisis in America. The House Republican leadership avoided this issue for as long as they could, but the day of reckoning arrived, and when it was time for both sides to ante up, the Republicans offered nothing but a sham. Now here we are, preparing to vote on what the Republicans say is a plan that will help seniors pay for prescription drugs. But before we do, I want all my colleagues to know what is really on the table.

Quite simply, the Republican prescription drug plan is a disgrace; it is nothing more than a half-hearted attempt to deliver on an empty promise and provide themselves with election year cover. This will not bring the rising costs of prescription drugs down, it has significant gaps in coverage, and where it does provide coverage, it relies completely on unreliable HMOs and insurance companies to provide it. The Republican plan will get us nowhere and will leave too many seniors with nothing at all. As we look at the Republican proposal, it is clear that while the needs of so many are being neglected, the wants of an influential few are being met.

The Democratic prescription drug bill we have offered will provide real, meaningful, affordable, prescription drug coverage under Medicare. It will allocate \$800 billion to ensure that all seniors can afford coverage. There will be no gaps in coverage, and nobody will be forced to join an HMO. But regrettably, we can't even debate this bill today. While that is a shame in and of itself, the real tragedy is that we must choose between a horrible bill or no bill at all. But maybe that is what Republicans—who have been raking in campaign contributions from the insurance industry and the pharmaceutical companies who are the only true beneficiaries of the Republican bill—wanted all along.

The bill that I am sponsoring will be affordable for all seniors, will cover any prescription regardless of the brand, and not just cover those on the insurance companies' formularies. Our prescription drug plan will provide seniors substantial savings by using the government's bargaining power to obtain the best prices for Medicare, as currently done for Medicaid and the Veterans Administration. The Republican plan, in contrast, relies on the insurance industry and HMOs to provide the already scant coverage that it offers. The Republicans have disguised their shallow attempt to pay back the pharmaceutical companies and insurance industry for millions in campaign contributions under the title of Medicare Modernization. The real name for this bill should be the Insurance and Pharmaceutical Industry Payback Act.

The criticism that has been offered by Republicans regarding the Democratic bill is that it is unrealistic. That is their argument, simply because they know that the Democratic bill interferes with their \$1.3 trillion tax cut. And to add insult to injury, Republicans continue to push for additional billions in tax cuts for the wealthiest Americans, which is more than enough to pay for the more generous Democratic plan. It is shameful that while Republicans pander to the narrow interests they serve, seniors continue to wait for a real solution to the prescription drug crisis.

Mr. KNOLLENBERG. Mr. Speaker, it is simply unacceptable that 13 million seniors do not

have prescription drug coverage. Seniors need prescription drug coverage and they need it now.

The legislation before us today provides a real, timely drug benefit while helping ensure the future solvency of the Medicare program. Although much more reform is necessary, the Medicare modernization provisions contained in the bill are a significant step forward in providing long overdue Medicare improvements. If the Medicare system is to remain viable in the future, it is essential that we bring the Medicare program in line with 21st century healthcare advances and expectations.

I support the Medicare Modernization and Prescription Drug Act of 2002 because it creates a prescription drug benefit in Medicare that is affordable, available, and voluntary. It gives people the power to choose the plan that best fits their needs, including protection against high out-of-pocket drug costs that threaten their health and financial security.

This bill guarantees a choice of at least two drug plans in every area of the country, without endangering existing drug coverage that seniors might already have through a former employer. We avoid giving the Federal Government too heavy a hand in controlling drug benefits, ensuring that seniors will not be denied the right to select the coverage that best fits their needs.

Furthermore, the bill will bring the increased competition among health plans that is necessary to reduce drug prices. According to the Department of Health and Human Services, this plan is the only proposal before Congress that would lower drug prices and provide an immediate drug discount of up to 15 percent.

Mr. Speaker, seniors must not have to choose between their medicine and other basics like food and housing. We have a chance to strengthen the Medicare program to guarantee that our children and their children have access to quality health services and prescription drugs when they become eligible for Medicare. Let us take this monumental step and improve Medicare for the future.

Mr. COSTELLO. Mr. Speaker, I rise today in opposition to H.R. 4954 and in support of the Democratic substitute. It is imperative that we provide senior citizens with quality, affordable, and reliable health care. H.R. 4954 does not accomplish these important goals.

I am committed to strengthening and improving Medicare. As the nationwide health insurance program for the elderly, Medicare has provided important protections for millions of Americans over its 37-year history. However, the program continues to face increasing problems. Like so many Americans, I am concerned that the program's structure has failed to keep pace with the changes in the health care system as a whole. When Medicare was created, prescription drug use was limited, with most beneficiaries being treated in hospitals. Today, advances in pharmaceutical research allow doctors to treat seniors on an outpatient basis. Unfortunately, Medicare has not kept up with this change.

As a result, Congress has been actively working to craft a prescription drug benefit for Medicare that is affordable and reliable. Yet, under the Republican bill, the government would pay subsidies to insurance companies to induce them to offer drug coverage. These

"drug only" insurance plans do not currently exist, and may never exist, and therefore do not offer a guaranteed benefit to our seniors. Beneficiaries would be forced to choose between HMOs and risky private drug-only insurance plans. Further, this legislation merely provides suggestions for standard coverage; private insurers have the freedom to alter premiums which can be much higher, varying from county to county, and year to year. Seniors would not know what to expect from their drug benefit from year to year or how much it would cost.

In addition, H.R. 4954 provides inadequate coverage to Medicare beneficiaries. It would cover less than a quarter of beneficiaries' estimated drug costs over the next 10 years. Nearly half of all seniors spend over \$2,000 annually. This bill would not pay for drug costs between \$2,000 and \$3,700. Further, this legislation would do nothing to assist low-income beneficiaries. Low-income beneficiaries may have to pay \$2 to \$5 co-pays and 100 percent of the costs in the coverage gap.

In contrast, the Democratic substitute, had we been able to offer it, offers seniors a real Medicare prescription drug benefit for with relief from the high cost of prescription drug prices. This legislation would lower the costs of drugs for all seniors, would offer an affordable, guaranteed Medicare drug benefit, would ensure seniors coverage of the drugs their doctors prescribe, and would not force seniors into HMOs or private insurance. Beneficiaries would pay a \$25 premium per month, a \$100 deductible per year, and would receive full coverage after paying \$2,000 in out of pocket expenses. In addition, this substitute would help low-income beneficiaries with premium and co-insurance payments. Finally, it would guarantee Medicare beneficiaries the choices that matter: choice of prescription drug, choice of pharmacy, and choice of doctor and hospital.

I support the provider payment adjustments made to hospitals, physicians, and rural communities represented in both H.R. 4954 and the Democratic substitute; however, I cannot in good faith support H.R. 4954 with its unacceptable prescription drug plan.

Mr. Speaker, I am committed to providing a comprehensive benefit that is affordable and dependable for all beneficiaries with no gaps or gimmicks in its coverage. What Congress offers to senior citizens and individuals with disabilities should be no less generous than what Members of Congress and other Federal employees receive. For these reasons, I oppose H.R. 4954. I urge my colleagues to do the same.

Mr. BONILLA. Mr. Speaker, while I support this bill because it provides meaningful prescription drug coverage for America's seniors and implements measures needed to modernize the Medicare system, I rise out of concern for the effects of this bill on pharmacy services. Pharmacists are on the front lines of health care for millions of Americans. Seniors count on their pharmacist for quality medications and medication therapy services. Coverage of prescription drugs should go hand-in-hand with access to quality pharmacy services.

This bill would inhibit the ability of America's seniors to select the pharmacy that best

meets their needs. In many of the smaller towns in my district, seniors have established long-standing relationships of trust with their community pharmacists. This bill would force many of these seniors to turn elsewhere for prescription drug services.

Furthermore, this bill allows Pharmacy Benefit Managers to establish restrictive pharmacy networks, preferred formularies, mail order services and inadequate reimbursement rates, severely undermining the future viability of community pharmacies. Prescription drug plan sponsors, not pharmacists or doctors, would determine the selection of medications to be included on formularies. Cost would supercede the medication that is in the best interest of the patient, and community pharmacies would be left struggling to stay in business.

This bill also compromises seniors' access to medication-therapy services. Pharmacists play an important role in reducing medication-related problems. They routinely resolve complex drug interaction problems for seniors who take multiple medications. These problems cost billions of dollars annually and kill hundreds-of-thousands of persons. Medication-therapy services decrease long-term health care costs while increasing safety.

As a conservative, I recognize the need to be fiscally responsible, however we should not allow our efforts to rein in the high cost of prescription drugs to jeopardize the health of our seniors. Taken together, the provisions of this legislation would impose economic hardships that would severely damage pharmacy infrastructure and compromise the health of America's precious seniors.

Thousands of pharmacists have diligently served America's seniors with dedication and excellence. We should not inhibit their ability to continue providing the drugs and services our seniors desperately need.

Mr. PAUL. Mr. Speaker, while there is little debate about the need to update and modernize the Medicare system to allow seniors to use Medicare funds for prescription drugs, there is much debate about the proper means to achieve this end. However, much of that debate is phony, since neither H.R. 4954 or the alternative allow seniors the ability to control their own health care. Instead both plans give a large bureaucracy the power to determine what prescription drugs senior citizens can receive. The only difference is that alternative puts seniors under the control of the federal bureaucracy, while H.R. 4954 gives this power to "private" health maintenance organizations and insurance companies.

I am pleased that the drafters of H.R. 4954 incorporate regulatory relief legislation, which I have supported in the past, into the bill. This will help relieve some of the tremendous regulatory burden imposed on health care providers by the Federal Government. I am also pleased that H.R. 4954 contains several good provisions addressing the Congressionally-created crisis in rural health and attempting to ensure that physicians are fairly reimbursed by the Medicare system.

However, Mr. Speaker, at the heart of this legislation is a fatally flawed plan that will fail to provide seniors access to the pharmaceuticals of their choice. H.R. 4954 requires seniors to enroll in a prescription benefit man-

agement company (PBM), which is the equivalent of an HMO. Under this plan, the PBM will have the authority to determine which pharmaceuticals are available to seniors. Thus, in order to get any help with their prescription drug costs, seniors have to relinquish their ability to choose the type of prescriptions that meet their own individual needs! The inevitable result of this process will be rationing, as PBM bureaucrats attempt to control costs by reducing the reimbursements paid to pharmacists to below-market levels (thus causing pharmacists to refuse to participate in PBM plans), and restricting the type of pharmacies seniors may use in the name of "cost effectiveness." PBM bureaucrats may even go so far as to forbid seniors from using their own money to purchase Medicare-covered pharmaceuticals. I remind my colleagues that today the federal government prohibits seniors from using their own money to obtain health care services which differ from those "approved" of by the Medicare bureaucracy!

Since H.R. 4954 extends federal subsidies (and federal regulations) to private insurers, the effects of this program will be felt even by those seniors with private insurance. Thus, H.R. 4954 will in actuality reduce the access of many seniors to the prescription drugs of their choice!

I must express my disappointment that this legislation does nothing to reform the government policies responsible for the skyrocketing costs of prescription drugs. Congress should help all Americans by reforming federal patent laws and FDA policies which provide certain large pharmaceutical companies a government-granted monopoly over pharmaceutical products. Perhaps the most important thing Congress could do to reduce pharmaceutical policies is liberalize the regulations surrounding the reimportation of FDA-approved pharmaceuticals.

As a representative of an area near the Texas-Mexican border, I often hear from angry constituents who cannot purchase inexpensive quality imported pharmaceuticals in their local drug store. Some of these constituents regularly travel to Mexico on their own to purchase pharmaceuticals. It is an outrage that my constituents are being denied the opportunity to benefit from a true free market in pharmaceuticals by their own government.

The alternative suffers from the same flaws, and will have the same (if not worse) negative consequences for seniors as will H.R. 4954. The only difference between the two is that under the alternative, seniors will be denied the choice for pharmaceuticals by bureaucrats at the Center for Medicare and Medicaid Services (CMS) rather than by a federally subsidized PMB bureaucrat.

Mr. Speaker, our seniors deserve better than a "choice" between whether a private-or-public sector bureaucrat will control their health care. Meaningful prescription drug legislation should be based on the principles of maximum choice and flexibility for senior citizens. For example, my H.R. 2268 provides seniors the ability to use Medicare dollars to cover the costs of prescription drugs in a manner that increases seniors' control over their own health care.

H.R. 2268 removes the numerical limitations and sunset provisions in the Medicare Medical

Savings Accounts (MSA) program. Medicare MSAs consist of a special saving account containing Medicare funds for seniors to use for their routine medical expenses, including prescription drug costs. Unlike the plans contained in H.R. 4504, and the Democratic alternative, Medicare MSAs allow seniors to use Medicare funds to obtain the prescription drugs that fit their unique needs. Medicare MSAs also allow seniors to use Medicare funds for other services not available under traditional Medicare, such as mammograms.

Medicare MSAs will also ensure senior access to a wide variety of health care services by minimizing the role of the federal bureaucracy. As many of my colleagues know, an increasing number of health care providers have withdrawn from the Medicare program because of the paperwork burden and constant interference with their practice by bureaucrats from the Center for Medicare and Medicaid Services. The MSA program frees seniors and providers from this burden, thus making it more likely that quality providers will remain in the Medicare program!

Mr. Speaker, seniors should not be treated like children by the federal government and told what health care services they can and cannot have. We in Congress have a duty to preserve and protect the Medicare trust fund. We must keep the promise to America's seniors and working Americans, whose taxes finance Medicare, that they will have quality health care in their golden years. However, we also have a duty to make sure that seniors can get the health care that suits their needs, instead of being forced into a cookie cutter program designed by Washington, DC-based bureaucrats! Medicare MSAs are a good first step toward allowing seniors the freedom to control their own health care.

In conclusion, Mr. Speaker, both H.R. 4954 and the alternative force seniors to cede control over what prescription medicines they may receive. The only difference between them is that H.R. 4954 gives federally funded HMO bureaucrats control over seniors prescription drugs, while the alternative gives government functionaries the power to tell seniors what prescription drug they can (and can't) have. Congress can, and must, do better for our Nation's seniors, by rejecting this command-and-control approach. Instead, Congress should give seniors the ability to use Medicare funds to pay for the prescription drugs of their choice by passing my legislation giving all seniors access to Medicare-Medicaid Savings Accounts.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in opposition to the Republican Party's sham prescription drug benefit proposal. Prescription drugs, especially for our elderly population, are not a luxury but a matter of life or death. Prescription drug costs in our country are rising nearly 20 percent each year, forcing more and more of our country's parents and grandparents to choose between their medication and other necessities of life such as food. Our Nation's seniors worked hard to make this country strong, many fighting in far-off places to keep us free. They deserve to have health care security.

Unfortunately, the Republican prescription drug plan falls short in providing this security to our seniors. First, the Republican plan covers less than a quarter of the costs seniors will

pay for their medication over the next 10 years. Second, under the Republican plan, the premiums and the deductible are so high that most seniors won't be able to afford the plan and as a result will receive no benefits at all. Finally, the Republicans have no universal prescription drug plan. Instead, they leave it to individual insurance companies to develop their own plans. This means seniors will be left on their own to do the research on each plan that will vary in price, benefits, and availability across the country.

This complicated, time-consuming, and expensive process is unfair and unnecessary, and it represents just another step in the Republican Party's effort to privatize Medicare. That is why Democrats have offered a simple, affordable prescription drug plan with a standard benefit and a low deductible. Through the use of collective buying power, the Democratic prescription drug plan actually lowers drug prices for all of Medicare's 40 million beneficiaries. Unfortunately, Republicans did not allow this alternative plan to be presented to the House for a vote. The Republican bill before us is a sham that does little to help our Nation's seniors.

The House must defeat the Republican bill and take the necessary steps to pass the Democratic prescription drug bill that will give all America's seniors the benefits they need and the health care security they deserve.

Ms. BROWN of Florida. Mr. Speaker, it matters who is in charge. This Republican leadership must think the American people are stupid. Last week they raised \$30 million dollars in a fund raiser with the drug companies, and this week we have a prescription drug bill on the floor. Now who do you think they wrote this bill for: The seniors they've been promising relief to for 2 years, or the big drug companies that will be funding their elections this fall?

While on a trip back home to Jacksonville in March, I went to the drug store for my grandmother to pick up just one of her prescriptions. I was expecting maybe a \$15 co-payment because I knew her insurance plan had drug coverage. The bill was \$91 dollars. She had a limit on her coverage, and it had run out. We were 3 months into the year, and she no longer has a drug plan.

My grandmother, and all grandmothers deserve better than this. If the Republicans can take a break from their million dollar drug company fund raisers and constant tax cut bills for their country club friends, maybe we can work on a compromise that will provide our seniors with the relief we have been promising them. My Republican colleagues talk the talk, but they don't walk the walk. The Republican leadership has come up with a privatized drug plan that has been rejected by both the insurance industry and the drug stores as unworkable, and fails to truly help seniors.

This is one more perfect example of why it matters who is in charge.

Mrs. BONO. Mr. Speaker, I rise today to support comprehensive health care improvements for our country. The Medicare Modernization and Prescription Drug Act of 2002 offers a real and immediate benefit to our seniors, while also offering substantive improvements to a Medicare system that will collapse in on itself without reforms.

Currently the seniors in my district, which represent over one in five of all individuals in California's 44th District, are without prescription drug coverage that is essential to their quality of health. With this legislation, these individuals will receive an affordable option that will become a permanent facet of Medicare for generations to come.

I have had the honor of serving on the Speaker's Prescription Drug Action team, and we have worked hard to address both prescription drug coverage and improvements to the Medicare system. These include helping our doctors continue to better serve Medicare beneficiaries and helping our hospitals to keep their doors open to those who can't afford to meet even basic health care needs. In particular, the Medicaid Disproportionate Share Hospital monies included in this bill are a serious start to helping our public hospitals, including two in my district.

There is still work to be done in properly funding these hospitals that offer such essential services, but this comprehensive legislation is taking a step in the right direction.

One of my constituents recently wrote to me and spoke of the urgency with which we need to provide our seniors with affordable prescription drug coverage. Her message is echoed by thousands of others, and she is correct that we can no longer ignore the urgent need to improve our health care system.

It is urgent because our seniors cannot continue to keep up with rising prescription drug costs. It is urgent because our doctors and hospitals must have the tools to continue to offer quality care. And it is urgent because we can no longer afford to make patchwork fixes to a program that has not received needed improvements since its inception in 1965. It is for these reasons that I rise today in support of The Medicare Modernization and Prescription Drug Act of 2002.

Mr. KIND. Mr. Speaker, providing affordable Medicare prescription drug coverage for our Nation's seniors is one of the most pressing issues facing our country today. Even though the elderly use the most prescriptions, more than 75 percent of seniors on Medicare lack reliable drug coverage. It is time to modernize Medicare to reflect our current health care delivery system. The use of prescription medications is as important today as the use of hospital beds was in 1965 when Medicare was created.

I have heard from a number of seniors in western Wisconsin regarding the problems they have paying for prescription drugs. One woman from Deer Park, Wisconsin, a small town in my district, wrote to me and said:

My medication is \$135.00 per month. Fortunately my husband is not on any medication. If we both were not working part-time, I guess that we would have to make a choice between food and medication—does one eat to survive or take the medication for a "long and happy life"?

What is to happen to this couple if the husband falls ill and has high drug costs too?

Seniors without prescription drug coverage often pay the highest prices for their medication. Pharmaceutical companies negotiate prices with their most favored customers, such as HMOs, but seniors without drug coverage do not benefit from these negotiations. Not

only do my seniors face price discrimination in their hometowns, but also they can go to Canada and get the same medicine for a substantially cheaper price. On average my constituents would pay about 80 percent less for their drugs in Canada than they do at home in western Wisconsin. That is wrong.

The cost of prescription medicines should not place financial on seniors that would force them to choose between buying drugs and buying food. We need to make prescription medicines affordable and accessible to all of our seniors.

Unfortunately, today's debate is a sham. We will not have the opportunity to discuss this issue in a fair and open process. The majority decided to railroad the debate and silence the minority by not allowing an alternative to be debated and voted upon. Our nation's seniors deserve better. They deserve an open process, but the Republican leadership has failed to deliver this.

The leadership has also failed seniors with their prescription drug proposal. The Republican plan is doomed to fail because the plan relies on health insurance companies to offer drug only policies which they have said they won't offer. If insurance companies won't offer these policies, how will seniors actually obtain prescription drug coverage under the leadership plan?

Every insurance company with whom I have spoken has said that they will not offer a drug-only insurance policy. In fact, during our last debate on this issue, the Health Insurance Association of America, which consists of nearly 300 insurance companies, released a statement claiming, "These 'drug only' policies represent an empty promise to America's seniors. They are not workable or realistic."

Why should the insurance companies provide these drug only policies? They are in the business of insuring risk and there is no risk associated with a drug only policy. This single benefit policy will result in adverse risk selection—only people with predictably high prescription medicine costs will purchase the plan. This will increase the cost to the insurance companies who in turn will pass the costs on to the beneficiaries through higher premiums.

In addition, providing a drug benefit through private plans could be problematic, specifically for folks living in rural and small communities. There are no requirements as to what has to be covered and the coverage may vary from area to area depending on the plan. Wisconsin may end up on the short end of the stick like we have in the past under Medicare. Another problem is the huge hole in coverage. Once a senior hits \$2,000 in drug costs there is no coverage until they spend \$3,700 in out-of-pocket expenses. Nearly half of all seniors have drug expenditures over \$2,000 and will receive no drug coverage for part of the year. Further, there is no help for low-income seniors to cover their drug costs over \$2,000 and before they hit the stop-loss.

We must provide a real solution to the problem of prescription drug coverage for our seniors. The Republican plan falls woefully short. The Democratic proposal, however, heads in the right direction and builds on the current Medicare program. The benefit would include: a \$25/month premium; a \$100 annual deduct-

ible; 20 percent cost-sharing for drug costs; and \$2,000 out-of-pocket annual stop-loss. Low-income individuals up to 150 percent of poverty will pay no premium or cost-sharing. The Democratic plan would guarantee a minimum benefit and ensure that those who live in Wisconsin would receive the same benefit as those who live in California or Florida.

This plan is expensive but it would work because of its simplicity. The question about its affordability depends on whether the American people want a meaningful prescription drug program or if they would rather see large tax cuts in the future for the wealthiest Americans.

It is unfortunate that the Republican leadership has squandered an excellent opportunity to try and solve the problem of prescription drug coverage in a bipartisan fashion. Instead they have steam-rolled ahead and presented our Nation's seniors with an unworkable solution to a grave problem. I urge my colleagues to reject this flawed proposal.

Mr. BEREUTER. Mr. Speaker, this Member will vote for H.R. 4954, the Medicare Modernization and Prescription Drug Act of 2002. There are elements in this Medicare reform legislation which improve the access of health care services in rural areas.

For example, not only does this legislation continue an effort to address some of this Member's concerns regarding the significant difference in reimbursement levels for urban and rural health care providers, it would also provide a 3-year fix for the Medicare physician payment formula, resulting in a 6 percent increase in Medicare payments over the next 3 years rather than the 14.2 percent projected cut under current law.

For some time now, this Member has been aggressively pursuing an issue related to the formula used in the Medicare program to reimburse physicians and other health care providers for beneficiaries' medical care. The problem is that it does not accurately measure the cost of providing such services. The program reimburses physicians and other health care providers in a manner that favors urban providers over rural providers. Instead, Medicare payment formulas should more accurately compensate physicians and providers who deliver high-quality, cost-effective services to Medicare beneficiaries in all areas of the country.

Accordingly, this Member is pleased that the Medicare Modernization and Prescription Drug Act of 2002 contains a compromise agreement that would establish a floor of 9.985 for the physician work adjuster in 2004 (only), thereby raising all localities with a work adjuster below 9.985 to that level. This change would be dependent upon the outcome of a General Accounting Office (GAO) study and secretarial discretion. The Secretary of the Department of Health and Human Services would determine, after taking into account the GAO report, if there is "a sound economic rationale for the implementation" of such a change. If so, the new floor would go into effect. The change would thereby allow 34 Medicare localities across the country, including this Member's home state of Nebraska, to receive a higher reimbursement rate without harming other localities. This language is a modified version of this Member's legislation, the Rural Equity Payment Index Reform Act (H.R. 3569), which

is currently co-sponsored on a bipartisan basis by 60 Members of the House. The language included in the House Medicare Modernization and Prescription Drug Act is also a result of efforts by the distinguished gentlelady from New Mexico [Mrs. WILSON], and pushed hard to ensure such language was and the distinguished gentleman from Wisconsin [Mr. BARETT], who pursued this issue in the House Energy and Commerce Committee. This Member joined his colleagues, especially the gentlelady from New Mexico [Mrs. WILSON], and pushed hard to ensure such language was included in the final Medicare bill brought to the House Floor for consideration today.

Establishing a floor of 9.985 to the Medicare physician work adjuster would translate into approximately a \$4 million annual increase in Medicare payments to Nebraska physicians and skilled health care professionals in 2004. This is an important first step toward achieving much needed Medicare reform.

This Member is also pleased that the bill would avert a series of projected cuts of nearly 15 percent in Medicare payments. On November 1, 2001, the Centers for Medicare and Medicaid Services (CMS) announces that it would lower payment rates for 2002 under the Medicare Physician Fee Schedule. Estimates indicate that this change would result in a \$2.0 billion reduction in payments for 2002.

Reductions of this magnitude were completely unexpected and stemmed from two major factors: the downturn of the economy and the related reduction in the Gross Domestic Product that is used to establish the sustainable growth rate for physician spending, and an error on the part of the CMS in collecting physician payment information. This legislation addresses this serious health care issue.

The Medicare Modernization and Prescription Drug Act of 2002 also takes an important step forward in addressing the unintended consequences of the Balanced Budget Act, as well as improving payments for hospitals, particularly rural hospitals. For example, the bill provides increased payment rates for hospitals in rural areas or in metropolitan areas with a population of less than one million.

Under current law, Medicare pays for inpatient services in acute care hospitals in large urban areas using a standardized payment amount that is 1.6 percent larger than the standardized amount used to reimburse hospitals in rural areas and smaller urban areas. This legislation, over a 2-year period, would increase the standardized amount for hospitals in rural and small urban areas to the standardized amount paid to hospitals in large urban areas. According to the Nebraska Hospital Association, for example, this could mean an additional \$6 million annually for hospitals in Nebraska.

Additionally, the bill increases payments to non-teaching rural and urban hospitals in states whose aggregate inpatient operating medical margins are negative for rural hospitals or less than three percent for urban hospitals. The Nebraska Hospital Association estimates that this could result in an additional \$8 million annually for Nebraska's hospitals.

This Member will record two concerns about the initiation of any Medicare prescription drug plan and that is, first, the rather extraordinary

cost of this new entitlement program which would have to be paid for employers, employees, and the self-employed, recognizing the high probability that these costs will be underestimated in this or any alternative proposals put before the Congress. That is the track record for all past Medicare and Medicaid initiatives.

However, the major concern this Member has is the near certainty that the cost of prescription drugs for Americans not eligible for the proposed Medicare prescription drug benefits will increase because of the Medicare prescription drug coverage offered to eligible senior citizens under this or other proposals. When, for example, Medicaid costs for nursing home care soared, cost restraints were imposed and the operators cost-shifted to the private-pay and insurance-pay residents. The same cost-shifting occurred when cost-restraints had to be established on Medicare costs for hospitalization and health professional fees. It is certain that some cost-shifting will occur in short order when restraints inevitably will be placed on Medicare prescription drug costs. The result will surely be that pharmaceutical costs will be cost-shifted by the drug industry to everyone else in America.

This legislation, in this crucial deficiency, does nothing to restrain pharmaceutical costs and domestic cost-shifting. However, after extensive consultation, House leadership has promised a vote to those of us demanding some method to directly keep Medicare prescription drug benefits of eligible senior citizens from causing prescription drug costs to resultantly increase for other Americans.

One such vote could be on an implementable drug re-importation program of FDA approved drugs for individual, wholesale, or retail uses. Turn loose the American entrepreneurial proclivities on this approach, and it will moderate the outrageously unacceptable level of international cost-shifting that now falls onto the backs of American consumers. Most other developed countries have imposed cost constraints on the prescription drug costs borne by their consumers; therefore, American and foreign-owned pharmaceutical firms are charging what the market and tolerance of the American people will bear. This legislation thus far does not address this huge problem—ultimately providing Medicare drug benefits to eligible senior citizens will make the cost of prescription drugs more expensive for most Americans directly and indirectly through Medicare deductions from their paychecks and through its effects on their employer's bottom line.

Mr. Speaker, in conclusion, on balance, this Member supports H.R. 4954 because of the progress made in providing better access to quality health care in non-metropolitan areas through the Medicare finance reforms and because of the promised opportunity for a clear opportunity for the House to soon cast votes on legislation which can restrain or lower prescription drug costs for those Americans not eligible for prospective Medicare prescription drug benefits. This Member will support the advancement of H.R. 4954 to a stage where conferees can craft what this Member would hope to be better legislation if the other body passes its version of a Medicare reform and prescription drug bill.

Mr. CHAMBLISS. Mr. Speaker, we need to strengthen, simplify, and improve Medicare and provide prescription drug coverage for all seniors and disabled Americans. It has been entirely too long that seniors have done without substantial help in affording their prescription drugs. I am committed to working hard to pass prescription drug relief for America's seniors.

Tonight we will pass a fiscally responsible bill that allows seniors and disabled Americans to purchase quality and affordable prescription drugs, offers seniors third party buying power, and provides the security of knowing they are protected from catastrophic pharmaceutical bills.

We desperately need this prescription drug plan. Seniors need this plan to finally receive prescription drug coverage they deserve along with greater choice and flexibility. Further, this plan will substantially help nursing facilities, home health agencies, rural hospitals and local doctors provide better health services and ensure quality health care for folks throughout Georgia.

This bill will not force folks into a Federal Government-run, one-size-fits-all prescription drug plan that has too many rules, regulations, and restrictions and that allows Washington bureaucrats to decide what medicines can and can't be prescribed. This plan is voluntary, and protects those seniors who are already satisfied with their current prescription drug benefit by allowing them to stay in the existing program.

With all these benefits, we need to make sure this legislation is friendly to small businesses and our local pharmacies. I have heard from a number of constituents and share their serious concerns that pharmacists may lose access to networks and our seniors will not gain access to benefits at their local pharmacy. Our hometown pharmacies play a critical role in providing health care in our local communities. We need to ensure that they are not put out of business by this legislation and that pharmacists will have the same opportunity to negotiate price reductions and provide discounted drugs to their customers. It is important that pharmacists be involved in the decision-making process for these plans and have the same opportunities to deliver lower costs to the consumer. I want our pharmacists to be able to continue giving customers top-notch care, and I hope that as the process moves forward on this important bill, these critical issues will be adequately addressed.

It is no secret that prescription drug costs are an overwhelming burden on the health and financial security of seniors and disabled Americans. Too many senior citizens and disabled Americans face decisions between putting food on their table and being able to afford the prescription drugs they need. In the wealthiest country in the world, our seniors should not be forced to make these decisions or do without medication that would allow them to live longer healthier more enjoyable lives, and I look forward to passing a responsible prescription drug plan that helps America's seniors.

Mr. EVANS. Mr. Speaker, today's seniors increasingly depend on prescription drugs to live healthy lives. But with prescription drug prices skyrocketing, medication is out-of-reach

for too many of our Nation's seniors. All too often, we hear of seniors on tight budgets who are forced to choose between medication and their next meal. Congress must ensure that all seniors have access to affordable prescription drug coverage, but the plan that the Republicans have offered falls short. A voluntary benefit added to Medicare would guarantee all seniors access to affordable coverage.

I support a plan that provides a voluntary, guaranteed, defined benefit under the Medicare program. A Medicare prescription drug plan would leave nothing to surprise. Seniors would know how much to expect to pay in premiums and co-payments. All seniors would be eligible to participate. Moreover, this plan would allow Medicare to negotiate the same price breaks for Medicare beneficiaries that are currently enjoyed by other large scale buyers like HMOs and insurance companies.

The Republican plan is riddled with flaws. First, it is not a Medicare benefit, rather it relies on private insurers who have already made clear that they have no intention of providing drug only plans to Medicare beneficiaries. Second, the Republican proposal fails to rein in the high costs of prescription drugs for seniors. Private insurers will not be limited to what they may charge Medicare beneficiaries and will do little to reduce the high out-of-pocket costs that seniors already pay. Third, the GOP plan will only create more hardships for seniors who will be forced to jump through the hoops of their private insurer and be subjected to limited power provider and drug choices.

Mr. SMITH of Texas. Mr. Speaker, I support this legislation because it provides a prescription drug benefit to all seniors using Medicare.

In these times of escalating prescription drug prices, it is essential that seniors have access to affordable drugs to meet their medical needs.

The best way to accomplish this goal is to lower the costs of prescription drugs, ensure that all seniors have prescription drug coverage and increase choices of coverage plans.

Patients who live in rural areas and communities deserve the same access to physicians as their urban counterparts. As a member of the Rural Health Care Caucus, I am pleased that this bill addresses inequities between payments made to rural and urban hospitals, wage adjustments for physicians in rural areas and funding for health care organizations.

Not only does this legislation help consumers of prescription drugs, but it also recognizes the importance of pharmacists in providing prescription drugs, helps states cover their Medicare costs and enhances employer-sponsored health care benefits for retirees.

My Democratic colleagues have proposed a bill that costs over \$800 billion and sunsets after ten years. But what happens after ten years?

This bill is a common sense, realistic approach that provides permanent coverage for seniors at a sensible cost. It gives special attention to the needs of low-income seniors and those facing exorbitant costs due to catastrophic illness.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 467, the previous question is ordered on the bill, as amended.

The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. GEPHARDT

Mr. GEPHARDT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. GEPHARDT. I am in its current form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. GEPHARDT moves to recommit the bill H.R. 4954 jointly to the Committee on Ways and Means and the Committee on Energy and Commerce with instructions to report the same back to the House promptly with the following amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Medicare Rx Drug Benefit and Discount Act of 2002”.

(b) **AMENDMENTS TO SOCIAL SECURITY ACT.**—Except as otherwise specifically provided, whenever in title I of this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) **BIPA; SECRETARY.**—In this Act:

(1) **BIPA.**—The term “BIPA” means the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106-554.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of Health and Human Services.

(d) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

TITLE I—PRESCRIPTION DRUG PROVISIONS

Sec. 101. Voluntary medicare outpatient prescription medicine program.

“PART D—VOLUNTARY PRESCRIPTION MEDICINE BENEFIT FOR THE AGED AND DISABLED

“Sec. 1859. Medicare outpatient prescription medicine benefit.

“Sec. 1859A. Negotiating fair prices with pharmaceutical manufacturers.

“Sec. 1859B. Contract authority.

“Sec. 1859C. Eligibility; voluntary enrollment; coverage.

“Sec. 1859D. Provision of, and entitlement to, benefits.

“Sec. 1859E. Administration; quality assurance.

“Sec. 1859F. Federal Medicare Prescription Medicine Trust Fund.

“Sec. 1859G. Compensation for employers covering retiree medicine costs.

“Sec. 1859H. Medicare Prescription Medicine Advisory Committee.

Sec. 102. Provision of medicare outpatient prescription medicine coverage under the Medicare+Choice program.

Sec. 103. Medigap revisions.

Sec. 104. Transitional assistance for low income beneficiaries.

Sec. 105. Expansion of membership and duties of Medicare Payment Advisory Commission (MedPAC).

TITLE II—MEDICARE+CHOICE REVITALIZATION AND MEDICARE+CHOICE COMPETITION PROGRAM

Sec. 201. Medicare+Choice improvements.

Sec. 202. Making permanent change in Medicare+Choice reporting deadlines and annual, coordinated election period.

Sec. 203. Specialized Medicare+Choice plans for special needs beneficiaries.

Sec. 204. Extension of reasonable cost and SHMO contracts.

Sec. 205. Continuous open enrollment and disenrollment.

Sec. 206. Limitation on Medicare+Choice cost-sharing.

Sec. 207. Extension of municipal health service demonstration projects.

TITLE III—RURAL HEALTH CARE IMPROVEMENTS

Sec. 301. Reference to full market basket increase for sole community hospitals.

Sec. 302. Enhanced disproportionate share hospital (DSH) treatment for rural hospitals and urban hospitals with fewer than 100 beds.

Sec. 303. 2-year phased-in increase in the standardized amount in rural and small urban areas to achieve a single, uniform standardized amount.

Sec. 304. More frequent update in weights used in hospital market basket.

Sec. 305. Improvements to critical access hospital program.

Sec. 306. Extension of temporary increase for home health services furnished in a rural area.

Sec. 307. Reference to 10 percent increase in payment for hospice care furnished in a frontier area and rural hospice demonstration project.

Sec. 308. Reference to priority for hospitals located in rural or small urban areas in redistribution of unused graduate medical education residencies.

Sec. 309. GAO study of geographic differences in payments for physicians' services.

Sec. 310. Providing safe harbor for certain collaborative efforts that benefit medically underserved populations.

Sec. 311. Relief for certain non-teaching hospitals.

TITLE IV—PROVISIONS RELATING TO PART A

Subtitle A—Inpatient Hospital Services

Sec. 401. Revision of acute care hospital payment updates.

Sec. 402. Freeze in level of adjustment for indirect costs of medical education (IME) through fiscal year 2007.

Sec. 403. Recognition of new medical technologies under inpatient hospital PPS.

Sec. 404. Phase-in of Federal rate for hospitals in Puerto Rico.

Sec. 405. Reference to provision relating to enhanced disproportionate share hospital (DSH) payments for rural hospitals and urban hospitals with fewer than 100 beds.

Sec. 406. Reference to provision relating to 2-year phased-in increase in the standardized amount in rural and small urban areas to achieve a single, uniform standardized amount.

Sec. 407. Reference to provision for more frequent updates in the weights used in hospital market basket.

Sec. 408. Reference to provision making improvements to critical access hospital program.

Subtitle B—Skilled Nursing Facility Services

Sec. 411. Payment for covered skilled nursing facility services.

Subtitle C—Hospice

Sec. 421. Coverage of hospice consultation services.

Sec. 422. 10 percent increase in payment for hospice care furnished in a frontier area.

Sec. 423. Rural hospice demonstration project.

Subtitle D—Other Provisions

Sec. 431. Demonstration project for use of recovery audit contractors for part A services.

TITLE V—PROVISIONS RELATING TO PART B

Subtitle A—Physicians' Services

Sec. 501. Revision of updates for physicians' services.

Sec. 502. Studies on access to physicians' services.

Sec. 503. MedPAC report on payment for physicians' services.

Sec. 504. 1-year extension of treatment of certain physician pathology services under medicare.

Sec. 505. Physician fee schedule wage index revision.

Subtitle B—Other Services

Sec. 511. Competitive acquisition of certain items and services.

Sec. 512. Payment for ambulance services.

Sec. 513. 5-year extension of moratorium on therapy caps; provisions relating to reports.

Sec. 514. Accelerated implementation of 20 percent coinsurance for hospital outpatient department (OPD) services; other OPD provisions.

Sec. 515. Coverage of an initial preventive physical examination.

Sec. 516. Renal dialysis services.

Sec. 517. Improved payment for certain mammography services.

Sec. 518. Waiver of part B late enrollment penalty for certain military retirees; special enrollment period.

Sec. 519. Coverage of cholesterol and blood lipid screening.

TITLE VI—PROVISIONS RELATING TO PARTS A AND B

Subtitle A—Home Health Services

Sec. 601. Elimination of 15 percent reduction in payment rates under the prospective payment system.

Sec. 602. Update in home health services.

Sec. 603. OASIS Task Force; suspension of certain OASIS data collection requirements pending Task Force submittal of report.

Sec. 604. MedPAC study on medicare margins of home health agencies.

Subtitle B—Direct Graduate Medical Education

Sec. 611. Redistribution of unused resident positions.

Sec. 612. Increasing for 5 years to 100 percent of the locality adjusted national average per resident amount the payment floor for direct graduate medical education payments under the medicare program.

Subtitle C—Other Provisions

- Sec. 621. Modifications to Medicare Payment Advisory Commission (MedPAC).
- Sec. 622. Demonstration project for disease management for certain medicare beneficiaries with diabetes.
- Sec. 623. Demonstration project for medical adult day care services.
- Sec. 624. Publication on final written guidance concerning prohibitions against discrimination by national origin with respect to health care services.

TITLE VII—MEDICAID PROVISIONS

- Sec. 701. DSH provisions.
- Sec. 702. 1-year extension of Q-II program.

TITLE I—PRESCRIPTION MEDICINE PROVISIONS

Subtitle A—MEDICARE PRESCRIPTION MEDICINE BENEFIT

SEC. 101. VOLUNTARY MEDICARE OUTPATIENT PRESCRIPTION MEDICINE PROGRAM.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.) is amended—

(1) by redesignating section 1859 and part D as section 1858 and part E, respectively; and

(2) by inserting after part C the following new part:

“PART D—VOLUNTARY PRESCRIPTION MEDICINE BENEFIT FOR THE AGED AND DISABLED

“MEDICARE OUTPATIENT PRESCRIPTION MEDICINE BENEFIT

“SEC. 1859. Subject to the succeeding provisions of this part, the voluntary prescription medicine benefit program under this part provides the following:

“(1) PREMIUM.—The monthly premium is \$25.

“(2) DEDUCTIBLE.—The annual deductible is \$100.

“(3) COINSURANCE.—The coinsurance is 20 percent.

“(4) OUT-OF-POCKET LIMIT.—The annual limit on out-of-pocket spending on covered medicines is \$2,000.

“NEGOTIATING FAIR PRICES WITH PHARMACEUTICAL MANUFACTURERS

“SEC. 1859A. (a) AUTHORITY TO NEGOTIATE PRICES WITH MANUFACTURERS.—The Secretary shall, consistent with the requirements of this part and the goals of providing quality care and containing costs under this part, negotiate contracts with manufacturers of covered outpatient prescription medicines that provide for the maximum prices that may be charged to individuals enrolled under this part by participating pharmacies for dispensing such medicines to such individuals.

“(b) PROMOTION OF BREAKTHROUGH MEDICINES.—In conducting negotiations with manufacturers under this part, the Secretary shall take into account the goal of promoting the development of breakthrough medicines (as defined in section 1859H(b)).

“CONTRACT AUTHORITY

“SEC. 1859B. (a) CONTRACT AUTHORITY.—

“(1) IN GENERAL.—The Secretary is responsible for the administration of this part and shall enter into contracts with appropriate pharmacy contractors on a national or regional basis to administer the benefits under this part.

“(2) PROCEDURES.—The Secretary shall establish procedures under which the Secretary—

“(A) accepts bids submitted by entities to serve as pharmacy contractors under this part in a region or on a national basis;

“(B) awards contracts to such contractors to administer benefits under this part to eligible beneficiaries in the region or on a national basis; and

“(C) provides for the termination (and non-renewal) of a contract in the case of a contractor's failure to meet the requirements of the contract and this part.

“(3) COMPETITIVE PROCEDURES.—Competitive procedures (as defined in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5))) shall be used to enter into contracts under this part.

“(4) TERMS AND CONDITIONS.—Such contracts shall have such terms and conditions as the Secretary shall specify and shall be for such terms (of at least 2 years, but not to exceed 5 years) as the Secretary shall specify consistent with this part.

“(5) USE OF PHARMACY CONTRACTORS IN PRICE NEGOTIATIONS.—Such contracts shall require the contractor involved to negotiate contracts with manufacturers that provide for maximum prices for covered outpatient prescription medicines that are lower than the maximum prices negotiated under section 1859A(a), if applicable. The price reductions shall be passed on to eligible beneficiaries and the Secretary shall hold the contractor accountable for meeting performance requirements with respect to price reductions and limiting price increases.

“(6) AREA FOR CONTRACTS.—

“(A) REGIONAL BASIS.—

“(1) IN GENERAL.—Except as provided in clause (ii) and subject to subparagraph (B), the contract entered into between the Secretary and a pharmacy contractor shall require the contractor to administer the benefits under this part in a region determined by the Secretary under subparagraph (B) or on a national basis.

“(ii) PARTIAL REGIONAL BASIS.—

“(I) IN GENERAL.—If determined appropriate by the Secretary, the Secretary may permit the benefits to be administered in a partial region determined appropriate by the Secretary.

“(II) REQUIREMENTS.—If the Secretary permits administration pursuant to subclause (I), the Secretary shall ensure that the partial region in which administration is effected is no smaller than a State and is at least the size of the commercial service area of the contractor for that area.

“(B) DETERMINATION.—

“(i) IN GENERAL.—In determining regions for contracts under this part, the Secretary shall—

“(I) take into account the number of individuals enrolled under this part in an area in order to encourage participation by pharmacy contractors; and

“(II) ensure that there are at least 10 different regions in the United States.

“(ii) NO ADMINISTRATIVE OR JUDICIAL REVIEW.—The determination of administrative areas under this paragraph shall not be subject to administrative or judicial review.

“(7) SUBMISSION OF BIDS.—

“(A) SUBMISSION.—

“(i) IN GENERAL.—Subject to subparagraph (B), each entity desiring to serve as a pharmacy contractor under this part in an area shall submit a bid with respect to such area to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

“(ii) BID THAT COVERS MULTIPLE AREAS.—The Secretary shall permit an entity to submit a single bid for multiple areas if the bid is applicable to all such areas.

“(B) REQUIRED INFORMATION.—The bids described in subparagraph (A) shall include—

“(i) a proposal for the estimated prices of covered outpatient prescription medicines and the projected annual increases in such prices, including the additional reduction in price negotiated below the Secretary's maximum price and differentials between preferred and nonpreferred prices, if applicable;

“(ii) a statement regarding the amount that the entity will charge the Secretary for administering the benefits under the contract;

“(iii) a statement regarding whether the entity will reduce the applicable coinsurance percentage pursuant to section 1859E(a)(1)(A)(ii) and if so, the amount of such reduction and how such reduction is tied to the performance requirements described in subsection (c)(4)(A)(ii);

“(iv) a detailed description of the performance requirements for which the administrative fee of the entity will be subject to risk pursuant to subsection (c)(4)(A)(ii);

“(v) a detailed description of access to pharmacy services provided by the entity, including information regarding whether the pharmacy contractor will use a preferred pharmacy network, and, if so, how the pharmacy contractor will ensure access to pharmacies that choose to be outside of that network, and whether there will be increased cost-sharing for beneficiaries if they obtain medicines at such pharmacies;

“(vi) a detailed description of the procedures and standards the entity will use for—

“(I) selecting preferred prescription medicines; and

“(II) determining when and how often the list of preferred prescription medicines should be modified;

“(vii) a detailed description of any ownership or shared financial interests with pharmaceutical manufacturers, pharmacies, and other entities involved in the administration or delivery of benefits under this part as proposed in the bid;

“(viii) a detailed description of the entity's estimated marketing and advertising expenditures related to enrolling and retaining eligible beneficiaries; and

“(ix) such other information that the Secretary determines is necessary in order to carry out this part, including information relating to the bidding process under this part.

The procedures under clause (vi) shall include the use of a pharmaceutical and therapeutics committee the members of which include practicing pharmacists.

“(8) AWARDING OF CONTRACTS.—

“(A) NUMBER OF CONTRACTS.—The Secretary shall, consistent with the requirements of this part and the goals of providing quality care and of containing costs under this part, award in a competitive manner at least 2 contracts to administer benefits under this part in each area specified under paragraph (6), unless only 1 pharmacy contractor submitting a bid meets the minimum standards specified under this part and by the Secretary.

“(B) DETERMINATION.—In determining which of the pharmacy contractors that submitted bids that meet the minimum standards specified under this part and by the Secretary to award a contract, the Secretary shall consider the comparative merits of each bid, as determined on the basis of relevant factors, with respect to—

“(i) how well the contractor meets such minimum standards;

“(ii) the amount that the contractor will charge the Secretary for administering the benefits under the contract;

“(iii) the performance standards established under subsection (c)(2) and performance requirements for which the administrative fee of the entity will be subject to risk pursuant to subsection (c)(4)(A)(ii);

“(iv) the proposed negotiated prices of covered outpatient medicines and annual increases in such prices;

“(v) factors relating to benefits, quality and performance, beneficiary cost-sharing, and consumer satisfaction;

“(vi) past performance and prior experience of the contractor in administering a prescription medicine benefit program;

“(vii) effectiveness of the contractor in containing costs through pricing incentives and utilization management; and

“(viii) such other factors as the Secretary deems necessary to evaluate the merits of each bid.

“(C) EXCEPTION TO CONFLICT OF INTEREST RULES.—In awarding contracts with pharmacy contractors under this part, the Secretary may waive conflict of interest laws generally applicable to Federal acquisitions (subject to such safeguards as the Secretary may find necessary to impose) in circumstances where the Secretary finds that such waiver—

“(i) is not inconsistent with the—

“(I) purposes of the programs under this part; or

“(II) best interests of beneficiaries enrolled under this part; and

“(ii) permits a sufficient level of competition for such contracts, promotes efficiency of benefits administration, or otherwise serves the objectives of the program under this part.

“(D) NO ADMINISTRATIVE OR JUDICIAL REVIEW.—The determination of the Secretary to award or not award a contract to a pharmacy contractor under this part shall not be subject to administrative or judicial review.

“(9) ACCESS TO BENEFITS IN CERTAIN AREAS.—

“(A) AREAS NOT COVERED BY CONTRACTS.—The Secretary shall develop procedures for the provision of covered outpatient prescription medicines under this part to each eligible beneficiary enrolled under this part that resides in an area that is not covered by any contract under this part.

“(B) BENEFICIARIES RESIDING IN DIFFERENT LOCATIONS.—The Secretary shall develop procedures to ensure that each eligible beneficiary enrolled under this part that resides in different areas in a year is provided the benefits under this part throughout the entire year.

“(b) QUALITY, FINANCIAL, AND OTHER STANDARDS AND PROGRAMS.—In consultation with appropriate pharmacy contractors, pharmacists, and health care professionals with expertise in prescribing, dispensing, and the appropriate use of prescription medicines, the Secretary shall establish standards and programs for the administration of this part to ensure appropriate prescribing, dispensing, and utilization of outpatient medicines under this part, to avoid adverse medicine reactions, and to continually reduce errors in the delivery of medically appropriate covered benefits. The Secretary shall not award a contract to a pharmacy contractor under this part unless the Secretary finds that the contractor agrees to comply with such standards and programs and other terms and conditions as the Secretary shall specify. The standards and programs under this subsection shall be applied to any administrative agreements described in subsection (a) the Secretary enters into. Such standards and programs shall include the following:

“(1) ACCESS.—

“(A) IN GENERAL.—The pharmacy contractor shall ensure that covered outpatient prescription medicines are accessible and convenient to eligible beneficiaries enrolled under this part for whom benefits are administered by the pharmacy contractor, including by offering the services 24 hours a day and 7 days a week for emergencies.

“(B) ON-LINE REVIEW.—The pharmacy contractor shall provide for on-line prospective review available 24 hours a day and 7 days a week in order to evaluate each prescription for medicine therapy problems due to duplication, interaction, or incorrect dosage or duration of therapy.

“(C) GUARANTEED ACCESS TO MEDICINES IN RURAL AND HARD-TO-SERVE AREAS.—The Secretary shall ensure that all beneficiaries have guaranteed access to the full range of pharmaceuticals under this part, and shall give special attention to access, pharmacist counseling, and delivery in rural and hard-to-serve areas, including through the use of incentives such as bonus payments to retail pharmacists in rural areas and extra payments to the pharmacy contractor for the cost of rapid delivery of pharmaceuticals and any other actions necessary.

“(D) PREFERRED PHARMACY NETWORKS.—

“(i) IN GENERAL.—If a pharmacy contractor uses a preferred pharmacy network to deliver benefits under this part, such network shall meet minimum access standards established by the Secretary.

“(ii) STANDARDS.—In establishing standards under clause (i), the Secretary shall take into account reasonable distances to pharmacy services in both urban and rural areas.

“(E) ADHERENCE TO NEGOTIATED PRICES.—The pharmacy contractor shall have in place procedures to assure compliance of pharmacies with the requirements of subsection (d)(3)(C) (relating to adherence to negotiated prices).

“(F) CONTINUITY OF CARE.—

“(i) IN GENERAL.—The pharmacy contractor shall ensure that, in the case of an eligible beneficiary who loses coverage under this part with such entity under circumstances that would permit a special election period (as established by the Secretary under section 1859C(b)(3)), the contractor will continue to provide coverage under this part to such beneficiary until the beneficiary enrolls and receives such coverage with another pharmacy contractor under this part or, if eligible, with a Medicare+Choice organization.

“(ii) LIMITED PERIOD.—In no event shall a pharmacy contractor be required to provide the extended coverage required under clause (i) beyond the date which is 30 days after the coverage with such contractor would have terminated but for this subparagraph.

“(2) ENROLLEE GUIDELINES.—The pharmacy contractor shall, consistent with State law, apply guidelines for counseling enrollees regarding—

“(A) the proper use of covered outpatient prescription medicine; and

“(B) interactions and contra-indications.

“(3) EDUCATION.—The pharmacy contractor shall apply methods to identify and educate providers, pharmacists, and enrollees regarding—

“(A) instances or patterns concerning the unnecessary or inappropriate prescribing or dispensing of covered outpatient prescription medicines;

“(B) instances or patterns of substandard care;

“(C) potential adverse reactions to covered outpatient prescription medicines;

“(D) inappropriate use of antibiotics;

“(E) appropriate use of generic products; and

“(F) the importance of using covered outpatient prescription medicines in accordance with the instruction of prescribing providers.

“(4) COORDINATION.—The pharmacy contractor shall coordinate with State prescription medicine programs, other pharmacy contractors, pharmacies, and other relevant entities as necessary to ensure appropriate coordination of benefits with respect to enrolled individuals when such individual is traveling outside the home service area, and under such other circumstances as the Secretary may specify.

“(5) COST DATA.—

“(A) The pharmacy contractor shall make data on prescription medicine negotiated prices (including data on discounts) available to the Secretary.

“(B) The Secretary shall require, either directly or through a pharmacy contractor, that participating pharmacists, physicians, and manufacturers—

“(i) maintain their prescription medicine cost data (including data on discounts) in a form and manner specified by the Secretary;

“(ii) make such prescription medicine cost data available for review and audit by the Secretary; and

“(iii) certify that the prescription medicine cost data are current, accurate, and complete, and reflect all discounts obtained by the pharmacist or physician in the purchasing of covered outpatient prescription medicines.

Discounts referred to in subparagraphs (A) and (B) shall include all volume discounts, manufacturer rebates, prompt payment discounts, free goods, in-kind services, or any other thing of financial value provided explicitly or implicitly in exchange for the purchase of a covered outpatient prescription medicine.

“(6) REPORTING.—The pharmacy contractor shall provide the Secretary with periodic reports on—

“(A) the contractor's costs of administering this part;

“(B) utilization of benefits under this part;

“(C) marketing and advertising expenditures related to enrolling and retaining individuals under this part; and

“(D) grievances and appeals.

“(7) RECORDS AND AUDITS.—The pharmacy contractor shall maintain adequate records related to the administration of benefits under this part and afford the Secretary access to such records for auditing purposes.

“(8) APPROVAL OF MARKETING MATERIAL AND APPLICATION FORMS.—The pharmacy contractor shall comply with requirements of section 1851(h) (relating to marketing material and application forms) with respect to this part in the same manner as such requirements apply under part C, except that the provisions of paragraph (4)(A) of such section shall not apply with respect to discounts or rebates provided in accordance with this part.

“(c) INCENTIVES FOR COST AND UTILIZATION MANAGEMENT AND QUALITY IMPROVEMENT.—

“(1) IN GENERAL.—The Secretary shall include in a contract awarded under subsection (b) with a pharmacy contractor such incentives for cost and utilization management and quality improvement as the Secretary may deem appropriate. The contract may provide financial or other incentives to encourage greater savings to the program under this part.

“(2) PERFORMANCE STANDARDS.—The Secretary shall provide for performance standards (which may include monetary bonuses if the standards are met and penalties if the standards are not met), including standards relating to the time taken to answer member and pharmacy inquiries (written or by telephone), the accuracy of responses, claims processing accuracy, online system availability, appeal procedure turnaround time, system availability, the accuracy and timeliness of reports, and level of beneficiary satisfaction.

“(3) OTHER INCENTIVES.—Such incentives under this subsection may also include—

“(A) financial incentives under which savings derived from the substitution of generic and other preferred multi-source medicines in lieu of nongeneric and nonpreferred medicines are made available to pharmacy contractors, pharmacies, beneficiaries, and the Federal Medicare Prescription Medicine Trust Fund; and

“(B) any other incentive that the Secretary deems appropriate and likely to be effective in managing costs or utilization or improving quality that does not reduce the access of beneficiaries to medically necessary covered outpatient medicines.

“(4) REQUIREMENTS FOR PROCEDURES.—

“(A) IN GENERAL.—The Secretary shall establish procedures for making payments to each pharmacy contractor with a contract under this part for the administration of the benefits under this part. The procedures shall provide for the following:

“(i) ADMINISTRATIVE PAYMENT.—Payment of administrative fees for such administration.

“(ii) RISK REQUIREMENT.—An adjustment of a percentage (determined under subparagraph (B)) of the administrative fee payments made to a pharmacy contractor to ensure that the contractor, in administering the benefits under this part, pursues performance requirements established by the Secretary, including the following:

“(I) QUALITY SERVICE.—The contractor provides eligible beneficiaries for whom it administers benefits with quality services, as measured by such factors as sustained pharmacy network access, timeliness and accuracy of service delivery in claims processing and card production, pharmacy and member service support access, and timely action with regard to appeals and current beneficiary service surveys.

“(II) QUALITY CLINICAL CARE.—The contractor provides such beneficiaries with quality clinical care, as measured by such factors as providing notification to such beneficiaries and to providers in order to prevent adverse drug reactions and reduce medication errors and specific clinical suggestions to improve health and patient and prescriber education as appropriate.

“(III) CONTROL OF MEDICARE COSTS.—The contractor contains costs under this part to the Federal Medicare Prescription Medicine Trust Fund and enrollees, as measured by generic substitution rates, price discounts, and other factors determined appropriate by the Secretary that do not reduce the access of beneficiaries to medically necessary covered outpatient prescription medicines.

“(B) PERCENTAGE OF PAYMENT TIED TO RISK.—

“(i) IN GENERAL.—Subject to clause (ii), the Secretary shall determine the percentage of the administrative payments to a pharmacy contractor that will be tied to the performance requirements described in subparagraph (A)(ii).

“(ii) LIMITATION ON RISK TO ENSURE PROGRAM STABILITY.—In order to provide for pro-

gram stability, the Secretary may not establish a percentage to be adjusted under this paragraph at a level that jeopardizes the ability of a pharmacy contractor to administer the benefits under this part or administer such benefits in a quality manner.

“(C) RISK ADJUSTMENT OF PAYMENTS BASED ON ENROLLEES IN PLAN.—To the extent that a pharmacy contractor is at risk under this paragraph, the procedures established under this paragraph may include a methodology for risk adjusting the payments made to such contractor based on the differences in actuarial risk of different enrollees being served if the Secretary determines such adjustments to be necessary and appropriate.

“(d) AUTHORITY RELATING TO PHARMACY PARTICIPATION.—

“(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, a pharmacy contractor may establish consistent with this part conditions for the participation of pharmacies, including conditions relating to quality (including reduction of medical errors) and technology.

“(2) AGREEMENTS WITH PHARMACIES.—Each pharmacy contractor shall enter into a participation agreement with any pharmacy that meets the requirements of this subsection and section 1859E to furnish covered outpatient prescription medicines to individuals enrolled under this part.

“(3) TERMS OF AGREEMENT.—An agreement under this subsection shall include the following terms and conditions:

“(A) APPLICABLE REQUIREMENTS.—The pharmacy shall meet (and throughout the contract period continue to meet) all applicable Federal requirements and State and local licensing requirements.

“(B) ACCESS AND QUALITY STANDARDS.—The pharmacy shall comply with such standards as the Secretary (and such a pharmacy contractor) shall establish concerning the quality of, and enrolled individuals' access to, pharmacy services under this part. Such standards shall require the pharmacy—

“(i) not to refuse to dispense covered outpatient prescription medicines to any individual enrolled under this part;

“(ii) to keep patient records (including records on expenses) for all covered outpatient prescription medicines dispensed to such enrolled individuals;

“(iii) to submit information (in a manner specified by the Secretary to be necessary to administer this part) on all purchases of such medicines dispensed to such enrolled individuals; and

“(iv) to comply with periodic audits to assure compliance with the requirements of this part and the accuracy of information submitted.

“(C) ADHERENCE TO NEGOTIATED PRICES.—(i) The total charge for each medicine dispensed by the pharmacy to an enrolled individual under this part, without regard to whether the individual is financially responsible for any or all of such charge, shall not exceed the price negotiated under section 1859A(a) or, if lower, negotiated under subsection (a)(5) (or, if less, the retail price for the medicine involved) with respect to such medicine plus a reasonable dispensing fee determined contractually with the pharmacy contractor.

“(ii) The pharmacy does not charge (or collect from) an enrolled individual an amount that exceeds the individual's obligation (as determined in accordance with the provisions of this part) of the applicable price described in clause (i).

“(D) ADDITIONAL REQUIREMENTS.—The pharmacy shall meet such additional contract requirements as the applicable pharmacy contractor specifies under this section.

“(4) APPLICABILITY OF FRAUD AND ABUSE PROVISIONS.—The provisions of section 1128 through 1128C (relating to fraud and abuse) apply to pharmacies participating in the program under this part.

“ELIGIBILITY; VOLUNTARY ENROLLMENT; COVERAGE

“SEC. 1859C. (a) ELIGIBILITY.—Each individual who is entitled to hospital insurance benefits under part A or is eligible to be enrolled in the medical insurance program under part B is eligible to enroll in accordance with this section for outpatient prescription medicine benefits under this part.

“(b) VOLUNTARY ENROLLMENT.—

“(1) IN GENERAL.—An individual may enroll under this part only in such manner and form as may be prescribed by regulations, and only during an enrollment period prescribed in or under this subsection.

“(2) INITIAL ENROLLMENT PERIOD.—

“(A) INDIVIDUALS CURRENTLY COVERED.—In the case of an individual who satisfies subsection (a) as of November 1, 2004, the initial general enrollment period shall begin on August 1, 2004, and shall end on March 1, 2005.

“(B) INDIVIDUAL COVERED IN FUTURE.—In the case of an individual who first satisfies subsection (a) on or after November 1, 2004, the individual's initial enrollment period shall begin on the first day of the third month before the month in which such individual first satisfies such paragraph and shall end seven months later. The Secretary shall apply rules similar to the rule described in the second sentence of section 1837(d).

“(3) SPECIAL ENROLLMENT PERIODS (WITHOUT PREMIUM PENALTY).—

“(A) EMPLOYER COVERAGE AT TIME OF INITIAL GENERAL ENROLLMENT PERIOD.—In the case of an individual who—

“(i) at the time the individual first satisfies subsection (a) is enrolled in a group health plan (including continuation coverage) that provides outpatient prescription medicine coverage by reason of the individual's (or the individual's spouse's) current (or, in the case of continuation coverage, former) employment status, and

“(ii) has elected not to enroll (or to be deemed enrolled) under this subsection during the individual's initial enrollment period,

there shall be a special enrollment period of 6 months beginning with the first month that includes the date of the individual's (or individual's spouse's) retirement from or termination of current employment status with the employer that sponsors the plan, or, in the case of continuation coverage, that includes the date of termination of such coverage, or that includes the date the plan substantially terminates outpatient prescription medicine coverage.

“(B) DROPPING OF RETIREE PRESCRIPTION MEDICINE COVERAGE.—In the case of an individual who—

“(i) at the time the individual first satisfies subsection (a) is enrolled in a group health plan that provides outpatient prescription medicine coverage other than by reason of the individual's (or the individual's spouse's) current employment; and

“(ii) has elected not to enroll (or to be deemed enrolled) under this subsection during the individual's initial enrollment period,

there shall be a special enrollment period of 6 months beginning with the first month that includes the date that the plan substantially terminates outpatient prescription medicine coverage and ending 6 months later.

“(C) LOSS OF MEDICARE+CHOICE PRESCRIPTION MEDICINE COVERAGE.—In the case of an individual who is enrolled under part C in a Medicare+Choice plan that provides prescription medicine benefits, if such enrollment is terminated because of the termination or reduction in service area of the plan, there shall be a special enrollment period of 6 months beginning with the first month that includes the date that such plan is terminated or such reduction occurs and ending 6 months later.

“(D) LOSS OF MEDICAID PRESCRIPTION MEDICINE COVERAGE.—In the case of an individual who—

“(i) satisfies subsection (a);

“(ii) loses eligibility for benefits (that include benefits for prescription medicine) under a State plan after having been enrolled (or determined to be eligible) for such benefits under such plan; and

“(iii) is not otherwise enrolled under this subsection at the time of such loss of eligibility,

there shall be a special enrollment period specified by the Secretary of not less than 6 months beginning with the first month that includes the date that the individual loses such eligibility.

“(4) LATE ENROLLMENT WITH PREMIUM PENALTY.—The Secretary shall permit an individual who satisfies subsection (a) to enroll other than during the initial enrollment period under paragraph (2) or a special enrollment period under paragraph (3). But, in the case of such an enrollment, the amount of the monthly premium of the individual is subject to an increase under section 1859C(e)(1).

“(5) INFORMATION.—

“(A) IN GENERAL.—The Secretary shall broadly distribute information to individuals who satisfy subsection (a) on the benefits provided under this part. The Secretary shall periodically make available information on the cost differentials to enrollees for the use of generic medicines and other medicines.

“(B) TOLL-FREE HOTLINE.—The Secretary shall maintain a toll-free telephone hotline (which may be a hotline already used by the Secretary under this title) for purposes of providing assistance to beneficiaries in the program under this part, including responding to questions concerning coverage, enrollment, benefits, grievances and appeals procedures, and other aspects of such program.

“(6) ENROLLEE DEFINED.—For purposes of this part, the term ‘enrollee’ means an individual enrolled for benefits under this part.

“(C) COVERAGE PERIOD.—

“(1) IN GENERAL.—The period during which an individual is entitled to benefits under this part (in this subsection referred to as the individual’s ‘coverage period’) shall begin on such a date as the Secretary shall establish consistent with the type of coverage rules described in subsections (a) and (e) of section 1838, except that in no case shall a coverage period begin before January 1, 2005. No payments may be made under this part with respect to the expenses of an individual unless such expenses were incurred by such individual during a period which, with respect to the individual, is a coverage period.

“(2) TERMINATION.—The Secretary shall provide for the application of provisions under this subsection similar to the provisions in section 1838(b).

“(d) PROVISION OF BENEFITS TO MEDICARE+CHOICE ENROLLEES.—In the case of an individual who is enrolled under this part and is enrolled in a Medicare+Choice plan under part C, the individual shall be

provided the benefits under this part through such plan and not through payment under this part.

“(e) LATE ENROLLMENT PENALTIES; PAYMENT OF PREMIUMS.—

“(1) LATE ENROLLMENT PENALTY.—

“(A) IN GENERAL.—In the case of a late enrollment described in subsection (b)(4), subject to the succeeding provisions of this paragraph, the Secretary shall establish procedures for increasing the amount of the monthly premium under this part applicable to such enrollee by an amount that the Secretary determines is actuarially sound for each such period.

“(B) PERIODS TAKEN INTO ACCOUNT.—For purposes of calculating any 12-month period under subparagraph (A), there shall be taken into account months of lapsed coverage in a manner comparable to that applicable under the second sentence of section 1839(b).

“(C) PERIODS NOT TAKEN INTO ACCOUNT.—

“(i) IN GENERAL.—For purposes of calculating any 12-month period under subparagraph (A), subject to clause (ii), there shall not be taken into account months for which the enrollee can demonstrate that the enrollee was covered under a group health plan that provides coverage of the cost of prescription medicines whose actuarial value (as defined by the Secretary) to the enrollee equals or exceeds the actuarial value of the benefits provided to an individual enrolled in the outpatient prescription medicine benefit program under this part.

“(ii) APPLICATION.—This subparagraph shall only apply with respect to a coverage period the enrollment for which occurs before the end of the 60-day period that begins on the first day of the month which includes the date on which the plan terminates or reduces its service area (in a manner that results in termination of enrollment), ceases to provide, or reduces the value of the prescription medicine coverage under such plan to below the value of the coverage provided under the program under this part.

“(2) INCORPORATION OF PREMIUM PAYMENT AND GOVERNMENT CONTRIBUTIONS PROVISIONS.—The provisions of sections 1840 and 1844(a)(1) shall apply to enrollees under this part in the same manner as they apply to individuals 65 years of age or older enrolled under part B. For purposes of this subsection, any reference in a section referred to in a previous subsection to the Federal Supplementary Medical Insurance Trust Fund is deemed a reference to the Federal Medicare Prescription Medicine Trust Fund.

“(f) ELECTION OF PHARMACY CONTRACTOR TO ADMINISTER BENEFITS.—The Secretary shall establish a process whereby each individual enrolled under this part and residing in a region may elect the pharmacy contractor that will administer the benefits under this part with respect to the individual. Such process shall permit the individual to make an initial election and to change such an election on at least an annual basis and under such other circumstances as the Secretary shall specify.

“PROVISION OF, AND ENTITLEMENT TO, BENEFITS

“SEC. 1859D. (a) BENEFITS.—Subject to the succeeding provisions of this section, the benefits provided to an enrollee by the program under this part shall consist of the following:

“(1) COVERED OUTPATIENT PRESCRIPTION MEDICINE BENEFITS.—Entitlement to have payment made on the individual’s behalf for covered outpatient prescription medicines.

“(2) LIMITATION ON COST-SHARING FOR PART B OUTPATIENT PRESCRIPTION MEDICINES.—

“(A) IN GENERAL.—Once an enrollee has incurred aggregate countable cost-sharing (as defined in subparagraph (B)) equal to the stop-loss limit specified in subsection (c)(4) for expenses in a year, entitlement to the elimination of cost-sharing otherwise applicable under part B for additional expenses incurred in the year for outpatient prescription medicines or biologicals for which payment is made under part B.

“(B) COUNTABLE COST-SHARING DEFINED.—For purposes of this part, the term ‘countable cost-sharing’ means—

“(i) out-of-pocket expenses for outpatient prescription medicines with respect to which benefits are payable under part B, and

“(ii) cost-sharing under subsections (c)(3)(B) and (c)(3)(C)(i).

“(b) COVERED OUTPATIENT PRESCRIPTION MEDICINE DEFINED.—

“(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of this part the term ‘covered outpatient prescription medicine’ means any of the following products:

“(A) A medicine which may be dispensed only upon prescription, and—

“(i) which is approved for safety and effectiveness as a prescription medicine under section 505 of the Federal Food, Drug, and Cosmetic Act;

“(ii) (I) which was commercially used or sold in the United States before the date of enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a medicine, and (II) which has not been the subject of a final determination by the Secretary that it is a ‘new drug’ (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

“(iii) (I) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a medicine, and (II) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such medicine under such section because the Secretary has determined that the medicine is less than effective for all conditions of use prescribed, recommended, or suggested in its labeling.

“(B) A biological product which—

“(i) may only be dispensed upon prescription;

“(ii) is licensed under section 351 of the Public Health Service Act; and

“(iii) is produced at an establishment licensed under such section to produce such product.

“(C) Insulin approved under appropriate Federal law, and needles, syringes, and disposable pumps for the administration of such insulin.

“(D) A prescribed medicine or biological product that would meet the requirements of subparagraph (A) or (B) but that is available over-the-counter in addition to being available upon prescription, but only if the particular dosage form or strength prescribed and required for the individual is not available over-the-counter.

“(E) Smoking cessation agents (as specified by the Secretary).

“(2) EXCLUSION.—The term ‘covered outpatient prescription medicine’ does not include—

“(A) medicines or classes of medicines, or their medical uses, which may be excluded from coverage or otherwise restricted under section 1927(d)(2), other than subparagraph (E) thereof (relating to smoking cessation agents), as the Secretary may specify and does not include such other medicines, classes, and uses as the Secretary may specify consistent with the goals of providing quality care and containing costs under this part;

“(B) except as provided in paragraphs (1)(D) and (1)(E), any product which may be distributed to individuals without a prescription;

“(C) any product when furnished as part of, or as incident to, a diagnostic service or any other item or service for which payment may be made under this title; or

“(D) any product that is covered under part B of this title.

“(C) PAYMENT OF BENEFITS.—

“(1) COVERED OUTPATIENT PRESCRIPTION MEDICINES.—There shall be paid from the Federal Medicare Prescription Medicine Trust Fund, in the case of each enrollee who incurs expenses for medicines with respect to which benefits are payable under this part under subsection (a)(1), amounts equal to the sum of—

“(A) the price for which the medicine is made available under this part (consistent with sections 1859A and 1859B), reduced by any applicable cost-sharing under paragraphs (2) and (3); and

“(B) a reasonable dispensing fee.

The price under subparagraph (A) shall in no case exceed the retail price for the medicine involved.

“(2) DEDUCTIBLE.—The amount of payment under paragraph (1) for expenses incurred in a year, beginning with 2005, shall be reduced by an annual deductible equal to the amount specified in section 1859(2) (subject to adjustment under paragraph (8)). Only expenses for countable cost-sharing (as defined in subsection (a)(2)(B)) shall be taken into account in applying this paragraph.

“(3) COINSURANCE.—

“(A) IN GENERAL.—The amount of payment under paragraph (1) for expenses incurred in a year shall be further reduced (subject to the stop-loss limit under paragraph (4)) by coinsurance as provided under this paragraph.

“(B) PREFERRED MEDICINES.—The coinsurance under this paragraph in the case of a preferred medicine (including a medicine treated as a preferred medicine under paragraph (5)), is equal to 20 percent of the price applicable under paragraph (1)(A) (or such lower percentage as may be provided for under section 1859E(a)(1)(A)(ii)). In this part, the term ‘preferred medicine’ means, with respect to medicines classified within a therapeutic class, those medicines which have been designated as a preferred medicine by the Secretary or the pharmacy contractor involved with respect to that class and (in the case of a nongeneric medicine) with respect to which a contract has been negotiated under this part.

“(C) NONPREFERRED MEDICINES.—The coinsurance under this paragraph in the case of a nonpreferred medicine that is not treated as a preferred medicine under paragraph (5) is equal to the sum of—

“(i) 20 percent of the price for lowest price preferred medicine that is within the same therapeutic class; and

“(ii) the amount by which—

“(I) the price at which the nonpreferred medicine is made available to the enrollee; exceeds

“(II) the price of such lowest price preferred medicine.

“(4) NO COINSURANCE ONCE OUT-OF-POCKET EXPENDITURES EQUAL STOP-LOSS LIMIT.—Once an enrollee has incurred aggregate countable cost-sharing under paragraph (3) (including cost-sharing under part B attributable to outpatient prescription drugs or biologicals) equal to the amount specified in section 1859(4) (subject to adjustment under paragraph (8)) for expenses in a year—

“(A) there shall be no coinsurance under paragraph (3) for additional expenses incurred in the year involved; and

“(B) there shall be no coinsurance under part B for additional expenses incurred in the year involved for outpatient prescription drugs and biologicals.

“(5) APPEALS RIGHTS RELATING TO COVERAGE OF NONPREFERRED MEDICINES.—

“(A) PROCEDURES REGARDING THE DETERMINATION OF MEDICINES THAT ARE MEDICALLY NECESSARY.—Each pharmacy contractor shall have in place procedures on a case-by-case basis to treat a nonpreferred medicine as a preferred medicine under this part if the preferred medicine is determined to be not as effective for the enrollee or to have significant adverse effect on the enrollee. Such procedures shall require that such determinations are based on professional medical judgment, the medical condition of the enrollee, and other medical evidence.

“(B) PROCEDURES REGARDING DENIALS OF CARE.—Such contractor shall have in place procedures to ensure—

“(i) a timely internal review for resolution of denials of coverage (in whole or in part and including those regarding the coverage of nonpreferred medicines) in accordance with the medical exigencies of the case and a timely resolution of complaints, by enrollees in the plan, or by providers, pharmacists, and other individuals acting on behalf of each such enrollee (with the enrollee's consent) in accordance with requirements (as established by the Secretary) that are comparable to such requirements for Medicare+Choice organizations under part C;

“(ii) that the entity complies in a timely manner with requirements established by the Secretary that (I) provide for an external review by an independent entity selected by the Secretary of denials of coverage described in clause (i) not resolved in the favor of the beneficiary (or other complainant) under the process described in such clause and (II) are comparable to the external review requirements established for Medicare+Choice organizations under part C; and

“(iii) that enrollees are provided with information regarding the appeals procedures under this part at the time of enrollment with a pharmacy contractor under this part and upon request thereafter.

“(6) TRANSFER OF FUNDS TO COVER COSTS OF PART B PRESCRIPTION MEDICINE CATASTROPHIC BENEFIT.—With respect to benefits described in subsection (a)(2), there shall be transferred from the Federal Medicare Prescription Medicine Trust Fund to the Federal Supplementary Medical Insurance Trust Fund amounts equivalent to the elimination of cost-sharing described in such subsection.

“(7) PERMITTING APPLICATION UNDER PART B OF NEGOTIATED PRICES.—For purposes of making payment under part B for medicines that would be covered outpatient prescription medicines but for the exclusion under subparagraph (B) or (C) of subsection (b)(2),

the Secretary may elect to apply the payment basis used for payment of covered outpatient prescription medicines under this part instead of the payment basis otherwise used under such part, if it results in a lower cost to the program.

“(8) INFLATION ADJUSTMENT.—

“(A) IN GENERAL.—With respect to expenses incurred in a year after 2005—

“(i) the deductible under paragraph (2) is equal to the deductible determined under such paragraph (or this subparagraph) for the previous year increased by the percentage increase in per capita program expenditures (as estimated in advance for the year involved under subparagraph (B)); and

“(ii) the stop-loss limit under paragraph (3) is equal to the stop-loss limit determined under such paragraph (or this subparagraph) for the previous year increased by such percentage increase.

The Secretary shall adjust such percentage increase in subsequent years to take into account misestimations made of the per capita program expenditures under clauses (i) and (ii) in previous years. Any increase under this subparagraph that is not a multiple of \$10 shall be rounded to the nearest multiple of \$10.

“(B) ESTIMATION OF INCREASE IN PER CAPITA PROGRAM EXPENDITURES.—The Secretary shall before the beginning of each year (beginning with 2006) estimate the percentage increase in average per capita aggregate expenditures from the Federal Medicare Prescription Medicine Trust Fund for the year involved compared to the previous year.

“(C) RECONCILIATION.—The Secretary shall also compute (beginning with 2007) the actual percentage increase in such aggregate expenditures in order to provide for reconciliation of deductibles, stop-loss limits, and premiums under the second sentence of subparagraph (A) and under section 1859D(d)(2).

“(d) AMOUNT OF PREMIUMS.—

“(1) MONTHLY PREMIUM RATE IN 2005.—The monthly premium rate in 2005 for prescription medicine benefits under this part is the amount specified in section 1859(1).

“(2) INFLATION ADJUSTMENT FOR SUBSEQUENT YEARS.—The monthly premium rate for a year after 2005 for prescription medicine benefits under this part is equal to the monthly premium rate for the previous year under this subsection increased by the percentage increase in per capita program expenditures (as estimated in advance for the year involved under subsection (c)(8)(B)). The Secretary shall adjust such percentage increase in subsequent years to take into account misestimations made of the per capita program expenditures under the previous sentence in previous years. Any increase under this paragraph that is not a multiple of \$1 shall be rounded to the nearest multiple of \$1.

“ADMINISTRATION; QUALITY ASSURANCE

“SEC. 1859E. (a) RULES RELATING TO PROVISION OF BENEFITS.—

“(1) PROVISION OF BENEFITS.—

“(A) IN GENERAL.—In providing benefits under this part, the Secretary (directly or through the contracts with pharmacy contractors) shall employ mechanisms to provide benefits appropriately and efficiently, and those mechanisms may include—

“(i) the use of—

“(I) price negotiations (consistent with subsection (b));

“(II) reduced coinsurance (below 20 percent) to encourage the utilization of appropriate preferred medicines; and

“(III) methods to reduce medication errors and encourage appropriate use of medications; and

“(ii) permitting pharmacy contractors, as approved by the Secretary, to make exceptions to section 1859D(c)(3)(C) (relating to cost-sharing for non-preferred medicines) to secure best prices for enrollees so long as the payment amount under section 1859D(c)(1) does not equal zero.

“(B) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent the Secretary (directly or through the contracts with pharmacy contractors) from using incentives to encourage enrollees to select generic or other cost-effective medicines, so long as—

“(i) such incentives are designed not to result in any increase in the aggregate expenditures under the Federal Medicare Prescription Medicine Trust Fund; and

“(ii) a beneficiary’s coinsurance shall be no greater than 20 percent in the case of a preferred medicine (including a nonpreferred medicine treated as a preferred medicine under section 1859D(c)(5)).

“(2) CONSTRUCTION.—Nothing in this part shall preclude the Secretary or a pharmacy contractor from—

“(A) educating prescribing providers, pharmacists, and enrollees about medical and cost benefits of preferred medicines;

“(B) requesting prescribing providers to consider a preferred medicine prior to dispensing of a nonpreferred medicine, as long as such request does not unduly delay the provision of the medicine;

“(C) using mechanisms to encourage enrollees under this part to select cost-effective medicines or less costly means of receiving or administering medicines, including the use of therapeutic interchange programs, disease management programs, and notification to the beneficiary that a more affordable generic medicine equivalent was not selected by the prescribing provider and a statement of the low cost savings to the beneficiary;

“(D) using price negotiations to achieve reduced prices on covered outpatient prescription medicines, including new medicines, medicines for which there are few therapeutic alternatives, and medicines of particular clinical importance to individuals enrolled under this part; and

“(E) utilizing information on medicine prices of OECD countries and of other payors in the United States in the negotiation of prices under this part.

“(b) PRICE NEGOTIATIONS PROCESS.—

“(1) REQUIREMENTS WITH RESPECT TO PREFERRED MEDICINES.—Negotiations of contracts with manufacturers with respect to covered outpatient prescription medicines under this part shall be conducted in a manner so that—

“(A) there is at least a contract for a medicine within each therapeutic class (as defined by the Secretary in consultation with such Medicare Prescription Medicine Advisory Committee);

“(B) if there is more than 1 medicine available in a therapeutic class, there are contracts for at least 2 medicines within such class unless determined clinically inappropriate in accordance with standards established by the Secretary; and

“(C) if there are more than 2 medicines available in a therapeutic class, there is a contract for at least 2 medicines within such class and a contract for generic medicine substitute if available unless determined clinically inappropriate in accordance with standards established by the Secretary.

“(2) ESTABLISHMENT OF THERAPEUTIC CLASSES.—The Secretary, in consultation with the Medicare Prescription Medicine Advisory Committee (established under section 1859H), shall establish for purposes of this part therapeutic classes and assign to such classes covered outpatient prescription medicines.

“(3) DISCLOSURE CONCERNING PREFERRED MEDICINES.—The Secretary shall provide, through pharmacy contractors or otherwise, for—

“(A) disclosure to current and prospective enrollees and to participating providers and pharmacies in each service area a list of the preferred medicines and differences in applicable cost-sharing between such medicines and nonpreferred medicines; and

“(B) advance disclosure to current enrollees and to participating providers and pharmacies in each service area of changes to any such list of preferred medicines and differences in applicable cost-sharing.

“(4) NO REVIEW.—The Secretary’s establishment of therapeutic classes and the assignment of medicines to such classes and the Secretary’s determination of what is a breakthrough medicine are not subject to administrative or judicial review.

“(c) CONFIDENTIALITY.—The Secretary shall ensure that the confidentiality of individually identifiable health information relating to the provision of benefits under this part is protected, consistent with the standards for the privacy of such information promulgated by the Secretary under the Health Insurance Portability and Accountability Act of 1996, or any subsequent comprehensive and more protective set of confidentiality standards enacted into law or promulgated by the Secretary. Nothing in this subsection shall be construed as preventing the coordination of data with a State prescription medicine program so long as such program has in place confidentiality standards that are equal to or exceed the standards used by the Secretary.

“(d) FRAUD AND ABUSE SAFEGUARDS.—The Secretary, through the Office of the Inspector General, is authorized and directed to issue regulations establishing appropriate safeguards to prevent fraud and abuse under this part. Such safeguards, at a minimum, should include compliance programs, certification data, audits, and recordkeeping practices. In developing such regulations, the Secretary shall consult with the Attorney General and other law enforcement and regulatory agencies.

“FEDERAL MEDICARE PRESCRIPTION MEDICINE TRUST FUND

“SEC. 1859F. (a) ESTABLISHMENT.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the ‘Federal Medicare Prescription Medicine Trust Fund’ (in this section referred to as the ‘Trust Fund’). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1), and such amounts as may be deposited in, or appropriated to, such fund as provided in this part.

“(b) APPLICATION OF SMI TRUST FUND PROVISIONS.—The provisions of subsections (b) through (i) of section 1841 shall apply to this part and the Trust Fund in the same manner as they apply to part B and the Federal Supplementary Medical Insurance Trust Fund, respectively.

“COMPENSATION FOR EMPLOYERS COVERING RETIREE MEDICINE COSTS

“SEC. 1859G. (a) IN GENERAL.—In the case of an individual who is eligible to be enrolled

under this part and is a participant or beneficiary under a group health plan that provides outpatient prescription medicine coverage to retirees the actuarial value of which is not less than the actuarial value of the coverage provided under this part, the Secretary shall make payments to such plan subject to the provisions of this section. Such payments shall be treated as payments under this part for purposes of sections 1859F and 1859C(e)(2). In applying the previous sentence with respect to section 1859C(e)(2), the amount of the Government contribution referred to in section 1844(a)(1)(A) is deemed to be equal to the aggregate amount of the payments made under this section.

“(b) REQUIREMENTS.—To receive payment under this section, a group health plan shall comply with the following requirements:

“(1) COMPLIANCE WITH REQUIREMENTS.—The group health plan shall comply with the requirements of this Act and other reasonable, necessary, and related requirements that are needed to administer this section, as determined by the Secretary.

“(2) ANNUAL ASSURANCES AND NOTICE BEFORE TERMINATION.—The sponsor of the plan shall—

“(A) annually attest, and provide such assurances as the Secretary may require, that the coverage offered under the group health plan meets the requirements of this section and will continue to meet such requirements for the duration of the sponsor’s participation in the program under this section; and

“(B) guarantee that it will give notice to the Secretary and covered enrollees—

“(i) at least 120 days before terminating its plan, and

“(ii) immediately upon determining that the actuarial value of the prescription medicine benefit under the plan falls below the actuarial value required under subsection (a).

“(3) BENEFICIARY INFORMATION.—The sponsor of the plan shall report to the Secretary, for each calendar quarter for which it seeks a payment under this section, the names and social security numbers of all enrollees described in subsection (a) covered under such plan during such quarter and the dates (if less than the full quarter) during which each such individual was covered.

“(4) AUDITS.—The sponsor or plan seeking payment under this section shall agree to maintain, and to afford the Secretary access to, such records as the Secretary may require for purposes of audits and other oversight activities necessary to ensure the adequacy of prescription medicine coverage, the accuracy of payments made, and such other matters as may be appropriate.

“(c) PAYMENT.—

“(1) IN GENERAL.—The sponsor of a group health plan that meets the requirements of subsection (b) with respect to a quarter in a calendar year shall be entitled to have payment made on a quarterly basis of the amount specified in paragraph (2) for each individual described in subsection (a) who during the quarter is covered under the plan and was not enrolled in the insurance program under this part.

“(2) AMOUNT OF PAYMENT.—

“(A) IN GENERAL.—The amount of the payment for a quarter shall approximate, for each such covered individual, $\frac{3}{4}$ of the sum of the monthly Government contribution amounts (computed under subparagraph (B)) for each of the 3 months in the quarter.

“(B) COMPUTATION OF MONTHLY GOVERNMENT CONTRIBUTION AMOUNT.—For purposes of subparagraph (A), the monthly Government contribution amount for a month in a year is equal to the amount by which—

“(i) ½ of the average per capita aggregate expenditures, as estimated under section 1859D(c)(8) for the year involved; exceeds

“(ii) the monthly premium rate under section 1859D(d) for the month involved.

“MEDICARE PRESCRIPTION MEDICINE ADVISORY COMMITTEE

“SEC. 1859H. (a) ESTABLISHMENT OF COMMITTEE.—There is established a Medicare Prescription Medicine Advisory Committee (in this section referred to as the ‘Committee’).

“(b) FUNCTIONS OF COMMITTEE.—The Committee shall advise the Secretary on policies related to—

“(1) the development of guidelines for the implementation and administration of the outpatient prescription medicine benefit program under this part; and

“(2) the development of—

“(A) standards required of pharmacy contractors under section 1859D(c)(5) for determining if a medicine is as effective for an enrollee or has a significant adverse effect on an enrollee under this part;

“(B) standards for—

“(i) defining therapeutic classes;

“(ii) adding new therapeutic classes;

“(iii) assigning to such classes covered outpatient prescription medicines; and

“(iv) identifying breakthrough medicines;

“(C) procedures to evaluate the bids submitted by pharmacy contractors under this part;

“(D) procedures for negotiations, and standards for entering into contracts, with manufacturers, including identifying medicines or classes of medicines where Secretarial negotiation is most likely to yield savings under this part significantly above those that which could be achieved by a pharmacy contractor; and

“(E) procedures to ensure that pharmacy contractors with a contract under this part are in compliance with the requirements under this part.

For purposes of this part, a medicine is a ‘breakthrough medicine’ if the Secretary, in consultation with the Committee, determines it is a new product that will make a significant and major improvement by reducing physical or mental illness, reducing mortality, or reducing disability, and that no other product is available to beneficiaries that achieves similar results for the same condition. The Committee may consider cost-effectiveness in establishing standards for defining therapeutic classes and assigning drugs to such classes under subparagraph (B).

“(c) STRUCTURE AND MEMBERSHIP OF THE COMMITTEE.—

“(1) STRUCTURE.—The Committee shall be composed of 19 members who shall be appointed by the Secretary.

“(2) MEMBERSHIP.—

“(A) IN GENERAL.—The members of the Committee shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their education, experience, and attainments, exceptionally qualified to perform the duties of members of the Committee.

“(B) SPECIFIC MEMBERS.—Of the members appointed under paragraph (1)—

“(i) 5 shall be chosen to represent practicing physicians, 2 of whom shall be gerontologists;

“(ii) 2 shall be chosen to represent practicing nurse practitioners;

“(iii) 4 shall be chosen to represent practicing pharmacists;

“(iv) 1 shall be chosen to represent the Centers for Medicare & Medicaid Services;

“(v) 4 shall be chosen to represent actuaries, pharmacoeconomists, researchers, and other appropriate experts;

“(vi) 1 shall be chosen to represent emerging medicine technologies;

“(vii) 1 shall be chosen to represent the Food and Drug Administration; and

“(viii) 1 shall be chosen to represent individuals enrolled under this part.

“(d) TERMS OF APPOINTMENT.—Each member of the Committee shall serve for a term determined appropriate by the Secretary. The terms of service of the members initially appointed shall begin on January 1, 2004.

“(e) CHAIRPERSON.—The Secretary shall designate a member of the Committee as Chairperson. The term as Chairperson shall be for a 1-year period.

“(f) COMMITTEE PERSONNEL MATTERS.—

“(1) MEMBERS.—

“(A) COMPENSATION.—Each member of the Committee who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee. All members of the Committee who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

“(B) TRAVEL EXPENSES.—The members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee.

“(2) STAFF.—The Committee may appoint such personnel as the Committee considers appropriate.

“(g) OPERATION OF THE COMMITTEE.—

“(1) MEETINGS.—The Committee shall meet at the call of the Chairperson (after consultation with the other members of the Committee) not less often than quarterly to consider a specific agenda of issues, as determined by the Chairperson after such consultation.

“(2) QUORUM.—Ten members of the Committee shall constitute a quorum for purposes of conducting business.

“(h) FEDERAL ADVISORY COMMITTEE ACT.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee.

“(i) TRANSFER OF PERSONNEL, RESOURCES, AND ASSETS.—For purposes of carrying out its duties, the Secretary and the Committee may provide for the transfer to the Committee of such civil service personnel in the employ of the Department of Health and Human Services (including the Centers for Medicare & Medicaid Services), and such resources and assets of the Department used in carrying out this title, as the Committee requires.

“(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.”

(b) APPLICATION OF GENERAL EXCLUSIONS FROM COVERAGE.—

(1) APPLICATION TO PART D.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended in the matter

preceding paragraph (1) by striking “part A or part B” and inserting “part A, B, or D”.

(2) PRESCRIPTION MEDICINES NOT EXCLUDED FROM COVERAGE IF APPROPRIATELY PRESCRIBED.—Section 1862(a)(1) (42 U.S.C. 1395y(a)(1)) is amended—

(A) in subparagraph (H), by striking “and” at the end;

(B) in subparagraph (I), by striking the semicolon at the end and inserting “, and”; and

(C) by adding at the end the following new subparagraph:

“(J) in the case of prescription medicines covered under part D, which are not prescribed in accordance with such part;”

(c) CONFORMING AMENDMENTS.—(1) Part C of title XVIII is amended—

(A) in section 1851(a)(2)(B) (42 U.S.C. 1395w-21(a)(2)(B)), by striking “1859(b)(3)” and inserting “1858(b)(3)”;

(B) in section 1851(a)(2)(C) (42 U.S.C. 1395w-21(a)(2)(C)), by striking “1859(b)(2)” and inserting “1858(b)(2)”;

(C) in section 1852(a)(1) (42 U.S.C. 1395w-22(a)(1)), by striking “1859(b)(3)” and inserting “1858(b)(3)”;

(D) in section 1852(a)(3)(B)(ii) (42 U.S.C. 1395w-22(a)(3)(B)(ii)), by striking “1859(b)(2)(B)” and inserting “1858(b)(2)(B)”;

(E) in section 1853(a)(1)(A) (42 U.S.C. 1395w-23(a)(1)(A)), by striking “1859(e)(4)” and inserting “1858(e)(4)”;

(F) in section 1853(a)(3)(D) (42 U.S.C. 1395w-23(a)(3)(D)), by striking “1859(e)(4)” and inserting “1858(e)(4)”.

(2) Section 1171(a)(5)(D) (42 U.S.C. 1320d(a)(5)(D)) is amended by striking “or (C)” and inserting “(C), or (D)”.

SEC. 102. PROVISION OF MEDICARE OUTPATIENT PRESCRIPTION MEDICINE COVERAGE UNDER THE MEDICARE-CHOICE PROGRAM.

(a) REQUIRING AVAILABILITY OF AN ACTUARIALLY EQUIVALENT PRESCRIPTION MEDICINE BENEFIT.—Section 1851 (42 U.S.C. 1395w-21) is amended by adding at the end the following new subsection:

“(j) AVAILABILITY OF PRESCRIPTION MEDICINE BENEFITS.—

“(1) IN GENERAL.—Notwithstanding any other provision of this part, each Medicare+Choice organization that makes available a Medicare+Choice plan described in section 1851(a)(2)(A) shall make available such a plan that offers coverage of covered outpatient prescription medicines that is at least actuarially equivalent to the benefits provided under part D. Information respecting such benefits shall be made available in the same manner as information on other benefits provided under this part is made available. Nothing in this paragraph shall be construed as requiring the offering of such coverage separate from coverage that includes benefits under parts A and B.

“(2) TREATMENT OF PRESCRIPTION MEDICINE ENROLLEES.—In the case of a Medicare+Choice eligible individual who is enrolled under part D, the benefits described in paragraph (1) shall be treated in the same manner as benefits described in part B for purposes of coverage and payment and any reference in this part to the Federal Supplementary Medical Insurance Trust Fund shall be deemed, with respect to such benefits, to be a reference to the Federal Medicare Prescription Medicine Trust Fund.”

(b) APPLICATION OF QUALITY STANDARDS.—Section 1852(e)(2)(A) (42 U.S.C. 1395w-22(e)(2)(A)) is amended—

(1) by striking “and” at the end of clause (xi);

(2) by striking the period at the end of clause (xii) and inserting “, and”; and

(3) by adding at the end the following new clause:

“(xiii) comply with the standards, and apply the programs, under section 1859B(b) for covered outpatient prescription medicines under the plan.”

(c) PAYMENT SEPARATE FROM PAYMENT FOR PART A AND B BENEFITS.—Section 1853 (42 U.S.C. 1395w-23) is amended—

(1) in subsection (a)(1)(A), by striking “and (i)” and inserting “(i), and (j)”; and

(2) by adding at the end the following new subsection:

“(j) PAYMENT FOR PRESCRIPTION MEDICINE COVERAGE OPTION.—

“(1) IN GENERAL.—In the case of a Medicare+Choice plan that provides prescription medicine benefits described in section 1851(j)(1), the amount of payment otherwise made to the Medicare+Choice organization offering the plan shall be increased by the amount described in paragraph (2). Such payments shall be made in the same manner and time as the amount otherwise paid, but such amount shall be payable from the Federal Medicare Prescription Medicine Trust Fund.

“(2) AMOUNT.—The amount described in this paragraph is the monthly Government contribution amount computed under section 1859G(c)(2)(B), but subject to adjustment under paragraph (3). Such amount shall be uniform geographically and shall not vary based on the Medicare+Choice payment area involved.

“(3) RISK ADJUSTMENT.—The Secretary shall establish a methodology for the adjustment of the payment amount under this subsection in a manner that takes into account the relative risks for use of outpatient prescription medicines by Medicare+Choice enrollees. Such methodology shall be designed in a manner so that the total payments under this title (including part D) are not changed as a result of the application of such methodology.”

(d) SEPARATE APPLICATION OF ADJUSTED COMMUNITY RATE (ACR).—Section 1854 (42 U.S.C. 1395w-24) is amended by adding at the end the following:

“(i) APPLICATION TO PRESCRIPTION MEDICINE COVERAGE.—The Secretary shall apply the previous provisions of this section (including the computation of the adjusted community rate) separately with respect to prescription medicine benefits described in section 1851(j)(1).”

(f) CONFORMING AMENDMENTS.—

(1) Section 1851 (42 U.S.C. 1395w-21) is amended—

(A) in subsection (a)(1)(A), by striking “parts A and B” and inserting “parts A, B, and D”; and

(B) in subsection (i) by inserting “(and, if applicable, part D)” after “parts A and B”.

(2) Section 1852(a)(1)(A) (42 U.S.C. 1395w-22(a)(1)(A)) is amended by inserting “(and under part D to individuals also enrolled under such part)” after “parts A and B”.

(3) Section 1852(d)(1) (42 U.S.C. 1395w-22(d)(1)) is amended—

(A) by striking “and” at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting “; and”; and

(C) by adding at the end the following:

“(F) the plan for part D benefits guarantees coverage of any specifically named prescription medicine for an enrollee to the extent that it would be required to be covered under part D.

In carrying out subparagraph (F), a Medicare+Choice organization has the same authority to enter into contracts with respect to coverage of preferred medicines as

the Secretary has under part D, but subject to an independent contractor appeal or other appeal process that would be applicable to determinations by such a pharmacy contractor consistent with section 1859D(c)(5).”

(e) LIMITATION ON COST-SHARING.—Section 1854(e) (42 U.S.C. 1395w-24(e)) is amended by adding at the end the following new paragraph:

“(5) LIMITATION ON COST-SHARING.—In no event may a Medicare+Choice organization include a requirement that an enrollee pay cost-sharing in excess of the cost-sharing otherwise permitted under part D.”

SEC. 103. MEDIGAP REVISIONS.

(a) REQUIRED COVERAGE OF COVERED OUTPATIENT PRESCRIPTION MEDICINES.—Section 1882(p)(2)(B) (42 U.S.C. 1395ss(p)(2)(B)) is amended by inserting before “and” at the end the following: “including a requirement that an appropriate number of policies provide coverage of medicines which complements but does not duplicate the medicine benefits that beneficiaries are otherwise eligible for benefits under part D of this title (with the Secretary and the National Association of Insurance Commissioners determining the appropriate level of medicine benefits that each benefit package must provide and ensuring that policies providing such coverage are affordable for beneficiaries.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2005.

(c) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the amendments made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, within 9 months after the date of enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the “NAIC”) modifies its NAIC Model Regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as subsequently modified) to conform to the amendments made by this section, such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate regulation for the purposes of such section.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section; or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section; but

(ii) having a legislature which is not scheduled to meet in 2003 in a legislative session in which such legislation may be considered; the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 2003. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 104. TRANSITIONAL ASSISTANCE FOR LOW INCOME BENEFICIARIES.

(a) QMB COVERAGE OF PREMIUMS AND COST-SHARING.—Section 1905(p)(3) (42 U.S.C. 1396d(p)(3)) is amended—

(1) in subparagraph (A)—

(A) by striking “and” at the end of clause (i),

(B) by adding “and” at the end of clause (ii), and

(C) by adding at the end the following new clause:

“(iii) premiums under section 1859D(d).”;

(2) in subparagraph (B), by inserting “and section 1859D(c)(3)(B) and 1859D(c)(3)(C)(i)” after “1813”; and

(3) in subparagraph (C), by striking “and section 1833(b)” and inserting “, section 1833(b), and section 1859D(c)(2)”.

(b) EXPANDED SLMB ELIGIBILITY.—Section 1902(a)(10)(E) (42 U.S.C. 1396a(a)(10)(E)) is amended—

(1) by striking “and” at the end of clause (iii);

(2) by adding “and” at the end of clause (iv); and

(3) by adding at the end the following new clause:

“(v)(I) for making medical assistance available for medicare cost-sharing described in section 1905(p)(3)(A)(iii) and medicare cost-sharing described in section 1905(p)(3)(B) and section 1905(p)(3)(C) but only insofar as it relates to benefits provided under part D of title XVIII, subject to section 1905(p)(4), for individuals (other than qualified medicare beneficiaries) who are enrolled under part D of title XVIII and are described in section 1905(p)(1)(B) or would be so described but for the fact that their income exceeds 100 percent, but is less than 150 percent, of the official poverty line (referred to in such section) for a family of the size involved;

“(II) subject to section 1905(p)(4), for individuals (other than qualified medicare beneficiaries and individuals described in subclause (I)) who are enrolled under part D of title XVIII and would be described in section 1905(p)(1)(B) but for the fact that their income exceeds 150 percent, but is less than 175 percent, of the official poverty line (referred to in such section) for a family of the size involved, for making medical assistance available for medicare cost-sharing described in section 1905(p)(3)(A)(iii) and medicare cost-sharing described in section 1905(p)(3)(B) and section 1905(p)(3)(C) but only insofar as it relates to benefits provided under part D of title XVIII, and the assistance for medicare cost-sharing described in section 1905(p)(3)(A)(iii) is reduced (on a sliding scale based on income) from 100 percent to 0 percent as the income increases from 150 percent to 175 percent of such poverty line.”.

(c) FEDERAL FINANCING.—The third sentence of section 1905(b) (42 U.S.C. 1396d(b)) is amended by inserting before the period at

the end the following: “and with respect to amounts expended that are attributable to section 1902(a)(10)(E)(v) (other than for individuals described in section 1905(p)(1)(B))”.

(d) TREATMENT OF TERRITORIES.—

(1) IN GENERAL.—Section 1905(p) (42 U.S.C. 1396d(p)) is amended—

(A) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (4) the following new paragraph:

“(5)(A) In the case of a State, other than the 50 States and the District of Columbia—

“(i) the provisions of paragraph (3) insofar as they relate to section 1859D and the provisions of section 1902(a)(10)(E)(v) shall not apply to residents of such State; and

“(ii) if the State establishes a plan described in subparagraph (B) (for providing medical assistance with respect to the provision of prescription medicines to medicare beneficiaries), the amount otherwise determined under section 1108(f) (as increased under section 1108(g)) for the State shall be increased by the amount specified in subparagraph (C).

“(B) The plan described in this subparagraph is a plan that—

“(i) provides medical assistance with respect to the provision of covered outpatient medicines (as defined in section 1859D(b)) to low-income medicare beneficiaries; and

“(ii) assures that additional amounts received by the State that are attributable to the operation of this paragraph are used only for such assistance.

“(C)(i) The amount specified in this subparagraph for a State for a year is equal to the product of—

“(I) the aggregate amount specified in clause (ii); and

“(II) the amount specified in section 1108(g)(1) for that State, divided by the sum of the amounts specified in such section for all such States.

“(ii) The aggregate amount specified in this clause for—

“(I) 2005, is equal to \$25,000,000; or

“(II) a subsequent year, is equal to the aggregate amount specified in this clause for the previous year increased by annual percentage increase specified in section 1859D(c)(8)(B) for the year involved.

“(D) The Secretary shall submit to Congress a report on the application of this paragraph and may include in the report such recommendations as the Secretary deems appropriate.”.

(2) CONFORMING AMENDMENT.—Section 1108(f) (42 U.S.C. 1308(f)) is amended by inserting “and section 1905(p)(5)(A)(ii)” after “Subject to subsection (g)”.

(e) APPLICATION OF COST-SHARING.—Section 1902(n)(2) (42 U.S.C. 1396a(n)(2)) is amended by adding at the end the following: “The previous sentence shall not apply to medicare cost-sharing relating to benefits under part D of title XVIII.”.

(f) EFFECTIVE DATE.—The amendments made by this section apply to medical assistance for premiums and cost-sharing incurred on or after January 1, 2005, with regard to whether regulations to implement such amendments are promulgated by such date.

SEC. 105. EXPANSION OF MEMBERSHIP AND DUTIES OF MEDICARE PAYMENT ADVISORY COMMISSION (MEDPAC).

(a) EXPANSION OF MEMBERSHIP.—

(1) IN GENERAL.—Section 1805(c) (42 U.S.C. 1395b-6(c)) is amended—

(A) in paragraph (1), by striking “17” and inserting “19”; and

(B) in paragraph (2)(B), by inserting “experts in the area of pharmacology and pre-

scription medicine benefit programs,” after “other health professionals.”.

(2) INITIAL TERMS OF ADDITIONAL MEMBERS.—

(A) IN GENERAL.—For purposes of staggering the initial terms of members of the Medicare Payment Advisory Commission under section 1805(c)(3) of the Social Security Act (42 U.S.C. 1395b-6(c)(3)), the initial terms of the 2 additional members of the Commission provided for by the amendment under paragraph (1)(A) are as follows:

(i) One member shall be appointed for 1 year.

(ii) One member shall be appointed for 2 years.

(B) COMMENCEMENT OF TERMS.—Such terms shall begin on January 1, 2003.

(b) EXPANSION OF DUTIES.—Section 1805(b)(2) (42 U.S.C. 1395b-6(b)(2)) is amended by adding at the end the following new subparagraph:

“(D) PRESCRIPTION MEDICINE BENEFIT PROGRAM.—Specifically, the Commission shall review, with respect to the prescription medicine benefit program under part D, the following:

“(i) The methodologies used for the management of costs and utilization of prescription medicines.

“(ii) The prices negotiated and paid, including trends in such prices and applicable discounts and comparisons with prices under section 1859E(a)(2)(E).

“(iii) The relationship of pharmacy acquisition costs to the prices so negotiated and paid.

“(iv) The methodologies used to ensure access to covered outpatient prescription medicines and to ensure quality in the appropriate dispensing and utilization of such medicines.

“(v) The impact of the program on promoting the development of breakthrough medicines.”.

TITLE II—MEDICARE+CHOICE REVITALIZATION AND MEDICARE+CHOICE COM-PETITION PROGRAM

SEC. 201. MEDICARE+CHOICE IMPROVEMENTS.

(a) EQUALIZING PAYMENTS BETWEEN FEE-FOR-SERVICE AND MEDICARE+CHOICE.—

(1) IN GENERAL.—Section 1853(c)(1) (42 U.S.C. 1395w-23(c)(1)) is amended by adding at the end the following:

“(D) BASED ON 100 PERCENT OF FEE-FOR-SERVICE COSTS.—

“(i) IN GENERAL.—For 2003 and 2004, the adjusted average per capita cost for the year involved, determined under section 1876(a)(4) for the Medicare+Choice payment area for services covered under parts A and B for individuals entitled to benefits under part A and enrolled under part B who are not enrolled in a Medicare+Choice plan under this part for the year, but adjusted to exclude costs attributable to payments under section 1886(h).

“(ii) INCLUSION OF COSTS OF VA AND DOD MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES.—In determining the adjusted average per capita cost under clause (i) for a year, such cost shall be adjusted to include the Secretary’s estimate, on a per capita basis, of the amount of additional payments that would have been made in the area involved under this title if individuals entitled to benefits under this title had not received services from facilities of the Department of Veterans Affairs or the Department of Defense.”.

(2) CONFORMING AMENDMENT.—Such section is further amended, in the matter before subparagraph (A), by striking “or (C)” and inserting “(C), or (D)”.

(b) REVISION OF BLEND.—

(1) REVISION OF NATIONAL AVERAGE USED IN CALCULATION OF BLEND.—Section 1853(c)(4)(B)(i)(II) (42 U.S.C. 1395w-23(c)(4)(B)(i)(II)) is amended by inserting “who (with respect to determinations for 2003 and for 2004) are enrolled in a Medicare+Choice plan” after “the average number of medicare beneficiaries”.

(2) CHANGE IN BUDGET NEUTRALITY.—Section 1853(c) (42 U.S.C. 1395w-23(c)) is amended—

(A) in paragraph (1)(A), by inserting “(for a year before 2003)” after “multiplied”; and

(B) in paragraph (5), by inserting “(before 2003)” after “for each year”.

(c) REVISION IN MINIMUM PERCENTAGE INCREASE FOR 2003 AND 2004.—Section 1853(c)(1)(C) (42 U.S.C. 1395w-23(c)(1)(C)) is amended by striking clause (iv) and inserting the following:

“(iv) For 2002, 102 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for 2001.

“(v) For 2003 and 2004, 103 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.

“(vi) For 2005 and each succeeding year, 102 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.”.

(d) INCLUSION OF COSTS OF DOD AND VA MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES IN CALCULATION OF MEDICARE+CHOICE PAYMENT RATES.—Section 1853(c)(3) (42 U.S.C. 1395w-23(c)(3)) is amended—

(1) in subparagraph (A), by striking “subparagraph (B)” and inserting “subparagraphs (B) and (E)”, and

(2) by adding at the end the following new subparagraph:

“(E) INCLUSION OF COSTS OF DOD AND VA MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES.—In determining the area-specific Medicare+Choice capitation rate under subparagraph (A) for a year (beginning with 2003), the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) shall be adjusted to include in the rate the Secretary’s estimate, on a per capita basis, of the amount of additional payments that would have been made in the area involved under this title if individuals entitled to benefits under this title had not received services from facilities of the Department of Defense or the Department of Veterans Affairs.”.

(e) ANNOUNCEMENT OF REVISED MEDICARE+CHOICE PAYMENT RATES.—Within 2 weeks after the date of the enactment of this Act, the Secretary shall determine, and shall announce (in a manner intended to provide notice to interested parties) Medicare+Choice capitation rates under section 1853 of the Social Security Act (42 U.S.C. 1395w-23) for 2003, revised in accordance with the provisions of this section.

(f) MEDPAC STUDY OF AAPCC.—

(1) STUDY.—The Medicare Payment Advisory Commission shall conduct a study that assesses the method used for determining the adjusted average per capita cost (AAPCC) under section 1876(a)(4) of the Social Security Act (42 U.S.C. 1395mm(a)(4)). Such study shall examine—

(A) the bases for variation in such costs between different areas, including differences in input prices, utilization, and practice patterns;

(B) the appropriate geographic area for payment under the Medicare+Choice program under part C of title XVIII of such Act; and

(C) the accuracy of risk adjustment methods in reflecting differences in costs of providing care to different groups of beneficiaries served under such program.

(2) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Commission shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include recommendations regarding changes in the methods for computing the adjusted average per capita cost among different areas.

(g) APPLYING LIMITATIONS ON BALANCE BILLING TO MEDICARE MSAs.—Section 1852(k)(1) (42 U.S.C. 1395w-22(k)(1)) is amended by inserting “or with an organization offering a MSA plan” after “section 1851(a)(2)(A)”.

(h) REPORT ON IMPACT OF INCREASED FINANCIAL ASSISTANCE TO MEDICARE+CHOICE PLANS.—Not later than July 1, 2003, the Secretary shall submit to Congress a report that describes the impact of additional financing provided under this Act and other Acts (including the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 and BIPA) on the availability of Medicare+Choice plans in different areas and its impact on lowering premiums and increasing benefits under such plans.

SEC. 202. MAKING PERMANENT CHANGE IN MEDICARE+CHOICE REPORTING DEADLINES AND ANNUAL, COORDINATED ELECTION PERIOD.

(a) CHANGE IN REPORTING DEADLINE.—Section 1854(a)(1) (42 U.S.C. 1395w-24(a)(1)), as amended by section 532(b)(1) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, is amended by striking “2002, 2003, and 2004 (or July 1 of each other year)” and inserting “2002 and each subsequent year (or July 1 of each year before 2002)”.

(b) DELAY IN ANNUAL, COORDINATED ELECTION PERIOD.—Section 1851(e)(3)(B) (42 U.S.C. 1395w-21(e)(3)(B)), as amended by section 532(c)(1)(A) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, is amended by striking “and after 2005, the month of November before such year and with respect to 2003, 2004, and 2005” and inserting “, the month of November before such year and with respect to 2003 and any subsequent year”.

(c) ANNUAL ANNOUNCEMENT OF PAYMENT RATES.—Section 1853(b)(1) (42 U.S.C. 1395w-23(b)(1)), as amended by section 532(d)(1) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, is amended by striking “and after 2005 not later than March 1 before the calendar year concerned and for 2004 and 2005” and inserting “not later than March 1 before the calendar year concerned and for 2004 and each subsequent year”.

(d) REQUIRING PROVISION OF AVAILABLE INFORMATION COMPARING PLAN OPTIONS.—The first sentence of section 1851(d)(2)(A)(ii) (42 U.S.C. 1395w-21(d)(2)(A)(ii)) is amended by inserting before the period the following: “To the extent such information is available at the time of preparation of materials for the mailing”.

SEC. 203. SPECIALIZED MEDICARE+CHOICE PLANS FOR SPECIAL NEEDS BENEFICIARIES.

(a) TREATMENT AS COORDINATED CARE PLAN.—Section 1851(a)(2)(A) (42 U.S.C. 1395w-21(a)(2)(A)) is amended by adding at the end the following new sentence: “Specialized Medicare+Choice plans for special needs beneficiaries (as defined in section 1859(b)(4)) may be any type of coordinated care plan.”.

(b) SPECIALIZED MEDICARE+CHOICE PLAN FOR SPECIAL NEEDS BENEFICIARIES DE-

FINED.—Section 1859(b) (42 U.S.C. 1395w-29(b)) is amended by adding at the end the following new paragraph:

“(4) SPECIALIZED MEDICARE+CHOICE PLANS FOR SPECIAL NEEDS BENEFICIARIES.—

“(A) IN GENERAL.—The term ‘specialized Medicare+Choice plan for special needs beneficiaries’ means a Medicare+Choice plan that exclusively serves special needs beneficiaries (as defined in subparagraph (B)).

“(B) SPECIAL NEEDS BENEFICIARY.—The term ‘special needs beneficiary’ means a Medicare+Choice eligible individual who—

“(i) is institutionalized (as defined by the Secretary);

“(ii) is entitled to medical assistance under a State plan under title XIX; or

“(iii) meets such requirements as the Secretary may determine would benefit from enrollment in such a specialized Medicare+Choice plan described in subparagraph (A) for individuals with severe or disabling chronic conditions.”.

(c) RESTRICTION ON ENROLLMENT PERMITTED.—Section 1859 (42 U.S.C. 1395w-29) is amended by adding at the end the following new subsection:

“(f) RESTRICTION ON ENROLLMENT FOR SPECIALIZED MEDICARE+CHOICE PLANS FOR SPECIAL NEEDS BENEFICIARIES.—In the case of a specialized Medicare+Choice plan (as defined in subsection (b)(4)), notwithstanding any other provision of this part and in accordance with regulations of the Secretary and for periods before January 1, 2007, the plan may restrict the enrollment of individuals under the plan to individuals who are within one or more classes of special needs beneficiaries.”.

(d) REPORT TO CONGRESS.—Not later than December 31, 2005, the Secretary shall submit to Congress a report that assesses the impact of specialized Medicare+Choice plans for special needs beneficiaries on the cost and quality of services provided to enrollees. Such report shall include an assessment of the costs and savings to the Medicare program as a result of amendments made by subsections (a), (b), and (c).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall take effect upon the date of the enactment of this Act.

(2) DEADLINE FOR ISSUANCE OF REQUIREMENTS FOR SPECIAL NEEDS BENEFICIARIES; TRANSITION.—No later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue final regulations to establish requirements for special needs beneficiaries under section 1859(b)(4)(B)(iii) of the Social Security Act, as added by subsection (b).

SEC. 204. EXTENSION OF REASONABLE COST AND SHMO CONTRACTS.

(a) REASONABLE COST CONTRACTS.—

(1) IN GENERAL.—Section 1876(h)(5)(C) (42 U.S.C. 1395mm(h)(5)(C)) is amended—

(A) by inserting “(i)” after “(C)”;

(B) by inserting before the period the following: “, except (subject to clause (ii)) in the case of a contract for an area which is not covered in the service area of 1 or more coordinated care Medicare+Choice plans under part C”; and

(C) by adding at the end the following new clause:

“(ii) In the case in which—

“(I) a reasonable cost reimbursement contract includes an area in its service area as of a date that is after December 31, 2003;

“(II) such area is no longer included in such service area after such date by reason of the operation of clause (i) because of the inclusion of such area within the service area of a Medicare+Choice plan; and

“(III) all Medicare+Choice plans subsequently terminate coverage in such area;

such reasonable cost reimbursement contract may be extended and renewed to cover such area (so long as it is not included in the service area of any Medicare+Choice plan).”.

(2) STUDY.—The Secretary shall conduct a study of an appropriate transition for plans offered under reasonable cost contracts under section 1876 of the Social Security Act on and after January 1, 2005. Such a transition may take into account whether there are one or more coordinated care Medicare+Choice plans being offered in the areas involved. Not later than February 1, 2004, the Secretary shall submit to Congress a report on such study and shall include recommendations regarding any changes in the amendment made by paragraph (1) as the Secretary determines to be appropriate.

(b) EXTENSION OF SOCIAL HEALTH MAINTENANCE ORGANIZATION (SHMO) DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Section 4018(b)(1) of the Omnibus Budget Reconciliation Act of 1987 is amended by striking “the date that is 30 months after the date that the Secretary submits to Congress the report described in section 4014(c) of the Balanced Budget Act of 1997” and inserting “December 31, 2004”.

(2) SHMOs OFFERING MEDICARE+CHOICE PLANS.—Nothing in such section 4018 shall be construed as preventing a social health maintenance organization from offering a Medicare+Choice plan under part C of title XVIII of the Social Security Act.

SEC. 205. CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT.

(a) IN GENERAL.—Section 1851(e)(2) (42 U.S.C. 1395w-21(e)(2)) is amended to read as follows:

“(2) CONTINUOUS OPEN ENROLLMENT AND DISENROLLMENT.—Subject to paragraph (5), a Medicare+Choice eligible individual may change the election under subsection (a)(1) at any time.”.

(b) CONFORMING AMENDMENTS.—

(1) MEDICARE+CHOICE.—Section 1851(e) (42 U.S.C. 1395w-21(e)) is amended—

(A) in paragraph (4)—

(i) by striking “Effective as of January 1, 2002, an” and inserting “An”;

(ii) by striking “other than during an annual, coordinated election period”;

(iii) by inserting “in a special election period for such purpose” after “make a new election under this section”; and

(iv) by striking the second sentence; and

(B) in paragraphs (5)(B) and (6)(A), by striking “the first sentence of”.

(2) PERMITTING ENROLLMENT IN MEDIGAP WHEN M+C PLANS REDUCE BENEFITS OR WHEN PROVIDER LEAVES A M+C PLAN.—

(A) IN GENERAL.—Clause (ii) of section 1882(s)(3)(B) (42 U.S.C. 1395ss(s)(3)(B)) is amended—

(i) by inserting “(I)” after “(ii)”;

(ii) by striking “under the first sentence of” each place it appears and inserting “during a special election period provided for under”;

(iii) by inserting “the circumstances described in subclause (II) are present or” before “there are circumstances”; and

(iv) by adding at the end the following new subclause:

“(II) The circumstances described in this subclause are, with respect to an individual enrolled in a Medicare+Choice plan, a reduction in benefits (including an increase in cost-sharing) offered under the Medicare+Choice plan from the previous year or a provider of services or physician who serves the individual no longer participating in the plan (other than because of

good cause relating to quality of care under the plan).’.

(B) CONFORMING AMENDMENT.—Clause (iii) of such section is amended—

(i) by inserting “the circumstances described in clause (ii)(II) are met or” after “policy described in subsection (t), and”; and

(ii) by striking “under the first sentence of” and inserting “during a special election period provided for under”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2003, and shall apply to reductions in benefits and changes in provider participation occurring on or after such date.

SEC. 206. LIMITATION ON MEDICARE+CHOICE COST-SHARING.

(a) IN GENERAL.—Section 1852(a) (42 U.S.C. 1395w-22(a)) is amended by adding at the end the following new paragraph:

“(6) LIMITATION ON COST-SHARING.—

“(A) IN GENERAL.—Subject to subparagraph (B), in no case shall the cost-sharing with respect to an item or service under a Medicare+Choice plan exceed the cost-sharing otherwise applicable under parts A and B to an individual who is not enrolled in a Medicare+Choice plan under this part.

“(B) PERMITTING FLAT COPAYMENTS.—Subparagraph (A) shall not be construed as preventing the application of flat dollar copayment amounts (in place of a percentage coinsurance), such as a fixed copayment for a doctor’s visit, so long as such amounts are reasonable and appropriate and do not adversely affect access to items and services (as determined by the Secretary).”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as of January 1, 2003.

SEC. 207. EXTENSION OF MUNICIPAL HEALTH SERVICE DEMONSTRATION PROJECTS.

The last sentence of section 9215(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (42 U.S.C. 1395b-1 note), as previously amended, is amended by striking “December 31, 2004, but only with respect to” and all that follows and inserting “December 31, 2009, but only with respect to individuals who reside in the city in which the project is operated and so long as the total number of individuals participating in the project does not exceed the number of such individuals participating as of January 1, 1996.”.

TITLE III—RURAL HEALTH CARE IMPROVEMENTS

SEC. 301. REFERENCE TO FULL MARKET BASKET INCREASE FOR SOLE COMMUNITY HOSPITALS.

For provision eliminating any reduction from full market basket in the update for inpatient hospital services for sole community hospitals, see section 401.

SEC. 302. ENHANCED DISPROPORTIONATE SHARE HOSPITAL (DSH) TREATMENT FOR RURAL HOSPITALS AND URBAN HOSPITALS WITH FEWER THAN 100 BEDS.

(a) BLENDING OF PAYMENT AMOUNTS.—

(1) IN GENERAL.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended by adding at the end the following new clause:

“(xiv)(I) In the case of discharges in a fiscal year beginning on or after October 1, 2002, subject to subclause (II), there shall be substituted for the disproportionate share adjustment percentage otherwise determined under clause (iv) (other than subclause (I)) or under clause (viii), (x), (xi), (xii), or (xiii), the old blend proportion (specified under subclause (III)) of the disproportionate share adjustment percentage otherwise determined under the respective clause and 100 percent minus such old blend proportion of the dis-

proportionate share adjustment percentage determined under clause (vii) (relating to large, urban hospitals).

“(II) Under subclause (I), the disproportionate share adjustment percentage shall not exceed 10 percent for a hospital that is not classified as a rural referral center under subparagraph (C).

“(III) For purposes of subclause (I), the old blend proportion for fiscal year 2003 is 66 percent, for fiscal year 2004 is 33½ percent subsequent year, and for each fiscal year beginning with 2005 is 0 percent.”.

(2) CONFORMING AMENDMENTS.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(A) in each of subclauses (II), (III), (IV), (V), and (VI) of clause (iv), by inserting “subject to clause (xiv) and” before “for discharges occurring”;

(B) in clause (viii), by striking “The formula” and inserting “Subject to clause (xiv), the formula”; and

(C) in each of clauses (x), (xi), (xii), and (xiii), by striking “For purposes” and inserting “Subject to clause (xiv), for purposes”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to discharges occurring on or after October 1, 2002.

SEC. 303. 2-YEAR PHASED-IN INCREASE IN THE STANDARDIZED AMOUNT IN RURAL AND SMALL URBAN AREAS TO ACHIEVE A SINGLE, UNIFORM STANDARDIZED AMOUNT.

Section 1886(d)(3)(A)(iv) (42 U.S.C. 1395ww(d)(3)(A)(iv)) is amended—

(1) by striking “(iv) For discharges” and inserting “(iv)(I) Subject to the succeeding provisions of this clause, for discharges”; and

(2) by adding at the end the following new subclauses:

“(II) For discharges occurring during fiscal year 2003, the average standardized amount for hospitals located other than in a large urban area shall be increased by ½ of the difference between the average standardized amount determined under subclause (I) for hospitals located in large urban areas for such fiscal year and such amount determined (without regard to this subclause) for other hospitals for such fiscal year.

“(III) For discharges occurring in a fiscal year beginning with fiscal year 2004, the Secretary shall compute an average standardized amount for hospitals located in any area within the United States and within each region equal to the average standardized amount computed for the previous fiscal year under this subparagraph for hospitals located in a large urban area (or, beginning with fiscal year 2005, for hospitals located in any area) increased by the applicable percentage increase under subsection (b)(3)(B)(i).”.

SEC. 304. MORE FREQUENT UPDATE IN WEIGHTS USED IN HOSPITAL MARKET BASKET.

(a) MORE FREQUENT UPDATES IN WEIGHTS.—After revising the weights used in the hospital market basket under section 1886(b)(3)(B)(iii) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(iii)) to reflect the most current data available, the Secretary shall establish a frequency for revising such weights in such market basket to reflect the most current data available more frequently than once every 5 years.

(b) REPORT.—Not later than October 1, 2003, the Secretary shall submit a report to Congress on the frequency established under subsection (a), including an explanation of the reasons for, and options considered, in determining such frequency.

SEC. 305. IMPROVEMENTS TO CRITICAL ACCESS HOSPITAL PROGRAM.

(a) REINSTATEMENT OF PERIODIC INTERIM PAYMENT (PIP).—Section 1815(e)(2) (42 U.S.C. 1395g(e)(2)) is amended—

(1) by striking “and” at the end of subparagraph (C);

(2) by adding “and” at the end of subparagraph (D); and

(3) by inserting after subparagraph (D) the following new subparagraph:

“(E) inpatient critical access hospital services.”.

(b) CONDITION FOR APPLICATION OF SPECIAL PHYSICIAN PAYMENT ADJUSTMENT.—Section 1834(g)(2) (42 U.S.C. 1395m(g)(2)) is amended by adding after and below subparagraph (B) the following:

“The Secretary may not require, as a condition for applying subparagraph (B) with respect to a critical access hospital, that each physician providing professional services in the hospital must assign billing rights with respect to such services, except that such subparagraph shall not apply to those physicians who have not assigned such billing rights.”.

(c) FLEXIBILITY IN BED LIMITATION FOR HOSPITALS WITH STRONG SEASONAL CENSUS FLUCTUATIONS.—Section 1820 (42 U.S.C. 1395i-4) is amended—

(1) in subsection (c)(2)(B)(iii), by inserting “subject to paragraph (3)” after “(iii) provides”;

(2) by adding at the end of subsection (c) the following new paragraph:

“(3) INCREASE IN MAXIMUM NUMBER OF BEDS FOR HOSPITALS WITH STRONG SEASONAL CENSUS FLUCTUATIONS.—

“(A) IN GENERAL.—In the case of a hospital that demonstrates that it meets the standards established under subparagraph (B), the bed limitations otherwise applicable under paragraph (2)(B)(iii) and subsection (f) shall be increased by 5 beds.

“(B) STANDARDS.—The Secretary shall specify standards for determining whether a critical access hospital has sufficiently strong seasonal variations in patient admissions to justify the increase in bed limitation provided under subparagraph (A).”; and

(3) in subsection (f), by adding at the end the following new sentence: “The limitations in numbers of beds under the first sentence are subject to adjustment under subsection (c)(3).”.

(d) 5-YEAR EXTENSION OF THE AUTHORIZATION FOR APPROPRIATIONS FOR GRANT PROGRAM.—Section 1820(j) (42 U.S.C. 1395i-4(j)) is amended by striking “through 2002” and inserting “through 2007”.

(e) PROHIBITION OF RETROACTIVE RECOUPMENT.—The Secretary shall not recoup (or otherwise seek to recover) overpayments made for outpatient critical access hospital services under part B of title XVIII of the Social Security Act, for services furnished in cost reporting periods that began before October 1, 2002, insofar as such overpayments are attributable to payment being based on 80 percent of reasonable costs (instead of 100 percent of reasonable costs minus 20 percent of charges).

(f) EFFECTIVE DATES.—

(1) REINSTATEMENT OF PIP.—The amendments made by subsection (a) shall apply to payments made on or after January 1, 2003.

(2) PHYSICIAN PAYMENT ADJUSTMENT CONDITION.—The amendment made by subsection (b) shall be effective as if included in the enactment of section 403(d) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (113 Stat. 1501A-371).

(3) FLEXIBILITY IN BED LIMITATION.—The amendments made by subsection (c) shall

apply to designations made on or after January 1, 2003, but shall not apply to critical access hospitals that were designated as of such date.

SEC. 306. EXTENSION OF TEMPORARY INCREASE FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.

(a) IN GENERAL.—Section 508(a) of BIPA (114 Stat. 2763A–533) is amended—

(1) by striking “24-MONTH INCREASE BEGINNING APRIL 1, 2001” and inserting “IN GENERAL”; and

(2) by striking “April 1, 2003” and inserting “January 1, 2005”.

(b) CONFORMING AMENDMENT.—Section 547(c)(2) of BIPA (114 Stat. 2763A–553) is amended by striking “the period beginning on April 1, 2001, and ending on September 30, 2002,” and inserting “a period under such section”.

SEC. 307. REFERENCE TO 10 PERCENT INCREASE IN PAYMENT FOR HOSPICE CARE FURNISHED IN A FRONTIER AREA AND RURAL HOSPICE DEMONSTRATION PROJECT.

For—

(1) provision of 10 percent increase in payment for hospice care furnished in a frontier area, see section 422; and

(2) provision of a rural hospice demonstration project, see section 423.

SEC. 308. REFERENCE TO PRIORITY FOR HOSPITALS LOCATED IN RURAL OR SMALL URBAN AREAS IN REDISTRIBUTION OF UNUSED GRADUATE MEDICAL EDUCATION RESIDENCIES.

For provision providing priority for hospitals located in rural or small urban areas in redistribution of unused graduate medical education residencies, see section 611.

SEC. 309. GAO STUDY OF GEOGRAPHIC DIFFERENCES IN PAYMENTS FOR PHYSICIANS' SERVICES.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of differences in payment amounts under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w–4) for physicians' services in different geographic areas. Such study shall include—

(1) an assessment of the validity of the geographic adjustment factors used for each component of the fee schedule;

(2) an evaluation of the measures used for such adjustment, including the frequency of revisions; and

(3) an evaluation of the methods used to determine professional liability insurance costs used in computing the malpractice component, including a review of increases in professional liability insurance premiums and variation in such increases by State and physician specialty and methods used to update the geographic cost of practice index and relative weights for the malpractice component.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a). The report shall include recommendations regarding the use of more current data in computing geographic cost of practice indices as well as the use of data directly representative of physicians' costs (rather than proxy measures of such costs).

SEC. 310. PROVIDING SAFE HARBOR FOR CERTAIN COLLABORATIVE EFFORTS THAT BENEFIT MEDICALLY UNDERSERVED POPULATIONS.

(a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C. 1320a–7(b)(3)), as amended by section 101(b)(2), is amended—

(1) in subparagraph (F), by striking “and” after the semicolon at the end;

(2) in subparagraph (G), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

“(H) any remuneration between a public or nonprofit private health center entity described under clause (i) or (ii) of section 1905(l)(2)(B) and any individual or entity providing goods, items, services, donations or loans, or a combination thereof, to such health center entity pursuant to a contract, lease, grant, loan, or other agreement, if such agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center entity.”.

(b) RULEMAKING FOR EXCEPTION FOR HEALTH CENTER ENTITY ARRANGEMENTS.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary of Health and Human Services (in this subsection referred to as the “Secretary”) shall establish, on an expedited basis, standards relating to the exception described in section 1128B(b)(3)(H) of the Social Security Act, as added by subsection (a), for health center entity arrangements to the antikickback penalties.

(B) FACTORS TO CONSIDER.—The Secretary shall consider the following factors, among others, in establishing standards relating to the exception for health center entity arrangements under subparagraph (A):

(i) Whether the arrangement between the health center entity and the other party results in savings of Federal grant funds or increased revenues to the health center entity.

(ii) Whether the arrangement between the health center entity and the other party restricts or limits a patient's freedom of choice.

(iii) Whether the arrangement between the health center entity and the other party protects a health care professional's independent medical judgment regarding medically appropriate treatment.

The Secretary may also include other standards and criteria that are consistent with the intent of Congress in enacting the exception established under this section.

(2) INTERIM FINAL EFFECT.—No later than 180 days after the date of enactment of this Act, the Secretary shall publish a rule in the Federal Register consistent with the factors under paragraph (1)(B). Such rule shall be effective and final immediately on an interim basis, subject to such change and revision, after public notice and opportunity (for a period of not more than 60 days) for public comment, as is consistent with this subsection.

SEC. 311. RELIEF FOR CERTAIN NON-TEACHING HOSPITALS.

(a) IN GENERAL.—In the case of a non-teaching hospital that meets the condition of subsection (b), for its cost reporting period beginning in each of fiscal years 2003, 2004, and 2005 the amount of payment made to the hospital under section 1886(d) of the Social Security Act for discharges occurring during such fiscal year only shall be increased as though the applicable percentage increase (otherwise applicable to discharges occurring during such fiscal year under section 1886(b)(3)(B)(i) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(i)) had been increased by 5 percentage points. The previous sentence shall be applied for each such fiscal year separately without regard to its application in a previous fiscal year and shall not affect payment for discharges for any hospital occurring during a fiscal year after fiscal year 2005.

(b) CONDITION.—A non-teaching hospital meets the condition of this paragraph if—

(1) it is located in a rural area and the amount of the aggregate payments under subsection (d) of such section for non-teaching hospitals located in rural areas in the State for their cost reporting periods beginning during fiscal year 1999 is less than the aggregate allowable operating costs of inpatient hospital services (as defined in section 1886(a)(4) of such Act) for all such hospitals in such areas in such State with respect to such cost reporting periods; or

(2) it is located in an urban area and the amount of the aggregate payments under subsection (d) of such section for non-teaching hospitals located in urban areas in the State for their cost reporting periods beginning during fiscal year 1999 is less than 103 percent of the aggregate allowable operating costs of inpatient hospital services (as defined in section 1886(a)(4) of such Act) for all such hospitals in such areas in such State with respect to such cost reporting periods. The amounts under paragraphs (1) and (2) shall be determined by the Secretary of Health and Human Services based on data of the Medicare Payment Advisory Commission.

(c) DEFINITIONS.—For purposes of this section:

(1) NON-TEACHING HOSPITAL.—The term “non-teaching hospital” means, for a cost reporting period, a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act, 42 U.S.C. 1395ww(d)(1)(B)) that is not receiving any additional payment under section 1886(d)(5)(B) of such Act (42 U.S.C. 1395ww(d)(5)(B)) or a payment under section 1886(h) of such Act (42 U.S.C. 1395ww(h)) for discharges occurring during the period.

(2) RURAL; URBAN.—The terms “rural” and “urban” have the meanings given such terms for purposes of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)).

TITLE IV—PROVISIONS RELATING TO PART A

Subtitle A—Inpatient Hospital Services

SEC. 401. REVISION OF ACUTE CARE HOSPITAL PAYMENT UPDATES.

Subclause (XVIII) of section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended to read as follows:

“(XVIII) for fiscal year 2003, the market basket percentage increase for sole community hospitals and such increase minus 0.25 percentage points for other hospitals, and”.

SEC. 402. FREEZE IN LEVEL OF ADJUSTMENT FOR INDIRECT COSTS OF MEDICAL EDUCATION (IME) THROUGH FISCAL YEAR 2007.

Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) in subclause (VI), by inserting “and each succeeding fiscal year through fiscal year 2007” after “2002”; and

(2) in subclause (VII), by striking “2002” and inserting “2007”.

SEC. 403. RECOGNITION OF NEW MEDICAL TECHNOLOGIES UNDER INPATIENT HOSPITAL PPS.

(a) IMPROVING TIMELINESS OF DATA COLLECTION.—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)) is amended by adding at the end the following new clause:

“(vii) Under the mechanism under this subparagraph, the Secretary shall provide for the addition of new diagnosis and procedure codes in April 1 of each year, but the addition of such codes shall not require the Secretary to adjust the payment (or diagnosis-related group classification) under this subsection until the fiscal year that begins after such date.”.

(b) ELIGIBILITY STANDARD.—

(1) MINIMUM PERIOD FOR RECOGNITION OF NEW TECHNOLOGIES.—Section 1886(d)(5)(K)(vi) (42 U.S.C. 1395ww(d)(5)(K)(vi)) is amended—

(A) by inserting “(I)” after “(vi)”; and

(B) by adding at the end the following new subclause:

“(II) Under such criteria, a service or technology shall not be denied treatment as a new service or technology on the basis of the period of time in which the service or technology has been in use if such period ends before the end of the 2-to-3-year period that begins on the effective date of implementation of a code under ICD-9-CM (or a successor coding methodology) that enables the identification of a significant sample of specific discharges in which the service or technology has been used.”.

(2) ADJUSTMENT OF THRESHOLD.—Section 1886(d)(5)(K)(ii)(I) (42 U.S.C. 1395ww(d)(5)(K)(ii)(I)) is amended by inserting “(applying a threshold specified by the Secretary that is the lesser of 50 percent of the national average standardized amount for operating costs of inpatient hospital services for all hospitals and all diagnosis-related groups or one standard deviation for the diagnosis-related group involved)” after “is inadequate”.

(3) CRITERION FOR SUBSTANTIAL IMPROVEMENT.—Section 1886(d)(5)(K)(vi) (42 U.S.C. 1395ww(d)(5)(K)(vi)), as amended by paragraph (1), is further amended by adding at the end the following subclause:

“(III) The Secretary shall by regulation provide for further clarification of the criteria applied to determine whether a new service or technology represents an advance in medical technology that substantially improves the diagnosis or treatment of beneficiaries. Under such criteria, in determining whether a new service or technology represents an advance in medical technology that substantially improves the diagnosis or treatment of beneficiaries, the Secretary shall deem a service or technology as meeting such requirement if the service or technology is a drug or biological that is designated under section 506 or 526 of the Federal Food, Drug, and Cosmetic Act, approved under section 314.510 or 601.41 of title 21, Code of Federal Regulations, or designated for priority review when the marketing application for such drug or biological was filed or is a medical device for which an exemption has been granted under section 520(m) of such Act, or for which priority review has been provided under section 515(d)(5) of such Act.”.

(4) PROCESS FOR PUBLIC INPUT.—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)), as amended by paragraph (1), is amended—

(A) in clause (i), by adding at the end the following: “Such mechanism shall be modified to meet the requirements of clause (viii).”; and

(B) by adding at the end the following new clause:

“(viii) The mechanism established pursuant to clause (i) shall be adjusted to provide, before publication of a proposed rule, for public input regarding whether a new service or technology not described in the second sentence of clause (vi)(III) represents an advance in medical technology that substantially improves the diagnosis or treatment of beneficiaries as follows:

“(I) The Secretary shall make public and periodically update a list of all the services and technologies for which an application for additional payment under this subparagraph is pending.

“(II) The Secretary shall accept comments, recommendations, and data from the public

regarding whether the service or technology represents a substantial improvement.

“(III) The Secretary shall provide for a meeting at which organizations representing hospitals, physicians, medicare beneficiaries, manufacturers, and any other interested party may present comments, recommendations, and data to the clinical staff of the Centers for Medicare & Medicaid Services before publication of a notice of proposed rule-making regarding whether service or technology represents a substantial improvement.”.

(c) PREFERENCE FOR USE OF DRG ADJUSTMENT.—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)) is further amended by adding at the end the following new clause:

“(ix) Before establishing any add-on payment under this subparagraph with respect to a new technology, the Secretary shall seek to identify one or more diagnosis-related groups associated with such technology, based on similar clinical or anatomical characteristics and the cost of the technology. Within such groups the Secretary shall assign an eligible new technology into a diagnosis-related group where the average costs of care most closely approximate the costs of care of using the new technology. In such case, no add-on payment under this subparagraph shall be made with respect to such new technology and this clause shall not affect the application of paragraph (4)(C)(iii).”.

(d) IMPROVEMENT IN PAYMENT FOR NEW TECHNOLOGY.—Section 1886(d)(5)(K)(ii)(III) (42 U.S.C. 1395ww(d)(5)(K)(ii)(III)) is amended by inserting after “the estimated average cost of such service or technology” the following: “(based on the marginal rate applied to costs under subparagraph (A))”.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The Secretary shall implement the amendments made by this section so that they apply to classification for fiscal years beginning with fiscal year 2004.

(2) RECONSIDERATIONS OF APPLICATIONS FOR FISCAL YEAR 2003 THAT ARE DENIED.—In the case of an application for a classification of a medical service or technology as a new medical service or technology under section 1886(d)(5)(K) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(K)) that was filed for fiscal year 2003 and that is denied—

(A) the Secretary shall automatically reconsider the application as an application for fiscal year 2004 under the amendments made by this section; and

(B) the maximum time period otherwise permitted for such classification of the service or technology shall be extended by 12 months.

SEC. 404. PHASE-IN OF FEDERAL RATE FOR HOSPITALS IN PUERTO RICO.

Section 1886(d)(9) (42 U.S.C. 1395ww(d)(9)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking “for discharges beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987, and September 30, 1997, 75 percent)” and inserting “the applicable Puerto Rico percentage (specified in subparagraph (E))”; and

(B) in clause (ii), by striking “for discharges beginning in a fiscal year beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987, and September 30, 1997, 25 percent)” and inserting “the applicable Federal percentage (specified in subparagraph (E))”; and

(2) by adding at the end the following new subparagraph:

“(E) For purposes of subparagraph (A), for discharges occurring—

“(i) between October 1, 1987, and September 30, 1997, the applicable Puerto Rico percentage is 75 percent and the applicable Federal percentage is 25 percent;

“(ii) on or after October 1, 1997, and before October 1, 2003, the applicable Puerto Rico percentage is 50 percent and the applicable Federal percentage is 50 percent;

“(iii) during fiscal year 2004, the applicable Puerto Rico percentage is 45 percent and the applicable Federal percentage is 55 percent;

“(iv) during fiscal year 2005, the applicable Puerto Rico percentage is 40 percent and the applicable Federal percentage is 60 percent;

“(v) during fiscal year 2006, the applicable Puerto Rico percentage is 35 percent and the applicable Federal percentage is 65 percent;

“(vi) during fiscal year 2007, the applicable Puerto Rico percentage is 30 percent and the applicable Federal percentage is 70 percent; and

“(vii) on or after October 1, 2007, the applicable Puerto Rico percentage is 25 percent and the applicable Federal percentage is 75 percent.”.

SEC. 405. REFERENCE TO PROVISION RELATING TO ENHANCED DISPROPORTIONATE SHARE HOSPITAL (DSH) PAYMENTS FOR RURAL HOSPITALS AND URBAN HOSPITALS WITH FEWER THAN 100 BEDS.

For provision enhancing disproportionate share hospital (DSH) treatment for rural hospitals and urban hospitals with fewer than 100 beds, see section 302.

SEC. 406. REFERENCE TO PROVISION RELATING TO 2-YEAR PHASE-IN INCREASE IN THE STANDARDIZED AMOUNT IN RURAL AND SMALL URBAN AREAS TO ACHIEVE A SINGLE, UNIFORM STANDARDIZED AMOUNT.

For provision phasing in over a 2-year period an increase in the standardized amount for rural and small urban areas to achieve a single, uniform, standardized amount, see section 303.

SEC. 407. REFERENCE TO PROVISION FOR MORE FREQUENT UPDATES IN THE WEIGHTS USED IN HOSPITAL MARKET BASKET.

For provision providing for more frequent updates in the weights used in hospital market basket, see section 304.

SEC. 408. REFERENCE TO PROVISION MAKING IMPROVEMENTS TO CRITICAL ACCESS HOSPITAL PROGRAM.

For provision providing making improvements to critical access hospital program, see section 305.

Subtitle B—Skilled Nursing Facility Services**SEC. 411. PAYMENT FOR COVERED SKILLED NURSING FACILITY SERVICES.**

(a) 5-YEAR EXTENSION OF TEMPORARY INCREASE IN NURSING COMPONENT OF PPS FEDERAL RATE.—Section 312(a) of BIPA is amended by striking “, and before October 1, 2002” and inserting “and before October 1, 2007”.

(b) ADJUSTMENT TO RUGs FOR AIDS RESIDENTS.—

(1) IN GENERAL.—Paragraph (12) of section 1888(e) (42 U.S.C. 1395yy(e)) is amended to read as follows:

“(12) ADJUSTMENT FOR RESIDENTS WITH AIDS.—

“(A) IN GENERAL.—Subject to subparagraph (B), in the case of a resident of a skilled nursing facility who is afflicted with acquired immune deficiency syndrome (AIDS), the per diem amount of payment otherwise applicable shall be increased by 128 percent to reflect increased costs associated with such residents.

“(B) SUNSET.—Subparagraph (A) shall not apply on and after such date as the Secretary certifies that there is an appropriate

adjustment in the case mix under paragraph (4)(G)(i) to compensate for the increased costs associated with residents described in such subparagraph.”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to services furnished on or after October 1, 2003.

Subtitle C—Hospice

SEC. 421. COVERAGE OF HOSPICE CONSULTATION SERVICES.

(a) **COVERAGE OF HOSPICE CONSULTATION SERVICES.**—Section 1812(a) (42 U.S.C. 1395d(a)) is amended—

(1) by striking “and” at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting “; and”; and

(3) by inserting after paragraph (4) the following new paragraph:

“(5) for individuals who are terminally ill, have not made an election under subsection (d)(1), and have not previously received services under this paragraph, services that are furnished by a physician who is the medical director or an employee of a hospice program and that consist of—

“(A) an evaluation of the individual’s need for pain and symptom management;

“(B) counseling the individual with respect to end-of-life issues and care options; and

“(C) advising the individual regarding advanced care planning.”.

(b) **PAYMENT.**—Section 1814(i) (42 U.S.C. 1395f(i)) is amended by adding at the end the following new paragraph:

“(4) The amount paid to a hospice program with respect to the services under section 1812(a)(5) for which payment may be made under this part shall be equal to an amount equivalent to the amount established for an office or other outpatient visit for evaluation and management associated with presenting problems of moderate severity under the fee schedule established under section 1848(b), other than the portion of such amount attributable to the practice expense component.”.

(c) **CONFORMING AMENDMENT.**—Section 1861(dd)(2)(A)(i) (42 U.S.C. 1395x(dd)(2)(A)(i)) is amended by inserting before the comma at the end the following: “and services described in section 1812(a)(5)”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to services provided by a hospice program on or after January 1, 2004.

SEC. 422. 10 PERCENT INCREASE IN PAYMENT FOR HOSPICE CARE FURNISHED IN A FRONTIER AREA.

(a) **IN GENERAL.**—Section 1814(i)(1) (42 U.S.C. 1395f(i)(1)) is amended by adding at the end the following new subparagraph:

“(D) With respect to hospice care furnished in a frontier area on or after January 1, 2003, and before January 1, 2008, the payment rates otherwise established for such care shall be increased by 10 percent. For purposes of this subparagraph, the term ‘frontier area’ means a county in which the population density is less than 7 persons per square mile.”.

(b) **REPORT ON COSTS.**—Not later than January 1, 2007, the Comptroller General of the United States shall submit to Congress a report on the costs of furnishing hospice care in frontier areas. Such report shall include recommendations regarding the appropriateness of extending, and modifying, the payment increase provided under the amendment made by subsection (a).

SEC. 423. RURAL HOSPICE DEMONSTRATION PROJECT.

(a) **IN GENERAL.**—The Secretary shall conduct a demonstration project for the delivery

of hospice care to medicare beneficiaries in rural areas. Under the project medicare beneficiaries who are unable to receive hospice care in the home for lack of an appropriate caregiver are provided such care in a facility of 20 or fewer beds which offers, within its walls, the full range of services provided by hospice programs under section 1861(dd) of the Social Security Act (42 U.S.C. 1395x(dd)).

(b) **SCOPE OF PROJECT.**—The Secretary shall conduct the project under this section with respect to no more than 3 hospice programs over a period of not longer than 5 years each.

(c) **COMPLIANCE WITH CONDITIONS.**—Under the demonstration project—

(1) the hospice program shall comply with otherwise applicable requirements, except that it shall not be required to offer services outside of the home or to meet the requirements of section 1861(dd)(2)(A)(iii) of the Social Security Act; and

(2) payments for hospice care shall be made at the rates otherwise applicable to such care under title XVIII of such Act.

The Secretary may require the program to comply with such additional quality assurance standards for its provision of services in its facility as the Secretary deems appropriate.

(d) **REPORT.**—Upon completion of the project, the Secretary shall submit a report to Congress on the project and shall include in the report recommendations regarding extension of such project to hospice programs serving rural areas.

Subtitle D—Other Provisions

SEC. 431. DEMONSTRATION PROJECT FOR USE OF RECOVERY AUDIT CONTRACTORS.

(a) **IN GENERAL.**—The Secretary of Health and Human Services shall conduct a demonstration project under this section (in this section referred to as the “project”) to demonstrate the use of recovery audit contractors under the Medicare Integrity Program in identifying and recouping overpayments under the medicare program for services for which payment is made under part A of title XVIII of the Social Security Act. Under the project—

(1) payment may be made to such a contractor on a contingent basis;

(2) a percentage of the amount recovered may be retained by the Secretary and shall be available to the program management account of the Centers for Medicare & Medicaid Services; and

(3) the Secretary shall examine the efficacy of such use with respect to duplicative payments, accuracy of coding, and other payment policies in which inaccurate payments arise.

(b) **SCOPE AND DURATION.**—The project shall cover at least 2 States and at least 3 contractors and shall last for not longer than 3 years.

(c) **WAIVER.**—The Secretary of Health and Human Services shall waive such provisions of title XVIII of the Social Security Act as may be necessary to provide for payment for services under the project in accordance with subsection (a).

(d) **QUALIFICATIONS OF CONTRACTORS.**—

(1) **IN GENERAL.**—The Secretary shall enter into a recovery audit contract under this section with an entity only if the entity has staff that has knowledge of and experience with the payment rules and regulations under the medicare program or the entity has or will contract with another entity that has such knowledgeable and experienced staff.

(2) **INELIGIBILITY OF CERTAIN CONTRACTORS.**—The Secretary may not enter into a

recovery audit contract under this section with an entity to the extent that the entity is a fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h), a carrier under section 1842 of such Act (42 U.S.C. 1395u), or a Medicare Administrative Contractor under section 1874A of such Act, or any other entity that carries out the type of activities with respect to providers of services under part A that would constitute a conflict of interest, as determined by the Secretary.

(3) **PREFERENCE FOR ENTITIES WITH DEMONSTRATED PROFICIENCY WITH PRIVATE INSURERS.**—In awarding contracts to recovery audit contractors under this section, the Secretary shall give preference to those entities that the Secretary determines have demonstrated proficiency in recovery audits with private insurers or under the medicare program under title XIX of such Act.

(e) **REPORT.**—The Secretary of Health and Human Services shall submit to Congress a report on the project not later than 6 months after the date of its completion. Such reports shall include information on the impact of the project on savings to the medicare program and recommendations on the cost-effectiveness of extending or expanding the project.

TITLE V—PROVISIONS RELATING TO PART B

Subtitle A—Physicians’ Services

SEC. 501. REVISION OF UPDATES FOR PHYSICIANS’ SERVICES.

(a) **UPDATE FOR 2003 THROUGH 2006.**—

(1) **IN GENERAL.**—Section 1848(d) (42 U.S.C. 1395w-4(d)) is amended by adding at the end the following new paragraphs:

“(5) **UPDATE FOR 2003.**—The update to the single conversion factor established in paragraph (1)(C) for 2003 is 2 percent.

“(6) **SPECIAL RULES FOR UPDATE FOR 2004, 2005, AND 2006.**—The following rules apply in determining the update adjustment factors under paragraph (4)(B) for 2004, 2005, and 2006:

“(A) **USE OF 2002 DATA IN DETERMINING ALLOWABLE COSTS.**—

“(i) The reference in clause (ii)(I) of such paragraph to April 1, 1996, is deemed to be a reference to January 1, 2002.

“(ii) The allowed expenditures for 2002 is deemed to be equal to the actual expenditures for physicians’ services furnished during 2002, as estimated by the Secretary.

“(B) **1 PERCENTAGE POINT INCREASE IN GDP UNDER SGR.**—The annual average percentage growth in real gross domestic product per capita under subsection (f)(2)(C) for each of 2003, 2004, 2005, and 2006 is deemed to be increased by 1 percentage point.”.

(2) **CONFORMING AMENDMENT.**—Paragraph (4)(B) of such section is amended, in the matter before clause (i), by inserting “and paragraph (6)” after “subparagraph (D)”.

(3) **NOT TREATED AS CHANGE IN LAW AND REGULATION IN SUSTAINABLE GROWTH RATE DETERMINATION.**—The amendments made by this subsection shall not be treated as a change in law for purposes of applying section 1848(f)(2)(D) of the Social Security Act (42 U.S.C. 1395w-4(f)(2)(D)).

(b) **USE OF 10-YEAR ROLLING AVERAGE IN COMPUTING GROSS DOMESTIC PRODUCT.**—

(1) **IN GENERAL.**—Section 1848(f)(2)(C) (42 U.S.C. 1395w-4(f)(2)(C)) is amended—

(A) by striking “projected” and inserting “annual average”; and

(B) by striking “from the previous applicable period to the applicable period involved” and inserting “during the 10-year period ending with the applicable period involved”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to computations of the sustainable growth rate for years beginning with 2002.

(c) **ELIMINATION OF TRANSITIONAL ADJUSTMENT.**—Section 1848(d)(4)(F) (42 U.S.C. 1395w-4(d)(4)(F)) is amended by striking “subparagraph (A)” and all that follows and inserting “subparagraph (A), for each of 2001 and 2002, of –0.2 percent.”

SEC. 502. STUDIES ON ACCESS TO PHYSICIANS' SERVICES.

(a) **GAO STUDY ON BENEFICIARY ACCESS TO PHYSICIANS' SERVICES.**—

(1) **STUDY.**—The Comptroller General of the United States shall conduct a study on access of medicare beneficiaries to physicians' services under the medicare program. The study shall include—

(A) an assessment of the use by beneficiaries of such services through an analysis of claims submitted by physicians for such services under part B of the medicare program;

(B) an examination of changes in the use by beneficiaries of physicians' services over time;

(C) an examination of the extent to which physicians are not accepting new medicare beneficiaries as patients.

(2) **REPORT.**—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1). The report shall include a determination whether—

(A) data from claims submitted by physicians under part B of the medicare program indicate potential access problems for medicare beneficiaries in certain geographic areas; and

(B) access by medicare beneficiaries to physicians' services may have improved, remained constant, or deteriorated over time.

(b) **STUDY AND REPORT ON SUPPLY OF PHYSICIANS.**—

(1) **STUDY.**—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to conduct a study on the adequacy of the supply of physicians (including specialists) in the United States and the factors that affect such supply.

(2) **REPORT TO CONGRESS.**—Not later than 2 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the study described in paragraph (1), including any recommendations for legislation.

SEC. 503. MEDPAC REPORT ON PAYMENT FOR PHYSICIANS' SERVICES.

Not later than 1 year after the date of the enactment of this Act, the Medicare Payment Advisory Commission shall submit to Congress a report on the effect of refinements to the practice expense component of payments for physicians' services in the case of services for which there are no physician work relative value units, after the transition to a full resource-based payment system in 2002, under section 1848 of the Social Security Act (42 U.S.C. 1395w-4). Such report shall examine the following matters by physician specialty:

(1) The effect of such refinements on payment for physicians' services.

(2) The interaction of the practice expense component with other components of and adjustments to payment for physicians' services under such section.

(3) The appropriateness of the amount of compensation by reason of such refinements.

(4) The effect of such refinements on access to care by medicare beneficiaries to physicians' services.

(5) The effect of such refinements on physician participation under the medicare program.

SEC. 504. 1-YEAR EXTENSION OF TREATMENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES UNDER MEDICARE.

Section 542(c) of BIPA is amended by striking “2-year period” and inserting “3-year period”.

SEC. 505. PHYSICIAN FEE SCHEDULE WAGE INDEX REVISION.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, for purposes of payment under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w-4) for physicians' services furnished during 2004, in no case may the work geographic index otherwise calculated under section 1848(e)(1)(A)(iii) of such Act (42 U.S.C. 1395w-4(e)(1)(A)(iii)) be less than 0.985.

(b) **EXEMPTION FROM LIMITATION ON ANNUAL ADJUSTMENTS.**—The increase in expenditures attributable to subsection (a) during 2004 shall not be taken into account in applying section 1848(c)(2)(B)(ii)(II) of such Act (42 U.S.C. 1395w-4(c)(2)(B)(ii)(II)) for that year.

(c) **GAO REPORT.**—

(1) **STUDY.**—The Comptroller General of the United States shall conduct a study to evaluate the following:

(A) The economic basis of the current methodology for geographic adjustment of the work component of the physician payment rate under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w-4).

(B) Whether the adjustment under subsection (a) should be continued, and whether there is an economic basis for the continuation of such adjustment, in those areas in which the adjustment applies.

(C) The effect of the methodology on physician location and retention in areas affected by such adjustment.

(D) The differences in recruitment costs and retention rates for physicians, including specialists, between large urban areas and other areas.

(E) The mobility of physicians, including specialists, over the last decade.

(F) The effect of raising the floor of the geographic index to a value of 1.0 for adjustment of the work component.

(2) **REPORT.**—The Comptroller General shall submit to Congress a report on the study conducted under paragraph (1) by not later than 1 year after the date of the enactment of this Act.

Subtitle B—Other Services

SEC. 511. COMPETITIVE ACQUISITION OF CERTAIN ITEMS AND SERVICES.

(a) **IN GENERAL.**—Section 1847 (42 U.S.C. 1395w-3) is amended to read as follows:

“COMPETITIVE ACQUISITION OF CERTAIN ITEMS AND SERVICES

“SEC. 1847. (a) ESTABLISHMENT OF COMPETITIVE ACQUISITION PROGRAMS.—

“(1) IMPLEMENTATION OF PROGRAMS.—

“(A) IN GENERAL.—The Secretary shall establish and implement programs under which, beginning in 2008, competitive acquisition areas are established throughout the United States for contract award purposes for the furnishing under this part of competitively priced items and services (described in paragraph (2)) for which payment is made under this part. Such areas may differ for different items and services.

“(B) PHASED-IN IMPLEMENTATION.—The programs shall be phased-in among competitive acquisition areas over a period of not longer than 3 years in a manner so that the competition under the programs occurs in—

“(i) at least ⅓ of such areas in 2008; and

“(ii) at least ⅔ of such areas in 2009.

“(C) WAIVER OF CERTAIN PROVISIONS.—In carrying out the programs, the Secretary may waive such provisions of the Federal Acquisition Regulation as are necessary for the efficient implementation of this section, other than provisions relating to confidentiality of information and such other provisions as the Secretary determines appropriate.

“(2) ITEMS AND SERVICES DESCRIBED.—The items and services referred to in paragraph (1) are the following:

“(A) DURABLE MEDICAL EQUIPMENT AND INHALATION DRUGS USED IN CONNECTION WITH DURABLE MEDICAL EQUIPMENT.—Covered items (as defined in section 1834(a)(13)) for which payment is otherwise made under section 1834(a), other than items used in infusion, and inhalation drugs used in conjunction with durable medical equipment.

“(B) OFF-THE-SHELF ORTHOTICS.—Orthotics (described in section 1861(s)(9)) for which payment is otherwise made under section 1834(h) which require minimal self-adjustment for appropriate use and does not require expertise in trimming, bending, molding, assembling, or customizing to fit to the patient.

“(3) EXEMPTION AUTHORITY.—In carrying out the programs under this section, the Secretary may exempt—

“(A) areas that are not competitive due to low population density; and

“(B) items and services for which the application of competitive acquisition is not likely to result in significant savings.

“(b) PROGRAM REQUIREMENTS.—

“(1) IN GENERAL.—The Secretary shall conduct a competition among entities supplying items and services described in subsection (a)(2) for each competitive acquisition area in which the program is implemented under subsection (a) with respect to such items and services.

“(2) CONDITIONS FOR AWARDED CONTRACT.—

“(A) IN GENERAL.—The Secretary may not award a contract to any entity under the competition conducted in an competitive acquisition area pursuant to paragraph (1) to furnish such items or services unless the Secretary finds all of the following:

“(i) The entity meets quality and financial standards specified by the Secretary or developed by accreditation entities or organizations recognized by the Secretary.

“(ii) The total amounts to be paid under the contract (including costs associated with the administration of the contract) are expected to be less than the total amounts that would otherwise be paid.

“(iii) Beneficiary access to a choice of multiple suppliers in the area is maintained.

“(iv) Beneficiary liability is limited to the applicable percentage of contract award price.

“(B) QUALITY STANDARDS.—The quality standards specified under subparagraph (A)(i) shall not be less than the quality standards that would otherwise apply if this section did not apply and shall include consumer services standards. The Secretary shall consult with an expert outside advisory panel composed of an appropriate selection of representatives of physicians, practitioners, and suppliers to review (and advise the Secretary concerning) such quality standards.

“(3) CONTENTS OF CONTRACT.—

“(A) IN GENERAL.—A contract entered into with an entity under the competition conducted pursuant to paragraph (1) is subject to terms and conditions that the Secretary may specify.

“(B) TERM OF CONTRACTS.—The Secretary shall rebid contracts under this section not less often than once every 3 years.

“(4) LIMIT ON NUMBER OF CONTRACTORS.—

“(A) IN GENERAL.—The Secretary may limit the number of contractors in a competitive acquisition area to the number needed to meet projected demand for items and services covered under the contracts. In awarding contracts, the Secretary shall take into account the ability of bidding entities to furnish items or services in sufficient quantities to meet the anticipated needs of beneficiaries for such items or services in the geographic area covered under the contract on a timely basis.

“(B) MULTIPLE WINNERS.—The Secretary shall award contracts to more than one entity submitting a bid in each area for an item or service.

“(5) PARTICIPATING CONTRACTORS.—Payment shall not be made for items and services described in subsection (a)(2) furnished by a contractor and for which competition is conducted under this section unless—

“(A) the contractor has submitted a bid for such items and services under this section; and

“(B) the Secretary has awarded a contract to the contractor for such items and services under this section.

“(6) AUTHORITY TO CONTRACT FOR EDUCATION, OUTREACH AND COMPLAINT SERVICES.—The Secretary may enter into a contract with an appropriate entity to address complaints from beneficiaries who receive items and services from an entity with a contract under this section and to conduct appropriate education of and outreach to such beneficiaries with respect to the program.

“(c) ANNUAL REPORTS.—The Secretary shall submit to Congress an annual management report on the programs under this section. Each such report shall include information on savings, reductions in cost-sharing, access to items and services, and beneficiary satisfaction.

“(d) DEMONSTRATION PROJECT FOR CLINICAL LABORATORY SERVICES.—

“(1) IN GENERAL.—The Secretary shall, beginning in 2008, conduct a demonstration project on the application of competitive acquisition under this section to clinical diagnostic laboratory tests—

“(A) for which payment is otherwise made under section 1833(h) or 1834(d)(1) (relating to colorectal cancer screening tests); and

“(B) which are furnished without a face-to-face encounter between the individual and the hospital or physician ordering the tests.

“(2) TERMS AND CONDITIONS.—Such project shall be under the same conditions as are applicable to items and services described in subsection (a)(2).

“(3) REPORT.—The Secretary shall submit to Congress—

“(A) an initial report on the project not later than December 31, 2009; and

“(B) such progress and final reports on the project after such date as the Secretary determines appropriate.”.

(b) CONTINUATION OF CERTAIN DEMONSTRATION PROJECTS.—Notwithstanding the amendment made by subsection (a), with respect to demonstration projects implemented by the Secretary under section 1847 of the Social Security Act (42 U.S.C. 1395w-3) (relating to the establishment of competitive acquisition areas) that was in effect on the day before the date of the enactment of this Act, each such demonstration project may continue under the same terms and conditions applicable under that section as in effect on that date.

(c) REPORT ON DIFFERENCES IN PAYMENT FOR LABORATORY SERVICES.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that analyzes differences in reimbursement between public and private payors for clinical diagnostic laboratory services.

(d) MEDPAC REPORT ON IMPACT OF DEMONSTRATION PROJECTS ON BENEFICIARY ACCESS TO SERVICES.—Not later than 1 year after the date of the enactment of this Act, the Medicare Payment Advisory Commission shall submit to Congress a report that analyzes the impact of demonstration projects carried out under section 1847 of the Social Security Act, as in effect on June 1, 2002, on access by Medicare beneficiaries to durable medical equipment for which payment was made under the demonstration project.

SEC. 512. PAYMENT FOR AMBULANCE SERVICES.

(a) PHASE-IN PROVIDING FLOOR USING BLEND OF FEE SCHEDULE AND REGIONAL FEE SCHEDULES.—Section 1834(1) (42 U.S.C. 1395m(1)) is amended—

(1) in paragraph (2)(E), by inserting “consistent with paragraph (10)” after “in an efficient and fair manner”;

(2) by redesignating the paragraph (8) added by section 221(a) of BIPA as paragraph (9); and

(3) by adding at the end the following new paragraph:

“(10) PHASE-IN PROVIDING FLOOR USING BLEND OF FEE SCHEDULE AND REGIONAL FEE SCHEDULES.—In carrying out the phase-in under paragraph (2)(E) for each level of service furnished in a year before January 1, 2007, the portion of the payment amount that is based on the fee schedule shall not be less than the following blended rate of the fee schedule under paragraph (1) and of a regional fee schedule for the region involved:

“(A) For 2003, the blended rate shall be based 20 percent on the fee schedule under paragraph (1) and 80 percent on the regional fee schedule.

“(B) For 2004, the blended rate shall be based 40 percent on the fee schedule under paragraph (1) and 60 percent on the regional fee schedule.

“(C) For 2005, the blended rate shall be based 60 percent on the fee schedule under paragraph (1) and 40 percent on the regional fee schedule.

“(D) For 2006, the blended rate shall be based 80 percent on the fee schedule under paragraph (1) and 20 percent on the regional fee schedule.

For purposes of this paragraph, the Secretary shall establish a regional fee schedule for each of the 9 Census divisions using the methodology (used in establishing the fee schedule under paragraph (1)) to calculate a regional conversion factor and a regional mileage payment rate and using the same payment adjustments and the same relative value units as used in the fee schedule under such paragraph.”.

(b) ADJUSTMENT IN PAYMENT FOR CERTAIN LONG TRIPS.—Section 1834(1), as amended by subsection (a), is further amended by adding at the end the following new paragraph:

“(11) ADJUSTMENT IN PAYMENT FOR CERTAIN LONG TRIPS.—In the case of ground ambulance services furnished on or after January 1, 2003, and before January 1, 2008, regardless of where the transportation originates, the fee schedule established under this subsection shall provide that, with respect to the payment rate for mileage for a trip above 50 miles the per mile rate otherwise established shall be increased by $\frac{1}{4}$ of the payment per mile otherwise applicable to such miles.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to ambulance services furnished on or after January 1, 2003.

SEC. 513. 5-YEAR EXTENSION OF MORATORIUM ON THERAPY CAPS; PROVISIONS RELATING TO REPORTS.

(a) 5-YEAR EXTENSION OF MORATORIUM ON THERAPY CAPS.—Section 1833(g)(4) (42 U.S.C. 1395l(g)(4)) is amended by striking “and 2002” and inserting “2002, 2003, 2004, 2005, 2006, and 2007”.

(b) PROMPT SUBMISSION OF OVERDUE REPORTS ON PAYMENT AND UTILIZATION OF OUTPATIENT THERAPY SERVICES.—Not later than December 31, 2002, the Secretary shall submit to Congress the reports required under section 4541(d)(2) of the Balanced Budget Act of 1997 (relating to alternatives to a single annual dollar cap on outpatient therapy) and under section 221(d) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (relating to utilization patterns for outpatient therapy).

(c) IDENTIFICATION OF CONDITIONS AND DISEASES JUSTIFYING WAIVER OF THERAPY CAP.—

(1) STUDY.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to identify conditions or diseases that should justify conducting an assessment of the need to waive the therapy caps under section 1833(g)(4) of the Social Security Act (42 U.S.C. 1395l(g)(4)).

(2) REPORTS TO CONGRESS.—Not later than July 1, 2003, the Secretary shall submit to Congress a preliminary report on the conditions and diseases identified under paragraph (1) and not later than September 1, 2003, a final report on the conditions and diseases so identified.

(d) GAO STUDY OF PATIENT ACCESS TO PHYSICAL THERAPIST SERVICES.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on access to physical therapist services in States authorizing such services without a physician referral and in States that require such a physician referral. The study shall—

(A) examine the use of and referral patterns for physical therapist services for patients age 50 and older in States that authorize such services without a physician referral and in States that require such a physician referral;

(B) examine the use of and referral patterns for physical therapist services for patients who are Medicare beneficiaries;

(C) examine the potential effect of prohibiting a physician from referring patients to physical therapy services owned by the physician and provided in the physician's office;

(D) examine the delivery of physical therapists' services within the facilities of Department of Defense; and

(E) analyze the potential impact on Medicare beneficiaries and on expenditures under the Medicare program of eliminating the need for a physician referral and physician certification for physical therapist services under the Medicare program.

(2) REPORT.—The Comptroller General shall submit to Congress a report on the study conducted under paragraph (1) by not later than 1 year after the date of the enactment of this Act.

SEC. 514. ACCELERATED IMPLEMENTATION OF 20 PERCENT COINSURANCE FOR HOSPITAL OUTPATIENT DEPARTMENT (OPD) SERVICES; OTHER OPD PROVISIONS.

(a) ACCELERATED IMPLEMENTATION OF COINSURANCE REDUCTIONS.—Section 1833(t)(8)(C)(ii) (42 U.S.C. 1395l(t)(8)(C)(ii)) is amended by striking subclauses (III) through (V) and inserting the following:

“(III) For procedures performed in 2004, 45 percent.

“(IV) For procedures performed in 2005, 40 percent.

“(V) For procedures performed in 2006, 2007, 2008 and 2009, 35 percent.

“(VI) For procedures performed in 2010, 30 percent.

“(VII) For procedures performed in 2011, 25 percent.

“(VIII) For procedures performed in 2012 and thereafter, 20 percent.”.

(b) TREATMENT OF TEMPERATURE MONITORED CRYOABLATION.—

(1) IN GENERAL.—Section 1833(t)(6)(A)(ii) (42 U.S.C. 1395l(t)(6)(A)(ii)) is amended by striking “or temperature monitored cryoablation”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) applies to payment for services furnished on or after January 1, 2003.

SEC. 515. COVERAGE OF AN INITIAL PREVENTIVE PHYSICAL EXAMINATION.

(a) COVERAGE.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), is amended—

(1) in subparagraph (U), by striking “and” at the end;

(2) in subparagraph (V), by inserting “and” at the end; and

(3) by adding at the end the following new subparagraph:

“(W) an initial preventive physical examination (as defined in subsection (ww));”.

(b) SERVICES DESCRIBED.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

“Initial Preventive Physical Examination

“(ww) The term ‘initial preventive physical examination’ means physicians’ services consisting of a physical examination with the goal of health promotion and disease detection and includes items and services specified by the Secretary in regulations.”.

(c) WAIVER OF DEDUCTIBLE AND COINSURANCE.—

(1) DEDUCTIBLE.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)) is amended—

(A) by striking “and” before “(6)”, and

(B) by inserting before the period at the end the following: “, and (7) such deductible shall not apply with respect to an initial preventive physical examination (as defined in section 1861(ww)).”.

(2) COINSURANCE.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(A) in clause (N), by inserting “(or 100 percent in the case of an initial preventive physical examination, as defined in section 1861(ww))” after “80 percent”; and

(B) in clause (O), by inserting “(or 100 percent in the case of an initial preventive physical examination, as defined in section 1861(ww))” after “80 percent”.

(d) PAYMENT AS PHYSICIANS’ SERVICES.—Section 1848(j)(3) (42 U.S.C. 1395w-4(j)(3)) is amended by inserting “(2)(W),” after “(2)(S),”.

(e) OTHER CONFORMING AMENDMENTS.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) in paragraph (1)—

(A) by striking “and” at the end of subparagraph (H);

(B) by striking the semicolon at the end of subparagraph (I) and inserting “, and”; and

(C) by adding at the end the following new subparagraph:

“(J) in the case of an initial preventive physical examination, which is performed not later than 6 months after the date the individual’s first coverage period begins under part B;” and

(2) in paragraph (7), by striking “(or (H))” and inserting “(H), or (J))”.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services

furnished on or after January 1, 2004, but only for individuals whose coverage period begins on or after such date.

SEC. 516. RENAL DIALYSIS SERVICES.

(a) REPORT ON DIFFERENCES IN COSTS IN DIFFERENT SETTINGS.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report containing—

(1) an analysis of the differences in costs of providing renal dialysis services under the medicare program in home settings and in facility settings;

(2) an assessment of the percentage of overhead costs in home settings and in facility settings; and

(3) an evaluation of whether the charges for home dialysis supplies and equipment are reasonable and necessary.

(b) RESTORING COMPOSITE RATE EXCEPTIONS FOR PEDIATRIC FACILITIES.—

(1) IN GENERAL.—Section 422(a)(2) of BIPA is amended—

(A) in subparagraph (A), by striking “and (C)” and inserting “, (C), and (D)”; and

(B) in subparagraph (B), by striking “In the case” and inserting “Subject to subparagraph (D), in the case”; and

(C) by adding at the end the following new subparagraph:

“(D) INAPPLICABILITY TO PEDIATRIC FACILITIES.—Subparagraphs (A) and (B) shall not apply, as of October 1, 2002, to pediatric facilities that do not have an exception rate described in subparagraph (C) in effect on such date. For purposes of this subparagraph, the term ‘pediatric facility’ means a renal facility at least 50 percent of whose patients are individuals under 18 years of age.”.

(2) CONFORMING AMENDMENT.—The fourth sentence of section 1881(b)(7) (42 U.S.C. 1395rr(b)(7)) is amended by striking “The Secretary” and inserting “Subject to section 422(a)(2) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, the Secretary”.

(c) INCREASE IN RENAL DIALYSIS COMPOSITE RATE FOR SERVICES FURNISHED IN 2004.—Notwithstanding any other provision of law, with respect to payment under part B of title XVIII of the Social Security Act for renal dialysis services furnished in 2004, the composite payment rate otherwise established under section 1881(b)(7) of such Act (42 U.S.C. 1395rr(b)(7)) shall be increased by 1.2 percent.

SEC. 517. IMPROVED PAYMENT FOR CERTAIN MAMMOGRAPHY SERVICES.

(a) EXCLUSION FROM OPD FEE SCHEDULE.—Section 1833(t)(1)(B)(iv) (42 U.S.C. 1395l(t)(1)(B)(iv)) is amended by inserting before the period at the end the following: “and does not include screening mammography (as defined in section 1861(jj)) and unilateral and bilateral diagnostic mammography”.

(b) ADJUSTMENT TO TECHNICAL COMPONENT.—For diagnostic mammography performed on or after January 1, 2004, for which payment is made under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w-4), the Secretary, based on the most recent cost data available, shall provide for an appropriate adjustment in the payment amount for the technical component of the diagnostic mammography.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to mammography performed on or after January 1, 2004.

SEC. 518. WAIVER OF PART B LATE ENROLLMENT PENALTY FOR CERTAIN MILITARY RETIREES; SPECIAL ENROLLMENT PERIOD.

(a) WAIVER OF PENALTY.—

(1) IN GENERAL.—Section 1839(b) (42 U.S.C. 1395r(b)) is amended by adding at the end the following new sentence: “No increase in the premium shall be effected for a month in the case of an individual who is 65 years of age or older, who enrolls under this part during 2001, 2002, or 2003, and who demonstrates to the Secretary before December 31, 2003, that the individual is a covered beneficiary (as defined in section 1072(5) of title 10, United States Code). The Secretary of Health and Human Services shall consult with the Secretary of Defense in identifying individuals described in the previous sentence.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to premiums for months beginning with January 2003. The Secretary of Health and Human Services shall establish a method for providing rebates of premium penalties paid for months on or after January 2003 for which a penalty does not apply under such amendment but for which a penalty was previously collected.

(b) MEDICARE PART B SPECIAL ENROLLMENT PERIOD.—

(1) IN GENERAL.—In the case of any individual who, as of the date of the enactment of this Act, is 65 years of age or older, is eligible to enroll but is not enrolled under part B of title XVIII of the Social Security Act, and is a covered beneficiary (as defined in section 1072(5) of title 10, United States Code), the Secretary of Health and Human Services shall provide for a special enrollment period during which the individual may enroll under such part. Such period shall begin as soon as possible after the date of the enactment of this Act and shall end on December 31, 2003.

(2) COVERAGE PERIOD.—In the case of an individual who enrolls during the special enrollment period provided under paragraph (1), the coverage period under part B of title XVIII of the Social Security Act shall begin on the first day of the month following the month in which the individual enrolls.

SEC. 519. COVERAGE OF CHOLESTEROL AND BLOOD LIPID SCREENING.

(a) COVERAGE.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended by section 515(a), is amended—

(1) in subparagraph (V), by striking “and” at the end;

(2) in subparagraph (W), by inserting “and” at the end; and

(3) by adding at the end the following new subparagraph:

“(X) cholesterol and other blood lipid screening tests (as defined in subsection (xx));”.

(b) SERVICES DESCRIBED.—Section 1861 (42 U.S.C. 1395x), as amended by section 515(b), is amended by adding at the end the following new subsection:

“Cholesterol and Other Blood Lipid Screening Test

“(xx)(1) The term ‘cholesterol and other blood lipid screening test’ means diagnostic testing of cholesterol and other lipid levels of the blood for the purpose of early detection of abnormal cholesterol and other lipid levels.

“(2) The Secretary shall establish standards, in consultation with appropriate organizations, regarding the frequency and type of cholesterol and other blood lipid screening tests, except that such frequency may not be more often than once every 2 years.”.

(c) FREQUENCY.—Section 1862(a)(1) (42 U.S.C. 1395y(a)(1)), as amended by section 515(e), is amended

(1) by striking “and” at the end of subparagraph (I);

(2) by striking the semicolon at the end of subparagraph (J) and inserting “; and”; and
(3) by adding at the end the following new subparagraph:

“(K) in the case of a cholesterol and other blood lipid screening test (as defined in section 1861(xx)(1)), which is performed more frequently than is covered under section 1861(xx)(2).”

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to tests furnished on or after January 1, 2004.

TITLE VI—PROVISIONS RELATING TO PARTS A AND B

Subtitle A—Home Health Services

SEC. 601. ELIMINATION OF 15 PERCENT REDUCTION IN PAYMENT RATES UNDER THE PROSPECTIVE PAYMENT SYSTEM.

(a) **IN GENERAL.**—Section 1895(b)(3)(A) (42 U.S.C. 1395fff(b)(3)(A)) is amended to read as follows:

“(A) **INITIAL BASIS.**—Under such system the Secretary shall provide for computation of a standard prospective payment amount (or amounts) as follows:

“(i) Such amount (or amounts) shall initially be based on the most current audited cost report data available to the Secretary and shall be computed in a manner so that the total amounts payable under the system for fiscal year 2001 shall be equal to the total amount that would have been made if the system had not been in effect and if section 1861(v)(1)(L)(ix) had not been enacted.

“(ii) For fiscal year 2002 and for the first quarter of fiscal year 2003, such amount (or amounts) shall be equal to the amount (or amounts) determined under this paragraph for the previous fiscal year, updated under subparagraph (B).

“(iii) For 2003, such amount (or amounts) shall be equal to the amount (or amounts) determined under this paragraph for fiscal year 2002, updated under subparagraph (B) for 2003.

“(iv) For 2004 and each subsequent year, such amount (or amounts) shall be equal to the amount (or amounts) determined under this paragraph for the previous year, updated under subparagraph (B).

Each such amount shall be standardized in a manner that eliminates the effect of variations in relative case mix and area wage adjustments among different home health agencies in a budget neutral manner consistent with the case mix and wage level adjustments provided under paragraph (4)(A). Under the system, the Secretary may recognize regional differences or differences based upon whether or not the services or agency are in an urbanized area.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 501 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106-554).

SEC. 602. UPDATE IN HOME HEALTH SERVICES.

(a) **CHANGE TO CALENDAR YEAR UPDATE.**—

(1) **IN GENERAL.**—Section 1895(b) (42 U.S.C. 1395fff(b)(3)) is amended—

(A) in paragraph (3)(B)(i)—

(i) by striking “each fiscal year (beginning with fiscal year 2002)” and inserting “fiscal year 2002 and for each subsequent year (beginning with 2003)”; and

(ii) by inserting “or year” after “the fiscal year”;

(B) in paragraph (3)(B)(ii)—

(i) in subclause (II), by striking “fiscal year” and inserting “year” and by redesignating such subclause as subclause (III); and

(ii) in subclause (I), by striking “each of fiscal years 2002 and 2003” and inserting the following: “fiscal year 2002, the home health market basket percentage increase (as defined in clause (iii)) minus 1.1 percentage points;

“(II) 2003”;

(C) in paragraph (3)(B)(iii), by inserting “or year” after “fiscal year” each place it appears;

(D) in paragraph (3)(B)(iv)—

(i) by inserting “or year” after “fiscal year” each place it appears; and

(ii) by inserting “or years” after “fiscal years”; and

(E) in paragraph (5), by inserting “or year” after “fiscal year”.

(2) **TRANSITION RULE.**—The standard prospective payment amount (or amounts) under section 1895(b)(3) of the Social Security Act for the calendar quarter beginning on October 1, 2002, shall be such amount (or amounts) for the previous calendar quarter.

(b) **CHANGES IN UPDATES FOR 2003, 2004, AND 2005.**—Section 1895(b)(3)(B)(ii) (42 U.S.C. 1395fff(b)(3)(B)(ii)), as amended by subsection (a)(1)(B), is amended—

(1) in subclause (II), by striking “the home health market basket percentage increase (as defined in clause (iii)) minus 1.1 percentage points” and inserting “2.0 percentage points”;

(2) by striking “or” at the end of subclause (II);

(3) by redesignating subclause (III) as subclause (V); and

(4) by inserting after subclause (II) the following new subclause:

“(III) 2004, 1.1 percentage points;

“(IV) 2005, 2.7 percentage points; or”.

(c) **PAYMENT ADJUSTMENT.**—

(1) **IN GENERAL.**—Section 1895(b)(5) (42 U.S.C. 1395fff(b)(5)) is amended by striking “5 percent” and inserting “3 percent”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to years beginning with 2003.

SEC. 603. OASIS TASK FORCE; SUSPENSION OF CERTAIN OASIS DATA COLLECTION REQUIREMENTS PENDING TASK FORCE SUBMITTAL OF REPORT.

(a) **ESTABLISHMENT.**—The Secretary of Health and Human Services shall establish and appoint a task force (to be known as the “OASIS Task Force”) to examine the data collection and reporting requirements under OASIS. For purposes of this section, the term “OASIS” means the Outcome and Assessment Information Set required by Reason of section 4602(e) of Balanced Budget Act of 1997 (42 U.S.C. 1395fff note).

(b) **COMPOSITION.**—The OASIS Task Force shall be composed of the following:

(1) Staff of the Centers for Medicare & Medicaid Services with expertise in post-acute care.

(2) Representatives of home health agencies.

(3) Health care professionals and research and health care quality experts outside the Federal Government with expertise in post-acute care.

(4) Advocates for individuals requiring home health services.

(c) **DUTIES.**—

(1) **REVIEW AND RECOMMENDATIONS.**—The OASIS Task Force shall review and make recommendations to the Secretary regarding changes in OASIS to improve and simplify data collection for purposes of—

(A) assessing the quality of home health services; and

(B) providing consistency in classification of patients into home health resource groups

(HHRGs) for payment under section 1895 of the Social Security Act (42 U.S.C. 1395fff).

(2) **SPECIFIC ITEMS.**—In conducting the review under paragraph (1), the OASIS Task Force shall specifically examine—

(A) the 41 outcome measures currently in use;

(B) the timing and frequency of data collection; and

(C) the collection of information on comorbidities and clinical indicators.

(3) **REPORT.**—The OASIS Task Force shall submit a report to the Secretary containing its findings and recommendations for changes in OASIS by not later than 18 months after the date of the enactment of this Act.

(d) **SUNSET.**—The OASIS Task Force shall terminate 60 days after the date on which the report is submitted under subsection (c)(2).

(e) **NONAPPLICATION OF FACA.**—The provisions of the Federal Advisory Committee Act shall not apply to the OASIS Task Force.

(f) **SUSPENSION OF OASIS REQUIREMENT FOR COLLECTION OF DATA ON NON-MEDICARE AND NON-MEDICAID PATIENTS PENDING TASK FORCE REPORT.**—

(1) **IN GENERAL.**—During the period described in paragraph (2), the Secretary of Health and Human Services may not require, under section 4602(e) of the Balanced Budget Act of 1997 or otherwise under OASIS, a home health agency to gather or submit information that relates to an individual who is not eligible for benefits under either title XVIII or title XIX of the Social Security Act.

(2) **PERIOD OF SUSPENSION.**—The period described in this paragraph—

(A) begins on January 1, 2003, and

(B) ends on the last day of the 2nd month beginning after the date the report is submitted under subsection (c)(2).

SEC. 604. MEDPAC STUDY ON MEDICARE MARGINS OF HOME HEALTH AGENCIES.

(a) **STUDY.**—The Medicare Payment Advisory Commission shall conduct a study of payment margins of home health agencies under the home health prospective payment system under section 1895 of the Social Security Act (42 U.S.C. 1395fff). Such study shall examine whether systematic differences in payment margins are related to differences in case mix (as measured by home health resource groups (HHRGs)) among such agencies. The study shall use the partial or full-year cost reports filed by home health agencies.

(b) **REPORT.**—Not later than 2 years after the date of the enactment of this Act, the Commission shall submit to Congress a report on the study under subsection (a).

Subtitle B—Direct Graduate Medical Education

SEC. 611. REDISTRIBUTION OF UNUSED RESIDENT POSITIONS.

(a) **IN GENERAL.**—Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended—

(1) in subparagraph (F)(i), by inserting “subject to subparagraph (I),” after “October 1, 1997,”;

(2) in subparagraph (H)(i), by inserting “subject to subparagraph (I),” after “subparagraphs (F) and (G),”; and

(3) by adding at the end the following new subparagraph:

“(I) **REDISTRIBUTION OF UNUSED RESIDENT POSITIONS.**—

“(i) **REDUCTION IN LIMIT BASED ON UNUSED POSITIONS.**—

“(I) **IN GENERAL.**—If a hospital’s resident level (as defined in clause (iii)(I)) is less than the otherwise applicable resident limit (as

defined in clause (iii)(II) for each of the reference periods (as defined in subclause (II)), effective for cost reporting periods beginning on or after January 1, 2003, the otherwise applicable resident limit shall be reduced by 75 percent of the difference between such limit and the reference resident level specified in subclause (III) (or subclause (IV) if applicable).

“(II) REFERENCE PERIODS DEFINED.—In this clause, the term ‘reference periods’ means, for a hospital, the 3 most recent consecutive cost reporting periods of the hospital for which cost reports have been settled (or, if not, submitted) on or before September 30, 2001.

“(III) REFERENCE RESIDENT LEVEL.—Subject to subclause (IV), the reference resident level specified in this subclause for a hospital is the highest resident level for the hospital during any of the reference periods.

“(IV) ADJUSTMENT PROCESS.—Upon the timely request of a hospital, the Secretary may adjust the reference resident level for a hospital to be the resident level for the hospital for the cost reporting period that includes July 1, 2002.

“(ii) REDISTRIBUTION.—

“(I) IN GENERAL.—The Secretary is authorized to increase the otherwise applicable resident limits for hospitals by an aggregate number estimated by the Secretary that does not exceed the aggregate reduction in such limits attributable to clause (i) (without taking into account any adjustment under subclause (IV) of such clause).

“(II) EFFECTIVE DATE.—No increase under subclause (I) shall be permitted or taken into account for a hospital for any portion of a cost reporting period that occurs before July 1, 2003, or before the date of the hospital's application for an increase under this clause. No such increase shall be permitted for a hospital unless the hospital has applied to the Secretary for such increase by December 31, 2004.

“(III) CONSIDERATIONS IN REDISTRIBUTION.—In determining for which hospitals the increase in the otherwise applicable resident limit is provided under subclause (I), the Secretary shall take into account the need for such an increase by specialty and location involved, consistent with subclause (IV).

“(IV) PRIORITY FOR RURAL AND SMALL URBAN AREAS.—In determining for which hospitals and residency training programs an increase in the otherwise applicable resident limit is provided under subclause (I), the Secretary shall first distribute the increase to programs of hospitals located in rural areas or in urban areas that are not large urban areas (as defined for purposes of subsection (d)) on a first-come-first-served basis (as determined by the Secretary) based on a demonstration that the hospital will fill the positions made available under this clause and not to exceed an increase of 25 full-time equivalent positions with respect to any hospital.

“(V) APPLICATION OF LOCALITY ADJUSTED NATIONAL AVERAGE PER RESIDENT AMOUNT.—With respect to additional residency positions in a hospital attributable to the increase provided under this clause, notwithstanding any other provision of this subsection, the approved FTE resident amount is deemed to be equal to the locality adjusted national average per resident amount computed under subparagraph (E) for that hospital.

“(VI) CONSTRUCTION.—Nothing in this clause shall be construed as permitting the redistribution of reductions in residency positions attributable to voluntary reduction

programs under paragraph (6) or as affecting the ability of a hospital to establish new medical residency training programs under subparagraph (H).

“(iii) RESIDENT LEVEL AND LIMIT DEFINED.—In this subparagraph:

“(I) RESIDENT LEVEL.—The term ‘resident level’ means, with respect to a hospital, the total number of full-time equivalent residents, before the application of weighting factors (as determined under this paragraph), in the fields of allopathic and osteopathic medicine for the hospital.

“(II) OTHERWISE APPLICABLE RESIDENT LIMIT.—The term ‘otherwise applicable resident limit’ means, with respect to a hospital, the limit otherwise applicable under subparagraphs (F)(i) and (H) on the resident level for the hospital determined without regard to this subparagraph.”

(b) NO APPLICATION OF INCREASE TO IME.—Section 1886(d)(5)(B)(v) (42 U.S.C. 1395ww(d)(5)(B)(v)) is amended by adding at the end the following: “The provisions of clause (i) of subparagraph (I) of subsection (h)(4) shall apply with respect to the first sentence of this clause in the same manner as it applies with respect to subparagraph (F) of such subsection, but the provisions of clause (ii) of such subparagraph shall not apply.”

(c) REPORT ON EXTENSION OF APPLICATIONS UNDER REDISTRIBUTION PROGRAM.—Not later than July 1, 2004, the Secretary shall submit to Congress a report containing recommendations regarding whether to extend the deadline for applications for an increase in resident limits under section 1886(h)(4)(I)(ii)(II) of the Social Security Act (as added by subsection (a)).

SEC. 612. INCREASING FOR 5 YEARS TO 100 PERCENT OF THE LOCALITY ADJUSTED NATIONAL AVERAGE PER RESIDENT AMOUNT THE PAYMENT FLOOR FOR DIRECT GRADUATE MEDICAL EDUCATION PAYMENTS UNDER THE MEDICARE PROGRAM.

Section 1886(h)(2)(D)(iii) (42 U.S.C. 1395ww(h)(2)(D)(iii)), as amended by section 511 of BIPA, is amended—

(1) by striking “and” after “70 percent.”;

(2) by inserting after “85 percent,” the following: “and for cost reporting periods beginning during the period beginning on October 1, 2002, and ending on September 31, 2007, shall not be less than 100 percent.”

Subtitle C—Other Provisions

SEC. 621. MODIFICATIONS TO MEDICARE PAYMENT ADVISORY COMMISSION (MEDPAC).

(a) EXAMINATION OF BUDGET CONSEQUENCES.—Section 1805(b) (42 U.S.C. 1395b-6(b)) is amended by adding at the end the following new paragraph:

“(8) EXAMINATION OF BUDGET CONSEQUENCES.—Before making any recommendations, the Commission shall examine the budget consequences of such recommendations, directly or through consultation with appropriate expert entities.”

(b) CONSIDERATION OF EFFICIENT PROVISION OF SERVICES.—Section 1805(b)(2)(B)(i) (42 U.S.C. 1395b-6(b)(2)(B)(i)) is amended by inserting “the efficient provision of” after “expenditures for”.

(c) ADDITIONAL REPORTS.—

(1) DATA NEEDS AND SOURCES.—The Medicare Payment Advisory Commission shall conduct a study, and submit a report to Congress by not later than June 1, 2003, on the need for current data, and sources of current data available, to determine the solvency and financial circumstances of hospitals and other Medicare providers of services. The

Commission shall examine data on uncompensated care, as well as the share of uncompensated care accounted for by the expenses for treating illegal aliens.

(2) USE OF TAX-RELATED RETURNS.—Using return information provided under Form 990 of the Internal Revenue Service, the Commission shall submit to Congress, by not later than June 1, 2003, a report on the following:

(A) Investments and capital financing of hospitals participating under the Medicare program and related foundations.

(B) Access to capital financing for private and for not-for-profit hospitals.

SEC. 622. DEMONSTRATION PROJECT FOR DISEASE MANAGEMENT FOR CERTAIN MEDICARE BENEFICIARIES WITH DIABETES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a demonstration project under this section (in this section referred to as the “project”) to demonstrate the impact on costs and health outcomes of applying disease management to certain Medicare beneficiaries with diagnosed diabetes. In no case may the number of participants in the project exceed 30,000 at any time.

(b) VOLUNTARY PARTICIPATION.—

(1) ELIGIBILITY.—Medicare beneficiaries are eligible to participate in the project only if—

(a) they are Hispanic, as determined by the Secretary;

(A) they meet specific medical criteria demonstrating the appropriate diagnosis and the advanced nature of their disease;

(B) their physicians approve of participation in the project; and

(C) they are not enrolled in a Medicare+Choice plan.

(2) BENEFITS.—A Medicare beneficiary who is enrolled in the project shall be eligible—

(A) for disease management services related to their diabetes; and

(B) for payment for all costs for prescription drugs without regard to whether or not they relate to the diabetes, except that the project may provide for modest cost-sharing with respect to prescription drug coverage.

(c) CONTRACTS WITH DISEASE MANAGEMENT ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall carry out the project through contracts with up to three disease management organizations. The Secretary shall not enter into such a contract with an organization unless the organization demonstrates that it can produce improved health outcomes and reduce aggregate Medicare expenditures consistent with paragraph (2).

(2) CONTRACT PROVISIONS.—Under such contracts—

(A) such an organization shall be required to provide for prescription drug coverage described in subsection (b)(2)(B);

(B) such an organization shall be paid a fee negotiated and established by the Secretary in a manner so that (taking into account savings in expenditures under parts A and B of the Medicare program under title XVIII of the Social Security Act) there will be no net increase, and to the extent practicable, there will be a net reduction in expenditures under the Medicare program as a result of the project; and

(C) such an organization shall guarantee, through an appropriate arrangement with a reinsurance company or otherwise, the prohibition on net increases in expenditures described in subparagraph (B).

(3) **PAYMENTS.**—Payments to such organizations shall be made in appropriate proportion from the Trust Funds established under title XVIII of the Social Security Act.

(4) **WORKING GROUP.**—The Secretary shall establish within the Department of Health and Human Services a working group consisting of employees of the Department to carry out the following:

(A) To oversee the project.

(B) To establish policy and criteria for medicare disease management programs within the Department, including the establishment of policy and criteria for such programs.

(C) To identify targeted medical conditions and targeted individuals.

(D) To select areas in which such programs are carried out.

(E) To monitor health outcomes under such programs.

(F) To measure the effectiveness of such programs in meeting any budget neutrality requirements.

(G) Otherwise to serve as a central focal point within the Department for dissemination of information on medicare disease management programs.

(d) **APPLICATION OF MEDIGAP PROTECTIONS TO DEMONSTRATION PROJECT ENROLLEES.**—(1) Subject to paragraph (2), the provisions of section 1882(s)(3) (other than clauses (i) through (iv) of subparagraph (B)) and 1882(s)(4) of the Social Security Act shall apply to enrollment (and termination of enrollment) in the demonstration project under this section, in the same manner as they apply to enrollment (and termination of enrollment) with a Medicare+Choice organization in a Medicare+Choice plan.

(2) In applying paragraph (1)—

(A) any reference in clause (v) or (vi) of section 1882(s)(3)(B) of such Act to 12 months is deemed a reference to the period of the demonstration project; and

(B) the notification required under section 1882(s)(3)(D) of such Act shall be provided in a manner specified by the Secretary of Health and Human Services.

(e) **DURATION.**—The project shall last for not longer than 3 years.

(f) **WAIVER.**—The Secretary of Health and Human Services shall waive such provisions of title XVIII of the Social Security Act as may be necessary to provide for payment for services under the project in accordance with subsection (c)(3).

(g) **REPORT.**—The Secretary of Health and Human Services shall submit to Congress an interim report on the project not later than 2 years after the date it is first implemented and a final report on the project not later than 6 months after the date of its completion. Such reports shall include information on the impact of the project on costs and health outcomes and recommendations on the cost-effectiveness of extending or expanding the project.

(h) **GAO STUDY ON DISEASE MANAGEMENT PROGRAMS.**—The Comptroller General of the United States shall conduct a study that compares disease management programs under title XVIII of the Social Security Act with such programs conducted in the private sector, including the prevalence of such programs and programs for case management. The study shall identify the cost-effectiveness of such programs and any savings achieved by such programs. The Comptroller General shall submit a report on such study to Congress by not later than 18 months after the date of the enactment of this Act.

SEC. 623. DEMONSTRATION PROJECT FOR MEDICAL ADULT DAY CARE SERVICES.

(a) **ESTABLISHMENT.**—Subject to the succeeding provisions of this section, the Sec-

retary of Health and Human Services shall establish a demonstration project (in this section referred to as the “demonstration project”) under which the Secretary shall, as part of a plan of an episode of care for home health services established for a medicare beneficiary, permit a medical adult day care facility or a home health agency, directly or under arrangements with a medical adult day care facility, to provide medical adult day care services as a substitute for a portion of home health services that would otherwise be provided in the beneficiary’s home.

(b) **PAYMENT.**—

(1) **IN GENERAL.**—The amount of payment for an episode of care for home health services, a portion of which consists of substitute medical adult day care services, under the demonstration project shall be made at a rate equal to 95 percent of the amount that would otherwise apply for such home health services under section 1895 of the Social Security Act (42 U.S.C. 1395ff). In no case may a medical adult day care facility or home health agency, or a medical adult day care facility under arrangements with a home health agency, separately charge a beneficiary for medical adult day care services furnished under the plan of care.

(2) **BUDGET NEUTRALITY FOR DEMONSTRATION PROJECT.**—Notwithstanding any other provision of law, the Secretary shall provide for an appropriate reduction in the aggregate amount of additional payments made under section 1895 of the Social Security Act (42 U.S.C. 1395ff) to reflect any increase in amounts expended from the Trust Funds as a result of the demonstration project conducted under this section.

(c) **DEMONSTRATION PROJECT SITES.**—The project established under this section shall be conducted in not more than 5 sites in States selected by the Secretary that license or certify providers of services that furnish medical adult day care services.

(d) **DURATION.**—The Secretary shall conduct the demonstration project for a period of 3 years.

(e) **VOLUNTARY PARTICIPATION.**—Participation of medicare beneficiaries in the demonstration project shall be voluntary. The total number of such beneficiaries that may participate in the project at any given time may not exceed 15,000.

(f) **PREFERENCE IN SELECTING AGENCIES.**—In selecting medical adult day care facilities and home health agencies to participate under the demonstration project, the Secretary shall give preference to those facilities and agencies that—

(1) are currently licensed or certified to furnish medical adult day care services; and

(2) have furnished medical adult day care services to medicare beneficiaries for a continuous 2-year period before the beginning of the demonstration project.

(g) **WAIVER AUTHORITY.**—The Secretary may waive such requirements of title XVIII of the Social Security Act as may be necessary for the purposes of carrying out the demonstration project, other than waiving the requirement that an individual be homebound in order to be eligible for benefits for home health services.

(h) **EVALUATION AND REPORT.**—The Secretary shall conduct an evaluation of the clinical and cost effectiveness of the demonstration project. Not later 30 months after the commencement of the project, the Secretary shall submit to Congress a report on the evaluation, and shall include in the report the following:

(1) An analysis of the patient outcomes and costs of furnishing care to the medicare

beneficiaries participating in the project as compared to such outcomes and costs to beneficiaries receiving only home health services for the same health conditions.

(2) Such recommendations regarding the extension, expansion, or termination of the project as the Secretary determines appropriate.

(i) **DEFINITIONS.**—In this section:

(1) **HOME HEALTH AGENCY.**—The term “home health agency” has the meaning given such term in section 1861(o) of the Social Security Act (42 U.S.C. 1395x(o)).

(2) **MEDICAL ADULT DAY CARE FACILITY.**—The term “medical adult day care facility” means a facility that—

(A) has been licensed or certified by a State to furnish medical adult day care services in the State for a continuous 2-year period;

(B) is engaged in providing skilled nursing services and other therapeutic services directly or under arrangement with a home health agency;

(C) meets such standards established by the Secretary to assure quality of care and such other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the facility; and

(D) provides medical adult day care services.

(3) **MEDICAL ADULT DAY CARE SERVICES.**—The term “medical adult day care services” means—

(A) home health service items and services described in paragraphs (1) through (7) of section 1861(m) furnished in a medical adult day care facility;

(B) a program of supervised activities furnished in a group setting in the facility that—

(i) meet such criteria as the Secretary determines appropriate; and

(ii) is designed to promote physical and mental health of the individuals; and

(C) such other services as the Secretary may specify.

(4) **MEDICARE BENEFICIARY.**—The term “medicare beneficiary” means an individual entitled to benefits under part A of this title, enrolled under part B of this title, or both.

SEC. 624. PUBLICATION ON FINAL WRITTEN GUIDANCE CONCERNING PROHIBITIONS AGAINST DISCRIMINATION BY NATIONAL ORIGIN WITH RESPECT TO HEALTH CARE SERVICES.

Not later than January 1, 2003, the Secretary shall issue final written guidance concerning the application of the prohibition in title VI of the Civil Rights Act of 1964 against national origin discrimination as it affects persons with limited English proficiency with respect to access to health care services under the medicare program.

TITLE VII—MEDICAID AND OTHER HEALTH PROVISIONS

SEC. 701. DSH PROVISIONS.

(a) **CONTINUATION OF MEDICAID DSH ALLOTMENT ADJUSTMENTS UNDER BIPA 2000.**—

(1) **IN GENERAL.**—Section 1923(f) (42 U.S.C. 1396r-4(f))—

(A) in paragraph (2)—

(i) in the heading, by striking “THROUGH 2002” and inserting “THROUGH 2000”;

(ii) by striking “ending with fiscal year 2002” and inserting “ending with fiscal year 2000”; and

(iii) in the table in such paragraph, by striking the columns labeled “FY01” and “FY02”;

(B) in paragraph (3)(A), by striking “paragraph (2)” and inserting “paragraph (4)”; and

(C) in paragraph (4), as added by section 701(a)(1) of BIPA—

(i) by striking "FOR FISCAL YEARS 2001 AND 2002" in the heading;

(ii) in subparagraph (A), by striking "Notwithstanding paragraph (2), the" and inserting "The";

(iii) in subparagraph (C)—

(I) by striking "No APPLICATION" and inserting "APPLICATION"; and

(II) by striking "without regard to" and inserting "taking into account".

(2) INCREASE IN MEDICAID DSH ALLOTMENT FOR THE DISTRICT OF COLUMBIA.—

(A) IN GENERAL.—Effective for DSH allotments beginning with fiscal year 2002, the item in the table contained in section 1923(f)(2) of the Social Security Act (42 U.S.C. 1396r-4(f)(2)) for the District of Columbia for the DSH allotment for FY 00 (fiscal year 2000) is amended by striking "32" and inserting "49".

(B) CONSTRUCTION.—Nothing in subparagraph (A) shall be construed as preventing the application of section 1923(f)(4) of the Social Security Act (as amended by subsection (a)) to the District of Columbia for fiscal year 2002 and subsequent fiscal years.

(b) INCREASE IN FLOOR FOR TREATMENT AS AN EXTREMELY LOW DSH STATE TO 3 PERCENT IN FISCAL YEAR 2002.—

(1) INCREASE IN DSH FLOOR.—Section 1923(f)(5) (42 U.S.C. 1396r-4(f)(5)) is amended—

(A) by striking "fiscal year 1999" and inserting "fiscal year 2001";

(B) by striking "August 31, 2000" and inserting "August 31, 2002";

(C) by striking "1 percent" each place it appears and inserting "3 percent"; and

(D) by striking "fiscal year 2001" and inserting "fiscal year 2003".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on October 1, 2002, and apply to DSH allotments under title XIX of the Social Security Act for fiscal year 2003 and each fiscal year thereafter.

SEC. 702. 1-YEAR EXTENSION OF Q-11 PROGRAM.

Section 1902(a)(10)(E)(iv) (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended by striking "2002" and inserting "2003".

Mr. GEPHARDT (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD. The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. NUSSLE. Mr. Speaker, I reserve all points of order against this motion, and I object to the unanimous consent request to dispense with the reading.

The SPEAKER pro tempore. The Clerk will continue to read.

The Clerk continued the reading of the motion to recommit.

□ 0130

Mr. GEPHARDT (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. THORNBERRY). Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. TAUZIN. Mr. Speaker, I claim the time in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. GEPHARDT) is recognized for 5 minutes in support of his motion.

Mr. GEPHARDT. Mr. Speaker, I ask Members to vote "yes" on this motion to recommit and to vote "no" on the Republican plan.

I guess I would like to start tonight's debate with a question: Why did you not allow us to have an alternative to this drug plan? A Democratic House gave Republicans an alternative in 1965 when we debated Medicare. We represent 49 percent of the American people. This is one of the most important issues that we will vote on in this Congress, yet we are not afforded the opportunity to have a clean vote on a clear alternative. Are you afraid? Do you think that too many of Republican Members would vote for our plan?

This process tonight is not worthy of this House of Representatives. This is the people's House. Here the people must be heard. I am deeply disappointed that we were not afforded the opportunity for a clear alternative on this very, very important issue. This is an important issue to all the senior citizens of our country. The Greatest Generation that fought our wars, paid their taxes, raised their children, and made this country great, that Greatest Generation now is too often getting on buses and going to Canada or going to Mexico to get their prescription drugs at prices they can afford. They are making choices between food and taking their drugs. There are senior citizens tonight that are cutting their pills in half because they cannot afford to pay for a whole month's worth.

And tonight, those people are only afforded a vote on a flawed, deficient, wrong plan. If we stack that plan up against what these people are asking for, it fails. It fails. In fact, I would say it is a fraud. I give you what Webster called a fraud: a deception, deliberately practiced to secure unfair or unlawful gain. A piece of trickery. A trick.

The Republican plan has no set premium. They say it might be \$35. We are told in States where they have done what the Republicans are doing it is \$85. There is no defined benefit. Republicans are turning seniors over to the private insurance market.

This is the same debate that we had in 1965. This is a replay of that debate. If this were 1965, we would not have dreamed of having a Medicare program without a prescription drug benefit. Prescription drugs are now the treatment for most maladies that people face. Why would we not just add this benefit to the Medicare program? Our plan that is in the motion to recommit is simple. It is Medicare: \$100 deductible, \$25 premium. The government pays 80 percent of the drug cost. The recipient pays 20 percent, and when they hit \$2,000 out of pocket, the government picks it all up.

This is what seniors are asking for. They are not asking to go into private insurance. They want a Medicare drug

benefit, and they want all the seniors to be amassed to get leverage to get the price of prescription drugs down, down, down.

□ 0145

In the end, I suspect many of you do not support Medicare. I suspect you still want to privatize it. Your plans for Social Security call for privatizing it. In 1965, Republicans predicted Medicare would lead to socialized medicine. One said, "If we pass Medicare, one day we will be telling our children what it was like in America when people were free." Your majority leader has said Medicare is a program that I would have no part of in a free world. He said he deeply resented the fact that when he was 65 he would have to enroll in Medicare.

So you have reverted to form. In the end, this Republican bill listens not to the people of this country. It listens to the pharmaceutical companies and to the insurance companies and is not good for the people's House of Representatives. It should not be passed.

In closing, I would ask all of you to simply tonight think of the people you represent, people like my mother. She is 94 years old. She lives in St. Louis. Every time I go home, she asks me about what is going to happen with the cost of her drugs. She had a stroke about 5 years ago, and the doctor said she will probably never talk again; she will probably never be able to cook or to do household duties. She was able to get the drugs and she is back and she is talking. She is asking me every time I see her about what she is going to do about the cost of her drugs. She has glaucoma and she gets a little bitty bottle of drops that cost \$100 a bottle and lasts for 2 weeks. She is lucky. She has got my brother and me, and we send her the money every month so that she can get her drugs.

Think about the thousands of people in your district who are not as lucky as my mother. Think about them. Think about whether they can afford a premium more than \$25. Think about whether they can put up with benefits ending in the middle of the year when they cannot get their needed drugs. Think about them when you are not getting the price of drugs down so that they can afford to buy the drugs.

In 1965, this Congress took a historic step, and it passed the greatest program that this country has ever put together. It is the reason that people are living to 80 and 90 and 100 in this country with quality in their lives. We should honor that program tonight and expand it as it should have been many years ago. I am sure there were Members on that day or night in 1965 that voted against the Medicare program and regretted it through the rest of their career and their life. Do not regret your vote tonight. Stand for Medicare and stand for the American people that you represent.

The SPEAKER pro tempore (Mr. THORNBERRY). Any point of order to be reserved on the motion has now been withdrawn.

The Chair recognizes the gentleman from Louisiana (Mr. TAUZIN) for 5 minutes.

Mr. TAUZIN. Mr. Speaker, there is trickery about this place. There is fraud about this House. We could have a motion to recommit forthwith, but that is not what happened tonight. What happened tonight was a motion to recommit promptly. My friend, the chairman of Ways and Means, will explain in just a minute the trickery in that motion.

You see, that motion has a very special effect regarding this debate tonight and the possibility of us passing a prescription drug benefit for the seniors of America tonight. The gentleman from California will explain it to you in just a minute. But if we were to even consider the proposal offered in this motion to recommit seriously, it is almost identical, I believe, to the proposal that was made before the Committee on Energy and Commerce.

It has been scored by CBO now at \$971 billion, although our budget, as you know, allocated \$350 billion to this effort. It is more expensive than the plan prepared on the Senate side by Senator BOB GRAHAM. The BOB GRAHAM plan is estimated to drive Medicare into insolvency by the year 2016. Just imagine how much sooner Medicare goes bankrupt under the plan our friends on the other side are offering in the motion to recommit.

That is saving the Medicare program, driving it into bankruptcy? We are not alone in that assessment. The AARP looked at our plans, too; and this is what they said about ours: "We appreciate your efforts to contain drug costs, because a Medicare drug benefit alone without effective cost controls will be difficult to sustain as our growing population of older Americans increases its drug utilization."

Our assessment in the committee of this plan, believe it or not, actually raises drug prices to seniors. We asked CBO a simple question. We asked CBO if the Medicare Modernization and Prescription Drug Act before us that we presented to this House tonight would lower drug expenditures more than any other House bill introduced in the Congress and scored by CBO, and this is what they responded: "The answer to your question is yes." Yes, lower drug costs. Yes, prescription drug benefits for our seniors. Tonight, not promptly. Yes, it is time to pass this bill tonight for all our moms and dads.

Mr. Speaker, I yield to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. I thank the gentleman for yielding.

The gentleman from Missouri mentioned several times 1965; 1965 was 10 years before a Member of this Congress

was born, ADAM PUTNAM. For more than 30 of those 37 years, you were in the majority. You never put prescription drugs in Medicare. You had your chance. You never did. And your argument is that you have now in front of us a plan.

The gentleman from Missouri read a definition from Webster's. What my mother would have said, you should have washed your mouth out, because for you to cite the definition of fraud and call it trickery is for everyone to understand what this motion to recommit really is. It is a little word called "forthwith." If this motion had said Mr. GEPHARDT moves to recommit the bill forthwith, it would not have been fraud, and it would not have been trickery. But because that little word is missing and it requires it to be reported promptly, the effect of this motion to recommit is to kill this bill. All of the statements that the gentleman from Missouri made in the well were simply trickery, it was a fraud, because this bill cannot come back and be made law. You are wasting the House's time. Obviously, some of you do not understand the rules under which this House operates.

Mr. Speaker, had they had the guts to put "forthwith" in this motion to recommit, this bill would have come back to the floor, and we could have debated it. You did not put "forthwith" in it. Your motion to recommit is a motion to kill the bill.

Mr. WALDEN of Oregon. Mr. Speaker, the House is not in order. The gentleman deserves to be heard as was the minority leader.

The SPEAKER pro tempore. The House will be in order.

Mr. THOMAS. Actually, nobody deserves to be heard on this motion to recommit. It is 119 pages of nothing. The way you constructed it, knowingly and on purpose, was to pull a charade on seniors. Nothing in this bill will be available to seniors because you did not put a little word in there, a word that would have proved honesty, a word that would have proved courage, a word that would have let seniors know—

Mr. TAUZIN. Mr. Speaker, the House is not in order.

Mr. Speaker, we listened very patiently to the minority leader. I believe the gentleman deserves to be heard.

The SPEAKER pro tempore. The time in opposition to the motion to recommit has expired.

Mr. THOMAS. Mr. Speaker, I urge my colleagues to vote "no" on the motion to recommit.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. DINGELL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 204, noes 223, not voting 8, as follows:

[Roll No. 281]

AYES—204

Abercrombie	Hall (OH)	Moran (VA)
Ackerman	Hall (TX)	Murtha
Allen	Harman	Nadler
Andrews	Hastings (FL)	Napolitano
Baca	Hill	Neal
Baird	Hilliard	Oberstar
Baldacci	Hinche	Obey
Baldwin	Hinojosa	Olver
Barcia	Hoeffel	Ortiz
Barrett	Holden	Owens
Becerra	Holt	Pallone
Bentsen	Honda	Pascarell
Berkley	Hooley	Pastor
Berman	Hoyer	Payne
Berry	Inlee	Pelosi
Bishop	Israel	Peterson (MN)
Blagojevich	Jackson (IL)	Phelps
Blumenauer	Jackson-Lee	Pomeroy
Bonior	(TX)	Price (NC)
Borski	John	Rahall
Boswell	Johnson, E.B.	Rangel
Boucher	Jones (OH)	Reyes
Boyd	Kanjorski	Rivers
Brady (PA)	Kaptur	Rodriguez
Brown (FL)	Kennedy (RI)	Ross
Brown (OH)	Kildee	Rothman
Capps	Kilpatrick	Roybal-Allard
Capuano	Kind (WI)	Rush
Cardin	Klecza	Sabo
Carson (IN)	Kucinich	Sanchez
Carson (OK)	LaFalce	Sanders
Clayton	Lampson	Sandlin
Clement	Langevin	Sawyer
Clyburn	Lantos	Schakowsky
Condit	Larsen (WA)	Schiff
Conyers	Larson (CT)	Scott
Costello	Lee	Serrano
Coyne	Levin	Sherman
Cramer	Lewis (GA)	Shows
Crowley	Lipinski	Skelton
Cummings	Lofgren	Slaughter
Davis (CA)	Lowe	Smith (WA)
Davis (FL)	Lucas (KY)	Snyder
Davis (IL)	Luther	Solis
DeFazio	Lynch	Spratt
DeGette	Maloney (CT)	Stark
Delahunt	Maloney (NY)	Stenholm
DeLauro	Markey	Strickland
Deutsch	Mascara	Stupak
Dicks	Matheson	Tanner
Dingell	Matsui	Tauscher
Doggett	McCarthy (MO)	Thompson (CA)
Dooley	McCarthy (NY)	Thurman
Doyle	McCollum	Tierney
Edwards	McDermott	Turner
Engel	McGovern	Udall (CO)
Eshoo	McIntyre	Udall (NM)
Etheridge	McKinney	Velázquez
Evans	McNulty	Visclosky
Farr	Meehan	Waters
Fattah	Meek (FL)	Watson (CA)
Filner	Meeks (NY)	Watt (NC)
Ford	Menendez	Waxman
Frank	Millender-McDonald	Weiner
Frost	Miller, George	Wexler
Gephardt	Mink	Woolsey
Gonzalez	Mollohan	Wu
Gordon	Moore	Wynn
Green (TX)		

NOES—223

Aderholt	Bilirakis	Buyer
Akin	Blunt	Callahan
Armey	Boehert	Calvert
Bachus	Boehner	Camp
Baker	Bonilla	Cannon
Ballenger	Bono	Cantor
Barr	Boozman	Capito
Bartlett	Brady (TX)	Castle
Barton	Brown (SC)	Chabot
Bass	Bryant	Chambliss
Bereuter	Burr	Coble
Biggert	Burton	Collins

Combest	Hyde	Reynolds	[Roll No. 282]	Dicks	LaFalce	Price (NC)
Cooksey	Isakson	Riley		Dingell	Lampson	Rahall
Cox	Issa	Roemer		Doggett	Langevin	Rangel
Crane	Istook	Rogers (KY)	AYES—221	Dooley	Lantos	Reyes
Crenshaw	Jenkins	Rogers (MI)		Doyle	Larsen (WA)	Rivers
Cubin	Johnson (CT)	Rohrabacher		Edwards	Larson (CT)	Rodriguez
Culberson	Johnson (IL)	Ros-Lehtinen		Emerson	Lee	Roemer
Cunningham	Johnson, Sam	Royce		Engel	Levin	Ross
Davis, Jo Ann	Jones (NC)	Ryan (WI)		Eshoo	Lewis (GA)	Rothman
Davis, Tom	Keller	Ryun (KS)		Etheridge	Lipinski	Roybal-Allard
Deal	Kelly	Saxton		Evans	Lofgren	Rush
DeLay	Kennedy (MN)	Schaffer		Farr	Lowey	Sabo
DeMint	Kerns	Schrock		Fattah	Luther	Sanchez
Diaz-Balart	King (NY)	Sensenbrenner		Filner	Lynch	Sanders
Doolittle	Kingston	Sessions		Flake	Maloney (NY)	Sandlin
Dreier	Kirk	Shadegg		Ford	Manzullo	Sawyer
Duncan	Knollenberg	Shaw		Frank	Markey	Schakowsky
Dunn	Kolbe	Shays		Frost	Mascara	Schiff
Ehlers	LaHood	Sherwood		Gephardt	Matsui	Scott
Ehrlich	Latham	Shimkus		Gonzalez	McCarthy (MO)	Serrano
Emerson	LaTourette	Shuster		Gordon	McCarthy (NY)	Sherman
English	Leach	Simmons		Green (TX)	McCollum	Shows
Everett	Lewis (CA)	Simpson		Gutierrez	McDermott	Skelton
Ferguson	Lewis (KY)	Skeen		Gutknecht	McGovern	Slaughter
Flake	Linder	Smith (MI)		Hall (OH)	McIntyre	Smith (MI)
Fletcher	LoBiondo	Smith (NJ)		Harman	McKinney	Smith (WA)
Foley	Lucas (OK)	Smith (TX)		Hastings (FL)	McNulty	Snyder
Forbes	Manzullo	Souder		Hill	Meehan	Solis
Fossella	McCrery	Stearns		Hilliard	Meek (FL)	Spratt
Frelinghuysen	McHugh	Stump		Hinchee	Meeks (NY)	Stark
Gallegly	McInnis	Sullivan		Hinojosa	Menendez	Stenholm
Ganske	McKeon	Tancredo		Hoeffel	Millender-	Strickland
Gekas	Mica	Tauzin		Holden	McDonald	Stupak
Gibbons	Miller, Dan	Taylor (MS)		Holt	Miller, George	Tanner
Gilchrest	Miller, Gary	Taylor (NC)		Honda	Mink	Tauscher
Gillmor	Miller, Jeff	Terry		Hooley	Mollohan	Taylor (MS)
Gilman	Moran (KS)	Thomas		Hostettler	Moore	Thompson (CA)
Goode	Morella	Thornberry		Hoyer	Moran (VA)	Thompson (MS)
Goodlatte	Myrick	Thune		Inslee	Murtha	Thurman
Goss	Nethercutt	Tiahrt		Istook	Nadler	Tierney
Graham	Ney	Tiberi		Jackson (IL)	Napolitano	Turner
Granger	Northup	Toomey		Jackson-Lee	Neal	Udall (CO)
Graves	Norwood	Upton		(TX)	Oberstar	Udall (NM)
Green (WI)	Nussle	Vitter		John	Obey	Velázquez
Greenwood	Osborne	Walsh		Johnson, E.B.	Olver	Visclosky
Grucci	Ose	Walden		Jones (OH)	Ortiz	Waters
Gutknecht	Oxley	Walsh		Kanjorski	Owens	Watson (CA)
Hansen	Pence	Wamp		Kaptur	Pallone	Watt (NC)
Hart	Peterson (PA)	Watkins (OK)		Kennedy (RI)	Pascarell	Waxman
Hastert	Petri	Watts (OK)		Kildee	Pastor	Weiner
Hastings (WA)	Pickering	Weldon (FL)		Kilpatrick	Payne	Wexler
Hayes	Pitts	Weldon (PA)		Kind (WI)	Pelosi	Woolsey
Hayworth	Platts	Weller		Kleczka	Phelps	Wu
Hefley	Pombo	Whitfield		Kucinich	Pomeroy	Wynn
Herger	Portman	Wicker				
Hilleary	Pryce (OH)	Wilson (NM)				
Hobson	Putnam	Wilson (SC)				
Hoekstra	Quinn	Wolf				
Horn	Radanovich	Young (AK)				
Hostettler	Ramstad	Young (FL)				
Houghton	Regula					
Hulshof	Rehberg					
Hunter						

NOT VOTING—8

Clay	Paul	Towns
Gutierrez	Roukema	Traficant
Jefferson	Thompson (MS)	

□ 0215

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. THORNBERRY.) The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. PALLONE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 221, noes 208, not voting 6, as follows:

Abercrombie	Blagojevich	Clyburn
Ackerman	Blumenauer	Collins
Allen	Bonior	Conyers
Andrews	Borski	Costello
Baca	Boucher	Coyne
Baird	Boyd	Cramer
Baldacci	Brady (PA)	Crowley
Baldwin	Brown (FL)	Cummings
Barcia	Brown (OH)	Davis (CA)
Barrett	Capps	Davis (FL)
Becerra	Capuano	Davis (IL)
Bentsen	Cardin	DeFazio
Berkley	Carson (IN)	DeGette
Berman	Carson (OK)	DeLauro
Berry	Clayton	Deutsch
Bishop	Clement	

NOES—208

NOT VOTING—6

Clay	Paul	Towns
Jefferson	Roukema	Traficant

□ 0232

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SUPPORT OF AMERICAN EAGLE SILVER BULLION PROGRAM ACT

Mr. TIBERI. Mr. Speaker, I ask unanimous consent that the Committee on Financial Services be discharged from further consideration of the Senate bill (S. 2594) to authorize the Secretary of the Treasury to purchase silver on the open market when the silver stockpile is depleted, to be used to mint coins, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. THORNBERRY). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2594

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Support of American Eagle Silver Bullion Program Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the American Eagle Silver Bullion coin leads the global market, and is the largest and most popular silver coin program in the United States;

(2) established in 1986, the American Eagle Silver Bullion Program is the most successful silver bullion program in the world;

(3) from fiscal year 1995 through fiscal year 2001, the American Eagle Silver Bullion Program generated—

(A) revenues of \$264,100,000; and

(B) sufficient profits to significantly reduce the national debt;

(4) with the depletion of silver reserves in the Defense Logistic Agency's Strategic and Critical Materials Stockpile, it is necessary for the Department of the Treasury to acquire silver from other sources in order to preserve the American Eagle Silver Bullion Program;

(5) with the ability to obtain silver from other sources, the United States Mint can continue the highly successful American Eagle Silver Bullion Program, exercising sound business judgment and market acquisition practices in its approach to the silver market, resulting in continuing profitability of the program;

(6) in 2001, silver was commercially produced in 12 States, including, Alaska, Arizona, California, Colorado, Idaho, Missouri, Montana, Nevada, New Mexico, South Dakota, Utah, and Washington;

(7) Nevada is the largest silver producing State in the Nation, producing—

(A) 17,500,000 ounces of silver in 2001; and

(B) 34 percent of United States silver production in 2000;

(8) the mining industry in Idaho is vital to the economy of the State, and the Silver Valley in northern Idaho leads the world in recorded silver production, with over 1,100,000,000 ounces of silver produced between 1884 and 2001;

(9) the largest, active silver producing mine in the Nation is the McCoy/Cove Mine in Nevada, which produced more than 107,000,000 ounces of silver between 1989 and 2001;

(10) the mining industry in Idaho—

(A) employs more than 3,000 people;

(B) contributes more than \$900,000,000 to the Idaho economy; and

(C) produces \$70,000,000 worth of silver per year;

(11) the silver mines of the Comstock lode, the premier silver producing deposit in Nevada, brought people and wealth to the region, paving the way for statehood in 1864, and giving Nevada its nickname as "the Silver State";

(12) mines in the Silver Valley—

(A) represent an important part of the mining history of Idaho and the United States; and

(B) have served in the past as key components of the United States war effort; and

(13) silver has been mined in Nevada throughout its history, with every significant metal mining camp in Nevada producing some silver.

SEC. 3. PURCHASE OF SILVER BY THE SECRETARY OF THE TREASURY.

(a) PURCHASE OF SILVER.—

(1) IN GENERAL.—Section 5116(b)(2) of title 31, United States Code, is amended by inserting after the second sentence the following:

"At such time as the silver stockpile is depleted, the Secretary shall obtain silver as described in paragraph (1) to mint coins authorized under section 5112(e). If it is not economically feasible to obtain such silver, the Secretary may obtain silver for coins authorized under section 5112(e) from other available sources. The Secretary shall not pay more than the average world price for silver under any circumstances. As used in this paragraph, the term 'average world price' means the price determined by a widely recognized commodity exchange at the time the silver is obtained by the Secretary."

(2) RULEMAKING AUTHORITY.—The Secretary of the Treasury shall issue regulations to implement the amendments made by paragraph (1).

(b) STUDY REQUIRED.—

(1) STUDY.—The Secretary of the Treasury shall conduct a study of the impact on the United States silver market of the American Eagle Silver Bullion Program, established under section 5112(e) of title 31, United States Code.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall submit a report of the study conducted under paragraph (1) to the chairman and ranking minority member of—

(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(B) the Committee on Financial Services of the House of Representatives.

(c) ANNUAL REPORT.—

(1) IN GENERAL.—The Director of the United States Mint shall prepare and submit to Congress an annual report on the purchases of silver made pursuant to this Act and the amendments made by this Act.

(2) CONCURRENT SUBMISSION.—The report required by paragraph (1) may be incorporated into the annual report of the Director of the United States Mint on the operations of the mint and assay offices, referred to in section 1329 of title 44, United States Code.

Mr. OXLEY. Mr. Speaker, I rise today in support of S. 2594, the Support of American Eagle Silver Bullion Program Act.

The language is identical to language introduced in the House by the gentleman from Idaho, Mr. OTTER, as H.R. 4971, and virtually identical to language passed 417-1 by the House Tuesday in H.R. 4846, a larger bill authored by the gentleman from Oklahoma, Mr. LUCAS.

Mr. Speaker, the American Silver Eagle coin program is the most successful silver bullion coin program in the world. Since its introduction in 1983, nearly 115 million of the one-ounce silver coins have been sold. The coin now controls roughly 80 percent of the silver bullion coin market in the world.

The silver for the coin is .999 fine, much more pure than the old "cartwheel" silver dollars, such as the Morgan dollar, that used to be issued by the United States and which were 90 percent pure.

Silver for the coin has come since the coin's inception from the United States strategic stockpile of silver, as mandated in law. However, a decade ago Congress, noting reduced need, ordered that stockpile and several others sold off, and earlier this month the last of the stockpile was delivered to processors for

refining and to be turned into the blanks from which the coins eventually will be struck. While the United States Mint will have adequate coin blanks to meet demand for several weeks yet, I am told the refiners will have to start layoffs of key staff shortly after the Fourth of July if this legislation is not immediately passed and sent to the President.

Mr. Speaker, the silver industry is important to the economy of the United States, and preservation of jobs is an important goal of the Financial Services Committee, especially as this Nation's economy comes out of the doldrums in which it has stood for more than a year. To that end I believe we must pass this legislation and do so quickly, and I ask its immediate approval.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TIBERI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and insert extraneous material on S. 2594, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore. Pursuant to House Resolution 461, the Chair lays before the House the following Senate concurrent resolution:

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 125

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, June 27, 2002, or Friday, June 28, 2002, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until 12:00 noon on Monday, July 8, 2002, or until such other time on that day as may be specified in the motion to recess or adjourn, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Thursday, June 27, 2002, Friday, June 28, 2002, or Saturday, June 29, 2002, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2:00 p.m. on Monday, July 8, 2002, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate

whenever, in their opinion, the public interest shall warrant it.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

HOUR OF MEETING ON TUESDAY, JULY 9, 2002

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, July 8, 2002, it adjourn to meet at 10:30 a.m. on Tuesday, July 9, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JULY 10, 2002

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, July 10, 2002.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING THE SPEAKER, THE MAJORITY LEADER, AND THE MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE AP- POINTMENTS NOTWITHSTANDING ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Monday, July 8, 2002, the Speaker, majority leader, and minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF HON. WAYNE T. GILCHREST OR HON. TOM DAVIS OF VIRGINIA TO ACT AS SPEAKER PRO TEMPORE TO SIGN EN- ROLLED BILLS AND JOINT RESO- LUTIONS THROUGH JULY 8, 2002

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,

June 27, 2002.

I hereby appoint the Honorable WAYNE T. GILCHREST or, if not available to perform this duty, the Honorable TOM DAVIS to act as Speaker pro tempore to sign enrolled bills and joint resolutions through July 8, 2002.

J. DENNIS HASTERT,

Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is agreed to.

There was no objection.

REVISIONS TO THE 302(a) ALLOCA- TIONS TO PERMIT THE CONSID- ERATION OF H.R. 4954, THE MEDI- CARE MODERNIZATION AND PRE- SCRIPTION DRUG ACT OF 2002

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. NUSSLE) is recognized for 5 minutes.

Mr. NUSSLE. Mr. Speaker, pursuant to section 202 of H. Con. Res. 353, the concurrent resolution on the Budget for Fiscal Year 2003, I am submitting revisions to the 302(a) allocations to permit the consideration of H.R. 4954, the Medicare Modernization and Prescription Drug Act of 2002.

Under section 231(d) of H. Con. Res. 353 a separate 302(a) allocation was established for legislation providing a prescription drug benefit, Medicare modernization, and various adjustments for the Medicare program. Section 202 of that resolution permits the chairman of the Budget Committee to increase this allocation for both budget authority and outlays by an amount not to exceed \$5 billion in fiscal year 2003 and \$350 billion over 10 years for such legislation.

H.R. 4954 establishes a prescription drug benefit in Medicare, adjust certain payments under Medicare, and modernizes Medicare through a Medicare+Choice Competition Program, regulatory reform and a prescription drug discount card. As reported by the Committee on Ways and Means and modified by H. Res. 465, the bill would provide for the Medicare policies delineated in section 202, \$4.650 billion in new budget authority and \$4.575 billion in outlays for fiscal year 2003. For the 10-year period of 2003 through 2012, this bill would provide \$347.270 billion in new budget authority and outlays for such policies.

Accordingly, I am revising the 302(a) allocation for Medicare policies for fiscal year 2003 by \$4.650 billion in new budget authority and \$4.575 billion in outlays and, for the period of fiscal years 2003 through 2012, by \$347.270 billion in new budget authority and outlays.

Pursuant to section 202 of H. Con. Res. 353, the concurrent resolution on the Budget for Fiscal Year 2003, I have adjusted the 302(a) allocation of new budget authority for Medicare (as printed in the CONGRESSIONAL RECORD on May 22, 2002) by \$4.650 billion in additional budget authority for fiscal year 2003 and by \$347.270 billion in additional budget authority for the period of 2003 through 2012.

Under the special rule set forth in section 231(d) of H. Con. Res. 353, the applicable allocation for H.R. 4954 is the 302(a) allocation for Medicare for fiscal year 2003 and for the period of fiscal years 2003 through 2012 that was printed in the CONGRESSIONAL RECORD on May 22, 2002.

As reported by the Committee on Ways and Means and modified by H. Res. 465, the bill provides \$4.650 billion in new budget authority in fiscal year 2003 and \$347.270 billion for the period of 2003 through 2012 for the purposes specified in section 202 of H. Con. Res. 353. Hence, the amount of new budget authority related to the Medicare policies set forth in section 202 is equal to the adjusted 302(a) allocation for the applicable periods.

If no further adjustments are made to this allocation, any amendment that would provide any additional new budget authority for Medicare, relative to the bill as amended by the rule, in fiscal year 2003 or for the period of fiscal years 2003 through 2012 would exceed the 302(a) allocation in violation of section 302(f) of the Congressional Budget Act of 1974.

Section 302(f) of the Congressional Budget Act prohibits the consideration of amendments that, if enacted, would exceed the appropriate allocation of budget authority made pursuant to section 302(a) for the first year and the total of all fiscal years covered by the applicable budget resolution.

In addition, the bill provides \$0.380 billion in new budget authority in fiscal year 2003 and \$1.380 billion over the period of fiscal years 2003 through 2007 that is unrelated to the Medicare policies delineated in section 202. Such spending is therefore subject to the general purpose allocation of the Committee on Ways and Means. Any amendment making changes unrelated to the Medicare policies delineated in section 202 that provides in excess of \$1.823 billion in new budget authority in fiscal year 2003 or \$6.475 billion for the period of fiscal years 2003 through 2007 would also exceed the appropriate 302(a) allocation in violation of Section 302(f).

This statement is issued in accordance with section 312(a) of the Congressional Budget Act.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ARMEY) to revise and extend their remarks and include extraneous material:)

Mr. WELDON of Florida, for 5 minutes, today.

Mr. NUSSLE, for 5 minutes, today.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1041. An act to establish a program for an information clearinghouse to increase public access to defibrillation in schools; to the Committee on Energy and Commerce, in addition to the Committee on Education and the Workforce for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

S. 1646. An act to identify certain routes in the States of Texas, Oklahoma, Colorado, and New Mexico as part of the Ports-to-Plains Corridor, a high priority corridor on the National Highway System; to the Committee on Transportation and Infrastructure.

S. 2690. An act to reaffirm the reference to one Nation under God in the Pledge of Allegiance; to the Committee on the Judiciary.

ADJOURNMENT

Mr. ARMEY. Mr. Speaker, pursuant to Senate Concurrent Resolution 125, 107th Congress, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to Senate Concurrent Resolution 125, 107th Congress, the House stands adjourned until 2 p.m. on Monday, July 8, 2002.

Thereupon (at 2 o'clock and 38 minutes a.m.), pursuant to Senate Concurrent Resolution 125, the House adjourned until Monday, July 8, 2002.

EXECUTIVE COMMUNICATIONS,
ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7689. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Gregory S. Newbold, United States Marine Corps, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

7690. A letter from the Deputy Secretary, Department of Defense, transmitting a letter on the approved retirement of Vice Admiral George P. Nanos, Jr., United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

7691. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule — Home Mortgage Disclosure [Regulation C; Docket No. R-1120] received June 25, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7692. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Commission's final rule — Commission Guidance on the Application of Certain Provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, and Rules thereunder to Trading in Security Futures Products [Release Nos. 33-8107; 34-46101; File No. S7-23-02] received June 25, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7693. A letter from the Director, Office of Management and Budget, transmitting a report on the Cost Estimate For Pay-As-You-Go Calculations; to the Committee on the Budget.

7694. A letter from the Assistant Secretary, Department of Education, transmitting Final Priorities — Capacity Building for Traditionally Underserved Populations, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

7695. A letter from the Regulations Officer, FMCSA, Department of Transportation, transmitting the Department's final rule — Parts and Accessories Necessary for Safe Operation; Trailer Conspicuity [FMCSA Docket FMCSA-1997-2222] received June 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7696. A letter from the General Counsel, Federal Energy Regulation Commission, transmitting the Commission's final rule — Revised Public Utility Filing Requirements (Docket No. RM01-8-000; Order No. 2001) received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7697. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Finland [Transmittal No. DTC 060-02], pursuant to 22 U.S.C. 2776(c) and 22 U.S.C. 2776(d); to the Committee on International Relations.

7698. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting the Department of the Air Force's proposed lease of defense articles to the Government of Singapore (Transmittal No. 06-02), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

7699. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting the Department of the Air Force's proposed lease of defense articles to the Federal Republic of Germany (Transmittal No. 05-02), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

7700. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to Canada for defense articles and services (Transmittal No. 02-31), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

7701. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles to Pakistan [Transmittal No. DTC 62-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

7702. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles to Pakistan [Transmittal No. DTC 76-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

7703. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles to Pakistan [Transmittal No. DTC 72-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

7704. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles to Pakistan [Transmittal No. DTC 63-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

7705. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles to Pakistan [Transmittal No. DTC 77-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

7706. A letter from the Secretary, Department of Energy, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2001 through March 31, 2002, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(d); to the Committee on Government Reform.

7707. A letter from the Comptroller General, General Accounting Office, transmitting a list of all reports issued or released in April 2002, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform.

7708. A letter from the Chair, Equal Employment Opportunity Commission, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2001 through March 31, 2002, pursuant to 5 U.S.C. app. (Insp. Gen. Act)

section 5(b); to the Committee on Government Reform.

7709. A letter from the Acting Chairman, Consumer Product Safety Commission, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2001 through March 31, 2002, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

7710. A letter from the Executive Director, Federal Labor Relations Authority, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 2001, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

7711. A letter from the Chairman, Federal Trade Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 2001, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

7712. A letter from the Chairman, National Science Board, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2001 through March 31, 2002, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

7713. A letter from the Acting Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting notice on leasing systems for the Central Gulf of Mexico, Sale 182, scheduled to be held on March 20, 2002, pursuant to 43 U.S.C. 1337(a)(8); to the Committee on Resources.

7714. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Kentucky Regulatory Program [KY-222-FOR] received June 14, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7715. A letter from the Deputy Assistant Secretary, Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Concession Contracts (RIN: 1024-AC88) received June 14, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7716. A letter from the Deputy Assistant Secretary, Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — National Capital Region, Special Regulations (RIN: 1024-AC76) received June 14, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7717. A letter from the Commissioner, National Indian Gaming Commission, transmitting the Commission's final rule — Definitions: Electronic, Computer or Other Technologic Aid; Electromechanical Facsimile; Game Similar to Bingo (RIN: 3141-AA10) received June 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7718. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting the Department's final rule — Visas: Removal of Visa and Passport Waiver for Certain Permanent Residents of Canada and Bermuda — received June 14, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

7719. A letter from the Director, Foreign Terrorist Tracking, Department of Justice, transmitting the Department's final rule — Screening of Aliens and Other Designated Individuals Seeking Flight Training (RIN: 1105-AA80) received June 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7720. A letter from the Chief, Regulations and Administrative Law, USCG, Department

of Transportation, transmitting the Department's final rule — Regulated Navigation Area; Chesapeake Bay entrance and Hampton Roads, VA and adjacent waters [CGD05-01-046] (RIN: 2115-AE84) received June 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7721. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations: Gulf Intracoastal Waterway, Boca Grande, Charlotte County, Florida [CGD07-00-129] (RIN: 2115-AE47) received June 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7722. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zone; Operation Native Atlas 2002, Waters adjacent to Camp Pendleton, California [COTP San Diego 02-001] (RIN: 2115-AA97) received June 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7723. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations: Back River, ME [CGD01-01-144] (RIN: 2115-AE47) received June 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7724. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Protection of Naval Vessels [PAC AREA-01-001] (RIN: 2115-AG23) received June 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7725. A letter from the Attorney/Advisor, Department of Transportation, transmitting the Department's final rule — Air Carrier Traffic and Capacity Data By Nonstop Segment and On-Flight Market [Docket No. OST 98-4043] (RIN: 2139-AA08) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7726. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Annuities (Rev. Rul. 2002-39) received June 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7727. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability (Revenue Procedure 2002-45) received June 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7728. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Cafeteria Plans (Rev. Rul. 2002-32) received June 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7729. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Treaty Guidance Regarding Payments With Respect to Domestic Reverse Hybrid Entities [TD 8999] (RIN: 1545-AY13) received June 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7730. A letter from the Secretary, Department of Transportation, transmitting the Department's fifth/sixth report in the series

entitled, "Effectiveness of Occupant Protection Systems and Their Use," pursuant to Public Law 102-240, section 2508(e) (105 Stat. 2086); jointly to the Committees on Energy and Commerce and Transportation and Infrastructure.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mrs. KELLY (for herself, Mr. JACKSON of Illinois, and Mr. FLETCHER):

H.R. 5031. A bill to expand research regarding inflammatory bowel disease, and for other purposes; to the Committee on Energy and Commerce.

By Mr. THOMPSON of California:

H.R. 5032. A bill to authorize the Secretary of Agriculture to convey certain National Forest System lands in the Mendocino National Forest, California, to authorize the use of the proceeds from such conveyances for National Forest purposes, and for other purposes; to the Committee on Resources.

By Mr. ARMEY (for himself, Mr. LIPINSKI, Mr. BOEHNER, Mr. WATTS of Oklahoma, Mr. HOEKSTRA, Mr. SAM JOHNSON of Texas, Mr. SCHAFER, Mr. COX, Mr. BURTON of Indiana, Mr. CRANE, Mr. FLAKE, Mr. MANZULLO, Mr. DAN MILLER of Florida, Mr. PITTS, Mr. SHADEGG, Mr. SHAYS, Mr. TIBERI, Mr. WALSH, Mr. WELLER, and Mr. WICKER):

H.R. 5033. A bill to provide scholarships for District of Columbia elementary and secondary students, and for other purposes; to the Committee on Government Reform.

By Mr. CLYBURN (for himself, Mr. BROWN of South Carolina, Mr. DEMINT, Mr. GRAHAM, Mr. SPRATT, and Mr. WILSON of South Carolina):

H.R. 5034. A bill to authorize the President to posthumously award a gold medal on behalf of the Congress in honor of Rev. Joseph A. De Laine, in recognition of his contributions to the Nation; to the Committee on Financial Services.

By Mr. FLETCHER (for himself, Mr. HAYES, Mr. BISHOP, Mr. ROGERS of Kentucky, Mr. WHITFIELD, Mr. LEWIS of Kentucky, Mr. LUCAS of Kentucky, and Mr. HILLEARY):

H.R. 5035. A bill to replace the existing Federal price support and quota programs for tobacco with price support and quota programs designed to assist the actual producers of tobacco, to compensate quota holders for the loss of tobacco quota asset value, to provide assistance for active tobacco producers, including those producers who forgo obtaining a tobacco production license, during the transition of the new programs, and for other purposes; to the Committee on Agriculture.

By Mrs. DAVIS of California:

H.R. 5036. A bill to amend the Elementary and Secondary Education Act of 1965 to reserve funds to provide special training, technical assistance, and professional development to eligible entities implementing Even Start programs and to the staff of such programs, and for other purposes; to the Committee on Education and the Workforce.

By Mr. DEFAZIO (for himself, Mr. BROWN of Ohio, Mr. STARK, Mr. GEORGE MILLER of California, Mr. CROWLEY, Mr. FILNER, Ms. WOOLSEY, Mr. JACKSON of Illinois, Ms. NORTON, Ms. ROYBAL-ALLARD, and Mr. DOGGETT):

H.R. 5037. A bill to require prescription drug manufacturers, packers, and distributors to disclose certain gifts provided in connection with detailing, promotional, or other marketing activities, and for other purposes; to the Committee on Energy and Commerce.

By Mr. FILNER:

H.R. 5038. A bill to prohibit the importation of electricity into the United States from Mexico if produced in electric energy generation units near the United States border that do not comply with air quality control requirements that provide air quality protection that is at least equivalent to the protection provided by the requirements applicable to the United States; to the Committee on International Relations.

By Mr. GIBBONS:

H.R. 5039. A bill to direct the Secretary of the Interior to convey title to certain irrigation project property in the Humboldt Project, Nevada, to the Pershing County Water Conservation District, Pershing County, Lander County, and the State of Nevada; to the Committee on Resources.

By Mr. CONYERS (for himself, Mrs. JONES of Ohio, Mr. HONDA, Mr. GORDON, Mr. WYNN, Ms. KILPATRICK, Mr. HILLIARD, Ms. DELAUNO, Mr. WAXMAN, Ms. WOOLSEY, Mr. GUTIERREZ, Mr. LIPINSKI, Mr. UNDERWOOD, Ms. MCCOLLUM, Ms. LEE, Mr. LANTOS, Mr. FROST, and Mr. BONIOR):

H.R. 5040. A bill to combat toxic mold, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Financial Services, Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HANSEN:

H.R. 5041. A bill to amend the Immigration and Nationality Act concerning loss of nationality for actions supporting terrorism against the United States; to the Committee on the Judiciary.

By Mr. HEFLEY:

H.R. 5042. A bill to authorize the Secretary of Veterans Affairs to construct, lease, or modify major medical facilities at the site of the former Fitzsimons Army Medical Center, Aurora, Colorado; to the Committee on Veterans' Affairs.

By Mr. HILL (for himself and Mr. MATSUI):

H.R. 5043. A bill to provide that the marriage penalty relief provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be permanent whenever the actual on-budget budget of the Government is in balance or surplus and the Director of the Office of Management and Budget determines that this Act will not cause on-budget deficits; to the Committee on Ways and Means.

By Mr. HOLT (for himself, Mr. SHAYS, Mr. HALL of Ohio, Mrs. DAVIS of California, Mr. McDERMOTT, Mr. CROWLEY, Mr. FRANK, Mr. GEORGE MILLER of California, Mr. CLEMENT, Mr. CAPUANO, Ms. RIVERS, Mr. WAXMAN, Mr. FILNER, Mr. BLUMENAUER, Mr. DEFAZIO, Mr. UDALL of Colorado, Mr. BROWN of Ohio, Mr. HINCHEY, Mrs. MALONEY of New York, Ms. McKINNEY, Ms. LEE, Mrs. MINK of Hawaii, Mr. MARKEY, Mr. BOUCHER, Mr. SMITH of Washington, Mr. SHERMAN, Mr. HOFFEL, Mr. MORAN of Virginia, Mr. BECERRA, Mr. PALLONE, Mr. KENNEDY of Rhode Island, Mr. CLAY, Mr. ROTHMAN, Mr. STARK, Mr. ANDREWS, Ms.

BROWN of Florida, Ms. DELAURO, Ms. DEGETTE, Ms. MCCARTHY of Missouri, Mr. LANGEVIN, Mr. HONDA, Mr. TOWNS, Ms. WOOLSEY, Mrs. NAPOLITANO, Mr. SCHIFF, Mr. LANTOS, Mrs. JOHNSON of Connecticut, Mr. ENGEL, Ms. ROYBAL-ALLARD, Mr. WEXLER, Mr. MCGOVERN, Mr. SERRANO, Ms. SOLIS, Mr. MCNULTY, Mrs. LOWEY, Mr. FORD, Ms. SLAUGHTER, Mr. PAYNE, Ms. LOFGREN, Mr. LARSON of Connecticut, Ms. ESHOO, Mr. MALONEY of Connecticut, Mr. MENENDEZ, Mr. PASCRELL, Mr. JEFFERSON, Mr. ISRAEL, Mr. WU, Mr. WEINER, Mr. PRICE of North Carolina, Mr. EVANS, Mr. MOORE, Mr. INSLEE, Mr. DOOLEY of California, Mr. DOGGETT, Mr. KIRK, Mr. SIMMONS, Mrs. MORELLA, Mr. FARR of California, Mr. DEUTSCH, Mr. NADLER, Mr. COYNE, Mr. KUCINICH, Mr. OLVER, Ms. SCHAKOWSKY, Mr. HASTINGS of Florida, Mr. ABERCROMBIE, Mr. CONYERS, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JONES of Ohio, Mr. LEVIN, Ms. NORTON, Mr. TIERNEY, Mrs. TAUSCHER, Mrs. CAPPS, Mr. CARSON of Oklahoma, Ms. PELOSI, Mr. UDALL of New Mexico, Mr. MEEHAN, Mr. LEWIS of Georgia, Mr. NEAL of Massachusetts, Mr. GREEN of Texas, Mr. MEEKS of New York, Mr. DELAHUNT, Mr. LYNCH, Mr. ROEMER, Mr. FROST, Mr. MATSUI, Ms. WATERS, Mr. BRADY of Pennsylvania, Mr. RANGEL, Ms. VELAZQUEZ, Mr. BACA, Mr. BAIRD, Mr. ACKERMAN, Mr. DINGELL, Ms. BERKLEY, Mrs. CLAYTON, Mr. BORSKI, Mr. FATTAH, Mr. GUTIERREZ, Mr. DAVIS of Illinois, Mr. GONZALEZ, Ms. HOOLEY of Oregon, Ms. WATSON, and Mr. GILCHREST):

H.R. 5044. A bill to require the Secretary of the Interior to implement the final rule to phase out snowmobile use in Yellowstone National Park, John D. Rockefeller Jr. Memorial Parkway, and Grand Teton National Park, and snowplane use in Grand Teton National Park; to the Committee on Resources.

By Mr. LEACH (for himself, Mr. NUSSLE, and Mr. LATHAM):

H.R. 5045. A bill to provide for equity in payments under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCINNIS (for himself, Mr. SOUDER, Mr. UDALL of Colorado, Mr. SCHAFFER, and Mr. HAYWORTH):

H.R. 5046. A bill to provide for the use of private and appropriated funds for certain facilities related to Mesa Verde National Park; to the Committee on Resources.

By Mr. DAN MILLER of Florida (for himself and Mr. LYNCH):

H.R. 5047. A bill to establish the National Center on Liver Disease Research, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GEORGE MILLER of California (for himself, Mr. SHOWS, Mr. ANDREWS, Mr. DOGGETT, Ms. LEE, Mrs. MINK of Hawaii, Mrs. NAPOLITANO, Ms. WOOLSEY, Mr. CONYERS, Mr. TIERNEY, Mr. DELAHUNT, Mr. CAPUANO, Mr. MEEHAN, Ms. WATERS, Mr. TAYLOR of Mississippi, Mr. KLECZKA, Mr. STARK, Ms. SCHAKOWSKY, Ms. JACKSON-LEE of

Texas, Ms. DELAURO, Ms. SANCHEZ, Mr. NADLER, Ms. SOLIS, Mr. ABERCROMBIE, and Ms. SLAUGHTER.):

H.R. 5048. A bill to prohibit corporations from making loans to their officers, directors, and principal shareholders; to the Committee on Financial Services.

By Mr. NEY:

H.R. 5049. A bill to amend title 28, United States Code, to provide for an additional place of holding court in the Southern District of Ohio; to the Committee on the Judiciary.

By Mr. GREENWOOD (for himself, Mr. TAUZIN, Mr. STEARNS, Mr. TOWNS, Mr. BARTON of Texas, Mr. HALL of Texas, Mr. GILLMOR, Mr. BILIRAKIS, Mr. UPTON, Mr. COX, Mr. HORN, Mr. TOM DAVIS of Virginia, Mr. MCKEON, Mr. LAHOOD, Mrs. JOHNSON of Connecticut, Mr. SHAYS, Mr. HOUGHTON, Mrs. MORELLA, Mr. TOOMEY, Mrs. WILSON of New Mexico, Mr. PETERSON of Pennsylvania, Mr. SIMMONS, Mr. PLATTS, Mr. GILCHREST, Mr. LEACH, Mr. BASS, Mr. WHITFIELD, and Mr. BUYER):

H.R. 5050. A bill to establish the Market Integrity Commission to study issues relating to the governance of corporations in interstate and foreign commerce; to the Committee on Energy and Commerce.

By Mr. PALLONE (for himself, Mr. HAYWORTH, and Mr. UDALL of Colorado):

H.R. 5051. A bill to enhance the criminal penalties for illegal trafficking of archaeological resources, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PORTMAN (for himself, Mr. CARDIN, and Mr. WATTS of Oklahoma):

H.R. 5052. A bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes; to the Committee on Ways and Means.

By Mr. RADANOVICH (for himself, Mr. JONES of North Carolina, Mr. SIMPSON, Mr. CANNON, Mr. OTTER, Mr. WALDEN of Oregon, and Mr. HASTINGS of Washington):

H.R. 5053. A bill to provide full funding for the payment in lieu of taxes program for the next five fiscal years, to protect local jurisdictions against the loss of property tax revenues when private lands are acquired by a Federal land management agency, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROGERS of Michigan:

H.R. 5054. A bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to qualified tuition programs; to the Committee on Ways and Means.

By Mr. SMITH of New Jersey (for himself and Mr. EVANS):

H.R. 5055. A bill to authorize the placement in Arlington National Cemetery of a memorial honoring the World War II veterans who fought in the Battle of the Bulge; to the Committee on Veterans' Affairs.

By Mr. SMITH of New Jersey:

H.R. 5056. A bill to provide for the promotion of democracy, human rights, and rule of law in the Republic of Belarus and for the consolidation and strengthening of Belarus sovereignty and independence; to the Committee on International Relations, and in addition to the Committees on the Judiciary, Financial Services, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of Texas (for himself, Mr. KELLER, Mr. SCOTT, Mr. SCHIFF, Mr. ISSA, and Mr. DOGGETT):

H.R. 5057. A bill to prevent and punish counterfeiting and copyright piracy, and for other purposes; to the Committee on the Judiciary.

By Mr. STEARNS (for himself, Mr. GREENWOOD, Mr. BILIRAKIS, Mr. BARTON of Texas, Mr. UPTON, Mr. GILLMOR, Mr. WALDEN of Oregon, Mr. TERRY, and Mr. TAUZIN):

H.R. 5058. A bill to preserve the integrity of the establishment of accounting standards by the Financial Accounting Standards Board, and for other purposes; to the Committee on Energy and Commerce.

By Mr. STEARNS (for himself, Mr. TOWNS, Mr. CLYBURN, Mr. HALL of Ohio, Mr. TAYLOR of North Carolina, Mr. CONDIT, Mr. SPRATT, Mr. GRAHAM, Mr. WATKINS, and Mr. PITTS):

H.R. 5059. A bill to amend the Consumer Product Safety Act to provide for fire safety standards for cigarettes, and for other purposes; to the Committee on Energy and Commerce.

By Mr. THOMPSON of California (for himself, Mr. ABERCROMBIE, Mr. BERMAN, Mr. BOSWELL, Mr. BOYD, Mrs. DAVIS of California, Mr. FARR of California, Mr. FILNER, Mr. HOLDEN, Mr. HUNTER, Mr. ISRAEL, Mr. JOHN, Mr. BERRY, Mr. MATHESON, Mr. GEORGE MILLER of California, Mr. MOORE, Mr. MURTHA, Ms. PELOSI, Mr. POMBO, Mr. SANDLIN, Mr. SCHIFF, Mr. SHERMAN, Mr. STENHOLM, Mr. TAYLOR of Mississippi, Mr. TURNER, Ms. WATSON, Mr. CRAMER, Mr. CHAMBLISS, and Mr. BILIRAKIS):

H.R. 5060. A bill to provide for the disclosure of information on projects of the Department of Defense, such as Project 112 and the Shipboard Hazard and Defense Project (Project SHAD), that included testing of biological or chemical agents involving potential exposure of members of the Armed Forces to toxic agents, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WOOLSEY:

H.R. 5061. A bill to amend part D of title IV of the Social Security Act to improve the collection of child support arrears in interstate cases; to the Committee on Ways and Means.

By Mr. GREEN of Texas:

H.J. Res. 103. A joint resolution proposing an amendment to the Constitution of the United States with respect to the Pledge of Allegiance; to the Committee on the Judiciary.

By Mr. LUCAS of Oklahoma:

H.J. Res. 104. A joint resolution proposing an amendment to the Constitution of the

United States to protect the Pledge of Allegiance; to the Committee on the Judiciary.

By Mr. DAVIS of Florida (for himself, Mr. BEREUTER, Mr. CROWLEY, Ms. ROS-LEHTINEN, Mr. MENENDEZ, Mr. BERMAN, Mr. SCHIFF, Mr. GILMAN, Mr. DELAHUNT, Mr. KING, Mr. LANTOS, and Mr. HYDE):

H. Con. Res. 432. Concurrent resolution expressing the sense of Congress regarding the education curriculum in the Kingdom of Saudi Arabia; to the Committee on International Relations.

By Mr. JENKINS (for himself, Mr. BRYANT, Mr. HILLEARY, Mr. JACKSON of Illinois, and Mr. MEEKS of New York):

H. Con. Res. 433. Concurrent resolution recognizing the United States Mint for the cost savings achieved by the 1982 conversion to the copper-plated zinc penny and expressing support for the copper-plated zinc penny on the 20th anniversary of its circulation in United States coinage; to the Committee on Financial Services.

By Mr. SHOWS:

H. Con. Res. 434. Concurrent resolution expressing the sense of the Congress regarding the economic collapse of WorldCom Inc; to the Committee on Financial Services.

By Mr. GILMAN (for himself and Mr. LANTOS):

H. Res. 467. A resolution expressing the sense of the House of Representatives that the United States should declare its support for the independence of Kosovo; to the Committee on International Relations.

By Mr. GALLEGLY (for himself, Mr. BEREUTER, Mr. LANTOS, and Mr. COX):

H. Res. 468. A resolution affirming the importance of the North Atlantic Treaty Organization (NATO), supporting continued United States participation in NATO, ensuring that the enlargement of NATO proceeds in a manner consistent with United States interests, and for other purposes; to the Committee on International Relations.

By Mr. SMITH of New Jersey (for himself, Mr. CARDIN, Mr. WOLF, Mr. HASTINGS of Florida, Mr. PITTS, Ms. SLAUGHTER, and Mr. WAMP):

H. Res. 469. A resolution expressing the sense of the House of Representatives that the recent escalation within many participating states of the Organization for Security and Cooperation in Europe of anti-Semitic violence, as well as manifestations of xenophobia and discrimination directed against ethnic and religious minorities, is of grave concern and requires the highest attention of all OSCE governments; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 87: Mr. McDERMOTT.
H.R. 111: Mr. BLUMENAUER.
H.R. 168: Mr. JENKINS and Mr. AKIN.
H.R. 257: Mrs. EMERSON and Mr. TIBERI.
H.R. 285: Mr. SCHIFF and Ms. BROWN of Florida.
H.R. 360: Ms. MILLENDER-MCDONALD, Ms. CARSON of Indiana, and Mr. HOLDEN.
H.R. 647: Mr. BACA.
H.R. 699: Mr. GRAHAM.
H.R. 854: Mr. BRADY of Texas and Mr. SHOWS.
H.R. 951: Mr. BRYANT and Mr. YOUNG of Alaska.
H.R. 984: Mr. HASTINGS of Washington, Mr. ANDREWS, and Mr. FARR of California.

H.R. 1184: Mr. SANDLIN, Mr. CASTLE, Ms. WATSON, Ms. KILPATRICK, Mr. CAPUANO, and Mr. ETHERIDGE.

H.R. 1232: Mr. DIAZ-BALART.
H.R. 1296: Mr. ENGEL, Mr. ORTIZ, Mr. HINOJOSA, and Ms. KILPATRICK.

H.R. 1581: Mr. HAYES.
H.R. 1596: Mr. BRYANT.
H.R. 1624: Mrs. CLAYTON and Mr. TERRY.
H.R. 1639: Mr. PICKERING.
H.R. 1701: Mr. JENKINS and Mr. TOWNS.
H.R. 1723: Mr. THUNE.

H.R. 1779: Ms. SLAUGHTER.
H.R. 1786: Mr. LUTHER.
H.R. 1811: Mr. RADANOVICH and Mr. STUMP.

H.R. 1935: Mr. CLAY, Ms. SLAUGHTER, Ms. WATSON, Mr. KIND, Mr. DIAZ-BALART, Mr. DOOLEY of California, Ms. MINK of Hawaii, Mr. HALL of Texas, Mrs. CLAYTON, Mrs. BONO, Mr. LAFALCE, Mr. PRICE of North Carolina, Mr. BOEHLERT, Mr. GORDON, and Mr. DAN MILLER of Florida.

H.R. 1983: Mr. BRYANT.
H.R. 2063: Mr. DOGGETT.
H.R. 2117: Ms. MCCOLLUM.

H.R. 2118: Mr. FATTAH.
H.R. 2125: Mr. LUTHER, Ms. WATSON, Mrs. MEEK of Florida, Mr. REHBERG, Mr. BERRY, Mr. SKEEN, Mr. UNDERWOOD, and Mr. ISRAEL.

H.R. 2173: Mr. COMBEST and Ms. VELÁZQUEZ.
H.R. 2219: Ms. WATSON, Mr. PETRI, and Mr. FARR of California.

H.R. 2244: Mr. SIMMONS.
H.R. 2357: Mr. THUNE and Mr. GUTKNECHT.
H.R. 2483: Mr. PASTOR.

H.R. 2641: Mr. LIPINSKI.
H.R. 2874: Mrs. BIGGERT, Mr. SCOTT, Ms. JACKSON-LEE of Texas, and Mr. GOODE.

H.R. 2878: Mr. CARSON of Oklahoma.
H.R. 2970: Mr. GILMAN.
H.R. 2974: Mr. KILDEE.

H.R. 3132: Mr. CLAY, Mr. BARRETT, and Ms. MCCARTHY of Missouri.

H.R. 3154: Mr. GILCREST and Mr. WILSON of South Carolina.
H.R. 3177: Mr. BARR of Georgia.

H.R. 3193: Mr. LAHOOD.
H.R. 3273: Mr. BALDWIN and Mr. ROGERS of Michigan.

H.R. 3278: Ms. BERKLEY and Mr. LAHOOD.
H.R. 3320: Mr. MANZULLO and Mr. HOEKSTRA.

H.R. 3413: Mr. STARK, Ms. DELAURO, Ms. RIVERS, Mr. SANDERS, and Mr. ACKERMAN.
H.R. 3424: Mr. DAVIS of Florida.

H.R. 3449: Mr. SCOTT.
H.R. 3450: Mr. LIPINSKI.
H.R. 3464: Mr. FRELINGHUYSEN.

H.R. 3475: Mr. ROYCE.
H.R. 3612: Ms. WATERS and Mr. LAHOOD.
H.R. 3624: Mr. WAMP.

H.R. 3630: Mr. BILIRAKIS.
H.R. 3804: Mr. KILDEE, Mr. OWENS, and Mr. EVANS.

H.R. 3805: Mr. NORWOOD.
H.R. 3831: Mr. TOM DAVIS of Virginia, Mr. WALDEN of Oregon, and Ms. LEE.

H.R. 3842: Mr. SANDLIN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JEFFERSON, Mrs. DAVIS of California, Mr. JOHN, Ms. SOLIS, Mr. GREEN of Texas, Mr. BROWN of Ohio, Mr. WYNN, Ms. ROS-LEHTINEN, Mr. NADLER, Ms. JACKSON-LEE of Texas, Mr. HINOJOSA, Mr. BACA, and Mrs. MEEK of Florida.

H.R. 3882: Mr. SHAW.
H.R. 3884: Mr. SERRANO and Ms. LEE.
H.R. 3899: Ms. KAPTUR.

H.R. 3973: Mr. JEFF MILLER of Florida, Mr. BRADY of Pennsylvania, Mr. GUTIERREZ, and Ms. ROYBAL-ALLARD.

H.R. 3995: Mr. BASS.
H.R. 4011: Mr. FROST, Mr. BARRETT, Mr. McDERMOTT, Mr. HINCHEY, Mr. HILLIARD, and Ms. McKINNEY.

H.R. 4018: Mr. LAHOOD.

H.R. 4026: Mrs. JONES of Ohio.

H.R. 4030: Mr. BUYER.

H.R. 4047: Mr. PORTMAN.

H.R. 4066: Mr. FALEOMAVAEGA.

H.R. 4086: Mr. LATHAM.

H.R. 4163: Ms. MILLENDER-MCDONALD and Mr. CONYERS.

H.R. 4205: Mr. CLYBURN and Mr. FATTAH.

H.R. 4483: Ms. RIVERS.

H.R. 4555: Mr. BARR of Georgia and Mr. UNDERWOOD.

H.R. 4575: Mrs. DAVIS of California.

H.R. 4599: Mr. DAVIS of Illinois.

H.R. 4600: Mr. GOODLATTE.

H.R. 4621: Ms. CARSON of Indiana, Mr. BISHOP, Mr. SCHIFF, and Mr. GUTKNECHT.

H.R. 4668: Mr. RAMSTAD, Mr. RODRIGUEZ, and Ms. ROYBAL-ALLARD.

H.R. 4685: Mr. SULLIVAN.

H.R. 4707: Mr. BROWN of Ohio and Ms. MILLENDER-MCDONALD.

H.R. 4711: Mr. MEEKS of New York and Mr. FATTAH.

H.R. 4729: Mr. LAMPSON.

H.R. 4730: Mr. HILLIARD.

H.R. 4738: Mr. BILIRAKIS, Mr. DEAL of Georgia, Mr. BARTON of Texas, Mr. JEFF MILLER of Florida, and Mr. UPTON.

H.R. 4742: Mr. UNDERWOOD.

H.R. 4754: Mr. BAIRD.

H.R. 4760: Mr. ISRAEL.

H.R. 4764: Mr. RANGEL, Mr. STARK, Mr. JACKSON of Illinois, Mr. BRADY of Pennsylvania, Mr. WATT of North Carolina, and Mr. FATTAH.

H.R. 4777: Ms. BROWN of Florida, Mr. FATTAH, Mr. KENNEDY of Rhode Island, Mr. NADLER, Ms. SOLIS, Ms. LOFGREN, Mr. ALLEN, Ms. MCCOLLUM, Mr. PRICE of North Carolina, Mr. SNYDER, Mr. DOGGETT, Mr. FRANK, Mrs. LOWEY, Mr. WAXMAN, Mr. BERRY, and Mr. MOORE.

H.R. 4780: Ms. SOLIS, Mr. BROWN of Ohio, Mr. BACA, Mr. STARK, Mr. FROST, Mr. POMEROY, Mr. THOMPSON of California, Mr. FILNER, Mr. LUCAS of Kentucky, Mr. RODRIGUEZ, Mr. OWENS, Ms. WOOLSEY, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. THOMPSON of Mississippi, Mr. MENENDEZ, Mr. STRICKLAND, Mr. LANTOS, Mr. SANDLIN, Mr. CROWLEY, Mr. LARSON of Connecticut, Mr. KLECZKA, Mr. McDERMOTT, Mr. DINGELL, Mr. EVANS, Mr. SCOTT, Mr. OBERSTAR, Mr. MARKEY, Mr. HINCHEY, Ms. CARSON of Indiana, Mr. GEORGE MILLER of California, Mr. SHERMAN, Mr. FALLONE, and Mr. KUCINICH.

H.R. 4793: Mr. FORD and Mr. FALEOMAVAEGA.

H.R. 4831: Ms. LEE.

H.R. 4843: Mr. CARSON of Oklahoma and Mr. MOORE.

H.R. 4857: Mr. STARK, Mr. FARR of California, Mr. BERMAN, Ms. ROYBAL-ALLARD, Mr. LANTOS, Mr. SHERMAN, Mr. WAXMAN, Mr. DOOLEY of California, Ms. WATERS, Mr. THOMPSONS of California, Ms. LOFGREN, Mr. HONDA, Mr. LEWIS of California, Ms. ESHOO, Mr. BACA, Mr. OSE, Mr. CALVERT, Ms. SOLIS, Mr. CONDIT, Mr. FILNER, Mr. BECERRA, Ms. WOOLSEY, Ms. MILLENDER-MCDONALD, Mr. GEORGE MILLER of California, Ms. SANCHEZ, and Ms. PELOSI.

H.R. 4872: Mr. SHIMKUS.

H.R. 4881: Mr. FROST.

H.R. 4904: Mr. FROST, Mr. DOOLEY of California, Mr. HONDA, Ms. SOLIS, Mr. FOSSELLA, Mr. BOOZMAN, Mr. LANTOS, and Mr. MCGOVERN.

H.R. 4922: Mr. KINGSTON.

H.R. 4926: Ms. SANCHEZ.

H.R. 4939: Mr. UNDERWOOD.

H.R. 4943: Mr. BLUMENAUER and Mr. JACKSON of Illinois.

H.R. 4950: Mr. ISAKSON and Mr. NORWOOD.
 H.R. 4956: Mr. FORD.
 H.R. 4957: Mr. BALDACCI, Mr. HINCHEY, Mrs. KELLY, Mr. SANDLIN, and Mr. SCHIFF.
 H.R. 4965: Mr. VITTER, Mr. STENHOLM, Mr. ISSA, and Mr. TERRY.
 H.R. 4967: Mr. ORTIZ.
 H.R. 4971: Ms. BERKLEY.
 H.R. 4976: Ms. NORTON and Ms. ROYBAL-AL-LARD.
 H.R. 4981: Mr. DEAL of Georgia and Mr. WATKINS.
 H.R. 4993: Mr. BALDACCI, Mr. BONIOR, Mr. BRADY of Pennsylvania, Ms. CARSON of Indiana, Mr. COSTELLO, Mr. CUMMINGS, Mr. HOEFFEL, Mr. KILDEE, Mr. LUTHER, Mr. MEEKS of New York, Mr. RAHALL, Mr. SABO, Ms. SANCHEZ, Mr. SANDERS, Mr. SAWYER, Mr. SKELTON, Mr. THOMPSON of Mississippi, Mr. WEINER, and Mr. PHELPS.
 H.R. 5017: Mr. FLAKE, Mr. HANSEN, Mr. DUNCAN, Mr. YOUNG of Alaska, Mr. RAHALL, Mr. OTTER, Mr. PETERSON of Pennsylvania, Mr. TANCREDO, Mr. SOUDER, Mr. ACEVEDO-VILA, Mr. FALCOMA, Mr. UDALL of Colorado, Mr. SHADEGG, Mr. HEFLEY, Mr. SCHAFER, Mr. PALLONE, Mr. UDALL of New Mexico, Mrs. CUBIN, Mr. KILDEE, Mr. SMITH of Washington, Ms. DEGETTE, and Mr. KOLBE.
 H.R. 5019: Mr. FARR of California, Ms. BROWN of Florida, Mr. EDWARDS, Mr. DICKS, and Mrs. DAVIS of California.
 H.R. 5024: Mr. LIPINSKI and Mr. MENENDEZ.
 H.J. Res. 40: Mr. SCOTT.
 H.J. Res. 91: Ms. ROS-LEHTINEN.
 H. Con. Res. 173: Ms. NORTON, Ms. SLAUGHTER, and Mr. BERMAN.

H. Con. Res. 197: Mr. DAVIS of Illinois and Mr. ROSS.
 H. Con. Res. 238: Mr. SHUSTER.
 H. Con. Res. 287: Mr. FATTAH.
 H. Con. Res. 349: Mr. LEACH and Ms. WATERS.
 H. Con. Res. 350: Mr. LAHOOD.
 H. Con. Res. 385: Mr. FATTAH and Ms. PRYCE of Ohio.
 H. Con. Res. 401: Mr. UNDERWOOD.
 H. Con. Res. 407: Mr. ISRAEL.
 H. Con. Res. 413: Mr. KELLER and Mr. HOUGHTON.
 H. Con. Res. 418: Mrs. CLAYTON and Mr. LAHOOD.
 H. Con. Res. 425: Mr. BORSKI, Mr. ENGLISH, and Mr. CARSON of Oklahoma.
 H. Res. 437: Ms. BROWN of Florida, and Ms. KAPTUR.
 H. Res. 459: Mr. ROGERS of Michigan, Mr. HOEKSTRA, Mr. DAN MILLER of Florida, Mr. THORNBERRY, Mr. GOODE, Mr. WAMP, Mr. CANTOR, Mr. CASTLE, Mr. ENGLISH, Mr. MANZULLO, Mr. KOLBE, Mr. MCKEON, Mr. SIMMONS, Mr. WOLF, Mr. CAMP, Mr. BRADY of Texas, Mr. AKIN, Mr. ROGERS of Kentucky, Mr. QUINN, Mr. WHITFIELD, Mr. ROYCE, Mr. NUSSLE, Mr. ADERHOLT, Mr. KENNEDY of Minnesota, Mr. PUTNAM, Mr. BOOZMAN, Mr. LOBIONDO, Mr. FLETCHER, Mr. EVERETT, Mr. BURR of NORTH CAROLINA, Mr. KNOLLENBERG, Mr. THUNE, Mr. SKEEN, Mr. FOLEY, Mr. McNULTY, Mr. KING, Mr. RYUN of Kansas, Mr. STUMP, Mr. SWEENEY, Mr. CHAMBLISS, Mr. BARTON of Texas, Mr. BONILLA, Mr. WALDEN of Oregon, Mr. GIBBONS, Mr. CRENSHAW, Mr.

HERGER, Mr. WELLER, Mr. GRUCCI, Mr. TOOMEY, Mr. LEWIS of Kentucky, Mr. POMEROY, Mr. HOBSON, Mr. HEFLEY, Mr. NETHERCUTT, Mr. HORN, Mr. KLECZKA, Mr. CONNIT, Mr. ORTIZ, Mr. REYES, Mr. JONES of North Carolina, Mr. PETRI, Mrs. MORELLA, Mr. EHLERS, Mr. GREENWOOD, Mr. FERGUSON, Mr. SUNUNU, Mr. PORTMAN, Mrs. JOHNSON of Connecticut, Mr. WELDON of Pennsylvania, Mr. FRELINGHUYSEN, Mr. DUNCAN, Mr. BASS, Mr. COBLE, Mr. JENKINS, Mr. RYAN of Wisconsin, Mr. JOHN, Mr. ROHRBACHER, Mr. CRANE, Mr. BUYER, Mr. BALLENGER, Mrs. ROUKEMA, Mr. VISCLOSKY, Mr. BROWN of South Carolina, Mr. SAM JOHNSON of Texas, Mr. TAUZIN, Mr. RADANOVICH, Mr. RANGEL, Mrs. CAPITO, Mr. MALONEY of Connecticut, Mr. COLLINS, Mr. MORAN of Virginia, Mr. ETHERIDGE, Mrs. JO ANN DAVIS of Virginia, and Mr. MICA.

DISCHARGE PETITIONS— ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 7, by Ms. THURMAN on House Resolution 425: Tom Lantos, Cynthia A. McKinney, John L. LaFalce, and Peter Deutsch.

EXTENSIONS OF REMARKS

HONORING LARRY SHEHADEY

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Larry Shehadey on the occasion of being granted an Honorary Doctoral Degree in Humane Letters from California State University, Fresno. Mr. Shehadey received the degree during graduation ceremonies on May 25, 2002.

Shehadey, a prominent Fresno businessman, and patriarch of Producers Dairy Foods, a well-known and respected Fresno-based business, is well known for his generosity and contributions to the community. The eight-story clock tower of the new Fresno State athletic facility will be named "The Larry A. Shehadey Clock Tower," and the Grand Lobby at the Southeast entrance will be named after Shehadey's late wife, Elayne.

In 1949, Shehadey sold a successful soap business to Safeway Supermarkets and bought a major interest in Producers Dairy Foods. Larry built the company into one of the largest independent family owned milk producers in the United States.

Mr. Speaker, I rise today to honor Larry Shehadey for his honorary degree bestowed by California State University, Fresno. I invite my colleagues to join me in thanking Mr. Shehadey for his support of the Fresno community, and wishing him many more years of continued success.

KATIE WEST: A COWGIRL'S PORTRAIT OF THE OLD WEST

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. BARCIA. Mr. Speaker, I rise today to pay tribute to artist and cowgirl Katie West for her work portraying the Old West and for her passion for living the cowgirl lifestyle on the Rocking KT Ranch with her quarter horses and collie dogs. Katie has always strived for perfection and is considered one of the finest pen-and-ink artists in the nation.

Besides her pen-and-ink drawings, Katie has earned a worldwide reputation for her oils on canvas, watercolors and her own unique process called petroglyphy, which is fine line engraving in granite, crystal and solid jade. Her technique allows her to hold more detail in granite than anyone in the world. Katie's depictions of animals, particularly horses, and the Old West has brought her wide acclaim. In fact, others have proclaimed her work to be in form and quality a worthy heir to the great western artist of Charles Russell, Frederick

Remington and Frank Tenney Johnson. In addition, Katie has been nominated to the Cowgirl Hall of Fame in Oklahoma City, Oklahoma.

Her oil paintings, including "The American Cowboy," "Forever Eternal Red, White and Blue," "God Bless the U.S.A.," and a painting of a real cowboy on the range called "Born in the U.S.A.," evoke strong emotions and recall a simpler time when the lines between good and evil seemed as clearly defined as the difference between a white hat and a black one. Her petroglyph engravings also are stirring, including "Comanche," and studies of Clayton Moore as "The Lone Ranger," John Wayne, Gene Autry and Gary Cooper.

Katie also has been a featured artist at a wide-range of art shows and other events across the nation. She has appeared on local and national television shows and her work has been illustrated in magazines from coast to coast. Her art, music and writing have spread joy and happiness to fans young and old all over the world. Collectors of Katie's work include such luminaries and fans of the western tradition as Roy Rogers and Dale Evans, jockeys Bill Shoemaker and Gary Stevens, singer Pat Boone and astronaut Buzz Aldrin.

Finally, Mr. Speaker, I ask my colleagues to join me in expressing the gratitude and appreciation of the United States Congress for the artistry of Katie West. Her dedication to conveying the strength of spirit and the vigor of the Old West in her artwork serves to preserve and rekindle the romanticism and patriotism that have always helped our nation overcome obstacles and adversity. I can think of no better time to have an artist such as Katie West riding the range for our country.

PERSONAL EXPLANATION

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. RILEY. Mr. Speaker, I was unavoidably detained for rollcall No. 253, on Agreeing to the Journal. Had I been present I would have voted "yea."

I was also unavoidably detained for rollcall No. 254, H.R. 4858, To Improve Access to Physicians in Medically Underserved Areas. Had I been present I would have voted "yea."

I was also unavoidably detained for rollcall No. 255, H.R. 4679, the Lifetime Consequences for Sex Offenders Act. Had I been present I would have voted "yea."

I was also unavoidably detained for rollcall No. 256, H.R. 4623, the Child Obscenity and Pornography Prevention Act of 2002. Had I been present I would have voted "yea."

I was also unavoidably detained for rollcall No. 257, H.R. 4846, the Securities and Exchange Commission Authorization Act of

2002. Had I been present I would have voted "yea."

IMPROVING ACCESS TO PHYSICIANS IN MEDICALLY UNDERSERVED AREAS

SPEECH OF

HON. JOHN ELIAS BALDACCI

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 2002

Mr. BALDACCI. Mr. Speaker, I am pleased to offer my support for the bill H.R. 4858, which will extend and expand the J-1 visa waiver program. This legislation is vital for Maine and other states that have difficulties in finding physicians to practice in rural and underserved areas. Workforce shortages threaten access to care for all our citizens, and rural areas in particular face significant obstacles in attracting healthcare professionals. This legislation extends for an additional two years the successful state J-1 visa waiver program.

The ability for states to sponsor foreign physicians began in 1994. Until this authority expired at the end of May, states were able to sponsor 20 physicians a year, allowing them to remain in practice in underserved areas.

Maine's sponsorship of J-1 waiver applicants began in 1997. The State has used close to the maximum number of slots each year. Recently, the State of Maine responded to growing demand by expanding the scope of the waiver program, allowing specialists to apply for J-1 waivers. Additionally, more areas of the state were deemed eligible for such waivers. Consequently, Maine now maximizes its number of available sponsorships. This bill goes the step further to expand the current number of state waivers from 20 to 30, and therefore greatly enhances the ability of my State and many others to meet future needs in underserved areas.

There is some urgency to this matter, because the Department of Agriculture has suspended its processing of J-1 waiver applications. Therefore, this state waiver ability remains the only route left to ensure these primary and specialty physicians remain in underserved areas.

As a Member of the bipartisan House Rural Health Care Coalition, I've been involved in efforts to maintain the current J-1 visa waiver process. This particular waiver program is not a long-term solution to healthcare workforce shortages, but it is providing valuable resources right now to underserved areas.

Mr. Speaker, I thank Congressman JERRY MORAN for introducing this legislation, and encourage all my colleagues to support H.R. 4858.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

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HONORING DEBORAH A. CHAMBERS, CRNA, MHSA PRESIDENT OF THE AMERICAN ASSOCIATION OF NURSE ANESTHETISTS

HON. LINDSEY O. GRAHAM

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. GRAHAM. Mr. Speaker, I rise today to pay tribute to an outstanding resident of South Carolina, Deborah A. Chambers. Ms. Chambers will soon complete her year as national president of the American Association of Nurse Anesthetists (AANA). I am very pleased that one of South Carolina's own was tapped as the 2001-2002 president of this prestigious national organization.

The AANA is the professional association that represents over 28,000 practicing Certified Registered Nurse Anesthetists (CRNAs). Founded in 1931, the American Association of Nurse Anesthetists is the professional association representing CRNAs nationwide. As you may know, CRNAs administer more than 65 percent of the anesthetics given to patients each year in the United States. CRNAs provide anesthesia for all types of surgical cases and are the sole anesthesia provider in over two-thirds of rural hospitals, affording these medical facilities obstetrical, surgical and trauma stabilization capabilities. They work in every setting in which anesthesia is delivered, including hospital surgical suites and obstetrical delivery rooms; ambulatory surgical centers and the offices of dentists, podiatrists, and plastic surgeons.

Debbie has been a nurse anesthetist since 1981. She received both her anesthesia training and Masters of Health Service Administration at the Medical University of South Carolina, in Charleston, SC. She has been a solo practitioner since 1993 at the Microsurgery Center in Anderson, SC, as well as in both Greenville Memorial Medical Center and Saint Francis Bon Secours Hospital System in Greenville, SC. In addition to her role as a solo practitioner, she was the Clinical Coordinator at the Medical University of South Carolina School of Nurse Anesthesia at Greenville Memorial Medical Center from 1988-2000. Even with her demanding schedule as a practicing nurse anesthetist and AANA president, Debbie has continued to be active as a CRNA representative for pharmaceutical advisory panels such as Pharmacia and Glaxo Smith Kline since 2001 in order to advance the practice of anesthesia.

Debbie has held various leadership positions in the AANA as regional director, vice president, and president-elect before becoming the national president of the AANA in 2001. Ms. Chambers has actively served within the SC Association of Nurse Anesthetist as a District Representative on the board of directors and then in 1994 as state president. Since 1994, Debbie has taken her experience and knowledge from the work place and her AANA leadership roles to lecture on political and academic anesthesia related topics before different professional groups and societies.

Mr. Speaker, I ask my colleagues to join with me today in recognizing Ms. Deborah A. Chambers, CRNA, MHSA, for her notable ca-

EXTENSIONS OF REMARKS

reer and outstanding achievements. Congratulations Debbie.

STATEMENT COMMEMORATING THE PASSING OF AMVETS FOUNDING MEMBER ALBERT C. GEREMIA

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. LANGEVIN. Mr. Speaker, I was saddened to learn of the recent passing of a former constituent of Rhode Island's Second District, Albert C. Geremia, native and longtime resident of the City of Providence. Mr. Geremia passed away on June 4th at Hickory House Nursing Home in Honeybrook, Pennsylvania. Mr. Geremia was a Navy veteran of World War II and had a long and distinguished career in management for two Providence firms. As a Navy veteran, Mr. Geremia was a founding member of the Congressionally-chartered veterans service organization, AMVETS, of which Mr. Geremia was the last surviving founder.

Mr. Geremia was one of eighteen individuals who began AMVETS. He worked to secure its Congressional charter and to establish an office in Washington, DC. For his efforts, AMVETS awarded him the organization's "Ray Sawyer Award" at their 1952 National Convention. Since its founding in 1944 in Kansas City, AMVETS has worked tirelessly on behalf of America's veterans and the community at large. Veterans across the nation owe men like Albert Geremia a debt of gratitude for all they have done to keep and protect those benefits promised to our veterans.

Our nation can never have too many men the caliber of Albert Geremia. By helping to found AMVETS, he strove for something larger than himself. A man should not be remembered for the wealth and possessions he earned in life, but rather, for what sort of man he was and what he did to make the world a better place.

Mr. Geremia is survived by his wife, Anne, a daughter, Linda, and son, Paul. I offer them my deepest condolences at this time of great loss, and I hope they will take great comfort in knowing how fondly Albert will be remembered by those whose lives he touched.

PERSONAL EXPLANATION

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. BONIOR. Mr. Speaker, due to commitments in my home state of Michigan, I was unable to cast votes on Monday, June 24. Had I been present, I would have voted: "yea" on rollcall 249, on agreeing to H.R. 3937; "yea" on rollcall 250, on agreeing to H.R. 3786; "yea" on rollcall 251, on agreeing to H.R. 3971; and "yea" on rollcall 252, on agreeing to H.J. Res. 95.

June 27, 2002

HONORING DR. WALTER L. BUSTER, Ed.D.

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Dr. Walter Buster upon his retirement as Superintendent of Clovis Unified School District. Dr. Buster was honored at a dinner among his colleagues, friends, and family.

Dr. Buster has dedicated his life to education and has served many communities throughout California. Walter's colleagues agree, regardless of his position, he contributes vision, leadership, and ingenuity to his team. He has orchestrated many programs in the Clovis Unified School District in the seven years he has been there. Four of his top programs illustrate his unique ability to visualize current needs with respect for the future. He implemented "Laptops for Learners," a joint venture with Microsoft and Toshiba to supply all students with laptops to perform their daily classroom activities. Dr. Buster saw another of his visions come to fruition with the development of the Center for Advanced Research and Technology. The center will provide up to 1,800 11th and 12th grade students with advanced project-based training in 12 different technology based laboratory environments. Walter realizes the importance of reading to students, and put into action yet another program, called "Community of Readers." Volunteers from the community dedicate one hour per week to read with the students. Always keeping in mind the importance of being an influential citizen within the community, Dr. Buster started "Character Counts!" a program that teaches students six core principles: responsibility, respect, fairness, caring, citizenship, and trustworthiness.

Dr. Buster's contributions to the Clovis education system are obvious, but he has also made a tremendous impact on the community. He serves on many state and local education and business committees. The State Board of Education recently appointed Dr. Buster to the WestEd Board of Directors, a non-profit research, development and service agency dedicated to improving education and other opportunities for children, youth and adults.

AN AMERICAN COWBOY LEGEND:
BEN COOPER

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. BARCIA. Mr. Speaker, I rise today to pay tribute to the voluminous and noteworthy acting career of Ben Cooper, a performer whose work in the Western genre has informed and entertained generations of youngsters about the history and the myths of the Old West. Many fans may recognize that Ben has always had a special place in his heart for the Western, but perhaps not everyone knows that he met his wife, Pamela, while working on the "Wagon Train" series with Ward Bond.

While Ben is perhaps best known for his role in the non-western drama, "The Rose Tattoo," he made his mark in many terrific Westerns, including "Johnny Guitar," with Joan Crawford and Sterling Hayden. He also had prominent roles in "Jubilee Trail," "The Last Command," "Outlaw's Son," and as Johnny Shattuck in "Duel at Apache Wells." In 1965, Ben starred with Audie Murphy in "Gunfight at Comanche Creek" and "Arizona Raiders."

Before moving to Hollywood, Ben was already an extremely successful performer with 3,200 radio broadcasts and 250 live television shows under his belt. His first film credit was for his work in the Republic Studios film, "The Thunderbirds." While the bulk of Ben's big-screen work was in the 1950s and 1960s, his career has covered more than fifty years, including two 1971 Westerns, "One More Train to Rob" and "Support Your Local Gunfighter," in which he played Colorado Magee. Over the years, Ben appeared in various movies and had many guest appearances on hit television shows, including "Kung Fu: The Legend Continues," "The Fall Guy," "Bonanza," and "The Rifleman." He also had a longrunning part in "The Misadventures of Sheriff Lobo" with Claude Akins from 1979 to 1981.

In the 1960s, Ben formed Celebrity Speakers, a group that booked actors on the lecture circuit. Ben's belief that the magnificent and hard-working character actors cast as sidekicks, saddle tramps, bank robbers and in other essential supporting roles were equally capable of acting as goodwill ambassadors for Hollywood has given us all a better understanding of film-making.

Finally, Mr. Speaker, I ask my colleagues to join me in applauding Ben Cooper for exhibiting the true spirit of the American cowboy-hero. Whether Ben wore a white or a black Stetson, his characters were memorable and we should tip our collective hats to Ben Cooper, another legendary hero of the Old West.

TRIBUTE TO NADINE MILFORD,
NEW MEXICO MADD STATE CHAIR

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to pay tribute to an outstanding New Mexican, my friend, Nadine Milford. On June 30, after a successful three-year term, Nadine will step down as the Mothers Against Drunk Driving State Chair. I will take this time to pay tribute to Nadine for her efforts to eliminate the scourge of drunken driving and to improve the lives of countless New Mexicans.

When tragedy strikes, we can do one of two things. We can either allow it to defeat us or we can use the experience to empower us to become an effective advocate for change.

People living in New Mexico in 1992 will never forget that December. What started out as an ordinary holiday season was soon changed into one of devastating heartbreak. It was Christmas Eve and there were pockets of

snow across the country. There was a sense of electricity in the air as there usually is during the holidays. At one home in Albuquerque, Bob and Nadine Milford were especially excited about spending the holiday with their children and grandchildren. On Christmas Eve, 1992, gifts were waiting under the Milford's Christmas tree—gifts that never were to be opened.

Across town on that fateful night, Paul and Melanie Cravens picked up Melanie's three daughters—Kandace, Erin and Kacey Woodard—at their father's west-side Albuquerque home. They decided to go see the lights from Nine Mile Hill, west of the city on Interstate 40. But before they topped the hill, they were struck by a pickup driving down the wrong side of the highway.

Melanie and the three girls were killed instantly. Paul Cravens somehow survived, as did the driver of the pickup. Blood tests later showed that the driver was well over the legal alcohol limit. Mr. Speaker, I will not go into the legal debacle that ensued on this case for the next several years, other than to say it was painful and finally created the traction necessary for stronger drunk driving laws.

New Mexicans were inconsolable that Christmas Eve when the local news began reporting what had occurred. Then they got mad. Our citizens demanded action to combat the state's DWI problem—and they got it.

I have been fortunate enough to be a firsthand witness to Nadine's many accomplishments. At the time, I was proudly serving as the Attorney General of New Mexico. Earlier that year, I had appointed a DWI Task Force to study what our state could do to fight drunk driving. We issued our report to the State Legislature as they convened in January.

Throughout the next few years, we worked to lower the legal blood-alcohol limit, toughened penalties for drunk driving and set aside millions of dollars to fund local anti-DWI efforts. The state also began widespread use of sobriety checkpoints and passed a "zero tolerance" law that strips minors of their licenses when they are caught drinking and driving.

Throughout all of this, there was one person in the spotlight who became the focal point of this crusade, and that was Nadine. She could have sunk under the depression that engulfed her. Instead, she leaned on her deep faith and the love of her family and seemingly overnight transformed herself into the new face of DWI reform. Nadine could never have imagined that she would one day be tapped to lead such a worthy fight. Ultimately, I cannot think of anyone better to have done it.

When Nadine was selected as the Mothers Against Drunk Driving State Chair in 1999, she was totally devoted to fighting for MADD's mission to stop drunk-driving. She has also comforted countless numbers of families who have been affected by a drunk driving death. Being so modest, I doubt that Nadine even realizes the positive impact that she has had on New Mexico.

Mr. Speaker, I have touched only on a small list of Nadine's many personal and professional accomplishments. Vera Nadine Fuchs Milford was born in Los Angeles, California and has resided in New Mexico since 1961.

Her husband, Robert, still owns Bobby Joe's Auto Sales. In addition to Melanie, she has four other children—Terrell, Celeste, Pauline and Lance. After graduating from Victory Bible College, Nadine taught school for a time. Of everything she has done, I know how proud she is of her family. She has been a wonderful wife and mother.

New Mexicans feel as though they know Nadine because they have shared so much of her grief over the years. Nadine's motto is "persistence wears resistance." Without a doubt, she has lived this motto throughout the years that have passed since Christmas Eve, 1992. She has stood tall and is truly a hero to many.

Much of my admiration for Nadine Milford stems from her enduring commitment to fighting the good fight. Her values are reflected not only in the way she lives her life, but also in her intelligence and honesty. She will undoubtedly be missed at MADD, but her legacy will endure, and she will never stop advocating for the elimination of drunk driving.

Nadine, I wish you well in whatever future endeavors you pursue.

VETERANS' BENEFITS

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. HUNTER. Mr. Speaker, I rise today to speak on an issue that is very important to our nation's veterans. If you were to ask Americans if they knew that their veterans were being denied benefits to which they earned in an effort to save money, there would be outrage. Well Mr. Speaker, I am sorry to say that that is exactly what has been occurring for many years.

Today, veterans who served our country and retire after 20 years but endure a service-connected disability, have their disability benefits offset dollar-for-dollar by a reduction in their retirement pay. This unfair practice is a disgrace for those who selflessly served our country and sacrificed so much on our behalf. These offset dollars are taken away from veterans seeking to make a better life, send children through college or have an opportunity to spend time with grandchildren.

Well Mr. Speaker, there is good news. After many years of trying to correct this problem, I am very proud that my committee, the House Armed Services Committee, included a provision granting concurrent receipt for our most severely disabled retirees in H.R. 4546, the Bob Stump National Defense Authorization Act for Fiscal Year 2003. This provision provides \$5.8 billion to phase in, over a five-year period, an elimination of the concurrent receipt offset for disabled retirees with a disability rating of 60 percent or greater. Though the offset is not eliminated completely for all disabled veterans, it is a first step. This measure passed the House on May 9, 2002, by a vote of 359–58.

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Mr. Speaker, there is still more work to be done. It is my understanding that, like the House, the Senate has included a concurrent receipt provision in their authorization bill and I plan on working actively with them on this issue when this bill is brought to conference. Our veterans earn their retired pay by committing themselves to the defense of our country and I believe there is no better way to honor America than to give our nation's veterans all the benefits to which they are entitled.

CONGRATULATING THE ACCOMPLISHMENTS OF TRACEY ALLNUTT ON WINNING THE 13TH DISTRICT OF FLORIDA CONGRESSIONAL ART COMPETITION

HON. DAN MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. DAN MILLER of Florida. Mr. Speaker, I rise today to congratulate the winners of the Congressional Arts Competition—particularly to congratulate Tracey Allnutt of Sarasota Florida, a senior at Riverview High School. Next year she will be attending the Ringling School of Art in Sarasota in pursuit of a degree in art history.

A panel of judges from my congressional district evaluated the contestants' work and from this pool of contestants Tracey's was selected as the winner. Her work of art symbolizes the rising and enduring faith and patriotism of America's youth in the wake of the events of September 11th. It is fitting that this artwork will be displayed in our nation's Capitol.

I would like to use this time to honor Tracey and the other winners of the Congressional Arts Competition and encourage the youth of our nation to continue their patriotic enterprises and artistic endeavors.

COMMENDING CONTRIBUTIONS OF ROOFING PROFESSIONALS INVOLVED IN REBUILDING OF PENTAGON

SPEECH OF

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 2002

Mr. GARY MILLER of California. Mr. Speaker, I rise to support H. Con. Res. 424 Commending the Patriotic Contributions of Roofing Professionals Involved in the Rebuilding of the Pentagon.

First, I want to thank Mr. MANZULLO for introducing this resolution and bringing it to the floor. Several months ago, I gave a one minute speech recognizing the role small roofing contracting companies have played in rebuilding over an acre of the Pentagon's roof, and these efforts are certainly worthy of continued mention.

What I find most moving about this volunteer effort, is how deeply committed these roofing professionals are. Men and women

EXTENSIONS OF REMARKS

have traveled from all over the U.S. to help put a roof back on the Pentagon. There are numerous stories about how they kept working through Thanksgiving and Christmas to stay on an ambitious schedule.

These men and women felt compelled to do this because to them, this is how we win, this is how we beat the terrorists. And they're right. Whether they have donated supplies, spent time at the site working, or given money, these individuals and companies should be proud of their contribution towards healing our nation.

In addition, I would also like to thank the Department of Defense for working with the National Roofing Contractors' Association to make this volunteer effort so successful.

HONORING DAN MALCOLM

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Dan Malcolm, editor of American Vineyard, on the 10th anniversary of his magazine's publication.

Dan has been the patron of American Vineyard through its ten years and he has every reason to be proud of everything the magazine has accomplished. In 1993, the magazine became the highest grower circulated grape publication in the country. Then, in 1994, American Vineyard journeyed to Mexico, and the growers were both impressed by what they saw and encouraged to compete with the growers south of the border. The magazine hosted its first grape expo in Caruthers in 1996 and was pleasantly surprised by the amount of support received, over a thousand growers attended. In 1998, Dan Malcolm was honored with the Viticulture & Enology Research Center's Grape Day Industry Award. American Vineyard published their biggest issue in 2001 and the magazine is still going strong.

Mr. Speaker, I rise today to honor Dan Malcolm for his vision and unending pursuit of his ambitions. I invite my colleagues to join me in thanking him for his contribution to agriculture and the community and wishing him and his family continued success.

PERSONAL EXPLANATION

HON. JEFF FLAKE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. FLAKE. Mr. Speaker, I respectfully request the opportunity to record my position on rollcall votes 249, 250, 251, and 252. I was regrettably absent from the chamber on Monday, June 24, 2002 during rollcall votes 249, 250, 251 and 252. Had I been present, I would have voted "yea" on all four votes.

June 27, 2002

TRIBUTE TO MITCH KEHETIAN

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. LEVIN. Mr. Speaker, I rise today to congratulate an articulate and well-respected voice in local journalism, Mitch Kehetian, as he is honored by the Metro Detroit Chapter of the Society of Professional Journalists with a Lifetime Achievement Award.

Mr. Kehetian has served the public for almost fifty years as a reporter and editor of community newspapers. In his early twenties he went to work as a reporter for the Detroit Times. He brought his reporting skills to Macomb County, Michigan at the Mount Clemens Monitor-Leader. The Monitor-Leader became the Macomb Daily and Mr. Kehetian rose through the ranks to his current position as Editorial Page Editor.

Mr. Kehetian's work can be summarized with three words: community, responsibility, and passion. He has editorialized about the widest range of issues, always using his straightforward, commonsense approach to make a clear and concise point. He has written about a variety of local issues, from weighing in on a controversial community issue, to honoring a young person or community activist. He has written about regional issues always paying special attention to the future of the City of Detroit, about issues impacting our entire State and vital national issues including domestic policy, politics and international affairs. He has opined passionately about human rights, highlighting the plight of the Iraqi people under Saddam Hussein, the children of Afghanistan, the conflict in the Middle East, and the longstanding refusal by Turkey to acknowledge the Armenian Genocide.

In his work, especially the latter editorials, you can see an image of Mitch Kehetian himself. On April 29, 2002, Mr. Kehetian wrote, "Through the years, I've written reports about my journey to historical, Turkish-occupied Armenia in search of my Armenian roots. I found that the homeland of my ancestors lacks historical markers to tell the curious that for 3,000 years Armenians lived in what today is eastern Turkey. Through the years I've been repeatedly asked why people of Armenian heritage can't forget what happened in 1915-20, especially those of my generation who weren't even born then. I cannot forget. As a child growing up in southwest Detroit's ethnic neighborhood, I had only one grandparent, one aunt, three uncles and a handful of cousins. All the others were murdered in the Turkish genocide of the Armenian people. . . . This American of Armenian heritage cannot forget."

Mr. Speaker, I have enjoyed the opportunity to work in the same communities as Mitch Kehetian and to observe his work. He has been a voice for elevating the role of Macomb County and its place in the State of Michigan. Today, I join the residents of Macomb County, and his colleagues in the journalism profession, in saluting his distinguished career, thanking him for his years of service, and encouraging him to keep those editorials coming.

June 27, 2002

TURKEY NATO AND AFGHAN
PEACEKEEPING

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. GALLEGLY. Mr. Speaker, last week, the command of the International Security Assistance Force (ISAF) in Afghanistan was handed over to Turkish military forces after a successful six months, under the command of British forces.

As the Chairman of the Europe Subcommittee, I want to first congratulate and commend the British forces for the excellent work they did to establish an atmosphere of calm and security at the critical time in which the people of Afghanistan were consolidating their political and economic future. The Brits are owed a great deal of thanks.

The arrival of the Turkish command marks a new period for the ISAF operation, for the new government of Afghanistan and for Turkey itself. The leadership of Turkey, a predominantly Muslim state sends a clear message that the international campaign against terrorism does not have anything to do with Islam as a religion and reinforces the effort we have been trying to make that the United States has Muslim allies in this effort. For Turkey, taking command of ISAF is an acknowledgment of Turkey's important position in that region and the role it can play in the Muslim world. It is also a signal of the important prestige Turkey has accumulated both here in the United States and in the West. The government in Ankara should be commended for its willingness to take on this critically important role. We congratulate Turkey and wish their military contingent the best of success.

Finally, I would be remiss if I did not point out for commendation all of the other nations whose military forces are currently serving in Afghanistan. ISAF does have some 5,000 troops serving in Afghanistan and they all deserve our thanks and continued support. I think it is also important to note that the majority of the nineteen countries who have contributed forces to ISAF are not only European, but are from our NATO partners or NATO candidate countries. I believe this is an important point that is often overlooked by those who have criticized Alliances such as NATO for not being willing or capable of conducting missions abroad. The Afghanistan campaign was not a NATO mission but the fact that so many of our NATO partners have sent troops there is a testament to the importance of the Alliance and why we in this country should continue to strongly support NATO. Consider where we would be today if NATO was no longer relevant to our security needs. Whose 5,000 troops would be patrolling the streets of Kabul and ensuring the peaceful transition of that country.

So, again we salute the British forces for a job well done. We congratulate and welcome the Turkish leadership of ISAF and we thank our NATO allies and European friends for their continued support in Afghanistan and in the campaign against global terror.

EXTENSIONS OF REMARKS

IN SUPPORT OF THE DEMOCRATIC
SUBSTITUTE TO H.R. 4931, RE-
TIREMENT SAVINGS SECURITY
ACT OF 2002

SPEECH OF

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 21, 2002

Mr. STARK. Mr. Speaker, I rise today in opposition of H.R. 4931, the Republicans' so-called Retirement Security Savings Act.

Like every other tax break the Republican leadership has brought to the floor lately, this bill is more about their political pandering than our priorities. But, I refuse to play games with the hard-earned pensions of working Americans while Republicans line the pockets of their wealthy contributors.

We ought to bring a pension bill to the floor that encourages saving and increases employee participation in pension plans. Unfortunately, the Republican bill does little to help average Americans save for retirement. It simply benefits the wealthiest Americans. Forty-two percent of the tax breaks proposed by the Republicans would go to the richest five percent of taxpayers.

Meanwhile, if you are an average American with a pension or retirement account, the Republican plan does nothing to help you build upon that savings. Republicans are obviously content with the fact that most Americans have only about \$12,000 put away for retirement. I'm sure an Arthur Andersen accountant might be able to convince someone that \$12,000 is sufficient. But, to think the Republicans would expect that most Americans would believe it just shows how out of touch they are.

I support the Democratic plan for retirement security. It puts money where our mouth is when we say we want Americans to save. It rewards them for putting money away for their retirement by giving them a \$1,000 tax credit if they contribute to an employer-sponsored pension plan or an IRA.

Republicans supported giving lower and middle-income families this credit in the past. They included it in last year's tax bill. But, for some reason they won't support it today. Why not?

Maybe Republicans don't think it's necessary because they've already passed their huge tax breaks for the wealthiest Americans? Maybe they've just gotten too close with their corporate donors to appreciate the struggles many Americans face in building a secure retirement?

Whatever the answer may be, it is clear Republicans haven't learned anything from the Enron fiasco. This bill's second, major flaw is that does nothing to enforce corporate accountability when it comes to pensions. It doesn't prevent huge scams like Enron from being carried out on the backs of employees—it makes it easier. We shouldn't allow those that work hard for their retirement to be ripped off while a handful of greedy executives walk away with millions.

We should be on this floor today making sure that Enron never happens again. I support the Democratic plan because it will lock in

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real pension protection and ensure that workers are fairly compensated when companies fail. But, instead, we're stuck having to vote on a Republican bill that does nothing but reward corporate greed at the expense of millions of hard-working Americans.

I urge my colleagues to stand up for America's families, support the sensible Democratic plan for retirement security, and vote down the Republican bill.

SOCIAL SECURITY PROGRAM
PROTECTION ACT OF 2002

SPEECH OF

HON. STEPHEN F. LYNCH

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 2002

Mr. LYNCH. Mr. Speaker, today I stand before you to express my concerns on strengthening and preserving our nation's Social Security system.

We are here today to discuss, H.R. 4070, The Social Security Programs Protection Act. However, I have grave concerns about what we are NOT discussing—namely, privatization, one of the biggest threats facing the Social Security Program today.

Last week, Democrats filed a discharge petition to demand a public debate on privatization. Democrats think the public has a right to know about the true effects of privatization. Under the Republican Privatization Plan, we would see cuts in guaranteed benefits, massive raids on the Social Security Trust Funds, and the threat that privatization poses to the ability of the system to pay benefits to the baby-boomer generation.

Mr. Speaker, Congress has a responsibility to our next generation to ensure that Social Security will be there for them. Social Security is more than a program, it is a promise. The Republican Leadership is refusing to bring their privatization bills to the floor.

Mr. Speaker, we have missed our mission of strengthening Social Security. We have missed our opportunity to strike, a true course consistent with the great traditions in this country of meeting the challenges of each generation. We can only live up to our responsibilities by preserving and strengthening our Social Security system. American families work hard to pay into the system, and they should be able to rely on Social Security when they retire.

Mr. Speaker, I urge my colleagues to live up to the responsibility that has been bestowed upon us and to strengthen and preserve our Social Security system.

Thank you, I yield the remainder of my time.

CHILD OBSCENITY AND PORNOGRAPHY
PREVENTION ACT OF 2002

SPEECH OF

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 2002

Mr. KUCINICH. Mr. Speaker, I voted in favor of H.R. 4623, the Child Obscenity and

Pornography Prevention Act of 2002. I strongly support the goal of this legislation, which is to protect children from sexual exploitation.

This legislation is in response to the United States Supreme Court's ruling in *Ashcroft v. The Free Speech Coalition*, which struck down portions of the Child Pornography Prevention Act that made it illegal to create, distribute or possess "virtual" child pornography produced by means other than using real children, such as using adult actors who look like children or through computer generated images.

In an effort to pass constitutional muster, this bill prohibits the creation, distribution or possession of computer generated images that appear "virtually indistinguishable" from that of a minor engaging in sexually explicit conduct. We should not allow technological advances to hamper law enforcement's ability to prosecute individuals for child pornography. Law enforcement agencies must have all necessary tools to eliminate sexual exploitation of innocent children.

However, I have concerns about how this legislation affects free speech protections under the First Amendment. H.R. 4623 criminalizes speech that not only is not obscene, but that has redeeming literary, artistic, or other social value. This includes therapists and academic researchers who use computer-generated images in their research, and filmmakers who create explicit anti-child abuse documentaries.

While I am hopeful that this legislation will pass constitutional scrutiny we must also ensure that we do not infringe upon the First Amendment. I believe we must strive to eliminate child pornography, a despicable exploitation of our children, while at the same time respecting free speech.

LEHIGH VALLEY HERO—
STEPHANIE McKENNA

HON. PATRICK J. TOOMEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. TOOMEY. Mr. Speaker, today I would like to share my Report from Pennsylvania for my colleagues and the American people.

All across Pennsylvania's 15th Congressional District there are some amazing people who do good things to make our communities a better place. These are individuals of all ages who truly make a difference and help others.

I like to call these individuals Lehigh Valley Heroes for their good deeds and efforts.

Today, I would like to recognize Bethlehem resident Stephanie McKenna as a Lehigh Valley Hero. She is working hard to make a difference in her community.

Stephanie, a single mother of three and guardian of two others had always thought of ways to spend more time with her children. A year ago, she quit her high powered Manhattan job to put in motion the idea she had for a way to be more in touch with her children while helping other children in the community. This idea was called Teen Destiny, a one-year residential program for teenage boys who are troubled, but haven't yet crossed into the juvenile detention system.

This program, which could start as early as September is run by a seven-member board of directors and has a \$1.2 million agreement of sale for a 189-acre farm in Upper Mount Bethel Township.

This working farm would be the temporary home for teenage boys. After school and on weekends, the boys would learn to cook, clean and do laundry through the 4-H, and try their hand at farming. Stephanie hopes that by taking the teenagers into a new environment, giving them close supervision and lots of attention, she and a staff of professional counselors and tutors can turn the teenagers around before they succumb to alcohol, drugs or gangs.

Stephanie McKenna is selflessly working to make a difference in the lives of many teenage boys in need of direction, and therefore she is a Lehigh Valley Hero in my book.

Mr. Speaker, this concludes my Report from Pennsylvania.

IN RECOGNITION OF THE PACIFIC AMERICAN INTERNATIONAL HIGHER EDUCATION SCHOOLS COUNCIL INAUGURATION

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. ACKERMAN. Mr. Speaker, I would like to enter into the RECORD a recent speech given by a distinguished former Member of this body, Former Congressman Lester L. Wolff before an Assembly of Asian educators on May 20th in New York. Congressman Wolff served as Chairman of the House Asian and Pacific Affairs Subcommittee and is now Chairman of the Pacific Community Institute.

INAUGURATION OF THE PACIFIC AMERICAN INTERNATIONAL HIGHER EDUCATION SCHOOLS COUNCIL

With a new look and focus after two decades of service, the Pacific Community Institute (PCI), continues to work towards its purpose of creating a community of interests in the Pacific Rim. With those goals in mind, I am proud to announce today the inauguration of the Pacific American International Higher Education Schools Council.

Because the United States was originally an off-shoot of Europe, there is a historical tendency to think of the U.S. as an Atlantic nation only. However, the United States has historically been involved in the Pacific since 1784, its Pacific Coast is longer than the Atlantic Coast, and the State of Hawaii is in the Pacific. The commitment of the United States to the Pacific has also been sealed in active diplomacy and several wars for freedom and democracy.

The basic principle of the Pacific Community Institute (PCI) is to promote community, based upon respect for individuals and the traditions of its members. Building on ties of trade and kinship, which have long existed among the countries of the Pacific Rim, PCI seeks to facilitate interaction and cooperation toward the solution of common problems. PCI aims to obviate such problems by enabling the nations of the Pacific Rim to explore together, at the working level, means to contemporary activities, and new, creative solutions to the common concerns.

PCI is supplementary and supportive without competing with existing organizations.

PCI believes that true community may be facilitated by the revolution in communication and information technology, but that it must be created by people in concert, in person. For that reason, PCI remains committed to facilitating face-to-face interaction as significant step toward building a climate of cooperation. The advent of the World Wide Web has made the task of the PCI simpler in some respects, by permitting the movement of information in a more efficient manner. Yet without a sense of the human being sending an e-mail, or the organization maintaining a website, the official, the executive, or the academic who may be seeking a solution remains uncertain and unconvinced.

The Pacific Community Institute seeks today to promote international education based on the concept that both sides of the Pacific can learn from each other. PCI is currently working to develop a graduate level, Western-style curriculum in business. The role of the PCI is to oversee the content of the program, curriculum, the credentials of the instructors, and performance of graduates. In general, PCI fosters the idea of appropriate conferences designed to enhance the sort of personal contact that makes an e-mail message a genuine commodity, and not a nuisance.

The Pacific Community Institute, in its role to improve inter-relationships, understanding, and economic well-being within the nations of the Pacific region, is in the process of organizing such an organization: The Pacific American International Higher Education Schools Council. The Council, composed of an elite professional group of Academicians, will create and oversee an MBA program to meet the high standards of the International Community and the special needs of the educational requirements of young people residing in the Pacific Rim.

Selected to head the Council is Dr. Wayne Patterson who has served as Dean in Residence of the National Council of Graduate Schools. Invitations to participate in the Council have been extended to: Dr. Orlando L. Taylor, Dean of Graduate Schools at Howard University, former Chair of the Board of Directors of the Council of Graduate Schools; Dr. Marcia Welsh, Provost and V.P., Academic Affairs, Adelphi University; Dr. Sung Lee, former Vice Provost, Michigan Tech, now executive at Carnegie Mellon; Dr. Thomas Maresh, former Dean of the Graduate School at Oregon State University; Dr. J. Kent Morrison, President at Walden University; Dr. Robert Ringold, Provost at Purdue University; Dr. Robert Rudd, former Dean of School of Business at Charleston College and have met with a strong positive response.

The Pacific American University was founded in 2002, as a division of the Northern Institute of Business Management, an affiliate of The Pacific Community Institute, Inc., in order to bring the highest quality of American-developed higher education to students in China and other Pacific region countries. The initial degree offering by the Pacific American University is the Master of Business Administration. The curriculum is designed to be aligned with many MBA programs in the United States.

The Pacific American University is a research-oriented private university dedicated to providing educational experiences of exceptional quality, based on the traditions of American higher education, to students of high academic potential in China and in other countries

throughout the Pacific region. Further, the University is dedicated to attracting and sustaining a cadre of faculty who are, through their teaching and research, committed to the development of distinguished and compassionate graduates and to the quest for solutions to human and social problems.

INTERNATIONAL DAY IN SUPPORT
OF THE VICTIMS OF TORTURE

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to introduce a resolution condemning the use of torture and other forms of cruel, inhumane, or degrading treatment or punishment wherever they occur—in the United States and other countries. As the United States has become a safe haven for hundreds of thousands of torture victims, the resolution also expresses support for the victims of these heinous acts. I am pleased that I am joined by my colleagues, Representatives STENY HOYER, BEN CARDIN, and ALCEE HASTINGS, as original cosponsors of the measure. The Chairman of the Helsinki Commission, Senator BEN NIGHORSE CAMPBELL, is introducing an identical resolution in the Senate.

Torture remains the weapon of choice of oppressive regimes. In the worst cases, it is systematically used to silence political opposition, punish religious minorities, and target those who are ethnically or racially different from those in power.

It is estimated that some 500,000 torture survivors live in this country alone, most of whom came here as refugees. The debilitating effects of torture often last a lifetime and require substantial medical, psychological and other treatment. Although they are aided by 34 centers in 19 states, the needs of the victims are extensive. I will continue to support funding for torture treatment centers in the United States, as well as foreign treatment centers funded through the U.S. Agency for International Development, and multilateral efforts supported by the UN Voluntary Fund for Victims of Torture. Mr. Speaker, I also want to commend the non-governmental organizations which seek to document this abuse and hold perpetrators accountable.

At the same time, I will be working to ensure that the United States continues to play a leadership role in the battle against torture by signaling our unwavering condemnation of this egregious practice. It is particularly important that we send that message now, when irresponsible voices are suggesting that torture may be a necessary tool against terror. Torture creates terror. That is its purpose, and it makes no sense to wage war to defend our great democratic republic and respect for the rule of law and use methods that denigrate the very values we seek to protect. Torture is unconstitutional, barred by the laws of the United States and the laws of all civilized nations.

The resolution that Sen. CAMPBELL and I are introducing underscores that message. It recognizes the United Nations International Day

in Support of the Victims of Torture—June 26 each year—and encourages the training of law enforcement personnel who are involved in the custody, interrogation, or treatment of any individual who is arrested, detained, or imprisoned, with the hope of preventing the use of this practice. The resolution also calls on the Secretary of State to seek, at relevant international fora, the adoption of an agreement to treat confessions and other evidence obtained through torture or other forms of cruel, inhumane, or degrading treatment or punishment, as inadmissible in any legal proceeding; and to prohibit, in law and in practice, incommunicado detention of prisoners.

I urge my colleagues to join me in supporting this resolution and giving it timely consideration.

POLICE SECURITY PROTECTION
ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. PAUL. Mr. Speaker, I am pleased to help America's law enforcement officers by introducing the Police Security Protection Act. This legislation provides police officers a tax credit for the purchase of armored vests.

As recent events have reminded us, professional law enforcement officers put their lives on the line each and every day. Reducing the tax liability of law enforcement officers so they can afford armored vests is one of the best ways Congress can help and encourage these brave men and women. After all, an armored vest could literally make the difference between life or death for a police officer. I hope my colleagues will join me in helping our nation's law enforcement officers by cosponsoring the Police Security Protection Act.

MOROCCO'S ACTIVE ROLE IN THE
WAR AGAINST INTERNATIONAL
TERRORISM

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. DIAZ-BALART. Mr. Speaker, in the past 2 weeks, both the Washington Post and The New York Times have devoted page-one stories to the extraordinary support and cooperation Morocco has been providing the United States in the war against terrorism. At a time when many in the media and elsewhere have been questioning whether the resolve of U.S. allies and friends has been slackening, Morocco's actions take on even greater significance.

Specifically, these stories refer to the arrests, announced on June 10, of three Saudi nationals who are believed to be part of the al Qaeda network. According to the Washington Post, June 16, 2002, which cited senior Moroccan officials, these men "have told interrogators that they escaped from Afghanistan and came to Morocco on a mission to use bomb-laden speedboats for suicide attacks on

U.S. and British warships in the Strait of Gibraltar." Moreover, they have provided "what officials describe as a fuller understanding of al Qaeda's strategy since its expulsion from Afghanistan . . ."

Days later, on June 19, Moroccan authorities revealed they had taken into custody another Saudi national—this one a senior operative who reputedly ran several of Osama bin Laden's training camps in Afghanistan, helped direct the evacuation of al Qaeda from Afghanistan, and, in the words of the BBC, June 19, 2002, is "central to al Qaeda's international recruiting network . . ." This individual is said to be a close associate of Abu Zubaydah, the suspected al Qaeda operations chief who was apprehended in Pakistan and who has apparently been giving U.S. interrogators valuable information.

On June 26, the New York Times and the French press agency AFP carried stories of still more arrests by Moroccan authorities, including yet another five Saudi nationals and three of their local contacts.

Mr. Speaker, these developments represent important breakthroughs in the long and difficult struggle against the forces of terror—and the very nature of that struggle requires that we have strong, reliable, consistent partners. Thankfully, Morocco is such a partner. As the New York Times noted, June 24, 2002, "Morocco, the first Muslim country to condemn the attacks of September 11, has escaped the terrorism that plagues its neighbors." And that newspaper went on to quote a Western diplomat in Morocco as saying, "The Moroccans worked hard to help nail these guys."

The Washington Post, June 16, 2002, quoted a Western diplomat as saying, "The Moroccans take very seriously their 225-year old relationship with the United States. There is good cooperation . . . They're serious." The diplomat continued: "The Moroccans have asked for nothing. Nothing. They made a decision to cooperate and they stuck to it."

Mr. Speaker, we can only hope that other friends of the United States will prove to be as helpful. In the meantime, let us thank Morocco for its ongoing support and cooperation—and let us continue to work closely with this friend, our oldest and most faithful ally in the entire Arab and Muslim world.

ALBERT GRAVES, A PUBLIC
SERVANT AND AN INSPIRATION

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. ROSS. Mr. Speaker, I rise today to pay tribute to Albert Graves, a lawyer, a businessman, and a community leader who died on June 13, 2002, at the age of 92. It has been written of Albert that he built his power in an unusual way by helping the community whenever he could, without regard for who got credit.

Albert Graves was born on Christmas Day, 1909, in Hope, AR. Perhaps that was an indication of what a gift he would become to that community. After graduating from Hope High School in 1926 and Hendrix College in 1930,

Albert received his law degree from Harvard Law School in 1933 and soon joined his father, O.A. Graves, in practicing law. The young attorney made a name for himself in Hope, and at the age of 25 was elected mayor, the youngest in that city's history.

Albert served as mayor of Hope from 1935 to 1939, and from 1941 to 1947. His career in public service was not limited to city hall; he served as president of the Hope School Board from 1953–57, and was chairman of the Hope Water and Light Commission. Albert was quite active in Arkansas's law community and was a member of numerous associations and foundations, and he served as chairman of the State Judicial Nominations Committee each year from 1978 until 1982. He was also quite active in the First United Methodist Church, and taught the Century Bible Class for more than 50 years.

Albert Graves was Hempstead County's Citizen of the Year in 1978, and was an inspiration and a model for his community. He was well-respected, well-loved, and will be fondly remembered.

As a child growing up and attending public school in Hope, I saw him as one who was involved in his community, a successful businessman and accomplished attorney who took the time to give back. I looked up to him and was inspired by his example.

My heart goes out to his wife, Marilyn, his three children, seven grandchildren, and 16 great-grandchildren in what I know is a difficult time for them. I am keeping all of them in my thoughts and in my prayers. While Albert Graves may no longer be with us, his life and legacy live on in the lives of all those he touched.

A TRIBUTE TO FATHER PAUL J. NOMELLINI ON THE OCCASION OF THE 25TH ANNIVERSARY OF HIS ORDINATION AND HIS RETIREMENT

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. STUPAK. Mr. Speaker, it was in 1973 that Brother Paul Nomellini, a professed religious brother in the Congregation of the Holy Cross of Notre Dame, was flying to Washington D.C. to attend a conference here in Georgetown. Then a teacher in the inner city of Chicago, Brother Paul on that flight met and struck up a conversation with a former member of this body and a former member of my delegation, then-Congressman Gerald Ford.

They shared their flight in the innocence of travelers unaware of their real destination. By the end of the year, Congressman Ford, the politician, had become Vice President Ford and was on his way to becoming President Ford. Brother Nomellini, the teacher and religious brother, would that same year acknowledge his calling to the priesthood. He would in 1973 embark on the path to Holy Orders that would eventually lead him to be leader of the congregation of St. Mary Queen of Peace Church in Kingsford, Michigan.

Because our futures are so uncertain, Mr. Speaker, it's best we entrust our lives to Good

Hands, and I'm sure that President Ford as well as Father Nomellini have long acknowledge the Lord's role in helping to shape their lives and destinies. So I rise tonight, Mr. Speaker, to report that a major chapter in the life of Father Nomellini will close on July 1, this coming weekend, when the good pastor marks his 25th anniversary as a priest and goes into retirement.

Despite his years of teaching in Illinois and Ohio, Father Nomellini is a true son of the Upper Peninsula of Michigan. He is a native of Hancock on Michigan's Keweenaw Peninsula and is a graduate of Hancock High School. He attended Hancock's Soumi College—now Finlandia University—before going on to the University of Notre Dame, where he received his bachelor's degree in English and took his vows as a religious brother. He later earned a master's degree in guidance and counseling from Butler University in Indianapolis, Indiana, and a master's degree in theology from Pope John XXIII National Seminary in Weston, Massachusetts.

An ordained priest since 1977, Father Nomellini, has served as pastor of the St. Mary Queen of Peace Parish in Kingsford for nine years. Before that, he served in parishes across the Upper Peninsula, including St. Peter's Cathedral and St. Michael Parish in Marquette, St. Joseph and Nativity parishes in Sault Ste. Marie, St. Mary & St. Joseph Parish in Iron Mountain, St. Joseph Parish in Rudyard, Holy Family Mission in Barbeau, Sacred Heart Parish in Schaffer, St. Michael Parish in Perronville, St. Joseph Mission in Foster City, and St. George Parish in Bark River.

In a recent interview with the Iron Mountain Daily News, Father Nomellini told reporter Linda Lobeck of his great love of teaching, but he spoke with the greatest pride of the many accomplishments and the community commitment of his Kingsford parishioners. From church improvements and expansions to local outreach programs, this parish surely reflects the spirit and love of its priest for the community.

Mr. Speaker, my wife Laurie and I will attend Father Nomellini's 25th Anniversary and Retirement Party on July 1. We will join with parishioners in lamenting his departure from the parish, and we will wish him well on his planned retirement projects, which, he told the Daily News, include "reading, listening to music, traveling and going to musicals and plays." Maybe, he said, he'll exercise that love of English and write a book or play or two. But we'll wink privately, Mr. Speaker, because we know that we are all travelers, innocent of the knowledge only God holds for our futures, and God may yet have revealed another plan for Father Nomellini. In the past I nominated him to be Chaplain of the U.S. House, and he has attended the National Prayer Breakfast here in Washington, D.C. One thing I know for sure—Father Paul will go where God and his heart command him.

So I ask you and our House colleagues to join me in wishing Father Paul Nomellini our greatest thanks for his life of service as a teacher, a pastor, and a guiding friend, and I ask you to join me in wishing him all the best in his retirement. May God grant him many wonderful years.

H.R. 4560, THE AUCTION REFORM ACT OF 2002

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. TAUZIN. Mr. Speaker, "H.R. 4560 will clarify Congress's position on the 700MHz band width. In lieu of Committee action, the following points should be noted for the record."

Section 6 ensures that the Federal Communications Commission's (FCC) policies that are designed to clear channels 52–69 do not result in an increased level of interference to "in core" channels 2–51, by permitting the operation of an analog facility on a channel assigned for digital transmissions was not designed to accommodate analog operations, and in most instances, relocating analog facilities on "in core" digital channels increases interference to surrounding analog and digital stations in both the UHF and VHF band, to the detriment of those station viewers. Indeed, the increased levels of interference has the ability to deprive television viewing households of the signals they depend upon for news, entertainment, and sports programming.

Sub-section 6(a) specifically prohibits the FCC from granting waivers to its spacing requirements (as required by section 73.610 of the Commission's rules (and the table contained therein) (47 CFR 73.610)) and its interference rules (as required by sections 73.622 and 73.623 of such rules (47 CFR 73.622, 73.623),) for stations assigned to channels 52–69, that seek to operate an analog facility on a digitally assigned "in-core" channel (channel 2–51), if such waiver will result in any degradation in or loss of service, or an increased level of interference, to any television household, except as the Commission's rules would otherwise expressly permit, exclusive of any waivers previously granted.

Pursuant to sub-section 6(b), television stations assigned to channels 63, 64, 68 and 69, that are seeking to clear these channels in order to make such frequencies available for public safety purposes by moving their facilities into the core (channels 2–51) will be governed by the FCC's interference rules and policies, including the waiver process. Sub-section 6(b) should not be construed as relieving stations from the obligation to meet the FCC's traditional waiver requirements.

A SPECIAL TRIBUTE TO MICHAEL J. KERSCHNER ON HIS FIFTIETH BIRTHDAY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to an outstanding gentleman from Ohio's Fifth Congressional District. Mike Kerschner of Tiffin, Ohio, will celebrate a milestone fiftieth birthday on June 29, 2002.

Mr. Speaker, Mike is celebrating this monumental occasion with family and friends, all

who have known of his selfless contributions to the local community. Serving the community was not only Mike's duty but also his honor. His efforts to give back to the community have brought him a lifetime of both personal and professional achievement and satisfaction. Mike truly is a valued asset to the City of Tiffin.

Mike has served Tiffin well throughout his years, both professionally and philanthropically. Currently, Mike serves as President & CEO of the Old Fort Banking Company. He also holds a seat on the board of directors of the Seneca Industrial and Economic Development Corporation, Tiffin Area Chamber of Commerce, Fostoria Economic Development Corporation, and the Community Bankers Association of Ohio.

Mike readily gives of his time to numerous charitable causes that include the Saint Francis Foundation, and the local United Way Foundation. He considers it a distinct privilege to serve his community through his involvement with the Tiffin Elks Lodge #94, St. Mary's Finance Committee, and as President of Seneca Area Career Systems.

Mr. Speaker, I ask my colleagues to join me in paying special tribute to Mike Kerschner. Our communities are served well by having such honorable and giving citizens, like Mike, who care about the well being and stability of their communities. We wish him the very best on this special occasion, and wish him many more years of good health and good fortune.

COMMENDING THE INDIANAPOLIS
URBAN LEAGUE AND THE LOCAL
CHAPTER OF THE NATIONAL
ACHIEVERS SOCIETY

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Ms. CARSON of Indiana. Mr. Speaker, it is with great pride that I rise today to extend heartfelt congratulations to the Indianapolis Urban League and the local chapter of the National Achievers Society.

More than 350 outstanding high school students have been inducted into the Indianapolis Urban League's local chapter of the National Achievers Society (NAS). The first induction was held June 30, 2001. The induction was coordinated by the Indianapolis Urban League, along with Urban Leagues in other cities across the country and was a part of the National Urban League's Campaign for African-American Achievement, a community-based movement that embodied the values of academic achievement, social development and civic responsibility.

In Indiana, the Indianapolis Urban League was a part of (22) Urban League Affiliates chosen from (115) affiliates across the country to implement the Campaign for African-American Achievement. The League will receive a minimum of \$500,000 over a five-year period to draw attention to and support for the urgent achievement and developmental challenges facing students in Marion County.

Students selected were high school juniors and seniors of color who have a GPA of 3.0

or higher and plan to pursue higher education. The Indianapolis Urban League encouraged youth, parents and all community members to participate in activities that highlighted educational success and achievement, and placed their names on a national registry nominating them for scholarships up to \$10,000.

Today, the Indianapolis Urban League awarded \$222,000 in scholarships to (24) students. The highest number awarded to any Urban League Affiliate in the country.

Mr. Speaker, it is my distinct pleasure to ensure that the accomplishments of these students from my district are forever memorialized in the CONGRESSIONAL RECORD of the United States of America. Let all who read these pages know that a very special group of people in Indianapolis, and across the country are "Spreading the Gospel that Achievement Matters."

THE MEDICARE RX DRUG BENEFIT
AND DISCOUNT ACT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. RANGEL. Mr. Speaker, today, I am proud to introduce the Medicare Rx Drug Benefit and Discount Act with JOHN DINGELL, the Dean of the House and Ranking Member of the Energy and Commerce Committee. Our Ranking Member on the Ways and Means Health Subcommittee, PETE STARK, has had a leadership role in the development of this legislation, as have so many other health care leaders in our caucus.

This legislation makes good on our promise to add affordable, comprehensive prescription drug coverage to Medicare.

The Democratic bill will look, smell, taste, and feel like any other Medicare benefit, because it is a Medicare benefit. Beneficiaries will not have to deal with an HMO or other private insurer.

Under this legislation, every beneficiary will be guaranteed a \$25 monthly premium, \$100 annual deductible, 20% co-insurance and \$2000 out-of-pocket limit, no matter where they live.

We provide additional assistance for low-income beneficiaries. Those with incomes up to 150% of the poverty level (\$13,290 for one person) will pay nothing. Those with incomes between 150-175% (\$13,290-\$15,505 for a single person) of poverty will pay premiums on a sliding scale.

The Medicare Rx Drug Benefit and Discount Act would: Lower prescription drug costs for all Americans, regardless of whether they participate in our plan; give all Medicare beneficiaries the option of a reasonably-priced guaranteed prescription benefit under Medicare; and ensure that senior citizens and people with disabilities receive coverage for the drug their doctor prescribes and not some substitute that an insurance company deems "equivalent."

Unlike the competing Republican legislation, our plan would never force seniors into an HMO or similar private plan in order to get a prescription drug benefit.

Republicans claim they are giving seniors a "Medicare" prescription drug benefit, but their legislation really provides subsidies to insurance plans and HMOs, not to beneficiaries. Republicans claim they are offering beneficiaries a certain level of coverage, but their legislation really leaves virtually all of the important decisions to the private insurance companies.

Under the GOP plan, private insurers will decide which drugs are covered and which are not. If your drug is not on the list, too bad. Millions of seniors will not be able to afford their prescriptions under the GOP plan. Under the GOP plan, private insurers can pick and choose which pharmacies to include in their networks. If your neighborhood pharmacy is not on the preferred list, you are out of luck.

The bottom line is that those who can buy insurance under the GOP plan may find their choice of pharmacies severely limited or that they cannot get coverage for the drugs prescribed by their doctor.

Many HMOs have unfairly limited health care in the past. That's what the Patients' Bill of Rights debate has been about. They've been unreliable partners in Medicare to date; just look at the problems in the Medicare+Choice program. And now the Republicans want to put them in charge of this medication benefit under their "privatization" model.

Republican leaders have never liked Medicare. Former Speaker Gingrich once said Medicare would "wither on the vine because we think people are voluntarily going to leave it." In 1995, DICK ARMEY called Medicare: "a program I would have no part of in a free world."

Their legislation—the so-called Medicare Modernization and Prescription Drug Act—lays the ground work for them to make good on their desire to do away with the program. The Republican prescription drug plan is the first step towards privatizing Medicare.

It forces seniors to deal with private insurance companies instead of having the choice of getting prescriptions through Medicare. It includes a premium support demonstration program that could significantly raise the premiums of beneficiaries who wish to stay in traditional fee-for-service Medicare. And it creates a new agency to oversee the private plans that lacks authority to provide adequate oversight and disadvantages the agency currently responsible for administering Medicare.

In contrast, we base our plan—not on a flawed privatization model—but on the successful Medicare program. We offer a genuine Medicare plan, providing an affordable voluntary drug coverage to all American seniors through Medicare.

Under this legislation, no senior will ever have to choose between putting food on the table or paying the rent and the drugs they need.

This legislation also helps reduce the skyrocketing costs that seniors and other beneficiaries currently pay for prescription drugs by utilizing the collective bargaining power of Medicare's 40 million beneficiaries to guarantee lower drug prices. By closing some loopholes in current law that prevent or delay generic drugs from coming to market, this legislation also reduces drug prices for all Americans.

While our colleagues on the other side of the aisle are engaged in a cynical political exercise designed to bring themselves political cover, ours is serious legislation. It would bring senior citizens Medicare prescription drug coverage.

When President Harry Truman first proposed Medicare in his second term, a wide array of Republican forces were against him saying he could not do it. Truman said: "We may not make it [now], but someday we will." Eventually, Truman and other Medicare advocates succeeded. Harry and Bess Truman became the first Medicare enrollees in 1965.

The Republican leadership may prevent us from passing a true Medicare prescription drug benefit now, but they cannot stop us in the long run because that is what seniors and all Americans have said they really want.

As PETE STARK points out, prescription drug coverage is as essential to seniors' good health in the 21st century as coverage of doctor visits and hospital stays was in the 20th century.

We have also included in this bill provider payment reforms and increases that match or, in some important areas, exceed those in the Republican-crafted Medicare Modernization and Prescription Drug Act.

If you want to see the real difference between Democrats and Republicans, look at prescription drug coverage. While Republicans protect the pharmaceutical industries' profits, the Democrats protect seniors from skyrocketing prescription drug costs. I urge my colleagues to look at the fine print, and to vote for this legislation when the opportunity arises.

INTRODUCTION OF MEDICARE RX BENEFIT AND DISCOUNT ACT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. DINGELL. Mr. Speaker, I am pleased to join with my Democratic colleagues in introducing a real prescription drug benefit bill.

Unlike the bill introduced by our Republican colleagues, our bill can be simply explained, because it is built on a simple, known, and effective model—Medicare itself.

Just like seniors pay a voluntary premium for Part B medical costs such as doctor visits, our bill provides for a voluntary Part D drug premium of \$25 per month. For that, the Government will pay 80% of drug costs after a \$100 deductible. And no senior will have to pay more than \$2,000 in costs per year.

These are real numbers, not estimates. The benefits and the \$25 monthly premium are specified on page 1 of the bill. Unfortunately, there are no such guarantees in the Republican bill.

On top of that, we will be arming seniors with the most potent protection from soaring drug costs. Forty million seniors banded together under the buying power of Medicare, we can begin to use the necessary bargaining power to rein in high drug prices.

This is not price controls; it is competition and bargaining. We saw that the Government was effective in negotiating a competitive price

for the prescription drug Cipro during the anthrax outbreak. Why shouldn't we do the same for other life saving drugs for seniors?

In contrast to our simple and effective prescription drug benefit, the Republican bill is a complex scheme that would make Rube Goldberg blush. In fact, it is not a drug benefit at all. It is a host of subsidies to private insurers in the hope that they will offer a drug-only benefit to seniors. Will they? Time and again they have told us no.

Why would the Republicans put forward such a model? Well, quite simply they have a larger agenda—they want to privatize all of Medicare, and this is just another step. That is the only reason why seniors are not even given a choice of getting the benefit through their traditional Medicare provider.

And why don't they endorse our plan? Our plan is simple; it is comprehensive; it is what seniors want. The Republicans have raised just one issue: they say it costs too much. Well, I can tell you that we can afford it. It is just a matter of priorities.

To put the costs in perspective, we are told that our bill may cost \$500 billion dollars more than the Republican proposal over 10 years. Well, just a couple of weeks ago our Republican colleagues voted for a bill to make permanent the repeal of the estate tax on the wealthiest people in this country. In the second decade when that permanent repeal kicks in, it will cost the Treasury \$750 billion.

So, yes, this bill may be expensive. Seniors will spend \$1.8 trillion on prescription drugs over the next decade. That is expensive. But we can do something about it. It is a matter of choices.

Our prescription drug benefit has the strong support of organizations representing millions of seniors, such as the National Committee to Preserve Social Security and Medicare, the Alliance for Retired Americans, the National Council on Aging, and AARP. They recognize our benefit is a good value for seniors.

The bill we are introducing today also includes provisions to shore up the Medicare fee-for-service system such as increased payments to hospitals, doctors, and nursing homes. Senior citizens and individuals with disabilities depend on Medicare fee-for-service and ensuring its continued viability has always been a priority for Democrats.

The Medicare Rx Benefit and Discount Act is a solid bill that provides a comprehensive, affordable, and much needed prescription drug benefit in Medicare. It also moves towards ensuring that seniors and those with disabilities can continue to count on the same high quality care from their providers as they receive today.

It is a good bill, and I hope my colleagues in the House will join us in supporting it.

EVERY CONFLICT DEMANDS DIFFICULT CHOICES

HON. MAC COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. COLLINS. Mr. Speaker, the following article appeared in the May 22, 2002 Griffin

Daily News, Griffin, Georgia. It was so moving that I felt the entire article should be read by every Member of Congress and I would like to submit it for the RECORD.

EVERY CONFLICT DEMANDS DIFFICULT CHOICES (By Philip Smith)

I will address a subject that has had a special meaning to me. It is called by some as "limited war." It gets started by a stronger country answering the call of a weaker country (or should I say government) to protect and shield it by limited involvement from outside intruders while it has time to organize a means to govern and protect itself. This start had a heavy meaning to this country in the early 1960s, especially on Aug. 5, 1964, when the first U.S. pilot was shot down and taken POW. The U.S. Veterans Administration declares this date as the beginning of the American Vietnam era.

War is born of failure—the failure of nations to resolve their differences diplomatically and peacefully. Furthermore, it is waged with tools of death and destruction so that man may live in peace.

We found out just what was defined and not defined by "limited war" over the next 8.5 years of the Vietnam War. That war, which we lost, ended Jan. 27, 1973. After this decade (now 25 years) to ponder lessons of Vietnam, we can realistically think about the use of force again. It is my purpose to try to show some areas which must not be forgotten and must be completely understood before we can think more clearly about potential future conflicts. It took 10 years after my return from Vietnam before I wanted to read and understand the history of the country and the lessons we learned from the whole war. I have read many books and articles, but I am by no means an expert. I am smart enough to know that experience is the best teacher. We can't let this experience go by without learning her lessons. They were too costly. These are my views, but they are shared by more than 95 percent of all the combat Vietnam vets I have talked with. There is Total War, Limited War and Unilateral in Action. With all the massive destructive power in all the countries of the world, total war is an absurdity, just plain suicide. Unilateral in action is just turning your back as your hear screams of your friends dying because you don't want to get involved. Limited war is between the Pierce Hawk and the coward dove. In any future conflict, or better yet before any future conflict, we need to make some hard choices about (1) what the particular situation requires; (2) what our final objectives are and (3) how valuable are these objectives to the U.S., i.e., is it strategically a necessity to the U.S.? Is it worth the blood of our young men? Is it necessary in the survival of this country? Then, we need to develop appropriate forces.

There are four major mistake areas of concern surrounding Vietnam. (1) Gradualism was a policy that did not work in South Vietnam. We thought that if we kept turning the screws tighter on the North, inflicting enough pain, they would stop their aggression on the South. The politicians felt constrained to this gradually, because of political pressure. We were afraid if we went too fast, the Chinese or Soviets would get directly involved, plus our own critics of the war back home denounced any escalations. Well, every time we tightened the screws, the North adapted to the pressure and was able to endure and build up. Our only deviation from gradualism was Operation Linebacker II, which was around-the-clock surgically precise bombing campaign of Hanoi,

Haiphong and other North Vietnamese cities. In mid-December 1972, when the peace talks broke down, due again to the NVA not negotiating in good faith, President Nixon put the baseball bat to their heads and for the first time brought the North Vietnamese to their knees in Operation Linebacker II.

They signed readily in January to end the war. Linebacker II was a lesson on the use of force. In Vietnam, we pussy-footed around the military power and paid a high price for it. We fought much longer and escalated far higher than we had ever intended, and we lost. Think what might have happened if Linebacker II had been unleashed in 1965 and not 1972.

(2) Attrition and gradualism often are lumped together. Our ability to wear down an enemy whose history since B.C. had been to endure pain, ended ultimately in failure. Small powers can fight big powers in attrition wars and win. The pattern is the same: Initial public support, prolonged struggles without apparent result, decreasing public support, one battle that goes badly, a vote of no-confidence, then withdrawal. But, it is possible to fight a war of attrition if there is total war, mobilization and commitment in the initial public support phase, such as World War I or World War II.

(3) Rules of engagement. We fought within specific rules of engagement while the enemy pursued a total war. As a helicopter pilot, we could not fire on the enemy unless we were not only being fired on first, but only if we had the specific person or persons identified. "Charlie" could fire at us while standing among a group of working peasants or villagers, and we could not return fire. But, he would give a child from this village a live grenade to pull the pin out as he walked up to some G.I. or rode in a helicopter. There were geographical restrictions for us, but none for the enemy. Don't think these rules won't demoralize a soldier fast.

(4) The people. To win any war, the will of the people must identify with the will of the conflict. For a young man to leave home while watching his country protest his leaving to fight an unpopular war and to arrive into that country seeing people protest his being there and fighting in a war where he has "rules of engagement" but the enemy does not, it doesn't take him long to see the futility in that war.

The will of the (Vietnamese) people was not the will of the government, no matter how much military hardware they had. So, without this "will," the enemy could hide in the open all over the country because they were the people. Without this "will of a people" to fight for a change, a change could never survive, and it didn't.

Some of the veterans of World War II and the Korean War have asked what is so special about the Vietnam combat vet. They, too, went through war. War is the same through time; only the weapons change. The horrors and pains and ever-present nightmares of war are the same after all wars. So, why are we, the Vietnam combat veterans, having so much more of a problem after this war?

Two issues keep coming up in talking with Vietnam vets: We Lost; we were defeated. We knew we could have won if only allowed to fight a war that had final objectives and not been a political palm.

(1) To my friends that were lost and all the men who died or were wounded or maimed for life, what is there to show for this sacrifice? These men were some of the finest people to ever live, and they answered their country's call, for what? Not only did we who

came home have to live with a losing cause, but we came home to some hostile people who called us child-killers and dope heads, the thanks from a grateful nation.

(2) The second issue was guilt, guilt of taking people and ruining their customs and form of life so they could wait on the U.S. dollar. Families were broken up, beautiful cities and shrines destroyed, a country which had one of the prettiest coastlines and mountains made to look like the moon with so many craters and sprayed so much that nothing would grow. Yes, this, then seeing a "no win situation," packed up and left only to see the South Vietnamese retreat in 1975. All the good and bad we had done for more than 10 years was gone in less than 10 days.

I have attempted this collection of views many times, but never have been able to get my thoughts or research completed or knew what to do with it after I had completed it until I talked to a grand lady, who is a retired teacher in North Carolina. She is a beautiful, well-educated person, who loves her country. This lady is special to me. Our eyes get watery when we speak to each other. One of the times I was shot down was in Laos along with three other helicopters, a gunship pilot friend of mine helped give us air cover until we could be extracted. He was shot down and killed. This friend of mine was her son. This tore her family apart. She asked the same question after the war: why? What was Fred's life for? What were all Freds' lives for? We can't let a Vietnam ever happen again. We must learn from our experience. We can't turn our heads on another future conflict without these questions answered before. We must demand answers from Washington. If the answers are yes to America's survival and the decision is to go, then the whole country must go for it immediately and completely or not at all.

This next one may be close, and it may have your sons or grandsons in it. If they have to die, we can't let them die in vain or live with guilt and humiliation the rest of their lives.

HONORING DR. JAMES E. CARNES

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. HOLT. Mr. Speaker, I rise today to pay tribute to Dr. James E. Carnes, a constituent of mine who retired earlier this month after a distinguished career of service at the Sarnoff Corporation, the last eleven and a half years as President and CEO.

Dr. Carnes holds nine U.S. patents and is the author of more than 100 papers and presentations. He received the David Samoff Award for Outstanding Technical Achievement in 1981. He has made tremendous contributions to science, to Sarnoff and to our central New Jersey community.

Carnes earned his Ph.D. in electrical engineering from Princeton University and B.S. in engineering science from Pennsylvania State University, and served four years in the U.S. Navy.

Dr. Carnes began his career in 1969 when he joined RCA Laboratories as a member of the technical staff. In 1977, he transferred to RCA's Consumer Electronics Division, holding a variety of management positions, including

Vice President of Engineering. In 1987, when Sarnoff Carnes became a subsidiary of SRI International, Dr. Carnes was named Vice President of Consumer Electronics and Information Sciences Research.

In addition to serving on the board of directors of SRI International and Sarnoff, Carnes serves on the board of several emerging growth technology companies including Sensar, Inc., Sarif, Inc., Orchid Biocomputer and Sarnoff Digital Communications.

We in central New Jersey will miss Dr. Carnes and his steady leadership at Sarnoff. I hope that all of my colleagues in the House will join with me in wishing him every success in his future endeavors.

MEDICARE RX DRUG BENEFIT AND DISCOUNT ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. STARK. Mr. Speaker, today, House Democrats keep our promise to introduce legislation creating a real Medicare prescription drug benefit.

The Medicare Prescription Drug Benefit and Discount Act is an entitlement that would guarantee affordable, comprehensive prescription drug coverage to all senior citizens and individuals with disabilities who are on Medicare. It also includes provider payment increases and reforms that meet or exceed, in selected areas, those included in the Republican-written Medicare Modernization and Prescription Drug Act. But this debate is not about provider payments. It's about providing beneficiaries with needed prescription drug coverage.

The benefit in this legislation is simple. It has no gaps, and no gimmicks. Beneficiaries will pay a \$25 monthly premium, have a \$100 per year deductible, and 20% co-insurance up to a \$2000 out-of-pocket limit. After a beneficiary spends \$2000, the government pays for all other needed prescription drugs. Under this legislation, a beneficiary will never pay more than \$2000 in a year, and most beneficiaries will pay far less. Beneficiaries whose incomes are under 150 percent of poverty will pay no premiums and no cost-sharing. Those with incomes between 150-175 percent of the poverty level will receive premium subsidies on a sliding scale basis and pay no cost-sharing.

These benefits will be guaranteed for every beneficiary, regardless of where they live. This legislation will reduce costs by using the market clout of 40 million beneficiaries to negotiate lower prices. It will also reduce costs for all Americans by closing loopholes in current law that allow pharmaceutical companies to game the patent system by preventing competition from equally effective, but lower cost, generic drugs.

The Medicare Prescription Drug Benefit and Discount Act guarantees the choices that matter. Under our plan, Medicare will pay toward the cost of every drug, not just those on which the private insurance company cut a special deal. And, under our plan, every pharmacy that is willing to play by the rules will be welcome to participate.

And, importantly, unlike the Republican plan, our plan will never force the elderly or disabled into an HMO or similar private plan in order to get a prescription drug benefit.

The prescription drug coverage in the Democratic bill will seem just like any other Medicare benefit, because it is a Medicare benefit.

Don't be fooled by Republican rhetoric. The motto of the Republican bill ought to be "caveat emptor"—let the buyer beware.

Their bill is little more than an attempt to privatize Medicare, while doling out hundreds of billions of dollars in Federal tax dollar giveaways to their friends in the insurance and pharmaceutical industries.

And, no matter which measure you use, beneficiaries will pay more and get less under the Republican plan.

Our legislation will not be cheap. But we don't think twice about the cost of covering doctor visits and hospital stays under Medicare today. I would argue that prescription drug coverage is as essential to good health care in the 21st century as physician and hospital care was in the 20th century when Medicare was created.

Make no mistake: The Republican bill is designed simply to provide political cover for Republican members, not prescription drug coverage for senior citizens and individuals with disabilities.

Our bill meets the needs of the 40 million Americans who depend on Medicare. That's why the leading beneficiary organizations support this legislation. I look forward to the debate. I urge my colleagues to join us in support of a real Medicare drug benefit. Vote "yes" on the Medicare Rx Drug Benefit and Discount Act.

RECOGNIZING THE TRICENTEN- NIAL OF ALLEN, MARYLAND

HON. WAYNE T. GILCREST

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. GILCREST. Mr. Speaker, I rise today to recognize the Village of Allen's 300th birthday. This Maryland community is located in the First Congressional District, which I have the distinct honor of representing. Established in 1702, I recognize this village for its longevity, and through that longevity, for influencing the unique flavor of Maryland's Eastern Shore.

Allen sits in Wicomico County, along Wicomico Creek. Central to its establishment was the Grist Mill, which was originally built and operated by the Brereton family. The mill was fully operational until 1919 when, after 217 years, it finally closed. The mill dam formed Passerdyke Pond, still a local landmark, and it was the spillway, or trap, that gave the settlement its first name. Trap eventually became Upper Trappe, then it was changed to Allen in 1882, named after a prominent resident at the time who was a storekeeper and served as postmaster.

With the mill and its location on the lower Eastern Shore, Allen developed into a considerable market during the 18th and 19th cen-

turies. A post office helped give it status, along with the several general stores that have operated throughout its history and the introduction of the canning industry. And like most settlements on the Delmarva Peninsula, agriculture drove the local economy, and Allen residents have found fame over the years with strawberries, apple and peach orchards, tomatoes, and especially string beans.

The Asbury Methodist Church is another important Allen institution. Founded in 1829, the church helped Allen become one of the earliest free African American communities in the Somerset area of Delamara.

Of course, it is people, not buildings, that really form a community, and the people of Allen have been clearly successful in that regard. Without local family heroes—the Breretons, the Allens, the Pollitts, the Messicks, the Huffingtons, the Twilleys, the Polks, the Duttons, the Fileds, and the Malones, to name but a few—Allen surely couldn't have survived its 300 years.

The people of Allen not only helped to develop a thriving village, but also shared their talents with greater Maryland. From within Allen's boundaries have grown community and regional leaders, sports heroes, and successful business entrepreneurs; Allen's people have served Maryland for centuries. In fact, Allen's citizens began establishing and building a community before the birth of the United States.

Allen is a true American village. It represents community, tradition, heritage and permanence. Peppered with historic buildings, Allen's pride in its history is evident, a history I honor today. Allen, however, is much more than its history; it is a thriving residential village with strong leadership and an active community. Contributing to the strength of Allen's community spirit are the Lion's Club, a Volunteer Fire Company, the Historical Society and the Asbury and Friendship United Methodist Churches. These organizations preserve history while moving Allen forward into its third century.

Allen is certainly one of Maryland's hidden treasures, so please join me in recognizing and celebrating the history of Maryland's charming Village of Allen in this, its 300th year.

CONGRATULATIONS TO THE WIN- NERS OF THE SOUTHEASTERN MASSACHUSETTS HISPANIC RE- COGNITION AWARDS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. FRANK. Mr. Speaker, on July 26, the Southeastern Massachusetts Hispanic Recognition Awards Committee, Incorporated will hold their third annual award ceremony. I am delighted to extend my congratulations to committee chairman Emilio Cruz, co-chair Johnny Arellano, and committee members Jose Perez, Carlos Arellano and Jose Rodriguez, Bernice Diaz, Reubecca Rivera, Glenda Izaguirre and Gladys Medina.

Hispanic Recognition Awards are given to people who have worked for the betterment of

the Hispanic population in Southeastern Massachusetts, in ways that benefit not simply those in the Hispanic community, but the broader community of which they are an integral part. America—and Southeastern Massachusetts—benefit enormously from the various cultures which come together to form our nation, simultaneously unifying on important national concerns, and contributing culturally, socially and economically through the preservation of their various heritages within this unified national framework. The Hispanic community is growing in numbers in Southeastern Massachusetts, and is taking its place along other ethnic communities that have contributed so much to our area. I am delighted to extend recognition to the winners of this year's awards. They are:

Mr. Luis Bayanilla—For his outstanding work and support to the Latino Community of Southeastern Massachusetts.

Ms. Abigail Ramirez—For her outstanding work and support to the Latino Community of Southeastern Massachusetts.

Mr. Angel Urena—For his outstanding work and support to the Latino Community of Southeastern Massachusetts.

Festival Herencia Hispana, Inc.—For their efforts in keeping the Latino Culture alive in Southeastern Massachusetts.

Ms. Aracelys Rodriguez—For her efforts and support to the Latino Community and her dedicated work as an education professional.

Ms. Norma Collazo Porcha—For her efforts and support to the Latino Community and her dedicated work as an education professional.

Mr. Adrian C. Pina—For his dedicated work as a role model and achievement as a College Student.

Kids Against Drugs—For their efforts in providing education to the New Bedford Community about drugs and their dedication to philanthropic causes.

Dennison Memorial—For their commitment and support to the Latino Community and the Community at large of New Bedford, Massachusetts.

Boys and Girls Club—For their commitment and support of the Latino Community and the community at large of New Bedford, Massachusetts.

Mr. Raymond Patnaude—For his support to the Latino Community of New Bedford, Massachusetts.

Dr. Alvaro Lopez—For his support to the Latino Community and his expertise in the medical field.

Mr. Dennis Halls—For his support and commitment to the Latino Community.

Rev. Hector Correa—For his years of service and commitment to the Latino Community.

Ms. Bernice Diaz—For her support and dedication to the Latino Community of New Bedford.

Mr. Speaker I believe that both the award recipients and the committee that has pulled this event together deserve our thanks for their hard work on behalf of the best of American ideals. And I have chosen to share this with my colleagues because I believe it is such an excellent example of how a community can deal with both the challenge and promise of diversity.

IN HONOR OF THE MOSES AND
AARON FOUNDATION

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. NADLER. Mr. Speaker, I rise today to honor the Moses and Aaron Foundation for its commitment to special children and their families. I recognize with gratitude the Foundation's significant and enduring humanitarian efforts and applaud all those who have given of themselves to fulfill its mission.

The Moses and Aaron Foundation "Special Fund for Children" is dedicated to assisting children with disabilities and their families with a wide range of programs including social, physical, financial and wheelchair assistance, as well as counseling and guidance.

It also provides scholarship funding to educational institutions, collects, purchases, and distributes clothing for children in need, and remembers them with presents at holiday time or when they are hospitalized. This past year, the Foundation provided hundred of toys to the children of New York City's Police and Fire Department's fallen heroes.

In cooperation with Bally Fitness Centers and under the direction of its President Rabbi Yaacov Kaploun, and Executive Vice President Yehuda Kaploun, the Foundation has been able to establish 22 physical fitness and therapy centers and has arranged for sound and musical equipment in other institutions.

In conjunction with Downtown Film Productions, The Moses and Aaron Foundation produced "Chazak—A Testament of Strength", an award winning documentary highlighting the effect of music on special children. This monumental documentary serves as a vehicle to sensitize and educate the entire community on the needs of its special and outstanding citizens.

On Saturday night, July 20, 2002 at the Monticello Raceway in Monticello, New York, the Moses and Aaron Foundation under the Honorary Chairmanship of Nobel Laureate Eli Weisel, will sponsor its sixth Summer "Chazak—Strength" Concert paying tribute to special children. The guests of honor will be the special children, some of whom will perform with the entertainers on stage. A tribute will also be held in memory of the fallen heroes of the September 11th attack on the World Trade Center.

The corporate and individual sponsors of the Moses and Aaron Foundation include Mr. David Buntzman, Mr. Jonathan Fleisig, Mr. Robert Gans, Mrs. Richard Gans, Mr. Avi and Dr. Laura Greenbaum, Mr. and Mrs. David Hirsch, Mr. and Mrs. Ira Rennert, Mr. Charles Rosenay, Dr. Steven Stowe, and Mr. Eli Rothman. I recognize the late Phyllis Cohen for her support of the Foundation, contributing to the improvement in the quality of life of special children.

I also recognize the support given to the Moses and Aaron Foundation by Steve and Shirley Slesinger, who have brought happiness and smiles to the faces of millions of America's youth by bringing Winnie the Pooh and other characters to the screen and printed world, with particular credit to Shirley

EXTENSIONS OF REMARKS

Slesinger Lasswell for creating and cultivating one of the best loved bear in history.

The Moses and Aaron Foundation was founded in memory of Rabbi Dr. Maurice I. Hecht and Aaron Kaploun, both of whom led lives of exemplary community service. It is in this sentiment of communal dedication that the Moses and Aaron Foundation has devoted itself to serving the needs of a unique group in the community.

I urge my colleagues to join me in honoring the Moses and Aaron Foundation. Their work has truly made a difference in the lives of thousands.

PARTNERSHIP BETWEEN SACRAMENTO, CALIFORNIA AND MATSUYAMA, JAPAN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. MATSUI. Mr. Speaker, for over twenty years the City of Sacramento, California and Matsuyama, Japan have shared a special relationship as sister cities. This partnership has given birth to cultural exchanges that have enriched the lives of the residents in both cities. A new art exhibition that will be unveiled on July 6, 2002, is a testimony to this ongoing relationship.

The Miura Museum of Art in Matsuyama will unveil the "Serene Beauty: Lucie Rie Retrospective" exhibit to commemorate the 100th anniversary of the artist's birth. The exhibit features the work of Lucie Rie, one of the most outstanding potters of the 20th century and a major influence on the world of ceramic art. The exhibit of Lucie Rie's exceptional ceramic work at the Miura Museum of Art in Matsuyama is only the second showing of her work in Japan.

This exhibit would have not been possible without the partnership with Sacramento residents who loaned the museum a large portion of the exhibit that will be displayed. Additionally, the museum has invited residents of Sacramento to participate in the exhibit opening and panel discussion honoring Lucie Rie and her passion for creating ceramic art.

I would like to commend each of participants who have loaned pieces from their collection in order to share their appreciation of art with the residents of Japan. The sister city partnership has developed into a friendship which complements the diverse background of the residents of Sacramento and Matsuyama and I look forward to the continued exchange of cultural treasures between our two cities.

HONORING RUFINA A.
HERNANDEZ, ESQ.

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Ms. DeGETTE. Mr. Speaker, I would like to recognize the splendid efforts and notable accomplishments of an extraordinary woman in

the 1st Congressional District of Colorado. It is both fitting and proper that we recognize this outstanding community leader for her exceptional record of civic leadership and invaluable service. It is to commend this outstanding citizen that I rise to honor Rufina A. Hernandez, Esq.

Ms. Hernandez has amassed a distinguished record of leadership and service to our community. She received her Bachelor of Arts Degree in Political Science from the University of New Mexico and her Juris Doctorate from the Georgetown University Law Center. Ms. Hernandez practiced law for eight years at the Legal Aid Society of Denver specializing in Family Law, Public Utility Regulation and Consumer Protection. She served as the Executive Director of the State Bar of New Mexico and was previously the Assistant Dean for Student Affairs at the University of Denver College of Law.

Presently, Ms. Hernandez is the Executive Director of the Latin American Research and Service Agency (LARASA), a preeminent community based non-profit organization dedicated to improving the health, education and self sufficiency of Colorado's Latino community. Under her leadership, LARASA has made a tremendous impact on our city and state by increasing awareness about issues affecting the Latino community and developing effective public policies and programs to address those issues. Ms. Hernandez has been a powerful advocate for change. Through her leadership, LARASA continues to bring tangible benefits to our community through the Center for Community and Behavioral Health, Centro de la Familia—the Latino Public Policy Center, the Data Resource Center and through the Proyecto Educar and Amigos de la Comunidad programs that increase cultural competency and Latino involvement in our schools.

Ms. Hernandez serves on the National Center for Law and Education Board of Directors, the Women's Lobby Board, the Colorado Association of Non Profit Organizations, the Child Health Advocates Board of Directors and the Governor's Utility Consumer Advisory Board. She co-chairs the Latino Jewish Coalition and the Latino Campaign for Education and also serves on the Mayor's Latino Advisory Council.

It comes as no surprise that Ms. Hernandez' commitment and service has earned her several awards including the American Jewish Committee Professional Award, the National Council of LARASA Special Advocacy Award, the American Jurisprudence Award for Academic Achievement, and the University of Denver Outstanding Staff Award.

While we are saddened that Ms. Hernandez will be leaving our community for a position with the National Education Association, I am confident that her leadership, skill and experience will be of great benefit to the cause of public education in our country.

Please join me in commending Rufina Hernandez, Esq. It is the strong leadership she exhibits on a daily basis that continually enhances our lives and builds a better future for all Americans.

CELEBRATING THE 50TH WEDDING
ANNIVERSARY OF TONY AND
MURIEL MANSOUR

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. KILDEE. Mr. Speaker, I rise today to honor two dear friends, Tony and Muriel Mansour, who will join with family and friends this Saturday, June 29th to celebrate their fifty years of marriage. My wife, Gayle, and I want to add our congratulations to Tony and Muriel on the occasion of their 50th wedding anniversary.

I have known the Mansour family since I was growing up on the east side of Flint, Michigan. The Mansour's lived one street over from the Kildee's, and the Mansour and Kildee children played together.

Mr. Speaker, both Tony and Muriel have been active members of our community in the City of Flint and Genesee County for many years. Tony was a distinguished attorney for many years before being elected Genesee County Circuit Judge in 1968. He served with great distinction until he retired from the bench. In addition to resuming his successful law practice, Tony has been active in the Flint Rotary Club, being elected Club President in 1996. Tony is a past President of the Men's Club at Flint Holy Rosary Catholic Church and of the Knights of Columbus in Davison, Michigan. Tony has also been a leader in Flint's large and diverse Arab-American community, helping to found the Arab-American Heritage Council.

Muriel has been active in her own right. She has served as president of Heartbeat of Flint, as well as president of the Flint chapter of the American Business Women's Association. Muriel has also served on numerous community organization boards including the Children's Museum of Flint, the Catholic Social Services, the Genesee County Bar Auxiliary, the Flint Osteopathic Hospital Auxiliary, and Allegro (the volunteers for the Flint Institute of Music). For the past eight years, Muriel has worked as a volunteer at the Genesee-Lapeer Chapter of the Red Cross.

Mr. Speaker, the City of Flint and Genesee County is a much better place in which to live due to the efforts of Tony and Muriel Mansour. Gayle and I value them as dear friends and wish them well on the occasion of their golden wedding anniversary.

A TRIBUTE TO ROBERT WUSSLER
FOR 19 YEARS OF SERVICE WITH
THE RED CROSS

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. LEWIS of California. Mr. Speaker, I would like today to commend Robert Wussler for his 19 years of public service with the San Bernardino County Chapter of the American Red Cross. Under his leadership, the Red Cross chapter has quadrupled its budget and

modernized its efforts to better serve the citizens of the Inland Empire.

Mr. Wussler began his tenure in 1983 as the accountant for the chapter in San Bernardino County, which is the main population center of my home district. After serving in that capacity for seven years, he became the chief executive officer of the newly created Inland Empire Chapter in 1990.

Since that time, the chapter has grown its budget from \$300,000 to more than \$1.2 million, and increased its staff from seven to 15 professional employees. At the same time, he has reduced the chapter's dependency on United Way funding from 83 percent in the 1980s to 5 percent today. The chapter is now computerized, centralized and very well organized, thanks to Mr. Wussler's efforts. It recently received a \$1 million gift from a special donor.

The improvement of the San Bernardino Chapter under Mr. Wussler's direction was recognized by the American Red Cross headquarters. Two decades ago, the chapter was considered near the bottom among chapters across the country. It is now ranked among the 100 best of 1,125 nationally. Mr. Wussler himself received the 1997 Golden Bear Award for Management from the State of California, and the National Tiffany Award, the highest granted to Red Cross paid staff.

Mr. Wussler and the chapter's board of directors in 1994 created the National Nurse Assistant Training program, which is gratefully supported by local hospitals and trains and certifies 200 students a year as nursing assistants. The chapter has also implemented a home health care training program and an acute care program to help nurse assistants further their career.

Most important to the citizens of San Bernardino County, the Red Cross has been a lifeline for thousands of people who have lost their homes or seen their lives thrown into turmoil by disasters like the Big Bear and Landers Earthquakes of 1993 and the terrible floods that wiped out communities from Forest Glen to Mentone in 1999. The chapter has also helped in countless small disasters that have thrown individual families from their homes, and helped in planning for the disasters we will face in the future.

Mr. Speaker, after 19 years with the San Bernardino Chapter, Robert Wussler has decided to retire. I ask you and my colleagues to please join me in thanking him for a career dedicated to public service and aiding the afflicted, and wish him well in his future endeavors.

MEETING WITH CROWN PRINCE
ABDULLAH

HON. ROBERT WEXLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. WEXLER. Mr. Speaker, this week I will travel to the Kingdom of Saudi Arabia to meet with Crown Prince Abdullah and other Saudi officials for the third time since the horrific terrorist attacks of September 11. As a result of my previous visits, I have become convinced

that it is in the best interest of the United States to remain actively engaged in a constructive dialogue and working partnership with Saudi officials and their leader Crown Prince Abdullah.

My initial reaction to traveling thousands of miles to the Saudi Kingdom, in early October 2001, where 15 out of 19 hijackers as well as Osama bin Laden hailed from, was negative. I saw little value in traveling to a region where even in the wake of over 3,000 American deaths, there remained an undeniable hatred of America, continued financial support for fervent extremism, and ties to terrorist organizations that threaten our nation's interest and security. However, I have changed my initial reluctance to engage Saudi Arabia, though not my objection to many of its policies, because Saudi Arabia lies not only at the heart of the problem facing the United States in the Middle East and the Islamic world, but they are also our best hope for resolving these same problems.

My meetings with Crown Prince Abdullah in Riyadh and Jeddah have been candid and frank discussions regarding many aspects of U.S.-Saudi bilateral relations. No subject has been taboo. The Crown Prince and I both voiced criticism of each others country's policies, but we also reiterated the longstanding friendship and alliance between America and Saudi Arabia and our many common interests and goals.

The Crown Prince impresses me as a man with a vision of peace and coexistence between Israelis and Arabs; moreover, he is willing to risk his personal prestige for a quest for peace. The Crown Prince is a practical and logical man. He is tested and knows the value of leadership. I am convinced that the Crown Prince senses an historic opportunity to build confidence and seek peace from the extraordinary tragedies of the last 20 months and appreciates this opportunity to lead the Arab world away from extreme radicalism and toward normalizing relations with Israel.

My optimism is checked, however, by a recurrent fundamental failure by Saudi Arabia to appreciate the history of the Israeli-Palestinian conflict from an Israeli perspective and to recognize the sense of vulnerability of the Israeli people. In fact, the Crown Prince often suggests that American policy in the Middle East is unbalanced and too favorable to Israel. Ironically, it is the Saudi policy toward Israel that too often lacks objectivity.

Since September 11, there has been much criticism of the Saudi government in our country and internationally. Much of the criticism is justified, and I have joined my colleagues in Congress in voicing my concerns and objections when I deemed it necessary and in the best interest of the nation. I have been a vocal critic of harmful policies carried out by the Saudi government or Saudi nationals, including their lack of democracy, freedom of the press and abominable treatment of women. I have also strongly condemned Saudi connections to the financing and support of international terrorist organizations, unwillingness to unequivocally condemn suicide bombings perpetrated by Palestinian terrorists, financial payoffs to the families of Palestinian suicide bombers, and their financial backing of extremist schools in Pakistan and around the

world that preach intolerance and hate. Like many Americans, I am also angered and disturbed by the virulent anti-American and anti-Semitic rhetoric that is published in the government-run press and echoed repeatedly by Saudis throughout the kingdom. The Saudi government cannot have it both ways; if they are truly committed to peaceful coexistence with Israel, they cannot feed the fires of those who hate and are bent on the destruction of the peace process and the State of Israel itself.

Faced with growing American and international criticism, Crown Prince Abdullah has reevaluated the effect of Saudi policies and is seeking to make fundamental changes in the Saudi Kingdom. Since assuming leadership in 1995, Crown Prince Abdullah has taken initial steps to reform Saudi Arabia's economic and political structure and is making serious attempts to root out corruption. The Crown Prince is also the leading advocate for Saudi Arabia's obtaining membership in the World Trade Organization, WTO. I strongly support this effort and believe that WTO membership would lead to greater accountability and transparency in the Saudi Kingdom and, more importantly, would connect Saudis to the global economy.

Most important of all, Crown Prince Abdullah brought Saudi Arabia into the international spotlight last February by initiating a proposal that offers Arab normalization of relations with the State of Israel, if Israel returns to the pre-1967 borders. While the Saudi plan maybe viewed by some as a non-starter, an initial position for negotiations, or even worse a public relations ploy, it should not be altogether ignored or minimized. This initiative is a significant signal that Crown Prince Abdullah will be an active participant in the elusive peace process and may be the most progressive step toward Arab-Israeli reconciliation taken by any Arab leader since Egyptian President Anwar al-Sadat traveled to Jerusalem and King Hussein of Jordan signed a peace treaty with Israel in 1994. Unfortunately, during Camp David II in 2000, too many Arab leaders remained on the sidelines while a comprehensive peace proposal was being circulated. Crown Prince Abdullah seems to recognize the lost opportunity that occurred during Camp David II, and in a promising sign he clearly stated to me his intention to be actively involved in any new effort for a comprehensive peace agreement.

The United States would be ill-advised to disengage from Saudi Arabia or its leader. As the heart and soul of the Muslim world, Saudi Arabia is home to Islam's two holiest places, Mecca and Medina. It is the Muslim world and, in particular, Arab states that the United States must actively engage in dialogue to promote educational reform, greater religious freedom, democracy, freedom of the press and expanded rights for women. We need to press the Saudi government, especially Crown Prince Abdullah who has significant weight in the Arab and Islamic world, to address religious freedom and human rights. At the same time, we must seek the advice and assistance of prominent Saudis to help America strengthen and improve our standing in the Muslim world. It would be short-sighted to ignore the perceptions and beliefs of more than one billion people.

Saudi Arabia is also integral to our policy of containing and eventually removing Saddam Hussein from power. Saudi cooperation with the U.S. and other allies in enforcing Operation Southern Watch over Southern Iraq has been considerable. During my visit to Saudi Arabia this week, I will reiterate that Iraq repeatedly fails to comply with United Nations (UN) resolutions, continues to block unfettered UN weapons inspections, is stockpiling weapons of mass destruction, harbors and supports terrorists, and poses a grave threat to the security of the United States and every nation in the region. It is critical to the United States that Crown Prince Abdullah and Saudi Arabia assist the Bush Administration in building a coalition of support to remove the threat of Saddam Hussein to the region.

My visit to Saudi Arabia is also another opportunity to send a message from the American people to the Saudi government and its citizens that the United States intends on continuing our engagement and partnership with their country; however, I would be remiss if I ignored the continued presence and activity of dangerous extremists in the Saudi Kingdom and the danger they pose to America and our allies. Ultimately, the future of U.S.-Saudi relations hinge on the efforts of Saudi leaders to root out extremist elements within the kingdom and choke off all financial support emanating from the kingdom to terrorist organizations around the world.

As for Saudi Arabia's leading role in the Middle East, it is incumbent on Crown Prince Abdullah and other Arab leaders to help reform the Palestinian leadership, as outlined by President Bush on June 24, 2002, from one based on corruption, incitement, terror and suicide bombings to one based on democracy, peace and constructive dialogue. This will be the major thrust of my conversations with the Crown Prince this Sunday in Jeddah. It is important to note that Crown Prince Abdullah and other Saudi officials have already played a constructive role in the reform effort by assisting the Palestinians in writing a new constitution. Without concerted international pressure, there will be no genuine reform of the Palestinian leadership and, I fear, no end to suicide bombings. These terrorist acts must end if we are to reach a comprehensive and lasting regional peace based on security, recognition for Israel, and statehood for the Palestinians. Indeed, the legitimate aspirations of the Palestinian people to have a nation of their own will be destroyed unless there is a change of attitude among those in the Arab and Muslim worlds who encourage and provide moral, financial and material support to so-called martyrs who commit these heinous, inhuman and immoral terrorist acts.

As a strong supporter of an unbreakable bond between the United States and Israel, I care deeply about the future security and prosperity of the Jewish homeland. In meetings with Saudi leaders, I will remind them of the unprecedented terrorism the Israeli people have faced over the past 20 months and the tragic toll that suicide bombers have inflicted on innocent Israelis. It is also imperative they understand that like America, Israel has the right to defend herself against these barbaric attacks and that the United States will stand in solidarity with Israel during this difficult time.

Mr. Speaker, if we are to avert another tragedy like September 11 and defeat the scourge of terrorism, America needs allies—we cannot do it alone. I am going to Saudi Arabia because more effective cooperation and understanding between our two countries is fundamental to winning the international war on terrorism, and members of Congress must play more than just a consenting role in that effort.

PUBLIC SAFETY TAX CUT ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. PAUL. Mr. Speaker, I am pleased to introduce the Public Safety Tax Cut Act. This legislation will achieve two important public policy goals.

First, it will effectively overturn a ruling of the Internal Revenue Service which has declared as taxable income the waiving of fees by local governments who provide service for public safety volunteers.

Many local governments use volunteer firefighters and auxiliary police either in place of, or as a supplement to, their public safety professionals. Often as an incentive to would-be volunteers, the local entities might waive all or a portion of the fees typically charged for city services such as the provision of drinking water, sewerage charges, or debris pick up. Local entities make these decisions for the purpose of encouraging folks to volunteer, and seldom do these benefits come anywhere near the level of a true compensation for the many hours of training and service required of the volunteers. This, of course, not even to mention the fact that these volunteers could very possibly be called into a situation where they may have to put their lives on the line.

Rather than encouraging this type of volunteerism, which is so crucial, particularly to America's rural communities, the IRS has decided that the provision of the benefits described above amount to taxable income. Not only does this adversely affect the financial position of the volunteer by foisting new taxes about him or her, it has in fact led local entities to stop providing these benefits, thus taking away a key tool they have used to recruit volunteers. That is why the IRS ruling in this instance has a substantial deleterious impact on the spirit of American volunteerism. How far could this go? For example, would consistent application mean that a local Salvation Army volunteer be taxed for the value of a complimentary ticket to that organization's annual county dinner? This is obviously bad policy.

This legislation would rectify this situation by specifically exempting these types of benefits from federal taxation.

Next, this legislation would also provide paid professional police and fire officers with a \$1,000 per year tax credit. These professional public safety officers put their lives on the line each and every day, and I think we all agree that there is no way to properly compensate them for the fabulous services they provide. In America we have a tradition of local law enforcement and public safety provision. So,

while it is not the role of our federal government to increase the salaries of these, it certainly is within our authority to increase their take-home pay by reducing the amount of money that we take from their pockets via federal taxation, and that is something this bill specifically does as well.

President George Bush has called on Americans to volunteer their time and energy to enhancing public safety. Shouldn't Congress do its part by reducing taxes that discourage public safety volunteerism? Shouldn't Congress also show its appreciation to police officers and fire fighters by reducing their taxes? I believe the answer to both of these questions is a resounding "Yes" and therefore I am proud to introduce the Public Safety Tax Cut Act. I request that my fellow Members join in support of this key legislation.

IN HONOR OF HEROES WHO HAVE
FOUGHT FOR OUR COUNTRY

HON. ALBERT RUSSELL WYNN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. WYNN. Mr. Speaker, as we approach Independence Day, I submit for the RECORD a speech given in my Congressional District on Memorial Day, by James E. Merna of 7503 Dover Lane, Lanham, Maryland, honoring the heroism of veterans from Prince George's County, Maryland, that have fought to protect our freedoms.

HONORING FIVE SONS OF PRINCE GEORGE'S
COUNTY, MARYLAND, THAT HAVE FOUGHT TO
PROTECT OUR FREEDOMS

(By James E. Merna, Former Maryland State
Commandant, Marine Corps League)

Thank you Mayor Harrington, Councilwoman Marion Hoffman, Bill Hickey, other Town of Bladensburg elected and appointed officials, members of American Legion Post 131, leaders of other veterans organizations, and fellow veterans. Thank you for inviting me. I am pleased to be here.

The town and citizens of Bladensburg should take great pride for the many years you have conducted ceremonies such as this. Bladensburg is not only a historic town—a famous port town—it is also a very patriotic town. Thanks also to Colmar Manor American Legion Post 131 for helping to make these events happen.

Memorial Day, as it is now observed, is a special day set aside to remember the service and sacrifice made by Americans who answered their country's call to duty in all wars—those who gave their lives, those who served and returned, those who were injured or disabled as a result of their service those who remain missing in action, and those who serve today in Afghanistan and around the world to defend freedom and to fight terrorism.

In my remarks today, I want to talk about five brave Sons of Prince George's County, who answered their nation's call, and of their courage, devotion to duty, and personal sacrifice. I believe it is a message for all, but especially for our young people, Better role model other than their parents or close relatives, they could not have.

I stress younger people in light of an announcement from the U.S. Department of Education this month that said "More than

half of America's high school seniors do not have even the most basic grasp of U.S. history, showing no improvement in a nationwide test since 1994."

The Education Department issued a national history "report card" which measured the performance last year of fourth, eighth and 12th graders in history. Students did not know, for instance, that America's fundamental belief in individual liberty was expressed in the Declaration of Independence, or that the image of UNCLE SAM was used to appeal to patriotism during wartime.

Educators said the results were "truly abysmal," pointing out that the higher the grade and closer a student was to voting age, the lower the understanding of U.S. history.

In grade 12, only 43 percent of students had a basic or proficient knowledge of history. More than a third of fourth graders and nearly 40 percent of eighth graders also did not have a basic understanding of the subject. The Secretary of Education, Rod Paige, stressed that "basic" is the bottom of the achievement ladder. And, he said, they didn't even reach that—"the lowest rung."

In this complex day and age, this is troublesome. History is a key component of our nation's school curriculum, and it is through history that we understand our past and contemplate our future. Especially following the September 11 attacks that targeted U.S. democracy. It is appalling that some of the questions that stumped students involved the most fundamental concepts of America's democracy. Our work is cut out for us—we need more enlightened students—and better trained history teachers.

The first notable Son of Prince George's County that I want to mention, is one of your very own, a life-long resident of Bladensburg. When I think of him, I'm reminded of the many great songs that were popular during World War II. And I'm referring to records, not CD's, tapes, or DVD's. Among the best in my opinion, were three: (1) There'll be Bluebirds Over, the White Cliffs of Dover," sung by Vera Lynn (2) "Long Ago and Far Away," made famous by Jo Stafford, and (3) "When the Lights Go On Again, All Over the World," sung by Vaughn Monroe.

This individual, I am about to name, and many others of his generation exemplified the very ideals inscribed at the base of this Peace Cross Memorial: endurance, courage, devotion, and valor. Because of their wartime service and sacrifice, they made it possible for the bluebirds once again to fly over the White Cliffs of Dover, for the lights to come on again all over the world, in a global struggle long ago and far away.

Ladies and gentlemen, I ask you to join with me in applause for one of your finest citizens, a World War II Navy veteran of many battles in the Pacific, a venerable gentleman who will celebrate his 88th birthday in August, the Chairman-Emeritus of Bladensburg's Promotions Committee—Mr. Bill Hickey.

Let us never forget that we have yet to erect a Memorial on the Mall in Washington for our World War II veterans, and we're losing these veterans at an astounding rate of 1500 a day. Like all of you, I want to see that overdue Memorial built—and soon, as a tribute to the Bill Hickey's and all our World War II veterans. I have a personal interest in this Memorial as well. My oldest brother George was killed in action in World War II. He went down with his ship, LST 577, sunk by a torpedo from a Japanese submarine in the Philippines, on February 11, 1945. He was 19 years old

Let me mention another truly outstanding Son of Prince George's County—one who epitomized the motto of those long ago great Notre Dame football teams coached by the legendary Knute Rockne. Coach Rockne once said the motto of his teams was: Don't Let Your Buddy Down—a motto which he admitted he borrowed from our Marine Corps on the battlefields of World War I.

Captain Jim Graham grew up in Prince George's County, in Accokeek, finished high school in Brandywine, and graduated from Frostburg State College in 1963. His family later lived in Forestville. He was a career Marine officer serving in Vietnam in 1967. Listen to this stirring account of Captain Graham's heroic actions as described by General Lewis W. Walt, former Assistant Commandant of the Marine Corps: "Captain Jim Graham was a young company commander serving with our 5th Marine Regiment in Vietnam. His company, while in the attack, came under heavy fire from mortars and small arms which immediately inflicted large numbers of casualties in his Second Platoon. Graham, upon seeing this, organized and boldly led a fierce assault through the Second Platoon's position, forcing the enemy to abandon the machine gun position, thereby relieving some of the pressure on the platoon and enabling evacuation of the wounded to a more secure area. During the afternoon and early evening, Graham's small force stood steadfast in its hard-won enclave. He was wounded twice while personally accounting for 15 enemies killed. His battalion commander ordered him to withdraw to friendly lines. Graham reacted by sending all of his men back except one man who could not be moved due to the seriousness of his wounds. He apologized to his battalion commander for not completely carrying out the order to withdraw, but said "I just can't leave this young Marine, keep the firing coming through Colonel, we are hurting them." About 20 minutes later, Captain Graham radioed: "This is my last transmission. I am being assaulted by at least 25 of them. It's been a pleasure soldiering with you." Captain Jim Graham was posthumously awarded the Medal of Honor for his heroic deeds that day."

A year later, I had the privilege to attend a ceremony at 8th and I, Marine Barracks, Washington, DC when Captain Graham's widow, Janice, accepted the Nation's highest award, the Congressional Medal of Honor, in her husband's name. It was the first Medal of Honor to be awarded to a Marylander in the Vietnam War.

Another Prince George's great, the late Maryland State Senator Ed Conroy, was a highly decorated army Korean War hero who led the defense of Heartbreak Ridge. He was severely wounded twice, lost an arm and sustained burns over 90 percent of his body. Among his decorations were the Silver Star, and two Purple Hearts. Ed had a miraculous recovery and went on to earn a law degree from Georgetown University. He never forgot his fellow veterans and was known in the Maryland Senate as the champion legislator for all veterans legislation. I had the pleasure to organize a testimonial dinner for Ed when he was elected as National Commander of the Disabled American Veterans. On many occasions when I would introduce him, he would have me say with pride that he was "the closest to a Marine without being a Marine." We miss Ed and his tireless energy. A great patriot. Many of you, I'm sure, know Ed's widow, Mary Conroy. She serves Prince George's County today with much distinction, as a Member of the House of Delegates in Annapolis.

Moving along, I want to mention two other notable Sons of Prince George's County who served their nation with honor in Vietnam: Charles E. "Butch" Joeckel, Jr., and John Clements, both distinguished combat Marines.

Butch Jeckel was raised in Colmar Manor, within walking distance of this monument. He graduated from Bladensburg High School in 1965, joined the Marines in 1966, and went to Vietnam in 1967. He was a 20-year-old squad leader and only in Vietnam three months when his river boat was ambushed during the Tet Offensive in January 1968. While searching out a suspected enemy position ashore, one of his men inadvertently stepped on a land mine, triggering an explosion which blew off both of Butch's legs above the knee. Seven other Marines were wounded by the blast. Despite his severe injuries, Butch maintained exceptional presence of mind and called for a medical evacuation and directed the clearing of a helicopter landing zone.

As is the case with all seriously wounded servicemen and those killed in action, a military officer is usually assigned to make personal contact with the family. The casualty notification officers, as they are called, was in Butch's case, a Marine Lieutenant just back from Vietnam. It was my brother, Jerry Merna. When Jerry got back home that night, in Alexandria, Va., he called to let me know he had just been in Colmar Manor, visiting with Butch's parents. He let me know of the severity of Butch's wounds.

For me, that was the beginning of a 34-year friendship, to this day, with Butch. I soon rounded up a few other former Marines and we visited Butch at the Philadelphia Naval Hospital. In fact, we brought him home once he was discharged, back to his boyhood home—at 3605 40th Place, in Colmar Manor, where his dad, a World War II veteran, still lives. On the way home, we made a detour, to Peter Connell's Restaurant on Annapolis Road, now called The Italian Inn, for "refreshments."

I was with Butch at a ceremony at Headquarters Marine Corps when he was awarded the Silver Star, the nation's third highest award for bravery in combat. It was presented to him by four-star General Lewis W. Walt, Assistant Commandant of the Marine Corps. Earlier, in the Korean War, General Walt was my Commanding Officer, when he commanded the 5th Marine Regiment, First Marine Division. When pinning the medal on Butch, General Walt said, "This is one of the proudest moments of my military career, for I am more proud of Butch than of any Marine I know." That was quite a compliment coming from someone like General Walt, who during his military career, won two Navy Crosses and the Silver Star in World War II, the Legion of Merit, and the Bronze Star in Korea, and the Distinguished Service Medal as the Commander of Marines in Vietnam.

This was not the first meeting Butch had with General Walt. Back on July 6, 1968, thirty-four years ago, I had the pleasure of organizing a Welcome Home Parade for Butch. The parade commenced right here at this very site, the Peace Cross, and marched all the way down Bladensburg Road to the DC line. My Prince George's County Detachment of the Marine Corps League and the American Legion Post 131 in Colmar Manor, co-chaired the event. We had the county proclaim that day, July 6, 1968, as Butch Joeckel Day. Youth groups, veterans groups, community service organizations, high

school marching bands, the Marine Corps Band, and troops from each of the military services marched proudly in Butch's honor that day. The grand marshal of the parade was General Walt, just back from Vietnam himself. Admittedly, and unfortunately, there weren't many parades for returning Vietnam Veterans in those days, but we had one, right here in Prince George's County. It was a huge success, and was nationally televised by ABC-TV.

One last word about Butch. He went on to a very distinguished career. He earned his college degree, then decided he wanted to help his fellow veterans. He took a low-level position in the Washington office of the Disabled American Veterans, and then went on to head up not only the Washington office, but the entire national organization itself, with more than one million members strong. He lives in Annapolis now, is married with two grown children, and is a grandfather. He's currently serving on a presidential disability commission. But he's never forgotten his roots. In an interview with the Capital newspaper in Annapolis not too long ago, he said, "I've been working in veterans affairs since I came back in 1968. It's in my heart. I felt like I had to give back to my community because they were great to me. I got a welcome home parade in my hometown. Not many did."

Finally, a word about John Clements. John was raised in Cheverly, and graduated from DeMatha High School. John was a contemporary of Butch's, and like Butch, joined the Marines right out of high school. He went off to Vietnam where he won three Purple Hearts. He was seriously wounded and spent a long time hospitalized. I visited John at Bethesda Naval Hospital a number of times. The doctors wanted to amputate one of John's legs, but through perseverance and much prayer, he was able to convince them otherwise. John has gotten by since then with the use of a cane. Like Butch, John too wanted to help his fellow veterans, and went on to a successful career with the Veterans Administration designing prosthetic equipment for disabled veterans.

In closing, as we leave here today, let us affirm to remember Memorial Day for what it was intended to be—a day of recognition, honor, and respect, and not just a three-day holiday.

Let us remember our fallen comrades—those who fought and died for freedom, and the children, spouses and parents they left behind. Let us never forget those who returned, many disabled. If we can remember these worthy veterans on Memorial Day, we ought to honor them on Election Day. Let's do all in our power to put more upcoming Ed Conroy's in City Hall, on the County Council, in our State House, and in the Congress. We have the opportunity to do so with elections coming up in the Fall. They served us so well in war—and they would do as well in preserving the peace.

Our very own heroes—Bill Hickey in World War II, Ed Conroy in Korea, and Captain Jim Graham, Butch Joeckel, and John Clements in Vietnam—they represent the best that America has to offer. They are object lessons themselves. They made history. Hopefully, our young people will be inspired by their example.

If America is to remain great, it may indeed depend on how well we continue to inspire our youth to excel. Our noted Sons of Prince George's County have shown the way.

Thank you—and God Bless America.

IN RESPONSE TO THE NINTH CIRCUIT COURT OF APPEALS' RULING ON THE PLEDGE OF ALLEGIANCE

HON. ADAM H. PUTNAM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. PUTNAM. Mr. Speaker, I am fortunate to have many veterans residing in my district. When I heard of the appalling actions of the Ninth Circuit Court of Appeals—ruling that the Pledge of Allegiance was unconstitutional—my thoughts turned to them. We are a nation standing strong today because those heroes pledged their allegiance to America with their lives, their tears and their sacred honor. What must our troops in the field today think?

Our Country came into being through a Declaration of Independence that acknowledged that we are endowed by our Creator with the unalienable rights of life, liberty and the pursuit of happiness. This is clearly an acknowledgement in the very founding document of this Nation that we are indeed "one Nation under God."

When I conclude a constituent letter with "God bless America" is my action unconstitutional? Should that be banned, too? I stand with the tradition that allows the President to put his hand on the Bible, pledge to protect and defend the Constitution and conclude his oath with the words of George Washington, "So help me God."

It is sad that at a time when our country is at war and Americans have a renewed sense of patriotism—and what allegiance to America costs—this court is driving a wedge between us with their absurd ruling. It is my fervent hope that a common sense reading of the Constitution will eventually prevail and that liberal judges will end their war on religion in America.

As countless American leaders of all political stripes have said before me, God Bless America.

NINTH CIRCUIT COURT OF APPEALS' RULING

HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. PICKERING. Mr. Speaker, today the latest in a string of absurd court decisions was handed down from a Federal Appeals Court in San Francisco. This court decided that the Pledge of Allegiance was unconstitutional and cannot be recited in schools.

This is an unfortunate assault on America's tradition of recognizing the role of God in our country's life and as a foundation of our liberties.

This most outrageous decision cannot and will not stand. Our forefathers authored the 1st Amendment to protect Americans from a "national church or national doctrine" not from the Pledge of Allegiance. For far too often the most liberal Members of our courts have abused the 1st Amendment to remove any acknowledgment of God or a higher being from the Federal Government and our daily life.

I would simply remind my colleagues that we sit in a chamber that has the words "In God We Trust" engraved on the wall. From the beginning of our Republic a higher being has been acknowledged by this government and the Pledge of Allegiance simply is consistent with that history and tradition.

It is hardly comparable to note that the Pledge of Allegiance is relative to the establishment of a national religion, church or doctrine.

The court in San Francisco is the most overturned appeals court in the Nation. I am confident that this decision will also be overturned, but to ensure that the Pledge of Allegiance continues to be observed I am introducing legislation to amend the Constitution to ensure the Pledge of Allegiance is constitutionally protected speech.

A RISING NATION, UNDER GOD
THIS FOURTH OF JULY

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. RAHALL. Mr. Speaker, listen again to the words we will hear this Fourth of July: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."

Given the recent Federal Court ruling about the constitutionality of our pledge of allegiance, will the day come when a Federal Court of these United States will not allow our Declaration of Independence to be read or posted on the walls of our schoolrooms across this land? I pray not.

We must always be mindful that the moral fiber of this Nation was built not upon the law of man, but rather upon the law of God.

"The longer I live, the more convincing proofs I see of this truth," said Benjamin Franklin, "that God governs in the affairs of men. And if a sparrow cannot fall to the ground without his notice—is it probable that an empire can rise without his aid?"

Throughout our Nation's history we have faced many challenges, fought many battles. But from troubled times, we've gained greater victories. To the American, trouble but fuels our soul. Ignites our spirit. Trouble forges our future's strength. September 11th's legacy will be no different.

This Fourth of July, let us pause to give thanks to the almighty—to remember, reclaim, and rejoice in our national spirit born of revolution, our national quest.

In President Jefferson's first inaugural address, he called us "A rising nation, spread over a wide and fruitful land, traversing all the seas with the rich productions of their industry . . . advancing rapidly to destinies beyond the reach of mortal eye."

Mountaineers are always free. We live Jefferson's words. The spirits of Flood ravaged West Virginians fan the flames of future's hope.

"The God who gave us reason," Jefferson said, "did not ask us to forego its use." And

truly America has taken his words to heart. We pursue life, liberty and happiness in this great Nation with great passion.

And so it should be.

Next January, our Nation will celebrate the 200th Anniversary of Jefferson's legacy, the Lewis and Clark Expedition, a national quest that has inspired us ever since. Freedom paves the path of our national quest.

As we face new economic realities in West Virginia, we seek not only new industries, but also new economies. From new infrastructure to new technologies, we are working to build a new and brighter West Virginia.

As we face the war on terrorism, we grieve for the terrible toll it has already taken, the lives of West Virginia's precious sons and daughters. Let us remember that their sacrifice was for our quest not to falter or to fail, but rather to set sail and soar.

The rights for which our founding fathers and mothers so valiantly pledged their lives, fortunes and sacred honors—and might I add they did so, and I quote, "with a firm reliance on the protection of divine Providence,"—require the same from us in times of peace—and in times of war.

Jefferson's last letter, which was read on July 4th 1826 in Washington, DC, the day he would pass from this earth—concluded, "For ourselves, let the annual return of this day forever refresh our recollections of these rights and an undiminished devotion to them."

Our national quest shall endure. We remain a rising nation. The Fourth of July is our constant reminder, and the good Lord, our constant strength, despite what any court, judge, or jurisdiction of this government says to the contrary.

IN HONOR OF VINCENT J.
BILARDO, JR.

HON. KAREN MCCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise today to pay tribute to an outstanding individual and dedicated public servant from the State of Missouri. On July 26th, Vincent J. Bilardo, Jr. will be ending his current assignment from the U.S. Army Corps of Engineers Kansas City District in which he has served as the Kansas City Brownfields Federal Showcase Program Director. He will leave a lasting legacy of tireless commitment to the betterment and preservation of our community and region.

Prior to joining the Corps in 1992, Mr. Bilardo began his career in public service with the National Aeronautics and Space Administration (NASA) where he spent ten years at four different NASA facilities throughout the nation. His assignments included serving as a systems engineer in the Space Station Program at NASA Headquarters, a Space Shuttle propulsion systems engineer at NASA Kennedy Space Center and Vandenberg Air Force Base in California, and as the manager of a branch of fifteen research scientists charged with developing closed loop environmental control systems for future lunar and Mars exploration missions at Ames Research Center.

Mr. Bilardo began his current position with the Kansas City Brownfields Federal Showcase in 1999 which consists of both the City of Kansas City, Missouri and the Unified Government of Wyandotte County/Kansas City, Kansas. He has been responsible for developing federal and state grant applications, providing technical assistance to a number of important regional initiatives, and managing several Brownfields redevelopment projects. His efforts have earned the program national acclaim as an award winning initiative that has significantly enhanced regional investment, economic growth, and environmental quality in the communities he serves. Under Mr. Bilardo's leadership the Kansas City Brownfields Federal Showcase has partnered with economic and industrial associations to implement an aggressive strategy to rebuild infrastructure, expand operations, and improve facilities in the region.

The crowning achievement of Mr. Bilardo's tenure has been in his diligent guidance and development of the Kansas City Riverfront Heritage Trail, for which he serves as the Bi-State Program Director. The Kansas City Riverfront Heritage Trail is an 18 mile long, bistate system of bicycle and pedestrian trails, pocket parks, restored ecosystems, and trailheads that has successfully leveraged municipal, state, federal, and private funding resources. Upon completion, the Riverfront Heritage Trail will connect critical riverfront activity centers to provide recreation, promote economic investment, wetland habitat restoration, and feature the rich historical and cultural highlights of our metropolitan area's past including Lewis and Clark's Corp of Discovery expedition and their two stops along the southwestern most bend of the Missouri River. Anyone who has been involved with the Riverfront Heritage Trail is cognizant of Mr. Bilardo's immeasurable contribution to this project and of the fact that it would not be the success it is today without his passion and tireless commitment.

Mr. Bilardo will leave a large void to be filled as he returns in August to NASA's Langley Research Center in Hampton, Virginia. He will be fondly remembered by his peers and co-workers as a tireless and dedicated leader. Mr. Bilardo's amazing barbecue skills will be sorely missed by everyone who had the pleasure to work with him. It is with deep gratitude and honor that I recognize Vince Bilardo for his remarkable service to the State of Missouri. His devotion is an example to us all.

Mr. Speaker, please join me in thanking Mr. Bilardo and wishing him and his wife Heidi and their two daughters, Kendall and Rachel continued success and happiness in the adventures that await them.

THE EMERGENCY DIRECTED RAIL
SERVICE ACT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. YOUNG of Alaska. Mr. Speaker, today I introduce the Emergency Directed Rail Service Act. This legislation is intended to prepare

the nation for the possibility that Amtrak will follow through on its threat to shut down. This bill is part of my effort to make sure the country is as prepared as possible should that shutdown occur.

Members are no doubt aware that Amtrak is in an extremely desperate financial situation. Amtrak contends it needs \$200 million in additional cash or it will cease operations on or about July 1, 2002. Although the Administration is currently considering an Amtrak application to use the Railroad Rehabilitation and Infrastructure Financing (RRIF) loan and loan guarantee program, it is doubtful Amtrak qualifies under the statute, under the formal regulations that govern the program, or under the informal rules imposed by the Department of Transportation and the Office of Management and Budget.

Similarly, although I would support an appropriation under the right conditions to help Amtrak in the short-term while the Congress and the Administration address Amtrak for the long-term, it is unclear whether the appropriations process will be able to provide Amtrak any funds before July 1, 2002.

I am particularly concerned about the effect on freight movements in the Northeast and on commuter operations around the country and consequently on our national economy. An Amtrak shutdown could adversely affect the economy in the Northeast United States because considerable freight would not be able to get to its destination, especially plants where the Northeast Corridor is the only rail access. Moreover, commuters in the Northeast and around the country may not be able to get to work either because the commuter authority operates on Amtrak infrastructure or because the commuter authority uses Amtrak employees to operate or maintain its trains.

Accordingly, on Monday I wrote Linda Morgan, the Chairman of the Surface Transportation Board, and asked whether the Board had the power to direct freight and commuter service that would be adversely affected by an Amtrak shutdown.

Ms. Morgan responded yesterday that the STB was unclear whether it would have the power to direct freight and commuter service in the event of an Amtrak shutdown and that its emergency powers have "never been tested before in this context . . . and . . . could be challenged in court."

This country needs someone to have the power to address the fallout on freight railroads and commuters if Amtrak shuts down. The legislation I introduce today does just that. It makes it clear that the STB has the authority it needs to act in the event Amtrak ceases service.

In particular, the bill would give the STB the authority to order the continued maintenance, signaling, and dispatching of the Northeast Corridor.

It would give the STB the authority to use federal funds to compensate the entity that conducts these services and to indemnify it with respect to any increased liability exposure.

It would also authorize the STB to direct service and to provide interim financial assistance to commuter operations around the country affected by an Amtrak shutdown.

Further, current law requires that to the extent possible the Amtrak employees who al-

ready perform the work should do the work required by the directed service.

A final word of caution. I realize this bill addresses provisions of law relating to the STB and that there are interests out there who will want to attach other STB-related amendments to it. I call on them not to do so. This bill addresses a potential national transportation disaster and is limited solely to the STB's emergency directed service powers. In this case, we must put the national interest above all others.

INTRODUCTION OF THE ENHANCED PROTECTION OF OUR CULTURAL HERITAGE ACT OF 2002

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. PALLONE. Mr. Speaker, I rise today to introduce the Enhanced Protection of Our Cultural Heritage (EPOCH), Act of 2002.

The legislation that I am introducing today will increase the maximum penalties for violations of three existing statutes that protect the cultural and archaeological history of the American people, most notably, American Indians. This bill also includes language that will make any attempt to sell Native American human remains a criminal act. The United States Sentencing Commission recently recommended the statutory changes contained in this bill and these changes complement the Commission's strengthening of Federal sentencing guidelines to ensure more stringent penalties for criminals who steal from public and tribal lands. I am pleased that my colleagues, Representatives HAYWORTH and Representative MARK UDALL have joined me in co-sponsoring this important bill.

Looting of cultural remains is not a new problem but it has developed into a professional business. Today, the casual hiker who lifts an arrowhead or a potshard has become less of a problem because of increased awareness about the impact of removing such items. Instead, we are witnessing carefully planned and prepared theft by well-equipped professional looters. Professional looters have devastated individual Indians and tribal communities. These communities can do little but sit by and watch as their culture is erased, site by site as professional looters steal anything that may have value on the black market—including ancestral remains. The lack of severity in the current laws does little to deter these individuals from looting over and over again.

The three statutes that this bill amends currently impose a 5-year maximum sentence, and each includes a lower maximum for a first offense of the statute and/or a violation of the statute involving property of less than a specified value. This bill would create a 10-year maximum sentence for each statute, while eliminating the lower maximums under ARPA and NAGPRA for first offenses.

Such maximum sentences would be consistent with similar Federal statutes. For example, the 1994 law proscribing museum theft carries a 10-year maximum sentence, as do the general statutes punishing theft and the

destruction of government property. Moreover, increasing the maximum sentences will give judges and the Sentencing Commission greater discretion to impose punishments appropriate to the amount of destruction a defendant has done.

Making these changes will enable the Sentencing Commission's recent sentencing guidelines to be fully implemented. The Commission increased sentencing guidelines for cultural heritage crimes, but the statutory maximum penalties contained in current law will prevent judges from issuing sentences in the upper range of the new guidelines. Those new guidelines have the enthusiastic support of the Justice and Interior Departments, the Society for American Archeology, the National Trust for Historic Preservation, numerous Native American nations, and many others. Congress must take the steps necessary to see that the guidelines take full effect.

The professional looters who pillage the rich cultural heritage of this Nation and its people are committing serious crimes. The artifacts stolen from both tribal and public lands are the legacy of all Americans and should not be robbed and sold for personal gain. Passage of this legislation would demonstrate Congress' commitment to preserving our Nation's history and our cultural heritage. I urge my colleagues to support this much-needed legislation.

I would ask that the text of this legislation be printed in the RECORD.

H.R. ———

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Enhanced Protection of Our Cultural Heritage Act".

SEC. 2. ENHANCED PENALTIES FOR CULTURAL HERITAGE CRIMES.

(a) ENHANCED PENALTY FOR ILLEGAL TRAFICKING IN ARCHAEOLOGICAL RESOURCES.—Section 6(d) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470ee(d)) is amended by striking "not more than \$10,000" and all that follows through the end of the subsection, and inserting "not more than \$100,000, imprisoned not more than 10 years, or both."

(b) ENHANCED PENALTY FOR EMBEZZLEMENT AND THEFT FROM INDIAN TRIBAL ORGANIZATIONS.—Section 1163 of title 18, United States Code, is amended by striking "five years" and inserting "10 years".

(c) ENHANCED PENALTY FOR ILLEGAL TRAFICKING IN NATIVE AMERICAN HUMAN REMAINS AND CULTURAL ITEMS.—Section 1170 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "or attempts to sell, purchase, use for profit, or transport for sale or profit," before "human remains"; and

(B) by striking "or imprisoned not more than 12 months, or both, and in the case of a second or subsequent violation, be fined in accordance with this title, or imprisoned not more than 5 years" and inserting "imprisoned not more than 10 years" and

(2) in subsection (b), by striking "imprisoned not more than one year, or both, and in the case of a second or subsequent violation, be fined in accordance with this title, imprisoned not more than 5 years" and inserting "imprisoned not more than 10 years."

SENATE—Friday, June 28, 2002

The Senate met at 9:31 a.m. and was called to order by the Honorable DEBBIE STABENOW, a Senator from the State of Michigan.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God of progress, our hearts are filled with gratitude. Thank You for answered prayer. You have been with the Senators through these intensely busy weeks. You have honored their commitment to hard work. Thank You for the legislation that has been accomplished. We praise You that You guide and provide. When we seek Your direction, goals can be set and achieved to Your glory.

Now we ask You to bless the Senators as they return to their States to work with their constituencies for the Fourth of July recess. While they enjoy a break from the pressures here in Washington, refresh them with rest, renewal, and rejuvenation. Give them quality time with their families and friends. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DEBBIE STABENOW led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 28, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DEBBIE STABENOW, a Senator from the State of Michigan, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Ms. STABENOW thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

In my capacity as a Senator from Michigan, I suggest the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. DASCHLE. Madam President, the Senate will be in a period of morning business with Senators permitted to speak for up to 10 minutes each. I have already announced there will be no rollcall votes today. The next rollcall vote will occur on Tuesday morning, July 9.

I will use my leader time this morning; if my time exceeds the 10 minutes, I ask the time be taken off leader time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ACCOUNTING REFORM AND INVESTOR PROTECTION WILL BE THE FIRST ORDER OF BUSINESS WHEN WE RETURN

Mr. DASCHLE. Madam President, our form of government rests on two pillars. One is democracy. The other is free enterprise. We are the strongest, most successful nation in the world because we have maintained the strength of both of those pillars.

We are the most durable democracy in the world because our system is constantly refreshed by new leaders and new ideas. If leaders fail, they can be voted out of office. If ideas fail, they can be either discarded or improved.

The strength of the system rests on the fact that—while not perfect—our Government is open and accountable.

We have the strongest economy in the world, because our commitment to free enterprise is strengthened by a system of open markets. Those markets—fed by free-flowing, reliable financial information—channel investment into new ideas and new enterprises. Working at its best, our free enterprise system has generated durable

economic growth, wealth, and opportunity that are the envy of the world.

The corruption of one of these pillars threatens the other. The weakening of either threatens our Nation.

This week's news from MCI WorldCom was the latest in a series of disclosures that have shaken confidence in American business.

Recently, we have seen Enron collapse under the weight of inflated earnings and hidden debt. We have seen Halliburton face charges of improperly recording revenue. We've seen Tyco accused of falsifying merger information, and its CEO indicted. Arthur Andersen has been convicted of obstructing justice.

The list goes on: CMS Energy, Computer Associates, Dynegy, Global Crossing, ImClone, Kmart, Lucent, MicroStrategy, Network Associates, PNC Financial Services, Qwest, Reliant Resources, and Xerox are all facing serious questions about their business practices.

This string of disclosures threatens our economy to its core. They undermine investor confidence, scare off foreign investment, and slow an already shaky recovery.

And the impact is much more than some economic abstraction. Thousands of honest, hardworking people have lost their jobs. Millions more have seen their savings, their nest eggs, and their retirements gutted.

When corporate fraud leads to corporate failure, people get hurt.

I am not arguing that the corruption we have seen is systemic. America has some of the world's most innovative executives, people of tremendous energy, skill, and integrity.

They are the vast majority of corporate executives, and they should be the most outraged about the recent news. In my own discussions with corporate leaders, that is actually the case. They are the most outraged. They resent the notion that the corruption is systemic, that the deception is pervasive, and that "everyone is doing it."

I know—and most Americans know—that everyone is not doing it.

But the growing list of corporations under question makes clear that we aren't just talking about one or two isolated cases, or rogue executives.

The problem, instead, is a "climate"—a deregulatory, permissive atmosphere that has relied too much on corporate America to police itself. It is as if the line between right and wrong, legal and illegal, acceptable and unacceptable was so little enforced that it became blurred. Bringing it back into focus—as Enron's collapse did—revealed more than a few businesses standing on the wrong side.

The evidence rolling in is now unambiguous. Self-policing is no replacement for a vigilant cop on the beat. It is time to reform and strengthen the system.

Unfortunately, the desire for reform is not to be found in the approaches taken by the White House, the House, and the SEC.

This game of corporate dominoes we are watching is a wake up call. It is time to abandon this laissez-faire attitude and take action.

For starters, we need to make sure that the laws currently on the books are enforced. The SEC and Justice Department need to do more to aggressively and consistently investigate and prosecute cases of corporate fraud.

But enforcement alone isn't enough. We are now seeing cases where the law itself doesn't stand in the way of these egregious actions.

It is time for us to reform our system of accounting and do more to protect investors.

That is exactly what the Sarbanes bill does. And that is why it will be our first order of business when we return from recess. The Sarbanes bill makes six key improvements over our current system.

First, it creates an independent audit oversight board with the authority to set standards, conduct investigations, and impose punishment if those standards aren't met.

Second, it restricts the nonaudit services that an accounting firm can provide to public companies it audits. In other words, it keeps auditors out of the business of being a company's consultant or tax advisors in addition to being its auditor—the roles that can lead to conflicts of interest.

Third, it holds CEOs and CFOs responsible for the accuracy of operating and financial reports. If it turns out that an earnings report is deliberately misstated, those executives would forfeit profits and bonuses earned after that information was released.

Fourth, if corporate insiders sell stock, those sales must be reported to the SEC within 2 days.

Fifth, it would make sure that investment banking firms that also provide investment analysis don't mix those two functions. It also protects analysts from retaliation if they make unfavorable stock recommendations.

Sixth and finally, this bill includes expanded resources for the SEC. This will help them become more thorough investigators and enforcers. I have called the SEC a toothless tiger. This bill gives the agency some teeth.

In a message to Congress calling for the creation of the Securities and Exchange Commission, President Roosevelt said he sought to "give impetus to honest dealing in securities and thereby bring back public confidence."

It is time for us to again, "give impetus to honest dealing, and bring back public confidence."

That is what this bill does. It strengthens both our democracy and our system of free enterprise.

Senator SARBANES has done a masterful job in moving it through committee with broad bipartisan support.

For the sake of America's economy, America's workers, and the two pillars on which our nation's greatness rests, I look forward to debating it when we return.

PROGRESS IN THE SENATE

Mr. DASCHLE. Madam President, from time to time I have come to the floor to discuss our progress since we became the majority as Democrats in the Senate. I wanted to talk briefly about the accomplishments during this work period and the list of items we have attempted to address over the course of the now virtually 1 year that we have been in the majority. We took over officially during the month of July of last year. Technically, we are not quite there. But for all intents and purposes, we have now completed 1 year as a majority in the Senate.

We began June with work on the supplemental appropriations bill, a key piece of legislation. That legislation passed in the Senate a couple of weeks ago.

We then moved on to terrorism insurance. We passed that bill out of the Senate with an overwhelming vote.

We passed legislation which expedites the extradition of terrorist suspects. The antiterrorism legislation passed about 10 days ago.

We increased the debt limit on an overwhelmingly bipartisan basis.

We passed the Defense authorization bill, thanks to the extraordinary leadership of our colleague from Michigan, Senator LEVIN.

I might add that all of these issues—the supplemental appropriations, the terrorism insurance bill, the antiterrorism bill, the debt limit, and the Defense authorization bill—passed with overwhelming bipartisan majorities.

I am pleased to be able to announce that because I feel quite confident that is what the American people are expecting—that we attempt to work together, and that these priorities which are certainly their priorities as well be addressed in the way that allows us to enact them into law sometime very shortly.

I will say, having done as much as we can on a bipartisan basis, that I was disappointed by our colleagues on the other side of the aisle when they objected to the passage of the hate crimes legislation. We failed to achieve the 60 votes necessary to obtain cloture on hate crimes.

For the life of me, I am troubled by that. I would think that would be a 100-to-0 vote dealing with hate crimes in this country. It is something that is

pernicious, and it is something that we must address in a meaningful legislative way.

We will continue to make the effort to assure that 1 day we will pass meaningful hate crimes legislation.

I also say there was another matter that was not bipartisan. That involved the Republicans' attempt to permanently repeal the estate tax.

I am very proud of the fact that we did not do that. I think that is a good fiscal policy. It is good tax policy, and I am confident that any effort to repeal the estate tax permanently would fail in the future.

Let me hasten to add that the Democrats certainly support reform of the estate tax. We supported an increase in the overall exemption to \$7 million, and we are very appreciative of the widespread effort within our caucus and hopefully within the Congress itself to continue to work to reform the estate tax over a period of time. But blocking the permanent repeal of the estate tax saves the Treasury \$60 billion a year when it is fully implemented, \$600 billion over the course of a 10-year period of time. So we look upon this actually as an accomplishment, as we have with all of the other accomplishments during the month of June.

But I might say, as we look at accomplishments, the list has become quite significant over the course of the last 12 months.

Right after the Democrats took the majority, we passed a Patients' Bill of Rights. After the tragedy of September 11, we passed an antiterrorism use of force resolution and an immediate \$40 billion response to the terrorist attacks, the Defense and homeland security appropriations bill, and the USA Patriot Act to deal with the extraordinary challenges we have with regard to law enforcement.

We passed increased airport, border, and port security. We passed terrorism insurance. We passed additional support for the airline industry, which was really struggling after the tragedy of September 11. We passed economic stimulus and unemployment insurance legislation. We passed the campaign finance reform bill. We passed an election reform bill.

We passed 57 judicial confirmations. That is more than any recent Congress has passed in the same period of time, either Republican or Democrat, even in those cases when the Senate was of the same party as the President at that particular time.

We passed clean water and brownfields revitalization legislation. We passed a sweeping comprehensive education reform bill. We passed an energy bill. We passed a farm bill. And as I just noted, we have passed the Defense authorization bill.

I would say, as we look at this list of accomplishments, it would be hard for

anyone to argue we have not accomplished a good deal in our first 12 months as members of the majority.

I look with great satisfaction, with great pride, and am very grateful to all of my colleagues for the extraordinary job they have done in working through the committees—and in most cases all of this legislation has come through committees—to address the needs of America in public policy and the tremendous challenges we face as a nation.

We will continue to add to this growing list of accomplishments over the course of the next several months as we complete our work in the 107th Congress. Certainly, the 107th Congress has been historic for so many reasons, but I would say that when all is said and done, at the end of the session we will be able to look with great satisfaction, with great pride, and, I might say, with a certain degree of confidence that we have done what the American people have expected of us.

Passing this legislation is a recognition of what Democrats in the majority can do in the broad array of issues with which we have done it.

So I thank my colleagues. I thank all of those who are responsible for the work on these bills, especially our legislative leadership, the chairs of each committee where these bills have been produced, for the work within the committee, and certainly the management they have demonstrated on the Senate floor as these bills have been passed here on the floor and sent either to the House or to the President.

I see my colleague from Michigan on the floor. I will yield the floor at this time. But I again appreciate the work done by our caucus, and, I might say, in concert, on many occasions, with our Republican colleagues, to achieve the long list of accomplishments we have listed here.

I yield the floor.

THE PRESIDING OFFICER (Mr. KENNEDY). The Senator from Michigan.

Mr. LEVIN. Mr. President, before the majority leader leaves the Chamber, let me say he is always giving credit to others for the accomplishments of this body—which have been many—and what he, in his traditional modesty, of course, does not make any reference to is his own leadership and the role of that leadership in these accomplishments. But there is not a Member of this body on either side of the aisle who does not recognize the extraordinary leadership of Senator DASCHLE. And that list is a tribute to his leadership. It obviously involves a lot of other people, as he pointed out. Nonetheless, it is his leadership that has led the way to a successful and long list of achievements so far in this Congress.

Mr. DASCHLE. Mr. President, if the Senator will yield, I am grateful for his kind words. We have always had a tremendous team effort within our caucus

and within the legislative leadership of the Senate but I recognize that the workhorses are the chairs. And I am speaking to one as we stand here this morning.

I thank him for his kind words. I thank the Senator for yielding.

THE SHOOTING DEATHS OF DETROIT-AREA CHILDREN

Mr. LEVIN. Mr. President, children are being killed in our cities in record numbers. This year, in Los Angeles, 25 have been killed. The rates are the same in Houston, New York, Chicago, and in every other city where illegal drugs are plentiful and good jobs are scarce, where access to a better life is hard but access to a gun is easy.

Parents put their children to sleep in bathtubs where they might be safer from driveby shootings. Children find guns in homes and on playgrounds, with tragic results. Drug dealers go gunning for each other and don't care who gets killed in the crossfire.

So far this year, 22 children have been wounded by gunfire in my hometown of Detroit, in the metropolitan area. Ten children have been shot and killed. Statistics alone cannot convey the extent of this ongoing tragedy. But here, briefly, are some of the sorrowful and grim stories of these children, their families, and their pain.

On February 25, Ajanee Pollard, 7 years old, was shot and killed, allegedly by a man who was upset that he had just purchased—with two counterfeit \$20 bills—a defective radio from a friend of Ajanee's uncle. Ajanee, her uncle, her mother, and three siblings were getting ready to go shopping when one of the three men charged with the murder allegedly fired shots from an M1 rifle into the car Ajanee's mother was driving.

Ajanee was a second grade student at Thomas Houghten Elementary School in northwest Detroit. Ajanee had been named Student of the Month, was a midfielder in the local youth soccer league, and enjoyed going to Bible school at Genesis Evangelical Lutheran Church.

Ajanee's 6-year-old brother Jason had to have his pancreas and part of his intestines removed from the wounds he suffered as a result of the shooting. Both of Ajanee's sisters suffered gunshot wounds to the legs, and her mother was treated for injuries as well.

On March 23, Destinee Thomas, 3 years old, was shot and killed in her home while watching Mickey Mouse cartoons. A man armed with an AK-47 riddled the house with bullets.

Two men have been arrested and charged with the murder. According to police and press reports, they had been involved in a "turf battle" with two drug dealers from a rival street gang.

On March 28, Alesia Robinson, 16 years old and a junior at Kettering

High School, sat on the front porch of her home on Detroit's east side while her boyfriend played with a gun. According to police, Alesia—who wanted to become a pediatrician—asked her boyfriend to put the gun away. Instead, he pointed it at her face and pulled the trigger.

On April 3, Christopher James, 11 years old, was killed by a single gunshot wound to the head. His 12-year-old half-brother has been charged in juvenile court with manslaughter. According to family members, the two were playing with a .22 caliber revolver they had found on a playground and that the shooting was an accident.

On April 10, Brianna Caddell, 8 years old, was shot and killed while she was sleeping in her bed. Brianna, her mother Pamela Martin, and her grandmother Dorothy Caddell were fixtures at Truth Evangelical Lutheran Church.

Antoine Foote also involved in drug turf wars, was charged with her murder. According to police, he sprayed more than two dozen rounds at the house with an AK-47.

Brianna was a third grader at the John C. Marshall Elementary School. One of Brianna's classmates, Oshinique Mapp, wants to become a policewoman or doctor or teacher so she can "change the bad people." Another classmate, Jeremiah Russell, wants to go to college so he can get away from the drug dealers in his neighborhood.

On April 19, Irisha Keener, 3 years old, was shot in the head by her mother, as the two lay in bed. Her mother then committed suicide.

On April 30, Cherrel Thomas, 15 years old, was shot and killed while riding in the back seat of a Chrysler Concorde. Cherrel, by the way, was a freshman at McKenzie High School where she played trombone and baritone tuba in the school marching band and jazz ensemble. Terrill Johnson and Jesse Freeman were charged with that murder.

On May 26, Tiffany Taylor, 15 years old, was fatally shot in the head while riding in a car in Mt. Clemens with friends coming home from a roller skating party at the Great Skate Rink in Roseville. Tiffany was a freshman at Roseville Junior High School, where she was on the honor roll and led after-school programs. Police believe that someone in an abandoned house frequently used by drug dealers and addicts fired five rounds from a handgun at Tiffany as she rode by—for no apparent reason.

On June 2, DeAntoine Trammell, 10 years old, was shot and killed in his grandmother's apartment on Detroit's east side. According to eyewitnesses, the person who killed him came to the house drunk and distraught, threatened to commit suicide, then fired two shots into the kitchen wall instead. The bullets pierced the wall and went into an adjacent bedroom. Moments

later, Shawn Trammell, DeAntoine's 14-year-old brother, carried his bloody body into the kitchen. The boys' mother collapsed in shock. Shawn shouted out, "Come on, Mama, come on. He's breathing!" They rushed DeAntoine to a clinic but were turned away because it is not a trauma center. DeAntoine died a day later at St. John Hospital.

DeAntoine was a fifth-grader at Bow Elementary School. His basketball team was scheduled to receive a trophy the day after he died. He loved sports, video games, cartoons, and pizza, and often helped out in the school cafeteria.

The week before DeAntoine was killed, he had been paired with Keefe Brooks, 48, a Bloomfield Hills lawyer, as part of the V.I.P. Mentors program. According to the Detroit Free Press, Brooks wanted to show DeAntoine the possibilities life held for him. "I had hoped to expose him to successful people in the city, to help him build positive images and role models," Brooks said. "I cannot bear the thought of my match having been taken from our world before I even got to know him. I cannot bear the thought of more children being slaughtered in our city."

Gun violence is still an epidemic in our cities. A teenager today is more likely to die of a gunshot wound than of all natural causes of disease. Yet we seem incapable of requiring background checks at gun shows even though the President said he would support doing so when he campaigned in 2000. We seem incapable of requiring gun manufacturers to include trigger locks with their products even though we can regulate just about every other product under the sun. We need to pass these common-sense measures to help stanch the flow of guns and blood in our cities. But the Attorney General files briefs that undermine the enforcement of existing hand gun control laws instead.

As a Nation, we hope and pray that 14-year-old Elizabeth Smart will be returned to her home in Salt Lake City safe and sound. But as a Nation, we overlook the death of Ajanee, and Destinee, and Alesia, and Christopher, and Brianna, and Irisha, and Cherrel, and Tiffany, and DeAntoine. We haven't seen home videos of them on the evening news, but we should. Their families and friends and communities feel the anguish alone.

Is it resignation? Worse yet, is it indifference? I hope neither.

Some in Detroit have responded to the epidemic. The Detroit Police Department and the Wayne County Prosecutor have launched Project Safe Neighborhoods so that criminals who use guns will be prosecuted in federal courts. They have launched Project Destinee, which is an attempt to dismantle the two rival drug gangs whose members have been implicated in that child's murder. The city has Child

Death Review Teams to learn everything possible about the murders. People are joining SOSAD, Save Our Sons And Daughters, an organization Clementine Barfield started after her son Derick was killed in 1986, and the Detroit chapter of the Million Mom March, which Shikha Hamilton runs. Other groups involved include the Neighborhood Service Organization, Youth Initiatives Project, and Pioneers for Peace.

On Saturday, May 11, a massive community forum on violence was held at Second Ebenezer Baptist Church. On May 16, a group of 350 religious leaders met at the Northwest Activity Center to kick off their Positive Youth Development Initiative, a collaborative effort among government, religious, and community leaders to help at-risk children. On June 11, Detroit Mayor Kwame Kilpatrick announced a six-point program to curb the violence.

The funerals for the slain children have become impromptu community forums and rallies where people's determination and hope have commingled with their grief and outrage.

The Poet Langston Hughes asked:

What happens to a dream deferred?
Does it dry up
Like a raisin in the sun?
Or fester like a sore—
And then run?
Does it stink like rotten meat?
Or crust and sugar over—
like a syrupy sweet?
Maybe it just sags
like a heavy load.
Or does it explode?

We have learned, sadly, that dreams deferred do explode—in gunfire. And we have seen, sadly, what happens when people don't even have the capacity or the chance to dream.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. STABENOW. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. JOHNSON). Without objection, it is so ordered.

PUBLIC COMPANY ACCOUNTING REFORM AND INVESTOR PROTECTION ACT

Ms. STABENOW. Mr. President, I rise today to speak about important legislation that we will be considering as soon as we return from the Fourth of July recess.

In February of this year, the banking committee, of which the Chair is a member—and I appreciate the opportunity to serve with him—began a series of 10 hearings touching at ways to strengthen our accounting system, protect investors, and make needed reforms at the SEC.

We all understand every day the growing need to be able to do that.

Our hearings didn't necessarily make the headlines with subpoenas sent to Ken Lay of Enron or Andrew Fastow, but the work that we did I believe was incredibly important, very thorough and very thoughtful.

Chairman SARBANES, our chairman of the committee, is to be commended for his impressive leadership and thoughtfulness and hard work on this subject. At the end of the day, it is due to his commitment to doing this carefully and due to the commitment of my colleagues on the committee who followed panel after panel of witnesses closely—from former SEC Chairs, to Paul Volcker, to consumer groups, to well-respected academics—that we now have before us a bill that will ultimately make the biggest difference for investors and for the markets. We critically need this.

In March, in the midst of our marathon of hearings, I was very pleased to join with Senator DODD and Senator CORZINE in the introduction of the Investor Confidence in Public Accountability Act of 2002. Our bill was, I believe, a good beginning, an excellent way to begin to tackle the problems about which we were learning. It was measured. It was strong.

I thank Chairman SARBANES for including many of the provisions of our bill in the ultimate bill that has been reported to the floor of the Senate.

This is an excellent bill. We need only to look at the vote in the committee. It passed 17 to 4. It has strong bipartisan support. I hope that support will continue on the floor of the Senate as we take up this legislation in the coming weeks.

But it also has its detractors. There are some, of course, who do not like the legislation. They make outlandish comments about Government takeovers of the accounting industry. But that is not the bill for which I voted. It is not the bill for which Chairman SARBANES voted. That is not the bill for which Senator ENZI, the Senate's very own accountant, voted.

I would like to explain briefly some of the key components of this bill and why they make sense.

In this legislation, we create a strong new regulatory public oversight board to establish and enforce accounting standards, quality control, and ethics standards for public companies. The evidence indicates it is no longer enough for the industry to police itself. Few people would contest that now.

That actually has been in debate over the last several years—two different philosophies, one coming in with a new administration in the House of Representatives back in the mid-1990s. I remember debating this with former Speaker Newt Gingrich and efforts to deregulate our industries and our oversight, with the idea there would be self-regulation and oversight.

We know now that there needs to be public accountability, transparency, openness. But there needs to be public accountability if there is going to be integrity in these systems and if people are going to be willing to invest.

The oversight board we have placed in this legislation would be independently funded by fees on public companies, therefore providing us insulation from the politics of the time. It would conduct regular inspections of accounting firms. The five-member board would have two people with accounting backgrounds and a balanced approach to the board.

We also establish new restrictions on the mixing of consulting services and auditing services, which are very important. We have seen, unfortunately, specific examples of where the mixing of these two services has created devastating results for people.

There has long been a concern that auditors may be tempted to overlook some questionable accounting practices in order not to lose lucrative consulting contracts from the companies they audit. This bill seeks to address that problem without simply banning all consulting services. I think it is an important and reasonable and balanced approach.

Some services would be banned—bookkeeping, financial systems design, investment advice, human resources consulting—while others would have to be approved by the company's audit committee, such as tax services.

Of course, auditing companies would be able to offer any consulting services to a company they were not presently auditing.

We also ensure auditor independence, which is so critical.

Another concern raised in our 10 hearings was that sometimes, over time, auditors develop too cozy a relationship with the companies they audit. They become less critical and more accommodating. We addressed this in the bill we reported from committee.

The bill before us simply says that accounting firms would be required to rotate the leading auditor and review partners of an audit after 5 consecutive years of auditing a public company. It does not force companies to find a new auditor, it just simply requires a rotation of the auditor. Some have feared that this would be too extreme, and the bill is sensitive to those concerns. But we believe it is important that we ensure auditor independence.

Our bill also sets up an internal corporate whistleblower mechanism. This is one particular component of the bill about which I am especially pleased. The bill includes an amendment I offered regarding establishing corporate whistleblower mechanisms. I want to ensure that the audit committees of public companies establish a way for confidential, anonymous submissions

of statements by employees regarding questionable accounting procedures.

With Enron and other scandals, people in the company knew there were problems but had nowhere to turn. They were trapped in a corporate culture which squashed dissent. My amendment guarantees that there will be a designated way to report problems to people who are in a position to do something about it, and it seeks to protect those employees who are simply acting in the best interests of their companies and their companies' investors.

I am glad to say that not only do I have the support of such people as my chairman but others, such as the Financial Services Roundtable, have weighed in to support this very important amendment.

Guarantees of new levels of corporate responsibility are also an important part of this legislation. A key component of the bill I am pleased to support is the new level of corporate responsibility required under this bill.

Under the bill that will be before us, audit committees must now be completely independent of management and will be responsible for the appointment, compensation, and oversight of the auditors. The bill also ensures that during a blackout period, when companies are prohibited from selling stock, corporate leaders will also be barred from trading the stock.

Perhaps most significantly of all, this Congress has an opportunity to tell CEOs and CFOs that they must certify the accuracy of financial reports and will have to forfeit bonuses up to 12 months after an earnings misstatement which was brought about by material noncompliance with securities laws.

This is essential. We have had too many corporate leaders walk away from companies they have destroyed, with tens—and sometimes hundreds—of millions of dollars in their pocket while their employees find their pensions drained, their jobs gone, and their dreams destroyed.

This is a strong, comprehensive bill. It does not include every reform that we need, but I would like to take a moment to highlight another piece of legislation that I hope we will incorporate into the bill in its final passage. That is Senator LEAHY's Corporate and Criminal Fraud Accountability Act.

I am proud, also, to be a cosponsor of this important legislation because I think it is a very sound bill and gets to some of the serious reforms that corporate America needs to face. Among other things, it makes it a crime to destroy or conceal records with the intent to obstruct or influence a Federal investigation, such as an SEC examination into accounting malfeasance.

It also amends our Federal bankruptcy law to make penalties relating to the violation of certain Federal and State securities laws nondischargeable.

I am very happy to say the bill provides legal protections again for corporate whistleblowers, employees who report to regulators or Congress or their supervisors. I believe all of these provisions are important and will improve accountability for our country.

Prior to the committee vote on this bill, there was an emerging theme in the media that momentum was fading for strong reform. Powerful special interests, a few congressional opponents of reform were winning, it seemed. But all of that has changed. Unfortunately, the scandals we have seen emerging have reminded us once again of the importance to act. We have seen the stunning revelation regarding WorldCom and the billions of dollars of earnings misrepresented, the 17,000 jobs that will be lost; 17,000 people who did nothing wrong—they got up every day, they went to work, they did their jobs, they worked hard—now are suffering the consequences of a few people at the top who thought it better to cook the books than to represent their employees and their investors.

All of this, of course, came on the heels of Enron and Global Crossing and Tyco and Adelphia and Xerox. We need now only to look to the ongoing weaknesses in our capital markets to see why the 17-to-4 vote in our committee should not have been so surprising.

Investors are concerned. They are angry, and rightfully so. They wonder, can I trust the information companies are giving to me? How do we know if our stocks are valued appropriately? Which company is next?

What we are doing in the Senate is nothing less than trying to ensure the long-term viability of our capitalist system. We have a system that is the strongest and the best in the world, but something is broken. We need to act. A corporate culture of earnings mismanagement and gamesmanship, unfortunately, has prevailed in some quarters. It is casting a pall over too many other publicly traded companies. That is not right, and it has to stop.

We know the majority of companies have integrity. They are doing the right thing. They are providing accurate information. Our corporate leaders who are acting responsibly are the most concerned about what is happening. Too many honest, hard-working people at good, solid companies are indirectly suffering due to the malfeasance of a few greedy people.

As we move ahead, I look forward to working with my colleagues on both sides of the aisle, and with our Presiding Officer, to make sure what we did in committee can be done on the floor, and as quickly as possible.

Republicans such as the Senator from Wyoming, MIKE ENZI, have shown true leadership in joining with the chairman and 15 others on the committee. This is the first step. We need a strong, good debate on this bill and

an overwhelming vote to send a message to investors, to pension holders, to hard-working employees and companies everywhere, to those corporate executives who are working hard and doing the right thing, that we are united and that we are serious about making sure their interests are protected. We will still have to reconcile this with a much, unfortunately, more modest version passed in the House, and we will have to send it to the President.

I hope the President will join us in the strongest possible bill. It is incredibly important that we help bring back the integrity and confidence so important in our markets. We are the greatest country in the world. We have had the greatest capitalist system, but there are serious problems today and serious questions. We have the responsibility to act in a way that will stabilize the economy, give investors confidence, let employees know that their pensions will be protected and their hard work will be recognized for the future, and that we will do the kinds of things that will allow us to continue the strongest economy in the world.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Without objection, it is so ordered.

Mr. BYRD. Mr. President, is the Senate conducting morning business at this point?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. Are Senators permitted to speak therein?

The PRESIDING OFFICER. They are, for up to 10 minutes each.

Mr. BYRD. I thank the Chair. I ask unanimous consent that I may speak as long as I may desire.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONNECTING THE DOTS ON IRAQ

Mr. BYRD. Mr. President, over the last several weeks, a number of revelations have surfaced about how our intelligence agencies failed to analyze and connect the pieces of information that they obtained. According to these news accounts, while the September 11 attacks were a shock to the American people, they may not have been a total surprise to the intelligence arms of our Government.

While there is no smoking gun to indicate that the FBI, the CIA, or anyone else or any other agency knew the totality of the September 11 plot before it was carried out, it now seems fairly

clear that there were known pieces of information, which, if thoroughly and properly analyzed, could have put our Government on a higher state of alert for a major terrorist attack upon the United States.

President Bush himself has acknowledged that our intelligence agencies were not connecting the dots that would have prepared our homeland for a devastating act of terrorism. In partial response, the President has proposed the creation of a Department of Homeland Security with a new bureau that is intended to sort through the intelligence reports and hopefully connect the dots that are sometimes overlooked or unappreciated by the FBI and/or CIA. The proposal has some merit. However, I am troubled with the manner in which this and other proposals are being crafted by the administration. Shrouded often in ambiguity and cloaked often in deep secrecy, this administration continues suddenly to sometimes unexpectedly drop its decisions upon the public and Congress, and then expect obedient approval without question, without debate, and without opposition.

The Senate is not like that. We scrutinize, we debate, we ask questions.

For months, the President has been sending signals that U.S. efforts to topple Saddam Hussein's regime in Iraq will involve direct military action. In his State of the Union address on January 29, 2002, the President listed Iraq as a member of an "axis of evil" that seeks to attack the United States with acts of terrorism and weapons of mass destruction. The President punctuated his bold words with a warning that he "will not wait on events, while dangers gather," and that "the United States of America will not permit the world's most dangerous regimes to threaten us with the world's most destructive weapons."

That is saber rattling. This saber rattling prompted many questions for the American public, for Members of Congress, and for our allies. The question being: Will we invade Iraq? When will it happen? Will the United States go it alone? These are some of the questions.

On February 12, 2002, during a Budget Committee hearing, I questioned the Secretary of State about the administration's designs on Iraq. Unfortunately, the answers I got were not sufficiently clear to put to rest my questions. Secretary of State Powell stated that the President had "made no decisions about war."

Now, Mr. President, when I was in a two-room school in Algonquin, WV, in 1923, I could read through that answer. That should not require the mind of a genius to interpret.

Secretary Powell stated that the President had "made no decisions about war." So my question remained unanswered.

The Secretary, for whom I have a great deal of respect and with whom I

have been associated for many years in several difficult decisions that have arisen over those years, the Secretary of State also stated that he—meaning the President—"has no plan on his desk right now to begin a war with any nation."

I go back to that two-room schoolhouse in Algonquin in southern West Virginia. I can figure that out. That is not answering the question. Everybody knew it. The Secretary of State knew it. He did not intend to answer that question. While I have a great deal of respect for Secretary Powell, his answers provided more in the way of qualifications and confusion than in the pursuance of clarity.

Earlier this month, President Bush added another dimension to our national security policy. On June 1, 2002, he addressed the cadets at West Point on the progress of the war on terrorism. In his remarks, the President argued that deterrence and containment by themselves are not enough to fight terrorism. He said, "In the world we have entered, the only path to safety is the path of action." And he urged Americans "to be ready for preemptive action when necessary."

In order to be ready for such action, the President said that the U.S. military "must be ready to strike at a moment's notice in any dark corner of the world."

According to a Washington Post article on June 10, the National Security Council is drafting a new defense doctrine to emphasize the use of preemptive attacks against terrorists and rogue nations. According to this article, the Department of Defense is also now studying how to launch "no warning" raids using a "Joint Stealth Task Force" that includes aircraft, ground troops, and submarines.

Mr. President, these "no warning" raids will be a devastating application of military force from the air, the ground, and the sea.

On Sunday, June 16, the Washington Post followed up on its reports about this new national security strategy with an article entitled, "President Broadens Anti-Hussein Order." According to this article:

President Bush earlier this year signed an intelligence order directing the CIA to undertake a comprehensive, covert program to topple Saddam Hussein, including authority to use lethal force to capture the Iraqi president, according to informed sources.

The Post article continued:

One source said that the CIA covert action should be viewed largely as preparatory to a military strike.

It then discussed the difficulties involved in carrying out an attack on Iraq, including the large number of U.S. forces that would be required, the size of the Iraqi military, and the contentious relationships between Iraqi opposition groups and the United States.

So what we have is a lot of dots—a dot here, a dot there—about what the foreign policy of the United States is; a dot here, a dot there about what military action our Government might pursue.

I am constrained to ask, Is this a way to run a constitutional government? Is this a way to lead in a Republic? I hear so many of our Senators talk about this “democracy.” This is not a democracy.

I ask unanimous consent to have printed at the conclusion of my remarks certain excerpts from SA No. 10 and SA No. 14 of the essays by Jay and Madison and Hamilton, the Federalist essays.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BYRD. Senators for themselves can, once again, if they ever have read, read what Madison says about a democracy and what he says about a republic. In those two essays, Senators will find the distinction between a democracy and a republic. I believe this should be required reading on the part of all Senators and all other public officials, essay No. 10 and essay No. 14 by Madison. If Senators want to know the difference between a democracy and a republic, turn to those two essays. Madison is quite clear in the difference.

Saddam Hussein has now had 11 years since the end of the gulf war to rebuild his war machine. New military action against Iraq would be costly in terms of national treasure and blood. It is exactly because of these kinds of considerations that the Constitution vests in Congress the authority to declare war, and the responsibility to finance military action.

We have heard Members of the Senate on both sides of the aisle express their support for military operations against Iraq. The case has yet to be argued, at least in any serious detail, or in open debate before the people. Bold talk of chasing down evildoers, stirring patriotic words, expressions of support for our men and women in uniform, these all have an important place in our national life, but the American people deserve to hear why we need to be an aggressor, why we need to risk the lives of their sons and daughters, why we need to take preemptive action against Iraq.

Now, perhaps we should do so. I am not saying we should not, but I am saying that Congress needs to know about this, and the American people need to have more than just patriotic expressions with visual backup, assemblies and/or words.

If it is the President's intent to oust Saddam Hussein, he would be well advised to obtain the support of the American people, and that would involve seeking congressional authorization to use military force.

I very well understand there are some military actions that we must

take on virtually a moment's notice in the interest of protecting this Nation and its people, and the Commander in Chief has that inherent authority under the Constitution. But there comes a time when the Commander in Chief still needs to level with the American people and Congress.

We saw what happened in the case of the war in Vietnam when the support of the people back home declined, when the support of the American people began to go away from pursuing the Vietnam war. That support of the American people is necessary, and that support is expressed in many cases by their elected Representatives in both Houses of Congress. Yet this administration persists in an unwise and dangerous effort to keep the public largely in the dark.

I have to repeat to the administration time and time again, the legislative branch is not a subordinate body. It is not a subordinate department. It is not subordinate to the executive branch. It is an equal branch of the Government. So I think the administration, in embracing secrecy so much and so deliberately, is acting unwisely. It makes no sense. It is dangerous.

We have all seen the folly of military missions launched and maintained without sufficient support of the people. Time and again history has demonstrated that in a democratic republic such as the United States, the sustained support of the people is essential for the success of any long-term military mission.

I recall all too well the nightmare of Vietnam. I remember all too well how Congress, without sufficient information and debate, approved military action in that conflict. I recall all too well the antiwar protests, the demonstrations, the campus riots, the tragic deaths at Kent State, as well as the resignation of a President and a Vice President. I remember all too well the gruesome daily body counts in Vietnam.

The United States was a deeply divided country, and I would say we better read the Constitution more than we read the polls, instead of vice versa—reading the polls first and last and the Constitution somewhere in between.

I recall all too well the words of Senator Ernest Gruening of Alaska, who was sworn in in the same class which I was sworn, 1958. He was one of the two Senators who voted against the Gulf of Tonkin resolution that gave the President the authority to take military action in Vietnam. Senator Gruening said this:

By long and established practice, the Executive conducts the Nation's foreign policy. But the Constitution and particularly, by constitutional mandate, the Senate has the right and the duty in these premises to advise and consent. Especially is this true when it is specifically called upon by the Executive . . . for its participation in momentous decisions of foreign policy.

I recall all too well the words of the other Senator who voted against the Tonkin Gulf resolution. In urging Congress to investigate and hold hearings before endorsing the President's plan, Senator Wayne Morse of Oregon expressed his concern that the Pentagon and the executive branch were perpetrating a “snow job” upon Congress and the American people. If the Senate approved the Tonkin Gulf resolution, Senator Morse warned that “Senators who vote for it will live to regret it.” I was one of those who voted for it, and thanks to the good Lord, I am still living. I am the last of that class of 1958. I regret that vote on the Tonkin Gulf resolution. I wish I had had the foresight to vote against it, as did Senators Morse and Gruening.

I am determined to do everything I can to prevent this country from becoming involved in another Vietnam nightmare. This determination begins with Congress being fully and sufficiently informed on the undertakings of our Government, especially if it involves a commitment to military action.

We have to depend upon the leadership of the Senate and both sides of the aisle to insist that the Senate be informed. We also have to depend on the leadership of the other body on both sides of the aisle to insist on these things. We represent the American people. They send us here. No President sends me here. No President can send me home. No President sends the distinguished Senator from Nebraska here. No President can send him home. He comes here by virtue of the people of his State. They vote to send him, and he is here to represent them. He is not here to represent a President.

I realize, as our Founding Fathers realized, that in a government of separated powers, one branch of government has to be able to act swiftly and unilaterally at times. Of course, that is the executive branch. In this age of terrorism and weapons of mass destruction, these abilities are needed more than ever. We all know that.

But I also realize, as did our Founding Fathers, the need for another branch, this branch, the legislative branch, to be able to put the brakes on the executive branch. Those brakes include investigation, hearings, debate, votes, and the power of the purse. That is the greatest raw power, may I say to the pages on both sides of the aisle; the power of the purse is the greatest raw power in this Government—the greatest. Cicero said, “There is no fortress so strong that money cannot take it.” Remember that. There is a new book out on Cicero; I must get it. I have heard about it. Remember, I say to these bright young pages—some of them will be Senators one day—Cicero said, “There is no fortress so strong that money cannot take it.” He was right.

So, I have heard a lot of talk about the need for this country to speak with one voice on matters of war and peace. Debate on such important issues, say these people, might reveal differences in views on how we ought to act. Our opponents would revel in our discord and the President would lose credibility as he went toe to toe with our enemies. It is as though some think that Congress is an impediment to the interests of this country.

I am sure the executive branch believes quite strongly from time to time that Congress is an impediment. But we still have the Constitution. Thank God for the Constitution. I hold it in my hand, the Constitution of the United States. And also in this little booklet is the Declaration of Independence. I will refer to that a little later. Here is that Constitution. Thank God for the Constitution. The legislative branch can always turn to this Constitution. That anchor holds. There is an old hymn, "The Anchor Holds." Well, this is the anchor, the Constitution which I hold in my hand. This is the anchor. It holds.

I don't think debate is a weakness. Debate is our strength. Debate shows that we are a nation of laws, not of men. It shows that no man, no king—we do not have a king in this country. We have some people who are apparently monarchists. I think we have some in this Chamber who are sometimes monarchists when it comes to voting. They want to support the executive branch. The executive branch will take care of itself. Remember that, may I say to the young pages.

There are three branches of Government: The judicial branch—it will always uphold the prerogatives of the judicial branch, the executive branch—it will always uphold the prerogatives of the executive branch, and grab for more; but it is here in the legislative branch that sometimes half, or a large portion, of the membership does not speak for the prerogatives of the legislative branch under this Constitution; they speak for the prerogatives of the executive branch.

"We must support the Commander in Chief," they say. "We must support the Commander in Chief." But, fellow Senators, this Commander in Chief is only here for 4 years. I have served with 11 Commanders in Chief. We have Commanders in Chief, but we do not have to support the Commander in Chief. I don't care if he is a Democrat. I don't have to support the Commander in Chief. And I sometimes don't, even if he is a Democrat.

Well, debate shows that we are a nation of laws and that no man—neither king nor Commander in Chief—has the right to send us to war by virtue of his decision alone.

This Republic—not this democracy; forget it. Read Madison's essays, No. 10 and No. 14—this Republic. There it is,

we pledge allegiance to the flag of the United States of America and to the Republic—not "the democracy." The city-states in the time of Athens could have democracies. My little town of Sophia, with about 1,180 persons, could be a democracy. It is small enough. All the people could come together and they could speak for all the people, but not in this great country of 280 million people. This is a republic. We ought to get in the habit of speaking of it as a republic.

We are a model to the world in this respect. By debating and voting on issues of war and peace, Congress is able to express the will of the American people and galvanize support for what could be a costly conflict. Debate and well-meaning disagreement on important issues do not weaken the resolve of the American people. It is secret motives—here is where problems begin—secret motives, clandestine plotting, and lack of confidence in the public that are the swift solvent of our national morale.

If it is the path that this Nation is to take, President Bush ought to present his case to Congress before we must use military force to overthrow Saddam Hussein. That is why the Congress must ask important questions. At least there are some leaders in both Houses, in both parties, who need to be taken into these secrets.

That is why the Congress must ask important questions, including if we are successful in getting rid of the authoritarian who is now in power in Iraq, who will take his place? Have we covertly hand picked a leader for the future of Iraq? If so, who is he? Once such a military operation is undertaken, how will we know when the mission is accomplished?

Let there be no doubt, from what I now know and understand, I would support a change in regimes in Iraq. I suppose every Member of this body would probably do that. There is no doubt in my mind about the serious and continuing danger that Iraq poses to the stability of the Persian Gulf region. Saddam Hussein has sought to build weapons of mass destruction and long-range missiles. His military regularly attempts to shoot down our fighter planes that patrol the No Fly Zones over Iraq. He has worked to heighten the conflict between Israel and the Palestinians. He has promoted the starvation of Iraqi children so that he and his cabal can live in palaces. Saddam Hussein is a scourge on the people of Iraq and a menace to peace. We know that. I know these things. I wasn't exactly born yesterday. But it is the duty of Congress to ask questions. Members of Congress need not be intimidated by polls. We are expected to ask questions.

It is the duty of Congress to ask questions so that we, the people's branch of government, and as a result, the American people, will know what

we may be getting ourselves into. It may be that the President already has answers to these questions about Iraq, and that we might awake one morning to see those answers printed in the morning newspaper. As we learned all too well in Korea, Vietnam, and Somalia, it is dangerous to present Congress and the American people with a fait accompli—that is a dangerous thing to do, no matter what the polls say. Those polls can drop suddenly—present Congress and the American people with a fait accompli of important matters on foreign affairs.

When the Administration is asking the American people to send their sons and daughters into harm's way, knowing that some will never return, it is essential that Congress know more, not less, about the Administration's planned course of action. Congress must not be left to connect dots!

All that Congress has been promised so far is that the President would consult with Congress about military action against Iraq. This promise falls well short of the mark, particularly because of what the Administration offers in the way of consultation. Like other members of the Senate, I was taken by surprise by the President's sudden announcement of his plan to create a massive new Department of Homeland Security. I favored such, but it was all hatched in the bowels of the White House. And according to the press, there were, I think, four persons who provided the genius behind the creation. In an unbelievable twist of logic, the Administration maintains that it actually consulted with Congress on the proposal. The administration knows better than that. The President's chief of staff was quoted in *The Washington Post* on June 9, 2002, as saying, "We consulted with agencies and with Congress, but they might not have known that we were consulting." How do you like that? I have been in Congress 50 years now. I have never seen anything like that, where the administration says we have consulted with Congress but they might not have known we were consulting.

This does not even deserve to qualify for George Orwell's definition of double speak. Such a claim is plain, unmitigated garbage.

In the aftermath of the carnage and turmoil of the Vietnam war, Congress approved the War Powers Resolution, that provided procedures for Congress and the President to participate in decisions to send U.S. Armed Forces into hostilities. Section 4(a)(1) required the President to report to Congress any introduction of U.S. forces into hostilities or imminent hostilities. Section 3 requires that the "President in every possible instance shall; consult with Congress before introducing" U.S. Armed Forces into hostilities or imminent hostilities.

In face of this Congressional resolution, this administration refuses to

consult with anyone outside its own inner circle—well, let its own inner circle provide the money when the time comes—anyone outside its own inner circle about what appears to be its plan for imminent hostilities. This Administration convenes meetings of its trusted few in little underground rooms, while sending decoy envoys to meet with Congress and members of the press, and the public.

I have not seen such Executive arrogance and secrecy since the Nixon Administration, and we all know what happened to that group.

I remember too well the Executive arrogance and extreme secrecy that lead to the Iran-Contra scandal. Selling weapons to a terrorist nation in exchange for hostages, and using that money to finance an illegal war in Central America. What a great plan that was! I guess I can understand why the Reagan Administration did not want to tell Congress about that foreign policy adventure.

I have no doubt that as I speak, there are some within this Administration who are preparing to carry out some sort of attack against Iraq. Well, that's all right. We have to make plans before we do things. I am not sure who they are, but I am connecting the dots, and I am concerned about the picture that is developing.

If the President needs to take decisive military action to prevent the imminent loss of American lives, he will receive broad support. But if this country is moving methodically and deliberately toward some kind of showdown with Iraq, Congress is entitled to good-faith consultations from the executive branch. We must consider and debate whether we should use military force against Saddam Hussein. And, barring the most exceptional of circumstances, Congress must vote to authorize the President to use military force against Iraq prior to the outbreak of hostilities if, after appropriate debate and consideration, Congress comes to that conclusion.

As Senator Gruening pointed out, it is the role of the Senate to advise and consent in foreign policy. And those words did not originate with Senator Gruening. Read the Constitution.

As the War Powers Resolution points out, it is the role of Congress to be active participants in foreign affairs, and certainly such adventures as making war.

So, as we proceed, let us connect the dots.

As the Constitution demands, it is the role of Congress to declare war. Yes, we have a Commander in Chief. But what Army and what Navy does he have to command if Congress does not provide the money?

When the President is ready to present his case to Congress, I am ready to listen. But I think we all must be tired of trying to connect dots in the dark.

EXHIBIT 1
THE FEDERALIST NO. 10
JAMES MADISON

* * * * *

From this view of the subject, it may be concluded, that a pure Democracy, by which I mean, a Society, consisting of a small number of citizens, who assemble and administer the Government in person, can admit of no cure for the mischiefs of faction. A common passion or interest will, in almost every case, be felt by a majority of the whole; a communication and concert results from the form of Government itself; and there is nothing to check the inducements to sacrifice the weaker party, or an obnoxious individual. Hence it is, that such Democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security, or the rights of property; and have in general been as short in their lives, as they have been violent in their deaths. Theoretic politicians, who have patronized this species of Government, have erroneously supposed, that by reducing mankind to a perfect equality in their political rights, they would, at the same time, be perfectly equalized and assimilated in their possessions, their opinions, and their passions.

A Republic, by which I mean a Government in which the scheme of representation takes place, opens a different prospect, and promises the cure for which we are seeking. Let us examine the points in which it varies from pure Democracy, and we shall comprehend both the nature of the cure, and the efficacy which it must derive from the Union.

The two great points of difference between a Democracy and a Republic are, first, the delegation of the Government, in the latter, to a small number of citizens elected by the rest; secondly, the greater number of citizens, and greater sphere of country, over which the latter may be extended.

The effect of the first difference is, on the one hand to refine and enlarge the public views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice, will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation, it may well happen that the public voice pronounced by the representatives of the people, will be more consonant to the public good, than if pronounced by the people themselves convened for the purpose. On the other hand, the effect may be inverted. Men of factious tempers, of local prejudices, or of sinister designs, may by intrigue, by corruption or by other means, first obtain the suffrages, and then betray the interests of the people. The question resulting is, whether small or extensive Republics are most favorable to the election of proper guardians of the public weal: and it is clearly decided in favor of the latter by two obvious considerations.

In the first place it is to be remarked that however small the Republic may be, the Representatives must be raised to a certain number, in order to guard against the cabals of a few; and that however large it may be, they must be limited to a certain number, in order to guard against the confusion of a multitude. Hence the number of Representatives in the two cases, not being in proportion to that of the Constituents, and being proportionally greatest in the small Republic, it follows, that if the proportion of fit characters, be not less, in the large than in the small Republic, the former will present a

greater option, and consequently a greater probability of a fit choice.

In the next place, as each Representative will be chosen by a greater number of citizens in the large than in the small Republic, it will be more difficult for unworthy candidates to practise with success the vicious arts, by which elections are too often carried; and the suffrages of the people being more free, will be more likely to centre on men who possess the most attractive merit, and the most diffusive and established characters.

It must be confessed, that in this, as in most other cases, there is a mean, on both sides of which inconveniences will be found to lie. By enlarging too much the number of electors, you render the representative too little acquainted with all their local circumstances and lesser interests; as by reducing it too much, you render him unduly attached to these, and too little fit to comprehend and pursue great and national objects. The Federal Constitution forms a happy combination in this respect; the great and aggregate interests being referred to the national, the local and particular, to the state legislatures.

The other point of difference is, the greater number of citizens and extent of territory which may be brought within the compass of Republican than of Democratic Government; and it is this circumstance principally which renders factious combinations less to be dreaded in the former than in the latter. The smaller the society, the fewer probably will be the distinct parties and interests composing it; the fewer the distinct parties and interests, the more frequently will a majority be found of the same party; and the smaller the number of individuals composing a majority, and the smaller the compass within which they are placed, the more easily will they concert and execute their plans of oppression. Extend the sphere, and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other. Besides other impediments, it may be remarked, that where there is a consciousness of unjust or dishonorable purposes, communication is always checked by distrust, in proportion to the number whose concurrence is necessary.

Hence it clearly appears, that the same advantage, which a Republic has over a Democracy, in controlling the effects of faction, is enjoyed by a large over a small Republic—is enjoyed by the Union over the States composing it.

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THE FEDERALIST NO. 14
JAMES MADISON

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The error which limits Republican Government to a narrow district, has been unfolded and refuted in preceding papers. [See Essays 9 and 10.] I remark here only, that it seems to owe its rise and prevalence, chiefly to the confounding of a republic with a democracy: And applying to the former reasonings drawn from the nature of the latter. The true distinction between these forms was also adverted to on a former occasions. [See Essay 10.] It is, that in a democracy, the people meet and exercise the government in person; in a republic they assemble and administer it by their representatives and agents. A democracy consequently will be confined

to a small spot. A republic may be extended over a large region.

To this accidental source of the error may be added the artifice of some celebrated authors, whose writings have had a great share in forming the modern standard of political opinions. Being subjects either of an absolute, or limited monarchy, they have endeavored to heighten the advantages or palliate the evils of those forms; by placing in comparison with them, the vices and defects of the republican, and by citing as specimens of the latter, the turbulent democracies of ancient Greece, and modern Italy. Under the confusion of names, it has been an easy task to transfer to a republic, observations applicable to a democracy only, and among others, the observation that it can never be established but among a small number of people, living within a small compass of territory.

Such a fallacy may have been the less perceived as most of the governments of antiquity were of the democratic species; and even in modern Europe, to which we owe the great principle of representation, no example is seen of a government wholly popular, and founded at the same time wholly on that principle. If Europe has the merit of discovering this great mechanical power in government, by the simple agency of which, the will of the largest political body may be concentrated, and its force directed to any object, which the public good requires; America can claim the merit of making the discovery the basis of unmixed and extensive republics. It is only to be lamented, that any of her citizens should wish to deprive her of the additional merit of displaying its full efficacy on the establishment of the comprehensive system now under her consideration.

As the natural limit of a democracy is that distance from the central point, which will just permit the most remote citizens to assemble as often as their public functions demand; and will include no greater number than can join in those functions; so the natural limit of a republic is that distance from the center, which will barely allow the representatives of the people to meet as often as may be necessary for the administration of public affairs.

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THE PLEDGE OF ALLEGIANCE

Mr. BYRD. Mr. President, we all know that on Wednesday, in a 2-to-1 decision, a three-judge panel of the Ninth Circuit Court of Appeals held that the United States Pledge of Allegiance was unconstitutional. The court held that the pledge was unconstitutional because in 1954 the Congress had the audacity—imagine that—to include a reference to God in its provisions.

Some say these are just mechanical, ceremonial provisions. Get out of my face. That may be what some people think, but the majority of people in this country I don't believe are thinking in terms of ceremonial language.

I was a Member of the U.S. House of Representatives at that time. I am the only Member of Congress today in either body who can say that I was a Member of the House of Representatives on June 7, 1954, when the words “under God” were included in the Pledge of Allegiance.

Now I see in the morning paper that the next thing these misguided atheists are wanting to do is to challenge the words “In God we trust.”

I was a Member of the House of Representatives on that same date, coincidentally, June 7, 1 year later, 1955, when the House voted to add the words “In God we trust” to the Nation's coins and currency. Every time you take out a dollar bill—that is a pretty popular bill in my lifetime, a dollar bill; here it is—on it we read the words “In God we trust.” It is all there. It is on the coins.

I was a Member of the House of Representatives when Congress voted to make that the motto, and here it is, inscribed, which is said in marble, “In God we trust,” right here over this door to the Chamber.

Over to my left are those words, “Novus Ordo Seclorum,” a new order of the ages.

“E Pluribus Unum,” all in one, one in all.

Over here, “Annuit coeptis,” God has favored our undertakings.

Here are these inscriptions. Bring in your stone masons and take these off the walls. That is what these pernicious atheists are saying. They want everything to suit themselves.

God have mercy on them. But if they have their way, we will have to have stonemasons come into this Chamber and chisel off these words.

They are not going to have their way. The people of these United States are not going to stand for this. And the courts had better take notice and kind of draw back a little bit. After all, if the American people do not believe in it and if they do not support it, that court decision is not going to be obeyed.

The courts, starting with the Supreme Court, need to take a new look at this first amendment. If anything will ever result in amending the first amendment, then continue to go down this road, I say to the courts. They ought to draw back just a little bit distant from going down the road they are presently on.

I am proud to inform my colleagues that I was in the House when Joint Resolution 243, which was entitled “A Joint Resolution to codify and emphasize existing rules and customs pertaining to the display and use of the flag of the United States of America” was enacted. That resolution was approved by the House on June 7, 1954—almost half century ago.

The plaintiff in the case that was just decided is a self-described atheist. His daughter attends elementary school in California. The public schools there, as elsewhere, begin each school day with the Pledge of Allegiance to the Flag. If this court's outlandish and ill-conceived decision is allowed to stand, it will mean that children in public schools in at least nine states will no longer be allowed to recite the

pledge of allegiance by referring to America as “one Nation, under God, indivisible, with liberty and justice for all.”

That is too much power.

Specifically, the court in this case has held that the words “under God” are unconstitutional because they support the existence of God but deny “atheistic concepts.” Unbelievably, the Court has held that this runs counter to the intent of the First Amendment of the U.S. Constitution, because, according to this court, the Establishment Clause of the First Amendment prohibits the government from endorsing any particular religion, including a belief in one God—which the court calls “monotheism”—at the expense of atheism.

Take a look at this Bible, which I hold in my hand. Here it is, the Holy Bible. It is the King James version—King James of England. Here is what it says in Psalm No. 127:

Except the Lord build the House, they labour in vain that build it; except the Lord keep the city, the watchman waketh but in vain.

Those are the words written long before the U.S. Constitution was written—written by wise men in many instances, Solomon, Son of David—long before the Constitution was written, long before the court system was established in these United States. Those are the words:

Except the Lord build the House, they labour in vain that build it.

Hear me, Judges!

In reading the court's decision, I was astonished by the tortured reasoning of the majority as opposed to the lucid opinion recorded by Judge Fernandez, the lone dissenter. In responding to the arguments of the majority, Judge Fernandez did not see fit to hold that the phrase “under God” violates the Constitution of the United States.

How silly, how lucidly silly.

If the schoolchildren of America were to be required to commemorate to memory, as they used to be required to commit many things to memory, the Declaration of Independence, would that ninth circuit judge render such an absurd decision concerning the constitutionality of the Declaration of Independence?

Let's just select three or four phrases from the Declaration of Independence.

The Declaration refers to “Nature's God.” The Declaration also refers to “the Supreme Judge of the world,” meaning God. The Declaration refers to “a firm reliance on the protection of divine Providence.” This is the Declaration of Independence. It was not written by Congress in 1954, as the words “under God” were inserted into the pledge. This Constitution was not written then. This Declaration of Independence was not written then. And who wrote it? In the main, it was written by Thomas Jefferson, along with

John Adams, Benjamin Franklin, Philip Livingston, and one other. But there are at least four or five references to "Providence," to "the Divinity," to "God," to "the Supreme Judge of the world" in the Declaration of Independence.

Now, would the same judge render such a misguided, absurd decision concerning the Declaration of Independence?

Let's see who signed that Declaration of Independence. John Hancock—there are several signers. I will just select a few: John Hancock; George Wythe; Richard Henry Lee; Thomas Jefferson; Benjamin Harrison, who later would become President; Robert Morris, the financier of the American Revolution; Benjamin Rush; Benjamin Franklin; George Clymer; James Wilson of Pennsylvania; Samuel Adams; John Adams; Elbridge Gerry and Roger Sherman. What would they think? What would these signers of the Declaration think?

What would the signers of the Constitution say if they could speak today? What would they say about this pernicious decision we have just read about?

What would Roger Sherman think? What would William Livingston think? I am wondering, if they could speak today, what would they think? What would Benjamin Franklin say? What would Robert Morris think, George Clymer? These are also signers of the Constitution. What would James Wilson think? How about George Read? How about John Dickinson, what would he say—John Dickinson of Delaware, who signed this Constitution?

What would George Washington think? He presided over the Constitutional Convention. What would he say? What would John Rutledge say? What would Charles Cotesworth Pinckney say? What would Charles Pinckney say? What would Pierce Butler say? If they could speak to this—I will use a word that is pretty widely used—god-awful decision, what would they say?

Well, Judge Fernandez said we should recognize "that the religious clauses in the Constitution were not designed to drive religious expression out of public thought; they were simply written to avoid discrimination."

Judge Fernandez acknowledged further, that, "we can run through the litany of tests and concepts which have floated to the surface from time to time." But, he said, "when all is said and done, the danger that the words 'under God' in our Pledge of Allegiance will tend to bring about a theocracy or suppress somebody's beliefs is so minuscule as to be de minimis." He concluded his dissent by finding that there is nothing unconstitutional about the Pledge of Allegiance, because any danger presented to first amendment freedoms by the phrase 'one nation under God' is, in his words, "picayune."

Well, to that, I would say, "Amen."

Mr. President, over my many years in office, I have known other critics, like the majority of this court, who have attacked the words "under God" as they exist in the Pledge of Allegiance. They have implied that the Founding Fathers were essentially "areligious" or "neutral" about religion. Some of these critics even claim the Founding Fathers were antireligious, that they were bent on establishing a completely secular state in which God has no place. These individuals assert that America's fundamental origins are basically devoid of religious meaning, and that this was the intent of the Founding Fathers.

Well, nothing could be further from the truth.

If we read the Federalist essays, if we read other documents, we know that the intent of the Framers was to keep the new government from endorsing or favoring one religion over another. It was never meant to prohibit any voluntary expression of religious faith. I believe that this court's decision is wrongheaded, destructive, and completely contrary to the intent of the Founders of this great Nation. Instead of ensuring freedom of religion in a nation founded in part to guarantee that basic liberty, a literal suffocation of that freedom has been the result. The rights of those who do not believe in a Supreme being are being zealously guarded, to the denigration, I repeat, the denigration, of the rights of the millions of people in this country who do believe.

The American doctrine of separation of church and state forbids the establishment of any particular religion by the state, but it does not forbid the influence of religious values in the life of our Nation. Religious faith has always been a basic tenet of American life. This is evident throughout the history of America.

The history of the first amendment in particular is one of the great legacies of faith bequeathed by the Founding Fathers, but it is one that is little understood and sometimes distorted—as it was in the recent court decision. In 1791, Congress passed the first 10 amendments to the Constitution. We refer to these 10 amendments as the Bill of Rights. The very first amendment recognized the importance of religion in American life, stating that, Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, which the second phrase is just as important and has equal weight with the preceding clause. The purpose of this tenet was to allow religious faith to flourish, not to suppress it, not to hobble it.

In fact, even earlier—before the passage of the First Amendment—Congress had clarified its attitude toward religion when, on August 7, 1789, it officially reenacted the Northwest Ordinance of 1787, which included an ex-

plicit endorsement of religion. Article III of the Northwest Ordinance of 1787 stated, "Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of learning shall forever be encouraged."

At that juncture, most schools were church enterprises. Congress recognized this, and expected—and I want to emphasize this—expected that the schools would teach religion and morality.

Against this backdrop, the First Amendment is especially enlightening. James Madison, the principal sponsor of the Bill of Rights and later himself President, was a lifelong Episcopalian who had studied theology at Princeton with apparent plans to enter the ministry. However, on his return to Virginia after college, he changed his mind and went into politics primarily because he was deeply disturbed by the persecution of Baptists and other non-conformists in the Old Dominion. He therefore entered politics to become an ardent advocate of religious tolerance.

Madison declared that, "the religion of every man must be left to the conviction and conscience of every man." Thus, in consultation with John Leland, the leading Baptist clergyman in Virginia, Madison hammered out the church/state principles that were eventually embodied in the first amendment.

As a result, the institutions of Church and State were officially separated, but the exercise of religion and its influence on society were encouraged—not discouraged.

One of the most perceptive observers of the early American scene was the celebrated Alexis de Tocqueville. De Tocqueville, in summarizing the condition of religion in the United States in the 1830s, wrote:

On my arrival in the United States the religious aspect of the country was the first thing that struck my attention . . . In France I had almost always seen the spirit of religion and the spirit of freedom marching in opposite directions.

That is what this court would have us do in this country. But, continued de Tocqueville:

But in America, I found they were intimately united and that they reigned in common over the same country . . . Religion . . . must be regarded as the foremost of the political institutions of the country—

Meaning this country—for if it does not impart a taste for freedom—

We hear the word "freedom" kicked around everywhere today—it facilitates the use of free institutions.

De Tocqueville grasped what millions of Americans have known, past and present. God has been and continues to be an intimate and profound participant in the ongoing history of these United States. Keep that in mind. God has been and continues to be an intimate and profound participant in the ongoing history of America.

Remember the Scriptures: "Except the Lord build the house, they labor in vain that build it." The American people believe that.

Through the decades, most Americans have come to discover the truth of de Tocqueville's conclusion when he asserted that, "Unbelief is an accident." Hear that, ye atheists: "Unbelief is an accident, and faith is the only permanent state of mankind."

In the context of this heritage, then, it is not surprising that the United States—a nation that evolved out of the American Revolution—should be, at root, a religious nation, from the beginning, from the Mayflower Compact, which in at least four instances refers to God.

Indeed, most of the men who have been President of the United States have been men of exceptional faith. Two Presidents other than James Madison John Adams and Benjamin Harrison had considered entering the ministry. James Garfield was a lay preacher in the Disciples church. And Theodore Roosevelt, Benjamin Harrison, William McKinley, and James Earl Carter were all Sunday School teachers at various points during their lives.

Of all of the Presidents, Abraham Lincoln was among the most theologically astute and Biblically influenced. Paradoxically, he never formally joined any particular church. Nonetheless, he said the Bible—this is what Lincoln was talking about, the Holy Bible—was "the greatest gift God has given to man." Hear me, Judge Goodwin of the Ninth Circuit. This is Lincoln speaking, not Robert C. Byrd. Lincoln said the Bible was "the greatest gift God has given to man." And he was an avid reader of the Bible. He kept a battered old family Bible with him in the White House, and his speeches were laced with Biblical quotations. Reporters of his day stated that his delivery reflected the cadences and rhythms of the King James Version of the English Bible. The first Bible was the Coverdale Bible, written in 1535, the same year Thomas Moore was executed.

But Lincoln was not alone among the Presidents who bore public witness to their personal faith. Every President, from George Washington through George W. Bush, has included some reference to God in his inaugural address. I have gone through all the inaugural addresses. I think there might have been one President who was pretty weak in his references to the Supreme Judge of the world. But in most cases they didn't have any hesitancy about referring to providence, to God.

In his First Inaugural address, Washington declared, "No people can be bound to acknowledge and adore the Invisible Hand which conducts the affairs of men more than those of the United States. Every step by which

they have advanced to the character of an independent nation seems to have been distinguished by some token of providential agency." George Washington also instituted another custom that has been followed by every President since, by proclaiming a national day of Thanksgiving in late November of 1789.

Jefferson, specifically included in his plans for the University of Virginia the proposal that "proof of the being of God, the Creator, Preserver, and Supreme Being of the Universe, and Author of all morality, and the laws and obligations these infer, will be the province of the Professor of ethics."

However, nowhere, perhaps, did Jefferson's religious faith have a greater influence than in the words of the Declaration of Independence. At one point, Jefferson wrote, "Religion is the alpha and omega of our moral law." He also pledged that he had "sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man." In the Declaration, which he wrote, Jefferson made it clear that religion is not only the root of our moral law but of our political rights. The Declaration of Independence contains five synonyms for the word "God," and maintains that freedom itself is a gift from God as an element of man's being.

As, hopefully, we all recall, the Declaration of Independence states, with respect to God:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness. . . .

We, therefore, the Representatives of the United States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions. . . .

And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes, and our sacred Honor. . . .

These are various and sundry excerpts from the Declaration of Independence.

Based on this foundation established by Jefferson and the other Founding Fathers, archaeologists in future millennia will have little difficulty reading the evidence of the religious faith and traditions that have been part and parcel of American history. Every nook and cranny of this Capitol—and I might add, of this Capital City—provides such evidence. In fact, wherever one may go in this great national city, he or she is constantly reminded of the strong spiritual awareness of our forefathers who wrote the Constitution, who built the schools, who built the churches, who hewed the forests, who dredged the rivers and harbors, and who created this Republic.

Here in the Senate, for example, the services of an ordained clergyman have been employed since 1789. The Senate

Chaplain is the embodiment of a corporate faith in God and the symbol of the eternal judgment that we Senators recognize exists over our legislative and personal actions. Moreover, the institution of the Senate Chaplaincy is itself the result of a historical process that reveals much about the long development of American values.

For example, the first prayers offered in Congress were uttered on September 7, 1774. At the initial meeting of the First Continental Congress, Samuel Adams requested that the convention begin with prayer. As the Revolutionary War continued, the Continental Congress issued calls for periodic national days of prayer and fasting, asking the populace "to reverence the Providence of God, and look up to Him as the Supreme Disposer of all events and the arbiter of the fate of nations."

These religious expressions were not just pretense, they were not just ceremonial verbiage. Heavens no. Prayer and worship were held in high regard by the remarkable men who led the American Revolution, and the Chaplaincy of today's Senate is derived directly from the guidance provided by those great men. During the rocky sessions of the Constitutional Convention of 1787, the various representatives of the several States were locked in heated disagreement over petty prerogatives with little concern, apparently at that moment, for the national well-being. The weather had been very hot—probably as humid as it gets here in Washington at times—and the delegates to the Convention were tired and they were edgy. The debates were stymied and a melancholy cloud seemed to hang over the Convention.

Suddenly, old Dr. Franklin stood to his feet and faced the chair in which sat GEN George Washington. His famous double-spectacles were low on his nose, and he broke the silence when he addressed George Washington. Franklin reminded the Convention how, at the beginning of the war with England, the Continental Congress had prayed for Divine protection in that very room. "Our prayers, sir, were heard," he declared. "They were graciously answered. . . ." He then asked, "And have we now forgotten that powerful Friend? Or do we imagine that we no longer need His assistance?"

He continued on saying:

I have lived, sir, a long time, and the longer I live, the more convincing proofs I see of this truth—that God governs in the affairs of men. And if a sparrow cannot fall to the ground without His notice, is it probable that an empire can rise without his aid?

We have been assured, sir, in the sacred writings, that "except the Lord build the house, they labor in vain that build it."

He selected the same portion of Scripture that I picked today, didn't he? This is Benjamin Franklin talking. He went on to say:

I firmly believe this: and I also believe that without His concurring aid we shall succeed

in this political building no better than the builders of Babel. . . .

Well, today, we follow the Senate tradition of morning prayer. The Chaplain was among the first officers elected in the Senate upon adoption of the Constitution. In my volumes, "The Senate 1789-1989," Senators will find a chapter on the Senate Chaplain. I hope they will read it again. To this very day, the first daily order of the business in the Senate is a prayer for Divine Guidance by the Chaplain.

This, of course, was not perceived by the Framers as an attack on the first amendment requiring separation between church and state, for the simple reason that no single church has anything to do with it.

It is not simply prayer in the Senate that reaffirms the religious history of the American people. Let us speak briefly of some of the other reminders in Washington that reaffirm the proposition that our country is founded on religious principles.

On the Washington Monument, one may read three Biblical quotations on the 24th landing. One was donated by the Sunday school children of the Methodist Church of Philadelphia who contributed a stone bearing an inscription from the Book of Proverbs which states:

Train up a child in the way he should go, and when he is old, he will not depart from it.

Another inscription on the Washington Monument, which was contributed by the Methodist Church of New York, is also taken from Proverbs and reads:

The memory of the just is blessed.

That comes from chapter 22 of Proverbs, verse 6.

And the third stone bears these words of Christ from the Book of Luke:

Suffer the little children to come unto me, and forbid them not, for of such is the kingdom of heaven.

Near the Washington Monument, of course, is the Lincoln Memorial. This massive shrine pays homage to the greatness of this simple and heroic man whose very life was offered on the altar of liberty. We know of his knowledge of the Bible and his gentleness, his power, his determination, and we know that determination of Lincoln came to us clearly through his features chiseled in granite by the sculptor.

We can almost hear Lincoln speak the words which are cut into the wall by his side. Mr. President, we need to get some stonemasons to go down to the Lincoln Memorial. If this judge with his pernicious ruling and if the atheists are successful in having these words stricken from this Chamber—"In God We Trust"—and from the Nation's currency, we will have to have a lot of new dollar bills printed and a lot of new coins. We have to strike those words "In God We Trust" now from the bills if these pernicious suits by athe-

ists are upheld by some misguided judges, like the one who rendered this decision. We had better hire some stonemasons. That might be a pretty good job, come to think of it. Maybe I should just retire at the end of this term—I would be about 89 then—and then I can perhaps get myself a job as a stonemason. I could go down here to the Lincoln Monument—I would not do it—at least I could think in terms of being a stonemason and take these words off that Lincoln Memorial.

Listen to what Lincoln says, according to the inscription on the Lincoln Memorial. Can you just witness those stonemasons going down there and chipping with chisel and hammer, chipping out these words? Listen, these are words that are cut into the wall by the side of Lincoln on the Lincoln Memorial:

That this Nation under God—

Praise God, hallelujah, there they are. That is Lincoln, that is what he said.

That this Nation under God, shall have a new birth of freedom. . . .

Hear that, judges of the Ninth Circuit. Hear that, Judge Goodwin of the Ninth Circuit. I have a great judge in West Virginia named Goodwin. He is a Federal judge. He is Judge Goodwin. But I daresay he would not have rendered that kind of a foolish decision. Here are the words that are cut into the wall by the side of Lincoln:

That this Nation under God, shall have a new birth of freedom, and that government of the people, by the people, and for the people shall not perish from the earth.

In his second inaugural address, this great President—a Republican, by the way. See, I do not hold that against him—in his great second inaugural address, great President Lincoln made use of the words "God," "Bible," "prayer," "providence," "Almighty," and "divine attributes," and then his address continues:

As was said 3,000 years ago so it still must be said, [that] "the judgements of the Lord are true and righteous altogether."

That was Abraham Lincoln.

With malice toward none, with charity for all, with firmness in the right as God—

This is Lincoln talking, Abraham Lincoln talking—

With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in, to bind up the Nation's wounds, to care for him who shall have borne the brunt of the battle and for his widow and his orphan—to do all which may achieve and cherish a just and lasting peace among ourselves and all nations.

Before leaving Washington, a visitor might make a final stop at the National Cemetery in Arlington, VA. Here are the peaceful ranks of crosses, stars of David, other religious symbols reminding us that our Government has given its fallen men back to the God

who gave them life. The Tomb of the Unknown Soldier stands for all those who have fallen in battle who could not be identified—members of all sects, faiths, and religions. And here, once more, we find the acknowledgment of God's divine power in the eloquent words:

Here lies in honored glory, an American soldier known but to God.

Can you imagine, we may have to someday get stonemasons to go over there and take hammers and chisels and take those words off that monument.

Thus, the connection between God and the United States of America is long established in the minds of most Americans. If we begin now to erase the connection between God and schoolchildren under the pretense of protecting the so-called constitutional rights of nonbelievers or atheists, as the Ninth Circuit did, will it not be necessary to go a little further, or perhaps a great deal further, in the future?

Will we next be forced to remove the name of God from all official documents, historic edifices, and patriotic events for fear of possibly offending what is a nonbelieving minority?

Must we do so when even the possibility of offending such a minority is, in the words of Judge Fernandez, picaresque?

What will the court crier say—"God save this honorable court"? He will have to stop there, will he not? He will have to say something else. Would he say, "President Bush save this honorable court?" Would he say, "President Clinton, save this honorable court?" One can see how silly such a decision was and how foolish it is to pursue that line in this country with all of its history.

Obviously, in establishing and maintaining a secular government, the American people never intended to foster an atheistic or a faithless society. In this light, in closing, I recite perhaps more sincerely than ever the prayer that climaxes one of our greatest national hymns:

Our fathers' God to Thee,
Author of liberty,
To Thee we sing;
Long may our land be bright
With freedom's holy light;
Protect us by Thy might,
Great God our King.

INDEPENDENCE DAY

Mr. BYRD. Mr. President, the Nation will honor its birthday on the forthcoming July 4. That was the day on which, in 1826, both Thomas Jefferson and John Adams died. They both died on the same day, 50 years exactly from the date on which Thomas Jefferson wrote that Declaration of Independence and the Congress approved it. What a coincidence. God works in miraculous

ways, his wonders to perform, does not he?

As I look forward to that Fourth of July, I know the Senate will not be in session. But before we depart, I want to talk about the event that Senators and Members of the other body will be celebrating next week back in their home States and districts: Independence Day.

As I think of Independence Day, I think of Henry Van Dyke's poem, "America For Me."

'Tis fine to see the Old World, and travel up and down

Among the famous palaces and cities of renown,

To admire the crumbly castles and the statues of the kings,—

But now I think I've had enough of antiquated things.

So it's home again, and home again, America for me!

My heart is turning home again, and there I long to be,

In the land of youth and freedom beyond the ocean bars,

Where the air is full of sunlight and the flag is full of stars.

Oh, London is a man's town, there's power in the air;

And Paris is a woman's town, with flowers in her hair;

And it's sweet to dream in Venice, and it's great to study in Rome;

But when it comes to living there is no place like home.

I like the German fir-woods, in green battalions drilled;

I like the gardens of Versailles with flashing fountains filled;

But, oh, to take your hand, my dear, and ramble for a day;

In the friendly western woodland where nature has her way!

I know that Europe's wonderful, yet something seems to lack:

The Past is too much with her, and the people looking back.

But the glory of the Present it is to make the Future free,—

We love our land for what she is and what she is to be.

Oh, it's home again, and home again, America for me!

I want a ship that's westward bound to plough the rolling sea,

To the blessed Land of Room Enough beyond the ocean bars,

Where the air is full of sunlight and the flag is full of stars.

I will think of America in the context of Henry Van Dyke's beautiful poem, "America For Me." I am not referring to the movie of several years ago. No one will be battling any alien invasions. Rather, we will participate in that most American of all holidays, all birthdays certainly, celebrating the founding of this Nation on July 4, 1776. That was 226 years ago.

Our Nation's birthday party is a time for picnics, ice cream, parades, and fireworks. It is a time for family and friends to gather under the shade of the biggest and the oldest tree around, camped out in lawn chairs and on blankets with sweating glasses of cold drinks in hand, watching, laughing, as children run through the lawn sprink-

lers—ha, ha. What a joy that was, to run through those lawn sprinklers. These pages have enjoyed those things. We did not have lawn sprinklers when I was a boy, but I knew the joy of the summer rain.

So while these children are running through the lawn and enjoying the lawn sprinklers, our minds will shift to hotdogs. When the evening shadows gather and the fireflies begin their display, it is time to pull out the sparklers and watch the fireworks. Small children then, like my granddaughters, like my great granddaughter, will nestle against parents or grandparents or great grandparents. They are made timid by the loud booms and shrill shrieks of the big rockets, but their shyness is soon forgotten as the enormous chrysanthemum bursts of red, gold, green, and blue burst forth against the dark sky.

I can see it from McLean. I can look toward Washington and see these enormous chrysanthemums of fireworks, these bursts of gold, red, yellow, and blue as they burst against the dark sky. Only when the show is over do small heads and sticky hands hang limp against a parent's shoulder for a long, sleepy walk back to the car and then home.

Many holidays touch deep wellsprings of feeling in Americans. Memorial Day and Veterans Day play upon our heartstrings like the melancholy sigh of a violin, calling up visions of heroism and sacrifice, of the tears and loss and suffering that are sadly necessary parts of defending our nation, our people, and our freedom. Columbus Day sounds a bright note of discovery and optimism, the shining promise of new worlds. Flag Day foreshadows the patriotism of Independence Day, but no other holiday brings out such affection and pride in our nation and the ideals upon which it is based. It is as if the July sun heats the deep strong current that flows through this nation and brings it to the surface, each year as strong and fresh as ever, as powerful as it was in 1776.

July 4, 1776 was probably much like July 4, 2002 will be: hot, sunny, sticky with humidity in the South and East, dry in the West, but in 1776, the air would have been thick with tension. The colonies' ties with England were tearing apart. The previous year, on July 6, 1775, the Congress had issued a "Declaration of the Causes and Necessity of Taking Up Arms," which detailed American grievances while explicitly denying any intention of separating from Great Britain. King George responded by proclaiming a state of rebellion in the colonies, and Parliament passed an act that cut off colonial trade.

Since January of 1776, everyone had been reading and talking about the then-anonymous pamphlet, "Common Sense," that so eloquently argued for

independence. Rebel forces were fighting, and winning, battles against British forces at Lexington, Concord, Fort Ticonderoga, Breed's Hill, and around Boston. A lot of things going on around Boston. Unable to conscript sufficient forces, King George had resorted to hiring mercenary soldiers from Germany the "Hessians." In May, King Louis XVI of France secretly authorized arms and munitions shipments to the Americans. In June 1776 the Continental Congress appointed a committee to compose a declaration of independence.

On June 28, 1776, American forces in Charleston, South Carolina, fought off a British attack, but on July 2, British General Sir William Howe landed an army that would reach 32,000 troops, including 9,000 Hessian mercenaries, at Staten Island, New York. The same day, Congress voted for independence. Two days later in Philadelphia, on the evening of July 4, the Declaration of Independence was adopted when John Hancock, president of the Congress, signed the final draft copy.

Composed primarily by one man, Thomas Jefferson, with changes made by after debate among the Congress, parts of the Declaration of Independence are well known to many Americans. Many people can recite the opening words—"When, in the course of human events * * *"—and more can recite the first line of the second paragraph: "We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these, are life, liberty, and the pursuit of happiness." After that, sadly, Americans' knowledge of the substance of the Declaration drops off sharply. I hope that perhaps some parents will read the Declaration of Independence to their children this July fourth. Or some children will read the Declaration of Independence to their parent, on this 4th. The litany of wrongs inflicted upon the colonists by the British crown, designed to incite rebellion, still retains the power to inflame our passions. The actual declaration that follows, in the last paragraph of the document, is by contrast, firm and solemn, a straightforward and almost lawyerly assertion of separation from the Crown.

At the signing of the Declaration, which occurred on August 2, 1776, John Hancock was reported to have urged unanimity, saying "There must be no pulling different ways. We must hang together." To which Benjamin Franklin, with his usual wit, is said to have retorted, "Yes, we must indeed all hang together, or most assuredly we shall all hang separately." Gallows humor aside, Franklin's words were true. Failure on the part of the signatories to make the Declaration of Independence a reality would, for these men, mean losing not just a war, but their homes, their possessions, and, in

all likelihood, their lives. These men were committing treason. Think about that. These men were committing treason. They were putting their lives, their honor, their sacred honor, on the altar.

They were putting everything they had on the line. The final words of the Declaration could not have been lightly written: "And, for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor." In the months ahead, American defeats at the battles of Long Island, White Plains, and Fort Lee may have made a few signers wish that they had not been swayed by Hancock's plea. Indeed, by September of 1777, the British under Howe had driven Washington's army toward Philadelphia, forcing Congress to flee the city. On September 26, 1777, Howe's forces occupied the city where the Declaration of Independence was signed.

The Revolutionary War continued for six more difficult years, until a preliminary peace treaty was signed in Paris. Congress would not declare a formal end to the war until April 11, 1783. The Treaty of Paris formally ending the war was signed on September 3, 1783 and ratified by Congress in January 1784.

Mr. President, I think it is good to remind ourselves of these things from time to time. And remember those men who were willing to sign their names on the line, committing to the cause their lives—their lives, their fortunes, and their sacred honor. What would you have given for their lives had they not won that war? They were putting their lives on the line. They were committing treason. What a chance they took—for us. For us!

It is difficult today, accustomed as we are to automobiles, air conditioning, electricity, mobile phones and instant communications, to imagine what those years of war must have been like. Weeks might pass before you heard or read, by candlelight on a hot summer's night, about a decisive battle in a spot that might take you weeks to reach on horseback. Imagine life as a Revolutionary soldier: a wool uniform if you were lucky, and some French powder and ammunition hanging at your waist while you walk in the middle of long, dust-covered column between battles, carrying your three-foot-long, very heavy musket over your shoulder. I can see those boys from Vermont, can't you? In the hills of New Hampshire, Boston—can't you see them, plodding along from Lexington on to Concord?

In the winter you might have a tent to protect you from the winter, not nearly enough to eat. You might get paid only sporadically. Most of us could not do that for a weekend, let alone for six years.

This Independence Day, America is at the beginning of what promises to be another kind of war—a war against terrorism. It, too, will be fought on our territory as well as at points far distant from us. It will require the same kind of resolve and commitment, and the same reliance on the protection of Divine Providence, that our Founding Fathers showed. But next week, as we celebrate 226 years spent enjoying the inalienable rights of life, liberty, and the pursuit of happiness, of freedom from tyranny, I am confident that Americans will demonstrate the same fortitude and bravery that our Founding Fathers displayed. Our ideals are too deeply ingrained in us to be lightly given up.

I close with the words from Longfellow's poem, "The Building Of the Ship":

Thou, too, sail on, O Ship of State!
Sail on, O Union, strong and great!
Humanity with all its fears,
With all the hopes of future years,
Is hanging breathless on thy fate!
We know what Master laid thy keel,
What Workmen wrought thy ribs of steel,
Who made each mast, and sail, and rope,
What anvils rang, what hammers beat,
In what a forge and what a heat
Where shaped the anchors of thy hope!
Fear not each sudden sound and shock,
'T is of the wave and not the rock;
'T is but the flapping of the sail,
And not a rent made by the gale!
In spite of rock and tempest's roar,
In spite of false lights on the shore,
Sail on, nor fear to breast the sea!
Our hearts, our hopes, are all with thee,
Our hearts, our hopes, our prayers, our tears,
Our faith triumphant o'er our fears,
Are all with thee,—are all with thee!

THE PLEDGE OF ALLEGIANCE DECISION

Mr. THURMOND. Mr. President, I rise today to express my outrage at the decision reached by the Ninth Circuit Court of Appeals in *Newdow v. U.S. Congress*, in which a three-judge panel held that schoolchildren's recitation of the phrase "under God" in the Pledge of Allegiance violates the Establishment Clause of the Constitution. This case is the result of yet another attempt by the radical left to wipe away public references to God, and is an unconscionable act of judicial activism. I hope that the Ninth Circuit's decision will ultimately be reversed on appeal, allowing reason and common sense to prevail.

Simply put, there is no support in the law for this ruling, even in the Ninth Circuit's own jurisprudence. The phrase "under God" in the Pledge of Allegiance is very similar to the use of "In God We Trust" on currency and as the national motto, which has been repeatedly upheld by the courts. In *Aronow v. United States*, the Ninth Circuit Court of Appeals ruled that the phrase does not violate the Establishment Clause of the Constitution. The

court said, "Its use is of a patriotic or ceremonial character and bears no true resemblance to a governmental sponsorship of a religious exercise." It also said that "it is quite obvious" that the phrase "has nothing whatsoever to do with the establishment of religion."

While the Ninth Circuit is the most relevant here because of Wednesday's ruling, other circuit courts have reached the same conclusion. The Tenth Circuit explained in *Gaylor v. United States* that the national motto "through historical usage and ubiquity cannot be reasonably understood to convey government approval of religious belief." In cases such as *Lynch v. Donnelly*, the Supreme Court has indicated its approval of these rulings. Even Justice William Brennan, one of the most liberal Supreme Court justices of the modern era and one of the most strident advocates for the separation of church and state, indicated his support for this view, saying that Americans have "simply interwoven the motto so deeply into the fabric of our civil polity" as to eliminate constitutional problems.

The same reasoning applies to the phrase "under God" in the Pledge of Allegiance. The use of this phrase simply indicates the important role that religion plays in America, but it does not establish a religion or endorse a religious belief.

It is also significant that even when the Supreme Court ruled in *Engel v. Vitale* that organized prayer is unconstitutional in public schools, the Court made it clear that the case did not apply to patriotic slogans or ceremonial anthems that refer to God. While I have always viewed this case as misguided, and have for years introduced a constitutional amendment to reverse it, even this case supports the use of phrases, such as "under God" and "God Bless America," as part of our civic vocabulary.

The fact is that religion is central to our culture and our patriotic identity as a nation. As the Supreme Court said in *Lynch v. Donnelly*, there is "an unbroken history of official acknowledgment by all three branches of government of the role of religion in American life."

I am pleased my colleagues have denounced this ruling. Throughout the history of this great Nation, we have invoked the blessings of God without establishing religion. From prayers before legislative assembly meetings and invocations before college football games to the national motto on our currency, our Constitution has allowed references to God.

I would also like to say a few words about the Ninth Circuit. Several years ago, it was suggested that the Ninth Circuit be broken up. I think that it is time to reconsider that proposal. The Supreme Court reverses the Ninth Circuit at a much higher rate than other

circuits, indicating the activist propensities of this circuit. Simply put, the Ninth Circuit is out of the mainstream, and the decision in *Newdow* underscores that fact. It is unhealthy for our democracy when one circuit routinely refuses to follow the law. During the last six years, the Supreme Court has reversed 80–90% of Ninth Circuit cases reviewed. While the Supreme Court corrects the Ninth Circuit often, it cannot do so on every questionable ruling, and this allows the establishment of dangerous precedents.

I am particularly concerned about Wednesday's ruling because one of the judges who joined in the majority opinion was Judge Stephen Reinhardt, whose own confirmation process was marked by controversy in 1980. I served as Ranking Member of the Judiciary Committee at the time, and I expressed serious concern over Judge Reinhardt's fitness to serve as a Federal judge. He was extremely active in politics and known for his very liberal views. Judge Reinhardt's major area of practice was labor law, and there was a question as to whether he had sufficient experience. His record, in my view, called into question his ability to serve as an impartial judge. During his tenure of the Ninth Circuit, Judge Reinhardt has been reversed an alarming number of times. He was reversed 11 times during the 1996–97 term, and he holds the record for unanimous reversals in one term.

I mention the matter of Judge Reinhardt's controversial past only to address his fitness as a Federal judge. This question is legitimate because circuit judges make important decisions that affect a lot of people. In the Ninth Circuit case, Judge Reinhardt helped create law that is dangerous in its precedent and unsound in its reasoning.

Mr. President, once again I want to state unequivocally that the Ninth Circuit made a poor decision in the *Newdow* case. I hope that this decision will alert all Americans to the dangerous judicial activism that plagues the Ninth Circuit. Furthermore, I hope that this case is reversed on appeal, so that many more generations of schoolchildren will proudly learn the Pledge of Allegiance.

HIGH FRUCTOSE CORN SYRUP ANTITRUST DECISION

Mr. LEVIN. Mr. President, I wish to bring to the Senate's attention a recent decision of the U.S. Court of Appeals for the Seventh Circuit, written by Judge Richard Posner, in the case of *In Re High Fructose Corn Syrup Antitrust Litigation*, found at 2002 U.S. App. LEXIS 11940. Judge Posner's unanimous opinion, joined by Circuit Judges William Bauer and Michael Kanne, articulates in clear, cogent, and unequivocal language the standard for

the Federal courts in the Seventh Circuit to follow in deciding whether circumstantial evidence of price-fixing or tacit collusion should be presented to a jury in antitrust cases. This is a much needed improvement in the state of the law, and I hope that it will soon be followed in other circuits as well.

Last month, the Permanent Subcommittee on Investigations, which I chair, completed a 10-month investigation into the reasons why gasoline prices fluctuate so dramatically and why retail gasoline prices seem to go up and down together at so many gas stations. The majority staff issued a comprehensive 400-page report explaining our findings, and we then held 2 days of hearings on the report.

I will not summarize the entire report here, but I would urge anyone interested in how gasoline prices are set to visit the subcommittee's Web site, where the report can be downloaded.

I would like to highlight, however, several of the issues the subcommittee examined that are directly relevant to the Seventh Circuit's decision. First, the subcommittee found that in several of our domestic gasoline markets where there is little competition a few oil companies have sufficient market power to raise the price of gasoline through their decisions on how much gasoline to produce.

The subcommittee examined retail prices in several geographic markets. The subcommittee found at various times in these markets the prices of the major brands of gasoline followed a "ribbon-like" pattern. The prices of these brands moved up and down together, usually by about the same amount each day, and they maintained a constant difference in price with respect to each other.

The documents reviewed by the subcommittee indicate that the marketing practices of the various gasoline wholesalers and retailers in the market contribute to this pricing pattern. First, the major brands usually seek to maintain a constant price difference with respect to one or more other brands that are considered the major competition or the price leader in that market. Second, the market strategy of the major brands generally is to maintain market share, and avoid costly price wars which do not result in greater margins for all of the firms competing in the market. Thus, most of the major brands establish their retail price simply by following the price movements of one or more other brands. They do not attempt to undercut their rivals; rather they seek to maintain their relative competitive position with respect to their rivals.

Another strategy supporting the ribbon-like retail price pattern is the influence the refiners maintain over the retail price. Major brand refiners usually set the wholesale price paid by

their dealers on the basis of surveys of the retail prices of competitors; the refiner then subtracts an amount considered to be an adequate margin for the retailer, and charges the retailer for the remainder. In this manner, the dealers receive a fixed margin for their gasoline, and the benefits and costs of retail price changes accrue to the refiner rather than the dealer. In reality, therefore, a few refiners rather than many individual dealers set the retail price of gasoline for the major brands.

The resulting retail pricing pattern—the ribbon-like pattern—is exactly the same pattern one would expect to see in a market where there is some type of collusion between the firms in the market. In a collusive marketplace, each firm has an agreed-upon market share, and the relative prices of the different brands are fixed.

By itself, parallel pricing does not indicate collusion. Parallel pricing can develop in a competitive market, as each firm strives independently to obtain some advantage from a movement in price, only to be matched by its competitors who seek to deny that firm any such advantage.

Hence, to establish that firms in a market are colluding with one another, it is necessary to demonstrate more than just the existence of parallel or interdependent pricing. A plaintiff, or the government, as the case may be, must establish either an explicit agreement on pricing, or present sufficient circumstantial evidence indicating a tacit agreement on pricing.

It is rare to find in the modern age, with many corporations well-schooled in the antitrust laws, and legions of lawyers eager to educate those who are not, to find an express agreement to fix prices or restrict supply. Moreover, in markets most susceptible to price-fixing those with few firms, a high degree of concentration, homogeneous products, and high barriers to entry, such as the gasoline market—express collusion is totally unnecessary to carry out the purposes of any such conspiracy. In highly concentrated markets, the few firms can observe each other's behavior, determine how they react to various strategies, and react accordingly. After a while, the firms in these markets can develop patterns of behavior that are as non competitive as if an actual agreement had been reached.

The problem, therefore, is how to determine whether certain market activity is the natural result of the structure of the market and purely independent decisionmaking, or is the result of some tacit agreement or understanding or agreed-upon practices that restrict competition.

Again, rarely will there be a "smoking gun" document pointing out the existence of tacit collusion. The best way—and in reality the only way to determine whether in fact such collusion exists is to look at all of the evidence

regarding the marketplace and the behavior of the firms in the market. For example, are the companies acting independently? To what extent and how do they communicate with each other? To what extent do they have agreements between themselves on terms of sale, supply, storage, or transportation? To what extent do they share information? To what extent do they pursue innovation independently?

At the subcommittee's hearings we heard testimony from several attorneys general, knowledgeable in the antitrust laws, including Attorney General Jennifer Granholm from my home State of Michigan, that the standards used by the courts in recent years have become unduly stringent for plaintiffs seeking to present evidence of tacit collusion to a jury in an antitrust case. Many courts have been requiring plaintiffs in price-fixing cases to present evidence that it was more likely than not that the conduct complained of was the result of collusion before the evidence would be presented to the jury. In effect, this standard delegates to the judge on a motion for summary judgment the determination of the basic factual issues that are normally the province of a jury. Furthermore, it essentially requires the plaintiff to present evidence amounting to a "smoking gun" demonstrating collusion in order to survive a motion for summary judgment by the defendants. This standard thus prevents many cases that should be presented to a jury from ever getting to the jury.

Judge Posner's opinion in the High Fructose Corn Syrup case clarifies the law of the Seventh Circuit that economic evidence and other evidence indicating firms in a market have an agreement—either tacit or explicit—not to compete should be presented to a jury. The opinion clearly states that in a price-fixing case the question of "whether, when the evidence was considered as a whole, it was more likely that the defendants had conspired to fix prices than that they had not conspired to fix prices" should be presented to a jury, and that the antitrust laws do not establish a higher threshold for surviving motions for summary judgment than other types of cases. The plaintiff need not present one single item that demonstrates an agreement; rather the plaintiff need only demonstrate that the evidence as a whole more likely than not shows an agreement.

Several weeks ago, following the subcommittee's hearing, I wrote a letter to the Federal Trade Commission informing them of the subcommittee's findings, and urging the FTC to take a number of actions to improve the competitiveness of the gasoline refining and marketing industry.

One of the points I stressed to the FTC was that "In concentrated markets juries should be permitted to con-

sider circumstantial evidence in determining whether or not the firms in the market are acting in collusion. In highly concentrated markets, outright conspiracies and collusion between the market participants are totally unnecessary to develop concerted action. When there are few firms in a market, these firms can easily track and follow each other's behavior. In reality, the only way to demonstrate collusion in a concentrated market is through circumstantial evidence."

The Seventh Circuit has now established this principle as law. I commend the Seventh Circuit for this clarification and hope that other circuits will follow.

I ask unanimous consent that my letter to the FTC be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC, June 6, 2002.

Hon. TIMOTHY J. MURIS,
Chairman, Federal Trade Commission, Pennsylvania Avenue, Washington, DC.

DEAR CHAIRMAN MURIS: I am writing to follow-up on several issues raised in the recent report of the Permanent Subcommittee on Investigations, "Gas Prices: How Are They Really Set?," and the Subcommittee's hearings on this subject.

One of our central findings is that the increasing concentration in the petroleum refining industry has exacerbated the factors that cause price spikes. This has led to sharp increases in prices and an unprecedented level of volatility in a number of gasoline markets in the past several years. Because of the importance of petroleum in America today, gasoline price spikes can significantly harm the national economy.

During our investigation and at the hearing we examined a variety of proposals for reducing this volatility. I am pleased that the Federal Trade Commission (FTC) has been proceeding with its own study of the reasons for the volatility in gasoline prices and, as you stated in your remarks at the second public conference on this subject, will closely study our report and hearing record during your review. I nonetheless would like to take this opportunity to highlight some of the areas we examined that I believe deserve serious attention during your overall review and as the FTC reviews proposed mergers in the oil industry.

VERTICALLY INTEGRATED MARKETS

The Majority Staff report and testimony at the Subcommittee's hearings addressed a number of problems that arise when there is a high degree of vertical integration in highly concentrated markets. In such markets, refiners have little incentive to lower wholesale prices, and retailers have limited ability to shop around for lower wholesale prices. The current situation on the West Coast also demonstrates that a high degree of vertical integration in a highly concentrated market poses substantial barriers to entry for other firms seeking to enter either the wholesale or retail market, including very high barriers to imports.

Professors Preston McAfee and Justine Hastings, both of whom testified at our hearings, have extensively studied the effects of vertical integration in concentrated mar-

kets. Their work indicates that mergers between two vertically integrated firms in highly concentrated wholesale and retail markets may be more detrimental to competition, through interdependent interactions between the integrated markets, than a straightforward analysis of the increase in concentration in each of those separate markets might indicate. For example, in looking at the California market, Professors Hastings and Richard Gilbert found "evidence in a broad panel that vertical integration matters for upstream retail prices and that wholesale prices tend to be higher in markets with large vertically integrated firms." I urge you to seriously examine and consider these findings and the work of Professor McAfee in this same area.

INVENTORIES

The increasingly tight balance between supply and demand in gasoline markets—including the reduced levels of crude oil and gasoline in inventories—is one of the prime factors underlying the recent volatility. In a tightly balanced market, even the slightest disruption in supply, such as a pipeline break or an unplanned refinery outage, will lead to a sharp increase in price due to the inelasticity in the demand for gasoline.

Most oil companies today have adopted just-in-time inventory practices. Although from each company's perspective these practices may minimize day-to-day operational costs, in the aggregate this has eliminated the refining industry's cushion or "insurance" against price spikes resulting from minor disruptions in the refining, distribution, and marketing system. It also has created a perverse incentive for refiners. The Subcommittee found documents indicating that a number of refiners prefer a market that is vulnerable to disruptions so they could take advantage of the higher prices that follow any disruption.

In reviewing proposed mergers, the FTC should carefully examine the potential effects upon the aggregate inventories that would be created as a result of the merger. The FTC should consider requiring companies seeking to merge to ensure that the aggregate inventories that would be maintained after the merger would not be less than, and perhaps even greater than, the aggregate inventories prior to the merger. This would ensure that increasing concentration would not further exacerbate one of the factors leading to price spikes.

PIPELINE AND TERMINAL CAPACITY

The history of the Wolverine Pipeline in Michigan, as recounted in the Subcommittee's report, demonstrates how control of critical transportation and storage facilities are a less visible but very effective way to influence cost, supplies, and market prices. The Wolverine case demonstrated that parties who control the transportation and storage facilities can take advantage of the complexity of the laws and regulations to circumvent the requirements of the law and limit competition in the market.

According to the Federal Energy Regulatory Commission (FERC), the Wolverine Pipeline violated the Interstate Commerce Act for approximately twenty years in the manner in which it allowed access and established tariffs for shipments over the pipeline. With the intervention of the Michigan Attorney General, one small, independent company, Quality Oil, successfully challenged Wolverine's practices and obtained its rightful access to the pipeline. Quality Oil's access to the Wolverine Pipeline at non-discriminatory tariffs will benefit consumers in

Michigan by increasing the supply of gasoline to independent dealers at competitive prices.

The Quality Oil/Wolverine Pipeline case demonstrates the importance of the mission of agencies such as the FERC and the FTC in ensuring there is fair competition in the marketplace. In markets in which a dominant player controls the transportation and storage of a product such as gasoline, I urge the FTC to use its available authorities to ensure that this market power is not abused. Similarly, in reviewing proposed mergers, the FTC should ensure that the proposed merger does not create any new barriers to entry into a market through a lack of access to pipelines and terminals.

REFINING CAPACITY

As you are aware, approximately half of the refineries in the United States have closed over the past twenty years. This has resulted in a decline in the aggregate amount of refining capacity, as well as increasing concentration in the refining industry. There are a variety of reasons for this increase in concentration, including the phase-out of federal subsidies that benefitted smaller refiners, increasing capital costs for refinery operation due to more stringent environmental regulations, economies of scale, and mergers within the oil industry. One of the Subcommittee's central findings is that in a number of markets this increase in concentration has exacerbated the factors that lead to price spikes.

In several recent mergers the FTC has required the divestiture of refining assets to preserve competition in the wholesale market. The Subcommittee received testimony that the divestiture of refining assets to firms that were much less capitalized than the divesting firm has contributed to the decline in inventories, as these less capitalized firms are less able to carry inventories. I urge you to review whether the divestitures the FTC has required have had the intended effect of preserving competition, or whether, in view of experience to date, additional conditions upon mergers or divestitures of assets are necessary to fully preserve competition in the refining industry.

MORATORIUM ON MERGERS

At the Subcommittee's hearing, the Attorneys General from the States of Connecticut and Michigan recommended that a one-year moratorium be placed on all major mergers within highly concentrated markets in the oil industry. The purpose of the moratorium would be to enable the Congress to consider more effective remedies to the problems arising from increasing concentration and allow the FTC to consider this problem as well. I am enclosing for your consideration a copy of the statement of Attorney General Blumenthal in support of this moratorium.

PARALLEL PRICING

The Subcommittee also received testimony on what the appropriate burden of proof should be in order to establish illegal collusion under the antitrust laws. The Attorneys General testified that the standard currently used by many courts presents too high a hurdle for plaintiffs in antitrust cases to present their evidence to a jury.

In concentrated markets juries should be permitted to consider circumstantial evidence in determining whether or not the firms in the market are acting in collusion. In highly concentrated markets, outright conspiracies and collusion between the market participants are totally unnecessary to develop concerted action. When there are few firms in a market, these firms can easily

track and follow each other's behavior. In reality, the only way to demonstrate collusion in a concentrated market is through circumstantial evidence.

We found numerous instances of parallel pricing within the gasoline industry. At certain times in certain markets, all of the major brands went up and down together, and stayed at a constant differential with respect to each other. Although parallel pricing in and of itself does not necessarily indicate collusion, I believe that additional circumstantial evidence should be considered by a jury in determining whether in fact such collusion exists in concentrated markets.

I therefore support the standard set forth in *In re Coordinated Pretrial Proceedings in Petroleum Products Antitrust Litigation*, 906 F.2d 432 (9th Cir. 1990), cert denied, 500 U.S. 959 (1991), in determining whether the plaintiff's circumstantial evidence of collusion can be presented to the jury.

IMPORTANCE OF INDEPENDENTS IN GASOLINE MARKETS

Numerous studies have demonstrated the importance of independent gasoline refiners and dealers in preserving competition in the gasoline wholesale and retail markets. For example, in one of the most rigorous studies to date, which is cited in the Subcommittee's report, Professor Hastings documented how the loss of one independent retail chain in Southern California led to across-the-board price increases at the pump in the areas previously served by the chain. In addition, the Subcommittee's investigation found a number of industry analyses indicating that the greater the presence of non-majors in a specific market, the lower the retail price.

The continuing decline of independents nationwide and in a number of markets presents a significant concern that prices in the affected markets will rise above purely competitive levels. In your reviews of proposed mergers I urge you to carefully examine the effect of the proposed merger upon the presence of independents in the market. Not only are large retail chains necessary to present effective competition for other large retail chains, but a healthy independent sector is necessary to maintain true price competition.

In this context, I urge you or the FTC staff to meet with the Association of Merger Dealers and seriously consider their proposal for the purchase of up to 17 Mobil-branded retail sites currently owned by Phillips/Tosco, which were acquired by Tosco under the consent decree in the Exxon-Mobil merger. In my opinion, it would be worthwhile for the FTC to consider this proposal as a test case to see whether the divestiture of gasoline stations owned by major brands to the dealers rather than to other major brands can be an effective way to inject competition into markets where a proposed merger would be detrimental to competition.

In closing, I would like to thank you and the FTC staff for the support provided to the Subcommittee during this investigation. Our extensive requests for documents were responded to in a timely manner, and the FTC personnel were readily available to answer the Subcommittee's questions. I look forward to continuing our productive working relationship in this and other issues.

Should you have comments regarding this letter, please feel free to contact me or have your staff contact Dan Berkovitz or Laura Stuber, Counsels to the Subcommittee, at

224-9505. Again, thank you for your time and consideration.

Sincerely,

CARL LEVIN,
Chairman, Permanent
Subcommittee on Investigations.

ADDITIONAL STATEMENTS

HONORING MELISSA BYERS OF LEAWOOD, KS

• Mr. ROBERTS. Mr. President, today I am pleased to honor Melissa Byers of Leawood, KS, for her impressive essay, "Determining the Role of Peacekeeping in a Global Age." This essay won first place in a State-level competition in the 15th Annual National Peace Essay Contest sponsored by the United States Institute of Peace. She received a \$1,000 college scholarship, and is competing for national awards of up to \$10,000. Melissa is a high school student at Blue Valley North High School in Overland Park, KS.

Melissa sets an incredible example for all students in our country. Melissa came into my office and I met with her to extend my congratulations on her accomplishments. I would like to submit her essay into the RECORD and recognize her fine work.

The United States Institute of Peace is an organization created and funded by Congress to promote research, education, and training on the resolution of international conflicts. This National Peace Essay Contest is one of the Institute's oldest activities to promote civic education on international peace for students across the United States. I would like to commend the Institute of Peace and Melissa Byers for their participation.

Mr. President, I ask that Melissa's essay be printed in the RECORD.

The essay follows:

DETERMINING THE ROLE OF PEACEKEEPING IN A GLOBAL AGE

(By Melissa Byers)

Throughout the history of the United States, we have adapted foreign policy to meet the unique challenges of the times. Past US foreign policies of imperialism, expansionism, and isolationism were adapted in ways representing a narrow national interest. But global conflicts such as those moderated by the current United Nations missions to the Central Africa Republic, Sierra Leone, and Kosovo, not withstanding the huge ramifications of September 11, require a new foreign policy perspective. The collapse of the Soviet Union effectively ended the Cold War, bringing with it the possibility and the necessity of recognizing that the old order is past and a new order is required. By examining the traditional roles of the military and exploring several case studies, the issues surrounding national policy come more clearly into focus, and we can better begin to formulate and redefine a new way of thinking about the peacekeeping role of the United States military and our national interest.

Much has been written about the traditional role of the military, and protecting

the homeland is a foundational context in defining the role of the military. Erwin A. Schmidl, a historian for the Austrian Ministry of Defense defines five types of peacetime military operations (1) frontier operations, (2) colonial interventions and counterinsurgency, (3) occupational duties, (4) peacekeeping military operations, and (5) multinational operations (Sismanidis 1). This theory can certainly be applied to U.S. history. In frontier operations, the presence of US military was a stabilizing influence in fulfillment of Manifest Destiny. The US military in putting down the Filipino insurrection of 1901 was an example of colonial interventions and counterinsurgency operations, and the US post-WW II occupation of Germany and Japan in deterring the rise of militant forces was an example of occupational duties. The presence of forces in Haiti in trying to maintain political and economic stability is an example of peacekeeping military operations, and the recent NATO interventions in the old Yugoslavia in preventing ethnic cleansing and genocide is an example of multinational operations. The common thread of national protectionism underpins all five roles, formulating the traditional groundwork for the post-WW II definition of peacekeeping.

The timeliness of this essay is evident in the ashes and aftermath of September 11. With the physical destruction of the two World Trade Towers also came down the ideological pillars of an inviolable and invincible United States. Traditionally, wars have been fought between known enemies and specific military targets. The profile of the enemy was defined. But with the fall of the United Soviet Socialist Republic came a new set of variables that changed foreign policy. The profile of the "enemy" is not obscured. In many modern conflicts, violence often occurs between subtle ideological or ethnic enemies. The role of modern peacekeepers is evolving around these global human and economic conflicts. On the evening of September 11th, President George W. Bush's address to the nation articulated a shift in peacekeeping policy as it relates to national security and foreign relations, "America and our friends and allies join with all those who want peace and security in the world and we stand together to win the war against terrorism" (Bush Sept 11). In the evolving new foreign policy, definitions are broadened, national security is equated with international security, and American interests are linked with global interests.

The current evolution of the U.S. military's peacekeeping role stems from United Nations mandates that peacekeepers should maintain international peace and security. As published on the United Nations Website, the role of the peacekeeper is divided into three categories. (1) Cease-fire peacekeeping, in which conflicting countries can pull back, creating a more conducive environment for negotiations. (2) Multi-dimensional peacekeeping, in which experts inspire major political, social and economic change, strengthening national institutions. (3) Humanitarian peacekeeping, in which massive human suffering is relieved, delivering needed support and supplies (What is Peacekeeping?).

In the last six months, the role of U.S. peacekeepers has been drastically redefined to include these roles. In response to the threat of global terrorism, the U.S. has broadened homeland defense to include global interests. In a speech, marking the 100-day anniversary of September 11, Bush declared, "American power will be used against all

terrorists of global reach" (Bush Dec. 20). The U.S. has now begun to build coalitions, attack terrorist networks, employ economic sanctions against those supporting and harboring terrorism, and condemn terrorist attacks wherever they occur. More funds have been made available the military's role, from not only eliminating terrorist targets, but also to providing 2.5 million humanitarian rations inside Afghanistan (Bush Dec. 20).

One positive example of U.S. military involvement in peacekeeping happened during the 1999 Kosovo campaign to stop the ethnic cleaning entire of the Albanian community (U.S. White House 41-42). The presence of NATO peacekeepers provided for surrender of Slobodan Milosevic, repatriation of Albanian refugees, and withdrawal of Serbian forces from contested soils (U.S. White House 41-52). The success of the peacekeepers' involvement in Kosovo in promoting democratic principles also increased the security and stability of Europe. In October 2000, the world watched as Kosovo held its first free and open municipal election, and its positive result increased public confidence that peacekeeping efforts could be successful.

Negative examples of U.S. military involvement in peacekeeping occurred during operations in Lebanon and Somalia, failing due to a lack of US focus and resolve. During the Lebanese civil turmoil in the eighties, several thousand American, French, British, and Italian peacekeepers intervened to stop bloodshed, yet terrorism and flagging public support forced the peacemakers to withdraw without finding a peaceful solution (Magnuson 54). During the Somali Conflict in 1992, 30,000 U.S. military troops attempted to open supply routes and disarm local militias, but horrific images of the bodies of U.S. soldiers being drug through the streets of Mogadishu helped to break U.S. national resolve (Carpender). Both missions were designed to decrease localized violence and civilian suffering, with limited international involvement, but in each, American uniforms because the target of heavily armed local militias. While these failed attempts at peacekeeping diminished U.S. international prestige, the most negative result was public disillusionment. Unsuccessful interventions in the civil matters of others countries, compounded by costs of American lives and resources, drastically limits the public resolve to intervene.

The tragedy of Rwanda is an example of the negative implications of restricting U.S. military involvement abroad. When the UN Security Council withdrew most of its peacekeepers from Rwanda, it created a deathly vacuum, resulting in the slaughter of 800,000 Tutsis in three months (Kuperman 105). Four months later the UN reversed its decision (Carnegie 4). In part, due to the Somalia experience, the U.S. continued to be reluctant to intervene (Nye 32). Experts project that the timely intervention of 6,000 U.S. troops could have prevented 275,000 Tutsi deaths (Kuperman 100). Lack of U.S. military action partially resulted in the human tragedy of Rwandan genocide, while the guilt of the nations grew and the national consciences appeared to numb.

Vietnam is an example of the positive implications of restricting U.S. military involvement abroad. For decades, France and Vietnam had been embroiled in military conflict. When France withdrew, the Americans entered in a peacekeeping role, fearing the domino effect. By 1955, American peacekeepers began advising military and political leaders against the communist forces lead by Ho Chi Minh (Bailey 916-917). Eventu-

ally, peacekeeping forces became military troops, escalating U.S. involvement, distracting the U.S. from its goal of peace, and entangling the U.S. in a long protracted war. Thus, public support decreased. What started out as a peacekeeping effort resulted in 47,355 American casualties, over one million Vietnamese casualties, and at a cost of 352 billion dollars (Bailey A34). The extent of such losses makes for a strong argument in limiting U.S. military engagement abroad.

Over the next decade, there is no doubt that the American military must play a leading part in insuring international peace and security. The old order, including the narrow traditional role of the military, is obsolete, and a new order, including a broadened innovative role of military, is required. Experiences in Kosovo, Lebanon and Somalia, Rwanda, and Vietnam testify that it is in our national interest to formulate and re-define broader peacekeeping roles for the United States military. As in the case of Kosovo, the U.S. needs to be bold enough to commit the forces needed to resolve the situation. As seen in Lebanon and Somalia, military objectives need to be well defined in order to avoid escalating entanglement and unnecessary loss of life. To prevent another Rwanda, the U.S. military policy needs to defend human rights violations wherever they occur, yet, move with enough caution and insight to prevent another Vietnam imbroglio. The lessons of September 11 call us to the openness and flexibility of preventative peacekeeping. The United States must realize that it has a vested interest in what goes on outside its borders, and that the best way to protect our national interests is to defend personal and economic rights worldwide.

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ALCOA'S MASSENA OPERATIONS

● Mrs. CLINTON. Mr. President, I would like to acknowledge the contribution to this nation provided by the workers and management of Alcoa's Massena, New York Operations. The Massena Operations make aluminum ingot—which is the raw material that is used in a variety of applications—and fabricated aluminum products.

I hope many of my colleagues will have the chance to visit the town of Massena, NY, because it is a wonderful community. Massena is located on the St. Lawrence River in St. Lawrence County, serving as a gateway to America's Fourth Coast, including the St. Lawrence Seaway, the Thousand Islands and the Great Lakes.

This year, Massena is celebrating its 200th birthday, and along with it a century of Alcoa involvement in the community. Alcoa is celebrating an incredible 100 years of aluminum production at its Massena location. As part of its celebration, Alcoa will establish the Massena Operations Memorial Park. Earlier this year, Alcoa-Massena officials also announced their contribution of \$100,000 to the Massena Bicentennial.

The history of Alcoa's Massena Operations is a true American success story. A century ago, the Pittsburgh Reduction Company, a predecessor of Alcoa, built a smelting plant at Massena. The products manufactured at Massena have included wire and electric transmission cable. Consumer products with aluminum components

made in Massena have harnessed the power of electricity for the home. The Massena Operations have also made significant contributions to our Nation's military and aerospace efforts.

For a century, Alcoa's Massena Operations has upheld the proud American tradition of quality manufacturing. I wish to thank you for the opportunity to highlight their fine work and the important role that Alcoa's Massena Operations plays in their community in New York.●

LOCAL LAW ENFORCEMENT ACT OF 2001

● Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred September 12, 2001, in Boston, MA. Three teenagers, claiming they wanted to "get back at Arabs," threw three Molotov cocktails onto a convenience store the day after the September 11 terrorist attacks. The teenagers thought that the store was owned by an Arab. The owner of the store, Aswin Patel, an Indian man, escaped unharmed. The three perpetrators face Federal hate crimes charges and have been charged with assault with intent to murder and arson.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

CONGRATULATING INDIANAPOLIS ON BECOMING DIGITAL TELEVISION ZONE

● Mr. BAYH. Mr. President, I rise today to congratulate the city of Indianapolis on its recent designation as a "Digital Television Zone." Viewers in Indianapolis are fortunate to be served by local television broadcast stations that have been and continue to be leaders in the digital television transition. These stations are: WTHR, a dispatch broadcast-owned NBC affiliate; WISH-TV, a LIN television-owned CBS affiliate; WRTV, a dispatch broadcast-owned ABC affiliate; and WXIN, a tribune broadcast-owned FOX affiliate.

As the broadcast industry undertakes its transition to digital television, I am proud to say that our local Indianapolis affiliates are already fully on the air in digital.

For those not familiar with digital television, it is the next step in the

evolution of television. Those of us old enough, remember the move from black and white to color. Now, the next exciting step in the process is digital. Just as the other communications mediums are moving from an analog to a digital world, so too is television.

This past spring, Indianapolis' local CBS station, WISH-TV, granted the wish of many of my constituents. Through digital television, the station was able to simultaneously broadcast four NCAA basketball tournament games. Our local ABC affiliate, WRTV, has expanded its primetime digital line up. Today, Indianapolis viewers can watch popular programs such as "Drew Carey," "Alias," and "NYPD Blue"—all in high definition. The local NBC affiliate, WTHR, airs "Crossing Jordan" and "The Tonight Show" in high-definition nightly. This year, they broadcast the Olympics' opening ceremonies in digital. It is compelling programming like this that will propel the transition forward and encourage consumers to invest in digital technology—like their local broadcasters have done already.

In January, Indianapolis earned the distinction of being named a "Digital TV Zone." As Mayor Bart Peterson said at the ribbon cutting ceremony, "Our designation as a Digital TV Zone—being one of only a handful of cities to have all local network affiliates broadcasting in digital—is evidence that Indianapolis is where it needs to be to compete in the digital world."

Through the Digital TV Zone Program, Indianapolis broadcasters pooled their resources over the past year to educate Indianapolis consumers—my constituents—about digital TV technology and its benefits.

The local stations cooperated with electronics manufacturers and retailers to post digital sets in high traffic areas throughout the city. If you walked through Indianapolis International Airport, or if you went to Conesco field house, or the NCAA Hall of Champions over the last 5 months, you would have seen the local Indianapolis stations in digital being displayed on high-definition digital television sets.

Clearly, Indianapolis broadcasters are doing their part to launch the digital television future. All of these different activities are designed to educate my constituents about the promise of this new technology.

There will, of course, be many challenges before all consumers can fully benefit from digital television. Despite any outstanding issues, I am proud to say that Indianapolis broadcasters are leading the charge into the digital television future and giving local viewers the opportunity to experience digital television now.●

LETTER TO HARVEY PITT, CHAIRMAN, SECURITIES AND EXCHANGE COMMISSION

● Mr. SMITH of Oregon. Mr. President, I ask that a letter, sent today, to the Chairman of the Securities and Exchange Commission, Harvey Pitt, from Senator BREAUX and myself be printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, DC, June 28, 2002.

Hon. HARVEY L. PITT,
Chairman, Securities and Exchange Commission, Washington, DC.

DEAR CHAIRMAN PITT: We are writing out of deep concern regarding recent reports about a variety of abuses in corporate accounting scandals by companies and corporate executives. In particular, the accounting practices at WorldCom that led to an error of more than \$3.5 billion is unforgivable and inexcusable.

We are pleased to have taken steps to investigate several recent disturbing disclosures and encourage you to pursue initiatives to improve corporate responsibility and shareholder protections. We fear that these reports of corporate fraud may just be the tip of the iceberg, and the need to improve accountability in America's public companies is imminent.

American business is built upon an integrity and trust in business relationships that bolster our currency and provide a shining face of transparency that supports western values and spreads capitalism and corporate responsibility across the globe. We can't emphasize how important it is for you to continue to work to improve corporate disclosure, make corporate officers more accountable and develop a stronger, more independent audit system. American businesses must be trustworthy, transparent and able to withstand the light of any audit.

We look forward to working with you and the Securities and Exchange Commission as you fully investigate the companies and individuals who abuse the system and prosecute them to the full extent of the law. Your role is crucial as we work to restore confidence in American business and restore integrity and trust in our stock market.

Sincerely,

GORDON H. SMITH,
JOHN BREAUX,
U.S. Senate.●

COMMUNITY HERO

● Mr. SMITH of Oregon. Mr. President, I rise to salute a community leader in my home State of Oregon. Today, I want to recognize the efforts of Susan Abravanel, Education Coordinator at SOLV, a non-profit organization in Oregon, in advocating for service-learning, one of the most exciting educational initiatives taking hold in our Nation today.

Service-learning gives students the opportunity to learn through community service, but it is important to note that it is much more than just community service. It is a method of classroom instruction that engages a student's intellect through hands-on work outside the classroom that benefits the community at large. Research shows that students participating in

service-learning make gains on achievement tests, complete their homework more often, and increase their grade point averages.

In addition to producing academic gains, service-learning is also associated with both increased attendance and reduced dropout rates. It is clear to educators across the country that service-learning helps students feel more connected to their own education while strengthening their connection to their community as well. It is for all of these reasons that Susan Abravanel is working so hard to advocate for service-learning in classrooms in Oregon and across the nation.

Ms. Abravanel is working closely with my office and with education leaders in Oregon to ensure that my home State remains a national leader in service-learning. Just 2 months ago, I introduced a bill with my colleague, Senator EDWARDS, to strengthen our Nation's commitment to service-learning. I feel confident that this bill will soon become law and that with Ms. Abravanel's continued efforts both here in Washington, DC, and at home in Oregon, students will continue to benefit from an education tied to civic engagement.

Ms. Abravanel exemplifies the type of engaged citizen our schools must endeavor to produce, and her persistence will ensure that future generations of Americans will give back to their communities just as she has. I would also like to note that Susan isn't just concerned about education, her interests and efforts in Portland's Jewish community are well known and highly appreciated, she is the new President of the Oregon chapter of the American Jewish Committee. I look forward to working with Susan in her new role at the AJC and thank her for her continuing devotion to service-learning.●

COMMUNITY HEROES

● Mr. SMITH of Oregon. Mr. President I rise today to recognize some community heroes in my home State of Oregon. The Agape House, which has been serving needy families in the Hermiston area for 15 years, is one of those rare organizations that dedicates its efforts entirely to the service of others.

Founded in 1987, Agape House began as a small group of volunteers providing food and clothing to approximately 100 families a month. Over the years, Agape House has been able to expand its reach, and last month was able to help 644 families in need. Food and clothing still constitute the majority of the assistance provided by Agape House's volunteers, but they are often able to help local residents with energy bills, prescription drug bills, emergency shelter, and any number of other unmet daily needs.

Perhaps the most encouraging aspect of Agape House's work is that it is done

by a large number of area volunteers who take turns staffing the Agape House. On any given day, six to eight volunteers work at Agape House, but they are seldom the same six to eight people who were there the day before. Not only do its many volunteers come from the community, but Agape House relies primarily on food, clothing, and financial donations from local citizens. Agape House is truly a community effort, and, for that reason, has been uniquely successful in providing assistance to the needy families of western Umatilla County.

One recent and extraordinary example of Agape House's effectiveness involves a young single mother in the Hermiston area. As a young single mother with three mouths to feed, this jobless Hermiston woman relied on Agape House for many of her family's daily needs. When she was finally able to find work, she struggled to get to and from her job because she could not afford a car, and was at risk of finding herself jobless once again. Seeing her problems, Agape House stepped in and gave her a car. A car is not a typical charitable gift to a young woman in need. With her new car, this young woman flourished at her job, and Agape House, which once served this woman nearly every day, has not had a visit from her since the day she received her car. This is just one example of how Agape House goes the extra mile to help people truly become self-sufficient, which takes much more dedication than simply providing temporary relief.

I think it is important to recognize organizations like Agape House here on the Senate floor. The staff and volunteers associated with Agape House are heroes to their community, and are shining examples of what can be accomplished by a generous group of civic-minded citizens. I appreciate the important work they do each and every day, and want them to know that their efforts do not go unnoticed by those outside Umatilla County.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a withdrawal and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:34 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2578. An act to amend title 31 of the United States Code to increase the public debt limit.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 125. Concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives.

At 11:31 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2594. An act to authorize the Secretary of the Treasury to purchase silver on the open market when the silver stockpile is depleted, to be used to mint coins.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3034. An act to redesignate the facility of the United States Postal Service located at 89 River Street in Hoboken, New Jersey, as the "Frank Sinatra Post Office Building."

H.R. 5010. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes.

H.R. 5011. An act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 424. Concurrent Resolution commending the patriotic contributions of the roofing professionals who replaced, at no cost to the Federal Government, the section of the Pentagon's slate roof that was destroyed as a result of the terrorist attacks against the United States that occurred on September 11, 2001.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 2578. An act to amend title 31 of the United States Code to increase the public debt limit.

The enrolled bill was signed subsequently by the President pro tempore (Mr. BYRD).

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3034. An act to redesignate the facility of the United States Postal Service lo-

cated at 89 River Street in Hoboken, New Jersey, as the "Frank Sinatra Post Office Building"; to the Committee on Governmental Affairs.

H.R. 5010. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes; to the Committee on Appropriations.

H.R. 5018. An act to direct the Capitol Police Board to take steps to promote the retention of current officers and members of the Capitol Police and the recruitment of new officers and members of the Capitol Police, and for other purposes; to the Committee on Rules and Administration.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 424. Concurrent resolution commending the patriotic contributions of the roofing professionals who replaced, at no cost to the Federal Government, the section of the Pentagon's slate roof that was destroyed as a result of the terrorist attacks against the United States that occurred on September 11, 2001; to the Committee on Armed Services.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 4231. An act to improve small business advocacy, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, June 28, 2002, she had presented to the President of the United States the following enrolled bill:

S. 2578. An act to amend title 31 of the United States Code to increase the public debt limit.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAUCUS, from the Committee on Finance, with an amendment in the nature of a substitute:

S. 2119: A bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of inverted corporate entities and of transactions with such entities, and for other purposes. (Rept. No. 107-188).

S. 2498: A bill to amend the Internal Revenue Code of 1986 to require adequate disclosure of transactions which have a potential for tax avoidance or evasion, and for other purposes. (Rept. No. 107-189).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

S. 454: A bill to provide permanent funding for the Bureau of Land Management Payment in Lieu of Taxes program and for other purposes. (Rept. No. 107-190).

S. 691: A bill to direct the Secretary of Agriculture to convey certain land in the Lake Tahoe Basin Management Unit, Nevada, to the Secretary of the Interior, in trust for the Washoe Indian Tribe of Nevada and California. (Rept. No. 107-191).

S. 1010: A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of North Carolina. (Rept. No. 107-192).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with amendments:

S. 1649: A bill to amend the Omnibus Parks and Public Lands Management Act of 1996 to increase the authorization of appropriations for the Vancouver National Historic Reserve and for the preservation of Vancouver Barracks. (Rept. No. 107-193).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

S. 1843: A bill to extend hydro-electric licenses in the State of Alaska. (Rept. No. 107-194).

S. 1852: A bill to extend the deadline for commencement of construction of a hydro-electric project in the State of Wyoming. (Rept. No. 107-195).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment:

S. 1894: A bill to direct the Secretary of the Interior to conduct a special resource study to determine the national significance of the Miami Circle site in the State of Florida as well as the suitability and feasibility of its inclusion in the National Park System as part of Biscayne National Park, and for other purposes. (Rept. No. 107-196).

S. 1907: A bill to direct the Secretary of the Interior to convey certain land to the city of Haines, Oregon. (Rept. No. 107-197).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

H.R. 223: A bill to amend the Clear Creek County, Colorado, Public Lands Transfer Act of 1993 to provide additional time for Clear Creek County to dispose of certain lands transferred to the county under the Act. (Rept. No. 107-198).

H.R. 1456: A bill to expand the boundary of the Booker T. Washington National Monument, and for other purposes. (Rept. No. 107-199).

H.R. 1576: A bill to designate the James Peak Wilderness and Protection Area in the Arapaho and Roosevelt National Forests in the State of Colorado, and for other purposes. (Rept. No. 107-200).

By Mr. BYRD, from the Committee on Appropriations, without amendment:

S. 2708: An original bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107-201).

NOMINATIONS DISCHARGED

The following nomination was discharged from the Committee on Environment and Public Works and placed on the Executive Calendar pursuant to the order of June 28, 2002:

NUCLEAR REGULATORY COMMISSION

Jeffrey S. Merrifield, of New Hampshire, to be a Member of the Nuclear Regulatory Commission for the term of five years expiring June 30, 2007.

The following nominations were discharged from the Committee on Agriculture, Nutrition, and Forestry and placed on the Executive Calendar pursuant to the order of June 28, 2002:

FARM CREDIT ADMINISTRATION

Fred L. Dailey, of Ohio, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

Grace Trujillo Daniel, of California, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

Douglas L. Flory, of Virginia, to be a Member of the Farm Credit Administration Board, Farm Credit Administration, for term expiring October 13, 2006.

COMMODITY FUTURES TRADING COMMISSION

Sharon Brown-Hruska, of Virginia, to be a Commissioner of the Commodity Futures Trading Commission for the remainder of the term expiring April 13, 2004.

Walter Lukken, of Indiana, to be a Commissioner of the Commodity Futures Trading Commission for a term expiring April 13, 2005.

The following nomination was discharged from the Committee on Agriculture, Nutrition, and Forestry and referred to the Committee on Governmental Affairs for a period not to exceed 20 days pursuant to the order of June 28, 2002:

DEPARTMENT OF AGRICULTURE

Phyllis K. Fong, of Maryland, to be Inspector General, Department of Agriculture.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. LINCOLN:

S. 2700. A bill to amend titles II and XVI of the Social Security Act to limit the amount of attorney assessments for representation of claimants and to extend the attorney fee payment system to claims under title XVI of that Act; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2701. A bill to suspend temporarily the duty on certain closures for low expansion laboratory glass; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2702. A bill to suspend temporarily the duty on low expansion laboratory glass; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2703. To suspend temporarily the duty on certain blanks and components for low expansion laboratory glass; to the Committee on Finance.

By Mr. NELSON of Florida (for himself and Mr. CLELAND):

S. 2704. A bill to provide for the disclosure of information on projects of the Department of Defense, such as Project 112 and the Shipboard Hazard and Defense Project (Project SHAD), that included testing of biological or chemical agents involving potential exposure of members of the Armed Forces to toxic agents, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. CRAIG:

S. 2705. A bill for the relief of Robert Bancroft of Hayden Lake, Idaho, to permit the payment of backpay for overtime incurred in missions flown with the Drug Enforcement Agency; to the Committee on Governmental Affairs.

By Mr. CLELAND:

S. 2706. A bill to improve economic opportunity and development in communities that are dependent on tobacco production, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KENNEDY (for himself and Ms. SNOWE):

S. 2707. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide comprehensive pension protection for women; to the Committee on Finance.

By Mr. BYRD:

S. 2708. An original bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HAGEL (for himself, Mr. BIDEN, Ms. MIKULSKI, Mr. MURKOWSKI, and Mr. FITZGERALD):

S. Res. 296. A resolution recognizing the accomplishment of Ignacy Jan Paderewski as a musician, composer, statesman, and philanthropist and recognizing the 10th Anniversary of the return of his remains to Poland; to the Committee on Foreign Relations.

By Mr. SMITH of New Hampshire:

S. Res. 297. A resolution expressing the sense of the Senate that pet owners should regularly visit their veterinarians for their pets to receive check-ups, and for advice on issues like flea and tick control, especially during the spring and summer months; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. LANDRIEU (for herself and Mr. BREAUX):

S. Res. 298. A resolution honoring the Louisiana State University Tigers Men's Outdoor Track and Field Team; to the Committee on the Judiciary.

By Mr. FITZGERALD (for himself, Mr. TORRICELLI, Mr. SMITH of New Hampshire, Mr. LIEBERMAN, and Mr. SARBANES):

S. Con. Res. 127. A concurrent resolution expressing the sense of the Congress that the Parthenon Marbles should be returned to Greece; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 414

At the request of Mr. CLELAND, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 414, a bill to amend the National Telecommunications and Information Administration Organization Act to establish a digital network technology program, and for other purposes.

S. 885

At the request of Mr. HUTCHINSON, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 885, a bill to amend title XVIII of the Social Security Act to provide for national standardized payment amounts for inpatient hospital services furnished under the medicare program.

S. 987

At the request of Mr. TORRICELLI, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S.

987, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low-income individuals infected with HIV.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1002

At the request of Ms. SNOWE, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 1002, a bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

S. 1339

At the request of Mr. CAMPBELL, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1339, a bill to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

S. 1350

At the request of Mr. DAYTON, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 1350, a bill to amend the title XVIII of the Social Security Act to provide payment to medicare ambulance suppliers of the full costs of providing such services, and for other purposes.

S. 2067

At the request of Mr. BINGAMAN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 2067, a bill to amend title XVIII of the Social Security Act to enhance the access of medicare beneficiaries who live in medically underserved areas to critical primary and preventive health care benefits, to improve the Medicare+Choice program, and for other purposes.

S. 2078

At the request of Mr. LIEBERMAN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2078, a bill to amend section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local political committees and candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under State law, and for other purposes.

S. 2218

At the request of Mrs. LINCOLN, the name of the Senator from Maine (Ms.

SNOWE) was added as a cosponsor of S. 2218, a bill to amend title XVIII of the Social Security Act to provide coverage for kidney disease education services under the medicare program, and for other purposes.

S. 2480

At the request of Mr. LEAHY, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2480, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.

S. 2544

At the request of Mr. LEVIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2544, a bill to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to make grants for remediation of sediment contamination in areas of concern, to authorize assistance for research and development of innovative technologies for such remediation, and for other purposes.

S. 2554

At the request of Mr. SMITH of New Hampshire, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 2554, a bill to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

S. 2558

At the request of Mr. REED, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2558, a bill to amend the Public Health Service Act to provide for the collection of data on benign brain-related tumors through the national program of cancer registries.

S. 2562

At the request of Mr. REID, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2562, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 2622

At the request of Mr. HOLLINGS, the names of the Senator from Wisconsin (Mr. KOHL) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 2622, a bill to authorize the President to posthumously award a gold medal on behalf of Congress to Joseph A. De Laine in recognition of his contributions to the Nation.

S. 2697

At the request of Mr. REID, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 2697, a bill to require the Secretary of the Interior to implement the final rule to phase out snowmobile use in Yellowstone National Park, John D. Rockefeller Jr. Memorial Parkway, and Grand Teton National Park, and

snowplane use in Grand Teton National Park.

S. RES. 264

At the request of Mr. KERRY, the names of the Senator from Maryland (Mr. SARBANES), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. Res. 264, a resolution expressing the sense of the Senate that small business participation is vital to the defense of our Nation, and that Federal, State, and local governments should aggressively seek out and purchase innovative technologies and services from American small businesses to help in homeland defense and the fight against terrorism.

AMENDMENT NO. 3928

At the request of Mrs. HUTCHISON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 3928 proposed to S. 2514, an original bill to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. LINCOLN:

S. 2700. A bill to amend titles II and XVI of the Social Security Act to limit the amount of attorney assessments for representation of claimants and to extend the attorney fee payment system to claims under title XVI of that Act; to the Committee on Finance.

Mrs. LINCOLN. Mr. President, I rise today to introduce the Social Security Attorney Fee Payment System Improvement Act of 2002. This bill will help ensure that all Social Security claimants have equal access to representation.

Unfortunately, the Social Security Administration's disability determination system has become far too complex for most claimants and their families to successfully navigate on their own. Claimants are confronted by a confusing, time-consuming and multi-level process, which, more often than not, results in a denial of their claim. Appealing a disability claim is a daunting task for anyone without the necessary legal experience, but for individuals who are in poor health or disabled, the procedural hurdles that must be cleared in order to obtain disability benefits can seem insurmountable. As a result, many of the hard working men and women applying for Social Security Disability Insurance, SSDI, benefits or Supplemental Security Insurance, SSI, benefits choose to retain an attorney to help them with

their appeal. The bill I am introducing today will help both SSDI and SSI claimants get the benefits to which they are entitled by extending the attorney fee direct payment system to both programs, a change that is long overdue and that enjoys the support of both claimants' representatives and disability advocates.

Additionally, this bill corrects a serious and unintended consequence of the Ticket to Work Act of the 106th Congress. Although this plainly was a landmark piece of legislation, the disproportionately onerous nature of the attorney fee assessment provisions contained therein have caused a dramatic decline in the number of legal professionals who can afford to represent individuals seeking Social Security disability benefits. As a result of such a decrease in the number of attorneys skilled in this area of the law, the most vulnerable claimants, those with serious physical or mental impairments, those with financial challenges, and those who do not or cannot understand the disability claims process, are often left to find their own way through SSA's labyrinthine bureaucracy. This bill seeks to reverse this disturbing trend and to encourage attorneys to continue providing this extremely important service by enacting rational and equitable modifications to the fee assessment system.

I want to say that my long-term goal is to reform the Social Security disability claims process so that it is not so difficult and frustrating for claimants. However, I recognize that this will not happen overnight and, in the near term, it is essential that we enable citizens to cope with this onerous process.

I hope my colleagues will join me in ensuring that the hard working men and women of America obtain adequate legal representation as they pursue their Social Security disability claims. As my colleagues know, individuals with disabilities rely on Social Security disability and/or Supplemental Security Income benefits for life-sustaining income. We must do all we can to support their efforts to obtain benefits they need and deserve. This bill does just that.

By Mr. KENNEDY (for himself and Ms. SNOWE):

S. 2707. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide comprehensive pension protection for women; to the Committee on Finance.

Mr. KENNEDY. Mr. President, it's a pleasure to join Senator SNOWE in introducing the Women's Pension Protection Act of 2002. In this new millennium, women still work in a world of "less" and "fewer." Less pay and fewer benefits, especially retirement benefits. Less job security and fewer oppor-

tunities for advancement. Less respect for their work and fewer rewards for their contributions.

A major challenge of our time is to protect women's retirement security. The legislation we introduce today meets this important goal by giving women greater say in the management of 401(k) funds, giving widows more generous survivor benefits, and granting divorced spouses expanded opportunities to receive a share of their former spouses' pension after a divorce.

The challenge of retirement security is overwhelmingly a women's issue. The Older Women's League's annual Mother's Day Report concludes that women's pension problems are rooted in the realities that shape their lives: the reality of the wage gap, the reality of caregiving responsibilities, and the reality of jobs that offer few benefits, especially pensions.

Almost 40 years after the Equal Pay Act was passed, women still earn only 73 percent of what men earn. You can't save what you don't earn. And the impact of the wage gap extends far beyond the years that women participate in the workforce. Over a lifetime, the wage gap adds up to an average of \$250,000 less in earnings for a woman to invest in her retirement. The result is that one in four older women are living in poverty.

Women represent less than half of the paid workforce, but comprise almost two-thirds of those working in minimum wage jobs. This should not come as a surprise to anyone, but women are 96 percent of all childcare workers, 97 percent of receptionists, and 90 percent of secretaries. Because so many of these jobs are non-union, part-time, and low wage, women are much less likely to be covered by a pension plan than men.

At the same time, women are much more likely to spend time out of the workforce to tend to family caregiving responsibilities. In fact, the average woman now spends 12 years out of the workforce over her work life. That is time that she is not earning a pension, vesting in a pension or contributing to Social Security. This absence from the paid workforce translates into inadequate retirement income and an increased financial dependency on their spouses at retirement. A woman who drops out of the labor market for as few as five years, can end up with as much as 30 percent less in her defined contribution plan.

Although the pension laws are gender neutral, pension policy unintentionally discriminates against women. Women continue to be less likely to be covered by a pension plan and less likely to receive pension benefits. And even when women earn pensions, their benefits tend to be only a fraction of what men receive because of pension formulas that penalize them for moving in and out of the workforce. Only 13 percent of

women age 65 and over receive a pension, and among that small group the median annual pension is only \$3,000. These challenges are made even more acute by the fact that women live longer than men and have a greater need for retirement income than men.

We need to make our pension system fairer, especially for women. Married women often count on their husband's retirement benefits to support them in old age, then outlive their husbands and frequently their husbands' retirement income.

Over the last twenty years, reform of the Federal pension law has seen some improvement with changes that allow a widow to continue receiving defined benefit pension payments. The Retirement Equity Act of 1984 requires defined benefit pension plans to pay survivor benefits unless a spouse waives this protection. But this protection does not extend to 401(k) and other defined contribution plans.

The Women's Pension Protection Act offers simple, common sense improvements in our private pension system to ensure that retirement savings programs better respond to the realities of women's working lives. This bill will help women like Joan Mackey of Salem, New Jersey, who testified recently about the difficulties she has faced in trying to collect survivor benefits from her former husband's pension plan. Ms. Mackey's ex-husband wanted her to collect survivor benefits after his death, but because Ms. Mackey didn't know to ask for a widow's benefit at the time of their divorce, the plan now refuses to pay.

Sadly, Joan Mackey is not alone. Congress must do all it can to protect women's retirement security and address inequities in our pension laws that primarily affect women. I urge my colleagues to support the Women's Pension Protection Act.

Ms. SNOWE. Mr. President, I rise to join with Senator KENNEDY in introducing The Women's Pension Protection Act of 2002 to improve the retirement security of women.

As Americans live longer, achieving financial security can be a particular challenge for women. Women live, on average, seven years longer than men but earn less money over their lifetime, and as women continue to be society's primary caregivers, they continue to lose time from the workplace during their prime earning years. The result? Just 40 percent of women have pensions, compared with 47 percent of men. Of those with pensions, women retirees receive only about half the pension benefits that men receive—on average, \$4,200 annually compared to \$7,800 for men.

With less time to invest in their retirement, women are frequently unable to establish a solid nest egg for future years. Women sometimes rely on their spouse's pension for essential savings

in later years. If a marriage dissolves, as roughly half of marriages in America have, this can deal a terrible blow to a women's retirement plans.

For elderly women the situation worsens, as they are three times as likely than men to outlive their spouses. Lower pensions can make it difficult for women to make ends meet in their later years. Tragically, almost one in five nonmarried elderly women, 17 percent, live in poverty today. These facts help explain why our pension laws should reflect the reality and needs of our workforce.

The bill we are introducing today is aimed at meeting the unique financial needs of women. It recognizes the economic partnership of marriage, ensuring that women are included in financial decisions that effect their future. Under this bill, spousal consent would be required before participants can withdraw lump sum payments of pension benefits 401(k) plans. Similar requirements already exist for spouses of workers covered by traditional pension plans. This bill also encourages more investment into annuities, which pay a guaranteed stream of lifelong income and help to prevent poverty. Spouses will have the option of selecting a 75-percent survivor benefit, in addition to the current 50-percent survivor benefit.

This legislation also enhances the financial security of women by requiring plans to offer the option of increasing survivor benefits from 50 percent to at least 75 percent of her husband's retirement. It ensures that a widow can receive her husband's pension regardless of when the husband dies or whether he applied for the pension to begin. And it closes a glaring loophole by ensuring that pension plan administrators will abide by the division of pension benefits ordered by the courts in a divorce proceeding, regardless of when the order is given.

Ultimately, this legislation will strengthen our country's future by giving the tools women, and men, need to secure their retirement future. We have an opportunity to improve the benefits to our workforce and enhance opportunities for women in a way that makes sense. I urge my colleagues to join in supporting this legislation.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 296—RECOGNIZING THE ACCOMPLISHMENT OF IGNACY JAN PADEREWSKI AS A MUSICIAN, COMPOSER, STATESMAN, AND PHILANTHROPIST AND RECOGNIZING THE 10TH ANNIVERSARY OF THE RETURN OF HIS REMAINS TO POLAND.

Mr. HAGEL (for himself, Mr. BIDEN, Ms. MIKULSKI, Mr. MURKOWSKI, and Mr.

FITZGERALD) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 296

Whereas Ignacy Jan Paderewski, born in Poland in 1860, was a brilliant and popular pianist who performed hundreds of concerts in Europe and the United States during the late 19th and early 20th centuries;

Whereas Paderewski often donated the proceeds of his concerts to charitable causes;

Whereas, during World War I, Paderewski worked for the independence of Poland and served as the first Premier of Poland;

Whereas in December 1919, Paderewski resigned as Premier of Poland, and in 1921 he left politics to return to his music;

Whereas, the German invasion of Poland in 1939 spurred Paderewski to return to political life;

Whereas Paderewski fought against the Nazi dictatorship in World War II by joining the exiled Polish Government to mobilize the Polish forces and to urge the United States to join the Allied Forces;

Whereas Paderewski died in exile in America on June 29, 1941, while war and occupation imperiled all of Europe;

Whereas by the direction of United States President Franklin D. Roosevelt, Paderewski's remains were placed along side America's honored dead in Arlington National Cemetery, where President Roosevelt said, "He may lie there until Poland is free.";

Whereas in 1963, United States President John F. Kennedy honored Paderewski by placing a plaque marking Paderewski's remains at the Mast of the Maine at Arlington National Cemetery;

Whereas in 1992, United States President George H.W. Bush, at the request of Lech Walesa, the first democratically elected President of Poland following World War II, ordered Paderewski's remains returned to his native Poland;

Whereas June 26, 1992, the remains of Paderewski were removed from the Mast of the Maine at Arlington National Cemetery, and were returned to Poland on June 29, 1992;

Whereas on July 5, 1992, Paderewski's remains were interred in a crypt at the St. John Cathedral in Warsaw, Poland; and

Whereas Paderewski wished his heart to be forever enshrined in America, where his lifelong struggle for democracy and freedom had its roots and was cultivated, and now his heart remains at the Shrine of the Czestochowa in Doylestown, Pennsylvania: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the accomplishments of Ignacy Jan Paderewski as a musician, composer, statesman, and philanthropist; and

(2) acknowledges the invaluable efforts of Ignacy Jan Paderewski in forging close Polish-American ties, on the 10th Anniversary of the return of Paderewski's remains to Poland.

Mr. HAGEL. Mr. President, today I rise to submit a resolution recognizing the accomplishments of Ignacy Jan Paderewski as a musician, composer, statesman, and philanthropist and to commemorate the 10th anniversary of the return of his remains to Poland.

Born in Poland in 1860, Paderewski is remembered for his contributions to the arts and humanities and as one of the great men of our times. Paderewski was a brilliant and popular pianist who performed hundreds of concerts in Eu-

rope and the United States during the late 19th and early 20th centuries, donating the proceeds to numerous charitable causes. During WWI, Paderewski played a central role in achieving Poland's independence, becoming the first Premier of Poland in 1919 until 1922 when he left politics and returned to music.

The German invasion of Poland in 1939 spurred Paderewski to return to politics where he fought against the Nazi dictatorship in World War II. By joining the exiled Polish Government he helped to mobilize the Polish forces and to urge the United States to join the Allied Forces.

Paderewski died in 1941. At the direction of President Franklin D. Roosevelt, Paderewski's remains were placed alongside America's honored dead in Arlington National Cemetery, where President Roosevelt said he may lie until Poland is free.

For over a half century, the remains of Paderewski were interred at Arlington National Cemetery. He did not live to see the U.S. and Allied Forces liberate Europe from the tyranny of Nazi control. Nor did he witness the subjugation of Poland during the Soviet era. It was, however, the legacy of Paderewski that inspired movements throughout Europe, including Solidarity in Poland, which led to the liberation of Europe.

In 1992, Solidarity Leader Lech Walesa, the first democratically elected President of Poland following WWII, asked U.S. President George H.W. Bush to return Paderewski's remains to his native homeland.

On July 5, 1992, Paderewski's remains were interred in a crypt at the St. John Cathedral in Warsaw, Poland.

So, as we near the 10th anniversary of this historic event, I submit this resolution and asked that it be properly referred.

SENATE RESOLUTION 297—EXPRESSING THE SENSE OF THE SENATE THAT PET OWNERS SHOULD REGULARLY VISIT THEIR VETERINARIANS FOR THEIR PETS TO RECEIVE CHECKUPS, AND FOR ADVICE ON ISSUES LIKE FLEA AND TICK CONTROL, ESPECIALLY DURING THE SPRING AND SUMMER MONTHS

Mr. SMITH of New Hampshire submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 297

Whereas approximately 60 percent of American households are pet-owning households;

Whereas there are approximately 68,000,000 dogs in American households;

Whereas there are approximately 73,000,000 cats in American households;

Whereas pet owners typically have strong relationships with their pets;

Whereas pet owners love their pets as members of their families and should consider veterinarians as partners in helping to keep family pets healthy and happy;

Whereas strong relationships between pets and veterinarians are important for the diagnosis of major and minor pet health issues;

Whereas the spring and summer months are prime seasons for infestation by ticks, mosquitoes, and fleas;

Whereas ticks, as carriers of diseases like Lyme Disease, mosquitoes, as carriers of parasites like heartworm, and fleas all pose potential threats to the health of pets;

Whereas many spring and summer threats to pet health are silent and potentially fatal, but can be prevented with regular visits to veterinarians;

Whereas veterinarians know the best methods and best products to provide for the healthy lives of pets; and

Whereas 100 percent of dogs not on a preventive treatment will contract heartworm when exposed to the parasite: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) pets should not face unnecessary health threats, which frequently arise during the spring and summer months;

(2) the spring and summer months are an important time to provide dogs and cats with control products to protect against illnesses caused or carried by ticks, mosquitoes, and fleas;

(3) pet owners should seek expert advice from their veterinarians to learn how to protect dogs and cats against potential spring and summertime diseases and illnesses caused by ticks, mosquitoes, and fleas; and

(4) pet owners should regularly visit their veterinarians for their pets to receive check-ups, for prevention of disease, and for advice on issues like flea and tick control.

SENATE RESOLUTION 298—HONORING THE LOUISIANA STATE UNIVERSITY TIGERS MEN'S OUTDOOR TRACK AND FIELD TEAM

Ms. LANDRIEU (for herself and Mr. BREAU) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 298

Whereas Louisiana State University Men's Outdoor Track and Field Team won the 2002 NCAA Division I Championship;

Whereas head coach Pat Henry was awarded the MONDO NCAA Division I Coach of the Year, and led the team to victory over top seeded Tennessee;

Whereas 9 time all-American and 6 time national champion senior Walter Davis was awarded the MONDO Athlete of the Year and won the long jump event and the triple jump event in the 2002 NCAA Division I Championship hosted by Louisiana State University, as well as running the beginning leg of the 4x100 meter relay;

Whereas Tiger athletes Robert Parham, Pete Coley, and Bennie Brazell also competed in the 4x100 meter relay with a time of 38.32 seconds, the fourth fastest time in NCAA history;

Whereas Robert Parham also won his heat in the 200 meter dash with a time of 20.45 seconds and Bennie Brazell and Lueroy Colquhoun advanced to the finals in the 400 meter hurdles by winning their preliminaries with respective times of 49.57 and 49.99;

Whereas Javier Nieto finished eighth in the hammer throw to become the first Lou-

isiana State University Tiger to be honored as an all-American in that event since 1993;

Whereas due to the efforts and abilities of the student athletes and head coach Pat Henry, the Louisiana State University Men's Outdoor Track and Field team won the 2002 NCAA Division I Championship; and

Whereas the team's victory exemplifies the hard work ethic and high goals set by Louisiana State University and the State of Louisiana: Now, therefore, be it

Resolved, That the Senate congratulates the Tigers of the Louisiana State University Men's Outdoor Track and Field team on winning the 2002 NCAA Division I Championship.

SENATE CONCURRENT RESOLUTION 127—EXPRESSING THE SENSE OF THE CONGRESS THAT THE PARTHENON MARBLES SHOULD BE RETURNED TO GREECE

Mr. FITZGERALD (for himself, Mr. TORRICELLI, Mr. SMITH of New Hampshire, Mr. LIEBERMAN, and Mr. SARBANES) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 127

Whereas the Parthenon was built on the hill of the Acropolis in Athens, Greece in the mid-fifth century B.C. under the direction of the Athenian statesman Pericles and the design of the sculptor Phidias.

Whereas the Parthenon is the ultimate expression of the artistic genius of Greece, the preeminent symbol of the Greek cultural heritage—its art, architecture, and democracy—and of the contributions that modern Greeks and their forefathers have made to civilization;

Whereas the Parthenon has served as a place of worship for ancient Greeks, Orthodox Christians, Roman Catholics, and Muslims;

Whereas the Parthenon has been adopted by imitation by the United States in many preeminent public buildings, including the Lincoln Memorial;

Whereas over 100 pieces of the Parthenon's sculptures—now known as the Parthenon Marbles—were removed from the Parthenon under questionable circumstances between 1801 and 1816 by Thomas Bruce, seventh Earl of Elgin, while Greece was still under Ottoman rule;

Whereas the removal of the Parthenon Marbles, including their perilous voyage to Great Britain and their careless storage there for many years, greatly endangered the Marbles;

Whereas the Parthenon Marbles were removed to grace the private home of Lord Elgin, who transferred the Marbles to the British Museum only after severe personal economic misfortunes;

Whereas the sculptures of the Parthenon were designed as an integral part of the structure of the Parthenon temple; the carvings of the friezes, pediments, and metopes are not merely statuary, movable decorative art, but are integral parts of the Parthenon, which can best be appreciated if all the Parthenon marbles are reunified;

Whereas the Parthenon is a universal symbol of culture, democracy, and freedom, making the Parthenon Marbles of concern not only to Greece but to all the world;

Whereas, since obtaining independence in 1830, Greece has sought the return of the Parthenon Marbles;

Whereas the return of the Parthenon Marbles would be a profound demonstration by the United Kingdom of its appreciation and respect for the Parthenon and classical art;

Whereas returning the Parthenon Marbles to Greece would be a gesture of good will on the part of the British Parliament, and would set no legal precedent, nor in any other way affect the ownership or disposition of other objects in museums in the United States or around the world;

Whereas the United Kingdom should return the Parthenon Marbles in recognition that the Parthenon is part of the cultural heritage of the entire world and, as such, should be made whole;

Whereas Greece would provide care for the Parthenon Marbles equal or superior to the care provided by the British Museum, especially considering the irreparable harm caused by attempts by the museum to remove the original color and patina of the Marbles with abrasive cleaners;

Whereas Greece is constructing a new, permanent museum in full view of the Acropolis to house all the Marbles, protected from the elements in a safe, climate-controlled environment;

Whereas Greece has pledged to work with the British government to negotiate mutually agreeable conditions for the return of the Parthenon Marbles;

Whereas the people of Greece have a greater, ancient bond to the Parthenon Marbles, which were in Greece for over 2,200 years of the over 2,430 year history of the Parthenon;

Whereas the British people support the return of the Parthenon Marbles, as reflected in several recent polls;

Whereas a resolution signed by a majority of members of the European Parliament urged the British government to return the Parthenon Marbles to their natural setting in Greece;

Whereas the British House of Commons Select Committee on Culture, Media and Sport is to be commended for examining the issue of the disposition of the Parthenon Marbles in hearings held in 2000; and

Whereas in 2004 the Olympic Games will take place in Athens, Greece—birthplace of the Olympics—and the Parthenon Marbles should be returned to their home in Athens by that time: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the Government of the United Kingdom should enter into negotiations with the Government of Greece as soon as possible to facilitate the return of the Parthenon Marbles to Greece before the Olympics in 2004.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Friday, June 28, 2002, at 9:30 a.m. for the purpose of holding a hearing to "Examine How a Department of Homeland Security Should Address Weapons of Mass Destruction and Relevant Science and Technology, and Public Health Issues."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on

Health, Education, Labor, and Pensions be authorized to meet for a hearing on S. 2246, the Instructional Materials Accessibility Act: Making Instructional Materials Available to All Students, during the session of the Senate on Friday, June 28, 2002, at 10 a.m. in SD-430.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALLOCATION TO SUBCOMMITTEES FOR FISCAL YEAR 2003

Mr. BYRD. Mr. President, for the information of the Senate, I want to appear in the RECORD the allocations to subcommittees for fiscal year 2003 by the Committee on Appropriations in the Senate.

On Thursday, June 27, 2002, the Committee on Appropriations, by a unanimous rollcall vote of 29 to 0, approved the allocation to subcommittees for fiscal year 2003.

These allocations were prepared in consultation with my esteemed colleagues, Senator TED STEVENS, distinguished ranking member of the committee, who stands with me committed to presenting bills to the Senate consistent with these allocations.

Furthermore, Senator STEVENS and I stand committed to opposing any amendments that would breach the allocations. We are committed to doing what we can to enforce discipline in the processing of thirteen, individual bipartisan and responsible appropriations bills for fiscal year 2003.

I ask unanimous consent that a table setting forth the allocation to subcommittees be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE COMMITTEE ON APPROPRIATIONS—FY 2003 SUBCOMMITTEE ALLOCATIONS

[Discretionary spending in millions of dollars]

Subcommittee	Budget authority	Outlays
Agriculture	17,980	18,318
Commerce	43,475	44,416
Defense	355,139	346,843
District of Columbia	517	581
Energy & Water	26,300	25,823
Foreign Operations	16,350	16,076
Interior	18,926	18,804
Labor-HHS-Education	133,988	127,131
Legislative Branch	3,413	3,467
Military Construction	10,622	10,122
Transportation	21,100	60,169
Treasury, General Gov't	18,501	18,237
VA, HUD	91,434	96,325
Deficiencies	10,344	6,780
Total	768,089	793,092

Approved by the Committee on a unanimous vote of 29 to 0 on June 27, 2002.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 94-201, as amended by Public Law 105-275, appoints the following individuals as members of the Board of Trustees of

the American Folklife Center of the Library of Congress: Susan Barksdale Howorth of Mississippi, for a term of six years; and Marlene Meyerson of Texas, for a term of six years.

MEASURE READ THE FIRST TIME—H.R. 4231

Mr. BYRD. Mr. President, I understand that H.R. 4231 is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the information of the Senate.

The senior assistant bill clerk read as follows:

A bill (H.R. 4231) to improve small business advocacy and for other purposes.

Mr. BYRD. Mr. President, I now ask for the second reading and I object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its second reading on the next legislative day.

NOMINATIONS DISCHARGED

Mr. BYRD. Mr. President, as in executive session, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of the nomination of Jeffrey Merrifield to be a member of the Nuclear Regulatory Commission and that his nomination be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. As in executive session, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of the following nominations and that they be placed on the calendar:

Fred L. Dailey to be a member of the board of directors of the Federal Agricultural Mortgage Corporation;

Grace Daniel to be a member of the board of directors of the Federal Agricultural Mortgage Corporation;

Sharon Brown-Hruska to be a Commissioner of the Commodity Futures Trading Commission;

Walter Lukken to be a Commissioner of the Commodity Futures Trading Commission;

Douglas Flory to be a member of the Farm Credit Administration board.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. As in executive session I ask unanimous consent that the Agriculture Committee be discharged from further consideration of the nomination of Phyllis Fong to be Inspector General at the Department of Agriculture and that her nomination be referred to the Government Affairs Committee for its consideration under the statutory time limitation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECORD TO REMAIN OPEN

Mr. BYRD. Mr. President, I ask unanimous consent that the RECORD remain open today until 2:30 p.m. for the introduction of legislation and submission of statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

THANKS TO MEMBERS AND STAFF

Mr. BYRD. Mr. President, on behalf of the majority and minority leaders, I wish to thank all Members of the Senate on both sides of the aisle, and the fine members of the staff of Senators and of the Senate on both sides of the aisle. I thank them for the good work they have done. I wish for them a very peaceful and enjoyable Independence Day holiday. And, of course, I wish for them safety for themselves and their families. I want them all to remember this birthday as a nation and how it came about; the sacrifices that were made to make this a great nation; and to remember, first and finally, in all times that the nation that believes in God is blessed, and: Except the Lord build the house, they labour in vain that build it: except the Lord keep the city, the watchman waketh but in vain.

ORDERS FOR MONDAY, JULY 8, 2002

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn under the provisions of S. Con. Res. 125 until 2 p.m. on Monday, July 8; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; and that the Senate begin consideration of the accounting reform bill under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, no rollcall votes will occur on Monday, July 8. The next rollcall vote will occur on Tuesday morning, July 9, in this year of our Lord, 2002.

ADJOURNMENT UNTIL MONDAY, JULY 8, 2002, AT 2 P.M.

Mr. BYRD. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order and in accordance with the provisions of S. Con. Res. 125.

There being no objection, the Senate, at 1:49 p.m., adjourned until Monday, July 8, 2002, at 2 p.m.

NOMINATIONS

Executive nominations received by
the Senate June 28, 2002:

DEPARTMENT OF STATE

RICHARD ALLAN ROTH, OF MICHIGAN, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SENEGAL, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GUINEA-BISSAU.

FEDERAL LABOR RELATIONS AUTHORITY

PETER EIDE, OF MARYLAND, TO BE GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR A TERM OF FIVE YEARS, VICE JOSEPH SWERDZEWSKI, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

SHELLEY R. ATKINSON
ROBERT J. COOK
SUSAN L. DICKSON
SHAWN T. DONAHEY
ELIZABETH A. EKSTROM
ANDREW J. ELBERT
PHILLIP L. FIELDS JR.
TERRY R. GOSTOMSKI
STEPHEN J. HARMON
DENNIS G. HUEY
CURTIS W. * JOHNSON
DAVID L. KERN
TERRENCE L. * KOUELKA JR.
RICHARD A. MACLEOD
JEFFREY S. MARKS
TIMOTHY R. MCWILLIAMS
WILLIAM H. * MELTON JR.
MICHAEL J. REMUALDO
BRADLEY G. ROSS
MARK H. SLOCUM
SEAN K. SORENSON
HAROLD G. * WILLIAMS
SHAWN A. * WILSON
RANDY K. YOUNG

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR PERMANENT APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5589:

To be lieutenant

ROGER E. MORRIS

THE FOLLOWING NAMED OFFICER FOR PERMANENT APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5589:

To be lieutenant

JANE E. MCNEELY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

GENARO T. BELTRAN JR.
ROBYN D. EASTMAN
MILTON W. FRAZIER
MICHAEL S. PINETTE
THEODORE T. POSUNIAK

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

SEVAK ADAMIAN
EDWIN ALVAREZ
WALLIS E. ANDELIN
CAROL E. BARONE SMITH
JOHN D. BLOOM
JEFFREY H. BRAIN
KURT J. BROCKMAN
GERARD S. CHABOT
CATHERINE L. CUMMINGS
WILLIAM R. K. DAVIDSON
GRACE F. DORANGRICCHIA
K. K. ERICKSON
RICK FREDMAN
DAVID H. HARTZELL
HOLLY D. HATT
KIMBROUGH M. HORNSBY
KURT HUMMELDORF
MARIA I. KORSNES
MARISA LEANDRO
DAVID A. LOWREY
STEVEN D. NYTKO

PAUL G. OLOUGHLIN
FRANK F. OMERZA
CHARLES W. I. PADDOCK
MARK L. PLEDGER
IVAN ROMAN
MICHAEL T. RONCONE
LUIS F. ROSARIO
PETER A. RUOCCO
GARRY SCHULTE
GAYLE D. SHAFFER
MARTHA P. VILLALOBOS
RANDALL J. WALKER
THEODORE C. WEESNER
CURTIS M. WERKING
DONNA M. WILLIAMS
CLIFFORD ZDANOWICZ

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

PIUS A. AIYELAWO
JEFFREY M. ANDREWS
IRIS J. ASHMEADE
DECIMA C. BAXTER
FREDERICK C. BEAL
DAWN A. BLACKMON
THEODORE P. BRISKI JR.
GLENDA D. CARTER
DERRIK R. CLAY
ROBERT A. EDGAR
ROBERT E. FULLER
DAVID P. GRAY
RACHEL D. HALTNER
DEXTER A. HARDY
DWIGHT D. HART
MICHAEL N. HENDEE
ANNE B. HONE
SCOTT R. JONSON
KEVIN R. KENNEDY
DAIZO KOBAYASHI
MARY R. LACROIX
JOHN D. LARNERD JR.
MICHELE F. LOSCOCO
PATRICK S. MALONE
DAVID L. MCNAMARA
JONATHAN P. NELSON
BUHARI A. OYOFO
EDGARDO PEREZLUGO
ALANA M. PIERCE
JOSE A. RAMOS
STEVEN E. RANKIN
MICHAEL D. REDDIX
MICHAEL S. SCHAFFER
CHARLES H. SHAW
ELIZABETH A. M. SMITH
MARK K. SOLBERG
DAVID R. STREET JR.
MICHAEL L. VINEYARD
PENNY E. WALTER
DAVID F. WALTON
MICHELE L. WEINSTEIN
CYNTHIA E. WILKERSON
GEORGE S. WOLOWICZ

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

SALVADOR AGUILERA
KEVIN J. BEDFORD
MANUEL A. BIADOG
DAVID B. F. BRADLEY
ARTHUR M. BROWN
ROOSEVELT H. BROWN
HAROLD H. CASERTA
RANDAL B. CRAFT
CHIN DANG
WALTER E. EAST
TED M. FANNING
AARON JEFFERSON JR.
WILLIAM M. KENNEDY
JOHN W. MAURICE JR.
DAVID M. MCELWAIN
CRAIG G. MUEHLER
JOEL D. NEWMAN
STEPHEN P. PIKE
DOUGLAS E. ROSANDER
MARK W. SMITH
DONALD P. TROAST

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

DANIEL L. ALLEN
JOHN C. ANDERSON
CHRISTOPHER BOWER
KENNETH J. BROOMER
PATRICK W. BROWN
MICHELE M. BURK
JACK C. CAIN
RONALD K. CARR
KEVIN J. CARRIER
ROBERT R. COX
RAYMOND B. J. DAUGHERTY
KENNETH DIXON
WENDY C. FEWSTER
LEONARD T. GAINES

BRIAN M. GOODWIN
KELVIN J. GOODWINE
JIMMIE S. GRIFFEEA
JOHN C. GROESCHEL
JOHN V. HARMON
WILLIAM P. HAYES
CHARLES K. HEAD
JAMES F. HILES III
KEVIN W. HINSON
FRANK J. HRUSKA
DONALD S. HUGHES
JOSEPH J. ILLAR
CURTIS M. IRBY
ROBERT M. JENNINGS
THOMAS J. KEANE
TRACY A. KEENAN
RONALD J. KOCHER
JAMES R. LIBERKO
GLENN J. LINTZ
ROGER D. LORD
RICHARD N. MAENHARDT
ROBERT R. MAIN
MARSHALL L. MASON III
JOHN M. MCVEIGH
CHRISTOPHER S. MOSHER
ANDREW B. MUECK
MARK S. MURPHY
MICHAEL B. MURPHY
DONN D. MURRAY
WILLIAM C. NASH
KENNETH T. NATIONS
ROBERT B. OAKELEY
THEODORE C. OLSON
JOHN T. PALMER
RICHARD M. PANKO
MARK A. POLCA
MARILOU POTENZA
FRANCIS M. PURDY
WILLIAM F. REICH IV
JOSEPH F. RUSSELL IV
JOHN T. SANTOSALVO
FRANKLIN R. SARRA JR.
MICHAEL A. SAVANNAH JR.
JOSEPH W. SCHAUBLE
CLIFFORD G. SCOTT
WILLIAM T. SKINNER
PETER G. STAMATOPOULOS
AARON K. STANLEY
DICK E. STEARNS III
DAVID J. TRETTEL
DAVID C. WARUNEK
DAVID L. WASBERG
MARK W. WERNER
ANDREW F. WICKARD
PAMELA Y. WILLSBORGSTEDT
MICHAEL J. WILSON

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

DANIEL J. ACKERSON
STANLEY D. ADAMS
KARIE F. ANDERSEN
DEBRA A. ARSENAULT
KEVIN K. BACH
KEVIN P. BARRETT
TANIS M. BATSEL
MICHAEL J. BATTAGLIA II
ELISEO A. BAUTISTA
BRUCE BENNETT
ABHIK K. BISWAS
PAUL J. BRUHA
MICHAEL L. BURLESON
GREGORY S. CAMPBELL
DAVID CANNON
MARK E. CHISAM
CHRISTOPHER D. CLAGETT
JOSEPH A. COSTA
WILLIAM T. CULVINER
MICHAEL H. DANENBERG
DARYL K. DANIELS
DAVID M. DELONGA
DAMIAN P. DERIENZO
AMALIA B. DIGAN
ROBERT M. DOUGLAS
ALAN B. DOUGLASS
WALTER M. DOWNS JR.
TIMOTHY D. DUNCAN
MICHAEL J. ELLIOTT
JAY B. ERICKSON
ROBERT J. FLECK JR.
LYNN K. FLOWERS
QUENTIN J. FRANKLIN
EMORY A. FRY
ROBERT B. GHERMAN
GEORGIA L. GILL
PATRICK B. GREGORY
MICHAEL J. HARRISON
KURT A. HENRY
STANLEY C. HEWLETT
HANSJOACHIM A. HILDEBRANDT
SARA M. KASS
CHRISTOPHER J. KLINKO
RICHARD KNITTING
KENNETH C. KUBIS
GREGORY J. KUNZ
MICHAEL J. LANE
MICHAEL J. LANGWORTHY
KENNETH M. LANKIN
JOEL W. LARCOMBE

June 28, 2002

ROBERT P LARYS
CALVIN S LEDFORD
WILLIAM M LEININGER
ALAN A LIM
JOHN S LOCKE
JEFFREY L LORD
JEFFREY R LUKISH
RICHARD E MANOS
ROBERT P MARTIN
ROBERT O MARTSCHINSKE
BRIAN J MCKINNON
KIMBERLY M MCNEIL
JOSEPH G MCQUADE
RONALD J MCVICAR
WILLIAM R MEEKER
BARTH E MERRILL
MILES M MERWIN
SHARON M MILLER
RICHARD M MONDRAGON
FERNANDO MORENO
JOHN W NELSON
GARY W NOBLE
ROBERT J NORDNESS
JOHN D OBOYLE
MAUREEN O PADDEN
EDWIN Y PARK
BHARAT S PATEL
PATRICIA V PEPPER
VISWANADHAM POTHULA
ANDREW POTTS
CURTIS R POWELL
MARK D PRESSLEY
JOHN G RAHEB
TIMOTHY H RAYNER
JONATHAN W RICHARDSON
KEVIN J RONAN
CRAIG E ROSS
CRAIG J SALT
THEODORE W SCHAFER
JUDY R SCHAUER
JAY SCHEINER
RICHARD P SHARPE
MICHAEL J SINGLETON
JOEL A SMITHWICK
MARTIN P SORENSEN
WILLIAM A SRAY
ROBERT E STAMBAUGH
MARK B STEPHENS
ERIC B STUART
KEVIN F SUMPTION
DALE F SZPISJAK
CINDY L TAMMINGA
DAVID A TANEN
WILLIAM J TANNER
JOHN T TAYLOR
JOSEPH G THOMAS
KEITH M ULNICK
JASON L VANBENNEKOM
DARIN K VIA
KEVIN C WALTERS

CONGRESSIONAL RECORD—SENATE

12061

MICHAEL S WEINER
JOSEPH K WEISTROFFER
TODD R WILLIAMS
JOHNNY WON

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT
TO THE GRADE INDICATED IN THE UNITED STATES NAVY
UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

CONNIE J BULLOCK
RICHARD K GIROUX
DAVID J GRUBER
REX A GUINN
JEFFERY L HUNT
MICHAEL J JACKONIS JR.
JOHN C KAUFFMAN
BRIAN T ODONNELL
CHARLES N PURNELL II
RICHARD W RIDGWAY
JAMES M RYAN
PETER D SCHMID
DENISE E STICH
MICHAEL D SUTTON
INGRID M TURNER
BRENDAN F WARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT
TO THE GRADE INDICATED IN THE UNITED STATES NAVY
UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

ANGELICA L C ALMONTE
CHRISTIE M APPLEQUIST
KATHY T BECKER
PATRICE D BIBEAU
RICHARD L BLUMLING
ROBERT E DOYLE JR.
TERESA FAHLGREN
LORIE L GREER
PAMELA R HATALA
ALISA K HODGES
SALLYANNE JARVIS
LENA M JONES
JAMIE M KERSTEN
PETER A LOMBARDO
JOHN F LYONS
MATTHEW L MCCOUCH
ELIZABETH B MYHRE
MARY S NADOLNY
MAUREEN M PENNINGTON
KEITH D ROBERTS
KATHERINE T ROWAN
SARAH L SCHULZ
CASSANDRA A SPEARS
ANDREW P SPENCER
LISA K STENSRUD
MARY A SUTHERLAND
DICK W TURNER
NANCY J WALKER

LESTER M WHITLEY JR.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT
TO THE GRADE INDICATED IN THE UNITED STATES NAVY
UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

KATHRYN A ALLEN
ROBERT D BAKER
BENJAMIN J BARROW
EMMANUEL T BAUTISTA
FREDDIE L BAZEN JR.
FREDERICK R BROOME
FREDERICK F BURGESS
JOSEPH A CAMPBELL
ROBERT J CORDELL
JOHN L DANGELO JR.
MATTHEW L EARLY
ANTONIO M EDMONDS
JAMES S FITZGERALD
CRAIG S HAMER
GREGORY W HARSHBERGER
MARK S HOCHBERG
JEFFREY M JOHNSTON
JOSEPH M LARA
WALTER M LENOIR III
DANIEL A MCNAIR
THOMAS G MORRIS
WILLIAM C NEWTON
ROBIN Y NOYES
BRANT D PICKRELL
ERICA L SAHLER
WILLIAM M SHEEDY
DAVID J SIENICKI
DAVID M SMITH
ROBERT W TYE
MICHAEL A WEAVER
MICHAEL D WILLIAMSON
RODNEY O WORDEN
JOHN A ZULICK

WITHDRAWAL

EXECUTIVE MESSAGE TRANS-
MITTED BY THE PRESIDENT TO
THE SENATE ON JUNE 28, 2002, WITH-
DRAWING FROM FURTHER SENATE
CONSIDERATION THE FOLLOWING
NOMINATION:

FRANCIS L. CRAMER, III, OF NEW HAMPSHIRE, TO BE A
JUDGE OF THE UNITED STATES TAX COURT FOR A TERM
EXPIRING FIFTEEN YEARS AFTER HE TAKES OFFICE,
WHICH WAS SENT TO THE SENATE ON NOVEMBER 28, 2001.

EXTENSIONS OF REMARKS

RELATING TO CONSIDERATION OF
SENATE AMENDMENT TO H.R.
3009, ANDEAN TRADE PROMOTION
AND DRUG ERADICATION ACT

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Ms. JACKSON-LEE of Texas. Mr. Speaker, global commerce is a force for progress. However, current trade rules are too often used to undermine environmental protections and democratic rights in the name of "free trade." Fast track is the expansion of presidential authority in international trade. However, the Thomas substitute would aid powerful corporations searching the globe for cheap labor, lowering standards for workers' rights, public health and education, consumer rights and environmental laws worldwide, and causing developing countries to become even more impoverished. Fast track legislation consistently overlooks the rights of workers in developing countries.

The Ways and Means Chairman, Representative BILL THOMAS, has created a substitute for the fast track authority which provides that a nation only need enforce its own labor laws, whatever they might be, no matter how inadequate. Furthermore, H. Res. 450 would eliminate Senate amendments that restrict child labor in trade agreements, require countries to cooperate in the war against terrorism, and require a respect for non-discrimination in employment. In addition, the Thomas substitute fails to provide any enforceable environmental protections. The Thomas substitute, also, fails to provide an adequate oversight role for Congress.

Chairman BILL THOMAS is adding never-before-considered legislative proposals to a rule on a procedural motion. He is denying this body an opportunity to debate, amend or offer a substitute to his proposal. He is denying us our right to free speech. The step of going to conference with the Senate is pro forma and non-controversial. However, Chairman THOMAS is proposing a convoluted rule that, if adopted, will add up to a dozen extraneous and new items to the conference process. The Democratic Rules Committee staff is not aware of any other instance in this or any recent Congress in which a self-executing rule has been used to insert never-considered legislation into conference.

Trade authority goes far beyond tariff reduction and involves tradeoffs on intellectual property rights, environmental standards, basic labor laws and other issues of such importance to the American worker. The Thomas substitute includes a new Republican Trade Adjustment Assistance bill. This is an amended version of the House fast track bill, which passed in December by a one-vote margin.

Each of these proposals has serious flaws. The Thomas substitute undermines the Senate TAA health care provisions by reducing the level of support for workers from 70 percent to 60 percent. The Senate bill increases the TAA funding threefold, from \$100 million to \$300 million. This reflects the fact that the TAA annually runs out of money. But the Thomas substitute would only raise TAA funding only slightly, from \$100 million to \$110 million. Under the Thomas substitute, TAA and steelworker health care benefits would be severely limited in availability and cost too much for most workers to afford.

The Thomas substitute guts the Senate TAA non-health care provisions, by narrowing the benefits coverage of secondary workers even further than existing law, by eliminating the pilot wage insurance program for older workers with low-to-medium incomes. In addition, the Thomas substitute cuts almost two-thirds of the increased funding that is in the Senate bill.

During a time when the public has clearly voiced its concern that global trade matters move more into the eye of public scrutiny, this Thomas substitute would make the fast track trade bill the North American Free Trade Agreement (NAFTA) on steroids. Since NAFTA's passage in 1995, the trade deficit between the United States and Mexico has ballooned to \$29 billion annually. An estimated 700,000 American jobs have been lost to nations that don't have to play by the same labor and environmental rules that American workers do.

If we approve the Thomas substitute, our Representatives and Senators will limit themselves to having no more than 20 hours to debate any trade deal brought before them for ratification and to vote on the issue within 60 days of when it is introduced. Those limits would curtail public discussions about trade policy. Extended debates on Capitol Hill give ordinary citizens the chance to influence public policy by expressing their opinions to their elected representatives. If trade legislation is sped through Congress, that would limit the opportunities for careful deliberation on the merits and weaknesses of complex trade agreements. Curtailing discussion and debate of legislation is fundamentally undemocratic.

The sole purpose of this extraordinary and unprecedented legislative sleight of hand is, as Rules Committee Chairman DAVID DREIER says, to "strengthen the hand of House conferees before we get to conference." This is a political move. Furthermore, it would do so by short-circuiting the democratic processes of this body. This would deprive all members of the opportunity to consider important legislative proposals in a manner consistent with the parliamentary traditions of this House.

Therefore, I urge my colleagues to strongly oppose H. Res. 450.

RELATING TO CONSIDERATION OF
SENATE AMENDMENT TO H.R.
3009, ANDEAN TRADE PROMOTION
AND DRUG ERADICATION ACT

SPEECH OF

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. MOORE. Mr. Chairman, I rise in opposition to H. Res. 450, the so called Thomas Rule on the motion to go to conference on Trade Promotion Authority (TPA) legislation. But I also want to make clear that I support Trade Promotion Authority for the President and I hope I have the opportunity to vote in favor of a conference report on TPA later this year.

Globalization is here to stay. With markets now linked globally by computers, satellite communications, and advanced transportation networks, international trade and investment will play an increasing role in American prosperity. We cannot, as a nation, afford to retreat from a proactive strategy of trade expansion that takes advantage of our position as the world's most prosperous and dynamic economy.

Trade liberalization is also an important tool toward developing responsible global relations. It is a tool, as the preamble of the GATT states for "raising standards of living, ensuring full employment, developing the full use of the resources of the world and expanding the production and exchange of goods." Indeed, open markets are an important engine of economic growth, which can expand opportunities, raise living standards, and affect social change. More importantly, however, trade liberalization provides our nation with an additional diplomatic tool with which to deal with international disputes and/or coalition building; trade's national security component cannot be understated.

Unfortunately, however, today's vote is not about trade. It isn't even a pro forma exercise to go to conference and reconcile the differences between the House and Senate. It is a cynical and unprecedented procedural move to expand the scope of the underlying trade bill and to strengthen House negotiators' position in conference.

I understand and accept that the bill approved in the other chamber (H.R. 3009) contained provisions on which this House has spoken and that this Rule attempts to solidify the House's voice on matters such as the Andean Trade Bill, Customs Security, Dispute Resolution, and of course TPA. This Rule also, however, includes provisions on which this House has not yet had a clear debate and vote. I have deep concerns about the House of Representatives making an end-run on its rules and the guiding principles of a democratic body in this matter. It is for this reason that I oppose this Rule.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Speaker, on December 6, 2001, I voted for TPA. I have supported every piece of trade legislation brought before the House since being elected to Congress. My record on trade is clear—I support free trade. This Rule today, however, is not about trade and I cannot support moves that undermine our body's rules and ideals in the name of expediency and process. Again, I hope to vote later this year on legislation granting the President Trade Promotion Authority and hope House and Senate negotiators can expeditiously develop a conference report for which I can soon vote.

HONORING REVEREND JOHN J.
HURLEY

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. BORSKI. Mr. Speaker, I rise today to honor the Reverend John J. Hurley, OSFS for his most recent achievements as the Moderator of the Model United Nations Program at both Father Judge and Northeast Catholic High Schools located in my Congressional District. Since January of this year, Fr. Hurley has been awarded three distinct honors for his work in advancing the understanding of international relations on the high school level. He is truly a beacon of diplomacy and deserves great acclaim for his dedication to the younger generation of Americans.

For the second time in the last three years, The International Relations Association of Georgetown University has named Fr. John J. Hurley, OSFS as the National Coach-Moderator of the Year. This award was presented to Fr. Hurley, OSFS on February 17, 2002 at the closing ceremonies of the 39th Annual North American Invitational Model United Nations Conference (NAIMUN XXXIX). Over 3,000 high school students from three hundred high schools in the United States of America, Canada, Brazil, Germany, Japan, The Netherlands, and Oman participated in NAIMUN XXXIX.

Additionally, on March 15, 2002, the Middle States Council for Social Studies awarded its 2001–2002 Distinguished Service Award to Fr. Hurley, OSFS. In making the presentation, Frances Warren, award chairperson, noted Father Hurley's significant service and support for the advancement of social studies in the Middle States area.

On May 4, 2002, the United Nations Association of the United States of America (UNA–USA) presented its highest award for the best delegation at its annual International Academic Competition to a Joint Team of Students from Northeast Catholic and Father Judge High Schools. Seven hundred students from around the globe participated in this international convention at UN Headquarters in New York City, which was co-hosted by the United Nations and Columbia University. Fr. Hurley served as the coach of this team.

Mr. Speaker, what will be next for Fr. Hurley in the remaining six months of this year? This noted scholar and advisor has worked tirelessly since 1954 in the pursuit of advancing the awareness and understanding of inter-

national relations. Let it be known that Fr. Hurley's work in international relations is in addition to his leadership position as the National Director of the Foreign Mission of the Oblates of St. Francis de Sales. Mr. Speaker, I agree with The Reverend Joseph G. Morrissey's, OSFS, the Provincial of the Oblates of St. Francis de Sales, statement; "Fr. Hurley is a positive role model and leader to so many young men and women in the various schools. He invites, draws, and attracts them to a knowledge of world affairs in a Salesian tradition that will remain with them for the rest of their days."

TIME FOR A CAREER CHANGE

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. LaFALCE. Mr. Speaker, I have been blessed with the honor and privilege of representing the people of Western New York for thirty-two years: two in the New York State Senate, two in the New York State Assembly, and twenty-eight in the U.S. House of Representatives. For eight of my years in the House, I served as Chairman of the important Small Business Committee. For the last five years, I have served as Ranking Democrat on another major committee of even broader reach and import, the House Financial Services Committee.

I am extremely grateful for the honor the citizens of Western New York have given to me and most especially for the trust they have imparted to me over the course of those thirty-two years. During all that time, I have tried my best to serve the people of Western New York honestly, diligently, faithfully and intelligently and have worked hard to honor, earn, and deserve their trust.

In that span of three decades, I have met and worked with some of the most talented and noble men and women in this country. I shall treasure each and every one of those relationships.

But there comes a time to seek new horizons. And, for me, this is the right time. So I announce today that I will not be seeking another term in Congress.

I pondered very seriously whether to seek new horizons in 1992, at the time of the last redistricting, when my two closest friends in Congress, Henry Nowak and Matt McHugh, decided to leave. For many years now, I have been thinking about what I should do subsequent to the 2002 redistricting. I very much want to see the Democrats regain a majority in the House. Had the court-imposed plan not been withdrawn today, I might well have decided to run and be part of that effort.

But I have every confidence that a Democrat will win in the new 28th Congressional district and there are many talented Democrats who could represent it well: Congresswoman LOUISE SLAUGHTER, Mayor Bill Johnson of Rochester, Mayor Anthony Masiello of Buffalo, State Senator Byron Brown, State Senator Richard Dollinger, many Assemblymen and women, including Robin Schimming, Sam Hoyt, Arthur Eve, Francine

DelMonte, David Gantt. There are others who are also equally well qualified, including former Erie County Legislative Chairmen Len Lenihan and Chuck Swanick, Niagara Falls Councilman Paul Dyster, Niagara County District Attorney Matt Murphy, County Legislator Lynn Marinelli, etc.—the list goes on and on.

Engaging in a contest against other talented and honorable Democrats such as these is not something I choose to do. Instead, I choose to pursue new horizons.

Until this very day, I have been making contingency plans to run, not knowing what the Court would ultimately decide. And the information I have been receiving, including polling data, has made it clear that I would win both a primary and a general election. The primary election because of the historic Democratic primary voter turnout in Erie, Niagara and Orleans Counties, which has always been far higher than the turnout in Monroe County (approximately 3 to 1); and the general because the new 28th has a significant Democratic voter registration advantage—the first time I would have had such an advantage.

But winning has never been the issue. The issue has been whether I wanted to seek new horizons within the new 28th District by getting to know and seeking to serve the 410,000 of the 654,000 residents who would be new constituents for me, or whether I wanted to seek new horizons elsewhere.

And so this time, this year, I have decided to pursue those new horizons elsewhere rather than seek re-election. I have no plans to retire. I am doing what so many in this country now do at my point in life—changing careers. Whether this career change will take me back to the law, or a career in social justice, academia, corporate governance or other public service, I simply do not know. But I am excited and enthusiastic at the prospect of exploring this vast range of new opportunities.

I am pleased to have been able to assist the citizens of Western New York and to help our local communities over the past three decades. While I have decided not to seek another term, I plan to continue working hard on behalf of my district and country for the balance of this year and beyond.

I have often been asked why I chose to be in public service. The answer is simple: there is no greater satisfaction than to serve one's community. I have consistently believed and said that public service gives one a unique opportunity not only to serve one's fellow citizens, but to be engaged in, and apply one's mind and heart to, the great issues of our day, to be fully involved in the action and passion of our time. My experience has underscored that perspective. I am grateful to the citizens of Western New York for giving me that privilege, and most especially, for the trust they have placed in me.

HONORING DR. PAUL PRIESZ OF
CALIFORNIA

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. McKEON. Mr. Speaker, I rise today to pay tribute to Dr. Paul Priesz, Principal of Valencia High School which is located in the

Santa Clarita Valley. Recently, the Association of California School Administrators named him the top secondary principal in the state of California.

As June comes to an end and the school year closes, it is a fitting time to reflect upon the capable leadership of Dr. Priesz. He was assigned the formidable responsibility of planning and opening a new high school and has been the guiding influence at Valencia High School since it opened in 1993. Today, the school is one of the premier high schools in Los Angeles County.

High school administration requires many qualities—including vision, dedication, patience, strength, energy, creativity, the competence to balance an impossibly busy schedule, a willingness to allow people to experiment, the expertise to support a wide variety of school programs and reforms, and the ability to understand the complexity of teens for whom each day presents a new crisis. Possessing all of the traits, Dr. Priesz is an exemplary high school principal.

A dynamic educator who is committed to educational quality and academic excellence, Dr. Priesz has developed programs to meet the scholastic and social needs of all students. He gives abundant support to the handicapped and underrepresented population and avidly endorses extra-curricular programs to foster student growth and achievement. "What is best for kids" is the guiding doctrine for all decisions made at Valencia High School.

Dr. Priesz is a dedicated leader who believes in his staff and students. He manages school programs by focusing attention on the importance of building collaborative relationships yet at the same time allowing everyone the creative freedom needed to accomplish their job. Dr. Priesz asks nothing of his staff that he is not willing to do himself, and he continually displays a sincere, caring demeanor. He is highly supportive of professional development and school reform initiatives in order to perpetuate a vigorous learning environment.

Mr. Speaker, Valencia High School is fortunate to have such an extraordinary principal. I want to thank Dr. Paul Priesz for his leadership, inspiration and high standards. He has made a positive impact on thousands of students. In turn, Dr. Priesz is making our great nation a better place to live.

H. RES. 467: INDEPENDENCE FOR KOSOVA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. GILMAN. Mr. Speaker, since the cessation of NATO's 1999 conflict with the Federal Republic of Yugoslavia, in Kosova remains under a United Nations mandate. But progress in Kosova is being held up by its lack of independence and its inability to determine its own fate. For that reason, I am introducing, together with the gentleman from California (Mr. LANTOS), a resolution expressing the sense of the House of Representatives that the United States should declare its support for the independence of Kosova.

The Kosovars, the United Nations, NATO and the international community are now making efforts to rebuild Kosova, revitalize its economy, establish democratic institutions of self-government, and heal the scars of war.

Under President Slobodan Milosevic, the Yugoslav government dismantled Kosova's political structures, replaced ethnic Albanians with Serbs in most jobs, enabled Serb-owned firms to take over Albanian-owned companies, and forbade Albanians from purchasing or improving property.

As a result of this systematic persecution and discrimination, today the unemployment rate in Kosova is currently between 60 and 70 percent, increasing the likelihood of Kosovars either entering criminal networks or working abroad in order to survive. The perpetuation of these economic difficulties heightens the potential for continued instability in the region.

The only way to address the problem of the chronic instability that plagues the region, and the way towards a genuine, long-term political and economic stability of Kosova and the region, lies not only in the physical and social reconstruction of Kosova, but in considering Kosovar independence as a solution. Unless massive job creation is facilitated by guaranteeing the security of foreign investments through an independent Kosova, the impact of these economic difficulties could prove detrimental to U.S. interests in the region.

Three years after the war's end, Kosova is already responsible for 93 percent of its budget, with 7 percent supplied by foreign donors, underscoring its commitment to growing a market economy, not an aid economy. Under the Yugoslav constitution of 1974, Kosova was equivalent in most ways to Slovenia, Croatia, and the other republics. In its position as an "autonomous province," Kosova, in practice, exercised the same powers as a republic. It has its own parliament, high courts, central bank, police service, and defense force. Through its definition in 1968 as a part of the Yugoslav Federal System, it gained representation at the federal level.

When Slovenia and Croatia demanded independence, similar arguments were made by Western governments against recognizing those countries. However, eventually the same Western governments did recognize not only the independence of Slovenia and Croatia, but Bosnia-Herzegovina and Macedonia as well, having discovered that independence for those nations involved not so much a change of borders as a change in the status of existing borders. The lines on the map remained the same, but their status was upgraded from republican to national. It is fitting that the Kosovars are allowed to follow the same path towards independence.

Accordingly, it is time for the United States to abide by its recognition that a right to self-determination exists as a fundamental right of all people through declaring its support for the independence of Kosova.

Mr. Speaker, for the information of my colleagues, I insert a copy of H. Res. 467 at this point in the RECORD.

H. RES. 467

Whereas the United States and the international community recognize that a right to self-determination exists as a fundamental right of all people;

Whereas Kosova was constitutionally defined as a sovereign territory in the First National Liberation Conference for Kosova on January 2, 1944, and this status was confirmed in the Constitution of the Socialist Federal Republic of Yugoslavia adopted in 1946, and the amended Yugoslav constitution adopted in 1974 preserved the autonomous status of Kosova as a de facto republic,

Whereas prior to the disintegration of the former Yugoslavia, Kosova was a separate political and legal entity with separate and distinct financial institutions, police force, municipal and national government, school system, judicial and legal system, hospitals and other independent organizations;

Whereas Serbian dictator Slobodan Milosevic rose to power in 1987 on a platform of ultranationalism and anti-Albanian racism, advocating violence and hatred against all non-Slavs and specifically targeting the Albanians of Kosova,

Whereas Slobodan Milosevic subsequently stripped Kosova of its self-rule, without the consent of the people of Kosova;

Whereas the elected Assembly of Kosova, faced with these intolerable acts, adopted a Declaration of Independence on July 2, 1990, proclaimed the Republic of Kosova, and adopted a constitution on September 7, 1990, based on the international legal principles of self-determination, equality, and sovereignty;

Whereas in recognition of the de facto dissolution of the Yugoslav federation, the European community established principles for the recognition of the independence and sovereignty of the republics of the former Socialist Federal Republic of Yugoslavia and Kosova fully satisfied those principles as a de facto republic within the federation;

Whereas a popular referendum was held in Kosova from September 26-30, 1991, in which 87 percent of all eligible voters cast ballots and 99.87 percent voted in favor of declaring Kosova independent of the Socialist Federal Republic of Yugoslavia,

Whereas, from the occupation of Kosova in 1989 until the North Atlantic Treaty Organization (NATO) military action against the Milosevic regime in 1999, the Albanians of Kosova were subjected to the most brutal treatment in the heart of Europe since the Nazi era, forcing approximately 400,000 Albanians to flee to Western Europe and the United States;

Whereas in the spring of 1999 almost 1,000,000 Kosovar Albanians were driven out of Kosova and at least 10,000 were murdered by the Serbian paramilitary and military;

Whereas Slobodan Milosevic was indicted by the International War Crimes Tribunal and extradited to The Hague in June 2001 to stand trial for war crimes, crimes against humanity, and genocide in Kosova, Bosnia, and Croatia;

Whereas the United Nations established Kosova as a protectorate under Resolution 1244, ending the decade long Serbian occupation of Kosova and Milosevic's genocidal war in Kosova;

Whereas Kosovar Albanians, together with representatives of the Serb, Turkish, Roma, Bosniak, and Ashkali minorities in Kosova, have held free and fair municipal and general elections in 2000 and 2001 and successfully, established a parliament in 2002, which in turn elected a president and prime minister;

Whereas 50 percent of the population in Kosova is under the age of 25 and the unemployment rate is currently between 60 and 70 percent, increasing the likelihood of young people entering criminal networks, the source of which lies outside of Kosova, or

working abroad in order to survive unless massive job creation is facilitated by guaranteeing the security of foreign investments through an orderly transition to the independence of Kosova;

Whereas the Kosova parliament is committed to developing a western-style democracy in which all citizens, regardless of ethnicity, are granted full human and civil rights and are committed to the return of all noncriminal Serbs who fled Kosova during and after the war; and

Whereas there is every reason to believe that independence from Serbia is the only viable option for Kosova, after autonomy has failed time and time again: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the United States should—

(1) publicly support the independence of Kosova and the establishment of Kosova as a sovereign and democratic state in which human rights are respected, including the rights of ethnic and religious minorities, as the only way to lasting peace and stability in the Balkans;

(2) recognize the danger that delay in the resolution of Kosova's final status poses for the political and economic viability of Kosova and the future of Southeast Europe;

(3) work in conjunction with the United Nations, the North Atlantic Treaty Organization, and other multilateral organizations to facilitate an orderly transition to the independence of Kosova; and

(4) provide its share of assistance, trade, and other programs to support the government of an independent Kosova and to encourage the further development of democracy and a free market economic system.

HONORING THE WORK OF GLORIA BURKE

HON. WILLIAM D. DELAHUNT

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. DELAHUNT. Mr. Speaker, I rise today to pay tribute to a woman who has dedicated her life to the safety and well being of the children and families in Weymouth, Massachusetts. She is an individual with a noble sense of compassion and integrity, who is being honored today on the occasion of her retirement from Weymouth Youth & Family Services after 30 years of devoted service.

After receiving her Bachelor's Degree at the University of Massachusetts Boston, Gloria earned a Master's degree in Counseling Psychology from Cambridge College. As a Licensed Clinical Social Worker and Family Therapist, Gloria came to the aid of countless struggling families to overcome the challenges associated with poverty, substance abuse, child abuse, domestic violence, and other social ills.

In 1971, Gloria was hired as the Community Education Director and Therapist for Weymouth Youth and Family Services. After ten dedicated years, Gloria's talents were recognized and she was asked to serve as the organization's Director, the position in which she has excelled in for two decades. Under Gloria's direction, Weymouth Youth and Family Services has provided food to the hungry,

shelter to the homeless, financial assistance to the poor, and counseling to those in crisis. For several years, I have been a proud participant in the Weymouth Youth & Family Services' Annual Christmas Celebration, which Gloria founded and has raised thousands of dollars each year to benefit families in need during the holiday season.

During her tenure with the Weymouth Youth & Families Services office, Gloria has faced head-on the difficult challenges facing the youth in the community—from suicide to drug use, from racism and to violence. Her work as part of the Teen Facility Development Committee, which converted the shuttered police station into a thriving teen center, stands as a testament to Gloria's commitment to providing a promising future for the youth in the Town.

Gloria Burke is Weymouth's own in the truest sense. Born in the Town, she was educated in its public school system, and continues to live there today with her husband Jack, with whom she raised four children.

I am honored today to call Gloria Burke one of my closest friends. She has been a role model for me and the many thousands of those in Weymouth who have been touched by her genuine giving and caring nature. I know that her legacy will continue to be a lasting inspiration to future generations who wish to serve the community.

INTRODUCTION OF BELARUS DEMOCRACY ACT

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. SMITH of New Jersey. Mr. Speaker, I am introducing today the Belarus Democracy Act of 2002, which is intended to help promote democratic development, human rights and the rule of law in the Republic of Belarus, as well as encourage the consolidation and strengthening of Belarus' sovereignty and independence. When measured against other European countries, the state of human rights in Belarus is abysmal—it has the worst record of any European state.

Through an illegitimate 1996 referendum, Alexander Lukashenka usurped power, while suppressing the duly-elected legislature and the judiciary. His regime has blatantly and repeatedly violated basic freedoms of speech, expression, assembly, association and religion. The fledgling democratic opposition, non-governmental organizations and independent media have all faced harassment. There are credible allegations of Lukashenka regime involvement in the disappearances—in 1999 and 2000—of opposition members and a journalist. There is growing evidence that Belarus is a leading supplier of lethal military equipment to rogue states. A draft bill is making its way in the Belarusian legislature that would restrict non-traditional religious groups. Several days ago, on June 24, two leading journalists were sentenced to two and 2½ years, respectively, of "restricted freedom" for allegedly slandering the Belarusian President.

Despite efforts by Members of Congress, the Helsinki Commission which I co-chair, the

State Department, various American NGOs, the Organization for Security and Cooperation in Europe (OSCE) and other European organizations, the regime of Alexander Lukashenka continues its hold onto power with impunity and to the detriment of the Belarusian people.

One of the primary purposes of this bill is to demonstrate U.S. support for those struggling to promote democracy and respect for human rights in Belarus despite the formidable pressures they face from the anti-democratic regime. The bill authorizes increases in assistance for democracy-building activities such as support for non-governmental organizations, independent media—including radio and television broadcasting to Belarus, and international exchanges. The bill also encourages free and fair parliamentary elections, conducted in a manner consistent with international standards—in sharp contrast to recent parliamentary and presidential elections in Belarus which most assuredly did not meet democratic standards. As a result of these elections, Belarus has the distinction of lacking legitimate presidential and parliamentary leadership, which contributes to that country's self-imposed isolation.

In addition, this bill would impose sanctions against the Lukashenka regime, and deny high-ranking officials of the regime entry into the United States. Strategic exports to the Belarusian Government would be prohibited, as well as U.S. Government financing, except for humanitarian goods and agricultural or medical products. The U.S. Executive Directors of the international financial institutions would be encouraged to vote against financial assistance to the Government of Belarus except for loans and assistance that serve humanitarian needs.

The bill would require reports from the President concerning the sale or delivery of weapons or weapons-related technologies from Belarus to rogue states.

Mr. Speaker, finally, it is my hope that this bill will help put an end to the pattern of clear, gross and uncorrected violations of OSCE commitments by the Lukashenka regime and will serve as a catalyst to facilitate Belarus' integration into democratic Europe in which democratic principles and human rights are respected and the rule of law prevails.

LTC RICHARD WANDKE, ARMY RANGER HALL OF FAME INDUCTION

HON. EDWARD R. ROYCE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. ROYCE. Mr. Speaker, I rise today to congratulate and to pay tribute to U.S. Army Ranger LTC Richard "Tex" Wandke (Ret.) of Cypress, CA, on his induction into the Ranger Hall of Fame for exceptional valor and honor throughout his distinguished 25-year military career.

In 1963, LTC Wandke graduated as the Distinguished Military Student from the University of Maine, then went on to complete Ranger school and was assigned as a platoon leader for the Fourth Infantry Division. He then volunteered to serve his country in Vietnam, and

was assigned as an advisor to the 43rd Vietnamese Ranger Battalion.

During his service, LTC Wandke earned various honors for his actions in combat, including two Silver Stars, the Legion of Merit, Three Bronze Stars and Three Purple Hearts. He also earned the Distinguished Service Cross through his valorous conduct in commanding his company on a search and destroy mission in Vietnam on May 27, 1969. When one of the rifle squads under his command surprised seven enemy soldiers and opened fire, hostile reinforcements soon arrived in huge numbers and unleashed tremendous firepower on his company's perimeter. LTC Wandke rallied his men to break the enemy assault, and then directed all of the able men under his command to establish a landing zone to evacuate the wounded. Although wounded himself, LTC Wandke stayed behind to protect the dead and critically wounded, and prevented the enemy from overrunning his position.

Since retiring from active service in 1988, LTC Wandke has been teaching high school ROTC. He is also active in several veterans organizations and was the National commander of the Legion of Valor from 1994-1995. Through his service both on the battlefield and off, he has exemplified the Ranger Creed: Rangers Lead the Way!

Mr. Speaker, I can think of no individual more deserving of inclusion in the Ranger Hall of Fame than LTC Richard "Tex" Wandke. I believe that every American owes LTC Wandke a debt of gratitude, and that he is a singularly excellent role model for all Rangers. I congratulate him on his impressive accomplishment and encourage him to continue his service to the community.

PAYING TRIBUTE TO STACEY ANNE YOUNG

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to wish Stacey Anne Young congratulations upon her acceptance into the University of Detroit Mercy School of Law. She is a hard working individual who has worked with me for the past three years. Her presence will be greatly missed by all.

As a 1999 graduate of James Madison College at Michigan State University, Stacey began working for me shortly thereafter in the Michigan Senate as my Executive Assistant. She was the Committee Clerk for the Senate Human Resources, Labor, Senior Citizens, and Veterans Affairs Committee along with being the scheduler of my day-to-day activities. At all times, Stacey presented herself with professionalism to all of those with whom she came in contact.

Most recently, Stacey played an integral role in my office in the United States House of Representatives. As my office manager, she was responsible for setting up the office, for managing a million dollar office budget, and for supervising several key members of my staff. She also was an asset as my scheduler

and coordinated all of my events and appointments in Washington, DC and in Michigan.

I am extremely impressed with Stacey's positive attitude and dedication. Her sensitivity, diligence, energy, and sense of humor made working with her a joy.

Mr. Speaker, I ask my colleagues to join me in congratulating Stacey Anne Young for her acceptance to law school where I know she will achieve the highest commendation. I wish her much success in all of her future endeavors.

IN HONOR OF KEN PETERSON

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. THOMAS. Mr. Speaker, I rise today to honor the life of a friend and fellow public servant from my Congressional district, Kern County Supervisor Ken Peterson.

Ken was committed to his family, his faith, and his community. Becky, his wife, their eight children and three grandchildren, were Ken's inspiration, support structure and compass. They knew well Ken's motto, "working quietly and effectively." It exemplified the life he led.

The Petersons moved to Bakersfield in the 1970s from Orange County, California. Before dedicating his career to serving his community in public office, he owned and operated a local family business, contributing to the growth and development of the area. In the process, gaining a better understanding of the needs of the people he would later serve.

In 1992, Ken was elected to the Kern County Board of Supervisors and was re-elected to subsequent terms in 1996 and 2000. Previously, Ken served as a member of the Bakersfield City Council, including 2 years as Vice-Mayor. He served as Chairman of the Board of Supervisors in 1995 and 2000 and ably represented Kern County before the United States Senate and House Subcommittees, testifying on the issue of Endangered Species Act Reform.

Ken and I worked together on a number of issues over the years: hospital funding, oil and energy production, land use, private property rights, along with other local concerns of the people who live and work in Bakersfield and Kern County.

A strong advocate for local control and personal responsibility, Ken believed in welfare reform that empowers individuals so that they could take control of their lives. He was also committed to making government more business friendly. He was an ardent protector of free speech and a defender of the Boy Scouts of America. An avid outdoorsman, he enjoyed golf, hunting, hiking and camping with his family.

Ken Peterson was an original. I was honored to know him and work with him. Ken will be missed.

RELATING TO CONSIDERATION OF SENATE AMENDMENT TO H.R. 3009, ANDEAN TRADE PROMOTION AND DRUG ERADICATION ACT

SPEECH OF

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Ms. WATERS. Mr. Speaker, I rise to oppose H. Res. 450, an unprecedented and undemocratic "bill-in-a-rule" on our nation's trade policy.

Normally, the House passes a "rule" to specify the procedures for consideration of a bill. A "rule" for the consideration of a trade bill would determine how many amendments will be allowed and how long the debate will last before a final vote on the bill. H. Res. 450, however, is a "rule" that actually provides for the automatic passage of a 191-page trade bill. The Republican leadership is trying to force the Congress to pass a 191-page trade bill with no opportunity for amendments, no final vote on the bill and virtually no time for debate.

This 191-page "bill-in-a-rule" includes the text of H.R. 3005, the Republican Fast Track trade bill that was passed by the House on December 6, 2001, by a one-vote margin. H.R. 3005 is a trade bill that would sacrifice labor and environmental protection in the name of free trade.

H.R. 3005 would not require our trade negotiators to promote labor rights or protect the environment. It would not even require our trading partners to prohibit sweatshops, forced labor, child labor or slavery. Instead, it would allow our trading partners to weaken their environmental standards in order to gain a competitive advantage over the United States. It would also require our trade negotiators to expand the rights of foreign investors to sue governments and demand compensation for the impacts of public interest, food safety and environmental regulations. Clearly, H.R. 3005 would do more to promote corporate power than trade.

The Republican leadership's "bill-in-a-rule" also includes several trade provisions that have never been considered by Members of the House of Representatives. This "bill-in-a-rule" cannot be amended and has never been considered by any House committee with jurisdiction over any aspect of our nation's trade policy.

I urge my colleagues to oppose this "bill-in-a-rule" that attempts to expand corporate power without committee hearings, markups or amendments and only one hour of debate on the Floor of the people's House.

UPON THE OCCASION OF COST OF GOVERNMENT DAY

HON. ADAM H. PUTNAM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. PUTNAM. Mr. Speaker, this year Cost of Government Day falls on June 29. This

date represents the day on which the average American worker has earned enough gross income to pay off his or her share of the tax and regulatory burdens imposed by all levels of government—federal, state and local.

The largest component of the Cost of Government is federal taxes, which account for 44 percent of your total cost of government. Federal regulation, state and local taxes each account for another 21 percent, with state and local regulation accounting for 13 percent.

Cost of Government Day is 2 days earlier than it was last year and lower than it has been in 5 years, since 1997. This is primarily due to the two tax cuts passed by Congress and championed by President George W. Bush. The Economic Growth and Tax Reform Reconciliation Act of 2001 (EGTRRA), enacted in May 2001, and the Job Creation and Worker Assistance Act of 2002, enacted in March 2002 have moved Cost of Government Day in the right direction.

This decline is all the more remarkable because the United States is involved in a major military conflict, the war on terrorism, and is emerging from an economic slump. The economic downturn, which was almost certainly exacerbated by the September 11 terrorist attacks on New York and Washington, could have had a more negative effect on our recovery. Through the swift action of Congress and President Bush, appropriate policies to encourage economic growth, including reducing interest rates and taxes were implemented. Through the partnership of President Bush and Congress, America's workers, entrepreneurs and investors were given the means to put our economy on the road to recovery.

The Cost of Government is still substantially higher than during the 1980s, when President Reagan led the nation in bringing Cost of Government Day down to mid-June—returning to that level should be our goal.

A lower Cost of Government means more of the money produced by workers, investors and entrepreneurs is left in the hands of those who earned it; the taxpayer. A lower cost of government expands economic freedom for all Americans. A lower cost of government increases personal choice and control. A lower cost of government allows those participating in the economy to choose what to consume, how much to save or invest. Ultimately, a lower cost of government allows every American to improve their quality of life and to spend more of their hard earned money on the things most important to themselves and their family.

THE INTELLECTUAL PROPERTY
PROTECTION ACT

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. SMITH of Texas. Mr. Speaker, today is world Anti-Counterfeiting day.

Countries around the globe will highlight the growing problem of counterfeiting and the efforts by law enforcement and private industry to combat intellectual property theft.

Today I introduced a bill to address counterfeiting and copyright piracy. The Intellectual

Property Protection Act will help protect American innovation and creativity.

The Intellectual property industry employs 4.3 million Americans, making it one of the largest sectors of the American economy—and a sector threatened everyday by copyright piracy.

Copyright piracy is illegal and puts Americans at risk of losing not just their jobs and economic well-being, but their safety, as well. The profits seized by these criminals are often used to fund other illegal activities, including terrorism.

News stories have revealed that terrorist organizations receive hundreds of millions of dollars through pirate operations. For example, police in Argentina and Paraguay uncovered a pirate CD business that has used its profits to underwrite terrorist activities for Hezbollah. The more we crack down on piracy, the more we dry up financial resources for terrorist operations.

Under current law, we can prosecute someone for trafficking in fake labels for a computer program, but we cannot prosecute someone for faking the hologram used by the software maker to verify that the software is genuine.

For instance, if a person manufactures fake covers for counterfeit CDs, he or she can be prosecuted. However, if that same person creates fake holograms to make buyers believe that the CDs are authentic, there is no recourse.

We have criminalized trafficking in counterfeit documentation and packing of software programs, but not music and other products.

The Intellectual Property Protection Act will criminalize the counterfeiting of authentication features, like holograms. In addition, the bill will expand criminal law, which currently only criminalizes trafficking in counterfeit documentation and packaging for software programs, to include documentation and packaging for music, motion pictures, and other audiovisual works.

This bill also will provide relief for victims of intellectual property crimes. Many of these crimes go unprosecuted today, leaving victims of these thefts without a way to recover their losses.

Last year, the retail software industry lost \$1.8 billion and the business software industry lost \$11 billion in revenue because of piracy. The motion picture industry lost \$3 billion in potential worldwide revenue and the recording industry lost \$4.3 billion worldwide due to piracy. These are staggering figures—especially considering there is no way to recover this lost revenue.

The legislation provides a private cause of action with a 3-year statute of limitations for victims to recover damages in federal court. In addition, if a person violates the anti-counterfeiting laws a second time within three years, treble damages will be available.

We must protect and encourage American originality and innovation. This bill goes a long way towards doing that.

RECOGNIZING THE HISPANIC ASSOCIATION OF COLLEGES AND UNIVERSITIES (HACU) NATIONAL INTERNSHIP PROGRAM

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. REYES. Mr. Speaker, as Chair of the Congressional Hispanic Caucus, I rise today to recognize the achievements of the Hispanic Association of Colleges and Universities (HACU) National Internship Program and its federal and private-sector partners in providing Hispanic college students with invaluable real world working experiences that have allowed these students to make more educated career choices.

Over the past ten years, the HACU National Internship Program (HNIP) has introduced more than 3,800 Hispanic college students to meaningful paid internships with federal and corporate partners during the spring, summer and fall. This has become the largest Hispanic college college internship program in the United States.

The HACU National Internship Program exposes these students to public and private sector career opportunities and specifically helps address the historic under-representation of Hispanics in the federal work force. Many former interns are now full-time federal employees and managers, proving that the program truly is making a difference.

On July 10, 2002, the HACU National Internship Program will celebrate its 10th Anniversary at a "Red, White y Azul—Investing in the American Dream," Gala in Washington, D.C. This gala will showcase the achievements of former and current interns as part of a summer-long series of special events marking this remarkable program's first 10 years.

The HACU National Internship program began in 1992 with 24 interns. In 2001 alone, the program provided paid 10- and 15-week internships to 632 interns working at 19 federal agencies and five private corporations in Washington, D.C., and at locations throughout the United States. By the end of 2002, the program likely will set another record in the numbers of participating interns from throughout the country.

This competitive program selects top students from among HACU's 318 member and partner colleges and universities, which collectively serve more than two-thirds of all Hispanic students in higher education. This program provides meaningful work experiences to these students by matching their skills and career goals with the objectives of federal and corporate partners, enabling these students to make more informed career choices.

Based on formal program evaluations from students and supervisors, the HACU National Internship Program boasts a proven track record in positively addressing the underrepresentation of Hispanics in the federal work force. Ninety-five percent of students surveyed in 2001 rated their internship experience in the

federal government as "excellent." More importantly, 73 percent of the 2001 summer students stated that they are interested in pursuing a career in federal service. Of those students, 82 percent said it was a direct result of their internship experience.

Mr. Speaker, it is no secret that Hispanics remain the only under-represented ethnic group in the federal government. As you know, Hispanics currently comprise 11.9 percent of the civilian labor force but only 6.7 percent of the permanent federal workforce. Recent reports also estimate that within the next five years, more than 50 percent of the current federal work force will become eligible to retire.

As the youngest and now largest ethnic population, Hispanics already make up one of every three new workers in the overall workforce, and by 2050 are projected to make up one of every two new workers. Thus, the HACU National Internship Program directly addresses both the historic under-representation of Hispanics in the federal labor force and the need to address the coming shortage of public service sector employees overall.

In addition, this program fully supports White House Executive Order 13171, which requests that federal agencies increase their outreach to the Latino community and support programs that help address the continuing under-representation of Hispanics in federal workforce ranks. The HACU National Internship Program is Point Four in the Office of Personnel Management Nine-Point Hispanic Employment Initiative as an effective, proven tool to recruit well-qualified Hispanics into the federal government.

I salute those who have made the HACU National Internship Program a success. Their efforts will continue to open the doors to opportunity for new generations of exceptional students while enhancing the diversity of our workforce.

A SPECIAL TRIBUTE TO THE CITIZENS OF OTTAWA COUNTY ON THE DEDICATION OF THE NEW PERRY'S MEMORIAL VISITORS' CENTER

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. GILLMOR. Mr. Speaker, it is with great pride that I rise today to pay special tribute to those dedicated individuals from Ohio's Fifth Congressional District who made this new visitors' center at Perry's Memorial a reality.

Mr. Speaker, The new visitors center at Perry's Victory and International Peace Memorial is a welcome addition to this to this wonderful park, and one that has been long sought.

The monument itself has long stood as an inspiring reminder of the enduring peace of nearly two centuries between the United States and Canada. It is a moving and educational destination for thousands of families.

The park and monument commemorate one of the most important and decisive battles in American history. The victory of Commodore Perry and American naval forces over the Brit-

ish off the shores of this island changed the course of American history, and facilitated the westward movement of our nation across the continent. It ushered in an unprecedented period of peace and friendship.

The visitors' center for the first time provides a means of explaining to visitors the significance of these events. It is the culmination of the efforts of many over a period of years. Some years ago I met with the leaders of the Perry Group, citizens joined together to promote this park, to begin discussions regarding the need for this center and how to achieve it. I commend the group and its strong leaders such as Judge George Smith and Ann Heidenreich Fisher for their tireless and successful work.

I was fortunate to obtain approximately two million dollars in federal funds so that this project could come to fruition, and I wish to thank my colleague, Congressman RALPH REGULA, for his invaluable help in making it happen. I also commend the superintendents at the park during this period for their efforts in support of this center, including our current Superintendent Ralph Moore, and his predecessors Dick Lusardi and Phyllis Ewing.

Mr. Speaker, I ask my colleagues to join me in paying special tribute to the diligent effort and unwavering spirit of those individuals determined to see this project through to completion. Our communities are served well by having such honorable and giving citizens who care about the education that future generations receive so that our historical landmarks are preserved well into the future. I am confident that this new visitors' center will serve as an educational tool for all, and be our link to a piece of American, and Ohio, history.

PERSONAL EXPLANATION

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. NETHERCUTT. Mr. Speaker, on Monday, June 24, 2002 I missed the following votes. Had I been present I would have voted "yes" on the following votes:

Rollcall Vote No. 249—H.R. 3937, a bill to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

Rollcall Vote No. 250—H.R. 3786, the Glen Canyon National Recreation Area Boundary Revision Act of 2002.

Rollcall Vote No. 251—H.R. 3971, a bill to provide for an independent investigation of Forest Service firefighter deaths that are caused by wildfire entrapment or burnover.

Rollcall Vote No. 252—H.J. Res. 95, Designating an Official Flag of the Medal of Honor and Providing for Presentation of that Flag to each Recipient of that Medal of Honor.

REAFFIRMING OUR SUPPORT FOR NATO AND ENLARGEMENT

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. GALLEGLY. Mr. Speaker, today I am introducing a Resolution which addresses the importance of NATO, its future, enlargement and continued U.S. support for the Alliance.

In just five months, the Heads of State and leadership of NATO will meet in Prague to, among other things, discuss the future of the Alliance and its capability to address new and emerging threats and to make a decision on the enlargement of the alliance. It has been eight months since the House of Representatives debated NATO enlargement and overwhelmingly passed the Gerald Solomon Freedom Consolidation Act.

Since then, there has been a great deal of debate within the Bush Administration, within the international community of experts and among the NATO partners with respect to NATO's future.

But since we last discussed whether new members should be invited into NATO, I felt we should take a moment to discuss exactly what type of alliance we will be inviting new members to join and what we believe the role of this alliance should be in the future. I also wanted to address the relationship between NATO and Russia which many Members raised during the House debate on the Solomon bill last November.

To that end, as Chairman of the Europe Subcommittee I held three comprehensive hearings on the question of NATO and enlargement. We heard from outside experts, we met with the Ambassadors of the ten candidate states and we heard from the Bush Administration and our SACEUR. The resolution I am introducing today is the work product of those hearings and all the other meetings and briefings which have taken place in between.

Clearly, NATO must maintain its political purpose and military coherence.

In this context, I disagree with those who believe that in this post-Cold War and post-September 11 era, NATO may no longer be relevant to the overall security of the United States.

NATO is indeed relevant to the U.S. NATO remains the foundation of American security policy in Europe. NATO has proven to be a strong and viable alliance preserving the collective security of Europe for over 53 years.

Back in 1949, when the Senate debated the ratification of the North Atlantic Treaty there was concern about what Article 5 would commit the U.S. to do in Europe. Isn't it ironic that the first time in 53 years Article 5 was invoked, as it was on September 12, it was invoked by our allies in defense of the U.S.

NATO was relevant in ending the brutal conflicts in both Bosnia and Kosovo. Today, our NATO Allies provide eighty percent of the military forces remaining in those countries. And, NATO, working with the European Union, was instrumental in helping resolve the problem in Macedonia before things got out of hand.

Since September 11, NATO's relevance has been clear with respect to the campaign

against global terrorism and the war in Afghanistan. Although the Afghan campaign was never a NATO operation, fourteen of our allies from NATO, with some 5,000 troops are operating today side-by-side with U.S. military forces in Afghanistan as many of them have been since the first days of the conflict. Just last week command of the International Security Force transferred from British forces to Turkish forces, both NATO partners. Where would the U.S. effort be if these NATO partners considered themselves too irrelevant to help keep the peace in Afghanistan. Whose 5,000 troops would be patrolling the streets of Kabul if not for NATO forces.

I also disagree with those who believe that unless NATO is willing to undergo major restructuring to become a global rapid reaction force in the war on terrorism, it can no longer be relevant. Global terrorism and weapons of mass destruction are challenges worthy of NATO concern and capability to act against and NATO must seriously address these issues between now and Prague. But at the Ministers meeting in Reykjavik in May and the Defense Ministerial in June, NATO leaders did address the realities of the new and emerging threats and have committed, with strong U.S. support, to build the capabilities necessary to address them. For many, NATO does not have to be present in places like the Philippines, or Sudan or Kashmir or even Iraq to be relevant. These matters, while important, should not be seen as the only issues which define NATO for the future.

With respect to Russia, I believe the concerns expressed by some of our Colleagues last November and since then had great merit and needed to be clarified by NATO. At the Iceland summit, the U.S. and NATO initiated a new relationship with Russia which resulted in the formation of a new NATO-Russia Council which was inaugurated in June at the Rome summit between NATO heads of state and Russia President Putin. I believe this new relationship represents a breakthrough in NATO-Russia relations and should address the concerns of many.

Finally, an essential aspect of NATO is the welcoming of new members into the alliance.

I believe enlarging NATO does contribute to the overall security of the United States because membership in NATO does enhance overall European stability and security. We are encouraged by the number of applicants for NATO membership and their dedication and enthusiasm to achieving that goal. As we all know, there are ten applicant countries who have decided that NATO is certainly relevant to them and an organization in which they wish to be a member. But, NATO membership for them is more than joining a military alliance. For them, it will be a validation of their return to being democratic, European and pro-western states. The process under which these applicants are being evaluated, called the Member Action Plan, has been a useful tool for us to analyze their own commitment to meeting the political, economic and military standards expected of all members of the Alliance.

Mr. Speaker, my resolution addresses all of these issues in a comprehensive way. Our Subcommittee intends to mark this resolution in the Fall and will consider endorsing can-

didate countries for NATO membership at that time and based on the best information we have on their readiness to contribute to the overall security of the Alliance. It is my hope that the House Leadership will then make time for another opportunity to debate NATO and the enlargement issue.

Mr. Speaker, I believe NATO is as important for transatlantic security today than it was fifty-three years ago when it was created. I ask my Colleagues to cosponsor my resolution and to continue to support NATO.

SUPPORTING H.R. 4635—ARMING
PILOTS AGAINST TERRORISM ACT

HON. JIM MATHESON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. MATHESON. Mr. Speaker, I rise in support of H.R. 4635 the Arming Pilots Against Terrorism Act. This is a very sensible piece of legislation. We have a duty to provide pilots with the same tools shop keepers and mall security guards and others use in the protection of their property and the safety of their customers.

As the events of the morning of September 11 unfolded, the President gave the Air Force the authority to shoot down any commercial airline that did not respond to authorities. For the first time in our history, the American military had the authority to take action against American civilians.

That single horrible thought—that the United States government might have to use lethal force against American citizens who were unlucky enough to get on the wrong flight—should give us enough reason to pass this legislation.

Pilots need a last line of defense. They need the ability to defend the plane, the cockpit, and most of all, the passengers. We need to give our pilots the same opportunity for self-defense our Constitution provides to everyone else.

This is a good compromise. It is the product of good legislating workmanship by Chairman YOUNG, Chairman MICA, and Congressmen OBERSTAR and LIPINSKI. It is an example that debates about the Second Amendment need not be filled with mischaracterized rhetoric, but rather be premised on what's good for the American people.

PERSONAL EXPLANATION

HON. WILLIAM L. JENKINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. JENKINS. Mr. Speaker, I was not present to cast my votes on rollcall votes 247 through 257 on June 21, 24, and 25, 2002. Had I been present, I would have voted "no" on rollcall 247. I would have voted "aye" on rollcall votes 248 through 257.

HONORING STUDENTS, PARENTS,
TEACHERS, AND ADMINISTRATORS
OF CSD 30

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. CROWLEY. Mr. Speaker, I rise to acknowledge to the parents, teachers and students of Community School District 30 in Queens, NY.

Community School District 30, comprised of the neighborhoods of Sunnyside, Woodside, Astoria, Long Island City, Jackson Heights, and East Elmhurst is one of America's most diverse school districts and truly represents the face of America.

School District 30 serves some of the most diverse students in New York City and over 50 languages are spoken in the homes of the kids who go there.

A recent state-mandated report noted that the most recently reported test scores are among the best in the city.

In fact, for 2 years in a row, the district beat its target scores on State tests. And this year the suspension rate is down by 58.9 percent. These results are not coincidence. These results are because of the district's commitment to improving its schools. They employ innovative approaches to addressing the problems faced by all schools such as peer mediation and crisis intervention before students become a problem. Their Operation Return program, sends students with disciplinary problems to one school where they can get one-to-one counseling and receive excellent instruction in small groups. The program gives the kids confidence they need to succeed when they return to their permanent schools.

School District 30 is a wonderful story and credit is due to a lot of people, but one I would like to credit is superintendent, Dr. Angelo Gimondo. And also the wonderful United Federation of Teachers members who give their heart and soul to teaching the kids of School District 30. School District 30 can serve as an example, not only for other school districts, but also for us in Congress. School District 30 is an example of what happens when public officials—who provide adequate funding for educational programs—work with teachers, parents, and administrators to care for our young people.

PERSONAL EXPLANATION

HON. BARON P. HILL

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. HILL. Mr. Speaker, on June 24, 2002, due to a delayed flight, I missed three votes on the House floor.

Had I been present, I would have voted "yes" on rollcall votes 249, 250, and 251.

HONORING JUSTICE MOSES M.
WEINSTEIN

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. ACKERMAN. Mr. Speaker, I am pleased to rise today to honor Justice Moses M. Weinstein, a distinguished public servant and a good friend on the occasion of his very special birthday.

Moses Weinstein served for eleven years in the New York State Assembly, where he was Majority Leader from 1965 to 1968. He was Speaker of the Assembly in 1968 and served as Acting Governor of the State of New York during August 1968. In 1970, Moses Weinstein was elected to a fourteen-year term as a Justice of the Supreme Court of New York State.

During his time as a legislator, Justice Weinstein sponsored the following important pieces of legislation: Creation of Crime Victims Compensation Board; creation of Temporary State Commission for Transplantation of Vital Organs; increasing number and amount of Regent Scholarships; and creating Mid-Atlantic States Air Pollution Control Committee.

Justice Weinstein has also been an integral member of his local community. The following is a list of some of his countless activities in his home community: Director and Treasurer of the Queens County Multiple Sclerosis Society; organizer of the Queens Children's Rehabilitation Service; charter board member of the Mid-Queens Child Guidance Center; and counsel to the Kew Gardens Hills Athletic Association.

Justice Weinstein has also been the recipient of countless awards and dedications. Among his awards are: "Human Rights" award from B'nai B'rith for "outstanding and distinguished leadership in the cause of human rights"; and commendation during Battle of the Bulge, United States Army; U.S.O. Man of the Year; Queens Lighthouse Man of the Year; Distinguished Service Award from the Queens Country Optometrical Society; Anti-Defamation League award from B'nai B'rith; Annual Legislative Award from the Jewish War Veterans of New York State; Annual Meritorious Citation from Affiliated Young Democrats of New York State; "Man of the Year" award, 1983, from Brooklyn Law School; Honorary degree of Doctor of Laws, 1983, by Brooklyn Law School; President, Zion Organization of Kew Gardens Hills; Member of the National Executive Committee of Zionist Organization; President, Patrons Club of Long Island Zionist Region; Long Island Chairman of Israel Bonds Campaign; and United Jewish Appeal, Chairman.

Justice Weinstein is a resident of Kew Gardens Hills where he lives with his wonderful wife, the former Muriel Marshall. The Weinsteins are the proud parents of three sons, each of whom have followed their father's example into the field of law. His son Jonathan is currently a Supreme Court Examiner in Queens County; his son Peter, formerly a State Senator in Florida, is presently a Circuit Court Judge; and his son Jeremy, a former New York State Senator, is a Justice of the Supreme Court of New York.

I ask my colleagues to join me in honoring Justice M. Weinstein on this special birthday occasion. Justice Weinstein's illustrious career, tireless dedication and unmatched kindness will be a beacon of guidance for future generations of civil servants, jurors and legislators.

CONGRATULATING MS. DELORES
A. HOLMES

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Ms. SCHAKOWSKY. Mr. Speaker, I rise today to thank and congratulate Ms. Delores A. Holmes upon her retirement as Director of Family Focus in Evanston, Illinois. Through her lifelong journey of service in Evanston, Delores has proven to be a true community hero.

For more than 26 years, Delores has reached out with persistence and optimism to promote healthy child development through family support. From her work with teenage parents, to engaging students through after-school programs, to providing important childcare and early learning opportunities for infants and toddlers, she has sought out and served those most in need. What Delores Holmes does best is teach people to see the greatness in themselves and in their community. She provides them with the tools they need to achieve their fullest potential.

Delores' dedication, selflessness, and insight have inspired and motivated citizens from all economic levels and from all walks of life. Her passionate fight to improve our community and empower our neighborhoods have earned her many awards and countless tributes from all around the nation, including recognition from the National Head Start Parent Association, the NAACP Community Work Award, and Parent Magazine's As They Grow Award.

Delores' perseverance and desire to get the most out of life and to improve the lives of others is evident in her own story. After marrying and having two children, Delores went back to school to earn a bachelor's degree from Northeastern Illinois University, and then ten years later, a Master's degree in education from the National College of Education in Evanston, IL. She went on to donate her time to numerous organizations and committees, and has served on the Board of Directors of the National Organization of Adolescent Pregnancy and Parenting, the Northern Cook County Private Industry Council, and the Evanston Chamber of Commerce.

On behalf of the community to which she has given so much, I thank Delores for her outstanding commitment and dedication. Her legacy of service will always be remembered and appreciated. I wish her health and happiness in her retirement.

IN RECOGNITION OF THE 10TH ANNIVERSARY OF THE INCORPORATION OF THE TOWN OF WINDSOR

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize the Town of Windsor in Sonoma County California as this community celebrates the tenth anniversary of its incorporation.

Windsor has been a prosperous rural community for more than 150 years. The first Post Office was established in 1855 and by the 1870s it was a regular stop on the railroad line. The town's first housing development was completed in the 1950s and by the 1970s, community leaders spearheaded an unsuccessful attempt to incorporate.

In 1992 the community was successful and Windsor officially became Sonoma County's ninth city on July 1, 1992. Since its incorporation, Windsor has invested city funds to improve roadways, utilities and public facilities.

The Senior Center and Community Center were dedicated in 1995. The Town's first library opened in 1996. A year later, the Town dedicated Pleasant Oak Park and began its first teen program. The Teen Center opened in 1999 and the Town Green was dedicated in 2001. The Town has drafted future plans for a new train station for commuter and excursion rail.

Since incorporation, the Town has been guided by dedicated public servants elected to the Town Council. Original council members were Julie Adamson, Maureen McDaniel, Allan Rawland, Joseph Rodota, and Barbara Siegler. The Council is currently served by Mayor Sam Salmon and members Steven Allen, Debora Fudge, Lynn Morehouse, and Steve Scott.

Mr. Speaker, it is appropriate that we acknowledge and honor the Town of Windsor today as this pioneering community celebrates its tenth anniversary.

HONORING THE TELLEZ FAMILY

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Ms. SOLIS. Mr. Speaker, I rise today to honor a very special family celebration that will take place on June 29, 2002, in the town of Clifton, Arizona. On Saturday, the Tellez family, many members of whom now reside in my district in California, will be honored for its dedication and service in valiantly defending our nation in the U.S. Armed Forces. The family will be recognized by the Hermanos de Vietnam, a division of the American Legion Post in Clifton, Arizona, for its combined 30 years of service in the U.S. military.

Remarkably, 11 out of the 15 family members have served in the military. The legacy began when Florencio Tellez, the family patriarch, served in the Army during World War I. His eight sons and two daughters followed in their father's footsteps.

Ruben and Florencio Tellez, Jr., both served in the U.S. Navy during World War II. Ruben Tellez served with the airborne division as a radio man, and Florencio, Jr., survived when his ship was struck by the Germans and sunk.

Raul, Joe and Gilbert Tellez all served in the Korean War. Raul and Joe were in the Navy and served on the same ship; Gilbert was a Marine who was wounded by enemy fire.

Richard Tellez, served in the Navy during the 1950s and continued as a reservist through Desert Storm.

His brothers Edward and Oscar "Duffy" Tellez served during the Cold War era. Edward was in the Air Force stationed in Iceland, and Oscar joined the Army and was stationed in Germany.

Florencio's two daughters also devoted themselves to the U.S. military. Stella Tellez was in the Marine Corps, and Katherine Tellez was in the Cadet Nurse Corps, a group that addressed the nursing shortage in civilian hospitals.

This remarkable family has given more to our nation than anyone would ever have thought possible. I urge my colleagues to join me in honoring the Tellez family for their valiant and courageous service to our country.

NEW LOWS FOR RELIGIOUS FREEDOM IN UZBEKISTAN

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. SMITH of New Jersey. Mr. Speaker, over the past several weeks, Uzbek authorities have increased the harassment and suppression of religious groups viewed as a threat to the government's control of society. Uzbek authorities have systematically sought to stifle all aspects of religious life, including Muslim and Christian. It is currently believed that nearly 7,000 individuals are jailed for alleged crimes related to their religious affiliation or beliefs. Human rights organizations estimate that during the past year Uzbek courts convicted roughly 30 people a week under trumped-up charges.

Unfortunately, the list keeps growing. At the end of May, police arrested Yuldash Rasulov, a well-known human rights defender and devout Muslim. Rasulov's work through the Human Rights Society of Uzbekistan focused on government actions against Muslims choosing to worship outside the government-approved religious system. According to Human Rights Watch, officials charged Rasulov with "religious extremism," claiming he recruited Islamic militants to work toward overthrowing the state. Notably, a search of his home reportedly found nothing of an incriminating nature. Since being arrested, Rasulov has been held in incommunicado detention.

Authorities also targeted Musharaf Usamnova, the widow of a prominent Muslim activist Farhod Usmanov. Her husband was reportedly murdered in an isolation cell while in government custody in 1999. Uzbek officials arrested Musharaf in April, bringing over 50

men to ensure her capture, and her situation is unknown at this time. Soon thereafter, the government arrested several other women who were protesting the long prison sentences given to relatives and Muslim activists. The court sentenced these women to jail terms, some up to four years.

Adding to the concern about the treatment of these individuals is the rampant torture throughout the Uzbek "justice" system. Once in custody, many are savagely tortured and beaten in hopes of securing self-incriminating statements or evidence against other suspects. To ensure convictions, police authorities plant evidence on innocent individuals, such as weapons, drugs or banned religious propaganda. Judges hand out harsh prison sentences, despite claims of pervasive torture. Furthermore, prison conditions are abominable, infested with disease and pestilence. Individuals imprisoned on religious offenses are reportedly treated extraordinarily harsh; persons wishing to pray are subjected to further beatings and harassment. Incommunicado detention and disappearances of individuals also occur.

Also of serious concern are the extrajudicial executions that transpired over the past year. Human rights organizations reported on the deaths of five individuals while in police custody. Despite some Uzbek Government reports listing the cause of death as "heart attack" or "brain tumor," the open wounds, broken bones and multiple bruises on the corpses tell a very different story. Clearly, there is much cause to worry about the safety of all individuals in prison.

Besides physical arrests, the legal regime governing religious groups is designed to repress religious activity. Through these laws and regulations, the government places religious groups in an untenable situation. The government seems to allow approved mosques to operate and permits Christian communities to exist in relative peace (if they do not attempt to proselytize indigenous groups not traditionally Christian). Otherwise, for other religious groups, obtaining official recognition is nearly impossible, and the real threat of government repression looms large.

The 1998 Freedom of Conscience and Religious Organizations law instituted registration requirements designed to make achieving official recognition next to impossible. The 1999 amendments to the criminal code increased the importance of registration, as individuals attending an unregistered group are potentially subject to three to five years imprisonment for belonging to an "illegal" group. Individuals caught attending meetings of "banned" religious communities risk up to 20 years imprisonment. Uzbek courts frequently hand down lengthy prison sentences for alleged participation in illegal or banned groups. In addition, the religion law bans religious free speech and private religious instruction, and only permits government approved clerics to wear religious dress.

In recent weeks, Uzbek authorities appear more willing to use these provisions to repress unwanted groups and silence dissent.

Most recently, on May 25th, Uzbek officials raided the Mir Protestant Church in the Karakalpakstan region in western Uzbekistan. The raid, justified because the church is un-

registered, interrupted a service and recorded the names of individuals representing local nationalities, such as Kazakhs and Uzbeks. Authorities ordered individuals of those ethnic groups to appear in court to explain their participation. While the court did not impose a fine, in a similar case in the same region, a court did fine four members of the New Life Church for violating the law on religious organizations.

Similarly, due to an inability to register, the small Christian community in Muinak has been denied permission to meet. According to Keston News Service, church members are now forced to meet in secret. Furthermore, the leaders of the Jehovah's Witnesses in the town of Bukhara could be sentenced to five years in jail for leading an "illegal" religious service, as their community is unregistered. In addition, in May a Tashkent court found a Jehovah's Witness guilty and fined him for illegal religious teaching when he was caught praying at a friend's funeral.

Even more alarming was the request by the Uzbek Committee for Religious Affairs that Protestant groups stop preaching the Uzbek language, the country's official language.

Mr. Speaker, the overall situation for religious freedom, and human rights generally, in Uzbekistan is bleak. Despite US involvement in the region, the recent increase of government efforts to suppress unrecognized religious groups is deeply troubling. Consequently, I urge the Uzbek Government to honor its commitments as a participating State in the Organization for Security and Cooperation in Europe.

WILLIAM F. GOODLING EVEN START FAMILY LITERACY PRO- GRAM

HON. SUSAN DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mrs. DAVIS of California. Mr. Speaker, I am pleased to offer a bill today that will support the learning opportunities of our most vulnerable children by supporting their literacy training from their very earliest days until they are in school.

These are children of families who qualify for Even Start because they are low socioeconomic families who may also be English learners.

Without the existing William F. Goodling Even Start Family Literacy Program, these children would arrive for their first day of school without the literacy skills to compete at that starting line. Even those who were able to get a scarce place in the Head Start program, would find that, hard as they worked through their school years, they were unlikely ever to catch up.

The population served by Even Start generally has low levels of education, with 86 percent of parents not having completed high school upon entering the program (compared to about 27 percent of Head Start parents). Eighty percent of participants have a family income below \$15,000 and over 40 percent have income below \$6,000. This is a high need population.

What the program offers is both literacy-training classes for the children and also family literacy programs for the parents. Children participating in Even Start are provided with age-appropriate educational services to ensure that they will achieve at a level similar to that of their peers. Liaison advisors work with each family to promote strong literacy support experiences, to help parents learn ways they can develop their own English literacy skills, and to provide support groups for parents to share the challenges and skills of parenting.

Adults in these family literacy programs tend to participate longer than those in regular adult education programs because of the benefits family literacy programs provide to their children. They see benefits such as improved literacy skills, reduced dependency on federal/state assistance programs, and enhanced employment opportunities. Most importantly, they are empowered to be their child's first and most important teacher.

Nationally, Even Start funds approximately 1,400 programs and serves approximately 50,000 families.

This bill will set aside funding to establish nationwide programs to assist in the training of program directors and facilitators in research-based literacy training skills. Because of new legislation, particularly the new qualifications for personnel, the performance objectives, and the new "scientifically-based reading research" requirement for instructional programs, local Even Start programs need this type of assistance.

Additionally, I have requested an evaluation to provide a longitudinal look at the achievement of children who have been assisted by the program.

When I have visited Even Start classes for children and for their parents, it is overwhelming to hear their expressions of appreciation for the program and its leaders. Adults expressed amazement at the change in their children's feeling about reading and learning when they made reading together a regular part of their day. One mother told me how she thought she couldn't help her five year old with reading, but, thanks to the program, she realized that it was good for them to read together and help each other with the words each didn't know.

President Bush has declared that an additional step in his efforts to reform education will be to prod parents, day-care centers and preschools to teach more skills to children before they get to kindergarten. Even Start provides just such a program for parents to develop the literacy skills enabling them to perform this task.

All children deserve an even start. This bill will assure that they have well-trained facilitators to give their families the skills to compete fairly at the starting line.

at his home, surrounded by his loved ones, early on June 26th. Dan was a talented businessman, a lifelong scholar, and a devoted father and husband; I was proud to call him my friend. His passing leaves a great void in our lives.

Dan was only 44 years old. He was compassionate, but cancer is not. It strikes tragically, without warning or reason. His future was staggeringly full of possibility, and I am so saddened to think of how much more Dan had to experience and give.

Dan was a brilliant man. He was a top graduate of Princeton University and a Rhodes Scholar at Oxford. We marveled at his intelligence, his insight, and his ability to see problems in new ways. His mind was always the mind of a scholar, deeply fascinated by the complexity of finance and economics. He possessed a sharp and subtle intellect that was uniquely suited to business but never confined by it.

Dan was a star in the business world, rising to become one of the most important business leaders in the nation. As Chairman and CEO of Hambrecht & Quist during the height of the new technology boom, Dan helped to finance hundreds of companies, including Genentech, Netscape, Adobe, and other leaders in the high technology field. Under his leadership, Hambrecht & Quist grew to become a powerful financial player, providing resources and guidance for emerging companies in a wide range of technology areas. In 1999, Dan presided over Hambrecht & Quist when it was acquired by JPMorgan Chase. After the merger, Dan continued to advise and fund emerging companies.

Dan's intelligence was only surpassed by his character. His friends and family respected him for his foresight and genius but loved him for his kindness and modesty. He was a caring husband, father, son, and brother. He gave back to the community in countless ways, donating generously to a number of community organizations, including the San Francisco Exploratorium, the San Francisco Ballet, and the United Way. Always committed to education and learning, Dan worked with other technology industry leaders to improve public education and played an important role in passing Proposition 39, the California school bonds initiative. After he was diagnosed with cancer, he founded ABC2, which funds research aimed at finding a cure for brain cancer.

To his wife Stacey, to his four children, Alexander, Winston, John Daniel, and Charlotte, to his parents, Dan and Carol, to his brothers Steve and Jeff, and his sister Carin, I extend my deepest sympathies. I hope that it is a comfort to Dan's family that so many people share their loss and are praying for them at this sad time.

TRIBUTE TO NORMAN W. JETER
OF HAYS, KANSAS

HON. JERRY MORAN
OF KANSAS

IN THE HOUSE OF REPRESENTATIVES
Thursday, June 27, 2002

Mr. MORAN of Kansas. Mr. Speaker, I rise this evening to pay tribute to Mr. Norman Jeter on his 90th birthday.

There are few in my hometown that do not know Mr. Jeter. He came to Hays, Kansas 65 years ago, in the midst of the Great Depression, after graduating from the University of Kansas School of Law. Despite the difficulty of the times, he boarded the train for Hays with the hope that the western Kansas community would someday be a great town. Indeed, Hays grew into a thriving community, the home of an excellent university, and the commercial center of northwest Kansas. Along the way, Hays residents benefitted from the personal and professional advice of Norman Jeter.

Over the years, Mr. Jeter became a leading member of the Kansas legal community, representing small businesses, independent oil and gas producers, and farmers and ranchers. He was also elected Ellis County attorney in 1938 and held the position for many years. His dedication to his profession and his knowledge of the law are respected throughout the State. He is the kind of elder statesman that every profession needs.

I am fortunate to have had the pleasure of practicing law with Mr. Jeter. As a young attorney, I quickly came to admire his keen mind, integrity and dignity. Working with Mr. Jeter taught me a great deal about the practice of law, but even more about being a good person. I know that I am a better for having known and worked with him.

Throughout his lifetime, Norman Jeter has worked to improve the quality of life in his hometown and state. The residents of Hays, Kansas have access to first-rate medical treatment and facilities due in no small part to the leadership of Norman Jeter. For nearly 60 years, he has served on the board of directors of Hays hospitals, much of that time as chairman. During his tenure he saw the combination of two local hospitals to create a regional medical center with greatly expanded services and quality of care. He continues to serve on the Board of the Hays Regional Medical Center, working to provide the residents of Northwest Kansas with progressively better healthcare.

Mr. Jeter's contributions to Kansas education are no less notable. He worked hard to improve Hays schools as a member of the school board, and later worked just as hard to improve the higher education system in Kansas as a member and chairman of the Kansas Board of Regents.

He has been recognized repeatedly for a lifetime of distinguished public service. He is a recipient of the Fort Hays State University Distinguished Service Award, as well as the Kansas School of Law Distinguished Alumnus Award. Mr. Jeter is a member of the Hays Chamber of Commerce Hall of Fame, a recipient of the Governor's Art Award, and has been presented with the Albert Einstein Medal of Peace. In addition, the Hays Medical Center bestows an honor that bears his name, the Norman W. Jeter Humanitarian Award.

Most important to Norman Jeter is his family. He and his wife Ann have instilled in their children Margaret, John, Joe, and Bill the same values with which they have lived their lives. Their children have all gone on to lead successful careers in their given field. John is the chief executive officer of Hays Medical Center. Margaret is an attorney in Kansas City, Missouri, while Joe and Bill practice law with their father.

IN HONOR OF DANIEL H. CASE III

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES
Thursday, June 27, 2002

Ms. PELOSI. Mr. Speaker, I rise to pay tribute to Daniel H. Case III, who died peacefully

Norman Jeter has led a truly remarkable life, serving his community as he has lived—with distinction, intelligence, and honor. Norman Jeter is proof that the practice of the law can still be an honorable profession and that service to one's community can still make a difference. I would ask that my colleagues join me today in paying tribute to Norman Jeter on the occasion of his 90th birthday.

DRUG POLICY

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. PAUL. Mr. Speaker, I highly recommend the attached article "Unintended Consequences" by Thomas G. Donlan, from Barron's magazine, to my colleagues. This article provides an excellent explanation of the way current federal drug policy actually encourages international terrorist organizations, such as Al Qaeda, to use the drug trade to finance their activities. Far from being an argument to enhance the war on drugs, the reliance of terrorist organizations upon the drug trade is actually one more reason to reconsider current drug policy. Terrorist organizations are drawn to the drug trade because federal policy still enables drug dealers to reap huge profits from dealing illicit substances. As Mr. Donlan points out, pursuing a more rational drug policy would remove the exorbitant profits from the drug trade and thus remove the incentive for terrorists to produce and sell drugs.

In conclusion, I once again recommend Mr. Donlan's article to my colleagues. I hope the author's explanation of how the war on drugs is inadvertently strengthening terrorist organizations will lead them to embrace a more humane, constitutional and rational approach to dealing with the legitimate problems associated with drug abuse.

[From Barron's, June 24, 2002]

UNINTENDED CONSEQUENCES

(By Thomas G. Donlan)

It's harvest time in Afghanistan. While the delegates to its grand council, the loya jurga, met under the great tent in Kabul and grudgingly acknowledged Hamid Karza as the president of a "transitional government," the impoverished farmers of Afghanistan reaped the rewards of their best cash crop, the despised opium poppy.

A few months ago, newspaper correspondents reported that the American proconsuls in Afghanistan had abandoned their hopes of reducing the opium harvest. They had considered buying the crop or paying farmers to destroy their poppies, but concluded that in the lawless Afghan hinterland they would simply be paying a bonus for non-delivery.

Karzai's previous "interim administration" had banned opium production, but its writ did not run many miles beyond the city of Kabul. Warlords and provincial governors did as they pleased, and they were pleased to tax the opium trade and indeed participate in it as traders and transporters and protectors.

That's what the Taliban did for most of the years that the mullahs ruled and protected the al Qaeda terrorist network. In 2000, Afghanistan accounted for 71% of the world's

opium supply. (Opium in turn is the building block for heroin, which most drug-fighters believe takes the greatest human toll and provides the greatest profit in the whole illicit industry.)

In 2001, the Taliban decreed an end to opium cultivation, not so much to carry favor with the West but to maintain the price: A bumper crop provided enough for two years of commerce. Indeed, the Taliban and al Qaeda may have earned more from their stockpiles in 2001 than they did from high production in 2000.

"As ye sow, so shall ye reap." The Biblical passage is an apt reminder that America's undercover agents nurtured Islamic fundamentalism to strengthen Afghan resistance to the Soviet Union. We reaped chaos in Afghanistan and a corps of well-trained fanatics bent on our destruction. America has also sown a war on drugs, and those same fanatics have harvested the profits.

This was not what we intended. Nor did we intend to let huge profits earned by terrorists and common criminals be used to corrupt police in every country where the trade reaches, including our own. Nor did we intend to put hundreds of thousands of Americans in prison for their participation in the drug trade. Nor did we intend to create periodic drug scarcities that turn addicts to crime to pay for their habits.

But all those things are unintended consequences of the war on drugs. Drug use is eventually a self-punishing mistake; the drug war turns out to be the same.

Now the war on drugs and the war on terrorism are beginning to look like two currents in a single river. Nearly half of the international terrorist groups on the State Department's list are involved in drug trafficking, either to raise money for their political aims or because successful drug commerce requires a ruthlessness indistinguishable from terrorism.

The currents don't always run together: The FBI and other federal law enforcement agencies acknowledge that the extra resources they are devoting to the detection and apprehension of terrorists are not new resources; the money agents and equipment come to the war on terror at the expense of the war on drugs.

In the domestic war on drugs, officials are trying to make the two currents serve their purposes. The government runs TV ads portraying young Americans confessing, "I killed grandmas. I killed daughters. I killed firemen. I killed policemen," and then warning the viewers, "Where do terrorists get their money? If you buy drugs, some of it may come from you."

Bummer.

Like they wanted to do that? The buyers of drugs would be perfectly happy to buy them in a clean, well-lit store at reasonable prices, with the profits heavily taxed to support schools, medical benefits, or any other legitimate function of government—even police. That's how they buy cigarettes and liquor, neither of which finances international terrorists. (In a current prosecution, smuggling cigarettes from low-tax North Carolina to high-tax Michigan allegedly raised \$1,500 for an alleged affiliate of Hamas. But big violence needs bigger sums from more lucrative sources.)

It was bad when drug laws gave the Mafia an opportunity to do big business. It was worse when the laws encouraged Colombian and Mexican drug cartels to obtain aircraft and heavy weapons. Now that the drug laws provide profits to people who want to kill Americans wholesale instead of retail, it's time to change the laws.

Using drugs is stupid enough; making the users finance international terrorists is even more foolish.

TRIBUTE TO CARROLL "BUD" FAIRCLO

HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. WALDEN of Oregon. Mr. Speaker, I rise today to pay tribute to an outstanding Oregonian and authentic American hero, Carroll "Bud" Fairclo. A native of Dairy, Oregon in the 2nd Congressional District, Bud was a devoted family man, a well-loved member of his community, a fierce warrior, and most of all, an unwavering patriot.

Mr. Speaker, Bud Fairclo served during World War II as a member of Company L of the 15th Infantry Regiment, 3rd Infantry Division of the Fifth and Seventh Armies. As an infantryman with the 3rd Division, which fought in campaigns across North Africa, Sicily, and Italy under Generals George S. Patton and Mark W. Clark, Bud saw some of the heaviest fighting of the war during a period when Germany's defeat was by no means certain. Bud participated in countless engagements, and though he performed with distinction in combat many times, his heroism on one occasion was particularly conspicuous.

On November 9th, 1943, near Mignano, Italy, Bud silenced three German pillboxes with a volley of grenades and rifle fire, saving many of his countrymen from the murderous fire of the enemy. He then single-handedly halted a German counterattack and was under constant enemy fire for nearly 18 hours until relief arrived. While he was severely wounded during this action, Bud refused evacuation to treat his injuries. Later he volunteered for observation post duty to direct mortar fire that silenced two remaining pillboxes that had fired on his unit throughout the night.

On April 11th, 1944 General Mark W. Clark presented Bud Fairclo with the Distinguished Service Cross for his extraordinary heroism in action, a decoration second only to the Medal of Honor. Bud's uncommon valor earned him not only the distinction of being one of Oregon's most highly decorated veterans, but the enduring gratitude of the nation he fought so heroically to defend.

Like so many unassuming heroes of his generation, Bud Fairclo loved his country deeply, served it courageously in our Nation's darkest hour, and then quietly returned to civilian life, expecting neither recognition nor reward for his valiant service. Bud went on to father five children and run a horse-ranch in the Klamath Basin for more than half a century. While I never had the opportunity to meet Bud before his passing in 1997, like every child of the post-war world I have lived and breathed the freedom that he and his comrades bequeathed to us.

Mr. Speaker, on July 4th, I will have the distinct honor of presenting a framed set of Bud's military decorations to the Fairclo family as part of a ceremony dedicating the Mid-Columbia Veterans Memorial in The Dalles, Oregon.

I will make this presentation with a profound and lasting reverence for the sacrifices he and his fellow veterans made on behalf of the generations that would follow them.

Today as our Nation faces a new war and young men and women across this great land answer their country's call to service, it is the heroism and selflessness of men like Bud Fairclo that will inspire them to great and noble feats. As we observe the birth of our Nation and commemorate the contributions Bud and others have made in defending it, we do so in humble recognition of the debt we owe to them—a debt that no riches or tributes could ever hope to repay.

**BAY CITY POLICE CAPTAIN DAVE
BRUBAKER: A LAWMAN'S LIFE**

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. BARCIA. Mr. Speaker, I rise today to ask my colleagues to join me in honoring the life and mourning the death of retired Bay City Police Captain Dave Brubaker. When Dave passed away, his three children lost a wonderful father, his wife, Diane, lost a loving soul mate, the citizens of Bay City lost a committed public servant and I lost a friend.

Dave befriended all who crossed his path, including me. In fact, I often crossed his path as he was patrolling the streets of Bay City. His greeting was always the same. He immediately activated the flashing lights of his squad car. Whenever Dave saw me ever so slightly exceeding the posted speed limit, he'd pull me over. We'd share our latest deer hunting stories, then he'd let me go with a stern warning to slow down, a warning I naturally ignored until the next time Dave pulled me over.

Anyone who knew Dave quickly developed an appreciation for his good-natured sense of humor. Wherever he went, his natural charisma and outgoing nature drew people to him. He was always the center of attention and the life of the party. In fact, no one would have appreciated more than Dave the notion to pay tribute to him with a Fourth of July celebration and fireworks display.

Dave was also a serious and dedicated public servant who never swayed from his duty to protect and defend our community. He was a devoted husband, father and grandfather. Above all, Dave cared deeply about people and never missed an opportunity to show it. The sense of loss for his wife, Diane, his three daughters and their husbands, his grandchildren and extended family certainly will never go away. Perhaps Dave's family can take solace in knowing that his fellow officers, his friends and the entire community are better off for having made Dave's acquaintance. We all miss him.

Mr. Speaker, in the aftermath of the tragedies of Sept. 11, every community has a better understanding of the debt owed to law enforcement officers like Captain Dave Brubaker. Dave did his duty with a firm hand and understanding heart. His life's work is his badge of honor and his legacy will continue to inspire all public servants. Please join me in remembering and honoring Captain Dave Brubaker.

**CELEBRATING THE REHABILITA-
TION AND PRESERVATION OF
AFFORDABLE HOUSING AT EL
RANCHO VERDE APARTMENTS**

HON. ZOE LOFGREN

OF CALIFORNIA

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Ms. LOFGREN. Mr. Speaker, today we rise to celebrate the El Rancho Verde Apartments, the largest preservation of affordable housing in the Western United States. This outstanding, \$117 million effort has truly been a community effort to preserve affordable housing for families who could not otherwise afford the high cost of living in Silicon Valley. We commend the efforts on the part of several groups: The Related Companies of California; Community Housing Developers, Inc.; City of San Jose Housing Department; State of California Housing Finance Agency; State of California Treasurer's Office and the U.S. Department of Housing and Urban Development (HUD).

Built in 1970, El Rancho Verde was at risk of being converted to market-rate property at the expiration of existing HUD Use Agreements. Now, this affordable housing will be preserved for a minimum of 55 years.

This rehabilitation project—considered by city, state and federal housing officials to be a model for the nation—preserves 700 low income two and three-bedroom apartments on 36 acres, enabling families to live in San Jose who otherwise might not be able to afford it.

We would especially like to applaud state officials, who gave this development the second largest ever allocation of tax-exempt bonds for multifamily housing to date.

Recognizing that childcare is another critical issue for low-income families, we commend the commitment to the East Side community in form of structural improvements to the adjacent child development center, El Rancho Verde Child Development Center. The Center serves 75 children, ages 3 to 10, most of whom live at the El Rancho apartments.

Thanks to the efforts of The Related Companies of California and Community Housing Developers, Inc., approximately 3,000 people—1,500 hundred of them children—will have a home in San Jose.

We wish to thank The Related Companies of California and Community Housing Developers, Inc., for their commitment to making San Jose affordable for all families.

**TRIBUTE TO THE 16TH ANNUAL
MAR ADDAI CHALDEAN CHURCH
FESTIVAL**

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. BONIOR. Mr. Speaker, today I rise to recognize the Chaldean American community of Michigan, who celebrated the 16th Annual

Mar Addai Chaldean Church Festival on Sunday, June 23, 2002.

As Michigan is home to a thriving Chaldean American community, we have the opportunity to recognize the accomplishments and contributions of a fabulous people. They possess a focused vision of their future and will do all they feel is necessary to ensure prosperity.

Today, the United States is enriched by the many Chaldean Americans who have made this country their home. As one of the largest communities in Michigan, Chaldean Americans are making their mark, serving as hard working members of the civic, business, and professional communities. They have made major contributions to nearly every facet of American society. The Chaldean American community of Michigan truly adds to the wonderfully diverse American culture by sharing with us their customs, traditions and beliefs.

The 16th Annual Mar Addai Chaldean Church Festival attests to the wealth of the culture we have developed here in Michigan. An all day festival of food, music, dancing, and fun, the Mar Addai Festival is attended by thousands of Chaldean and non-Chaldean people and is one of the largest and most successful family festivals in Oakland County. The spirit and enthusiasm of the Chaldean American community of Southeastern Michigan has been such an invaluable asset to our great state, and will surely continue to bring families and communities together for many years to come.

I urge my colleagues to join me in congratulating the Chaldean American community of Michigan on this landmark day, and I salute them all for their tremendous contributions and support.

**HONORING MARY "BILLY"
BOATWRIGHT**

HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. SIMMONS. Mr. Speaker, Mary "Billy" Boatwright, a wife, a mother, an athlete, a newspaper reporter, a tireless advocate of better education, and a member of the National Republican Committee for nearly two decades, passed away on May 31 at the age of 82, a victim of cancer. She was a model Republican, a woman of principle, and an integral part of my hometown, Stonington, Connecticut. Her family and friends mourn her and remember the way in which she gave her life to her community.

Billy Boatwright was a role model for me and for the many people whose lives she touched. Friends who confided in her did so in faith. Candidates who sought her advice found a ready ear and a bright mind. Many of us can look back on our lives and find a person upon whose advice and counsel we built our careers and forged our ideals. For the people of Stonington Billy was that person.

Billy believed in loyalty and was willing to elevate principle above party lines. Her decision to oppose a party nominee for Governor and support instead a lifelong friend forced her to give up her seat on the Republican National

Committee. She also vacated her seat on the Stonington Republican Town Committee. In her absence the Committee made the decision not to fill her seat. After the election, Republican leaders invited her to return. This is one of many examples of the respect in which she was held by her peers.

Mr. Speaker, politics does not build character. It reveals it. Those of us who knew Billy Boatwright had the honor of knowing a woman of the highest character, the image of honesty and learning, a woman who understood the importance of serving the interests of the public. She will be greatly missed. We are fortunate to have been a part of her life and even more fortunate that she was a part of ours. I would like to submit *Westerly Sun* columnist Jeff Mill's story on her legacy for the CONGRESSIONAL RECORD.

[From the *Westerly Sun*]

STONINGTON LOSES "BILLY" BOATWRIGHT,
POLITICAL LEGEND

(By Jeff Mill)

Mary H. "Billy" Boatwright, a power in Republican politics on the national, state and local levels and an integral part of Stonington life for over 40 years, has died.

Boatwright, who had been ill in recent months, succumbed to cancer Friday. She was 82.

A wife, mother, sportswoman, newspaper reporter, staunch advocate of reading and learning, and member of the Republican National Committee for 17 years, she was described as "a life force" in Stonington since moving here with her husband, Victor, in 1957.

Expressions of sympathy and admiration flowed in Saturday, as word spread of her death. (An obituary appears in the obituary section of the online *Sun*.)

"She was really a remarkable woman," declared Andrew W. Maynard, the warden—a post akin to mayor—of Stonington Borough. "Her death is certainly an enormous loss to the Borough and really to the entire area of southeastern Connecticut."

Spare and direct, Boatwright was the grand doyenne of Republican politics in town and throughout the region. Candidates on the local and state levels regularly sought her out for advice and counsel. Those who didn't rarely succeeded.

Yet, she was equally at home every August behind tables sagging with books in the Borough's Wadawanuck Square as part of the Stonington Community Center's annual Village Fair. She ran the book tables for years, and they became known as "Billy's Books."

Second District U.S. Rep. Robert R. Simmons, R-Stonington, was one of those who went to Boatwright for advice.

"As a Republican, she was a great leader," he said. "I think she was the first woman to represent Stonington in the General Assembly, back when that was not an easy thing to do."

"She was a staunch member of the Republican Town Committee and a great mentor to people like me and Michael Blair (a former Borough warden) who wanted to get involved in politics but didn't know how. She really was an extraordinary woman."

"She loved to travel, and she had so many friends, and she was quite independent," said her daughter Mary T. "Tolly" Boatwright. "She was so devoted to so many things—to her country and the democratic process and to the Republican Party. And yet, she never followed anything blindly."

Boatwright was, for instance, a strong and loyal supporter of Gov. Lowell P. Weicker

Jr., even when that became unfashionable in some circles. It was a measure of her loyalty that she bolted the Republican Party to join Weicker's A Connecticut Party—and in doing so gave up her seat on the Republican National Committee.

"I would put her, literally, in a handful—and I mean five people—who were the greatest influences in my career," the former governor said Saturday evening from his Virginia home.

"She had enormous integrity and a great sense of humor, and she was one of the most loyal people I know," Weicker said, noting that Boatwright gave up her seat on the RNC "when just about any Republican woman in the state would have died for that seat. But that was Mary."

"Every leader should be surrounded by people with that integrity (who are willing to relay bad news even) when you don't want to hear it."

Simmons recalled that when she resigned from the party to back Weicker's independent run for governor, "I was chairman, and the town committee decided not to fill her seat. After the election, she was invited to come back and occupy the seat. That's just one sign of the respect in which she was held by her fellow Republicans."

Her son, Bill Boatwright, mentioned another instance in which his mother remained loyal—to Richard Nixon, whom she first met during her postwar career as a newspaperwoman at the *San Francisco Chronicle*. He said "she supported him and remained very hopeful that his policies" would achieve the recognition she felt they deserved.

"As an individual, she would follow the strength of her convictions," he said.

William S. Brown, a selectman and chairman of the Republican Town Committee, recalled Boatwright as "a lovely lady. She was very bright and intelligent and a stalwart Republican."

Respect and affection for Mrs. Boatwright crossed party lines.

James M. Spellman, a Pawcatuck Democrat, was often in Mrs. Boatwright's sights during the 24 years that he served as Stonington's first selectman. And yet, he praised her Saturday, saying, "Mary was an outstanding citizen of Stonington. She was very knowledgeable, and she always quietly offered her time for many different programs. It could be the (Stonington) Community Center, the town of Stonington, or Westerly Hospital. But I believe her first love, no doubt, was politics, in which she played a major role on the local, state and national level."

"I always admired her," Spellman continued, "because she knew the issues and she worked in the best interests of our area, and I respected her as a friend and a political opponent."

Boatwright was by equal parts direct and humorous. She did not suffer fools gladly, but she could be supportive and funny—often devastatingly so.

Her youngest daughter, Tolly Boatwright, recalled just such an incident during World War II, when her mother drove a tractor at the North Island, Calif., Naval Station.

"She met Eleanor Roosevelt once and Mrs. Roosevelt said how interesting her job must be," Tolly said. "And mother said she had only learned two things—how to swear and how to spit, although I think she already knew how to swear."

Tolly reflected that it "had to be a trial" for such a dedicated Republican to meet the staunchly Democratic first lady.

Maynard spoke of "her enormous influence and commitment to the Borough and around the state."

"She had such dedication to her community and to her church," Maynard said. "She was so dedicated to the (Stonington Free) Library, to the cause of learning and to volunteer work, and she did all that with great enthusiasm."

"I think of her just now standing in front of the (Borough) post office, speaking with someone and with her head thrown back in a laugh. It's really sad to think of her no longer being with us."

"She had a lot of energy, and she generated enthusiasm," First Selectman Peter N. Dibble said. "She cared deeply for the people she befriended, and there certainly were many people in this community who benefited from her friendship."

"For those of us involved in politics, she was a party stalwart who touched the lives of many of us, but she did not limit herself to partisan politics. She helped numerous people in public life regardless of party lines."

Maynard, Simmons, and Tolly Boatwright all mentioned a love of knowledge that pervaded Boatwright's life.

"Mother really cared about people no matter their age," Tolly Boatwright said. "And if a child made the honor roll, she would cut out the (newspaper article about it) and send it to the parents. She championed children and academic achievement, and doing the best they can."

Simmons said his daughter was one of those who received a clipping and a note of encouragement.

Boatwright's love of learning extended throughout her entire life.

"She had an amazing intellectual curiosity that she carried even into her later years," Maynard said. "In her 70s, I would see her still expanding her mind" as they took courses at Connecticut College.

Maynard is a Democrat, but he said "even though she was a vigorous partisan, I had such a regard for her willingness to stay involved. I just had the greatest regard for her."

THE NEED TO SUPPORT PASSENGER RAIL

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. McNULTY. Mr. Speaker, while the other countries of the industrialized world continue to support passenger rail services with 'High Speed' and 'Bullet' trains, the current Administration continues to nickel and dime Amtrak.

Last fall, this Administration and this Congress came to the rescue of our airline industry to the tune of \$15 billion. But when Amtrak asks for little more than 1 percent of that to cover its short term operating costs, the President hesitates.

This Administration is proposing retroactive repeal of the Alternative Minimum Tax (AMT), sending \$25 billion in rebate checks to the richest corporations in the world. The rebate check to IBM alone would be \$1.4 billion. That one check would keep the trains moving in America for all of next year.

Mr. Speaker, this is a disgrace!

The Administration should immediately release the funds necessary to keep Amtrak in service.

RECOGNIZING THE CONTRIBUTIONS OF DR. MURRAY ROSS TO THE U.S. CONGRESS ON HEALTH POLICY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. STARK. Mr. Speaker, I rise today to recognize Dr. Murray Ross for his 14 years of service to the U.S. Congress at both the Medicare Payment Advisory Commission and the Congressional Budget Office.

MedPAC is the advisory panel to Congress that provides guidance on Medicare payment policies. Dr. Ross has served with distinction as MedPAC's founding executive director, providing outstanding policy analysis and exceptional service to Members of Congress and their staff.

Before MedPAC, he served as unit chief for the Health Cost Estimates Unit of the Congressional Budget Office, directing his staff in developing key spending and cost estimates for the Congress.

Prior to becoming the director of the health unit, Dr. Ross served as a principal analyst in CBO's Health and Human Resources Division, providing important analyses of health reform and income security policies.

While I may not have always agreed with the advice and analysis received from MedPAC or CBO during his tenure, I speak for many when I say that we always knew Murray was shooting straight with us and doing his best to see that we were provided accurate information in a timely manner.

It is with pleasure that I join the congressional and health policy communities in commending Murray Ross for his service to the Congress and America, in thanking him for his professionalism, and in wishing him well in his new endeavors.

I also welcome Murray to the San Francisco Bay area and look forward to working with him to improve health care in my home community.

PERSONAL EXPLANATION

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. HINOJOSA. Mr. Speaker, I regret that I was unavoidably detained in my Congressional District. Had I been present, I would have voted yes on rollcalls 249, 250, 251, 252, 253, 254, 255, 256 and 257.

ALLEN J. KAYNER: SETTING THE PACE FOR BAY COUNTY

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. BARCIA. Mr. Speaker, I rise today to ask my colleagues to join me in honoring the

life and mourning the death of Allen J. Kayner, a teacher and coach for untold high school athletes and students in the Bay City Public Schools in my hometown of Bay City, Michigan. Coach Kayner was a legend in the local running community, having founded both the Bay Area Runners Club and the St. Patrick's Day Road Race. He also taught history and geography at my alma mater, Bay City Central High School, and I considered him a friend and mentor.

Throughout his 30-year tenure with the Bay City Public Schools, Al Kayner was a devoted and intelligent teacher who gave the full measure of his talents to help students in and out of the classroom. His enthusiasm, patience and attention to detail were tremendous assets in teaching geography and history and they were also his greatest gifts as a coach.

In the early 1970s, Al founded the Bay Area Runners Club, serving as the club's first president and then again he offered his services as its president in the early 1990s. Before that, Al coached track and cross country at both Bay City Western and Bay City Central high schools. He also coached long-distance running at Essexville Garber High School for a short time.

Al will perhaps be best remembered as the man behind the St. Patrick's Day Road Race, which he organized and led from the start. On March 17, 1974, Al ran the first race with 65 other runners who began at Veterans Memorial Park and finished at Wenonah Park. The race now begins in Essexville and finishes in downtown Bay City, but otherwise it's the same footrace that Al envisioned 28 years ago and it is still going strong.

When Al died last year of cancer, the loss was certainly felt most by his wife, Judy, their three children, Karen, Kristine and Steven, and the rest of his loving family. However, his passing was most assuredly also felt by the entire community. Al left his mark on all those he met. It is especially fitting to honor him with fireworks on the Fourth of July because Al's life on this earth was certainly a star-spangled event never to be forgotten.

Finally, Mr. Speaker, I ask my colleagues to join me in paying tribute to Al Kayner, a coach, teacher and friend to all. I am confident that Al is somewhere right now lacing up his running shoes and preparing for a heavenly marathon with the other angels. Godspeed, Al.

TRIBUTE TO THE LABOR COUNCIL FOR LATIN AMERICAN ADVANCEMENT

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. BONIOR. Mr. Speaker, today I rise to recognize the Labor Council for Latin American Advancement, which will be celebrating its 11th Annual Scholarship Awards Dinner on June 15, 2002 in Orion, Michigan.

As southeastern Michigan is home to a thriving Hispanic community, we have the opportunity to recognize the accomplishments and contributions of a fabulous organization dedicated toward ensuring the prosperity of

Hispanic communities throughout the nation. Since its founding in 1973, the Labor Council for Latin American Advancement, or LCLAA, has served as a loyal voice for over 1.5 million Hispanic trade union members in the United States and Puerto Rico currently representing 43 international unions in 45 national chapters. The LCLAA's mission is to achieve social dignity, economic justice and higher living standards for every Hispanic worker. The LCLAA fulfills this mission by assisting young Hispanics in school by establishing educational support services, organizing recreational activities and mentoring students. Every year the LCLAA offers disadvantaged Hispanic students the opportunity for educational advancement by awarding college scholarships. This year the LCLAA's Oakland County, Michigan Chapter will give 17 students the opportunity to receive a college degree by awarding tuition scholarships. As a result of generous donations and the undying commitment of the LCLAA, these students will achieve a college education and enter fields like medicine, law, education, business, and many others.

Our great state of Michigan is home to thousands of Hispanic Americans, patriotic citizens who give so much to our country every day. With help from the LCLAA, Hispanic communities throughout the country continue to prosper and celebrate their great achievements. The spirit and enthusiasm of the LCLAA and the Hispanic community it represents is an invaluable asset to our great state and our great nation.

I urge my colleagues to join me in congratulating the Labor Council for Latin American Advancement's Oakland County, Michigan Chapter, the student scholarship recipients and the entire Hispanic American community of Michigan on this wonderful day, and I salute them all for their years of tremendous contributions and support.

HONORING THE LIFE OF JOHN FRANCIS "JACK" BUCK

SPEECH OF

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. COSTELLO. Mr. Speaker, I rise today to pay tribute to a man who made a significant difference to many in the St. Louis region, Mr. John Francis "Jack" Buck.

Jack Buck was the voice of the Cardinals. He started calling games in 1954, and was the voice that I, along with millions of others throughout the Midwest, identify as St. Louis Baseball. We grew up listening to him and are deeply saddened by his death.

In addition to calling Cardinals games for almost 50 years, he also gained fame for his work on the CBS, NBC and ABC television networks and as the voice of the NFL on the CBS radio network. He called everything from pro bowling to Super Bowls and the World Series.

Buck was inducted into the Baseball Hall of Fame's broadcaster's wing in 1987, received the Pete Rozelle Award by the Pro Football Hall of Fame in 1996, and received a lifetime

achievement Emmy in 2000. He was a member of both the Broadcasters and the Radio Hall of Fame.

His sports-casting abilities were surpassed only by his community involvement. He happily gave his time to a variety of non-profit causes through the St. Louis area and was campaign chairman of the Cystic Fibrosis Foundation. He was commended by the city of St. Louis for his service, and received the distinguished University of Missouri's Journalism Award for his outstanding achievements in broadcasting and citizenship.

Mr. Speaker, Jack Buck truly was an icon to the people of St. Louis. It is fitting that we pass this resolution honoring this great man. I urge my colleagues to join me in support of this legislation.

**MASS RAPES OF WOMEN AND
GIRLS IN BURMA**

HON. CYNTHIA A. MCKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Ms. MCKINNEY. Mr. Speaker, I stand today to call attention to the appalling campaign of terror-through-rape recently uncovered in Burma. A report by the Shan Women's Action Network and Shan Human Rights Foundation reveals a truly horrific campaign of systematic rape carried out by the military against women and girls—some as young as five years old—in Burma's Shan State.

While Burma's record of repression is well known, this new report shines a light on atrocities previously hidden by the dark clouds of dictatorship. The report, based on interviews with girls and women refugees along the Thailand-Burma border, documents the rapes of 625 women and girls by Burmese military forces against villagers in Burma's Shan State. Given the alarming numbers in this limited refugee population, it is likely that this is but the tip of the iceberg. While the exact scale of this atrocity is unknown, there can be no doubt that Burma's military leaders are using rape on a wide scale as a weapon of war against its own civilian population.

According to the report, an astounding 83% of the documented rapes were committed by military officers from 52 different battalions, usually in front of their own troops. 61% of the cases were gang rapes, and many women were raped inside military bases. Many were held captive and raped repeatedly for months on end. Many women recounted the terror of being severely beaten, tortured, or mutilated. In 25% of the documented cases the women were murdered after being raped. The report also notes how those murdered by the Burmese military were left in public areas in order to intimidate and terrorize villagers and family members.

In this report, hundreds of courageous Burmese women and girls recount the terror of their experiences. One young Burmese woman told of how she found her five year old sister "tied up and crying, with her sexual organs bloody . . ." Another recounted how she and other women of her village "were forced to serve as sex slaves." Ironically, these new

revelations of mass rapes come on the heels of the release of 1991 Nobel Peace Prize recipient Aung San Suu Kyi. But we harbor no illusions about the nature of this brutal military regime.

Mr. Speaker, whether they take place in Burma, Bosnia, or Eastern Congo, rape as a weapon of war is a grave violation of the Geneva Conventions and a crime against humanity. I call on the State Department, United Nations, and my colleagues in the Congress to speak out strongly against the military regime that continues to sanction and condone these rapes and other atrocities.

PLEDGE OF ALLEGIANCE

HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. TIAHRT. Mr. Speaker, this morning I recited our Pledge of Allegiance with extra vigor, for our nation is under attack—not from terrorists but extremists in our own country. Yesterday the Ninth Federal Appeals Court in San Francisco ruled that the Pledge is an unconstitutional endorsement of religion and cannot be recited in schools—CANNOT BE RECITED IN SCHOOLS. I am sure you share my outrage. There is a reason that our Marines in Iwo Jima risked their lives to display the stars and stripes. Our flag stands for all that makes this nation great. From kindergarten on, our children are taught respect for our flag—a flag that represents this wonderful and, yes, Godly nation. Our children are taught that the United States represents liberty and justice for all. Our Declaration of Independence, Constitution and even our currency state our country's relationship to God. On September 11th, as soon as it was safe enough the first thing Members of Congress did was to gather on the steps of this magnificent building and sing "God Bless America." The judges in California are clearly out of touch, not only with the principles upon which the Pledge is based but also with the sentiment of the American people. For the past 9 months Americans have proudly displayed their love for their nation, as well as their faith in God. We realize now more than ever that our nation has a special charge and thus revere the Pledge more than ever. I am proud of our flag, I am proud of our nation and I will proudly recite "one nation, under God" for the rest of my life.

**CHANGING THE CORPORATE
CULTURE**

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. BEREUTER. Mr. Speaker, this Member commends to his colleagues the following editorial from the June 25, 2002, edition of the Lincoln Journal-Star entitled "Culture Change Is Needed in Corporate Crisis." The editorial suggests that changing America's business culture is the best long-term solution to the

current crisis of business scandal after business scandal. These scandals have caused a distrust of corporate America and decimated investor confidence. Ethical CEO's are needed to change the dishonest precedent set by some business leaders. Corporate culture needs to revert back to decisions based on American values, rather than greed.

**CULTURE CHANGE IS NEEDED IN CORPORATE
CRISIS**

The business pages of U.S. newspapers continue to read more like police blotters than the usual financial news. In fact, the average American may have simply given up trying to keep track of who has committed what wrongdoing.

The list of those indicted, arrested or resigning in disgrace is indeed far too long, suggesting that the post-Enron business world is in worse shape than feared. The result: a stock market in the tank, distrust of corporate America at an all-time high and employees turned out on the streets.

Naturally, the breadth and scale of the business scandals have prompted lots of discussion about reform. But what seems to be at the root of the unprecedented wave of abuses is something that can't be regulated: an out-of-control corporate culture that embraces the Dark Side.

As the current cases illustrate, dishonesty reigned in the boardrooms of many publicly held companies. The allegations include questionable accounting, insider trading and tax fraud. Everyone seemed in cahoots: CEOs, accountants, corporate attorneys, investment bankers, stock analysts and boards of directors. In the end, many corporate chieftains walked away from wrecked or tainted companies—scot free and millions of dollars richer.

But because accountability and ethics are so difficult to legislate and enforce, changing the business culture is perhaps the most enduring solution—although it is not necessarily easy or quick. That requires change from within. It requires, as Treasury Secretary Paul O'Neill suggests, that ethical CEOs set the tone by denouncing the abusive practices. It requires the gatekeepers—the boards of directors, accountants, corporate lawyers and investment bankers—to vigorously uphold their fiduciary and moral responsibilities by providing oversight and leadership. Shareholders, too, need to take a more active role.

Some of the most potent reform efforts are coming from the business world. One money manager has put together a hefty group, including Warren Buffett, that intends to challenge companies in the Standard & Poor's 500-stock index on corporate-governance and executive-compensation issues. Among the requirements discussed by the New York Stock Exchange is that boards have a majority of independent directors, those without a business or family tie to the companies.

Whether it is pressure from prosecutors, the markets or shareholders, the current corporate culture, bred in the boom of the '90s, undoubtedly will have to change to salvage the shaky stock market. The question at hand is whether the transformation will be complete and long-lasting.

NATALIA R. HORAK: A DAZZLING STAR IN A BRIEF SHINING MOMENT

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. BARCIA. Mr. Speaker, I rise today to ask my colleagues to join me in honoring and remembering Natalia R. Horak, the 16-year-old daughter of Fritz and Lucy Horak of Bay City, Michigan. Tali died last year after suffering from bacterial meningitis, a disease that all too often takes the lives of our young people. Sadly, Tali's time on earth was cut short, but her life was beautifully spent in the few years she was among us. She has left an indelible mark on our community.

Tali loved her family and her many dear friends as fully and as ardently as she embraced life. Her zest for living, her enthusiasm and her exuberant personality captured the heart of all those fortunate enough to have fallen under her enchanting spell. A mere smile from Tali, something she did often, was enough to uplift and buoy the lowest of spirits. In fact, her teammates on the swim and golf teams constantly looked to her for encouragement and inspiration.

A graduate of Saint James Elementary School and Holy Family Middle School, Tali was a sophomore at Bay City Western High School. As a freshman, she was a varsity letter winner in swimming and golf. On the Saturday before she died, Tali swam her best time ever in the 100-yard butterfly and the 100-yard breaststroke at a Saginaw Valley Conference swim meet. She also was a superior student, an avid downhill skier and a wonderfully gifted young woman.

When Tali passed away, the loss for her parents, Fritz and Lucy, her brother, Frederick, her sister, Marisa, and the rest of her family certainly was unimaginably devastating. The hurt felt by her friends and teammates also must have seemed unbearable. The passage of time does not repair the holes in the hearts of Tali's friends and family. However, remembering Tali as she lived allows her bright light to shine for those fortunate enough to have experienced her love and friendship.

Finally, Mr. Speaker, I ask my colleagues to join me in remembering the bright light that was Tali Horak. I have faith that Tali's star continues to shine brightly over us and that her exuberant spirit will always uplift and invigorate those who honor her memory. As we look up at the sky on the Fourth of July to watch the razzle and dazzle of the magnificent fireworks display in Tali's honor, let us recall her brief but radiant life and be thankful her beauty graced our lives.

EXTENSIONS OF REMARKS

TRIBUTE TO THE CHALDEAN FEDERATION OF AMERICA'S 20TH ANNUAL HIGH SCHOOL AND COLLEGE COMMENCEMENT CEREMONY

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. BONIOR. Mr. Speaker, today I rise to recognize the Chaldean Federation of America, who celebrated their 20th Annual High School and College Commencement Ceremony on June 11, 2002.

As southeastern Michigan is home to a thriving Chaldean American community, we have the opportunity to recognize the accomplishments and contributions of a fabulous people. They possess a focused vision of their future and will do all they feel is necessary to ensure prosperity. Established in 1980 as an umbrella association of Chaldean organizations, the Chaldean Federation of America is the only national representative of the Chaldean people. As a community-based organization representing over 120,000 Chaldean Americans in the metropolitan Detroit area alone, the Chaldean Federation's commitment to promoting the Chaldean heritage and traditions as well as actively supporting their local community is truly outstanding.

The Chaldean Federation of America's Commencement program has existed for the past 20 years, and in this time they have awarded a remarkable 400 scholarships and other contributions to help Chaldean youth pursue academic achievements. As a result of these generous scholarships, students have been encouraged to enter professional fields like medicine, law, education, business, and many others.

Our great state of Michigan is home to thousands of Chaldean Americans, patriotic citizens who give so much to this country every day. Once again, they are standing together, celebrating the achievements of their young graduates as a community. The spirit and enthusiasm of the Chaldean American community of Southeastern Michigan has been such an invaluable asset to our great state.

I urge my colleagues to join me in congratulating the Chaldean Federation of America and the entire Chaldean American community of southeastern Michigan on this landmark day, and I salute them all for their years of tremendous contributions and support.

HONORING MR. RUPERT SEXTON,
CUMMING, GEORGIA

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. BARR of Georgia. Mr. Speaker, I am pleased to recognize Mr. Rupert Sexton of Cumming, Georgia for his 32 years of service on the City Council for Cumming, Georgia.

Mr. Sexton has lived in the Cumming community in Forsyth County since his birth, and

June 28, 2002

has honorably devoted much of his adult life to serving his fellow citizens. In addition to his years of service on the Cumming City Council, Mr. Sexton is a veteran of the United States Army and a graduate of Massey College.

Among the many projects which Mr. Sexton has overseen during his tenure, are the rebuilding of the Cumming square, new sidewalks, and construction of a much needed new City Hall.

It is thanks to devoted citizens like Mr. Sexton that our great nation is able to provide protections for our freedoms which maintain our way of life; and the vital services that improve our quality of life.

HAPPY 40TH ANNIVERSARY, EDS

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. SESSIONS. Mr. Speaker, it is not often a \$1,000 investment becomes a \$21.5 billion powerhouse. But a modest investment is how Electronic Data Systems (EDS) started 40 years ago today.

EDS is a leading provider of information technology and business consulting services to businesses and governments worldwide. During its first 40 years, EDS changed the face of information-technology (IT) services while helping IT services grow into a global, half-trillion dollar market. For 40 years, EDS won its customers' trust through diligence and innovation.

American business could learn a lot from EDS' focus on long-term trust-building.

EDS had an unconventional operation when it opened for business on June 27, 1962. The company that would found the information-technology services industry didn't own any computers. So managers convinced a Dallas insurance company to rent EDS time on its idle computers at night.

With only 30 employees and a shoe-string budget, EDS relied on employees to sell data-processing services during the day and process that data at night. Everyone wore more than one hat and put in long days.

EDS' first contract was with Collins Radio in Iowa, and its next was a five-year agreement with Frito Lay to provide facilities management, a service in which EDS assumed responsibility for operating, maintaining, and upgrading companies' computers.

It was 1965 before EDS bought its first computer. By 1969, EDS owned 31 computers, employed 1,407 employees, and earned revenue of some \$100 million.

Besides computers, the 1960s brought EDS new public-sector business that would ultimately transform the small company into an industry giant: Medicaid and Medicare, fundamental components of the Great Society. The late '60s found states struggling to implement these essential health-care programs for the elderly and the economically disadvantaged. The workload was overwhelming. EDS was prepared to help with proprietary systems and processing methods, many adapted from its previous transaction-processing work.

The many partnerships among EDS and states' Medicare and Medicaid programs flourished. By 1981, EDS processed Medicare

claims in 16 states. The corporation now processes more than a billion health-care transactions—public and private—every year. That's one claim for every four Americans.

From its 1960s position as a modest Texas company that processed health-care insurance claims, EDS grew into a global corporation with 140,000 employees worldwide and more than 35,000 clients in more than 60 countries.

In EDS' early years, few understood how IT would change business. No one yet grasped how crucial information and access to it would become, not just for companies, but for the approaching global information culture.

From the beginning, EDS understood information's importance. That's why the company spent the last four decades ensuring the security of its clients' information and infrastructure technologies.

EDS has a rich history serving the federal government. In 1977, EDS signed its first major U.S. government contract with the National Flood Insurance Program. Some 25 years later, EDS continues that relationship.

In 1982, the U.S. Army awarded EDS Project Viable, the largest IT contract ever let by the U.S. Army at the time. The \$650 million, 10-year contract called for EDS to build an information technology system for the Army to support its worldwide human resources activities. EDS' work on Project Viable not only launched the systems-integration market, but demonstrated EDS' ability to handle the largest and most complex IT projects on the planet.

Despite its focus on thorny information-technology projects for corporations, governments, and military organizations, EDS people know that IT has humane applications. In 1990, for example, EDS helped develop In Touch, which enabled veterans to find the families and friends of Americans who died during the Vietnam conflict—veterans' buddies, friends, confidantes, and commanders. EDS has replicated the In Touch system during the last 10 years for similar humanitarian applications.

Also in 1990, EDS collaborated with the Smithsonian Institution in Washington, D.C., to create Information Age, a hands-on exhibit that walked visitors through the decades to witness information technology's progress from ENIAC, the first electronic digital computer, to high-definition television.

In 2000—some 18 years later—EDS won the \$6.9 billion Navy Marine Corps Intranet contract, the largest IT-services contract ever awarded by the U.S. Government. NMCI gives the Navy state-of-the-art information security while providing it the technology and bandwidth for business transformation.

EDS became a wholly owned subsidiary of General Motors in 1984. GM bought EDS to manage its global telecommunications network to link suppliers and dealers and thereby create the first large-scale electronic data interchange. The GM relationship gave EDS swift access to new markets, resulting in explosive growth. EDS zoomed from some 13,000 employees to more than 60,000 in just a few months.

EDS also helped prove the relationship between companies' IT investment and their productivity. Based on the performance of EDS' clients, many came to understand that efficient IT investment leads to more efficient business

operations. It became clear that IT turns data into information and information into the kind of knowledge that drives growth.

By the 1990s, EDS was a global corporation with operations in some 30 countries. EDS designed and installed the official Results Reporting Information Systems for the 1992 Olympic Games in Spain, making it easier for fans and the press to get results faster. Also during the '90s, EDS won a \$1.5 billion contract with the United Kingdom's Inland Revenue, and a similar contract with New Zealand's tax-gathering agency. The government of South Australia followed suit. Meanwhile, Rolls Royce contracted for EDS to do a full range of IT services, including infrastructure, network, systems, and applications. The Commonwealth Bank of Australia also became a major EDS client. In 1998, EDS technology helped more than 12 million Internet viewers watch the 1998 World Cup live.

As 1999 drew to a close, EDS worked with its global clients, and even non-customers, to ensure a flawless transition of myriad public and private IT systems to the Year 2000. EDS was so confident of its Y2K solutions that it opened the Millennium Management Centre to the press so everyone could witness what ended up as a flawless transition from December 31, 1999 to January 1, 2000.

On Super Bowl Sunday 2000, millions watched the Cat Herders, EDS' first Super Bowl commercial. It humorously explained what EDS does better than anyone else in the IT industry—help clients work better, smarter, faster, and cheaper.

EDS originated the idea of a Service Excellence Dashboard, a two-way interactive on-line tool EDS leaders and EDS clients can use to gauge and critique EDS' performance. The innovative dashboard and became a differentiator for EDS. It is continuously updated and improved based on client feedback. Others in the IT industry now use similar systems.

So, please join me in congratulating EDS on this auspicious occasion. At a time when "dot-coms" popped up and then, just as abruptly, disappeared, EDS continues to offer insight on how to be successful: Offer clients what they need, then provide even more.

Happy 40th anniversary, EDS.

PAYING TRIBUTE TO JIM HOKIT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. McINNIS. Mr. Speaker, it with great pride I take this opportunity to pay tribute to Jim Hokit. Jim has been a valued member of the Montrose community for over twenty years. During this time he has served his community as the manager of the Uncompahgre Valley Water Users Association. Through his leadership and hard work Jim has brought the Association into a golden age even paying off its outstanding debt forty-five years early. Now after 30 years with the company Jim is retiring from the association. I can think of no better way to celebrate Jim's retirement than to recognize his successful career and his contributions to our community.

Jim's position as manager of the Uncompahgre Valley Water Users Association is just one of the accomplishments that Jim has achieved. He has served on the Colorado Water Congress in every executive office, as chair of multiple committees and on the board of directors since 1981. Because of Jim's expertise and experience, he served as President of the Colorado Water Congress in 1994 through 1995. Jim is also a member of the Four States Irrigation Council and served as president in 1988. In recognition of Jim's tireless dedication to the Council he has received every award that the Council gives including the President's award. Jim is active in many organizations including the Colorado River Water Users Association and Club 20. Due to his passion for water issues, experience in the field and excellence, Governor Owens appointed Jim to the Colorado Water and Power Authority.

In addition to his service to the State of Colorado in water issues Jim is also involved in his community of Montrose. He has served as director of the Montrose Economic Development Council for nine years and director of the Montrose Chamber of Commerce for six years. Perhaps most importantly Jim is a loving husband to his wife Betty and a devoted father to his three children and grandfather of two.

Mr. Speaker, it is truly an honor to bring the life of a man like Jim Hokit to the attention of this body of Congress and this nation. Jim has gained the respect of his colleagues and fellow citizens and I am proud to represent him and his family. Jim's life is a testament to hard work and a passion and an example to us all. Thank you Jim for all that you have done to protect our precious resource of water and all that you have done for your community and enjoy your retirement.

A TRIBUTE TO THE FIGHTING MEN AND WOMEN OF CANADA AND AMERICA

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. BARCIA. Mr. Speaker, I rise today to honor all those American and Canadian soldiers, sailors, airmen and Marines who have sacrificed their lives in military conflicts over the years, especially those killed in our joint struggle against the evils of terrorism in Afghanistan and throughout the world.

Throughout our mutual histories, America and Canada have enjoyed a special kinship and a great friendship. Our longstanding defense partnership with Canada traces back to World War II and remains well-entrenched and highly successful. Our commonality of interests and heritage often has resulted in significant collaboration in times of war as well as times of peace. America has no better friend than Canada and vice versa.

Americans and Canadians owe a debt of gratitude to those citizens of both nations who have donned their country's uniforms and gone off to war. The freedoms we enjoy in the United States and those enjoyed by our

friends to the north remain intact in large measure because of the willingness of our brave men and women to stand up to tyranny and aggression wherever such acts have occurred. Today, we are faced with a new kind of war and again America and Canada have teamed up to vanquish those who would destroy our way of life. Together, we will win the fight and protect the freedom-loving people of our two peaceful countries.

Sadly, this new war has already taken its toll on America and Canada with the unimaginable loss of life that occurred in the vicious terrorist attacks at the World Trade Center in New York, on that doomed flight that crashed in rural Pennsylvania and at the Pentagon in Washington, D.C. Families in both our countries suffered losses in those tragedies and in the subsequent military actions in Afghanistan and elsewhere.

Finally, Mr. Speaker, I ask my colleagues to join me in paying tribute to those patriots in Canada and the United States who willingly put life and limb on the line to protect and defend our liberties. A free society comes with a price and those brave Americans and Canadians who paid the ultimate price deserve a place of honor on the platform of freedom shared by our two individual nations.

STATEMENT ON FEDERAL TRADE
COMMISSION'S INITIATIVE TO
EDUCATE PARENTS ABOUT
INTERNET GAMBLING

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. WOLF. Mr. Speaker, I want to share with our colleagues my statement regarding the Federal Trade Commission's recent announcement of an initiative to educate parents about children and Internet gambling. This Congress must make it a priority to pass Internet gambling legislation this year. Our children and families deserve nothing less than our best effort on this critically important issue.

STATEMENT BY THE HONORABLE FRANK R.
WOLF OF VIRGINIA

FTC INTERNET GAMBLING INITIATIVE
COMMERCE-JUSTICE-STATE APPROPRIATIONS
SUBCOMMITTEE

Thank you all for being here today. I also want to thank and recognize the efforts of the others who will speak after me: Timothy Muris, chairman of the Federal Trade Commission; Dr. Rachel Vollberg, board member on the National Council on Problem Gambling, and Dr. Marianne Guschwan, chair of the American Psychiatric Association's Committee on Treatment Services for Addicted Patients.

Thank you all for appearing here today and for offering this public education initiative on an urgent issue facing this country's youth and families—the proliferation of Internet gambling.

As a member of Congress, I have been deeply concerned about the spread of gambling in this country. Perhaps no where has the proliferation been more explosive than in Internet gambling.

In 2000, Bear, Stearns & Co. Inc. reported that there were then at least 650 Internet

gambling web sites, and that total revenues for 1999 had been \$1.2 billion (an 80 percent increase from 1998) and would grow to \$3 billion by this year, 2002. Others estimated that Internet gambling could soon easily become a \$10 billion-a-year industry. Several new gambling sites appear on the web every day.

The negative consequences of online gambling can be as detrimental to the families and communities of addictive gamblers as if a bricks and mortar casino were built right next door.

Just as with traditional forms of gambling, online gambling can result in addiction, bankruptcy, divorce, crime, and suicide—the costs of which must ultimately be borne by society.

In its 1999 final report to Congress, the bipartisan National Gambling Impact Study Commission expressed alarm about the growing problem of youth gambling. The commission said, “Adolescent gamblers are more likely to become problem or pathological gamblers.”

Several studies also have shown the link between youth gambling and its association with alcohol and drug use, truancy, low grades and illegal activities to finance gambling.

As the gambling commission noted, youth gambling like youth smoking is often an issue of accessibility and marketing. There is perhaps nothing more accessible to children today than the Internet. The commission's report asked, “How do we as a nation quantify the values in lost opportunities to these young individuals?”

According to the gambling commission, gambling on the Internet is especially enticing to youth, pathological gamblers, and criminals.

But there are currently no mechanisms in place to prevent young people—who make up the largest percentage of Internet users—from using their parents' credit card numbers to register and set up accounts for use at Internet gambling sites.

The National Gambling Impact Study Commission recommended that a total prohibition of gambling on the Internet would provide law enforcement with the additional authority it needs to prosecute dishonest operators.

Internet gambling evades existing anti-gambling laws, endangers children in the home, promotes compulsive gambling among adults, preys on the poor, and facilitates fraud.

I could stay here all day cataloging story after story of ruined families, bankruptcies, suicides and official corruption which at their root you can find a history of gambling.

Gambling is a dangerous product. Study after study has shown that for many in our society, it is also strongly addictive. Gambling's proliferation over the Internet in the last few years illustrates just how pervasive and accessible it is to our youngest citizens.

I am hopeful that Congress will pass Internet gambling legislation this year. In the mean time, the FTC, the National Council on Problem Gambling, and the American Psychiatric Association have taken the lead in calling to the public's attention the risks of online gambling.

These organizations deserve public praise.

Internet gambling is particularly targeted to young people, and public education about the inherent dangers of online gambling is vital to helping parents protect their families.

IN HONOR OF SISTER PATRICK
CURRAN

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Ms. PELOSI. Mr. Speaker, I rise to honor the life and work of Mercy Sister Patrick Curran, who died peacefully on June 10, 2002. Sister Patrick was an inspiration and a friend to so many, and we were blessed to have her with us. Her entire life was an act of worship, and we will cherish her memory forever.

Sister Patrick's life embodied a Franciscan spirituality of compassion for and solidarity with the poor. Throughout her life, Sister Patrick devoted herself unconditionally to serving her sisters and brothers who were poor and elderly. She worked as a young nun in Harlem and East Los Angeles, in residential care facilities in Denver and St. Paul, and in elderly and homeless organizations in the San Francisco Bay Area.

Having spent 20 years with the Little Sisters of the Poor, including several years at St. Ann's home in San Francisco, Sister Patrick Curran transferred to the Sisters of Mercy in Burlingame in 1984. She spent 12 years as Vice President and Chief Operating Officer of the Mercy Retirement and Care Center in Oakland before accepting a position as Executive Director of the St. Anthony Foundation, a homeless service and advocacy agency in the Tenderloin of San Francisco.

St. Anthony Foundation is best known for its Free Dining Room that serves an average of 2,000 meals each day. It also has a dozen other programs that serve homeless and low-income people. Her leadership guided St. Anthony Foundation through important times in its history and development. She distinguished herself by her ability to bring together very talented people—staff, volunteers and donors—to provide quality service to St. Anthony's guests. She was steadfast in her efforts and once remarked, “You can't give up hope. I see poverty but I see more hope. At St. Anthony's we have hundreds of young people coming to work. The young people are a sign of hope for the future.”

Her work in the Bay Area and around the nation was recognized in 2000 when Archbishop William Levada presented her with the Pro Ecclesia et Pontifice Cross, an award bestowed by the Pope on lay persons and clergy who have given exceptional service to the Church. In 2001, she received an honorary degree from the University of San Francisco School of Nursing for her years of service to the sick and aging.

It is with great personal sadness and recognition of their loss that I extend my deepest sympathy to her mother Bridget Curran, her entire family, and to her religious community, the Sisters of Mercy of Burlingame. To all who loved Sister Patrick, thank you for sharing her with us and for giving her so much happiness. I am proud to join my constituents in thanking and praising Sister Patrick for her dedication to the elderly and poor of California and of this Nation.

TRIBUTE TO MITCH KEHETIAN,
LIFETIME ACHIEVEMENT
AWARD, METRO DETROIT SOCIETY OF PROFESSIONAL JOURNALISTS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. BONIOR. Mr. Speaker, each year the Metro Detroit Society of Professional Journalists holds its annual banquet, a celebration honoring local journalists and the recent work they have accomplished. This banquet is traditionally the largest Society of Professional Journalists event of the year, honoring distinguished journalists with the prestigious Lifetime Achievement Award. Recipients of this award have shown outstanding dedication to journalism and their contributions continue to leave a lasting impression on all those in the field. This year, on June 26, 2002, as the Metro Detroit Society of Professional Journalists honored three local journalists with Lifetime Achievement Awards, they honored Mitch Kehetian, for his leadership and outstanding dedication to field of journalism.

A long-time Macomb Daily editor, Mitch Kehetian is a landmark journalist for the Metro Detroit area. Working hard as a reporter for the Detroit Times, Mitch wrote and reported for the paper until its close on November 6, 1960. Working a variety of reporting jobs in Ohio and Michigan, he then established himself permanently at the Macomb Daily, where he has held a number of excellent positions, including managing editor and editor-in-chief. Known to his community and colleagues for his unparalleled commitment to the field and unwavering focus, he has truly led the Macomb Daily to excellence. Also a former Society of Professional Journalists chapter president, his outstanding efforts with the Society of Professional Journalists continue today as he leads the way in pursuit of the highest standards of journalistic excellence.

I applaud Mitch Kehetian and the Metro Detroit Society of Professional Journalists for their leadership, commitment, and service, and I urge my colleagues to join me in saluting them for their exemplary years of leadership and service.

A TRIBUTE TO CHAPTER 571 OF
THE VIETNAM VETERANS OF
AMERICA ON THE OCCASION OF
THE DEDICATION OF THEIR MEMORIAL AND MUSEUM

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. STUPAK. Mr. Speaker, I had an opportunity on Memorial Day 2002 to attend an extremely moving and inspirational event in my congressional district.

On that day, in the small town of Hermansville in Michigan's Upper Peninsula, members of Chapter 571 of the Vietnam Veterans of America dedicated the Thomas St.

Onge Vietnam Veterans Museum and Memorial.

Creating this museum and memorial has been a project based on love, dedication and pride. You might even say, Mr. Speaker, that this museum is a structure built literally on donations, because the land for the museum itself was donated by local residents Richard and Anne Lungerhausen, and planning was done in the clubhouse, a structure donated by Wells Fargo.

I said this was a project based on love. Tommy St. Onge was killed in 1969 in the bitter fighting in the A Shau valley, a battle for control of the northern highlands of South Vietnam. Tommy's death was one of many tragedies recounted in the book *Hamburger Hill* by Samuel Zaffiri. Although he died more than three decades ago, Tommy is remembered with love by his peers. Love and fellowship permeate this project, Mr. Speaker. The dedication ceremony booklet quotes Major Michael O'Donnell, himself a Vietnam casualty, who wrote lines that are so well known to Vietnam veterans, "Be not ashamed to say you loved them, though you may or may not have always. Take what they have left and what they have taught you with their dying and keep it with your own."

This museum does just that, Mr. Speaker. It takes those things "they have left," as Major O'Donnell said—including artifacts as large as a Bell U-H1 "Huey" helicopter and an M-60 Main Battle Tank—and it uses them to teach new generations.

And what does this museum teach about the Vietnam War, and the men and women who served and died there? The 34 members of Chapter 571 have this to say about the mission and goal of their museum and memorial: "Our wish is for all people to remember them as they were, forever young, husbands, sons, daughters, brothers, sisters, and friends. We hope to educate the public, especially those who were too young to understand what this war was all about."

History has yet to truly judge this war, Mr. Speaker, but we know there are lessons to be learned right now. The single greatest lesson we can teach our children is that it was not for lack of dedication, faith, patriotism, comradeship or discipline on the part of the American soldier, sailor or airman that South Vietnam ultimately fell to the North Vietnamese army. Our fighting men and women, who were sometimes savagely and terribly treated by opponents of the war at home, went to Vietnam in answer to the call to duty. There they suffered grievous wounds, the loss of comrades, and sometimes the loss of faith and idealism, but they answered the call to duty! In the history of America's wars, here has been no higher honor gained, nor greater sacrifice made, than that of the veterans of our war in Vietnam!

In the small town of Hermansville in Michigan's Upper Peninsula, the members of Chapter 571 of the Vietnam Veterans of America and their families and other club members have worked since 1996, donating thousands of hours and thousands of their own dollars in pursuit of the dream of celebrating this honor and sacrifice. Their dream is not complete, Mr. Speaker. Jerry Ayotte, the chapter's president, described for me the concept of a museum

that will one day have a rotunda with four wings to include personal mementos and military memorabilia from World War I, World War II, and the Korean War.

I encourage you and all our colleagues to visit this museum, Mr. Speaker. It's located at N 16462 Linden Street, and, until a regular staff can be hired, it's open only on Sunday afternoons, when two volunteers are available. Hermansville is a small town, but it was small towns like this across America that supplied our heroes in Vietnam, and that continue to support our military with their taxes and—the greatest sacrifice—with their own sons and daughters.

When you are there, you can meet and thank—as I have had a chance to meet and thank—the members of Chapter 571 for their efforts to keep alive both the memories of fallen comrades and the conviction that these comrades did not fall in vain, because they offered their lives in the belief that they fought for America's greatest ideals of freedom.

Vietnam Veterans of America Chapter 571 and their spouses are: Richard Adams and his wife Ann, Peter and Karen Anderla, Ronald and Debbie Augustine, Gerald and Patti Ayotte, Calvin and Cindy Baird, Roger Clark, Edward J. Donahue, Darryl D. and Gretchen Fossen, William N. Isetts, Robert and Cathy Laroche, Bernard E. and Brenda Loukkala, Russell Peters, Dale I. and Sharon Peterson, Dennis C. and Beth Peterson, Edwin L. Plettner, Gary F. Poupore, Terrance L. Richer, Wayne J. and Linda Rochon, Lyle R. and Jo Schoen, Norman J. Schreiner, Louis R. Schuette, Roger L. and Priscilla Schuette, Peter Tanguay, Ronald D. and Susie Tomasi, Roger J. and Randy Treves, Terrence W. and Rosemary Trudell, Donald J. Trulock, Thomas R. and Sally Unger, Paul C. Vinzant, James R. and Rebecca Wash, James E. Watson, Edwin R. Whytsell, Edward A. and Maryanne Zahn, and Ronald E. Zahn.

HONORING THE LIFE OF JOHN
FRANCIS "JACK" BUCK

SPEECH OF

HON. TIMOTHY V. JOHNSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 2002

Mr. JOHNSON of Illinois. Mr. Speaker, today it is my pleasure to join my colleagues in honoring a truly great American, Jack Buck. For nearly five decades, Jack Buck's memorable voice announced Super Bowls, World Series and the games of his beloved St. Louis Cardinals. I was honored to actually be in the broadcast booth at Busch Stadium with him on a few occasions. Growing up in Central Illinois, Jack Buck became baseball to me. His voice was that of a trusted friend's and he became like a member of my family. I distinctly remember his calls of Stan Musial, Bob Gibson, Ozzie Smith and Mark McGwire and I will never forget game five of the 1985 National League Championship Series. Ozzie Smith had hit a home run to beat the Los Angeles Dodgers and a very excited and emotional Jack Buck told everyone to, "Go crazy, folks, go crazy". This man, this legend, came from

nothing to become everything he wanted to be. He is a shining example of what is good and right and what can be achieved in our country. Tradition and the integrity of baseball are words that come to my mind when I think of this pillar of his community. He did so much for St. Louis and those of us in the Midwest fortunate enough to have KMOX on our dials. My thoughts and prayers are for the Buck family and the fans of Jack Buck and the St. Louis Cardinals organization in this time of mourning.

**PAYING TRIBUTE TO PATTY
ERJAVEC**

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. McINNIS. Mr. Speaker, I would like to take a moment to pay tribute to Patty A. Erjavec for her outstanding contributions to the business community of Pueblo County, Colorado. Patty was recently awarded the Charles W. Crews Business Leader of the Year Award by the Greater Pueblo Chamber of Commerce in recognition of her selfless leadership within the business community, leadership that deserves the appreciation and respect of all Coloradans.

Patty Erjavec believes strongly in the importance of an educated workforce to bring about economic revitalization in the Pueblo area. As President of the El Pueblo Boys' & Girls' Ranch, she has worked tirelessly to insure that future generations have the access to a solid education that they deserve. At the ranch, Patty has invested herself in the lives of many children, showing them the love and compassion which has helped to form them into productive members of the Pueblo community.

Patty has been active in numerous other civic organizations, each expressing her vision for a brighter and more prosperous future for the business community of Pueblo. During her presidency of the Pueblo Rotary Club #43, she actively organized the membership to provide tutoring, mentoring and parenting classes to an underprivileged elementary school with a significant number of families living well below the poverty level. As a member of the State Board for Community Colleges and Occupational Education, Patty has been able to influence statewide policies in order to support the development of an educated workforce.

Mr. Speaker, it is my privilege to pay tribute to Patty Erjavec for her contributions to the Pueblo community. I applaud her receipt of the Greater Pueblo Chamber of Commerce's "Business Leader of the Year" award recognizing her significant achievements for the good of the community. Patty serves as a shining example that a woman can successfully manage career goals and family responsibilities while making time to give back to her community. For these reasons I bring Patty Erjavec to the attention of this body of Congress and applaud her devotion to the people of Pueblo.

**HONORING DONALD AND RUTH
McNULTY ON THEIR 50TH WED-
DING ANNIVERSARY**

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. QUINN. Mr. Speaker, I would like to take this opportunity to honor the 50th wedding anniversary of Donald and Ruth McNulty of Blasdell, New York. As family and friends will gather to celebrate this joyous occasion, I too would like to recognize them at this special time. Following their hearts throughout this 50-year journey has led to happiness and a loving life together.

Love has flourished between these two hearts, but not without dedication and hard work. This celebration of 50 years is a remarkable accomplishment and is to be commended. Mr. Speaker, it is with excitement and admiration that I extend my congratulations to Donald and Ruth and offer them my best wishes for many years to come.

**JON LOCKE: SADDLING UP FOR
THE OLD WEST**

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. BARCIA. Mr. Speaker, I rise today to pay tribute to Jon Locke, a journeyman actor whose feature-length films and television credits read like a viewer's guide to the great Westerns so many of us enjoyed during our youth. Cowboy actors such as Jon Locke not only entertained us, they also helped unlock the history of the real West by giving viewers a glimpse of the legendary men and women who settled our American frontier.

Over the years, many fans saddled up and rode along with Jon Locke and scores of other cowboy actors as they journeyed back to the Old West by watching celluloid versions of our frontier legends. While the names of all these actors may not be as recognizable as some of the top-billed stars who rode off into the sunset, the supporting cast of faithful sidekicks, bad guys, cowpokes, gunfighters and others were unmistakable and essential to the Western myths that have become such an important part of our American culture.

Fans will recognize Jon for his appearances in episodes of "Gunsmoke," "The Texan," "Cimarron City," "Bonanza," "The Virginian," "Wagon Train," "Laramie," "Tales of Wells Fargo," "Sheriff of Cochise," and "Custer," to name a few, and also for his roles in feature films for MGM, Universal Studios, 20th Century Fox and Walt Disney Productions. He also appeared in "Land of the Lost," "The Waltons," "Perry Mason" and many other classic television shows of bygone days, some of which now can be seen in syndication.

As a characteristically American film genre, Westerns occupy an honored place in the hearts and minds of all of us who see honor and glory in the rugged individualism portrayed in those movies. Jon Locke has been

an integral part of the history of the Western in movies and on television throughout his acting career. Still active in the film industry, Jon also does his part to keep the memory and spirit of the Old West alive by appearing at reenactment events and Western festivals throughout the country. He usually brings his banjo along and has been known to sing a tune or two.

Finally, Mr. Speaker, I ask my colleagues to join me in applauding Jon Locke for embodying in his acting the true grit, valor and work ethic of the cowboys, frontiersmen and pioneers who forged ahead to make America the great and noble nation it is today. I am confident that Jon won't hang up his spurs until the last roundup is over. He truly has kept the campfire burning for all those aspiring young cowboys and cowgirls of the future.

**CONGRATULATING A.M. ROSEN-
THAL IN RECEIVING THE PRESI-
DENTIAL MEDAL OF FREEDOM**

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. WOLF. Mr. Speaker, last week, President Bush announced the recipients of the Presidential Medal of Freedom, the nation's highest civilian honor. A.M. Rosenthal, a Pulitzer Prize winner, former executive editor of the New York Times, and human rights advocate was named as one of the prominent Americans to receive the Presidential Medal of Freedom.

Mr. Rosenthal led the fight against tyranny, against communism and he provided a valuable voice in raising America's attention to the problem people from a variety of faiths being horribly persecuted simply for their religious beliefs.

Mr. Rosenthal should serve as an inspiration to the future American generations that one can change the world by passionately seeking truth and justice.

Congratulations Mr. Rosenthal on winning this prestigious and honorable award.

I want to enclose for the record this article from the Washington Times that describes in more detail the contributions of Mr. Rosenthal and the other recipients of this elite honor.

{From the Washington Times, Friday, June 21, 2002}

12 RECEIVE PRESIDENTIAL MEDALS—MANDELA, NANCY REAGAN, ROSENTHAL, MR. ROGERS HONORED

(By Joseph Curl)

President Bush yesterday announced the recipients of the Presidential Medal of Freedom, a list that includes two writers, three entertainers, an athlete and a former first lady.

Among the dozen to receive the nation's highest civilian honor is A.M. Rosenthal, a Pulitzer Prize winner for foreign correspondence who became the executive director of the New York Times. He writes a weekly column now for the Washington Times.

"Believe me, it never occurred to me that I would be given a medal by the president—or anyone else," Mr. Rosenthal said in a telephone interview last night. The White House

praised Mr. Rosenthal's efforts "to highlight the suffering of oppressed people, especially religious minorities."

Mr. Rosenthal began in newspapers in the 1940s traveled the world as a foreign correspondent. In 1960, won the Pulitzer Prize for his reporting from Poland. He served a stint in India before returning to New York to become the top editor at the New York Times. The other recipients, all of whom will receive their medals in a White House ceremony in July, are:

Nancy Reagan, wife of former President Ronald Reagan, for her long anti-drug work as first lady and her continued work against drug and alcohol abuse through the Nancy Reagan Foundation.

Nelson Mandela, who led the fight to end apartheid in South Africa over the course of his 73-year public life. Mr. Mandela was imprisoned by the South African government in 1962 and was released on Feb. 11, 1990. Mr. Mandela was awarded the Nobel Peace Prize in 1993 and inaugurated as the first democratically elected president of South Africa on May 10, 1994.

Katharine Graham, who led The Washington Post until 1993 and, the White House said, "was known as an editor who maintained excellence by supporting her reporters and encouraging those who worked for her." She was chairman of the Post, but actually never held an editing position.

Hank Aaron, who holds the career records for home runs, at 755. Mr. Aaron, who was inducted into the Baseball Hall of Fame in 1982, played first on a team in the old Negro League and, the White House said, "was unfettered in his pursuit of excellence by frequent encounters with racism throughout his career."

Bill Cosby, a one-time stand-up comedian and one of the most popular television performers of the 1980s with "The Cosby Show," which revolutionized the portrayal of blacks on television. "Throughout his career," the White House said, "Dr. Cosby has appealed to the common humanity of his audience, rather than the differences that might divide it."

Plácido Domingo, a renowned opera singer, conductor and arts administrator over his 44-year career. "He was blessed with an unusually flexible voice, which has allowed him to perform in 188 different roles, more than any other tenor in the annals of opera performance," the White House said.

Fred Rogers, host of "Mister Rogers' Neighborhood" for over three decades, making the show the longest-running program in the history of public broadcasting. "All of his work has been emblematic of the same philosophy and goal: to encourage the healthy emotional growth of children and their families," the White House said.

Peter Drucker, a prominent pioneer of management theory. "Dr. Drucker has championed concepts such as privatization, management by objective and decentralization" and is "currently applying his expertise to the management of faith-based organizations," the White House said.

Dr. D.A. Henderson, best known for his leadership of the World Health Organization's global small-pox-eradication campaign from 1966 to 1977. "He was also instrumental in initiating the WHO's global program of immunization which now vaccinates approximately 80 percent of the world's children against six major diseases," the White House said.

Irving Kristol, author, editor and professor. "Mr. Kristol's writings helped lay the intellectual groundwork for the renaissance

of conservative ideas in the last half of the 20th century. His approach adapted traditional conservative thought with contemporary societal issues and became the framework for compassionate conservatism," the White House said.

Gordon Moore, co-founder of the Intel Corporation who directed the company's growth as the most successful development of the microchip. In November 2000, Mr. Moore and his wife established the Gordon and Betty Moore Foundation with a multibillion-dollar contribution, funding projects in higher education, scientific research, the environment and San Francisco Bay Area projects.

The Presidential Medal of Freedom was established by President Truman in 1945 to recognize civilians for their service during World War II, and it was reinstated by President Kennedy in 1963 to honor distinguished service. It is the nation's highest civilian award.

CELEBRATING SAN FRANCISCO LESBIAN, GAY, BISEXUAL AND TRANSGENDER PRIDE AND IN HONOR OF OFFICER JON D. COOK

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Ms. PELOSI. Mr. Speaker, I rise today in recognition of lesbian, gay, bisexual and transgender pride in San Francisco and to pay tribute to the memory of Jon D. Cook, the first openly-gay San Francisco police officer to lose his life in the line of duty.

This weekend marks the 32nd annual San Francisco Lesbian, Gay, Bisexual, Transgender Pride Celebration entitled, "Be Yourself, Change the World!" This is our time to celebrate San Francisco's proud history of advocacy for equal rights for lesbian, gay, bisexual, and transgender persons and to recognize the important contributions the LGBT Community makes to our City and to our nation.

Officer Jon Cook's legacy is an important example of such contributions. On June 12, 2002, Officer Cook was killed when his police car collided with another police car as they both pursued a suspected violent felon. Before joining the force, he worked as a research scientist searching for a cure and treatments for HIV/AIDS. He also served honorably as a lieutenant in US Air Force intelligence with a top-level security clearance.

Officer Cook touched the lives of many people in San Francisco. More than 2,000 attended his funeral mass, including friends and family members, over 600 fellow officers from throughout Northern California, and hundreds of residents and community leaders from the Castro and Mission districts that he served. His fellow policemen and women remember him as a dedicated officer who always wanted to be at the scene; residents remember with gratitude the way he looked out for them. "Jon loved being a cop," recalled his domestic partner of three years, Jared Strawderman. "He loved serving his community. He loved being in situations where he could help people. He wanted to go to where the trouble was and fix the problem."

To his parents Jon Sr. and Rosemary Cook; his siblings Bonnie, Brian, Wayne, Jamie and Gary; partner Jared Strawderman; and his many nieces and nephews; we share your loss, and we are grateful for the service Jon provided to the people of San Francisco.

The contributions of Officer Cook and so many others in San Francisco bring into sharp focus the need for basic protections of lesbian, gay, bisexual, and transgender persons. As we mourn the loss of Jon Cook, we also reaffirm our commitment to the fight for equal rights for all and our belief in the beauty of our diversity.

TRIBUTE TO JERRY L. BLOCKER, LIFETIME ACHIEVEMENT AWARD WINNER, METRO DETROIT SOCIETY OF PROFESSIONAL JOURNALISTS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. BONIOR. Mr. Speaker, today I rise to pay tribute to a man whose leadership and achievements in broadcast television and journalism span the decades and have touched the lives of so many across southeastern Michigan and beyond. Each year the Metro Detroit Society of Professional Journalists holds its annual banquet, a celebration honoring local journalists and the recent work they have accomplished. This banquet, traditionally the biggest Society of Professional Journalists event of the year, also honors distinguished journalists who have shown outstanding dedication to journalism and whose contributions continue to leave a lasting impression on all those in the field, with the prestigious Lifetime Achievement Award. This year, on June 26, 2002, the Metro Detroit Society of Professional Journalists honored three local journalists with Lifetime Achievement Awards, and among them they honored Jerry L. Blocker posthumously, who died on October 31 at age 70.

A pioneer for African American journalists in Detroit, Jerry Blocker was truly a model and a mentor for so many television journalists. Hired by Channel 4 after the 1967 Detroit riots, his work paved the way for so many young African Americans with aspirations for television journalism. He anchored weekend newscasts until 1975, and following a long and prosperous career, he retired from broadcast work in the early 1990s and established his own public relations firm, Jerry Blocker Enterprises, in Farmington Hills. Known for his characteristic low-key and matter-of-fact style, he devoted his life and profession to providing the highest standards of journalistic excellence.

Jerry Blocker always gave one hundred percent in every aspect of his life; his work, his community, his family and his friends. Those who had the pleasure of knowing him and the benefit of working with him will surely continue to remember him as a dedicated, faithful friend to all. He will truly be missed.

I applaud Jerry Blocker and the Metro Detroit Society of Professional Journalists for their leadership, commitment, and service, and

I urge my colleagues to join me in saluting them for their exemplary years of leadership and service.

COMMEMORATING THE 40TH
ANNIVERSARY OF EDS

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. FROST. Mr. Speaker, 40 years ago, June 27, 1962, an industry was born with the investment of just \$1,000. That industry today is nearly half a trillion dollar market and provides jobs to more than 20 million people around the world.

With the founding of EDS, Electronic Data Systems, that day, the world started doing business in a different way as information technology services became part of the global economy. Today, information technology is pervasive. Whether we're using an ATM, making airline reservations, or renewing a driver's license, we are all surrounded by computing power that fundamentally affects how we live.

Plano, Texas-based EDS started small with just a few employees using the excess capacity of other company's computers. Today, EDS has 140,000 employees serving government and business in 60 countries with revenue of \$21.5 billion.

There have been many milestones along EDS's journey.

In the 1960s, EDS developed the first comprehensive system for managing public health care programs. Today, EDS processes 2.4 billion medical claims transactions a year.

In 1976, EDS started processing airline tickets sold by travel agents. EDS is now the largest provider of IT services to the airline industry.

EDS launched the systems-integration market in 1982 with the U.S. Army's Project VIA-BLE, a vast and complex human-resources system. At that time, it was the largest IT-services contract ever let by the U.S. Army.

In the 1990s, the United Kingdom's Inland Revenue Service selected EDS to become its IT services provider.

Today, EDS is building a vast intranet for the U.S. Navy and Marine Corps under the largest IT contract ever awarded by the U.S. government. The value is \$6.9 billion.

EDS has long made significant contributions to its communities. Its award-winning JASON Project brings the thrill of discovery to hundreds of thousands of school children each year. The company also provides grants to elementary school teachers so they can bring the latest technology to the classroom. And each fall thousands of EDS employees go out into the community to lend a helping hand as part of Global Volunteer Day.

EDS is entering its fifth decade doing what it does best—managing and integrating information technology services. It is committed to building trust with each client and to making available to all clients sophisticated information security and business-continuity services.

Well-deployed information technology has fueled significant productivity gains in the last 40 years—particularly in the last decade.

These gains are especially valuable today in an interconnected, global, digital economy. EDS is a big part of those gains.

The information-technology industry holds unprecedented opportunity. Everyone wants to be part of it. Many companies are realizing what EDS understood 40 years ago—that even the most groundbreaking technologies quickly lose their edge unless they are creatively and innovatively applied.

Some may think the forty-year milestone may mean middle age is approaching. Not in EDS's case. It is a company as focused on delivering value to its clients today as it was in 1962. It stays young by reinventing itself and listening to its clients.

Mr. President, please join me in saluting EDS for its many contributions to the information technology services industry and in wishing the company well for another 40 years.

2002 SNICKERS REGION I
CHAMPIONSHIP

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. QUINN. Mr. Speaker, I would like to take this opportunity to welcome the 2002 Region I SNICKERS Championship to the Western New York area. The SNICKERS® Region I Championships are the most important United States Youth Soccer registered team competition conducted by the Region, or by any State Association within each State Association each year. As such, this competition requires that each State Association and all members of State Associations support the Championships as their first priority.

The 2002 SNICKERS Region I Championships will be held Friday, June 28th through Tuesday, July 2nd. I would like to extend congratulations to all teams, parents, referees and administration who will be participating in the 2002 SNICKERS Region I Championships. This most prestigious event will be a measure of accomplishment they will always cherish and remember.

Mr. Speaker, I would like to commend all of the participants in the 2002 Region I SNICKERS Championship for their focus on the young athletes of America's future. It is the goal of not only preparing the athletes for competition but to promote positive contributions towards an equally important world of physical fitness—with learning at the heart of all of our activities.

AMERICAN CITIZENS TAKEN
AGAINST THEIR WILL TO SAUDI
ARABIA

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. WOLF. Mr. Speaker, I commend to our colleagues' attention an editorial from yesterday's Wall Street Journal that highlights the many cases of American women who have

been forcibly taken to Saudi Arabia. Even though they are U.S. citizens, once taken to Saudi Arabia, they have not been allowed to leave.

I hope the 107th Congress and this Administration will put a stop to this practice and receive assurances from the Saudi Government that it will not happen again.

[The Wall Street Journal; Review and Outlook]

ALL THE PRESIDENT'S WOMEN

White House spokesman Ari Fleischer should stop referring to grown women as children. The women in question are Amjad Radwan and Alia and Aisha Gheshtayan, three American citizens in Saudi Arabia whose fate has finally become an issue for Congress.

When reporters at a White House press briefing recently deluged Mr. Fleischer with questions about whether President Bush had raised their plight during an Oval Office chat with the visiting Saudi Foreign Minister, he repeatedly—eight times by our count—invoked the word “custody” or “custody of a child” to characterize how the “President views this.”

It's true that a number of American mothers have had an awful time getting children out of Saudi Arabia, though even here it beggars belief to reduce these to custody disputes. But two of the three cases that the House Government Reform Committee aired during its hearings did not involve children.

Amjad Radwan is 19 years old and, unlike her older brother, cannot leave Saudi Arabia because she is a woman and must have the permission of her Saudi father, who refuses to give it. In highly charged testimony delivered via videotape, Amjad's mom, Monica Stowers, told the House she remains in Saudi Arabia because she fears for her daughter's life; Miss Stowers further reported that both her son and daughter were raped by members of her former husband's family. Alia and Aisha Gheshtayan are also adults.

When pressed on this point, the State Department says it has made every effort to ascertain the women's wishes about returning to America. In the case of Miss Roush's daughters, however, State concedes that it hasn't seen them since the mid-1990s. Moreover, its own human-rights report on Saudi Arabia declares that “physical spousal abuse and violence against women” is “common” and that the Saudi government tends to look the other way. Translation: The only way these Americans are going to be able to speak freely, without fear of returning home to a beating, is to insist that Riyadh give them the exit visas that will allow them to come here.

The truth is that there isn't soul at State or the Saudi Foreign Ministry who doesn't understand that if President Bush were to express his displeasure to Crown Prince Abdullah, then Alia, Aisha and Amjad would be on the next plane for New York. And things would never have reached this dismal stage if the State Department hadn't signaled from the start that it was willing to let all the ground rules be set by Saudi law and custom—even in defiance of U.S. courts, arrest warrants and rights.

Last June, 23 Senators, including leaders Trent Lott and Tom Daschle, signed a letter urging Secretary of State Colin Powell “in the strongest possible terms, to intervene forcefully and in person with the Saudi authorities at the highest levels to secure the prompt release and repatriation of Alia and Aisha Gheshtayan.” The immediate answer

was the standard State kiss-off: a letter explaining that the women were "subject to Saudi law."

But it seems that Congressional interest can have a catalyzing effect on Foggy Bottom. At hearings last Tuesday before the House International Relations Committee, William Burns, Assistant Secretary for Near Eastern Affairs, disclosed that Mr. Powell has now raised the issue with the Saudi Foreign Minister and that he himself brought it up with Crown Prince Abdullah 10 days earlier, on the eve of the Government Reform Committee's hearings.

But Mr. Burns continued to define the issue as a custody dispute. And his remarks suggest that State still refuses to treat this as a state-to-state issue, in favor of a touchy-feely approach about "keeping families connected." This is a long way from "Perdicaris alive or Raisuli dead"—Teddy Roosevelt's tart reaction when a Berber bandit chief took an American hostage in Tangier.

In a TV spot running under the title "Al-lies Against Terrorism," the Saudi government urges Americans to "listen to America's leaders" when it comes to the "facts" about the country that spawned 15 of the 19 September 11 hijackers. It features President Bush vouching for how the Saudis have been "nothing but cooperative." This is their chance to prove it.

HONOR OF MABEL BROWN SCHINE

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Ms. PELOSI. Mr. Speaker, I rise today to pay a final tribute to the magnificent life of Mabel Schine. Mabel passed away recently in San Francisco after a lifetime of community service and leadership. We are very grateful for her distinguished career and her inspirational life, and we will miss her greatly.

As a dietary expert at San Francisco's Mount Zion Hospital, Mary's Help Hospital, and the Jewish Home for the Aged and as the City's first African American District Health Director, Mabel demonstrated her remarkable talents as a dietician and as an expert advisor during her thirty-year career.

Her service to the City of San Francisco included work for the Economic Opportunity Council and Model Cities Program and on the Citizen's Advisory Committee for Mayor Feinstein's Office of Community Development. She served as Treasurer of the San Francisco Black Leadership Forum and was actively involved in San Francisco politics.

Following her retirement, she continued to serve her community at Bayview Hunter's Point Senior Health Day Care Center, Bayview Hunter's Point Boy and Girls Club, and as President of the San Francisco Sickle Cell Disease Foundation. Her service also extended to Contra Costa County where she led non-profit boards, ran government commissions, and tirelessly and eloquently advocated on behalf of the black community.

To her husband Lloyd Schine, her daughter Marvin Jean and her son Lloyd Jr., her sisters, her grandchildren and her many dear friends, thank you for sharing Mabel with our City and our community. I hope it is a comfort to you

that so many people share your grief and honor her memory.

TRIBUTE TO PHILIPPINE INDEPENDENCE DAY AND THE FILIPINO AMERICAN COMMUNITY COUNCIL

HON. DAVID E. BONOIR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. BONOIR. Mr. Speaker, today I rise to recognize the Filipino American community of Michigan, who celebrated the Philippine Independence Day on June 22, 2002.

On July 4 of 1946 the Philippines gained its independence. Since that glorious day, the nation has endured many hardships but has continued to persevere. The Philippines and its proud citizens are entering into a new era of political, social, and cultural growth. They possess a focused vision of their future and will do all they feel is necessary to ensure prosperity.

The relationship between the United States and the Philippines is strong and growing stronger. Today, the United States is enriched by the many Philippine Americans who have made this country their home. As the second largest Asian group in the United States, Philippine Americans are making their mark, serving as hard working members of the civic, business, and professional communities. They have made major contributions to nearly every facet of American society.

As Michigan is home to a thriving Filipino American community, we have the opportunity to recognize the accomplishments and contributions of a fabulous people. The Filipino American Community Council's KALAYAAN 2002 Picnic and Pistahan attests to the wealth of the culture we have developed here in Michigan. With food, music, cultural performances and dances, the spirit and enthusiasm of the Philippine American community of Southeastern Michigan is very strong. The Philippine American community truly adds to the wonderfully diverse American culture by sharing with us their customs, traditions and beliefs. They have been such an invaluable asset to our great state.

Mr. Speaker, I join the people of the Philippines, those of Filipino ancestry around the world and Filipino Americans in Michigan celebrating Independence Day. I salute all of them for the tremendous contributions to freedom and human dignity which they have made.

PAYING TRIBUTE TO GEORGE CURRIER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. McINNIS. Mr. Speaker, I rise today to pay tribute to a man who has spent the last six years in the dedicated service of his community of Collbran: George Currier. George is a great Coloradan who has given of himself

countless times during his term on the Collbran Board of Trustees. His knowledge and love for the community, as well as his vision for the future, have made him an invaluable resource to the whole town.

George Currier was born and raised in his beloved Collbran. His family was in the ranching business during his childhood; and while they would leave town every winter to ranch their cows in the Appleton area, George and his family would return with the nice weather: Collbran is George's home.

During George's time on the Board of Trustees he has overseen numerous improvements to the community, including the construction of a new town hall. But more important than the physical development that has been undertaken during his watch, George values the many Collbran town employees with which he has worked closely during his six years of service. However, George's efforts to better his beloved hometown have not been limited to his service in town government: George, his wife Nancy and their three children remain active in the Collbran community.

Mr. Speaker, it is with pride that I bring to the attention of the body of Congress the accomplishments of a man whose love for his hometown, and whose desire to improve his community, is an inspiration to his friends and neighbors alike. A public servant in the truest sense of the phrase, George Currier's time on the Collbran Board of Trustees has been a fine example to all of us who serve our nation in elective office. With appreciation, I echo the praise George has received from his friends and neighbors in Collbran and salute him for his six fine years of service to his community.

HONORING UPS EMPLOYEE ALLEN "CHUCK" BITTNER

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. GARY MILLER of California. Mr. Speaker, Chuck Bittner started with UPS back in 1966 as a Package Car Driver delivering mail to the businesses and residents of the Inland Empire in Southern California. After 25 years of safe driving, drivers are inducted in UPS' Circle of Honor, which is the highest honor awarded to Package Car Drivers. Chuck not only achieved that illustrious accolade but was also recently honored for a staggering 30 years of safe driving by his Center Manager. With 30 years behind the wheel and not a single traffic mishap, Chuck has truly accomplished something special. The people of Southern California owe Chuck, and other delivery drivers like him a debt of gratitude for keeping our roads safe. Despite this impeccable driving record, Chuck says he will probably retire in the next year. He will certainly be missed as he and his truck have become a familiar and reassuring sight in the Southern California neighborhoods.

IN HONOR OF THE LIFE OF
HARVEY LEGGETT, SR.

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. DINGELL. Mr. Speaker, I rise in honor of the life of an honorable, respected, and valuable member of the Ypsilanti community, Reverend Harvey Leggett, Sr. Rev. Leggett, who passed away Monday, was a man of wisdom and a man of God, and served his community with distinction. He will be dearly missed.

Reverend Leggett guided the St. John's Missionary Baptist Church in Ypsilanti for 32 years. His style moved the members of the church. So commanding, in fact, was his delivery and presence that he was nicknamed "sergeant." He was not only masterful on the pulpit, but also was an accomplished writer and singer, who employed a good sense of humor.

"Sergeant" Leggett's dedicated service was not limited to Ypsilanti, but included serving in leadership positions in national African American Baptist conventions. In so doing, his work touched the lives of many across this great land, and his memory will be broadly remembered.

Rev. Leggett is survived by his wife of 42 years, Bernice, as well as sons Steve, Willie, and Harvey Jr., and daughter Angela. They are in the thoughts and prayers of many in the Ypsilanti community, and I would ask that they also be in ours. Mr. Speaker, I would ask my colleagues to join me in extending our condolences to the Leggett family, and to honor the life of a great man and community leader, Harvey Leggett Sr.

TRIBUTE TO MR. JAN NOWAK-
JEZIORANSKI

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to one of the most respected leaders of America's Polish community, Jan Nowak-Jezioranski. As he prepares to return to Poland, I would like to take this opportunity to bid him farewell and thank him for his decades of service in this country as a remarkable civil servant and defender of freedom and democracy.

Both the United States and Europe are greatly indebted to Mr. Nowak-Jezioranski. In World War II, he was an acclaimed "Courier from Warsaw" who served as a liaison between the Home Army in the occupied Polish territory and the Polish government in exile in London and representatives of the British government. In addition, he was a key witness that spoke out against the atrocities of the Nazi occupants in Central and Eastern Europe. Near the end of the Cold War, Jan Nowak-Jezioranski was the director of the Polish section of Radio Free Europe. In this capacity, he gave millions of his countrymen the

strength and courage to not give up hope behind the Iron Curtain. As a U.S. Citizen, Jan Nowak-Jezioranski bolstered my colleagues and my efforts to contain the Soviet block. Due to his leadership, he was able to help opposition groups in Central and Eastern Europe flourish.

Jan Nowak-Jezioranski's vision helped Poland become one of our closest allies in Europe. Following the historic changes, he helped the American public realize the importance of supporting Poland's struggling democracy both economically and politically. Mr. Nowak-Jezioranski recognized the need to abolish the political, social and economic divisions in Europe and therefore, he diligently supported NATO expansion. As a member of the Alliance, Poland has proven a creditable source during the Kosovo campaign and the war on terrorism.

Mr. Nowak-Jezioranski has been a long time supporter of the transatlantic community and promoter of democratic values. I believe that our nations will maintain their commitment to strengthening the transatlantic community and encouragement of democratic ideals. It is my hope that from across the Atlantic, Mr. Jan Nowak-Jezioranski will remain active in the public debate on issues that are key to our nations' futures. I ask my colleagues to join me in expressing immense gratitude for Mr. Jan Nowak-Jezioranski's numerous contributions to the cause of democracy and freedom,

SOCIAL SECURITY PROGRAM PROTECTION ACT OF 2002

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 2002

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of the Social Security Program and Protection Act. This legislation is a protective measure that would maintain the integrity of Social Security Programs.

H.R. 4070 would protect the nearly 7 million Social Security and SSI beneficiaries who cannot manage their own finances and have a "representative payee." This legislation prevents misuse of benefits by: (1) authorizing the reissuance of certain misused benefits, (2) disqualifying from serving as representatives payees fugitive felons and those who have been convicted and imprisoned more than a year, and (3) expanding civil monetary penalties to include representative payees misuse of benefits.

In addition, this legislation would also further protect Social Security by Clarifying that civil monetary penalties can be imposed for failure to notify SSA of changed circumstances that affect eligibility or benefit amount.

H.R. 4070 includes provisions that aim to support meaningful work opportunities for individuals with disabilities. The bill would ensure that employers who hire individuals with disabilities through referral by an employer network qualify for the Work Opportunity Tax Credit.

Now is the time to save Social Security. We must ensure the viability and integrity of Social

Security for the sake of our nation's most deserving citizens. Half of all American workers do not have employer-provided retirement programs and must rely on Social Security and their own savings.

If we do not protect Social Security, there will be serious poverty among the elderly. Women are particularly vulnerable because they have lower income retirement than men and are likely to live in poverty. Couple this reality with the vulnerability of those recipients who cannot manage their own financial affairs and the need to safeguard social security becomes even more evident.

Mr. Speaker, I urge my Colleagues to support this legislation. Social Security is one of the most critical issues facing Congress today. This legislation recognizes the importance of Social Security to the long-term economic stability of Americans.

ESTABLISHMENT OF MID-COLUMBIA VETERANS MEMORIAL IN THE DALLES, OREGON

HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. WALDEN of Oregon. Mr. Speaker, I rise today to share with my colleagues the pride I feel as an American and as a native of The Dalles, Oregon in the establishment of the Mid-Columbia Veterans Memorial, which I will join the community leaders of The Dalles in dedicating on the 4th of July. On this hallowed day, as we observe the founding of the greatest nation in the history of mankind, it is fitting that we honor the patriots who have fought and died to keep it so.

This memorial was conceived by the citizens of The Dalles to pay tribute to the sons and daughters of Oregon's Mid-Columbia region who served our nation in times of war. Building on an existing memorial to local veterans of the Vietnam War, leaders of this community launched an effort to create a lasting monument to every veteran of the Mid-Columbia who has served the United States in uniform. Built from funds gathered from the State of Oregon, the federal government, local businesses and private citizens, the memorial we will unveil arose from the hearts of the men and women of the Mid-Columbia who remain forever grateful for the sacrifices that purchased the freedom they so deeply cherish. I am proud to have assisted in securing federal funds for this worthy project, just as I am proud to have hailed from a community whose ground has been so fertile in producing patriotic citizens.

Mr. Speaker, no memorial to our nation's veterans seeks to glorify armed conflict or celebrate the tragedy that war represents. Rather, they are erected to pay homage to the virtue that is found among men and women for whom the triumph of despotism and tyranny is more terrifying even than their own deaths.

Mr. Speaker, the philosopher John Stuart Mill once wrote, "War is an ugly thing, but not the ugliest of things. The decayed and degraded state of moral and patriotic feeling which thinks that nothing is worth war is much

worse. A man who has nothing for which he is willing to fight, nothing he cares about more than his personal safety, is a miserable creature who has no chance of being free unless made and kept so by the exertions of better men than himself."

It is only by God's grace that our nation has been blessed with such men and women, whose exertions have safeguarded the freedom not only of this nation, but of much of the rest of the free world. Men like Charles R. Rubart of The Dalles, who was killed in action in 1899 while serving in the Philippines, far from the beauty of his native land. Men like Loren Kaufman, a son of The Dalles who received the Congressional Medal of Honor for gallantry in action during the Korean War. Men like Stan Adams, another Korean War veteran who also received our nation's highest award for leading the men under his command on a bayonet charge against an enemy force 10 times the size of his own unit. These are Oregonians whose exertions have earned them an eternal place in the pantheon of America's greatest heroes.

Mr. Speaker, in the years ahead, as generations not yet born pass by this site, they will see a memorial as sturdy and as enduring as the valor of the heroes it was erected to honor. And as they do so, they will be reminded of the sacrifices of the men and women whose glory is enshrined in this elegant and powerful memorial. To the community of The Dalles, Oregon, I offer my most sincere gratitude for the contribution they have made in recognizing the service of the veterans of the Mid-Columbia.

DEPARTMENT OF DEFENSE
APPROPRIATIONS ACT, 2003

HON. ROGER F. WICKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. WICKER. Mr. Chairman, I rise in support of the chairman and the ranking member for producing this bipartisan legislation which will support our troops, modernize our military, and ensure that we are prepared to win the war on terrorism. I support this legislation, but feel it is appropriate that I discuss one unfunded issue that is vitally important to the future of our military. The President's Budget appropriately requests continued funding of the LHD-8 Amphibious Assault Ship. Unfortunately, this bill did not fund the requested \$243 million necessary to continue procurement of this ship.

Our Navy's LHA-1 class "Big Deck" Amphibious Assault Ships are at the end of their service life. Navy studies indicate a requirement for twelve Big Deck Amphibious Assault Ships and must procure replacements for the older ships to sustain this requirement. The past four fiscal years, Congress has recognized this need by providing over \$1 billion for advanced procurement, detail design, and construction of a new LHD-1 class ship. Congress authorized the Secretary of the Navy to enter into a contract for the construction and early delivery of this ship, the LHD-8, providing that it "shall be funded on an incremental basis."

The LHD-8 is being procured under a fixed price construction contract, entered into by the government and the shipbuilder in good faith based on the assumption that annual government funding increments would always stay ahead of the expenditure curve. This would allow the parties to plan and execute design and construction without concern for interference resulting from funding shortfalls. The loss of FY03 funding would violate the precepts of good faith contracting, which is essential for many defense procurement programs.

Mr. Chairman, failure to appropriate the \$243 million requested by the President would cause several negative repercussions, including severe economic impacts in my state of Mississippi. The potential for the Navy to issue a "stop-work" order on this project due to funding uncertainty could cause a job loss in the shipbuilding industry alone of over 1,500 jobs. If funding were delayed even one year, delivery of this military asset would be pushed back from FY07 to FY08, causing an additional cost to the taxpayers of approximately \$129 million.

It is my hope that throughout the consideration of the bill, the Chairman and Committee can provide the resources necessary to keep this project on the contracted schedule.

HONORING RUBEN VALDEZ

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. UDALL of Colorado. Mr. Speaker, I rise today to honor Ruben Valdez for his leadership and service to Colorado.

Cesar Chavez once said, "We cannot seek achievement for ourselves and forget about progress and prosperity for our community. Our ambitions must be broad enough to include the aspirations and needs of others, for their sake and our own." Even a cursory glance at Ruben Valdez's life illuminates why he has been named to the Cesar Chavez Leadership Hall of Fame. The hall of fame recognizes Colorado Latinos for their outstanding contributions to civic life. Ruben's contributions to Colorado, the Hispanic community and public life have been extraordinary.

Ruben was elected to the Colorado House of Representatives in 1971. A few short years later he was elected Speaker of the House making him the first Hispanic to ever serve in that position. After retiring from the House in 1978, President Jimmy Carter appointed him to be the Regional Director for the United States Department of Transportation. The following year, he was selected by Colorado Governor Dick Lamm to serve as Executive Director of the Colorado Department of Social Services. In 1985, Ruben accepted an unprecedented dual appointment by Governor Lamm to be Executive Director for both the Colorado Department of Social Services and the Colorado Department of Labor and Employment.

At the end of this extraordinary period in his public life, Ruben was perhaps the most successful Latino leader in Colorado history. For many young Latinos interested in politics and

government at the time (some on whom now serve on my staff) Ruben Valdez was a pioneer—living proof that having a Spanish surname did not disqualify a person from having a successful career in public service.

Cesar Chavez was a leader who organized the Hispanic community from "outside" the halls of power in government. Ruben showed that another leadership model was available to Hispanics. Ruben showed that Hispanics could also work from inside the corridors of power, not only in the halls of government, but in corporate boardrooms. I think Cesar Chavez would have been pleased by Ruben's success, particularly because it paved the way for so many other talented Hispanic leaders to come.

Today Ruben Valdez is a very successful consultant helping clients at every level of government. He was a well-known figure in the halls of the Colorado State Legislature when I served there, and I came to admire him for his reputation as a respected lobbyist.

Ruben Valdez is a thoughtful and experienced leader. Those who know him will tell you that he is the kind of man you want on your side in a difficult battle. His service to Colorado has been exceptional, and I am pleased to ask my colleagues to join me in honoring his achievements.

A SALUTE TO JOE CRISCUOLO FOR
HIS LEGACY OF SERVICE

HON. CYNTHIA A. MCKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Ms. MCKINNEY. Mr. Speaker, I rise today to salute the outstanding record of public service of Joe Criscuolo, a noted social activist of the Atlanta area community and personal friend. Our community is deeply saddened by his unfortunate and recent demise.

A man of humble beginnings, Joe Criscuolo, 84, grew up in New York during the Great Depression as a first generation Italian-American. The hardships endured by the Criscuolo family generated Joe's great sense of concern and sensitivity for issues of the working class. Mr. Criscuolo's youthful concerns would later evolve into a grand scale record of service and activism on behalf of marginalized groups spanning the course of his lifetime.

Joe's high level of involvement in reform movements was matched by his wife Mrs. Goldy Criscuolo's equal zeal and service for progressive causes. Well into their senior years when most of their peers were enjoying retirement and the fruits of years of labor, they stood firmly together against the grain. Wherever people were oppressed, Joe and Goldy Criscuolo supplied infinite hours of service with no regard for gender, race, sexual orientation, religion, or any other social characteristic. Louder than any vitriolic words or opposing groups, Joe's actions spoke volumes to the value of service. I have personally drawn strength and inspiration to wage unpopular fights from Mr. Criscuolo's unwavering altruism for people in need.

A few of Mr. Criscuolo's momentous battles were the campaign to reform the Italian education system, the fight for the Equal Rights

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EXTENSIONS OF REMARKS

June 28, 2002

Amendment, and the movement against discrimination based on sexual orientation in the Dade County School System.

Additionally, Joe Criscuolo and his wife were active members of the Atlanta Chapter of the National Organization for Women (NOW); the Martin Luther King, Jr. March Committee; the Grady Coalition; the Atlanta chapter of ACT-UP (the AIDS Coalition to Unleash

Power); and the coalition to change the state flag among others. Joe recently worked to support Hate Crimes legislation, to prohibit predatory lending, and to ensure affordable public transportation for poor and working people.

Mr. Criscuolo leaves to cherish his memory a devoted wife Mrs. Goldy Criscuolo; one son, Jim M. Criscuolo; a daughter-in-law, Candace

Criscuolo; three grandchildren; two siblings; and a host of relatives, friends and other individuals whose lives have been touched in a positive way.

Mr. Speaker, I rise today to honor Mr. Joe Criscuolo's exemplary record of service, which is a model for us all. I ask my colleagues to join me in saluting Joe Criscuolo for his endurance, passion and will to go against the grain.

HOUSE OF REPRESENTATIVES—Monday, July 8, 2002

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. KOLBE).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 8, 2002.

I hereby appoint the Honorable JIM KOLBE to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God of history, our celebration of Independence Day this year took on new meaning. Marked by the wounds this Nation suffered as a result of terrorism on September 11, this Nation is stronger in its resolve to seek, protect, and assure the free exercise of independent government set up by the people for the people governed.

The memory of that tragic day has made our enjoyment of freedom in this Nation an even greater treasure which must now be preserved on the face of the Earth for generations to come.

Grasped by the spirit expressed by the original signers of the Declaration of Independence, may the Members of the 107th Congress and the citizens of this Nation again appeal to You as the supreme judge of the world for the rectitude of all our intentions.

With firm reliance on the protection of divine providence, may we mutually pledge to each other our lives, our fortunes, and our sacred honor to foster and defend equal justice and the freedom of all now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Oregon (Mr. WU) come forward and lead the House in the Pledge of Allegiance.

Mr. WU led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4546. An act to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4546) "An Act to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LEVIN, Mr. KENNEDY, Mr. BYRD, Mr. LIEBERMAN, Mr. CLELAND, Ms. LANDRIEU, Mr. REED, Mr. AKAKA, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mrs. CARNAHAN, Mr. DAYTON, Mr. BINGAMAN, Mr. WARNER, Mr. THURMOND, Mr. MCCAIN, Mr. SMITH of New Hampshire, Mr. INHOFE, Mr. SANTORUM, Mr. ROBERTS, Mr. ALLARD, Mr. HUTCHINSON, Mr. SESSIONS, Ms. COLLINS, and Mr. BUNNING, to be the conferees on the part of the Senate.

The message also announced that the Senate has passed bills of the following titles in which the concurrences of the House is requested:

S. 803. An act to enhance the management and promotion of electronic Government services and processes by establishing an Office of Electronic Government within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes.

S. 2514. An act to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

S. 2515. An act to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, to prescribe per-

sonnel strengths for such fiscal year for the Armed Forces, and for other purposes.

S. 2516. An act to authorize appropriations for fiscal year 2003 for military construction, and for other purposes.

S. 2517. An act to authorize appropriations for fiscal year 2003 for defense activities of the Department of Energy, and for other purposes.

The message also announced that pursuant to Public Law 94-201, as amended by Public Law 105-275, the Chair, on behalf of the President pro tempore, appoints the following individuals as members of the Board of Trustees of the American Folklife Center of the Library of Congress—

Susan Barksdale Howorth of Mississippi, for a term of six years; and

Marlene Meyerson of Texas, for a term of six years.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill on Friday, June 28, 2002:

S. 2578, to amend title 31 of the United States Code to increase the public debt limit.

COMMUNICATION FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following communication from the President of the United States:

THE WHITE HOUSE,
Washington, June 29, 2002.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: As my staff has previously communicated to you, I will undergo this morning a routine medical procedure requiring sedation. In view of present circumstances, I have determined to transfer temporarily my Constitutional powers and duties to the Vice President during the brief period of the procedure and recovery.

Accordingly, in accordance with the provisions of Section 3 of the Twenty-Fifth Amendment to the United States Constitution, this letter shall constitute my written declaration that I am unable to discharge the Constitutional powers and duties of the office of President of the United States. Pursuant to Section 3, the Vice President shall discharge those powers and duties as Acting President until I transmit to you a written declaration that I am able to resume the discharge of those powers and duties.

Sincerely,

GEORGE W. BUSH.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

COMMUNICATION FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following communication from the President of the United States:

THE WHITE HOUSE,
Washington, June 29, 2002.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: In accordance with the provisions of Section 3 of the Twenty-Fifth Amendment to the United States Constitution, this letter shall constitute my written declaration that I am presently able to resume the discharge of the Constitutional powers and duties of the office of President of the United States. With the transmittal of this letter, I am resuming those powers and duties effective immediately.

Sincerely,

GEORGE W. BUSH.

PRESCRIPTION DRUG INDUSTRY'S NEW LOBBYING TECHNIQUE

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute.)

Mr. BROWN of Ohio. Mr. Speaker, the prescription drug industry has come up with a new lobbying technique. Three weeks ago, the drug industry dumped almost \$3 million into a Republican fundraising event. Two weeks ago, in a party-line vote, the drug industry and Republicans pushed through a prescription drug Medicare privatization bill.

Now the drug industry is pressuring medical schools and teaching hospitals and doctors to write Congress urging us to continue permitting drug companies to engage in anticompetitive behavior. They have convinced a few of these health care providers that unless the U.S. lets the drug industry keep competition out of the market, my colleagues guessed it, research and development will dry up. Fourteen years of patent-protection monopoly prices apparently is not enough.

The same industry that consistently earns profits five points higher than other profitable industries argues that if they do not exploit America's seniors they cannot and will not do research and development. That excuse, Mr. Speaker, is wearing thin.

Private and public resources for health care are not infinite. Drug companies continue to cheat American consumers, employer-sponsored health care plans and State governments and every other health care purchaser out of billions of dollars each year. Enough is enough.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 5 p.m. today.

Accordingly (at 2 o'clock and 8 minutes p.m.), the House stood in recess until approximately 5 p.m.

□ 1702

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. KOLBE) at 5 o'clock and 2 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas or nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken after debate has concluded on all motions to suspend the rules, but not before 6:30 p.m. today.

COMPREHENSIVE STUDY OF THE RATHDRUM PRAIRIE/SPOKANE VALLEY AQUIFER

Mr. OSBORNE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4609) to direct the Secretary of the Interior to conduct a comprehensive study of the Rathdrum Prairie/Spokane Valley Aquifer, located in Idaho and Washington.

The Clerk read as follows:

H.R. 4609

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COMPREHENSIVE STUDY OF THE RATHDRUM PRAIRIE/SPOKANE VALLEY AQUIFER.

(a) IN GENERAL.—The Secretary of the Interior, in consultation with the State of Idaho and the State of Washington, shall conduct a comprehensive study of the Rathdrum Prairie/Spokane Valley Aquifer for the purpose of preparing a model of the aquifer and establishing for those States a mutually acceptable understanding of the aquifer as a ground water resource.

(b) REPORT.—The Secretary shall submit to the Congress a report on the findings and conclusions of the study by not later than 3 years after the date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—For conducting the study under this section there is authorized to be appropriated to the Secretary \$3,500,000.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska (Mr. OSBORNE) and the gentleman from Oregon (Mr. WU) each will control 20 minutes.

The Chair recognizes the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Speaker, I yield myself such time as I may consume.

H.R. 4609, the Rathdrum Prairie/Spokane Valley Aquifer Study Act of 2002,

directs the Secretary of the Department of Interior to work with the State of Idaho and the State of Washington to conduct a comprehensive study for the Rathdrum Prairie/Spokane Valley Aquifer by preparing a groundwater model to help establish a mutually acceptable understanding of the aquifer as a groundwater resource. The tools developed by this legislation will help to better coordinate and understand the various factors that influence the quantity and quality of the aquifer and encourage better cooperation between the two States charged with its maintenance operations.

I would like to commend the gentleman from Washington (Mr. NETHERCUTT), the sponsor of this legislation, for his work on this bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. NETHERCUTT).

Mr. NETHERCUTT. Mr. Speaker, I thank the gentleman for yielding me this time and I am pleased to make a statement in support of this bill.

There is nothing in the Northwest States that is more precious than our air and our water. We in eastern Washington and northern Idaho are blessed with not only these great resources but especially our clean water. We think it is some of the best water in the entire world to drink. So we want to make sure that it is protected, and that is what this bill does.

This bill was introduced by me and by the gentleman from northern Idaho (Mr. OTTER) because we are affected by this bill, and the aquifer which traverses both States affects our respective districts. So we are proud to introduce this bill which calls for a study, as the gentleman from Nebraska (Mr. OSBORNE) mentioned, to analyze this aquifer, to understand what is there so we can make sure we protect it and wisely manage it. One of the great challenges for us in the Pacific Northwest is to make sure that our abundant resources, our natural resources, our mountains, our streams, our rivers, our lakes, our entire environment is well managed by Federal agencies and by private resources.

So in the case of the aquifer we have a situation where there are some economic interests that want to use it. They want to use it as a resource to provide industrial benefit to eastern Washington and northern Idaho.

But before they do so, we have to be sure that it is protected. What this bill does is to take a hard look at doing a model and a study to make sure we know what is there so that it can be protected.

There is also a disparity in consideration of aquifer use, of economic development, on either side of the border. Spokane, Washington, is my hometown, the major city in my district, the largest population center. It is about 32 miles from the Idaho border.

Coeur d'Alene, Idaho, rests on the other side of the border in Idaho that is represented by the gentleman from Idaho (Mr. OTTER), and the States of Idaho and Washington have very different consideration times for permitting, for permitting for economic benefit and use.

In Idaho, if we want to get a permit, it can take months; in Washington, it can take years. So we think that in doing this study and having the Committee on Resources in Congress adopt this position in a study, we can make sure that there is some continuity of interest in analysis and development that would rest on each side of the border, so that the legislatures of each side, each State, each respective State, would have a chance to look at this issue and understand what is there, and then make policy decisions that are coordinated rather than disparate.

So I can say to the House that there is unanimity on the part of our chambers of commerce that this is a wise approach. There are five chambers of commerce that are in Idaho and Washington State that are affected by this issue, and they are of the opinion and their memberships are of the opinion that this is a wise thing to do; that is, make sure we know what is in the aquifer, what its considerations and characteristics are, so that we can make sure we manage it wisely.

I especially want to thank the Committee on Resources. The gentleman from California (Mr. CALVERT) and his subcommittee presented this bill in very fast consideration, very fair consideration. The entire Committee on Resources passed it out. I especially am grateful to that Committee on Resources that took into account this very important measure that affects a large area in eastern Washington and northern Idaho.

I will restate again that the environmental protections that we seek from this bill are sensible, they are reasonable, and they are timely. It is estimated that there are millions of gallons that go through this aquifer and would be presented by it, but we have to be sure that we know what is there, and we have to be sure that what is there is wisely managed so that we protect this wonderful resource that we have in the Pacific Northwest, a clean environment, a great place to live and work, a great place to have economic development, at the same time we protect our environmental resources.

So I will thank the gentleman from Nebraska and his counterpart, the gentleman from Oregon (Mr. WU), for his courtesy in allowing me to say a few words in support of my bill. I speak on behalf of the gentleman from Idaho (Mr. OTTER) in thanking the committee and subcommittee of jurisdiction for considering this measure, and we hope it will pass overwhelmingly.

Mr. WU. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4609 directs the Secretary of the Interior to conduct a study of groundwater resources in certain areas of Washington and Idaho. In the Pacific Northwest, our water resources are precious resources, and we expect the results of the study to provide the States with reliable information they can use to better manage the groundwater resource which is shared between the States.

I commend my colleagues, the gentlemen from Idaho and Washington, for bringing this legislation to the floor, and urge my colleagues to support H.R. 4609.

Mr. Speaker, I yield back the balance of my time.

Mr. OSBORNE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KOLBE). The question is on the motion offered by the gentleman from Nebraska (Mr. OSBORNE) that the House suspend the rules and pass the bill, H.R. 4609.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. OSBORNE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ISSUING PERMITS FOR NATURAL GAS PIPELINES IN GREAT SMOKY MOUNTAINS NATIONAL PARK

Mr. OSBORNE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3380) to authorize the Secretary of the Interior to issue right-of-way permits for natural gas pipelines within the boundary of Great Smoky Mountains National Park.

The Clerk read as follows:

H.R. 3380

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMITS FOR EXISTING NATURAL GAS PIPELINES.

(a) IN GENERAL.—The Secretary of the Interior may issue right-of-way permits for natural gas pipelines that exist as of September 1, 2001, within the boundary of Great Smoky Mountains National Park.

(b) TERMS AND CONDITIONS.—A permit issued under subsection (a) shall be—

(1) issued consistent with laws and regulations generally applicable to utility rights-of-way within units of the National Park System; and

(2) subject to any terms and conditions that the Secretary deems necessary.

SEC. 2. PERMITS FOR PROPOSED NATURAL GAS PIPELINES.

(a) IN GENERAL.—The Secretary of the Interior may issue right-of-way permits for natural gas pipelines within the boundary of

Great Smoky Mountains National Park that are proposed to be constructed across the following:

(1) The Foothills Parkway.

(2) The Foothills Parkway Spur between Pigeon Forge and Gatlinburg.

(3) The Gatlinburg Bypass.

(b) TERMS AND CONDITIONS.—A permit issued under subsection (a) shall be—

(1) issued consistent with laws and regulations generally applicable to utility rights-of-way within units of the National Park System; and

(2) subject to any terms and conditions that the Secretary deems necessary, including—

(A) provisions for the protection and restoration of park resources that are disturbed by pipeline construction; and

(B) assurances that construction and operation of the pipeline will not adversely affect Great Smoky Mountains National Park.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska (Mr. OSBORNE) and the gentleman from Oregon (Mr. WU) each will control 20 minutes.

The Chair recognizes the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3380 was introduced by the gentleman from Tennessee (Mr. JENKINS) to authorize the Secretary of the Interior to issue right-of-way permits for a natural gas pipeline to tie in an existing pipeline within the boundary of the Great Smoky Mountains National Park.

In 2000, the Sevier County Utility District in rural east Tennessee made the request of the National Park Service to grant authority to tie in a natural gas pipeline to an already existing underground natural gas pipeline along U.S. Highway 441 in the Gatlinburg-Pigeon Forge spur. The existing pipeline was installed prior to the Park Service's acquisition of the right-of-way along the highway.

After preparing to grant the request, it was discovered that while the Secretary possesses the authority to grant right-of-way permits through the units of the park system for various utility services, the Secretary did not possess the authority to grant a permit for natural gas and petroleum product pipelines.

The pipeline would service homes in Gatlinburg, Tennessee. At the present time, these homes are reliant upon propane and electricity to meet their energy needs. Given some air quality issues at Great Smoky Mountains National Park, the Park Service believes it is in the best interests of the park to permit natural gas pipelines as a clean alternative for new homes and businesses.

No permits will be granted until all environmental and safety reviews have been conducted. This authority would be consistent with the authority granted at the Blue Ridge and Natchez Trace Parkway park units.

This is a noncontroversial bill supported by both the majority and the

minority, as well as the administration, and I urge my colleagues to support it.

Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee (Mr. JENKINS), the sponsor of this bill.

Mr. JENKINS. Mr. Speaker, I thank the gentleman from Nebraska (Mr. OSBORNE) for yielding time to me.

Mr. Speaker, I appreciate very much the subcommittee and the committee in their favorable consideration of this bill, and in recommending it for passage.

The gentleman from Nebraska (Mr. OSBORNE) has explained the provisions of this bill very well, and he pointed out that in planning this project, that it was discovered that the Secretary of the Interior had power to issue permits for other utilities, but not for natural gas, and that power has been given to the Secretary of the Interior on a case-by-case basis in the case of other national parks across this land.

All of these lines will be laid underground. The lines will be all under a road, and there will be no diminution in the natural beauty of this great national park.

As we know, this is the most visited national park in the country. There is substantial growth on all sides of this national park, in all of the border areas. The passage of this legislation will allow that growth to be clean growth. The Senate has passed this legislation, and we will appreciate the favorable consideration in the House of Representatives.

□ 1715

Mr. WU. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3380 authorizes the Secretary of the Interior to issue right-of-way permits for an existing natural gas pipeline as well as future natural gas pipelines that would cross or parallel three road segments that lead into the Great Smoky Mountains National Park.

We must be very careful in approving such activities. When the Subcommittee on National Parks, Recreation, and Public Lands held a hearing on H.R. 3380 earlier this year, the National Park Service testified in support of the legislation, noting that the pipelines would cross or parallel only park roads and not involve other park resources. The National Park Service also assured the committee that all necessary steps would be taken to ensure that these pipelines have no negative impact on park resources or visitor use.

Given those assurances and relying upon them, we have no objection to consideration of H.R. 3380 by the House today.

Mr. Speaker, I yield back the balance of my time.

Mr. OSBORNE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KOLBE). The question is on the motion offered by the gentleman from Oregon (Mr. OSBORNE) that the House suspend the rules and pass the bill, H.R. 3380.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

FORT CLATSOP NATIONAL MEMORIAL EXPANSION ACT OF 2002

Mr. OSBORNE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2643) to authorize the acquisition of additional lands for inclusion in the Fort Clatsop National Memorial in the State of Oregon, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2643

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fort Clatsop National Memorial Expansion Act of 2002".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Fort Clatsop National Memorial is the only unit of the National Park System solely dedicated to the Lewis and Clark Expedition.

(2) In 1805, the members of the Lewis and Clark Expedition built Fort Clatsop at the mouth of the Columbia River near Astoria, Oregon, and they spent 106 days at the fort waiting for the end of winter and preparing for their journey home.

(3) In 1958, Congress enacted Public Law 85-435 authorizing the establishment of Fort Clatsop National Memorial for the purpose of commemorating the culmination, and the winter encampment, of the Lewis and Clark Expedition following its successful crossing of the North American continent.

(4) The 1995 General Management Plan for Fort Clatsop National Memorial, prepared with input from the local community, recommends the expansion of the memorial to include the trail used by expedition members to access the Pacific Ocean from the fort and the shore and forest lands surrounding the fort and trail to protect their natural settings.

(5) Expansion of Fort Clatsop National Memorial requires Federal legislation because the size of the memorial is currently limited by statute to 130 acres.

(6) Congressional action to allow for the expansion of Fort Clatsop National Memorial to include the trail to the Pacific Ocean would be timely and appropriate before the start of the bicentennial celebration of the Lewis and Clark Expedition planned to take place during the years 2004 through 2006.

SEC. 3. EXPANSION OF FORT CLATSOP NATIONAL MEMORIAL, OREGON.

(a) REVISED BOUNDARIES.—Section 2 of Public Law 85-435 (16 U.S.C. 450mm-1) is amended—

(1) by inserting "(a) INITIAL DESIGNATION OF LANDS.—" before "The Secretary";

(2) by striking "coast:" and all that follows through the end of the sentence and inserting "coast."; and

(3) by adding at the end the following new subsections:

"(b) AUTHORIZED EXPANSION.—The Fort Clatsop National Memorial shall also include

the lands depicted on the map entitled 'Fort Clatsop Boundary Map', numbered '405-80026C-CCO', and dated June 1996.

"(c) MAXIMUM DESIGNATED AREA.—The total area designated as the Fort Clatsop National Memorial shall not exceed 1,500 acres."

(b) AUTHORIZED ACQUISITION METHODS.—Section 3 of Public Law 85-435 (16 U.S.C. 450mm-2) is amended—

(1) by inserting "(a) ACQUISITION METHODS.—" before "Within"; and

(2) by adding at the end the following new subsection:

"(b) LIMITATION.—The lands (other than corporately owned timberlands) depicted on the map referred to in section 2(b) may be acquired by the Secretary of the Interior only by donation or purchase from willing sellers."

(c) MEMORANDUM OF UNDERSTANDING.—Section 4 of Public Law 85-435 (16 U.S.C. 450mm-3) is amended—

(1) by striking "Establishment" and all that follows through "its establishment," and inserting "(a) ADMINISTRATION.—"; and

(2) by adding at the end the following new subsection:

"(b) MEMORANDUM OF UNDERSTANDING.—If the owner of corporately owned timberlands depicted on the map referred to in section 2(b) agrees to enter into a sale of such lands as a result of actual condemnation proceedings or in lieu of condemnation proceedings, the Secretary of the Interior shall enter into a memorandum of understanding with the owner regarding the manner in which such lands will be managed after acquisition by the United States."

SEC. 4. STUDY OF STATION CAMP SITE AND OTHER AREAS FOR POSSIBLE INCLUSION IN NATIONAL MEMORIAL.

The Secretary of the Interior shall conduct a study of the area near McGowan, Washington, where the Lewis and Clark Expedition first camped after reaching the Pacific Ocean and known as the "Station Camp" site, as well as the Megler Rest Area and Fort Canby State Park, to determine the suitability, feasibility, and national significance of these sites for inclusion in the National Park System. The study shall be conducted in accordance with section 8 of Public Law 91-383 (16 U.S.C. 1a-5).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska (Mr. OSBORNE) and the gentleman from Oregon (Mr. WU) each will control 20 minutes.

The Chair recognizes the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2643, as amended, would allow for the expansion of Fort Clatsop National Memorial, the only unit of the National Park System solely dedicated to the Lewis and Clark expedition. It commemorates the camp where the Corps of Discovery spent the winter of 1805 to 1806. As we approach the bicentennial of this monumental expedition, our Nation continues to draw inspiration from this great journey across the American West.

The expedition, led by Captains Meriwether Lewis and William Clark, gave birth to new interest in the American frontier as they provided the first detailed information about the Northwest that ultimately led to a steady procession of settlers into the region. These explorers made their trek following President Thomas Jefferson's

orders to explore the Missouri River to its source, establish the most direct route to the Pacific Ocean, and to make scientific and geographic observations.

They were also instructed to learn about the Indian tribes they would meet along the way and attempt to impress them with the strength of the United States and to report back regarding their observation. After their great journey across the continent, the members of the Corps of Discovery spent the winter of 1805-1806 at Fort Clatsop before beginning their return trip back east.

This legislation would also authorize the National Park Service to study the suitability and feasibility of three sites in the State of Washington, all of which have significance to the expedition, for the possible inclusion as units of the National Park System. This expansion, supported by all property owners within the boundaries, would help prepare for the influx of visitors expected during the upcoming bicentennial. We commend all parties who have worked together on this legislation to address some issues of concern that came up during committee consideration.

This is a good bill that is supported by the administration as well as both the majority and the minority, and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. WU. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today as the sponsor of H.R. 2643, the Fort Clatsop National Memorial Expansion Act. I am joined by my colleague, the gentleman from Washington (Mr. BAIRD), who is an original cosponsor of the bill.

It has taken a lot of hands to bring this bill to the floor today and I would like to thank the gentleman from Utah (Mr. HANSEN) and the ranking member, the gentleman from West Virginia (Mr. RAHALL) of the Committee on Resources, and from the Subcommittee on National Parks, Recreation, and Public Lands, the gentleman from California (Mr. RADANOVICH) and the ranking member, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Closer to home, I would also like to thank Willamette Industries for its cooperation in making this bill possible and Willamette Industries' successor in interest, Weyerhaeuser. Without the cooperation of these two Northwest businesses and their employees and executives, we would not be here today with a successful bill.

And even closer to home, I would very much like to recognize the hard work and diligence of Cameron Johnson on our staff who has worked on this bill since his first day as a staffer on Capitol Hill. And I would also like to recognize his predecessor Bill Minor, who unfortunately has gone to the Uni-

versity of Washington for law school. But Bill is from Astoria, Oregon, and Fort Clatsop is literally in his back yard.

Fort Clatsop is the western terminus of the Lewis and Clark expedition. This bill authorizes expansion of its boundaries from 130 acres to 1,500 acres. The expansion would permit the national memorial to reach the ocean and to accommodate the expected 1 million visitors for the bicentennial of the Lewis and Clark expedition. These million-plus visitors will see a nearly exact replica of the fort in which Lewis and Clark wintered over in 1805 on the Oregon coast. They will see a forest that is approximately the same as what Lewis and Clark saw. Our trees are currently about that size because of timber harvests about 75 or 100 years ago. And historians think that Lewis and Clark saw a similar forest because of a great earthquake which occurred approximately 100 years before they reached the Oregon coast. Visitors will also undoubtedly enjoy a decent dose of Oregon rain.

The Lewis and Clark expedition spent 106 days at Fort Clatsop over the winter of 1805-1806. Out of those 106 days, there were 6 sunny days, 6 cloudy but rainfree days and 94 days during which the expedition enjoyed what we would call in Oregon liquid sunshine and in the rest of the country it would be called rain.

Also this expansion will permit visitors to access the Pacific Ocean. This was, after all, the western terminus of the epochal Lewis and Clark expedition.

It serves us well to remember that like so many other scientific and exploratory adventurers, the discoveries and achievements which were made by this expedition were made through great adversity and frequently while they were looking for something else.

The expedition started planning when the territory was under French and Spanish sovereignty. By the time the expedition actually left, President Jefferson had purchased much of the territory from Napoleon. President Jefferson envisioned part of the expedition's goal to be creating a series of trade alliances with a string of Indian nations along the trail. History proved otherwise. Both the Indian nations and the United States had other pressing priorities.

And, finally, the expedition was to search for a waterway to the great West, the great hope of the 17th, 18th, and 19th centuries, a hope which floundered on ignorance of geography and geology, in this case the intervening Rocky Mountains. But Lewis and Clark was an epochal achievement and a success, despite the zigs and the zags and the partial planning successes.

Meriwether Lewis grew up near here in Ivy, Virginia, about as near to this spot in the city of Washington as Fort

Clatsop is to my home in Oregon. Lewis and Clark and the expedition walked, paddled boats, rode horses and crossed more than 6,000 miles over a longer than 28-month period, and when they were through, they asserted America's claim as a transcontinental Nation and made another bold stroke in removing the words "I can't" from the American lexicon.

As important amongst the achievement of Lewis and Clark is in history, so are the vision and the values; the vision of America as a vibrant, growing Nation; the values of courage and perseverance. These endure with us today in our time of trial, trial from abroad by those who hate and who hate especially our diversity and our liberty; trial from within by those who abuse the freedom and trust that America has bestowed.

This is a bill to expand Fort Clatsop, and at its bicentennial it is appropriate to commemorate and celebrate, but we also do well to remember, not for history's sake alone, but to remember that we have continued to walk in the footsteps of Lewis and Clark on a journey of discovery, and to remember that beyond any horizon the future cannot be known with certainty. But with vision and values, courage and persistence, we will continue in the tradition of Lewis and Clark at Fort Clatsop, and we shall meet our destiny well.

Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Speaker, I would like to thank my colleague from Oregon (Mr. WU) for working to ensure that Southwest Washington will play a role in the Lewis and Clark commemoration through this legislation. I also want to thank the chair and the ranking member of the committee, and particularly the gentleman from Indiana (Mr. SOUDER) for his strong support of this bill and for his strong support of the National Park System in general.

The bicentennial commemoration of Lewis and Clark's expedition is just a year away. They began their journey back in 1803. And in 2003 communities across our Nation will begin commemorating the Corps of Discovery and the promises they back with their journey.

It is my hope that during this commemoration Americans will visit important stops along the journey of discovery, including Station Camp and Fort Canby along with Fort Clatsop. On November 18 in 1805, William Clark stopped at Station Camp, sometimes referred to as Megler's Rest, stopped and proclaimed, "I am in full view now of the ocean." It is hard to imagine what that must have felt like for the Corps, having traveled clear across the country in lands no American had seen before. But there in Washington State that is what he said and that is what they saw.

It was also at this historic site that they took a critical vote, 100 years before suffrage, 60 years before the Emancipation Proclamation. The Corps of Discovery voted where they would spend the winter. In that vote they included Sacagawea, and York, who was Clark's black slave, 100 years before suffrage and 60 years before emancipation, the entire Corps voted on the critical matter of where they would winter at my good friend's district at Fort Clatsop.

Today I welcome the opportunity to express my strong support for this legislation which seeks to expand Fort Clatsop National Monument, the only unit in the National Park system that is solely dedicated to the amazing journey of Lewis and Clark. And of great importance to my district is the legislation's inclusion of study language to authorize study for the inclusion of Station Camp and Fort Canby within the Fort Clatsop National Memorial. Although Station Camp is considered the end of the voyage, it is also true that the Northwestern part of the journey included what is now Fort Canby where Lewis and Clark led a small team to the actual coast. And you can only imagine what it must have been like to stand there on what is now called Cape Disappointment, look out over the ocean, and hoping that a ship would be there to take you home, but seeing none, you realize that you would spend the winter in that wonderful but also cold and wet environment, and then trudge by foot, boat and horseback all the way down the journey you had just traced.

This legislation calls for the Park Service to work collaboratively with the States of Oregon and Washington, the Indian tribes and the others in the local communities on the expansion of Fort Clatsop and a study including new sites before the start of the bicentennial of the Lewis and Clark expedition which is planned to take place between 2003 and 2006.

Companion legislation has already passed the Senate. I want to thank our Senate colleagues in both Oregon and Washington for their leadership. I want to thank the gentleman from Oregon (Mr. WU) for his leadership, and the gentleman from Indiana (Mr. SOUDER) and the committee chair and the ranking member.

Mr. Speaker, I encourage passage for this important piece of legislation.

Mr. WU. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend my good friend and colleague from Washington (Mr. BAIRD) for his work and especially for pointing out this signal election and these early, wise westerners who, I must point out for the record, voted to go to Oregon as so many others have.

Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. HILL).

□ 1730

Mr. HILL. Mr. Speaker, I am pleased to be a cosponsor of H.R. 2643, the Fort Clatsop National Memorial Expansion Act of 2002. I urge its adoption.

I became interested in this bill because the people I represent in Clarks-ville, Indiana, and the other communities surrounding the Falls of the Ohio have a unique connection to Fort Clatsop and nearby Station Camp in the State of Washington.

In October 1803, Lewis and Clark first met at the Falls of the Ohio, recruited the first members of the Corps of Discovery and departed for the West from Clarks-ville, Indiana, later that same month. It then took more than the 2 years for the Corps of Discovery to reach the Pacific Ocean nearby present-day McGowan, Washington.

As many know, our country will begin commemorating the bicentennial of the Lewis and Clark expedition next year. Both the Falls of the Ohio and the lower Columbia region surrounding Fort Clatsop will host national signature events to mark important moments in the journey.

Mr. Speaker, the upcoming bicentennial has caused many of us to more carefully examine the history of the Lewis and Clark expedition. In doing so, we have discovered many more important sites, like the Falls of the Ohio and Station Camp, Washington, that have not been properly recognized in the past. The Falls of the Ohio has now been certified by the National Park Service as an official site associated with the Lewis and Clark national historic trail.

I hope the National Park Service will quickly perform the feasibility study required by this bill to add the Washington State sites to the Fort Clatsop national memorial.

In closing, let me join President Bush in urging all Americans to observe the Lewis and Clark bicentennial and participate in activities to honor the achievement of this important expedition.

Mr. WU. Mr. Speaker, I yield myself such time as I may consume.

I would be remiss if I did not mention two additional individuals in closing and that is Cindy Orlando, former superintendent of Fort Clatsop National Memorial, who was superintendent of the memorial for a long time and worked on many aspects of this memorial, including this expansion. I would also like to recognize the current superintendent, Don Stryker, who is moving on to Mt. Rushmore. He will be getting a little bit more granite, but no more spectacular scenery than he has had at Fort Clatsop.

Don has been terrific in working with the park service, with the committee and with us in bringing this bill forward; and I would just like to share a moment when Don provided us with an opportunity to be at Fort Clatsop after

sundown, and under the growing shadows and with a roaring campfire nearby, it was very easy to imagine what it would be like to go back 200 years to experience what the explorers experienced. It is also difficult to imagine what they had to endure to get there.

Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Speaker, I just wanted to add also that another individual who has worked tremendously hard on this is Dave Micandri, head of the Washington State Historical Society. It was his vision and persistence and tireless effort to make sure Station Camp was included in this legislation. He has done a marvelous job, and I also want to commend the good people of Long Beach and Ilwaco, Washington, who have worked tirelessly to ensure that their part of the story gets told, along with the gentleman from Oregon (Mr. WU).

This is a tremendous opportunity. In addition to recognizing, hopefully, these expanded national park areas, we should note that Mia Lin is developing a series of sculptures, part of a confluence project at a series of installations that will take place at four different locations along the confluence of rivers reflecting the cultural integration, symbolized by the rivers merging. It should be a profound and exciting piece of work and something that will be a treasure for many years to come.

Mr. WU. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman from Washington (Mr. BAIRD) for working diligently with me, and I thank the gentleman from Nebraska (Mr. OSBORNE) for his courtesies.

Mr. Speaker, I yield back the balance of my time.

Mr. OSBORNE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KOLBE). The question is on the motion offered by the gentleman from Nebraska (Mr. OSBORNE) that the House suspend the rules and pass the bill, H.R. 2643, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. OSBORNE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. OSBORNE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within

which to revise and extend their remarks and include extraneous material on H.R. 4609, H.R. 3380, and H.R. 2643.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 5 o'clock and 36 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1831

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. BIGGERT) at 6 o'clock and 31 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put the question on motions to suspend the rules on which further proceedings were postponed earlier today, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 4609, by the yeas and nays;

H.R. 2643, by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second vote in this series.

COMPREHENSIVE STUDY OF THE RATHDRUM PRAIRIE/SPOKANE VALLEY AQUIFER

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4609.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nebraska (Mr. OSBORNE) that the House suspend the rules and pass the bill, H.R. 4609, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 340, nays 9, not voting 85, as follows:

[Roll No. 283]

YEAS—340

Abercrombie	Baldwin	Bilirakis
Ackerman	Ballenger	Blumenauer
Akin	Barr	Boehlert
Allen	Bartlett	Boehner
Andrews	Barton	Bonilla
Arney	Bass	Bono
Baca	Bentsen	Boozman
Bachus	Bereuter	Boswell
Baird	Berkley	Boucher
Baker	Berry	Boyd
Baldacci	Biggert	Brady (PA)

Brady (TX)	Herger	Ney
Brown (OH)	Hill	Northup
Brown (SC)	Hilliard	Norwood
Burr	Hinchee	Nussle
Burton	Hinojosa	Oberstar
Buyer	Hobson	Ortiz
Calvert	Hoekstra	Osborne
Cannon	Holden	Ose
Cantor	Holt	Otter
Capito	Honda	Oxley
Capps	Hooley	Pallone
Capuano	Horn	Pascarell
Castle	Hostettler	Pastor
Chabot	Houghton	Pelosi
Chambliss	Hunter	Pence
Clay	Hyde	Peterson (MN)
Clayton	Inslee	Peterson (PA)
Clyburn	Isakson	Petri
Collins	Israel	Phelps
Combest	Issa	Pickering
Condit	Jackson (IL)	Platts
Costello	Jefferson	Pombo
Cox	Jenkins	Portman
Cramer	John	Price (NC)
Crane	Johnson (CT)	Putnam
Crenshaw	Johnson (IL)	Quinn
Crowley	Johnson, E. B.	Rahall
Cubin	Johnson, Sam	Ramstad
Cummings	Jones (OH)	Regula
Cunningham	Kanjorski	Rehberg
Davis (CA)	Keller	Reyes
Davis (FL)	Kelly	Reynolds
Davis, Tom	Kennedy (MN)	Rodriguez
Deal	Kennedy (RI)	Roemer
DeFazio	Kildee	Rogers (KY)
DeGette	Kind (WI)	Rogers (MI)
Delahunt	King (NY)	Rohrabacher
DeLauro	Kirk	Ros-Lehtinen
DeLay	Kleczka	Ross
DeMint	Knollenberg	Rothman
Deutsch	Kolbe	Roybal-Allard
Diaz-Balart	Kucinich	Rush
Dicks	LaFalce	Ryan (WI)
Doggett	Lampson	Ryun (KS)
Dooley	Langevin	Sabo
Doolittle	Larsen (WA)	Sánchez
Doyle	Larson (CT)	Sanders
Dreier	Latham	Sandlin
Dunn	LaTourette	Sawyer
Edwards	Leach	Saxton
Ehlers	Lee	Schiff
Ehrlich	Levin	Schrock
Emerson	Lewis (KY)	Serrano
Engel	Linder	Sessions
English	LoBiondo	Shadegg
Eshoo	Lofgren	Shaw
Etheridge	Lucas (KY)	Shays
Evans	Lucas (OK)	Sherman
Everett	Lynch	Sherwood
Farr	Maloney (CT)	Shimkus
Fattah	Maloney (NY)	Shows
Ferguson	Manzullo	Shuster
Fletcher	Markay	Simmmons
Foley	Mascara	Simpson
Forbes	Matheson	Skeen
Ford	McCarthy (MO)	Skelton
Fossella	McCarthy (NY)	Smith (WA)
Frank	McCollum	Snyder
Frelinghuysen	McCrery	Solis
Frost	McDermott	Stark
Ganske	McGovern	Stearns
Gekas	McHugh	Stenholm
Gibbons	McInnis	Strickland
Gilchrest	McIntyre	Stupak
Gillmor	McKeon	Sullivan
Gilman	McKinney	Sununu
Gonzalez	McNulty	Tanner
Goode	Meehan	Tauscher
Goodlatte	Meeks (NY)	Tauzin
Gordon	Menendez	Taylor (MS)
Goss	Mica	Terry
Graham	Millender-	Thomas
Granger	McDonald	Thompson (CA)
Graves	Miller, Gary	Thompson (MS)
Green (TX)	Miller, Jeff	Thornberry
Green (WI)	Mink	Thune
Greenwood	Mollohan	Thurman
Grucci	Moore	Tiahrt
Gutknecht	Moran (KS)	Tiberi
Hall (TX)	Moran (VA)	Tierney
Harman	Morella	Towns
Hart	Murtha	Turner
Hastings (WA)	Myrick	Udall (CO)
Hayes	Napolitano	Udall (NM)
Hayworth	Neal	Upton
Hefley	Nethercutt	Velazquez

Visclosky	Watt (NC)	Wilson (NM)
Vitter	Waxman	Wilson (SC)
Walden	Weldon (FL)	Wolf
Wamp	Weldon (PA)	Wu
Waters	Weller	Wynn
Watkins (OK)	Wexler	Young (FL)
Watson (CA)	Wicker	

NAYS—9

Coble	Jones (NC)	Royce
Duncan	Kerns	Sensenbrenner
Flake	Paul	Toomey

NOT VOTING—85

Aderholt	Hall (OH)	Pitts
Barcia	Hansen	Pomeroy
Barrett	Hastings (FL)	Pryce (OH)
Becerra	Hilleary	Radanovich
Berman	Hoeffel	Rangel
Bishop	Hoyer	Riley
Blagojevich	Hulshof	Rivers
Blunt	Istook	Roukema
Bonior	Jackson-Lee	Schaffer
Borski	(TX)	Schakowsky
Brown (FL)	Kaptur	Scott
Bryant	Kilpatrick	Slaughter
Callahan	Kingston	Smith (MI)
Camp	LaHood	Smith (NJ)
Cardin	Lantos	Smith (TX)
Carson (IN)	Lewis (CA)	Souder
Carson (OK)	Lewis (GA)	Spratt
Clement	Lipinski	Stump
Conyers	Lowey	Sweeney
Cooksey	Luther	Tancredo
Coyne	Matsui	Taylor (NC)
Culberson	Meek (FL)	Traficant
Davis (IL)	Miller, Dan	Walsh
Davis, Jo Ann	Miller, George	Watts (OK)
Dingell	Nadler	Weiner
Filner	Obey	Whitfield
Gallegly	Olver	Woolsey
Gephardt	Owens	Young (AK)
Gutierrez	Payne	

□ 1856

Mr. JONES of North Carolina changed his vote from “yea” to “nay.”

Mr. ROTHMAN and Mr. STUPAK changed their vote from “nay” to “yea.”

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. FILNER. Mr. Speaker, on rollcall No. 283, I was traveling on official business. Had I been present, I would have voted “yea.”

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT). Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

FORT CLATSOP NATIONAL MEMORIAL EXPANSION ACT OF 2002

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2643, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nebraska (Mr.

OSBORNE) that the House suspend the rules and pass the bill, H.R. 2643, as amended, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 331, nays 18, not voting 85, as follows:

[Roll No. 284]

YEAS—331

Abercrombie	Emerson	Kucinich
Ackerman	Engel	LaFalce
Akin	English	Lampson
Allen	Eshoo	Langevin
Andrews	Etheridge	Larsen (WA)
Armey	Evans	Larson (CT)
Baca	Farr	Latham
Bachus	Fattah	LaTourette
Baird	Ferguson	Leach
Baker	Fletcher	Lee
Baldacci	Foley	Levin
Baldwin	Forbes	Lewis (KY)
Ballenger	Ford	Linder
Barr	Fossella	LoBiondo
Bartlett	Frank	Lofgren
Barton	Frelinghuysen	Lucas (KY)
Bass	Frost	Lucas (OK)
Bentsen	Ganske	Lynch
Bereuter	Gekas	Maloney (CT)
Berkley	Gibbons	Maloney (NY)
Berry	Gilchrest	Manzullo
Biggert	Gillmor	Markey
Bilirakis	Gilman	Mascara
Blumenauer	Gonzalez	Matheson
Boehlert	Goode	McCarthy (MO)
Boehner	Goodlatte	McCarthy (NY)
Bonilla	Gordon	McCollum
Bono	Goss	McCrery
Boozman	Graham	McDermott
Boswell	Granger	McGovern
Boucher	Graves	McHugh
Boyd	Green (TX)	McInnis
Brady (PA)	Green (WI)	McIntyre
Brady (TX)	Greenwood	McKeon
Brown (OH)	Grucci	McKinney
Brown (SC)	Gutknecht	McNulty
Burr	Harman	Meehan
Burton	Hart	Meeks (NY)
Buyer	Hastings (WA)	Menendez
Calvert	Hayes	Mica
Cannon	Hayworth	Millender-
Capito	Hefley	McDonald
Capps	Herger	Miller, Gary
Capuano	Hill	Miller, Jeff
Castle	Hilliard	Mink
Chabot	Hinchee	Mollohan
Chambliss	Hinojosa	Moore
Clay	Hobson	Moran (KS)
Clayton	Hoekstra	Moran (VA)
Clyburn	Holden	Morella
Combest	Holt	Murtha
Costello	Honda	Myrick
Cox	Hooley	Napolitano
Cramer	Horn	Neal
Crane	Houghton	Nethercutt
Crenshaw	Hunter	Ney
Crowley	Hyde	Northup
Cubin	Inslee	Norwood
Cummings	Isakson	Nussle
Cunningham	Israel	Oberstar
Davis (CA)	Issa	Obey
Davis (FL)	Jackson (IL)	Ortiz
Davis, Tom	Jefferson	Osborne
Deal	Jenkins	Otter
DeFazio	John	Pallone
DeGette	Johnson (CT)	Pascarell
Delahunt	Johnson (IL)	Pastor
DeLauro	Johnson, E. B.	Pelosi
DeLay	Johnson, Sam	Pence
DeMint	Jones (OH)	Peterson (MN)
Deutsch	Kanjorski	Peterson (PA)
Diaz-Balart	Keller	Petri
Dicks	Kelly	Phelps
Doggett	Kennedy (MN)	Pickering
Dooley	Kennedy (RI)	Platts
Doolittle	Kildee	Pombo
Doyle	Kind (WI)	Portman
Dreier	King (NY)	Price (NC)
Dunn	Kirk	Putnam
Edwards	Klecza	Quinn
Ehlers	Knollenberg	Rahall
Ehrlich	Kolbe	Ramstad

Regula	Sherwood
Rehberg	Shimkus
Reyes	Shows
Reynolds	Shuster
Rodriguez	Simmons
Roemer	Simpson
Rogers (KY)	Skeen
Rogers (MI)	Skelton
Rohrabacher	Smith (WA)
Ros-Lehtinen	Snyder
Ross	Solis
Rothman	Stark
Roybal-Allard	Stenholm
Rush	Strickland
Ryan (WI)	Stupak
Ryun (KS)	Sullivan
Sabo	Sununu
Sánchez	Tanner
Sanders	Tauscher
Sandlin	Tauzin
Sawyer	Taylor (MS)
Saxton	Terry
Schiff	Thomas
Schrock	Thompson (CA)
Serrano	Thompson (MS)
Sessions	Thornberry
Shaw	Thune
Shays	Thurman
Sherman	Tiahrt

NAYS—18

Cantor	Flake
Coble	Hall (TX)
Collins	Hostettler
Condit	Jones (NC)
Duncan	Kerns
Everett	Ose

NOT VOTING—85

Aderholt	Hall (OH)	Pitts
Barcia	Hansen	Pomeroy
Barrett	Hastings (FL)	Pryce (OH)
Becerra	Hilleary	Radanovich
Berman	Hoeffel	Rangel
Bishop	Hoyer	Riley
Blagojevich	Hulshof	Rivers
Blunt	Istook	Roukema
Bonior	Jackson-Lee	Schaffer
Borski	(TX)	Schakowsky
Brown (FL)	Kaptur	Scott
Bryant	Kilpatrick	Slaughter
Callahan	Kingston	Smith (MI)
Camp	LaHood	Smith (NJ)
Cardin	Lantos	Smith (TX)
Carson (IN)	Lewis (CA)	Souder
Carson (OK)	Lewis (GA)	Spratt
Clement	Lipinski	Stump
Conyers	Lowe	Sweeney
Cooksey	Luther	Tancred
Coyne	Matsui	Taylor (NC)
Culberson	Meek (FL)	Trafcant
Davis (IL)	Miller, Dan	Walsh
Davis, Jo Ann	Miller, George	Watts (OK)
Dingell	Nadler	Weiner
Filter	Olver	Whitfield
Gallegly	Owens	Woolsey
Gephardt	Oxley	Young (AK)
Gutierrez	Payne	

□ 1908

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. FILNER. Mr. Speaker, on rollcall No. 284, I was traveling on official business. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Speaker, I was unable to be present for rollcall votes 283 and 284. Had I been present, I would have voted "yea" on each on them.

PERSONAL EXPLANATION

Ms. KILPATRICK. Mr. Speaker, district business prevents me from being present for legislative business scheduled for today, Monday, July 8, 2002. Had I been present, I would have voted "yea" on the following rollcall votes: H.R. 4609, the Rathdrum Prairie/Spo-kane Valley Aquifer Study Act (rollcall No. 283); and H.R. 2643, the Fort Clatsop National Memorial Expansion Act (rollcall No. 284).

RESIGNATION AS MEMBER OF COMMITTEE ON THE BUDGET

The SPEAKER pro tempore (Mrs. BIGGERT) laid before the House the following resignation as a member of the Committee on the Budget:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 8, 2002.

Hon. J. DENNIS HASTERT,
*Speaker of the House, House of Representatives,
The Capitol, Washington, DC.*

DEAR MR. SPEAKER: I write to inform you of my resignation from the Budget Committee as I undertake my new role to serve on the Transportation and Infrastructure Committee, pursuant to the rules of the Democratic Caucus. I look forward to serving on the Transportation Committee to advance the issues important to my constituents.

Sincerely,

MICHAEL E. CAPUANO,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. FROST. Madam Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 470) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 470

Resolved, That the following Members be and are hereby, elected to the following committees of the United States House of Representatives:

Committee on Resources: Mr. Holden of Pennsylvania;

Committee on Transportation and Infrastructure: Mr. Capuano of Massachusetts.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AMENDMENT PROCESS FOR CONSIDERATION OF H.R. 4635, ARMING PILOTS AGAINST TERRORISM ACT

(Mr. REYNOLDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REYNOLDS. Mr. Speaker, a "Dear Colleague" letter has been sent to Members informing them that the

Committee on Rules plans to meet on Tuesday, July 9, 2002, to grant a rule for the consideration of H.R. 4635, the Arming Pilots Against Terrorism Act.

The Committee on Rules may grant a rule which would require that amendments be printed in the CONGRESSIONAL RECORD prior to the consideration on the floor.

The Committee on Transportation and Infrastructure has filed its report on the bill today. Members should draft their amendments to the bill as reported by the Committee on Transportation and Infrastructure. The text of the reported bill is available on the Committee on Transportation and Infrastructure's web site.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted, and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

ANNOUNCEMENT OF INTENTION TO OFFER ON TOMORROW MOTION TO INSTRUCT ON H.R. 3295, HELP AMERICA VOTE ACT OF 2001

Mr. LANGEVIN. Madam Speaker, pursuant to clause 7(c) of rule XXII, I hereby announce my intention to offer a motion to instruct conferees on H.R. 3295 tomorrow.

The form of the motion is as follows:

I move that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendments to the bill H.R. 3295 be instructed to recede from disagreement with the provisions contained in subparagraphs (A) and (B) of section 101(a)(3) of the Senate amendment to the House bill (relating to the accessibility of voting systems for individuals with disabilities).

SPECIAL ORDERS

THE SPEAKER pro tempore (Mr. KIRK). Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

REFORMING THE SECURITIES EXCHANGE COMMISSION

THE SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, tomorrow the President will go to New York, to Wall Street, to give a much-anticipated speech on reforming the mess in corporate America.

Now this will be an interesting day because this is the same President and Vice President and cabinet who have long touted their extraordinarily tight

ties with corporate America; the same President who appointed Harvey Pitt, a former securities lawyer, as head of the Securities Exchange Commission; Mr. Pitt, who, when he was sworn in, promised a kinder, gentler Securities and Exchange Commission, even while all these abuses were going on. And, in fact, recently Mr. Pitt was berated for meeting with people from a firm under investigation; and he said, well, how could I not meet with people from firms under investigation who I represented? I represented them all.

□ 1915

He is saying as the head of the Securities and Exchange Commission, basically if he recused himself for conflict of interest from his former clients, and obviously future clients when he leaves his measly government salary and goes back to earning millions of dollars a year, representing these crooks and swindlers, he would not be able to do his job. In fact, he is not able to do his job.

Just the other day, an administrative law judge dismissed a finding by the SEC because Harvey Pitt could not vote, because he can meet with these people, he can consult with them and talk with them and tell them what the SEC is looking at and doing about them, he can do that; but the line is drawn by Federal law at voting. If he has recently represented these people, which he has, he could not vote.

So in the case of Ernst and Young, Chairman Pitt had to recuse himself. Commissioner Cynthia Glassman had to recuse herself. So there was only one person left to vote who was a Clinton appointee, who did not have a conflict of interest, who had not represented these miscreants previously; and an administrative law judge said that is not adequate, you cannot have just one person vote to prosecute these folks.

Now we are confronted with the fact that we have a Securities and Exchange Commission, which has been dramatically underfunded by the Bush administration, 40 percent less than the House budget which was not adequate. In fact, the President, as recently as March, and his staff were representing a zero funding increase for the Securities and Exchange Commission, the one that is so outgunned, and now the one they are bragging on for doing all of this investigating and putting these people in jail and all this stuff they are going to be doing. Of course, they cannot do any of that if the head of the Securities and Exchange Commission is so extraordinarily conflicted that he cannot vote in any of the prosecutions and other members of the board are also conflicted. In fact, the President has nominated yet another person from another accounting firm to be on the board of the Securities and Exchange Commission.

Hopefully, what we will hear tomorrow from the President will be something that is a radical change from the first year and a half of his administration, where they have been coddling these crooks and criminals, the Ken Lays of the world, that basically wrote the energy policy of the United States of America. The Bush administration has yet to release the documents regarding the meetings that Mr. Lay and Enron had with the administration in formulating that policy. We do know that Enron met more than once a day, more than once a day, this giant corporation met with the energy commission, more than once a day. That is a real good distance. Those are the kind of watchdogs we want.

Mr. Pitt and the SEC are kind of reminding me of my old chessee bear. He is a wonderful old dog, a great watchdog, but he is now 13½ years old, much past his expected longevity for a chessee. His teeth are kind of worn down and he is still a big dog, and even when he barks, we know it is not very serious. That is kind of what we got at the SEC today, and I am afraid that is what we are going to get from the President tomorrow.

There will be some barking, but there are not going to be any real teeth; and we are going to know it is not very serious because the people that they would have to go after are the same people who contributed to the record fundraiser the Republicans had 3 weeks ago, the record amount of money that President Bush raised in his Presidential campaign. Their largess might be constrained. I mean, sure, they have hidden some of it in places where we cannot go after it, like mansions in Florida and that; but we want to make sure, I am certain, that they have some left to contribute to political causes after all.

So I expect we are going to get the toothless, barkless watchdog tomorrow. We are going to have to watch very carefully what the President proposes.

Will he support the Senate bill, the Sarbanes bill? Thus far they have opposed it and supported the phony bill that passed the House to reform some of these practices.

Will they go after the corporate tax havens? Will they go after these thieves and crooks and criminals and put them in jail? Will they try and get Americans back their 401(k)s and pensions or not? The proof will be in the speech tomorrow. We will all listen carefully.

IN HONOR OF BILL RUGER, SR.

THE SPEAKER pro tempore (Mr. KIRK). Under a previous order of the House, the gentleman from New Hampshire (Mr. BASS) is recognized for 5 minutes.

Mr. BASS. Mr. Speaker, I rise this evening to speak for a few moments

about the passing of one of America's talented inventors, industrialists, and sportsmen.

Bill Ruger, Sr., was a long-time friend and constituent of mine. As chairman of Sturm, Ruger and Company, the manufacturer of the world-renowned Ruger gun, Bill gained recognition as an inventor, pioneer, faithful employer, and patriotic American industrialist. The "old man," as many employees and admirers lovingly called him, was the undisputed king of the American sporting industry.

Building on the first sale of the Sturm Ruger standard pistol in 1949, Bill ultimately created the largest and most widely respected firearms manufacturing concern in the world. For almost 50 years, he built a business, patented numerous innovative ideas and designs, and produced products with legendary appeal and durability. His rare genius was in transforming his innovations into products that won intense customer satisfaction and, in turn, customer loyalty. Bill believed that a well-designed, well-made and reasonably priced product would always attract buyers; and the legions of sportsmen that would never hike a field with anything but a Ruger certainly proved him right.

In some ways, he was the Henry Ford or Thomas Edison of the second half of the 20th century, taking manufacturing processes such as investment casting to new levels, and beating the competition fair and square through timeless quality and efficiency. He had a love for all things mechanical and taught himself most of what he would later use as the basis of his designs. In the process, he became one of the foremost authorities on automotive design and was one of the few people in the world that actually designed and built his own automobile.

Bill Ruger did not build his company in order to sell out and retire, but rather to profit steadily from the success of its products. He believed in taking the long view and built lasting relationships with employees and customers. At a time when manufacturers are heading overseas and across our borders, Sturm Ruger proudly engineers and builds all of its products in the United States.

His success has created great opportunity for many others, including many of my constituents; and his company continues to be a vital part of New Hampshire's economy and community. The "old man," as he was called, leaves a proud legacy to many, not only in New Hampshire but in Arizona and Connecticut as well.

For people who call themselves sportsmen, Bill Ruger was a name that was as celebrated and admired as Ernest Hemingway or Jack O'Connor. Although Bill will be missed by many who take regularly to the field, somehow we will know that he will be along for many more hunts.

Bill viewed a well-crafted gun as a bond that connected families as it was passed from generation to generation. What he may have missed is how one of his creations bonds us to him as his genius and commitment to quality, durability, and affordability live on in perfectly cast steel and finely carved walnut.

That was the gift left to us by the old man. He will be missed by many friends, admirers and employees but especially by his family. I would like to extend my condolences to the Ruger and Vogel families, especially Molly and Bill Ruger, on the passing of their father, a truly great man.

NO VOUCHERS FOR THE DISTRICT OF COLUMBIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

Ms. NORTON. Mr. Speaker, I come to the floor because a bill has just been introduced to impose vouchers on the District of Columbia. The Congress had the opportunity to impose vouchers on itself when H.R. 1 was here, the President's Leave No Child Behind bill. Instead, it defeated a voucher proposal 273 to 155; 68 Republicans joined 204 Democrats. It was not even close.

Further, there have been 20 referenda on vouchers, all of them defeated, most recently in California and Michigan. Not only were they defeated overwhelmingly by almost three-quarters of the population in each State but the people of color, minorities, voted even more overwhelmingly against vouchers. In D.C. we had our own voucher vote in the 1980s: 89 percent against, 11 percent for.

What we are asking for in the Nation's capital is the same choices in educating our children that each and every Member of this body has insisted upon already for her own district and in her own State; and do not get me wrong, I do not believe a child can be in the first grade but once. So I strongly believe in choices and alternatives to public schools. The District deserves applause for its efforts on choice because our own efforts far outdo the efforts of any Member of this body. Applause, not punishment, for the choices we have made.

What are our alternatives? First, we have more charter schools in the District of Columbia per capita than any other district. Fourteen percent of our children go to public charter schools. No other Member's district even approaches this percentage of its children in charter schools.

Second, a D.C. child can go out of her own ward to any public school in the District of Columbia. We had children every day going from the poorest wards in 7th and 8th across to more wealthy wards, Ward 3, for example.

Third, I have strongly supported the work of the Washington scholarship fund, a private organization that provides scholarships, mostly to Catholic schools, using private money. I mean that that effort using private money is precisely the way to support our children.

Fourth, D.C. closes schools where it is not up to standard and then reopens them under new leadership. We have done that with nine schools this year with remarkable results.

It is ironic that this bill would come up at this time. Today's Washington Times has an editorial: "D.C. Schools Make Headway." It is an editorial from a newspaper that has been fiercely critical of the D.C. public schools. It opens by saying: "Preliminary test data show that D.C. teachers appear to be teaching and students appear to be learning," and it cites statistics. Fifty percent of the children improved in math and reading. Did they do as well in my colleagues' districts? Children in the most economically deprived neighborhoods improved 20 percent. Did my colleagues' economically deprived children do as well?

All of our charter schools are accountable. We can close charter schools, and have closed three this year, when they are not doing as well with our children. We can close public schools, and we closed nine this year, reopened them and they have done much better under new leadership. We can impose the same requirements on charter public schools as we do on other schools, and those requirements are very stiff. We cannot do that particularly to religious schools because they must not be accountable to the government in the practice of their religion.

I want to be clear about where I stand on the D.C. public schools. I am a proud graduate of the D.C. public schools, but I am not an apologist for them. I am proud of how they are improving. They are not nearly good enough; but by voting against the bill that has been introduced, my colleagues will be voting against choices others have made for their districts, not voting against choice.

We already have multiple choices in the District of Columbia, sufficient choices, so that I invite other Members to look at how to provide choices when their own people have voted against vouchers. There are other ways to acquire and to get choices. We would very much appreciate being allowed to make our own choices the way my colleagues' districts have insisted upon making their own choices.

Read today's Washington Times: "D.C. Schools Make Headway." Add to what my colleagues read. Respect the democratic choices of the citizens of the District of Columbia who are American citizens, entitled to their free choices, in the same way that my colleagues' own constituents are.

DEMOCRATIC PROPOSAL FOR PRESCRIPTION DRUG COVERAGE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, it is not my intention this evening to use the full 60 minutes. I am more likely to use about 20 minutes, but I did want to take the opportunity this evening to talk about an issue which I think was sort of left dangling when we left here a week ago before the July 4th recess.

My colleagues know that in the middle of the night, I guess it was about 2 a.m., we finally voted on the Republican prescription drug plan; and I was extremely disappointed, to say the least, over the fact that there was no opportunity to debate and bring up the Democratic substitute, the Democratic proposal.

Mr. Speaker, for at least 2 years, if not longer, I have been talking about the need for this House to debate the prescription drug issue, and I was glad to see that the Republicans finally did bring their bill to the floor. Although I do not agree with their bill and I do not think it will accomplish the goal of providing a prescription drug benefit, I was at least pleased to see that they were willing to bring it up.

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But bringing the bill up also means debating the bill and allowing an alternative by the minority, the Democrats in the House, to debate and argue their alternative as well.

It is the first time in my memory, and I have been here 14 years, that on an important issue like this, that the minority, in this case the Democrats, were not allowed to have their alternative, their substitute, be considered by the full House. I think it was a grave mistake, a major error. I think it portends, clearly, that the Republican leadership in this House is not serious about passing a prescription drug bill. If they really felt they had the votes and they were able to strongly pass their bill and send it over to the other body and then eventually send it to the President, they would not have had any problem in letting the Democratic alternative come up. And the reason they did not allow it to come up, I am firmly convinced, is because they felt it would probably pass.

As it was, I think we had eight Republicans who voted against the Republican proposal, we had eight Democrats that I think voted for the Republican proposal, so it was clearly the case that the votes were very narrow there. And it is very likely if a Democratic substitute had been allowed and considered, it would have carried the day and it would have been the bill that passed this House.

I do not want to spend an hour tonight talking about why I think the Republican bill is a failure and why the Democratic alternative would have been a success. The issue now, of course, goes over to the other body, and the other body will be taking up a prescription drug bill fairly soon, within the next few weeks before the August break. But I will say that the major differences between the Republicans here and the Democrats in the House and the way in which the Democratic bill in the other body reflects the Democratic bill here, is that the Democrats are in favor of expanding Medicare to include a prescription drug benefit.

We have been saying fairly simply that Medicare is a good program; that it works. Whether we like it ideologically or not is not the issue. It works. It provides hospital care, it provides doctor care, and it should provide prescription drug benefits as well. And every senior or disabled person who is covered under Medicare should have the option as well of having a prescription drug benefit.

The Democratic proposal is very similar to what we provide now for doctor bills. In other words, under part B of Medicare now every senior can opt into a Medicare program that covers their doctor bills. They pay, I think, about \$45 a month for the benefit. Eighty percent of their costs are paid for by the Federal Government. The deductible is \$100, and after they have paid \$2,000 out of pocket for the 20 percent copay, all their bills are paid for by the Federal Government.

More than 99 percent of the seniors and those who are eligible for Medicare take advantage of the part B benefit and pay the premium and get the benefit. As Democrats, we are simply saying do the same thing, establish a prescription drug benefit under Medicare. Everyone who is in Medicare is eligible for it. They would pay \$25 a month for a premium, have a \$100 deductible, and 80 percent of the cost of their drug bills would be paid by the Federal Government. After they paid \$2,000 out of pocket for the 20 percent copay, all their bills, 100 percent, would be paid for by the Federal Government. Very simple. Very easy to understand.

The Democrats also are determined to deal with the issue of price, because we know that the biggest problem facing seniors is that the price of prescription drugs is going up. It is not just for seniors, it is for all Americans. So we say, well, bring this prescription drug program under the umbrella of Medicare and we will have 30 to 40 million Americans who now are under the auspices of the Secretary of Health and Human Services, who runs the Medicare program, and he or she would have the bargaining power of those 30 or 40 million seniors, Americans, and would be able to go to the drug companies

and say, look, I have 30 or 40 million people; if you want me to buy your drugs, you have to give me a big discount. That discount might be as much as 30 percent across the board. That is a huge savings not only for the Federal Government, which is paying 80 percent of the cost, but also for the seniors who are paying the 20 percent copay.

The problem is, from what I see, that the Republicans in the House do not want any part of this because they do not believe in Medicare. They do not like it. It is a government program. But more than anything else, they do not want to expand Medicare to provide a prescription drug benefit. So what the bill does that passed the House of Representatives a week ago, the Republican bill, is really to further their goal, I think, the Republican goal, of privatizing the Medicare program.

What the Republican bill does is to create a program of subsidies to HMOs and private insurance companies to offer drug-only insurance policies to seniors. Some money in the form of a subsidy, a payment, goes to private insurance companies in the hope they will provide prescription drug coverage, or drug insurance policies, to whatever seniors want to buy them. It does not guarantee any benefit plan. There are going to be areas of the country, just like with HMOs, where these private insurance companies are not going to be offering the prescription drug plan. We do not know what the premiums will be. We do not know what kind of benefits they will offer. That is all up in the air.

And, of course, the insurers have already said they do not want any part of the drug-only policies. In fact, if there was an ability right now for insurance companies to offer drug-only policies they would be offering them. So it makes no sense, in my opinion, to instead of doing what the Democrats do, which is to say we are going to have a Medicare program to cover prescription drugs and guarantee a benefit for everyone, simply hope that the private insurance companies will somehow provide these kinds of policies.

Now, I do not want to just talk myself, because I think some might say, well, okay, here is another Democrat that is saying this will not work, the Republican plan will not work, but every one of the major newspapers, every major media outlet in the country has come out and said this Republican proposal, these drug insurance policies, will not work. I just want to go over a few of them tonight and highlight some of the things that have been said in the last few weeks, just to point out again that there are third-party validators, major newspapers, major insurance companies, executives, or insurance company trade officials who are saying these drug-only policies will never be offered.

This was in *The New York Times*. It was an editorial on Saturday, June 22, and I will read part of it. It says: "House Republicans, who regard traditional Medicare as antiquated, would provide money to private insurance companies, a big source of GOP campaign donations, to offer prescription drug policies. The idea of relying on private companies seems more ideological than practical. The pool of elderly Americans who will want the insurance is likely to consist of those who have the most need for expensive medicine. Even with Federal subsidies, it's unclear that enough insurance companies would be willing to participate and provide the economies that come from competition."

So *The New York Times* is saying this will not work; nobody is going to offer these policies, essentially. But we have another article in *The New York Times* a week earlier, this was from Sunday, June 16, which was giving comments from other insurance people, or people familiar with the insurance business, and the title of this article from June 16 says "Experts Wary of G.O.P. Drug Plan: Some Say 'Drug Only' Coverage Isn't Affordable for Insurers."

Keep in mind that the Republican proposal is a voluntary proposal. Nobody has to offer it. No insurance company has to offer these drug-only policies. Again, I will just read some of the highlights of this article in this Sunday *New York Times*, June 16.

"Under the proposal, Medicare would pay subsidies to private entities to offer insurance covering the cost of prescription drugs. Such 'drug only' insurance does not exist, and many private insurers doubt whether they could offer it at an affordable price. 'I am very skeptical that 'drug only' private plans would develop,' said Bill Gradison, a former Congressman," and I will add Republican Congressman, "who was President of the Health Insurance Association of America from 1993 to 1998. Representative BILL THOMAS, the California Republican who is chairman of the Ways and Means Committee, insisted: 'We should rely on private sector innovation in delivering the drug benefit. The private sector approach offers the most savings per prescription.' However, John C. Rother, Public Policy Director of AARP, which represents millions of the elderly, said, 'There is a risk of repeating the H.M.O. experience' with any proposal that relies heavily on private entities to provide Medicare drug benefits."

I do not want to go on, Mr. Speaker. I just want to point out that in the same way that we relied on HMOs to provide medicine coverage for seniors and found so many of them basically dropping out of the market, offering it maybe for 6 months and then telling seniors that they could not provide the coverage any more, and so many areas

of the country that do not have HMOs offering any kind of HMO, the same problem is going to exist with these drug policies that the Republicans are proposing. There are going to be huge areas of the country where no policies are offered. And if they are offered, they are likely to be so expensive in terms of the premium that seniors just will decide it is not worth paying for them; not worth buying them.

So I think the promise or the commitment that the Republicans say they are making by passing this bill last week saying they are going to provide some prescription drug coverage is really a hollow one. None of this is going to be offered. None of this is going to happen.

There was an article, an op-ed on June 18 in *The New York Times*, by Paul Krugman, and he basically explained why insurance companies would not offer these kinds of policies. I think he did it very well, and I just wanted to read a little bit from that, if I could.

He says, "The House Republican plan has a bigger flaw. Instead of providing insurance directly, it will subsidize insurance companies to provide the coverage. The theory, apparently, is that competition among private insurance providers would somehow lead to lower costs."

Some of my Republican colleagues said this during the debate, that because of competition between insurance companies, drug prices would come down. But the problem is, there will not be any competition because nobody is going to offer them.

What Mr. Krugman says in *The New York Times* on June 18 is, "In fact, the almost certain result would be an embarrassing fiasco because the subsidy would have few, if any, takers. The trouble with drug insurance from a private insurance point of view is that some people have much higher drug expenses than the average, while others have expenses that are much lower, and both sets of people know who they are. This means that any company that tries to offer a plan whose premiums reflect average drug costs will find the only takers will be those who have above-average drug costs."

What Krugman is basically saying is that drug insurance is not like traditional insurance. If we think of auto insurance, where maybe there is 100 people insured and one person has an accident, all the others are paying into a pot of money and that one accident is paid for with the pot. But the insurance company is making money because they are only paying out maybe for one accident out of the hundred people. But in the case of a drug insurance or medicine, every senior needs medicine. Every senior has an opportunity to have the need for some kind of prescription during the course of the year.

So it is really a benefit. It is not something you are insuring for a risk of because everybody is going to take advantage of it. So seniors that have very high drug costs, \$2,000 or \$3,000, they may be willing to buy a drug policy that they have to pay \$75 or \$85 a month premium, but someone who does not have a huge drug cost is not going to do that and pay that huge cost. So we will have a situation where the insurance companies will say why would I want to provide this kind of coverage; I cannot make any money.

Again, I do not want to just rely on what I am saying. There are a whole bunch of quotes here, and I can just give some about where insurance industry executives are commenting on the Republican plan and saying it will not work. We have Mr. Don Young, President of Health Insurance Association of America, April 24 this year in *Congress Daily*. He says, "We caution Congress against relying on drug-only insurance as the mechanism to deliver a benefit." We have Charles Kahn, President of the Health Insurance Association of America in *The New York Times* in February of last year. He says, "I don't know of an insurance company that would offer a drug-only policy like that or even consider it." We have him again saying, "We will withhold judgment on the House Republican proposal until we see it in details. Nevertheless, we continue to believe that the concept of so-called drug-only private insurance simply would not work in practice. Private drug-only coverage would have to clear insurmountable financial, regulatory, and administrative hurdles simply to get to market."

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Mary Lehnhard, senior vice president, Blue Cross and Blue Shield says, "It is exceedingly unlikely that any of our plans would offer a stand-alone prescription drug policy in their service areas. The reason is affordability. The absolute cost of an annual rate of increase in the cost of prescription drugs would make a drug-only benefit package so expensive that only those who expect to have very high use of the benefit would initially buy a policy. The package would not appeal to the majority of seniors that have relatively low drug costs. Plans would experience tremendous adverse selection, which would escalate premiums."

I could go on, but I am not going to. It is clear that every major insurance executive and trade association is saying the same thing, that these drug policies will never be offered.

Mr. Speaker, we might ask, the Republican leadership is not badly motivated. They are not bad people. Why are they going in this direction? What is the reason why they would try to pass something in the House on a strictly partisan vote, pretty much,

that has no chance of passing the other body; or even if it did become law, have any real impact on seniors in terms of something that they would actually be able to buy or would want to buy.

I think one of the answers is that the real goal behind the Republican bill is not to offer a prescription drug coverage, but rather to take one more step towards privatizing Medicare. I do not know what other conclusion I can come to.

The other conclusion is, somehow they feel it is necessary to come up with something before Election Day so they can say that they passed something, and they will simply go out on the hustings and say we tried to pass something, and hope that Americans do not pay attention to what it is.

Of course, some of my colleagues on the Democratic side, including myself, have cited the fact that the Republican Party in the House is getting huge campaign contributions from the prescription drug industry, and so maybe they want to do something like this bill in order to pretend that they are providing a prescription drug benefit, but do not want to alienate the insurance company by actually doing something that might make a difference. I will go back to that when I talk about the price issue.

I want to talk a little bit about why I think the Republican bill is a bad bill even if it was available. In other words, I do not think anybody is going to sell these policies. I do not think that they are going to be offered anywhere where the premium is going to be affordable; but let us assume for 1 minute that I am Mr. SMITH, a senior in New Jersey, and somehow this bill passes and there is an insurance company in my area that offers a drug-only insurance policy.

Think about the reasons why I would not want to buy it, even if it was available, and there are many. First of all, if we look at the Republican proposal, it is basically going to cover less than 20 percent of prescription drug costs. The Democratic proposal guarantees that 80 percent of your costs are paid for by the Federal Government. The Republican proposal, even if it was available, and I do not think it will be, will probably cover less than 20 percent of the costs. Why would I say that?

Well, first of all, there is a huge hole or gap in coverage. Let us say you pay the premium, whatever it is. For the first \$1,000, they estimate that the insurance company would probably offer to pay 80 percent of the cost, and for the second \$1,000, they estimate the insurance company would pay 50 percent. They estimate that, they do not guarantee it.

From the \$2,000 out of pocket to \$3,700 out of pocket, they estimate that the Republican plan will pay no part of the cost. The average senior citizen, 47 percent of the seniors end up with pre-

scription drug bills that fall into that gap, between \$2,000 and \$3,700 out of pocket.

Again, I would ask, even if this coverage was available, and it will not be, but even if it was, why would seniors want to pay a premium that for a good percentage of their cost is going to pay absolutely nothing by the Republicans' own calculations? We can look at the bill in many ways, but the most ridiculous thing about it at all, frankly, is that there is this gaping hole where there is no coverage at all for 47 percent of the seniors who incur costs over \$2,000 a year.

I have already talked about the Democratic proposal and what it would do, so I am not going to go into that anymore this evening. But I did want to spend a little time on the issue of price because I think it is so important. We know, and we do not need statistics, because constituents have come up to Members over the past year and said the price of prescription drugs just keeps soaring, I cannot afford it.

The week before last when we were meeting and we finally voted on the bill, Families U.S.A., which is a health care consumer group, came out with a report on prices for prescription drugs. They basically pointed out very dramatically that for the most popular prescription drug medicines, prices rose three times the rate of inflation last year. I am going to go over some of the highlights from their press release of June 24.

It says, "The prices of the 50 most prescribed drugs for senior citizens rose on average by nearly three times the rate of inflation last year according to a new report released today by Families U.S.A. The study analyzed price increases for the 50 most commonly prescribed drugs for seniors for the last year, January 2001 through January 2002, and then for the past 5 years and the past 10 years."

The report found that last year nearly 36 out of 50 of these drugs rose at least one-and-a-half times the rate of inflation while over one-third, 18 out of 50, rose three or more times the rate of inflation.

Then they go into the specific drugs. It shows dramatically in the report how bad the price situation is and why these prescription drugs are increasingly not affordable.

Well, what is the Republican House leadership's answer to that?

I have discussed the problem of the basic bill, and the gaping hole where almost 50 percent of the seniors would not get any benefit above a certain amount of money that they would have to put out of pocket. But just to ensure in the Republican bill that the price issue could not be addressed in any way by the Federal Government, by the Secretary of Health and Human Services, by the administrator of the program which the Republicans put for-

ward, the Republicans put in the bill a clause that they call the noninterference clause, based on published reports in Congress Daily; and this was put in by the CATS, the Conservative Action Team, a group of conservative Republican Members in the House.

And this noninterference clause, and this is in the bill that passed a week ago, it says that the administrator of the Republican program may not require or institute a price structure for the reimbursement of covered outpatient drugs, and the administrator may not interfere in any way with negotiations between PDP sponsors and Medicare+Choice organizations and drug manufacturers, wholesalers or other suppliers of covered outpatient drugs. What this noninterference clause essentially says is that we do not want the administrator of this prescription drug program, the Federal program, to in any way try to negotiate or interfere with any pricing. Now, how outrageous can this be?

I mentioned before the whole goal of the Democratic alternative was not only to put prescription drugs under Medicare and guarantee that every senior and every disabled person under Medicare had a prescription drug benefit, and the same benefit throughout the country, but that because of the fact that now 30 or 40 million Americans were now under the auspices of Medicare for their prescription drugs, that the Secretary of Health and Human Services would have the power to negotiate price reductions because he represented all those seniors and disabled people.

The Democrats actually put in the bill, in their alternative, a clause that mandates that the Secretary negotiate price reductions on behalf of those 30-40 million Americans. And we know it can be done. It is done by the Veterans Administration, by the military. It is done by other branches of the Federal Government in order to achieve major price reductions, 30-40 percent.

Not only do the Republicans not put their program under Medicare and do all of the other things that I have mentioned, but they specifically put in the bill that there cannot be any negotiations on price by the administrator of their program. Again, people say why would they do this? Why would well-meaning people insist that there be no negotiations over price in whatever program they are trying to set up?

I have no other answer than to say it is because they are essentially in the pockets of the pharmaceutical industry. The pharmaceutical industry insists that the Republican leadership not address the issue of price because they do not want to see any loss of profits.

I do not think that they would lose any profits because the bottom line is, all of a sudden now the prescription drug industry, the brand name pharmaceutical industry, is going to have all

these seniors who they would be selling prescription medicine to that are not getting it now. The volume of their sales would skyrocket, but they are so afraid that there is going to be some negotiation over price that would reduce prices and somehow they would be negatively impacted, that they insist that there be a noninterference clause on price.

Mr. Speaker, Members do not have to believe me. I have backup information. The Washington Post, the day that the Republican bill was being considered in the Committee on Energy and the Commerce, of which I am a member, we had to break early at 5 p.m. and not finish the bill until the next day because the Republican National Committee was having a major fund-raiser; and a big part of it was being financed by the pharmaceutical industry. This was an article that appeared the next day in the Washington Post. It says, "Drug Firms Among Big Donors at GOP Event. Pharmaceutical companies are among 21 donors paying \$250,000 each for red-carpet treatment at tonight's GOP fund-raising gala starring President Bush, 2 days after Republicans unveiled a prescription drug plan the industry is backing, according to GOP officials."

Skipping down in the article, "Drug companies, in particular, have made a rich investment into tonight's gala. Robert Ingram, GlaxoSmithKline PLC's chief operating officer, is the chief corporate fund-raiser for the gala. His company gave at least \$250,000. Pharmaceutical Research and Manufacturers of America, a trade group funded by the drug companies, kicked in \$250,000, too. PhRMA, as it is best known inside the Beltway, is also helping underwrite a television ad campaign touting the GOP's prescription drug plan.

Pfizer, Inc., contributed at least \$100,000 to the event, enough to earn the company the status of a vice chairman for the dinner. Eli Lilly, Bayer AG and Merck & Company each paid up to \$50,000 to sponsor a table. Republican officials said other drug companies donated money as part of the fund-raising extravaganza.

"Every company giving money to the event has business before Congress. But the juxtaposition of the prescription drug debate on Capitol Hill and drug companies helping underwrite a major fund-raiser highlights the tight relationship lawmakers have with groups seeking to influence the work before them.

"A senior House GOP leadership aide said yesterday that Republicans are working hard behind the scenes on behalf of PhRMA to make sure that the party's prescription drug plan for the elderly suits drug companies."

I am not going to continue to read. But in conjunction with all of this, what is the Republican leadership hop-

ing for? They passed the bill. They are going to go over now to the other body and the other body is going to start the debate, and I hope that the other body comes up with a Medicare plan. But what we are going to see over the next few months, and it has already started, is a huge ad campaign financed primarily by the pharmaceutical industry, to try to convince the American public through TV and other media outlets that the Republican plan is the best bill.

It has already started. The United Seniors Association which is basically a senior group that is put together by PhRMA, the pharmaceutical trade group, they launched a \$3 million ad campaign before the debate touting the House GOP prescription drug plan which is based on, as I said, private insurers offering prescription drug coverage.

□ 2000

PhRMA spokeswoman Jackie Cottrell admitted they had recently given United Seniors Association an unrestricted grant. According to the Associated Press, several Republican officials speaking under condition of anonymity said they understood that the Pharmaceutical Research and Manufacturers of America have provided the funds for the commercials.

Again, this is all in black and white. This is all easily documented. And I just think it is very sad. I think it is very sad that we ended up passing a Republican bill that is nothing more than a sham, something put out by the prescription drug industry so that the Republican leadership can say they have done something. We are talking about a Republican bill that will not work. Even if it did, the benefit is clearly inadequate, and I just think it is very sad that we are here now; and after 2 years of myself and other Democrats talking about the need for a prescription drug plan that all we ended up with was something that is basically a bone for the prescription drug industry and which is probably going nowhere because it will not be taken seriously by the other House and never become law.

But I think we have to continue to speak out; we have to continue to point out that this is a major issue, that the price of prescription drugs will continue to rise, that more and more seniors will not be able to buy their prescription drug medicine and that something needs to be done that is real that is going to make a difference for them. And I would hate to see this just become a campaign issue. I would much rather that this were an issue that was resolved and that actually ended up with a benefit that passed both Houses and that went to the President and was signed into law. But I do not see that happening.

So, Mr. Speaker, I will conclude tonight, but I do intend to continue to

bring this up over the next few weeks or the next few months because I think it is important that my colleagues understand that those of us on the Democratic side have not given up in trying to provide a real prescription drug benefit for seniors under Medicare and that as much as there may be ads and paid advertisements telling the American public that the Republican plan will accomplish something, that there needs to be voices here in the House of Representatives that say it will not and that it is just paid-for ads for a meaningless proposal and that at some point we will get together on a bipartisan basis and pass a meaningful prescription drug benefit that will actually provide a difference for America's seniors.

ENCOURAGING TOURISM IN COLORADO

The SPEAKER pro tempore (Mr. KIRK). Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. McINNIS) is recognized for 60 minutes as the designee of the majority leader.

Mr. McINNIS. Mr. Speaker, I hold deep respect for the gentleman from New Jersey (Mr. PALLONE), and I find his comments on some occasions to have substantial merit. But let me tell you, having just heard his comments this evening, that was probably one of the most partisan speeches I have heard on this House floor. The gentleman from New Jersey stands up here and acts as if the Democratic Party takes no contributions and as if taking contributions is some kind of evil. I would be happy to yield time to the gentleman if he would like to come up and explain the trial lawyers in this country, where their proceeds go.

It is very easy when you are not charged with getting the mule train up the mountain, it is very easy to sit on sidelines, as the gentleman from New Jersey (Mr. PALLONE) has done, and criticize the people who have to get that wagon up the mountain. It is always easy when you are not the one having to push or pull the wagon. It is always easy to sit on the wagon and demand more from the mules that are pulling that wagon.

I found those remarks almost outrageous, almost outrageous. Outside of the person who spoke them, who has, in my opinion, a great amount of integrity, that is the only thing that saved these remarks that we have just heard from being outrageous. Where was the gentleman from New Jersey when it was time for a bipartisan, not a partisan, effort, but a bipartisan effort to put a prescription care bill together? All we see is after we finally get something done, after finally this House begins to move on prescription care services, we always have the Monday morning quarterbacks that show up, and

today happens to be Monday evening, so the Monday evening quarterbacks that show up and say, oh, my gosh, this was not right, you should have done this, you should have done that. But you never saw a shovel in their hands. You never saw them helping to dig the ditch. All they do is sit back there under the shade tree criticizing the people that have to dig the ditch. So I hope that we hold those comments in their proper context, and frankly in the future I would expect more from a gentleman of that capability and that integrity.

I want to move on to a couple different subjects this evening that I think are very important. First of all, as many of my colleagues know, I come from the State of Colorado. My district is the Third Congressional District of the State of Colorado, and all the substantial fires in Colorado are in the Third Congressional District and some of the damage by the fire of course has gone beyond the borders of the third district. It certainly has impacted the people of the State of Colorado, and I do not mean to underestimate the damage that these fires caused in their particular areas.

But what I want to stress to my colleagues is a very, very small fraction of Colorado actually went into flames and burned down. What is happening, what we are seeing out in Colorado is we are seeing a lot of negative publicity about the damage that these fires did. And again if you owned a home out there that was destroyed by a fire, you could not get much more negative press coverage. Of course it is devastating to you and of course the loss is terrible, but as a State I think we need to put it in its proper proportion because the impact of the negative stories we are seeing about those fires in Colorado, and by the way, all of those fires are pretty well controlled right now. I think all of them but one are contained, but the publicity in the press that we are seeing as a result of those fires is really impacting severely Colorado's tourism economy. So I want to tonight in front of my colleagues bring up this poster here and show the Colorado fire damage.

Now, according to what my colleagues have read in the media and so on and the pictures shown across the country, the belief would be that a huge amount of the State of Colorado is in flames. Take a very close look at this. It is the blackened areas of the State of Colorado which have been burned and this is a current poster. We have got some down in Durango. This is the big fire outside of Denver right there, and these other little spots, these little black spots including this spot here in Glenwood Springs, Colorado. Look at that in proportion to the rest of the State.

What I am saying is that Colorado is open for business. One can go to Colo-

rado and have a terrific vacation. The mountains of Colorado are still as pristine as they were with the small exceptions of some of these black areas where we have suffered consequences of terrible fire. A couple forests, the Pike National Forest, have shut down temporarily pending more moisture; and we are worried about the fire hazard out there. You will be limited in that you cannot open a can of beans and cook them over an open fire out there in those Colorado mountains. You can use a Coleman stove or something else, but you cannot have open fires. But aside from that, Colorado is open for business.

Colorado has four national parks. They are open for business. The Air Force Academy is open for business. My good friend Bob Zimmerman and his crew down there in the valley with the sand dunes, soon to be a national park, the Sand Dunes National Park, soon to be funded this week we hope in an appropriations bill, which will be good news to Bob Zimmerman, they are open for business down there. Go see the sand dunes.

There is the Black Canyon National Park, open for business. The Colorado National Monument in Grand Junction, open for business. The Aspen Music Festival, open for business. The Steamboat community, and they have a great summer up there, open for business. Denver, the Denver Rockies, open for business.

By far, less than a fraction, less than a fraction of the land in the State of Colorado, was burned, well less than 1 percent. But if you want to help the people of Colorado who have suffered as a result of these fires, go ahead with your planned vacation.

Nothing is worse than having a negative impact upon you as a result of fire, and then turning around and losing your job because tourists have quit coming to Colorado. Colorado is open for business. It is a great place to visit. I would urge my colleagues to head for Colorado, if you get an opportunity, or talk to some of your constituents. Encourage them to go ahead and visit our great State.

Colorado is the highest place on the continent; the highest place on the continent. The low point in Colorado is higher than almost all of the high points in most of the other States. I think we probably have, I am not sure, but it is close, 65 mountains over 14,000 feet. Colorado has 56 of them. Colorado is the only State in the Union that has no water coming in. It is the Mother of Rivers. It is called the Mother State of Rivers. It is a natural beauty.

So if you have an opportunity, go visit the sand dunes, go visit the Air Force Academy, go to a Rockies game, go over in Glenwood Springs. Glenwood Springs, the mountains around it have some scars as a result of this fire, but that famous Hot Springs pool, still

open for business. So I would hope that some of my colleagues give that their consideration and head for Colorado. It is a great State.

CORPORATE GREED

Now I want to change subjects entirely. The next subject I want to talk about is on the minds of a lot of people in America. It is on the minds of many of my colleagues here. Pretty simple. It is called corporate greed.

What has happened out there in the world of business in this fine country of ours? What has happened to the Adam Smith philosophy in "A Wealth of Great Nations," the book that he wrote, that really has been a guiding foundation for capitalism in America?

Well, one of the things that has happened is we have had a few, not a huge amount, but a few greedy individuals who have not only taken advantage, in my opinion, have taken criminal advantage of the public's trust, and I wanted to go through a few of those examples this evening. Because in order for capitalism to work as well as it has worked, in order for it to continue to operate, you have to have as an element of it, as a basic element of capitalism, as a basic element of our business system in this country, a business system that is admired throughout the world, you have to have as an element of it public integrity, integrity when you are dealing with the public's money; and that comes not only from the chief financial officer, not only from the chief executive officer, but it also is a fiduciary requirement of your board of directors.

Let me start by looking at the corporate structure as corporations are envisioned in America. A corporation is a legal entity. It is not a person; it is a legal entity. Remember, not all corporations are big. In fact, by far, by far the majority of corporations in this country are very, very small.

I will give you an example. My in-laws have a ranch. They are not big ranchers. They have a ranch. But because of corporate liability, they have incorporated their ranch. I know people who run an ice cream truck who incorporate their ice cream truck. So just because someone is incorporated does not mean they are large, and to throw the same blanket overall corporations because of the misbehavior of a few individuals in a few corporations would be a big mistake to our free enterprise system.

You would be surprised if you just look out amongst your neighbors in the business world. Whether it is a Subway shop, whether it is some other kind of a trucking operation, a farming operation, you would be surprised how many of them are incorporated. So you must be careful before you criticize all of these corporate entities.

Now, in America we have what we call in the corporate structure as it is envisioned, as it has been practiced

since corporations first came around, you have the president or the chief executive officer. Let us call it the chief executive officer of the corporation.

Now, a lot of people think that the chief executive officer is the top dog, that is the person, he or she is in charge of that company. Well, the reality of it is the CEO, your chief executive officer, answers to the board of directors.

The board of directors is the top element of management, so to speak. They kind of oversee. They set the policy for management. They set the long-term vision for the company. So, really, the most important entity in a corporation as far as management and as far as overall philosophy are not the executive officers like the president of the company or the chief executive officer of the company or the chief financial officer of the company. The most important aspect, in my opinion, is your board of directors.

Now, board of directors usually consist, in a typical corporation, of anywhere from, say, three, but your average board probably runs more between 20 and 30, members on that board of directors.

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They meet on a regular basis, and within the average or the typical board of directors out there, they have subcommittees. They have an audit subcommittee, and that audit subcommittee's job is to oversee the management of the company, to be sure that the management of the company is following the general philosophy of the company as far as the audits, is following the law as far as the audits, and that the audits are making sense, that they are being performed. You have the executive committee of the board of directors which deals with executive compensation, and there are a lot of cases that we are going to question further in my remarks.

For example, how could the executive committee of Worldcom, which all of my colleagues know is right now on the verge of bankruptcy, how could the executive committee grant the CEO, the chief executive officer, a gentleman named Bernie Ebbers, a \$400 million loan. Worldcom is not a bank.

I saw an interesting article the other day, and the name of the author slipped my mind, but I want to give credit to whoever that individual is. But they made a comparison to Donald Trump years ago and the troubles he got into as compared to the troubles people like Worldcom or Tyco or Xerox Corporation or K-Mart Corporation, the troubles they are into today, and it said, back then, Don Trump borrowed his money from the banks, and he was able to recover. Donald Trump actually made a pretty respectable recovery from the downfall that he took, but he dealt with banks.

What has happened in the meantime is these corporations have acted as banks. These board of directors have acted as banks. Frankly, they have put a bad name on all board of directors. They have put a bad name on all chief executive officers, and that is undeserved. We have a lot of companies in this country which operate in a very ethical fashion. We have a lot of them that operate a very efficient operation, and they have good products. But the only way for that to continue into the future is we have to have peer enforcement. We have to make it much more significant in this country to steal or take or borrow \$400 million from a company that you do not pay back, that you have more consequences as a result of that than you do when you go into Wal-Mart and you steal a candy bar and you get arrested for shoplifting. My concern right now is that some of these individuals will walk away with less of a punishment than would any one of us if we were to walk into a convenience store and steal a candy bar and get arrested for shoplifting.

This is an opportunity for our system to show that the system has self enforcement, to show that the system knows how to stay on the tracks; that when we have individuals that try and derail the train, individuals that try and derail the train, that the system has a way of pulling those people back into place, that the system has a method of punishment towards these people. There are a lot of people, there are a lot of employees that have suffered as a result of K-Mart's bankruptcy. Now, unfortunately, those employees that have suffered as a result of K-Mart's bankruptcy finally are not the chief executive officers, one who gave himself a loan the day before they filed bankruptcy. I am going to go through some of these different examples.

Now, a lot of people say, and politicians love to jump to this, they love to say, well, it is a Republican or Democrat. Let me tell my colleagues something. This has happened while the Democrats were under control, when Bill Clinton was in his office over there. Take a look at Sunbeam Corporation, Waste Management Corporation, and most of the numbers that have been, where the books have been cooked on these corporations that we are talking about today happened during the democratic administration. I heard the President today, under a Republican, our Republican President today talking about the need that we have to crack down and crack down immediately on this, and he gave a bunch of different remedies.

My point here is not to get into a discussion whether the Republicans caused it or the Democrats caused it. Neither the Republicans nor the Democrats caused it. What caused it were some people with greed. I think many

of these people acted in a criminal fashion. They are nothing but a bunch of thugs. That is exactly what they are. They are not thugs that were put out there by the Democratic Party. They are not thugs that were put out there by the Republican Party. They are just common, every day criminals who got put into the wrong position and they stole and stole and stole until they finally got caught.

Now, how interesting that some of these people, including Worldcom, today testifies up here on Capitol Hill about look, it was just an accounting problem. It was the accountants. This is during the same time, while they were here today testifying, a gentleman named Scott Sullivan, I think it is Scott Sullivan who was the treasurer for Worldcom, or their chief financial officer for Worldcom, and let me get the name exactly correct here. Yes, Scott Sullivan. He was the chief financial officer. While he was on Capitol Hill today, while he was on Capitol Hill today, refusing to talk to the United States Congress about what went wrong at Worldcom, why thousands, tens of thousands of people will lose their jobs, while he was refusing to talk today, here is what he was having built in Florida. Take a look at this. This home here is about a \$15 million to \$20 million home, 24,000 square feet. You could park many, many semis in these different structures. That is this 40-year-old's home in Florida on a lake, on a private lake that is being built out there. This is an individual who paid himself out of Worldcom, out of public, out of the public's investment money, paid himself the kind of salaries and bonuses to allow him to build a \$15 million to \$20 million home. And he anticipated, continuing to go ahead and, in my opinion, rob the people of this corporation on a continuing basis. Just think of the heating bill on this place every month. Think of the taxes on this place. The taxes are probably \$10,000 or \$20,000 every month. Where does he get the money? Go to the shareholders. Fudging the books, cooking the books. That is what we have going here.

When we have a criminal in our midst, we have to point him out. But because we have a group of several thousands and thousands of people, and in our country, thousands and thousands of people do business in our country. When we find a crook, people will become convinced that all of you are crooks if you do not do something about the crook you can get your hands on. We have an opportunity right now, the United States Congress, the Securities and Exchange Commission, the Justice Department, and the President, who has obviously showed his intent; we have this opportunity to get our hands around the crooks. And the society, society today is looking to us to be responsive and to do something to get these people out of our

midst, to make sure that we do not have future frauds like this one that just is taking place.

Now, I could care less about the \$15 million home; what I care about is the 15,000 jobs. Do we think anybody else besides Scott Sullivan and his fellow executives get to walk away from a job to a home like that? How many Worldcom employees today are without a job and without any future potential for a job because of the greed practiced within the corporate board room, and within the executive offices of Worldcom, Incorporated? Look, I do not just want to pick on Worldcom. Let me talk about a couple of others here.

ImClone Systems. These are the people that find out on Wednesday that their magical cure for cancer will not be certified because it does not cure cancer, and so immediately they start selling stock before they are forced to make the announcement on Friday. There is the case where we heard about Martha Stewart. Whether or not Martha Stewart had inside information, who knows? But it is highly suspicious, that just out of the blue sky, Martha Stewart gets the message, or decides the day before the announcement is made that the stock is going to collapse, the day before, hours before, she sells that stock to some unsuspecting buyer out there. It was not just Martha Stewart that sold her stock on that day. Interestingly, the President of the company made sure his daughter sold her \$2.5 million or \$3 million worth of stock that day, and made sure the father sold his stock that day, and the stock broker himself, what a coincidence that all of his friends who had heavy investments in this company sold their stock on December 27 and the announcement was made on December 28.

Mr. Speaker, if the SEC finds out, and I suspect that they probably will, that these individuals dealt on inside knowledge, the hammer ought to come down. The hammer ought to come down. Because if it does not, the credibility of the entire system, of the free enterprise system of our country comes into question.

We are presented with an opportunity here. We are presented with an opportunity in the business world of this Nation, in the political world of this Nation that when somebody misbehaves like this, when somebody takes advantage of the public's trust and, in essence, steals from the public, we have the wherewithal and we have the courage to go get them. That is exactly what was expressed by our President today. This President is very focused and very intent on getting these people in a ringer, and that is exactly what we have to do.

Let me talk about a couple of other corporations. Xerox Corporation. When I grew up, everybody trusted Xerox Corporation. And they have restated

twice in the last 2 weeks. We notice that they never state positive news. Everything these people are coming out with is negative. And it costs who? Not the chief executive officer; it costs the shareholders and employees of these companies.

Enron; of course, we know about Enron. But it is kind of amusing to hear Andrew Fastow, he set up these quiet, secret corporations, secret partnerships, although he actually got the approval of the board of directors, and it was very interesting that the U.S. Senate report was very critical of these board of directors, and justifiably so. It is the board's responsibility to make sure that you do not have an Enron Corporation, somebody like an Andrew Fastow, who is a crook. That is exactly what he did. A crook. Paid himself \$30 million for 4 months of work. Of course, he runs this little partnership. Just to make it a little sarcastic to the shareholders, they name it after different characters or different scenes in the Star Wars movie. They think it is all one big joke. Show up at work every day, Andrew at Enron, and packed the money in his bag. Of course, we can imagine, Andrew also lives in a multi-million dollar home. So we gave Scott Sullivan's home, poor guy, has not finished his \$20 million home yet, so he is probably only living in a \$5 million home. But he has to live up to his standards, he has to move up in society. The same thing with Andrew down there in Texas.

These people need to have their assets that were improperly and unethically gained by them, taken away from them, under an appropriate judicial process. I am not saying that we become some kind of a dictatorship and that we throw our justice system out the window. Everybody is entitled a fair day in court, but everybody is also entitled to a square deal. And when you do not get a square deal, and you are not on fair negotiating grounds, when you do not get a square deal, we ought to have the process to make sure that those who cheated you, those who stole from you, those who acted in a criminal manner, pay the consequences of their actions.

Now, it does not just stop at Enron, as all of us know; it does not just stop with Worldcom. Look at Tyco International. What does Tyco do? The President of Tyco International, who makes hundreds of millions of dollars, hundreds of millions of dollars in pay, decides to cheat the government, cheat the people, that is who it is, the government is the people; cheat the people of the State he lives in on paying sales tax for the paintings that he bought.

Let me tell my colleagues something: I used to be a police officer. The first clue, when the door is cracked open, it ought to be a hint; if it is not locked, that is a hint. If the door of the House or the building one goes up to to inves-

tigate on, if the door is actually cracked open, you better guess something bigger is inside, something is inside. When you have a chief executive officer of a corporation, Tyco International, cheating on really what are small numbers as compared to his net worth, you better open the door, you better go investigate inside the building and see what else this individual has done. My guess is you have just scratched the surface. In my opinion, the Internal Revenue Service ought to be down there doing audits of this individual. Tyco International ought to be filing lawsuits against this individual. The prosecutors in that State ought to be looking into this individual for criminal fraud.

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It does not just stop with the chief executive officer. A lot of times when one starts padding the books, cooking the books, one has to bring in partners. In this particular case, he brought in his lawyer.

Let us talk about his lawyer for a minute, or, first of all, his chief financial officer. His chief financial officer and the CEO cashed over \$500 million in stocks since July of 1999. Now, that is on top of their salaries. Their salaries are not enough, and they are huge salaries, so they cash in \$500 million more, to kind of pad their wallets.

Then they got their attorney, Mark Belnick. He decides that as an attorney he ought to be receiving bonuses, but he does not want these to be disclosed to the public at large, so he devises a way to have the corporation pay him tens of millions of dollars as the lawyer for the company in such a manner that he does not have to release it on the public disclosure statements.

Why does he not want it released on the public disclosure statements? Because he knows the shareholders would have nothing to do with it; that the shareholders would demand, would demand accountability, and would demand that he not receive that kind of pay.

Of course, he is aware of this. He knows that he might get caught in the action. He knows he might get caught with his hand in the cookie jar. So what does he do? He goes to the chief executive officer of Tyco, International, Dennis Kowalski, and says, Dennis, I might get caught at this. This is what I think happened. I might get caught, so why do you not give me a contract as your attorney, and if I get convicted with a felony, you still have to pay me millions of dollars. If I am convicted of a felony, if you decide to fire me because I am, in essence, stealing from the company, you have to pay me tens of millions of dollars.

That is the kind of corruption that goes on in the corporate world that we need to immediately isolate, and we need to cut it out. We need to stop it in

such a way that any future chief executive officer and every board of directors is going to understand there are consequences to pay.

That is what we do with shoplifting in this country in every store we go into. I went into Toys "R" Us this weekend. As I walked in, they had a big poster at the front: Shoplifting. Help us keep prices low. Help us stop shoplifting. Shoplifting is a crime.

Yet, nowhere do we go where we find a board of directors where, at the entry into their boardroom, it says, you have a responsibility, board of directors, to the shareholders of this corporation, to the employees of this corporation, and to the public as a whole to make sure that this kind of thievery is not going on, or that these kinds of misleading statements are not going on, and that your management team is, in fact, the best possible management team that could be out there.

What I am saying here is that our country needs to focus, and the businesses and the chief executive officers and the good executives, and we have a lot of good people that run a lot of good companies in this country, they are the ones who need to stand up and speak the loudest about this misbehavior that has gone on in the corporate boardroom and in the corporate executive offices.

I do not want to stop just short of Tyco. I should mention also the board of directors. Tyco had a member of the board of directors named Frank Welsh. Tyco bought another company, and guess what, Frank Welsh decided he ought to have a cut of it, so he got a \$20 million little payment on the side for helping merge the company. Where is Frank Welsh tonight? He is probably sitting in a limousine getting ready to go to a play on Broadway or something.

These people need to understand that we will go after them. I will tell the Members, for my part, I have some solutions that I think will work. But I want Members to know that, for my part, I am very committed, as I think most of my colleagues are, Republican or Democrat. And this is not an affront to one political party, this is an affront to the people of this Nation, and we must all remain committed to see that these people pay the consequences for the fraud that they have worked upon the public.

I want to show Members something. I have mentioned a couple of these corporations. Let me go through some others. We talked about Tyco. Remember what Tyco did? That is what I have just been talking about. WorldCom, that is where the chief executive officer, a guy named Bernie Evers, had the board of directors loan him almost \$400 million, on top of all the other millions and tens of millions of dollars he has been paid. This is where Scott Sullivan worked, that big mansion. That is WorldCom.

K-Mart, K-Mart has its chief executive officers and some of its other executive officers, they go and first of all they go into bankruptcy. They lay off 22,000 people. K-Mart lays off 22,000 jobs as a result of their bankruptcy. But right before they filed bankruptcy, K-Mart acts and gives their chief executive officer a \$5 million loan, and they forgive the repayment of it. Have Members ever heard of a bank saying, here is \$5 million, but you don't have to worry about paying it back?

That is exactly what these companies have done, and K-Mart leads the charge. That is exactly what WorldCom did, and they helped lead the charge: Here you are, Mr. Chief Executive Officer, here is \$400 million. Do not worry about paying it back. What is going on here?

And then Enron. We talked about Enron. We talked about Xerox. We talked about ImClone: Hey, we have bad news on the cancer drug. Sell, sell, sell. Find some sucker out there that does not have the information we have.

In America we love to compete, but in America we like to compete on a level playing field. Every executive that I mentioned this evening with these corporations did not want to compete on a level playing field. They did not want to come face-to-face where the odds were all the same, they wanted to compete where the odds were overwhelmingly in favor of them and not you, where the odds almost assured that you lost and they won.

The only way to even that playing field out is to clear out the dirt and put grass in there. Frankly, we have got a lot of dirt in some of these companies in these executive officers.

Let me tell the Members what my solution is. This is a little game. When we play the game of Monopoly, if you mess up, you go to jail, move directly to jail, do not collect. Do not collect. These chief executive officers of WorldCom or ImClone or Tyco or Xerox or Enron should not be able to collect on their way to jail. That is where they ought to be. They ought to be on their way to jail.

The justice system, I hope, will prevail here. I hope the Internal Revenue Service takes note of these individuals.

Have Members seen lately that the Internal Revenue Service announced they are going to begin random audits? So, watch out, some out there who are making \$15,000 or \$20,000 or \$30,000 a year, they might be audited by the IRS. My question to the Internal Revenue Service, and I have not put it to them, but I intend to put it to the commissioner of Internal Revenue Service, okay, okay, how many of these people are you auditing? How many of these executive officers, these boards of directors are you auditing? If you are not auditing them, you ought to be, right now.

Now, unfortunately, it does not just stop here. We can continue. We can go

with others. This is a cable TV company. They built their own golf course off shareholders' money. They loaned to their family. They started family companies with all their daughters and sons and their families off shareholders' money. Now that company, they are in bankruptcy or on the verge of bankruptcy. How many health care people lost their jobs as a result of this?

Where were the auditing companies? We know about Arthur Andersen. The trouble I have with the prosecution of Arthur Andersen, I know they went after them for obstruction of justice. They went after the company, they did not go after individuals. My suggestion, my humble suggestion to the Department of Justice, is to go after the individuals.

What happened in Andersen is we have now, successfully, Arthur Andersen for all realistic purposes is no longer in existence. Two years from now they will have closed all their books and they will be out of business. Lots of innocent people at Arthur Andersen lost their jobs, but the chief executive officers, and these accountants that dealt with this that were supposed to do the auditing probably have already found jobs with somebody else by now.

We need to go after people. We need to go after the individuals. We need to go after the crooks, because we have got to separate the crooks from the honest people. It has to happen.

Look at this. I mentioned earlier, Sunbeam Corporation. That seems to be about where it started. Global Crossing. Gary Winnick, that guy was paid \$700 million or \$800 million. They have also destroyed their documents, or admitted to destruction of documents, since they have been under Federal investigation.

My point here is that we have to come up with some solutions. We have to go after some of these companies. We have to go after the Arthur Andersen, the individuals that have fallen on their jobs and are not completing the responsibilities that they have.

I have some recommendations. I think there are some things that we can do.

Let me start out with the board of directors. I think it is imperative, I think it is imperative that we hold boards of directors responsible for the actions of a corporation. I think it is very important that boards of directors, that every corporation in America have, especially if it is a widely traded one, for example, the family farm, like my in-laws' family farm, it would be unreasonable to expect them, they do not have public shareholders, it is held by shares in the family, for them to go outside the farm and bring somebody that is not related to the farm to come in and help with the management.

But where we have a corporation that is widely traded, for example, where we have a Tyco Corporation, or where we have a Xerox or a K-Mart Corporation, that board of directors should consist not only of outside directors. And let me explain what I mean by outside directors. In a corporation, if one is employed, for example, let us take a look at WorldCom, if one is employed by WorldCom and is put on the WorldCom board of directors, then one is what is called an inside director. You are employed by the company and serve on the board.

In many cases, a board is healthy if we have some inside people. They are the people involved in day-to-day operations. So in rare circumstances, it is appropriate to have inside people on that board of directors, because they run the operations. So some of the executive officers probably should be on the board of directors.

But every corporate board that is widely traded with the public should also have outside directors who are not beholden to the president or the chief executive officer or the chief financial officer for their job; that they have a level of independence; that they can come into the boardroom and say, hey, Mr. Chief Executive Officer, hey, Mrs. Chief Executive Officer, tell me exactly what these books mean. Tell me what you are doing. I do not owe my job to you. You respond to the board of directors.

I think there has been a dramatic wake-up call across the country to boards of directors. I am sure that the board members of Enron Corporation, for example, WorldCom, and many of these other companies, K-Mart and so on, will find themselves in litigation for a long, long time as a result of their negligence. And frankly, it is justified. They need to be held accountable. If they accept that position, they must deliver the responsibilities that that position demands.

So that is one of my solutions, revamping boards of directors across this country.

We have to regulate auditors. We cannot allow auditors on one hand, or first of all, we should not allow them into offices. Auditors, not outside auditors, or not the inside auditors, and again, inside auditors are the people that the company employs, their accounting department. They make sure that they audit inside. But we have outside at-arm's-length auditors.

The first thing we should not allow to happen is allow them to office in the same offices. At Enron Corporation, Arthur Andersen shared offices with the people they are auditing. I mean, if one sits next to somebody, offices with somebody, they cannot over time help becoming buddies with them. It happens. So, one, they should not office together.

Two, they have to separate consulting services and auditing services.

The auditors should not be able to accept any gifts, should not office, should not offer any other services other than the fact they are in there to audit, just like in a bank.

I had an opportunity some time ago to visit with the president of some banks in Colorado, a very capable individual, a very capable individual. He explained to me exactly how the government, the FEC, or not the FEC, the banking regulators, exactly how they audit and when they come in. They cannot even offer a pencil to them. You cannot give them a pencil or buy them meals. You cannot buy meals or take the auditor out for lunch.

We cannot let them come in and share offices on a permanent basis. When they are in there auditing our banking system, they are not giving them consulting advice as well. They are an independent arm. Those auditors have a very isolated role. They are to go in there and make sure the books are not being cooked. That is what happens in our banks.

Many, many years ago we had a similar problem with our banks, so the government and the people of this country took an affirmative step. They said, look, we want independence in these auditors. That is what has happened. As a result of that, we have a very accurate picture of a bank's financial condition based on these audits.

That is what has to happen in corporate America. We need to regulate this auditing system. We need to get auditors that are good for the punch; that when the auditor comes out and says, this is what the corporation looks like, it is in fact what the corporation does look like.

Now, we have to have a stronger Securities and Exchange Commission, we have the FDIC, the Federal auditing and banking systems. I think we have a pretty good Justice Department, but I encourage the Justice Department to be very aggressive in its prosecution of these corporate thugs. But, on top of that, we have to have a strong Securities and Exchange Commission.

I find it interesting that in the last few days, a couple of Republicans and many Democrats have demanded the resignation of the head of the Securities and Exchange Commission, who has not been in his job very long and certainly was not in his job at the time that most of this happened. Give him an opportunity.

I think, frankly, some of the fault rests with our appropriations. We have to get some cops down there in the SEC. The SEC has to be as aggressive with these corporate misbehaviors as retailers are with shoplifters. That is what is happening here, except these shoplifters are taking from the public in the amounts of tens and hundreds of millions of dollars.

□ 2045

So the SEC has to be stronger. My guess would be especially with the rev-

elations that have occurred in the last week or so that we as a Congress will, in fact, grant more resources so that we can get our SEC cops in place and they can do the job they need to do. So we have to have a strong SEC. And we have got to have a coordinated effort between the Securities and Exchange Commission, which brings the civil litigation, and the Justice Department, which bring the criminal litigation.

If I were the Attorney General of this country, I would contact every U.S. Attorney in every district out there and I would say, go get them. If you have got corporate fraud in your district, in the jurisdiction that you have, go get them. We need to have a public display just like we do with shoplifting. We do not want shoplifting and we do not want corporate thugs taking money from the public, and we have got to go after them, but that requires coordination.

I am a little more encouraged than some of my friends about the ability of the Justice Department and the SEC on their coordinated efforts, but I do think they need more resources, and I think it is incumbent upon us to get those resources for them.

I also want to talk about the compensation package. The compensation package, how can you justify compensation to the president of the corporation, not to the person that invented the better mouse trap, but to the treasurer, in fact, the chief financial officer. How can you justify compensation that allows a 40-year-old person who is the treasurer of the company to build a \$15, \$20 million home just like this and to walk away with bonuses in the hundreds of millions of dollars? You cannot do it. We have got to adjust the compensation system.

Now, look, we have got to be careful about that. I will tell you, if you told me somebody invented the cure for cancer or the cure for the common cold or a better way to educate our kids in a manner such that we really get the top quality product, who cares if they live like this? You show me the person who can figure out the cure for cancer, for breast cancer, I think that is great. Where it is deserving, where you are getting a square deal, that is okay. But these were not gained through arm's length transactions, through innovation, other than innovation in a criminal fashion, as I have mentioned earlier. These are ill-gotten gains. That is what has happened here. That house was built, in my opinion, by ill-gotten gains, by a 40-year-old person who cared more about his own greed than he did the company which employed him and expected him to carry out his fiduciary duties for the owners of that company which, of course, are the shareholders of that company.

Executive compensation has got to be revamped. I do not care how good of an executive you are, I do not care how

fine a company you run, it troubles me that any company in the world would pay you \$700-some-million dollars, which I think the head of Oracle or one of the corporations out there just paid their chief executive officer, I think it was \$700 million in the last year or two. That includes stock options, I understand that, but, I mean, that kind of compensation is just out of line. We pay the President of the United States a fraction of that.

And not only that, take a look at the retirement package. I have an article here out of Business Week, July 15. This is the newest Business Week. Not only do some of these corporate executives, they rake in the cash while they are running the company at the expense of public shareholders, take a look at their retirement packages. How many people do you think at WorldCom, that got fired at WorldCom got compensation packages? It is the same thing. We can talk about Global Crossing. We can talk about Kmart. We can talk about Conseco, Sunbeam, any number of these. Take a look at what their employees got when they got laid off as a result of this corporate mismanagement.

But let me tell you what happens at some of these corporations and why compensation needs to be readjusted. This is Philip Morris. At Philip Morris, the retired chief executive officer gets for life, gets for life, this guy's name is Jeffrey Bible, this is what his retirement package is from Philip Morris Corporation for as long as he lives, and occasionally for this he needs to be available to consult, which means nothing, but for as long as he lives, he gets an office near his home and that would include a secretary. Remember, he is no longer working for the company. He has retired from the company. By the way, he was not underpaid. His last year with the company, they paid him \$50 million. He is now a retired corporate executive. This is what he gets: An office near his home, including a secretary; an unlimited phone calling card; two cellular telephones; two fax machines, plus the cost of the maintenance; security at his home and security for his vacation home.

So the shareholders of this company will pay the former president of the company security money to make sure his home is secure and his vacation home is secure. Access to the corporate jet. Any time he wants, he can call up on the phone, Mr. Bible can, and say, I want the corporate jet and they take him anywhere he wants around the world. Access to the dining room. Access to the gym. A company car and driver for the rest of his life. And if he does not want the car and driver, they will pay him \$100,000 a year. So he can go out and spend \$100,000 a year on the car he needs. And \$15,000 a year for somebody to give him financial advice.

So if he needs financial advice from his tax accountant, the company will pay him \$15,000.

That retirement package comes right out of the pockets of the consumer and right out of the pockets of the shareholders. Just like this house built on ill-gotten gains down in Florida as a result of Scott Sullivan and WorldCom Corporation, it is the same thing. That is where that money is coming from.

I applaud the President today. The President came out and I think in very strong terms has set the direction for the House and the Senate to follow, that if we do not have the laws in place, and, by the way, we have a lot of laws in place today, there is a lot we can do today by simply enforcing the laws that are already in existence. I am not convinced we need a whole lot more new laws as far as the criminal behavior is concerned. What we need are more resources out there to these agencies to enforce the laws that exist.

So the President today made it very clear, and I think it would be to our benefit in both the House and the other side, in the Senate, to follow this lead. And this week I hope we can accomplish with some strong firm legislation an enforcement of a policy in this country that makes your punishment from stealing from the shareholders, from stealing from the public, for misappropriating, from lying on your accounting, from cooking the books, makes those offenses much more serious consequences than you would face if you went out and shoplifted a candy bar from the local retail store.

Our business system in this country depends on integrity. Now we know that not everybody is going to be honest. It cannot happen. Any time you get a group of people together, you will have a bad apple. It is the same thing in Congress. It happened in the Catholic priesthood. It has happened in the corporate world. So we have to build in, we have to anticipate that you will have a crooked corporate executive here and there. But the key to it is not to pretend that it is not going to happen or to depend totally on honesty. Our society has never totally depended on honesty. We have always had law. It is to put the laws in place. It is not just to put the laws in place. It is to enforce the laws that you have in place.

Let me conclude by saying this, I hope that we give the support to the President that he has asked; that we give the resources to the Securities and Exchange Commission that they need to police this problem; that we crack down hard on corporate governance; that we crack down hard on the auditing and audit oversight for companies like Arthur Andersen. And, by the way, the five major auditing firms in this country, all of them have been named in some of these transactions. It is clearly a mess out there that can be cleaned up. It has to be cleaned up.

Do not let us forget that what is being highlighted here, and appropriately. I think we need to focus a lot of attention on it, but sometimes when we focus all our attention on the misdeeds by a few, it tars everybody else. I mean, look at the Catholic priesthood. You get a few bad priests and all priests out there are being tarnished unfairly. Let me say we have people out there who do run ethical business. We have people that deliver good products. We have people that care about their shareholders. We have people that are responsible to their board of directors and we have boards of directors that are responsible to the people that they represent and we have a lot of good workers out there. That is what has made the American system great and the American system will stay great as long as we jump on top of people who have committed misdeeds.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BECERRA (at the request of Mr. GEPHARDT) for today on account of business in the district.

Ms. CARSON of Indiana (at the request of Mr. GEPHARDT) for today on account of official business in the district.

Mr. DAVIS of Illinois (at the request of Mr. GEPHARDT) for today on account of a speaking engagement.

Mr. HASTINGS of Florida (at the request of Mr. GEPHARDT) for today on account of official business.

Ms. JACKSON-LEE of Texas (at the request of Mr. GEPHARDT) for today on account of official business.

Ms. KILPATRICK (at the request of Mr. GEPHARDT) for today on account of business in the district.

Mr. LUTHER (at the request of Mr. GEPHARDT) for today on account of personal business.

Mr. CULBERSON (at the request of Mr. ARMEY) for today on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:

Mr. DEFazio, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

The following Member (at the request of Mr. BASS) to revise and extend his remarks and include extraneous material:

Mr. BASS, for 5 minutes, today.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's

table and, under the rule, referred as follows:

S. 803. An act to enhance the management and promotion of electronic Government services and processes by establishing an Office of Electronic Government within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes; to the Committee on Government Reform.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2578. To amend title 31 of the United States Code to increase the public debt limit.

ADJOURNMENT

Mr. McINNIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 56 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, July 9, 2002, at 10:30 a.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7731. A letter from the Secretary, Department of Agriculture, transmitting the Department's draft bill entitled, "To amend sections 3, 7D, 16(i)(2), and 19 of the United States Grain Standards Act to authorize the Secretary of Agriculture to recover through user fees the costs of standardization activities"; to the Committee on Agriculture.

7732. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Nicotine; Tolerance Revocations [OPP-2002-0035; FRL-6836-7] received May 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7733. A communication from the President of the United States, transmitting notification of the intention to reallocate funds previously transferred to the Federal Emergency Management Agency (FEMA) from the Emergency Response Fund; (H. Doc. No. 107—237); to the Committee on Appropriations and ordered to be printed.

7734. A communication from the President of the United States, transmitting his request for an FY 2003 budget amendment for the Department of Defense; (H. Doc. No. 107—241); to the Committee on Appropriations and ordered to be printed.

7735. A letter from the Deputy Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Daniel G. Brown, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

7736. A letter from the Deputy Secretary, Department of Defense, transmitting the Department's report entitled, "Study on Impact of Foreign Sourcing of Systems" re-

quired by Section 831 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001; to the Committee on Armed Services.

7737. A letter from the Senior Paralegal, Department of the Treasury, transmitting the Department's final rule — Risk-Based Capital Standards: Claims on Securities Firms [No. 2002-5] (RIN: 1550-AB11) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7738. A letter from the Under Secretary, Department of Defense, transmitting the Department of Defense Education Activity (DoDEA) 2000-01 Overview of Student Progress, pursuant to 20 U.S.C. 924; to the Committee on Education and the Workforce.

7739. A letter from the Legal Advisor, Federal Communications Commission, transmitting the Commission's "Major" final rule — Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range; Amendment of the Commission's Rules to Authorize Subsidiary Terrestrial Use of the 12.2-12.7 GHz Band by Direct Broadcast Satellite Licensees and Their Affiliates; and Applications of Broadwave USA, PDC Broadband Corporation, and Satellite Receivers, Ltd. to Provide A Fixed Service in the 12.2-12.7 GHz Band [ET Docket No. 98-206, RM-9147, RM-9245] Received June 27, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7740. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Revision of Fee Schedules; Fee Recovery for FY 2002 (RIN: 3150-AG95) received June 27, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7741. A communication from the President of the United States, transmitting a six month periodic report on the national emergency with respect to the Taliban that was declared in Executive Order 13129 of July 4, 1999, pursuant to 50 U.S.C. 1641(c) and 50 U.S.C. 1703(c); (H. Doc. No. 107—238); to the Committee on International Relations and ordered to be printed.

7742. A communication from the President of the United States, transmitting his termination of the national emergency with respect to Taliban and amendment of Executive Order 13224 of September 23, 2001, pursuant to 50 U.S.C. 1622(a); (H. Doc. No. 107—239); to the Committee on International Relations and ordered to be printed.

7743. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Israel for defense articles and services (Transmittal No. 02-39), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

7744. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Russia [Transmittal No. DTC 182-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

7745. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Russia, Ukraine, Norway and Cayman Islands [Transmittal No. DTC 183-

02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

7746. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

7747. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

7748. A letter from the Attorney/Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7749. A letter from the Attorney/Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7750. A letter from the Special Counsel, Office of Special Counsel, transmitting a proposed bill to extend the authorization of appropriations for fiscal years 2003 through 2007; to the Committee on Government Reform.

7751. A letter from the Chairman, Federal Election Commission, transmitting the 2001 Annual Report describing the activities performed by the Commission, pursuant to 2 U.S.C. 438(a)(9); to the Committee on House Administration.

7752. A letter from the Director, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Carolina Heelsplitter (RIN: 1018-AH31) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7753. A letter from the Director, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Southern California Distinct Vertebrate Population Segment of the Mountain Yellowlegged Frog (*Rana muscosa*) (RIN: 1018-AF83) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7754. A letter from the Director, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for *Ambrosia pumila* (San Diego Ambrosia) from Southern California (RIN: 1018-AF86) received July 10, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7755. A letter from the Secretary, Department of Health and Human Services, transmitting the thirty-fourth in a series of reports on refugee resettlement in the United States covering the period October 1, 1999 through September 30, 2000, pursuant to 8 U.S.C. 1523(a); to the Committee on the Judiciary.

7756. A letter from the Attorney, Department of Transportation, transmitting the Department's final rule — Revised and Clarified Hazardous Materials Safety Rulemaking and Program Procedures [Docket No. RSPA-98-3974] (RIN: 2137-AD20) received July 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7757. A letter from the Chief, Regulations and Administrative Law, USCG, Department

of Transportation, transmitting the Department's final rule — Safety Zone: Dry dock shift from Bath Iron Works, Portland to Portland State Pier, Portland, Maine and back to Bath Iron Works Portland and onto the heavy lift ship Blue Marlin [CGD1-01-033] (RIN: 2115-AA97) received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7758. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zones, Security Zones, and Special Local Regulations [USCG-2001-10936] received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7759. A letter from the Attorney, RSPA, Department of Transportation, transmitting the Department's final rule — Hazardous Materials: Requirements for Maintenance, Requalification, Repair and Use of DOT Specification Cylinders [Docket No. RSPA-01-10373 (HM-220D)] (RIN: 2137-AD58) received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7760. A communication from the President of the United States, transmitting an updated report concerning the emigration laws and policies of Armenia, Azerbaijan, Kazakhstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine and Uzbekistan, pursuant to 19 U.S.C. 2432(b); (H. Doc. No. 107—240); to the Committee on Ways and Means and ordered to be printed.

7761. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Closing Agreements (Rev. Proc. 2002-47) received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7762. A letter from the Director, Office of Management and Budget, transmitting the 2002 Report to Congress on Combating Terrorism, pursuant to the Fiscal Year (FY) 1998 National Defense Authorization Act (P.L. 105-85); jointly to the Committees on Armed Services, Transportation and Infrastructure, and the Judiciary.

7763. A letter from the General Counsel, Department of Commerce, transmitting a draft bill to provide voluntary separation payment authority to the Secretary of Commerce in connection with reorganization of the Economic Development Administration; jointly to the Committees on Government Reform, Transportation and Infrastructure, and Financial Services.

7764. A letter from the Secretary, Department of Transportation, transmitting a proposed bill entitled, "To authorize appropriations for Fiscal Year 2003 for certain maritime programs of the Department of Transportation, and for other purposes"; jointly to the Committees on Armed Services, Ways and Means, Resources, and Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HANSEN: Committee on Resources. H.R. 4129. A bill to amend the Central Utah Project Completion Act to clarify the responsibilities of the Secretary of the Interior with respect to the Central Utah Project, to redirect unexpended budget authority for the

Central Utah Project for wastewater treatment and reuse and other purposes, to provide for prepayment of repayment contracts for municipal and industrial water delivery facilities, and to eliminate a deadline for such prepayment; with an amendment (Rept. 107-554). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 4635. A bill to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes; with an amendment (Rept. 107-555 Pt. 1). Ordered to be printed.

DISCHARGE OF COMMITTEE

[The following actions occurred on June 28, 2002]

Pursuant to clause 2 of rule XII the Committee on Ways and Means discharged from further consideration. H.R. 4984 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 2 of rule XII the Committee on Ways and Means discharged from further consideration. H.R. 4985 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 2 of rule XII the Committee on Ways and Means discharged from further consideration. H.R. 4986 referred to the Committee of the Whole House on the State of the Union.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 2 of rule XII, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 4635. A bill to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes, with an amendment; referred to the Committee on Judiciary for a period ending not later than July 9, 2002, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(k) of rule X (Rept. 107-555 Pt. 1).

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

[The following action occurred on July 1, 2002]

H.R. 3929. Referral to the Committees on Transportation and Infrastructure and Energy and Commerce extended for a period ending not later than September 6, 2002.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. KUCINICH (for himself and Mr. HINCHEY):

H.R. 5062. A bill to amend the Internal Revenue Code of 1986 to require a sports franchise to provide for all of the games played by the franchise to be available for local television broadcasting in order to be subject to the presumption that 50 percent of the consideration in the sale or exchange of a sports franchise is allocable to player contracts; to the Committee on Ways and Means.

By Mr. HOUGHTON (for himself, Mr. SAM JOHNSON of Texas, Mr. JONES of North Carolina, Mr. PICKERING, Mr. GEKAS, and Mr. FORBES):

H.R. 5063. A bill to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services; to the Committee on Ways and Means.

By Mr. AKIN:

H.R. 5064. A bill to amend title 28, United States Code, with respect to the jurisdiction of Federal courts inferior to the Supreme Court over certain cases and controversies involving the Pledge of Allegiance; to the Committee on the Judiciary.

By Mr. HAYWORTH:

H.R. 5065. A bill to amend the Internal Revenue Code of 1986 to permit Indian tribal courts, pursuant to tribal domestic relations laws, to alienate or assign benefits under retirement plans; to the Committee on Ways and Means.

By Mrs. MINK of Hawaii:

H.R. 5066. A bill to amend title 37, United States Code, to limit the authority of the United States to recover, after a member of the uniformed services is retired or separated from the uniformed services, amounts of basic pay, allowances, bonuses, special pays, and other compensation erroneously paid to the member before the member's retirement or separation; to the Committee on Armed Services.

By Mrs. MINK of Hawaii:

H.R. 5067. A bill to amend titles XIX and XXI of the Social Security Act to permit States the option of coverage of aliens who are citizens covered under the Compact of Free Association legally residing in the United States under the Medicaid Program and the State children's health insurance program (SCHIP); to the Committee on Energy and Commerce.

By Mrs. MINK of Hawaii:

H.R. 5068. A bill to amend title XIX of the Social Security Act to expand the current provision of medical assistance to certain uninsured women who have been screened and found to have breast or cervical cancer to also cover ovarian and uterine cancer; to the Committee on Energy and Commerce.

By Ms. NORTON:

H.R. 5069. A bill to amend the Internal Revenue Code of 1986 to provide that the exclusion from gross income for survivor benefits of a deceased public safety officer shall apply to such benefits regardless of whether the recipient is the spouse or a child of the officer; to the Committee on Ways and Means.

By Mrs. MYRICK:

H. Con. Res. 435. Concurrent resolution expressing the sense of the Congress that the therapeutic technique known as rebirthing is a dangerous and harmful practice and should be prohibited; to the Committee on Energy and Commerce.

By Mr. FROST:

H. Res. 470. A resolution designating minority membership on certain standing committees of the House; considered and agreed to.

By Mr. CUNNINGHAM (for himself, Mr. ISSA, Mr. HUNTER, Mr. FILNER, Mrs. DAVIS of California, and Mr. OSE):

H. Res. 471. A resolution to recognize the significant contributions of Paul Ecke, Jr. to the poinsettia industry, and for other purposes; to the Committee on Government Reform.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to the public bills and resolutions as follows:

H.R. 168: Mr. BARR of Georgia.
 H.R. 285: Ms. ROYBAL-ALLARD and Mr. CROWLEY.
 H.R. 303: Mr. LAFALCE, Mr. MCKEON, and Mr. KNOLLENBERG.
 H.R. 360: Mr. BONIOR.
 H.R. 389: Mr. EVANS.
 H.R. 488: Mr. LAMPSON.
 H.R. 599: Mr. McDERMOTT.
 H.R. 632: Mr. WHITFIELD.
 H.R. 664: Mr. DOGGETT.
 H.R. 744: Mr. NETHERCUTT.
 H.R. 822: Ms. HARMAN.
 H.R. 951: Mr. OSE, Mr. JOHN, and Ms. EDDIE BERNICE JOHNSON of Texas.
 H.R. 952: Mr. CULBERSON.
 H.R. 978: Mr. RAMSTAD.
 H.R. 1089: Mrs. JO ANN DAVIS of Virginia.
 H.R. 1127: Mr. ANDREWS.
 H.R. 1184: Mr. FALEOMAVAEGA, Mr. FORD, and Mr. UNDERWOOD.
 H.R. 1187: Ms. SANCHEZ.
 H.R. 1296: Mr. FORD, Mr. INSLEE, Mr. SKEEN, and Mr. COSTELLO.
 H.R. 1433: Mr. FATTAH.
 H.R. 1452: Mr. DOOLEY of California.
 H.R. 1460: Mr. LINDER.
 H.R. 1774: Mr. SOUDER and Mr. PAYNE.
 H.R. 1811: Mr. SOUDER and Mr. DOOLEY of California.
 H.R. 1919: Ms. DEGETTE, Mr. UNDERWOOD, and Mr. DOYLE.
 H.R. 1990: Mrs. LOWEY.
 H.R. 2035: Mr. CRAMER, Mr. HASTINGS of Florida, Ms. KILPATRICK, and Mr. CUMMINGS.
 H.R. 2117: Mr. CHAMBLISS.
 H.R. 2232: Mr. HONDA, Mr. CAPUANO, Mr. PASTOR, Mr. FILNER, Mr. DEUTSCH, Mr. LIPINSKI, and Ms. ROYBAL-ALLARD.
 H.R. 2290: Mr. LATOURETTE.
 H.R. 2459: Mr. BONIOR.
 H.R. 2484: Mr. BLAGOJEVICH and Mr. MENENDEZ.
 H.R. 2570: Mrs. MEEK of Florida and Mr. REYES.
 H.R. 2702: Mr. LEVIN and Ms. DELAURO.
 H.R. 2874: Mr. BARRETT and Mr. DEUTSCH.
 H.R. 3131: Mr. BACA.
 H.R. 3218: Mrs. CAPITO.
 H.R. 3315: Ms. HOOLEY of Oregon.
 H.R. 3324: Mr. ISAKSON.
 H.R. 3337: Ms. SOLIS, Mr. GEKAS, and Mr. PAUL.
 H.R. 3413: Mrs. MINK of Hawaii.
 H.R. 3414: Mr. DELAHUNT and Mr. GORDON.
 H.R. 3430: Mr. CARSON of Oklahoma.
 H.R. 3443: Mr. BEREUTER.
 H.R. 3450: Mr. HASTINGS of Washington, Mr. HONDA, Mrs. THURMAN, and Mr. CONYERS.
 H.R. 3475: Ms. SANCHEZ.
 H.R. 3595: Ms. KILPATRICK, Mr. DAVIS of Illinois, Ms. MCCOLLUM, Ms. BROWN of Florida,

Mr. PAYNE, Ms. LOFGREN, Mr. DOGGETT, and Ms. DELAURO.
 H.R. 3741: Mr. PRICE of North Carolina.
 H.R. 3831: Mrs. CAPPS, Mr. WILSON of South Carolina, and Mr. TURNER.
 H.R. 3838: Mr. HASTINGS of Florida.
 H.R. 3884: Mrs. CHRISTENSEN, Mr. LANGEVIN, and Mrs. CAPPS.
 H.R. 3912: Mr. FATTAH.
 H.R. 3916: Mr. OWENS and Mr. UDALL of Colorado.
 H.R. 3930: Mr. SHAYS, Mr. OWENS, Mr. SHIMKUS, and Mr. ABERCROMBIE.
 H.R. 3974: Mr. CUMMINGS, Ms. RIVERS, and Mr. JACKSON of Illinois.
 H.R. 4011: Mr. GILMAN, Ms. LEE, Mr. JACKSON of Illinois, Mr. DEUTSCH, and Mrs. THURMAN.
 H.R. 4034: Mr. PAYNE.
 H.R. 4037: Mr. BECERRA.
 H.R. 4058: Mrs. CHRISTENSEN.
 H.R. 4060: Mr. HINCHEY, Mr. BONIOR, and Mr. LEVIN.
 H.R. 4066: Mr. DEFazio.
 H.R. 4084: Mr. PAYNE.
 H.R. 4141: Mr. CANNON and Ms. BERKLEY.
 H.R. 4152: Ms. CARSON of Indiana.
 H.R. 4210: Ms. MCKINNEY.
 H.R. 4582: Mr. HANSEN, Mr. DICKS, and Mrs. MINK of Hawaii.
 H.R. 4614: Ms. WATERS, Mr. SHOWS, and Mr. STARK.
 H.R. 4630: Mr. STUPAK and Mr. WAXMAN.
 H.R. 4635: Mr. DOOLITTLE.
 H.R. 4643: Mr. DINGELL and Mr. WAXMAN.
 H.R. 4646: Mr. GONZALEZ, Mr. ISRAEL, Mr. MCINTYRE, and Mr. GEKAS.
 H.R. 4655: Mr. BLUMENAUER.
 H.R. 4704: Mr. BROWN of Ohio and Mr. DEFazio.
 H.R. 4720: Mr. MOORE.
 H.R. 4728: Mrs. MORELLA, Mrs. DAVIS of California, Mr. SCHIFF, and Mr. THOMPSON of Mississippi.
 H.R. 4738: Mr. RADANOVICH.
 H.R. 4743: Mr. CROWLEY, Ms. BALDWIN, and Mr. ABERCROMBIE.
 H.R. 4768: Mr. LIPINSKI.
 H.R. 4777: Mr. BONIOR.
 H.R. 4839: Mr. MCHUGH, Ms. BROWN of Florida, Mr. ISRAEL, Mr. GEKAS, and Mr. TOWNS.
 H.R. 4864: Mrs. JOHNSON of Connecticut.
 H.R. 4877: Mr. SMITH of New Jersey and Mr. GREEN of Wisconsin.
 H.R. 4878: Mrs. MALONEY of New York.
 H.R. 4914: Ms. MILLENDER-MCDONALD.
 H.R. 4926: Mr. HONDA.
 H.R. 4939: Ms. LEE and Mr. GUTIERREZ.
 H.R. 4964: Mrs. MEEK of Florida and Ms. BROWN of Florida.
 H.R. 4965: Mr. HOLDEN, Mr. SIMPSON, Mr. PUTNAM, Mr. BAKER, Mr. TAYLOR of North Carolina, Mr. FORBES, Mr. TANCREDO, Mr. DEMINT, Mr. WILSON of South Carolina, Mr. SESSIONS, Mr. KINGSTON, and Mr. UPTON.
 H.R. 4967: Ms. KILPATRICK.
 H.R. 4973: Mr. PALLONE.
 H.R. 5037: Ms. SLAUGHTER and Mr. WYNN.
 H.R. 5044: Mrs. KELLY, Mr. BERMAN, Mr. HOYER, and Mr. LAFALCE.
 H.R. 5047: Mr. LANGEVIN.
 H.R. 5055: Ms. BROWN of Florida, Mr. REYES and Mrs. DAVIS of California.
 H.R. 5059: Ms. BROWN of Florida.
 H.J. Res. 102: Mr. GRAHAM, Mrs. BONO, Mr. JONES of North Carolina, Mr. PITTS, Mr.

BLUNT, Mr. TIAHRT, Mr. BRADY of Texas, Mr. BROWN of South Carolina, Mr. JEFF MILLER of Florida, Mr. SOUDER, Mr. STEARNS, Mr. SAM JOHNSON of Texas, and Mr. NORWOOD.
 H. Con. Res. 107: Mr. BEREUTER.
 H. Con. Res. 365: Mr. MANZULLO.
 H. Con. Res. 367: Ms. ROS-LEHTINEN, Mr. WILSON of South Carolina, and Ms. BROWN of Florida.
 H. Con. Res. 385: Mr. FROST.
 H. Con. Res. 406: Mr. WOLF.
 H. Con. Res. 413: Mr. REYNOLDS and Mr. GRUCCI.
 H. Res. 87: Ms. NORTON, Mr. CARSON of Oklahoma, Mr. MCINTYRE, Mrs. NAPOLITANO, Mr. MATSUI, Mr. WAXMAN, Mr. HALL of Texas, and Mr. LYNCH.
 H. Res. 253: Mr. LIPINSKI and Mrs. MORELLA.
 H. Res. 393: Mr. VISCLOSKEY, Mr. KIRK, Ms. LEE, Ms. HARMAN, Mr. MATSUI, and Mr. BENTSEN.
 H. Res. 437: Mr. GONZALEZ, Mr. OWENS, Mr. PHELPS, and Mr. FERGUSON.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2733

OFFERED BY: Ms. JACKSON-LEE OF TEXAS

AMENDMENT No. 1: Page 5, line 6, insert “, including awareness by businesses that are majority owned by women, minorities, or both,” after “in the United States”.

H.R. 2733

OFFERED BY: Ms. JACKSON-LEE OF TEXAS

AMENDMENT No. 2: Page 5, after line 25, insert the following new subsection:

(f) WOMEN AND MINORITY AWARENESS STUDIES.—

(1) BASELINE STUDY.—Not later than 1 year after the date of the enactment of this Act, the Director shall transmit to the Congress a report describing the extent of awareness of, and participation in, enterprise integration development activities by businesses that are majority owned by women, minorities, or both.

(2) PROGRAM EVALUATION.—Not later than 3 years after the date of the enactment of this Act, the Director shall transmit to the Congress a report evaluating the extent to which activities under this section, especially under subsection (d)(1), have increased the awareness of, and participation in, enterprise integration development activities by businesses that are majority owned by women, minorities, or both.

H.R. 4635

OFFERED BY: Mr. PAUL

AMENDMENT No. 1: Page 2, line 10, strike “pilot”.

Page 8, strike lines 18 through 24.

Page 9, line 1, strike “(5)” and insert “(4)”.

Page 11, strike line 11 and all that follows through line 19 on page 13.

Page 13, line 20, strike “(j)” and insert “(i)”.

SENATE—Monday, July 8, 2002

The Senate met at 2 p.m. and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious, liberating God, who has created us as free women and men to love You and serve You by working to assure the personal, spiritual, religious, political, and economic freedom of all people, today we celebrate the anniversary of the first public reading of the Declaration of Independence by Colonel John Nixon, and the ringing of the Liberty Bell. We remember the words of Leviticus 25:10 inscribed on the bell: "Proclaim liberty throughout all the land unto the inhabitants thereof." We seek to do that today. You have revealed to us Your mandate that all Your people should be free to worship You. Help us to maintain this strong fabric of our Republic. You have placed a liberty bell in all our hearts that rings this afternoon calling us on in the battle for justice, righteousness, and freedom for all Americans and, through our world mission, for the world. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. REID. Thank you very much, Mr. President.

MEASURE PLACED ON THE CALENDAR—H.R. 4231

Mr. REID. It is my understanding H.R. 4231 is at the desk and due for its second reading.

The PRESIDENT pro tempore. The Senator is correct.

Mr. REID. I ask that H.R. 4231 be read for a second time, and I would then object to any further proceedings on this matter.

The PRESIDENT pro tempore. The clerk will read the title of the bill for the second time.

The assistant legislative clerk read as follows:

A bill (H.R. 4231) to improve small business advocacy, and for other purposes.

The PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

PUBLIC COMPANY ACCOUNTING REFORM AND INVESTOR PROTECTION ACT OF 2002

The PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 2673, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

The PRESIDENT pro tempore. The Senator from Maryland, Mr. SARBANES, the manager of the bill, is recognized.

Mr. SARBANES. I thank the Chair.

Mr. President, today the Senate turns its attention to S. 2673, the Public Company Accounting Reform and Investor Protection Act of 2002, which was reported from the Senate Committee on Banking, Housing, and Urban Affairs on June 18 on a strong 17-to-4 vote.

A unanimous consent agreement was entered into with respect to this legislation prior to the Fourth of July recess, which provided that at 2 p.m. today, Monday, July 8, the Senate would proceed, for debate only, to the consideration of this legislation.

I hope to take a fair amount of time to set out the process through which the committee worked and to discuss the provisions of this legislation.

As I understand it, upon convening tomorrow and going back to this legislation, amendments will be in order. There are a couple of technical amendments that I am hopeful we can approve today by unanimous consent. I will be discussing that with the distinguished ranking Republican member of the committee in the course of the afternoon.

Mr. President, I rise in very strong support of this legislation. This legislation is intended to address systemic and structural weaknesses that I think have been revealed in recent months and that show failures of audit effectiveness and a breakdown in corporate financial and broker-dealer responsibility. In fact, it is very clear that much of this has been happening over the last few years.

Hopefully, we have experienced the brunt of it. Who can guarantee that, however, when every day you come to read in the morning paper yet another story, as witnessed this morning with respect to one of the most respected pharmaceutical companies in the country.

I believe this bill is urgently needed. I hope my colleagues will agree with that and will support its swift passage.

The House, earlier this year, passed legislation on this subject, but I think it is fair to say that the legislation we are bringing to the floor of the Senate is more comprehensive, more thorough, and, I believe, more effective. But, of course, once we complete our work here, we will have the challenge of going to conference with our colleagues on the other side of the Capitol to work out the differences between the two versions of the legislation.

Let me discuss for a few minutes the backdrop against which this bill was crafted. Our financial markets have long been regarded as the fairest, the most transparent, and the most efficient in the world. In fact, I think it is fair to say—and many of us have said it time and time again—that the American capital markets are one of the great economic assets of this country and a very important source of our economic strength.

It is becoming increasingly clear that something has gone wrong, seriously wrong, with respect to our capital markets. We confront an increasing crisis of confidence that is eroding the public's trust in those markets. I frankly believe that, if it continues, this erosion of trust poses a real threat to our economic health.

Let me begin with one of the most obvious symptoms of this problem: the extraordinary increase in restatements of corporate earnings. The Wall Street Journal, citing a study last year by the research arm of Financial Executives International, the organization of the chief financial officers of corporations, reported that there were 157 financial restatements by companies in 2000, 207 in 1999, and 100 in 1998. The 3-year total of 464 was higher than the previous 10 years combined, during which the average number of restatements was 46

each year. This is a dramatic increase in the number of restatements.

Last month's revelation by WorldCom is only one example of a problem that is becoming increasingly disturbing. In a recent article titled "Tweaking Numbers To Meet Goals Comes Back To Haunt Executives," the New York Times described a series of recent corporate failures or near-failures that were characterized by accounting improprieties: Adelphia Communications, "\$3 billion in loans to its founding family" had been concealed; Computer Associates was investigated "on suspicion of inflating sales and profits by booking revenue on contracts many years before it was paid"—you raise your revenues, there is no offsetting cost, you boost your profits. Global Crossing is being investigated "on suspicion of inflating sales and profits by making sham transactions with other telecom companies"; Enron, "hiding losses and loans with partnerships that were supposedly independent but were actually guaranteed by the company"—Enron filed for bankruptcy last December—Rite Aid had "four former top executives indicted . . . in what regulators called a securities and accounting fraud that led to a \$1.6 billion restatement of earnings"; Tyco International is under investigation "on suspicion of hiding payments and loans to its top executives . . . and its 'shares have plunged 75 percent this year as investigators question whether it inflated its earnings and cashflow'; WorldCom, under investigation for "hiding \$4 billion in expenses by wrongly classifying short-term costs as long-term investments."

Commentators have made much of the fact that while Enron had very complicated dealings, off-balance-sheet special entities and a host of other things, WorldCom simply took expenses that should have been treated as short-term costs and set them up as capital investments to be amortized over a period of time. Of course, that was a very substantial reduction in WorldCom's costs. As a consequence, its profits were boosted by \$4 billion. The SEC asked them to come clean, and now we think there is probably another billion of faulty accounting with respect to their statement.

Can you imagine—the company went from showing a substantial profit to actually having a loss. People are out in the marketplace making decisions about whether to purchase this stock. Pension plans are making decisions on behalf of their members. And they are making the decision in the belief that this company is making a good profit. Instead, it is losing money.

I read one story where competitors of WorldCom were apparently debating within their own corporate ranks: How do they do it? How are these people producing this profit record? We can't do it. We are competing against them.

We think we are doing everything we ought to be doing, and we just can't produce the same kind of performance. How are they doing it? What is the secret they have discovered?

The secret they had discovered was to hide their expenses by wrongly classifying short-term costs as long-term investments.

The Xerox Corporation, one of the pillars of our economic system, paid a \$10 million fine to the SEC in April, the largest in an enforcement case. They reclassified \$6.4 billion in revenue and restated financial results for the last 5 years. I could go on and on with other companies: Cendant, MicroStrategy, Waste Management.

What has led to this increase in restatements? The practice of "backing into" the forecast earnings has certainly contributed. The New York Times described this practice as follows:

Some companies do whatever they have to do to make sure they do not miss a consensus earnings estimate. They start with the profit that investors are expecting and manipulate their sales and expenses to make sure the numbers come out right. During the last decade's boom, as executive pay was increasingly based on how the company's stock performed, backing in became more widespread and more aggressive. Just how much so is only now becoming clear.

The distinguished Columbia Law School Professor John Coffee, noted, in summarizing the trend:

During the 1990s, the quality of financial reporting and analysis appears to have declined. While an earnings restatement is not necessarily proof of fraud, this increase strongly implies that auditors have deferred excessively to their clients.

Jack Ehnes, the chief executive of the California State Teachers Retirement System, which oversees \$100 billion in investments, put it this way:

This looks like the year of the restatement. It's certainly disturbing for investors who expect financial statements to be accurate.

Clearly, what is transpiring is having a very severe impact on hard-working American families. Corporate wrongdoing is being felt not just at the boardroom table, but it is now being felt at the kitchen table as well.

First of all, there have been tremendous job losses. The Washington Post reported that WorldCom was laying off 17,000 employees. The companies that are going into bankruptcy are shedding employees left and right. Enron laid off 7,000 people after it filed for bankruptcy. Global Crossing laid off 9,300 employees in the last year. Employment at Xerox is down 13,000 from 2 years ago. So there is a direct impact on many working families, simply through the layoffs, as the companies for which they work encounter difficult financial times.

In other words, the company is crashing down, and the workers, amongst others, are paying the price.

Second, the adverse impact on employees clearly extends to the impact of these corporate failures on employee pension funds, an impact that has led many workers to question the security of their retirement. A quick look at the numbers demonstrates how badly public pension funds have been hit.

It is reported that 21 States have combined losses of just under \$2 billion from their WorldCom investments. The California public retirement system reported a loss of \$565 million. And the numbers go on from there. I won't cite them all, but all across the country there are tremendous losses being incurred. It is said that the loss of value of both WorldCom and Enron has cost public State pension funds \$2.7 billion.

Of course, in addition to their impact on workers and pension funds, these revelations have had a negative effect on shareholders generally. Average investors are watching their portfolios plummet and their retirement prospects decline. WorldCom's market capitalization has gone from \$180 billion at its peak 3 years ago—this is just WorldCom—to \$177 million last week. Tyco lost \$90 billion in market capitalization between January 2001 and June 2002, and on and on.

The bond markets have also been affected. WorldCom, for example, has \$28 billion in outstanding bonds that are due between now and 2025. Investors, including banks and insurance companies, stand to lose much of this sum. So you are being hit not only if you have a direct connection with WorldCom, but also if you have an equity interest in a bank or insurance company that owns WorldCom bonds. The current market value of these bonds is 15 cents on the dollar.

The same week that WorldCom's auditing irregularities became public, Morgan Stanley observed that the spread between corporate bonds and comparable Treasury bonds had widened by 15 basis points. As the Wall Street Journal wrote on June 27:

That is a dramatic move that will boost the borrowing costs for all kinds of companies.

Now, the problems that I have described did not develop overnight. In many ways, they reflect failures on the part of every actor in our system of disclosure and oversight. Auditors who are supposed to be independent of the company whose books they are reviewing are too often compromised by the fact that they provide consulting services to their public company audit clients. Securities analysts are not in a position, according to observers, to warn investors or direct them to other investments.

As the New York Times reported in an article earlier this year entitled "A Bubble No One Wanted to Pop":

Eager to help their firms generate business selling securities to investors and reap their own rewards and bonuses, Wall Street analysts have made a habit of missing corporate misdeeds altogether.

I will come back to these issues later. But for the moment I simply want to note that the problems leading to such dramatic lapses are widespread and seem to be built into the system of accounting and financial reporting. That is what this legislation seeks to address. Our committee did not engage in an exercise in finger-pointing and placing blame but we held a series of hearings—I will discuss them in a minute—directed toward the future; in other words, we focused on the changes we can make that will help to clear up this situation. It is serious.

The Wall Street Journal, in a recent comment, said:

The scope and scale of the corporate transgressions of the late 1990s now coming to light exceed anything the U.S. has witnessed since the years preceding the Great Depression.

One can run through the figures and find some support for that. Between its peak in 1929 and 1931, the Dow fell 79 percent. Over the same period since its peak in March 2000, the Nasdaq has fallen 73 percent. But rather than work through these figures, let me simply close this part of my statement with a comment from Benjamin Graham's classic textbook on "security analysis":

Prior to the SEC legislation . . . it was by no means unusual to encounter semi-fraudulent distortions of corporate accounts . . . almost always for the purpose of making the results look better than they were, and it was generally associated with some scheme of stock-market manipulation in which the management was participating.

He was writing about the year 1929. Regrettably, that description fits some of today's events. Now, I am certainly not suggesting that this is the practice of a majority of our business people. In fact, most of them, I think, try very hard to play by the rules, and to be honest and straightforward in their dealings, and they recognize how important trust is.

But it is clear, from the number of departures we have witnessed from that standard, that what is involved is more than just a few bad apples. Those bad apples ought to be punished, and punished very severely. I certainly agree with the President when he makes that statement. But it seems to me we have to move beyond that in order to address the incredible loss of investor confidence that is now taking place.

I have been reading the newspaper articles carefully, and sometimes the most apt comments come not from the experts but from ordinary citizens. My colleague from Texas knows that very well because we have a noted citizen of his State, Dicky Flatt, who is constantly cited.

Karl Graf, a financial planner and accountant in Wayne, NJ, is quoted in the Bergen Record as saying:

The integrity of the game is in question for now, and that's a much bigger thing than if

the stock market does poorly for two years. You have to have faith in the numbers the companies are reporting, and if you don't or can't, it makes it seem more like gambling all the time. It makes me more cynical, and I'm very discouraged. It's going to take a lot to make people feel confident.

Bob Friend, an aerospace engineer from Redondo Beach, CA, a stock investor for 20 years, was quoted in the L.A. Times as saying:

There's a complete lack of trust in corporate leadership. I think the lack of ethical behavior has destroyed investor confidence.

Morris Hollander, a specialist in financial disclosure accounting with a Miami firm, was quoted in the Miami Herald as saying:

We always had the strongest financial markets in the world, and that was because of credible accounting standards. When you see that confidence eroding, it is not good. It is a real serious credibility crisis.

A recent poll demonstrates that these views are not unique or unusual. When asked this question: "when it comes to financial information the major stock brokerage firms and corporations provide to you, do you or do you not have confidence that the information is straightforward and an honest analysis," only 29 percent of Americans said they had confidence the information was straightforward and an honest analysis. A majority, 57 percent, did not have confidence in the basic information that undergirds our equities market.

The Washington Post, on June 26, reported:

According to economists and market analysts, these still-unfolding corporate and accounting scandals have begun to weigh heavily on the stock market, the dollar, and the U.S. economy. And the effects are likely to linger at least through the end of the year.

The same article quoted the chief economist for one of Wall Street's major firms as saying:

The economy and markets right now are in the midst of a full-blown corporate governance shock. . . . To presume somehow that it's over or that the worst is behind us is naive.

Furthermore, it is not only American investors who are losing confidence in our markets. A recent New York Times article entitled "U.S. Businesses Dim as Models for Foreigners" quoted Wolfram Gerdes, the chief investment officer for global equities at Dresdner Investment Trust in Frankfurt, as saying:

There is unanimous agreement that the United States is not the best place to invest anymore.

According to the Federal Reserve Board, foreign direct investment in corporate equities has fallen by 45 percent from 2001 to 2002. And according to a new OECD report, foreign inflows from cross-border mergers and acquisitions, which in 2001 were greater than direct foreign investment into the United States, have fallen sharply in 2002.

The Wall Street Journal said:

The loss of faith by American and overseas investors in U.S. corporate books is churning global financial markets: Share prices are plunging in America and the dollar is losing value, setting off stock-market plunges in Asia, Europe and Latin America. If the flow of foreign capital to the United States is disrupted as a result, the world economy could be jeopardized, because the U.S. relies on overseas money to finance its huge current-account deficit, and Asia and Europe rely on America to buy imports.

As I draw this preliminary overview of the context in which we are working to a close, I want to speak for a moment about the potential loss of world economic leadership for the United States. The Wall Street Journal had an article entitled "U.S. Loses Sparkle as Icon of Marketplace." It says:

The wave of scandals in corporate America is roiling world stock markets. But the controversy may have an even greater impact in the marketplace of ideas, where the U.S. economic model is coming under attack.

One area of particular importance and now debate is adoption of accounting principles. The European Union—and I do not think many people yet in this country have focused on this matter—has indicated that the rules adopted by the International Accounting Standards Board will become mandatory for all companies throughout the European Union in 2005.

Traditionally, the U.S. has been preeminent in the accounting field. We have by far the largest economy. We have a reputation for high standards for transparency. So generally the American argument on behalf of its standards carried great influence. Now we have the European Union, comparable in economic size to the United States, moving to adopt a uniform set of accounting standards, to be promulgated by the International Accounting Standards Board, for all of the European Union countries. So there is a potential for real challenge to American preeminence in this area, given what is happening over here.

In fact, the New York Times reported on June 27:

There is a groundswell among executives in Europe against the American system of corporate accounting—the so-called generally accepted accounting principles—that was supposed to be the gold standard in disclosure.

Before Enron, Global Crossing and WorldCom, America had been winning the argument on accounting standards. But now, a growing number of Europeans are convinced that the American system is both too complex and too easy to manipulate.

Regrettably, in my view, unless we come to grips with this current crisis in accounting and corporate governance, we run the risk of seriously undermining our long-term world economic leadership. Why do countries look to us? They look to our capital markets. They say: your capital markets are the most transparent; they have the greatest integrity; we can

rely upon them; we can make rational business decisions using the information that is provided through your system. If that is no longer the case, we can expect growing difficulties as we continue to argue for our preeminence.

The Wall Street Journal gave this summary of the problem, after which I will move onto the bill itself:

The institutions that were created to check such abuses failed. The remnants of a professional ethos in accounting, law and securities analysis gave way to the maximum revenue per partner. The auditor's signature on a corporate report didn't testify that the report was an accurate snapshot, said [Treasury Secretary Paul] O'Neill. He says it too often meant only that a company had "cooked the books to generally accepted standards."

I want to be very clear about this. I believe the vast majority of our business leaders and of those in the accounting industry are decent, hard-working, and honorable men and women. They are, in a sense, tarnished by the burden of these scandals. But trust in markets and in the quality of investor protection, once shaken, is not easily restored, and I believe that this body must act decisively to reaffirm the standards of honesty and industry that have made the American economy the most powerful in the world. That is what this legislation does, and that is why I urge its adoption by my colleagues.

Let me now turn to the hearings and to the bill. I know others are waiting to speak, and I will try to summarize my remarks. We have been working on this for a long time, so obviously I could go on at some length.

First, we sought to do a very thorough and careful job in developing this legislation. The committee held a total of 10 substantive hearings and heard from a broad range of experts, as well as interested parties. I am not going to name all our witnesses, but, for example, we heard from five past Chairmen of the SEC; three former SEC chief accountants; former Federal Reserve Board Chairman, Paul Volcker; former Comptroller General and chairman of the Public Oversight Board, Charles Bowsher; the present Comptroller General, David Walker; a number of distinguished academics who have been studying these issues throughout their careers; leaders of commissions that studied the accounting industry and corporate governance; representatives of the accounting industry; representatives of the public interest community; representatives of the corporate community, and SEC Chairman Pitt.

It was a very thorough effort to gather the best thinking on these issues and to give all interested parties a chance to be heard. My colleagues on the committee, and the ranking member, Senator GRAMM, participated in this effort seriously and with commitment. Senators DODD and CORZINE early on introduced a bill dealing with

oversight of accounting and auditor independence. Many of that bill's provisions are reflected in this legislation. Senator ENZI, of course, took a particular interest. He is the only certified public accountant in the Senate. Many other Members made important contributions as we moved along the way.

I will now turn to each title. Title I of the bill creates a strong independent board to oversee the auditors of public companies. Title II strengthens auditor independence from corporate management by limiting the scope of consulting services that auditors can offer their public company audit clients. This bill applies only to public companies that are required to report to the SEC. It says plainly that State regulatory authorities should make independent determinations of the proper standards and should not presume that the bill's standards apply to small- and medium-sized accounting firms that do not audit public companies.

Titles III and IV of the bill enhance the responsibility of public company directors and senior managers for the quality of the financial reporting and disclosure made by their companies. Title V seeks to limit and expose to public view possible conflicts of interest affecting securities analysts. Title VI increases the SEC's annual authorization from \$481 million to \$776 million and extends the SEC's enforcement authority. Title VII of the bill mandates studies of accounting firm concentration and the role of credit rating agencies.

It is my intention to go through the bill title by title in a summary fashion, but I will pause for a moment and ask my colleague whether he has any time pressures.

Mr. GRAMM. I don't have a time preference as such. My suggestion is whenever the Senator gets tired of talking and would like me to speak a while, I can speak, and then he can come back to it. But I have no objection if you want to go through your whole presentation. You certainly have that right. If you think it will work better doing it that way, that is fine. If you want to break at some point and have me speak, that would be fine.

Mr. SARBANES. Why don't I move ahead, and I will try to compress it a bit.

Title I creates a public company accounting oversight board. This board is subject to SEC review and will establish auditing, quality control, ethics, and independence standards for public company auditors and will inspect accounting firms that conduct those audits. It will investigate potential violations of applicable rules and impose sanctions if those violations are established.

Heretofore we have relied on self-policing of the audit process, private auditing and accounting standards setting, and, for the most part, private

disciplinary measures. But questionable accounting practices and corporate failures have raised serious questions, obviously, about this private oversight system. Paul Volcker stated:

Over the years there have also been repeated efforts to provide oversight by industry or industry/public member boards. By and large, I think we have to conclude that those efforts at self-regulation have been unsatisfactory.

That is obviously one of the reasons we are moving, in this legislation, to an independent public company accounting oversight board. We heard extensive testimony in favor of such a board.

The board would have five full-time members. Two of the members will have an accounting background. All will have to have a demonstrated commitment to the interests of investors, as well as an understanding of the financial disclosures required by our securities law. The board members would be appointed by the SEC after consultation with the Federal Reserve and the Department of the Treasury and would serve staggered 5-year terms. They could not engage in other business while they were doing this work.

Of course, the board will have a staff. We would expect staff salaries to be fully competitive with comparable private-sector positions in order to ensure a high-quality staff.

The bill requires that accounting firms that audit public companies must register with the board. Failure to register or loss of registration would render a firm unable to continue its public company audit practice. Upon registering, a company would consent to comply with requests by the board for documents or testimony made in the course of the board's operations.

The board would possess plenary authority to establish or adopt auditing, quality control, ethics, and independence standards for the auditing of public companies. But this grant of authority is not intended to exclude accountants or other interested parties from participating in the standard-setting process. So the board may adopt rules that are proposed by professional groups of accountants or by one or more advisory groups created by the board.

These provisions reflect an effort to respond to the argument that you need the experts to either set the standards or help to set the standards. The experts in the industry can make these proposals, but the board will have the authority to adopt or to modify such proposals or to act of its own volition.

We provide for the inspection of registered accounting firms by the board. Firms that audit more than 100 public companies are to be inspected by staff of the board each year. Firms that audit less than that are inspected every 3 years, although the board has the power to adjust these inspection schedules.

The board also has investigative and disciplinary authority. Former SEC Chairman Arthur Levitt told the committee:

We need a truly independent oversight body that has the power not only to set the standards by which audits are performed but also to conduct timely investigations that cannot be deferred for any reason and to discipline accountants.

If the board finds that a registered firm, or one or more of its associated persons, has violated the rules or standards, it will have the full range of sanctions available.

The board also has the power to sanction a registered accounting firm for failure reasonably to supervise a partner or employee, but we allow an accounting firm to defend itself from any supervisory liability by showing that its quality control and related internal procedures were reasonable and were operating fully in the situation at issue. I am mentioning this item, even though it may not seem that important in the context of a bill this complex, to point again to the effort that was made in the committee to balance competing concerns.

In effect, we say the firms have this supervisory responsibility. They should not duck this responsibility. Otherwise, how are we going to assure the people working for accounting firms are meeting high standards? On the other hand, we realize it is extremely difficult in large organizations to control right down to the last person. So we provided that if accounting firms have quality control and related internal procedures in place that are reasonable and that are operating fully, the operation of those procedures can serve as a defense.

The bill applies to foreign public accounting firms that audit financial statements of companies that come under the U.S. securities laws. The board is subject to SEC oversight, which is important. Finally, we formalize the role of the Financial Accounting Standards Board in setting accounting standards accounting standards are different than auditing standards, which the new oversight board will set. The bill provides for guaranteed funding of the new oversight board and the FASB by public companies, something I think we all agree is extremely important.

Some have asked, why do we need a statutory board? Why not let the SEC do something of this sort by regulation? But others have raised questions about the adequacy of the authority the SEC has to accomplish all of this by regulation alone. Clearly, a firmer base would be established, a stronger reference point, if the board were established by statute, and the potential of litigation that might arise with respect to some of these disciplinary and fee-imposing powers if they were created solely by the SEC by regulation

would be avoided by a clear statutory underpinning.

Furthermore, I believe, frankly, that we need to establish this oversight board in statute in order to provide an extra guarantee of its independence and its plenary authority to deal with this important situation.

Let me turn to title II on auditor independence. This is a very important issue. Each of the country's Federal securities laws requires comprehensive financial statements. That is what is now required under the securities laws for public companies. They have to have comprehensive financial statements that must be prepared—and I now quote from the statute—"by an independent public or certified accountant."

The statutory requirement of an independent audit has two sides to it. It is a private franchise, and it is also a public trust.

The franchise given to the Nation's public accountants is clear. Their services must be secured before an issuer of securities can go to market, have its securities listed on the Nation's stock exchanges, or comply with the reporting requirements of the securities law. In other words, the accountants have been handed by mandate a major piece of business because the statute says to these public companies that they must have comprehensive financial statements prepared by an independent public or certified accountant.

So in effect we have directed to them a significant amount of business. But the franchise, in a way, is conditional. It comes in return for the certified public accountant's assumption of a public duty and obligation.

The Supreme Court stated this well in a decision almost 20 years ago:

In certifying the public reports that collectively depict a corporation's financial status, the independent auditor assumes a public responsibility. . . . [That auditor] owes ultimate allegiance to the corporation's creditors and stockholders, as well as to the investing public. This public watchdog function demands that the accountant maintain total independence from the client at all times and requires complete fidelity to the public trust.

Richard Breeden, former chairman of the SEC from 1989 to 1993, under the previous President Bush, said in his testimony before the committee:

While companies in the U.S. do not have to employ a law firm, an underwriter, or other types of professionals, Federal law requires a publicly-traded company to hire an independent accounting firm to perform an annual audit. In addition to this shared Federal monopoly, more than 100 million investors in the U.S. depend on audited financial statements to make investment decisions. That imbues accounting firms with a high level of public trust, and also explains why there is a strong Federal interest in how well the accounting system functions.

What has happened in recent years is that a rapid growth in management consulting services offered by the

major accounting firms has created a conflict in the independence that an auditor must bring to the audit function. According to the SEC, in 1988, 55 percent of the average revenue of the big five accounting firms came from accounting and auditing services; 22 percent came from management consulting services.

By 1999, 10 years later, these figures had fallen to 31 percent for accounting and auditing services, and 50 percent for management consulting services.

In fact, a number of experts argue that the growth in the non-audit consulting business done by the large accounting firms for their audit clients has so compromised the independence of audits that a complete prohibition on the provision of consulting services by accounting firms to their public audit clients is required—a complete prohibition. According to James E. Burton, the CEO of the California Public Employees' Retirement System, CalPERS, which manages pension and health benefits for more than 1.3 million members and has aggregate holdings of \$150 billion:

The inherent conflicts created when an external auditor is simultaneously receiving fees from a company for non-audit work cannot be remedied by anything less than a bright line ban. An accounting firm should be an auditor or a consultant, but not both to the same client.

John Biggs, CEO of Teachers Insurance and Annuity Association—College Retirement Equities Fund, TIAA-CREF, the largest private pension system in the world, which manages approximately \$275 billion in pension assets for over 2 million participants in the education and research communities, told the Committee:

Because auditors owe their primary duty to the shareholders, questions about the primacy of that duty are raised if the audit firm provides other, potentially more lucrative, consulting services to the company. The board and the public auditor should both see to it that, in fact as well as in appearance, the auditor reports to the independent board audit committee and acts on behalf of shareholders. The key reason why awarding consulting contracts and other non-audit work to the audit firm is troubling is because it results in conflicting loyalties. While the board's audit committee is formally responsible for hiring and firing the outside auditor, management controls virtually all the other types of non-audit work the audit firm may do for the company. Those contracts with management blur the reporting relationship it is difficult to believe that auditors do not feel pressure for the overall success of their firm with the client. Even their own compensation packages may be tied to consulting and non-audit services being provided by their firm to the company. . . .

By requiring public companies to use different accounting firms for their audit and consulting services, and by establishing an independent board with real authority to oversee the accounting profession you will be taking important steps toward reversing the crisis in confidence in financial markets that exists today.

We looked at this carefully. We had testimony on the other side. In the end, we took the approach that is outlined in the bill. The bill contains a short list, nine items, of non-audit services that an accounting firm doing the audit of a public company cannot provide to that company. These include, for example, bookkeeping or other services related to the accounting records or financial statements of the audit client, financial information systems design, appraisal or valuation services, actuarial services, management functions or human resources, broker or dealer or investment adviser services, and legal services.

The thinking behind drawing this line around a limited list of non-audit services, is that provision of those services to a public company audit client creates a fundamental conflict of interest for the accounting firm in carrying out its audit responsibility. If the accounting firm is not the auditor for the company, it can do any of these consulting services—it can do any consulting service it wants. But if it is the auditor—so there is a conflict of interest problem—then we take certain services and say: those services you can't do. And the reason is, first of all, in order to be independent, the auditor should not audit its own work, as it would do if it did financial information system design or appraisal evaluation services or actuarial services. It should not function as part of the management or as an employee of the audit company, as it would if it were doing human resources services, and it should not act as an advocate of the audit client, as it would do if it were providing legal and expert services. Nor should it be the promoter of the audit client's stock or other financial interest, as it would be if it were the broker-dealer or the investment adviser.

They are the public company's auditors. They have a very defined responsibility as the auditors. The bill doesn't bar accounting firms from offering consulting services. It simply says that if a firm wants to audit the company, there are certain services it cannot perform. And even in that case, the bill provides the board authority to grant case-by-case exceptions, so if a case could be made why an auditor's performing a consulting service ought to be permitted, there is some flexibility to permit it.

David Walker, the Comptroller General of the United States, in a statement on June 18 said:

I believe that legislation that will provide a framework and guidance for the SEC to use in setting independence standards for public company audits is needed. History has shown that the AICPA and the SEC have failed to update their independence standards in a timely fashion and that past updates have not adequately protected the public's interests. In addition, the accounting profession has placed too much emphasis on growing non-audit fees and not enough emphasis on

modernizing the auditing profession for the 21st century environment. Congress is the proper body to promulgate a framework [on this important issue].

There are a lot of other auditing services, other than the nine I mentioned, that an auditor may want to provide and whose provision we did not preclude. In other words, the statutory system that we are establishing lists certain consulting services that, if you are the auditor, you cannot perform for the public company that is your audit client, unless you can get one of these case-by-case exemptions from the board. And those consulting services were the ones which, upon examination, seemed clearly to raise the most difficult conflict of interest questions that could result in undermining the auditor's fulfillment of his auditing responsibility.

The public company auditor can provide other non-audit services; that is, any but those on the proscribed list, if it clears them with the audit committee of the public company's board of directors. We seek to strengthen the audit committee in very substantial ways, including, as I will mention later, that they should be the ones to hire and fire the auditors—that the auditors really work through the audit committee for the board of directors and that the auditors do not work for the management. I think it is very clear, to some extent, and in some instances, it is management working with the auditors that have done these clever schemes for which we are now paying the price.

We had the issue of auditor rotation before us. Many witnesses thought the audit firm itself should have to rotate every 5 years, periodically. We did not go that far. We recommend here that the lead partner and the review partner on audits must rotate every 5 years—not the audit firm itself. But we do provide that audit firm rotation should be further studied and direct the General Accounting Office to undertake such a study with respect to the mandatory rotation of the audit firm.

I will move more quickly and skip over some sections, but I can always, of course, come back to them if there are any questions.

We were concerned about the movement of personnel from audit firms to the public company audit clients. There we put a 1-year cooling off period with respect to the top positions in the company, so that you can't hold out to the audit team the immediate prospect of an important position in the company. Again, we are trying to protect the independence of the audit.

The next two titles, III and IV, deal with corporate responsibility and enhanced financial disclosure. As I said, we provide for a strong public company audit committee that would be directly responsible for the appointment, compensation, and oversight of the work of

the public company auditors, which makes it clear that the primary duty of the auditors is to the public company's board of directors and the investing public, and not to the managers. We provide that the audit committee members must be independent from company management.

We require that the audit committee develop procedures for addressing complaints concerning auditing issues and also that they put in place procedures for employee whistleblowers to submit their concerns regarding accounting.

Where does an employee go when he sees a problem and is fearful of taking it up with management because his perception is that management is involved with the problem? We specifically provide that they should be protected in going to the audit committee.

We have a provision prohibiting the coercion of auditors. Some have asserted that officers and directors have sought to coerce their auditors or to fraudulently influence them to provide misleading information. Obviously, the auditors ought to be protected from that as well.

We have a provision that the CEO and the CFO who make large profits by selling company stock or receiving company bonuses while management is misleading the public about the financial health of the company would have to forfeit their profits and bonuses realized after the publication of a misleading report.

We also address the question of remedies against officers and directors who violate securities laws, something in which the SEC is very interested.

We have a provision on insider trades during pension fund blackout periods. We prohibit the insider trades. So you can't have officers and directors free to sell their shares while the majority of the employees of the company are required to hold theirs—as, of course, has happened in some instances.

On enhanced financial disclosures, we require that public companies must disclose all off-balance-sheet transactions and conflicts. We require that pro forma disclosures be done in a way that is not misleading and be reconciled with a presentation based on generally accepted accounting principles. More companies are doing these pro forma disclosures. They really are not accurately reflecting the financial conditions of the company.

We require very prompt disclosure of insider trades—actually, to be reported by the second day following any transactions.

We require the reporting of loans to insiders. There have been some enormous loans made. At a minimum, those need to be disclosed. Some argue they ought to be prohibited. We didn't go that far. Some testified there are some good reasons on occasion that a company ought to make a loan to one of its officers. But, at a minimum, they ought to be disclosed.

This is a small item, but it may have a good benefit. We require public companies to disclose to the investors whether they have adopted a code of ethics for senior financial officers and whether their audit committee has among it a member who is a financial expert. We don't require them to have a code of ethics, although we think they should. We just require that they disclose whether they have one or not.

Title V deals with analyst conflicts of interest. We have had this incredible situation that was brought to the public attention by the efforts of the Attorney General of the State of New York, Eliot Spitzer, in which research reports and stock trades of companies that were potential banking clients of a major broker-dealer were often distorted to assist the firm in obtaining investment banking business. There was one document that actually acknowledged the conflict and, as a result, stated:

We are off base on how we rate stocks and how much we bend over backwards to accommodate banking.

These analysts would recommend a buy rating on the stock essentially to help out the investment banking firm which was trying to get the company's investment banking business. So they get the analysts to say good things about the company, which will then lead the company to be far more favorably inclined and take on that firm in order to do their investment banking business.

In some instances, they were actually recommending buys and then they were saying to one another what a turkey the company was, but the poor investor was being taken at the time.

We set out a number of provisions in this regard. I will not go through all of them.

We prevent investment banking staff from supervising research analysts or clearing their reports.

We prohibit analysts from distributing research reports about a company they are underwriting.

We have a provision to protect analysts from retaliation for making unfavorable stock recommendations.

We heard moving testimony from someone who said: If you make an unfavorable recommendation, who knows what is going to happen to you?

We also provide—the bill here focuses on disclosure instead of prohibition—that an analyst would have to disclose if he owned the company stock. If you are doing an analysis and if you are doing a report and a recommendation, you ought to disclose whether you own the company stocks or bonds, whether you have received compensation from the company, whether your firm has a client relationship with the company, and whether you are receiving compensation based on investment banking revenues from the company. These are not prohibitions, they are just disclosures.

The thought behind this is, if you are an investor and an analyst is making a recommendation and he puts up front in his analysis that he owns the company stock, or that he is receiving compensation from the company, or that his firm has a client relationship with the company, or that he is receiving compensation based on investment banking revenues received from the company, someone is going to look at this and say: wait a second. I have to take his recommendation in the context of his involvement.

Finally, of major importance is the increase we have provided for the budget of the SEC to, No. 1, provide pay parity for SEC employees; No. 2, enhance information technology and security enhancement; and, No. 3, fund more professionals to help carry out the important investigative and disciplinary efforts of the SEC.

We provide for two studies. One concerns the consolidation of public accounting firms. Senator AKAKA was very interested in this. There has been a constant consolidation trend. We have asked the Comptroller General to do the study. And the other is by Senator BUNNING directing the SEC to conduct a study of the role of credit rating agencies in the operation of the securities markets.

In closing, there has been broad support for this legislation. Just a few days ago, the Business Roundtable came out in favor of it. The Financial Executives International early on in the process was supportive, as well as the Council of Institutional Investors.

We have tried hard to listen to the concerns people raised.

The procedure here was that before the Memorial Day recess—in fact, in early May, we put out a committee print. As we approached markup shortly before the Memorial Day recess, a number of amendments were proposed. It was urged that we put the markup over. We agreed to do that. We took all the amendments that had been put forward, and other suggestions that were being received with respect to the committee print, and went back and reworked it.

I have to say to you that, in all candor, many of those suggestions were meritorious and in fact are now reflected in the legislation that is before the Senate.

So we tried very hard to listen to people at every step of the way. We then reworked the print. We came back with another committee print. We went to markup on June 18. We made a limited number of amendments in markup and brought the bill out to the floor of the Senate by a 17-to-4 vote.

I simply close by saying how strongly I believe that financial irresponsibility and deception of the sort that we have seen in all of the instances that keep appearing on the front pages of our newspapers are a real threat to our

economic recovery. We cannot afford to wait for the next corporate deception, followed by the next round of layoffs, followed by the next collapse of a company's pension fund.

We need to take action to restore public trust in our financial markets, and that really begins with restoring public confidence in the accuracy of financial information. That is what this legislation seeks to accomplish. I urge my colleagues to support this critical legislation.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I begin by thanking Senator SARBANES for working with me as we have considered this bill. I congratulate him on this day that we are considering the bill in the Senate.

We had a series of hearings that I wish every Member of the Senate could have attended. I am not surprised that at the end of those hearings good people with the same facts, as Jefferson said so long ago, were prone to disagree.

I find myself in a position where Senator SARBANES and I agree on many of the key issues of this bill; we differ on others. It is not the first time in managing a bill that we have been on opposite sides.

I reminded Senator SARBANES this morning that it might very well be this will be the last bill we will ever manage together. Since I am leaving the Senate, and we have something like 40 legislative days left, I do not know whether, after this bill is dealt with, the Banking Committee will warrant any of those 40 days.

But I would like to say for the record that no one can object to the hearings we had, the approach the chairman has taken. Whether you agree with him or whether you do not, I think his approach has been reasoned and reasonable.

It is clear this issue has attracted a great deal of attention. It is clear that there is a mind in the Congress, if not in the country—Congress is not always reflective of the thinking of the country—but there is a sort of collective mind that we need to do something, even if it is wrong.

I lament, as we have gotten into this debate, that the media has decided that the tougher bill is the bill with more mandates; that if you decided to set up a stronger committee, a stronger board with broader powers so they might decide to go beyond the legislative mandates, that that is a weaker proposal than having Congress actually write auditing standards or conflict of interest standards.

I would submit to my colleagues—and I guess I would have to say at this point, I do not know that we will follow this adage—but I suggest this is a

very important bill. I urge my colleagues, as you look at this bill, to realize we are not just talking about accounting. If this bill were just about accounting, it could do some good, it could do some harm, but it could not do too much of either.

But this bill is far more than just a bill about accounting. This is a bill that has profound effects on the American economy; therefore, I think it is very important that we try to look at the problem and that we try to come up with a solution that will be good not just for today, not just that will bring forth a positive editorial in a newspaper tomorrow, but I submit we want to try to find one that meets the front porch of the nursing home test. That is the test where, when we are all sitting around in rocking chairs in a nursing home, and we look back at what has happened under this bill, that we will be proud of what we did and how we did it.

I want to touch on several things. I want to go through and make several points, some related to what the distinguished chairman said, some just because I want to say them. I want to talk about what I believe the problem is. And I want to make it clear that I do not know how to fix it. I do not know that this bill fixes it. I do not believe it does. I do not believe my substitute I offered fixes it either. But I think somebody needs to talk a little bit about it. Then I want to talk about the bill that we have before us, and where I agree with it and where I differ, and what those differences are.

I think the good news is—from the point of view of if consensus is a good thing—there is a consensus, and has been from the very beginning, that we need to pass a law. What this President cannot do is provide an independent funding source and a legal foundation for this independent board.

I personally believe the President's 10-point program was a good program. What the Chairman of the SEC cannot do is provide an independent funding source and provide a legislative foundation for the board. The Chairman and I agree on that.

There have been people who have reached a conclusion that if you differed from Senator SARBANES, you did not really want a bill. I believe those of us who have differed do want a bill. And the one thing that we agree on, which I think is at the heart of this whole debate, is a strong, independent board to make determinations about conflict of interest and about ethics.

Now, let me touch on the things that I wanted to touch on.

I personally thank Senator SARBANES for the approach he took in focusing on the problem and on the future. Everybody knows this has now become a political issue. We know that people are either trying to go back and pin this problem on past Presidents or SEC Di-

rectors or they are trying to pin the problem on the current President and the current SEC Chairman. I think it is a testament to Senator SARBANES' leadership that he has had nothing to do with that.

The plain truth is we have had a succession of great SEC Chairmen. Arthur Levitt and I disagreed on many things, but I do not think anybody could argue that he was not an effective SEC Chairman. It is true that he had the ability, under existing law, to go back and change GAAP accounting to set up a board, to do anything he wanted to do, and he did not do it. But it is always so easy to see these things when you are looking with that wonderful hindsight.

Anybody has to give Arthur Levitt credit that he was the first to raise an issue about auditor independence. Whether you agreed when he raised it or not that it was a problem, that it was proven, it is clear that he saw a problem which may or may not be the source of our problem today, but many people believe it is. You have to give him credit. And I don't believe anybody else in his position would have done a much better job than he did.

Let me also say that I think Harvey Pitt has done an outstanding job in the short period of time he has been at the SEC. Much is made of the fact that he did legal work for accounting firms. I continue to be struck by this approach that somehow knowledge is corruption, that somehow the perfect regulator is a guy who just came in off a turnip truck and who knows absolutely nothing.

It reminds me of Senator MCCAIN was once telling a story about talking to a journalist who was covering the Vietnam War and asking the journalist if he had ever read this seminal work about the history of Vietnam. And the journalist said: No, he had never read it because he wanted to approach the subject with a totally unbiased mind.

There is a big difference, I submit, between an open mind and an empty mind. We make a grave mistake when we discount knowledge. Everybody today, when they are criticizing Harvey Pitt, talks about the fact that he represented accounting firms and security firms. I guess if he were being more aggressive than is the public mood, people would remember that he was probably the most rigorous chief counsel at the SEC in its history and, in that process, brought cases against numerous major companies. They would be saying that that experience had tainted him for his current work.

The point is, the man has broad experience as chief counsel to the SEC, where he prosecuted major firms, and he has vast experience as probably the Nation's premier security lawyer where he defended associations and businesses. And quite frankly, when in doubt, I will go with knowledge. When in doubt, I will take experience. I do not believe that experience taints you.

Let me also say that there is this current mood that anything having anything to do with accountants is somehow bad. Having just praised Harvey Pitt, let me point out an area where I disagree with him. When he set up his board to oversee accounting ethics and to look at issues such as the independence issue, on ethics issues, he does not allow people with an accounting background to vote.

Now I would have to say that I strongly disagree with that for two reasons: No. 1, since when is a person's background a source of corruption? I will address that a little more in a minute. Secondly, when you are looking at what is and what is not ethical practice, I am not saying it is absolutely essential, but it is helpful to have somebody who knows something about what practice is.

I submit that in all of these approaches, from the SEC approach to the approach of this bill, we are probably going too far in putting people in positions where they are going to have massive unchecked authority and they have no real expertise in the subject area.

Anybody who thinks this board is just going to slap around a few accountants does not understand this bill. This board is going to have massive power, unchecked power, by design. I would have to say the board that Senator ENZI and I set up in our bill has massive unchecked power as well. I mean, that is the nature of what we are trying to do here. I am not criticizing Senator SARBANES. I am just reminding people that there are two edges of this sword. We are setting up a board with massive power that is going to make decisions that affect all accountants and everybody they work for, which directly or indirectly is every breathing person in the country. They are going to have massive unchecked powers.

We need to give some more thought to who is going to be on this board and is it going to be something that is attractive enough to make people want to serve.

In the proposal Senator ENZI and I put together, I thought we could enhance its prestige by making it a little more independent of the SEC. Under the committee bill, which is before us, the SEC would appoint the members of the board. I thought that given the broad nature of its power, which goes far beyond just accounting and far beyond just securities, it would be helpful to have the SEC appoint two members—Senator ENZI and I suggested that one have an accounting background and one not—have the Federal Reserve Board appoint two; have the CFTC appoint two; and then have the President appoint the chairman. I think that board would have a higher profile. With a Presidential appointee

as chairman, it would raise the prestige of the board, and we would get better people to serve on the board.

I urge my colleagues, think long and hard when you think about this board exerting tremendous, unbridled, unchecked power, about how many people you want on the board who know something about the subject matter. Today, in an environment where accountants are the evil people of the world, the enemies of the people, having no accountants on this board or relatively few and not letting them vote when ethics matters are being dealt with, I assert that kind of approach means you are not going to have first-rate people who are going to want to serve.

Let me finally get it out of my system by saying: I don't know a whole bunch of accountants. I taught at a public university. About a third of my students in economics were accounting majors. I would have to say that I have a pretty high opinion of accountants. If I had to trust the safety and sanctity of my children and my wife today, after all these revelations about bad accounting, to a politician, a preacher, a lawyer, or an accountant drawn at random in America today, without any pause I would choose an accountant.

I am not saying that there are not bad people in accounting. I am not saying there has not been abuse. But I think we have to separate people from professions.

One of my concerns is, we have already had a decline in the number of people majoring in accounting. I am wondering, I don't care what kind of law you write, I don't care what kind of board you set up, if we don't attract smart young people into accounting, people who understand it is not talent, it is not personality, it is not cool, it is character that ultimately counts, then none of these systems are going to work very well.

Now, I don't buy the idea that legislating something instead of setting up a reasoned system to make decisions is a tougher approach; and if it is, I don't want it. But what we have today is an approach that is largely taken in the media that the more mandates you have, that the more things chiseled inflexibly into law, that the more it is one-size-fits-all, whether it has any rhyme, reason, or responsibility, that that is tougher, and therefore it is better, that in today's environment is obviously appealing.

I hope this doesn't happen, but it would not shock me if we have a series of amendments offered tomorrow when we start dealing with the bill, where people try to out-tough each other—maybe one to kill all the accountants and start all over and train new ones. Well, nobody would offer such an amendment, but I think we could very easily get into this oneupsmanship that we can end up regretting. I hope that will not happen. I want to discourage that.

Let me give you an example of where Senator SARBANES and I differ in our opinions. Who is right, I don't know. I think maybe being in this business for a while convinces you that nobody has a lock on wisdom and nobody knows in each and every case what is right and responsible, but I want you to understand the difference of our approach. Let me just go right to the heart of the matter.

The substitute that I offered in committee with Senator ENZI has an independent board. I think it is better, but you can argue that the two boards are pretty similar. Ours is a little more independent of the SEC; though, in the end, to meet the constitutional test, the SEC has to have authority over it. We went a little further in terms of independence and appointing members, and I have already talked about that. But the whole heart of the difference—let's pick one issue—comes down to auditor independence. If you ask me today, should the same company that does an external audit for a firm be able to do internal audits—and I argue today I don't have the knowledge to say this—I would argue today that I really don't know enough about accounting practice and how the process works, not just at General Motors but at the smallest corporation in America, to make that decision. The bill before us sets out the law. It is written in the law that if you do an external audit, you cannot do any one of these nine different things. I don't know, it may well be that after a reasoned analysis a competent board would decide they ought to do those things. My guess is that if I had to decide today, and you forced me to make a decision that was going to be binding on the country, which is a little frightening to me, I might well agree with most, and in some cases all, of these things. But I don't believe we ought to be writing that into law. I don't think anything is gained by writing it into law, and I think a lot is lost by writing it into law.

Having read editorials, I know this makes the bill tougher, but I don't think it makes it better. What I believe we should do is set up the best and strongest board we can, make it independent, give it independent funding, and put competent people on it. The way Senator ENZI and I did it, and there is nothing magic about it other than that we did it, we decided to have the SEC, the Fed, and the CFTC appoint two members, one with an accounting background and one without, and then have the President appoint the chairman, and he could decide.

I personally think that having more accountants rather than fewer is a plus, not a minus. I don't think they all ought to have an accounting background. I don't necessarily say a majority have to have an accounting background, but I believe that day in

and day out, 20 years from now when we have all left the Senate and we are not paying attention to these things, it would help to have people who know what they are doing. I don't buy the idea that people who don't know what they are doing are more moral, other things being the same, than people who do know what they are doing. In any case, I believe that rather than writing out these nine things by law that you cannot do while you are doing an external audit, we ought to set up the strongest board we can, and we ought to give them external funding and plenty of power, and we ought to say to them: you need to look at these nine things and do a reasoned analysis. You need to talk to lots of people, such as smart theorists who are accounting professors at our best universities, and you probably ought to talk to the bookkeeper in Muleshoe who is actually doing bookkeeping work, look at the practical, the theoretical, and make a determination.

Should you be able to do an external audit and do any one of these nine things? You make a decision and set it out in regulation. Why is that better than writing it into law? It seems to me it is better for two reasons: One, if you are wrong, or if accounting practices change, or if your perception of the problem changes, you can go back and change it by regulation. The problem with writing it into law is that Congress then has to come back and change the law. As we know from Glass-Steagall, it took us 60 years to fix something that had it been written in regulation by the 1940s, it would have changed. But we didn't change it until 1999.

The second reason, which I think is equally important, if not more important, is the way the bill is now written might very well make sense for General Motors. That is, it might make perfectly good sense to have a process whereby General Motors might have three or four different CPA firms—maybe more—but they are operating all over the country and all over the world. That is perfectly feasible. But the last time I looked—and I don't know, but some of these may have gone out of business and, God willing, maybe some new companies have come into business—the last time my trusty staff looked, there were 16,254 publicly held companies in America. I don't care how smart you are, I don't care how good your intentions are, you cannot write a mandate, if you get too far in the detail, that fits General Motors and also fits the 16,254th largest company in America. It just doesn't work.

One of the advantages of setting up an independent board, giving them a mandate to look at these areas, but not chiseling it into stone in legislation, is because they can then say, well, here is the principle and if you are General Motors, here is how it applies, but if

you are XYZ Paint Company in Montana, or Wyoming, or wherever, you might only have one accounting firm operating in the town that you are domiciled in. I am not saying you cannot hire accountants to come from the Capital City, or wherever, to your town to do work for you, and maybe you ought not to be operating in a little town in a small State; but people choose that, and people who represent small States seem to like these companies being there. I am just saying that giving the board the ability to set a principle and apply it in one way to General Motors and in another way to a small company in a small town makes eminently good sense in practice.

Now, I know it is not a mandate in the same sense as writing it into law, but I think the result would end up being better.

One of the amendments that I will offer—and I thank Senator SARBANES for trying—and one thing I have to say is that nobody on our committee can say that Senator SARBANES did not listen. Nobody can say he failed to try to hear them out on their concerns and that, in many cases, he didn't change the bill to try to respond to their concerns.

One of the changes that I support is giving the board, with the concurrence of the SEC, the ability to grant waivers to these rules and, in fact, to the law. The problem with waivers on an individual company basis is a practical problem, and that is, if 16,254 companies are trying to get waivers under their special conditions—they all come to Washington and hire lawyers and lobbyists; they all petition the board and the SEC—if that board has 16,254 petitions in 1 year, and it could have many times that if people are petitioning for different kinds of waivers, we are going to shut it down for any other purpose except waivers.

What will happen, not because anybody wants it to happen but because of the very nature of Government, the people who will get the waivers will not in general be the most deserving people. They will be the people who hired the best lawyers, who had the best contacts, who knew how to go about it, and who had the money to spend getting the waiver.

My guess is the smallest companies that need the waiver the most will not get them. Surely at some point we are going to fix the bill so that the accounting board, with the concurrence of the SEC, can say: OK, look, in applying this, if you fall into these categories, you have these circumstances, you have a waiver to do things in this way. Clearly, something like that has to make sense.

One of the things we have to come to recognize, and I think we all recognize it, is that having a beautiful law in a law book does not make good law. It

has to be practical, and it has to take into account the 1,001—in this case, the 16,254 different circumstances that can apply.

What is the problem? I guess there are as many theories about the problem as there are people. I have my own theory about the problem, and I will share it with my colleagues and anybody else who is interested.

Why is all of this happening now? I believe it is happening because of the problems in GAAP accounting. There are other extenuating circumstances, and I want to touch on them, but here is the problem in GAAP accounting. Senator SARBANES used a perfect example of it, and I will just take his example. He talked about how WorldCom saw its market capitalization fall from \$100 billion to \$100 million. How is that possible? I remember when Enron went bankrupt. People said: Where are the assets? When a company goes from \$100 billion to \$100 million, what happened to the assets?

Here is the problem. Increasingly, the asset is a combination of know-how, credibility, and a belief by the public that you are carrying out your business in an efficient and ethical way. Increasingly, the modern corporation does not have 12 steel mills. They do not own massive physical assets. Many companies have tried, basically, to get out of the asset business into the information business. The value of WorldCom was a discounted present value of what the public believed its revenue stream was relative to its cost. It never had \$100 billion worth of physical assets, anything like it. That is what the value of the ideal was as the public perceived it in a period where our wise friend, Alan Greenspan, talked about irrational exuberance. That is what they thought that company was worth, but it never had assets that were anything near \$100 billion. What it had was know-how, knowledge of a market, and it had credibility.

Enron was like a bank in the 19th century before FDIC insurance. Their reputation was the source of their value, and when they made stupid business decisions that called that reputation into question, they collapsed.

I have a great sympathy for accounting because I used to be an economist, and in economics, we have something called *ceteris paribus*. It means "other things being the same." So when we do not know what those other things are, we just utter this Latin phrase and pretend they do not exist—literally pretend they do not exist.

That is valuable in physics where you talked about force equals mass times acceleration, or for every action there is equal but opposite reaction. That is an assumption. That is a simplification because it leaves out friction, and it leaves out gravity. There is nothing wrong with it, but the problem is, accounting cannot do those things.

I had a famous and great accounting professor named David McCord Wright. Nobody remembers him anymore. I can visualize him today easily defining WorldCom. He would have talked about the discounted stream of earnings, and he would have talked about the value of their equity or market capitalization and would have plotted out a projection of revenues and a projection of costs and integrating that area to add it up, and that is where the \$100 million was.

I doubt if WorldCom's physical assets ever totaled \$50 million, probably not \$20 million. You are an accountant and you have the job with the directions that are available through GAAP, generally accepted accounting principles. You have the job of trying to model, for accounting purposes, what WorldCom looks like. You do not have the ability to utter a Latin phrase and wish away things you do not understand. Our problem today is that our GAAP accounting has not kept pace with the world in which we live.

In this world where knowledge is power, in this world where know-how is wealth, it is very hard to model with GAAP accounting. In the decade of the 1990s, when this new model was used on a massive basis in the American economy, accountants had to figure up how much all this stuff was worth.

GAAP accounting has not kept pace with our changing economy. Our accounting is based on the old steel mill of the 1940s where you had how much you paid for the furnaces, and you had them a certain period of time, and you have depreciated them.

How do you depreciate an idea? How do you book having brilliant young people who are committed to the future in your company because they own your stock? How do you put that down in value terms?

So when we are pointing the finger at these people who call themselves accountants, when we are blaming them for every problem in the world, accountants did not put WorldCom into bankruptcy. Accountants did not put Enron into bankruptcy. Enron put Enron into bankruptcy by making bad business decisions. The accounting was a problem because it was slow to show it, but it was there. WorldCom's problems were there. The problem was not accounting. The problem was accounting did not show the problem soon enough.

So if anyone is listening to this debate and thinks some investment is going to be more valuable because we have better accounting, in the long run that is true; in the short run, I am not sure that is true. In fact, I argue these companies would have gone broke anyway. Clearly, they would have gone broke, and they would have gone broke quicker had the accounting system been better. It should have been better. It needs to be better.

The point I am trying to make is the following: When you are trying to model a company using GAAP accounting, it is hard. It is something nobody has ever done before.

We are learning how to do this, and we will—using concepts like goodwill to try to be a proxy for things like intellectual capital and know-how. That is the source of our problems.

I think the fact this came at the end of a financial bubble in the 1990s exacerbated the problem. The problem, in my opinion, is accounting was easier—maybe it was not easier initially. We figured out how to do it on the old model. We will figure out how to do it on the new model.

There is some smart accountant, probably at Texas A&M right now, studying accounting, who will probably get an MBA, who will figure out how to get all this goodwill off our books—which is a silly concept in my opinion, but it is the only one we have—and come up with models of intellectual capital that will have meaning, just as that steel furnace in the 1940s and the write-down of it that made sense, but that is not the world in which we live. That has to be dealt with.

Something the chairman's bill does, something that I very much am in favor of, is it gives independent funding to FASB. The two things that have to be done and only Congress can do them effectively, in my opinion, are: No. 1, we have to have an independent, self-funded accounting standards board, FASB, and we have to have accountants setting accounting standards. No. 2, we need to set up this board to oversee ethics in accounting.

I do not think it matters whether it has a majority of accountants or not, but it needs to have a reasonable number of people who have a background in accounting so they know what they are doing and so they have an intellectual stake in it being done right. It is a dangerous thing when there are people with massive power who do not have any kind of intellectual stake in the application of that power, and it concerns me.

So to conclude, let me say this: Senator SARBANES and I, when we were at this point on the financial services modernization bill, were on opposite sides. I was for the bill. I saw it as the epitome of all wisdom. He was opposed to the bill and saw it in less glowing terms. By the time we got out of conference, it was our bill. We were together on it and 90 Members of the Senate voted for it. It passed the Senate initially on a very close vote, a very narrow margin.

I do not think that will be the case here. I think this bill will pass by a very large margin. I also think it is possible that by the time we have reconciled this bill with the House, that we can have a bill that will be very broadly supported. At that point, I

hope I will be in a position of supporting it.

There are many good things in the Sarbanes bill. There certainly has not been a bill, since I have been in the Senate, that was better intended than this bill. I do think it can be improved. I think it legislates too much. I think it does one-size-fits-all mandates. It takes them a little bit too far. That, to some guy outside government, does not sound very important, but it is very important when one starts talking about application. If we do this thing right, and if we build a consensus and it works well, that will be the final monument of the bill.

I hope we can offer germane amendments. As of right now, I think there will probably be two amendments I will offer. One will have to do with this issue about granting waivers on a blanket basis so that rather than making every individual company that has specific kinds of problems come in and ask for an individual waiver, that the SEC and the board, when they agree, could simply issue a set of principles, and if you qualify you would get the waiver. If you do not, you do not. Pretty straightforward amendment.

The second amendment I believe I will offer will have to do with appeals. Under British common law, we have always taken a very strong position in affecting the right of a person to earn a living. We have set very high standards when it comes to taking somebody's livelihood. I believe there are people who are practicing accounting, or veterinarians or economists or any profession, there is somebody in it who ought not to be in it. I think when this board, which is a private entity—and again this is not a problem with the Sarbanes bill. This is a problem of our substitute as well. It is a strange kind of entity. We want it to be private, but we want it to have governmental powers. We have tried to structure it in ways to try to accommodate this.

The bottom line is, when this board is taking away somebody's livelihood and that person believes they have been wronged, they ought to have a right to go to the Federal district courthouse. They ought to have a right to say: I do not think that was right, and I want my day in court.

They ought to have to pay for it, and at that point I think all the material involved has to be made public, but that is a right I think people have to have. Those two amendments are very narrowly drawn, and they go to the very heart of the bill. I know some of our colleagues are thinking about offering a whole bunch of other amendments. I submit that trying to work out a compromise with the House is going to be difficult. I think we will succeed at it, but I think if we get a whole bunch of other issues involved, we are making the mountain higher. I believe we are ready to legislate in this

area, and I think if we can limit what we are doing to this area that we can pass this bill, we can go to conference, and we can come back and have a bill signed into law before we leave. I think if we get into a lot of other areas, I am not saying the world comes to an end if you put an amendment on here—having us write accounting standards with regard to stock options, for example, that is a tax issue. I would probably want to make the death tax permanent as a second-degree amendment, but I am not saying the world comes to an end if we do that.

I am saying if we get off into those kind of issues, where you have strong feelings on both sides of the aisle—and that would not be any kind of partisan vote—I think it is harder for our chairman and for the members of this committee to get their job done. I hope we will have a limited number of amendments. I hope they will be germane to the bill.

Finally, at some point we are going to take up Yucca Mountain. I am not up high enough in the pecking order to have gotten the word as to exactly when that is going to be. Other things being the same, I would rather finish this bill first and then go to Yucca Mountain than to stop in the middle of it. But it is a highly privileged motion. Any Member can make it. It is not debatable. I assume at some point sometime tomorrow that motion will be made. As I figure the time limit under that privileged motion, it would take about a day.

I don't see any reason this bill should not be finished this week, and maybe much sooner if we can stay on the bill, if we don't drift on into these other areas. When people who are for the bill in its current form want to stay pretty close to the bill and people who are against it in its current form want to stay pretty close to the bill, we ought to stay pretty close to the bill.

I thank my colleagues for their indulgence. I look forward to working on this issue. I yield the floor.

The PRESIDING OFFICER (Mr. DORGAN). The Senator from Wyoming.

Mr. ENZI. Mr. President, these are interesting times. I hope colleagues have been listening. The two presentations that preceded me were outstanding explanations of both the bill and the financial problems facing the world today. I don't think you can get a clearer explanation of the problems than those given by Senators GRAMM and SARBANES. They are very detailed and very much to the point and lay the groundwork for what we are about to do.

Usually in this Chamber, we have a solution and we are looking for a problem. Today, we have a problem and we are looking for a solution. We have a problem before the Senate. The way this process works, is that we try to place the solution in the best possible

form. Under our form of government, the Senate will work on its bill; the House works on another bill on the same topic. When those two bills have been completed, there will be a conference committee and we will work out the differences. Through every one of those processes, there will be changes to the legislation. We get 100 different opinions from 100 different backgrounds on any piece of legislation. That is what makes our form of government work. At the other end of the building, there are 435 people from different backgrounds. They all lend their opinion issues that come before the House.

It is sometimes a slow process, but it is the best process in the world. It will work on this problem for which we are looking for a solution.

If the economy were different today, we would not have this problem. When there are changes in the economy, we realize accounting problems—or at least that is when the accounting problems become apparent. That is where we are today.

I am the lone accountant in the Senate. There is a good reason for that. Accountants are out there doing very detailed work. When you listen to what is in this bill, you are going to hear details that you do not hear with other legislation. It is the nature of the occupation, of the profession of accounting. In the last 6 months, there has been an increased interest in the accounting profession. Kids in colleges have been asking the Deans about this phenomenon called accounting that nobody has talked about for a long time. It is a tremendous opportunity for accountants to finally explain what they do.

Some of the kids are looking into accounting for the wrong reasons. They want to be one of the green eyeshade people bringing down huge corporations. That is not what it is about. It is an opportunity to make sure everyone understands business in America. Accountants are the people with the very basis who both know it and can explain it. That is their job.

Somewhere along the line, it is possible for people to get distracted from that main goal. We are trying to bring them back to that main goal—providing a basis where everyone can understand the value of the companies in which they are investing.

Today we are addressing accounting legislation that has been reported out of the Banking Committee. It has been through initial scrutiny. It has been through the process that leads us to the floor. I have talked about the floor process, but so far this has only been through the hearings process. We had 13 hearings in the Banking Committee. They were on very diverse topics and a very diverse bunch of people who understood each of those topics testified. I commend Senator SARBANES for the

way he conducted the process of the hearings, and then the process of negotiations that led up to the committee vote. That happened over the last several months. On this issue, I can think of no other Chairman in either the House or Senate who did a more thorough job in conducting hearings. The Banking Committee stayed on the substance and did not allow enormous outside pressures on this issue to interfere with trying to get to the bottom of the real problem. The hearings were not finger-pointing. The hearings were an attempt to get valuable information to arrive at the best possible solution.

In addition, the witnesses at the hearings presented objective views. Had it been my choice to call the witnesses, I would have chosen nearly every person who testified. That shows the care and concern that went into choosing the individuals who provided this basic information. The witnesses offered several different views, and they came from diverse backgrounds.

I also thank the Chairman for the way he and his staff conducted themselves through the endless negotiations we had during that same timeframe.

Right now, it seems as if everyone is writing an accounting bill—including myself. In fact, I got calls as soon as Enron occurred from some of the House Members who said they would really like to work on a bill with me. Of course, the first question I had to ask them was, What did you find really happened with Enron? Usually the answer was, We don't know yet. Their response was, but we want to get ahead of the curve.

I am glad we had the patience to wait, to hold the hearings, and then to negotiate through a number of different bills to come up with the one before the Senate today. Those negotiations by Senator SARBANES and his staff were both honest and fair. Although we were not able to agree on everything, which is the basis of negotiation, I believe all negotiations took place in good faith. I thank the Chairman for that. I do think we have a bill that is a good basis for finishing the process and going to conference.

Enron, Global Crossing, WorldCom, and the other numerous restatements that are occurring have caused a ripple effect on the trust of corporate executives and their auditors by the public. These executives, the persons in whom shareholders put their trust, have stained the entire corporate community. A few bad apples have spoiled the bunch. As a result, the legislation we will be debating this week will restructure the way executives operate by increasing accountability and making it easier to discipline fraudulent behavior while at the same time increasing penalties for illegal activity.

This legislation will force the management of companies to be accountable to their shareholders by requiring

that they certify the accuracy of their financial statements. In addition, the legislation will require that members of corporate audit committees are independent directors. We provide the audit committee the ability to engage outside consultants and advisers and provide them the resources they need to determine whether the accounting techniques being used are in the best interests of the shareholders.

In addition, all employees should be subject to the same rules when selling company stock. In this regard, the bill prevents officers and directors of a company from purchasing or selling stock when other employees are restricted. And when these officers or directors do sell stock in the companies in which they work, they should report the transaction on the next business day.

However, the cornerstone of this legislation will be to change the way in which a company's auditors interact with their clients, and also to force them to be more accountable. While I believe that accountants have extremely high ethics and standards, I do believe the current environment has highlighted a number of problems inherent in the current oversight structure of the accounting industry.

I do believe it is an awesome task to be the accountant trying to explain this to everybody else. I do need to explain a little bit why there are not more accountants in legislatures or in the Senate or in the House. That is because if you pick up experience in legislating, most of that is done during the tax season and we need the accountants during the tax season. And they need the business during the tax season. If they don't earn at least 70 percent of their revenue during that time, they are out of business, which precludes them from picking up legislative experience. There is no requirement that you have to have legislative experience before you come here. There is no requirement that you have any kind of experience. But that is why there are fewer accountants here than there are a number of other professions—it is a matter of timing.

While I am hesitant to move forward with the number of changes included in the bill, I do believe the legislation is necessary given the current lack of faith in accountants.

Make no mistake about it, this legislation is federalization of the accounting industry. This bill places a Federal Government bureaucracy at the helm of accounting regulation. While the legislation doesn't prevent the State accountancy boards from continuing to regulate accountants registered in their States, it does establish an overlord regulator to oversee the firms which audit publicly traded companies. My hope is that this new oversight structure will renew the faith the public has in auditors and the financial statements which they help prepare.

In addition to my own proposal, over the past several months I have seen a lot of different proposals. I have also spoken to and met with many of my colleagues about this issue. I have spoken with groups from different industries; I have talked to scholars, consumer advocates, and regulators. All the groups agree that steps need to be taken to enhance the oversight of accountants.

I have examined several existing models of quasi-public regulators such as the New York Stock Exchange and the National Association of Securities Dealers. One point is clear: When these organizations were established, there was a desire to appoint the most informed individuals, those who actually deal with the industry on a day-to-day basis, as majority members of the boards that oversee the industry.

For instance, the National Association of Securities Dealers, NASD, has a large board which must consist of anywhere between 17 and 27 members. Nowhere in the NASD rules does it state their board members may not serve if they have previously been involved in the securities industry. As such, the majority of the NASD board members have worked within the industry.

Why should the accounting industry be treated so differently? Why would we create a board which oversees the accounting industry and then require that a minority of its members have ever practiced accounting? The NASD plays just as important a role in the protection of investors as the accounting oversight board will, so why shouldn't the persons who sit on this board have the best possible knowledge of the accounting industry?

I do want to thank Senator SARBANES for the change he made in the legislation. Originally it said there could be no more than two accountants on this five-person board. He made the change so that two will be accountants. It is a very significant change so that accountants are represented on the board. Previously it would have been possible to have no accountants regulating the accounting profession.

Every piece of legislation has its handful of unintended consequences, despite how well-meaning Congress can be. I fear the way in which the accounting industry will change when a group of non-accountants set the standards which accountants must follow. Lawyers do not have non-lawyers setting ethical and professional standards which they must follow, yet I would argue that those standards are as important as accounting standards and ethics.

I don't want my message to be misconstrued. I do believe that a board should be established to oversee the accounting industry. I also agree the board members should have all the tools necessary to effectively oversee the industry. I agree that the board

members should be full-time and independent from the accounting firms. I agree that they should be appointed by government and not by industry. But I do not agree that the members of the board should be excluded just because they may have passed a CPA exam 25 years ago.

To the contrary, because I believe this board should be as effective as possible, I believe the board members should know how an audit engagement works and they should know the pressures that are applied to an auditor from a client. I believe with this knowledge the board may in fact apply stricter standards than a board of non-accountants.

As I said, I believe accounting firms should be subject to strict scrutiny. However, I do not believe this legislation should pave the road for the trial bar to open frivolous lawsuits against accounting firms. Arthur Andersen no longer exists. Can we really afford to lose another one or two of the final four firms? We used to call them the big five. Now we call them the final four.

It was mentioned earlier that there are 16,254 SEC-filed corporations. That is 16,254 to be reviewed, primarily by four accounting firms. If the trial lawyers pick off one after another after another of the firms because the Board provides information and because they are handed that information, how will we have those 16,254 audited at all?

I am hoping there are a lot of young people listening who are going into accounting who may start firms and grow the firm themselves so they can handle an audit of a Fortune 500 company. But it doesn't happen overnight. And we have to make sure that there is auditing, and not just consulting, which some people will point out is where most of the money is these days.

It makes me nervous to know that essentially only four accounting firms now have the resources and expertise to audit the world's largest companies. We rely on these firms to verify the books of diverse and complex companies because they are the only firms that can provide this service. If we subject them to the will of the trial bar, they will surely continue to be driven from existence, one firm at a time.

Instead, we should punish the wrongdoers to the fullest extent possible and rely on good managers of companies to do their jobs effectively. In the end, we are going to end up making the audit committee members full-time employees, and then there will not be any independence—another problem about which we have to worry.

Having said this, I do believe this legislation is needed at this time. Congress must produce a remedy to help restore investor confidence. We have seen that real penalties, or at least a threat of strong penalties, need to be hung over the heads of corporate ex-

ecutives to assure they maintain their obligations and responsibilities. The moral and ethical breakdown among some of those executives is disgraceful, and investors must know these executives will be punished severely when they make selfish judgments.

A major concern, as we have gone through this legislation, trying to put the bill in its present form, has been the relationship to small business. As I mentioned 16,254 companies are the ones that are registered with the SEC. There are thousands of companies out there that are not SEC registered businesses. There are thousands of entities out there that hire auditors to give confidence in the financial statements they have that are not SEC filed.

One of our concerns has been that we not change business so drastically that these small businesses will no longer be able to afford auditors. So we built in protections for the small businesses. Our intent with this bill is not to have the same principles that apply to the Fortune 500 companies apply to the mom-and-pop business. When they hire an auditor, they want that auditor to give them every bit of information they possibly can so the information they get improves their business and doesn't hide anything from investors. Mom and pop are the investors.

We have taken a lot of care to be sure we are not cascading the provisions down into small business. We will look at additional ways, I am sure, to make sure that does not happen. This is not a license to States to do the same thing that we are doing on a Federal basis. There is recognition that on a Federal basis there is a bigger problem than on a State-by-State basis.

I also want to point out there is also a responsibility by the individual investor. They have to learn to diversify and not to keep all of their eggs in one basket. I hope we can turn this situation into a chance to educate small investors as to how best to manage and invest their money. Nothing will bring back the billions of dollars employees of some of these companies have lost. But hopefully the collapse in confidence will ensure that individuals will never again lose their life savings because of a lack of diversification or knowledge of finance.

What will this legislation provide? It will provide a strong oversight body to watch the accounting industry. It will provide a set of corporate governance laws that will require corporate executives to become accountable for their financial statements. It will provide assurances that corporate boards watch the management of the company with a more critical eye—no longer will board memberships be cushy jobs with no responsibility.

It will also provide assurances to the American people that Congress will not allow these millionaire and billionaire executives to steamroll their obligations to the shareholders. It will also

ensure that research analysts aren't being told what to say by the investment bankers.

To a great extent, I believe the marketplace has made remarkable changes to address a number of the issues which were highlighted by these corporate failures. First and foremost, corporate boards and audit committees will no longer turn their head when management wants to engage in questionable ethical engagements. Also, credit rating agencies will impose much more scrutiny on the companies they rate to protect financial institutions and other lenders. Lenders themselves will require more information about the stability of the companies in which they invest. Research analysts will ask more questions about the company, and more importantly, they will demand more answers from executives. But perhaps, most important of all, is the fact that investors, both institutional and individual, will be more critical.

Shareholders will wake up and learn about the power of their votes on corporate actions. We've already seen great strides from some institutional investors in that they plan to use their votes in shareholder meeting to keep executives honest and accountable. They also plan to use their votes to impact executive compensation packages. These private sector solutions will be more effective than any legislation which can be passed out of Washington.

One of our country's greatest strengths rests in the dominance of our capital markets. But the strength of our markets is only as strong as the underlying confidence in the listed companies. When these companies build facades instead of standing on principle, it shatters the entire system. Congress and the SEC must find a middle ground where we allow the marketplace to continue to operate in the capital markets to the greatest extent possible but also assures investors, both domestic and internationally, that the U.S. capital markets will continue to be worthy of their investments. We must continue to convince investors, that at the core of the American capital markets, there must be a high level of integrity and ethics by all players.

I want to reiterate another message that has been prevalent this afternoon.

As we get into this bill, there are virtually no limits on what amendments can be put on—at least unless there is a cloture motion.

I hope people will recognize the need to have something done, the need to get it done quickly, and not try and make this a vehicle for everything they ever thought needed to be done with corporations.

The purpose of this bill is not to solve the international problems of business for everything that we ever thought of.

I hope my colleagues will constrain their amendments, keep them to the corporate governance and accounting area we are working on, and help us to get this bill finished as quickly as possible.

Again, I thank Chairman SARBANES and Senator GRAMM for their tremendous efforts and insight which they provided in the previous explanation of this, and for the hours of work they have put into the solution that is before us today. I hope we can keep it to a limited solution, take care of the problems that are recognizable, and reach agreement so we can get this to conference and get a bill to the President for his signature.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I ask unanimous consent that it be in order to send an amendment to the desk and have it immediately considered. This amendment makes two simple changes to the bill. One is a technical change to conform to the budget rules, and a conforming change involving the definition of "issuers." We have discussed this. It has been cleared. I would like to go ahead and take care of that business, if I could.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Mr. President, there isn't any objection. I think this clarifies the bill. I think it is something that both sides are for, even though we had a previous agreement not to do any amendments today. It is simply so technical that I don't think anybody would have any concerns.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4173

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maryland [Mr. SARBANES] proposes an amendment numbered 4173.

Mr. SARBANES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To make technical and conforming amendments)

On page 65, line 11, strike "All" and insert "Subject to the availability in advance in an appropriations Act, and notwithstanding subsection (h), all".

On page 76, between lines 16 and 17, insert the following:

(d) CONFORMING AMENDMENT.—Section 10A(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(f)) is amended—

(1) by striking "DEFINITION" and inserting "DEFINITIONS"; and

(2) by adding at the end the following: "As used in this section, the term 'issuer' means an issuer (as defined in section 3), the securi-

ties of which are registered under section 12, or that is required to file reports pursuant to section 15(d), or that will be required to file such reports at the end of a fiscal year of the issuer in which a registration statement filed by such issuer has become effective pursuant to the Securities Act of 1933 (15 U.S.C. 77a et. seq.), unless its securities are registered under section 12 of this title on or before the end of such fiscal year."

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 4173) was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I first want to extend my appreciation to the Senator from Maryland for this bill. It is really well timed and well done.

I received a letter today from the Secretary of State of the State of Nevada, a Republican.

By the way—the Senator from Connecticut is in the Chamber—the Secretary of State worked very closely with the Senator from Connecticut. As the Senator will recall, he is a very fine man. I wish he were a member of the Democratic Party. He is not. But he is an outstanding public servant.

He wrote me a letter, which said:

DEAR SENATOR REID: Investor confidence in the integrity of U.S. securities markets has been badly shaken as a result of Enron, Global Crossing, WorldCom, and other alleged wrongdoing. The failure of several large corporations to police themselves cries out for reform before the negative impact on our markets damages our National economy.

The Senate is to begin consideration of S. 2673, The Public Company Accounting Reform and Investor Protection Act of 2002, on Monday, July 8. I fully support S. 2673 and oppose any efforts to weaken its provisions.

If I could have the attention of the Senator from Maryland, the manager of this bill, I have here a letter from the secretary of state of the State of Nevada, who says:

I fully support S. 2673 and oppose any efforts to weaken its provisions.

I say to the Senator, one of the things the Secretary of State of Nevada is worried about is someone attempting to weaken the bill that you have brought forward to prevent State securities agencies from looking at wrongdoings in the State of Nevada.

As the Senator from Maryland knows, the attorney general from New

York, who has been here, is very concerned about this. It is my understanding this bill does nothing to weaken that; is that true?

Mr. SARBANES. If the Senator would yield.

Mr. REID. I would be happy to yield.

Mr. SARBANES. That is correct. At one point there was talk of an amendment floating around but—

Mr. REID. But the point is, it is not in the bill?

Mr. SARBANES. No, it is not in the bill.

Mr. REID. On behalf of the secretary of state of Nevada, who I indicated earlier worked closely with the Senator from Connecticut in bringing forward a very good election reform bill—he is very progressive, and a fine secretary of state—throughout this letter, he acknowledges how important this legislation is. I wanted this to be spread on the RECORD before my friend's attention was diverted.

Mr. SARBANES. I appreciate the Senator's comments.

Mr. REID. My friend, secretary of state Heller, goes on to say:

As Nevada's chief securities regulator, I believe there is an immediate need to restore investor confidence in our securities markets.

I stand with my fellow state securities regulators in endorsing Title V, Analyst Conflicts of Interest, in its current form and strongly oppose any amendment to this title that would reduce our ability to investigate wrongdoing and take appropriate enforcement actions against securities analysts. However, an industry amendment has been circulated that would prohibit state securities regulators from imposing remedies upon firms that commit fraud if it involves securities analysts and perhaps even broker-dealers that serve individual investors. If Nevada's investigative and enforcement authority in this area are weakened, so too will the confidence of Nevada investors.

He certainly opposes this.

Mr. President, I ask unanimous consent that the letter from our secretary of state be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE SECRETARY OF STATE,
July 8, 2002.

Hon. HARRY REID,
U.S. Senator, Hart Senate Office Building,
Washington, DC

DEAR SENATOR REID: Investor confidence in the integrity of U.S. securities markets has been badly shaken as a result of Enron, Global Crossing, WorldCom, and other alleged wrongdoing. The failure of several large corporations to police themselves cries out for reform before the negative impact on our markets damages our national economy.

The Senate is to begin consideration of S. 2673, The Public Company Accounting Reform and Investor Protection Act of 2002, on Monday, July 8. I fully support S. 2673 and oppose any efforts to weaken its provisions. As Nevada's chief securities regulator, I believe there is an immediate need to restore investor confidence in our securities markets.

I stand with my fellow state securities regulators in endorsing Title V, Analyst Con-

flicts of Interest, in its current form and strongly oppose any amendment to this title that would reduce our ability to investigate wrongdoing and take appropriate enforcement actions against securities analysts. However, an industry amendment has been circulated that will prohibit state securities regulators from imposing remedies upon firms that commit fraud if it involves securities analysts and perhaps even broker-dealers that serve individual investors. If Nevada's investigative and enforcement authority in this area are weakened, so too will the confidence of Nevada investors.

An amendment may be offered on the Senate floor under the guise of creating national uniform standards for securities analysts. Its real intent, I fear, is to eliminate remedies that state securities regulators may impose on firms should fraudulent activity be unearthed in an investigation. This approach is clearly ill-advised in today's climate of investor uncertainty.

As Nevada's Secretary of State, my office is charged with administering the Nevada Uniform Securities Act. My office is in current negotiations with Merrill Lynch regarding a possible settlement of analyst conflicts discovered in a lengthy investigation by the New York Attorney General's office. My staff is also participating in a task force investigation of UBS Paine Webber/UBS Warburg. This amendment would greatly hamper our ability to investigate analyst conflicts and would have a detrimental effect on Nevada investors.

I urge you to support S. 2673 and to vote against any amendment to weaken the enforcement powers of state securities regulators. The result of an amendment such as this could be that virtually every one of the thousands of actions brought by state securities regulators every year would be preempted, as well as all civil suits and arbitrations under state law. In light of the recent Enron and WorldCom debacles, it simply does not make sense to limit or preempt the state's ability to bring enforcement actions against analysts who lie to Nevada investors. The public is looking for elected officials to help them regain their confidence in corporate America.

As Nevada's Secretary of State, I have a duty to protect our state's investors. Any measure that dilutes my authority as the state's chief securities regulator is counter to the mission of my office and to state securities regulators nationwide. Accordingly, I again urge you to vote against any amendment to S. 2673 that would weaken the enforcement powers of state securities regulators.

Please call me at (775) 684-5709 if you have any questions or need additional information
Sincerely,

DEAN HELLER,
Secretary of State.

Mr. REID. Mr. President, our Nation is experiencing a crisis in confidence among the investing public. Americans hear on the news and read in the papers every day more and more cases of corporate executives bilking employees and investors, and of auditors who looked the other way, of boards of directors failing to provide the oversight expected of them, and of well-connected investors buying and selling stock based on insider information. Investors do not know who they can trust.

We have been in a mad rush the last many years to make sure that the

quarter you are involved in has a good financial statement. People go to whatever ends they can to make sure that that quarterly statement looks good to keep the stock price up. That is all that matters. It does not matter whether the company is losing money. It does not matter if their employees are being laid off. It does not matter, as long as they do everything they can to do what can be done to make sure that stock price stays the same or goes up.

I have spoken previously on efforts of Senators to secure the future for American families. In fact, Senate Democrats are using that as a theme: to secure the future for all American families. Securing our future means not only making sure our borders are safe but also securing educational opportunities for all our children and access to affordable prescription drugs and affordable health care.

We must also provide pension protection for American families. In part, that means extending pension coverage. There will be an opportunity, before this legislative year ends, where we can have a good debate.

The vast majority of workers in Nevada have no pensions. As a consequence, they face their retirement years with inadequate resources. Senator BINGAMAN, chairman of a task force, has raised awareness of the lack of pension coverage for American workers and is working on legislation to address that problem.

My colleagues have also led the way with other legislative initiatives to restore investor confidence and provide safeguards to secure Americans' investments, pensions, and retirement savings.

Chairman SARBANES has introduced important legislation that will create a strong, independent oversight board to oversee the conduct of auditors of public companies, and he has done this on a bipartisan basis. That bill was reported out of committee, as I recall, by a vote of 17 to 4, with overwhelming bipartisan support.

This legislation would establish guidelines and procedures to assure that auditors of public companies do not engage in activities that could undermine the integrity of the audit. It ensures greater corporate responsibility by setting standards for audit committees and for corporate executives, but it would, we would hope, impose penalties when standards are violated. It would establish additional criteria for financial statements and require enhanced disclosures regarding conflicts of interest.

This legislation also directs the Securities and Exchange Commission to adopt rules to improve the independence or research and disclose potential conflicts of interest. It also would provide a significant boost in funding for the SEC, the Securities and Exchange

Commission, to help it carry out its responsibilities in a fashion that would help restore investors' confidence in the markets.

This legislation goes a tremendous distance in addressing some of the major concerns I have heard from people in Nevada. And I am pleased this bill has gained, as I have indicated, bipartisan support.

Indeed, it seems that after staying silent for so long, and after allowing a permissive atmosphere where businesses could do no wrong, the President, our President, and Republicans in Congress, quite frankly, are now reversing course. Some are falling all over themselves to jump on the bandwagon and support this legislation. They have done it after hearing from an outraged public. And that is good.

Tomorrow I will be eager to hear what the President has to say in New York. I hope that he does not say we are going to have to enforce the law that we have, because the law we have has not been enforced, especially by the people who surround this President and his administration.

For him to go to New York and say we need to enforce the law more strongly will not do the trick. He needs to jump on the bandwagon with this legislation. We need additional legislation.

The President ran a campaign based on themes such as responsibility and accountability, but recent news reports suggest that both have been lacking in his explanations of his past dealings in the business world.

Prior to holding public office, our President has parlayed his connections as a member of a wealthy and powerful family to arrange a number of, some would call, sweetheart deals. In editorials they have been referred to that way for the past several days. Despite a string of business failures, our President always seemed to land on his feet and seemed to profit.

Now there are disturbing indicators that he has played fast and loose with some of the rules that he is now being asked, through his administration, to enforce. When asked about his business dealings, the President has not accepted personal responsibility, instead shifting blame to accountants and lawyers or implying that he was just doing business as usual.

I would have to say there are questions not only about the Harken business dealings but about the business and accounting practices of Halliburton, where Vice President CHENEY enriched himself, walking away with tens of millions of dollars.

So the problems we have heard go far beyond Enron and the President's friend, as he referred to him, "Kenny boy," Kenny Lay. They are not limited to the handful of companies getting most of the media coverage in recent weeks. Instead, there are fundamental

and systematic problems that have to be corrected. That is what this legislation is all about.

I applaud the chairman and the committee for reporting out this bipartisan legislation.

I hope, I repeat, that the President will join in supporting this legislation. We need to make sure that those who serve as corporate executives and on boards accept the responsibility of their roles when they sign their name on a financial report. The American people need to be able to trust corporate leaders.

Likewise, the President, and those in his administration who came to office from the corporate world, need to show more transparency in letting the American people know how they are making policy decisions, who has access to them, who is influencing them, who is meeting with them.

I joined in an amicus brief with the General Accounting Office to have the Vice President disclose who he met with to come up with energy policy that this administration enumerated. We need to know with whom he met, when he met with them, and why he met with them. They refused to give us that information. That is why I joined in that litigation.

This administration must set aside what I believe and agree with some—again, it is replete in the editorials of the last few days—is their arrogance and secrecy and instead be open and forthcoming public servants.

This legislation is timely. The Banking Committee jumped right on it. Most of us thought the Enron thing was something that was a rare dealing in corporate America. We have come to find out it is not a rare dealing in corporate America. It has happened since then time and time again. We have only seen the beginning of it, I am sure.

The Banking Committee is to be applauded for moving this legislation forward on a bipartisan basis. By a vote of 17 to 4, it was reported out of committee. I would hope we can get this bill out of the Senate as quickly as possible. It is good legislation. It is legislation that the American people need to reestablish confidence in corporate America and those people they rely on so that they feel better about having their pensions supplemented with investments made in the stock market.

The stock market is an indication, as far as I am concerned, of how people feel about what is going on in business. As we know from recent days, people have not felt very good about it. We have had tremendous losses. I heard the chairman of the committee, Senator SARBANES, speak about the Nasdaq losing some 74 percent of its value. That is a significant loss to our country.

I know the Members of the Senate understand the importance of this leg-

islation. I hope that they understand why it is important to move it as quickly as possible. We have a few short weeks to complete lots of extremely important legislation prior to the August recess. As I have said on four separate occasions, this legislation is as important as anything we could do, and it is very timely.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let me begin my remarks by commending the distinguished chairman of the Banking Committee. I have said on other occasions and in other places that for students of the Congress who wish to find a good example of how to prepare a committee and ultimately the Chamber for a moment such as this, a good model to use would be the hearings conducted by the chairman of the committee on this very question.

There were 10 hearings—there may have been more, certainly 10 full hearings—to which were invited virtually everyone from across the spectrum on this question. This was hardly a set of hearings where we heard from one side. We literally invited the best experts in the country; they came and shared with us their views and thoughts on what sort of steps we should be taking to reform the accounting profession, to reform the rules affecting the accounting profession.

I begin by extending my compliments to the chairman and his staff for the tremendous job done to lay the groundwork. Oftentimes we will see, particularly in light of a crisis that occurs, there is a rush to judgment. We will come very quickly to the floor with a sort of a cut-and-paste job with the legislation. I am not suggesting intentions are not good, but that is oftentimes how we react.

This set of hearings did, very deliberately, with a great deal of patience and thought, lay out the foundation for the legislation now before the Senate.

Certainly, while there will be ideas offered to improve the legislation, we think the committee has produced a very fine product. The best evidence of that is the fact that 17 of us in the committee found this proposal to be worthy of our support. There were four dissenters. I think even among dissenters, there was a sense that we were heading in the right direction. Some may have fundamentally disagreed, but if there were one in the four, I don't know which one it would have been. Most thought we were doing the right thing, either that we went a little too far or didn't go far enough possibly, but this is a very balanced approach.

I urge our colleagues to be careful of two potential actions in the coming days. One would be to dilute this product in some way. We are not suggesting we have written perfection here, but we think this is a well-balanced proposal.

Senator SARBANES has worked closely with our colleague from Wyoming,

Senator ENZI, who is the only Member of this body who is actually a former member of the accounting profession. He brings a wealth of personal knowledge and awareness to the issue. He worked very closely with him and other members of the minority, as well as with those of us on the majority side, to finally bring this product to the Chamber. It already has involved some compromise.

At this hour, when investor confidence is going to be absolutely critical and the steps that we take and the language we use will in no small measure contribute to the restoration of confidence, it can just as easily do the opposite, if we are not careful. This is a critical moment in the economic history of our country.

The steps taken by those who are in significant positions to affect the outcome of the course we are on are going to be critically important.

The second caution I express is that we don't try to also overburden this bill to say that this is the only opportunity for us to deal with every other issue affecting corporate business life in America. I am not suggesting the ideas Members will want to bring to the table are bad. But we can so load down a good bill that we can sink this effort if we are not careful. I urge my colleagues as well to be restrained in the temptation to bring up every other idea and incorporate it as part of an accounting reform proposal. Those are the two cautionary notes I have.

Let me also add my voice to those who have expressed theirs earlier today. Tomorrow I know the President of the United States is going to give a very important speech on Wall Street in New York, the financial capital of our country. I commend him for doing so. I think it is extremely important that he actually go to Wall Street to share his views.

My hope would be that this evening, as he makes the final preparations for his remarks, he would come out four square and endorse this proposal that we have brought out of our committee by a vote of 17 to 4. I can't think of anything more the President could do in the next 24 hours, aside from the rhetoric he will offer, than to endorse this bill and to say this was a good effort and to talk about the laborious hearings we have held to learn exactly what was necessary to incorporate in this legislation.

Lastly, I would hope we would get this bill done fairly soon and not let this go on too long. We would love to be able to not only finish our work here but to go to conference with the House, which has another proposal. It is a weaker proposal, in my view, but nonetheless we will have to work with them to resolve our differences and to send a bill to the President for his signature.

I would hope that before we leave for our August break less than 3 weeks

from today we would actually be able to give to the President a bill for his signature and not let it drag on over into September and October. It is important we act in a timely fashion.

With those background thoughts, I would like to share some general comments about the bill itself. The importance of this issue cannot be overstated. Anyone who has read a paper or turned on the news or flipped on their computer is aware of the crisis in our financial markets and, in fact, beyond that, in our Nation. No rule or regulation is enough to address this fundamental problem.

The issue causing all of this turmoil is about the simple word of "trust." The question that the world is asking is not whether our companies or corporations or the workers who toil in them or the products and services are competitive, but simply whether we are telling the truth. Are we telling the truth?

The reason people of the world so often have come here and invested their hard-earned resources is not because there is a better deal to be made financially speaking. It is because there is a sense that our structures are sound, transparent, and they are fair. You may end up losing your investment; you may make money on your investment. That is always a risk when you make a financial investment. But the one thing you could always say about the United States, as opposed to almost any other place around the globe, is that when you come to America and invest your money, there is a sense of fairness and trust and soundness to our financial institutions and the structures that we created to protect them.

That trust has been fractured by the events that have occurred over the last 9 months. And it continues to be fractured with daily reports. So it is vitally important that we respond in an appropriate and thoughtful manner as the Congress of the United States. We have done so, in my view, with the proposal the chairman has brought to our attention. The very integrity of our markets is being questioned, and the Congress must respond cautiously, prudently, and also expeditiously.

Enron's collapse in December was, of course, an enormous shock to all of us. Seven or eight months later, we have seen that Enron was not an isolated incident. There have been a whole host of corporate accounting scandals and collapses—names such as WorldCom, Global Crossing, Tyco, Adelphia, the list goes on and on. I fear, as my colleagues do, that the latest corporate accounting scandal with WorldCom will not be the last. I hope it will be, but my fear is it will not be.

The Congress should address the critical issue of accounting reforms as quickly as we can. America's financial engine does not need a tuneup, it needs

an overhaul. We must disassemble it in some ways, examine every nut, bolt, and working part, and reassemble it to reflect the days in which we live.

The fact is, if we fail to act on serious reforms, America will see a continuation of the dangerous and discredited corporate accounting practices that have, in the past 7 months alone, cost American shareholders and workers billions of dollars in their savings and pensions. This has deeply shaken investor confidence, and that serves as a cornerstone of our economic system.

It is important to note that in the dozens of hearings surrounding Enron's collapse, no committee has engaged in a more nonpartisan examination, focused not just on what went wrong with Enron but, far more important, what Congress can do to prevent future Enrons from occurring in the days ahead.

On March 8 of this year, Senator JON CORZINE and I introduced legislation, S. 2004, that addressed what we thought were some of the tough issues on improving regulatory oversight of the accounting profession and restoring investor confidence. I worked closely with the chairman, as did Senator CORZINE, to incorporate some of the language and spirit of S. 2004 in the legislation before us today.

I thank the chairman for including in the product before us much of what we wrote in S. 2004. I thank his staff, and I also thank my colleague from Wyoming.

Congress must act quickly. If nothing else, we must address the most prominent cause of the recent corporate scandals, the practices inherent and common to the accounting profession, and particularly the ability to audit a company's books while simultaneously providing other services to that same corporation. We saw this with Enron and Andersen. Now we see it with WorldCom and the pending investigations that have greatly contributed to the public's loss of confidence in our financial marketplace.

Since the beginning of the year, while our economy has been rebounding from last year's economic downturn and most economic indicators point to a bull market, the Nasdaq is down more than 20 percent, the Dow is down more than 3 percent, and trading volume has declined. One reason may be investor skepticism that companies are not as financially healthy as they have said they were. More restatements on corporate earnings have been filed in the past 7 months than in the last 10 years combined. Most of these restatements dramatically downgrade the financial health of the companies in question.

Not surprisingly, the public is quickly losing trust in disclosed corporate financial information. Although the investing public may be reacting to the bad behavior of a few, the possibility of

conflicts of interest between accounting firms and the companies they audit creates a perception that this aggressive accounting is commonplace, even when it may not be. This perception, which takes on its own sense of reality, has led to a very dangerous, least-common-denominator thinking in which the estimated worth of all public companies may become undervalued because some are proven to be seriously overvalued.

The fact is, a few key reforms included in this bill can go a very long way toward shoring up the public's confidence in the integrity of America's financial marketplace.

Most importantly, to enhance auditor independence, the legislation restricts the ability of accounting firms to audit a company's books while simultaneously providing other services. It also addresses the revolving door through which executives from one firm leave to work for the companies they audit.

This reform legislation includes the creation of an independent body to oversee the accounting profession, with substantial authority to ensure auditor discipline and improve audit quality. The Securities and Exchange Commission will also be given the resources to hire more accounting "cops" to handle increasingly complex oversight responsibilities and improve the agency's investigative and disciplinary capabilities. The Government must be able to assure the public that audits meet the high standards of independence and objectivity that have been the hallmark of America's accounting profession.

The accounting profession is a great profession. There are thousands of highly qualified, talented, ethical people in the accounting profession. I feel for them at this hour. Because of the malfeasance and fraud committed by some, the many who work in this profession feel tainted by it. I regret that. The best way I know to recover the confidence people have in this profession is to provide some regulatory framework that would allow for auditor independence and for professionalism to be restored at a time when it has been so badly damaged.

Investors are depending upon us to act on this issue and set aside partisan conflicts. As I said, we should not dilute this legislation and make it far less important, less meaningful, or overburden it by trying to add too much to the bill. It is not an easy path to walk down. I urge my colleagues to listen to those of us who worked on this bill, particularly the chairman, as we try to balance the particular needs of our members and the desire to come up with a good, competent, bipartisan piece of legislation. This is not an easy path to walk down, but it is critically important if we are going to contribute to the restoration of investor confidence as part of our responsibilities as members of this historic Chamber.

The purpose of the original securities laws of the 1930s was to increase public trust in America's financial markets, the reliability of disclosed corporate financial information. The resulting openness and accuracy of corporate disclosures to the investing public paved the very way for America's rise as the unrivaled economic superpower that we had achieved. The collapses of Enron, WorldCom, and other corporations, and the accounting scandals have ended any question about whether these laws need reexamination. They do. We know that reforms are mostly needed to protect and strengthen the public trust in America's financial markets, and the time to enact them is now. I am confident and hopeful that we will do just that in the ensuing days.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I thank the very able Senator from Connecticut for his kind remarks about our work together on the committee as we tried to move this legislation forward. I particularly want to underscore the very substantial and significant contribution that the Senator from Connecticut and his colleague from New Jersey, Senator CORZINE, made when they came forward fairly early on in the process with S. 2004.

Much of that legislation is included in this legislation, and it was a seminal contribution early on in our consideration and it helped us to move ahead. I am grateful to him for that and for his efforts and support throughout this process as we have tried to move this legislation forward.

The Senator from Connecticut, of course, is a chairman of one of our subcommittees and has been enormously effective within the committee in his efforts on this legislation, and I appreciate that. I am very hopeful that we are going to get a good product at the end of the path—of course, we are not there yet—which the President will sign and which will make a substantial difference.

It is a tragedy, in a sense. The founder of the accounting firm Arthur Andersen was a man of great rectitude and very high principles. He had the slogan "think straight and talk straight" to guide him.

His successor, Leonard Spacek, also was a man of very high principle. For that company with those origins, in that tradition, to in effect have happen what has happened to it is a tragedy, there is no question about it.

We are anxious to reassure accountants all across the country that we think this legislation will help bring the profession back to the standards that marked it at an earlier time and which standards more thoughtful and more responsible members hope will mark it once again.

The point the Senator from Connecticut made in that regard is an interesting and important one.

Mr. DODD. I thank the chairman.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DODD). Without objection, it is so ordered. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I begin by saying the Senator from Maryland has done this Senate and this country a great service, along with his colleagues, including the Presiding Officer, by writing legislation that addresses a critically important topic at a very important time in this country.

As much as I appreciate the work done on this bill, I would still like to speak about a few ways in which we can strengthen it. I listened with some attention in the last hour or so as I presided in the Senate to the suggestion that we ought not change it much. I do not disagree with that assessment, but we ought to change it some, in my judgment. There are some areas we can strengthen, and I hope we can strengthen this legislation and send it on to the President and have the expectation the President will sign it.

This Chamber has long been the site of debates about excesses and abuses, especially in America's poverty programs. We have heard over a couple of decades, and appropriately so, anecdotal stories about the Cadillac welfare queen who spends food stamp money to buy cigarettes. Congress has clamped down on all of that and said: Shame on you, you cannot do that, that is abusing the public trust. And it is. So we have taken aggressive action as we have seen these abuses.

Today this discussion is not about the abuse of the poverty program or the abuse at the bottom, this is about fraud in the boardroom; it is about abuse at the top. It is important for all of us to understand that accountability and responsibility do not just apply to poor people in this country, accountability and responsibility apply to everyone, and that includes the people at the top of the corporate structure.

I wish to talk about fraud in the boardroom, about deceiving investors, about cooking the books, about accounting firms that cannot account, about law firms that turn a blind eye. I wish to talk about the situations the country has seen in recent weeks and months that we have not seen for many decades in this country.

The victims, of course, are the people in this country who have invested in stocks, who believed in the certification of financial statements by some

of the biggest accounting firms in the country that these were good corporations, that they had good income, that they were moving in the right direction, taking steps so that the funds in corporations were accounted for properly. And now we discover that was not necessarily the case in all too many instances.

Of course, there are a lot of wonderful corporations in this country, wonderful companies with terrific top executive officers who do the right thing, always do the right thing. Yes, they take some risks, but they do it in anticipation of gain for the stockholders. We ought not tarnish with the same brush all American corporations, but we ought to determine what is happening within some of these corporations that has caused the collapse and the devastation of a lifetime of savings for many Americans.

Let me use Enron as an example. We spent a fair amount of time with Enron hearings in the Commerce Committee. We had top executives of that company who had been cashing out prior to Enron going bankrupt. I have a chart that shows the way in which the top management of Enron made fortunes on the sale of Enron stock, from 1998 to the present, at the same time that they were driving their company into the ground.

Contrast this with a call I received from a fellow in North Dakota one day who said: I worked for Enron for a good number of years. I had a retirement plan, and all my retirement plan was in Enron stock. Mr. Lay and others repeatedly encouraged us to do that. My retirement plan was in Enron stock. It was worth \$330,000. Now it is worth \$1,700. He said: That is what happened to my life savings—\$330,000 to \$1,700.

What happened to the folks at the top of the ladder in Enron? Mr. Lay, the chairman of Enron, from 1998 to the present, sold \$101 million worth of stock. That is what he received. Mr. Rice, \$72.7 million; Mr. Skilling, \$66.9 million; Mr. Fastow, \$30 million.

Mr. Fastow was able to have an equity role in the special purpose entities, the off-the-books partnerships, and in one of them he actually invested \$25,000 of his own money. He invested \$25,000, and 2 months later paid himself \$4.5 million. I do not know anybody who gets returns like that anywhere in America, except by cheating.

In the year 2001 in American corporations, the average pay for top CEOs increased by 7 percent, despite falling profits and stock values. Is there a relationship at the top between people who run the companies and the performance of the companies themselves? It does not look like it, does it?

In 1981, the average executive compensation of the top 10 highest paid CEOs was \$3.5 million. In the year 2001, the average was \$155 million. So we can see what has happened in this country at the top in the boardroom.

Let's look at the number of times that CEO pay exceeds average worker pay: In 1980, they made 42 times the pay of the average worker in the company. In 1990, they made 85 times the pay of the average worker in the company. But in the year 2000, it was 531 times. So forty-two-fold to five hundred and thirty-one-fold. That is what has happened to executive compensation at the top of the corporate ladder.

We have seen story after story about what is happening in some of the boardrooms. There are a lot of wonderful companies, and I do not think this ought to tarnish all American corporations, but we ought to be very concerned about what is happening inside some publicly traded corporations and why the safeguards have not been able to provide early warning to investors and others.

Adelphia: The drop in their stock value is 99 percent. The question is whether it failed to properly disclose \$3.1 billion in loans and guarantees to the family of the founder.

Dynegy: Whether the Project Alpha transactions served primarily to cut taxes and artificially increase cashflow, 67 percent of their value lost.

Enron lost 99.8 percent of its value. In fact, as I have mentioned before, the Enron board of directors commissioned a report called the Powers Report which looked at only three partnerships, and they described what was happening inside this company was "appalling." The board of directors of the company itself said what was happening inside the company was appalling. They said that in one year they reported \$1 billion of income they did not have.

Global Crossing: Whether it sold its telecom capacity in a way that artificially boosted 2001 cash revenue, 99.8 percent loss in value.

Halliburton: Whether it improperly recorded revenue from cost overruns on big construction jobs.

The list, of course, goes on.

Qwest: Whether it inflated revenue for 2000 and 2001 through capacity swaps and equipment sales.

On the weekend talk shows, I heard a panel discussion about this, and one of the panelists who is kind of an academician said the market is just adjusting. That is an antiseptic way, by an economist I suppose, to ignore the fact that families are losing their life savings.

Sure, the market is adjusting, but it means families are losing everything they have. It means investors with 401(k)s see that 401(k) shrink so their life savings are disappearing right before their eyes.

The question with all of these issues is: What has changed? Why, with big accounting firms taking a look at what is going on—and today there is a hearing on WorldCom in the House of Representatives—why, with big accounting

firms looking over their shoulder, has this sort of thing occurred?

With Arthur Andersen and Enron, they had a \$25 million relationship by which Arthur Andersen audited the Enron Corporation, and Arthur Andersen was also paid \$27 million by the Enron Corporation for consulting services. That is one of the things that is at the root of this bill: Is that not a clear conflict of interest? Is there not enormous pressure on the accounting firm then to become an enabler for that corporation? The answer clearly is yes, and that is why this legislation takes action to deal with some of those issues.

I was driving in the car over the weekend in North Dakota and saw that the Xerox Corporation had a substantial restatement of earnings. It indicated that the SEC had previously taken a look at it and fined Xerox \$10 million, which seems to me like pretty much a slap on the wrist when you consider the billions of dollars involved in the restatement. Then we hear this big story this weekend about yet another restatement. So what we have is a restatement, and then a restatement of the restatement of earnings.

What is the cause of all of this, and what is enabling it? With Enron, for example, it was an accounting firm that became an enabler; it was a law firm that became an enabler; it was CEOs who became greedy, officers of the corporation who did not pay much attention, who also, incidentally, were making a great deal of money selling stock, board members selling stock. It all became a carnival of greed.

I indicated, after having spent a lot of time looking at Enron, that there was a culture of corruption inside that corporation. The CEO of Enron took great exception to that, but it is clear every passing day, with more and more evidence of what happened inside that company, that there was in fact a culture of corruption.

How do we respond to that, and how do we deal with that? I think that, first of all, the rules have to be changed some, and that is what this legislation attempts to do. Second, even if there are changes in the rules, there must be an effective referee, a regulator. In this system of ours, we have to have effective regulation. And frankly, that has been lacking.

Mr. Pitt, who is the head of the SEC, I know has taken great exception to statements that have been made by my colleagues and myself. But the fact is that a system like this cannot work unless there is effective oversight and regulation, and that has been lacking.

Consider some of the statements that Mr. Pitt has made. This is Mr. Pitt speaking at the AICPA, which represents the accounting industry:

For the past two decades, I have been privileged to represent this fine organization and each of the big five accounting firms that are

among its members. Somewhere along the way, accountants became afraid to talk to the SEC. Those days are ended.

That was to the American Institute of Certified Public Accountants.

Then Mr. Pitt, who is, again, the head of the SEC, said:

The agency I am privileged to lead has not, of late, always been a kinder and gentler place for accountants; and the audit profession, in turn, has not always had nice things to say about it.

So Mr. Pitt was concerned about ensuring a "kinder and gentler" SEC.

The New York Times did a story as a result of the initial speeches Mr. Pitt gave when coming to the SEC. It noted that Pitt "spoke favorably of pro forma earnings reports in ways that no doubt heartened accountants who have worked so hard to find ways to make even the worst profit figures look pretty."

It also noted that "A major embarrassment for accountants is having the SEC force a client to restate its numbers. Mr. Pitt and his chief accountant, Robert Herdman, are sending signals that fewer such demands will be made."

We can change the law, but if we do not have a tough, no-nonsense regulator, then it will not work.

We all watch basketball games, and we see referees. They are the ones who enforce the rules in basketball. We see a game from time to time where it is quite clear right at the start the referees are not going to call them close, and then pretty much it is "Katy bar the door," and things get out of hand. Then we see other games in which it is quite clear they are going to call up close, and nothing gets out of hand. The same is true with the attitude and mindset of Federal regulators. We have regulatory agencies for a purpose. That purpose is to enforce the rules. Fairly, yes, but also aggressively.

If someone who comes from that industry and says, I represented all of you, and suggests it will be a kinder and gentler place, I wonder whether that is the regulator we ought to have.

No matter who is heading the SEC, I want that person to be a fierce advocate on behalf of the rules that protect investors. I want someone that can make this system work and require everyone to own up to their responsibilities. So people who never enter a corporate office or know nothing about a corporation but who want to invest in American business, can buy a share of stock, having never met an officer of the company, having never visited the company, and can have confidence that what the accounting firm has said about that company, what the financial statements represent about that company, are absolutely fair and accurate.

That is the only way in which the American people can participate in the raising of capital for America's busi-

ness. If we do not do that and do that quickly, we undermine the entire system by which we raise capital in this country. We undermine the entire system. That is why this piece of legislation is important and timely.

There are several amendments I would like to have considered, some I hope will be accepted, and some, perhaps, we will discuss at some length, and I may or may not prevail. There are some amendments that can strengthen and improve this legislation.

One of the provisions in the legislation calls for CEOs to return profits and bonuses they wrongfully reaped in the 12 months following a published earnings report that require a restatement. I would propose that this provision apply when a company goes bankrupt, as well. This idea has been endorsed by former SEC Chairman Richard Breiden, Goldman Sachs CEO Henry Paulson, and others.

There also ought to be some provision with respect to loans to CEOs by corporate boards of directors. I don't know what that limit ought to be, but I mentioned one corporation where over \$3 billion was loaned to one family of the founder. This is a publicly traded corporation. I believe we ought to discuss that.

I may offer a provision dealing with something called inversion, a mechanism whereby some American corporations have decided they want to renounce their American citizenship and move their official headquarters to another country—Bermuda, for example. I want to be certain that CEOs of such companies cannot escape the requirement of this bill that they certify the accuracy of their financial statements. I do not think that, in addition to avoiding their fair share of U.S. taxes, these companies ought to be held to a lesser standard of reporting accuracy than U.S.-based firms. So I will offer an amendment, if needed, and visit with the chairman and the ranking member about that subject.

Another issue, one requiring disciplinary proceedings to be open to the public was discussed in committee. Transparency and having those hearings open to the public are important. I hope we can consider an amendment on that.

The other issue that was discussed in the committee at great length: What is the definition of the division of responsibilities between auditing and consulting? That definition, determined by the SEC or the Congress, is critical to determining whether there is a conflict.

Having said all that, let me say to the Senator from Maryland, we are in the Senate the first week after the Fourth of July. I listened to the Senators from Texas and Wyoming and Connecticut and others speak about this bill. This is a good start. If this

legislation passed without one word changed, it would make a magnificent contribution to a problem we face, a gripping problem in this country.

Having said that, I do not subscribe to those on the committee who say not to change anything. That is not what the chairman said. There are some suggestions that will come from other parts of the Senate that can strengthen and improve this legislation, a couple of which I suggested. When it goes to conference with the House, we will have something we can be proud of.

The most important thing is to show to the investors in this country who have lost, in many cases, their life savings, that we are taking action to respond to the conditions that caused this to happen.

When we talk about the people at the top getting rich and the people at the bottom losing their life savings, the American people have every right to ask: By whose authority can this happen in this kind of economy? It cannot happen if the rules are fair. It cannot happen if the rules are enforced.

The American people have a right to expect the regulators, the SEC, and the Congress to take action now to address these issues.

I yield the floor.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I initially came to the floor to talk about this bill and another issue. The Water and Power Subcommittee of the Energy and Natural Resources Committee is holding a hearing on Wednesday, and I asked to testify about the views of Missouri on the Missouri River issue. Initially, the staff said I was not going to be able to testify, and I was going to therefore have to share my testimony with the entire body. However, I have now been advised by the chairman of the committee I will have an opportunity to testify, so I will save my comments for the committee hearing.

I thank the chairman for giving me that opportunity.

Mr. DORGAN. Will the Senator yield?

Mr. BOND. I am happy to yield.

Mr. DORGAN. Let me explain to the Senator what my hope was. The Senator asked to testify, quite properly. The Missouri River manual issue is a highly controversial issue. The Senator has been involved with it for some long while. We are having a hearings. The Corps of Engineers and many others are testifying. My hope had been we could hold a hearing with all of those groups, then have a separate meeting, hearing from all Members of Congress who want to testify. It appears that that will not be the case.

We will hear from Senators at the front end of that hearing. I assume it will take some time. As the Senator from Missouri knows, having indicated,

yes, we would entertain his testimony, there are a number of other Senators who have already gotten in line saying, if that is the case, please hear my statement, as well. Of course we will.

It was never a case where we would not hear testimony. The question was whether we would have a separate hearing and hear Members of the Senate. I understand the Senator's concern. Senators DASCHLE, JOHNSON, CONRAD, CARNAHAN, and many, many other Senators have great concerns about this issue.

I will lose some sleep Tuesday night with great anticipation hearing your testimony on Wednesday morning.

Mr. BOND. I thank my good friend from North Dakota and assure him I hope to be brief and to the point. I am somewhat disappointed I will not share all that testimony with my colleagues, but there will be another opportunity.

I thank the chairman of the subcommittee for his kind indulgence.

Today I rise to join in expressing my concern about recent accounting practices in publicly held companies and their auditors. As a former State auditor, I have an interest in that profession being performed properly. Obviously, something is seriously broken. We hear about Enron, Global Crossing, WorldCom, and Arthur Andersen. The people of America are very concerned. We have seen millions of families with their investments diminished or even wiped out. That is not acceptable. The vast majority of investments were not in the volatile sectors, or not what we thought were the volatile sectors of the stock market. They were invested in the so-called blue chip companies. The families who made those investments on their strong belief in the integrity of our financial markets and accounting industry now find that because of corporate shams, accounting gimmicks, and inadequate auditing, they have lost significantly the investments they planned for education or retirement—for their families.

As far as we know, overall the overwhelming majority of publicly traded companies are in full compliance with corporate accounting standards. But the fact that there has been a significant deception by a handful of companies raises suspicions of all companies. In addition, we don't know how many others will come forward in coming weeks.

We must restore the public's confidence in the market. Without this, the economic recovery which should be beginning will remain elusive.

While much of the focus in the debate here and in the news media is on the auditing problems of the big conglomerate companies, unfortunately little attention has been paid in this bill to how the impact will fall on small publicly traded companies and small auditing firms. As the ranking member on the Committee on Small Business

and Entrepreneurship, I have some concerns, after reviewing this bill, that we may be pushing ahead without considering the serious effect and the unintended consequences the bill could have on smaller firms—both small auditing firms and small publicly traded companies.

The bill is clearly targeted towards abuses in extremely large businesses, which we all think should be dealt with. I personally hope it will result in prison sentences for people who are proven to have committed criminal acts in their accounting activities.

But the SEC is not even aware of how many small auditing firms there are auditing small, publicly traded companies. There are some 2,500 small companies, and we believe many of them are audited by small- and medium-size auditing firms. For small auditors, the bill will require many new elements including registration, annual filing requirements, as well as partnership rotation of lead auditors. In addition, the bill would codify a list of banned services or nonauditing services that an auditing company might conduct for a company that it audits.

While some of these elements clearly are necessary to restore confidence, and I think are going to be dealt with by regulatory action and maybe even by the industry itself, no one knows how these requirements will affect the small firms. It has been argued that the bill allows for a case-by-case exemption, but that exemption process itself could be extremely costly and untimely for small firms and lead to inconsistent results.

I fear that some of these small auditing firms will not have the resources to implement these requirements and will stop auditing services or just go out of business. The result may be that small, publicly traded companies may not be able to obtain auditing services at reasonable cost. As a result, the bill might be setting up a hurdle for small companies to reach the public markets, one that is too expensive and too great to overcome.

Clearly, when we deal with the major problems we ought not cause significant problems for the smaller, growing entrepreneurial sector of our country.

As for publicly traded companies, the bill also places new requirements for auditing committees and for corporate responsibility. Again, many of these may be necessary. However, we need to look at how these requirements will affect the small, publicly traded companies.

The entrepreneurial spirit of our country is really the envy of the world. People know that entrepreneurship works in America. That is where we get the new ideas. That is where we get the growth. That is where we get the new services and the products. We should be careful as we adopt reforms not to put a disproportionate burden on

these companies, dampening the entrepreneurial spirit or impeding access to the public markets.

I fully support accounting reform and the taking of steps necessary to restore investor confidence in the market. I think we should pass a balanced bill that will not overburden small firms and not create additional hurdles that will impede them from growing. We don't want an incidental consequence of this bill to be a monopoly of large accounting firms when it comes to corporate audits.

I agree with the other speakers that the American public is looking to us for answers. I intend to work to see that the needs of the small businesses, publicly traded small companies, and small auditing firms are protected. I am committed, and I think we all are committed, to restoring the public's confidence in the markets so families can feel safe once again in investing in America and in America's future.

I look forward to working with my colleagues to secure a balanced bill which will do that without bringing unnecessary hardship on the entrepreneurial sector of our economy.

I thank my colleague from Wyoming for the courtesy in allowing me to go ahead. I yield the floor.

Mr. ENZI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, during the course of the Fourth of July recess, I traveled through Pennsylvania holding some 16 town meetings, and I found many concerns among my constituents: The issue of prescription drugs; the concern about what is happening with respect to Iraq; the issue of terrorism, which confronts the United States; the concern about what might happen on July 4; concern about the suicide bombers from the Palestinians terrorizing Israel.

But high on the list of public concern was what has happened with Enron, WorldCom, and many other companies on the stock exchange, where so many of my constituents in Pennsylvania—like tens of millions of Americans, really, and even more—have had their savings decimated in their retirement accounts of a variety of sorts. The issue that was raised consistently was: What happens next?

I think it is very good that the Senate is now considering legislation to deal with the fraudulent conduct that has plagued so many companies in corporate America. There is no doubt that there is a clear-cut conflict of interest for an accounting firm to be both an adviser and an auditor. An adviser has a close relationship with a company—call it cozy, or intimate, or friendly—but that is very different from the function of an auditor, which ought to

be at arm's length, scrutinizing what the company has done. That kind of a conflict should certainly be prohibited in the future. If the accounting firms do not have enough understanding of the ethics, then laws have to be enacted, with very tough penalties to follow. When you find companies having so much debt off the books, subsidiary corporations, that is a matter of fraud. Fraud is a misrepresentation of a fact where someone relies to their detriment, and that is a crime. When you have companies putting expenses in, say, a capital account that shows billions of dollars in additional income or assets of the corporation, that too is fraud.

A good part of my career has been as an assistant DA and then as district attorney. I believe this kind of white-collar crime is certainly susceptible of deterrence, providing that standards are established and penalties are provided for a breach. It is my hope that from the Senate's current consideration, some very tough legislation will follow.

(Mr. DAYTON assumed the Chair.)

LOW MEDICARE REIMBURSEMENTS

Mr. SPECTER. Mr. President, for a considerable period of time, there have been a number of counties in Pennsylvania that have been suffering from low Medicare reimbursements, which have caused them great disadvantage because their nurses, their medical personnel, are moving to surrounding areas. I refer specifically to Luzerne County, Lackawanna County, Wyoming County, Lycoming County, Mercer County, and Columbia County in northeastern Pennsylvania. Those counties are surrounded by MSAs—metropolitan statistical areas—in Newport, New York, to the north; in Allentown to the southeast; and to the Harrisburg MSA to the southwest.

When these counties are so surrounded by—and a similar situation exists in Mercer County, which has higher rates in immediately adjacent areas—there has been a flight of very necessary medical personnel. Last year, in the conference on the appropriations bill covering the Departments of Labor, Health and Human Services, and Education, the conferees were in agreement that there should be relief for these areas in Pennsylvania that were surrounded by areas that had higher MSA ratings. At the last minute, word came from the chairman of the Appropriations Committee that there would be an objection to including language in our conference report because it was not included in either bill—in the House or in the Senate. That does make it subject to a point of order, so we had a discussion. I went to the office of the chairman of the Appropriations Committee, Senator BYRD, and did my best to persuade him

to make an exception in this case because of the extraordinary hardship. Senator BYRD, understandably, declined.

We then talked about bringing the matter forward in the supplemental appropriations bill. I thought it highly likely that, given the immediate history, we could accomplish this accommodation, this correction, in this appropriations bill. The House of Representatives came forward, and the House leadership on the Ways and Means Committee and the House leadership generally agreed with Congressman SHERWOOD, who represents these counties in northeastern Pennsylvania in the House of Representatives, and also Congressman PHIL ENGLISH, who represents Mercer County, that these were indeed meritorious—not that there were not other counties that had similar problems, but these counties were meritorious and should have a change in the MSA.

When the matter reached the Senate floor and I filed an amendment to have a similar result, there was resistance because, after all, it was in the House bill and it could be taken up in conference. It is custom on a matter that a colloquy was entered into between Senator BYRD and myself, and Senator BYRD said he would give every consideration to it in the conference.

It is true that there are other places in the United States that have problems, but I believe none is so pressing as what is occurring in these counties in Pennsylvania, as is evidenced by the fact that the leadership in the House of Representatives—as I say, the Ways and Means Committee chairman and the leadership of the House—agreed to these changes.

A week ago today, on July 1, I visited in Wilkes-Barre, PA, at the Gossinger Clinic, with representatives of the hospitals and went over with them the situation that had occurred and asked that they submit memoranda, which showed the extreme plight, which I could then share with my colleagues in the Senate, which I am now doing, and it will be in the CONGRESSIONAL RECORD for everyone to see.

A memorandum prepared by Bernard C. Rudegeair of the Greater Hazleton Health Alliance pointed out the following:

With competing institutions located within a 30- to 60-minute drive from our front doors—and able to pay up to \$4 per hour more to attract staff—the Greater Hazleton Health Alliance has experienced an out-migration of clinical staff to those areas.

In the last 18 months, 52 employees—including registered nurses, licensed practical nurses, pharmacists, radiology technologists and physical therapists—have resigned.

Then he goes on to say:

Nearly three-quarters of our inpatient population are Medicare recipients. It is often difficult for them to find reliable transportation to out-of-town healthcare facilities.

So they are serviced at Greater Hazleton causing these hardships and losses.

The senior vice president of operations at Geisinger Wyoming Valley Medical Center, Conrad W. Schintz, wrote on July 3 as follows:

There are 10 vacancies in the support departments, such as laboratory and radiology. A significant factor in these vacancies is the higher wages and benefits that are paid in the Philadelphia and New York metropolitan areas that are within a 2.5 hour drive from our hospital.

Similar concerns were noted by the Community Medical Health Care System of Scranton, PA, where Dr. C. Richard Hartman, president and CEO, wrote a detailed memorandum, a part of which is as follows:

Community Medical Center Healthcare System's exit interviews with employees indicate greater opportunities outside the MSA.

The hospital currently has 67 openings, 45 full-time-equivalent positions, and further noted the problems with retaining nurses there.

Similar concerns were expressed in a memorandum from Mr. William Roe, vice president of finance for the Moses Taylor Health Care System, pointing out that "while 30 percent of all hospitals in Pennsylvania had negative total margins for the 3-year period between 1999 to 2001, nine (9) of the thirteen (13) hospitals located in this MSA have had negative total margins."

Then the memorandum from Mr. Roe goes on to point out the difficulties which have occurred as a result of out-migration of medical personnel.

Similar comments were made by Vice President William J. Schoen of Allied Services from Clarks Summit who points out:

Pocono and Allentown area hospitals are recruiting [our] workers by offering more generous wage and benefit packages.

Of course, that is made possible by the higher reimbursement because the MSA area is different.

A similar note was offered by Mr. James E. May, president and chief executive officer of Mercy Health Partners who pointed out:

The Scranton/Wilkes-Barre/Hazleton MSA is surrounded by facilities with significantly higher Medicare reimbursements.

The balance of his memo, which I will ask be printed in the RECORD, details further the difficulties which his hospital system faces.

The Wyoming Valley Health Care System, in a letter dated July 5 from Dr. William Host and Mr. Michael Scherneck, the president and chief executive officer and the senior vice president and chief financial officer point out the problems in retaining registered nurses because of the lower MSA which the Wyoming Valley Health Care System has.

CEO Robert Spinelli from Bloomsburg Hospital wrote to my executive director in Harrisburg, Andrew M. Wallace, dated July 3:

The current wage index rates have contributed to three years of deficit income, which has resulted in the inability to recruit qualified staff.

The Wayne Memorial Hospital, which is in the Newburgh, NY, area in a letter from director of finance, Michael J. Clifford, dated July 3 made the same point:

The increase in Medicare payments that would result from this change in MSA to Newburgh, New York, would mean approximately \$450,000 of additional Medicare reimbursement for Wayne Memorial.

Tyler Memorial Hospital in Tunkhannock, PA, sent a memorandum expressing the same basic point.

A similar letter has been submitted by the Marian Community Hospital by Chief Financial Officer Thomas L. Heron from Carbondale, PA.

Mr. President, I ask unanimous consent that these memoranda and letters all be printed in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.
(See exhibit 1.)

Mr. SPECTER. These letters set forth in some detail, Mr. President, which I will not take the time to read now, but the theme is the same. These are hospitals in great financial distress. These are hospitals which are serving an aging population in northeastern Pennsylvania. Similar circumstances exist in Mercer County. The way to correct this is to make the adjustment which is present in the House bill which can be accomplished by the Senate receding to the House position.

As I say, last year on our conference report, we had agreed among the conferees to make the adjustment, and then did not proceed in that way because there was a technical problem with the provision not having been included in either bill. But this year, the leadership of the House of Representatives has included these corrections for these areas, and now I call upon my colleagues on the Appropriations Committee to recede and I call upon my colleagues in the full Senate to approve a conference report which will include these very important corrections for these six counties in Pennsylvania which perform great service. But because of their being surrounded by other hospitals with MSAs, metropolitan statistical areas giving greater reimbursement, they cannot compete with nurses and other medical personnel.

I thank the Chair. I yield the floor.

EXHIBIT 1

POINTS FOR CONFERENCE COMMITTEE ON WAGE INDEX—BERNARD C. RUDEGEHR, GREATER HAZLETON HEALTH ALLIANCE

With competing institutions located within a 30- to 60-minute drive from our front doors—and able to pay up to \$4 per hour more to attract staff—GHHA has experienced an outmigration of clinical staff to those areas.

In the last 18 months, 52 employees—including registered nurses, licensed practical nurses, pharmacists, radiology technologists and physical therapists—have resigned. More than half of them cited the opportunity to earn higher wages at other hospitals as the reason for their departure.

And though our staff is mobile and may be willing to commute up to an hour for a more lucrative position, our patient base is not.

Nearly three-quarters of our inpatient population are Medicare recipients. It is often difficult for them to find reliable transportation to out-of-town healthcare facilities.

As of July 1st, our malpractice insurance increased nearly 50 percent. Staff continues to find opportunities elsewhere, driven by higher wages and attractive sign-on bonuses. We have been forced to adjust salaries to stay competitive. That has had a significant impact on our bottom line—a \$3.2 million loss in fiscal year 2000.

In this new age of domestic security awareness, our hospitals have become even more important fixtures in our communities. In the event of a tragedy or terrorist event (a nuclear power plant is located just miles away), our communities would look to our hospitals, not only as sources of emergency medical care, but as places of refuge, information and comfort.

Our elderly patients are the ones who need us most. Many of them toiled in the local coal mines and served our country in foreign wars. Their strong work ethic and love of country has often led to illness and injury that will plague them for the rest of their lives. This is a proud population that we are committed to caring for far into the future.

GEISINGER HEALTH SYSTEM,
Wilkes Barre, PA, July 8, 2002.

Senator ARLEN SPECTER,
Scranton, PA.

DEAR SENATOR SPECTER: Thank you very much for your continued work on the Metropolitan Statistical Area (MSA) Amendment Issue. This is a most important topic for the future well-being of hospitals in Northeastern Pennsylvania, including Geisinger Wyoming Valley Medical Center.

There are a number of ways in which Geisinger Wyoming Valley Medical Center is currently disadvantaged due to our region's rural designation for Medicare reimbursement.

Our area is losing a tremendous amount of health care professional talent to neighboring areas with urban classifications and higher wage and salary structures. RNs R Us advertised in the Wilkes-Barre last week specifically to transport nurses to both the Allentown and Philadelphia areas. Geisinger Wyoming Valley Medical Center recently lost one registered nurse to the Philadelphia area and two registered nurses to Sacred Heart Hospital in Bethlehem for better wages.

Despite our intensive recruitment efforts over the past 6-12 months, it is obvious that we cannot recruit nurses from the Allentown/Bethlehem area due to the higher wages offered in that area.

Geisinger Wyoming Valley Medical Center and other local hospitals have lost numerous nurses over the years to Philadelphia hospitals—where the nurses work two, 16 hours weekend shifts, receive full time wages and full time benefits.

Geisinger Wyoming Valley experienced a 47% increase in insurance costs from the previous year (\$1.8 to \$2.7 million).

Uncompensated Care for fiscal year 2002 (annualized May) at Geisinger Wyoming Val-

ley Medical Center is approximately \$2.4 million. This includes charity care, bad debt and community services.

Reclassification of the MSA would result in an approximately \$2 million Geisinger Wyoming Valley Medical Center. Such an improvement to our bottom line would allow us to further invest in providing excellent health care for the people of Northeastern Pennsylvania. Once again, thank you for your efforts on our behalf.

Sincerely,

CONRAD W. SCHINTZ,
Senior Vice President/Operations.

COMMUNITY MEDICAL CENTER
HEALTHCARE SYSTEM,
Scranton, PA, July 3, 2002.

Re Wage Index (Medicare), Scranton/Wilkes Barre/Hazleton MSA, Financial Condition of Hospitals.

Senator ARLEN SPECTER,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR SPECTER: I want to thank you for your commitment expressed July 1, 2002 and your efforts on behalf of the hospitals in the Scranton/Wilkes Barre/Hazleton MSA relative to rectifying the Medicare Wage Index issue. As requested, and knowing of your active interest and efforts in attempting to find solutions to restoring the financial viability to the hospitals of Northeastern Pennsylvania, I am writing to you on the issue and request your continued assistance and support. The events of September 11 and bioterrorism threat have reinforced the need to ensure that the healthcare delivery system's infrastructure of Northeastern Pennsylvania, by virtue of its location to multiple major metropolitan areas, remains intact.

Nationally, operating margins of hospitals continue to exceed that of Northeastern Pennsylvania. The Voluntary Hospital Association's (VHA) HBS International benchmarking system is reporting a 3.7% operating return nationally and a 2.6% Mid-Atlantic Region for 2001. Pennsylvania continues to be viewed negatively on Wall Street, thus placing access to capital in jeopardy. Moody's short term forecast cites risk and uncertainty arising from the sector.

Healthcare providers here in Northeastern Pennsylvania have not received adequate, fair reimbursement under the Medicare Program. Our facilities have been and continue to be penalized for managing the costs of delivering healthcare in light of this. The May 2002 release from the Pennsylvania Health Care Cost Containment Council's Annual Report on the Financial Health of Pennsylvania's Hospitals regarding the Fiscal Year 2001 financial performance confirms this. According to the report, Pennsylvania's average operating margin is 2.1%. Region 6 facilities, which include Northeastern Pennsylvania and the majority of Scranton/Wilkes Barre/Hazleton MSA hospitals, collectively produced an average negative 1.51% operating margin, the worst in the Commonwealth.

As requested, I am providing you some specific information relative to Community Medical Center, Scranton, PA, and my concerns despite CMC's ability to continue to provide access to vital services to our community as of this date. CMC provides many tertiary and secondary services including being the Regional Trauma Center, and Cardiac Surgery, Neurosurgery, Neonatal Intensive Care Program, etc. CMC incurred a \$3.1 Million operating loss during Fiscal Year 2001 and will be posting another year of operating losses this year. CMC's Net Patient

Service Revenue Per Adjusted Discharge, when compared against similar facilities, is approximately \$1,200 per adjusted discharge less. (Note: CMC's annual adjusted discharges approximates 20,000.) With respect to Medicare reimbursement above, CMC receives significantly less than others providing the same services in surrounding MSAs. The need to retain our talent critical to these highly specialized services cannot be underestimated.

Medicare—Base Rate: CMC's current Medicare Base Rate is \$3,708; July 1, 1984's Medicare Base Rate was \$3,421.

Net increase over 18 years to CMC: \$287; 8.4% change over 18 years.

Re: Not kept pace with inflation, wage increases, technology etc. A comparison of all MSA's Base Rates (today vs 1984) would demonstrate Northeastern Pennsylvania's dilemma. In the material attached, you will find a graphical representation of CMC's Medicare Base Rate vs the Market Basket Increase. A lot has happened in healthcare since 1984.

In addition, the uncertainty surrounding the further regulations (HIPAA) effects of the new Outpatient Prospective Payment System and proposed less than Market Basket increases for FY 2003 make this initiative critical for NEPA.

I am disappointed to learn that without this "area adjustment", based on the Preliminary regulations (Federal Register Vol. 67, No. 90) and despite the collective efforts of the fiscal intermediary, and the hospitals in the Scranton/Wilkes Barre/Hazleton MSA, our Medicare Regional Wage Index, a critical variable in calculating Medicare reimbursements to providers in projected to not exceed the rural wage index for all of Pennsylvania (.8525).

The issues facing Northeastern Pennsylvania hospitals include:

Immediate financial pressures on "core operations", medical malpractice crisis. CMC's medical malpractice increase alone on the primary layer went from \$512K to \$1.2 Million on 9/1/01 and our carrier has exited writing medical professional liability insurance in our Commonwealth. In addition, number of our physicians (OB) have retired or left the state to practice elsewhere (e.g., Neurosurgery) as a result of the increases. We are concerned with what we face I just over 2 months (anticipate > 100% increase) in addition to the continued exportation of talent.

Labor/Wage pressures as a result of shortages, retention needs, and an industry need to attract talent. CMC's exit interviews with employees indicate greater opportunities outside the MSA. For example, a significant number of vacancies exist at CMC. Currently CMC has 67 openings (45 FTEs). CMC's RN vacancy rate is 18%. Recruitment activity from outside the MSA is commonplace. CMC has seen a 15% RN turnover rate.

Dramatic reductions (greater than 2x anticipated) in Medicare reimbursement along the delivery continuum as a result of the Balance Budget Act ("BBA") of 1997 with a partial return of the excess reduction retrieved through the Balanced Budget Refinement Act and BIPA.

Managed Care ("cost") pressures on operating margins through a variety of techniques including the domination of few payers, utilization management, and further reimbursement pressures.

Soaring pharmaceutical expenditures and new technological introductions at a rate far in advance of appropriate reimbursement recognition with little supply side pricing constraints.

An increase in uncompensated care being provided by our hospitals, in particular our Trauma Center. In addition, access to services such as CMC's trauma services, given the malpractice crisis, for our community is threatened. CMC has incurred in excess of \$5 Million in uncompensated care year-to-date.

Employer Health Insurance premium cost are increasing in the double digit ranges (Financing Side of the System) with limited or no relief to hospitals (Delivery System) as providers of care for such cost exigency.

The financial market's performance that its effect on earnings and cash reserves of the organization directly limiting our ability to plan for and reinvest in facilities, etc.

In closing, thank you for the opportunity to express my concerns for our delivery system and allowing the expression of the desire that a fair, adequate return be provided to hospitals, specifically here in Northeastern Pennsylvania, which have served the residents of Northeastern Pennsylvania with quality, cost effective healthcare. The economic impact of the healthcare system on Northeastern Pennsylvania is significant.

As you have seen day in and day out, our healthcare delivery system in Northeastern Pennsylvania is undergoing rapid change and challenges. As such, time is of the essence within this marketplace. I look forward to your support and successful outcome in the Conference Committee. Feel free to contact me should you require further information.

Sincerely,

C. RICHARD HARTMAN,
President/CEO.

MOSES TAYLOR
HEALTHCARE SYSTEM,
July 8, 2002.

MEMO

ReMSA Amendment

Senator ARLEN SPECTER.

Several important factors highlight why the thirteen hospitals located in the Wilkes-Barre Scranton Hazleton-MSA need relief. Reports produced by the Pennsylvania Health Care Cost Containment Council (PCH4) and the American Hospital Association indicate that all of the hospitals are very efficient and effective healthcare institutions. Despite that fact this region has suffered losses substantially above both the state and national level.

The Financial Analysis of all Pennsylvania Hospitals is a report produced by PHC4. The most recent report shows that while thirty (30) percent of all hospitals in Pennsylvania had negative total margins for the three year period between 1999-2001, nine (9) of the thirteen (13) hospitals located in this MSA have had negative total margins.

Every hospital in the MSA has had a negative operating margin over that period. These losses are causing a significant reduction in the capital base of the institutions in this MSA. An MSA where over 45% of the Net Patient Revenues are provided by Medicare patients.

In the AHA Hospital Statistics guide from 2001, the efficiency of the Hospitals in this MSA is apparent.

In terms of the total labor expense per adjusted inpatient day, the MSA is 25% below the national average and 22% below the state average. (MSA—\$826.92, United States—\$1,102.61, Pennsylvania—\$1,052.53).

In terms of total full time equivalent personnel compared to volume the MSA also compares favorably. The MSA utilizes 15% less FTE's than the nation and 12% less than the state. (MSA—4.01 fte's per adjusted occupied bed, United States 4.61, Pennsylvania 4.52).

This MSA has very efficient, very effective hospitals (see the Hospital Performance report published by PHC4) that are losing significant amounts of money while serving the Medicare population.

In addition to losing significant amounts of capital, the MSA like the nation is undergoing a nursing shortage. Every institution in the MSA has a number of open nursing positions, especially RN's. The situation is exacerbated by the fact that most if not all of the adjacent MSA's advertise locally for nurses. Ads appear on a regular basis from Allentown, Philadelphia, Harrisburg, and Monroe County each extolling the fact that they can offer higher wages. This has forced the local hospitals to use agency nurses at considerable expense.

As I am sure, you are aware CMS recognizes that there are issues with the data used for the wage index. For one example most if not all hospitals in our MSA, employ their own dietary and housekeeping personnel and provide benefits to these positions. This decision actually hurts our wage index number as many other areas of the country now contract for those services. Quoting from the Federal Register of May 9th page 31433, "Therefore, excluding the costs and hours of these services if they are provided under contract, while including them if the services are provided directly by the Hospital, creates an incentive for hospitals to contract for these services in order to increase their hourly wage for wage index purposes." I do not believe that the Congress intended the wage index to drive low hourly rate employees off hospital payrolls.

There are other examples including the amount and type of administrative personnel that affect the wage index. We believe that several of the proposed alterations to the data collection process for the wage index will help to address some of those concerns. However, our MSA cannot wait for these measures to take effect, the wage index currently lags 3 to 4 years behind the current data. Any substantive change will take at least 5 to 7 years to make an impact on the payments to our MSA. We need help now.

Thank you for your efforts in this regard.

WILLIAM ROE,
Vice President of Finance.

ALLIED SERVICES,
Clarks Summit, PA, July 1, 2002.

Hon. ARLEN SPECTER,
Hart Senate Office Building,
Washington, DC.

SENATOR SPECTER: The following are some information points regarding the wage index and how a re-classification would aid Allied Services:

As northeastern Pennsylvania's largest rehabilitation medicine provider, Allied experiences a high volume of patients covered under Medicare. This, coupled with a low wage index rate, impacts Allied's ability to recruit and retain healthcare workers. Re-classification to the Newburg, NY, MSA would provide over \$6 million in additional funds while re-classification to Allentown adds over \$3 million for use in employee recruitment/retention programs.

Pocono and Allentown area hospitals are recruiting NEPA workers by offering more generous wage and benefit packages. This is being promoted through ads in local newspapers, on radio stations and on billboards. This impacts our workers as recruitment for healthcare workers is extremely difficult. This problem is further exacerbated when competing providers recruit away workers thanks to their higher wage rate reimbursements.

Despite staff shortages, the need to provide services continues to be high. This is particularly so given the large elderly population in northeastern Pennsylvania. A wage rate re-classification is a fair way to "level the playing field" for healthcare providers.

In 2001, Allied Services provided \$2,751,610 in charity care/uncompensated care and governmental subsidy. Services are provided without regard to patients' abilities to pay. This impacts Allied's financial health.

Hopefully, this helps outline some important points regarding the wage index issue. All of us here thank you for your work on this issue and stand ready to assist in helping you achieve a successful conclusion.

Sincerely,

WILLIAM J. SCHOEN,
Vice President.

MERCY HEALTH PARTNERS,
Scranton, PA, July 3, 2002.

Hon. ARLEN SPECTER,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR SPECTER: I want to thank you and Congressman Sherwood for meeting with the representatives of all the hospitals in Northeastern Pennsylvania on June 1, 2002. Your continual efforts in seeking a resolution to our Medicare wage index problem, and in particular your support of Congressman Sherwood's amendment to the 2002 Supplemental Appropriations Bill, is critical for the survival of our hospitals.

The Scranton/Wilkes-Barre/Hazleton MSA is surrounded by facilities with significantly higher Medicare reimbursement. Our hospitals have struggled for many years now with an unfair Medicare reimbursement rate. We at Mercy have continued to lose health professionals to other regions around us. On a weekly basis our local newspapers carry employment ads recruiting these individuals from our facilities as well as local colleges and universities outside our area. An example of these ads are attached for your review. Even billboards have sprung up within our MSA such as the one discussed in the November 11, 2001 Times Leader. I have attached this as well to illustrate our point.

Our problem will further deteriorate when the proposed Fiscal Year 2003 wage indexes based on our 1999 fiscal year that we were published in the May 2002 Federal Register are finalized in September 2002. Our MSA has once again fallen below the Pennsylvania rural rate. This has occurred from 1999 through 2001, a period when employment expenses have risen 14%.

This will put even greater pressure on our institutions which in turn jeopardizes the quality of care that our institutions provide to our communities in general and our large Medicare age population in particular.

This reduction could not come at a worse time. Per the most recent Pennsylvania Cost Containment Council Financial Analysis. Our region, Region 6-Northeastern Pennsylvania, had the worst operating margin of all Pennsylvania Hospitals—1.51% and a total margin at -0.23%. I have attached this report for your review as well.

These statistics are even more eye-opening when you compare them to national averages. The average total margin for hospitals across the country is 4.5% based on the latest American Hospital Association data in conjunction with the Center for Medicare Services.

In closing, I would like to once again emphasize the importance of this legislation and its impact on the Mercy Health System. Listed below is our Net Operating Income for

our last three fiscal years and the first five months of 2002.

FY 1999 (\$1,827,000).

FY 2000 (\$7,071,000).

FY 2001 (\$6,001,000).

May 2002 (\$2,582,000).

These net operating losses couples with competition in recruitment from surrounding areas make it imperative that this legislation be passed.

Thank you again. I hope this information will be helpful as you work on our behalf.

Sincerely,

JAMES E. MAY,
President and Chief Executive Officer.

WYOMING VALLEY, HEALTH CARE
SYSTEM, WILKES-BARRE GENERAL
HOSPITAL,
Wilkes-Barre, PA, July 5, 2002.

Hon. ARLEN SPECTER,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR SPECTER: On behalf of Wyoming Valley Health Care System, Its Board of Directors, and the entire Wilkes-Barre/Scranton community, we would like to thank you for the efforts that you, Representative Sherwood, and your respective staffs have committed to addressing the disparity caused by the Medicare wage index.

While you certainly have developed an appreciation for the challenges facing the hospitals in our region, we would like to share with you the following points that we believe are relevant to our situation:

WVHCS-Hospital (comprised of Wilkes-Barre General Hospital and Nesbitt memorial Hospital), the largest provider in both the Scranton/Wilkes-Barre Metropolitan Statistical Area and the Northeastern Pennsylvania region (Region 6) as defined by the Pennsylvania Health Care Cost Containment Council (HC⁴), has suffered operating deficits in each of the fiscal years since the year ended June 30, 1998. The smallest operating deficit was \$5,542,000 in 1998, and the operating loss for the year just ended is expected to exceed \$10,000,000.

In the face of adversity, our Hospital has done everything possible to manage the extent of those losses, including numerous staff reductions. The total number of paid full time equivalents (FTE's) for 1998 was 2,708 FTE's. As of May 31, 2002, that figure had dropped to just over 1,809 FTE's, a reduction of almost 900 FTE positions.

Medicare beneficiaries account for almost 3/4's of the inpatient days within our Hospital. Furthermore, the Medicare payment program has become the basis for several other payment programs in the Commonwealth of Pennsylvania, including auto insurance and workers compensation services. There is no opportunity for a shortfall in Medicare payments to be absorbed by other payers, which had led to our significant operating deficits.

Luzerne and Lackawanna counties have the highest concentration of Medicare beneficiaries of all counties throughout the Commonwealth of Pennsylvania with populations of 200,000 residents or greater. And, the proportion of Medicare beneficiaries within those counties are among the highest of any major county throughout the country.

Based upon data presented by the HC⁴ for the 2001 fiscal year, seven of nine regions within Pennsylvania enjoyed positive operating results ranging from 0.81% (Northwestern Pennsylvania) to 3.75% (Lehigh Valley). Altoona area hospitals experienced a slight operating deficit of -0.27%. Most notable in the most recent HC⁴ release was the

fact that hospitals in Northeastern Pennsylvania were faced with operating deficits averaging -1.51% of revenue.

Of the 13 hospitals within our metropolitan statistical area, the four largest providers experienced operating deficits ranging between -2.56% and -4.81%. Five of the remaining nine hospitals also experienced significant operating deficits.

As the largest hospital in Luzerne County, and sponsor of a very active family practice residency program, WVHCS-Hospital provides a significant amount of free care. For the year just ended, it is estimated that WVHCS-Hospital provided uncompensated care valued at over \$6,000,000. In addition, there were almost 18,000 patient encounters within our family practice residency program, the majority of which were to Medical Assistance or other uninsured/underinsured patients who otherwise would have ended up in emergency rooms.

Under the current rules, Medicare applies the wage index to about 71% of the average hospital's non-capital cost pool. Based upon our calculations, the portion of our costs to which that index should be applied is estimated to be far less, approximately 58%. The result is that areas like ours, where the wage index is less than 1.00, are paid less than cost for a portion of their supply expenses.

For the 2002 fiscal year, we have experienced registered nurse (RN) staffing turnover approximating 15% of our total RN pool. This is driven by the fact that the average wage rate which we can afford to offer for a registered nurse is \$20.28, well below other contiguous metropolitan statistical areas. In addition, the current vacancy rate for certified registered nurse anesthetists is 25%. Despite the fact we operate one of the largest and most successful schools of nurse anesthetists in the nation, surrounding areas are paying \$5 to \$6/per hour more than our region.

Registered nurses are not the only area of need with which we are faced. For example, radiology/imaging technologists are earning (an average hourly rate of \$14.88, again, well below other nearby metropolitan statistical areas). The result is that for the first half of 2002, we have experienced almost 20% turnover in imaging technicians, particularly in the areas of nuclear medicine, CT scanning, magnetic resonance imaging (MRI) and general radiology services.

Without additional relief, we are losing staff to surrounding communities!

In addition to these labor related pressures, we are faced with other issues affecting costs including the malpractice insurance crisis, bioterrorism preparedness, as well as, added regulatory requirements under the Health Insurance Portability and Accountability Act (HIPAA). While it is not our intention to redirect wage-related reimbursements to those areas, the fact remains that the amount of funds which we will have available to address our staffing needs will be even further limited.

Once again, we would like to thank you, Representative Sherwood, Representative Kanjorski, Senator Santorum and each of your respective staffs for all of the efforts which you have put into this important cause. In particular, we would like to thank you and Representative Sherwood for spending time with representatives from area hospitals on Monday, July 1, 2002.

We look forward to hearing from you as to when the conference committee hearings will be scheduled as we would like to be present to represent our community and this critical issue.

Sincerely,

WILLIAM R. HOST,

*President and Chief
Executive Officer.*
MICHAEL D. SCHERNECK,
*Senior Vice President
and Chief Financial
Officer.*

THE BLOOMSBURG HOSPITAL,
Bloomsburg, PA, July 3, 2002.

Memo to: Andrew M. Wallace, Executive Director, Northeast Region.

From: Robert J. Spinelli, CEO, The Bloomsburg Hospital, Bloomsburg, PA.

The Medicare Reimbursement issue currently debated is extremely important for The Bloomsburg Hospital. As a community hospital located in Northeast Pennsylvania, the current wage index rates have contributed to three years of deficit income, which has resulted in the inability to recruit qualified staff. In addition, our hospital has had to furlough individuals and not fill positions as vacancies become available.

Your help in this wage index change is greatly appreciated. Thank you.

I will be available to attend the Conference Committee meeting. Please contact me.

WAYNE MEMORIAL HOSPITAL,
Honesdale, PA, July 3, 2002.

Senator ARLEN SPECTER,
Scranton, PA.

DEAR SENATOR SPECTER: Thank you for holding the briefing on the Medicare reimbursement issues and the Wage Index issue in particular. We truly appreciate all your efforts on our behalf to assure that Medicare Reimbursements to providers of services are adequate.

I am summarizing a few of the issues facing us in our fiscal 2003, which began on Monday, July 1, 2002, the same day as your briefing.

We are anticipating an increase in our Medicare payment rate of approximately 3% effective with the beginning of the next federal fiscal year on 10-1-02. The increase is based on a Market Basket increase less .55%, as I recall has been the reduction factor over the last several years. Medicare is saying that, inflation is running 3.55% and we'll give you a 3.00% increase in rates. This makes it extremely difficult to keep net revenues above expenses when by definition, expenses are increasing faster than revenue or rates. Capital costs are included in this same methodology. Wayne Memorial is currently in a planning process that may well identify the need to spend capital dollars. Medicare reimbursement will not change as a result of this capital project and the proposed increase for fiscal 2003 will make it difficult to cover additional debt service on any new debt that may be required.

We have also recently absorbed an 80% increase in our annual General and Professional liability (malpractice) insurance premium that must be paid from this 3% increase from Medicare. We are facing serious physician recruitment issues related to the malpractice crisis here in Pennsylvania, as well. The increase in our malpractice premium will total over \$725,000 on an annual basis. The increase in Medicare payments that would result from this change in MSA to Newburg, New York would mean approximately \$450,000 of additional Medicare reimbursement for Wayne Memorial.

I want to thank you again for your hard work on these serious issues facing healthcare providers in Pennsylvania and hope that all of our efforts, together, can

move us toward a Medicare payment system that is more adequate.

Sincerely,

MICHAEL J. CLIFFORD,
Director of Finance.

Mr. SPECTER. In the absence of any other Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, are we in a period of morning business?

The PRESIDING OFFICER. We are not.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that we now proceed to a period for morning business with Senators allowed to speak therein for a period not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOURTH OF JULY DEDICATION OF THE LOVELL VETERANS MEMORIAL CENTER

Mr. ENZI. Mr. President, all of us are just returning from the Fourth of July recess. It is a grand time, I am sure, across the United States. It was particularly a grand time in Wyoming. I get to go to a lot of parades and fairs and rodeos. It is really our only time outdoors to get a little bit of suntan that, unfortunately, goes from the wrist to the tip of the fingers, and the neck up. But it is a grand time. I want to share with my colleagues one of the adventures of this Fourth of July recess.

I got to be in a place called Lovell, WY. It is in the northern part of Wyoming. They had a dedication of a veterans memorial center that features a huge mural that includes pictures from all of the wars in which we have participated. The mural goes down into a rocky beach that contains rocks from different wars that we have been in as well. They had a dedication of this veterans memorial center.

The dedication was also attended by Commander Lovell, whose town is now his namesake. That is the Lovell of Apollo 13 fame and ingenuity.

Of course, it reminded me of that time in 1957 when the United States realized that we were behind in all of the scientific races. It challenged many of us to improve education in the United States. I think that continues today. The United States met that challenge. I remember when Sputnik went up I was appalled and I immediately became one of those rocket boys, one who

was anxious to learn as much about science and space as possible.

I am pleased to say the Explorer Post that I was in launched a rocket with electronic ignition the second time we did it. We also learned on the first one that you have to clear that with the FAA so you don't shoot down airplanes. There have been a lot changes in that.

I got to go to this parade and dedication of the mural. It was very patriotic. At the beginning, as they unfurled this new flag on a huge new pole, we did say the Pledge of Allegiance. There was a reaction to the previous Wednesday's Ninth Circuit announcement because when the words, "under God" were said, they were louder than the whole rest of the pledge, just as an affirmation that the people of Wyoming were upset with the decision that had been made. But it was that kind of event that makes your heart swell and brings tears to your eyes.

There was a song about heroes sung by elementary students. It reminded me that community, and communities across this country, are made up of heroes. Heroes are just ordinary people who do extraordinary things. Fortunately, in America we have a lot of those.

We are in a rapidly changing world. In April, I had an opportunity to go over to Russia with three interpreters. We worked on an international agreement of cooperation on controlling weapons of mass destruction, on export controls. That meeting was a tremendous shock for me. All the time I was growing up, Russia was our enemy—the Soviet Union where the people were out to get us. I was sitting across the table from their equivalent of the Senate and House talking about cooperation.

I also had an opportunity to meet with some small businessmen while I was over there. I think it was an even bigger shock for them to be talking to a capitalist about free enterprise. I think we will learn a lot from each other as the world changes.

I have to tell you that the people in Russia today have a tremendous amount of respect for us. Part of it comes from the action the United States took in Afghanistan. We did in 1 month what Russia wasn't able to do in 7 years. That did get us some respect.

The rest of the world anticipates that the reason we are able to do things such as that is the tremendous technology we have, the inventions and weapons we have developed. Some people think it is because of this capitalism, of businesses—and businesses deserve tremendous applause for the role they have played.

Since there was a parade that day and a lot of Tootsie Rolls were thrown out to the kids along the streets, it reminded me that Tootsie Rolls had been a part of every war since World War II.

That company has donated Tootsie Rolls. It is one of those chocolates that don't melt in the heat. For Afghanistan, they donated eight semis loaded with Tootsie Rolls. But I also heard about a little event that happened in Korea. They used to be able to call in the plane, and the plane would dump Tootsie Rolls on little parachutes. But one day, they got a little confused on the code word, and when a bombing run was called in on North Korea, they used Tootsie Rolls for the code word for it, and the North Koreans had Tootsie Rolls dropped on them.

We have businesses that participate in all kinds of ways in making sure our country is a better country. But what they usually miss in all of the discussions about why America is great doesn't have to do with technology. It doesn't have to do with capitalism. It has to do with the people. As a people, we have developed over the years of our existence the promotion to the rest of the world of the kind of government that works, and that has worked better and longer than any other government. But it isn't the Government either. It is the people. We have people who have values, enthusiasm, ideas, and community.

That came out on September 11. On September 11, there were a lot of people around the world who were pretty sure there was a major tragedy which hit this country and that we would fall apart. Instead, what they saw was America coming together. We came together with a sense of community which they didn't expect, with patriotism that has been unequalled, I think, in our history, with voluntarism, and, most of all, faith. Those are the things that make us different from the other countries. Those are the things that have made us great.

It is exciting to have an opportunity to participate in ceremonies, such as the Lovell Veterans Memorial Center dedication.

I ask unanimous consent that the speech of MG Ed Boenisch, Adjutant General of the Wyoming Military Department, given at that dedication be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEDICATION—LOVELL VETERANS MEMORIAL CENTER, JUNE 29, 2002

SPEECH BY MAJ GEN ED BOENISCH, ADJUTANT GENERAL, WYOMING MILITARY DEPARTMENT

I'm honored to be here sharing the podium with an astronaut. I'm proud to be here with proud civic leaders, citizens and veterans who make dreams a reality.

Today renews my hope and faith in the spirit of America and in our great flag and the freedoms it represents. This spectacular memorial is a fitting honor to the men and women who sacrificed so we can be here today, free and safe.

Today is 29 June 2002. It's been 291 days since terrorists attacked our country. Remember all the innocent civilians who were

killed that terrible day. It's been 265 days since we began our Global War on Terrorism. Remember the 51 U.S. military men and women who have died in that war. Remember all those who are deployed today, fighting our War on Terrorism so our country and our world can be safe for our children and our grandchildren.

I am so encouraged when I see the spirit of Americans manifested in displays of patriotism, respect and remembrance, especially with a beautiful and permanent display such as this Lovell Veterans Memorial Center.

Thank you for having such a grand and beautiful dream! Thank you for your financial contributions and hard work to make this a reality. Thank you for remembering!

May God bless you!

May God bless America!

Mr. ENZI. Mr. President, I ask unanimous consent that the speech which Commander Lovell gave at that ceremony be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEDICATION OF VETERANS MEMORIAL CENTER, JULY 29, 2002, LOVELL, WYOMING

LADIES AND GENTLEMEN: My son Jay and I want to thank the people of Lovell for the wonderful hospitality we received during our visit—and it is an honor for me to say a few words in the dedication of Veterans Memorial Center honoring the men and women who served in our Armed Forces.

In 1944, Journalist Ernie Pyle wrote these words to describe the beginning of the Normandy invasion.

"Darkness enveloped the whole American armada. Not a pinpoint of light showed from those hundreds of ships as they surged on through the night toward their destiny, carrying across the ageless and indifferent sea tens of thousands of young men, fighting for . . . for, well, at least each other. For Americans, these words paint a picture of the fear and confusion surrounding soldiers on the eve of battle. Yet, they also impart the sense of determination those young men must have felt. Through his words, Ernie Pyle puts us in touch with our understanding of who we are and how we came to be a nation.

Even more, these words impel us to remember the cost of bringing America this far and also forces us to admit the price is not yet paid in full. This is what the dedication of the Veteran's Memorial symbolizes—when the people of Lovell can take a clear look at both your past and your future. And acknowledge the debt we owe to those men and women who—because they so cherished peace—chose to live as warriors.

Could anything be more contradictory than the lives of our servicemen? They love America, so they spend long years in foreign lands or at sea far from her shores. They revere freedom, so they sacrifice their own that we may be free. They defend our right to live as individuals, yet yield their individuality in that cause. Perhaps most paradoxically of all, they value life, and so bravely ready themselves to die in the service of our country.

For more than 220 years our military has provided a bastion against our enemies. In that time, our world has changed and our armed forces have changed with it, but the valor, dignity, and courage of the men and women in uniform remain the same. From Valley Forge to Enduring Freedom, from San Juan Hill to Pearl Harbor, the fighting spirit of the American Serviceman permeates the history of our nation.

The founders of the United States understood that the military would be the rampart from which America would guard its freedom. George Washington once stated, "By keeping up in Peace a well regulated and disciplined militia, we shall take the fairest and best method to preserve for a long time to come the happiness, dignity and Independence of our country." The prophecy of those words has been fulfilled time and again.

The cost of that vision has been tremendous, for the periods of peace our country has enjoyed are few. The longest time of complete tranquility for our armed forces was the 23 years between World Wars One and Two. Since the Revolutionary War, more than 42 million men and women have served in America's military. More than 600,000 of those dauntless, selfless warriors died in combat.

But why are we so seemingly willing to fight and, if need be, to die? The answer to that question is as simple—and yet as complex—as the soul of America itself. We fight because we believe. Not that war is good, but that sometimes it is necessary. Our soldiers fight and die not for the glory of war, but for the prize of freedom. And, the heart of America is freedom, for ourselves and all nations willing to fight for it. Yes, the price is high, but freedom is a wealth no debt can encumber.

But, what of the soldiers whose death has brought the liberty of our nation? Soldiers who did not even enjoy the status of veteran? They were all different; yet share a sameness that is deeper than the uniform they wore. They were black, white, man, woman, Hispanic, Indian, Asian, Catholic, Jewish, Protestant, Buddhist, Muslim, and a hundred other variations and combinations. What is most important—regardless of race, creed, color, or gender—they were American.

These courageous men and women, each so different in heritage and background, shared the common bonds of the armed forces—duty and sacrifice. All of them reached a moment in their lives when race and religion, creed and color made no difference. What remained was the essence of America—the fighting spirit of a proud people. They are servicemen who paid the price for freedom.

As we dedicate this memorial to the brave veterans of the past, we must also look to the future. In today's world, of terrorism freedom comes cloaked in uncertainty. America still relies on her sons and daughters to defend her liberty. The cost of independence remains high, but we are willing to pay it. We do not pay it gladly, but we pay it with deep reverence and thanks to those who have sacrificed their lives for America. We know that in the years to come, more brave souls will sacrifice their lives for America. We should include them in our thoughts when we view this symbol of freedom.

Let me conclude my remarks by reading a few excerpts from a letter that exemplifies why we honor our people in uniform. It was written by Sullivan Ballou, a Major in the 2nd Rhode Island volunteers, to his wife Sarah a week before the battle of Bull Run.

Dear Sarah: The indications are very strong that we shall move in a few days—perhaps tomorrow. Lest I should not be able to write again, I feel impelled to write a few lines that may fall under your eye when I am no more. Our movements may be of a few days' duration and full of pleasure—and it may be one of some conflict and death to me. If it is necessary that I should fall on the battlefield for my Country, I am ready.

I have no misgivings about, or lack of confidence in the cause in which I am engaged, and my courage does not halt or falter. I know how American Civilization now leans on the triumph of the Government, and how great a debt we owe to those who went before us through the blood and sufferings of the Revolution. And I am willing—perfectly willing—to lay down all my joys in this life, to help maintain this Government, and to pay that debt.

Sarah my love for you is deathless, and yet my love of Country comes over me like a strong wind and burns me unresistably on to the battlefield.

The memories of the blissful moments I have enjoyed with you come crowding over me, and I feel most gratified to God and to you that I have enjoyed them so long. And it is hard for me to give them up and burn to ashes the hopes of future years, when God willing, we might still have lived and loved together, and seen our sons grown up to honorable manhood. If I do not return my dear Sarah, never forget how much I love you, and when my last breath escapes me on the battle field, it will whisper your name. Forgive my many faults, and the many pains I have caused you. How thoughtless and foolish I have often been.

But, O Sarah! If the dead can come back to this earth and flit unseen around those they loved, I shall always be near you; in the brightest days and in the darkest nights, always, and if a soft breeze falls upon your cheek, it shall be my breath, as the cool air fans your throbbing temple, it shall be my spirit passing by. Sarah do not mourn me dead; think I am gone and wait for me, for we shall meet again.

Sullivan Ballou was killed a week later at the First Battle of Bull Run.

That is why I am proud to be in Lovell, today to participate in the dedication of the Veteran's Memorial honoring the men and women who served our country.

Mr. ENZI. Mr. President, I know it was a great day across America when we celebrated the Fourth of July. I look forward to the future Fourth of July and the daily events when patriotism and community and faith are shown in our country.

TRIBUTE TO CAPTAIN (SELECT) BENNY G. GREEN, U.S. NAVY

Mr. LOTT. Mr. President, I wish to take this opportunity to recognize and say farewell to an outstanding Naval Officer, Captain Benny Green, upon his change of command from Special Boat Unit Twenty-Two. Throughout his career, Captain Green has served with distinction. It is my privilege to recognize his many accomplishments and to commend him for the superb service he has provided the Navy, the great State of Mississippi, and our Nation.

Captain Green enlisted in the Navy in September 1972. After an initial tour at the Aircraft Intermediate Maintenance Department at Barbers Point, Hawaii, he attended Basic Underwater Demolition/SEAL Training in Coronado, California, and graduated with class 83, for further assignment to SEAL Team One. Captain Green re-

ceived a Bachelor of Science Degree from the University of Louisville in 1980, and was commissioned an Ensign in 1981. He attended flight school at Pensacola Naval Air Station and upon graduation was assigned to Fighter Squadron Eleven at Naval Air Station, Oceana, VA as a Radar Intercept Officer. He flew numerous combat missions over Lebanon in response to the 1983 terrorist bombing attack of the Marine Barracks in Beirut. In February 1985, Captain Green returned to the Special Forces and was assigned to SEAL Team Four, in Little Creek, VA, as the Platoon Commander of the newly formed Sixth Platoon. In his next assignment, Captain Green was a plank owner of SEAL Delivery Vehicle Team One Detachment Hawaii, on Ford Island, Oahu, HI, where he served as Dry Deck Shelter Platoon Commander. Other operational tours in Naval Special Warfare include: Dry Deck Shelter Department Head, SEAL Delivery Vehicle Team Two; Operations Officer, SEAL Delivery Vehicle Team Two; Maritime Special Purpose Force Commander for Central Command Amphibious Ready Group 3-91; Executive Officer, SEAL Delivery Vehicle Team Two; Naval Special Warfare Task Unit Commander for the Theodore Roosevelt Battle group 1-96; Operations Officer, Naval Special Warfare Group Two; Chief Staff Officer, Naval Special Warfare Group Two; and Requirements Officer for Naval Special Warfare Development Group. Captain Green also completed a joint tour as the Counter-narcotics and Maritime Officer, Special Operations Command, Pacific.

As Commanding Officer, SBU-22, Captain Green's leadership firmly established his unit as the premier facility to train special operations forces in the riverine environment. His determination and oversight hastened the construction of new state-of-the-art facilities that provide for the training in the maintenance and repair of combatant craft, an armory, a supply building, a swim training tank, and a detachment building/administrative headquarters, with plans under development for a land-water range, a 30-unit housing facility, and a mini Navy Exchange/gas station. His rapport with senior military leadership was essential to theater commander exposure to SBU-22 capabilities in support of Special Operations Forces, SOF, throughout the world. During his tenure, SBU-22 hosted two major Joint Combined Exchange for Training, JCET, exercises, executed 13 counter-drug missions in South America, and trained over 450 foreign military personnel in all facets of riverine operations. His realignment of the Combatant Craft Training Curriculum fully addresses the requirements of the Naval Special Warfare Force-21 initiative and is typical of the exceptional foresight Captain Green demonstrated throughout

his tour as Commanding Officer of SBU-22. His vast Special Operations experience proved to be a major resource in the identification, testing and implementation of the new Special Operations Craft-Riverine, SOC-R, that promises to revolutionize riverine tactics and capabilities.

Throughout his distinguished career, Captain Green has served the United States Navy and the Nation with pride and excellence. He has been an integral member of, and contributed greatly to, the best-trained, best-equipped, and best-prepared naval and special operations forces in the history of the world. Captain Green's superb leadership, integrity, and limitless energy have had a profound impact on SBU-22 and will continue to positively impact the United States Navy, our Special Operations Forces, and our Nation. Captain Green relinquishes his command on July 12, 2002 and reports as Director, Concept Development Directorate at Special Operations Command Joint Forces Command, in Norfolk, VA where he will continue his successful career. On behalf of my colleagues on both sides of the aisle, I wish Captain Green "Fair Winds and Following Seas."

COLONEL DOUGLAS JOHN WREATH OF THE UNITED STATES AIR FORCE RESERVE.

Mr. THURMOND. Mr. President, on March 29, 2002, Douglas John Wreath was promoted to the grade of Colonel in the United States Air Force Reserve. Major General Mike Hamel, USAF, administered the military oath of office to Colonel Wreath on that date in a ceremony that was held in the Reserve Officers Association of the United States Building, in Washington. It is my pleasure to join those who are congratulating Colonel Wreath on this achievement.

Since 1997, Colonel Wreath has been an active duty Reservist, assigned to the United States Air Force Office of Congressional Affairs. During part of this time, Colonel Wreath served as the Acting Director of the United States Liaison Office in the Senate, where he became known to many Senators and members of their staffs. Colonel Wreath is currently assigned to the United States Air Force Headquarters, at The Pentagon, where he is implementing the recommendations of The Commission to Assess United States National Security Space Management and Organization, as well as serving as the Air Staff Legislative Liaison for Space Integration issues.

Colonel Wreath is a graduate of the United States Air Force Academy. He has also earned the degree of Master of Science in Systems Management from the University of Colorado.

Doug Wreath began his career in the United States Air Force as a Space

Shuttle Navigation Analyst in 1984, leaveings, as a Space Operations Officer in 1992, when he transferred into the Reserve. While on active duty, Doug Wreath performed a variety of command and support activities at three duty stations, and as the Personal Assistant to the Commander of the Air Force Space Command, he assisted in establishing the operational plans and policies of the Air Force National Space Program.

Colonel Wreath is an outstanding American who has developed an impressive record of achievement through his service to our Nation. I am pleased to commend Colonel Wreath on his promotion and I extend my best wishes to him for much continued success.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred January 25 in Washington, DC. Two minors attacked two gay men leaving a gay bar in Dupont Circle. Before attacking the victims, the assailants shouted derogatory, anti-homosexual slurs at them. Local police have arrested one of the perpetrators.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

CHRISTEN O'DONNELL EQUESTRIAN HELMET SAFETY ACT

Mr. DODD. Mr. President, last week my colleague from Rhode Island, Senator CHAFEE, and I introduced legislation to provide greater safety for children and adults who ride horses in the United States. Each year in our country, nearly 15 million people go horseback riding. Whether it be professionally or for pleasure, Americans of all ages and from all walks of life enjoy equestrian sports. And, while everyone acknowledges that horseback riding is a high-risk activity, there are serious safety issues related to equestrian sports that can and should be addressed.

I first became aware of the problem of equestrian helmets when Kemi O'Donnell, a constituent of mine in Connecticut, called my office to relate her family's tragic experience. The

story she shared opened my eyes to the danger posed by certain equestrian helmets. In 1998, Kemi's daughter, Christen O'Donnell, was a young 12-year-old resident of Darien, Connecticut, and a 7th grader at New Canaan Country School. Active and sporty, Christen was a talented intermediate rider who had five years of riding experience under her belt when she mounted her horse on the morning of August 11. As always, Christen wore a helmet and was accompanied by her trainer when she began a slow walk through the ring. Suddenly, without warning, the horse she was riding shook its head, and Christen was thrown off onto 4 inches of sand. Even though her horse was only at a walk, and Christen was wearing a helmet, that helmet offered her little protection, and she sustained severe head injuries as a result of the fall. She was rushed to Stamford hospital where, despite efforts to save her, she died the next day. The magnitude of their loss has been compounded by the thought that, had Christen been wearing a better constructed helmet, it is possible she could have survived this accident.

My colleagues may be shocked to learn, as Christen's parents were, that there are no government standards in existence for the manufacturing of equestrian helmets. Some helmets are voluntarily constructed to meet strict American Society of Testing and Materials (ASTM) testing requirements, but the vast majority of helmets sold in the U.S. offer little or no real protection and are merely cosmetic hats—a form of apparel. Frequently, parents of young riders like Christen—and even more mature riders—do not know that they are buying an untested and unapproved item when they purchase a riding helmet. Indeed, most riders believe that when they buy a helmet at the store, they are purchasing a product that meets standards designed to provide real and adequate head protection. Bike helmets are built to minimum safety requirements, as are motorcycle helmets.

Apparel helmets, like the one worn by Christen, offer little or no head protection, while ASTM-approved helmets are designed to significantly reduce head injury. The difference in aesthetic design between the two is minimal, but the underlying support structures of these types of helmet are substantial. ASTM-approved helmets offer a high degree of head protection, increase the survivability of equestrian accidents and, in my view, should be the standard for all equestrian helmets.

This lack of adequate safety standards in riding helmets is why USA Equestrian (USAEq), one of the largest equestrian organizations in the country, recently mandated that ASTM-approved helmets must be worn in all USAEq-sanctioned events. While this decision effectively eliminates the dan-

ger posed by "apparel helmets" at these events, each day many more students ride in lessons and in private shows that are not USAEq-sanctioned. For their safety, I believe that Congress should establish minimum safety standards for all equestrian helmets sold in the United States, so that all riders can obtain headgear that offers actual protection against head injury. This is not an unprecedented suggestion. As I stated before, Congress has already acted to similarly ensure the safety of bike helmets. The legislation that I and Senator Chafee introduce in Christen's memory today is modeled on this successful bike helmet law and would go a long way toward reducing the mortality of equestrian accidents.

The Christen O'Donnell Equestrian Helmet Safety Act would require that the Consumer Product Safety Commission establish minimum requirements, based on the already proven ASTM standard, for all equestrian helmets in the United States. Thus, there would be a uniform standard for all equestrian helmets, and riders could be confident that the helmet they buy offers real head protection. Let me be clear. This modest legislation does not mandate that riders wear helmets. That is a matter better left to individual states. But, it would take a significant step toward improving the survivability of equestrian accidents and would bring the United States in line with other industrialized countries with sizable riding populations. Countries like Australia and New Zealand have enacted similar safety legislation, and the European Union has set standards to make sure that helmets for equestrian activities meet continental standards. It is time for the United States to take similar steps.

This bill is supported by a wide-ranging coalition of equestrian, child safety, and medical groups. This bill has received the endorsement of the National SAFEKIDS coalition, an organization dedicated to preventing accidental injury to children, and the Brain Trauma Foundation, a leading medical group dedicated to preventing and treating brain injury. Additionally, USAEq has passed a rule in support of the concept of the bill, requiring all children to wear ASTM approved helmets and strongly recommending that all adults do so as well. Further, in the Chronicle of the Horse, the trade publication for the Master of Foxhounds Association, the U.S. Equestrian Team, the U.S. Pony Clubs, The National Riding Commission, the Foxhound Club of North America, the National Beagle Club, the U.S. Dressage Foundation, the American Vaulting Association, and North American Riding for the Handicapped Association, and the Intercollegiate Horse Show Association, an article was published endorsing the ASTM rule. Given the wide range of organizations that

endorse this bill, or have endorsed the ASTM rule, it is clear that riders, coaches, and medical professionals alike recognize the need for a standard, tested helmet design.

I would like to draw my colleague's attention to some alarming statistics that further demonstrate the importance and expediency of this bill. Emergency rooms all across America have to deal with an influx of horse-related injuries each year. Nationwide in 1999, an estimated 15,000 horse-related emergency department visits were made by youths under 15 years old. Of these injuries, head injuries were by far the most numerous and accounted for around 60 percent of equestrian-related deaths. These injuries occurred, and continue to occur, at all ages and at all levels of riding experience. That an inadequately protected fall from a horse can kill is not surprising when you examine the medical statistics. A human skull can be shattered by an impact of less than 6.2 miles per hour, while horses can gallop at approximately 40 miles per hour. A fall from two feet can cause permanent brain damage, and a horse elevates a rider to eight feet or more above the ground. These statistics make it evident that horseback riding is a high-risk sport. While all riders acknowledge this fact, reducing the risk of serious injury while horseback riding is attainable through the use of appropriate head protection. We should pass this bill, and pass it soon, to ensure that head protection for equestrian events is safe and effective.

American consumers deserve to be confident that their protective gear, should they choose to wear it, offers real protection. I urge my colleagues to support this bill.

MESSAGE FROM THE HOUSE

At 2:09 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4954. An act to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize and reform payments and the regulatory structure of the Medicare Program, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 4231. An act to improve small business advocacy, and for other purposes.

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5011. An act making appropriations for military construction, family housing, and base realignment and closure for the De-

partment of Defense for the fiscal year ending September 30, 2003, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated.

POM-262. A concurrent resolution adopted by the Senate of the Legislature of the State of Hawaii relative to Medicare coverage of oral cancer drugs; to the Committee on Finance.

SENATE CONCURRENT RESOLUTION No. 65

Whereas, cancer is a leading cause of morbidity and mortality in the State of Hawaii and throughout the Nation; and

Whereas, cancer is disproportionately a disease of the elderly, with more than half of all cancer diagnoses occurring in persons age 65 or older, who are thus dependent on the federal Medicare program for provision of cancer care; and

Whereas, treatment with anti-cancer drugs is the cornerstone of modern cancer care, elderly cancer patients must have access to potentially life-extending drug therapy, but the Medicare program's coverage of drugs is limited to injectable drugs or oral drugs that have an injectable version; and

Whereas, the nation's investment in biomedical research has begun to bear fruit with a compelling array of new oral anti-cancer drugs that are less toxic, more effective and more cost-effective than existing therapies, but, because such drugs do not have an injectable equivalent, they are not covered by Medicare; and

Whereas, non-coverage of these important new products leaves many Medicare beneficiaries confronting the choice of either substantial out-of-pocket personal costs or selection of more toxic, less effective treatments that are covered by the program; and

Whereas, Medicare's failure to cover oral anti-cancer drugs leaves at risk many beneficiaries suffering from blood-related cancers like leukemia, lymphoma, and myeloma, as well as cancers of the breast, lung, and prostate; and

Whereas, certain Members of the United States Congress have recognized the necessity of Medicare coverage for all oral anti-cancer drugs and introduced legislation in the 107th Congress to achieve that result (H.R. 1624; S. 913), now, therefore, be it

Resolved by the Senate of the Twenty-first Legislature of the State of Hawaii, Regular Session of 2002, the House of Representatives concurring, That the Congress of the United States in respectfully requested to enact legislation requiring the Medicare program to cover all oral anticancer drugs; and be it further.

Resolved, That certified copies of this Concurrent Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, members of Hawaii's congressional delegation, the Secretary of Health and Human Services, and the Administrator of the Centers for Medicare and Medicaid Services.

POM-263. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to the Federal Prison Industries Competition in Contracting Act; to the Committee on the Judiciary.

SENATE RESOLUTION No. 211

Whereas, In 1934, Federal Prison Industries (FPI) was created as a wholly owned govern-

ment corporation. Today, FPI operates 103 factories, with over 21,000 inmate workers and annual sales of more than \$500 million per year. The operation offers over 150 products. FPI enjoys significant advantages over private manufacturers making similar products because of government procurement policies, including a "mandatory source" requirement for government agencies; and

Whereas, With obvious personnel and benefits advantages over private sector firms, there is a clear penalty to employers and workers under the current situation. Some of the most respected companies in many fields suffer significantly from the unfair competition from FPI; and

Whereas, In Michigan, the impact of current FPI policies has been strongly felt by many working families. Last year, Michigan lost thousands of manufacturing jobs; and

Whereas, Congress is presently considering a measure that would bring comprehensive reforms to the operations of FPI. The Federal Prison Industries Competition in Contracting Act would address directly the present unfair government purchasing policies. This legislation, H.R. 1577, includes specific requirements that FPI would have to follow to achieve fairness and promote the training of inmates. Under the Federal Prison Industries Competition in Contracting Act, FPI would compete for contracts in a manner that minimizes unfair advantages and ensures that government agencies get the best value for taxpayer dollars. The legislation also includes numerous accountability measures, increased emphasis on preparing inmates for a return to society, and enhanced restitution for victims of crime; and

Whereas, A more appropriate approach to prisoner-based manufacturing will not only bring fairness to the marketplace and thousands of America's working families, but it also will enhance the federal corrections system; now, therefore, be it

Resolved by the Senate, That we memorialize the Congress of the United States to enact the Federal Prison Industries Competition in Contracting Act; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-264. A resolution adopted by the Senate of the Legislature of the State of Hawaii relative to veterans benefits to Filipino veterans of the United States Armed Forces; to the Committee on Veterans' Affairs.

SENATE RESOLUTION No. 26

Whereas, the Philippine Islands, as a result of the Spanish-American War, were a possession of the United States between 1898 and 1946; and

Whereas, in 1934, the Philippine Independence Act (P.L. 73-127) set a ten-year timetable for the eventual independence of the Philippines and in the interim established a government of the Commonwealth of the Philippines with certain powers over its own internal affairs; and

Whereas, the granting of full independence ultimately was delayed for two years until 1946 because of the Japanese occupation of the islands from 1942 to 1945; and

Whereas, between 1934 and the final independence of the Philippine Islands in 1946, the United States retained certain sovereign powers over the Philippines, including the right, upon order of the President of the United States, to call into the service of the

United States Armed Forces all military forces organized by the Commonwealth government; and

Whereas, President Franklin D. Roosevelt, by Executive order of July 26, 1941, brought the Philippine Commonwealth Army into the service of the United States Armed Forces of the Far East under the command of Lieutenant General Douglas MacArthur; and

Whereas, under the Executive Order of July 26, 1941, Filipinos were entitled to full veterans benefits; and

Whereas, approximately 200,000 Filipino soldiers, driven by a sense of honor and dignity, battled under the United States Command after 1941 to preserve our liberty; and

Whereas, the vast majority of American soldiers who opposed the Japanese invasion of the Philippines from December 1941, through March 1942, were Filipinos, who gallantly fought down the length of the Bataan peninsula, and endured unbearable hardships during the siege of Corregidor; and

Whereas, following the surrender of Corregidor, Filipino soldiers, isolated from the rest of the world with only the hope that American forces might someday return, courageously waged guerrilla warfare against the Japanese occupation; and

Whereas, Filipino soldiers fought bravely alongside returning Allied forces to liberate the Philippines and restore order in the war-torn islands until the official end of hostilities in 1947; and

Whereas, there are four groups of Filipino nationals who are entitled to all or some of the benefits to which United States veterans are entitled;

(1) Filipinos who served in the regular components of the United States Armed Forces;

(2) Regular Philippine Scouts, called "Old Scouts", who enlisted in Filipino-manned units of the United States Army prior to October 6, 1945; and prior to World War II, these troops assisted in the maintenance of domestic order in the Philippines and served as a combat-ready force to defend the islands against foreign invasion, and during the war, they participated in the defense and retaking of the islands from Japanese occupation;

(3) Special Philippine Scouts, called "New Scouts", who enlisted in the United States Armed Forces between October 6, 1945, and June 30, 1947, primarily to perform occupation duty in the Pacific following World War II; and

(4) Members of the Philippine Commonwealth Army who on July 26, 1941, were called into the service of the United States Armed Forces, including organized guerrilla resistance units that were recognized by the United States Army;

Whereas, the first two groups, Filipinos who served in the regular components of the United States Armed Forces and Old Scouts, are considered United States veterans and are generally entitled to the full range of United States veterans benefits; and

Whereas, the other two groups, New Scouts and members of the Philippine Commonwealth Army, are eligible for certain veterans benefits, some of which are lower than full veterans benefits; and

Whereas, United States veterans medical benefits for the four groups of Filipino veterans vary depending upon whether the person resides in the United States or the Philippines; and

Whereas, the eligibility of Old Scouts for benefits based on military service in the United States Armed Forces has long been established; and

Whereas, the federal Department of Veterans Affairs operates a comprehensive pro-

gram of veterans benefits in the present government of the Republic of the Philippines, including the operation of a federal Department of Veterans Affairs office in Manila; and

Whereas, the federal Department of Veterans Affairs does not operate a program of this type in any other country; and

Whereas, the program in the Philippines evolved because the Philippine Islands were a United States possession during the period 1898-1946, and many Filipinos have served in the United States Armed Forces, and because the preindependence Philippine Commonwealth Army was called into the service of the United States Armed Forces during World War II (1941-1945); and

Whereas, our nation has failed to meet the promises made to those Filipino soldiers who fought as American soldiers during World War II; and

Whereas, Congress passed legislation in 1946 limiting and precluding Filipino veterans that fought in the service of the United States during World War II from receiving most veterans benefits that were available to them before 1946; and

Whereas, many Filipino veterans have been unfairly treated by the classification of their service as not being service rendered in the United States Armed Forces for purposes of benefits from the federal Department of Veterans Affairs; and

Whereas, other nationals who served in the United States Armed Forces have been recognized and granted full rights and benefits, but the Filipinos, American nationals at the time of service, are still denied recognition and singled out for exclusion, and this treatment is unfair and discriminatory; and

Whereas, on October 20, 1996, President Clinton issued a proclamation honoring the nearly 100,000 Filipino veterans of World War II, soldiers of the Philippine Commonwealth Army, who fought as a component of the United States Armed Forces alongside allied forces for four long years to defend and reclaim the Philippine Islands, and thousands more who joined the United States Armed Forces after the war; now, therefore, be it

Resolved by the Senate of the Twenty-First Legislature of the State of Hawaii, Regular Session of 2002, that the President and the Congress of the United States are respectfully requested in the 107th Congress to take action necessary to honor our country's moral obligation to provide these Filipino veterans with the military benefits that they deserve, including, but not limited to, holding related hearings, and acting favorably on legislation pertaining to granting full veterans benefits to Filipino veterans of the United States Armed Forces; and be it further

Resolved, that certified copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of Hawaii's congressional delegation.

POM-265. A resolution adopted by the Senate of the State of Hawaii relative to the establishment of a sister-state relationship between the State of Hawaii of the United States of America and the Municipality of Tianjin in the People's Republic of China; to the Committee on Foreign Relations.

SENATE RESOLUTION NO. 99

Whereas, Tianjin, a city in northeastern China, is one of four municipalities under the direct control of the central government of the People's Republic of China, and in 2001 had a population slightly over 10,000,000; and

Whereas, the city is made up of 13 districts, five counties, 126 villages, 93 towns, and 133 street communities; and

Whereas, the history of Tianjin begins with the opening of the Sui Dynasty's Big Canal (581-617 AD). Beginning in the mid-Tang Dynasty (618-907 AD), Tianjin became the nexus for the transport of foodstuffs and silk between south and north China. During the Ming Dynasty (1404 AD), the city figured prominently as a military center. In 1860, its importance as a business and communications center began to grow; and

Whereas, Tianjin is known as the Bright Diamond of Bohai Gulf and is the gateway to China's capital of Beijing. Tianjin is one of China's biggest business and industrial port cities and, in north China, is the biggest port city. Tianjin now ranks second in importance and size in terms of industry, business, finance, and trade in the north. Its industrial production and trade volume is second only to Shanghai in the south; and

Whereas, the city's traditional industries include mining, metallurgy, machine-building, chemicals, power production, textiles, construction materials, paper-making, foodstuffs, shipbuilding, automobile manufacturing, petroleum exploitation and processing, tractor production, fertilizer and pesticide production, and watch, television, and camera manufacturing; and

Whereas, in 1994, Tianjin's economic goal was to double its gross national product by the year 2003. With its 1997 gross national product reaching RMB 124 billion yuan (about RMB 8.26 yuan to US\$ 1), Tianjin is poised to reach that goal. By the end of 1998, 12,065 foreign-owned companies were established in Tianjin that invested a total of RMB 21.017 billion yuan (about US\$ 2.5 billion). About RMB 9.291 billion yuan (about US\$ 1.1 billion) of that amount was used for development of Tianjin; and

Whereas, in the past, business and other forms of industrial enterprises were primarily state-owned throughout China. However, under on-going nationwide reform, the proportion of businesses that are state-owned is being reduced. In Tianjin, the percentage of state-owned enterprises in 1997 was 35.7 per cent versus 16.6 per cent for collective ownership, and 47.7 per cent for other forms, including private ownership. In the retail sector, the respective proportions were 23.7 per cent, 17.3 per cent, and 59 per cent, respectively; and

Whereas, Tianjin has a broad science and technology base upon which to build, for example, it is home to 161 independent research institutions (117 local and 44 national). Aside from its several universities and colleges, Tianjin has six national-level laboratories and 27 national and ministerial-level technological test centers and has plans to increase its science and technology educational goals; and

Whereas, in 1984, the State Council issued a directive to establish the Tianjin Economic-Technological Development Area (TEDA), situated some 35 miles from Tianjin. Recently, some 3,140 foreign-invested companies have located to TEDA with a total investment of over US\$ 11 billion; and

Whereas, at present, TEDA has developed four pillar industries: electronics and communications, automobile manufacturing and mechanization, food and beverages, and biopharmacy, and is promoting four new industries: information software, bioengineering, new energies, and environmental protection; and

Whereas, in 1996, TEDA began offering a technology incubator to help small and medium-sized enterprises with funding, tax

breaks, personnel, etc. Within the TEDA high-tech park, Tianjin offers preferential treatment in the form of funding, land fees, taxes, and facilities (such as water, gas, and heating). Residential and other services, shopping, and educational and recreation facilities are either already in place or are being planned; and

Whereas, for the eleven months ending November 2001, total exports from TEDA was US\$ 3.53 billion, of which foreign-funded enterprises accounted for US\$ 3.49 billion while total foreign investment in TEDA amounted to US\$ 2.3 billion; and

Whereas, Hawaii has been, since its early days, the destination of many Chinese immigrants who have helped to develop the State and its economy; and

Whereas, compared to the rest of the country, Hawaii is advantageously situated in the Pacific to better establish and maintain cultural, educational, and economic relationships with countries in the Asia-Pacific region, especially the People's Republic of China; and

Whereas, the new century we have embarked upon has been described by some as the "century of Asia" or the "China's century"; and

Whereas, like Tianjin, Hawaii is also striving to diversify its economy by expanding into environmentally clean high-technology industries including medical services and research; and

Whereas, the State also emphasizes the importance of higher education in order to create a solid foundation and workforce to serve as the basis from which to launch initiatives in high-technology development; and

Whereas, both Hawaii and Tianjin share many common goals and values as both work towards achieving their economic and educational objectives in the new century, and the people of the State of Hawaii desire to form a mutually beneficial relationship between the State of Hawaii and the municipality of Tianjin to share our knowledge and experiences in order to better assist each other in reaching our goals; now, therefore, be it

Resolved by the Senate of the Twenty-First Legislature of the State of Hawaii, Regular Session of 2002, That Governor Benjamin Cayetano, of the State of Hawaii, or his designee, be authorized and is requested to take all necessary actions to establish a sister-state affiliation with the municipality of Tianjin of the People's Republic of China; and be it further

Resolved, That the Governor or his designee is requested to keep the Senate of the State of Hawaii fully informed of the process in establishing the relationship, and involved in its formalization to the extent practicable; and be it further

Resolved, That the municipality of Tianjin be afforded the privileges and honors that Hawaii extends to its sister-states and provinces; and be it further

Resolved, That if by June 30, 2007, the sister-state affiliation with the municipality of Tianjin of the People's Republic of China has not reached a sustainable basis by providing mutual economic benefits through local community support, the sister-state affiliation shall be withdrawn; and be it further

Resolved, That certified copies of this Resolution be transmitted to the President of the United States, the Governor of the State of Hawaii, the President of the United States Senate, the Speaker of the United States House of Representatives, Hawaii's congressional delegation, and the President of the People's Republic of China and the Mayor of

the municipality of Tianjin through the Los Angeles Consulate General of the People's Republic of China.

POM-266. A Senate concurrent resolution adopted by the Legislature of the State of Hawaii relative to the establishment of a sister-state relationship between the State of Hawaii of the United States of America and the Municipality of Tianjin in the People's Republic of China; to the Committee on Foreign Relations.

SENATE CONCURRENT RESOLUTION NO. 161

Whereas, Tianjin, a city in northeastern China, is one of four municipalities under the direct control of the central government of the People's Republic of China, and in 2001 had a population slightly over 10,000,000; and

Whereas, the city is made up of 13 districts, five counties, 126 villages, 93 towns, and 133 street communities; and

Whereas, the history of Tianjin begins with the opening of the Sui Dynasty's Big Canal (581-617 AD). Beginning in the mid-Tang Dynasty (618-907 AD), Tianjin became the nexus for the transport of foodstuffs and silk between south and north China. During the Ming Dynasty (1404 AD), the city figured prominently as a military center. In 1860, its importance as a business and communications center began to grow; and

Whereas, Tianjin is known as the Bright Diamond of Bohai Gulf and is the gateway to China's capital of Beijing. Tianjin is one of China's biggest business and industrial port cities and, in north China, is the biggest port city. Tianjin now ranks second in importance and size in terms of industry, business, finance, and trade in the north. Its industrial production and trade volume is second only to Shanghai in the south; and

Whereas, the city's traditional industries include mining, metallurgy, machine-building, chemicals, power production, textiles, construction materials, paper-making, foodstuffs, shipbuilding, automobile manufacturing, petroleum exploitation and processing, tractor production, fertilizer and pesticide production, and watch, television, and camera manufacturing; and

Whereas, in 1994, Tianjin's economic goal was to double its gross national product by the year 2003. With its 1997 gross national product reaching RMB 124 billion yuan (about RMB 8.26 yuan to US\$ 1), Tianjin is poised to reach that goal. By the end of 1998, 12,065 foreign-owned companies were established in Tianjin that invested a total of RMB 21.017 billion yuan (about US\$ 2.5 billion). About RMB 9.291 billion yuan (about US\$ 1.1 billion) of that amount was used for development of Tianjin; and

Whereas, in the past, business and other forms of industrial enterprises were primarily state-owned throughout China. However, under on-going nationwide reform, the proportion of businesses that are state-owned is being reduced. In Tianjin, the percentage of state-owned enterprises in 1997 was 35.7 per cent versus 16.6 per cent for collective ownership, and 47.7 per cent for other forms, including private ownership. In the retail sector, the respective proportions were 23.7 per cent, 17.3 per cent, and 59 per cent, respectively; and

Whereas, Tianjin has a broad science and technology base upon which to build, for example, it is home to 161 independent research institutions (117 local and 44 national). Aside from its several universities and colleges, Tianjin has six national-level laboratories and 27 national and ministerial-level technological test centers and has plans to increase its science and technology educational goals; and

Whereas, in 1984, the State Council issued a directive to establish the Tianjin Economic-Technological Development Area (TEDA), situated some 35 miles from Tianjin. Recently, some 3,140 foreign-invested companies have located to TEDA with a total investment of over US\$ 11 billion; and

Whereas, at present, TEDA has developed four pillar industries: electronics and communications, automobile manufacturing and mechanization, food and beverages, and biopharmacy, and is promoting four new industries: information software, bioengineering, new energies, and environmental protection; and

Whereas, in 1996, TEDA began offering a technology incubator to help small and medium-sized enterprises with funding, tax breaks, personnel, etc. Within the TEDA high-tech park, Tianjin offers preferential treatment in the form of funding, land fees, taxes, and facilities (such as water, gas, and heating). Residential and other services, shopping, and educational and recreation facilities are either already in place or are being planned; and

Whereas, for the eleven months ending November 2001, total exports from TEDA was US\$ 3.53 billion, of which foreign-funded enterprises accounted for US\$ 3.49 billion while total foreign investment in TEDA amounted to US\$ 2.3 billion; and

Whereas, Hawaii has been, since its early days, the destination of many Chinese immigrants who have helped to develop the State and its economy; and

Whereas, compared to the rest of the country, Hawaii is advantageously situated in the Pacific to better establish and maintain cultural, educational, and economic relationships with countries in the Asia-Pacific region, especially the People's Republic of China; and

Whereas, the new century we have embarked upon has been described by some as the "century of Asia" or the "China's century"; and

Whereas, like Tianjin, Hawaii is also striving to diversify its economy by expanding into environmentally clean high-technology industries including medical services and research; and

Whereas, the State also emphasizes the importance of higher education in order to create a solid foundation and workforce to serve as the basis from which to launch initiatives in high-technology development; and

Whereas, both Hawaii and Tianjin share many common goals and values as both work towards achieving their economic and educational objectives in the new century, and the people of the State of Hawaii desire to form a mutually beneficial relationship between the State of Hawaii and the municipality of Tianjin to share our knowledge and experiences in order to better assist each other in reaching our goals; now, therefore, be it

Resolved, by the Senate of the Twenty-First Legislature of the State of Hawaii, Regular Session of 2002, the House of Representatives concurring, That Governor Benjamin Cayetano, of the State of Hawaii, or his designee, be authorized and is requested to take all necessary actions to establish a sister-state affiliation with the municipality of Tianjin of the People's Republic of China; and be it further

Resolved, That the Governor or his designee is requested to keep the Legislature of the State of Hawaii fully informed of the process in establishing the relationship, and involved in its formalization to the extent practicable; and be it further

Resolved, That the municipality of Tianjin be afforded the privileges and honors that Hawaii extends to its sister-states and provinces; and be it further

Resolved, That if by June 30, 2007, the sister-state affiliation with the municipality of Tianjin of the People's Republic of China has not reached a sustainable basis by providing mutual economic benefits through local community support, the sister-state affiliation shall be withdrawn; and be it further

Resolved, That certified copies of this Concurrent Resolution be transmitted to President of the United States, the Governor of the State of Hawaii, the President of the United States Senate, the Speaker of the United States House of Representatives, Hawaii's congressional delegation, and the President of the People's Republic of China and the Mayor of the municipality of Tianjin through the Los Angeles Consulate General of the People's Republic of China.

POM-267. A Senate concurrent resolution adopted by the Legislature of the State of Hawaii relative to the acquisition by the United States National Park Service of Kahuku Ranch for expansion of the Hawaii Volcanoes National Park and of Ki'ilae Village for expansion of Pu'u'honua O Honaunau National Historical Park; to the Committee on Energy and Natural Resources.

SENATE CONCURRENT RESOLUTION NO. 36

Whereas, the Volcanoes National Park on the Big Island consists of 217,000 acres and is one of only two national parks in this State; and

Whereas, the Volcanoes National Park attracts about 1,500,000 visitors each year who enjoy the natural beauty of the lava fields, native forests, and ocean cliffs; and

Whereas, a large parcel of land lying to the south and west of the Volcanoes National Park known as Kahuku Range consisting of 117,000 acres has come up for sale; and

Whereas, the Kahuku Ranch parcel contains outstanding geological, biological, cultural, scenic, and recreational value, and is the sole habitat for at least four threatened and endangered bird species endemic to Hawaii; and

Whereas, the National Park Service since 1945 has recognized that the property contained nationally significant resources and in fact, in its 175 Master Plan, the National Park Service identified the property as a "potential addition to improve the geological, ecological, and scenic integrity of Hawaii Volcanoes National Park"; and

Whereas, the 181-acre Pu'u'honua O Honaunau National Historical Park was established in 1961 to save a sacred place of refuge that for centuries offered sanctuary to any who reached its walls; and

Whereas, adjacent to Pu'u'honua O Honaunau are the remains of Ki'ilae, an ancient Hawaiian settlement dating back to the late 12th or early 13th centuries, and which remained active until about 1930, making it one of the last traditional Hawaiian villages to be abandoned; and

Whereas, significant portions of this ancient Hawaiian village remain outside of national park boundaries; and

Whereas, including these lands within the boundaries of Pu'u'honua O Honaunau National Historical Park has been a goal of park management for more than three decades; and

Whereas, the park's 1972 Master Plan identified Ki'ilae Village as a proposed boundary extension and in 1992, a Boundary Expansion Study completed for the park called for adding the "balance of Ki'ilae Village"; and

Whereas, within the Ki'ilae lands the National Park Service is seeking to acquire,

more than 800 archaeological sites, structures, and features have been identified, including at least twenty-five caves and ten heiau, more than twenty platforms, twenty-six enclosures, over forty burial features, residential compounds, a holua slide, canoe landing sites, a water well, numerous walls, and a wide range of agricultural features; and

Whereas, in June 2001, Senator Inouye and Senator Akaka introduced a bill to authorize the addition of the Ki'ilae Village lands to Pu'u'honua O Honaunau National Historical Park and in October 2001, this bill passed the United States Senate and it is anticipated that the authorization bill will pass the House of Representatives as well; and

Whereas, these acquisitions offer an opportunity rarely imagined because they would give the National Park Service an excellent chance to expand and protect native plants and archaeological sites from destruction; and

Whereas, these opportunities can benefit current and future generations of residents and tourists, because expansion of Volcanoes National Park and Pu'u'honua O Honaunau National Historical Park will preserve more open space, add to the natural environment, protect affected native species, and preserve cultural and historical sites; and

Whereas, in January 2001, the National Park Service held a series of public meetings to receive comments from the public regarding possible purchase of Kahuku Ranch and Ki'ilae Village, and the nearly 400 people in attendance at the meetings expressed overwhelming support and endorsement; now, therefore, be it

Resolved, by the Senate of the Twenty-First Legislature of the State of Hawaii, Regular Session of 2002, the House of Representatives concurring, That the Legislature supports the acquisition by the United States National Park Service of Kahuku Ranch for expansion of the Hawaii Volcanoes National Park and of Ki'ilae Village for expansion of Pu'u'honua O Honaunau National Historical Park; and be it further

Resolved, That certified copies of this Concurrent Resolution be transmitted to the Director of the National Park Service, the President of the United States Senate, the Speaker of the United States House of Representatives, and to the members of Hawaii's congressional delegation.

POM-268. A Senate concurrent resolution adopted by the Legislature of the State of Hawaii relative to urging adequate financial impact assistance to providing services to citizens of the freely associated states who reside in the State of Hawaii; to the Committee on Energy and Natural Resources.

SENATE CONCURRENT RESOLUTION NO. 127

Whereas, the Compact of Free Association is an agreement established in 1986 between the United States and the Federated States of Micronesia and the Republic of the Marshall Islands, and in 1994 with the Republic of Palau; and

Whereas, under the Compact, the United States provides direct economic assistance, federal services, and military protection to these nations, in exchange for defense rights; and

Whereas, the U.S. State Department should consider the impact of Freely Associated States citizens on Hawaii during this year's renegotiation of the compacts; and

Whereas, citizens of these Freely Associated States (FAS) are also allowed to freely enter the United States without a visa or other immigration requirements; and

Whereas, drawn by the promise of better medical care and a better education for their children, over 6,000 Freely Associated States citizens have migrated to and are currently residing in Hawaii; and

Whereas, the Compact's enabling legislation authorizes federal compensation for impact costs incurred by United States areas, including Hawaii; and

Whereas, the 1996 federal welfare reform act cut off access to federal welfare and medical programs forcing citizens of these Freely Associated States to rely on state aid; and

Whereas, the cost of supporting FAS citizens, largely in healthcare and education, was \$86 million between 1996 and 2000; and

Whereas, FAS students have higher costs than other students due to poor language and other skills; and

Whereas, due to FAS students entering and leaving school a few times each year their integration into the school system is difficult; and

Whereas, since the Compact went into effect in 1986 until 2001, the State spent over \$64 million to educate FAS citizens and their children in our public schools, \$10 million in 2000 alone; and

Whereas, FAS citizens continue to have a fast-growing impact on our public school system; and

Whereas, last year, the number of FAS students in our primary and secondary public schools increased by 28%, resulting in costs to the State of over \$13 million for the academic year, bringing the total cost since 1988 to about \$78 million; and

Whereas, during the academic school year 2001-2002, the University of Hawaii lost over \$1.2 million in tuition revenue as a result of students from the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau paying resident rather than non-resident tuition; and

Whereas, inadequate and delayed federal compensation to Hawaii's education system will be at a cost to our own children, and contributes to Hawaii being substantially below many other states in per pupil expenditures for its public school children in kindergarten through 12th grade; and

Whereas, state Medicaid payments for FAS citizens from 1998 to 2001 totaled \$12.4 million; and

Whereas, the financial stability and viability of private hospitals and medical providers is threatened by staggering debts and write-offs resulting from medical services to FAS citizens, in spite of state Medicaid reimbursements; and

Whereas, the Queen's Medical Center alone has incurred operating losses of \$16 million between 1995 and 1999, and is owed over \$11 million by Compact of FAS nations; and

Whereas, community health centers estimate an annual cost of \$420,000 for services to FAS residents; and

Whereas, the Department of Health has also been significantly impacted by the cost of public health services to FAS immigrants with \$967,000 spent on screening vaccination and treatment of communicable diseases and \$190,000 spent for immunization and outreach by public health nurses; and

Whereas, FAS citizens may face unfair criticism and refusal of medical services from medical providers; and

Whereas, inadequate and delayed federal compensation threaten to overwhelm Hawaii's health care systems, leading to potential cutbacks in services and personnel that would impact all of Hawaii's citizens; and

Whereas, it is imperative that Hawaii be granted immediate and substantial federal assistance to meet these mounting costs; and

Whereas, Guam has been asking for—and receiving—financial impact assistance for the last ten years; and

Whereas, the fact that Micronesians should qualify for federal benefits, while residing in Hawaii and the rest of the United States, can best be summed up by the resolution which was passed on September 9, 2001, in Washington, D.C., by a national group called Grassroots Organizing for Welfare Leadership supporting the insertion of language in all federal welfare, food, and housing legislation because Micronesians are eligible for these and other benefits as “qualified non-immigrants” residing in the United States; and

Whereas, the United States government is not owning up to its responsibility for what the United States did to the Micronesian people by refusing them food stamps and other federal benefits when they came to Hawaii and the rest of United States seeking help; and

Whereas, the excuse being used by the U.S. government to deny any aid to the Micronesians in the U.S. is the word “non-immigrant” used in the Compact of Free Association to describe Micronesians who move to Hawaii and the U.S.; and

Whereas, on Dec. 7, 1993, then President Bill Clinton formed an Advisory Committee on Human Radiation Experiments which documented human radiation experiments; and

Whereas, based on some of these documents, researchers indicate that all of Micronesia was affected, not just the Marshall Islands; and

Whereas, it is the intent of this Resolution to encourage the responsible entities to implement the provisions of the Compact of Freely Associated States, which authorizes compact impact funds to be made available to states that welcome and provide services to the people of the Federated States of Micronesia, Republic of the Marshall Islands, and Republic of Palau, because most of the FAS citizens that come to Hawaii do so for medical problems related the United States’ military testing of nuclear bombs; and

Whereas, Micronesians are recruited to serve in the U.S. military and “aliens” are not similarly recruited into the U.S. military; now, therefore, be it

Resolved, by the Senate of the Twenty-First Legislature of the State of Hawaii, Regular Session of 2002, the House of Representatives concurring. That the Bush Administration and the U.S. Congress are requested to appropriate adequate financial impact assistance for health, education, and other social services for Hawaii’s Freely Associated States citizens; and be it further

Resolved, That the Bush Administration and the U.S. Congress are requested to insert language in all federal welfare, food, and housing legislation which says that Micronesians are eligible for federal food stamps, welfare, public housing, and other federal benefits as “qualified nonimmigrants” residing in the United States; and be it further

Resolved, That the Bush Administration and the U.S. Congress are requested to restore FAS citizens’ eligibility for federal public benefits, such as Medicaid, Medicare, and food stamps; and be it further

Resolved, That Hawaii’s congressional delegates are requested to assure financial reimbursements, through the establishment of a trust, escrow, or set-aside account, to the State of Hawaii for educational, medical, and social services and to Hawaii’s private medical providers who have provided services to Freely Associated States citizens; and be it further

Resolved, That certified copies of this Concurrent Resolution be transmitted to the President of the United States, United States State Department, President of the United States Senate, Speaker of the United States House of Representatives, members of Hawaii’s congressional delegation, Governor, Attorney General, Superintendent of Education, Director of Health, Director of Agriculture, Director of Human Services, Grassroots Organizing for Welfare Leadership, Micronesians United, United Church of Christ, Hawaii Conference of Churches, United Methodist Church of Honolulu, national negotiating teams of the Compact of Free Association, and Presidents and Hawaii Consulates of the Federated States of Micronesia, Republic of the Marshall Islands, and Republic of Palau.

POM-269. A Senate resolution adopted by the Legislature of the State of Hawaii relative to supporting the acquisition by the United States National Park Service of Kahuku Ranch for expansion of the Hawaii Volcanoes National Park and of Ki’ilaie Village for expansion of Pu’uhonua O Honaunau National Historical Park; to the Committee on Energy and Natural Resources.

SENATE RESOLUTION, NO. 16

Whereas, the Volcanoes National Park on the Big Island consists of 217,000 acres and is one of only two national parks in this State; and

Whereas, the Volcanoes National Park attracts about 1,500,000 visitors each year who enjoy the natural beauty of the lava fields, native forests and ocean cliffs; and

Whereas, a large parcel of land lying to the south and west of the Volcanoes National Park known as Kahuku Ranch consisting of 117,000 acres has come up for sale; and

Whereas, the Kahuku Ranch parcel contains outstanding geological, biological, cultural, scenic, and recreational value, and is the sole habitat for at least four threatened and endangered bird species endemic to Hawaii; and

Whereas, the National Park Service since 1945 has recognized that the property contained nationally significant resources and in fact, in its 1975 Master Plan, the National Park Service identified the property as a “potential addition to improve the geological, ecological, and scenic integrity of Hawaii Volcanoes National Park”; and

Whereas, the 181-acre Pu’uhonua O Honaunau National Historical Park was established in 1961 to save a sacred place of refuge that for centuries offered sanctuary to any who reached its walls; and

Whereas, adjacent to Pu’uhonua O Honaunau are the remains of Ki’ilaie, an ancient Hawaiian settlement dating back to the late 12th or early 13th centuries, and which remained active until about 1930, making it one of the last traditional Hawaiian villages to be abandoned; and

Whereas, significant portions of this ancient Hawaiian village remain outside of national park boundaries; and

Whereas, including these lands within the boundaries of Pu’uhonua O Honaunau National Historical Park has been a goal of park management for more than three decades; and

Whereas, the park’s 1972 Master Plan identified Ki’ilaie Village as a proposed boundary extension and in 1992, a Boundary Expansion Study completed for the park called for adding the “balance of Ki’ilaie Village”; and

Whereas, within the Ki’ilaie lands the National Park Service is seeking to acquire, more than 800 archeological sites, structures,

and features have been identified, including at least twenty-five caves and ten heaui, more than twenty platforms, twenty-six enclosures, over forty burial features, residential compounds, a holua slide, canoe landing sites, a water well, numerous walls, and a wide range of agricultural features; and

Whereas, in June 2001, Senator Inouye and Senator Akaka introduced a bill to authorize the addition of the Ki’ilaie Village lands to Pu’uhonua O Honaunau National Historical Park and in October 2001, this bill passed the United States Senate and it is anticipated that the authorization bill will pass the House of Representatives as well; and

Whereas, these acquisitions offer an opportunity rarely imagined because they would give the National Park Service an excellent change to expand and protect native plants and archaeological sites from destruction; and

Whereas, these opportunities can benefit current and future generations of residents and tourists, because expansion of Volcanoes National Park and Pu’uhonua O Honaunau National Historical Park will preserve more open space, add to the natural environment, protect affected native species, and preserve cultural and historical sites; and

Whereas, in January 2001, the National Park Service held a series of public meetings to receive comments from the public regarding possible purchase of Kahuku ranch and Ki’ilaie Village, and the nearly 400 people in attendance at the meetings expressed overwhelming support and endorsement; now, therefore, be it

Resolved, by the Senate of the Twenty-First Legislature of the State of Hawaii, Regular Session of 2002, That this body supports the acquisition by the United States National Park Service of Kahuku Ranch for expansion of the Hawaii Volcanoes National Park and of Ki’ilaie Village for expansion of Pu’uhonua O Honaunau National Historical Park; and be it further

Resolved, That certified copies of this Resolution be transmitted to the Director of the National Park Service, the President of the United States Senate, the speaker of the United States House of Representatives, and to the members of Hawaii’s congressional delegation.

POM-270. A resolution adopted by the Legislature of the State of Alaska relative to the construction and operation of the Alaska Highway Natural Gas Pipeline route; to the Committee on Energy and Natural Resources.

LEGISLATIVE RESOLVE NO. 50

Whereas the Alaska North Slope (ANS) has the largest known, discovered natural gas resources, estimated to be 35 trillion cubic feet, in the United States and estimated, undiscovered gas resources in excess of 100 trillion cubic feet; and

Whereas demand for natural gas in the lower 48 states is expected to experience record growth, rising from approximately 22 trillion feet a year in 2000 to 30-35 trillion cubic feet a year in 2020, with some experts predicting demand to be as large as 50 trillion cubic feet a year in 2020; and

Whereas the lower 48 states have an inadequate resource base to meet this expected demand, and experts expect that more natural gas will have to be imported from Canada and from other countries in the form of liquefied natural gas (LNG); and

Whereas the near record drilling in the last two years in the lower 48 failed to provide any significant gas supply increase and many experts are questioning whether other

United States frontier areas like the deep-water Gulf of Mexico will be able to deliver material new gas supplies and, therefore, more imports may be required than previously thought; and

Whereas it is important for the United States to have a reliable and affordable source of domestic natural gas for its citizens and businesses, and for national security, especially given the recent tragic events; and

Whereas energy supply disruptions have significant negative effect on the United States economy, including the losses of tens of millions of United States jobs; and

Whereas, if the United States imports significant amounts of LNG, it can be subjected to the market power of the exporting country through mechanisms such as embargoes and price making; and

Whereas ANS is one of the few known locations in the United States that can supply significant natural gas supplies to the lower 48 for years to come; and

Whereas, given these supply and demand projections, several companies and entities have studied different pipeline routes, including a "northern" route, running off the shore of the Arctic National Wildlife Refuge in the Beaufort Sea to the Mackenzie Delta and south through Canada to the lower 48; a "southern" route along the Alaska Highway through Canada to the lower 48; and an "LNG" route adjacent to the Trans Alaska Pipeline System pipeline to Valdez and LNG tankers for delivery to California; and

Whereas, in 1976, Congress passed the Alaska Natural Gas Transportation Act of 1976 (ANGTA) authorizing the President to select a route to transport natural gas from ANS to the lower 48 and providing procedures to expedite the construction and operation of the selected route; and

Whereas, in 1977, following lengthy public hearings and negotiations with Canada, the President issued a decision ("President's Decision") choosing the southern route and selecting the predecessor of a consortium of pipeline companies headed by Foothills Pipe Lines, Ltd. (Pipeline Companies") to construct and operate the Alaska segment of the project; and

Whereas the Alaska Gas Producers Pipeline Team ("Producers") has proposed new federal enabling legislation that is currently being debated in the United States Senate; and

Whereas the Majority Leader of the United States Senate has introduced the Energy Policy Act of 2002, which contains the Alaska Natural Gas Pipeline Act of 2002 ("Pipeline Act"); and

Whereas the Pipeline Act is not opposed by the Pipeline Companies, and they desire certain amendments to the ANGTA to modernize it; and

Whereas ANGTA granted the State of Alaska "authoriz[ation] to ship its royalty gas on the approved transportation system for use within Alaska and . . . to withdraw such gas from the interstate market for use within Alaska," which rights will be impaired if a northern route is followed; and

Whereas President Carter's decision in support of the southern route explicitly recognized that it could "supply the energy base required for long-term economic development" within Alaska and it could supply natural gas to communities within Alaska along the route as well as other Alaska communities through local distribution lines, and these potential benefits will be lost if a northern route is followed; and

Whereas the United States Senate has concurred with the United States House of Rep-

resentatives to oppose the northern route and has expressed its support for the southern route; and

Whereas the southern route presents the United States with petrochemical extraction opportunities in the United States while the northern route does not; and

Whereas a northern route pipeline could not easily be expanded to increase the volume of gas when needed; and

Whereas the southern route provides petrochemical extraction opportunities in the United States and other marketing opportunities for ANS gas, including gas to liquids (GTL) and LNG, to the West Coast or Asia; and

Whereas it is widely recognized that maximum benefit to Alaskans from the commercialization of ANS natural gas lies in market exposure for that gas, opportunities for in-state use of the natural gas, and for participation by Alaskans in construction, maintenance, and operation of the gas pipeline transportation project, and the recovery of revenue by the state from the development, transport, and sale of ANS gas reserves; and

Whereas the Alaska State Legislature has expressed a preference for the expedited construction and operation of a natural gas pipeline along a southern route and has authorized funds to conduct various studies regarding a natural gas pipeline, including the study of in-state natural gas demand, natural gas supply, a natural gas fiscal system, and the effect of natural gas sales on the Prudhoe Bay reservoir; and

Whereas the Twenty-Second Alaska State Legislature established the Joint Committee on Natural Gas Pipeline ("Joint Committee") to take whatever action may be appropriate to ensure that the best interests of the state are protected; and

Whereas it is vital for the continued exploration and development of natural gas resources on the ANS that oil and gas companies that do not have an ownership interest in the pipeline ("Explorers") have access to it on fair and reasonable terms and have the ability to seek expansion of the pipeline when economically and technically feasible; and the Joint Committee adopted recommendations supporting enactment of these provisions in federal law; and

Whereas it is vital for the economic development of Alaska that Alaskans and Alaska businesses have access to gas from the pipeline on a fair and reasonable basis, and that the Regulatory Commission of Alaska participate with the Federal Energy Regulatory Commission to develop methods to provide for such access; and the Joint Committee adopted recommendations supporting enactment of these provisions in federal law; and

Whereas the Joint Committee has issued various recommendations requesting that Congress reaffirm the validity of ANGTA and modernize it; and

Whereas natural gas prices in the lower 48 states periodically fluctuate below those required to adequately cover investment; and

Whereas governmental involvement, including tax incentives, is essential and quite common on major projects to enable private enterprises to undertake the risks; be it

Resolved, That the Alaska State Legislature strongly urges the President of the United States, the United States Congress, and appropriate federal officials to actively support the expeditious construction and operation of a natural gas pipeline through Alaska along a southern route; and be it further

Resolved, That the Alaska State Legislature strongly urges passage during the first

half of 2002 of the Alaska Gas Producers Pipeline Team's federal enabling legislation, so long as it contains a provision similar to that in H.R. 4 banning the over-the-top route and the following amendments:

(1) provisions for Alaskans and Alaska businesses that ensure they have access to the pipeline for in-state consumption and value-added manufacture on a fair and reasonable basis and that the Regulatory Commission of Alaska is part of the process in determining that access;

(2) provisions for access to the pipeline by Explorers on a fair and reasonable basis, including a proper open season with fair and reasonable tariffs, and that provide that they and the State have the ability to obtain expansion of the pipeline if economically and technologically feasible;

(3) provisions for the reaffirmation of the validity of the Alaska Natural Gas Transportation Act of 1976 and the modernization of that Act as necessary;

(4) provisions for federal financial incentives, including accelerated depreciation and an income tax credit that is designed to provide mitigation of long-term natural gas price risks and the risks associated with funding the large capital costs of the project; the amount of any tax credit should be limited in operation to periods when natural gas prices are extremely low and recovered when natural gas prices are high; and

(5) specific provisions declaring that the content of amendments (1)–(4) is not intended to exclude supply of Alaska North Slope natural gas to markets in the form of LNG or GTL.

POM-271. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Pennsylvania regarding the Valley Forge National Historical Park; to the Committee on Energy and Natural Resources.

SENATE RESOLUTION NO. 155

Whereas, in the winter of 1777-1778 General George Washington and the Continental Army camped at Valley Forge to be close to the British Army occupying the City of Philadelphia; and

Whereas, during this encampment the volunteer citizen soldiers endured great hardships such as cold, hunger, disease and poor lodging, and they were badly equipped and supplied; and

Whereas, about 2,000 soldiers died from pneumonia, typhoid, dysentery and other diseases; and

Whereas, at Valley Forge the leadership of General George Washington helped hold together this group of citizen soldiers; and

Whereas, through the training of General Washington and Baron von Steuben these ill-equipped volunteers were marshaled into an effective fighting force which helped defeat a military power, the British, at Yorktown in 1783; and

Whereas, the first State park was founded at Valley Forge in 1893; and

Whereas, Governor Samuel Pennypacker of Pennsylvania compared a visit to Valley Forge to a pilgrimage and urged every American to visit the site; and

Whereas, Valley Forge has been visited by Presidents of the United States and numerous dignitaries from around the world; and

Whereas, in 1975, as part of the United States Bicentennial Celebration, the Commonwealth of Pennsylvania conveyed the Valley Forge State Park to the United States Government; and

Whereas, Act 1975-53 authorizing the conveyance said the land was to be used for "historical purposes"; and

Whereas, the development of land privately owned within Valley Forge National Historical Park boundaries would violate the spirit of the conveyance from the Commonwealth to the United States Government; and

Whereas, the Secretary of the Interior has the authority to acquire privately held property within the boundaries of the Park; therefore be it

Resolved, That it is the sense of the Senate of the Commonwealth of Pennsylvania that locating a large housing development within the boundaries of the Valley Forge National Historical Park is against the spirit of the original conveyance to the Federal Government approved by the Commonwealth; and be it further

Resolved, That the Senate of the Commonwealth of Pennsylvania strongly urge the Secretary of the Interior to exercise authority under Public Law 94-337 and acquire the land to be developed; and be it further

Resolved, That the Senate of the Commonwealth of Pennsylvania urge the Congress of the United States to appropriate moneys sufficient for the purchase of this property; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and each member of Congress from Pennsylvania and to the Secretary of the Interior.

POM-272. A Senate joint resolution adopted by the Legislature of the State of Maine regarding Acadia National Park; to the Committee on Energy and Natural Resources.

JOINT RESOLUTION

We, your Memorialists, the Members of the One Hundred and Twentieth Legislature of the State of Maine now assembled in the Second Regular Session, most respectfully present and petition the President of the United States and the Congress of the United States, as follows:

Whereas, Acadia National Park is Maine's most visited natural destination, with approximately 3 million annual visits, and is one of the most heavily used parks in the National Park System; and

Whereas, Acadia National Park is among the most beautiful places in Maine and its Atlantic shore represents 25% of the Maine coastline that is available for public use and enjoyment; and

Whereas, Acadia National Park generates \$132,000,000 in direct economic benefits to the Mount Desert Island region and many additional millions of dollars in indirect benefits throughout Maine, making the park's 45,000 acres of land and easements among the most economically productive natural assets in the State; and

Whereas, Acadia National Park has conducted a rigorous financial analysis leading to a business plan that demonstrates an average operating annual budget that supplies only 47% of what is needed to operate the park in compliance with laws and regulations; and

Whereas, Acadia National Park's annual operating budget shortfall is the 3rd largest calculated to date in the 40 national parks that have undertaken business plans; and

Whereas, Acadia National Park's total annual operating budget need is approximately \$14,000,000, and additional millions of dollars are needed for anticipated park operations at Schoodic Point; and

Whereas, Acadia National Park has 121 full-time equivalent employees but needs 230 full-time equivalent employees to execute

the park's mission in accordance with laws and regulations: Now, therefore, be it

Resolved, That We, your Memorialists, respectfully urge the President of the United States and the Congress of the United States to increase the annual budget of Acadia National Park to amounts that will meet the park's full operational needs, including the needs of Schoodic Point; and be it further

Resolved, That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President of the United States, the President of the Senate of the United States, the Speaker of the House of Representatives of the United States and to each Member of the Maine Congressional Delegation.

POM-273. A joint resolution adopted by the Legislature of the State of Maine relative to Cuba; to the Committee on Banking, Housing, and Urban Affairs.

JOINT RESOLUTION

We, your Memorialists, the Members of the One Hundred and Twentieth Legislature of the State of Maine now assembled in the Second Regular Session, most respectfully present and petition the Congress of the United States as follows:

Whereas, the relationship between the United States and Cuba has long been marked by tension and confrontation, and further heightening this hostility is the 40-year-old United States trade embargo against the island nation that remains the longest-standing embargo in modern history; and

Whereas, there has been significant change in relations between Cuba and the United States since 1962, when the prohibitive trade sanctions were imposed; and

Whereas, the export ban was imposed during a period of much fear caused by the threat of nuclear attack due to the Cold War between the former Soviet Union and other communist regimes and the United States; and

Whereas, that threat no longer exists and it is no longer United States policy to prohibit trade with a communist country, as we already have heavy trade with China and are establishing trade with countries like Vietnam; and

Whereas, with complete normalization of trade relations, Cuba could become a \$1 billion market for United States agricultural producers within 5 years, making it our 3rd largest market in the Americas after Mexico and Canada; and

Whereas, agriculture in Maine has developed into a diverse industry and could greatly benefit from the market opportunities that free trade with Cuba would provide. Maine is the largest producer of brown eggs and wild blueberries in the world and ranks 8th in the nation in the production of potatoes and 2nd in the production of maple syrup. It ranks 2nd in New England in milk and livestock production; and

Whereas, rather than depriving Cuba of agricultural products, the United States trade embargo succeeds only in driving Cuba's purchasers to competitors in other countries that have no trade restrictions; and

Whereas, the United States has much to gain by trading with Cuba, not only in agriculture but also in many other sectors of the economy and culture; and

Whereas, the Cuban people also have much to gain and are more likely to move toward liberty as they see our way of life and the success of our free market system: Now, therefore, be it

Resolved, That We, your Memorialists, urge the Congress of the United States to lift

trade sanctions and establish permanent, normal trade relations with Cuba; and be it further

Resolved, That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable George W. Bush, President of the United States, and to the President of the United States Senate, the Speaker of the House of Representatives of the United States and each Member of the Maine Congressional Delegation.

REPORTS OF COMMITTEES RECEIVED DURING RECESS

Under the authority of the order of the Senate of June 26, 2002, the following reports of committees were submitted on July 3, 2002:

By Mrs. FEINSTEIN, from the Committee on Appropriations, without amendment:

S. 2709: An original bill making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107-202).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with amendments:

S. 1946: A bill to amend the National Trails System Act to designate the Old Spanish Trail as a National Historic Trail. (Rept. No. 107-203).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment:

H.R. 640: A bill to adjust the boundaries of Santa Monica Mountains National Recreation Area, and for other purposes. (Rept. No. 107-204).

By Mr. SARBANES, from the Committee on Banking, Housing, and Urban Affairs:

Report to accompany S. 2673, An original bill to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes. (Rept. No. 107-205).

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment:

S. 2525: A bill to amend the Foreign Assistance Act of 1961 to increase assistance for foreign countries seriously affected by HIV/AIDS, tuberculosis, and malaria, and for other purposes. (Rept. No. 107-206).

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 2059: A bill to amend the Public Health Service Act to provide for Alzheimer's disease research and demonstration grants.

S. 2649: A bill to provide assistance to combat the HIV/AIDS pandemic in developing foreign countries.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

Under the authority of the order of the Senate of June 26, 2002, the following bills and joint resolutions were

introduced, read the first and second times by unanimous consent, and referred as indicated on July 3, 2002:

By Mrs. FEINSTEIN:

S. 2709. An original bill making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 299. A resolution to authorize testimony, document production, and legal representation in *City of Columbus v. Jacqueline Downing, et al* and *City of Columbus v. Vincent Ramos*; considered and agreed to.

ADDITIONAL COSPONSORS

S. 917

At the request of Ms. COLLINS, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Hawaii (Mr. INOUE) were added as cosponsors of S. 917, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 952

At the request of Mr. INHOFE, his name was withdrawn as a cosponsor of S. 952, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1115

At the request of Mr. KENNEDY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1115, a bill to amend the Public Health Service Act with respect to making progress toward the goal of eliminating tuberculosis, and for other purposes.

S. 1329

At the request of Mr. JEFFORDS, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1329, a bill to amend the Internal Revenue Code of 1986 to provide a tax incentive for land sales for conservation purposes.

S. 1339

At the request of Mr. CAMPBELL, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 1339, a bill to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

S. 1940

At the request of Mr. LEVIN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1940, a bill to amend the Internal Revenue Code of 1986 to provide that corporate tax benefits from stock option compensation expenses are allowed only to the extent such expenses are included in a corporation's financial statements.

S. 1986

At the request of Mr. ROBERTS, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1986, a bill to amend the Intermodal Surface Transportation Efficiency Act of 1991 to identify a route that passes through the States of Texas, New Mexico, Oklahoma, and Kansas as a high priority corridor on the National Highway System.

S. 2009

At the request of Mr. DURBIN, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 2009, a bill to amend the Public Health Service Act to provide services for the prevention of family violence.

S. 2010

At the request of Mr. LEAHY, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Georgia (Mr. MILLER), and the Senator from Arizona (Mr. MCCAIN) were added as cosponsors of S. 2010, a bill to provide for criminal prosecution of persons who alter or destroy evidence in certain Federal investigations or defraud investors of publicly traded securities, to disallow debts incurred in violation of securities fraud laws from being discharged in bankruptcy, to protect whistleblowers against retaliation by their employers, and for other purposes.

S. 2027

At the request of Mr. DURBIN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2027, a bill to implement effective measures to stop trade in conflict diamonds, and for other purposes.

S. 2035

At the request of Mr. JEFFORDS, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 2035, a bill to provide for the establishment of health plan purchasing alliances.

S. 2055

At the request of Ms. CANTWELL, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S.

2055, a bill to make grants to train sexual assault nurse examiners, law enforcement personnel, and first responders in the handling of sexual assault cases, to establish minimum standards for forensic evidence collection kits, to carry out DNA analyses of samples from crime scenes, and for other purposes.

S. 2215

At the request of Mrs. BOXER, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

S. 2239

At the request of Mr. SARBANES, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2239, a bill to amend the National Housing Act to simplify the downpayment requirements for FHA mortgage insurance for single family homebuyers.

S. 2244

At the request of Mr. DORGAN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2244, a bill to permit commercial importation of prescription drugs from Canada, and for other purposes.

S. 2246

At the request of Mr. DODD, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr. CLELAND), and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. 2246, a bill to improve access to printed instructional materials used by blind or other persons with print disabilities in elementary and secondary schools, and for other purposes.

S. 2566

At the request of Mr. KENNEDY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2566, a bill to improve early learning opportunities and promote school preparedness, and for other purposes.

S. 2613

At the request of Mr. LIEBERMAN, the names of the Senator from South Carolina (Mr. HOLLINGS), the Senator from Arkansas (Mr. HUTCHINSON), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 2613, a bill to amend section 507 of the Omnibus Parks and Public Lands Management Act of 1996 to authorize additional appropriations for historically black colleges and universities, to decrease the cost-sharing requirement relating to the additional appropriations, and for other purposes.

S. 2642

At the request of Mr. NELSON of Florida, the name of the Senator from New

Jersey (Mr. CORZINE) was added as a cosponsor of S. 2642, a bill to require background checks of alien flight school applicants without regard to the maximum certificated weight of the aircraft for which they seek training, and to require a report on the effectiveness of the requirement.

S. 2647

At the request of Ms. SNOWE, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2647, a bill to require that activities carried out by the United States in Afghanistan relating to governance, reconstruction and development, and refugee relief and assistance will support the basic human rights of women and women's participation and leadership in these areas.

S. 2649

At the request of Mr. KENNEDY, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2649, a bill to provide assistance to combat the HIV/AIDS pandemic in developing foreign countries.

S. RES. 264

At the request of Mr. KERRY, the names of the Senator from New Hampshire (Mr. GREGG), the Senator from Utah (Mr. HATCH), the Senator from Rhode Island (Mr. REED), the Senator from Connecticut (Mr. DODD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. Res. 264, a resolution expressing the sense of the Senate that small business participation is vital to the defense of our Nation, and that Federal, State, and local governments should aggressively seek out and purchase innovative technologies and services from American small businesses to help in homeland defense and the fight against terrorism.

S. RES. 284

At the request of Mr. BIDEN, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. Res. 284, a resolution expressing support for "National Night Out" and requesting that the President make neighborhood crime prevention, community policing, and reduction of school crime important priorities of the Administration.

S. CON. RES. 122

At the request of Ms. SNOWE, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Missouri (Mrs. CARNAHAN) were added as cosponsors of S. Con. Res. 122, a concurrent resolution expressing the sense of Congress that security, reconciliation, and prosperity for all Cypriots can be best achieved within the context of membership in the European Union which will provide significant rights and obligations for all Cypriots, and for other purposes.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 299—TO AUTHORIZE TESTIMONY, DOCUMENT PRODUCTION AND LEGAL REPRESENTATION IN CITY OF COLUMBUS V. JACQUELINE DOWNING, ET AL. AND CITY OF COLUMBUS V. VINCENT RAMOS

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 299

Whereas, in the cases of City of Columbus v. Jacqueline Downing, et al., Nos. 2002 CR B 01082-25, 010835-37 and City of Columbus v. Vincent Ramos, No. 2002 CR B 010835-37 pending in the Franklin County Municipal Court in the State of Ohio, testimony has been requested from Michael Dawson, an employee in the office of Senator Mike DeWine;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privilege of the Senate: Now, therefore, be it *Resolved*, That Michael Dawson and any other employee of Senator DeWine's office from whom testimony may be required are authorized to testify and produce documents in the case of City of Columbus v. Jacqueline Downing, et al., and City of Columbus v. Vincent Ramos, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Michael Dawson and any other employee of Senator DeWine's office in connection with the testimony and document production authorized in section one of this resolution.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4173. Mr. SARBANES proposed an amendment to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

TEXT OF AMENDMENTS

SA 4173. Mr. SARBANES proposed an amendment to the bill S. 2673, to im-

prove quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

On page 65, line 11, strike "All" and insert "Subject to the availability in advance in an appropriations Act, and notwithstanding subsection (h), all".

On page 76, between lines 16 and 17, insert the following:

(d) CONFORMING AMENDMENT.—Section 10A(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(f)) is amended—

(1) by striking "DEFINITION" and inserting "DEFINITIONS"; and

(2) by adding at the end the following: "As used in this section, the term 'issuer' means an issuer (as defined in section 3), the securities of which are registered under section 12, or that is required to file reports pursuant to section 15(d), or that will be required to file such reports at the end of a fiscal year of the issuer in which a registration statement filed by such issuer has become effective pursuant to the Securities Act of 1933 (15 U.S.C. 77a et seq.), unless its securities are registered under section 12 of this title on or before the end of such fiscal year."

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, July 16, at 9:30 a.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the Administration's plans to request additional funds for wildland firefighting and forest restoration as well as ongoing implementation of the National Fire Plan.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Kira Finkler of the committee staff at 202/224-8164.

PRIVILEGES OF THE FLOOR

Mr. GRAMM. Mr. President, I ask unanimous consent that Maureen

Kelly, from Senator DOMENICI's staff, have access to the floor during this pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, I ask unanimous consent that Steven Dettelbach, a detailee to the Committee on the Judiciary, and Jack Taylor, a fellow with Senator TIM JOHNSON's office, be granted the privilege of the floor during the Senate's consideration of the pending matter, S. 2673.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

On June 27, 2002, the Senate amended and passed S. 2514, as follows:

S. 2514

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2003".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Organization of Act into divisions; table of contents.

Sec. 3. Congressional defense committees defined.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.

Sec. 102. Navy and Marine Corps.

Sec. 103. Air Force.

Sec. 104. Defense-wide activities.

Sec. 105. Defense Inspector General.

Sec. 106. Chemical agents and munitions destruction, defense.

Sec. 107. Defense health programs.

Subtitle B—Army Programs

Sec. 111. Pilot program on sales of manufactured articles and services of certain Army industrial facilities without regard to availability from domestic sources.

Subtitle C—Navy Programs

Sec. 121. Integrated bridge system.

Sec. 122. Extension of multiyear procurement authority for DDG-51 class destroyers.

Sec. 123. Maintenance of scope of cruiser conversion of Ticonderoga class AEGIS cruisers.

Sec. 124. Marine Corps live fire range improvements.

Subtitle D—Air Force Programs

Sec. 131. C-130J aircraft program.

Sec. 132. Pathfinder programs.

Sec. 133. Oversight of acquisition for defense space programs.

Sec. 134. Leasing of tanker aircraft.

Sec. 135. Compass Call program.

Sec. 136. Sense of Congress regarding assured access to space.

Sec. 137. Mobile emergency broadband system.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

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Sec. 823. Extension of contract goal for small disadvantaged businesses and certain institutions of higher education.

Sec. 824. Mentor-Protege Program eligibility for HUBZone small business concerns and small business concerns owned and controlled by service-disabled veterans.

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Sec. 826. Multiyear procurement authority for purchase of dinitrogen tetroxide, hydrazine, and hydrazine-related products.

Sec. 827. Multiyear procurement authority for environmental services for military installations.

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Sec. 1001. Transfer authority.

Sec. 1002. Reallocation of authorizations of appropriations from ballistic missile defense to shipbuilding.

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Sec. 1004. Authorization of emergency supplemental appropriations for fiscal year 2002.

Sec. 1005. United States contribution to NATO common-funded budgets in fiscal year 2003.

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Sec. 1007. Departmental accountable officials in the Department of Defense.

Sec. 1008. Department-wide procedures for establishing and liquidating personal pecuniary liability.

Sec. 1009. Travel card program integrity.

Sec. 1010. Clearance of certain transactions recorded in Treasury suspense accounts and resolution of certain check issuance discrepancies.

Sec. 1011. Additional amount for ballistic missile defense or combating terrorism in accordance with national security priorities of the President.

Sec. 1012. Availability of amounts for Oregon Army National Guard for Search and Rescue and Medical Evacuation missions in adverse weather conditions.

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Sec. 1022. Plan for fielding the 155-millimeter gun on a surface combatant.

Sec. 1023. Report on initiatives to increase operational days of Navy ships.

Sec. 1024. Annual long-range plan for the construction of ships for the Navy.

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Sec. 1031. Repeal and modification of various reporting requirements applicable with respect to the Department of Defense.

Sec. 1032. Annual report on weapons to defeat hardened and deeply buried targets.

Sec. 1033. Revision of date of annual report on counterproliferation activities and programs.

Sec. 1034. Quadrennial quality of life review.

Sec. 1035. Reports on efforts to resolve whereabouts and status of Captain Michael Scott Speicher, United States Navy.

Sec. 1036. Report on efforts to ensure adequacy of fire fighting staffs at military installations.

Sec. 1037. Report on designation of certain Louisiana highway as defense access road.

Sec. 1038. Plan for five-year program for enhancement of measurement and signatures intelligence capabilities.

Sec. 1039. Report on volunteer services of members of the reserve components in emergency response to the terrorist attacks of September 11, 2001.

Sec. 1040. Biannual reports on contributions to proliferation of weapons of mass destruction and delivery systems by countries of proliferation concern.

Subtitle D—Homeland Defense

Sec. 1041. Homeland security activities of the National Guard.

Sec. 1042. Conditions for use of full-time Reserves to perform duties relating to defense against weapons of mass destruction.

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Sec. 1061. Continued applicability of expiring Governmentwide information security requirements to the Department of Defense.

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Sec. 1063. Extension of authority for Secretary of Defense to sell aircraft and aircraft parts for use in responding to oil spills.

Sec. 1064. Amendments to Impact Aid program.

Sec. 1065. Disclosure of information on Shipboard Hazard and Defense project to Department of Veterans Affairs.

Sec. 1066. Transfer of historic DF-9E Panther aircraft to Women Airforce Service Pilots Museum.

Sec. 1067. Rewards for assistance in combating terrorism.

Sec. 1068. Provision of space and services to military welfare societies.

Sec. 1069. Commendation of military chaplains.

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- Sec. 1105. Increased maximum period of appointment under the experimental personnel program for scientific and technical personnel.
- Sec. 1106. Qualification requirements for employment in Department of Defense professional accounting positions.
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- Sec. 1205. Russian tactical nuclear weapons.

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- Sec. 1212. Use of Warsaw Initiative funds for travel of officials from partner countries.
- Sec. 1213. Support of United Nations-sponsored efforts to inspect and monitor Iraqi weapons activities.
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- Sec. 2101. Authorized Army construction and land acquisition projects.
- Sec. 2102. Family housing.
- Sec. 2103. Improvements to military family housing units.
- Sec. 2104. Authorization of appropriations, Army.
- Sec. 2105. Modification of authority to carry out certain fiscal year 2002 projects.
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- Sec. 2110. Planning and design for anechoic chamber at White Sands Missile Range, New Mexico.

TITLE XXII—NAVY

- Sec. 2201. Authorized Navy construction and land acquisition projects.
- Sec. 2202. Family housing.
- Sec. 2203. Improvements to military family housing units.
- Sec. 2204. Authorization of appropriations, Navy.
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TITLE XXIII—AIR FORCE

- Sec. 2301. Authorized Air Force construction and land acquisition projects.
- Sec. 2302. Family housing.
- Sec. 2303. Improvements to military family housing units.
- Sec. 2304. Authorization of appropriations, Air Force.
- Sec. 2305. Authority for use of military construction funds for construction of public road near Aviano Air Base, Italy, closed for force protection purposes.
- Sec. 2306. Additional project authorization for air traffic control facility at Dover Air Force Base, Delaware.
- Sec. 2307. Availability of funds for consolidation of materials computational research facility at Wright-Patterson Air Force Base, Ohio.

TITLE XXIV—DEFENSE AGENCIES

- Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.
- Sec. 2402. Improvements to military family housing units.
- Sec. 2403. Energy conservation projects.
- Sec. 2404. Authorization of appropriations, Defense Agencies.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

- Sec. 2501. Authorized NATO construction and land acquisition projects.
- Sec. 2502. Authorization of appropriations, NATO.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

- Sec. 2601. Authorized guard and reserve construction and land acquisition projects.
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- Sec. 2603. Additional project authorization for Composite Support Facility for Illinois Air National Guard.

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- Sec. 2702. Extension of authorizations of certain fiscal year 2000 projects.
- Sec. 2703. Extension of authorizations of certain fiscal year 1999 projects.
- Sec. 2704. Effective date.

TITLE XXVIII—GENERAL PROVISIONS

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- Sec. 2801. Lease of military family housing in Korea.
- Sec. 2802. Repeal of source requirements for family housing construction overseas.
- Sec. 2803. Modification of lease authorities under alternative authority for acquisition and improvement of military housing.

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- Sec. 2811. Agreements with private entities to enhance military training, testing, and operations.
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Subtitle C—Land Conveyances

- Sec. 2821. Conveyance of certain lands in Alaska no longer required for National Guard purposes.
- Sec. 2822. Land conveyance, Fort Campbell, Kentucky.
- Sec. 2823. Modification of authority for land transfer and conveyance, Naval Security Group Activity, Winter Harbor, Maine.
- Sec. 2824. Land conveyance, Westover Air Reserve Base, Massachusetts.
- Sec. 2825. Land conveyance, Naval Station Newport, Rhode Island.
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- Sec. 2827. Land acquisition, Boundary Channel Drive Site, Arlington, Virginia.
- Sec. 2828. Land conveyances, Wendover Air Force Base Auxiliary Field, Nevada.
- Sec. 2829. Land conveyance, Fort Hood, Texas.
- Sec. 2830. Land conveyances, Engineer Proving Ground, Fort Belvoir, Virginia.
- Sec. 2831. Master plan for use of Navy Annex, Arlington, Virginia.
- Sec. 2832. Land conveyance, Sunflower Army Ammunition Plant, Kansas.
- Sec. 2833. Land conveyance, Bluegrass Army Depot, Richmond, Kentucky.

Subtitle D—Other Matters

- Sec. 2841. Transfer of funds for acquisition of replacement property for National Wildlife Refuge system lands in Nevada.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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- Sec. 3101. National Nuclear Security Administration.
- Sec. 3102. Defense environmental management.
- Sec. 3103. Other defense activities.
- Sec. 3104. Defense environmental management privatization.
- Sec. 3105. Defense nuclear waste disposal.

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- Sec. 3121. Reprogramming.
- Sec. 3122. Limits on minor construction projects.
- Sec. 3123. Limits on construction projects.
- Sec. 3124. Fund transfer authority.
- Sec. 3125. Authority for conceptual and construction design.
- Sec. 3126. Authority for emergency planning, design, and construction activities.
- Sec. 3127. Funds available for all national security programs of the Department of Energy.
- Sec. 3128. Availability of funds.
- Sec. 3129. Transfer of defense environmental management funds.

Sec. 3130. Transfer of weapons activities funds.

Subtitle C—Program Authorizations, Restrictions, and Limitations

Sec. 3131. Availability of funds for environmental management cleanup reform.

Sec. 3132. Robust Nuclear Earth Penetrator.

Sec. 3133. Database to track notification and resolution phases of Significant Finding Investigations.

Sec. 3134. Requirements for specific request for new or modified nuclear weapons.

Sec. 3135. Requirement for authorization by law for funds obligated or expended for Department of Energy national security activities.

Sec. 3136. Limitation on availability of funds for program to eliminate weapons grade plutonium production in Russia.

Subtitle D—Proliferation Matters

Sec. 3151. Administration of program to eliminate weapons grade plutonium production in Russia.

Sec. 3152. Repeal of requirement for reports on obligation of funds for programs on fissile materials in Russia.

Sec. 3153. Expansion of annual reports on status of nuclear materials protection, control, and accounting programs.

Sec. 3154. Testing of preparedness for emergencies involving nuclear, radiological, chemical, or biological weapons.

Sec. 3155. Program on research and technology for protection from nuclear or radiological terrorism.

Sec. 3156. Expansion of international materials protection, control, and accounting program.

Sec. 3157. Accelerated disposition of highly enriched uranium and plutonium.

Sec. 3158. Disposition of plutonium in Russia.

Sec. 3159. Strengthened international security for nuclear materials and safety and security of nuclear operations.

Sec. 3160. Export control programs.

Sec. 3161. Improvements to nuclear materials protection, control, and accounting program of the Russian Federation.

Sec. 3162. Comprehensive annual report to Congress on coordination and integration of all United States nonproliferation activities.

Sec. 3163. Utilization of Department of Energy national laboratories and sites in support of counterterrorism and homeland security activities.

Subtitle E—Other Matters

Sec. 3171. Indemnification of Department of Energy contractors.

Sec. 3172. Worker health and safety rules for Department of Energy facilities.

Sec. 3173. One-year extension of authority of Department of Energy to pay voluntary separation incentive payments.

Sec. 3174. Support for public education in the vicinity of Los Alamos National Laboratory, New Mexico.

Subtitle F—Disposition of Weapons-Usable Plutonium at Savannah River, South Carolina

Sec. 3181. Findings.

Sec. 3182. Disposition of weapons-usable plutonium at Savannah River Site.

Sec. 3183. Study of facilities for storage of plutonium and plutonium materials at Savannah River Site.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sec. 3201. Authorization.

Sec. 3202. Authorization of appropriations for the formerly used sites remedial action program of the Corps of Engineers.

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term “congressional defense committees” means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

**DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS
TITLE I—PROCUREMENT**

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement for the Army as follows:

- (1) For aircraft, \$2,144,386,000.
- (2) For missiles, \$1,653,150,000.
- (3) For weapons and tracked combat vehicles, \$2,242,882,000.
- (4) For ammunition, \$1,205,499,000.
- (5) For other procurement, \$5,513,679,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement for the Navy as follows:

- (1) For aircraft, \$9,037,209,000.
- (2) For weapons, including missiles and torpedoes, \$2,505,820,000.
- (3) For shipbuilding and conversion, \$8,624,160,000.
- (4) For other procurement, \$4,515,500,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement for the Marine Corps in the amount of \$1,341,219,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement of ammunition for the Navy and the Marine Corps in the amount of \$1,173,157,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement for the Air Force as follows:

- (1) For aircraft, \$12,613,605,000.
- (2) For ammunition, \$1,275,864,000.
- (3) For missiles, \$3,258,162,000.
- (4) For other procurement, \$10,477,840,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 2003 for Defense-wide procurement in the amount of \$3,054,943,000.

SEC. 105. DEFENSE INSPECTOR GENERAL.

Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement for the Inspector General of the Department of Defense in the amount of \$2,000,000.

SEC. 106. CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE.

There is hereby authorized to be appropriated for the Office of the Secretary of Defense for fiscal year 2003 the amount of \$1,490,199,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

SEC. 107. DEFENSE HEALTH PROGRAMS.

Funds are hereby authorized to be appropriated for fiscal year 2003 for the Department of Defense for procurement for carrying out health care programs, projects, and activities of the Department of Defense in the total amount of \$278,742,000.

Subtitle B—Army Programs

SEC. 111. PILOT PROGRAM ON SALES OF MANUFACTURED ARTICLES AND SERVICES OF CERTAIN ARMY INDUSTRIAL FACILITIES WITHOUT REGARD TO AVAILABILITY FROM DOMESTIC SOURCES.

(a) EXTENSION OF PROGRAM.—Subsection (a) of section 141 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 10 U.S.C. 4543 note) is amended by striking “through 2002” in the first sentence and inserting “through 2004”.

(b) USE OF OVERHEAD FUNDS MADE SURPLUS BY SALES.—Such section is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

“(c) For each Army industrial facility participating in the pilot program that sells manufactured articles and services in a total amount in excess of \$20,000,000 in any fiscal year, the amount equal to one-half of one percent of such total amount shall be transferred from the sums in the Army Working Capital Fund for unutilized plant capacity to appropriations available for the following fiscal year for the demilitarization of conventional ammunition by the Army.”.

(c) UPDATE OF INSPECTOR GENERAL’S REVIEW.—The Inspector General of the Department of Defense shall review the experience under the pilot program carried out under section 141 of Public Law 105-85 and, not later than July 1, 2003, submit to Congress a report on the results of the review. The report shall contain the views, information, and recommendations called for under subsection (d) of such section (as redesignated by subsection (b)(1)). In carrying out the review and preparing the report, the Inspector General shall take into consideration the report submitted to Congress under such subsection (as so redesignated).

Subtitle C—Navy Programs

SEC. 121. INTEGRATED BRIDGE SYSTEM.

(a) AMOUNT FOR PROGRAM.—Of the amount authorized to be appropriated by section 102(a)(4), \$5,000,000 shall be available for the procurement of the integrated bridge system in items less than \$5,000,000.

(b) OFFSETTING REDUCTION.—Of the total amount authorized to be appropriated by section 102(a)(4), the amount available for the integrated bridge system in Aegis support equipment is hereby reduced by \$5,000,000.

SEC. 122. EXTENSION OF MULTIYEAR PROCUREMENT AUTHORITY FOR DDG-51 CLASS DESTROYERS.

Section 122(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2446), as amended by section 122 of Public Law 106-65 (113 Stat. 534) and section 122(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-24), is further

amended by striking "October 1, 2005" in the first sentence and inserting "October 1, 2007".

SEC. 123. MAINTENANCE OF SCOPE OF CRUISER CONVERSION OF TICONDEROGA CLASS AEGIS CRUISERS.

The Secretary of the Navy should maintain the scope of the cruiser conversion program for the Ticonderoga class of AEGIS cruisers such that the program—

(1) covers all 27 Ticonderoga class AEGIS cruisers; and

(2) modernizes the class of cruisers to include an appropriate mix of upgrades to ships' capabilities for theater missile defense, naval fire support, and air dominance.

SEC. 124. MARINE CORPS LIVE FIRE RANGE IMPROVEMENTS.

(a) **INCREASE IN AUTHORIZATION OF APPROPRIATIONS.**—The amount authorized to be appropriated by section 102(b) for procurement for the Marine Corps is hereby increased by \$1,900,000, with the amount of the increase to be allocated to Training Devices.

(b) **AVAILABILITY.**—(1) Of the amount authorized to be appropriated by section 102(b) for procurement for the Marine Corps, as increased by subsection (a), \$1,900,000 shall be available as follows:

(A) For upgrading live fire range target movers.

(B) To bring live fire range radio controls into compliance with Federal Communications Commission narrow band requirements.

(2) Amounts available under paragraph (1) for the purposes set forth in that paragraph are in addition to any other amounts available in this Act for such purposes.

(c) **OFFSETTING REDUCTION.**—The amount authorized to be appropriated by section 103(1) for the C-17 interim contractor support is reduced by \$1,900,000.

Subtitle D—Air Force Programs

SEC. 131. C-130J AIRCRAFT PROGRAM.

(a) **MULTIYEAR PROCUREMENT AUTHORITY.**—Beginning with the fiscal year 2003 program year, the Secretary of the Air Force may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract for the procurement of C-130J aircraft and variants of the C-130J aircraft, subject to subsection (b), and except that, notwithstanding subsection (k) of such section, such a contract may be for a period of six program years.

(b) **LIMITATION.**—The Secretary of the Air Force may not enter into a multiyear contract authorized by subsection (a) until the C-130J aircraft has been cleared for worldwide over-water capability.

SEC. 132. PATHFINDER PROGRAMS.

(a) **SPIRAL DEVELOPMENT PLAN FOR SELECTED PATHFINDER PROGRAMS.**—Not later than February 1, 2003, the Secretary of the Air Force shall—

(1) identify among the pathfinder programs listed in subsection (e) each pathfinder program that the Secretary shall conduct as a spiral development program; and

(2) submit to the Secretary of Defense for each pathfinder program identified under paragraph (1) a spiral development plan that meets the requirements of section 803(c).

(b) **APPROVAL OR DISAPPROVAL OF SPIRAL DEVELOPMENT PLANS.**—Not later than March 15, 2003, the Secretary of Defense shall—

(1) review each spiral development plan submitted under subsection (a)(2);

(2) approve or disapprove the conduct as a spiral development plan of the pathfinder program covered by each such spiral development plan; and

(3) submit to the congressional defense committees a copy of each spiral development plan approved under paragraph (2).

(c) **ASSESSMENT OF PATHFINDER PROGRAMS NOT SELECTED OR APPROVED FOR SPIRAL DEVELOPMENT.**—Not later than March 15, 2003, each official of the Department of Defense specified in subsection (d) shall submit to the congressional defense committees the assessment required of such official under that subsection for the acquisition plan for each pathfinder program as follows:

(1) Each pathfinder program that is not identified by the Secretary of the Air Force under subsection (a)(1) as a program that the Secretary shall conduct as a spiral development program.

(2) Each pathfinder program that is disapproved by the Secretary of Defense for conduct as a spiral development program under subsection (b)(2).

(d) **OFFICIALS AND REQUIRED ASSESSMENTS FOR PROGRAMS OUTSIDE SPIRAL DEVELOPMENT.**—The officials specified in this subsection, and the assessment required of such officials, are as follows:

(1) The Director of Operational Test and Evaluation, who shall assess the test contents of the acquisition plan for each pathfinder program covered by subsection (c).

(2) The Chairman of the Joint Requirements Oversight Council, who shall assess the extent to which the acquisition plan for each such pathfinder program addresses validated military requirements.

(3) The Under Secretary of Defense (Controller), in coordination with the Under Secretary of Defense for Acquisition, Technology, and Logistics, who shall conduct an independent programmatic evaluation of the acquisition plan for each such pathfinder program, including an analysis of the total cost, schedule, and technical risk associated with development of such program.

(e) **PATHFINDER PROGRAMS.**—The pathfinder programs listed in this subsection are the program as follows:

- (1) Space Based Radar.
- (2) Global Positioning System.
- (3) Global Hawk.
- (4) Combat Search and Rescue.
- (5) B-2 Radar.
- (6) Predator B.
- (7) B-1 Defensive System Upgrade.
- (8) Multi Mission Command and Control Constellation.
- (9) Unmanned Combat Air Vehicle.
- (10) Global Transportation Network.
- (11) C-5 Avionics Modernization Program.
- (12) Hunter/Killer.
- (13) Tanker/Lease.
- (14) Small Diameter Bomb.
- (15) KC-767.
- (16) AC-130 Gunship.

SEC. 133. OVERSIGHT OF ACQUISITION FOR DEFENSE SPACE PROGRAMS.

(a) **IN GENERAL.**—The Office of the Secretary of Defense shall maintain oversight of acquisition for defense space programs.

(b) **REPORT ON OVERSIGHT.**—(1) Not later than March 15, 2003, the Secretary of Defense shall submit to the congressional defense committees a detailed plan on how the Office of the Secretary of Defense shall provide oversight of acquisition for defense space programs.

(2) The plan shall set forth the following:

(A) The organizations in the Office of the Secretary of Defense, and the Joint Staff organizations, to be involved in oversight of acquisition for defense space programs.

(B) The process for the review of defense space programs by the organizations specified under subparagraph (A).

(C) The process for the provision by such organizations of technical, programmatic, scheduling, and budgetary advice on defense space programs to the Deputy Secretary of Defense and the Under Secretary of the Air Force.

(D) The process for the development of independent cost estimates for defense space programs, including the organization responsible for developing such cost estimates and when such cost estimates shall be required.

(E) The process for the development of the budget for acquisition for defense space programs.

(F) The process for the resolution of issues regarding acquisition for defense space programs that are raised by the organizations specified under subparagraph (A).

(c) **DEFENSE SPACE PROGRAM DEFINED.**—In this section, the term "defense space program" means any major defense acquisition program (as that term is defined in section 2430 of title 10, United States Code) for the acquisition of—

(1) space-based assets, space launch assets, or user equipment for such assets; or

(2) earth-based or spaced-based assets dedicated primarily to space surveillance or space control.

SEC. 134. LEASING OF TANKER AIRCRAFT.

The Secretary of the Air Force shall not enter into any lease for tanker aircraft until the Secretary submits the report required by section 8159(c)(6) of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107-117; 115 Stat. 2284) and obtains authorization and appropriation of funds necessary to enter into a lease for such aircraft consistent with his publicly stated commitments to the Congress to do so.

SEC. 135. COMPASS CALL PROGRAM.

Of the amount authorized to be appropriated by section 103(1), \$12,700,000 shall be available for the Compass Call program within classified projects and not within the Defense Airborne Reconnaissance Program.

SEC. 136. SENSE OF CONGRESS REGARDING ASSURED ACCESS TO SPACE.

(a) **FINDINGS.**—Congress makes the following findings:

(1) Assured access to space is a vital national security interest of the United States.

(2) The Evolved Expendable Launch Vehicle program of the Department of Defense is a critical element of the Department's plans for assuring United States access to space.

(3) Significant contractions in the commercial space launch marketplace have eroded the overall viability of the United States space launch industrial base and could hamper the ability of the Department of Defense to provide assured access to space in the future.

(4) The continuing viability of the United States space launch industrial base is a critical element of any strategy to ensure the long-term ability of the United States to assure access to space.

(5) The Under Secretary of the Air Force, as acquisition executive for space programs in the Department of Defense, has been authorized to develop a strategy to address United States space launch and assured access to space requirements.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the Under Secretary of the Air Force should—

(1) evaluate all options for sustaining the United States space launch industrial base;

(2) develop an integrated, long-range, and adequately funded plan for assuring United States access to space; and

(3) submit to Congress a report on the plan at the earliest opportunity practicable.

SEC. 137. MOBILE EMERGENCY BROADBAND SYSTEM.

(a) AMOUNT FOR PROGRAM.—Of the total amount authorized to be appropriated by section 103(4), \$1,000,000 may be available for the procurement of technical communications-electronics equipment for the Mobile Emergency Broadband System.

(b) OFFSETTING REDUCTION.—Of the total amount authorized to be appropriated by section 103(4), the amount available under such section for the Navy for other procurement for gun fire control equipment, SPQ-9B solid state transmitter, is hereby reduced by \$1,000,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION**Subtitle A—Authorization of Appropriations****SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

Funds are hereby authorized to be appropriated for fiscal year 2003 for the use of the Department of Defense for research, development, test, and evaluation as follows:

- (1) For the Army, \$7,297,033,000.
- (2) For the Navy, \$12,927,135,000.
- (3) For the Air Force, \$18,608,684,000.
- (4) For Defense-wide activities, \$17,543,927,000, of which \$361,554,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR SCIENCE AND TECHNOLOGY.

(a) AMOUNT FOR PROJECTS.—Of the total amount authorized to be appropriated by section 201, \$10,164,358,000 shall be available for science and technology projects.

(b) SCIENCE AND TECHNOLOGY DEFINED.—In this section, the term “science and technology project” means work funded in program elements for defense research, development, test, and evaluation under Department of Defense budget activities 1, 2, or 3.

SEC. 203. DEFENSE HEALTH PROGRAMS.

Funds are hereby authorized to be appropriated for fiscal year 2003 for the Department of Defense for research, development, test, and evaluation for carrying out health care programs, projects, and activities of the Department of Defense in the total amount of \$67,214,000.

Subtitle B—Program Requirements, Restrictions, and Limitations**SEC. 211. BASIC SEISMIC RESEARCH PROGRAM FOR SUPPORT OF NATIONAL REQUIREMENTS FOR MONITORING NUCLEAR EXPLOSIONS.**

(a) MANAGEMENT OF PROGRAM.—(1) The Secretary of the Air Force shall manage the Department of Defense program of basic seismic research in support of national requirements for monitoring nuclear explosions. The Secretary shall manage the program in the manner necessary to support Air Force mission requirements relating to the national requirements.

(2) The Secretary shall act through the Director of the Air Force Research Laboratory in carrying out paragraph (1).

(c) AMOUNT FOR PROGRAM.—Of the amount authorized to be appropriated by section 201(4), \$20,000,000 shall be available for the program referred to in subsection (a).

SEC. 212. ADVANCED SEAL DELIVERY SYSTEM.

To the extent provided in appropriations Acts, the Secretary of Defense may use for research, development, test, and evaluation for the Advanced SEAL Delivery System any funds that were authorized to be appropriated to the Department of Defense for fiscal year 2002 for the procurement of that system, were appropriated pursuant to such authorization of appropriations, and are no longer needed for that purpose.

SEC. 213. ARMY EXPERIMENTATION PROGRAM REGARDING DESIGN OF THE OBJECTIVE FORCE.

(a) REQUIREMENT FOR REPORT.—Not later than March 30, 2003, the Secretary of the Army shall submit to Congress a report on the experimentation program regarding design of the objective force that is required by subsection (g) of section 113 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as added by section 113 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1029).

(b) BUDGET DISPLAY.—Amounts provided for the experimentation program in the budget for fiscal year 2004 that is submitted to Congress under section 1105(a) of title 31, United States Code, shall be displayed as a distinct program element in that budget and in the supporting documentation submitted to Congress by the Secretary of Defense.

SEC. 214. REALLOCATION OF AMOUNT AVAILABLE FOR INDIRECT FIRE PROGRAMS.

(a) REDUCTION OF AMOUNT FOR CRUSADER.—Of the amount authorized to be appropriated by section 201(1) for the Army for research, development, test, and evaluation, the amount available for continued research and development of the Crusader artillery system is hereby reduced by \$475,600,000.

(b) INCREASE OF AMOUNT FOR FUTURE COMBAT SYSTEMS.—Of the amount authorized to be appropriated by section 201(1) for the Army for research, development, test, and evaluation, the amount available for research and development for the Objective Force indirect fire systems is hereby increased by \$475,600,000. The amount of the increase shall be available only for meeting the needs of the Army for indirect fire capabilities, and may not be used under the authority of this section until 30 days after the date on which the Secretary of Defense submits the report required by subsection (d), together with a notification of the Secretary's plan to use such funds to meet the needs of the Army for indirect fire capabilities.

(c) USE OF FUNDS.—Subject to subsection (b), the Secretary of Defense may use the amount available under such subsection for any program for meeting the needs of the Army for indirect fire capabilities.

(d) REPORTING REQUIREMENT.—(1) Not later than 30 days after the date of the enactment of this Act, the Chief of Staff of the Army shall complete a review of the full range of Army programs that could provide improved indirect fire for the Army over the next 20 years and shall submit to the Secretary of Defense a report containing the recommendation of the Chief of Staff on which alternative for improving indirect fire for the Army is the best alternative for that purpose. The report shall also include information on each of the following funding matters:

(A) The manner in which the amount available under subsection (b) should be best invested to support the improvement of indirect fire capabilities for the Army.

(B) The manner in which the amount provided for indirect fire programs of the Army in the future-years defense program submitted to Congress with respect to the budget for fiscal year 2003 under section 221 of title 10, United States Code, should be best invested to support improved indirect fire for the Army.

(C) The manner in which the amounts described in subparagraphs (A) and (B) should be best invested to support the improvement of indirect fire capabilities for the Army in

the event of a termination of the Crusader artillery system program.

(D) The portion of the amount available under subsection (b) that should be reserved for paying costs associated with a termination of the Crusader artillery system program in the event of such a termination.

(2) The Secretary of Defense shall submit the report, together with any comments and recommendations that the Secretary considers appropriate, to the congressional defense committees.

(e) ANNUAL UPDATES.—(1) The Secretary shall submit to the congressional defense committees, at the same time that the President submits the budget for a fiscal year referred to in paragraph (4) to Congress under section 1105(a) of title 31, United States Code, a report on the investments proposed to be made in indirect fire programs for the Army.

(2) If the Crusader artillery system program has been terminated by the time the annual report is submitted in conjunction with the budget for a fiscal year, the report shall—

(A) identify the amount proposed for expenditure for the Crusader artillery system program for that fiscal year in the future-years defense program that was submitted to Congress in 2002 under section 221 of title 10, United States Code; and

(B) specify—

(i) the manner in which the amount provided in that budget would be expended for improved indirect fire capabilities for the Army; and

(ii) the extent to which the expenditures in that manner would improve indirect fire capabilities for the Army.

(3) The requirement to submit an annual report under paragraph (1) shall apply with respect to budgets for fiscal years 2004, 2005, 2006, 2007, and 2008.

SEC. 215. LASER WELDING AND CUTTING DEMONSTRATION.

(a) AMOUNT FOR PROGRAM.—Of the total amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, \$6,000,000 shall be available for the laser welding and cutting demonstration in force protection applied research (PE 0602123N).

(b) OFFSETTING REDUCTION.—Of the total amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, the amount available for laser welding and cutting demonstration in surface ship and submarine HM&E advanced technology (PE 0603508N) is hereby reduced by \$6,000,000.

SEC. 216. ANALYSIS OF EMERGING THREATS.

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby increased by \$2,000,000 with the amount of the increase to be allocated to Marine Corps Advanced Technology Demonstration (ATD) (PE 0603640M).

(b) AVAILABILITY.—(1) Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, as increased by subsection (a), \$2,000,000 may be available for analysis of emerging threats.

(2) The amount available under paragraph (1) for analysis of emerging threats is in addition to any other amounts available under this Act for analysis of emerging threats.

(c) OFFSET.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby reduced by \$2,000,000, with

the amount of the reduction allocated as follows:

(1) \$1,000,000 may be allocated to Weapons and Munitions Technology (PE 0602624A) and available for counter mobility systems.

(2) \$1,000,000 may be allocated to Warfighter Advanced Technology (PE 0603001A) and available for Objective Force Warrior technologies.

SEC. 217. PROHIBITION ON TRANSFER OF MEDICAL FREE ELECTRON LASER PROGRAM.

Notwithstanding any other provision of law, the Medical Free Electron Laser Program (PE 060227D8Z) may not be transferred from the Department of Defense to the National Institutes of Health, or to any other department or agency of the Federal Government.

SEC. 218. DEMONSTRATION OF RENEWABLE ENERGY USE.

Of the amount authorized to be appropriated by section 201(2), \$2,500,000 shall be available for the demonstration of renewable energy use program within the program element for the Navy energy program and not within the program element for facilities improvement.

SEC. 219A. RADAR POWER TECHNOLOGY FOR THE ARMY.

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated by section 201(1) for the Department of Defense for research, development, test, and evaluation for the Army is hereby increased by \$4,500,000, with the amount of the increase to be allocated to Army missile defense systems integration (DEM/VAL) (PE 0603308A).

(b) AVAILABILITY FOR RADAR POWER TECHNOLOGY.—(1) Of the amount authorized to be appropriated by section 201(1) for the Department of Defense for research, development, test, and evaluation for the Army, as increased by subsection (a), \$4,500,000 shall be available for radar power technology.

(2) The amount available under paragraph (1) for radar power technology is in addition to any other amounts available under this Act for such technology.

(c) OFFSET.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby reduced by \$4,500,000, with the amount of the reduction to be allocated to common picture advanced technology (PE 0603235N).

SEC. 219B. CRITICAL INFRASTRUCTURE PROTECTION.

(a) AMOUNT FOR PROGRAM.—Of the amount authorized to be appropriated in section 201(4), \$4,500,000 may be available for critical infrastructure protection (PE 35190D8Z).

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(2), the amount for power projection advanced technology (PE 63114N) is hereby reduced by \$4,500,000.

SEC. 219C. THEATER AEROSPACE COMMAND AND CONTROL SIMULATION FACILITY UPGRADES.

(a) AVAILABILITY OF FUNDS.—(1) The amount authorized to be appropriated by section 201(3) for the Air Force for wargaming and simulation centers (PE 0207605F) is increased by \$2,500,000. The total amount of the increase may be available for Theater Aerospace Command and Control Simulation Facility (TACCSF) upgrades.

(2) The amount available under paragraph (1) for Theater Aerospace Command and Control Simulation Facility upgrades is in addition to any other amounts available under this Act for such upgrades.

(b) OFFSET.—The amount authorized to be appropriated by section 201(2) for the Navy

for Mine and Expeditionary Warfare Applied Research (PE 0602782N) is reduced by \$2,500,000.

SEC. 219D. DDG OPTIMIZED MANNING INITIATIVE.

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby increased by \$2,500,000, with the amount of the increase to be allocated to surface combatant combat system engineering (PE 0604307N).

(b) AVAILABILITY.—(1) Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, as increased by subsection (a), \$2,500,000 may be available for the DDG optimized manning initiative.

(2) The amount available under paragraph (1) for the initiative referred to in that paragraph is in addition to any other amounts available under this Act for that initiative.

(c) OFFSET.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for artillery systems DEM/VAL (PE 0603854A), by \$2,500,000.

SEC. 219E. AGROTERRORIST ATTACKS.

(a) AVAILABILITY.—(1) Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, defense-wide, the amount available for basic research for the Chemical and Biological Defense Program (PE 0601384BP) is hereby increased by \$1,000,000, with the amount of such increase to be available for research, analysis, and assessment of efforts to counter potential agroterrorist attacks.

(2) The amount available under paragraph (1) for research, analysis, and assessment described in that paragraph is in addition to any other amounts available in this Act for such research, analysis, and assessment.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide, the amount available for biological terrorism and agroterrorism risk assessment and prediction in the program element relating to the Chemical and Biological Defense Program (PE 0603384BP) is hereby reduced by \$1,000,000.

SEC. 219F. VERY HIGH SPEED SUPPORT VESSEL FOR THE ARMY.

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by \$5,500,000, with the amount of the increase to be allocated to logistics and engineering equipment—advanced development (PE 0603804A).

(b) AVAILABILITY.—(1) Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, as increased by subsection (a), \$5,500,000 may be available for development of a prototype composite hull design to meet the theater support vessel requirement.

(2) The amount available under paragraph (1) for development of the hull design referred to in that paragraph is in addition to any other amounts available under this Act for development of that hull design.

(c) OFFSET.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby decreased by \$5,500,000, with the amount of the decrease to be allocated to submarine tactical warfare system (PE 0604562N) and amounts available under that program element for upgrades of combat control software to commercial architecture.

SEC. 219G. FULL-SCALE HIGH-SPEED PERMANENT MAGNET GENERATOR.

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby increased by \$1,000,000, with the amount of the increase to be allocated to Force Protection Advanced Technology (PE 0603123N).

(b) AVAILABILITY.—(1) Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, as increased by subsection (a), \$1,000,000 may be available for development and demonstration of a full-scale high-speed permanent magnet generator.

(2) The amount available under paragraph (1) for development and demonstration of the generator described in that paragraph is in addition to any other amounts available in this Act for development and demonstration of that generator.

(c) OFFSET.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby reduced by \$1,000,000, with the amount of the reduction to be allocated to Artillery Systems—Dem/Val (PE 0603854A).

SEC. 219H. AVIATION-SHIPBOARD INFORMATION TECHNOLOGY INITIATIVE.

Of the amount authorized to be appropriated by section 201(2) for shipboard aviation systems, up to \$8,200,000 may be used for the aviation-shipboard information technology initiative.

SEC. 219I. AEROSPACE RELAY MIRROR SYSTEM (ARMS) DEMONSTRATION.

Of the amount authorized to be appropriated by section 201(3) for the Department of Defense for research, development, test, and evaluation for the Air Force, \$6,000,000 may be available for the Aerospace Relay Mirror System (ARMS) Demonstration.

SEC. 219J. LITTORAL SHIP PROGRAM.

(a) AMOUNT FOR PROGRAM.—Of the amount authorized to be appropriated by section 201(2) for research and development, test and evaluation, Navy, \$4,000,000 may be available for requirements development of a littoral ship in Ship Concept Advanced Design (PE 0603563N).

(b) OFFSETTING REDUCTION.—Of the total amount authorized to be appropriated by section 201(2) for research and development, test and evaluation, Navy, the amount available for FORCENET in Tactical Command System (PE 0604231N), is hereby reduced by an additional \$4,000,000.

Subtitle C—Missile Defense Programs

SEC. 221. ANNUAL OPERATIONAL ASSESSMENTS AND REVIEWS OF BALLISTIC MISSILE DEFENSE PROGRAM.

(a) ANNUAL OPERATIONAL ASSESSMENT.—(1)(A) During the first quarter of each fiscal year, the Director of Operational Test and Evaluation shall conduct an operational assessment of the missile defense programs listed in paragraph (3).

(B) The annual assessment shall include—

(i) a detailed, quantitative evaluation of the potential operational effectiveness, reliability, and suitability of the system or systems under each program as the program exists during the fiscal year of the assessment;

(ii) an evaluation of the adequacy of testing through the end of the previous fiscal year to measure and predict the effectiveness of the systems; and

(iii) a determination of the threats, or type of threats, against which the systems would be expected to be effective and those against which the systems would not be expected to be effective.

(C) The first assessment under this paragraph shall be conducted during fiscal year 2003.

(2) Not later than January 15 of each year, the Director of Operational Test and Evaluation shall submit to the Secretary of Defense and the congressional defense committees a report on the assessment conducted during the preceding quarter-year. The report shall include the evaluation of the potential of the system or systems together with a discussion of the basis for the evaluation.

(3) The requirement for an annual operational assessment under paragraph (1) shall apply to programs under the United States Missile Defense Agency as follows:

(A) The Ground-based Midcourse Defense program.

(B) The Sea-based Midcourse Defense program.

(C) The Theater High Altitude Area Defense (THAAD) program.

(D) The Air-based Boost program (formerly known as the Airborne Laser Defense program).

(b) **ANNUAL REQUIREMENTS REVIEWS.**—(1) During the first quarter of each fiscal year, the Joint Requirements Oversight Council established under section 181 of title 10, United States Code, shall review the cost, schedule, and performance criteria for the missile defense programs under the United States Missile Defense Agency and assess the validity of the criteria in relation to military requirements. The first review shall be carried out in fiscal year 2003.

(2) Not later than January 15 of each year, the Chairman of the Joint Requirements Oversight Council shall submit to the Secretary of Defense and the congressional defense committees a report on the results of the review carried out under paragraph (1) during the preceding quarter-year.

SEC. 222. REPORT ON MIDCOURSE DEFENSE PROGRAM.

(a) **REQUIREMENT FOR REPORT.**—Not later than January 15, 2003, the Secretary of Defense shall submit to the congressional defense committees a report on the Midcourse Defense program of the United States Missile Defense Agency. The report shall include the following information:

(1) The development schedule, together with an estimate of the annual costs through the completion of development.

(2) The planned procurement schedule, together with the Secretary's best estimates of the annual costs of, and number of units to be procured under, the program through the completion of the procurement.

(3) The current program acquisition unit cost and the history of acquisition unit costs from the date the program (including its antecedent program) was first included in a Selected Acquisition Report under section 2432 of title 10, United States Code.

(4) The current procurement unit cost, and the history of procurement unit costs from the date the program (including any antecedent program) was first included in a Selected Acquisition Report under such section 2432.

(5) The reasons for any changes in program acquisition cost, program acquisition unit cost, procurement cost, or procurement unit cost, and the reasons for any changes in program schedule.

(6) The major contracts under the program and the reasons for any changes in cost or schedule variances under the contracts.

(7) The Test and Evaluation Master Plan developed for the program in accordance with the requirements and guidance of Department of Defense regulation 5000.2-R.

(b) **SEGREGATION OF GROUND-BASED AND SEA-BASED EFFORTS.**—The report under subsection (a) shall separately display the schedules, cost estimates, cost histories, contracts, and test plans for—

(1) the National Missile Defense/Ground-based Midcourse Defense program; and

(2) the Navy TheaterWide/Sea-based Midcourse Defense program.

SEC. 223. REPORT ON AIR-BASED BOOST PROGRAM.

Not later than January 15, 2003, the Secretary of Defense shall submit to the congressional defense committees a report on the Air-based Boost program (formerly known as the Airborne Laser program). The report shall contain the following information:

(1) The development schedule together with the estimated annual costs of the program through the completion of development.

(2) The planned procurement schedule, together with the Secretary's best estimates of the annual costs of, and number of units to be procured under, the program through the completion of the procurement.

(3) The current program acquisition unit cost, and the history of program acquisition unit costs from the date the program (including any antecedent program) was first included in a Selected Acquisition Report under section 2432 of title 10, United States Code.

(4) The current procurement unit cost, and the history of procurement unit costs from the date the program (including any antecedent program) was first included in a Selected Acquisition Report under such section 2432.

(5) The reasons for any changes in program acquisition cost, program acquisition unit cost, procurement cost, or procurement unit cost, and the reasons for any changes in program schedule.

(6) The major contracts under the program and the reasons for any changes in cost or schedule variances under the contracts.

(7) The Test and Evaluation Master Plan developed for the program in accordance with the requirements and guidance of Department of Defense regulation 5000.2-R.

SEC. 224. REPORT ON THEATER HIGH ALTITUDE AREA DEFENSE PROGRAM.

(a) **REQUIREMENT FOR REPORT.**—Not later than January 15, 2003, the Secretary of Defense shall submit to the congressional defense committees a report on the Theater High Altitude Area Defense program. The report shall contain the following information:

(1) The development schedule together with the estimated annual costs of the program through the completion of development.

(2) The planned procurement schedule, together with the Secretary's best estimates of the annual costs of, and number of units to be procured under, the program through the completion of the procurement.

(3) The current program acquisition unit cost and the history of program acquisition unit costs from the date the program (including any antecedent program) was first included in a Selected Acquisition Report under section 2432 of title 10, United States Code.

(4) The current procurement unit cost, and the history of procurement unit costs from the date the program (including any antecedent program) was first included in a Selected Acquisition Report under such section 2432.

(5) The reasons for any changes in program acquisition cost, program acquisition unit

cost, procurement cost, or procurement unit cost, and the reasons for any changes in program schedule.

(6) The major contracts under the program and the reasons for any changes in cost or schedule variances under the contracts.

(7) The Test and Evaluation Master Plan developed for the program in accordance with the requirements and guidance of Department of Defense regulation 5000.2-R.

(b) **FUNDING LIMITATION.**—Not more than 50 percent of the amount authorized to be appropriated by this Act for the United States Missile Defense Agency for the Theater High Altitude Area Defense program may be expended until the submission of the report required under subsection (a).

SEC. 225. REFERENCES TO NEW NAME FOR BALLISTIC MISSILE DEFENSE ORGANIZATION.

(a) **CONFORMING AMENDMENTS.**—The following provisions of law are amended by striking "Ballistic Missile Defense Organization" each place it appears and inserting "United States Missile Defense Agency":

(1) Sections 223 and 224 of title 10, United States Code.

(2) Sections 232, 233, and 235 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107).

(b) **OTHER REFERENCES.**—Any reference to the Ballistic Missile Defense Organization in any other provision of law or in any regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the United States Missile Defense Agency.

SEC. 226. LIMITATION ON USE OF FUNDS FOR UNCLEAR ARMED INTERCEPTORS.

None of the funds authorized to be appropriated by this or any other Act may be used for research, development, test, evaluation, procurement, or deployment of nuclear armed interceptors of a missile defense system.

SEC. 227. REPORTS ON FLIGHT TESTING OF GROUND-BASED MIDCOURSE NATIONAL MISSILE DEFENSE SYSTEM.

(a) **REQUIREMENT.**—The Director of the United States Missile Defense Agency shall submit to the congressional defense committees a report on each flight test of the Ground-based Midcourse national missile defense system. The report shall be submitted not later than 120 days after the date of the test.

(b) **CONTENT.**—A report on a flight test under subsection (a) shall include the following matters:

(1) A thorough discussion of the content and objectives of the test.

(2) For each test objective, a statement regarding whether the objective was achieved.

(3) For any test objective not achieved—

(A) a thorough discussion describing the reasons for not achieving the objective; and

(B) a discussion of any plans for future tests to achieve the objective.

(c) **FORMAT.**—The reports required under subsection (a) shall be submitted in classified and unclassified form.

Subtitle D—Improved Management of Department of Defense Test and Evaluation Facilities

SEC. 231. DEPARTMENT OF DEFENSE TEST AND EVALUATION RESOURCE ENTERPRISE.

(a) **ESTABLISHMENT.**—Section 139 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(k)(1) There is a Test and Evaluation Resource Enterprise within the Department of Defense. The head of the Test and Evaluation Resource Enterprise shall report to the Director of Operational Test and Evaluation.

“(2)(A) The head of the Test and Evaluation Resource Enterprise shall manage all funds available to the Department of Defense for the support of investment in, operation and maintenance of, development of, and management of the test and evaluation facilities and resources of the Major Range and Test Facility Base. All such funds shall be transferred to and placed under the control of the head of the Department of Defense Test and Evaluation Resource Enterprise.

“(B) Subparagraph (A) shall not be construed to authorize the head of the Test and Evaluation Enterprise, nor to impair the authority of the Secretary of a military department, to manage the funds available to that military department for the support of investment in, operation and maintenance of, development of, and management of the training facilities and resources of the Major Range and Test Facility Base.

“(3) The head of the Test and Evaluation Resource Enterprise shall—

“(A) ensure that the planning for and execution of the testing of a system within the Major Range and Test Facility Base is performed by the activity of a military department that is responsible for the testing;

“(B) ensure that the military department operating a facility or resource within the Major Range and Test Facility Base charges an organization using the facility or resource for testing only the incremental cost of the operation of the facility or resource that is attributable to the testing;

“(C) ensure that the military department operating a facility or resource within the Major Range and Test Facility Base comprehensively and consistently applies sound enterprise management practices in the management of the facility or resource;

“(D) make investments that are prudent for ensuring that Department of Defense test and evaluation facilities and resources are adequate to meet the current and future testing requirements of Department of Defense programs;

“(E) ensure that there is in place a simplified financial management and accounting system for Department of Defense test and evaluation facilities and resources and that the system is uniformly applied to the operation of such facilities and resources throughout the Department; and

“(F) ensure that unnecessary costs of owning and operating Department of Defense test and evaluation resources are not incurred.

“(4) In this section, the term ‘Major Range and Test Facility Base’ means the test and evaluation facilities and resources that are designated by the Director of Operational Test and Evaluation as facilities and resources comprising the Major Range and Test Facility Base.”.

(b) EFFECTIVE DATE AND TRANSITION REQUIREMENTS.—(1) The amendment made by paragraph (1) shall take effect one year after the date of the enactment of this Act.

(2)(A) The Secretary of Defense shall develop a transition plan to ensure that the head of the Test and Evaluation Resource Enterprise is prepared to assume the responsibilities under subsection (k) of section 139 of title 10, United States Code (as added by subsection (a)), on the effective date provided in paragraph (1).

(B) Until the Test and Evaluation Resource Enterprise has been established, all investments of \$500,000 or more in the Major Range and Test Facility Base of the Department of Defense shall be subject to the approval of the Director of Operational Test and Evaluation.

(C) In this paragraph, the term “Major Range and Test Facility Base” has the meaning given that term in section 139(k)(4) of title 10, United States Code, as added by subsection (a).

SEC. 232. TRANSFER OF TESTING FUNDS FROM PROGRAM ACCOUNTS TO INFRASTRUCTURE ACCOUNTS.

(a) TRANSFER OF FUNDS.—Notwithstanding any other provision of this Act, amounts authorized to be appropriated by this title for demonstration and validation, engineering and manufacturing development, and operational systems development shall be transferred to the major test and evaluation investment programs of the military departments and to the Central Test and Evaluation Investment Program of the Department of Defense, as follows:

(1) For transfer to the major test and evaluation investment program of the Army, the amount equal to 0.625 percent of the total amount authorized to be appropriated by this title for the Army for demonstration and validation, engineering and manufacturing development, and operational systems development.

(2) For transfer to the major test and evaluation investment program of the Navy, the amount equal to 0.625 percent of the total amount authorized to be appropriated by this title for the Navy for demonstration and validation, engineering and manufacturing development, and operational systems development.

(3) For transfer to the major test and evaluation investment program of the Air Force, the amount equal to 0.625 percent of the total amount authorized to be appropriated by this title for the Air Force for demonstration and validation, engineering and manufacturing development, and operational systems development.

(4) For transfer to the Central Test and Evaluation Investment Program of the Department of Defense, the amount equal to 0.625 percent of the total amount authorized to be appropriated by this title for Defense-wide demonstration and validation, engineering and manufacturing development, and operational systems development.

(b) INSTITUTIONAL FUNDING OF TEST AND EVALUATION FACILITIES.—(1)(A) Chapter 433 of title 10, United States Code, is amended by inserting after the table of sections at the beginning of such chapter the following new section:

“§ 4531. Test and evaluation: use of facilities

“(a) CHARGES FOR USE.—The Secretary of the Army may charge an entity for using a facility or resource of the Army within the Major Range and Test Facility Base for testing. The amount charged may not exceed the incremental cost to the Army of the use of the facility or resource by that user for the testing.

“(b) INSTITUTIONAL AND OVERHEAD COSTS.—The institutional and overhead costs of a facility or resource of the Army that is within the Major Range and Test Facility Base shall be paid out of the major test and evaluation investment accounts of the Army, the Central Test and Evaluation Investment Program of the Department of Defense, and other appropriate appropriations made directly to the Army.

“(c) MAJOR RANGE AND TEST FACILITY BASE DEFINED.—In this section:

“(1) The term ‘Major Range and Test Facility Base’ has the meaning given the term in section 139(k)(4) of this title.

“(2) The term ‘institutional and overhead costs’, with respect to a facility or resource within the Major Range Test and Facility Base—

“(A) means the costs of maintaining, operating, upgrading, and modernizing the facility or resource; and

“(B) does not include an incremental cost of operating the facility or resource that is attributable to the use of the facility or resource for testing under a particular program.”.

(B) The table of section at the beginning of such chapter is amended by inserting before the item relating to section 7522 the following new item:

“4531. Test and evaluation: use of facilities.”.

(2)(A) Chapter 645 of title 10, United States Code, is amended by inserting after the table of sections at the beginning of such chapter the following new section:

“§ 7521. Test and evaluation: use of facilities

“(a) CHARGES FOR USE.—The Secretary of the Navy may charge an entity for using a facility or resource of the Navy within the Major Range and Test Facility Base for testing. The amount charged may not exceed the incremental cost to the Navy of the use of the facility or resource by that user for the testing.

“(b) INSTITUTIONAL AND OVERHEAD COSTS.—The institutional and overhead costs of a facility or resource of the Navy that is within the Major Range and Test Facility Base shall be paid out of the major test and evaluation investment accounts of the Navy, the Central Test and Evaluation Investment Program of the Department of Defense, and other appropriate appropriations made directly to the Navy.

“(c) MAJOR RANGE AND TEST FACILITY BASE DEFINED.—In this section:

“(1) The term ‘Major Range and Test Facility Base’ has the meaning given the term in section 139(k)(4) of this title.

“(2) The term ‘institutional and overhead costs’, with respect to a facility or resource within the Major Range Test and Facility Base—

“(A) means the costs of maintaining, operating, upgrading, and modernizing the facility or resource; and

“(B) does not include an incremental cost of operating the facility or resource that is attributable to the use of the facility or resource for testing under a particular program.”.

(B) The table of section at the beginning of such chapter is amended by inserting before the item relating to section 7522 the following new item:

“7521. Test and evaluation: use of facilities.”.

(3)(A) Chapter 933 of title 10, United States Code, is amended by inserting after the table of sections at the beginning of such chapter the following new section:

“§ 9531. Test and evaluation: use of facilities

“(a) CHARGES FOR USE.—The Secretary of the Air Force may charge an entity for using a facility or resource of the Air Force within the Major Range and Test Facility Base for testing. The amount charged may not exceed the incremental cost to the Air Force of the use of the facility or resource by that user for the testing.

“(b) INSTITUTIONAL AND OVERHEAD COSTS.—The institutional and overhead costs of a facility or resource of the Air Force that is within the Major Range and Test Facility Base shall be paid out of the major test and evaluation investment accounts of the Air Force, the Central Test and Evaluation Investment Program of the Department of Defense, and other appropriate appropriations made directly to the Air Force.

“(c) MAJOR RANGE AND TEST FACILITY BASE DEFINED.—In this section:

“(1) The term ‘Major Range and Test Facility Base’ has the meaning given the term in section 139(k)(4) of this title.

“(2) The term ‘institutional and overhead costs’, with respect to a facility or resource within the Major Range Test and Facility Base—

“(A) means the costs of maintaining, operating, upgrading, and modernizing the facility or resource; and

“(B) does not include an incremental cost of operating the facility or resource that is attributable to the use of the facility or resource for testing under a particular program.”.

(B) The table of section at the beginning of such chapter is amended by inserting before the item relating to section 9532 the following new item:

“9531. Test and evaluation: use of facilities.”.

(4) Not later than 30 days after the date of the enactment of this Act, the Under Secretary of Defense (Comptroller) shall review the funding policies of each military department to ensure that the Secretary of the military department has in place the policies necessary to comply with the Secretary’s responsibilities under section 4531, 7521, or 9531 of title 10, United States Code (as added by this subsection), as the case may be. The Under Secretary shall consult with the Director of Operational Test and Evaluation in carrying out the review.

SEC. 233. INCREASED INVESTMENT IN TEST AND EVALUATION FACILITIES.

(a) AMOUNT.—Of the amount authorized to be appropriated under section 201(4), \$251,276,000 shall be available for the Central Test and Evaluation Investment Program of the Department of Defense.

(b) ADDITIONAL AVAILABLE FUNDING.—In addition to the amount made available under subsection (a), amounts transferred pursuant to section 232(a)(4) shall be available for the Central Test and Evaluation Investment Program of the Department of Defense.

SEC. 234. UNIFORM FINANCIAL MANAGEMENT SYSTEM FOR DEPARTMENT OF DEFENSE TEST AND EVALUATION FACILITIES.

(a) REQUIREMENT FOR SYSTEM.—Not later than two years after the date of the enactment of this Act, the Secretary of Defense shall implement a single financial management and accounting system for all test and evaluation facilities of the Department of Defense.

(b) SYSTEM FEATURES.—The financial management and accounting system shall be designed to achieve, at a minimum, the following functional objectives:

(1) Enable managers within the Department of Defense to compare the costs of conducting test and evaluation activities in the various facilities of the military departments.

(2) Enable the Secretary of Defense—

(A) to make prudent investment decisions; and

(B) to reduce the extent to which unnecessary costs of owning and operating Department of Defense test and evaluation facilities are incurred.

(3) Enable the Department of Defense to track the total cost of test and evaluation activities.

(4) Comply with the financial management enterprise architecture developed by the Secretary of Defense under section 1006.

SEC. 235. TEST AND EVALUATION WORKFORCE IMPROVEMENTS.

(a) REPORT ON CAPABILITIES.—Not later than March 15, 2003, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to Congress a report on the capabilities of the test and evaluation workforce of the Department of Defense. The Under Secretary shall consult with the Under Secretary of Defense for Personnel and Readiness and the Director of Operational Test and Evaluation in preparing the report.

(b) REQUIREMENT FOR PLAN.—(1) The report shall contain a plan for taking the actions necessary to ensure that the test and evaluation workforce of the Department of Defense is of sufficient size and has the expertise necessary to timely and accurately identify issues of military suitability and effectiveness of Department of Defense systems through testing of the systems.

(2) The plan shall set forth objectives for the size, composition, and qualifications of the workforce, and shall specify the actions (including recruitment, retention, and training) and milestones for achieving the objectives.

(c) ADDITIONAL MATTERS.—The report shall also include the following matters:

(1) An assessment of the changing size and demographics of the test and evaluation workforce, including the impact of anticipated retirements among the most experienced personnel over the five-year period beginning with 2003, together with a discussion of the management actions necessary to address the changes.

(2) An assessment of the anticipated workloads and responsibilities of the test and evaluation workforce over the ten-year period beginning with 2003, together with the number and qualifications of military and civilian personnel necessary to carry out such workloads and responsibilities.

(3) The Secretary’s specific plans for using the demonstration authority provided in section 4308 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 10 U.S.C. 1701 note) and other special personnel management authorities of the Secretary to attract and retain qualified personnel in the test and evaluation workforce.

(4) Any recommended legislation or additional special authority that the Secretary considers appropriate for facilitating the recruitment and retention of qualified personnel for the test and evaluation workforce.

(5) Any other matters that are relevant to the capabilities of the test and evaluation workforce.

SEC. 236. COMPLIANCE WITH TESTING REQUIREMENTS.

(a) ANNUAL OT&E REPORT.—Subsection (g) of section 139 of title 10, United States Code, is amended by inserting after the fourth sentence the following: “The report for a fiscal year shall also include an assessment of the waivers of and deviations from requirements in test and evaluation master plans and other testing requirements that occurred during the fiscal year, any concerns raised by the waivers or deviations, and the actions that have been taken or are planned to be taken to address the concerns.”.

(b) REORGANIZATION OF PROVISION.—Subsection (g) of such section, as amended by subsection (a), is further amended—

(1) by inserting “(1)” after “(g)”;

(2) by designating the second sentence as paragraph (2);

(3) by designating the third sentence as paragraph (3);

(4) by designating the matter consisting of the fourth and fifth sentences as paragraph (4);

(5) by designating the sixth sentence as paragraph (5); and

(6) by realigning paragraphs (2), (3), (4), and (5), as so designated, two ems from the left margin.

SEC. 237. REPORT ON IMPLEMENTATION OF DEFENSE SCIENCE BOARD RECOMMENDATIONS.

(a) REQUIREMENT.—Not later than March 1, 2003, the Secretary of Defense shall submit to the congressional defense committees a report on the extent of the implementation of the recommendations set forth in the December 2000 Report of the Defense Science Board Task Force on Test and Evaluation Capabilities.

(b) CONTENT.—The report shall include the following:

(1) For each recommendation that is being implemented or that the Secretary plans to implement—

(A) a summary of all actions that have been taken to implement the recommendation; and

(B) a schedule, with specific milestones, for completing the implementation of the recommendation.

(2) For each recommendation that the Secretary does not plan to implement—

(A) the reasons for the decision not to implement the recommendation; and

(B) a summary of any alternative actions the Secretary plans to take to address the purposes underlying the recommendation.

(3) A summary of any additional actions the Secretary plans to take to address concerns raised in the December 2000 Report of the Defense Science Board Task Force on Test and Evaluation Capabilities about the state of the test and evaluation infrastructure of the Department of Defense.

Subtitle E—Other Matters

SEC. 241. PILOT PROGRAMS FOR REVITALIZING DEPARTMENT OF DEFENSE LABORATORIES.

(a) ADDITIONAL PILOT PROGRAM.—(1) The Secretary of Defense may carry out a pilot program to demonstrate improved efficiency in the performance of research, development, test, and evaluation functions of the Department of Defense.

(2) Under the pilot program, the Secretary of Defense shall provide the director of one science and technology laboratory, and the director of one test and evaluation laboratory, of each military department with authority for the following:

(A) To use innovative methods of personnel management appropriate for ensuring that the selected laboratories can—

(i) employ and retain a workforce appropriately balanced between permanent and temporary personnel and among workers with appropriate levels of skills and experience; and

(ii) effectively shape workforces to ensure that the workforces have the necessary sets of skills and experience to fulfill their organizational missions.

(B) To develop or expand innovative methods of entering into and expanding cooperative relationships and arrangements with private sector organizations, educational institutions (including primary and secondary schools), and State and local governments to facilitate the training of a future scientific and technical workforce that will contribute significantly to the accomplishment of organizational missions.

(C) To develop or expand innovative methods of establishing cooperative relationships and arrangements with private sector organizations and educational institutions to promote the establishment of the technological industrial base in areas critical for Department of Defense technological requirements.

(D) To waive any restrictions not required by law that apply to the demonstration and implementation of methods for achieving the objectives set forth in subparagraphs (A), (B), and (C).

(3) The Secretary may carry out the pilot program under this subsection at each selected laboratory for a period of three years beginning not later than March 1, 2003.

(b) **RELATIONSHIP TO FISCAL YEARS 1999 AND 2000 REVITALIZATION PILOT PROGRAMS.**—The pilot program under this section is in addition to, but may be carried out in conjunction with, the fiscal years 1999 and 2000 revitalization pilot programs.

(c) **REPORTS.**—(1) Not later than January 1, 2003, the Secretary shall submit to Congress a report on the experience under the fiscal years 1999 and 2000 revitalization pilot programs in exercising the authorities provided for the administration of those programs. The report shall include a description of—

(A) barriers to the exercise of the authorities that have been encountered;

(B) the proposed solutions for overcoming the barriers; and

(C) the progress made in overcoming the barriers.

(2) Not later than September 1, 2003, the Secretary of Defense shall submit to Congress a report on the implementation of the pilot program under subsection (a) and the fiscal years 1999 and 2000 revitalization pilot programs. The report shall include, for each such pilot program, the following:

(A) Each laboratory selected for the pilot program.

(B) To the extent practicable, a description of the innovative methods that are to be tested at each laboratory.

(C) The criteria to be used for measuring the success of each method to be tested.

(3) Not later than 90 days after the expiration of the period for the participation of a laboratory in a pilot program referred to in paragraph (2), the Secretary of Defense shall submit to Congress a final report on the participation of that laboratory in the pilot program. The report shall include the following:

(A) A description of the methods tested.

(B) The results of the testing.

(C) The lessons learned.

(D) Any proposal for legislation that the Secretary recommends on the basis of the experience at that laboratory under the pilot program.

(d) **EXTENSION OF AUTHORITY FOR OTHER REVITALIZATION PILOT PROGRAMS.**—(1) Section 246(a)(4) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 1956; 10 U.S.C. 2358 note) is amended by striking “a period of three years” and inserting “up to six years”.

(2) Section 245(a)(4) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 553; 10 U.S.C. 2358 note) is amended by striking “a period of three years” and inserting “up to five years”.

(e) **PARTNERSHIPS UNDER PILOT PROGRAM.**—(1) The Secretary of Defense may authorize one or more laboratories and test centers participating in the pilot program under subsection (a) or in one of the fiscal years 1999 and 2000 revitalization pilot programs to enter into a cooperative arrangement (in this subsection referred to as a “public-private partnership”) with entities in the private sector and institutions of higher education for the performance of work.

(2) A competitive process shall be used for the selection of entities outside the Government to participate in a public-private partnership.

(3)(A) Not more than one public-private partnership may be established as a limited liability corporation.

(B) An entity participating in a limited liability corporation as a party to a public-private partnership under the pilot program may contribute funds to the corporation, accept contribution of funds for the corporation, and provide materials, services, and use of facilities for research, technology, and infrastructure of the corporation, if it is determined under regulations prescribed by the Secretary of Defense that doing so will improve the efficiency of the performance of research, test, and evaluation functions of the Department of Defense.

(f) **EXCEPTED SERVICE UNDER PILOT PROGRAM.**—(1) To facilitate recruitment of experts in science and engineering to improve the performance of research, test, and evaluation functions of the Department of Defense, the Secretary of Defense may—

(A) designate a total of not more than 30 scientific, engineering, and technology positions at the laboratories and test centers participating in the pilot program under subsection (a) or in any of the fiscal years 1999 and 2000 revitalization pilot programs as positions in the excepted service (as defined in section 2103(a) of title 5, United States Code);

(B) appoint individuals to such positions; and

(C) fix the compensation of such individuals.

(2) The maximum rate of basic pay for a position in the excepted service pursuant to a designation made under paragraph (1) may not exceed the maximum rate of basic pay authorized for senior-level positions under section 5376 of title 5, United States Code, notwithstanding any provision of such title governing the rates of pay or classification of employees in the executive branch.

(g) **FISCAL YEARS 1999 AND 2000 REVITALIZATION PILOT PROGRAMS DEFINED.**—In this section, the term “fiscal years 1999 and 2000 revitalization pilot programs” means the pilot programs authorized by—

(1) section 246 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 1955; 10 U.S.C. 2358 note); and

(2) section 245 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 552; 10 U.S.C. 2358 note).

SEC. 242. TECHNOLOGY TRANSITION INITIATIVE.

(a) **ESTABLISHMENT AND CONDUCT.**—(1) Chapter 139 of title 10, United States Code, is amended by inserting after section 2359 the following new section:

“§ 2359a. Technology Transition Initiative

“(a) **REQUIREMENT FOR PROGRAM.**—The Secretary of Defense shall carry out a Technology Transition Initiative to facilitate the rapid transition of new technologies from science and technology programs of the Department of Defense into acquisition programs for the production of the technologies.

“(b) **OBJECTIVES.**—The objectives of the Initiative are as follows:

“(1) To accelerate the introduction of new technologies into Department of Defense acquisition programs appropriate for the technologies.

“(2) To successfully demonstrate new technologies in relevant environments.

“(3) To ensure that new technologies are sufficiently mature for production.

“(c) **MANAGEMENT.**—(1) The Secretary of Defense shall designate a senior official in the Office of the Secretary of Defense to manage the Initiative.

“(2) In administering the Initiative, the Initiative Manager shall—

“(A) report directly to the Under Secretary of Defense for Acquisition, Technology, and Logistics; and

“(B) obtain advice and other assistance from the Technology Transition Council established under subsection (e).

“(3) The Initiative Manager shall—

“(A) in consultation with the Technology Transition Council established under subsection (e), identify promising technologies that have been demonstrated in science and technology programs of the Department of Defense;

“(B) develop a list of those technologies that have promising potential for transition into acquisition programs of the Department of Defense and transmit the list to the acquisition executive of each military department and to Congress;

“(C) identify potential sponsors in the Department of Defense to undertake the transition of such technologies into production;

“(D) work with the science and technology community and the acquisition community to develop memoranda of agreement, joint funding agreements, and other cooperative arrangements to provide for the transition of the technologies into production; and

“(E) provide funding support for selected projects under subsection (d).

“(d) **JOINTLY FUNDED PROJECTS.**—(1) The acquisition executive of each military department shall select technology projects of the military department to recommend for funding support under the Initiative and shall submit a list of the recommended projects, ranked in order of priority, to the Initiative Manager. The projects shall be selected, in a competitive process, on the basis of the highest potential benefits in areas of interest identified by the Secretary of that military department.

“(2) The Initiative Manager, in consultation with the Technology Transition Council established under subsection (e), shall select projects for funding support from among the projects on the lists submitted under paragraph (1). The Initiative Manager shall provide funds for each selected project. The total amount provided for a project shall be determined by agreement between the Initiative Manager and the acquisition executive of the military department concerned, but shall not be less than the amount equal to 50 percent of the total cost of the project.

“(3) The Initiative Manager shall not fund any one project under this subsection for more than 3 years.

“(4) The acquisition executive of the military department shall manage each project selected under paragraph (2) that is undertaken by the military department. Memoranda of agreement, joint funding agreements, and other cooperative arrangements between the science and technology community and the acquisition community shall be used in carrying out the project if the acquisition executive determines that it is appropriate to do so to achieve the objectives of the project.

“(e) **TECHNOLOGY TRANSITION COUNCIL.**—(1) There is a Technology Transition Council in the Department of Defense. The Council is composed of the following members:

“(A) The science and technology executives of the military departments and Defense Agencies.

“(B) The acquisition executives of the military departments.

“(C) The members of the Joint Requirements Oversight Council.

“(2) The Technology Transition Council shall provide advice and assistance to the Initiative Manager under this section.

“(f) DEFINITIONS.—In this section:

“(1) The term ‘acquisition executive’, with respect to a military department, means the official designated as the senior procurement executive for that military department under section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).

“(2) The term ‘Initiative’ means the Technology Transition Initiative carried out under this section.

“(3) The term ‘Initiative Manager’ means the official designated to manage the Initiative under subsection (c).”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2395 the following new item:

“2359a. Technology Transition Initiative.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized to be appropriated under section 201(4), \$50,000,000 shall be available for the Technology Transition Initiative under section 2359a of title 10, United States Code (as added by subsection (a)), and for other technology transition activities of the Department of Defense.

SEC. 243. ENCOURAGEMENT OF SMALL BUSINESSES AND NONTRADITIONAL DEFENSE CONTRACTORS TO SUBMIT PROPOSALS POTENTIALLY BENEFICIAL FOR COMBATING TERRORISM.

(a) ESTABLISHMENT OF OUTREACH PROGRAM.—During the 3-year period beginning on the date of the enactment of this Act, the Secretary of Defense shall carry out a program of outreach to small businesses and nontraditional defense contractors for the purpose set forth in subsection (b).

(b) PURPOSE.—The purpose of the outreach program is to provide a process for reviewing and evaluating research activities of, and new technologies being developed by, small businesses and nontraditional defense contractors that have the potential for meeting a defense requirement or technology development goal of the Department of Defense that relates to the mission of the Department of Defense to combat terrorism.

(c) GOALS.—The goals of the outreach program are as follows:

(1) To increase efforts within the Department of Defense to survey and identify technologies being developed outside the Department that have the potential described in subsection (b).

(2) To provide the Under Secretary of Defense for Acquisition, Technology, and Logistics with a source of expert advice on new technologies for combating terrorism.

(3) To increase efforts to educate nontraditional defense contractors on Department of Defense acquisition processes, including regulations, procedures, funding opportunities, military needs and requirements, and technology transfer so as to encourage such contractors to submit proposals regarding research activities and technologies described in subsection (b).

(4) To increase efforts to provide timely response by the Department of Defense to acquisition proposals (including unsolicited proposals) submitted to the Department by small businesses and by nontraditional defense contractors regarding research activities and technologies described in subsection (b), including through the use of electronic transactions to facilitate the processing of proposals.

(d) REVIEW PANEL.—(1) The Secretary shall appoint, under the outreach program, a panel for the review and evaluation of proposals described in subsection (c)(4).

(2) The panel shall be composed of qualified personnel from the military departments,

relevant Defense Agencies, industry, academia, and other private sector organizations.

(3) The panel shall review and evaluate proposals that, as determined by the panel, may present a unique and valuable approach for meeting a defense requirement or technology development goal related to combating terrorism. In carrying out duties under this paragraph, the panel may act through representatives designated by the panel.

(4) The panel shall—

(A) within 60 days after receiving such a proposal, transmit to the source of the proposal a notification regarding whether the proposal has been selected for review by the panel;

(B) to the maximum extent practicable, complete the review of each selected proposal within 120 days after the proposal is selected for review by the panel; and

(C) after completing the review, transmit an evaluation of the proposal to the source of the proposal.

(5) The Secretary shall ensure that the panel, in reviewing and evaluating proposals under this subsection, has the authority to obtain assistance, to a reasonable extent, from the appropriate technical resources of the laboratories, research, development, and engineering centers, test and evaluation activities, and other elements of the Department of Defense.

(6) If, after completing the review of a proposal, the panel determines that the proposal represents a unique and valuable approach to meeting a defense requirement or technology development goal related to combating terrorism, the panel shall submit that determination to the Under Secretary of Defense for Acquisition, Technology, and Logistics together with any recommendations that the panel considers appropriate regarding the proposal.

(7) The Secretary of Defense shall ensure that there is no conflict of interest on the part of a member of the panel with respect to the review and evaluation of a proposal by the panel.

(e) DEFINITIONS.—In this section:

(1) The term “nontraditional defense contractor” means an entity that has not, for at least one year prior to the date of the enactment of this Act, entered into, or performed with respect to, any contract described in paragraph (1) or (2) of section 845(e) of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2371 note).

(2) The term “small business” means a business concern that meets the applicable size standards prescribed pursuant to section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

SEC. 244. VEHICLE FUEL CELL PROGRAM.

(a) PROGRAM.—The Secretary of Defense shall carry out a vehicle fuel cell technology development program in cooperation with the Secretary of Energy, the heads of other Federal agencies appropriate for participation in the program, and industry.

(b) GOALS AND OBJECTIVES.—The goals and objectives of the program shall be as follows:

(1) To identify and support technological advances that are necessary for the development of fuel cell technology for use in vehicles of types to be used by the Department of Defense.

(2) To ensure that critical technology advances are shared among the various fuel cell technology programs within the Federal Government.

(3) To ensure maximum leverage of Federal Government funding for fuel cell technology development.

(c) CONTENT OF PROGRAM.—The program shall include—

(1) development of vehicle propulsion technologies and fuel cell auxiliary power units, together with pilot demonstrations of such technologies, as appropriate; and

(2) development of technologies necessary to address critical issues such as hydrogen storage and the need for a hydrogen fuel infrastructure.

(d) COOPERATION WITH INDUSTRY.—(1) The Secretary shall include the automobile and truck manufacturing industry and its systems and component suppliers in the cooperative involvement of industry in the program.

(2) The Secretary of Defense shall consider whether, in order to facilitate the cooperation of industry in the program, the Secretary and one or more companies in industry should enter into a cooperative agreement that establishes an entity to carry out activities required under subsection (c). An entity established by any such agreement shall be known as a defense industry fuel cell partnership.

(3) The Secretary of Defense shall provide for industry to bear, in cash or in kind, at least one-half of the total cost of carrying out the program.

(e) AMOUNT FOR PROGRAM.—Of the amount authorized to be appropriated by section 201(4), \$10,000,000 shall be available for the program required by this section.

SEC. 245. DEFENSE NANOTECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Defense shall carry out a defense nanotechnology research and development program.

(b) PURPOSES.—The purposes of the program are as follows:

(1) To ensure United States global superiority in nanotechnology necessary for meeting national security requirements.

(2) To coordinate all nanoscale research and development within the Department of Defense, and to provide for interagency cooperation and collaboration on nanoscale research and development between the Department of Defense and other departments and agencies of the United States that are involved in nanoscale research and development.

(3) To develop and manage a portfolio of fundamental and applied nanoscience and engineering research initiatives that is stable, consistent, and balanced across scientific disciplines.

(4) To accelerate the transition and deployment of technologies and concepts derived from nanoscale research and development into the Armed Forces, and to establish policies, procedures, and standards for measuring the success of such efforts.

(5) To collect, synthesize, and disseminate critical information on nanoscale research and development.

(c) ADMINISTRATION.—In carrying out the program, the Secretary shall act through the Director of Defense Research and Engineering, who shall supervise the planning, management, and coordination of the program. The Director, in consultation with the Secretaries of the military departments and the heads of participating Defense Agencies and other departments and agencies of the United States, shall—

(1) prescribe a set of long-term challenges and a set of specific technical goals for the program;

(2) develop a coordinated and integrated research and investment plan for meeting

the long-term challenges and achieving the specific technical goals; and

(3) develop memoranda of agreement, joint funding agreements, and other cooperative arrangements necessary for meeting the long-term challenges and achieving the specific technical goals.

(d) **ANNUAL REPORT.**—Not later than March 1 of each of 2004, 2005, 2006, and 2007, the Director of Defense Research and Engineering shall submit to the congressional defense committees a report on the program. The report shall contain the following matters:

(1) A review of—

(A) the long-term challenges and specific goals of the program; and

(B) the progress made toward meeting the challenges and achieving the goals.

(2) An assessment of current and proposed funding levels, including the adequacy of such funding levels to support program activities.

(3) A review of the coordination of activities within the Department of Defense and with other departments and agencies.

(4) An assessment of the extent to which effective technology transition paths have been established as a result of activities under the program.

(5) Recommendations for additional program activities to meet emerging national security requirements.

SEC. 246. ACTIVITIES AND ASSESSMENT OF THE DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.

(a) **AUTHORIZED ACTIVITIES.**—Subsection (c) of section 257 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 10 U.S.C. 2358 note), is amended—

(1) in paragraph (1), by striking “research grants” and inserting “grants for research and instrumentation to support such research”; and

(2) by adding at the end the following new paragraph:

“(3) Any other activities that are determined necessary to further the achievement of the objectives of the program.”.

(b) **COORDINATION.**—Subsection (e) of such section is amended by adding at the end the following:

“(4) The Secretary shall contract with the National Research Council to assess the effectiveness of the Defense Experimental Program to Stimulate Competitive Research in achieving the program objectives set forth in subsection (b). The assessment provided to the Secretary shall include the following:

“(A) An assessment of the eligibility requirements of the program and the relationship of such requirements to the overall research base in the States, the stability of research initiatives in the States, and the achievement of the program objectives, together with any recommendations for modification of the eligibility requirements.

“(B) An assessment of the program structure and the effects of that structure on the development of a variety of research activities in the States and the personnel available to carry out such activities, together with any recommendations for modification of program structure, funding levels, and funding strategy.

“(C) An assessment of the past and ongoing activities of the State planning committees in supporting the achievement of the program objectives.

“(D) An assessment of the effects of the various eligibility requirements of the various Federal programs to stimulate competitive research on the ability of States to develop niche research areas of expertise, ex-

loit opportunities for developing interdisciplinary research initiatives, and achieve program objectives.”.

SEC. 247. FOUR-YEAR EXTENSION OF AUTHORITY OF DARPA TO AWARD PRIZES FOR ADVANCED TECHNOLOGY ACHIEVEMENTS.

(a) **EXTENSION.**—Section 2374a(f) of title 10, United States Code, is amended by striking “September 30, 2003” and inserting “September 30, 2007”.

(b) **REPORT ON ADMINISTRATION OF PROGRAM.**—(1) Not later than December 31, 2002, the Director of the Defense Advanced Research Projects Agency shall submit to the congressional defense committees a report on the proposal of the Director for the administration of the program to award prizes for advanced technology achievements under section 2374a of title 10, United States Code.

(2) The report shall include the following:

(A) A description of the proposed goals of the competition under the program, including the technology areas to be promoted by the competition and the relationship of such area to military missions of the Department of Defense.

(B) The proposed rules of the competition under the program and a description of the proposed management of the competition.

(C) A description of the manner in which funds for cash prizes under the program will be allocated within the accounts of the Agency if a prize is awarded and claimed.

(D) A statement of the reasons why the competition is a preferable means of promoting basic, advanced, and applied research, technology development, or prototype projects than other means of promotion of such activities, including contracts, grants, cooperative agreements, and other transactions.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Funds are hereby authorized to be appropriated for fiscal year 2003 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, \$24,180,742,000.

(2) For the Navy, \$29,368,961,000.

(3) For the Marine Corps, \$3,558,732,000.

(4) For the Air Force, \$27,445,764,000.

(5) For Defense-wide activities, \$14,492,266,000.

(6) For the Army Reserve, \$1,962,610,000.

(7) For the Naval Reserve, \$1,233,759,000.

(8) For the Marine Corps Reserve, \$190,532,000.

(9) For the Air Force Reserve, \$2,165,004,000.

(10) For the Army National Guard, \$4,506,267,000.

(11) For the Air National Guard, \$4,114,910,000.

(12) For the Defense Inspector General, \$155,165,000.

(13) For the United States Court of Appeals for the Armed Forces, \$9,614,000.

(14) For Environmental Restoration, Army, \$395,900,000.

(15) For Environmental Restoration, Navy, \$256,948,000.

(16) For Environmental Restoration, Air Force, \$389,773,000.

(17) For Environmental Restoration, Defense-wide, \$23,498,000.

(18) For Environmental Restoration, Formerly Used Defense Sites, \$252,102,000.

(19) For Overseas Humanitarian, Disaster, and Civic Aid programs, \$58,400,000.

(20) For Drug Interdiction and Counterdrug Activities, Defense-wide, \$873,907,000.

(21) For the Kaho’olawe Island Conveyance, Remediation, and Environmental Restoration Trust Fund, \$25,000,000.

(22) For Defense Health Program, \$14,202,441,000.

(23) For Cooperative Threat Reduction programs, \$416,700,000.

(24) For Overseas Contingency Operations Transfer Fund, \$50,000,000.

(25) For Support for International Sporting Competitions, Defense, \$19,000,000.

(b) **ADJUSTMENT.**—The total amount authorized to be appropriated pursuant to subsection (a) is reduced by—

(1) \$159,790,000, which represents savings resulting from reduced travel; and

(2) \$615,200,000, which represents savings resulting from foreign currency fluctuations.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 2003 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, \$387,156,000.

(2) For the National Defense Sealift Fund, \$934,129,000.

(3) For the Defense Commissary Agency Working Capital Fund, \$969,200,000.

(4) For the Pentagon Reservation Maintenance Revolving Fund, \$328,000,000.

SEC. 303. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 2003 from the Armed Forces Retirement Home Trust Fund the sum of \$69,921,000 for the operation of the Armed Forces Retirement Home, including the Armed Forces Retirement Home—Washington and the Armed Forces Retirement Home—Gulftport.

SEC. 304. RANGE ENHANCEMENT INITIATIVE FUND.

(a) **AVAILABILITY OF FUNDS.**—Of the amount authorized to be appropriated by section 301(a)(5) for operation and maintenance for defense-wide activities, \$20,000,000 shall be available for the Range Enhancement Initiative Fund for the purpose specified in subsection (b).

(b) **PURPOSE.**—Subject to subsection (c), amounts authorized to be appropriated for the Range Enhancement Initiative Fund shall be available to the Secretary of Defense and the Secretaries of the military departments to purchase restrictive easements, including easements that implement agreements entered into under section 2697 of title 10, United States Code, as added by section 2811 of this Act.

(c) **TRANSFER OF AMOUNTS.**—(1) Amounts in the Range Enhancement Initiative Fund shall, subject to applicable limitations in appropriations Acts, be made available to the Secretary of a military department under subsection (b) by transfer from the Fund to the applicable operation and maintenance account of the military department, including the operation and maintenance account for the active component, or for a reserve component, of the military department.

(2) Authority to transfer amounts under paragraph (1) is in addition to any other authority to transfer funds under this Act.

SEC. 305. NAVY PILOT HUMAN RESOURCES CALL CENTER, CUTLER, MAINE.

Of the amount authorized to be appropriated by section 301(a)(2) for operation and maintenance for the Navy, \$1,500,000 may be

available for the Navy Pilot Human Resources Call Center, Cutler, Maine.

SEC. 306. NATIONAL ARMY MUSEUM, FORT BELVOIR, VIRGINIA.

(a) **ACTIVATION EFFORTS.**—The Secretary of the Army may carry out efforts to facilitate the commencement of development for the National Army Museum at Fort Belvoir, Virginia.

(b) **FUNDING.**—(1) The amount authorized to be appropriated by section 301(a)(1) for operation and maintenance for the Army is hereby increased by \$100,000.

(2) Of the amount authorized to be appropriated by section 301(a)(1) for operation and maintenance for the Army, as increased by paragraph (1), \$100,000 shall be available to carry out the efforts authorized by subsection (a).

(c) **OFFSET.**—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby reduced by \$100,000.

SEC. 307. DISPOSAL OF OBSOLETE VESSELS OF THE NATIONAL DEFENSE RESERVE FLEET.

Of the amount authorized to be appropriated by section 301(a)(2) for operation and maintenance for the Navy, \$20,000,000 may be available, without fiscal year limitation if so provided in appropriations Acts, for expenses related to the disposal of obsolete vessels in the Maritime Administration National Defense Reserve Fleet.

Subtitle B—Environmental Provisions

SEC. 311. ENHANCEMENT OF AUTHORITY ON CO-OPERATIVE AGREEMENTS FOR ENVIRONMENTAL PURPOSES.

Section 2701(d) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following new paragraph (2):

“(2) **CROSS-FISCAL YEAR AGREEMENTS.**—An agreement with an agency under paragraph (1) may be for a period that begins in one fiscal year and ends in another fiscal year if (without regard to any option to extend the period of the agreement) the period of the agreement does not exceed two years.”.

SEC. 312. MODIFICATION OF AUTHORITY TO CARRY OUT CONSTRUCTION PROJECTS FOR ENVIRONMENTAL RESPONSES.

(a) **RESTATEMENT AND MODIFICATION OF AUTHORITY.**—(1) Chapter 160 of title 10, United States Code, is amended by adding at the end the following new section:

“§2711. Environmental restoration projects for environmental responses

“(a) The Secretary of Defense or the Secretary of a military department may carry out an environmental restoration project if that Secretary determines that the project is necessary to carry out a response under this chapter or CERCLA.

“(b) Any construction, development, conversion, or extension of a structure or installation of equipment that is included in an environmental restoration project may not be considered military construction (as that term is defined in section 2801(a) of this title).

“(c) Funds authorized for deposit in an account established by section 2703(a) of this title shall be the only source of funds to conduct an environmental restoration project under this section.

“(d) In this section, the term ‘environmental restoration project’ includes construction, development, conversion, or extension of a structure or installation of equipment in direct support of a response.”.

(2) The table of sections at the beginning of that chapter is amended by adding at the end the following new item:

“2711. Environmental restoration projects for environmental responses.”.

(b) **REPEAL OF SUPERSEDED PROVISION.**—(1) Section 2810 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 169 of that title is amended by striking the item relating to section 2810.

SEC. 313. INCREASED PROCUREMENT OF ENVIRONMENTALLY PREFERABLE PRODUCTS.

(a) **PROCUREMENT GOALS.**—(1) The Secretary of Defense shall establish goals for the increased procurement by the Department of Defense of procurement items that are environmentally preferable or are made with recovered materials.

(2) The goals established under paragraph (1) shall be consistent with the requirements of section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962).

(3) In establishing goals under paragraph (1), the Secretary shall review the Comprehensive Procurement Guidelines and Guidance on Acquisition of Environmentally Preferable Products and Services developed pursuant to Executive Order 13101 and products identified as environmentally preferable in the Federal Logistics Information System.

(4) In establishing goals under paragraph (1), the Secretary shall establish a procurement goal for each category of procurement items that is environmentally preferable or is made with recovered materials.

(5) The goals established under paragraph (1) shall apply to Department purchases in each category of procurement items designated by the Secretary for purposes of paragraph (4), but shall not apply to—

(A) products or services purchased by Department contractors and subcontractors, even if such products or services are incorporated into procurement items purchased by the Department; or

(B) credit card purchases or other local purchases that are made outside the requisitioning process of the Department.

(b) **ASSESSMENT OF TRAINING AND EDUCATION.**—The Secretary shall assess the need to establish a program, or enhance existing programs, for training and educating Department of Defense procurement officials and contractors to ensure that they are aware of Department requirements, preferences, and goals for the procurement of items that are environmentally preferable or are made with recovered materials.

(c) **TRACKING SYSTEM.**—The Secretary shall develop a tracking system to identify the extent to which the Department of Defense is procuring items that are environmentally preferable or are made with recovered materials. The tracking system shall separately track procurement of each category of procurement items for which a goal has been established under subsection (a)(4).

(d) **INITIAL REPORT.**—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report that sets forth—

(1) the initial goals the Secretary plans to establish under subsection (a); and

(2) the findings of the Secretary as a result of the assessment under subsection (b), together with any recommendations of the Secretary as a result of the assessment.

(e) **IMPLEMENTATION.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall—

(1) establish an initial set of goals in accordance with subsection (a);

(2) begin the implementation of any recommendations of the Secretary under subsection (d)(2) as a result of the assessment under subsection (b); and

(3) implement the tracking system required by subsection (c).

(f) **ANNUAL REPORT.**—Not later than March 1 of each year from 2004 through 2007, the Secretary shall submit to Congress a report on the progress made in the implementation of this section. Each report shall—

(1) identify each category of procurement items for which a goal has been established under subsection (a) as of the end of such year; and

(2) provide information from the tracking system required by subsection (b) that indicates the extent to which the Department has met the goal for the category of procurement items as of the end of such year.

(g) **DEFINITIONS.**—In this section:

(1) **ENVIRONMENTALLY PREFERABLE.**—The term “environmentally preferable”, in the case of a procurement item, means that the item has a lesser or reduced effect on human health and the environment when compared with competing procurement items that serve the same purpose. The comparison may be based upon consideration of raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the procurement item, or other appropriate matters.

(2) **PROCUREMENT ITEM.**—The term “procurement item” has the meaning given that term in section 1004(16) of the Solid Waste Disposal Act (40 U.S.C. 6903(16)).

(3) **RECOVERED MATERIALS.**—The term “recovered materials” means waste materials and by-products that have been recovered or diverted from solid waste, but does not include materials and by-products generated from, and commonly used within, an original manufacturing process.

SEC. 314. CLEANUP OF UNEXPLODED ORDNANCE ON KAHOLAWE ISLAND, HAWAII.

(a) **LEVEL OF CLEANUP REQUIRED.**—The Secretary of the Navy shall continue activities for the clearance and removal of unexploded ordnance on the Island of Kaho’olawe, Hawaii, and related remediation activities, until the later of the following dates:

(1) The date on which the Kaho’olawe Island access control period expires.

(2) The date on which the Secretary achieves each of the following objectives:

(A) The inspection and assessment of all of Kaho’olawe Island in accordance with current procedures.

(B) The clearance of 75 percent of Kaho’olawe Island to the degree specified in the Tier One standards in the memorandum of understanding.

(C) The clearance of 25 percent of Kaho’olawe Island to the degree specified in the Tier Two standards in the memorandum of understanding.

(b) **DEFINITIONS.**—In this section:

(1) The term “Kaho’olawe Island access control period” means the period for which the Secretary of the Navy is authorized to retain the control of access to the Island of Kaho’olawe, Hawaii, under title X of the Department of Defense Appropriations Act, 1994 (Public Law 103-139; 107 Stat. 1480).

(2) The term “memorandum of understanding” means the Memorandum of Understanding Between the United States Department of the Navy and the State of Hawaii Concerning the Island of Kaho’olawe, Hawaii.

Subtitle C—Defense Dependents' Education**SEC. 331. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.**

(a) CONTINUATION OF DEPARTMENT OF DEFENSE PROGRAM FOR FISCAL YEAR 2003.—Of the amount authorized to be appropriated pursuant to section 301(a)(5) for operation and maintenance for Defense-wide activities, \$30,000,000 shall be available only for the purpose of providing educational agencies assistance to local educational agencies.

(b) NOTIFICATION.—Not later than June 30, 2003, the Secretary of Defense shall notify each local educational agency that is eligible for assistance or a payment under subsection (a) for fiscal year 2003 of—

(1) that agency's eligibility for the assistance or payment; and

(2) the amount of the assistance or payment for which that agency is eligible.

(c) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse funds made available under subsection (a) not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (b).

(d) DEFINITIONS.—In this section:

(1) The term "educational agencies assistance" means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 20 U.S.C. 7703 note).

(2) The term "local educational agency" has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

SEC. 332. IMPACT AID FOR CHILDREN WITH SEVERE DISABILITIES.

Of the amount authorized to be appropriated pursuant to section 301(a)(5) for operation and maintenance for Defense-wide activities, \$5,000,000 shall be available for payments under section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-77; 20 U.S.C. 7703a).

SEC. 333. OPTIONS FOR FUNDING DEPENDENT SUMMER SCHOOL PROGRAMS.

Section 1402(d)(2) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 921(d)(2)) is amended to read as follows:

"(2) The Secretary shall provide any summer school program under this subsection on the same financial basis as programs offered during the regular school year, except that the Secretary may charge reasonable fees for all or portions of such summer school programs to the extent that the Secretary determines appropriate."

SEC. 334. COMPTROLLER GENERAL STUDY OF ADEQUACY OF COMPENSATION PROVIDED FOR TEACHERS IN THE DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS.

(a) ADDITIONAL CONSIDERATION FOR STUDY.—Subsection (b) of section 354 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1064) is amended by inserting after paragraph (2) the following new paragraph:

"(3) Whether the process for setting teacher compensation is efficient and cost effective."

(b) EXTENSION OF TIME FOR REPORTING.—Subsection (c) of such section is amended by striking "May 1, 2002" and inserting "December 12, 2002".

Subtitle D—Other Matters**SEC. 341. USE OF HUMANITARIAN AND CIVIC ASSISTANCE FUNDS FOR RESERVE COMPONENT MEMBERS OF SPECIAL OPERATIONS COMMAND ENGAGED IN ACTIVITIES RELATING TO CLEARANCE OF LANDMINES.**

Section 401(c) of title 10, United States Code, is amended by adding at the end the following new paragraph (5):

"(5) Up to 10 percent of the amount available for a fiscal year for activities described in subsection (e)(5) may be expended for the pay and allowances of reserve component members of the Special Operations Command performing duty in connection with training and activities related to the clearing of landmines for humanitarian purposes."

SEC. 342. CALCULATION OF FIVE-YEAR PERIOD OF LIMITATION FOR NAVY-MARINE CORPS INTRANET CONTRACT.

(a) COMMENCEMENT OF PERIOD.—The five-year period of limitation that is applicable to the multiyear Navy-Marine Corps Intranet contract under section 2306c of title 10, United States Code, shall be deemed to have begun on the date on which the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Chief Information Officer of the Department of Defense approved the ordering of additional workstations under such contract in accordance with subsection (c) of section 814 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as added by section 362(a) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1065).

(b) DEFINITION.—In this section, the term "Navy-Marine Corps Intranet contract" has the meaning given such term in section 814(i)(1) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as amended by section 362(c) of Public Law 107-107 (115 Stat. 1067)).

SEC. 343. REIMBURSEMENT FOR RESERVE COMPONENT INTELLIGENCE SUPPORT.

(a) SOURCE OF FUNDS.—Chapter 1003 of title 10, United States Code, is amended by adding at the end the following new section:

"§10115. Reimbursement for reserve component intelligence support

"(a) AUTHORITY.—Funds appropriated or otherwise made available to a military department, Defense Agency, or combatant command for operation and maintenance shall be available for the pay, allowances, and other costs that would be charged to appropriations for a reserve component for the performance of duties by members of that reserve component in providing intelligence or counterintelligence support to—

"(1) such military department, Defense Agency, or combatant command; or

"(2) a joint intelligence activity, including any such activity for which funds are authorized to be appropriated within the National Foreign Intelligence Program, the Joint Military Intelligence Program, or the Tactical Intelligence and Related Activities aggregate (or any successor to such program or aggregate).

"(b) CONSTRUCTION OF PROVISION.—Nothing in this section shall be construed to authorize deviation from established reserve component personnel or training procedures."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"10115. Reimbursement for reserve component intelligence support."

SEC. 344. REBATE AGREEMENTS UNDER THE SPECIAL SUPPLEMENTAL FOOD PROGRAM.

(a) APPLICABILITY TO NAVY EXCHANGE MARKETS.—Paragraph (1)(A) of section 1060a(e) of title 10, United States Code, is amended by inserting "or Navy Exchange Markets" after "commissary stores".

(b) INCREASED MAXIMUM PERIOD OF AGREEMENT.—Paragraph (3) of such section 1060a(e) is amended by striking "subsection may not exceed one year" in the first sentence and inserting "subsection, including any period of extension of the contract by modification of the contract, exercise of an option, or other cause, may not exceed three years".

SEC. 345. LOGISTICS SUPPORT AND SERVICES FOR WEAPON SYSTEMS CONTRACTORS.

(a) AUTHORITY.—The Secretary of Defense may make available, in accordance with this section and the regulations prescribed under subsection (e), logistics support and logistics services to a contractor in support of the performance by the contractor of a contract for the construction, modification, or maintenance of a weapon system that is entered into by an official of the Department of Defense.

(b) SUPPORT CONTRACTS.—Any logistics support and logistics services that is to be provided under this section to a contractor in support of the performance of a contract shall be provided under a separate contract that is entered into by the Director of the Defense Logistics Agency with that contractor.

(c) SCOPE OF SUPPORT AND SERVICES.—The logistics support and logistics services that may be provided under this section in support of the performance of a contract described in subsection (a) are the distribution, disposal, and cataloging of materiel and repair parts necessary for the performance of that contract.

(d) LIMITATIONS.—(1) The number of contracts described in subsection (a) for which the Secretary makes logistics support and logistics services available under the authority of this section may not exceed five contracts. The total amount of the estimated costs of all such contracts for which logistics support and logistics services are made available under this section may not exceed \$100,000,000.

(2) No contract entered into by the Director of the Defense Logistics Agency under subsection (b) may be for a period in excess of five years, including periods for which the contract is extended under options to extend the contract.

(e) REGULATIONS.—Before exercising the authority under this section, the Secretary of Defense shall prescribe in regulations such requirements, conditions, and restrictions as the Secretary determines appropriate to ensure that logistics support and logistics services are provided under this section only when it is in the best interests of the United States to do so. The regulations shall include, at a minimum, the following:

(1) A requirement for the authority under this section to be used only for providing logistics support and logistics services in support of the performance of a contract that is entered into using competitive procedures (as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)).

(2) A requirement for the solicitation of offers for a contract described in subsection (a), for which logistics support and logistics services are to be made available under this section, to include—

(A) a statement that the logistics support and logistics services are to be made available under the authority of this section to

any contractor awarded the contract, but only on a basis that does not require acceptance of the support and services; and

(B) a description of the range of the logistics support and logistics services that are to be made available to the contractor.

(3) A requirement for the rates charged a contractor for logistics support and logistics services provided to a contractor under this section to reflect the full cost to the United States of the resources used in providing the support and services, including the costs of resources used, but not paid for, by the Department of Defense.

(4) A requirement to credit to the General Fund of the Treasury amounts received by the Department of Defense from a contractor for the cost of logistics support and logistics services provided to the contractor by the Department of Defense under this section but not paid for out of funds available to the Department of Defense.

(5) With respect to a contract described in subsection (a) that is being performed for a department or agency outside the Department of Defense, a prohibition, in accordance with applicable contracting procedures, on the imposition of any charge on that department or agency for any effort of Department of Defense personnel or the contractor to correct deficiencies in the performance of such contract.

(6) A prohibition on the imposition of any charge on a contractor for any effort of the contractor to correct a deficiency in the performance of logistics support and logistics services provided to the contractor under this section.

(f) **RELATIONSHIP TO TREATY OBLIGATIONS.**—The Secretary shall ensure that the exercise of authority under this section does not conflict with any obligation of the United States under any treaty or other international agreement.

(g) **TERMINATION OF AUTHORITY.**—(1) The authority provided in this section shall expire on September 30, 2007, subject to paragraph (2).

(2) The expiration of the authority under this section does not terminate—

(A) any contract that was entered into by the Director of the Defense Logistics Agency under subsection (b) before the expiration of the authority or any obligation to provide logistics support and logistics services under that contract; or

(B) any authority—

(i) to enter into a contract described in subsection (a) for which a solicitation of offers was issued in accordance with the regulations prescribed pursuant to subsection (e)(2) before the date of the expiration of the authority; or

(ii) to provide logistics support and logistics services to the contractor with respect to that contract in accordance with this section.

SEC. 346. CONTINUATION OF ARSENAL SUPPORT PROGRAM INITIATIVE.

(a) **EXTENSION THROUGH FISCAL YEAR 2004.**—Subsection (a) of section 343 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-65) is amended by striking “and 2002” and inserting “through 2004”.

(b) **REPORTING REQUIREMENTS.**—Subsection (g) of such section is amended—

(1) in paragraph (1), by striking “2002” and inserting “2004”; and

(2) in paragraph (2), by striking the first sentence and inserting the following new sentence: “Not later than July 1, 2003, the Secretary of the Army shall submit to the

congressional defense committees a report on the results of the demonstration program since its implementation, including the Secretary's views regarding the benefits of the program for Army manufacturing arsenals and the Department of the Army and the success of the program in achieving the purposes specified in subsection (b).”.

SEC. 347. TWO-YEAR EXTENSION OF AUTHORITY OF THE SECRETARY OF DEFENSE TO ENGAGE IN COMMERCIAL ACTIVITIES AS SECURITY FOR INTELLIGENCE COLLECTION ACTIVITIES ABROAD.

Section 431(a) of title 10, United States Code, is amended by striking “December 31, 2002” in the second sentence and inserting “December 31, 2004”.

SEC. 348. INSTALLATION AND CONNECTION POLICY AND PROCEDURES REGARDING DEFENSE SWITCH NETWORK.

(a) **ESTABLISHMENT OF POLICY AND PROCEDURES.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall establish clear and uniform policy and procedures, applicable to the military departments and Defense Agencies, regarding the installation and connection of telecom switches to the Defense Switch Network.

(b) **ELEMENTS OF POLICY AND PROCEDURES.**—The policy and procedures shall address at a minimum the following:

(1) Clear interoperability and compatibility requirements for procuring, certifying, installing, and connecting telecom switches to the Defense Switch Network.

(2) Current, complete, and enforceable testing, validation, and certification procedures needed to ensure the interoperability and compatibility requirements are satisfied.

(c) **EXCEPTIONS.**—(1) The Secretary of Defense may specify certain circumstances in which—

(A) the requirements for testing, validation, and certification of telecom switches may be waived; or

(B) interim authority for the installation and connection of telecom switches to the Defense Switch Network may be granted.

(2) Only the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence, after consultation with the Chairman of the Joint Chiefs of Staff, may approve a waiver or grant of interim authority under paragraph (1).

(d) **INVENTORY OF DEFENSE SWITCH NETWORK.**—The Secretary of Defense shall prepare and maintain an inventory of all telecom switches that, as of the date on which the Secretary issues the policy and procedures—

(1) are installed or connected to the Defense Switch Network; but

(2) have not been tested, validated, and certified by the Defense Information Systems Agency (Joint Interoperability Test Center).

(e) **INTEROPERABILITY RISKS.**—(1) The Secretary of Defense shall, on an ongoing basis—

(A) identify and assess the interoperability risks that are associated with the installation or connection of uncertified switches to the Defense Switch Network and the maintenance of such switches on the Defense Switch Network; and

(B) develop and implement a plan to eliminate or mitigate such risks as identified.

(2) The Secretary shall initiate action under paragraph (1) upon completing the initial inventory of telecom switches required by subsection (d).

(f) **TELECOM SWITCH DEFINED.**—In this section, the term “telecom switch” means hardware or software designed to send and re-

ceive voice, data, or video signals across a network that provides customer voice, data, or video equipment access to the Defense Switch Network or public switched telecommunications networks.

SEC. 349. ENGINEERING STUDY AND ENVIRONMENTAL ANALYSIS OF ROAD MODIFICATIONS IN VICINITY OF FORT BELVOIR, VIRGINIA.

(a) **STUDY AND ANALYSIS.**—(1) The Secretary of the Army shall conduct a preliminary engineering study and environmental analysis to evaluate the feasibility of establishing a connector road between Richmond Highway (United States Route 1) and Telegraph Road in order to provide an alternative to Beulah Road (State Route 613) and Woodlawn Road (State Route 618) at Fort Belvoir, Virginia, which were closed as a force protection measure.

(2) It is the sense of Congress that the study and analysis should consider as one alternative the extension of Old Mill Road between Richmond Highway and Telegraph Road.

(b) **CONSULTATION.**—The study required by subsection (a) shall be conducted in consultation with the Department of Transportation of the Commonwealth of Virginia and Fairfax County, Virginia.

(c) **REPORT.**—The Secretary shall submit to Congress a summary report on the study and analysis required by subsection (a). The summary report shall be submitted together with the budget justification materials in support of the budget of the President for fiscal year 2006 that is submitted to Congress under section 1105(a) of title 31, United States Code.

(d) **FUNDING.**—Of the amount authorized to be appropriated by section 301(a)(1) for the Army for operation and maintenance, \$5,000,000 may be available for the study and analysis required by subsection (a).

SEC. 350. EXTENSION OF WORK SAFETY DEMONSTRATION PROGRAM.

Section 1112 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-313) is amended—

(1) in subsection (d), by striking “September 30, 2002” and inserting “September 30, 2003”; and

(2) in subsection (e)(2), by striking “December 1, 2002” and inserting “December 1, 2003”.

SEC. 351. LIFT SUPPORT FOR MINE WARFARE SHIPS AND OTHER VESSELS.

(a) **AMOUNT.**—Of the amount authorized to be appropriated by section 302(2), \$10,000,000 shall be available for implementing the recommendations resulting from the Navy's Non-Self Deployable Watercraft (NDSW) Study and the Joint Chiefs of Staff Focused Logistics Study, which are to determine the requirements of the Navy for providing lift support for mine warfare ships and other vessels.

(b) **OFFSETTING REDUCTION.**—Of the amount authorized to be appropriated by section 302(2), the amount provided for the procurement of mine countermeasures ships cradles is hereby reduced by \$10,000,000.

SEC. 352. NAVY DATA CONVERSION ACTIVITIES.

(a) **AMOUNT FOR ACTIVITIES.**—The amount authorized to be appropriated by section 301(a)(2) is hereby increased by \$1,500,000. The total amount of such increase may be available for the Navy Data Conversion and Management Laboratory to support data conversion activities for the Navy.

(b) **OFFSET.**—The amount authorized to be appropriated by section 301(a)(1) is hereby reduced by \$1,500,000 to reflect a reduction in

the utilities privatization efforts previously planned by the Army.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 2003, as follows:

- (1) The Army, 485,000.
- (2) The Navy, 379,200.
- (3) The Marine Corps, 175,000.
- (4) The Air Force, 362,500.

SEC. 402. AUTHORITY TO INCREASE STRENGTH AND GRADE LIMITATIONS TO ACCOUNT FOR RESERVE COMPONENT MEMBERS ON ACTIVE DUTY IN SUPPORT OF A CONTINGENCY OPERATION.

(a) ACTIVE DUTY STRENGTH.—Section 115(c)(1) of title 10, United States Code, is amended to read as follows:

“(1) increase the end strength authorized pursuant to subsection (a)(1)(A) for a fiscal year for any of the armed forces by—

“(A) a number equal to not more than 2 percent of that end strength;

“(B) a number equal to the number of members of the reserve components of that armed force on active duty under section 12301(d) of this title in support of a contingency operation in that fiscal year; or

“(C) a number not greater than the sum of the numbers authorized by subparagraphs (A) and (B).”

(b) AUTHORIZED DAILY AVERAGE FOR MEMBERS IN PAY GRADES E-8 AND E-9 ON ACTIVE DUTY.—Section 517 of such title is amended by adding at the end the following new paragraph:

“(d) The Secretary of Defense may increase the authorized daily average number of enlisted members on active duty in an armed force in pay grades E-8 and E-9 in a fiscal year under subsection (a) by the number of enlisted members of reserve components of that armed force in pay grades E-8 and E-9, respectively, that are on active duty in that fiscal year under section 12301(d) of this title in support of a contingency operation.”

(c) AUTHORIZED STRENGTHS FOR COMMISSIONED OFFICERS IN PAY GRADES O-4, O-5, AND O-6 ON ACTIVE DUTY.—Section 523 of such title is amended—

(1) in subsection (a), by striking “subsection (c)” in paragraphs (1) and (2) and inserting “subsections (c) and (e)”; and

(2) by adding at the end the following new subsection:

“(e) The Secretary of Defense may increase the authorized total number of commissioned officers serving on active duty in the Army, Navy, Air Force, or Marine Corps in a grade referred to in subsection (c) at the end of any fiscal year under that subsection by the number of commissioned officers of reserve components of the Army, Navy, Air Force, or Marine Corps, respectively, that are then serving on active duty in that grade under section 12301(d) of this title in support of a contingency operation.”

(d) AUTHORIZED STRENGTHS FOR GENERAL AND FLAG OFFICERS ON ACTIVE DUTY.—Section 526(a) of such title is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(2) by striking “LIMITATIONS.—The” and inserting “LIMITATIONS.—(1) Except as provided in paragraph (2), the”; and

(3) by adding at the end the following new paragraph (2):

“(2) The Secretary of Defense may increase the number of general and flag officers au-

thorized to be on active duty in the Army, Navy, Air Force, or Marine Corps under paragraph (1) by the number of reserve general or flag officers of reserve components of the Army, Navy, Air Force, or Marine Corps, respectively, that are on active duty under section 12301(d) of this title in support of a contingency operation.”

SEC. 403. INCREASED ALLOWANCE FOR NUMBER OF MARINE CORPS GENERAL OFFICERS ON ACTIVE DUTY IN GRADES ABOVE MAJOR GENERAL.

Section 525(b)(2)(B) of title 10, United States Code, is amended by striking “16.2 percent” and inserting “17.5 percent”.

SEC. 404. INCREASE IN AUTHORIZED STRENGTHS FOR MARINE CORPS OFFICERS ON ACTIVE DUTY IN THE GRADE OF COLONEL.

The table in section 523(a)(1) of title 10, United States Code, is amended by striking the figures under the heading “Colonel” in the portion of the table relating to the Marine Corps and inserting the following:

“571
632
653
673
694
715
735”.

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2003, as follows:

- (1) The Army National Guard of the United States, 350,000.
- (2) The Army Reserve, 205,000.
- (3) The Naval Reserve, 87,800.
- (4) The Marine Corps Reserve, 39,558.
- (5) The Air National Guard of the United States, 106,600.
- (6) The Air Force Reserve, 75,600.
- (7) The Coast Guard Reserve, 9,000.

(b) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2003, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 24,492.

(2) The Army Reserve, 13,888.

(3) The Naval Reserve, 14,572.

(4) The Marine Corps Reserve, 2,261.

(5) The Air National Guard of the United States, 11,727.

(6) The Air Force Reserve, 1,498.

SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

The minimum number of military technicians (dual status) as of the last day of fiscal year 2003 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

(1) For the Army Reserve, 6,599.

(2) For the Army National Guard of the United States, 24,102.

(3) For the Air Force Reserve, 9,911.

(4) For the Air National Guard of the United States, 22,495.

SEC. 414. FISCAL YEAR 2003 LIMITATIONS ON NON-DUAL STATUS TECHNICIANS.

(a) LIMITATIONS.—(1) Within the limitation provided in section 10217(c)(2) of title 10, United States Code, the number of non-dual status technicians employed by the National Guard as of September 30, 2003, may not exceed the following:

(A) For the Army National Guard of the United States, 1,600.

(B) For the Air National Guard of the United States, 350.

(2) The number of non-dual status technicians employed by the Army Reserve as of September 30, 2003, may not exceed 995.

(3) The Air Force Reserve may not employ any person as a non-dual status technician during fiscal year 2003.

(b) NON-DUAL STATUS TECHNICIANS DEFINED.—In this section, the term “non-dual status technician” has the meaning given the term in section 10217(a) of title 10, United States Code.

Subtitle C—Authorization of Appropriations

SEC. 421. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2003 a total of \$94,352,208,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2003.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

SEC. 501. EXTENSION OF CERTAIN REQUIREMENTS AND EXCLUSIONS APPLICABLE TO SERVICE OF GENERAL AND FLAG OFFICERS ON ACTIVE DUTY IN CERTAIN JOINT DUTY ASSIGNMENTS.

(a) RECOMMENDATIONS FOR ASSIGNMENT TO SENIOR JOINT OFFICER POSITIONS.—Section 604(c) of title 10, United States Code, is amended by striking “September 30, 2003” and inserting “December 31, 2003”.

(b) INAPPLICABILITY OF GRADE DISTRIBUTION REQUIREMENTS.—Section 525(b)(5)(C) of such title is amended by striking “September 30, 2003” and inserting “December 31, 2003”.

(c) EXCLUSION FROM STRENGTH LIMITATION.—Section 526(b)(3) of such title is amended by striking “October 1, 2002” and inserting “December 31, 2003”.

SEC. 502. EXTENSION OF AUTHORITY TO WAIVE REQUIREMENT FOR SIGNIFICANT JOINT DUTY EXPERIENCE FOR APPOINTMENT AS A CHIEF OF A RESERVE COMPONENT OR A NATIONAL GUARD DIRECTOR.

(a) CHIEF OF ARMY RESERVE.—Section 3038(b)(4) of title 10, United States Code, is amended by striking “October 1, 2003” and inserting “December 31, 2003”.

(b) CHIEF OF NAVAL RESERVE.—Section 5143(b)(4) of such title is amended by striking “October 1, 2003” and inserting “December 31, 2003”.

(c) COMMANDER, MARINE FORCES RESERVE.—Section 5144(b)(4) of such title is amended by striking “October 1, 2003” and inserting “December 31, 2003”.

(d) CHIEF OF AIR FORCE RESERVE.—Section 8038(b)(4) of such title 10, United States Code, is amended by striking “October 1, 2003” and inserting “December 31, 2003”.

(e) DIRECTORS OF THE NATIONAL GUARD.—Section 10506(a)(3)(D) of such title is amended by striking “October 1, 2003” and inserting “December 31, 2003”.

SEC. 503. REPEAL OF LIMITATION ON AUTHORITY TO GRANT CERTAIN OFFICERS A WAIVER OF REQUIRED SEQUENCE FOR JOINT PROFESSIONAL MILITARY EDUCATION AND JOINT DUTY ASSIGNMENT.

Section 661(c)(3)(D) of title 10, United States Code, is amended by striking “In the case of officers in grades below brigadier general” and all that follows through “selected for the joint specialty during that fiscal year.”.

SEC. 504. EXTENSION OF TEMPORARY AUTHORITY FOR RECALL OF RETIRED AVIATORS.

Section 501(e) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 589) is amended by striking “September 30, 2002” and inserting “September 30, 2008”.

SEC. 505. INCREASED GRADE FOR HEADS OF NURSE CORPS.

(a) ARMY.—Section 3069(b) of title 10, United States Code, is amended by striking “brigadier general” in the second sentence and inserting “major general”.

(b) NAVY.—The first sentence of section 5150(c) of such title is amended—

(1) by inserting “rear admiral (upper half) in the case of an officer in the Nurse Corps or” after “for promotion to the grade of”; and

(2) by inserting “in the case of an officer in the Medical Service Corps” after “rear admiral (lower half)”.

(c) AIR FORCE.—Section 8069(b) of such title is amended by striking “brigadier general” in the second sentence and inserting “major general”.

SEC. 506. REINSTATEMENT OF AUTHORITY TO REDUCE SERVICE REQUIREMENT FOR RETIREMENT IN GRADES ABOVE O-4.

(a) OFFICERS ON ACTIVE DUTY.—Subsection (a)(2)(A) of section 1370 of title 10, United States Code, is amended—

(1) by striking “may authorize” and all that follows and inserting “may, in the case of retirements effective during the period beginning on September 1, 2002, and ending on December 31, 2004, authorize—”; and

(2) by adding at the end the following:

“(1) the Deputy Under Secretary of Defense for Personnel and Readiness to reduce such 3-year period of required service to a period not less than two years for retirements in grades above colonel or, in the case of the Navy, captain; and

“(2) the Secretary of a military department or the Assistant Secretary of a military department having responsibility for manpower and reserve affairs to reduce such 3-year period to a period of required service not less than two years for retirements in grades of lieutenant colonel and colonel or, in the case of the Navy, commander and captain.”.

(b) RESERVE OFFICERS.—Subsection (d)(5) of such section is amended—

(1) in the first sentence—

(A) by striking “may authorize” and all that follows and inserting “may, in the case of retirements effective during the period beginning on September 1, 2002, and ending on December 31, 2004, authorize—”; and

(B) by adding at the end the following:

“(A) the Deputy Under Secretary of Defense for Personnel and Readiness to reduce such 3-year period of required service to a period not less than two years for retirements in grades above colonel or, in the case of the Navy, captain; and

“(B) the Secretary of a military department or the Assistant Secretary of a military department having responsibility for manpower and reserve affairs to reduce such 3-year period of required service to a period not less than two years for retirements in grades of lieutenant colonel and colonel or, in the case of the Navy, commander and captain.”;

(2) by designating the second sentence as paragraph (6) and realigning such paragraph, as so redesignated 2 ems from the left margin; and

(3) in paragraph (6), as so redesignated, by striking “this paragraph” and inserting “paragraph (5)”.

(c) ADVANCE NOTICE TO THE PRESIDENT AND CONGRESS.—Such section is further amended by adding at the end the following new subsection:

“(e) ADVANCE NOTICE TO CONGRESS.—(1) The Secretary of Defense shall notify the Committees on Armed Services of the Senate and House of Representatives of—

“(A) an exercise of authority under paragraph (2)(A) of subsection (a) to reduce the 3-year minimum period of required service on active duty in a grade in the case of an officer to whom such paragraph applies before the officer is retired in such grade under such subsection without having satisfied that 3-year service requirement; and

“(B) an exercise of authority under paragraph (5) of subsection (d) to reduce the 3-year minimum period of service in grade required under paragraph (3)(A) of such subsection in the case of an officer to whom such paragraph applies before the officer is credited with satisfactory service in such grade under subsection (d) without having satisfied that 3-year service requirement.

“(2) The requirement for a notification under paragraph (1) is satisfied in the case of an officer to whom subsection (c) applies if the notification is included in the certification submitted with respect to such officer under paragraph (1) of such subsection.

“(3) The notification requirement under paragraph (1) does not apply to an officer being retired in the grade of lieutenant colonel or colonel or, in the case of the Navy, commander or captain.”.

Subtitle B—Reserve Component Personnel Policy

SEC. 511. TIME FOR COMMENCEMENT OF INITIAL PERIOD OF ACTIVE DUTY FOR TRAINING UPON ENLISTMENT IN RESERVE COMPONENT.

Section 12103(d) of title 10, United States Code, is amended by striking “270 days” in the second sentence and inserting “one year”.

SEC. 512. AUTHORITY FOR LIMITED EXTENSION OF MEDICAL DEFERMENT OF MANDATORY RETIREMENT OR SEPARATION OF RESERVE COMPONENT OFFICER.

(a) AUTHORITY.—Chapter 1407 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 14519. Deferment of retirement or separation for medical reasons

“(a) AUTHORITY.—If, in the case of an officer required to be retired or separated under this chapter or chapter 1409 of this title, the Secretary concerned determines that the evaluation of the physical condition of the officer and determination of the officer’s entitlement to retirement or separation for physical disability require hospitalization or medical observation and that such hospitalization or medical observation cannot be completed with confidence in a manner consistent with the officer’s well being before the date on which the officer would otherwise be required to retire or be separated, the Secretary may defer the retirement or separation of the officer.

“(b) PERIOD OF DEFERMENT.—A deferral of retirement or separation under subsection (a) may not extend for more than 30 days after the completion of the evaluation requiring hospitalization or medical observation.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“14519. Deferment of retirement or separation for medical reasons.”.

SEC. 513. REPEAL OF PROHIBITION ON USE OF AIR FORCE RESERVE AGR PERSONNEL FOR AIR FORCE BASE SECURITY FUNCTIONS.

(a) REPEAL.—Section 12551 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1215 of such title is amended by striking the item relating to section 12551.

Subtitle C—Education and Training

SEC. 521. INCREASE IN AUTHORIZED STRENGTHS FOR THE SERVICE ACADEMIES.

(a) UNITED STATES MILITARY ACADEMY.—Section 4342 of title 10, United States Code, is amended—

(1) in subsection (a), by striking “4,000” in the first sentence and inserting “4,400”; and

(2) in subsection (i), by striking “variance in that limitation” and inserting “variance above that limitation”.

(b) UNITED STATES NAVAL ACADEMY.—Section 6954 of title 10, United States Code, is amended—

(1) in subsection (a), by striking “4,000” in the first sentence and inserting “4,400”; and

(2) in subsection (g), by striking “variance in that limitation” and inserting “variance above that limitation”.

(c) UNITED STATES AIR FORCE ACADEMY.—Section 9342 of title 10, United States Code, is amended—

(1) in subsection (a), by striking “4,000” in the first sentence and inserting “4,400”; and

(2) in subsection (i), by striking “variance in that limitation” and inserting “variance above that limitation”.

Subtitle D—Decorations, Awards, and Commendations

SEC. 531. WAIVER OF TIME LIMITATIONS FOR AWARD OF CERTAIN DECORATIONS TO CERTAIN PERSONS.

(a) WAIVER.—Any limitation established by law or policy for the time within which a recommendation for the award of a military decoration or award must be submitted shall not apply to awards of decorations described in this section, the award of each such decoration having been determined by the Secretary concerned to be warranted in accordance with section 1130 of title 10, United States Code.

(b) DISTINGUISHED-SERVICE CROSS OF THE ARMY.—Subsection (a) applies to the award

of the Distinguished-Service Cross of the Army as follows:

(1) To Henry Johnson of Albany, New York, for extraordinary heroism in France during the period of May 13 to 15, 1918, while serving as a member of the Army.

(2) To Hilliard Carter of Jackson, Mississippi, for extraordinary heroism in actions near Troung Loung, Republic of Vietnam, on September 28, 1966, while serving as a member of the Army.

(3) To Albert C. Welch of Highland Ranch, Colorado, for extraordinary heroism in actions in Ong Thanh, Binh Long Province, Republic of Vietnam, on October 17, 1967, while serving as a member of the Army.

(c) **DISTINGUISHED FLYING CROSS OF THE NAVY.**—Subsection (a) applies to the award of the Distinguished Flying Cross of the Navy as follows:

(1) To Eduguardo Coppola of Falls Church, Virginia, for extraordinary achievement while participating in aerial flight during World War II, while serving as a member of the Navy.

(2) To James Hoisington, Jr., of Stillman Valley, Illinois, for extraordinary achievement while participating in aerial flight during World War II, while serving as a member of the Navy.

(3) To William M. Melvin of Lawrenceburg, Tennessee, for extraordinary achievement while participating in aerial flight during World War II, while serving as a member of the Navy.

(4) To Vincent Urbank of Tom River, New Jersey, for extraordinary achievement while participating in aerial flight during World War II, while serving as a member of the Navy.

SEC. 532. KOREA DEFENSE SERVICE MEDAL.

(a) **FINDINGS.**—Congress makes the following findings:

(1) More than 40,000 members of the United States Armed Forces have served on the Korean Peninsula each year since the signing of the cease-fire agreement in July 1953 ending the Korean War.

(2) An estimated 1,200 members of the United States Armed Forces died as a direct result of their service in Korea since the cease-fire agreement in July 1953.

(b) **ARMY.**—(1) Chapter 357 of title 10, United States Code, is amended by adding at the end the following new section:

“§3755. Korea Defense Service Medal

“(a) The Secretary of the Army shall issue a campaign medal, to be known as the Korea Defense Service Medal, to each person who while a member of the Army served in the Republic of Korea or the waters adjacent thereto during the KDSM eligibility period and met the service requirements for the award of that medal prescribed under subsection (c).

“(b) In this section, the term ‘KDSM eligibility period’ means the period beginning on July 28, 1954, and ending on such date after the date of the enactment of this section as may be determined by the Secretary of Defense to be appropriate for terminating eligibility for the Korea Defense Service Medal.

“(c) The Secretary of the Army shall prescribe service requirements for eligibility for the Korea Defense Service Medal. Those requirements shall not be more stringent than the service requirements for award of the Armed Forces Expeditionary Medal for instances in which the award of that medal is authorized.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“3755. Korea Defense Service Medal.”.

(c) **NAVY AND MARINE CORPS.**—(1) Chapter 567 of title 10, United States Code, is amended by adding at the end the following new section:

“§6257. Korea Defense Service Medal

“(a) The Secretary of the Navy shall issue a campaign medal, to be known as the Korea Defense Service Medal, to each person who while a member of the Navy or Marine Corps served in the Republic of Korea or the waters adjacent thereto during the KDSM eligibility period and met the service requirements for the award of that medal prescribed under subsection (c).

“(b) In this section, the term ‘KDSM eligibility period’ means the period beginning on July 28, 1954, and ending on such date after the date of the enactment of this section as may be determined by the Secretary of Defense to be appropriate for terminating eligibility for the Korea Defense Service Medal.

“(c) The Secretary of the Navy shall prescribe service requirements for eligibility for the Korea Defense Service Medal. Those requirements shall not be more stringent than the service requirements for award of the Armed Forces Expeditionary Medal for instances in which the award of that medal is authorized.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“6257. Korea Defense Service Medal.”.

(d) **AIR FORCE.**—(1) Chapter 857 of title 10, United States Code, is amended by adding at the end the following new section:

“§8755. Korea Defense Service Medal

“(a) The Secretary of the Air Force shall issue a campaign medal, to be known as the Korea Defense Service Medal, to each person who while a member of the Air Force served in the Republic of Korea or the waters adjacent thereto during the KDSM eligibility period and met the service requirements for the award of that medal prescribed under subsection (c).

“(b) In this section, the term ‘KDSM eligibility period’ means the period beginning on July 28, 1954, and ending on such date after the date of the enactment of this section as may be determined by the Secretary of Defense to be appropriate for terminating eligibility for the Korea Defense Service Medal.

“(c) The Secretary of the Air Force shall prescribe service requirements for eligibility for the Korea Defense Service Medal. Those requirements shall not be more stringent than the service requirements for award of the Armed Forces Expeditionary Medal for instances in which the award of that medal is authorized.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“8755. Korea Defense Service Medal.”.

(e) **AWARD FOR SERVICE BEFORE DATE OF ENACTMENT.**—The Secretary of the military department concerned shall take appropriate steps to provide in a timely manner for the issuance of the Korea Defense Service Medal, upon application therefor, to persons whose eligibility for that medal is by reason of service in the Republic of Korea or the waters adjacent thereto before the date of the enactment of this Act.

Subtitle E—National Call to Service

SEC. 541. ENLISTMENT INCENTIVES FOR PURSUIT OF SKILLS TO FACILITATE NATIONAL SERVICE.

(a) **AUTHORITY.**—(1) Chapter 5 of title 37, United States Code, is amended by adding at the end the following new section:

“§326. Enlistment incentives for pursuit of skills to facilitate national service

“(a) **INCENTIVES AUTHORIZED.**—The Secretary of Defense may carry out a program in accordance with the provisions of this section under which program a National Call to Service participant described in subsection (b) shall be entitled to an incentive specified in subsection (d).

“(b) **NATIONAL CALL TO SERVICE PARTICIPANT.**—In this section, the term ‘National Call to Service participant’ means a person who first enlists in the armed forces pursuant to a written agreement (prescribed by the Secretary of the military department concerned) under which agreement the person shall—

“(1) upon completion of initial entry training (as prescribed by the Secretary of Defense), serve on active duty in the armed forces in a military occupational specialty designated by the Secretary of Defense under subsection (c) for a period of 15 months; and

“(2) upon completion of such service on active duty, and without a break in service, serve the minimum period of obligated service specified in the agreement under this section—

“(A) on active duty in the armed forces;

“(B) in the Selected Reserve;

“(C) in the Individual Ready Reserve;

“(D) in the Peace Corps, Americorps, or another national service program jointly designated by the Secretary of Defense and the head of such program for purposes of this section; or

“(E) in any combination of service referred to in subparagraphs (A) through (D) that is approved by the Secretary of the military department concerned pursuant to regulations prescribed by the Secretary of Defense.

“(c) **DESIGNATED MILITARY OCCUPATIONAL SPECIALTIES.**—The Secretary of Defense shall designate military occupational specialties for purposes of subsection (b)(1). Such military occupational specialties shall be military occupational specialties that will facilitate, as determined by the Secretary, pursuit of national service by National Call to Service participants during and after their completion of duty or service under an agreement under subsection (b).

“(d) **INCENTIVES.**—The incentives specified in this subsection are as follows:

“(1) Payment of a bonus in the amount of \$5,000.

“(2) Payment of outstanding principal and interest on qualifying student loans of the National Call to Service participant in an amount not to exceed \$18,000.

“(3) Entitlement to an allowance for educational assistance at the monthly rate equal to the monthly rate payable for basic educational assistance allowances under section 3015(a)(1) of title 38 for a total of 12 months.

“(4) Entitlement to an allowance for educational assistance at the monthly rate equal to ⅔ of the monthly rate payable for basic educational assistance allowances under section 3015(b)(1) of title 38 for a total of 36 months.

“(e) **ELECTION OF INCENTIVES.**—A National Call to Service participant shall elect in the agreement under subsection (b) which incentive under subsection (d) to receive. An election under this subsection is irrevocable.

“(f) **PAYMENT OF BONUS AMOUNTS.**—(1) Payment to a National Call to Service participant of the bonus elected by the National Call to Service participant under subsection (d)(1) shall be made in such time and manner as the Secretary of Defense shall prescribe.

“(2)(A) Payment of outstanding principal and interest on the qualifying student loans

of a National Call to Service participant, as elected under subsection (d)(2), shall be made in such time and manner as the Secretary of Defense shall prescribe.

“(B) Payment under this paragraph of the outstanding principal and interest on the qualifying student loans of a National Call to Service participant shall be made to the holder of such student loans, as identified by the National Call to Service participant to the Secretary of the military department concerned for purposes of such payment.

“(3) Payment of a bonus or incentive in accordance with this subsection shall be made by the Secretary of the military department concerned.

“(g) COORDINATION WITH MONTGOMERY GI BILL BENEFITS.—(1) A National Call to Service participant who elects an incentive under paragraph (3) or (4) of subsection (d) is not entitled to educational assistance under chapter 1606 of title 10 or basic educational assistance under subchapter II of chapter 30 of title 38.

“(2)(A) The Secretary of Defense shall, to the maximum extent practicable, administer the receipt by National Call to Service participants of incentives under paragraph (3) or (4) of subsection (d) as if such National Call to Service participants were, in receiving such incentives, receiving educational assistance for members of the Selected Reserve under chapter 1606 of title 10.

“(B) The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, prescribe regulations for purposes of subparagraph (A). Such regulations shall, to the maximum extent practicable, take into account the administrative provisions of chapters 30 and 36 of title 38 that are specified in section 16136 of title 10.

“(3) Except as provided in paragraph (1), nothing in this section shall prohibit a National Call to Service participant who satisfies through service under subsection (b) the eligibility requirements for educational assistance under chapter 1606 of title 10 or basic educational assistance under chapter 30 of title 38 from an entitlement to such educational assistance under chapter 1606 of title 10 or basic educational assistance under chapter 30 of title 38, as the case may be.

“(h) REPAYMENT.—(1) If a National Call to Service participant who has entered into an agreement under subsection (b) and received or benefited from an incentive under subsection (d)(1) or (d)(2) fails to complete the total period of service specified in such agreement, the National Call to Service participant shall refund to the United States the amount that bears the same ratio to the amount of the incentive as the uncompleted part of such service bears to the total period of such service.

“(2) Subject to paragraph (3), an obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

“(3) The Secretary concerned may waive, in whole or in part, a reimbursement required under paragraph (1) if the Secretary concerned determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

“(4) A discharge in bankruptcy under title 11 that is entered into less than 5 years after the termination of an agreement entered into under subsection (b) does not discharge the person signing the agreement from a debt arising under the agreement or under paragraph (1).

“(i) FUNDING.—Amounts for payment of incentives under subsection (d), including pay-

ment of allowances for educational assistance under that subsection, shall be derived from amounts available to the Secretary of the military department concerned for payment of pay, allowances, and other expenses of the members of the armed force concerned.

“(j) REGULATIONS.—The Secretary of Defense and the Secretaries of the military departments shall prescribe regulations for purposes of the program under this section.

“(k) DEFINITIONS.—In this section:

“(1) The term ‘Americorps’ means the Americorps program carried out under subtitle C of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.).

“(2) The term ‘qualifying student loan’ means a loan, the proceeds of which were used to pay the cost of attendance (as defined in section 472 of the Higher Education Act of 1965 (20 U.S.C. 10871)) at an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).

“(3) The term ‘Secretary of a military department’ includes the Secretary of Transportation, with respect to matters concerning the Coast Guard when it is not operating as a service in the Navy.”

(2) The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 325 the following new item:

“326. Enlistment incentives for pursuit of skills to facilitate national service.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2002. No individual entering into an enlistment before that date may participate in the program under section 326 of title 37, United States Code, as added by that subsection.

SEC. 542. MILITARY RECRUITER ACCESS TO INSTITUTIONS OF HIGHER EDUCATION.

(a) ACCESS TO INSTITUTIONS OF HIGHER EDUCATION.—Section 503 of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

“(d) ACCESS TO INSTITUTIONS OF HIGHER EDUCATION.—(1) Each institution of higher education receiving assistance under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.)—

“(A) shall provide to military recruiters the same access to students at the institution as is provided generally to prospective employers of those students; and

“(B) shall, upon a request made by military recruiters for military recruiting purposes, provide access to the names, addresses, and telephone listings of students at the institution, notwithstanding section 444(a)(5)(B) of the General Education Provisions Act (20 U.S.C. 1232g(a)(5)(B)).

“(2) An institution of higher education may not release a student's name, address, and telephone listing under paragraph (1)(B) without the prior written consent of the student or the parent of the student (in the case of a student under the age of 18) if the student, or a parent of the student, as appropriate, has submitted a request to the institution of higher education that the student's information not be released for a purpose covered by that subparagraph without prior written consent. Each institution of higher education shall notify students and parents of the rights provided under the preceding sentence.

“(3) In this subsection, the term ‘institution of higher education’ has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).”

(b) NOTIFICATION.—The Secretary of Education shall provide to institutions of higher education notice of the provisions of subsection (d) of section 503 of title 10, United States Code, as amended by subsection (a) of this section. Such notice shall be provided not later than 120 days after the date of the enactment of this Act, and shall be provided in consultation with the Secretary of Defense.

Subtitle F—Other Matters

SEC. 551. BIENNIAL SURVEYS ON RACIAL, ETHNIC, AND GENDER ISSUES.

(a) DIVISION OF ANNUAL SURVEY INTO TWO BIENNIAL SURVEYS.—Section 481 of title 10, United States Code, is amended to read as follows:

“§ 481. Racial, ethnic, and gender issues: biennial surveys

“(a) IN GENERAL.—The Secretary of Defense shall carry out two separate biennial surveys in accordance with this section to identify and assess racial, ethnic, and gender issues and discrimination among members of the armed forces serving on active duty and the extent (if any) of activity among such members that may be seen as so-called ‘hate group’ activity.

“(b) BIENNIAL SURVEY ON RACIAL AND ETHNIC ISSUES.—One of the surveys conducted every two years under this section shall solicit information on racial and ethnic issues and the climate in the armed forces for forming professional relationships among members of the armed forces of the various racial and ethnic groups. The information solicited shall include the following:

“(1) Indicators of positive and negative trends for professional and personal relationships among members of all racial and ethnic groups.

“(2) The effectiveness of Department of Defense policies designed to improve relationships among all racial and ethnic groups.

“(3) The effectiveness of current processes for complaints on and investigations into racial and ethnic discrimination.

“(c) BIENNIAL SURVEY ON GENDER ISSUES.—One of the surveys conducted every two years under this section shall solicit information on gender issues, including issues relating to gender-based harassment and discrimination, and the climate in the armed forces for forming professional relationships between male and female members of the armed forces. The information solicited shall include the following:

“(1) Indicators of positive and negative trends for professional and personal relationships between male and female members of the armed forces.

“(2) The effectiveness of Department of Defense policies designed to improve professional relationships between male and female members of the armed forces.

“(3) The effectiveness of current processes for complaints on and investigations into gender-based discrimination.

“(d) SURVEYS TO ALTERNATE EVERY YEAR.—The biennial survey under subsection (b) shall be conducted in odd-numbered years. The biennial survey under subsection (c) shall be conducted in even-numbered years.

“(e) IMPLEMENTING ENTITY.—The Secretary shall carry out the biennial surveys through entities in the Department of Defense as follows:

“(1) The biennial review under subsection (b), through the Armed Forces Survey on Racial and Ethnic Issues.

“(2) The biennial review under subsection (c), through the Armed Forces Survey on Gender Issues.

“(f) REPORTS TO CONGRESS.—Upon the completion of a biennial survey under this section, the Secretary shall submit to Congress a report containing the results of the survey.

“(g) INAPPLICABILITY TO COAST GUARD.—The requirements for surveys under this section do not apply to the Coast Guard.”.

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 23 of such title is amended to read as follows:

“481. Racial, ethnic, and gender issues: biennial surveys.”.

SEC. 552. LEAVE REQUIRED TO BE TAKEN PENDING REVIEW OF A RECOMMENDATION FOR REMOVAL BY A BOARD OF INQUIRY.

(a) REQUIREMENT.—Section 1182(c) of title 10, United States Code, is amended—

(1) by inserting “(1)” after “(c)”; and

(2) by adding at the end the following new paragraph:

“(2) Under regulations prescribed by the Secretary concerned, an officer referred to in paragraph (1) may be required to take leave pending the completion of the action under this chapter in the case of that officer. The officer may be required to begin such leave at any time following the officer's receipt of the report of the board of inquiry, including the board's recommendation for removal from active duty, and the expiration of any period allowed for submission by the officer of a rebuttal to that report. The leave may be continued until the date on which action by the Secretary concerned under this chapter is completed in the case of the officer or may be terminated at any earlier time.”.

(b) PAYMENT FOR MANDATORY EXCESS LEAVE UPON DISAPPROVAL OF CERTAIN INVOLUNTARY SEPARATION RECOMMENDATIONS.—Chapter 40 of such title is amended by inserting after section 707 the following new section:

“§ 707a. Payment upon disapproval of certain board of inquiry recommendations for excess leave required to be taken

“(a) An officer—

“(1) who is required to take leave under section 1182(c)(2) of this title, any period of which is charged as excess leave under section 706(a) of this title, and

“(2) whose recommendation for removal from active duty in a report of a board of inquiry is not approved by the Secretary concerned under section 1184 of this title, shall be paid, as provided in subsection (b), for the period of leave charged as excess leave.

“(b)(1) An officer entitled to be paid under this section shall be deemed, for purposes of this section, to have accrued pay and allowances for each day of leave required to be taken under section 1182(c)(2) of this title that is charged as excess leave (except any day of accrued leave for which the officer has been paid under section 706(b)(1) of this title and which has been charged as excess leave).

“(2) The officer shall be paid the amount of pay and allowances that is deemed to have accrued to the officer under paragraph (1), reduced by the total amount of his income from wages, salaries, tips, other personal service income, unemployment compensa-

tion, and public assistance benefits from any Government agency during the period the officer is deemed to have accrued pay and allowances. Except as provided in paragraph (3), such payment shall be made within 60 days after the date on which the Secretary concerned decides not to remove the officer from active duty.

“(3) If an officer is entitled to be paid under this section, but fails to provide sufficient information in a timely manner regarding the officer's income when such information is requested under regulations prescribed under subsection (c), the period of time prescribed in paragraph (2) shall be extended until 30 days after the date on which the member provides the information requested.

“(c) This section shall be administered under uniform regulations prescribed by the Secretaries concerned. The regulations may provide for the method of determining an officer's income during any period the officer is deemed to have accrued pay and allowances, including a requirement that the officer provide income tax returns and other documentation to verify the amount of the officer's income.”.

(c) CONFORMING AMENDMENTS.—(1) Section 706 of such title is amended by inserting “or 1182(c)(2)” after “section 876a” in subsections (a), (b), and (c).

(2) The heading for such section is amended to read as follows:

“§ 706. Administration of required leave”.

(d) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 40 of title 10, United States Code, is amended—

(1) by striking the item relating to section 706 and inserting the following:

“706. Administration of required leave.”;

and

(2) by inserting after the item relating to section 707 the following new item:

“707a. Payment upon disapproval of certain board of inquiry recommendations for excess leave required to be taken.”.

SEC. 553. STIPEND FOR PARTICIPATION IN FUNERAL HONORS DETAILS.

Section 1491(d) of title 10, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

“(A) For a participant in the funeral honors detail who is a member or former member of the armed forces in a retired status or is not a member of the armed forces (other than a former member in a retired status) and not an employee of the United States, either—

“(i) transportation; or

“(ii) a daily stipend prescribed annually by the Secretary of Defense at a single rate that is designed to defray the costs for transportation and other expenses incurred by the participant in connection with participation in the funeral honors detail.”;

(2) by inserting “(1)” after “(d) SUPPORT.—”;

(3) by redesignating paragraph (2) as subparagraph (B);

(4) in subparagraph (B), as so redesignated, by inserting “members of the armed forces in a retired status and” after “training for”; and

(5) by adding at the end the following:

“(2) A stipend paid under paragraph (1)(A) to a member or former member of the armed forces in a retired status shall be in addition to any other compensation to which the retired member may be entitled.”.

SEC. 554. WEAR OF ABAYAS BY FEMALE MEMBERS OF THE ARMED FORCES IN SAUDI ARABIA.

(a) PROHIBITIONS RELATING TO WEAR OF ABAYAS.—No member of the Armed Forces having authority over a member of the Armed Forces and no officer or employee of the United States having authority over a member of the Armed Forces may—

(1) require or encourage that member to wear the abaya garment or any part of the abaya garment while the member is in the Kingdom of Saudi Arabia pursuant to a permanent change of station or orders for temporary duty; or

(2) take any adverse action, whether formal or informal, against the member for choosing not to wear the abaya garment or any part of the abaya garment while the member is in the Kingdom of Saudi Arabia pursuant to a permanent change of station or orders for temporary duty.

(b) INSTRUCTION.—(1) The Secretary of Defense shall provide each female member of the Armed Forces ordered to a permanent change of station or temporary duty in the Kingdom of Saudi Arabia with instructions regarding the prohibitions in subsection (a) immediately upon the arrival of the member at a United States military installation within the Kingdom of Saudi Arabia. The instructions shall be presented orally and in writing. The written instruction shall include the full text of this section.

(2) In carrying out paragraph (1), the Secretary shall act through the Commander in Chief, United States Central Command and Joint Task Force Southwest Asia, and the commanders of the Army, Navy, Air Force, and Marine Corps components of the United States Central Command and Joint Task Force Southwest Asia.

(c) PROHIBITION ON USE OF FUNDS FOR PROCUREMENT OF ABAYAS.—Funds appropriated or otherwise made available to the Department of Defense may not be used to procure abayas for regular or routine issuance to members of the Armed Forces serving in the Kingdom of Saudi Arabia or for any personnel of contractors accompanying the Armed Forces in the Kingdom of Saudi Arabia in the performance of contracts entered into with such contractors by the United States.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SEC. 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 2003.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—The adjustment to become effective during fiscal year 2003 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.

(b) INCREASE IN BASIC PAY.—Effective on January 1, 2003, the rates of monthly basic pay for members of the uniformed services within each pay grade are as follows:

COMMISSIONED OFFICERS¹

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O-10 ²	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

COMMISSIONED OFFICERS¹—Continued

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O-9	0.00	0.00	0.00	0.00	0.00
O-8	7,474.50	7,719.30	7,881.60	7,927.20	8,129.40
O-7	6,210.90	6,499.20	6,633.00	6,739.20	6,930.90
O-6	4,603.20	5,057.10	5,388.90	5,388.90	5,409.60
O-5	3,837.60	4,323.00	4,622.40	4,678.50	4,864.80
O-4	3,311.10	3,832.80	4,088.70	4,145.70	4,383.00
O-3 ³	2,911.20	3,300.30	3,562.20	3,883.50	4,069.50
O-2 ³	2,515.20	2,864.70	3,299.40	3,410.70	3,481.20
O-1 ³	2,183.70	2,272.50	2,746.80	2,746.80	2,746.80
	Over 8	Over 10	Over 12	Over 14	Over 16
O-10 ²	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
O-9	0.00	0.00	0.00	0.00	0.00
O-8	8,468.70	8,547.30	8,868.90	8,961.30	9,238.20
O-7	7,120.80	7,340.40	7,559.40	7,779.00	8,468.70
O-6	5,641.20	5,672.10	5,672.10	5,994.60	6,564.30
O-5	4,977.00	5,222.70	5,403.00	5,635.50	5,991.90
O-4	4,637.70	4,954.50	5,201.40	5,372.70	5,471.10
O-3 ³	4,273.50	4,405.80	4,623.30	4,736.10	4,736.10
O-2 ³	3,481.20	3,481.20	3,481.20	3,481.20	3,481.20
O-1 ³	2,746.80	2,746.80	2,746.80	2,746.80	2,746.80
	Over 18	Over 20	Over 22	Over 24	Over 26
O-10 ²	\$0.00	\$12,077.70	\$12,137.10	\$12,389.40	\$12,829.20
O-9	0.00	10,563.60	10,715.70	10,935.60	11,319.60
O-8	9,639.00	10,008.90	10,255.80	10,255.80	10,255.80
O-7	9,051.30	9,051.30	9,051.30	9,051.30	9,096.90
O-6	6,898.80	7,233.30	7,423.50	7,616.10	7,989.90
O-5	6,161.70	6,329.10	6,519.60	6,519.60	6,519.60
O-4	5,528.40	5,528.40	5,528.40	5,528.40	5,528.40
O-3 ³	4,736.10	4,736.10	4,736.10	4,736.10	4,736.10
O-2 ³	3,481.20	3,481.20	3,481.20	3,481.20	3,481.20
O-1 ³	2,746.80	2,746.80	2,746.80	2,746.80	2,746.80

¹ Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for commissioned officers in pay grades O-7 through O-10 may not exceed the rate of pay for level III of the Executive Schedule and the actual rate of basic pay for all other officers may not exceed the rate of pay for level V of the Executive Schedule.

² Subject to the preceding footnote, while serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, the rate of basic pay for this grade is \$14,155.50, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

³ This table does not apply to commissioned officers in pay grade O-1, O-2, or O-3 who have been credited with over 4 years of active duty service as an enlisted member or warrant officer.

COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O-3E	\$0.00	\$0.00	\$0.00	\$3,883.50	\$4,069.50
O-2E	0.00	0.00	0.00	3,410.70	3,481.20
O-1E	0.00	0.00	0.00	2,746.80	2,933.70
	Over 8	Over 10	Over 12	Over 14	Over 16
O-3E	\$4,273.50	\$4,405.80	\$4,623.30	\$4,806.30	\$4,911.00
O-2E	3,591.90	3,778.80	3,923.40	4,031.10	4,031.10
O-1E	3,042.00	3,152.70	3,261.60	3,410.70	3,410.70
	Over 18	Over 20	Over 22	Over 24	Over 26
O-3E	\$5,054.40	\$5,054.40	\$5,054.40	\$5,054.40	\$5,054.40
O-2E	4,031.10	4,031.10	4,031.10	4,031.10	4,031.10
O-1E	3,410.70	3,410.70	3,410.70	3,410.70	3,410.70

WARRANT OFFICERS¹

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
W-5	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
W-4	3,008.10	3,236.10	3,329.10	3,420.60	3,578.10
W-3	2,747.10	2,862.00	2,979.30	3,017.70	3,141.00
W-2	2,416.50	2,554.50	2,675.10	2,763.00	2,838.30
W-1	2,133.90	2,308.50	2,425.50	2,501.10	2,662.50
	Over 8	Over 10	Over 12	Over 14	Over 16
W-5	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
W-4	3,733.50	3,891.00	4,044.60	4,203.60	4,356.00
W-3	3,281.70	3,467.40	3,580.50	3,771.90	3,915.60
W-2	2,993.10	3,148.50	3,264.00	3,376.50	3,453.90
W-1	2,782.20	2,888.40	3,006.90	3,085.20	3,203.40

WARRANT OFFICERS¹—Continued

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
	Over 18	Over 20	Over 22	Over 24	Over 26
W-5	\$0.00	\$5,169.30	\$5,346.60	\$5,524.50	\$5,703.30
W-4	4,512.00	4,664.40	4,822.50	4,978.20	5,137.50
W-3	4,058.40	4,201.50	4,266.30	4,407.00	4,548.00
W-2	3,579.90	3,705.90	3,831.00	3,957.30	3,957.30
W-1	3,320.70	3,409.50	3,409.50	3,409.50	3,409.50

¹ Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for warrant officers may not exceed the rate of pay for level V of the Executive Schedule.ENLISTED MEMBERS¹

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
E-9 ²	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
E-8	0.00	0.00	0.00	0.00	0.00
E-7	2,068.50	2,257.80	2,343.90	2,428.20	2,516.40
E-6	1,770.60	1,947.60	2,033.70	2,117.10	2,204.10
E-5	1,625.40	1,733.70	1,817.40	1,903.50	2,037.00
E-4	1,502.70	1,579.80	1,665.30	1,749.30	1,824.00
E-3	1,356.90	1,442.10	1,528.80	1,528.80	1,528.80
E-2	1,290.00	1,290.00	1,290.00	1,290.00	1,290.00
E-1 ³	1,150.80	1,150.80	1,150.80	1,150.80	1,150.80
	Over 8	Over 10	Over 12	Over 14	Over 16
E-9 ²	\$0.00	\$3,564.30	\$3,645.00	\$3,747.00	\$3,867.00
E-8	2,975.40	3,061.20	3,141.30	3,237.60	3,342.00
E-7	2,667.90	2,753.40	2,838.30	2,990.40	3,066.30
E-6	2,400.90	2,477.40	2,562.30	2,636.70	2,663.10
E-5	2,151.90	2,236.80	2,283.30	2,283.30	2,283.30
E-4	1,824.00	1,824.00	1,824.00	1,824.00	1,824.00
E-3	1,528.80	1,528.80	1,528.80	1,528.80	1,528.80
E-2	1,290.00	1,290.00	1,290.00	1,290.00	1,290.00
E-1 ³	1,150.80	1,150.80	1,150.80	1,150.80	1,150.80
	Over 18	Over 20	Over 22	Over 24	Over 26
E-9 ²	\$3,987.30	\$4,180.80	\$4,344.30	\$4,506.30	\$4,757.40
E-8	3,530.10	3,625.50	3,787.50	3,877.50	4,099.20
E-7	3,138.60	3,182.70	3,331.50	3,427.80	3,671.40
E-6	2,709.60	2,709.60	2,709.60	2,709.60	2,709.60
E-5	2,283.30	2,283.30	2,283.30	2,283.30	2,283.30
E-4	1,824.00	1,824.00	1,824.00	1,824.00	1,824.00
E-3	1,528.80	1,528.80	1,528.80	1,528.80	1,528.80
E-2	1,290.00	1,290.00	1,290.00	1,290.00	1,290.00
E-1 ³	1,150.80	1,150.80	1,150.80	1,150.80	1,150.80

¹ Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for enlisted members may not exceed the rate of pay for level V of the Executive Schedule.² Subject to the preceding footnote, while serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, the rate of basic pay for this grade is \$5,732.70, regardless of cumulative years of service computed under section 205 of title 37, United States Code.³ In the case of members in pay grade E-1 who have served less than 4 months on active duty, the rate of basic pay is \$1,064.70.**SEC. 602. RATE OF BASIC ALLOWANCE FOR SUBSISTENCE FOR ENLISTED PERSONNEL OCCUPYING SINGLE GOVERNMENT QUARTERS WITHOUT ADEQUATE AVAILABILITY OF MEALS.**

(a) AUTHORITY TO PAY INCREASED RATE.—Section 402(d) of title 37, United States Code, is amended to read as follows:

(d) SPECIAL RATE FOR ENLISTED MEMBERS OCCUPYING SINGLE QUARTERS WITHOUT ADEQUATE AVAILABILITY OF MEALS.—The Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, may pay an enlisted member the basic allowance for subsistence under this section at a monthly rate that is twice the amount in effect under subsection (b)(2) while—

(1) the member is assigned to single Government quarters which have no adequate food storage or preparation facility in the quarters; and

(2) there is no Government messing facility serving those quarters that is capable of making meals available to the occupants of the quarters.”.

(b) EFFECTIVE DATE.—Subsection (a) and the amendment made by such subsection shall take effect on October 1, 2002.

SEC. 603. BASIC ALLOWANCE FOR HOUSING IN CASES OF LOW-COST OR NO-COST MOVES.

Section 403 of title 37, United States Code, is amended—

(1) by transferring paragraph (7) of subsection (b) to the end of the section; and

(2) in such paragraph—

(A) by striking “(7)” and all that follows through “circumstances of which make it necessary that the member be” and inserting “(o) TREATMENT OF LOW-COST AND NO-COST MOVES AS NOT BEING REASSIGNMENTS.—In the case of a member who is assigned to duty at a location or under circumstances that make it necessary for the member to be”; and

(B) by inserting “for the purposes of this section” after “may be treated”.

SEC. 604. TEMPORARY AUTHORITY FOR HIGHER RATES OF PARTIAL BASIC ALLOWANCE FOR HOUSING FOR CERTAIN MEMBERS ASSIGNED TO HOUSING UNDER ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING.

(a) AUTHORITY.—The Secretary of Defense may prescribe and, under section 403(n) of title 37, United States Code, pay for members of the Armed Forces (without dependents) in privatized housing higher rates of partial basic allowance for housing than those that are authorized under paragraph (2) of such section 403(n).

(b) MEMBERS IN PRIVATIZED HOUSING.—For the purposes of this section, a member of the Armed Forces (without dependents) is a member of the Armed Forces (without dependents) in privatized housing while the member is assigned to housing that is acquired or constructed under the authority of subchapter IV of chapter 169 of title 10, United States Code.

(c) TREATMENT OF HOUSING AS GOVERNMENT QUARTERS.—For purposes of section 403 of title 37, United States Code, a member of the Armed Forces (without dependents) in

privatized housing shall be treated as residing in quarters of the United States or a housing facility under the jurisdiction of the Secretary of a military department while a higher rate of partial allowance for housing is paid for the member under this section.

(d) **PAYMENT TO PRIVATE SOURCE.**—The partial basic allowance for housing paid for a member at a higher rate under this section may be paid directly to the private sector source of the housing to whom the member is obligated to pay rent or other charge for residing in such housing if the private sector source credits the amount so paid against the amount owed by the member for the rent or other charge.

(e) **TERMINATION OF AUTHORITY.**—Rates prescribed under subsection (a) may not be paid under the authority of this section in connection with contracts that are entered into after December 31, 2007, for the construction or acquisition of housing under the authority of subchapter IV of chapter 169 of title 10, United States Code.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) **SELECTED RESERVE REENLISTMENT BONUS.**—Section 308b(f) of title 37, United States Code, is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(b) **SELECTED RESERVE ENLISTMENT BONUS.**—Section 308c(e) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(c) **SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.**—Section 308d(c) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(d) **SELECTED RESERVE AFFILIATION BONUS.**—Section 308e(e) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(e) **READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.**—Section 308h(g) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(f) **PRIOR SERVICE ENLISTMENT BONUS.**—Section 308i(f) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

SEC. 612. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR CERTAIN HEALTH CARE PROFESSIONALS.

(a) **NURSE OFFICER CANDIDATE ACCESSION PROGRAM.**—Section 2130a(a)(1) of title 10, United States Code, is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(b) **REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.**—Section 16302(d) of such title is amended by striking “January 1, 2003” and inserting “January 1, 2004”.

(c) **ACCESSION BONUS FOR REGISTERED NURSES.**—Section 302d(a)(1) of title 37, United States Code, is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(d) **INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.**—Section 302e(a)(1) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(e) **SPECIAL PAY FOR SELECTED RESERVE HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.**—Section 302g(f) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(f) **ACCESSION BONUS FOR DENTAL OFFICERS.**—Section 302h(a)(1) of such title is

amended by striking “December 31, 2002” and inserting “December 31, 2003”.

SEC. 613. ONE-YEAR EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS.

(a) **SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.**—Section 312(e) of title 37, United States Code, is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(b) **NUCLEAR CAREER ACCESSION BONUS.**—Section 312b(c) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(c) **NUCLEAR CAREER ANNUAL INCENTIVE BONUS.**—Section 312c(d) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

SEC. 614. ONE-YEAR EXTENSION OF OTHER BONUS AND SPECIAL PAY AUTHORITIES.

(a) **AVIATION OFFICER RETENTION BONUS.**—Section 301b(a) of title 37, United States Code, is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(b) **REENLISTMENT BONUS FOR ACTIVE MEMBERS.**—Section 308(g) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(c) **ENLISTMENT BONUS FOR ACTIVE MEMBERS.**—Section 309(e) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(d) **RETENTION BONUS FOR MEMBERS WITH CRITICAL MILITARY SKILLS.**—Section 323(i) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(e) **ACCESSION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.**—Section 324(g) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

SEC. 615. INCREASED MAXIMUM AMOUNT PAYABLE AS MULTIYEAR RETENTION BONUS FOR MEDICAL OFFICERS OF THE ARMED FORCES.

Section 301d(a)(2) of title 37, United States Code, is amended by striking “\$14,000” and inserting “\$25,000”.

SEC. 616. INCREASED MAXIMUM AMOUNT PAYABLE AS INCENTIVE SPECIAL PAY FOR MEDICAL OFFICERS OF THE ARMED FORCES.

Section 302(b)(1) of title 37, United States Code, is amended—

(1) by striking “fiscal year 1992, and” in the second sentence and inserting “fiscal year 1992,”; and

(2) by inserting before the period at the end of such sentence the following: “and before fiscal year 2003, and \$50,000 for any twelve-month period beginning after fiscal year 2002”.

SEC. 617. ASSIGNMENT INCENTIVE PAY.

(a) **AUTHORITY.**—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 305a the following new section:

“§305b. Special pay: assignment incentive pay

“(a) AUTHORITY.—The Secretary concerned, with the concurrence of the Secretary of Defense, may pay monthly incentive pay under this section to a member of a uniformed service for a period that the member performs service, while entitled to basic pay, in an assignment that is designated by the Secretary concerned.

“(b) MAXIMUM RATE.—The maximum monthly rate of incentive pay payable to a member under this section is \$1,500.

“(c) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—Incentive pay paid to a member under this section is in addition to any other pay and allowances to which the member is entitled.

“(d) STATUS NOT AFFECTED BY TEMPORARY DUTY OR LEAVE.—The service of a member in an assignment referred to in subsection (a) shall not be considered discontinued during any period that the member is not performing service in such assignment by reason of temporary duty performed by the member pursuant to orders or absence of the member for authorized leave.

“(e) TERMINATION OF AUTHORITY.—No assignment incentive pay may be paid under this section for months beginning more than three years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2003.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 305a the following new item:

“305b. Special pay: assignment incentive pay.”.

(b) **ANNUAL REPORT.**—Not later than February 28 of each of 2004 and 2005, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the administration of the authority under section 305b of title 37, United States Code, as added by subsection (a). The report shall include an assessment of the utility of that authority.

SEC. 618. INCREASED MAXIMUM AMOUNTS FOR PRIOR SERVICE ENLISTMENT BONUS.

Section 308i(b)(1) of title 37, United States Code, is amended—

(1) in subparagraph (A), by striking “\$5,000” and inserting “\$8,000”;

(2) in subparagraph (B), by striking “\$2,500” and inserting “\$4,000”; and

(3) in subparagraph (C), by striking “\$2,000” and inserting “\$3,500”.

Subtitle C—Travel and Transportation Allowances

SEC. 631. DEFERRAL OF TRAVEL IN CONNECTION WITH LEAVE BETWEEN CONSECUTIVE OVERSEAS TOURS.

(a) **DATE TO WHICH TRAVEL MAY BE DEFERRED.**—Section 411b(a)(2) of title 37, United States Code, is amended by striking “not more than one year” in the first sentence and all that follows through “operation ends,” in the second sentence and inserting the following: “the date on which the member departs the duty station in termination of the consecutive tour of duty at that duty station or reports to another duty station under the order involved, as the case may be.”.

(b) **EFFECTIVE DATE AND SAVINGS PROVISION.**—(1) The amendment made by subsection (a) shall take effect on October 1, 2002.

(2) Section 411b(a) of title 37, United States Code, as in effect on September 30, 2002, shall continue to apply with respect to travel described in subsection (a)(2) of such title (as in effect on such date) that commences before October 1, 2002.

SEC. 632. TRANSPORTATION OF MOTOR VEHICLES FOR MEMBERS REPORTED MISSING.

(a) **AUTHORITY TO SHIP TWO MOTOR VEHICLES.**—Subsection (a) of section 554 of title 37, United States Code, is amended by striking “one privately owned motor vehicle” both places it appears and inserting “two privately owned motor vehicles”.

(b) **PAYMENTS FOR LATE DELIVERY.**—Subsection (i) of such section is amended by adding at the end the following: “In a case in which two motor vehicles of a member (or the dependent or dependents of a member) are transported at the expense of the United

States, no reimbursement is payable under this subsection unless both motor vehicles do not arrive at the authorized destination of the vehicles by the designated delivery date.”.

(c) **APPLICABILITY.**—The amendments made by subsection (a) shall apply with respect to members whose eligibility for benefits under section 554 of title 37, United States Code, commences on or after the date of the enactment of this Act.

SEC. 633. DESTINATIONS AUTHORIZED FOR GOVERNMENT PAID TRANSPORTATION OF ENLISTED PERSONNEL FOR REST AND RECUPERATION UPON EXTENDING DUTY AT DESIGNATED OVERSEAS LOCATIONS.

Section 705(b)(2) of title 10, United States Code, is amended by inserting before the period at the end the following: “, or to an alternative destination at a cost not to exceed the cost of the round-trip transportation from the location of the extended tour of duty to such nearest port and return”.

SEC. 634. VEHICLE STORAGE IN LIEU OF TRANSPORTATION TO CERTAIN AREAS OF THE UNITED STATES OUTSIDE CONTINENTAL UNITED STATES.

Section 2634(b) of title 10, United States Code, is amended:

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(2) by inserting after paragraph (1) the following new paragraph (2):

“(2) In lieu of transportation authorized by this section, if a member is ordered to make a change of permanent station to Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands, Guam, or any territory or possession of the United States and laws, regulations, or other restrictions preclude transportation of a motor vehicle described in subsection (a) to the new station, the member may elect to have the vehicle stored at the expense of the United States at a location approved by the Secretary concerned.”.

Subtitle D—Retirement and Survivor Benefit Matters

SEC. 641. PAYMENT OF RETIRED PAY AND COMPENSATION TO DISABLED MILITARY RETIREES.

(a) **IN GENERAL.**—Section 1414 of title 10, United States Code, is amended to read as follows:

“§ 1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans’ disability compensation

“(a) **PAYMENT OF BOTH RETIRED PAY AND COMPENSATION.**—Except as provided in subsection (b), a member or former member of the uniformed services who is entitled to retired pay (other than as specified in subsection (c)) and who is also entitled to veterans’ disability compensation is entitled to be paid both without regard to sections 5304 and 5305 of title 38.

“(b) **SPECIAL RULE FOR CHAPTER 61 CAREER RETIREES.**—The retired pay of a member retired under chapter 61 of this title with 20 years or more of service otherwise creditable under section 1405 of this title at the time of the member’s retirement is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member’s retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member’s service in the uniformed services if the member had not been retired under chapter 61 of this title.

“(c) **EXCEPTION.**—Subsection (a) does not apply to a member retired under chapter 61

of this title with less than 20 years of service otherwise creditable under section 1405 of this title at the time of the member’s retirement.

“(d) **DEFINITIONS.**—In this section:

“(1) The term ‘retired pay’ includes retiree pay, emergency officers’ retirement pay, and naval pension.

“(2) The term ‘veterans’ disability compensation’ has the meaning given the term ‘compensation’ in section 101(13) of title 38.”.

(b) **REPEAL OF SPECIAL COMPENSATION PROGRAM.**—Section 1413 of such title is repealed.

(c) **CONFORMING AMENDMENT.**—Section 641(d) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1150; 10 U.S.C. 1414 note) is repealed.

(d) **CLERICAL AMENDMENTS.**—The table of sections at the beginning of chapter 71 of title 10, United States Code, is amended by striking the items relating to sections 1413 and 1414 and inserting the following new item:

“1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans’ disability compensation.”.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted, if later than the date specified in paragraph (1).

(f) **PROHIBITION ON RETROACTIVE BENEFITS.**—No benefits may be paid to any person by reason of section 1414 of title 10, United States Code, as amended by subsection (a), for any period before the effective date specified in subsection (e).

SEC. 642. INCREASED RETIRED PAY FOR ENLISTED RESERVES CREDITED WITH EXTRAORDINARY HEROISM.

(a) **AUTHORITY.**—Section 12739 of title 10, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(2) by inserting after subsection (a) the following new subsection (b):

“(b) If an enlisted member retired under section 12731 of this title has been credited by the Secretary concerned with extraordinary heroism in the line of duty, the member’s retired pay shall be increased by 10 percent of the amount determined under subsection (a). The Secretary’s determination as to extraordinary heroism is conclusive for all purposes.”; and

(3) in subsection (c), as redesignated by paragraph (1), by striking “amount computed under subsection (a),” and inserting “total amount of the monthly retired pay computed under subsections (a) and (b)”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on October 1, 2002, and shall apply with respect to retired pay for months beginning on or after that date.

SEC. 643. EXPANDED SCOPE OF AUTHORITY TO WAIVE TIME LIMITATIONS ON CLAIMS FOR MILITARY PERSONNEL BENEFITS.

(a) **AUTHORITY.**—Section 3702(e)(1) of title 31, United States Code, is amended by striking “a claim for pay, allowances, or payment for unused accrued leave under title 37 or a claim for retired pay under title 10” and inserting “a claim referred to in subsection (a)(1)(A)”.

(b) **APPLICABILITY.**—The amendment made by subsection (a) shall apply with respect to

claims presented to the Secretary of Defense under section 3702 of title 31, United States Code, on or after the date of the enactment of this Act.

Subtitle E—Other Matters

SEC. 651. ADDITIONAL AUTHORITY TO PROVIDE ASSISTANCE FOR FAMILIES OF MEMBERS OF THE ARMED FORCES.

(a) **AUTHORITY.**—(1) Subchapter I of chapter 88 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 1788. Additional family assistance

“(a) **AUTHORITY.**—The Secretary of Defense may provide for the families of members of the armed forces serving on active duty, in addition to any other assistance available for such families, any assistance that the Secretary considers appropriate to ensure that the children of such members obtain needed child care, education, and other youth services.

“(b) **PRIMARY PURPOSE OF ASSISTANCE.**—The assistance authorized by this section should be directed primarily toward providing needed family support, including child care, education, and other youth services, for children of members of the Armed Forces who are deployed, assigned to duty, or ordered to active duty in connection with a contingency operation.”.

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

“1788. Additional family assistance.”.

(b) **EFFECTIVE DATE.**—Section 1788 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2002.

SEC. 652. TIME LIMITATION FOR USE OF MONTGOMERY GI BILL ENTITLEMENT BY MEMBERS OF THE SELECTED RESERVE.

(a) **EXTENSION OF LIMITATION PERIOD.**—Section 16133(a)(1) of title 10, United States Code, is amended by striking “10-year” and inserting “14-year”.

(b) **EFFECTIVE DATE AND APPLICABILITY.**—The amendment made by subsection (a) shall take effect on October 1, 2002, and shall apply with respect to periods of entitlement to educational assistance under chapter 1606 of title 10, United States Code, that begin on or after October 1, 1992.

SEC. 653. STATUS OF OBLIGATION TO REFUND EDUCATIONAL ASSISTANCE UPON FAILURE TO PARTICIPATE SATISFACTORILY IN SELECTED RESERVE.

Section 16135 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(c)(1) An obligation to pay a refund to the United States under subsection (a)(1)(B) in an amount determined under subsection (b) is, for all purposes, a debt owed to the United States.

“(2) A discharge in bankruptcy under title 11 that is entered for a person less than five years after the termination of the person’s enlistment or other service described in subsection (a) does not discharge the person from a debt arising under this section with respect to that enlistment or other service.”.

SEC. 654. PROHIBITION ON ACCEPTANCE OF HONORARIA BY PERSONNEL AT CERTAIN DEPARTMENT OF DEFENSE SCHOOLS.

(a) **REPEAL OF EXEMPTION.**—Section 542 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2413; 10 U.S.C. prec. 2161 note) is repealed.

(b) **EFFECTIVE DATE AND APPLICABILITY.**—The amendment made by subsection (a) shall

take effect on October 1, 2002, and shall apply with respect to appearances made, speeches presented, and articles published on or after that date.

SEC. 655. RATE OF EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL OF DEPENDENTS TRANSFERRED ENTITLEMENT BY MEMBERS OF THE ARMED FORCES WITH CRITICAL SKILLS.

(a) CLARIFICATION.—Section 3020(h) of title 38, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking “paragraphs (4) and (5)” and inserting “paragraphs (5) and (6)”; and

(B) by striking “and at the same rate”;

(2) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(3) by inserting after paragraph (2) the following new paragraph (3):

“(3)(A) Subject to subparagraph (B), the monthly rate of educational assistance payable to a dependent to whom entitlement is transferred under this section shall be the monthly amount payable under sections 3015 and 3022 of this title to the individual making the transfer.

“(B) The monthly rate of assistance payable to a dependent under subparagraph (A) shall be subject to the provisions of section 3032 of this title, except that the provisions of subsection (a)(1) of that section shall not apply even if the individual making the transfer to the dependent under this section is on active duty during all or any part of enrollment period of the dependent in which such entitlement is used.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107), to which such amendments relate.

SEC. 656. PAYMENT OF INTEREST ON STUDENT LOANS.

(a) AUTHORITY.—(1) Chapter 109 of title 10, United States Code, is amended by adding at the end the following new section:

“§2174. Interest payment program: members on active duty

“(a) AUTHORITY.—(1) The Secretary concerned may pay in accordance with this section the interest and any special allowances that accrue on one or more student loans of an eligible member of the armed forces.

“(2) The Secretary of a military department may exercise the authority under paragraph (1) only if approved by the Secretary of Defense and subject to such requirements, conditions, and restrictions as the Secretary of Defense may prescribe.

“(b) ELIGIBLE PERSONNEL.—A member of the armed forces is eligible for the benefit under subsection (a) while the member—

“(1) is serving on active duty in fulfillment of the member's first enlistment in the armed forces or, in the case of an officer, is serving on active duty and has not completed more than three years of service on active duty;

“(2) is the debtor on one or more unpaid loans described in subsection (c); and

“(3) is not in default on any such loan.

“(c) STUDENT LOANS.—The authority to make payments under subsection (a) may be exercised with respect to the following loans:

“(1) A loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.).

“(2) A loan made under part D of such title (20 U.S.C. 1087a et seq.).

“(3) A loan made under part E of such title (20 U.S.C. 1087aa et seq.).

“(d) MAXIMUM BENEFIT.—The months for which interest and any special allowance may be paid on behalf of a member of the armed forces under this section are any 36 consecutive months during which the member is eligible under subsection (b).

“(e) FUNDS FOR PAYMENTS.—Appropriations available for the pay and allowances of military personnel shall be available for payments under this section.

“(f) COORDINATION.—(1) The Secretary of Defense and, with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of Transportation shall consult with the Secretary of Education regarding the administration of the authority under this section.

“(2) The Secretary concerned shall transfer to the Secretary of Education the funds necessary—

“(A) to pay interest and special allowances on student loans under this section (in accordance with sections 428(o) and 464(j) of the Higher Education Act of 1965 (20 U.S.C. 1078(o) and 1087dd(j)); and

“(B) to reimburse the Secretary of Education for any reasonable administrative costs incurred by the Secretary in coordinating the program under this section with the administration of the student loan programs under parts B, D, and E of title IV of the Higher Education Act of 1965.

“(g) SPECIAL ALLOWANCE DEFINED.—In this section, the term ‘special allowance’ means a special allowance that is payable under section 438 of the Higher Education Act of 1965 (20 U.S.C. 1087-1).”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2174. Interest payment program: members on active duty.”.

(b) FEDERAL FAMILY EDUCATION LOANS AND DIRECT LOANS.—(1) Subsection (c)(3) of section 428 of the Higher Education Act of 1965 (20 U.S.C. 1078) is amended—

(A) in clause (i) of subparagraph (A)—

(i) by striking “or” at the end of subclause (II);

(ii) by inserting “or” at the end of subclause (III); and

(iii) by adding at the end the following new subclause:

“(IV) is eligible for interest payments to be made on such loan for service in the Armed Forces under section 2174 of title 10, United States Code, and, pursuant to that eligibility, the interest is being paid on such loan under subsection (o);”;

(B) in clause (ii)(II) of subparagraph (A), by inserting “or (i)(IV)” after “clause (i)(II)”; and

(C) by striking subparagraph (C) and inserting the following:

“(C) shall contain provisions that specify that—

“(i) the form of forbearance granted by the lender pursuant to this paragraph, other than subparagraph (A)(i)(IV), shall be temporary cessation of payments, unless the borrower selects forbearance in the form of an extension of time for making payments, or smaller payments than were previously scheduled; and

“(ii) the form of forbearance granted by the lender pursuant to subparagraph (A)(i)(IV) shall be the temporary cessation of all payments on the loan other than payments of interest on the loan, and payments of any special allowance payable with respect to the loan under section 438 of this Act, that are made under subsection (o); and”.

(2) Section 428 of such Act is further amended by adding at the end the following new subsection:

“(o) ARMED FORCES STUDENT LOAN INTEREST PAYMENT PROGRAM.—

“(1) AUTHORITY.—Using funds received by transfer to the Secretary under section 2174 of title 10, United States Code, for the payment of interest and any special allowance on a loan to a member of the Armed Forces that is made, insured, or guaranteed under this part, the Secretary shall pay the interest and special allowance on such loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest or any special allowance on such a loan out of any funds other than funds that have been so transferred.

“(2) FORBEARANCE.—During the period in which the Secretary is making payments on a loan under paragraph (1), the lender shall grant the borrower forbearance in accordance with the guaranty agreement under subsection (c)(3)(A)(i)(IV).

“(3) SPECIAL ALLOWANCE DEFINED.—For the purposes of this subsection, the term ‘special allowance’ means a special allowance that is payable with respect to a loan under section 438 of this Act.”.

(c) FEDERAL PERKINS LOANS.—Section 464 of the Higher Education Act of 1965 (20 U.S.C. 1087dd) is amended—

(1) in subsection (e)—

(A) by striking “or” at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting “; or”; and

(C) by adding at the end the following new paragraph:

“(3) the borrower is eligible for interest payments to be made on such loan for service in the Armed Forces under section 2174 of title 10, United States Code, and, pursuant to that eligibility, the interest on such loan is being paid under subsection (j), except that the form of a forbearance under this paragraph shall be a temporary cessation of all payments on the loan other than payments of interest on the loan that are made under subsection (j).”; and

(2) by adding at the end the following new subsection:

“(j) ARMED FORCES STUDENT LOAN INTEREST PAYMENT PROGRAM.—

“(1) AUTHORITY.—Using funds received by transfer to the Secretary under section 2174 of title 10, United States Code, for the payment of interest on a loan made under this part to a member of the Armed Forces, the Secretary shall pay the interest on the loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest on such a loan out of any funds other than funds that have been so transferred.

“(2) FORBEARANCE.—During the period in which the Secretary is making payments on a loan under paragraph (1), the institution of higher education shall grant the borrower forbearance in accordance with subsection (e)(3).”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to interest, and any special allowance under section 438 of the Higher Education Act of 1965, that accrue for months beginning on or after October 1, 2003, on student loans described in subsection (c) of section 2174 of title 10, United States Code (as added by subsection (a)), that were made before, on, or after such date to members of the Armed Forces who are on active duty (as defined in section 101(d) of title 10, United States Code) on or after that date.

SEC. 657. MODIFICATION OF AMOUNT OF BACK PAY FOR MEMBERS OF NAVY AND MARINE CORPS SELECTED FOR PROMOTION WHILE INTERNED AS PRISONERS OF WAR DURING WORLD WAR II TO TAKE INTO ACCOUNT CHANGES IN CONSUMER PRICE INDEX.

(a) MODIFICATION.—Section 667(c) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-170) is amended by adding at the end the following new paragraph:

“(3) The amount determined for a person under paragraph (1) shall be increased to reflect increases in cost of living since the basic pay referred to in paragraph (1)(B) was paid to or for that person, calculated on the basis of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.”.

(b) RECALCULATION OF PREVIOUS PAYMENTS.—In the case of any payment of back pay made to or for a person under section 667 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 before the date of the enactment of this Act, the Secretary of the Navy shall—

(1) recalculate the amount of back pay to which the person is entitled by reason of the amendment made by subsection (a); and

(2) if the amount of back pay, as so recalculated, exceeds the amount of back pay so paid, pay the person, or the surviving spouse of the person, an amount equal to the excess.

TITLE VII—HEALTH CARE

SEC. 701. ELIGIBILITY OF SURVIVING DEPENDENTS FOR TRICARE DENTAL PROGRAM BENEFITS AFTER DISCONTINUANCE OF FORMER ENROLLMENT.

Section 1076a(k)(2) of title 10, United States Code, is amended by striking “if the dependent is enrolled on the date of the death of the members in a dental benefits plan established under subsection (a)” and inserting “if, on the date of the death of the member, the dependent is enrolled in a dental benefits plan established under subsection (a) or is not enrolled in such a plan by reason of a discontinuance of a former enrollment under subsection (f)”.

SEC. 702. ADVANCE AUTHORIZATION FOR INPATIENT MENTAL HEALTH SERVICES.

Section 1079(i)(3) of title 10, United States Code, is amended—

(1) by inserting “(A)” after “(3)”;

(2) by striking “Except in the case of an emergency,” and inserting “Except as provided in subparagraphs (B) and (C).”; and

(3) by adding at the end the following new subparagraph:

“(B) Preadmission authorization for inpatient mental health services is not required under subparagraph (A) in the case of an emergency.

“(C) Preadmission authorization for inpatient mental health services is not required under subparagraph (A) in a case in which any benefits are payable for such services under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.). The Secretary shall require, however, advance authorization for the continued provision of the inpatient mental health services after benefits cease to be payable for such services under part A of such title in such case.”.

SEC. 703. CONTINUED TRICARE ELIGIBILITY OF DEPENDENTS RESIDING AT REMOTE LOCATIONS AFTER DEPARTURE OF SPONSORS FOR UNACCOMPANIED ASSIGNMENTS.

Section 1079(p) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking “dependents referred to in subsection (a) of a member of the uniformed services referred to in section 1074(c)(3) of this title who are residing with the member” and inserting “dependents described in paragraph (3)”;

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2), the following new paragraph (3):

“(3) This subsection applies with respect to a dependent referred to in subsection (a) who—

“(A) is a dependent of a member of the uniformed services referred to in section 1074(c)(3) of this title and is residing with the member; or

“(B) is a dependent of a member who, after having served in a duty assignment described in section 1074(c)(3) of this title, has relocated without the dependent pursuant to orders for a permanent change of duty station from a remote location described in subparagraph (B)(ii) of such section where the member and the dependent resided together while the member served in such assignment, if the orders do not authorize dependents to accompany the member to the new duty station at the expense of the United States and the dependent continues to reside at the same remote location.”.

SEC. 704. APPROVAL OF MEDICARE PROVIDERS AS TRICARE PROVIDERS.

Section 1079 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(q) A physician or other health care practitioner who is eligible to receive reimbursement for services provided under the Medicare Program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) shall be considered approved to provide medical care under this section and section 1086 of this title.”.

SEC. 705. CLAIMS INFORMATION.

(a) CORRESPONDENCE TO MEDICARE CLAIMS INFORMATION REQUIREMENTS.—Section 1095c of title 10, United States Code, is amended by adding at the end the following new subsection:

“(d) CORRESPONDENCE TO MEDICARE CLAIMS INFORMATION REQUIREMENTS.—The Secretary of Defense, in consultation with the other administering Secretaries, shall limit the requirements for information in support of claims for payment for health care items and services provided under the TRICARE program so that the information required under the program is substantially the same as the information that would be required for claims for reimbursement for those items and services under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).”.

(b) APPLICABILITY.—The Secretary of Defense, in consultation with the other administering Secretaries referred to in section 1072(3) of title 10, United States Code, shall apply the limitations required under subsection (d) of section 1095c of such title (as added by subsection (a)) with respect to contracts entered into under the TRICARE program on or after October 1, 2002.

SEC. 706. DEPARTMENT OF DEFENSE MEDICARE-ELIGIBLE RETIREE HEALTH CARE FUND.

(a) SOURCE OF FUNDS FOR MONTHLY ACCRUAL PAYMENTS INTO THE FUND.—Section 1116(c) of title 10, United States Code, is amended by striking “health care programs” and inserting “pay of members”.

(b) MANDATORY PARTICIPATION OF OTHER UNIFORMED SERVICES.—Section 1111(c) of such title is amended—

(1) in the first sentence, by striking “may enter into an agreement with any other ad-

ministering Secretary” and inserting “shall enter into an agreement with each other administering Secretary”; and

(2) in the second sentence, by striking “Any such” and inserting “The”.

SEC. 707. TECHNICAL CORRECTIONS RELATING TO TRANSITIONAL HEALTH CARE FOR MEMBERS SEPARATED FROM ACTIVE DUTY.

(a) CONTINUED APPLICABILITY TO DEPENDENTS.—Subsection (a)(1) of section 736 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1172) is amended to read as follows:

“(1) in paragraph (1), by striking ‘paragraph (2), a member’ and all that follows through ‘of the member),’ and inserting ‘paragraph (3), a member of the armed forces who is separated from active duty as described in paragraph (2) (and the dependents of the member)’;.”

(b) CLARIFICATION REGARDING THE COAST GUARD.—Subsection (b)(2) of such section is amended to read as follows:

“(2) in subsection (e)—

“(A) by striking the first sentence; and

“(B) by striking ‘the Coast Guard’ in the second sentence and inserting ‘the members of the Coast Guard and their dependents.’.”

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of December 28, 2001, and as if included in the National Defense Authorization Act for Fiscal Year 2002 as enacted.

SEC. 708. EXTENSION OF TEMPORARY AUTHORITY FOR ENTERING INTO PERSONAL SERVICES CONTRACTS FOR THE PERFORMANCE OF HEALTH CARE RESPONSIBILITIES FOR THE ARMED FORCES AT LOCATIONS OTHER THAN MILITARY MEDICAL TREATMENT FACILITIES.

Section 1091(a)(2) of title 10, United States Code, is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

SEC. 709. RESTORATION OF PREVIOUS POLICY REGARDING RESTRICTIONS ON USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES.

Section 1093 of title 10, United States Code, is amended—

(1) by striking subsection (b); and

(2) in subsection (a), by striking “RESTRICTION ON USE OF FUNDS.—”.

SEC. 710. HEALTH CARE UNDER TRICARE FOR TRICARE BENEFICIARIES RECEIVING MEDICAL CARE AS VETERANS FROM THE DEPARTMENT OF VETERANS AFFAIRS.

Section 1097 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(f) PERSONS RECEIVING MEDICAL CARE FROM THE DEPARTMENT OF VETERANS AFFAIRS.—A covered beneficiary who is enrolled in and seeks care under the TRICARE program may not be denied such care on the ground that the covered beneficiary is receiving health care from the Department of Veterans Affairs on an ongoing basis if the Department of Veterans Affairs cannot provide the covered beneficiary with the particular care sought by the covered beneficiary within the maximum period provided in the access to care standards that are applicable to that particular care under TRICARE program policy.”.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Major Defense Acquisition Programs

SEC. 801. BUY-TO-BUDGET ACQUISITION OF END ITEMS.

(a) AUTHORITY.—(1) Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 2228. Buy-to-budget acquisition: end items

“(a) **AUTHORITY TO ACQUIRE ADDITIONAL END ITEMS.**—Using funds available to the Department of Defense for the acquisition of an end item, the head of agency making the acquisition may acquire a higher quantity of the end item than the quantity specified for the end item in a law providing for the funding of that acquisition if that head of an agency makes each of the following findings:

“(1) The agency has an established requirement for the end item that is expected to remain substantially unchanged throughout the period of the acquisition.

“(2) It is possible to acquire the higher quantity of the end item without additional funding because of production efficiencies or other cost reductions.

“(3) The amount of the funds used for the acquisition of the higher quantity of the end item will not exceed the amount provided under that law for the acquisition of the end item.

“(4) The amount so provided is sufficient to ensure that each unit of the end item acquired within the higher quantity is fully funded as a complete end item.

“(b) **REGULATIONS.**—The Secretary of Defense shall prescribe regulations for the administration of this section. The regulations shall include, at a minimum, the following:

“(1) The level of approval within the Department of Defense that is required for a decision to acquire a higher quantity of an end item under subsection (a).

“(2) Authority to exceed by up to 10 percent the quantity of an end item approved in a justification and approval of the use of procedures other than competitive procedures for the acquisition of the end item under section 2304 of this title, but only to the extent necessary to acquire a quantity of the end item permitted in the exercise of authority under subsection (a).

“(c) **NOTIFICATION OF CONGRESS.**—The head of an agency is not required to notify Congress in advance regarding a decision under the authority of this section to acquire a higher quantity of an end item than is specified in a law described in subsection (a), but shall notify the congressional defense committees of the decision not later than 30 days after the date of the decision.

“(d) **WAIVER BY OTHER LAW.**—A provision of law may not be construed as prohibiting the acquisition of a higher quantity of an end item under this section unless that provision of law—

“(1) specifically refers to this section; and

“(2) specifically states that the acquisition of the higher quantity of the end item is prohibited notwithstanding the authority provided in this section.

“(e) **DEFINITIONS.**—(1) For the purposes of this section, a quantity of an end item shall be considered specified in a law if the quantity is specified either in a provision of that law or in any related representation that is set forth separately in a table, chart, or explanatory text included in a joint explanatory statement or governing committee report accompanying the law.

“(2) In this section:

“(A) The term ‘congressional defense committees’ means—

“(i) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

“(ii) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

“(B) The term ‘head of an agency’ means the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2228. Buy-to-budget acquisition: end items.”.

(b) **TIME FOR ISSUANCE OF FINAL REGULATIONS.**—The Secretary of Defense shall issue the final regulations under section 2228(b) of title 10, United States Code (as added by subsection (a)), not later than 120 days after the date of the enactment of this Act.

SEC. 802. REPORT TO CONGRESS ON INCREMENTAL ACQUISITION OF MAJOR SYSTEMS.

(a) **REPORT REQUIRED.**—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the approach that the Secretary plans to take to applying the requirements of chapter 144 of title 10, United States Code, sections 139, 181, 2366, 2399, and 2400 of such title, Department of Defense Directive 5000.1, Department of Defense Instruction 5000.2, and Chairman of the Joint Chiefs of Staff Instruction 3170.01B, and other provisions of law and regulations applicable to incremental acquisition programs.

(b) **CONTENT OF REPORT.**—The report shall, at a minimum, address the following matters:

(1) The manner in which the Secretary plans to establish and approve, for each increment of an incremental acquisition program—

- (A) operational requirements; and
- (B) cost and schedule goals.

(2) The manner in which the Secretary plans, for each increment of an incremental acquisition program—

- (A) to meet requirements for operational testing and live fire testing;
- (B) to monitor cost and schedule performance; and

(C) to comply with laws requiring reports to Congress on results testing and on cost and schedule performance.

(3) The manner in which the Secretary plans to ensure that each increment of an incremental acquisition program is designed—

- (A) to achieve interoperability within and among United States forces and United States coalition partners; and
- (B) to optimize total system performance and minimize total ownership costs by giving appropriate consideration to—
 - (i) logistics planning;
 - (ii) manpower, personnel, and training;
 - (iii) human, environmental, safety, occupational health, accessibility, survivability, operational continuity, and security factors;
 - (iv) protection of critical program information; and
 - (v) spectrum management.

(c) **DEFINITIONS.**—In this section:

(1) The term “incremental acquisition program” means an acquisition program that is to be conducted in discrete phases or blocks, with each phase or block consisting of the planned production and acquisition of one or more units of a major system.

(2) The term “increment” refers to one of the discrete phases or blocks of an incremental acquisition program.

(3) The term “major system” has the meaning given such term in section 2302(5) of title 10, United States Code.

SEC. 803. PILOT PROGRAM FOR SPIRAL DEVELOPMENT OF MAJOR SYSTEMS.

(a) **AUTHORITY.**—The Secretary of Defense is authorized to conduct a pilot program for the spiral development of major systems and to designate research and development programs of the military departments and De-

fense Agencies to participate in the pilot program.

(b) **DESIGNATION OF PARTICIPATING PROGRAMS.**—(1) A research and development program for a major system of a military department or Defense Agency may be conducted as a spiral development program only if the Secretary of Defense approves a spiral development plan submitted by the Secretary of that military department or head of that Defense Agency, as the case may be, and designates the program as a participant in the pilot program under this section.

(2) The Secretary of Defense shall submit a copy of each spiral development plan approved under this section to the congressional defense committees.

(c) **SPIRAL DEVELOPMENT PLANS.**—A spiral development plan for a participating program shall, at a minimum, include the following matters:

(1) A rationale for dividing the program into separate spirals, together with a preliminary identification of the spirals to be included.

(2) A program strategy, including overall cost, schedule, and performance goals for the total program.

(3) Specific cost, schedule, and performance parameters, including measurable exit criteria, for the first spiral to be conducted.

(4) A testing plan to ensure that performance goals, parameters, and exit criteria are met.

(5) An appropriate limitation on the number of prototype units that may be produced under the program.

(6) Specific performance parameters, including measurable exit criteria, that must be met before the program proceeds into production of units in excess of the limitation on the number of prototype units.

(d) **GUIDANCE.**—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance for the implementation of the spiral development pilot program authorized by this section. The guidance shall, at a minimum, include the following matters:

(1) A process for the development, review, and approval of each spiral development plan submitted by the Secretary of a military department or head of a Defense Agency.

(2) A process for establishing and approving specific cost, schedule, and performance parameters, including measurable exit criteria, for spirals to be conducted after the first spiral.

(3) Appropriate planning, testing, reporting, oversight, and other requirements to ensure that the spiral development program—

(A) satisfies realistic and clearly-defined performance standards, cost objectives, and schedule parameters (including measurable exit criteria for each spiral);

(B) achieve interoperability within and among United States forces and United States coalition partners; and

(C) optimize total system performance and minimize total ownership costs by giving appropriate consideration to—

- (i) logistics planning;
- (ii) manpower, personnel, and training;
- (iii) human, environmental, safety, occupational health, accessibility, survivability, operational continuity, and security factors;
- (iv) protection of critical program information; and
- (v) spectrum management.

(4) A process for independent validation of the satisfaction of exit criteria and other relevant requirements.

(5) A process for operational testing of fieldable prototypes to be conducted before

or in conjunction with the fielding of the prototypes.

(e) **REPORTING REQUIREMENT.**—The Secretary shall submit to Congress at the end of each quarter of a fiscal year a status report on each research and development program that is a participant in the pilot program. The report shall contain information on unit costs that is similar to the information on unit costs under major defense acquisition programs that is required to be provided to Congress under chapter 144 of title 10, United States Code, except that the information on unit costs shall address projected prototype costs instead of production costs.

(f) **APPLICABILITY OF EXISTING LAW.**—Nothing in this section shall be construed to exempt any program of the Department of Defense from the application of any provision of chapter 144 of title 10, United States Code, section 139, 181, 2366, 2399, or 2400 of such title, or any requirement under Department of Defense Directive 5000.1, Department of Defense Instruction 5000.2, or Chairman of the Joint Chiefs of Staff Instruction 3170.01B in accordance with the terms of such provision or requirement.

(g) **TERMINATION OF PROGRAM PARTICIPATION.**—The conduct of a participating program as a spiral development program under the pilot program shall terminate when the decision is made for the participating program to proceed into the production of units in excess of the number of prototype units permitted under the limitation provided in spiral development plan for the program pursuant to subsection (c)(5).

(h) **TERMINATION OF PILOT PROGRAM.**—(1) The authority to conduct a pilot program under this section shall terminate three years after the date of the enactment of this Act.

(2) The termination of the pilot program shall not terminate the authority of the Secretary of a military department or head of a Defense Agency to continue to conduct, as a spiral development program, any research and development program that was designated to participate in the pilot program before the date on which the pilot program terminates. In the continued conduct of such a research and development program as a spiral development program on and after such date, the spiral development plan approved for the program, the guidance issued under subsection (d), and subsections (e), (f), and (g) shall continue to apply.

(i) **DEFINITIONS.**—In this section:

(1) The term “spiral development program” means a research and development program that—

(A) is conducted in discrete phases or blocks, each of which will result in the development of fieldable prototypes; and

(B) will not proceed into acquisition until specific performance parameters, including measurable exit criteria, have been met.

(2) The term “spiral” means one of the discrete phases or blocks of a spiral development program.

(3) The term “major system” has the meaning given such term in section 2302(5) of title 10, United States Code.

(4) The term “participating program” means a research and development program that is designated to participate in the pilot program under subsection (b).

SEC. 804. IMPROVEMENT OF SOFTWARE ACQUISITION PROCESSES.

(a) **ESTABLISHMENT OF PROGRAMS.**—(1) The Secretary of each military department shall establish a program to improve the software acquisition processes of that military department.

(2) The head of each Defense Agency that manages a major defense acquisition program with a substantial software component shall establish a program to improve the software acquisition processes of that Defense Agency.

(3) The programs required by this subsection shall be established not later than 120 days after the date of the enactment of this Act.

(b) **PROGRAM REQUIREMENTS.**—A program to improve software acquisition processes under this section shall, at a minimum, include the following:

(1) A documented process for software acquisition planning, requirements development and management, project management and oversight, and risk management.

(2) Efforts to develop systems for performance measurement and continual process improvement.

(3) A system for ensuring that each program office with substantial software responsibilities implements and adheres to established processes and requirements.

(c) **DEPARTMENT OF DEFENSE GUIDANCE.**—The Assistant Secretary of Defense for Command, Control, Communications, and Intelligence, in consultation with the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall—

(1) prescribe uniformly applicable guidance for the administration of all of the programs established under subsection (a) and take such actions as are necessary to ensure that the military departments and Defense Agencies comply with the guidance; and

(2) assist the Secretaries of the military departments and the heads of the Defense Agencies to carry out such programs effectively by identifying, and serving as a clearinghouse for information regarding, best practices in software acquisition processes in both the public and private sectors.

(d) **DEFINITIONS.**—In this section:

(1) The term “Defense Agency” has the meaning given the term in section 101(a)(11) of title 10, United States Code.

(2) The term “major defense acquisition program” has the meaning given the term in section 2430 of title 10, United States Code.

SEC. 805. INDEPENDENT TECHNOLOGY READINESS ASSESSMENTS.

Section 804(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1180) is amended—

(1) by striking “and” at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(3) identify each case in which an authoritative decision has been made within the Department of Defense not to conduct an independent technology readiness assessment for a critical technology on a major defense acquisition program and explain the reasons for the decision.”

SEC. 806. TIMING OF CERTIFICATION IN CONNECTION WITH WAIVER OF SURVIVABILITY AND LETHALITY TESTING REQUIREMENTS.

(a) **CERTIFICATION FOR EXPEDITED PROGRAMS.**—Paragraph (1) of subsection (c) of section 2366 of title 10, United States Code, is amended to read as follows:

“(1) The Secretary of Defense may waive the application of the survivability and lethality tests of this section to a covered system, munitions program, missile program, or covered product improvement program if the Secretary determines that live-fire testing of such system or program would

be unreasonably expensive and impractical and submits a certification of that determination to Congress—

“(A) before Milestone B approval for the system or program; or

“(B) in the case of a system or program initiated at—

“(i) Milestone B, as soon as is practicable after the Milestone B approval; or

“(ii) Milestone C, as soon as is practicable after the Milestone C approval.”

(b) **DEFINITIONS.**—Subsection (e) of such section is amended by adding at the end the following new paragraphs:

“(8) The term ‘Milestone B approval’ means a decision to enter into system development and demonstration pursuant to guidance prescribed by the Secretary of Defense for the management of Department of Defense acquisition programs.

“(9) The term ‘Milestone C approval’ means a decision to enter into production and deployment pursuant to guidance prescribed by the Secretary of Defense for the management of Department of Defense acquisition programs.”

Subtitle B—Procurement Policy Improvements

SEC. 811. PERFORMANCE GOALS FOR CONTRACTING FOR SERVICES.

(a) **INDIVIDUAL PURCHASES OF SERVICES.**—Subsection (a) of section 802 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 10 U.S.C. 2330 note) is amended by adding at the end the following new paragraphs:

“(3) To support the attainment of the goals established in paragraph (2), the Department of Defense shall have the following goals:

“(A) To increase, as a percentage of all of the individual purchases of services made by or for the Department of Defense under multiple award contracts for a fiscal year (calculated on the basis of dollar value), the volume of the individual purchases of services that are made on a competitive basis and involve the receipt of two or more offers from qualified contractors to a percentage as follows:

“(i) For fiscal year 2003, a percentage not less than 50 percent.

“(ii) For fiscal year 2004, a percentage not less than 60 percent.

“(iii) For fiscal year 2011, a percentage not less than 80 percent.

“(B) To increase, as a percentage of all of the individual purchases of services made by or for the Department of Defense under multiple award contracts for a fiscal year (calculated on the basis of dollar value), the use of performance-based purchasing specifying firm fixed prices for the specific tasks to be performed to a percentage as follows:

“(i) For fiscal year 2003, a percentage not less than 30 percent.

“(ii) For fiscal year 2004, a percentage not less than 40 percent.

“(iii) For fiscal year 2005, a percentage not less than 50 percent.

“(iv) For fiscal year 2011, a percentage not less than 80 percent.”

(b) **EXTENSION AND REVISION OF REPORTING REQUIREMENT.**—Subsection (b) of such section is amended—

(1) by striking “March 1, 2006”, and inserting “March 1, 2011”; and

(2) by adding at the end the following new paragraphs:

“(6) Regarding the individual purchases of services that were made by or for the Department of Defense under multiple award contracts in the fiscal year preceding the fiscal year in which the report is required to be submitted, information (determined using

the data collection system established under section 2330a of title 10, United States Code) as follows:

“(A) The percentage (calculated on the basis of dollar value) of such purchases that are purchases that were made on a competitive basis and involved receipt of two or more offers from qualified contractors.

“(B) The percentage (calculated on the basis of dollar value) of such purchases that are performance-based purchases specifying firm fixed prices for the specific tasks to be performed.”.

(c) DEFINITIONS.—Such section is further amended by adding at the end the following new subsection:

“(c) DEFINITIONS.—In this section:

“(1) The term ‘individual purchase’ means a task order, delivery order, or other purchase.

“(2) The term ‘multiple award contract’ means—

“(A) a contract that is entered into by the Administrator of General Services under the multiple award schedule program referred to in section 2302(2)(C) of title 10, United States Code;

“(B) a multiple award task order contract that is entered into under the authority of sections 2304a through 2304d of title 10, United States Code, or sections 303H through 303K of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h through 253k); and

“(C) any other indefinite delivery, indefinite quantity contract that is entered into by the head of a Federal agency with two or more sources pursuant to the same solicitation.”.

SEC. 812. GRANTS OF EXCEPTIONS TO COST OR PRICING DATA CERTIFICATION REQUIREMENTS AND WAIVERS OF COST ACCOUNTING STANDARDS.

(a) GUIDANCE FOR EXCEPTIONS IN EXCEPTIONAL CIRCUMSTANCES.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance on the circumstances under which it is appropriate to grant—

(A) an exception pursuant to section 2306a(b)(1)(C) of title 10, United States Code, relating to submittal of certified contract cost and pricing data; or

(B) a waiver pursuant to section 26(f)(5)(B) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(5)(B)), relating to the applicability of cost accounting standards to contracts and subcontracts.

(2) The guidance shall, at a minimum, include a limitation that a grant of an exception or waiver referred to in paragraph (1) is appropriate with respect to a contract or subcontract, or (in the case of submittal of certified cost and pricing data) a modification, only upon a determination that the property or services cannot be obtained under the contract, subcontract, or modification, as the case may be, without the grant of the exception or waiver.

(b) SEMI-ANNUAL REPORT.—(1) The Secretary of Defense shall transmit to the congressional defense committees promptly after the end of each half of a fiscal year a report on the exceptions to cost or pricing data certification requirements and the waivers of applicability of cost accounting standards that, in cases described in paragraph (2), were granted during that half of the fiscal year.

(2) The report for a half of a fiscal year shall include an explanation of—

(A) each decision by the head of a procuring activity within the Department of Defense to exercise the authority under subparagraph (B) or (C) of subsection (b)(1) of

section 2306a of title 10, United States Code, to grant an exception to the requirements of such section in the case of a contract, subcontract, or contract or subcontract modification that is expected to have a price of \$15,000,000 or more; and

(B) each decision by the Secretary of Defense or the head of an agency within the Department of Defense to exercise the authority under subsection (f)(5)(B) of section 26 of the Office of Federal Procurement Policy Act to waive the applicability of the cost accounting standards under such section in the case of a contract or subcontract that is expected to have a value of \$15,000,000 or more.

(c) ADVANCE NOTIFICATION OF CONGRESS.—(1) The Secretary of Defense shall transmit to the congressional defense committees an advance notification of—

(A) any decision by the head of a procuring activity within the Department of Defense to exercise the authority under subsection (b)(1)(C) of section 2306a of title 10, United States Code, to grant an exception to the requirements of such section in the case of a contract, subcontract, or contract or subcontract modification that is expected to have a price of \$75,000,000 or more; or

(B) any decision by the Secretary of Defense or the head of an agency within the Department of Defense to exercise the authority under subsection (f)(5)(B) of section 26 of the Office of Federal Procurement Policy Act to waive the applicability of the cost accounting standards under such section to a contract or subcontract that is expected to have a value of \$75,000,000 or more.

(2) The notification under paragraph (1) regarding a decision to grant an exception or waiver shall be transmitted not later than 10 days before the exception or waiver is granted.

(d) CONTENTS OF REPORTS AND NOTIFICATIONS.—A report pursuant to subsection (b) and a notification pursuant to subsection (c) shall include, for each grant of an exception or waiver, the following matters:

(1) A discussion of the justification for the grant of the exception or waiver, including at a minimum—

(A) in the case of an exception granted pursuant to section 2306a(b)(1)(B) of title 10, United States Code, an explanation of the basis for the determination that the products or services to be purchased are commercial items; and

(B) in the case of an exception granted pursuant to section 2306a(b)(1)(C) of such title, or a waiver granted pursuant to section 26(f)(5)(B) of the Office of Federal Procurement Policy Act, an explanation of the basis for the determination that it would not have been possible to obtain the products or services from the offeror without the grant of the exception or waiver.

(2) A description of the specific steps taken or to be taken within the Department of Defense to ensure that the price of each contract, subcontract, or modification covered by the report or notification, as the case may be, is fair and reasonable.

(e) EFFECTIVE DATE.—The requirements of this section shall apply to each exception or waiver that is granted under a provision of law referred to in subsection (a) on or after the date on which the guidance required by that subsection (a) is issued.

SEC. 813. EXTENSION OF REQUIREMENT FOR ANNUAL REPORT ON DEFENSE COMMERCIAL PRICING MANAGEMENT IMPROVEMENT.

Section 803(c)(4) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2082; 10 U.S.C. 2306a note) is amended by

striking “2000, 2001, and 2002,” and inserting “2000 through 2006.”.

SEC. 814. INTERNAL CONTROLS ON THE USE OF PURCHASE CARDS.

(a) REQUIREMENT FOR ENHANCED INTERNAL CONTROLS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall take action to ensure that appropriate internal controls for the use of purchase cards issued by the Federal Government to Department of Defense personnel are in place throughout the Department of Defense. At a minimum, the internal controls shall include the following:

(1) A requirement that the receipt and acceptance, and the documentation of the receipt and acceptance, of the property or services purchased on a purchase card be verified by a Department of Defense official who is independent of the purchaser.

(2) A requirement that the monthly purchase card statements of purchases on a purchase card be reviewed and certified for accuracy by an official of the Department of Defense who is independent of the purchaser.

(3) Specific policies limiting the number of purchase cards issued, with the objective of significantly reducing the number of cardholders.

(4) Specific policies on credit limits authorized for cardholders, with the objective of minimizing financial risk to the Federal Government.

(5) Specific criteria for identifying employees eligible to be issued purchase cards, with the objective of ensuring the integrity of cardholders.

(6) Accounting procedures that ensure that purchase card transactions are properly recorded in Department of Defense accounting records.

(7) Requirements for regular internal review of purchase card statements to identify—

(A) potentially fraudulent, improper, and abusive purchases;

(B) any patterns of improper cardholder transactions, such as purchases of prohibited items; and

(C) categories of purchases that should be made through other mechanisms to better aggregate purchases and negotiate lower prices.

(b) TRAINING.—The Secretary of Defense shall ensure that all Department of Defense purchase cardholders are aware of the enhanced internal controls instituted pursuant to subsection (a).

(c) COMPTROLLER GENERAL REVIEW.—Not later than March 1, 2003, the Comptroller General shall—

(1) review the actions that have been taken within the Department of Defense to comply with the requirements of this section; and

(2) submit a report on the actions reviewed to the congressional defense committees.

SEC. 815. ASSESSMENT REGARDING FEES PAID FOR ACQUISITIONS UNDER OTHER AGENCIES' CONTRACTS.

(a) REQUIREMENT FOR ASSESSMENT AND REPORT.—Not later than March 1, 2003, the Secretary of Defense shall carry out an assessment to determine the total amount paid by the Department of Defense as fees for the acquisition of property and services by the Department of Defense under contracts between other departments and agencies of the Federal Government and the sources of the property and services in each of fiscal years 2000, 2001, and 2002, and submit a report on the results of the assessment to Congress.

(b) CONTENT OF REPORT.—The report shall include the Secretary's views on what, if any, actions should be taken within the Department of Defense to reduce the total

amount of the annual expenditures on fees described in subsection (a) and to use the amounts saved for other authorized purposes.

SEC. 816. PILOT PROGRAM FOR TRANSITION TO FOLLOW-ON CONTRACTS FOR CERTAIN PROTOTYPE PROJECTS.

Section 845 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2371 note) is amended by—

(1) redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively; and

(2) inserting after subsection (d) the following new subsection (e):

“(e) **PILOT PROGRAM FOR TRANSITION TO FOLLOW-ON CONTRACTS.**—(1) The Secretary of Defense is authorized to carry out a pilot program for follow-on contracting for the production of items or processes that are developed by nontraditional defense contractors under prototype projects carried out under this section.

“(2) Under the pilot program—

“(A) a qualifying contract for the procurement of such an item or process, or a qualifying subcontract under a contract for the procurement of such an item or process, may be treated as a contract or subcontract, respectively, for the procurement of commercial items, as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)); and

“(B) the item or process may be treated as an item or process, respectively, that is developed in part with Federal funds and in part at private expense for the purposes of section 2320 of title 10, United States Code.

“(3) For the purposes of the pilot program, a qualifying contract or subcontract is a contract or subcontract, respectively, with a nontraditional defense contractor that—

“(A) does not exceed \$20,000,000; and

“(B) is either—

“(i) a firm, fixed-price contract or subcontract; or

“(ii) a fixed-price contract or subcontract with economic price adjustment.

“(4) The authority to conduct a pilot program under this subsection shall terminate on September 30, 2005. The termination of the authority shall not affect the validity of contracts or subcontracts that are awarded or modified during the period of the pilot program, without regard to whether the contracts or subcontracts are performed during the period.”

SEC. 817. WAIVER AUTHORITY FOR DOMESTIC SOURCE OR CONTENT REQUIREMENTS.

(a) **AUTHORITY.**—Subchapter V of chapter 148 of title 10, United States Code, is amended by adding at the end the following new section:

“§2539c. Waiver of domestic source or content requirements

“(a) **AUTHORITY.**—Except as provided in subsection (f), the Secretary of Defense may waive the application of any domestic source requirement or domestic content requirement referred to in subsection (b) and thereby authorize the procurement of items that are grown, reprocessed, reused, produced, or manufactured—

“(1) in a foreign country that has a reciprocal defense procurement memorandum of understanding or agreement with the United States;

“(2) in a foreign country that has a reciprocal defense procurement memorandum of understanding or agreement with the United States substantially from components and materials grown, reprocessed, reused, produced, or manufactured in the United States

or any foreign country that has a reciprocal defense procurement memorandum of understanding or agreement with the United States; or

“(3) in the United States substantially from components and materials grown, reprocessed, reused, produced, or manufactured in the United States or any foreign country that has a reciprocal defense procurement memorandum of understanding or agreement with the United States.

“(b) **COVERED REQUIREMENTS.**—For purposes of this section:

“(1) A domestic source requirement is any requirement under law that the Department of Defense satisfy its requirements for an item by procuring an item that is grown, reprocessed, reused, produced, or manufactured in the United States or by a manufacturer that is a part of the national technology and industrial base (as defined in section 2500(1) of this title).

“(2) A domestic content requirement is any requirement under law that the Department of Defense satisfy its requirements for an item by procuring an item produced or manufactured partly or wholly from components and materials grown, reprocessed, reused, produced, or manufactured in the United States.

“(c) **APPLICABILITY.**—The authority of the Secretary to waive the application of a domestic source or content requirements under subsection (a) applies to the procurement of items for which the Secretary of Defense determines that—

“(1) application of the requirement would impede the reciprocal procurement of defense items under a memorandum of understanding providing for reciprocal procurement of defense items between a foreign country and the United States in accordance with section 2531 of this title; and

“(2) such country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

“(d) **LIMITATION ON DELEGATION.**—The authority of the Secretary to waive the application of domestic source or content requirements under subsection (a) may not be delegated to any officer or employee other than the Under Secretary of Defense for Acquisition, Technology and Logistics.

“(e) **CONSULTATIONS.**—The Secretary may grant a waiver of the application of a domestic source or content requirement under subsection (a) only after consultation with the United States Trade Representative, the Secretary of Commerce, and the Secretary of State.

“(f) **LAWS NOT WAIVABLE.**—The Secretary of Defense may not exercise the authority under subsection (a) to waive any domestic source or content requirement contained in any of the following laws:

“(1) The Small Business Act (15 U.S.C. 631 et seq.).

“(2) The Javits-Wagner-O'Day Act (41 U.S.C. et seq.).

“(3) Sections 7309 and 7310 of this title.

“(4) Section 2533a of this title.

“(g) **RELATIONSHIP TO OTHER WAIVER AUTHORITY.**—The authority under subsection (a) to waive a domestic source requirement or domestic content requirement is in addition to any other authority to waive such requirement.

“(h) **CONSTRUCTION WITH RESPECT TO LATER ENACTED LAWS.**—This section may not be construed as being inapplicable to a domestic source requirement or domestic content requirement that is set forth in a law en-

acted after the enactment of this section solely on the basis of the later enactment.”

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 2539b the following new item: “2539c. Waiver of domestic source or content requirements.”

Subtitle C—Other Matters

SEC. 821. EXTENSION OF THE APPLICABILITY OF CERTAIN PERSONNEL DEMONSTRATION PROJECT EXCEPTIONS TO AN ACQUISITION WORKFORCE DEMONSTRATION PROJECT.

Section 4308(b)(3)(B) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 10 U.S.C. 1701 note) is amended to read as follows:

“(B) commences before November 18, 2007.”

SEC. 822. MORATORIUM ON REDUCTION OF THE DEFENSE ACQUISITION AND SUPPORT WORKFORCE.

(a) **PROHIBITION.**—Notwithstanding any other provision of law, the defense acquisition and support workforce may not be reduced, during fiscal years 2003, 2004, and 2005, below the level of that workforce as of September 30, 2002, determined on the basis of full-time equivalent positions.

(b) **WAIVER AUTHORITY.**—The Secretary of Defense may waive the prohibition in subsection (a) and reduce the level of the defense acquisition and support workforce upon submitting to Congress the Secretary's certification that the defense acquisition and support workforce, at the level to which reduced, will be able efficiently and effectively to perform the workloads that are required of that workforce consistent with the cost-effective management of the defense acquisition system to obtain best value equipment and with ensuring military readiness.

(c) **DEFENSE ACQUISITION AND SUPPORT WORKFORCE DEFINED.**—In this section, the term “defense acquisition and support workforce” means Armed Forces and civilian personnel who are assigned to, or are employed in, an organization of the Department of Defense that is—

(1) an acquisition organization specified in Department of Defense Instruction 5000.58, dated January 14, 1992; or

(2) an organization not so specified that has acquisition as its predominant mission, as determined by the Secretary of Defense.

SEC. 823. EXTENSION OF CONTRACT GOAL FOR SMALL DISADVANTAGED BUSINESSES AND CERTAIN INSTITUTIONS OF HIGHER EDUCATION.

Section 2323(k) of title 10, United States Code, is amended by striking “2003” both places it appears and inserting “2006”.

SEC. 824. MENTOR-PROTEGE PROGRAM ELIGIBILITY FOR HUBZONE SMALL BUSINESS CONCERNS AND SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.

Section 831(m)(2) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2302 note), is amended—

(1) by striking “or” at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

“(F) a qualified HUBZone small business concern, within the meaning of section 3(p)(5) of the Small Business Act (15 U.S.C. 632(p)(5)); or

“(G) a small business concern owned and controlled by service-disabled veterans, as defined in section 3(q)(2) of the Small Business Act (15 U.S.C. 632(q)(2)).”

SEC. 825. REPEAL OF REQUIREMENTS FOR CERTAIN REVIEWS BY THE COMPTROLLER GENERAL.

The following provisions of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106) are repealed:

(1) Section 912(d) (110 Stat. 410; 10 U.S.C. 2216 note), relating to Comptroller General reviews of the administration of the Defense Modernization Account.

(2) Section 5312(e) (110 Stat. 695; 40 U.S.C. 1492), relating to Comptroller General monitoring of a pilot program for solutions-based contracting for acquisition of information technology.

(3) Section 5401(c)(3) (110 Stat. 697; 40 U.S.C. 1501), relating to a Comptroller General review and report regarding a pilot program to test streamlined procedures for the procurement of information technology products and services available for ordering through multiple award schedules.

SEC. 826. MULTIYEAR PROCUREMENT AUTHORITY FOR PURCHASE OF DINITROGEN TETROXIDE, HYDRAZINE, AND HYDRAZINE-RELATED PRODUCTS.

(a) **IN GENERAL.**—Chapter 141 of title 10, United States Code, is amended by inserting after section 2410n the following new section:

“§ 2410o. Multiyear procurement authority: purchase of dinitrogen tetroxide, hydrazine, and hydrazine-related products

“(a) TEN-YEAR CONTRACT PERIOD.—The Secretary of Defense may enter into a contract for a period of up to 10 years for the purchase of dinitrogen tetroxide, hydrazine, and hydrazine-related products for the support of a United States national security program or a United States space program.

“(b) EXTENSIONS.—A contract entered into for more than one year under the authority of subsection (a) may be extended for a total of not more than 10 years pursuant to any option or options set forth in the contract.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 141 is amended by adding at the end the following item:

“2410o. Multiyear procurement authority: purchase of dinitrogen tetroxide, hydrazine, and hydrazine-related products.”.

SEC. 827. MULTIYEAR PROCUREMENT AUTHORITY FOR ENVIRONMENTAL SERVICES FOR MILITARY INSTALLATIONS.

(a) **AUTHORITY.**—Subsection (b) of section 2306c of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(5) Environmental remediation services for—

“(A) an active military installation;

“(B) a military installation being closed or realigned under a base closure law; or

“(C) a site formerly used by the Department of Defense.”.

(b) **DEFINITIONS.**—Such section is further amended by adding at the end the following new subsection:

“(g) **ADDITIONAL DEFINITIONS.**—In this section:

“(1) The term ‘base closure law’ has the meaning given such term in section 2667(h)(2) of this title.

“(2) The term ‘military installation’ has the meaning given such term in section 2801(c)(2) of this title.”.

SEC. 828. INCREASED MAXIMUM AMOUNT OF ASSISTANCE FOR TRIBAL ORGANIZATIONS OR ECONOMIC ENTERPRISES CARRYING OUT PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS IN TWO OR MORE SERVICE AREAS.

Section 2414(a)(4) of title 10, United States Code, is amended by striking “\$300,000” and inserting “\$600,000”.

SEC. 829. AUTHORITY FOR NONPROFIT ORGANIZATIONS TO SELF-CERTIFY ELIGIBILITY FOR TREATMENT AS QUALIFIED ORGANIZATIONS EMPLOYING SEVERELY DISABLED UNDER MENTOR-PROTEGE PROGRAM.

Section 831 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2302 note) is amended by adding at the end the following new subsection:

“(n) **SELF-CERTIFICATION OF NONPROFIT ORGANIZATIONS AS QUALIFIED ORGANIZATIONS EMPLOYING THE SEVERELY DISABLED.**—(1) The Secretary of Defense may, in accordance with such requirements as the Secretary may establish, permit a business entity operating on a non-profit basis to self-certify its eligibility for treatment as a qualified organization employing the severely disabled under subsection (m)(2)(D).

“(2) The Secretary shall treat any entity described in paragraph (1) that submits a self-certification under that paragraph as a qualified organization employing the severely disabled until the Secretary receives evidence, if any, that such entity is not described by paragraph (1) or does not merit treatment as a qualified organization employing the severely disabled in accordance with applicable provisions of subsection (m).

“(3) Paragraphs (1) and (2) shall cease to be effective on the effective date of regulations prescribed by the Small Business Administration under this section setting forth a process for the certification of business entities as eligible for treatment as a qualified organization employing the severely disabled under subsection (m)(2)(D).”.

SEC. 830. REPORT ON EFFECTS OF ARMY CONTRACTING AGENCY.

(a) **IN GENERAL.**—The Secretary of the Army shall submit a report on the effects of the establishment of an Army Contracting Agency on small business participation in Army procurements during the first year of operation of such an agency to—

(1) the Committee on Armed Services of the House of Representatives;

(2) the Committee on Armed Services of the Senate;

(3) the Committee on Small Business of the House of Representatives; and

(4) the Committee on Small Business and Entrepreneurship of the Senate.

(b) **CONTENT.**—The report required under subsection (a) shall include, in detail—

(1) the justification for the establishment of an Army Contracting Agency;

(2) the impact of the creation of an Army Contracting Agency on—

(A) Army compliance with—

(i) Department of Defense Directive 4205.1;

(ii) section 15(g) of the Small Business Act (15 U.S.C. 644(g)); and

(iii) section 15(k) of the Small Business Act (15 U.S.C. 644(k));

(B) small business participation in Army procurement of products and services for affected Army installations, including—

(i) the impact on small businesses located near Army installations, including—

(I) the increase or decrease in the total value of Army prime contracting with local small businesses; and

(II) the opportunities for small business owners to meet and interact with Army procurement personnel; and

(ii) any change or projected change in the use of consolidated contracts and bundled contracts; and

(3) a description of the Army’s plan to address any negative impact on small business participation in Army procurement, to the extent such impact is identified in the report.

(c) **TIME FOR SUBMISSION.**—The report under this section shall be due 15 months after the date of the establishment of the Army Contracting Agency.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

SEC. 901. TIME FOR SUBMITTAL OF REPORT ON QUADRENNIAL DEFENSE REVIEW.

Section 118(d) of title 10, United States Code, is amended by striking “not later than September 30 of the year in which the review is conducted” in the second sentence and inserting “in the year following the year in which the review is conducted, but not later than the date on which the President submits the budget for the next fiscal year to Congress under section 1105(a) of title 31”.

SEC. 902. INCREASED NUMBER OF DEPUTY COMMANDANTS AUTHORIZED FOR THE MARINE CORPS.

Section 5045 of title 10, United States Code, is amended by striking “five” and inserting “six”.

SEC. 903. BASE OPERATING SUPPORT FOR FISHER HOUSES.

(a) **EXPANSION OF REQUIREMENT TO INCLUDE ARMY AND AIR FORCE.**—Section 2493(f) of title 10, United States Code, is amended to read as follows:

“(f) **BASE OPERATING SUPPORT.**—The Secretary of the military department concerned shall provide base operating support for Fisher Houses associated with health care facilities of that military department.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on October 1, 2002.

SEC. 904. PREVENTION AND MITIGATION OF CORROSION.

(a) **ESTABLISHMENT.**—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall designate an officer or employee of the Department of Defense as the senior official responsible (after the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology, and Logistics) for the prevention and mitigation of corrosion of the military equipment and infrastructure of the Department. The designated official shall report directly to the Under Secretary of Defense for Acquisition, Technology, and Logistics.

(b) **DUTIES.**—The official designated under subsection (a) shall direct and coordinate initiatives throughout the Department of Defense to prevent and mitigate corrosion of the military equipment and infrastructure of the Department, including efforts to facilitate the prevention and mitigation of corrosion through—

(1) development and recommendation of policy guidance on the prevention and mitigation of corrosion which the Secretary of Defense shall issue;

(2) review of the annual budget proposed for the prevention and mitigation of corrosion by the Secretary of each military department and submittal of recommendations regarding the proposed budget to the Secretary of Defense;

(3) direction and coordination of the efforts within the Department of Defense to prevent or mitigate corrosion during—

(A) the design, acquisition, and maintenance of military equipment; and

(B) the design, construction, and maintenance of infrastructure; and

(4) monitoring of acquisition practices—

(A) to ensure that the use of corrosion prevention technologies and the application of corrosion prevention treatments are fully considered during research and development in the acquisition process; and

(B) to ensure that, to the extent determined appropriate in each acquisition program, such technologies and treatments are incorporated into the program, particularly during the engineering and design phases of the acquisition process.

(c) **INTERIM REPORT.**—When the President submits the budget for fiscal year 2004 to Congress pursuant to section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to Congress a report regarding the actions taken under this section. The report shall include the following matters:

(1) The organizational structure for the personnel carrying out the responsibilities of the official designated under subsection (a) with respect to the prevention and mitigation of corrosion.

(2) An outline and milestones for developing a long-term corrosion prevention and mitigation strategy.

(d) **LONG-TERM STRATEGY.**—(1) Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a long-term strategy to reduce corrosion and the effects of corrosion on the military equipment and infrastructure of the Department of Defense.

(2) The strategy shall provide for the following actions:

(A) Expanding the emphasis on corrosion prevention and mitigation to include coverage of infrastructure.

(B) Applying uniformly throughout the Department of Defense requirements and criteria for the testing and certification of new technologies for the prevention of corrosion.

(C) Implementing programs, including programs supporting databases, to foster the collection and analysis of—

(i) data useful for determining the extent of the effects of corrosion on the maintenance and readiness of military equipment and infrastructure; and

(ii) data on the costs associated with the prevention and mitigation of corrosion.

(D) Implementing programs, including supporting databases, to ensure that a focused and coordinated approach is taken throughout the Department of Defense to collect, review, validate, and distribute information on proven methods and products that are relevant to the prevention of corrosion of military equipment and infrastructure.

(E) Implementing a program to identify specific funding in future budgets for the total life cycle costs of the prevention and mitigation of corrosion.

(F) Establishing a coordinated research and development program for the prevention and mitigation of corrosion for new and existing military equipment and infrastructure that includes a plan to transition new corrosion prevention technologies into operational systems.

(3) The strategy shall also include, for the actions provided for pursuant to paragraph (2), the following:

(A) Policy guidance.

(B) Performance measures and milestones.

(C) An assessment of the necessary program management resources and necessary financial resources.

(e) **GAO REVIEWS.**—The Comptroller General shall monitor the implementation of the long-term strategy required under subsection (d) and, not later than 18 months after the date of the enactment of this Act, submit to Congress an assessment of the extent to which the strategy has been implemented.

(f) **DEFINITIONS.**—In this section:

(1) The term “corrosion” means the deterioration of a substance or its properties due to a reaction with its environment.

(2) The term “military equipment” includes all air, land, and sea weapon systems, weapon platforms, vehicles, and munitions of the Department of Defense, and the components of such items.

(3) The term “infrastructure” includes all buildings, structures, airfields, port facilities, surface and subterranean utility systems, heating and cooling systems, fuel tanks, pavements, and bridges.

(g) **TERMINATION.**—This section shall cease to be effective on the date that is five years after the date of the enactment of this Act.
SEC. 905. WESTERN HEMISPHERE INSTITUTE FOR SECURITY COOPERATION.

(a) **AUTHORITY TO ACCEPT FOREIGN GIFTS AND DONATIONS.**—Section 2166 of title 10, United States Code, is amended—

(1) by redesignating subsections (f), (g), and (h), as subsections (g), (h), and (i), respectively; and

(2) by inserting after subsection (e) the following new subsection (f):

“(f) **AUTHORITY TO ACCEPT FOREIGN GIFTS AND DONATIONS.**—(1) The Secretary of Defense may, on behalf of the Institute, accept foreign gifts or donations in order to defray the costs of, or enhance the operation of, the Institute.

“(2) Funds received by the Secretary under paragraph (1) shall be credited to appropriations available for the Department of Defense for the Institute. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Institute for the same purposes and same period as the appropriations with which merged.

“(3) The Secretary of Defense shall notify Congress if the total amount of money accepted under paragraph (1) exceeds \$1,000,000 in any fiscal year. Any such notice shall list each of the contributors of such money and the amount of each contribution in such fiscal year.

“(4) For the purposes of this subsection, a foreign gift or donation is a gift or donation of funds, materials (including research materials), property, or services (including lecture services and faculty services) from a foreign government, a foundation or other charitable organization in a foreign country, or an individual in a foreign country.”

(b) **CONTENT OF ANNUAL REPORT TO CONGRESS.**—Subsection (i) of such section, as redesignated by subsection (a)(1), is amended by inserting after the first sentence the following: “The report shall include a copy of the latest report of the Board of Visitors received by the Secretary under subsection (e)(5), together with any comments of the Secretary on the Board’s report.”

SEC. 906. VETERINARY CORPS OF THE ARMY.

(a) **COMPOSITION AND ADMINISTRATION.**—(1) Chapter 307 of title 10, United States Code, is amended by inserting after section 3070 the following new section 3071:

“§ 3071. Veterinary Corps: composition; Chief and assistant chief; appointment; grade

“(a) **COMPOSITION.**—The Veterinary Corps consists of the Chief and assistant chief of that corps and other officers in grades prescribed by the Secretary of the Army.

“(b) **CHIEF.**—The Secretary of the Army shall appoint the Chief from the officers of the Regular Army in that corps whose regular grade is above lieutenant colonel and who are recommended by the Surgeon General. An appointee who holds a lower regular grade may be appointed in the regular grade of brigadier general. The Chief serves during

the pleasure of the Secretary, but not for more than four years, and may not be reappointed to the same position.

“(c) **ASSISTANT CHIEF.**—The Surgeon General shall appoint the assistant chief from the officers of the Regular Army in that corps whose regular grade is above lieutenant colonel. The assistant chief serves during the pleasure of the Surgeon General, but not for more than four years and may not be reappointed to the same position.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3070 the following new item:

“3071. Veterinary Corps: composition; Chief and assistant chief; appointment; grade.”

(b) **EFFECTIVE DATE.**—Section 3071 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2002.

SEC. 907. UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE.

(a) **ESTABLISHMENT OF POSITION.**—Chapter 4 of title 10, United States Code, is amended—

(1) by transferring section 137 within such chapter to appear following section 138;

(2) by redesignating sections 137 and 139 as sections 139 and 139a, respectively; and

(3) by inserting after section 136a the following new section 137:

“§ 137. Under Secretary of Defense for Intelligence

“(a) There is an Under Secretary of Defense for Intelligence, appointed from civilian life by the President, by and with the advice and consent of the Senate.

“(b) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Intelligence shall perform such duties and exercise such powers as the Secretary of Defense may prescribe in the area of intelligence.

“(c) The Under Secretary of Defense for Personnel and Readiness takes precedence in the Department of Defense after the Under Secretary of Defense for Personnel and Readiness.”

(b) **CONFORMING AMENDMENTS.**—(1) Section 131 of such title is amended—

(A) by striking paragraphs (2), (3), (4), and (5), and inserting the following:

“(2) The Under Secretaries of Defense, as follows:

“(A) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

“(B) The Under Secretary of Defense for Policy.

“(C) The Under Secretary of Defense (Comptroller).

“(D) The Under Secretary of Defense for Personnel and Readiness.

“(E) The Under Secretary of Defense for Intelligence.”; and

(B) by redesignating paragraphs (6), (7), (8), (9), (10), and (11) as paragraphs (3), (4), (5), (6), (7), and (8), respectively.

(2) The table of sections at the beginning of chapter 4 of such title is amended—

(A) by striking the item relating to section 137 and inserting the following:

“137. Under Secretary of Defense for Intelligence.”;

and

(B) by striking the item relating to section 139 and inserting the following:

“139. Director of Research and Engineering.

“139a. Director of Operational Test and Evaluation.”

(c) **EXECUTIVE LEVEL III.**—Section 5314 of title 5, United States Code, is amended by inserting after “Under Secretary of Defense for Personnel and Readiness.” the following:

“Under Secretary of Defense for Intelligence.”

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 2003 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed \$2,500,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

SEC. 1002. REALLOCATION OF AUTHORIZATIONS OF APPROPRIATIONS FROM BALLISTIC MISSILE DEFENSE TO SHIPBUILDING.

(a) AMOUNT.—Notwithstanding any other provision of this Act, the total amount authorized to be appropriated under section 201(4) is hereby reduced by \$690,000,000, and the amount authorized to be appropriated under section 102(a)(3) is hereby increased by \$690,000,000.

(b) SOURCE OF REDUCTION.—The total amount of the reduction in the amount authorized to be appropriated under section 201(4) shall be derived from the amount provided under that section for ballistic missile defense for research, development, test, and evaluation.

(c) ALLOCATION OF INCREASE.—Of the additional amount authorized to be appropriated under section 102(a)(3) pursuant to subsection (a)—

(1) \$415,000,000 shall be available for advance procurement of a Virginia class submarine;

(2) \$125,000,000 shall be available for advance procurement of a DDG-51 class destroyer; and

(3) \$150,000,000 shall be available for advance procurement of an LPD-17 class amphibious transport dock.

SEC. 1003. AUTHORIZATION OF APPROPRIATIONS FOR CONTINUED OPERATIONS FOR THE WAR ON TERRORISM.

(a) AMOUNT.—(1) In addition to the amounts authorized to be appropriated under divisions A and B, funds are hereby authorized to be appropriated for fiscal year 2003 (subject to subsection (b)) in the total amount of \$10,000,000,000 for the conduct of operations in continuation of the war on terrorism in accordance with the Authorization for Use of Military Force (Public Law 107-40; 50 U.S.C. 1541 note).

(2) The amount authorized to be appropriated under paragraph (1) shall be available for increased operating costs, transportation costs, costs of humanitarian efforts, costs of special pays, costs of enhanced intelligence efforts, increased personnel costs for members of the reserve components ordered to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code, and other costs related to operations referred to in paragraph (1).

(b) AUTHORIZATION CONTINGENT ON BUDGET REQUEST.—The authorization of appropriations in subsection (a) shall be effective only to the extent of the amount provided in a budget request for the appropriation of funds for purposes set forth in subsection (a) that is submitted by the President to Congress after the date of the enactment of this Act and—

(1) includes a designation of the requested amount as being essential to respond to or protect against acts or threatened acts of terrorism; and

(2) specifies a proposed allocation and plan for the use of the appropriation for purposes set forth in subsection (a).

SEC. 1004. AUTHORIZATION OF EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2002.

Amounts authorized to be appropriated to the Department of Defense for fiscal year 2002 in the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization were increased (by a supplemental appropriation) or decreased (by a rescission), or both, in any law making supplemental appropriations for fiscal year 2002 that is enacted during the 107th Congress, second session.

SEC. 1005. UNITED STATES CONTRIBUTION TO NATO COMMON-FUNDED BUDGETS IN FISCAL YEAR 2003.

(a) FISCAL YEAR 2003 LIMITATION.—The total amount contributed by the Secretary of Defense in fiscal year 2003 for the common-funded budgets of NATO may be any amount up to, but not in excess of, the amount specified in subsection (b) (rather than the maximum amount that would otherwise be applicable to those contributions under the fiscal year 1998 baseline limitation).

(b) TOTAL AMOUNT.—The amount of the limitation applicable under subsection (a) is the sum of the following:

(1) The amounts of unexpended balances, as of the end of fiscal year 2002, of funds appropriated for fiscal years before fiscal year 2003 for payments for those budgets.

(2) The amount specified in subsection (c)(1).

(3) The amount specified in subsection (c)(2).

(4) The total amount of the contributions authorized to be made under section 2501.

(c) AUTHORIZED AMOUNTS.—Amounts authorized to be appropriated by titles II and III of this Act are available for contributions for the common-funded budgets of NATO as follows:

(1) Of the amount provided in section 201(1), \$750,000 for the Civil Budget.

(2) Of the amount provided in section 301(a)(1), \$205,623,000 for the Military Budget.

(d) DEFINITIONS.—For purposes of this section:

(1) COMMON-FUNDED BUDGETS OF NATO.—The term “common-funded budgets of NATO” means the Military Budget, the Security Investment Program, and the Civil Budget of

the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

(2) FISCAL YEAR 1998 BASELINE LIMITATION.—The term “fiscal year 1998 baseline limitation” means the maximum annual amount of Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.

SEC. 1006. DEVELOPMENT AND IMPLEMENTATION OF FINANCIAL MANAGEMENT ENTERPRISE ARCHITECTURE.

(a) REQUIREMENT FOR ENTERPRISE ARCHITECTURE AND TRANSITION PLAN.—Not later than March 15, 2003, the Secretary of Defense shall develop a proposed financial management enterprise architecture for all budgetary, accounting, finance, and data feeder systems of the Department of Defense, together with a transition plan for implementing the proposed enterprise architecture.

(b) COMPOSITION OF ARCHITECTURE.—The proposed financial management enterprise architecture developed under subsection (a) shall describe a system that, at a minimum—

(1) includes data standards and system interface requirements that are to apply uniformly throughout the Department of Defense;

(2) enables the Department of Defense—

(A) to comply with Federal accounting, financial management, and reporting requirements;

(B) to routinely produce timely, accurate, and useful financial information for management purposes;

(C) to integrate budget, accounting, and program information and systems; and

(D) to provide for the systematic measurement of performance, including the ability to produce timely, relevant, and reliable cost information.

(c) COMPOSITION OF TRANSITION PLAN.—The transition plan developed under subsection (a) shall contain specific time-phased milestones for modifying or eliminating existing systems and for acquiring new systems necessary to implement the proposed enterprise architecture.

(d) EXPENDITURES FOR IMPLEMENTATION.—The Secretary of Defense may not obligate more than \$1,000,000 for a defense financial system improvement on or after the enterprise architecture approval date unless the Financial Management Modernization Executive Committee determines that the defense financial system improvement is consistent with the proposed enterprise architecture and transition plan.

(e) EXPENDITURES PENDING ARCHITECTURE APPROVAL.—The Secretary of Defense may not obligate more than \$1,000,000 for a defense financial system improvement during the enterprise architecture pre-approval period unless the Financial Management Modernization Executive Committee determines that the defense financial system improvement is necessary—

(1) to achieve a critical national security capability or address a critical requirement in an area such as safety or security; or

(2) to prevent a significant adverse effect (in terms of a technical matter, cost, or schedule) on a project that is needed to achieve an essential capability, taking into

consideration in the determination the alternative solutions for preventing the adverse effect.

(f) **COMPTROLLER GENERAL REVIEW.**—Not later than March 1 of each of 2003, 2004, and 2005, the Comptroller General shall submit to the congressional defense committees a report on defense financial management system improvements that have been undertaken during the previous year. The report shall include the Comptroller General's assessment of the extent to which the improvements comply with the requirements of this section.

(g) **DEFINITIONS.**—In this section:

(1) The term “defense financial system improvement”—

(A) means the acquisition of a new budgetary, accounting, finance, or data feeder system for the Department of Defense, or a modification of an existing budgetary, accounting, finance, or data feeder system of the Department of Defense; and

(B) does not include routine maintenance and operation of any such system.

(2) The term “enterprise architecture approval date” means the date on which the Secretary of Defense approves a proposed financial management enterprise architecture and a transition plan that satisfy the requirements of this section.

(3) The term “enterprise architecture pre-approval period” means the period beginning on the date of the enactment of this Act and ending on the day before the enterprise architecture approval date.

(4) The term “feeder system” means a data feeder system within the meaning of section 2222(c)(2) of title 10, United States Code.

(5) The term “Financial Management Modernization Executive Committee” means the Financial Management Modernization Executive Committee established pursuant to section 185 of title 10, United States Code.

SEC. 1007. DEPARTMENTAL ACCOUNTABLE OFFICIALS IN THE DEPARTMENT OF DEFENSE.

(a) **DESIGNATION AND ACCOUNTABILITY.**—Chapter 165 of title 10, United States Code, is amended by inserting after section 2773 the following new section:

“§ 2773a. Departmental accountable officials

“(a) **DESIGNATION.**—The Secretary of Defense may designate, in writing, as a departmental accountable official any employee of the Department of Defense or any member of the armed forces who—

“(1) has a duty to provide a certifying official of the Department of Defense with information, data, or services directly relied upon by the certifying official in the certification of vouchers for payment; and

“(1) is not otherwise accountable under subtitle III of title 31 or any other provision of law for payments made on the basis of the vouchers.

“(b) **PECUNIARY LIABILITY.**—(1) The Secretary of Defense may, in a designation of a departmental accountable official under subsection (a), subject that official to pecuniary liability, in the same manner and to the same extent as an official accountable under subtitle III of title 31, for an illegal, improper, or incorrect payment made pursuant to a voucher certified by a certifying official of the Department of Defense on the basis of information, data, or services that—

“(A) the departmental accountable official provides to the certifying official in the performance of a duty described in subsection (a)(1); and

“(B) the certifying official directly relies upon in certifying the voucher.

“(2) Any pecuniary liability imposed on a departmental accountable official under this

subsection for a loss to the United States resulting from an illegal, improper, or incorrect payment shall be joint and several with that of any other employee or employees of the United States or member or members of the uniformed services who are pecuniarily liable for the loss.

“(c) **RELIEF FROM PECUNIARY LIABILITY.**—The Secretary of Defense shall relieve a departmental accountable official from pecuniary liability imposed under subsection (b) in the case of a payment if the Secretary determines that the payment was not a result of fault or negligence on the part of the departmental accountable official.

“(d) **CERTIFYING OFFICIAL DEFINED.**—In this section, the term ‘certifying official’ means an employee who has the responsibilities specified in section 3528(a) of title 31.”

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2773 the following new item:

“2773a. Departmental accountable officials.”

SEC. 1008. DEPARTMENT-WIDE PROCEDURES FOR ESTABLISHING AND LIQUIDATING PERSONAL PECUNIARY LIABILITY.

(a) **REPORT OF SURVEY PROCEDURES.**—(1) Chapter 165 of title 10, United States Code, is amended by inserting after section 2786 the following new section:

“§ 2787. Reports of survey

“(a) **REGULATIONS.**—Under regulations prescribed pursuant to subsection (c), any officer of the armed forces or any civilian employee of the Department of Defense designated in accordance with the regulations may act upon reports of survey and vouchers pertaining to the loss, spoilage, unserviceability, unsuitability, or destruction of, or damage to, property of the United States under the control of the Department of Defense.

“(b) **FINALITY OF ACTION.**—(1) Action taken under subsection (a) is final except as provided in paragraph (2).

“(2) An action holding a person pecuniarily liable for loss, spoilage, destruction, or damage is not final until approved by a person designated to do so by the Secretary of a military department, commander of a combatant command, or Director of a Defense Agency, as the case may be, who has jurisdiction of the person held pecuniarily liable. The person designated to provide final approval shall be an officer of an armed force, or a civilian employee, under the jurisdiction of the official making the designation.

“(c) **REGULATIONS.**—The Secretary of Defense shall prescribe regulations to carry out this section.”

(2) The table of sections at the beginning of chapter 165 of such title is amended by inserting after the item relating to section 2786 the following new item:

“2787. Reports of survey.”

(b) **DAMAGE OR REPAIR OF ARMS AND EQUIPMENT.**—Section 1007(e) of title 37, United States Code, is amended by striking “Army or the Air Force” and inserting “Army, Navy, Air Force, or Marine Corps”.

(c) **REPEAL OF SUPERSEDED PROVISIONS.**—(1) Sections 4835 and 9835 of title 10, United States Code, are repealed.

(2) The tables of sections at the beginning of chapters 453 and 953 of such title are amended by striking the items relating to sections 4835 and 9835, respectively.

SEC. 1009. TRAVEL CARD PROGRAM INTEGRITY.

(a) **AUTHORITY.**—Section 2784 of title 10, United States Code, is amended by adding at the end the following new subsections:

“(d) **DISBURSEMENT OF ALLOWANCES DIRECTLY TO CREDITORS.**—(1) The Secretary of Defense may require that any part of the travel or transportation allowances of an employee of the Department of Defense or a member of the armed forces be disbursed directly to the issuer of a Defense travel card if the amount is disbursed to the issuer in payment of amounts of expenses of official travel that are charged by the employee or member on the Defense travel card.

“(2) For the purposes of this subsection, the travel and transportation allowances referred to in paragraph (1) are amounts to which an employee of the Department of Defense is entitled under section 5702 of title 5 and or a member of the armed forces is entitled section 404 of title 37.

“(e) **OFFSETS FOR DELINQUENT TRAVEL CARD CHARGES.**—(1) The Secretary of Defense may require that there be deducted and withheld from any pay payable to an employee of the Department of Defense or a member of the armed forces any amount that is owed by the employee or member to a creditor by reason of one or more charges of expenses of official travel of the employee or member on a Defense travel card issued by the creditor if the employee or member—

“(A) is delinquent in the payment of such amount under the terms of the contract under which the card is issued; and

“(B) does not dispute the amount of the delinquency.

“(2) The amount deducted and withheld from pay under paragraph (1) with respect to a debt owed a creditor as described in that paragraph shall be disbursed to the creditor to reduce the amount of the debt.

“(3) The amount of pay deducted and withheld from the pay owed to an employee or member with respect to a pay period under paragraph (1) may not exceed 15 percent of the disposable pay of the employee or member for that pay period, except that a higher amount may be deducted and withheld with the written consent of the employee or member.

“(4) The Secretary of Defense shall prescribe procedures for deducting and withholding amounts from pay under this subsection. The procedures shall be substantially equivalent to the procedures under section 3716 of title 31.

“(f) **UNDER SECRETARY OF DEFENSE (COMPTROLLER).**—The Secretary of Defense shall act through the Under Secretary of Defense (Comptroller) in carrying out this section.

“(g) **DEFINITIONS.**—In this section:

“(1) The term ‘Defense travel card’ means a charge or credit card that—

“(A) is issued to an employee of the Department of Defense or a member of the armed forces under a contract entered into by the Department of Defense and the issuer of the card; and

“(B) is to be used for charging expenses incurred by the employee or member in connection with official travel.

“(2) The term ‘disposable pay’, with respect to a pay period, means the amount equal to the excess of the amount of basic pay payable for the pay period over the total of the amounts deducted and withheld from such pay.”

(b) **CONFORMING AMENDMENT.**—Subsection (a) of such section is amended by striking “, acting through the Under Secretary of Defense (Comptroller),”.

SEC. 1010. CLEARANCE OF CERTAIN TRANSACTIONS RECORDED IN TREASURY SUSPENSE ACCOUNTS AND RESOLUTION OF CERTAIN CHECK ISSUANCE DISCREPANCIES.

(a) **CLEARING OF SUSPENSE ACCOUNTS.**—(1) In the case of any transaction that was entered into by or on behalf of the Department of Defense before March 1, 2001, that is recorded in the Department of Treasury Budget Clearing Account (Suspense) designated as account F3875, the Unavailable Check Cancellations and Overpayments (Suspense) designated as account F3880, or an Undistributed Intergovernmental Payments account designated as account F3885, and for which no appropriation for the Department of Defense has been identified—

(A) any undistributed collection credited to such account in such case shall be deposited to the miscellaneous receipts of the Treasury; and

(B) subject to paragraph (2), any undistributed disbursement recorded in such account in such case shall be canceled.

(2) An undistributed disbursement may not be canceled under paragraph (1) until the Secretary of Defense has made a written determination that the appropriate official or officials of the Department of Defense have attempted without success to locate the documentation necessary to demonstrate which appropriation should be charged and further efforts are not in the best interests of the United States.

(b) **RESOLUTION OF CHECK ISSUANCE DISCREPANCIES.**—(1) In the case of any check drawn on the Treasury that was issued by or on behalf of the Department of Defense before October 31, 1998, for which the Secretary of the Treasury has reported to the Department of Defense a discrepancy between the amount paid and the amount of the check as transmitted to the Department of Treasury, and for which no specific appropriation for the Department of Defense can be identified as being associated with the check, the discrepancy shall be canceled, subject to paragraph (2).

(2) A discrepancy may not be canceled under paragraph (1) until the Secretary of Defense has made a written determination that the appropriate official or officials of the Department of Defense have attempted without success to locate the documentation necessary to demonstrate which appropriation should be charged and further efforts are not in the best interests of the United States.

(c) **CONSULTATION.**—The Secretary of Defense shall consult the Secretary of the Treasury in the exercise of the authority granted by subsections (a) and (b).

(d) **DURATION OF AUTHORITY.**—(1) A particular undistributed disbursement may not be canceled under subsection (a) more than 30 days after the date of the written determination made by the Secretary of Defense under such subsection regarding that undistributed disbursement.

(2) A particular discrepancy may not be canceled under subsection (b) more than 30 days after the date of the written determination made by the Secretary of Defense under such subsection regarding that discrepancy.

(3) No authority may be exercised under this section after the date that is two years after the date of the enactment of this Act.

SEC. 1011. ADDITIONAL AMOUNT FOR BALLISTIC MISSILE DEFENSE OR COMBATING TERRORISM IN ACCORDANCE WITH NATIONAL SECURITY PRIORITIES OF THE PRESIDENT.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to other amounts authorized to be

appropriated by other provisions of this division, there is hereby authorized to be appropriated for the Department of Defense for fiscal year 2003, \$814,300,000 for whichever of the following purposes the President determines that the additional amount is necessary in the national security interests of the United States:

(1) Research, development, test, and evaluation for ballistic missile defense programs of the Department of Defense.

(2) Activities of the Department of Defense for combating terrorism at home and abroad.

(b) **OFFSET.**—The total amount authorized to be appropriated under the other provisions of this division is hereby reduced by \$814,300,000 to reflect the amounts that the Secretary determines unnecessary by reason of a revision of assumptions regarding inflation that are applied as a result of the midsession review of the budget conducted by the Office of Management and Budget during the spring and early summer of 2002.

(c) **PRIORITY FOR ALLOCATING FUNDS.**—In the expenditure of additional funds made available by a lower rate of inflation, the top priority shall be the use of such funds for Department of Defense activities for protecting the American people at home and abroad by combating terrorism at home and abroad.

SEC. 1012. AVAILABILITY OF AMOUNTS FOR OREGON ARMY NATIONAL GUARD FOR SEARCH AND RESCUE AND MEDICAL EVACUATION MISSIONS IN ADVERSE WEATHER CONDITIONS.

(a) **INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR ARMY PROCUREMENT.**—The amount authorized to be appropriated by section 101(1) for procurement for the Army for aircraft is hereby increased by \$3,000,000.

(b) **AVAILABILITY.**—Of the amount authorized to be appropriated by section 101(1) for procurement for the Army for aircraft, as increased by subsection (a), \$3,000,000 shall be available for the upgrade of three UH-60L Blackhawk helicopters of the Oregon Army National Guard to the capabilities of UH-60Q Search and Rescue model helicopters, including Star Safire FLIR, Breeze-Eastern External Rescue Hoist, and Air Methods COTS Medical Systems upgrades, in order to improve the utility of such UH-60L Blackhawk helicopters in search and rescue and medical evacuation missions in adverse weather conditions.

(c) **INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.**—The amount authorized to be appropriated by section 421 for military personnel is hereby increased by \$1,800,000.

(d) **AVAILABILITY.**—Of the amount authorized to be appropriated by section 421 for military personnel, as increased by subsection (c), \$1,800,000 shall be available for up to 26 additional personnel for the Oregon Army National Guard.

(e) **OFFSET.**—The amount authorized to be appropriated by section 301(a)(1) for operation and maintenance for the Army is hereby reduced by \$4,800,000, with the amount of the reduction to be allocated to Base Operations Support (Servicewide Support).

Subtitle B—Naval Vessels and Shipyards

SEC. 1021. NUMBER OF NAVY SURFACE COMBATANTS IN ACTIVE AND RESERVE SERVICE.

(a) **CONTINGENT REQUIREMENT FOR REPORT.**—If, on the date of the enactment of this Act, the total number of Navy ships comprising the force of surface combatants is less than 116, the Secretary of the Navy shall submit a report on the size of that force to the Committees on Armed Services of the Senate and the House of Representa-

tives. The report shall be submitted not later than 90 days after such date and shall include a risk assessment for such force that is based on the same assumptions as those that were applied in the QDR 2001 current force risk assessment.

(b) **LIMITATION ON REDUCTION.**—The force of surface combatants may not be reduced at any time after the date of the enactment of this Act from a number of ships (whether above, equal to, or below 116) to a number of ships below 116 before the date that is 90 days after the date on which the Secretary of the Navy submits to the committees referred to in subsection (a) a written notification of the reduction. The notification shall include the following information:

(1) The schedule for the reduction.

(2) The number of ships that are to comprise the reduced force of surface combatants.

(3) A risk assessment for the reduced force that is based on the same assumptions as those that were applied in the QDR 2001 current force risk assessment.

(c) **PRESERVATION OF SURGE CAPABILITY.**—Whenever the total number of Navy ships comprising the force of surface combatants is less than 116, the Secretary of the Navy shall maintain on the Naval Vessel Register a sufficient number of surface combatant ships to enable the Navy to regain a total force of 116 surface combatant ships in active and reserve service in the Navy within 120 days after the President decides to increase the force of surface combatants.

(d) **DEFINITIONS.**—In this section:

(1) The term “force of surface combatants” means the surface combatant ships in active and reserve service in the Navy.

(2) The term “QDR 2001 current force risk assessment” means the risk assessment associated with a force of 116 surface combatant ships in active and reserve service in the Navy that is set forth in the report on the quadrennial defense review submitted to Congress on September 30, 2001, under section 118 of title 10, United States Code.

SEC. 1022. PLAN FOR FIELDING THE 155-MILLIMETER GUN ON A SURFACE COMBATANT.

(a) **REQUIREMENT FOR PLAN.**—The Secretary of the Navy shall submit to Congress a plan for fielding the 155-millimeter gun on one surface combatant ship in active service in the Navy. The Secretary shall submit the plan at the same time that the President submits the budget for fiscal year 2004 to Congress under section 1105(a) of title 31, United States Code.

(b) **FIELDING ON EXPEDITED SCHEDULE.**—The plan shall provide for fielding the 155-millimeter gun on an expedited schedule that is consistent with the achievement of safety of operation and fire support capabilities meeting the fire support requirements of the Marine Corps, but not later than October 1, 2006.

SEC. 1023. REPORT ON INITIATIVES TO INCREASE OPERATIONAL DAYS OF NAVY SHIPS.

(a) **REQUIREMENT FOR REPORT ON INITIATIVES.**—(1) The Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on Department of Defense initiatives to increase the number of operational days of Navy ships as described in subsection (b).

(2) The report shall cover the ongoing Department of Defense initiatives as well as potential initiatives that are under consideration within the Department of Defense.

(b) **INITIATIVES WITHIN LIMITS OF EXISTING FLEET AND DEPLOYMENT POLICY.**—The Under

Secretary shall, in the report, assess the feasibility and identify the projected effects of conducting initiatives that have the potential to increase the number of operational days of Navy ships available to the commanders-in-chief of the regional unified combatant commands without increasing the number of Navy ships and without increasing the routine lengths of deployments of Navy ships above six months.

(c) **REQUIRED FOCUS AREAS.**—The report shall, at a minimum, address the following four focus areas:

(1) Assignment of additional ships, including submarines, to home ports closer to the areas of operation for the ships (known as “forward homeporting”).

(2) Assignment of ships to remain in a forward area of operations, together with rotation of crews for each ship so assigned.

(3) Retention of ships for use until the end of the full service life, together with investment of the funds necessary to support retention to that extent.

(4) Prepositioning of additional ships with, under normal circumstances, small crews in a forward area of operations.

(d) **TIME FOR SUBMITTAL.**—The report shall be submitted at the same time that the President submits the budget for fiscal year 2004 to Congress under section 1105(a) of title 31, United States Code.

SEC. 1024. ANNUAL LONG-RANGE PLAN FOR THE CONSTRUCTION OF SHIPS FOR THE NAVY.

(a) **FINDINGS.**—Congress makes the following findings:

(1) Navy ships provide a forward presence for the United States that is a key to the national defense of the United States.

(2) The Navy has demonstrated that its ships contribute significantly to homeland defense.

(3) The Navy’s ship recapitalization plan is inadequate to maintain the ship force structure that is described as the current force in the 2001 Quadrennial Defense Review.

(4) The Navy is decommissioning ships as much as 10 years earlier than the projected ship life upon which ship replacement rates are based.

(5) The current force was assessed in the 2001 Quadrennial Defense Review as having moderate to high risk, depending on the scenario considered.

(b) **ANNUAL SHIP CONSTRUCTION PLAN.**—(1) Chapter 9 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 231. Annual ship construction plan

“(a) **ANNUAL SHIP CONSTRUCTION PLAN.**—The Secretary of Defense shall include in the defense budget materials for each fiscal year a plan for the construction of combatant and support ships for the Navy that—

“(1) supports the National Security Strategy; or

“(2) if there is no National Security Strategy in effect, supports the ship force structure called for in the report of the latest Quadrennial Defense Review.

“(b) **CONTENT.**—The ship construction plan included in the defense budget materials for a fiscal year shall provide in detail for the construction of combatant and support ships for the Navy over the 30 consecutive fiscal years beginning with the fiscal year covered by the defense budget materials and shall include the following matters:

“(1) A description of the necessary ship force structure of the Navy.

“(2) The estimated levels of funding necessary to carry out the plan, together with a discussion of the procurement strategies on

which such estimated funding levels are based.

“(3) A certification by the Secretary of Defense that both the budget for the fiscal year covered by the defense budget materials and the future-years defense program submitted to Congress in relation to such budget under section 221 of this title provide for funding ship construction for the Navy at a level that is sufficient for the procurement of the ships provided for in the plan on schedule.

“(4) If the budget for the fiscal year provides for funding ship construction at a level that is not sufficient for the recapitalization of the force of Navy ships at the annual rate necessary to sustain the force, an assessment (coordinated with the commanders of the combatant commands in advance) that describes and discusses the risks associated with the reduced force structure that will result from funding ship construction at such insufficient level.

“(c) **DEFINITIONS.**—In this section:

“(1) The term ‘budget’, with respect to a fiscal year, means the budget for such fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

“(2) The term ‘defense budget materials’, with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for such fiscal year.

“(3) The term ‘Quadrennial Defense Review’ means the Quadrennial Defense Review that is carried out under section 118 of this title.”

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“231. Annual ship construction plan.”

Subtitle C—Reporting Requirements

SEC. 1031. REPEAL AND MODIFICATION OF VARIOUS REPORTING REQUIREMENTS APPLICABLE WITH RESPECT TO THE DEPARTMENT OF DEFENSE.

(a) **PROVISIONS OF TITLE 10.**—Title 10, United States Code, is amended as follows:

(1)(A) Section 183 is repealed.

(B) The table of sections at the beginning of chapter 7 is amended by striking the item relating to section 183.

(2)(A) Sections 226 and 230 are repealed.

(B) The table of sections at the beginning of chapter 9 is amended by striking the items relating to sections 226 and 230.

(3) Effective two years after the date of the enactment of this Act—

(A) section 483 is repealed; and

(B) the table of sections at the beginning of chapter 23 is amended by striking the item relating to section 483.

(4) Section 526 is amended by striking subsection (c).

(5) Section 721(d) is amended—

(A) by striking paragraph (2); and

(B) by striking “(1)” before “If an officer”.

(6) Section 1095(g) is amended—

(A) by striking paragraph (2); and

(B) by striking “(1)” after “(g)”.

(7) Section 1798 is amended by striking subsection (d).

(8) Section 1799 is amended by striking subsection (d).

(9) Section 2220 is amended—

(A) by striking subsections (b) and (c);

(B) by striking “(1)” after “ESTABLISHMENT OF GOALS.”; and

(C) by striking “(2) The” and inserting “(b) EVALUATION OF COST GOALS.—The”.

(10) Section 2350a(g) is amended by striking paragraph (4).

(11) Section 2350f is amended by striking subsection (c).

(12) Section 2350k is amended by striking subsection (d).

(13) Section 2367(d) is amended by striking “EFFORT.—(1) In the” and all that follows through “(2) After the close of” and inserting “EFFORT.—After the close of”.

(14) Section 2391 is amended by striking subsection (c).

(15) Section 2486(b)(12) is amended by striking “, except that” and all that follows and inserting the following: “, except that the Secretary shall notify Congress of any addition of, or change in, a merchandise category under this paragraph.”.

(16) Section 2492 is amended by striking subsection (c) and inserting the following:

“(c) **NOTIFICATION OF CONDITIONS NECESSITATING RESTRICTIONS.**—The Secretary of Defense shall notify Congress of any change proposed or made to any of the host nation laws or any of the treaty obligations of the United States, and any changed conditions within host nations, if the change would necessitate the use of quantity or other restrictions on purchases in commissary and exchange stores located outside the United States.”.

(17)(A) Section 2504 is repealed.

(B) The table of sections at the beginning of subchapter II of chapter 148 is amended by striking the item relating to section 2504.

(18) Section 2506—

(A) is amended by striking subsection (b); and

(B) by striking “(a) DEPARTMENTAL GUIDANCE.—”.

(19) Section 2537(a) is amended by striking “\$100,000” and inserting “\$10,000,000”.

(20) Section 2611 is amended by striking subsection (e).

(21) Section 2667(d) is amended by striking paragraph (3).

(22) Section 2813 is amended by striking subsection (c).

(23) Section 2827 is amended—

(A) by striking subsection (b); and

(B) by striking “(a) Subject to subsection (b), the Secretary” and inserting “The Secretary”.

(24) Section 2867 is amended by striking subsection (c).

(25) Section 4416 is amended by striking subsection (f).

(26) Section 5721(f) is amended—

(A) by striking paragraph (2); and

(B) by striking “(1)” after the subsection heading.

(b) **NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995.**—Section 553(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2772; 10 U.S.C. 4331 note) is amended by striking the last sentence.

(c) **BALLISTIC MISSILE DEFENSE ACT OF 1995.**—Section 234 of the Ballistic Missile Defense Act of 1995 (subtitle C of title II of Public Law 104-106; 10 U.S.C. 2431 note) is amended by striking subsection (f).

SEC. 1032. ANNUAL REPORT ON WEAPONS TO DEFEAT HARDENED AND DEEPLY BURIED TARGETS.

(a) **ANNUAL REPORT.**—Not later than April 1, 2003, and each year thereafter, the Secretary of Defense, Secretary of Energy, and Director of Central Intelligence shall jointly submit to the congressional defense committees a report on the research and development activities undertaken by their respective agencies during the preceding fiscal year to develop a weapon to defeat hardened and deeply buried targets.

(b) **REPORT ELEMENTS.**—The report for a fiscal year under subsection (a) shall—

(1) include a discussion of the integration and interoperability of the various programs to develop a weapon referred to in that subsection that were undertaken during such

fiscal year, including a discussion of the relevance of such programs to applicable decisions of the Joint Requirements Oversight Council; and

(2) set forth separately a description of the research and development activities, if any, to develop a weapon referred to in that subsection that were undertaken during such fiscal year by each military department, the Department of Energy, and the Central Intelligence Agency.

SEC. 1033. REVISION OF DATE OF ANNUAL REPORT ON COUNTERPROLIFERATION ACTIVITIES AND PROGRAMS.

Section 1503(a) of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. 2751 note) is amended by striking "February 1 of each year" and inserting "May 1 each year".

SEC. 1034. QUADRENNIAL QUALITY OF LIFE REVIEW.

(a) **REQUIREMENT FOR REVIEW.**—Chapter 23 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 488. Quadrennial quality of life review

"(a) **REVIEW REQUIRED.**—(1) The Secretary of Defense shall every four years, two years after the submission of the quadrennial defense review to Congress under section 118 of this title, conduct a comprehensive examination of the quality of life of the members of the armed forces (to be known as the 'quadrennial quality of life review'). The review shall include examination of the programs, projects, and activities of the Department of Defense, including the morale, welfare, and recreation activities.

"(2) The quadrennial review shall be designed to result in determinations, and to foster policies and actions, that reflect the priority given the quality of life of members of the armed forces as a primary concern of the Department of Defense leadership.

"(b) **CONDUCT OF REVIEW.**—Each quadrennial quality of life review shall be conducted so as—

"(1) to assess quality of life priorities and issues consistent with the most recent National Security Strategy prescribed by the President pursuant to section 108 of the National Security Act of 1947 (50 U.S.C. 404a);

"(2) to identify actions that are needed in order to provide members of the armed forces with the quality of life reasonably necessary to encourage the successful execution of the full range of missions that the members are called on to perform under the national security strategy;

"(3) to provide a full accounting of the backlog of installations in need of maintenance and repair, to determine how the disrepair affects performance and quality of life of members and their families, and to identify the budget plan that would be required to provide the resources necessary to remedy the backlog of maintenance and repair; and

"(4) to identify other actions that have the potential for improving the quality of life of the members of the armed forces.

"(c) **CONSIDERATIONS.**—Among the matters considered by the Secretary in conducting the quadrennial review, the Secretary shall include the following matters:

"(1) Infrastructure.

"(2) Military construction.

"(3) Physical conditions at military installations and other Department of Defense facilities.

"(4) Budget plans.

"(5) Adequacy of medical care for members of the armed forces and their dependents.

"(6) Adequacy of housing and the basic allowance for housing and basic allowance for subsistence.

"(7) Housing-related utility costs.

"(8) Educational opportunities and costs.

"(9) Length of deployments.

"(10) Rates of pay, and pay differentials between the pay of members and the pay of civilians.

"(11) Retention and recruiting efforts.

"(12) Workplace safety.

"(13) Support services for spouses and children.

"(14) Other elements of Department of Defense programs and Federal Government policies and programs that affect the quality of life of members.

"(d) **SUBMISSION OF QQLR TO CONGRESSIONAL COMMITTEES.**—The Secretary shall submit a report on each quadrennial quality of life review to the Committees on Armed Services of the Senate and the House of Representatives. The report shall be submitted not later than September 30 of the year in which the review is conducted. The report shall include the following:

"(1) The results of the review, including a comprehensive discussion of how the quality of life of members of the armed forces affects the national security strategy of the United States.

"(2) The long-term quality of life problems of the armed forces, together with proposed solutions.

"(3) The short-term quality of life problems of the armed forces, together with proposed solutions.

"(4) The assumptions used in the review.

"(5) The effects of quality of life problems on the morale of the members of the armed forces.

"(6) The quality of life problems that affect the morale of members of the reserve components in particular, together with solutions.

"(7) The effects of quality of life problems on military preparedness and readiness.

"(8) The appropriate ratio of—

"(A) the total amount expended by the Department of Defense in a fiscal year for programs, projects, and activities designed to improve the quality of life of members of the armed forces, to

"(B) the total amount expended by the Department of Defense in the fiscal year."

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"488. Quadrennial quality of life review."

SEC. 1035. REPORTS ON EFFORTS TO RESOLVE WHEREABOUTS AND STATUS OF CAPTAIN MICHAEL SCOTT SPEICHER, UNITED STATES NAVY.

(a) **REPORTS.**—Not later than 60 days after the date of the enactment of this Act, and every 90 days thereafter, the Secretary of Defense shall, in consultation with the Secretary of State and the Director of Central Intelligence, submit to Congress a report on the efforts of the United States Government to determine the whereabouts and status of Captain Michael Scott Speicher, United States Navy.

(b) **PERIOD COVERED BY REPORTS.**—The first report under subsection (a) shall cover efforts described in that subsection preceding the date of the report, and each subsequent report shall cover efforts described in that subsection during the 90-day period ending on the date of such report.

(c) **REPORT ELEMENTS.**—Each report under subsection (a) shall describe, for the period covered by such report—

(1) all direct and indirect contacts with the Government of Iraq, or any successor government, regarding the whereabouts and status of Michael Scott Speicher;

(2) any request made to the government of another country, including the intelligence service of such country, for assistance in resolving the whereabouts and status of Michael Scott Speicher, including the response to such request;

(3) each current lead on the whereabouts and status of Michael Scott Speicher, including an assessment of the utility of such lead in resolving the whereabouts and status of Michael Scott Speicher; and

(4) any cooperation with nongovernmental organizations or international organizations in resolving the whereabouts and status of Michael Scott Speicher, including the results of such cooperation.

(d) **FORM OF REPORTS.**—Each report under subsection (a) shall be submitted in classified form, but may include an unclassified summary.

SEC. 1036. REPORT ON EFFORTS TO ENSURE ADEQUACY OF FIRE FIGHTING STAFFS AT MILITARY INSTALLATIONS.

Not later than May 31, 2003, the Secretary of Defense shall submit to Congress a report on the actions being undertaken to ensure that the fire fighting staffs at military installations are adequate under applicable Department of Defense regulations.

SEC. 1037. REPORT ON DESIGNATION OF CERTAIN LOUISIANA HIGHWAY AS DEFENSE ACCESS ROAD.

Not later than March 1, 2003, the Secretary of the Army shall submit to the congressional defense committees a report containing the results of a study on the advisability of designating Louisiana Highway 28 between Alexandria, Louisiana, and Leesville, Louisiana, a road providing access to the Joint Readiness Training Center, Louisiana, and to Fort Polk, Louisiana, as a defense access road for purposes of section 210 of title 23, United States Code.

SEC. 1038. PLAN FOR FIVE-YEAR PROGRAM FOR ENHANCEMENT OF MEASUREMENT AND SIGNATURES INTELLIGENCE CAPABILITIES.

(a) **FINDING.**—Congress finds that the national interest will be served by the rapid exploitation of basic research on sensors for purposes of enhancing the measurement and signatures intelligence (MASINT) capabilities of the Federal Government.

(b) **PLAN FOR PROGRAM.**—(1) Not later than March 30, 2003, the Director of the Central Measurement and Signatures Intelligence Office shall submit to Congress a plan for a five-year program of research intended to provide for the incorporation of the results of basic research on sensors into the measurement and signatures intelligence systems fielded by the Federal Government, including the review and assessment of basic research on sensors for that purpose.

(2) Activities under the plan shall be carried out by a consortium consisting of such governmental and non-governmental entities as the Director considers appropriate for purposes of incorporating the broadest practicable range of sensor capabilities into the systems referred to in paragraph (1). The consortium may include national laboratories, universities, and private sector entities.

(3) The plan shall include a proposal for the funding of activities under the plan, including cost-sharing by non-governmental participants in the consortium under paragraph (2).

SEC. 1039. REPORT ON VOLUNTEER SERVICES OF MEMBERS OF THE RESERVE COMPONENTS IN EMERGENCY RESPONSE TO THE TERRORIST ATTACKS OF SEPTEMBER 11, 2001.

(a) **REQUIREMENT FOR REPORT.**—Not later than 90 days after the date of the enactment

of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on volunteer services described in subsection (b) that were provided by members of the National Guard and other reserve components of the Armed Forces, while not in a duty status pursuant to orders, during the period of September 11 through 14, 2001. The report shall include a discussion of any personnel actions that the Secretary considers appropriate for the members regarding the performance of such services.

(b) **COVERED SERVICES.**—The volunteer services referred to in subsection (a) are as follows:

(1) Volunteer services provided in the vicinity of the site of the World Trade Center, New York, New York, in support of emergency response to the terrorist attack on the World Trade Center on September 11, 2001.

(2) Volunteer services provided in the vicinity of the Pentagon in support of emergency response to the terrorist attack on the Pentagon on September 11, 2001.

SEC. 1040. BIENNIAL REPORTS ON CONTRIBUTIONS TO PROLIFERATION OF WEAPONS OF MASS DESTRUCTION AND DELIVERY SYSTEMS BY COUNTRIES OF PROLIFERATION CONCERN.

(a) **REPORTS.**—Not later than six months after the date of the enactment of this Act, and every six months thereafter, the President shall submit to Congress a report identifying each foreign person that, during the six-month period ending on the date of such report, made a material contribution to the development by a country of proliferation concern of—

(1) nuclear, biological, or chemical weapons; or

(2) ballistic or cruise missile systems.

(b) **FORM OF SUBMITTAL.**—(1) A report under subsection (a) may be submitted in classified form, whether in whole or in part, if the President determines that submittal in that form is advisable.

(2) Any portion of a report under subsection (a) that is submitted in classified form shall be accompanied by an unclassified summary of such portion.

(c) **DEFINITIONS.**—In this section:

(1) The term “foreign person” means—

(A) a natural person that is an alien;

(B) a corporation, business association, partnership, society, trust, or any other non-governmental entity, organization, or group that is organized under the laws of a foreign country or has its principal place of business in a foreign country;

(C) any foreign governmental entity operating as a business enterprise; and

(D) any successor, subunit, or subsidiary of any entity described in subparagraph (B) or (C).

(2) The term “country of proliferation concern” means any country identified by the Director of Central Intelligence as having engaged in the acquisition of dual-use and other technology useful for the development or production of weapons of mass destruction (including nuclear, chemical, and biological weapons) and advanced conventional munitions in the most current report under section 721 of the Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII of Public Law 104-293; 50 U.S.C. 2366), or any successor report on the acquisition by foreign countries of dual-use and other technology useful for the development or production of weapons of mass destruction.

Subtitle D—Homeland Defense

SEC. 1041. HOMELAND SECURITY ACTIVITIES OF THE NATIONAL GUARD.

(a) **AUTHORITY.**—Chapter 1 of title 32, United States Code, is amended by adding at the end the following new section:

“§ 116. Homeland security activities

“(a) **USE OF PERSONNEL PERFORMING FULL-TIME NATIONAL GUARD DUTY.**—The Governor of a State may, upon the request by the head of a Federal law enforcement agency and with the concurrence of the Secretary of Defense, order any personnel of the National Guard of the State to perform full-time National Guard duty under section 502(f) of this title for the purpose of carrying out homeland security activities, as described in subsection (b).

“(b) **PURPOSE AND DURATION.**—(1) The purpose for the use of personnel of the National Guard of a State under this section is to temporarily provide trained and disciplined personnel to a Federal law enforcement agency to assist that agency in carrying out homeland security activities until that agency is able to recruit and train a sufficient force of Federal employees to perform the homeland security activities.

“(2) The duration of the use of the National Guard of a State under this section shall be limited to a period of 179 days. The Governor of the State may, with the concurrence of the Secretary of Defense, extend the period one time for an additional 90 days to meet extraordinary circumstances.

“(c) **RELATIONSHIP TO REQUIRED TRAINING.**—A member of the National Guard serving on full-time National Guard duty under orders authorized under subsection (a) shall participate in the training required under section 502(a) of this title in addition to the duty performed for the purpose authorized under that subsection. The pay, allowances, and other benefits of the member while participating in the training shall be the same as those to which the member is entitled while performing duty for the purpose of carrying out homeland security activities. The member is not entitled to additional pay, allowances, or other benefits for participation in training required under section 502(a)(1) of this title.

“(d) **READINESS.**—To ensure that the use of units and personnel of the National Guard of a State for homeland security activities does not degrade the training and readiness of such units and personnel, the following requirements shall apply in determining the homeland security activities that units and personnel of the National Guard of a State may perform:

“(1) The performance of the activities may not adversely affect the quality of that training or otherwise interfere with the ability of a member or unit of the National Guard to perform the military functions of the member or unit.

“(2) National Guard personnel will not degrade their military skills as a result of performing the activities.

“(3) The performance of the activities will not result in a significant increase in the cost of training.

“(4) In the case of homeland security performed by a unit organized to serve as a unit, the activities will support valid unit training requirements.

“(e) **PAYMENT OF COSTS.**—(1) The Secretary of Defense shall provide funds to the Governor of a State to pay costs of the use of personnel of the National Guard of the State for the performance of homeland security activities under this section. Such funds shall be used for the following costs:

“(A) The pay, allowances, clothing, subsistence, gratuities, travel, and related expenses (including all associated training expenses, as determined by the Secretary), as authorized by State law, of personnel of the National Guard of that State used, while not in Federal service, for the purpose of homeland security activities.

“(B) The operation and maintenance of the equipment and facilities of the National Guard of that State used for the purpose of homeland security activities.

“(2) The Secretary of Defense shall require the head of a law enforcement agency receiving support from the National Guard of a State in the performance of homeland security activities under this section to reimburse the Department of Defense for the payments made to the State for such support under paragraph (1).

“(f) **MEMORANDUM OF AGREEMENT.**—The Secretary of Defense and the Governor of a State shall enter into a memorandum of agreement with the head of each Federal law enforcement agency to which the personnel of the National Guard of that State are to provide support in the performance of homeland security activities under this section. The memorandum of agreement shall—

“(1) specify how personnel of the National Guard are to be used in homeland security activities;

“(2) include a certification by the Adjutant General of the State that those activities are to be performed at a time when the personnel are not in Federal service;

“(3) include a certification by the Adjutant General of the State that—

“(A) participation by National Guard personnel in those activities is service in addition to training required under section 502 of this title; and

“(B) the requirements of subsection (d) of this section will be satisfied;

“(4) include a certification by the Attorney General of the State (or, in the case of a State with no position of Attorney General, a civilian official of the State equivalent to a State attorney general), that the use of the National Guard of the State for the activities provided for under the memorandum of agreement is authorized by, and is consistent with, State law;

“(5) include a certification by the Governor of the State or a civilian law enforcement official of the State designated by the Governor that the activities provided for under the memorandum of agreement serve a State law enforcement purpose; and

“(6) include a certification by the head of the Federal law enforcement agency that the agency will have a plan to ensure that the agency's requirement for National Guard support ends not later than 179 days after the commencement of the support.

“(g) **EXCLUSION FROM END-STRENGTH COMPUTATION.**—Notwithstanding any other provision of law, members of the National Guard on active duty or full-time National Guard duty for the purposes of administering (or during fiscal year 2003 otherwise implementing) this section shall not be counted toward the annual end strength authorized for reserves on active duty in support of the reserve components of the armed forces or toward the strengths authorized in sections 12011 and 12012 of title 10.

“(h) **ANNUAL REPORT.**—The Secretary of Defense shall submit to Congress an annual report regarding any assistance provided and activities carried out under this section during the preceding fiscal year. The report shall include the following:

“(1) The number of members of the National Guard excluded under subsection (g) from the computation of end strengths.

“(2) A description of the homeland security activities conducted with funds provided under this section.

“(3) An accounting of the amount of funds provided to each State.

“(4) A description of the effect on military training and readiness of using units and personnel of the National Guard to perform homeland security activities under this section.

“(i) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as a limitation on the authority of any unit of the National Guard of a State, when such unit is not in Federal service, to perform law enforcement functions authorized to be performed by the National Guard by the laws of the State concerned.

“(j) DEFINITIONS.—For purposes of this section:

“(1) The term ‘Governor of a State’ means, in the case of the District of Columbia, the Commanding General of the National Guard of the District of Columbia.

“(2) The term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such section is amended by adding at the end the following new item:

“116. Homeland security activities.”.

SEC. 1042. CONDITIONS FOR USE OF FULL-TIME RESERVES TO PERFORM DUTIES RELATING TO DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION.

Section 12310(c)(3) of title 10, United States Code, is amended by striking “only—” and all that follows through “(B) while assigned” and inserting “only while assigned”.

SEC. 1043. WEAPON OF MASS DESTRUCTION DEFINED FOR PURPOSES OF THE AUTHORITY FOR USE OF RESERVES TO PERFORM DUTIES RELATING TO DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION.

(a) WEAPON OF MASS DESTRUCTION REDEFINED.—Section 12304(i)(2) of title 10, United States Code, is amended to read as follows:

“(2) The term ‘weapon of mass destruction’ means—

“(A) any weapon that is designed or, through its use, is intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors;

“(B) any weapon that involves a disease organism;

“(C) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life; and

“(D) any large conventional explosive that is designed to produce catastrophic loss of life or property.”.

(b) CONFORMING AMENDMENT.—Section 12310(c)(1) of such title is amended by striking “section 1403 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1))” and inserting “section 12304(i)(2) of this title”.

SEC. 1044. REPORT ON DEPARTMENT OF DEFENSE HOMELAND DEFENSE ACTIVITIES.

(a) REPORT REQUIRED.—Not later than February 1, 2003, the Secretary of Defense shall submit to the congressional defense committees a report on what actions of the Department of Defense would be necessary to carry out the Secretary’s expressed intent—

(1) to place new emphasis on the unique operational demands associated with the defense of the United States homeland; and

(2) to restore the mission of defense of the United States to the position of being the primary mission of the Department of Defense.

(b) CONTENT OF THE REPORT.—The report shall contain, in accordance with the other provisions of this section, the following matters:

(1) HOMELAND DEFENSE CAMPAIGN PLAN.—A homeland defense campaign plan.

(2) INTELLIGENCE.—A discussion of the relationship between—

(A) the intelligence capabilities of—

(i) the Department of Defense; and

(ii) other departments and agencies of the United States; and

(B) the performance of the homeland defense mission.

(3) THREAT AND VULNERABILITY ASSESSMENT.—A compliance-based national threat and vulnerability assessment.

(4) TRAINING AND EXERCISING.—A discussion of the Department of Defense plans for training and exercising for the performance of the homeland defense mission.

(5) BIOTERRORISM INITIATIVE.—An evaluation of the need for a Department of Defense bioterrorism initiative to improve the ability of the department to counter bioterror threats and to assist other agencies to improve the national ability to counter bioterror threats.

(6) CHEMICAL BIOLOGICAL INCIDENT RESPONSE TEAMS.—An evaluation of the need for and feasibility of developing and fielding Department of Defense regional chemical biological incident response teams.

(7) OTHER MATTERS.—Any other matters that the Secretary of Defense considers relevant regarding the efforts necessary to carry out the intent referred to in subsection (a).

(c) HOMELAND DEFENSE CAMPAIGN PLAN.—

(1) ORGANIZATION, PLANNING, AND INTEROPERABILITY.—

(A) IN GENERAL.—The homeland defense campaign plan under subsection (b)(1) shall contain a discussion of the organization and planning of the Department of Defense for homeland defense, including the expectations for interoperability of the Department of Defense with other departments and agencies of the Federal Government and with State and local governments.

(B) CONTENT.—The plan shall include the following matters:

(i) The duties, definitions, missions, goals, and objectives of organizations in the Department of Defense that apply homeland defense, together with an organizational assessment with respect to the performance of the homeland defense mission and a discussion of any plans for making functional realignments of organizations, authorities, and responsibilities for carrying out that mission.

(ii) The relationships among the leaders of the organizations (including the Secretary of Defense, the Joint Chiefs of Staff, the Commander in Chief of United States Northern Command, the Commanders in Chief of the other regional unified combatant commands, and the reserve components) in the performance of such duties.

(iii) The reviews, evaluations, and standards that are established or are to be established for determining and ensuring the readiness of the organizations to perform such duties.

(2) RESPONSE TO ATTACK ON CRITICAL INFRASTRUCTURE.—

(A) IN GENERAL.—The homeland defense campaign plan shall contain an outline of the duties and capabilities of the Depart-

ment of Defense for responding to an attack on critical infrastructure of the United States, including responding to an attack on critical infrastructure of the department, by means of a weapon of mass destruction or a CBRNE weapon or by a cyber means.

(B) VARIOUS ATTACK SCENARIOS.—The outline shall specify, for each major category of attack by a means described in subparagraph (A), the variations in the duties, responses, and capabilities of the various Department of Defense organizations that result from the variations in the means of the attack.

(C) DEFICIENCIES.—The outline shall identify any deficiencies in capabilities and set forth a plan for rectifying any such deficiencies.

(D) LEGAL IMPEDIMENTS.—The outline shall identify and discuss each impediment in law to the effective performance of the homeland defense mission.

(3) ROLES AND RESPONSIBILITIES IN INTER-AGENCY PROCESS.—

(A) IN GENERAL.—The homeland defense campaign plan shall contain a discussion of the roles and responsibilities of the Department of Defense in the interagency process of policymaking and planning for homeland defense.

(B) INTEGRATION WITH STATE AND LOCAL ACTIVITIES.—The homeland defense campaign plan shall include a discussion of Department of Defense plans to integrate Department of Defense homeland defense activities with the homeland defense activities of other departments and agencies of the United States and the homeland defense activities of State and local governments, particularly with regard to issues relating to CBRNE and cyber attacks.

(d) INTELLIGENCE CAPABILITIES.—The discussion of the relationship between the intelligence capabilities and the performance of the homeland defense mission under subsection (b)(2) shall include the following matters:

(1) ROLES AND MISSIONS.—The roles and missions of the Department of Defense for the employment of the intelligence capabilities of the department in homeland defense.

(2) INTERAGENCY RELATIONSHIPS.—A discussion of the relationship between the Department of Defense and the other departments and agencies of the United States that have duties for collecting or analyzing intelligence in relation to homeland defense, particularly in light of the conflicting demands of duties relating to the collection and analysis of foreign intelligence.

(3) INTELLIGENCE-RELATED CHANGES.—Any changes that are necessary in the Department of Defense in order to provide effective intelligence support for the performance of homeland defense missions, with respect to—

(A) the preparation of threat assessments and other warning products by the Department of Defense;

(B) collection of terrorism-related intelligence through human intelligence sources, signals intelligence sources, and other intelligence sources; and

(C) intelligence policy, capabilities, and practices.

(4) LEGAL IMPEDIMENTS.—Any impediments in law to the effective performance of intelligence missions in support of homeland defense.

(e) THREAT AND VULNERABILITY ASSESSMENT.—

(1) CONTENT.—The compliance-based national threat and vulnerability assessment under subsection (b)(3) shall include a discussion of the following matters:

(A) **CRITICAL FACILITIES.**—The threat of terrorist attack on critical facilities, programs, and systems of the United States, together with the capabilities of the Department of Defense to deter and respond to any such attack.

(B) **DoD VULNERABILITY.**—The vulnerability of installations, facilities, and personnel of the Department of Defense to attack by persons using weapons of mass destruction, CBRNE weapons, or cyber means.

(C) **BALANCED SURVIVABILITY ASSESSMENT.**—Plans to conduct a balanced survivability assessment for use in determining the vulnerabilities of targets referred to in subparagraphs (A) and (B).

(D) **PROCESS.**—Plans, including timelines and milestones, necessary to develop a process for conducting compliance-based vulnerability assessments for critical infrastructure, together with the standards to be used for ensuring that the process is executable.

(2) **DEFINITION OF COMPLIANCE-BASED.**—In subsection (b)(3) and paragraph (1)(D) of this subsection, the term “compliance-based”, with respect to an assessment, means that the assessment is conducted under policies and procedures that require correction of each deficiency identified in the assessment to a standard set forth in Department of Defense Instruction 2000.16 or another applicable Department of Defense instruction, directive, or policy.

(f) **TRAINING AND EXERCISING.**—The discussion of the Department of Defense plans for training and exercising for the performance of the homeland defense mission under subsection (b)(4) shall contain the following matters:

(1) **MILITARY EDUCATION.**—The plans for the training and education of members of the Armed Forces specifically for performance of homeland defense missions, including any anticipated changes in the curriculum in—

(A) the National Defense University, the war colleges of the Armed Forces, graduate education programs, and other senior military schools and education programs; and

(B) the Reserve Officers’ Training Corps program, officer candidate schools, enlisted and officer basic and advanced individual training programs, and other entry level military education and training programs.

(2) **EXERCISES.**—The plans for using exercises and simulation in the training of all components of the Armed Forces, including—

(A) plans for integrated training with departments and agencies of the United States outside the Department of Defense and with agencies of State and local governments; and

(B) plans for developing an opposing force that, for the purpose of developing potential scenarios of terrorist attacks on targets inside the United States, simulates a terrorist group having the capability to engage in such attacks.

(g) **BIOTERRORISM INITIATIVE.**—The evaluation of the need for a Department of Defense bioterrorism initiative under subsection (b)(5) shall include a discussion that identifies and evaluates options for potential action in such an initiative, as follows:

(1) **PLANNING, TRAINING, EXERCISE, EVALUATION, AND FUNDING.**—Options for—

(A) refining the plans of the Department of Defense for biodefense to include participation of other departments and agencies of the United States and State and local governments;

(B) increasing biodefense training, exercises, and readiness evaluations by the Department of Defense, including training, exercises, and evaluations that include partici-

pation of other departments and agencies of the United States and State and local governments;

(C) increasing Department of Defense funding for biodefense; and

(D) integrating other departments and agencies of the United States and State and local governments into the plans, training, exercises, evaluations, and resourcing.

(2) **DISEASE SURVEILLANCE.**—Options for the Department of Defense to develop an integrated disease surveillance detection system and to improve systems for communicating information and warnings of the incidence of disease to recipients within the Department of Defense and to other departments and agencies of the United States and State and local governments.

(3) **EMERGENCY MANAGEMENT STANDARD.**—Options for broadening the scope of the Revised Emergency Management Standard of the Joint Commission on Accreditation of Healthcare Organizations by including the broad and active participation of Federal, State, and local governmental agencies that are expected to respond in any event of a CBRNE or cyber attack.

(4) **LABORATORY RESPONSE NETWORK.**—Options for the Department of Defense—

(A) to participate in the laboratory response network for bioterrorism; and

(B) to increase the capacity of Department of Defense laboratories rated by the Secretary of Defense as level D laboratories to facilitate participation in the network.

(h) **CHEMICAL BIOLOGICAL INCIDENT RESPONSE TEAMS.**—The evaluation of the need for and feasibility of developing and fielding Department of Defense regional chemical biological incident response teams under subsection (b)(6) shall include a discussion and evaluation of the following options:

(1) **REGIONAL TEAMS.**—Options for the Department of Defense, using the chemical biological incident response force as a model, to develop, equip, train, and provide transportation for five United States based, strategically located, regional chemical biological incident response teams.

(2) **RESOURCING.**—Options and preferred methods for providing the resources and personnel necessary for developing and fielding any such teams.

(i) **DEFINITIONS.**—In this section:

(1) **CBRNE.**—The term “CBRNE” means chemical, biological, radiological, nuclear, or explosive.

(2) **WEAPON OF MASS DESTRUCTION.**—The term “weapon of mass destruction” has the meaning given such term in section 1403 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302).

SEC. 1045. STRATEGY FOR IMPROVING PREPAREDNESS OF MILITARY INSTALLATIONS FOR INCIDENTS INVOLVING WEAPONS OF MASS DESTRUCTION.

(a) **COMPREHENSIVE PLAN.**—The Secretary of Defense shall develop a comprehensive plan for improving the preparedness of military installations for preventing and responding to incidents involving use or threat of use of weapons of mass destruction.

(b) **CONTENT.**—The comprehensive plan shall set forth the following:

(1) A strategy that—

(A) identifies—

(i) long-term goals and objectives;

(ii) resource requirements; and

(iii) factors beyond the control of the Secretary that could impede the achievement of the goals and objectives; and

(B) includes a discussion of—

(i) the extent to which local, regional, or national military response capabilities are to be developed and used; and

(ii) how the Secretary will coordinate these capabilities with local, regional, or national civilian capabilities.

(2) A performance plan that—

(A) provides a reasonable schedule, with milestones, for achieving the goals and objectives of the strategy;

(B) performance criteria for measuring progress in achieving the goals and objectives;

(C) a description of the process, together with a discussion of the resources, necessary to achieve the goals and objectives;

(D) a description of the process for evaluating results.

(c) **SUBMITTAL TO CONGRESS.**—The Secretary shall submit the comprehensive plan to the Committees on Armed Services of the Senate and the House of Representatives not later than 180 days after the date of the enactment of this Act.

(d) **COMPTROLLER GENERAL REVIEW AND REPORT.**—Not later than 60 days after the Secretary submits the comprehensive plan to Congress under subsection (c), the Comptroller General shall review the plan and submit an assessment of the plan to the committees referred to in that subsection.

(e) **ANNUAL REPORT.**—(1) In each of 2004, 2005, and 2006, the Secretary of Defense shall include a report on the comprehensive plan in the materials that the Secretary submits to Congress in support of the budget submitted by the President such year pursuant to section 1105(a) of title 31, United States Code.

(2) The report shall include—

(A) a discussion of any revision that the Secretary has made in the comprehensive plan since the last report; and

(B) an assessment of the progress made in achieving the goals and objectives of the strategy set forth in the plan.

(3) No report is required under this subsection after the Secretary submits under this subsection a report containing a declaration that the goals and objectives set forth in the strategy have been achieved.

Subtitle E—Other Matters

SEC. 1061. CONTINUED APPLICABILITY OF EXPIRING GOVERNMENTWIDE INFORMATION SECURITY REQUIREMENTS TO THE DEPARTMENT OF DEFENSE.

(a) **IN GENERAL.**—Chapter 131 of title 10, United States Code, is amended by inserting after section 2224 the following new section:

“§ 2224a. Information security: continued applicability of expiring Governmentwide requirements to the Department of Defense

“(a) **IN GENERAL.**—The provisions of subchapter II of chapter 35 of title 44 shall continue to apply with respect to the Department of Defense, notwithstanding the expiration of authority under section 3536 of such title.

“(b) **RESPONSIBILITIES.**—In administering the provisions of subchapter II of chapter 35 of title 44 with respect to the Department of Defense after the expiration of authority under section 3536 of such title, the Secretary of Defense shall perform the duties set forth in that subchapter for the Director of the Office of Management and Budget.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2224 the following new item:

“2224a. Information security: continued applicability of expiring Governmentwide requirements to the Department of Defense.”.

SEC. 1062. ACCEPTANCE OF VOLUNTARY SERVICES OF PROCTORS FOR ADMINISTRATION OF ARMED SERVICES VOCATIONAL APTITUDE BATTERY.

Section 1588(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(6) Voluntary services as a proctor for the administration of the Armed Services Vocational Aptitude Battery.”.

SEC. 1063. EXTENSION OF AUTHORITY FOR SECRETARY OF DEFENSE TO SELL AIRCRAFT AND AIRCRAFT PARTS FOR USE IN RESPONDING TO OIL SPILLS.

(a) **FOUR-YEAR EXTENSION.**—Subsection (a)(1) of section 740 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Public Law 106-181; 114 Stat. 173; 10 U.S.C. 2576 note) is amended by striking “September 30, 2002” and inserting “September 30, 2006”.

(b) **ADDITIONAL REPORT.**—Subsection (f) of such section is amended by striking “March 31, 2002” and inserting “March 31, 2006”.

SEC. 1064. AMENDMENTS TO IMPACT AID PROGRAM.

(a) **ELIGIBILITY FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES AFFECTED BY PRIVATIZATION OF MILITARY HOUSING.**—Section 8003(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(2)) is amended by adding at the end the following:

“(H) **ELIGIBILITY FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES AFFECTED BY PRIVATIZATION OF MILITARY HOUSING.**—

“(i) **IN GENERAL.**—For any fiscal year beginning with fiscal year 2003, a heavily impacted local educational agency that received a basic support payment under subparagraph (A) for the prior fiscal year, but is ineligible for such payment for the current fiscal year under subparagraph (B) or (C), as the case may be, by reason of the conversion of military housing units to private housing described in clause (ii), shall be deemed to meet the eligibility requirements under subparagraph (B) or (C), as the case may be, for the period during which the housing units are undergoing such conversion, and shall be paid under the same provisions of subparagraph (D) or (E) as the agency was paid in the prior fiscal year.

“(ii) **CONVERSION OF MILITARY HOUSING UNITS TO PRIVATE HOUSING DESCRIBED.**—For purposes of clause (i), ‘conversion of military housing units to private housing’ means the conversion of military housing units to private housing units pursuant to subchapter IV of chapter 169 of title 10, United States Code, or pursuant to any other related provision of law.”.

(b) **COTERMINOUS MILITARY SCHOOL DISTRICTS.**—Section 8003(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)) is amended by adding at the end the following:

“(6) **COTERMINOUS MILITARY SCHOOL DISTRICTS.**—For purposes of computing the amount of a payment for a local educational agency for children described in paragraph (1)(D)(i), the Secretary shall consider such children to be children described in paragraph (1)(B) if the agency is a local educational agency whose boundaries are the same as a Federal military installation.”.

SEC. 1065. DISCLOSURE OF INFORMATION ON SHIPBOARD HAZARD AND DEFENSE PROJECT TO DEPARTMENT OF VETERANS AFFAIRS.

(a) **PLAN FOR DISCLOSURE OF INFORMATION.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress and the Secretary of Veterans Affairs a comprehensive

plan for the review, declassification, and submittal to the Department of Veterans Affairs of all medical records and information of the Department of Defense on the Shipboard Hazard and Defense (SHAD) project of the Navy that are relevant to the provision of benefits by the Secretary of Veterans Affairs to members of the Armed Forces who participated in that project.

(b) **PLAN REQUIREMENTS.**—(1) The records and information covered by the plan under subsection (a) shall be the records and information necessary to permit the identification of members of the Armed Forces who were or may have been exposed to chemical or biological agents as a result of the Shipboard Hazard and Defense project.

(2) The plan shall provide for completion of all activities contemplated by the plan not later than one year after the date of the enactment of this Act.

(c) **REPORTS ON IMPLEMENTATION.**—(1) Not later than 90 days after the date of the enactment of this Act, and every 90 days thereafter until completion of all activities contemplated by the plan under subsection (a), the Secretary of Defense shall submit to Congress and the Secretary of Veterans Affairs a report on progress in the implementation of the plan during the 90-day period ending on the date of such report.

(2) Each report under paragraph (1) shall include, for the period covered by such report—

- (A) the number of records reviewed;
- (B) each test, if any, under the Shipboard Hazard and Defense project identified during such review;
- (C) for each test so identified—
 - (i) the test name;
 - (ii) the test objective;
 - (iii) the chemical or biological agent or agents involved; and
 - (iv) the number of members of the Armed Forces, and civilian personnel, potentially effected by such test; and
- (D) the extent of submittal of records and information to the Secretary of Veterans Affairs under this section.

SEC. 1066. TRANSFER OF HISTORIC DF-9E PANTHER AIRCRAFT TO WOMEN AIRFORCE SERVICE PILOTS MUSEUM.

(a) **AUTHORITY TO CONVEY.**—The Secretary of the Navy may convey, without consideration, to the Women Airforce Service Pilots Museum in Quartzsite, Arizona (in this section referred to as the “W.A.S.P. museum”), all right, title, and interest of the United States in and to a DF-9E Panther aircraft (Bureau Number 125316). The conveyance shall be made by means of a conditional deed of gift.

(b) **CONDITION OF AIRCRAFT.**—The aircraft shall be conveyed under subsection (a) in “as is” condition. The Secretary is not required to repair or alter the condition of the aircraft before conveying ownership of the aircraft.

(c) **REVERTER UPON BREACH OF CONDITIONS.**—The Secretary shall include in the instrument of conveyance of the aircraft under subsection (a)—

(1) a condition that the W.A.S.P. museum not convey any ownership interest in, or transfer possession of, the aircraft to any other party without the prior approval of the Secretary; and

(2) a condition that if the Secretary determines at any time that the W.A.S.P. museum has conveyed an ownership interest in, or transferred possession of, the aircraft to any other party without the prior approval of the Secretary, all right, title, and interest in and to the aircraft, including any repair

or alteration of the aircraft, shall revert to the United States, and the United States shall have the right of immediate possession of the aircraft.

(d) **CONVEYANCE AT NO COST TO THE UNITED STATES.**—The conveyance of the aircraft under subsection (a) shall be made at no cost to the United States. Any costs associated with the conveyance, costs of determining compliance with subsection (b), and costs of operation and maintenance of the aircraft conveyed shall be borne by the W.A.S.P. museum.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with a conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 1067. REWARDS FOR ASSISTANCE IN COMBATING TERRORISM.

(a) **AUTHORITY.**—Chapter 3 of title 10, United States Code, is amended by inserting after section 127a the following new section:

“§ 127b. Rewards for assistance in combating terrorism

“(a) **AUTHORITY.**—The Secretary of Defense may pay a monetary reward to a person for providing United States personnel with information or nonlethal assistance that is beneficial to—

“(1) an operation of the armed forces conducted outside the United States against international terrorism; or

“(2) force protection of the armed forces.

“(b) **MAXIMUM AMOUNT.**—The amount of a reward paid to a recipient under this section may not exceed \$200,000.

“(c) **DELEGATION TO COMMANDER OF COMBATANT COMMAND.**—(1) The Secretary of Defense may delegate to the commander of a combatant command authority to pay a reward under this section in an amount not in excess of \$50,000.

“(2) A commander to whom authority to pay rewards is delegated under paragraph (1) may further delegate authority to pay a reward under this section in an amount not in excess of \$2,500.

“(c) **COORDINATION.**—(1) The Secretary of Defense, in consultation with the Secretary of State and the Attorney General, shall prescribe policies and procedures for offering and paying rewards under this section, and otherwise for administering the authority under this section, that ensure that the payment of a reward under this section does not duplicate or interfere with the payment of a reward authorized by the Secretary of State or the Attorney General.

“(2) The Secretary of Defense shall coordinate with the Secretary of State regarding any payment of a reward in excess of \$100,000 under this section.

“(d) **PERSONS NOT ELIGIBLE.**—The following persons are not eligible to receive an award under this section:

“(1) A citizen of the United States.

“(2) An employee of the United States.

“(3) An employee of a contractor of the United States.

“(e) **ANNUAL REPORT.**—(1) Not later than 60 days after the end of each fiscal year, the Secretary of Defense shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives a report on the administration of the rewards program during that fiscal year.

“(2) The report for a fiscal year shall include information on the total amount expended during that fiscal year to carry out this section, including—

“(A) a specification of the amount, if any, expended to publicize the availability of rewards; and

“(B) with respect to each award paid during that fiscal year—

- “(i) the amount of the reward;
- “(ii) the recipient of the reward; and
- “(iii) a description of the information or assistance for which the reward was paid, together with an assessment of the significance of the information or assistance.

“(3) The Secretary may submit the report in classified form if the Secretary determines that it is necessary to do so.

“(f) DETERMINATIONS BY THE SECRETARY.—A determination by the Secretary under this section shall be final and conclusive and shall not be subject to judicial review.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 127a the following new item:

“127b. Rewards for assistance in combating terrorism.”.

SEC. 1068. PROVISION OF SPACE AND SERVICES TO MILITARY WELFARE SOCIETIES.

(a) AUTHORITY TO PROVIDE SPACE AND SERVICES.—Chapter 152 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 2566. Space and services: provision to military welfare societies

“(a) AUTHORITY TO PROVIDE SPACE AND SERVICES.—The Secretary of a military department may provide, without charge, space and services under the jurisdiction of that Secretary to a military welfare society.

“(b) DEFINITIONS.—In this section:

“(1) The term ‘military welfare society’ means the following:

“(A) The Army Emergency Relief Society.

“(B) The Navy-Marine Corps Relief Society.

“(C) The Air Force Aid Society, Inc.

“(2) The term ‘services’ includes lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone and other information technology services (including installation of lines and equipment, connectivity, and other associated services), and security systems (including installation and other associated expenses).”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2566. Space and services: provision to military welfare societies.”.

SEC. 1069. COMMENDATION OF MILITARY CHAPLAINS.

(a) FINDINGS.—Congress finds the following:

(1) Military chaplains have served with those who fought for the cause of freedom since the founding of the Nation.

(2) Military chaplains and religious support personnel of the Armed Forces have served with distinction as uniformed members of the Armed Forces in support of the Nation’s defense missions during every conflict in the history of the United States.

(3) 400 United States military chaplains have died in combat, some as a result of direct fire while ministering to fallen Americans, while others made the ultimate sacrifice as a prisoner of war.

(4) Military chaplains currently serve in humanitarian operations, rotational deployments, and in the war on terrorism.

(5) Religious organizations make up the very fabric of religious diversity and represent unparalleled levels of freedom of conscience, speech, and worship that set the United States apart from any other nation on Earth.

(6) Religious organizations have richly blessed the uniformed services by sending

clergy to comfort and encourage all persons of faith in the Armed Forces.

(7) During the sinking of the USS *Dorchester* in February 1943 during World War II, four chaplains (Reverend Fox, Reverend Poling, Father Washington, and Rabbi Goode) gave their lives so that others might live.

(8) All military chaplains aid and assist members of the Armed Forces and their family members with the challenging issues of today’s world.

(9) The current war against terrorism has brought to the shores of the United States new threats and concerns that strike at the beliefs and emotions of Americans.

(10) Military chaplains must, as never before, deal with the spiritual well-being of the members of the Armed Forces and their families.

(b) COMMENDATION.—Congress, on behalf of the Nation, expresses its appreciation for the outstanding contribution that all military chaplains make to the members of the Armed Forces and their families.

(c) PRESIDENTIAL PROCLAMATION.—The President is authorized and requested to issue a proclamation calling on the people of the United States to recognize the distinguished service of the Nation’s military chaplains.

SEC. 1070. GRANT OF FEDERAL CHARTER TO KOREAN WAR VETERANS ASSOCIATION, INCORPORATED.

(a) GRANT OF CHARTER.—Part B of subtitle II of title 36, United States Code, is amended—

(1) by striking the following:

“CHAPTER 1201—[RESERVED]”; and

(2) by inserting the following:

“CHAPTER 1201—KOREAN WAR VETERANS ASSOCIATION, INCORPORATED

“Sec.

“120101. Organization.

“120102. Purposes.

“120103. Membership.

“120104. Governing body.

“120105. Powers.

“120106. Restrictions.

“120107. Duty to maintain corporate and tax-exempt status.

“120108. Records and inspection.

“120109. Service of process.

“120110. Liability for acts of officers and agents.

“120111. Annual report.

“§ 120101. Organization

“(a) FEDERAL CHARTER.—Korean War Veterans Association, Incorporated (in this chapter, the ‘corporation’), incorporated in the State of New York, is a federally chartered corporation.

“(b) EXPIRATION OF CHARTER.—If the corporation does not comply with the provisions of this chapter, the charter granted by subsection (a) expires.

“§ 120102. Purposes

“The purposes of the corporation are as provided in its articles of incorporation and include—

“(1) organizing, promoting, and maintaining for benevolent and charitable purposes an association of persons who have seen honorable service in the Armed Forces during the Korean War, and of certain other persons;

“(2) providing a means of contact and communication among members of the corporation;

“(3) promoting the establishment of, and establishing, war and other memorials commemorative of persons who served in the Armed Forces during the Korean War; and

“(4) aiding needy members of the corporation, their wives and children, and the widows and children of persons who were members of the corporation at the time of their death.

“§ 120103. Membership

“Eligibility for membership in the corporation, and the rights and privileges of members of the corporation, are as provided in the bylaws of the corporation.

“§ 120104. Governing body

“(a) BOARD OF DIRECTORS.—The board of directors of the corporation, and the responsibilities of the board of directors, are as provided in the articles of incorporation of the corporation.

“(b) OFFICERS.—The officers of the corporation, and the election of the officers of the corporation, are as provided in the articles of incorporation.

“§ 120105. Powers

“The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

“§ 120106. Restrictions

“(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

“(b) POLITICAL ACTIVITIES.—The corporation, or a director or officer of the corporation as such, may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

“(c) LOAN.—The corporation may not make a loan to a director, officer, or employee of the corporation.

“(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval, or the authority of the United States, for any of its activities.

“§ 120107. Duty to maintain corporate and tax-exempt status

“(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of the State of New York.

“(b) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

“§ 120108. Records and inspection

“(a) RECORDS.—The corporation shall keep—

“(1) correct and complete records of account;

“(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

“(3) at its principal office, a record of the names and addresses of its members entitled to vote on matters relating to the corporation.

“(b) INSPECTION.—A member entitled to vote on matters relating to the corporation, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

“§ 120109. Service of process

“The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent is notice to or service on the Corporation.

“§ 120110. Liability for acts of officers and agents

“The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

§ 120111. Annual report

"The corporation shall submit an annual report to Congress on the activities of the corporation during the preceding fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document."

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of title 36, United States Code, is amended by striking the item relating to chapter 1201 and inserting the following new item:

"1201. Korean War Veterans Association, Incorporated120101".

**TITLE XI—DEPARTMENT OF DEFENSE
CIVILIAN PERSONNEL POLICY**

SEC. 1101. EXTENSION OF AUTHORITY TO PAY SEVERANCE PAY IN A LUMP SUM.

Section 5595(i)(4) of title 5, United States Code, is amended by striking "October 1, 2003" and inserting "October 1, 2006".

SEC. 1102. EXTENSION OF VOLUNTARY SEPARATION INCENTIVE PAY AUTHORITY.

Section 5597(e) of title 5, United States Code, is amended by striking "September 30, 2003" and inserting "September 30, 2006".

SEC. 1103. EXTENSION OF COST-SHARING AUTHORITY FOR CONTINUED FEHBP COVERAGE OF CERTAIN PERSONS AFTER SEPARATION FROM EMPLOYMENT.

Section 8905a(d)(4)(B) of title 5, United States Code, is amended—

(1) by striking "October 1, 2003" both places it appears and inserting "October 1, 2006"; and

(2) by striking "February 1, 2004" in clause (ii) and inserting "February 1, 2007".

SEC. 1104. ELIGIBILITY OF NONAPPROPRIATED FUNDS EMPLOYEES TO PARTICIPATE IN THE FEDERAL EMPLOYEES LONG-TERM CARE INSURANCE PROGRAM.

Section 9001(1) of title 5, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the comma at the end of subparagraph (C) and inserting "; and"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) an employee paid from non-appropriated funds referred to in section 2105(c) of this title";

SEC. 1105. INCREASED MAXIMUM PERIOD OF APPOINTMENT UNDER THE EXPERIMENTAL PERSONNEL PROGRAM FOR SCIENTIFIC AND TECHNICAL PERSONNEL.

Section 1101(c)(1) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2140; 5 U.S.C. 3104 note) is amended by striking "4 years" and inserting "5 years".

SEC. 1106. QUALIFICATION REQUIREMENTS FOR EMPLOYMENT IN DEPARTMENT OF DEFENSE PROFESSIONAL ACCOUNTING POSITIONS.

(a) PROFESSIONAL CERTIFICATION.—The Secretary of Defense may prescribe regulations that require a person employed in a professional accounting position within the Department of Defense to be a certified public accountant and that apply the requirement to all such positions or to selected positions, as the Secretary considers appropriate.

(b) WAIVERS AND EXEMPTIONS.—(1) The Secretary may include in the regulations imposing a requirement under subsection (a), as the Secretary considers appropriate—

(A) any exemption from the requirement; and

(B) authority to waive the requirement.

(2) The Secretary shall include in the regulations an exemption for persons employed in positions covered by the requirement before the date of the enactment of this Act.

(c) EXCLUSIVE AUTHORITY.—No requirement imposed under subsection (a), and no waiver or exemption provided in the regulations pursuant to subsection (b), shall be subject to review or approval by the Office of Personnel Management.

(d) DEFINITION.—For the purposes of this section, the term "professional accounting position" means a position in the GS-510, GS-511, or GS-505 series for which professional accounting duties are prescribed.

(e) EFFECTIVE DATE.—This section shall take effect 120 days after the date of the enactment of this Act.

SEC. 1107. HOUSING BENEFITS FOR UNACCOMPANIED TEACHERS REQUIRED TO LIVE AT GUANTANAMO BAY NAVAL STATION, CUBA.

Section 7(b) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 905(b)) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraph:

"(2)(A) A teacher assigned to teach at Guantanamo Bay Naval Station, Cuba, who is not accompanied at such station by any dependent—

"(i) shall be offered for lease any available military family housing at such station that is suitable for occupancy by the teacher and is not needed to house members of the armed forces and dependents accompanying them or other civilian personnel and any dependents accompanying them; and

"(ii) for any period for which such housing is leased to the teacher, shall receive a quarters allowance in the amount determined under paragraph (1).

"(B) A teacher is entitled to the quarters allowance in accordance with subparagraph (A)(ii) without regard to whether other Government furnished quarters are available for occupancy by the teacher without charge to the teacher."

TITLE XII—MATTERS RELATING TO OTHER NATIONS

Subtitle A—Cooperative Threat Reduction With States of the Former Soviet Union

SEC. 1201. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) FISCAL YEAR 2003 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 2003 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

SEC. 1202. FUNDING ALLOCATIONS.

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the \$416,700,000 authorized to be appropriated to the Department of Defense for fiscal year 2003 in section 301(a)(23) for Cooperative Threat Reduction programs, not more than the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, \$70,500,000.

(2) For strategic nuclear arms elimination in Ukraine, \$6,500,000.

(3) For weapons of mass destruction infrastructure elimination in Ukraine, \$8,800,000.

(4) For weapons of mass destruction infrastructure elimination in Kazakhstan, \$9,000,000.

(5) For weapons transportation security in Russia, \$19,700,000.

(6) For weapons storage security in Russia, \$40,000,000.

(7) For weapons of mass destruction proliferation prevention in the former Soviet Union, \$40,000,000.

(8) For biological weapons proliferation prevention activities in the former Soviet Union, \$55,000,000.

(9) For chemical weapons destruction in Russia, \$133,600,000.

(10) For activities designated as Other Assessments/Administrative Support, \$14,700,000.

(11) For defense and military contacts, \$18,900,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2003 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (11) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2003 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) Subject to paragraph (2), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2003 for a purpose listed in any of the paragraphs in subsection (a) in excess of the amount specifically authorized for such purpose.

(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

SEC. 1203. AUTHORIZATION OF USE OF COOPERATIVE THREAT REDUCTION FUNDS FOR PROJECTS AND ACTIVITIES OUTSIDE THE FORMER SOVIET UNION.

(a) COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.—For purposes of this section:

(1) Cooperative Threat Reduction programs are—

(A) the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2731; 50 U.S.C. 2362 note); and

(B) any other similar programs, as designated by the Secretary of Defense, to address critical emerging proliferation threats in the states of the former Soviet Union that jeopardize United States national security.

(2) Cooperative Threat Reduction funds, for a fiscal year, are the funds authorized to be

appropriated for Cooperative Threat Reduction programs for that fiscal year.

(b) **AUTHORIZATION OF USE OF CTR FUNDS FOR THREAT REDUCTION ACTIVITIES OUTSIDE THE FORMER SOVIET UNION.**—(1) Notwithstanding any other provision of law and subject to the succeeding provisions of this section, the Secretary of Defense may obligate and expend Cooperative Threat Reduction funds for fiscal year 2003, or Cooperative Threat Reduction funds for a fiscal year before fiscal year 2003 that remain available for obligation as of the date of the enactment of this Act, for proliferation threat reduction projects and activities outside the states of the former Soviet Union if the Secretary determines that such projects and activities will—

(A) assist the United States in the resolution of critical emerging proliferation threats; or

(B) permit the United States to take advantage of opportunities to achieve long-standing United States nonproliferation goals.

(2) The amount that may be obligated under paragraph (1) in any fiscal year for projects and activities described in that paragraph may not exceed \$50,000,000.

(c) **AUTHORIZED USES OF FUNDS.**—The authority under subsection (b) to obligate and expend Cooperative Threat Reduction funds for a project or activity includes authority to provide equipment, goods, and services for the project or activity, but does not include authority to provide cash directly to the project or activity.

(d) **SOURCE AND REPLACEMENT OF FUNDS USED.**—(1) The Secretary shall, to the maximum extent practicable, ensure that funds for projects and activities under subsection (b) are derived from funds that would otherwise be obligated for a range of Cooperative Threat Reduction programs, so that no particular Cooperative Threat Reduction program is the exclusive or predominant source of funds for such projects and activities.

(2) If the Secretary obligates Cooperative Threat Reduction funds under subsection (b) in a fiscal year, the first budget of the President that is submitted under section 1105(a) of title 31, United States Code, after such fiscal year shall set forth, in addition to any other amounts requested for Cooperative Threat Reduction programs in the fiscal year covered by such budget, a request for Cooperative Threat Reduction funds in the fiscal year covered by such budget in an amount equal to the amount so obligated. The request shall also set forth the Cooperative Threat Reduction program or programs for which such funds would otherwise have been obligated, but for obligation under subsection (b).

(3) Amounts authorized to be appropriated pursuant to a request under paragraph (2) shall be available for the Cooperative Threat Reduction program or programs set forth in the request under the second sentence of that paragraph.

(e) **LIMITATION ON OBLIGATION OF FUNDS.**—Except as provided in subsection (f), the Secretary may not obligate and expend Cooperative Threat Reduction funds for a project or activity under subsection (b) until 30 days after the date on which the Secretary submits to the congressional defense committees a report on the purpose for which the funds will be obligated and expended, and the amount of the funds to be obligated and expended.

(f) **EXCEPTION.**—(1) The Secretary may obligate and expend Cooperative Threat Reduction funds for a project or activity under

subsection (b) without regard to subsection (e) if the Secretary determines that a critical emerging proliferation threat warrants immediate obligation and expenditure of such funds.

(2) Not later than 72 hours after first obligating funds for a project or activity under paragraph (1), the Secretary shall submit to the congressional defense committees a report containing a detailed justification for the obligation of funds. The report on a project or activity shall include the following:

(A) A description of the critical emerging proliferation threat to be addressed, or the long-standing United States nonproliferation goal to be achieved, by the project or activity.

(B) A description of the agreement, if any, under which the funds will be used, including whether or not the agreement provides that the funds will not be used for purposes contrary to the national security interests of the United States.

(C) A description of the contracting process, if any, that will be used in the implementation of the project or activity.

(D) An analysis of the effect of the obligation of funds for the project or activity on ongoing Cooperative Threat Reduction programs.

(E) An analysis of the need for additional or follow-up threat reduction assistance, including whether or not the need for such assistance justifies the establishment of a new cooperative threat reduction program or programs to account for such assistance.

(F) A description of the mechanisms to be used by the Secretary to assure that proper audits and examinations of the project or activity are carried out.

(g) **REPORT ON ESTABLISHMENT OF NEW COOPERATIVE THREAT REDUCTION PROGRAMS.**—(1) If the Secretary employs the authority in subsection (b) in any two fiscal years, the Secretary shall submit to Congress a report on the advisability of establishing one or more new cooperative threat reduction programs to account for projects and activities funded using such authority.

(2) The report required by paragraph (1) shall be submitted along with the budget justification materials in support of the Department of Defense budget (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) in the first budget submitted after the end of the two consecutive fiscal years referred to in that paragraph.

SEC. 1204. WAIVER OF LIMITATIONS ON ASSISTANCE UNDER PROGRAMS TO FACILITATE COOPERATIVE THREAT REDUCTION AND NONPROLIFERATION.

(a) **ASSISTANCE UNDER COOPERATIVE THREAT REDUCTION ACT OF 1993.**—Section 1203 of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160; 107 Stat. 1778; 22 U.S.C. 5952) is amended by adding at the end the following new subsection:

“(e) **WAIVER OF RESTRICTIONS.**—(1) The restrictions in subsection (d) shall cease to apply to a state for a year if the President submits to the Speaker of the House of Representatives and the President pro tempore of the Senate a written certification that the waiver of such restrictions in such year is important to the national security interests of the United States, together with a report containing the following:

“(A) A description of the activity or activities that prevent the President from certifying that the state is committed to the matters set forth in subsection (d) in such year as otherwise provided for in that subsection.

“(B) A description of the strategy, plan, or policy of the President for promoting the commitment of the state to such matters, notwithstanding the waiver.

“(2) The matter included in the report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.”

(b) **ADMINISTRATION OF RESTRICTIONS ON ASSISTANCE.**—Subsection (d) of that section is amended—

(1) by striking “any year” and inserting “any fiscal year”; and

(2) by striking “that year” and inserting “such fiscal year”.

(c) **ELIGIBILITY REQUIREMENTS UNDER FREEDOM SUPPORT ACT.**—Section 502 of the FREEDOM Support Act (Public Law 102-511; 106 Stat. 3338; 22 U.S.C. 5852) is amended—

(1) by striking “Funds” and inserting “(a) ELIGIBILITY.—Except as provided in subsection (b), funds”; and

(2) by adding at the end the following new subsection:

“(b) **WAIVER OF ELIGIBILITY REQUIREMENTS.**—(1) Funds may be obligated for a fiscal year under subsection (a) for assistance or other programs and activities for an independent state of the former Soviet Union that does not meet one or more of the requirements for eligibility under paragraphs (1) through (4) of that subsection if the President certifies in writing to the Congress that the waiver of such requirements in such fiscal year is important to the national security interests of the United States.

“(2) At the time of the exercise of the authority in paragraph (1) with respect to an independent state of the former Soviet Union for a fiscal year, the President shall submit to the congressional defense committees a report on the following:

“(A) A description of the activity or activities that prevent the President from certifying that the state is committed to each matter in subsection (a) in such fiscal year to which the waiver under paragraph (1) applies.

“(B) A description of the strategy, plan, or policy of the President for promoting the commitment of the state to each such matter, notwithstanding the waiver.

“(3) In this subsection, the term ‘congressional defense committees’ means—

“(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

“(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.”

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on October 1, 2002.

SEC. 1205. RUSSIAN TACTICAL NUCLEAR WEAPONS.

(a) **FINDINGS.**—The Congress makes the following findings:

(1) Al Qaeda and other terrorist organizations, in addition to rogue states, are known to be working to acquire weapons of mass destruction, and particularly nuclear warheads.

(2) The largest and least secure potential source of nuclear warheads for terrorists or rogue states is Russia’s arsenal of nonstrategic or “tactical” nuclear warheads, which according to unclassified estimates numbers from 7,000 to 12,000 warheads. Security at Russian nuclear weapon storage sites is insufficient, and tactical nuclear warheads are more vulnerable to terrorist or rogue state acquisition due to their smaller size, greater portability, and greater numbers compared to Russian strategic nuclear weapons.

(3) Russia's tactical nuclear warheads were not covered by the START treaties or the recent Moscow Treaty. Russia is not legally bound to reduce its tactical nuclear stockpile and the United States has no inspection rights regarding Russia's tactical nuclear arsenal.

(b) SENSE OF THE SENATE.—(1) One of the most likely nuclear weapon attack scenarios against the United States would involve detonation of a stolen Russian tactical nuclear warhead smuggled into the country.

(2) It is a top national security priority of the United States to accelerate efforts to account for, secure, and reduce Russia's stockpile of tactical nuclear warheads and associated fissile material.

(3) This imminent threat warrants a special nonproliferation initiative.

(c) REPORT.—Not later than 30 days after enactment of this Act, the President shall report to Congress on efforts to reduce the particular threats associated with Russia's tactical nuclear arsenal and the outlines of a special initiative related to reducing the threat from Russia's tactical nuclear stockpile.

Subtitle B—Other Matters

SEC. 1211. ADMINISTRATIVE SUPPORT AND SERVICES FOR COALITION LIAISON OFFICERS.

(a) AUTHORITY.—Chapter 6 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 169. Administrative support and services for coalition liaison officers

“(a) AUTHORITY.—The Secretary of Defense may provide administrative services and support for the performance of duties by any liaison officer of another nation involved in a coalition while the liaison officer is assigned temporarily to the headquarters of a combatant command, component command, or subordinate operational command of the United States in connection with the planning for or conduct of a coalition operation.

“(b) TRAVEL, SUBSISTENCE, AND OTHER EXPENSES.—The Secretary may pay the travel, subsistence, and similar personal expenses of a liaison officer of a developing country in connection with the assignment of that liaison officer to the headquarters of a combatant command as described in subsection (a) if the assignment is requested by the commander of the combatant command.

“(c) REIMBURSEMENT.—To the extent that the Secretary determines appropriate, the Secretary may provide the services and support authorized under subsections (a) and (b) with or without reimbursement from (or on behalf of) the recipients.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘administrative services and support’ includes base or installation support services, office space, utilities, copying services, fire and police protection, and computer support.

“(2) The term ‘coalition’ means an ad hoc arrangement between or among the United States and one or more other nations for common action.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter 6 is amended by adding at the end the following new item:

“169. Administrative support and services for coalition liaison officers.”

SEC. 1212. USE OF WARSAW INITIATIVE FUNDS FOR TRAVEL OF OFFICIALS FROM PARTNER COUNTRIES.

Section 1051(b) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking “paragraph (2)” and inserting “paragraphs (2) and (3)”;

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following new paragraph (3):

“(3) In the case of defense personnel of a country that is participating in the Partnership for Peace program of the North Atlantic Treaty Organization (NATO), expenses authorized to be paid under subsection (a) may be paid in connection with travel of personnel to the territory of any of the countries participating in the Partnership for Peace program or of any of the NATO member countries.”

SEC. 1213. SUPPORT OF UNITED NATIONS-SPONSORED EFFORTS TO INSPECT AND MONITOR IRAQI WEAPONS ACTIVITIES.

(a) LIMITATION ON AMOUNT OF ASSISTANCE IN FISCAL YEAR 2003.—The total amount of the assistance for fiscal year 2003 that is provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) as activities of the Department of Defense in support of activities under that Act may not exceed \$15,000,000.

(b) EXTENSION OF AUTHORITY TO PROVIDE ASSISTANCE.—Subsection (f) of section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) is amended by striking “2002” and inserting “2003”.

SEC. 1214. ARCTIC AND WESTERN PACIFIC ENVIRONMENTAL COOPERATION PROGRAM.

(a) IN GENERAL.—(1) Subchapter II of chapter 138 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 2350m. Arctic and Western Pacific Environmental Cooperation Program

“(a) AUTHORITY TO CONDUCT PROGRAM.—The Secretary of Defense may, with the concurrence of the Secretary of State, conduct on a cooperative basis with countries located in the Arctic and Western Pacific regions a program of environmental activities provided for in subsection (b) in such regions. The program shall be known as the ‘Arctic and Western Pacific Environmental Cooperation Program’.

“(b) PROGRAM ACTIVITIES.—(1) Except as provided in paragraph (2), activities under the program under subsection (a) may include cooperation and assistance on environmental matters in the Arctic and Western Pacific regions among elements of the Department of Defense and the military departments or agencies of countries located in such regions.

“(2) Activities under the program may not include activities relating to the following:

“(A) The conduct of any peacekeeping exercise or other peacekeeping-related activity with the Russian Federation.

“(B) The provision of housing.

“(C) The provision of assistance to promote environmental restoration.

“(D) The provision of assistance to promote job retraining.

“(c) LIMITATION ON FUNDING FOR PROJECTS OTHER THAN RADIOLOGICAL PROJECTS.—Not more than 20 percent of the amount made available for the program under subsection (a) in any fiscal year may be available for projects under the program other than projects on radiological matters.

“(d) ANNUAL REPORT.—(1) Not later than March 1, 2003, and each year thereafter, the Secretary of Defense shall submit to Congress a report on activities under the program under subsection (a) during the preceding fiscal year.

“(2) The report on the program for a fiscal year under paragraph (1) shall include the following:

“(A) A description of the activities carried out under the program during that fiscal year, including a separate description of each project under the program.

“(B) A statement of the amounts obligated and expended for the program during that fiscal year, set forth in aggregate and by project.

“(C) A statement of the life cycle costs of each project, including the life cycle costs of such project as of the end of that fiscal year and an estimate of the total life cycle costs of such project upon completion of such project.

“(D) A statement of the participants in the activities carried out under the program during that fiscal year, including the elements of the Department of Defense and the military departments or agencies of other countries.

“(E) A description of the contributions of the military departments and agencies of other countries to the activities carried out under the program during that fiscal year, including any financial or other contributions to such activities.”

(2) The table of sections at the beginning of that subchapter is amended by adding at the end the following new item:

“2350m. Arctic and Western Pacific Environmental Cooperation Program.”

(b) REPEAL OF SUPERSEDED AUTHORITY ON ARCTIC MILITARY COOPERATION PROGRAM.—Section 327 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 1965) is repealed.

SEC. 1215. DEPARTMENT OF DEFENSE HIV/AIDS PREVENTION ASSISTANCE PROGRAM.

(a) EXPANSION OF PROGRAM.—The Secretary of Defense is authorized to expand, in accordance with this section, the Department of Defense program of HIV/AIDS prevention educational activities undertaken in connection with the conduct of United States military training, exercises, and humanitarian assistance in sub-Saharan African countries.

(b) ELIGIBLE COUNTRIES.—The Secretary may carry out the program in all eligible countries. A country shall be eligible for activities under the program if the country—

(1) is a country suffering a public health crisis (as defined in subsection (e)); and

(2) participates in the military-to-military contacts program of the Department of Defense.

(c) PROGRAM ACTIVITIES.—The Secretary shall provide for the activities under the program—

(1) to focus, to the extent possible, on military units that participate in peace keeping operations; and

(2) to include HIV/AIDS-related voluntary counseling and testing and HIV/AIDS-related surveillance.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Of the amount authorized to be appropriated by section 301(a)(22) to the Department of Defense for operation and maintenance of the Defense Health Program, \$30,000,000 may be available for carrying out the program described in subsection (a) as expanded pursuant to this section.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(e) COUNTRY SUFFERING A PUBLIC HEALTH CRISIS DEFINED.—In this section, the term “country suffering a public health crisis” means a country that has rapidly rising rates of incidence of HIV/AIDS or in which HIV/AIDS is causing significant family, community, or societal disruption.

SEC. 1216. MONITORING IMPLEMENTATION OF THE 1979 UNITED STATES-CHINA AGREEMENT ON COOPERATION IN SCIENCE AND TECHNOLOGY.

(a) **RESPONSIBILITIES OF THE OFFICE OF SCIENCE AND TECHNOLOGY COOPERATION.**—The Office of Science and Technology Cooperation of the Department of State shall monitor the implementation of the 1979 United States-China Agreement on Cooperation in Science and Technology and its protocols (in this section referred to as the “Agreement”), and keep a systematic account of the protocols thereto. The Office shall coordinate the activities of all agencies of the United States Government that carry out cooperative activities under the Agreement.

(b) **GUIDELINES.**—The Secretary of State shall ensure that all activities conducted under the Agreement and its protocols comply with applicable laws and regulations concerning the transfer of militarily sensitive and dual-use technologies.

(c) **REPORTING REQUIREMENT.**—

(1) **IN GENERAL.**—Not later than April 1, 2004, and every two years thereafter, the Secretary of State, shall submit a report to Congress, in both classified and unclassified form, on the implementation of the Agreement and activities thereunder.

(2) **REPORT ELEMENTS.**—Each report under this subsection shall provide an evaluation of the benefits of the Agreement to the Chinese economy, military, and defense industrial base and shall include the following:

(A) An accounting of all activities conducted under the Agreement since the previous report, and a projection of activities to be undertaken in the next two years.

(B) An estimate of the costs to the United States to administer the Agreement within the period covered by the report.

(C) An assessment of how the Agreement has influenced the policies of the People’s Republic of China toward scientific and technological cooperation with the United States.

(D) An analysis of the involvement of Chinese nuclear weapons and military missile specialists in the activities of the Joint Commission.

(E) A determination of the extent to which the activities conducted under the Agreement have enhanced the military and industrial base of the People’s Republic of China, and an assessment of the impact of projected activities for the next two years, including transfers of technology, on China’s economic and military capabilities.

(F) Any recommendations on improving the monitoring of the activities of the Commission by the Secretaries of Defense and State.

(3) **CONSULTATION PRIOR TO SUBMISSION OF REPORTS.**—The Secretary of State shall prepare the report in consultation with the Secretaries of Commerce, Defense, and Energy, the Directors of the National Science Foundation and the Federal Bureau of Investigation, and the intelligence community.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS**SEC. 2001. SHORT TITLE.**

This division may be cited as the “Military Construction Authorization Act for Fiscal Year 2003”.

TITLE XXI—ARMY**SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) **INSIDE THE UNITED STATES.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Alabama	Anniston Army Depot	\$1,900,000
	Fort Rucker	\$6,550,000
Alaska	Fort Richardson	\$15,000,000
	Fort Wainwright	\$111,010,000
Arkansas	Pine Bluff Arsenal	\$18,937,000
Colorado	Fort Carson	\$1,100,000
District of Columbia	Walter Reed Army Medical Center	\$17,500,000
Georgia	Fort Benning	\$74,250,000
	Fort Stewart/Hunter Army Air Field	\$26,000,000
Hawaii	Schofield Barracks	\$191,000,000
Kansas	Fort Leavenworth	\$3,150,000
	Fort Riley	\$74,000,000
Kentucky	Blue Grass Army Depot	\$5,500,000
	Fort Campbell	\$99,000,000
	Fort Knox	\$6,800,000
Louisiana	Fort Polk	\$31,000,000
Maryland	Fort Detrick	\$19,700,000
Missouri	Fort Leonard Wood	\$15,500,000
New York	Fort Drum	\$1,500,000
North Carolina	Fort Bragg	\$85,500,000
Oklahoma	Fort Sill	\$35,000,000
Pennsylvania	Letterkenny Army Depot	\$1,550,000
Texas	Fort Hood	\$69,000,000
Washington	Fort Lewis	\$53,000,000
	Total	\$964,697,000

(b) **OUTSIDE THE UNITED STATES.**—Using amounts appropriated pursuant to the authorization of appropriations in section

2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations

and locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	Installation or location	Amount
Belgium	Chievres Air Base	\$13,600,000
Germany	Area Support Group, Bamberg	\$17,200,000
	Darmstadt	\$3,500,000
	Grafenwoehr	\$69,866,000
	Heidelberg	\$8,300,000
	Landstuhl	\$2,400,000
	Mannheim	\$43,350,000
	Schweinfurt	\$2,000,000
Italy	Vicenza	\$34,700,000
Korea	Camp Carroll	\$20,000,000
	Camp Castle	\$6,800,000
	Camp Hovey	\$25,000,000
	Camp Humphreys	\$36,000,000
	Camp Tango	\$12,600,000

Army: Outside the United States—Continued

Country	Installation or location	Amount
Qatar	Camp Henry	\$10,200,000
	K16 Airfield	\$40,000,000
	Qatar	\$8,600,000
	Total	\$354,116,000

(c) UNSPECIFIED WORLDWIDE.—Using the amounts appropriated pursuant to the authorization of appropriations in section

2104(a)(3), the Secretary of the Army may acquire real property and carry out military construction projects for the installation

and location, and in the amount, set forth in the following table:

Army: Unspecified Worldwide

Location	Installation	Amount
Unspecified Worldwide	Unspecified Worldwide	\$4,000,000

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section

2104(a)(6)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition and supporting

facilities) at the installations, for the purposes, and in the amounts set forth in the following table:

Army: Family Housing

State or Country	Installation or location	Purpose	Amount
Alaska	Fort Wainwright	38 Units	\$17,752,000
Arizona	Yuma Proving Ground	33 Units	\$6,100,000
Germany	Stuttgart	1 Units	\$990,000
Korea	Yongsan	10 Units	\$3,100,000
	Total:		\$27,942,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed \$15,653,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed \$239,751,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2002, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of \$3,007,345,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), \$758,497,000.

(2) For military construction projects outside the United States authorized by section 2101(b), \$354,116,000.

(3) For military construction projects at unspecified worldwide locations authorized by section 2101(c), \$4,000,000.

(4) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, \$20,500,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$148,864,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design and improvement of military family housing and facilities, \$283,346,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), \$1,122,274,000.

(7) For the construction of phase 4 of an ammunition demilitarization facility at Pueblo Chemical Activity, Colorado, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104-201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106-65; 113 Stat. 839) and section 2108 of this Act, \$38,000,000.

(8) For the construction of phase 5 of an ammunition demilitarization facility at Newport Army Depot, Indiana, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105-261; 112 Stat. 2193), \$61,494,000.

(9) For the construction of phase 5 of an ammunition demilitarization facility at Aberdeen Proving Ground, Maryland, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1999, as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1299), \$30,600,000.

(10) For the construction of phase 3 of an ammunition demilitarization facility at Blue Grass Army Depot, Kentucky, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (113 Stat. 835), as amended by section 2405 of the Military Construction Authorization Act for Fiscal Year 2002 (115 Stat. 1298) and section 2106 of this Act, \$10,300,000.

(11) For the construction of phase 3 of an ammunition demilitarization support facility at Blue Grass Army Depot, Kentucky, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000, \$8,300,000.

(12) For the construction of phase 2 of Saddle Access Road, Pohakoula Training Facility, Hawaii, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as enacted into law by Public Law 106-398; 114 Stat. 1654A-389), \$13,000,000.

(13) For the construction of phase 3 of a barracks complex, Butner Road, at Fort Bragg, North Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2001, \$50,000,000.

(14) For the construction of phase 2 of a barracks complex, D Street, at Fort Richardson, Alaska, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (115 Stat. 1280), \$21,000,000.

(15) For the construction of phase 2 of a barracks complex, Nelson Boulevard, at Fort Carson, Colorado, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002, as amended by section 2105 of this Act, \$42,000,000.

(16) For the construction of phase 2 of a basic combat trainee complex at Fort Jackson, South Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002, as amended by section 2105 of this Act, \$39,000,000.

(17) For the construction of phase 2 of a barracks complex, 17th and B Streets at Fort Lewis, Washington, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002, \$50,000,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a);

(2) \$18,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex, Main Post, at Fort Benning, Georgia);

(3) \$100,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex, Capron Avenue, at Schofield Barracks, Hawaii);

(4) \$13,200,000 (the balance of the amount authorized under section 2101(a) for construction of a combined arms collective training facility at Fort Riley, Kansas);

(5) \$50,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex, Range Road, at Fort Campbell, Kentucky); and

(6) \$25,000,000 (the balance of the amount authorized under section 2101(a) for construction of a consolidated maintenance complex at Fort Sill, Oklahoma).

(c) **ADJUSTMENT.**—The total amount authorized to be appropriated pursuant to paragraphs (1) through (17) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by—

(1) \$18,596,000, which represents savings resulting from adjustments to foreign currency exchange rates for military construction, military family housing construction, and military family housing support outside the United States; and

(2) \$29,350,000, which represents adjustments for the accounting of civilian personnel benefits.

SEC. 2105. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2002 PROJECTS.

(a) **MODIFICATION.**—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1281) is amended—

(1) in the item relating to Fort Carson, Colorado, by striking “\$66,000,000” in the amount column and inserting “\$67,000,000”; and

(2) in the item relating to Fort Jackson, South Carolina, by striking “\$65,650,000” in the amount column and inserting “\$68,650,000”.

(b) **CONFORMING AMENDMENTS.**—Section 2104(b) of that Act (115 Stat. 1284) is amended—

(1) in paragraph (3), by striking “\$41,000,000” and inserting “\$42,000,000”; and

(2) in paragraph (4), by striking “\$36,000,000” and inserting “\$39,000,000”.

SEC. 2106. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2000 PROJECT.

(a) **MODIFICATION.**—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106-65; 113 Stat. 835), as amended by section 2405 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1298), is further amended—

(1) under the agency heading relating to Chemical Demilitarization, in the item relating to Blue Grass Army Depot, Kentucky, by striking “\$254,030,000” in the amount column and inserting “\$290,325,000”; and

(2) by striking the amount identified as the total in the amount column and inserting “\$748,245,000”.

(b) **CONFORMING AMENDMENT.**—Section 2405(b)(3) of that Act (113 Stat. 839), as so amended, is further amended by striking “\$231,230,000” and inserting “\$267,525,000”.

SEC. 2107. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 1999 PROJECT.

(a) **MODIFICATION.**—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105-261; 112 Stat. 2193) is amended—

(1) under the agency heading relating to Chemical Demilitarization, in the item relating to Newport Army Depot, Indiana, by striking “\$191,550,000” in the amount column and inserting “\$293,853,000”; and

(2) by striking the amount identified as the total in the amount column and inserting “\$829,919,000”.

(b) **CONFORMING AMENDMENT.**—Section 2404(b)(2) of that Act (112 Stat. 2196) is amended by striking “\$162,050,000” and inserting “\$264,353,000”.

SEC. 2108. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 1997 PROJECT.

(a) **MODIFICATION.**—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104-201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106-65; 113 Stat. 839), is further amended—

(1) under the agency heading relating to Chemical Demilitarization Program, in the item relating to Pueblo Chemical Activity, Colorado, by striking “\$203,500,000” in the amount column and inserting “\$261,000,000”; and

(2) by striking the amount identified as the total in the amount column and inserting “\$607,454,000”.

(b) **CONFORMING AMENDMENT.**—Section 2406(b)(2) of that Act (110 Stat. 2779), as so amended, is further amended by striking “\$203,500,000” and inserting “\$261,000,000”.

SEC. 2109. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2001 PROJECT.

The table in section 2101(b) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as enacted into law by Public Law 106-398; 114 Stat. 1654A-390) is amended by striking “Camp Page” in the installation or location column and inserting “Camp Stanley”.

SEC. 2110. PLANNING AND DESIGN FOR ANECHOIC CHAMBER AT WHITE SANDS MISSILE RANGE, NEW MEXICO.

(a) **PLANNING AND DESIGN.**—The amount authorized to be appropriated by section 2104(a)(5), for planning and design for military construction for the Army is hereby increased by \$3,000,000, with the amount of the increase to be available for planning and design for an anechoic chamber at White Sands Missile Range, New Mexico.

(b) **OFFSET.**—The amount authorized to be appropriated by section 301(a)(1) for the Army for operation and maintenance is hereby reduced by \$3,000,000, with the amount of the reduction to be allocated to Base Operations Support (Servicewide Support).

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) **INSIDE THE UNITED STATES.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Arizona	Marine Corps Air Station, Yuma	\$3,000,000
California	Marine Corps Air Station, Miramar	\$8,700,000
	Marine Corps Air Ground Combat Center, Twentynine Palms	\$25,770,000
	Marine Corps Base, Camp Pendleton	\$104,200,000
	Naval Air Station, Lemoore	\$35,855,000
	Naval Air Station, San Diego	\$6,150,000
	Naval Air Warfare Center, Point Mugu	\$6,760,000
	Naval Construction Battalion Center, Port Hueneme	\$6,957,000
	Naval PostGraduate School, Monterey	\$2,020,000
	Naval Station, San Diego	\$12,210,000
Connecticut	Naval Submarine Base, New London	\$7,880,000
District of Columbia	Marine Corps Base, Washington	\$3,700,000
	Naval District, Washington	\$2,690,000
Florida	Eglin Air Force Base	\$6,350,000
	Naval Air Station, Jacksonville	\$6,770,000
	Naval Air Station, Mayport	\$1,900,000
	Naval Air Station, Pensacola	\$990,000
	Panama City	\$10,700,000
Georgia	Naval Submarine Base, Kings Bay	\$1,580,000
Hawaii	Ford Island	\$19,400,000
	Marine Corps Base, Hawaii	\$9,500,000
	Naval Station, Pearl Harbor	\$14,690,000
Illinois	Naval Training Center, Great Lakes	\$93,190,000
Maine	Naval Air Station, Brunswick	\$9,830,000

Navy: Inside the United States—Continued

State	Installation or location	Amount
Maryland	Naval Shipyard, Portsmouth	\$15,200,000
Mississippi	Andrews Air Force Base	\$9,680,000
Mississippi	Naval Surface Warfare Center, Carderock Division	\$12,900,000
Mississippi	Naval Air Station, Meridian	\$2,850,000
Mississippi	Naval Construction Battalion Center, Gulfport	\$5,460,000
Mississippi	Naval Station, Pascagoula	\$25,305,000
New Jersey	Naval Air Warfare Center, Lakehurst	\$5,200,000
New Jersey	Naval Weapons Station, Earle	\$5,600,000
North Carolina	Camp LeJeune	\$5,370,000
North Carolina	Marine Corps Air Station, Cherry Point	\$6,040,000
North Carolina	Marine Corps Air Station, New River	\$6,920,000
Rhode Island	Naval Station, Newport	\$9,030,000
South Carolina	Marine Corps Air Station, Beaufort	\$13,700,000
South Carolina	Marine Corps Recruit Depot, Parris Island	\$10,490,000
South Carolina	Naval Weapons Station, Charleston	\$5,740,000
Texas	Naval Air Station, Kingsville	\$6,210,000
Texas	Naval Station, Ingleside	\$5,480,000
Virginia	Marine Corps Combat Development Command, Quantico	\$19,554,000
Virginia	Naval Amphibious Base, Little Creek	\$9,770,000
Virginia	Naval Air Station, Norfolk	\$2,260,000
Virginia	Naval Air Station, Oceana	\$16,490,000
Virginia	Naval Ship Yard, Norfolk	\$36,470,000
Virginia	Naval Station, Norfolk	\$168,965,000
Virginia	Naval Surface Warfare Center, Dahlgren	\$15,830,000
Washington	Naval Weapons Station, Yorktown	\$15,020,000
Washington	Naval Air Station, Whidbey Island	\$17,580,000
Washington	Naval Magazine, Port Hadlock	\$4,030,000
Washington	Naval Shipyard, Puget Sound	\$54,132,000
Washington	Naval Station, Bremerton	\$45,870,000
Washington	Naval Submarine Base, Bangor	\$22,310,000
Washington	Strategic Weapons Facility, Bangor	\$7,340,000
Various Locations	Host Nation Infrastructure	\$1,000,000
	Total	\$988,588,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section

2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the locations out-

side the United States, and in the amounts, set forth in the following table:

Navy: Outside the United States

Country	Installation or location	Amount
Bahrain	Naval Support Activity, Bahrain	\$25,970,000
Cuba	Naval Station, Guantanamo	\$4,280,000
Diego Garcia	Diego Garcia, Naval Support Facility	\$11,090,000
Greece	Naval Support Activity, Joint Headquarters Command, Larissa	\$14,800,000
Guam	Commander, United States Naval Forces, Guam	\$13,400,000
Iceland	Naval Air Station, Keflavik	\$14,920,000
Italy	Naval Air Station, Sigonella	\$66,960,000
Spain	Joint Headquarters Command, Madrid	\$2,890,000
Spain	Naval Station, Rota	\$18,700,000
	Total	\$173,010,000

SEC. 2202. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section

2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition and supporting

facilities) at the installations, for the purposes, and in the amounts set forth in the following table:

Navy: Family Housing

State or Country	Installation or location	Purpose	Amount
California	Naval Air Station, Lemoore	178 Units	\$40,981,000
California	Twentynine Palms	76 Units	\$19,425,000
Connecticut	Naval Submarine Base, New London	100 Units	\$24,415,000
Florida	Naval Station, Mayport	1 Unit	\$329,000
Hawaii	Marine Corps Base, Kaneohe Bay	65 Units	\$24,797,000
Mississippi	Naval Air Station, Meridian	56 Units	\$9,755,000
North Carolina	Marine Corps Base, Camp LeJeune	317 Units	\$43,650,000
Virginia	Marine Corps Base, Quantico	290 Units	\$41,843,000
Greece	Naval Support Activity Joint Headquarters Command, Larissa	2 Units	\$1,232,000
United Kingdom	Joint Maritime Facility, St. Mawgan	62 Units	\$18,524,000
	Total		\$224,951,000

(b) **PLANNING AND DESIGN.**—Using amounts appropriated pursuant to the authorization of appropriation in section 2204(a)(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed \$11,281,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed \$139,468,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) **IN GENERAL.**—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2002, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of \$2,478,174,000, as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), \$932,123,000.

(2) For military construction projects outside the United States authorized by section 2201(b), \$170,440,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, \$23,262,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$87,803,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of mili-

tary family housing and facilities, \$375,700,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), \$867,788,000.

(6) For replacement of a pier at Naval Station, Norfolk, Virginia, authorized in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1287), as amended by section 2205 of this Act, \$33,520,000.

(b) **LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.**—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) \$3,345,000 (the balance of the amount authorized under section 2201(a) for a bachelors enlisted quarters shipboard ashore, Naval Station, Pascagoula, Mississippi);

(3) \$48,120,000 (the balance of the amount authorized under section 2201(a) for a bachelors enlisted quarters shipboard ashore, Naval Station, Norfolk, Virginia); and

(4) \$2,570,000 (the balance of the amount authorized under section 2201(b) for a quality of life support facility, Naval Air Station Sigonella, Italy).

(c) **ADJUSTMENT.**—The total amount authorized to be appropriated pursuant to paragraphs (1) through (6) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by—

(1) \$3,992,000, which represents savings resulting from adjustments to foreign currency exchange rates for military construction, military family housing construction, and military family housing support outside the United States; and

(2) \$10,470,000, which represents adjustments for the accounting of civilian personnel benefits.

SEC. 2205. MODIFICATION TO CARRY OUT CERTAIN FISCAL YEAR 2002 PROJECTS.

(a) **MILITARY CONSTRUCTION PROJECT AT NAVAL STATION, NORFOLK, VIRGINIA.**—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1286) is amended—

(1) in the item relating to Naval Station, Norfolk, Virginia, by striking “\$139,270,000” in the amount column and inserting “\$139,550,000”; and

(2) by striking the amount identified as the total in the amount column and inserting “\$1,059,030,000”.

(b) **CONFORMING AMENDMENT.**—Section 2204(b)(2) of that Act (115 Stat. 1289) is amended by striking “\$33,240,000” and inserting “\$33,520,000”.

(c) **MILITARY FAMILY HOUSING AT QUANTICO, VIRGINIA.**—The table in section 2202(a) of that Act (115 Stat. 1287) is amended in the item relating to Marine Corps Combat Development Command, Quantico, Virginia, by striking “60 Units” in the purpose column and inserting “39 Units”.

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) **INSIDE THE UNITED STATES.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Alaska	Clear Air Force Station	\$14,400,000
	Eielson Air Force Base	\$41,100,000
Arizona	Davis-Monthan Air Force Base	\$19,270,000
Arkansas	Little Rock Air Force Base	\$25,600,000
California	Beale Air Force Base	\$11,740,000
	Travis Air Force Base	\$23,900,000
	Vandenberg Air Force Base	\$10,500,000
Colorado	Buckley Air Force Base	\$17,700,000
	Peterson Air Force Base	\$5,500,000
	Schriever Air Force Base	\$5,700,000
	United States Air Force Academy	\$4,200,000
District of Columbia	Bolling Air Force Base	\$5,000,000
Florida	Eglin Air Force Base	\$4,250,000
	Hurlburt Field	\$15,000,000
	MacDill Air Force Base	\$7,000,000
Georgia	Robins Air Force Base	\$5,400,000
	Warner-Robins Air Force Base	\$24,000,000
Hawaii	Hickam Air Force Base	\$1,350,000
Louisiana	Barksdale Air Force Base	\$22,900,000
Maryland	Andrews Air Force Base	\$9,600,000
Massachusetts	Fourth Cliff, Scituate	\$9,500,000
	Hanscom Air Force Base	\$7,700,000
Mississippi	Keesler Air Force Base	\$22,000,000
Nebraska	Offutt Air Force Base	\$11,000,000
Nevada	Nellis Air Force Base	\$56,850,000
New Jersey	McGuire Air Force Base	\$24,631,000
New Mexico	Cannon Air Force Base	\$4,650,000
	Holloman Air Force Base	\$4,650,000
	Kirtland Air Force Base	\$21,900,000
North Carolina	Pope Air Force Base	\$9,700,000
	Seymour Johnson Air Force Base	\$10,600,000
North Dakota	Minot Air Force Base	\$18,000,000
Ohio	Wright-Patterson Air Force Base	\$35,400,000
Oklahoma	Altus Air Force Base	\$14,800,000
	Vance Air Force Base	\$4,800,000
South Carolina	Shaw Air Force Base	\$6,500,000
South Dakota	Ellsworth Air Force Base	\$13,200,000

Air Force: Inside the United States—Continued

State	Installation or location	Amount
Texas	Goodfellow Air Force Base	\$10,600,000
	Lackland Air Force Base	\$41,500,000
	Sheppard Air Force Base	\$16,000,000
Utah	Hill Air Force Base	\$16,500,000
Virginia	Langley Air Force Base	\$71,940,000
Wyoming	F.E. Warren Air Force Base	\$15,000,000
	Total	\$721,531,000

(b) OUTSIDE THE UNITED STATES.—Using 2304(a)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Air Force: Outside the United States

Country	Installation or location	Amount
Germany	Ramstein Air Base	\$71,783,000
Guam	Andersen Air Force Base	\$31,000,000
Italy	Aviano Air Base	\$6,600,000
Japan	Kadena Air Base	\$6,000,000
Korea	Osan Air Base	\$15,100,000
Spain	Naval Station, Rota	\$31,818,000
Turkey	Incirlik Air Base	\$1,550,000
United Kingdom	Diego Garcia	\$17,100,000
	Royal Air Force, Fairford	\$19,000,000
	Royal Air Force, Lakenheath	\$13,400,000
Wake Island	Wake Island	\$24,900,000
	Total	\$238,251,000

(c) UNSPECIFIED WORLDWIDE.—Using the 2304(a)(3), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installation and location, and in the amount, set forth in the following table:

Air Force: Unspecified Worldwide

Location	Installation	Amount
Unspecified Worldwide	Classified Locations	\$24,993,000

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using 2304(a)(6)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations, for the purposes, and in the amounts set forth in the following table:

Air Force: Family Housing

State or Country	Installation or location	Purpose	Amount
Arizona	Luke Air Force Base	140 Units	\$18,954,000
California	Travis Air Force Base	110 Units	\$24,320,000
Colorado	Peterson Air Force Base	2 Units	\$959,000
	United States Air Force Academy	71 Units	\$12,424,000
Delaware	Dover Air Force Base	112 Units	\$19,615,000
Florida	Eglin Air Force Base	Housing Office	\$597,000
	Eglin Air Force Base	134 Units	\$15,906,000
	MacDill Air Force Base	96 Units	\$18,086,000
Hawaii	Hickam Air Force Base	96 Units	\$29,050,000
Idaho	Mountain Home Air Force Base	95 Units	\$24,392,000
Kansas	McConnell Air Force Base	Housing Maintenance Facility	\$1,514,000
Maryland	Andrews Air Force Base	53 Units	\$9,838,000
	Andrews Air Force Base	52 Units	\$8,807,000
Mississippi	Columbus Air Force Base	Housing Office	\$412,000
	Keesler Air Force Base	117 Units	\$16,605,000
Missouri	Whiteman Air Force Base	22 Units	\$3,977,000
Montana	Malmstrom Air Force Base	18 Units	\$4,717,000
New Mexico	Holloman Air Force Base	101 Units	\$20,161,000
North Carolina	Pope Air Force Base	Housing Maintenance Facility	\$991,000
	Seymour Johnson Air Force Base	126 Units	\$18,615,000
North Dakota	Grand Forks Air Force Base	150 Units	\$30,140,000
	Minot Air Force Base	112 Units	\$21,428,000
	Minot Air Force Base	102 Units	\$20,315,000
Oklahoma	Vance Air Force Base	59 Units	\$11,423,000

Air Force: Family Housing—Continued

State or Country	Installation or location	Purpose	Amount
South Dakota	Ellsworth Air Force Base	Housing Maintenance Facility.	\$447,000
Texas	Ellsworth Air Force Base	22 Units	\$4,794,000
	Dyess Air Force Base	85 Units	\$14,824,000
	Randolph Air Force Base	Housing Maintenance Facility.	\$447,000
	Randolph Air Force Base	112 Units	\$14,311,000
Virginia	Langley Air Force Base	Housing Office	\$1,193,000
Germany	Ramstein Air Force Base	19 Units	\$8,534,000
Korea	Osan Air Base	113 Units	\$35,705,000
	Osan Air Base	Housing Supply Warehouse.	\$834,000
United Kingdom	Royal Air Force Lakenheath	Housing Office and Maintenance Facility.	\$2,203,000
Total			\$416,438,000

(b) **PLANNING AND DESIGN.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed \$34,188,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed \$226,068,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) **IN GENERAL.**—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2002, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of \$2,597,272,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), \$709,431,000.

(2) For military construction projects outside the United States authorized by section 2301(b), \$238,251,000.

(3) For the military construction projects at unspecified worldwide locations authorized by section 2301(c), \$24,993,000.

(4) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, \$11,500,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$81,416,000.

(6) For military housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, \$676,694,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), \$874,050,000.

(b) **LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.**—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1), (2) and (3) of subsection (a);

(2) \$7,100,000 (the balance of the amount authorized under section 2301(a) for construction of a consolidated base engineer complex at Altus Air Force Base, Oklahoma); and

(3) \$5,000,000 (the balance of the amount authorized under section 2301(a) for construction of a storm drainage system at F.E. Warren Air Force Base, Wyoming).

(c) **ADJUSTMENT.**—The total amount authorized to be appropriated pursuant to paragraphs (1) through (6) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by \$19,063,000, which represents savings resulting from adjustments to foreign currency exchange rates for military construction, military family housing construction, and military family housing support outside the United States.

SEC. 2305. AUTHORITY FOR USE OF MILITARY CONSTRUCTION FUNDS FOR CONSTRUCTION OF PUBLIC ROAD NEAR AVIANO AIR BASE, ITALY, CLOSED FOR FORCE PROTECTION PURPOSES.

(a) **AUTHORITY TO USE FUNDS.**—The Secretary of the Air Force may, using amounts authorized to be appropriated by section 2301(b), carry out a project to provide a public road, and associated improvements, to replace a public road adjacent to Aviano Air Base, Italy, that has been closed for force protection purposes.

(b) **SCOPE OF AUTHORITY.**—(1) The authority of the Secretary to carry out the project referred to in subsection (a) shall include authority as follows:

(A) To acquire property for the project for transfer to a host nation authority.

(B) To provide funds to a host nation authority to acquire property for the project.

(C) To make a contribution to a host nation authority for purposes of carrying out the project.

(D) To provide vehicle and pedestrian access to landowners effected by the project.

(2) The acquisition of property using authority in subparagraph (A) or (B) of paragraph (1) may be made regardless of whether or not ownership of such property will vest in the United States.

(c) **INAPPLICABILITY OF CERTAIN REAL PROPERTY MANAGEMENT REQUIREMENT.**—Section 2672(a)(1)(B) of title 10, United States Code, shall not apply with respect to any acquisition of interests in land for purposes of the project authorized by subsection (a).

SEC. 2306. ADDITIONAL PROJECT AUTHORIZATION FOR AIR TRAFFIC CONTROL FACILITY AT DOVER AIR FORCE BASE, DELAWARE.

(a) **PROJECT AUTHORIZED.**—In addition to the projects authorized by section 2301(a), the Secretary of the Air Force may carry out a military construction project, including land acquisition relating thereto, for construction of a new air traffic control facility at Dover Air Force Base, Delaware, in the amount of \$7,500,000.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—The amount authorized to be appropriated by section 2304(a), and by paragraph (1) of that section, is hereby increased by \$7,500,000.

(c) **OFFSET.**—The amount authorized to be appropriated by section 301(a)(10) for operation and maintenance for the Army National Guard is hereby reduced by \$7,500,000, with the amount of the reduction to be allocated to the Classified Network Program.

SEC. 2307. AVAILABILITY OF FUNDS FOR CONSOLIDATION OF MATERIALS COMPUTATIONAL RESEARCH FACILITY AT WRIGHT-PATTERSON AIR FORCE BASE, OHIO.

(a) **AVAILABILITY.**—Of the amount authorized to be appropriated by section 2304(a), and paragraph (1) of that section, for the Air Force and available for military construction projects at Wright-Patterson Air Force Base, Ohio, \$15,200,000 may be available for a military construction project for consolidation of the materials computational research facility at Wright-Patterson Air Force Base (PNZH7V03301A).

(b) **OFFSET.**—(1) The amount authorized to be appropriated by section 301(a)(4) for the Air Force for operation and maintenance is hereby reduced by \$2,800,000, with the amount of the reduction to be allocated to Recruiting and Advertising.

(2) Of the amount authorized to be appropriated by section 2304(a), and paragraph (1) of that section, for the Air Force and available for military construction projects at Wright-Patterson Air Force Base—

(A) the amount available for a dormitory is hereby reduced by \$10,400,000; and

(B) the amount available for construction of a Fully Contained Small Arms Range Complex is hereby reduced by \$2,000,000.

TITLE XXIV—DEFENSE AGENCIES**SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) **INSIDE THE UNITED STATES.**—Using amounts appropriated pursuant to the au-

thorization of appropriations in section 2404(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and

in the amounts, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Missile Defense Agency	Kauai, Hawaii	\$23,400,000
Defense Intelligence Agency	Bolling Air Force Base, District of Columbia	\$121,958,000
Defense Logistics Agency	Defense Supply Center, Columbus, Ohio	\$5,021,000
	Defense Supply Center, Richmond, Virginia	\$5,500,000
	Naval Air Station, New Orleans, Louisiana	\$9,500,000
	Travis Air Force Base, California	\$16,000,000
Defense Threat Reduction Agency	Fort Belvoir, Virginia	\$76,388,000
Department of Defense Dependents Schools	Fort Bragg, North Carolina	\$2,036,000
	Fort Jackson, South Carolina	\$2,506,000
	Marine Corps Base, Camp LeJeune, North Carolina	\$12,138,000
	Marine Corps Base, Quantico, Virginia	\$1,418,000
	United States Military Academy, West Point, New York	\$4,347,000
Joint Chiefs of Staff	Conus Various	\$25,000,000
National Security Agency	Fort Meade, Maryland	\$4,484,000
Special Operations Command	Fort Bragg, North Carolina	\$30,800,000
	Hurlburt Field, Florida	\$11,100,000
	Naval Amphibious Base, Little Creek, Virginia	\$14,300,000
	Stennis Space Center, Mississippi	\$5,000,000
TRICARE Management Activity	Elmendorf Air Force Base, Alaska	\$10,400,000
	Hickam Air Force Base, Hawaii	\$2,700,000
Washington Headquarters Services	Arlington, Virginia	\$18,000,000
	Washington Headquarters Services, District of Columbia	\$2,500,000
	Total	\$404,496,000

(b) **OUTSIDE THE UNITED STATES.**—Using amounts appropriated pursuant to the authorization of appropriations in section

2404(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations

and locations outside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Outside the United States

Agency	Installation or location	Amount
Defense Logistics Agency	Andersen Air Force Base, Guam	\$17,586,000
	Lajes Field, Azores, Portugal	\$19,000,000
	Naval Forces Marianas Islands, Guam	\$6,000,000
	Naval Station, Rota, Spain	\$23,400,000
	Royal Air Force, Fairford, United Kingdom	\$17,000,000
	Yokota Air Base, Japan	\$23,000,000
Department of Defense Dependents Schools	Kaiserslautern, Germany	\$957,000
	Lajes Field, Azores, Portugal	\$1,192,000
	Seoul, Korea	\$31,683,000
	Mons, Belgium	\$1,573,000
	Spangdahlem Air Base, Germany	\$997,000
	Vicenza, Italy	\$2,117,000
TRICARE Management Activity	Naval Support Activity, Naples, Italy	\$41,449,000
	Spangdahlem Air Base, Germany	\$39,629,000
	Total	\$225,583,000

SEC. 2402. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(8)(A), the Secretary of Defense may improve existing military family housing units in an amount not to exceed \$5,480,000.

SEC. 2403. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(4), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code, in the amount of \$50,531,000.

SEC. 2404. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) **IN GENERAL.**—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2002, for military construction, land acquisition, and military

family housing functions of the Department of Defense (other than the military departments) in the total amount of \$1,316,972,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), \$367,896,000.

(2) For military construction projects outside the United States authorized by section 2401(b), \$225,583,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, \$16,293,000.

(4) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, \$10,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$44,232,000.

(6) For energy conservation projects authorized by section 2403 of this Act, \$50,531,000.

(7) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), \$545,138,000.

(8) For military family housing functions:

(A) For improvement of military family housing and facilities, \$5,480,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), \$42,432,000.

(C) For credit to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code, \$2,000,000.

(9) For payment of a claim against the Hospital Replacement project at Elmendorf Air Force Base, Alaska, \$10,400,000.

(b) **LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.**—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) \$26,200,000 (the balance of the amount authorized under section 2401(a) for the construction of the Defense Threat Reduction Center, Fort Belvoir, Virginia).

(c) **ADJUSTMENT.**—The total amount authorized to be appropriated pursuant to paragraphs (1) through (9) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by—

(1) \$2,976,000, which represents savings resulting from adjustments to foreign currency exchange rates for military construction, military family housing construction, and military family housing support outside the United States; and

(2) \$37,000, which represents adjustments for the accounting of civilian personnel benefits.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2002, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment program authorized by section 2501, in the amount of \$168,200,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

There are authorized to be appropriated for fiscal years beginning after September 30,

2002, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions there for, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—
(A) for the Army National Guard of the United States, \$186,588,000; and
(B) for the Army Reserve, \$62,992,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, \$58,671,000.

(3) For the Department of the Air Force—
(A) for the Air National Guard of the United States, \$212,459,000; and
(B) for the Air Force Reserve, \$59,883,000.

SEC. 2602. ARMY NATIONAL GUARD RESERVE CENTER, LANE COUNTY, OREGON.

(a) **INCREASE IN AUTHORIZATION OF APPROPRIATIONS.**—The amount authorized to be appropriated by section 2601(1)(A) for the Army National Guard of the United States is hereby increased by \$9,000,000.

(b) **AVAILABILITY.**—(1) Of the amount authorized to be appropriated by section 2601(1)(A) for the Army National Guard of the United States, as increased by subsection (a), \$9,000,000 may be available for a military construction project for a Reserve Center in Lane County, Oregon.

(2) The amount available under paragraph (1) for the military construction project referred to in that paragraph is in addition to any other amounts available under this Act for that project.

(c) **OFFSET.**—(1) The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby reduced by \$2,500,000, with the amount of the reduction to be allocated to Warfighter Sustainment Advanced Technology (PE 0603236N).

(2) The amount authorized to be appropriated by section 301(a)(6) for operation and maintenance for the Army Reserve is hereby reduced by \$6,000,000, with the amount of the reduction to be allocated to the Enhanced Secure Communications Program.

SEC. 2603. ADDITIONAL PROJECT AUTHORIZATION FOR COMPOSITE SUPPORT FACILITY FOR ILLINOIS AIR NATIONAL GUARD.

(a) **INCREASE IN AUTHORIZATION OF APPROPRIATIONS.**—The amount authorized to be appropriated by section 2601(3)(A) for the Air National Guard is hereby increased by \$10,000,000.

(b) **AVAILABILITY.**—Of the amount authorized to be appropriated by section 2601(3)(A) for the Air National Guard, as increased by subsection (a), \$10,000,000 may be available

for a military construction project for a Composite Support Facility for the 183rd Fighter Wing of the Illinois Air National Guard.

(c) **OFFSET.**—The amount authorized to be appropriated by section 301(a)(5) for operation and maintenance, defense-wide, is hereby reduced by \$10,000,000, with the amount of the reduction to be allocated to amounts available for the Information Operations Program.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) **EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.**—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2005; or
(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2006.

(b) **EXCEPTION.**—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects, and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) for which appropriated funds have been obligated before the later of—

(1) October 1, 2005; or
(2) the date of the enactment of an Act authorizing funds for fiscal year 2005 for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program.

SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2000 PROJECTS.

(a) **EXTENSION OF CERTAIN PROJECTS.**—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 841), authorizations set forth in the tables in subsection (b), as provided in section 2302 or 2601 of that Act, shall remain in effect until October 1, 2003, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2004, whichever is later.

(b) **TABLES.**—The tables referred to in subsection (a) are as follows:

Air Force: Extension of 2000 Project Authorization

State	Installation or location	Project	Amount
Oklahoma	Tinker Air Force Base	Replace Family Housing (41 Units).	\$6,000,000
Texas	Lackland Air Force Base	Dormitory	\$5,300,000

Army National Guard: Extension of 2000 Project Authorization

State	Installation or location	Project	Amount
Virginia	Fort Pickett	Multi-Purpose Range Complex-Heavy.	\$13,500,000

SEC. 2703. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1999 PROJECTS.

(a) **EXTENSION.**—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1999 (division B of

Public Law 105-261; 112 Stat. 2199), authorizations set forth in the table in subsection (b), as provided in section 2302 of that Act and extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115

Stat. 1301), shall remain in effect until October 1, 2003, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2004, whichever is later.

(b) **TABLE.**—The table referred to in subsection (a) is as follows:

Air Force: Extension of 1999 Project Authorizations

State	Installation or location	Project	Amount
Delaware	Dover Air Force Base	Replace Family Housing (55 Units).	\$8,988,000
Florida	Patrick Air Force Base	Replace Family Housing (46 Units).	\$9,692,000
New Mexico	Kirtland Air Force Base	Replace Family Housing (37 Units).	\$6,400,000
Ohio	Wright-Patterson Air Force Base	Replace Family Housing (40 Units).	\$5,600,000

SEC. 2704. EFFECTIVE DATE.

Titles XXI, XXII, XXIII, XXIV, XXV, XXVI, and XXVII of this Act shall take effect on the later of—

- (1) October 1, 2002; or
- (2) the date of the enactment of this Act.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. LEASE OF MILITARY FAMILY HOUSING IN KOREA.

(a) **INCREASE IN NUMBER OF UNITS AUTHORIZED FOR LEASE AT CURRENT MAXIMUM AMOUNT.**—Paragraph (3) of section 2828(e) of title 10, United States Code, is amended by striking “800 units” and inserting “1,175 units”.

(b) **AUTHORITY TO LEASE ADDITIONAL NUMBER OF UNITS AT INCREASED MAXIMUM AMOUNT.**—That section is further amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively;

(2) by inserting after paragraph (3) the following new paragraph (4):

“(4) In addition to the units of family housing referred to in paragraph (1) for which the maximum lease amount is \$25,000 per unit per year, the Secretary of the Army may lease not more than 2,400 units of family housing in Korea subject to a maximum lease amount of \$35,000 per unit per year.”;

(3) in paragraph (5), as so redesignated, by striking “and (3)” and inserting “(3), and (4)”;

(4) in paragraph (6), as so redesignated, by striking “53,000” and inserting “55,775”.

SEC. 2802. REPEAL OF SOURCE REQUIREMENTS FOR FAMILY HOUSING CONSTRUCTION OVERSEAS.

Section 803 of the Military Construction Authorization Act, 1984 (Public Law 98-115; 10 U.S.C. 2821 note) is repealed.

SEC. 2803. MODIFICATION OF LEASE AUTHORITIES UNDER ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING.

(a) **LEASING OF HOUSING.**—Subsection (a) of section 2874 of title 10, United States Code, is amended to read as follows:

“(a) **LEASE AUTHORIZED.**—(1) The Secretary concerned may enter into contracts for the lease of housing units that the Secretary determines are suitable for use as military family housing or military unaccompanied housing.

“(2) The Secretary concerned shall utilize housing units leased under paragraph (1) as military family housing or military unaccompanied housing, as appropriate.”.

(b) **REPEAL OF INTERIM LEASE AUTHORITY.**—Section 2879 of such title is repealed.

(c) **CONFORMING AND CLERICAL AMENDMENTS.**—(1) The heading for section 2874 of such title is amended to read as follows:

“**§ 2874. Leasing of housing**”.

(2) The table of sections at the beginning of subchapter IV of chapter 169 of such title is amended—

(A) by striking the item relating to section 2874 and inserting the following new item:

“2874. Leasing of housing.”;

and

(B) by striking the item relating to section 2879.

Subtitle B—Real Property and Facilities Administration

SEC. 2811. AGREEMENTS WITH PRIVATE ENTITIES TO ENHANCE MILITARY TRAINING, TESTING, AND OPERATIONS.

(a) **IN GENERAL.**—Chapter 159 of title 10, United States Code, is amended by inserting after section 2696 the following new section:

“**§ 2697. Agreements with private entities to enhance military training, testing, and operations**

“(a) **AGREEMENTS WITH PRIVATE ENTITIES AUTHORIZED.**—The Secretary of Defense or the Secretary of a military department may enter into an agreement with a private entity described in subsection (b) to address the use or development of real property in the vicinity of an installation under the jurisdiction of such Secretary for purposes of—

“(1) limiting any development or use of such property that would otherwise be incompatible with the mission of such installation; or

“(2) preserving habitat on such property in a manner that is compatible with both—

“(A) current or anticipated environmental requirements that would or might otherwise restrict, impede, or otherwise interfere, whether directly or indirectly, with current or anticipated military training, testing, or operations on such installation; and

“(B) current or anticipated military training, testing, or operations on such installation.

“(b) **COVERED PRIVATE ENTITIES.**—A private entity described in this subsection is any private entity that has as its stated principal organizational purpose or goal the conservation, restoration, or preservation of land and natural resources, or a similar purpose or goal.

“(c) **INAPPLICABILITY OF CERTAIN CONTRACT REQUIREMENTS.**—Chapter 63 of title 31 shall

not apply to any agreement entered into under this section.

“(d) **ACQUISITION AND ACCEPTANCE OF PROPERTY AND INTERESTS.**—(1) Subject to the provisions of this subsection, an agreement with a private entity under this section—

“(A) may provide for the private entity to acquire all right, title, and interest in and to any real property, or any lesser interest therein, as may be appropriate for purposes of this section; and

“(B) shall provide for the private entity to transfer to the United States, upon the request of the United States, any property or interest so acquired.

“(2) Property or interests may not be acquired pursuant to an agreement under this section unless the owner of such property or interests, as the case may be, consents to the acquisition.

“(3) An agreement under this section providing for the acquisition of property or interests under paragraph (1)(A) shall provide for the sharing by the United States and the private entity concerned of the costs of the acquisition of such property or interests.

“(4) The Secretary concerned shall identify any property or interests to be acquired pursuant to an agreement under this section. Such property or interests shall be limited to the minimum property or interests necessary to ensure that the property concerned is developed and used in a manner appropriate for purposes of this section.

“(5) The Secretary concerned may accept on behalf of the United States any property or interest to be transferred to the United States under paragraph (1)(B).

“(6) The Secretary concerned may, for purposes of the acceptance of property or interests under this subsection, accept an appraisal or title documents prepared or adopted by a non-Federal entity as satisfying the applicable requirements of section 301 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4651) or section 355 of the Revised Statutes (40 U.S.C. 255) if the Secretary finds that such appraisal or title documents substantially comply with such requirements.

“(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary concerned may require such additional terms and conditions in an agreement under this section as such Secretary considers appropriate to protect the interests of the United States.

“(f) **FUNDING.**—(1) Except as provided in paragraph (2), amounts authorized to be appropriated to the Range Enhancement Initiative Fund of the Department of Defense are

available for purposes of any agreement under this section.

“(2) In the case of an installation operated primarily with funds authorized to be appropriated for research, development, test, and evaluation, funds authorized to be appropriated for the Department of Defense, or the military department concerned, for research, development, test, and evaluation are available for purposes of an agreement under this section with respect to such installation.

“(3) Amounts in the Fund that are made available for an agreement of a military department under this section shall be made available by transfer from the Fund to the applicable operation and maintenance account of the military department, including the operation and maintenance account for the active component, or for a reserve component, of the military department.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2696 the following new item:

“2697. Agreements with private entities to enhance military training, testing, and operations.”.

SEC. 2812. CONVEYANCE OF SURPLUS REAL PROPERTY FOR NATURAL RESOURCE CONSERVATION.

(a) IN GENERAL.—(1) Chapter 159 of title 10, United States Code, as amended by section 2811 of this Act, is further amended by inserting after section 2697 the following new section:

“§ 2698. Conveyance of surplus real property for natural resource conservation

“(a) AUTHORITY TO CONVEY.—Subject to subsection (c), the Secretary of a military department may, in the sole discretion of such Secretary, convey to any State or local government or instrumentality thereof, or private entity that has as its primary purpose or goal the conservation of open space or natural resources on real property, all right, title, and interest of the United States in and to any real property, including any improvements thereon, under the jurisdiction of such Secretary that is described in subsection (b).

“(b) COVERED REAL PROPERTY.—Real property described in this subsection is any property that—

“(1) is suitable, as determined by the Secretary concerned, for use for the conservation of open space or natural resources;

“(2) is surplus property for purposes of title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.); and

“(3) has been available for public benefit conveyance under that title for a sufficient time, as determined by the Secretary concerned in consultation with the Administrator of General Services, to permit potential claimants to seek public benefit conveyance of such property, but without the submittal during that time of a request for such conveyance.

“(c) CONDITIONS OF CONVEYANCE.—Real property may not be conveyed under this section unless the conveyee of such property agrees that such property—

“(1) shall be used and maintained for the conservation of open space or natural resources in perpetuity, unless otherwise provided for under subsection (e); and

“(2) may be subsequently conveyed only if—

“(A) the Secretary concerned approves in writing such subsequent conveyance;

“(B) the Secretary concerned notifies the appropriate committees of Congress of the subsequent conveyance not later than 21 days before the subsequent conveyance; and

“(C) after such subsequent conveyance, shall be used and maintained for the conservation of open space or natural resources in perpetuity, unless otherwise provided for under subsection (e).

“(d) USE FOR INCIDENTAL PRODUCTION OF REVENUE.—Real property conveyed under this section may be used for the incidental production of revenue, as determined by the Secretary concerned, if such production of revenue is compatible with the use of such property for the conservation of open space or natural resources, as so determined.

“(e) REVERSION.—If the Secretary concerned determines at any time that real property conveyed under this section is not being used and maintained in accordance with the agreement of the conveyee under subsection (c), all right, title, and interest in and to such real property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

“(f) PROPERTY UNDER BASE CLOSURE LAWS.—The Secretary concerned may not make a conveyance under this section of any real property to be disposed of under a base closure law in a manner that is inconsistent with the requirements and conditions of such base closure law.

“(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary concerned may establish such additional terms and conditions in connection with a conveyance of real property under this section as such Secretary considers appropriate to protect the interests of the United States.

“(h) DEFINITIONS.—In this section:

“(1) The term ‘appropriate committees of Congress’ has the meaning given that term in section 2801(c)(4) of this title.

“(2) The term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, and the territories and possessions of the United States.

“(3) The term ‘base closure law’ means the following:

“(A) Section 2687 of this title.

“(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act of 1988 (10 U.S.C. 2687 note).

“(C) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

“(D) Any other similar authority for the closure or realignment of military installations that is enacted after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2003.”.

(2) The table of sections at the beginning of chapter 159 of that title, as amended by section 2811 of this Act, is further amended by inserting after the item relating to section 2687 the following new item:

“2698. Conveyance of surplus real property for natural resource conservation.”.

(b) ACCEPTANCE OF FUNDS TO COVER ADMINISTRATIVE EXPENSES.—Section 2695(b) of that title is amended by adding at the end the following new paragraph:

“(5) The conveyance of real property under section 2698 of this title.”.

(c) AGREEMENTS WITH PRIVATE ENTITIES.—Section 2701(d) of that title is amended—

(1) in paragraph (1), by striking “with any State or local government agency, or with any Indian tribe,” and inserting “any State or local government agency, any Indian tribe, or, for purposes under section 2697 or 2698 of this title, with any private entity”; and

(2) by striking paragraph (4), as redesignated by section 311(1) of this Act, and inserting the following new paragraph (4):

“(4) DEFINITIONS.—In this subsection:

“(A) The term ‘Indian tribe’ has the meaning given such term in section 101(36) of Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(36)).

“(B) The term ‘private entity’ means any private entity that has as its stated principal organizational purpose or goal the conservation, restoration, or preservation of land and natural resources, or a similar purpose or goal.”.

SEC. 2813. MODIFICATION OF DEMONSTRATION PROGRAM ON REDUCTION IN LONG-TERM FACILITY MAINTENANCE COSTS.

(a) ADMINISTRATOR OF PROGRAM.—Subsection (a) of section 2814 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1310; 10 U.S.C. 2809 note) is amended by striking “Secretary of the Army” and inserting “Secretary of Defense or the Secretary of a military department”.

(b) CONTRACTS.—Subsection (b) of that section is amended to read as follows:

“(b) CONTRACTS.—(1) Not more than 12 contracts may contain requirements referred to in subsection (a) for the purpose of the demonstration program.

“(2) Except as provided in paragraph (3), the demonstration program may only cover contracts entered into on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2003.

“(3) The Secretary of the Army shall treat any contract containing requirements referred to in subsection (a) that was entered into under the authority in that subsection during the period beginning on December 28, 2001, and ending on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2003 as a contract for the purpose of the demonstration program under that subsection.”.

(c) REPORTING REQUIREMENTS.—Subsection (d) of that section is amended by striking “Secretary of the Army” and inserting “Secretary of Defense”.

(d) FUNDING.—(1) Subsection (f) of that section is amended by striking “the Army” and inserting “the military departments or defense-wide”.

(2) The amendment made by paragraph (1) shall not affect the availability for the purpose of the demonstration program under section 2814 of the Military Construction Authorization Act for Fiscal Year 2002, as amended by this section, of any amounts authorized to be appropriated before the date of the enactment of this Act for the Army for military construction that have been obligated for the demonstration program, but not expended, as of that date.

Subtitle C—Land Conveyances

SEC. 2821. CONVEYANCE OF CERTAIN LANDS IN ALASKA NO LONGER REQUIRED FOR NATIONAL GUARD PURPOSES.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the State of Alaska, or any governmental entity, Native Corporation, or Indian tribe within the State of Alaska, all right, title, and interest of the United States in and to any parcel of real property, including any improvements thereon, described in subsection (b) that the Secretary considers appropriate in the public interest.

(b) COVERED PROPERTY.—Real property described in this subsection is any property located in the State of Alaska that, as determined by the Secretary—

(1) is currently under the jurisdiction of the Department of the Army;

(2) before December 2, 1980, was under the jurisdiction of the Department of the Army for use of the Alaska National Guard;

(3) is located in a unit of the National Wildlife Refuge System designated in the Alaska National Interest Lands Conservation Act (94 Stat. 2371; 16 U.S.C. 1301 note);

(4) is excess to the needs of the Alaska National Guard and the Department of Defense; and

(5) is in such condition that—

(A) the anticipated cost to the United States of retaining such property exceeds the value of such property; or

(B) such property is unsuitable for retention by the United States.

(c) CONSIDERATION.—(1) The conveyance of real property under this section shall, at the election of the Secretary, be for no consideration or for consideration in an amount determined by the Secretary to be appropriate under the circumstances.

(2) If consideration is received under paragraph (1) for property conveyed under subsection (a), the Secretary may use the amounts received, to the extent provided in appropriations Acts, to pay for—

(A) the cost of a survey described in subsection (d) with respect to such property;

(B) the cost of carrying out any environmental assessment, study, or analysis, and any remediation, that may be required under Federal law, or is considered appropriate by the Secretary, in connection with such property or the conveyance of such property; and

(C) any other costs incurred by the Secretary in conveying such property.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of any real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with a conveyance of real property under this section as the Secretary considers appropriate to protect the interests of the United States.

(f) DEFINITIONS.—In this section:

(1) The term “Indian tribe” has the meaning given such term in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (Public Law 103-454; 108 Stat. 4791; 25 U.S.C. 479a).

(2) The term “Native Corporation” has the meaning given such term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

SEC. 2822. LAND CONVEYANCE, FORT CAMPBELL, KENTUCKY.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the City of Hopkinsville, Kentucky (in this section referred to as the “City”), all right, title, and interest of the United States in and to a parcel of real property at Fort Campbell, Kentucky, consisting of approximately 50 acres and containing an abandoned railroad spur for the purpose of permitting the City to use the property for storm water management, recreation, transportation, and other public purposes.

(b) REIMBURSEMENT OF TRANSACTION COSTS.—(1) The City shall reimburse the Secretary for any costs incurred by the Secretary in carrying out the conveyance authorized by subsection (a).

(2) Any reimbursement for costs that is received under paragraph (1) shall be credited to the fund or account providing funds for such costs. Amounts so credited shall be merged with amounts in such fund or ac-

count, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(c) DESCRIPTION OF PROPERTY.—The acreage of the real property to be conveyed under subsection (a) has been determined by the Secretary through a legal description outlining such acreage. No further survey of the property is required before conveyance under that subsection.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2823. MODIFICATION OF AUTHORITY FOR LAND TRANSFER AND CONVEYANCE, NAVAL SECURITY GROUP ACTIVITY, WINTER HARBOR, MAINE.

(a) MODIFICATION OF CONVEYANCE AUTHORITY FOR COREA AND WINTER HARBOR PROPERTIES.—Section 2845 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1319) is amended—

(1) by striking subsection (b) and inserting the following new subsection (b):

“(b) CONVEYANCE AND TRANSFER OF COREA AND WINTER HARBOR PROPERTIES AUTHORIZED.—(1) The Secretary of the Navy may convey, without consideration, to the State of Maine, any political subdivision of the State of Maine, or any tax-supported agency in the State of Maine, all right, title, and interest of the United States in and to parcels of real property, including any improvements thereon and appurtenances thereto, comprising the former facilities of the Naval Security Group Activity, Winter Harbor, Maine, as follows:

“(A) The parcel consisting of approximately 50 acres known as the Corea Operations Site.

“(B) Three parcels consisting of approximately 23 acres and comprising family housing facilities.

“(2) The Secretary of the Navy may transfer to the administrative jurisdiction of the Secretary of the Interior a parcel of real property consisting of approximately 404 acres at the former Naval Security Group Activity, which is the balance of the real property comprising the Corea Operations Site.

“(3) The Secretary of the Interior shall administer the property transferred under paragraph (2) as part of the National Wildlife Refuge System.”; and

(2) in subsections (c), (d), (e), (f), (g), and (h), by striking “subsection (b)” each place it appears and inserting “subsection (b)(1)”.

(b) EXEMPTION OF MODIFIED CONVEYANCES FROM FEDERAL SCREENING REQUIREMENT.—That section is further amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection (g):

“(g) EXEMPTION OF CERTAIN CONVEYANCES FROM FEDERAL SCREENING.—Any conveyance authorized by subsection (b)(1) of this section, as amended by section 2823 of the National Defense Authorization Act for Fiscal Year 2003, is exempt from the requirement to screen the property concerned for further Federal use pursuant to section 2696 of title 10, United States Code.”.

SEC. 2824. LAND CONVEYANCE, WESTOVER AIR RESERVE BASE, MASSACHUSETTS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey, without consideration, to the City of Chicopee, Massa-

chusetts (in this section referred to as the “City”), all right, title, and interest of the United States in and to a parcel of real property, including 133 housing units and other improvements thereon, consisting of approximately 30.38 acres located at Westover Air Reserve Base in Chicopee, Massachusetts, for the purpose of permitting the City to use the property for economic development and other public purposes.

(b) ADMINISTRATIVE EXPENSES.—(1) The Secretary may require the City to reimburse the Secretary for the costs incurred by the Secretary to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation (other than the environmental baseline survey), and other administrative costs related to the conveyance.

(2) Section 2695(c) of title 10, United States Code, shall apply to any amount received under this subsection.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2825. LAND CONVEYANCE, NAVAL STATION NEWPORT, RHODE ISLAND.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the State of Rhode Island, or any political subdivision thereof, any or all right, title, and interest of the United States in and to a parcel of real property, together with improvements thereon, consisting of approximately 34 acres located in Melville, Rhode Island, and known as the Melville Marina site.

(b) CONSIDERATION.—(1) As consideration for the conveyance of real property under subsection (a), the conveyee shall pay the United States an amount equal to the fair market value of the real property, as determined by the Secretary based on an appraisal of the real property acceptable to the Secretary.

(2) Any consideration received under paragraph (1) shall be deposited in the account established under section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)), and shall be available as provided for in that section.

(c) REIMBURSEMENT OF TRANSACTION COSTS.—(1) The Secretary may require the conveyee of the real property under subsection (a) to reimburse the Secretary for any costs incurred by the Secretary in carrying out the conveyance.

(2) Any reimbursement for costs that is received under paragraph (1) shall be credited to the fund or account providing funds for such costs. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2826. LAND EXCHANGE, BUCKLEY AIR FORCE BASE, COLORADO.

(a) EXCHANGE AUTHORIZED.—Subject to subsection (b), the Secretary of the Air Force may convey to the State of Colorado (in this section referred to as the “State”) all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of all or part of the Watkins Communications Site in Arapahoe County, Colorado.

(b) LIMITATION.—The Secretary of the Air Force may carry out the conveyance authorized by subsection (a) only with the concurrence of the Secretary of Defense.

(c) CONSIDERATION.—(1) As consideration for the conveyance authorized by subsection (a) the State shall convey to the United States of all right, title, and interest of the State in and to a parcel of real property, including improvements thereon, consisting of approximately 41 acres that is owned by the State and is contiguous to Buckley Air Force Base, Colorado.

(2) The Secretary shall have jurisdiction over the real property conveyed under paragraph (1).

(3) Upon conveyance to the United States under paragraph (1), the real property conveyed under that paragraph is withdrawn from all forms of appropriation under the general land laws, including the mining laws and mineral and geothermal leasing laws.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcels of real property to be conveyed under this section shall be determined by surveys satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2827. LAND ACQUISITION, BOUNDARY CHANNEL DRIVE SITE, ARLINGTON, VIRGINIA.

(a) ACQUISITION AUTHORIZED.—The Secretary of Defense may, using amounts authorized to be appropriated to be appropriated by section 2401, acquire all right, title, and interest in and to a parcel of real property, including any improvements thereon, in Arlington County, Virginia, consisting of approximately 7.2 acres and known as the Boundary Channel Drive Site. The parcel is located southeast of Interstate Route 395 at the end of Boundary Channel Drive and was most recently occupied by the Twin Bridges Marriott.

(b) INCLUSION IN PENTAGON RESERVATION.—Upon its acquisition under subsection (a), the parcel acquired under that subsection shall be included in the Pentagon Reservation, as that term is defined in section 2674(f)(1) of title 10, United States Code.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be acquired under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(d) TERMS AND CONDITIONS.—The Secretary may require such terms and conditions in connection with the acquisition under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2828. LAND CONVEYANCES, WENDOVER AIR FORCE BASE AUXILIARY FIELD, NEVADA.

(a) CONVEYANCES AUTHORIZED TO WEST WENDOVER, NEVADA.—(1) The Secretary of the Interior may convey, without consideration, to the City of West Wendover, Nevada, all right, title, and interest of the United States in and to the following:

(A) The lands at Wendover Air Force Base Auxiliary Field, Nevada, identified in Easement No. AFMC-HL-2-00-334 that are determined by the Secretary of the Air Force to be no longer required.

(B) The lands at Wendover Air Force Base Auxiliary Field identified for disposition on the map entitled “West Wendover, Nevada—Excess”, dated January 5, 2001, that are determined by the Secretary of the Air Force to be no longer required.

(2) The purposes of the conveyances under this subsection are—

(A) to permit the establishment and maintenance of runway protection zones; and

(B) to provide for the development of an industrial park and related infrastructure.

(3) The map referred to in paragraph (1)(B) shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management and the Elko District Office of the Bureau of Land Management.

(b) CONVEYANCE AUTHORIZED TO TOOELE COUNTY, UTAH.—(1) The Secretary of the Interior may convey, without consideration, to Tooele County, Utah, all right, title, and interest of the United States in and to the lands at Wendover Air Force Base Auxiliary Field identified in Easement No. AFMC-HL-2-00-318 that are determined by the Secretary of the Air Force to be no longer required.

(2) The purpose of the conveyance under this subsection is to permit the establishment and maintenance of runway protection zones and an aircraft accident potential protection zone as necessitated by continued military aircraft operations at the Utah Test and Training Range.

(c) MANAGEMENT OF CONVEYED LANDS.—The lands conveyed under subsections (a) and (b) shall be managed by the City of West Wendover, Nevada, City of Wendover, Utah, Tooele County, Utah, and Elko County, Nevada—

(1) in accordance with the provisions of an Interlocal Memorandum of Agreement entered into between the Cities of West Wendover, Nevada, and Wendover, Utah, Tooele County, Utah, and Elko County, Nevada, providing for the coordinated management and development of the lands for the economic benefit of both communities; and

(2) in a manner that is consistent with such provisions of the easements referred to subsections (a) and (b) that, as jointly determined by the Secretary of the Air Force and Secretary of the Interior, remain applicable and relevant to the operation and management of the lands following conveyance and are consistent with the provisions of this section.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Air Force and the Secretary of the Interior may jointly require such additional terms and conditions in connection with the conveyances required by subsections (a) and (b) as the Secretaries consider appropriate to protect the interests of the United States.

SEC. 2829. LAND CONVEYANCE, FORT HOOD, TEXAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Veterans Land Board of the State of Texas (in this section referred to as the “Board”), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 174 acres at Fort Hood, Texas, for the purpose of permitting the Board to establish a State-run cemetery for veterans.

(b) REVERSIONARY INTEREST.—(1) If at the end of the five-year period beginning on the date of the conveyance authorized by subsection (a), the Secretary determines that the property conveyed under that subsection is not being used for the purpose specified in that subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(2) Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Board.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2830. LAND CONVEYANCES, ENGINEER PROVING GROUND, FORT BELVOIR, VIRGINIA.

(a) CONVEYANCE TO FAIRFAX COUNTY, VIRGINIA, AUTHORIZED.—(1) The Secretary of the Army may convey, without consideration, to Fairfax County, Virginia, all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 135 acres, located in the northwest portion of the Engineer Proving Ground (EPG) at Fort Belvoir, Virginia, in order to permit the County to use such property for park and recreational purposes.

(2) The parcel of real property authorized to be conveyed by paragraph (1) is generally described as that portion of the Engineer Proving Ground located west of Accotink Creek, east of the Fairfax County Parkway, and north of Cissna Road to the northern boundary, but excludes a parcel of land consisting of approximately 15 acres located in the southeast corner of such portion of the Engineer Proving Ground.

(3) The land excluded under paragraph (2) from the parcel of real property authorized to be conveyed by paragraph (1) shall be reserved for an access road to be constructed in the future.

(b) CONVEYANCE OF BALANCE OF PROPERTY AUTHORIZED.—The Secretary may convey to any competitively selected grantee all right, title, and interest of the United States in and to the real property, including any improvements thereon, at the Engineering Proving Ground, not conveyed under the authority in subsection (a).

(c) CONSIDERATION.—(1) As consideration for the conveyance authorized by subsection (b), the grantee shall provide the United States, whether by cash payment, in-kind contribution, or a combination thereof, an amount that is not less than the fair market value, as determined by the Secretary, of the property conveyed under that subsection.

(2) In-kind consideration under paragraph (1) may include the maintenance, improvement, alteration, repair, remodeling, restoration (including environmental restoration), or construction of facilities for the Department of the Army at Fort Belvoir or at any other site or sites designated by the Secretary.

(3) If in-kind consideration under paragraph (1) includes the construction of facilities, the grantee shall also convey to the United States—

(A) title to such facilities, free of all liens and other encumbrances; and

(B) if the United States does not have fee simple title to the land underlying such facilities, convey to the United States all right, title, and interest in and to such lands not held by the United States.

(4) The Secretary shall deposit any cash received as consideration under this subsection in the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)).

(d) REPEAL OF SUPERSEDED AUTHORITY.—Section 2821 of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101-189; 103 Stat. 1658), as amended by section 2854 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104-106; 110 Stat. 568), is repealed.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsections (a) and (b) shall be determined by surveys satisfactory to the Secretary. The cost of each such survey shall be borne by the grantee.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under subsections (a) and (b) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2831. MASTER PLAN FOR USE OF NAVY ANNEX, ARLINGTON, VIRGINIA.

(a) REPEAL OF COMMISSION ON NATIONAL MILITARY MUSEUM.—Title XXIX of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106-65; 113 Stat. 880; 10 U.S.C. 111 note) is repealed.

(b) MODIFICATION OF AUTHORITY FOR TRANSFER FROM NAVY ANNEX.—Section 2881 of the Military Construction Authorization Act for Fiscal Year 2000 (113 Stat. 879) is amended—

(1) in subsection (b)(2), as amended by section 2863(f) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1332), by striking “as a site—” and all that follows and inserting “as a site for such other memorials or museums that the Secretary considers compatible with Arlington National Cemetery and the Air Force Memorial.”; and

(2) in subsection (d)—

(A) in paragraph (2), by striking “the recommendation (if any) of the Commission on the National Military Museum to use a portion of the Navy Annex property as the site for the National Military Museum”, and inserting “the use of the acres reserved under (b)(2) as a memorial or museum”; and

(B) in paragraph (4), by striking “the date on which the Commission on the National Military Museum submits to Congress its report under section 2903” and inserting “the date of the enactment of the National Defense Authorization Act for Fiscal Year 2003”.

(c) CONSTRUCTION OF AMENDMENTS.—The amendments made by subsections (a) and (b) may not be construed to delay the establishment of the United States Air Force Memorial authorized by section 2863 of the Military Construction Authorization Act for Fiscal Year 2002 (115 Stat. 1330).

SEC. 2832. LAND CONVEYANCE, SUNFLOWER ARMY AMMUNITION PLANT, KANSAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army or the Administrator of General Services may convey, without consideration, to the Johnson County Park and

Recreation District, Kansas (in this section referred to as the “District”), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, in the State of Kansas consisting of approximately 2,000 acres, a portion of the Sunflower Army Ammunition Plant. The purpose of the conveyance is to permit the District to use the parcel for public recreational purposes.

(b) DESCRIPTION OF PROPERTY.—The exact acreage, location, and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the official making the conveyance. The cost of such legal description, survey, or both shall be borne by the District.

(c) ADDITIONAL TERMS AND CONDITIONS.—The official making the conveyance of real property under subsection (a) may require such additional terms and conditions in connection with the conveyance as that official considers appropriate to protect the interests of the United States.

(d) EFFECTIVE DATE.—This section shall take effect on January 31, 2003.

SEC. 2833. LAND CONVEYANCE, BLUEGRASS ARMY DEPOT, RICHMOND, KENTUCKY.

(a) CONVEYANCE AUTHORIZED.—(1) The Secretary of the Army may convey, without consideration, to Madison County, Kentucky (in this section referred to as the “County”), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 10 acres at the Bluegrass Army Depot, Richmond, Kentucky, for the purpose of facilitating the construction of a veterans’ center on the parcel by the State of Kentucky.

(2) The Secretary may not make the conveyance authorized by this subsection unless the Secretary determines that the State of Kentucky has appropriated adequate funds for the construction of the veterans’ center.

(b) REVERSIONARY INTEREST.—If the Secretary determines that the real property conveyed under subsection (a) ceases to be utilized for the sole purpose of a veterans’ center or that reasonable progress is not demonstrated in constructing the center and initiating services to veterans, all right, title, and interest in and to the property shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination under this subsection shall be made on the record after an opportunity for a hearing.

(c) ADMINISTRATIVE EXPENSES.—The Secretary shall apply section 2695 of title 10, United States Code, to the conveyance authorized by subsection (a).

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the County.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Subtitle D—Other Matters

SEC. 2841. TRANSFER OF FUNDS FOR ACQUISITION OF REPLACEMENT PROPERTY FOR NATIONAL WILDLIFE REFUGE SYSTEM LANDS IN NEVADA.

(a) TRANSFER OF FUNDS AUTHORIZED.—(1) The Secretary of the Air Force may, using

amounts authorized to be appropriated by section 2304(a), transfer to the United States Fish and Wildlife Service \$15,000,000 to fulfill the obligations of the Air Force under section 3011(b)(5)(F) of the Military Lands Withdrawal Act of 1999 (title XXX of Public Law 106-65; 113 Stat. 889).

(2) Upon receipt by the Service of the funds transferred under paragraph (1), the obligations of the Air Force referred to in that paragraph shall be considered fulfilled.

(b) CONTRIBUTION TO FOUNDATION.—(1) The United States Fish and Wildlife Service may grant funds received by the Service under subsection (a) in a lump sum to the National Fish and Wildlife Foundation for use in accomplishing the purposes of section 3011(b)(5)(F) of the Military Lands Withdrawal Act of 1999.

(2) Funds received by the Foundation under paragraph (1) shall be subject to the provisions of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701 et seq.), other than section 10(a) of that Act (16 U.S.C. 3709(a)).

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2003 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of \$8,160,043,000, to be allocated as follows:

(1) WEAPONS ACTIVITIES.—For weapons activities, \$5,988,188,000, to be allocated as follows:

(A) For directed stockpile work, \$1,218,967,000.

(B) For campaigns, \$2,090,528,000, to be allocated as follows:

(i) For operation and maintenance, \$1,740,983,000.

(ii) For construction, \$349,545,000, to be allocated as follows:

Project 01-D-101, distributed information systems laboratory, Sandia National Laboratories, Livermore, California, \$13,305,000.

Project 00-D-103, terascale simulation facility, Lawrence Livermore National Laboratory, Livermore, California, \$35,030,000.

Project 00-D-107, joint computational engineering laboratory, Sandia National Laboratories, Albuquerque, New Mexico, \$7,000,000.

Project 98-D-125, tritium extraction facility, Savannah River Plant, Aiken, South Carolina, \$70,165,000.

Project 96-D-111, national ignition facility (NIF), Lawrence Livermore National Laboratory, Livermore, California, \$224,045,000.

(C) For readiness in technical base and facilities, \$1,735,129,000, to be allocated as follows:

(i) For operation and maintenance, \$1,464,783,000.

(ii) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), \$270,346,000, to be allocated as follows:

Project 03-D-101, Sandia underground reactor facility (SURF), Sandia National Laboratory, Livermore, California, \$2,000,000.

Project 03-D-103, project engineering and design (PED), various locations, \$17,839,000.

Project 03-D-121, gas transfer capacity expansion, Kansas City Plant, Kansas City, Missouri, \$4,000,000.

Project 03-D-122, purification prototype facility, Y-12 Plant, Oak Ridge, Tennessee, \$20,800,000.

Project 03-D-123, special nuclear material component requalification facility, Pantex Plant, Amarillo, Texas, \$3,000,000.

Project 02-D-103, project engineering and design (PED), various locations, \$24,945,000.

Project 02-D-105, engineering technology complex upgrade, Lawrence Livermore National Laboratory, Livermore, California, \$10,000,000.

Project 02-D-107, electrical power systems safety communications and bus upgrades, Nevada Test Site, Nevada, \$7,500,000.

Project 01-D-103, project engineering and design (PED), various locations, \$6,164,000.

Project 01-D-107, Atlas relocation, Nevada Test Site, Nevada, \$4,123,000.

Project 01-D-108, microsystems and engineering sciences applications (MESA), Sandia National Laboratories, Albuquerque, New Mexico, \$75,000,000.

Project 01-D-124, HEU storage facility, Y-12 Plant, Oak Ridge, Tennessee, \$25,000,000.

Project 01-D-126, weapons evaluation test laboratory, Pantex Plant, Amarillo, Texas, \$8,650,000.

Project 01-D-800, sensitive compartmented information facility, Lawrence Livermore National Laboratory, Livermore, California, \$9,611,000.

Project 99-D-103, isotope sciences facilities, Lawrence Livermore National Laboratory, Livermore, California, \$4,011,000.

Project 99-D-104, protection of real property (roof reconstruction, phase II), Lawrence Livermore National Laboratory, Livermore, California, \$5,915,000.

Project 99-D-127, stockpile management restructuring initiative, Kansas City Plant, Kansas City, Missouri, \$29,900,000.

Project 99-D-128, stockpile management restructuring initiative, Pantex Plant, Amarillo, Texas, \$407,000.

Project 98-D-123, stockpile management restructuring initiative, tritium facility modernization and consolidation, Savannah River Plant, Aiken, South Carolina, \$10,481,000.

Project 96-D-102, stockpile stewardship facilities revitalization, Phase VI, various locations, \$1,000,000.

(C) For secure transportation asset, \$157,083,000, to be allocated as follows:

(i) For operation and maintenance, \$102,578,000.

(ii) For program direction, \$54,505,000.

(D) For safeguards and security, \$574,954,000, to be allocated as follows:

(i) For operation and maintenance, \$566,054,000.

(ii) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), \$8,900,000, to be allocated as follows:

Project 99-D-132, stockpile management restructuring initiative, nuclear material safeguards and security upgrades project, Los Alamos National Laboratory, Los Alamos, New Mexico, \$8,900,000.

(E) For facilities and infrastructure, \$242,512,000.

(2) DEFENSE NUCLEAR NONPROLIFERATION.—For defense nuclear nonproliferation activities, \$1,129,130,000, to be allocated as follows:

(A) For operation and maintenance, \$1,037,130,000, to be allocated as follows:

(i) For nonproliferation and verification research and development, \$298,907,000.

(ii) For nonproliferation programs, \$446,223,000.

(iii) For fissile materials, \$292,000,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), \$156,000,000, to be allocated as follows:

Project 01-D-407, highly enriched uranium blend-down, Savannah River Site, Aiken, South Carolina, \$30,000,000.

Project 99-D-141, pit disassembly and conversion facility, Savannah River Site, Aiken, South Carolina, \$33,000,000.

Project 99-D-143, mixed oxide fuel fabrication facility, Savannah River Site, Aiken, South Carolina, \$93,000,000.

(3) NAVAL REACTORS.—For naval reactors, \$707,020,000, to be allocated as follows:

(A) For naval reactors development, \$682,590,000, to be allocated as follows:

(i) For operation and maintenance, \$671,290,000.

(ii) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), \$11,300,000, to be allocated as follows:

Project 03-D-201, cleanroom technology facility, Bettis Atomic Power Laboratory, West Mifflin, Pennsylvania, \$7,200,000.

Project 01-D-200, major office replacement building, Schenectady, New York, \$2,100,000.

Project 90-N-102, expended core facility dry cell project, Naval Reactors Facility, Idaho, \$2,000,000.

(B) For program direction, \$24,430,000.

(4) OFFICE OF ADMINISTRATOR FOR NUCLEAR SECURITY.—For the Office of the Administrator for Nuclear Security, and for program direction for the National Nuclear Security Administration (other than for naval reactors and secure transportation asset), \$335,705,000.

SEC. 3102. DEFENSE ENVIRONMENTAL MANAGEMENT.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2003 for environmental management activities in carrying out programs necessary for national security in the amount of \$6,710,774,000, to be allocated as follows:

(1) CLOSURE PROJECTS.—For closure projects carried out in accordance with section 3143 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2836; 42 U.S.C. 7277n), \$1,109,314,000.

(2) SITE/PROJECT COMPLETION.—For site completion and project completion in carrying out environmental management activities necessary for national security programs, \$793,950,000, to be allocated as follows:

(A) For operation and maintenance, \$779,706,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), \$14,244,000, to be allocated as follows:

Project 02-D-402, Intec cathodic protection system expansion, Idaho National Engineering and Environmental Laboratory, Idaho Falls, Idaho, \$1,119,000.

Project 02-D-420, plutonium stabilization and packaging, Savannah River Site, Aiken, South Carolina, \$2,000,000.

Project 01-D-414, project engineering and design (PED), various locations, \$5,125,000.

Project 86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, \$6,000,000.

(3) POST-2006 COMPLETION.—For post-2006 completion in carrying out environmental restoration and waste management activities necessary for national security programs, \$2,617,199,000, to be allocated as follows:

(A) For operation and maintenance, \$1,704,341,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), \$14,870,000, to be allocated as follows:

Project 93-D-187, high-level waste removal from filled waste tanks, Savannah River Site, Aiken, South Carolina, \$14,870,000.

(C) For the Office of River Protection in carrying out environmental restoration and waste management activities necessary for national security programs, \$897,988,000, to be allocated as follows:

(i) For operation and maintenance, \$226,256,000.

(ii) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), \$671,732,000, to be allocated as follows:

Project 03-D-403, immobilized high-level waste interim storage facility, Richland, Washington, \$6,363,000.

Project 01-D-416, waste treatment and immobilization plant, Richland, Washington, \$619,000,000.

Project 97-D-402, tank farm restoration and safe operations, Richland, Washington, \$25,424,000.

Project 94-D-407, initial tank retrieval systems, Richland, Washington, \$20,945,000.

(4) SCIENCE AND TECHNOLOGY DEVELOPMENT.—For science and technology development in carrying out environmental management activities necessary for national security programs, \$92,000,000.

(5) EXCESS FACILITIES.—For excess facilities in carrying out environmental management activities necessary for national security programs, \$1,300,000.

(6) SAFEGUARDS AND SECURITY.—For safeguards and security in carrying out environmental management activities necessary for national security programs, \$278,260,000.

(7) URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND.—For contribution to the Uranium Enrichment Decontamination and Decommissioning Fund under chapter 28 of the Atomic Energy Act of 1954 (42 U.S.C. 2297g et seq.), \$441,000,000.

(8) ENVIRONMENTAL MANAGEMENT CLEANUP REFORM.—For accelerated environmental restoration and waste management activities, \$1,000,000,000.

(9) PROGRAM DIRECTION.—For program direction in carrying out environmental restoration and waste management activities necessary for national security programs, \$396,098,000.

SEC. 3103. OTHER DEFENSE ACTIVITIES.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2003 for other defense activities in carrying out programs necessary for national security in the amount of \$489,883,000, to be allocated as follows:

(1) INTELLIGENCE.—For intelligence, \$43,559,000.

(2) COUNTERINTELLIGENCE.—For counterintelligence, \$48,083,000.

(3) OFFICE OF SECURITY.—For the Office of Security for security, \$252,218,000, to be allocated as follows:

(A) For nuclear safeguards and security, \$156,102,000.

(B) For security investigations, \$45,870,000.

(C) For program direction, \$50,246,000.

(4) INDEPENDENT OVERSIGHT AND PERFORMANCE ASSURANCE.—For independent oversight and performance assurance, \$22,615,000.

(5) OFFICE OF ENVIRONMENT, SAFETY, AND HEALTH.—For the Office of Environment, Safety, and Health, \$104,910,000, to be allocated as follows:

(A) For environment, safety, and health (defense), \$86,892,000.

(B) For program direction, \$18,018,000.

(6) WORKER AND COMMUNITY TRANSITION ASSISTANCE.—For worker and community transition assistance, \$25,774,000, to be allocated as follows:

(A) For worker and community transition, \$22,965,000.

(B) For program direction, \$2,809,000.

(7) OFFICE OF HEARINGS AND APPEALS.—For the Office of Hearings and Appeals, \$3,136,000.

SEC. 3104. DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2003 for privatization initiatives in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of \$158,399,000, to be allocated as follows:

Project 98-PVT-2, spent nuclear fuel dry storage, Idaho Falls, Idaho, \$53,399,000.

Project 97-PVT-2, advanced mixed waste treatment project, Idaho Falls, Idaho, \$105,000,000.

SEC. 3105. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2003 for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of \$215,000,000.

Subtitle B—Recurring General Provisions

SEC. 3121. REPROGRAMMING.

(a) IN GENERAL.—Until the Secretary of Energy submits to the congressional defense committees the report referred to in subsection (b) and a period of 30 days has elapsed after the date on which such committees receive the report, the Secretary may not use amounts appropriated pursuant to this title for any program—

(1) in amounts that exceed, in a fiscal year—

(A) 115 percent of the amount authorized for that program by this title; or

(B) \$5,000,000 more than the amount authorized for that program by this title; or

(2) which has not been presented to, or requested of, Congress.

(b) REPORT.—(1) The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action.

(2) In the computation of the 30-day period under subsection (a), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) LIMITATIONS.—(1) In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

(2) Funds appropriated pursuant to this title may not be used for an item for which Congress has specifically denied funds.

SEC. 3122. LIMITS ON MINOR CONSTRUCTION PROJECTS.

(a) AUTHORITY.—The Secretary of Energy may carry out any minor construction project using operation and maintenance funds, or facilities and infrastructure funds, authorized by this title.

(b) ANNUAL REPORT.—The Secretary shall submit to the congressional defense committees on an annual basis a report on each exercise of the authority in subsection (a) during the preceding year. Each report shall provide a brief description of each minor construction project covered by the report.

(c) COST VARIATION REPORTS TO CONGRESSIONAL COMMITTEES.—If, at any time during the construction of any minor construction project authorized by this title, the estimated cost of the project is revised and the revised cost of the project exceeds \$5,000,000, the Secretary shall immediately submit to the congressional defense committees a report explaining the reasons for the cost variation.

(d) MINOR CONSTRUCTION PROJECT DEFINED.—In this section, the term “minor construction project” means any plant project not specifically authorized by law if the approved total estimated cost of the plant project does not exceed \$5,000,000.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, authorized by section 3101, 3102, or 3103, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken if—

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the actions and the circumstances making such action necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(b) EXCEPTION.—Subsection (a) does not apply to a construction project with a current estimated cost of less than \$5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY.

(a) TRANSFER TO OTHER FEDERAL AGENCIES.—The Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title to other Federal agencies for the performance of work for which the funds were authorized. Funds so transferred may be merged with and be available for the same purposes and for the same time period as the authorizations of the Federal agency to which the amounts are transferred.

(b) TRANSFER WITHIN DEPARTMENT OF ENERGY.—(1) Subject to paragraph (2), the Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title between any such authorizations. Amounts of authorizations so transferred may be merged with and be available for the same purposes and for the same period as the authorization to which the amounts are transferred.

(2) Not more than 5 percent of any such authorization may be transferred between au-

thorizations under paragraph (1). No such authorization may be increased or decreased by more than 5 percent by a transfer under such paragraph.

(c) LIMITATIONS.—The authority provided by this subsection to transfer authorizations—

(1) may be used only to provide funds for items relating to activities necessary for national security programs that have a higher priority than the items from which the funds are transferred; and

(2) may not be used to provide funds for an item for which Congress has specifically denied funds.

(d) NOTICE TO CONGRESS.—The Secretary of Energy shall promptly notify the Committees on Armed Services of the Senate and House of Representatives of any transfer of funds to or from authorizations under this title.

SEC. 3125. AUTHORITY FOR CONCEPTUAL AND CONSTRUCTION DESIGN.

(a) REQUIREMENT OF CONCEPTUAL DESIGN.—(1) Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project.

(2) If the estimated cost of completing a conceptual design for a construction project exceeds \$3,000,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) The requirement in paragraph (1) does not apply to a request for funds—

(A) for a minor construction project the total estimated cost of which is less than \$5,000,000; or

(B) for emergency planning, design, and construction activities under section 3126.

(b) AUTHORITY FOR CONSTRUCTION DESIGN.—(1) Within the amounts authorized by this title, the Secretary of Energy may carry out construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such design does not exceed \$600,000.

(2) If the total estimated cost for construction design in connection with any construction project exceeds \$600,000, funds for that design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.

(a) AUTHORITY.—The Secretary of Energy may use any funds available to the Department of Energy pursuant to an authorization in this title, including funds authorized to be appropriated for advance planning, engineering, and construction design, and for plant projects, under sections 3101, 3102, 3103, and 3104 to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, to meet the needs of national defense, or to protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of any construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making those activities necessary.

(c) **SPECIFIC AUTHORITY.**—The requirement of section 3125(b)(2) does not apply to emergency planning, design, and construction activities conducted under this section.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. AVAILABILITY OF FUNDS.

(a) **IN GENERAL.**—Except as provided in subsection (b), when so specified in an appropriations Act, amounts appropriated for operation and maintenance or for plant projects may remain available until expended.

(b) **EXCEPTION FOR PROGRAM DIRECTION FUNDS.**—Amounts appropriated for program direction pursuant to an authorization of appropriations in subtitle A shall remain available to be expended only until the end of fiscal year 2004.

SEC. 3129. TRANSFER OF DEFENSE ENVIRONMENTAL MANAGEMENT FUNDS.

(a) **TRANSFER AUTHORITY FOR DEFENSE ENVIRONMENTAL MANAGEMENT FUNDS.**—The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer defense environmental management funds from a program or project under the jurisdiction of that office to another such program or project.

(b) **LIMITATIONS.**—(1) Not more than three transfers may be made to or from any program or project under subsection (a) in a fiscal year.

(2) The amount transferred to or from a program or project in any one transfer under subsection (a) may not exceed \$5,000,000.

(3) A transfer may not be carried out by a manager of a field office under subsection (a) unless the manager determines that the transfer is necessary—

(A) to address a risk to health, safety, or the environment; or

(B) to assure the most efficient use of defense environmental management funds at the field office.

(4) Funds transferred pursuant to subsection (a) may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.

(c) **EXEMPTION FROM REPROGRAMMING REQUIREMENTS.**—The requirements of section 3121 shall not apply to transfers of funds pursuant to subsection (a).

(d) **NOTIFICATION.**—The Secretary, acting through the Assistant Secretary of Energy for Environmental Management, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after such transfer occurs.

(e) **DEFINITIONS.**—In this section:

(1) The term “program or project” means, with respect to a field office of the Department of Energy, any of the following:

(A) A program referred to or a project listed in paragraph (2) or (3) of section 3102.

(B) A program or project not described in subparagraph (A) that is for environmental restoration or waste management activities necessary for national security programs of the Department, that is being carried out by that office, and for which defense environmental management funds have been authorized and appropriated before the date of the enactment of this Act.

(2) The term “defense environmental management funds” means funds appropriated to the Department of Energy pursuant to an authorization for carrying out environmental restoration and waste management activities necessary for national security programs.

(f) **DURATION OF AUTHORITY.**—The managers of the field offices of the Department may exercise the authority provided under subsection (a) during the period beginning on October 1, 2002, and ending on September 30, 2003.

SEC. 3130. TRANSFER OF WEAPONS ACTIVITIES FUNDS.

(a) **TRANSFER AUTHORITY FOR WEAPONS ACTIVITIES FUNDS.**—The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer weapons activities funds from a program or project under the jurisdiction of that office to another such program or project.

(b) **LIMITATIONS.**—(1) Not more than three transfers may be made to or from any program or project under subsection (a) in a fiscal year.

(2) The amount transferred to or from a program or project in any one transfer under subsection (a) may not exceed \$5,000,000.

(3) A transfer may not be carried out by a manager of a field office under subsection (a) unless the manager determines that the transfer—

(A) is necessary to address a risk to health, safety, or the environment; or

(B) will result in cost savings and efficiencies.

(4) A transfer may not be carried out by a manager of a field office under subsection (a) to cover a cost overrun or scheduling delay for any program or project.

(5) Funds transferred pursuant to subsection (a) may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.

(c) **EXEMPTION FROM REPROGRAMMING REQUIREMENTS.**—The requirements of section 3121 shall not apply to transfers of funds pursuant to subsection (a).

(d) **NOTIFICATION.**—The Secretary, acting through the Administrator for Nuclear Security, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after such transfer occurs.

(e) **DEFINITIONS.**—In this section:

(1) The term “program or project” means, with respect to a field office of the Department of Energy, any of the following:

(A) A program referred to or a project listed in section 3101(1).

(B) A program or project not described in subparagraph (A) that is for weapons activities necessary for national security programs of the Department, that is being carried out by that office, and for which weapons activities funds have been authorized and appropriated before the date of the enactment of this Act.

(2) The term “weapons activities funds” means funds appropriated to the Department of Energy pursuant to an authorization for carrying out weapons activities necessary for national security programs.

(f) **DURATION OF AUTHORITY.**—The managers of the field offices of the Department may exercise the authority provided under subsection (a) during the period beginning on October 1, 2002, and ending on September 30, 2003.

Subtitle C—Program Authorizations, Restrictions, and Limitations

SEC. 3131. AVAILABILITY OF FUNDS FOR ENVIRONMENTAL MANAGEMENT CLEANUP REFORM.

(a) **LIMITATION ON AVAILABILITY FOR ENVIRONMENTAL MANAGEMENT CLEANUP REFORM.**—None of the funds authorized to be appropriated by section 3102(8) for the Department of Energy for environmental management cleanup reform may be obligated or expended until the Secretary of Energy—

(1) publishes in the Federal Register, and submits to the congressional defense committees, a report setting forth criteria established by the Secretary—

(A) for selecting the projects that will receive funding using such funds; and

(B) for setting priorities among the projects selected under subparagraph (A); or

(2) notifies the congressional defense committees that the criteria described by paragraph (1) will not be established.

(b) **REQUIREMENTS REGARDING ESTABLISHMENT OF CRITERIA.**—Before establishing criteria, if any, under subsection (a)(1), the Secretary shall publish a proposal for such criteria in the Federal Register, and shall provide a period of 45 days for public notice and comment on the proposal.

(c) **AVAILABILITY OF FUNDS IF CRITERIA ARE NOT ESTABLISHED.**—(1) If the Secretary exercises the authority under subsection (a)(2), the Secretary shall reallocate the funds referred to in subsection (a) among sites that received funds during fiscal year 2002 for defense environmental restoration and waste management activities under section 3102 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-197; 115 Stat. 1358).

(2) The amount of funds referred to in subsection (a) that are allocated under paragraph (1) to a site described in that paragraph shall bear the same ratio to the amount of funds referred to in subsection (a) as the amount of funds received by such site during fiscal year 2002 under section 3102 of the National Defense Authorization Act for Fiscal Year 2002 bears to the total amount of funds made available to all sites during fiscal year 2002 under that section.

(3) No funds allocated under paragraph (1) may be obligated or expended until 30 days after the Secretary submits to the congressional defense committee a list of the projects at each site allocated funds under that paragraph, and the amount of such funds to be provided to each such project at each such site.

(4) Funds referred to in subsection (a) may not be obligated or expended for any site that was not funded in fiscal year 2002 from amounts available to the Department of Energy under title XXXI of the National Defense Authorization Act for Fiscal Year 2002.

SEC. 3132. ROBUST NUCLEAR EARTH PENETRATOR.

Not later than February 3, 2003, the Secretary of Defense shall, in consultation with the Secretary of Energy, submit to the congressional defense committees a report on the Robust Nuclear Earth Penetrator (RNEP). The report shall set forth—

(1) the military requirements for the Robust Nuclear Earth Penetrator;

(2) the nuclear weapons employment policy regarding the Robust Nuclear Earth Penetrator;

(3) a detailed description of the categories or types of targets that the Robust Nuclear Earth Penetrator is designed to hold at risk; and

(4) an assessment of the ability of conventional weapons to address the same categories and types of targets described under paragraph (3).

SEC. 3133. DATABASE TO TRACK NOTIFICATION AND RESOLUTION PHASES OF SIGNIFICANT FINDING INVESTIGATIONS.

(a) **AVAILABILITY OF FUNDS FOR DATABASE.**—Amounts authorized to be appropriated by section 3101(1) for the National Nuclear Security Administration for weapons activities shall be available to the Deputy Administrator for Nuclear Security for Defense Programs for the development and implementation of a database for all national security laboratories to track the notification and resolution phases of Significant Finding Investigations (SFIs). The purpose of the database is to facilitate the monitoring of the progress and accountability of the national security laboratories in Significant Finding Investigations.

(b) **IMPLEMENTATION DEADLINE.**—The database required by subsection (a) shall be implemented not later than September 30, 2003.

(c) **NATIONAL SECURITY LABORATORY DEFINED.**—In this section, the term “national security laboratory” has the meaning given that term in section 3281(1) of the National Nuclear Security Administration Act (title XXXII of Public Law 106-65; 113 Stat. 968; 50 U.S.C. 2471(1)).

SEC. 3134. REQUIREMENTS FOR SPECIFIC REQUEST FOR NEW OR MODIFIED NUCLEAR WEAPONS.

(a) **REQUIREMENT FOR REQUEST FOR FUNDS FOR DEVELOPMENT.**—(1) In any fiscal year after fiscal year 2002 in which the Secretary of Energy plans to carry out activities described in paragraph (2) relating to the development of a new nuclear weapon or modified nuclear weapon, the Secretary shall specifically request funds for such activities in the budget of the President for that fiscal year under section 1105(a) of title 31, United States Code.

(2) The activities described in this paragraph are as follows:

(A) The conduct, or provision for conduct, of research and development which could lead to the production of a new nuclear weapon by the United States.

(B) The conduct, or provision for conduct, of engineering or manufacturing to carry out the production of a new nuclear weapon by the United States.

(C) The conduct, or provision for conduct, of research and development which could lead to the production of a modified nuclear weapon by the United States.

(D) The conduct, or provision for conduct, of engineering or manufacturing to carry out the production of a modified nuclear weapon by the United States.

(b) **BUDGET REQUEST FORMAT.**—The Secretary shall include in a request for funds under subsection (a) the following:

(1) In the case of funds for activities described in subparagraph (A) or (C) of subsection (a)(2), a dedicated line item for each such activity for a new nuclear weapon or modified nuclear weapons that is in phase 1 or 2A or phase 6.1 or 6.2A, as the case may be, of the nuclear weapons acquisition process.

(2) In the case of funds for activities described in subparagraph (B) or (D) of subsection (a)(2), a dedicated line item for each such activity for a new nuclear weapon or modified nuclear weapon that is in phase 3 or higher or phase 6.3 or higher, as the case may be, of the nuclear weapons acquisition process.

(c) **EXCEPTION.**—Subsections (a) shall not apply to funds for purposes of conducting, or

providing for the conduct of, research and development, or manufacturing and engineering, determined by the Secretary to be necessary—

(1) for the nuclear weapons life extension program;

(2) to modify an existing nuclear weapon solely to address safety or reliability concerns; or

(3) to address proliferation concerns.

(d) **CONSTRUCTION WITH PROHIBITION ON RESEARCH AND DEVELOPMENT ON LOW-YIELD NUCLEAR WEAPONS.**—Nothing in this section may be construed to modify, repeal, or in any way affect the provisions of section 3136 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1946; 42 U.S.C. 2121 note), relating to prohibitions on research and development on low-yield nuclear weapons.

(e) **DEFINITIONS.**—In this section:

(1) The term “life extension program” means the program to repair or replace non-nuclear components, or to modify the pit or canned subassembly, of nuclear weapons in the nuclear weapons stockpile on the date of the enactment of this Act in order to assure that such nuclear weapons retain the ability to meet the military requirements applicable to such nuclear weapons when first placed in the nuclear weapons stockpile.

(2) The term “modified nuclear weapon” means a nuclear weapon that contains a pit or canned subassembly, either of which—

(A) is in the nuclear weapons stockpile as of the date of the enactment of this Act; and

(B) is being modified in order to meet a military requirement that is other than the military requirements applicable to such nuclear weapon when first placed in the nuclear weapons stockpile.

(3) The term “new nuclear weapon” means a nuclear weapon that contains a pit or canned subassembly, either of which is neither—

(A) in the nuclear weapons stockpile on the date of the enactment of this Act; nor

(B) in production as of that date.

SEC. 3135. REQUIREMENT FOR AUTHORIZATION BY LAW FOR FUNDS OBLIGATED OR EXPENDED FOR DEPARTMENT OF ENERGY NATIONAL SECURITY ACTIVITIES.

Section 660 of the Department of Energy Organization Act (42 U.S.C. 7270) is amended—

(1) by inserting “(a)” before “Appropriations”; and

(2) by adding at the end the following new subsection:

“(b)(1) No funds for the Department may be obligated or expended for—

“(A) national security programs and activities of the Department; or

“(B) activities under the Atomic Energy Act of 1954 (42 U.S.C. 2012 et seq.);

unless funds therefor have been specifically authorized by law.

“(2) Nothing in paragraph (1) may be construed to preclude the requirement under subsection (a), or under any other provision of law, for an authorization of appropriations for programs and activities of the Department (other than programs and activities covered by that paragraph) as a condition to the obligation and expenditure of funds for programs and activities of the Department (other than programs and activities covered by that paragraph).”.

SEC. 3136. LIMITATION ON AVAILABILITY OF FUNDS FOR PROGRAM TO ELIMINATE WEAPONS GRADE PLUTONIUM PRODUCTION IN RUSSIA.

(a) **LIMITATION.**—Of the amounts authorized to be appropriated by this title for the

program to eliminate weapons grade plutonium production, the Administrator for Nuclear Security may not obligate or expend more than \$100,000,000 for that program until 30 days after the date on which the Administrator submits to the congressional defense committees a copy of an agreement entered into between the United States Government and the Government of the Russian Federation to shut down the three plutonium-producing reactors in Russia.

(b) **AGREEMENT ELEMENTS.**—The agreement under subsection (a)—

(1) shall contain—

(A) a commitment to shut down the three plutonium-producing reactors;

(B) the date on which each such reactor will be shut down;

(C) a schedule and milestones for each such reactor to complete the shut down of such reactor by the date specified under subparagraph (B);

(D) an arrangement for access to sites and facilities necessary to meet such schedules and milestones; and

(E) an arrangement for audit and examination procedures in order to evaluate progress in meeting such schedules and milestones; and

(2) may include cost sharing arrangements.

Subtitle D—Proliferation Matters

SEC. 3151. ADMINISTRATION OF PROGRAM TO ELIMINATE WEAPONS GRADE PLUTONIUM PRODUCTION IN RUSSIA.

(a) **TRANSFER OF PROGRAM TO DEPARTMENT OF ENERGY.**—The program to eliminate weapons grade plutonium production in Russia shall be transferred from the Department of Defense to the Department of Energy.

(b) **TRANSFER OF ASSOCIATED FUNDS.**—(1) Notwithstanding any restriction or limitation in law on the availability of Cooperative Threat Reduction funds specified in paragraph (2), the Cooperative Threat Reduction funds specified in that paragraph that are available for the program referred to in subsection (a) shall be transferred from the Department of Defense to the Department of Energy.

(2) The Cooperative Threat Reduction funds specified in this paragraph are the following:

(A) Fiscal year 2002 Cooperative Threat Reduction funds, as specified in section 1301(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1254; 22 U.S.C. 5952 note).

(B) Fiscal year 2001 Cooperative Threat Reduction funds, as specified in section 1301(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-339).

(C) Fiscal year 2000 Cooperative Threat Reduction funds, as specified in section 1301(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 792; 22 U.S.C. 5952 note).

(c) **AVAILABILITY OF TRANSFERRED FUNDS.**—(1) Notwithstanding any restriction or limitation in law on the availability of Cooperative Threat Reduction funds specified in subsection (b)(2), the Cooperative Threat Reduction funds transferred under subsection (b) for the program referred to in subsection (a) shall be available for activities as follows:

(A) To design and construct, refurbish, or both, fossil fuel energy plants in Russia that provide alternative sources of energy to the energy plants in Russia that produce weapons grade plutonium.

(B) To carry out limited safety upgrades of not more than three energy plants in Russia that produce weapons grade plutonium in

order to permit the shutdown of such energy plants and eliminate the production of weapons grade plutonium in such energy plants.

(2) Amounts available under paragraph (1) for activities referred to in that paragraph shall remain available for such activities until expended.

SEC. 3152. REPEAL OF REQUIREMENT FOR REPORTS ON OBLIGATION OF FUNDS FOR PROGRAMS ON FISSIONABLE MATERIALS IN RUSSIA.

Section 3131 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 617; 22 U.S.C. 5952 note) is amended—

(1) in subsection (a), by striking “(a) AUTHORITY.—”; and

(2) by striking subsection (b).

SEC. 3153. EXPANSION OF ANNUAL REPORTS ON STATUS OF NUCLEAR MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAMS.

(a) COVERED PROGRAMS.—Subsection (a) of section 3171 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-475) is amended by striking “Russia that” and inserting “countries where such materials”.

(b) REPORT CONTENTS.—Subsection (b) of that section is amended—

(1) in paragraph (1) by inserting “in each country covered by subsection (a)” after “locations,”;

(2) in paragraph (2), by striking “in Russia” and inserting “in each such country”;

(3) in paragraph (3), by inserting “in each such country” after “subsection (a)”;

(4) in paragraph (5), by striking “by total amount and by amount per fiscal year” and inserting “by total amount per country and by amount per fiscal year per country”.

SEC. 3154. TESTING OF PREPAREDNESS FOR EMERGENCIES INVOLVING NUCLEAR, RADIOLOGICAL, CHEMICAL, OR BIOLOGICAL WEAPONS.

(a) EXTENSION OF TESTING.—Section 1415 of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104-201; 110 Stat. 2720; 50 U.S.C. 2315) is amended—

(1) in subsection (a)(2), by striking “of five successive fiscal years beginning with fiscal year 1997” and inserting “of fiscal years 1997 through 2013”; and

(2) in subsection (b)(2), by striking “of five successive fiscal years beginning with fiscal year 1997” and inserting “of fiscal years 1997 through 2013”.

(b) CONSTRUCTION OF EXTENSION WITH DESIGNATION OF ATTORNEY GENERAL AS LEAD OFFICIAL.—The amendment made by subsection (a) may not be construed as modifying the designation of the President entitled “Designation of the Attorney General as the Lead Official for the Emergency Response Assistance Program Under Sections 1412 and 1415 of the National Defense Authorization Act for Fiscal Year 1997”, dated April 6, 2000, designating the Attorney General to assume programmatic and funding responsibilities for the Emergency Response Assistance Program under sections 1412 and 1415 of the Defense Against Weapons of Mass Destruction Act of 1996.

SEC. 3155. PROGRAM ON RESEARCH AND TECHNOLOGY FOR PROTECTION FROM NUCLEAR OR RADIOLOGICAL TERRORISM.

(a) PROGRAM REQUIRED.—(1) The Administrator for Nuclear Security shall carry out a program on research and technology for protection from nuclear or radiological terrorism, including technology for the detection (particularly as border crossings and

ports of entry), identification, assessment, control, disposition, consequence management, and consequence mitigation of the dispersal of radiological materials or of nuclear terrorism.

(2) The Administrator shall carry out the program as part of the support of the Administrator for homeland security and counterterrorism within the National Nuclear Security Administration

(b) PROGRAM ELEMENTS.—In carrying out the program required by subsection (a), the Administrator shall—

(1) provide for the development of technologies to respond to threats or incidents involving nuclear or radiological terrorism in the United States;

(2) demonstrate applications of the technologies developed under paragraph (1), including joint demonstrations with the Office of Homeland Security and other appropriate Federal agencies;

(3) provide, where feasible, for the development in cooperation with the Russian Federation of technologies to respond to nuclear or radiological terrorism in the former states of the Soviet Union, including the demonstration of technologies so developed;

(4) provide, where feasible, assistance to other countries on matters relating to nuclear or radiological terrorism, including—

(A) the provision of technology and assistance on means of addressing nuclear or radiological incidents;

(B) the provision of assistance in developing means for the safe disposal of radioactive materials;

(C) in coordination with the Nuclear Regulatory Commission, the provision of assistance in developing the regulatory framework for licensing and developing programs for the protection and control of radioactive sources; and

(D) the provision of assistance in evaluating the radiological sources identified as not under current accounting programs in the report of the Inspector General of the Department of Energy entitled “Accounting for Sealed Sources of Nuclear Material Provided to Foreign Countries”, and in identifying and controlling radiological sources that represent significant risks; and

(5) in coordination with the Office of Environment, Safety, and Health of the Department of Energy, the Department of Commerce, and the International Atomic Energy Agency, develop consistent criteria for screening international transfers of radiological materials.

(c) REQUIREMENTS FOR INTERNATIONAL ELEMENTS OF PROGRAM.—(1) In carrying out activities in accordance with paragraphs (3) and (4) of subsection (b), the Administrator shall consult with—

(A) the Secretary of Defense, Secretary of State, and Secretary of Commerce; and

(B) the International Atomic Energy Agency.

(2) The Administrator shall encourage joint leadership between the United States and the Russian Federation of activities on the development of technologies under subsection (b)(4).

(d) INCORPORATION OF RESULTS IN EMERGENCY RESPONSE ASSISTANCE PROGRAM.—To the maximum extent practicable, the technologies and information developed under the program required by subsection (a) shall be incorporated into the program on responses to emergencies involving nuclear and radiological weapons carried out under section 1415 of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104-201; 50 U.S.C. 2315).

(e) AMOUNT FOR ACTIVITIES.—Of the amount authorized to be appropriated by section 3101(2) for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation and available for the development of a new generation of radiation detectors for homeland defense, up to \$15,000,000 shall be available for carrying out this section.

SEC. 3156. EXPANSION OF INTERNATIONAL MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAM.

(a) EXPANSION OF PROGRAM TO ADDITIONAL COUNTRIES AUTHORIZED.—The Secretary of Energy may expand the International Materials Protection, Control, and Accounting (MPC&A) program of the Department of Energy to encompass countries outside the Russian Federation and the independent states of the former Soviet Union.

(b) NOTICE TO CONGRESS OF USE OF FUNDS FOR ADDITIONAL COUNTRIES.—Not later than 30 days after the Secretary obligates funds for the International Materials Protection, Control, and Accounting program, as expanded under subsection (a), for activities in or with respect to a country outside the Russian Federation and the independent states of the former Soviet Union, the Secretary shall submit to Congress a notice of the obligation of such funds for such activities.

(c) ASSISTANCE TO DEPARTMENT OF STATE FOR NUCLEAR MATERIALS SECURITY PROGRAMS.—(1) As part of the International Materials Protection, Control, and Accounting program, the Secretary of Energy may provide technical assistance to the Secretary of State in the efforts of the Secretary of State to assist other nuclear weapons states to review and improve their nuclear materials security programs.

(2) The technical assistance provided under paragraph (1) may include the sharing of technology or methodologies to the states referred to in that paragraph. Any such sharing shall—

(A) be consistent with the treaty obligations of the United States; and

(B) take into account the sovereignty of the state concerned and its weapons programs, as well the sensitivity of any information involved regarding United States weapons or weapons systems.

(3) The Secretary of Energy may include the Russian Federation in activities under paragraph (1) if the Secretary determines that the experience of the Russian Federation under the International Materials Protection, Control, and Accounting program with the Russian Federation would make the participation of the Russian Federation in such activities useful in providing technical assistance under that paragraph.

(d) PLAN FOR ACCELERATED CONVERSION OR RETURN OF WEAPONS-USABLE NUCLEAR MATERIALS.—(1) The Secretary shall develop a plan to accelerate the conversion or return to the country of origin of all weapons-usable nuclear materials located in research reactors and other facilities outside the country of origin.

(2) The plan under paragraph (1) for nuclear materials of origin in the Soviet Union shall be developed in consultation with the Russian Federation.

(3) As part of the plan under paragraph (1), the Secretary shall identify the funding and schedules required to assist the research reactors and facilities referred to in that paragraph in upgrading their materials protection, control, and accounting procedures until the weapons-usable nuclear materials in such reactors and facilities are converted or returned in accordance with that paragraph.

(4) The provision of assistance under paragraph (3) shall be closely coordinated with ongoing efforts of the International Atomic Energy Agency for the same purpose.

(e) **RADIOLOGICAL DISPERSAL DEVICE MATERIALS PROTECTION, CONTROL, AND ACCOUNTING.**—(1) The Secretary shall establish within the International Materials Protection, Control, and Accounting program a program on the protection, control, and accounting of materials usable in radiological dispersal devices.

(2) The program under paragraph (1) shall include—

(A) an identification of vulnerabilities regarding radiological materials worldwide;

(B) the mitigation of vulnerabilities so identified through appropriate security enhancements; and

(C) an acceleration of efforts to recover and control diffused radiation sources and ‘orphaned’ radiological sources that are of sufficient strength to represent a significant risk.

(3) The program under paragraph (1) shall be known as the Radiological Dispersal Device Materials Protection, Control, and Accounting program.

(f) **STUDY OF PROGRAM TO SECURE CERTAIN RADIOLOGICAL MATERIALS.**—(1) The Secretary, acting through the Administrator for Nuclear Security, shall require the Office of International Materials Protection, Control, and Accounting of the Department of Energy to conduct a study to determine the feasibility and advisability of developing a program to secure radiological materials outside the United States that pose a threat to the national security of the United States.

(2) The study under paragraph (1) shall include the following:

(A) An identification of the categories of radiological materials that are covered by that paragraph, including an order of priority for securing each category of such radiological materials.

(B) An estimate of the number of sites at which such radiological materials are present.

(C) An assessment of the effort required to secure such radiological materials at such sites, including—

(i) a description of the security upgrades, if any, that are required at such sites;

(ii) an assessment of the costs of securing such radiological materials at such sites;

(iii) a description of any cost-sharing arrangements to defray such costs;

(iv) a description of any legal impediments to such effort, including a description of means of overcoming such impediments; and

(v) a description of the coordination required for such effort among appropriate United States Government entities (including the Nuclear Regulatory Commission), participating countries, and international bodies (including the International Atomic Energy Agency).

(D) A description of the pilot project undertaken in Russia.

(3) In identifying categories of radiological materials under paragraph (2)(A), the Secretary shall take into account matters relating to specific activity, half-life, radiation type and energy, attainability, difficulty of handling, and toxicity, and such other matters as the Secretary considers appropriate.

(4) Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under this subsection. The report shall include the matters specified under paragraph (2) and such other matters, including recommendations, as the Sec-

retary considers appropriate as a result of the study.

(5) In this subsection, the term ‘‘radiological material’’ means any radioactive material, other than plutonium (Pu) or uranium enriched above 20 percent uranium-235.

(g) **AMENDMENT OF CONVENTION ON PHYSICAL PROTECTION OF NUCLEAR MATERIAL.**—(1) It is the sense of Congress that the President should encourage amendment of the Convention on the Physical Protection of Nuclear Materials in order to provide that the Convention shall—

(A) apply to both the domestic and international use and transport of nuclear materials;

(B) incorporate fundamental practices for the physical protection of such materials; and

(C) address protection against sabotage involving nuclear materials.

(2) In this subsection, the term ‘‘Convention on the Physical Protection of Nuclear Materials’’ means the Convention on the Physical Protection of Nuclear Materials, With Annex, done at Vienna on October 26, 1979.

(h) **AMOUNT FOR ACTIVITIES.**—Of the amount authorized to be appropriated by section 3102(2) for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to \$5,000,000 shall be available for carrying out this section.

SEC. 3157. ACCELERATED DISPOSITION OF HIGHLY ENRICHED URANIUM AND PLUTONIUM.

(a) **SENSE OF CONGRESS ON PROGRAM TO SECURE STOCKPILES OF HIGHLY ENRICHED URANIUM AND PLUTONIUM.**—(1) It is the sense of Congress that the Secretary of Energy, in consultation with the Secretary of State and Secretary of Defense, should develop a comprehensive program of activities to encourage all countries with nuclear materials to adhere to, or to adopt standards equivalent to, the International Atomic Energy Agency standard on The Physical Protection of Nuclear Material and Nuclear Facilities (INFCIRC/225/Rev.4), relating to the security of stockpiles of highly enriched uranium (HEU) and plutonium (Pu).

(2) To the maximum extent practicable, the program should be developed in consultation with the Russian Federation, other Group of 8 countries, and other allies of the United States.

(3) Activities under the program should include specific, targeted incentives intended to encourage countries that cannot undertake the expense of conforming to the standard referred to in paragraph (1) to relinquish their highly enriched uranium (HEU) or plutonium (Pu), including incentives in which a country, group of countries, or international body—

(A) purchase such materials and provide for their security (including by removal to another location);

(B) undertake the costs of decommissioning facilities that house such materials;

(C) in the case of research reactors, convert such reactors to low-enriched uranium reactors; or

(D) upgrade the security of facilities that house such materials in order to meet stringent security standards that are established for purposes of the program based upon agreed best practices.

(b) **PROGRAM ON ACCELERATED DISPOSITION OF HEU AUTHORIZED.**—(1) The Secretary of Energy may carry out a program to pursue with the Russian Federation, and any other nation that possesses highly enriched ura-

nium, options for blending such uranium so that the concentration of U-235 in such uranium is below 20 percent.

(2) The options pursued under paragraph (1) shall include expansion of the Material Consolidation and Conversion program of the Department of Energy to include—

(A) additional facilities for the blending of highly enriched uranium; and

(B) additional centralized secure storage facilities for highly enriched uranium designated for blending.

(c) **INCENTIVES REGARDING HIGHLY ENRICHED URANIUM IN RUSSIA.**—As part of the options pursued under subsection (b) with the Russian Federation, the Secretary may provide financial and other incentives for the removal of all highly enriched uranium from any particular facility in the Russian Federation if the Secretary determines that such incentives will facilitate the consolidation of highly enriched uranium in the Russian Federation to the best-secured facilities.

(d) **CONSTRUCTION WITH HEU DISPOSITION AGREEMENT.**—Nothing in this section may be construed as terminating, modifying, or otherwise effecting requirements for the disposition of highly enriched uranium under the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, signed at Washington on February 18, 1993.

(e) **PRIORITY IN BLENDING ACTIVITIES.**—In pursuing options under this section, the Secretary shall give priority to the blending of highly enriched uranium from weapons, though highly enriched uranium from sources other than weapons may also be blended.

(f) **TRANSFER OF HIGHLY ENRICHED URANIUM AND PLUTONIUM TO UNITED STATES.**—(1) As part of the program under subsection (b), the Secretary may, upon the request of any nation—

(A) purchase highly enriched uranium or weapons grade plutonium from the nation at a price determined by the Secretary;

(B) transport any uranium or plutonium so purchased to the United States; and

(C) store any uranium or plutonium so transported in the United States.

(2) The Secretary is not required to blend any highly enriched uranium purchased under paragraph (1)(A) in order to reduce the concentration of U-235 in such uranium to below 20 percent. Amounts authorized to be appropriated by subsection (m) may not be used for purposes of blending such uranium.

(g) **TRANSFER OF HIGHLY ENRICHED URANIUM TO RUSSIA.**—(1) As part of the program under subsection (b), the Secretary may encourage nations with highly enriched uranium to transfer such uranium to the Russian Federation for disposition under this section.

(2) The Secretary may pay any nation that transfers highly enriched uranium to the Russian Federation under this subsection an amount determined appropriate by the Secretary.

(3) The Secretary may bear the cost of any blending and storage of uranium transferred to the Russian Federation under this subsection, including any costs of blending and storage under a contract under subsection (h). Any site selected for such storage shall have undergone complete materials protection, control, and accounting upgrades before the commencement of such storage.

(h) **CONTRACTS FOR BLENDING AND STORAGE OF HIGHLY ENRICHED URANIUM IN RUSSIA.**—(1)

As part of the program under subsection (b), the Secretary may enter into one or more contracts with the Russian Federation—

(A) to blend in the Russian Federation highly enriched uranium of the Russian Federation and highly enriched uranium transferred to the Russian Federation under subsection (g); or

(B) to store in the Russian Federation highly enriched uranium before blending or the blended material.

(2) Any site selected for the storage of uranium or blended material under paragraph (1)(B) shall have undergone complete materials protection, control, and accounting upgrades before the commencement of such storage.

(i) **LIMITATION ON RELEASE FOR SALE OF BLENDED URANIUM.**—Uranium blended under this section may not be released for sale until the earlier of—

(1) January 1, 2014; or

(2) the date on which the Secretary certifies that such uranium can be absorbed into the global market without undue disruption to the uranium mining industry in the United States.

(j) **PROCEEDS OF SALE OF URANIUM BLENDED BY RUSSIA.**—Upon the sale by the Russian Federation of uranium blended under this section by the Russian Federation, the Secretary may elect to receive from the proceeds of such sale an amount not to exceed 75 percent of the costs incurred by the Department of Energy under subsections (c), (g), and (h).

(k) **REPORT ON STATUS OF PROGRAM.**—Not later than July 1, 2003, the Secretary shall submit to Congress a report on the status of the program carried out under the authority in subsection (b). The report shall include—

(1) a description of international interest in the program;

(2) schedules and operational details of the program; and

(3) recommendations for future funding for the program.

(l) **HIGHLY ENRICHED URANIUM DEFINED.**—In this section, the term “highly enriched uranium” means uranium with a concentration of U-235 of 20 percent or more.

(m) **AMOUNT FOR ACTIVITIES.**—Of the amount to be appropriated by section 3102(2) for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to \$40,000,000 shall be available for carrying out this section.

SEC. 3158. DISPOSITION OF PLUTONIUM IN RUSSIA.

(a) **NEGOTIATIONS WITH RUSSIAN FEDERATION.**—(1) The Secretary of Energy is encouraged to continue to support the Secretary of State in negotiations with the Ministry of Atomic Energy of the Russian Federation to finalize the plutonium disposition program of the Russian Federation (as established under the agreement described in subsection (b)).

(2) As part of the negotiations, the Secretary of Energy may consider providing additional funds to the Ministry of Atomic Energy in order to reach a successful agreement.

(3) If such an agreement, meeting the requirements in subsection (c), is reached with the Ministry of Atomic Energy, which requires additional funds for the Russian work, the Secretary shall either seek authority to use funds available for another purpose, or request supplemental appropriations, for such work.

(b) **AGREEMENT.**—The agreement referred to in subsection (a) is the Agreement Be-

tween the Government of the United States of America and the Government of the Russian Federation Concerning the Management and Disposition of Plutonium Designated As No Longer Required For Defense Purposes and Related Cooperation, signed August 29, 2000, and September 1, 2000.

(c) **REQUIREMENT FOR DISPOSITION PROGRAM.**—The plutonium disposition program under subsection (a)—

(1) shall include transparent verifiable steps;

(2) shall proceed at a rate approximately equivalent to the rate of the United States program for the disposition of plutonium;

(3) shall provide for cost-sharing among a variety of countries;

(4) shall provide for contributions by the Russian Federation;

(5) shall include steps over the near term to provide high confidence that the schedules for the disposition of plutonium of the Russian Federation will be achieved; and

(6) may include research on more speculative long-term options for the future disposition of the plutonium of the Russian Federation in addition to the near-term steps under paragraph (5).

SEC. 3159. STRENGTHENED INTERNATIONAL SECURITY FOR NUCLEAR MATERIALS AND SAFETY AND SECURITY OF NUCLEAR OPERATIONS.

(a) **REPORT ON OPTIONS FOR INTERNATIONAL PROGRAM TO STRENGTHEN SECURITY AND SAFETY.**—(1) Not later than 270 days after the date of the enactment of this Act, the Secretary of Energy shall submit to Congress a report on options for an international program to develop strengthened security for all nuclear materials and safety and security for current nuclear operations.

(2) The Secretary shall consult with the Office of Nuclear Energy Science and Technology of the Department of Energy in the development of options for purposes of the report.

(3) In evaluating options for purposes of the report, the Secretary shall consult with the Nuclear Regulatory Commission and the International Atomic Energy Agency on the feasibility and advisability of actions to reduce the risks associated with terrorist attacks on nuclear power plants outside the United States.

(4) Each option for an international program under paragraph (1) may provide that the program is jointly led by the United States, the Russian Federation, and the International Atomic Energy Agency.

(5) The Secretary shall include with the report on options for an international program under paragraph (1) a description and assessment of various management alternatives for the international program. If any option requires Federal funding or legislation to implement, the report shall also include recommendations for such funding or legislation, as the case may be.

(b) **JOINT PROGRAMS WITH RUSSIA ON PROLIFERATION RESISTANT NUCLEAR ENERGY TECHNOLOGIES.**—The Director of the Office of Nuclear Energy Science and Technology Energy shall, in coordination with the Secretary, pursue with the Ministry of Atomic Energy of the Russian Federation joint programs between the United States and the Russian Federation on the development of proliferation resistant nuclear energy technologies, including advanced fuel cycles.

(c) **PARTICIPATION OF INTERNATIONAL TECHNICAL EXPERTS.**—In developing options under subsection (a), the Secretary shall, in consultation with the Nuclear Regulatory Commission, the Russian Federation, and the International Atomic Energy Agency, con-

vene and consult with an appropriate group of international technical experts on the development of various options for technologies to provide strengthened security for nuclear materials and safety and security for current nuclear operations, including the implementation of such options.

(d) **ASSISTANCE REGARDING HOSTILE INSIDERS AND AIRCRAFT IMPACTS.**—(1) The Secretary may, utilizing appropriate expertise of the Department of Energy and the Nuclear Regulatory Commission, provide assistance to nuclear facilities abroad on the interdiction of hostile insiders at such facilities in order to prevent incidents arising from the disablement of the vital systems of such facilities.

(2) The Secretary may carry out a joint program with the Russian Federation and other countries to address and mitigate concerns on the impact of aircraft with nuclear facilities in such countries.

(e) **ASSISTANCE TO IAEA IN STRENGTHENING INTERNATIONAL NUCLEAR SAFETY AND SECURITY.**—The Secretary may expand and accelerate the programs of the Department of Energy to support the International Atomic Energy Agency in strengthening international nuclear safety and security.

(f) **AMOUNT FOR ACTIVITIES.**—Of the amount authorized to be appropriated by section 3102(2) for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to \$35,000,000 shall be available for carrying out this section as follows:

(1) For activities under subsections (a) through (d), \$20,000,000, of which—

(A) \$5,000,000 shall be available for sabotage protection for nuclear power plants and other nuclear facilities abroad; and

(B) \$10,000,000 shall be available for development of proliferation resistant nuclear energy technologies under subsection (b).

(2) For activities under subsection (e), \$15,000,000.

SEC. 3160. EXPORT CONTROL PROGRAMS.

(a) **AUTHORITY TO PURSUE OPTIONS FOR STRENGTHENING EXPORT CONTROL PROGRAMS.**—The Secretary of Energy may pursue in the former Soviet Union and other regions of concern, principally in South Asia, the Middle East, and the Far East, options for accelerating programs that assist countries in such regions in improving their domestic export control programs for materials, technologies, and expertise relevant to the construction or use of a nuclear or radioactive dispersal device.

(b) **AMOUNT FOR ACTIVITIES.**—Of the amount authorized to be appropriated by section 3102(2) for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to \$5,000,000 shall be available for carrying out this section.

SEC. 3161. IMPROVEMENTS TO NUCLEAR MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAM OF THE RUSSIAN FEDERATION.

(a) **REVISED FOCUS FOR PROGRAM.**—(1) The Secretary of Energy shall work cooperatively with the Russian Federation to update and improve the Joint Action Plan for the Materials Protection, Control, and Accounting programs of the Department and the Russian Federation Ministry of Atomic Energy.

(2) The updated plan shall shift the focus of the upgrades of the nuclear materials protection, control, and accounting program of the Russian Federation in order to assist the Russian Federation in achieving, as soon as practicable but not later than January 1,

2012, a sustainable nuclear materials protection, control, and accounting system for the nuclear materials of the Russian Federation that is supported solely by the Russian Federation.

(b) **PACE OF PROGRAM.**—The Secretary shall work with the Russian Federation, including applicable institutes in Russia, to pursue acceleration of the nuclear materials protection, control, and accounting programs at nuclear defense facilities in the Russian Federation.

(c) **TRANSPARENCY OF PROGRAM.**—The Secretary shall work with the Russian Federation to identify various alternatives to provide the United States adequate transparency in the nuclear materials protection, control, and accounting program of the Russian Federation to assure that such program is meeting applicable goals for nuclear materials protection, control, and accounting.

(d) **SENSE OF CONGRESS.**—In furtherance of the activities required under this section, it is the sense of Congress the Secretary should—

(1) enhance the partnership with the Russian Ministry of Atomic Energy in order to increase the pace and effectiveness of nuclear materials accounting and security activities at facilities in the Russian Federation, including serial production enterprises; and

(2) clearly identify the assistance required by the Russian Federation, the contributions anticipated from the Russian Federation, and the transparency milestones that can be used to assess progress in meeting the requirements of this section.

SEC. 3162. COMPREHENSIVE ANNUAL REPORT TO CONGRESS ON COORDINATION AND INTEGRATION OF ALL UNITED STATES NONPROLIFERATION ACTIVITIES.

Section 1205 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1247) is amended by adding at the end the following new subsection:

“(d) **ANNUAL REPORT ON IMPLEMENTATION OF PLAN.**—(1) Not later than January 31, 2003, and each year thereafter, the President shall submit to Congress a report on the implementation of the plan required by subsection (a) during the preceding year.

“(2) Each report under paragraph (1) shall include—

“(A) a discussion of progress made during the year covered by such report in the matters of the plan required by subsection (a);

“(B) a discussion of consultations with foreign nations, and in particular the Russian Federation, during such year on joint programs to implement the plan;

“(C) a discussion of cooperation, coordination, and integration during such year in the implementation of the plan among the various departments and agencies of the United States Government, as well as private entities that share objectives similar to the objectives of the plan; and

“(D) any recommendations that the President considers appropriate regarding modifications to law or regulations, or to the administration or organization of any Federal department or agency, in order to improve the effectiveness of any programs carried out during such year in the implementation of the plan.”.

SEC. 3163. UTILIZATION OF DEPARTMENT OF ENERGY NATIONAL LABORATORIES AND SITES IN SUPPORT OF COUNTERTERRORISM AND HOMELAND SECURITY ACTIVITIES.

(a) **AGENCIES AS JOINT SPONSORS OF LABORATORIES FOR WORK ON ACTIVITIES.**—Each

department or agency of the Federal Government, or of a State or local government, that carries out work on counterterrorism and homeland security activities at a Department of Energy national laboratory may be a joint sponsor, under a multiple agency sponsorship arrangement with the Department, of such laboratory in the performance of such work.

(b) **AGENCIES AS JOINT SPONSORS OF SITES FOR WORK ON ACTIVITIES.**—Each department or agency of the Federal Government, or of a State or local government, that carries out work on counterterrorism and homeland security activities at a Department of Energy site may be a joint sponsor of such site in the performance of such work as if such site were a federally funded research and development center and such work were performed under a multiple agency sponsorship arrangement with the Department.

(c) **PRIMARY SPONSORSHIP.**—The Department of Energy shall be the primary sponsor under a multiple agency sponsorship arrangement required under subsection (a) or (b).

(d) **WORK.**—(1) The Administrator for Nuclear Security shall act as the lead agent in coordinating the formation and performance of a joint sponsorship agreement between a requesting agency and a Department of Energy national laboratory or site for work on counterterrorism and homeland security.

(2) A request for work may not be submitted to a national laboratory or site under this section unless approved in advance by the Administrator.

(3) Any work performed by a national laboratory or site under this section shall comply with the policy on the use of federally funded research and development centers under section 35.017(a)(4) of the Federal Acquisition Regulation.

(4) The Administrator shall ensure that the work of a national laboratory or site requested under this section is performed expeditiously and to the satisfaction of the head of the department or agency submitting the request.

(e) **FUNDING.**—(1) Subject to paragraph (2), a joint sponsor of a Department of Energy national laboratory or site under this section shall provide funds for work of such national laboratory or site, as the case may be, under this section under the same terms and conditions as apply to the primary sponsor of such national laboratory under section 303(b)(1)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(b)(1)(C)) or of such site to the extent such section applies to such site as a federally funded research and development center by reason of subsection (b).

(2) The total amount of funds provided a national laboratory or site in a fiscal year under this subsection by joint sponsors other than the Department of Energy shall not exceed an amount equal to 25 percent of the total funds provided such national laboratory or site, as the case may be, in such fiscal year from all sources.

Subtitle E—Other Matters

SEC. 3171. INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.

Section 170d.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking “until August 1, 2002,” and inserting “until August 1, 2012”.

SEC. 3172. WORKER HEALTH AND SAFETY RULES FOR DEPARTMENT OF ENERGY FACILITIES.

The Atomic Energy Act of 1954 is amended by inserting after section 234B (42 U.S.C. 2282b) the following:

“SEC. 234C. WORKER HEALTH AND SAFETY RULES FOR DEPARTMENT OF ENERGY NUCLEAR FACILITIES.

“(a) **PERSONS SUBJECT TO PENALTY.**—

“(1) **CIVIL PENALTY.**—

“(A) **IN GENERAL.**—A person (or any subcontractor or supplier of the person) who has entered into an agreement of indemnification under section 2210(d) (or any subcontractor or supplier of the person) that violates (or is the employer of a person that violates) Department of Energy Order No. 440.1A (1998), or any rule or regulation relating to industrial or construction health and safety promulgated by the Secretary of Energy (referred to in this section as the “Secretary”) after public notice and opportunity for comment under section 553 of title 5, United States Code (commonly known as the ‘Administrative Procedure Act’), shall be subject to a civil penalty of not more than \$100,000 for each such violation.

“(B) **CONTINUING VIOLATIONS.**—If any violation under this subsection is a continuing violation, each day of the violation shall constitute a separate violation for the purpose of computing the civil penalty under subparagraph (A).

“(2) **REGULATIONS.**—

“(A) **IN GENERAL.**—Not later than 270 days after the date of enactment of this section, the Secretary shall promulgate regulations for industrial and construction health and safety that incorporate the provisions and requirements contained in Department of Energy Order No. 440.1A (1998).

“(B) **EFFECTIVE DATE.**—The regulations promulgated under subparagraph (A) shall take effect on the date that is 1 year after the promulgation date of the regulations.

“(3) **VARIANCES OR EXEMPTIONS.**—

“(A) **IN GENERAL.**—The Secretary may provide in the regulations promulgated under paragraph (2) a procedure for granting variances or exemptions to the extent necessary to avoid serious impairment of the national security of the United States.

“(B) **DETERMINATION.**—In determining whether to provide a variance or exemption under subparagraph (A), the Secretary of Energy shall assess—

“(i) the impact on national security of not providing a variance or exemption; and

“(ii) the benefits or detriments to worker health and safety of providing a variance or exemption.

“(C) **PROCEDURE.**—Before granting a variance or exemption, the Secretary of Energy shall—

“(i) notify affected employees;

“(ii) provide an opportunity for a hearing on the record; and

“(iii) notify Congress of any determination to grant a variance at least 60 days before the proposed effective date of the variance or exemption.

“(4) **APPLICABILITY.**—This subsection does not apply to any facility that is a component of, or any activity conducted under, the Naval Nuclear Propulsion Program.

“(5) **ENFORCEMENT GUIDANCE ON STRUCTURES TO BE DISPOSED OF.**—

“(A) **IN GENERAL.**—In enforcing the regulations under paragraph (2), the Secretary of Energy shall, on a case-by-case basis, evaluate whether a building, facility, structure, or improvement of the Department of Energy that is permanently closed and that is expected to be demolished, or title to which is expected to be transferred to another entity for reuse, should undergo major retrofitting to comply with specific general industry standards.

“(B) NO EFFECT ON HEALTH AND SAFETY ENFORCEMENT.—This subsection does not diminish or otherwise affect—

“(i) the enforcement of any worker health and safety regulations under this section with respect to the surveillance and maintenance or decontamination, decommissioning, or demolition of buildings, facilities, structures, or improvements; or

“(ii) the application of any other law (including regulations), order, or contractual obligation.

“(b) CONTRACT PENALTIES.—

“(1) IN GENERAL.—The Secretary shall include in each contract with a contractor of the Department provisions that provide an appropriate reduction in the fees or amounts paid to the contractor under the contract in the event of a violation by the contractor or contractor employee of any regulation or order relating to industrial or construction health and safety.

“(2) CONTENTS.—The provisions shall specify various degrees of violations and the amount of the reduction attributable to each degree of violation.

“(c) POWERS AND LIMITATIONS.—The powers and limitations applicable to the assessment of civil penalties under section 234A, except for subsection (d) of that section, shall apply to the assessment of civil penalties under this section.

“(d) TOTAL AMOUNT OF PENALTIES.—In the case of an entity described in subsection (d) of section 234A, the total amount of civil penalties under subsection (a) or under subsection (a) of section 234B in a fiscal year may not exceed the total amount of fees paid by the Department of Energy to that entity in that fiscal year.”

SEC. 3173. ONE-YEAR EXTENSION OF AUTHORITY OF DEPARTMENT OF ENERGY TO PAY VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) IN GENERAL.—Section 3161(a) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 5 U.S.C. 5597 note) is amended by striking “January 1, 2004” and inserting “January 1, 2005”.

(b) CONSTRUCTION.—The amendment made by subsection (a) may be superseded by another provision of law that takes effect after the date of the enactment of this Act, and before January 1, 2004, establishing a uniform system for providing voluntary separation incentives (including a system for requiring approval of plans by the Office of Management and Budget) for employees of the Federal Government.

SEC. 3174. SUPPORT FOR PUBLIC EDUCATION IN THE VICINITY OF LOS ALAMOS NATIONAL LABORATORY, NEW MEXICO.

(a) SUPPORT FOR FISCAL YEAR 2003.—From amounts authorized to be appropriated to the Secretary of Energy by this title, \$6,900,000 shall be available for payment by the Secretary for fiscal year 2003 to the Los Alamos National Laboratory Foundation, a not-for-profit foundation chartered in accordance with section 3167(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 2052).

(b) USE OF FUNDS.—The foundation referred to in subsection (a) shall—

(1) utilize funds provided under this section as a contribution to the endowment fund for the foundation; and

(2) use the income generated from investments in the endowment fund that are attributable to the payment made under this section to fund programs to support the educational needs of children in the public schools in the vicinity of Los Alamos National Laboratory, New Mexico.

(c) REPEAL OF SUPERSEDED AUTHORITY AND MODIFICATION OF AUTHORITY TO EXTEND CON-

TRACT.—(1) Subsection (b) of section 3136 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1368) is amended to read as follows:

“(b) SUPPORT FOR FISCAL YEARS 2003 THROUGH 2013.—Subject to the availability of appropriations, the Secretary may provide for a contract extension through fiscal year 2013 similar to the contract extension referred to in subsection (a)(2).”

(2) The amendment made by paragraph (1) shall take effect on October 1, 2002.

Subtitle F—Disposition of Weapons-Usable Plutonium at Savannah River, South Carolina

SEC. 3181. FINDINGS.

Congress makes the following findings:

(1) In September 2000, the United States and the Russian Federation signed a Plutonium Management and Disposition Agreement by which each agreed to dispose of 34 metric tons of weapons-grade plutonium.

(2) The agreement with Russia is a significant step toward safeguarding nuclear materials and preventing their diversion to rogue states and terrorists.

(3) The Department of Energy plans to dispose of 34 metric tons of weapons-grade plutonium in the United States before the end of 2019 by converting the plutonium to a mixed-oxide fuel to be used in commercial nuclear power reactors.

(4) The Department has formulated a plan for implementing the agreement with Russia through construction of a mixed-oxide fuel fabrication facility, the so-called MOX facility, and a pit disassembly and conversion facility at the Savannah River Site, Aiken, South Carolina.

(5) The United States and the State of South Carolina have a compelling interest in the safe, proper, and efficient operation of the plutonium disposition facilities at the Savannah River Site. The MOX facility will also be economically beneficial to the State of South Carolina, and that economic benefit will not be fully realized unless the MOX facility is built.

(6) The State of South Carolina desires to ensure that all plutonium transferred to the State of South Carolina is stored safely; that the full benefits of the MOX facility are realized as soon as possible; and, specifically, that all defense plutonium or defense plutonium materials transferred to the Savannah River Site either be processed or be removed expeditiously.

SEC. 3182. DISPOSITION OF WEAPONS-USABLE PLUTONIUM AT SAVANNAH RIVER SITE.

(a) PLAN FOR CONSTRUCTION AND OPERATION OF MOX FACILITY.—(1) Not later than February 1, 2003, the Secretary of Energy shall submit to Congress a plan for the construction and operation of the MOX facility at the Savannah River Site, Aiken, South Carolina.

(2) The plan under paragraph (1) shall include—

(A) a schedule for construction and operations so as to achieve, as of January 1, 2009, and thereafter, the MOX production objective, and to produce 1 metric ton of mixed oxide fuel by December 31, 2009; and

(B) a schedule of operations of the MOX facility designed so that 34 metric tons of defense plutonium and defense plutonium materials at the Savannah River Site will be processed into mixed oxide fuel by January 1, 2019.

(3)(A) Not later than February 15 each year, beginning in 2004 and continuing for as long as the MOX facility is in use, the Secretary shall submit to Congress a report on the implementation of the plan required by paragraph (1).

(B) Each report under subparagraph (A) for years before 2010 shall include—

(i) an assessment of compliance with the schedules included with the plan under paragraph (2); and

(ii) a certification by the Secretary whether or not the MOX production objective can be met by January 2009.

(C) Each report under subparagraph (A) for years after 2009 shall—

(i) address whether the MOX production objective has been met; and

(ii) assess progress toward meeting the obligations of the United States under the Plutonium Management and Disposition Agreement.

(D) For years after 2017, each report under subparagraph (A) shall also include an assessment of compliance with the MOX production objective and, if not in compliance, the plan of the Secretary for achieving one of the following:

(i) Compliance with such objective.

(ii) Removal of all remaining defense plutonium and defense plutonium materials from the State of South Carolina.

(b) CORRECTIVE ACTIONS.—(1) If a report under subsection (a)(3) indicates that construction or operation of the MOX facility is behind the applicable schedule under subsection (a)(2) by 12 months or more, the Secretary shall submit to Congress, not later than August 15 of the year in which such report is submitted, a plan for corrective actions to be implemented by the Secretary to ensure that the MOX facility project is capable of meeting the MOX production objective by January 1, 2009.

(2) If a plan is submitted under paragraph (1) in any year after 2008, the plan shall include corrective actions to be implemented by the Secretary to ensure that the MOX production objective is met.

(3) Any plan for corrective actions under paragraph (1) or (2) shall include established milestones under such plan for achieving compliance with the MOX production objective.

(4) If, before January 1, 2009, the Secretary determines that there is a substantial and material risk that the MOX production objective will not be achieved by 2009 because of a failure to achieve milestones set forth in the most recent corrective action plan under this subsection, the Secretary shall suspend further transfers of defense plutonium and defense plutonium materials to be processed by the MOX facility until such risk is addressed and the Secretary certifies that the MOX production objective can be met by 2009.

(5) If, after January 1, 2009, the Secretary determines that the MOX production objective has not been achieved because of a failure to achieve milestones set forth in the most recent corrective action plan under this subsection, the Secretary shall suspend further transfers of defense plutonium and defense plutonium materials to be processed by the MOX facility until the Secretary certifies that the MOX production objective can be met by 2009.

(6)(A) Upon making a determination under paragraph (4) or (5), the Secretary shall submit to Congress a report on the options for removing from the State of South Carolina an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the State of South Carolina after April 15, 2002.

(B) Each report under subparagraph (A) shall include an analysis of each option set forth in the report, including the cost and

schedule for implementation of such option, and any requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) relating to consideration or selection of such option.

(C) Upon submittal of a report under paragraph (A), the Secretary shall commence any analysis that may be required under the National Environmental Policy Act of 1969 in order to select among the options set forth in the report.

(c) CONTINGENT REQUIREMENT FOR REMOVAL OF PLUTONIUM AND MATERIALS FROM SAVANNAH RIVER SITE.—If the MOX production objective is not achieved as of January 1, 2009, the Secretary shall, consistent with the National Environmental Policy Act of 1969 and other applicable laws, remove from the State of South Carolina, for storage or disposal elsewhere—

(1) not later than January 1, 2011, not less than 1 metric ton of defense plutonium or defense plutonium materials; and

(2) not later than January 1, 2017, an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the Savannah River Site between April 15, 2002 and January 1, 2017, but not processed by the MOX facility.

(d) ECONOMIC AND IMPACT ASSISTANCE.—(1) If the MOX production objective is not achieved as of January 1, 2011, the Secretary shall pay to the State of South Carolina each year beginning on or after that date through 2016 for economic and impact assistance an amount equal to \$1,000,000 per day until the later of—

(A) the passage of 100 days in such year;

(B) the MOX production objective is achieved in such year; or

(C) the Secretary has removed from the State of South Carolina in such year at least 1 metric ton of defense plutonium or defense plutonium materials.

(2)(A) If the MOX production objective is not achieved as of January 1, 2017, the Secretary shall pay to the State of South Carolina each year beginning on or after that date through 2024 for economic and impact assistance an amount equal to \$1,000,000 per day until the later of—

(i) the passage of 100 days in such year;

(ii) the MOX production objective is achieved in such year; or

(iii) the Secretary has removed from the State of South Carolina an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the Savannah River Site between April 15, 2002 and January 1, 2017, but not processed by the MOX facility.

(B) Nothing in this paragraph may be construed to terminate, supersede, or otherwise affect any other requirements of this section.

(3) The Secretary shall make payments, if any, under this subsection, from amounts authorized to be appropriated to the Department of Energy.

(4) If the State of South Carolina obtains an injunction that prohibits the Department from taking any action necessary for the Department to meet any deadline specified by this subsection, that deadline shall be extended for a period of time equal to the period of time during which the injunction is in effect.

(e) FAILURE TO COMPLETE PLANNED DISPOSITION PROGRAM.—If on July 1 each year beginning in 2020 and continuing for as long as the MOX facility is in use, less than 34 metric tons of defense plutonium or defense

plutonium materials have been processed by the MOX facility, the Secretary shall submit to Congress a plan for—

(1) completing the processing of 34 metric tons of defense plutonium and defense plutonium material by the MOX facility; or

(2) removing from the State of South Carolina an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the Savannah River Site after April 15, 2002, but not processed by the MOX facility.

(f) REMOVAL OF MIXED-OXIDE FUEL UPON COMPLETION OF OPERATIONS OF MOX FACILITY.—If, one year after the date on which operation of the MOX facility permanently ceases any mixed-oxide fuel remains at the Savannah River Site, the Secretary shall submit to Congress—

(1) a report on when such fuel will be transferred for use in commercial nuclear reactors; or

(2) a plan for removing such fuel from the State of South Carolina.

(g) DEFINITIONS.—In this section:

(1) MOX PRODUCTION OBJECTIVE.—The term “MOX production objective” means production at the MOX facility of mixed-oxide fuel from defense plutonium and defense plutonium materials at an average rate equivalent to not less than one metric ton of mixed-oxide fuel per year. The average rate shall be determined by measuring production at the MOX facility from the date the facility is declared operational to the Nuclear Regulatory Commission through the date of assessment.

(2) MOX FACILITY.—The term “MOX facility” means the mixed-oxide fuel fabrication facility at the Savannah River Site, Aiken, South Carolina.

(3) DEFENSE PLUTONIUM; DEFENSE PLUTONIUM MATERIALS.—The terms “defense plutonium” and “defense plutonium materials” mean weapons-usable plutonium.

SEC. 3183. STUDY OF FACILITIES FOR STORAGE OF PLUTONIUM AND PLUTONIUM MATERIALS AT SAVANNAH RIVER SITE.

(a) STUDY.—The Defense Nuclear Facilities Safety Board shall conduct a study of the adequacy of K-Area Materials Storage facility (KAMS), and related support facilities such as Building 235-F, at the Savannah River Site, Aiken, South Carolina, for the storage of defense plutonium and defense plutonium materials in connection with the disposition program provided in section 3182 and in connection with the amended Record of Decision of the Department of Energy for fissile materials disposition.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Defense Nuclear Facilities Safety Board shall submit to Congress and the Secretary of Energy a report on the study conducted under subsection (a).

(c) REPORT ELEMENTS.—The report under subsection (b) shall—

(1) address—

(A) the suitability of KAMS and related support facilities for monitoring and observing any defense plutonium or defense plutonium materials stored in KAMS;

(B) the adequacy of the provisions made by the Department for remote monitoring of such defense plutonium and defense plutonium materials by way of sensors and for handling of retrieval of such defense plutonium and defense plutonium materials; and

(C) the adequacy of KAMS should such defense plutonium and defense plutonium materials continue to be stored at KAMS after 2019; and

(2) include such recommendations as the Defense Nuclear Facilities Safety Board considers appropriate to enhance the safety, reliability, and functionality of KAMS.

(d) REPORTS ON ACTIONS ON RECOMMENDATIONS.—Not later than 6 months after the date on which the report under subsection (b) is submitted to Congress, and every year thereafter, the Secretary and the Board shall each submit to Congress a report on the actions taken by the Secretary in response to the recommendations, if any, included in the report.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 2003, \$19,494,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

SEC. 3202. AUTHORIZATION OF APPROPRIATIONS FOR THE FORMERLY USED SITES REMEDIAL ACTION PROGRAM OF THE CORPS OF ENGINEERS.

There is hereby authorized to be appropriated for fiscal year 2003 for the Department of the Army, \$140,000,000 for the formerly used sites remedial action program of the Corps of Engineers.

AUTHORIZING TESTIMONY, DOCUMENT PRODUCTION, AND LEGAL REPRESENTATION

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 299 submitted earlier today by the majority and the Republican leaders.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 299) to authorize testimony, document production and legal representation in City of Columbus versus Jacqueline Downing, et al. and City of Columbus versus Vincent Ramos.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DASCHLE. Mr. President, this resolution concerns requests for testimony in criminal actions in Franklin County Municipal Court in Ohio. In the cases of City of Columbus v. Jacqueline Downing, et al. and City of Columbus v. Vincent Ramos, the city prosecutor has charged the defendants with criminal trespass for refusing to leave Senator DEWINE's Columbus office after the building was closed for the night, and with resisting arrest. Pursuant to subpoenas issued on behalf of the city prosecutor, this resolution authorizes an employee in Senator DEWINE's office who witnessed the events giving rise to the trespass charges, and any other employee in the Senator's office from whom testimony may be required, to testify and produce documents at trial in these cases, with representation by the Senate legal counsel.

Mr. REID. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that a

statement by the majority leader be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 299) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 299

Whereas, in the cases of *City of Columbus v. Jacqueline Downing, et al.*, Nos. 2002 CR B 01082-25, 010835-37 and *City of Columbus v. Vincent Ramos*, No. 2002 CR B 010835-37 pending in the Franklin County Municipal Court in the State of Ohio, testimony has been requested from Michael Dawson, an employee in the office of Senator Mike DeWine;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Michael Dawson and any other employee of Senator DeWine's office from whom testimony may be required are authorized to testify and produce documents in the cases of *City of Columbus v. Jacqueline Downing, et al.*, and *City of Columbus v. Vincent Ramos*, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Michael Dawson and any other employee of Senator DeWine's office in connection with the testimony and document production authorized in section one of this resolution.

EXPRESSING SENSE OF SENATE
THAT SMALL BUSINESS PARTICIPATION IS VITAL TO DEFENSE
OF OUR NATION

Mr. REID. Mr. President, I ask unanimous consent that the Small Business

and Entrepreneurship Committee be discharged from further consideration of S. Res. 264 and the Senate now proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 264) expressing the sense of the Senate that small business participation is vital to the defense of our Nation, and that Federal, State, and local governments should aggressively seek out and purchase innovative technologies and services from American small businesses to help in homeland defense and the fight against terrorism.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent that the resolution and preamble be agreed to en bloc; the motion to reconsider be laid upon the table; that any statements relating thereto be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 264) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 264

Whereas on September 11, 2001, the people of the United States were subject to the worst terrorist attack in American history;

Whereas in October 2001, the Pentagon's Technical Support Working Group, which is responsible for seeking new technologies to assist the military, sent an urgent plea, seeking ideas on how to fight terrorism;

Whereas in just 2 months, over 12,500 ideas were submitted to the Technical Support Working Group, most of them from small businesses;

Whereas small businesses remain the most innovative sector of the United States economy, accounting for the vast majority of new product ideas and technological innovations; and

Whereas despite their achievements, small businesses often have difficulty marketing and supplying goods and services to Federal, State, and local governments: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) small business participation is vital to the defense of the United States and should

play an active role in assisting the United States military, Federal intelligence and law enforcement agencies, and State and local police forces to combat terrorism through the design and development of innovative products; and

(2) Federal, State, and local governments should aggressively seek out and purchase innovative technologies and services from, and promote research opportunities for, American small businesses to help in homeland defense and the fight against terrorism.

ORDERS FOR TUESDAY, JULY 9,
2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Tuesday, July 9; that following the prayer and the pledge, the Journal of Proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until 10:15 a.m., with Senators permitted to speak for up to 10 minutes each, with the first half of the time under the control of the Republican leader or his designee, and the second half of the time under the control of the Republican leader or his designee; that at 10:15 a.m., the Senate resume consideration of the accounting reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:30 A.M.
TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:38 p.m., adjourned until Tuesday, July 9, 2002, at 9:30 a.m.

EXTENSIONS OF REMARKS

MEDICARE MODERNIZATION AND
PRESCRIPTION DRUG ACT OF 2002

SPEECH OF

HON. DARRELL E. ISSA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. ISSA. Mr. Speaker, I rise today to commend Chairman Thomas, Chairman TAUZIN, and the House Republican leadership for their work on H.R. 4954, a bill which attempts to balance the needs of two national objectives: ensuring that all Americans have access to affordable prescription drugs and exercising fiscal responsibility.

No American should be denied needed prescription drugs because he or she cannot afford them. This bill, if adopted, will ensure that low income seniors, who cannot afford them will receive the prescription drugs they need.

H.R. 4954 takes a new approach to providing Medicare beneficiaries with prescription drugs and improves the mechanisms for paying healthcare providers. Under this approach, the federal government will pay some of the costs and private insurance plans will be expected to pick up the tab for others. This setup will encourage participants to seek out cost effective ways of addressing potential health problems through preventive measures and competitive bidding. Rival proposals that do not include the participation of the private sector choke out the innovation of competition and often lead to price gouging.

According to Congressional Budget Office estimates, H.R. 4954 should fit within the framework of the budget resolution this House agreed to this year. The Democratic alternative to H.R. 4954 would burst the seams of the budget resolution and is in no way a fiscally responsible plan. Nonetheless, I harbor ominous concerns about the wisdom of spending \$350 billion on a new entitlement program at a time when we are already running a deficit. Although I have not seen any specific plan that takes a better approach to helping needy Americans obtain prescription drug benefits, I hesitate in lending my support to H.R. 4954 because I believe that a more thoughtful process might result in a better and more fiscally responsible proposal than any this body is scheduled to consider today.

Mr. Speaker, in our lifetimes we have seen too many government programs expand to the detriment of our nation. The actual cost of entitlement programs has sometimes doubled, tripled, and even quadrupled that of the original estimate. The authors of this bill have taken many precautions to preserve the private medical insurance system and have attempted to limit government aid to Americans who actually need assistance. My greatest concern about this bill, however, is that it may lure Americans who can afford prescription drugs away from private plans and into the

black hole of dependency on the taxpayers. If this Congress adopts this bill we must all remain vigilant and turn away from all temptations to morph this entitlement program into a monster that will take a trillion dollar bite out of the general revenues.

This Congress will be credited or held responsible for the results of this initiative for many years to come. I, nevertheless, recognize that our nation's seniors are in need and know that we must respond. H.R. 4954 is the best prescription drug benefit plan before us and I support its passage.

PERSONAL EXPLANATION

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 8, 2002

Mr. HONDA. Mr. Speaker, on rollcall No.'s 249, 250, 251 and 252, I was unavoidably detained. Had I been present, I would have voted "yea" on rollcall No. 249, "yea" on rollcall No. 250, "yea" on rollcall No. 251 and "yea" on rollcall No. 252.

THE REDEDICATION OF THE
CARROLL COUNTY COURTHOUSE**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 8, 2002

Mr. GRAVES. Mr. Speaker, I rise today to recognize the rededication of the Carroll County Courthouse on June 29th, 2002, located in Carrollton, Missouri.

This year will mark the 100th year that the courthouse has served the good people of Carroll County. Serving as a place for the community to gather and for the dispensation of justice, the courthouse has stood the test of time. Within its walls, juries have served, county government has convened, and elections have been tallied ensuring that the will of the people of Carroll County is carried out.

Although age and time have been kind to the courthouse, it was not until recently that the courthouse was renovated to include new elevators and restrooms that make it fully accessible to all the people of the county.

Mr. Speaker, please join me in celebrating the Rededication of the Carroll County Courthouse.

IN RECOGNITION OF HOWARD
BERNSTEIN**HON. E. CLAY SHAW, JR.**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 8, 2002

Mr. SHAW. Mr. Speaker, I rise today to pay tribute to my constituent and friend, Howard Bernstein, of Boca Raton, Florida.

In 1945, instead of being at home with his family, Howard Bernstein was on a ship near Okinawa, Japan, "engulfed in the fight for freedom." He was fighting a war where the enemy had threatened the security and liberty of his home, a war in which he wondered if "there would even be a tomorrow."

On April 2nd, while going about his duties, his ship encountered a group of Japanese kamikaze planes, bent on destroying his fleet. During the attack, Howard was hit by a piece of shrapnel, injuring his right eye. Not noticing the blood, he continued fighting, seeking medical attention only when the battle had ended. After receiving treatment, he told both the Captain's Yeoman and the medical Corpsman not to report his injury, as he did not want to alarm his mother, who had another son fighting in the Pacific, in addition to having lost her husband unexpectedly.

Howard Bernstein returned home after the war, enjoying the freedom he and his comrades had worked so hard to preserve. Only recently did he want to commemorate his injury with a Purple Heart, as he wanted to have the medal "as part of [his] heritage." However, since Howard had not reported his injury, he was initially denied a Purple Heart. It took two sworn affidavits of support from his former comrades for him to finally be given the tribute he so richly deserves.

Today, we recognize Howard Bernstein for his courage and bravery in battle and his unflagging devotion to home and family. In honoring Howard, we honor all those who would risk their lives to preserve the liberty of all people, and all those who would sacrifice personal gain for the consideration of others.

TRIBUTE TO COLONEL BRENT
SWART**HON. BOB RILEY**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 8, 2002

Mr. RILEY. Mr. Speaker, I rise today to commemorate the retirement of Colonel Brent Swart, the Garrison Commander of the United States Army Aviation and Missile Command (AMCOM) at Redstone Arsenal in Alabama. His unwavering patriotism and dedication to the armed services is truly commendable.

Colonel Swart's 26 years of meritorious service in the Army represent his loyalty to the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

United States of America. This milestone is one many strive for, but few reach. Colonel Swart is a decorated officer and has received the Army Meritorious Service Medal with four Oak Leaf Clusters, the Parachutist Badge and the Army Commendation and the Army Achievement medals, both with Oak Leaf Clusters. On July 1, 2002, when Colonel Swart retires from 26 years of service, it will truly be a day worthy of commendation.

As the Garrison Commander at AMCOM, it was Colonel Swart's duty to allocate the base's operating budget of over \$130 million. Under his command were 1,649 military, civilian, and contract employees who came to work each day confident they could put their lives in Colonel Swart's hands. Through Colonel Swart's leadership, four separate multi-functional organizations housed in four separate buildings were consolidated under one roof, therefore increasing effectiveness, productivity and communications.

Colonel Swart's guidance has also been instrumental in providing community service to North Alabama. Over 40 community and family service organizations that enhance the overall quality of life of soldiers, civilians, retirees and their families have benefited from Swart's leadership. The beneficiaries range from a bowling center that received a \$750,000 renovation, to a significant upgrading of the Child Development Center, to drastic assistance given to the neighborhood child rearing center.

Colonel Stewart also took strides during his tenure at AMCOM to advance an environmental program. Swart improved relationships with surrounding communities affected by the Redstone Arsenal Environmental Restoration Program. Additionally, he spearheaded a ground breaking water treatment program which eliminated large quantities of hazardous substances from the water.

Colonel Swart's family is from Clay County, Alabama, the same county in which my family has resided for several generations. During his 26 years of service to the Army, Colonel Swart has made Clay County and all of Alabama proud. We thank him for serving our Nation during his career in the Army and wish him well in retirement.

TRIBUTE TO JAMES A. AHRENS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 8, 2002

Mr. SKELTON. Mr. Speaker, it has come to my attention that a long and exceptionally distinguished career has come to an end. Lt. Col. James Ahrens has retired as Director of Institutional Research from Wentworth Military Academy and Junior College in Lexington, MO.

Lt. Col. Ahrens has led a life of serving his family, community and country. In 1962, he graduated from Grinnell College, Iowa, with a history degree and entered the United States Air Force as a radar controller and public affairs officer. While in the United States Air Force, James received a master's degree in Public Relations from the School of Public

Communications at Boston University. He retired from all military service in 1995.

Lt. Col. Ahrens arrived at Wentworth in January of 1982 to teach social science courses in the junior college division. While at Wentworth, he joined the 418th Civil Affairs Company in Grandview, MO, after receiving a direct commission in the United States Army Reserve as a Civil Affairs Officer. Lt. Col. Ahrens mobilized and commanded this unit as it served in Saudi Arabia, Iraq, and Turkey during Operations Desert Storm and Provide Comfort in 1991. He served as a detachment commander, company executive officer and commander before the end of his tour.

During his years at Wentworth, he served as Assistant/Associate Dean, managing the Junior College from 1989 through academic year 1994. He served as acting Dean of Continuing Education until January 1995. He was also assigned as Director of Institutional Research from 1995 through May 2001. Lt. Col. Ahrens also coached soccer, track, was a sponsor of the Civil War Living History Club and assisted with academic competition for high school students for a number of years.

Lt. Col. Ahrens is an accomplished historian who has completed a history of Wentworth Military Academy and Junior College from 1947 through 2000. He is also published in Vertical World magazine, which is a history of the United States Air Force Helicopter School.

Lt. Col. Ahrens has distinguished himself as a husband, father, grandfather, teacher and soldier. He has and continues to make his friends and family proud. I am certain that my colleagues will join me in wishing Lt. Col. Ahrens and his family all the best.

SENSE OF HOUSE THAT NEWDOW
V. U.S. CONGRESS WAS ERRO-
NEOUSLY DECIDED

SPEECH OF

HON. DARRELL E. ISSA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. ISSA. Mr. Speaker, I rise today in support of H. Res. 459, a resolution condemning the 9th U.S. Circuit Court of Appeals for ruling that the phrase "under God" in the Pledge of Allegiance is unconstitutional.

The ruling by the 9th Circuit Court of Appeals flies directly in the face of Thomas Jefferson's reasoning for the formation of our Nation. In writing the Declaration of Independence, Thomas Jefferson reasoned that all men have been endowed with inalienable rights by God and to defend these rights governments are instituted among men.

Mr. Speaker, Judge Goodwin and Judge Reinhardt do not understand the irony of their decision: without God, according to Thomas Jefferson, there is no American government and thus no 9th Circuit Court of Appeals.

Judges are supposed to interpret the Constitution and laws passed by Congress: not revise the wisdom of our founding fathers to their own liking. If this harmful judicial attitude is not soon corrected, we may find ourselves condemning judicial decisions to delete text from the Declaration of Independence.

I would like to assure my colleagues and the American people that, although the 9th Circuit Court of Appeals exercises appellate jurisdiction over the State of California, this decision is not indicative of the sentiment of the people of California. The 9th Circuit Court of Appeals is notorious for the fact that its decisions are overturned by the U.S. Supreme Court more often than any other circuit. I am confident that this decision will, like many others this court has made, be overturned.

The Senate has acted swiftly to condemn this decision. I urge them to back up their rhetoric with action and expedite their approval of the President's Judicial nominations for the five existing vacancies on the 9th Circuit Court of Appeals so that similar decisions may be avoided in the future.

Mr. Speaker, I thank you for the opportunity to speak and I urge all my colleagues to vote in favor of this resolution.

ON NAMING THE DEER PARK, NEW
YORK POST OFFICE FOR RAY
DOWNEY, A TRUE AMERICAN
HERO

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 8, 2002

Mr. ISRAEL. Mr. Speaker, on June 30th, I was honored to attend a ceremony where the Post Office in Deer Park, New York was renamed for New York Fire Department Chief of Operations Ray Downey, one of the many firefighters lost in the terrorist attacks on the World Trade Center on September 11, 2002. In fact, Chief Downey was the most senior member of the Fire Department killed that day. As you may recall, Mr. Speaker, this House voted in December to rename the Post Office. I wanted to share my remarks from that day with the House:

Our country has been reunited with the tragedy of September 11th. And we should be. But I want to tell you about something that I experienced on September 12th. Something that has stood out in my mind, above everything else that occurred that week.

It was a unique week in American history—unprecedented tragedy, unprecedented heroism. For me, one moment stands out even more than the evening of September 11th, when I stood with my colleagues on the steps of the Capitol, that we were told was a target of terrorists only hours before, holding hands and singing God Bless America as the sun descended over the dome and over one of America's most horrific days.

A moment stands out even more than September 13th, when I sat with President Bush in the White House Cabinet room and we talked about the battle to come. More than September 15th, when I went with the President to the site of the World Trade Center, where we lost Ray Downey and 3000 innocent victims of terror.

It stands above that evening, when I cast the proudest vote of my career: the vote authorizing the President to do what had to be done for the protection of our children and survival of our values and our way of life.

Of all those extraordinary experiences, one really stands out . . . from September 12th.

I was on the Floor of the House. And we had just heard from CNN or AP that Ray

Downey didn't make it. I went to a phone, and I called Ray's daughter, Marie Tortorici. It would be the very first of what turned out to be over 100 condolence calls I would make as a Member of Congress to the families of my constituents who died from terror on September 11th.

'I'm sorry,' I told Marie.

And here's what she said: 'We still have hope. We still have faith. We are praying and we want you to pray also.'

And so, I went back to the floor of the House, and addressed the Congress, and asked them to say a prayer for the Downey family.

In their darkest hour, the Downey family still had hope, still had faith, still had prayer. And this is what Osama bin Laden and those who live in the darkness of nature don't understand about our country, who we are, what are our values, and where we summon our strength.

When I visited with the President on September 14th I saw the destruction the terrorists caused: the twisted metal and the shattered glass and the smoky, acrid ruins. But I also saw the signs of the true America. Rescue workers who had planted tiny American flags in their battered helmets. Their arms were weary from digging for three straight days and three straight nights, but not so weary that they couldn't pump their arms into the air and chant USA, USA, USA when the President arrived.

I spoke to two workers: one from Huntington Station and the other from Islip. I said, how long have you been here? They said, since the building went down. I said, how long will you stay, they said, we're not leaving. This is something al Qaeda could never understand or appreciate. When Americans saw bloodshed, we lined up for hours to give blood back. When we feel fear, we turn to our faith. We unfurl our flags. When Ray Downey's family was in trouble, they responded with hope and with faith.

Because that's what Ray was all about. When Ray Downey saw a building come down, he headed for it. When Ray Downey saw a building collapse in Oklahoma City, half a country away, he headed for it. That's what made him special. Not a hero looking for accolades. Just an American doing his job in the best way he could with a courage forged by hope and faith. That will inspire generations of Americans yet unborn.

When I went to the floor weeks later and asked my colleagues to cosponsor the bill that named this post office, they lined up to sign it. Republicans. Democrats. From New York. From Oklahoma. From California. When I asked Senator Clinton to introduce it in the Senate, she rushed it. And when I asked the President to sign it, he said, "how soon."

Ray Downey had a way of bringing us together. In sports . . . in the Fire Department . . . in Deer Park. We could really use him in Washington right now. We may not have him physically. But we will always have his spirit of hope, and faith and strength to guide us.

And when generations to come visit this post office and say, "who was Ray Downey?" The answer will be clear. He was a kind, gentle and loving man who died so that others would live.

He was one of those guys who gave his life to make us the home of the brave . . . and the land of the free. And when I think of him, as I do often, I recall the words from Romeo and Juliet:

And, when he shall die,
Take him and cut him out in little stars,
And he will make the face of heaven so fine

That all the world will be in love with night
And pay no worship to the garish sun.

God bless the Downey family. God bless America.

CITY OF SANTA CLARA'S SESQUICENTENNIAL ANNIVERSARY

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 8, 2002

Mr. HONDA. Mr. Speaker, I rise today to commemorate the City of Santa Clara, California, on the occasion of its 150th anniversary as an incorporated city. The sesquicentennial celebration for this "All-America City" gives us the chance to honor the past, enjoy the present, and look towards a bright future.

Santa Clara is a city where tourists love to explore, students love to learn, and locals love to live. What was once a land of wide-open spaces and orchards is now the home of over 100,000 people and several globally-recognized technology companies. Santa Clara's evolution has been an exciting one, but even as the community has become fertile ground where the high tech industry can flourish, it has continued to embrace the human touch.

The region's history started long before the city's incorporation, dating back 6000 years to the time of the Ohlone Indians. Thousands of years passed before the next settlers arrived, drawn to the area by the scenic landscape and the abundant water resources. These settlers, mostly missionaries and military explorers, chose the area that is now the City of Santa Clara to build a new mission, and in 1777 the Mission Santa Clara de Asis was established. This Franciscan mission, the eighth-oldest of California's 21 original missions, still stands on the campus of Santa Clara University, and is a living tribute to the legacy of Father Junipero Serra and to the work of Father Francisco Palou, founder of the mission.

After Santa Clara's incorporation in 1852, the allure of the region's natural resources attracted ranchers and farmers from the Eastern United States, Mexico, and Europe. Stores were opened and soil was cultivated, and by 1900 Santa Clara boasted a population of 3,650. The city suffered through and survived the historic San Francisco Earthquake of 1906, and later sent many brave women and men to serve in the World Wars.

Following World War II, Santa Clara experienced another population boom thanks to a growing number of manufacturing concerns such as the Owens-Corning Fiberglass Corporation. The growing population of almost 60,000 began to fill the suburbs developing around the city, a precursor to the population boom that would accompany a skyrocketing new industry arriving just a few decades later.

The arrival and rapid expansion of the technology industry would quickly bring Santa Clara and the whole of Silicon Valley to worldwide prominence. The technology industry has seen incredible growth in the past twenty years, and the City of Santa Clara has permanently established itself at the forefront of this phenomenon. Some of the most powerful

names in the industry, names like Sun Microsystems, Applied Materials, and Intel are all headquartered here. Santa Clara's entire history is full of originality and opportunity, recent history being no exception.

The most important aspect of the relationship between the technology sector and the City of Santa Clara is that it is built on a foundation of reciprocity and mutual respect. The city's two major challenges—providing affordable housing and reusing state surplus land—are being addressed in a collaborative effort by the city and leading high-tech firms. The Intel Teacher Housing Fund, for example, will provide \$500 a month for eligible teachers' mortgage payments, and Sun Microsystems set aside part of the land occupied by their headquarters for the preservation of historic buildings and for use by the public. The city, of course, provides a willing and able workforce, and has done a tremendous job of accommodating the large inflow of tech-savvy job hunters and entrepreneurs.

The mutually beneficial relationship between the city and the tech industry is just one of the many reasons why Santa Clara is a special place, and those of us who live in the area aren't the only ones noticing. Last year, the City of Santa Clara won an All-America City award from the National Civic League, one of only 10 cities to receive the award. We who know the city have always believed that Santa Clara is a special place, but the 54-member delegation representing Santa Clara at the competition last June did an exceptional job of ensuring that the panel of judges understood Santa Clara as well. The delegation, consisting of community groups, government officials, business leaders, and private citizens outlined the ways in which Santa Clara goes above and beyond meeting the requirements for the award, from the symbiotic relationship between the city and industry, to the contributions of Santa Clara's volunteer work force, to the city's commitment towards improving the lives of local youths. These factors, combined with the intangible qualities that only a native can describe, helped the City of Santa Clara bring home this prestigious award.

I believe that the words of the All-America City delegation put it best: "Santa Clara blends the best of a modern, urban metropolis with the comfortable charm of Small Town, USA." Santa Clara is a perfect place to raise a family, pursue a career, and fulfill lifelong dreams. It is the home of California's oldest institution of higher learning—Santa Clara University—and other fine schools like Mission College and the Santa Clara, Wilcox, and Wilson High Schools. The weather is beautiful, and the best that California has to offer is right around every corner. I am proud to represent this city as a Member of Congress.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me in honoring the history and celebrating the achievements of Santa Clara, California, on the occasion of its 150th anniversary. The city is an example for all others, and I look forward to being a part of its bright future.

July 8, 2002

MEDICARE MODERNIZATION AND
PRESCRIPTION DRUG ACT OF 2002

SPEECH OF

HON. LYNN N. RIVERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Ms. RIVERS. Mr. Speaker, I rise today to express my disappointment with H.R. 4954, the Medicare Modernization and Prescription Drug Act of 2002. I am very concerned about the burden many seniors bear in paying for their prescription drugs, and I support adding prescription drug coverage as part of the Medicare benefit. However, this sham bill will not help seniors, and it particularly fails senior women in Michigan.

Too many seniors have to choose between paying for food or medicine. Medicare made a promise of better health to America's seniors. It's time to make good on that promise and provide prescription drugs as part of the entitlement. I know what it's like to go without health insurance—I did it when my children were small and our jobs didn't provide it. It's terrifying and it forces families to make excruciating choices.

Unfortunately, H.R. 4954 is no answer to the problem of seniors' lack of drug coverage. The bill relies on private insurance companies to supply the drug benefit rather than the Medicare program itself, despite the fact that the insurance industry has already explained that such policies are not viable and that it is unlikely many companies will offer drug benefit policies. What we have learned from the attempt to push Medicare patients into HMOs in order to cut down costs should have been instructive. Many HMOs have found the Medicare+Choice reimbursement rates to be too low and have stopped taking and treating Medicare+Choice patients. Many of my constituents have been forced to return to Medicare fee-for-service because their HMOs have left the state or now refuse Medicare+Choice patients. Private drug coverage seems even less likely to be successful.

In addition, the proposal fails to provide any coverage to beneficiaries who spend between \$2,000 and \$3,700 annually on prescription drugs, leaving a substantial portion of seniors with no drug coverage. It is unfair to exclude this group of seniors from coverage solely because their expenditure levels lie in a particular range.

In addition, the bill provides no guaranteed drug benefit, no guaranteed premium, no consistency for seniors in different regions of the country, and no measures to address rapid increases in the costs of prescription drugs. To propose such a benefit knowing it will be ineffective is highly misleading.

I take the struggles of seniors to afford essential drugs too seriously to support a bill that provides rhetoric without real assistance. It is unfortunate that we will not have the chance to debate and vote on a bill that would truly address seniors' needs, such as the Medicare Rx Drug Benefit and Discount Act. The Democratic plan lowers drug prices and covers ALL seniors under Medicare. This plan is also voluntary—if seniors have prescription coverage they can keep it. Under the Democratic plan,

EXTENSIONS OF REMARKS

seniors will have a deductible of \$25 a month, and their expenses are capped at \$2,000 per year. There is absolutely no gap in coverage. This is by far the better plan for Michigan's seniors.

I hope I will have the opportunity to vote for an effective and comprehensive Medicare drug benefit in the future. In the meantime, I will oppose this bill and other proposals that provide ineffective or inadequate drug assistance to seniors.

MEDICARE MODERNIZATION AND
PRESCRIPTION DRUG ACT OF 2002

SPEECH OF

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. GILMAN. Mr. Speaker, I rise today in qualified support of H.R. 4954, the Medicare Modernization and Prescription Drug Act. I urge my colleagues to carefully consider this issue before making a final decision.

Mr. Speaker, we are all aware of the explosion in costs for prescription drugs in recent years. This phenomenon has in part been linked to the rapid proliferation of the number of new drugs that have become available in the past decade. We are currently enjoying a period of revolutionary advances in the fields of medicine and medical technology. Yet at the same time, a significant portion of our elderly population is unable to benefit from these new advances, due to the high costs that are associated with them. This is ironic, when one realizes that senior citizens are the primary group that these new advances are targeting.

One fact that has become increasingly apparent is that Medicare is woefully inadequate in meeting the medical needs of today's senior citizens. When Medicare was created in 1965, outpatient prescription drugs were simply not a major component of health care. For this reason, Medicare did not provide coverage for self-administered medicine.

Today's health care environment is vastly different from that of 1965. The majority of care is now provided in an outpatient setting, and dozens of new prescription drugs enter the market every year to treat the common ailments of the elderly, including cancer, heart disease, arthritis and osteoporosis.

But while the health care environment has made remarkable progress since 1965, Medicare has stood in place. Consequently, along with most of my colleagues, I have heard from constituents who are now facing the dilemma of paying for these expensive new drugs while living on a fixed income. The story of the individual who is forced to choose between food and medicine is no exaggeration. It is an all too common occurrence across the country. The high cost of prescription drugs has become a threat to the retirement security of our Nation's senior citizens.

It is for this reason that I am pleased to learn that both the Ways and Means and Energy and Commerce Committees have completed their work on a proposal to provide prescription drug coverage for Medicare bene-

12225

ficiaries. What concerns me, however, is the process by which this measure was brought to the full House for consideration.

Mr. Speaker, the decision to add prescription drug coverage will result in the largest change to the Medicare program since its creation. This is not something that should be done lightly or in haste, or in response to an arbitrarily imposed political deadline. Given that, I have serious reservations about bringing such major policy-changing legislation to the floor for final passage less than three weeks after it was introduced.

With that said, I would like to comment on the positive points of the bill as well as highlight some of my specific concerns with the legislation.

In my view, any proposal to offer prescription drug coverage under Medicare needs to contain the following characteristics: be voluntary, have universal eligibility under Medicare, contain stop-loss protections to guard against catastrophic expenses, offer choices in the type of coverage provided, and remain a good value over time.

The proposal outlined in H.R. 4954 clearly meets these requirements. In fact, it is an improvement over the first attempt by Congress to deal with this issue back in 2000. It contains a lower premium, lower catastrophic protection threshold, greater savings for the average senior, and higher subsidies for low-income individuals and couples.

H.R. 4954 establishes a comprehensive, permanent prescription drug benefit for those eligible under Medicare. Specifically, the measure provides \$310 billion over ten years for a voluntary plan with the following standard benefits: an annual \$250 deductible; for the first \$251–\$1,000 spent on prescription drugs, the senior pays 20 percent; for the next \$1,001–\$2,000 spent on prescription drugs, the senior pays 50 percent; it provides 100 percent coverage for every out of pocket dollar spent over \$3700; it contains a premium of around \$33 per month.

This measure avoids a one-size-fits-all government imposed solution by offering senior citizens a choice in the types of plans in which to enroll. In doing this, the government will guarantee that at least two plans will be available in every area of the country. Moreover, the proposal fully funds all costs for those enrollees below 150% of the poverty rate, and partially funds the costs of those up to 175% of the poverty rate. Those seniors will be responsible for a \$2 copayment on generic and preferred drugs, and a \$5 copayment on non-preferred drugs.

Participation in the plan will be purely voluntary. However, to encourage healthy seniors to enroll, there is a cumulative penalty for those who elect not to opt into the program when they are first eligible to do so. An important exception to this, however, are those seniors already enrolled in a continuing coverage plan, whether through their employer or through an employee retirement plan.

This is an important component that was not included in the measure passed in 2000. Its inclusion should prevent the danger of adverse selection, the condition whereby most seniors in good health avoid signing up for a plan, leaving the majority of enrollees coming from the sickest segment of the population. If

this were to occur, the premiums and deductibles would have to be far higher than presently outlined.

Moreover, by covering part or all of the costs of those with incomes up to 175% of the poverty level, the measure further reduces the danger from adverse selection. In the final analysis, the legislation strives to ensure that there would be an adequate base of healthy seniors to offset the portion in greatest need of the benefit.

As I noted, I do have some reservations about certain aspects of this bill. My chief concern is that this legislation does not adequately address the matter of those drug companies which are raising the prices on their products annually at rates three to ten times the rate of inflation.

While it is true that this measure exempts the new plan from the Medicaid "best prices requirement," whereby any savings achieved through this plan would need to be extended to Medicaid as well, I am unsure whether this in itself is enough to deter the drug companies from trying to take advantage of the perceived windfall that they might see in the Federal Government assuming a large portion of the costs of drugs used by senior citizens.

We also need to be cognizant of the viability of private insurers underwriting plans in areas where it is not profitable for them to do so. Recent experience with Medicare + Choice plans in my district have borne out this concern. In such cases, the government would step in as the "insurer of last resort," assuming a share of the risk as well as subsidizing the cost of offering service in a rural area. My chief concern with this is that it has the potential to become a costly venture for the government, where the private insurers deliberately hold out in order to secure a greater level of government funding.

In spite of these reservations, I firmly believe that this legislation is an important first step in providing a benefit to our senior citizens which is long overdue. The prescription drugs situation will not change on its own in the future. The pharmaceutical companies have demonstrated scant interest in holding the levels of their annual price increases in line with inflation. Rather, while we will continue to see a flood of new revolutionary products hitting the market, this will be accompanied by price increases that put these products out of reach of their intended audience.

I am not calling for price controls. I believe in the free market, and in market capitalism. However, since the last time the House visited this issue, the drug companies have ignored the invisible hand in favor of the cash cow. Drug marketers, like any other entrepreneur, have the right to make a profit, but they are not entitled to do so on the back of the American taxpayer. If the government is going to subsidize a portion of the drug costs borne by seniors, the manufacturers need to be placed on notice that this will not be an opportunity for them to raid the Federal treasury in order to pad their bottom line.

This bill is the first step towards meeting a long overdue need. For that reason, despite my stated reservations, I intend to give it my support. It is my hope that my concerns will be addressed in a future House-Senate conference on this issue.

Finally, this legislation provides \$40 billion in badly needed adjustments and improvements to the Medicare Part B system. These include, but are not limited to: repeal of the 15% reimbursement cut for home health care providers, which was scheduled to go into effect in October 2002, increased payments to sole community hospitals, which serve rural areas, increased Medicare payment adjustment rates for physicians, reduced paperwork burdens for all providers, and stabilization for the Medicare + Choice system, which has bled out recently.

Mr. Speaker, this issue is too serious for party politics, and, as I stated at the outset, I urge my colleagues to give it their careful and thoughtful consideration. Our seniors and Medicare health care providers have waited long enough for relief. It is past time for the Congress to act.

MEDICARE MODERNIZATION AND PRESCRIPTION DRUG ACT OF 2002

SPEECH OF

HON. CYNTHIA A. MCKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Ms. MCKINNEY. Mr. Speaker, I rise in support of a strong and comprehensive prescription drug benefit for all Americans. As the prices for prescription drugs have risen at twice as the inflation rate, this issue is of the utmost importance to Americans in need of prescription drugs.

Unfortunately, in the House there is only one prescription drug coverage proposal that will truly serve America's seniors and medically dependent populations. The Democrat prescription drug plan is the only proposal that is under Medicare, that gives consumers choice, that has no gap in coverage, that has legitimate drug cost controls, and that will truly assist American's with the exorbitantly rising costs of prescription drugs.

The health of our nation depends on a strong drug proposal such as this.

The Republican's bill would not provide the American people with an assured, reliable or substantive prescription drug benefit.

The Republican bill would cover less than 25 percent of Medicare beneficiaries drug costs, leaving millions of Americans with much of the high drug costs they now face.

The Republican bill includes a "hole" in the middle, where there is no coverage for drug costs between \$2000 and \$5600. Perhaps the other side didn't do their research, as nearly half of all seniors have drug costs over \$2000, and would receive no coverage under the Republican plan for part of the year.

Where is the benefit of this drug plan? Isn't the point of a prescription drug benefit to alleviate costs? Well, the Republican plan will hardly alleviate costs. Nor will it insure that a plan exists for all Americans.

The Republican bill would rely on private insurance companies to provide a yet-to-exist prescription drug-only plan. This proposal includes no guarantee for stable coverage by private insurance companies but merely suggests what plans private firms may offer. Under this plan, costs of the plans may vary,

and seniors on fixed incomes will have less opportunity to plan for their drug expenditures and personal budgets.

As for consumer choice, the Republican proposal stops well short of providing any choices. Under the Republican plan, if a drug is not on a formulary, then it is not covered, and even when a drug is on the formulary, this bill permits private insurance not to cover it.

The Republican plan does not let people choose their own pharmacies, and instead creates private networks for drug delivery, increasing the time, trouble and travel seniors, caregivers and the disabled must go through to obtain necessary medication.

Finally, the people that this program should most benefit—America's low-income senior population—are left out in the cold. In the Republican plan, low-income seniors will be required to pay up to \$3600 out-of-pocket expenses per year to cover the "hole" in coverage, would have weak protections from high medicine copayments, and worse, could face denial of medicine if they are unable to cover the co-pay.

The Democrat bill is not deficient in these ways.

The Democrat plan has no hole in the coverage, and would not stick seniors with the \$3600 potential bill that the Republican plan would.

The Democrat plan limits out-of-pocket costs to just \$2000 per year—as much as 47 percent less than the limit under the Republican plan.

The Democrat plan gives consumers choice, allowing them the freedom to use the pharmacy of choice, instead of the restrictive "private network" limitations of the Republican plan.

Nor does the Democrat plan limit the access to specific medicines, and instead pays some coverage for all drugs, regardless if they are on the formulary or not. The Democrat plan would not steer, limit or channel American's to specific drugs as the Republican plan would.

And perhaps most importantly, the Democrat plan has a method for controlling the actual costs for drugs. It is the dramatic increase in prescription drugs that has brought us to this juncture, and the Democrat plan would enable the Health and Human Services Secretary to negotiate prices on behalf of all Americans, thereby saving American consumers, taxpayers, and the government millions in drug costs. Under the Republican plan, there is no collective effort towards cost controls, and realistically, there will be no control of spiraling drug costs.

Mr. Speaker, I am not alone in my opposition to the Republican bill and my support for a strong and true prescription drug benefit. The National Association of Chain Drug Stores, the AFL-CIO, the Medical Group Management Association, the National Education Association and the American Federation of Teachers, Families USA, the National Council on Aging, and perhaps most importantly, the American Association of Retired Persons all either oppose the Republican plan, or endorse the Democrat prescription drug plan.

America's senior community—what has been called "America's Greatest Generation"—deserves no less than a substantive and strong prescription drug benefit bill. I urge

my colleagues not to fall for the smoke and mirrors, and to realize that the Republican plan will not provide the relief and benefit that is needed to combat the rising costs of prescription drugs. Our seniors do not deserve limited choices on drugs and pharmacies, and should not be made to shoulder the high costs of the Republican plan.

Don't be duped America—there is only one bill that works for America, only one bill that will provide Americans affordable access to drugs, and that is the Democrat prescription drug bill.

MEDICARE MODERNIZATION AND
PRESCRIPTION DRUG ACT OF 2002

SPEECH OF

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday June 27, 2002

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in strong support of H.R. 4954 because it provides prescription drugs for all seniors as an entitlement under Medicare. Equally important, it prepares Medicare to deliver state-of-the-art health care to our seniors in the decades to come. Without passage of this bill, Medicare will continue to deny seniors the care they need and will continue to force the diversion of critical care hours from patients to paper work. Seniors would continue to be held hostage to an antiquated benefit structure while the rest of America benefits from advances in medicine, technology, and best practices.

First, in the area of prescription drugs, this bill captures deep discounts on drug prices, and then further reduces the cost of drugs to seniors through direct subsidies of 50 to 80%—up to \$2000 of costs. Two-thirds of seniors use less than \$2000 in prescription drugs a year, so this bill will provide them with tremendous relief. For low-income seniors—up to 150% of the federal poverty level (in 2005, \$15,065 for individuals and \$19,392 for couples)—drug costs will be paid 100 percent up to \$2000 a year (this includes premiums, copays, and the deductible). I want to stress that because twice as many women as men have low incomes in their elder years, this is a tremendous boon to women's health and does what Americans want: helps those most who need the most help!

The bill also provides catastrophic protections to all. It assures that no senior need fear that cancer or another dread disease will consume their life savings and leave them destitute.

You've all been hearing from pharmacists. This bill recognizes the expertise of pharmacists more specifically and constructively than any legislation ever has. It requires that drug plans establish medication therapy management programs for patients with chronic health conditions. Pharmacists must be paid adequately to provide their services. Pharmacists must be involved in developing formularies.

And access to local pharmacies is encouraged, not discouraged. To encourage face-to-face visits, all drug plans must provide con-

venient access to a "bricks and mortar" pharmacy in their network, as defined by Medicare; all drug plans must offer a point-of-service option that allows beneficiaries to go to any pharmacy they desire (for an additional charge); and no mail-order only plans are permitted.

Second, this bill provides better access to preventive health care by offering an annual physical on entry into Medicare, cholesterol screenings, and new choices in Medigap plans that have no co-payment for preventive care. In addition, the bill revitalizes Medicare+Choice plans that have the flexibility to cover far more preventive services than traditional Medicare, from simple, useful annual physicals to disease management programs.

Third, by strengthening the Medicare+Choice plans so that they can once again grow, this bill prepares Medicare to meet the growing challenge of helping seniors manage chronic illness—to dramatically improve their health and quality of life and manage their health care costs. As the majority of our seniors have multiple chronic illnesses and the M+C plans alone have the technology to offer disease management, this alternative must be available to seniors nationwide. Acute care coverage is simply no longer enough.

Fourth, passage of this bill will reduce medication errors that are causing injury and death, because it requires adoption of computerized prescription ordering that will flag drug interactions and provide health care professionals better quality data to improve clinical care.

Fifth, it will enable Medicare to compensate provider more realistically and fairly. Without action, Medicare will continue to follow the path of Medicaid, undermining both the quality of our health care system and access to services by underpaying providers and driving them out of serving our seniors.

Last, this bill will enable Medicare services to be delivered more efficiently and cost-effectively. At long last, in fact for the first time in Medicare's history, this bill will radically reform the bureaucracy that has grown substantially as our laws and payment structures have exploded in number and complexity. In fact, the Medicare bureaucracy is in crisis.

Medicare is governed by over 125,000 pages of regulations—more than the IRS regulations for the entire tax system. The error rate in carriers answering basic questions from physicians was 85%, dwarfing the problems at IRS. This problem is so great that it threatens to force small providers out of Medicare, be they physician practices, small visiting nurse providers, small nursing homes, or small hospitals. It doesn't take a rocket scientist to understand the impact of such a consequence on rural America or our urban neighborhoods.

So while the words "regulatory reform" don't have the power over seniors' attention that "prescription drugs" have, in the long run they are equally important.

This is a good, solid, balanced bill. It modernizes Medicare to meet the future. It provides prescription drugs as an entitlement to all seniors under Medicare. It provides total benefits to those on Medicaid and—with states—will provide such total coverage to seniors under 175% of the poverty level, 44% of the population over 65. And for all others, this bill provides deep discounts, generous

subsidies, and the peace of mind of catastrophic protection against high-cost drugs.

CONGRATULATING CORPORAL TOM
PENUEL AND AGENT FIRST
CLASS DREW AYDELOTTE FOR
HEROISM IN RESCUING THREE
BOATERS FROM DROWNING

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 8, 2002

Mr. CASTLE. Mr. Speaker, it is with great pride that I rise today to congratulate two employees of the Delaware Fish and Wildlife Division for their heroic rescue on Sunday, June 30, 2002 of three boaters whose boat sunk in the Delaware Bay. Corporal Tom Penuel and Agent First Class Drew Aydelotte rescued Richard and Beth Owens and their friend, Beth Mariani, who were stranded in Delaware Bay for an hour after their boat sunk.

Mr. and Mrs. Owens and Ms. Mariani had been returning in a 17-foot Grady White boat from a fishing trip and stopped to check two crab pots a half-mile from Kitts Hummock. At that time, a wave crashed over the bow and filled up a live-bait well. Within 30 seconds, the boat sunk to the bottom of the Delaware Bay. Through quick thinking they were able to radio for help before the boat was lost. The Fish and Wildlife officers were dispatched from Bowers Beach 15 minutes later. This quick action was essential because as the boaters started to paddle toward shore on a boat seat, the seat became waterlogged and also sunk. Corporal Penuel and Agent First Class Aydelotte found them 1 hour later floating in the Delaware Bay a half-mile offshore. These two officers deserve our utmost gratitude and respect for their courageous efforts. Mr. and Mrs. Owens and Ms. Mariani also deserve recognition for their quick thinking and tremendous courage in surviving this tragic event. I wish them a full and speedy recovery.

Corporal Tom Penuel and Agent First Class Drew Aydelotte of the Delaware Fish and Wildlife Division serve as role models of dedication for all officials, not only in Delaware, but throughout the country. I commend them for their immense bravery in executing their lifesaving training.

TRIBUTE TO DR. WILLIAM F.
GUNN, JR.

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 8, 2002

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to my fellow South Carolinian, Dr. William F. Gunn, Jr. Dr. Gunn is a graduate of Morehouse College, where he earned a Bachelors degree in Physical Education. He then continued his educational quest for knowledge at Indiana University receiving a Masters in Physical Education, and later a Doctorate in Education Administration at the University of South Carolina.

Dr. Gunn began his South Carolina teaching experience at Benedict College in Columbia in 1964, where he remained until 1999, when he retired as Professor of Health, Physical Education and Recreation and the Chair of the Health, Physical Education and Recreation Department. While at Benedict his commitment to the school extended out of the classroom onto the athletic field as coach of the tennis, cross-country, and soccer teams throughout the years.

Dr. Gunn is also a member of the American Alliance of Health, Physical Education, Recreation and Dance, the American Association of University Professors, Phi Delta Kappa, the Association for the Study of Classical African Civilizations, and the South Carolina Parks Recreation Association. Dr. Gunn is also a member of Alpha Phi Alpha fraternity. He has also served as Chairman of the Saint Luke's Center Community Council, the Ethnic Minorities Committee for South Carolina Association of Health, Physical Education and dance, and the South Carolina Governor's Council on Physical Fitness from 1984–1987. Additionally, he has served on the United Black Fund of Midlands Board of Directors, and on the Richland County Board of the Tuberculosis Association.

Dr. Gunn's many accomplishments include being recipient of a United Negro College Fund Study Grant, 1972; University Year Academic Grant, 1976, Who's Who in the South and Southwest, 1976–1977, named Alpha Phi Alpha Fraternity "Man of the Year" for South Carolina by the Ethnic Minorities Committee, 1985; and the recipient of a ten, fifteen, twenty, and thirty year awards for excellence in teaching from Benedict College.

Throughout his career, Dr. Gunn has also written and published numerous papers and books on community health related projects, the Health profession, and African American Education/Group Leadership. Some of his more notable publications include the Hip-Hop Culture: A Suggested Leisure Counseling Model for Young Clients," 1998; "Leisure and Spiritual Well-Being: Vital for Maximizing Human Potential," 1999; and "Healing the Body and Mind Through Cosmic Rhythms in Music and Dance," 2002.

Mr. Speaker. I ask you and my colleagues to join me today in honoring Dr. William F. Gunn, Jr., a man whose contributions to his community and the educational system will leave lasting impressions on the numerous lives he has touched. I wish him continued success and Godspeed!

IN RECOGNITION OF THE EFFORTS
TO ELIMINATE THE WORST
FORMS OF CHILD LABOR IN
WEST AFRICA

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 8, 2002

Mr. ENGEL. Mr. Speaker, I rise today to inform you and our colleagues about the progress that has been made toward ending a shameful practice of child slavery. Just one year ago on June 28th, the House of Rep-

resentatives voted 291–115 to set aside funding within the Food and Drug Administration to develop a labeling program for products made with cocoa. The label was intended to distinguish between cocoa products made with child slave labor and those that were not.

As you may recall, last summer we all became aware of this problem through media reports, such as those in the Knight-Ridder Newspapers, that told the stories of children being kidnapped from their home countries, such as Mali, and then sold into slavery in the Ivory Coast. The stories were horrifying. Children as young as 9 years of age are being forced to work without pay, live in squalor, and fear for their physical safety.

Last year, the House of Representatives resoundingly said "This is not acceptable." Chocolate is one of our most beloved treats, but it doesn't taste as sweet with the bitterness of child slavery in its mix.

Since that day last year much has happened. I am pleased with and proud of the enormous progress that has been made toward ending this terrible situation. First, let me congratulate the chocolate industry for so quickly deciding to tackle this problem head on. The industry joined a number of non-governmental organizations in signing an agreement, now known as the "Harkin-Engel Protocol," which set up a framework for dealing with the problem of child slavery in the cocoa fields. The protocol is a serious commitment by the stakeholders to create an historic effort to end child slavery in this industry.

This effort is not just the result of the United States Congress though. Our colleagues in the parliament of Great Britain have also been working on this issue. On May 20, 2002 the House of Commons held what we would call a special order on the specific issue of child slavery in the cocoa fields of West Africa. During the debate, the Honorable Tony Colman of Putney quoted his constituent who is an expert on the problems of child trafficking and slavery, Professor Kevin Bales, as saying "The Protocol . . . is a very good thing. It is the first time that an industry has taken social, moral and economic responsibility for their entire product chain. The Anti-Slavery movement has been seeking such an agreement for 160 years."

Throughout the past year, the world's cocoa producers and users have met and signed onto agreements that commit everyone to ending this practice. For example, on November 30, 2001 a wide array of organizations from around the globe signed a joint statement regarding their efforts toward eliminating child slave labor in the cocoa fields. The list of organizations is very impressive: the Association of the Chocolate, Biscuit, and Confectionary Industries of the European Union; the Chocolate Manufacturers Association of the USA; the Confectionary Manufacturers Association of Canada; the Cocoa Association of London and the Federation for Cocoa Commerce; the Cocoa Merchants Association of America; the European Cocoa Association; the International Office of Cocoa, Chocolate, and Confectionary; the World Cocoa Foundation; the Child Labor Coalition; Free The Slaves; the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Associations; the National Con-

sumers League; and the Government of the Ivory Coast. The joint statement recognized the "urgent need to identify and eliminate child labour in violation of the International Labour Organization (ILO) Convention 182 with respect to the growing and processing of cocoa beans and their derivative products."

Furthermore, in January of this year the Government of the Ivory Coast ratified two important international labor agreements governing child labor—Conventions 138 and 182 of the International Labor Organization. By becoming signatories to these conventions, the Government of the Ivory Coast took a huge step forward toward implementing responsible labor standards for children within its own borders. In part, because of this step, the Bush Administration in May 2002 granted the Ivory Coast eligibility status under the African Growth and Opportunity Act.

Finally, last week the efforts of dozens of organizations and hundreds of people culminated in the creation of an international foundation that will "oversee and sustain efforts to eliminate abusive child labor practices in the growing of cocoa." In future years, the foundation, with assistance from the governments of the world, will put in place "credible standards of public certification that cocoa beans have been grown without any of the worst forms of child labor."

These are not easy problems to remedy. Many of these children do not speak French, the main language of the Ivory Coast. Many parents willingly let them go, believing their children will be learning a trade as part of an apprenticeship. Many children are orphaned. How we deal with these children on an individual basis will be difficult. Repatriating the children, reunifying the families, finding alternatives for orphaned and abandoned children all must happen. It will take hard work. It will not happen overnight. But we must try and we must succeed.

In declaring our own independence and throwing off the shackles of tyranny, our forefathers wrote "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." Never once in the history of our great nation have we ever believed that these rights were reserved to the people of the United States. In fact at the core of our beliefs is that all people everywhere have the unalienable right to liberty. The problem of child slavery in West Africa is as much the responsibility of the governments there as it is our own.

Today, I am pleased and proud to report that we here in Congress are a part of the movement to put an end to one of the most egregious ills in the world today—child slavery.

TRIBUTE TO MR. KONRAD K.
DANNENBERG

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 8, 2002

Mr. CRAMER. Mr. Speaker, I rise today to recognize a great member of the North Alabama community, Mr. Konrad K. Dannenberg.

On August 6th, Mr. Dannenberg will celebrate his 90th birthday. Throughout his ninety years, Mr. Dannenberg has been a leader in our nation's space program, retiring from Marshall Space Flight Center in 1973 as Deputy Director of Program Development's Mission and Payload Planning Office. Today, Mount Hope Elementary School in Decatur, Alabama is honoring Mr. Dannenberg for his service to their school, the North Alabama community, and the nation.

Konrad Dannenberg, born in Weissenfels, Germany, worked with Wernher von Braun in Peenemunde, Germany and came to the United States after World War II under "Project Paperclip." He later helped develop and produce the Redstone and Jupiter missile systems for the Army Ballistic Missile Agency at Redstone Arsenal. In 1960, he joined NASA's Marshall Space Flight Center as Deputy Manager of the Saturn program, where he received the NASA Exceptional Service Medal.

Mr. Dannenberg is a Fellow of the American Institute of Aeronautics and Astronautics and was past president of the Alabama/Mississippi Chapter. He was the recipient of the 1960 DURAND Lectureship and the 1995 Hermann Oberth Award. Additionally, the NASA Alumni League, the Hermann Oberth Society of Germany, and the L-5 Society (now the National Space Society) have the benefit of Mr. Dannenberg's membership. In 1992, the Alabama Space and Rocket Center created a scholarship in his name to allow one student to attend a Space Academy session.

Mr. Speaker, as you can tell, during Mr. Dannenberg's career, he was a valuable player in the advancement of our space program and was appreciated by co-workers and important organizations throughout the industry. Following his retirement, he has remained a major influence in the North Alabama community and still serves as a consultant for the Alabama Space and Rocket Center in Huntsville. I want to congratulate Mr. Konrad Dannenberg on his 90th birthday and thank him for the important contributions he has made to our community in North Alabama and the entire United States.

H.R. 4623—CHILD OBSCENITY AND PORNOGRAPHY PREVENTION ACT

SPEECH OF

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 2002

Mr. POMEROY. Mr. Speaker, I rise today in support of the bill I cosponsored, H.R. 4623, the Child Obscenity and Pornography Prevention Act. This bill marks a truly important step forward in protecting our Nation's kids from the scourge of pedophiles and child exploitation.

Troubling headlines involving kids around the country are showing that there is a dark side to the Internet. The very technology that has wired the world, allowing information to flow like never before, also presents new dangers for our children, even in our small, safe hometowns. Parents used to worry about their

kids talking to strangers. Now it seems commonplace for them to do so everyday online. I know the Internet helps our children with everything from schoolwork to applying to college to keeping in touch with their friends, but I also recognize that this more frequent contact with strangers exposes children to the dangers of pornographers and other exploitation. Worse yet, the prevalence of virtual child pornography—computer generated images that are indistinguishable from real children and only serve to whet the appetites of pedophiles and would-be molesters—has become more difficult to prevent as a result of a recent court decision.

In April, the Supreme Court, in *Ashcroft v. The Free Speech Coalition*, struck down as unconstitutional portions of the Child Pornography Prevention Act (Pub. L. 104-208) that made it illegal to create, distribute or possess "virtual" child pornography. In its opinion striking down the provisions of the law, however, the court ruled that extending the reach of child pornography laws to computer-generated and other images involving no real children was "overbroad and unconstitutional" and that the law would prohibit visual depictions, such as movies, art or medical manuals, that have redeeming social value.

The Court's decision left our children vulnerable, so I am pleased to support this legislation to strengthen the laws to go after those who would bring harm to our children. By carefully crafting this bill to narrowly define the terms and scope of the law, we have addressed the concerns raised by the Court and will provide lasting protection for our children against would-be pedophiles and exploiters. Because of the many important freedoms our constitution guarantees, it is a delicate exercise to prohibit even the most vile forms of expression. I believe we have achieved a balance in this bill of clearly defining that which we seek to ban, while protecting the freedom of speech that the constitution intends, and I am confident that this legislation will stand up to challenge.

It is imperative that Congress act swiftly to restore the prohibitions in law that recognize this horrible use of technology for what it is: yet another way for pedophiles and molesters to exploit children. I urge my colleagues to join me in supporting this important legislation.

HONORING THE WETLANDS INSTITUTE ON ITS 30TH ANNIVERSARY

HON. FRANK A. LoBIONDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 8, 2002

Mr. LoBIONDO. Mr. Speaker, I rise today to honor the fine work of the Wetlands Institute of Stone Harbor, New Jersey on its 30th Anniversary. As an important haven for wildlife habitation and education, the Wetlands Institute deserves to be recognized and applauded.

Opened in 1972 by its founder, Herbert Mills, the Wetlands Institute has a clear mission to promote the appreciation and understanding of the vital role wetlands and coastal ecosystems play in the survival of life on this

planet. This not for profit organization reaches out and educates the community by providing a fun learning experience for families, school groups and vacationers of all ages. Each year the Institute works hard to hosts thousands of visitors, supplying them with unforgettable views of countless species of birds, salt water aquaria and beautiful gardens.

The ambitious and honorable goals of the Wetland Institute include teaching the value of wetlands and coastal systems, sponsoring important research of these ecosystems and encouraging the stewardship of these habitats worldwide. Since 1972, this organization has involved students in several of its conservation projects. Many of these projects have garnered national attention, such as the diamond back terrapin research reported by ABC and National Geographic, as well as photographs of a horseshoe crab spawning census published in LIFE magazine in 1999.

Through tirelessly striving to educate the public on the critical need for wetlands conservation, the Wetlands Institute has demonstrated a strong commitment to the community. I wish this valuable organization further success and would like to thank everyone involved for their hard work and dedication.

TRIBUTE TO NATIONAL THERAPEUTIC RECREATION WEEK IN SOUTH CAROLINA

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 8, 2002

Mr. CLYBURN. Mr. Speaker, I rise today in recognition of "National Therapeutic Recreation Week" in South Carolina as proclaimed by Governor Jim Hodges.

The purpose of this event, which begins today and is celebrated through July 14, is to increase public awareness of therapeutic recreation programs and services, and expand recreational and leisure opportunities for individuals with disabilities. Physical therapists from all over the state met and worked together to eliminate barriers to leisure activities for many with disabilities and educate people in leisure skills and attitudes. These therapists constantly stressed the importance and advantage of having a clear understanding of how involvement in leisure and recreational activities improves physical and psychosocial health, and how recreation can provide individuals with a sense of self-confidence and satisfaction.

The theme for "National Therapeutic Recreation Week" is "Therapeutic Recreation . . . Examine the Possibilities." The theme suited the occasion perfectly, as the aim was to explore a variety of methods used by therapeutic recreation professionals to enhance the quality of life and well being of persons with disabilities.

This year's "National Therapeutic Recreation Week" will hopefully generate more interest and encourage all South Carolinians to recognize the positive benefits of leisure and recreation.

Mr. Speaker, thousands of South Carolinians devoted their time and energy to improve their quality of life, and also the lives of

others. Please join me in recognizing the gallant efforts of these individuals, and the wonderful accomplishments they made during "National Therapeutic Recreation Week."

TRIBUTE TO DR. I. MILEY
GONZALEZ

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 8, 2002

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to recognize Dr. I. Miley Gonzalez who has been serving in the capacity of Interim Vice Provost of Research at New Mexico State University. Dr. Gonzalez will be leaving NMSU after an impressive record as an administrator, an academic, and public servant to the community of Las Cruces, the state of New Mexico and our Nation.

Dr. Gonzalez rejoined the university in 2001 after nearly four years as U.S. Under-Secretary of Agriculture for Research, Education and Economics. Before accepting former President Clinton's appointment to the Department of Agriculture in 1997, he served as assistant dean and deputy director of the Cooperative Extension Service from 1994 to 1996, head of the agricultural and extension education department from 1991 to 1994, and director of the college's international programs from 1992 to 1994. He began his professional career as a high school vocational agriculture teacher in 1970.

Prior to Dr. Gonzalez joining the faculty at New Mexico State University he served as a State 4-H Specialist at Pennsylvania State University and participated in Extension Program activities. He taught numerous undergraduate and graduate courses including guest lectures in Spanish. He is a member of several academic and professional organizations, and has published journal articles and instructional materials in Spanish and English. Dr. Gonzalez received a B.S. and an M.S. from the University of Arizona and a Ph.D. from Pennsylvania State University in Agricultural and Extension Education. In 1999 Dr. Gonzalez was one of six people to receive the Outstanding Alumni awards from Penn State's College of Agricultural Sciences. The award recognizes outstanding graduates and provides opportunities for interaction among the college's alumni, students and faculty.

Mr. Speaker, Dr. Gonzalez has had a prosperous career while at NMSU. During his tenure Dr. Gonzalez was always known for taking time to meet with any student who needed to talk with him. It is often said that if our children are our future, the quality of our schools and their teachers will largely determine the quality of the future that our children will or will not enjoy. Dr. Gonzalez's interest in the well being of his students can be found in the communities throughout New Mexico, the country, as well as in the halls of Congress. Several of those former students, who worked with Dr. Gonzalez in either the academic or extra-curricular environment, have worked or are currently working in my office or in the offices of Representative SKEEN, Senator BINGAMAN, Senator DOMINICI, or members of the Presi-

dent's Cabinet. He has also been named as one of the top 100 Hispanic Leaders in the country.

While serving as Under Secretary of Agriculture, Dr. Gonzalez was known for his strong efforts to forging a closer, more personal link between land-grant and research institutions and the U.S. Department of Agriculture, an agency that we all know provides funding for innovative research into the production of food and fiber, and the preservation of the environment. The Under Secretary of Agriculture for Research, Education, and Economics provides centralized organization and management of the research, education, and economic programs administered by the U.S. Department of Agriculture. In his role Dr. Gonzalez oversaw the Agricultural Research Service, the Cooperative State Research, Education, and Extension Service, the Economic Research Service and the National Statistics Service.

Mr. Speaker, I would like to extend my best wishes to Dr. I. Miley Gonzalez in his future endeavors. The community of Las Cruces and New Mexico State University will greatly miss Dr. Gonzalez's presence—but the product of his work can be found in the faces of our current and future leaders. I ask that my colleagues in the House join me in honoring the achievements and contributions of this outstanding educator, administrator, public servant and New Mexican.

FEDERAL BILL TO MAKE SUR-
VIVOR BENEFITS TO ALL BENEFICIARIES OF SLAIN LAW ENFORCEMENT OFFICERS TAX FREE

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 8, 2002

Ms. NORTON. Mr. Speaker, today I am introducing a bill to make benefits received by the beneficiaries (who are not a spouse or child) of law enforcement officers killed in the line of duty tax-free. My bill amends the Officer Brian Gibson Tax Free Pension Equity Act that I introduced in 1997 after a District of Columbia police officer was killed in Ward 4, to relieve the spouses and children of law enforcement officers killed in the line of duty from taxation on death benefits. The law now applies to all law enforcement officers in the United States. I wrote the bill after I discovered that officers received disability benefits tax-free while the death benefits of survivors were taxed. I decided to amend my bill after the Mychal Judge Police and Fire Chaplains Public Safety Officers' Benefit Act of 2002, allowing domestic partners to receive Federal death benefits, was enacted and signed by the President last month. That bill was stimulated by September 11th and the discovery that the domestic partners of police and fire officers killed in the Twin Towers tragedy were being denied death benefits.

The bill I introduce today is the logical companion bill to the 9-11 public safety officers bill that is now law because it simply allows the same exemption from taxation that other

beneficiaries will now receive. Without this new bill, the very inequity Congress clearly intended to eliminate between the spouses and relatives of slain officers on the one hand and other beneficiaries on the other would be reintroduced. If the death benefits of these beneficiaries of slain officers are tax exempt, it follows that the same benefits to other congressionally recognized beneficiaries should be similarly exempt. I believe that this remaining difference was not deliberate, but resulted from the fact that my earlier bill amended the tax code and was not immediately apparent to the authors of the recent bill.

I ask all of my colleagues to support this corrective measure.

CELEBRATING THE GRUNION
GAZETTE'S 25TH ANNIVERSARY

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 8, 2002

Mr. HORN. Mr. Speaker, today I rise to pay tribute to the Grunion Gazette for providing Long Beach with an outstanding weekly newspaper for 25 years.

The Grunion, named after Long Beach's famous grunion runs, was founded by Tedi and Pat Cantalupo who began publishing the Grunion out of their home in the Belmont Shore area of Long Beach in 1977. In 1981, the Cantalupos sold the Grunion to Fran and John Blowitz who have built the paper into what it is today—one of the finest weekly newspapers in Southern California.

The Grunion Gazette has provided its readers with a sense of community and cohesiveness through its in-depth reporting on a variety of local topics. It keeps its readers well informed with news and information from city government, business, education, and the community, and provides a calendar of events, wedding announcements, obituaries, health and fitness advice, and a dining guide. Its opinion columns are based on local insights, along with a lively letters to the editor section and the witty commentary of Charlie the dog (aka Jacques Warshauer) in "Charlie's Corner," one of the Gazette's longest running features. All of this is combined with wonderful photos that capture the personality of the area and a website that opens the Gazette to readers around the world.

Fran and John Blowitz can take great pride in all that they have accomplished as owners of the Grunion Gazette, and as owners of the Downtown Gazette edition that they began 17 years ago. But that is not the whole story. Fran and John and their colleagues have also provided exceptional volunteer service to our community. They have served on numerous boards and committees and have helped to start such traditions as the Belmont Shore Christmas Parade. They also created the Gazette's Valentines' Date Night that draws thousands of people to the Queen Mary and raises more than \$50,000 a year for heart programs at Long Beach hospitals.

I salute Fran and John Blowitz, Associate Publisher and Executive Editor Harry Saltzgaver, Editor Kurt Helin, and all the fine

staff and contributors for their commitment to the Grunion Gazette. Congratulations for 25 years of setting the highest standard for what a community newspaper can and should be.

PAYING TRIBUTE TO JUNE
RENFRO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 8, 2002

Mr. McINNIS. Mr. Speaker, it is my honor to bring to the attention of this House the inspiring accomplishments of June Renfro. June was recently awarded the Rifle (Colorado) Chamber of Commerce's 'Person of the Year' award for her dedication to her community. The selfless love with which she has promoted the betterment of the Rifle area has been a moving reminder of the affection many in my state have for their communities.

June Renfro was born on a ranch just north-east of Nunn, Colorado. She spent 18 years in the upholstery business in Greeley while actively pursuing a career with Home Interiors and Gifts, an at-home interior decorating service. However, when Mrs. Renfro's husband tragically passed away, June decided it was time to escape the cold winters in that area and moved to Rifle in 1997 to spend more time with her daughter Judy.

The joy with which June has embraced her new community later in life has been an inspiration to her new neighbors. At the age of 68 June threw herself wholeheartedly into the Rifle community, utilizing her love of people and inquisitive nature to become Rifle's biggest cheerleader. She became involved with the Chamber of Commerce ambassadors and began taping local business profiles for Rifle's Community Access Channel 13. June did everything in her power to share her talents and infectious spirit with her new neighbors in Rifle.

Mr. Speaker it is my privilege to pay tribute to June Renfro for her contributions to the rifle community. I applaud her receipt of the Rifle Chamber of Commerce's 'Person of the Year' award recognizing her significant achievements for the good of the community. At the age of 73, June's commitment to her neighborhood should be a lesson to all of us that we can continue to affect our communities for the public. For this unwavering dedication, as well as her infectious love of her newfound home, I bring June Renfro's example to the attention of this body of Congress.

PAYING TRIBUTE TO GENE
TAYLOR

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 8, 2002

Mr. McINNIS. Mr. Speaker, it is my honor today to pay tribute to a model citizen of the Grand Junction, Colorado community. Gene Taylor has gained the respect and admiration of the community through his company, Gene

Taylor's Sporting Goods, and has provided professional and quality service to the city for over forty years. Gene's secret to success is simple; he values the customer and is dedicated to providing quality products in his establishments. He is a pillar of the Grand Junction community and I am honored to bring forth his accomplishments before this body of Congress, and this nation.

As the market for sporting goods and competition for the community's business increased, Gene has managed to stay successful through his hard work and dedication to his community. As an active business and civic member and provider of financial assistance to worthy causes, Gene's stores are covered with banners from local schools thanking him for his help and support to their causes. His latest contribution to the city was the donation of five and one half acres for a new skating rink in Grand Junction, the Charlene Glebler Community Ice Arena. This donation, along with Gene's life-long belief in community service, is one of the many admirable qualities of this man and I am grateful for his service to the area.

As a family friend and admirer of Gene, let me point out that the entire family is involved in the operation and all carry Gene's commitment to excellence in their daily lives. Gene is well known as a loving husband to his wife Beverly, and a devoted father to his six children Roseanne, Duke, Marshall, Amy, Tony, and Jenny.

Mr. Speaker, it is with great pride and satisfaction that I bring the life and accomplishments of Gene Taylor to the attention of this nation today. Gene's success story serves as a model example of hard work and perseverance for a member of the business and civic community and I am honored to represent Gene and his family before this body of Congress. Gene and his family have been well-respected members of the Grand Junction community for many years and I am grateful for their service.

PAYING TRIBUTE TO HENRY H.
CAIRNS, SR.

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 8, 2002

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to the life and memory of Henry H. Cairns Sr. of San Diego, California. Henry Cairns, known as Hank, honorably devoted his life to defending the freedoms of our nation. He upheld America's liberty and has earned a place amongst our country's leaders. Today we mourn the loss of a courageous father, grandfather, husband, brother, son, and soldier.

Hank moved to Colorado when he was six weeks old, and he spent most of his adolescent and young adult years in Montrose. When he graduated from high school, Hank with the help of his brother opened his own candy store. Hank found his place, honorably serving in our Air Force, and as the Captain of the 852nd Bombardier, 8th Air Force Squadron, Hank upheld liberty and freedom by

bravely fighting and living through his detainment at a prisoner of war camp during World War II. Hank served our nation proudly, and after the war he respectfully returned to the United States. Hank has contributed greatly to our country by helping build roads, and runways around neighborhoods, military bases, and cities in our communities.

Mr. Speaker, it is my pleasure to honor an individual who contributed selflessly to the betterment of our nation, and although we will grieve the loss, we will rejoice over a man of great character and conduct. I express my sincerest condolences to his family and friends, and I salute Aaron Romero before this body of Congress and this nation.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 9, 2002 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 10

9:30 a.m.

Veterans' Affairs

To hold hearings to examine the continuing challenges of care and compensation due to military exposures.

SR-418

Energy and Natural Resources

Water and Power Subcommittee

To hold oversight hearings to examine water resource management issues on the Missouri River.

SD-366

Commerce, Science, and Transportation

Surface Transportation and Merchant Marine Subcommittee

To hold hearings to examine railway safety.

SR-253

10 a.m.

Indian Affairs

To hold hearings to examine Elder health issues.

SR-485

Judiciary

Business meeting to consider pending calendar business.

SD-226

Health, Education, Labor, and Pensions

Business meeting to consider S. 710, to require coverage for colorectal cancer

screenings; S. 2328, to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to ensure a safe pregnancy for all women in the United States, to reduce the rate of maternal morbidity and mortality, to eliminate racial and ethnic disparities in maternal health outcomes, to reduce pre-term, labor, to examine the impact of pregnancy on the short and long term health of women, to expand knowledge about the safety and dosing of drugs to treat pregnant women with chronic conditions and women who become sick during pregnancy, to expand public health prevention, education and outreach, and to develop improved and more accurate data collection related to maternal morbidity and mortality; S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; S. 2489, to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care; and the nominations of Richard H. Carmona, of Arizona, to be Medical Director in the Regular Corps of the Public Health Service, and to be Surgeon General of the Public Health Service; Naomi Shihab Nye, of Texas, and Michael Pack, of Maryland, each to be a Member of the National Council on the Humanities; Earl A. Powell III, of Virginia, to be a Member of the National Council on the Arts; Robert Davila, of New York, to be a Member of the National Council On Disability; and Peter J. Hurtgen, of Maryland, to be Federal Mediation and Conciliation Director.

SD-430

11 a.m.

Printing

To hold hearings to examine federal government printing and public access to government documents.

SR-301

2 p.m.

Environment and Public Works

To hold hearings to examine the President's proposal to establish the Department of Homeland Security.

SD-406

2:30 p.m.

Judiciary

Crime and Drugs Subcommittee

To hold hearings to examine issues concerning white collar crime.

SD-226

Energy and Natural Resources

To hold hearings to examine the present and future roles of the Department of Energy/National Security Administration national laboratories in protecting our homeland security.

SD-366

JULY 11

9 a.m.

Judiciary

To hold hearings to examine oversight of the Department of Justice and the impact of a new Department of Homeland Security.

SD-106

9:30 a.m.

Environment and Public Works

To hold hearings to examine the progress of national recycling efforts, focusing on federal procurement of recycled-content products and producer respon-

sibility related to the beverage industry.

SD-406

Commerce, Science, and Transportation

To hold hearings to examine the U.S. Climate Action Report concerning global climate change.

SR-253

10 a.m.

Energy and Natural Resources

To hold hearings to examine the Department of Energy's Environmental Management program, focusing on DOE's progress in implementing its accelerated cleanup initiative, and the changes DOE has proposed to the EM science and technology program.

SD-366

Judiciary

Business meeting to consider pending calendar business.

SD-226

Indian Affairs

To hold hearings to examine contemporary tribal governments, focusing on challenges in law enforcement related to the rulings of the U.S. Supreme Court.

SR-485

2 p.m.

Finance

Social Security and Family Policy Subcommittee

To hold hearings on S. 848, to amend title 18, United States Code, to limit the misuse of social security numbers, to establish criminal penalties for such misuse.

SD-215

2:30 p.m.

Foreign Relations

African Affairs Subcommittee

To hold hearings to examine implementing United States policy in Sudan.

SD-419

JULY 16

9:30 a.m.

Governmental Affairs

To hold hearings to examine the nomination of Mark W. Everson, of Texas, to be Deputy Director for Management, Office of Management and Budget.

SD-342

Energy and Natural Resources

To hold hearings to examine the Administration's plans to request additional funds for wildland firefighting and forest restoration as well as ongoing implementation of the National Fire Plan.

SD-366

10 a.m.

Banking, Housing, and Urban Affairs

To hold oversight hearings to examine the Semi-Annual Report on Monetary Policy of the Federal Reserve.

SD-G50

JULY 17

10 a.m.

Indian Affairs

To hold oversight hearings to examine the protection of Native American sacred places.

SR-485

10:30 a.m.

Foreign Relations

To resume hearings on the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at

Moscow on May 24, 2002 (Treaty Doc. 107-08).

SD-419

JULY 18

10 a.m.

Indian Affairs

To hold hearings to examine proposed legislation to approve the settlement of water rights claims of the Zuni Indian Tribe in Apache County, Arizona.

SR-485

2 p.m.

Indian Affairs

To hold hearings on proposed legislation to ratify an agreement to regulate air quality on the Southern Ute Indian Reservation.

SR-485

JULY 24

9:30 a.m.

Veterans' Affairs

To hold hearings to examine mental health care issues.

SR-418

10 a.m.

Indian Affairs

To hold hearings on S. 1344, to provide training and technical assistance to Native Americans who are interested in commercial vehicle driving careers.

SR-485

JULY 30

10 a.m.

Indian Affairs

To hold hearings on proposed legislation concerning the Department of the Interior/Tribal Trust Reform Taks Force; and to be followed by S. 2212, to establish a direct line of authority for the Office of Trust Reform Implementations and Oversight to oversee the management and reform of Indian trust funds and assets under the jurisdiction of the Department of the Interior, and to advance tribal management of such funds and assets, pursuant to the Indian Self-Determinations Act.

SR-485

JULY 31

9:30 a.m.

Finance

To hold hearings to examine the Report of the President's Commission to Strengthen Social Security.

SD-215

10 a.m.

Indian Affairs

To hold oversight hearings to examine the application of criteria by the Department of the Interior/Branch of Acknowledgment.

SR-485

AUGUST 1

10 a.m.

Indian Affairs

To hold oversight hearings to examine the Secretary of the Interior's Report on the Hoopa Yurok Settlement Act.

SR-485

2 p.m.

Indian Affairs

To hold oversight hearings to examine problems facing Native youth.

SR-485

HOUSE OF REPRESENTATIVES—Tuesday, July 9, 2002

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore (Mr. BOOZMAN).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

Washington, DC, July 9, 2002.

I hereby appoint the Honorable JOHN BOOZMAN to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker, House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Illinois (Mr. WELLER) for 5 minutes.

MARRIAGE TAX PENALTY

Mr. WELLER. Mr. Speaker, I appreciate this opportunity to briefly address the House on an issue, I believe, of importance to 36 million married working couples. This past year the House of Representatives and President Bush had a great accomplishment, that was, that we cut taxes across the board, benefiting every taxpaying American. In fact, over 100 million households have seen their Federal taxes lowered as a result of what we call the Bush tax cut; 3.9 million American families with children no longer pay Federal income taxes as a result of the Bush tax cut. We eliminate the marriage tax penalty; we wipe out the death tax; we make it easier to save for retirement as well as for education. Unfortunately, because of a quirk or an arcane rule over in the other body, the Bush tax cut ended up being a temporary measure. That means if we fail to make permanent the Bush tax cut, taxes will go back up for over 100 million American taxpaying households.

I want to draw attention to one of the provisions, a provision which many of us have worked on over the last sev-

eral years that is a fundamental issue of fairness and something we call the marriage tax penalty. Unfortunately, prior to the Bush tax cut being signed into law, 36 million married working couples paid higher taxes just because they are married. They paid higher taxes because when both husband and wife are in the workforce and you combine your income and you file jointly, it pushes you into a higher tax bracket and that creates the marriage tax penalty. If we allow the Bush tax cut to expire, 36 million married couples will pay about \$1,700 more in higher taxes as a result of the marriage penalty being restored. That is a \$42 billion tax increase.

Let me introduce a couple from the district that I represent in the south suburbs of Chicago, from Joliet, Illinois, Jose and Magdalena Castillo, their son Eduardo, their daughter Carolina. They live in Joliet, Illinois, they are hard-working Americans, and they suffered the marriage tax penalty prior to the Bush tax cut being signed into law. The marriage tax penalty for Jose and Magdalena Castillo was about \$1,150. There are some people here in Washington who think that we should allow the marriage tax penalty provision to expire because they want to spend that money here in Washington. For the, \$1,150 is chump change here in Washington; but for a couple such as Jose and Magdalena Castillo of Joliet, Illinois, a hard-working couple that benefits from the marriage tax relief in the Bush tax cut, \$1,150, that is several months' worth of child care for Eduardo and Carolina while they are at work. That is several months' worth of car payments. It is a significant amount of money they could set aside in their IRA or their education savings account for retirement or for their children's education.

We need to make permanent the marriage tax penalty relief that this House passed this past year and was signed into law by President Bush. I am proud to say that just a few weeks ago the House of Representatives passed overwhelmingly, every House Republican voted "yes" and I also want to note that 60 Democrats broke with their leadership and joined with the Republicans in voting to make permanent the marriage tax relief provisions that we passed and were signed into law this past year. As a result of making it permanent, we will see protection for Jose and Magdalena Castillo. We will also see that Jose and Magdalena Castillo and 36 million couples like them will

no longer pay the marriage tax penalty ever. That is why we need to make it permanent.

Again, during this year as we debate whether or not to make permanent the elimination of the marriage tax penalty, there will be those on the other side who argue they need to spend the money here in Washington, that \$1,150 for Jose and Magdalena Castillo does not really matter because it is really not a lot of money. The bottom line is it is a fairness issue. Is it right or is it wrong that under our Tax Code that a couple who choose to get married should suffer higher taxes? I think it is wrong that we would want to punish society's most basic institution.

The bottom line is, this House of Representatives has voted overwhelmingly to make permanent the elimination of the marriage tax penalty. My hope is that the Senate and the House will join together, that we will have bipartisan support in both the House and Senate, and that we will send to the President this year legislation to permanently eliminate the marriage tax penalty. Because if we do not, couples such as Jose and Magdalena Castillo of Joliet, Illinois, will see a \$1,150 tax increase just because they are married if we fail to make permanent the elimination of the marriage tax penalty. And if you add up all the couples across America who benefit from the elimination of the marriage tax penalty, 36 million married working couples, it would be a \$42 billion tax increase overall.

Let us protect Jose and Magdalena Castillo. Let us permanently eliminate the marriage tax penalty. Let us work together and let us get it done this year.

CORPORATE FRAUD

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Ohio (Mr. BROWN) is recognized during morning hour debates for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, later today President Bush is scheduled to give a major speech, it is billed, on corporate responsibility. His advisers have told us he is going to get tough on corporate wrongdoers. He is even calling for jail time for those who defraud shareholders and who violate Federal law. In addition, the President's advisers let slip recently he is reading a biography of Theodore Roosevelt who had a well-deserved reputation for battling corporate greed. All of this must

mean that the President is very serious about ending this season of executive greed and corporate misgovernance in America.

But to use the bully pulpit like Teddy Roosevelt did, you have got to have credibility on the issues at hand. For many of us, the President's credibility on corporate issues has been a problem since his vast, but inexplicable, success as a businessman was revealed a number of years ago. As recently as yesterday, the President and the White House have sought to offer new explanations for why he did not report in a timely manner his 1990 sale of \$850,000 worth of stock in a Texas-based energy company just weeks before its value plummeted.

It sounds a lot like Enron. It sounds a lot like WorldCom. It sounds a lot like Adelphia. It sounds a lot like these corporate scams that we have all been so critical of. Previously, the President said he thought regulators lost the documents. He pointed at the regulators. Then last week the White House said it was a mix-up by the lawyers, the son of the President's lawyers; and then yesterday he gave the most plausible explanation. He said, "I still haven't figured it out completely how I made the \$850,000." He has not figured it out.

While there are many decent and honest corporate executives and accountants in this country, those who lack integrity have only been emboldened by the permissive environment created by this administration and by those on the other side of the aisle in congressional leadership who never met a regulation that they liked. Companies like Enron and WorldCom and Arthur Andersen obviously believed they could mislead investors with impunity as long as this President, this friend of corporate America, was in office.

And why would they not? In the middle of the Enron scandal, President Bush, on behalf of his corporate friends, proposed a zero-growth budget for the Securities and Exchange Commission even though the SEC itself complained it was too short-staffed to go after these corporate abuses. President Bush supported a weak pension reform bill in the House even though thousands of employees in Texas and around the country lost their retirements because of fraud and mismanagement by the President's friends and his single major contributor and fundraiser at Enron. And the President endorsed an accounting reform bill in the House that had no teeth since it was strongly supported by his friends in the accounting industry.

Does it sound familiar? President Bush has refused to ask for reauthorization of the Superfund tax which would require corporate polluters, again friends of the President, which would require corporate polluters to pay for cleanup of the messes that they

make. Instead, he wants to saddle taxpayers with those cleanup costs. The President joined the prescription drug industry, for whom they had a fundraiser raising literally \$3 million from the drug industry itself 2 weeks ago, in supporting and pushing through the House a Medicare prescription drug plan that, first of all, privatizes Medicare, and second undercuts seniors' purchasing power and enables the drug industry, the most profitable industry in America, to continue to sustain its outrageous drug prices.

The President has openly supported the idea of turning the Medicare program over to the health insurance industry, again friends and major contributors of the President, and the Social Security program over to Wall Street, again major friends and political supporters and contributors of the President.

Sadly, Mr. Speaker, the list goes on and on and on and on and on. So later today as the country listens with rapt attention to the President's plan for reversing the trend of corporate greed and misdeeds, you will understand if I view this speech with a healthy degree of skepticism.

Civil rights leaders said years ago, "Don't tell me what you believe, tell me what you do and I'll tell you what you believe."

JUVENILE DIABETES

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized during morning hour debates for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to call the Chamber's attention to the serious issue of juvenile diabetes which is usually but not always diagnosed in children and remains with them for life. It has stricken over 16 million Americans, and it kills one American every 3 minutes. By the time that my brief remarks are over, two children will be diagnosed with the disease, kids like my constituent Victor Suarez. Diagnosed at age 14, Victor has to administer daily shots of insulin to keep him from falling into a diabetic coma from which there may be no recovery. Victor's friends must keep constant watch of his condition. This is no way for Victor or any child to live, but unfortunately this scene is repeated millions of times every day across our country.

Mr. Speaker, let us work toward finding more funding for research to ensure that Victor and other children will not be forced to suffer with juvenile diabetes. I congratulate the South Florida chapter of the Juvenile Diabetes Foundation International as well as its president, Sheldon Anderson, for their sincere commitment to finding a cure for diabetes and its serious complica-

tions. Founded in 1991 by a group of dedicated individuals, this south Florida chapter has already contributed over \$8 million to diabetes research. Mr. Speaker, I join 274 Members of Congress and 67 Senators who recently signed a letter requesting support for increased juvenile diabetes research funding.

I believe, as do my colleagues, that a cure for juvenile diabetes is just around the bend and that by working together, we can make it a reality.

HONORING THE LIFE OF PETE C. JARAMILLO

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Texas (Mr. HINOJOSA) is recognized during morning hour debates for 5 minutes.

Mr. HINOJOSA. Mr. Speaker, it is a great honor and personal privilege to stand before you to pay tribute to one of our bravest and finest Americans, Pete C. Jaramillo, a loving father and grandfather, devoted son and brother, courageous soldier, loyal civil servant and great human being.

Pete C. Jaramillo of Belen, New Mexico, passed away on April 26, 2002, after a long illness. He will be remembered for his quiet strength, gentle manner, humility, deep compassion, kindness, and his dignity. He will be deeply missed by his family and friends. Mr. Jaramillo was born in Arroyo Colorado (Red Canyon), New Mexico, a small community in the Manzano Mountains. He was the first son and one of nine children born to Aurelia Chavez and Andres Jaramillo. Like many children reared in the 1920s and early 1930s, the Great Depression forced Mr. Jaramillo to grow up quickly. Economic hardships were abundant, and there was always someone's situation that was worse than his. The Depression taught Jaramillo the importance of helping others, and throughout his life he was known to lend a helping hand to those in need.

In 1941, at the age of 17, Mr. Jaramillo joined President Franklin Roosevelt's Civilian Conservation Corps Camp, a New Deal program designed to create jobs and rebuild America's roads and infrastructure. He and his troop of Company 2867, Camp SCS-27-N, maintained New Mexico's treasured forests and streams. As a devoted son and brother, he shared his meager wages with his family.

During World War II, Mr. Jaramillo was called to serve his country. After completing his basic and advanced infantry training at Fort Bliss, Texas, he was deployed to Europe where the Germans had invaded the Allies. On D-Day, June 6, 1944, U.S. servicemen landed on Omaha Beach in France. Jaramillo was among the first wave of servicemen who landed on Omaha Beach. Unlike countless troops,

Jaramillo survived the Normandy invasion only to be severely wounded by a hand grenade 6 weeks later. He was hospitalized for 4 months before returning to the U.S.

His near fatal wounds affected him all the days of his life. By the age of 20, Mr. Jaramillo's decorations and citations included the Combat Infantry Badge, the European-African-Middle Eastern Service Badge, the Good Conduct Badge, the Victory Medal, and the Purple Heart, which he received when he was wounded on July 12, 1944. On August 19, 2000, Mr. Jaramillo received the Jubilee Medal of Liberty issued by the Governor of Normandy, publicly recognizing the sacrifice and service of veterans who served in the Normandy invasion between June 6 and August 31, 1944.

"I am very proud to receive this recognition and I am thinking about the men who went to France and never returned," said Jaramillo in his acceptance remarks. Upon his honorable discharge in 1946, Jaramillo returned to his home in New Mexico. In 1947 he married Jennie Vallejos, a friend of his two sisters, Sally and Aurora, and together they raised four daughters and two sons: Ida May, Pete Jr., Maria Rita, Maria Leonella (Nellie), David, and Lynda. He also had four grandchildren: Eddie Jaramillo, Jason Griego, and Billy and Selena Manzanares.

He was a good provider, devoted father, grandfather and son-in-law. Jaramillo served as a surrogate father to numerous nieces and nephews, providing guidance and support. In 1980, Mr. Jaramillo retired after completing 30 years of Federal service. He received many commendations for his outstanding performance and rarely missed a day of work. His last assignment was with Kirtland Air Force Base in Albuquerque, New Mexico.

Mr. Jaramillo enjoyed the simple things in life, his family, the sun upon his face, grape juice, chocolate, a country breakfast and, yes, Sunday drives. An avid reader, he liked to keep up with current events. Above everything, Pete exemplified a life of doing unto others as you would have them do unto you.

May he rest in peace.

SLAVE MEMORIAL IN OCALA, FLORIDA, AND OUR NATION

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, as many Members did this weekend, I am sure, I spent the Fourth of July back home with the people of the Sixth Congressional District. I had the privilege of joining others in my hometown community at the unveiling of a slave me-

morial in Ocala, Florida. The local community leaders believed that "Florida could not have existed and grown as it did without the hard work, courage, sacrifice and sometimes genius of black men and women."

For this reason, a monument was erected to honor the lives of the slaves who bear great responsibility for the prosperity we enjoy in the State of Florida. However, this is not only true in Florida; but, Mr. Speaker, I think it is true across this country. Lest this connection continue to go unrecognized, I along with the gentleman from Ohio (Mr. HALL) introduced the Slave Memorial Act. Both of us and many of our colleagues have long been involved in efforts to heal the legacy of slavery. This is the latest incarnation of our desire to contribute to the healing of our Nation. This bill would authorize the process for establishing a national slave memorial to honor the nameless and forgotten men, women and children who were slaves. It will hopefully enjoy a position of prominence in the shadow of the Lincoln Memorial.

Papa Stewart, a former slave, once said, "I want you to promise me that you're going to tell all the children my story." This is a conjecture, but I believe that what Papa Stewart is asking for is not that the children be told just so that the horrors of slavery could be avoided in the future, but I also believe he was earnestly asking for the recognition of the humanity of these individuals. We need to believe that there is something more meaningful than just our physical being. He is asking that this story, their humanity, be valued and told. In the telling of his story, we communicate our respect, our compassion and sensitivity to it. Papa Stewart's is a story that we are indeed in need of telling and hearing in this Nation.

Mr. Speaker, in this new world that we have entered since September 11, it is becoming easier to remember that evil is an ever present reality. It is now easier to remember that hatred and bigotry are always and everywhere wrong. We gather to remember that the commission of monstrous sin requires not our consent but only our indifference. Of these things many of our ancestors are guilty. We can certainly say of slavery that it was "one more wrong to man and one more insult to God." And as a means of ensuring that we never see the same, we propose a memorial in the shadow of the Lincoln Memorial. We do this as a testament to slavery's "many thousand gone."

Each slave was an individual and a child of God. Not only do they deserve our remembrance, we owe them our respect. The legacy of our Nation includes many people, including those who were victims but chose not to be victimized. As Americans, we naturally understand this universal story of resilience and strength; and with this

memorial we have the opportunity to thank the people who so greatly contributed to an American cultural understanding of perseverance and, of course, independence.

Mr. Speaker, it is my earnest desire that a slave memorial will play a part in healing the legacy of slavery. It is said that symbols are the natural speech of the soul, a language older and more universal than the words that we use every day. Hopefully, this memorial will speak in a language more easily understood than simple words. We stand here today to honor the slaves themselves and the men who fought to end their slavery. This discussion cannot stop with the troubles of those who were enslaved, but must continue on to celebrate their deliverance.

CORPORATE RESPONSIBILITY

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from New Mexico (Mr. UDALL) is recognized during morning hour debates for 5 minutes.

Mr. UDALL of New Mexico. Mr. Speaker, it seems like every day we hear a new story of executives who misled their investors and their workers and stole millions of dollars. These executives are called irresponsible. They are accused of mismanagement or unorthodox business practices. But these corporate leaders are not unorthodox. They are criminals, plain and simple. They have stolen more money than any thieves I have ever heard of, and their crimes have real victims. The victims of these corporate crimes are workers like the workers at Enron who just wanted an honest job with a fair expectation of job security. For all their hard work, these workers got 10 minutes to clear out their desks. In some cases they were even denied their severance packages if they refused to sign documents giving up the right to sue Enron for defrauding them.

Defrauding workers and forcing them to give up their legal rights is not irresponsibility; it is a crime. Even workers who never had anything to do with Enron were hurt by the collapse of that company. As Enron declared bankruptcy, public employees in 30 States lost anywhere from \$1.5 billion to \$10 billion from their pension plans. Stealing money from public employee pension plans is not irresponsibility; it is a crime.

Even those of us who had absolutely nothing to do with the Enrons or WorldComs of the world are hurt by corporate crime. The unethical behavior of executives at WorldCom, which was recently forced to admit it had invented \$3.8 billion in earnings, has had a devastating effect on the company's stock price. But the stock market as a whole has also suffered from the lack of confidence created by widespread

corporate abuse. Less than 3 percent of all publicly traded companies misstate their earnings, but this small group casts doubt on the statements of other more ethical businesses.

A free market system cannot function if investors do not trust executives; and, therefore, the crimes of WorldCom and Enron are crimes not only against stockholders but against the very system that allowed these companies to flourish. Ask not for whom the bell tolls, corporate America, it tolls for thee. But this talk of corporate crime obscures the real crime that has taken place in this country.

The crime of Enron, like so many other corrupt corporations, is not that they broke the rules; it is that they wrote the rules. On everything from energy regulation to tax policy, Enron and its fellow energy companies got the best laws money can buy. Enron received a \$254 million check, courtesy of the American taxpayer, when the Bush administration changed the rules governing the corporate alternative minimum tax. Because with this deficit-laden budget, corporate tax cuts come directly from the Social Security trust fund, this was the legal equivalent to picking the pockets of senior citizens in order to pad the pockets of corporate executives. Enron also was allowed to vet candidates for the chairmanship of the Federal Energy Regulatory Commission, the Nation's number one energy watchdog.

Furthermore, companies like Enron and Haliburton are the intended beneficiaries of policies from the opening of the Arctic National Wildlife Refuge to the annihilation of the Superfund trust fund, which was supposed to ensure that corporate polluters paid some share of the cost of cleaning up their mess. The Superfund example gives us an especially revealing look at how corporate campaign contributors are treated by their friends in government. If I poisoned hundreds of thousands of my fellow citizens in order to enrich myself and my friends, I would probably go to jail for the rest of my life. If, however, Haliburton spills oil all over a pristine area, ruining the land and making local residents sick, they do not even have to pay to clean it up. The taxpayer gets the bill.

Even after the collapse of Enron and the exposure of billions in fake earnings at WorldCom, this administration and many in Congress are working to protect their corporate patrons from any real accountability. The Oxley accounting bill, which the House passed on April 24, does nothing to protect against corporate abuse and bring back public confidence in corporate governance. In some cases, the bill even makes it more difficult to enforce auditing regulations. In its most glaring failure, this bill leaves the wolf in charge of the henhouse by ensuring

that no independent agency has any power to effectively police.

I have full confidence this Congress and this administration can work together to prevent future Enrons and future WorldComs, and I look forward to working with Members on both sides of the aisle to make sure that we have corporate ethical governance in this country.

MEDICARE

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Florida (Mr. FOLEY) is recognized during morning hour debates for 5 minutes.

Mr. FOLEY. Mr. Speaker, several weeks ago a constituent of mine approached me to complain about her Medicare bill. I assumed this would be a typical complaint about either how much she was paying for premiums or how much she paid for services. Boy, was I wrong. Her complaint was worse. She was concerned not about her cost but about how much Medicare was paying for a particular product she uses. As a diabetic, she is required to wear special shoes that need shoe inserts. At one time, the only type of insert available was custom made. However, with the wide use of these products, coupled with advancements in technology, many of these inserts are now available off the shelf which are the ones that she gets for herself.

Looking at her bill, I found that Medicare was paying, on average, \$50 a pair for these inserts. This is the insert, a simple Styrofoam insert. The shoes she is required to wear are \$134. The inserts for the shoe, over \$50 apiece. She is required to pay a portion of that and Medicare reimburses, for three sets of diabetic shoe density inserts, \$190. \$190 for these inserts. In total, the provider was getting over \$50 per pair for simple inserts. If you go to the local pharmacy or grocery store, you will discover that these off-the-shelf orthodontics cost only about \$10. Even these inserts, which I purchased at CVS, a local pharmacy, not to do a plug for the pharmacy, but you can get them anywhere you want, they are Dr. Scholl's, these were \$16. They look state of the art. They have all kinds of descriptions on them, a strong heel pad.

I am not an orthopedic surgeon; I am not a podiatrist. I am a simple average person who had my own business in Florida, and I know how to comparative shop. I think we all do. But this is outrageous. If Medicare paid that amount for the \$16, we would have saved substantially. She would have been thrilled and delighted. That is why she brought it to my attention, because she felt as a senior citizen, talking about Medicare and the need for prescription drugs, that we will never be able to solve the problems inherent

in Medicare if we do not get our acts together and start finding ways to prevent these kinds of horrific over-expenditures of the Federal Government.

But why do they do it? Let us ask the basic question. Why did people charge such an outrageous sum of money for these, what I will call, rather inadequate inserts? Because Congress told them to. We wrote into the statute what price should be paid for these products, assuming at the time that the only available insert was custom made. Now that off-the-shelves are available, Medicare is stuck.

In today's Washington Post, there is an article talking about the rising cost of health care and the choices many employers, including the government, will have to make if these skyrocketing costs are not placed under some control. Two weeks ago, Congress began to address this problem when we passed H.R. 4954, the Medicare Modernization and Prescription Drug Act of 2002. However, we need to do more. We need to look at the entire Medicare program from top to bottom and allow the marketplace, not Congress, to determine prices. The only way we can save both the Medicare program and our health care system in general is to stay out of the business of setting prices and establishing controls.

I look forward to working with Chairman THOMAS and others as we continue to debate this very important issue. The Republicans, when we proposed prescription drug coverage, we recognized that within Medicare, for its solvency, we needed to do more and should be able to do more to provide for these benefits for our constituents, our seniors, and do so without robbing and causing taxes to have to be increased on existing working Americans. If we continue down this path and allow this kind of ripoff to take place, if we allow an insert to be over \$60 a pair paid for by the Federal Government, then we will be walking away from our responsibilities to our seniors, we will bankrupt Medicare, and we will cause significant disparity for seniors.

We believe we have an answer, but we believe we have to act now. There is no way anyone can explain to me and give me comfort about these charges and make me believe this is a legitimate expense of the Federal Government. Yes, she needs insoles; but at \$16 versus about \$50-plus, I think we can find a way to not only make her walk comfortably but save the Federal Government a ton of money. Therein lies the opportunity to provide a prescription drug coverage for our seniors who need it.

CORPORATE GOVERNANCE

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Washington (Mr. INSLEE) is recognized during morning hour debates for 5 minutes.

Mr. INSLEE. Mr. Speaker, I sat in with the Financial Services Committee at our WorldCom hearing yesterday; and if you heard a sense of outrage from the Members on both sides of the aisle, it mirrored the outrage of the American public who have seen their savings go down the drain while there has been so much malfeasance in the accounting and auditing practices in our corporate boardrooms. It is very disturbing because this has created a substantial lack of confidence in our capital markets system. It is clear that we have a very systemic problem we have got to fix. It seems to me that this is a time for action that Teddy Roosevelt would have taken. Teddy Roosevelt did not say, Speak loudly and carry a small twig. He put it a different way. So today when the President addresses the Nation and Wall Street about how we are going to work ourselves out of this terrible situation, I hope that he will be guided much more by Teddy Roosevelt and much less by Calvin Coolidge. What I mean by that is we need him not just to speak loudly, which I am very confident he will do, we need him to act with great fervor. We need action, not just language.

Today I would suggest that a Teddy Roosevelt approach to this problem would involve six separate actions, not just speeches. We hope that the President will join us in the Democratic Party who propose these actions.

First, I think Teddy Roosevelt would be getting America a new director of the Securities and Exchange Commission. The present director of that organization, Mr. Harvey Pitt, is a man of great intelligence; but America needs more than that. America needs an agent of change at the helm of the Securities and Exchange Commission. We cannot have a leader of the Securities and Exchange Commission that we have to drag kicking and screaming every time that we need to do some modest, commonsense regulation of the industries that Mr. Pitt used to represent and work for. Unfortunately, Mr. Speaker, Mr. Pitt has drug his feet time and time again to take even the most modest efforts to deal with these systemic problems. We hope that we have new leadership at that helm.

Second, I am convinced Teddy Roosevelt would impose the sternest criminal sanctions on the corporate people and accountants who failed to abide by their responsibilities, who consciously, intentionally defraud investors. I am confident the President will call for jail time for these scofflaws. But we need more than simply maximum

times in jail. We need minimum times in jail. Here is the reason I say that. We need mandatory jail times for these flimflam artists. The reason is that all too often in white collar crime, these white collar criminals go up to the judge and says, he was a good man, he belonged to a great country club, he gave money to charity and they do not see the inside of a penitentiary. If you sell 50 grams of crack cocaine, you get 10 years mandatory, no ifs, ands, or buts. It ought to be the same rule for these people who have destroyed the retirement incomes of thousands of Americans. The President should do no less than mandatory minimum jail times.

Third, it is not just that we have people breaking the rules; we do not have the right rules in our accountancy and auditing system. We need new rules. So the third thing we should do is we need to divorce the consulting aspects of accounting from the auditing aspects of accounting.

Mr. Speaker, I have sat through, I think now, 12 hearings about these disasters. The one thing they almost all have in common is the people who are supposed to be auditing these corporations were also making millions of dollars providing the same corporations they are supposed to be riding herd on, providing them consulting advice. We found that this creates just too many disincentives for rigorous auditing. At a minimum, at an absolute minimum, we should require the auditing committee to agree to those multiple contracts before they allow people to provide those two services. This is a systemic problem, and it is something we have got to fix.

Fourth, we need an independent public accountancy board. It is important that it be independent. It needs to be independent of the organizations that it regulates. We need that quickly.

Five, we need CEOs to have to certify their financial records so that they are personally responsible.

And, sixth, and this is very important, Mr. Speaker, we need stock analyst independence, independent from the investment banking side.

Mr. Speaker, I am confident Teddy Roosevelt would take all six of these steps today. I hope the President will do so. America deserves no less.

PRESIDENT TO ADDRESS NATION
ON CORPORATE GOVERNANCE

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Oregon (Mr. DEFAZIO) is recognized during morning hour debates for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, we are waiting now and in about 15 minutes the President will give a speech where he is expected to address the corporate meltdown, where millions of Ameri-

cans have been defrauded of their stock holdings and their 401(k)s, thousands have lost their jobs and a few have profited mightily. The President says he wants to get tough. We are going to hear a lot of talk about watchdogs and teeth and enforcement and maybe putting some people in jail. Maybe. Probably not.

But the real question is, is he serious? Until recently, of course, the President and Vice President CHENEY had been touting their corporate experience and ties. Mr. Lay of Enron fame was called Ken Boy and was given unlimited access to the White House and the Oval Office. He is persona non grata now, perhaps. But are they serious? Unfortunately, the early indications are the President is not serious, but he is covering his political butt. That is because he is saying the SEC, which of course until recently he had stiffed in his budget, the Securities and Exchange Commission, the official watchdog of the United States of America over corporate malfeasance, which has been dramatically underfunded, yet the President proposed in his budget to not increase their funding, in fact give them a zero budget increase. Now he is going to propose a budget increase. That is good; so maybe he is serious.

But then he goes on to say the head of the SEC is doing a great job. This guy's name is Harvey Pitt. Harvey Pitt represented most of the firms and the individuals who are now taking the fifth amendment before Congress. In fact, in a recent action before the Securities and Exchange Commission, the toothless watchdog that we have on guard, headed by Mr. Pitt, appointed by Mr. Bush, who Mr. Bush says he has utmost confidence in, found, this is amazing, actually found that a firm, Ernst & Young, had violated its duty to remain independent from companies it audits. That is good.

But guess what? The finding which would ultimately in fact have involved a substantial fine was thrown out by an administrative law judge. Why? Because the facts were not right? No. Because they had not committed the malfeasance? No. Because Mr. Pitt is so conflicted that he could not vote and also Cynthia Glassman, the other SEC commissioner, was not allowed to vote, either, because they both had intimate ties with this firm. They had represented them, worked with them; and when they leave their so-called public service, they will represent them again as \$500- or \$1,000-an-hour lawyers.

So this company got off the hook because only one commissioner, the one appointed by President Clinton, could vote. The judge said, There were three of you there and only one of you voted. I'm throwing out the judgment against Ernst & Young. This is the watchdog that the President has ultimate confidence in, a man who is so conflicted

from his previous work, who represented many of these same securities firms, many of these same accounting firms, many of these same corporations and CEOs, he is so conflicted that when he was asked recently was it not a conflict of interest for him to meet with some officials from Xerox while there was an ongoing investigation, this is Harvey Pitt, our watchdog, our public servant. He said, If I recuse myself from meeting with everybody who I had represented or had personal relationships with, I wouldn't be able to meet with anybody. That is the man in whom President Bush is supposedly going to invest more authority to investigate and prosecute, a man who just came from representing these people and as soon as he is done with his public service will return to representing these same miscreants.

This certainly does not give me a great deal of confidence in the independent role and the aggressive role of the Securities and Exchange Commission; and it does not give me a great deal of confidence that the President is really serious about what he is doing here. Certainly there is a lot of political butt to be covered. Yes, he is doing a good job of that. But will he get serious? If he does not announce that he is removing Mr. Pitt, that he is going to have people who do not have conflicts of interest in charge of investigating and prosecuting these companies, people who could actually vote to prosecute, who would not have to recuse themselves because of those conflicts, then we will know he is serious. In 10 minutes we will hear.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until noon today.

Accordingly (at 11 o'clock and 18 minutes a.m.), the House stood in recess until noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. ISAKSON) at noon.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord our God, protect us and guide us as a free people who turn to You in faith and prayer and who strive to grow in virtue and integrity. At this time of cultural, economic and social change, be with the Members of the House of Representatives in all their undertakings today. May the recent celebration of the birth of this Nation 226 years ago renew all hearts in the same

spirit that guided the signers of the Declaration of Independence and the Framers of this country's Constitution. May their goals and purposes still serve and guide every informed decision here today and across this Nation.

"Let us, the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty for ourselves and our posterity." Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Nevada (Mr. GIBBONS) come forward and lead the House in the Pledge of Allegiance.

Mr. GIBBONS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Transportation and Infrastructure; which was read and, without objection, referred to the Committee on Appropriations:

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,

Washington, DC, June 27, 2002.

Hon. J. DENNIS HASTERT,
Speaker of the House, Capitol, Washington, DC.

DEAR MR. SPEAKER: Enclosed are copies of resolutions adopted on June 26, 2002 by the Committee on Transportation and Infrastructure. Copies of the resolutions are being transmitted to the Department of the Army.

Sincerely,

DON YOUNG,
Chairman.

Enclosures.

RESOLUTION (DOCKET 2684)

BIG SUAMICO RIVER, WISCONSIN

Resolved by the Committee on Transportation and Infrastructure of the United States House of Representatives, That the Secretary of the Army is requested to review the report of the Chief of Engineers on the Big Suamico River, Wisconsin, published as House Document 498, 74th Congress, 2nd Session, and other pertinent reports, to determine whether modifications to the recommendations contained therein are advisable in the interest of navigation improvements to Big Suamico River, Wisconsin, to include extension of naviga-

tion channel up the Big Suamico River for use by shallow draft craft.

Adopted: June 26, 2002.

Attest: Don Young, Chairman.

RESOLUTION (DOCKET 2685)

OCONTO HARBOR, WISCONSIN

Resolved by the Committee on Transportation and Infrastructure of the United States House of Representatives, That the Secretary of the Army is requested to review the report of the Chief of Engineers on the Oconto Harbor, Wisconsin, published as House Document 538, 61st Congress, 2nd Session, and other pertinent reports, to determine whether modifications to the recommendations contained therein are advisable in the interest of navigation improvements to Oconto Harbor, Wisconsin, to include extension of navigation channel up the Oconto River for use by shallow draft craft.

Adopted: June 26, 2002.

Attest: Don Young, Chairman.

RESOLUTION (DOCKET 2686)

MILLIKEN-SACRO-TULOCAY BASIN, CALIFORNIA

Resolved by the Committee on Transportation and Infrastructure of the United States House of Representatives, That the Secretary of the Army is requested to review the report of the Chief of Engineers on the Napa River Basin, California, published as House Document 222, Eighty-ninth Congress, First Session, to determine whether modifications to the recommendations contained therein are advisable in the interest of ecological recovery of the Milliken-Sacro-Tulocay groundwater basin, environmental restoration and protection of the Milliken-Sacro-Tulocay basin streams and Napa River, as well as flood damage reduction and other purposes.

Adopted: June 26, 2002.

Attest: Don Young, Chairman.

RESOLUTION (DOCKET 2687)

LOWER WILLAMETTE RIVER WATERSHED,
OREGON

Resolved by the Committee on Transportation and Infrastructure of the United States House of Representatives, That the Secretary of the Army is requested to review the report of the Chief of Engineers on the Columbia and Lower Willamette Rivers below Vancouver, Washington, and Portland, Oregon published as House Document Number 452, 87th Congress, 2nd Session, and other pertinent reports, to determine the feasibility of providing ecosystem restoration measures in the Lower Willamette River watershed from the Willamette Locks to confluence of the Willamette River with the Columbia River through the development of a comprehensive restoration strategy development in close coordination with the City of Portland, Port of Portland, the State of Oregon, local governments and organizations, Tribal Nations and other Federal agencies.

Adopted: June 26, 2002.

Attest: Don Young, Chairman.

RESOLUTION (DOCKET 2688)

MISSISSIPPI RIVER PROJECTS, ILLINOIS AND MISSOURI

Resolved by the Committee on Transportation and Infrastructure of the United States House of Representatives, That the Secretary of the Army is requested to review the report of the Chief of Engineers on the Mississippi River between Coon Rapids Dam, Minnesota, and the Mouth of the Ohio River, published as

House Document 669, 76th Congress, 3rd Session, and other pertinent reports, to determine whether modifications of the recommendations contained therein are advisable in the interest of environmental restoration and protection, aquatic habitat restoration, regional trails and greenways, public access, water quality, recreation and related purposes along the Mississippi River and its tributaries and particular reference to that area in Madison and St. Clair Counties, Illinois, and St. Louis City, St. Louis County, and St. Charles County, Missouri.

Adopted: June 26, 2002.

Attest: Don Young, Chairman.

There was no objection.

RECOGNIZING AMERICAN GOLD STAR MOTHERS

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, today I recognize the American Gold Star Mothers and congratulate them for their 65th national convention. I want to send special thanks to my constituent, Georgianna Carter-Krell, the former national president, and Barbara Calfee, the national treasurer, whose tireless efforts made this convention a great success.

The American Gold Star Mothers is an organization of women who have lost a son or daughter while in the service of our country. They are compassionate, loyal women who channel their grief and sorrow into healing others through their many hours of volunteer service for veterans and their families.

I commend them for their hard work and dedication in helping those who were injured in the service of our country and also for their sincere efforts to instill and inspire the ideals of patriotism and love throughout our Nation.

PATRIOTIC PRAYERS IN SANTA ANA

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Speaker, today I rise to commend Pastor Bob Orr and the congregation of the First Baptist Church in Santa Ana for their proud display of patriotism on July 7, this past Sunday. During their second annual picnic and barbecue to honor those who served in the military, those in attendance could be seen clutching their Bibles as they sang patriotic songs like the Battle Hymn of the Republic under eight United States flags that once had lain on the coffins of veterans of war.

What a wonderful display of national pride, Americans from different races and different cultures coming together at a church to celebrate the lives of those who fought to defend our coun-

try's freedom. The congregation of First Baptist has demonstrated to all Americans that regardless of religious beliefs, we are all united under one flag, representing one Nation under God, indivisible.

U.S. FORCES BOMB IRAQ AGAIN

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, since the Gulf War, our pilots have been patrolling the skies over Iraq, trying to keep Saddam Hussein contained and in check. On June 26 of this year, Iraqi forces fired an antiaircraft missile at our aircraft. We responded, of course, by shooting back and defending ourselves against this aggression.

Yet Saddam Hussein is much more than an enemy that regularly tries to kill or capture American pilots. The country Iraq is currently a significant part of the American economy by providing us with oil.

In the first quarter of this year, we bought \$1.2 billion of Iraqi oil, according to the Energy Information Administration. Where do my colleagues think this money goes? Mr. Speaker, it goes straight to Saddam Hussein's government, straight to the \$25,000 reward checks he gives to families of each Palestinian suicide bomber.

We import nearly a million barrels a day from this madman. More than 10 percent of our oil imports come from Iraq, and yet Saddam Hussein still would like nothing more than a downed American pilot to show the world.

It is time our energy policy got in line with our foreign policy. It is time to reduce our dependency on foreign oil. Mr. Speaker, if it is worth fighting for over there, it is worth exploring for here at home.

HONESTY AND INTEGRITY IN AMERICAN CORPORATIONS

(Mr. MENENDEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MENENDEZ. Mr. Speaker, people who rob and steal other people's money while sitting behind a desk in a corner office, wearing an expensive business suit, are no better than the common thief, burglar or pickpocket on the street, and they may be worse because those who committed fraud at Enron, WorldCom and Arthur Andersen have had every advantage and every opportunity our great Nation has to offer.

Instead of giving something back to the Nation that has given them so much, they stole, they robbed, they cheated, they defrauded. They hurt workers and families who depend on every paycheck and every investment they made. They hurt seniors whose retirement savings were devalued.

Mr. Speaker, free enterprise is part of our genius but so is honesty and integrity. So is honesty and integrity. It is time we start demanding those qualities from those who run and manage our businesses and from those who are supposed to enforce our laws, and for those who break that trust, the penalty should be equal to the enormous damage they cause.

GIVE PILOTS A FIGHTING CHANCE

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, on September 11 terrorists took over commercial flights by using only box cutters. No one would have known their evil intent, but now we have an opportunity to stop and deter future hijackings and acts of terror by arming our pilots.

The gentleman from Alaska (Mr. YOUNG), the Committee on Transportation and Infrastructure chairman, and the gentleman from Florida (Mr. MICA), the Subcommittee on Aviation chairman, offered a common sense solution for preventing the passengers and crews of commercial flights from becoming sitting ducks. Their bill, H.R. 4635, Arming Pilots Against Terrorism, would begin a 2-year test program allowing a percentage of the current pilot workforce to be armed and trained for proper use.

At least half of the Nation's commercial airline pilots have military or law enforcement backgrounds and are highly skilled and trained in self-defense. We trust pilots daily with our lives operating high-tech aircraft. I know we can depend on their competence as armed protection.

I urge my colleagues to vote yes on H.R. 4635 and give our pilots a fighting chance to protect innocent civilians from murderous terrorists.

NOT MUCH SOLACE IN PRESIDENT'S WORDS

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, the President has spoken and I do not take, unfortunately, much solace in what he had to say. He talked about a lot of voluntary reforms on Wall Street. He talked about the fact he has been waiting for months for a little bit of money from Congress for the SEC. Yet he denied his own toothless watchdog, Harvey Pitt, the head of the Securities and Exchange Commission, \$91 million just 3 months ago.

The President is born again into wanting to do something politically about the problem we have, but not really deal with the problems on Wall Street because that will offend some

very powerful and very wealthy people, no matter how ill-gotten their gains.

The fox is still guarding the hen-house and the President did not offer us anything today except political rhetoric.

HONORING CORPORAL KENNETH JOHNSON

(Mr. BROWN of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of South Carolina. Mr. Speaker, I rise today with a heavy heart to honor Corporal Kenneth Johnson of the South Carolina Highway Patrol. Last Sunday morning, around 2:15 a.m., Corporal Johnson was murdered in cold blood at a traffic checkpoint at College Park Road near Goose Creek.

Mr. Johnson, a 12-year veteran of the highway patrol, leaves behind a wife, a 13-year-old son and a 7-year-old daughter.

Kenneth Johnson was one of our Nation's best, risking his life day in and day out to preserve the peace and freedom that we often take for granted. He was a true American hero who gave his life for his country.

Our prayers go out to his wife and children. They have lost a strong husband and father. In the last few days, the citizens of Moncks Corner have come together to take care of them in their time of greatest need, but they will need our help for longer than a few weeks.

We all need to reach out to Kenneth Johnson's fellow law enforcement officers. It has been a tough week for them as well. I hope we come away from this tragedy with a renewed sense of the debt we owe to our law enforcement officers and with a renewed intolerance for the cruelty of someone who would end a life for one of South Carolina's best citizens.

APPOINT WATCHDOG INSTEAD OF LAPDOG

(Mr. GEORGE MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, Members of the House, every day the people we represent receive devastating news from the results of the action of the Enrons, the Tycos, the Arthur Andersens, the WorldComs and the Merck Pharmaceuticals.

They receive devastating news as employees when they are laid off, as pensioners when they see that their retirement is no longer secure, and as shareholders as they see that their net worth has gone down. It has gone down because of slipshod accounting, illegal activities, bias portfolio management, hundreds of millions of dollars in insider unsecured loans and tens of mil-

lions of dollars in golden parachutes for the economic elite in the corner offices. Nothing for the employees, nothing for the pensioners, and nothing for the shareholders.

□ 1215

Mr. President, this is not going to be solved by having the markets voluntarily clean themselves up. You appointed Harvey Pitt. You appointed Harvey Pitt as the lapdog of the industry, as a defender of the industry. What America needs is a watchdog. You are not going to be able to take a lapdog and turn him into a watchdog.

Mr. Pitt should leave this office. You should appoint somebody who can get to the bottom of these scandals and protect America's shareholders, America's pensioners, and America's employees in the future from these kinds of scandals.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON). The Chair would remind the Members that remarks in debate should be directed to the Chair and not to other individuals in the second person.

DO NOT TURN DEPARTMENT OF DEFENSE INTO THE WAR DEPARTMENT

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, national defense is one of the most important and one of the most legitimate functions of our national government. Serving in our Nation's Armed Forces is certainly one of the most honorable ways a person can serve this country. And because of our pride in being considered a peace-loving Nation, we changed the name of the War Department many years ago to the Department of Defense.

Now, however, most of our leaders in both parties, people for whom I have great respect, seem to be eager to go to war against Iraq. We should not be eager to go to war against any country, and especially against one that has not attacked us or even threatened to attack us. We cannot use the terrible tragedies of September 11 to justify it, because Saudi Arabia had much more to do with those events than Iraq did, and we still consider Saudi Arabia to be one of our allies.

We are already spending mega billions to increase our security. We do not need to go against our military traditions and spend billions more on an unnecessary war unless Iraq threatens to, or does, take some type of action against us. We do not need to turn the Department of Defense into the War Department once again.

SEC NEEDS FULL-TIME, NOT PART-TIME CHAIRMAN

(Mr. INSLEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, we appreciate the President's talking about this devastating loss to Americans' retirement incomes, but if he really wants to be a reformer with results, he has to get a new sheriff in town. He has to get a new chair of the Securities and Exchange Commission.

We know Mr. Pitt is a man of intelligence, but we cannot put up with an SEC Chair we have to drag kicking and screaming every time we want to have some modest, common-sense regulation of his former clients.

We need action and we need it now. The only way we are going to have it is if the President asks for Harvey Pitt's resignation so we can get someone unfettered by previous work for this industry that he attempts to regulate. Mr. Pitt has had to recuse himself, I think about 25 times, because people before him have been his former clients.

We need a full-time, not a part-time SEC director. We urge the President to take action rather than just give speeches and to get us a new sheriff in town at the SEC.

PRESIDENT SOUNDS CLARION, MORAL CALL FOR CORPORATE RESPONSIBILITY

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, President Calvin Coolidge said the business of America is business. But Coolidge was a moralist, and he meant not that America is dependent on the almighty dollar but that the business of America is dependent on the integrity and the character of the people who lead our enterprise.

Today, our President sounded a clarion, moral call for corporate responsibility. Corporate and accounting malfeasance at companies like Enron, WorldCom, Merck, and Arthur Andersen all argue that this need for reform is urgent. As the President said, business leaders who defraud shareholders should go to jail. As the President said, business leaders must accept personal responsibility for financial statements and be barred from serving on corporate boards when they, even unintentionally, fail in that regard.

Mr. Speaker, the reality is, the 1990s was not a decade where people in power were held accountable for their self-serving decisions. Let us follow President George W. Bush's clarion call and make this decade a time again when we recognize in the law and in reform and in regulation that righteousness exalts a nation.

CORPORATE FRAUD

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, today, President Bush gave a major speech on corporate responsibility. He tells us he is going to get tough on those who have misled and defrauded shareholders in violation of Federal law.

This could be a tough sell, considering the President's own record as a businessman. Yesterday, the President was still trying to explain why, in violation of Federal law, he failed to report his 1990 sale of \$850,000 worth of stock in a Texas-based energy company just weeks before its value plummeted. Earlier he said he thought the regulators lost the documents. Last week, the White House owned up and blamed it on Mr. Bush's lawyers. Yesterday, President Bush gave maybe the most plausible explanation. He said, I still haven't figured it out completely. He hasn't figured out how he made \$850,000 in a probably illegal stock sale.

As the President spoke in New York today, I thought of the words of a civil rights leader who said, "Don't tell me what you believe. Show me what you do; I will tell you what you believe."

CORPORATE RESPONSIBILITY

(Mr. UDALL of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. UDALL of Colorado. Mr. Speaker, it seems that every week we hear another story of a corporation cooking the books, too often with the help of accountants who are supposed to be protecting investors and the public. And while they cook the books, they burn the American people and the economy suffers.

Some of those involved say, these are just technical details, or they act like the piano player in the bordello, saying they did not know what was going on upstairs. But it is becoming clear that many knew all about it and it is nothing but plain, old-fashioned fraud.

Congress needs to clean up this mess by passing stronger corporate accounting and pension protection legislation than the version the House passed this spring. Talk is cheap, but the cost to the public has been high, and will be higher yet if we do not act.

Corporate CEOs need to be accountable with criminal and financial penalties when they falsify financial reports or mislead the public about company stock. CEOs should not be allowed to sell company stock in an executive plan during a lockdown period when the employees are prohibited from doing so.

We need to set up a strong, independent watchdog over the accounting

industry. For markets to work fairly, the American public needs the truth. Strong legislation is crucial to restoring the truth and trust in corporate America and faith in our markets.

ANNOUNCEMENT BY THE SPEAKER
PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken at the end of legislative business today.

AIRPORT STREAMLINING
APPROVAL PROCESS ACT OF 2002

Mr. MICA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4481) to amend title 49, United States Code, relating to airport project streamlining, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Airport Streamlining Approval Process Act of 2002".

SEC. 2. FINDINGS.

Congress finds that—

(1) airports play a major role in interstate and foreign commerce;

(2) congestion and delays at our Nation's major airports have a significant negative impact on our Nation's economy;

(3) airport capacity enhancement projects at congested airports are a national priority and should be constructed on an expedited basis;

(4) airport capacity enhancement projects must include an environmental review process that provides local citizenry an opportunity for consideration of and appropriate action to address environmental concerns; and

(5) the Federal Aviation Administration, airport authorities, communities, and other Federal, State, and local government agencies must work together to develop a plan, set and honor milestones and deadlines, and work to protect the environment while sustaining the economic vitality that will result from the continued growth of aviation.

SEC. 3. PROMOTION OF NEW RUNWAYS.

Section 40104 of title 49, United States Code, is amended by adding at the end the following:

"(c) AIRPORT CAPACITY ENHANCEMENT PROJECTS AT CONGESTED AIRPORTS.—In carrying out subsection (a), the Administrator shall take action to encourage the construction of airport capacity enhancement projects at congested airports as those terms are defined in section 47179."

SEC. 4. AIRPORT PROJECT STREAMLINING.

(a) IN GENERAL.—Chapter 471 of title 49, United States Code, is amended by inserting after section 47153 the following:

"SUBCHAPTER III—AIRPORT PROJECT
STREAMLINING

"§ 47171. DOT as lead agency

"(a) AIRPORT PROJECT REVIEW PROCESS.—The Secretary of Transportation shall develop and implement a coordinated review process for airport capacity enhancement projects at congested airports.

"(b) COORDINATED REVIEWS.—The coordinated review process under this section shall provide that all environmental reviews, analyses, opinions, permits, licenses, and approvals that must be issued or made by a Federal agency or airport sponsor for an airport capacity enhancement project at a congested airport will be conducted concurrently, to the maximum extent practicable, and completed within a time period established by the Secretary, in cooperation with the agencies identified under subsection (c) with respect to the project.

"(c) IDENTIFICATION OF JURISDICTIONAL AGENCIES.—With respect to each airport capacity enhancement project at a congested airport, the Secretary shall identify, as soon as practicable, all Federal and State agencies that may have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project.

"(d) STATE AUTHORITY.—If a coordinated review process is being implemented under this section by the Secretary with respect to a project at an airport within the boundaries of a State, the State, consistent with State law, may choose to participate in such process and provide that all State agencies that have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project, be subject to the process.

"(e) MEMORANDUM OF UNDERSTANDING.—The coordinated review process developed under this section may be incorporated into a memorandum of understanding for a project between the Secretary and the heads of other Federal and State agencies identified under subsection (c) with respect to the project and the airport sponsor.

"(f) EFFECT OF FAILURE TO MEET DEADLINE.—

"(1) NOTIFICATION OF CONGRESS AND CEQ.—If the Secretary determines that a Federal agency, State agency, or airport sponsor that is participating in a coordinated review process under this section with respect to a project has not met a deadline established under subsection (b) for the project, the Secretary shall notify, within 30 days of the date of such determination, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Council on Environmental Quality, and the agency or sponsor involved about the failure to meet the deadline.

"(2) AGENCY REPORT.—Not later than 30 days after date of receipt of a notice under paragraph (1), the agency or sponsor involved shall submit a report to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Council on Environmental Quality explaining why the agency or sponsor did not meet the deadline and what actions it intends to take to

complete or issue the required review, analysis, opinion, license, or approval.

“(g) **PURPOSE AND NEED.**—For any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal or State agency that is participating in a coordinated review process under this section with respect to an airport capacity enhancement project at a congested airport and that requires an analysis of purpose and need for the project, the agency, notwithstanding any other provision of law, shall be bound by the project purpose and need as defined by the Secretary.

“(h) **ALTERNATIVES ANALYSIS.**—The Secretary shall determine the reasonable alternatives to an airport capacity enhancement project at a congested airport. Any other Federal or State agency that is participating in a coordinated review process under this section with respect to the project shall consider only those alternatives to the project that the Secretary has determined are reasonable.

“(i) **SOLICITATION AND CONSIDERATION OF COMMENTS.**—In applying subsections (g) and (h), the Secretary shall solicit and consider comments from interested persons and governmental entities.

“§ 47172. Categorical exclusions

“Not later than 120 days after the date of enactment of this section, the Secretary of Transportation shall develop and publish a list of categorical exclusions from the requirement that an environmental assessment or an environmental impact statement be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for projects at airports.

“§ 47173. Access restrictions to ease construction

“At the request of an airport sponsor for a congested airport, the Secretary of Transportation may approve a restriction on use of a runway to be constructed at the airport to minimize potentially significant adverse noise impacts from the runway only if the Secretary determines that imposition of the restriction—

“(1) is necessary to mitigate those impacts and expedite construction of the runway;

“(2) is the most appropriate and a cost-effective measure to mitigate those impacts, taking into consideration any environmental tradeoffs associated with the restriction; and

“(3) would not adversely affect service to small communities, adversely affect safety or efficiency of the national airspace system, unjustly discriminate against any class of user of the airport, or impose an undue burden on interstate or foreign commerce.

“§ 47174. Airport revenue to pay for mitigation

“(a) **IN GENERAL.**—Notwithstanding section 47107(b), section 47133, or any other provision of this title, the Secretary of Transportation may allow an airport sponsor carrying out an airport capacity enhancement project at a congested airport to make payments, out of revenues generated at the airport (including local taxes on aviation fuel), for measures to mitigate the environmental impacts of the project if the Secretary finds that—

“(1) the mitigation measures are included as part of, or are consistent with, the preferred alternative for the project in the documentation prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

“(2) the use of such revenues will provide a significant incentive for, or remove an impediment to, approval of the project by a State or local government; and

“(3) the cost of the mitigation measures is reasonable in relation to the mitigation that will be achieved.

“(b) **MITIGATION OF AIRCRAFT NOISE.**—Mitigation measures described in subsection (a) may include the insulation of residential buildings and buildings used primarily for educational or medical purposes to mitigate the effects of aircraft noise and the improvement of such buildings as required for the insulation of the buildings under local building codes.

“§ 47175. Airport funding of FAA staff

“(a) **ACCEPTANCE OF SPONSOR-PROVIDED FUNDS.**—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may accept funds from an airport sponsor, including funds provided to the sponsor under section 47114(c), to hire additional staff or obtain the services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project.

“(b) **ADMINISTRATIVE PROVISION.**—Instead of payment from an airport sponsor from funds apportioned to the sponsor under section 47114, the Administrator, with agreement of the sponsor, may transfer funds that would otherwise be apportioned to the sponsor under section 47114 to the account used by the Administrator for activities described in subsection (a).

“(c) **RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.**—Notwithstanding section 3302 of title 31, any funds accepted under this section, except funds transferred pursuant to subsection (b)—

“(1) shall be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted;

“(2) shall be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and

“(3) shall remain available until expended.

“(d) **MAINTENANCE OF EFFORT.**—No funds may be accepted pursuant to subsection (a), or transferred pursuant to subsection (b), in any fiscal year in which the Federal Aviation Administration does not allocate at least the amount it expended in fiscal year 2002, excluding amounts accepted pursuant to section 337 of the Department of Transportation and Related Agencies Appropriations Act, 2002 (115 Stat. 862), for the activities described in subsection (a).

“§ 47176. Authorization of appropriations

“In addition to the amounts authorized to be appropriated under section 106(k), there is authorized to be appropriated to the Secretary of Transportation, out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), \$2,100,000 for fiscal year 2003 and \$4,200,000 for each fiscal year thereafter to facilitate the timely processing, review, and completion of environmental activities associated with airport capacity enhancement projects at congested airports.

“§ 47177. Judicial review

“(a) **FILING AND VENUE.**—A person disclosing a substantial interest in an order issued by the Secretary of Transportation or the head of any other Federal agency under this part or a person or agency relying on any determination made under this part may apply for review of the order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.

The petition must be filed not later than 60 days after the order is issued. The court may allow the petition to be filed after the 60th day only if there are reasonable grounds for not filing by the 60th day.

“(b) **JUDICIAL PROCEDURES.**—When a petition is filed under subsection (a) of this section, the clerk of the court immediately shall send a copy of the petition to the Secretary or the head of any other Federal agency involved. The Secretary or the head of such other agency shall file with the court a record of any proceeding in which the order was issued.

“(c) **AUTHORITY OF COURT.**—When the petition is sent to the Secretary or the head of any other Federal agency involved, the court has exclusive jurisdiction to affirm, amend, modify, or set aside any part of the order and may order the Secretary or the head of such other agency to conduct further proceedings. After reasonable notice to the Secretary or the head of such other agency, the court may grant interim relief by staying the order or taking other appropriate action when good cause for its action exists. Findings of fact by the Secretary or the head of such other agency are conclusive if supported by substantial evidence.

“(d) **REQUIREMENT FOR PRIOR OBJECTION.**—In reviewing an order of the Secretary or the head of any other Federal agency under this section, the court may consider an objection to the action of the Secretary or the head of such other agency only if the objection was made in the proceeding conducted by the Secretary or the head of such other agency or if there was a reasonable ground for not making the objection in the proceeding.

“(e) **SUPREME COURT REVIEW.**—A decision by a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28.

“(f) **ORDER DEFINED.**—In this section, the term ‘order’ includes a record of decision or a finding of no significant impact.

“§ 47178. Definitions

“In this subchapter, the following definitions apply:

“(1) **AIRPORT SPONSOR.**—The term ‘airport sponsor’ has the meaning given the term ‘sponsor’ under section 47102.

“(2) **CONGESTED AIRPORT.**—The term ‘congested airport’ means an airport that accounted for at least 1 percent of all delayed aircraft operations in the United States in the most recent year for which such data is available and an airport listed in table 1 of the Federal Aviation Administration’s Airport Capacity Benchmark Report 2001.

“(3) **AIRPORT CAPACITY ENHANCEMENT PROJECT.**—The term ‘airport capacity enhancement project’ means—

“(A) a project for construction or extension of a runway, including any land acquisition, taxiway, or safety area associated with the runway or runway extension; and

“(B) such other airport development projects as the Secretary may designate as facilitating a reduction in air traffic congestion and delays.”.

(b) **CONFORMING AMENDMENT.**—The analysis for chapter 471 of such title is amended by adding at the end the following:

“SUBCHAPTER III.—AIRPORT PROJECT STREAMLINING

“47171. DOT as lead agency.

“47172. Categorical exclusions.

“47173. Access restrictions to ease construction.

“47174. Airport revenue to pay for mitigation.

“47175. Airport funding of FAA staff.

"47176. Authorization of appropriations.
 "47177. Judicial review.
 "47178. Definitions."

SEC. 5. GOVERNOR'S CERTIFICATE.

Section 47106(c) of title 49, United States Code, is amended—

- (1) in paragraph (1)—
- (A) by inserting "and" after the semicolon at the end of subparagraph (A)(ii);
- (B) by striking subparagraph (B); and
- (C) by redesignating subparagraph (C) as subparagraph (B);
- (2) in paragraph (2)(A) by striking "stage 2" and inserting "stage 3";
- (3) by striking paragraph (4); and
- (4) by redesignating paragraph (5) as paragraph (4).

SEC. 6. CONSTRUCTION OF CERTAIN AIRPORT CAPACITY PROJECTS.

Section 47504(c)(2) of title 49, United States Code, is amended—

- (1) by striking "and" at the end of subparagraph (C);
- (2) by striking the period at the end of subparagraph (D) and inserting "; and"; and
- (3) by adding at the end the following:

"(E) to an airport operator of a congested airport (as defined in section 47178) and a unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection to carry out a project to mitigate noise in the area surrounding the airport if the project is included as a commitment in a record of decision of the Federal Aviation Administration for an airport capacity enhancement project (as defined in section 47178) even if that airport has not met the requirements of part 150 of title 14, Code of Federal Regulations."

SEC. 7. LIMITATIONS.

Nothing in this Act, including any amendment made by this Act, shall preempt or interfere with—

- (1) any practice of seeking public comment; and
- (2) any power, jurisdiction, or authority of a State agency or an airport sponsor has with respect to carrying out an airport capacity enhancement project.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Minnesota (Mr. OBERSTAR) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, over the past 20 years, air travel in the United States has grown faster than any other mode of transportation. More and more, our citizens rely on the speed and the convenience of flights in aviation to improve our daily lives. Unfortunately, we, as a nation, have failed to provide the airport capacity necessary to keep pace with the great demand that we have seen grow over the past decades.

Last year, the Federal Aviation Administration released a report which revealed for the first time how very far we have fallen behind in meeting our aviation infrastructure needs. According to the report, our Nation's 31 busiest airports are now at or above capacity for some portion of the day.

Insufficient airport runway capacity has led to chronic and worsening congestion. Last summer, and before the

events of September 11, one out of every four commercial flights experienced a significant delay or cancellation. As air travelers begin to regain confidence in our system, we have already seen the return of traffic in aviation commercial passenger service to pre-September 11 levels.

It is not a question of when, Mr. Speaker, or even if; it is a question of how soon gridlock will return to our busiest airports, and we are already seeing that occur. Airports around the Nation must now begin to address the capacity needs that we have seen in the past immediately. We have a little bit of a break here again in regaining our passenger service that we had pre-September 11, so it gives us an opportunity to plan, to prepare, and to meet the aviation infrastructure needs of the future.

Unfortunately, standing in the way of moving forward with building our Nation's aviation infrastructure is a very cumbersome Federal review process. That process is full of duplication, it is full of conflicting mandates, and one that, in fact, lacks coordination, lacks accountability, and sometimes wastes years and years of precious time when communities and States are trying to work with the Federal Government to build the aviation infrastructure that our economy and our areas need so desperately.

The legislation before us today, H.R. 4481, I believe, will significantly improve the Federal review process for critical airport capacity projects that are under consideration at 31 of our Nation's busiest airports. While this legislation will cut through red tape, it will not in any way diminish existing environmental laws or in any way limit local input or control over these critical projects.

I know some Members have expressed concern that when we streamline, we do not want to streamline over local authority and we do not want to streamline over environmental laws that protect the beautiful landscape that we live in and enjoy. So those two features in this legislation that people are concerned about do not exist. We do not harm the environment, nor do we run over local authority.

The way this legislation is drafted, it will ensure that once a community has reached a consensus on a critical capacity project, the review process will not unnecessarily delay construction. This bill, in fact, creates a coordinated review process for our major airport capacity projects across the country. It also gives the Secretary of Transportation the responsibility to ensure that all environmental reviews by all government agencies will be conducted at the same time whenever possible, and completed within the deadlines established by the Department of Transportation.

H.R. 4481 also binds all Federal and State agencies taking part in a review

to the project's "purpose and need" as determined by the Department of Transportation under this legislation. It also limits Federal or State agency reviews to the project alternatives that the Secretary of the Department determines are reasonable.

□ 1230

Finally, this bill also expedites judicial reviews of Department of Transportation determinations. It moves all claims to the U.S. Court of Appeals and requires all petitions to be filed not later than 60 days after an order is issued with allowances, of course, for special circumstances.

I would like to reiterate that nothing in this bill is intended to cut off debate or limit input on the local level in any way. It does not usurp the rights or responsibilities of a State or airport sponsor to carry out an airport project.

Mr. Speaker, this is an excellent piece of legislation. We have worked together closely with the minority. Both sides of the aisle have been consulted, and we have worked with local and State governments and other stakeholders in this important process; and I think we have a good consensus on an excellent piece of legislation. I urge Members to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation pending before us, as the gentleman from Florida (Mr. MICA) has just described has as its purpose to speed up construction of runways, taxiways, airside improvements at airports that have dragged on far too long in the past.

Perhaps the most egregious example or comparison would be that of the Chek Lap Kok Airport in Hong Kong, an airport built in the ocean in 300 meters of ocean depth, 12,500 foot runways, a 23-mile rail-truck highway link to downtown Kowloon, a terminal to handle 90,000 passengers, started at the same time as the third runway at Seattle.

Chek Lap Kok has been completed at a cost of over \$25 billion, is now handling 15 to 20 million passengers a year; and I was out in Seattle a year ago for the bulldozing of the first load of dirt to start work on the third Seattle runway. Now, that is an egregious example, as I said; but it is one that underscores the frustration that airport authorities, airlines, and air traveling passengers have with our airport expansion program.

If we are going to accommodate the more than 1 billion passengers to use the U.S. airways in the next 5 to 10 years, then we have to do a better job of moving airport projects along to enhance and expand capacity.

But it is misleading to say that environmental issues alone are the factors causing 10- to 15-year delays in building runways. The FAA reviewed the

runway construction process, studied a number of major construction projects which have been described as taking 10 to 15 years to complete, and found generally that the Federal environmental impact process took 3 to 4 years. Now, that certainly is in the view of many people too long, but it is not 15 years. The major cause when we look at the facts more closely as reported by FAA, the major cause of delay is the time needed to complete the local political process mandated by State law and local ordinance.

Under our system, as distinguished from many other places and most other countries in the world, it is not the Federal Government that decides to build an airport, except in the case of Dulles or Reagan National Airport, which are the only two owned by the Federal Government. It is the local government that makes that decision. Once they have, the Federal process comes into play.

I think that we should speed up the environmental process by doing a great deal of the work concurrently, and coordinate State and Federal approvals; but each proposal has to be evaluated on its own and on itself. We have to be careful that we are only streamlining environmental processes, not superseding them.

There are many positive provisions in this bill that will move the process along without undermining the National Environmental Policy Act. There is a procedure for DOT to take the lead in a cooperative initiative where all the State and Federal agencies that have environmental responsibilities agree to deadlines, agree to coordinate their review, and to do those reviews concurrently rather than sequentially. That would be a very big improvement on the existing process. I think that is a strong and constructive initiative that we have brought forward.

There is also more flexibility in this legislation to address local community concerns by allowing restrictions on use of new runways, use of Federal airport funds for environmental mitigation, and allow FAA to accept money from airports to hire additional staff to process the environmental reviews more expeditiously. I think that is constructive.

If these reasonable, responsible, thoughtfully constructed steps are followed, the environmental process will not be preempted. It will be speeded up, and the environmental will not take a bad rap in the name of efficiency or expeditious movement of airport construction process.

On the whole we have a good bill, a reasonable one that properly managed will move our airport expansion needs ahead in a responsible manner. I think it will go a long way toward accelerating the environmental process without sacrificing environmental

processes. I commend the gentleman from Alaska (Mr. YOUNG) for the extensive cooperation that we have had on this legislation, and the chairman of the subcommittee, the gentleman from Florida (Mr. MICA), for his thoughtful consideration of the views that we have offered on our side; and I also commend the gentleman from Illinois (Mr. LIPINSKI) for his dedicated work over many hours on this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MICA. Mr. Speaker, I yield such time as he may consume to the gentleman from Alaska (Mr. YOUNG), the chairman of the Committee on Transportation and Infrastructure.

Mr. YOUNG of Alaska. Mr. Speaker, I can only echo the words that have been said by the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Florida (Mr. MICA).

This legislation will not change everything overnight, but it will expedite the process of building airports, we think, in a more expeditious time period. As the gentleman mentioned, the airports built in the Asian market were built in a short period of time, and Seattle has had 19 years and has not even flown an airplane off the new runway that is going to be built.

Mr. Speaker, this bill is needed at this time. Prior to 9-11, the biggest complaint was congestion and delays in our airports. I believe although air traffic is down now, it will return in the near future; and we need these new airports as our population grows. We need these new airports as commerce grows, and this is a way to get these airports built on time.

Mr. Speaker, I rise in support of H.R. 4481, the Airport Streamlining Approval Process Act of 2002.

I am pleased to be moving forward with this legislation. Last year, airport gridlock dominated the aviation debate. Passengers were bitterly complaining about the intolerable delays they were forced to endure. We examined those issues and found that one of the main reasons for the congestion was the lack of airport capacity.

There was a crying need for new runways and improved airport infrastructure. Air-21 provided the funding for these improvements, but bureaucratic red tape often held up needed construction. Now attention has shifted to airport security, and rightly so. Air traffic is down and the need for airport capacity improvements is less compelling. But, I am confident that air traffic will pick up again. And when it does, congestion and delays will return with a vengeance unless we do something about it now. That is why I introduced this bill. This legislation directs the Department of Transportation to take a lead role in the environmental review process.

DOT will coordinate the actions of other agencies and will be responsible for determining the "purpose and need" and reasonable alternative to the project. I do not claim that this bill will build new runways overnight, but it will streamline the process and help air-

ports meet the demands of air travelers more quickly. And, it should be noted, it will do this without undermining the environmental laws or the ability of citizens to have their voices heard in the process.

I would like to thank chairman MICA, as well as Mr. OBERSTAR and Mr. LIPINSKI, for their help and cooperation on this legislation. There were some difficult issues in this bill and I very much appreciate the bipartisan approach to resolving them.

I urge a yes vote on H.R. 4481.

Mr. OBERSTAR. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. LIPINSKI), the ranking member of the Subcommittee on Aviation.

Mr. LIPINSKI. Mr. Speaker, I thank the gentleman from Minnesota (Mr. OBERSTAR) for yielding me this time and express my sincere appreciation to the gentleman from Alaska (Mr. YOUNG) and the gentleman from Florida (Mr. MICA) for the outstanding cooperation that we have on the Committee on Transportation and Infrastructure. It is a pleasure to work with these gentlemen because they always strive to do what is best for the American flying public.

Mr. Speaker, I lend my support to H.R. 4481, the Airport Streamlining Approval Process Act. In the true fashion of the Committee on Transportation and Infrastructure, this is a bipartisan measure that will expedite the environmental review and approval process for key airport capacity projects.

In the last decade, only six of our Nation's largest airports have managed to complete new runway projects, as it currently takes about 10 years or more to simply plan and approve such a project. And as we are about to reach pre-September 11 traffic, and will eventually pass these levels, we need to streamline and speed up the environmental review process in order to lessen the aviation congestion that plagues our Nation and the world. H.R. 4481 will eliminate duplication without cutting corners that might harm the environment. Simply put, once a community reaches consensus on an airport capacity project and the environmental review has been finished, construction can begin in a timely fashion.

In closing, I urge Members to support this measure that will help lessen the worsening aviation capacity crunch that we are facing in this Nation.

Mr. MICA. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee (Mr. DUNCAN), the previous chairman of the Subcommittee on Aviation, one of the current Committee on Transportation and Infrastructure chairmen.

Mr. DUNCAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I first want to salute and commend the gentleman from Florida (Mr. MICA) and the gentleman

from Alaska (Mr. YOUNG) and the ranking members, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. LIPINSKI), for bringing this bill to the floor today.

The lack of publicity about this legislation should not be any reflection on its importance because I consider this to be very, very important legislation. In previous Congresses, we held a couple of hearings about this problem, and we heard testimony that the average time of completion of a runway project in this country was approximately 10 years. In fact, we heard one witness tell us that the main runway at the Atlanta airport took 14 years from conception to completion, but only 33 days, those were 24-hour workdays, so we could say 99 working days of actual construction. That is ridiculous, Mr. Speaker.

We also heard testimony that these delays are primarily due to environmental rules and regulations and red tape, and it was driving the cost of these projects up so they were costing three or four times what they should. Those costs had to be passed on to the flying public. What this has done over the years, it has driven up the cost of air travel. It has forced many lower-income people back onto the highways, or made sure that they stayed on the highways instead of having the much safer and quicker and more comfortable alternative of flying.

This is very important legislation. We passed in the last Congress the AIR-21 bill, which was the largest aviation bill in the history of the Congress; but we certainly will not be able to gain the full benefits of the AIR-21 legislation unless we pass this legislation to complement and improve that earlier bill. This will help taxpayers receive the greatest bang for their buck on these aviation projects and will greatly improve and hold down the cost of air travel in the future. I think it is a very good bill, and I commend the authors and urge my colleagues to support this legislation.

□ 1245

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have reviewed a number of documents in the form of letters or memos issued just on the eve of the consideration of this legislation, and I want to make four points to reassure those who have expressed concerns about the effects of this bill on environmental procedures.

One, the bill specifically provides there is no preemption or interference with any practice of seeking public comment or the authority of States or the authority of airport operators to decide on which projects they wish to undertake.

Two, the bill does not give any new authority to the FAA to create exemptions from the environmental requirements.

Three, States have a choice of whether they want to participate in a coordinated process.

Four, if another agency does not comply with the coordinated schedule developed by DOT, the other agency does not lose its authority. It does have a remedy, a report to Congress.

I think on balance we have taken into consideration the concerns expressed in the course of the hearing and subsequently about the effects of this legislation on environmental processes, and I urge the adoption of the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, first, again, I want to thank the ranking member, the gentleman from Minnesota (Mr. OBERSTAR) for his cooperation and the gentleman from Illinois (Mr. LIPINSKI), the ranking member of the Subcommittee on Aviation, for his kind assistance.

This legislation is authored by the chair of our full committee, the distinguished gentleman from Alaska (Mr. YOUNG), and it is cooperation of this nature that allows us to move important legislation forward. Although again not very newsworthy or legislation which brings on a great deal of debate and controversy in the House, today we are passing a significant measure which will allow airport streamlining for the approval process that is so important.

Mr. Speaker, in conclusion, this bill saves time and this legislation saves money. This legislation maintains our protections, important protections over the environment, and this legislation maintains important local and State control and authority.

I believe it is important to move this legislation forward because it does move our aviation infrastructure projects which are so necessary across the country and particularly in our congested regions of the Nation, and also this is important because it will move our economy forward, which we know is so dependent on aviation and aviation infrastructure.

So, with those comments, Mr. Speaker, I urge the adoption of this legislation and support for H.R. 4481.

Mr. CONDIT. Mr. Speaker, I rise today to put on record my concerns regarding the Airport Streamlining Approval Process Act of 2002 currently under discussion in the House.

No one can quarrel with the concept of coordinating the extensive environmental review process required for major infrastructure projects such as the airport construction. Major transportation, education, energy, and other essential infrastructure projects warrant expedited environmental review, as long as the review is thorough and complete. However, it is critical that the same standards of review be used for all such projects. In Northern California there is a very controversial and disputed proposal to expand the runways at

San Francisco International Airport by filling in approximately one square mile of San Francisco Bay. For the last several years, I have impressed upon federal and state officials the importance of analyzing this proposal from the perspective of meeting the long-term challenges facing commercial aviation throughout Northern California.

The runway expansion and Bay fill proposal is seen as a solution to the problem of too much air traffic and air traffic delays at SFO. But, this solution will only compound the problem of traffic gridlock on our existing freeway and highway system to and from the airport. The permanent damage to San Francisco Bay caused by the Bay fill would only relieve aviation congestion problems on a temporary basis, it does nothing to address the larger issue of moving people and goods throughout California in the most reasonable, efficient, and environmentally prudent manner. In fact, it makes this challenge more difficult.

As we discuss expedited review by the Federal Government of major projects such as the San Francisco Bay fill/airport expansion proposal, we must be mindful of thoroughly reviewing all alternatives. In the case of San Francisco, have we considered the use of existing, under-utilized or abandoned aviation facilities in the San Francisco/Northern California region as an alternative to filling the Bay? Do the increased security concerns resulting from September 11 support such an expansion or would it be more prudent to improve other regional facilities? Has consideration been given to segregating SFO in terms of limiting or eliminating air cargo operations at that facility in order to maximize passenger aviation opportunities?

I have long suggested the Federal Government coordinate its review of all major projects in order to have a timely resolution and avoid endless litigation and delay. Our policies in this area, however, must be consistent and exercised with fairness, and the review must be thorough.

Mr. ROTHMAN. Mr. Speaker, I rise today in strong opposition of the Airport Streamlining Approval Process Act of 2002, which continues this Congress' focus toward the expansion of airports and ignores the quality of life issue forced on many of our constituents who live near airports—aircraft noise.

I fully recognize the vital role the aviation industry plays in our nation's economy, but it is time for this congress to stop focusing solely on what's good for the airport industry and to start focusing on what's also good for the countless individuals who live near airports and are constantly subjected to the thunderous roar of giants jets overhead.

While this measure does include provisions that address aircraft noise, I firmly believe that those steps are inadequate and do not properly address the issue of aircraft noise. Instead of addressing legislation seeking solely to expand this nation's airports, this Congress should also focus its attention on legislation that eliminates aircraft noise. One measure I have introduced would ban the two loudest types of airplane engines from all general aviation airports in the 20 largest metropolitan areas in the country. It is time that we shift our attention away from solely the expansion of airports and toward the problem of aircraft

noise which hampers the quality of life for countless American citizens.

Mr. MICA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and pass the bill, H.R. 4481, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4481, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

ARMED FORCES TAX FAIRNESS ACT OF 2002

Mr. HOUGHTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5063) to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services.

The Clerk read as follows:

H.R. 5063

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Armed Forces Tax Fairness Act of 2002".

SEC. 2. SPECIAL RULE FOR MEMBERS OF UNIFORMED SERVICES IN DETERMINING EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Subsection (d) of section 121 of the Internal Revenue Code of 1986 (relating to exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

“(9) MEMBERS OF UNIFORMED SERVICES.—

“(A) IN GENERAL.—At the election of an individual with respect to a property, the running of the 5-year period described in subsection (a) with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of the uniformed services.

“(B) MAXIMUM PERIOD OF SUSPENSION.—The 5-year period described in subsection (a) shall not be extended more than 5 years by reason of subparagraph (A).

“(C) QUALIFIED OFFICIAL EXTENDED DUTY.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘qualified official extended duty’ means any extended duty while serving at a duty station which is at

least 250 miles from such property or while residing under Government orders in Government quarters.

“(ii) UNIFORMED SERVICES.—The term ‘uniformed services’ has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

“(iii) EXTENDED DUTY.—The term ‘extended duty’ means any period of active duty pursuant to a call or order to such duty for a period in excess of 180 days or for an indefinite period.

“(D) SPECIAL RULES RELATING TO ELECTION.—

“(i) ELECTION LIMITED TO 1 PROPERTY AT A TIME.—An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

“(ii) REVOCATION OF ELECTION.—An election under subparagraph (A) may be revoked at any time.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to elections made after the date of the enactment of this Act for suspended periods under section 121(d)(9) of the Internal Revenue Code of 1986 (as added by this section) beginning after such date.

SEC. 3. RESTORATION OF FULL EXCLUSION FROM GROSS INCOME OF DEATH GRATUITY PAYMENT.

(a) IN GENERAL.—Subsection (b)(3) of section 134 of the Internal Revenue Code of 1986 (relating to certain military benefits) is amended by adding at the end the following new subparagraph:

“(C) EXCEPTION FOR DEATH GRATUITY ADJUSTMENTS MADE BY LAW.—Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted before December 31, 1991.”.

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 134(b)(3) of such Code is amended by striking “subparagraph (B)” and inserting “subparagraphs (B) and (C)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to deaths occurring after September 10, 2001.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. HOUGHTON) and the gentleman from New York (Mr. McNULTY) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. HOUGHTON).

Mr. HOUGHTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an important bill. It has two features to it. First, it increases the tax-free death benefit payment provided to members of the Armed Services who are on active duty. The present exempt amount is \$3,000. The bill increases that to \$6,000. In 1991, during Desert Storm, this death benefit paid to the survivors was increased from \$3,000 to \$6,000, but the tax amount was not changed, so that the extra \$3,000 has been subject to tax since that time. What this does, the bill will correct that oversight.

The second feature, Mr. Speaker, is the bill will allow members of the uniformed services who are transferred to take advantage of the present-law capital gains tax relief on the sale of their home, the way all the rest of us can do.

An individual is not subject to the first \$250,000, or, for a couple, \$500,000 on a joint return on the sale of a home if it has been lived in as a principal residence for 2 out of the last 5 years.

Uniformed members are transferred around this country and overseas at someone else's choosing. This happens so many times that it is impossible for them to meet the 5-year rule. What this bill would do is suspend the running of the 5-year rule for a total of 5 years during the time they are assigned away from home.

Furthermore, Mr. Speaker, although the provisions in this bill apply only to the military and uniformed service members, there are other citizens who work abroad for the government or foreign service officers, as well as employees of businesses, who have the same problem with the 5-year rule. At some point, not now, but at some point we need to consider their needs so that the rule is uniform.

Mr. Speaker, I reserve the balance of my time.

Mr. McNULTY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, during this time of heightened military engagement, the benefits provided under this bill should go to our men and women in uniform without delay. The high price they are willing to pay is often overlooked during peacetime, but war quickly reminds us of their willingness to place their lives on the line for all that we hold dear. The families of these men and women deserve any help we can provide in making their lives a bit easier.

This bill responds, as my colleague from New York pointed out, to two areas of need. It provides much-needed relief to members of our military through favorable tax treatment of death benefits paid on behalf of military personnel who die in the line of duty. In addition, the bill eases the burden currently experienced by certain military personnel with respect to the exclusion of gain on the sale of their principal residence.

We all agree that the current death benefit of \$3,000 is inadequate. This position was adopted earlier when the benefit was increased from \$3,000 to \$6,000 through the appropriations process. We must now ensure that our military men and women receive the full benefits as intended. Thus, under the bill the full amount of the death penalty payable, which is \$6,000, would be excluded from income.

The second provision of the bill would ensure that certain military personnel are not denied the benefits of excluding an amount of the gain realized upon the sale of a principal residence simply because of extended military assignments away from home. Current law provides an individual taxpayer an exclusion from tax of up to \$250,000, or \$500,000 if married and filing

a joint return, of gains realized on the sale or exchange of a principal residence. To qualify, the taxpayer must have owned and used the residence as a principal residence for at least 2 of the 5 years prior to the sale or exchange.

Many of our military personnel do not receive this benefit because they are stationed away from home for an extended tour of duty. Thus, they fail to meet the so-called 2 of the 5 preceding years rule. This bill would ensure that this benefit is not lost because of an extended tour of duty. Under the bill, military personnel would be permitted to exclude any time spent on an extended tour of duty for purposes of meeting the 2 of 5 preceding years rule.

This provides the benefits which were intended when the law was enacted. I do not believe anyone in this body would argue that the Congress intended to deny this benefit to the men and women who faithfully serve in our Armed Forces. This provision brings about the fair and intended results.

I join the gentleman from New York (Mr. HOUGHTON) in strongly supporting this bill, H.R. 5063, and I urge all of my colleagues to support it as well.

Mr. Speaker, I reserve the balance of my time.

Mr. HOUGHTON. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. SAM JOHNSON).

Mr. SAM JOHNSON of Texas. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, it is a great honor to be here today in support of improving the quality of life for the men and women of our military and their loved ones with this Armed Forces Tax Fairness Act.

Let me begin by saying how extremely proud I am of the men and women who serve in our military, as well as their families. No matter where I go, I have the absolute rapt attention from everyone when I talk about members of our Armed Services and the great job they are doing today. I hope that our troops know that all across the Nation, citizens are proud of our troops and that Americans are grateful for the sacrifices that they and their families make for the defense of our Nation.

The bill we debate here today will put some muscle behind our statements of appreciation. While one could never, ever, put a price on life, as a very small token of respect and condolences, the military provides a death benefit for survivors called a death gratuity after the loss of a loved one. This money can be used to fly family members to a funeral or pay for memorial service expenses.

Unfortunately, in the last decade a large portion of that money has gone back to the Federal Government. The death gratuity was increased from \$3,000 to \$6,000 during the Persian Gulf

War, but our Tax Code failed to keep up with the military changes. As a result, only half of that \$6,000 is tax-free today.

During times of war and times of peace, every military family prays for the safety of their loved ones. A visit by a military chaplain bearing bad news one day is only compounded by the horror of the tax man soon after.

Taxing the loved ones' loss is one of the most inappropriate, irresponsible and immoral forms of taxation. Today's action will change that. This exclusion would be effective for those who died in the Pentagon, have fought for freedom in Afghanistan, and any service member killed while defending this country on September 11 or since that tragic day.

Mr. Speaker, I remember when my wife talked about the chaplain coming up to her front door just when I was missing in action. Those families who have suffered, suffered through the death of a loved one killed in action by terrorism, should not have to give one nickel more to Uncle Sam.

The other important change being made concerns housing of military families. The act would provide a reasonable accommodation to members of the military so they, too, can benefit from the current \$500,000 exclusion from capital gains on the sale of a home.

To get this exclusion, a family must live in a home for at least 2 of the previous 5 years. This is generally reasonable, but for those serving in the military, such a requirement is out of their control when their orders ship them to any of the four corners of the earth.

I know firsthand about being transferred. As a 29-year veteran of the Air Force, my wife Shirley and our three kids and I moved 17 times. It is a reality of military life. It is fair for the Tax Code to hold them harmless for the time when they are not living in their own homes because of military orders.

□ 1300

Do not worry. Service members will not be able to become real estate moguls by buying property all over the country and getting this benefit. It is only relevant for one property per family.

Today's action is one more way Congress can say "thank you" to our brave military men and women, as well as their families. I hope the Senate follows suit for the families and for freedom, and sends this bill to the President soon.

Mr. HOUGHTON. Mr. Speaker, I thank the gentleman from Texas very much for those wonderful and eloquent words.

Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I want to first thank the gen-

tleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) and the gentleman from New York (Mr. HOUGHTON) and the gentleman from New York (Mr. McNULTY) for bringing this legislation forward.

I think, after the celebration of our freedom last Thursday, that it is just and appropriate that we should bring this legislation forward. I actually got involved with H.R. 3973 2 or 3 months ago when I learned that the tax was on the death gratuity of our military; and I worked both sides of the political aisle. We had over 110 sponsors for that legislation, because all of us were surprised that there was still that tax on the death gratuity. So I want to compliment the chairman and the ranking member for bringing this legislation forward.

I am pleased to say, as the gentleman from Texas (Mr. JOHNSON), who was a former POW, said, that we have so many wonderful men and women in uniform who serve this Nation and are willing to be called to give their life for America at any time; and to eliminate this death tax, death gratuity tax, on the family after they have lost a loved one is absolutely the right thing to do. It should be, as it is to my colleagues, unacceptable that this death gratuity tax is in the law now, but we are going to eliminate that with the passage of this legislation.

In addition, I would like to thank the gentleman from New York (Mr. HOUGHTON), the chairman of the subcommittee, and others, because I have also shared their concern about the fact that our military was left out of the Taxpayers Relief Act of 1997, when we allowed for the first sale of a home that the capital gains tax would not apply. So I am pleased, after 5 years, I say to my colleagues, that they are bringing this forward and bringing this relief to the men and women in uniform.

The last point on that is that I did talk to Chairman Archer at the time, back in 1998, and he said that it was a mistake, that the military should have been included; so I am delighted with the efforts of my colleagues that we are moving this forward.

Mr. Speaker, in closing, I would just like to say that I give my strong support and appreciation to the leadership for bringing this act to the floor of the House.

Mr. HOUGHTON. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Speaker, to the gentleman from New York (Mr. McNULTY), I rise in proud support and sponsorship of the Armed Forces Tax Relief Act of 2002.

As we return from the 4th of July recess, I can think of nothing more appropriate or better to do than to correct the injustice and the wrong code in our tax system that we would take a

tax at the very worst time in an armed service member's family's life when they have lost someone in the line of duty, in combat. We, as a government, have said that we will give that family a death benefit. We should not be taxing them on that; we should be helping them.

Mr. Speaker, I agree with the gentleman from Texas. This is simply wrong and immoral. We must do something. This act will correct that injustice, and we will say to the family, we are proud of your family member's service to our country. We want to help you in this most difficult time, and we will not increase your burden, but we will stand with you and try to comfort, not tax you.

The other thing that is most important in an armed service member's family's life is when they move or sell their home and the quality of life that is so critical to be able to sell a home and buy a home and improve that home, and to create the comfort and the quality for their children. We should not be taxing them in a way that makes that very important and essential component of their quality of life more difficult. So I am very proud to see that we are adjusting the Tax Code.

In my home State of Mississippi, we have two military bases in Meridian and Columbus, Mississippi. Our Air Guard and our other Guard and Reserve forces are being deployed on an even more frequent basis, and we should not count that time of their serving our country, being deployed in foreign countries, fighting a war on terrorism or conducting humanitarian missions or whatever their mission may be, and then penalizing them as they try to sell their home and create a better place and a better home for their family.

So this is an act that is long overdue. It is something that is done in tribute on this, the week after the 4th of July, as our men and women are fighting a war on terrorism. I can think of nothing more appropriate or right to do as we today pass, later this afternoon, the Armed Services Tax Fairness Act of 2002.

Mr. HOUGHTON. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me this time.

When I served in the United States Army, I remember very well, I can trace my steps during that time very vividly, I was transferred four times. That is not unusual for any member of the Armed Forces, no matter which branch it might be.

During that time, I did not have any property problems. I owned no property, so some of these provisions which we attack here today would not have applied to me. But some of the people

with whom I served would have faced tax consequences if we were in a position not to do something, as we are doing here today.

The point is that transfers being a way of life, it is possible that the capital gains tax relief that is granted to people otherwise would not be granted to a member of the armed services because of the rapid transferability of every single member of the United States Army, Navy, Marines, the entire gamut of the Armed Forces.

What we do here today is to grant members of the Armed Forces the stability in their tax structure that they otherwise would not be able to garner. So when we do this, we honor the members of the Armed Forces and we pay heed to their special tax consequences if we did not have the vision to foresee some of the problems that they might face. This bill foresees it and remedies it.

Mr. HOUGHTON. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. FORBES).

Mr. FORBES. Mr. Speaker, I thank the gentleman from New York for yielding me this time.

I am very proud to rise in support of this important legislation. On September 11, our Nation suffered a great tragedy. The enemies of freedom made a deliberate attack upon our people and our soil and our way of life. But those enemies were mistaken if they believed that such an attack could turn us away from the principles of liberty and freedom that we hold so dear.

Despite the strains of the war on terror, America's military is still the strongest in the world. However, the true power behind America's military might is not the high-tech tanks and planes and guns that we have; it is the fighting American soldier, sailor, airman and Marine that operates those weapons.

People are the true power behind America's military might. People fly planes and drive tanks and ride on horseback through the mountains of Afghanistan. People sail into harm's way and launch from the decks of aircraft carriers. People guard over the very freedom that makes this country the best in the world. There is no warfighting without warfighters, and if we do not protect our people, we will lose them.

Only two things in life they say are certain: death and taxes. But how in the world can we possibly continue to justify penalizing our service members who risk their lives to protect this government by then turning around and taxing them on the benefits their families receive because they gave their lives for us? It makes absolutely no sense for our government to bestow a gratuity upon the American service member only so that we can take it away after he has given the ultimate sacrifice.

Please join me in supporting this important legislation to remove death gratuity payments from members of the armed services.

Mr. McNULTY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I work very hard these days on trying to keep my priorities straight, and part of that is remembering that had it not been for all of the men and women who wore the uniform of the United States military through the years, I would not have the privilege as an American citizen of going around bragging, as I often do, about how we live in the freest and most open democracy on the face of the Earth.

Freedom is not free. We have paid a tremendous price for it. I try not to let a day go by without remembering with deep gratitude all of those who, like my own brother, Bill, made the supreme sacrifice, and all of those who, like many members of this Chamber, served in our Armed Forces, came back home, continued to render outstanding service and raised beautiful families to carry on their fine traditions.

Like many Members, I attended a number of events over the July 4th weekend. One of them was on Sunday, July 7th, with survivors of the Battle of Saipan. They recalled with great sorrow how 80 percent of the people that they served with at the time did not come home alive.

But they survived. This was a very special group, Mr. Speaker, because they had never received the medals that they had earned 58 years before. Thankfully, one of the things that we can do, as Members of Congress, is to try to rectify that.

On that day, I had the honor of pinning on their lapels literally dozens of those medals, including Bronze Stars and Purple Hearts, which they earned 58 years prior—to the day—but had never received. People like Nick Grinaldo and Joe Mariano, Adam Weasack, Ralph Colangione, Frank Pusatere, and Sammy DiNova; and people like the gentleman from Texas (Mr. JOHNSON), who just left this Chamber, who served our country, was a prisoner of war, who endured torture on our behalf.

These are the reasons why, when I get up in the morning, my priorities, Mr. Speaker, are to thank God for my life and veterans for my way of life.

Beyond winning the two great World Wars of this century, think of what their service and their vigilance has meant just in the past decade or so: the democratization of all of Eastern Europe. And I can remember, as those Communist countries were falling in 1989, Erich Honecker, then the leader of East Germany, standing up before the world and making the pronouncement, "This is where it stops. It shall not happen here," meaning the democracy movement. Three weeks later he was

no longer the leader of East Germany. He was replaced by Egon Krenz, who decided to adopt what he called, "the moderate hard line," meaning he was going to try to preserve the Communist system and just appease the democratic movement. And he was quickly dispatched, and we know the rest of the story.

What a great thrill it was for me in the spring of 1990, to travel and visit our troops in Germany. They flew me into Berlin and they took me to the Berlin Wall, as the people were out there with their hammers and chisels, tearing down the wall piece by piece. Our soldiers made that happen. I got a hammer and chisel, and I went out there and I banged away at the wall myself, and I brought back some of those pieces of wall and gave them to veterans and thanked them for what they had done for the people of that region and for every citizen of the Free World.

And the year after that, the breakup of the Soviet Union into 15 individual democratic republics. Who would have predicted that even a short time prior?

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I thank this body for sending me over to one of those republics when they were having their independence referendum in Armenia. I went over with three of my other colleagues and watched in awe as 95 percent of the people over the age of 18 in that country went out and voted, a privilege none of them had experienced before in their lives. I watched them stand in line for hours for the privilege of the right to vote.

Then it was a beautiful scene, because when they finished voting, they did not go home. They had little banquets in every little polling place to celebrate their independence. What a great thrill it was for me as a Representative of the United States Congress to be there with them the next day in the streets of Yeravan, their capital, as they danced and sang and shouted (Armenian phrase), "Ketse azat ankakh Hayastar," which means, "Long live free and independent Armenia." And then pointed to the United States of America as their example of what they wanted to be as a democracy.

At that moment, I was never more proud to be an American. But I remembered why I had that feeling: the men and women who put on the uniform of the United States military through the years and put their lives on the line for me, for my family, and every citizen of this country.

This bill today, Mr. Speaker, is peanuts; it is small-time stuff; it is a couple of minor tax breaks. But we should enact it and build on it and remember why we have the great privileges we have in this country: the men and women of our Armed Forces.

Mr. Speaker, I urge my colleagues to support this legislation, and I yield back the balance of my time.

Mr. HOUGHTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the gentleman from New York (Mr. McNULTY) for those wonderful words. Many strong words have been uttered by many strong people here, and I will not try to add to those.

Suffice it to say, Mr. Speaker, that this is a fair bill, it is the right bill, it is the right bill at the right time; and I would like to, as with the gentleman from New York (Mr. McNULTY), urge Members to support H.R. 5063.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 5063, the Armed Services Tax Fairness Act.

Everyday the men and women of the Armed Services risk their lives to defend our country. After September 11th the burden upon the men and women in uniform has grown exponentially. As it is, many in the Armed Forces claim that their pay is low. The least that we could do would be to give those who serve our country some type of financial relief.

Back in 1991, the gratuity death payment was increased from \$3,000 to \$6,000, however the Tax Code was not adjusted to reflect the change. As a result only the first \$3,000 is truly tax-free. House Resolution 5063 would change this so that all of the gratuity death payment money would be exempt from taxes.

Furthermore, this bill would protect armed services personnel who are transferred to take advantage of capital gains tax relief on any home sales. Currently, the law states that a person is not subject to capital gains tax on the first \$250,000 when selling a home and \$500,000 for a married couple. However, only people who live in their home for at least 2 out of the past 5 years can take advantage of exemption. Armed service men and women often are not able to satisfy the 5-year rule and therefore are not able to take advantage of this tax relief. House Resolution 5063 would address this by providing that even when men and women of the Armed Forces are transferred, it will put them in the same position as if they had been living at home while serving elsewhere.

Accordingly, I urge all of our colleagues to support H.R. 5063, the Armed Services Tax Fairness Act. This is simply the right and fair thing to do for all those in uniform who risk their lives everyday for our Nation.

Mr. HOUGHTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PETRI). The question is on the motion offered by the gentleman from New York (Mr. HOUGHTON) that the House suspend the rules and pass the bill, H.R. 5063.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. HOUGHTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the

Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HOUGHTON. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 5063.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

UNDERGRADUATE SCIENCE, MATHEMATICS, ENGINEERING, AND TECHNOLOGY EDUCATION IMPROVEMENT ACT

Mr. BOEHLERT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3130) to provide for increasing the technically trained workforce in the United States, as amended.

The Clerk read as follows:

H.R. 3130

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Undergraduate Science, Mathematics, Engineering, and Technology Education Improvement Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Studies show that about half of all United States post-World War II economic growth is a direct result of technological innovation, and science, engineering, and technology play a central role in the creation of new goods and services, new jobs, and new capital.

(2) The growth in the number of jobs requiring technical skills is projected to be more than 50 percent over the next decade.

(3) A workforce that is highly trained in science, mathematics, engineering, and technology is crucial to generating the innovation that drives economic growth, yet females, who represent 50 percent of the United States population, make up only 19 percent of the science, engineering, and technology workforce.

(4) Outside of the biomedical sciences, the number of undergraduate degrees awarded in the science, mathematics, engineering, and technology disciplines has been flat or declining since 1987, despite rapid population growth and a significant increase in undergraduate enrollment over the same period.

(5) The demand for H-1B visas has increased over the past several years, suggesting that the United States is not training a sufficient number of scientists and engineers.

(6) International comparisons of 24-year olds have shown that the proportion of natural science and engineering degrees to the total of undergraduate degrees is lower in the United States than in Japan, South Korea, Taiwan, the United Kingdom, and Canada.

(7) Technological and scientific advancements hold significant potential for elevating the quality of life and the standard of living in the United States. The quality and quantity of such advancements are dependent on a technically trained workforce.

(8) Reversing the downward enrollment and graduation trends in a number of science and engineering disciplines is not only imperative to maintaining our Nation's prosperity, it is also important for our national security.

(9) The decline of student majors in science, mathematics, engineering, and technology is reportedly linked to poor teaching quality in these disciplines and lack of institutional commitment to undergraduate education as compared to research.

(10) Undergraduate science, mathematics, engineering, and technology faculty generally lack any formal preparation for their role as undergraduate educators. In addition, faculty members are generally not rewarded, and in some cases are penalized, for the time they devote to undergraduate education.

(11) Faculty experienced in working with undergraduate students report that undergraduate research experiences contribute significantly to a student's decision to stay in an undergraduate science, mathematics, engineering, or technology major and to continue their education through graduate studies.

SEC. 3. DEFINITIONS.

In this Act—

(1) the term “academic unit” means a department, division, institute, school, college, or other subcomponent of an institution of higher education;

(2) the term “community college” has the meaning given such term in section 7501(4) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7601(4));

(3) the term “Director” means the Director of the National Science Foundation;

(4) the term “eligible nonprofit organization” means a nonprofit organization with demonstrated experience delivering science, mathematics, engineering, or technology education, as determined by the Director;

(5) the term “institution of higher education” has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)); and

(6) the term “research-grade instrumentation” means a single instrument or a networked system of instruments that enable publication-quality research to be performed by students or faculty.

SEC. 4. TECHNOLOGY TALENT.

(a) **SHORT TITLE.**—This section may be cited as the “Technology Talent Act of 2002”.

(b) **GRANT PROGRAM.**—

(1) **IN GENERAL.**—The Director shall award grants, on a competitive, merit-reviewed basis, to institutions of higher education with physical or information science, mathematics, engineering, or technology programs, to consortia thereof, or to nonprofit entities that have established consortia among such institutions of higher education for the purpose of increasing the number and quality of students studying and receiving associate or baccalaureate degrees in the physical and information sciences, mathematics, engineering, and technology. Consortia established by such nonprofit entities may include participation by eligible nonprofit organizations, State or local governments, or private sector companies. An institution of higher education, including those participating in consortia, that is awarded a grant under this section shall be known as a “National Science Foundation Science and Engineering Talent Expansion Center”.

(2) **REQUIREMENTS.**—

(A) **NUMBER.**—The Director shall award not fewer than 10 grants under this section each year, contingent upon available funds.

(B) **DURATION.**—Grants under this section shall be awarded for a period of 5 years, with the final 2 years of funding contingent on the Director's determination that satisfactory progress has been made by the grantee during the first 3 years of the grant period toward achieving the increases in the number of students proposed pursuant to subparagraph (E).

(C) **PRINCIPAL INVESTIGATOR.**—For each grant awarded under this section to an institution of higher education, at least 1 principal investigator must be in a position of administrative leadership at the institution of higher education, and at least 1 principal investigator must be a faculty member from an academic department included in the work of the project. For each grant awarded to a consortium or nonprofit entity, at each institution of higher education participating in the consortium, at least 1 of the individuals responsible for carrying out activities authorized under subsection (c) at that institution must be in a position of administrative leadership at the institution, and at least 1 must be a faculty member from an academic department included in the work of the project at that institution.

(D) **SUBSEQUENT GRANTS.**—An institution of higher education, a consortium thereof, or a nonprofit entity that has completed a grant awarded under this section may apply for a subsequent grant under this section.

(E) **INCREASES.**—

(1) **INSTITUTIONS OF HIGHER EDUCATION WITH BACCALAUREATE DEGREE PROGRAMS.**—An applicant for a grant under this section that is or includes an institution of higher education that awards baccalaureate degrees shall propose in its application specific increases in the number of students who are United States citizens or permanent resident aliens obtaining baccalaureate degrees at each such institution within the physical or information sciences, mathematics, engineering, or technology, and shall state the mechanisms by which the success of the grant project at each such institution shall be assessed.

(2) **COMMUNITY COLLEGES.**—An applicant for a grant under this section that is or includes a community college shall propose in its application specific increases in the number of students at the community college who are United States citizens or permanent resident aliens pursuing degrees, concentrations, or certifications in the physical or information sciences, mathematics, engineering, or technology programs or pursuing credits toward transfer to a baccalaureate degree program in the physical or information sciences, mathematics, engineering, or technology, and shall state the mechanisms by which the success of the grant project at each community college shall be assessed.

(F) **RECORDKEEPING.**—Each recipient of a grant under this section shall maintain, and transmit annually to the National Science Foundation, in a format indicated by the Director, baseline and subsequent data on undergraduate students in physical and information science, mathematics, engineering, and technology programs. For grants to consortia or nonprofit entities, the data transmitted shall be provided separately for each institution of higher education participating in the consortia. Such data shall include information on—

- (i) the number of students enrolled;
- (ii) student academic achievement, including quantifiable measurements of students' mastery of content and skills;
- (iii) persistence to degree completion, including students who transfer from science,

mathematics, engineering, and technology programs to programs in other academic disciplines; and

(iv) placement during the first year after degree completion in post-graduate education or career pathways.

(G) **PRIORITY.**—The Director may give priority in awarding grants under this section to applicants whose application—

(i) indicates a plan to build on previous and existing efforts with demonstrated success, including efforts involving industry, in improving undergraduate learning and teaching, including efforts funded by Federal grants from the National Science Foundation or other agencies; and

(ii) provides evidence of a commitment by the administration at each institution of higher education to support and reward faculty involvement in carrying out the proposed implementation plan for the project.

(c) **USES OF FUNDS.**—Activities supported by grants under this section may include—

(1) projects that specifically aim to increase the number of traditionally underrepresented students in the physical or information sciences, mathematics, engineering, or technology, such as mentoring programs;

(2) projects that expand the capacity of institutions of higher education to incorporate current advances in science and technology into the undergraduate learning environment;

(3) bridge projects that enable students at community colleges to matriculate directly into baccalaureate physical or information science, mathematics, engineering, or technology programs, including those targeted at traditionally underrepresented groups in such disciplines;

(4) projects including interdisciplinary approaches to undergraduate physical and information science, mathematics, engineering, and technology education;

(5) projects that focus directly on the quality of student learning, including those that encourage—

(A) high-caliber teaching, including enabling faculty to spend additional time teaching participating students in smaller class settings, particularly in the laboratory environment, by, for example, providing summer salary or other additional salary for faculty members or stipends for students;

(B) opportunities to develop new pedagogical approaches including the development of web-based course strategies, distributed and collaborative digital teaching tools, or interactive course modules; and

(C) screening and training of teaching assistants;

(6) projects that—

(A) facilitate student exposure to potential careers, including cooperative projects with industry or government that place students in internships as early as the summer following their first year of study;

(B) provide part-time employment in industry during the school year; or

(C) provide opportunities for undergraduates to participate in industry or government sponsored research;

(7) projects that assist institutions of higher education in States that participate in the Experimental Program to Stimulate Competitive Research (EPSCoR) to broaden the science, engineering, mathematics, and technology student base or increase retention in these fields;

(8) projects to encourage undergraduate research on-campus or off-campus;

(9) projects that provide scholarships or stipends to students entering and persisting in the study of science, mathematics, engineering, or technology;

(10) projects that leverage the Federal investment by providing matching funds from industry, from State or local government sources, or from private sources; and

(11) other innovative approaches to achieving the purpose described in subsection (b)(1).

(d) **ASSESSMENT, EVALUATION, AND DISSEMINATION OF INFORMATION.**—

(1) **PROJECT ASSESSMENT.**—The Director shall require each institution of higher education receiving assistance under this section to implement project-based assessment that facilitates program evaluation under paragraph (2) and that assesses the impact of the project on achieving the purpose stated in subsection (b)(1), as well as on institutional policies and practices.

(2) **PROGRAM EVALUATION.**—Not later than 180 days after the date of the enactment of this Act, the Director shall award at least 1 grant or contract to an independent evaluative organization to—

(A) develop metrics for measuring the impact of the program authorized under this section on—

(i) the number of students enrolled;

(ii) student academic achievement, including quantifiable measurements of students' mastery of content and skills;

(iii) persistence to degree completion, including students who transfer from science, mathematics, engineering, and technology programs to programs in other academic disciplines; and

(iv) placement during the first year after degree completion in post-graduate education or career pathways; and

(B) conduct an evaluation of the impacts of the program described in subparagraph (A), including a comparison of the funded projects to identify best practices with respect to achieving the purpose stated in subsection (b)(1).

(3) **DISSEMINATION OF INFORMATION.**—The Director, at least once each year, shall disseminate information on the activities and the results of the projects assisted under this section, including best practices identified pursuant to paragraph (2)(B), to participating institutions of higher education and other interested institutions of higher education.

(e) **UNDERREPRESENTED GROUPS.**—In carrying out the program authorized by this section the Director shall strive to increase the number of students receiving baccalaureate degrees, concentrations, or certifications in the physical or information sciences, mathematics, engineering, or technology who come from groups underrepresented in these fields.

(f) **REPORTS.**—

(1) **LIST.**—Not later than 90 days after the date of the enactment of this Act, the Director shall develop, and disseminate to institutions of higher education, a list of examples of existing institutional and government efforts relevant to the purpose stated in subsection (b)(1).

(2) **INTERIM PROGRESS REPORT.**—At the end of the third year of the program authorized under this section, the Director shall transmit to the Congress an interim progress report of the evaluation conducted under subsection (d)(2).

(3) **FINAL REPORT.**—Not later than 6 years after the date of the enactment of this Act, the Director shall transmit to the Congress a final report of the evaluation conducted under subsection (d)(2).

(g) **ADVISORY COMMITTEE.**—

(1) **ESTABLISHMENT.**—The Director shall establish an advisory committee, that includes

significant representation from industry and academic leaders, for the grant program authorized under this section. The advisory committee shall—

(A) assist the Director in securing active industry, and State and local government, participation in the program;

(B) recommend to the Director innovative approaches to achieving the purpose stated in subsection (b)(1); and

(C) advise the Director regarding program metrics, implementation and performance of the program, and program progress reports.

(2) **DURATION.**—Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this subsection.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the National Science Foundation to carry out this section—

(1) \$25,000,000 for fiscal year 2003; and

(2) such sums as may be necessary thereafter.

(i) **RELATED PROGRAMS.**—The Director shall give consideration to achieving the purpose stated in subsection (b)(1) by awarding grants to institutions participating in the Louis Stokes Alliances for Minority Participation.

SEC. 5. INSTITUTIONAL REFORM.

(a) **IN GENERAL.**—The Director shall award grants, on a merit-reviewed, competitive basis, to institutions of higher education to expand previously implemented reforms of undergraduate science, mathematics, engineering, or technology education that have been demonstrated to have been successful in increasing the number and quality of students studying and receiving associate or baccalaureate degrees in science, mathematics, engineering, or technology.

(b) **USES OF FUNDS.**—Activities supported by grants under this section may include—

(1) expansion of successful reform efforts beyond a single course or group of courses to achieve reform within an entire academic unit;

(2) expansion of successful reform efforts beyond a single academic unit to other science, mathematics, engineering, or technology academic units within an institution;

(3) creation of multidisciplinary courses or programs that formalize collaborations for the purpose of improved student instruction and research in science, mathematics, engineering, and technology;

(4) expansion of undergraduate research opportunities beyond a particular laboratory, course, or academic unit to engage multiple academic units in providing multidisciplinary research opportunities for undergraduate students;

(5) expansion of innovative tutoring or mentoring programs proven to enhance student recruitment or persistence to degree completion in science, mathematics, engineering, or technology;

(6) improvement of undergraduate science, mathematics, engineering, and technology education for nonmajors, including teacher education majors; and

(7) implementation of technology-driven reform efforts, including the installation of technology to facilitate such reform, that directly impact undergraduate science, mathematics, engineering, or technology instruction or research experiences.

(c) **SELECTION PROCESS.**—

(1) **APPLICATIONS.**—An institution of higher education seeking a grant under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director

may require. The application shall include, at a minimum—

(A) a description of the proposed reform effort;

(B) a description of the previously implemented reform effort that will serve as the basis for the proposed reform effort and evidence of success of that previous effort, including data on student recruitment, persistence to degree completion, and academic achievement;

(C) evidence of active participation in the proposed project by individuals who were central to the success of the previously implemented reform effort; and

(D) evidence of institutional support for, and commitment to, the proposed reform effort, including a description of existing or planned institutional policies and practices regarding faculty hiring, promotion, tenure, and teaching assignment that reward faculty contributions to undergraduate education equal to, or greater than, scholarly scientific research.

(2) **REVIEW OF APPLICATIONS.**—In evaluating applications submitted under paragraph (1), the Director shall consider at a minimum—

(A) the evidence of past success in implementing undergraduate education reform and the likelihood of success in undertaking the proposed expanded effort;

(B) the extent to which the faculty, staff, and administrators are committed to making the proposed institutional reform a priority of the participating academic unit;

(C) the degree to which the proposed reform will contribute to change in institutional culture and policy such that a greater value is placed on faculty engagement in undergraduate education and that a commensurate reward structure is implemented to recognize faculty for their scholarly work in this area; and

(D) the likelihood that the institution will sustain or expand the reform beyond the period of the grant.

(3) **GRANT DISTRIBUTION.**—The Director shall ensure, to the extent practicable, that grants awarded under this section are made to a variety of types of institutions of higher education.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the National Science Foundation to carry out this section \$15,000,000 for each of fiscal years 2003 through 2007.

SEC. 6. FACULTY DEVELOPMENT.

(a) **IN GENERAL.**—The Director shall award grants, on a merit-reviewed, competitive basis, to—

(1) institutions of higher education;

(2) eligible nonprofit organizations; or

(3) consortia of institutions and organizations described in paragraphs (1) and (2), for professional development of undergraduate faculty in support of improved undergraduate science, mathematics, engineering, and technology education.

(b) **USES OF FUNDS.**—Activities supported by grants under this section may include—

(1) support for individuals to participate in scholarly activities aimed at improving undergraduate science, mathematics, engineering, and technology education including—

(A) sabbatical funding, including partial or full support for salary, benefits, and supplies, for faculty participating in scholarly research in—

(i) science, mathematics, engineering, or technology;

(ii) the science of learning; or

(iii) assessment and evaluation related to undergraduate instruction and student academic achievement;

(B) stipend support for graduate students and post-doctoral fellows to participate in instructional or evaluative activities at primarily undergraduate institutions; and

(C) release time from teaching for faculty engaged in the development, implementation, and assessment of undergraduate science, mathematics, engineering, and technology education reform activities following participation in a sabbatical opportunity or faculty development program described in this subsection; and

(2) support for institutions to develop, implement, and assess faculty development programs focused on improved instruction, mentoring, evaluation, and support of undergraduate science, mathematics, engineering, and technology students, including costs associated with—

(A) stipend support or release time for faculty and staff engaged in the development, delivery, and assessment of the faculty development program;

(B) stipend support or release time for faculty, graduate students, or post-doctoral fellows from the host institution or external institutions who are engaged as participants in such faculty development programs; and

(C) support for materials, supplies, travel expenses, and consulting fees associated with the development, delivery, and assessment of such faculty development programs.

(c) APPLICATIONS.—An entity seeking a grant under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(1) a description of the activities to be carried out under the proposed project and the projected impact of the project on undergraduate majors and nonmajors enrolled in science, mathematics, engineering, or technology courses or programs;

(2) a plan for assessment of the outcomes of the proposed project;

(3) a plan for dissemination of information regarding the activities and outcomes of the proposed project; and

(4) evidence of institutional support for implementation of the proposed project, including commitment to appropriate faculty sabbaticals and release time from teaching.

(d) ANNUAL MEETING.—The Director shall convene an annual meeting of awardees under this section to foster greater national information dissemination and collaboration in the area of undergraduate science, mathematics, engineering, and technology education.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are to be authorized to be appropriated to the National Science Foundation to carry out this section \$3,000,000 for each of fiscal years 2003 through 2007.

SEC. 7. ACCESS TO RESEARCH-GRADE INSTRUMENTATION.

(a) IN GENERAL.—The Director shall award grants, on a merit-reviewed, competitive basis, to institutions of higher education to support the acquisition of research-grade instrumentation and to support training related to the use of that instrumentation. Instruments provided through awards under this section shall be used primarily for undergraduate research, undergraduate instruction, or both, in science, mathematics, engineering, or technology.

(b) ELIGIBLE INSTITUTIONS.—Grants may be awarded under this section only to institutions of higher education that award fewer than 10 doctoral degrees per year in disciplines for which the National Science Foundation provides research support.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are to be authorized to be appropriated to the National Science Foundation to carry out this section \$10,000,000 for each of fiscal years 2003 through 2007.

SEC. 8. UNDERGRADUATE RESEARCH EXPERIENCES.

(a) IN GENERAL.—The Director shall award grants, on a merit-reviewed, competitive basis, to institutions of higher education, eligible nonprofit organizations, or consortia thereof to establish sites that provide research experiences for 10 or more undergraduate science, mathematics, engineering, or technology students. The Director shall ensure that—

(1) at least half of the students participating at each site funded under this section shall be recruited from institutions of higher education where research activities in science, mathematics, engineering, or technology are limited or nonexistent;

(2) the awards provide undergraduate research experiences in a wide range of science, mathematics, engineering, or technology disciplines;

(3) awards support a variety of projects including independent investigator-led projects, multidisciplinary projects, and multiinstitutional projects (including virtual projects);

(4) students participating in the projects have mentors, including during the academic year, to help connect the students' research experiences to the overall academic course of study and to help students achieve success in courses of study leading to a baccalaureate degree in science, mathematics, engineering, or technology;

(5) mentors and students are supported with appropriate summer salary or stipends; and

(6) all student participants are tracked through receipt of the undergraduate degree and for at least 1 year thereafter.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation to carry out this section \$10,000,000 for each of fiscal years 2003 through 2007.

SEC. 9. DISSEMINATION OF PROJECT INFORMATION.

The Director shall ensure that all National Science Foundation-sponsored undergraduate science, mathematics, engineering, or technology education projects, including those sponsored by National Science Foundation research directorates, shall disseminate via the Internet, at a minimum, the following information:

(1) Scope, goals, and objectives of each project.

(2) Activities, methodologies, and practices developed and implemented.

(3) Outcomes, both positive and negative, of project assessment activities.

SEC. 10. EVALUATION.

(a) IN GENERAL.—The Director, through the Research, Evaluation and Communication Division of the Education and Human Resources Directorate of the National Science Foundation, shall evaluate the effectiveness of all undergraduate science, mathematics, engineering, or technology education activities supported by the National Science Foundation in increasing the number and quality of students, including students from groups underrepresented in science, mathematics, engineering, and technology fields, studying and receiving associate or baccalaureate degrees in science, mathematics, engineering, and technology. In conducting the evaluation, the Director shall consider information on—

(1) the number of students enrolled;

(2) student academic achievement, including quantifiable measurements of students' mastery of content and skills;

(3) persistence to degree completion, including students who transfer from science, mathematics, engineering, and technology programs to programs in other academic disciplines; and

(4) placement during the first year after degree completion in post-graduate education or career pathways.

(b) ASSESSMENT BENCHMARKS AND TOOLS.—The Director, through the Research, Evaluation and Communication Division of the Education and Human Resources Directorate of the National Science Foundation, shall establish a common set of assessment benchmarks and tools, and shall enable every National Science Foundation-sponsored project to incorporate the use of these benchmarks and tools in their project-based assessment activities.

(c) DISSEMINATION OF EVALUATION RESULTS.—The results of the evaluations required under subsection (a) shall be made available to the public.

(d) REPORTS TO CONGRESS.—Not later than 3 years after the date of the enactment of this Act, and once every 3 years thereafter, the Director shall transmit to the Congress a report containing the results of evaluations under subsection (a).

SEC. 11. NATIONAL ACADEMY OF SCIENCES STUDY ON UNDERGRADUATE RECRUITMENT AND RETENTION.

(a) STUDY.—Not later than 3 months after the date of the enactment of this Act, the Director shall enter into an arrangement with the National Research Council of the National Academy of Sciences to perform a study on the factors that influence undergraduate students to enter and persist to degree completion in science, mathematics, engineering, and technology programs or to leave such programs and matriculate to other academic programs, as reported by students.

(b) TRANSMITTAL TO CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Director shall transmit to the Congress a report containing the results of the study under subsection (a).

(c) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to the National Science Foundation for carrying out this section \$700,000 for fiscal year 2003, to remain available until expended.

SEC. 12. MINORITY-SERVING INSTITUTIONS UNDERGRADUATE PROGRAM.

(a) IN GENERAL.—

(1) The Director shall establish a program to award grants to Hispanic-Serving Institutions, Historically Black Colleges and Universities, Alaska Native-Serving Institutions, Native Hawaiian-Serving Institutions, and tribally controlled colleges and universities to enhance the quality of undergraduate science, mathematics, and engineering education at such institutions and to increase the retention and graduation rates of students pursuing baccalaureate degrees in science, mathematics, or engineering.

(2) Grants shall be awarded under this section on a merit-reviewed, competitive basis.

(b) PROGRAM COMPONENTS.—Grants awarded under this section shall support—

(1) activities to improve courses and curriculum in science, mathematics, or engineering disciplines;

(2) faculty development, including support for—

(A) sabbaticals and exchange programs to improve the faculty's research competency and knowledge of technological advances;

(B) professional development workshops on innovative teaching practices and assessment;

(C) visiting faculty, including researchers from industry; and

(D) faculty reassigned time or release time to mentor students or to participate in curriculum reform and academic enhancement activities;

(3) stipends for undergraduate students participating in research activities in science, mathematics, or engineering disciplines on-campus or off-campus at industrial, governmental, or academic research laboratories; and

(4) other activities that are consistent with subsection (a)(1), as determined by the Director.

(c) APPLICATION.—An institution seeking funding under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

SEC. 13. ADVANCED TECHNOLOGICAL EDUCATION PROGRAM.

(a) CORE SCIENCE AND MATHEMATICS COURSES.—Section 3(a) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(a)) is amended—

(1) by inserting “, and to improve the quality of their core education courses in science and mathematics” after “education in advanced-technology fields”;

(2) in paragraph (1) by inserting “and in core science and mathematics courses” after “advanced-technology fields”; and

(3) in paragraph (2) by striking “in advanced-technology fields” and inserting “who provide instruction in science, mathematics, and advanced-technology fields”.

(b) ARTICULATION PARTNERSHIPS.—Section 3(c)(1)(B) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(c)(1)(B)) is amended—

(1) by striking “and” at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting a semicolon; and

(3) by adding after clause (ii) the following new clauses:

“(iii) provide students with research experiences at bachelor-degree-granting institutions participating in the partnership, including stipend support for students participating in summer programs; and

“(iv) provide faculty mentors for students participating in activities under clause (iii), including summer salary support for faculty mentors.”.

(c) ADVANCED TECHNOLOGICAL EDUCATION ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—The Director shall establish an advisory committee on science, mathematics, and technology education at community colleges consisting of non-Federal members, including representatives from academia and industry. The advisory committee shall review, and provide the Director with an assessment of, activities carried out under the Advanced Technological Education Program (in this section referred to as the “Program”), including—

(A) conformity of the Program to the requirements of the Scientific and Advanced-Technology Act of 1992;

(B) the effectiveness of activities supported under the Program in strengthening the scientific and technical education and training capabilities of community colleges;

(C) the effectiveness of the National Science Foundation and institutions receiving awards under the Program in disseminating information to other community colleges about activities carried out under the

Program and about model curricula and teaching methods developed under the Program;

(D) the balance of resources allocated under the Program for support of national centers of excellence, individual institution grants, and articulation partnerships; and

(E) other issues identified by the Director. The advisory committee shall make recommendations to the Director for improvements to the Program based on its reviews and assessments.

(2) ADVISORY COMMITTEE REPORTS.—The advisory committee established under paragraph (1) shall report annually to the Director and to Congress on the findings and recommendations resulting from the reviews and assessments conducted in accordance with paragraph (1).

(3) DURATION.—Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this subsection.

(d) NATIONAL SCIENCE FOUNDATION REPORT.—Within 6 months after the date of the enactment of this Act, the Director shall transmit a report to Congress on—

(1) efforts by the National Science Foundation and awardees under the Program to disseminate information about the results of projects;

(2) the effectiveness of national centers of scientific and technical education established under section 3(b) of the Scientific and Advanced-Technology Act of 1992 in serving as national and regional clearinghouses of information and models for best practices in undergraduate science, mathematics, and technology education; and

(3) efforts to satisfy the requirement of section 3(f)(4) of the Scientific and Advanced-Technology Act of 1992.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation—

(1) for activities to improve core science and mathematics education in accordance with section 3(a) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(a)), as amended by subsection (a) of this section, \$5,000,000 for each of fiscal years 2003 through 2007;

(2) for acquisition of instrumentation in accordance with section 3(a)(4) of the Scientific and Advanced-Technology Act of 1992—

(A) \$3,000,000 for fiscal year 2003;

(B) \$3,500,000 for fiscal year 2004;

(C) \$4,000,000 for fiscal year 2005;

(D) \$4,500,000 for fiscal year 2006; and

(E) \$5,000,000 for fiscal year 2007; and

(3) for support for research experiences for undergraduate students in accordance with section 3(c)(1)(B) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(c)(1)(B)), as amended by subsection (b) of this section, \$750,000 for each of fiscal years 2003 through 2007.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. BOEHLERT) and the gentleman from Texas (Mr. HALL) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3130 proposes a simple and direct solution to a clear and urgent problem. The problem is that fewer and fewer American college students are majoring in mathematics,

engineering, technology, or science, particularly in the physical sciences. This is a source of growing concern for many reasons.

First and most obviously, the Nation needs to constantly replenish its supply of scientists, mathematicians, and engineers to have a workforce that can compete in this increasingly technological world. The U.S. cannot assume that it can rely forever on immigrants, foreign students, and temporary emergency visa programs to meet its long-term workforce needs. Yet that is exactly what we are doing right now.

But the problem goes beyond filling jobs that explicitly call for someone with a science degree. In today's world, just about every job has a component that is informed by science and technology, from the assembly line to the boardroom. Yet we have fewer and fewer Americans who have the background to understand and analyze technical information.

Indeed, just to be an active citizen today requires more scientific background than was the case just a few years ago. Just think of how often this body turns to institutions like the National Academy of Sciences because so many policy questions today require a firm grounding in science. So we need to have more, not fewer, Americans trained in science and technology fields if we are to be a competitive economy and if we are to have a skilled workforce and an active polity.

Now, reversing the current trends which have long been in the making is not easy. Many of the problems begin as early as elementary school; and this House has passed several major bills to address those problems, including H.R. 1 from the Committee on Education and the Workforce and H.R. 1858 from the Committee on Science.

But not all of our problems reside at the K through 12 level. The statistics show that many students enter college intending to major in science, math, and engineering, but change course before declaring a major. Some of these students, of course, may just not be right for the field, but the attrition rate is far too high for that to be the whole story. The problem is, rather, that our colleges and universities by and large do not do enough to encourage students to remain in science, math, and engineering. Indeed, sometimes students are actually discouraged.

We cannot afford to have that continue. H.R. 3130 takes aim at this problem directly by providing incentives for colleges and universities, including community colleges, to increase the number and quality of science, math, engineering, and technology majors. Under the bill, the National Science Foundation would provide grants to improve undergraduate science, math, and engineering education that are contingent on the grantee increasing

the number of graduating majors in those fields by a specific amount without reducing quality. This is a direct and targeted approach that should make a real difference in the culture of our Nation's colleges and universities.

I should note that NSF is already beginning to try this approach. Congress appropriated money for fiscal year 2002 to begin implementing H.R. 3130 on an experimental basis in advance of the bill's enactment, and the President has proposed continuing the program next year; but the program cannot be fully ramped up without this bill.

H.R. 3130 also creates a number of other important programs to improve undergraduate education, including grants to enable colleges and universities to expand successful, innovative undergraduate programs; grants to enable faculty to improve their teaching skills; and grants to help colleges purchase new research equipment for undergraduates. It also expands the National Science Foundation's summer research program for undergraduates.

Finally, the bill establishes a rigorous evaluation program so we can really learn what approaches to improving undergraduate education work and which ones do not. We have been flying by the seat of our pants for too long in this regard, and this bill will finally provide some reliable data and analysis on undergraduate reform.

So H.R. 3130 is a good bill that promotes targeted steps to improve undergraduate education that will make a real difference.

As with all good bills, this one reflects the work of many hands. I want to start by thanking the gentleman from Ohio (Chairman BOEHNER) and his staff for working so cooperatively with us on this bill, as they have on all education legislation.

I want to particularly thank the gentleman from Texas (Mr. HALL), the ranking minority member of the Committee, and the gentleman from Connecticut (Mr. LARSON), the primary Democrat sponsor of this bill, and all our minority Members for their contributions to this bill which passed in our committee by voice vote because it reflected ideas that originated on both sides of the aisle.

I want to mention two Members of the minority specifically, the gentleman from Utah (Mr. MATHESON) and the gentleman from California (Mr. SCHIFF), as they should have been mentioned as cosponsors of the bill, and I want to thank the gentleman from Texas (Mr. SMITH) and other Texans on the committee for making sure that others in their State could compete fairly for grants under this bill, even though some Texas programs are organized differently from those in other States.

I also want to thank many companies and high-tech industry groups such as Tech Net and higher education groups

such as the American Council on Education that have actively supported this bill and helped us get it to the floor. This bill is supported, and it deserves everyone's support because it has widespread impact. I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the Undergraduate Science, Mathematics, Engineering, and Technology Education Improvement Act, H.R. 3130, as reported from the Committee on Science and as described very adequately by our chairman.

The bill was developed in a very bipartisan way, in keeping with the past practices of the Committee on Science in the area of science education legislation. I want to thank the gentleman from New York (Chairman BOEHLERT) and those with whom he works, his staff, for working with us on this side of the aisle to produce this very excellent legislative product.

Basically, the bill will help increase the number of students who are graduating in science, math, and engineering, and will help improve the quality of undergraduate science education.

Mr. Speaker, this bill builds on existing NSF programs that have proven their effectiveness, such as Research Experiences for Undergraduates. Similarly, the bill will provide support for the expansion of successful small-scale undergraduate education reform activities that some colleges and universities have been engaged in.

H.R. 3130 will also implement programmatic recommendations of the Committee on Science, those that they have received through a long series of science education hearings going back to the last Congress.

I would like also to point out that the bill incorporates provisions advanced by my colleague, the gentleman from Washington (Mr. BAIRD), as in his bill, H.R. 4680. These provisions are focused on helping community colleges improve their science and technology offerings, which is important because community colleges enroll such a significant proportion of all undergraduate students.

Finally, the bill includes the establishment of an educational program at NSF that will target minority-serving institutions. This program, which was advanced by my colleague, the gentleman from California (Mr. BACA), will help address the serious problems of underrepresentation by minorities in the science and technology fields. The Nation just cannot afford to lose the talents of any segment of society if we are to produce a workforce with the range of skills and capabilities that are going to be needed in the post-industrial world.

Mr. Speaker, I strongly support H.R. 3130 and commend it for favorable consideration by the House.

□ 1330

Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) who is the ranking member of the Subcommittee on Research of the Committee on Science.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in strong support of H.R. 3130, the Undergraduate Science, Mathematics, Engineering and Technology Education Improvement Act. I want to thank the gentleman from New York (Mr. BOEHLERT), the gentleman from Texas (Mr. HALL), and the gentleman from Michigan (Mr. SMITH) for working with me and my colleagues in a very bipartisan manner to develop the legislation now before the House.

This bill focuses on two important issues. The first is to attract and retain more students in associate and baccalaureate degree programs in critical science and technology fields. The second issue is to ensure that all undergraduate students receive a quality education experience in their science and technology courses, regardless of the career path they ultimately choose.

One important component for dealing with the problem of declining numbers of students pursuing careers in science and math and engineering for the long term is to increase participation in these areas by individuals from underrepresented groups. Under the Technology Talent Act, the National Science Foundation is required to ensure that projects are supported that would lead to increases in the numbers of science degrees by individuals from underrepresented groups.

The NSF is also encouraged to make use of existing Louis Stokes Alliance for Minority Participation program, which has a 10-year track record in attracting and maintaining minority students in science-related degree programs. H.R. 3130 also authorizes a new Minority-Serving Institutions undergraduate program to build up the capacity for these institutions.

In other provisions, the bill will help expand undergraduate education reform efforts at institutions of higher education throughout the Nation that have demonstrated successful records of accomplishment. It provides professional development opportunities for undergraduate faculty and expands the availability of research experiences for the undergraduate students, including students at nonresearch institutions. The bill also encourages the inclusion of innovative public-private partnerships by enabling consortia to participate in the grants program which has worked very, very well in the State of Texas and in my area.

Mr. Speaker, I believe that H.R. 3130 will put in place a range of programs

and activities that will strengthen undergraduate education in science and technology and will help provide the human resources that this Nation will need for economic strength and security in the postindustrial world.

I strongly support this legislation. I commend it to my colleagues and ask for their support in the passage by this House.

Mr. HALL of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. LARSON), a member of the committee.

Mr. LARSON of Connecticut. Mr. Speaker, I want to thank our distinguished leader for the opportunity to speak here on the floor this afternoon.

Let me begin by applauding the efforts of the gentleman from New York (Mr. BOEHLERT), who has done an outstanding job. It has been my high honor and pleasure to work with him over the past 3 years, and in the last year specifically, as this legislation has been developed.

It has been a longstanding concern of mine and clearly my constituents and people all around this country who understand intuitively, as the chairman does, the need that exists out there to address this glaring inequity that has existed in terms of making sure that we have a pipeline that is full of students who have expertise in math, science, and engineering. Because of the obvious shortcomings in this area, we risk this Nation's becoming a second-rate economic power if we do not address these concerns forthrightly.

This bill does exactly that. And typical of his manner, the chairman once again has reached out and done this in a bipartisan manner, garnering the best ideas from both sides of the aisle, which in my humble estimation always leads to the best legislation.

I am proud, as well, to join my colleagues on this side of the aisle, especially the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), the gentleman from Colorado (Mr. UDALL) and the gentleman from California (Mr. HONDA), as well, who have fought hard to make sure that issues like granting minorities greater access and greater funding in these specific areas that are much needed in order for us to compete, were attended to.

Again, I would like to thank the gentleman from Texas (Mr. HALL) for his efforts as well.

The defense of this Nation and its continued economic prosperity are inextricably tied and linked to our education system. And by providing an opportunity and incentives that will provide us with the kind of dedicated members of our society entering into the field of math and science and engineering, this bill takes a bold step in terms of accomplishing that specific goal. I am proud to stand here on the floor of the House today and endorse this concept and ask all of my col-

leagues for their unanimous support of a great bill put forward by a great leader.

Mr. HALL of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. BACA), a member of our subcommittee.

Mr. BACA. Mr. Speaker, I rise in support of H.R. 3130.

Mr. Speaker, first of all, I would like to commend the minority chairman and the chairman for a bipartisan bill that really addresses the needs of our Nation. And I say the needs of our Nation because when we look at technology, we look at our future and we look at a vision of where we need to be, and that is preparing students in the area of science, technology, engineering and mathematics. We all realize it has declined, but yet the priorities were set there because a vision is there for our Nation, and that is to make sure that we prepare our students to make sure that they can guide us, because they are our future.

This bill addresses the problem by funding a program at the NSF to provide grants to institutions of higher education. These grants will be used to increase the number and quality of graduates from physical science, mathematics, engineering and technology degree and transfer programs.

Just as importantly, this bill recognizes that the institutions that serve unique purposes also have unique needs. Hispanic-serving institutes, historically black colleges and universities, Alaska-native-serving institutions, native-Hawaiian-serving institutions, and tribally controlled colleges and universities serve that special purpose.

These institutions educate and train underserved and often overlooked segments of our population. But this segment of the population will not be overlooked by this bill because this bill addresses those needs. And I want to commend the chairman for doing that, because it is about inclusion of everyone; and this bill includes everybody in this process. Inclusion and making sure that no child, whether it is an adult, is left behind, and this includes that.

Today, we are establishing a program that would accomplish two things. First, the program would award grants to minority-serving institutions to enhance the quality of undergraduate science, mathematics, and engineering education at these institutions. These grants also increase the retention and graduation rates of students pursuing bachelors degrees in science, mathematics or engineering.

Mr. Speaker, I ask that we consider this unique role and this unique need of minority-serving institutions when we consider this important piece of legislation. I ask my colleagues on both sides of the aisle to support this bipartisan bill that is good for our Nation and good for our country.

Mr. HALL of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BOEHLERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me conclude by saying if a forensic expert were brought into the Committee on Science and asked to examine this piece of legislation, he would find on it the fingerprints of just about every single member of the committee, Democrat and Republican alike. The hallmark of this committee, as has been mentioned during this debate, is the inclusion. We want the ideas from everyone on the committee. I am proud to report to my colleagues in the House that this is an engaged committee. People are involved in helping to shape responsible public policy. I am very proud to serve in the capacity of chairman of a committee that is serving with such distinction addressing the needs of the American people.

We have just been through 10 years, from March of 1991 to the end of the first quarter of last year, the longest period of sustained growth in modern history for the economy. That growth was largely driven by science, math, engineering, the technical people who are part of this Information Revolution. We had a slight downturn last year, and then we had 9-11, but we are on the rebound now.

If we are to experience, to realize, the next era of sustained growth in our economy, we are going to have to be dependent on our own people, our people who are well trained, our universities that teach these very important subjects. We cannot rely on just people from abroad to come rescue us, and that is too often the case now. We have got to grow our own, right here.

And so I am proud to present this bill to the House, to my colleagues, and to urge its adoption.

Mr. SMITH of Michigan. Mr. Speaker, I rise in support of H.R. 3130, the Technology Talent Act of 2002.

For some time now, we have recognized the need to improve math and science education in America. The Science Committee, and the Research Subcommittee which I chair, has taken one of the lead roles in advancing these reforms. Last year, the House passed legislation generated by our Committee, the Math and Science Partnerships Act, that authorizes a number of programs at the National Science Foundation aimed at improving K-12 education.

More recently, we have turned our attention to an equally important problem: improving math, science and engineering education at the undergraduate level. Our Subcommittee held hearings to identify the problems of our current educational system, and more importantly, to understand how to encourage and support changes that will provide solutions to these problems that benefit all students.

What we learned was that there is no single problem that has resulted in the talent gap and workforce challenges we face today, but

rather, an assortment of problems that demand a variety of solutions. Much of the problem is simply a supply and demand issue, the marketplace is increasingly demanding a workforce skilled in the sciences and engineering, while the supply of people capable of filling those positions has remained flat.

This has forced us to look to foreign students to help fill the gap, and we now are in a situation where only half of all engineering doctoral degrees in the U.S. are awarded to American students, and a similar disproportionate number of all high-tech jobs are filled by foreign workers.

One task that doesn't require scientific or engineering expertise and that can even be understood by politicians is that if we don't fill the current talent gap in these fields, we risk damaging America's position the global economic, technological, and scientific leader.

In response to these challenges, the Science Committee has put forth the bipartisan effort that is before us today—the Technology Talent Act. It establishes a performance-based competitive grant program at the National Science Foundation that would provide funding for institutions of higher learning to implement innovative proposals designed to increase the number of undergraduates graduating in math, science, engineering, and technology.

It also addresses other areas such as institutional reform and faculty development, and authorizes NSF to provide awards to universities for improving their research instrumentation and provide undergraduate students valuable research experience.

The bill takes advantage of NSF's competitive, peer-reviewed system, allowing institutions to develop their own proposals to maximize results and promote creativity.

The legislation also emphasizes accountability and regular program evaluation, institutions that fail to meet the goals set forth in their proposals may have their funding terminated or reduced.

It is clear that if we want to maintain our competitive edge in the world—if we want to remain the top economic power, the top military force, and ensure the safety of our citizens from terrorist aggression—it is critical that we do a better job of preparing our students for careers in science, mathematics, engineering, and technology. The Technology Talent Act provides the reforms necessary to meet these challenges.

I would like to thank the Chairman for his leadership on this legislation, and I urge all members to support this bill.

Mr. BOEHLERT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WALDEN of Oregon). The question is on the motion offered by the gentleman from New York (Mr. BOEHLERT) that the House suspend the rules and pass the bill, H.R. 3130, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOEHLERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and submit extraneous material in the RECORD on the bill just passed, H.R. 3130.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

RECIPROCAL AGREEMENTS FOR SHARING PERSONNEL TO FIGHT WILDFIRES

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5017) to amend the Temporary Emergency Wildfire Suppression Act to facilitate the ability of the Secretary of the Interior and the Secretary of Agriculture to enter into reciprocal agreements with foreign countries for the sharing of personnel to fight wildfires.

The Clerk read as follows:

H.R. 5017

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RECIPROCAL AGREEMENTS FOR SHARING PERSONNEL TO FIGHT WILDFIRES.

The Temporary Emergency Wildfire Suppression Act (42 U.S.C. 1856m et seq.), as amended by the Wildfire Suppression Assistance Act, is amended by adding at the end the following new section:

“SEC. 5. SPECIAL TERMS FOR RECIPROCAL AGREEMENTS FOR SHARING PERSONNEL TO FIGHT WILDFIRES.

“(a) TORT LIABILITY.—In entering into a reciprocal agreement with a foreign country under section 3, the Secretary of Agriculture and the Secretary of the Interior may include as part of the agreement a provision that personnel furnished under the agreement to provide wildfire presuppression or suppression services will be considered, for purposes of tort liability, employees of the country receiving such services when the personnel provide services under the agreement.

“(b) ASSUMPTION OF LIABILITY; REMEDIES.—The Secretary of Agriculture or the Secretary of the Interior shall not enter into any agreement under section 3 containing the provision described in subsection (a) unless the foreign country (either directly or through the fire organization that is a party to the agreement) agrees to assume any and all liability for the acts or omissions of American firefighters engaged in providing wildfire presuppression or suppression services under the agreement in the foreign country. The only remedies for acts or omissions committed while providing services under the agreement shall be those provided under the laws of the host country, and those remedies shall be the exclusive remedies for any claim arising out of providing such services in a foreign country.

“(c) PROTECTIONS.—Neither the firefighter, the sending country, nor any organization associated with the firefighter shall be subject to any action whatsoever pertaining to or arising out of providing wildfire presuppression or suppression services under a reciprocal agreement under section 3.”

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Texas (Mr. STENHOLM) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 5017, introduced by my good friend and colleague from Colorado (Mr. MCINNIS) to facilitate the ability of the Secretary of the Interior and the Secretary of Agriculture to enter into reciprocal agreements with foreign countries for the sharing of personnel to fight wildfires.

Today, as we debate this issue, large wildfires are burning across the country. Over 3.1 million acres have already been consumed and the worst may be yet to come. This bill provides a safety net for ongoing fire-fighting efforts. During these high levels of fire activity, the wildfire agencies often run out of trained and qualified personnel available to fight these horrific blazes. This legislation would allow the U.S. to bring in skilled firefighters from around the world to aid in the suppression of these overwhelming wildfires.

It is important to point out that foreign nationals can only be used when all domestic sources are fully utilized. As I speak, there are over 12,000 personnel committed to fire-fighting duties. Depending on the number and nature of the fires, that number may reach 20,000 personnel in the next couple of weeks. If this occurs, we will most likely deplete our domestic fire-fighting sources. The next step would be to inquire for help from our international neighbors in battling the wildfires or risk losing more property and life.

□ 1345

Unfortunately, current law exposes foreign fire agencies to unreasonable liability when responding to requests by the U.S. Government during a national emergency. Consequently, exchanges or requests for assistance during the critical part of fire season will not be honored by foreign firefighters. This bill provides foreign agencies and their firefighters coverage from liability during performance of official duties and will not expose the U.S. Government to liability or death or disability for foreign nationals that are covered under the foreign agencies' normal insurance policies.

This bill supplies the protection needed in order for foreign fire management agencies to provide firefighters to the United States. It does not grant special protection to foreign firefighters. It simply provides the same level of protection that we give our own firefighters and the firefighters we use from State, county,

volunteer and municipal fire agencies for Federal firefighting efforts.

This legislation strives to ensure that we will have the ability to commit more personnel as fire situations escalate. It ensures our Nation's commitment to combating wildfires and provides assistance and relief to our domestic firefighters.

I urge the Members of this body to join me in taking this important step today. By passing H.R. 5017, we can renew our efforts for wildfire suppression and build strong working relationships with our foreign counterparts. Join me in declaring a strong commitment to firefighting.

I congratulate my colleague from Colorado for this fine legislation and urge my colleagues to support H.R. 5017.

Mr. Speaker, I reserve the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5017, legislation to amend the Temporary Emergency Wildfire Suppression Act. As we have heard, this legislation is designed to promote and facilitate the implementation of reciprocal firefighting agreements with foreign countries for the purpose of sharing personnel to fight wildfires.

Specifically, H.R. 5017 will require that personnel furnished under reciprocal firefighting agreements be considered employees of the country receiving the assistance for purposes of tort liability. Mr. Speaker, these agreements with foreign fire organizations are essential to suppress wildfire activities within our national forest system.

At the height of the forest fire season in the United States, we may have up to 12,200 firefighting personnel on the ground executing various fire suppression duties. The conditions that these men and women face often demand speedy alterations to existing firefighting plans if the forest fire takes an unexpected path. In order to minimize the risk of loss of life and property, our firefighting crews need experienced supervision and guidance at all times.

Unfortunately, with 244 significant forest fires burning simultaneously, the supervisory capacity of the U.S. Forest Service and the U.S. Department of the Interior are stretched to the limits. As a remedy to this problem, the United States has sought the assistance of mid-level managers from Australia and New Zealand by entering into reciprocal firefighting agreements.

H.R. 5017 would eliminate the risk of tort liability to foreign firefighters and their governments while foreign personnel are providing assistance to the United States. The foreign firefighters would be considered to be Federal employees for the limited purpose of securing them coverage under the Federal Tort Claims Act.

This legislation would also require that foreign countries or States extend a reciprocal benefit to United States firefighters in the event the United States provides personnel to them, and it would make the laws of the host country the only source of remedies available for acts and omissions in firefighting activities in the host country. Under this legislation, foreign firefighters can readily assist us without the fear of being subjected to lawsuits.

This legislation further provides that the tort liability protection would extend to not only the firefighter but also the individual's home country and any organization associated with the firefighter.

Mr. Speaker, this legislation removes barriers to the effective implementation of reciprocal firefighting agreements with foreign fire organizations. It will increase the effectiveness of our forest fire suppression activities. I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

My district in the State of Virginia has been struck by many severe forest fires this season, but thankfully nothing like what has been experienced in the State of Colorado, and I am sure that that accounts for the leadership that the gentleman from Colorado (Mr. McINNIS) has shown in introducing this legislation. He also serves as chairman of the Subcommittee on Forests and Forest Health of the Committee on Resources.

Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado (Mr. McINNIS).

Mr. McINNIS. Mr. Speaker, I thank the gentleman for yielding me the time, and I would like to first of all begin my remarks by saying that I appreciate the gentleman from Virginia's time, his subcommittee, and obviously his attention to this matter and the urgency of getting this bill passed. It is a critical bill.

I appreciate the comments the gentleman from Texas (Mr. STENHOLM) made. They were all exactly on point. I think he has explained very well the crisis we face.

My district is the Third District of the State of Colorado. That district geographically is larger than the State of Florida. It is unique in that it is the highest place on the continent, and we do not usually see the kind of fires because of the elevations that we are at in that district, we do not usually see the intensity of the fire that we are seeing this year.

That intensity, of course, has been brought on through a couple of different factors. One, we are experiencing the worst drought we have seen probably in 100 years in Colorado, and two,

unfortunately, we have had a number of national environmental organizations who have, in my opinion, prevented us from thinning the forest in such a way that we can properly manage these forests, but those are issues for another day.

The issue before us here today, as explained by the gentleman from Texas (Mr. STENHOLM) and as explained by the gentleman from Virginia (Mr. GOODLATTE), is the fact that emergency personnel, our firefighters, this is a very difficult task to undertake.

Last year, as my colleagues will recall, we appropriated a dramatic increase in the firefighting budgets back here. We authorized a hiring of thousands of new firefighters. We have actually purchased 10,000 new pieces of fire equipment which range in everything from tankers to bulldozers and so on, but this year, even that is not enough, and we need some assistance.

There is no effort whatsoever nor any actual occurrence of any displacement of any American worker by using foreign assistance. In fact, for many years we have used this foreign assistance primarily with Australia and New Zealand, and that is pretty self-explanatory in that Australia and New Zealand have opposite seasons of the United States. So while we are in our summer, right now they are in their winter, and we actually have an exchange program that is in place.

Unfortunately, the Australians became very concerned, and I think legitimately concerned, about the fact of their firefighters being in the United States, with the kind of litigious society that we have. We have lots of lawsuits filed in this country, many, many, many, many times more than any other country in the world, and Australia and New Zealand are reluctant to send their firefighters up here, then to see their firefighters trying to help our country fight our fires ending up being named in litigation.

So this bill is very, very important for us to pass on an immediate basis. This bill was introduced by me about a week ago. It is very uncommon in the House of Representatives for a bill to go through the House this quickly. The only way we were able to do that, frankly, is through the assistance of not only the chairman and the gentleman from Texas (Mr. STENHOLM), the ranking member, but I also want to thank five other members of the body; the gentleman from Utah (Mr. HANSEN), who is chairman of Committee on Resources; the gentleman from Illinois (Mr. HYDE), chairman of the Committee on International Relations; the gentleman from Texas (Mr. COMBEST), the chairman of the Committee on Agriculture; and the gentleman from Wisconsin (Mr. SENSENBRENNER), chairman of the Committee on the Judiciary; as well as the gentleman from Arizona (Mr. FLAKE), who gave a great deal of

effort and who himself has suffered a 450,000-acre fire in Arizona.

Before I finish my comments here, and I do have to read some comments for the RECORD, I do want to point out that the State of Colorado and the State of Arizona are open for business. I wish I would have brought my satellite picture. Despite all the stories my colleagues have heard about Colorado, if we took a look at what actually has burned in Colorado, we would see it is significantly less than 1 percent. Unfortunately, across the country, because of the media coverage of these horrible fires, these fires have people thinking the whole State is on fire, and we have seen a tremendous drop in our tourism, not only in Colorado but Arizona as well, for no reason at all. The majority, like I said, 99 point some percent of Colorado, is open for tourism, and it is a great place to visit, as is Arizona.

That said, I want to point out that in the season that we are facing, here are a couple of unique things. One, we go to what we call a level 5. Across this country, the national fire emergency system, our alert system goes clear to level 5. Level 5 is the highest and we are now currently in a level 5 situation. It is not unique that we go to a level 5 situation. In fact, we have done it several times in the past, but what is unique is we have never gone to a level 5 system prior to July 28. We actually went to level 5 two weeks ago. So we are almost 6 weeks, almost 6 weeks ahead of what we have ever gone to in this emergency status before.

So my colleagues can understand the importance of getting this exchange program back on track. As I said, it was already in place. We are not creating a new wheel here. It is a wheel that got taken off the track, and we are trying to put it back on the track.

I should point out also that the National Interagency Fire Center, in declaring this readiness number 5, also acknowledges the importance of these management personnel that our countries exchange.

I would ask support from my colleagues, and once again, I want to particularly thank my colleagues that helped us get this through on an expedited basis. Any one of those chairmen of any one of those committees could have slowed this bill down, could have insisted that this bill run the regular course that a bill usually runs, but every one of those chairmen, to the person and to the credit of the chairman and ranking member, understood the urgency and the importance of getting assistance out there on the ground fighting these fires.

We expect a very full fire season ahead of us. We expect, as my colleagues know, and I would point out, unfortunately, we have had fatalities so far. We had a fireman killed in Durango, and to his family we wish God-

speed. We lost five firemen not very far from my house on the highway in a vehicle accident as they were going to the scene of a fire, and Godspeed to their families as well, but we are going to get them assistance.

I would ask all of my colleagues to support this. I expect unanimous support of the bill, and I will be back with discussions on this floor to talk about the necessity of thinning forests, to talk about the litigation and the appeal process that has stopped us from thinning and managing these forests as we should. Fire must be managed. We just cannot let it go. We have seen the results of what has happened when it gets out of control, and fortunately, we have a couple of countries willing to help us out.

Again, I want to especially thank the ranking member and the chairman.

Mr. Speaker, I rise today in strong support of H.R. 5017, a bill that would amend the Temporary Emergency Wildfire Suppression Act to enhance the ability of the Secretary of the Interior and the Secretary of Agriculture to enter into reciprocal agreements with foreign countries for the sharing of personnel to fight wildfires. At the outset, I want to thank five Members of this body who have been nothing short of essential in getting this bill to the House floor in very short order—Congressman JIM HANSEN, chairman of the Resources Committee, Congressman HENRY HYDE, chairman of the International Relations Committee, Congressman LARRY COMBEST, chairman of the Agriculture Committee, and Congressman JIM SENSENBRENNER, chairman of the Judiciary Committee and JEFF FLAKE. Each of these Members, and their respective staffs, were instrumental in fast tracking this legislation to the full House today, less than 2 weeks after I first introduced it.

In practical terms, H.R. 5017 would clear the way for scores of firefighters from Australia and other countries to immediately join forces with the thousands of brave Americans on the frontlines of our battle against catastrophic wildfire out West and in other parts of the country. And make no mistake about it, Mr. Speaker, we need all the reinforcements we can get.

The 2002 fire season is well on its way to becoming among the largest and most destructive in recorded history. It is on pace to eclipse the catastrophic 2000 fire season when 122,000 fires burned 8.5 million acres, destroying over 800 homes and structures. Already this year, we've burned well over 3 million acres, which by itself is nearly three times the average for an entire year. What's most alarming about this statistic is that, historically, wildfire burns the hottest, largest, and most frequent in the latter parts of July and into August and September. The wildfire forecast for the coming months, Mr. Speaker, is ominous indeed.

In response to this growing crisis on the national forests and public lands, the National Interagency Fire Center recently declared a national preparedness level of 5, the highest readiness threshold for our wildland firefighting agencies. This heightened readiness stage allows the Forest Service and Department of In-

terior agencies to more readily tap the assets of the military and other agencies not typically oriented to fighting wildfires. The Readiness 5 declaration was Uncle Sam's way of saying it's time to deploy all available resources, and pull out all available stops.

But even as we do, we would be remiss not to tap into the formidable human resources of our friends and allies overseas, many of whom have considerable experience fighting wildfire. Countries like Australia and New Zealand have particular appeal in this regard because their fire season occurs during our winter months, making their firefighters open and available during our fiery summer months.

Congress recognized this years ago with the enactment of the Temporary Emergency Wildfire Suppression Act, where it authorized the Secretaries of Interior and Agriculture to enter into reciprocal arrangements that, in essence, amount to a foreign firefighter exchange program. These reciprocal agreements allow us to borrow on the expertise of foreign firefighters when a need arises, and vice-versa.

In 2000, this authority was particularly useful. Firefighters from Australia and New Zealand fought shoulder-to-shoulder with American firefighters at a time when we quite frankly needed the help. By all accounts the exchange program was a huge success.

Which brings us to today. While the Wildfire Suppression Act has been a huge help and major success, new exchange agreements have been stalled because of legitimate liability concerns on the part of Australia and other countries with whom we have historically partnered. Our bill would address those concerns in straightforward fashion by eliminating the risk of tort liability to foreign firefighters and their governments while foreign personnel are providing assistance to the United States. It requires that foreign nations extend a reciprocal tort claims benefit to United States firefighters in the event the United States provides similar assistance to them. The proposed legislation would also deem foreign firefighters to be federal employees for the limited purpose of securing them coverage under the Federal Tort Claims Act. Finally, it would make the laws of the host country the only source of remedies available for acts and omissions in firefighting activities in the host country.

Mr. Speaker, I've been told that there are 100 or so Australian firefighters all but on the tarmac ready to fly out to the United States to join our firefighting forces pending the enactment of this legislation. This highly skilled group will provide support in the place that it's needed the most right now—management caliber firefighters directing and overseeing rank-and-file firefighters on the front lines. This bill will ensure that this area of need is met in a meaningful way for the duration of this and future fire seasons.

Mr. Speaker, this is a commonsense bill that is a real priority for Secretary Norton and Secretary Veneman, just as it is for me. I hope and trust that my colleagues will join with me in supporting it.

Mr. STENHOLM. Mr. Speaker, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

The other State that was referenced by the gentleman from Colorado that

has been absolutely devastated by wildfires this summer is the State of Arizona, and I thank very much the gentleman from Arizona (Mr. FLAKE) for his contribution to this legislation and his efforts to make sure that firefighting capabilities in the State of Arizona, as well as the rest of the country, are supplemented with foreign firefighters as we need them, and I thank him for that effort.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I do come from the State of Arizona where we have had 450,000 acres burn already this year. The entire West, as mentioned by the gentleman from Colorado, is a tinderbox at this point. We are at level 5, the first time we have reached level 5 this early in the year.

Arizona, as mentioned, lost about 600 square miles to fire. We still have a lot of Ponderosa pine forest left. We have the largest stand of Ponderosa pine forest in the country. Many of my colleagues, particularly from the East Coast, were surprised to hear that we had forests in Arizona, let alone that they were burning.

We had a horrible fire that was finally contained after 2 weeks, contained fully on Sunday. That fire is contained, but I can tell my colleagues that this season is not done, and this legislation recognizes the need to have firefighters, particularly in a management capacity, come here and to ensure that we have the forces necessary to put out these fires.

When the lightning seasons hit, we had some lightning just a couple of days ago, five new fires started quickly, had to be suppressed, and we are going to see a lot more of that this year. So it is very important that we pass this legislation.

I thank the gentleman from Colorado for introducing it and for the chairmen, as he mentioned, who moved it so quickly to this point.

We have a situation in Arizona and throughout the West where we have far too much fuel that allows these fires to burn far hotter and spread far faster than they would otherwise. These are things that we need to address as we look to the future, but for now, we need to ensure the firefighters are on the ready. That is what this legislation does.

I urge my colleagues to support it when it comes to the floor.

Mr. Speaker, In August of 2000, 68 firefighters from Australia arrived in Montana to help their American counterparts bring wildfires under control. At that time more than 70 fires were burning in 12 U.S. states that prompted the call for assistance.

After devastating wildfires in 2000, long-term agreements were negotiated with Australia

and New Zealand. These agreements have not been implemented, however, due to concerns that the foreign firefighting personnel would face liability for alleged torts committed while their personnel were furnishing assistance to the U.S. Over 450,000 acres of land burned in the widely publicized fire of Arizona.

The National Interagency Fire Center has declared a state of "Preparedness Level 5"—indicating the highest level of risk and the need for the greatest degree of preparedness due to the severity of fire season conditions. For safety purposes, for every twenty firefighters on the front line of a fire there must be one management level firefighter to supervise and ensure the safety of the men in the field. Fourteen days ago when this legislation was introduced, the Hayman fire was still burning in Colorado and the Rodeo-Chediski fires were raging in Arizona. Various other fires were also burning; together they were almost expending the resources we have available to fight these blazes.

At that point there was a strong concern that there wouldn't be enough management level personnel to keep all the necessary frontline firefighters fighting the blazes. This legislation prevents that from occurring. The legislation before us makes it possible to ensure sufficient management level firefighters in the event of catastrophic fires by providing protections to firefighters, sending countries and any organization associated with the firefighter from any liability resulting from actions taking place while fighting fires here in the United States.

Also provided within the legislation is a reciprocal agreement providing the same protection to American firefighters who go to other countries to assist in fire suppression or firefighting. With the West experiencing a severe drought and one of the worst fire seasons it has ever seen on record, fire managers are expecting a busy summer.

Remove the constraints that prevent management level firefighters from ensuring we can meet the demands of this season. Support this legislation.

□ 1400

Mr. STENHOLM. Mr. Speaker, I urge support of the bill, and I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WALDEN of Oregon). The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the bill, H.R. 5017.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5017, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

IMPROPER PAYMENTS INFORMATION ACT OF 2002

Mr. HORN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4878) to provide for reduction of improper payments by Federal agencies, as amended.

The Clerk read as follows:

H.R. 4878

SECTION 1. SHORT TITLE.

This Act may be cited as the "Improper Payments Information Act of 2002".

SEC. 2. ESTIMATES OF IMPROPER PAYMENTS AND REPORTS ON ACTIONS TO REDUCE THEM.

(a) IDENTIFICATION OF SUSCEPTIBLE PROGRAMS AND ACTIVITIES.—The head of each agency shall, in accordance with guidance prescribed by the Director of the Office of Management and Budget, annually review all programs and activities that it administers and identify all such programs and activities that may be susceptible to significant improper payments.

(b) ESTIMATION OF IMPROPER PAYMENT.—With respect to each program and activity identified under subsection (a), the head of the agency concerned shall—

(1) estimate the annual amount of improper payments; and

(2) include that estimate in its annual budget submission.

(c) REPORTS ON ACTIONS TO REDUCE IMPROPER PAYMENTS.—With respect to any program or activity of an agency with estimated improper payments under subsection (b) that exceed one percent of the total program or activity budget or \$1,000,000 annually (whichever is less), the head of the agency shall provide with the estimate under subsection (b) a report on what actions the agency is taking to reduce the improper payments, including—

(1) a statement of whether the agency has the information systems and other infrastructure it needs in order to reduce improper payments to minimal cost-effective levels;

(2) if the agency does not have such systems and infrastructure, a description of the resources the agency has requested in its budget submission to obtain the necessary information systems and infrastructure; and

(3) a description of the steps the agency has taken to ensure that agency managers (including the agency head) are held accountable for reducing improper payments.

(d) DEFINITIONS.—For the purposes of this section:

(1) AGENCY.—The term "agency" means an executive agency, as that term is defined in section 102 of title 31, United States Code.

(2) IMPROPER PAYMENT.—The term "improper payment"—

(A) means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

(B) includes any payment to an ineligible recipient, any payment for an ineligible service, any duplicate payment, payments for services not received, and any payment that does not account for credit for applicable discounts.

(3) PAYMENT.—The term “payment” means any payment (including a commitment for future payment, such as a loan guarantee) that is—

(A) made by a Federal agency, a Federal contractor, or a governmental or other organization administering a Federal program or activity; and

(B) derived from Federal funds or other Federal resources or that will be reimbursed from Federal funds or other Federal resources.

(e) APPLICATION.—This section—

(1) applies with respect to the administration of programs, and improper payments under programs, in fiscal years after fiscal year 2002; and

(2) requires the inclusion of estimates under subsection (b)(2) only in annual budget submissions for fiscal years after fiscal year 2003.

(f) GUIDANCE BY THE OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall prescribe guidance to implement the requirements of this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. HORN) and the gentlewoman from Illinois (Ms. SCHAKOWSKY) will each control 20 minutes.

The Chair recognizes the gentleman from California (Mr. HORN).

GENERAL LEAVE

Mr. HORN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 4878.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HORN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4878, the proposed Improper Payments Information Act of 2002, is intended to get a handle on the vexing problem of improper payments made by Federal agencies. The few agencies that do make estimates for some of their programs report improper payments of about \$20 billion.

Each year, the Federal Government wastes countless billions of taxpayer funds on improper payments. Some of these payments result from fraud or abuse. Many others represent simple mistakes. What all of these improper payments have in common is that they should never have been made.

I refer to countless billions of dollars in improper payments because no one really knows the magnitude of the problem. Incredible as it may seem, Federal agencies are not required on any kind of government-wide or systematic basis to estimate how much money they spend improperly. Therefore, most do not even try. The few agencies that do make estimates for some of their programs report improper payments of about \$20 billion annually, and I will say that again, \$20 billion, not million dollars, billion dollars, every single year in just a handful of Federal programs.

Staggering as that figure is, it represents the tip of a very large iceberg. For example, during fiscal year 2000, the Department of Health and Human Services estimated it made more than \$12 billion in improper payments in its Medicare fee-for-service program, but the figure did not include any improper payments that might have been made in the Medicaid. No one, including the General Accounting Office, has estimated that figure.

The obvious starting point toward reducing improper payments made by the Federal Government is to understand the nature and extent of the problem. The agencies and Congress must find out which programs are at risk and what causes those risks. Only then can we find effective remedies.

The President's Management Agenda for fiscal year 2002 has made the reduction of improper payments a real priority. H.R. 4878 builds upon that very first step by the Bush administration by requiring Federal agencies to identify the programs that are vulnerable to significant improper payments.

Currently, only eight agencies report on improper payments made in 13 programs out of hundreds of Federal agencies and programs. This bill would require all agencies to include in their budget submissions an estimate of improper payments for each program that might be susceptible to significant improper payments. If an agency estimates that improper payments in a program exceed \$1 million a year, or 1 percent of the total program budget, whichever is lower, the agency would also have to explain what it is doing to reduce them.

Since the 104th Congress, the subcommittees I have chaired have held approximately 100 hearings on wasteful spending within the Federal Government. Time and again witnesses from the General Accounting Office and agency inspectors general have told the subcommittee that poor accounting systems and procedures have contributed to the government's serious and long-term problems involving improper payments. These hearings have clearly demonstrated the need for H.R. 4878.

In fact, at a recent subcommittee hearing, General Accounting Office witnesses stated that this legislation is critically important. Based on these hearings, the subcommittee marked up H.R. 4878 on June 18, 2002.

H.R. 4878 is a bipartisan and common-sense bill. I am pleased that the ranking member of the subcommittee, the gentlewoman from Illinois (Mr. SCHAKOWSKY), and our full committee chairman, the gentleman from Indiana (Mr. BURTON), and the gentlewoman from New York (Mrs. MALONEY) are among those cosponsoring the bill, and I urge all my colleagues to support this important bill.

Mr. Speaker, I reserve the balance of my time.

Ms. SCHAKOWSKY. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to be on the floor today with the gentleman from California to support passage of this bill. I thank the chairman for his willingness to work with the Democrats on the committee to produce a bill that we can all support.

As the chairman pointed out, this is a bill to make agencies more keenly aware of the problem of improper payments and to get the agencies to address the problem at the front end. We have learned from our work on debt collection that collecting improper payments is more difficult than avoiding the mistakes in the first place. The problem is that there is no incentive for agencies either to collect debt or to avoid improper payments.

Improper payments occur in a number of ways: Agencies pay invoices more than once, some unscrupulous merchants bill agency credit cards when no purchase has been made, and the agency does not adequately monitor the bills.

Medicare is a large source of improper payments because of the conflict between the deadline for making payments and the length of time it takes to determine if the patient has private insurance. Medicaid is also a source of improper payments, in part from unscrupulous providers. However, Medicaid has yet to estimate the extent of the problem.

It is also the case that improper payments are made to individuals. These cases often arise because of difficulties in determining eligibility for a program like food stamps or Social Security disability. Often those problems are not the fault of the recipient, but come from errors in administering the program.

These programs serve the weak and downtrodden. The program rules are such that most tax accountants would have a difficult time figuring them out. It is especially important in these cases that we make sure the agency gets it right the first time. If it does not, then months or years later the agency discovers the error and tries to recapture the mispayments from the individual. This is an extreme hardship on those individuals. We must not let agency mistakes become another burden on the poor.

I hope this bill will help those agencies develop a better understanding of how these mistakes come about and correct the mistakes before they happen.

Again, Mr. Speaker, I thank the chairman for working with us to bring this bill to the floor.

Mr. Speaker, I reserve the balance of my time.

Mr. HORN. Mr. Speaker, I yield 5 minutes to the gentleman from Oklahoma (Mr. SULLIVAN), who is a hard-working member of the subcommittee

and who we are delighted to have; and before he begins, I wish to thank the gentlewoman for her kind comments and her work on this particular bill.

Mr. SULLIVAN. Mr. Speaker, I thank the gentleman from California (Mr. HORN) for all his hard work in making this bill possible and making the government accountable to the people in America.

This bill is extremely important. When we talk about accountability from the Federal Government, this is exactly the kind of bill that America thinks of. An improper payment, as defined by the bill, includes overpayments, underpayments, duplicate payments, payments to ineligible recipients, payments for ineligible services, and payments for services not received.

Countless billions of dollars of taxpayer funds are wasted each year through improper payments. However, the extent of improper payments in the Federal Government is unknown since Federal agencies are not required by law to estimate or report them.

In 1990 and 1994, Congress passed important pieces of legislation to make government more transparent to its stockholders, the American people. Twenty-four agencies are required to prepare audited financial statements, and several agencies voluntarily prepare such statements. H.R. 4878 will require executive agencies to identify all spending programs that may be vulnerable to significant improper payments and to annually estimate the amount of improper payments involving those programs.

This is an extremely important topic, given the tightening of the Federal belt of late and the need to keep our country strong during this time of war and economic concern.

Ms. SCHAKOWSKY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just really want to end with this. H.R. 4878 tightens up the Federal Government's accounting practices. This is a good thing. We need to be sure that the way we do business is on the up-and-up, and we clearly need to do more to require corporate America to do the same.

We are asking government agencies to improve the management and accountability of the agencies. We must ask the same of corporate leaders. They must be accountable for the company's financial health, be honest with the public, and there must be consequences for breaching those trusts. For years, we have asked government to act more like a business. We need to turn that around and ask businesses to be as accountable as the government.

H.R. 4878 is based on the principle that making information publicly available will change the way people and agencies behave. This is underscored by the activities of Enron and WorldCom. They knew that if the pub-

lic was aware of what they were doing, the company would falter, and so they tried to spin their way out of trouble.

I think the steps that we are taking today in terms of government accountability are important, and that we should seek unanimous support from our colleagues, but also we need to think about ways that we can extend these practices and make sure that corporate America abides by these same government rules.

Mr. Speaker, I reserve the balance of my time.

□ 1415

Mr. HORN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the staff that worked very hard, night and day, on this particular bill. That is staff director Russell George; deputy staff director Bonnie Heald; senior counsel Henry Wray; and we are proud to have a very fine young lady from the General Accounting Office, Rosa Harris, who is a detailee to our subcommittee, and she has done a great job on all things related to financial management.

I also thank David McMillian, the professional staff member for the gentlewoman from Illinois (Ms. SCHAKOWSKY). We also are delighted with his ideas. This is a bipartisan bill.

Mr. Speaker, I yield back the balance of my time.

Ms. SCHAKOWSKY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, once again I would like to thank the chairman for his willingness and openness and cooperation with the Democrats, and I would also like to take a moment of personal privilege to commend the chairman for always thanking the hard-working staff of both parties for the hard work that they do, both in committee and on the floor. I think it is a wonderful thing to acknowledge that work. I would like to join him and associate myself with his appreciation and congratulations for the hard work of our staff.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WALDEN of Oregon). The question is on the motion offered by the gentleman from California (Mr. HORN) that the House suspend the rules and pass the bill, H.R. 4878, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to provide for estimates and reports of improper payments by Federal agencies."

A motion to reconsider was laid on the table.

CONCERNING RISE IN ANTI-SEMITISM IN EUROPE

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 393) concerning the rise in anti-Semitism in Europe, as amended.

The Clerk read as follows:

Whereas there can be no justification for violence or intolerance against minorities;

Whereas the 1993 Helsinki Declaration expressed the commitment of its signatories, including all European member states, to the promotion of tolerance toward minorities;

Whereas there has been a significant rise in anti-Semitic verbal incitement and physical attacks on Jewish people and Jewish institutions throughout Europe during the last 18 months with as many as 400 incidents reported in France;

Whereas anti-Semitism is defined as hostility towards Jews;

Whereas certain groups in Europe have exploited the situation in the Middle East as an excuse to carry out violent acts against Jews;

Whereas, although the continued violence in the Middle East is disturbing and must be resolved, exploiting that violence to fuel hostility or violence against Jews and Jewish institutions is reprehensible;

Whereas, according to news reports, the following anti-Semitic attacks are among those which have taken place in Europe in recent weeks—

(1) on March 3, Molotov cocktails were thrown at a synagogue in Antwerp, Belgium,

(2) on March 16, an explosive device was thrown into a Jewish cemetery in Berlin, Germany,

(3) on March 30, two vehicles were smashed at La Duchere synagogue in Lyon, France, and a kosher butcher shop was strafed by gunfire in Toulouse, France,

(4) on April 1, a Jewish school was attacked in Sarcelles, France, a firebomb was thrown at the Anderlecht synagogue in Brussels, Belgium, the Or Aviv synagogue (including its Torah scrolls) in Marseille, France, was destroyed by fire, and two Yeshiva students from New Jersey were brutally beaten in Berlin, Germany,

(5) on April 4, vehicles belonging to a Jewish school were burned in Aubervilliers, France, and a synagogue in Montpellier, France, was firebombed,

(6) on April 6, a Jewish sports association storefront was firebombed in Toulouse, France,

(7) on April 11, in Bondy, France, a Jewish soccer team was attacked with sticks and metal bars after the attackers shouted anti-Semitic remarks,

(8) on April 12, a Jewish cemetery was desecrated in Strasbourg, France,

(9) on April 13, synagogue worshipers were attacked in Kiev, Ukraine, and

(10) on May 1, in the Finsbury Park synagogue in London, England, vandals defaced prayer books and painted swastikas throughout the sanctuary;

Whereas anti-Semitic attacks are not confined to a single European nation;

Whereas President Bush, speaking for the American people, has rejected "the ancient evil of anti-Semitism" making specific reference to anti-Semitism in Europe; and

Whereas Europe, in view of its history, should be particularly sensitive to the scourge of anti-Semitism and anti-Semitic violence: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the governments of Europe should continue to take necessary steps to provide security and to protect the safety and well-being of their Jewish communities;

(2) the governments of Europe should deplore anti-Semitic expressions and should prosecute and punish perpetrators of anti-Semitic violence; and

(3) the governments of Europe should continue to make a concerted effort to cultivate an atmosphere in which all forms of anti-Semitism are rejected.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 393, the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H. Res. 393, expressing the sense of the House concerning the rise of anti-Semitism in Europe. I thank the gentleman from New York (Mr. CROWLEY) for introducing this important resolution and for the support of the gentleman from Illinois (Mr. HYDE), the chairman of the Committee on International Relations, and the ranking member, the gentleman from California (Mr. LANTOS).

H. Res. 393 discusses many reported anti-Semitic crimes over the past 18 months, including 400 incidents reported in France alone. The resolution recites a number of these anti-Semitic crimes that have occurred over the past few years. It calls upon European governments to take necessary steps to ensure the well-being of their Jewish communities and to speak out against anti-Semitic expressions, to prosecute perpetrators of anti-Semitic violence, and to cultivate an atmosphere in which all forms of anti-Semitism will be rejected.

Since the outbreak of Palestinian violence in Israel almost 2 years ago, the European continent has witnessed an upsurge in violent anti-Semitic attacks directed at both Jewish institutions and individuals. It has been unprecedented in magnitude and brutality since World War II.

Anti-Semitic crimes, including the intentional destruction and desecration of synagogues and other Jewish institutions, as well as violent assaults against individual Jews, are not isolated to any particular neighborhood or to any particular city or to any particular country of Europe. Rather, outbursts of anti-Semitic violence have

come to plague the entire continent. Our allies of Europe have not done enough until now either to recognize the seriousness of this problem for its urgency or to take any decisive action against those who fuel hatred and perpetrate criminal acts against Jewish populations.

The results of a recent Anti-Defamation League opinion survey concerning European attitudes toward Jews, towards Israel and the Palestinian-Israeli conflict conducted in Belgium, Denmark, France, Germany, and the United Kingdom reveal that 30 percent of Europeans surveyed harbored traditional anti-Semitic stereotypes and approximately one-third of French and Belgian respondents said they were unconcerned or fairly concerned about ongoing anti-Jewish violence in Europe. Those results are certainly distressing.

Many European governments have been unwilling to recognize the seriousness of this problem until now many months after the outbreak of a violent campaign targeting Jews without impunity.

The decision of some European leaders to treat this phenomenon as if it were nothing more than an occasion of inter-communal strife between Jews and Muslims, rationalized by some as the product of legitimate, pent-up anger and frustration is certainly troubling.

Such thinking is dangerous. It represents an unwillingness to recognize the uniqueness of anti-Semitism as a form of hatred, especially in light of Europe's troubled history in that regard. What the Jews of Europe are witnessing now is not some broader phenomenon so readily characterized as a problem in community relations or racism. Rather, by attempting to characterize the recent anti-Semitic violence in such terms, European leaders are doing nothing more than obfuscating, or even denying the unique problem at hand, and are thereby, in effect, permitting it to continue.

Decisive action against perpetrators of anti-Semitic crimes in Europe must be taken, including the pursuit and prosecution of suspects, as well as the upgrading of security at Jewish institutions. But even more important, the nature of the problem must be recognized for what it truly is. The problem I am talking about is the intentional, deliberate targeting of Jews simply because they are Jews, as well as the desire to use the crisis in Israeli-Palestinian relations as a pretext for terrorizing Jews simply due to their religious affiliation and not due to any actual harm they may have caused to anyone else. A central tenet of H. Res. 393 is that exploiting the violence in the Middle East to fuel hostility or violence against Jews and Jewish institutions is reprehensible.

I applaud today's U.S.-German public meeting in the city of Berlin on the

issue of anti-Semitism, and I urge member and observer states of the Organization for Security and Cooperation in Europe to seize this opportunity of the current annual session of their Parliamentary Assembly to hold a special meeting on anti-Semitism.

Accordingly, I urge Members to vote for H. Res. 393, which sends a strong message that the well-being of the Jews of Europe half a century after the Holocaust remains a serious concern of the United States to this very day, and will remain a priority of ours. President Bush has rejected this problem calling it "this ancient evil."

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the only survivor of the Holocaust ever elected to the Congress of the United States, I want to commend the gentleman from New York (Mr. CROWLEY), a valued member of our committee, for his outstanding resolution and for his untiring efforts in calling attention to the scourge of anti-Semitism in Europe. I also want to thank the distinguished gentleman from Illinois (Mr. HYDE) for expediting the consideration of this resolution and the gentleman from California (Mr. GALLEGLY), who has been most cooperative in bringing this resolution before us today. But I particularly want to express my personal gratitude to the distinguished chairman emeritus of the Committee on International Relations who during his entire distinguished career in this body has been a powerful champion for human rights and against all forms of discrimination, the gentleman from New York (Mr. GILMAN).

Mr. Speaker, anti-Semitism in Europe has resulted in vicious attacks against Jews on an almost daily basis. Our resolution highlights some of these incredibly brutal, medieval incidents.

In France, Jewish organizations recorded more than 300 anti-Semitic attacks in the month of April alone: Desecration of Jewish cemeteries, physical and verbal assaults against Jewish children in playgrounds and on soccer fields, fire bombing and vandalizing of Jewish institutions.

In Belgium, the headquarters of the European Union, rabbis and other Jewish community leaders have been repeatedly assaulted, and worshipers have been attacked on their way to and from synagogues.

In England, dozens of threats and physical assaults against Jews have been reported in recent months. Just a short while ago, a suburban London synagogue was vandalized, religious artifacts were defaced, and crude swastikas were painted throughout the building.

In Germany, some 127 anti-Semitic incidents were reported during the first quarter of this year. In Berlin, a Jewish hospital was ransacked and Jews have been beaten.

Mr. Speaker, we cannot instantaneously change the attitudes of many Europeans who for a long period of time have been holding anti-Semitic views. A survey conducted by the Anti-Defamation League last month in Belgium, Denmark, France, Germany and the United Kingdom found that almost one-third of the residents of those countries harbor traditional anti-Semitic stereotypes.

The problem is clear, and the response must be equally clear. Our strong resolution today calls upon the governments of Europe to take all necessary steps to protect the safety and well-being of their Jewish communities and to cultivate an atmosphere of cooperation and reconciliation among their Jewish and non-Jewish residents.

There are positive and concrete steps that the European governments must take. Government officials cannot stop what people think; but they can set an example of tolerance, and they can act quickly and decisively to punish those who perpetrate racially- and religiously-based violence.

□ 1430

Government leaders can and must publicly and quickly condemn anti-Semitic incidents, and they should condemn them for what they are, unadulterated anti-Semitism, not merely spillover from the Middle East, as some would have it labeled. This merely obfuscates the issue.

Government leaders must insist that these incidents of racism and bigotry are quickly and carefully investigated and that their perpetrators are prosecuted to the fullest extent of the law. It is not sufficient or acceptable for government officials to tell Jews to refrain from wearing distinctive religious clothing, as happened in at least one European country. That puts the onus on the victim and not on the perpetrator.

Mr. Speaker, the distinguished head of the Anti-Defamation League made reference to a recent disturbing survey of anti-Semitism in Europe that was conducted by the Anti-Defamation League.

My good friend, Abe Foxman, National Director of the ADL, wrote an excellent article discussing the survey results and the very disturbing phenomenon of anti-Semitism in Europe entitled "Europe's Anti-Israel Excuse." Abe Foxman provides excellent insight into how the current Israeli-Palestinian conflict has led to the resurrection of widespread open anti-Semitism in Europe. As a Holocaust survivor, Mr. Foxman brings a unique perspective about the dangers of bigotry and prejudice, since he personally experienced the effects of widespread, unchallenged anti-Semitism in the 1940s.

With European governments turning a blind eye to anti-Semitism and dismissing attacks on Jews as merely a

reaction to the Israeli-Palestinian conflict, Mr. Foxman correctly observes that the future of Jewish life in Europe is in question.

Mr. Speaker, I will include for the RECORD Mr. Foxman's article in its entirety, and I urge all of my colleagues to give it the serious and thoughtful attention it deserves.

Mr. Speaker, I again commend my good friend and distinguished colleague, the gentleman from New York (Mr. CROWLEY), for bringing this resolution to our attention. I urge all of my colleagues to support it.

Mr. Speaker, I include the Abe Foxman article entitled "Europe's Anti-Israel Excuse" for the RECORD.

EUROPE'S ANTI-ISRAEL EXCUSE

(By Abraham H. Foxman)

Throughout history a constant barometer for judging the level of hate and exclusion vs. the level of freedom and democracy in any society has been anti-Semitism—how a country treats its Jewish citizens. Jews have been persecuted and delegitimized throughout history because of their perceived differences. Any society that can understand and accept Jews is typically more democratic, more open and accepting of "the other." This predictor has held true throughout the ages.

During the Holocaust, Jews and other minorities of Europe were dispatched to the camps and, ultimately, their deaths in an environment rife with anti-Semitism. Nearly 60 years later in a modern, democratic Europe, that presumably had shed itself of the legacy of that era, Jews have again come under attack. During the past year and a half a troubling epidemic of anti-Jewish hatred, not isolated to any one country or community, has produced a climate of intimidation and fear in the Jewish communities of Europe. Never, as a Holocaust survivor, did I believe we would witness another eruption of anti-Semitism of such magnitude, in Europe of all places. But the resiliency of anti-Semitism is unparalleled. It rears its ugly head in far-flung places, like Malaysia and Japan, where there are no Jews.

The Anti-Defamation League has been taking the pulse of anti-Semitism in America for more than 40 years. Never did I expect that we would have to do the same in Europe, given the history and our expectation that European anti-Semitism, while not eradicated, would be so marginal and so rejected that it would not be a major concern.

What we found in the countries we surveyed—Britain, France, Germany, Belgium and Denmark—was shocking and disturbing. Classical anti-Semitism, coupled with a new form fueled by anti-Israel sentiment, has become a potent and dangerous mix in countries with enormous Muslim and Arab populations.

More than 1 million Jews live in these five nations, and their communities are under siege. Who would have believed that we would see the burning of synagogues and attacks of Jewish students, rabbis, Jewish institutions and Jewish owned-property?

While European leaders have attempted to explain away these attacks as a fleeting response to events in the Middle East and not the barginger of a more insidious and deeply ingrained hatred, the attitudes of average Europeans paint a far different picture. Among the 2,500 people polled in late May and early June as part of our survey, 45 per-

cent admitted to their perception that Jews are more loyal to Israel than their own country, while 30 percent agreed with the statement that Jews have too much power in the business world. Perhaps most telling, 62 percent said they believe the outbreak of anti-Semitic violence in Europe is the result of anti-Israel sentiment, not anti-Jewish feeling. The contrariness of their own attitudes suggests that Europeans are loath to admit that hatred of Jews is making a comeback.

This view may make Europeans more comfortable in the face of what is happening in their countries, by suggesting that this time around, Jews are not the innocent victims but are themselves the victimizers in the Middle East. But the incredibly biased reaction against Israel seen in the poll—despite the fact that Israel under former prime minister Ehud Barak offered the Palestinians an independent state, and despite the fact that Palestinians have carried out a sustained campaign of terrorism against Israeli civilians—speaks to a repressed hostility to Jews that may not be socially acceptable in post-Holocaust Europe. Still, even with such constraints, some 30 percent of Europeans are not averse to expressing their anti-Semitic beliefs openly and directly.

Meanwhile, the Europeans have been tepid in their support for the U.S. war on terrorism and especially the Bush administration's efforts to broker an end to Israeli-Palestinian bloodshed. The Europeans seek to appease Saddam Hussein and other threats to the Western world while blaming Israel, not the Palestinian Authority, for the crisis. All while they minimize the extent of anti-Semitism in Europe and fail to immediately condemn horrific acts of harassment and vandalism. The message to Europe's burgeoning immigrant population is that there is a certain level of acceptance for intolerance.

It is time for Europe to assume responsibility for a situation of its own making. The combination of significant, openly expressed anti-Jewish bias together with irrational anti-Israel opinions creates a climate of great concern for the Jews of Europe. It is not surprising that in such an atmosphere Muslim residents feel free to attack Jewish students and religious institutions not because they are Israelis but because they are Jews. And it is not surprising that some European officials have begun telling Jewish leaders to advise their numbers to avoid public displays of Jewishness, instead of promising to protect their Jewish communities.

European leaders and officials must see what is going on for what it is—outright anti-Semitism—and condemn the revival of this ancient hatred that had its greatest manifestations on the same continent.

They must acknowledge that the anti-Israel vilification across Western Europe is unacceptable. The recent comparisons of Israelis to Nazis, to Jews as the executors of "massacres" and even as the killers of Christ—these do not fall into the category of legitimate criticism of a sovereign state. They create the very climate that questions the future of Jewish life in Europe.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 6 minutes to the gentleman from New Jersey (Mr. SMITH), who is Chairman of the Helsinki Commission and has recently led a delegation to Europe to discuss this very issue.

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for

yielding me time, and I rise in very strong support of H. Res. 393. I want to commend its sponsor and all of the Members who are taking part in this very important debate.

Mr. Speaker, yesterday, along with the gentleman from Maryland (Mr. CARDIN), who is on the floor and will be speaking momentarily, we returned back from the OSCE, the Organization for Security and Cooperation in Europe, Parliamentary Assembly.

Every year, parliamentarians from the 55 nations that comprise the OSCE meet to discuss issues of importance. This year the focus was on terrorism, but we made sure that a number of other issues, because certainly anti-Semitism is inextricably linked to terrorism, were raised in a very profound way.

Yesterday, two very historic and I think very vital things happened in this debate. I had the privilege of cochairing a historic meeting on anti-Semitism with a counterpart, a member of the German Bundestag, Professor Gert Weisskirchen, who is a member of the Parliament there, also a professor of applied sciences at the University of Heidelberg, and we heard from four very serious, very credible and very profound voices in this battle to wage against anti-Semitism.

We heard from Abraham Foxman, the National Director of the Anti-Defamation League, who gave a very impassioned but also very empirical speech, that is to say he backed it up with statistics, with information about this rising tide of anti-Semitism, not just in Europe, but in the United States and Canada as well.

He pointed out, for example, according to their data, 17 percent of Americans are showing real anti-Semitic beliefs, and the ugliness of it. Sadly, among Latinos and African Americans, it is about 35 percent. He pointed out in Europe, in the aggregate, the anti-Semitism was about 30 percent of the population.

Dr. Shimon Samuels also spoke, who is the Director of the Wiesenthal Center in Paris. He too gave a very impassioned and very documented talk. He made the point that the slippery slope from hate speech to hate crime is clear. Seventy-two hours after the close of the Durban hate-fest, its virulence struck at the strategic and financial centers of the United States. He pointed out, "If Durban was Mein Kampf, than 9/11 was Kristalnacht, a warning."

"What starts with the Jews is a measure, an alarm signalling impending danger for global stability. The new anti-Semitic alliance is bound up with anti-Americanism under the cover of so-called anti-globalization."

He also testified and said, "The Holocaust for 30 years acted as a protective Teflon against blatant anti-Semitic expression. That Teflon has eroded, and what was considered distasteful and po-

litically incorrect is becoming simply an opinion. But cocktail chatter at fine English dinners," he said, "can end as Molotov cocktails against synagogues."

"Political correctness is also eroding for others, as tolerance for multiculturalism gives way to populous voices in France, Italy, Austria, Denmark, Portugal and in the Netherlands. These countries' Jewish communities can be caught between the rock of radical Islamic violence and the hard place of a revitalized Holocaust-denying extreme right."

"Common cause," he concluded, "must be sought between the victimized minorities against extremism and fascism."

I would point out to my colleagues one of those who spoke pointed out, it was Professor Julius Schoeps, that he has found that people do not say "I am anti-Semitic;" they just say "I do not like Jews," a distinction without a difference, and, unfortunately, it is rearing itself in one ugly attack after another.

I would point out that in Berlin very recently, two New Jersey yeshiva students, after they left synagogue, they left prayer, there was an anti-American, anti-Israeli demonstration going on, and they were asked repeatedly, are you Jews? Are you Jews? And then the fists started coming their way and they were beaten right there in Berlin.

Let me finally say, Mr. Speaker, that yesterday we also passed a supplementary item at our OSCE Parliamentary Assembly. I was proud to be the principal sponsor. The gentleman from Maryland (Mr. CARDIN) offered a couple of strengthening amendments during the course of that debate, and we presented a united force, a U.S. force against anti-Semitism.

I would just point out this resolution now hopefully will act in concert with other expressions to wake up Europe. We cannot sit idly by. If we do not say anything, if we do not speak out, we allow the forces of hate to gain a further foothold. Again, that passed yesterday as well.

Mr. Speaker, I urge Members to become much more aware that this ugliness is rearing its ugly face, not just in the United States, but Canada, in Europe, and we have to put to an end to it. Hate speech and hate crimes go hand in hand.

Mr. Speaker, I urge support of the resolution.

UNITED STATES HELSINKI COMMISSION—ANTI-SEMITISM IN THE OSCE REGION

The Delegations of Germany and the United States will hold a side event to highlight the alarming escalation of anti-Semitic violence occurring throughout the OSCE region.

All Heads of Delegations have been invited to attend, as well as media and NGOs.

The United States delegation has introduced a supplementary item condemning anti-Semitic violence. The Resolution urges Parliamentary Assembly participants to speak out against anti-Semitism.

12:30 PM-2:00 PM, MONDAY, 8 JULY

The Representation of Lower Saxony In der Ministergaerten 10 10117 Berlin—approximately a 15-minute walk from the Bundestag and across from the Holocaust Memorial construction site.

Co-Hosts

Prof. Gert Weisskirchen, Member of the German Bundestag and Professor of Applied Cultural Sciences, Universität Heidelberg.

Representative Christopher H. Smith, Head of United States Delegation to the OSCE-PA and Co-Chairman of the United States Commission on Security and Cooperation in Europe.

Presenters

Mr. Abraham H. Foxman, National Director, Anti-Defamation League.

Dr. Shimon Samuels, Director for International Liaison Simon Wiesenthal Center—Paris.

Dr. Wolfgang Benz, Director of the Center for anti-Semitic Research at the Technical University of Berlin.

Dr. Julius Schoeps, Professor Modern History, University of Potsdam & Director of the Moses Mendelssohn Center for European-Jewish Studies.

SUPPLEMENTARY ITEM ON ANTI-SEMITIC VIOLENCE IN THE OSCE REGION FOR THE 11TH ANNUAL SESSION OF THE OSCE PARLIAMENTARY ASSEMBLY, BERLIN, 6-10 JULY 2002

[Principal sponsor: Mr. Christopher H. Smith, USA]

1. Recalling that the OSCE was the first organization to publicly achieve international condemnation of anti-Semitism through the crafting of the 1990 Copenhagen Concluding Document;

2. Noting that all participating States, as stated in the Copenhagen Concluding Document, commit to "unequivocally condemn" anti-Semitism and take effective measures to protect individuals from anti-Semitic violence;

3. Remembering the 1996 Lisbon Concluding Document, which highlights the OSCE's "comprehensive approach" to security, calls for "improvement in the implementation of all commitments in the human dimension, in particular with respect to human rights and fundamental freedoms," and urges participating States to address "acute problems," such as anti-Semitism;

4. Reaffirming the 1999 Charter for European Security, committing participating States to "counter such threats to security as violations of human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief and manifestations of intolerance, aggressive nationalism, racism, chauvinism, xenophobia and anti-Semitism;"

5. Recognizing that the scourge of anti-Semitism is not unique to any one country, and calls for steadfast perseverance by all participating States;

The OSCE Parliamentary Assembly:

6. Unequivocally condemns the alarming escalation of anti-Semitic violence throughout the OSCE region;

7. Voices deep concern over the recent escalation in anti-Semitic violence, as individuals of the Judaic faith and Jewish cultural properties have suffered attacks in many OSCE participating States;

8. Recognizes the danger of anti-Semitic violence to European security, especially in light of the trend of increasing violence and attacks region wide;

9. Declares that violence against Jews and other manifestations of intolerance will

never be justified by international developments or political issues, and that it obstructs democracy, pluralism, and peace;

10. Urges all States to make public statements recognizing violence against Jews and Jewish cultural properties as anti-Semitic, as well as to issue strong, public declarations condemning the depredations;

11. Calls upon participating States to ensure aggressive law enforcement by local and national authorities, including thorough investigation of anti-Semitic criminal acts, apprehension of perpetrators, initiation of appropriate criminal prosecutions and judicial proceedings;

12. Urges participating States to bolster the importance of combating anti-Semitism by holding a follow-up seminar or human dimension meeting that explores effective measures to prevent anti-Semitism, and to ensure that their laws, regulations, practices and policies confirm with relevant OSCE commitments on anti-Semitism; and

13. Encourages all delegates to the Parliamentary Assembly to vocally and unconditionally condemn manifestations of anti-Semitic violence in their respective countries and at all regional and international fora.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman for his leadership on this issue and for taking the issue to the OSCE. I thank the gentleman very much.

Mr. LANTOS. Mr. Speaker, I am very pleased to yield 6 minutes to the gentleman from New York (Mr. CROWLEY), my good friend, our distinguished colleague, and the author of this important resolution.

Mr. CROWLEY. Mr. Speaker, I rise today in support of my resolution, H. Res. 393, which calls on European governments to address the rise of anti-Semitism throughout the continent of Europe. I introduced this bill because I am concerned that Europe is on the verge of another Kristalnacht. Anti-Semitism, accompanied by, in many cases by violence, is at the highest levels since the horrors of World War II. According to the British Daily Telegraph, more than 2,000 anti-Semitic incidents were reported throughout the European Union in the last 10 months, more than 18 every single day.

As I have listened very intently to my good friend from New Jersey who just came back from Europe and talking about the rise of anti-Semitism, not only in Europe, but in the United States and Canada, it is ugly wherever it raises its head.

We must keep in mind, we do not share a similar history when it comes to dealing with the issue of anti-Semitism. We all know what the history of Europe has been.

Among the most recent incidents on March 30, two yeshiva students from New Jersey were brutally beaten on the streets of Berlin in an anti-Semitic attack.

On April 11, 15 hooded attackers assaulted a Jewish teenage soccer team in Bondy, France, with sticks and

metal bars while yelling anti-Semitic remarks.

On April 27, a synagogue in a London suburb was desecrated by vandals, who painted swastikas on the walls and destroyed religious articles.

Two synagogues in Belgium were firebombed earlier this year.

Also in Belgium, two Hasidic Jews in Antwerp were attacked ferociously as a chorus of teenage attackers spat on them, chanting "dirty Jew" and praising Hitler. One of the two men had just emerged from the hospital a few days later when his 10-year-old daughter was also attacked by assailants chanting a chorus of anti-Semitic remarks. The girl now walks to and from school with an escort.

Anti-Semitism is clearly on the rise. The French government reported 320 anti-Semitic incidents in 2001, almost one per day. But this year French Jewish organizations reported over 300 incidents in the month of April alone.

Jewish cemeteries have been vandalized, a kosher butcher shop near Toulouse was the target of a drive-by shooting, and the Or Aviv Synagogue in Marseille was burned to the ground by arsonists during the Passover holiday.

Not every European government faces a rash of anti-Semitism. Norway, for example, has experienced few hate crimes directed at Jews, and Prime Minister Bondevik made it clear his government will forcefully prosecute any anti-Semitic attacks.

Other governments have taken only minor steps to address anti-Semitism. France, for example, has increased the police presence at major Jewish sites in the aftermath of several attacks. They just this week established a 24-hour hotline for the Jewish community, and they have also appointed a liaison between the French government and the French Jewish community.

But such steps are few and far between, and, in my opinion, do not go far enough. European governments have done little to punish the perpetrators of such attacks, or, more importantly, they have done little to foster an atmosphere in which Jews and other minority groups can live free from harassment as normal members of their societies.

Indeed, several senior European officials have made their anti-Semitism clear and demonstrated that their bigotry affects government policies. Extremist xenophobes like Haider in Austria and Le Pen in France have made hatred and intolerance the basis of their party's political platforms. Le Pen made it into a runoff race for the presidency of France. While he did not win, his base of support in France remains strong.

France no longer appears to be guided by the 1789 Declaration of the Rights of Man, the foundation for French democracy, which called for

equal rights for all. Daniel Bernard, the French ambassador in London, recently referred to Israel with an obscenity when he attributed all the troubles in the Middle East to Israel. When his remarks were reported in the press, Ambassador Bernard refused to apologize and the foreign ministry refused to censure him.

Bernard's remarks, made at a fashionable dinner party in London, demonstrate that the World Jewish Congress was correct when it asserted that anti-Semitism is no longer considered unacceptable in European polite society. European governments must demonstrate that such attitudes are simply not acceptable.

In the years before World War II, the fabric of European society was torn apart by the official anti-Semitism of Nazi Germany and its puppet governments in France, Austria, Poland and elsewhere.

□ 1445

Now, more than 60 years later, European governments are once again doing little to discourage intolerance and hatred directed at Jews and other minority groups. When their rights are trampled upon, European governments must step up and act in order to protect all citizens. The failure to properly condemn and control these attacks makes the governments of Europe complicit in them.

Before I close, I would like to thank a number of groups for their work in support of this resolution, particularly the Orthodox Union, the National Council of Soviet Jewry, NORPAC, and Harriet Mandel and her colleagues in the Jewish Community Relations Council of New York.

I would also like to thank the ranking member and the chairman of the committee, as well as the chair of the subcommittee, who waived the rules to allow this to come to the floor.

I want to thank the Speaker of the House for bringing this important resolution to us today. But most especially, Mr. Speaker, I would like to thank my fellow colleague from New York (Mr. GILMAN), chairman emeritus of the Committee on International Relations, for all of his hard work throughout the years, especially on issues pertaining to the Middle East and whose Jewish constituents as well as all of the constituents that he represents in New York, and all of New York.

I would say to the gentleman that we are greatly going to miss the gentleman when he retires from the House of Representatives. I know that many people will speak the gentleman's praises in days to come, but I want to tell the gentleman what a great honor it has been to serve with the gentleman on this floor.

Mr. GILMAN. Mr. Speaker, I want to thank the gentleman from New York

(Mr. CROWLEY), not only for his kind words, but for his leadership in bringing this measure to the floor, working out all of the compromises that were needed in order to make this important measure possible. I thank the gentleman for his hard work on this measure.

Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from Maryland (Mrs. MORELLA), who has been a staunch supporter of human rights throughout the world and especially in fighting anti-Semitism.

Mrs. MORELLA. Mr. Speaker, I rise in support of H. Res. 393, expressing concern about the rise of anti-Semitism in Europe. I want to thank the gentleman from New York (Mr. GILMAN) for yielding me this time.

I echo and associate myself with the comments of the gentleman from New York (Mr. CROWLEY) with regard to the wonderful service the gentleman from New York (Mr. GILMAN) has provided and the deep commitment he has demonstrated and the deep friendship he has had for us on both sides of the aisle. I want to thank the gentleman from New York (Mr. CROWLEY) for introducing this legislation. I also want to thank the gentleman from California (Mr. LANTOS), as well as the gentleman from New York (Mr. GILMAN) and the others who have helped to bring this very important resolution to the floor today.

As Americans, we value our diversity, and we celebrate our unity. I hope that this resolution will remind European leaders that ignoring the practice of hatred is as if condoning it.

Anti-Semitism is one of the oldest forms of hatred and it is, unfortunately, experiencing a resurgence, crossing boundaries of every type, geographical, national, political, religious and cultural. We see it in the proliferation of anti-Jewish media expressing vicious stereotyping, conspiracy theories, and even denial of the Holocaust. Its messages of hate have influenced Muslim immigrants in France to commit daily anti-Jewish acts and have overpowered the Conference on Racism in Durban with anti-Israel, anti-Zionist, anti-Jewish resolutions and statements.

Not even 60 years have passed since the murder of 6 million Jews in the Holocaust, and once again, we see anti-Semitism coming back strongly in Europe. This time it is fueled by anti-Semitic campaigns being spread throughout the Arab world and spilling over through some immigrants and the new media into France, England, Belgium and other countries.

Daily attacks on Jews and their institutions are taking place in France while the government looks the other way. Leading French media are filled with stories slanted against Israel, further heating up a climate in which leadership of the Jewish community is

virtually alone, fighting anti-Semitic attacks.

European leaders have continually avoided condemning the tactic of suicide bombing in Israel, which lends support to the acts of hatred against Jews in their own nations. Our message to them is clear: Join the United States in working toward an agreement in the Middle East that will lead to peace with security and independence for Israelis and Palestinians.

Mr. GILMAN. Mr. Speaker, I want to thank the gentlewoman from Maryland (Mrs. MORELLA) for her poignant remarks in support of this resolution, and I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY), my distinguished colleague.

Ms. WOOLSEY. Mr. Speaker, I rise today in support of H. Res. 393, which denounces the rise in anti-Semitism in Europe. This Congress must condemn these and any violent acts that are hurting families and communities, both here and abroad.

According to an annual study by a Tel Aviv university, anti-Semitic acts rose sharply around the world after the September 11 attacks. The study reveals some of the worst anti-Semitic days since the end of World War II. Another recent survey revealed that 30 percent of Europeans harbored traditional anti-Semitic stereotypes. Congress must condemn these acts by passing H. Res. 393.

But, Mr. Speaker, we must also make it a top priority to stop hate in our own country. Anti-Semitism is not limited to Europe. The Anti-Defamation League reported that this year, here in the United States, anti-Jewish incidents have increased 11 percent.

Congress must make it clear that there is no room for personal attacks and bigotry in America. That is why we need to pass H. Res. 393 and the bill of the gentleman from Michigan (Mr. CONYERS), H.R. 1343, The Local Law Enforcement Hate Crimes Prevention Act, to help prosecute and prevent crimes motivated by hate across our own Nation.

The people of the United States must set an example for the world by expressing our differences without resorting to violence against our neighbors. In the United States, freedom of speech is a fundamental right, a right to be used for causes that citizens are passionate over, but not for causes that damage another's right to a different opinion, a different religion, a different lifestyle.

This Congress has the responsibility to combat unnecessary hatred and to lead the charge. Together we can make a statement by passing H. Res. 393, condemning anti-Semitism.

Mr. GILMAN. Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I am very pleased to yield 2 minutes to the gen-

tleman from Maryland (Mr. CARDIN), my good friend and distinguished colleague.

Mr. CARDIN. Mr. Speaker, first, let me thank the gentleman from California (Mr. LANTOS) for his entire career of fighting prejudice and bias wherever it can be found in our communities.

I also want to thank the gentleman from New York (Mr. GILMAN). The gentleman will be deeply missed in this body. We thank him for his leadership on behalf of all of the people of this Nation.

I want to thank the gentleman from New Jersey (Mr. SMITH), my good friend, for his leadership in the Helsinki process. He took this resolution to Europe and we were able to get unanimous support among our fellow parliamentarians to speak out and develop an action plan against anti-Semitism.

I thank the gentleman from New York (Mr. CROWLEY) for bringing this resolution forward; I thank him on behalf of all of us for stating what I would hope would be unanimously supported by this body.

There is no question that anti-Semitic activities are on the increase in every state in Europe. We need to do more than just speak out; we need to develop an action plan, and that is what we were successful in getting in our visit on the OSCE Parliamentary Assembly during this past weekend. We have developed an action plan and will continue to monitor it to make it clear that international events cannot be used to justify anti-Semitic activities; that we need to work with the leadership, not just among parliamentarians, but the leadership in our communities from church groups and from educators. We have to work with children in our schools, and we have to deal with property restitution issues to make sure that people are fairly compensated for property that was wrongfully taken.

In short, Mr. Speaker, we need a total plan to make sure the world understands that we will not tolerate anti-Semitic activities, period, the end.

So I very much applaud the efforts on this resolution. It is important that this body speaks out, but it is also important that we follow it with action in all of the areas that we have mentioned.

Mr. GILMAN. Mr. Speaker, I just want to thank the gentleman from Maryland for his kind words, but most important, for his willingness to go to Berlin, along with the gentleman from New Jersey (Mr. SMITH) and to bring this resolution to their attention. We thank him for his efforts.

Mr. LANTOS. Mr. Speaker, I am delighted to yield 2 minutes to the gentleman from Pennsylvania (Mr. HOFFEL), my good friend, an indefatigable fighter for human rights in all of its manifestations.

Mr. HOEFFEL. Mr. Speaker, I thank the gentleman for yielding me this time and for his kind remarks, and also for his many years of leadership on this issue.

Also, I want to salute the gentleman from New York (Mr. GILMAN) for a career that we should all emulate and follow in terms of human rights and for justice around the world.

I want to compliment the gentleman from New York (Mr. CROWLEY) for bringing this resolution to the floor, denouncing anti-Semitism wherever it is found in Europe or this country.

I certainly want to acknowledge, as others have, the great leadership of the gentleman from New Jersey (Mr. SMITH), who led our delegation this past weekend to the Parliamentary Assembly of the Organization for Security and Cooperation in Europe.

I want to share a little with my colleagues the work led by the gentleman from New Jersey (Mr. SMITH) and joined by all of the American delegates. We were proud to do so, in bringing this challenge of anti-Semitism and the need to denounce anti-Semitism to the OSCE and, hopefully, to all of the governments of Europe. We made an historic effort, through the leadership of the gentleman from New Jersey (Mr. SMITH) leading the American delegation and the leadership of Dr. Gert Weisskirchen, a German parliamentarian and the leader of his delegation, in a joint delegation assembly to talk about the evils of anti-Semitism, to bring forward four experts to talk to all of us about the need to speak out and denounce anti-Semitism. This was the first time that the American delegation and the German delegation had ever met in a separate event, invited the press in, invited experts in to talk to us.

I wish, I say to the gentleman from New Jersey (Mr. SMITH) and the gentleman from Maryland (Mr. CARDIN), I wish all of our colleagues could have heard what we heard from Abraham Foxman, the executive director of the Anti-Defamation League, in which he talked about the need to speak out to denounce anti-Semitism. He talked about the events in Germany recently, where after a number of events aimed against Jews, just for being Jews, the official advice to the Jewish community in Germany is to stop wearing visible signs of their faith.

The SPEAKER pro tempore (Mr. WALDEN of Oregon). The time of the gentleman from California (Mr. LANTOS) has expired.

Mr. GILMAN. Mr. Speaker, I am pleased to yield an additional 1 minute to the gentleman from Pennsylvania (Mr. HOEFFEL.)

Mr. HOEFFEL. Mr. Speaker, I thank the gentleman from New York (Mr. GILMAN) very kindly.

I simply want to say, what kind of advice is that? How can anybody say,

"avoid wearing visible signs of your faith," as if that is the way to deal with the hatred that is being directed against Jews in Germany and across Europe? The way to deal with it, as Mr. Foxman pointed out, is to speak out, to speak out loudly, to denounce it, to make sure that everybody knows how unacceptable that hatred and intolerance is.

We will win this victory if we step forward, and if people around the world step forward and say that anti-Semitism is un-American, that it is un-German, that it is un-French, that it is un-Ukrainian, that it is against the basic principles of a civilized people wherever it happens around the world.

Mr. Speaker, that is the fight we are joining. That is what the gentleman from New York (Mr. GILMAN) has done for 20-some years, and that is what the whole career of the gentleman from California (Mr. LANTOS) has been about. That is what my friend, the gentleman from New York (Mr. CROWLEY) is fighting for today, and I am honored to join my colleagues in that fight.

Mr. LANTOS. Mr. Speaker, I ask unanimous consent that each side be granted an additional 3 minutes.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 3 additional minutes to the gentleman from California (Mr. LANTOS).

The SPEAKER pro tempore. Without objection, the gentleman from California will control 3 additional minutes.

There was no objection.

Mr. LANTOS. Mr. Speaker, I thank the gentleman from New York.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

It is literally unthinkable that just 50 years after the Holocaust this body should be compelled to take up this issue. It speaks very poorly of the educational process that has unfolded in Europe in the last two generations, that this most ancient hatred, based on prejudice and ignorance, should again be sweeping the continent.

□ 1500

Several strains provide a confluence as to why they are up against this problem today. The first and perhaps most important one is the old church-based anti-Semitism. Churches have been guilty for centuries of fomenting anti-Semitism; and while some voices have spoken for acceptance and tolerance, important segments of the churches have contributed to the continuation of this sickening spectacle of religious hate.

We also see the upsurge of skinhead and neo-Nazi movements of direct followers of what was the dominant theme in Germany in the 1930's and early 40's. The skinhead and neo-Nazi component of this new wave of anti-Semitism must be fought by all European governments.

We have a new element. The extremist Islamic and Arab populations of Europe are contributing powerfully to anti-Semitism, and it is incumbent upon the governments of Europe to fight these forces.

Finally, the perpetually misguided European left must recognize that its values and priorities are all upside down. They view the small State of Israel, a victim of a wave of suicide bombers and terrorist activities, as the aggressive Goliath. The time is long overdue for the misguided European left to wake up and recognize the realities of the Middle East situation.

These are the four strains: church-based anti-Semitism; neo-Nazi skinhead anti-Semitism; the anti-Semitism emanating from the Muslim and Arab population in Europe; and, finally, the misguided European left which mistakes the victim for the aggressor. This is a gigantic task that all men and women in Europe of goodwill and decency must unite to defeat.

I urge all of my colleagues to vote for this resolution as an expression of the conscience of this body and the American people.

Mr. Speaker, I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

I want to thank my colleagues, especially the gentleman from New York (Mr. CROWLEY), the sponsor of this important measure, and for his participation in the debate, as well as the gentleman from California (Mr. LANTOS), ranking member of our committee, for his eloquent remarks. And I hope that the European governments to whom this resolution is addressed will review the content of our debate today and draw the appropriate conclusions and, more importantly, take the required actions to stop the flow of anti-Semitism throughout Europe.

Mr. WAXMAN. Mr. Speaker, I rise in strong support of H. Res. 393.

For months, vicious attacks against Jews across Europe have continued almost on a daily basis. It has been an issue of such great concern to me that last month I sent a letter signed by 140 of my colleagues urging EU Secretary-General Javier Solana to take action against this dangerous trend.

In France, Jewish organizations recorded more than 300 anti-Semitic attacks in the month of April alone. Jewish cemeteries have been desecrated, Jewish children have been verbally and physically assaulted on playgrounds and soccer fields, and Jewish institutions have been firebombed and vandalized. In February, yellow stars of David were painted on Jewish shop windows in Paris. In March, there was a drive-by shooting of a kosher butcher shop near Toulouse. And, in the middle of Passover, the Or Aviv Synagogue in Marseilles was burned to the ground.

In Belgium, the seat of the European Union, Rabbis and community leaders have been assaulted, as have synagogue worshipers, on their way to and from services.

In England, dozens of threats and physical assaults on Jews have been reported in recent months, and in April, a vicious attack on a suburban London synagogue left windows smashed, religious artifacts defaced, and crude swastikas painted everywhere.

The situation has only been made worse by the failure of these countries to forcefully condemn these hate crimes and vigorously prosecute their perpetrators.

European leaders, including EU representatives, have dismissed the severity of the problem, blaming the Middle East conflict and Muslim demographics instead of the Arab and European media outlets that have fed their fervor by demonizing Jews and justifying suicide murders by Palestinian terrorists.

The European Convention for the Protection of Human Rights and Fundamental Freedoms espouses the basic rights of all Europeans to liberty, security, freedom of religion, and freedom from discrimination. Yet, no EU institution has made any effort to uphold these rights for Jewish minorities.

It is time for the European nations to take a bold unified stance condemning the re-emergence of anti-Semitism in Europe.

It is time for the United Nations to take action and reverse the virulent wave of anti-Semitic attacks unleashed last year at the U.N. Conference on Racism, where delegates sought to equate Zionism and racism and insisted that the Holocaust be written with a lower case "h" to lessen the magnitude of the tragedy.

Hasn't the horror of World War II taught us the danger of anti-Semitism, which seeks to dehumanize Jews and make them legitimate targets for violence? Hasn't the abomination of suicide murder shown us what happens when hatred devalues human life to create targets for terrorism?

The United States and all civilized nations just not be silent in the face of these threats. We must lead the fight to condemn anti-Semitism in Europe, the former Soviet Union, and everywhere it emerges.

I urge all of my colleagues to support H. Res. 393.

Mr. FERGUSON. Mr. Speaker, I am proud to join over 70 of my House colleagues in co-sponsoring H. Res. 393, a resolution condemning the rise of anti-Semitism in Europe. The disturbing trend of hatred, intolerance and cruelty on the continent of Europe demands our immediate attention and action.

We are all aware of the horrors faced by Jewish people in Europe a little more than a half century ago. For this reason, we must keep Europe's troubled history in mind and scrutinize the numerous anti-Semitic attacks on Jews in Europe over the last 18 months before these sentiments are allowed to escalate to more disturbing levels. It is wise not to ignore history for fear of being doomed to repeat it.

Of the many despicable attacks that have occurred over the past 18 months, I would like to single out the brutal beating in Berlin, Germany of two Yeshiva students from my home state of New Jersey. These students traveled to Germany in the youthful pursuit of an education and the desire to exchange ideas with another culture. They did not envision being singled out for their religion and brutally beat-

en by bigoted thugs. We must not ignore this event and the many that have signaled a rise in anti-Semitism across the European continent.

We are at the birth of a new and uncertain century. Unfortunately, we have already seen a rise in narrow-mined hatred, evidenced by the horrific terror attacks on our Nation on September 11th. As a freethinking and compassionate people, we must insist that our allies follow the American ideals of tolerance and understanding. At the very least, we must speak out to protect the basic human rights of people who face persecution based on their religion. Therefore, I urge our European allies to draw their attention to the rise in anti-Semitism on their continent and take whatever steps necessary to curb this disturbing trend.

Mr. ACKERMAN. Mr. Speaker, I rise in strong support of H. Res. 393, and would like first of all to thank my colleague from New York, Mr. CROWLEY for his initiative in bringing this important resolution to the attention of the House. I also want to thank Chairman HYDE and Ranking Member LANTOS for their support of Mr. CROWLEY's resolution.

Mr. Speaker, every year the House considers a great number of resolutions on a vast array of topics. I'd like to suggest that the resolution under consideration right now is the perfect example of what a House resolution ought to be.

H. Res. 393 is concise, timely, and most of all, important. The topic under debate today is the resurgence of a form of hatefulness that we all hoped would never again emerge in Europe. Anti-Semitism has a long and unfortunate history in Europe and its re-emergence in the past few months should serve not only as a warning that hatred and bigotry are always lurking in the margins of society, but also as a call to arms.

Mr. Speaker, on September 11, 2001, our Nation and my city of New York especially, were attacked by the forces of ignorance and intolerance, the forces of hatred and exclusion, the forces of irrationality and brutality. The spirit which animated the men who attacked our Nation is the same as that which motivates the anti-Semitism of the past, the present and, we may expect, of the future as well.

Pathological intolerance is nothing new, but it has, unfortunately, through technology, acquired new tools capable of wreaking massive violence and havoc. In the 1940s, the resources of an entire nation were put to the task of annihilating Europe's Jews. Today, unfortunately we see their spiritual descendants using different tools: car bombs, gas cylinders, light boats and even airplanes. But the mission of hate is the same and the results just as ghastly.

Today, Europe is again facing a tide of hatred against Jews. Again we see Europe's synagogues being defiled, burned and vandalized, again we see Europe's Jews being attacked in the streets, and most disconcerting of all, again we see Europe's governments telling us not to worry, that everything will be all right, that this is a passing phase, that this is the work of a disaffected few.

Mr. Speaker, I don't buy that. And more importantly, today, in passing this vital resolution, the entire Congress is refusing to accept Europe's invitation to acquiescence and passivity.

Historically in Europe, Mr. Speaker, Jews have been the proverbial "canary in the coal mine," the group whose welfare, acceptance and safety can be seen as a gauge for the security of all religious and ethnic minorities. And today, Europe's Jews are again in jeopardy. How we confront this awful reality is the test of the pledge our Nation made upon discovery of Hitler's extermination camps in 1945: Never again.

Today, with the adoption of this critical resolution demanding that European nations live up to their responsibilities for the protection of all their citizens, I am proud to say we are living up to that great historical commitment. Again, I want to commend Mr. CROWLEY for authoring this resolution, and strongly urge its passage by the House.

Mrs. MALONEY of New York. Mr. Speaker, I rise in strong support of this resolution.

The statue of Alfred Dreyfus that stands in Paris had the words "dirty Jew" painted on it earlier this year.

Dreyfus was a Jewish Captain in the French army before he was sent to jail on trumped-up charges and fabricated evidence. He served eleven years and survived several attempted cover-ups by the French military before his innocence was universally recognized. He was finally released in 1906.

To many people, including the father of Modern Zionism Theodore Herzl, Dreyfus is the symbol of the persecuted Jew and anti-Semitism.

For all those who remember history, the fact that this statue was the target of anti-Semitism in today's France is horribly disturbing. Unfortunately, France is not alone. Belgium, Britain, Italy, Germany, Slovakia, Ukraine, and Greece have all experienced anti-Semitic incidents since the upswing in anti-Semitism began.

In Germany, police have warned Jews that wearing yarmulkas, the traditional Jewish head coverings, could cause them to be targets of attacks.

Last April, the Simon Wiesenthal Center released its first ever travel advisory, urging Jews to exercise caution when traveling to France or Belgium.

It has been only sixty years since the defeat of Hitler and now swastikas have reappeared in Europe. They can be found sprayed on Jewish schools, drawn on gravestones in a desecrated Jewish cemetery, painted on the wall of a synagogue, stitched on the flags of anti-Israel demonstrators, and in the hearts and minds of the people who attack rabbinical students and Jewish athletes.

The governments of Europe must protect their citizens. They must work actively to stop the increase in anti-Semitic incidents, and denounce anti-Semitic remarks thinly veiled as anti-Israel. Only then can progress be made toward the true goal: an atmosphere of co-operation and reconciliation among the Jewish and non-Jewish citizens of Europe.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PENCE). The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the resolution, H. Res. 393, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

MOTION TO INSTRUCT CONFEREES ON H.R. 3295, HELP AMERICA VOTE ACT OF 2001

Mr. LANGEVIN. Mr. Speaker, I offer a motion to instruct conferees on H.R. 3295.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. LANGEVIN moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendments to the bill H.R. 3295 be instructed to recede from disagreement with the provisions contained in subparagraphs (A) and (B) of section 101(a)(3) of the Senate amendment to the House bill (relating to the accessibility of voting systems for individuals with disabilities).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Rhode Island (Mr. LANGEVIN) and the gentleman from Ohio (Mr. NEY) will each be recognized for 30 minutes.

The Chair recognizes the gentleman from Rhode Island (Mr. LANGEVIN).

Mr. LANGEVIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I offer this motion to instruct on H.R. 3295, the Help America Vote Act of 2001, in order to raise awareness of a significant shortcoming in our Nation's elections: the disenfranchisement of disabled voters due to inaccessible voting equipment.

I wish to first dedicate this motion to the memory of my good friend, Justin Dart, Jr., one of the strongest voices for the disabled community, who died June 22 at the age of 71. Justin, often called the Father of the Americans with Disabilities Act, leaves a great legacy of activism and inspires us all with his vision of an America in which every person can reach his or her full potential and actively contribute to society. Millions of people's lives have been improved by his good deeds, and it is in his honor that I offer this motion today.

I first want to thank my good friend, the gentleman from Ohio (Mr. NEY), for his inclusive and bipartisan efforts to improve our Nation's elections, and for being so receptive to the needs of disabled voters. We owe him a debt of gratitude.

I also owe a great deal of gratitude to the gentleman from Maryland (Mr. HOYER) and the gentleman from Michigan (Mr. CONYERS) for their support of

this motion and for their lifelong commitment to civil rights. We would not be where we are today without them.

Finally, I thank my friend and colleague, the gentleman from Minnesota (Mr. RAMSTAD), for his advocacy of the rights of the disabled and for joining us today in this effort to ensure that people with disabilities have full access to voting.

Mr. Speaker, the low voting participation rate among the disabled is a pervasive and well-documented problem. Yet the Nation has made little progress in addressing its causes. The inaccessibility of polling places and election equipment is one of the major factors in this unfortunate phenomenon. Shockingly, the General Accounting Office found that 84 percent of our Nation's polling places were inaccessible to the physically disabled in 2000. Blind voters often cannot cast a vote without assistance, the visually impaired may not be able to decipher small print or confusing ballots, and people in wheelchairs may have difficulty maneuvering in older voting booths.

Just as a personal story to lend passion to this argument, it was only just a few short years ago that I myself never knew the privilege of voting independently, in privacy, in a voting booth. Rhode Island had the oldest voting machines in the country, lever machines, in which I would have to go in and could not possibly reach the levers myself; I would always have to take someone in. Though I was grateful for the assistance, it certainly deprived me of the right to a secret and independent vote. Many others know the same story.

As a result of these problems, only 41 percent of people with disabilities voted in November of 2000, in the November of 2000 elections, far below the national average. With nearly one in five Americans having some level of disability, and approximately 35 million Americans over the age of 65, we must act now to ensure that our voting system is accessible to all Americans.

Improving access to voting has been an overarching goal of my work in public service. As Secretary of State of Rhode Island, I was the chief architect of a plan to upgrade the State's voting system and equipment. The replacement of outdated lever machines with electronic equipment and Braille and tactile ballots helped increase voter turnout and significantly reduced chances of error.

The entire upgrade was statewide and cost effective, and Rhode Island is now widely recognized as having one of the most modern and accessible voting systems in the United States.

In Congress, I have continued to emphasize the importance of voting access. In March 2001, I joined former Secretaries of State in Congress in hosting a voting technology dem-

onstration in which we highlighted accessible election equipment. Not only did this event illustrate the many types of affordable and accessible equipment, it also offered several people with disabilities the opportunity to use a voting machine for the very first time in their lives. The technology exists to address the disenfranchisement of disabled voters, and Congress must encourage its use.

For this reason, I am pleased to offer this motion to instruct in support of the Senate's accessible voting equipment provisions. The Senate's version of H.R. 3295 requires voting systems used in Federal elections to be accessible for individuals with disabilities, including the blind and visually impaired, in a manner that provides privacy and independence.

The Senate's language also requires that each polling place have at least one voting system equipped for individuals with disabilities. Guaranteeing voting equipment in all polling places is one of the disability community's top priorities in election reform, and I am pleased to announce that this motion to instruct has been endorsed by 26 disability advocacy groups.

One major component of election reform must be to provide the greatest possible access to voting for all eligible citizens, and the Senate's accessibility language is a major step toward this noble goal.

I urge my colleagues to support this motion to instruct so that all Americans can exercise their fundamental right to participate in our democracy by guaranteeing them the right to vote.

Mr. Speaker, I reserve the balance of my time.

Mr. NEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just wanted to say today that I agree with the gentleman from Rhode Island (Mr. LANGEVIN) that we need to take steps to improve access for the disabled to our Nation's election systems. The gentleman from Maryland (Mr. HOYER), our ranking member and a partner on this bill, and I worked closely with our colleague, the gentleman from Rhode Island, during the drafting of this bill, the Help America Vote Act.

I am grateful for his input and support during that process, so I want to thank the gentleman from Rhode Island (Mr. LANGEVIN) for all his hard work and efforts on this piece of legislation before us.

The bill we passed in the House by an overwhelming margin last December included a number of provisions to improve access for persons who have a form of disability and authorize funds to help make those improvements happen. I was pleased to receive the endorsement of the National Federation of the Blind for our bill, the bill that the gentleman from Rhode Island (Mr.

LANGEVIN) and the gentleman from Maryland (Mr. HOYER) and many other Members on both sides of the aisle, the gentleman from Missouri (Mr. BLUNT) and others, supported; and we had that endorsement for the bill, and we were very, very appreciative of that.

Just yesterday I was honored to address the National Federation of the Blind's convention in Louisville on precisely this topic. There is no question that no matter what the form of disability, in this case it was a convention of the National Federation of the Blind, people have a right to vote in secrecy and in privacy. In this case, secrecy is not a bad word; secrecy is something people have a right to do with their ballots, and should have the right to do.

As the work on this bill continues in the conference committee, Mr. Speaker, I am confident we are going to produce a final product. It will be a final product that makes great strides in improving access to the voting process for the citizens in this country.

While I will support the gentleman's motion, and I do fully support it, and I appreciate the gentleman's work on this, I want to make just a couple of points.

First, I do say that it is my belief that this Congress should provide funding that will enable States to meet the requirements it imposes. That is not only for this issue. It is for other issues, provisional voting, central database, all the other good provisions that are contained within this bill and many good provisions, frankly, that are also in the Senate bill.

But I always like to mention the monetary side to this, too, because far too often we here in Congress like to enact requirements and pat ourselves on the back for all the good we have done while sending the bill to someone else. Now, I say that because I am a creature of the Ohio legislature and the Ohio House and Senate, so it used to be my course of business to complain about Washington, D.C. sending down mandates or something of that nature and then not providing the money.

Now, the bill we crafted together has minimum requirements; but they are requirements enforced by Justice, and good requirements are going to ensure that an illegal vote does not cancel out a true vote. People have the right to vote, and we back all of those provisions.

I want to make sure that we always stress that if we are going to impose any requirements on the States, we should provide funds to make it possible for those requirements to be met. My support for this motion and all the language, frankly, contained in the House bill and in the Senate bill dealing with any provision, as I mentioned before, provisional voting, central database, is always going to be conditioned on the fact that we have to have the money.

I know that my colleague, the gentleman from Maryland (Mr. HOYER), agrees with that. We have to continue through this whole process. As we get the language that makes this bill a great bill to send to the President, we have to continue to push also for the money so locals have some help in implementing. Otherwise, it is not going to be implemented in the way that we need it done.

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Second, in keeping with the requirements of the Americans with Disabilities Act, I think we should be requiring States to make also reasonable accommodations. One thing we need to talk about down the road here too in the next couple of weeks are certain rural areas where we want to make sure that if provisions are adopted that we in fact do not shut people out of voting. Because sometimes the rural areas, and we have used this in the Committee on Energy and Commerce many times as we have talked, in rural areas there are places where people vote, for example, and if you try to move them to another area you would have to involve buses to take people to other places to vote. In my district, for example, we have very few taxis or public bus systems. So looking at the rural area, still protecting people's rights is going to be something I know that we can talk definitely about.

Again, let me make it clear that I expect when this conference is completed, and I expect this conference to be completed hopefully very soon, the changes that will ensue will improve access for the disabled community and ensure, I will use the word "ensure," that blind voters are able to vote privately and independently.

One other point I want to add about the technology, too. I know there are certain companies that have actually publicly stated that they can equip every machine, and I hope that as this bill progresses and people are buying machines across this country to update and put integrity into the voting process, that the machines are equipped; the hope is the technology comes through and that en masse machines are equipped.

I look forward to working with the gentleman from Rhode Island (Mr. LANGEVIN) and my friend from Maryland (Mr. HOYER), who I mentioned earlier, to secure the adequate funding but also to enact a conference report that absolutely improves access for the disabled community across the United States.

Mr. Speaker, I reserve the balance of my time.

Mr. LANGEVIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again, I thank the chairman for his help and support on this issue. We would not be here on the election reform without his diligent leadership, and I thank the gentleman.

Earlier in my statement, Mr. Speaker, I acknowledged and expressed my gratitude to the gentleman from Maryland (Mr. HOYER), my distinguished colleague, who is, as many know, the author of the Americans with Disabilities Act and who has been a great champion of people with disabilities and their rights.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the gentleman from Rhode Island (Mr. LANGEVIN), and I thank him for his leadership on this issue and so many others. He has been extraordinarily helpful in getting the election reform legislation to the place it is now. I think this motion he now makes, and it is supported by both the gentleman from Ohio (Mr. NEY) and myself, is an important one; and I want to thank him for that.

Mr. Speaker, in the 20 months since our last national election, the American people have seen the very best and very worst that democracy has to offer. The disenfranchisement of millions of Americans who fell prey to unreliable, outdated voting machines as well as the wide bipartisan support in the Congress for the Federal election reform will hopefully change that.

Members on both sides of the aisle have spoken eloquently and sincerely about safeguarding our most cherished democratic right: the right to vote and to have one's vote counted.

Yet our work is not done, for who among us would accept election reform that fails to ensure the privacy and independence of millions of eligible voters at the ballot box? None of us, I would argue, because the right to exercise the franchise under conditions that afford privacy and independence is intimately American and bound up in what it means to be a free and equal citizen in a democratic society. Yet in thousands of polling places across the country, voters who are physically, visually, or mentally challenged enjoy less privacy and independence when they exercise their sacred right to vote than do other voters.

That is why I urge all Members to support this important motion to instruct offered by our colleague, the gentleman from Rhode Island (Mr. LANGEVIN). It is fair and it makes sense. It recognizes, as most of us do, that the election reform conference report should combine the best of the House-passed Help America Vote Act with the Senate-passed bill. To that end, the gentleman from Rhode Island's motion instructs the House conferees to agree to section 101(A)(3) of the Senate amendment to the House bill.

This section states that by January 2007 voting systems shall be accessible for individuals with disabilities, including nonvisual accessibility for the

blind and visually impaired, in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters.

Make no mistake about it, I am proud of the Help America Vote Act. I am proud of the work that the gentleman from Ohio (Mr. NEY) and I and so many others, including the gentleman from Rhode Island (Mr. LANGEVIN) and the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) and others, helped us achieve. But we have not finished the job yet, Mr. Speaker; and we need to do that.

We need to pass this motion and then hopefully the conference will become even more energized than it has been. We are late, not too late, but we are late in passing a conference report that incorporates, as I said, the best of the House bill and the best of the Senate bill. We need to pass election reform. We need to pass it in the next 3 weeks if at all possible. We need to tell the States the resources they will have available to make their machines not only accessible but accurate as they count every American's vote.

Mr. Speaker, I urge all of my colleagues to support this very, very important motion to instruct.

Mr. NEY. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I just rise in very strong support of the motion offered by our colleague from Rhode Island, who is one of four co-chairs with me on the Disabilities Caucus. And it is so important that we do instruct the conferees to accept the Senate version, which would require that we have one voting machine in every polling place, at least, that is accessible to people with disabilities.

As a matter of fact, on July 26 of this year, we will celebrate the 12th anniversary of the Americans with Disabilities Act. I was one of the co-sponsors of that act, as were many of Members who are here serving in this 107th Congress. Certainly, the concept of Americans with Disabilities is one where we would allow them indeed the most precious privilege that we have as Americans, the right to vote and to make it accessible. So I thank the gentleman from Rhode Island (Mr. LANGEVIN).

I know this body will assuredly unanimously support this motion to instruct the conferees on this election reform bill.

Mr. Speaker, I want to thank the gentleman from Ohio (Mr. NEY) for the leadership he has shown in bringing us together in terms of true election reforms and the ranking member of his committee, too.

Mr. LANGEVIN. Mr. Speaker, I yield 3 minutes to the distinguished gentle-

woman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, let me thank the leadership of this committee, the gentleman from Ohio (Mr. NEY) and the gentleman from Maryland (Mr. HOYER). I know how diligent they have been in working on this, and most especially to the gentleman from Rhode Island (Mr. LANGEVIN) for offering the motion to instruct the conferees.

Mr. Speaker, whether the policy issue is prescription drug coverage, education, or any other matters within the jurisdiction of the Congress, the most fundamental issue facing all of us is restoring the public's faith in democracy. Congress must make electoral reform a top priority, and we hope to see the conclusion of this bill in conference soon.

Constitutionally mandated equal protection of the laws and the Voting Rights Act require an electoral system in which all Americans are able to register as voters, remain on the rolls once registered, and vote free from harassment. Ballots must not be misleading, and every vote must count and be counted.

In the 2000 election, Florida was not the only State where American citizens were denied the full exercise of their fundamental rights and their constitutional franchise. It happened across this Nation. Moreover, most of those excluded from democracy were Americans of color. As such, election reform is the number one legislative priority for the Congressional Black Caucus, and I sincerely hope that it is a top priority for every Member of the 107th Congress. We cannot be silenced until Congress answers the call for electoral reform. This is not a black, white or brown issue. It is an American issue. It is a red, white and blue issue.

It should be of great concern to each of us that if any one of us is improperly denied access to the ballot box or if every ballot cast is not counted, the survival of our democracy depends on the accuracy and integrity of our election system. It is important that conferees make an effective date for election reform in time for the next Presidential election in 2004. Actually, it should have been in time for our congressional elections; but we will go forward, unfortunately with the same system that caused us as much headache as it did in November 2000.

For the second instruction, it is important that the government has the ability as soon as it is feasible to legally check to see if States are, in fact, making the necessary changes that the final election reform bill stimulates. I hope each of my colleagues will do his and her part by voting in favor of this sensible motion to instruct.

Mr. LANGEVIN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentleman for yielding me time.

Mr. Speaker, I rise in support of the motion to instruct conferees on the election reform bill, H.R. 3295, which has been submitted by my colleague from Rhode Island (Mr. LANGEVIN). The motion asks the conferees to agree to the Senate provisions relating to the accessibility of voting systems for individuals with disabilities.

It is essential that at least one voting machine in each polling place be accessible to people with disabilities. This can be done in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters.

The language referred to in the gentleman from Rhode Island's motion has been endorsed by a coalition of 17 national organizations representing people with disabilities; and I believe this is the best approach for increasing the participation of all citizens in the electoral process, especially at a time when voter participation has been decreasing.

With the electronic voting technology that exists today, it is possible to enable many individuals with disabilities to record their votes directly and in privacy. This is a fundamental right that all Americans should have. The cost to do this is minimal, and I urge conferees to adopt the language as outlined in the gentleman from Rhode Island's motion.

I also commend the gentleman from Ohio (Mr. NEY) and the gentleman from Maryland (Mr. HOYER) for their leadership on this issue and commend the gentleman from Rhode Island (Mr. LANGEVIN) for this amendment.

Mr. LANGEVIN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in support of this motion to instruct conferees on election reform offered by the gentleman from Rhode Island (Mr. LANGEVIN).

Mr. Speaker, this motion to instruct does a very simple, but important, thing. It asks conferees to adopt the language in the Senate bill with respect to voting equipment with persons with disabilities. The Senate language says that there must be at least one accessible voting machine in each polling place, a voting machine that would allow voters with disabilities to vote privately and independently just like everybody else.

Let me share with you the manner in which most blind voters currently cast their ballots at an election. First, they have to bring someone along with them to help them cast their ballot, or they can have a poll worker assist them. Then they have to let the other person read the ballot to them out loud. This is usually done in a voting booth that

is adjacent to other voting booths; and in order to vote, the voter with the disability has to announce his or her choice to the person helping him. All of this is likely to be within listening range of other voters at the polling place. Persons with other disabilities also suffer a compromise of their right to cast a secret ballot.

I cannot imagine that this is a manner in which most Americans would be comfortable in voting. Most of us value our privacy and independence in a voting place.

□ 1530

Many of us choose not to reveal our voting choices to others. We view it as our right to keep our choices private, but many voters with disabilities do not currently have this option. Their ballot choices are shared with at least one other person and often more.

This harsh reality was revealed in a recent GAO report. During the 2000 presidential election, the GAO surveyed hundreds of polling places throughout the country to measure access for voters with disabilities. The GAO found that none, not one, of the hundreds of polling places surveyed allowed voters with disabilities to vote privately and independently. Every polling place required voters with disabilities to vote in the somewhat public manner I referred to.

This motion to instruct seeks to remedy this problem by requiring that one voting machine per polling place incorporate assistive technology that allows any voter, including voters with disabilities, to vote privately and independently. Potentially, it could impact millions of voters with disabilities, by allowing them full and equal access to the voting process, and that is the least that they deserve, for that is what most of us expect for ourselves and our constituents when we go to the polling place. It is also likely that for these accessible voting machines to be there, the cost will be borne at least in part by the Federal Government.

I commend the gentleman from Rhode Island for his leadership on this issue. I urge my colleagues to support the motion to instruct.

Mr. NEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, let me first thank the gentleman from Rhode Island (Mr. LANGEVIN) for this excellent legislative initiative, and I want to also thank the gentleman from Ohio (Mr. NEY), the chairman of the committee, because this is vitally important to our Nation, to our democracy, to the comfort our voters feel when they leave the polls, that the vote is counted, but in this particular instance, we need to ensure that every American is allowed and able to vote. It is not as easy said as done.

We have barriers and we do have roadblocks for people to achieve a nor-

mal living in this country. This will go a long way to ensure that those who are disabled are able to make it to the voting polls and cast their ballot for the candidates that they feel are most appropriate for this Nation.

We in Florida, of course, had an interesting election. The gentleman from Ohio's bill speaks to all of the concerns that many Floridians had during that contentious debate. I do want to commend him and the gentleman from Maryland (Mr. HOYER) for working so cooperatively on an issue that for a while divided the Nation, but hopefully when this final product makes it to the President's desk, it will unite us as Americans, knowing that when we do, in fact, cast those ballots, those critical ballots, whether it is for city commissioner, county commissioner or President of the United States, they are done accurately, they are done effectively, and they are done without any degree of uncertainty.

The gentleman from Rhode Island (Mr. LANGEVIN) has been the leader on this and a number of other issues, and I commend him and encourage and urge my colleagues to be fully supportive of this motion to instruct. It will not only improve the bill substantially but will improve the lives of millions of Americans who up until now may have found themselves disenfranchised by polling places that were not familiar, not comfortable, not accessible.

So I think this is something overdue, quite frankly, long overdue in the annals of our electoral system, and I commend the gentleman for his great efforts in bringing this to our attention and urge everybody to universally support this motion to instruct.

Mr. LANGEVIN. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I thank my colleague for yielding me the time.

Mr. Speaker, I rise to express strong support for the Langevin-Hoyer-Conyers motion to instruct conferees on the election reform bill. Election reform is one of the most important issues that we will face in the 107th Congress.

Last year, we cast historic bipartisan election reform language and legislation that will significantly improve our election system. More importantly, this legislation will protect one of our most cherished democratic rights, the right to vote.

In passing the Help America Vote Act, we understood that this legislation was not perfect. One area that needs to be improved on is the language concerning the right of voters with disabilities and their access to polling places, and I thank my colleague, the gentleman from Rhode Island (Mr. LANGEVIN), for his leadership on this issue.

One of the greatest challenges voters face are inaccessible buildings and voting machines. According to the GAO, 84 percent of polling places examined in the last election were found to have one or more physical impediments which would limit people's access, people with disabilities. This is appalling. In my view, we need to make polling places and voting machines fully accessible to elderly, to frail, to those with disabilities.

Affording all people the opportunity to cast a secret ballot is of critical importance to our election system. Therefore, I urge my colleagues to support the Senate language to require States to maintain voting systems that are accessible to disabled and elderly voters.

Finally, I am hopeful that as we move forward on this issue Congress will enact a Federal election reform bill that ensures every single vote is counted and that no American is ever disenfranchised again. We must regain the trust and full participation of voters across this country.

This is a great first step and I commend my colleagues who are leaders in this area, and I urge all of us in this House to support the motion that is before us this afternoon.

Mr. NEY. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. RAMSTAD).

Mr. RAMSTAD. Mr. Speaker, I thank the distinguished chairman for yielding me the time.

Today, Mr. Speaker, I rise in strong support of this important motion which I offered with my good friend, the gentleman from Rhode Island (Mr. LANGEVIN), the cochair of the House Disabilities Caucus, and I want to thank him for his leadership on these issues, as well as the gentleman from Ohio (Mr. NEY).

The right to vote, Mr. Speaker, is the most basic and fundamental right we have as Americans, and despite the importance of this constitutionally important and constitutionally protected right, every election there are millions of citizens with disabilities who find it difficult, if not impossible, to cast their ballot.

Across the country, thousands of visually impaired people, voters, are unable to cast a secret vote, a right afforded to every other American, because of their inability to read the ballot visually.

This motion to instruct asks the conferees to include language passed by the Senate that requires every polling place to offer at least one voting machine equipped for individuals with disabilities. That is the least we can do, Mr. Speaker, to provide access to voting for every American, every citizen.

This motion is about fairness, and people with disabilities deserve equal access to voting. Over the years, Congress has worked hard to ensure that

every person's voice is heard regardless of race, religion or ethnic background. It is long past time that we provide the same opportunity to individuals with disabilities.

This motion is very timely. We have just returned from celebrating the 4th of July, the birth of our great Nation. We have the opportunity today, Mr. Speaker, to ensure that the vision of our Founding Fathers is realized, that every American has an equal opportunity to vote.

I urge Members to vote yes for this important motion, and again, I thank the gentleman from Rhode Island (Mr. LANGEVIN) for his leadership on this important issue.

Mr. LANGEVIN. Mr. Speaker, I again want to thank the gentleman from Minnesota (Mr. RAMSTAD) for his support of this issue. Mr. Speaker, I reserve the balance of my time.

Mr. NEY. Mr. Speaker, again, I support this motion, and I yield back the balance of my time.

Mr. LANGEVIN. Mr. Speaker, I yield myself such time as I may consume.

In closing, I just want to reiterate my appreciation to the gentleman from Ohio (Mr. NEY) for his leadership both on election reform and on disabilities issues and agreeing to support this motion to instruct. We would not be where we are on election reform without his support and I thank him.

Mr. Speaker, as I previously mentioned, I offered this motion in honor of Justin Dart, the father of the Americans with Disabilities Act and an ardent supporter of greater access to voting. Last year during the ADA anniversary celebration Justin said, Let us rise above politics as usual. Let us join together, Republican, Democrats, Independents, Americans. Let us embrace each other in love for individual human life. Let us unite in action to keep the sacred pledge, life, liberty and justice for all.

I ask my colleagues to help empower all Americans by voting for this motion to instruct.

GENERAL LEAVE

Mr. LANGEVIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the motion to instruct.

The SPEAKER pro tempore (Mr. PENCE). Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

Mr. LANGEVIN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Rhode Island (Mr. LANGEVIN).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LANGEVIN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The Chair announces that this vote will be followed by two 5-minute votes on motions to suspend the rules considered earlier today.

The vote was taken by electronic device, and there were—yeas 410, nays 2, not voting 22, as follows:

[Roll No. 285]

YEAS—410

Abercrombie	Coyne	Hall (OH)
Aderholt	Cramer	Hall (TX)
Akin	Crane	Hansen
Allen	Crenshaw	Harman
Andrews	Crowley	Hart
Armey	Cubin	Hastings (WA)
Baca	Culberson	Hayes
Bachus	Cunningham	Hayworth
Baird	Davis (CA)	Hefley
Baker	Davis (FL)	Herger
Baldacci	Davis (IL)	Hill
Baldwin	Davis, Jo Ann	Hilleary
Ballenger	Davis, Tom	Hilliard
Barcia	Deal	Hinchey
Barr	DeFazio	Hinojosa
Bartlett	DeGette	Hobson
Barton	DeLauro	Hoefel
Bass	DeLay	Hoekstra
Becerra	DeMint	Holden
Bentsen	Deutsch	Honda
Bereuter	Diaz-Balart	Hooley
Berkley	Dicks	Horn
Berman	Dingell	Hostettler
Berry	Doggett	Houghton
Biggert	Dooley	Hoyer
Bilirakis	Doolittle	Hunter
Bishop	Doyle	Hyde
Blumenauer	Duncan	Inslee
Blunt	Dunn	Isakson
Boehlert	Edwards	Israel
Boehner	Ehlers	Issa
Bonilla	Ehrlich	Istook
Bono	Emerson	Jackson (IL)
Boozman	Engel	Jackson-Lee
Borski	English	(TX)
Boswell	Eshoo	Jefferson
Boyd	Etheridge	Jenkins
Brady (PA)	Evans	John
Brady (TX)	Everett	Johnson (CT)
Brown (FL)	Farr	Johnson (IL)
Brown (OH)	Fattah	Johnson, E. B.
Brown (SC)	Ferguson	Johnson, Sam
Bryant	Finler	Jones (NC)
Burr	Fletcher	Jones (OH)
Burton	Foley	Kanjorski
Buyer	Forbes	Kaptur
Callahan	Ford	Keller
Calvert	Fossella	Kelly
Camp	Frank	Kennedy (MN)
Cannon	Frelinghuysen	Kennedy (RI)
Cantor	Frost	Kerns
Capito	Gallegly	Kildee
Capps	Ganske	Kilpatrick
Capuano	Gekas	Kind (WI)
Cardin	Gephardt	King (NY)
Carson (IN)	Gibbons	Kingston
Carson (OK)	Gilchrest	Kirk
Castle	Gillmor	Klecza
Chabot	Gilman	Knollenberg
Chambliss	Gonzalez	Kolbe
Clay	Goodlatte	Kucinich
Clayton	Gordon	LaFalce
Clement	Goss	LaHood
Clyburn	Graham	Lampson
Coble	Granger	Langevin
Collins	Graves	Lantos
Combest	Green (TX)	Larsen (WA)
Condit	Green (WI)	Larson (CT)
Conyers	Greenwood	Latham
Cooksey	Grucci	LaTourette
Costello	Gutierrez	Leach
Cox	Gutknecht	Lee

Levin	Pallone	Slaughter
Lewis (CA)	Pascarell	Smith (MI)
Lewis (GA)	Pastor	Smith (NJ)
Lewis (KY)	Payne	Smith (TX)
Linder	Pence	Smith (WA)
Lipinski	Peterson (MN)	Snyder
LoBiondo	Peterson (PA)	Solis
Lofgren	Petri	Stark
Lowey	Phelps	Stearns
Lucas (KY)	Pickering	Stenholm
Lucas (OK)	Pitts	Strickland
Luther	Platts	Stump
Lynch	Pombo	Stupak
Maloney (CT)	Pomeroy	Sullivan
Maloney (NY)	Portman	Sununu
Manzullo	Price (NC)	Sweeney
Markey	Pryce (OH)	Tancredo
Mascara	Putnam	Tanner
Matheson	Quinn	Tauscher
Matsui	Radanovich	Tauzin
McCarthy (MO)	Rahall	Taylor (MS)
McCarthy (NY)	Ramstad	Taylor (NC)
McCollum	Rangel	Terry
McCrery	Regula	Thomas
McDermott	Rehberg	Thompson (CA)
McGovern	Reyes	Thompson (MS)
McHugh	Reynolds	Thornberry
McInnis	Rivers	Thune
McIntyre	Rodriguez	Thurman
McKeon	Roemer	Tiahrt
McKinney	Rogers (KY)	Tiberi
McNulty	Rogers (MI)	Tierney
Meehan	Rohrabacher	Toomey
Meek (FL)	Ros-Lehtinen	Towns
Menendez	Ross	Turner
Mica	Rothman	Udall (CO)
Millender-McDonald	Roybal-Allard	Udall (NM)
Miller, Dan	Royce	Upton
Miller, Gary	Rush	Velazquez
Miller, George	Ryan (WI)	Visclosky
Miller, Jeff	Ryun (KS)	Vitter
Mink	Sabo	Walden
Mollohan	Sánchez	Wamp
Moore	Sanders	Waters
Moran (KS)	Sandlin	Watkins (OK)
Moran (VA)	Sawyer	Watson (CA)
Morella	Saxton	Watt (NC)
Murtha	Schakowsky	Watts (OK)
Myrick	Schiff	Waxman
Nadler	Schrock	Weiner
Napolitano	Scott	Weldon (FL)
Neal	Sensenbrenner	Weldon (PA)
Nethercutt	Serrano	Weller
Ney	Sessions	Wexler
Northup	Shadegg	Whitfield
Norwood	Shaw	Wicker
Nussle	Shays	Wilson (NM)
Oberstar	Sherman	Wilson (SC)
Obey	Sherwood	Wolf
Ortiz	Shimkus	Woolsey
Osborne	Shows	Wu
Ose	Shuster	Wynn
Otter	Simmmons	Young (AK)
Owens	Simpson	Young (FL)
Oxley	Skeen	
	Skelton	

NAYS—2

Paul
NOT VOTING—22

Ackerman	Goode	Roukema
Barrett	Hastings (FL)	Schaffer
Blagojevich	Holt	Souder
Bonior	Hulshof	Spratt
Boucher	Meeks (NY)	Traficant
Cummings	Olver	Walsh
Delahunt	Pelosi	
Dreier	Riley	

□ 1604

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PENCE). Pursuant to clause 8 of rule

XX, the Chair will now put the question on motions to suspend the rules on which further proceedings were postponed earlier today.

Votes will be taken in the following order:

H.R. 5063, by the yeas and nays; and
H. Res. 393, by the yeas and nays.

ARMED FORCES TAX FAIRNESS ACT OF 2002

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5063.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. HOUGHTON) that the House suspend the rules and pass the bill, H.R. 5063, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 413, nays 0, not voting 21, as follows:

[Roll No. 286]

YEAS—413

Abercrombie	Castle	Filner
Aderholt	Chabot	Flake
Akin	Chambliss	Fletcher
Allen	Clay	Foley
Andrews	Clayton	Forbes
Armey	Clement	Ford
Baca	Clyburn	Fossella
Bachus	Coble	Frank
Baird	Collins	Frelinghuysen
Baker	Combest	Frost
Baldacci	Condit	Gallegly
Baldwin	Conyers	Ganske
Ballenger	Cooksey	Gekas
Barcia	Costello	Gephardt
Barr	Cox	Gibbons
Bartlett	Coyne	Gilchrest
Barton	Cramer	Gillmor
Bass	Crane	Gilman
Becerra	Crenshaw	Gonzalez
Bentsen	Crowley	Goode
Bereuter	Cubin	Goodlatte
Berkley	Culberson	Gordon
Berman	Cunningham	Goss
Berry	Davis (CA)	Graham
Biggert	Davis (FL)	Granger
Bilirakis	Davis (IL)	Graves
Bishop	Davis, Jo Ann	Green (TX)
Blumenauer	Davis, Tom	Green (WI)
Blunt	Deal	Greenwood
Boehlert	DeFazio	Grucci
Boehner	DeGette	Gutierrez
Bonilla	DeLauro	Gutknecht
Bono	DeLay	Hall (OH)
Boozman	DeMint	Hall (TX)
Borski	Deutsch	Hansen
Boswell	Diaz-Balart	Harman
Boyd	Dicks	Hart
Brady (PA)	Dingell	Hastings (WA)
Brady (TX)	Doggett	Hayes
Brown (FL)	Doolittle	Hayworth
Brown (OH)	Doyle	Hefley
Brown (SC)	Duncan	Herger
Bryant	Dunn	Hill
Burr	Dunn	Hilleary
Burton	Edwards	Hilliard
Buyer	Ehlers	Hinchey
Callahan	Ehrlich	Hinojosa
Calvert	Emerson	Hobson
Camp	Engel	Hoeffel
Cannon	English	Hoekstra
Cantor	Eshoo	Holden
Capito	Etheridge	Honda
Capps	Evans	Hooley
Capuano	Everett	Horn
Cardin	Farr	Hostettler
Carson (IN)	Fattah	Houghton
Carson (OK)	Ferguson	Hoyer

Hunter	Mica
Hyde	Millender-Serrano
Inslee	McDonald
Isakson	Miller, Dan
Israel	Miller, Gary
Issa	Miller, George
Istook	Miller, Jeff
Jackson (IL)	Mink
Jackson-Lee	Mollohan
(TX)	Moore
Jefferson	Moran (KS)
Jenkins	Moran (VA)
John	Morella
Johnson (CT)	Murtha
Johnson (IL)	Myrick
Johnson, E. B.	Nadler
Johnson, Sam	Napolitano
Jones (NC)	Neal
Jones (OH)	Nethercutt
Kanjorski	Ney
Kaptur	Northup
Keller	Norwood
Kelly	Nussle
Kennedy (MN)	Oberstar
Kennedy (RI)	Obey
Kerns	Ortiz
Kildee	Osborne
Kilpatrick	Ose
Kind (WI)	Otter
King (NY)	Owens
Kingston	Oxley
Kirk	Pallone
Klecza	Pascrell
Knollenberg	Pastor
Kolbe	Paul
Kucinich	Payne
LaFalce	Pence
LaHood	Peterson (MN)
Lampson	Peterson (PA)
Langevin	Petri
Lantos	Phelps
Larsen (WA)	Pickering
Larson (CT)	Pitts
Latham	Platts
LaTourette	Pombo
Leach	Pomeroy
Lee	Portman
Levin	Price (NC)
Lewis (CA)	Pryce (OH)
Lewis (GA)	Putnam
Lewis (KY)	Quinn
Linder	Radanovich
Lipinski	Rahall
LoBiondo	Ramstad
Lofgren	Rangel
Lowe	Regula
Lucas (KY)	Rehberg
Lucas (OK)	Reyes
Luther	Reynolds
Lynch	Rivers
Maloney (CT)	Rodriguez
Maloney (NY)	Roemer
Manzullo	Rogers (KY)
Markey	Rogers (MI)
Masara	Rohrabacher
Matheson	Ros-Lehtinen
Matsui	Ross
McCarthy (MO)	Rothman
McCarthy (NY)	Roybal-Allard
McCollum	Royce
McCrery	Rush
McDermott	Ryan (WI)
McGovern	Ryun (KS)
McHugh	Sabo
McInnis	Sánchez
McIntyre	Sanders
McKeon	Sandlin
McKinney	Sawyer
McNulty	Saxton
Meehan	Schakowsky
Meek (FL)	Schiff
Menendez	Schroock

NOT VOTING—21

Ackerman	Dreier
Barrett	Hastings (FL)
Blagojevich	Holt
Bonior	Hulshof
Boucher	Meeks (NY)
Cummings	Oliver
Delahunt	Pelosi

Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

□ 1614

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONCERNING RISE IN ANTI- SEMITISM IN EUROPE

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 393, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the resolution, H. Res. 393, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 412, nays 0, not voting 22, as follows:

[Roll No. 287]

YEAS—412

Abercrombie	Cardin	Etheridge
Aderholt	Carson (IN)	Evans
Akin	Carson (OK)	Everett
Allen	Castle	Farr
Andrews	Chabot	Fattah
Armey	Chambliss	Ferguson
Baca	Clay	Filner
Bachus	Clayton	Flake
Baird	Clement	Fletcher
Baker	Clyburn	Foley
Baldacci	Coble	Forbes
Baldwin	Collins	Ford
Ballenger	Combest	Fossella
Barcia	Condit	Frank
Barr	Conyers	Frelinghuysen
Bartlett	Cooksey	Frost
Barton	Costello	Gallegly
Bass	Cox	Ganske
Becerra	Coyne	Gekas
Bentsen	Cramer	Gephardt
Bereuter	Crane	Gibbons
Berkley	Crenshaw	Gilchrest
Berman	Crowley	Gillmor
Berry	Cubin	Gilman
Biggert	Culberson	Gonzalez
Bilirakis	Cunningham	Goode
Bishop	Davis (CA)	Goodlatte
Blumenauer	Davis (FL)	Gordon
Blunt	Davis (IL)	Goss
Boehlert	Davis, Jo Ann	Graham
Boehner	Davis, Tom	Granger
Bonilla	Deal	Graves
Bono	DeFazio	Green (TX)
Boozman	DeGette	Green (WI)
Borski	DeLauro	Greenwood
Boswell	DeLay	Grucci
Boyd	DeMint	Gutierrez
Brady (PA)	Deutsch	Gutknecht
Brady (TX)	Diaz-Balart	Hall (OH)
Brown (FL)	Dicks	Hall (TX)
Brown (OH)	Dingell	Hansen
Brown (SC)	Doggett	Harman
Bryant	Dooley	Hart
Burr	Doolittle	Hastings (WA)
Burton	Doyle	Hayes
Buyer	Duncan	Hayworth
Callahan	Dunn	Hefley
Calvert	Edwards	Herger
Cannon	Ehlers	Hill
Cantor	Ehrlich	Hilleary
Capito	Emerson	Hilliard
Capps	Engel	Hinchey
Capuano	English	Hinojosa
	Eshoo	Hobson

Hoefel	McKeon	Saxton
Hoekstra	McKinney	Schakowsky
Holden	McNulty	Schiff
Honda	Meehan	Schrock
Hooley	Meek (FL)	Scott
Horn	Menendez	Sensenbrenner
Hostettler	Mica	Serrano
Houghton	Millender-	Sessions
Hoyer	McDonald	Shadegg
Hunter	Miller, Dan	Shaw
Hyde	Miller, Gary	Shays
Inslee	Miller, George	Sherman
Isakson	Miller, Jeff	Sherwood
Israel	Mink	Shimkus
Issa	Mollohan	Shows
Istook	Moore	Shuster
Jackson (IL)	Moran (KS)	Simmons
Jackson-Lee	Moran (VA)	Simpson
(TX)	Morella	Skeen
Jefferson	Murtha	Skelton
Jenkins	Myrick	Slaughter
John	Nadler	Smith (MI)
Johnson (CT)	Napolitano	Smith (NJ)
Johnson (IL)	Neal	Smith (TX)
Johnson, E. B.	Nethercutt	Smith (WA)
Johnson, Sam	Ney	Snyder
Jones (NC)	Northup	Solis
Jones (OH)	Norwood	Stark
Kanjorski	Nussle	Stearns
Kaptur	Oberstar	Stenholm
Keller	Obey	Strickland
Kelly	Ortiz	Stump
Kennedy (MN)	Osborne	Stupak
Kennedy (RI)	Ose	Sullivan
Kerns	Otter	Sununu
Kildee	Owens	Sweeney
Kilpatrick	Oxley	Tancredo
Kind (WI)	Pallone	Tanner
King (NY)	Pascrell	Tauscher
Kingston	Pastor	Tauzin
Kirk	Paul	Taylor (MS)
Klecza	Payne	Taylor (NC)
Knollenberg	Pence	Terry
Kolbe	Peterson (MN)	Thomas
Kucinich	Peterson (PA)	Thompson (CA)
LaFalce	Petri	Thompson (MS)
LaHood	Phelps	Thornberry
Lampson	Pickering	Thune
Langevin	Pitts	Thurman
Larsen (WA)	Platts	Tiahrt
Larson (CT)	Pombo	Tiberi
Latham	Pomeroy	Tierney
LaTourette	Portman	Toomey
Leach	Price (NC)	Towns
Lee	Pryce (OH)	Turner
Levin	Putnam	Udall (CO)
Lewis (CA)	Quinn	Udall (NM)
Lewis (GA)	Radanovich	Upton
Lewis (KY)	Rahall	Velazquez
Linder	Ramstad	Visclosky
Lipinski	Rangel	Vitter
LoBiondo	Regula	Walden
Lofgren	Rehberg	Wamp
Lowe	Reyes	Waters
Lucas (KY)	Reynolds	Watkins (OK)
Lucas (OK)	Rivers	Watson (CA)
Luther	Rodriguez	Watt (NC)
Lynch	Roemer	Watts (OK)
Maloney (CT)	Rogers (KY)	Waxman
Maloney (NY)	Rogers (MI)	Weiner
Manzullo	Rohrabacher	Weldon (FL)
Markey	Ros-Lehtinen	Weldon (PA)
Mascara	Ross	Weller
Matheson	Rothman	Wexler
Matsui	Roybal-Allard	Whitfield
McCarthy (MO)	Royce	Wicker
McCarthy (NY)	Rush	Wilson (NM)
McCollum	Ryan (WI)	Wilson (SC)
McCrery	Ryun (KS)	Wolf
McDermott	Sabo	Woolsey
McGovern	Sánchez	Wu
McHugh	Sanders	Wynn
McInnis	Sandlin	Young (AK)
McIntyre	Sawyer	Young (FL)

NOT VOTING—22

Ackerman	Hastings (FL)	Roukema
Barrett	Holt	Schaffer
Blagojevich	Hulshof	Souder
Bonior	Lantos	Spratt
Boucher	Meeks (NY)	Trafcant
Cummings	Olver	Walsh
Delahunt	Pelosi	
Dreier	Riley	

□ 1623

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4635, ARMING PILOTS AGAINST TERRORISM ACT

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 107-557) on the resolution (H. Res. 472) providing for consideration of the bill (H.R. 4635) to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2486, INLAND FLOOD FORECASTING AND WARNING SYSTEM ACT OF 2002

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 107-558) on the resolution (H. Res. 473) providing for consideration of the bill (H.R. 2486) to authorize the National Weather Service to conduct research and development, training, and outreach activities relating to tropical cyclone inland forecasting improvement, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2733, ENTERPRISE INTEGRATION ACT OF 2002

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 107-559) on the resolution (H. Res. 474) providing for consideration of the bill (H.R. 2733) to authorize the National Institute of Standards and Technology to work with major manufacturing industries on an initiative of standards development and implementation for electronic enterprise integration, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4687, NATIONAL CONSTRUCTION SAFETY TEAM ACT

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 107-560) on the resolution (H. Res. 475) providing for consideration of the bill (H.R. 4687) to provide for the

establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that pose significant potential of substantial loss of life, which was referred to the House Calendar and ordered to be printed.

PERSONAL EXPLANATION

Mr. HOYER. Mr. Speaker, yesterday I was traveling on official House business and missed rollcall votes 283 and 284. Had I been present, I would have voted aye on rollcall 283 and aye on rollcall 284.

ANNOUNCEMENT OF DECISION NOT TO RUN FOR REELECTION

(Mrs. MEEK of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEEK of Florida. Mr. Speaker, Members of my beloved House, it is no secret that I love this institution and I love my job in Congress. Working with all of you over the years has been one of the great joys of my life.

I told this to my constituents in Miami on Sunday, because they mean a lot to me. And I love all of you, too, both the Republicans and the Democrats, even the independents, so I wanted you to hear it from me directly that I have decided not to run for reelection this fall. So you will have me until December. I have enjoyed this stay. It has been a good run, Mr. Speaker. It has been a good run.

I was elected to Congress in 1992. CORRINE BROWN, ALCEE HASTINGS and I were the first African Americans elected from the State of Florida since right after Reconstruction. I said then that we waited 100 years to get to this body, so we were very anxious to get to work, and so we did. I came here after 13 years as a State representative and a State senator in the Florida legislature.

I have been impressed with the House from the very first. Every time I look at the Capitol dome and look at Lady Liberty I am more and more in awe. It will never get old to me. I am a good American. I love America.

I was elected to Congress during a crisis time in my community. Hurricane Andrew, the costliest hurricane of all time, had just devastated the entire south end of my district. We worked very hard together, both Republicans and Democrats.

I came here with two Republicans, we were together in the Florida legislature, ILEANA ROS-LEHTINEN and LINCOLN DIAZ-BALART, and CORRINE BROWN, "Queen CORRINE," from the Florida legislature. We came here together and we have stood hand in hand ever since. And ALCEE HASTINGS came

with us. He reached the highest pinnacle of the judiciary in our State as a Federal judge. So we came here in honor, and we love this Congress and we love this country.

So while our constituents were cleaning up all of the devastation by the hurricane, I came to the Congress, and the Congress responded and helped us build back that community. It has been a lot of work, Mr. Speaker, and a lot of it, the people you see here, helped make it happen through the years. They helped us restore our community, helped us restore the dignity and the quality of life of many of the people we represented.

A lot of problems arise in my district many times. I bring them here to your lap and to your feet and to your hands, and many of you, particularly my comrades and colleagues on the Committee on Appropriations, they always do whatever they can to help. Always. That is why I love this body so very much. I was just gifted and blessed to be placed on the Committee on Appropriations so I could bring the direct wishes and concerns of my constituency to this body, and I appreciate it.

□ 1630

I was confirmed just last fall on the evening of September 11 when I joined so many of you on the steps of the Capitol the evening after the terrorist attacks on New York and the Pentagon and we sang God Bless America together, Democrats and Republicans, Northerners and Southerners and Westerners, one Nation under God, indivisible, united and strong.

Do I sound maudlin? Do I sound soft? Do I sound sad? I never asked for forgiveness for standing up for this country. I never asked for forgiveness for standing up for military preparedness. I was around during World War II. I will always want this country to be strong and to be prepared.

Throughout my career I have always tried to think of the little people and to use the power of government to help improve their lives. I know what it is like not to have much and not to have many prospects. I rose from the lowest part of the neighborhood I grew up in Tallahassee. They called it The Bottom. It was "the black bottom." I was thinking of this the other day because just a few weeks ago the adventurer CURT took me to Moscow and Beijing on a CODEL. I met with the Presidents of Russia and China. I have discussed national issues with Presidents Carter, Clinton, and Bush. I have been there, Mr. Speaker. I have talked to all of them, walked with kings as the poet would say, but not lost the common touch.

This one black woman from The Bottom, it was one day in the State capitol in Florida that I was not even able during those days to go into the capitol and I lived two blocks from the capitol

in Tallahassee, and I always looked up at the capitol and wondered if some day I would become a part of it. Who would imagine that I would become a part of the Florida senate, of the Florida house? Who would imagine that I would come here to Washington to be in the Halls of Congress? This is a revered body. It is a body that is well respected.

I grew up during the period of intolerance and strict segregation. It was so unfair, and it left a lasting impression on me, and I knew I had to continue to work. I saw good people held down and prevented from rising to their potential simply because of their color. I knew of good men who were killed for the same reason. I saw that power could be used to build or destroy, and I saw how powerlessness could lead to frustration and anger.

I can only state to this Congress, to every last one of you, how much I respect my blackness and my racial identity. I feel very strongly that there is still a debt we owe to the people who came before us.

When I was a child, I heard Roland Hayes sing. I got a chance to hear George Washington Carver speak. I heard W.E.B. DuBois speak. I heard Marian Anderson sing. I read the poems of Countee Cullen. So that great diversity and love that God has given came from my experience as a black person.

I stand before you today as the granddaughter of a slave. How wonderful. When you look at me, you can see that our Nation's legacy of slavery and racism is not so far removed from our lives today. But we have to keep fighting. One of the reasons that I was elected to this office was to remind you of that, and I have tried to do so to the best of my ability.

In my 10 years in the Congress and over three decades of service to my community, I have tried to live by a commitment every day of my life, and that is service is a price you pay for the space that God has let you occupy.

Because of the love of a strong Christian family, loving parents, protective older brothers and sisters, outsiders who took an interest in me, both white and black, and a strong desire to succeed, I was able to move forward.

Education is the springboard, Mr. Speaker. I have stood for it since I have been here. Improving the quality of life in housing and good health care, these are springboards. So I know it is a vehicle, and that is why I think we should continue in the Halls of Congress to do so.

I wanted to say a few things here today because of what I have lived through. We do not have time for me to go through all of it. One of these days I will write a book so each of you can read it. And other than that I will be coming back from time to time. I have six grandchildren and I have three chil-

dren, and they all know of my legacy. And when I go back home, I am not going to sit still.

My colleagues need to know some of the reasons why I am not retiring. I am not retiring because I am so feeble I cannot come up here every day. I am not retiring because I do not feel I can do the job, and I am not retiring because I feel that if I were to run I would be defeated. Mr. Speaker, I am almost undefeatable. I am almost that way in my mind, so that is no reason why I am leaving. But I want to go now, because I have other things to do and other careers to pursue.

I love this country very much, and serving it has been the greatest honor of my life. We need more respect. We need respect of diversity, we need to embrace it, and we have to listen. I fully appreciate now how progress rarely comes in giant steps, but in small, incremental lurches forward. So I will retire from Congress, fully confident that our great Nation will continue to prosper.

Dr. Benjamin Mays, the former President of Morehouse College said, "It isn't a calamity to die with dreams unfulfilled, but it is a calamity not to dream."

Mr. Speaker, I hope all of my colleagues will remember me as someone who tried as hard as she could to do both.

NEVER CAN SAY GOOD-BYE

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker and colleagues, I just want to echo the sentiments on this side of the aisle about our sadness regarding the departure from this wonderful institution of our dear colleague, the gentlewoman from Florida (Mrs. MEEK).

In my 20 years of elective office, I have served every one of those days with my colleague, CARRIE MEEK. The Congresswoman from Florida has been a distinguished member of every institution I have had the pleasure to serve. In the Florida house we served together. We moved together to the Florida senate, and then we served here in the U.S. Congress.

In those many years, the gentlewoman from Florida (Mrs. MEEK) has distinguished herself as a dedicated public servant, carrying the water on so many items of interest to south Florida and, indeed, our Nation; because I think her legacy extends far beyond her Liberty City district, far beyond our Sunshine State, far beyond our borders. She leaves a legacy of leadership, of dignity, of dedication, and a real sense of community service.

CARRIE, we are going to have you to kick around for a lot of years. You are not retiring; you are going to be in our

hearts and you are going to be in our community for many decades to come. I cannot imagine serving here without you. So every day when we are voting, you will be a part of this institution, you will be a part of our body, you will be a part of our legacy. *Asi que te va vamos a estranoi, mi amiga.* You are my friend. We have traveled many a hard road together, and we will continue that struggle together for many more years. You are not leaving, so we are not going to say good-bye. *Adios, mi amiga.*

PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Speaker, on Monday, July 8, 2002, I was unavoidably detained in my district on official business, and I missed rollcall votes, numbers 283 and 284. If I was present, I would have voted "aye" on rollcall vote 283 and "aye" on rollcall vote 284.

MANY THANKS TO CARRIE MEEK, A GREAT AMERICAN

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I have had the honor of serving with the gentlewoman from Florida (Mrs. MEEK) on the Committee on Appropriations for many years now. We saw the parade of Members from both sides of the aisle, all sorts of ideologies, come and give the gentlewoman a hug. They gave her a hug not for her, although she appreciated it; they gave her a hug for themselves. She is an historic leader of this House, an historic leader of her State, and a great American. She loves this country, and the great news is her country loves her.

The gentlewoman from Florida (Mrs. MEEK) is a person of great depth, of great intellect, of great ability, who is as humble an individual as I know, as effective an individual as I know.

And, CARRIE, all of us will miss you in the day-to-day operations of this body. But as the gentlewoman from Florida (Ms. ROS-LEHTINEN) indicated, we know that you are not going. We think you are probably going to be coming here regularly to visit family. Who knows?

But we certainly want to say to the gentlewoman that we thank her. We thank her for being her, for being our friend, for being such a great Member of this House. She has brought honor to this House, she has brought humanity to this House, and she has brought great service to her district.

EXTENDING DEEP LOVE AND APPRECIATION

(Ms. KAPTUR asked and was given permission to address the House for 1 minute.)

Ms. KAPTUR. Mr. Speaker, I wish to add my words to that of the gentleman from Maryland (Mr. HOYER) and the Florida delegation in extending our deepest love and appreciation to our treasured colleague from the State of Florida (Mrs. MEEK). Without question, her spirit carries this institution, and she has given hope, not only to her district, but to the people of our entire country. Each of us here in the House knows we are serving with an historic figure, and we thank her family, we thank the people of Florida, of Miami, for sending her here in order that our country be a better place in which to live.

I think every single Member here whose life she has touched is a better person for knowing her. She has strengthened us when we were at our weakest, she has made us laugh when we were taking ourselves too seriously, and even as recently as this afternoon she was fighting for the weakest and the poorest among us in the Committee on Appropriations in a several-year effort that she has fought to get rid of usurious lending and check-cashing facilities across this country that prey on the poorest among us.

I will never meet another person like the gentlewoman from Florida (Mrs. MEEK), and I say to the gentlewoman, I hope that you will come back to us as often as you wish, because you have a seat in the office of every single person on both sides of the aisle of this Chamber. You are held in the highest regard, and you truly have fulfilled the oath that you took to represent the interests of our country.

It has been my great privilege to serve with you, and I thank you for your work on behalf of the citizens not just of your district or mine, but our entire country and the world. You are one of a kind. God bless you.

□ 1645

TRIBUTE TO THE HONORABLE CARRIE MEEK, MEMBER OF CONGRESS

(Mr. TAUZIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUZIN. Mr. Speaker, I wanted to rise, too, to let the gentlewoman from Florida (Mrs. MEEK) know that, from this side of the aisle, the feelings that have been already expressed about her personally are shared broadly across this body.

I say to the gentlewoman from Florida, we have shared a lot of time together, I have shared time on both sides of the aisle, and we have come through a lot together. We came through Hurricane Andrew. When it got through messing with the gentlewoman's folks, it came down to Louisiana and messed with mine, and we

share the horrors of those tragic days with our constituents together, and helped rebuild together.

More importantly, I say to the gentlewoman from Florida (Mrs. MEEK), she has been a dear friend, a dear friend to so many of us. We have come to love and admire her in so many ways.

I have often said that this House is filled with real people who represent real people. In a real sense, the gentlewoman from Florida (Mrs. MEEK) has literally represented the best of what the House of Representatives is all about. It is about people coming from the bottoms, the small places of America, and representing them with dignity and honor and respect; and she has done that in a magnificent fashion.

She has honored this body by her presence. She will be remembered a long time by more than those grandchildren who love her so much. She will be remembered with honor and love by all of us in this House for the time we have been privileged to share with her here.

I wish you bon voyage, CARRIE. I hope you have a great time in whatever you do.

TRIBUTE TO THE HONORABLE CARRIE MEEK, MEMBER OF CONGRESS

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, I am here to speak on behalf of guys with white hair, the gentleman from Virginia (Mr. MORAN), the gentleman from California (Mr. GEORGE MILLER), and me. The gentlewoman from Florida (Mrs. MEEK) used to play the game with us all the time; and we knew she knew who we were, but she would play like she did not. But her sense of humor and her ability to reach down into people's souls really makes the difference.

Many Members come here and we all think or we all try not to lose touch with where we came from; but there is no question, when the gentlewoman from Florida (Mrs. MEEK) speaks on this floor, there is no question that she has not forgotten where she came from or the people around her, who they were, and what they struggle with.

Her voice has been a consistent and solid voice for the people in this society we try to give a hand up to, but the gentlewoman from Florida would never let us get away with just trying. She insisted that we do it. We are going to miss her, and they are going to miss her. All of us are going to miss her coming up the aisle saying, "the gentleman from Virginia, Mr. MORAN." We are going to miss her a lot.

TRIBUTE TO THE HONORABLE
CARRIE MEEK, MEMBER OF CON-
GRESS

(Mr. DIAZ-BALART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DIAZ-BALART. Mr. Speaker, as one reads history, many times it seems as though the figures that one encounters are larger than life. It is uncommon to be absolutely certain that, during one's life, one has met someone who is like the greatest of the characters that one has met in history.

That one person that I know, and am absolutely certain that she has already come to be known not only as one of the greatest orators in the history of Florida, one of the greatest public servants in the history of Florida, but one of the greatest Floridians, is the gentlewoman from Florida (Mrs. MEEK).

I have had the honor, the profound honor and privilege, to know her and to be her friend since we served together in the Florida legislature; and her wisdom and her fairness and her compassion and her goodness and her strength and toughness on behalf of those in need are legendary, and will be more legendary each day.

I join all Floridians, all who have known her, in thanking her, in wishing her well, in wishing her and her family and her son, who will be here with us soon, Godspeed. Thank you, CARRIE.

TRIBUTE TO THE HONORABLE
CARRIE MEEK, MEMBER OF CON-
GRESS

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I know that I will have an opportunity to pay tribute to the distinguished gentlewoman from Florida (Mrs. MEEK) at a later time, but I simply wanted to not have this RECORD close, after she has made such an eloquent statement to her colleagues, without commenting on what she means to those of us who have had the privilege of serving with her and on what she means to Florida and to the Nation.

The gentlewoman from Florida (Mrs. MEEK) is a renaissance woman. She is one who will come to the floor with passion, but also with knowledge. She is one that is unbeatable in debate because she is not one who memorizes or tries to recapture facts she does not know. She speaks both from the heart, but as well, from an internal, deeply embedded sense of knowledge of humanity and the needs of our people, no matter who they are.

I have heard her quote from those who many of us only read about, and we will miss the eloquence of a stateswoman who can turn heads and minds

on issues that they thought they would come to the floor and vote in the opposite way.

It is well known that we expect to be fortunate enough to be able to serve, those of us who may get reelected, with her distinguished son. But what I would say, Mr. Speaker, that I want the RECORD to be able to account for as she gives her remarks this evening, is that she is a great woman, a woman of affection and love, and that we love her; and, as well, she has been someone who has, in the deepest of need, she has gone there and responded to the need, but also she has solved the need. That is for her constituents in Florida, that is for the people of the United States of America, and those who may call upon her, who do not know her but see her as a soldier or sojourner for truth.

TRIBUTE TO THE HONORABLE
CARRIE MEEK, MEMBER OF CON-
GRESS

(Mr. DEUTSCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEUTSCH. Mr. Speaker, this is with both great pride and sadness that I rise today to join what I really think are unprecedented spontaneous words of Members to talk about our friend and our colleague, the gentlewoman from Florida (Mrs. MEEK).

I joined this Chamber with her 10 years ago with several other Members from Florida, and particularly from south Florida. Three of us were elected: myself, the gentlewoman from Florida (Mrs. MEEK), and the gentleman from Florida (Mr. DIAZ-BALART).

For those of us in south Florida, we literally stepped on the shoulders of giants: Claude Pepper, Dante Fascell, Bill Lehman. I think for all of us those truly were icons in American history. We felt we could fill their shoes, but we knew of their legacy. I think after 10 years it is absolutely clear that at least one of us has attained that legacy, and that is the gentlewoman from Florida (Mrs. MEEK), who really in the history of America stands out as a unique leader.

Clearly not just in the history of Florida, in the history of south Florida, but truly in the history of America she is an icon, an icon in terms of integrity, accomplishment, work, and compassion. I think that is something that she will remain for the rest of her life and for all history. Her legacy is not just her good works but her family, as well, who join her in public service and will continue.

TRIBUTE TO THE HONORABLE
CARRIE MEEK, MEMBER OF CON-
GRESS

(Mr. PRICE of North Carolina asked and was given permission to address

the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of North Carolina. Mr. Speaker, I want to add my words of tribute to the spontaneous demonstration this afternoon on behalf of our colleague, the gentlewoman from Florida (Mrs. MEEK), who has recently announced her retirement. This is an announcement that caught us by surprise and that we regret; but we welcome this chance to pay tribute to the gentlewoman from Florida for whom we have great admiration and affection.

I have sat next to the gentlewoman from Florida on both of my Appropriations subcommittees for some years now, both the Subcommittee on VA, HUD and Independent Agencies and the Subcommittee on Treasury, Postal Service and General Government. We have sat through many hearings and many markups together. We have had some good times, and we have had some real challenges. I have developed great affection and respect for the gentlewoman from Florida during this period of service.

The gentlewoman from Florida (Mrs. MEEK) is a fighter. I will never forget the kind of fight she made for the hurricane victims when her district was stricken some years ago. This very day, I have seen her fighting for people without adequate banking services in our Committee on Appropriations.

The gentlewoman from Florida (Mrs. MEEK) does not always win these fights, but she always fights with conviction, with a compelling case, and with the kind of style that makes her a very hard person to oppose. She has a warm and winning way; she wins admiration and friendship on both sides of the aisle. She is a unique Member of this body. I have counted it a real privilege to serve with her and am looking forward to several months more of service as we go through the appropriations cycle.

I wanted to rush over here when I saw this spontaneous tribute arising on the House floor, because I am so fond of Mrs. MEEK and so admiring of her. I am pleased this afternoon to add my words of tribute, to wish her well, and to say that in her months remaining here I anticipate many more good fights and good times as we serve together.

TRIBUTE TO THE HONORABLE
CARRIE MEEK, MEMBER OF CON-
GRESS

(Ms. WATSON of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WATSON of California. Mr. Speaker, I had not intended to give my tribute this afternoon, but we cannot be in these Chambers or in hearing distance and not be compelled to come up and add to this tribute. We are going to say more later.

I have known the gentlewoman from Florida (Mrs. MEEK) for almost 30 years now. I remember her as a legislator who rushed up to me one day and said, What is the name of that bill, that bill? What is the number of that bill that you had? We want to do it in Florida. She was always probing, always seeking to make good public law.

We served together in Noble Women many years ago. I just went up to her and I said, I want to take credit for getting you here in 1992. After that very devastating earthquake she called my office. We had had a big uprising in Los Angeles. She said, What can I do? I have two young men running against me. I said, Turn your headquarters into an emergency relief center. She did that. She gave out beds and blankets and food, and she ended up in the place where she needed to be; that was in the House of Representatives.

She has served with distinction, but most of all, she has served with heart, directly under God, and shared that with all of us. For that, we will be eternally grateful to you, CARRIE. We love you.

TRIBUTE TO THE HONORABLE CARRIE MEEK, MEMBER OF CON- GRESS

(Mrs. JONES of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JONES of Ohio. Mr. Speaker, it just happens that today I had on the great colors red and white. I am pleased, as a member of the Delta Sigma Theta Sorority, Inc., an international woman's sorority, to stand here to salute my soror, the Honorable gentlewoman from Florida (Mrs. MEEK).

It has been wonderful to have an opportunity to serve in the House of Representatives with her. We had a wonderful chance to talk about the great Delta days, about Bethune College, about basketball. In fact, recently she and I coached the Congressional Basketball Team called the Hills Angels as we played the Georgetown law faculty.

But more importantly, she is full of history, full of wonder, full of grace; and I am so pleased and blessed to have had the opportunity to serve in the House of Representatives with her, if only for 4 years.

□ 1700

In your lifetime God gives you the opportunity to be touched by a number of people. I am so pleased that I had a chance to be touched by this wonderful, wonderful woman called CARRIE MEEK. And I look forward to your further years of service. We will not let you retire. We may let you leave here, but we have other jobs for you, Mrs. CARRIE MEEK.

On behalf of all the Deltas from across the world, 190,000 strong, we salute our soror, CARRIE MEEK.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. SHUSTER). Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

REFORMING THE SEC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, today the President gave a long, rather long speech full of words that really administered a pretty heavy feather duster to the miscreants on Wall Street, the CEOs, the analysts and the others who have been robbing our corporations, our economy, blind. He said he was not going to put up with it anymore. He was going to get tough.

But it is more what he did not say than what he did say that is important. He did not say he would support tough legislation to overhaul the securities firms, the Sarbanes bill. He did go on to say he would support the weaker House version, the one that really would not do anything for pension reform or auditing, the show bills that passed the House here before this thing really imploded, that the Republican majority pushed through. They would still allow corporations to direct their employees to be stuck with stock and would not really fix the problems of auditing and those things.

He did not talk about corporate tax dodges. The phony incorporations of U.S. firms in Bermuda to avoid tens of millions of dollars in taxes. He did not talk about rescinding his order which would allow corporate lawbreakers to get government contracts. He did not say a word about Harvey Pitt, the toothless watchdog of the Securities and Exchange Commission. Now the principal watchdog over America's securities firms and the stock markets and all those financial investments, all of those very complicated, high falooting things which have allowed people to steal hundreds of millions, billions, of dollars, bankrupt companies, put people out of work, steal their pensions and crater the 401(k)s of tens of thousands of American. We have an organization already in place that is supposed to take care of that. The Securities and Exchange Commission.

Earlier this year, just a couple of months ago, the President proposed a zero funding increase for them. Today, he pretended that he had been asking for a long time for more money for the SEC. He has not been, but I am glad that he has been born again in asking for some increase. But the increase he is asking for is a tiny fraction of the money that has been stolen. It will be inadequate to make the SEC the kind of watchdog we want as long as Harvey Pitt is the chairman.

Now, Harvey Pitt is a former securities lawyer. He is so compromised that when he recently met with a firm that was being investigated and he was questioned about it, he said, well, look, you cannot ask me not to meet with firms that are being investigated by the SEC just because I represented them, because then I would not be able to meet with anybody.

This is our watchdog. This is the President's appointee. This is the guy who is going to bring honesty. Come on. If that gentleman is not removed the President is not serious.

Recently the SEC tried to do an enforcement action against Ernst & Young. There were three commissioners present. They heard the evidence and at the end, the evidence was compelling, Ernst & Young should pay a fine. They had committed some improprieties. But guess what? Only one of the three SEC, Securities and Exchange Commission, members could vote because the other two were so compromised that they would have been penalized under law for voting because of their associations with this firm. So the one voted to penalize them, the Clinton appointee. But then an administrative law judge said, you cannot convict these people with one Securities and Exchange commissioner. You have to have more than one.

So here we have a Securities and Exchange Commission which is so compromised with their contacts, with their clients, who have represented all these people robbing America blind that they cannot even vote on enforcement actions. And the President is trying to tell us with his speech today, by God, he is taking care of this problem.

He has not taken care of the problem. He has tried to take care of one problem today and that is the political problem he has, the gathering storm of anger in this country that is beginning to look for someone to blame for the fact that billions of dollars of wealth have evaporated.

Americans are opening their 401(k) statements this month and many of them are shocked, disappointed and, yes, angered. They want to know who is responsible. How could these high-flying companies, how could these CEOs who are paying themselves tens of millions, hundreds of millions of dollars, boards of directors loaning themselves hundreds of millions of dollars, how could they suddenly be worthless? How could their 401(k)s have dropped so much? Because the money was stolen. And because there is no one home to enforce the law.

The Securities and Exchange Commission is the place to enforce the law, and until the President replaces the compromised people on the SEC; he has even got one nominated now, he comes from a securities firm. But as soon as that person gets there, he will not be

able to vote on any of these things because they worked on all of these things. These are their buddies, the people they go to the luncheons with, the country club, they go yachting with, they go to their multimillion-dollar homes in Florida with.

We need to clean up this mess. The President had a chance today; he did not take it. Perhaps we can give him another chance again soon. Perhaps the Republican leaders of the House will relent and allow real reforms for pensions, real reforms for securities. Maybe they will undo some of the things they did back in 1995, which essentially exempted these securities firms from prosecution.

We can take some real measures here if there is the will. But there is so much money flooding from these people into politics that I fear we will not get there.

Some of us will continue to speak out. Others will begin to speak out. But will they put their vote where their mouth is? And will the President really put firm steps where his rhetoric is? Not today.

Tomorrow is another day. Americans will be a little madder tomorrow. This will still be going on tomorrow. Let us see what happens then.

DISASTER IN SOUTH DAKOTA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota (Mr. THUNE) is recognized for 5 minutes.

Mr. THUNE. Mr. Speaker, I appreciate the opportunity to speak this afternoon to some issues that are important to my State.

In the last week I have had the opportunity to travel the State of South Dakota and witness some enormous devastation that our State has experienced as a result of drought. It was announced yesterday that the month of June was the driest in the 114-year history of our State. In western South Dakota we have farmers and ranchers who are experiencing tremendous economic impacts, losing, having to sell and liquidate their herds. We need a solution.

I will continue to prevail upon this body, upon my colleagues here, as I have already, to provide assistance to our farmers and ranchers who are so desperately in need of help this year.

In my judgment, the drought we are experiencing in South Dakota is not unlike many of the other natural disasters that affect other parts of this country, and it demands that this Congress and the people of this country step up and support those in my State who are suffering so desperately this year.

I also had the opportunity, Mr. Speaker, to witness firsthand some of the devastation that resulted as a result of the Grizzly Gulch fire, fire that ravaged about 11,000 acres of South Da-

kota this last week. Fortunately, it is under control; it is being contained. For that, we owe an incredible debt of gratitude to the extraordinary effort that was made by fire fighters all across South Dakota, volunteers who came and joined the Federal fire fighters who were doing such a great job of controlling, containing that blaze.

It came very, very close, right down to the city's edge, the city of Deadwood and other communities that would be impacted. It burned a number of structures and homes, but it did not come into the community as a result of the extraordinary efforts; and for that, I give the fire fighters of my State, many of them volunteers from across our State, great credit for the tremendous work that they did in controlling that blaze.

The people of my State have pulled together as they do in times of adversity to address this tragedy. We saved the community of Deadwood. And in South Dakota, I will tell my colleagues, we are open and ready for business. Those who like to vacation, we invite them to South Dakota. We have a number of wonderful family vacation attractions. It is very family-friendly. It is affordable. We have lakes and hills and bike trails, Mount Rushmore, Crazy Horse, many of the other great attractions that are unique to South Dakota. We want people of this country to come to our State and experience the wonderful beauty of it and take in many of the attractions that are available to them.

One thing that came out of this also, Mr. Speaker, and was reinforced, is that we need a change in forest policy in this country. Fires are a natural part of a forest system. We know that. But the intensity of those fires is not natural. We need to reduce the fuel loads that exist in places, in the Black Hills National Forest. We have seen fires in other parts of the country this year, but we have experienced firsthand fires in my State, and we have enormous loads of fuel on the ground in places that need to be reduced or we will be dealing with catastrophic fires throughout the course of the summer.

The Forest Service needs the authority to clear the dead trees that are creating the fuel loads that are presenting the risk of catastrophic fire. I have been trying now for several months to get a legislative solution in place that would give the Forest Service the tools they need to prevent catastrophic fires. Those efforts have been resisted to this point in the other body. Last week's fire should be a reminder and force us all to take another look at the policies in this country.

We have in this country, in my opinion, a big fire policy; as a result, we have big fires. We are seeing them burn in Arizona and Colorado and now South Dakota. We need reforms, Mr. Speaker, that will enable the Forest Service to

address these incredible risks that exist in our forests today.

The Forest Service, 40 percent litigation and appeals; 40 percent of the dollars that we appropriate for the Forest Service are spent fighting lawsuits and appeals that are brought on by groups who are trying to prevent the Forest Service from doing what they know they need to do and what the public knows needs to be done to keep our forests healthy.

I urge my colleagues to work with those of us that live in areas that are at risk of catastrophic fire to make changes in our policies that will protect the lives and the property of people of my State and others like it.

The Blacks Hills National Forest is South Dakota's treasure, but it is also America's treasure, and we need to treat it that way. Our State is experiencing historic droughts; that is a disaster. With that comes the risk of fire, fires that we know are going to be frequent in years like this. But the intensity of those fires, Mr. Speaker, is something we can address. We have within our control the ability and the power to give the Forest Service the tools that they need, the authority they need to go in there and manage and treat these forests, to clear those dead trees and that dead timber in a way that will prevent these forest fires from happening in the future.

In one part of Beaver Park, which is in the Sturgis area of South Dakota, we have there 70 tons of fuel on the ground in an area where the average is 7 tons of fuel, primarily as a result of the pine beetle infestation which has been killing trees at a rampant pace. In the last couple of years, in 1999, there were 15,000 trees that were affected by the pine beetle. In 2001, that was 100,000 trees. Yet, because of lawsuits, because of litigation, because of appeals and dilatory tactics, the Forest Service is unable to go in and take the steps necessary to keep the lives and property of people safe and to make sure that our forests are healthy.

Mr. Speaker, today I ask my colleagues in this body to work with me to make the necessary changes to give the Forest Service the tools they need and the authority they need to do the job of keeping our forests safe, protecting our lives and property, and our forests healthy.

RAIDING THE SOCIAL SECURITY TRUST FUND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I rise this evening to continue what has become my weekly clocking of the continuing Republican raid on our Nation's Social Security trust fund.

□ 1715

Four weeks have passed since I first came to this floor, unveiled our debt clock and our debt graphs and started documenting the truth to the American people about the Social Security trust fund.

The truth is that House Republican leaders have turned their back on America's senior citizens and are raiding billions every day from our Social Security trust fund. When President Clinton left office, our Nation had finally moved into an annual balance of accounts, and we were yielding even a small surplus. Though we had a huge accumulated debt that we were beginning to pay off, our Nation's financial house was put in order.

What has happened in just a few years under Republican leadership is that we have begun now to amass huge additional debts nationally, and there is only one place where they are going to get the funds to pay for the war, to pay for the tax breaks that have been given to the wealthiest in this country and the corporate cowboys that we see now being brought before congressional committees, and that is, our Nation's Social Security trust fund.

Do the Republicans have a plan to stop this raid? No, they do not, and in fact, today, the total raid has run now to over \$235 billion. That averages out to about \$837 for every single American who will qualify for Social Security. When I first came to this floor 4 weeks ago, they dipped into the Social Security trust fund to a raid of \$208 billion, and in just 4 weeks, that has gone up an additional \$27 billion.

The Republicans in this institution, at least their leadership, are in avoidance, hoping to dodge this issue in the fall's election. They will not even allow a debate on Social Security reform because they know that their risky idea of privatization to try to cover up what is really going on with the accumulated trust funds will be exposed for what it is, and that is, a gamble, not a guarantee.

Just look at what has been happening in the stock market, if my colleagues want to know something about gambles. The American people deserve better. Our working families deserve better and our seniors deserve better.

Working families have earned the right, not the privilege, the right to a secure retirement, and Republican leaders must put Social Security first, not dip further and further into the trust fund, violating the very lock box promise they made seven times not to dip into Social Security reserves in order to pay for other things.

The urgency is real and especially pronounced in the wake of the Enron collapse, WorldCom and other corporate scandals. Thousands have already lost their retirement checks in the private sector across this country, and many have been forced to return to work or to extend their career.

In his own case, President Bush yesterday in a White House press conference commented about confusing accounting procedures that were used to mask nearly three-quarters of a million dollars that he yielded from the early sale of stock in a firm on which he had sat, actually an oil company on which he had sat on the board. When the national press asked him how it was possible that he had sold this stock early and yielded those dollars, he said he still had not figured it out completely. That was reported in three different newspapers today.

Let us reflect on that statement for a moment. President Bush, a former corporate director and member of the auditing committee of that corporation, when pressed about possible corporate bookkeeping practices, replies, I still have not figured it out completely.

Should the American people expect that? We should expect more. We deserve more. America needs tough accounting standards for private sector plans, and it needs tough accounting standards for Social Security because these dollars have to be replaced somehow.

So the time has come for financial and political accountability. Republican leaders should be held responsible and they will be in this coming November's election.

WE NEED SMALLER GOVERNMENT

The SPEAKER pro tempore (Mr. SHUSTER). Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, because of the corporate scandals at WorldCom, Enron and Global Crossing, C-SPAN a few days ago asked people call in on the question of whether they had lost their faith in American corporations.

The problem is that bigger and bigger government has led to and resulted in bigger and bigger businesses controlling or dominating almost every industry or business sector. Almost every major problem we have today has been made worse because liberals over the last many years have made our government at the Federal and now even at the State levels far too big.

Big government, in the end, really helps only extremely big businesses and the bureaucrats who work for the government. The big giants in every industry have come to the government and have gotten the government contracts, the favorable regulatory rulings, the tax break, the insider sweetheart deals in trade deals and so forth. So the big keep getting bigger and small businesses and small farms go under or struggle to survive, and now even medium-sized businesses even barely hang on.

Despite the most economic leverage of any Nation in the world and the fact

that every nation drools to get into our markets, we have not used this economic leverage to help American small- and medium-sized businesses and workers, and instead have helped only big multinational companies.

Liberals always claim they are for the little guy. Yet their policies have hurt the little man in almost every way. For example, big government has driven medical costs almost out of sight.

Another example, liberals expanded the FDA and made it so big and bureaucratic that it now takes an average of over 10 years and over \$850 million to get a drug to market. This is why prescription drugs cost so much. People wonder why and do not realize it is their own government that has done it to them.

Big government liberals and their allies in the environmental movement protest every time anyone wants to cut any trees, dig for any coal, drill for any oil, or produce any natural gas. This has caused many small companies to go out of business and forced them to merge and has driven up prices and destroyed jobs. This has hurt the poor and lower-income and working people most of all.

I am sick and tired of seeing so many American jobs go to other countries. However, when big government taxes and regulates small businesses or small farms out of business, it simply means that the big keep getting bigger. Then the big giants have to go where labor and regulatory costs are the lowest, and they are much more likely to move out of the country, and then our people wonder why we keep losing so many good jobs. Well, it is primarily because of a Federal Government that has grown so big and so bureaucratic that it is simply out of control.

In the Subcommittee on Water Resources and Environment, we recently learned that some 400 pages of proposed EPA regulations would run 40,000 small farmers out of business. We had farmers in our hearing crying because their own government was about to do them in.

I am told that in 1978 we had 157 small coal companies in east Tennessee. Now there are none. All the small- and medium-sized ones were regulated out of existence by Federal mining regulators under intense pressure from environmental special interest groups which get their contributions mainly from extremely big business.

We have just had some 500 square miles of forests burning in several States out West. Two years ago, the previous administration followed policies that caused 7 million acres to burn and over \$10 million in damage.

The head of the Forest Service told the Washington Times that "there might have been 40 to 50 Ponderosa pine trees per acre at one time. Now you've got several hundred per acre."

Yet environmental extremists oppose even any thinning of the trees, no cutting at all, and even oppose removal of dead and dying trees. The Washington Post said the combination of drought and refusal to thin the forests has been deadly and has caused all these fires because there is such a tremendous build-up of fuel on the floors of the forest.

The opposition to cutting the trees has driven many small logging companies out of business and once again has destroyed jobs and caused another industry to be limited primarily to big grants.

When big government liberals make it impossible for small drug companies and small businesses in every industry to survive, it decreases competition and drives up prices. This hurts lower-income people the most.

When big government liberals and wealthy environmental extremists force mom-and-pop mining or logging companies or small farms out of business, it destroys jobs and opportunities not only for loggers and miners and farmers but also their lawyers, accountants, secretaries and salespeople. This is a big part of the reason why so many college graduates cannot find good jobs and have to go to graduate schools and work as waiters and waitresses.

When I was growing up, a poor man could start a gas station. Now, because of all the environmental rules and regulations and red tape, it takes a multi-millionaire or a giant corporation to start one.

Mr. Speaker, to sum up, big government liberalism is killing the little guy. Liberals and environmental extremists are the best friends extremely big business has ever had, and it is no wonder we are seeing the major corporate scandals we are reading and hearing about today. Unless and until we downsize our Federal Government, we will continue to see even more.

OMNIBUS RESTORATION AND REFORM ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, we find ourselves in a dilemma, and I would hope that the dilemma would cause us to recognize that all of us who are responsible for governance and are responsible for the leadership that is important in corporate responsibility cannot take on any labels. I will say that the importance of what we are doing should not have a label of Republicans or Democrats, but clearly, the label should be that Congress has not acted.

We simply have not done the job. I am not sure if this has anything to do with big government or little govern-

ment. I would say that it has a lot to do with congressional abdication of their responsibilities and agencies not doing their jobs and regulations not being strong enough, and that is, of course, the problem of corporate non-responsibility.

It is urgent that this Congress acts now. I happen to represent Enron Corporation who is now at this point trying to rebuild itself and remake itself, and I have always said that I wish them well, because I want a strong business doing the business that it was designed to do and providing jobs for the 18th Congressional District. At the same time, we cannot ignore the fact that we have a circumstance where there is a crumbling of investor integrity and investor confidence in our system.

Whether it is Enron that fired 4,000 employees 24 hours after they filed for bankruptcy, while 2 days before they gave \$105 million in retention bonuses to past leadership of that particular corporation, and I recognize that trials and investigations are still going on and that is appropriate, but we do know the facts. That almost 5,000 employees were laid off with no savings, minimal severance pay, left to their own devices and much of that was without any device. Pensioners losing their life savings. A constituent of mine, a small investor, a grandmother, said I lost \$150,000, a lot of money for someone who may be new to the marketplace.

WorldCom, and I hold up a certificate of stock ownership, maybe, Mr. Speaker, this is not exactly a certificate of stock ownership, but it reflects that WorldCom sold just a few weeks ago for \$64 per share and just recently it sold for 7 cents a share, and it was disenrolled or D-enrolled on the NASDAQ stock exchange.

It is time now, Mr. Speaker, for much action to occur, and this week I will be looking forward to introducing the Omnibus Restoration and Reform Act of 2002, dealing with trying to get the focus of not only the Congress but of the American people on one legislative initiative that includes any number of fixes.

Mr. Speaker, I hope that we will pass 25 bills dealing with corporate reform. I would hope that this omnibus bill will just signal that the Congress needs to move. It needs to move because insider trading is still going on.

Pharmaceuticals, oil companies, communications companies, we already know that the communications industry has lost more than 165,000 jobs, second only, I understand, to the auto industry.

What has to be done? I agree with the leader of the other body and the leader of this body that we must have an investor bill of rights, and I join them in their announcement today and applaud them for their leadership.

I agree with the announcements being made in Wall Street today that we need a stronger SEC.

□ 1730

But after we do all of this, we must have follow-through. The Investor Bill of Rights must have the opportunity to pass, and the bill, or any bills that the President is talking of, must be able to pass.

Mr. Speaker, let me simply say in closing that we need an omnibus corporate reform restoration act to restore the faith of those who invest in our capitalistic system, oversight of the board of directors, and to make criminal the actions of those CEOs who would do criminal acts at the head of their companies.

I hope we will act soon. Congress needs to act soon and the President needs to sign a bill to strengthen our corporate structure.

PRESIDENT'S PLAN ON CURBING CORPORATE GREED

The SPEAKER pro tempore (Mr. SHUSTER). Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, earlier today President Bush gave a major speech on the administration's plan to curb executive greed and corporate misgovernance in our country. This plan could be a tough sell, considering the President's own record as a businessman and his record of regulating industry.

Shortly after taking office, President Bush made clear how he felt about any kind of government regulation. His first budget proposal contained the elimination of 57 staff positions at the Securities and Exchange Commission, the agency charged with reviewing his corporate financial problems of the 1980s and reviewing all corporate financial reports today. His Treasury Secretary moved immediately to shut down intergovernmental efforts undertaken by the previous administration to monitor offshore tax havens at the heart of the financial maneuvering that led to Enron's collapse.

This President let chemical companies write legislation that dealt with arsenic in the drinking water, let insurance companies write legislation about the privatization of Medicare, let the drug companies write legislation that had to do with prescription drug coverage, let Wall Street write legislation to privatize Social Security, and let the banks write legislation relating to bankruptcy. This laissez-faire antigovernment attitude of the Bush administration also created a permissive environment clearly making companies like Enron, WorldCom, Adelphia, and others believe they could mislead investors with impunity as long as President Bush was in office.

Even after the Enron scandal was revealed last year, the President proposed a zero-growth budget for the SEC. He supported publicly and aggressively weak pension and accounting reform bills in the House, even though thousands of employees in this country, turning into tens of thousands, hundreds of thousands of employees, are losing their retirements to fraud and mismanagement by the President's friends at Enron and other corporations.

He refused to support legislation that would close the loopholes that allow American companies to go offshore to avoid U.S. taxes. He has declined to support reauthorization for the Superfund tax, requiring corporate polluters to pay for cleanup of the messes they make. Instead, he has chosen to have taxpayers pay to clean that up. To make matters worse, the President's advocated turning Medicare and Social Security over to the private sector.

As evidence of this bias in his political contributions from the insurance industry, the President recently endorsed a Medicare prescription drug plan that would be administered by the health insurance industry. This plan undercuts seniors' purchasing power and enables the drug industry to sustain its outrageous drug prices by permitting the continued abuse and manipulation of drug patent laws.

Why? It just might have had something to do with our committee 2 weeks ago considering the prescription drug bill. The committee chair decided to quit at 5 p.m. so all the Republican members in the committee could troop off to a fund-raiser, a Republican fund-raiser headlined by George Bush, where the chairman of the fund-raiser was the CEO of a prescription drug company in England. That chairman and that company contributed \$250,000 to House and Senate Republicans and to President Bush. Other prescription drug companies contributed \$50,000, \$100,000, and \$250,000, while Congress was considering a prescription drug bill.

No surprise that the next day, when our friends returned to our hearing, that on issue after issue after issue the Republicans voted down the line for drug company interests against seniors' interests.

The President and his administration have a long way to go to convince the American people they are serious about cleaning up corporate abuses in large American business or even enforcing current law.

So as the country considers the President's plan for reversing the current trend of corporate greed and misdeeds, I hope my colleagues will understand that I view his conversion from a proponent of laissez-faire economics in letting corporations run roughshod over government regulations and roughshod over the public, his conversion from that to chief regulator and

enforcer of these laws with a healthy degree of skepticism.

A famous civil rights leader years ago said, "Don't tell me what you believe. Tell me what you do, and I will tell you what you believe."

CRISIS ON WALL STREET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes.

Mr. GEORGE MILLER of California. Mr. Speaker, today President Bush went to Wall Street, and he went to Wall Street because he believes that Wall Street is now in trouble. It is in trouble with investors, it is in trouble with the American people, it is in trouble with the international capital communities; and therefore, the President went to Wall Street.

The President today recognized that we have a crisis and a scandal in the financial markets in the United States; that, rightfully, professional investors, amateur investors, and people who really do not even know how to invest but have a stake in Wall Street through their pension plans have lost their confidence and are starting to think that somebody ought to go to jail.

This did not happen today, it did not happen yesterday, it did not happen last week when the President made up his mind he was going to Wall Street. This has been a crisis for the average American for more than a year. This has been a crisis since Enron and Tyco and many other companies started to falter as their fraudulent bookkeeping schemes started to come to light.

Hundreds of thousands of Americans have had their pensions evaporate as companies disguised their financial health and then immediately declared bankruptcy. Hundreds of thousands of Americans who thought they might be able to retire in the next couple of years now recognize that they are going to have to work the rest of their lives if they are going to get by. This was a crisis for tens of thousands of employees whose jobs evaporated overnight because of the greed of the corporate executives who, while they told employees they could not provide additional health care dollars, they could not provide extra compensation, they could not give to their pensions, were taking hundreds of millions of dollars off the top of the corporation.

This has been a disaster for millions of shareholders across this country and in the rest of the world as they lost value in their portfolios, some of it for their retirement, some of it for their children, some of it for their families, because of the deception, the greed, the dishonesty that was rampant on Wall Street these last couple of years. Yet it took almost 18 months for George Bush to ask what was going on. It took al-

most 18 months for George Bush to deliver a major speech on this crisis.

The President did not deliver the speech when it was just the American family that was in trouble. He did not deliver the speech when it was just the workers at Enron or ImClone or Dynegy that were in trouble. When we in California tried to tell him that they were manipulating the energy market, that they were gouging our consumers, that they were gouging the State, that it was all manipulation, they told us there was nothing to talk about, that they were comfortable that the market would work it all out. There was no market. It was manipulation. It was greed. It was dishonesty. It was fraud.

The same was true when he appointed Harvey Pitt as the chairman of the Securities and Exchange Commission, who said that the previous chairman of the Securities and Exchange Commission, Mr. Levitt, had been too hard on American corporations; when he tried to get honesty and transparency in their accounting processes, the industry came to Congress and got them to stall out. So Mr. Pitt said he is coming to be kinder and gentler to these corporations.

That is not what we need. We need a watchdog. We do not need a lapdog. But Mr. Pitt was appointed to be a lapdog. I do not think Mr. Bush can restrain him fast enough to take care of the American investor, the American worker, and the American shareholder. Every week now we get a new revelation. And the interesting thing is that many of the things these corporations were doing may not be against the law.

Merck was taking money that went to the pharmacists and saying it was their revenue. They never saw the money; it never came to them. And they are saying this is generally accepted within accounting principles. Generally accepted to what? To misstate revenues, to misstate earnings? I do not think so. But apparently it is.

That is why we need what Senator SARBANES is presenting to the Senate right now, a strong, independent review board, and not some industry control board that the President has been for, or that Mr. Pitt has been for, controlled by industry, making up the rules for industry for the good of the industry and not for the American people.

An investor today in the American stock market, whom are they to believe? Are they to read the 10K statements? They apparently have been misleading. Are they to read the page that is signed off by the accountant? They have been lying to the public. Are they going to go talk to the attorneys? They have been misleading the public and the boards of directors and others.

Mr. President, we are glad that you finally recognized this is a crisis, but for millions of Americans who have lost their pensions, lost their jobs, and

lost their savings, this was a crisis a long time ago.

INTRODUCTION OF MILITARY TRIBUNALS ACT OF 2002

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

Mr. SCHIFF. Mr. Speaker, today I will be introducing the Military Tribunals Act of 2002 to provide congressional authorization for tribunals to try unlawful combatants against the United States in the war on terrorism.

Article I, section 8 of the Constitution provides that it is the Congress that has the power to constitute tribunals inferior to the Supreme Court to define and punish offenses against the law of nations.

Up until now, there has been no congressional authorization for military tribunals. The formation of these tribunals, thus far, has been performed solely by executive order of the President with clarifying regulations promulgated by the Secretary of Defense.

Some would argue, not implausibly, that despite the clear language of article I, section 8, congressional authorization is not necessary; that as President and commander in chief, he has the authority, all the authority he needs, to regulate the affairs of the military, and this power extends to the adjudication of unlawful combatants. Ultimately, if the Congress fails to act, any adjudications of the military tribunals will be challenged in court on the basis that the tribunals, having been improperly constituted, the sentences cannot stand.

Through this bill, we can remove any legal cloud that would overhang these prosecutions. For one thing the Supreme Court has made abundantly clear is that the power of the executive when it acts in concert with the Congress is at its greatest ebb. But there is another reason, an even more compelling reason, for Congress to act, and that is the separation of powers.

No single branch should have the authority on its own to establish jurisdiction for a tribunal, to determine the charges, to determine indeed what defendants should be brought before that tribunal, to determine process, and to serve as judge, jury and potential executioner. As a former prosecutor, I would not have wanted such unbridled authority, nor do I believe it is appropriate here.

The Military Tribunals Act of 2002 establishes the jurisdiction of these new courts over noncitizens, non-U.S. residents, unlawful combatants, al-Qaeda members, and those working in concert with them to attack the United States. It preserves the right of habeas corpus, and appeal, and the basic rights of due process. It also protects the confidentiality of sources of information and

classified information. And it also protects ordinary citizens from being exposed to the dangers of trying these suspects.

Perhaps most important, in the context of a war without clear end, against an enemy without uniform or nation, the bill requires the President to report to Congress on who is detained for how long and on what basis.

□ 1745

Mr. Speaker, in sum, the Military Tribunal Act of 2002 gives the Commander in Chief the power to try unlawful combatants, provides the confidence these judgments will be upheld, establishes clear rules of due process, maintains our checks and balances, and permits Congress to effectively oversee the war powers as the Constitution and the preservation of liberty requires.

Separation of powers: Our great nation was founded on the basic principles of liberty and justice for all. And one of the founding principles of our government is a separation of powers, and a system of checks and balances.

We set up our government this way for a reason. The delegates to the Constitutional Convention faced a difficult challenge—to create a strong, cohesive central government, while also ensuring that no individual or small group in the government would become too powerful. They formed a government with three separate branches, each with its own distinct powers.

Without this separation of powers, any one branch of government could have the power to establish a tribunal, decide what charges would be covered and what due process would be afforded, and also serve as judge and jury. The intent of the framers was to avoid these kinds of imbalances of power—to provide checks and balances.

That is why Congress must have a role in setting up military tribunals.

The role of military tribunals: As the United States and its allies continue to engage in armed conflict with al Qaeda and the Taliban, military tribunals provide an appropriate forum to adjudicate the international law of armed conflict. While it may sound incongruous to have a justice system to deal with crimes of war, this process ensures adherence to certain international standards of wartime conduct. In order to garner the support of the community of nations, military trials must provide basic procedural guarantees of fairness, consistent with the international law of armed conflict and the International Covenant on Civil and Political Rights.

Constitutional justification: Congressional authorization is necessary for the establishment of extraordinary tribunals to adjudicate and punish offenses arising from the September 11, 2001 attacks, or future al Qaeda terrorist attacks against the United States, and to provide a clear and unambiguous legal foundation for such trials.

This power is granted by the U.S. Constitution, which gives congress the authority to constitute tribunals, define and punish offenses against the Law of Nations, and make rules concerning captures.

While Congress has authorized the President to use all necessary and appropriate force against those nations, organizations, or persons that he determines to have planned, authorized, committed, or aided the terrorist attacks or harbored such organizations or persons, Congress has yet to expressly authorize the use of military tribunals.

Crafting the bill: In November, 2001, the President issued a military order which said non-U.S. citizens arrested at home or abroad could be tried by military tribunals. In March, 2002, the Department of Defense announced rules for military trials for accused terrorists.

Believing that Congress should play a critical role in authorizing military tribunals, I began discussing this issue with legal organizations, military law experts, and legal scholars. The result of these discussions is the Military Tribunals Act of 2002, which I am introducing today.

Who is covered: My bill will give the President the authority to carry out military tribunals to try individuals who are members of al Qaeda or members of other terrorist organizations knowingly cooperating with or aiding or abetting persons who attack the United States.

Unlawful combatants: The Geneva Conventions limit the ways regular soldiers who surrender or are captured may be treated, but there is a very clear distinction made between lawful enemy combatants (a member of a standing/recognized army), who would not be subject to a tribunal, and unlawful enemy combatants (civilians who take up arms) who would.

Currently, there are more than 500 persons who are being detained at Guantanamo Bay. They have been classified by the Department of Defense as unlawful enemy combatants, and each one could potentially be subject to a military tribunal. But without legislative backing, any military tribunal adjudication of guilt may later be challenged on the basis that the tribunals were not authorized by Congress. Congressional action would make it abundantly clear that military tribunals are an appropriate venue for trying unlawful enemy combatants. Spelling out the requirements for a military tribunal would ensure that sentences, when they are handed down, could be defended from judicial invalidation.

Due process: My bill would ensure that the basic tenets of due process are adhered to by a military tribunal. The tribunal would be independent and impartial. The accused would be presumed innocent until proven guilty, and would only be found guilty if there was proof beyond a reasonable doubt. The accused would be promptly notified of alleged offenses. The proceedings would be made available to relevant parties in other languages as necessary. The accused would have the opportunity to be present at trial. The accused have the opportunity to confront, cross-examine, and offer witnesses. The proceedings would be expeditious. The accused would be afforded all necessary means of defense. A conviction would be based on proof that the individual was responsible for the offense. A conviction could not be upheld on an act that was not an unlawful offense when it was committed. The penalty for an offense would not be greater than it was when the offense was

committed. The accused would not be compelled to confess guilt or testify against himself. A convicted person would be informed of remedies and appeals processes. A preliminary proceeding would be held within 30 days of detention to determine whether a trial may be appropriate. The tribunal would be comprised of a military judge and not less than five members. The death penalty would be applied only by unanimous decision. The accused would have access to evidence supporting each alleged offense, except where disclosure of the evidence would cause identifiable harm to the prosecution of military objectives, and would have the opportunity to both obtain and present exculpatory evidence, and to respond to such evidence.

Habeas corpus: Finally, the writ of habeas corpus would not be infringed, as it is a critical tenet of our justice system. Every person should be entitled to a court determination of whether he is imprisoned lawfully and whether or not he should be released from custody. This basic tenet dates back to 1215 when it stood in the Magna Carta as a critical individual right against arbitrary arrest and imprisonment.

Courts have referred to habeas corpus as "the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action." Without judicial review, the police can arrest people without warrants and jail people without trials. U.S. Senator Arlen Specter has noted, "Simply declaring that applying traditional principles of law or rules of evidence is not practical is hardly sufficient. The usual test is whether our national security interests outweigh our due process rights, and the administration has not made the case."

A careful reading of the President's military order reveals that "military tribunals shall have exclusive jurisdiction, and the individual shall not be privileged to seek any remedy or maintain any proceeding, directly or indirectly . . . in any court of the United States, or any state thereof, any court of any foreign nation, or any international tribunal."

Appeals process: Another critical protection we must retain in these trials is that of an appeals process. My bill calls for the Secretary of Defense to promptly review convictions by such tribunals to ensure that the procedural requirements of a full and fair hearing have been met. It also calls for the United States Court of Appeals for the Armed Forces established under the Uniform Code of Military Justice to review the proceedings, convictions, and sentences of such tribunals. Finally, the Supreme Court would review the decisions of the United States Court of Appeals for the Armed Forces. This is the most appropriate system of judicial review, especially since the U.S. Court of Appeals for the Armed Forces would not have to appoint special masters or magistrates to do the necessary fact finding.

Public proceedings: We gain the confidence of our citizenry by ensuring that trial proceedings are open to the public. My bill would require trial and appeal proceedings to be accessible to the public, while securing the safety of observers, witnesses, tribunal judges, counsel, and others. Evidence available from an agency of the Federal Government, however, may be kept secret from the public if such evidence would harm the prosecution of

military objectives or intelligence sources or methods.

Detention: The bill allows for the Secretary of Defense to detain a person who is subject to a tribunal consistent with the international law of armed conflict. However these detentions would only be authorized while a state of armed conflict continues, or which a prosecution or a post-trial proceeding is ongoing. Under the Military Tribunals Act of 2002, the United States District Court for the District of Columbia would have exclusive jurisdiction to ensure that the requirements for detaining an accused are satisfied.

And while an accused is held, the detainee shall be treated humanely, without any adverse distinction based on race, color, religion, gender, birth, wealth, or any similar criteria. Adequate food, drinking water, shelter, clothing, and medical treatment shall be provided. Finally, a detainee's right to the free exercise of religion would not be infringed.

Reports to congress: Without protection and reporting requirements in place, persons detained for an indefinite amount of time would have no recourse. Currently in America, the total number of persons detained by both the Department of Justice and the Department of Defense is unknown. In many cases, there is little information, if any, available about who has been detained and why. My bill requires the President to report annually to Congress on the use of the military tribunal authority. Each such report would include information regarding each person subject to, or detained pursuant to, a military tribunal, and each person detained pursuant to any actual or planned act of terrorism, who has not been referred for trial in connection with that act of terrorism to a criminal court or to a military tribunal. With this provision, we can significantly reduce the danger that due process might be evaded by simply failing to bring detainees before a tribunal for trial.

Conclusion: There is some debate about the necessity of Congressional input in the establishment of military tribunals. But there is no doubt that legislative branch input can provide indispensable safeguards, such as an appeal to an independent entity, that the executive branch simply cannot provide on its own. By exercising Congress' role in the process, we will ensure that our justice system remains a beacon for the rest of the world, where due process is protected, and the accused are afforded basic protections.

We are living in an extraordinary time, a difficult time. But we are defined as a nation by how we handle these difficult times. Our government's words and deeds are important, not only for the legal precedents we set, but also for the message we send to our global neighbors. During this, the most significant international crisis of our day, we have an opportunity to show the world the true meaning of justice, liberty, and the freedoms upon which America was founded.

PRESIDENT'S FORTUNE BUILT ON INSIDER TRADING

The SPEAKER pro tempore (Mr. SHUSTER). Under a previous order of the House, the gentleman from Washington (Mr. McDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, I include for the RECORD an article from yesterday's New York Times by Paul Krugman called "Succeeding in Business."

The reason I do this, we have a lot of Members coming here and talking about what is happening with business and the President, and this article told us what was going to happen today. As we watch the news about what President Bush said, remember this: "George Bush is scheduled to give a speech intended to put him in front of the growing national outrage over corporate malfeasance. He will sternly lecture Wall Street executives about ethics and will doubtless portray himself as a believer in old-fashioned business probity."

"Yet this pose is surreal, given the way top officials like Secretary of the Army Thomas White, DICK CHENEY and Mr. Bush himself acquired their wealth. As Joshua Green says in *The Washington Monthly*, in a must-read article written just before the administration suddenly became such an exponent of corporate ethics: 'The new tone that George W. Bush brought to Washington isn't one of integrity, but of permissiveness. In this administration, enriching oneself while one's business goes bust is not necessarily frowned upon.'

"Unfortunately, the administration has so far gotten the press to focus on the least important question about Mr. Bush's business dealings: His failure to obey the law by promptly reporting his insider trading. It is true that Mr. Bush's story about that failure has suddenly changed four times, but the administration hopes that a narrow focus on the reporting lapses will divert attention from the larger point: Mr. Bush profited personally from aggressive accounting identical to the recent scams that have shocked the Nation.

"In 1986, one would have had to consider Mr. Bush a failed businessman. He had run through millions of dollars of other people's money, with nothing to show for it but a company losing money and heavily burdened with debt. But he was rescued from his failure when Harken Energy bought his company at an astonishingly high price. There is no question that Harken was basically paying for Mr. Bush's connections.

"Despite these connections, Harken did badly. But for a time it concealed its failure, sustaining its stock price, as it turned out, just long enough for Mr. Bush to sell most of his stake at a large profit, with an accounting trick identical to one of the main ploys used by Enron a decade later."

Mr. Speaker, surprisingly, Arthur Andersen was the accountant. The ploy works this way. Corporate insiders create front corporations that seem independent but are really under their control. This front buys some of the firm's

assets at unrealistically high prices, creating a phantom profit that inflates the stock price, allowing the executives to cash in their stock.

That is exactly what happened at Harken. A group of insiders, using money borrowed from Harken itself, paid an exorbitant price for a Harken subsidiary, Aloha Petroleum. That created a \$10 million phantom profit which hid three-quarters of the company's losses in 1989. White House aides have played down the significance of this move saying \$10 million is not very much compared with recent scandals. Indeed, it is a small fraction of the apparent profits Halliburton created through a sudden change in accounting procedures during DICK CHENEY's tenure as chief executive. But for Harken's stock price and hence Mr. Bush's personal wealth, this accounting trickery made all the difference. Mr. Bush was on the company's audit committee, as well as on the special restructuring committee.

And back in 1994, another member of both committees, E. Stuart Watson, assured reporters that he and Mr. Bush were constantly made aware of the company's finances. If Mr. Bush did not know about the Aloha maneuver, he was a very negligent director. In any case, Mr. Bush certainly found out what his company had been up to when the Securities and Exchange Commission ordered it to restate its earnings, so he cannot really be shocked over recent corporate scams. His own company pulled exactly the same tricks, to his considerable benefit. Of course what really made Mr. Bush a rich man was the investment of those proceeds from Harken in the Texas Rangers, a step that is another equally strange story.

The point is the contrast between image and reality. Mr. Bush portrays himself as a regular guy, someone ordinary Americans can identify with, but his personal fortune was built on privilege and insider dealings, and after his Harken sale, on large-scale corporate welfare. Some people have it easy.

Mr. Speaker, this is the man who went down there and said we are going to clean this thing up. We are going to have a task force on corporate fraud. The fox went down to the chicken house and said to the other foxes, hey, I know how to run this hen house, and I am going to show you.

This guy, can we expect him really, really, after that story, and this is not me talking, this is a columnist for the New York Times.

Mr. Speaker, most people who watch television tonight will see about 19 seconds of the President saying, I am going to be tough on corporate fraud. They will think it is for real because they will not know the story behind the man, what he really did. That is why I took the time to come down and read this. I feel like an old-fashioned

news reader on television. Now everything has to be snap, snap and Americans never learn what is really going on.

This President is running a game on us, and the pensions and investments of people are at risk as long as he refuses to put people on the SEC to stop it.

The article previously referred to is as follows:

[From the New York Times, July 7, 2002]

SUCCEEDING IN BUSINESS

(By Paul Krugman)

George W. Bush is scheduled to give a speech intended to put him in front of the growing national outrage over corporate malfeasance. He will sternly lecture Wall Street executives about ethics and will doubtless portray himself as a believer in old-fashioned business probity.

Yet this pose is surreal, given the way top officials like Secretary of the Army Thomas White, Dick Cheney and Mr. Bush himself acquired their wealth. As Joshua Green says in *The Washington Monthly*, in a must-read article written just before the administration suddenly became such an exponent of corporate ethics: "The 'new tone' that George W. Bush brought to Washington isn't one of integrity, but of permissiveness. . . . In this administration, enriching oneself while one's business goes bust isn't necessarily frowned upon."

Unfortunately, the administration has so far gotten the press to focus on the least important question about Mr. Bush's business dealings: his failure to obey the law by promptly reporting his insider stock sales. It's true that Mr. Bush's story about that failure has suddenly changed, from "the dog ate my homework" to "my lawyer ate my homework—four times." But the administration hopes that a narrow focus on the reporting lapses will divert attention from the larger point: Mr. Bush profited personally from aggressive accounting identical to the recent scams that have shocked the nation.

In 1986, one would have had to consider Mr. Bush a failed businessman. He had run through millions of dollars of other people's money, with nothing to show for it but a company losing money and heavily burdened with debt. But he was rescued from failure when Harken Energy bought his company at an astonishingly high price. There is no question that Harken was basically paying for Mr. Bush's connections.

Despite these connections, Harken did badly. But for a time it concealed its failure—sustaining its stock price, as it turned out, just long enough for Mr. Bush to sell most of his stake at a large profit—with an accounting trick identical to one of the main ploys used by Enron a decade later. (Yes, Arthur Andersen was the accountant.) As I explained in my previous column, the ploy works as follows: corporate insiders create a front organization that seems independent but is really under their control. This front buys some of the firm's assets at unrealistically high prices, creating a phantom profit that inflates the stock price, allowing the executives to cash in their stock.

That's exactly what happened at Harken. A group of insiders, using money borrowed from Harken itself, paid an exorbitant price for a Harken subsidiary, Aloha Petroleum. That created a \$10 million phantom profit, which hid three-quarters of the company's losses in 1989. White House aides have played down the significance of this maneuver, say-

ing \$10 million isn't much, compared with recent scandals. Indeed, it's a small fraction of the apparent profits Halliburton created through a sudden change in accounting procedures during Dick Cheney's tenure as chief executive. But for Harken's stock price—and hence for Mr. Bush's personal wealth—this accounting trickery made all the difference.

Oh, the Harken's fake profits were several dozen times as large as the Whitewater land deal—though only about one-seventh the cost of the Whitewater investigation.

Mr. Bush was on the company's audit committee, as well as on a special restructuring committee; back in 1994, another member of both committees, E. Stuart Watson, assured reporters that he and Mr. Bush were constantly made aware of the company's finances. If Mr. Bush didn't know about the Aloha maneuver, he was a very negligent director.

In any case, Mr. Bush certainly found out what his company had been up to when the Securities and Exchange Commission ordered it to restate its earnings. So he can't really be shocked over recent corporate scams. His own company pulled exactly the same tricks, to the considerable benefit. Of course, what really made Mr. Bush a rich man was the investment of his proceeds from Harken in the Texas Rangers—a step that is another, equally strange story.

The point is the contrast between image and reality. Mr. Bush portrays himself as a regular guy, someone ordinary Americans can identify with. But his personal fortune was built on privilege and insider dealings—and after his Harken sale, on large-scale corporate welfare. Some people have it easy.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. After listening to several 5-minute special order speeches, the Chair would remind all Members that, although remarks in debate may include criticism of the President on matters of policy or politics, remarks in debate may not descend to personalities by alluding to unethical behavior on the part of the President.

FOX GUARDING THE CHICKEN COOP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEWIS) is recognized for 5 minutes.

Mr. LEWIS of Georgia. Mr. Speaker, I come to the floor tonight dismayed, disillusioned and disappointed. What is happening in corporate America? What has become of our corporate leaders? This is a simple issue of right and wrong, good and evil, how fraud, lying and cheating have become part of our corporate culture. We must ask ourselves, How did this happen? What gave birth to this period of corporate greed and scandal?

It all started with the corporate crusade against big government. Big government was making big business file too many reports. Big government was spending too much time making sure that big business was following the

law, so big business asked their friends in Congress to do something about it.

Thanks to Republican attacks against big government, these CEOs and board of directors are acting with little, if any, government regulation. They have been lying to investors, lying to workers, and lying to the Federal Government. And they have been getting away with it.

While corporate America has been making out like bandits, hard-working men and women are losing their jobs, their retirement, and losing their children's college funds. The majority party in the White House has created a climate in which Enron, WorldCom, and Tyco could happen. Instead of having the SEC look over corporate books, Republicans have had the SEC look the other way.

My colleagues, so shall thee sow, so shall thee reap.

But this travesty is not just about Global Crossing, WorldCom, Enron, Martha Stewart, Tyco, and Merck. In fact, it is not just about the world of business. It is bigger than that.

Look at the Republican environmental record. Look at their record on worker safety. Our Interior Department is fighting tooth and nail to drill for oil and dig for coal on our pristine public lands. The EPA is leading the fight for more air pollution. OSHA is making fewer and fewer trips to the workplace. And the SEC has been leading the fight to let business just go about its business.

Time and time again, Republicans have declared that the only regulation is self-regulation or no regulation. Even today, President Bush declared that we must "depend on the conscience of American business leaders."

Republicans have left the fox in charge of the chicken coop; and now they are shocked, they are absolutely shocked to find a fat fox and an empty chicken coop.

Mr. President, actions speak louder than words. Today's moral indignation rings as falsely as an Enron accounting report.

Today, President Bush told the American people that he wanted to hire 100 new staffers at the SEC to make corporations obey the law. President Bush did not tell the American people that just last year he proposed getting rid of 57 SEC workers. This is what the Republicans were doing before the American people started paying attention. This is what the Republicans were doing when no one was watching.

We do not need strong words and empty promises. We need strong regulation and strict enforcement. It is time to get tough on crime, all crime, and not just the folks who cannot afford to make a campaign contribution.

When someone gets caught dealing a thousand dollars' worth of drugs, they lock you up, lock you away, and take

almost everything you own. We need the same standards for CEOs who steal millions of dollars from their companies. We need the same standards for corporate leaders who lie, cheat and steal from their employees and their shareholders.

Mr. Speaker, it is time to get serious about corporate crime. It is time to put some teeth back into securities laws and some power back into the SEC. Do not just talk the talk; walk the walk. Pass the laws. Protect the folks who are being dumped on and ripped off. We owe our people no less. It is our mission, our mandate, and our moral obligation, our moral responsibility.

HAS CAPITALISM FAILED AGAIN?

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Texas (Mr. PAUL) is recognized for 60 minutes as the designee of the majority leader.

Mr. PAUL. Mr. Speaker, the question I want to address today is: Has capitalism failed again?

It is now commonplace and politically correct to blame what is referred to as the excesses of capitalism for the economic problems that we face, and especially for the Wall Street fraud that dominates the business news. Politicians are having a field day demagoguing the issue while, of course, failing to address the fraud and deceit found in the budgetary shenanigans of the Federal Government for which they are directly responsible. Instead, it gives the Keynesian crowd that runs the show a chance to attack free markets and ignore the issue of sound money.

So once again we hear the chant: Capitalism has failed; we need more government controls over the entire financial markets. No one asked why the billions that have been spent and thousand of pages of regulations that have been written since the last attack on capitalism in the 1930s did not prevent the fraud and deception of the Enrons, the WorldComs, and the Global Crossings. That failure surely could not have come from a dearth of regulations.

What is distinctly absent is any mention that all financial bubbles are saturated with excesses in hype, speculation, depth, greed, fraud, gross errors in investment judgment, carelessness on the part of the analysts and investors, huge paper profits, conviction that a new-era economy has arrived, and above all else, pie-in-the-sky expectations.

□ 1800

When the bubble is inflating, there are no complaints. When it bursts, the blame game begins. This is especially true in the age of victimization and is done on a grand scale. It quickly becomes a philosophic, partisan, class, generational and even a racial issue.

While avoiding the real cause, all the fingerpointing makes it difficult to resolve the crisis and further undermines the principles upon which freedom and prosperity rests. Nixon was right once, when he declared we are all Keynesians now. All of Washington is in sync in declaring that too much capitalism has brought us to where we are today. The only decision now before the central planners in Washington is whose special interest will continue to benefit from the coming pretense at reform. The various special interests will be lobbying heavily, like the Wall Street investors, the corporations, the military-industrial complex, the banks, the workers, the unions, the farmers, the politicians and who knows who else, but what is not discussed is the actual cause and perpetration of the excesses now unraveling at a frantic pace. This same response occurred in the 1930s in the United States as our policymakers responded to very similar excesses that developed and collapsed in 1929. Because of the failure to understand the problem then, the Depression was prolonged. These mistakes allowed our current problems to develop to a much greater degree. Like the failure to come to grips with the cause of the 1980s bubble, Japan's economy continued to linger at no-growth and recession level, with their stock market at approximately one fourth of its peak 13 years ago.

If we are not careful, and so far we have not been, we will make the same errors that will prevent the correction needed before economic growth can be resumed.

In the 1930s it was quite popular to condemn the greed of capitalism, the gold standard, lack of regulation, and no government insurance on bank deposits for the disaster. Businessmen became the scapegoat. Changes were made as a result and the welfare warfare state was institutionalized. Easy credit became the holy grail of monetary policy, especially under Alan Greenspan, the ultimate maestro.

Today, despite the presumed protection from these Government programs built into the system, we find ourselves in a bigger mess than ever before. The bubble is bigger, the boom lasted longer, and the gold price has been deliberately undermined as an economic signal. Monetary inflation continues at a rate never seen before in a frantic effort to prop up stock prices and continue the housing bubble, while avoiding the consequences that inevitably come from easy credit.

This is all done because we are unwilling to acknowledge that current policy is only setting the stage for a huge drop in the value of the dollar. Everyone fears it, but no one wants to deal with it. Out of ignorance as well as disapproval for the natural restraints placed on market excesses that capitalism and sound markets impose, capitalism is not only rejected, it

is blamed for all problems we face. If this fallacy is not corrected and capitalism is even further undermined, the prosperity that the free market generates will be destroyed.

Corruption and fraud in the accounting practices of many companies are coming to light. There are those who would have us believe this is an integral part of free market capitalism. If we did have free market capitalism, there would be no guarantees that some fraud would not occur. When it did, it would be dealt with by local law enforcement authorities, not by the politicians in Washington who had their chance to prevent such problems but choose instead to politicize the issue while using the opportunity to promote more Keynesian, useless regulations.

Capitalism should not be condemned since we have not had capitalism. A system of capitalism presumes sound money, not fiat money manipulated by a central bank. Capitalism cherishes voluntary contracts and interest rates that are determined by savings, not credit creation by a central bank. It is not capitalism when the system is plagued with incomprehensible rules regarding mergers, acquisitions, stock sales, wage controls, price controls, protectionism, corporate subsidies, international management of trade, complex and punishing corporate taxes, privileged Government contracts to the military-industrial complex, a foreign policy controlled by corporate interests and overseas investments; central mismanagement of farming, education, medicine, insurance, banking and welfare. This is not capitalism.

To condemn free market capitalism because of anything going on today makes no sense whatsoever. There is no evidence that capitalism exists today. We are deeply involved in an interventionist, planned economy that allows major benefits to accrue to the politically connected of both political spectrums. One may condemn the fraud in the current system, but it must be called its proper name, Keynesian, inflationism, interventionism, and corporatism.

What is not discussed is that the current crop of bankruptcies reveals that the blatant distortions and lies emanating from years of speculative orgy were predictable.

First, Congress should be investigating the Federal Government's fraud and deception in accounting, reporting future obligations such as Social Security and how the monetary system destroys wealth. Those problems are bigger than anything in the corporate world and are the responsibility of the Congress. Besides, it is the standard set by the Government and the monetary system it operates that are the major contributing causes to all that is wrong on Wall Street today.

When fraud does exist, it is a State matter, not a Federal one, and State

authorities can enforce these laws without any help from Congress.

Second, we do know why financial bubbles occur and we know from history that they are routinely associated with speculation, excessive debt, wild promises, greed, lying and cheating. These problems were described by quite a few observers as the problems were developing in the 1990s, but the warnings were ignored, for one reason; everybody was making a killing and no one cared, and those who were reminded of history were reassured by the Fed chairman that, this time, a new economic era had arrived and not to worry. Productivity increases, it was said, could explain it all.

But now we know that is just not so. Speculative bubbles and all that we have been witnessing are a consequence of huge amounts of easy credit, created out of thin air by the Federal Reserve. We have had essentially no savings, which is one of the most significant driving forces in capitalism. The illusion created by low interest rates perpetuates the bubble and all the bad stuff that goes along with it. And that is not a fault of capitalism. We are dealing with a system of inflationism and interventionism that always produces a bubble economy that must end badly.

So far, the assessment made by the administration, the Congress, and the Fed bodes badly for our economic future. All they offer is more of the same, which cannot possibly help. All it will do is drive us closer to national bankruptcy, a sharply lower dollar and a lower standard of living for most Americans, as well as less freedoms for everyone.

This is a bad scenario that need not happen. But preserving our system is impossible if the critics are allowed to blame capitalism and sound monetary policy is rejected. More spending, more debt, more easy money, more distortion of interest rates, more regulations on everything, more foreign meddling, will soon force us to the very uncomfortable position of deciding the fate of our entire political system.

If we were to choose freedom and capitalism, we would restore our dollar to a commodity or a gold standard. Federal spending would be reduced; income taxes would be lowered and taxes would be removed from savings, dividends and capital gains; regulations would be reduced; special interest subsidies would be stopped and no protectionist measures would be permitted; our foreign policy would change and we would bring our troops home.

We cannot depend on government to restore trust to the markets. Only trustworthy people can do that. Actually, the lack of trust in Wall Street executives is healthy, because it is deserved and prompts caution. The same lack of trust in the politicians, the budgetary process, and the monetary

system would serve as a healthy incentive for the reforms in government we need.

Markets regulate better than governments can. Depending on government regulations to protect us significantly contributes to the bubble mentality. These moves would produce the climate for releasing the creative energy necessary to simply serve consumers, which is what capitalism is all about.

The system that inevitably breeds corporate government cronyism that created our currently ongoing disaster would end. Capitalism did not give us this crisis of confidence now existing in the corporate world. The lack of free markets and sound money did. Congress does have a role to play, but it is not proactive. Congress' job is to get out of the way.

IS AMERICA A POLICE STATE

Another subject, Mr. Speaker, I want to address today, is *is America a police state?* Most Americans believe we live in dangerous times, and I must agree. Today I want to talk about how I see those dangers and what Congress ought to do about them.

Of course, the Monday-morning quarterbacks are now explaining with political overtones what we should have done to prevent the 9/11 tragedy. Unfortunately, in doing so, foreign policy changes are never considered.

I have for more than 2 decades been severely critical of our post-World War II foreign policy. I have perceived it to be not in our best interests and have believed that it presented a serious danger to our security.

For the record, in January of 2000 I said on this floor, "Our commercial interests in foreign policy are no longer separate. As bad as it is that average Americans are forced to subsidize such a system, we additionally are placed in greater danger because of our arrogant policy of bombing nations that do not submit to our wishes. This generates hatred directed toward America and exposes us to a greater threat of terrorism, since this is the only vehicle our victims can use to retaliate against a powerful military state. The cost in terms of lost liberties and unnecessary exposure to terrorism is difficult to assess, but in time it will become apparent to all of us that foreign interventionism is of no benefit to American citizens. Instead, it is a threat to our liberties."

Again, let me remind you, these were statements I made on the House floor in January of the year 2000. Unfortunately, my greatest fears and warnings have been borne out.

I believe my concerns are as relevant today as they were then. We should move with caution in this post-9/11 period so that we do not make our problems worse overseas while further undermining our liberties at home.

So far, our post-9/11 policies have challenged our rule of law here at home

and our efforts against the al Qaeda have essentially come up empty-handed. The best we can tell now, instead of being in one place, the members of the al Qaeda are scattered around the world, with more of them in allied Pakistan than in Afghanistan. Our efforts to find our enemies have put the CIA in 80 different countries. The question that someday we must answer is whether we can catch them faster than we generate them. So far, it appears we are losing.

As evidence mounts that we have achieved little in reducing the terrorist threat, more diversionary tactics will be used. The big one will be to blame Saddam Hussein for everything and initiate a major war against Iraq, which will only generate even more hatred toward America from the Muslim world.

But, Mr. Speaker, my subject today is to discuss whether America is a police state. I am sure the large majority of Americans would answer this in the negative. Most would associate military patrols, martial law and summary executions with a police state, something obviously not present in our everyday activities. However, those knowledgeable with Ruby Ridge, Mount Carmel and other such incidents may have a different opinion.

The principal tool for sustaining a police state, even the most militant, is always economic punishment, by denying such things as jobs or a place to live, levying fines or imprisonment. The military is more often only used in the transition phase to a totalitarian state. Maintenance for long periods is usually accomplished through economic controls on commercial transactions, the use of all property and political dissent. Peaceful control through these efforts can be achieved without storm troopers on our street corners. Terror or fear is used to achieve complacency and obedience, especially when the people are deluded into believing they are still a free people.

□ 1815

The changes, they are assured, will be minimal, short-lived and necessary, such as those that occur in times of declared war. Under those conditions, most citizens believe that once the war is won, the restrictions on their liberties will be reversed. For the most part, however, after a declared war is over, the return to normalcy is never complete. In an undeclared war, without a precise enemy and, therefore, no precise ending, returning to normalcy can prove illusory.

We have just concluded a century of war, declared and undeclared, while at the same time responding to public outcries for more economic equality. The question as a result of these policies is, are we already living in a police state? If we are, what are we going to do about it? If we are not, we need to

know if there is any danger that we are moving in that direction.

Most police states, surprisingly, come about through the democratic process with majority support. During a crisis, the rights of individuals and the minority are more easily trampled, which is more likely to condition a nation to become a police state than a military coup. Promised benefits initially seem to exceed the cost in dollars or lost freedom. When the people face terrorism or great fear from whatever source, the tendency to demand economic and physical security over liberty and self-reliance proves irresistible.

The masses are easily led to believe that security and liberty are mutually exclusive and demand for security far exceeds that for liberty. Once it is discovered that the desire for both economic and physical security that prompted the sacrifice of liberty which inevitably led to the loss of prosperity and no real safety, it is too late. Reversing the trend from authoritarian rule toward a freer society becomes very difficult, takes a long time, and entails much suffering. Although dissolution of the Soviet empire was relatively nonviolent at the end, millions suffered from police suppression and economic deprivation in the decades prior to 1989.

But what about here in the United States? With respect to a police state, where are we and where are we going? Let me make a few observations. Our government already keeps close tabs on just about everything we do and requires official permission for nearly all of our activities. One might take a look at our capital for any evidence of a police state. We see barricades, metal detectors, police, the military at times, dogs, ID badges required for every move, vehicles checked at airports and throughout the capital. People are totally disarmed except for the police and the criminals but, worse yet, surveillance cameras in Washington are everywhere to ensure our safety. The terrorist attacks only provided the cover for the do-gooders who had been planning for a long time before last summer to monitor us for our own good. Cameras are used to spy on our drug habits, on our kids at school, on subway travelers, and on visitors to every government building or park. There is not much evidence of an open society in Washington, D.C., yet most folks do not complain. Anything goes if it is for government-provided safety and security.

If this huge amount of information and technology is placed in the hands of the government to catch the bad guys, one naturally asks, what is the big deal? But it should be a big deal, because it eliminates the enjoyment of privacy that a free society holds dear. The personal information of law-abiding citizens can be used for reasons

other than safety, such as political. Like gun control, people control hurts law-abiding citizens much more than the lawbreakers. Social Security numbers are used to monitor our daily activities. The numbers are given to us at birth and then are needed when we die and for everything in between. This allows government recordkeeping of monstrous proportions and accommodates the thugs who would steal others' identities for evil purposes. This invasion of privacy has been compounded by the technology now available to those in government who enjoy monitoring and directing the activity of others. Loss of personal privacy was a major problem a long time before 9-11. Centralized control and regulations are required in a police state.

Community and individual State regulations are not as threatening as the monolith of rules and regulations written by Congress and the Federal bureaucracy. Law and order has been federalized in many ways, and we are moving inexorably in that direction.

Almost all our economic activities depend upon receiving the proper permits from the Federal Government. Transactions involving guns, food, medicine, smoking, drinking, hiring, firing, wages, politically correct speech, land use, fishing, hunting, buying a house, business mergers and acquisitions, selling stocks and bonds, and farming all require approval and strict regulation from our Federal Government. If this is not done properly and in a timely fashion, economic penalties and even imprisonment are likely consequences.

Because government pays for so much of our health care, it is conveniently argued that any habits or risk-taking that could harm one's health are the prerogative of the Federal Government and are to be regulated by explicit rules to keep medical care costs down. This same argument is used to require helmets for riding motorcycles and bikes. Not only do we need a license to drive, but we also need special belts, bags, buzzers, seats, and environmentally-dictated speed limits or a policeman will be pulling us over to levy a fine and he will be carrying a gun, of course.

The States do exactly as they are told by the Federal Government because they are threatened with the loss of tax dollars being returned to their State, dollars that should never have been taken from them in the first place and sent to Washington, let alone be allowed to be used to extort obedience to a powerful central government. Over 80,000 Federal bureaucrats now carry guns to make us toe the line and to enforce the thousands of laws and tens of thousands of regulations that no one can possibly understand. We do not see the guns, but we all know they are there, and we all know we cannot fight city hall, especially if it is Uncle Sam.

All 18-year-old males must register to be ready for the next undeclared war. If they do not, men with guns will appear and enforce this congressional mandate of involuntary servitude, which was banned by the 13th amendment, but courts do not apply this prohibition to the servitude of draftees or those citizens required to follow the dictates of the IRS, especially the employers of the country who serve as the Federal Government's chief tax collectors and information-gatherers.

Fear is the tool used to intimidate most Americans to comply to the Tax Code by making examples of celebrities. Leona Helmsley and Willie Nelson know how this process works. Economic threats against business establishments are notorious. Rules and regulations from the EPA, the ADA, the SEC, the LRB, OSHA and more terrorize business owners into submission, and those charged accept their own guilt until they can prove themselves innocent. Of course, it turns out it is much more practical to admit guilt and pay the fine. This serves the interests of the authoritarians because it firmly establishes just who is in charge.

An information leak from a government agency like the FDA can make or break a company within minutes. If information is leaked, even inadvertently, a company can be destroyed and individuals involved in the revealing of government-monopolized information can be sent to prison. Each, though economic crimes, are serious offenses in the United States. Violent crimes sometimes evoke more sympathy and fewer penalties. Just look at the O.J. Simpson case as an example.

Efforts to convict Bill Gates and others like him of an economic crime are astounding, considering his contribution to economic progress, while sources used to screen out terrorist elements from our midst are tragically useless. If business people are found guilty of even the suggestion of collusion in the marketplace, huge fines and even imprisonment are likely consequences.

Price-fixing is impossible to achieve in a free market. Under today's laws, talking to or consulting with competitors can be easily construed as price-fixing and involve a serious crime even with proof that the so-called collusion never generated monopoly-controlled prices or was detrimental to consumers. Lawfully circumventing taxes, even sales taxes, can lead to serious problems if a high profile person can be made an example.

One of the most onerous controls placed on American citizens is the control of speech through politically correct legislation. Derogatory remarks or off-color jokes are justification for firings, demotions, and destruction of political careers. The movement toward designating penalties based on a

category to which victims belong rather than the nature of the crime itself has the thought police patrolling the airways and the byways.

Establishing relative rights and special penalties for subjective motivation is a dangerous trend. All our financial activities are subject to legal searches without warrants and without probable cause. Tax collection, drug usage, and possible terrorist activities justify the endless accumulation of information on all Americans. Government control of medicine has prompted the establishment of a national medical data bank. For efficiency reasons, it is said, the government keeps our medical records for our benefit. This, of course, is done with vague and useless promises that this information will always remain confidential, just like all the FBI information in the past. Personal privacy, the sine qua none of liberty, no longer exists in the United States. Ruthless and abusive use of all of this information accumulated by the government is yet to come.

The Patriot Act has given unbelievable power to listen, read, and monitor all of our transactions without a search warrant being issued after affirmation or probable cause. Sneak-and-peak and blanket searches are now becoming more frequent every day. What have we allowed to happen to the Fourth Amendment?

It may be true that the average American does not feel intimidated by the encroachment of the police state. I am sure our citizens are more tolerant of what they see as mere nuisances because they have been deluded into believing all of this government supervision is necessary and helpful and besides, they are living quite comfortably material-wise. However, the reaction will be different once all of this new legislation we are passing comes into full force and the material comforts that soften our concerns for government regulations are decreased. This attitude then will change dramatically, but the trend toward the authoritarian state will be difficult to reverse. What government gives with one hand as it attempts to provide safety and security, it must at the same time take away with two others. When the majority recognizes that the monetary costs and the results of our war against terrorism and personal freedoms are a lot less than promised, it may be too late.

I am sure all of my concerns are unconvincing to the vast majority of Americans who do not only seek, but also demand, they be made safe from any possible attack from anybody, ever. I grant you, this is a reasonable request. The point is, though, however, there may be a much better way of doing it. We must remember we do not sit around and worry that some Canadian citizen is about to walk into New York and set off a nuclear weapon. We must come to understand the real rea-

son is that there is a difference between the Canadians and all of our many friends and the Islamic radicals. Believe me, we are not the target because we are free and prosperous. The argument made for more government controls here at home and expansionism overseas to combat terrorism is simple and goes like this: If we are not made safe from potential terrorists, property and freedom have no meaning. It is argued that first we must have life and physical and economic security with continued abundances, and then we will talk about freedom.

It reminds me of the time I was soliciting political support from a voter and was boldly put down. "Ron," she said, "I wish you would lay off this freedom stuff. It is all nonsense. We are looking for a representative who will know how to bring home the bacon and help our area, and you are not that person." Believe me, I understand that argument, it is just that I do not agree that it is what should be motivating us here in the Congress. That is not the way it works. Freedom does not preclude security. Making security the highest priority can deny prosperity and still fail to provide the safety we all want.

□ 1830

The Congress would never agree that we are a police state. Most Members, I am sure, would argue for the negative. But we are all obligated to decide in which direction we are going. If we are moving toward a system that enhances individual liberty and justice for all, my concerns about a police state should be reduced or totally ignored; yet if by chance we are moving toward more authoritarian control than is good for us in moving toward a major war in which we should have no part, we should not ignore the dangers.

If current policies are permitting a serious challenge to our institutions that allow for our great abundance and we ignore them, we ignore them at great risk for future generations. That is why the post-9-11 analysis and subsequent legislation are crucial to the survival of those institutions that made America great.

We now are considering a major legislative proposal dealing with this dilemma, the new Department of Homeland Security; and we must decide if it truly serves the interests of America.

Since the new Department is now a foregone conclusion, why should anyone bother to record a dissent? Because it is the responsibility of all of us to speak the truth to the best of our ability; and if there are reservations about what we are doing, we should sound an alarm and warn the people of what is likely to come.

In times of crises, nearly unanimous support for government programs is usual, and the effects are instantaneous. Discovering the errors of our

ways and waiting to see the unintended consequences evolve takes time and careful analysis. Reversing the bad effects is slow and tedious and fraught with danger. People would much prefer to hear platitudes than the pessimism of a flawed policy.

Understanding the real reason why we were attacked is crucial to deriving a proper response. I know of no one who does not condemn the attacks of 9-11. Disagreement as to the cause and the proper course of action should be legitimate in a free society such as ours; if not, we are not a free society.

Not only do I condemn the vicious acts of 9-11, but also out of deep philosophic and moral commitment I have pledged never to use any form of aggression to bring about social or economic changes. But I am deeply concerned about what has been done and what we are yet to do in the name of security against the threat of terrorism.

Political propagandizing is used to get all of us to toe the line and be good patriots, supporting every measure suggested by the administration. We are told that preemptive strikes, torture, military tribunals, suspension of habeas corpus, executive orders to wage war, and sacrificing privacy with a weakened fourth amendment are the minimum required to save our country from a threat of terrorism. Who is winning this war, anyway?

To get popular support for these serious violations of our traditional rule of law requires that people be kept in a state of fear. The episode of spreading undue concern about the possibility of a dirty bomb being exploded in Washington without any substantiation of an actual threat is a good example of excessive fear being generated by government officials.

To add insult to injury, when he made this outlandish announcement, our Attorney General was in Moscow. Maybe if our FBI spent more time at home, we would get more for our money we pump into this now-discredited organization. Our FBI should be gathering information here at home, and the thousands of agents overseas should return. We do not need these agents competing overseas and confusing the intelligence apparatus of the CIA or the military.

I am concerned that the excess fear created by the several hundreds of al Qaeda functionaries willing to sacrifice their lives for their demented goals is driving us to do to ourselves what the al Qaeda themselves could never do to us by force. So far, the direction is clear: we are legislating bigger and more intrusive government here at home and allowing our President to pursue much more military adventurism abroad. These pursuits are overwhelmingly supported by Members of Congress, the media, and the so-called intellectual community, and ques-

tioned only by a small number of civil libertarians, anti-imperial antiwar advocates.

The main reason why so many usually level-headed critics of bad policy accept this massive increase in government power is clear. They, for various reasons, believe the official explanation of "why us?" The several hundreds of al Qaeda members we were told hate us because we are rich, free, and we enjoy materialism, and the purveyors of terror are jealous and envious, creating the hatred that drive their cause. They despise our Judeo-Christian values; and this, we are told, is the sole reason they are willing to die for their cause.

For this to be believed, one must also be convinced that the perpetrators lied to the world about why they attacked us. The al Qaeda leaders say they hate us because we support Western puppet regimes in Arab countries for commercial reasons and against the wishes of the populace of those countries. This partnership allows military occupation, the most confrontational being in Saudi Arabia, that offends the sense of pride and violates their religious convictions to have a foreign military power on their holy land. We refuse to consider how we might feel if China's navy occupied the Gulf of Mexico for the purpose of protecting their oil, and had air bases on U.S. territory.

We show extreme bias in support of one side in the 50-plus-year war going on in the Middle East. That is their explanation.

What if the al Qaeda is telling the truth and we ignore it? If we believe only the official line from the administration and proceed to change our whole system and undermine our constitutional rights, we may one day wake up to find that the attacks have increased the numbers of those willing to commit suicide for their cause has grown, our freedoms have diminished, and all this has contributed to making our economic problems worse.

The dollar cost of this war could turn out to be exorbitant, and the efficiency of our markets can become undermined by the compromises placed on our liberties. Sometimes it almost seems that our policies inadvertently are actually based on a desire to make ourselves less free and less prosperous, those conditions that are supposed to have prompted the attacks.

I am convinced we must pay more attention to the real cause of the attacks of last year and challenge the explanation given us. The question that one day must be answered is this: What if we had never placed our troops in Saudi Arabia, and involved ourselves in the Middle East war in an even-handed fashion? Would it have been worth it if this would have prevented 9-11?

If we avoid the truth, we will be far less well off than if we recognize that just maybe the truth lies in the state-

ments made by the leaders of those who perpetuated the atrocities. If they speak the truth about the real cause, changing our foreign policy from foreign military interventionism around the globe supporting an American empire would make a lot of sense. It could reduce tension, save money, preserve liberty, and preserve our economic system.

This for me is not a reactive position coming out of 9-11, but rather, an argument I have made for decades, claiming that meddling in the affairs of others is dangerous to our security and actually reduces our ability to defend ourselves.

This in no way precludes pursuing those directly responsible for the attacks and dealing with them accordingly, something that we seem to have not yet done. We hear more talk of starting a war in Iraq than in achieving victory over the international outlaws that instigated the attacks on 9-11.

Rather than pursuing war against countries that were not directly responsible for the attacks, we should consider the judicious use of mark and reprisal. I am sure that a more enlightened approach to our foreign policy will prove elusive. Financial interests of our international corporations, oil companies and banks, along with the military-industrial complex, are sure to remain a deciding influence on our policies.

Besides, even if my assessments prove to be true, any shift away from foreign militarism, like bringing our troops home, would now be construed as yielding to the terrorists. It just will not happen. This is a powerful point, and the concern that we might appear to be capitulating is legitimate. Yet, how long should we deny the truth, especially if this denial only makes us more vulnerable? Should we not demand the courage and wisdom of our leaders to do the right thing in spite of the political shortcomings?

President Kennedy faced an even greater threat in October of 1962, and from a much more powerful force. The Soviet-Cuban terrorist threat with nuclear missiles only 90 miles off our shores was wisely defused by Kennedy's capitulating and removing missiles from Turkey on the Soviet border. Kennedy deserved the praise he received for the way he handled this nuclear standoff with the Soviets.

This concession most likely prevented a nuclear exchange and proved that taking a step back from a failed policy is beneficial. Yet how one does so is crucial. The answer is to do it diplomatically. That is what diplomats are supposed to do.

Maybe there is no real desire to remove the excuse for our worldwide imperialism, especially our current new expansion into central Asia, or the domestic violations of our civil liberties. Today's conditions may well be exactly

what our world commercial interests want. It is now easy for us to go into the Philippines, Colombia, Pakistan, Afghanistan, or wherever, in pursuit of terrorists. No questions are asked by the media or the politicians, only cheers. Put in these terms, who can object? We all despise the tactics of the terrorists, so the nature of the response is not to be questioned.

A growing number of Americans are concluding that the threat we now face comes more from a consequence of our foreign policy than because the bad guys envy our freedoms and prosperity.

How many terrorist attacks have been directed toward Switzerland, Australia, Canada, or Sweden? They are also rich and free, and would be easy targets; but the Islamic fundamentalists see no purpose in doing so. There is no purpose in targeting us unless there is a political agenda, which there surely is. To deny that this political agenda exists jeopardizes the security of this country. Pretending something to be true that is not is dangerous.

It is a definite benefit for so many to recognize that our \$40 billion annual investment in intelligence-gathering prior to 9-11 was a failure. Now, a sincere desire exists to rectify these mistakes. That is good, unless instead of changing the role of the CIA and the FBI all the past mistakes are made worse by spending more money and enlarging the bureaucracy to do the very same thing without improvement in their efficiency or a change in their goals. Unfortunately, that is what is likely to happen.

One of the major shortcomings that is led to the 9-11 tragedy was the responsibility for protecting commercial airlines was left to the government: the FAA, the FBI, the CIA, and the INS. They failed. A greater sense of responsibility for the owners to provide security is what is needed. Guns in the cockpit would have most likely prevented most of the deaths that occurred on that fateful day.

But what does our government do? It firmly denies airline pilots the right to defend their planes, and we federalize the security screeners and rely on F-16s to shoot down airliners if they are hijacked. Security screeners, many barely able to speak English, spend endless hours harassing pilots, confiscating dangerous mustache scissors, mauling grandmothers and children, and pestering Al Gore, while doing nothing about the influx of aliens from Middle Eastern countries who are on designated watch lists.

We pump up the military from India and Pakistan, ignore all the warnings about Saudi Arabia, and plan a secret war against Iraq, to make sure no one starts asking, where is Osama bin Laden? We think we know where Saddam Hussein lives, so let us go get him instead.

Since our government bureaucracy failed, why not get rid of it, instead of

adding to it? If we had proper respect and understood how private property owners effectively defend themselves, we could apply those rules to the airlines and achieve something worthwhile.

If our immigration policies have failed, when will we defy the politically correct fanatics and curtail the immigration of those individuals on the highly suspect list? Instead of these changes, all we hear is that the major solution will come by establishing a huge new Federal department, the Department of Homeland Security.

According to all the pundits, we are expected to champion the big government approach; and if we do not jolly well like it, we will be tagged unpatriotic. The fear that permeates our country calls out for something to be done in response to almost daily warnings of the next attack. If it is not a real attack, then it is a theoretical one, one where the bomb could well be only in the minds of a potential terrorist.

Where is all this leading us? Are we moving toward a safer and more secure society? I think not. All the discussions of these proposed plans since 9-11 have been designed to condition the American people to accept major changes in our political system. Some of the changes being made are unnecessary, and others are outright dangerous to our way of life.

There is no need for us to be forced to choose between security and freedom. Giving up freedom does not provide greater security; preserving and better understanding freedom can. Sadly, today, many are anxious to give up freedom in response to real and generated fears.

The plans for a first strike supposedly against a potential foreign government should alarm all Americans. If we do not resist this power the President is assuming, our President, through executive order, can start a war anyplace, anytime, against anyone he chooses for any reason without congressional approval.

This is a tragic usurpation of the war power by the executive branch from the legislative branch, with Congress being all too accommodating. Removing the power of the executive branch to wage war, as was done through our revolution and the writing of the Constitution, is now being casually sacrificed on the altar of security.

In a free society, and certainly in the constitutional Republic we have been given, it should never be assumed that the President alone can take it upon himself to wage war whenever he pleases. The publicly announced plan to murder Saddam Hussein in the name of our national security draws nary a whimper from Congress. Support is overwhelming, without a thought as to the legality, the morality, the constitutionality, or its practicality.

Murdering Saddam Hussein will surely generate many more fanatics ready

to commit their lives to suicide attacks against us. Our CIA attempts to assassinate Castro backfired with the subsequent assassination of our President. Killing Saddam Hussein just for the sake of killing him obviously will increase the threat against us, not diminish it. It makes no sense. But our warriors argue that some day he may build a bomb, some day he might use it, maybe against us or some unknown target.

This policy further radicalizes the Islamic fundamentalists against us because, from their viewpoint, our policy is driven by Israel, not U.S. security interests.

□ 1845

Planned assassination, a preemptive strike policy without proof of any threat and a vague definition of terrorism may work for us as long as we are king of the hill; but one must assume every other nation will naturally use our definition of policy as justification for dealing with their neighbors. India can justify a first strike against Pakistan, China against India or Taiwan as other examples. This new policy, if carried through, will make the world a lot less safe.

This new doctrine is based on proving a negative which is something impossible to do, especially when we are dealing with a subjective interpretation of plans buried in someone's head. To those who suggest a more restrained approach on Iraq and killing Saddam Hussein, the war hawks retort saying, Prove to me that Saddam Hussein might not do something some day directly harmful to the United States. Since no one can prove this, the war mongers shout, let us march to Baghdad.

We can all agree that aggression should be met with force and that providing national security is an ominous responsibility that falls on the shoulders of Congress. But avoiding useless and unjustifiable wars that threaten our whole system of government and security seems to be the more prudent thing to do.

Since September 11, Congress has responded with a massive barrage of legislation not seen since Roosevelt took over in 1933. Where Roosevelt dealt with trying to provide economic security, today's legislation deals with personal security from any and all imaginable threat at any cost, dollar or freedom loss. These include the PATRIOT Act, which undermines the fourth amendment with the establishment of an overly-broad and dangerous definition of terrorism; the Financial Anti-terrorism Act, which expands the government's surveillance of the financial transactions of all American citizens through the increased power of FinCen and puts back on track the plans to impose "Know our customer" regulations on all Americans.

The airline bail-out bill gave \$15 billion rushed through shortly after September 11. The federalization of all airlines security employees, military tribunals set up by executive orders, undermining the rights of those accused, rights established as far back as 1215. Unlimited retention of suspects without charges being made even when a crime has not been committed, a serious precedent that one day may well be abused. Relaxation of FBI surveillance guidelines of all political activity. Functioning of the Federal Government authority and essentially monopolizing vaccines and treatment for infectious diseases, permitting massive quarantines and mandates for vaccinations.

Almost all significant legislation since 9-11 has been rushed through in a tone of urgency with reference to the tragedy including the \$190 billion farm bill. Guarantees to all insurance companies are now moving quickly through the Congress. Increasing the billions already flowing into foreign aid is now being planned as our intervention overseas continue to expand.

There is no reason to believe that the massive increase in spending, both domestic and foreign, along with the massive expansion of the size of the Federal Government will slow any time soon. The deficit is exploding as the economy weakens. When the government sector drains the resources needed for capital expansion, it contributes to the loss of confidence needed for growth, allowing the economy to function.

Even without evidence that any good has come from this massive expansion of government power, Congress is in the process of establishing this huge new Department of Homeland Security, hoping miraculously through centralization to make all of these efforts productive and worthwhile. There is no evidence, however, that government bureaucracy and huge funding can solve our Nation's problem. The likelihood is that the unintended consequences of this new proposal will be to diminish our security and do nothing to enhance our security.

Opposing currently proposed legislation and recently passed legislation does not mean that one is complacent about terrorism or homeland security. The truth is that there are alternative solutions to these problems we face without resorting to expanding the size and scope of government at the expense of liberty.

As tempting as it may seem, a government is incapable of preventing crimes. On occasion with luck they might succeed. But the failure to tip us off about 9-11 after spending \$40 billion a year on intelligence-gathering should surprise no one. Governments by nature are very inefficient institutions. We must accept that as fact.

I am sure that our intelligence agency had the information available to

head off 9-11, but bureaucratic blundering and turf wars prevented the information from being useful. But the basic principle is wrong. City policeman cannot and should not be expected to try to prevent crimes. This would invite massive intrusions into the everyday activities of every law-abiding citizen. But that is exactly what our recent legislation is doing. It is a wrongheaded approach, no matter how wonderful it may sound. The policemen in the inner cities patrol their beats, but crime is still rampant.

In the rural areas of America, literally millions of citizens are safe and secure in their homes though miles from any police protection. They are safe because even the advantage of isolation does not entice the burglar to rob a house when he knows a shotgun sits inside the door waiting to be used. But this is a right denied many of our citizens living in the inner city.

The whole idea of government preventing crime is dangerous. To prevent crimes in our homes or businesses, governments would need cameras to spy on every move to check for illegal drug use, wife-beating, child abuse or tax evasion. They would need cameras not only on our streets and in our homes; but our phones, Internet, and travels would need to be constantly monitored just to make sure we are not a terrorist, drug dealer, or tax evader.

This is the assumption used at the airports, rather than using privately owned airlines to profile their passengers to assure the safety for which airline owners ought to assume responsibility. But, of course, this would mean guns in the cockpit. I am certain this approach to safety and security would be far superior to the rules that existed prior to 9-11 and now have been made much worse in the past 9 months.

This method of providing security emphasizes private property ownership and responsibility of the owners to protect that property, but the right to bear arms must be included. The fact that the administration is opposed to guns in the cockpits and the fact that airline owners are more interested in bailouts and insurance protection means that we are just digging a bigger hole for ourselves, ignoring liberty and expanding the government to provide something it is not capable of doing.

Because of this, in combination with a foreign policy that generates more hatred towards us and multiplies the number of terrorists that seek vengeance, I am deeply concerned that Washington's effort so far, sadly, have only made us more vulnerable. I am convinced that the newly proposed Department of Homeland Security will do nothing to make us more secure, but it will make us a lot poorer and less free. If the trend continues, the Department of Homeland Security may well be the vehicle used for a much more ruthless control of the people by some future

administration than any of us dreamed. Let us pray that this concern will never materialize.

America is not now a ruthless authoritarian police state, but our concerns ought to be whether we have laid the foundation of a more docile police state. The love of liberty has been so diminished that we tolerate intrusions into our privacy today that would have been abhorred just a few years ago. Tolerance of inconvenience to our liberties is not uncommon when both personal and economic fears persist. The sacrifices being made to our liberties will surely usher in a system of government that will place only those who enjoy being in charge of running other peoples lives.

What then is the answer? Is America a police state? My answer is maybe, not yet. But it is fast approaching. The seeds have been sown and many of our basic protections against tyranny have been and are constantly being undermined. The post-9-11 atmosphere here in Congress has provided ample excuse to concentrate on safety at the expense of liberty, failing to recognize that we cannot have one without the other.

When the government keeps detailed records on every move we make and we either need advanced permission for everything we do or are penalized for not knowing what the rules are, America will be a declared police state. Personal privacy for law-abiding citizens will be a thing of the past. Enforcement of laws against economic and political crimes will exceed that of violent crimes. War will be the prerogative of the administration. Civil liberties will be suspended for suspects and their prosecution will not be carried out by an independent judiciary. In a police state this becomes common practice rather than a rare incident.

Some argue that we already live in a police state and Congress does not have the foggiest notion of what we are dealing with. So forget it and use your energies for your own survival, some advise. And they advise also that the momentum toward the monolithic state cannot be reversed.

Possibly that is true. But I am optimistic that if we do the right thing and do not capitulate to popular fallacies and fancies and the incessant war propaganda, the onslaught of statism can be reversed. To do so, we as a people once again have to dedicate ourselves to establishing the proper role a government plays in a free society. That does not involve the redistribution of wealth through force. It does not mean that government dictates to us the moral and religious standards of the people. It does not allow us to police the world by involving ourselves in every conflict as if it is our responsibility to manage an American world empire. But it does mean government has a proper role in guaranteeing free markets, protecting voluntary and religious choices and guaranteeing private

property ownership while punishing those who violate these rules, whether foreign or domestic.

In a free society, the government's job is simply to protect liberty. The people do the rest. Let us not give up a grand experiment that provided so much for so many. Let us reject the police state.

PROTECTING AMERICANS FROM POLLUTION

The SPEAKER pro tempore (Mr. SIMMONS). Under the Speaker's announced policy of January 3, 2001, the gentleman from Oregon (Mr. BLUMENAUER) is recognized for 60 minutes as the designee of the minority leader.

Mr. BLUMENAUER. Mr. Speaker, ultimately the Federal Government has an important responsibility to protect the quality of life for our citizens. My sense is that it is important for us to promote liveable communities where the Federal Government is a partner to help make our families safe, healthy, and more economically secure.

Unfortunately, when it comes to dealing with hazardous waste, we, as a Federal Government, have failed to follow through on our commitment. This is very serious business for most Americans. I, in the State of Oregon, have eleven Superfund sites. One in four Americans live within 4 miles of a Superfund site. Ten million American children live within a short bicycle ride of a Superfund site. These are areas, some 1,200 priority sites around the country, many of which are polluted by hazardous chemicals known to cause cancer, heart disease, kidney failure, birth defects and brain damage.

There has been a very simple principle at work for over 20 years as far as the Federal Government is concerned, and that is that corporations, businesses that have been involved with serious pollution should clean up after themselves. If they are responsible for the environmental damage and the public health threats, they should be held financially accountable for their contaminated sites and should help keep them up.

The law that we put in place in 1980 is based on this "polluter pays" principle. When the companies that are responsible for this pollution and the public health threats are unable to clean up after themselves, then the Federal Government steps in. And that part of that same legislation created the Superfund site, created a Superfund itself, that was to be supplied with money from a special tax on oil and chemical companies who, by and large, have been responsible for much of this pollution.

The money from the tax was placed in a trust fund, the so-called Superfund, and designated for cleaning up polluted sites where the responsible party either could not pay or we were unable to identify them.

Unfortunately, the tax that provides the Environmental Protection Agency with the funds to clean up these abandoned sites expired in 1995. Part of the Gingrich revolution was simply a refusal to reenact the tax, despite the fact that every Congress and every President since its original enactment was supportive of that effort.

Now, originally when they have refused to renew the tax in 1995, it was not an immediate disaster because over the years money had accumulated in the trust fund; and, indeed, at the time of the tax termination there was over \$3.5 billion in 1996. But now that fund has dwindled from \$3.8 billion down to a projected \$28 million next year.

This leaves us with three stark choices. We either reinstate the tax, we dramatically reduce our clean up efforts, or we force the taxpayers to pick up the tab from already strained budgets. The Federal Government now, as we know, is hemorrhaging red ink. We have gone from last year being concerned that we were somehow going to pay off the national debt too quickly, to a point where we are going to be borrowing over a trillion and a half dollars from the Social Security fund.

□ 1900

Sadly, the administration has chosen to abandon the notion of renewing the Superfund tax. It has chosen instead to slash the cleanup funding and to rely for what money will be available from the general fund. This is part of a pattern from this administration that is unsettling.

In its first year, the Bush administration decreased the pace of cleanups by almost 45 percent, from an average of 87 sites per year in President Clinton's second term. It originally projected this year, the administration predicted that it would clean up 65 sites this year, but now that number will be only 40.

Last month, the administration announced that it would be cutting funding for cleanup at 33 sites in 19 States. In addition to zeroing out the funding for these 33 sites altogether, it is severely underfunding sites of existing projects. We have two of them that I am following closely in Oregon, McCormick and Baxter creosote plant in Portland on the banks of the Willamette River, and a site designated Northwest Pipe and Casting Process Company, which is an area that is near a number of well areas and that drains into the Clackamas River which drains into that same Willamette River.

I must say that I am rather frustrated at this attitude we have at this point. During the last presidential election, we had the candidates, both Mr. Bush and Mr. Gore, talking a good fight about being able to be forward protecting on the environment. Now when we have a chance to put it into action, we are not seeing the performance.

It does not have to be that way. When we get a chance to work together, good things can happen. Earlier this Congress was able to work with the administration in a bipartisan fashion to deal with cleanup of brownfields, and we made some significant progress. These are the properties that are idle due to actual or potential contamination by hazardous substances and pollutants, by and large in our urban areas. We have an estimate of almost a half million of these brownfields sites nationally.

We found that by moving to restore the environmental health of these sites it is an effective way to revitalize neighborhoods and in some cases an entire city. It can help communities become more livable in a number of ways. It improves the environment by cleaning up the toxic contaminants and preventing their spread and contamination and potential disease-causing aspects, side effects for individuals. The cleanup makes the communities healthier and safer, and it targets reinvestments in our city.

By providing redevelopment opportunities where infrastructure is currently in place, it saves taxpayers dollars over greenfield development out in pristine farmlands that would require new roads, utility, water, and would take away open space, productive farmland, wetlands that have other purposes that help stabilize the environment.

We see significant job creation and economic development opportunities provided by brownfield cleanup, and it actually boosts the tax revenues for cities and towns by improving property tax bases. In fact, the EPA estimates that for every dollar of Federal money spent on brownfield cleanup, cities and States produce or leverage almost two-and-a-half dollars in private investment.

Sort of a stark example. We have the opportunity to revitalize communities with investments in brownfields, and we have been able to work on that on a bipartisan basis, what has happened with Superfund, where Democrats, I assure my colleagues, are willing to step forward with progressive, environmentally sensitive Republicans and support the administration to make sure that we take advantage of these opportunities to protect the environment and revitalize the community.

I am pleased to be joined by the gentleman from Washington (Mr. INSLEE), my colleague from the Great Pacific Northwest, from the Seattle area, who has been very active on a whole range of environmental areas. I would be pleased to yield to him to comment, if he would, on corporate responsibility, environmental cleanup and where he sees us going in the months ahead.

Mr. INSLEE. Mr. Speaker, will the gentleman yield?

Mr. BLUMENAUER. I yield to the gentleman from Washington.

Mr. INSLEE. Mr. Speaker, I appreciate the gentleman organizing this chance to address this because this is an interesting sort of coming-together of two themes of American values, and one of those values is protect our natural resources for our children, and the other American value is responsibility and accountability and corporate responsibilities which certainly is in the news in a lot of different ways today.

I have come to the floor tonight because I am so concerned that I think the administration is grossly on the wrong track on both these issues on an interesting sort of marriage of two values, where the administration is going absolutely backwards. Clearly we have an environmental challenge in making sure that our Superfund sites remain in operation to clean up these most toxic areas with PCB, DDT, creosote, you name it, in it. So we have got this environmental challenge and cleaning it up is an American value. Americans feel very strongly about cleaning up these sites so that we do not leave water pollution for our children for hundreds and hundreds of years.

But there is another thing Americans feel strongly about, and that is responsibility for one's actions. That is why years ago this Chamber and the Senate adopted a Superfund plan that would make sure that polluters pay, not taxpayers, and Americans have felt for years that polluters who dump this toxic material into the soil ought to be the one, to the extent humanly possible, to pay for the cleanup, instead of John Q. Citizen or Mary Q. Citizen who pay their taxes, and Americans have felt for a long time that it is only right because why should the taxpayer have to pay when the polluter was the one who dumped the crud into the ground? That has been the law up until George W. Bush was elected President of the United States.

Now he wants to change that. He wants to abandon this basic American value of personal responsibility and he wants to shift the cost of that onto the American taxpayer, and I think that is wrong.

I think the continued American value is, one, we ought to continue the Superfund cleanup to get these sites done, and two, that the President is wrong in trying to stop the idea and abandon the idea of polluter pays and now make the rule in America being that the taxpayer pays, and somehow we have got to put it on the general fund for the taxpayer to fund these billions of dollars of cleanup, and I think that that is way out of touch with what Americans want to see happen here, and it is but yet one more, just one more manifestation of how the President's administration unfortunately has acted slavishly to these corporate interests instead of the general interests, and the President who has had a history, as we all know, in the oil

and gas industry, cannot seem to break that history to answer the general needs of the public rather than the special needs of the polluting industries.

This is not something that we are asking the President to sort of invent a new science or even a new type of legislation. We are just asking him to take his hands off the existing legislation, which requires polluters to pay for their own problems they created rather than the taxpayer. We are only asking him to do what has been the law for years and years and years and years, and that is why it is most discouraging that the President has seen fit to try to go backwards both on environmental policy and on the concept of personal accountability, and we are going to do everything we can to stop him in his efforts.

In the State of Washington we have a number of Superfund sites. They are at risk with many other Superfund sites of not being funded because of the President's threats, and even if they are funded, we do not think they should be funded by the taxpayer. We think they should be funded by the polluter who dumped the stuff in the ground.

I give my colleagues an example. In Bainbridge Island, where I live, one of the largest toxic waste sites in the West Coast is a former creosote plant and that for years and years and years the owners dumped creosote into the ground right on Bill Point which is a point just on Eagle Harbor there in Bainbridge Island. It is a beautiful location. Trouble is now it is one of the most toxic area substrata around because it is full of creosote, which is pretty ugly stuff. Sometimes when I go by, I can see it bubble up out of the water, and it is real stinky and black and it is quite toxic. We think that the polluters who put the creosote in the ground should be responsible for that cleanup, which is going to take years and years and years, rather than the taxpayers in the State of Washington or anywhere else in the United States, and yet the President wants to reduce that protection.

I just give my colleague a little comment, too. We are now trying, just to tell him how nasty the stuff is, we are trying a new technology of injecting steam into the ground to try to break up the creosote so it can be pumped out, and it is an experiment, really one of the first or second times it is being tried anywhere in the Nation. We hope it works because if it does not work, we have got to build these walls to essentially have a bathtub to preserve this stuff so it does not keep leaking into Puget Sound and causing terrible things in the food chain, and if we have to do that, we have to pump water out of this literally for eternity.

So this is very expensive and we think the one who put it in ought to be responsible. We think that the Presi-

dent should revisit this issue and stick with the existing view of the polluter being responsible rather than the taxpayer. We hope we are successful in this regard.

Today the President gave a speech about corporate responsibility, and he said that corporations need to be more ethical, more responsible, and if he feels that way, why the heck is he trying to shift the costs off of corporations who dump creosote in the ground year after year after year after year, poisoning the atmosphere and the environment, and try to change that responsibility off the taxpayers? That is not in league with what I sense he was saying today, which is corporations ought to be responsible for their own conduct.

So we will continue in our efforts, and I appreciate this opportunity to join my colleague to talk about this one particular issue that I am very concerned about.

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman making that linkage because I think it is important.

There is a lot of talk about corporate responsibility. There is a lot of talk now when the spotlight has been trained on some practices that are having a devastating effect on the pocketbook of Americans across the country, as people are getting their quarterly statements from their individual retirement accounts, their 401(k)s. They have watched what has happened as the stock market has been hammered by questionable practices that are in turn being reflected in a loss of wealth for Americans.

It is going to make it harder to do business, yet this notion of exercising corporate responsibility is something that could be simply done in terms of an area that would actually add value to every community around the country in terms of reestablishing this principle of polluter pays.

Mr. INSLEE. I may just tell my colleague, we have got a lot of great corporations out there, too, that are being extremely responsible, and those sort of good actors are paying corporate taxes, the ones who are not polluting against the law, and what the President's proposal is doing is shifting the burden for the pollution of the bad actors onto the corporations as well as individual taxpayers. He is shifting the burden for the pollution off the bad actors onto the good corporations that are not polluting. So I mean it is not like just individuals are victims of the President's proposal here. The good corporations that are following environmental laws and taking care of their waste and recycling their products, and thank goodness I have got hundreds of them in my district, Microsoft being one. Why do we have to have Microsoft have to pay for some other corporation that is not following the law, that is dumping this stuff in

the ground? So we are defending the corporations who are good neighbors and good community members against the perditions of those who are not, and George Bush is in league with those corporations that want to violate the law and dump this stuff in the ground, and we think that is just absurd and that is the best, most gracious language I can use.

Mr. BLUMENAUER. Mr. Speaker, I appreciate the distinction because in the Northwest we have seen a significant increase in environmental consciousness, worked with programs like The Natural Step. We are seeing models of corporate responsibility where people are trying to reduce their footprint on the landscape, and we are seeing many small- and medium-sized businesses and consulting firms that are emerging that are practicing sustainable business models.

The approach that is being taken here, shifting this onto the general fund, means that instead of identifying sources of pollution historically, it is going to put a greater burden on individuals and corporations who are actually doing an outstanding job. In some cases, it is in effect taxing them twice because they pay their share plus the share of people who are evading responsibilities.

□ 1915

Mr. INSLEE. If I may add, the other thing that is frankly disturbing to a lot of my constituents, is that this is just one more of a litany of these antienvironmental actions by this administration.

Everybody makes a mistake. We are all human, and we do not expect perfection from the President. But when we look at the number of times that the President, this President, has sided with these special interests to the degradation of clean air and clean water, it really bothers the people I represent. I have lots of them come up to me and say, "Whatever you do, just do not let him continue down this road."

It started with his efforts on arsenic in the water; then it has gone on to issues to gut the roadless area rule where we are trying to protect the last pristine areas in our forest areas; then the President ignores any affirmative action on global warming; and then the President takes this action that we are talking about trying to gut the Superfund sites. That was preceded 2 weeks ago by his efforts to reduce clean air rules.

This is consistent with his actions, unfortunately, with the Securities and Exchange Commission, to date, where he appointed a gentleman, who, though a very nice person, very intelligent, is from the industry he is supposed to be regulating. Mr. Pitt from the SEC is supposed to be regulating the securities industry and the accounting industry, and that is who he represented. As

a result, we have had no effective, meaningful reform in the last 6 months of this horrendous predation on American investors. Yet the President has not stood up for American values, he has stood up and allowed the special interests to dominate his administration to the degradation and damage of the American investors.

So this is a consistent pattern where corporations, not all of them, but some of them, who have acted against the laws, have dominated his decision-making. And this is just another example of how an administration has gone off course. We hope he restores that and rethinks through this pattern of his.

With that, I would like to thank the gentleman for an opportunity to join him this evening.

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's thoughts and observations and the leadership the gentleman has provided, particularly in chairing for the minority the Subcommittee on Forests and Forest Health of the Committee on Resources. The gentleman has had an opportunity to train a searchlight on some of the practices that those who would not place quite the same premium on the environment would have. The gentleman has also provided leadership in pushing back on the notion of abandoning the roadless rule, where we had, what, almost 2 million comments in support of this important protection.

Mr. INSLEE. Just one more comment, if I may, and I thank the gentleman for his compliments, I always accept those, but 96 percent of the Americans who commented on this wanted a strong roadless area bill to protect our pristine area, yet what did the President of the United States do? He ignored them.

Now he is trying to back up on this rule to allow clear-cutting and roadless area rules. We are going to fight this. We feel very strongly about it.

And I thank the gentleman.

Mr. BLUMENAUER. I appreciate the gentleman's leadership.

One of the areas we have been focusing on in dealing with Superfund needs to be in the area of hard rock mining. Frankly, there are a number of us who are concerned about the situation that is occurring in our Nation's wilderness areas that have basically been given away to mining interests with virtually no change since that law was enacted in 1872, basically the same as when it was enacted and signed into law by President Ulysses S. Grant.

There are those that argue that hard rock mining is the Nation's number one polluter. They are currently responsible for approximately 70 Superfund sites. Of the 33 sites around the country that the administration sadly is talking about eliminating funding for, two of them were contaminated by hard rock mining companies in Mon-

tana. Yet, until recently, there were no requirements that the mining companies pay for the notion of cleaning up after themselves.

That is how companies like W.R. Grace, who have been in the news for years with its notorious activities, were able to walk away from the site without being held responsible. Yet, last month, the administration issued a rule that would make filling our waterways with waste from hard rock mining mountaintop removal legal.

Now, think about this for a moment: giving a grant of authority from the administration to the mining industry to legalize this notion of where they are just stripping away mountaintops and shoving it into streams to gain access to seams of coal.

As if the Superfund law and the Clean Air Act were not enough, we have here a direct opportunity on the part of the administration to overturn important provisions of the Clean Water Act, all of this to protect an extraordinarily destructive mining practice. These companies have already buried over 800 miles of rivers and streams in West Virginia and Kentucky, all with the permission of the Army Corps of Engineers. But until this rule change goes through, it is still illegal for the Corps to allow waste from mining to be dumped in our Nation's waterways.

Why? Why would the administration, instead of changing the Corps' practice to make them obey the law, why have they decided instead to change the law to make these actions legal? Think about the types of harmful fill we are talking about dumping into wildlife habitat and communities' drinking supplies. Hard rock mining waste includes construction and demolition debris. People have found coal ash waste, old tires, car parts, and discarded appliances. They also often contain particularly dangerous toxic chemicals, such as cyanide, arsenic, and sulfuric acid.

Mr. Speaker, this is serious business. We are approaching the 130th anniversary of the mining law of 1872, as I mentioned, signed into effect by President Ulysses S. Grant, essentially unchanged. We should be talking about how to make this outdated law stronger. We should not be taking an opportunity to roll back provisions of the Clean Water Act that are here to protect public health and the environment.

We are already giving the mining industry public lands and minerals for 19th century recording prices. We are not requiring that these corporations, often foreign-owned, that are extracting this mineral wealth, give a portion of it back in the form of a tax or royalty to American taxpayers to put in our Treasury. And now we are allowing them to blow off the tops of mountains, bulldoze them away to bury rivers and streams.

I would strongly suggest that instead of facilitating this type of behavior, it is important that we provide more corporate responsibility, provide more environmental protection, and we make sure that we are protecting the heritage that God has given this country.

It is frustrating that we have not been able to give people the type of understanding of what is at stake. Remember, as I mentioned earlier, one in four Americans lives within 4 miles of a Superfund site. Now, these sites are hazardous waste, often abandoned warehouses, landfills and mines, and 85 percent of all Superfund sites have contaminated groundwater. Research suggests that there is a markedly increased risk for birth defects when women live close to Superfund sites early in pregnancy.

A few of the hazardous chemicals that people are discovering on these sites include arsenic. We had a great deal of debate earlier in this Congress as the administration proposed rolling back protections on arsenic in the drinking water. Well, that frankly blew up, and the administration did retreat because the public knows arsenic in the drinking water is not a positive development. It is known to cause cancer of the lungs, bladder, and skin. It is also linked to cancer of the liver, kidney, colon, even nasal passages; and to a variety of noncancerous health effects, including heart disease, diabetes, adverse effects to the immune system, lungs, gastrointestinal tract, and thickening and discoloration of the skin.

Lead is another serious area of pollution that can damage almost every organ and system in the human body, especially the immune and reproductive system, and can cause heart disease and kidney damage. It is particularly damaging to the central nervous system, especially for children, where it is well-known and accepted now that children suffering from exposure to lead can have serious brain damage, decreased IQ scores, slow growth, and cause hearing problems in infants or young children.

We have serious problems with mercury on these Superfund sites that can cause brain and kidney damage and pose a high risk for adverse neurological development of fetuses. These are some of the hazards that we face with over 1,200 toxic waste sites on the Superfund national priority list.

Congress should not be undercutting the polluter-pays principle and walking away from its financial responsibility. Some of these sites have been on the list for more than a decade. Last year, in a report requested by Congress, Resources for the Future calculated that implementing the Superfund program for the current decade is going to cost us from \$14 billion to \$16.5 billion. Now is not the time to walk away from the financing.

I mentioned that it was, I felt, unfortunate that Congress allowed the corporate tax that funded the Superfund to expire in 1995 and that the administration has no plans to work with us to reinstate this tax. It has been that combination of funding that enabled us to clean up more than 800 toxic waste sites in communities across the country. During the last 5 years, we were averaging about 87 sites per year. Last year, in its first year, the Bush administration found that the pace of clean-up was down 45 percent. In 2 years, the administration expects to reduce the pace of cleanups by more than 50 percent more, along with shifting the responsibility for the cleanup.

Now, we have seen, as a consequence, that the administration has gone to the General Fund for \$634 million in 2001. It is proposing \$700 million this next year. When we had the Superfund in place that was funded by the tax, the General Fund only assumed about 18 percent of the program costs. Next year, if the President's proposals are adopted, they will be paying 54 percent of the associated costs, and soon, in the next year or two, the entire cost.

Mr. Speaker, I find that to be unacceptable. We need to not be abandoning the principle of polluter-pays. We ought not to be putting more pressure on the beleaguered General Fund. We ought not to be cutting the pace of Superfund cleanup. After more than 20 years, if anything, we should be redoubling our efforts in providing this revitalization. We have, today, opportunity after opportunity to take a step back and to do what the American public wants us to do, which is more investment in areas that is going to protect the environment.

Another critical area that we are having a great deal of discussion about on the floor of this Congress and in our committees deals with the situation we see in forest fires that have been raging across the West. In recent days, we have had 22 large fires in seven States.

□ 1930

We have had over 300 million acres already burned this year. For comparison purposes, that is more than twice what we have had over the last 10 years on average, and we are only halfway through this fire season. There are approximately 10,000 men and women currently fighting the fires throughout the West. It has been important enough for the President and a number of governors to be involved with touring. We have been watching homes being lost. To date we have had nearly 1,500 homes across the West and over 35,000 residents have been evacuated. I would hope that this would be another area where we might be able to assess what has happened and draw the appropriate environmental conclusions and lessons, particularly since we are facing what is likely to be the worst fire season in memory.

It is important that these catastrophic fires serve as a wake-up call, not senseless recrimination, attacking. In some cases we have even seen people trying to blame this on environmentalists, incredible as it sounds. This is an opportunity for us to reflect on the transformation of our natural systems of forest and even astrospheric chemistry dealing with global warming. We need to have a cultural shift to a more conservative approach, respecting the fragility of these systems and our dependence upon them. We need to stop this curious blame game.

It is not, by any stretch of the imagination, the environmentalists who caused the drought. It is not the environmentalists who have had a policy for the last 50 years of instantly suppressing any fire anywhere so that what we have done is we have stopped the periodic fires that have swept through the forests of the West. We have seen the number of trees and other flammable material expand dramatically, and it has been actually compounded by logging practices that have opened up many of these forests and removed the most mature trees, trees that are the most fire resistant, and leave the tinder behind. And it was interesting 2 years ago when we went through this cycle, we found that the areas that had been the most heavily logged were the ones that had the worst forest fires.

This current fire season will be the worst in the past half century, and I am hopeful that we will be able as a Congress, we will be able as a country to take a step back and face the hard questions about current forest management policies, funding for various wild-fire management programs, and look at the Federal role in protecting State, Federal, and private land and, yes, take a hard look at the land uses that we are permitting and encouraging in this area.

We need to return to ecology 101. Small ground fires that once regulated the vegetation in our great western woods need to be returned to the ecosystem. The brush and small trees that would burn while older larger trees survive were part of a natural process that made the forest healthier. We need to recognize that a century of aggressive fire suppression has rendered western forests susceptible to these massive conflagrations that cost us billions of dollars annually and that much of the cost and the agony can be attributed to structure protection for homes that are in the forested fringe.

There is a lot of talk these days about the wild land-urban interface. It is a serious question, Mr. Speaker, because we have in this interface between the developed areas on formerly undeveloped forest land, it is putting people in direct contact with what earlier had been a healthy natural phenomenon of wildfires that have just rushed

through. We found that people have a difficult time accepting the reality. A recent survey in the Arizona Republic showed that people in this wild land-urban interface have an attitude that, well, they know that it is risky, but I think I will take my chances because it is not that risky. Of course it is not just their chance. They will not bear the costs alone when the worst scenario plays out. Since 1985, wildfires have burned over 10,000 homes.

I see my good friend Mr. TANCREDO from Colorado in the Chamber. My understanding is that there will be a million people in the foreseeable future in Colorado who will be located under current policies in areas that are heavily forested, putting them in harm's way and giving us a very difficult choice about allowing the fires to burn on, risking people's homes and lives, or making some changes to deal with a more rational approach. It is not appropriate for us to continue to put thousands of men and women in harm's way needlessly, and in some cases there are bizarre situations that are a result of human activity on formerly wild forest areas.

We had in Fort Windgate, New Mexico, firefighters having to stay away from certain areas because there were explosions of unexploded ordnance beneath the surface of the public land in areas that had been used for target practice. We had this a couple of years ago in Storm King State Park in New York where firefighters were out fighting a blaze and all of a sudden explosions started to occur. This was a result of shelling from cadets from West Point.

Well, it is not just these unusual situations that deal with unexploded ordnance in military activities. We have to have a comprehensive approach to how we are going to permit activities into the forest land, who is going to bear the risk, what we can do to minimize that in terms of if we are not going to prohibit it outright, to regulate where it is, building materials, what is happening in terms of landscaping. In too much of the West, people have just turned their back on their responsibility, creating serious, serious problems.

Since 1970, over 2.8 million housing units have been constructed along this forest fringe and out into the forest land. The total now is over 5 million dwelling units. If population growth continues at current rates, and we continue to have the ex-urban housing development and we have resort development, there will be an additional 2.4 million housing units in the next 30 years, approaching 9 million in all.

As staggering as these numbers are, they only represent primary residence. They do not include tens of thousands of residences that are second and seasonal and vacation homes, particularly near resort towns. We are seeing the

consequences of unplanned growth and development. Some may call it sprawl or dumb growth when it occurs in and around suburban areas; but the facts are we are seeing it leak out in the countryside, and we are going to be penalizing the taxpayer, costing money to extend services, penalizing the taxpayer for fighting fires, for example, where it is going to be exceedingly expensive and difficult to solve in the future.

The final area of concern that I have that I wanted to talk about this evening deals with the way the global climate change has the potential of accelerating and compounding these difficulties. Now the unprecedented drought that we have seen in the West, we have seen in Wyoming, it is the worst in 100 years. We are seeing it throughout the eastern seaboard in places like metropolitan Atlanta where we are not used to thinking about drought conditions.

This is merely a preview of what we can expect if we are going to continue to have the effects of global climate change, as droughts are going to be contributing to concerns about wildfire vulnerability. Unusually dry winters and hot summers increase the likelihood, and we are going to make it more and more difficult to contend with multiple challenges across the country.

I find it ironic that the President will tour the fire sites in Arizona, but really does not have anything in the way of a plan for American leadership when it comes to mounting a plan to deal with global climate change which might forestall or minimize this very serious problem in the future.

It is research from our own federally funded studies that have shown that climate change is going to have a dramatic increase in the areas burned and the number of potentially catastrophic fires, in fact, more than doubling the losses in some regions. And the changes are going to occur despite deployment of fire suppression resources at the highest levels, implying that the change is going to precipitate an increase in both fire suppression costs and economic loss due to just wild fires alone.

And it is not just wild fires that are a concern dealing with the change in greenhouse gasses and global climate. Worldwide, the number of great weather disasters, including fires, in the 1990s was more than five times the number of these disasters for the 1950s. And the damages, the costs that were incurred by governments, by insurance, were more than 10 times as high adjusted for inflation than in the 1950s.

We have seen in the last year of the previous decade 47 events, more than double the average for the 1980s. Well, the United States, with less than 5 percent of the world's population, is playing a huge role in greenhouse gas contributions. We produce approximately five times our per capita contribution.

We as Americans know that we can do better. I sincerely hope that the administration will work with concerned people on both sides of the aisle to not abandon the principle of "polluter pay" and make sure that Superfund cleanup is the priority that the American public wants, to deal with the abuse of the mining industry, hardrock mining in particular, to not make it easier for them to have assaults on the environment, to fill miles of streams and valleys in violation of current law, that instead encourage, indeed mandate, that the industry clean up after itself, that we deal with the current realities of this urban-rural interface that has created such a problem with forest fire protection. And last, but by no means least, that we deal with national leadership for global climate change.

Next month the United States will join with over 100 other nations in the environmental summit in Johannesburg. Mr. Speaker, this would be an excellent opportunity for the United States, if the administration cannot abide by the Kyoto Protocols, which ironically even some large businesses are stepping up and agreeing to meet those targets, at least we are obligated to have our plan, our approach, and it would be a perfect time for the administration to reverse its position, come forward with a leadership approach to make sure that these problems of global climate change, storm events, and wildfires, are not going to be worse as a result of our stewardship, but instead would be better.

□ 1945

ITEMS OF CONCERN TO AMERICA

The SPEAKER pro tempore (Mr. KENNEDY of Minnesota). Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. TANCREDO) is recognized for 60 minutes.

Mr. TANCREDO. Mr. Speaker, I rise tonight to bring to the attention of my colleagues a number of issues. I have listened, as I have been sitting here preparing my notes, to the previous speaker, and there are many concerns that he expresses that I certainly share.

Before I get into the main part of my comments, I do just want to make one statement regarding the issue of wildfires and their cause, the reason for the severe nature of the fires we are having in my State and the others around the West.

I certainly agree with the gentleman from Oregon (Mr. BLUMENAUER) when he says that what has contributed to this condition in our Nation's forests has been 100 years of fire suppression philosophy. The idea that we had to try to put out every fire that started in our forests has undoubtedly been a wrong-headed approach. We recognize now

that fires, of course, can be healthy. I say "can be," because it is not necessarily the case. It is not always the case that every type of fire that you have is a "healthy" phenomenon.

There are certain kinds of fires that are enormously destructive, not just in the terms that we naturally think of when we hear of a wildfire, but there are certainly other aspects of it. So not allowing for a natural process to occur, constantly getting in there and trying to stop all fires, is not good, and I agree.

Now the question becomes one of how to deal with it. Is it to simply ignore the fact that we have forests in the Nation that have accumulated up to 400 tons, 400 tons per acre, of fuels, when the average amount, what we would call a healthy natural forest, is around 10 tons per acre? Is it to simply ignore that, leave it, and say because we do not like the idea that mankind, that governments have attempted to intervene in this process, and that has been problematic, is it to suggest that we have no role to play?

I would state categorically that it is just the opposite. Now that we know what the problem is, now that we have some sense of what has contributed to this enormous problem, then what we need to do as a government and as a public policy is to try to address it, and it is not to ignore it. It is not to pretend that the potential for these catastrophic fires does not exist and to simply walk away from the forests and the management thereof to some other kind of bucolic world in which, after all of the forests in the United States have burned to the ground, in a couple of hundred years they will all be back in a more natural and pristine state. That is essentially what our environmentalist friends are asking us to do.

However, we do have options. We do have alternatives. What we have learned is that you can actually now reduce the catastrophic kind of fires that we are experiencing in the West by management, by enlightened forest management. Part of that is what we call controlled burning, where we go to the area, the Forest Service goes into a particular area and does in fact burn a lot of the underbrush and burn those fuels in an area and in a way that they can contain it so it does not, hopefully, get out of control. It has happened in the past, Los Alamos is a horrible example, but, for the most part, it does not happen that it gets out of control. We have in fact over the years had hundreds, if not thousands, of controlled burns. They have all worked perfectly well. It does help create a more natural environment.

It also helps stop the spread of catastrophic fires like the one we are having. I have seen it with my own eyes in Colorado, in the forests we are now dealing with, with the firings we are now dealing with, where we have al-

lowed for a controlled burn. The Hayman fire, which is the one that has consumed 150,000 acres, you can actually see where it has come up against what was called the Polhemus burn, which was a controlled burn, come up against that area, and essentially stopped because there was not the fuel to have it continue.

We can manage the forests by controlled burns. We can also manage the forests by thinning, by going in and actually taking out a lot of this underbrush, by cutting down trees, yes, I am saying it, cutting down trees, especially the trees with the small circumference, and a lot of the underbrush that has been so problematic in these fires. We can do this.

There are ways to manage forests, not to stop all fires, but to make the fires that do occur a product of or manifestation of that healthy ecosystem. It is this area, this point of conflict, that we find ourselves in with our friends in the environmental community, especially the more radical elements of that community, who have stopped every single attempt on the part of the government to try and manage the forests, of the Forest Service to try to manage those forests, and, as a matter of fact, were successful in stopping the Forest Service from doing any sort of thinning right in the middle of the area we now call the Hayman fire.

A year-and-a-half ago the Forest Service proposed to go in there and thin parts of that area, to clean out that kind of underbrush. The environmentalist community filed appeals. They worked for a year-and-a-half with them to try to come to some resolution of their concerns. When the Forest Service thought the concerns were met, they went ahead to start the process. What do you think happened? Guess what? The environmentalists went in there and filed the appeal again, stopped the process again. That was a year-and-a-half ago, and, of course, now that issue is moot, irrelevant, because that part of the forest, along with another 150,000 acres, are simply pieces of charcoal.

So we can do a lot to mitigate the disastrous effects of the fire. As for the wildlife wildland-urban interface, that is problematic. We can also control that. There are zoning laws we can adopt and, in many, many cases, have already. It is not the fault of an American who wants to live near a forest or in the forest area. It is not their fault that we have fires or that the fires are catastrophic.

To this point, we have not had a fire in Colorado, of which I am aware, actually, that was started because someone was living near a forest. I am not saying that has not happened. Nothing I am aware of recently. None of the major fires were started by people who happened to live in or near the forests.

Unfortunately, the two most horrendous fires we have burning or have just

brought under control in the United States, one in Colorado and one in Arizona, were started by Forest Service personnel. In Colorado, the lady that started the fire apparently, apparently started the fire, I should say, is a Forest Service employee directly. The gentleman in Arizona who apparently started this fire is someone who is employed by the Forest Service to go in and help the Forest Service fight fires. He is a smoke jumper and he wanted to essentially be employed, so he started this fire thinking I will get the job; I can go in and fight the fire. It got away from him, and 500,000 acres burned down. An area actually now larger than the size of Los Angeles has burned in Arizona.

So this idea that you have got people living on or near the land and therefore we have these big problems, that is really not it. Yes, there are homes that are destroyed, and it is true and horrible, but the people who have chosen to live there take that kind of risk and pay insurance premiums that reflect that, for the most part.

Anyway, I just wanted to talk about that. There are many other issues, but that was not the main purpose of my coming to the floor tonight.

I did want tonight to reflect upon another speaker who had the hour before the gentleman from Oregon, and this was my dear friend and colleague, the gentleman from Texas (Mr. PAUL), a gentleman whom, by the way, I respect enormously and whose opinions and attitudes I believe are incredibly profound and need to be heard. The gentleman from Texas (Mr. PAUL) is a devout libertarian who has in many, many cases and many, many times, I think, been a lone voice for a variety of different causes here and a perspective that is not heard often enough.

Of course, there are certain aspects of his presentation, of his discussion tonight, with which I must disagree, especially in terms of what our responsibility is as a Nation to defend ourselves against the war that we are now involved in and whether or not we can argue about the purpose of the war, I should say the genesis of it. But I do not think we can argue about the fact that we are in one.

The question that I think this House must always deal with, and I commend my colleague, the gentleman from Texas (Mr. PAUL), for being such an articulate defender of the fact or the idea, the philosophy, that we must never surrender individual freedom and liberty in the pursuit of ultimate security. I certainly agree with that, that that is a terribly difficult balance that we are asked to try and maintain here in this Congress. And the issue is to what extent does this government have a responsibility to actually try to defend itself against the threat that we, I think, that we now face, and what are the measures that we can legitimately

take to defend ourselves, considering the nature of our opponent, our enemy.

That is really the ultimate debate we are having. What is the nature of the fight we are in? Is it just against this small band of terrorists who have, as we have been told, hijacked a particular religious philosophy? And, if so, if it is just against a small band? Maybe we can name them al Qaeda. If that is it, if that is our only war, I would agree with my colleague, the gentleman from Texas (Mr. PAUL), that the steps presently taken, the steps we have taken up to this point in time, may have been overreaction, because it is a relatively small group and we can identify who they are by name, we can go after them wherever they are, find them, arrest them, kill them, if that is the only alternative.

But I believe that that is not the nature of the battle or of the enemy that we face. I believe it is much broader than that. I believe it is in fact fundamentalist Islam that we are fighting tonight, today, yesterday, and will be fighting for many years to come. It is something far larger than this small group of people.

Tonight, maybe, during this discussion we will have the opportunity to go through this at greater length, to determine what exactly it is then our Nation should do, if we are faced with that broader, more broadly defined enemy. One of the things I believe we must absolutely do is to work to control our borders.

It is incumbent upon us, it is incumbent upon us because we call ourselves a Nation State, because we believe ourselves to be a sovereign Nation. We claim that, and I believe we are, I believe we are separate and distinct from the other nations of the world.

I believe that becoming an American citizen, for instance, means more and should mean more than simply crossing a line, simply stepping over a boundary. I believe there are all kinds of things that are incumbent upon an individual when they become a citizen of this country, and I believe that there are people in this world, there are, in fact, far too many people in this world, that would destroy this Nation, everything we stand for, everything we believe in, and physically destroy us, not just our philosophy, but all of us living here.

I believe that that is the nature of the fight we are in, and I believe that there are many things we need to do. Among them is to actually secure our own borders. It is to say to the world that we have a right, a responsibility, to defend ourselves. Part of that may be to seek out our enemies in Afghanistan and in Iraq and in the Philippines or wherever they may be hiding. But it is also to defend our own borders from those who would come across for the purpose of doing us harm. And I do not think we should be condemned for that

or called myopic or xenophobic or anti-individual freedom. It is the least that our citizens can expect of us, to defend them, so that they can be free to practice their religion and their political philosophies and their individual ways of life.

□ 2000

I see that I am joined tonight by the gentleman from California (Mr. ROHRABACHER) and another colleague whom I will introduce in just a moment. I am glad that they are here. I will gladly yield to my colleague.

Mr. ROHRABACHER. Mr. Speaker, first and foremost, I would like for the record and for anyone who is observing this presentation this evening, to understand the pivotal role that the gentleman from Colorado (Mr. TANCREDI) is playing in this battle for our Nation's security in terms of the fight against illegal immigration.

Now, I may or may not agree with the gentleman about the nature of the terrorist threat to the United States; I tend to think that there are many, many Muslims throughout the world who are as much against terrorism as we are, standing right here in this body today, and that they are horrified that the bin Ladens of the world are being presented to the American people and to others as spokesmen for Islam. They are just horrified by this.

But to the degree that there is a threat there, what is important is what the gentleman from Colorado has been doing to make sure that we focus on a major vulnerability of our country, which is the fact that our government is not concerned about the sanctity of our immigration system and the security of our borders, so that the people of the United States of America are being made vulnerable every day in many ways; economically, but also in terms of their own personal safety, as well as the safety of our government and our institutions, by a massive flow of illegal immigration into the United States of America.

The gentleman from Colorado has taken it upon himself to try to mobilize public opinion and mobilize the opinion of Members of this body so that the public, as well as this body, will understand the great risk we are putting ourselves in by not controlling the flow of illegal immigrants into our country. It is a risk that has economic ramifications, which the gentleman from Colorado has time and again talked about, and about how the standard of living of the average working person has been going down; and yet, of course, we have the ownership class in America who seems to be able to take advantage of cheap labor.

We have also heard from the gentleman from Colorado about the criminal elements that are coming into our country; and now the gentleman from Colorado is also warning us about the

potential terrorist implications to not having control over our borders.

Now, I have been fighting illegal immigration for as long as I have served, and have been privileged to serve, in this body; and that is why I feel so strongly that the gentleman from Colorado (Mr. TANCREDI) is playing a role that is just indispensable to the security of our country, because he is carrying much of this load on his own shoulders.

But I have been especially concerned over the years about the security risks that illegal aliens pose to our country. We do not need to just make this fundamentalist Muslims, because I happen to believe that there are a lot of fundamentalist Christians and fundamentalist Jews that say crazy things about other people's religions, and there are radicals who would murder people in every faith. We must make sure that we are opposed to any of this type of radicalism, and it should be denied access to the United States of America. If you have a radical Christian or a radical Buddhist or a radical Communist or a radical Hebrew or a radical Muslim, any one of those who are willing to kill other people because of their faith, should not be permitted in the United States of America, period.

Well, since 245(i), which was an amnesty for illegal aliens, was proposed in 1996, I have talked myself hoarse about why this was such a grave matter to our national security. Mr. Speaker, 245(i), as we know, permits people who are in this country illegally not to have to go back to their home countries in order to readjust their status so that they could in some way be here legally. In the past, if someone is here illegally, they have to go back before they can adjust their status.

Well, others in this body have openly scoffed, saying that 245(i) is about, what they claim, is about uniting families, or fairness, or economics, or anything else than what it is.

Mr. Speaker, 245(i), which is an amnesty for those people who are here illegally so they do not have to go home to adjust their status, they can do it here, is an invitation to criminals and terrorists and anyone else who would overstay their visa to come to this country and break our laws. It is an invitation for everyone who comes here on a visa to overstay their visa because, after all, now that they are here in the United States, and they can be adjusted. And while 245(i), which we put into place, was supposedly a limited right of these people who are here illegally to adjust their status, it has had already horrible impacts on the safety of our people.

Now, the 245(i) amnesty for illegal aliens has claimed the first victims that can be officially proven to be the victims of the action of 245(i) by this Congress, and it is a very prominent case. The INS Congressional Relations

Office confirmed to my office that the Egyptian gunman who killed two people at the El Al counter in Los Angeles Airport, at LAX, on July 4, was in this country only due to a 245(i) amnesty. That is that Hesham Mohamed Hadayet, an Egyptian citizen, a man who apparently either was part of a terrorist system which we do not know, he may not have been, but we do know that he lost his composure or perhaps he did it intentionally, but he went to LAX and murdered two people, two innocent people.

Think about this. Mr. Hadayet, and I do not know if that is the way you pronounce his name, who was due to be deported, became a resident of this country due to a 245(i) amnesty. What a travesty.

Now, this is a case that we can document. I would contend that there are probably many other cases in this country where people have been brutalized or murdered or raped or robbed, or that you have someone who imposes a terrorist threat in our country because of this, but this one we can document. If we had deported him, those two people there at LAX, those beautiful young people, may be alive today, would certainly be alive today, and their families and their friends would have been saved this enormous grief.

Estimates from the INS and others are literally several hundred thousand, by the way, in terms of how many illegal aliens have already applied for and received legal permanent status through 245(i). So let us make that clear. Hundreds of thousands of people have received their permanent resident status, even though they were in this country illegally at the time, because of 245(i).

Now I might add just for the record that the gentleman from California (Mr. BERMAN), my good friend and colleague, the two of us debated this issue out. I was claiming at the time that hundreds of thousands of people would seek to utilize this loophole if Congress passed the 245(i) extension. The gentleman from California (Mr. BERMAN) emphatically stated that it would only be 30,000, he could never imagine more than 30,000 or so people claiming this, and this was his official estimate by some, of course, source that either did not know what they were talking about or were intentionally misleading the gentleman from California (Mr. BERMAN).

But I remember him saying, if you have over that many people apply, I will buy you dinner. Well, I say to the gentleman, I am ready for dinner. I am ready for dinner. And I want the gentleman to know that I will not mention over dinner the death of those two poor people at the El Al counter at LAX, because they can be traced right back to that 245(i), and there are not just a few thousand people who applied, there are hundreds of thousands, and it is a gi-

gant loophole that we do not need to open wider, we need to stop that loophole. We need to plug it so we do not have any more maniacs in our midst who might have been deported; at least they would not have been here. Who knows.

I had a person from the INS tell me that the reason why we want them here, if they are here illegally, the reason we want them deported back to their home country to check them out is because that is where the records are. That is where all the authorities in those countries know in their country who has been arrested for unstable behavior. Maybe this man was not a Muslim extremist. He may have just been a very disturbed person.

Well, guess what? We do not want a very disturbed person in this country who is here illegally either. And if Congress should pass another extension of 245(i), which is, of course, what we were being pressured to do, and let me add that the vote that they were leading up to, and there is enormous pressure on us to pass 245(i), that vote was supposed to be on what day? 9-11.

If those people would not have flown those planes into the World Trade Center, if those terrorists would not have slaughtered thousands of Americans up there in New York, this body would have been in session and we would have been voting for 245(i) that would permit these types of threats to our security and to the personal safety of our people to remain in the United States. Had Congress passed 245(i), there would probably be, and we estimate, another 300,000 illegal aliens permitted to stay here and to start to legalize their citizenship status and their immigration status.

Mr. TANCREDO. Mr. Speaker, reclaiming my time for just a minute, the gentleman makes a very interesting and, I think, dramatic point here, something I did not know, something that I think a majority of Americans did not know. And I will guarantee my colleagues this: What my colleague has just stated about the status of the gentleman who was here and killed those two people at El Al, that fact, I would be willing to bet anyone dinner and anything else, would never, ever, ever have come out had it not been for the dogged determination of the gentleman from California (Mr. ROHRABACHER).

These are the things that we hear about, but the INS will never admit to. And I hope to see, but I wonder if tomorrow morning we will see on the front page of every newspaper in this country and on every talk show in the country this fact, the fact that my colleague has just pointed out to us; and I will bet again, if it is brought up at all, it will probably be buried, except for the very few parts of the media that have a tendency to support our point of view on this.

Mr. ROHRABACHER. Mr. Speaker, if the gentleman will yield, the gentleman is precisely correct. My staff, when this happened, noticed that there was a discrepancy about why this person was actually in the country after he had been given deportation notices. I talked to them about it and, frankly, several of my staff members worked very diligently to find this information out. Rick Dykema, who is my chief of staff, headed the investigation; and the INS, although they finally confirmed it this evening, right before I came up here, the INS was being very nebulous and it was like, oh, well, they did not want to admit that this was it.

How many people around the country are going to hear this? As the gentleman says, how many newspapers are going to report that? I am very grateful, and I thank the gentleman very much for noting that it took a lot of hard work for us to do this.

I would just hope that those people who want to extend 245(i) go down and take a look at the blood on the floor of the LAX airport before they do. Take a look at the picture of those poor people who were murdered by this either fanatic or unstable foreigner who was here illegally, whom we could have sent back, but instead, we kept, because our colleagues have bought into this idea that it is in some way a positive thing to permit this loophole to exist.

□ 2015

By the way, if there are another 300,000 people who now the INS has to process because of 245(i), let us remember that the INS is already 3 million cases behind in processing people who already have made their application. Why are we adding to their work in processing these applications, and while they are doing it, permitting these people who are here illegally to stay here in this country?

If there is a backlog of 3 million people, it is going to take them years to work and to try to find or go over everyone's case like this, and now we are just adding more and more people who are able to stay here without the serious background check that they would get if they were sent home because they were here in this country illegally.

With the July 4 attack, we knew that we were in a horrible situation. We must take a look at 245(i) and the entire immigration policy of this country after this attack on July 4, but we should have been doing this after September 11, as well.

Mr. TANCREDO. Mr. Speaker, absolutely. Here is the thing: we are now 10 months past 9-11. We can talk about the errors we have made in the Congress in the past and the errors this government has made in the past in the crazy-quilt patchwork type of immigration policy that we have been

dealing with here for years, and we can affix blame there, and rightly so.

But would the gentleman not think that subsequent to 9-11, subsequent to that horrible event, we would have done something to correct this action, to say, okay, we have made mistakes and we recognize it?

But not only have we not done anything significant to correct it, but an interesting article that I came across just the other day said that, since 9-11, we have given out over 50,000 visas to people from countries on the terrorist watch list. This is not just people from countries that are kind of on the fringe; these are people from the countries on the terrorist watch list. We have given out 50,000 visas since then.

It is still the case that if people live in Saudi Arabia and want to come to the United States they do not have to go see an actual counselor; they can put it in a drop-box. They can get the visa. No one interviews them. This is coming from Saudi Arabia, a country that we already know many people have come from who have done horrible, horrible things to the United States.

Mr. ROHRABACHER. Mr. Speaker, as the gentleman knows, all 19 of those people who flew the planes into our buildings and murdered our people were Saudi citizens. I think there are some people in Saudi Arabia who are friends of the United States and allies of the United States, but we have to take a look at what is going on in Saudi Arabia. We have to protect ourselves, to make sure that we just do not have an open door, because they have not cleaned up their own house. They have not put their own house in order. Thus, they have made it unsafe.

How many other countries are like that?

Mr. TANCREDO. Reclaiming some of my time, I want to say that the gentleman from California (Mr. ROHRABACHER) has been enormously flattering in his description of my efforts, and I sincerely appreciate it. But I also know that long before I came to this Congress, there were people here laboring in this vineyard, and the gentleman is one.

I want to tell the gentleman how much I appreciate what he has done in this area. It is by circumstance and event and whatever that I ended up in the position of being the spokesman for our caucus, but it is only because of work like the gentleman has done and another colleague I will introduce right now that we have the ability to actually bring, I think, some sanity to this discussion. It is because they have been here for some time, and they have been really and truly pressing this issue.

Now, of course, it is on everybody's plate. It is on everybody's top list of things to be concerned about. Why? Only because of horrendous events. They should have been listening to my colleagues a long time ago.

Mr. Speaker, I yield to the gentleman from Georgia (Mr. DEAL).

Mr. DEAL of Georgia. Mr. Speaker, I thank the gentleman for his leadership, as the gentleman from California (Mr. ROHRABACHER) has already expressed, for leadership on the Immigration Reform Caucus.

I would like to take a few minutes to share more information. I think the information just brought forward by the gentleman from California (Mr. ROHRABACHER) is certainly pertinent to the issue of the 245(i) matter that is still pending before this Congress.

Mr. Speaker, we should learn some things when we have studies and censuses and other reports made, because we spend a lot of money doing this. If we will just look at a few statistics. For example, the latest census of 2000 tells us that approximately 8.7 million people are undocumented illegal aliens living in this country. That is about 1 million more than most people estimated was going to show up in the report.

According to those figures, we are having about 700,000 a year illegal immigrants entering this country. If that translates down to 1,918 per day, 80 per hour, and approximately one per minute, in other words, since 9-11, we are approaching a half a million illegal immigrants who have entered this country and virtually nothing is being done about it.

Let me share some other things. As the gentleman has already alluded to, the 19 terrorists in the 9-11 attack all had Social Security cards, all had Social Security numbers. In fact, 13 of them obtained Social Security cards legally. In that regard, a recent report was issued by the Inspector General of the Social Security Administration in which he said that one in every 12 foreigners receiving new Social Security numbers have done so using false documents. He indicated in his report that preliminary results show that some 100,000 Social Security numbers were wrongly issued to noncitizens in the year 2000.

He goes on to say that even before 9-11, that he had been recommending that the Social Security agency check its records with the INS before issuing Social Security cards, and had received no support and cooperation from Social Security. Since that time, Social Security has agreed with that recommendation, but still is having difficulty coordinating records. We, of course, have tried to pass legislation previously to deal with that issue.

Let me deal with another subject. Speaking of ironic situations, I have discovered in my research and in my talking with local INS agents that one of the reasons we are having difficulty deporting illegals is that a lot of times we do not have any detention facilities to keep them until we can process them for deportation.

One of the major reasons is we cannot use many of our jails where we are housing American citizens for criminal activity. They do not comply with the INS detention standards. The INS has adopted detention standards that do not correspond with the American Correctional Association standards. Now, these are the standards that are used in over 21,000 detention facilities all across our country, but the INS says they are not good enough.

Let me give the gentleman just a few examples. Non-English speaking detainees must be provided with more than just simple access to a set of English language law books. They must also be allowed to have presentations made by outside groups informing them of U.S. immigration laws and procedures, and the INS encourages these presentations.

What about meals? Detainees under the INS standards must be served at least two hot meals a day. Any sack meal shall contain at least two sandwiches per meal, which at least one must be nonmeat and one must be meat, and that must be nonpork, and they must also include one piece of fresh fruit and a dessert item.

I was recently told that in my hometown in Hall County, Georgia, we could not use the local detention facility which houses all other detainees simply because that facility serves a cold breakfast and a balogna sandwich for lunch, and that was just not good enough for the housing of people who are illegally in this country.

Mr. Speaker, if the gentleman tells me that it is all right to detain our neighbor who has a traffic violation or a bad-check charge, or even our children in the school lunch program who do eat balogna sandwiches and are sometimes served cold breakfasts, and it is not good enough for those who are illegally in this country, but it is good enough for American citizens, let us get real about this.

What about telephone access? We have all heard the proverbial, I am entitled to my telephone call. If one is an illegal alien in this country, let me tell the gentleman what they are entitled to about telephone calls. They cannot, first of all, be placed in a detention facility unless they have unlimited access to telephones; and they cannot be limited, except if they do attempt to limit the time, it can be no less than 20 minutes.

They have also required, the INS has required, their telephone service provider to program the telephone system to permit detainee calls to numbers on the pro bono legal representation list, and permits them to use debit cards to make the calls. Now, that is not the same privileges that are entitled to Americans who are detained in our detention facilities.

They also say that if one is a normal detainee, one has to make all long distance calls, and they have to be collect.

Not so if one is an illegal alien. They are entitled to use a debit card. I am told by one that even the detention facility may have to have international telephone access to meet the requirements.

I know that we all recall some of the debates that surrounded the 1996 Immigration Reform Act. We are in the process of looking at that act again, trying to clarify some things. One of the issues was what is a deportable offense. Generally, it was considered to be certain felonies that are of an aggravated nature.

For example, just to have a DUI is not enough to get one deported. Let me read from a letter from a local judge in my hometown. This is what he said:

"Last week I sentenced a gentleman on his fourth DUI committed in the last 2 years. This gentleman is an illegal immigrant. I directed the probation department to contact INS in an attempt to prevent further violations in Hall County." He goes on to say that that was not enough to get him deported.

He also makes reference to local gang activity. I might just say within the last months we have had two drive-by murders and gang-related activity in my community.

He goes on and summarizes. He says that people who repeatedly drive drunk and are known to be involved in gang activity are allowed to basically run free, with no fear of prosecution, because of the current INS policies. That is a real tragedy and a real shame. It needs to be corrected.

How many DUIs does the gentleman think a person should have who is, first of all, illegally in the country to begin with? One is not enough to get them deported, two is not enough, three is not enough, and in this case he cites an actual case where four DUIs is not enough to get him sent out of this country.

I ask, where is MADD on this issue? Where are those who say that we ought to get tough on drunk driving and the other things that disrupt communities and endanger the safety and lives of our local citizens?

I commend the gentleman, and I will conclude with this comment. It is a comment that was presented to our reform caucus by a senior INS special agent. I think he says it very well when he says this: "The first laws that aliens entering the United States encounter are those laws that the INS is supposed to enforce. When the INS fails to effectively, consistently, and fairly enforce these laws, we are sending a very dangerous message to aliens seeking to enter the United States. In effect, we are telling them that not only can they expect to get away with violating our laws, they can anticipate being rewarded for violating our laws."

I think he says it very well.

Mr. TANCREDO. Mr. Speaker, I thank the gentleman. Although the

gentleman did say it very well, it was made even more profound, I think, and more articulate by the gentleman's brilliant analysis. I do sincerely appreciate the gentleman coming down this evening.

The gentleman points out several ironic, would be one way to describe them, or infuriating is another way to describe these situations, these events, these things with which we are now dealing almost daily. It seems to me I confront something like this all the time where we hear something like this and we say, How could this be? This could not really be. For instance, four DUIs, and he cannot be deported?

We have constructed on our Web site a list of things that we call "incredible but true," and Members can go to that Web site, www.house.gov/Tancredo and go to the immigration page on that Web site, and Members will see these.

If they wish, people are able to go to that Web site and sign a petition to the President of the United States asking him to please augment the forces that we presently have on the border, the Border Patrol people that are so, right now, inundated. They are so overrun, outgunned, outmanned by the people they are trying to keep out of this country that they are in desperate shape. So we are asking the President to actually help us help them by putting military on the border. Members can go there and sign a petition.

I see that my colleague, the gentleman from California (Mr. ROHRABACHER), has something else he wants to say.

□ 2030

Mr. ROHRABACHER. Mr. Speaker, I would just like to reaffirm something we talked about earlier, and this is for people who may have missed the beginning of this Special Order, that due to research from my office, we have discovered that the murderer who may well be a terrorist or may well be just a very disturbed man or may be a cold-blooded murderer who is in this country illegally, managed to stay in this country through the use of the 245(i) process, this is the murderer who killed those people on July 4 at LAX. So we have confirmed officially for the first time at least, these are known victims of the 245(i).

This is outrageous. And hopefully by exposing this, it should wake up some of our colleagues to just how serious it is to not regain control of our borders which are just totally out of control. And, number two, hopefully this will alert our fellow colleagues to the danger of the 245(i) reform, which they call it, which is a gigantic loophole which permits people who should be deported or should not be in this country because they are here illegally, to stay in this country and adjust their status here in the country rather than having to go back to their native country.

Had this man who came from Egypt been forced to return to his country as was the law without 245(i), those two people who were murdered on July 4 at LAX at the El Al counter would be alive today. And this grief that we brought upon their families is the grief that can be brought upon any American family.

We just heard from our colleague of someone having four DUIs. What does that mean? That person was driving, that person was a threat to killing our families on the street. Now, why are we permitting people who are in this country to pose a risk to the safety of our people and the security of our country? This is ridiculous. I would hope that those listening understand just how serious this issue is and demand that Congress act on this, and watch what Congress does, and, again, that people pay attention to people like the gentleman from Colorado (Mr. TANCREDO), who is offering tremendous leadership on this issue and he has taken a lot of personal hits.

I can tell you years ago I was called a racist skinhead for suggesting that instead of giving hundreds of thousands of dollars to medical benefits to illegal immigrants, that they should be sent home to their own countries for medical benefits. There was one man in my district who received over \$300,000 worth of medical treatment. He had leukemia. Now, I am sorry he had leukemia, but \$300,000? What does that do for the amount of money that we have available to take care of our own people?

Obviously, America has not been taking the steps necessary to secure our own borders. Obviously, the leaders in America are not putting the safety and security and well-being of the American people first. Who is to care about America unless we do?

The gentleman from Colorado (Mr. TANCREDO) has been in the forefront of this type of patriotism, caring about his country and watching out for our people.

I thank the gentleman very much for letting me participate.

Mr. TANCREDO. Mr. Speaker, I thank the gentleman for joining us this evening.

The gentleman brought up several interesting points, not the least of which is the cost of illegal immigration, the cost to the country. There are a whole host of ramifications of illegal immigration into the country. People do not like talking about any of them. But there is an enormous economic cost to illegal immigration, and it far outweighs the amount of money that is contributed, quote/unquote, to the American society by the taxes that many of these people pay.

It is true that if they come here and they work and they are working for wages that can be taxed, that is to say they are not working under the

counter, just being paid under the table, they will pay some sort of tax, and they pay a tax on the things they buy. But the reality is that for the most part 90-some percent of the people who are here and especially who are here illegally have the lowest-paying jobs. They are low-skilled people who, therefore, of course are employed at a marginal level. They pay relatively little, if anything, number one, in income tax and certainly not all that much even in the sales tax because their purchasing power is relatively low. We do not gain a tremendous amount of revenue from the people who come here and are working illegally. But we do gain a tremendous amount of cost.

Recently Rice University estimated that the undocumented aliens in the United States cost taxpayers \$24 billion every single year. And by the way, in Arizona a Federal judge has just added to that. To go on the list of incredible, but true, things about immigration, let us add this one: right now 175 illegals in Arizona are getting free kidney dialysis treatments, free kidney dialysis. Many of them came across the border to obtain this service.

Now, it was supposed to end on June 30, but Judge Browning has extended the benefits for five illegals who are "very ill." Now the question we have to ask ourselves, how many people in our own districts, how many people who have been here all their lives, that were born here, grandparents born here, that are citizens of the United States, paid taxes all their lives, how many of them can afford kidney dialysis or have it paid for or that were able to have it paid for by the State? And yet people who can come into this country illegally, take advantage of our system, take advantage of our laws, can receive this treatment? It is not fair. I am sorry for them that they need the treatment. How much can we possibly afford, is the question? How much can we afford? And why should we be doing it for people who are not citizens?

There are a lot of people who would suggest that in reality there is nothing different from being just here physically in this country and being here as a citizen. But I suggest to you that there is an enormous amount of difference, and we should not ignore it.

Another colleague who has joined me this evening, another member of our Immigration Reform Caucus and another member who, long before I came to the Congress, has been laboring in this vineyard and bringing to the attention of the American people concerns about illegal immigration, my colleague from Virginia (Mr. GOODE).

Mr. GOODE. Mr. Speaker, I want to thank the gentleman from Colorado (Mr. TANCREDO). First, I want to thank him for his tireless effort on behalf of reining in the huge problem of illegal immigration in this country. I also

want to thank the Congressman from Georgia for pointing out the situation where four drunk driving convictions are insufficient for deportation. I would also like to thank the Congressman from California (Mr. ROHR-ABACHER) for pointing out the background of the killer of the three persons at Los Angeles Airport on July 4. He mentioned one cost and this gentleman has mentioned one cost, and that is the free medical treatment that illegal immigrants impose on the United States.

I was just reading a letter from another Member of Congress in a Dear Colleague about a cost of a million dollars for treating immigrants in the State of Florida. In Patrick County, an illegal immigrant ran a citizen off the road in an automobile accident. That citizen had to go to Baptist Hospital in North Carolina, was in a coma, and the young man is still not recovered. And this treatment of him has been going on and that is a tangent cost. It is not a direct cost, but it has long surpassed the resources of that family.

I also wanted to talk this evening a few minutes about the need for troops on our borders. This past week we celebrated Independence Day. And I think one of the best birthday presents this Nation could have would be secure borders. With secure borders we could greatly reduce or stop terrorism. We could greatly reduce or stop illegal immigration. And with secure borders we could greatly reduce or stop the illegal drug traffic. And I know that several of us with the gentleman's leadership have urged the administration to deploy the military on our borders; and we stand committed towards that end, either administratively or through legislation. In particular, the southern and northern borders of the United States are porous.

Canada and Mexico are still not doing an adequate job of screening the immigrant traffic and cargo in and out of their countries. Aside from obviously being dangerous to the welfare of citizens in this country, the porousness of our borders adds an unacceptable burden on our already overworked border patrol.

The Immigration and Naturalization Service is struggling to meet the demands of new threats, and it is in urgent need of the support of our military. Congress is working to give the administration greater authority to use the military on our borders. As the gentleman noted, the House adopted an amendment to the defense authorization bill that would allow the Department of Justice, if requested by the INS or the Customs Service, to utilize troops on our borders. This legislation would allow the direct involvement of the military in assisting Customs and our border patrol in preventing the coming into this country of terrorists, drug traffickers, and illegal aliens.

If we really want to make our homeland secure, we have got to do more than reorganize homeland security. That is a good positive step. And we have taken other good and positive steps, but to have our borders secure we need troops; and that will have a three-fold purpose of stopping illegal drugs, stopping illegal immigration, and stopping terrorists. And, again, I want to thank the gentleman for his tireless efforts on behalf of this.

Mr. TANCREDO. Mr. Speaker, I sincerely appreciate it.

The gentleman from Virginia (Mr. GOODE) has been also enormously helpful as a member of our committee and a person to whom I turn often for advice and consultation. It is important I think that we should point out that it was the amendments of the gentleman from Virginia (Mr. GOODE) to the defense authorization bill that did, in fact, provide, if it is passed by the other body, signed into law, it will provide the President with that authorization. And I sincerely hope that it is retained by the Senate.

This would not be the first time we have passed that resolution, and every time we have done so in the past the Senate has chosen to simply ignore it. This is, I hope, a change as a result of all of the events of the last several months. The last 10 months really would help the Members of the other body understand the need for doing this and certainly would help the President also.

Mr. Speaker, again, I want to just say that there has been an enormous amount of talk about the need to protect the United States from future terrorist attacks. Unfortunately, there has not been enough action, certainly far more talk than action. Since 9-11, we are absolutely not one bit safer today in this country. Our borders are not one bit more secure than they were at the time that the terrorists flew the planes into the buildings here in the United States and killed 3,000 of our citizens. That is an unacceptable position to be in for the Members of this body. For the administration to ignore the security of our borders as one aspect of this war that we are fighting, is irresponsible to say the least. And all I can hope is that they will heed the advice of the colleagues that joined me tonight, especially the President, in putting troops on the borders, that is the number one thing, and the rest of the Members of this body to tighten up our immigration policy.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HASTINGS of Florida (at the request of Mr. GEPHARDT) for today and the balance of the week on account of a family illness.

Mr. HOLT (at the request of Mr. GEPHARDT) for today on account of a family emergency.

Mr. UNDERWOOD (at the request of Mr. GEPHARDT) for today on account of a typhoon in Guam.

Mr. WALSH (at the request of Mr. ARMEY) for today on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. HOYER) to revise and extend their remarks and include extraneous material:

Mrs. THURMAN, for 5 minutes, today.

Mr. ROSS, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. DEFazio, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Mr. McDERMOTT, for 5 minutes, today.

Mr. LEWIS of Georgia, for 5 minutes, today.

The following Members (at the request of Mr. THUNE) to revise and extend their remarks and include extraneous material:

Mr. JONES of North Carolina, for 5 minutes, today and July 10.

Mr. DUNCAN, for 5 minutes, today and July 10.

Ms. ROS-LEHTINEN for 5 minutes, today.

Mr. THUNE, for 5 minutes, today.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2594. To authorize the Secretary of the Treasury to purchase silver on the open market when the silver stockpile is depleted, to be used to mint coins.

□ 2045

ADJOURNMENT

Mr. TANCREDO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 45 minutes p.m.), the House adjourned until tomorrow, Wednesday, July 10, 2002, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7765. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Lamb Promotion, Research, and Information Program: Rules and Regulations [No. LS-02-05] received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7766. A letter from the Under Secretary, Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting the Department's final rule—Food Stamp Program: Work Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and Food Stamp Provisions of the Balanced Budget Act 1997 (RIN: 0584-AC45) received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7767. A letter from the Deputy Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General William P. Tangney, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

7768. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Tax Exemptions (Italy) [DFARS Case 2000-D027] received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

7769. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Veterans Employment Emphasis [DFARS Case 97-D314] received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

7770. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Memorandum of Understanding-Switzerland [DFARS Case 2001-D019] received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

7771. A letter from the Under Secretary, Department of Defense, transmitting a letter regarding the ongoing evaluation of all test programs for transportation of household goods for members of the Armed Forces and the status of the report containing the results of this evaluation; to the Committee on Armed Services.

7772. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Caribbean Basin Country End Products [DFARS Case 2000-D302] received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

7773. A letter from the Director, Office of Management and Budget, transmitting a report on the Cost Estimate For Pay-As-You-Go Calculations; to the Committee on the Budget.

7774. A letter from the Assistant Secretary, Department of Education, transmitting Final Priority—Burn Model Systems (BMS) Projects, a Burn Data Center (BDC), and for a Traumatic Brain Injury Model Systems (TBIMS) Program, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

7775. A letter from the Acting Administrator Energy Information Administration, Department of Energy, transmitting the Department's report entitled, "Uranium Industry Annual 2001," pursuant to 42 U.S.C. 2296b-5; to the Committee on Energy and Commerce.

7776. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule—Medicaid Program; Medicaid Managed Care [CMS-2001-F4] (RIN: 0938-AL83) received June 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7777. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule—State Certification of Mammography Facilities [Docket No. 99N-4578] (RIN: 0910-AB98) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7778. A letter from the Secretary, Department of Commerce, transmitting the fourth annual report mandated by the International AntiBribery and Fair Competition Act of 1998; to the Committee on International Relations.

7779. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Bureau of Political-Military Affairs: Amendment to the List of Proscribed Destinations—received June 14, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

7780. A letter from the Chief Counsel (Foreign Assets Control), Department of the Treasury, transmitting the Department's final rule—Rules Governing Availability of Information—received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

7781. A letter from the Secretary, Department of Education, transmitting the twenty-sixth Semiannual Report to Congress on Audit Follow-Up in compliance with the Inspector General Act Amendments of 1988, pursuant to 5 app.; to the Committee on Government Reform.

7782. A letter from the Administrator, General Services Administration, transmitting a semiannual report on Office of Inspector General auditing activity, together with a report providing management's perspective on the implementation status of audit recommendations, pursuant to 5 app.; to the Committee on Government Reform.

7783. A letter from the Secretary/Chief Administrative Officer, Postal Rate Commission, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7784. A letter from the Deputy Assistant Secretary, Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Special Regulations; Areas of the National Park System: Delay of Effective Date (RIN: 1024-AC82) received June 14, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7785. A letter from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting a draft bill to provide authority to the Secretary of the Interior to grant easements or rights-of-way for energy-related projects on the Outer Continental Shelf (OCS); to the Committee on Resources.

7786. A letter from the Deputy Secretary, Department of Commerce, transmitting a copy of the administration's draft bill entitled, "United States Patent and Trademark Office Reauthorization Act, Fiscal Year 2003" together with a sectional analysis and a statement of purpose and need; to the Committee on the Judiciary.

7787. A letter from the Regulations Officer, Department of Transportation, transmitting

the Department's final rule—Administration of Engineering and Design Related Services Contracts [FHWA Docket No. FHWA-98-4350] (RIN: 2125-AE45) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7788. A letter from the Regulations Officer, FMCSA, Department of Transportation, transmitting the Department's final rule—Certification of Safety Auditors, Safety Investigators, and Safety Inspectors; Delay of Effective Date [Docket No. FMCSA-2001-11060] (RIN: 2126-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7789. A letter from the Deputy Administrator, General Services Administration, transmitting an informational copy of a Report of Building Project Survey for Charlotte, NC, pursuant to 40 U.S.C. 606(a); to the Committee on Transportation and Infrastructure.

7790. A letter from the Deputy Administrator, General Services Administration, transmitting informational copies of additional lease prospectuses that support the General Services Administration's Fiscal Year 2003 Capital Investment and Leasing Program, pursuant to 40 U.S.C. 606(a); to the Committee on Transportation and Infrastructure.

7791. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Request for Comments on Phased Retirement [Notice 2002-43] received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7792. A letter from the Regulations Officer, Social Security Administration, transmitting the Administration's final rule—Supplemental Security Income; Disclosure of Information to Consumer Reporting Agencies and Overpayment Recovery Through Administrative Offset Against Federal Payments (RIN: 0960-AF31) received May 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7793. A letter from the Secretary, Department of Energy, transmitting the semi-annual report regarding programs for the protection, control and accounting of fissile materials in the countries of the former Soviet Union, pursuant to Public Law 104-106, section 3131(b) (110 Stat. 617); jointly to the Committees on Armed Services and International Relations.

7794. A letter from the Board Members, Railroad Retirement Board, transmitting the 2002 annual report on the financial status of the railroad unemployment insurance system, pursuant to 45 U.S.C. 369; jointly to the Committees on Ways and Means and Transportation and Infrastructure.

7795. A letter from the Board Members, Railroad Retirement Board, transmitting a report on the actuarial status of the railroad retirement system, pursuant to 45 U.S.C. 231f-1; jointly to the Committees on Ways and Means and Transportation and Infrastructure.

7796. A letter from the Chairman, Federal Election Commission, transmitting the Commission's FY 2003 budget request, pursuant to 2 U.S.C. 437d(d)(1); jointly to the Committees on House Administration, Appropriations, and Government Reform.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk

for printing and reference to the proper calendar, as follows:

Mr. HANSEN: Committee on Resources. House Concurrent Resolution 425. Resolution calling for the full appropriation of the State and tribal shares of the Abandoned Mine Reclamation Fund (Rept. 107-556). Referred to the House Calendar.

Mr. REYNOLDS: Committee on Rules. House Resolution 472. Resolution providing for consideration of the bill (H.R. 4635) to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes (Rept. 107-557). Referred to the House Calendar.

Mr. DIAZ-BALART: Committee on Rules. House Resolution 473. Resolution providing for consideration of the bill (H.R. 2486) to authorize the National Weather Service to conduct research and development, training, and outreach activities relating to tropical cyclone inland forecasting improvement, and for other purposes (Rept. 107-558). Referred to the House Calendar.

Mr. SESSIONS: Committee on Rules. House Resolution 474. Resolution providing for consideration of the bill (H.R. 2733) to authorize the National Institute of Standards and Technology to work with major manufacturing industries on an initiative of standards development and implementation for electronic enterprise integration (Rept. 107-559). Referred to the House Calendar.

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 475. Resolution providing for consideration of the bill (H.R. 4687) to provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life (Rept. 107-560). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. LAFALCE (for himself, Mr. DINGELL, and Mr. GEPHARDT):

H.R. 5070. A bill to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; to the Committee on Financial Services.

By Mr. SCHIFF (for himself, Mr. CONYERS, and Mr. FRANK):

H.R. 5071. A bill to authorize the President to establish military tribunals to try the terrorists responsible for the September 11, 2001 attacks against the United States, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCKEON (for himself and Mr. BOEHNER):

H.R. 5072. A bill to make technical amendments to the Higher Education Act of 1965 incorporating the results of the Fed Up Initiative; to the Committee on Education and the Workforce.

By Mr. BACA (for himself, Mr. SERRANO, Mr. OWENS, Mr. MCGOVERN, Mr. RODRIGUEZ, Mr. UNDERWOOD, Mr. PASTOR, and Mr. LEACH):

H.R. 5073. A bill to enhance the security and efficiency of the immigration, visa, border patrol, and naturalization functions of the United States Government; to the Committee on the Judiciary.

By Mr. BARCIA (for himself, Mr. UDALL of Colorado, Mr. HALL of Texas, Mr. WEINER, Mr. HONDA, Ms. RIVERS, Mr. LARSON of Connecticut, Mr. ISRAEL, Mr. MATHESON, Ms. WOOLSEY, Mr. BACA, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. COSTELLO, and Ms. LOFGREN):

H.R. 5074. A bill to authorize appropriations for the National Institute of Standards and Technology for fiscal years 2003, 2004, and 2005, and for other purposes; to the Committee on Science.

By Mr. CANTOR (for himself, Mr. BOUCHER, Mrs. JO ANN DAVIS of Virginia, Mr. FORBES, Mr. MORAN of Virginia, and Mr. SCHROCK):

H.R. 5075. A bill to ensure continuity for the design of the 5-cent coin, establish the Coin Design Advisory Committee, and for other purposes; to the Committee on Financial Services.

By Mr. KENNEDY of Rhode Island (for himself, Mr. SCOTT, Mrs. NAPOLITANO, Ms. NORTON, Mr. McDERMOTT, Mr. FROST, Ms. MILLENDER-MCDONALD, Mrs. MEEK of Florida, Mrs. MINK of Hawaii, Ms. CARSON of Indiana, Mr. SERRANO, Mr. GILMAN, Mr. OWENS, Mrs. DAVIS of California, Mr. PAYNE, Mr. CROWLEY, Ms. LEE, and Mr. WAXMAN):

H.R. 5076. A bill to amend part C of the Individuals with Disabilities Education Act to improve early intervention programs for infants and toddlers with disabilities, and for other purposes; to the Committee on Education and the Workforce.

By Mr. KENNEDY of Rhode Island:

H.R. 5077. A bill to amend the Public Health Service Act with respect to mental health services for elderly individuals; to the Committee on Energy and Commerce.

By Mr. KENNEDY of Rhode Island (for himself, Ms. ROS-LEHTINEN, Ms. KAPTUR, Mr. SERRANO, Ms. MILLENDER-MCDONALD, Ms. RIVERS, Mr. OWENS, Mr. FROST, Mr. STARK, Mr. CONYERS, Mr. HOLT, Mr. LANTOS, Mr. DEUTSCH, Mr. BALDACCIO, Ms. LEE, and Mr. DEFazio):

H.R. 5078. A bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE (for himself, Mr. LYNCH, Mr. BROWN of Ohio, Mrs. MINK of Hawaii, Mr. BONIOR, Mr. WEXLER, Mr. MCGOVERN, Mr. FORD, Ms. MCKINNEY, Mr. HINCHEY, Mrs. DAVIS of California, Mr. HALL of Ohio, Mr. SANDERS, Ms. SOLIS, Mr. KILDEE, and Mr. ENGEL):

H.R. 5079. A bill to amend the Federal Water Pollution Control Act to improve the enforcement and compliance programs; to the Committee on Transportation and Infrastructure.

By Mr. FRELINGHUYSEN (for himself, Mr. HOLT, Mr. SAXTON, Mr. FERGUSON, Mr. MENENDEZ, Mr. ANDREWS, Mr. LOBIONDO, Mr. PASCRELL, Mr. SMITH of New Jersey, Mr. PALLONE, Mr. ROTHMAN, Mrs. ROUKEMA, and Mr. PAYNE):

H.R. 5080. A bill to establish the Crossroads of the American Revolution National Heritage Area in the State of New Jersey, and for other purposes; to the Committee on Resources.

By Mr. RADANOVICH (for himself, Mr. CANNON, Mr. HASTINGS of Washington, Mr. JONES of North Carolina, Mr. OTTER, Mr. SIMPSON, and Mr. WALDEN of Oregon):

H.R. 5081. A bill to provide full funding for the payment in lieu of taxes program for the next five fiscal years, to protect local jurisdictions against the loss of property tax revenues when private lands are acquired by a Federal land management agency, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STRICKLAND (for himself, Mr. BERRY, Mr. NEY, Mr. TAYLOR of Mississippi, Mr. BACA, and Mr. CARSON of Oklahoma):

H.R. 5082. A bill to amend title 38, United States Code, to suspend for five years the authority of the Secretary of Veterans Affairs to increase the copayment amount in effect for medication furnished by the Secretary on an outpatient basis for the treatment of non-service-connected disabilities and to provide an increase in the maximum annual rates of pension payable to surviving spouses of veterans of a period of war, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. UDALL of New Mexico (for himself, Ms. ROYBAL-ALLARD, Mr. SERRANO, Mr. PASTOR, Mr. GONZALEZ, Mr. BACA, Mr. UNDERWOOD, Ms. VELÁZQUEZ, and Mr. MENENDEZ):

H.R. 5083. A bill to designate the United States courthouse at South Federal Place in Santa Fe, New Mexico, as the "Santiago E. Campos United States Courthouse"; to the Committee on Transportation and Infrastructure.

By Mr. PAYNE (for himself, Mr. BLUMENAUER, Mr. BILIRAKIS, Ms. BERKLEY, Mr. BERMAN, Mr. BLAGOJEVICH, Mr. CROWLEY, Mr. DOYLE, Ms. ESHOO, Mr. FOSSELLA, Mr. GILMAN, Mr. HINCHEY, Mr. KNOLLENBERG, Mr. LANTOS, Ms. LEE, Mrs. MALONEY of New York, Mr. MCGOVERN, Mr. McNULTY, Mrs. MINK of Hawaii, Mr. PALLONE, Ms. ROS-LEHTINEN, Ms. ROYBAL-ALLARD, and Ms. WATERS):

H. Con. Res. 436. Concurrent resolution expressing the sense of the Congress that the Parthenon Marbles should be returned to Greece; to the Committee on International Relations.

By Mr. WYNN (for himself, Ms. GRANGER, Mr. WEXLER, Mr. WHITFIELD, Mr. HASTINGS of Florida, Mr. HOUGHTON, Mr. FALEOMAVAEGA, Mr. PITTS, Mr. OXLEY, Mr. BERMAN, Mr. SKELTON, Mr. NETHERCUTT, Mr. CRAMER, Mr. DAVIS of Florida, Mrs. TAUSCHER, Mr. BURTON of Indiana, and Mr. BEREUTER):

H. Con. Res. 437. Concurrent resolution recognizing the Republic of Turkey for its cooperation in the campaign against global terrorism, for its commitment of forces and assistance to Operation Enduring Freedom and subsequent missions in Afghanistan, and for initiating important economic reforms to build a stable and prosperous economy in Turkey; to the Committee on International Relations.

By Mr. UDALL of New Mexico:

H. Res. 476. A resolution expressing the sense of the House of Representatives regarding several individuals who are being held as prisoners of conscience by the Chinese Government for their involvement in efforts to end the Chinese occupation of Tibet; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 68: Mrs. BIGGERT, Ms. MCCARTHY of Missouri, Mr. FARR of California, Mr. DEAL of Georgia, Mr. WAMP, Mr. MURTHA, Mr. RUSH, Ms. CARSON of Indiana, Mr. FORD, and Mr. AKIN.

H.R. 250: Mr. WATT of North Carolina.

H.R. 267: Mr. SCHROCK, Mr. CALVERT, Mrs. MYRICK, and Mrs. CLAYTON.

H.R. 356: Mr. LARSEN of Washington and Mr. HILLEARY.

H.R. 425: Mr. DICKS.

H.R. 548: Mr. HILLEARY.

H.R. 822: Mr. ROHRBACH.

H.R. 953: Mr. WAXMAN.

H.R. 967: Mr. REYNOLDS.

H.R. 1073: Mr. SCOTT.

H.R. 1090: Mr. LYNCH, Mr. DIAZ-BALART, Ms. BROWN of Florida, Mr. GREENWOOD, Mr. CAPUANO, Ms. SOLIS, and Mr. WELLER.

H.R. 1184: Mr. EVANS, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Mr. JOHN, Ms. KAPTUR, Mrs. KELLY, Mr. KENNEDY of Rhode Island, Mr. LATOURETTE, Mr. OBEY, Mr. REYES, Mr. SMITH of Washington, Mr. CROWLEY, Mr. SHIMKUS, Mr. DOYLE, Mr. PALLONE, Mr. BORSKI, Mr. WEXLER, Mr. MASCARA, and Mr. LEWIS of Georgia.

H.R. 1198: Mr. WAXMAN and Mr. GEKAS.

H.R. 1405: Ms. DEGETTE.

H.R. 1421: Mr. WU, Mr. KIRK, Ms. HARMAN, Mr. UDALL of New Mexico, and Mr. STEARNS.

H.R. 1522: Mr. FATTAH.

H.R. 1556: Mr. EDWARDS.

H.R. 1596: Mrs. NORTHUP.

H.R. 1598: Mr. HALL of Ohio.

H.R. 1774: Mr. WOLF.

H.R. 1862: Mr. KINGSTON and Mr. ISRAEL.

H.R. 1943: Mr. TURNER.

H.R. 1956: Mr. ABERCROMBIE.

H.R. 1983: Mrs. NORTHUP.

H.R. 2035: Mr. CONYERS.

H.R. 2290: Mr. TIBERI.

H.R. 2349: Mr. HOYER, Ms. HARMAN, Mr. STRICKLAND, Mr. KANJORSKI, and Mr. MATHE-SON.

H.R. 2483: Mr. KIND.

H.R. 2550: Mr. DAVIS of Illinois.

H.R. 2702: Mrs. THURMAN and Mr. SCOTT.

H.R. 3183: Mr. GEKAS, Mr. LAHOOD, and Ms. RIVERS.

H.R. 3238: Mr. HASTINGS of Florida.

H.R. 3337: Mr. STENHOLM.

H.R. 3491: Mr. BARR of Georgia, Mr. BACA, and Mr. KENNEDY of Minnesota.

H.R. 3626: Mr. ANDREWS.

H.R. 3831: Mr. TERRY, Mr. SOUDER, Mr. KIND, and Ms. ROS-LEHTINEN.

H.R. 3834: Mr. PASCRELL.

H.R. 3884: Mr. FILNER, Mr. THOMPSON of California, Ms. LOFGREN, and Mr. CROWLEY.

H.R. 3912: Mr. LEWIS of Georgia.

H.R. 3973: Mr. RILEY.

H.R. 3974: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. COYNE, and Ms. MILLENDER-MCDONALD.

H.R. 4014: Mr. ENGEL, Mr. JENKINS, Mr. BALDACCIO, and Ms. HARMAN.

H.R. 4039: Mr. PASCRELL.

H.R. 4100: Mr. SERRANO, Ms. MILLENDER-MCDONALD, and Mr. KLECZKA.

H.R. 4483: Mr. CHAMBLISS, Mr. GEKAS, and Mr. SMITH of New Jersey.

H.R. 4620: Mr. DUNCAN, Mr. JONES of North Carolina, and Mr. GILCHREST.

H.R. 4643: Mr. LYNCH.

H.R. 4644: Mrs. CLAYTON, Mr. CLYBURN, Ms. SLAUGHTER, and Mr. FOLEY.

H.R. 4665: Mr. BRADY of Pennsylvania, Mr. HORN, Mr. WOLF, Mr. LATOURETTE, Mr. CROWLEY, Ms. LEE, and Mr. McDERMOTT.

H.R. 4683: Mr. GILMAN and Mr. WEXLER.

H.R. 4693: Mr. BONILLA, Mr. LATHAM, and Mr. BAIRD.

H.R. 4720: Mr. STENHOLM.

H.R. 4729: Mr. KENNEDY of Rhode Island.

H.R. 4730: Mr. FATTAH, Mr. STARK, Mr. BONIOR, and Mr. SNYDER.

H.R. 4760: Mr. GORDON, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. FROST.

H.R. 4778: Mr. STRICKLAND.

H.R. 4793: Mr. ACKERMAN, Mr. WYNN, Mr. HALL of Texas, Ms. RIVERS, and Mr. GORDON.

H.R. 4803: Mr. BROWN of Ohio, Ms. NORTON, Ms. BROWN of Florida, and Mr. FALEOMAVAEGA.

H.R. 4832: Ms. SLAUGHTER.

H.R. 4833: Ms. SLAUGHTER and Mr. CROWLEY.

H.R. 4839: Mr. PASCRELL.

H.R. 4840: Mr. THUNE.

H.R. 4852: Mr. FOLEY.

H.R. 4865: Mr. TOM DAVIS of Virginia and Mr. VISCLOSKEY.

H.R. 4887: Mr. CARSON of Oklahoma.

H.R. 4888: Mr. BALDACCIO and Mr. CROWLEY.

H.R. 4895: Mr. COOKSEY.

H.R. 4922: Ms. MCKINNEY.

H.R. 4937: Mr. FORD, Mr. BARRETT, Mrs. MINK of Hawaii, Ms. DeLAURO, and Ms. LEE.

H.R. 4939: Mr. DOYLE.

H.R. 4951: Mrs. DAVIS of California, Ms. CARSON of Indiana, Mr. LYNCH, Ms. LEE, Mr. PHELPS, Mrs. MINK of Hawaii, and Mr. SANDERS.

H.R. 4965: Mr. BOOZMAN, Mr. LUCAS of Kentucky, Mr. HOSTETTLER, and Mr. HAYWORTH.

H.R. 4972: Mr. BALDACCIO.

H.R. 5001: Mr. LYNCH, Mr. HASTINGS of Florida, and Ms. LEE.

H.R. 5033: Mr. PETRI, Mr. HASTERT, Mrs. BONO, Mr. HASTINGS of Washington, Mr. ISSA, Mr. TIAHRT, Mr. WELDON of Florida, and Mr. SESSIONS.

H.R. 5035: Mr. ETHERIDGE.

H.R. 5047: Mr. CAPUANO.

H.J. Res. 81: Mr. LAHOOD, Mr. CANNON, and Mr. GOODLATTE.

H.J. Res. 98: Mrs. MINK of Hawaii.

H. Con. Res. 197: Mr. JEFF MILLER of Florida and Mr. UDALL of New Mexico.

H. Con. Res. 238: Mrs. CAPITO.

H. Con. Res. 320: Ms. ROS-LEHTINEN.

H. Con. Res. 352: Mrs. CUBIN.

H. Con. Res. 362: Mr. DAVIS of Illinois and Mr. UNDERWOOD.

H. Con. Res. 380: Mr. CLYBURN.
 H. Con. Res. 408: Mrs. DAVIS of California,
 Mr. TOWNS, Mr. MCHUGH, and Mr. SERRANO.
 H. Con. Res. 409: Mr. CONYERS, Mrs.
 MORELLA, and Mr. OSBORNE.
 H. Con. Res. 423: Mr. PENCE.
 H. Con. Res. 429: Ms. BROWN of Florida, Ms.
 CARSON of Indiana, Mr. FATTAH, Mrs. CLAY-
 TON, Mr. INSLEE, and Mr. SCOTT.
 H. Res. 295: Mr. PHELPS.
 H. Res. 393: Mr. HONDA, Mr. KLECZKA, Mrs.
 TAUSCHER, and Mr. ISAKSON.
 H. Res. 410: Ms. SLAUGHTER.
 H. Res. 469: Mr. ACKERMAN.

AMENDMENTS

Under clause 8 of rule XVIII, pro-
 posed amendments were submitted as
 follows:

H.R. 4635

OFFERED BY: MR. BARTON OF TEXAS

AMENDMENT NO. 2: Page 8, line 8, strike
 "may" and insert "shall".

Page 8, line 10, strike "a" and insert
 "any".

Page 9, strike lines 3 through 9.

Page 9, line 10, strike "(5)" and insert
 "(4)".

H.R. 4635

OFFERED BY: MR. BARTON OF TEXAS

AMENDMENT NO. 3: Page 12, strike line 3
 and all that follows through line 21 on page
 13, and insert the following:

"(2) RISK-BENEFIT DETERMINATION DECISION.—Before the last day of such 2-year period, the President, in consultation with the Under Secretary, shall determine whether the security benefits of the Federal flight deck officer pilot program outweigh the risks of the program.

"(3) TERMINATION OF PILOT PROGRAM.—If the President, in consultation with the Under Secretary, determines under paragraph (2) that the risks outweigh the benefits, the President shall sign a certification ordering the Under Secretary to publish a notice in the Federal Register terminating the pilot program and explaining the reasons for the decision to terminate. The Under Secretary shall publish such notice and shall provide adequate notice of the decision to Federal flight deck officers and other individuals as necessary.

"(4) CONTINUATION OF PROGRAM.—If the President, in consultation with the Under Secretary, determines under paragraph (2) that the benefits outweigh the risks, the President shall sign a certification ordering the Under Secretary to publish a notice in the Federal Register announcing the continuation of the program. The Under Secretary shall publish such notice, continue the program in accordance with this section, and may increase the number of Federal flight deck officers participating in the program.

H.R. 4635

OFFERED BY: MR. CUNNINGHAM

AMENDMENT NO. 4: Page 9, line 6, strike "2 percent" and insert "25 percent".

H.R. 4635

OFFERED BY: MR. DEFazio

AMENDMENT NO. 5: Page 3, lines 8 and 9, strike "selecting, training," and insert "training".

Page 3, line 9, after "pilots" insert "who are qualified to be Federal flight deck officers".

Page 3, line 10, strike the semicolon and all that follows through "first" on line 17.

Page 9, strike lines 3 through 9.

Page 9, line 10, strike "(5)" and insert "(4).

Page 12, line 21, strike the comma and insert "and".

Page 12, line 23, strike the comma and all that follows through "program" on line 24.

H.R. 4635

OFFERED BY: MR. HORN

AMENDMENT NO. 6: Page 15, strike line 12 and all that follows through line 4 on page 18 and insert the following:

(a) AVIATION CREWMEMBER SELF-DEFENSE DIVISION.—Subsections (a) and (b) of section 44918 of title 49, United States Code, are amended to read as follows—

"(a) IN GENERAL.—

"(1) REQUIREMENTS FOR AIR CARRIERS.—

"(A) PRESCRIPTION.—Not later than 60 days after the date of enactment of the Arming Pilots Against Terrorism Act, the Under Secretary of Transportation for Security shall prescribe detailed requirements for an air carrier cabin crew training program, and for the instructors of that program as described in subsection (b) to prepare crew members for potential threat conditions.

"(B) CONSULTATION.—In developing the requirements, the Under Secretary shall consult with appropriate law enforcement personnel who have expertise in self-defense training, security experts, terrorism experts, and representatives of air carriers and labor organizations representing individuals employed in commercial aviation.

"(2) AVIATION CREWMEMBER SELF-DEFENSE DIVISION.—

"(A) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this subparagraph, the Under Secretary shall establish an Aviation Crew Self-Defense Division within the Transportation Security Administration.

"(B) DUTIES.—The Division shall develop and administer the requirements described in this section.

"(C) DIRECTOR.—

"(i) APPOINTMENT.—The Under Secretary shall appoint a Director of the Aviation Crew Self-Defense Division who shall be the head of the Division. The Director shall report to the Under Secretary.

"(ii) SOLICITATION OF RECOMMENDATIONS.—In the selection of the Director, the Under Secretary shall solicit recommendations from law enforcement, air carriers, and labor organizations representing individuals employed in commercial aviation.

"(iii) BACKGROUND.—The Director shall have a background in self-defense training, including military or law enforcement training with an emphasis in teaching self-defense and the appropriate use of force.

"(D) REGIONAL TRAINING SUPERVISORS.—Regional training supervisors shall be under the control of the Director and shall have appropriate training and experience in teaching self-defense and the appropriate use of force.

"(b) PROGRAM ELEMENTS.—

"(1) IN GENERAL.—The requirements prescribed under subsection (a) shall provide competence, and ensure retention of skills, in self-defense training that incorporates classroom and situational training that contains the following elements:

"(A) Determination of the seriousness of any occurrence.

"(B) Crew communication and coordination.

"(C) Appropriate responses to defend oneself, including hands on training, with reasonable and effective requirements on time allotment providing competence and ensuring retention of skills in the following levels of self-defense:

"(i) Awareness, deterrence, and avoidance.

"(ii) Verbalization.

"(iii) Empty hand control.

"(iv) Intermediate weapons and self-defense techniques.

"(v) Deadly force.

"(D) Use of protective devices assigned to crewmembers (to the extent such devices are approved by the Administrator of the Federal Aviation Administration or Under Secretary).

"(E) Psychology of terrorists to cope with hijacker behavior and passenger responses.

"(F) Live situational simulation joint training exercises regarding various threat conditions, including all of the elements required by this section.

"(G) Flight deck procedures or aircraft maneuvers to defend the aircraft.

"(2) PROGRAM ELEMENTS FOR INSTRUCTORS.—The requirements prescribed under subsection (a) shall contain program elements for instructors that include, at a minimum, the following:

"(A) A certification program for the instructors who will provide the training described in paragraph (1).

"(B) A requirement that no training session shall have fewer than 1 instructor for every 12 students.

"(C) A requirement that air carriers provide certain instructor information, including names and qualifications, to the Aviation Crew Member Self-Defense Division within 30 days after the requirements are prescribed under subsection (a).

"(D) Training course curriculum lesson plans and performance objectives to be used by instructors.

"(E) Written training bulletins to reinforce course lessons and provide necessary progressive updates to instructors.

"(3) RECURRENT TRAINING.—Each air carrier shall provide the training under the program every 6 months after the completion of the initial training.

"(4) INITIAL TRAINING.—Air carriers shall provide the initial training under the program within 24 months of the date of enactment of the Arming Pilots Against Terrorism Act.

"(5) COMMUNICATION DEVICES.—The requirements described in subsection (a) shall include a provision mandating that air carriers provide flight and cabin crew with a discreet, hands-free, wireless method of communicating with the flight deck."

(b) RULEMAKING; LIABILITY.—Section 44918 of such title is further amended by adding at the end the following:

"(f) RULEMAKING AUTHORITY.—Notwithstanding section 44903(i) (relating to authority to arm flight deck crew with less than-lethal weapons), not later than 180 days after the date of enactment of the Arming Pilots Against Terrorism Act, the Under Secretary, in consultation with persons described in subsection (a)(1), shall prescribe regulations requiring air carriers to—

"(1) provide adequate training in the proper conduct of a cabin search and allow adequate duty time to perform such a search; and

"(2) conduct a preflight security briefing with flight deck and cabin crew and, when available, Federal air marshals or other authorized law enforcement officials.

"(g) LIMITATION ON LIABILITY.—

"(1) AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the air carrier's training instructors or cabin crew using reasonable and necessary force in defending an aircraft

of the air carrier against acts of criminal violence or air piracy.

(2) TRAINING INSTRUCTORS AND CABIN CREW.—An air carrier's training instructors or cabin crew shall not be liable for damages in any action brought in a Federal or State court arising out of an act or omission of a training instructor or a member of the cabin crew regarding the defense of an aircraft against acts of criminal violence or air piracy unless the crew member is guilty of gross negligence or willful misconduct."

(c) CONFORMING AMENDMENTS.—Section 44918 of such title is further amended—

(1) in subsection (c)—

(A) by striking "issues the guidance" and inserting "prescribes the requirements";

(B) by striking "that guidance" and inserting "those requirements"; and

(C) by striking "guidance" the third place it appears; and

(2) in subsection (e) by striking "guidance issued" and inserting "requirements prescribed".

(d) NONLETHAL WEAPONS FOR FLIGHT ATTENDANTS.—

(1) STUDY.—The Under Secretary of Transportation for Security shall conduct a study to determine whether possession of a non-lethal weapon by a member of an air carrier's cabin crew would aid the flight deck crew in combating air piracy and criminal violence on commercial airlines.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Under Secretary shall transmit to Congress a report on the study.

H.R. 4635

OFFERED BY: MR. HOSTETTLER

AMENDMENT NO. 7: Page 5, strike lines 18 through 21.

Page 5, line 22, strike "(5)" and insert "(4)".

Page 6, line 1, strike "(6)" and insert "(5)".

H.R. 4635

OFFERED BY: MR. HOSTETTLER

AMENDMENT NO. 8: Page 9, strike lines 3 through 9 and insert the following:

"(4) TIME LIMITS.—Not later than 180 days after the date of the enactment of this section, 20 percent of all pilots who volunteer to participate in the program within 30 days of such date of enactment shall be trained and deputized as Federal flight deck officers. Pilots may continue to participate in the program during the 2-year period of the pilot program. By the last day of such 2-year period, at least 80 percent of all pilots who volunteer to participate in the program must be trained and deputized as Federal flight deck officers.

Page 11, line 24, strike "250th pilot" and insert the following: "last pilot of the 20 percent of all pilots who volunteer to participate in the program within 30 days of such date of enactment of this Act".

H.R. 4635

OFFERED BY: MR. HOSTETTLER

AMENDMENT NO. 9: Page 11, after line 19, insert the following:

"(i) LIMITATION ON AUTHORITY OF AIR CARRIERS.—No air carrier shall prohibit or in any way refuse or discourage a pilot employed by the air carrier from becoming a Federal flight deck officer under this section. No air carrier shall—

"(1) prohibit a Federal flight deck officer from piloting an aircraft operated by the air carrier, or

"(2) terminate the employment of a Federal flight deck officer,

solely on the basis of his or her volunteering for or participating in the program under this section.

Page 11, line 20, strike "(i)" and insert "(j)".

Page 14, line 5, strike "(j)" and insert "(k)".

H.R. 4635

OFFERED BY: MR. MICA

AMENDMENT NO. 10: Page 4, line 8, strike "Analyze" and insert "An analysis of".

Page 4, line 9, after "discharge" insert "(including an accidental discharge)".

Page 5, line 3, before the period insert the following: ", including whether an additional background check should be required beyond that required by section 44936(a)(1)".

Page 5, line 6, before the period insert the following: ", focusing particularly on whether such security would be enhanced by requiring storage of the firearm at the airport when the pilot leaves the airport to remain overnight away from the pilot's base airport."

Page 6, after line 6, insert the following:

"(7) MINIMIZATION OF RISK.—If the Under Secretary determines as a result of the analysis under paragraph (3)(E) that there is a significant risk of the catastrophic failure of an aircraft as a result of the discharge of a firearm, the Under Secretary shall take such actions as may be necessary to minimize that risk."

Page 11, line 19, before the period insert the following: "under chapter 171 of title 28, relating to tort claims procedure."

Page 11, after line 19 insert the following:

"(i) PROCEDURES FOLLOWING ACCIDENTAL DISCHARGES.—

"(1) IN GENERAL.—If an accidental discharge of a firearm under the pilot program results in the injury or death of a passenger or crew member on an aircraft, the Under Secretary—

"(A) shall revoke the deputization of the Federal flight deck officer responsible for that firearm if the Under Secretary determines that the discharge was attributable to the negligence of the officer; and

"(B) if the Under Secretary determines that a shortcoming in standards, training, or procedures was responsible for the accidental discharge, the Under Secretary may temporarily suspend the program until the shortcoming is corrected.

"(2) AFFECT OF SUSPENSION.—A temporary suspension of the pilot program under paragraph (1) suspends the running of the 2-year period for the pilot program until the suspension is terminated."

Page 11, line 20, strike "(i)" and insert "(j)".

Page 13, line 6, strike "proposed".

Page 14, line 4, after the period insert the following: "The report shall include a description of all the incidents in which a gun is discharged, including accidental discharges, on an aircraft of an air carrier after the date of enactment of this section."

Page 14, line 5, strike "(j)" and insert "(k)".

Page 15, line 12, insert "(a) IN GENERAL.—" before "Section".

Page 15, line 22, insert "effective" before "hands-on".

Page 16, line 10, insert "subdue and" before "restrain".

Page 16, line 13, insert "and effective" after "appropriate".

Page 17, line 4, insert ", including the duty time required to conduct the search" before the semicolon.

Page 17, line 8, strike "amount" and insert "number or hours"

Page 17, line 9, insert "and" after the semicolon.

Page 17, line 13, strike the semicolon and all that follows through line 17 and insert a period.

Page 17, line 19, strike "In developing" and insert the following:

"(A) CONSULTATION.—In developing

Page 17, line 23, strike "employees of air carriers," and insert "the provider of self-defense training for Federal air marshals, flight attendants, labor organizations representing flight attendants,".

Page 17, line 25, strike the closing quotation marks and "; and".

Page 17, after line 25, insert the following:

"(B) DESIGNATION OF OFFICIAL.—The Under Secretary shall designate an official in the Transportation Security Administration to be responsible for overseeing the implementation of the training program under this subsection.

"(C) NECESSARY RESOURCES AND KNOWLEDGE.—The Under Secretary shall ensure that employees of the Administration responsible for monitoring the training program have the necessary resources and knowledge."; and

Page 18, after line 4, insert the following:

(b) ENHANCE SECURITY MEASURES.—Section 109(a) of the Aviation and Transportation Security Act (49 U.S.C. 114 note; 115 Stat. 613–614) is amended by adding at the end the following:

"(9) Require that air carriers provide flight attendants with a discreet, hands-free, wireless method of communicating with the pilots."

(c) BENEFITS AND RISKS OF PROVIDING FLIGHT ATTENDANTS WITH NONLETHAL WEAPONS.—

(1) STUDY.—The Under Secretary of Transportation for Security shall conduct a study to evaluate the benefits and risks of providing flight attendants with nonlethal weapons to aid in combating air piracy and criminal violence on commercial airlines.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Under Secretary shall transmit to Congress a report on the results of the study.

Page 19, after line 7, insert the following:

SEC. 5. AUTHORITY TO ARM FLIGHT DECK CREW WITH LESS-THAN-LETHAL WEAPONS.

Section 44903(i) of title 49, United States Code (as redesignated by section 6 of this Act) is amended by adding at the end the following:

"(3) REQUEST OF AIR CARRIERS TO USE LESS-THAN-LETHAL WEAPONS.—If, after the date of enactment of this paragraph, the Under Secretary receives a request from an air carrier for authorization to allow pilots of the air carrier to carry less-than-lethal weapons, the Under Secretary shall respond to that request within 90 days."

Page 19, line 8, strike "5" and insert "6".

H.R. 4635

OFFERED BY: MR. NETHERCUTT

AMENDMENT NO. 11: Page 2, line 12, strike "pilot".

Page 3, lines 8 and 9, strike "selecting, training," and insert "training".

Page 3, line 9, after "pilots" insert "who are qualified to be Federal flight deck officers".

Page 3, line 10, strike the semicolon and all that follows through "first" on line 17.

Page 9, strike lines 3 through 9.

Page 9, line 10, strike "(5)" and insert "(4).

Page 9, line 24, strike the comma and all that follows through the comma on line 25.

Page 11, strike line 20 and all that follows through line 4 on page 14.

Page 12, line 21, strike the comma and insert "and".

Page 12, line 23, strike the comma and all that follows through "program" on line 24.

Page 14, line 5, strike "(j)" and insert "(i)".

H.R. 4635

OFFERED BY: MR. NETHERCUTT

AMENDMENT NO. 12: Page 2, line 12, strike "pilot".

Page 9, strike lines 3 through 9.

Page 9, line 10, strike "(5)" and insert "(4)".

Page 9, line 24, strike the comma and all that follows through the comma on line 25.

Page 11, strike line 20 and all that follows through line 4 on page 14.

Page 14, line 5, strike "(j)" and insert "(i)".

H.R. 4635

OFFERED BY: MR. STEARNS

AMENDMENT NO. 13: Page 14, line 18, strike the close quotation marks and the period.

Page 14, insert after line 18 the following:

"§ 44922. Federal cockpit officer program

"(a) ESTABLISHMENT.—The Under Secretary of Transportation for Security shall establish a pilot program to deputize volunteer pilots of air carriers providing air transportation or intrastate air transportation as Federal law enforcement officers to defend the flight decks of aircraft of such air carriers against acts of criminal violence or air piracy. Such officers shall be known as 'Federal cockpit officers'.

"(b) PROCEDURAL REQUIREMENTS.—

"(1) IN GENERAL.—Not later than 2 months after the date of enactment of this section, the Under Secretary shall establish procedural requirements to carry out the program under this section.

"(2) COMMENCEMENT OF PROGRAM.—Beginning 2 months after the date of enactment of this section, the Under Secretary shall begin the process of selecting, training, and deputizing pilots as Federal cockpit officers under the program; except that, if the procedures required under paragraph (1) are not established before the last day of such 2-month period, the Under Secretary shall not begin the process of selecting, training, and deputizing pilots until the date on which the procedures are established or the last day of the 4-month period beginning on such date of enactment, whichever occurs first.

"(3) ISSUES TO BE ADDRESSED.—The procedural requirements established under paragraph (1) shall address the following issues:

"(A) The type of non-lethal weapon to be used by a Federal cockpit officer.

"(B) The standards and training needed to qualify and requalify as a Federal cockpit officer.

"(C) The placement of the non-lethal weapon of a Federal cockpit officer on board the aircraft to ensure both its security and its ease of retrieval in an emergency.

"(D) Analyze the risk of catastrophic failure of an aircraft as a result of the discharge of a non-lethal weapon to be used in the program into the avionics, electrical systems, or other sensitive areas of the aircraft.

"(E) The division of responsibility between pilots in the event of an act of criminal violence or air piracy if only one pilot is a Federal cockpit officer and if both pilots are Federal cockpit officers.

"(F) Procedures for ensuring that the non-lethal weapon of a Federal cockpit officer does not leave the cockpit if there is a disturbance in the passenger cabin of the aircraft or if the pilot leaves the cockpit for personal reasons.

"(G) Interaction between a Federal cockpit officer and a Federal air marshal on board the aircraft.

"(H) The process for selection of pilots to participate in the program based on their fitness to participate in the program.

"(I) Storage and transportation of non-lethal weapons between flights, including

international flights, to ensure the security of the weapons.

"(J) Methods for ensuring that security personnel will be able to identify whether a pilot is authorized to carry a non-lethal weapon under the program.

"(K) Methods for ensuring that pilots (including Federal cockpit officers) will be able to identify whether a passenger is a law enforcement officer who is authorized to carry a firearm aboard the aircraft.

"(L) Any other issues that the Under Secretary considers necessary.

"(4) PREFERENCE.—In selecting pilots to participate in the program, the Under Secretary shall give preference to pilots who are former military or law enforcement personnel.

"(5) CLASSIFIED INFORMATION.—Notwithstanding section 552 of title 5 but subject to section 40119 of this title, information developed under paragraph (3)(E) shall not be disclosed.

"(6) NOTICE TO CONGRESS.—The Under Secretary shall provide notice to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate after completing the analysis required by paragraph (3)(E).

"(c) TRAINING, SUPERVISION, AND EQUIPMENT.—

"(1) IN GENERAL.—The Under Secretary shall provide the training, supervision, and equipment necessary for a pilot to be a Federal cockpit officer under this section at no expense to the pilot or the air carrier employing the pilot.

"(2) TRAINING.—

"(A) ELEMENTS.—The training of a Federal cockpit officer shall include, at a minimum, the following elements:

"(i) Training to ensure that the officer achieves the level of proficiency with a non-lethal weapon required under subparagraph (C)(i).

"(ii) Training to ensure that the officer maintains exclusive control over the officer's non-lethal weapon at all times, including training in defensive maneuvers.

"(iii) Training to assist the officer in determining when it is appropriate to use the officer's non-lethal weapon.

"(B) TRAINING IN USE OF NON-LETHAL WEAPONS.—

"(i) STANDARD.—In order to be deputized as a Federal cockpit officer, a pilot must achieve a level of proficiency with a non-lethal weapon that is required by the Under Secretary.

"(ii) CONDUCT OF TRAINING.—The training of a Federal cockpit officer in the use of a non-lethal weapon may be conducted by the Under Secretary or by a training facility approved by the Under Secretary.

"(iii) REQUALIFICATION.—The Under Secretary shall require a Federal cockpit officer to requalify to carry a non-lethal weapon under the program. Such requalification shall occur quarterly or at an interval required by a rule issued under subsection (i).

"(d) DEPUTIZATION.—

"(1) IN GENERAL.—The Under Secretary may deputize, as a Federal cockpit officer under this section, a pilot who submits to the Under Secretary a request to be such an officer and whom the Under Secretary determines is qualified to be such an officer.

"(2) QUALIFICATION.—A pilot is qualified to be a Federal cockpit officer under this section if—

"(A) the pilot is employed by an air carrier;

"(B) the Under Secretary determines that the pilot meets the standards established by

the Under Secretary for being such an officer; and

"(C) the Under Secretary determines that the pilot has completed the training required by the Under Secretary.

"(3) DEPUTIZATION BY OTHER FEDERAL AGENCIES.—The Under Secretary may request another Federal agency to deputize, as Federal cockpit officers under this section, those pilots that the Under Secretary determines are qualified to be such officers.

"(4) MAXIMUM NUMBER.—The maximum number of pilots that may be deputized under the pilot program as Federal cockpit officers may not exceed 1 percent of the total number of pilots that are employed by air carriers engaged in air transportation or intrastate transportation on the date of enactment of this section.

"(5) REVOCATION.—The Under Secretary may revoke the deputization of a pilot as a Federal cockpit officer if the Under Secretary finds that the pilot is no longer qualified to be such an officer.

"(e) COMPENSATION.—Pilots participating in the program under this section shall not be eligible for compensation from the Federal Government for services provided as a Federal cockpit officer. The Federal Government and air carriers shall not be obligated to compensate a pilot for participating in the program or for the pilot's training or qualification and requalification to carry non-lethal weapons under the program.

"(f) AUTHORITY TO CARRY NON-LETHAL WEAPONS.—

"(1) IN GENERAL.—The Under Secretary shall authorize, while the program under this section is in effect, a Federal cockpit officer to carry a non-lethal weapon while engaged in providing air transportation or intrastate air transportation. Notwithstanding subsection (c)(1), the officer may purchase a non-lethal weapon and carry that weapon aboard an aircraft of which the officer is the pilot in accordance with this section if the weapon is of a type that may be used under the program.

"(2) PREEMPTION.—Notwithstanding any other provision of Federal or State law, a Federal cockpit officer, whenever necessary to participate in the program, may carry a non-lethal weapon in any State and from one State to another State.

"(3) CARRYING NON-LETHAL WEAPONS OUTSIDE UNITED STATES.—In consultation with the Secretary of State, the Under Secretary may take such action as may be necessary to ensure that a Federal cockpit officer may carry a non-lethal weapon in a foreign country whenever necessary to participate in the program.

"(g) AUTHORITY TO USE FORCE.—Notwithstanding section 44903(d), the Under Secretary shall prescribe the standards and circumstances under which a Federal cockpit officer may use, while the program under this section is in effect, force against an individual in the defense of the flight deck of an aircraft in air transportation or intrastate air transportation.

"(h) LIMITATION ON LIABILITY.—

"(1) LIABILITY OF AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of a Federal cockpit officer's use of or failure to use a non-lethal weapon.

"(2) LIABILITY OF FEDERAL COCKPIT OFFICERS.—A Federal cockpit officer shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the officer in defending the flight deck of an aircraft against acts of

criminal violence or air piracy unless the officer is guilty of gross negligence or willful misconduct.

“(3) LIABILITY OF FEDERAL GOVERNMENT.—For purposes of an action against the United States with respect to an act or omission of a Federal cockpit officer, the officer shall be treated as an employee of the Federal Government.

“(i) DURATION OF PROGRAM.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the pilot program established under this section shall be in effect for a period of 2 years beginning on the date that the 250th pilot is deputized as a Federal cockpit officer under this section.

“(2) RISK-BENEFIT DETERMINATION DECISION.—Before the last day of such 2-year period, the Under Secretary shall determine whether the security benefits of the Federal cockpit officer pilot program outweigh the risks of the program.

“(3) TERMINATION OF PILOT PROGRAM.—If the Under Secretary determines under paragraph (2) that the risks outweigh the benefits, the Under Secretary shall publish a notice in the Federal Register terminating the pilot program and explaining the reasons for the decision to terminate and shall provide adequate notice of the decision to Federal cockpit officers and other individuals as necessary.

“(4) CONTINUATION OF PROGRAM.—

“(A) IN GENERAL.—If the Under Secretary determines under paragraph (2) that the benefits outweigh the risks, the Under Secretary shall publish a notice in the Federal Register announcing the continuation of the program, shall continue the program in accordance with this section, and may increase the number of Federal cockpit officers participating in the program.

“(B) NOTICE OF PROPOSED RULEMAKING.—Not later than 60 days after the date of publication of a notice continuing the program, the Under Secretary shall issue a notice of proposed rulemaking to provide for continuation of the program. In conducting the proposed rulemaking, the Under Secretary shall readdress each of the issues to be addressed under subsection (b)(3) and, in addition, shall address the following issues:

“(i) The use of various technologies by Federal cockpit officers, including smart gun technologies and nonlethal weapons.

“(ii) The necessity of hardening critical avionics, electrical systems, and other vulnerable equipment on aircraft.

“(iii) The standards and circumstances under which a Federal cockpit officer may use force against an individual in defense of the flight deck of an aircraft.

“(5) REEVALUATION.—Not later than 3 years after the date of publication of a notice continuing the program, the Under Secretary shall reevaluate the program and shall report to Congress on whether, in light of additional security measures that have been implemented (such as reinforced doors and universal employee biometric identification), the program is still necessary and should be continued or terminated.

“(j) APPLICABILITY.—

“(1) EXEMPTION.—This section shall not apply to air carriers operating under part 135 of title 14, Code of Federal Regulations, and to pilots employed by such carriers to the extent that such carriers and pilots are covered by section 135.119 of such title or any successor to such section.

“(2) PILOT DEFINED.—The term ‘pilot’ means an individual who has final authority and responsibility for the operation and safety of the flight or, if more than 1 pilot is required for the operation of the aircraft or by the regulations under which the flight is being conducted, the individual designated as second in command.”

Page 14, insert before line 23, the following: “44921. *Federal cockpit officer program.*”

H.R. 4635

OFFERED BY: MRS. TAUSCHER

AMENDMENT NO. 14: Page 5, line 5, before “between” insert “at airports”.

Page 10, after line 18 insert the following:

“(g) STORAGE OF FIREARMS.—The Under Secretary shall require that firearms carried by Federal flight deck officers in the program be stored in airports between flights and shall determine and designate the most secure locations for the storage of such firearms.”

Redesignate subsequent subsections accordingly.

H.R. 4635

OFFERED BY: MRS. TAUSCHER

AMENDMENT NO. 15: Page 6, after line 6, insert the following:

“(7) SUSPENSION OF PROGRAM.—If the Under Secretary determines as a result of an analysis under paragraph (3)(E) that there is a significant risk of the catastrophic failure of an aircraft from the discharge of a firearm, the Under Secretary may suspend the program until such actions as may be necessary to minimize such risk are taken.”

H.R. 4635

OFFERED BY: MRS. TAUSCHER

AMENDMENT NO. 16: Page 11, strike line 1 and all that follows through “OFFICERS.—” on lines 7 and 8.

Page 11, strike lines 15 through 19.

H.R. 4635

OFFERED BY: MRS. TAUSCHER

AMENDMENT NO. 17: Page 12, line 15, after the period insert the following: “If an accidental discharge of a firearm under the pilot program results in injury or death of a passenger or crew member of a flight, the Under Secretary may terminate the pilot program by publishing in the Federal Register a notice of such termination and providing adequate notice of the decision to terminate to Federal flight deck officers and other individuals as necessary.”

H.R. 4635

OFFERED BY: MR. THUNE

AMENDMENT NO. 18: Page 8, line 8, strike “may” and insert “shall”.

Page 8, line 10, strike “a” and insert “any”.

Page 9, strike lines 3 through 9.

Page 9, line 10, strike “(5)” and insert “(4)”.

H.R. 4635

OFFERED BY: MR. TOWNS

AMENDMENT NO. 19: Page 4, line 12, after the period, insert the following: “The analysis shall include an assessment of the potential risks of an accidental or intentional discharge of a firearm by a licensed Federal flight deck officer on an aircraft.”

Page 14, line 4, after the period, insert the following: “The report shall include a description of any incidence involving the accidental or intentional discharge of a firearm by a Federal flight deck officer on an aircraft.”

SENATE—Tuesday, July 9, 2002

The Senate met at 9:30 a.m. and was called to order by the Honorable JACK REED, a Senator from the State of Rhode Island.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Thank you, Lord, for the resources You have given to us. You ask us to be good stewards—to invest resources wisely. And we want to do so. But this is hard when others deceive us. We have learned recently how professionals in a few companies took unfair advantage of investors. They lost track of their accountability to truth and their commitment to integrity. As a result, investors lost billions of dollars, tens of thousands of workers lost their jobs, and untold numbers of people lost confidence in the financial markets. Please comfort and help those who were harmed. Bless the many men and women who operate their companies honestly. Help strengthen the integrity of America's financial system so that people can be better stewards of our resources. And give the Senators wisdom to know how to legislate to preserve an effective financial accounting system for the businesses of America. In Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JACK REED led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 9, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JACK REED, a Senator from the State of Rhode Island, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. JACK REED thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, in a short time there will be a period of morning business until 10:15 today, with times evenly divided, the first half under the control of the Republicans and the second half under the control of the Democrats. At 10:15, the Senate will resume consideration of the accounting reform bill.

I was advised by my junior colleague from Nevada last evening that he was notified by the Republican leader that this afternoon the Republicans will move to the nuclear waste veto matter which has been hanging around for a while. If that is the case, that will take up most of the afternoon, I am sure, with a 10-hour statutory time available that could go into tomorrow. We have been working since we learned about this yesterday to work something out that would be more definite. We will keep the Senate advised as soon as we know something more.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:15 a.m. with Senators permitted to speak therein for up to 10 minutes each.

Under the previous order, the first half of the time shall be under the control of the Republican leader or his designee.

The Senator from Nebraska.

DISASTER ASSISTANCE FOR AGRICULTURE

Mr. HAGEL. Mr. President, I rise this morning to speak about the severe drought gripping much of our Nation. The situation is developing into a national problem, a big problem that can no longer be ignored.

Last week in Nebraska, I met with farmers and livestock producers who have witnessed firsthand the devastation caused by this drought. For many

agricultural producers in Nebraska and throughout America, hope is again for this growing season. Their crops are wilted and their pastures are scorched and bare. These producers need assistance. For them, there are no options left. Drought is not just a Nebraska problem; it is a national problem.

According to the National Drought Mitigation Center at the University of Nebraska, about 15 percent of the country experiences drought in a typical year. Today, more than 40 percent of the entire country is suffering from drought. The West is bone dry. "Exceptional" and "extreme" drought, as it is termed by the National Oceanic and Atmospheric Administration, NOAA, has ravaged the Southwest as well as Wyoming, Montana, and parts of Texas. The Southern States, along with sections of New England, such as represented by the distinguished Presiding Officer, and the Mid-Atlantic States are also reeling from drought.

This past spring was the driest in 107 years of data reporting in Colorado and the second driest in Arizona and southern California. Keep in mind, it is only July 9. To add to this problem, the drought has brought swarms of grasshoppers which are now infecting many parts of Nebraska as well as the entire Midwest.

The economic effects of drought are often hard to measure. Unlike a hurricane or tornado, droughts area measured in years, sometimes decades. The worst drought in recent memory, in the summer of 1988, covered almost 40 percent of the entire United States. It cost an estimated \$40 billion. Compare that to Hurricane Andrew in 1992, which cost about \$30 billion.

The bad news is the current drought could be much worse than the drought of 1988, considering we still must endure July and August, the hottest months of the year. Already, Nebraska is estimating at least \$307 million damage to its economy, with the loss to crops and pastureland alone estimated at \$150 million. Again, this is only a midyear estimate.

Government action is now necessary. Congress is quick to respond to floods, earthquakes, and hurricanes. Now we must respond to this national drought. Some of my colleagues may second-guess the need for additional agricultural assistance. After all, Congress, for the past 3 years, has provided billions of dollars for supplemental agricultural spending, mostly due to low commodity prices. Emergency payments were supposed to cease with passage of the new farm bill this year.

Clearly, the new farm bill, which will spend an estimated \$180 billion or more

over the next 10 years, provides almost no safety net for farmers and ranchers hurt by drought. That is one of the farm bill's biggest faults, as Senators ROBERTS and LUGAR pointed out often during the farm bill debate on the floor of the Senate. Increased price supports could not help much when there is no crop to be harvested.

During the Senate farm bill debate, Senator LUGAR brought up the idea of expanded crop and livestock revenue insurance. Senator ROBERTS called for more emphasis on direct, decoupled, nonproduction-related payments. Both are solid, sound ideas, but Congress did not listen. Now we must play with the cards we have dealt ourselves.

It is important we do not hold drought-plagued agricultural producers hostage to a shortsighted farm bill. The President said any new agricultural disaster aid must come from the \$73.5 billion in new agricultural funding. I agree with the President. We should find the necessary offsets for this new funding. But we must act quickly to find the necessary disaster aid to help minimize the drought's impact on local economies. America will see a ripple effect on these economies. The economies of many States are directly tied to agriculture and food production.

We are not limited to just an agricultural disaster package. There are other ways in which Washington is helping our agricultural producers this year.

Secretary Veneman has been making disaster declarations for counties across the country, which allows eligible agriculture producers to receive emergency low-interest loans. She has approved grazing and haying on Conservation Reserve Program acres throughout the country, including almost 40 Nebraska counties.

Also, I would like to remind my colleagues of an important bill recently introduced by the senior Senator from New Mexico. Senator DOMENICI's National Drought Preparedness Act S. 2528 would move us away from the costly, ad-hoc, response-oriented approach to droughts to a comprehensive, proactive national drought policy. We need an established program that will allow local, State, and Federal Governments to work together—to coordinate a drought preparedness strategy.

Droughts do not happen overnight, and the damage they cause to the economy and environment do not go away with one measurable rainfall. Government cannot bring an end to the drought or bring pastures and crops back to life. But we can help our agriculture producers survive, weather this crisis, and prepare for the next growing season. With many of my colleagues in the House and Senate, I am working on an emergency drought disaster package to bring before the Congress.

I urge all of my colleagues to help find a responsible way to get America's

agriculture producers the help they need—as soon as possible.

I yield the floor. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, how much time do the Republicans have?

The ACTING PRESIDENT pro tempore. The Republicans have 5 minutes 30 seconds.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Without objection, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. BOXER. Will the Presiding Officer advise me if the time of the Republicans has run out?

The ACTING PRESIDENT pro tempore. The time of the Republicans has expired.

Mrs. BOXER. Thank you very much, Mr. President.

What is the order now?

The ACTING PRESIDENT pro tempore. The majority leader or his designee has control of the remaining 20 minutes.

Mrs. BOXER. Thank you very much, Mr. President.

CORPORATE ENVIRONMENTAL RESPONSIBILITY

Mrs. BOXER. Mr. President, I come to the floor today to discuss a matter that is very related to the whole issue of corporate responsibility. Sometimes the people do not connect the issue of the environment with corporate responsibility, but I am going to do that this morning with the Senator from Illinois, as we touch on some of the policies of this administration, which are really, in my view, putting us in a very dangerous situation in terms of taking a stand with the corporate polluters versus the people of this country who deserve to have protection from environmental hazards. This is not a discussion about ideology, it is really a discussion about the checks and balances that there have to be in this country so we can have robust economic growth along with the sense that there will be responsibility and people will be protected.

I have found out, in my long history in politics, that in fact if you are good

to the environment and if you care about the health and safety of people, you will have, actually, development of new businesses to deal with pollution and you will have prosperity.

We go back in the environmental movement to the days when rivers in this country were on fire, they had so many hazards in the waterways, such as in Ohio and other places. That is what started the Clean Air Act. We go back to the days when you could literally see the air in some of our big cities. We turned it around in such a way that the people benefited both from a healthier environment and a robust economy.

So this argument that we should step away and no longer say to corporations that pollute: You have a responsibility to clean up your mess—the fact that this administration seems to take that position is at odds with our history and is at odds with what we ought to be doing.

On Monday, July 1, a report by the Environmental Protection Agency inspector general was released stating that the EPA has designated 33 sites in 18 States for cuts in financing for the Superfund cleanup program. The reason this administration decided to do this is, frankly, they are depleting the Superfund, which is a fund that is set up via a fee by polluting corporations, and the administration is not interested, at least to now, in making sure that we have that fund, that that fund is not depleted.

The report that was commissioned several months ago by Democrats in the House finally did come back. I have to say, as the chair of the Superfund Subcommittee in the Environment Committee, we have been trying to get this information from EPA for several months. We have not been able to get it. I thank my colleagues in the House for going to the inspector general.

The 33 sites are National Priorities List sites, and they are among the most toxic in the country. So instead of saying, we are going to clean them up, the administration is walking away from them.

What do these sites contain? Let me say, you may want to know this information but you would not want to get near it. The sites contain arsenic, Agent Orange, dioxin, and industrial pesticides.

The report indicates that EPA's Atlanta regional office staff say there is a bottleneck on new starts for cleanup and that there must be maintenance of cleanup progress. The Dallas office reports they have problems. They did not receive \$56 million. The Kansas office says they need \$100 million. The Denver regional office at EPA says they did not get the \$10 million they were to receive.

Here is the point. For an administration that says, trust the people who are

working in the field, this administration has turned its back on their regional offices.

One of the excuses the administration comes up with—and then I will yield to my friend from Illinois—is that, well, it is true the Clinton sites were cleaned up—I have a chart showing progress that was made under President Clinton. We see, in the last 4 years of his administration, 88, 87, 85, and 87 sites. That is the number of sites that were cleaned up. Under this administration, they told us, when we asked them, they wanted to clean up 75, 65, and 40 sites. Now it is 47, 40, and 40 sites.

We are looking at a terrible diminution in the number of sites cleaned.

One of the things they say is: Well, there are no tough sites left. They were cleaned up by Clinton.

So we did a little research. One of the sites that was cleaned up by the Clinton administration is the Illinois site.

I want to bring this up so my colleague can hear this. The NL Industries Corporation smelter site in Illinois was cleaned up. For them to say they didn't clean up any hard sites is ridiculous. The site was used for lead smelting operations from the turn of the century until 1983. It included 100 square blocks and 1,600 residences were affected. Ten percent of the children living near the site had blood levels of lead above 10 micrograms, which is an unsafe level. The responsible parties fought the EPA. We had to go to the Superfund to get the money. It was not a simple site. The cleanup was important for the children. The site was cleaned up.

Why was it cleaned up? Because the Clinton administration used that Superfund, and they were committed to cleaning up the site. I am sure my colleague will attest to the fact that the site is quite different today.

That is the reality. That is why we are on the floor—because this is a great program. It had some problems in the early stages. It wasn't moving. But by 1992 it really started.

It is a sad day when I am here to tell you that this administration is not cleaning up its act.

Mr. DURBIN. Mr. President, if the Senator will yield, I thank the Senator from California for her leadership on this issue. I hope the Senator will bear with me for a moment. I think for those who are following this debate, a little history goes a long way.

There was a time in America, in my home State of Illinois, when people would strip-mine coal. They would literally drag the coal out from just below the surface and leave behind this terrible wasteland that looked like craters on the Moon. Over time, people started saying: It is not only ugly but the runoff is dangerous, and we ought to require the coal companies to restore the land after they have strip-mined so it can be used for something—

so it looks a little bit like it looked when God created it.

That really reflected a kind of change in the national conscience which said it isn't enough to take the land, or take parts of America, blight them, make them toxic and dangerous for someone to make a profit.

We said, as we looked around America and found toxic waste and hazardous waste, that is a danger to our environment, to the people living nearby and to the ground water. President Carter—a Democrat—said let us put together a Superfund tax where the corporations, the businesses which are polluting businesses, will pay a tax to pay for the cleanup of the mess left from this industrial work.

The reason I wanted to get into this history a little bit is that, as I understand from staff, although it was passed by President Carter—obviously, a Democrat—and a Democratic Congress, a few years later, in 1986, President Ronald Reagan—a Republican—not only reauthorized the same program but said, yes, corporations around America should be held accountable; they should pay a fee or a tax to clean up the toxic waste sites across America through the Superfund. Not only did this Republican President restore it, but he raised the tax. He said we need more money to do this on a national basis.

Now we had a bipartisan commitment to this concept from a Democratic President, Jimmy Carter, and a Republican President, Ronald Reagan. They assumed that America would stand behind the concept of corporate responsibility when it came to environmental cleanup.

Now enter President Clinton at a later point. He said to Congress, we need to reauthorize this same law to keep up this program. What he ran into was a Republican Congress, a probusiness Congress, that said: We don't believe that is the right thing to do any longer. So they wouldn't reauthorize the Superfund. The collection of about \$2 billion or more a year to clean up America started evaporating as the taxes and fees were not being collected to clean up the polluted mess across America. Now we are down to \$25 million, or \$26 million for all of this mess around America.

The Senator from California, in a bipartisan effort, I might add, with Senator CHAFEE of Rhode Island, says we ought to reestablish the Superfund. If it was good enough for Democratic President Carter and Republican President Reagan, if Congress—Democratic and Republican—thought it was a good concept, why are we walking away from it?

When I was back home on the Fourth of July break, I went to two sites in Chicago. I went to one site in the southeastern part of the city. It is an industrial graveyard from an operation

not many years ago, and 75,000 manufacturing jobs are now gone. I went to the LTV Steel Corporation site, a company that declared bankruptcy just last December. I took a look at the toxic waste which the Superfund left behind.

I went up to north to Waukegan. For over 20 years, Waukegan has been dealing with mercury and PCBs dumped into Lake Michigan—something we value as part of our national heritage. They are in a position of limbo with a suspended mix of efforts to clean it up. It is within a stone's throw of Lake Michigan. We pointed out the outboard marine site. Waukegan said this is a site which won't be cleaned up because the Superfund is not being funded again by the Bush administration. They refused to put the money into environmental cleanup.

That is irresponsible. It is irresponsible not to hold liable the corporations that produce the chemicals that we find over and over again at these sites. If they want to make a profit producing these chemicals, is it unreasonable to suggest they pay a fee so they can clean up the aftermath of the use of these chemicals which have blighted parts of America?

I say to the Senator from California, as we view this issue, some say: There go the Democrats again with their outlandish environmental policies. But if you look at the history, this has been a bipartisan approach from the start. I ask the Senator from California, who has been our leader on this issue, if she could comment on that.

Mrs. BOXER. Mr. President, I first thank the Senator from Illinois for his eloquence on this subject. Again, this isn't really a theoretical thing at all. We see the progress that has been made during the last 8 years. It is amazing to look at the difference because there were, frankly, problems with the Superfund Program for a while. They weren't really doing a good job of it. Under Carol Browner began a shake-up, and they began to get through all the problems.

Here we are. My friend is right. This is not only important for the environment, and not only bipartisan, as he pointed out, but it is really, in my view, a probusiness situation. When they leave behind a mess such as this, then they go somewhere else and go before the planning commission in some little place in Illinois, or California, or Louisiana, and this big company XYZ wants to come in and do some work over here with a plant, what is their record? Now the county supervisor or the planning commission can look back and say: Oh, my God, the XYZ company left a mess in California. The truth is that the company is not going to be welcomed.

To me, it is probusiness to clean up your mess. It is going to help your

business. It is, in fact, a part of corporate responsibility. It is our responsibility to make sure that polluters pay.

I want to share a chart with my friend that shows what has happened with this program.

In 1995, 82 percent of the cleanup was paid by industry. Either through responsible parties coming forward and paying for the mess they made, or the Superfund itself—as my friend points out, as opposed to the dollars that are collected from a fee on polluters—only 18 percent had to be made up by the general taxpayers.

By 2003, if the situation continues to deteriorate under this President, 46 percent of the cleanup is going to be paid for by our constituents who had nothing to do with the dumping of those materials. This should fall on the people who made the mess. The polluters should pay. It is part of the Superfund.

As we talk about corporate irresponsibility and as we talk about ways we can put confidence back into the system, we shouldn't forget that corporate responsibility is reflected in the Superfund Program. It has been reflected. It has been a successful program. That is why it was embraced by many Republicans. That is why I hope it will be again embraced by many, although I am very concerned, frankly, that the bipartisan nature of this is slipping away in this atmosphere today.

I am very proud to have Senator CHAFEE of Rhode Island as the key Republican sponsor of the Superfund legislation.

Mr. DURBIN. If the Senator will yield for one last question, is this not the same basic concept as protecting pensions? If a corporation accepts the responsibility of going into business, hiring people, making a promise that the people who work for them when they retire will have a pension, then that corporation violates its trust and responsibility and destroys the pension, like the Enron officers cashing in on stock while the pensioners were losing everything they had in their 401(k)s isn't this a similar situation where if a business in America says, I want to create a business here and I want to try to make a profit and I am going to hire people to do it, isn't there kind of a social contract involved here that says: You can't pollute the land and walk away from it as part of doing business in America; part of your responsibility as a corporation is to take responsibility for keeping that natural heritage we all respect so much protected.

Eliminating Superfund takes away the responsibility of these corporations to clean up their own mess and says no to the families at large and businesses across America: It is now your responsibility.

It seems to me, whether we are talking about pensions or the environment,

corporate responsibility really applies at the same level. I ask the Senator from California, does she see a distinction here? I do not.

Mrs. BOXER. That is an excellent analogy. If a corporation makes certain promises to the people they employ and that is part of the contract and if a corporation comes into a community to be a good neighbor and that is part of the deal, then they should not walk away from either. That is why it is important sometimes that the Government, the House and Senate, the President, make sure that we get in and restore justice.

Talk about justice, a lot of these sites—take a look at the sites shown in purple on the chart—are the major polluted sites. They are in every State but North Dakota. My State has the second number. New Jersey has the first. Illinois is up there, unfortunately. There are many States that are affected.

We are talking about walking away from a lot of places when we deplete the Superfund. We are walking away from "polluter pays."

I thank my friend. There is a definite analogy to be made. He has made it very clearly, as he usually does when we talk about the issue of corporate responsibility.

Today we are concentrating on the WorldComs and Global Crossings and the Enrons and Arthur Andersens and the ImClones. We know those names now. Those names and what is behind those names has propelled us in the Senate to take up the very important Sarbanes bill. The Leahy bill will be added, and the bill will become the Sarbanes-Leahy bill. We have been propelled into action because of, as President Bush says, these bad actors.

I think it goes beyond that to the system. There are no checks and balances in that system. If we don't have a Superfund, I say to the Senator, we have no check and balance on those bad actors who would walk away.

Let me say to my friend, is he familiar with that site I talked about that was cleaned up?

Mr. DURBIN. I am. I say to the Senator from California, we have three Superfund sites in the State of Illinois, another 18 that must go on the list, and 6 others we think could be eligible. Frankly, if the Bush administration's proposal goes through, it means no Superfund, no money, no cleanup. That means the public health hazard will remain.

Today the President will go to New York to talk about corporate responsibility. He wants to throw the bad actors in jail. That makes sense. The simple fact is, an actress accused of shoplifting in California is facing potentially more prison time than any officer of Enron is facing today. I might say, if the President's premise, his principle is sound, why do we stop and say it is just when it comes to account-

ing? If a corporation walks away from its responsibility in terms of cleaning up the environmental mess they have left behind, why aren't we talking about that as being the kind of misconduct that should not only be condemned but punished?

Instead, the administration has said: We don't even want to hold them liable for paying for it. No penalty, no crime, they are not even going to be liable for paying for the cleanup.

The Senator from California has made the point so well today: Corporate responsibility goes way beyond accounting. It goes into the handling of pensions. It goes into the environmental responsibility that corporations have.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Ms. LANDRIEU). According to the earlier order, morning business is now closed.

PUBLIC COMPANY ACCOUNTING REFORM AND INVESTOR PROTECTION ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2673, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

The PRESIDING OFFICER. The majority leader is recognized.

AMENDMENT NO. 4174

(Purpose: To provide for criminal prosecution of persons who alter or destroy evidence in Federal investigations or defraud investors of publicly traded securities, and for other purposes)

Mr. DASCHLE. Madam President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DASCHLE], for Mr. LEAHY, for himself, Mr. MCCAIN, Mr. DASCHLE, Mr. DURBIN, Mr. HARKIN, Mr. CLELAND, Mr. LEVIN, Mr. KENNEDY, Mr. BIDEN, Mr. FEINGOLD, Mr. MILLER, Mr. EDWARDS, Mrs. BOXER, Mr. CORZINE, and Mr. KERRY, proposes an amendment numbered 4174.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. DASCHLE. Madam President, on behalf of Senator LEAHY and others, I offer this amendment which is identical to the Corporate and Criminal Fraud Accountability Act, S. 2010, passed unanimously by the Judiciary Committee some time ago.

I view the Leahy amendment as a necessary complement to the Sarbanes bill. In fact, I think of them as two parts of a vital whole—one element guarantees the truth and honesty of corporate accounting. The other is a deterrent. It says that corporate misrepresentation will be forcefully punished—with jail time.

We need both. We need to improve oversight and independence of the accounting profession and hold corporate wrongdoers accountable for their actions.

We need to act comprehensively to fulfill our promise to the American people that integrity, honesty, and accountability will be restored to our markets.

Last week Senator LEAHY and I wrote to the President requesting his views on this bill and the Sarbanes accounting reform bill.

Unfortunately, the President has not answered our letter yet. But I hope to hear today—and I think we need to hear today—that he supports and will sign both.

We welcome the President's apparent new enthusiasm for reforming our corporate culture, and we look forward to working with him.

The administration needs to understand that the time for half measures has long passed. The American people expect and deserve comprehensive reform.

Combining the Leahy bill and the Sarbanes bill accomplishes just that. The Sarbanes bill revamps the regulatory structure that protects our markets. There will be better rules and a new oversight body to send corporations and accountants a clear message that they must tell the truth on their balance sheets.

The Leahy bill is every bit as vital. Let me summarize a few of its provisions very quickly. The amendment has three aims: punishing criminals; preserving evidence; and protecting victims.

The Leahy amendment punishes criminals by creating a tough new 10-year felony for securities fraud. It provides prosecutors with a new tool that is flexible enough to keep up with the most complex new fraud schemes and tough enough to deter violations on the front end. It also provides a mechanism to raise the fraud sentences that are already on the books.

The amendment also preserves evidence of fraud. It creates two new criminal anti-shredding provisions in federal law. As we say in the Arthur Andersen case, even the most straightforward obstruction of justice cases

can be difficult to prove under current law.

Senator LEAHY's bill closes the loopholes and makes document destruction in fraud cases an unambiguous crime.

The amendment does not just protect "paper evidence," it also protects valuable testimony from people. For the first time, the Leahy bill creates federal protection for whistleblowers. People like Sherron Watkins of Enron will be protected from reprisal for the first time under federal law. This bill is going to help prosecutors gain important insider testimony on fraud and put a permanent dent in the "corporate code of silence."

Finally, the amendment will protect victims of fraud. By extending the time period during which victims can bring cases to recoup their losses, the Leahy bill removes the reward for those fraud artists who are especially gifted at concealing what they've done for lengthy periods of time.

Cases where victims have lost their entire life savings should be decided on the merits, not based on procedural hurdles that may now be used to throw legitimate victims out of court.

The Leahy bill also prevents fraud artists from declaring bankruptcy to shut out their victims. The amendment would accomplish this by making security fraud debts nondischargeable in bankruptcy.

Again, the Leahy provisions enjoyed broad bipartisan support in the Judiciary Committee when passed unanimously in April. They are needed now more than ever, as the number and magnitude of corporate misstatements continues to pile up and the lost jobs, lost pensions, and ruined lives continue to mount.

We must act to punish criminals, no matter what color their collar. I hope all Senators will support this amendment.

Madam President, the country will be listening intently to what the President says this morning. A crucial test will be whether he explicitly supports—and pledges to sign—the Sarbanes bill with the Leahy legislation attached. We cannot restore confidence in the integrity of our markets with anything else.

Senator LEAHY is on the floor.

Mr. LEAHY. Will the majority leader yield?

Mr. DASCHLE. Yes.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I very much appreciate what my good friend, the distinguished majority leader, has said. I also compliment him for his leadership on corporate accountability. Sometime ago, he asked the Chairs of the various committees with possible jurisdiction in this area to get together and craft comprehensive legislation. I recall that meeting very well. I recall the majority leader—back at the time

of Enron, before WorldCom and these other business scandals came forward—expressing his concern that not only is this a blight on the business community, it is a blight on our system of doing things. He also spoke about how terrible it was for those people, not only workers who had their pensions tied up in the fortunes of the companies they are working with and are relying on for truthfulness—what they assumed is the truthfulness—of the accounting statements of those companies, but also many other people who invest, whether it is a farmer in South Dakota or a merchant in a small town in Vermont who is putting savings in and hoping this will be part of his retirement.

The majority leader made it very clear to all of us that we were to set politics aside, we were to set any kind of special interests aside, and we were to bring up the best legislation possible for the people of America. That was what Senator DASCHLE charged us to do, and that is what I am trying to do with this amendment.

We have excellent accounting reform legislation, S. 2673, crafted by Chairman SARBANES and the Senate Banking Committee. I commend Senator SARBANES and the other members of the Banking Committee—for their bipartisan leadership. Senator SARBANES had people on both sides of the aisle come out with this legislation, and I am proud to cosponsor it.

My amendment is to add to Senator SARBANES legislation, not to detract from it. As he knows, I offered to add a criminal penalty and other provisions that are within the jurisdiction of the Judiciary Committee.

My amendment is cosponsored by Senator MCCAIN and the majority leader, Senators DURBIN, HARKIN, CLELAND, LEVIN, KENNEDY, BIDEN, FEINGOLD, MILLER, EDWARDS, BOXER, CORZINE, KERRY, SCHUMER and BROWNBACK. Our amendment is identical to S. 2010, the Corporate and Criminal Fraud Accountability Act that was reported unanimously by both Republicans and Democrats in the Judiciary Committee on April 25.

Again, following the very clear direction the distinguished majority leader gave us when he said we have to protect the people of this country, we have to make sure corporate America can do its best to help our economy, this would create tough new penalties for securities fraud and would preserve evidence of fraud to make sure there is accountability for crimes that not only cheat investors but rob the markets themselves of the public trust. The markets have stolen the public's trust.

According to press reports, President Bush has changed his mind on corporate reform and may support new penalties for corporate fraud, and I welcome the President's change of heart. The Corporate and Criminal

Fraud Accountability Act creates tough, new, criminal penalties for corporate fraud, and Senator DASCHLE and I have written to the President asking for his support.

The time for watching and hand-wringing is over. We have to take action to start the slow but critical process of restoring confidence in the books of our publicly traded companies.

The collapse of Enron has become a symbol of a corporate culture where greed has been inflated and accountability devalued. Unfortunately, Enron is no longer alone. Joined by Arthur Andersen, Global Crossing, Tyco, Xerox, and, most recently, WorldCom, the misrepresentations about the financial health of our Nation's largest companies have shaken confidence in our financial markets.

If we do nothing to learn and apply the repeated lessons of the last months, we are only going to compound the problem. That was obviously the belief of the unanimous Judiciary Committee vote when the committee approved S. 2010. Innocent consumers, investors, and employees depend on stock investments for their children's college funds, for their retirement nest eggs, and for their savings. Every week brings news of a new financial scandal. Just look at the effect on the stock market. It has been devastating. This has repercussions not just for companies that depend on our capital markets to grow their businesses and our economy, but certainly also for the average American family. More than one in every two Americans invest in our financial markets, and they are watching what we do here. They deserve action.

Those who defraud investors should be held accountable for their crimes. The Leahy-McCain amendment, the Corporate and Criminal Fraud Accountability Act, is all about accountability and transparency—two bedrocks of our market.

The PRESIDING OFFICER. The Chair states that the majority leader has yielded for a question only while retaining the floor. Is that the intent of the majority leader?

Mr. DASCHLE. Madam President, it was my intention to yield for a question, but I thank the distinguished chair of the Judiciary Committee for his extraordinary leadership and the effort he has made to bring this legislation to the floor.

This is the Leahy amendment and, as I noted, it passed unanimously in large measure because I think he was able to work with our colleagues on both sides of the aisle.

I am happy to yield the floor so he and others may seek recognition.

Mr. LEAHY. My question would be this to the majority leader: Would he agree, in his experience, that nothing would focus the attention more of those executives who have defrauded

their own companies and investors than the idea that they would actually go to jail for it, and not walk off with hundreds of millions of dollars?

Mr. DASCHLE. Madam President, it is for that reason that I believe this package ought to be viewed in its entirety. The Sarbanes bill lays out the framework. The Leahy bill lays out the penalties for violating that framework. So I don't know that you can have one without the other and not have a complete package.

So I appreciate very much the work of the Judiciary Committee, and the chair of the Judiciary Committee especially, for the work in allowing this package to come to the floor. I thank him again for the contributions he made.

Several Senators addressed the Chair.

Mr. LEAHY. Madam President, I seek recognition in my own right.

The PRESIDING OFFICER. The Senator from Texas is recognized.

AMENDMENT NO. 4175 TO AMENDMENT NO. 4174

Mr. GRAMM. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

Mr. LEAHY. Madam President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. What is the rule on recognition? Is it not the Senator who seeks recognition first?

The PRESIDING OFFICER. The Chair understands that the managers of the amendment are entitled to be recognized.

Mr. LEAHY. On my amendment? May I be recognized on my own amendment which is pending before the Chair? Is that correct?

The PRESIDING OFFICER. The managers of the legislation have priority.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas, the manager of the underlying bill.

Mr. LEAHY. Would the managers of the amendment include the distinguished senior Senator from Kentucky? Is he one of the managers?

The PRESIDING OFFICER. The managers of the legislation are the Senator from Maryland and the Senator from Texas.

Mr. LEAHY. The distinguished Presiding Officer has recognized, however, the Senator from Kentucky.

The PRESIDING OFFICER. The Chair has recognized the Senator from Texas. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for Mr. McCONNELL, proposes an amendment numbered 4175 to amendment No. 4174.

Mr. GRAMM. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue.

The assistant legislative clerk continued with the reading of the amendment.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I want to make sure people understand what the Leahy-McCain amendment is. I realize there may be those who want to amend it to make life easier.

The PRESIDING OFFICER. Will the Senator from Vermont suspend? The regular order is the reading of the amendment.

Mr. LEAHY. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection to calling off the reading of the amendment? Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for certification of financial reports by labor organizations and to improve quality and transparency in financial reporting and independent audits and accounting services for labor organizations)

At the end of the amendment add the following:

SEC. 302. CORPORATE AND LABOR ORGANIZATION RESPONSIBILITY FOR FINANCIAL REPORTS AND DISCLOSURE REQUIREMENTS.

(a) FINANCIAL REPORTS.—

(1) CERTIFICATION OF REPORTS.—

(A) CERTIFICATION OF PERIODIC REPORTS.—Each periodic report containing financial statements filed by an issuer with the Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chief executive officer and chief financial officer (or the equivalent thereof) of the issuer.

(B) CERTIFICATION OF FINANCIAL REPORTS BY LABOR ORGANIZATIONS.—

(i) IN GENERAL.—Each financial report filed by a labor organization with the Secretary of Labor pursuant to section 201(b) of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 431(b)) shall be accompanied by a written statement by the president and secretary-treasurer (or the equivalent thereof) of the labor organization.

(ii) DEFINITION.—In this subparagraph, the term "labor organization" has the meaning given the term in section 3 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 402).

(2) CONTENT.—The statement required by paragraph (1) shall certify the appropriateness of the financial statements and disclosures contained in the periodic report or financial report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer or labor organization.

(3) CONFORMING AMENDMENT.—Section 201(b) of the Labor-Management Reporting and Disclosure Act of 1959 is amended, in the matter preceding paragraph (1), by inserting "(and accompanied by the statement described in section 302(a)(1)(B) of the Public Company Accounting Reform and Investor Protection Act of 2002)" after "officers".

(b) REPORTING REQUIREMENTS.—

(1) FINANCIAL REPORTING FOR LABOR ORGANIZATIONS EQUIVALENT TO REQUIRED REPORTING OF PUBLIC COMPANIES.—Section 201 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 431) is amended by adding at the end the following:

“(d)(1) In the case of a labor organization with gross annual receipts for the fiscal year in an amount equal to \$200,000 or more, the information required under this section shall be reported using financial reporting procedures comparable to procedures required for periodic and annual reports of public companies pursuant to sections 12(g), 13, and 15 of the Securities and Exchange Act of 1934 (15 U.S.C. 78l(g), 78m, and 78o).

“(2)(A) Such information shall be reviewed by a certified public accountant using generally accepted auditing standards applicable to reporting companies under the Securities and Exchange Act of 1934.

“(B) Such audit shall be conducted subject to requirements comparable to the requirements under section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1).

“(3) Such information shall be reported using generally accepted accounting procedures comparable to the procedures required for public companies under sections 12(g), 13, and 15 of the Securities and Exchange Act of 1934 (15 U.S.C. 78l(g), 78m, and 78o).

“(4) The authority provided under this subsection shall be in addition to the authority provided under subsection (b) and section 208, regarding reporting procedures and review of information required under this section.”.

(2) REMEDIES AND PENALTIES FOR VIOLATIONS OF REPORTING REQUIREMENTS.—Section 210 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 440) is amended—

(A) by striking “Whenever” and inserting “(a) Whenever”; and

(B) by adding at the end the following:

“(b)(1) If the Secretary finds, on the record after notice and opportunity for hearing, that any person has willfully violated any provision of section 201(d), the Secretary may impose a civil monetary penalty in an amount not to exceed the amount for any comparable violation under section 21B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-2).

“(2) In the case of a violation of an auditing requirement under section 201(d)(2) by a public accountant, the Secretary may impose a civil monetary penalty in the same manner as penalties are imposed under section 10A(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(d)).

“(3) For purposes of any action brought by the Secretary under paragraph (1), any person who knowingly provides substantial assistance to another person in violation of a provision of section 201(d), or of any rule or regulation issued under such section (including aiding, abetting, counseling, commanding, or inducing such violation) shall be deemed to be in violation of such provision to the same extent as the person to whom such assistance is provided.

“(c)(1) Any person who makes or causes to be made any statement in any report or document required to be filed under section 201(d) which statement was at the time, and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, shall be liable to any person (not knowing that such statement was false or misleading) who relied upon such statement. A person seeking to enforce such liability may sue at law or in

equity in any court of competent jurisdiction.

“(2) In any such suit the court may, in its discretion, require an undertaking for the payment of the costs of such suit, and assess reasonable costs, including reasonable attorneys’ fees, against either party litigant.

“(3) The recovery and statute of limitation provisions of subsections (b) and (c) of section 18 of the Securities Exchange Act of 1934 (15 U.S.C. 78r) shall apply for purposes of any action under this subsection.

“(d) In any action arising under subsection (c) or (d) or in connection with any provision of section 201(d), the provisions of section 27(c) of the Securities Act of 1933 (15 U.S.C. 77z-1(c)) regarding abusive litigation shall apply.”.

(3) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Labor, shall promulgate such regulations as the Secretary determines necessary to carry out the provisions and purposes of this subsection (including the amendments made by this subsection) and to ensure the provisions of this subsection are carried out in a manner comparable to the manner any similar provisions are carried out by the Securities and Exchange Commission.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, so people understand what the Leahy-McCain amendment is, it is the Corporate and Criminal Accountability Act. It is about accountability, and it is about transparency. I think everybody—investors, corporate managers, or anybody else—will tell you that accountability and transparency are the bedrock of our economy, of our markets.

If one is going to invest in a company, one wants to know what the company does and what the books say. One wants to be able to rely upon their reports.

Transparency will instill confidence, and accountability helps enforce transparency and forthright financial decisions. We do not just rely on the better angels of our nature; we rely on the fact that somebody is going to be there to enforce it.

We cannot stop greed, but we can stop greed from succeeding. This bipartisan amendment is going to send wrongdoers to jail and save documents from the shredder, and that sends a powerful and clear message to potential wrongdoers: Don’t do it.

The measure enjoys wide support. The amendment is supported by law enforcement officials, regulators, and numerous whistleblowers, and consumer protection advocates. I have letters of support from these advocates, and I will, at the end of my statement, ask consent to print them in the RECORD.

Let me summarize some of the provisions. This bipartisan amendment has three prongs to restore accountability: punishing and preventing fraud, preserving the evidence of fraud, and protecting victims of fraud.

S. 2010, as unanimously reported, accomplishes these goals in a number of

ways. It is going to create a tough new Federal felony for securities fraud for a 10-year maximum penalty. The idea of 10 years in the slammer is going to focus the attention of those who are more interested in taking their money and hiding it in offshore bank accounts.

As one who was a prosecutor, I was surprised to learn that unlike bank fraud, health care fraud, and even bankruptcy fraud, there is no specific Federal crime of securities fraud to protect victims of fraud related to publicly traded companies.

Can you imagine, Madam President, while all this talk has been going on, it turns out there is no specific crime of securities fraud. This bill would create such a felony with a tough 10-year jail sentence.

The amendment provides for a review of the existing sentencing guidelines for fraud cases and for organizational misconduct to make them tougher as well.

The new crimes and enhanced criminal penalties in this bill were worked out among Senators HATCH, SCHUMER, and me, and unanimously supported by the Judiciary Committee, and I thank Senators HATCH and SCHUMER for their support.

The Leahy-McCain amendment also creates two new anti-shredding penalties which set clear requirements for preserving financial audit guides and close loopholes in current anti-shredding laws.

These provisions close loopholes in current laws and set a clear requirement that corporate audit documents must be saved for 5 years. We, incidentally, picked that time period because that is the statute of limitation for most Federal crimes.

These provisions are crucial in preventing recurrences of what happened at Arthur Andersen.

These provisions will preserve evidence that helps law enforcement officers and prosecutors focus immediately on the evidence. It takes a few minutes to warm up the shredder, but it can take years for prosecutors and victims to put together a case without key documents.

The amendment protects corporate whistleblowers. Senator GRASSLEY and I worked out these bipartisan measures in the Judiciary Committee. I thank the Senator from Iowa for his assistance and his constant leadership over the years on whistleblower rights.

When sophisticated corporations set up complex fraud schemes, corporate insiders are often the only ones who can disclose what happened and why.

Unfortunately, the Enron case also demonstrates the vulnerability of corporate whistleblowers to retaliation under current law. This is a memo from outside counsel to Enron management. They were afraid there might be a whistleblower. It said:

You also asked that I include in this communication a summary of the possible risks associated with discharging (or constructively discharging) employees who report allegations of improper accounting practices.

Then he goes on to give them the good news:

Texas law does not currently protect corporate whistleblowers. The supreme court has twice declined to create a cause of action for whistleblowers who are discharged. . . .

In other words, if they dare tell about corporate misdeeds, fire them, it is not going to hurt.

After this high-level employee of Enron reported improper accounting practices, the Enron executives were not thinking about firing the accountants who were doing wrong; they wanted to fire the whistleblower, their own employee. Why? Because they were pocketing the money. They were getting that money out to their bank accounts as fast as they could, and they did not want anybody to say so.

The bipartisan whistleblower protections are supported by the National Whistleblower Center, the Government Accountability Project, and Taxpayers Against Fraud. They call S. 2010 "the single most effective measure possible to prevent further recurrences. . . ."

The measure lengthens the statute of limitation by extending it from the earlier of 1 year from discovery or 3 years from the fraud to 2 years from discovery or 5 years from the fraud.

Senators FEINSTEIN and CANTWELL worked hard to craft a fair compromise on this provision in the Judiciary Committee.

Indeed, the last two SEC Chairmen from both parties, Arthur Levitt and Richard Breeden, both agreed that the current short statute of limitations is unfair to fraud victims.

Attorney General Christine Gregoire testified before the Judiciary Committee in the Enron State pension fund litigation that the current short statute has forced some States to forego claims against Enron.

In Washington State alone, the short statute of limitations could cost hard-working State employees—firefighters and police officers—nearly \$50 million in lost Enron investments.

Last week, Xerox announced it was restating its revenue back 5 years by \$6.4 billion. Madam President, as a law student, I remember sitting in the gallery listening to the distinguished Senator from Illinois, Mr. Dirksen, give his well-known speech: "A billion here and a billion there, and soon you're talking about real money."

Imagine a corporation claiming they made a mistake in their revenue of \$6.4 billion for the past five years. The disclosures raise the specter of innocent investors who, through no fault of their own, will be barred from recouping losses.

We make the debt from security law violations nondischargeable in bank-

ruptcy. We protect fraud victims by amending the bankruptcy code to make judgments and settlements based upon security law violations nondischargeable. Corporate leaders should not be allowed to take the money, run, file bankruptcy, and keep from ever paying any securities fraud judgment. The State security regulators strongly support this change. You cannot have one set of rules which say if you steal \$500 from a store, you can go to jail. But if you steal \$50 million from the corporate boardroom, keep the money. That makes no sense. Everywhere I went in the State of Vermont last week, people were saying: If I committed an act, if I stole something, if I cash a bad check for \$100, I run the risk of going to jail.

But what do you do if you get \$50 million or \$100 million? You are home free.

Criminal conduct deserves criminal penalties. Corporate CEOs who rob their company, who rob the pension funds of their employees, who rob the trust of the American people, are criminals. They ought to go to jail.

The steel bars, maybe that will give a conscience to some of these people like Kenneth Lay and others who obviously do not have one. This gives prosecutors, the investigators, and victims the tools to hold corporate wrongdoers accountable.

The people who are involved in such massive criminal activity ought to pay. The American people ought to know they will have to pay. If they don't, there will be a whole lot more fraud.

I ask unanimous consent to have a number of letters printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

TAXPAYERS AGAINST FRAUD,
Washington, DC.

GOVERNMENT ACCOUNTABILITY PROJECT,
Washington, DC, July 5, 2002.

DEAR SENATOR: The Government Accountability Project (GAP) and the Taxpayers Against Fraud (TAF) reaffirm our support for the Leahy Corporate and Criminal Fraud Accountability amendment to S. 2673, the Public Company Accounting Reform and Investor Protection Act of 2002.

Initially introduced as S. 2010, the Corporate and Criminal Fraud Accountability Act, was unanimously reported by the Senate Judiciary Committee on May 6, 2002. This amendment is a landmark proposal. It promises to make whistleblower protection the rule rather than the exception for those challenging betrayals of corporate fiduciary duty enforced by the Securities and Exchange Commission. It would be the single most effective measure to prevent recurrences of the Enron and Worldcom debacles as well as similar threats to the nation's financial markets, shareholders and pension holders.

GAP is a nonprofit, nonpartisan public interest law firm dedicated since 1976 to helping whistleblowers, those employees who exercise freedom of speech to bear witness

against betrayals of public trust that they discover on the job. GAP has led the campaign for passage of nearly all federal whistleblower laws over the last two decades. TAF is a nonprofit, nonpartisan public interest organization dedicated to combating fraud against the Federal Government through promotion and use of the federal False Claims Act and its qui tam whistleblower provisions. TAF supports effective anti-fraud legislation at the federal and state level.

The Leahy amendment to S. 2673 is outstanding good government legislation. It closes the loopholes that have meant whistleblowers proceed at their own risk when warning Congress, shareholders, and their own management's Board Audit Committees of financial misconduct threatening the health of their own company, investor confidence and the nation's economy. We hope we can count on your support to add this state of the art whistleblower protection system in S. 2673. If you have any questions regarding the Leahy amendment, please call Tom Devine at GAP (202-408-0034 ext. 124), or Doug Hartnett (ext. 136).

Sincerely,

JIM MOORMAN,
Executive Director, TAF.
TOM DEVINE,
Legal Director, GAP.

NORTH AMERICAN SECURITIES
ADMINISTRATORS ASSOCIATIONS, INC.,
Washington, DC, July 5, 2002.

Hon. PATRICK LEAHY,
Washington, DC.

DEAR SENATOR LEAHY: NASAA supports S. 2673, The Public Company Accounting Reform and Investor Protection Act of 2002, and opposes efforts to weaken its provisions. State securities regulators believe there is an immediate need to restore investor confidence in our securities markets.

Passage of the Leahy amendment, which incorporates S. 2010, the Corporate and Criminal Fraud and Accountability Act of 2002, into the accounting reform bill would send a strong deterrent message to potential securities violators by providing prosecutors with new and better tools to punish those who defraud our nation's investors. Our focus is on Section 4, which would prevent the discharge of certain debts in bankruptcy proceedings. At the present time, the bankruptcy code enables defendants who are guilty of fraud and other securities violations to thwart enforcement of the judgments and other awards that are issued in these cases.

We support passage of the Leahy amendment because it strengthens the ability of regulators and individual investors to prevent the discharge of certain debts and hold defendants financially responsible for violations of securities laws. This issue is of great interest to state securities regulators, and we hope you'll support it on the Senate floor.

In addition, state securities regulators enclose Title V of S. 2673—Analyst Conflicts of Interest—in its current form and strongly oppose any amendment to this title that would reduce our ability to investigate wrongdoing and take appropriate enforcement actions against securities analysts. An amendment drafted by Morgan Stanley was circulated that, we believe, would have prohibited state securities regulators from imposing remedies upon firms that committed fraud, if it involved securities analysts and perhaps even broker-dealers that deal with individual investors. Clearly this approach is ill-advised, especially in today's climate.

What message would be sent to Main Street investors if the states' investigative and enforcement authority were weakened? (Additional information on this proposal was delivered to your office last week.)

Please vote for passage of S. 2673, for the Leahy amendment, and against any amendments to curtail state securities enforcement actions.

Sincerely,

JOSEPH P. BORG,
NASAA President,
Alabama Securities
Director.

CHRISTINE A. BRUENN,
NASAA President-
elect, Maine Securities
Administrator.

AMERICAN FEDERATION OF LABOR
AND
CONGRESS OF INDUSTRIAL
ORGANIZATION,
Washington, DC, April 17, 2002.

Hon. PATRICK LEAHY,
Senate Judiciary Committee, Washington, DC.
Legislative Alert!

DEAR SENATOR LEAHY: The sudden and spectacular collapse of Enron has jeopardized the retirement security of millions of hardworking Americans and exposed systemic failures of our securities laws. If we are to prevent future Enrons and restore the credibility of America's capital markets, aggressive reform is required. This week the Judiciary Committee will markup S. 2010, the Corporate and Criminal Fraud Accountability Act of 2002, which is an important part of this effort and deserves your support.

The measures embodied in S. 2010 will help protect working families and their retirement funds from future Enrons by strengthening the penalties for securities and accounting fraud, and destruction of audit papers. The bill provides strong civil and criminal penalties for conduct such as document shredding by auditors and conspiracies to defraud investors; and bars those who commit securities fraud from using the bankruptcy system to avoid compensating the victims of such fraud. It also lengthens the statute of limitations for civil lawsuits by the victims of securities fraud, making it more difficult for those who commit these crimes to escape having to compensate their victims.

S. 2010 is an important part of the comprehensive reforms Congress needs to enact in response to the conflicts in the capital markets exposed by the collapse of Enron. The AFL-CIO urges you to support S. 2010 at this week's Judiciary Committee markup.

Sincerely,

WILLIAM SAMUEL
Director, Department
of Legislation.

CONSUMERS UNION,
Washington, DC.

Re Support for S. 2010, the Corporate and Criminal Fraud Accountability Act of 2002

CONSUMER FEDERATION OF AMERICA,
Washington, DC, April 16, 2002.

DEAR SENATOR: Consumers Union and the Consumer Federation of America urge your support for S. 2010, the Corporate and Criminal Fraud Accountability Act of 2002, sponsored by Senator Patrick Leahy, when it comes before the Judiciary Committee for markup on Thursday. This proposal adds important provisions to the civil and criminal laws, which will both, deter and when necessary, punish securities fraud.

ENHANCING ENFORCEMENT AND SANCTIONS FOR SECURITIES FRAUD

S. 2010 takes the following important steps to strengthen enforcement and penalties for securities fraud:

It creates a new felony for the act of defrauding shareholders of publicly traded companies.

It creates a new felony for destruction of evidence or creation of evidence with intent to obstruct a federal agency or criminal investigation.

It provides whistleblower protection to employees of publicly traded companies when they act lawfully to disclose information about fraudulent activities within their company.

It enhances the ability of state attorneys general and the SEC to use civil RICO to enforce existing law; currently only the US attorney general has such authority currently under RICO.

ADOPTING A REALISTIC STATUTE OF LIMITATIONS

S. 2010 also increases the ability of defrauded investors to recover their losses by lengthening the statute of limitations. The bill would set the statute of limitations to the earlier of 5 years after the date of the fraud or three years after the fraud was discovered.

The current statute of limitations, the result of a 5-4 vote in a 1991 Supreme Court decision, sets up an unrealistically short timetable for bringing private suits and needs to be corrected. Former President Bush's SEC Chairman Richard Breeden, former President Clinton's SEC Chairman Arthur Levitt, and state securities regulators have all supported an extension of the statute of limitations.

Suits by defrauded investors have long been recognized by securities regulators, including former SEC Chairman Levitt, as an important deterrent against fraud. Moreover, securities fraud is often well-concealed and not readily apparent to investors until, in some cases, years after the fraud has been committed. As Chairman Levitt testified in 1995 before the Senate Banking Committee, "Extending the statute of limitations is warranted because many securities frauds are inherently complex, and the law should not reward the perpetrator of a fraud who successfully conceals its existence for more than 3 years."

Justices O'Connor and Kennedy, in their vigorous dissent in the 1991 Supreme Court case, also supported a longer statute of limitations. Justice Kennedy wrote, "The most extensive and corrupt schemes may not be discovered within the time allowed for bringing an express cause of action under the 1934 Act. Ponzi schemes, for example, can maintain the illusion of a profit-making enterprise for years, and sophisticated investors may not be able to discover the fraud until long after its perpetration . . . By adoption of a three year period of response, the Court makes a 10(b) action all but a dead letter for many injured investors who by no conceivable standard of fairness or practicality can be expected to file suit within three years after the violation occurred. In so doing, the Court also turns its back on the almost uniform rule rejecting short periods of response for fraud-based actions."

Indeed, some states' pension funds may have to forego claims against Enron for securities fraud that occurred in the late 1990s because of this short statute of limitations. Washington State's Attorney General discussed this problem when she testified before your Committee in February of this year. "In fact, for Washington State, our claim in

the [Enron] case is for approximately \$50 million, when in fact our losses are in excess of \$100 million. But because of the statute of limitations, we're not able to make that claim." (underlining added).

The current statute of limitations rewards those who are able to conceal their fraud for a relatively short time with immunity from private liability. It also includes a limit of one-year from the time of discovery, which encourages a rush to the courthouse.

The criminal conduct surrounding the collapse of Enron, and the fact that many claims for fraud will be time-barred by the current short statute of limitations, have drawn attention to the need for reform. S. 2010 includes important investor protection measures. We urge your support for this bill in the Judiciary Committee April 18.

Sincerely,

SALLY GREENBERG,
Senior Counsel.
TRAVIS PLUNKETT,
Legislative Director.

U.S. PUBLIC INTEREST
RESEARCH GROUP;
Washington, DC, April 17, 2002.

No More Enrons—Support S. 2010, the Corporate and Criminal Fraud Accountability Act of 2002

DEAR MEMBER OF THE SENATE JUDICIARY COMMITTEE: We are writing on behalf of the members of state Public Interest Research Groups to urge your strong support for S. 2010, the Corporate and Criminal Fraud Accountability Act of 2002, sponsored by Senator Patrick Leahy, when it comes before the Judiciary Committee for markup on Tuesday. This proposal adds important provisions to the civil and criminal law to both deter and, when necessary, punish securities fraud. Please oppose weakening amendments.

S. 2010 takes the following important steps to strengthen enforcement and penalties for securities fraud:

It creates a new felony for the act of defrauding shareholders of publicly traded companies.

It creates a new felony for destruction of evidence or creation of evidence with intent to obstruct a federal agency or criminal investigation.

It provides whistleblower protection to employees of publicly traded companies when they act lawfully to disclose information about fraudulent activities within their company.

It enhances the ability of state attorneys general and the SEC to use civil RICO to enforce existing law; currently only the U.S. attorney general has such authority currently under RICO.

Importantly, S. 2010 also increases the ability of defrauded investors to recover their losses by lengthening the statute of limitations. The bill would reasonably and sensibly set the statute of limitations to the earlier of 5 years after the date the fraud occurred or three years after the fraud was discovered. A securities law violation is often a complex, multi-year enterprise. Indeed, Enron's recent accounting restatements went back five years. Under the fraudster-friendly current law, some state pension fund claims against Enron may be time-barred.

S. 2010 includes numerous important investor protection measures to assist whistleblowers, fraud victims, and law enforcement agencies. We urge your strong support for this bill to help restore investor confidence in the Judiciary Committee April 18. Please

oppose weakening amendments. For more information about the full state PIRG platform to protect employees, investors and taxpayers from future Enron/Andersen debacles, please visit <http://www.enronwatchdog.org>. Please contact me with questions at either 202-546-9707x314 or ed@pirg.org.

Sincerely,

EDMUND MIERZWINSKI,
Consumer Program Director.

NATIONAL WHISTLEBLOWER CENTER,
Washington, DC, April 17, 2002.

Hon. MARIA CANTWELL,
Senate Judiciary Committee, Washington, DC.

DEAR SENATOR CANTWELL: The National Whistleblower Center strongly supports S. 2010, the Corporate and Criminal Fraud Accountability Act of 2002. This law would protect employees who disclose Enron-related fraud to the appropriate authorities.

One of the most notorious loopholes in current whistleblower protection law exists under the securities laws, in which employees who report fraud against stockholders have no protection under federal law. It is truly tragic that employees who are wrongfully discharged merely for reporting violations of law, which may threaten the integrity of pension funds or education-based savings accounts, have no federal protection.

This point was made abundantly clear by the recently released internal memorandum from attorneys for Enron. According to Enron's own counsel, employees who were blowing the whistle on Enron's misconduct were not protected under federal law, and could be subject to termination. Unfortunately, the Enron attorney was correct.

It is imperative that the next time a company like Enron seeks advice from counsel as to whether they can fire an employee, like Sharon Watkins (who merely disclosed potential fraud on shareholders), the answer must be a resounding "no." That can only happen if the Corporate and Criminal Fraud Accountability Act is enacted into law.

Respectfully submitted,

KRIS J. KOLESNIK,
Executive Director.

NATIONAL ASSOCIATION
OF ATTORNEYS GENERAL,
Washington, DC, July 3, 2002.

DEAR SENATOR: It has come to my attention that the substance of S. 2010, the Corporate and Criminal Fraud Accountability Act of 2002, will be offered as an amendment to S. 2673, the Public Company Accounting Reform and Investor Protection Act of 2002, as early as next week.

I have attached a letter to Senator LEAHY from seven Attorneys General written last April in support of the substance of S. 2010, in order to make these views known as you consider this legislation.

If you have any questions or concerns, please feel free to call Blair Tinkle, NAAG's Legislative Director at 202-326-6258.

Sincerely,

LYNNE ROSS,
Executive Director.

NATIONAL ASSOCIATION OF
ATTORNEYS GENERAL,
Washington, DC, April 17, 2002.

Hon. PATRICK LEAHY,
Chairman, Senate Judiciary Committee, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY: We would like to take this opportunity to express our support for your bill, S. 2010, the Corporate and Criminal Fraud Accountability Act of 2002, which is pending before the Senate.

As you know, the proposal would allow state Attorneys General to seek to enjoin racketeering activities under the federal RICO statute. Such added authority would enhance the ability of Attorneys General to protect their citizens from unlawful activities by organizations both within and outside the borders of our individual states.

In addition, to restore accountability, S. 2010 provides prosecutors new and better tools to effectively prosecute and punish criminals who defraud investors by:

Creating a new, 10-year felony specifically aimed at securities fraud.

Enhancing fraud and obstruction of justice statutes where evidence is destroyed and in fraud cases, where there are many victims or where any victim is financially devastated.

Creating two new document destruction felonies establishing a new felony shredding crime and requiring the preservation of audit documents for 5 years.

Creating new protections for corporate whistleblowers.

Finally, the bill protects victims' rights by:

Protecting securities fraud victims from discharge of their debts in bankruptcy.

Extending the statute of limitations in securities fraud cases.

We appreciate your efforts to enact this important legislation. Please feel free to contact us if we can provide further assistance in this effort.

Sincerely,

Carla J. Stovall, Attorney General of Kansas, President of NAAG; Hardyress, Attorney General of Oregon, Chairman, Enron Bankruptcy Working Group; Christine Gregsire, Attorney General of Washington; William H. Sorrell, Attorney General of Vermont; Ms. Edmonds, Attorney General of Oklahoma, President-Elect of NAAG; Thurbert E. Baker, Attorney General of Georgia; Betty D. Montgomery, Attorney General of Ohio.

Mr. LEAHY. I appreciate the distinguished majority leader introducing this amendment and yielding to me.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. MILLER. I was going to send an amendment to the desk but I understand there is one pending. I ask unanimous consent I have up to 8 minutes to discuss this amendment now, which I will send later.

Mr. MCCONNELL. Reserving the right to object, and I probably will not, I hoped for an opportunity to briefly explain the second-degree amendment that is pending at the desk. If the Senator thinks it might be helpful just to determine the order of discussion, perhaps it is more appropriate to discuss the amendment that is pending over one that might have been pending.

Mr. MILLER. The Senator from Kentucky is correct. I would like to get in the queue somewhere along the line.

Mr. REID. I ask the question of the Senator from Kentucky, How long does the Senator from Kentucky wish to speak?

Mr. MCCONNELL. I will be happy to wrap up in 5 or 6 minutes. I want to summarize what the amendment is about.

Mr. SARBANES. Madam President, I ask unanimous consent the Senator from Kentucky be recognized for 5 minutes to speak to the second-degree amendment that has been offered, that is pending, and that be followed by the Senator from Georgia to speak for 8 minutes.

Mr. MURKOWSKI. Madam President, I wonder if I may be recognized after the sequence that has been discussed for about 1 minute.

Mr. REID. I object.

The PRESIDING OFFICER. Is there an objection to the original request of the Senator from Maryland?

Mr. REID. I do not object to the original 13 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kentucky will proceed.

Mr. MCCONNELL. I thank my friend from Georgia. I will briefly discuss the second-degree amendment. I expect to vote for the underlying bill, but we ought to, in the name of equity, apply the same principles in the underlying bill we are seeking to apply to corporations to labor unions.

The amendment I sent to the desk requires union financial statements to be audited by an independent accountant using procedures that mirror those of public companies under Federal securities laws. It imposes civil penalties for violations of these new auditing requirements that mirror those imposed on the Security Exchange Act of 1934. Third, it requires that the Union President and Secretary-Treasurer certify the accuracy of financial reports, mirroring a similar requirement for CEOs and CFOs in the Sarbanes bill.

We are debating how to better oversee and enforce the audit requirements for large corporations that were first established under the Securities Act of 1933. It may shock many to learn that labor unions are not even required to have independent audits of the financial statements they file with the Department of Labor—or should I say that they are required to file. Many unions apparently thumb their nose at the requirement. A study by the Office of Labor Management Standards found that 34 percent of all unions filed late financial reports or no reports at all.

If we are serious about protecting the investing public from the financial fraud of corporations and accountants, we should be equally serious about protecting the day-to-day American worker—the plumbers, the machinists, the longshoremen, and the steelworkers—from the financial fraud of union officials.

One prominent union official recently said that:

Over the coming months you will no doubt hear more about the Enron scandal and the many thousands of people who have lost their pensions because of corporate greed.

I agree with that. What we do not hear enough of are the stories of union

greed. It is only fair to share some of them today. I have a rather long list I will discuss later in the debate, but let me cover a few of them in my allotted time. We have heard of Arthur Andersen, but has anyone heard of Thomas Havey? That is the accounting firm where a partner confessed to helping a bookkeeper conceal the embezzlement of hundreds of thousands of dollars from a worker training fund of the International Association of Ironworkers. And in an eerie parallel to the Enron scandal, the Havey accountants revealed startling information—10 years ago, the then General Counsel for the Ironworkers Union said that if the accounting firm refused to assist in the union scheme to conceal financial mismanagement, the accounting firm should be fired. Sadly, the accounting firm complied.

We have all heard of Global Crossing, but has anyone heard of ULLICO? That is the multibillion-dollar insurance company owned primarily by unions and their members' pension funds that invested \$7.6 million in Global Crossing. Apparently, ULLICO directors received a sweetheart investment deal that allowed them to make millions on the sale of stock. The union pension funds, however, dried up with Global Crossing's demise.

There is much more. An accountant within the National Association of Letter Carriers embezzled more than \$3.2 million from union funds over an 8-year period to buy 8 cars, 2 boats, 3 jet skis, a riding mower, and 105 collectable dolls. A former official of the Laborers' Union District Council in Oregon, Idaho, and Wyoming is in jail for accepting hundreds of thousands of dollars in kickbacks for directing money into a ponzi-like investment scheme that defrauded Oregon labor unions of \$355 million.

I have a number of additional examples that I wish to get to later, but I do want to say in summary, again, what my amendment is about, just so everyone will understand as we move subsequently to a vote. It first requires union financial statements to be audited by an independent accountant using procedures that mirror those of public companies under the Federal securities laws; second, it imposes civil penalties for violations of these new auditing requirements that mirror those imposed under the Securities Exchange Act of 1934; and, third and finally, it requires that the Union President and Secretary-Treasurer certify the accuracy of their financial reports, which mirrors a similar requirement for CEOs and CFOs in the Sarbanes bill.

I yield the floor.

Mr. SARBANES. Will the Senator yield for a question?

Mr. MCCONNELL. Yes.

Mr. SARBANES. Of course, there is a special statutory arrangement that

governs labor organizations. I take it this proposal—has this come to us from the Department of Labor?

Mr. MCCONNELL. I say to the Senator from Maryland, it did not come from the Department of Labor. It came from my office. This is something we have been looking at over the last week or 10 days, thinking that, since the very worthwhile requirements of corporations and accounting firms, under the bill of the Senator from Maryland, make sense if we are looking to protect investors, we should also protect union members from similar kinds of casual exploitation.

Mr. SARBANES. But under the Labor Management Reporting and Disclosure Act, the Department has certain authorities it can invoke in dealing with the kind of problems the Senator has outlined. At least that is my understanding under the current state of the law. Is that correct?

Mr. MCCONNELL. I don't know what the position of the Department of Labor is on the amendment I am offering. But it is my belief that if the amendment were not necessary, we would not be offering it here today. This is something I am sure we are going to discuss further as we move along.

Mr. SARBANES. I am sure the Senator would be able to find out from the Secretary.

Mr. MCCONNELL. I expect I could find out from the Secretary of Labor, but I chose not to do that.

Mr. GRAMM. I don't know whether you could or not.

Mr. MCCONNELL. She has her job and I have mine.

AMENDMENT NO. 4176

The PRESIDING OFFICER. The Senator from Georgia is recognized under the previous order.

Mr. MILLER. Madam President, I ask unanimous consent the pending amendment be temporarily set aside so I be allowed to offer an amendment.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Georgia [Mr. MILLER] proposes an amendment numbered 4176.

Mr. MILLER. Madam President, I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to require the signing of corporate tax returns by the chief executive officer of the corporation)

At the end add the following new title:

TITLE VIII—CORPORATE TAX RETURNS
SEC. 801. SIGNING OF CORPORATE TAX RETURNS
BY CHIEF EXECUTIVE OFFICER.

(a) IN GENERAL.—Section 6062 of the Internal Revenue Code of 1986 (relating to signing of corporation returns) is amended by strik-

ing the first sentence and inserting the following new sentence: "The return of a corporation with respect to income shall be signed by the chief executive officer of such corporation."

(b) EXECUTIVE DATE.—The amendment made by this section shall apply to returns filed after the date of the enactment of this Act.

Mr. GRAMM. Will the Senator yield?

There is a little bit of confusion. I want to be sure he is setting aside the entire amendment, the Leahy and the McConnell amendment, and he is offering a first-degree amendment? That is what I understood when I talked to the Senator and to what I had agreed.

The PRESIDING OFFICER. That is the Chair's understanding.

Mr. SARBANES. No. What was the request? I thought the unanimous consent request was to set aside the McConnell amendment and offer the Miller amendment to the Leahy amendment.

Mr. GRAMM. It was the pending amendment.

Madam President, I wanted to be sure that we set aside both Leahy and McConnell. This is a new issue, a first-degree amendment. That was the basis that I understood it on and on the basis of that I had no objection to it.

The PRESIDING OFFICER. The Chair understands the Senator from Georgia was going to offer an amendment that would be considered at a different time, an independent first-degree amendment, to be spoken about now and considered at a later time. Is that the understanding of the Senator from Vermont?

Mr. LEAHY. Reserving the right to object, I want to make sure I fully understand. What is the request?

The PRESIDING OFFICER. There is no request pending.

Mr. LEAHY. I am sorry. I thought there was a request to lay aside my amendment.

The PRESIDING OFFICER. That request has been granted.

Mr. LEAHY. But then my—what is the parliamentary situation with my amendment? Maybe that is the best way to ask it.

The PRESIDING OFFICER. The Senator from Georgia obtained the consent to set aside the pending amendment in order to offer a first-degree amendment.

Mr. LEAHY. I understand.

Mr. SARBANES. Would the call for the regular order at the completion of the statement of the Senator from Georgia, or disposition of his amendment, bring back before the body the Leahy amendment?

The PRESIDING OFFICER. Yes, it would.

Mr. LEAHY. The Senator from Georgia spoke to me earlier. I do not want in any way to interfere with that. I do want to accommodate him. I just wanted to make sure, also for my own schedule, where we stood.

I thank the distinguished Presiding Officer and I thank the distinguished chairman of the committee and of course I thank the distinguished Senator from Georgia.

Mr. MILLER. I thank the Senator from Vermont and the Senator from Texas.

Madam President, there is a good old boy from down in Georgia named Jerry Reed, who went to Nashville several years ago and made it big as a tremendous guitar picker, singer, and songwriter. He had a big hit a while back. Maybe some of you remember it. It was called "She Got the Gold Mine and I Got the Shaft."

I thought about that song of Jerry Reed's as I watched what has happened lately on the corporate scene. The big shots of Enron and WorldCom and others, they got the gold mine while the poor employees and the innocent stockholders got the shaft.

If a picture is worth a thousand words, take a look at this gold mine. It was built partly on the backs of those Georgia schoolteachers who, each month, put their hard-earned money into the Georgia teachers' retirement fund. The fund in Georgia lost \$78 million from Enron and another \$6 million from WorldCom. Think how many monthly contributions by how many struggling teachers that represents. And think about those other thousands of employees who have lost their life savings, not even to mention the thousands of employees who have lost their jobs—at least 450 jobs were wiped out in Georgia alone so far.

Yes, a few big shots got the gold mine and a lot of little folks got the shaft.

I am as probusiness as anyone in this body. I yield to no officeholder when it comes to supporting business issues. As Governor and Senator, I have worked to give tax cuts and tax incentives and pay for the training of their employees—all to provide a probusiness environment in which the entrepreneurial spirit can thrive and prosper and create jobs. But, folks, there comes a time when so much greed and so many lies become so bad—even if it is only by a few—that something meaningful has to be done. We must act quickly to protect the investor, provide some security for the worker, and restore confidence in the marketplace because, make no mistake about it, today we have a crisis in the integrity of corporate America.

That is why I have worked with Senator SARBANES in perfecting his bill, and I strongly support it. I am pleased that it is before us this week. I also commend President Bush for making the strong recommendations he is going to be making in New York.

But I think we need to do at least one other thing, so I have a simple amendment. It is only two short paragraphs in length, but it goes to the

very essence of fairness. It simply says that, when the taxman cometh, we all—workers and high-dollar bosses alike—must face him just alike, without any go-betweens or liability firewalls or corporate veils.

This is how it would work. There is a standard tax form called 1040. I know there are more sophisticated ones for big business, but the principle I am getting at is the same. This is what it says:

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief they are true, correct and complete.

And then it is signed here by Joe Sixpack. Joe Sixpack of America signs those kinds of forms. There were more than 14 million of those forms filed in April. If Joe Sixpack is required to sign this oath for his family, why shouldn't Josephus Chardonay be required to sign that same oath for his corporation?

So my little amendment simply requires that henceforth the chief executive officer of all publicly owned and publicly traded corporations must sign the corporation's annual Federal tax return.

Currently, there is an IRS rule that corporations can designate any corporate officer to sign their tax return. That will not get it. Let's be specific. Let's put it into law: The CEO is the one who is to sign the tax return and must be accountable for it.

Where I come from it is expected that those being paid "to mind the store" should at least know whether the store is losing or making money.

Harry Truman had a sign on his desk in the Oval Office that said, "The Buck Stops Here." For Truman, it meant that he was accountable.

He took the blame. He suffered the consequences when things went bad.

For some of today's CEOs, it is just the opposite. They want no accountability. They shift the blame to others. They hide behind that corporate veil. And, it seems, they rarely if ever pay the consequences.

Their former workers cancel plans for their children to go to college while they sip from champagne flutes in their mansions in Boca and Aspen.

For these CEOs, Truman's famous sign has changed from "The Buck Stops Here" to "The Bucks Go Here."

Our system of collecting taxes is based upon the premise that individual taxpayers will take all steps necessary to ensure that the financial information in the tax return is accurate.

If Joe Sixpack fudges the numbers, he doesn't get a pass from paying penalties or going to jail. I find it outrageous that the same is not a part of the mind set for those in the corporate culture.

If any CEO is not willing to sign the company tax return—if they are not

willing to take steps to satisfy themselves that their corporation is accurately reporting financial information—then those CEOs have no right to the prestige and respect that goes with the position they hold.

What is good for the goose is good for the gander. So I urge my colleagues to simply hold our CEOs to the same standard that we now impose upon our average wage earners.

Treat them the same, "Treat 'em" the same. That is the American way. That is what the voters out there want us to do and that is what they expect us to do. "Treat 'em" the same.

And you can take that back home this summer and explain it. Some of these other reforms, I fear, will be more difficult to explain.

Treat 'em the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

S.J. RES. 34—APPROVAL OF YUCCA MOUNTAIN DEPOSITORY MOTION TO PROCEED

Mr. MURKOWSKI. Madam President, in accordance with the rules of the Senate as set forth in the Nuclear Waste Policy Act, the chairman of the Energy Committee, Senator BINGAMAN, introduced S.J. Res. 34 on April 9. The Committee on Energy and Natural Resources held 3 days of hearings. On June 5, the measure was favorably reported to the Senate.

As the ranking member of the Energy and Natural Resources Committee, pursuant to the recommendations of the committee and in accordance with the rules of the Senate as set forth in the Nuclear Waste Policy Act that contemplates Senate action within 90 days of introduction, I now move to proceed to S.J. Res. 34.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, during the last little bit we have been working on an orderly way to proceed on this matter. We knew before the break that the minority was going to bring this matter up, and we did not know exactly when.

I spoke a couple times yesterday with the distinguished Republican leader. I spoke to my colleague, Senator ENSIGN, on a number of occasions. And the day has arrived and the motion has been made. As a result of that, even though Senator ENSIGN and I are

extremely disappointed, this matter is now before us. It is here.

We think it would be best resolved as follows: I ask unanimous consent that there be 4 hours 30 minutes for debate on the pending motion to proceed, equally divided between Senator REID of Nevada and Senator MURKOWSKI, or their designees; that upon the use or yielding back of that time, the Senate vote on the motion to proceed; that if the motion to proceed is agreed to, then H.J. Res. 87 be read a third time and the Senate vote on final passage of the joint resolution; that the motion to reconsider that vote be laid on the table, and the preceding all occur without any intervening action or debate.

If I could say just one thing, Madam President, the reason that I felt so strongly, as did Senator ENSIGN, about this is it is important that Members have the benefit of some debate prior to this most important vote. So that is the reason. I appreciate the general tenure of what is going on here. I know there are strong feelings on both sides. Nobody is happy with what we are doing, but it is the best we could do.

Mr. LOTT. Reserving the right to object, Madam President.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. I do reserve the right to object but state in the beginning I would not and will not object. I think this is an appropriate way to proceed. This is something that has been fully disclosed to all on both sides of the argument. We certainly understand and respect the desire of the Senators from Nevada, Mr. REID and Mr. ENSIGN, to have an opportunity to make their case and to maximize their effort against this proposal.

I also made it clear that it was the intent of the proponents, with the leadership of Senator MURKOWSKI and others on both sides of the aisle, that under the law there is a time limit. We have to act on this issue by July 27 or, in fact, this proposal could not go forward. The veto of the Governor, in effect, would be upheld by inaction.

Not wanting to get squeezed down to the end of the session and having it unclear as to how we would proceed, we thought the fair thing to do to both sides was to say on this Tuesday, we would move to proceed to the issue which would be nondebateable unless agreement was worked out to the contrary.

As a result of that being what our intent was, the motion was made, and we have now worked out this unanimous consent agreement which is agreeable to all sides. There would be debate before the vote, and then there would be a vote on the motion to proceed which would be really, in fact, the vote. So this afternoon somewhere not later than 5:45, or perhaps earlier, as I understand it—Senator REID can maybe comment on this—there would be a vote on the motion to proceed.

While nothing else is precluded, it would be clearly my understanding that it would not be necessary to have a vote on final passage if the motion to proceed is agreed to. Everybody understands that is the vote. We have checked on both sides of the aisle, and this agreement is acceptable. That would be the vote.

Another good thing about this is it allows everybody to know when the critical vote will come. It also means, instead of 10 hours, we will go 4½ hours. There is no demand or desire that we go beyond that. Then we can get back to other business; hopefully, defense-related appropriations bills and the auditing bill and get that work done this week.

This is a fair way to proceed. Everybody is on notice. I am glad to work with the opponents and proponents to come to this agreement.

With that statement, I withdraw my reservation of objection.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. As the leader has indicated, both sides have sought to determine if there would be a requirement for a rollcall vote, and both sides have come back no. If there is anyone who attempts in the ensuing period to be mischievous in that regard for whatever reason, it would be very hard for them to get a second for that vote. I think we should go forward on this basis.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Madam President, let me echo the comments of the two leaders relative to what we have before us. I would like to point out in the spirit of cooperation, the motion to proceed is nondebateable. We have agreed on a 4½-hour time limit. It is my anticipation that we will yield some time back.

I just wanted to point out the reality that any Member could have brought this up for action. We worked with Senator REID and the other concerned Senators trying to reach some accord. We think this is a fair and equitable arrangement within the Senate prerogatives, particularly given the opportunity on both sides for 4½ hours of debate, and then expedite final disposition so we can move on to other business. I did want to point out, the motion to proceed ordinarily is nondebateable.

I yield the floor.

The PRESIDING OFFICER. Is there objection?

The Senator from Nevada.

Mr. ENSIGN. Madam President, reserving the right to object, and I will not object, I wanted to emphasize a couple of points. First of all, Senator REID and I obviously vehemently oppose this bill and oppose this bill even being on the floor today. Given the reality of what we were dealing with, we

knew that we could not delay this bill coming to the floor beyond the July 27 deadline that has been talked about. Because of that, we believed the procedural vote was so important that we have some debate prior to the vote. As Senator MURKOWSKI has pointed out, it is a nondebateable motion. We appreciate the cooperation of the other side because it is such a precedent-setting motion that we believed it was important to have the debate.

We appreciate the cooperation for this 4½ hours of debate prior to the motion to proceed, understanding that if our side loses that vote, it will automatically go to a voice vote and nobody is going to request—although not precluded—no one will request a recorded vote.

I will not object at this time.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, it is my understanding that the unanimous consent request has been accepted; is that right?

The PRESIDING OFFICER. The Chair has asked if there is further objection to the request.

Without objection, it is so ordered.

The Senator from Nevada.

ORDER FOR RECESS

Mr. REID. Madam President, I ask unanimous consent that the Senate stand in recess between the hours of 12:30 and 2:15 today for the weekly party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side as it will be for a short time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ENSIGN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. REID. Madam President, I yield time to the Senator from Nevada.

Mr. ENSIGN. Madam President, I start my remarks today by saying a lot of the information that I am going to talk about this morning on this procedural vote—I will be talking more about the substance of the issue this afternoon, but this morning on the procedural vote, a lot of the information has been gathered through hours and hours of research with the Congressional Research Service, with the former Parliamentarian of the Senate, Bob Dove, as well as several conversations with the current Parliamentarian.

I believe strongly this research is accurate and that the precedent we will

be setting is a very dangerous precedent.

Today's vote is not just about whether the Senate should allow nuclear waste to be dumped in Nevada. It is also about the authority of the majority leader, and the very meaning of a Senate majority.

According to the rules of the Senate, it is true, any member may offer a motion to proceed to a bill or resolution. In practice, we all know that's not the way it works. The Senate isn't governed just by rules; it is also governed by traditions. And one of those traditions is that the majority leader—and only the majority leader—can set the Senate's agenda by deciding which legislation will be considered. As Senator BYRD's history of the Senate makes clear, it is the exclusive role of the majority leader to "determine what matters or measures will be scheduled for floor action and when."

That's why—the rules notwithstanding—never in the history of the modern Senate has anyone—I repeat, anyone—other than the majority leader or his designee successfully offered a motion to proceed with legislation. It is simply not done.

Why? Because if such a motion prevails without the majority leader's consent, then his office has been impaired. His ability to control the agenda of the Senate—which is the basis of his power and that of the majority party—would be dealt a devastating blow.

That is why Senators of the majority party have always deferred to the majority leader's authority to set the Senate's agenda—and have voted with him to protect this power even when they disagreed on the substance of the issue at hand. Because they know that if they lose, what is at stake is their very power as the majority party. If any Senator can set the Senate agenda, then all the minority has to do to hijack the Senate agenda is convince a handful of Senators from the majority party to join them on any given issue.

Indeed, that is why, from time to time, the minority has sought to challenge the majority leader's power by offering motions to proceed. As a matter of fact, I believe the current majority leader did so when he was in the minority. He did so because he knew the consequences if he succeeded. And those high stakes were the very reason he was unsuccessful—because the majority party has always rallied around its leader.

We call today's vote a procedural vote. But it is in effect, a test of the power of the majority.

That being said, I suspect few on the other side of the aisle are jumping at the chance to proclaim the stakes in this vote because they hope, perhaps, that no one will notice—that it will be like a tree falling in the woods. If no one hears, perhaps it will not make a noise.

But this vote will make a loud noise—and will change the way the Senate operates. It will do so because—as of this moment—every Senator knows that even though the Standing rules of the Senate permit any Member can make a motion to proceed, no one has ever done it successfully, save for the majority leader or his designee.

After today, if the minority succeeds, it will be a different story. Each Senator will be able to decide how to interpret the results. Will it be OK for any Senator to offer a motion to proceed on any bill or resolution? Or just measures considered under expedited procedures, such as this bill? Or just those considered under expedited procedures which explicitly state that any member can make a motion to proceed? Take your pick, Madam President. Like beauty, this precedent is in the eye of the beholder. And that's what makes it so dangerous.

Our opponents argue that this is a unique circumstance. They are simply wrong. The procedure in the Nuclear Waste Policy Act is not unique.

There are many statutes containing expedited procedures. And 6 expedited procedures in current law, including the Nuclear Waste Policy Act, contain language that explicitly states that "any Member of the Senate" may offer the motion to proceed. That language merely restates the rules of the Senate. Still no one has ever successfully done so without the express consent of the majority leader.

There have been times when Congress has determined that is appropriate to override the traditional power of the majority leader to schedule the Senate's agenda, and this is important when this has been the will of Congress. Congress has passed legislation like the National Emergencies Act and the War Powers Act to do so.

The War Powers Act states that,

Any joint resolution or bill so reported (from Committee) shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents), and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

Madam President, unlike the War Powers Resolution, the nuclear Waste Policy Act does not make the resolution the pending business of the Senate. It does not take away the prerogative of the majority leader by making a resolution the pending business without any motion to proceed being required. Had the Senate wished to do so in this case it could have followed the language of the War Powers Resolution, but it did not.

Unlike this War Powers provision, there is no requirement in the Nuclear Waste Policy Act for Congress to take any action with regard to the Yucca Mountain resolution. The procedure spelled out in the Nuclear Waste Policy

Act is not required; it is merely permitted. In other words, it is left up to the majority leader whether or not to proceed.

Indeed, the Nuclear Waste Policy Act anticipates that a vote on the Yucca Mountain resolution might not occur that it might be blocked. That is why, if the deadline passes, then the statute giving the State of Nevada a veto will have been carried out. That was part of the 1982 compromise.

The junior Senator from Alaska stated that he does "not know that it really matters very much" who makes the motion to proceed to the Yucca Mountain resolution.

Well, I say that it does matter. It matters very much. The majority leader has made clear he opposes proceeding with this legislation. He has staked his reputation and his office on this matter. I—and the people of Nevada—appreciate his courage in doing so.

So let me be clear: any Senator who offers a motion to proceed in this matter is posing a direct challenge to the powers of any majority leader. For the majority leader to lose such a vote would be unprecedented.

As I said, it may be in my interest as a member of the minority to see the majority leader lose such a vote. But the majority leader has put a lot on the line for Nevada, which is why I am standing here today—a Republican Senator—defending the prerogatives of the Democrat majority leader.

I am doing so because this issue is the most important matter for the State of Nevada to come before the U.S. Senate. No single issue unites Nevadans—no single issue transcends region, political party, or industry—like our fight against becoming the Nation's nuclear dumping ground.

In conclusion, let me restate how important the precedent we are setting today is if the majority leader is overruled. Every Senator needs to reflect on this vote very carefully because this vote could literally change the entire way the Senate operates. Many people believe this issue is vitally important. Some of us believe it is wrongheaded, as I do.

Regardless of how one Senator feels on this issue, the procedures of the Senate need to be preserved. The precedent set today will be a dangerous one and the unintended consequences in the future could be very dire. I encourage all my fellow Senators to think long and hard before they vote. It is not just a vote on whether or not to proceed on Yucca Mountain but a vote on violating the rules of the Senate.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Alaska.

Mr. MURKOWSKI. Madam President, I yield myself such time as I may require.

Let me first point out that it has been a long time coming. We have been approximately 20 years on this issue of nuclear waste, and we are moving in an orderly process, but I feel compelled to respond to my good friend from Nevada on the point on which he most eloquently commented relative to the authority of the majority leader in cases of this nature.

I am going to comment on the motion to proceed, and I think what my colleagues need to understand is that despite what has been said, we are proceeding under Senate rules, make no mistake about it. This particular provision was identified under procedures set forth in the Nuclear Waste Policy Act. They were very carefully developed and adopted as part of the rule-making powers of the Senate.

I quote that portion to address the concerns of my friend from Nevada.

They are deemed a part of the rules of the Senate.

We are not excluding the rules of the Senate. We are not excluding the authority of the majority leader. This procedure is deemed part of the Senate rules. So I hope we can put to rest the matter that somehow we are violating or circumventing Senate rules.

Some have objected to the provision that allows any Member to make the motion to proceed, but they forget, or perhaps ignore, the history of the provision and how integral it was to the 90-day limit on congressional consideration.

This came before the Senate in 1979 and 1980 when the Senate and House were attempting to resolve this issue, as we are today. That provision was considered and passed by the Senate.

Further, it was included in the nuclear waste measure that was introduced in 1981 by then-Chairman Jim McClure of Idaho, who had assumed the chairmanship of the committee. It was also included in legislation offered by Congressman UDALL on the House side, and it was included in the substitute amendments that were reported from the Energy Committee and the Environment and Public Works Committee which had joint referral of the legislation.

It was included in the legislation that passed the Senate in April and then was included in the final legislation that was enacted in December of 1982. It was part of the proposal insisted on by Senator Proxmire, Senator Mitchell, and others who wanted a stronger State veto provision. It was, in fact, what made work the compromise suggested by Congressman Joe Moakley, the chairman of the House Rules Committee.

I find it somewhat off the point, if you will, and kind of a diversion that some are speaking about violating the integrity of the Senate when we are moving a bill in line with what the Senate had already adopted. Again, I

refer to the Nuclear Waste Policy Act and the manner in which this process was considered under the rulemaking powers of the Senate, and included in the rule are the words, "... are deemed to be part of the rules of the Senate."

Let me comment briefly on the role of the majority leader. I have the utmost respect for procedure and traditions. As to the role of the majority leader, there should be no misunderstanding that this process does not in any manner detract from his authority or responsibility. By its very terms, this process applies in the situation of a resolution of approval only under the Nuclear Waste Policy Act and no other situation. So no Member of this body should be misled. This process applies only to the situation of a resolution of approval under the Nuclear Waste Policy Act.

This resolution should not come as any surprise to any Member. All sides have known this was coming since last year. We certainly have not circumvented the procedure. Once the Secretary of Energy made his recommendation to the President, we all took out the calendars and figured out that 90 days would expire sometime before the end of July, specifically July 27. The majority leader was very much aware of this timeframe. Madam President, that day fast approaches.

The chairman of the committee introduced the resolution as required by law, and we had a fairly good idea of exactly when the Senate needed to act. Throughout the process—hearings, full committee consideration, and reporting—the majority leader has been aware of the status of the legislation and the need for the Senate to act, indeed, within the statutory timeframe.

The majority leader has also been aware of the desire of the chairman of the committee and mine as ranking member, together with other Members of the Senate who support the resolution, to find a time that was convenient for him, given his responsibilities to schedule activities on the Senate floor.

The majority leader's office, in fact, proposed a unanimous consent request almost immediately after we reported the resolution to the floor. We responded, and there have been several attempts to work out a suitable time and schedule as well.

It should not come as a surprise, Madam President. Everyone in the Senate knows what the issue is and what the issue is not. No one is trying to undermine the majority leader. No one is trying to circumvent the Senate rules.

When I brought the nuclear waste legislation to the floor last Congress, I tried to fully accommodate the desires of my colleagues from Nevada, and I certainly intend to see that they have every opportunity to express their concerns today.

I also advise my colleagues again that under the motion to proceed, which is nondebatable, we have agreed to a reasonable debate, 4½ hours. This shows good faith on the part of those of us who believe this matter should be brought to a head and resolved.

As I indicated, the motion to proceed is nondebatable. We could have relied on the statute to proceed, but we have worked out a satisfactory compromise that is fair and equitable. I think the method under which we are proceeding is a fair one, given the circumstances, but I want everyone to understand that we have gone the extra mile to accommodate procedure, the majority leader, each Member, and of course our friends from Nevada.

Provisions in the Nuclear Waste Policy Act are there to allow the leader to decide that he would not make the motion to proceed but allow someone else to do it. I did that this morning by proposing the motion to proceed, and we have now agreed on a procedure.

We have a choice to make. The Senate will today decide very simply whether we should permit the Secretary of Energy to apply for a license to operate a repository at Yucca Mountain.

Madam President, I am going to yield the floor at this time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Who yields time?

Mr. SPECTER. Madam President, I inquire of the distinguished manager if I may ask him a question or two. I discussed this with Senator MURKOWSKI.

Mr. MURKOWSKI. I will be happy to respond to my friend from Pennsylvania.

Mr. SPECTER. Madam President, I thank the distinguished Senator from Alaska.

The question of concern to this Senator and I think many others is the issue of safety in transporting this nuclear material. What are the plans in the general sense? That is, how will the material be transported? By truck? By rail? And in a general way, what will the routes be? Will they pass through densely populated areas?

Mr. MURKOWSKI. In response to the Senator from Pennsylvania, under the licensing process, I emphasize the action we are taking today does not address the transportation system or the procedure associated with the transportation system. That would come under the licensing process which takes place at a later time.

All we are authorizing today is the procedure to allow the Secretary to apply for the license. So the licensing process will in great detail examine all parameters associated with transportation safety, the manner in which the waste will be not only transported by rail and by truck but containers, and the safety of the containers to ensure they can withstand any anticipated exposure associated with derailment or whatever.

What we have in the transportation of nuclear waste is a number of historic examples of moving spent nuclear fuel. We have had about 2,700 shipments in the last 30 years. The distance these have been shipped totals almost 2 million miles. There has not been a single release of radioactivity.

Now, in other parts of the world—in Europe—they have shipped over 70,000 tons in the last 25 years. The estimates are 175 shipments to Yucca Mountain will take place over a 24-year period. I could go on and enlighten my friend at great length relative to the procedure, but I emphasize what we are doing today is giving the administration and the Secretary the authority to proceed with the licensing. The licensing will address the transportation issue.

I am happy to respond to further questions.

Mr. SPECTER. Madam President, my next question is, is the Senator from Alaska in a position to respond to what the tonnage would be, over how long a period of time, and how many shipments there would be to handle the nuclear waste involved in the projection for being a repository of Yucca Mountain?

Mr. MURKOWSKI. That Department estimate is 175 annual shipments to Yucca Mountain.

Mr. SPECTER. Over how long a period of time?

Mr. MURKOWSKI. Over 24 years; that is 4,300 shipments. In comparison to 300 million hazardous material shipments that take place annually in the United States today with no notice given because these are military shipments associated with the breakup of reactors, most associated with our nuclear Navy fleet.

That is strict guidelines for the Nuclear Regulatory Commission and the Department of Transportation. In testimony before the Senate Energy Committee, both the NRC and the DOT testified they can and will take all precautions necessary for safe and secure transportation. As I am sure the Senator from Pennsylvania is aware, the transportation is in nearly impenetrable casks. For every 1 ton of spent fuel there are 4 tons of protective shielding. The casks have to pass the test to ensure there will be no breach. Tests show they can withstand a 120-mile-per-hour crash into a concrete wall and prolonged exposure to fires at 1,475 degrees.

Some of that will depend, of course, on routing and volume. But 175 shipments is a responsible estimate.

Annual numbers, as I indicated, depend on transportation plans and the combination of truck or train is not yet decided. This will be decided under the licensing process. It is fair to say we will have another opportunity for input on the adequacy of the transportation plan once the licensing process is undertaken. The action of the Senate today will lead to that next step.

Mr. SPECTER. Madam President, when I inquire as to the next step, the Senator from Alaska comments we will have another opportunity to make an inquiry. Will these procedures, if I may inquire of the Senator—

Mr. MURKOWSKI. It is my understanding—

Mr. SPECTER. Let me finish the question.

Having been here for 22 years, having come to the Senate the same day, we can almost communicate without speaking very much. But my question goes to the issue of another vote here. You say we will have another opportunity. Will there be something presented to the Senate where we have an opportunity to vote on our views as to the adequacy of the safety procedures?

Mr. MURKOWSKI. It is my understanding there will not be another opportunity for a vote. The licensing process is a procedure under the Nuclear Regulatory Commission that will examine and certify the safety of the transportation mode, but there will not be another opportunity for a vote.

Under the rules of procedure we have outlined, this is quite explicit. It allows the licensing process to go ahead. The licensing process will determine the adequacy of transportation and safety. We should recognize we have moved nuclear waste, military waste—primarily military waste—throughout the country for many years and have done it successfully. There is no reason to believe we cannot use transportation methods we have and technology we have to move high-level nuclear waste to one site as opposed to leaving it in 131 sites in 34 States.

Clearly, the Yucca Mountain provision which identifies it at one central location and without transportation, obviously, is going to have to stay in the States where it currently is located, which were not designed for a permanent repository.

Mr. SPECTER. Madam President, another couple of questions. In the absence of a vote, my question to the Senator from Alaska would be, What congressional oversight is possible? Sometimes licensing procedures are fine and sometimes they are not, but they do not have the assurance which this deliberative body can apply.

So my specific question is, What level of oversight would the Senator from Alaska envisage with the licensing procedures?

Mr. MURKOWSKI. I would like to give my friend from Pennsylvania the comfort that suggests we are the parties in making a determination of safety. We certainly have the obligation of oversight. But the appropriate agencies that have this responsibility are the Department of Energy, the Nuclear Regulatory Commission, and the Department of Transportation.

They have the obligation to address, if you will, transportation procedures,

safety, routing, the manner in which casks are stored and safeguarded. It is fair to say that the National Academy of Sciences is a participant in the process as well.

What we have is the very best science, engineering, and technology to address the legitimate concerns of the Senator from Pennsylvania. I personally believe they have the expertise, the experience, and have certainly a record that suggests there has not been an accident. It does not mean there couldn't be, but all the necessary precautions within reason have been taken.

Of course, in comfort to the Senator from Pennsylvania, again, we have legitimate oversight of the agencies I have named and will continue to have and maintain that which I would hope would be sufficient to meet the concerns of the Senator from Pennsylvania.

Mr. SPECTER. My final question relates to the issue as to the precautions in the event, perhaps unlikely, that there would be an accident. What assurances are there, if it should happen, for example, in Russell, KS, my hometown—what could happen in Alaska could happen in the hometown of the Senator from Alaska—

Mr. MURKOWSKI. If I could respond, I would almost make sure the waste would not go through my State or through Russell, KS.

Nonetheless, it is a legitimate question. In the Nuclear Regulatory Commission proceedings there is obviously work in progress where there would be a response procedure associated with any inevitability of an accident at any time. That is part of the responsibility of the Nuclear Regulatory Commission, and they would work, of course, with Federal and State agencies to respond. It would involve the Department of Transportation and the Department of Energy. These procedures are already established.

Again, recognizing the movement of this waste over a period of time, there would be an increased degree of sophistication because, unlike military waste, which moves with little notice, clearly it would be known when nuclear waste was moving from reactors to the Yucca Mountain site so there would be special escorts, special procedures, and so forth, to safeguard it because it wouldn't be done without the knowledge, obviously, of the public.

What precautions are taken are outlined in the spent fuel transportation procedure, which has been put out by the Department of Energy, Office of Public Affairs. I would be happy to share this.

It is a lengthy list of what precautions the Government has taken in transportation routing. It covers routing, it covers security, it covers tracking, it covers coordination with State officials, as well as State participation.

It involves training procedures. It involves what the Government is doing with emergency procedure assistance. It identifies the specific States, proposed routing, casks, and so forth. I am further advised there is a certification here by the Chairman, Mr. Meserve, of the Nuclear Regulatory Commission. It reads as follows:

Federal regulation of spent fuel transportation safety is shared by the U.S. Department of Transportation and the Nuclear Regulatory Commission.

It relates to the transportation of all hazardous materials. It further goes on to say:

For its part, NRC establishes design standards for the casks used to transport licensed spent fuel, reviews and certifies cask designs prior to their use. Further, cask design, fabrication, use and maintenance activities must be conducted under an NRC-approved Quality Assurance Program.

NRC has reviewed and certified a number of package designs. . . .

We believe the safety protection provided by the current transportation regulatory system is well established [and they] continually examine the transportation safety program.

I think that pretty much addresses the input, the testimony at the hearings by those responsible for oversight.

Mr. SPECTER. Mr. President, I thank the Senator from Alaska for those responses.

Mr. MURKOWSKI. I yield the floor.

The PRESIDING OFFICER (Mr. MILLER). Who yields time?

Mr. ENSIGN. I wonder if the junior Senator from Alaska will yield for a question.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. ENSIGN. Will the Senator yield for a question?

The PRESIDING OFFICER. Does the Senator yield?

Mr. MURKOWSKI. I am happy to yield.

Mr. ENSIGN. While the Senator from Pennsylvania is still here—this was part of the hearing. I think it is something important for us to get cleared up.

The 175 shipments per year the Department of Energy—and you have mentioned this morning that has been a common number that has been tossed around. The piece of paper I have in my hand is page J-11. It is from the final EIS statement. I am sure your staff has a copy of this. This is part of the final EIS statement from the Department of Energy, table J-1, a summary of the estimated number of shipments for the various inventory, national transportation analysis scenario combinations.

They go through the various types of ways that we would ship and the minimums and maximums.

From what I understand, the 175 per year would be if every shipment was in dedicated trains, which the Department of Energy so far has been opposed to because of the expense of dedicated trains.

The other thing is that we have no rail built in Nevada to make possible the rail segment or the rail scenario. You have to have the rail built in Nevada to be able to go from rail to rail, and there is no rail leading to the Nevada Test Site.

The reason I bring this up, and the reason I would like at least to have this on the record as part of the Senate debate is because it is huge amounts more of shipments, from what I understand, unless it is all dedicated trains. Is that the Senator's understanding?

Mr. MURKOWSKI. I think, in response to my good friend from Nevada, he has to understand where we are. The licensing plan will address the legitimate mass questions because there is no rail into the area. That is going to come under the licensing plan. But there is a Union Pacific route that is adjacent to the area. It would not be difficult to put a spur in. This was discussed in hearings and so forth.

Mr. ENSIGN. It is about 400 miles it has to go, 300-some depending on the route, it may have to go, from the Union Pacific to the Nevada Test Site.

Mr. MURKOWSKI. This line of consideration, while appropriate, is really part of the transportation plan which will come out of the licensing procedure. That is not what we are here for today. We are here to advance the process so the appropriate agencies can address whether they are going to issue a license. They might not issue a license. But what we are doing is giving the authority for the administration to proceed to try to obtain a license. That will be from the Department of Transportation, it will be from the Nuclear Regulatory Commission, and it will be from the Department of Energy. And they will address the questions of how access is provided, whether it be by rail or certainly truck is available as well; we can talk about these things, but these are all proposals that are going to be addressed in due course.

Mr. ENSIGN. Mr. President, if the Senator will continue to yield, the reason I brought it up and the reason I thought the question of the Senator from Pennsylvania was so appropriate is because this stuff that may be proposed is very important, first of all, because the cost of rail is not included in the Nuclear Waste Policy Act. The cost of the rail into the Nevada Test Site is not in the budgetary projections.

The second thing is that if a Senator is voting on whether this thing is going through—in other words, if I am a Senator from Pennsylvania, and I have a couple of nuclear powerplants, but I know I have a lot more shipments may be coming through my State—if I think there are only going to be 20 shipments a year through my State versus maybe 1,000 shipments through my State, that may make a difference on how I would vote.

Mr. MURKOWSKI. Mr. President, if I could point out, I do not mind respond-

ing to questions, but we are dividing time here. It is important, if the Senator from Nevada wants to speak, it is on his time.

Mr. ENSIGN. That is fine. If Senator REID has control of the time, it is fine with us.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, Senator BOXER is due here any minute. I was waiting for her to speak. She is not here. I ask my friend from Nevada if he wants an extra 5 minutes now, or would he rather wait.

Mr. ENSIGN. Mr. President, 5 minutes now I would really appreciate.

Mr. REID. Mr. President, let me say to my friend from Idaho that I hope the Senator from California will be here at that time. If she is not, I will yield. But Senator MURKOWSKI could yield some time. I yield 5 minutes to the Senator from Nevada.

Mr. MURKOWSKI. Mr. President, what is the remaining time on either side so we can start off anew relative to where we are?

The PRESIDING OFFICER. The Senator from Alaska controls 106 minutes, and the Senator from Nevada controls 125 minutes.

Mr. MURKOWSKI. Mr. President, I understand that after the Senator from Nevada speaks, the Chair will recognize the Senator from Idaho.

Mr. REID. When the Senator from California is here, I have explained to the Senator from Idaho that she would go first.

Mr. MURKOWSKI. That is fine.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, if the Senator from Alaska would engage, I think it is an important part of our discussion.

The point I was making was that if a Senator were worried about transportation coming through their State—it seems to be one of the biggest issues, and I think it should be one of the biggest issues, if people are thinking about the way to vote on this issue—it is important to know how many shipments, or approximately how many shipments, or the types of shipments that are going to be coming through the State.

As the Senator from Alaska has said, that is going to be determined in the future. But as was pointed out, the only chance for the Senator from Pennsylvania to vote is today. Today is the only chance to vote on whether or not I have 20 shipments coming through my State or whether I may have 100 shipments coming through my State. The numbers can be that different.

Once again, based on table J-1 on page J-11, in the final EIS report, if we have a mostly truck scenario just on one of those proposed actions, we would have 52,000 shipments over the period of time that Yucca Mountain is

open. Under mostly rail, we would have around 11,000 shipments. When we have dedicated trains, the numbers go way down. But these aren't dealing with dedicated trains. In fact, the final EIS Department of Energy report did not contain dedicated trains.

That is the reason I was asking the question and why I wanted to get it cleared up. If we don't know we are going to be using dedicated trains, how can the Senator from Alaska and others, including the Senator from Pennsylvania, say there are 175 shipments per year? We toss that number around as if it is a fact when, in fact, it is not a fact. It is something that is conjecture, pure conjecture, from the Department of Energy based on dedicated trains when they are not even putting that in their final EIS report.

The Senator can answer it on my time. If the Senator from Alaska would like to comment on that, I think it is very important to try to clear this up, because when the Department of Energy testified, they certainly didn't clear this up in the committee.

Mr. MURKOWSKI. This is an estimate. It is all it can possibly be at this time because, clearly, we do not ship this material. We have had experience in shipping in the United States. We had 2,996 shipments of spent fuel under the authority of the Nuclear Regulatory Commission from 1964 to the year 2000. We have shipped that waste 1.7 million miles. There it is on the chart. Low-level radioactive waste—you can see it on the chart—896 shipments. That is what we have done in the past.

I cannot in good conscience do anything more than submit what we have been given as an estimate of the number of shipments. I will not make a determination as to whether that is factual, but it is their best estimate. There is no reason to believe it should not be relatively accurate.

Mr. ENSIGN. Mr. President, reclaiming my time, the Senator said there were the 175 shipments as a statement of fact. He said, as a matter of fact, he is relatively sure of that statement. Because he said he was relatively sure of that statement—

Mr. MURKOWSKI. I think in this interpretation I used the word "estimate"—an estimate. It is all it can possibly be. It couldn't be anything else other than an estimate because it is has not shipped.

Mr. ENSIGN. Except, according to the EIS—and I don't know whether the Senator will address the EIS—on dedicated rail, it is around 175 shipments per year. According to their EIS, they don't use 175. That is only if it is dedicated rail.

Mr. MURKOWSKI. If I may respond to the Senator from Nevada, that may be only dedicated rail. There are other alternatives other than rail.

Mr. ENSIGN. Correct.

Mr. MURKOWSKI. What those might will be determined by the licensing process. But I would encourage my colleagues to recognize the reality here: Do we want this waste to stay where it is or do we want to move it to one central repository? You don't get it to a central repository and out of the States unless you move it.

Mr. ENSIGN. Mr. President, I understand my time is up. I think this is an important question which we will have to deal with a little more this afternoon. I yield the floor so the Senator from Idaho can be recognized.

Mr. REID. Mr. President, the Senator from California is not here. I ask the Senator from Alaska to yield time to the Senator from Idaho.

Mr. MURKOWSKI. Mr. President, might I ask how much time the Senator from Idaho is going to require?

Mr. CRAIG. I will consume the remainder of the time.

Mr. MURKOWSKI. I yield the remainder of the time for this morning to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 15 minutes.

Mr. CRAIG. Mr. President, already this morning we have seen an example of the kind of record that is attempting to be made in part by the Senator from Nevada who would, first, argue a procedural issue that I and others, including renown Parliamentarians, argue does not exist. Clearly, the Nuclear Waste Policy Act of 1982 established an extraordinary procedure—not a precedent-setting procedure. Parliamentarians have agreed that is the case.

But even today, as the Senator from Alaska has mentioned, we have been willing to shape that to accommodate the Senators from Nevada to allow debate on a motion to proceed prior to that vote. Clearly, the majority leader was not engaged on the floor. He already engaged us by saying he would not schedule a vote. He has walked away from his responsibility, if in fact it was there. I would argue that it was not there. Any Senator, by an act of Congress and by the law of the United States, could have done this.

When we talk about precedent-setting action on the floor of the Senate as it relates to the rules of the Senate, we talk about the normal processes of configuring the schedule. I agree with the junior Senator from Nevada on that statement. This is not a precedent-setting action today. In fact, I think those who have observed it have recognized the kind of flexibility and give and take and the responsibility that this Senate had to take under the 1982 law.

I believe the record will be complete. I do not believe that complete record in any way can or will demonstrate that future Parliamentarians would argue that a precedent has been set. Quite the opposite has happened. The Senate

of the United States voted in 1982 to establish a process. Therefore, the Senate collectively spoke. It was clear in its speaking that a motion could be placed. And the reason they did that was very clear. They did not want a single person, a majority leader, Democrat or Republican, blocking the responsibility of the Federal Government as it related to a necessary step in the process of determining whether this Nation would establish a deep geologic, high-level waste nuclear repository; that it was more important than one Senator, in that case the majority leader.

It set in place a time schedule. It even gave the State of Nevada—the two Senators are on the floor speaking in behalf of phenomenal power—the power to veto. They have vetoed this. But even in that case, it did not allow a total State prerogative because this is a national issue of very real importance. And that is why we are on the floor today.

We can debate procedure, if we want. But I think that is clear and it has been well established, and several Parliamentarians argue on either side of the case.

What is clear is a law, and a law clearly stating and a law being passed by the Congress itself and signed by a President. That is what is important. It is from that law that we act today. But because, as the Senator from Nevada has spoken, we wanted and we believed it most important to accommodate my colleagues from Nevada—as I would want to be accommodated if this were happening in my State—we have given that kind of flexibility inside the law by a unanimous consent. And it is under that action that we are currently debating Senate Joint Resolution 34.

What are we doing today? We are taking another step forward. This action today does not, in itself, establish a deep geologic repository for high-level nuclear waste at Yucca Mountain in Nevada. It says that we, the Senate, agree with the Department of Energy that a certification process has gone forward to determine the minimum standards and capabilities of geology and water tables and all of those kinds of things to meet tremendously high level protocol, and now we hand it forth into the next step, and that is licensure.

The Senator from Pennsylvania is concerned about transportation, as he should be. But the Senator from Alaska responded appropriately. That is part of a very meticulous effort at licensing a facility, how it will be constructed, under what conditions it will be constructed, how the waste will move from the State of Pennsylvania or from the State of Idaho to that facility.

Yes, we have ample oversight capacity and capability, and we ought to exercise it. I serve on the Energy Committee from which this resolution

came. I want to make sure the Nuclear Regulatory Commission handles that transportation portion of the licensing well. We also have multiple jurisdictions—the Department of Transportation. Therefore, Environment and Public Works will have some say in oversight.

Will there be another action or another vote? No. That is not prescribed within the law. But I also know the State of Nevada is not through either. They will exert phenomenal oversight, as they should, as this process goes forward if—the Nuclear Regulatory Commission determines that a license is appropriate for this facility under all of these kinds of conditions.

I would suggest that we have also spent \$4 billion. And \$4 billion is an important figure. It was not our money. It was not taxpayer money. It was ratepayers' money from the 39 States that have commercial nuclear reactors operating power-generating facilities who have paid into a fund to take us this far, a fund that continues to grow, and a fund that will, in large part, finance the construction and the operation of this facility.

So we are taking the next step, the important step. I must tell you, a vote today on a motion to proceed is a vote to take the step or to not step at all. If we do not, we step back 20 years—20 years—into a debate about how to manage high-level nuclear waste with commercial facilities, and temporary repositories filling up with waste as we speak.

Do we say, if we do not speak today, there will be no future for the nuclear industry in this country? Well, we certainly say we have no resolution of how to manage its high-level waste stream, except to leave it in well over 100 facilities spread across 39 States.

Will the States then respond by allowing additional repositories to be built in those States when they were promised that those were the only repositories and that high-level waste would move out and move to a permanent repository, as the Congress decided, in a single location? Those are the unknowns.

But what is known today is that the 20 percent of the electrical energy of this country that is generated through nuclear reactors is the cleanest electrical energy outside of hydro in the United States. Some who are concerned about climate change and want even cleaner energy—and this Nation demanding even higher volumes of high-quality electrical energy—are recognizing that, at least under current and immediate-future technology, the nuclear industry is the right industry to turn to for advanced generation.

So do we want to walk away from that industry today, as we will if we vote down a motion to proceed? Or do we want to take a step forward in a licensing process that says the whole in-

dustry can move to, potentially, a future opportunity of producing 25 or 30 or 40 percent of our electric energy needs of this country in a clean and responsible fashion?

Let me talk for a few moments about transportation. I do not fear transportation. The reason I do not fear transportation is the history of transportation of radioactive materials and high-level waste in this country. There have been 2,700 shipments, over the last 30 years, of spent nuclear fuel; some 300 million hazardous and radioactive shipments annually in this country; and there are currently about 3 million shipments annually of radioactive material in this country. So there is a lot of movement going on.

So why the alarm? It is a tactic. It is an alarmist political tactic to try to kill this very effort. Should we be concerned about transportation? You bet we should. But we have a very good record to date of a lot of movement of nuclear waste in this country and radioactive material in a safe and sound fashion.

The reason is quite clear: Because the Federal Government has demanded from day one that those shipments be done in extraordinary ways, extraordinary super-built containers, much of it traveling by rail. The high-level waste that comes to Idaho is naval waste. It comes by rail. But the low-level waste that leaves Idaho leaves by highways in very well designed, tremendously strong containers, and well-managed, selected routes, all of it guided and monitored by GPS. It is tremendously safe today as that waste goes from Idaho to the Waste Isolation Pilot Plant in Carlsbad, NM.

Yes, we have a right to be concerned, but we do not have a right to use alarm and fear where they should not exist. But we have a right to do what is responsible to keep it out of our populated areas, to move it in appropriate fashions in less populated ways.

The Senator from Nevada speaks about rail and an appropriate and safe way to handle it, well demonstrated, well proved. And the Nuclear Regulatory Commission may well want even enhanced containers. But what I would suggest is that if we fail to act today to determine the next step, and many of these utilities go to a private location and establish a private repository—as some are now contemplating—then there is a strong possibility that, in a much less regulated way, in a much less orchestrated and monitored way, we will see nuclear waste moving across this country simply because we failed to act and failed to organize and failed to respond to a highly regulated, highly controlled, and highly monitored transportation system.

Those are the realities of where we are today with this industry and where we are today with the volume of nuclear waste, high-level spent fuel nu-

clear waste that is building up in repositories across the country. It isn't damned if you do and damned if you don't. It is a responsible and important step to take to move this resolution through to a licensing procedure which will then have full transparency, which will then have the ability of the Senate of the United States and the House to do the kind of oversight necessary to make sure that we can recognize what both Senators from Nevada, who are in the Chamber, need: The best assurance possible, in a zero sum game, if you can get there, that this has been done to the maximum capability of the engineering talent of the best we have to offer.

The 10,000-year protocol established all of those kinds of things that meet the standards that are so critically necessary to do what is right and responsible for this country: store our high-level waste in a deep geologic repository; cause the next step to happen; advance the future of the nuclear industry; advance clean electrical energy for our country well into the future.

It is a responsible act that the Senate undertakes today to allow that very kind of thing to happen. I hope this afternoon, when we have an opportunity to vote on the motion to proceed, which, in fact, is a vote on whether we will allow the process to go forward, a majority of the Senate will vote in favor of that motion to proceed.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, at 12:30 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Ms. STABENOW).

APPROVAL OF YUCCA MOUNTAIN REPOSITORY—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Madam President, I yield myself 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Madam President, the Senate today is faced with an important decision about whether to ship extremely hazardous, high-level nuclear waste to a permanent repository in Yucca Mountain. Let there be no doubt in anyone's mind, I would like to see this nuclear waste shipped safely out of Minnesota. I wish I could responsibly vote to support this resolution. I regret that I cannot today vote in favor.

I have consistently said that before the Department of Energy and the Congress make a final judgment that we

are ready to begin shipping high-level nuclear waste to a repository, there should be a carefully thought out, detailed plan in place, approved by the NRC and the DOE, to transport this radioactive waste and to manage all of the risks associated with that transportation.

Although it has had over 30 years to do so, the Department of Energy has failed to develop such a safe—I emphasize “safe”—waste transportation plan.

While I want this high-level nuclear waste out of our State and think Yucca Mountain may very well be the most sensible location, I don't think we should move forward and commit ourselves irrevocably until we have all of the transportation and security issues addressed.

Therefore, I have come to the conclusion, through a careful examination of congressional testimony, meetings with DOE officials, including the Secretary of Energy, State energy officials and local leaders, that there are too many uncertainties, too many unresolved issues, and the risks are simply too high for the citizens of Minnesota.

I cannot now support this resolution. We urgently need to develop a comprehensive waste transportation plan and policy that protects the health and safety of local communities and all Americans. We should have such a plan in place before moving forward on a permanent repository plan.

It is unacceptable to me as a Senator that the Department of Energy has ignored the very real and daunting task of developing a secure, comprehensive transportation plan before seeking to authorize the Yucca Mountain site.

The simple fact is, the Congress should not be considering nor should the DOE have recommended authorization of the Yucca Mountain site before State and local officials were consulted and a comprehensive transportation plan has been finalized which takes into account their concerns and the people they represent.

Madam President, even though the Department of Energy has had years to develop such a plan, they don't have one. By the way, I thank Secretary Abraham. I have talked with him over the phone. He has been very gracious, and I appreciate that. But when he testified May 16, 2002, that the “Department is just beginning to formulate its preliminary thoughts about a transportation plan,” to me, that is not enough for my State or the country.

The Department spent \$7 billion looking into Yucca Mountain geology but less than \$2 million on the transportation of the nuclear waste. That works out at less than \$10 million a year for the last 20 years. This is a fundamental flaw in the Department's approach. So, to me, failing to plan for the safe and secure transport of nuclear waste before approving the repository site would be irresponsible.

I recognize the industry has had a generally safe record of transporting small amounts of nuclear waste over the last 35 years. But shipments to Yucca Mountain would be at an unprecedented level. The Department of Energy estimates that transportation to a central repository could involve the shipment of more than 46,000 tons of high-level radioactive nuclear waste across 40 States in 53,000 trucks or 20,000 railcars. It is worth noting that even if the shipments were to begin today, there are more than 200 million Americans living in the 700-plus counties that are traversed by DOE's potential roads and rail lines. The population is only going to grow, and grow more quickly, during the time DOE needs to move nuclear waste across the country.

Beginning in 2010, the DOE estimates that over 1,000 truck and rail shipments of nuclear waste could well travel through Minnesota, through our most populated cities and towns such as Minneapolis-St. Paul, Mankato, Rochester, and the Twin City suburbs. So 683,000—looking at the proposed route—Minnesotans would live within 1 mile; 2,213,612 Minnesotans would live within 5 miles; 3,121,718 Minnesotans would live within 20 miles. That is about half of the State's population.

This raises a very important and yet unanswered set of questions about the risks of possible accidents or terrorist attacks, and how local communities through which the waste would travel would manage the risk. That is why the Conference of Mayors passed a resolution just this past June expressing serious concerns about the issue and urging the Congress to prohibit the transport of waste until all cities—I include Minnesota cities and towns—along the proposed transportation route have been consulted and have received adequate training and equipment to protect the public health and safety of the citizens in the event of an accident.

Again, I thank the Department of Energy and I thank the Secretary for his graciousness. Unfortunately, DOE has yet to hold any public meetings in recent years in Minnesota on the topic of, again, where is this going to go, what kind of training is there going to be, and how are we going to prevent an accident? To me, this is a key issue.

Example: The DOE environmental impact statement maintains that shipping high-level spent fuel casks on mixed general freight trains is acceptable. This would permit casks of high-level nuclear waste to be mixed among cars of corn, soybeans, autoparts, and other goods. I am concerned that the DOE's regulations appear to be market driven; mixed freight trains are cheaper than dedicated trains.

As the American Association of Railroads testified, DOE's position is “driven, no doubt, by economic consider-

ation.” But the safe transportation of these highly toxic materials must take precedence over any cost considerations. I agree with the American Association of Railroads that dedicated trains would be a safer and more prudent alternative. I would like to have that laid out for me before we have a final vote on the repository.

Madam President, I believe a transportation plan for nuclear waste shipments should have a “zero accident” goal, but as yet the DOE doesn't even have a plan. A zero accident goal would reflect a culture in which safety is paramount and drives all aspects of the transportation system. That goal encourages a culture of safety.

I know there are safety concerns about these materials being stored where they are. The Department of Energy has argued that we need to consolidate this waste in one location. But that argument overlooks the fact that authorization of Yucca Mountain as a permanent repository doesn't solve these concerns. The only reactors that will get rid of their waste completely, according to the DOE, are those that are closed today—and those are not in Minnesota.

According to the draft environmental impact statement prepared by DOE, the Monticello and Prairie Island reactors will still have 111 and 344 metric tons of high-level nuclear waste, respectively, onsite when Yucca Mountain is full.

Despite what the proponents would have us believe, the DOE's proposal fails to eliminate Minnesota's nuclear waste. Nationwide, when the Yucca Mountain project is completed, there will roughly be the same amount of high-level nuclear waste at powerplants across the country as there is today. We simply cannot afford to overlook the real and pressing security concerns inherent with the transportation of this fuel, nor can we ignore the fact that the next generation will still be left with similar problems of what to do with the waste.

I will conclude this way. We urgently need to achieve a real solution to our storage problem with high-level nuclear waste, as opposed to forcing authorization of Yucca Mountain before there is a comprehensive plan for transporting the waste safely and securely before it is in place.

I believe the Department of Energy needs to immediately begin a true collaborative process, seeking broad-based stakeholder input on the real challenges of transportation safety and emergency preparedness. While the Department of Energy has elected to proceed with significant questions remaining unresolved, a comprehensive transportation plan developed through a consultative process would give DOE's proposal for Yucca Mountain the credibility it now lacks. The DOE should immediately organize a stakeholder

task force to develop transportation recommendations that include the experts on the ground, such as Governors and their safety agencies, local elected officials of the large and small towns where the waste will travel, emergency preparedness experts, and public health and safety officials, and develop a responsible plan that would transport this waste safely before a final decision is made.

I believe there are a whole host of issues surrounding the transportation of nuclear waste material that must be addressed before final decisions are made on Yucca Mountain. We can make the decision next year or the year after. That would be fine with me—if these concerns can be met first.

Unfortunately, the administration has elected to force the issue before all these concerns can be sufficiently addressed. I want to be able to support this resolution. I would like to be able to vote to move the high-level nuclear waste out of Minnesota. But I cannot, in good conscience, do this before there is a comprehensive plan in place to protect Minnesotans as this radioactive waste is moved through our State to Yucca Mountain, and from our State to Yucca Mountain.

I think forcing the issue before such a comprehensive plan is in place would be a serious mistake, and that is why I intend to vote no on this resolution.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Madam President, while I have the attention of the Senator from Minnesota, the Department of Energy did a comprehensive analysis called "The Spent Nuclear Fuel Transportation System," which I think encompasses a good deal of the concerns of the Senator from Minnesota. I encourage that he review it at his leisure.

I also remind my colleagues that the issue before us is simply licensing and the authority that this body gives the Department of Energy to proceed with the license. That licensing process will legitimately conclude in an evaluation of the adequacy of the transportation proposals either by rail, road, or a combination of both involving the Nuclear Regulatory Commission, the Department of Transportation, the Department of Energy, and the National Academy of Sciences. They are judged to be the best experts as opposed to those of us who obviously are not necessarily specialists but generalists in this area, although we have some expertise in legislation.

I also remind my colleagues that this is the formal process of some 20 years in evolution of addressing the procedure to address the waste.

I am sensitive to the needs of my colleagues from Nevada who obviously do not want the waste in their State, but I remind my friend from Minnesota that there are 835 metric tons of nuclear fuel stored in Minnesota in two

locations, and that Minnesota has three nuclear units—Prairie Island 1 and 2 and Monticello.

As a consequence of the procedures we have initiated, there appears to be one of two solutions: We either proceed and let the experts in the agencies address a transportation plan in the sequence that has been laid out that follows after the licensing, or we are going to be right back where we were 20 years ago on what to do with the waste. I can assure my colleagues, nobody wants it, but we have created it, and we have an obligation to take care of it.

I would like to identify, so we can move along in sequence, those speakers who have requested time on our side. We have Senator BINGAMAN, who has asked for 10 minutes; Senator THOMAS, some 8 to 10 minutes; Senator CRAPO, 5 minutes; Senator KYL, 10 minutes. I would like to reserve some time for myself, about 20 minutes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I will say quickly that this document about which my friend from Alaska refers is not worth the paper on which it is written. It talks about 4,300 shipments on trains—they have no trains at Yucca Mountain, 100 miles from any train. This piece of trash—and that is what it is—is typical of what the Department of Energy has done. It is one big lie after one big lie.

As indicated by anyone who looks at it, there are 292 reports that they did not even wait to see what the answers would be. The General Accounting Office said that, not some radical environmental group—the General Accounting Office. So the statements of my friend from Minnesota are directly on point. This means nothing.

Madam President, in keeping with having some degree of preciseness on the floor—I will be happy to yield some time to my friend—I am going to yield 10 minutes in a minute to the Senator from Minnesota and then it is my understanding the Senator from Alaska will yield 10 minutes to the Senator from New Mexico, and following that, I will yield 10 minutes to the Senator from California, Mrs. BOXER, who almost made it here this morning. Then if the Senator from Alaska has somebody who wishes to speak, that is fine; otherwise, I will yield time to the Presiding Officer, who will be out of the chair at that time, just to give an idea of how we are proceeding.

How much time does the Senator from Minnesota wish before I yield to his colleague?

Mr. WELLSTONE. I say to the Senator from Nevada, 1 minute.

Mr. REID. I yield my friend 2 minutes.

Mr. WELLSTONE. Mr. President, I say to my colleague from Alaska, I have over and over—my position is a

somewhat different position than the Senator from Nevada—over and over I have said do not separate Yucca Mountain; you already put \$7 billion into it. Why not lay out a comprehensive plan about how you are going to transport this safely to Yucca Mountain? That has been my issue over and over. I have asked the Department of Energy when will there be such a plan? Two years? Three years? Four years? I think we are now talking about several years in the future.

I want to make it crystal clear to me that to vote for Yucca Mountain without those assurances, without the assurances about how it is going to be done safely, without the input of local communities, without the commitment that people will be trained, without any of those assurances whatsoever, it seems to me to be not responsible. That is my first point.

My second point is to one more time say to my colleague and say to all colleagues, though there are those who would have us believe Yucca Mountain will eliminate Minnesota's nuclear waste, as a matter of fact, according to the draft environmental impact statement by the DOE, we still will have 111 and 344 metric tons of high-level nuclear waste in Minnesota onsite at Monticello and Prairie Island.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, a little simple math: 77,000 tons now exist. They can move at most 3,000 tons to someplace; let's say Yucca Mountain. These reactors produce over 2,000 tons. I repeat, the math is not very much. The big lie has been the fact that they say they are going to have only one repository. They are still going to have 131 repositories. That is the way it is going to be. This is a big lie they have perpetuated for many years now, and it is absolutely false that they are going to have one repository. They will continue to have 131, plus the mobile Chernobyls that will be all over America on trucks, barges, and trains.

I yield 10 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. I thank the Chair.

Madam President, I thank my very distinguished colleague from Nevada for granting me time. I join with my senior colleague from the State of Minnesota who spoke very eloquently before me. I have come independently to the same conclusion as he that I will vote against designating Yucca Mountain as a national nuclear waste repository at this time.

I do so because there are simply too many unanswered questions, untested designs, and unproven procedures to approve a project that has such enormous consequences.

Building a safe and secure storage site at Yucca Mountain and then filling

it with some 77,000 tons of nuclear waste will take the next 30 to 40 years. That is the rest of my generation's lifetime.

Throughout those three and four decades, the design, the construction, the loading, the unloading, and the safe transportation of over 150,000 pounds of extremely poisonous nuclear waste must all be done perfectly—at least almost perfectly. One accident, one rupture, one attack would have devastating effects on the lives of people today and for generations to follow, as one look at a victim of the Chernobyl nuclear accident would confirm.

That is the easy part, those 30 to 40 years. Now those 150,000 pounds or as much as 200,000 pounds of radioactive waste has to be stored, contained, and isolated perfectly—almost perfectly—for thousands of years.

That it must be nearly perfect does not mean it is unattainable or unsustainable, but it does mean that the standards for approval must be very high. The standards of reliability, of proven technology, of public safety must be extraordinarily high. They must be met and maintained with certainty, and that certainty must be guaranteed to the American people.

This project is nowhere near that standard today, not even close. That is why we should not even be considering the approval we are being required to give or to deny today. This is not what the law proscribes.

The law states, as it has for the last 20 years, that within 90 days after Congress's final approval, which will be today if this body so decides, the Department of Energy shall submit its application to the Nuclear Regulatory Commission.

According to the Secretary of the Department of Energy, the Department is at least 2 years or more away from being ready to submit that application. According to the private project manager, Bechtel Corporation, DOE is 4 years or more away from being able to submit an acceptable application.

I was not here in 1982 when the law was passed, but clearly the lawmakers intended, and I believe wisely so, that Congress's final review of this project would be within 90 days, or very shortly before the Department of Energy made its application to the Nuclear Regulatory Commission; in other words, after all the testing and design and evaluation had been completed. Today we can do nothing more, if we are so inclined, to say it looks OK or it does not look OK. A lot more has to be done.

As the Senator from Nevada pointed out correctly, the Department of Energy has still almost 200 tests and assessments remaining that it agreed, itself, with the Nuclear Regulatory Commission would have to be completed before the Department of Energy could even submit an acceptable

application for site construction to the Nuclear Regulatory Commission. Just to develop an acceptable application, it has to complete some 200 more assessments. Then the Nuclear Regulatory Commission has up to 4 years to review. There is no one else who has the expertise beyond ours and is associated with this project who maintains it is even ready to begin to be considered. Why are we put in a position of acting on it today? Why even consider approving it today?

Given those high standards that are necessary, some of the recent critiques of expert advisory boards and commissions are truly alarming. A January 24 letter of this year to Congress by the U.S. Nuclear Waste Technical Review Board stated:

The Board's view is that the technical basis for DOE's repository performance estimates is weak to moderate at this time.

Weak to moderate is a long ways from perfect.

In a September 18, 2001, letter to the Chairman of the U.S. Nuclear Regulatory Commission, the Advisory Committee on Nuclear Waste documented its review of the Department of Energy's performance modeling called TSTA-SR. The committee's "principal findings are that this system does not lead to a realistic risk-informed result and does not inspire confidence in the TSTA-SR process. In particular, the TSTA-SR reflects the input and results of models and assumptions that are not founded on realistic assessment of the evidence. The consequence is that TSTA-SR does not provide a basis for estimating margins of safety."

Others who have written and raised similar questions and concerns. I believe we should say no to the Yucca Mountain site today, not to remove it from further consideration but we should not commit ourselves to a decision that will affect the lives of millions of Americans today and for generations and generations to follow based on insufficient evidence, inadequate testing, incomplete analyses, undocumented strategies. In a sense, the Senate would be put in a position to make that attestation today which no one could responsibly make about this project, particularly given this level of assurance that the American people deserve.

Finally, as to the citizens of Nevada, they have been remarkably, extraordinarily well served by the two Senators from that State, Senators REID and ENSIGN. We preside in the Senate in inverse proportion to our seniority, which means I—being 100th in seniority—spend as much time presiding as anyone else; I therefore have a chance to observe what is going on in the Senate. The senior Senator from Nevada, Mr. REID, has been unbelievable in his tireless pursuit of every Member of this body to discuss and to reason and explore their recognition of the facts as

he has so well articulated. Senator ENSIGN is in his first term and has encountered an enormous responsibility to his State which he has also performed remarkably well.

Regardless of the outcome of today's vote, I cannot imagine any two people who could have possibly done more, tried more, put more of themselves, heart and soul, into doing what they believe with all their fervor is the right thing for the people of Nevada, and I believe for the people of the United States, including the people of Minnesota, which is to vote no against Yucca Mountain as a site today.

I yield the floor.

Mr. MURKOWSKI. Madam President, before I yield to the chairman of the Energy and Natural Resources Committee 7 to 10 minutes, I point out that for the past several decades we have moved nuclear waste safely in this country. We have had 2,700 shipments in the past 30 years. We have shipped 1.7 million miles. We have not had a single harmful release of radioactivity. This is substantiated by the testimony in the committee. Both the Regulatory Commission and the Department of Transportation, the agencies responsible testified that the waste can be "safely and securely transported."

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, I appreciate my colleague from Alaska yielding me a few minutes to express my views on this issue.

We are in a debate now about whether to proceed to consider S.J. Res. 34 which would approve President Bush's recommendation of Yucca Mountain as the site for the development of a nuclear waste repository. The resolution does not authorize construction of a repository. Similarly, it does not authorize the transportation of nuclear waste to Yucca Mountain. What the resolution does do is allow the Department of Energy to apply to the Nuclear Regulatory Commission for a license to begin construction of the repository. The Department of Energy still needs to persuade the Nuclear Regulatory Commission that the repository would be safe before construction could begin and before shipments to the repository could begin. Failure to approve the resolution that we are talking about, S.J. Res. 34, would terminate the Nation's nuclear waste program.

The Nuclear Waste Policy Act of 1982, passed before I came to this Senate, gave the Governor of Nevada the power to veto the President's site recommendation, and the Governor of Nevada exercised that authority in April. If the President does not join the House of Representatives in voting to override the Governor's veto by the 27th of this month—this July—the Governor's veto stands. If the Governor's veto is sustained, either the waste will

stay where it is, in temporary above-ground holding tanks at 72 nuclear powerplant sites and 4 Department of Energy nuclear weapons plants in 39 States, either it stays where it is in those locations from now on, or Congress will have to pass a new law to authorize the Department of Energy to search for a new site, leaving the waste where it is safe enough in the short run.

I am not one who is saying there is an imminent health risk or safety risk from leaving the waste where it currently is in the short run. However, it is not an acceptable long-term solution. It would require constant monitoring where it now is and frequent replacement of the storage containers for thousands of years, or the waste will escape into the environment. That is based on the expert testimony we received in the committee hearings.

Looking for another site, without allowing the Nuclear Regulatory Commission to consider Yucca Mountain, to consider an application for a license to use Yucca Mountain, is not a realistic course of action. We have spent 20 years; we spent \$4 billion looking at Yucca Mountain already. No one has found a technical or scientific reason that makes it unsuitable as yet. We are not likely to find a better site next time, but, of course, if the Nuclear Regulatory Commission determines that another site has to be found, then we can take on that task.

The Committee on Energy and Natural Resources, which I chair, of which my colleague from Alaska is the ranking member, carefully considered the arguments against the repository that have been raised by opponents of the project. I am the first to admit that not all of the questions that have been raised by the opponents have yet been adequately answered. They have not been. Many of those are questions, though, that are best answered by the Nuclear Regulatory Commission in its licensing procedures and nothing in the record before us justifies a decision, in my view, to terminate the program at this stage.

The hearing record that we compiled in the Energy Committee supports approval of the resolution and it supports allowing the waste program to continue. While not prejudging whether it will approve a license application for Yucca Mountain, the Nuclear Regulatory Commission itself—and we had the Commission members there testifying before our committee—testified that they believed nuclear waste can be safely transported and safely buried at a repository. Not necessarily this one—that will be a decision they will make in the future—but at a repository.

The Nuclear Waste Technical Review Board testified that:

No individual technical or scientific factor has been identified that would automatically eliminate Yucca Mountain from consideration.

The Environmental Protection Agency testified that the radiation protection standards that will apply to this repository are “among the most stringent in the world.” If the repository complies with them it “will be fully protective of public health and the environment.”

That is “if” the repository complies with these standards. As I say, that is a decision the Nuclear Regulatory Commission will make in the future.

In addition to these agencies of the Federal Government, we also heard from the U.S. Geological Survey. They stated:

The scientific work performed to date supports a decision to recommend Yucca Mountain for development of the nuclear waste repository [and that] no feature or characteristic of the site . . . would preclude recommending the site.

So based on this record, the committee found no reason to terminate the program.

The National Academy of Sciences has said:

[G]eological disposal remains the only scientifically and technically credible long-term solution available to meet the need for safety without reliance on active management.

We have a responsibility to dispose of these wastes rather than leave them for future generations to deal with. I do not favor just kicking this can down the road and leaving it for someone else to act.

In sum, a vote for the motion to proceed on the resolution is not a final vote to put nuclear waste in Yucca Mountain. It is a vote to let the Department of Energy apply for a license, a vote to let the technical experts at the Nuclear Regulatory Commission decide whether Yucca Mountain is, in fact, safe.

A vote against the resolution is a vote to stop the program in its tracks, to leave the waste where it is with no alternative strategy for finding another site, and, frankly, with little or no chance of putting together a political consensus to find another site in the foreseeable future.

On the basis of those reasons, I urge my colleagues to approve the motion to proceed and to approve the resolution.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I will yield to my friend from California in a minute, but this is another one of the fallacies of this whole debate. Isn't it too bad we have worked on it all this time, and if it doesn't go through, what are we going to do?

Chairman Meserve of the Nuclear Regulatory Commission said less than a month ago:

If Yucca Mountain were to fail because of congressional action, that does not mean all of a sudden from a policy point of view that the country is at a stalemate and is confronting imminent disaster.

Of course he would say that. We have nuclear reactors around the country that are using their facilities to store the stuff onsite—safely, in dry cask storage containment. You don't have all the worries of transportation. It is safer than trying to haul this stuff past our schools and homes. This is an argument that is without foundation. It would not mean the end of the nuclear world at all.

I yield 10 minutes to the Senator from California who, I would state, is the chair of the environmental task force Senator DASCHLE has set up and who has done an outstanding job pointing up the environmental problems we have in America today.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, it is indeed an honor to stand with my friend from Nevada on this issue because there can be no higher calling that we have than to protect the health and safety of the people we represent—no higher calling.

It seems to me very interesting that, as we are about to address a very important subject of corporate irresponsibility and try to fix the mess that is happening on Wall Street, we would be disrupted from that task to go to an issue such as this, which is so very harmful to our people. I am going to take some time to explain it.

My State of California is one of the most affected by the Yucca Mountain project because Yucca Mountain is only 17 miles from the California border and from Death Valley National Park. Scientific studies have shown that the regional ground water aquifer surrounding Yucca Mountain discharges into Death Valley because Death Valley is down gradient from Yucca Mountain. If the ground water is contaminated, that will mean the demise of the park and the surrounding communities.

The tests that have been done on the site are not what we would want to see. We see leakage; we do not see dryness. We see problems with Yucca Mountain that would lead most people to assume there will be a problem with leakage into the ground water. It is an absolute travesty waiting to happen to my State.

The long-term viability of the fish, the wildlife, and the human population is dependent on this aquifer. Water is life in the desert. Water quality must be preserved. Given the threat posed by Yucca Mountain, I have opposed it, and that was before 9-11.

Since 9-11, we have a whole other area of concern and that is taking this waste from all over the country and putting it on trucks or trains and shipping it across this country. It is an absolute disaster waiting to happen. This is so hot that it has to be cooled for—I say to my friend from Nevada, Senator REID, am I correct in saying that

waste is so hot that it has to be cooled? And for how long does it have to be cooled?

Mr. REID. I will respond to my friend from California. National Geographic this month has a wonderful article on nuclear waste. Among other things, it confirms what we have known for a long time. The nuclear reactors in America and around the world are 97 percent inefficient. That means you put in a fuel rod in a nuclear reactor and when they take it out, it still has 97 percent of its radioactivity. It has only used 3 percent.

The nuclear reactors are so inefficient they have to take them out of the reactors and put them in water. You cannot take them out of the water for at least 5 years for them to cool down.

Mrs. BOXER. Five years.

Mr. REID. Five years for them to cool down. So I say to my friend from California, all this talk about we need to have one site, we don't need to have 131 sites—the fact is, they are always going to have spent fuel at the sites of the power-generating facilities.

Mrs. BOXER. I thank my friend. I knew this waste was so hot that it would have to be cooled down, but I wasn't aware that it was for 5 years.

Post 9-11, you would think this administration would think twice, or three times, or six times, before they would go ahead and give the order for this waste to move. We have given the airlines billions of dollars. We are spending so much to make airports safe and here we have this administration, the one that tells us we are in a war—there is not a speech this President makes that he doesn't remind us that we are in a war—is ready to put this kind of material on our roads.

I am just incredulous. The only thing I can come up with is, who is really behind all of this?

I have a list of some of the people who are pushing for this. Let us put that on the floor since we are talking about corporate power this week.

We have the Nuclear Energy Institute. There are 260 companies in the Nuclear Energy Institute pushing this. They include Enron, First Energy, Bechtel, Duke Energy, and General Electric, to name a few. There are a lot of special interests—260, to be exact—pushing this.

But where are the people? The people will be living in fear, I guarantee you, when this starts.

Let me show you a map which I think my colleague must have shown before. Let me show you a map first of just one area, Sacramento. The red area is within 1 mile of one of the proposed routes. The yellow area is within 3 miles of the proposed route, and the light yellow is within 5 miles.

If you look at all of this, you see these little arrows. They are actually schoolhouses. These are the schools located so close to this traffic. The H's

are the hospitals. We have 167 schools that are within 5 miles in this area. There are seven hospitals within 5 miles.

The PTA has sent us a letter against this project.

Where are my colleagues? You would think 9/11 never happened. You would think 9/11 was just something in a movie. The PTA has basically told us: Don't do this until you have a plan that you can prove is safe.

Mr. REID. Madam President, will the Senator yield for a question?

Mrs. BOXER. I would be happy to.

Mr. REID. The Senator mentioned the 260-plus companies that make up NEI. Is the Senator aware that there is a lawsuit now pending to have the Vice President of the United States divulge who he met with at those energy companies and what they talked about? Is the Senator aware of that?

Mrs. BOXER. I am certainly aware of that.

Mr. REID. I felt so strongly about that issue that I filed an amicus curiae brief joining with the GAO to have him divulge that information. I will bet a significant number of the 261-plus companies met with him to develop the energy policy this administration came up with. Does the Senator suggest that is probably true?

Mrs. BOXER. Given the track record of this administration in terms of its energy policy and the President's lack of anything very exciting in terms of how we are going to regain the confidence and trust of the people, it is very possible—indeed, probable, in fact—that these companies, or certainly their representatives, met with the Vice President.

I will tell you, when that comes out, we will know even more why, even after 9/11, they had this plan.

This is just one area—Sacramento. I want to show you Los Angeles. We are not talking philosophy or ideology. We are talking about the hottest, most dangerous waste known to humankind coming near schools and hospitals in my State and in almost every other State.

Again, the red area is within 1 mile of the route. The yellow area is within 3 miles. The light yellow area is within 5 miles. We have 446 schools within 5 miles of these routes. Is this what we owe those little kids? Is this what we owe them? Are they going to close the school down when they transport this near by? There are 23 hospitals within 5 miles.

I am amazed we are debating this issue. I am amazed we are debating this issue. The Department of Energy doesn't tell us what the final plan is. You know why? It is because of the outcry in the country when that final plan comes forward.

Attorney General Ashcroft has said we should worry about a “dirty” bomb. And we all do. We already know it has

been disruptive. That is a “dirty” bomb. That is material that doesn't even come close to the danger of this material.

I want to give you the facts about what happens in California with the transportation of this waste.

We have 35 million people in our State. Seven million people in California live within 1 mile of the proposed route.

I ask my colleague for 5 more minutes.

Mr. REID. I yield the Senator from California 5 more minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 more minutes.

Mrs. BOXER. There are 231 hospitals within 1 mile of the proposed route. There are 3,500 schools within 1 mile of the proposed route. Nuclear waste shipments in California over the life of the project, if done by truck, will be 14,000-plus; if done by train, 13,000-plus; 2,040 metric tons of nuclear waste at facilities throughout California now—which means that even with the Yucca Mountain we are going to have nuclear waste in the State, which is also the case with most of our States.

Our Attorney General had a press conference about the potential of a “dirty” bomb. We worry about where the terrorists are going to get this material. This administration has been backing the transportation of the most dangerous nuclear waste and not even mentioning 9/11. It is almost like a Rip Van Winkle situation when it comes to Yucca Mountain. Well, we have done it; we spent the money; and, we have invested it. It doesn't matter—9/11, or anything else. You could have another terrorist and it would still be here for Yucca Mountain.

Loud special interests are behind this vote. That is the only way you can come to any other conclusion.

I will tell you some of the people who oppose this. I mentioned the PTA. I will give you some more: The Alliance for Nuclear Accountability, American Land Alliance, American Rivers, American Public Health Association, Clean Water Action, Environmental Action Foundation, Environmental Defense, Fellowship of Reconciliation, Friends of the Earth, and the Government Accountability Project. It goes on: League of Conservation Voters, International Association of Firefighters.

Do you want to be a fireman and get called to a fire when one of these accidents happens? The Department of Energy has said they know already there are going to be accidents. Is that 100 accidents? They predict that already.

The International Association of Firefighters knows what that could mean to their lives.

Who are we fighting for here? I say to my colleague, this is a moment of truth for every person here.

You could look at the United Church of Christ, United Methodist Church,

Wilderness Society, and the Women's Legislative Lobby in Washington. These are people who have spoken out.

I ask unanimous consent to have this entire list printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS OPPOSED TO THE YUCCA MOUNTAIN NUCLEAR WASTE DUMP

Alliance for Nuclear Accountability, Seattle, Washington, American Lands Alliance, Washington, DC, Americans for Democratic Action, Washington, DC, American Rivers, Washington, DC, American Public Health Association, Washington, DC, Center for Safe Energy, Earth Island Institute, Berkeley, California, Clean Water Action, Washington, DC, Defenders of Wildlife, Washington, DC, Earthjustice, Oakland, CA, Environmental Action Foundation, Takoma Park, Maryland, Environmental Defense, New York, NY, Environmental Working Group, Washington, DC, Fellowship of Reconciliation, Nyack, NY, Free the Planet!, Washington, DC, Friends of the Earth, Washington, DC, Government Accountability Project, Seattle, WA, Grandmothers for Peace International, Elk Grove, CA.

Greenpeace, Washington, DC, Honor the Earth, St. Paul, Minnesota, Indigenous Environmental Network, Bemidji, MN, Institute for Energy and Environmental Research, Takoma Park, Maryland, International Association of Fire Fighters, Washington, DC, League of Conservation Voters, Washington, DC, League of United Latin American Citizens, Washington, DC, National Education Association, National Environmental Coalition of Native Americans, Prague, OK, National Environmental Trust, Washington, DC, National Parent Teacher Association, National Wildlife Federation, Washington, DC, Natural Resources Defense Council, Washington, DC, Nuclear Information and Resource Service, Washington, DC, Pax Christi USA, Erie, PA, Peace Action, Washington, DC, Physicians for Social Responsibility, Washington, DC.

Presbyterian Church (USA), National Ministries Division, Washington, DC, Psychologists for Social Responsibility, Washington, DC, Public Citizen, Washington, DC, The Safe Energy Communication Council, Washington, DC, Scenic America, Washington, DC, Sierra Club, Washington, DC, Union of American Hebrew Congregations/Religious Action Center of Reform Judaism, Washington, DC, United Church of Christ, Office for Church in Society, Washington, DC, The United Methodist Church, General Board of Church and Society, Washington, DC, U.S. Public Interest Research Group, Washington, DC, The Wilderness Society, Washington, DC, Women's International League for Peace and Freedom, Philadelphia, PA, The Women Legislators' Lobby (WILL), Washington, DC, Women's Action for New Directions (WAND), Washington, DC, 20/20 Vision, Washington, DC.

Mrs. BOXER. Madam President, I want to conclude and say I could show you other charts that show the impact on other States. But I have made my point. This nuclear waste is going to go by schools, it is going to go by hospitals, it is going to go by our families, it is going to go by our children, it is going to go by our homes, and it is going to go by our businesses. And post-9/11 we don't even have the final plan.

I am proud to stand with my friends from Nevada. I am going to be in this fight if they need me because I believe there are some moments on this floor when you have to step up and realize you are here for a brief time, but decisions we make can come back to haunt us. I hope today people will think about that and vote with my colleague from Nevada.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Madam President, let me point out a couple of facts that perhaps some Members have not reflected upon.

There are no proposed routes. There are only potential routes.

While the Senator from California points out routes around Sacramento or Los Angeles, they have simply taken every major route that has the potential of moving nuclear waste and said this is, in fact, a proposed route.

That is hardly accurate. It is fair to say there is no Yucca transportation route yet. What opponents have done is they have selected every major highway in the U.S. and simply called it "proposed." That is certainly stretching things to suggest it is going to go by hospitals, it is going to go by schools.

Clearly, there are efforts being made by the responsible agencies. If we create these agencies, we have the oversight. If we do not have the faith in them to do their job—the Department of Transportation, the Department of Energy, the Nuclear Regulatory Commission—are we to micromanage, if you will, when waste has been moving safely across this country for decades, and to suggest that somehow we cannot move it safely?

California is 17-percent dependent on nuclear energy. I am looking at a spreadsheet. Cumulative spent fuel, in California, at the end of the year 2000, was 1,954 metric tons, not including 98 metric tons from the San Onofre Nuclear Reactor. There are 403 metric tons at shutdown reactors, 11 metric tons in dry storage. It is going to stay there unless it is going to be moved somewhere. It has to be moved by a route. It has to be moved safely. Is it going to be moved by train or by highway?

Clearly, we have moved 2,700 shipments in 30 years 1.7 million miles, and with not a single harmful release of radioactivity. We have had shipments to WIPP in New Mexico—900 shipments, since 1997, 900,000 shipment miles, and not a single harmful release of radioactivity.

Do you think we are the creators of moving this stuff? In Europe there has been 70,000 tons shipped safely over 25 years. So this isn't something that has just happened.

We have moved high-level nuclear waste across this country. Now we are

talking about moving waste out of our reactors. We are talking about doing it responsibly.

Some of these arguments—we have heard the term "red herring." Well, this is a "nuclear herring," if you will. Maybe it glows in the dark. But it certainly suggests, in this debate, that somehow we are doing something new in this country, that we are doing something that is high risk in which we have not had any experience.

Again, in reference to bringing this discussion in the parameters, we are not moving it to Yucca Mountain today. We are simply authorizing the administration to proceed with the license process which will address the legitimate transportation questions that are coming up in this debate.

I yield the floor to my good friend from Wyoming.

How much time would the Senator from Wyoming require?

Mr. THOMAS. I think about 10 minutes, please.

Mr. MURKOWSKI. I yield 10 minutes to the Senator.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, this is an issue we have talked about for a good long time. Some of the things I have heard today are quite different than what we have talked about before. Nevertheless, everyone is entitled to their own views.

I think, as has been mentioned, we ought to remind ourselves what the purpose of this particular vote is about. It is to make it possible for the Secretary to apply for a license to construct a site at Yucca Mountain. If this fails, then ever since the 1980s, 24 years of work, and \$4 billion worth of expenditures will be halted and nothing more will happen.

This is not the final issue to be talked about. This is not the issue of transportation. This is the issue of whether or not to move forward and license the site, which will then provide the opportunity and the necessity of moving on to other issues, such as defining the transportation routes and dealing with the safety of transportation.

I think we ought to keep in mind what we are doing here and that is to authorize them to move forward in licensing the site. The site, of course, is one of the most important issues before us. It has been said a number of times that there are 131 different sites where waste is stored. Not all of those sites will disappear, of course, but many of them will. Those that have been Government used, that are not continuing to be used, will be gone. We will have fewer sites.

I do not hear anyone talking about solving the problem. All I hear about is avoiding coming to a decision. I think

we need to ask ourselves which is better in terms of safety: to have it generally in one place or to have 131 different sites?

Talking about trying to have protection and security, how much security do you think there is in every one of these sites? If you are talking about September 11, you have to talk a little bit about having all these sites. We are trying to consolidate some.

So it has been interesting to hear the kinds of reactions that we have had. The site is there, of course, because Yucca Mountain is 90 miles from the nearest population centers. It is one of the most remote places in the country. The climate is conducive to storage. There are multiple national barriers in order that tunnels can be stored. There is great depth, 2,600 feet deep underneath, an isolated basin.

So this is something that has been selected with a very great deal of study from a number of places. This is the one that was decided upon to be the best. So that is where we are.

It is interesting, all we hear about are problems. I think it is up to us to talk about some solutions. I hope we can do that. In fact, I think to say this Energy Department material is not useful is a stretch. Certainly this material has been studied. Experts have put this information in there.

Some of the information we are hearing lacks a little bit. At the hearings we held, there was a gentleman who had been the past director of highway safety who was talking about highways. I asked him who he was working for. It turned out he had been paid by the State of Nevada. Talk about people being in support of the idea and causing people to have their positions the way they are.

Let me talk a minute, though, about transportation. Obviously, transportation could very well be going through our State of Wyoming, although, as the Senator from Alaska points out, those decisions have not been made. Everyone is talking about where it is going to go. That has not been decided. In fact, I have written a letter to the Secretary of Energy to ensure, as we move through this particular decision, that we will move on, then, to an equally difficult decision about transportation, and also to get assurance—which he has assured us—that the Governors and officials in the States will coordinate and will be cooperative workers in terms of deciding what the routes are.

In any event, we have talked a little bit about the history of transportation. It is very impressive. We have had 30 years of transportation of nuclear waste of various kinds without an incident. We have had that over 1.5 million miles. It is handled safely.

I was surprised. At the hearing, they had a sample on the floor of the kinds of containers that spent nuclear material is in. I had no idea, frankly, what

it was. But they are in solid pellets, approximately the size of a pencil eraser. And they are secured in multiple layer metal tubes. They are hard, and they are solid.

Nuclear waste is not fluid. It is not a gas. It will not pour or evaporate. It is in these big, hard vats that are set up for it. Nuclear waste, nuclear fuel does not burn, as a matter of fact. It is not flammable, even if it is engulfed in fire.

Spent nuclear fuel cannot explode. We sort of get the notion that it is going to go up in a big puff. That is not the case. It is transported in strong thick-walled casks, casks that have been dropped from 30 feet in a free fall from helicopters to be tested. And they have a puncture test with a special way to do it. They have flatbed trucks that have been smashed into a 700-ton concrete wall at 80 miles an hour.

There is safety here. Safety, of course, is a high issue for all of us. No one would suggest it should not be. Most of it will be done by train, not on the highways. These are the things we will have to deal with and we will deal with over a period of time.

We should start, of course, with dealing with the question. We have agreed, in 1982, to take care of this waste, particularly in the commercial uses that have been there. They have been taxed \$17 billion to do something with it. What they are doing with it now is not the safest thing that can be done.

I know when you talk about nuclear, everybody swells up, but it is interesting to also recall that Illinois, for example, generates over 30 percent of their electricity with nuclear. Of course, there is nuclear waste. But we need to do something with it. We are going to be moving more toward it.

On the other side, it is one of the cleanest kinds of electric generating fuels we can have. I guess if I have been impressed by anything in this discussion, it is that we haven't really dealt with the problem. How do we solve it? What we have talked about, what we hear about almost all the time, is how do we avoid making a decision on an issue that is there, and one that is obviously going to be there until we do something about it, until we follow through on what we agreed to do in 1982 and have not done since, and haven't heard much about, as a matter of fact. We spent \$4 billion in Nevada. We didn't hear much about that. Fine.

I hope we can go ahead and deal with this, support this portion of the total decision that needs to be made, move forward on this site, and then deal with the other issues that come before us.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I will yield to my friend from Michigan in a second. I do want to say, however, that of course the routes Senator BOXER talked about are the routes proposed

by the DOE in their final environmental impact statement. They have said they are not sure this is the final transportation plan they will have, but that is what they have said so far.

Jim Hall, former head of the National Transportation Safety Board, said in testimony: What I find more shocking about the Yucca Mountain project is that DOE has no plan to transport spent nuclear fuel to its proposed repository.

Secretary Abraham testified last week that DOE is just beginning to formulate preliminary thoughts about a transportation plan, even though in the final environmental impact statement they did give us these routes about which Senator BOXER and others have talked.

Puncture tests? Sure, there are puncture tests. We know a shoulder-fired weapon will go through one of those canisters of spent fuel rods. We know that. The tests have been proven. We also know they don't withstand fire. Diesel fuel burns at 1,400 degrees. They have only had these tests go up to 1,200 degrees. If you have a fire and a diesel truck is carrying this, it will breach the container.

The things we are being told simply have no validity. We talk all the time about all this dangerous stuff that has been hauled. Let me tell you about the WIPP facility. The WIPP facility is the waste isolation project in New Mexico. WIPP is the most highly planned nuclear shipment we have ever had. Yet the first shipment went the wrong way, 28 miles the wrong way, and was turned around by the local police department. The DOE satellite tracking system didn't work. The truck was going 28 miles the wrong way. It turned around. It was 56 miles on a road on which they were not supposed to be.

Eighty percent of all traffic accidents are not as a result of anything going wrong with the equipment; it is human factors. That is what this is all about.

No harmful releases of radiation? That is laughable, Mr. President. There have been accidents, and there have been releases over these 2,700 shipments. Some of those have dealt with pounds of stuff, not tons. On one of these trucks, the cannister alone was 10 tons. There have been releases over the years that they have been doing this. The DOE itself says there will be at least 100 accidents. That is in their proposed findings in the environmental impact statement.

Someone can vote against this with goodness in their heart. They are doing the right thing. This is not good for the country.

My friend mentioned France and Germany. They may have hauled a lot of stuff, but they haven't hauled a lot of stuff lately because it has been stopped in its tracks. Germany has given up trying to haul it because people lie

down in the streets and chain themselves to railroad tracks.

I yield 10 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 10 minutes.

Ms. STABENOW. Mr. President, I thank my colleagues from Nevada for their leadership on this very important issue for all of us. I know my colleagues on both sides of the aisle will join me in saying there is not a more revered Member of this body than our senior Senator from Nevada. I thank him for his leadership, his intelligence, his compassion, and his advocacy on this particular issue as well as many others.

When I was in the Michigan Senate, I helped to lead an effort to stop putting casks along Lake Michigan and our nuclear facilities because of my concern about the waste being along Lake Michigan. I certainly still have that concern. We lost that, and the waste is there.

On first blush, when I was in the House of Representatives, I thought supporting a permanent nuclear storage site at Yucca Mountain was a good idea. I want the waste out of Michigan. There is no question about it. My preference, if we could say, "Beam me up, Scottie," would be to move the waste out of Michigan.

Unfortunately, by very close examination of the facts and information from the Department of Energy, their current documents, I have come to the conclusion that this proposal not only will maintain existing threats to the Great Lakes but will create new ones, new security risks, new environmental threats for the Great Lakes and for Michigan families. I am deeply concerned about that and frustrated because fundamentally I want the waste out of Michigan. But I do not want to create more threats in the process.

It goes without saying that the world has changed since September 11. We know that. We hear that all the time from our President. We say that on the floor of the Senate practically every day. The world has changed since September 11.

Since the tragedies in New York and Pennsylvania and the Pentagon, we have administration officials who daily tell us that we are going to see further attacks. On May 19 of this year, the Vice President stated on "Meet the Press" that the prospects of a future terrorist attack against the United States are almost certain and not a matter of if but when. That should be a concern—and I know it is—for all of us. It should in some way be a shadow over every decision we make today in this body for our families, for the families we represent.

On June 10, as we all know—just a month ago—the American people became aware of a plot to potentially

detonate a so-called "dirty" bomb which could kill thousands of people and send poisonous nuclear matter throughout the air, exposing hundreds of thousands more people to nuclear radiation. This causes me to pause and look at what we are doing in a new light. September 11 and the ongoing war against terrorism has, in fact, put this in a new light for me. I have examined how the nuclear waste from Michigan's storage sites would be transported across Michigan to Yucca Mountain and, unfortunately, I am very concerned there is not a plan by the Department of Energy to protect those shipments from terrorist attack.

I have asked the questions of our State government, I have asked the questions of our Department of Energy, and I am told, as we have heard over and over again, that the Department is only beginning to look at developing a transportation plan and designating transportation routes. Yet we are asked to decide today on this project without that information.

I am also very concerned the Department has not implemented any additional security requirements for transporting nuclear waste since 9-11 to ensure safety and protect the shipments from terrorist attack. In addition, I am very deeply concerned to find that there is no Government agency that has conducted full-scale physical tests of the casks that would be used to transport high-level nuclear waste to Yucca Mountain; nor have these test requirements been reviewed or strengthened to take into account how the casks would perform under a potential terrorist attack.

This is a new day. There are new questions and new tests that need to take place in light of our current reality as Americans.

I am very concerned today, when I pick up the Washington Post and find that they further reveal that the EPA has been keeping under wraps a February 2002 report that concludes that they are not fully prepared to handle a large-scale nuclear, biological, or chemical attack. The EPA is the primary agency for providing support to State and local governments in response to a discharge of nuclear or hazardous materials, and they are not fully prepared to deal with current security threats.

How well prepared will they be once thousands of nuclear shipments begin to travel by our schools, our hospitals, through our communities, our residential neighborhoods, en route to Yucca Mountain.

I also discovered, Mr. President, in my examination of the Department of Energy's own documents, that most of the waste stored in Michigan will never make it to Yucca Mountain. That is a pretty big discovery for me. Most of the waste in Michigan will never make it to Yucca Mountain. As long as nu-

clear powerplants operate in Michigan, new nuclear waste will have to be stored in cooling pools, as indicated by my colleagues, on the shores of the Great Lakes for 5 years at a time so they can be cooled before they are transported anywhere. Much of the nuclear waste in Michigan will not be moved to Yucca Mountain because Yucca Mountain will reach its full capacity within the first 25 years of operation.

While I want the waste out of Michigan, away from its shores, We have a worst case scenario for the people of Michigan. The nuclear waste will continue to sit on the shores of the Great Lakes and also be traveling on our roads and railways—and, Heaven forbid, even barges on the Great Lakes—past our communities, neighborhoods and schools.

Let me speak to that new threat that, unfortunately, is in the environmental impact statement the Department released just a few months ago, which raised a tremendous red flag for me. The Department of Energy's final environmental impact statement describes barging nuclear waste on the Great Lakes as a transportation option. Now, in fairness, they indicate that while there could be as many as 431 barge shipments of nuclear waste on Lake Michigan, that is not their preferred option. I am glad that is not their preferred option, but, unfortunately, when writing the Secretary, he would not take it off the table as an option. In fact, he indicated that the Department of Energy "has made no decision on the matter."

I cannot imagine putting high-level nuclear waste on barges and sending it across Lake Michigan. There is not a plan in the world that I would support to do that. The answer of the Department on this issue is simply not good enough. I cannot support any plan that includes a transportation option that endangers one-fifth of the world's freshwater supply and the source of drinking water for the entire Great Lakes region.

Mr. President, today's vote, unfortunately, will be the last time Congress will have a real voice on this issue. We certainly can express ourselves as it moves through the regulatory process, but this is the time for us to say, yes, we know enough to move forward or, no, we do not. If we say no, we can ask that more information be given to us, that more tests be done, and that we receive assurances, such as I need, to know that there will not be, under any circumstances, barging on the Great Lakes. We can get that information and then we can proceed again.

This is not the end. We can proceed further—those of us who want more information, more assurances, and want to know that our communities will be safe and the environment will be safe. There is no reason we cannot work on

getting those assurances and the plans in place first.

Based on my examination of the Department of Energy's own documents, as well as further information, I do not believe this administration has a safety plan for transporting waste to Yucca Mountain that protects my citizens, Michigan families, or the Great Lakes. Therefore, I cannot support the Yucca Mountain resolution.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, let me point out that the State of Michigan is currently 18.2 percent dependent on nuclear energy. Currently, in the State of Michigan, there are 1,627 metric tons of spent fuel of which 58 tons is in shutdown reactors, and 177 tons is in dry storage.

As a consequence of the alternatives we face, the recognition is obvious that if we do not move this waste, it is going to stay where it is. The nuclear power generation in Michigan consists of four nuclear units: Cook 1 and 2, Fermi 2, and Palisades. As a consequence of the recognition that there are six storage locations covering the 1,625 metric tons, we have to address the reality of how much longer the nuclear plants can continue to operate without a permanent repository. That is what the contemplated vote is all about.

Questions have been raised by Members concerning the routing. Again, I point out the Nuclear Regulatory Commission approves all routes and security plans with States and tribes, including the Department of Transportation, Department of Energy and, of course, the Nuclear Regulatory Commission. For security, armed guards are required through heavily populated metropolitan areas if they are indeed selected. At the discretion of the Governor of each State, all shipments are required to have 24-hour escorts.

Tracking: The Governor of each State is notified in advance of spent fuel shipments. These shipments are required to have an escort into the central transportation command facility every 2 hours to ensure that problems do not exist. All shipments are closely coordinated with local and Federal law enforcement agencies.

As far as training, States and tribes have and will continue to receive Federal support for specific training. On the question of what is the Government doing with emergency preparedness assistance, since 1950, the Federal Government has had its own experienced teams of emergency responders. Emergency responders receive assistance and training from the Department of Energy, Department of Transportation, FEMA, and others, and are specially trained and prepared to respond to a variety of incidents and accidents,

and DOD will continue to provide training to emergency responders. The Department has directly trained over 1,200 responders.

In addition, DOE has trained instructors and have provided training to additional emergency personnel in the State, tribal, and local response groups. Training materials have been distributed.

It is fair to say efforts are made to train local government entities. There is a misconception somehow that if there is an accident, there is likely to be a fire, some kind of an explosion. That is not the case. If, indeed, there is a penetration of a cask, which is extraordinarily unlikely, there will obviously be an awareness, and the area will be roped off. The material is very heavy. It does not blow around in the wind. Unless you get in and mess with it, why, it can be cleaned up by experienced personnel.

This is not a matter, as some suggest, that if there is a penetration, there is going to be a nuclear explosion of some kind.

Mr. President, I yield the floor and ask how much time is remaining on this side.

The PRESIDING OFFICER. The Senator has 62½ minutes remaining.

Mr. MURKOWSKI. I thank the Chair.

Mr. REID. Mr. President, I yield 10 minutes to the Senator from Missouri, Mrs. CARNAHAN.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 10 minutes.

Mrs. CARNAHAN. Mr. President, when I speak to people throughout Missouri, security continues to be their primary concern. They are concerned about threats from abroad and about security in their daily lives—job security, health care security, retirement security.

In this day and age, when we are making extraordinary efforts to protect ourselves, people are more fearful than ever about shipments of nuclear waste through their neighborhoods and communities.

In Missouri, this is especially a sensitive issue because of our recent history of nuclear waste shipments. Two summers ago, Governor Carnahan succeeded in getting a shipment rerouted around Missouri. But last year, the Department of Energy scheduled another shipment to go through Missouri. The route the Government selected went through the most populated areas in the State, through the heavily populated suburbs of St. Louis, straight through Columbia, past Independence, and then on through Kansas City.

The Government's plan would ship nuclear waste along Interstate 70 and other roads that are crowded and in disrepair. Interstate 70 through Missouri is one of the oldest stretches of Federal interstate highway in the Nation. The newest stretch is 37 years old.

The oldest stretch is 46 years old. But the original design life was only 20 years.

I-70 is one of the most vital transportation corridors in the Nation. It is in need of more than just basic maintenance. It is in need of total reconstruction.

Everyone who travels over I-70 knows it is in horrible condition. The number and severity of traffic-related accidents along I-70 between Kansas City and St. Louis have grown steadily in recent years and will continue to grow with projected increases in travel. Unless the road is repaired and expanded, conditions will continue to deteriorate, congestion will increase, and transportation costs will rise.

There are two scenarios: Either I-70 will remain in poor condition or, as I would prefer, it will undergo massive reconstruction over the next decade. Either way, I-70 should not be the superhighway for nuclear waste.

If Yucca Mountain is built, that is exactly what will happen. Preliminary estimates by the Department of Energy show that within a 25-year period, over 19,000 truck and 4,000 rail shipments of nuclear waste will go through Missouri on their way to Yucca Mountain. That is two trucks a day every day passing through St. Louis, Boone County, Jackson County, and many other counties across the State.

Unfortunately, the manner in which last year's shipment of nuclear waste through Missouri was conducted does not inspire confidence in the way the Department of Energy handles these shipments. While the State of Missouri and the Department of Energy were negotiating about this shipment, the Department announced that it would not allow waste from a research reactor in Columbia, MO, to be shipped out of State.

The linkage of these two issues was inappropriate. While Governor Holden was negotiating safety protocols, the Department was playing politics with nuclear waste.

I intervened to ensure these issues would be handled separately so that the Governor could continue to insist upon proper safety arrangements for the shipment.

After all this, the shipments showed up in St. Louis at rush hour and would have passed through Kansas City during a Royals baseball game. The shipment had to be held at the border for a number of hours.

In my view, we have not focused enough on the transportation issue to approve the Yucca Mountain site at this time. The transportation casks have not been thoroughly tested for possible terrorist attack. The final transportation routes have not been selected, and security of the truck and train shipments has not been studied. There are no concrete plans for training emergency responders in local communities along transportation routes.

And, as I mentioned, the roads remain in sad repair.

All these issues need to be properly addressed before I will consider voting to approve the Yucca Mountain site. It is more important to make the right decision than it is to make a quick decision.

Every nuclear reactor in the country has onsite spent fuel. These storage facilities will continue to be used even if the repository at Yucca Mountain is built because the spent fuel that comes out of the reactor must cool for approximately 5 years. Most of these facilities will be upgraded and expanded if and when necessary, and in Missouri our single nuclear powerplant will not experience shortage difficulties until 2024. So there is plenty of time to upgrade and further expand its storage facility if necessary.

Before committing to ship tons of nuclear waste through the heartland, I believe we should spend much more time in determining whether we can transport this waste safely and keep these shipments away from our most densely populated communities. I am confident that is what the people of Missouri want.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I see a couple of Senators, Mr. CRAPO and Mr. KYL. I want to point out to the Senator from Missouri that nuclear energy includes about 13 percent of the power generated in Missouri. Coal is 82 percent. It is about 95 percent in combination.

Mr. President, 388 metric tons of spent fuel are currently in the State of Missouri. As a consequence, I think it is important—and if I can have the attention of the Senator from Missouri—to point out this transportation route because currently the shipment of waste, this transuranic waste, goes out of Missouri and routes under this highway system into New Mexico. There is no proposed existing transportation route that will be taking the waste through Missouri. This waste is currently at the University of Missouri research reactor. It goes out on 70, up on 55, comes over on 880, and down on 25 into New Mexico.

My point is, while it is obviously possible that the Department of Energy, the Nuclear Regulatory Commission, and the Department of Transportation would choose other routes, it is clear to point out that currently there has been and there is no logic to suggest there would be a movement of waste through the State of Missouri when currently transportation routes to WIPP do not go through Missouri; they actually remove waste from the State of Missouri.

We should keep these discussions in the context of accuracy relative to what is contemplated vis-a-vis the current transportation route.

I yield to my friend from Idaho for 10 minutes.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 10 minutes.

Mr. CRAPO. Thank you, Mr. President. I thank the Senator from Alaska for his graciousness in yielding me this time.

I rise today to add my voice and my strong, unequivocal support for Senate Joint Resolution 34, a resolution approving development of a permanent nuclear waste repository at Yucca Mountain, NV, notwithstanding the disapproval of the Governor of Nevada.

Before I get into my main remarks, I wish to talk a moment about my colleague from Idaho, Senator LARRY CRAIG, who, as a member of the Energy Committee in the Senate, has been tireless in his efforts to make certain that the procedural maneuvers and the substantive debate over this issue move forward expeditiously and that we address the issues that the law provides so we can make certain the Yucca Mountain facility is able to maneuver forward into the permitting process.

As many of those who have debated today have already stated, this debate is not about whether to open the Yucca Mountain facility so much as it is about allowing the process of permitting to begin to take place. As my colleagues know, this is the required legislative procedure spelled out by the Nuclear Waste Policy Act of 1982.

In 1982, 20 years ago, Congress made the decision we should begin resolving this issue and set forth a series of legislative and other procedures that must be followed to assure that every question—that of national security, safety, of individual State rights, and all the other issues—were adequately addressed as we deal with this critical issue. Over those 20 years, the importance of dealing with this issue has grown.

Now the issue of the role of nuclear power in the portfolio of America's energy policy and the manner in which we will resolve the handling of the spent nuclear fuel has become a national security issue, in my opinion.

I come to this debate with a long history of working on this issue. The State of Idaho, which I have the honor to represent, hosts the Department of Energy's Idaho National Engineering and Environmental Laboratory, NEEL, which currently stores a large volume of spent nuclear fuel and high level nuclear waste.

The INEEL now has 56.5 percent by volume and 11 percent by weight of all spent nuclear fuel in the DOE complex. This spent nuclear fuel includes the Navy's spent nuclear fuel, the spent fuel and rubble from Three Mile Island and other commercial power plants, foreign research reactor fuel that is coming to the United States from

other countries for nonproliferation reasons, and spent fuel from the dozens of reactors operated at the INEEL, Argonne-West, and other DOE facilities throughout the country. Under the Idaho Settlement Agreement, the Navy's spent nuclear fuel in Idaho must be some of the first fuel to go into Yucca Mountain.

Defense high-level waste is the waste that resulted from reprocessing spent nuclear fuel. At the INEEL, this high level waste is in granulated "calcine" form. DOE is currently deciding how this high level waste can be prepared and shipped to Yucca Mountain. In the past, DOE looked at turning this waste into glass logs in a vitrification plant as required by law, but Bechtel and DOE now hope they can make direct shipments of the calcine waste to Yucca Mountain using a standard package similar to that used for spent fuel.

The INEEL also manages the DOE National Spent Nuclear Fuel program. This program performs the analysis and technology development to support inclusion of DOE-owned spent nuclear fuel in the repository license application. As Yucca opens, this program will play a larger role for DOE and the INEEL.

Because of the history of the INEEL, located near my hometown of Idaho Falls, I have been involved in nuclear issues for many years. I visited Yucca Mountain and I have seen the dry, isolated location President Bush has recommended as the site for our Nation's permanent repository for spent nuclear fuel and high-level waste.

Right now, across the Nation spent nuclear fuel is stored in temporary facilities near cities, homes, schools, rivers, lakes, and oceans. These temporary storage facilities were never intended for long-term storage, but they have become that because our Nation has bent over backwards to do all of the science needed to ensure permanent storage of nuclear waste at Yucca Mountain can be done safely. After spending billions of dollars, our Nation's best scientists say nuclear waste can be stored safely at Yucca Mountain. No one can dispute the logic that it makes more sense for the environment, for national security, and for our Nation's energy policy to store spent nuclear fuel in one isolated location in the desert of Nevada instead of leaving it scattered across the country at over 130 temporary facilities.

Some of the opponents of Yucca Mountain say we should not support S.J. Res. 34 and development of Yucca Mountain because we cannot safely transport this material. To these opponents I say we have safely sent thousands of shipments of nuclear waste across the country for decades.

I know other speakers have already repeated this information before. But it is critical to reiterate that in this

country we have seen 1.7 million miles of shipments conducted safely without a release of radioactivity. That is over 2,700 shipments. As the Senator from Alaska said earlier, in Europe where they have been doing this for two and a half decades, they have had over 70,000 tons of radioactive material safely transported. Compare that record to the risk that we would face if we do not transport it.

For those in favor of stopping the development of Yucca Mountain, the issue of terrorism has been raised. If we have over 131 sites across this country where much of this material is not stored safely—in a remote underground facility—the risk of terrorism would rise. Even the risk from a hypothetical earthquake would be much greater at the 131 sites if they were left untreated or unresolved than at one central underground location that is safe, secure, and protected.

Whether one is looking at the safety record of transportation or the risk of leaving these facilities with the stored nuclear fuel in them spread throughout the country in unsafe conditions, the conclusion must be that for our safety, for the environment, and for our national security, we must move toward one underground, safe depository.

There is also an equity issue before the Senate. For decades, energy users across this country who have received their electricity from nuclear power have paid a surcharge on their energy bill to pay the Federal Government to dispose of this waste. The Federal Government faithfully collected these fees and assumed the responsibility under law for developing a nuclear repository. Now after collecting these fees and doing the necessary science, the Federal Government has an obligation to provide for the permanent disposition of spent nuclear fuel.

Development of the repository at Yucca Mountain will greatly enhance our Nation's energy balance by demonstrating that we can dispose of nuclear waste created by nuclear power. Today, with our dependence on foreign oil for so much of our energy supply, it is critical we broaden our energy portfolio in this country. When one looks at the amount of money we pay to nations such as Iraq for oil, when we could expand our reliance on other sources of energy, including nuclear power, one has to recognize the national security implications of this vote today.

Nuclear power should play a greater role in our Nation's energy portfolio. A path forward for spent nuclear fuel will remove one bottleneck in the nuclear energy fuel cycle. Under the Nuclear Waste Policy Act, if Congress does not approve this resolution, the Yucca Mountain project cannot go forward. There will not be a nuclear repository at Yucca Mountain and nuclear waste in 39 States across this country will stay where it is.

I ask my colleagues, Are we going to vote today to leave spent nuclear fuel and nuclear waste in New York, Vermont, Illinois, Georgia, Michigan, Connecticut, Washington, Idaho, and the many other States in which it is now located or are we going to move forward with a permanent repository for spent nuclear fuel that makes sense for this Nation and the environment? I urge strongly my colleagues to vote in favor of S.J. Res. 34.

I yield the floor.

Mr. REID. Mr. President, my friend from Alaska said if something happens and one of these casks is breached, there will be an explosion. But understand, standing within 3 feet of a spent fuel rod is a lethal dose—three feet. It will kill you. It may not kill you immediately. But you are dead. It will kill you pretty quickly.

As has been brought out by my friend from Nevada, the shipments are not dangerous, relatively speaking.

I yield 2 minutes to my friend from Nevada to talk about that.

Mr. ENSIGN. Mr. President, I do want to address the map that the junior Senator from Alaska has put up over here. When he was talking to the Senator from Missouri, talking about the transportation through Missouri, he was saying these things are already happening, going through Missouri, going through her State, because that was the major reason she was voting against the Yucca Mountain proposal.

This is not the same kind of waste that is going to Yucca Mountain; otherwise, you would need a different kind of repository. This is not as high a level of nuclear waste as is coming to Nevada. So to equate the two is irresponsible, I believe. We should not even have that map on the floor.

I want to clear up two other quick things. The first is, the Senator from Idaho just said, Isn't it better to have one site? If, in fact, we had one site, and we are going to have all the nuclear waste at one site, that would be true. Except we are not going to have just one site. We are going to continue to have sites all over the United States with nuclear waste. Here is a very simple graph to understand.

Currently we have 45,000 metric tons of nuclear waste in America. By the time Yucca Mountain is supposed to start receiving waste in 2010, we will have 65,000 metric tons. When Yucca Mountain is completed in 2036, it will have 70,000 metric tons in Yucca Mountain, but because we are producing new nuclear waste every year, spread around the country still will be 47,000 metric tons, virtually the same as we have today spread out all over the country.

The Senator from Idaho has a very good argument to get the stuff out of his State. He has one of the few good arguments, but everybody else does not: If you have nuclear powerplants in

your State, you will continue to have nuclear waste in your State for as long as you have nuclear powerplants operating.

It is not a question of national security. It is going to be safer to have it in one site. But we are still going to have all these other sites, so national security is focused on transportation more than it is anything else.

I thank the Senator for yielding.

Mr. REID. Mr. President, I am going to yield 10 minutes to the Presiding Officer in a second.

Another thing my friend from Alaska said is it is not going to travel through Missouri. This is one of the problems. It is like the "immaculate reception." One day we will wake up and it is suddenly going to be there. I don't know, there are no transportation routes, but it will get there because the DOE says it will.

It can only go by train, truck, or barge, and for barge transportation, according to the Nuclear Regulatory Commission, the only tests that have been done are by computer. They have never stuck one of them in the water. It has all been done by computer.

I yield 10 minutes to the Senator from Delaware.

(Mr. REED assumed the chair.)

Mr. CARPER. Mr. President, I thank the deputy majority leader for yielding this time to me.

On the floor this afternoon I see three, maybe four Senators—four of whom I have been privileged to serve with in the House of Representatives, one of whom I have just been privileged to serve with for the last year and a half.

The senior Senator from Nevada knows the great affection I hold for him. He and I were elected to the House of Representatives in 1982. We came to Congress together in 1982. We began our first years in the House of Representatives many mornings working out together in the House gym. I have had the privilege of knowing his family and watching his kids grow up. For me, and I know for many of us, this important policy decision is also a decision that is intertwined with the respect and admiration we have for our colleagues. I have great respect and admiration for both the senior and junior Senator from Nevada.

As some of you know, I spent a fair number of my years in the Navy, 5 years on active duty, another 18 years as a Reserve naval flight officer, most of that time on airplanes but other times on ships. I have been on ships that are nuclear powered. They included aircraft carriers and submarines. I have known hundreds of people who lived many years of their lives on nuclear-powered vessels. When you have that kind of background, you are maybe more comfortable with nuclear power than those who have not literally lived on a floating nuclear powerplant.

I acknowledge there are a lot of people who have legitimate concerns about the various aspects of nuclear power—a few of them have been pretty well vetted here today. One of them is transportation: how to move this nuclear waste through dozens of States and do so safely, especially in an age of terrorism.

There are concerns about the terrorists themselves and whether or not they might strike, either at a site such as Yucca Mountain or at a barge or a railroad or a highway.

Before I served in the Senate a year and a half ago, I served as Governor of Delaware. During those years, I became all the more mindful of the transportation of hazardous waste through my State and alongside my State via the Delaware River and the bay which divides the State of the Presiding Officer and my State. Every day hazardous materials make their way up and down the Delaware River. Throughout I-95/I-495, which crosses my State and the railroads of my State, the Norfolk Southern and CSX, we have dangerous materials every day traverse throughout Delaware—sometimes hazardous materials, sometimes explosive materials. We have learned to deal with them and deal with them safely. In Europe, they have shown a record over time of being able to transport nuclear waste in a way that is safe as well.

I know people who are concerned about nuclear power because of the possibility there will be an accident at a nuclear powerplant. I acknowledge those concerns are not illegitimate. The safety record of the nuclear power industry has been better in the last 10 years than probably in all the years before, and it continues to improve.

While I acknowledge, on the one hand, the legitimate concerns about nuclear power being a viable, growing part of the generation of electricity in our country, I want to talk briefly about the virtues, the advantages of nuclear power. We had a great debate on energy policy over the earlier part of this year. We talked about the growing demand, the rise in price of foreign oil, now up 50 percent. We talked about the huge and growing trade deficit we have in this country, over \$300 billion last year, maybe \$400 billion this year, and a significant part of that is oil imports.

I think we have begun a serious discussion and debate about what to do with respect to air emissions, how we can curtail sulfur dioxide, mercury, carbon dioxide, and nitrogen oxide from powerplants in this country and other sources.

Nuclear power, whether we like it or not, does not create sulfur dioxide emissions. It doesn't create mercury emissions. It doesn't create nitrogen oxide emissions. It doesn't create carbon dioxide emissions—it doesn't contribute to those. With respect to our

environment and the quality of our air, I think nuclear power is, if anything, a friend.

I, as have a number of my colleagues, had a chance to go to Yucca Mountain. I visited the place. I talked to people who worked on that project for any number of years. I met with people in Nevada who oppose the designation of Yucca Mountain and those who favor it. I have had the opportunity along with many of my colleagues to participate in hours of hearings and other meetings with advocates and opponents of designating Yucca Mountain and licensing Yucca Mountain.

In the end it comes down to maybe two votes: one, a procedural vote as to whether or not we are going to vote to proceed to the final vote and that is one that would carry on to the licensing of Yucca Mountain. I said to my colleagues on the Energy Committee a month or so ago, I have agonized with this vote probably as much as any in my memory, trying to do, on the one hand, what I think is the right thing for my country and trying to treat my dear colleagues the way I would want to be treated. It is a tough call. It is tough for me and I know it is for many of us.

We have two votes. On the first vote, on the motion to proceed, if my vote is needed—and I am going to stand in the well there—if my vote is needed in order to be able to proceed to the final vote, I will vote yes—if my vote is needed.

On the final vote, if the motion to proceed is approved, I will vote yes on the designation of Yucca Mountain.

With that, I thank the deputy majority leader for yielding his time to me.

Mr. MURKOWSKI. Mr. President, to respond very briefly, under the agreement, there will be a rollcall vote on the motion to proceed; then the agreement is that there will be a voice vote on the final resolution.

Mr. CARPER. I appreciate that. When we vote, I will be here to vote. When the yeas and nays are asked for, my voice will say yes on that final vote.

Mr. REID. Mr. President, the Senator from Alaska, having served here as long as he has, has certainly on occasion when there has been a voice vote wanted to be listed as voting yes or no. That certainly can be stated in the RECORD. I have done it on a number of occasions myself.

Senator ENSIGN and I wish to speak longer. Senator KYL is here. It is my understanding you would like to yield some time to him.

Mr. MURKOWSKI. Mr. President, would you advise me on how much time is remaining on our side?

The PRESIDING OFFICER (Mr. CORZINE). The Senator has 50 minutes. Mr. REID. How about here?

The PRESIDING OFFICER. Forty-five minutes remains for the Senator from Nevada.

Mr. MURKOWSKI. I yield 10 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Thank you, Mr. President.

Let me make a general statement, and also preliminarily comment on the debate that has been conducted by the two Senators from the State of Nevada. They have been tenacious in the representation of their position. I take no pleasure in opposing their position. They are both fine Senators and are extraordinarily good at representing the interests of their constituents in this particular case. I know it is not just a matter of representing the people who have spoken out from the State of Nevada. I have talked to Senator ENSIGN a lot, and he has argued his case with a lot of personal conviction that you don't always see in this body. I commend both of them and make the point that I take no pleasure in opposing them.

I do, however, strongly believe it is time for us to move forward with this process, and the next step in the process is the approval of this legislation. Then there are other things that have to be done, including the Department of Energy action.

I want to make a comment about this issue of the storage of nuclear waste because the Palo Verde nuclear-generating station just west of the city of Phoenix is the biggest in the country. It is a huge, successful, good nuclear-generating station. It stores an awful lot of waste. In fact, I believe, according to the Nuclear Energy Institute, more than 45,000 metric tons of high-level radioactive waste are housed at the 131 sites in 39 States—sites such as Palo Verde.

If we don't use a storage facility such as Yucca Mountain, the problem only gets worse. Each year, about 2,000 more tons of radioactive waste are being added to the total.

Senator ENSIGN made the point that even if we have a site such as Yucca Mountain, of course, we are still going to have the other storage sites around the country. That is very true. But I think it begs the question of what we are going to do with the majority of this waste.

It is a little like saying since every Wednesday morning everybody in my area of Phoenix is going to put their garbage out, and because we keep producing garbage, we should not have a dump to where all of that garbage is taken. It is certainly true that every Wednesday everybody is going to put their garbage out. We produce more garbage, and to store it onsite is in effect storing it on the curb. That doesn't argue for the proposition that there should not be a central repository where that material is taken and disposed of in a proper way.

That is what we are talking about here. We are going to continue to

produce waste. There will have to be a place to temporarily store it at each of these nuclear-generating facilities around the country. But eventually, when it cools off, it is put into these casks and transported to Yucca Mountain. That is where most of the scientists have decided is the right place to put it.

As a matter of fact, the scientific reports of the Department of Energy conclude that a repository at Yucca Mountain would protect the public health and safety in accordance with the EPA and NRC guidelines. The Nuclear Regulatory Commission is in support. The Nuclear Waste Technical Review Board is in support. The experts on the National Academy of Sciences panel who recommended the site note that there is "worldwide scientific consensus" for the idea.

I might also add that there is now a new element that is injected into the debate. That is the element of terrorism. We can't talk about that a lot on the floor of the Senate. I am on the Intelligence Committee. I can assure my colleagues that it is a significant issue to have this waste dispersed at a variety of sites around the country in the conditions that currently pertain. It would be much better if we were able to take a majority of it, when we could, to one site that is clearly safe from terrorism. Yucca Mountain is a remote location. It is 100 miles away from the nearest metropolitan area. It has the highest security—again, because of its general proximity to the Nevada Test Site and Nellis Air Force Range. Those are reasons we think it is important to go ahead with the next step of the process and get this material to Yucca.

With respect to transportation, we know that there have been a lot of questions raised. But the truth is we have had 45 years of experience and 3,000 successful shipments of used nuclear fuel. That is not exactly the same as this fuel, but we have much better casks now—these steel casks that have been described in detail here on the floor that will be used for the transportation of the material.

There have been no radiation releases, fatalities, or injuries, nor any environmental damage that has occurred as a result of the transportation of this radioactive cargo in the past.

I am a little distressed by the fact that people have been scared. I am very disappointed that some people—clearly not those on the floor of the Senate today—but there are some who have really attempted to scare people in individual communities with the notion that somehow there will be some great catastrophe as a result of the transportation of this material. That is so unlikely as to be something that should not be of concern to us as we move forward with this legislation.

I urge my colleagues to recognize that at some point something has to be

done. We can't just allow the waste to sit where it is. There is a safe, scientifically proven location where the material can be stored. The transportation has also been thoroughly considered by the scientific community. A method for transporting it has been developed. Sandia Laboratories, which has done a lot of testing, assures us it would withstand the most extreme accident scenarios.

For all of these reasons, I think it is important for us to move on, get beyond this next step, and allow the DOE now to look at this Yucca Mountain site for licensing.

Again, I commend all of my colleagues for the way in which this debate has been conducted. This is an emotional issue with a lot of people around this country. But the debate has been responsible and serious and based upon good science. I commend both the proponents and the opponents for the way they have conducted this debate.

Thank you, Mr. President.

Mr. DODD. Mr. President, today, I am prepared to support S.J. Res. 34 which approves the site at Yucca Mountain for the development of a repository for spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982. But, I do so with great caution.

The vote we cast today does not give carte blanche to move this waste. Instead, it signals a continuation of a process begun in Congress more than two decades ago. The risks are not insignificant, and in the coming months and years many steps must be satisfied and many scientific tests undertaken before a license is issued by the Nuclear Regulatory Commission and a single shipment of waste is moved. In addition, there must be open dialogue among industry, organizations, transportation experts, and government entities at the Federal, State, and local levels to determine a safe and workable transportation system. If the ongoing scientific, environmental, or public safety tests are not satisfactory, or a transportation system is deemed unworkable, then the site should not be licensed.

For Congress to stop the process today with no viable, permanent alternative solution on the table is shortsighted and wrong. I recognize the limitations on the amount of waste that Yucca Mountain can accept and the length of time it will take to transport the waste. I further understand that some waste will necessarily remain on site at individual facilities even if Yucca Mountain is licensed, as nuclear reactors continue to operate and generate waste.

But to keep all of the current and future waste on-site at approximately 100 sites in above-ground storage is not a prudent long-term solution. In fact, many facilities will be reaching their storage capacity long before their li-

censes expire. For these reasons, while we continue to move forward with Yucca Mountain, we must also step up our security at all the nuclear sites around the country. If all systems are a go with Yucca, it will be at least 10 years before any waste is moved.

My record is clear. I have supported nuclear power and the obligation of the federal government to take responsibility for nuclear waste. I am one of a handful of current Senators who was here in 1982 to vote on the National Nuclear Waste Policy Act of 1982. I supported that initiative, and again in 1987 I supported amendments to the 1982 act which singled out Yucca Mountain to be examined as a nuclear waste repository. However, I have voted against both the idea of interim, above-ground consolidated storage and moving forward with the process before the Secretary of Energy formally recommended Yucca Mountain.

No one knows the costs and benefits of nuclear energy more than the residents of my State. Connecticut has two operating nuclear facilities and two permanently shut down facilities that are undergoing decommissioning. Nuclear energy provides more than 45 percent of the electricity generated in Connecticut. Only Vermont, New Hampshire, New Jersey, Illinois, and South Carolina have a larger percentage of electricity generated by nuclear power.

It is a fact that while I have supported nuclear power, I was also one of its most vocal critics when I believed the industry and oversight agencies failed to exercise appropriate controls over the facilities in my State.

I have also been a champion of the need for alternative energy sources, including renewables, to meet our growing energy needs and offset our dependence on energy sources that generate waste, pollute our environment, and cause public health concerns. I applaud people, including many of my colleagues, who champion these issues, drive fuel efficient and cleaner burning automobiles, and make personal choices to use alternative energy sources in their daily lives.

We will be judged by future generations not only by the decisions we make in the coming months and years regarding nuclear waste, but also by the bold choices we make regarding our future energy security and the health and welfare of our planet.

This is not a perfect solution, but a reasonable step if the risks can be managed. I hope that it will be looked upon as such in years to come.

Having said that, while I support the substance of this resolution, I intend to vote against the motion to proceed. As chairman of the Rules Committee, I take the rules of the Senate very seriously. It is my belief that despite what may have been written into the Nuclear Waste Policy Act of 1982 and 1987,

I believe it is the fundamental prerogative of the Majority Leader to set the agenda of the Senate. My understanding is that at no time in the recent history of the Senate has that prerogative been violated. Moreover, I fail to see why my colleagues felt the need to violate that prerogative today. There are still more than 2 weeks to bring this matter to the floor under established practices of the Senate. Furthermore, it is worth noting that this matter was brought up by the minority during the middle of a very important debate to address wrongdoings and shortcomings in the accounting industry and corporate sector. I want to clearly state that, my vote against the motion to proceed was not against S.J. Res. 34, but out of respect for the practices and prerogatives of the Senate. In the event that there is no rollcall vote on S.J. Res. 34, I will record my vote as aye.

Mr. VOINOVICH. Mr. President, I rise today in support of establishing a permanent nuclear repository at Nevada's Yucca Mountain. Establishing a single site for high-level nuclear waste is the best thing we can do to meet our growing energy needs in an environmentally sound manner, support our domestic economy, and protect our national security.

One of my goals in coming to the Senate was to enact a comprehensive U.S. energy policy that harmonizes our energy and environmental needs. I worked hard with my colleagues on the Energy bill and after 6 weeks of debate, this body finally passed legislation that does just that. Our challenge in the energy bill was to encourage development of domestic energy sources in a balanced way that respects seemingly competing needs, the economy and the environment. These are not competing needs, however. A sustainable environment is critical to a strong economy, and a sustainable economy is critical to providing the funding necessary to improve our environment.

In order to maintain a strong economy, we will have to produce more energy to keep up with the growing demand. According to the Department of Energy, we need to increase by 30 percent the amount of energy we produce in the United States by 2015 in order to meet our country's demand. To ensure that consumers have access to low-cost, reliable energy, we must make use of every available resource instead of putting all of our eggs in one basket. We need to increase our production of oil, gas, coal, nuclear energy, and renewables. Keep in mind that only two-tenths of 1 percent of our total electricity comes from wind and solar power. At the same time, we need to continue to increase conservation efforts which have already substantially contributed to reducing our reliance on imports. We simply must diversify the source of our energy supply and we can

do so while protecting our precious natural resources.

One of our great untapped resources is nuclear energy. It is an important part of meeting our Nation's energy needs and harmonizing our energy and environmental policies. Over the past 40 years, we have seen how safe and reliable nuclear energy can be. We use it today. Nationally, we obtain 20 percent of our electricity from nuclear energy plants and in my State of Ohio, nuclear power provides 12 percent of our total.

But this level is far below what other countries do. For example, France derives 70 percent of its electricity from nuclear power; Sweden uses 39 percent; South Korea 41 percent; and Japan uses 34 percent.

One of the reasons these countries use so much nuclear energy is that it produces zero harmful air emissions. None. I am not sure that many people realize this. Throughout my career, I have been actively involved in the debate concerning how to reduce emissions from power plants and continue to provide safe and reliable electricity to consumers. This has been difficult, however, because so many so-called environmentalists raise issue with all of our energy alternatives.

For example, here's what they say: coal, which supplies 52 percent of our energy, is too dirty. Hydropower, which supplies 7.3 percent of our total energy, is criticized because the dams can disrupt the ecosystem. Due to lengthy and complicated environmental regulations, it is nearly impossible to build new pipelines for natural gas, which supplies 16 percent of our energy. Even windmills, the source so many of my colleagues point to, has siting difficulties due to their noise and unsightly appearance. Nuclear power, which supplies 20 percent, has been demonized because of the waste issue, which can be solved.

The science for using nuclear energy has been rapidly developing over the past several decades and nuclear energy offers one of the best alternatives for the future: a clean-burning and reliable source of energy.

Since 1973, the use of nuclear energy has prevented 62 million tons of sulfur dioxide and 32 million tons of nitrogen oxide from being released into the atmosphere. Nuclear energy also releases none of the so-called greenhouse gas emissions, such as carbon dioxide. In fact, according to the Energy Information Administration, nuclear power has offset more than 3.1 billion metric tons of carbon emissions between 1960 and 2000 that would have been generated by fossil fuels.

Nuclear energy has incredible potential as an efficient and clean source of energy, yet we face some major impediments that prevent us from taking full advantage of its benefits. During consideration of the energy bill, I offered two amendments to address these prob-

lems and promote the growth of nuclear energy. Both amendments were included in the Senate version of the energy bill, and I hope the conferees will keep them in the final version.

The first amendment reauthorizes the Price-Anderson program, which provides liability protection to the public paid by the industry. The second amendment provides needed Nuclear Regulatory Commission reforms to address the human capital crisis that is impacting the NRC, improves licensing and decommissioning oversight, and strengthens anti-trust protections by moving the review process from the NRC to the Justice Department.

But the biggest impediment to the growth of nuclear energy could not be addressed in the energy bill and that is what brings us here today. Congress recognized the importance and necessity of having one storage site for spent nuclear fuel in 1982 with the passage of the Nuclear Waste Policy Act, which was signed into law. That law required the Department of Energy to locate, build, and operate a deep, mined geologic repository for high-level nuclear waste.

In response to this law, the Energy Department identified, studied, and selected viable potential sites for this purpose. In 1987, Congress then amended the law and designated Nevada's Yucca Mountain as the only site that could be considered and stipulated the further study was required to determine whether that site was suitable.

Congress stipulated that the nuclear waste storage facility was to be completed by January 31, 1998. Obviously, this deadline has not been met because the Energy Department wanted to be thorough and base their decision on science. Some of my colleagues would have you believe that this was a rash decision. On the contrary, Secretary Abraham recommended Yucca Mountain after two decades and \$7 billion of scientific research.

In addition, President Bush affirmed this recommendation. The House of Representatives affirmed this recommendation overwhelmingly by a vote of 306 to 117 in May. The Senate Committee on Energy and Natural Resources affirmed this recommendation by a vote of 13 to 10 in June. Now it is the Senate's turn.

All of this support is based on science. This is exactly what we want to see in the formation of public policy; science driving the policy.

Yucca Mountain is located approximately 90 miles from Las Vegas in an area that averages about seven inches of rainfall a year. The Energy Department does not expect water to come into contact with any of the nuclear material that will be stored there for more than 10,000 years. Surrounded by unsaturated rock layers, nuclear waste would be stored approximately 1,000 feet above any water, which is still about 1,000 feet below ground.

Even if water somehow infiltrated Yucca Mountain and corroded the seal and then penetrated the robust fuel containers before 10,000 years passed, natural and engineered barriers would prevent or limit any release of radiation. Furthermore, Yucca Mountain is located in a hydrologic basin, in which water does not connect to any rivers, oceans, or the groundwater system that serves Las Vegas. Through years of scientific research, it has been determined that the site is secure and that radiation exposure to the public would be well below both the stringent EPA limits and natural background radiation levels.

Let me emphasize: The resolution we are considering allows the Yucca Mountain program to continue to the next step; it is not the end of the process. The site must still go through a rigorous licensing review, which is expected to last up to five years. Moreover, the NRC still must address a whole host of issues including monitoring and testing programs, quality assurance, personnel training, and certification, emergency planning, and more.

Additionally, the NRC must use standards adopted by the EPA specifically and exclusively for Yucca Mountain. These strict standards provide that an engineered barrier system should be designed to work in combination with natural barriers so that, for 10,000 years following disposal, the expected radiation dose to an individual would not exceed 15 millirems total effective dose equivalent per year, and 4 millirems per year for groundwater exposure.

These are exceedingly stringent standards designed to protect the public from any harmful exposure, now or in the future. To illustrate what the numbers mean, let me offer two examples. In Denver, Colorado, due to the higher altitude and cosmic radiation from the sun and stars, residents are subject to at least 15 millirems of radiation more per year than people who live in my hometown of Cleveland. On average, Americans are exposed to 4 millirems of radiation per year through the naturally occurring radioactive potassium in the 140 pounds of potatoes that an individual eats on average each year.

This rigorous licensing process combined with the full completion of the site is expected to take 10 years. Therefore, unlike most of the attention this matter has received in the media, our action in the Senate will not begin the transportation of nuclear waste to the repository. Instead, this resolution simply affirms the science behind the project and allows the experts to continue to move ahead with their analyses and reviews.

While some people have concerns about the transportation of nuclear waste, many people may not realize

that nuclear waste has been shipped across our country since 1964 and that it has an amazing track record of safety. During this period, more than 3,000 shipments have traveled 1.7 million miles on roads and railways with only eight minor accidents: no injuries, fatalities, or release of any radiation.

There are two reasons for this success. First, the containers for the waste have been tested rigorously under extreme conditions, including being dropped from buildings, hit by trains, and burned at high temperatures. Second, there are numerous safety measures that federal agencies and state and local governments have developed, including satellite positioning, designation of special routes, police escorts, inspections, and emergency response planning.

Over the next 10 years as new scientific discoveries are made, it is likely that new regulations, procedures, and technology will offer further improvements to the safety and security of transporting spent nuclear fuel to Yucca Mountain. And the NRC in conjunction with other federal agencies will continue to examine the safest and most effective means of transport and storage.

Failure to approve this resolution will have serious costs to our economy and national security. Our nation has already spent \$7 billion over 20 years researching this specific site. The greater cost is the current danger we face across our nation with 131 facilities in 39 states storing more than 40,000 tons of spent nuclear material. To put these numbers in perspective, about 160 million Americans live within 75 miles of these sites.

Establishment of a repository at Yucca Mountain would allow all of the nuclear waste to be stored in one place, underground in a remote location. The site is on federal property with restricted access to the land and airspace, and as a further safeguard, the Nellis Air Force Range is nearby. From a national security perspective, one site is easier to defend than many facilities scattered throughout the nation.

The current situation is also costly in terms of capacity. The facilities which currently store this spent fuel are only designed to be used on an interim basis and space is limited. The Energy Department estimates that replacement facilities at each interim site would have to be built every 100 years with major repairs every half century.

Nuclear power is a necessary and sound part of our energy future that makes sense for our environment and our economy. Furthermore, because it protects national security and the safety of all Americans, I urge my colleagues to listen to the science and support this resolution to affirm the President's recommendation to estab-

lish a permanent nuclear repository at Yucca Mountain.

Mr. ALLARD. In 1982, Congress passed the Nuclear Waste Policy Act. In 1987, after being ranked as the site that possessed the best technical and scientific characteristics to serve as a repository, the Nuclear Waste Policy Act was amended to direct the Department of Energy to study Yucca Mountain as a potential storage site.

The Federal Government has spent over 20 years and \$8 billion analyzing and studying potential sites for disposal of nuclear waste. This serious investment of money and human capital has led to the clear conclusion that Yucca Mountain is indeed scientifically and technically suitable for development.

As a result of this massive effort, on February 14, 2002, Secretary of Energy Spencer Abraham formally recommended to President Bush that the Yucca Mountain site in Nevada be developed as the Nation's first long-term geologic repository for high-level radioactive waste. I fully support this designation, and I will vote to move forward with the process, allowing the bipartisan regulatory experts at the Nuclear Regulatory Commission to make a final determination of whether to allow storage at the site.

Colorado, and indeed the Nation, has much to gain from the opening of Yucca Mountain. Material that is currently scattered throughout the United States will finally find a safe long-term shelter at Yucca Mountain—isolated in the remote Nevada desert.

Those opposed to opening Yucca continue to argue about the method of delivery to Yucca Mountain. Much has already been said in this respect, but I would like to point out that in the last 40 years, more than 3,000 shipments of spent nuclear fuel have traveled 1.6 million miles in the United States with no radiation related injuries or deaths. The Nuclear Regulatory Commission has performed numerous safety tests on the multi-layered containers that carry the nuclear substance. These tests, often exceeding regulatory requirements, have never yielded any negative or potentially harmful results. Additionally, nuclear waste is a solid that is not flammable and cannot explode. The casks have surpassed expectations during rigid drop tests, puncture tests, heat exposure trials and submergence drills.

Public safety has always been a priority, but has become even more important in this unprecedented time of threat to our national security. I believe that the centralization of our used nuclear waste 1,000 feet beneath the earth's surface in a single, highly secure location is preferable to the current scattered distribution of nuclear waste in 131 temporary surface facilities in 39 States.

Without Yucca Mountain, the fuel at the Fort St. Vrain facility will remain

there indefinitely. This means that the 2.6 million people in Colorado that live within 75 miles of a nuclear facility will continue to live in close proximity; our citizens will be forced to wait another 20 years and spend 8 billion more taxpayer dollars to find another suitable site. Without Yucca Mountain, major metropolitan areas in my State will still have only 20 miles between their town limits and a nuclear facility that stores fuel above ground. Without Yucca Mountain, waste being stored at facilities that are safely designed to hold waste for 50 to 100 years will have to wait untold years for a new destination, costing billions of dollars. Without a favorable decision on Yucca Mountain, a facility that is designed to store nuclear material safely for 10,000 years will shut down.

It is important to note that this vote does not mean that Yucca Mountain will open tomorrow. What it does mean, is that the next phase of science can begin in earnest—highly skilled nuclear experts will determine whether the facility merits a license to begin accepting the material. After that, any shipping is subject to strict Nuclear Regulatory Commission and U.S. Department of Transportation guidelines and regulations, and would not begin, if Yucca is finally approved, until 2010.

I support the Yucca Mountain Project, and will continue to be an active participant in the debate. I encourage my fellow colleagues to support the project, and fulfill the requirements of the law imposed by Congress some 20 years ago.

Mr. DOMENICI. Mr. President, I am pleased that the Senate is preparing to vote on the resolution that would allow continued evaluation of Yucca Mountain's suitability for a high-level nuclear waste repository. I compliment Senator BINGAMAN on his resolution and on his success in reporting that resolution out of the Energy and Natural Resources Committee.

Members don't need to be reminded of the vital role that nuclear energy plays in our national security. There is no question that it directly impacts our environmental security and our energy security. Without nuclear energy, we would have far dirtier skies and be far more dependent on foreign energy supplies.

I have argued repeatedly that our nation must maintain nuclear energy as a viable energy source far into the future. With advanced technologies, it can become a fuel for centuries into the future. Its clean reliable baseload power will be essential in powering our economic growth for future generations, just as it is a vital component of today's economic successes.

For nuclear energy to continue to support our economy, we must address the waste issue. There is no denying that these wastes represent an area of risk but every energy source requires a

balance of benefits and risks. The risks associated with nuclear waste are ones that we can fully control.

I am well aware that hundreds of outstanding issues have been identified by the Nuclear Regulatory Commission. And the Department is well aware that they must address each and every one of the NRC issues before the Commission is going to move towards a final license.

In many meetings with the NRC chairman, as well as many of the commissioners, I have always been impressed with their intent to deal with this, or any licensing issue, through careful study of the relevant scientific facts. The NRC has the expertise to evaluate these outstanding issues, and I am confident that they will do so with great care.

It is not up to the U.S. Senate to decide on the complex scientific issues that will eventually determine the fate of a license for Yucca Mountain. Our vote today is solely on the question of whether the licensing process continues.

I have been very sorry to see the overblown concerns on transportation by those who wish to block further evaluation of Yucca Mountain. Apparently the opponents of Yucca Mountain are so intent on winning this battle that they are willing to use transportation issues to frighten the American people into abandoning nuclear energy. That would be a colossal mistake for our nation and would seriously undermine national security.

The simple fact is that transportation of nuclear materials is a challenging and risky operation, but it is also an operation that has been extensively studied and engineered for success. In the United States, as well as in other countries, the record for transporting spent fuel is superb. Opponents need to remember that the shipping casks for spent fuel are designed to withstand the most rigorous conditions, and routes will be carefully chosen to further limit risks.

In the United States, since 1960, we have shipped spent fuel about 2700 times and it's traveled over 1.6 million miles. Sure, there have been a few accidents. But no radiation has ever been released in any of them.

The record at the Waste Isolation Pilot Project is also spectacular. In their 3 years of operations, they have logged about 700 shipments traveling over 1.5 million miles. And in Europe, over 70,000 metric tons of spent fuel have been shipped, an amount roughly equal to the total authorized limit for Yucca Mountain.

Furthermore, in any debate about transportation, the simple fact is that route selection and detailed planning will begin at least 5 years before the first shipment and that the total number of shipments in a year will be around 175, a far cry from the 300 mil-

lion annual shipments of hazardous materials that are currently moving around the country. There will be plenty of time to debate and optimize shipping plans before any spent fuel moves.

In responding to the outstanding issues raised by the NRC, I'm sure the Department will continue to analyze the mountain and improve their modeling and simulation. That is certainly important research that I fully support. But I want to note that other research is also vital.

I have spoken on many occasions with my concern that the Nation's policy of simply treating spent fuel as "waste" deserves careful debate. Spent fuel has immense residual energy content. I am not convinced that we should be making a decision today that future generations will have no interest in this superb energy source.

I have noted that alternative spent fuel management strategies should be carefully studied and evaluated. Reprocessing and transmutation could not only recover residual energy, but could also vastly reduce the toxicity of the final waste products.

I am pleased that the Department plans for all spent fuel in Yucca Mountain to be fully retrievable for at least 50 years. We may find that these new approaches can even be applied to the spent fuel in Yucca Mountain and they certainly will influence any additional repositories that we may need.

In my view, the Nation is far better served by beginning to move spent fuel into a single well-secured repository than to leave it stored in temporary facilities at 131 sites in 39 States. I support the joint resolution to override the veto of the Governor of Nevada and continue evaluation of Yucca Mountain as our Nation's future repository.

Mr. HATCH. Mr. President, I rise today to speak regarding the proposed national nuclear waste repository at Yucca Mountain, NV. After serious consideration of this issue over the last several years and after carefully studying the track record of the nuclear industry in the United States, I have concluded that I will not stand in the way of sending this waste to a permanent repository at Yucca Mountain. I also understand the reservations expressed by many of my colleagues in this Chamber, and I have certainly taken such considerations into account in making my decision.

Utahns have a right to be skeptical about government promises with regard to the handling of nuclear materials. In Utah, we have had more than our share of victims from government activities relating to atomic testing and the uranium industry. I have met with too many Utahns who are suffering needlessly. These Utahns were my inspiration when I passed the Radiation Exposure Compensation Act through Congress and when I improved this legislation a few years ago. Over

the years, the act has provided compensation to thousands of downwinder victims.

One of the top considerations in my decision on this issue has been the future of a proposal for a temporary storage site on the Skull Valley Goshute Indian reservation in Utah. Skull Valley has been targeted by a private consortium of nuclear electric generators as a temporary site for nuclear waste en route to Yucca Mountain, NV. I have concluded that if the plan to send high level nuclear waste to Yucca Mountain is not approved, Skull Valley will likely become the targeted alternative for permanent storage even though it is a private project only being considered as a temporary facility.

I have many concerns regarding the proposed Skull Valley site. Chief among these is that it would pose a serious threat to the nearby Utah Test and Training Range, which is one of the most important bombing ranges available to our military. The dangers involving live ordnance or aviation accidents in the vicinity of the proposed above-ground nuclear storage casks present an unacceptable risk. Secretary Abraham of the Department of Energy has made it clear to me that the Department will not reimburse the nuclear industry for storing nuclear waste at Skull Valley. By not funding the Skull Valley site, the Department of Energy provides a significant incentive for generators of high level nuclear waste to find solutions to storage problems either on-site or to send materials directly to the permanent site proposed at Yucca Mountain.

Also a top concern for me and many Utahns has been the issue of the safe and secure transportation of these materials through Utah as they travel to Yucca Mountain, NV. As you may be aware, well over 80 percent of the high level nuclear waste proposed to be stored in Yucca Mountain is projected to travel through populated areas of Utah.

Only after receiving a firm commitment from Secretary Abraham that the Department of Energy will work with the State of Utah to formulate an enhanced and updated transportation plan do I feel confident in casting this vote today. The plan will address operational procedures, additional emergency first responder training, and coordination efforts between State governments and the Department of Energy regarding the safe transit of nuclear materials to Yucca Mountain. I would like to make it clear that the Utah congressional delegation will closely monitor the development of this updated transportation plan.

In closing, I want to underscore how difficult this decision has been for me. I could never support any policy that would place Utahns at risk, and I believe that my decision to support the

Yucca Mountain project is consistent with that. This decision has come down to my commitment to fight against the ill-advised and under-equipped facility proposed for Skull Valley, UT, and a firm commitment from the Department of Energy concerning the safe and secure transportation of these materials. With these strong commitments from Secretary Abraham, I have decided that I should not stand in the way of sending this waste to its permanent resting place in Yucca Mountain.

Mr. CAMPBELL. Mr. President, I rise today to speak on designating Yucca Mountain as the Nation's waste repository in the State of Nevada.

But before I start, I would like to get a few things clear. First, I don't oppose nuclear power. Nuclear power is an efficient and clean way to generate electricity. The obvious downside to nuclear power is that its waste is harmful to people. Yet, several States benefit from the relative clean power that nuclear plants generate. Clean air, clean water, and efficient power are significant benefits that some enjoy.

My opposition to designating Yucca Mountain is deeply rooted in my strongly held belief in States' rights. I believe that States should determine their own destiny—when States elect or choose to benefit from a program or policy, then those States should correspondingly assume the costs, costs that might not only be monetary.

My State of Colorado did not choose to build nuclear power plants. My State of Colorado did not choose to enjoy the benefits that nuclear power offers. Correspondingly, my State of Colorado never chose to assume the responsibility of storing nuclear waste and, therefore, we do not.

Some States favor storing nuclear waste and enjoy the economic benefits of doing so. My neighbor to the south, New Mexico, for example, chose to store nuclear waste in Carlsbad. The WIPP facility there is a major source of revenue for the community and the State. Although it has some detractors, I think that it is widely regarded as a big plus. The State of Nevada, however, unequivocally opposes storing waste at Yucca Mountain. It objects for a variety of reasons. Whereas the State of New Mexico considers storing nuclear waste good for business, the State of Nevada believes that storing nuclear waste at Yucca will kill business. Nevada's economy relies, perhaps more than any other State in the Nation, on tourism.

I cannot, in good conscience, vote to override a Governor's veto, when the long-term effect has the potential to destroy that State's economy. During hearings before the Committee on Energy and Natural Resources on designating Yucca, I noted my moral opposition. Today, I reiterate that argument.

I likened the issue to a homeowner who builds his big house on a small lot,

and then realizes that he failed to build a septic tank for the house. Rather than change his design, the homeowner just puts the septic tank on his neighbor's property. I don't want someone else's septic tank on my property. The State of Colorado doesn't want a septic tank. We shouldn't force Nevada to be a septic tank for other States.

Furthermore, I am concerned about the routing of nuclear waste shipments going through Colorado toward Yucca. I realize that the routes that have been referred to are not certainties, but they are certain possibilities. After this vote, the Congress will have a very limited voice in choosing routes. I share many of the same transportation concerns some of my colleagues have expressed. I don't want to restate all of their points. Rather, I just want to note that if Yucca mountain moves forward, Colorado will likely be a major transit route for nuclear waste with nearly 13,000 rail shipments over 38 years, one of the highest in the Nation.

And what is not transported by rail will be transported by truck in I-70 and through Vail Pass, a difficult mountain road winding through Colorado's Rocky Mountains. Trucks wreck all the time on I-70. I am happy to know that we have not had any major nuclear waste accidents by truck, but am troubled by the possibility, just the same.

A colleague made a logical argument about the benefits and risk. For him, the benefits of designating Yucca mountain make the risks tolerable. I am unable to make the determination. Because I don't know what the transportation routes will be and my Governor does not have authority to designate or oppose routes, I can't engage in a cost-benefit analysis.

In the absence of state oversight authority to regulate, and without sufficient information on route designations, the risks are too great for this Senator to approve Yucca Mountain.

Mr. KERRY. Mr. President, I represent a State with one active nuclear reactor powerplant and a second decommissioned nuclear power plant, both of which are storing nuclear waste far beyond their initial design limits. I can assure you there is much concern within my State over what the government plans to do with nuclear waste and a sense of urgency to get something done. I cannot in good conscience however vote to make Yucca Mountain the destination for all of our nuclear waste when a number of studies urge caution and further study to make sure that we are not making a mistake, a mistake that could plague the people of Nevada and potentially more than 40 other States in which we will transport this nuclear waste in the years to come.

In the late-1970s President Carter, himself a nuclear engineer, initiated an Interagency Review Group, IRG, to

solve once and for all the high-level nuclear waste problem in the United States. The IRG tasked the Department of Energy with finding the best sites in the country for storing our nuclear waste. At the same time, the Environmental Protection Agency, EPA, and the Nuclear Regulatory Commission, NRC, were tasked with developing criteria for the selection of sites. Then, in 1982, Congress enacted the Nuclear Waste Policy Act, NWPA, which included a commitment to identifying two sites. Between 1982 and today, however, the process was changed. In 1987, Congress amended the NWPA by directing DOE to develop only one site, Yucca Mountain. Yucca Mountain was selected as the only site for purely political reasons.

Over the years, the EPA has lowered standards when they discovered that Yucca Mountain could not meet the existing ones. They abandoned a collective radiation dose limit when it was discovered that the Yucca site could not meet it, and, just last year, the EPA promulgated final standards for licensing Yucca Mountain that rely on dilution of nuclear waste as opposed to containment. In other words, we changed the standards so that we did not have to change the site. Yucca Mountain was picked, in part, because it is an arid, unpopulated area already owned by the federal government, which used it as a nuclear test site from the 1950s to the early 1990s. The original theory was that, if canisters deteriorated, there would be little water in the dry ground to carry the radioactive waste to other areas. But that theory has already been thrown as Chlorine-36, a radioactive isotope created during nuclear weapons tests over the Pacific Ocean in the 1950s, was recently discovered 1,000 feet below ground at Yucca Mountain. In just 50 years, that material traveled in the atmosphere to Nevada, was delivered as rain at Yucca Mountain and traveled at least 1,000 feet below the surface—the level where the nuclear waste would be stored. Such rapid movement was completely unexpected and required a revision of models of water flow in the area.

Because of this Chlorine-36, the DOE plans to bury the waste in canisters made of Alloy 22—a new composite metal containing nickel, chromium and molybdenum—and then lined on the inside with stainless steel. Alloy 22 is resistant to corrosion from water, but it is a manmade substance that has existed for only about 20 years. The DOE has only about 2 years of data on the effects of corrosion on it. Using such limited data, the government is predicting the life expectancy of the canisters 10,000 years into the future. No other nation is planning to use Alloy 22 to bury its nuclear waste, and the material does not exist in nature, so there is no way of naturally pre-

dicting how strong it will prove to be. Clearly, further study is needed before reliable predictions can be made.

I am concerned that President Bush approved Yucca Mountain despite the fact that the General Accounting Office back in December of last year, identified more than 200 important scientific and technical questions about Yucca Mountain that remain to be answered. This is especially troubling because Presidential candidate Bush promised back in 2000 that “sound science, not politics, must prevail” in determining whether to bury nuclear waste at Yucca Mountain. The GAO report urged the administration to postpone a decision until these questions could be answered. I am disappointed that the administration has failed to listen to the GAO.

There are transportation issues as well. I am not entirely convinced that we have a well-thought-out plan for moving all of this nuclear waste from around the country. The safety record of nuclear waste transportation should give us pause. Between 1964 and 1997, the DOE made approximately 2,913 shipments of used nuclear fuel. During this time, there were 47 safety incidents involving nuclear shipments, including six accidents. Much is left to be decided on transportation and I for one am reluctant to proceed until we have answers as to how this material will be shipped, on what routes, by what means and near what major cities. None of these questions have been answered, and I believe we should know if we can move this radioactive waste safely before we designate a national repository.

The routes for transporting nuclear waste to Yucca Mountain have not been finalized by DOE. The DOE is currently considering three modes of transportation, rail, truck and barge, but the DOE has not finalized the modes nor the routes. In the Final Environmental Impact Statement, EIS, for the Yucca Mountain project, DOE proposed a set of truck, barge and rail routes. These routes make use of major highways and pass through several of the Nation's largest metropolitan areas. The EIS for Massachusetts shows that if trucks are used to move the waste, 456 truck trips would originate in the Bay State and another 1,469 trips would transit the state en route to Yucca Mountain. Under the rail scenario, the EIS showed that 39 rail trips would originate in Massachusetts and another 511 would pass through the state en route to Yucca. In addition, the NRC is responsible for testing the containers that the waste will be shipped in. Thus far, all of the NRC tests relied exclusively on computer simulation to test the storage containers against fire and water damage. I think we can all agree that more testing is needed with actual storage containers to ensure the safety of all Americans.

Because of this lack of testing and with real concern for their cities, the Conference of Mayors recently passed a resolution calling on the Federal Government to oppose the Yucca Mountain repository until the serious safety concerns in the transport of nuclear waste were answered. Some of these concerns include the lack of physical testing of the transport casks and the lack of money and knowledge in our cities needed to deal with an accident involving nuclear waste. I believe we would be wise to listen to our mayors.

None of us here today want this waste to stay onsite forever, but we need a safe and responsible solution for disposal of the waste we have created. And we urgently need to develop a policy that protects the health and safety of local communities and all Americans. There are too many unanswered questions about the long-term effects of storing the waste at Yucca Mountain and the means by which we transport that waste there, and that is why I am voting no today.

Mr. LIEBERMAN. Mr. President, I vote today against the motion to proceed to the consideration of the Yucca Mountain resolution. I have cast this vote for several reasons. First, on procedural grounds, I agree with the majority leader that to consider the issue now would be an unacceptable divergence from Senate practice and procedure. It is the right of the majority leader to schedule the consideration of legislation on the floor of the Senate, and for me to vote for this motion would be to sanction what I view as an inappropriate procedure.

But the biggest problem is the substance of this plan. I don't believe that the Yucca Mountain site is ready to be approved by the Congress. There is an old saying: “underpromise, overperform.” Unfortunately, the Yucca Mountain nuclear waste storage plan overpromises and underperforms for the people of my State. I have studied this issue carefully, mindful of how important nuclear power is to Connecticut, and of how concerned Connecticut families are about the health and safety effects of storing nuclear waste on site. They are right to be concerned. But after many months of deliberation, I have decided that the plans aren't ready. Voting to create a waste repository at Yucca Mountain today would solve no problems and create a few new ones for the people of my state. It is not wise policy.

I believe the most obvious indication of this fact is the Department of Energy's plans to apply for a license from the Nuclear Regulatory Commission. Even though the Nuclear Waste Policy Act instructs the Energy Department to submit an application to the Nuclear Regulatory Commission 90 days after Congress acts, Secretary Abraham has stated that his agency will not submit an application until December 2004 at the earliest. Obviously, the

Energy Department is not ready to make their case for this site. Why should we be endorsing the project long before the Department is ready?

From studying the plans for the site, I believe that the reason that the Energy Department is not ready to submit its application is because, simply, too many unanswered questions remain. In dealing with nuclear waste, we should first do no harm.

It is too soon to say conclusively that the Yucca Mountain plans meet that standard. Consider the storage problems. In a December 2001 report to members of Congress, the General Accounting Office wrote of "uncertainties" relating to the "longevity of [engineered] waste containers," and noted that "significant work is needed" before the safety of the containers can be substantiated. The GAO also felt that more studies needed to be completed before the physical characteristics of the site could be declared suitable for the project. Most notably, the report stated the GAO's uncertainty on "how the combination of heat, water, and chemical processes caused by the presence of nuclear waste . . . would affect the flow of water through the repository." Among the remaining physical "uncertainties," the GAO prominently listed: faulting and fracturing of the repository rock; the flow of water through the repository rock; and the stability of the repository rock under heated conditions and conditions involving seismic events as main concerns.

The GAO's view of uncertainties was seconded by the Nuclear Waste Technical Review Board—an independent review board that acts as a check for the Energy Department's view of the science. In a January 24, 2002 letter to Congress, the Review Board offered criticisms of the DOE study, finding that, "as a whole . . . the technical basis for the DOE's repository performance estimates is weak to moderate."

But, the most important point for my home state of Connecticut is that, even if Yucca Mountain worked perfectly, with none of the potential problems that many experts have raised, it would not answer our problem of nuclear waste storage. It gives the people of my State the false hope of a solution to this serious problem. In fact, the plan may well create new problems in many areas of the state that are now free of nuclear waste problems.

It is not as if, if we were to approve this site, the tons of nuclear waste in Connecticut would be instantly transported to Nevada. Rather, it would take 40 years and thousands of shipments to transport that waste across the country, and by the time Yucca was filled, we would have generated just as much waste at each of Connecticut's nuclear sites. So the opening of Yucca Mountain will not free us of the terrorist threat at each of the

sites. To the contrary, it will disperse the waste even more than it is currently dispersed.

And the most dangerous waste of all—the "hot" waste that has just been removed from the reactors—cannot be moved off of our sites in Connecticut until it has cooled for at least 5 years. Thus, as long as we are operating nuclear plants in Connecticut, we will have dangerous nuclear waste at those plants. In other words, the current Yucca storage plans do not resolve Connecticut storage issues.

Finally, I am concerned that the transportation of the waste would bring new problems to regions of Connecticut that do not face them. The Energy Department has formulated no logical and systematic plan regarding the transportation of waste. To transport the approximately 40,000 tons of nuclear waste to Yucca Mountain, over 100,000 truck shipments or 36,000 combined rail and truck shipments would be needed, to be spread over the next 40 or so years. This would include waste from other States coming across on Connecticut highways and railroads. The attacks on September 11 have created major new questions about the transport of this waste, which could have a major effect on my State and which have not been addressed. Until some safe and proven plan to transport this waste is offered, I am troubled by the danger on our roads and rails.

We need to deal with this nuclear waste—but no one has demonstrated yet that Yucca Mountain is the answer. With technology advancing every day, perhaps it will be the answer tomorrow. Or perhaps in the future we will find another, much better solution. Until then, the imperfect status quo is better than a highly uncertain and incomplete plan such as this one.

This proposal is simply not yet ready for our consideration. Unfortunately, the Energy Department has stated that it will not continue to consider the site if this vote does not go its way. I think that is the wrong approach—the questions I have raised today may be able to be answered satisfactorily with more planning and better technology, and if they are, I would probably support the site. But this proposal is not ready for prime-time, and I am concerned that it will not be responsible to proceed to its consideration at this point.

Mr. JEFFORDS. Mr. President, we are voting today on whether to move forward on development of Yucca Mountain as a permanent disposal site for our Nation's nuclear waste.

Nuclear power provides an emissions free energy source. My State of Vermont, along with 39 other States, relies on nuclear power for a large portion of its electricity generation. It is an important part of our energy mix.

Nonetheless, we must be realistic in dealing with the downsides associated

with nuclear power. Over 30 years ago, as Vermont's Attorney General, I was concerned about the impact of nuclear waste on our environment and the health of Vermonters. As Attorney General, I fought to improve the safety standards at Vermont Yankee by calling for the use of new technology that dramatically reduced airborne radiation. When the industry resisted, I required Vermont Yankee to enter into a contract with the State to use the best available technology to control radiation and to accept State monitoring, protecting the Connecticut River and the people of Vermont. The Atomic Energy Commission later accepted these technologies as their industry standard.

Throughout my time in Congress I have continued to work for a comprehensive solution to our nuclear waste problem. Back in 1977, I introduced a bill in the House calling for a comprehensive nuclear waste disposal strategy. I maintained then, as I do now, that finding an effective solution to the waste problem is critical to the future of nuclear power in this country.

So I have been working on this problem for a long time. I have supported the Yucca Mountain proposal in the past, in the belief that it would resolve the problem, and contain both our past and future nuclear waste.

However, the truth is that Yucca Mountain will not provide this solution. It is now clear that Yucca Mountain will only take part of the waste, leaving some, if not most, of the future waste that will be produced sitting along the banks of rivers, beside both our small local communities and our largest population centers. This is not adequate. This is not acceptable.

Therefore, despite my past voting record on this issue, I will cast my vote today against the sitting resolution for Yucca Mountain, because it does not finish the job we must do. Unlike my previous understanding, the Yucca site will not provide a sound, permanent and comprehensive solution to the problem of our nuclear waste disposal. All it does it provide a partial measure, one that can lull us into a false sense of security that the issue is taken care of. It is not.

I understand that Yucca Mountain, if approved today as I assume it will be, will take some of the waste, both from my State and others. That is of course helpful, as far as it goes.

But Americans should not be misled into believing that the Yucca Mountain site will solve America's waste problem. I would be derelict in my duties were I not to dispel this motion. I do so with my vote today in opposition to the Yucca Mountain proposal, under its current limitations. I do so not because I don't recognize that Yucca has the potential to provide some relief to storage concerns at Vermont Yankee

and other sites. I take this vote instead because we cannot allow it to be viewed as the panacea to our nuclear waste storage problem.

We must continue to work with the nuclear industry and with the administration to find a safe and comprehensive solution to this extremely vexing problem. We cannot rest on our laurels for the next 10, 20 or 30 years, only to wake up to expanded nuclear waste piles with nowhere to go.

I trust my vote today will help emphasize this continuing need, and our continuing obligation.

I take this vote only after many long hours of carefully examining the facts of this matter. The truth is, I am more concerned than ever that we are just delaying the problem. Vermonters need to know that under the Yucca "solution" high-level waste is still likely to be stored forever on the banks of the Connecticut River. All Americans need to know similar waste storage problems will still exist on our Nation's waterways.

Over the years, I have consistently supported a central storage solution for nuclear waste. I continue to believe that it is essential that we find a permanent, central storage site if we are to continue to produce nuclear power.

The current proposal before us is merely a partial, interim step, and must be recognized as such. We must not just blindly continue to produce nuclear power, without a comprehensive and safe solution to the disposal of the waste we produce.

I urge my colleagues and this administration to not relax our diligence in focusing on the next step, a real and comprehensive solution to nuclear waste disposal.

Mrs. FEINSTEIN. Mr. President, I am voting against this resolution. I support the development of a long-term strategy of storing our Nation's nuclear waste. However, a single storage repository is not the answer to our nuclear waste problem.

I have three major concerns about the proposed Yucca Mountain nuclear waste repository: first, the repository's inadequate storage capacity, second, the environmental risks of storing nuclear waste at the site, and third, the risks of transporting nuclear waste to the site.

Based on these factors, I believe it would be a mistake to bring all of our Nation's nuclear waste to Yucca Mountain. Instead of a single repository, it would be better to develop regional nuclear waste permanent storage facilities which would increase overall storage capacity and reduce risks associated with transporting waste great distances.

Today nuclear waste is stored at 131 facilities in 39 States. These facilities hold nearly 47,500 metric tons of nuclear waste. This amount is growing rapidly. Within 40 years, it is estimated

that our country will have generated nearly 108,000 metric tons of nuclear waste.

The Yucca Mountain repository, as I understand it, is authorized to hold only 70,000 metric tons. So at our current rate of nuclear waste production, we will have generated this amount by the earliest estimated date of the repository's opening in 2010. In fact, we may generate the full 70,000 metric tons of nuclear waste before the site ever opens.

What is the point of creating a storage site that will be filled to capacity before it even opens?

I am very concerned about the environmental risks surrounding the site storage. DOE was supposed to recommend or reject the Yucca Mountain repository with geologic considerations to be the primary criteria. I find it disturbing that the suitability of the Yucca Mountain repository has instead focused on container material.

These titanium waste containers are DOE's principal method of providing safety and security of the nuclear waste and repository and ensuring the protection of surrounding areas.

Yet how can we be so confident in our support of such containers when we don't know about their longevity and durability?

The Nuclear Waste Technical Review Board, which was established by Congress specifically to ensure that a repository adequately protects the public health and the environment and it has voiced similar concerns. Last year, the board termed the technical basis for DOE's repository performance estimates as "weak to moderate."

As a result, the NWTRB has limited confidence in current performance estimates generated by the DOE's performance assessment model. The board has found that high temperatures in the DOE's repository design increase uncertainties and decrease confidence in the performance of these metal storage containers.

According to Dr. Jared Cohon, the chairman of the board, "gaps in data and basic understanding cause important uncertainties in the concepts and assumptions on which the DOE's performance estimates are now based."

The half-life of these titanium storage containers is still unknown. Scientists have found that the first container failures could occur after 10,000 years, although one board member said it was "hopeless" to know how long the container would last, given just a few years of research. Perhaps failure could occur much sooner.

In comparison, Uranium 235, the basic fuel used by nuclear reactors, has a half-life of 704 million years.

It would be simply irresponsible for us to bury such hazardous nuclear waste when we don't have a good idea about how long the containers could hold up.

One of the most significant problems found at the site is the amount of subsurface water present under Yucca Mountain. Water promotes corrosion and movement of radioactive material and its presence in a repository is a serious drawback. As the titanium casks erode over time, we could face a potential disaster as this water becomes contaminated and flows into the water table.

California counties have expressed their rightful concerns of subsurface water at Yucca Mountain surfacing at populated areas downstream of the site.

For instance, Inyo County in California, with a population of 17,945, lies downstream of the proposed repository. Contaminated water could very easily spread from the repository directly into their towns and homes.

Death Valley, one of our Nation's ecological and environmental treasures, is also only about 20 miles from the repository. Water contaminated with nuclear waste could destroy one of the jewels of our National Park System.

DOE refutes the idea of possible harm of water contamination based on the titanium casks the Department has proposed to store the nuclear waste.

Yet in March of 2001, the NWTRB wrote to DOE expressing its concern that important water flow processes around Yucca Mountain remain poorly understood and should be further studied.

The board has criticized the lack of critical corrosion data on the titanium casks in the DOE's basic design concept. According to the board, "We are betting the performance of the systems on the long term performance of these effectively new materials."

The fact is we simply do not know enough about the durability of these containers and how they will hold up under intense natural conditions for thousands of years.

If we are so confident of the safety and durability of these titanium storage casks, why not use them to store nuclear waste at or near existing reactor sites and thereby eliminate the risk of transporting these hazardous materials across the country?

The most immediate question that need to be answered, however, is, how will we transport all of our nuclear waste to Yucca Mountain? While some argue that the repository will increase national security by decreasing the number of storage sites, the transportation of nuclear waste to the site would actually create thousands of moving targets.

In order to move the Nation's nuclear waste to the Yucca Mountain repository, DOE would have to transport thousands of metric tons of nuclear waste across the country and those shipments would take decades just to move the waste that has already been generated.

Keep in mind that nuclear power provides a quarter of our Nation's energy needs and we generate hundreds of spent nuclear fuel rods each day and nearly 2,200 metric tons of nuclear waste each year.

If we had a way to magically move all of the nuclear waste to Yucca Mountain, it might be safer to have a single repository. However, this is not the case and the transportation of nuclear waste poses unnecessary risks for accidents and attacks.

According to DOE, it would take an estimated 24 years for the full 70,000 metric tons of nuclear waste to be transported to Yucca Mountain.

DOE has not yet determined exactly how this nuclear waste would be transported. The Department estimates that it would take 53,000 trips by truck over the proposed 24-year time period. If the nuclear waste traveled by train, that scenario would involve an estimated 10,700 rail shipments.

The site is scheduled to open in 2010 according to DOE's earliest predictions and at the end of all shipments in 2034, there would still be: nearly 42,000 metric tons of commercial nuclear waste stored in 63 nuclear power plant sites in 31 States; and about 7,000 metric tons of DOE generated waste stored in 4 states.

This is why I believe a single repository is not capable of meeting our long-term nuclear waste storage needs.

Such shipments present unnecessary risks in transporting numerous shipments of hazardous materials from New England to Nevada.

As a result of this plan, significant amounts of nuclear waste will undoubtedly move through or near populated urban areas, potentially jeopardizing the safety of millions of Americans.

And commercial spent nuclear fuel from nuclear power reactors would comprise about 90 percent of the waste shipped to the repository. DOE has acknowledged that this waste is "usually intensely radioactive."

According to DOE's Final Environmental Impact Statement, (FEIS) more than 123 million people currently live in 703 counties traversed by DOE's proposed highway routes and 106 million live in counties along DOE's proposed rail routes.

Using potential truck and rail transportation routes identified by DOE, the Environmental Working Group, a national environmental research organization, estimated that waste shipments to the Yucca Mountain repository could pass within a mile or less of 14,510 schools, 933 hospitals and the homes of 38.5 million people.

When the distance from routes is expanded to 5 miles, waste shipments could pass 36,228 schools, 1,831 hospitals and the homes of 109 million people.

Preliminary routes in Southern California slate waste from the Diablo Canyon powerplant to be shipped about 200

miles on a barge to Port Hueneme in suburban Ventura County just north of Los Angeles, which is one of California's five busiest ports and the nation's biggest export site for citrus.

These shipments pose potential threats to some of the most densely populated areas in the U.S.

Additionally, routine radiation from shipping casks poses a significant health threat to workers handling such shipments.

In the most extreme example, motor carrier safety inspectors could receive cumulative doses large enough to increase their risk of cancer death by 10 percent or more and their risk of other serious health effects by 40 percent or more.

According to the Nevada Agency for Nuclear Projects, public perception of transportation risks could also result in economic costs to those communities along shipping routes. Even without an accident or incident, property values near these routes could decline by 3 percent or more. In the event of an accident, residential property values along shipping routes could decline between 8 percent and 34 percent, depending on the severity of the accident.

DOE takes great pride in its record of safe transportation of hazardous materials for over more than 30 years. During that time, there have been only eight accidents and none of them resulted in the harmful release of radioactive material.

However, during that time period, we were moving fewer than 100 shipments per year.

Over the next 24 years, there would be an estimated 2,200 shipments per year heading to the Yucca Mountain repository alone. There would also be more than 10,700 cross-country shipments occurring at an average of 450 per year.

This enormous increase in shipments would greatly increase potential accidents.

According to the National Highway Traffic Safety Administration, 457,000 large trucks were involved in traffic crashes in the year 2000 alone.

According to the FEIS, a very severe highway or rail accident could release radioactive materials from a shipping container, resulting in radiation exposures to members of the public and latent cancer fatalities among the exposed population.

The July 2001 Baltimore rail tunnel fire has been cited as an example of the dangers of shipping nuclear waste by train.

The fire burned for 3 days with temperatures as high as 1500 degrees Fahrenheit. A single rail cask in such an accident could have released enough radioactive material to contaminate an area of 32 square miles.

In addition to the harm inflicting surrounding populations, the FEIS es-

timates the clean-up costs of such an accident could potentially reach \$10 billion.

Failure to clean up the contamination of such an accident could cause 4,000 to 28,000 cancer deaths over the next 50 years. Between 200 and 1,400 latent cancer fatalities would be expected from exposures during the first year.

A successful terrorist attack using high energy explosives could result in similar destruction and damage.

The FEIS concedes that a high-energy explosive device could rupture the wall of a truck cask, leading to the dispersal of contaminants into the environment. A single blast resulting in 90 percent penetration of a truck cask could lead to 300 to 1,800 cancer fatalities. Full perforation of a cask could cause 3,000 to 18,000 cancer fatalities. Cleanup and recovery costs of such an incident would exceed \$10 billion.

These threats should be taken very seriously and this assessment furthers my belief that the long and complex transportation of nuclear waste to a single site is a threat to our national security.

Based on these concerns, I do not believe that Yucca Mountain is the answer to our current nuclear waste security nor our long term nuclear waste storage problem.

According to Dr. Victor Gilinsky, a former Commissioner of the Nuclear Regulatory Commission, Yucca Mountain is not needed to continue, or even expand, nuclear power use. There is ample opportunity to expand existing, NRC-approved, on-site storage. As he testified before the Senate Energy Committee:

the important thing now is to recognize that there is no immediate crisis, that there is time to do this and to do a good job and responsible job in terms of safety and security, and to do it at a much lower cost to taxpayers than Yucca Mountain represents.

I believe a regional system will provide us with both immediate and long-term results. Immediate in the sense that we can explore expanding storage at current NRC-approved sites. Long-term in the sense that it will produce a system of regional permanent storage sites that will meet our long-term nuclear waste storage needs.

I cannot support a site that does not have the capacity to meet our Nation's long-term nuclear waste storage needs and poses serious risks to our environment and national security. A system of regional storage repositories could eliminate these risks and provide the adequate and safe permanent storage of nuclear waste that our country needs.

Mr. AKAKA. Mr. President, I rise today in opposition to House Joint Resolution 87, the Yucca Mountain resolution, to approve the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982.

Since the advent of nuclear power nearly 50 years ago, we have been concerned about the problem of waste generated by the production of electricity. Today we are considering a decisive step towards a solution to the dilemma of high-level nuclear waste as mandated by the act. But the path forward is not risk-free.

There are problems associated with the siting. The General Accounting Office has raised serious questions regarding the seismology, stability of the repository, and long-term effects of heat, water and chemical processes in and around the waste containers.

I am concerned about dangers posed by transporting thousands of tons, and thousands of shipments, of high-level nuclear waste through 43 States. Each truck could potentially carry more long-lived radioactivity than released at Hiroshima. I am sympathetic to those States that face the risk of transportation-related accidents or terrorist attacks. Because of our experience in the Pacific with nuclear testing and resulting exposure to radioactivity, I urge caution when dealing with long-lived radioactive material.

We have similar transport problems on the world's sea lanes. Last week, Japan returned a shipment of mixed plutonium-uranium oxide fuel, MOX, to the United Kingdom because it was sent to Japan with falsified safety data and without proper safety checks. The safety and security of nuclear waste, whether transported on the highways or the high seas, should be of great concern to Americans. During my tenure in the Senate, I have closely monitored the safety and security of shipments of MOX from Europe to Japan for nuclear power purposes. On numerous occasions I have voiced concerns with transportation plans and associated security measures for the shipments of nuclear material in the Pacific. Recent warnings and alarm over the threat of procurement and use of nuclear materials for crude explosive devices known as "dirty bombs" heightens the need to be vigilant and careful in the transport of nuclear material.

I am not convinced that the plan proposed by the administration has addressed all of these risks. Clearly, we can't walk away from the nuclear waste dilemma, and the nation must address this intractable problem. We need a scientific rather than a political solution. In a new approach, Congress should not pre-select a site but provide a process that leads to a scientifically sound solution. I will oppose the motion to proceed, as I am not convinced that this is the best path forward.

Mr. DURBIN. Mr. President, the advent of nuclear power more than 50 years ago brought with it both great promise and great responsibility. Our ability to harness the power of the atom has paid substantial dividends for

our society, but it has also left us with the formidable challenge of safely storing the byproducts of nuclear power generation. This is a challenge our Nation must meet so that future generations are not endangered by today's nuclear waste.

Presently, all of the spent fuel from nuclear power plants and research reactors throughout the country remains on-site at each reactor. None of these facilities was designed to safely store that waste on a permanent basis, and leaving spent fuel in temporary storage around the Nation poses both a security threat and an environmental hazard. In Illinois, nearly half of our electricity is generated from nuclear power. Our State contains seven nuclear powerplants, two nuclear research reactors, and more commercial nuclear waste than any other State.

We need to find a safe and permanent way to store this material, and such a storage site has been proposed at Yucca Mountain in Nevada. I have been to Yucca Mountain, which is located 90 miles from Las Vegas on Federal land at the remote Nevada nuclear test site. The waste would be stored more than 600 feet underground but more than 500 feet above the water table, sealed in steel containers placed under a titanium shield. A security force at the Nevada test site is in place to protect the area, and the airspace around Yucca Mountain is already restricted.

When this issue has come before Congress in the past, I have opposed efforts to move waste to a temporary facility at Yucca Mountain before there was a scientific determination of whether waste could be safely stored there on a permanent basis. I had no interest in moving this waste to a temporary place, only to move it again when a permanent repository is finally determined. I also opposed earlier measures that would have mandated dangerously low standards for environmental protection at the site.

Recently, however, I have been encouraged by the fact that the Environmental Protection Agency has established radiation and groundwater contamination standards for the Yucca Mountain storage site. These standards were derived from recommendations by experts at the National Academy of Sciences and were developed after extensive public comment and scientific analysis. All of these standards greatly exceed the standards debated by Congress in the two previous bills I opposed. Under three bills Congress considered in the past on this issue, the EPA would have been required to issue a single standard limiting the lifetime risk of premature cancer death to 1 in 1,000, or .001. The current EPA standard assumes a risk of 8.5 in 1,000,000, or .0000085. Furthermore, these bills would have prohibited a standard for groundwater, which EPA has now put in place. If the Department of Energy is able to

move forward with a licensing application for Yucca Mountain, the Nuclear Regulatory Commission will be charged with making sure that the Department of Energy proves it can meet the EPA's standards. If it cannot prove this, the Yucca Mountain project cannot move forward.

No site will ever be perfect for the storage of high-level nuclear waste, but I believe the studies which have already been conducted and the Nuclear Regulatory Commission review still to come provide sufficient assurances that Yucca Mountain is the most appropriate site available and should be used as the permanent national nuclear waste repository.

I am still concerned, however, with the movement of thousands of tons of nuclear waste across the country to Nevada. According to the U.S. Department of Energy, Illinois would rank seventh in truck shipments in what is called the "mostly truck scenario." The same Energy Department analysis concludes that Illinois would rank sixth in rail shipments in the "mostly rail scenario." Although waste has been shipped through Illinois and other states in the past, approving Yucca Mountain would initiate the largest waste shipping campaign in the history of our country, both in terms of the number of shipments and the amount of miles traveled for high level nuclear waste.

Unless we scrutinize safety factors and security risks, the large-scale transportation of radioactive materials has the potential to cause a host of serious challenges to cities and communities along shipping routes. The U.S. Conference of Mayors has expressed concerns about the transportation plan, and I am submitting for the RECORD a letter sent to President Bush on this matter, signed by Mayor Richard M. Daley of Chicago and 17 other mayors. This issue is all the more important in light of the terrorist threats we are likely to face in the years ahead.

Illinois is home to one of the busiest transportation corridors in the Nation, putting our State squarely at the intersection of the nuclear crossroads. With the safety of Illinoisans at stake, finding the safest way to move nuclear waste to a location where it poses the least risk is imperative.

That is why I am introducing legislation in the Senate that would direct the Federal Government to develop a comprehensive safety program for nuclear waste transportation. This legislation would require the waste containment casks to be tested to ensure they could withstand intense fires, high-speed collisions and other threats that may occur during transport. My bill also would require States to be consulted on the selection of transportation routes and would require a 2-week advance notification of waste

shipments. I also would ban inland waterway shipments of nuclear waste, require dedicated trains and establish a minimum number of trained escorts to accompany each nuclear waste convoy. I am looking forward to working with my colleagues who share my interest in this legislation.

Congress should move forward with making Yucca Mountain the central repository for our Nation's nuclear waste. It is, I am convinced, the best solution to a complicated problem we have debated for decades. But before shipments to Yucca Mountain begin, we need to establish a transportation plan to ensure the safety and security of the communities that lie in the path of those shipments, and we must begin that work today.

I ask unanimous consent to print the letter in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE U.S. CONFERENCE OF MAYORS,
February 23, 2002.

Hon. GEORGE W. BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Your approval of Yucca Mountain in Nevada as a nuclear waste repository was a historic moment in the history of the project. Quite literally, it is the culmination of over 50 years of scientific research and analysis. Since the Atomic Energy Act was passed in 1954, the federal government has been searching for methods to dispose of spent nuclear fuel and high-level radioactive waste.

As a single largest federal government project in the history of the United States, we acknowledge that the Yucca Mountain project has detractors and supporters. Regardless of the final repository location, we have serious concerns about the transportation of spent nuclear fuel from reactors all over the country to Yucca Mountain or any other repository.

So far, the preliminary estimates that have been released call for up to 10 shipments of nuclear fuel each day for close to 40 years. These shipments will travel through America's cities past our schools, homes and places of business.

In 1996, The United States Conference of Mayors adopted policy on the transportation of radioactive waste that calls for the federal government to fund training and equipment that will be needed by local emergency response personnel along transportation routes, to upgrade medical facilities which would treat victims of transportation accidents, and to upgrade highway and railroad or highway bypasses to ensure safe transportation corridors. It also calls on the Nuclear Regulatory Commission to certify shipping transportation containers after a public process that includes both physical testing and computer modeling to ensure that the containers can withstand severe accidents.

As mayors, we are concerned that the Department of Energy (DOE) has not yet fully researched the methods for the transportation of nuclear waste. A recent incident that illustrates our concern is the 2001 Baltimore Tunnel fire. Five days passed before fire fighters could gain access to the blaze and control the flames. Several studies have been done to determine the environmental impact if that train had been carrying spent

nuclear fuel—and the results have been disturbing.

Given the long-term nature of the Yucca project, it seems only natural that the DOE would include transportation analysis and an environmental impact study in its final report. We respectfully request that the Office of the President of the United States initiate one.

As the mayors of potentially affected cities, we urge you to continue your dedication to public safety and homeland security by supporting a thorough study on nuclear waste transportation to the final repository.

We look forward to working with you on this very important issue.

Sincerely,

(Signed by 18 mayors.)

Ms. SNOWE. Mr. President, I rise today in support of S.J. Res. 34, a joint resolution approving the site at Yucca Mountain, NV, for the development of a repository for the disposal of spent nuclear fuel and high-level radioactive waste, pursuant to the Nuclear Waste Policy Act of 1982.

As we are aware, under current law, Energy Secretary Abraham recommended the Yucca Mountain geologic site as the repository for the Nation's spent nuclear fuel and high-level radioactive waste to the President on February 14, 2002, and the President then recommended the site to Congress the next day. Under law, on April 8, Nevada Governor Guinn exercised his right to veto the Yucca Mountain site. This veto will block further development of the site unless the Congress acts by passing an approval resolution that is signed by the President by July 27.

In 1982, legislation was crafted in response to the need to dispose of the Nation's spent nuclear fuel and high-level radioactive waste that has been collecting since the growth of the nuclear power industry started in the 1950s. The waste is now being stored in various ways in 131 locations across the country.

The Nuclear Waste Policy Act of 1982, the NWPA, called for disposal of this spent nuclear fuel in a repository in a deep geologic formation that would not be disturbed for thousands of years. An office was established in the Department of Energy to develop such a storage repository, the costs of which would be covered by a fee on nuclear-generated electricity and paid into the Nuclear Waste Fund.

My experience with the storage of the Nation's high-level nuclear waste covers the entire 20 year lifetime of the NWPA. In the 99th Congress, I introduced a bill in the House, H.R. 4664, with 23 other Representatives to amend the NWPA. The bill called for the disposal of high-level radioactive waste and spent nuclear fuel in a single national repository. At that time, the NWPA called for two repositories, one in the East and one in the West. I was also a cosponsor of H.R. 4668, the Broyhill bill that removed the requirement of a second repository for the disposal

of high-level radioactive waste and spent nuclear fuel.

Our successes came in the next Congress, the 100th Congress, when language I developed with then Representative Mo Udall was ultimately included in the fiscal year 1988 Concurrent Budget Resolution that went on to be signed into law as Public Law 100-203. The language called for the establishment of one national repository. Language was also added at that time that established Yucca Mountain as the only site to be considered for the repository.

Through all of those years, and especially since 9/11, I have continued to believe that the Nation's spent nuclear fuel could be more safely stored at one secure federally guarded facility than at temporary storage facilities all around the country. It would also be less expensive to State governments, which have already taken on the responsibility of dealing with the storage of low-level radioactive waste within their borders.

I do not believe that leaving the spent fuel at commercial and DOE sites for 10,000 years while having each site take the necessary security precautions and storage upgrades is the best approach, especially as the DOE itself has predicted that leaving the spent fuel stored on all of the numerous sites throughout the country would result in a radioactive material release, contaminating soil, surface water, and groundwater.

In Maine, we have a nuclear plant being decommissioned—Maine Yankee—that has been waiting for the Federal Government to take the waste that it should have taken by law by 1998, but has still failed to do so since no facility is ready to store the waste. In fact, Maine Yankee is seeking \$120 million through a lawsuit against DOE because the Federal Government has not lived up to their part of the bargain.

The nuclear power plant stopped operating in 1997, but 1,434 spent fuel assemblies still sit at the site waiting for a permanent Federal solution. The company has now spent about \$60 million to build a dry cask storage facility and will spend at least \$4 million per year to operate it. This is not a unique case as there are a total of 26 power plants no longer in operation that also have waste waiting to be shipped. By 2006, 60 reactors will run out of original storage space, with 78 running out by 2010.

Even after we pass this resolution and the President signs it, the repository will still need to meet the strict requirements of the Nuclear Regulatory Commission to be licensed, and if the Yucca Mountain site receives approval, it will not even be ready to accept spent fuel before 2010 at the earliest. We simply cannot wait any longer to move this issue forward.

I understand that concerns have been raised about the transportation of the spent fuel—and these should be raised and the public should be assured that security plans are in place for safe transportation. We do, however, have a decade to assure that the waste will be safely and securely shipped to the Yucca Mountain site from all parts of the country. Indeed, history tells us that past shipments have been carefully managed. The nuclear industry has completed 3,000 shipments of spent fuel over 1.7 million miles by highways and railroads since 1964. Eight accidents have occurred, four of which had fuel in the shipping containers, but no radiation was released. In the next decade, we can expect even greater safety of shipments through improved technology.

I was pleased to support Senator CARNAHAN's amendment to the recently passed Senate energy bill that calls for a National Academy of Sciences study on how DOE chooses spent nuclear fuel transportation routes, and to do risk assessments of all of the potential routes. This should clarify the transportation issue even more for the public and I urge the conferees to keep this provision in the conference report.

The Federal Government has already spent \$7 billion on the Yucca Mountain site, and will ultimately spend about \$50 billion more up to the time when the site is expected to reach capacity and is closed in 2019. We must move forward responsibly to once and for all safely and securely store the Nation's highly radioactive spent fuel and nuclear waste at a single national location or, as the DOE has projected, the cost will climb to the trillions of dollars. We can neither afford this or afford to wait any longer.

Mr. GRASSLEY. Mr. President, in 1982, Congress required the Federal Government to find a permanent repository for the disposal of spent nuclear fuel. Now, 20 years later, we are finally taking the necessary action to move ahead with this plan.

Yucca Mountain was recently designated as a suitable site for development as the Nation's permanent repository, with over 24 years of Federal research and scientific evaluation. The Secretary of Energy, after thoroughly examining the relevant scientific and technical materials, concluded that the site is scientifically and technically suitable for construction of a repository. Now, it is up to Congress to ensure that we provide a safe, permanent storage facility.

In this time of heightened terrorist threats, it is absolutely necessary that the Government provide safe and secure permanent storage for our spent nuclear fuel. Currently, spent nuclear fuel and high-level radioactive waste is stored at 131 sites in 39 States.

We can no longer afford to continue storing nuclear waste in temporary

sites that are too often located near densely populated areas and water supplies. It seems only logical to want to safeguard public health and safety by storing nuclear waste at a site that would be highly guarded against any terrorist activity.

Even in my home State of Iowa, spent nuclear fuel from the Duane Arnold plant is stored just outside of Cedar Rapids near the town of Palo. Like too many other facilities in the United States, the plant is being forced to construct temporary storage because of the Federal Government's lack of action on a permanent facility.

And, just 10 miles from the Iowa border, at a plant that ceased operation in 1987, sits 42 tons of nuclear waste in a waterpool that is designed for temporary storage during operation, not permanent storage. It's for these reasons that it is crucial the Senate move forward in designating Yucca Mountain as a permanent storage facility. Storing nuclear waste at Yucca Mountain would protect public safety, health and the Nation's security.

Opponents continue to raise questions concerning the safety of the transportation of this material to Nevada. For over 30 years, there have been 2,700 shipments of spent nuclear fuel without a single release of radioactive material harmful to the public or the environment. It is important to remember that because spent fuel is stored at over 100 temporary sites across the Nation, shipments of spent fuel will cross the country whether or not Yucca Mountain is approved.

Secretary Abraham has assured that the Department of Energy will develop a transportation plan and work with State and tribal governments regarding shipments to Yucca Mountain. Iowa's Governor, Tom Vilsack, has also shared with me his support for designating Yucca Mountain, based on the outstanding record of safely transporting nuclear material. Given Iowa's geographic position across major transportation routes, Governor Vilsack relayed that Iowa has consistently met its responsibilities in this regard.

Lastly, those who oppose the transportation of the waste across the country because it could be a terrorist target have clearly disregarded the fact that spent fuel in secure transit to a permanent repository is far less of a target than the spent fuel scattered across the country at over 100 temporary, stationary sites.

With over 2,000 tons of spent nuclear fuel in Iowa or on its borders, it's imperative that the Senate take the necessary action today to finally begin the process of developing a permanent repository. To protect our national security, enhance our energy security, and ensure the safety of the public, we must support this resolution and move ahead on this project.

I request that a copy of Governor Vilsack's letter to me dated May 8, 2002, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF IOWA,
OFFICE OF THE GOVERNOR,
Des Moines, May 8, 2002.

Hon. CHARLES E. GRASSLEY,
U.S. Senator, Hart Senate Office Bldg., Washington, DC.

I am writing to encourage your support for the recent decision to go forward with development of Yucca Mountain, Nevada as a permanent repository for our nation's used commercial nuclear fuel and defense nuclear fuel and defense nuclear waste. The State of Nevada has exercised its right to object to the decision. As a result, it is now your responsibility, as a member of Congress, to evaluate, considering the effects on national interest, the decision and affirm its wisdom.

In 1982 Congress established our nation's policy on managing used commercial nuclear fuel and defense waste, i.e., interim storage by commercial reactor operators at their sites and permanent storage at one or more national, geologic repositories by the Federal government. Further, Congress provided for the collection of a fee, levied on customers of electricity generated by nuclear power plants, to be paid into the Federal Treasury and appropriated by Congress for the study and development of a permanent repository. In 1987, Congress, acting to focus the U.S. Department of Energy's efforts, instructed the DOE to exclusively study the site at Yucca Mountain, Nevada.

The DOE acting in accordance with Congress' instructions, studied the Yucca Mountain site in extensive detail. This study validated the scientific wisdom that led to focusing on the Yucca Mountain site in 1987. We should now move on to the next phase of activities and begin the processes of design, licensing, construction and operation of a permanent repository. This is with the full understanding that the licensing and operation of Yucca Mountain still must withstand the detailed scrutiny and additional questioning by the U.S. Nuclear Regulatory Commission which is charged by law to decide whether or not to issue a license to the DOE before a single bundle of used nuclear fuel can move to Yucca Mountain.

Used nuclear fuel is currently stored at commercial reactor sites within and on the borders of the state of Iowa. While this storage has been and continues to be accomplished responsibly, these facilities were never intended as sites for permanent storage and are operated on the presumption that the Federal government will go forward with its responsibility for providing a permanent repository. These same reactor sites provide nearly 25% of Iowa's electric energy.

Customers have paid into the federal fund for the purposes of developing a repository. Study is but a single step towards the final end of developing a useful facility. With the completion of that study there is a "light at the end of the tunnel" for those same customers who are bearing the expense of the interim storage within or on the borders of our state.

Congress, in 1982, when it enacted the policy of a national repository, recognized that used nuclear fuel and defense nuclear waste must be transported to that repository. History provides us an outstanding record of transportation of nuclear material. The state of Iowa, with its geographical position

across major transportation routes, has consistently met its responsibilities in this regard. The same 1982 act provides for federal support to states to insure that the safety record of future transportation is equally good, if not better.

The decision to move forward on Yucca Mountain and the subsequent objection by Nevada have turned the issue back to Congress to fulfill the national policy it established in 1982: providing a permanent Federal repository for used nuclear fuel and defense nuclear waste. Science affirms the wisdom of Congress' decision in 1987 to focus on Yucca Mountain. Customers and our nuclear reactor operators have provided money and interim storage while waiting for a permanent repository.

It is now time for Congress to stand behind its original decision and vote to move forward with Yucca Mountain. I ask for your support on this important issue.

Sincerely,

THOMAS J. VILSACK,
Governor.

Mr. KOHL. Mr. President, today the long struggle to find a permanent repository for nuclear waste came one step closer to completion. The Senate has decided to over rule Nevada's objection to storing nuclear waste at Yucca Mountain with a strong majority. This is a victory I supported, but not one I can be happy about because it forced me to vote against my leadership.

I supported moving the waste to Yucca Mountain for three main reasons. First, the opening of Yucca Mountain means that Wisconsin will have one less site storing nuclear waste as the Dairyland Power Cooperative's decommissioned reactor will finally be able to get rid of the waste stored at its defunct reactor. Second the site has been proven safe after 20 years of study by the Department of Energy and the National Academy of Sciences. Third, the electricity rate payers of Wisconsin have paid more than \$250 million over the years for this site, and the Federal Government should fulfill its side of the bargain by providing the repository it promised.

I still have concerns regarding transportation of the waste through our population centers. This is a high stakes situation and every effort needs to be made to choose the best routes, prepare the local emergency response units, and continue to improve the casks in which the waste will be moved. However, the industry's record of thousands of shipments of nuclear waste around the country and around the world without an accidental release of radiation leads me to believe that these concerns will be adequately addressed.

I understand the concerns some of my colleagues have on the safety of the Yucca Mountain site. What we are asking science to do by proving that this site will be safe for tens of thousands of years is unheard of, and may well be beyond our current capabilities. But this site, on the Nevada Nuclear Test site, is certainly safer than leaving this

waste at 132 sites nationwide. Sites scattered around the country that were never designed to be a permanent solution. This mountain has been carefully studied and will continue to be closely monitored. We will not walk away from Yucca Mountain but will watch it closely for generations to come.

Burying our waste problems for future generations to deal with is not something we should be proud of. I hope the Congress and the administration will continue to fund nuclear research that will investigate ways to neutralize this waste. The repository at Yucca Mountain doesn't have to be the last word on nuclear waste, and I hope we can do better in the future.

Mr. FEINGOLD. Mr. President, I want to share my views on the Yucca Mountain resolution. Specifically, I want to review the issues that I have considered in examining this legislation that have led me to vote against the motion to proceed to this measure. In short, while I believe that Yucca Mountain ultimately may be the appropriate place to permanently store our country's nuclear waste, the Senate is considering proceeding to this resolution today without having addressed two key concerns: the Congress has not ensured that the Yucca Mountain site is of sufficient size to house our country's nuclear waste and the Congress does not yet know the Administration's plans for ensuring that the transportation of waste to that site is safe and secure. In addition, considering this premature resolution does nothing to get the waste to Yucca Mountain more quickly because the Federal Government must complete a number of remaining regulatory steps and build the site.

Let me first express my grave concern about the process by which this resolution has been brought to the floor. The Nuclear Waste Policy Act of 1982, amended in 1987, establishes a process for the Federal Government to designate a site for a permanent repository for civilian nuclear waste. In February 2002, this process culminated in a Presidential recommendation for a repository at Yucca Mountain, NV. On April 8, 2002, the State of Nevada exercised its authority under the law to disapprove the site. As a result of this State disapproval, the site may be approved only if a joint resolution of repository siting approval, which we are now considering, becomes law.

The Nuclear Waste Policy Act also establishes an expedited procedure for congressional consideration of the Yucca resolution. The purpose of an expedited procedure is to facilitate the ability of Congress to dispose of the matter specified in a timely and definitive way. To this end, it establishes a means for Congress to take up, and complete action on, the resolution of approval or disapproval within a limited period of time. I am concerned

that we are taking this action today and we are still several years away from a final siting decision on Yucca. The Nuclear Regulatory Commission is still several years away from issuing a construction license for Yucca, there is no transportation plan, and the transportation containers to be used for waste shipments to a permanent storage site have also not been approved by the Nuclear Regulatory Commission. Thus, while Yucca may be the right site, this is the wrong time to have Congress "approve" the site while so many regulatory questions are yet unanswered.

I have always felt that we should be certain that Yucca is the final site before we proceed with final Congressional approval. For those of us who represent states that are grappling with nuclear waste storage questions, the short time frame mandated in law for the consideration of this resolution has made it extremely difficult to analyze its full effects on behalf of our constituents. The issues raised by this resolution are serious policy issues. The Bush Administration knows the resolution approval process is designated by law and has statutorily defined deadlines for Congressional consideration. The Administration should not have jumped the gun and set the clock in motion while there is still a possibility that Yucca might not receive final siting approval in the regulatory process.

During my time in the Senate, I have consistently said that I would prefer that once nuclear waste leaves the State, it leaves permanently. Wisconsinites want nuclear waste removed from our State and stored in a permanent geologic repository out of State so that it has no chance of coming back to Wisconsin. I opposed nuclear waste legislation in the last Congress that sought to build large scale interim storage facilities before the permanent storage site was ready and would have jeopardized consideration of the permanent site. This resolution commits the Federal Government, at least for the near term, to build one such large scale permanent site.

I have heard concerns, however, from some constituents that this resolution to build at Yucca makes Wisconsin more likely to be the next permanent geologic storage site. I am concerned that Yucca, as currently authorized, will not be of sufficient size to take all of Wisconsin's waste. In previous Congresses, though I did not ultimately support interim storage legislation for other reasons, I supported provisions in interim storage bills to expand the size and capacity of the Yucca site. At best, when Yucca is opened, it will leave nearly a quarter of the waste currently in Wisconsin still sitting at our plants. Moreover, if our nuclear plants in Southeast Wisconsin re-fuel in the next few years, the Yucca site is not currently expected to take any new waste.

Yucca's size is an important issue for Wisconsin because Congress is required under law to approve the study and construction of a second waste site, if one is needed. This resolution does nothing to change that provision of law, and it remains unclear whether the Department of Energy would look again at Wisconsin or the other sites considered in the 1970s and 1980s. If it needed more storage capacity, the Department of Energy could ask Congress to expand Yucca's size or recommend another alternative geologic site. As a Wisconsin Senator, I have serious concerns regarding the construction of a geologic storage site in Wisconsin. In the past I have opposed legislation opening up the possibility of a second site, and would express those concerns strongly in any discussion of a second permanent location.

One of my main concerns has always been the safety and security of shipping nuclear materials from their current locations to a permanent geologic storage site outside of the State. Obviously, there is a risk that, during the transportation, accidents may occur. While many have suggested that waste has been shipped safely across the country during the history of nuclear power in this country, there has never been a coordinated efforts to ship waste to a centralized storage location. The opening of Yucca Mountain would initiate an unprecedented shipping program. I am concerned that the Final Environmental Impact Statement for Yucca Mountain now includes barge transport on the Great Lakes and extensive truck transport on highways as potential transportation routes in addition to rail transport.

This resolution does not enhance our transportation safety, and our current transportation regulatory program must be strengthened. In fact, I believe that additional legislation may be needed to address a number of transportation issues. I still feel that the Senate must act in the near term to ensure that state and local governments have the financial and equipment resources they need to respond to accidents and protect public safety. Congress must insist on a comprehensive safety program for nuclear waste transportation. We must require the waste containment casks to be tested to ensure they could withstand intense fires, high-speed collisions and other threats that may occur during transport. It is also essential that states be consulted on the selection of transportation routes and are given longer advance notification of waste shipments. Other measures that need to be addressed include banning both open water and inland waterway shipments of nuclear waste, requiring dedicated means of shipping, and establishing a minimum number of armed escorts to accompany each nuclear waste convoy.

In conclusion, I cannot support this proceeding to this legislation which

purports to provide an interim fix to the country's nuclear waste problem. I realize that this action is not the final say on Yucca Mountain and that we have many more steps to go before Yucca is built. But this site cannot serve its national purpose if we cannot get the waste there safely or if it is too small to hold the waste. We should have addressed these important considerations before proceeding to this resolution.

Mr. LEVIN. Mr. President, I am supporting the Yucca Mountain Resolution today because we need to take the next step in resolving the problem of nuclear waste in this country. It makes more sense to store the Nation's high-level nuclear waste in a single place than it does to leave it at 131 sites spread all around the country, many close to significant population centers and all located on bodies of water, including the Great Lakes and major river systems. I do not feel that it is environmentally responsible to allow spent nuclear fuel to sit indefinitely in temporary facilities on the shores of the Great Lakes. We set up a procedure 20 years ago to deal with this problem, and we should use it.

I have heard from citizens all over Michigan on both sides of this issue. The Michigan Municipal League, the Michigan House of Representatives, and over 75 counties and communities have contacted me to express their support for the effort to establish a permanent repository at Yucca Mountain. This resolution will permit the Department of Energy to submit an application to the Nuclear Regulatory Commission so that the Commission can determine whether established regulatory requirements for the protection of public health, safety and the environment have been satisfied. The Nuclear Waste Policy Act, which was passed 20 years ago, did not leave it up to Congress to decide whether or not Yucca Mountain is a suitable location for our nuclear waste. Rather, it left this decision up to the Nuclear Regulatory Commission. If this resolution is approved, a license application will be submitted by the Department of Energy for Yucca Mountain and over the next several years, the Nuclear Regulatory Commission will go through all of the scientific and environmental data and look at the design of the repository to make sure that it can meet environmental and safety standards. This will be done by scientists and technical experts.

I share the concerns of many people regarding the storage and shipment of nuclear waste. Terrorism and transportation issues need to be thoroughly addressed in the licensing process. Transportation plans will be developed in a staged process over time and all plans will go public with opportunities for input from the States and local communities. The actual transportation

routes are a long way from being determined. Further, the Department of Energy assures us that there are no plans to use barges to transport waste, and I will oppose any effort to do so.

Since 1983, the people of Michigan have committed more than \$400 million to the Nuclear Waste Fund for environmental protection that they have not received. The Palisades nuclear power plant near South Haven has a total of 432 spent fuel assemblies stored in 18 dry casks located on site. An additional 649 spent fuel assemblies remain in the spent fuel pool and will ultimately be transferred to dry casks. The Big Rock Point nuclear plant near Charlevoix retains all of its spent fuel in a pool inside the containment building. The plant is permanently shut down and is in the process of being decommissioned. Beginning early next year, the plant's 441 spent fuel bundles will be loaded into 7 dry casks and stored on site. These casks are designed to be an interim measure. They are not a permanent solution. Each nuclear plant site in the U.S. has become a de facto spent fuel storage facility. It would be more efficient and more secure to move all of the spent fuel to one central facility where it can be safely stored indefinitely. Further, in the case of Big Rock Point located near Charlevoix, the plant and equipment will be completely removed from the property within the next few years. All that will remain will be the spent fuel, sitting on a large concrete pad about one-half mile from the lake. Re-use of the property cannot be accommodated until the spent fuel is removed.

Finally, a permanent repository is also important to support the cleanup of contamination and waste generated by the cold war production of nuclear weapons and materials for these weapons. Currently the Department of Energy is treating high level waste materials, stabilizing them and getting them into other safe configurations so that the waste can ultimately be shipped to a permanent repository. Moving the treated and stabilized waste is particularly key to the cleanup of sites such as the Savannah River Site in South Carolina and the Hanford Site in Richland, WA.

If this resolution does not become law, the only alternative for getting waste out of these many temporary storage sites into a permanent site will be terminated, which would move us in the wrong direction. Leaving the nuclear waste at temporary sites and leaving this decision to future generations is not the responsible thing to do and is not a solution to this problem.

In supporting this resolution, I am supporting an open and rigorous process for answering the concerns raised by so many. Only through this process will we be able to protect the health of the people and the environment.

Mr. LEAHY. Mr. President, since my first days in the U.S. Senate, I have expressed strong concerns about nuclear power. The claims made in the 1970s that nuclear power was going to bring our country cheap, reliable and clean energy have turned out—as many warned at the time—to be far from the truth. While electricity from nuclear power has been reliable, it is neither cheap nor clean. The waste from these plants is an enormous and undisputed economic liability for the Nation, and it is far from environmentally clean.

After all these years of coasting on these false promises about nuclear power, the bill has come due. Today we have 29 years of nuclear waste in Vermont in the form of spent fuel in temporary storage on the banks of the Connecticut River, and we cannot ignore that it needs to be managed. Part of that management, especially since September 11 and all of our heightened security since then, is to better secure on-site waste until it can be transported to a safer location. And part of that management is to create that safer location, officially designating Yucca Mountain as the single, high-security site for the bulk of nuclear waste that is now dispersed across our country.

While I know that some waste will always be located on-site at operating nuclear plants, we must locate the bulk of the waste at a single, secure site. Governor Dean and the Vermont Public Service Department have consistently called on me to support the repository, and today I again respect the wishes and long-term interests of my State.

The vote in the Senate today was about establishing a single national repository for tons of hazardous nuclear waste. I voted in favor. But the question of how nuclear material is safely transported to the Yucca Mountain site brings up a new set of difficult decisions that Congress has yet to face. For the past several months, I have expressed my strong concerns about prematurely transporting nuclear waste across the Nation without a plan that addresses growing concerns of State governments and local communities.

Especially in light of fears after September 11, nuclear waste transportation concerns need to be discussed, debated and addressed by our Nation's leaders. Congress has worked with the administration to improve security at airports, border crossings and public buildings. Yet throughout this Yucca Mountain debate, the Bush administration has failed to fully inform Congress about security improvements envisioned for shipping nuclear waste. It has failed to respond to repeated questions from the American people and their local communities, and that is unacceptable.

Vermonters, in the tradition that has so distinguished our State, have ac-

tively studied the issues involved in the Yucca decision. Many have shared their views and suggestions with me, on both sides of this question, and I deeply appreciate their counsel. The approval of Yucca as a repository is one issue that has taken years for Congress to debate and address. This vote does not end the federal government's obligation, by any means. I believe the administration must answer the concerns raised by many Americans in many States about nuclear waste transportation security before any material moves across the country and through hundreds of large cities and small towns. Until then—and until the Yucca Mountain site is truly operational—we must focus our energy on ensuring that all nuclear waste is secured in the safest, strongest on-site storage facilities possible.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI. Mr. President, I thank the Senator from Arizona. The Senator from Idaho I think would require some 15 minutes.

Mr. REID. Mr. President, I say to my friend, the Senator from Idaho spoke to me and indicated he would like to go now. Senator ENSIGN and I have to be here, and you have to be here. He doesn't have to be here all the time.

Mr. MURKOWSKI. I am sure he is relieved to hear that, Mr. President.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, thank you.

I thank my colleague for allowing me some additional time to visit with you about what is probably one of the most important environmental votes we will have this session in both the short-term and the long-term perspective of good government policy dealing with the waste stream of our nuclear era and hopefully dealing with it in a way that allows us to move forward to new reactor design.

Ultimately, ensuring America it will continue to have a nuclear industry that will provide the quality of electrical power on which our country will so depend in an environmentally sound way is really an underlying premise of this debate.

Before I discuss that a little more, I thought I would add to the RECORD an interesting fact about precedent. I know my colleague from Nevada is concerned about that as it relates to procedural activity on the floor and what this motion to proceed may or may not mean.

As you know, the comment was made that if anyone other than a majority leader were to make a motion to proceed, the Senate would be seriously harmed. Let me give you a small excerpt of history.

On July 8, 1957, Senator Knowland of California, the Republican minority leader of the Senate, rose and made the

motion to proceed to the consideration of H.R. 6127, which was being blocked by the majority and the majority leader.

On July 16, 1957, after a week of debate on just that issue, the Senate voted 71 to 18 to take up the legislation. In other words, they voted on a motion to proceed proposed by the Republican minority leader.

This legislation was the Civil Rights Act of 1957. The majority leader was the then-Senator Lyndon Johnson. And he survived the assault on his leadership very well. I think history will certainly attest to that. The Senate itself has also survived very well.

But what we got through that fight was probably one of the most critical pieces of legislation of a generation if not in the history of this country; and that was the Civil Rights Act of 1957.

The procedures we are following and that set forth in the Nuclear Waste Policy Act are a part of the Senate rules. By the term of the statute, those procedures could be amended in the same fashion as any other rule.

For 20 years, no one has complained about the procedures developed by Senators Jackson, Johnston, Proxmire, and McClure, and others, and eventually put forward by Congressman Joe Moakley, the chairman of the House Committee on Rules.

No damage was done to the Senate in 1957, and it was that precedent that found its way into the 1982 act. Failure to not proceed to and not approve the resolution will not, obviously, in my opinion, advance the issue at hand.

Having said that, I ask unanimous consent that the RECORD of July 8, 1957, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Excerpt from the RECORD of July 8, 1957]

CIVIL RIGHTS

Mr. KNOWLAND. Mr. President, the motion I am about to make is to enable the Senate of the United States to perform its legislative function to consider, debate, and vote upon such amendments as may be offered and upon H.R. 6127, otherwise known as the civil-rights bill.

* * * * *

I hope that within this week the Senate of the United States will be allowed to vote on the motion to proceed to the consideration of this important bill.

I feel certain that the Members of this body are both reasonable and fair. If the opponents of the proposed legislation will argue the merits of their case on the bill itself and on the amendments when the bill is before the Senate, they will find that we who favor the Senate's functioning as a legislative body will not be unfair in our judgments or unreasonable in our actions.

The mere fact that a majority may favor bringing this bill up for consideration will not cause us to depart from a procedure of parliamentary conduct that we would consider fair and equitable if applied to us if we were in the minority on this or any similar measure.

Again I appeal to my colleagues to permit the Senate as a part of a coordinate branch of the Government of the United States, to function under section 1, article I of the Constitution, which reads as follows:

"All legislative power herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

Mr. President, I move that the Senate now proceed to the consideration of Calendar No. 485, H.R. 6127.

The PRESIDENT pro tempore. The bill will be stated by title for the information of the Senate.

The CHIEF CLERK. A bill to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from California.

Mr. DOUGLAS. Mr. President, what the Senator from California has moved is merely that the Senate proceed to consider the civil rights bill. He is not, at this time, moving its passage. He is simply trying to bring the issue up before the Senate, so that we may then have the chance to discuss and to vote on it.

If the motion of the Senator from California prevails, then, and only then, will it be germane for us to debate the merits of the bill itself and to consider such amendments as may be proposed. But for the present, all that is before us is that we take a prior step and clear the decks so that we can thereafter consider the all-important question of civil rights.

This very simple parliamentary fact creates two guides for action. First, that to filibuster against such a preliminary step as deciding that we will later consider the bill would be a purely negative and obstructive act. The second consequence is equally clear. Until this motion is adopted, it is inappropriate and premature to discuss at any length either the merits of the bill or to consider any amendments thereto. All this will properly come later. But for the moment, all we are contending for is the right of the Senate to take the earlier step, which is logically prior to the discussion of amendments.

Let this immediate issue be crystal clear, and let it be not confused by a deluge of words and a multitude of false leads. It should not need any argument on our part.

Since the motives of those who are supporting this proposed legislation have, however, been called into question, it may be proper if we briefly restate our purpose. What we are trying to do is to make effective in actual life the constitutional rights of all citizens—regardless of race and color—primarily the right to vote. As we all know, this right is guaranteed by the 15th amendment in the following words:

"The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

"The Congress shall have the power to enforce this article by appropriate legislation."

Not only does Congress have the power, but it also has the duty to protect this right to vote against interference by State officials under not only the 15th but also the "equal protection of the laws" clause of the 14th amendment.

Furthermore, the Supreme Court has held (*U.S. v. Classic* (313 U.S. 299)) that this right to vote in Federal elections is also guaranteed by article I, section 2 of the Constitu-

tion, and can be protected by the Federal Government against infringement by individuals as well as by State or local bodies.

All of us know—and this knowledge is supported by statistics and press accounts—that the right to vote is denied to vast numbers of Negroes, particularly in those areas where they are found in large numbers, namely the Southern States. Frequently, this is done by legal and procedural subterfuge, often by social pressure, sometimes by economic pressure, and—upon occasion—by outright coercion. The net effect of all these methods is the practical disenfranchisement of the vast proportion of potential Negro voters of the South.

We believe this is to be a denial not only of constitutional rights, but also of the principles of true religion and of the ideals upon which our Republic was founded. We seek to realize those ideals not by criminal prosecutions after the fact, but by the preventive use of injunctions to prevent such abuses from occurring. All that is asked is that officials and citizens should conform to the law and to the Constitution. If this is done, nothing else need follow, since our aim is prevention, not punishment.

We are concentrating our efforts upon making the right to vote effective, because if this right is guaranteed then many other abuses which are now practices upon the disenfranchised will be self-correcting.

* * * * *

Mr. DIRKSEN. I announce that the Senator from New Hampshire [Mr. BRIDGES], the Senator from Maine [Mr. PAYNE], and the Senator from Kansas [Mr. SCHOEPPPEL] are absent because of illness.

The Senator from North Dakota [Mr. YOUNG] is detained on official business.

If present and voting, the Senator from Maine [Mr. PAYNE] and the Senator from Kansas [Mr. SCHOEPPPEL] would each vote "yea."

The result was announced—yeas 71, nays 18, as follows:

YEAS—71

Aiken	Fear	Martin, Pa.
Allott	Goldwater	McNamara
Anderson	Gore	Monroney
Barrett	Green	Morse
Beall	Hayden	Morton
Bennett	Hickenlooper	Mundt
Bible	Hruska	Murray
Bricker	Humphrey	Neely
Bush	Ives	Neuberger
Butler	Jackson	O'Mahoney
Capehart	Javits	Pastore
Carlson	Jenner	Potter
Carroll	Johnson, Tex.	Purtell
Case, N.J.	Kefauver	Revercomb
Case, S. Dak.	Kennedy	Saltonstall
Chavez	Kerr	Smith, Maine
Church	Knowland	Smith, N.J.
Cooper	Kuchel	Symington
Cotton	Langer	Thye
Curtis	Lausche	Watkins
Dirksen	Magnuson	Wiley
Douglas	Malone	Williams
Dworschak	Mansfield	Yarborough
Flanders	Martin, Iowa	

NAYS—18

Byrd	Holland	Scott
Eastland	Johnston, S.C.	Smathers
Ellender	Long	Sparkman
Ervin	McClellan	Stennis
Fulbright	Robertson	Talmadge
Hill	Russell	Thurmond

NOT VOTING—6

Bridges	Hennings	Schoeppel
Clark	Payne	Young

So Mr. KNOWLAND's motion was agreed to; and the Senate proceeded to the consideration of the bill (H.R. 6127) to provide means

of further securing and protecting the civil rights of persons within the jurisdiction of the United States.

Mr. DIRKSEN. Mr. President, I move that the Senate reconsider the vote by which the motion was agreed to.

Mr. KNOWLAND. Mr. President, I move to lay that motion on the table.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from California [Mr. KNOWLAND].

The motion to lay on the table was agreed to.

Mr. CRAIG. Let me also talk about one other issue that we discussed when we talk about the capacity of Yucca Mountain and, therefore, that there will always be waste out there somewhere in these temporary repositories at these nuclear reactors generating our commercial power.

Yes, there will be temporary storage for periods of cooling pretransportation. There would be anyway under any circumstance. But what we are talking about—and the Senator from Nevada showed a dip—is that you can just double the numbers at each one of those, if you want. And doubling the numbers, in my opinion, does have a risk factor, certainly a management factor.

What is most important is that many of these temporary repositories were licensed under State authority for a certain volume. To exceed that means you have to go back to the same State authority that was granted 15 or 20 years ago, versus today, and the politics have changed a great deal, and we know that, because those States were led to believe that the Federal Government would react responsibly in building a permanent repository and the temporary facility would be just that—it would not become a permanent facility. Therefore, it would be a point to cool and a point to transfer. That is what those temporary repositories were always intended to be.

So this really was the hand-in-glove scenario. Do not suggest that one goes without the other at all because they were licensed not for permanency but for temporary status while the Federal Government moved through that time of establishing a permanent repository.

In that context, when we talk about the 70,000 ton cap at Yucca Mountain as a statutory limitation, it may be statutory but it is not physical. We do not know what the physical capability of Yucca Mountain beyond 70,000 tons would be. It could be increased over time 30 years out if, in fact, all of the geology and everything else met the standards that the scientists, through the licensing process, had established.

Twenty years from now, 30 years from now, I will not be here. I doubt that the junior Senator from Nevada will be here. But on another day and in another place, and if that science meets those standards, and it is strong and stable, and the world's perspective has shifted, then, remember, we are dealing with a statutory cap, not a

physical limitation, as it relates to Yucca Mountain.

The reason the statutory cap was put in place originally was because we were looking at other repository locations in Vermont, in Washington State, and other places at the time. That is why there was a cap put in place.

I know Senators CANTWELL and JEFFORDS and WELLSTONE have talked about the limitations and, therefore, the argument that temporary repositories would still have material in them. Remember, of course, any of us who legislate know that a statutory cap is one that could be changed if the politics and/or the science would argue a change were there to do so. So let us not, in any way, fall prey to that argument of limitation.

In that context, let me suggest that limitation is, in part, tied to the geology of Yucca Mountain. I cannot tell you that I was there at the beginning, but I was there during the legislative time when we were looking at a variety of locations for repositories. I had examined them all as a legislator. I read all of the preliminary geologic surveys.

It was determined at that time, in the mid-1980s, that Yucca Mountain was, by far, the site that appeared to be the most desirable other than, if you will, the large granite deposits in Vermont.

Granite has a unique shielding capability, and it is possible to assume that you could put repositories deep into the granite of Vermont and it would be an ideal situation. But our country did not go there. Our country decided not to have multiple repositories, but a single one, largely because of the politics of it.

Governor Guinn, in his arguments of vetoing it, suggested that Yucca Mountain is unsuitable for a permanent repository because it is at the center of volcanic activity, earthquake vault zones, and rapid ground water flow. In other words, that is the geology of the mountain, as spoken to by the Governor of Nevada.

Secretary Abraham has asserted Yucca Mountain is geologically stable and experiences little ground water flow or rainfall.

The U.S. Geological Survey agrees, stating that the arid climate and low probability of repository-piercing earthquakes or volcanic activity support the recommendation of Yucca Mountain.

The Nuclear Waste Technical Review Board also concurred, stating:

No individual technical or scientific factor has been identified that would automatically eliminate Yucca Mountain from consideration at this point.

That is a quote directly from the report by the technical review group.

Based on these factors, the Energy Committee, on which I serve, examined it and determined that it was fair that we bring this issue to the floor in the

form of a resolution and allow ourselves to go to the next step.

And oh, by the way, the U.S. Geological Survey agrees with us. The Governor asserted that the geology of Yucca Mountain is so bad that DOE has given up on geologic isolation of waste in favor of manmade barriers. In other words, the original concept was to create a facility so deep in the Earth that the Earth itself would create the natural barriers, and that you would not need to build a barrier within a barrier, in other words, a manmade barrier.

Secretary Abraham points out that a balance of both natural and engineered barriers has always been planned for the repository.

Existing geologic barriers are likely sufficient to prevent waste from reaching ground water, but the engineered barriers provide additional protection.

Do you remember what we did a couple years ago? Because we wanted to make sure we did it right, because we wanted to address the arguments that were being made, we put EPA into the mix and we extended the idea of engineering out into the future a facility that would withstand 10,000 years of any kind of threat. That is when the barrier within the barrier concept really began to develop.

The Nuclear Waste Policy Act requires the Secretary to consider engineered barriers when making this recommendation to the President.

Long before the Governor got into the argument, and long before the Governor tried to find arguments that would fit his political need, we had already thought of that. It was in the 1982 act. The Nuclear Regulatory Commission, not the committee or the Senate, must ultimately decide if the barriers are sufficient to prevent the seepage of radionuclides. The committee agreed with Secretary Abraham's conclusion that the consideration of manmade barriers is appropriate.

The Governor claims that DOE's computer models are unable to adequately predict emission rates for 10,000 years. The NRC will rely on these models for licensing, as absolute proof of compliance with EPA radiation protection standards is not obtainable. DOE must be able to demonstrate compliance with EPA's standards for the 10,000-year cycle.

The committee is concerned that DOE models are not adequate. The Nuclear Waste Technical Review Board has expressed similar concerns but has given guidance to DOE on improving the quality of its assessments.

In other words, what we are talking about and what the Secretary made his recommendations on was the science far enough along to get us to the point of moving it the next step. The science is not cooked. It is not done. It is not over. It is evolving.

What I am suggesting is that as we question the science, the science we

now have is adequate to arrive at reasonable comfort under all of the best engineered scenarios to allow the safety that is required. But for the Nuclear Regulatory Commission and others to require additional science is possible.

The committee expects DOE to improve its computer models but does not believe that existing weaknesses are sufficient to stop the consideration. In other words, we are not even satisfied with the work that has been done, although it is clear—and I must say for the RECORD that the work that has been done is adequate, clearly adequate to get us to this point of consideration. If we can make the best better, and if in that we create the kind of both political and real comfort that the State of Nevada needs, then we ought to do that. That is our responsible role as public policymakers.

Let me conclude with the Governor's objection on what he calls the completeness of the design. The Governor notes that DOE has not completed the design of Yucca Mountain and cites 293 unresolved technical issues. Because of these, the DOE will be unable to submit a license application to the Nuclear Regulatory Commission until 2004, violating a statutory requirement to file an application within 90 days of congressional approval of the President's recommendation. That has been the argument placed by some.

The Nuclear Waste Policy Act requires the Secretary to determine site suitability before making a recommendation to the President. It does not require him to complete the repository design or satisfy every obligation for license application. In other words, the step required by law was met, determining site suitability. It is from that process within the law that moves us to where we are today.

The Nuclear Regulatory Commission is confident that the DOE can supply all necessary information for license review. The 293 unresolved issues are commitments from the DOE to supply additional information. Forty-one of these issues have already been completed, reducing the number to 252.

The Yucca Mountain project is already 12 years behind schedule. The DOE's inability to file an application within 90 days is unfortunate but not a violation of the statute. The provision is a directory, and not a mandatory requirement.

In other words, like the science, we have met the standards but we want to achieve a greater level.

In that regard, as it relates to the law and as it relates to an application to the Nuclear Regulatory Commission, we have met suitability as we now work to address the other issues that will become a part of the licensing process of the Nuclear Regulatory Commission.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Nevada.

Mr. REID. Mr. President, I have spoken with the distinguished Senator from Alaska. We both have limited amounts of time to give, but we decided the Senator from Nevada would be given 15 minutes; following that the Senator from Alaska would be recognized to use up whatever amount of his 25 minutes he wished; and following that I will speak and/or the majority leader. That should take all of our time.

I yield 15 minutes to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, Nevada's slogan is "battle born." It is on our State flag. It reflects the firmness of purpose and the willingness to fight for what is right that is so much a part of what characterizes Nevada. This is as true today as it was when our State entered the Union during the Civil War.

When it comes to Yucca Mountain, we intend to fight. Nevada's other motto is "all for our country." This is proudly displayed on our State seal. Nevadans have always been for our country. The ore taken from Nevada's Comstock load financed the means by which we preserved the Union during the Civil War, and Nevada has hosted aboveground nuclear testing at the Nevada Test Site, the result being a weapon of such mass destruction that it swiftly brought the end to the World War II conflict.

Too many innocent people in Nevada and Utah died from horrible cancer-related disease from the radiation fallout. So when it comes to our national defense, Nevadans have always proudly stood tall for our country.

Yucca Mountain is not needed for our defense and goes way beyond patriotic duty.

I want to address the transportation issue. These are some charts. Once again, because we don't know the exact transportation routes, these are the charts from the Department of Energy's final environmental impact statement. So it is all we have to go on.

The darker lines—it is probably very difficult to see the real light red lines which are the rail—are the highways. This happens to be in Illinois. Chicago is up here. These are all the various transportation routes. Down here is St. Louis—all the various transportation routes through this part of the country upon which nuclear waste could and probably will travel. This happens to be the State of California. My State is here, but all of these are various transportation routes going through major cities—Los Angeles, Oakland, Sacramento.

This happens to be Colorado, Denver, a major metropolitan area here as well.

This is Utah where we have Salt Lake City. We see the highways and the railroads running through Salt Lake City.

This is Florida, with a huge amount of population today, a very populated State—going through Miami, near Orlando and through Orlando, with the train routes through Jacksonville, Tallahassee.

This is in Georgia—going through obviously their major population center in Atlanta.

This is a summary of the country. These are just the highways across the country. We can see that so much of the country and so many population areas of the country are going to have nuclear waste transported through them. Once again, we don't know the exact routes, but these are the best routes we have to go on.

The Department of Energy and the nuclear industry wants Americans to believe that taking tens of thousands of tons of dangerous radioactive waste, removing it from reactor sites around the country, and putting it on trains and trucks and barges now and moving it through cities and towns and waterways across America so it can be buried on an earthquake fault line in southern Nevada is a good idea. It is not.

According to the Department of Energy, 50,000 to 100,000 truck shipments, 10,000 to 20,000 rail shipments, and 1,600 to 3,000 barge shipments would be required to transport high-level nuclear waste to Yucca Mountain.

The Government is trying to convince us that this project is going to be safe; as a matter of fact, they say more than safe. The Government would have us believe that getting this waste to Yucca Mountain is the key to keeping our children safe from radioactive waste that is going to be dangerous for tens of thousands of years.

Anyone who believes the argument that this dangerous waste can be transported without incident only needs to look at what happened last July in the Baltimore Tunnel when a CSX freight train carrying hazardous waste derailed and set off fires that burned for days. The casks have been studied at about 1,475 degrees using computer modeling—casks similar to that. The Baltimore Tunnel fire burned at 1,500 degrees for days, which is way beyond what these casks have been put through—at least in the laboratories. Imagine a similar incident to that which happened in Baltimore, except this time if it is radioactive waste.

Forget an accident. What about a terrorist attack? People have talked today about the record of shipping nuclear waste across Europe and the United States. But post-September 11, we are in a different world. We need to think about terrorism and the ways and uses and possible attacks on these nuclear canisters as they are traveling across our country. Hijacking or blowing up a truck containing nuclear waste would be an easy way to devastate one of our metropolitan areas.

What we have on the chart here is difficult to see because it is taken off of VHS footage. This is a canister that is very similar. This is a newer company using their best technology trying to compete with the currently used canisters. This is a TOW missile fired down through there, and you can see that it penetrates it or would breach one of these nuclear waste canisters that are going to be shipped across major metropolitan areas in the United States.

Indeed, the most senior al-Qaida leader in U.S. custody told interrogators that al-Qaida is seeking to explode a "dirty" bomb in the United States. Jose Padilla was arrested in Chicago after intelligence indicated that he was participating in a plot to detonate a "dirty" bomb in the United States. But al-Qaida doesn't need to buy nuclear material to smuggle a "dirty" bomb into our country. Congress is doing the hard work for them.

Every truckload of nuclear waste going to Yucca Mountain on our highways through our towns and cities is a potential "dirty" bomb. All the terrorists have to do is breach one of these canisters on one of the trucks, trains, or barges, as the Senator from Michigan talked about, in the Great Lakes, and we will witness another severe act of terrorism.

So let's call this legislation what it is and what it is not: This is not the Nuclear Waste Disposal Act. It is the "terrorism facilitation act," and it needs to be defeated. Nuclear powerplant sites are among the most secure commercial facilities in the country. Following the events of September 11, they are being made even more secure, and there are even proposals for military protection at these sites.

Modest infrastructure improvements can further increase the level of protection against any conceivable terrorist threat. Nuclear waste is safe when stored onsite in casks surrounded by concrete. But it is another story when these casks are going to be traveling by homes, schools, and churches. At this time, we cannot be sure they will survive real-world conditions. We may be able to develop the technology, but we don't have it today. So we should not have Yucca Mountain go forward until we develop the technology.

As I have said earlier, the casks have not been tested in real fires—only with computer simulations, and not to the extent they need to be tested. I will repeat that because it is so important.

The computer simulation is for 30 minutes at 1,475 degrees Fahrenheit. The temperature in the Baltimore Tunnel fire read 1,500 degrees, and it burned for days. The NRC stated that it is doing a top-to-bottom review—partly because of September 11 and the Baltimore Tunnel fire—to review the security requirements, including a review of the transportation casks'

vulnerabilities to terrorism. Let's make sure these casks are properly tested before Congress votes on Yucca Mountain.

I want to talk about the Government's big lie. Not only is the Government's plan dangerous for America, it also won't solve the problem. The Government's big lie is that we Americans have a choice to have one central nuclear waste storage site at Yucca Mountain or to have waste stored at the reactor sites around America. We talked about it earlier today. That sounds as if it is an easy choice except that it is not true.

Even if, by some luck, waste is shipped safely across the country to Yucca Mountain, there will continue to be nuclear waste stored at all operating reactor sites. You see, even if it were possible to immediately and magically, as one of the Senators talked about today—like our garbage is picked up, we simply, all at once, pick it up and take it to the dump. It is not done that way with nuclear waste. There will continue to be spent fuel stored at each and every operating reactor in the country. That is because nuclear waste is highly radioactive, thermally hot, and must be kept at reactor sites at water-filled cooling ponds for at least 5 to 10 years. The only way spent fuel storage can be eliminated from a reactor location is to shut down the reactor and wait many years to ship the material after that.

I don't think that option of closing down figures into the nuclear industry's long-range plan. We will have 65,000 metric tons of commercial nuclear waste by the time Yucca Mountain is scheduled to open. We produce about 2,000 metric tons of nuclear waste per year. The DOE plans to ship about 3,000 tons. Just do the math. We won't get rid of the nuclear waste backlog in the country for nearly a century—even if, as somebody talked about, we expand Yucca Mountain, which would obviously be politically a very difficult thing to do—excuse me. Yucca Mountain will be filled long before then—as we see on the chart, in 2036.

I think it is important to understand this because the DOE and the Secretary of Energy have been saying that it is safer to have this fuel all shipped to one place. This is today. We have 45,000 tons of spent nuclear high-level radioactive waste around the country. In 2010, when Yucca Mountain is scheduled to open, we will have 65,000 tons. If we start shipping about 3,000 tons a year, by 2036, when Yucca Mountain is full, we will still have virtually the same as what we have today. So we really have not accomplished too much.

If we don't have Yucca Mountain, it will be way up, but there is not a lot of difference. It is a management thing, not a security risk.

The other thing is after Yucca Mountain is full, we start producing more of it, and we get out to 2056, we can see what happens. So Yucca Mountain doesn't really solve the problems people say it is going to solve.

Moving waste to Yucca Mountain will just create one additional large storage facility. To do that, the cost will be tens of thousands of shipments of deadly radioactive waste on the Nation's highways and railroads and waterways day after day, month after month. Obviously, it will never end.

I want to talk briefly about the history of the process. This is really Washington power politics. The reason I talk about this is because we are going to get to the cost of Yucca Mountain in a moment.

In 1982, the Nuclear Waste Policy Act gave the Energy Department until 1998 to open a permanent underground geological depository for high-level nuclear waste. At the time, they were studying several sites. But because of politics out of the States of Nevada, Washington, and Texas—Washington had the majority leader in the House, and Texas had the Speaker of the House—Nevada ended up with the nuclear waste “queen of spades.”

The deal reached was not by a scientific determination of which location would be suitable. Basically, they just decided on politics that Nevada would get this.

The site originally was for geology. They said: We are going to house this waste underground, and it is going to protect us. Over the years, they found that the geology would not protect us. So what they had to do was build in manmade protections, and that drove the costs up significantly.

Prior to 1987 when they said they were going to study one site, the original cost estimate was \$24 billion. In 1985 the cost estimate went to \$27 billion, and in 1987 it was \$38 billion. They were studying three sites. They said: We cannot do that; we will just study one site.

Now they are studying one site. The cost in 1995 was \$37 billion, in 1998 the cost was \$46 billion, and in 2001 the cost is \$58 billion. That is the equivalent of all 12 aircraft carriers for the United States combined. As a matter of fact, that is more than in today's dollars the cost of the Panama Canal, the World Trade Center, and Hoover Dam all combined.

That does not include building a rail site to Yucca Mountain which, according to the DOE, is going to be needed. So this is a boondoggle, and we do not need to do it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ENSIGN. I ask unanimous consent for 5 more minutes.

Mr. MURKOWSKI. On the time of Senator REID.

Mr. ENSIGN. Yes.

Mr. MURKOWSKI. I have no objection, Mr. President.

Mr. ENSIGN. Mr. President, according to the NRC Chairman, people have said: Do we have to do this right now? According to the NRC Chairman, we do have the capacity to store these materials safely for decades to come—NRC Chairman Richard Meserve.

There has been a lot made of one of the Senators talking about what do we do with this waste if we do not transport it, and I wish to conclude my remarks by giving people an answer. If not Yucca Mountain, then what?

Onsite dry cask storage is good for at least 100 years. We know that. These canisters are safe for at least 100 years, according to the Department of Energy. It is about \$4 billion to \$5 billion to store it onsite, and that includes all of the costs associated with storing it onsite—\$4 billion to \$5 billion instead of \$60 billion plus. It is going to be at least \$60 billion, make no mistake about it.

Every year, we have been taking the cost up by over \$10 billion in the estimates. Where is the cost going to go from here? We know this situation is going to be too expensive. What we need to do is keep the waste onsite. It is a lot cheaper.

There is promising science. There is pyroprocessing. There is what is called accelerator technology transmutation. These are fancy scientific words. The bottom line is they are modern recycling of nuclear waste or partially spent nuclear fuel rods. We are recycling everything we can in this country. We need to continue to invest in recycling technology.

For those who are supporters of nuclear power, as I am, recycling will make nuclear power more viable in the future, I believe, because if we have solved the waste problem, instead of burying it in the ground where it is too expensive and waste partially spent nuclear fuel rods, if we invest in recycling technology, we will have a permanent energy supply for generation after generation of Americans.

If one believes in nuclear power, let's make it less costly and let's invest in the recycling technology and keep it onsite without the risks of transportation.

I wish to make one other point before I close. The senior Senator from Idaho talked about 1957. We are talking about a procedural motion. He talked about 1957 where somebody offered a motion to proceed, and I have been saying all day we are violating Senate tradition today.

He said that in 1957, somebody in the minority offered a motion to proceed and that debate took a week. At the end of the week, that motion to proceed actually was voted for by a vote of 70-something to 28. While that vote is accurate, what he is inaccurate about is the majority leader supported the

vote. What we have said is no motion to proceed has ever come to the Senate floor successfully over the objections of the majority leader, and that statement is still true, even with the 1957 precedent.

We think this still sets a very dangerous precedent on Senate tradition if this vote goes forward today.

Lastly, I wish to thank a few people in our State who have done a phenomenal job of fighting this fight for the people of the State of Nevada and I believe for Americans in general. First, the senior Senator from Nevada, the assistant majority leader. No one has worked more tirelessly on this issue than he has. His staff has done an incredible job, as has my staff. I am thankful for the yeoman work of our Gov. Kenny Guinn and other elected officials, both Republican and Democrat, in our State who have tirelessly fought this issue.

If we lose this vote, I am committed to the belief that one day, years from now, leaders will look back on what the Senate did today and simply say: What were we thinking?

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. The Senator has 26 minutes.

Mr. MURKOWSKI. I will take such time as I need.

Mr. President, it is fair to reflect on where we are. Today the Senate is going to decide whether the Secretary of Energy should be allowed to make an application to the Nuclear Regulatory Commission for the use of Yucca Mountain as a repository for spent nuclear fuel and high-level waste. That is the only issue before this body.

The Senate today is not—I repeat, is not—deciding whether science and engineering are sufficient for the Yucca Mountain site to be operated safely and in compliance with EPA and other agency regulations. That is really the job of the Nuclear Regulatory Commission.

We have had a lot of discussion. Some of the discussion is associated with fear. I have looked for a synonym for red herring. I do not know if fluorescent herring is as close as we are going to get. In any event, we have to deal with this in a responsible manner.

Let me share with my colleagues what some of the public opinionmakers have said. I quote from the New York Times. This is July 9, "A Critical Vote on Nuclear Waste." It says:

Any Senator tempted to vote against the resolution must recognize the severe consequences. A nay vote or a failure to vote means that Yucca Mountain is effectively dead and the nation must start anew to look for a disposal solution. A yes vote means simply that the project can proceed to the next step, a formal licensing application to the Nuclear Regulatory Commission, which

will spend years analyzing all aspects of the repository to see if it warrants a license to operate.

Mr. President, I ask unanimous consent that this New York Times article, "A Critical Vote on Nuclear Waste," and a Chicago Tribune article, "Crossroads of Nuclear Waste Storage," dated July 9 both be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 9, 2002]

A CRITICAL VOTE ON NUCLEAR WASTE

The Senate is facing a momentous vote this week that will determine whether a plan to bury nuclear waste at Yucca Mountain in Nevada moves to the next stage of regulatory scrutiny or dies prematurely. Any legislative delay now will be likely to terminate the project, and that must not be allowed to happen. If Yucca is abandoned, the nation will be right back where it was decades ago—with spent nuclear fuel piling up at reactor sites around the country and no plan for its permanent disposal.

In recent weeks the critics of Yucca Mountain have grown increasingly alarmist in an effort to stampede any wavering senators. They claim that Yucca has geological and technical flaws that render it unsafe. But those are precisely the issues that will be examined in excruciating detail by the Nuclear Regulatory Commission if a licensing application is allowed to move forward. The critics also fret over the possibility of catastrophic accidents while the fuel transported from reactor sites to Nevada. But they seldom mention that such shipments have gone on without incident in this country and Europe for the past three decades—in quantities that actually exceed the amount that would be shipped to Yucca.

The Senate finds itself in this pivotal spot because the statute that designated Yucca Mountain as the sole candidate for a disposal site set up a tight timetable of necessary approvals. The state of Nevada vetoed the project, as was its right, thereby throwing the decision back to Congress. The House has already voted, by a thumping margin, to go forward. But unless the Senate also votes to override Nevada by late this month, the designation of Yucca as the candidate repository will expire.

Unfortunately, the Senate Democratic leadership is working against the proposal. Harry Reid, the majority whip, who hails from Nevada, is adamantly opposed to storage in his state. Tom Daschle, the majority leader, opposes the project and is refusing to schedule a Yucca Mountain vote. Fortunately, the Nuclear Waste Policy Act allows any senator to request that the Yucca resolution be brought to the floor for time-limited debate and a vote, a step that Republicans say they will take as early as this week, possibly even today.

Any senator tempted to vote against the resolution must recognize the severe consequences. A nay vote or a failure to vote means that Yucca Mountain is effectively dead and the nation must start anew to look for a disposal solution. A yes vote means simply that the project can proceed to the next step, a formal licensing application to the Nuclear Regulatory Commission, which will spend years analyzing all aspects of the repository to see if it warrants a license to operate. Given the stakes, it would be irresponsible for the Senate—most of whose members have little detailed knowledge of

the Yucca proposal—to decide this issue on the fly, thereby blocking the detailed technical review that it deserves.

[From the Chicago Tribune, July 9, 2002]

A CROSSROADS IN NUCLEAR WASTE STORAGE

(By Dick Durbin)

The advent of nuclear power more than 50 years ago brought with it both great promise and great responsibility. Our ability to harness the power of the atom has paid substantial dividends for our society, but it has also left us with the formidable challenge of safely storing the byproducts of nuclear power generation. This is a challenge our nation must meet so that future generations are not endangered by today's nuclear waste.

Presently, all of the spent fuel from nuclear power plants and research reactors throughout the country remains on-site at each reactor. None of these facilities was designed to safely store that waste on a permanent basis, and leaving spent fuel in temporary storage around the nation poses both a security threat and an environmental hazard.

Everyone agrees that we need to find a safe and permanent way to store this material and such a storage site has been proposed at Yucca Mountain in Nevada. I have been to Yucca Mountain, which is located 90 miles from Las Vegas on federal land at the remote Nevada nuclear test site. The waste would be stored more than 600 feet underground but more than 500 feet above the water table, sealed in steel containers placed under a titanium shield. A security force at the Nevada test site is in place to protect the area, and the airspace around Yucca Mountain is already restricted.

When this issue has come before Congress in the past, I have opposed efforts to move waste to a temporary facility at Yucca Mountain before there was a scientific determination of whether waste could be safely stored there on a permanent basis. I also opposed earlier measures that would have mandated dangerously low standards for environmental protection at the site.

Recently, however, I have been encouraged by the fact that the Environmental Protection Agency has successfully established radiation and groundwater contamination standards for the Yucca Mountain storage site. These standards were derived from recommendations by experts at the national academy of Sciences and were developed after extensive public comment and scientific analysis. All of these standards greatly exceed the standards debated by Congress in the two previous bills I opposed.

No site will ever be perfect for the storage of high-level nuclear waste. But I believe the studies, which have already been conducted, and the Nuclear Regulatory Commission review still to come provide sufficient assurances that Yucca Mountain is the most appropriate site available and should be used as the permanent national nuclear waste repository. Therefore, I have decided to support the Yucca Mountain resolution, which would make that facility the national nuclear waste repository.

I am still concerned, however, with the movement of thousands of tons of nuclear waste across the country to Nevada. According to the U.S. Department of Energy, Illinois would rank seventh in truck shipments under what is called the "mostly truck scenario." The same Energy Department analysis concludes that Illinois would rank sixth in rail shipments in the "mostly rail scenario." Although waste has been shipped through Illinois and other states in the past,

approving Yucca Mountain would initiate the largest waste shipping campaign in the history of our country—both in terms of the number of shipments and the amount of miles traveled for high-level nuclear waste.

Unless we scrutinize safety factors and security risks, the large-scale transportation of radioactive materials has the potential to cause a host of serious challenges to cities and communities along shipping routes. This issue is all the more important in light of the terrorist threats we are likely to face in the years ahead.

In Illinois, nearly half of our electricity is generated from nuclear power. Our state contains seven nuclear power plants, two nuclear research reactors and more commercial nuclear waste than any other state. In addition, we are home to one of the busiest transportation corridors in the nation, putting our state squarely at the intersection of the nuclear crossroads. With the safety of Illinoisans at stake, finding the safest way to move nuclear waste to a location where it poses the least risk is imperative.

Congress must insist on a comprehensive safety program for nuclear waste transportation. We must require the waste containment casks to be tested to ensure they could withstand intense fires, high-speed collisions and other threats that may occur during transport. It is also essential that states be consulted on the selection of transportation routes and are given longer advance notification of waste shipments. Other measures that need to be addressed include banning inland waterway shipments of nuclear waste, requiring dedicated trains and establishing a minimum number of armed escorts to accompany each nuclear waste convoy.

We should move forward with making Yucca Mountain the central repository for our nation's nuclear waste. But we must not forget that the site can only serve its national purpose if the waste is transported safely. Before shipments to Yucca Mountain begin, we need to establish a transportation plan to ensure the safety and security of the communities that lie in the path of those shipments—and we must begin that work today.

Mr. MURKOWSKI. Mr. President, I will refer to a couple of other articles. A *Seattle Times* editorial, Sunday, June 2:

If the Senate does not follow the House lead, the Energy Department must start over. The agency must look again at other finalists—Deaf Smith County, Texas, or Washington's own Hanford Nuclear Reservation.

I refer to the *Oregonian*, Saturday, June 8:

If Yucca Mountain is blocked, nuclear waste could sit forever in temporary, poorly planned sites all across this country, including the Trojan nuclear powerplant. Yucca Mountain is clearly the best option available.

From the *Washington Post*, April 30:

Congress should override Nevada Governor Kenny Guinn's veto and allow work on Yucca Mountain to proceed.

But while years of investigation have not answered all of the questions, neither have they produced adequate reason to stop the project in its tracks.

And April 21, the *New York Times*:

There is no question that the transportation issues will need to be explored in great depth.

But the appropriate place for those issues to be addressed is in a painstaking regulatory proceeding before the NRC.

Not before a rushed Congress debate.

So everyone understands, we are authorizing the licensing process in the sense that the administration will now be able, if we prevail on this vote, to proceed with a licensing process. That is all.

We had a lot of discussion, and I am inclined to think we have probably spent 20 years or so moving this process along relative to the disposition of the waste. People sometimes have different visions of what Yucca Mountain is all about.

This is a picture of Yucca Mountain. Yucca Mountain has environmental attributes that would contribute to the safe disposal of high-level waste: Remote location with the nearest metropolitan area about 100 miles away, high security because of the proximity to the Nevada Test Site and the Nellis Air Force range, arid climate, deep water table, isolated hydrologic basin without flow into rivers or oceans and multiple natural barriers.

This is Yucca Mountain; this is the site of the tunnel. I have been there. It is in existence. And \$4 billion of taxpayers' money has been expended.

It is important to know just what this location involves. This is a picture of the test site area. For the last 40 years, we have been using this area as a test site for nuclear bombs and various nuclear weapons. It is an area that has levels of radioactivity associated with it. For all practical purposes, in spite of the fact we hate to admit we do this, we put certain areas off limits. This is one because of the high levels of radioactivity, unexploded munitions, and so forth. Yucca Mountain is included in this area.

While we have looked for other places, it is fair to say one of the conditions was this area had been set aside for a nuclear test site.

Now, another chart shows tests in other States. As we look at the disposition, we should go back and look at events leading to the selection of Yucca Mountain for a study. There were nine potential sites. There was the Hanford site in Washington and Yucca Mountain in Nevada. In Utah, there was Davis Canyon and Lavender Canyon. In Texas was the Deaf Smith County site and the Swisher site and a couple of sites in Mississippi, sites in Texas. We made a cut. We cut from nine sites and left Hanford, we left Yucca Mountain, Davis Canyon, Texas and Mississippi. Three sites were Presidentially approved: Washington, Nevada, and Texas.

In 1986, there was one site left. It was selected. That was Yucca Mountain. Congress passed the NWPA, as amended, mandating only the Yucca Mountain site for the detailed site characterization.

This has been done. We have expended the money. We went through a process. If we do not take care of Yucca Mountain today, what are we going to do? Start this process all over. It will be Texas, Utah, Washington, Mississippi. We will go through this process—perhaps Vermont. They have a lot of marble stabilization out there. The point is, we would be derelict to walk away from the obligation we have today.

The transportation systems we have heard so much about. This chart shows the existing transportation routes to WIPP, a low-level isolation pilot plant associated with the Livermore Laboratories and others in New Mexico.

I have been there. It is in the salt caverns. You go down in the huge caverns where they store this low-level waste. It is interesting to see the routing, what States are affected and which are not. We move wastes from various laboratories. These are low-level transuranic wastes that move across Highway No. 80 and so forth. Clearly, they go in one location.

For those arguing the merits of Missouri and waste going through Missouri, the waste leaves Missouri. I am not suggesting there is a final plan associated with it. This is where we have been moving the waste so far. It is low-level waste. We do not know where the various agencies are going to make these decisions and those agencies—the Nuclear Regulatory Commission, the Department of Energy, and the Department of Transportation—will bear the responsibility of determining what routes are taken.

We have moved almost 3,000 shipments of spent fuel. This is high-level waste moved between 1964 and 2000. We moved them over 1.7 million miles. We have had zero radiation releases. Low level to WIPP is 900 shipments, and almost 900,000 miles. We had 3,892 shipments and moved them over 2.6 million miles with zero harmful radiation.

Now the importance of nuclear energy and a source of electricity: 51 percent is coal, natural gas is 16 percent, oil is 2.9 percent, hydro is 7.2 percent, miscellaneous is 2.2, nuclear is 20 percent.

There are those who would like to see the nuclear industry choke on its own waste and simply go away. That is an impractical reality. It does not flow. If we are talking about reducing emissions or talking about global warming, clearly the nuclear industry in this country has to maintain its prominence. We have not had any new nuclear plants come online in 20 years. Clearly, nuclear energy plays a major role. It is emission free. The problem is the problem we have in the Senate today, and that is addressing the disposal of the waste.

It is important to recognize where these plants are located: the State of Washington, California, Texas, and on

to the east coast. Clearly, there are a number of nuclear plants producing 20 percent of our electricity. This chart shows the States.

It is important to note the rationale that Congress developed to address the disposal of this waste. That is those that use nuclear power would pay a special assessment into a fund that currently has about \$17 billion; \$11 billion came from the ratepayer. The Federal Government takes that money and agrees to take the waste. They agreed in a contractual commitment in 1998 to take the waste. They did not take the waste because they were not ready. They are in violation of a contract. The litigation associated with this breach of the contractual commitments is estimated to be somewhere between \$40 and \$70 billion. That is a hit to the U.S. taxpayer.

The reality is that these ratepayers in Washington paid \$98 million; in Arizona, \$337 million; in Texas, \$334 million; in South Carolina, \$876 million; in Pennsylvania, \$1 billion; Maine, \$67 million. These are fees the ratepayers have paid to the Government to take the waste. We have that obligation. The occupant of the chair is well versed in contractual law. We have an obligation to perform if we enter into a contract. We failed to do that.

The taxpayer bears the burden even though the ratepayers have paid to the Federal Government under the terms of the contract. There you have the responsibility associated with the issue: If this is a Government bailout, will this come to the Appropriations Committee for appropriations? No, the ratepayers have paid this amount.

Let's look at it State by State. Here is New York. New York is 23 percent dependent on nuclear energy; 18 percent coal; gas, 28 percent and so forth.

They have operating reactors, six, and three sites, and as a consequence they have a significant portion of waste in their State. The waste is on the small charts. It is important to reflect on what happens to the waste that is in your State if, indeed, Yucca Mountain does not receive the approval of this body.

We find that there are 2,378 metric tons of nuclear fuel stored in New York. Do you want that fuel moved? That is a question.

The next chart is Connecticut. Connecticut has 45 percent dependence on nuclear energy. Again, the waste stored in that State is 1,500 tons. That is not going to move unless we pass this legislation.

Illinois is almost 50 percent dependent on nuclear energy. They have 5,800 tons of waste, high-level waste. I can go through the other charts:

California, 17 percent dependent; Maryland, 27 percent dependent; Massachusetts, I think 14 percent dependent; New Jersey, 49 percent dependent; and Washington State is relatively insignificant at 8 percent.

Nevertheless, the point I want to make here is that nuclear energy is important, the energy development in these States and the waste is piling up, and it is significant.

Madam President, how much time is remaining on our side?

The PRESIDING OFFICER (Mrs. CLINTON). The Senator has 11 minutes remaining.

Mr. MURKOWSKI. How much time does the Senator from Oklahoma need? I am going to use most of the remaining time, but if he would like 5 minutes? Why don't you take 4 minutes, and you will probably get 5.

Mr. INHOFE. I thank the Senator for giving me a little bit of time. I believe it is necessary.

A number of people have asked me why it is that I support nuclear energy when my home State does not have any nuclear power. My response is that nuclear energy directly benefits every Oklahoman even though not a single kilowatt of energy is produced from nuclear power in our State. Oklahomans benefit from nuclear energy in the form of decreased power bills and increased national and economic security.

Currently, nuclear power represents 20 percent of our Nation's electricity generation. As an integral part of the U.S. energy mix, nuclear energy is a secure energy source that the nation can depend on. Unlike some other energy sources, nuclear energy is not subject to unreliable weather or climate conditions, unpredictable cost fluctuations, or dependence on foreign suppliers.

However, the lack of storage space for nuclear waste is now threatening the existence of nuclear power. If Yucca Mountain is not approved, nuclear powerplants will be forced to start shutting down at some point because there will be no place to store the waste. This would have profound consequences for all Oklahomans.

Even though Oklahoma does not have any nuclear powerplants, if nuclear power goes off line, it would cause an economic crisis in Oklahoma. The reason is simple. If you take 20 percent of the power supply off line, other States' demands of Oklahoma's power would increase, thus creating a smaller supply of energy, and a corresponding increase in the cost of energy for Oklahomans. The days of utility rates in Oklahoma being 19 percent below the national average power rate would be over.

Higher energy prices affect everyone. However, when the price of energy rises that means the less fortunate in our society must make a decision between keeping the heat and lights on or paying for other essential needs. In a recent study on Public Opinion on Poverty, it was reported that one-quarter of Americans report having problems paying for several basic necessities. In this study, currently 23 percent have

difficulty in paying their utilities. That is almost one out of every four Americans. I will not support attacks on our energy supply, which hurt the poor in Oklahoma and around the Nation, in the name of an environmental crusade.

In the mid-1980s, I traveled around the country with President Reagan's energy Secretary, Don Hodel, to bring attention to the need for measures to decrease our Nation's energy dependence. Additionally, in January 1998, I elicited virtual consensus from the members of the Joint Chiefs of Staff that energy security was a too-often-overlooked aspect of our national security needs. Additionally, in just the last couple of weeks, Deputy Secretary of Defense Paul Wolfowitz said that U.S. dependency on foreign energy "is a serious strategic issue . . . My sense is that (our) dependency is projected to grow, not to decline."

It is essential for a strong Navy.

The fact is we are at war right now. Every American is benefiting from the war on terrorism. Our subs are nuclear. Our aircraft carriers are nuclear. Every time we send American ships to a different part of the world, whether to keep the peace or defeat an aggressor they head there powered by nuclear fuel. Where does that spent fuel go? Right now the material goes to Idaho. That is right. It is transported right now. It's stored on the surface. So what happens if we fail to set up a permanent repository? We create what Secretary Abraham calls uncertainty regarding the "continued capability of our naval operations." A strong Navy fuels our ability to remain a world power. And we need a safe way to handle what is fueling our Navy.

The cold war is over.

To those of us who grew up in a time when we had bomb shelters in our backyards, nothing would be more welcome than seeing us dismantle weapons we no longer need. Every time I read about the plans for turning plutonium into "mixed-oxide" or MOX fuel, I see the results of our past determination to resist Soviet domination.

But whether surplus plutonium is made into MOX fuel or another form, waste is still left over. And it must go to a permanent repository. And that is not just for our own good. How can we urge other countries to get rid of their nuclear weapons if they don't see us doing it? We are now turning swords into plowshares by helping Russia convert its surplus weapons material into fuel for American reactors. Even the by-products of this fuel, once used, will need a repository. Yucca Mountain will provide a safe place for the materials in weapons no longer pointed at our enemies. And it will be a powerful example to other countries that no longer need weapons pointed at us.

Maybe a few years back we could not conceive of terrorists making bombs

out of planes and striking at the very heart of America. We can now. Make no mistake. They are out there and in our country. Yes, it is good that we are racing to put neutron flux detectors and gamma ray detectors at all our airports. But terrorists don't need to bring radioactive material into the United States. There is enough of it here.

And these materials—relics of the cold war—are scattered around the country. Yucca Mountain will put this material where it belongs: safe and secure 1,000 feet underground. A few days back, after Jose Padilla, A.K.A. Abdullah al Muhajir, was arrested, I saw this headline in "The Washington Post: U.S. Source of Isotopes Become Focus After Arrest." Here is what the Post said: "Of the thousands of nuclear sources still in use, or decommissioned to known storage sites, many are thought to be vulnerable to theft or black market sale." That is why Yucca Mountain is so important. That is why we have to move now to create a permanent repository. That is why we need a central underground disposal site, where spent fuel can be more safely and efficiently monitored.

And so, I urge my colleagues to vote yes on Yucca Mountain. We caught one terrorist. We can't catch them all. They will come through our airports. They will dock in our major ports. They will go through customs without a hitch because they possess not plutonium, but knowledge. Terrorists want to use that knowledge to threaten our way of life. A vote for Yucca Mountain will make that hard for them.

What is America's record when it comes to transportation of nuclear materials? It is astonishingly safe. There are some people who act as if transporting nuclear fuel will be a new thing for America. The fact is that we've seen more than 3,000 shipments of it over the past 40 years. In all those years, there has been zero danger to the environment, zero release of radioactivity, and zero fatalities.

We have seen 1.7 million miles of these shipments without any release of radioactive contents. And don't forget: The Energy Department also accepts used nuclear fuel from foreign research reactors under a non-proliferation pact. They come in from Europe and Latin America. They are brought by train to South Carolina. And we're going to do that until 2006—22,743 separate used fuel assemblies. This is something we know how to do. Because we have done it. And we have done it exceptionally well.

Will we avoid transporting waste if we don't pass Yucca Mountain? Absolutely not. A lot of sites are reaching their limits for keeping used nuclear fuel on location. 40 of them will need additional storage in the next 8 years. But they don't have the space for it. Where is that waste going to go? Sec-

retary Abraham put his finger on the issue when he testified last February. "Our real choice is not between transporting or not transporting used fuel, but between transporting it with as much planning and safety as possible, or transporting it with such organization as the moment might invite."

To keep that waste in 39 States is to keep it at 131 locations never designed for permanent disposal, never intended to manage this waste indefinitely. Clearly, any solution to the disposal of this waste requires it be transported somewhere.

Furthermore, as skillful as America is at transporting hazardous materials, we are not the only people in the world who do that well. Europe has been doing it since 1966 about as much material as we want to send to Yucca Mountain. Fatalities? Hazards from radioactivity? Zero.

There are those who see in this plan the heavy-handed approach of Washington. As a former mayor of Tulsa, I am always very sensitive to the importance of local control. In fact, the way America handles the problem of nuclear waste is a victory for local control. State and local governments can select alternate routes if they oppose those proposed by DOE and 11 States have done just that. As they should. Meanwhile, Federal and State and local authorities have worked together. Worked with training. Worked on contingency plans. Worked on mutual assistance agreements. Worked as partners. As we should. Building on our Nation's fine records, as the ranking member of the Transportation, Infrastructure, and Nuclear Safety Subcommittee, I look forward to working with the various Federal agencies to ensure the proper federal role in providing security for nuclear waste shipments. As a former mayor of Tulsa, I will also keep in mind the critical role that State and local governments must play in this process.

In an attempt to misinform and frighten the public, extreme environmentalists have been saying that the shipment of waste would be creating thousands of "mobile Chernobyls." I have already discussed, our Nation's safety record with regard to the shipment of nuclear materials. However, I must mention that, until the Yucca Mountain project is licensed by the Nuclear Regulatory Commission, which is about 10 years off, the Departments of Energy and Transportation will not designate shipping routes for nuclear waste to Yucca Mountain. If anyone implies that they know the routes, they are not telling the truth because the decision makers of those routes will not consider routes for many years.

As ranking member of the Transportation, Infrastructure, and Nuclear Safety Subcommittee, I am looking forward to my key role in working

with the various federal agencies to ensure the safe transportation of our commercial and military nuclear waste.

Make no mistake. A vote against Yucca Mountain is a vote against nuclear power, and, thus, a vote to hurt our energy, economic, and national security.

I thank the Senator from Alaska for giving me a few minutes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I ask unanimous consent there be 10 minutes additional time equally divided between Senator MURKOWSKI and the Senator from Nevada.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. MURKOWSKI. Madam President, I believe we have a Senator from the majority coming over. But I will take—how much time may I ask is remaining on our side, Madam President?

The PRESIDING OFFICER. There remains 11½ minutes.

Mr. MURKOWSKI. I would like to take 10 minutes and reserve the remainder of my time.

As I indicated a few moments ago, there is only one issue before the Senate, and that is the reality that we are about to vote to determine whether science and engineering are sufficient for the Yucca Mountain site to be operated safely in compliance with EPA and other agency regulations in pursuing a license by the Department of Energy. That is the question.

The ultimate transportation and other matters are going to be determined by the Nuclear Regulatory Commission, which is a very competent group. But the Senate is not now deciding whether or how spent fuel will be transported to a site if it is licensed and constructed.

As I indicated, the Department of Transportation, the Secretary of Energy, the Nuclear Regulatory Commission, will proceed and that will take some time.

What we have today is basically two choices: We could follow the recommendations of the Secretary of Energy and the President of the United States—the U.S. House of Representatives has done its job, and the Senate Committee on Energy and Natural Resources—and allow the Secretary of Energy to proceed and apply for a license or we can abandon some 20 years of work, over \$7 billion invested in science, in engineering, and the peer-reviewed conclusions of responsible scientists within and outside Government, and then what do we do? We begin the task all over at the expense of the taxpayers.

That is where we are. There is no middle ground and no way to duck the issue or duck the responsibility. As we say in Alaska, it is time to fish or cut bait.

The Nuclear Waste Policy Act was deliberately and carefully crafted to ensure that both the Senate and the House would deal with the issue.

The House met its obligation by an overwhelming vote of 306 to 117. The House agreed with the President's decision and voted to allow the Secretary of Energy to proceed with the license application. The Committee on Energy and Natural Resources held 3 full days of hearings to examine all aspects of this issue, including a full day where we welcomed the State of Nevada to select its witnesses who would appear in opposition to the resolution. The committee carefully reviewed each and every argument raised by the State of Nevada, either in the Governor's message or by the State representatives.

I commend the report to the attention of my colleagues. We have that report before us. Here it is. In a careful and methodical manner, this particular report discusses each and every argument raised in the process.

Under any impartial analysis, there is no legitimate reason to object to the President's decision to deny the Secretary the opportunity to apply for a license before the Nuclear Regulatory Commission.

What are the consequences if we fail to act? On the other hand, there are many serious consequences if we do not approve the resolution. The immediate consequence is set forth in the Nuclear Waste Policy Act. Section 115(b) is explicit. If the resolution is not approved within 90 days—the 90-day period for congressional review—such site shall be disapproved. The magic date is July 27. If this is not approved by that date, the site shall be disapproved.

Further, it does not say that the decision is postponed or the decision is simply put off for some reason to be revisited at a more convenient time. It explicitly and without qualification says “such site shall be disapproved.”

There are the consequences of that disapproval, and those consequences are serious. At a minimum, Congress will need to reconsider the previous sites—Hanford in Washington, Deaf Smith County, TX—giving serious consideration by using the Hanford Reservation as an interim site to meet our contractual obligations to the utilities and deal with defense in other ways.

We have a significant amount of defense waste already at Hanford. Instead of moving material from Hanford, we might have to consider moving additional material there for the foreseeable future.

Should Congress not act and we start this process over, my guess is we will have to go back to where we were in 1982 when there was serious consideration of granite formations in the Michigan Peninsula, and elsewhere; salt caverns in Mississippi and Louisiana; granite in Vermont, and so forth. Some have suggested that we use

Federal reservations as interim sites, as has been proposed in the past. With the transportation scenario, that will be far more complex than that which has been considered to date—perhaps simply leaving the spent fuel onsite in Vermont, Illinois, Maryland, California, or elsewhere.

Let there be no mistake. Because of the statutory time constraints and the directives in the law, a vote against the motion to proceed is a vote to direct the Secretary of Energy to cease all further work at Yucca Mountain and close the office until Congress decides otherwise.

I hope my colleagues will look around in the Chamber because only Nevada—only Nevada—will not be in the next round.

There is an implication to the taxpayer because we have the nuclear waste. Aside from taking Nevada off the table, there are other unavoidable and unpleasant consequences of failure to face up to our responsibilities. Members may not recall, but the cost of permanent storage of spent fuel is totally financed by ratepayers who use the energy. The fee is collected by the utilities and every one of our constituents who have nuclear energy as part of their energy mix have been paying into the nuclear waste to pay for storage. These costs do not—let me repeat—do not come out of the General Treasury. They come from ratepayers that use nuclear energy. These ratepayers are in virtually every State in the Union, including States that do not have nuclear powerplants. Those ratepayers and the States that either have nuclear powerplants or whose citizens pay for the use of nuclear power have a contractual obligation to set in statute with the Federal Government to take spent fuel from their sites.

The last administration thought they could avoid the problem and suggested there was no binding requirement. The courts thought otherwise.

If you like the idea of coming up with \$60 billion or \$70 billion or \$80 billion of taxpayer money—that is taxpayer, not ratepayer money—then vote against the motion to proceed. The \$60 billion to \$80 billion would likely not be the end of the toll for the taxpayer either because, as a matter of national interest, we will need to find the solution, and the States will incur expenses as well as those associated with liability. Leaving the waste is a consideration, but it is a bad idea.

In addition to economic issues, there is the health and safety issues associated with continuing to leave both spent fuel and high-level waste onsite. Remember, the current site-storage for the reactors is and was designed to be temporary. Yes, the present storage is the safest, but it is not a permanent solution. It is an interim solution.

The Chairman of the NRC has been very up front, saying that the present

arrangement for the temporary storage of spent fuel at commercial reactors is safe, and it is, as he states, a “temporary” measure.

Exchanging Yucca Mountain for 131 sites in 39 States and permanent repositories scattered around the country is not something the Chairman recommends nor that any other thoughtful person suggested. But that is precisely what those who oppose the motion to proceed are endorsing. There can be no other conclusion.

We also have the situation of utilities running out of room for storage and needing to find an alternative site if Yucca Mountain does not go forward. If a repository is not built, these utilities need to be shut down. In shutting down the reactors, we are going to have to look to alternative sources of fuel. What are they? Coal? Oil? Nuclear is clean power.

As we address our concerns over emissions and the recognition that nuclear provides about 20 percent of the electric power generated in this country, it makes a significant addition in our energy mix. Do any of the opponents to the motion to proceed have a suggestion on how we are going to replace that 20 percent? I guess the answer is more fossil fuels.

There is no way that this Nation will ever approve the Kyoto targets on climate change without nuclear power. There is no way to replace nuclear energy within our electric power mix.

For those of you who experienced shortages on the west coast last year, think where this Nation would be and what we would be in for if we had to shut off 20 percent of our electric power simply because we could not agree on a solution to the waste problem.

If you don't know how much of the electric power in your State comes from nuclear, I have gone through the numbers: Connecticut, 40 percent; Illinois, 50 percent; California, 17 percent; Vermont, 67 percent; New York, 23 percent; Maryland, 28 percent; Michigan, 18 percent; and, Georgia, 27 percent. How much waste is in those States that needs to get out? It is thousands and thousands of metric tons.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. MURKOWSKI. I believe I have 1 minute. I will conclude. I see the majority leader is seeking recognition. I want to respect the traditions of the Senate.

I will conclude with the reality that the issue before us is clear. All one has to do is read the commission report. The Committee on Energy and Natural Resources performed the review, as we would expect. We carefully considered every objection raised by the State of Nevada. We conducted 3 days of hearings. We considered the issue in an open business meeting and favorably reported on a bipartisan basis. We filed a comprehensive report that discusses

every argument raised by the State of Nevada, and why the argument is not persuasive or not relevant to the issue before the Senate.

I commend my colleagues, Senator ENSIGN and Senator REID. I understand why the Senators from Nevada oppose the resolution, but I cannot understand why anyone else would.

Thank you, Madam President. I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Madam President, I will use my leader time to make the statement I am about to make.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DASCHLE. Madam President, we should not be having this vote today. There are still far too many questions about the wisdom and safety of creating a national nuclear waste dump at Yucca Mountain for anyone to be able to cast an informed, responsible vote on this matter. But we are here.

We are here because the Bush administration and some of its allies in Congress—and in the energy industry—are determined to exploit unique rules that were written 20 years ago and apply only to this bill.

I can't help but think how ironic it is that less than a week after America celebrated the genius of our Founders, who intended this Senate to be the world's most deliberative body, we are being forced to vote on a matter of such grave importance before we can have an informed, honest debate.

Even more troubling than the break this vote represents with our past, is the threat it poses to America's future. Let us be very clear: The claim that science supports building a national nuclear waste dump at Yucca Mountain is simply not true. The truth is, leading independent scientists have raised troubling questions about the scientific basis for the Department of Energy's recommendation regarding Yucca Mountain.

A recent letter to Congress from the independent Nuclear Waste Technical Review Board contains a warning we should all pay great heed to. It warns that—quote—"the technical basis for DOE's repository design is weak to moderate at this time."

Think about that. We are being asked to overturn a Governor's veto—and risk public health and safety—by approving a plan of "weak to moderate" technical design. That is an extraordinary position for the administration to take.

The General Accounting Office, Congress's independent watchdog agency, has also raised serious questions about Yucca Mountain. Eight months ago, the GAO released a report that questioned Secretary Abraham's recommendation to the President to move ahead on Yucca Mountain despite the—quote—"significant amount of work re-

maining to be done" on the safety and feasibility of the project. The GAO report noted that more than 200 unresolved technical issues identified by the Nuclear Regulatory Commission remain unanswered. It pointed out that even the Department of Energy's own contractor doesn't think those issues will be resolved in time to meet the 2010 deadline. In fact, it will probably be years before we know definitively whether it is safe to store nuclear waste at Yucca Mountain.

So why are we having this vote today?

We are being forced to decide this issue prematurely—without sufficient scientific information—because this administration is doing the bidding of special interests that simply want to make the deadly waste they have generated somebody else's problem.

That is wrong. We ought to make this decision on the basis of sound science, not pressure from the energy industry.

Two weeks ago, a mild earthquake shook Yucca Mountain. What would happen to nuclear waste buried beneath Yucca Mountain when the next earthquake hits? And we know there will be another. Will the radioactive waste leak? Will it contaminate the soil? The groundwater? We don't know.

The decision we make will have consequences that will last for tens of thousands of years. We owe it to the American people—and to future generations of Americans who haven't been born yet—to wait until we have real answers. Yucca Mountain is less than 75 miles from Las Vegas, the fastest-growing metro area in the country.

But it is not just Nevadans who are potentially in harm's way. Serious questions have also been raised not only about the safety of burying nuclear waste at Yucca Mountain, but also about the safety of getting the toxic materials to Yucca Mountain.

We are talking about transporting roughly 70,000 metric tons of deadly waste from nuclear facilities in 39 States across our Nation's highways, railways, and waterways to Yucca Mountain. No one knows exactly what routes the waste would take. But, based on the routes the DOE used in its environmental impact statement, there are 14,500 schools and 38 million people within 1 mile of a proposed nuclear waste transfer route.

This is extremely dangerous material: High-level radioactive waste. According to the non-partisan Environmental Working Group: Each rail cask carrying nuclear waste, for instance, contains 240 times as much long-lived radiation as was released by the Hiroshima bomb. A person standing 3 feet from an unshielded nuclear waste cask will receive a lethal dose of radiation in 2 minutes.

The administration has warned us repeatedly that terrorists may hijack

trucks and strike at trains. We also know that there are security problems with many of our ports. By shipping nuclear waste on trucks and trains and barges, we may very well be creating hundreds, even thousands, of rolling "dirty" bombs. What sense does that make?

Even if we are fortunate enough to avoid terrorist attacks on shipments of radioactive waste bound for Yucca Mountain, there is a serious risk of accidents in transit, which would put Americans at risk of exposure to high-level radioactive waste as well. Almost a year ago exactly, a train derailment in a Maryland incident caused a tunnel fire that burned for days. Temperatures in that tunnel exceeded 1,000 degrees.

How much radiation would have been released to the environment had nuclear waste been on that train? How many people might have died?

There is so much we don't know about this ill-conceived project. But there is one thing we do know: Contrary to what the special interests claim, even if the Senate votes today to override Governor Guinn's veto, creating a national nuclear dump in Nevada will not solve America's nuclear waste storage problem. That is because the site isn't big enough. America produces far more nuclear waste than can be buried at Yucca Mountain. So beware if you are thinking of voting for this proposal. This time, the nuclear waste may be passing through your State. Next time, your State may be where the special interests want to bury their radioactive trash.

If we let them do it this time—without sufficient scientific proof that it is safe—think how much easier it will be the next time.

During his campaign, President Bush promised Americans that if he were elected, he would support regulations requiring energy companies to reduce their emissions of carbon dioxide, a compound that nearly all scientists agree is causing global warming. When the time came to follow through on that promise, the President reneged.

At a stop in Las Vegas during the campaign, Vice President CHENEY said a Bush administration would not muscle this project through. He promised that the final decision would be based on sound science. Now, at the urging of the energy industry, the administration has reneged on that promise, too. They are pushing us to make this decision prematurely, at grave potential risk to this Nation.

There is no reason we have to make a final decision today. Scientists at the Nuclear Regulatory Commission have assured us that the nuclear waste can stay where it is for 100 years—safe in dry cask storage—without posing any additional risk to public health and safety. It is premature, dangerous, and reckless to force a vote on this question today. We have more than enough

time to make an informed, responsible decision about Yucca Mountain. The question is: Will we have the courage to take that time?

For the sake of all Americans—including those who will be born generations from now—I hope the answer is yes.

I urge my colleagues to vote against this proposal. We risk no harm by waiting for the scientists to finish their work. We risk catastrophic harm by refusing to wait.

I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Madam President, parliamentary inquiry: How much time remains on each side at this point?

The PRESIDING OFFICER. The Senator from Alaska has no time remaining. The Senator from Nevada has 27½ minutes remaining.

Mr. LOTT. Madam President, I will use my leader time. I realize Senators are expecting to vote on or around 6 o'clock. I hope we will be able to do that.

In that vein, I will not speak too long, but I have to rise to urge my colleagues to vote yes on the motion to proceed. That is the vote. That will be the only vote today. This is not something that is new. This is not a proposal that we are rushing into. In fact, the entire time I have been in the Senate, and 6 years when I was in the House, this process has been under way. It is 20 years that this has been in the making. Nobody is being surprised. Nobody is being rammed. There are not going to be any dangers.

This is a part of a very long, thoughtful process based on science. Twenty years and \$8 billion have already been expended. This is something we must do. Nuclear power is an important part of our overall energy needs. It provides clean, efficient power. We need to include that in our diverse package of power production.

I am still dumbfounded to hear people express concerns about how it can be moved, how it can be stored. Senator MURKOWSKI and a bipartisan delegation took a look 10 years ago at how Sweden, France, and the Japanese have dealt with this problem. Yet in America we have not been able to come to grips with our future needs and how we are going to deal with the problem.

We should not overexaggerate what this decision today will do. The Senate today will decide very simply whether to permit the Secretary of Energy to apply for a license to operate a repository at Yucca Mountain. It is not the end of the process. It is the very beginning. I know from experience we are going to look at this issue every year, congressionally, as we should, because funds will have to be used as we go through the process. Senators from across the country are going to want to know what is happening, how it is

going. This is just to begin the important part of the process.

We should not abandon all these years of effort. That is what would happen. If we don't pass this motion to proceed, vote yes on it, I don't know how we go forward. We will have wasted years and billions of dollars in research and effort.

In addition, there is a tremendous problem with the exposure the Government would have as a result. If we don't go forward, our Federal Government could face billions of dollars in liability for breach of contractual obligations. Remember this: If we don't proceed, a lot of companies are going to start entering into private contracts. They will start making arrangements for other types of repositories, probably not as safe, not as well thought out, not based on as much science, and also still having to be moved. When you look at various States and where their nuclear waste is and its condition, you see that something is going to happen. Having a repository that we have studied so much and that will be so secure is better than the alternative of the liability to which we would be exposed and what then would begin to happen all over the country.

We should not jeopardize our only realistic means of meeting global climate concerns by cutting back 20 percent of clean electric power that is supplied by these nuclear reactors. As a matter of fact, I am hoping we will have some more nuclear reactors activated in the Tennessee Valley Authority region.

Clearly, there is a way that could be done, and there are some nearly completed reactors that could be put back on line. It would help us with our energy needs as we move toward an ever growing economy. If you are going to have economic growth, you have to have power. I have just visited some other countries that have seen real growth, and one of the concerns they have—a country such as Ireland—is that growth. They have new companies, but they are struggling to keep up with meeting the power needs that go with the economic growth.

If we don't proceed, do we go back to the beginning? Do we debate again the repository siting and reexamine all the feasibilities of other sites such as the Hanford Reservation or the Michigan Peninsula. Where would it be? What would we do?

Also, we would have to consider existing Federal reservations such as Hanford and Savannah River. The complications that would be caused and the irresponsible consequences of not agreeing to the motion to proceed today are almost incomprehensible.

There has been a lot of discussion about transportation, moving this waste around the country. How can we deal with it? Certainly, getting this waste moved to a single repository

where we could have very strong security is much better than what we have now with all of these sites in 39 States that are sitting there reaching their limits and exposed. It would be much easier certainly to guarantee the security in a single place.

I have also taken the time to look at how this transportation is handled. These moving devices are very secure. You wouldn't believe all the effort that goes into making sure they won't be exposed to any kind of accident. To my knowledge, there has never been one that has caused a problem.

When you look at what we have done to paint this dire picture of what might happen, the truth is, the picture of what will happen if we don't take this action now, after all this time, all this money, all this effort, all this science—I don't know where we go from here. It all boils down to this vote for 39 States, including my State. If not now, when in the world are we going to do it? And if not in this way, if not in this place, where? There are a lot of Senators who would have to begin to be very nervous about a whole reevaluation process and what it would mean to their sites.

I understand the Senators from Nevada. They have made a valiant effort. They feel so strongly about it. I understand that. But I think the Senate is committed to working with them to make sure that as we move forward, it is based on good science and also that we do it in the most secure fashion.

Let me again urge that we vote yes and that we do it within the next few minutes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, the Senator from Nevada talked about courage. I yield 5 minutes to one of the most courageous legislators we have had. She showed that courage in the House of Representatives and now in the Senate.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Madam President, I rise today in opposition to the motion to proceed to the Yucca Mountain resolution authorizing DOE to move forward with the siting of a national nuclear waste repository at Yucca Mountain, Nevada.

Washington State is home to the Hanford Nuclear Reservation, the most contaminated site in this country. My constituents have a very keen interest in the development of a comprehensive, scientifically-driven national nuclear waste policy. Unfortunately, I don't believe this proposal, the Yucca Mountain policy, represents the needs of Washington State. As far as I can tell, it is neither a comprehensive solution to the fact that we have 54 million gallons of tank waste now stored at Hanford, nor was the decision to recommend the site at Yucca Mountain

driven by a preponderance of scientific evidence.

This proposal, as billed, is supposed to be a long-term, comprehensive solution for our nation's nuclear waste, yet it would leave as much as 87 percent of the high-level nuclear tank waste in my State. That is right. Under the Department of Energy's plan, as outlined in its Environmental Impact Statement, only 13 percent of the waste from Washington State's underground tanks would move to Yucca Mountain. Only 19 percent of all of Hanford's defense-related waste would move. And that's to say nothing about the increase in the total amount of commercial nuclear waste within our borders.

There are capacity issues, as is admitted in the EIS. Yucca Mountain will, by statute, only be able to take up to 70,000 metric tons of heavy metal. And by the time the Yucca Mountain proposed site is open, Washington State will already have 150-percent more commercial nuclear waste than we have today. So where is the waste in Washington State going to go?

The Seattle PI recently ran an editorial, "Yucca Mountain Must Meet Rigorous Standards," that talked about how we had created a monster in the amount of nuclear waste in this country and asked what we are going to do about it. I ask unanimous consent to print that in the RECORD.

There being no objection, the editorial ordered to be printed in the RECORD, as follows:

[From the Seattle Post-Intelligencer, July 8, 2002]

YUCCA MOUNTAIN MUST MEET RIGOROUS STANDARDS

This country, in this century, has created a monster that likely will live for hundreds of thousands of years. Long, long after we are gone, Americans will look back at the summer of 2002 to see how carefully we tamed the monster.

So imagine the pressure on the U.S. Senate this week as it must decide whether to declare Yucca Mountain in Nevada the permanent repository for this nation's most dangerous nuclear waste.

Maybe Yucca Mountain should become the final resting place for this radioactive Frankenstein. But Americans, and especially citizens of Washington state, should be very sure that the site meets the highest standards for effectiveness and safety before it is officially designated.

Washington state's Hanford Nuclear Reservation, remember, was very close to being chosen for this ugliest of graveyards. We didn't want it any more than the citizens of Nevada do.

Washington state has done its share for the country in producing and enduring these dangerous wastes and waiting for bureaucrats and politicians to recognize the environmental threat with which we've been saddled.

Washington was able to escape doing even more to rid the world of the nuclear-waste monster.

So this state cannot be party to sacrificing the health of Nevada and its residents because we want to get rid of the wastes piled up within our borders.

We owe Nevada—even more, probably, than other states do.

Washington doesn't necessarily need to join Nevada in opposing the repository. But we and our congressional delegation should be involved. We should insist that the Department of Energy, the Environmental Protection Agency and the Nuclear Regulatory Commission make certain that this repository is as safe as we would want it to be if the waste were coming to Hanford.

The repository is supposed to separate high-level nuclear waste from the human race for 10 centuries.

We've spent \$7 billion studying Yucca Mountain, and for several years, it's been the only place under consideration. This has put a lot of heat on the EPA, DOE and the NRC to lower or change standards to make sure the Nevada site makes the grade.

That just adds to the need for the Senate to be cautious about signing on to this plan. It can't be Yucca Mountain for the sake of getting something—anything—done about nuclear waste. Expedient is not good enough when the decision will have consequences for thousands and thousands of years.

There can be no certainty when the timeline is unimaginably long and the material unimaginably ugly.

Ms. CANTWELL. So why doesn't the "trust us" answer work for us when it comes to nuclear waste—when it comes to trusting the Department of Energy? Washington State has had to fight and battle hard. By some estimates, we have already spent some \$35 billion on Hanford cleanup—without producing a single log of vitrified waste from those underground tanks that are leaking in my State. We will also spend another \$50 billion, according to estimates, to finish the job, and we are banking on the development of new technologies that have never been used in projects of this magnitude. Meanwhile, we are spending an average of about \$5.1 million per day on this effort.

Since starting this project, we have had lots of stops and starts. In 1958, we tried converting our nuclear tank waste to ceramic forms. We tried again later in the 1980s, to turn the tank waste into grout. That plan didn't work, and it was abandoned.

Then, in 1998, DOE tried to privatize the construction of the vitrification plant. That didn't work either. After a series of cost overruns, DOE fired the contractor and we moved on to the next phase.

So we in Washington State know how hard this process can be. That is why we have a tri-party agreement with the Federal Government and our State agencies to make sure the Department of Energy lives up to its responsibilities. But these are complex problems. So the fact that DOE hasn't answered all the questions about Yucca Mountain on the technical side and on the environmental side before proceeding puts a question in my mind: Why do we have to execute today? Why do we have to move forward today?

Even the GAO, in its recent report, says that there was no way that the questions left to be answered at Yucca

can be answered in the timeframe that the original Nuclear Waste Policy Act envisioned. So, basically, we are saying we will approve this site without conclusively addressing some 293, I believe, different technical questions that are still out there.

As the GAO stated in its December 2001 report:

On the basis of information we reviewed, DOE will not be able to submit an acceptable application to the NRC within the express statutory time frames . . .

The GAO also criticized the lack of reliable cost estimates for Yucca Mountain. How much will American taxpayers spend on this proposal, with so many outstanding technical uncertainties? No one really knows, but likely over \$100 billion. That's why this proposal is opposed by so many taxpayer groups.

Madam President, my State, more than any, wants a real solution to our nation's nuclear waste problem. But more than anywhere else, my State also knows that that these solutions must be based on sound science and technology, and that the people deserve real answers and not a plan that will do little to nothing for moving waste out of our State. So when the DOE leaves so many questions unanswered and rushes to judgment, I am skeptical.

To quote another article in the Seattle Post-Intelligencer, "Cart before horse at Yucca," it said:

Been there, heard those empty promises about sure-bet technological fixes for the past 50 years. That approach hasn't produced a disposal solution so far, and there's no reason to rely on that failed strategy now.

We need more specific answers on every aspect of the Yucca Mountain plan—on transportation, technology, and most importantly, from the State of Washington: Where is the rest of the 87 percent of our tank waste going to go? The Yucca Mountain proposal fails to provide that answer.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. I yield 1 minute to the Senator from Missouri, Senator CARNAHAN.

The PRESIDING OFFICER. Senator from Missouri is recognized.

Mrs. CARNAHAN. Madam President, for the RECORD, I want to correct the statement made earlier regarding the shipment of nuclear waste or spent fuel through Missouri.

The Senator from Alaska stated that "there is no proposed existing transportation route that will be taking the waste through Missouri." He also said that "there is no logic to suggest that there would be movement of waste through the State of Missouri." These are simply untrue statements.

In fact, a shipment of foreign research reactor spent fuel was shipped through Missouri on I-70 in June 2001. The Department of Energy has three highway routes selected for cross-country shipments of this spent fuel that we take back from foreign countries.

I have the map right here. I got it from the Department of Energy. Two of the three routes go directly across Missouri. This map—not the one used on the floor by the Senator from Alaska—is a much better predictor for the potential routes for the spent fuel that will be shipped cross-country to Yucca Mountain because it is currently used for very similar nuclear waste.

These are the facts. I wanted the RECORD to be clear for the people of Missouri.

Mr. REID. Mr. President, how much time does the Senator from Nevada have remaining?

The PRESIDING OFFICER. Twenty minutes.

Mr. REID. Madam President, I know there are people in the audience all around here who are being paid lots of money. They are coming here to see what is going to happen. They are being paid lots of money. They drive here in limousines and have Gucci shoes and nice suits. It is interesting to know that in the places where they work, Washington and New York, they have editorials supporting this bad situation, trying to ship Yucca Mountain waste on our highways, railways, and our waterways.

In this morning's paper, it says the Senate should pass the Yucca Mountain bill now. This is part of the unending stream of money. That is what this is all about—money, lots of money; money to run newspaper ads; unlimited vacations to Las Vegas to look at Yucca Mountain for 2 hours and spend three days being wined and dined in Las Vegas; unlimited dollars to send representatives to Capitol Hill.

I know how this works. The State of Nevada had a few dollars and we wanted to hire a lobbyist, but we could not find one. They were all hired by the Nuclear Energy Institute. We could not hire them. They had conflicts of interest. So all you people here, just bill everybody, feel good about it; you are perpetrating a travesty on the people of this country.

We know that the information in this ad from the Washington Post are myths. The law requires Senate action. That is not true, as has been indicated by the majority leader and everybody else. It is not true. The chairman of the Nuclear Regulatory Commission said less than a month ago that if it didn't go forward now, no big deal, it is safe where it is.

Well, this argument that Yucca needs to happen is a big crock of potato soup. The fact of the matter is that the General Accounting Office said there is 292 scientific investigative reports that are not completed.

Those independent scientists and analysts include the Nuclear Waste Technical Review Board, General Accounting Office, a former NRC commissioner, and other independent scientists.

Let's look at some of the myths of this ad:

It is right for the environment.

Now, that is a joke. It is right for the environment? Every environmental group in America opposes Yucca Mountain. There's your answer. The transportation of it scares them. The Senator from Oklahoma came and said "why are they scaring people?" Let's think about this a minute. The proposed route that goes through Oklahoma was just the scene of a horrible accident, where a barge hit a bridge and 23 cars were knocked into the water and it killed 13 people.

I don't think that is scaring people. I think it is a scary fact. So it is good for the environment? That has to be a big laugh. Every environmental group in America opposes this. "It has bipartisan support"? The PTA, the national Parent Teachers Association, opposes this. The National Education Association and the Farm Bureau, because of the water situation, oppose this, along with the U.S. Conference of Mayors. As is already in the RECORD from the Senator from California, hundreds of environmental groups and other organizations in America oppose this.

It is right for the environment? Afraid not. "It is right for consumers"? Joan Claybrook, who spent hours out in the reception room earlier today, is the epitome of what consumers are about in America, and her group opposes it.

Right for consumers? If this boondoggle goes through, it will cost the American taxpayers approximately \$100 billion. The Department of Energy itself acknowledges they will spend \$69 billion, but they low-ball everything and come back to Congress for more money. How can that be right for hard-working American families.

"It is time for action"? Afraid not. But this is the Gucci crowd. They paid for this. They do it in New York and in Washington where they get the good editorials. They don't get the good editorials in other places because they have not been able to weave their web of money.

That is what this is all about. As the Senator from California indicated today, 261 groups make up the Nuclear Energy Institute. These are the same groups that our Vice President met with secretly. Now he won't tell us anything about those meetings.

Let's see what USA Today said. They said there is no good reason to move forward with this project. The view is best summarized by comments of the Chairman of the Nuclear Regulatory Commission where he said:

If Yucca Mountain was to fail because of congressional action, it does not mean from a policy point of view the country is at a stalemate and confronting imminent disaster. We do have the capacity to store the material safely for decades.

There has been talk today on several occasions that these sites are filling up; as a re-

sult, we are going to have to move to unregulated private storage facilities. That's another lie, because these private facilities still have to be approved by the Nuclear Regulatory Commission.

I repeat, outside of Washington and New York, people realize how flawed this is. It certainly is the wrong way to go.

The Department of Energy has been saying we need to have Yucca Mountain to consolidate all the waste that is sitting in existing nuclear facilities. If there were ever a big lie, that is it. I have had Senators who support this come here all day today saying: What we need is one site. That is what this is all about. Every State one looks at, we will find they do not gain anything. None of them are getting rid of nuclear waste.

We can run through all these places across America. When it is all over, Browns Ferry in Alabama will have 107 percent of the nuclear waste they have right now, and we can go on down the list; 168 percent in Pennsylvania; 140 percent in South Carolina. There is one that is 306 percent. That is in Virginia. There is one here for 380 percent. They will have 380 percent more nuclear waste than when they started.

This is the big lie, that they are going to get rid of the nuclear waste all around the country and have one place where there is nuclear waste. That is simply not true. It will not happen. They are going to wind up with more nuclear waste.

A simple statement of fact: They can move at the most 3,000 tons a year. They will generate more than 2,000 tons a year, and they have 46,000 tons stored, and Yucca can only hold 77,000 tons. It does not take a mathematician to figure out that we are not going to get rid of the nuclear waste stored where it is.

Some of my colleagues have said the Nuclear Waste Technical Review Board really has not said how bad this is. They have said it as clearly as one can. An important conclusion in the board's January letter is:

When DOE's technical and scientific work is taken as a whole the Board's view is that the technical basis for the DOE's repository performance is weak to moderate. . . .

They go on to say:

While no individual technical or scientific factor has been identified that would automatically eliminate Yucca Mountain from consideration at this point, the Board has limited confidence generated by DOE's performance market.

We are in the midst of a crisis in this country. The stock market has plummeted. People have lost confidence in corporate America. Today, we should be working to fix those problems, not create another disaster for the American people to help out big corporations. That is what this is about. Corporate America is driving this decision. That is really too bad, Madam President. It is really too bad.

I extend my appreciation publicly to my friend from Nevada. Senator ENSIGN has worked very hard on this. He has done good work. Senator ENSIGN has done an outstanding job talking with every member of the minority. I am very happy with the work he has done. I publicly congratulate him for the work he has done.

I have been tremendously impressed with the fact he has not in any way backed off, even though some say it is unpopular for him to oppose the President of the United States.

Let me read a poem by Robert Frost to close this debate:

Two roads diverged in a yellow wood,
And sorry I could not travel both
And be one traveller, long I stood
And looked down one as far as I could
To where it bent in the undergrowth;
Then took the other, as just as fair,
And having perhaps the better claim,
Because it was grassy and wanted wear;
Though as for that the passing there
Had worn them really about the same,
And both that morning equally lay
In leaves no step had trodden black.
Oh, I kept the first for another day!
Yet knowing how way leads on to way,
I doubted if I should ever come back.
I shall be telling this with a sigh
Somewhere ages and ages hence:
Two roads diverged in a wood, and I—
I took the one less travelled by,
And that has made all the difference.

Madam President, Senators are being called upon to take that less traveled road because it is going to make a difference.

Yucca Mountain is a bad project. We cannot transport nuclear waste safely. We know that. Nuclear waste is subject to terrorist attack. We are talking about tens of thousands of truckloads and thousands and thousands of trainloads, and now they told us they are going to move waste on barges. This is a road that should not be traveled, even though some people want to go down that road.

I say let's take the road that makes all the difference. It is the right thing to do.

In the years to come, as indicated in the Seattle Post Intelligencer, people are going to ask: Why did they do that? There is no reason to do it. Chairman Meserve has said:

If Yucca Mountain were to fail because of congressional action, that does not mean all of a sudden from a policy point of view that the country is at a stalemate and is confronting imminent disaster.

That is true. But corporate interests are pushing this. In fact, we should be talking about legislation to address these problems with corporate American right now. We should be working a bill reduce the power of corporate America with which this administration has been in bed. The only person who could have stopped this corporate abuse today, it appears, is the President of the United States. He misled the people of Nevada. That is the rea-

son he is President of the United States, I am sorry to say. If he told the truth about Yucca Mountain, he would not be President. He would have lost by four electoral votes and would have lost the Presidency of the United States.

I say to my friend, the ranking member of the committee, Senator MURKOWSKI, he and I have had a lot of battles on the Senate floor. I have the greatest respect for him. He has been a gentleman and always fair to me, and although we disagree on policy issues, I cannot say enough about him being the type of legislator I think we should have.

I urge my colleagues one more time to take the road less travelled and protect people in the country, their states and Nevada.

I yield the floor and ask for the yeas and nays.

The PRESIDING OFFICER (Ms. CANTWELL.) Is there a sufficient second?

There appears to be a sufficient second.

The PRESIDING OFFICER. The Senator from Nevada has 6 minutes remaining.

Mr. REID. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed to S.J. Res. 34. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 39, as follows:

[Rollcall Vote No. 167 Leg.]

YEAS—60

Aillard	Graham	Miller
Allen	Gramm	Murkowski
Bennett	Grassley	Murray
Bingaman	Gregg	Nelson (FL)
Bond	Hagel	Nelson (NE)
Brownback	Hatch	Nickles
Bunning	Hollings	Roberts
Burns	Hutchinson	Santorum
Cleland	Hutchison	Sessions
Cochran	Inhofe	Shelby
Collins	Kohl	Smith (NH)
Craig	Kyl	Smith (OR)
Crapo	Landrieu	Snowe
DeWine	Leahy	Specter
Domenici	Levin	Stevens
Durbin	Lincoln	Thomas
Edwards	Lott	Thompson
Enzi	Lugar	Thurmond
Fitzgerald	McCain	Voinovich
Frist	McConnell	Warner

NAYS—39

Akaka	Campbell	Corzine
Baucus	Cantwell	Daschle
Bayh	Carnahan	Dayton
Biden	Carper	Dodd
Boxer	Chafee	Dorgan
Breaux	Clinton	Ensign
Byrd	Conrad	Feingold

Feinstein	Kerry	Sarbanes
Harkin	Lieberman	Schumer
Inouye	Mikulski	Stabenow
Jeffords	Reed	Torricelli
Johnson	Reid	Wellstone
Kennedy	Rockefeller	Wyden

NOT VOTING—1

Helms

The motion was agreed to.

Mr. CRAIG. Madam President, I move to reconsider the vote.

The PRESIDING OFFICER. That motion is not in order.

Under the previous order, the Senate will proceed to the consideration of H.J. Res. 87, which the clerk will report by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 87) approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982.

The PRESIDING OFFICER. Under the previous order, the clerk will read H.J. Res. 87 for the third time.

The joint resolution was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question occurs on passage of the resolution.

The joint resolution (H.J. Res. 87) was passed.

Mr. CRAIG. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. I ask unanimous consent S.J. Res. 34 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I am concerned that many geological and technical questions associated with the Yucca Mountain plan have yet to be answered. We must ensure the safe keeping of this waste material for 10,000 years—a period of time longer than the written history of mankind. Therefore, there must be certainty that the Yucca Mountain site ensures protection of the environment and the safety of citizens. At this point, such certainty does not exist.

What we do not yet know about Yucca Mountain and its suitability as a long-term repository gives me great concern. For instance, how safe is it to house such a great volume of nuclear waste at a site that lies along a natural fault line? Can a facility be built to withstand a major earthquake? There have not been sufficient answers to these and other questions. Many scientific studies have reached the same conclusion, namely that more research is needed before moving forward with the Yucca Mountain site. Despite the incomplete scientific study of Yucca Mountain and the state of Nevada's

steadfast opposition to the project, the nuclear energy industry and other parties are said to have pressured the Secretary of Energy to recommend that Yucca Mountain is a suitable site for the repository.

If Yucca Mountain is designated the primary repository for high-level nuclear waste, transportation of this hazardous material throughout the country will increase significantly. However, to date, the Department of Energy has not decided upon any plan on how to move this material to the repository. It is another in a long line of uncertainty surrounding the Yucca Mountain proposal. How will the material be moved? By train? By barge? By truck? What kind of security will be involved? There is not a single answer to any of these questions. Congress needs those answers before signing off on this plan.

We need a long-term solution to the problem of securing nuclear waste, and Yucca Mountain may ultimately prove to be a scientifically sound solution. But before we make a final decision on a repository which must have a 10,000-year life span, we must have absolute certainty of the suitability of Yucca Mountain. The safety of citizens for thousands of years to come depends on our prudence and careful deliberation.

With these concerns in mind, I voted against this proposal.

Mr. MURKOWSKI. Madam President, let me recognize the action by the Senate and thank those who participated in the debate, and Senator REID, Senator ENSIGN. I certainly understand and appreciate the position they have taken. I thought the discussion and presentation throughout the debate was certainly evidence of their concern for the State of Nevada.

On the other hand, this has been with us for a long time, 20 years. I think the Senate has acted responsibly today.

Let me thank certain staff members who have done a great deal of work. I will be very brief: Colleen Deegan, Jennifer Owen, Brian Malnak, Josh Bowlen, Macy Bell, Jim Beirne, our chart man, Joe Brenckle; and on the majority: Sam Fowler, Bob Simon, and of course Senator BINGAMAN.

Many others worked so diligently. We want to thank those in the industry who assisted in bringing this matter to the attention of all Members, encouraging that we act in a prudent manner, with dispatch. I most appreciate the two leaders who are recognizing that we can take the time today to dispose of this matter.

I yield the floor.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. SARBANES. Parliamentary inquiry: What is the pending business?

PUBLIC COMPANY ACCOUNTING REFORM AND INVESTOR PROTECTION ACT OF 2002—Continued

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

Mr. SARBANES. What is now pending before the Senate?

The PRESIDING OFFICER. The Miller amendment, No. 4176.

Mr. SARBANES. I ask for the regular order.

Mr. GRAMM. May we have order, Madam President.

The PRESIDING OFFICER. Members will take their conversations off the floor of the Senate.

Mr. SARBANES. There is a procedural question following the Miller amendment. We have been discussing that. We may be able to resolve it, but we need to do that overnight.

I call for the regular order which, as I understand it, would take us back to the Leahy amendment, with the McConnell amendment pending to Leahy?

The PRESIDING OFFICER. The Senator is correct.

Mr. SARBANES. I call for the regular order.

AMENDMENT NO. 4175

The PRESIDING OFFICER. The amendment is now pending. The Senator from Massachusetts.

Mr. LEAHY. Will the Senator yield for a question? We are on, am I correct, the Leahy amendment which was pending to it the McConnell amendment?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. I thank the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. As I understand it, the matter before the Senate now is the McConnell amendment; am I correct?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. Madam President, this amendment of the Senator from Kentucky is what we call around here and everywhere a poison pill amendment intended to prevent serious action on corporate accountability. Just as a few Republicans sought to stop campaign finance reform with similar amendments, now they are trying to

block action to make executives accountable. The lack of corporate responsibility in the United States has undermined the credibility of our markets and devastated the retirement savings of millions of Americans.

This widespread abuse of corporate power has jeopardized our Nation's economic recovery and hurt the legitimacy of our fundamental institutions. We must not call for the obstructionism of Senate Republicans. Instead, we must heed the call of the American people and insist on bold action this week to ensure that corporations are made accountable and that workers and investors are protected against these abuses.

The Leahy amendment, which my Republican colleagues seek to block, was unanimously approved by the Judiciary Committee in April. It includes critical measures to strengthen the ability of Federal prosecutors to detect, prevent, and prosecute corporate fraud. It makes acts of document shredding and corporate fraud punishable by 10 years in prison. It lengthens the statute of limitations for victims of security fraud.

Finally, the bill directs the U.S. Sentencing Commission to review criminal penalties for obstruction of justice and corporate fraud.

Today, Americans are outraged by the endless corporate scandals, and Congress must act to hold corporate crooks fully accountable and to restore confidence in our markets.

Defeating the "poison pill" amendment offered by Senator MCCONNELL is the first step toward that goal. Senator MCCONNELL's amendment would put America's workers in double jeopardy. The amendment puts new requirements on workers' representatives, despite the fact that these officials currently face disclosure and reporting requirements which surpass those of public companies.

This amendment would subject small local unions with annual receipts of only \$200,000, which are already subject to labor reporting requirements, to the same SEC reporting requirements as large public companies which typically have resources in the millions.

The reality is that union finances are already more heavily regulated than those of most public companies. The Department of Labor under current law can investigate and audit union financial records at any time, including conducting random audits. There is no comparable requirement for public companies today.

There are many other examples of current labor laws requiring much stricter disclosure by unions than the SEC requires of publicly traded companies. Unions have to list every employee who receives more than \$10,000. But the SEC does not require this of companies. Unions have to provide more detailed information regarding

their loans than do public companies under SEC requirements. Unions have to provide more detailed lists of their investment today than do public companies under the SEC requirements.

The list goes on and on and on.

For over 40 years under labor laws, union officials have been required to certify the annual financial reporting of their unions under penalty of perjury.

The McConnell amendment certification requirement ignores the safeguards that already exist under our labor laws. Union officials are already subject to criminal penalties, which include jail time for willfully failing to file reports, or knowingly making false statements, or willfully concealing documents. Union officials who violate these provisions are subject to jail time as well as substantial fines.

It is misguided to apply SEC requirements and penalties which were designed for publicly traded companies to not-for-profit groups such as unions. Even the Department of Labor recognizes this.

Don Todd, Deputy Assistant Secretary in charge of the Department's Union Reporting Office, wrote last August regarding SEC requirements that the Department of Labor does not have the expertise to provide more than a very general overview of this complex area of law. Why in the world would we want to force the labor unions to comply with SEC filing requirements when the relevant oversight agency doesn't understand this area of the law?

The bottom line here is that the Republicans fear corporate responsibility. They know the American people are outraged by the endless series of corporate scandals that are hurting workers, retirees, and our economic recovery. Rather than admit the scope of corporate corruption and the urgency of criminal penalties for corrupt executives proposed by Senator LEAHY, the Republicans are seeking to poison the well. If we allow this, the American people will never forgive us for passing up this unique opportunity to bring accountability to corporate executives. Corporate criminals must be made to pay for their misdeeds.

I urge my colleagues to vote against the McConnell amendment.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, first of all, let me point out something. Senator MCCONNELL's amendment changes nothing in the Leahy amendment. The adoption of Senator MCCONNELL's amendment does nothing to change the Leahy amendment. I understand that Senator MCCONNELL tomorrow is going to come over and speak at great length on his amendment. But I don't want anyone to be deceived as to what the amendment is about.

The amendment has nothing to do with the Leahy amendment in terms of

its adoption in any way delaying or changing the Leahy amendment.

The Senator from Kentucky has proposed a simple proposition that I believe is unassailable logically. That proposition is we are going to put penalties on filing false reports by corporations, and we are going to in the process send people to prison for it. I support that provision. I think there are probably 100 Members of the Senate who support that part of Senator LEAHY's amendment.

The Senator from Kentucky simply asks the question: Why don't we require that labor unions, when they submit financial statements once a year, have them audited by CPAs? Second, why don't we have them sign those reports and be accountable for their accuracy?

I am sure that people who do not want unions subjected to transparency and to accountability are going to say: Well, this is an effort to circumvent requirements on corporate America. Nothing could be further from the truth. This amendment does not strike the Leahy amendment. It simply adds a simple provision to it that applies parallel standards to unions.

Senator KENNEDY says this neglects existing law. The point is that the existing law is not very strong. Many unions don't even submit these reports. You could argue on the corporate side that we already have a body of law; why are we writing new laws? We are writing new laws because we need stronger and better laws. We have a bipartisan consensus that we do it.

Also, Senator KENNEDY says the veracity of these reports should follow under another jurisdiction. We are talking about accounting. We are talking about accuracy in reporting. We are talking about transparency. We are talking about accountability. Surely union members, in reading a report, should have the same confidence that it is valid, that a certified public accountant who is subject to high ethical standards wrote the report, and that the president of the unions certifies it, and that the president is going to be held accountable if it doesn't meet the standards we are setting.

Let me just summarize, since we are going to debate this amendment tomorrow, by saying:

No. 1, this amendment does not change the Leahy amendment. If you are for the Leahy amendment, that is fine.

The question the Senator from Kentucky poses is, should similar parallel requirements be imposed on unions that issue a financial statement annually, and should they have to be certified by a certified public accountant? And should the president of the union have to sign the report as the president of a corporation does? Should they be held liable if the report is not accurate and if they knowingly file an inaccurate report?

That is the question.

No. 2, it seems to me it is perfectly reasonable. You might be for it, and you might be against it, but you can't say it has anything to do with trying to undo the Leahy amendment.

It seems to me that if you are against it, you have to explain why unions should not be required to meet high standards in filing reports.

I haven't spoken on the Leahy amendment. It is my understanding we are going to be debating it tomorrow. I would like to simply outline what is in the amendment that I am for and what is in the amendment that I am against. I can do it very briefly.

If people knowingly and willfully violate the law, I support putting them in prison. The President has proposed doubling the sentence. I am for that. I hope at some point the administration will give us legislative language to implement the changes the President proposed today. I am hopeful that on a bipartisan basis we can adopt it on the floor of the Senate as part of this bill.

If we do not have time to do it, I have every reason to believe there will be bipartisan support to make those changes and those additions, those strengthening amendments in conference.

There is only one part of the Leahy amendment to which I object. Unfortunately, it is a very important part of the amendment that no one is focusing on when they are talking about the Leahy amendment. In fact, I would move that we simply accept the Leahy amendment except for this small but important provision.

I remind my colleagues that in 1995, on a bipartisan basis, we adopted the Private Securities Litigation Reform Act, legislation that basically amended securities laws to deal with the whole issue of predatory strike suits where one law firm was filing 80 percent of the lawsuits against corporate America and we had a reform of corporate liability. That bill was adopted on a bipartisan vote. It is the only bill that we overrode President Clinton's veto on in 8 years in office.

One of the reforms was to set statute of limitations requirements that basically paralleled the securities acts from the 1930s. What we said is, if you want to file a lawsuit, you have to do it within a year of when you know there was a violation or within 3 years of when the violation occurred.

The whole point of statute of limitations is, that beyond some point it is very difficult to maintain records. You do not know what happened. People's memories fade. People die. This was part of this important reform.

The Leahy amendment effectively throws out the 1 year and the 3-year statute of limitations and adopts a 5-year limitation. Now, he claims it is a 2-year and 5-year, but the 2 year applies only if you can prove that the

person who filed the lawsuit knew that the violation occurred outside of the 2 years. I would assert that is virtually impossible to prove.

It is interesting, in statute of limitations, where you are saying you have to act on a timely basis because people do not have knowledge after periods of time expire, under this, you have to have enough knowledge to prove that they knew, which I think is a standard that could not possibly work. No one really believes it could work.

So the reality is, we are striking the 1-year and the 3-year statute of limitations in the securities litigation reform bill, and we are substituting a 5-year statute of limitations for it. That is a provision that I oppose. Every other part of the Leahy amendment I support. I personally would be willing to see it accepted by unanimous consent save that one provision in the bill. I think it is an important provision.

But I want people to know, as we go into the debate, that my support for the McConnell amendment has nothing to do with the Leahy amendment; it simply has to do with having been convinced that there is logic to the McConnell position.

If we are trying to get transparency in financial reporting, if we are trying to hold people accountable, if we want honest numbers, it seems to me the logical place would be to start with Government, which we have not done. But the second point, it seems to me, is to apply the same standard to business and to labor. That is what McConnell has done.

Tomorrow we will have the debate on it, but I wanted to outline what the amendment did and did not do and my position on the Leahy amendment.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I am prompted to enter this debate by the comments of my colleague from Texas. You cannot evaluate the parallelism of the McConnell amendment without evaluating the requirements that are now imposed upon labor unions under the Labor-Management Reporting and Disclosure Act of 1959. The argument that this is logical is only if you drop out of the picture or the context the fact that the unions are now under extensive reporting requirements in the law, requirements that significantly exceed, in many respects, anything that is required of corporations.

Now, the Department of Labor has the authority to conduct audits of labor unions.

Mr. KENNEDY. Will the Senator yield on that point?

Mr. SARBANES. Yes.

Mr. KENNEDY. According to the statute, it can conduct those audits randomly, as I understand. Does the Senator agree with me that these audits can be done randomly? According

to the statute, it says right here, in section 601(a):

The Secretary shall have power when he believes it necessary in order to determine whether any person has violated . . . any provision of [the legislation] . . . to make an investigation and in connection therewith. . . .

And they may enter such places to inspect such records and accounts in question.

Does the current underlying legislation permit the SEC to conduct random auditing of public entities?

Mr. SARBANES. The auditing is done by the independent public accountants.

Mr. KENNEDY. The point I am making is, at the current time, the Department of Labor can conduct an independent audit at any particular time on any occasion, according to the Labor-Management Reporting Act.

Beyond that, it has the provision:

Every labor organization shall file annually with the Secretary a financial report signed by its president and treasurer or corresponding principal officers containing the following information. . . .

And it lists all of that information. It already exists.

Mr. SARBANES. Will the Senator yield on that point?

Mr. KENNEDY. Yes.

Mr. SARBANES. The Senator from Kentucky says they are not filing these reports. What are the Secretary of Labor and the Department of Labor doing, because they have the power to make them file their reports. In fact, they can impose penalties, as I understand it, including not only fines but also imprisonment for the failure of union officials to meet the requirements under the statute.

My dear colleague from Texas says, well, look, this thing is on all fours. This is what we are doing to the corporations. And all the McConnell amendment does is it does it to the unions. Now, who could be against that?

But let's look at what is already being done to the unions. Let's look at the requirements under which they already have to function. Let's look at the powers that the Department of Labor and the Secretary of Labor have with respect to this matter.

Mr. GRAMM. Will the Senator yield?

Mr. SARBANES. Certainly.

Mr. GRAMM. You can make the same argument the SEC has the power to audit any company in America today. Any exchange they are a member of has the power to audit them today. We are saying we need better, stronger, more powerful laws. We need better reporting. People need better information.

All the Senator from Kentucky is saying is, why don't we apply the same thing to the reports that are filed by labor unions.

Mr. SARBANES. Will the Senator yield?

Mr. GRAMM. Yes. You have the floor.

Mr. SARBANES. Has the Senator examined, with any care, the reporting requirements and the other matters that govern labor union reporting under the Labor-Management Reporting and Disclosure Act?

Mr. GRAMM. Only to the degree that I can say that all the arguments that are being made, saying we do not need to improve reporting, are arguments that someone could make with regard to corporate America. They are already subject to random audits by the SEC. They are already subject to random audits by exchanges. I am not making that argument because I do not believe it.

Mr. SARBANES. What about the requirement on unions that they list the employees whose total of salaries and other disbursements exceed \$10,000, including position, gross salary, allowances, and disbursements? What about that requirement that is imposed on the unions to make that kind of disclosure? Where is a comparable disclosure in that regard with respect to corporations?

Mr. GRAMM. Will the Senator yield? Mr. SARBANES. Certainly.

Mr. GRAMM. I say, if the Senator wanted to offer an amendment to impose that, he certainly could. And I will stop asking him to yield, but let me make this point.

Mr. SARBANES. To impose it on corporations, you support that?

Mr. GRAMM. If you offer that amendment, I would have to read it. I probably wouldn't.

Mr. SARBANES. All right.

Mr. GRAMM. But the point I am making is, we are talking about two things. One thing that you have to have is a CPA do the audit, and, two, the president of the union and the president of the company has to sign the report. They are liable if they knowingly are misleading people. Those are the only two things the McConnell amendment does.

I just can't see what is wrong with it and why it doesn't make sense. Not that there is anything wrong with that part of the Leahy amendment; I support that part of the Leahy amendment. I just don't understand why this does violence to organized labor. It seems to me it makes perfectly good sense.

Mr. SARBANES. I simply say that a statutory structure has been worked out for labor which is quite extensive and exceeds in many respects anything that applies to corporations. You can't make a judgment about whether you should do anything additional to the unions until you examine carefully what is already required from them under the existing statutory scheme. That is not happening here.

Mr. DODD. Will my colleague yield for a question?

Mr. SARBANES. I yield.

Mr. DODD. It occurs to me as well, in this bill, we are not requiring for all businesses these requirements. These are for businesses that have to file with the SEC.

Mr. SARBANES. That is right, which is a limited universe.

Mr. DODD. It is a limited universe. My point is, we are not talking about every entity that conducts business for profit. We excluded the overwhelming majority of businesses that are private entities, that have no filing requirements with the SEC. Our colleague from Wyoming felt very strongly about this point, that we only deal with public companies, the 16,000 public companies.

Let me ask my colleague this question: Is a labor union a for-profit business or are they a different kind of an entity? I have always understood a labor union was not a business and therefore to require of the labor union that which we require of a for-profit company that is required to file with the SEC seems to be mixing apples and oranges. There is no parallelism here at all.

Mr. SARBANES. The Senator is absolutely correct. The unions ought to have reporting requirements and they ought to file.

Mr. DODD. Correct.

Mr. SARBANES. Those have been put into law. There are extensive authorities in the Secretary of Labor and the Department with respect to the unions—quite extensive authorities, I might add.

We have established one statutory framework to control the reporting requirements and disclosure on the part of unions, which is a completely separate universe from what we are trying to address in this legislation.

The Senator is absolutely right. It is in a sense apples and oranges. You are dealing with two different universes, and you have established two different statutory frameworks within which to address that.

Mr. DODD. If the Senator from Texas were interested in creating a sense of uniformity, I could see him offering an amendment—I wouldn't agree with it—which would require that all businesses that are conducting their operations for profit be subjected to an accounting standard that was equal. Again, my friend from Wyoming would strenuously object to such an amendment. I would as well because of the reasons that smaller companies just could not possibly afford the costs associated with that. But to suggest somehow that a nonprofit organization ought to be subjected to the same rules as a for-profit public company where shareholders and so forth are involved is stretching logic.

I appreciate my colleague yielding.

Mr. SARBANES. It is obvious that one of the distinctions we sought to

make in the underlying bill that is before us is that when a company becomes public, you then have an investor interest that has to be protected. Otherwise, manipulation destroys investor confidence and affects the confidence in our capital markets. That is the issue we are confronting now and the impact it is having on the economy.

That was the universe we tried to deal with in this legislation. We were very careful that the legislation does not apply to most businesses in America and doesn't apply to most accountants in America, since most of them don't audit public companies.

Mr. GRAMM. Will the Senator yield? The PRESIDING OFFICER (Mr. DAYTON). The Senator from Texas.

Mr. GRAMM. I remind my colleagues that in some 40 States in the Union, you can't work unless you are a member of a union. If unions are not public organizations, when you have mandatory requirements, I can't work in Maryland in an area that is unionized without either joining the union or paying union dues. To suggest that unions are somehow private when you have mandatory membership I think won't hold water.

Mr. SARBANES. If the Senator would yield, you don't have mandatory membership. You may have a requirement that you pay a union fee, but the union then has an obligation, if you are in a union shop, to represent you in the collective bargaining efforts and with grievances, and so forth and so on. So the union has to, in effect, provide you a service for the fact that you get charged that fee.

Mr. GRAMM. I am not saying you are not getting anything for it. I am just saying that it is mandatory, and I don't see how you cannot say that unions are public institutions.

Secondly, why do we require CPAs to do audits of companies? We can't audit every company in America. We don't have enough resources. So you try to get a system where the auditor has some degree of responsibility for helping to enforce the standards. I don't see why you wouldn't have CPAs required to do the audits of unions.

I was handed this by Senator McCONNELL's staff. I am sorry he had an appointment tonight, but the OLMS, which does the compliance audits, did a high of 1,583 audits in 1984. Last year, that was only 238. So I don't know why you wouldn't want a union that has mandatory membership to have its reports done by CPAs who we are holding to a high standard in this bill. That is all I am saying.

Mr. SARBANES. What is the explanation by the Department of Labor for this rather stunning drop in the number of audits? Was it from 1,500 to 200 in 1 year's time or 2 years' time?

Mr. GRAMM. It is from 1984 to 2001.

I would say on that issue, if the Senator will yield, that the President's

2003 budget asked for an additional \$3.4 million for 40 full-time positions. It will be very interesting to see if we provide the money for them to have it.

Mr. SARBANES. That is the way to go at this problem; otherwise, it seems to me that the Department of Labor needs to do the job that it has been charged to do. I think that is what those figures amply demonstrate.

I am gratified that the administration's budget is seeking more money in order to meet these responsibilities, but that is where it ought to be done.

Mr. GRAMM. My final point—and I appreciate the generosity of the chairman—it seems to me the most fundamental requirement is if you are going to make a public report and you have mandatory membership so you are a public institution, you ought to have a certified public accountant do that report and sign that they have done it.

We have decided—I think it is one of the best things in our bill; whatever bill is adopted will have it—to require the heads of companies to sign these reports. I don't know why you wouldn't want the head of the union to sign these reports.

Mr. SARBANES. Would the Senator support a provision that required all companies with annual receipts of \$200,000 or more to meet all of these auditing requirements?

Mr. GRAMM. I would if the companies were companies that people had to do business with. If we had anything equivalent in the marketplace to a provision that said you have to buy things from this company or you can't buy them, which in essence we do in States that don't have right-to-work laws; we say that you have to pay the union dues in order to work—you don't have to join, but you have to pay the dues—I think when you have that mandatory element, having to report publicly is logical.

Mr. SARBANES. They do have to report publicly. They are now required to report publicly under the legislation that governs reporting and disclosure. The Senator is speaking as though there are no such requirements.

The fact of it is that there is an elaborately developed framework. Now, the Department of Labor may not be carrying it out fully, as the statute would require. They may be falling short in that regard, but if that is the case, the way to remedy the situation is to provide the resources to the Department of Labor and call upon them to do their job.

Mr. GRAMM. Mr. President, this is Mr. McCONNELL's amendment, and I will let him debate it. But the whole purpose of having CPAs, the whole purpose of having licensing and the taking of oaths is we cannot audit every company by the Government. I am pleased to say that nobody has proposed to have the Government take over the auditing function. We have proposed to

strengthen the CPA process and impose higher standards because that is really our fundamental line of defense.

I just don't understand. It seems to me this would be a logical amendment to take. It only says two things: When unions file a report, it has to be done by a CPA. You have a mandatory membership of unions in some 40 States, and they are public institutions. Secondly, the president of the union, as the president of the company, ought to have to verify the veracity of the statement and be liable if he knowingly is certifying it when he knows it is not valid. I mean you are not holding him accountable if somebody has not told him the truth.

Senator MCCONNELL is going to present case and verse of all of the problems. I don't know the problems, but it seems to me that when we are trying to improve reporting and improve transparency and improve accountability, the simple proposal that when unions file their annual report, as corporations do, a CPA should prepare the report—I just cannot imagine not requiring that.

Secondly, the president of the union ought to have to sign the report and be accountable if he knowingly is saying something that is not true.

Finally, the argument that there are other requirements—well, there are more requirements on corporate America. We just concluded there were not enough. So Senator MCCONNELL is simply saying while you are improving one, improve both. If I were a member of a union, I would like having certified by a CPA a report showing how my money was spent. I think it would give me more confidence. I would think if the rank-and-file union members in my State would vote on this, there would be an overwhelming vote for it. I don't even know why we are debating this. This is sort of a no-brainer, in my opinion. But my opinion may not be the majority opinion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I agree with the Senator from Texas, this is a no-brainer amendment because I cannot quite understand why we would be establishing a standard here for labor unions. It reminds me of when I was raising my kids and my wife and I had to give one of our children medicine that they didn't want. My daughter would say: I would feel a lot better if my brother had to take it, too. That is what we are having here—businesses faced with corporate corruption. Frankly, we have people on the Senate floor saying, as painful as it is for us to make more disclosures, we would feel better if you could also hurt the labor unions while you are at it. Is that what this is about—to try to find a parity of pain between business and labor? I didn't think so.

The point made by the Senator from Maryland is that labor unions already face extraordinary reporting requirements in a law that has been in place for 43 years—requirements not made of many businesses. In the McConnell-Gramm amendment, it suggests that if your labor union has receipts of \$200,000 a year, they are going to add a new burden to the labor unions—even beyond this 43-year-old law.

I listened closely as the Senator from Maryland explained the bill before us. He has worked closely with the Senator from Wyoming to make sure it just applies to public corporations, where there is public investment in stockholders and where there is an item of public trust involved. That is understandable.

So if I would stand before the Members here and say, if you really believe in transparency and disclosure, you ought to apply these requirements to every business in America, many people would say that is an onerous and unnecessary burden; it goes beyond the issue of public trust; now you are going after every business, large and small. That is what the McConnell-Gramm amendment does when it comes to labor unions. They say if a labor union has receipts of \$200,000, they have a brandnew set of requirements. The Senator from Texas says these unions are public institutions, they should not be treated as if they are private. Well, they are not. They are subject to the 1959 Labor-Management Reporting and Disclosure Act.

The thing that also concerns me is that many requirements of the labor unions under current law are far stricter than what is required under the SEC for public corporations. I cannot understand why we would want to increase the burden on labor unions when the issue appears to be, at Enron, not a union problem but a business problem. The issue at Enron had to do with members of the board of directors being paid—according to the Governmental Affairs recent report—\$350,000 a year to serve on the board and, frankly, missing it completely, or didn't report it when things were being done that defrauded stockholders, pensioners, and ultimately cost employees their jobs.

That, I thought, was what this debate was about. Instead, we are talking about right-to-work and labor unions. I am sorry, but I don't think people across America believe the problems of Enron and WorldCom and Global Crossing had anything to do with labor unions. They didn't. They had to do with corporate greed and corruption.

I commend Senators SARBANES and ENZI for bringing to the floor a bill that addresses this in a straightforward manner. The McConnell-Gramm amendment wants to get us on another track to discuss other things. I find this interesting. There is no pro-

posal that this new requirement be applied to any other organization than labor unions. I don't hear anybody coming before us and suggesting that the Boy Scouts of America should be subject to SEC filing. That is a large organization. They certainly have receipts beyond \$200,000. I don't hear the suggestion that associations and organizations like the Boy Scouts of America, or the American Legion—I don't want to go too far with this—or the Federalist Society should have more transparency and disclosure and, therefore, should be subject to SEC filings. Nobody brought that up. Is that part of the problem in America, the lack of confidence in our economy? Not at all.

The problem relates to corporations and businesses that have gone too far and lied to the stockholders and the American people. If we get off the track here and decide we are going to go after other battles to be fought, whether labor unions or other organizations, we have missed the point. I think this amendment misses the point.

Let me also say that the McConnell amendment holds labor unions to standards to which not even businesses are being held. In 1995, I happened to be a Member of the House when the so-called Newt Gingrich "Contract on America" came through. One of the things we did there, I am afraid, turned out to be a precursor to what we are going through today in what was known then as securities litigation reform. We basically said we think some of these plaintiff lawyers, class action lawyers, have gone too far and therefore we are going to protect many corporations from liability when it comes to securities transactions. I was 1 of 99 in the House of Representatives who voted against that bill and wanted to sustain President Clinton's veto. We did not prevail. We lost in the House and in the Senate.

It really, sadly, set the stage for where we are today. Another watchdog was gone. Corporations such as Enron and WorldCom didn't have to worry about somebody bringing an action against them for securities misdeeds.

One of the things that was included in the 1995 law was to take away liability for aiding and abetting, in terms of rights of action, causes of action involving corporate fraud. We exempted a whole category of people who, up until that time, had been liable for aiding and abetting fraud. We said in the name of securities litigation reform, we would exempt this category of individuals.

Senator MCCONNELL comes up with this amendment and says: We want to reinstate that aiding and abetting liability, not for businesses, but we want to put it on labor unions. What is wrong with this picture? We are not imposing it on corporations despite all

the scandals we have read about; instead, we are going to impose this new obligation on labor unions.

I am afraid, frankly, that is not a matter of public policy, it is a matter of retribution. I also think we should take a look at how many labor unions could be liable for this audit that is required. There are 70 national and international unions, but the McConnell-Gramm amendment would apply to 5,000 different unions, large and small, across America. It goes way too far.

The amendment certification requirements are also redundant. For more than 40 years, union officers have been required to sign annual financial reports, under penalty of perjury, attesting that the report's information accurately describes the union's financial condition and operations. That is a pretty reasonable standard for labor unions under current law.

We are trying to impose similar standards on corporations so when they file their accounting audit statements, someone puts their name on it and accepts responsibility for the truth and accuracy of the statement.

Frankly, I think Senator MCCONNELL and Senator GRAMM have this totally upside down. The problems we face—the corporate corruption, the lack of confidence in the economy, which even the President spoke about today—have nothing to do with labor unions. They really have to do with corporations that have an obligation to the public.

I believe the vast majority of businesses and corporations in America are run by honest people, working hard to make a profit to provide goods, services, and jobs to make America a better place. I do believe that. But there are some who have violated the public trust. The underlying bill addresses that. To bring in an argument now about imposing new obligations on labor unions not only misses the point completely as to why we are here this evening but misses the point about why we are facing this crisis in America.

I stand in opposition to the McConnell-Gramm amendment, and I hope all of my colleagues will join me in remembering why this debate got started.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I, too, wish to verbalize my opposition to this amendment that tries to draw in a completely extraneous item which has not been debated in the context of this bill in the 10 committee hearings we had with regard to putting together the Corporate Corruption and Investor Protection Act.

It has not been involved in any of the President's discussions about corporate abuse or fraud that we have heard discussed. It is not in any way related to the group of organizations with which

we are attempting to deal, which are large, publicly traded corporations, and really ignores the fact that there is already a body of law that deals with union organizations and union officers with regard to their responsibility to their memberships and for their reporting requirements.

For a whole host of reasons, I do not understand how this even relates to the issue that is the fundamental part of the underlying bill, and there certainly is not any evidence in the marketplace of ideas and activities across America that would justify pulling labor unions by their actions into the fish net about which we are talking. This is about corporate corruption. It is about investor protection. It is about making sure corporate fraud is properly dealt with in the legal system, one that puts everyone on notice that they have serious responsibilities to certify that what is reported is real, and if it is not real, then people are held accountable.

We are off on the wrong track, and if we end up having too many of these diversionary tactics away from the underlying principles of what we are trying to accomplish, which is to have measured, reasonable, and thoughtful progress with regard to corporate responsibility, corporate accountability, accounting reform, and investor protection, public protection, then I think we are going to miss the opportunity to secure our economy, to secure the steps that are necessary for most people to restart this engine of investment that drives our economy. This is completely off point.

I hope my colleagues in the Senate will recognize it for what it is and move on, turn this down, and get on with the underlying amendment that Senator LEAHY has so appropriately brought to bear in this case.

I yield the floor.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. SARBANES. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business, with Members allowed to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes

legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred September 12, 2001 in Huntington, NY. A man, who was drunk, tried to run over a Pakistani woman in the parking lot of a shopping mall, according to police. The man then followed the woman into the mall and threatened to kill her for "destroying my country."

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

RESTORATION AND REDEDICATION OF THE GEORGETOWN CIRCLE

• Mr. CARPER. Mr. President, today I recognize the rededication of "The Circle" in Georgetown, DE scheduled for July 19. Thanks to the great efforts and hard work of the citizens of Georgetown, this historic site has been restored to its original splendor.

The Circle was established in 1791 by an act of the Delaware General Assembly. Subsequently, the town of Georgetown was laid out around the Circle. While Delawareans knew of its historic and cultural significance, it was confirmed nationally in 1973 when The Circle was placed on the National Register of Historic Places.

Georgetown has long been famous for Return Day, a celebration that takes place every 2 years, 2 days after the state's general election. With the campaign behind them, voters and candidate's return to the Circle to enjoy parades, listen to music, and literally "bury a hatchet." We talk a lot in my State about working together, about putting aside partisan differences to cross party lines to get things done. This celebration at the Circle embodies that effort and commitment.

Over the years, the Circle fell to a state of disrepair. Once a place of stately honor, financial assistance was needed to return the Circle to its original state. The community of Georgetown joined together and formed a committee to oversee the repairs and maintain the historic beauty of the site. The repairs were financed through a Transportation Enhancement Grant from the Federal Highway Administration, the Delaware Department of Transportation, and members of the Delaware General Assembly from Sussex County. Together, these groups

were able to provide substantial funding for renovations. The residents of Georgetown should be praised for their commitment to restoring the Circle. With their initiative and dedication, future generations will be able to enjoy its rich history.

The July 19 rededication is a celebration of the community's collective efforts. Delaware's future will be built upon its rich history. We must work hard to preserve these symbols of our past to ensure that they are not forgotten. The citizens of Georgetown worked hard to ensure that the area's unique history will be preserved long into the future.●

HONORING WALTER JOHNSON

● Mrs. BOXER. Mr. President, I would like to take this opportunity to direct the Senate's attention to the life and achievements of Walter Johnson. Walter is the Secretary-Treasurer of the San Francisco Labor Council, a position he has held since 1985. He is a man of great compassion and determination. He is also, I am proud to say, a trusted friend and confidante.

On July 18, 2002, Walter is being honored by the San Mateo Central Labor Council for his lifetime of service. He certainly deserves it. He has been a leader in the Bay Area labor movement since the 1950s. He got his start with the Department Store Employees Union Local 1100 while working as a salesperson at Sears. Once in the union, it did not take him long to work his way up to be president and eventually secretary-treasurer, the top post.

Over the years, Walter has never wavered in his commitment to advancing the interests of working men and women and the larger community. He truly believes in social justice and equal rights. As the head of an organization comprised of 125 unions and 175,000 workers, he lives his beliefs every day.

When it comes to the lives and livelihoods of those he represents, he never lets elected officials forget that we work for the people, not the other way around. While this may make him an occasional irritant, it also makes him a constant inspiration.

Walter Johnson is the very embodiment of the labor movement in San Francisco and the Bay Area. If it seems like he has been there for years, it is because he has. Over the course of a half century, he always put the people first. It is high time he sat still long enough to let those he has helped return the favor.●

HONORING UNIVERSITY OF SOUTH CAROLINA, CLEMSON FOR MEN'S CHAMPIONSHIP BASEBALL TEAMS

● Mr. HOLLINGS. Mr. President, last month as sports fans around the world

focused their attention on soccer, the student athletes of South Carolina reminded this nation why baseball is America's game.

Both the University of South Carolina and Clemson University played in the final rounds for the national title. While the Senators from Texas have the bragging rights to the trophy, I can say this: the South Carolina teams had their most successful seasons ever and engaged in a rivalry that will long be remembered in my state.

This year, my alma mater Gamecocks won a record 57 games, in what was supposed to have been a rebuilding year. In the last three years they have had more wins than any team in the nation. In the tournament, they beat their bitter rival Clemson twice, thus making it to the final game for the first time since Jerry Ford was President. For Clemson it was a heart-breaking finish to an incredible run. For two months, the Tigers had been ranked number one in the polls. They won 54 games, the most in their history, including winning 10 games against top 10 teams.

And although baseball is a team sport, this Senator cannot overlook one player in particular: Clemson shortstop Khalil Greene. He was named national player of the year. Hitting .470, he may have had the greatest season any Clemson player in any sport has ever had. His season reminds me of when I was a very young fan, in 1930, and Babe Ruth earned \$80,000 and was asked why did he make more money than President Hoover, and he replied, "I had a better year than he did."

In his professional life, Mr. Greene will probably have better years than any United States Senator, including our Hall of Famer, Senator BUNNING. I congratulate Mr. Greene, University of South Carolina Coach Ray Tanner, and Clemson coach Jack Leggett. And I salute all the players who on the field showed us what great athletes they are, and who made this season the best ever for South Carolina baseball fans.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVES MESSAGES REFERRED

As in executive session Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 11:38 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2643. An act to authorize the acquisition of additional lands for inclusion in the Fort Clatsop National Memorial in the State of Oregon, and for other purposes.

H.R. 3380. An act to authorize the Secretary of the Interior to issue right-of-way permits for natural gas pipelines within the boundary of Great Smoky Mountains National Park.

H.R. 4609. An act to authorize the Secretary of the Interior to conduct a comprehensive study of the Rathdrum Prairie/Spokane Valley Aquifer, located in Idaho and Washington.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 4609. An act to direct the Secretary of the Interior to conduct a comprehensive study of the Rathdrum Prairie Spokane Valley Aquifer, located in Idaho and Washington; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and the second times by unanimous consent, and placed on the calendar:

H.R. 2643. An act to authorize the acquisition of additional lands for inclusion in the Fort Clatsop National Memorial in the State of Oregon, and for other purposes.

H.R. 3380. An act to authorize the Secretary of the Interior to issue right-of-way permits for natural gas pipelines within the boundary of Great Smoky Mountains National Park.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-7691. A communication from the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Allowing Eligible Schools to Apply for Preliminary Enrollment in the Student and Exchange Visitor Information System (SEVIS)" (RIN115-AG55) received on July 2, 2002; to the Committee on the Judiciary.

EC-7692. A communication from the Assistant Secretary, Indian Affairs, Division of Transportation, Bureau of Indian Affairs, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Distribution of Fiscal Year 2002 Indian Reservation Roads Funds" (RIN1076-AE28) received on June 27, 2002; to the Committee on Indian Affairs.

EC-7693. A communication from the Assistant Secretary, Indian Affairs, Division of

Transportation, Bureau of Indian Affairs, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Law and Order on Indian Reservations" (RIN1076-AE33) received on June 27, 2002; to the Committee on Indian Affairs.

EC-7694. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Over-the-Counter Human Drugs; Labeling Requirements; Partial Delay of Compliance Dates" (RIN0910-AA79) received on June 26, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-7695. A communication from the Railroad Retirement Board, transmitting, pursuant to law, the 2002 Annual Actuarial Report Required by Section 22 of the Railroad Retirement Act of 1974 and Section 502 of the Railroad Retirement Solvency Act of 1983; to the Committee on Health, Education, Labor, and Pensions.

EC-7696. A communication from the Railroad Retirement Board, transmitting, pursuant to law, the 2002 Annual Report on the Financial Status of the Railroad Unemployment Insurance System; to the Committee on Health, Education, Labor, and Pensions.

EC-7697. A communication from the Acting Director, Occupational Safety and Health Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Occupational Injury and Illness Recording and Reporting Requirements (recording occupational hearing loss)" (RIN1218-AC06) received on July 3, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-7698. A communication from the Deputy Secretary, Investment Management, Office of Regulatory Policy, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Technical Amendments to Rules and Forms Due to the National Securities Markets Improvement Act of 1996 and the Gramm-Leach-Bliley Act" (RIN3235-AI53) received on June 26, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-7699. A communication from the President of the United States, transmitting, pursuant to law, the Final Report on the National Emergency with respect to the Taliban that was Declared in Executive Order 13129 of July 4, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-7700. A communication from the President of the United States, transmitting, pursuant to law, the report of an Executive Order that terminates the national emergency described and declared in Executive Order 13129 or July 4, 1999, related to the actions and policies of the Taliban, and amends Executive Order 13224 of September 23, 2001, to include reference to Mohammed Omar and the Taliban in the Annex to that order, thus preserving the sanctions imposed against the Taliban; to the Committee on Banking, Housing, and Urban Affairs.

EC-7701. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the Commission's report on Government dam use charges; to the Committee on Energy and Natural Resources.

EC-7702. A communication from the Assistant Secretary, Land and Mineral Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Oil and Gas and Sulphur Operations on the Outer Continental Shelf-Suspension of Oper-

ations for Exploration Under Salt Sheets" (RIN1010-AC92) received on July 3, 2002; to the Committee on Energy and Natural Resources.

EC-7703. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of \$50,000,000 or more to Russia; to the Committee on Foreign Relations.

EC-7704. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of \$50,000,000 or more to Russia, Ukraine, Norway and Cayman Islands; to the Committee on Foreign Relations.

EC-7705. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Cyhalofop-buty; Pesticide Tolerance Technical Correction" (FRL7185-1) received on June 26, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7706. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clarified Hydrophobic Extract of Neem Oil; Pesticide Tolerance; Technical Correction" (FRL6835-1) received on June 26, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7707. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Oxadixly; Tolerance Revocations" (FRL7180-4) received on July 3, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7708. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Change in Disease Status of Poland Because of BSE" (Doc. No. 02-068-1) received on July 3, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7709. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Mediterranean Fruit Fly; Removal of Quarantined Area" (FRL01-093-2) received on July 3, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7710. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Change in Disease Status of Greece With Regard to Foot-and-Mouth Disease" (Doc. No. 01-059-2) received on July 3, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7711. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a certification relative to Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Ukraine, Uzbekistan, and Tajikistan; to the Committee on Armed Services.

EC-7712. A communication from the General Counsel of the Department of Defense,

transmitting, a draft of proposed legislation to strengthen the management structure of the Office of the Secretary of Defense; to the Committee on Armed Services.

EC-7713. A communication from the Under Secretary of Defense, Comptroller, transmitting, a notice regarding desktop computer management service; to the Committee on Armed Services.

EC-7714. A communication from the Secretary of Defense, transmitting, pursuant to law, a report regarding the President's approval of a new Unified Command Plan (UCP) that specifies the missions and responsibilities, including geographic boundaries, of the unified combatant command; to the Committee on Armed Services.

EC-7715. A communication from the Assistant Secretary of Defense, Force Management Policy, transmitting, pursuant to law, a notice regarding Critical Skills Retention Bonus for Submarine Warfare Officers (112X) and Surface Warfare Officers (111X); to the Committee on Armed Services.

EC-7716. A communication from the Deputy Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC-7717. A communication from the Deputy Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 414: A bill to amend the National Telecommunications and Information Administration Organization Act to establish a digital network technology program, and for other purposes. (Rept. No. 107-207).

By Mr. LEVIN, from the Committee on Armed Services, with amendments:

S. 2506: An original bill to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes. (Rept. No. 107-208).

NOMINATION DISCHARGED

The following nomination was discharged from the Committee on Governmental Affairs and placed on the executive calendar pursuant to the order of January 5, 2001:

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

J. Russell George, of Virginia, to be Inspector General, Corporation for National and Community Service.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. CLINTON (for herself and Mr. DURBIN):

S. 2710. A bill to amend the Internal Revenue Code of 1986 to provide a credit for the

health insurance expenses of small business; to the Committee on Finance.

By Mr. INOUE (for himself and Mr. CAMPBELL):

S. 2711. A bill to reauthorize and improve programs relating to Native Americans; to the Committee on Indian Affairs.

By Mr. HAGEL:

S. 2712. A bill to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries; to the Committee on Foreign Relations.

By Mr. LEAHY (for himself and Mr. THOMPSON):

S. 2713. A bill to amend title 28, United States Code, to make certain modifications in the judicial discipline procedures, and for other purposes; to the Committee on the Judiciary.

By Mrs. CLINTON (for herself, Mr. KENNEDY, and Mr. SCHUMER):

S. 2714. A bill to extend and expand the Temporary Extended Unemployment Compensation Act of 2002; to the Committee on Finance.

By Mrs. CLINTON (for herself, Mr. KENNEDY, and Mr. SCHUMER):

S. 2715. A bill to provide an additional extension of the period of availability of unemployment assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the case of victims of the terrorist attacks of September 11, 2001; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LUGAR:

S. Res. 300. A resolution encouraging the peace process in Sri Lanka; to the Committee on Foreign Relations.

By Mr. DURBIN (for himself and Mr. FITZGERALD):

S. Res. 301. A resolution supporting the National Railroad Hall of Fame, Inc. of Galesburg, Illinois, in its endeavor to erect a monument known as the National Railroad Hall of Fame; to the Committee on Commerce, Science, and Transportation.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. Res. 302. A resolution honoring Ted Williams and extending the condolences of the Senate on his death; considered and agreed to.

ADDITIONAL COSPONSORS

S. 582

At the request of Mr. GRAHAM, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 582, a bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the medicaid and State children's health insurance program.

S. 654

At the request of Mr. TORRICELLI, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 654, a bill to amend the Internal

Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans.

S. 699

At the request of Mr. JOHNSON, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 699, a bill to provide for substantial reductions in the price of prescription drugs for medicare beneficiaries.

S. 862

At the request of Mrs. FEINSTEIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 862, a bill to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2002 through 2006 to carry out the State Criminal Alien Assistance Program.

S. 869

At the request of Mr. HARKIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 869, a bill to amend the Fair Labor Standards Act of 1938 to reform the provisions relating to child labor.

S. 987

At the request of Mr. TORRICELLI, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 987, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low-income individuals infected with HIV.

S. 1350

At the request of Mr. DAYTON, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1350, a bill to amend the title XVIII of the Social Security Act to provide payment to medicare ambulance suppliers of the full costs of providing such services, and for other purposes.

S. 1394

At the request of Mr. ENSIGN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1394, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 1655

At the request of Mr. BIDEN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1655, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 1818

At the request of Mr. DURBIN, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. 1818, a bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the

uniformed services or member of the National Guard shall continue to receive pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

S. 1868

At the request of Mr. BIDEN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1868, a bill to establish a national center on volunteer and provider screening to reduce sexual and other abuse of children, the elderly, and individuals with disabilities.

S. 2010

At the request of Mr. LEAHY, the names of the Senator from New York (Mr. SCHUMER), the Senator from Florida (Mr. NELSON), and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 2010, a bill to provide for criminal prosecution of persons who alter or destroy evidence in certain Federal investigations or defraud investors of publicly traded securities, to disallow debts incurred in violation of securities fraud laws from being discharged in bankruptcy, to protect whistleblowers against retaliation by their employers, and for other purposes.

S. 2085

At the request of Ms. COLLINS, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2085, a bill to amend title XVIII of the Social Security Act to clarify the definition of homebound with respect to home health services under the medicare program.

S. 2188

At the request of Mr. BREAUX, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 2188, a bill to require the Consumer Product Safety Commission to amend its flammability standards for children's sleepwear under the Flammable Fabrics Act.

S. 2215

At the request of Mrs. BOXER, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

S. 2221

At the request of Mr. ROCKEFELLER, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. 2221, a bill to temporarily increase the Federal medical assistance percentage for the medicaid program.

S. 2249

At the request of Mrs. CLINTON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2249, a bill to amend the Public Health Service Act to establish a grant program regarding eating disorders, and for other purposes.

S. 2328

At the request of Mr. HARKIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2328, a bill to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to ensure a safe pregnancy for all women in the United States, to reduce the rate of maternal morbidity and mortality, to eliminate racial and ethnic disparities in maternal health outcomes, to reduce pre-term, labor, to examine the impact of pregnancy on the short and long term health of women, to expand knowledge about the safety and dosing of drugs to treat pregnant women with chronic conditions and women who become sick during pregnancy, to expand public health prevention, education and outreach, and to develop improved and more accurate data collection related to maternal morbidity and mortality.

S. 2394

At the request of Mrs. CLINTON, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2394, a bill to amend the Federal Food, Drug, and Cosmetic Act to require labeling containing information applicable to pediatric patients.

S. 2395

At the request of Mr. BIDEN, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 2395, a bill to prevent and punish counterfeiting and copyright piracy, and for other purposes.

S. 2480

At the request of Mr. LEAHY, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from Arkansas (Mr. HUTCHINSON) were added as cosponsors of S. 2480, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.

S. 2558

At the request of Mr. REED, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2558, a bill to amend the Public Health Service Act to provide for the collection of data on benign brain-related tumors through the national program of cancer registries.

S. 2562

At the request of Mr. REID, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S.

2562, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 2611

At the request of Mr. REED, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2611, a bill to reauthorize the Museum and Library Services Act, and for other purposes.

S. 2636

At the request of Mr. TORRICELLI, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 2636, a bill to ensure that the Secretary of the Army treats recreation benefits the same as hurricane and storm damage reduction benefits and environmental protection and restoration.

S. 2663

At the request of Mr. BREAU, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2663, a bill to permit the designation of Israeli-Turkish qualifying industrial zones.

S. 2691

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2691, a bill to amend the Communications Act of 1934 to facilitate an increase in programming and content on radio that is locally and independently produced, to facilitate competition in radio programming, radio advertising, and concerts, and for other purposes.

S. 2707

At the request of Mr. KENNEDY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2707, a bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide comprehensive pension protection for women.

S. RES. 258

At the request of Mr. SMITH of New Hampshire, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. Res. 258, a resolution urging Saudi Arabia to dissolve its "martyrs" fund and to refuse to support terrorism in any way.

S. RES. 266

At the request of Mr. ROBERTS, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. Res. 266, a resolution designating October 10, 2002, as "Put the Brakes on Fatalities Day."

S. CON. RES. 94

At the request of Mr. WYDEN, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. Con. Res. 94, a concurrent resolution expressing the sense of Congress that public awareness and education about the importance of health care coverage is of the utmost priority and that a National Importance of Health Care Coverage Month should be established to promote that awareness and education.

S. CON. RES. 121

At the request of Mr. HUTCHINSON, the names of the Senator from Oregon (Mr. WYDEN), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. Con. Res. 121, a concurrent resolution expressing the sense of Congress that there should be established a National Health Center Week for the week beginning on August 18, 2002, to raise awareness of health services provided by community, migrant, public housing, and homeless health centers.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HAGEL:

S. 2712. A bill to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries; to the Committee on Foreign Relations.

Mr. HAGEL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2712

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; DEFINITION.

(a) SHORT TITLE.—This Act may be cited as the "Afghanistan Freedom Support Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents; definition.

TITLE I—ECONOMIC AND DEMOCRATIC DEVELOPMENT ASSISTANCE FOR AFGHANISTAN

Sec. 101. Declaration of policy.
Sec. 102. Purposes of assistance.
Sec. 103. Principles of assistance.
Sec. 104. Authorization of assistance.
Sec. 105. Coordination of assistance.
Sec. 106. Administrative provisions.
Sec. 107. Authorization of appropriations.

TITLE II—MILITARY ASSISTANCE FOR AFGHANISTAN AND CERTAIN OTHER FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS

Sec. 201. Support for security during transition in Afghanistan.
Sec. 202. Authorization of assistance.
Sec. 203. Eligible foreign countries and eligible international organizations.
Sec. 204. Reimbursement for assistance.
Sec. 205. Authority to provide assistance.
Sec. 206. Promoting secure delivery of humanitarian and other assistance in Afghanistan.

Sec. 207. Sunset.

TITLE III—ADDITIONAL REQUIREMENTS WITH RESPECT TO ASSISTANCE FOR AFGHANISTAN

Sec. 301. Prohibition on United States involvement in poppy cultivation or illicit narcotics growth, production, or trafficking.

Sec. 302. Requirement to report by certain United States officials.

Sec. 303. Report by the President.

(c) DEFINITION.—In this Act, the term “Government of Afghanistan” includes—

(1) the government of any political subdivision of Afghanistan; and

(2) any agency or instrumentality of the Government of Afghanistan.

TITLE I—ECONOMIC AND DEMOCRATIC DEVELOPMENT ASSISTANCE FOR AFGHANISTAN

SEC. 101. DECLARATION OF POLICY.

Congress makes the following declarations:

(1) The United States and the international community should support efforts that advance the development of democratic civil authorities and institutions in Afghanistan and the establishment of a new broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan.

(2) The United States, in particular, should provide its expertise to meet immediate humanitarian and refugee needs, fight the production and flow of illicit narcotics, and aid in the reconstruction of Afghanistan’s agriculture, health care, civil service, financial, and educational systems.

(3) By promoting peace and security in Afghanistan and preventing a return to conflict, the United States and the international community can help ensure that Afghanistan does not again become a source for international terrorism.

(4) The United States should support the objectives agreed to on December 5, 2001, in Bonn, Germany, regarding the provisional arrangement for Afghanistan as it moves toward the establishment of permanent institutions and, in particular, should work intensively toward ensuring the future neutrality of Afghanistan, establishing the principle that neighboring countries and other countries in the region do not threaten or interfere in one another’s sovereignty, territorial integrity, or political independence, including supporting diplomatic initiatives to support this goal.

(5) The special emergency situation in Afghanistan, which from the perspective of the American people combines security, humanitarian, political, law enforcement, and development imperatives, requires that the President should receive maximum flexibility in designing, coordinating, and administering efforts with respect to assistance for Afghanistan and that a temporary special program of such assistance should be established for this purpose.

(6) To foster stability and democratization and to effectively eliminate the causes of terrorism, the United States and the international community should also support efforts that advance the development of democratic civil authorities and institutions in the broader Central Asia region.

SEC. 102. PURPOSES OF ASSISTANCE.

The purposes of assistance authorized by this title are—

(1) to help assure the security of the United States and the world by reducing or eliminating the likelihood of violence against United States or allied forces in Afghanistan and to reduce the chance that Afghanistan will again be a source of international terrorism;

(2) to support the continued efforts of the United States and the international community to address the humanitarian crisis in Afghanistan and among Afghan refugees in neighboring countries;

(3) to fight the production and flow of illicit narcotics, to control the flow of pre-

cursor chemicals used in the production of heroin, and to enhance and bolster the capacities of Afghan governmental authorities to control poppy cultivation and related activities;

(4) to help achieve a broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan that is freely chosen by the people of Afghanistan and that respects the human rights of all Afghans, particularly women, including authorizing assistance for the rehabilitation and reconstruction of Afghanistan with a particular emphasis on meeting the educational, health, and sustenance needs of women and children to better enable their full participation in Afghan society;

(5) to support the Government of Afghanistan in its development of the capacity to facilitate, organize, develop, and implement projects and activities that meet the needs of the Afghan people;

(6) to foster the participation of civil society in the establishment of the new Afghan government in order to achieve a broad-based, multiethnic, gender-sensitive, fully representative government freely chosen by the Afghan people, without prejudice to any decisions which may be freely taken by the Afghan people about the precise form in which their government is to be organized in the future;

(7) to support the reconstruction of Afghanistan through, among other things, programs that create jobs, facilitate clearance of landmines, and rebuild the agriculture sector, the health care system, and the educational system of Afghanistan; and

(8) to include specific resources to the Ministry for Women’s Affairs of Afghanistan to carry out its responsibilities for legal advocacy, education, vocational training, and women’s health programs.

SEC. 103. PRINCIPLES OF ASSISTANCE.

The following principles should guide the provision of assistance authorized by this title:

(1) **TERRORISM AND NARCOTICS CONTROL.**—Assistance should be designed to reduce the likelihood of harm to United States and other allied forces in Afghanistan and the region, the likelihood of additional acts of international terrorism emanating from Afghanistan, and the cultivation, production, trafficking, and use of illicit narcotics in Afghanistan.

(2) **ROLE OF WOMEN.**—Assistance should increase the participation of women at the national, regional, and local levels in Afghanistan, wherever feasible, by enhancing the role of women in decisionmaking processes, as well as by providing support for programs that aim to expand economic and educational opportunities and health programs for women and educational and health programs for girls.

(3) **AFGHAN OWNERSHIP.**—Assistance should build upon Afghan traditions and practices. The strong tradition of community responsibility and self-reliance in Afghanistan should be built upon to increase the capacity of the Afghan people and institutions to participate in the reconstruction of Afghanistan.

(4) **STABILITY.**—Assistance should encourage the restoration of security in Afghanistan, including, among other things, the disarmament, demobilization, and reintegration of combatants, and the establishment of the rule of law, including the establishment of a police force and an effective, independent judiciary.

(5) **COORDINATION.**—Assistance should be part of a larger donor effort for Afghanistan.

The magnitude of the devastation—natural and man-made—to institutions and infrastructure make it imperative that there be close coordination and collaboration among donors. The United States should endeavor to assert its leadership to have the efforts of international donors help achieve the purposes established by this title.

SEC. 104. AUTHORIZATION OF ASSISTANCE.

(a) **IN GENERAL.**—The President is authorized to provide assistance for Afghanistan for the following activities:

(1) **URGENT HUMANITARIAN NEEDS.**—To assist in meeting the urgent humanitarian needs of the people of Afghanistan, including assistance such as—

(A) emergency food, shelter, and medical assistance;

(B) clean drinking water and sanitation;

(C) preventative health care, including childhood vaccination, therapeutic feeding, maternal child health services, and infectious diseases surveillance and treatment;

(D) family tracing and reunification services; and

(E) clearance of landmines.

(2) **REPATRIATION AND RESETTLEMENT OF REFUGEES AND INTERNALLY DISPLACED PERSONS.**—To assist refugees and internally displaced persons as they return to their home communities in Afghanistan and to support their reintegration into those communities, including assistance such as—

(A) assistance identified in paragraph (1);

(B) assistance to communities, ensuring those in neighboring countries, that have taken in large numbers of refugees in order to rehabilitate or expand social, health, and educational services that may have suffered as a result of the influx of large numbers of refugees;

(C) assistance to international organizations and host governments in maintaining security by screening refugees to ensure the exclusion of armed combatants, members of foreign terrorist organizations, and other individuals not eligible for economic assistance from the United States; and

(D) assistance for voluntary refugee repatriation and reintegration inside Afghanistan and continued assistance to those refugees who are unable or unwilling to return, and humanitarian assistance to internally displaced persons, including those persons who need assistance to return to their homes, through the United Nations High Commissioner for Refugees and other organizations charged with providing such assistance.

(3) **COUNTERNARCOTICS EFFORTS.**—(A) To assist in the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan and the region, with particular emphasis on assistance to—

(i) eradicate opium poppy, establish crop substitution programs, purchase nonopium products from farmers in opium-growing areas, quick-impact public works programs to divert labor from narcotics production, develop projects directed specifically at narcotics production, processing, or trafficking areas to provide incentives to cooperation in narcotics suppression activities, and related programs;

(ii) establish or provide assistance to one or more entities within the Government of Afghanistan, including the Afghan State High Commission for Drug Control, and to provide training and equipment for the entities, to help enforce counternarcotics laws in Afghanistan and limit illicit narcotics growth, production, and trafficking in Afghanistan;

(iii) train and provide equipment for customs, police, and other border control entities in Afghanistan and the region relating to illicit narcotics interdiction and relating to precursor chemical controls and interdiction to help disrupt heroin production in Afghanistan and the region;

(iv) continue the annual opium crop survey and strategic studies on opium crop planting and farming in Afghanistan; and

(v) reduce demand for illicit narcotics among the people of Afghanistan, including refugees returning to Afghanistan.

(B) For each of the fiscal years 2002 through 2005, \$15,000,000 of the amount made available to carry out this title is authorized to be made available for a contribution to the United Nations Drug Control Program for the purpose of carrying out activities described in clauses (i) through (v) of subparagraph (A). Amounts made available under the preceding sentence are in addition to amounts otherwise available for such purposes.

(4) REESTABLISHMENT OF FOOD SECURITY, REHABILITATION OF THE AGRICULTURE SECTOR, IMPROVEMENT IN HEALTH CONDITIONS, AND THE RECONSTRUCTION OF BASIC INFRASTRUCTURE.—To assist in expanding access to markets in Afghanistan, to increase the availability of food in markets in Afghanistan, to rehabilitate the agriculture sector in Afghanistan by creating jobs for former combatants, returning refugees, and internally displaced persons, to improve health conditions, and assist in the rebuilding of basic infrastructure in Afghanistan, including assistance such as—

(A) rehabilitation of the agricultural infrastructure, including irrigation systems and rural roads;

(B) extension of credit;

(C) provision of critical agricultural inputs, such as seeds, tools, and fertilizer, and strengthening of seed multiplication, certification, and distribution systems;

(D) improvement in the quantity and quality of water available through, among other things, rehabilitation of existing irrigation systems and the development of local capacity to manage irrigation systems;

(E) livestock rehabilitation through market development and other mechanisms to distribute stocks to replace those stocks lost as a result of conflict or drought;

(F) mine awareness and demining programs and programs to assist mine victims, war orphans, and widows;

(G) programs relating to infant and young child feeding, immunizations, vitamin A supplementation, and prevention and treatment of diarrheal diseases and respiratory infections;

(H) programs to improve maternal and child health and reduce maternal and child mortality;

(I) programs to improve hygienic and sanitation practices and for the prevention and treatment of infectious diseases, such as tuberculosis and malaria;

(J) programs to reconstitute the delivery of health care, including the reconstruction of health clinics or other basic health infrastructure, with particular emphasis on health care for children who are orphans;

(K) programs for housing, rebuilding urban infrastructure, and supporting basic urban services; and

(L) disarmament, demobilization, and reintegration of armed combatants into society, particularly child soldiers.

(5) REESTABLISHMENT OF AFGHANISTAN AS A VIABLE NATION-STATE.—(A) To assist in the development of the capacity of the Govern-

ment of Afghanistan to meet the needs of the people of Afghanistan through, among other things, support for the development and expansion of democratic and market-based institutions, including assistance such as—

(i) support for international organizations that provide civil advisers to the Government of Afghanistan;

(ii) support for an educated citizenry through improved access to basic education, with particular emphasis on basic education for children who are orphans, with particular emphasis on basic education for children;

(iii) programs to enable the Government of Afghanistan to recruit and train teachers, with special focus on the recruitment and training of female teachers;

(iv) programs to enable the Government of Afghanistan to develop school curriculum that incorporates relevant information such as landmine awareness, food security and agricultural education, human rights awareness, and civic education;

(v) support for the activities of the Government of Afghanistan to draft a new constitution, other legal frameworks, and other initiatives to promote the rule of law in Afghanistan;

(vi) support to increase the transparency, accountability, and participatory nature of governmental institutions, including programs designed to combat corruption and other programs for the promotion of good governance;

(vii) support for an independent media;

(viii) programs that support the expanded participation of women and members of all ethnic groups in government at national, regional, and local levels;

(ix) programs to strengthen civil society organizations that promote human rights and support human rights monitoring;

(x) support for national, regional, and local elections and political party development;

(xi) support for the effective administration of justice at the national, regional, and local levels, including the establishment of a responsible and community-based police force; and

(xii) support for establishment of a central bank and central budgeting authority.

(B) For each of the fiscal years 2003 through 2005, not less than \$10,000,000 of the amount made available to carry out this title should be made available for the purposes of carrying out a traditional Afghan assembly or "Loya Jirga" and for support for national, regional, and local elections and political party development under subparagraph (A)(x).

(6) MARKET ECONOMY.—To support the establishment of a market economy, the establishment of private financial institutions, the adoption of policies to promote foreign direct investment, the development of a basic telecommunication infrastructure, and the development of trade and other commercial links with countries in the region and with the United States, including policies to—

(A) encourage the return of Afghanistan citizens or nationals living abroad who have marketable and business-related skills;

(B) establish financial institutions, including credit unions, cooperatives, and other entities providing microenterprise credits and other income-generation programs for the poor, with particular emphasis on women;

(C) facilitate expanded trade with countries in the region;

(D) promote and foster respect for basic workers' rights and protections against exploitation of child labor; and

(E) provide financing programs for the reconstruction of Kabul and other major cities in Afghanistan.

(b) LIMITATION.—

(1) IN GENERAL.—Amounts made available to carry out this title (except amounts made available for assistance under paragraphs (1) through (3) and subparagraphs (F) through (I) of paragraph (4) of subsection (a)) may be provided only if the President first determines and certifies to Congress with respect to the fiscal year involved that substantial progress has been made toward adopting a constitution and establishing a democratically elected government for Afghanistan.

(2) WAIVER.—

(A) IN GENERAL.—The President may waive the application of paragraph (1) if the President first determines and certifies to Congress that it is important to the national interest of the United States to do so.

(B) CONTENTS OF CERTIFICATION.—A certification transmitted to Congress under subparagraph (A) shall include a written explanation of the basis for the determination of the President to waive the application of paragraph (1).

SEC. 105. COORDINATION OF ASSISTANCE.

(a) IN GENERAL.—The President is strongly urged to designate, within the Department of State, a coordinator who shall be responsible for—

(1) designing an overall strategy to advance United States interests in Afghanistan;

(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in this title;

(3) pursuing coordination with other countries and international organizations with respect to assistance to Afghanistan;

(4) ensuring that United States assistance programs for Afghanistan are consistent with this title;

(5) ensuring proper management, implementation, and oversight by agencies responsible for assistance programs for Afghanistan; and

(6) resolving policy and program disputes among United States Government agencies with respect to United States assistance for Afghanistan.

(b) RANK AND STATUS OF THE COORDINATOR.—The coordinator designated under subsection (a) shall have the rank and status of ambassador.

SEC. 106. ADMINISTRATIVE PROVISIONS.

(a) APPLICABLE ADMINISTRATIVE AUTHORITIES.—Except to the extent inconsistent with the provisions of this title, the administrative authorities under chapters 1 and 2 of part III of the Foreign Assistance Act of 1961 shall apply to the provision of assistance under this title to the same extent and in the same manner as such authorities apply to the provision of economic assistance under part I of such Act.

(b) USE OF THE EXPERTISE OF AFGHAN-AMERICANS.—In providing assistance authorized by this title, the President should—

(1) maximize the use, to the extent feasible, of the services of Afghan-Americans who have expertise in the areas for which assistance is authorized by this title; and

(2) in the awarding of contracts and grants to implement activities authorized under this title, encourage the participation of such Afghan-Americans (including organizations employing a significant number of such Afghan-Americans).

(c) DONATIONS OF MANUFACTURING EQUIPMENT; USE OF LAND GRANT COLLEGES AND

UNIVERSITIES.—In providing assistance authorized by this title, the President, to the maximum extent practicable, should—

(1) encourage the donation of appropriate excess or obsolete manufacturing and related equipment by United States businesses (including small businesses) for the reconstruction of Afghanistan; and

(2) utilize research conducted by United States land grant colleges and universities and the technical expertise of professionals within those institutions, particularly in the areas of agriculture and rural development.

(d) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amount made available to a Federal department or agency to carry out this title for a fiscal year may be used by the department or agency for administrative expenses in connection with such assistance.

(e) MONITORING.—

(1) COMPTROLLER GENERAL.—The Comptroller General shall monitor the provision of assistance under this title.

(2) INSPECTOR GENERAL OF USAID.—

(A) IN GENERAL.—The Inspector General of the United States Agency for International Development shall conduct audits, inspections, and other activities, as appropriate, associated with the expenditure of the funds to carry out this title.

(B) FUNDING.—Not more than \$1,500,000 of the amount made available to carry out this title for a fiscal year shall be made available to carry out subparagraph (A).

(f) CONGRESSIONAL NOTIFICATION PROCEDURES.—Funds made available to carry out this title may not be obligated until 15 days after notification of the proposed obligation of the funds has been provided to the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 in accordance with the procedures applicable to reprogramming notifications under that section.

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the President to carry out this title \$300,000,000 for each of the fiscal years 2002 through 2004, and \$250,000,000 for fiscal year 2005. Amounts authorized to be appropriated pursuant to the preceding sentence for fiscal year 2002 are in addition to amounts otherwise available for assistance for Afghanistan.

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are—

(1) authorized to remain available until expended; and

(2) in addition to funds otherwise available for such purposes, including, with respect to food assistance under section 104(a)(1), funds available under title II of the Agricultural Trade Development and Assistance Act of 1954, the Food for Progress Act of 1985, and section 416(b) of the Agricultural Act of 1949.

TITLE II—MILITARY ASSISTANCE FOR AFGHANISTAN AND CERTAIN OTHER FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS

SEC. 201. SUPPORT FOR SECURITY DURING TRANSITION IN AFGHANISTAN.

It is the sense of Congress that, during the transition to a broad-based, multi-ethnic, gender-sensitive, fully representative government in Afghanistan, the United States should support—

(1) the development of a civilian-controlled and centrally-governed standing Afghanistan army that respects human rights and prohibits the use of children as soldiers or combatants;

(2) the creation and training of a professional civilian police force that respects human rights; and

(3) a multinational security force in Afghanistan.

SEC. 202. AUTHORIZATION OF ASSISTANCE.

(a) TYPES OF ASSISTANCE.—

(1) IN GENERAL.—(A) To the extent that funds are appropriated in any fiscal year for the purposes of this Act, the President may provide, consistent with existing United States statutes, defense articles, defense services, counter-narcotics, crime control and police training services, and other support (including training) to the Government of Afghanistan.

(B) To the extent that funds are appropriated in any fiscal year for these purposes, the President may provide, consistent with existing United States statutes, defense articles, defense services, and other support (including training) to eligible foreign countries and eligible international organizations.

(C) The assistance authorized under subparagraph (B) shall be used for directly supporting the activities described in section 203.

(2) DRAWDOWN AUTHORITY.—The President is authorized to direct the drawdown of defense articles, defense services, and military education and training for the Government of Afghanistan, eligible foreign countries, and eligible international organizations.

(3) AUTHORITY TO ACQUIRE BY CONTRACT OR OTHERWISE.—The assistance authorized under paragraphs (1) and (2) and under Public Law 105-338 may include the supply of defense articles, defense services, counter-narcotics, crime control and police training services, other support, and military education and training that are acquired by contract or otherwise.

(b) AMOUNT OF ASSISTANCE.—The aggregate value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of assistance provided under subsection (a)(2) may not exceed \$300,000,000, provided that such limitation shall be increased by any amounts appropriated pursuant to the authorization of appropriations in section 204(b)(1).

SEC. 203. ELIGIBLE FOREIGN COUNTRIES AND ELIGIBLE INTERNATIONAL ORGANIZATIONS.

(a) ELIGIBILITY FOR ASSISTANCE.—

(1) IN GENERAL.—Except as provided in paragraph (2), a foreign country or international organization shall be eligible to receive assistance under section 202 if such foreign country or international organization is participating in or directly supporting United States military activities authorized under Public Law 107-40 or is participating in military, peacekeeping, or policing operations in Afghanistan aimed at restoring or maintaining peace and security in that country.

(2) EXCEPTION.—No country the government of which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) shall be eligible to receive assistance under section 202.

(b) WAIVER.—The President may waive the application of subsection (a)(2) if the President determines that it is important to the national security interest of the United States to do so.

SEC. 204. REIMBURSEMENT FOR ASSISTANCE.

(a) IN GENERAL.—Defense articles, defense services, and military education and training provided under section 202(a)(2) shall be

made available without reimbursement to the Department of Defense except to the extent that funds are appropriated pursuant to the authorization of appropriations in subsection (b)(1).

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for the value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of defense articles, defense services, or military education and training provided under section 202(a)(2).

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended, and are in addition to amounts otherwise available for the purposes described in this title.

SEC. 205. ELIGIBLE FOREIGN COUNTRIES AND ELIGIBLE INTERNATIONAL ORGANIZATIONS.

(a) AUTHORITY.—The President may provide assistance under this title to any eligible foreign country or eligible international organization if the President determines that such assistance is important to the national security interest of the United States and notifies the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate of such determination at least 15 days in advance of providing such assistance.

(b) NOTIFICATION.—The report described in subsection (a) shall be submitted in classified and unclassified form and shall include information relating to the type and amount of assistance proposed to be provided and the actions that the proposed recipient of such assistance has taken or has committed to take.

SEC. 206. PROMOTING SECURE DELIVERY OF HUMANITARIAN AND OTHER ASSISTANCE IN AFGHANISTAN.

(a) FINDINGS.—Congress finds the following:

(1) The President has declared his view that the United States should provide significant assistance to Afghanistan so that it never again becomes a haven for terrorism.

(2) The delivery of humanitarian and reconstruction assistance from the international community is necessary for the safe return of refugees and is critical to the future stability of Afghanistan.

(3) Enhanced stability in Afghanistan through an improved security environment is critical to the fostering of the Afghan Interim Authority and the traditional Afghan assembly or “Loya Jirga” process, which is intended to lead to a permanent national government in Afghanistan, and also is essential for the participation of women in Afghan society.

(4) Incidents of violence between armed factions and local and regional commanders, and serious abuses of human rights, including attacks on women and ethnic minorities throughout Afghanistan, create an insecure, volatile, and unsafe environment in parts of Afghanistan, displacing thousands of Afghan civilians from their local communities.

(5) The violence and lawlessness may jeopardize the “Loya Jirga” process, undermine efforts to build a strong central government, severely impede reconstruction and the delivery of humanitarian assistance, and increase the likelihood that parts of Afghanistan will once again become safe havens for al-Qaida, Taliban forces, and drug traffickers.

(6) The lack of security and lawlessness may also perpetuate the need for United

States Armed Forces in Afghanistan and threaten the ability of the United States to meet its military objectives.

(7) The International Security Assistance Force in Afghanistan, currently led by Turkey, and composed of forces from other willing countries without the participation of United States Armed Forces, is deployed only in Kabul and currently does not have the mandate or the capacity to provide security to other parts of Afghanistan.

(8) Due to the ongoing military campaign in Afghanistan, the United States does not contribute troops to the International Security Assistance Force but has provided support to other countries that are doing so.

(9) The United States is providing political, financial, training, and other assistance to the Afghan Interim Authority as it begins to build a national army and police force to help provide security throughout Afghanistan, but this effort is not meeting the immediate security needs of Afghanistan.

(10) Because of these immediate security needs, the Afghan Interim Authority, its Chairman, Hamid Karzai, and many Afghan regional leaders have called for the International Security Assistance Force, which has successfully brought stability to Kabul, to be expanded and deployed throughout the country, and this request has been strongly supported by a wide range of international humanitarian organizations, including the International Committee of the Red Cross, Catholic Relief Services, and Refugees International.

(11)(A) On January 29, 2002, the President stated that “[w]e will help the new Afghan government provide the security that is the foundation of peace”.

(B) On March 25, 2002, the Secretary of Defense stated, with respect to the reconstruction of Afghanistan, that “the first thing . . . you need for anything else to happen, for hospitals to happen, for roads to happen, for refugees to come back, for people to be fed and humanitarian workers to move on the country . . . [y]ou’ve got to have security”.

(b) **STATEMENT OF POLICY.**—It should be the policy of the United States to support measures to help meet the immediate security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government.

(c) **PREPARATION OF STRATEGY.**—Not later than 45 days after the date of the enactment of this Act, and every six months thereafter, the President shall transmit to the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate a strategy for meeting the immediate and long-term security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government.

SEC. 207. SUNSET.

The authority of this title shall expire after December 31, 2004.

TITLE III—ADDITIONAL REQUIREMENTS WITH RESPECT TO ASSISTANCE FOR AFGHANISTAN

SEC. 301. PROHIBITION ON UNITED STATES INVOLVEMENT IN POPPY CULTIVATION OR ILLICIT NARCOTICS GROWTH, PRODUCTION, OR TRAFFICKING.

No officer or employee of any Federal department or agency who is involved in the provision of assistance under this Act may knowingly encourage or participate in poppy cultivation or illicit narcotics growth, production, or trafficking in Afghanistan. No United States military or civilian aircraft or other United States vehicle that is used with respect to the provision of assistance under this Act may be used to facilitate the distribution of poppies or illicit narcotics in Afghanistan.

SEC. 302. REQUIREMENT TO REPORT BY CERTAIN UNITED STATES OFFICIALS.

(a) **REQUIREMENT.**—An officer or employee of any Federal department or agency involved in the provision of assistance under this Act and having knowledge of facts or circumstances that reasonably indicate that any agency or instrumentality of the Government of Afghanistan, or any other individual (including an individual who exercises civil power by force over a limited region) or organization in Afghanistan, that receives assistance under this Act is involved in poppy cultivation or illicit narcotics growth, production, or trafficking shall, notwithstanding any memorandum of understanding or other agreement to the contrary, report such knowledge or facts to the appropriate official.

(b) **DEFINITION.**—In this section, the term “appropriate official” means the Attorney General, the Inspector General of the Federal department or agency involved, or the head of such department or agency.

SEC. 303. REPORT BY THE PRESIDENT.

Not later than 6 months after the date of the enactment of this Act, and annually thereafter, the President shall transmit to Congress a written report on the progress of the Government of Afghanistan toward the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan in accordance with the provisions of this Act.

By Mr. LEAHY (for himself and Mr. THOMPSON):

S. 2713. A bill to amend title 28, United States Code, to make certain modifications in the judicial discipline procedures, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I rise today to introduce the Judicial Improvements Act of 2002, a bipartisan bill that will amend judicial discipline procedures to ensure fair consideration of judicial misconduct complaints. I am pleased to have Senator THOMPSON as a cosponsor of this legislation, and I look forward to moving this bill through the Senate.

While I am introducing legislation addressing judicial misconduct, I want to be clear that the vast majority of judges serve honorably. As chairman of the Judiciary Committee, I take a special responsibility for evaluating nominees to ensure they are fit to serve. Despite the scrutiny judicial nominees

undergo, however, we have faced situations when judges have acted improperly. Some have even been convicted of criminal offenses. In the late 1980s, the Senate convicted three Federal judges who were impeached by the House. This bill does not alter the Congress’ responsibility to impeach and convict judges where necessary, but it does refine the process—originally created by Congress in the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980, by which aggrieved citizens can bring complaints that can be evaluated through an impartial review.

Under the framework codified by this bill, a person with a complaint about a judge’s conduct may file a written complaint with the clerk of the court of appeals for the judge’s circuit. The chief judge must review the complaint and either dismiss it, if it meets certain narrow criteria, or refer it to a panel of judges from the circuit. The judge who is the subject of the complaint retains the right to present evidence and argue before the panel. The circuit council may certify the judge’s misconduct of disability and request that the judge voluntarily retire, but may not order removal from office. A complainant or judge aggrieved by an action of a judicial council can petition the Judicial Conference for review. And if a complaint is dismissed, the judge who was its subject may be reimbursed for reasonable expenses, including attorneys’ fees, incurred during the investigation.

If a judicial council determines that an Article III judge has acted in a way that might constitute grounds of impeachment, it must certify such determination to the Judicial Conference, which can in turn refer that determination to the House of Representatives.

With very limited exceptions, all matters related to judicial misconduct investigations must be confidential and not disclosed by any person in any proceeding. This provision protects judges who are accused falsely of wrongdoing while also ensuring confidentiality for those with legitimate complaints.

The bill also forbids judges who have been convicted of a State or Federal felony and have exhausted all available means for direct review of that conviction from hearing or deciding cases or accruing credit toward retirement benefits, unless the judicial council of the circuit determines otherwise. This measure, like many of the measures in this legislation, was recommended in 1993 by the nonpartisan National Commission on Judicial Discipline and Removal.

Some may question whether this bill raises separation of powers concerns. It does not. This bill is narrowly tailored, as was the 1980 law that this bill amends, to ensure that Congress gives the judiciary the powers it needs to regulate itself while preserving its constitutional role in the impeachment

process. The general scheme we established in 1980 has worked well, and has conformed with our constitutional principles. This bill simply seeks to improve that system where it has shown to be lacking. To give one example, experts in this area have suggested that many litigants and interested parties are unaware of the existence of these procedures—to rectify that, we create a separate chapter within title 28 of the U.S. Code to promote knowledge and use of these procedures. It also clarifies the authority of the chief judge of a circuit and the standard by which a complaint can be dismissed as frivolous, and makes explicit that complaints can be referred to a five-member panel for examination.

Highly similar legislation has already been reported from the House Judiciary Committee with strong bipartisan support. I hope that my colleagues in the Senate review and support this bill, and that we can make it law this year.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2713

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Judicial Improvements Act of 2002”.

SEC. 2. JUDICIAL DISCIPLINE PROCEDURES.

(a) IN GENERAL.—Part I of title 28, United States Code, is amended by inserting after chapter 15 the following new chapter:

“CHAPTER 16—COMPLAINTS AGAINST JUDGES AND JUDICIAL DISCIPLINE

“Sec.

“351. Complaints; judge defined.

“352. Review of complaint by chief judge.

“353. Special committees.

“354. Action by judicial council.

“355. Action by Judicial Conference.

“356. Subpoena power.

“357. Review of orders and actions.

“358. Rules.

“359. Restrictions.

“360. Disclosure of information.

“361. Reimbursement of expenses.

“362. Other provisions and rules not affected.

“363. Court of Federal Claims, Court of International Trade, Court of Appeals for the Federal Circuit.

“364. Effect of felony conviction.

“§ 351. Complaints; judge defined

“(a) FILING OF COMPLAINT BY ANY PERSON.—Any person alleging that a judge has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts, or alleging that such judge is unable to discharge all the duties of office by reason of mental or physical disability, may file with the clerk of the court of appeals for the circuit a written complaint containing a brief statement of the facts constituting such conduct.

“(b) IDENTIFYING COMPLAINT BY CHIEF JUDGE.—In the interests of the effective and expeditious administration of the business of the courts and on the basis of information

available to the chief judge of the circuit, the chief judge may, by written order stating reasons therefor, identify a complaint for purposes of this chapter and thereby dispense with filing of a written complaint.

“(c) TRANSMITTAL OF COMPLAINT.—Upon receipt of a complaint filed under subsection (a), the clerk shall promptly transmit the complaint to the chief judge of the circuit, or, if the conduct complained of is that of the chief judge, to that circuit judge in regular active service next senior in date of commission (hereafter, for purposes of this chapter only, included in the term ‘chief judge’). The clerk shall simultaneously transmit a copy of the complaint to the judge whose conduct is the subject of the complaint. The clerk shall also transmit a copy of any complaint identified under subsection (b) to the judge whose conduct is the subject of the complaint.

“(d) DEFINITIONS.—In this chapter—

“(1) the term ‘judge’ means a circuit judge, district judge, bankruptcy judge, or magistrate judge; and

“(2) the term ‘complainant’ means the person filing a complaint under subsection (a) of this section.

“§ 352. Review of complaint by chief judge

“(a) EXPEDITIOUS REVIEW; LIMITED INQUIRY.—The chief judge shall expeditiously review any complaint received under section 351(a) or identified under section 351(b). In determining what action to take, the chief judge may conduct a limited inquiry for the purpose of determining—

“(1) whether appropriate corrective action has been or can be taken without the necessity for a formal investigation; and

“(2) whether the facts stated in the complaint are either plainly untrue or are incapable of being established through investigation.

For this purpose, the chief judge may request the judge whose conduct is complained of to file a written response to the complaint. Such response shall not be made available to the complainant unless authorized by the judge filing the response. The chief judge or his or her designee may also communicate orally or in writing with the complainant, the judge whose conduct is complained of, and any other person who may have knowledge of the matter, and may review any transcripts or other relevant documents. The chief judge shall not undertake to make findings of fact about any matter that is reasonably in dispute.

“(b) ACTION BY CHIEF JUDGE FOLLOWING REVIEW.—After expeditiously reviewing a complaint under subsection (a), the chief judge, by written order stating his or her reasons, may—

“(1) dismiss the complaint—

“(A) if the chief judge finds the complaint to be—

“(i) not in conformity with section 351(a);

“(ii) directly related to the merits of a decision or procedural ruling; or

“(iii) frivolous, lacking sufficient evidence to raise an inference that misconduct has occurred, or containing allegations which are incapable of being established through investigation; or

“(B) when a limited inquiry conducted under subsection (a) demonstrates that the allegations in the complaint lack any factual foundation or are conclusively refuted by objective evidence; or

“(2) conclude the proceeding if the chief judge finds that appropriate corrective action has been taken or that action on the complaint is no longer necessary because of intervening events.

The chief judge shall transmit copies of the written order to the complainant and to the judge whose conduct is the subject of the complaint.

“(c) REVIEW OF ORDERS OF CHIEF JUDGE.—A complainant or judge aggrieved by a final order of the chief judge under this section may petition the judicial council of the circuit for review thereof. The denial of a petition for review of the chief judge’s order shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

“(d) REFERRAL OF PETITIONS FOR REVIEW TO PANELS OF THE JUDICIAL COUNCIL.—Each judicial council may, pursuant to rules prescribed under section 358, refer a petition for review filed under subsection (c) to a panel of no fewer than 5 members of the council, at least 2 of whom shall be district judges.

“§ 353. Special committees

“(a) APPOINTMENT.—If the chief judge does not enter an order under section 352(b), the chief judge shall promptly—

“(1) appoint himself or herself and equal numbers of circuit and district judges of the circuit to a special committee to investigate the facts and allegations contained in the complaint;

“(2) certify the complaint and any other documents pertaining thereto to each member of such committee; and

“(3) provide written notice to the complainant and the judge whose conduct is the subject of the complaint of the action taken under this subsection.

“(b) CHANGE IN STATUS OR DEATH OF JUDGES.—A judge appointed to a special committee under subsection (a) may continue to serve on that committee after becoming a senior judge or, in the case of the chief judge of the circuit, after his or her term as chief judge terminates under subsection (a)(3) or (c) of section 45. If a judge appointed to a committee under subsection (a) dies, or retires from office under section 371(a), while serving on the committee, the chief judge of the circuit may appoint another circuit or district judge, as the case may be, to the committee.

“(c) INVESTIGATION BY SPECIAL COMMITTEE.—Each committee appointed under subsection (a) shall conduct an investigation as extensive as it considers necessary, and shall expeditiously file a comprehensive written report thereon with the judicial council of the circuit. Such report shall present both the findings of the investigation and the committee’s recommendations for necessary and appropriate action by the judicial council of the circuit.

“§ 354. Action by judicial council

“(a) ACTIONS UPON RECEIPT OF REPORT.—

“(1) ACTIONS.—The judicial council of a circuit, upon receipt of a report filed under section 353(c)—

“(A) may conduct any additional investigation which it considers to be necessary;

“(B) may dismiss the complaint; and

“(C) if the complaint is not dismissed, shall take such action as is appropriate to assure the effective and expeditious administration of the business of the courts within the circuit.

“(2) DESCRIPTION OF POSSIBLE ACTIONS IF COMPLAINT NOT DISMISSED.—

“(A) IN GENERAL.—Action by the judicial council under paragraph (1)(C) may include—

“(i) ordering that, on a temporary basis for a time certain, no further cases be assigned to the judge whose conduct is the subject of a complaint;

“(ii) censuring or reprimanding such judge by means of private communication; and

“(iii) censuring or reprimanding such judge by means of public announcement.

“(B) FOR ARTICLE III JUDGES.—If the conduct of a judge appointed to hold office during good behavior is the subject of the complaint, action by the judicial council under paragraph (1)(C) may include—

“(i) certifying disability of the judge pursuant to the procedures and standards provided under section 372(b); and

“(ii) requesting that the judge voluntarily retire, with the provision that the length of service requirements under section 371 of this title shall not apply.

“(C) FOR MAGISTRATE JUDGES.—If the conduct of a magistrate judge is the subject of the complaint, action by the judicial council under paragraph (1)(C) may include directing the chief judge of the district of the magistrate judge to take such action as the judicial council considers appropriate.

“(3) LIMITATIONS ON JUDICIAL COUNCIL REGARDING REMOVALS.—

“(A) ARTICLE III JUDGES.—Under no circumstances may the judicial council order removal from office of any judge appointed to hold office during good behavior.

“(B) MAGISTRATE AND BANKRUPTCY JUDGES.—Any removal of a magistrate judge under this subsection shall be in accordance with section 631 and any removal of a bankruptcy judge shall be in accordance with section 152.

“(4) NOTICE OF ACTION TO JUDGE.—The judicial council shall immediately provide written notice to the complainant and to the judge whose conduct is the subject of the complaint of the action taken under this subsection.

“(b) REFERRAL TO JUDICIAL CONFERENCE.—

“(1) IN GENERAL.—In addition to the authority granted under subsection (a), the judicial council may, in its discretion, refer any complaint under section 351, together with the record of any associated proceedings and its recommendations for appropriate action, to the Judicial Conference of the United States.

“(2) SPECIAL CIRCUMSTANCES.—In any case in which the judicial council determines, on the basis of a complaint and an investigation under this chapter, or on the basis of information otherwise available to the judicial council, that a judge appointed to hold office during good behavior may have engaged in conduct—

“(A) which might constitute one or more grounds for impeachment under article II of the Constitution, or

“(B) which, in the interest of justice, is not amenable to resolution by the judicial council,

the judicial council shall promptly certify such determination, together with any complaint and a record of any associated proceedings, to the Judicial Conference of the United States.

“(3) NOTICE TO COMPLAINANT AND JUDGE.—A judicial council acting under authority of this subsection shall, unless contrary to the interests of justice, immediately submit written notice to the complainant and to the judge whose conduct is the subject of the action taken under this subsection.

“§ 355. Action by Judicial Conference

“(a) IN GENERAL.—Upon referral or certification of any matter under section 354(b), the Judicial Conference, after consideration of the prior proceedings and such additional investigation as it considers appropriate, shall by majority vote take such action, as described in section 354(a)(1)(C) and (2), as it considers appropriate.

“(b) IF IMPEACHMENT WARRANTED.—

“(1) IN GENERAL.—If the Judicial Conference concurs in the determination of the judicial council, or makes its own determination, that consideration of impeachment may be warranted, it shall so certify and transmit the determination and the record of proceedings to the House of Representatives for whatever action the House of Representatives considers to be necessary. Upon receipt of the determination and record of proceedings in the House of Representatives, the Clerk of the House of Representatives shall make available to the public the determination and any reasons for the determination.

“(2) IN CASE OF FELONY CONVICTION.—If a judge has been convicted of a felony under State or Federal law and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review has been sought, the Judicial Conference may, by majority vote and without referral or certification under section 354(b), transmit to the House of Representatives a determination that consideration of impeachment may be warranted, together with appropriate court records, for whatever action the House of Representatives considers to be necessary.

“§ 356. Subpoena power

“(a) JUDICIAL COUNCILS AND SPECIAL COMMITTEES.—In conducting any investigation under this chapter, the judicial council, or a special committee appointed under section 353, shall have full subpoena powers as provided in section 332(d).

“(b) JUDICIAL CONFERENCE AND STANDING COMMITTEES.—In conducting any investigation under this chapter, the Judicial Conference, or a standing committee appointed by the Chief Justice under section 331, shall have full subpoena powers as provided in that section.

“§ 357. Review of orders and actions

“(a) REVIEW OF ACTION OF JUDICIAL COUNCIL.—A complainant or judge aggrieved by an action of the judicial council under section 354 may petition the Judicial Conference of the United States for review thereof.

“(b) ACTION OF JUDICIAL CONFERENCE.—The Judicial Conference, or the standing committee established under section 331, may grant a petition filed by a complainant or judge under subsection (a).

“(c) NO JUDICIAL REVIEW.—Except as expressly provided in this section and section 352(c), all orders and determinations, including denials of petitions for review, shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

“§ 358. Rules

“(a) IN GENERAL.—Each judicial council and the Judicial Conference may prescribe such rules for the conduct of proceedings under this chapter, including the processing of petitions for review, as each considers to be appropriate.

“(b) REQUIRED PROVISIONS.—Rules prescribed under subsection (a) shall contain provisions requiring that—

“(1) adequate prior notice of any investigation be given in writing to the judge whose conduct is the subject of a complaint under this chapter;

“(2) the judge whose conduct is the subject of a complaint under this chapter be afforded an opportunity to appear (in person or by counsel) at proceedings conducted by the investigating panel, to present oral and documentary evidence, to compel the attendance of witnesses or the production of documents, to cross-examine witnesses, and to present argument orally or in writing; and

“(3) the complainant be afforded an opportunity to appear at proceedings conducted by the investigating panel, if the panel concludes that the complainant could offer substantial information.

“(c) PROCEDURES.—Any rule prescribed under this section shall be made or amended only after giving appropriate public notice and an opportunity for comment. Any such rule shall be a matter of public record, and any such rule promulgated by a judicial council may be modified by the Judicial Conference. No rule promulgated under this section may limit the period of time within which a person may file a complaint under this chapter.

“§ 359. Restrictions

“(a) RESTRICTION ON INDIVIDUALS WHO ARE SUBJECT OF INVESTIGATION.—No judge whose conduct is the subject of an investigation under this chapter shall serve upon a special committee appointed under section 353, upon a judicial council, upon the Judicial Conference, or upon the standing committee established under section 331, until all proceedings under this chapter relating to such investigation have been finally terminated.

“(b) AMICUS CURIAE.—No person shall be granted the right to intervene or to appear as amicus curiae in any proceeding before a judicial council or the Judicial Conference under this chapter.

“§ 360. Disclosure of information

“(a) CONFIDENTIALITY OF PROCEEDINGS.—Except as provided in section 355, all papers, documents, and records of proceedings related to investigations conducted under this chapter shall be confidential and shall not be disclosed by any person in any proceeding except to the extent that—

“(1) the judicial council of the circuit in its discretion releases a copy of a report of a special committee under section 353(c) to the complainant whose complaint initiated the investigation by that special committee and to the judge whose conduct is the subject of the complaint;

“(2) the judicial council of the circuit, the Judicial Conference of the United States, or the Senate or the House of Representatives by resolution, releases any such material which is believed necessary to an impeachment investigation or trial of a judge under article I of the Constitution; or

“(3) such disclosure is authorized in writing by the judge who is the subject of the complaint and by the chief judge of the circuit, the Chief Justice, or the chairman of the standing committee established under section 331.

“(b) PUBLIC AVAILABILITY OF WRITTEN ORDERS.—Each written order to implement any action under section 354(a)(1)(C), which is issued by a judicial council, the Judicial Conference, or the standing committee established under section 331, shall be made available to the public through the appropriate clerk's office of the court of appeals for the circuit. Unless contrary to the interests of justice, each such order shall be accompanied by written reasons therefor.

“§ 361. Reimbursement of expenses

“Upon the request of a judge whose conduct is the subject of a complaint under this chapter, the judicial council may, if the complaint has been finally dismissed under section 354(a)(1)(B), recommend that the Director of the Administrative Office of the United States Courts award reimbursement, from funds appropriated to the Federal judiciary, for those reasonable expenses, including attorneys' fees, incurred by that judge during the investigation which would not

have been incurred but for the requirements of this chapter.

“§362. Other provisions and rules not affected

“Except as expressly provided in this chapter, nothing in this chapter shall be construed to affect any other provision of this title, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Federal Rules of Appellate Procedure, or the Federal Rules of Evidence.

“§363. Court of Federal Claims, Court of International Trade, Court of Appeals for the Federal Circuit

“The United States Court of Federal Claims, the Court of International Trade, and the Court of Appeals for the Federal Circuit shall each prescribe rules, consistent with the provisions of this chapter, establishing procedures for the filing of complaints with respect to the conduct of any judge of such court and for the investigation and resolution of such complaints. In investigating and taking action with respect to any such complaint, each such court shall have the powers granted to a judicial council under this chapter.

“§364. Effect of felony conviction

“In the case of any judge or judge of a court referred to in section 363 who is convicted of a felony under State or Federal law and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review has been sought, the following shall apply:

“(1) The judge shall not hear or decide cases unless the judicial council of the circuit (or, in the case of a judge of a court referred to in section 363, that court) determines otherwise.

“(2) Any service as such judge or judge of a court referred to in section 363, after the conviction is final and all time for filing appeals thereof has expired, shall not be included for purposes of determining years of service under section 371(c), 377, or 178 of this title or creditable service under subchapter III of chapter 83, or chapter 84, of title 5.”

(b) CONFORMING AMENDMENT.—The table of chapters for part I of title 28, United States Code, is amended by inserting after the item relating to chapter 15 the following new item:

“16. Complaints against judges and judicial discipline 351”.
SEC. 3. TECHNICAL AMENDMENTS.

(a) RETIREMENT FOR DISABILITY.—(1) Section 372 of title 28, United States Code, is amended—

(A) in the section caption by striking “; judicial discipline”; and

(B) by striking subsection (c).

(2) The item relating to section 372 in the table of sections for chapter 17 of title 28, United States Code, is amended by striking “; judicial discipline”.

(b) JUDICIAL CONFERENCE.—Section 331 of title 28, United States Code, is amended in the fourth undesignated paragraph by striking “section 372(c)” each place it appears and inserting “chapter 16”.

(c) JUDICIAL COUNCILS.—Section 332 of title 28, United States Code, is amended—

(1) in subsection (d)(2)—

(A) by striking “section 372(c) of this title” and inserting “chapter 16 of this title”; and

(B) by striking “372(c)(4)” and inserting “353”; and

(2) by striking the second subsection designated as subsection (h).

(d) RECALL OF BANKRUPTCY JUDGES AND MAGISTRATE JUDGES.—Section 375(d) of title

28, United States Code, is amended by striking “section 372(c)” and inserting “chapter 16”.

(e) DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Section 604 of title 28, United States Code, is amended—

(1) in subsection (a)(20)—

(A) in subparagraph (B), by striking “372(c)(11)” and inserting “358”; and

(B) in subparagraph (C), by striking “372(c)(15)” and inserting “360(b)”; and

(2) in subsection (h)—

(A) in paragraph (1), by striking “section 372” each place it appears and inserting “chapter 16”; and

(B) in paragraph (2), by striking “section 372(c)” and inserting “chapter 16”.

(f) COURT OF APPEALS FOR VETERANS CLAIMS.—Section 7253(g) of title 38, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking “section 372(c)” and inserting “chapter 16”; and

(B) by striking “such section” and inserting “such chapter”; and

(2) in paragraph (2)—

(A) in the first sentence, by striking “paragraphs (7) through (15) of section 372(c)” and inserting “sections 354(b) through 360”; and

(B) in the second sentence, by striking “paragraph (7) or (8) of section 372(c)” and inserting “section 354(b) or 355”; and

(3) in paragraph (3)(B), by striking “372(c)(16)” and inserting “361”.

SEC. 4. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

**STATEMENTS ON SUBMITTED
RESOLUTIONS**

SENATE RESOLUTION 300—ENCOURAGING THE PEACE PROCESS IN SRI LANKA

Mr. LUGAR submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 300

Whereas the United States has enjoyed a long and cordial friendship with Sri Lanka;

Whereas the people of Sri Lanka have long valued political pluralism, religious freedom, democracy, and a respect for human rights;

Whereas the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam have waged a protracted and costly war for the past 19 years;

Whereas an estimated 65,000 people have died in Sri Lanka as a result of these hostilities;

Whereas the war has created an estimated 1,000,000 displaced persons over the course of the conflict;

Whereas 19 years of war have crippled the economy of the north and east of Sri Lanka and resulted in low growth rates and economic instability in the south of Sri Lanka;

Whereas the economic impact of the conflict is felt most severely by the poor in both the north and the south of Sri Lanka;

Whereas efforts to solve the conflict through military means have failed and neither side appears able to impose its will on the other by force of arms;

Whereas the Government of Norway has offered and been accepted by the parties of the conflict to play the role of international facilitator;

Whereas an agreement on a cease-fire between the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam was signed by both parties and went into effect February 23, 2002; and

Whereas both the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam have agreed to meet for peace talks in Thailand; Now, therefore, be it

Resolved, That the Senate—

(1) notes with great satisfaction the warm and friendly relations that have existed between the people of the United States and Sri Lanka;

(2) recognizes that the costly military stalemate that has existed between the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam can only be resolved at the negotiating table;

(3) believes that a political solution, including appropriate constitutional structures and adequate protection of minority rights and cessation of violence, is the path to a comprehensive and lasting peace in Sri Lanka;

(4) calls on all parties to negotiate in good faith with a view to finding a just and lasting political settlement to Sri Lanka's ethnic conflict while respecting the territorial integrity of Sri Lanka;

(5) denounces all political violence and acts of terrorism in Sri Lanka, and calls upon those who espouse or use such methods to reject these methods and to embrace dialogue, democratic norms, and the peaceful resolution of disputes;

(6) applauds the important role played by Norway in facilitating the peace process between the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam;

(7) applauds the cooperation of the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam in lifting the cumbersome travel restrictions that for the last 19 years have hampered the movement of goods, services, and people in the war-affected areas;

(8) applauds the agreement of the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam in implementing the Sri Lanka Monitoring Mission;

(9) calls on all parties to recognize that adherence to internationally recognized human rights facilitates the building of trust necessary for an equitable, sustainable peace;

(10) further encourages both parties to develop a comprehensive and effective process for human rights monitoring;

(11) states its willingness in principle to see the United States lend its good offices to play a constructive role in supporting the peace process, if so desired by all parties to the conflict;

(12) calls on members of the international community to use their good offices to support the peace process and, as appropriate, lend assistance to the reconstruction of war-damaged areas of Sri Lanka and to reconciliation among all parties to the conflict; and

(13) calls on members of the international community to ensure that any assistance to Sri Lanka will be framed in the context of supporting the ongoing peace process and will avoid exacerbating existing ethnic tensions.

Mr. LUGAR. Mr. President, I rise today to submit a resolution encouraging the ongoing peace process in Sri Lanka. It was recently announced that Norway has agreed to mediate a new round of peace talks. The peace process

brings hope that a continued commitment to democracy and human rights might be realized through lasting peace.

The roots of the current crisis began in the early 1800's when Sri Lanka fell subject to British colonial rule. Indian Tamil laborers were brought to Sri Lanka to develop and maintain numerous plantations. This practice doubled the number of Tamils in Sri Lanka and further diversified the population. In 1948, Sri Lanka gained its independence from Britain and rose above bitter communal and religious issues and established a democratic government.

Regrettably, issues of language and alleged government bias propelled this once peaceful nation into brutal civil war. The Liberation Tigers of Tamil Eelam became the leading rebel group in the struggle against the government. Over the last two decades, an estimated sixty-five thousand people have been killed and one million have been displaced by the fighting. The nation once referred to as the "pearl upon the brow of India" has become known as the "fallen tear."

The situation is not without hope. The people of Sri Lanka demand peace and with the assistance of Norway, the sides have once again returned to the negotiating table. Past failures shed some light on the difficult path that lies ahead and the tremendous work that lies before Norwegian mediators. Norway's offer to mediate talks was accepted in 1999. By keeping the negotiations secret, Norway has gained the cautious trust and respect of both sides. The fighting has ceased, and negotiations are planned to begin in Thailand in the near future.

One of my constituents, the Reverend Paul Jahn, and the Indiana-Kentucky Conference have placed a critical role in bringing peace to Sri Land. Reverend Jahn and the conference have dedicated a significant amount of time and effort to this important effort. They have raised significant amounts of funding for various relief efforts in Sri Lanka and continue to make valuable contributions to the peace process. I want to thank Reverend Jahn, a minister at St. Peter and Trinity United Church of Christ in Lamar, IN, and the Conference for suggesting the important role this resolution could play in expressing American support for the peace process.

I urge the Congress, through this resolution, to express its support for these efforts and to encourage both sides to resolve their differences as expeditiously as possible. The United States finds itself at a time when our international responsibilities are great, and yet it remains essential that we continue to support the realization of peace and democracy wherever it exists. To do this, I urge my colleagues to adopt this resolution, and show our support for Norwegian mediators as

they endeavor to make it possible for Sri Lanka to enjoy the virtues that have made our nation, and so many nations around the world, just and free.

SENATE RESOLUTION 301—SUPPORTING THE NATIONAL RAILROAD HALL OF FAME, INC. OF GALESBURG, ILLINOIS, IN ITS ENDEAVOR TO ERECT A MONUMENT KNOWN AS THE NATIONAL RAILROAD HALL OF FAME

Mr. DURBIN (for himself and Mr. FITZGERALD) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 301

Whereas Galesburg, Illinois, has been linked to the history of railroading since 1849 when the Peoria and Oquawka Railroad was organized;

Whereas the citizens of Galesburg supported a railroad to Chicago which was chartered as the Central Military Tract Railroad in 1851;

Whereas upon completion of the Central Military Tract Railroad, the Northern Cross Railroad joined the Central Military Tract Railroad at Galesburg;

Whereas in 1886 Galesburg secured the Atchison, Topeka and Santa Fe Railway and became one of the few places in the world served by 2 major railroads;

Whereas the National Railroad Hall of Fame, Inc., has been established in Galesburg and chartered under the laws of the State of Illinois as a not-for-profit corporation;

Whereas the objectives of the National Railroad Hall of Fame, Inc., include (1) perpetuating the memory of leaders and innovators in the railroad industry, (2) fostering, promoting, and encouraging a better understanding of the origins and growth of railroads, especially in the United States, and (3) establishing and maintaining a library and collection of documents, reports and other items of value to contribute to the education of all persons interested in railroading; and

Whereas the National Railroad Hall of Fame, Inc., is planning to erect a monument known as the National Railroad Hall of Fame to honor the men and women who actively participated in the founding and development of the railroad industry in the United States: Now, therefore, be it

Resolved, That the Senate supports the National Railroad Hall of Fame, Inc., of Galesburg, Illinois, in its endeavor to erect a monument known as the National Railroad Hall of Fame.

Mr. DURBIN. Mr. President, I rise today to submit a resolution with my colleague, Senator PETER FITZGERALD, in support of the establishment of the National Railroad Hall of Fame in Galesburg, IL.

The State of Illinois has played a pioneering role in the growth of the railroad industry. The history of Illinois railroading dates back to 1837 with the creation of the Northern Cross Railroad linking the Illinois and Mississippi Rivers. The city of Galesburg joined Chicago by rail seventeen years later in 1854. The Carl Sandburg Col-

lege of Galesburg is today the home of the first accredited railroad degree program.

So it is only natural that the National Railroad Hall of Fame would be established in Galesburg. This privately-funded museum will highlight the efforts of men and women whose hard work and resourcefulness helped build one of the nation's best modes of transportation. It will also help promote and encourage a better understanding of the origins and growth of the railroad industry. The vision of the National Railroad Hall of Fame will span more than two centuries, from the dawn of the American railroad, through the Golden Age of railroading, and up through the modern era, in which railroads remain a critical aspect of the transportation industry. The museum will also be a center of learning and debate, as well as a library of historical materials.

Fourteen members of the House of Representatives have brought forward an identical measure in that chamber. Approval by the Senate will be an important step toward the erection of this monument. I urge the Senate to adopt this resolution in a timely fashion so that we can properly honor the railroad industry and its many pioneers.

SENATE RESOLUTION 302—HONORING TED WILLIAMS AND EXTENDING THE CONDOLENCES OF THE SENATE ON HIS DEATH

Mr. KERRY (for himself and Mr. KENNEDY) submitted the following resolution; which was considered and agreed to:

S. RES. 302

Whereas Theodore Samuel Williams served the Nation with honor and distinction as a Naval Aviator during World War II and as a Marine fighter pilot during the Korean War;

Whereas Ted Williams, during his service in the Marines during the Korean War, flew on 39 combat missions and earned an Air Medal and 2 Gold Stars;

Whereas Ted Williams became the greatest hitter in baseball history while playing with the Boston Red Sox from 1939-1960;

Whereas Ted Williams, during his career with the Boston Red Sox, even after losing 5 years to military service, had 2654 total hits, 521 home runs, and a lifetime batting average of .344;

Whereas as a member of the Boston Red Sox, Ted Williams hit for an average of .406 in 1941 and was the last major league baseball player to hit for an average above .400;

Whereas as a member of the Boston Red Sox, Ted Williams led the American League in batting 6 times, in slugging percentage 9 times, in total bases 6 times, and in runs scored 6 times;

Whereas as a member of the Boston Red Sox, Ted Williams won 2 Triple Crowns, was twice named the Most Valuable Player of the American League, and was chosen as an American League All-Star 16 times;

Whereas Ted Williams was elected to the Baseball Hall of Fame in 1966; and

Whereas Ted Williams provided invaluable assistance to the Commonwealth of Massachusetts through his efforts on behalf of and in support for the Jimmy Fund in order to help eradicate cancer in children: Now, therefore, be it

Resolved, That the Senate—

(1) honors the achievements of Ted Williams;

(2) expresses its deepest sympathies and condolences to the family of Ted Williams on his passing; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the family of Ted Williams.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4174. Mr. DASCHLE (for Mr. LEAHY (for himself, Mr. MCCAIN, Mr. DASCHLE, Mr. DURBIN, Mr. HARKIN, Mr. CLELAND, Mr. LEVIN, Mr. KENNEDY, Mr. BIDEN, Mr. FEINGOLD, Mr. MILLER, Mr. EDWARDS, Mrs. BOXER, Mr. CORZINE, Mr. KERRY, Mr. SCHUMER, Mr. BROWNBACK, and Mr. NELSON, of Florida)) proposed an amendment to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

SA 4175. Mr. GRAMM (for Mr. MCCONNELL) proposed an amendment to amendment SA 4174 proposed by Mr. DASCHLE (for Mr. LEAHY (for himself, Mr. MCCAIN, Mr. DASCHLE, Mr. DURBIN, Mr. HARKIN, Mr. CLELAND, Mr. LEVIN, Mr. KENNEDY, Mr. BIDEN, Mr. FEINGOLD, Mr. MILLER, Mr. EDWARDS, Mrs. BOXER, Mr. CORZINE, Mr. KERRY, Mr. SCHUMER, Mr. BROWNBACK, and Mr. NELSON, of Florida)) to the bill (S. 2673) supra.

SA 4176. Mr. MILLER proposed an amendment to the bill S. 2673, supra.

SA 4177. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4178. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4179. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4180. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4181. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4174. Mr. DASCHLE (for Mr. LEAHY (for himself, Mr. MCCAIN, Mr. DASCHLE, Mr. DURBIN, Mr. HARKIN, Mr. CLELAND, Mr. LEVIN, Mr. KENNEDY, Mr. BIDEN, Mr. FEINGOLD, Mr. MILLER, Mr. EDWARDS, Mrs. BOXER, Mr. CORZINE,

Mr. KERRY, Mr. SCHUMER, Mr. BROWNBACK, and Mr. NELSON of Florida)) proposed an amendment to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes:

On page 117, after line 12, add the following:

TITLE VIII—CORPORATE AND CRIMINAL FRAUD ACCOUNTABILITY

SEC. 801. SHORT TITLE.

This title may be cited as the “Corporate and Criminal Fraud Accountability Act of 2002”.

SEC. 802. CRIMINAL PENALTIES FOR ALTERING DOCUMENTS.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

“§ 1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy

“Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 10 years, or both.

“§ 1520. Destruction of corporate audit records

“(a)(1) Any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(a)) applies, shall maintain all audit or review workpapers for a period of 5 years from the end of the fiscal period in which the audit or review was concluded.

“(2) The Securities and Exchange Commission shall promulgate, within 180 days, after adequate notice and an opportunity for comment, such rules and regulations, as are reasonably necessary, relating to the retention of relevant records such as workpapers, documents that form the basis of an audit or review, memoranda, correspondence, communications, other documents, and records (including electronic records) which are created, sent, or received in connection with an audit or review and contain conclusions, opinions, analyses, or financial data relating to such an audit or review, which is conducted by any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(a)) applies.

“(b) Whoever knowingly and willfully violates subsection (a)(1), or any rule or regulation promulgated by the Securities and Exchange Commission under subsection (a)(2), shall be fined under this title, imprisoned not more than 5 years, or both.

“(c) Nothing in this section shall be deemed to diminish or relieve any person of any other duty or obligation, imposed by Federal or State law or regulation, to maintain, or refrain from destroying, any document.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new items:

“1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy.

“1520. Destruction of corporate audit records.”.

SEC. 803. DEBTS NONDISCHARGEABLE IF INCURRED IN VIOLATION OF SECURITIES FRAUD LAWS.

Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking “or” after the semicolon;

(2) in paragraph (18), by striking the period at the end and inserting “; or”; and

(3) by adding at the end, the following:

“(19) that—

“(A) arises under a claim relating to—

“(i) the violation of any of the Federal securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))), any State securities laws, or any regulations or orders issued under such Federal or State securities laws; or

“(ii) common law fraud, deceit, or manipulation in connection with the purchase or sale of any security; and

“(B) results, in relation to any claim described in subparagraph (A), from—

“(i) any judgment, order, consent order, or decree entered in any Federal or State judicial or administrative proceeding;

“(ii) any settlement agreement entered into by the debtor; or

“(iii) any court or administrative order for any damages, fine, penalty, citation, restitutionary payment, disgorgement payment, attorney fee, cost, or other payment owed by the debtor.”.

SEC. 804. STATUTE OF LIMITATIONS FOR SECURITIES FRAUD.

(a) IN GENERAL.—Section 1658 of title 28, United States Code, is amended—

(1) by inserting “(a)” before “Except”; and

(2) by adding at the end the following:

“(b) Notwithstanding subsection (a), a private right of action that involves a claim of fraud, deceit, manipulation, or contrivance in contravention of a regulatory requirement concerning the securities laws, as defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), may be brought not later than the earlier of—

“(1) 5 years after the date on which the alleged violation occurred; or

“(2) 2 years after the date on which the alleged violation was discovered.”.

(b) EFFECTIVE DATE.—The limitations period provided by section 1658(b) of title 28, United States Code, as added by this section, shall apply to all proceedings addressed by this section that are commenced on or after the date of enactment of this Act.

(c) NO CREATION OF ACTIONS.—Nothing in this section shall create a new, private right of action.

SEC. 805. REVIEW OF FEDERAL SENTENCING GUIDELINES FOR OBSTRUCTION OF JUSTICE AND EXTENSIVE CRIMINAL FRAUD.

Pursuant to section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend, as appropriate,

the Federal Sentencing Guidelines and related policy statements to ensure that—

(1) the base offense level and existing enhancements contained in United States Sentencing Guideline 2J1.2 relating to obstruction of justice are sufficient to deter and punish that activity;

(2) the enhancements and specific offense characteristics relating to obstruction of justice are adequate in cases where—

(A) documents and other physical evidence are actually destroyed, altered, or fabricated;

(B) the destruction, alteration, or fabrication of evidence involves—

(i) a large amount of evidence, a large number of participants, or is otherwise extensive;

(ii) the selection of evidence that is particularly probative or essential to the investigation; or

(iii) more than minimal planning; or

(C) the offense involved abuse of a special skill or a position of trust;

(3) the guideline offense levels and enhancements for violations of section 1519 or 1520 of title 18, United States Code, as added by this title, are sufficient to deter and punish that activity;

(4) the guideline offense levels and enhancements under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) are sufficient for a fraud offense when the number of victims adversely involved is significantly greater than 50;

(5) a specific offense characteristic enhancing sentencing is provided under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) for a fraud offense that endangers the solvency or financial security of a substantial number of victims; and

(6) the guidelines that apply to organizations in United States Sentencing Guidelines, chapter 8, are sufficient to deter and punish organizational criminal misconduct.

SEC. 806. PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES WHO PROVIDE EVIDENCE OF FRAUD.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by inserting after section 1514 the following:

“§ 1514A. Civil action to protect against retaliation in fraud cases

“(a) WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES.—No company with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l), or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)), or any officer, employee, contractor, subcontractor, or agent of such company, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee—

“(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders, when the information or assistance is provided to or the investigation is conducted by—

“(A) a Federal regulatory or law enforcement agency;

“(B) any Member of Congress or any committee of Congress; or

“(C) a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct); or

“(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed (with any knowledge of the employer) relating to an alleged violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders.

“(b) ENFORCEMENT ACTION.—

“(1) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c), by—

“(A) filing a complaint with the Secretary of Labor; or

“(B) if the Secretary has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

“(2) PROCEDURE.—

“(A) IN GENERAL.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

“(B) EXCEPTION.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the employer.

“(C) BURDENS OF PROOF.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

“(D) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 90 days after the date on which the violation occurs.

“(c) REMEDIES.—

“(1) IN GENERAL.—An employee prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the employee whole.

“(2) COMPENSATORY DAMAGES.—Relief for any action under paragraph (1) shall include—

“(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

“(B) the amount of back pay, with interest; and

“(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

“(d) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law, or under any collective bargaining agreement.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by inserting after the item relating to section 1514 the following new item:

“1514A. Civil action to protect against retaliation in fraud cases.”.

SEC. 807. CRIMINAL PENALTIES FOR DEFRAUDING SHAREHOLDERS OF PUBLICLY TRADED COMPANIES.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

“§ 1348. Securities fraud

“Whoever knowingly executes, or attempts to execute, a scheme or artifice—

“(1) to defraud any person in connection with any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)); or

“(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property in connection with the purchase or sale of any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)); shall be fined under this title, or imprisoned not more than 10 years, or both.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following new item:

“1348. Securities fraud.”.

SA 4175. Mr. GRAMM (for Mr. McCONNELL) proposed an amendment to amendment SA 4174 proposed by Mr. DASCHLE (for Mr. LEAHY (for himself, Mr. MCCAIN, Mr. DASCHLE, Mr. DURBIN, Mr. HARKIN, Mr. CLELAND, Mr. LEVIN, Mr. KENNEDY, Mr. BIDEN, Mr. FEINGOLD, Mr. MILLER, Mr. EDWARDS, Mrs. BOXER, Mr. CORZINE, Mr. KERRY, Mr. SCHUMER, Mr. BROWNBACK, and Mr. NELSON of Florida)) to the bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes:

At the end of the amendment add the following:

SEC. 302. CORPORATE AND LABOR ORGANIZATION RESPONSIBILITY FOR FINANCIAL REPORTS AND DISCLOSURE REQUIREMENTS.

(a) FINANCIAL REPORTS.—

(1) CERTIFICATION OF REPORTS.—

(A) CERTIFICATION OF PERIODIC REPORTS.—Each periodic report containing financial statements filed by an issuer with the Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chief executive officer and chief financial officer (or the equivalent thereof) of the issuer.

(B) CERTIFICATION OF FINANCIAL REPORTS BY LABOR ORGANIZATIONS.—

(i) IN GENERAL.—Each financial report filed by a labor organization with the Secretary of Labor pursuant to section 201(b) of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 431(b)) shall be accompanied by a written statement by the president and secretary-treasurer (or the equivalent thereof) of the labor organization.

(ii) DEFINITION.—In this subparagraph, the term “labor organization” has the meaning given the term in section 3 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 402).

(2) CONTENT.—The statement required by paragraph (1) shall certify the appropriateness of the financial statements and disclosures contained in the periodic report or financial report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer or labor organization.

(3) CONFORMING AMENDMENT.—Section 201(b) of the Labor-Management Reporting and Disclosure Act of 1959 is amended, in the matter preceding paragraph (1), by inserting “(and accompanied by the statement described in section 302(a)(1)(B) of the Public Company Accounting Reform and Investor Protection Act of 2002)” after “officers”.

(b) REPORTING REQUIREMENTS.—

(1) FINANCIAL REPORTING FOR LABOR ORGANIZATIONS EQUIVALENT TO REQUIRED REPORTING OF PUBLIC COMPANIES.—Section 201 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 431) is amended by adding at the end the following:

“(d)(1) In the case of a labor organization with gross annual receipts for the fiscal year in an amount equal to \$200,000 or more, the information required under this section shall be reported using financial reporting procedures comparable to procedures required for periodic and annual reports of public companies pursuant to sections 12(g), 13, and 15 of the Securities and Exchange Act of 1934 (15 U.S.C. 78l(g), 78m, and 78o).

“(2)(A) Such information shall be reviewed by a certified public accountant using generally accepted auditing standards applicable to reporting companies under the Securities and Exchange Act of 1934.

“(B) Such audit shall be conducted subject to requirements comparable to the requirements under section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1).

“(3) Such information shall be reported using generally accepted accounting procedures comparable to the procedures required for public companies under sections 12(g), 13, and 15 of the Securities and Exchange Act of 1934 (15 U.S.C. 78l(g), 78m, and 78o).

“(4) The authority provided under this subsection shall be in addition to the authority provided under subsection (b) and section 208, regarding reporting procedures and review of information required under this section.”

(2) REMEDIES AND PENALTIES FOR VIOLATIONS OF REPORTING REQUIREMENTS.—Section 210 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 440) is amended—

(A) by striking “Whenever” and inserting “(a) Whenever”; and

(B) by adding at the end the following:

“(b)(1) If the Secretary finds, on the record after notice and opportunity for hearing, that any person has willfully violated any provision of section 201(d), the Secretary may impose a civil monetary penalty in an amount not to exceed the amount for any comparable violation under section 21B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-2).

“(2) In the case of a violation of an auditing requirement under section 201(d)(2) by a public accountant, the Secretary may impose a civil monetary penalty in the same manner as penalties are imposed under section 10A(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(d)).

“(3) For purposes of any action brought by the Secretary under paragraph (1), any person who knowingly provides substantial assistance to another person in violation of a provision of section 201(d), or of any rule or regulation issued under such section (including aiding, abetting, counseling, commanding, or inducing such violation) shall be deemed to be in violation of such provision to the same extent as the person to whom such assistance is provided.

“(c)(1) Any person who makes or causes to be made any statement in any report or document required to be filed under section 201(d) which statement was at the time, and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, shall be liable to any person (not knowing that such statement was false or misleading) who relied upon such statement. A person seeking to enforce such liability may sue at law or in equity in any court of competent jurisdiction.

“(2) In any such suit the court may, in its discretion, require an undertaking for the payment of the costs of such suit, and assess reasonable costs, including reasonable attorneys’ fees, against either party litigant.

“(3) The recovery and statute of limitation provisions of subsections (b) and (c) of section 18 of the Securities Exchange Act of 1934 (15 U.S.C. 78r) shall apply for purposes of any action under this subsection.

“(d) In any action arising under subsection (c) or (d) or in connection with any provision of section 201(d), the provisions of section 27(c) of the Securities Act of 1933 (15 U.S.C. 77z-1(c)) regarding abusive litigation shall apply.”

(3) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Labor, shall promulgate such regulations as the Secretary determines necessary to carry out the provisions and purposes of this subsection (including the amendments made by this subsection) and to ensure the provisions of this subsection are carried out in a manner comparable to the manner any similar provisions are carried out by the Securities and Exchange Commission.

SA 4176. Mr. MILLER proposed an amendment to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

At the end add the following new title:

TITLE VIII—CORPORATE TAX RETURNS
SEC. 801. SIGNING OF CORPORATE TAX RETURNS
BY CHIEF EXECUTIVE OFFICER.

(a) IN GENERAL.—Section 6062 of the Internal Revenue Code of 1986 (relating to signing of corporation returns) is amended by striking the first sentence and inserting the following new sentence: “The return of a corporation with respect to income shall be signed by the chief executive officer of such corporation.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns filed after the date of the enactment of this Act.

SA 4177. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____ . PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES WHO PROVIDE EVIDENCE OF FRAUD.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by inserting after section 1514 the following:

“§ 1514A. Civil action to protect against retaliation in fraud cases

“(a) WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES.—No company with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l), or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)), or any officer, employee, contractor, subcontractor, or agent of such company, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee—

“(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders, when the information or assistance is provided to or the investigation is conducted by—

“(A) a Federal regulatory or law enforcement agency;

“(B) any Member of Congress or any committee of Congress; or

“(C) a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct); or

“(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed (with any knowledge of the employer) relating to an alleged violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders.

“(b) ENFORCEMENT ACTION.—

“(1) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c), by—

“(A) filing a complaint with the Secretary of Labor; or

“(B) if the Secretary has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

“(2) PROCEDURE.—

“(A) IN GENERAL.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

“(B) EXCEPTION.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the employer.

“(C) BURDENS OF PROOF.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

“(D) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 90 days after the date on which the violation occurred.

“(c) REMEDIES.—

“(1) IN GENERAL.—An employee prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the employee whole.

“(2) COMPENSATORY DAMAGES.—Relief for any action under paragraph (1) shall include—

“(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

“(B) the amount of back pay, with interest; and

“(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

“(d) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privilege, or remedies of any employee under any Federal or State law, or under any collective bargaining agreement.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by inserting after the item relating to section 1514 the following new item:

“1514A. Civil action to protect against retaliation in fraud cases.”

SA 4178. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . INVESTIGATION AND PROSECUTION OF OFFENSES.

Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end the following:

“(5) EQUITABLE RELIEF.—In any action brought by the Commission under any provision of the securities laws against any person, the Commission may seek, and Federal courts may grant, any equitable relief appropriate or necessary for the benefit of investors.

“(6) DISGORGEMENT OF BENEFITS.—In any action or proceeding brought or instituted by the Commission under the securities laws against any person for engaging in, causing, or aiding and abetting any violation of the securities laws or the rules and regulations prescribed under those laws, such person, in addition to being subject to any other appropriate order, may be required to disgorge any or all benefits received from any source in connection with the conduct constituting, causing, or aiding and abetting the violation, including salary, commissions, fees, bonuses, options, profits from securities transactions, and losses avoided through securities transactions.”

SA 4179. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, between lines 14 and 15, insert the following:

SEC. 110. OVERSIGHT AUDITING OF PUBLIC COMPANIES.

(a) ESTABLISHMENT OF DIVISION.—There is established within the Office of the Chief Accountant of the Commission, the Division of Oversight Audits, which shall be charged with responsibility for conducting oversight audits of issuers, at such times, and in accordance with such procedures as the Commission shall establish, by rule.

(b) STRUCTURE AND OVERSIGHT.—The Division of Oversight Audits shall be headed by the Chief Accountant of the Commission. Notwithstanding any other provision of law, following the end of the term of employment of the Chief Accountant in effect on the date of enactment of this Act, the Chief Accountant shall be appointed by the President, with the advice and consent of the Senate, and may be removed at will by the President. The Chief Accountant shall be appointed to a 5-year term, and may not serve for more than 2 terms.

(c) PURPOSE, FUNCTIONS, AND DUTIES.—The Division of Oversight Audits shall be responsible for—

(1) reviewing and conducting oversight audits of the financial statements of issuers; and

(2) using its resources effectively to focus on highest risk audit areas and to target

questionable audit practices of which the Division of Oversight Audits is aware from communications with the Division of Enforcement of the Commission and the Board.

(d) REPORTS.—On an annual basis, the Division of Oversight Audits shall report its findings and make recommendations for change to—

(1) the Commission;

(2) the Board; and

(3) the Comptroller General of the United States.

(e) REFERRALS.—

(1) IN GENERAL.—The Division of Oversight Audits shall refer findings of accounting or auditing irregularity to—

(A) the Division of Enforcement of the Commission for further investigation of the issuer or the public accounting firm, as appropriate; and

(B) the Board for further investigation of the public accounting firm, as appropriate.

(2) OTHER REFERRALS.—If appropriate, the Division of Oversight Audits may refer findings of accounting or auditing irregularity to—

(A) any other Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)), in the case of an audit report for an institution that is subject to the jurisdiction of such regulator;

(B) the Attorney General of the United States;

(C) the attorneys general of 1 or more States; or

(D) the appropriate State regulatory authority.

(f) FUNDING.—

(1) IN GENERAL.—The Division of Oversight Audits shall be funded exclusively as provided in this subsection.

(2) ANNUAL BUDGETS.—The Division of Oversight Audits shall establish a budget for each fiscal year, which shall be subject to approval by the Commission.

(3) SOURCES AND USES OF FUNDS.—The budget of the Division of Oversight Audits for each fiscal year shall be payable from annual accounting support fees, in accordance with paragraph (4).

(4) ANNUAL ACCOUNTING SUPPORT FEE.—The annual accounting support fee for the Division of Oversight Audits—

(A) shall be allocated in accordance with paragraph (5), and assessed and collected against each issuer, by 1 or more appropriate designated collection agents, as may be necessary or appropriate to pay for the budget and provide for the expenses of the Division, and to provide for an independent, stable source of funding for the Division, subject to review by the Commission; and

(B) may differentiate among different classes of issuers.

(5) ALLOCATION OF ACCOUNTING SUPPORT FEES AMONG ISSUERS.—Any amount due from issuers (or a particular class of issuers) under this subsection to fund the budget of the Division of Oversight Audits shall be allocated among and payable by each issuer (or each issuer in a particular class, as applicable) in an amount equal to the total of such amount, multiplied by a fraction—

(A) the numerator of which is the average monthly equity market capitalization of the issuer for the 12-month period immediately preceding the beginning of the fiscal year to which such budget relates; and

(B) the denominator of which is the average monthly equity market capitalization of all such issuers for such 12-month period.

SA 4180. Mr. GRASSLEY submitted an amendment intended to be proposed

by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 70, strike lines 1 through 19, and insert the following:

“(9) the opining on a financial statement with respect to the proper financial statement results of—

“(A) any listed transaction, or

“(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax,

but only if the registered public accounting firm (or any such associated person of such firm) has directly or indirectly provided any material aid, assistance, or advice with respect to the organizing, promoting, selling, implementing, or carrying out of such listed or reportable transaction, and

“(10) any other service that the Board determines, by regulation, is impermissible.

“(h) RULES AND DEFINITIONS RELATING TO NON-AUDIT SERVICES.—

“(1) PREAPPROVAL REQUIRED FOR NON-AUDIT SERVICES.—A registered public accounting firm may engage in any non-audit service, including tax services, that is not described in any of paragraphs (1) through (10) of subsection (g) for an audit client, only if the activity is approved in advance by the audit committee of the issuer, in accordance with subsection (i).

“(2) REPORTABLE AND LISTED TRANSACTIONS.—For purposes of subsection (g)(9)—

“(A) REPORTABLE TRANSACTION.—The term ‘reportable transaction’ means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011 of the Internal Revenue Code of 1986, such transaction is of a type which the Secretary of the Treasury determines as having a potential for tax avoidance or evasion.

“(B) LISTED TRANSACTION.—Except as provided in regulations, the term ‘listed transaction’ means a reportable transaction which is the same as, or similar to, a transaction specifically identified by the Secretary of the Treasury as a tax avoidance transaction for purposes of section 6011 of such Code.”.

(b) EXEMPTION AUTHORITY.—The Board may, on a case by case basis, exempt any person, issuer, public accounting firm, or transaction from the prohibition on the provision of services under section 10A(g) of the Securities Exchange Act of 1934 (as added by this section), to the extent that such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors, and subject to review by the Commission in the same manner as for rules of the Board under section 107. This subsection shall not apply to services de-

scribed in paragraph (9) of such section 10A(g).

SA 4181. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . BANKRUPTCY PROVISIONS.

(a) PREFERENCES.—Section 547 of title 11, United States Code, is amended by adding at the end the following:

“(h) A trustee may avoid any transfer made within 1 year before the date of the filing of the petition that was made to an insider, officer, or director for any bonuses, loans, nonqualified deferred compensation, or other extraordinary or excessive compensation as determined by the court.”.

(b) FRAUDULENT TRANSFERS AND OBLIGATIONS.—Section 548(a) of title 11, United States Code, is amended by adding at the end the following:

“(3) The trustee may avoid any transfer of an interest of the debtor in property, or any obligation incurred by the debtor, including any bonuses, loans, nonqualified deferred compensation, or other extraordinary or excessive compensation as determined by the court, paid to any officer, director, or employee of an issuer of securities (as defined in section 2(a) of the Public Company Accounting Reform and Investor Protection Act of 2002), if—

“(A) that transfer of interest or obligation was made or incurred on or within 4 years before the date of the filing of the petition; and

“(B) the officer, director, or employee was directly or indirectly responsible for—

“(i) any violation of the Federal securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934), State securities laws, or any regulation or order issued under Federal or State securities laws;

“(ii) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 or under section 6 of the Securities Act of 1933; or

“(iii) improper, illegal, or deceptive accounting practices.”.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENTAL AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Tuesday, July 9,

2002, at 2:30 p.m. to conduct a hearing to receive testimony on Sections 2015, 2016, 2017(a) and (b), 2018 and 2019 of S. 2225, the National Defense Authorization Act for Fiscal Year 2003.

The hearing will be held in SD-406.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 9, 2002 at 10:30 a.m. to hold a hearing on the Moscow Treaty.

Agenda

Witness: The Honorable Colin L. Powell, Secretary of State, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 9, 2002 at 2:30 p.m. to hold a nomination hearing.

Agenda

Nominees: Mr. John Blaney, of Virginia, to be Ambassador to the Republic of Liberia; Ms. Aurelia Brazeal, of Georgia, to be Ambassador to the Federal Democratic Republic of Ethiopia; Mr. Martin Brennan, of California, to be Ambassador to the Republic of Zambia; Mr. J. Anthony Holmes, of California, to be Ambassador to Burkina Faso; Ms. Vicki Huddleston, of Arizona, to be Ambassador to the Republic of Mali; Mr. Donald Johnson, of Texas, to be Ambassador to the Republic of Cape Verde; Mr. Jimmy Kolker, of Missouri, to be Ambassador to the Republic of Uganda; Ms. Gail Mathieu, of New Jersey, to be Ambassador to the Republic of Niger; Mr. Richard Roth, of Michigan, to be Ambassador to the Republic of Senegal; and to serve concurrently and without additional compensation as Ambassador to the Republic of Guinea-Bissau; and Mr. James Yellin, of Pennsylvania, to be Ambassador to the Republic of Burundi.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on The Nomination of Dr. Richard H. Carmona, of Arizona to be Surgeon General of the Public Health Service during the session of the Senate on Tuesday, July 9, 2002 at 10 a.m. in SD-430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on

Health, Education, Labor, and Pensions be authorized to meet for a hearing on The President's Commission on Excellence in Special Education during the session of the Senate on Tuesday, July 9, 2002 at 2:30 p.m. in SD-430.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. REID. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Tuesday, July 9, 2002 from 2:30 p.m.—5 p.m. in Dirksen 562 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM, AND GOVERNMENT INFORMATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Technology, Terrorism and Government Information be authorized to meet to conduct a hearing on "Identity Theft Penalty Enhancement Act of 2002" on Tuesday, July 9, 2002, at 2:30 p.m. in Room 226 of the Dirksen Senate Office Building.

Agenda

Witnesses Dan Collins, Deputy Associate Attorney General, Department of Justice, Washington, DC; Howard Beales, Director, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC; and Dennis Lormel, Section Chief, Terrorism Financial Review Group, Federal Bureau of Investigation, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent floor privileges be extended to Karen Wayland, a legislative fellow in the Office of Senator REID of Nevada.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST— H.R. 3009

Mr. REID. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House with respect to H.R. 3009, the Andean Trade Act; that the Senate disagree to the House amendment, agree to the request for a conference with the House on the disagreeing votes of the two Houses; and that the Chair be authorized to appoint conferees on the part of the Senate, with the ratio being three Democrats, two Republicans.

The PRESIDING OFFICER. Is there objection?

Mr. ENZI. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. REID. Mr. President, I am very disappointed. This is a matter that the President has talked about needing to move forward. I assume the objection is on the number of Senators in the conference. If this legislation is important, I would hope the President would weigh in and say let's get it done no matter what the ratio.

HONORING TED WILLIAMS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 302 submitted earlier today by Senators KERRY and KENNEDY.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 302) honoring Ted Williams and extending the condolences of the Senate on his death.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I think all of us my age and a little younger, and, of course, a little older, remember this great baseball player. Think how good he would have been had he not served his country in the U.S. military for 5 years. He did that during the prime of his baseball career. He served valiantly, as reported by John Glenn. I think a lot of us have seen John Glenn talking about the person who flew combat with him in Korea.

I ask unanimous consent that the resolution submitted by Senators KERRY and KENNEDY and the preamble be agreed to en bloc and the motion to reconsider be laid upon the table, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 302) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 302

Whereas Theodore Samuel Williams served the Nation with honor and distinction as a Naval Aviator during World War II and as a Marine fighter pilot during the Korean War;

Whereas Ted Williams, during his service in the Marines during the Korean War, flew on 39 combat missions and earned an Air Medal and 2 Gold Stars;

Whereas Ted Williams became the greatest hitter in baseball history while playing with the Boston Red Sox from 1939-1960;

Whereas Ted Williams, during his career with the Boston Red Sox, even after losing 5 years to military service, had 2654 total hits, 521 home runs, and a lifetime batting average of .344;

Whereas as a member of the Boston Red Sox, Ted Williams hit for an average of .406 in 1941 and was the last major league baseball player to hit for an average above .400;

Whereas as a member of the Boston Red Sox, Ted Williams led the American League in batting 6 times, in slugging percentage 9 times, in total bases 6 times, and in runs scored 6 times;

Whereas as a member of the Boston Red Sox, Ted Williams won 2 Triple Crowns, was twice named the Most Valuable Player of the American League, and was chosen as an American League All-Star 16 times;

Whereas Ted Williams was elected to the Baseball Hall of Fame in 1966; and

Whereas Ted Williams provided invaluable assistance to the Commonwealth of Massachusetts through his efforts on behalf of and in support for the Jimmy Fund in order to help eradicate cancer in children: Now, therefore, be it

Resolved, That the Senate—

(1) honors the achievements of Ted Williams;

(2) expresses its deepest sympathies and condolences to the family of Ted Williams on his passing; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the family of Ted Williams.

BENJAMIN FRANKLIN TERCENTENARY COMMISSION

Mr. REID. I ask unanimous consent the Senate proceed to Calendar No. 309, H.R. 2362.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2362) to establish the Benjamin Franklin Tercentenary Commission.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent the bill be read three times, passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD at the appropriate place, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2362) was read for the third time and passed.

ORDERS FOR WEDNESDAY, JULY 10, 2002

Mr. REID. I ask unanimous consent when the Senate completes its business tonight, it adjourn until 9:30 tomorrow morning, Wednesday, July 10; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business until 10:30 a.m., with Senators permitted to speak for up to 10 minutes each, with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Republican leader or his designee; that at 10:30 a.m. the Senate resume consideration of the accounting reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask

unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:38 p.m., adjourned until Wednesday, July 10, 2002, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 9, 2002:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

FREDERICK W. GREGORY, OF MARYLAND, TO BE DEPUTY ADMINISTRATOR OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, VICE JAMES R. THOMPSON, JR., RESIGNED.

MERIT SYSTEMS PROTECTION BOARD

NEIL MCPHIE, OF VIRGINIA, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE TERM OF SEVEN YEARS EXPIRING MARCH 1, 2009, VICE BETH SUSAN SLAVET, TERM EXPIRED.

NATIONAL MEDIATION BOARD

HARRY R. HOGLANDER, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 2005, VICE MAGDALENA G. JACOBSEN, TERM EXPIRED.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

QUANAH CROSSLAND STAMPS, OF VIRGINIA, TO BE COMMISSIONER OF THE ADMINISTRATION FOR NATIVE AMERICANS, DEPARTMENT OF HEALTH AND HUMAN SERVICES, VICE GARY NILES KIMBLE, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. BRYAN D. BROWN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. PHILIP R. KENSINGER JR.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. MARTIN R. BERNDT

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. MICHAEL D. MALONE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. JOHN B. NATHMAN

EXTENSIONS OF REMARKS

IN RECOGNITION OF ACHIEVEMENTS OF MADISON COUNTY HISTORICAL SOCIETY IN EDWARDSVILLE, IL

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize the achievements of the Madison County Historical Society in the Edwardsville, Illinois area.

Edward Coles was the second Governor of the State of Illinois. Born in central Virginia in 1786 to a wealthy father who grew tobacco and was a slave owner, Coles would later in life decide that owning slaves was not the right thing to do. It is thought that this idea was instilled in him when he studied at William and Mary College in Williamsburg, VA. He did not support the philosophy that people could own other people when a professor raised it at the school.

Coles' father died in 1807 leaving Edward a 782-acre farm and 23 slaves. He decided that freeing the slaves would be the right thing to do, but that would have been impossible because of the strict provisions in Virginia. The law stated that any freed slave must leave the State within a year of emancipation, which insured the failure of the slaves as free citizens. On top of that the other slave owners in the area would have surely hung Coles for his betrayal of their highly prized trade.

In 1810 Edward became Personal Secretary for President Madison in Washington DC. He was very successful in the world of politics, but still wanted to free the slaves under his control. After President Madison's first term Coles quit the White House and went west looking for a place to free his slaves. He came back from his excursion with a plan and an idea.

After a brief stint as a diplomat to Russia, Coles bought 3,500 acres in Illinois and accepted an appointment as land Registrar in Edwardsville, Illinois. He packed up his belongings and 22 slaves and headed towards Edwardsville. Coles waited until he was West of the Ohio River before he let anyone know his plan to free the slaves that worked for him. After he told them that they were free to go 5 went to Kentucky, 7 to Missouri, and 10 followed Coles the rest of the way. It is said that Edward provided the slaves that followed him with land of their own. He also provided all of his former slaves with money and supplies, as they needed them.

Later in life Coles was Governor of Illinois for one term. He ran for Congress in 1832 and lost, which is when he came to the conclusion that he wanted to move back to the East Coast. He moved to Philadelphia where he married a lady named Sally Logan Roberts, and had three children with her.

Some people do not only look for reward in the form of offices or titles, but in gratification for doing the right thing. Mr. Edward Coles was one of these people, and without his support and belief in the abolitionist movement many more people would have been sold as property and treated as less than human. Mr. Coles was a man who did the right thing when the challenge presented itself.

I want to commend the Madison County Historical Society for their efforts to keep the Coles Legacy of freedom and decency alive.

THE INTRODUCTION OF THE MILITARY TRIBUNALS ACT OF 2002

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. SCHIFF. Mr. Speaker:

SEPARATION OF POWERS

Our great nation was founded on the basic principles of liberty and justice for all. And one of the founding principles of our government is a separation of powers, and a system of checks and balances.

We set up our government this way for a reason. The delegates to the Constitutional Convention faced a difficult challenge—to create a strong, cohesive central government, while also ensuring that no individual or small group in the government would become too powerful. They formed a government with three separate branches, each with its own distinct powers.

Without this separation of powers, any one branch of government could have the power to establish a tribunal, decide what charges would be covered and what due process would be afforded, and also serve as judge and jury. The intent of the framers was to avoid these kinds of imbalances of power—to provide checks and balances.

That is why Congress must have a role in setting up military tribunals.

THE ROLE OF MILITARY TRIBUNALS

As the United States and its allies continue to engage in armed conflict with al Qaeda and the Taliban, military tribunals provide an appropriate forum to adjudicate the international law of armed conflict. While it may sound incongruous to have a justice system to deal with crimes of war, this process ensures adherence to certain international standards of wartime conduct. In order to garner the support of the community of nations, military trials must provide basic procedural guarantees of fairness, consistent with the international law of armed conflict and the International Covenant on Civil and Political Rights.

CONSTITUTIONAL JUSTIFICATION

Congressional authorization is necessary for the establishment of extraordinary tribunals to

adjudicate and punish offenses arising from the September 11, 2001 attacks, or future al Qaeda terrorist attacks against the United States, and to provide a clear and unambiguous legal foundation for such trials.

This power is granted by the U.S. Constitution, which gives Congress the authority to constitute tribunals, define and punish offenses against the Law of Nations, and make rules concerning captures.

While Congress has authorized the President to use all necessary and appropriate force against those nations, organizations, or persons that he determines to have planned, authorized, committed, or aided the terrorist attacks or harbored such organizations or persons, Congress has yet to expressly authorize the use of military tribunals.

CRAFTING THE BILL

In November, 2001, the President issued a military order which said non-U.S. citizens arrested at home or abroad could be tried by military tribunals. In March, 2002, the Department of Defense announced rules for military trials for accused terrorists.

These rules made no provision for the writ of habeas corpus, or an adequate appeals process. In addition, there was no accounting of persons who were being detained.

Believing that Congress should play a critical role in authorizing military tribunals, I began discussing this issue with legal organizations, military law experts, and legal scholars. The result of these discussions is the Military Tribunals Act of 2002, which I am introducing today.

WHO IS COVERED

My bill will give the President the authority to carry out military tribunals to try individuals who are members of al Qaeda or members of other terrorist organizations knowingly cooperating with or aiding or abetting persons who attack the United States.

UNLAWFUL COMBATANTS

The Geneva Conventions limit the ways regular soldiers who surrender or are captured may be treated, but there is a very clear distinction made between lawful enemy combatants (a member of a standing/recognized army), who would not be subject to a tribunal, and unlawful enemy combatants (civilians who take up arms) who would.

Currently, there are more than 500 persons who are being detained at Guantanamo Bay. They have been classified by the Department of Defense as unlawful enemy combatants, and each one could potentially be subject to a military tribunal. But without legislative backing, any military tribunal adjudication of guilt may later be challenged on the basis that the tribunals were not authorized by Congress. Congressional action would make it abundantly clear that military tribunals are an appropriate venue for trying unlawful enemy combatants. Spelling out the requirements for a military tribunal would ensure that sentences, when they are handed down, could be defended from judicial invalidation.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

DUE PROCESS

My bill would ensure that the basic tenets of due process are adhered to by a military tribunal. The tribunal would be independent and impartial. The accused would be presumed innocent until proven guilty, and would only be found guilty if there was proof beyond a reasonable doubt. The accused would be promptly notified of alleged offenses. The proceedings would be made available to relevant parties in other languages as necessary. The accused would have the opportunity to be present at trial. The accused would have a right to be represented by counsel. The accused have the opportunity to confront, cross-examine, and offer witnesses. The proceedings would be expeditious. The accused would be afforded all necessary means of defense. A conviction would be based on proof that the individual was responsible for the offense. A conviction could not be upheld on an act that was not an unlawful offense when it was committed. The penalty for an offense would not be greater than it was when the offense was committed. The accused would not be compelled to confess guilt or testify against himself. A convicted person would be informed of remedies and appeals processes. A preliminary proceeding would be held within 30 days of detention to determine whether a trial may be appropriate. The tribunal would be comprised of a military judge and not less than five members. The death penalty would be applied only by unanimous decision. The accused would have access to evidence supporting each alleged offense, except where disclosure of the evidence would cause identifiable harm to the prosecution of military objectives, and would have the opportunity to both obtain and present exculpatory evidence, and to respond to such evidence.

HABEAS CORPUS

Finally, the writ of habeas corpus would not be infringed, as it is a critical tenet of our justice system. Every person should be entitled to a court determination of whether he is imprisoned lawfully and whether or not he should be released from custody. This basic tenet dates back to 1215 when it stood in the Magna Carta as a critical individual right against arbitrary arrest and imprisonment.

Courts have referred to habeas corpus as "the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action." Without judicial review, the police can arrest people without warrants and jail people without trials.

U.S. Senator ARLEN SPECTER has noted, "Simply declaring that applying traditional principles of law or rules of evidence is not practical is hardly sufficient. The usual test is whether our national security interests outweigh our due process rights, and the administration has not made the case."

A careful reading of the President's military order reveals that "military tribunals shall have exclusive jurisdiction, and the individual shall not be privileged to seek any remedy or maintain any proceeding, directly or indirectly . . . in any court of the United States or any state thereof, any court of any foreign nation, or any international tribunal."

APPEALS PROCESS

Another critical protection we must retain in these trials is that of an appeals process. My

bill calls for the Secretary of Defense to promptly review convictions by such tribunals to ensure that the procedural requirements of a full and fair hearing have been met. It also calls for the United States Court of Appeals for the Armed Forces established under the Uniform Code of Military Justice to review the proceedings, convictions, and sentences of such tribunals. Finally, the Supreme Court would review the decisions of the United States Court of Appeals for the Armed Forces. This is the most appropriate system of judicial review, especially since the U.S. Court of Appeals for the Armed Forces would not have to appoint special masters or magistrates to do the necessary fact finding.

PUBLIC PROCEEDINGS

We gain the confidence of our citizenry by ensuring that trial proceedings are open to the public. My bill would require trial and appeal proceedings to be accessible to the public, while securing the safety of observers, witnesses, tribunal judges, counsel, and others. Evidence available from an agency of the Federal Government, however, may be kept secret from the public if such evidence would harm the prosecution of military objectives or intelligence sources or methods.

DETENTION

The bill allows for the Secretary of Defense to detain a person who is subject to a tribunal consistent with the international law of armed conflict. However these detentions would only be authorized while a state of armed conflict continues, or while a prosecution or a post-trial proceeding is ongoing. Under the Military Tribunals Act of 2002, the United States District Court for the District of Columbia would have exclusive jurisdiction to ensure that the requirements for detaining an accused are satisfied.

And while an accused is held, the detainee shall be treated humanely, without any adverse distinction based on race, color, religion, gender, birth, wealth or any similar criteria. Adequate food, drinking water, shelter, clothing, and medical treatment shall be provided. Finally, a detainee's right to the free exercise of religion would not be infringed.

REPORTS TO CONGRESS

Without protections and reporting requirements in place, persons detained for an indefinite amount of time would have no recourse. Currently in America, the total number of persons detained by both the Department of Justice and the Department of Defense is unknown. In many cases, there is little information, if any, available about who has been detained and why. My bill requires the President to report annually to Congress on the use of the military tribunal authority. Each such report would include information regarding each person subject to, or detained pursuant to, a military tribunal, and each person detained pursuant to any actual or planned act of terrorism, who has not been referred for trial in connection with that act of terrorism to a criminal court or to a military tribunal. With this provision, we can significantly reduce the danger that due process might be evaded by simply failing to bring detainees before a tribunal for trial.

CONCLUSION

There is some debate about the necessity of Congressional input in the establishment of

military tribunals. But there is no doubt that legislative branch input can provide indispensable safeguards, such as an appeal to an independent entity, that the executive branch simply cannot provide on its own. By exercising Congress' role in the process, we will ensure that our justice system remains a beacon for the rest of the world, where due process is protected, and the accused are afforded basic protections.

We are living in an extraordinary time, a difficult time. But we are defined as a nation by how we handle these difficult times. Our government's words and deeds are important, not only for the legal precedents we set, but also for the message we send to our global neighbors. During this, the most significant international crisis of our day, we have an opportunity to show the world the true meaning of justice, liberty, and the freedoms upon which America was founded.

PERSONAL EXPLANATION

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. OWENS. Mr. Speaker, yesterday I was unavoidably absent and missed rollcall votes Nos. 283 and 284. If present I would have voted "yea."

HONORING THE CENTENNIAL OF
LOCAL 309 INTERNATIONAL
BROTHERHOOD OF ELECTRICAL
WORKERS

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing the 100th anniversary of the International Brotherhood of Electrical Workers, Local 309.

The International Brotherhood of Electrical Workers (IBEW) is as old as the commercial use of electricity itself. It is the oldest, as well as the largest, electrical union in the world. IBEW Local 309 will mark 100 years of pride for its members who have been leaders in producing the most highly trained and skilled workers in the country.

Various histories of labor record no attempts to organize electrical workers during the experimental days of electricity. In 1844 the first telegraph wires were strung between Washington and Baltimore carrying that famous message of Samuel Morse, "What hath God wrought?" This was the first electrical accomplishment of commercial importance. It changed the whole aspect of electricity, which most people believed to be an interesting but dangerous experiment. In 1848 the first telegraph station was built in Chicago. By 1861 a web of telegraph lines crisscrossed the United States, and in 1866 the transatlantic cable was laid. Linemen to string the wires became a necessity, and young men flocked eagerly to enter this new and exciting profession.

With Edison's invention of the first successful incandescent lamp in 1879, the general public became aware of the possibilities of electricity. The electric power and light industry was established with the construction of the Pearl Street Generating Station in New York in 1882. Where once only a few intrepid linemen handled electricity for a thrill, many now appeared on the scene, and wiremen, too, seeking a life's work. As public demand for electricity increased, the number of electrical workers increased accordingly. The surge toward unionism was born out of their desperate needs and deplorable safety conditions.

Beginning in 1870 many small, weak unions organized, and then disappeared. However, by 1880 enough telegraph linemen had organized to form their own local assembly and affiliate with the Knights of Labor. A few more locals soon organized, and a district council was formed. In 1833 this council called a general strike against the telegraph companies. The strike failed and broke up the first unknown attempt to organize electrical workers. The urge to unite was strong, however; and another attempt was made in 1884, this time with a secret organization known as the United Order of Linemen. Headquarters for this union was in Denver, and the group attained considerable success in the western part of the United States.

The nucleus of the Brotherhood formed in 1890. An exposition was held in St. Louis that year featuring "a glorious display of electrical wonders." Wiremen and linemen from all over the United States flocked to Missouri's queen city to wire the buildings and erect the exhibits which were the "spectaculars" of their era. The men got together at the end of each long workday and talked about the toil and conditions for workers in the electrical industry. The story was the same everywhere. The work was hard; the hours long; the pay small. It was common for a lineman to risk his life on the high lines 12 hours a day in any kind of weather, seven days a week, for the meager sum of 15 to 20 cents an hour. Two dollars and 50 cents a day was considered an excellent wage for wiremen, and many men were forced to accept work for \$8.00 a week.

There was no apprenticeship training, and safety standards were nonexistent. In some areas the death rate for linemen was one out of every two hired, and nationally the death rate for electrical workers was twice that of the national average for all other industries. A union was the logical answer; so this small group, meeting in St. Louis, sought help from the American Federation of Labor (AFL). An organizer named Charles Cassel was assigned to help them and chartered the group as the Electrical Wiremen and Linemen's Union, No. 5221, of the AFL. A St. Louis lineman, Henry Miller, was elected president of that union. To him and the other workers at that St. Louis exposition, it was apparent their small union was only a starting point. Isolated locals could accomplish little as bargaining agencies. Only a national organization of electrical workers with jurisdiction covering the entire industry could win better treatment from the corporate empires engaged in telephone, telegraph, electric power, electrical contracting and electrical-equipment manufacturing.

The founders of the union met in a small room above Stolley's Dance Hall in a poor section of St. Louis. The name adopted for the organization was National Brotherhood of Electrical Workers. The delegates to that First Convention worked night and day for seven days drafting the first Constitution, general laws, ritual and emblem the well-known first grasping lightning bolts.

Today the IBEW remains strong with approximately 750,000 members. The IBEW is united through more than 1,100 local unions established over the length and breadth of the United States and Canada. It is one of the largest unions in the world, and their wages and working conditions are second to none in any comparable field. IBEW members enjoy better health and welfare coverage, improved pensions, longer vacations and more holidays, as well as a shorter workweek.

They stand where they are today because strong, intelligent and loyal men and women created, protected and preserved the union. They cared about what happened to them and to their children. They remained loyal to the organization that gave them protection and strength. Each era writes its own history. The IBEW's union heritage, vibrant and strong, has been passed on to people today. As IBEW International President Barry said during the opening of the 35th International Convention:

We in the IBEW want a world where a man can go to a safe workplace, earn a fair wage and use his skills to do a good day's work. We want a world where a woman can develop her talents to the fullest and have a wealth of opportunity before her . . . where workers can retire with dignity, with the security of knowing their healthcare is affordable and available . . . where children are treated like the precious treasure they are—nurtured, educated and loved so they can carry the torch into the future, . . . and where workers can organize and bargain collectively to achieve all these things in fairness and in justice.

For 100 years, Local 309 has helped build and shape the metro-east as well as the surrounding counties of Southern Illinois with its expertise and craftsmanship. Local 309 is prepared to continue being a leader in the Electrical industry with advancements in training, organizing, market recovery and service to its members.

Mr. Speaker, I ask my colleagues to join me in honoring the Centennial of IBEW Local 309 and to congratulate their membership on the occasion of this anniversary and to wish the 1100 members and their families the very best for the future.

RECOGNIZING ACHIEVEMENTS OF BOY SCOUTS FROM TROOPS 27 AND 36 IN SPRINGFIELD, ILLI- NOIS AREA

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize the achievements of Boy Scouts from Troops 27 and 36 in the Springfield, Illinois area.

I have received notification that these Scouts completed all necessary requirements to earn the Citizenship in the Nation Merit Badge. These requirements include items such as a basic understanding of our nation's governmental structure, a tour of the state or national capital, and a formal letter to their congressional representative concerning an issue that they would like to see resolved.

It is reassuring to know that the youth of our country are aware of the issues that stand to affect their future. The Scouts have made suggestions on a wide range of topics that are currently on the congressional agenda.

The boys of Troops 27 and 36 truly exemplify the ideals upon which the Boy Scouts of America was founded here in Washington, D.C. some 92 years ago. Their accomplishments commend great pride upon themselves and the Boy Scouts of America.

CONGRATULATIONS TO TAIWAN PRESIDENT CHEN SHUI-BIAN

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. HILLIARD. Mr. Speaker, Taiwan President Chen Shui-bian has successfully completed his first two years in office. His performance as leader of his country has received widespread praise around the world. In terms of Taiwan's relations with the People's Republic of China, President Chen has, on many occasions sought to assuage Beijing's anxieties about Taiwan's declaration of independence. In his inaugural address two years ago, President Chen promised that he would not seek independence as long as the PRC would refrain from using force against Taiwan. Furthermore, President Chen has taken concrete steps to reduce tension in the Taiwan Straits. Travel between Taiwan and the Chinese mainland has been made much easier, officials from Taiwan and the Chinese mainland having been visiting one another across the Straits. We hope that Taiwan and the PRC will soon resume their dialogue on reunification and other commercial issues affecting them. Peace in the Straits is in everyone's interest.

President Chen was also instrumental in making Taiwan's admission to the World Trade Organization a reality. We hope that President Chen will continue his efforts in making Taiwan a more visible global player; we understand Taiwan has been trying to gain observer status in the World Health Organization and other international bodies, including the United Nations. We applaud President Chen's leadership and wish him every success.

Relations between Taiwan and the United States have been steadily improving. Taiwan has been buying all types of American agricultural and consumer products and the United States has agreed to sell more advanced weaponry to Taiwan, including Kidd-class destroyers, twelve Orion antisubmarine surveillance aircraft and eight diesel-powered submarines.

Domestically, President Chen has been trying to reinvigorate Taiwan's economy, to eliminate corruption and gangster influence in politics and the economy, and to gain his people's

trust and support in making Taiwan a complete democracy.

At the midway point of Mr. Chen's presidential term, we salute him for his many accomplishments such as maintaining stability in the Taiwan Strait, improving Taiwan's visibility in the international arena and its relations with the United States, and reinvigorating Taiwan's economy. Congratulations, President Chen, you have done a good job.

**HONORS GAYLORD HOSPITAL AS
THEY CELEBRATE THEIR 100TH
ANNIVERSARY**

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Ms. DeLAURO. Mr. Speaker, for one hundred years Gaylord Hospital of Wallingford has provided care and comfort to those most in need. It is an honor for me to rise today to congratulate the Gaylord community, both past and present, on this very special occasion. As we celebrate its history it is easy to see what has made Gaylord such a success—the spirit of compassion and generosity which is at its core.

At the turn of the 20th century, Connecticut faced a tuberculosis epidemic and was lacking a facility which specialized in the care and treatment of this devastating disease. Recognizing this rapidly increasing problem, the New Haven County Anti-Tuberculosis Association, which later became the Gaylord Farm Association, negotiated the purchase of the Gaylord Farm. This association, one of the first organized in the United States, quickly began to fulfill their mission to “establish a non-profit sanatorium and hospital for the care and treatment of cases of pulmonary tuberculosis.”

Under the leadership of the renowned Dr. David Russell Lyman, who was the first director of the hospital and served in that capacity for a full fifty years, Gaylord Hospital flourished, becoming internationally recognized for its work. Dr. Lyman, who himself has been stricken with tuberculosis in his first years as a practitioner, had developed his own personal crusade against the “great white plague” and used his determination and commitment to make Gaylord a success.

In its earliest days, Gaylord Farm Sanatorium, as it was first named, was run almost solely by Dr. Lyman and head nurse, Florence Rudolph Burgess. Though its full capacity was only twenty-two beds, this was quite an undertaking. Over the next fifty years the efforts of Dr. Lyman and Mrs. Burgess culminated in the expansion of the campus from two hundred thirty-nine acres to six hundred, from six buildings to fifty-five, from a staff of two to one hundred fifty, and an increased bed capacity from twenty-two to one hundred forty-four. Even more importantly, more than six thousand people, including American playwright Eugene O'Neill, sought and received the medical care they needed and were restored to health. In fact, my father, Ted DeLauro was a patient there from the summer of 1942 to the early spring of 1943. It is this legacy of care and dedication that continues to live within the walls of Gaylord Hospital today.

With the discovery of medications that stemmed the progress of tuberculosis, Gaylord turned its expertise to other forms of rehabilitation. Today, Gaylord is the premier rehabilitation center in Connecticut, well-known throughout the region. Continuing in its expanded mission, this private not-for-profit facility is making a difference in the lives of many—providing patients with the physical and emotional care they need to achieve their rehabilitation goals.

While we, as a nation, have been faced with numerous problems concerning our health care system, it is important to recognize that our medical facilities have not lost sight of their original mission. As they celebrate their centennial anniversary, I am proud to stand today to pay tribute to Gaylord Hospital for their invaluable contributions to our community and to the millions of people whose lives have been touched by their care, compassion and dedication.

**IN HONOR OF JOHN ARCHIBALD
WHEELER**

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. HOLT. Mr. Speaker, I rise today on the occasion of the 91st birthday of John Archibald Wheeler, one of the preeminent figures in twentieth-century theoretical physics.

John Wheeler was born on July 9, 1911 in Jacksonville, Florida. The son of librarians, John was an inquisitive child who started experimenting at an early age. At the age of sixteen, Wheeler entered Johns Hopkins University to study engineering. While studying at Johns Hopkins, Wheeler discovered a passion for physics and by 1933 had graduated with a Ph.D. in theoretical physics.

In 1938, Wheeler joined the Physics Department at Princeton University, where he remained until 1976 when he moved to the University of Texas, Austin, to become the Director of the Center for Theoretical Physics. He now resides in New Jersey.

Dr. Wheeler's contributions to the scientific community are numerous, as a scientist, a scholar, a mentor, and a teacher.

He was the first American to learn of the discovery of nuclear fission and he later worked with his former mentor Niels Bohr to write an article on nuclear fission.

He mentored and worked with future Nobel laureate Richard Feynman on a novel approach to electrodynamics.

Dr. Wheeler led the theoretical development of the hydrogen bond in the United States and worked on the Manhattan Project.

He worked with Albert Einstein and formulated new solutions to Einstein's gravitational equations.

He pioneered studies on gravitational collapse and coined the term “black hole”.

His many publications include the books “Gravitation” and “Frontiers of Time” as well as his autobiography “Geons, Black Holes, and Quantum Foam: A Life in Physics”.

Dr. Wheeler's accomplishments have been recognized with many awards and honors. He

served as president of the American Physical Society. He was elected to the National Academy of Sciences in 1952. Wheeler received the Albert Einstein Prize of the Strauss Foundation in 1965, the Enrico Fermi Award in 1968, the Franklin Medal of the Franklin Institute in 1969, and the National Medal of Science in 1971.

Today, he is Professor Emeritus of Physics at Princeton University and the University of Texas, Austin.

Mr. Speaker, I commend John Archibald Wheeler on the occasion of his 91st birthday and for the contribution he has made to physics and American science.

**TRIBUTE TO CARROLLTON FIRST
BAPTIST CHURCH ON ITS 175TH
ANNIVERSARY**

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. SHIMKUS. Mr. Speaker, I rise today to pay tribute to the Carrollton First Baptist Church and the Anniversary of its 175 years of service to the community of Carrollton, Illinois.

The people of the Carrollton First Baptist Church are truly good Samaritans. They have spent 175 years preaching the word of Christ to Carrollton and surrounding areas and participating in other good works. Since 1827, the church has served as a cornerstone for religious growth throughout Southwestern Illinois.

To such people as Reverend Stan Nichol and his congregation, the good deeds themselves are their own best rewards. Yet, on this special day, I think it is appropriate that they are recognized for their efforts. They are good Christians and good Americans, and remind us all of the compassion and energy that makes this country great.

To the people of the Carrollton First Baptist Church, thank you for your enduring dedication over the last 175 years; and may God grant you the opportunity to continue doing His work for many years into the future.

PERSONAL EXPLANATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. BECERRA. Mr. Speaker, on Monday, July 8, 2002, due to business in my District, I was unable to cast my floor vote on roll call numbers 283, and 284. The votes I missed include roll call vote 283 on the Motion to Suspend the Rules and Pass H.R. 4609, the Rathdrum Prairie Spokane Valley Aquifer Study Act; and roll call vote 284 on the Motion to Suspend the Rules and Pass, as amended H.R. 2643, the Fort Clatsop National Memorial Expansion Act.

Had I been present for the votes, I would have voted “yea” on roll call votes 283 and 284.

July 9, 2002

TRIBUTE TO THE DEPARTMENT OF
ENERGY'S ROCKY FLATS MAN-
AGER

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. UDALL of Colorado. Mr. Speaker, I rise today to express my appreciation for the good work of Barbara Mazurowski, the Department of Energy's manager of the Rocky Flats Field Office in Colorado. Barbara will soon be moving to DOE's national headquarters from her post overseeing the complex and monumental cleanup of the Rocky Flats Environmental Technology site after more than two years of hands-on management.

Barbara came on board during a critical time for Rocky Flats. The cleanup and closure were well underway, but concerns over worker safety, schedule and cost were ever present. She did not shy away from these challenges and met them head-on. As a result, she kept this project on track—within schedule and budget—so that we now have a good chance of seeing this site cleaned up and closed by 2006, our target date for closure.

But perhaps her most lasting legacy will be in the area of worker health and safety. When concerns were raised about the commitment of the DOE to these critically important aspects of the cleanup work, Barbara elevated this as a high priority. A number of unfortunate safety mishaps had occurred, one of these involving serious exposures to a number of workers. Following these incidents, Barbara sent a lengthy and hard-hitting letter to Kaiser-Hill, the general contractor for the site, and insisted that the improvements be made in safety protocols. I understand such a letter was unprecedented at Rocky Flats. The end result of her intervention has been a measurable improvement in safety at the site.

These efforts and many others have earned her the respect and admiration of many, including the hard working employees at the site, both union and non-union—employees who put their health and safety on the line every day so that we can see the site closed in a timely manner. Her contribution to keeping work on schedule and her insistence on maintaining open channels of communication also have been appreciated by the local communities surrounding Rocky Flats.

Barbara also managed the site through two high profile milestones—designating the site as a national wildlife refuge upon cleanup and closure, and complications with the plans for shipment of surplus plutonium to DOE's Savannah River site in South Carolina. Both required long hours, extensive coordination and serious attention, and throughout both she demonstrated calm, dedicated leadership.

Her work on these issues and many others will be a standard by which to judge her successor managers. We have much more work ahead at this site, much of that involving the demolition of buildings and the extensive cleanup work that still needs to be done. I hope that we can continue the progress that has been accomplished during her tenure. I wish her well and continued success in her future endeavors and ask my colleagues to join

EXTENSIONS OF REMARKS

me in thanking her for her dedicated public service to Colorado and the nation.

TRUDY AND PAUL PEUKERT CELE-
BRATE 80 YEARS OF MARRIAGE

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. KLECZKA. Mr. Speaker, on Monday, July 22, 2002, Mr. and Mrs. Trudy and Paul Peukert will celebrate 80 years together as man and wife.

Trudy was born July 7, 1904 and this year will celebrate her 98th birthday. Paul was born February 26, 1901 and is 101 years old. He was one of 12 children, 6 boys and 6 girls, and is the only surviving member of his family. Both were born in Germany, and were married in Sandorf, Germany on July 22, 1922. Ironically, before they were married, Trudy's mother pulled her aside after assessing Paul's small stature—he had to compete with 11 other children for food and was quite skinny—and advised her not to marry him because he looked sickly and surely would leave her a young widow.

In 1923, at the relatively young age of 22, Paul left his new bride and infant daughter and immigrated to America. In 1925 he had worked and saved enough to bring Trudy and their daughter Johanna to the U.S., and the family moved to Detroit, Michigan, where Paul worked for Chevrolet Motors for 30 years. They have been American citizens for over 65 years.

Paul and Trudy have been blessed with two daughters, four grandsons, eight great grandchildren and one great-great grandchild. For the last 17 years, the Peukert's have called Greenfield, Wisconsin home. They own and live in their own home, still enjoy tending their flower gardens and attribute their longevity to good, clean living. They are also active voters.

So it is with great pride that I congratulate Mr. & Mrs. Peukert on their longevity and unending commitment to each other. Their relationship is inspiring and stands as a testament to life-long love and enduring friendship.

COMMENDING 2002 GOLDEN APPLE
SCHOLAR AWARD WINNERS AND
MS. AMANDA WATSON

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. SHIMKUS. Mr. Speaker, I rise before you today to commend the 2002 Golden Apple Scholar award winners from my district. The Golden Apple Scholars program is to recruit talented high school juniors who want to become teachers.

I would like to take the opportunity to recognize Ms. Amanda Watson from Alton High School in Alton, Illinois. Teachers, like parents, have a unique opportunity—to touch the life of a child. I can't think of a more rewarding experience.

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As you know, Mr. Speaker, I was a former high school teacher. I want to wish Amanda all the same joy and success that I shared in my teaching career.

TRIBUTE TO RABBI HERBERT JAY
MANDL

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. MOORE. Mr. Speaker, I rise today to congratulate Rabbi Herbert Jay Mandl, who will be honored by Kehilath Israel Synagogue of Overland Park, Kansas, at a dinner on Sunday, August 25, 2002.

Rabbi Mandl, who has been Senior Rabbi at the synagogue for 25 years, is a graduate of Baltimore City College and Johns Hopkins University. He was ordained and graduated from the Jewish Theological Seminary of America in June 1969, and later received his orthodox "Smicha" ordination. He earned his Ph.D. from the University of Montreal, and his Doctor of Divinity degree from the Jewish Theological Seminary of America.

Rabbi Mandl serves on the Kansas City, Missouri, Board of Police Commissioners as Jewish Chaplain for the city police force. He was recently appointed the first Jewish Chaplain for the Overland Park Police Department. He has served as a commissioner of the Kansas Commission on Governmental Standards and Conduct. Since the autumn of 1989, he has been an adjunct lecturer in Judaica at Rockhurst University. Rabbi Mandl was the first chairman of the Missouri Health Facilities Review Commission from 1990–1996.

Of his innumerable accomplishments in the Kansas City Jewish community, Rabbi Mandl is particularly proud of his efforts which brought new Kosher facilities and wider availability of Kosher foods to the Kansas City area. Rabbi Mandl brought many innovations with him to the Kehilath Israel Synagogue, especially the all-night Shavuot study program, which continues to draw adults and youth from all over the community.

He and his wife, Barbara, a teacher at Hyman Brand Hebrew Academy and the Kehilath Israel Religious School, are the parents of Aron [who is married to Chaia], an attorney in Florida; Seth, a market researcher in New York; Debbie, who has just started working on her Master's of Public Administration degree at the Columbia University Biosphere in Arizona; and Miriam, who will be a senior at the Hyman Brand Hebrew Academy in the fall. They are the proud parents of Samuel and Benjamin.

Mr. Speaker, it is with great pride that I honor such an exceptional individual. I ask all my colleagues in the House of Representatives to join me now in commending Rabbi Herbert Jay Mandl.

PERSONAL EXPLANATION

HON. JOSEPH M. HOEFFEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. HOEFFEL. Mr. Speaker, I was unable to vote on two suspension bills on July 8, 2002, as I was returning from Berlin, Germany where I participated in the annual assembly of the Commission on Security and Cooperation in Europe as a member of the official United States delegation.

If present, I would have voted "aye" on H.R. 4609, the Rathdrum Prairie Spokane Valley Aquifer Study Act, and "aye" on H.R. 2643, the Fort Clatsop National Memorial Expansion Act.

EQUAL RIGHTS FOR ALL
AMERICANS, HERE AND ABROAD**HON. MICHAEL E. CAPUANO**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. CAPUANO. Mr. Speaker, I rise to inform the House of indignities inflicted last month on several of my constituents. One young woman, Mengyang Jian, was detained, with twenty other United States citizens, at Reykjavik Airport. Other Asian-Americans, traveling with American passports, about twenty-five in all, were prevented from boarding IcelandAir flights at Logan Airport in Boston on the nights of June 11, 12, and 13. Dr. Tianlun Jian gave me a copy of a document from the Ministry of Justice of the Republic of Iceland instructing the airline to refuse him passage "for security reasons." All believe that travelers with Asian surnames or Asian appearance were treated differently from other passengers.

The Republic of Iceland took these extraordinary measures in anticipation of Falun Gong protests during the state visit of President Jiang Zemin. The Icelandic government, as I understand its position, consistently maintained that, despite its commitment to free speech and peaceful protest, its security forces could not cope with "thousands" of demonstrators. And, indeed, the airport detainees were eventually released and allowed to proceed to the capital and to demonstrate at designated sites. I do not wish to portray these events as brutal violations of human rights, such as those that Falun Gong practitioners do, in fact, suffer in China.

Nonetheless it is wrong and unacceptable for Asian Americans to be treated differently from other Americans. It is wrong and unacceptable for foreign governments to discriminate among American citizens on the basis of religion or ethnicity. Such discrimination is wrong and unacceptable when it happens abroad. It is wrong and unacceptable, and most certainly illegal, when it takes place in the Commonwealth of Massachusetts or anywhere in the United States of America. The Congress must defend the rights of all Americans to equal treatment, and, occasionally, we must remind even friendly democratic coun-

tries that we are one people, indivisible, with liberty and justice for all.

The great strength of any democracy rests in its citizens, and my constituents report that the people of Iceland themselves demonstrated in solidarity with them. Hundreds signed a full-page ad that appeared in the June 13 issue of the Morgunbladid, Iceland's major daily paper, apologizing in Chinese, English, and Icelandic for their government's actions. One of my constituents, So Dai Yee of Cambridge, told me that she drew comfort from these "people with righteous hearts."

In closing, Mr. Speaker, I want to pay tribute to the people of Iceland who rose to defend human rights.

RECOGNIZING ACHIEVEMENTS OF
HILLSBORO JOURNAL**HON. JOHN SHIMKUS**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize the achievements of, Hillsboro Journal, in Hillsboro, Illinois.

Every so often, a cornerstone is set in place to build upon a future full of hope. With countless hours of hard work by individuals who deeply care about the product they are producing, a dream of fulfilling their potential can be achieved. I would like to take this opportunity to thank the people of the Hillsboro Journal for their hard work that has resulted in quality news delivered to the people for 150 years now.

Many people have contributed to the success of the Journal, including founders Frank and Cyrus Gilmore, and the first editor Rev. Thomas Springer. Mr. James Slack bought the paper in 1875 and named it the Hillsboro Journal, which had been called The Montgomery County Herald, The Democrat, and The Anti-Monopolist in the past. The present owners, the Galer Family, began with the paper in 1945, and Mr. Little who joined the paper in 1900 and was with the paper until his death in 1970 have also made significant contributions to the Journal.

So often in our world today, family owned businesses cannot sustain the place that they once held because of massive corporate takeovers. It is a pleasure to see the Journal maintain their place in the Hillsboro area. After many years of reporting the important news of the day, the Hillsboro Journal is celebrating its 150th Publication Year. For serving the Hillsboro area for so many years, it is my pleasure to congratulate them on a job well done, but not completed. I look forward to the future of the Hillsboro Journal and the superior writing it gives us all.

HONORING THE 90TH BIRTHDAY OF
PAUL HETH, JR.**HON. MIKE ROGERS**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to pay tribute to Mr. Paul Heth, Jr.

of Jesup, Iowa, who will celebrate his 90th birthday on Monday, July 15.

Paul, the son of German immigrants, was born on his family's farm southeast of Fairbank, Iowa on July 15, 1912. When Paul started school, he first went to the local country school on County Line Road, which was a mile west of the Heth Farm, and then onto the parochial school in Fairbank situated behind St. John's Lutheran Church. Upon the family's move to a farm just north of Jesup, Paul began attending the Jesup School.

Like many young men his age, Paul's labors were needed on the family farm during his eighth grade year. Possessing a traditional Midwestern work-ethic, at age twelve, Paul began working for neighboring farmers as well. In fact, one time a local fanner, who was driving by a field in which Paul was working, stopped to compliment the young man on the straight rows of corn he was planting.

Life wasn't all work for Paul in those days. In 1937, Paul and a young lady named Ruby Rachuy headed for the Illinois state line, where in Galena they exchanged marriage vows. On May 13 of this year, Paul and Ruby celebrated 65 years of marriage. With a new wife and a growing family came new responsibilities. This led to a change of career for Paul as he headed to the John Deere Company, where he worked in the farm equipment manufacturer's "Heat Treat" facility for over 33 years, retiring in 1974.

As a member of the "Greatest Generation," Paul is devoted to his church, his community and his country. In addition to being a longtime member of Grace Lutheran Church in Jesup, Paul served three terms on the Jesup City Council, which culminated in one term as Mayor. The Jesup newspaper announced his victory, proclaiming: "Paul Heth Elected Mayor of Jesup by a Landslide." And although a family deferral prevented his own uniformed service to America, three of Paul's sons proudly represent over 50 years of service to their nation in the United States Navy.

On behalf of his wife Ruby, and children Carolyn, Verla, Bob, Ron, Patricia, Rick, Pam and Randy, I call on my colleagues in the House of Representatives to join me in expressing appreciation to Mr. Paul Heth, Jr. on his 90th birthday.

PERSONAL EXPLANATION

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. CLEMENT. Mr. Speaker, on rollcall No. 284, and 283, had I been present, I would have voted "yea".

RECOGNITION OF THE MADISON
CIVICS CLUB**HON. TAMMY BALDWIN**

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Ms. BALDWIN. Mr. Speaker, I rise to today to recognize the Madison Civics Club. For 90

years, the Madison Civics Club has brought world leaders, illuminating thinkers and local innovators to the citizens of Madison. The club began in 1912 through the tireless efforts of five charter members.

These five had just spent several grueling, and unsuccessful, months trying to convince members of the Wisconsin Legislature to adopt women's suffrage. The founding members—Georgia Lloyd Jones, Alice Bleyer, Edna Chynoweth, Lucille McCarthy and Mary B. Orvis—decided to gather for lunch, review their mistakes, seek strength and “lick their wounds generally.” From that effort, the club was born. Its goal was, and remains to this day, developing a civic conscience through being informed on local and foreign affairs.

The Madison Civics Club has flourished. Its members number more than 800. It has hosted such world leaders as Winston Churchill, Nelson Rockefeller and Eleanor Roosevelt. The Madison Civics Club brought those who have mastered the arts to Madison, including Carl Sandburg, Arthur C. Clarke and Peter Bogdanovich. Amelia Earhart, Bella Abzug and Alex Haley are just some of the inspirational individuals who have illuminated Madison's citizens. Those that shape the message of our mass media, including David Broder, Ray Suarez and Hedrick Smith, have been a part of Madison Civics Club history.

Prominent citizens, including those on the faculty of the world-class institution, the University of Wisconsin-Madison, also have addressed Madison's local concerns.

The 2002-03 season shares the hallmark of again promising an engaging and thoughtful series of speakers. The theme, as determined by the 2002-03 chair Lynn Stathas, is “The American Dream.” Speakers include: Harry Wu, Chinese dissident and human rights activist; Judith Miller, an author and Pulitzer-Prize winning correspondent at the New York Times who is considered an expert on terrorism and was in fact the target of one of the heinous and infamous anthrax letters that were mailed in 2001; Wisconsin Supreme Court Chief Justice Shirley S. Abrahamson, the first female chief justice on the Wisconsin high court and an important figure, the 150th anniversary of the Wisconsin Supreme Court; Diana L. Eck, a professor of Comparative Religion and Indian Studies at Harvard University; and Dr. David Satcher, the 16th Surgeon General of the United States.

Through these speakers, as in past years, the Madison Civics Club celebrates the enduring freedoms our nation has sustained and nurtured, building a civil society for more than 200 years. America has built a legacy of justice, freedom and hope that will be heralded through the Madison Civics Club in its 90th year.

As the representative for the 2nd Congressional District of Wisconsin, I wish the Madison Civics Club officers and members, and its past and upcoming speakers, all the best as they continue their exemplary tradition of molding a civic conscience that builds communities and benefits all.

EXTENSIONS OF REMARKS

RECOGNIZING ACHIEVEMENTS OF CHARLES L. BRIMM

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize the achievements of Charles L. Brimm, from Dupu, Illinois.

Charlie Brimm has been an influential leader in the Dupu, Illinois V.F.W., Post 6368, for years now. His past positions include 14th District Commander from 1992 to 1993, Jr. Vice Commander, and Sr. Vice Commander of the Department of Illinois. I would like to take this opportunity to congratulate Mr. Brimm on his recently named position as Department Commander of the State of Illinois.

Service in the military, the police force, county deputies office, and organizations like the Shiners have made Charles Brimm a fixture of law enforcement and an upholder of the law, as well as a caring individual. Through his leadership and efforts to improve the community, Charlie has had a positive impact on the town and people of Dupu.

I would like to thank Mr. Brimm for his service to this great country and to the people of the Dupu community throughout the years, and wish him well in his continued service with the V.F.W.

BEN-GURION UNIVERSITY OF THE NEGEV

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. ROTHMAN. Mr. Speaker, on May 9, Bert Foer of the American Associates, Ben-Gurion University of the Negev, was scheduled to testify before the House Appropriations Committee's Subcommittee on Foreign Operations, Export Financing and Related Programs, of which I am a member, on the university's important work in the critical field of desertification and water resources.

Unfortunately, because of the committee's deliberations on the supplemental appropriations bill for Fiscal Year 2002, that hearing was canceled. Thus, members were unable to hear Mr. Foer's testimony about these efforts, which have received the support of Congress because of the essential role they play in the effort to achieve peace in the region.

As Mr. Foer stated in his prepared statement, even in the turmoil that is now occurring in the Middle East, water remains a central element of hope for the future. Ben-Gurion University and its Jacob Blaustein Institute for Desert Research have played an important role in improving relations among the nations of the Middle East. The work of Dr. Eilon Adar, the director of the university's new Institute for Water Sciences and Technology, figured prominently in the critical water allocation process set forth in the Israeli-Jordanian peace agreement of 1994. His efforts are perhaps even more important today.

Congress last year recommended that the Department of State and the Agency for Inter-

national Development should consider up to \$1 million for the Institute to address the flow and transport of pollutants in groundwater in the region. This served to highlight the Institute's unique regional partnerships in applied water research.

Ben-Gurion University is situated on the edge of three of the world's four major dryland regions. This gives the university and its world-renowned research scientists a unique perspective on the challenges and solutions to regional water quality, supply and allocations issues—issues that surely will be key components of future peace negotiations. As Mr. Foer stated, even in the turmoil that is now occurring in the Middle East, water remains a central element of hope for the future.

Most of the ground water aquifers in the region are shared by at least two countries. In spite of the current conflict, water management agreements have remained in effect. Once all parties return to negotiations, the success of a lasting peace and security agreement will depend on the ability of all parties to agree on an equitable allocation of the region's scarce water resources. Thus, we should continue to support these essential initiatives.

Mr. Foer noted in his statement that we know the strains in the Middle East will not easily go away. But it is important that we seek out and support initiatives that address areas of tension and that provide opportunities for the nations of the region to work together on matters of mutual interest and peace.

The efforts of Ben-Gurion University and its Blaustein Institute are, as Mr. Foer so eloquently said in his statement, an investment in more than simply cleaner water. They are an investment in the peace process and in the cause of improved cooperation between Israel and its neighbors.

H. RES. 459

SPEECH OF

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. ETHERIDGE. Mr. Speaker, I rise today in strong support of H. Res. 459, a bill expressing the sense of the House that *Newdow v. U.S. Congress* was erroneously decided.

Like many of my colleagues, I was disappointed and shocked that the Ninth Circuit Court of Appeals ruled the Pledge of Allegiance unconstitutional. The Ninth Circuit ruling defies common sense and the timing of the decision couldn't be worse. Now more than ever we as Americans remember the important purpose of our Pledge of Allegiance, stand in awe of the magnificent symbolism of our flag, and take pride in the triumphant chords of our national anthem, the Star Spangled Banner.

Every day in this Chamber, we honor our nation by reciting the Pledge. Schoolchildren across our nation should be allowed to make that same statement, thus building a foundation of patriotism and citizenship. Generations of Americans regard the Pledge of Allegiance as a solemn statement of our nation's values.

We must not allow this misguided decision to change that fact.

As a cosponsor of this important resolution, I urge all of my colleagues to support H. Res. 459.

GOD AND COUNTRY

SPEECH OF

HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. KINGSTON. Mr. Speaker, I find the ruling by the 9th Circuit Court of Appeals regarding the Pledge of Allegiance an outrage. Labeling the Pledge unconstitutional and banning it from Public Schools is an uninformed and narrow-minded decision by a notoriously irresponsible and radical court.

Mr. Speaker, I denounce this decision, and for the record, I want to include the following remarks, which include quotations from some of our Founding Fathers as respects their view on religion and the law:

Any high school student with a basic knowledge of history and with a minimal interest in politics understands that there exists a strong separation of church and state in the United States today. This idea of separation is bitterly enforced by some politicians and always emerges as a hot topic in political debate.

But ask these same high school students about the religious beliefs of our Founding Fathers and the place of religion in the early history of our government, and you will probably find that their knowledge of these subjects is vague and incomplete.

In fact, many Americans today would be surprised to find out that the creators of our nation were profoundly religious, that many of them had no reservations about the role of God in our Government.

Yet, it is amazing to me that our understanding of the Founding Fathers and the creation of our country has been forgotten or ignored. For in one of our most cherished documents, The Declaration of Independence, which holds our most basic statement of our rights as Americans, we are told that it is "self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness."

It goes on, "That to secure these rights, Governments are instituted among Men . . ." It is as simple as that—our morality, the basis for our laws, comes from our Creator. Our government, or any democratic government for that matter, is based on our divinely inspired sense of right and wrong. This was an undisputed understanding amongst our Founding Fathers, which, somehow, escapes the modern imagination.

The Declaration of Independence presents the idea of Divine authority in vague terms, a wise and conscious choice by the authors who understood the importance of religious freedom. But the use of that language should not forsake our founding fathers as believers in a vague and indeterminable God.

On the contrary, most of these men believed in a personable and loving God. They

followed the teachings of Christianity; they were public in their faith and unreserved about their convictions. Yet, on the whole the lives of these men—signers of the Declaration of Independence, the Articles of Confederation, the Constitution—on the whole their lives and contributions to the founding of the United States are unknown to us. The details of their lives are surprising to many and certainly are relevant to today's debate and are instructive on the topic in general:

Reverend John Peter Gabriel Muhlenberg—A pastor of two churches in Woodstock, Virginia and a member of the Virginia legislature. On January 21, 1776, Reverend Muhlenberg preached his Sunday sermon on Ecclesiastes 3, "to everything there is time and a season." At verse 8—A time for war; A time for peace—he declared to his congregation that for Virginia and the other colonies, it was a time of war. He then removed his clerical robes, revealing to the congregation the full military uniform he was wearing underneath.

After the service, Muhlenberg recruited 300 men for the war; they eventually were known as the Eighth Virginia Regiment. He served throughout the Revolutionary War, achieving the rank of Major General. There is a statue of him in the Capitol depicting the moment when he disrobed in front of the congregation.

John Witherspoon—signed the Declaration. He was an ordained minister and wrote the introduction to one of the first American editions of the Bible in 1791.

Dr. Ben Rush—signed the Declaration. A leading educator, has been called the "Father of American Medicine," personally trained 3,000 students for medical degrees, founder of America's first abolition society as well as America's first Bible society: The Bible Society of Philadelphia. One of the objectives of Dr. Rush's society was to mass-produce and distribute Bibles to American citizens. In order to do so, the society had to purchase and import special stereo printing plates. Under president James Madison, congress passed an act that cancelled all importation duties for the society; it was entitled the "Act for the Relief of the Bible Society of Philadelphia," passed February 2, 1813.

John Hancock—signed the Declaration. After the revolution he became Governor of Massachusetts; during his tenure he issued several proclamations for days of prayer and thanksgiving. Typical of his proclamations was the one issued October 15, 1791, which ended with a call for the citizens of Massachusetts to pray "that universal happiness may be established in the world; [and] that all may bow to the scepter of our Lord Jesus Christ, and the whole earth filled with His Glory."

Sam Adams—signed the Declaration. He served as Governor of Massachusetts after John Hancock. Like his predecessor, he issued a number of proclamations for State wide days of prayer and thanksgiving. In an example from 1795, he asked that citizens pray "that the peaceful and glorious reign of our Divine Redeemer may be known and enjoyed throughout the family of mankind."

John Quincy Adams—sixth president of the U.S. elected to the House after his presidency. Read the Bible in its entirety once a year. On February 21st, 1848, Adams collapsed from his chair on the House floor; he was placed on

a sofa and carried to the nearby Speaker's Apartment (just off of the House Chamber). It was there that Adams uttered his last words before dying, "This is the end of earth. . . . I am composed." His words are an indication of his faith; he went out of life with the expectation of eternal reward.

George Washington—After the Revolution, Washington sent a circular letter to the 13 Governors and State legislatures declaring his resignation as Commander of the Continental army. The letter closed with a prayer:

"I now make it my earnest prayer that God would have you and the State over which you preside in His holy protection,—that He would incline the hearts of the citizens to cultivate a spirit of subordination and obedience to government,—to entertain a brotherly affection and a love for one another, for their fellow citizens of the United States at large, and particularly for their brethren who have served in the field—and finally, that He would most graciously be pleased to dispose us all to do justice, to love mercy, and to demean ourselves with that charity, humility, and temper of the mind which were the characteristics of the Divine Author of our blessed religion, without an humble imitation of whose example in these things, we can never hope to be a happy nation."

Alexander Hamilton—signed the Constitution and was one of the authors of the Federalist papers, a document that heavily influenced the creation of the Constitution. Hamilton was a devout Christian whose faith remained strong even on his deathbed. He reluctantly entered into a duel with Aaron Burr, recording in his Journal:

"I have resolved, if . . . it pleases God to give me the opportunity, to reserve and throw away my first [shot]; and I have thoughts even of reserving my second [shot]—and thus giving a double opportunity to Col. Burr."

Hamilton's decision cost him his life. On July 11th, 1804, Hamilton was mortally wounded by Burr and died 24 hours later. On his deathbed, the Rev. Benjamin Moore asked of him, "Do you sincerely repent of your sins past? Have you a lively faith in God's mercy through Christ, with a thankful remembrance of the death of Christ? And are you disposed to live in love and charity with all men?" Hamilton replied, "With the utmost sincerity of heart I can answer those questions in the affirmative—I have no ill will against Col. Burr. I met him with a fixed resolution to do him no harm—I forgive all that happened." The Reverend went on to report that Hamilton, "Expired without a struggle, and almost without a groan." Hamilton's death inspired the Reverend to write:

"By reflecting on this melancholy event . . . let the infidel be persuaded to abandon his opposition to that Gospel which the strong, inquisitive, and comprehensive mind of Hamilton embraced."

At the time of his death, Hamilton was in the process of creating a religious society with the suggested name of the "Christian Constitutional Society."

Its goals were to support the Christian Religion and to support the Constitution of the United States. This organization was to have numerous clubs throughout each state, which

could meet regularly and work to elect to office those who reflected the Christian Constitutional Society.

James McHenry—signed the Constitution; officer in the American Revolution and Secretary of War under George Washington and John Adams. Founded the Baltimore Bible society and explained the importance of the Bible in American society:

Public utility pleads most forcibly for the general distribution of the Holy Scriptures. The doctrine they preach—the obligation they impose—the punishment they threaten—the rewards they promise—the stamp and image of divinity they bear which produces a conviction of their truths—[these] can alone secure to society, order and peace, and to our courts of justice and constitutions of government, purity, stability, and usefulness. In vain, without the Bible, we increase penal laws and draw entrenchments around our institutions. Bibles are strong entrenchments. Where they abound, men cannot pursue wicked courses.

The Baltimore Bible Society still exists today (now known as the Maryland Bible Society) and functions much as it did when it was first founded. Its mission is “to encourage the circulation, distribution and printing of the Bible in all languages without note or comment.” In 1999, the society distributed over 4 million copies.

THE EARLY SUPREME COURT: ITS JUSTICES AND
OPINIONS

Justice James Wilson—one of the original justices, signed the Constitution and the Declaration, also credited with starting the first organized legal training in America for law students. Here is an example of what he taught his students about the relationship between law and religion:

“It should always be remembered that this law, . . . made for men or for nations, flows from the same Divine source: it is the law of God. . . . What we do, indeed, must be founded on what He has done; and the deficiencies of our laws must be supplied by the perfections of His. Human law must rest its authority, ultimately, upon the authority of that law which is Divine. . . . We now see the deep and the solid foundations of human law. . . . Far from being rivals or enemies, religion and law are twin sisters, friends, and mutual assistants. Indeed, these two sciences run into each other.”

Chief Justice Oliver Ellsworth—third Chief Justice of the supreme court, member of the Continental Congress during the Revolution and Constitutional Convention; believed religion was necessary in public life and declared in the Connecticut Courant of June 7, 1802:

“The primary objects of government, are the peace, order and prosperity of society. . . . To the promotion of these objects, particularly in a republican government, good morals are essential. Institutions for the promotion of good morals are, therefore, objects of legislative provision and support: and among these . . . religious institutions are eminently useful and important. . . . The legislature, charged with the great interests of the community, may, and ought to countenance, aid and protect religious institutions—institutions wisely calculated to direct men to the performance of all the duties arising from their connection with each other, and to prevent or repress those evils which flow from unrestrained passion.”

Justice Joseph Story—U.S. Congressman during the presidency of Thomas Jefferson and appointed to the Supreme Court by James Madison. He founded Harvard Law School; he wrote 286 opinions while serving as a justice as well as several legal essays published under the title, “Commentaries on the Constitution of the United States.” In this work, Story argues that the first amendment was not intended to separate religion from civil government:

The First Amendment is “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . .” . . . We are not to attribute this prohibition of a national religious establishment to an indifference to religion in general, and especially to Christianity, which none could hold in more reverence than the framers of the Constitution. . . . Indeed, the right of a society or government to [participate] in matters of religion will hardly be contested by any persons who are intimately connected with the well being of the state and indispensable to the administration of civil justice. . . . At the adoption of the Constitution and the [first] amendment to it . . . the general, the general, if not the universal, sentiment in America was, that Christianity ought to receive encouragement from the State. . . . An attempt to level all religions, and to make it a matter of state policy to hold all in utter indifference, would have created universal disapprobation, if not universal indignation.

Vidal v. Girard's Executors—This was a case that came before the Supreme Court in 1844. Stephen Girard in his will left \$7 million dollars to the city of Philadelphia and asked that a school be started for the benefit of orphans and needy children but stipulated that ministers be prohibited from serving on the faculty. The court ruled that ministers could be excluded but that did not necessarily exclude the teaching of religion from public schools. In the opinion, written by Justice Story, the court asked:

“Why not the Bible, and especially the New Testament . . . be read and taught as a divine revelation in the [school]—its general precepts expounded, its evidence explained, and its glorious principles of morality inculcated? . . . Where can the purest principles of morality be teamed so clearly or so perfectly as from the New Testament? Where are benevolence, the love of truth, sobriety and industry, so powerfully and irresistibly inculcated as in the Sacred Volume?”

In our Nation today, at the first hint of a mixing of church and state, at the mere suggestion of a correlation between religion and civil law, there erupts from certain factions outrage and indignation, followed by claims of an impending right-wing conspiracy.

These people have made sacred the quest to keep religion out of public schools and out of our Government. They believe any attempt to do otherwise is in direct conflict with the intentions of our founding fathers.

But as I have shown you, these founding fathers were absorbed with religion, namely Christianity, and understood its fundamental role in government and society.

Even Thomas Jefferson, who intentionally kept his religious beliefs obscure to the public, never once admitting to an acceptance of

Christianity, nor altogether denying its truth, even Jefferson wrote that in the pure and untainted teachings of Christ can be found the “most sublime and benevolent code of morals which has ever been offered to man.”

Why have we conceded to the ridiculous idea that religion has no place in government, that the creators wanted strict separation of church and state? These are not ideas founded upon reason but on the ignorance of atheism, ideas promoted by those who would like to see an end to religion.

As our government is founded on self-evident and unalienable rights, so too is it founded upon divine Law—these are one and the same. For a discussion of morality without God ultimately becomes absurd. Indeed, there is no government without religion.

PAYING TRIBUTE TO FRANK
KOGOVSEK

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. McINNIS. Mr. Speaker, it is with a solemn heart that I take this opportunity to pay tribute to the life of Frank Kogovsek, who sadly passed away recently at the age of 91. Frank was a pillar of the Pueblo community and, as his family mourns his loss, I think it is appropriate that we remember his life and celebrate the work he did on behalf of others.

Frank was born to Frank and Mary Kogovsek in April of 1911. Coming of age in the middle of the Great Depression, Frank's childhood tested his resolve and forged his character. The death of Frank's father from Black Lung disease in the late 1920s was a particularly hard blow to the family. And it was these defining trials that made Frank Kogovsek into the generous and wise man whose ability to reach out and minister to his family and community has touched the lives of so many.

From a young age, Frank was adept at woodworking, while also showing a particular skill at the art of dancing. It was this second talent that led Frank to meet his future wife, Mary Blatnick, at a dance in the Arcadia Ballroom. They fell in love and were married in St. Mary's Church on June 24, 1938. Frank and Mary reared an active and large family, with seven sons and a daughter, Mary Joy. As an employee of the Colorado Fuel and Iron Corporation since the age of 16, the post-war years were a boom time for Frank and his young family. Between overtime at work and his service at the Church of St. Francis Xavier, Frank's many commitments to others never came before his love for his family; by their own admission, Frank was a generous man to his children.

Mr. Speaker, it is my honor to pay tribute to the life of Frank Kogovsek, a man whose character and impact on others is evident in the lives of all who have crossed his path. It is with admiration, respect and a sense of sadness that I recount Frank's 91 years of life before this body of Congress. Although Frank has left us, his good-natured spirit lives on through the lives of those he has touched. In particular, the character of Frank's son Ray,

who so ably represented the 3rd District of Colorado in this House from 1979 to 1985, is a testament to the inspirational life led by Frank Kogovsek. I would like to extend my thoughts and deepest sympathies to Frank's family and friends during this difficult time.

UKRAINIAN ELECTIONS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. LANTOS. Mr. Speaker, I rise today to call the attention of my colleagues to bi-elections in three parliamentary districts of Ukraine that will take place on July 14.

Ukraine's parliamentary elections were held on March 31 of this year. The House of Representatives closely observed developments related to those elections; on March 20 we passed a resolution urging the government of Ukraine to meet its commitments on democratic elections as delineated in the 1990 Copenhagen Document of the Organization for Security and Cooperation in Europe (OSCE).

Conditions surrounding the March 31 elections were far from free and fair. There were hundreds of documented instances of fraud, intimidation of voters, and blocked access to the media. A few races were declared invalid, which is why bi-elections will be held on July 14.

Mr. Speaker, unfortunately it appears that these bi-elections are being run no better than the parliamentary elections; in fact they may be worse. There are reports that local officials are under pressure of losing their jobs to guarantee that candidates loyal to the President win. This seems to be the case particularly for incumbent Alexander Zhyr. As the former head of the parliamentary committee that investigated the murders of Ukrainian journalists, including Georgiy Gongadze, Zhyr is not favorable to the party of power.

Mr. Speaker, Ukraine has expressed its desire to become a full partner in Western institutions. To do so, it must uphold its commitment, as a member of the OSCE, to democratic values and human rights, including free and fair elections. I urge the Government of Ukraine to conduct these bi-elections in accordance with international standards, and to grant unfettered access to all election observers, foreign and domestic.

HAITI

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. TOWNS. Mr. Speaker, as our Nation turns its focus toward a full-scale battle against worldwide terrorism, there are some international human rights issues that are evading the scope of U.S. policymakers. This should be of great concern to those in this country who have long been concerned with the welfare of all humanity, be it in Asia, Africa, or in the Caribbean. Unbeknownst to many

in this country, one of the hungriest and most neglected nations in the world lies not only in this hemisphere, but also in our own Caribbean backyard. The situation in Haiti is worsening by the day while international financial institutions refuse to provide development assistance, and the role of the U.S. is still unclear. What is certain is that a double standard has been created regarding Haiti, and that rather than being helped, the population is being further driven into the ground.

Andrew Blandford, Research Associate at the Washington-based Council on Hemispheric Affairs (COHA), has recently authored a press memorandum entitled "As Catastrophe Approaches in Haiti, the U.S. Continues to Block International Loans." This important analysis, which was released on June 13, will shortly appear in a revised form in the upcoming issue of that organization's estimable biweekly publication, The Washington Report on the Hemisphere. Blandford's research findings spotlight the developing Haitian tragedy and examine the role played by units of our own government in orchestrating the withholding of over \$500 million in loans and grants to our poverty-stricken neighbors.

Following weeks of floods and increased potable water shortages in Haiti, residents are forced to spend, on average, nearly a tenth of their meager U.S. \$1 a day income on such a fundamental staple as water. As a result of its scarcity and inflated price, less than half of Haiti's population consumes potable water, compounding the nation's abysmal health standards. Over 4% of Haiti's populace is infected with HIV/AIDS while only 1 in 10,000 has access to a physician.

The sanctions against Haiti include the withholding of a \$146 million loan from the Inter-American Development Bank that was intended to fund education, healthcare and infrastructure projects. Because the IDB loans have already been approved, we have the ironic situation where Haiti must continue to pay interest on money it does not receive. While U.S. dollars flow in record amounts to such undemocratic nations as Saudi Arabia and Pakistan, our Caribbean neighbors live in abject poverty. We must recognize the injustice of withholding, international development assistance to a country previously ruled by the U.S.-supported Duvalier family dictatorship which distorted the country's institutions while running up record debts.

COHA researcher Blandford calls for action through the passage of H.C.R. 382, sponsored by our colleague Representative BARBARA LEE and the Congressional Black Caucus. This resolution would urge the President to end the virtual embargo on development assistance to Haiti. Consequently, the article is of great relevance since the need to constructively engage Haiti is likely to grow in importance in the coming months, given the precedent for Haitian refugees to attempt to escape to Florida by means of a perilous sea passage when famine and destitution become unbearable at home, even though they face automatic interdiction and are forced to return to the island.

AS CATASTROPHE APPROACHES IN HAITI, THE U.S. CONTINUES TO BLOCK INTERNATIONAL LOANS

Less than a decade after the United States triumphantly pronounced the restoration of

democracy in Haiti with the return of President Jean-Bertrand Aristide, the international community has financially repudiated the island nation. Only two years before its bicentennial, the unrest which has characterized much of Haiti's two centuries of independence has returned to the poverty-stricken nation. A loose and disparate opposition coalition of mainly tiny rightist factions, the Democratic Convergence, due to its tight links to conservative Washington powerbrokers, has been able to undermine the Aristide administration both abroad and at home.

THE DEVELOPING HAITIAN TRAGEDY

In recent weeks, in addition to Haiti's routine political and economic woes, its populace has been forced to spend, on average, nearly a tenth of their meager U.S. \$1 a day income on water alone due to a lethal shortage of supplies. Because of its scarcity and price inflation, less than half of Haiti's population consumes potable water.

Dr. Paul Farmer, a Harvard medical professor and director of Haiti's celebrated Zanmi Lasante clinic, notes the close connection between contaminated water and the cataclysmic HIV epidemic that affects 4% of the island's population. Dr. Farmer has of late witnessed the number of untreated patients in Haiti multiply at an unprecedented pace: "I had worried about 60-70,000 patients for the year. Now it'll likely be well over 120,000. The blocked \$146 million in IDB [Inter-American Development Bank] loans are for health, water, and education. It's insane for the richest country in the world to hold up financing of these projects in one of the poorest." Dr. Farmer's invaluable role in spearheading the battle against AIDS, nevertheless, is thus far a losing effort. Currently there is only one physician for every 10,000 Haitians. The Pan-American Health Organization's director, George Alleyne, laments that 74 Haitian babies die per every 1,000 live births and that life expectancy on the island is among the lowest in the Americas. To him the cause is clear: "It is poverty."

THE U.S. ROLE IN HAITI'S PLIGHT

Due to the U.S. Treasury Department's virtual veto power over the IDB, a low interest loan of \$54 million meant to improve Haiti's access to clean water cannot be disbursed, despite the fact that the bank's charter specifically forbids such political meddling. The IDB claims that no loans can be sent to Haiti because the country is in arrears, but the State Department has made it clear that international pressure will be removed only when the strict demands on the U.S. agenda are met. At June's OAS General Assembly in Barbados, U.S. Secretary of State Colin Powell asserted that Haiti needs the assistance of the international financial community . . . but it is difficult to provide that kind of aid until there is political stability." Despite Aristide's democratic authenticity, the Convergence's provocations have effectively cut off international resources to Haiti while billions of U.S. dollars flow to authoritarian nations such as Saudi Arabia and Pakistan.

In January 2001, Ira Kurzban, the Aristide administration's general counsel in the U.S., claimed that the IRI facilitated the allocation of \$3 million of NED funds to the Convergence. Shortly thereafter, in a February 2 article, The Washington Post substantiated the IRI's connection to the origins of the Convergence. In effect, the IRI has arranged for the Convergence to have a de facto veto power over Aristide's constitutional mandate.

The Convergence essentially delivered an ultimatum to the Haitian president when it

called for the annulment of the results of the May 2000 election, which its leaders insisted were flawed. Aristide agreed over a year ago to fire the seven senators whose votes were contested and to move up the elections despite the fact that an American delegation led by Congressman John Conyers (D-MI) of the Congressional Black Caucus (CBC) witnessed the balloting and characterized it as "the democratic process working, exceptionally well." The Convergence, however, still stonewalls negotiations, choosing instead to advance its policy of economic asphyxiation of the government.

The Republican leadership argues that USAID already delivers sufficient funding to Haiti. According to remarks made by Secretary of State Powell, the U.S. only provided \$73 million in aid last year for emergency rations, but this figure will be slashed to \$20 million for Fiscal Year 2002. Moreover, a USAID official in Haiti recently told visitors "79 cents of every USAID dollar worldwide is actually spent in the U.S."

THE OAS-SPONSORED NEGOTIATIONS

A total of \$500 million in approved international loans and grants have been withheld as a result of demands made by Aristide's political enemies that a consensus be reached between the democratically-based Aristide administration and the Convergence's questionable bona fides. Few analysts see any grounds for optimism as an OAS negotiation team is in the country on its twentieth visit in an attempt to produce a peace accord. Like Aristide, the OAS has been unable to accomplish its goal due to a lack of political and financial assets. Section nineteen of the OAS Inter-American Commission on Human Rights Report specifically cites a lack of resources as the leading cause behind Haiti's inefficient judicial institutions and the OAS has displayed a particular lack of ability to operate independent of State Department dictates.

At a June 28 Haiti Symposium in Washington, the leader of the OAS peace initiative, Assistant Secretary General Luigi Einaudi, fresh from the island, agreed that it is now "the absolute critical time" to move forward and set a deadline for negotiations. This step would thwart the Convergence's strategy of issuing perpetual ultimatums. Einaudi stressed, "There is not one nation—certainly not one of the 34 in the OAS—which disputes Aristide's presidency." The problem, as he explained it, is that the international community will not sign onto the process of renewing development support until Aristide and his administration's opposition reach an agreement. "I hate sanctions," Einaudi griped, "they're easy to put on and hard to take off."

Since a consensus in Haiti is far from assured, Representative Barbara Lee (D-CA) and the CBC introduced in April H.C.R. 382, "New Partnership for Haiti," which calls for an end to U.S.-influenced sanctions on the island, regardless of the Convergence's obstinacy. However, while the resolution remains stalled in committee, and with Congress sharply divided along party lines, it is doubtful whether the legislation will reach the House floor. Furthermore, Haitian advocacy groups stress that a resumption of international development assistance is only the first step in addressing Haiti's dire condition. Once the Haitian government is able to establish its authority and marshals the necessary resources, it will have to begin to create solid institutions and reform its judicial process in order to effectively serve the nation.

H.R. 4954, THE MEDICARE MODERNIZATION AND PRESCRIPTION DRUG ACT

SPEECH OF

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. ETHERIDGE. Mr. Speaker, I rise today in opposition to H.R. 4954, the fraudulent Republican Medicare bill.

Prescription medicine coverage is one of the most important issues facing our nation today. Since it was created in 1965, Medicare has been the bedrock of health security for America's senior citizens. However, Medicare is incomplete without prescription medicine coverage. I support a plan that is simple, comprehensive, and without gaps in coverage. The Republican Medicare bill fails on all of these points.

Today, prescription medicines are a critical component of medical treatment. Indeed, prescription medicines keep many seniors out of the hospital and at home with their families. But too many of our seniors must choose between paying for food and other necessities or the prescription medicines they need to live full, healthy lives. Seniors deserve prescription medicine coverage under Medicare. Yet, the Republicans continue to play politics with this vital issue.

There are several flaws in this Republican bill. First, it is inadequate. The Republican Medicare bill would cover less than 20 percent of what seniors are projected to spend on prescription medicines over the next ten years. The bill also leaves seniors who spend between \$2,000 and \$3,700 on prescription medicines without coverage for part of the year forcing nearly half of all seniors to pay the full cost of their medicines.

Second, the Republican bill provides no guaranteed benefit to seniors. The only thing this bill promises seniors is the ability to shop around for some type of coverage. There is no specific language in this bill that sets premiums at \$35. In reality, private plans can charge whatever they want for premiums. What's more, under their plan the insurance companies that will administer this plan are allowed to vary their prices and the availability of coverage all across the country, which will shortchange the seniors who need this benefit the most.

Finally, this Republican bill provides subsidies to private insurance companies instead of providing seniors with a guaranteed prescription medicine benefit. Tonight we see the Republican majority's priorities, Mr. Speaker. They put insurance companies first, not our seniors.

Mr. Speaker, this is not a prescription medicine benefit plan. It's a sleight of hand proposal designed to hide the Republican Leadership's true intention to eventually privatize Medicare.

It is noteworthy that the Republican majority has placed a number of provisions relating to physicians and hospitals into the bill that I strongly support. Currently, physicians are not being adequately reimbursed for taking care of Medicare patients, making it difficult to keep

their doors open. The current system defies common sense, basing physician reimbursements on the state of the economy instead of the cost or need of health care. The fact is folks do not stop visiting the doctor because the economy is sluggish. I support the provisions in this bill that would correct this flawed payment system.

As a Member of the Congressional Rural Health Coalition, I also support provisions in this bill to increase the reimbursement payments for our nation's hospitals, especially those facilities located in rural areas. In fact, I joined 77 of my colleagues in writing the Chairmen of the Energy and Commerce and Ways and Means Committees in support of provisions to standardize the base payments between rural and urban hospitals. Language to this effect is also included in the bill. There are other worthwhile measures in this bill, and it is a shame these provisions are included in a fundamentally flawed bill.

Despite these provisions, I am unable to support H.R. 4954 because the Republican Majority's Medicare bill will not help America's seniors get access to affordable prescription medicines. I support the Democratic alternative that is easy to understand, designed to fit into our Medicare system, and provides seniors access to all of the medicines they need. It also includes all of the provider reimbursement provisions that are contained in H.R. 4954. Unfortunately, the Republican majority has denied us the opportunity to offer this alternative.

America's seniors deserve a prescription medicine benefit that allows them to remain healthy in their golden years. We must strengthen Medicare with a real, guaranteed Medicare prescription medicine benefit, not a private insurance plan that leaves half of America's seniors without prescription medicine coverage. I urge my colleagues to reject this sham Republican Medicare bill, and to support the Democratic Motion to Recommit.

NEW HAMPSHIRE CONGRESSIONAL LAW ENFORCEMENT AWARDS

HON. JOHN E. SUNUNU

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. SUNUNU. Mr. Speaker, I rise today to pay tribute to the men and women of law enforcement who have exemplified themselves through uncommon and distinctive service to the citizens of New Hampshire during the course of their duties.

Few among us would question that one of the most demanding professions in our nation is law enforcement; it is a profession that requires sacrifice, courage and a dedication to serve others. Each day, these brave men and women put themselves in harm's way in order to administer the laws of our society. In so doing, they have earned—and deserve—our respect and our gratitude.

In 1998, my friend and colleague, Representative CHARLES BASS, and I first established the New Hampshire Congressional Law Enforcement Awards at the request of current and retired New Hampshire law enforcement

personnel. We both agreed that these awards would be an excellent way to honor the men and women of law enforcement whose service and professionalism was truly extraordinary, and this Sunday, July 14, a ceremony will be held at the New Hampshire Police Standards and Training facility in Concord to honor the 82 recipients of this year's awards.

In New Hampshire, the nominations process for the awards starts with all duty sworn officers of the law, full or part-time, including local, county, state and federal law enforcement agencies. Law enforcement professionals from other states who distinguish themselves in serving the people of New Hampshire are also eligible. Nominations are then made based on exceptional achievement in any police endeavor, including: extraordinary valor; crime prevention; drug control and prevention; investigative work; community policing; community service; traffic safety; search and rescue; and juvenile training, programs. Individual officers are nominated for the award by citizens, an officer's department or his or her co-workers, a city or town official or a government agency.

The awards honor law enforcement personnel in one of five separate categories: Career Service Award, which recognizes those who have shown an outstanding dedication to law enforcement over the length of their career; Unit Citation Award, which recognizes officers for actions taken as a group in dangerous situations; Dedication and Professionalism Award, which recognizes personnel who exceed their normal duties in service to others; Above and Beyond the Call of Duty Award, which honors officers who put their lives in harm's way in service to others; and Associate Service Award, which honors fire and rescue personnel as well as civilians who assist law officers in the course of their duties—at times putting their own lives at risk.

While Congress works each day to pass legislation that supports local law enforcement and protects the interests of our communities, families and children, the men and women of law enforcement, working on the front lines every day, take the necessary risks to ensure our safety and the safety of our loved ones. These awards have been a fitting tribute to our officers and a reminder to all of us of the important role they play in our lives and in our communities.

Mr. Speaker, I join with Congressman BASS and all the citizens of the Granite State in offering our appreciation for the service and the dedication of our law enforcement personnel. I congratulate each recipient of the 2002 New Hampshire Congressional Law Enforcement Awards, and thank the people with whom they work and the citizens they serve for nominating such outstanding individuals.

PAYING TRIBUTE TO ALAN TERRY

HON. SCOTT MCINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to congratulate an outstanding individual from Colorado whose hard

work and dedication has produced a number of awards throughout his business career. Alan Terry, the president of Terry & Stephenson, P.C. has just received a very high honor from the business community, as he is the recipient of the Accountant Advocate of the Year award. The Denver Urban Renewal Authority nominated Alan for this award, which is among the most prestigious and coveted forms of recognition given in the business world, and I am honored to bring forth his accomplishments before this body of Congress and nation.

Alan attended Trinidad State Junior College, received an AA in Business Administration and went on to complete his undergraduate work at the University of Southern Colorado where he earned a BS degree in accounting. His professional career began with Price Waterhouse in Baltimore, Maryland and after several years, Alan moved to Pittsburgh, Pennsylvania where he started Terry & Stephenson, P.C., a certified public accounting, and management consulting firm. In 1986, he moved to Denver, Colorado and opened the Denver office of Terry & Stephenson, P.C.

Since opening the Denver office, Alan has worked with a variety of businesses including start up businesses, Fortune 500 corporations, the State of Colorado, the City and County of Denver, and various nonprofit organizations. He serves on many nonprofit boards and is an active member of the Colorado Society of Certified Public Accountants.

Mr. Speaker, it is clear that Alan Terry is a man of great dedication and commitment to his profession and to the people of Colorado. He has demonstrated that success can be achieved through hard work and commitment to his clients and I am honored to bring forth his accomplishments before this body of Congress and this nation. He has achieved great success in his career and it is my privilege to extend to him my congratulations on his selection for the Accountant Advocate of the Year award. Alan, I wish you all the best in your future.

IN RECOGNITION OF NORTH BAY STAND DOWN 2002

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize the importance of North Bay Stand Down 2002 as a vehicle for providing homeless and at-risk veterans in Napa, Solano and Yolo Counties with access to existing and planned programs.

Many of these veterans have never applied for the benefits they have earned through their service to our country. Through the user-friendly "veterans helping veterans" atmosphere of North Bay Stand Down 2002 they will be encouraged to transform the despair and immobility of homelessness into the momentum necessary to get in to recovery, to resolve legal issues, to seek employment, to access health services and benefits, to reconnect with the community and to get off the street.

It is estimated that veterans comprise nearly 30 percent of our homeless population nation-

wide. For them, life on the streets can be both dangerous and debilitating and often leads to feelings of hopelessness.

North Bay Stand Down 2002 will help veterans free themselves from this self-defeating cycle of despair and begin to repair their lives by breaking down the barriers that contribute to their isolation.

North Bay Stand Down 2002 has the support of the U.S. Department of Veterans Affairs, the California State Department of Veterans Affairs, the State Employment Development Department, local governments and veterans' and trade organizations and members of the community.

Mr. Speaker, it is appropriate that we acknowledge and honor today the men and women who organized North Bay Stand Down 2002 for their commitment to our veterans and to our country.

THE TECHNOLOGY ADMINISTRATION AND NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT OF 2003

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. BARCIA. Mr. Speaker, today, I and Representatives M. UDALL, R. HALL, WEINER, HONDA, RIVERS, LARSON, ISRAEL, MATHESON, WOOLSEY, BACA, E.B. JOHNSON, COSTELLO, and LOFGREN are introducing the Technology Administration and National Institute of Standards and Technology Act of 2003. This bill provides a 3-year authorization for the Technology Administration and the National Institute of Standards and Technology.

For the Technology Administration the bill provides the Administration's FY03 request. The legislation then provides for inflationary increases in FY04 and FY05.

For the National Institute of Standards and Technology, the bill provides full funding for the Manufacturing Extension Partnership program (MEP). The bill authorizes \$110 million in FY03, which will fully fund MEP Centers in 400 locations in all fifty states and Puerto Rico. The Manufacturing Extension Partnership program is strongly supported by small- and medium-sized manufacturers throughout the United States. It is a proven and successful industry/government partnership. Both the National Association of Manufacturers and the National Coalition for Advanced Manufacturing endorse the Manufacturing Extension Partnership program and this level of funding. In FY04 and FY05 the bill provides for inflationary increases for MEP funding.

The bill also provides funding for the Advanced Technology Program and addresses Administration concerns about the program. First this bill provides a stable funding base for the ATP by providing sufficient funds to allow for \$60.7 million in new awards to be made in each fiscal year. In addition, the bill authorizes four policy changes to the ATP that were proposed by Secretary Evans. The bill makes Secretary's proposed changes to (1) allow universities to lead joint ventures, (2) allow universities and non-profit laboratories to be invested with intellectual property, (3) stress that

ATP does not support product development, and (4) allows for private-sector experts to participate in the ATP project review process.

The bill also provides the Administration's request for the standards supporting activities performed by NIST. In addition, the bill provides \$12 million for NIST to continue its investigative work on the collapse of buildings in the World Trade Center complex. The bill also provides \$10 million to upgrade the Large Fire Facility at NIST's Gaithersburg campus. One of the most important recommendations of the Building Performance Assessment Team that did a preliminary investigation on the structural causes of the collapse of buildings at the World Trade Center complex was that current standards do not require actual fire testing of structural components. In other words, we can't evaluate how buildings will perform under actual fire conditions. Currently no place in the United States can perform this type of testing. The funding for the renovation of the Large Fire Facility will allow this type of testing to be done. Finally the bill provides much needed funding for the renovation of the NIST facilities in Boulder, CO. The bill provides the Administration FY03 request for this activity and in FY04 and FY05 provides funding in accordance with NIST's 10-year construction plan.

This bill also incorporates legislation that enhances NIST's measurement and standards activities. Title III of the bill is the text of the H.R. 2733, the Enterprise Integration Act of 2002. This authorizes the National Institute of Standards and Technology to work with major manufacturing industries on an initiative of standards development for enterprise integration. Title IV of the bill incorporates the provisions of H.R. 3683, the Fair Play in Sport Act of 2002. These provisions were drafted by Representative MATHESON, and will utilize the National Institute of Standards and Technology's unique measurement capabilities to assist the United States Anti-Doping Agency in their mission.

This bill represents tough choices in a difficult budget scenario. In developing this legislation we realized that tough choices needed to be made and priorities set. As authorization legislation, this bill represents our priorities and funding allocations to our colleagues on the Appropriations Committee as they begin their difficult task this year. We also hope that this bill will signal the Administration of our views as they prepare the fiscal year 2004 budget request.

This is a solid authorization bill and I would urge my colleagues in the House to cosponsor this legislation.

PERSONAL EXPLANATION

HON. J.C. WATTS, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. WATTS of Oklahoma. Mr. Speaker, I was unavoidably detained in my district and missed recorded votes on Monday, July 8, 2002. I would like the RECORD to reflect that, had I been present, I would have cast the following votes:

On passage of H.R. 4609, rollcall vote No. 283, I would have voted "yea."

On passage of H.R. 2643, rollcall vote No. 284, I would have voted "yea."

PAYING TRIBUTE TO ZELMA LA BAR

HON. SCOTT MCINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Zelma La Bar and thank her for her contributions to the Pueblo Horizons Federal Credit Union and the community of Pueblo, Colorado. Zelma will always be remembered as a dedicated leader and an innovative CEO. As she announces her retirement, I would like to bring forth her accomplishments before this body of Congress today.

Zelma has served as chairperson of the Pueblo Area Chapter of Credit Unions since assuming that position in March 1997. She has also served on a number of Colorado Credit Union League Committees from 1991–2002, which includes the Legislative Subcommittee for Regulatory Issues and the Environmental Scan Sub-Task Force. Zelma is a member of the Credit Union Executives Society and serves as the Pueblo Horizons Federal Credit Union representative to the Greater Pueblo Chamber of Commerce, the Latino Chamber of Commerce and PEDCO.

Mr. Speaker, it is a great honor to recognize Zelma La Bar and the groundbreaking leadership that she has brought to the Pueblo Horizons Federal Credit Union and the City of Pueblo. Her devotion helped enable many families to invest their money and helped to make their dreams come true. I would like to applaud her for her years of dedication and hard work. Her time and dedication have proved an invaluable addition to the company. I wish Zelma the best of luck in her future endeavors—I hope she will enjoy her well-deserved retirement!

MEDICARE MODERNIZATION AND PRESCRIPTION DRUG ACT

SPEECH OF

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. UDALL of Colorado. Mr. Speaker, I opposed the Republican prescription drug bill. And not only the bill, but the process by which we considered it.

Since being elected to Congress in 1998, not a day has gone by without my hearing from a senior who is struggling to pay for prescription drugs.

I've told the story of the woman from Westminster, CO who has to visit the food bank once a week so that she can afford her prescription drugs.

I've told the story of another woman who plays her own version of the lottery. She puts

all of her bills in a fish bowl, draws one bill, and the one she draws is the one she puts off paying so that she can buy the drugs her doctor tells her she has to take.

And I've told the story of Juanita Johns, a constituent who kept the thermostat in her home at 60 degrees so she could pay her drug bills. That is until she sold her house and moved in with her son in order to afford her medicines. Juanita is not with us anymore.

Unfortunately, these women are not alone. Over one-third of Medicare beneficiaries have no drug coverage. Medicare does not cover outpatient prescription drug costs. Many seniors turn to supplemental plans for drug coverage, but these plans often are expensive and have high deductibles or low benefits.

No senior should be faced with the choice of buying food, paying the electric bill or buying critical life saving medicines.

We have an obligation to our Nation's seniors to provide them with the lifesaving treatments they need and deserve.

Last month, we had the opportunity to do something about it. But the Republican leadership insisted on pushing through a proposal that subsidizes insurance companies and drug companies instead of helping seniors. Their bill does nothing to guarantee coverage for seniors. It has a gap in coverage that will leave Medicare beneficiaries 100% financially liable for thousands of dollars in drug costs, covers only 6% of Medicare beneficiaries, and does nothing to lower the price of prescription drugs. Instead, their bill gives \$310 billion to insurance companies to encourage them to offer stand-alone prescription drug plans, something that the insurance companies themselves say will not work.

If this bill becomes law, and if past is prologue, we will have insurance companies knocking on our door in the not too distant future telling us that they don't have enough money to provide these plans, and that they need more. It's just like what is happening with Medicare+Choice. Several insurance companies promised seniors affordable health care, took their premiums and then dumped them a year later. And now many seniors are scrambling to find a new doctor.

Now, I support the increase in payments for providers, which are included in the Republican bill. As a matter of fact, I am cosponsoring legislation to increase physician payments and to change the formula upon which those payments are based. I support increased payments to our Nation's hospitals, and I've joined with several of my colleagues asking the leadership of this body to address Medicare HMO payment issues. But in a cynical political move, the authors of this bill attached these provider payments to their prescription drug bill to force us to vote against them. So I am going on the record today to say that my vote against this bill should not be construed as a vote against provider payments.

And my vote against this bill should not be construed as a vote against prescription drugs for seniors. I support the Democratic plan, which is a defined benefit under Medicare. It has a guaranteed premium, a guaranteed copayment, guaranteed coverage, and is available to all those seniors who need it. It doesn't have any gaps in coverage, and it has no gimmicks. That's what our seniors deserve.

But the Republican leadership wouldn't even let us bring our bill to the floor for debate. They wouldn't even let us offer amendments to their bill. Why not? If it was so bad, they could have just voted it down. But they knew that our plan was better and if it were put up against the Republican plan, it would have prevailed. Instead, they took a "my way or the highway" approach.

On the day of the vote, many members took to the floor of the House to recite the Pledge

of Allegiance. ". . . one nation under God, indivisible, with liberty and justice for all."

Where is the indivisibility? Where is the liberty in this rule? Where is the justice in this rule? In this debate? In this bill? We should set a better example for other governments around the world. This is not the way democracy works.

Mr. Speaker, the great civil rights worker Fannie Lou Hamer once said, "I'm sick and tired of being sick and tired." So am I, and so

are the millions of seniors who can't afford the drugs their doctors tell them they have to take. The number of seniors in this Nation will double over the next twenty years, and at that time, their voices and actions will be stronger than the insurance companies and the drug manufacturers. I just hope we don't have to wait that long.

I could not support the rule or the bill.

HOUSE OF REPRESENTATIVES—Wednesday, July 10, 2002

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. COOKSEY).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 10, 2002.

I hereby appoint the Honorable JOHN COOKSEY to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Robert W. Horner III, Senior Pastor, Peachtree Corners Baptist Church, Norcross, Georgia, offered the following prayer:

Our God and Father, we thank You for the privilege of life itself. And we are grateful that You have taught us that the essence of life is contained in knowing and following You. Thank You for this great Nation and the obvious Hand of God upon us.

May the challenge ahead for each of these Representatives be met with the strong help of the Almighty. Remind us that it is a clean life that is blessed by You, and grant grace, forgiveness, peace, wisdom, fortitude, and insight to each of these decision-makers today. May they seek Your truth as they make legislative steps that affect so many.

We honor Your presence here today. May the difficulties of deliberation be offset by Your mercy, which always leads to victory.

In Jesus' name, Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York (Mr. MCNULTY) come forward and lead the House in the Pledge of Allegiance.

Mr. MCNULTY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Repub-

lic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill and joint resolution of the House of the following titles:

H.R. 2362. An act to establish the Benjamin Franklin Tercentenary Commission.

H.J. Res. 87. A joint resolution approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982.

WELCOMING REVEREND ROBERT W. HORNER III

(Mr. BARR of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARR of Georgia. Mr. Speaker, it is indeed an honor and a great personal pleasure to welcome today and invite to deliver the invocation seeking the blessing of our Lord God Almighty to these Chambers Pastor Robert W. "Bob" Horner III, Senior Pastor at Peachtree Corners Baptist Church in Norcross, Georgia.

One of the first entries in Pastor Horner's résumé is the fact that he is 6-foot-3. Now, for us folks of average height, 6-foot-3 is tall indeed, but the stature of this man of God goes far beyond 6-foot-3. He is indeed a giant among men. The strength and the height of his character and his stature is measured not in inches but in his great, deep, and abiding love for our Lord and his deep, abiding commitment to bring that message of salvation and redemption and commitment to those less fortunate, to all with whom he comes in contact, and many, many more all across this globe through the power of prayer.

It is indeed an honor to welcome today to these hallowed halls Pastor Bob Horner who leads the very large, very generous and committed congregation which I am proud to call part of my home in Georgia, Peachtree Corners Baptist Church in Norcross, Georgia.

MEMBERS RALLYING TOGETHER

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, one of the beauties of being in Congress after September 11 was the Members, Democrats and Republicans, rallying together on behalf of this great Nation. It is regrettable what I have seen in the last 24 hours, the attack on the President relative to the recent corporate scandals.

If we want to point fingers and lay blame, we will never solve the problem for the average investors. We will not stabilize the stock market. We will use politics to ruin the economy of this Nation. We can work together as Democrats and Republicans to solve the problem or we can sit here and point fingers.

They pat the President on the back relative to the war against terrorism, and then they stab him in the back relative to this war against corporate waste, fraud and abuse.

We have a significant problem in America. We need to get to the heart of it.

When the chief executive of this Nation lied to a grand jury, it was described as none of our business, that is personal, it does not matter if someone lies before the jury as long as it is about their personal life. Regrettably, what these CEOs are doing is lying to their shareholders. It is equally bad and they should be punished and sent to jail.

RECOGNIZING ED MEZEUL FOR 45 YEARS OF SERVICE TO FULLER BRUSH COMPANY AND ORANGE COUNTY

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Speaker, today, I rise to honor Ed Mezeul for 45 years of service as a top-selling Fuller Brush man. Ed proudly served our Nation as a gunner on a ship patrolling the Atlantic coast during World War II, damaging his eardrums in the process. He could have collected disability, but instead, he wore hearing aids and has worked 6 days a week since the 1950s.

At the ripe young age of 55, he moved his family out to Orange County, California, to start a new life, and his hard work and dedication earned him a spot on the Fuller Brush Company's top sellers list each and every month. At a time when the troubles of large companies like Enron and WorldCom are causing American workers to feel insecure about their futures, it is refreshing to hear stories like Ed's that remind us of a time when employees

dedicated their entire working careers to companies that were loyal to them also.

WALK FOR HOPE TO CURE BREAST CANCER

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, in October thousands of south Floridians will participate in the City of Hope's Walk for Hope to Cure Breast Cancer at Aventura Mall and Sawgrass Mills. Walk for Hope Against Breast Cancer will help raise funds for life-saving research at City of Hope Medical Center and Beckman Research Institute, a National Cancer Institute dedicated comprehensive center.

This walk is just one step in what will be a successful journey toward a cure for breast cancer. This year in south Florida alone almost 3,000 women will die from breast cancer. In addition, over 13,000 women will be diagnosed with breast cancer in my area.

I congratulate event cochairmen of the walk, Lauryn Gilliam, Billy Fischer, Suzanne Chesser, and Cathy Blanchard. I also commend the City of Hope and all involved with Walk for Hope for their dedication in our battle against breast cancer.

CORPORATE FRAUD

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, yesterday, President Bush gave a major speech on his plan to curb executive greed and corporate misgovernance. Someone should tell the President, actions speak louder than words.

Responding to his corporate contributors, President Bush supported weak pension and accounting reform bills in the House. He refused to support legislation to close loopholes that allow American companies to avoid U.S. taxes by moving offshore. He has openly supported the idea of turning Medicare and Social Security over to the private sector. Apparently, the President and his Republican allies in the House believe Medicare would be better run by the health insurance industry, major Republican contributors; and Social Security would be safer in the hands of Wall Street, again major Republican contributors.

So my colleagues understand if I view the President's plan to deal with the recent spate of corporate scandals a bit skeptically. To borrow a famous line from a long-ago civil rights speech, "Don't tell me what you believe; tell me what you do, and I'll tell you what you believe."

SUPPORT FOR LESS-THAN-LETHAL PROVISIONS OF ARMING PILOTS AGAINST TERRORISM ACT

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, today we will debate H.R. 4635, the Arming Pilots Against Terrorism Act. I urge my colleagues, of course, to support this; and I am especially pleased that Chairman MICA of the Subcommittee on Aviation has offered a manager's amendment that has a provision to give authority to flight deck crew to carry less-than-lethal weapons.

This sensible measure supports the National Institute of Justice's findings that less than lethal weapons may also play a role in flight security. The NIJ recently reported to the Subcommittee on Aviation that "Electrical shock weapons show promise for use by the flight deck crew. However, substantial systematic testing in realistic settings of their effects is essential to ensure they will not damage or disable critical flight systems."

So, Mr. Speaker, in addition to firearms, we should expand and explore weapons alternatives that are available to pilots to defend their aircraft.

WE NEED ACTION, NOT RHETORIC

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, the President had an opportunity to show strong leadership and get tough with corporate crooks yesterday. His speech was long, 27 minutes, on rhetoric but is short on action.

The Business Roundtable and the National Association of Manufacturers applauded loudly; they endorsed it. Of course, they are the same people who fought every reform that was proposed over the last decade that could have prevented these abuses. They loved the President's proposal because it was short on action.

The aide to the White House said, well, the proposals were watered down over the last few weeks because the President did not want to hurt the economy by imposing too much regulation. Hurt the economy? What has WorldCom done by evaporating \$80 billion of equity, thousands of jobs and people's IRAs and 401(k)s? What has Enron done by manipulating the energy market and driving up energy costs in the western United States by 40 percent, while Ken Lay, the President's favorite guy, stole \$100 million? That is hurting the economy.

We need action, not rhetoric.

CORPORATE RESPONSIBILITY

(Mr. PITTS asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, a crook is a crook whether he is dealing drugs in an alleyway or cooking the books to cheat employees and shareholders. If someone commits a crime, they should do the time, and I am glad to say we have a President who understands this. Yesterday, President Bush went right to Wall Street to tell corporate America to clean up its act, and I believe they will.

We should all be clear about one thing, the vast majority of America's corporations are run by honest and trustworthy people. For every Enron and WorldCom, there are thousands of companies who have done nothing wrong at all, but when it comes to corporate executives who are willing to cheat their own employees out of their retirements just to add a couple of dollars to their stock prices, in those cases, we should have zero tolerance.

□ 1015

Somehow, during the 1990s, some executives decided it was okay to cook the books a little. Well, it is not okay to cook the books, and America's executives need to know if they do cook the books this government is going to come down on them hard.

I applaud the President for his leadership.

DO SOMETHING, CONGRESS

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, there is an old saying about getting prepared enough to address a problem, and it goes something like this: Nero fiddled while Rome burned.

Well, the House Republican leadership has not even picked up the fiddle to address some of the problems that we have in the world today that are a result of the terrorist attack on 9-11.

Today, we have one single vote all day in the House of Representatives, when in fact there are three important pieces of legislation that are bipartisan that we could bring up today. One is the intelligence authorization bill that is languishing in the Committee on Rules.

Why does the House Republican leadership not bring up a bill that funds our intelligence community and begin some reforms to correct problems from the past?

Secondly, we have a defense emergency supplemental to pay for our troops in Afghanistan. That is not on the floor.

And thirdly, a bipartisan AmeriCorps bill to make sure that our volunteers that want to do something in America can respond to the concerns there.

Let us have the House Republican leadership tell us why these bills are not on the floor.

H.R. 3763, CORPORATE AND AUDITING ACCOUNTABILITY, RESPONSIBILITY, AND TRANSPARENCY ACT

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, yesterday the President of the United States offered a clarion moral call for corporate responsibility and personal accountability, yet we hear our colleagues on the other side of the aisle this morning lamenting that the President has spoken words but he has done little.

The gentleman from Ohio (Mr. BROWN) just said, tell me what you do, and it is a fair question. I would respond to the gentleman that what we did in April of this year, with the support of 119 Democrats in this institution, was to pass the Corporate and Auditing Accountability, Responsibility, and Transparency Act.

In so doing, we prohibited firms from providing consulting services that are doing auditing, we created a new oversight board, plain English requirements, criminality for interfering with audits, just to name a few. One hundred nineteen Democrats voted for this measure. This body has acted.

As the Democrat leadership yesterday lamented inaction in Washington, D.C., they ask us, as Groucho Marx did, Mr. Speaker, "Who you gonna believe, me or your own eyes?"

ENOUGH IS ENOUGH

(Ms. BALDWIN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BALDWIN. Mr. Speaker, over the last several weeks, the voices in favor of sweeping corporate reforms have been loud. Now I believe it is time for Congress' actions to be tough.

Virtually every day brings another announcement in which a company has cooked their books, misled investors, or threatened the jobs of American workers. In my home State of Wisconsin, Enron and WorldCom's deceptions have caused the public employee retirement system to lose over \$110 million. This retirement system is the safety net of nearly half a million current and former public employees, including thousands of hardworking teachers and policemen.

It is time that this House and this Congress say enough is enough and restore the confidence that investors had in the corporations of this Nation and the confidence that our constituents had in this government by walking the walk of all the talk.

HOUSE HAS ACTED, OTHERS ON THE HILL HAVE NOT

(Mr. HAYWORTH asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, there is much that my friend from Wisconsin had to say with which I agree. Now let us get to the rest of the story.

My friend from Indiana made it clear: On April 24, this House, the Republican majority, with 119 of our friends across the aisle in the Democratic Party, a strong bipartisan majority, came together to reaffirm accounting reforms, investor transparency, and to end the deception.

Mr. Speaker, I am aware that we cannot characterize action or inaction on the part of the other body, so, Mr. Speaker, let me say it this way: What are some on this Hill waiting for?

The President made it clear yesterday, Mr. Speaker. Whether an individual sits in a board room or is a common street thug, if they try to rob an American citizen, they will be convicted by a jury of their peers and they will go to jail.

Mr. Speaker, we put the robber barons of the 21st century on notice today that we will not stand for fraud and deception and deceit and theft from the American people. The House has acted, others on this Hill need to follow suit.

CORPORATE ACCOUNTABILITY SHAREHOLDERS' RIGHTS

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, there is anger and indignation all across this Nation about corporate shenanigans. This anger has manifested itself in a wide range of legislative proposals.

But let us remember, Mr. Speaker, that it was this very House that gave the green light to corporate executives to lie to their board and their stockholders. The Private Securities Litigation Reform Act of 1995 was part of the Contract With America. It was vetoed by President Clinton but was passed over that veto.

Mr. Speaker, we turned these corporate carnivores loose by shredding the ability of shareholders to hold executives accountable for their misstatements and misdeeds. And we put the stake in the heart of shareholders' rights by passing the Securities Litigation Uniform Standards Act of 1998. This act threw all security fraud class action suits into Federal Court where they were subject to the terms of the PSLRA.

Anything we try is a legislative Band-Aid until and unless we restore shareholder rights. Support the Shareholder and Employee Rights Restoration Act of 2002, which the Republican leadership refuses to allow to come to this floor.

ESA REFORM ACT

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, those of us in the West are in desperate need of some real reform to the Endangered Species Act. If we fail to implement commonsense changes to the Endangered Species Act, the act itself will be in danger.

Too often ranchers, farmers and local governments are finding themselves and their scientific data overruled by emotion, the emotion of the U.S. Fish and Wildlife, an agency often guided in their decision-making by well-funded, emotionally driven environmental groups.

I have seen firsthand the misuse of the ESA. In Nevada, the State Department of Wildlife had decades of biological scientific data recommending that the bulltrout in Elko's Arbridge River not be listed as an endangered species. Yet the State's scientific data was thrown out the window by the U.S. Fish and Wildlife, not because of competing Federal science but because of a petition drive by a special interest group instead of sound science.

We all want to protect endangered species. However, we should do so in a fair manner based on scientific evidence and not personal emotion.

Passing ESA reforms will restore integrity to the law, ensuring that both environment and the interests of our communities are protected.

SUPPORT SARBANES LANGUAGE

(Mr. CLEMENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLEMENT. Mr. Speaker, I heard what President Bush had to say, but I also want to say to the Bush administration, we have to get tough.

I say that we have to get tough because when we see what has happened with Enron and Global Crossing and WorldCom and all the others, we have a double standard in this country. If the average rank-and-file employee of Enron had stolen the trust funds of the top management, they would already be in jail today. I do not think there is any doubt about it.

But where are the top management of these corporations? They are still living in their fine homes as if they have done nothing wrong and business is as usual. We cannot let that happen in America.

Our entire economic system is based on faith, confidence and trust. That is what is important in America, and that is what the people of America want. That is what the people of Tennessee want. I travel all over the State of Tennessee and I hear them talking about it.

We need to do something about it now. Support the Sarbanes language. That is a lot tougher than what we passed in the U.S. House of Representatives.

H.R. 4635, ARMING PILOTS AGAINST TERRORISM ACT

(Mr. BOOZMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOOZMAN. Mr. Speaker, I rise today in support of H.R. 4635, the Arming Pilots Against Terrorism Act. This responsible legislation establishes a trial program to deputize pilots to carry guns in the cockpit, which would provide one last line of defense against terrorist attacks.

We have made great strides since 9-11 to ensure that air travel is safe from terrorist threat. However, heightened security and reinforced cockpit doors are not enough. And while I am in full support of the Federal air marshal program, the reality is that there are not enough air marshals for every flight.

I have spoken with a number of pilots who support the concept of guns in the cockpit, and a majority of my constituents have voiced their desire to have this added level of security on their flights.

Mr. Speaker, the terrorist threat is real and our aviation system is still vulnerable to attacks. I commend the gentleman from Alaska (Mr. YOUNG) and the gentleman from Florida (Mr. MICA) for their hard work in the Committee on Transportation to create this sensible plan and encourage my colleagues to vote "yes" on H.R. 4635.

CORPORATIONS MUST OPERATE WITH FAIR PLAY

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Corporate scandals: Enron, WorldCom, Tyco, Rite-Aid, Xerox. These are part of a much bigger problem. People in powerful positions acting irresponsibly, hurting investors and employees, jeopardizing people's pensions and retirement systems, and they are not being held accountable. In fact, they are being rewarded.

It begs the question: How do we explain in this period that so many of our leading companies, like Stanley Works in New Britain, moves its corporate headquarters to the Bahamas to take advantage of a loophole in our tax laws? How do we explain to our children in these times that a WorldCom can create phony profitability along with CEOs' salaries rising which costs in an instant 17,000 jobs? How do we explain the executives of Enron who cash out for billions leaving their employees with worthless pensions? What values

did these high executives bring to work every day? These are the people who told us to run the government like a business.

Democrats support legislation that would require honest accounting, independent investment advice, sensible regulation, and criminal penalties for those guilty of corporate wrongdoing.

We can have economic growth without corporate crime. That was not the legislation that was passed in this House by this Republican majority. Support the Sarbanes legislation in the Senate.

MAJORITY OF AMERICA'S COR- PORATIONS AND AUDITING FIRMS ARE HONEST AND LAW- ABIDING

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I am simply outraged at the revelations day after day that corporations have cheated and betrayed the trust of investors and employees by seeking personal gain while their companies floundered. We must hold each one of these criminals accountable for the abuses they have committed.

I am pleased with the strong leadership that President Bush has shown by speaking bluntly and acting quickly. Businesses and corporate officers are not exempt from fair play and should be held to the utmost standards of ethics and decency of character. House Republicans on April 24 passed a responsible corporate reform bill, and it should be considered and enacted to restore confidence in the economy.

However, with all the scandals that are splashed across the media, I am confident that the overwhelming majority of companies and accounting firms are morally responsible and law-abiding organizations that deeply care about the welfare of their investors. It is my hope leaders will arise in these companies, people involved in their communities, in a positive way that will reclaim the respect and dignity of their positions.

□ 1030

TIME FOR REAL REFORM

(Mr. WELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELLER. Mr. Speaker, I come to the floor in anger and outrage about the corporate scandals that we have seen in the newspapers over the last several months. I am outraged about Enron, Martha Stewart's insider trading, Global Crossing and the other companies that are demonstrating a lack of good faith in the free enterprise

system, which I support. I stand in strong support of free enterprise and small business and giving every American worker the opportunity to move up the economic ladder. I commend what President Bush stated yesterday in his efforts to root out corporate corruption.

If we support free enterprise, we want to clean out the bad apples. Unfortunately, the greed of the 1990s has come home to roost.

Mr. Speaker, the House has acted. In April the House of Representatives passed accounting reform. Earlier this year, the House of Representatives passed pension reform to protect the pensions of American workers. Unfortunately, the Senate is only today beginning to act.

My hope is the House and Senate can work quickly together to pass accounting reforms, pass legislation to protect America's pensions. I would note that the Democratic leader of the House, the gentleman from Missouri (Mr. GEPHARDT), who yesterday called on the House to act, voted against accounting reforms in April. It is time for real reform. Fortunately, the House has acted. My hope is the Senate will act, and we will get the job done.

REFORM AUDITING STANDARDS

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, what is the difference between stealing from shareholders or stealing from people's retirement accounts and stealing a purse on the subway? It is no different. Lawbreakers ought to be punished by going to jail.

That is why the Republican Party, against the leadership of the Democrat Party, passed in April the Corporate and Auditing Accountability, Responsibility, and Transparency Act. This bill, which was passed in April, opposed by the Democrats who are now crying for reform, included auditor independence, a new oversight body called the Public Regulatory Organization. It would have to certify any accounting wishes to audit the financial statements required from public issuers of stock. It also states that officials cannot interfere with audits. It would be unlawful for company officials to interfere with the auditing process. Finally, it has no executive training during blackout periods in order to protect 401(k)s.

This reform is now being held up by the Democrat leadership in the other body. Let it pass. Let us go to conference and do what is best for the American people and put partisan politics aside.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. COOKSEY). The Chair reminds Members

to avoid improper references to the Senate.

ARMING PILOTS AGAINST TERRORISM ACT

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 472 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 472

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4635) to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII and except pro forma amendments for the purpose of debate. Each amendment so printed may be offered only by the Member who caused it to be printed or his designee and shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 472 is a fair and balanced modified open rule providing for the consideration of H.R. 4635, Arming Pilots Against Terrorism Act, with 1 hour of general debate

equally divided and controlled by the chairman and the ranking minority member of the Committee on Transportation and Infrastructure.

The rule waives all points of order against consideration of the bill and against the committee amendment in the nature of a substitute.

The rules also provides one motion to recommit with or without instructions.

Mr. Speaker, tomorrow will mark the 10-month anniversary of the horrific tragedy of September 11 when four airplanes were used against us as weapons, resulting in tremendous loss of life, significant property damage, and an immeasurable sense of vulnerability.

Since that time, this Congress has worked together to produce comprehensive legislation to improve, enhance and expand our Nation's aviation security system. President Bush signed the Aviation and Transportation Security Act into law on November 19, 2001.

Many of the changes from that law are already apparent throughout the country, both inside terminals and on-board planes. Yet incidents such as the shooting at Los Angeles International Airport on July 4 that killed two innocent bystanders reminds us that we must be vigilant in our efforts to combat acts of violence and terrorism on all fronts.

One critical way that we can provide a final layer of defense against terrorists gaining control of a commercial aircraft is by allowing pilots to carry firearms aboard aircraft in order to defend the cockpit from hijackers.

The legislation before us today will direct the Transportation Security Administration to deputize 2 percent of pilots, on a voluntary basis, for a 2-year test period. Participants will undergo extensive firearms training similar to that of the air marshals.

The Committee on Transportation and Infrastructure and the Subcommittee on Aviation produced this bill and worked closely with the airline pilots to craft the language. As a result, they have presented to this House a bipartisan package, a package that was reported out of full committee by voice vote and one that reflects the needs and concerns from Members on both sides of the aisle.

All of the major pilots' organizations support the measure, led by the Air Line Pilots Association, the world's oldest and largest pilot union representing more than 66,000 cockpit crewmembers at 43 airlines in the United States and Canada.

In fact, the chairman of the Air Line Pilots Association International's National Flight Security Committee, Captain Stephen Luckey, testified at a hearing held by the Subcommittee on Aviation on May 2, 2002.

As he outlined the continuing threat and dramatic economic repercussions of future terrorist attacks, Captain

Luckey said the following: "It is obvious, or should be, that protecting the flight deck and its occupants against hijackers is now tantamount to protecting our national economy. The Air Line Pilots Association strongly endorses and supports this bill and we urge Congress and the administration to work together to ensure its passage."

It is imperative that we take every step possible to protect our aircraft, our citizens and our country. Arming pilots may be just one component of a larger plan to provide security, but it will play an integral role in deterring catastrophic terrorist acts.

Mr. Speaker, I strongly urge Members to support this rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from New York (Mr. REYNOLDS) for yielding me the customary time. While I will support the rule, I must express slight disappointment with the majority. This is not a totally open rule.

We are just back from our Independence Day work period, but this rule requires Members to have preprinted any amendments in the CONGRESSIONAL RECORD at least one day before the bill is considered. Many Members have had little notice and opportunity to prepare amendments for this significant legislation. But having said that, I will support the rule.

The bill under consideration today, H.R. 4635, would authorize a 2-year test program allowing guns in the cockpit for a limited number of pilots. Prior to deputizing pilots, the Transportation Security Administration is required to establish within 2 months a plan for carrying guns, including the types of weapons allowed, types of ammunition, gun storage, interaction with air marshals, and limitations on removing the gun from the cockpit.

We are committed to providing as much security as possible for the flying public. September 11 was a devastating day, and we must do everything in our power to try and prevent it from ever happening again. I commend the members of the Committee on Transportation and Infrastructure, particularly the gentleman from Alaska (Mr. YOUNG), the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Florida (Mr. MICA), and the gentleman from Illinois (Mr. LIPINSKI), for working hard to craft a bipartisan compromise in the long-standing tradition of that committee. The bill before us is certainly an improvement over what was originally introduced.

I also understand the feelings of many pilots who support this bill. As well-trained, dedicated professionals, they are committed to protecting their passengers and fellow crewmembers.

But, Mr. Speaker, I do have some concerns.

The Aviation and Transportation Security Act, the law which created the Transportation Security Administration, gave that agency the authority to decide whether or not pilots should be armed. John Magaw, the Under Secretary of TSA, announced in a Senate Committee on Commerce hearing held on May 21, 2002, that TSA opposes arming pilots.

Mr. Magaw made clear that he had several concerns about introducing firearms in the cockpit, and he testified that his agency was still looking at a range of options for pilot protection, including nonlethal weapons.

It is unclear to me why, after granting the decision-making authority to the experts at TSA, that this body feels the urgent need to override those experts. To be honest, I would have preferred that this House fashion an approach that has the support of the Transportation Security Administration and has the support of the Bush administration. This is an important issue. We are talking about how best to provide security to the flying public, the pilots and the flight crew, and how to avoid a reoccurrence of September 11. We need to get this right and do what works. We need to be thoughtful and thorough.

Patchwork approaches that do little to reassure the flying public may compromise our ability to provide the best possible security for passengers and flight crews.

I know that some members of those flight crews, the flight attendants, have expressed strong reservations about the adequacy of the training measures for them contained in this bill, and I hope that their concerns will be addressed.

Our aviation system still has a long way to go before all of the security measures we mandated last year are fully in place. Cockpit doors need to be permanently strengthened. The air marshal program is not yet fully staffed, and training is not yet complete. Baggage screening procedures are still being worked out. And the feasibility of nonlethal weapons such as stun guns is still being studied.

Mr. Speaker, there are a lot of unanswered questions out there, and I am hopeful that this House will work in a thoughtful, bipartisan way to answer them. I look forward to a good strong debate, a debate that begins to address some of those questions. Again, I support this modified open rule.

Mr. Speaker, I reserve the balance of my time.

□ 1045

Mr. REYNOLDS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding me time, and I rise in strong support of this rule.

Mr. Speaker, we are dealing with, obviously, a very difficult situation when it comes to the American people who travel by air. On July 4 at Los Angeles International Airport, the area near where I represent, we saw a tragic shooting take place at the El Al terminal. We, of course, have for literally decades seen the hijacking of aircraft, and the greatest change, of course, took place when the definition of hijacking changed on September 11. It changed from simply having an aircraft commandeered and taken to another spot, to having aircraft used as weapons. It was obviously a horrible time for us.

Since September 11, we have spent a great deal of time trying to figure out exactly what steps we can take, and I believe it is very apparent that we have taken positive steps that have dramatically improved the security concerns that exist for the traveling public.

This proposal that we are going to deal with today, and I would like to praise the gentleman from Florida (Mr. MICA) and the gentleman from Minnesota (Mr. OBERSTAR) who made an excellent presentation before our Committee on Rules yesterday, this proposal is one which is not by any stretch of the imagination a panacea to the challenges that exist when it comes to safety for those traveling. But it is, I believe, one step towards increasing the safety level.

The gentleman from Minnesota (Mr. OBERSTAR) in his testimony before the Committee on Rules yesterday talked about the fact that we wanted to ultimately get to the point where these pilots do not have to carry weapons, but allowing them to have the opportunity to do that at this point, when we do not have all of the safety measures put into place on aircraft, is clearly a correct step. So at the end of the day there will be many other things that are going to be done.

Increasing the safety of the cockpit itself is something we are working on doing, and other steps. But we cannot let the terrorists succeed in preventing the free flow of the American people around this country or people around the world. So that is why this step is a positive one.

We have offered a modified open rule which simply had the prefiling requirement for amendments, and we will now be in a position where we can have a free-flowing debate and pass what I think is a very important step to deal with a very, very serious situation.

Mr. MCGOVERN. Mr. Speaker, I yield 4 minutes to the gentleman from Oregon (Mr. DEFAZIO), a member of the Committee on Transportation and Infrastructure.

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for yielding me time.

There is, as the gentleman preceding me in the well said, an ongoing threat. In fact, there are threats to all facets of transportation, and we cannot ignore one in favor of another. Unfortunately, we do not have that luxury. But in the case of aviation, I do believe there is an ongoing threat. It may not be the commandeering of aircraft and their use as weapons of mass destruction again. It may be more the threat of explosive devices, either individual or baggage or freight carried.

But we cannot ignore the fact that our planes were commandeered, that innocent people were slaughtered and civilian airliners were used as weapons of mass destruction; and we have not yet totally assured that that cannot happen again.

The flight decks are still vulnerable. On the flight I took on Monday, I just watched on my watch, they had a particularly lackadaisical pilot and flight crew; they left the door to the flight deck open for 15 minutes during one cross-country flight, while the flight attendant, who has not yet had any training from United Airlines, stood menacingly behind the food cart to ward off any attempts to overtake the flight deck. That is not real security.

The issue before the House today will be of arming pilots. Now, either we assess that there is a credible threat, or there is not. If there is a credible threat, the base bill before us today makes little sense. It would say that no more than 2 percent of the pilots might be armed, trained and armed; no more than 2 percent. Given pilots' flight schedules, that means on a daily basis less than three-fourths of 1 percent of pilots might be armed.

Now, if I was a terrorist intent on taking over a plane and causing murder and mass destruction, odds of 99-point-something to 1 would seem pretty good to me that there was not a weapon on that plane. I do not think that is enough. Why? If there is a threat and if it is good enough for 2 percent of the pilots, why not all of the pilots?

So I will be joining with the gentleman from Washington (Mr. NETHERCUTT) and others to offer an amendment today to not cap the program, to allow any pilot who wishes to volunteer, who is qualified, who can successfully complete the training and qualifications, to be armed properly onboard planes.

Remember, this is the last point of defense. The standing orders of the Armed Forces of the United States are if a plane has been commandeered, if it is diverted toward a city, it is to be shot down. Now, you say there is risk with guns on the flight deck. That is true. But I will tell you, if I was sitting up there strapped in my seat, watching people commandeer a plane, at first I would try to stop them, but if they did take it over, I would much rather the

pilot have the option to defend the flight deck than the United States Air Force having the option of taking that plane down. So I believe people should support that amendment.

There also should be an amendment today, although I believe now it is not going to be offered, but to mandate that the FAA stop dragging its feet, the TSA, and train adequately all the flight crews, including the flight attendants.

There is this attitude over at the FAA bureaucracy and the TSA of "mana-na." We do not yet have the armored flight deck doors approved. Ultimately, we should be moving toward a redesign of the airplane where the pilots are up there with a lav, with food service, behind an armored flight deck door, like on El Al; and on El Al they do not arm the pilots anymore because they are in an invulnerable spot.

But you are still going to have the flight attendants back there with the passengers. The flight attendants need proper training. They need coordination training to deal with air marshals, to deal with the flight crews up on the flight deck. They also need some self-defense training.

It has been suggested that the airlines should do that sometime in the next 15 or 20 years. But, you know, it costs a little bit of money to train people, and you divert people from their schedules and you have got to pay them their salaries, so the airlines are not really very interested in doing that.

We need to mandate that much more assertively in this legislation. We thought we mandated it in legislation we passed last November, but it is being ignored by a number of the airlines and by the bureaucrats. We need to do better today.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. BOOZMAN).

Mr. BOOZMAN. Mr. Speaker, I thank the gentleman for yielding me time.

As a member of the Subcommittee on Aviation, I rise in strong support of the rule and of the Arming Pilots Against Terrorism Act. The modified open rule provides for an equal debate on this fair and balanced legislation.

I would like to commend the gentleman from Alaska (Chairman YOUNG) and the gentleman from Florida (Chairman MICA) for introducing the Arming Pilots Against Terrorism Act. With the input of the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. LIPINSKI), I think we have come up with some very responsible legislation that establishes a pilot program for deputizing pilots to carry guns in the cockpit.

We have made great strides since 9-11 to ensure that air travel is safe from terrorists. However, we are years from equipping all planes with reinforced cockpit doors, and currently we do not have air marshals on every flight.

H.R. 4635 provides a strong layer of security and an important last line of defense against terrorist hijackings. It allows qualified pilots to volunteer to carry guns and to use deadly force to defend the cockpit against terrorist hijackings. Passengers entrust pilots with their lives every time they board a plane. In addition, many pilots have a law enforcement or military background and have experience with firearms.

Mr. Speaker, the terrorist threat is real and our aviation system is still vulnerable to attacks. The bill, as it stands, is the result of a bipartisan compromise which the Committee on Transportation and Infrastructure worked very hard to produce. I encourage my colleagues to support the rule and vote yes on H.R. 4635.

Mr. MCGOVERN. Mr. Speaker, I yield 4 minutes to the gentleman from Tennessee (Mr. CLEMENT), an effective member of the Committee on Transportation and Infrastructure, who has been very much involved in this issue.

Mr. CLEMENT. Mr. Speaker, I want to congratulate the gentleman from Massachusetts (Mr. MCGOVERN) on being the new member of the Committee on Rules. I know Mr. Moakley would be most pleased that you are on there, and you definitely deserve it.

Mr. Speaker, I stand as a senior member of the Committee on Transportation and Infrastructure in strong support of the rule as well as the bill. I want to congratulate the ranking member, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Alaska (Chairman YOUNG), along with the gentleman from Florida (Chairman MICA) and the ranking member, the gentleman from Illinois (Mr. LIPINSKI), for their leadership and cooperation on this most important bill. The manager's amendment to H.R. 4635, the Arming Pilots Against Terrorism Act, is a testimony to the ability of both sides of our committee to find common ground and work together to address the concerns on all sides of this issue.

I want to briefly voice my strong support for the manager's amendment to H.R. 4635. Immediately following the attacks of September 11, which none of us will ever forget, I voiced my intention to provide qualified pilots the right to carry firearms in the cockpit. I believe that pilots must have the voluntary right to arm themselves to ensure the safety and security of their passengers and the aviation system. The manager's amendment to H.R. 4635 does just that, by allowing carefully screened, properly trained and equipped airline pilots to be commissioned as Federal law enforcement officers and to carry firearms for flight deck defense.

The American people trust the pilots of our Nation's airlines to safely transport them to their destination. I think

they also trust them to carry firearms for domestic flights to help guarantee their safety. This bill sets up a 2-year test program that will deputize approximately 2,000 pilots following the completion of training set forth by the Transportation Security Administration.

While I would like to see that any eligible pilot who wants to be trained to carry a weapon in the cockpit is allowed to do so, I recognize that the compromise before us represents a thoughtful middle ground that will both enhance security and ensure a workable program. Voluntarily arming our pilots will give us a new last line of defense against hijackers and terrorists, and I hope that my colleagues will join me in supporting the manager's amendment to H.R. 4635.

I want to say to the gentleman from Florida (Mr. MICA), he has been outstanding on this and was vocal from the first day when the Bush Administration would not cooperate, would not support any consideration of firearms in the cockpit. We have just got to have common sense and good judgment prevail, whether it is on this issue or whether it is on screening, because we hear a lot of talk these days from passengers that fly all across this country and worldwide, and they are still very concerned that we are not back to normal, and we need to get back to normal as fast as we possibly can. Our economy is impacted by not getting back to normal.

Yes, we are the one and only superpower left on Earth. One of these days that probably will change; it will be the United States and China that will be the two great superpowers on Earth. Today, we are definitely a target, whether we like it or not.

Yes, we have to take precautions. Yes, we have to make some adjustments in our lives. But, yes, we can live normal lives as well. That is what we want to do in this legislation and that is so vitally important to us, because we do trust our pilots, because we trust them with our lives when we get on that airline, when we travel from pillar to post, all across the country.

□ 1100

So let us get behind this legislation, and let us support this legislation in order for it to pass, in order for it to be sent to the President and signed into law.

Mr. REYNOLDS. Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. MICA), the distinguished chairman of the Subcommittee on Aviation of the Committee on Transportation and Infrastructure.

Mr. MICA. Mr. Speaker, I appreciate the gentleman yielding me this time.

We do have before us the question of passing a rule and then going on to debating the question of allowing pilots to defend themselves.

First, I would like to speak in favor of the rule. I think this is a fair rule. We have tried to approach this issue in a fair manner to give both those on the subcommittee and the gentleman from Alaska (Mr. YOUNG) and the full committee, everyone, fair and equal opportunity to look at the situation, to contribute to the legislation, and to try to improve safety and security for the flying public.

Now, why are we here and why are we debating today? We are here because we are representatives of the people. We are here because the most terrible attack in the history of the United States took place against our Nation and our people on September 11. We are here because as representatives of the people, we have one responsibility as a primary responsibility, and that is to ensure our national security, our domestic security, and the personal security of every American citizen. We represent the people. We come here and we learn the facts dealing with security issues, and we have a responsibility to set the laws.

Now, we have heard that there may be some amendments offered here today, and there will be, and they need to be openly and fairly debated, and this rule gives that ability. Everyone will have their say. It is my hope that the end product will be something that can ensure the safety and security of the flying public. It can make each of us, whether we get on a plane individually or our family or our children or our friends, and know that they are secure.

Would I like to have different measures in place? Yes, I would. Would I like to have every pilot have the ability to defend himself or herself in the cockpit, the crew, the passengers, and the aircraft? Yes, I would. But this is a compromise, and this body is a body of compromise. We come from all over the Nation with different ideas and different opinions, and we meld them together here, again, hopefully in unity to do the best job possible to protect the American people. So that is what we hope to achieve today.

We have heard that there has been some opposition in the past from some in the administration, some bureaucrats. Well, bureaucrats set the rules. We set the policy and the laws, and we will today begin formulating the law based on what we know. We know that we are particularly vulnerable at this time of transition. We have taken an all-private aviation sector and airline-run security system into a federalized system, and it will be several years before we have all of the security measures we would like to see in place. So this is an interim measure; it is a back-up measure. But again, we will have the opportunity to debate.

Now, I will say in closing here, I have agreed in a bipartisan fashion with the gentleman from Minnesota (Mr. OBER-

STAR) and the gentleman from Illinois (Mr. LIPINSKI), the ranking members of the full committee and the subcommittee, to oppose any of the amendments that we do not all agree upon, and I think that is a gentleman's commitment that I will keep throughout this debate. There are some good amendments. There are some amendments I would personally favor, but I will oppose them.

Again, this is a fair rule and an open rule, and I urge the adoption of the rule.

Mr. MCGOVERN. Mr. Speaker, at this time I yield 3 minutes to the gentleman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding me this time.

I certainly want to thank our own ranking member, the gentleman from Minnesota (Mr. OBERSTAR); and I very much want to thank the gentleman from Alaska (Mr. YOUNG), the chairman of the full committee, and the gentleman from Illinois (Mr. LIPINSKI), the ranking member of the Subcommittee on Aviation, because they have worked very well together to get a bill that was much improved.

I regret that I must, nevertheless, oppose the underlying bill. I think I am in good company. I would say it is top-down company. It begins with the President of the United States and goes to the Secretary of Transportation, Mr. Mineta, the Secretary of the Transportation Security Agency, Mr. Magaw, and then to the flight attendants, and on and on it goes.

What do these experts know that we do not know? Or should we not be asking ourselves this morning, What is it that we do not want to know? We are rushing to the security blanket of guns in the cockpit that could do more harm than good, and that is the test. As transparent as it seems, will guns in the cockpit do more harm than good? Which is worse, guns or no guns? Why is it that every European nation, every nation in the world has decided to disarm its pilots? For me, the ultimate example is El Al, which disarms its pilots, but faces risks I hope we shall never look in the face.

Now, I could support this bill if it followed the El Al example. El Al, in fact, armed its pilots until it had put every single safeguard in place: locked cockpits, and everything on the ground that they needed to have done. And then what did El Al do? It disarmed its pilots.

Now, if this bill had a provision in it that said, our pilots will be disarmed when A, B, C, D and E go into effect, I could support this bill.

They disarmed their pilots, and everybody but us does so, because of the cost-benefit equation, and that is how policy should be made. Gun turmoil in the cockpit while keeping the plane

flying, every nation in the world has concluded does more harm than good. One could prevail with the gun, but shoot the computer and still take the plane down.

The armed pilot, we are being told, is the last resort. According to everybody who knows, every nation who has had experience, every expert in our own government, the armed pilot is a very dangerous resort that risks passengers and planes.

We asked for a study of nonlethal weapons. That is not even in yet. We are hopping over that study to arm pilots.

I appreciate the work that has been done. I respectfully disagree.

Mr. REYNOLDS. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. DUNCAN), the former chairman of the Subcommittee on Aviation and now the chairman of the Subcommittee on Water Resources and Environment.

Mr. DUNCAN. Mr. Speaker, I want, first of all, to thank the gentleman from New York (Mr. REYNOLDS), my good friend, for yielding me this time. I rise today in strong support of the Arming Pilots Against Terrorism Act and the rule that brings this bill to the floor.

I want to commend the gentleman from Alaska (Mr. YOUNG), the chairman of the full committee; and the gentleman from Florida (Mr. MICA), the chairman of the Subcommittee on Aviation; and the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the full committee; and the gentleman from Illinois (Mr. LIPINSKI), the ranking member of the Subcommittee on Aviation, for bringing this very reasonable and very moderate bill and this pilot program to the floor of this House.

The Boston Herald editorialized about this and said, "No one is proposing that a pilot be required to carry a gun, only that he or she have the option. There is probably no more professionally responsible group of people in America than airline pilots."

They went on to say, "If pilots will be reassured, if they will gain a little more confidence on the job from having a last-ditch defense before an F-16 shoots down the plane and kills everybody anyway, they should be allowed to carry arms. A large fraction have military backgrounds and will need little training."

The Wall Street Journal editorialized about this issue and said, "Arming pilots is an important security measure. Federal air marshals will never be able to protect more than a small fraction of flights. It shouldn't take another disaster before we get serious about keeping hijackers out of the cockpit."

The Chicago Tribune said, "The chief value of an armed pilot is to deter terrorists from getting on the plane in the first place. Even if they could get

weapons past security, overcome air marshals, flight attendants, and passengers, and penetrate the cockpit door, they would then find themselves staring down the barrel of a gun. That prospect would create a powerful incentive for terrorists to give up on the idea entirely."

As we all know, the tragedies of September 11 have dramatically changed the way we look at aviation security. Now, more than ever, we need to make sure that we are doing everything we possibly can to protect the flying public. Mr. Speaker, I believe that includes arming pilots.

We passed the aviation security bill, and we did a lot through that legislation. This act will establish a pilot program that will allow only about 2 percent of the pilot workforce, about 1,400 pilots, to have guns in the cockpit.

I would just conclude, Mr. Speaker, by saying that these volunteer pilots would be trained by the Transportation Security Administration and would go through training similar to that of Federal air marshals.

I wish this bill could allow more than 2 percent of the pilots to participate, but I am glad to see this legislation at least moving forward. This is something that a majority of my constituents support as well as every pilots association group, and I think this Arming Pilots Against Terrorism Act will go a long way in protecting the American people by deterring terrorists and preventing future tragedies.

Mr. Speaker, I strongly urge that all of my colleagues support this very important legislation.

Mr. MCGOVERN. Mr. Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Mr. Speaker, we have had the privilege of hearing from two subcommittee chairmen, and I yield 3 minutes to the gentleman from Alaska (Mr. YOUNG), the chairmen of the Committee on Transportation and Infrastructure.

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman from New York (Mr. REYNOLDS) for his efforts and the Committee on Rules to bring forth a good rule, because really that is what we are supposed to be talking about.

Mr. Speaker, I would like to bring up a couple of points. Number one, when I originally sponsored this legislation, it is what I would like to have had adopted. There has been again this consultation, some agreements made, and I will oppose the amendments that will be offered, knowing full well that many of those amendments have great merit. But this is a small step forward, and it really should have been done a long time ago.

I would just like to ask my colleagues to think a moment. Do we really think that 9-11 would have happened if our pilots had been armed as they should have been armed, as they were armed in 1984? Do we think that those

terrorists would have had a chance if they knew those pilots would have been armed and the pilots were trained, as they are under this bill, in knowing how to respond in case of an attack on the cockpit? Do we think for a second that the tragedy that occurred on 9-11 would have been a reality as it is today?

Now, I have heard people tell me, well, once we get all of the safety programs in place at the airports, we will not need to have an armed pilot. The captain of that ship is still responsible for the ship and his passengers, just as under maritime law, and I am one of those. Our duty is to protect the passengers, our cargo, and to maintain control of the ship at all times. The only way we can do that is make sure they are armed adequately to defend themselves and their passengers and their cargo against those who would take it away from them, such as a mutiny or a terrorist attack.

I suggest respectfully to those that oppose this legislation and those who say it is not necessary are not looking at the reality. We are not El Al. We are, in fact, having 20 million flights a day or a year take off from our airports. That is much more, it is much more than any other country. We are a nation of air travel. I think it is very, very important that we recognize that and pass this legislation and make sure that the President, the other body, and all of those involved in this understand that this is a final step to make sure that when I get on that airplane I will arrive safely at my destination, even if there is an attempt to take that airplane, because I know that pilot will have the ability to defend that cockpit and make my trip safer. That is what we are trying to do here today. It is a right, it is a necessity, it is what we should be doing on this floor for our flying people. It is important today to make sure we pass this legislation.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. WILSON).

Mr. WILSON of South Carolina. Mr. Speaker, it is a great honor for me to be able to be here today. I want to commend the chairman of the Committee on Transportation and Infrastructure, the gentleman from Alaska (Mr. YOUNG), for his leadership in having this bill presented to us today. I want to give the experience of State level, in that I was only elected in December, and I had previously served in the State senate of South Carolina. I had been the floor leader for the concealed weapons bill in South Carolina, which provided that persons who were trained, law-abiding citizens, could carry weapons in public places.

□ 1115

The effect of that over the last 8 years has been a reduction in crime. We have had tens of thousands of peo-

ple who qualified to be able to carry weapons, and the effect has been to reduce crime. This bill will have the same effect; that is, it will reduce the hijacking potential at all times.

Of course, a lot of people will be concerned that maybe it will be a shootout at the O.K. Corral. That was what was stated about what occurred in South Carolina. It did not happen. Even the fiercest opponents of the concealed weapons bill now recognize that this was a positive move, one that reduced crime.

I again want to commend the chairman and also the gentleman from New York (Mr. REYNOLDS) for his leadership, and the gentleman from Florida (Chairman MICA) for his leadership.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. LIPINSKI), the ranking member on the Subcommittee on Aviation on the Committee on Transportation and Infrastructure.

Mr. LIPINSKI. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to thank the Committee on Rules for this very, very good rule dealing with this important piece of legislation. I sincerely appreciate it, and I am sure so does the chairman of the full committee, the gentleman from Minnesota (Mr. OBERSTAR). Also, the Committee on Rules has given us just about what we would like.

I also would like to put on the record that the Republican leadership of the Committee on Transportation and Infrastructure, the gentleman from Alaska (Mr. YOUNG) and the gentleman from Florida (Mr. MICA), have really gone out of their way to craft a bill that is really bipartisan. I appreciate that very much, and I am sure the gentleman from Minnesota (Mr. OBERSTAR) does also.

This is a bill that is, as is often said, finely crafted, and because of that, it is necessary for the leadership of the committee on both sides of the aisle to oppose any amendment that will break that finely crafted balance.

But I think it is a very good rule. I appreciate what the leadership of the committee on the Republican side has done to accommodate us on the Democratic side, and I have to say that even though I am happy to see that we have a number of amendments that will be presented, because I think they are very well-intentioned amendments, I will have to oppose each and every one of them.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to just again say that I expect we will have a good debate on this bill today. I am not sure what the fate of this measure will be once it passes the House, and I am not sure what the other body will do, whether it will take action on this, or even what the Bush administration

would ultimately do if this were put on the President's desk.

But I would just hope that as we debate this that we will all be committed to urging the administration to move as aggressively as possible in implementing some of the other measures that have been passed and supported by this House and by the other body.

For instance, cockpit doors need to be permanently strengthened. The air marshal program is not yet fully staffed, and training is not yet complete. Baggage screening procedures are still being worked out. There are other studies about ways to protect the cockpit and the flight crew. All these things need to be moved on aggressively, and I hope all of us will join together and urge the administration to move as expeditiously as possible, and certainly with greater speed than has been demonstrated up to this point.

Having said that, I support the rule, Mr. Speaker, and I yield back the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation represents the best of what our government is about, bipartisan coalitions working together not only to produce legislation, but to revisit issues that can be enhanced or improved as need be.

America is slowly regaining its confidence in traveling, in large part because of the swift action this Congress took last fall in the aftermath of September 11. But our work is not done. It is incumbent upon us to continue doing everything in our power to make sure that travel by any means, but especially by air, is as safe and secure as possible. Safe travel must include defenses on both the ground and in the air. Our vigilance today will provide a final layer of defense against terrorism in the skies and, more importantly, peace of mind for America.

I urge a yes vote on this rule and the underlying legislation.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. REYNOLDS). Pursuant to House Resolution 472 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4635.

□ 1120

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4635) to amend title 49, United States Code, to establish a program for Federal flight

deck officers, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Alaska (Mr. YOUNG) and the gentleman from Illinois (Mr. LIPINSKI) each will control 30 minutes.

The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, our Nation is stronger and better prepared today than on September 11. We have enacted numerous reforms which will make a repeat of last year's terrorist attack highly unlikely.

However, no system is perfect. We must remain vigilant in the face of the constantly evolving threat of terrorism. We are fighting an often invisible enemy, an enemy that appears to be preparing and training for additional terrorist attacks, and an enemy that seeks to obtain the most dangerous and deadly weapons to use against America.

This bill, H.R. 4635, will provide one last line of defense against terrorist hijackings. It will allow qualified pilots to volunteer to carry guns to use deadly force to defend the cockpit against terrorist hijackings. The pilots are already entrusted with the lives of every passenger on the airplane. Many of them have a law enforcement or military background and have experience with firearms.

The administration has been unwilling to act on this important matter, so I believe Congress must do so. The bill as it stands is the result of a bipartisan compromise. I believe it is one of the most important security issues we face today. I urge my colleagues to support this bill, and send a message with a strong bipartisan vote today.

There will be amendments, and the agreement has been put forth, so I will oppose all of the amendments. Although my original bill had many of those parts of the amendments to be offered, this is a bipartisan effort to try to get a bill to the Senate, the other body, and on to the President's desk.

Mr. Chairman, I heard in the debate on the rule that someone said the President probably will not sign this. I say he will sign it, because when people look at the logic of what we are trying to do today of arming the pilot, the captain of that ship, to defend that ship and his passengers against the terrorists, I think he will say that this has great wisdom.

Mr. Chairman, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of this legislation. I want to say that I

thank first of all the ranking minority member of the full committee, the gentleman from Minnesota (Mr. OBERSTAR), for all the hard work that he put in, together with the chairman of the full committee and the chairman of the subcommittee, the gentleman from Alaska (Mr. YOUNG) and the gentleman from Florida (Mr. MICA), for the work that they put in to craft a truly bipartisan piece of legislation.

As I mentioned earlier when I was speaking on the rule, I sincerely appreciate the degree of cooperation that we received, both from the gentleman from Alaska (Chairman YOUNG) and the gentleman from Florida (Chairman MICA). I think they went out of their way to bring this bill to the floor in a manner that can be supported by the overwhelming majority of both the Democrats and the Republicans on the Committee on Transportation and Infrastructure.

Mr. Chairman, when this issue of arming pilots came up after the horrific September 11 attacks, there was considerable debate on both sides of the aisle as to whether or not we should allow pilots to be armed. The Aviation Transportation Security Act of 2001, which we passed in November of 2001, left a decision on lethal or non-lethal weapons in cockpits up to the Transportation Security Administration and the airlines by which the respective pilots are employed.

However, in May of 2002, the TSA decided against arming pilots with lethal weapons. About the same time, there was a movement within the pilots' union and the committee leadership on the other side of the aisle to force the TSA's hand and allow pilots to voluntarily arm themselves.

However, at a congressional hearing on the subject in May, many questions arose as to exactly how to arm the pilots. Subsequent conversation with the pilots' union brought forth the same questions, questions such as: Has there been full testing of bullets being fired in the cockpit and in the cabin to determine what damage might be done to the fuselage and the cockpit? Have there been simulated tests of where to best place and store the guns in or out of the cockpit so as to ensure that terrorists do not gain control of these weapons?

I and others believe that these and many other questions should be answered before we authorize pilots to carry guns in the cockpit. Subsequently, that is how we came to craft a pilot program that would answer these questions, and after a 2-year period of testing and evaluation, the decision would be made whether to terminate the program or open it up to all qualified pilots. Then all the pilots who volunteer can be better trained and prepared for any threat that might come their way.

What we all agree on in this body is that we should make airplanes safe and

secure, and we do not want to put passengers in more danger, or to make weapons accessible to terrorists. This process of testing and evaluation before authorizing all pilots to carry guns in the cockpit will ensure just that.

Today, some amendments will be offered with good intentions of making the airplanes safe and secure. However, other than the manager's amendment, which the committee leadership has crafted to improve the measure, I will oppose all amendments that will tilt this carefully balanced compromise that we reached in the Committee on Transportation and Infrastructure.

In closing, again, I wish to thank the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Alaska (Chairman YOUNG), and the gentleman from Florida (Chairman MICA), for their work on this measure.

I would also like to thank all Members from my side of the aisle on the Subcommittee on Aviation for their contributions to the discussion, debate, and crafting of this measure. Hopefully, as the bill moves along with an open and fair process that includes everyone's input, we will send to the President's desk the best possible measure that will make our skies safer in the future.

Mr. Chairman, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. MICA), the chairman of the subcommittee, who has done an outstanding job on this piece of legislation.

Mr. MICA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, allowing pilots to defend themselves and their passengers, their aircraft, is absolutely fundamental to the safety and security of our aviation system in this Nation. Unfortunately, the United States of America faces a new and changing threat unlike anything we have ever experienced before. That is the threat of global terrorism. This threat will exist, unfortunately, for a long time, and we must take absolutely every action to protect America against those who would seek to kill innocent citizens.

Since September 11, we have enacted some sweeping security reforms. We have created a new Federal agency with unprecedented authority in transportation security measures. We have also been in the process of deploying Federal air marshals, federalizing our screener work force, mandating that all bags undergo explosive checks, and also requiring reinforcement of cockpit doors.

Unfortunately, Mr. Chairman, we do know that many of these reforms will not be in place for some time to come.

□ 1130

We know it will be impossible to place air marshals on all of the at-risk flights. Full cockpit doors security conversions will not be complete until sometime, I believe, late in the year 2003. And what is most disturbing, and we have seen this behind closed doors and now revealed in the media in the last few days, weapons are still getting through airport security.

This is the headline from July 1: "Airport Security Failures Persist." A recent test by the TSA revealed that screeners failed to detect weapons nearly 25 percent of the time at our busiest airports. In fact, we found at our three major airports in the country screeners failed to detect potentially dangerous items in at least half of the tests. At a fourth location, and that happened to be Los Angeles International Airport which has also been in the news, the results were not much better. The failure rate there was 41 percent.

We know it is impossible again to protect ourselves with either a private workforce or a fully federalized screener workforce to catch all of these weapons and potentially dangerous items. And there is strong evidence to suggest that even more terrorist cells have been trained to take over commercial aircraft. At our subcommittee hearing, we showed these photographs, satellite photographs, of training camps. We know that terrorists are being trained to use both lethal and nonlethal methods of taking over aircraft, so the threat of another 9-11-type hijacking is, in fact, real.

NORAD, the North American Defense, has a standing order to shoot down any plane under the control of hijackers and that gives us the possibility of killing hundreds of innocent passengers to prevent a plane from being used as a weapon. I ask you, is that the only line of defense we should have? I strongly believe that under these circumstances armed, trained and qualified pilots who volunteer is, in fact, a necessary step towards ensuring the safety and security of the flying public.

Nothing, my colleagues, can provide a greater deterrence or effectiveness than having a weapon wielded by a highly trained individual, especially if we have the potential of armed terrorists taking over a plane, as we know they are being trained for.

Pilots have had the ability to arm themselves in less dangerous times. A photo has been provided to me by an individual who has a record here, photographic record of actual property of United Airlines, a gun that was issued by airlines in the past. So pilots have had the ability in much less dangerous times of arming themselves. In fact, they were even supplied these weapons, as we can see, by the airlines. So we have a situation where pilots are al-

most unanimous in asking for the ability to once again defend themselves, their passengers and their aircraft. There is no one that has more experience or no one that sees our aviation security shortfalls more on a daily basis than a pilot. Each day they see how the weaknesses of the system exist, and they are asking that they be allowed to arm themselves. Congress has a responsibility today to hear their plea in this important matter.

I believe this is one of the most vital issues we have as far as aviation security in the United States, and I ask for support of all colleagues today.

Mr. LIPINSKI. Mr. Chairman, I now turn over the management of the time on our side to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the full committee.

The CHAIRMAN. Without objection, the gentleman from Minnesota will control the balance of the time.

There was no objection.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, initially when this legislation was introduced and the idea proposed of arming the flight deck crew, I was very much opposed to the idea. I just felt this was not a good idea, that the flight deck crew under any circumstances ought to be paying its full attention to the very complex job of managing and integrating systems in the flight deck and managing the flight itself, a full-time job. You should not have to be distracted by the details of worrying about a gun and where it is going to be and how it is going to be used and under what circumstances.

But, as I discussed the matter further with the chairman of the full committee and the chairman of the subcommittee and the ranking member on our side, the gentleman from Illinois (Mr. LIPINSKI), and with the Airline Pilots Association and with individual pilots, I came to be persuaded that the case was being made that under the current circumstances of an incomplete aviation security system that the appeal for arms in the flight deck had at least some limited viability and an underlying rationale.

And that rationale is that not all of the protective measures that we have authorized in the Transportation Security Administration Act of last fall have been fully implemented. We do not yet have explosive detection systems deployed at all commercial airports. The trace technology for a backup system, a supplemental system of detecting explosives in checked luggage and carry-on luggage, is in its testing phase. It has not yet been authorized for full deployment.

We did not have positive passenger bag match for all checked luggage. We do not have deployment of the Federal

security screener workforce at all security checkpoints at the Nation's airports. We do not yet have a biometrics system for frequent fliers or for detection of terrorists known to our intelligence systems. We do not yet have a program of training the cabin crew on-board aircraft against terrorist actions.

And furthermore, the pilots have said that in the ordinary course of events, the pilot in command and the first officer flying side by side, on the weekends that first officer is likely a member of the National Guard or Reserve and will be having flying duty on the weekend and could be ordered by the President of the United States under an executive order issued last year to NORAD to scramble military jets and shoot down that very aircraft that during the week the pilot now flying for the National Guard was co-pilot on.

The pilot said to me, I do not want to be in that position. I do not want the last resort to be U.S. National Guard aircraft shooting down, or active military aircraft, shooting down my aircraft when I could be the force of last resort. That is a compelling argument.

In the process we have worked together, and I appreciate the forbearance of the Chair in the full committee and the participation of the Chair of the subcommittee, and particularly the splendid work that the ranking member on our side, the gentleman from Illinois (Mr. LIPINSKI), has done bringing the Democratic Members of the subcommittee and full committee together to discuss on numerous occasions concerns with the bill and changes to that legislation which have now been incorporated, and I can say this truly is a bipartisan piece of legislation.

And amongst the most significant changes are that there will be training for the pilots, significant training, comparable to that for flight sky marshals. There will be extensive review by the Transportation Security Administration of the type of weapon to be used in the flight deck, not just any gun, but what type of gun, and more importantly, what type of bullet. Not all bullets are appropriate for the flight deck. For example, armor-piercing bullets. We would not want those to be used in the flight deck.

Third, there will be testing done of an errant discharge into the control panel. I want to know what will happen, what will happen if the gun is accidentally discharged into the onboard computer, into the altimeter, into the glass cockpit of a 757, where all the controls are in one single panel; what will happen and how will you counteract the destabilization that will occur.

Those questions have to be answered before you go ahead with this program. And under this legislation, those issues will be addressed and assessed and alternative measures taken.

We have also, I think, perhaps the most important factor for me is that instead of a permanent program from the outset, we have a true test. This is a 2-year initiative. At the end of that period of time, it will be up to the Secretary of Transportation on the advice of the Under Secretary for the Transportation Security Administration whether to go ahead and make this a permanent program.

Now, if in the meantime the Department of Transportation does what it is directed to do under the Transportation Security Act of 2001 and puts in place all of the other protective measures that I have already cited, positive passenger bag match, explosive detection systems, training of cabin crew and trace proves to be an effective technology and can be deployed and we have the security check points administered by Federal security crew and we have the strengthened flight deck doors that have been designed, not yet certified, hopefully will be and also being put in place, when all of those protective measures, the interlocking web of security is deployed, then guns will no longer be necessary in the flight deck.

That has been the example of El Al, which initially armed flight crews, but after all the other protective measures were put in place and they were satisfied that a complex web of security was in place in the flight deck, then guns were removed; and that I think should be our example and our objective.

The legislation we have crafted and which we bring to the floor today is, I believe, a balanced responsible measure that takes into consideration the concerns of those who are in charge of the flight, the flight deck crew.

I do not think that we should have any amendments to this legislation either. We have gone about as far as I think we need to go. I think we have taken into account all the many concerns expressed. It is a fair and balanced bipartisan compromise, and I appreciate the work that our colleagues have done on both sides of the aisle.

□ 1145

I particularly want to express my great appreciation to the gentleman from Illinois for his splendid work and the many hours of time put in on this legislation and also, again, to the gentleman from Alaska (Mr. YOUNG) and the gentleman from Florida (Mr. MICA) for their cooperation throughout this very long process.

Mr. Chairman, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. SHUSTER), an outstanding member of my committee.

Mr. SHUSTER. Mr. Chairman, I rise today in support of H.R. 4635. The safety of airplanes has been in the fore-

front of our committee's work for the past 10 months, and I would like to commend the gentleman from Alaska (Mr. YOUNG) and the gentleman from Florida (Mr. MICA), as well as the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. LIPINSKI), the ranking members, for their dedication to making our skies safe.

Since the tragedy of September 11, Congress has been dealing with the issue of security, and this Congress passed the Aviation and Transportation Security Act last year to revamp the entire transportation security system.

Included in that security act was a provision allowing pilots to carry guns pending administration approval. Since the passage of the bill, the administration has been publicly conflicted on the issue and nothing has been done. If my colleagues examine the Aviation Security Act they will notice that 99 percent of the enhanced security provisions are passive, from new x-ray machines to protective cockpit doors. Training flight crews on self-defense and allowing pilots to be armed are the only provisions that involve active defense of the plane.

The American public supports the arming of the cockpits, and additionally, over 40,000 pilots have signed a petition to the President asking him to allow them to carry guns. In my opinion, people realize that if a person cannot get into the cockpit they cannot take control of the plane.

I also hope today that we can improve this bill by passing the Thune amendment, which will raise the cap of armed pilots from 2 percent to 10 percent which will give greater peace of mind to the traveling public.

Today's debate should be about active defense versus strictly passive defense of a plane. I think it is time we allow the pilots to be the last line of defense of our planes rather than the current alternative, to shoot the plane out of the sky.

H.R. 4635 is a positive step to protect our air transportation system. I encourage all of my colleagues to vote yes.

Mr. OBERSTAR. Mr. Chairman, I yield 4 minutes to the gentleman from Oregon (Mr. DEFazio).

Mr. DEFazio. Mr. Chairman, I thank the gentleman for yielding me the time.

As the gentleman from Minnesota (Mr. OBERSTAR) and others who have preceded me have said, we passed an excellent aviation security bill last November. Unfortunately, it is yet a work in progress. There are many incomplete measures, some of which are moving along with acceptable speed, others which are not. I am particularly concerned about whether or not we can meet the deadlines for detecting explosives and do believe this is a very real

threat, including individually carried explosives similar to suicide belts; and we need to be adopting new measures to deal with that.

The flight deck doors are of particular concern. The FAA is going along at its normal speed, which is 5, 10, 15 years to certify a minor change to an aircraft, in terms of approving these long-designed armored flight deck doors which are in use by foreign airlines.

Without those armored flight deck doors, flight decks are still vulnerable, including the vulnerability that will not even be accommodated then, which is to put them behind a door similar to El Al, which includes a lav and food service.

On my cross-country flight on Monday, I observed the door to be open for a total of more than 15 minutes, at one point for 8 minutes consecutively while the three people on the flight deck shuffled around to the bathroom, got a cup of coffee and shot the breeze with the flight attendant, who was standing menacingly behind the food cart to keep the terrorists from rushing the flight deck. That is not security. That is not decent security at all.

The issue now comes to, what about this last line of defense? We have already heard about the standing orders to shoot down civilian aircraft that have been commandeered. That would be a horrible, horrible thing, but potentially less horrible than another guided attempt of using one of our civilian airliners as a weapon of mass destruction and killing thousands more on the ground. It should never get to that point. And when we fully implement the measures that we passed last November, it is improbable that someone will be able to access the airplane with sufficient weaponry to take it over. But until that is done, until we have the armored flight deck doors, I believe other measures are necessary, including the arming of pilots.

I am disturbed that President Bush is so strongly opposed to the arming of pilots. As a former part-time fighter pilot in the National Guard, he should certainly understand the gravity of the order that would be given to a full-time pilot or another National Guard pilot to shoot down a civilian aircraft that has been commandeered, and he should be appalled by that; and I cannot understand the President's absolute objection to the arming of pilots.

So I believe it is wise for the House to move forward and mandate that this go forward. I will, however, be supporting an amendment to make the program available to all qualified pilots who can qualify with the weapons and pass the training, including the other provisos about the testing of weaponry and the appropriateness of ammunition and things like that, because, to me, the issue here is, if the threat exists, why would we limit it to

2 percent of the pilots, because if we limit it to 2 percent or less of pilots, and since his administration, the President does not want to arm these people, we will expect they will move very slowly toward that 2 percent target. That would mean that on any given day less than 1 percent of the pilots in the air potentially would be armed as a last line of defense against a takeover.

A terrorist might think odds of 99 to 1 are pretty darn good. I would buy a lottery ticket if my odds of winning were 99 to 1.

So we are going to offer an amendment later with the gentleman from Washington (Mr. NETHERCUTT) and others to lift the cap and allow the administration to rethink its position and hopefully move ahead expeditiously with training with a much larger number of pilots, all those who volunteer. It would only be voluntary because some pilots do object to this procedure.

So I look forward to a vigorous debate over that amendment, but I certainly support the base bill.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. HORN).

Mr. HORN. Mr. Chairman, I thank the chairman for yielding me the time, and I rise to support H.R. 4635, the Arming Pilots Against Terrorism Act. I thank not only the gentleman from Alaska (Mr. YOUNG) but also the gentleman from Florida (Mr. MICA), because they have put together a fine manager's substitute.

This legislation will allow us to give the flying public peace of mind and the knowledge that the pilots and flight attendants aboard their commercial flights are prepared for challenges that the terrorists may present.

I am a strong supporter of arming pilots to defend the cockpit; and I appreciate what has been done to help the first resisters, and this is the Nation's flight attendants. I am pleased that the manager's amendment addressed those needs for those that serve us aboard, before and after.

As many of my colleagues know, I offered an amendment at the full committee that sought to strengthen flight attendant training. I later withdrew my amendment with the good faith that a reasonable compromise would be reached, and that would benefit flight attendants.

I commend the transportation leadership for that amendment. It strengthens many of the flight attendant proposals, and I am particularly pleased with the hands-on training, in making it mandatory.

With many important provisions added in the manager's amendment, I have decided against offering my amendment on the floor today. I have additional language which further strengthens flight attendant training, and I will offer these suggestions to the transportation committee leadership

for consideration during a possible conference with the Senate.

I urge my colleagues to support H.R. 4635. This important legislation will improve the safety of the flying public.

Mr. OBERSTAR. Mr. Chairman, I yield 2½ minutes to the gentleman from California (Mr. HONDA).

Mr. HONDA. Mr. Chairman, I rise today to express my steadfast opposition to H.R. 4635, legislation that would unnecessarily and unwisely introduce lethal weapons into an airplane's sterile environment.

As we debate final passage of this bill, I remind my colleagues that the Congress considered this issue last November when it passed the Aviation and Transportation Security Act. Under that landmark aviation security legislation, a pilot of a commercial air carrier may carry an approved firearm while flying an aircraft if he or she receives approval from the Transportation Security Administrator or his or her employer. In other words, Congress deferred this critical decision to the experts who have since concluded that arming pilots may actually compromise aviation security and aviation safety.

Our Nation's security leaders, Homeland Security Director Ridge, Transportation Secretary Mineta and TSA Administrator John Magaw, have all made public statements signaling their opposition to arming pilots. Members who vote for final passage of this bill will vote to override the decision of those experts principally responsible for guaranteeing the security of air travel.

I join these experts in expressing my fundamental opposition to arming pilots, and I also oppose this particular bill because it mandates a pilot program before the completion of the most basic studies on the introduction of guns into the cockpit. No real studies have been performed on the consequences of an accidentally discharged bullet on a cockpit's computers. No real studies have taken place to determine where a gun should be stored in flight and between flights. No real evaluation has been made as to how this added responsibility would impact TSA's ability to meet significant but important congressionally mandated deadlines to bolster aviation security.

In proposing this legislation, the Congress is experimenting with the lives of the flying public, and furthermore, it is being careless with taxpayers' dollars. Under this legislation, armed pilots would be deputized by the Federal Government, exempting airlines and pilots from legal liability.

Instead of giving pistols to pilots, let us keep our focus on the fundamentals of aviation security, hardening cockpit doors, screening all checked baggage, vetting passenger manifests, ensuring a validated workforce and deploying Federal security screeners.

Let me conclude by reaffirming my utmost respect for our Nation's airline pilots. Each day, they safely transport thousands of passengers to destinations all over the world. The job requires great expertise and great diligence, and my vote today is to vote to keep pilots focused on what they do best, on flying airplanes.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

I would like to suggest to my good friend from California, the experts which he referred to do not know squat. I have 60,000 and over of pilots who want this legislation. Again, as a captain myself, I know how it feels not to be armed. As history will show us, the protection of the wheelhouse and the cockpit are vitally important. The gentleman from Oregon (Mr. DEFAZIO) mentioned this.

The reality is that now there is an order to shoot down the airplane. If there is a hijacking with passengers aboard, to me that is a ridiculous solution when it can be stopped at the cockpit.

As was said before, this is nothing new. Until it became politically correct, the pilots armed themselves as they have done through history to defend that cockpit and defend that plane and defend those passengers. And now we have experts. Who are they? A man that belonged to the ATF, an individual very frankly that is being told very frankly what he should be saying. This is incorrect.

This is my bill. This is a bill for the American people. This is a bill, in fact, to defend those people that fly every day. By the captain of the ship, they are his responsibility. If there is an infringement upon that cockpit by a terrorist, he has a right to eliminate that individual, to defend his passengers.

Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. CUNNINGHAM).

□ 1200

Mr. CUNNINGHAM. Mr. Chairman, I would like to reiterate what the chairman just spoke about. I have got over 10,000 hours in military and civilian airplanes flying Learns, G-4s, every fighter that you can name. And I would tell my colleagues first of all it is hard enough to shoot down an enemy airplane with your psyche and if a pilot ever has to shoot down a civilian airplane, we ought to give that pilot a lot of support because not just during the act but after the act it will be very difficult for that individual.

But I tell my colleagues that as a pilot myself with thousands of hours, if I was going aboard an airplane either as a passenger or a pilot, I would want several things. The massive security that the gentleman spoke about before, including INS, to make sure that people are not available to do the bad

things, but I would want the marshals. I would want a policy where airline hostesses are trained so that if an act takes place, then they are automatically going to strap themselves down because if someone tries to get through that cockpit, a 757 will take about two negative G's. I am going to put those guys on the top of the roof and try to break their necks and let them pick themselves up off the ground. But as a pilot, as in the Pennsylvania airplane, there is no pilot in the world that is going to take that airplane and fly it into a building. The bad guys are going to slit your throat and take over the airplane. And I want the Kevlar door. I want the marshals. But as a last line of defense to protect the passengers and myself, I would want to be armed.

Not everybody should be armed, but up until 1987 pilots were armed. A large portion of our aviation pilots today are military men and women. I know Air Force and Navy aviators, and they need this type of legislation. I think it ought to be a much higher percentage. Up to 1987, over 70 percent of our pilots qualified to be armed. Mail aircraft hauling pilots were forced to carry a weapon up to this time, but as the chairman says, until political correctness came to this Nation, our lives have been changed forever. Political correctness is going to get passengers and people killed.

I highly and strongly recommend this legislation, and I thank the chairman for it. But I would also say that we need lethal and nonlethal ordnance on those aircraft to support, in my opinion; and we need to support the legislation, not only this legislation but future legislation to protect passengers and the airlines and restore the confidence so that our public will fly the airways.

Mr. OBERSTAR. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-MCDONALD. Mr. Chairman, I stand strongly supporting H.R. 4635, and I say this because the events of September 11 have caused us to pause and reassess our security in the Nation's air travel. It has drastically altered the way we do business, and henceforth U.S. policies on safety and security must reflect a heightened awareness and preparation. September 11 events should keep us vigilant and aggressive in the development and deployment of new technologies and procedures.

Mr. Chairman, it would be a serious mistake not to believe that more terrorist attacks like those experienced on September 11 could occur again. In fact, the Permanent Select Committee on Intelligence and the Transportation Security Administration strongly indicate that the threat to aviation remains very high. Therefore, I believe that under these circumstances we

must incorporate innovation in our approach to this very serious issue. We must support H.R. 4635, a pilot program that would allow trained and qualified pilots to serve as a last line of defense against such a potential disaster.

I know that there are some who feel that this measure does not go far enough, and there are some who feel it does nothing; but I believe that this measure is another means that we can use in protecting the traveling public. While I fully support this measure, I think it is critically important for us to remember that we are in the midst of hiring and expanding the air marshal program. The development of any new pilot program should not interfere with the established and proven air marshal program, nor should it interfere with research into nonlethal measures like stun guns and Tasers.

The proposed bipartisan bill has several key provisions to the original bill. First, it is important to note that this bill is a 2-year pilot program with a minimum of 250 pilots monitored by the Transportation Security Administration. Pilots will use firearms only in defense of aircraft after hijackers breach the cockpit door.

No man-made door is impenetrable to a determined attacker. The bill requires that certain testing and planning take place prior to armed pilots boarding aircraft, including testing the ramifications of a misfire in the cockpit. We should allow for proper training and strengthened firearm training requirements prior to their deployment. This training will be similar to that we provide Federal air marshals. Finally, the TSA administrator has the authority to terminate the program after a 2-year test period.

I, like my colleagues, would agree that keeping an aircraft aloft during an attempted hijacking is of prime importance to the survival of the crew and passengers, and today we should pass this very important piece of legislation.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma (Mr. SULLIVAN).

Mr. SULLIVAN. Mr. Chairman, I rise today in support of H.R. 4635, the Arming Pilots Against Terrorism Act. It is vital that we give the pilots and passengers of American commercial aircraft a fighting chance against would-be attackers. An armed pilot is the final line of defense against terrorist hijackers. Under H.R. 4635, the use of force may be employed only in the defense of the cockpit.

At this point, Mr. Chairman, terrorists would have already seized the aircraft. In the last few moments before hijackers use this plane as a weapon, we have a difficult choice to make. Currently our Air Force has standing orders to shoot down any plane captured by terrorists.

Mr. Chairman, we are at our last resort. Why would we not allow our pilots the opportunity to protect themselves, their passengers, and thousands of American lives? Let us face it, the days of the hijacking thugs or terrorist thugs on our airplanes demanding money or the release of their cohorts is over. The airplane is now the coward's weapon of choice.

Therefore, Mr. Chairman, we must secure our airplanes from these cowards and protect our people from harm. The greatest way to fight off terrorists is to arm those who know the aircraft the best, and that is our pilots.

H.R. 4635 will augment the military background that many pilots already hold by providing rigorous training for all armed pilots. This training is much like the training that Federal air marshals receive with an emphasis on marksmanship, defensive maneuvers, and weapon retention.

Currently, Federal air marshals patrol our skies armed, and have done so since 1985. In addition, foreign airlines who arm their pilots are allowed to travel to our airspace and land on American soil. To suggest that American pilots are somehow incapable or less qualified than those who already carry arms aboard aircraft is ridiculous.

Mr. Chairman, our people want this legislation, our pilots want this legislation, and America deserves this last line of defense. I urge my colleagues to support H.R. 4635.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman for yielding me this time, and I want to address the issue the gentleman from California (Mr. HORN) raised in the well about the rest of the flight crew, the flight attendants, on board the plane.

It was absolutely positively the intention of the Members of this House and those who drafted the aviation security bill last fall that they would get adequate training, both in the issues of self-defense and crew coordination, and all the things that are necessary for those people who are so exposed on the other side of those doors that are slightly reinforced at this point in time.

Unfortunately, many of the airlines, because of the expense and the inconvenience in scheduling involved, have chosen to either stiff or short that training requirement: a 15-minute video on self-defense. And having studied a number of martial arts, I can tell my colleagues that that is not going to do much for a lot of people.

As I spoke here earlier, we are using flight attendants directly. In the case of United's policy, they wheel out the food cart and they stand behind it, and they are supposed to defend the flight deck while that door is open against

terrorists, after having watched the 15-minute video.

There has been no serious consideration by the administration of whether or not nonlethal devices or other things should be made available to the flight attendants. So the improvements in this bill should send a strong message to the TSA, to the FAA, and to the airlines that we do not want more delay; that the flight attendants are at risk, they are a critical part of solving this problem, and they need the training and the tools. It is a minuscule cost to the airline; certainly a lot less cost than the tragedy of another lost plane.

So I congratulate the leaders of the committee on the inclusion of some stronger language and hope we can even push that further and make certain that this gets done.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 3½ minutes to the gentleman from Kentucky (Mr. ROGERS), not a member of the committee, but of the important Committee on Appropriations.

Mr. ROGERS of Kentucky. Mr. Chairman, I thank the gentleman for yielding me this time.

Overall, this is a good bill. By establishing a demonstration program of limited duration and strict standards, we will be able to assess the benefits and risks of arming commercial airline pilots. The bill does not require pilots to carry guns but gives them the option up to a certain percentage and subject to training. They will be literally the last line of defense for our commercial aviation system. The terrorist attacks of September 11 demonstrated that this is something that should at least be evaluated in a systematic and limited manner.

However, I want to draw to the Members' attention one element of the bill that I hope will be addressed in conference with the other body. Section 2 of the bill requires that all costs for the training, supervision, and equipment, meaning guns, under this program shall be borne by the Federal Government. These costs have been estimated by the Congressional Budget Office at \$47 million over the next 5 years.

These funds are not currently in the Transportation Security Administration's budget and could well cause the agency to cancel or defer other critical security activities to finance what is essentially an earmark on future budgets. In addition, training facilities at the Federal Law Enforcement Training Center, which are mandated to be the trainer of these pilots, are stretched thin already; and it is not clear whether the program could go forward immediately because of that.

There is a way out of this predicament. In my view, the Federal Government could just as easily specify the standards for this training and equipment, as we do for pilot training, and

allow the airlines, who choose to participate in the program, to bear those costs. This is a voluntary program. Airlines who want to participate should bear these costs, rather than expanding the Federal Government even further than we already have.

I am concerned, as I know many Members are, over mission creep at the TSA. Many of us want to constrain the size and the scope of that agency and limit mission creep. Deputizing pilots and also paying for their training and firearms, I think, is a step in the direction of mission creep for TSA.

So, Mr. Chairman, I want to congratulate the chairman of the full committee, the gentleman from Alaska (Mr. YOUNG); the chairman of the subcommittee, the gentleman from Florida (Mr. MICA); the ranking member of the full committee, the gentleman from Minnesota (Mr. OBERSTAR); and others for a good job in the drafting of this legislation, with a couple of minor corrections that I hope can be made as we go along.

I hope as we proceed through the process that the managers of the bill will work to limit the direct Federal responsibility for the program and focus more on oversight of what I consider to be industry responsibilities.

Mr. OBERSTAR. Mr. Chairman, I would like to inquire of the time remaining on both sides.

The CHAIRMAN pro tempore (Mr. LINDER). The gentleman from Minnesota (Mr. OBERSTAR) has 4½ minutes remaining and the gentleman from Alaska (Mr. YOUNG) has 8 minutes remaining.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER).

□ 1215

Mrs. TAUSCHER. Mr. Chairman, as a member of the Subcommittee on Aviation, I take my job very seriously. Making air travel secure is one of the most important and daunting challenges our country and this Congress faces.

It is unclear if the new Transportation Security Administration that Congress created last year will meet its deadlines for hiring and training federal screeners and deploying bomb detection equipment to airports this year. This prospect alarms me, and it should alarm other Members.

The TSA and the Bush administration have told us that there are more pressing security issues to address than arming pilots, and I hope that passage of this bill does not add to the TSA's full plate and delay implementation of these other vital security measures.

Mr. Chairman, I appreciate the willingness of the gentleman from Alaska (Mr. YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR) to work with me to address some of the concerns that I raised during the markup

of this legislation in committee. I would also like to thank the committee staff for their efforts to incorporate some of my common-sense changes to the manager's amendment.

However, I do not believe this is the best bill our committee could have brought to the floor. I regret that this was the best bill we could get to the floor in an election year after the bill unnecessarily became more about guns than about safe air travel.

The FAA has taken too long to certify and install the reinforced cockpit doors than originally thought and pilots should have the means to defend the cockpit in the interim.

I support equipping all cockpits with nonlethal weapons to defend the cockpit. United Airlines, ATA and others have taken a leadership role in purchasing these devices and training all of their pilots to use nonlethal weapons, and now are only waiting for TSA certification. I commend them for their efforts.

I am pleased that the manager's amendment included some of my language setting a deadline for the TSA to certify these weapons, but I hope the TSA will act sooner to certify these nonlethal weapons so that companies can begin installing them immediately.

Another big security concern raised by this bill is pilots transporting firearms to, from, and through the airports. I am pleased the manager's amendment includes part of my amendment to have the TSA look at securing their weapons at airports during overnight stays.

I remain concerned about pilots being targeted outside of airports, and recent reports of uniform and ID thefts at hotels, and hope the TSA addresses this issue during its rulemaking process.

I think we can do a better job. I am hoping that we will see some of these amendments, and hope that I will be able to support this bill.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 2 minutes to the gentleman from Montana (Mr. REHBERG).

Mr. REHBERG. Mr. Chairman, I rise today in strong support of H.R. 4635, and my thanks go out to the gentleman from Alaska (Mr. YOUNG), the gentleman from Minnesota (Mr. OBERSTAR), and the gentleman from Florida (Mr. MICA) for the fine work they have done in doing the work that we need to do in this Congress, and that is remain focused on benefits, not on policy.

As a father, a husband, a grandson, a brother, I can say that this Congress has remained fixed on doing everything they possibly can to make air traffic safety paramount for this country. I know after I leave this Congress some day, I will be able to look back and thank these gentlemen and this Congress for doing everything that they can to make my family safer when they fly.

Putting qualified, armed pilots onto planes is not a new idea. It was done successfully as recently as 1984. Today we have an opportunity to increase passenger safety, and the American people demand it. Through passage of this legislation, Congress will put future terrorists around the globe on notice that American air passengers are off limits. America's pilots will no longer be unarmed targets for terrorist aggression. Those wishing to interfere with the safe operation of U.S. passenger airlines are on notice that they will not succeed, and their evil efforts will be met with lethal force.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 2 minutes to the gentleman from South Dakota (Mr. THUNE).

Mr. THUNE. Mr. Chairman, I thank the gentleman for yielding me this time, and for bringing this important issue to the floor.

We have an opportunity today to do something that is critically important to the aviation security system in this country. As a member of the Subcommittee on Aviation and a cosponsor of the original version of H.R. 4635, I strongly support the creation of a voluntary Federal program to arm and train pilots to defend their cockpit against terrorist attacks. I believe the bill that we are considering today creates a good framework for the Transportation Security Administration to implement an effective flight deck officer program.

Later on we will have an opportunity to offer amendments, and I am happy to be part of an effort to amend this bill further to strengthen it and make it even stronger. Our amendment will attempt to lift the ceiling on the number of pilots that are eligible to volunteer for this important program. Secondly, it will require the Transportation Security Administration to begin training qualified, volunteer pilots more quickly. Finally, it will eliminate the sunset for the program. Clearly this is an important issue. It is an important program, and it should not diminish after 2 years.

By arming pilots, Congress can create a last line of defense against terrorist attacks. It is critical that we take every possible action to protect the passengers that fly the aviation system, and this legislation is an important component in that process. Since September 11, we have learned that we need to prepare for previously unthinkable acts of terrorism, and this common-sense legislation and the amendment we will offer later will give airlines and pilots an additional tool and create a last line of defense against future attacks.

This is a voluntary program. It is one that the pilots have asked for, and one I believe that the people in this country are very supportive of, and it is one that will send a strong message to ter-

rorists around the world that they cannot mess with our system.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Chairman, I support this legislation as a groundbreaking test of 2 percent of pilots to be provided with arms.

When we fly in the Navy, we always fly armed. Most of the cadre of civilian pilots come out of the military, and would fly with a 9 millimeter in their SPU. This gives them a sense of confidence, and we will establish a track record.

I want to also talk about tasers in the cockpit. United Airlines has come forward with a proposal to have this nonlethal technology that would not involve having any bullets moving around in the aircraft, and I think this is a reasonable compromise position that the Secretary of Transportation should also look to and support.

I support this legislation, but also hope that we can go forward on the taser proposal for a nonlethal alternative, and I will engage in a colloquy with the chairman of the Subcommittee on Aviation later on that topic.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to correct some misimpressions that were left by previous speakers, talking somewhat enthusiastically about guns in the flight deck prior to this legislation. The actual history is that under general authority of the FAA to protect security aboard aircraft, it was permitted for pilots to carry guns. There is no record of the actual number of pilots who were armed prior to 1981.

In 1981, there was a specific regulation issued by FAA under its security authority to allow arming of pilots provided the airline company permitted the arming, and the pilot voluntarily chose to do so. Again, the FAA can produce no records of the number of pilots who were so armed.

It is ironic, however, that it was last year, last summer, in fact, the summer of 2001, that the authority for armed pilots in the flight deck was repealed by FAA. This is new authority, new legislation. I just want the record to be clear on this point that we are charting a very new course, and doing so, I believe, in a very responsible, thoughtful and careful manner.

This is a much bigger undertaking, much greater initiative than ever conceived of in the past. As previous speakers have said, there clearly is a case to be made, I believe, now for arming flight crews. It ought to be done in this careful, thoughtful manner to a point where the 2-year demonstration is undertaken, the questions are resolved, and then a further determination made on whether to proceed with

a permanent program which, again, we can revisit in this body and enact should it be necessary to do so.

Meanwhile, I think we have crafted here a very fine piece of legislation that stands on its merits and ought to be adopted by this body.

Mr. Chairman, I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I compliment the gentleman from Minnesota (Mr. OBERSTAR) and his working with the gentleman from Florida (Mr. MICA), the chairman of the Subcommittee on Aviation.

I would like to remind Members of some things. Number one, I like the idea of possibly studying a taser weapon or futuristic weapon like what we see in movies, but I personally want that pilot to have a lethal weapon on board.

If I had a terrorist trying to take my ship, I want to have a lethal weapon in my hand. I want to make sure that person does not even have a chance. With a taser, he has a chance. I have some experience with those types of weapons, and if a person was a true terrorist, he would wear protective armament and would need to be struck in the head. Until that time, he would be able to circumvent a taser. A taser does not immobilize a person immediately. A lethal weapon would. Properly trained, that terrorist will be eliminated and my ship will be protected and my passengers will arrive safely.

This is a small step forward. We are not sure, and neither are the terrorists sure, which pilots will be armed. I believe that is a deterrent in itself. I believe there will be some hesitancy on that airplane. I will go back in history, and the gentleman from Minnesota (Mr. OBERSTAR) mentioned the FAA repealed this action last summer so they could not carry a weapon.

I would say if anyone should be criticized, it is the inactivity of the FAA. The inability to make a decision even today with the TSA, we have the FAA saying we have certified new equipment for screening of people or baggage so we are not going to use it. If there is any fault, it is with the two agencies: One old, outdated, antiquated, an agency that does not take steps forward in a positive fashion, the FAA; and a new agency which still follows that lead.

I think the gentleman from Kentucky (Mr. ROGERS) said it very correctly, we have to have more oversight and some demands for action instead of delay so we can implement what we thought we were doing in the Airline Security Act, that we thought we would have a slim and trim agency that would get the job done and the passengers would be screened and put on the plane on time. That is not oc-

curring because of the inactivity of both agencies.

I say to those who say no to this, I am not going to rely on the airlines. I am not going to rely on the TSA or those agencies saying, let us look at it. I am going to say this is going to be done with a small percentage of our pilots. And hopefully after 2 years, with a larger percentage of our pilots, because it is the last line of defense. I remind Members as one who has carried weapons most of his life, I will tell Members that 9-11 would not have happened if that pilot had a weapon at the time of that hijacking. That would not have happened. I say let us pass this legislation, let us go forward and protect passengers. I urge passage of this legislation.

Mr. GILMAN. Mr. Chairman, I rise in strong support of H.R. 4635, the Arming Pilots Against Terrorists Act of 2002 which will allow for a 2-year test period for selected and qualified airline pilots to carry firearms on board the aircraft they command. In confronting the threat of terrorism, we must ensure that our Nation is fully prepared. With many terrorist cells training followers to hijack and fly commercial airliners, providing our pilots with the authority to carry a firearm in order to protect our passengers and airliners is sound policy.

The 2-year trial period will begin when the first 250 pilots have been deputized to carry guns in the cockpit. The number of deputized pilots will be capped at 2 percent of their total workforce, or about 1,400 pilots. Preference will be given to pilots who have formerly served in the military or law enforcement, but participation will be voluntary.

Pilots have voiced nearly unanimous support for using firearms to protect their passengers, their planes and themselves. Moreover, reinforced cockpit doors won't be completed until next year and air marshals will not be riding on all flights. Pilots deserve the right to protect our skies from terror as the last line of defense. Accordingly, I urge my colleagues to support this practical and worthy measure.

Mr. MILLER of Florida. Mr. Chairman, on September 11th, terrorist hijackers killed eight unarmed pilots, hundreds of passengers, and thousands of innocent people. There is evidence that more terrorist cells have been trained to take over commercial aircraft. Our own armed services may be forced to shoot down a plane full of innocent passengers to thwart a terrorist takeover. The Federal Government has a constitutional mandate to provide for the common defense.

Mr. Chairman, we are failing! Our aviation system is still vulnerable, and we remain susceptible to unknown threats from an often-invisible enemy.

Arming trained and qualified pilots to defend their aircraft cockpits is a necessary step to ensure the safety of the flying public. Many pilots have a law enforcement or military background and have experience with firearms. Pilots are entrusted with the lives of the flying public, and arming them will serve as a significant deterrent. What hijacker will break into a cockpit not knowing whether he will face an armed pilot?

Mr. Chairman, some of my hoplophobic colleagues will urge us to give the current efforts

at heightened security a chance. They will cite more metal detectors, sealed cockpit doors and the presence of air marshals. I ask them to explain that rationale to loved ones of the 9/11 victims.

Mr. Chairman, we would never ask a combat pilot to fly into battle without his side arm as a back up. On September 11th, the battlefield entered the cockpit of commercial aircraft. How can we deny the pilots of commercial aircraft the right to defend themselves and the passengers on their aircraft?

Mr. BARR of Georgia. Mr. Chairman, I rise today to support this very important legislation and urge my colleagues to support its passage. First, I would like to thank the Chairman of the Transportation and Infrastructure Committee, Mr. YOUNG, and the Chairman of the Subcommittee on Aviation, Mr. MICA, for their leadership in producing this legislation and getting it to the floor today. I was glad to sign on as a cosponsor of this legislation immediately, because it simply makes sense.

The events of September 11th were indeed a defining moment in our history. For the first time in 60 years, the enemies of freedom attacked our country on our very own soil. Unlike the attack on Pearl Harbor, these enemies used our own airplanes as a weapon to murder thousands of innocent civilians. Such actions cannot be allowed to happen again.

These terrorists were able to use box cutters and knives to take control of our planes, because they knew no one on the plane would be able to defend against even these rudimentary weapons. Since the events of September 11th, the Congress has acted swiftly to provide for air marshals, stronger doors, and better screening procedures, to reduce the terrorist threat to our commercial airlines and our citizens. All of these things make sense, but unfortunately, even these measures are not going to completely eliminate the possibility of terrorists seizing a plane.

So what is the safety net? In the event of terrorist takeover of the plane, it is possible U.S. military planes will track the plane and be forced to bring it down with a missile. This is really not an option which should be forced by our military onto the brave men and women serving our country and causing great harm, or an innocent American civilian.

There is a better option. Train pilots and allow them to carry arms, so they may serve as the last line of defense. It is a more effective option—a decision made by a trained pilot who is there to make the appropriate judgement and determine when lethal force is necessary. My only concern with the legislation is that it is too limited in scope. The bill, as it is presently written, allows only 2 percent of pilots to be trained and certified. Simply put: This cap is far too low. Why should passengers on the 98 percent of other flights receive less protection?

More than half of the commercial pilots today are military veterans who have been well trained in the use of weapons. These pilots are easily trainable to provide the extra security necessary on our planes. I will support the amendment offered by my colleagues from Oregon (Mr. DEFazio), Washington (Mr. NETHERCUTT), South Dakota (Mr. THUNE), and

Texas (Mr. BARTON). Which removes the restrictive cap and ensures a much greater number of pilots can qualify for training and certification. This amendment makes a good piece of legislation even better.

Again, I urge my colleagues to support this legislation, support the amendment removing the 2-percent cap, and provide an even stronger line of defense against future attacks.

Mr. COSTELLO. Mr. Chairman, I rise today in support of H.R. 4635, the Arming Pilots Against Terrorism Act and the manager's amendment to this bill. This legislation is the bipartisan product of the Transportation and Infrastructure Committee and I thank my colleagues, especially Chairman YOUNG, Ranking Member OBERSTAR, Subcommittee Chairman MICA and Ranking Member LIPINSKI for their hard work on this issue.

Following the attacks of September 11th, there was an immediate and obvious need to increase aviation security. Congress passed the Aviation and Transportation Security Act, which took significant steps to improve our Nation's aviation security. One of these steps was to authorize the Transportation Security Administration to determine whether airline pilots should be armed in the cockpit. This legislation moves forward with plans to allow commercial, passenger pilots to be armed while flying. The bill establishes a 2-year pilot program which will arm up to 2 percent of our Nation's pilots after they have completed a training program providing firearms proficiency equal to that of what a federal air marshal achieves. It also increases and mandates self-defense and defense training for the flight attendants, who most likely would be the first individuals to recognize a threat in the cabin.

We all hope that we will never have a repeat of the events of September 11th. However, we must give our pilots an opportunity to defend themselves, the passengers and the plane, if another situation like this were to occur.

Mr. Chairman, I support this compromise legislation. It is good legislation, and I urge my colleagues to join me in supporting it.

Mr. WATTS of Oklahoma. Mr. Chairman, when 19 men hijacked four airplanes on September 11th, 2001, the terrorists had a tactical advantage—and ultimately, the final word. The last line of defense by the pilots on those planes was handicapped. The bad guys had weapons. The good guys did not.

What the House is proposing today is to allow a limited number of pilots who wish to have firearms in their cockpits have them. It is a pilot program for pilots. Critics of this legislation are quick to make excuses why pilots should not have firearms in the cockpit. Their favorite reason seems to be a myth concerning the decompression of the airplane from a stray bullet. What they are saying is quite preposterous. A plane is heading for a building—but a pilot shouldn't be allowed to stop the hijacker for fear of breaking a window. The bottom line is: if an aircraft is headed for destruction as a result of a hijacking, there is absolutely nothing to lose by giving the pilot a last-ditch effort tool to restore order to his plane.

Until 1987, pilots could have firearms in their cockpit. Can anyone in this chamber stand up and tell me it was the Wild, Wild

West up there in the skies? Can anyone in this chamber give me one instance where a pilot misused a gun on a plane? This is a commonsense proposal supported by pilots, their unions, Democrats, Republicans and a clear majority of the American public.

We can pretend an ideal world will somehow prevent acts of terror. But cockpit doors will open. Pilots are not immune from bathroom breaks. Air marshals will not be on every flight. A limited number of sky marshals for thirty-five thousand daily flights just does not cut it.

There will always be evil men seeking to accomplish evil deeds. For once, let's give the good ones a fighting chance. I urge my colleagues to vote for the Arming Pilots Against Terrorism Act and allow pilots to keep control of their planes.

Mr. STARK. Mr. Chairman, I rise today in strong opposition to H.R. 4635, the Arming Pilots Against Terrorism Act.

In responding to the horrific tragedy of September 11th, we've spent billions to put sensible measures in place to ensure the safety of our airlines and the airports they serve. We've implemented strict new standards for screening passengers and their baggage. We've beefed up security personnel, dispatched sky marshals to guard domestic flights, and reinforced cockpit doors to protect our pilots from dangerous intruders. These important security precautions are working and our skies are safer than they've ever been.

Yet, we're confronted today with legislation that would have us take the unnecessary step of arming pilots. After all we've done to make it nearly impossible for anyone to carry dangerous weapons on any plane, why would we put guns in every cockpit?

The gun lobby is peddling the illusion that having guns in the cockpit will boost the safety of our skies. But, in fact, arming pilots would only add a dangerously unpredictable element to air travel that endangers pilots, flight attendants, and passengers alike. Giving guns to pilots doesn't make us any safer. It only increases the chances for disaster.

This is why the President, with the support of a broad consensus of safety experts, law enforcement and all the major airlines, acted to prohibit guns being carried by pilots. We ought to vote today to reinforce this sound judgment and reaffirm the common sense notion that pilots are trained to fly not shoot.

Let's not turn the Red Carpet Room into the OK Corral or our planes into shooting galleries. I strongly urge my colleagues to vote no on this bill.

Mr. BLUMENAUER. Mr. Chairman, it is now widely acknowledged that our Government and our intelligence agencies were not properly prepared for dealing with the events that led up to September 11th and its aftermath. We are spending enormous sums of money to convince the public that we are taking action to make our country safer, in some instances we may actually be making things worse.

The project proposed by the bill from the Transportation and Infrastructure Committee was a cautious attempt to test a new approach to airline safety. As amended, however, it could potentially arm all airline pilots, removes the testing and automatic review of the new program and raises serious concerns

about its operation. Furthermore, this bill has little support from the industry, law enforcement officials or the Bush administration.

There are simple and effective safety solutions that deserve our support. Over a decade ago, industry and security experts strongly recommended that cockpit doors be reinforced to prevent plane hijackings but to little avail. Although it was included as part of last fall's airline security bill, it will be another year before all cockpit doors are sufficiently reinforced.

We still have not completely dealt with the basic issues of airline security, such as baggage screening. The fundamental notion that we arm people, be they classroom teachers, pilots, or Members of Congress is no substitute for appropriate security. I am deeply concerned that we are concentrating on programs that give the illusion of security rather than focusing on doing our job to protect our country. I do not feel comfortable adding complex, controversial new programs over the objections of the administration and the airline industry. This bill, if enacted, will divert attention from existing programs and, given its current amended form, is unlikely to become law. In its present form, that is probably the best outcome.

Ms. KILPATRICK. Mr. Chairman, I had every intention to vote for this bill when I entered this Chamber. But now the bill has been substantially transformed from a demonstration program to allow pilots to carry guns aboard aircraft into a permanent program of arming every commercial pilot. The transformation of this bill is so substantial that I intend to vote against H.R. 4635.

As a Member of the House Appropriations Subcommittee on Transportation, I am very concerned about improving airline security, and I basically support allowing pilots to carry guns as a last line of defense against potential hijackers. Our subcommittee has held a number of hearings to determine the status of the Transportation Security Administration's (TSA's) progress in meeting the deadlines established under the Aviation Security Act. We have all followed the slow progress this new agency is making in meeting the timelines to improve the security of the nation's 429 airports and commercial airline carriers. It is unlikely that we will be able to equip all airports with the explosive detection equipment and magnetometers that are required to screen baggage and passengers. The TSA has not been able to satisfactorily determine security standards for cargo flights and the security standards of international flights has not been addressed at all. The TSA has fallen behind its own internal deadlines and its coordination with airports and airlines has been lacking. This is the wrong time to impose a new mandate on an agency that is struggling to meet its original mission.

I cannot in good conscience vote for legislation that imposes a new requirement on an agency that has yet to demonstrate its success in meeting the current legislative requirements. The airline industry must demonstrate to the traveling public that the security measures required of it are in place to protect passenger safety, not put it at risk. It is important that pilots demonstrate to passengers that they can safely pilot a commercial plane and

still defend against hijackers. We must know more about how misfires from discharged weapons can affect the airworthiness of our crafts.

The amendment that transformed this bill assumes that the need for an additional level of security in the pilot's cabin outweighs the potential safety problems caused by the accidental misuse of firearms on board an aircraft. I respectfully disagree with that thinking, and for that reason, I urge my colleagues to join me in voting against the bill.

Mr. YOUNG of Alaska. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. LINDER). All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 4635

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arming Pilots Against Terrorism Act".

SEC. 2. FEDERAL FLIGHT DECK OFFICER PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

"§ 44921. Federal flight deck officer program

"(a) ESTABLISHMENT.—The Under Secretary of Transportation for Security shall establish a pilot program to deputize volunteer pilots of air carriers providing air transportation or intrastate air transportation as Federal law enforcement officers to defend the flight decks of aircraft of such air carriers against acts of criminal violence or air piracy. Such officers shall be known as 'Federal flight deck officers'.

"(b) PROCEDURAL REQUIREMENTS.—

"(1) IN GENERAL.—Not later than 2 months after the date of enactment of this section, the Under Secretary shall establish procedural requirements to carry out the program under this section.

"(2) COMMENCEMENT OF PROGRAM.—Beginning 2 months after the date of enactment of this section, the Under Secretary shall begin the process of selecting, training, and deputizing pilots as Federal flight deck officers under the program; except that, if the procedures required under paragraph (1) are not established before the last day of such 2-month period, the Under Secretary shall not begin the process of selecting, training, and deputizing pilots until the date on which the procedures are established or the last day of the 4-month period beginning on such date of enactment, whichever occurs first.

"(3) ISSUES TO BE ADDRESSED.—The procedural requirements established under paragraph (1) shall address the following issues:

"(A) The type of firearm to be used by a Federal flight deck officer.

"(B) The type of ammunition to be used by a Federal flight deck officer.

"(C) The standards and training needed to qualify and requalify as a Federal flight deck officer.

"(D) The placement of the firearm of a Federal flight deck officer on board the aircraft to ensure both its security and its ease of retrieval in an emergency.

"(E) Analyze the risk of catastrophic failure of an aircraft as a result of the discharge of a firearm to be used in the program into the avionics, electrical systems, or other sensitive areas of the aircraft.

"(F) The division of responsibility between pilots in the event of an act of criminal violence or air piracy if only one pilot is a Federal flight deck officer and if both pilots are Federal flight deck officers.

"(G) Procedures for ensuring that the firearm of a Federal flight deck officer does not leave the cockpit if there is a disturbance in the passenger cabin of the aircraft or if the pilot leaves the cockpit for personal reasons.

"(H) Interaction between a Federal flight deck officer and a Federal air marshal on board the aircraft.

"(I) The process for selection of pilots to participate in the program based on their fitness to participate in the program.

"(J) Storage and transportation of firearms between flights, including international flights, to ensure the security of the firearms.

"(K) Methods for ensuring that security personnel will be able to identify whether a pilot is authorized to carry a firearm under the program.

"(L) Methods for ensuring that pilots (including Federal flight deck officers) will be able to identify whether a passenger is a law enforcement officer who is authorized to carry a firearm aboard the aircraft.

"(M) Any other issues that the Under Secretary considers necessary.

"(4) PREFERENCE.—In selecting pilots to participate in the program, the Under Secretary shall give preference to pilots who are former military or law enforcement personnel.

"(5) CLASSIFIED INFORMATION.—Notwithstanding section 552 of title 5 but subject to section 40119 of this title, information developed under paragraph (3)(E) shall not be disclosed.

"(6) NOTICE TO CONGRESS.—The Under Secretary shall provide notice to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate after completing the analysis required by paragraph (3)(E).

"(c) TRAINING, SUPERVISION, AND EQUIPMENT.—

"(1) IN GENERAL.—The Under Secretary shall provide the training, supervision, and equipment necessary for a pilot to be a Federal flight deck officer under this section at no expense to the pilot or the air carrier employing the pilot.

"(2) TRAINING.—

"(A) IN GENERAL.—The Under Secretary shall base the requirements for the training of Federal flight deck officers under subsection (b) on the training standards applicable to Federal air marshals; except that the Under Secretary shall take into account the differing roles and responsibilities of Federal flight deck officers and Federal air marshals.

"(B) ELEMENTS.—The training of a Federal flight deck officer shall include, at a minimum, the following elements:

"(i) Training to ensure that the officer achieves the level of proficiency with a firearm required under subparagraph (C)(i).

"(ii) Training to ensure that the officer maintains exclusive control over the officer's firearm at all times, including training in defensive maneuvers.

"(iii) Training to assist the officer in determining when it is appropriate to use the officer's firearm and when it is appropriate to use less than lethal force.

"(C) TRAINING IN USE OF FIREARMS.—

"(i) STANDARD.—In order to be deputized as a Federal flight deck officer, a pilot must achieve a level of proficiency with a firearm that is re-

quired by the Under Secretary. Such level shall be comparable to the level of proficiency required of Federal air marshals.

"(ii) CONDUCT OF TRAINING.—The training of a Federal flight deck officer in the use of a firearm may be conducted by the Under Secretary or by a firearms training facility approved by the Under Secretary.

"(iii) REQUALIFICATION.—The Under Secretary shall require a Federal flight deck officer to requalify to carry a firearm under the program. Such requalification shall occur quarterly or at an interval required by a rule issued under subsection (i).

"(d) DEPUTIZATION.—

"(1) IN GENERAL.—The Under Secretary may deputize, as a Federal flight deck officer under this section, a pilot who submits to the Under Secretary a request to be such an officer and whom the Under Secretary determines is qualified to be such an officer.

"(2) QUALIFICATION.—A pilot is qualified to be a Federal flight deck officer under this section if—

"(A) the pilot is employed by an air carrier;

"(B) the Under Secretary determines that the pilot meets the standards established by the Under Secretary for being such an officer; and

"(C) the Under Secretary determines that the pilot has completed the training required by the Under Secretary.

"(3) DEPUTIZATION BY OTHER FEDERAL AGENCIES.—The Under Secretary may request another Federal agency to deputize, as Federal flight deck officers under this section, those pilots that the Under Secretary determines are qualified to be such officers.

"(4) MAXIMUM NUMBER.—The maximum number of pilots that may be deputized under the pilot program as Federal flight deck officers may not exceed 2 percent of the total number of pilots that are employed by air carriers engaged in air transportation or intrastate transportation on the date of enactment of this section.

"(5) REVOCATION.—The Under Secretary may revoke the deputization of a pilot as a Federal flight deck officer if the Under Secretary finds that the pilot is no longer qualified to be such an officer.

"(e) COMPENSATION.—Pilots participating in the program under this section shall not be eligible for compensation from the Federal Government for services provided as a Federal flight deck officer. The Federal Government and air carriers shall not be obligated to compensate a pilot for participating in the program or for the pilot's training or qualification and requalification to carry firearms under the program.

"(f) AUTHORITY TO CARRY FIREARMS.—

"(1) IN GENERAL.—The Under Secretary shall authorize, while the program under this section is in effect, a Federal flight deck officer to carry a firearm while engaged in providing air transportation or intrastate air transportation. Notwithstanding subsection (c)(1), the officer may purchase a firearm and carry that firearm aboard an aircraft of which the officer is the pilot in accordance with this section if the firearm is of a type that may be used under the program.

"(2) PREEMPTION.—Notwithstanding any other provision of Federal or State law, a Federal flight deck officer, whenever necessary to participate in the program, may carry a firearm in any State and from one State to another State.

"(3) CARRYING FIREARMS OUTSIDE UNITED STATES.—In consultation with the Secretary of State, the Under Secretary may take such action as may be necessary to ensure that a Federal flight deck officer may carry a firearm in a foreign country whenever necessary to participate in the program.

"(g) AUTHORITY TO USE FORCE.—Notwithstanding section 44903(d), the Under Secretary

shall prescribe the standards and circumstances under which a Federal flight deck officer may use, while the program under this section is in effect, force (including lethal force) against an individual in the defense of the flight deck of an aircraft in air transportation or intrastate air transportation.

“(h) LIMITATION ON LIABILITY.—

“(1) LIABILITY OF AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of a Federal flight deck officer's use of or failure to use a firearm.

“(2) LIABILITY OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the officer in defending the flight deck of an aircraft against acts of criminal violence or air piracy unless the officer is guilty of gross negligence or willful misconduct.

“(3) LIABILITY OF FEDERAL GOVERNMENT.—For purposes of an action against the United States with respect to an act or omission of a Federal flight deck officer, the officer shall be treated as an employee of the Federal Government.

“(i) DURATION OF PROGRAM.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the pilot program established under this section shall be in effect for a period of 2 years beginning on the date that the 250th pilot is deputized as a Federal flight deck officer under this section.

“(2) RISK-BENEFIT DETERMINATION DECISION.—Before the last day of such 2-year period, the Under Secretary shall determine whether the security benefits of the Federal flight deck officer pilot program outweigh the risks of the program.

“(3) TERMINATION OF PILOT PROGRAM.—If the Under Secretary determines under paragraph (2) that the risks outweigh the benefits, the Under Secretary shall publish a notice in the Federal Register terminating the pilot program and explaining the reasons for the decision to terminate and shall provide adequate notice of the decision to Federal flight deck officers and other individuals as necessary.

“(4) CONTINUATION OF PROGRAM.—

“(A) IN GENERAL.—If the Under Secretary determines under paragraph (2) that the benefits outweigh the risks, the Under Secretary shall publish a notice in the Federal Register announcing the continuation of the program, shall continue the program in accordance with this section, and may increase the number of Federal flight deck officers participating in the program.

“(B) NOTICE OF PROPOSED RULEMAKING.—Not later than 60 days after the date of publication of a notice continuing the program, the Under Secretary shall issue a notice of proposed rulemaking to provide for continuation of the program. In conducting the proposed rulemaking, the Under Secretary shall readdress each of the issues to be addressed under subsection (b)(3) and, in addition, shall address the following issues:

“(i) The use of various technologies by Federal flight deck officers, including smart gun technologies and nonlethal weapons.

“(ii) The necessity of hardening critical avionics, electrical systems, and other vulnerable equipment on aircraft.

“(iii) The standards and circumstances under which a Federal flight deck officer may use force (including lethal force) against an individual in defense of the flight deck of an aircraft.

“(5) REEVALUATION.—Not later than 3 years after the date of publication of a notice continuing the program, the Under Secretary shall reevaluate the program and shall report to Congress on whether, in light of additional security measures that have been implemented (such as

reinforced doors and universal employee biometric identification), the program is still necessary and should be continued or terminated.

“(j) APPLICABILITY.—

“(1) EXEMPTION.—This section shall not apply to air carriers operating under part 135 of title 14, Code of Federal Regulations, and to pilots employed by such carriers to the extent that such carriers and pilots are covered by section 135.119 of such title or any successor to such section.

“(2) PILOT DEFINED.—The term ‘pilot’ means an individual who has final authority and responsibility for the operation and safety of the flight or, if more than 1 pilot is required for the operation of the aircraft or by the regulations under which the flight is being conducted, the individual designated as second in command.”.

(b) CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The analysis for such chapter is amended by inserting after the item relating to section 44920 the following:

“44921. Federal flight deck officer program.”.

(2) FLIGHT DECK SECURITY.—Section 128 of the Aviation and Transportation Security Act (Public Law 107-71) is repealed.

(c) FEDERAL AIR MARSHAL PROGRAM.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that the Federal air marshal program is critical to aviation security.

(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this Act, including any amendment made by this Act, shall be construed as preventing the Under Secretary of Transportation for Security from implementing and training Federal air marshals.

SEC. 3. CREW TRAINING.

Section 44918(e) of title 49, United States Code, is amended—

(1) by striking “The Administrator” and inserting the following:

“(1) IN GENERAL.—The Under Secretary”;

(2) by adding at the end the following:

“(2) ADDITIONAL REQUIREMENTS.—In updating the training guidance, the Under Secretary, in consultation with the Administrator, shall issue a rule to—

“(A) require both classroom and hands-on situational training in the following elements of self defense:

“(i) recognizing suspicious activities and determining the seriousness of an occurrence;

“(ii) deterring a passenger who might present a problem;

“(iii) crew communication and coordination;

“(iv) the proper commands to give to passengers and attackers;

“(v) methods to restrain an attacker;

“(vi) use of available items aboard the aircraft for self-defense;

“(vii) appropriate responses to defend oneself, including the use of force against an attacker;

“(viii) use of protective devices assigned to crew members (to the extent such devices are approved by the Administrator or Under Secretary);

“(ix) the psychology of terrorists to cope with their behavior and passenger responses to that behavior;

“(x) how to respond to aircraft maneuvers that may be authorized to defend against an act of criminal violence or air piracy;

“(B) require training in the proper conduct of a cabin search;

“(C) establish the required number of hours of training and the qualifications for the training instructors;

“(D) establish the intervals, amount, and elements of recurrent training;

“(E) ensure that air carriers provide the initial training required by this paragraph within 24 months of the date of enactment of this subparagraph; and

“(F) ensure that no person is required to participate in any hands-on training activity that

that person believes will have an adverse impact on his or her health or safety.

“(3) RESPONSIBILITY OF UNDER SECRETARY.—In developing the rule under paragraph (2), the Under Secretary shall consult with law enforcement personnel and security experts who have expertise in self-defense training, terrorism experts, and representatives of air carriers, employees of air carriers, and educational institutions offering law enforcement training programs.”; and

(3) by aligning the remainder of the text of paragraph (1) (as designated by paragraph (1) of this section) with paragraphs (2) and (3) (as added by paragraph (2) of this section).

SEC. 4. COMMERCIAL AIRLINE SECURITY STUDY.

(a) STUDY.—The Secretary of Transportation shall conduct a study of the following:

(1) The number of armed Federal law enforcement officers (other than Federal air marshals), who travel on commercial airliners annually and the frequency of their travel.

(2) The cost and resources necessary to provide such officers with supplemental training in aircraft anti-terrorism training that is comparable to the training that Federal air marshals are provided.

(3) The cost of establishing a program at a Federal law enforcement training center for the purpose of providing new Federal law enforcement recruits with standardized training comparable to the training that Federal air marshals are provided.

(4) The feasibility of implementing a certification program designed for the purpose of ensuring Federal law enforcement officers have completed the training described in paragraph (2) and track their travel over a 6-month period.

(5) The feasibility of staggering the flights of such officers to ensure the maximum amount of flights have a certified trained Federal officer on board.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study. The report may be submitted in classified and redacted form.

SEC. 5. TECHNICAL AMENDMENTS.

Section 44903 of title 49, United States Code, is amended—

(1) by redesignating subsection (i) (relating to short-term assessment and deployment of emerging security technologies and procedures) as subsection (j);

(2) by redesignating the second subsection (h) (relating to authority to arm flight deck crew with less-than-lethal weapons) as subsection (i); and

(3) by redesignating the third subsection (h) (relating to limitation on liability for acts to thwart criminal violence for aircraft piracy) as subsection (k).

The CHAIRMAN pro tempore. No amendment to that amendment shall be in order except those printed in the CONGRESSIONAL RECORD designated for that purpose and pro forma amendments for the purpose of debate. Amendments printed in the RECORD may be offered only by the Member who caused it to be printed or his designee and shall be considered read.

Are there any amendments to the bill?

□ 1230

AMENDMENT NO. 10 OFFERED BY MR. MICA

Mr. MICA. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. LINDER). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. MICA:

Page 4, line 8, strike "Analyze" and insert "An analysis of".

Page 4, line 9, after "discharge" insert "(including an accidental discharge)".

Page 5, line 3, before the period insert the following:

, including whether an additional background check should be required beyond that required by section 44936(a)(1)

Page 5, line 6, before the period insert the following:

, focusing particularly on whether such security would be enhanced by requiring storage of the firearm at the airport when the pilot leaves the airport to remain overnight away from the pilot's base airport.

Page 6, after line 6, insert the following:

"(7) MINIMIZATION OF RISK.—If the Under Secretary determines as a result of the analysis under paragraph (3)(E) that there is a significant risk of the catastrophic failure of an aircraft as a result of the discharge of a firearm, the Under Secretary shall take such actions as may be necessary to minimize that risk.

Page 11, line 19, before the period insert the following:

under chapter 171 of title 28, relating to tort claims procedure.

Page 11, after line 19 insert the following:

"(i) PROCEDURES FOLLOWING ACCIDENTAL DISCHARGES.—

"(1) IN GENERAL.—If an accidental discharge of a firearm under the pilot program results in the injury or death of a passenger or crew member on an aircraft, the Under Secretary—

"(A) shall revoke the deputization of the Federal flight deck officer responsible for that firearm if the Under Secretary determines that the discharge was attributable to the negligence of the officer; and

"(B) if the Under Secretary determines that a shortcoming in standards, training, or procedures was responsible for the accidental discharge, the Under Secretary may temporarily suspend the program until the shortcoming is corrected.

"(2) AFFECT OF SUSPENSION.—A temporary suspension of the pilot program under paragraph (1) suspends the running of the 2-year period for the pilot program until the suspension is terminated.

Page 11, line 20, strike "(i)" and insert "(j)".

Page 13, line 6, strike "proposed".

Page 14, line 4, after the period insert the following:

The report shall include a description of all the incidents in which a gun is discharged, including accidental discharges, on an aircraft of an air carrier after the date of enactment of this section.

Page 14, line 5, strike "(j)" and insert "(k)".

Page 15, line 12, insert "(a) IN GENERAL.—" before "Section".

Page 15, line 22, insert "effective" before "hands-on".

Page 16, line 10, insert "subdue and" before "restrain".

Page 16, line 13, insert "and effective" after "appropriate".

Page 17, line 4, insert ", including the duty time required to conduct the search" before the semicolon.

Page 17, line 8, strike "amount" and insert "number or hours"

Page 17, line 9, insert "and" after the semicolon.

Page 17, line 13, strike the semicolon and all that follows through line 17 and insert a period.

Page 17, line 19, strike "In developing" and insert the following:

"(A) CONSULTATION.—In developing

Page 17, line 23, strike "employees of air carriers," and insert "the provider of self-defense training for Federal air marshals, flight attendants, labor organizations representing flight attendants,".

Page 17, line 25, strike the closing quotation marks and "; and".

Page 17, after line 25, insert the following:

"(B) DESIGNATION OF OFFICIAL.—The Under Secretary shall designate an official in the Transportation Security Administration to be responsible for overseeing the implementation of the training program under this subsection.

"(C) NECESSARY RESOURCES AND KNOWLEDGE.—The Under Secretary shall ensure that employees of the Administration responsible for monitoring the training program have the necessary resources and knowledge."; and

Page 18, after line 4, insert the following:

(b) ENHANCE SECURITY MEASURES.—Section 109(a) of the Aviation and Transportation Security Act (49 U.S.C. 114 note; 115 Stat. 613-614) is amended by adding at the end the following:

"(9) Require that air carriers provide flight attendants with a discreet, hands-free, wireless method of communicating with the pilots.".

(c) BENEFITS AND RISKS OF PROVIDING FLIGHT ATTENDANTS WITH NONLETHAL WEAPONS.—

(1) STUDY.—The Under Secretary of Transportation for Security shall conduct a study to evaluate the benefits and risks of providing flight attendants with nonlethal weapons to aide in combating air piracy and criminal violence on commercial airlines.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Under Secretary shall transmit to Congress a report on the results of the study.

Page 19, after line 7, insert the following:

SEC. 5. AUTHORITY TO ARM FLIGHT DECK CREW WITH LESS-THAN-LETHAL WEAPONS.

Section 44903(i) of title 49, United States Code (as redesignated by section 6 of this Act) is amended by adding at the end the following:

"(3) REQUEST OF AIR CARRIERS TO USE LESS-THAN-LETHAL WEAPONS.—If, after the date of enactment of this paragraph, the Under Secretary receives a request from an air carrier for authorization to allow pilots of the air carrier to carry less-than-lethal weapons, the Under Secretary shall respond to that request within 90 days."

Page 19, line 8, strike "5" and insert "6".

MODIFICATION TO AMENDMENT OFFERED BY MR.

MICA

Mr. MICA. Mr. Chairman, I ask unanimous consent that the amendment be modified in the form at the desk.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment offered by Mr. MICA:

In section 5, relating to authority to arm flight deck crew with less-than-lethal weapons, that is proposed to be inserted after line 7 on page 19:

(1) insert before "Section 44903(i)" the following:

"(a) IN GENERAL.—"; and

(2) insert at the end the following:

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in paragraph (1) by striking "Secretary" the first and third places it appears and inserting "Under Secretary"; and

(2) in paragraph (2) by striking "Secretary" each place it appears and inserting "Under Secretary".

The CHAIRMAN pro tempore. Is there objection to the modification offered by the gentleman from Florida?

There was no objection.

Mr. MICA. Mr. Chairman, the modification that we just offered to my amendment is merely technical and does provide some conforming and consistent language. The manager's amendment that I have offered today does make some relatively minor changes. However, it does not change at all the fundamental thrust of the legislation, and that is to establish a pilot program under which about 2 percent, 2 percent specified and about 1,400 pilots, can arm themselves to stop a hijacking.

We chose that number because, again, we think during the next 2 years that will provide us a good test basis; and given TSA's track record and performance, I think that is probably about all they can do in that time frame to get this program under way.

The purpose of this amendment today is to address some of the issues that have been raised, but not totally resolved, during our committee markup. For example, the bill directs the Secretary of the Transportation Security Administration, TSA, to focus on the safest way to store guns between flights. This amendment also directs the TSA to decide whether a pilot should be subject to an additional background check before being allowed to be traveling armed.

This amendment also directs the TSA to minimize any risk that might occur from the accidental discharge of a weapon. It further makes clear that the pilot could lose the right to fly armed if that pilot is responsible for the accidental discharge of a weapon. Further, it requires a report compiling all the instances where a weapon was discharged on an aircraft.

Again, we have tried to incorporate constructive suggestions in this manager's amendment.

In addition, this amendment significantly beefs up self-defense training for flight attendants. Many flight attendants were concerned that the existing training provisions were inadequate. The bill approved by the committee already directs that improvements in their training should be made, and this amendment further specifies the type of training that should be provided to the flight attendants. It also urges TSA to make certain that it has the personnel in place who are capable of monitoring the training program.

One change in this manager's amendment that we reluctantly included was the deletion of the provision making

hands-on self-defense training voluntary for flight attendants. It will be now, again by this amendment, mandatory.

We were concerned that some flight attendants might be reluctant to actively participate in the more physical aspects of self-defense training for fear it might adversely affect their health or safety. However, the representatives of the flight attendants organizations assured us they wanted all flight attendants to be required to participate in all aspects of self-defense training, so we have today honored that request.

Finally, this amendment changes existing law on less-than-lethal weapons. Existing law authorizes the government to permit pilots to carry less-than-lethal weapons, but it provides no deadline for the government's decision. This amendment does provide a deadline for the decision, but it leaves it up to the TSA to decide whether or not to allow those weapons. I will get into a colloquy with the gentleman from Illinois (Mr. KIRK) later on on that issue.

Personally, I do not believe that the less-than-lethal weapons will be effective in stopping a determined terrorist, and from the demonstrations we have seen, there is a lot to be desired and a lot lacking in using that as the only line of defense. But I think those who seek permission to carry that particular less-than-lethal type of protection are entitled to at least a timely answer.

In sum, this is a good manager's amendment. It improves the bill, it incorporates many constructive provisions, and it is a bipartisan compromise. I urge my colleagues to support the manager's amendment.

Mr. OBERSTAR. Mr. Chairman, I rise in support of the manager's amendment.

Mr. Chairman, we worked long and hard to negotiate the terms of this manager's amendment to complement the work done in subcommittee and in full committee to respond to a number of concerns that were raised subsequent to subcommittee action and during full committee consideration of the bill. The same bipartisan spirit that characterized the crafting of the bill that we considered in subcommittee and full committee characterizes the manager's amendment.

The bill requires the Transportation Security Administration within 2 months of enactment to conduct a study of the risk that a misfire in the cockpit will result in a catastrophic event. By that, I understand and intend, firing a bullet into the autopilot or firing into the navigational guidance system or any of the other on-board equipment that is essential to the navigation of the aircraft. We need to know before launching this program what will be the effects of such an accidental misfire.

The manager's amendment requires the Transportation Security Adminis-

tration, should they have determined that there is a significant risk to the aircraft, to take necessary actions to minimize that risk. That is another, I think, important caveat and protective step that we must take in this process.

The amendment also provides authority for the Under Secretary for Transportation Security to suspend the program if an accidental discharge results in injury or death of a passenger or a crew member and requires the Under Secretary to revoke the deputization of the pilot who is responsible for that accidental discharge.

TSA must also report all incidents where a gun is discharged on an aircraft, including accidental discharge, and provide a report to the Congress within 3 years.

Issues were raised in subcommittee and full committee about the storage of weapons. The manager's amendment requires TSA to specifically address whether the storage of weapons at airports between flights would enhance security. It requires the under secretary to respond to requests from carriers to arm flight crews with non-lethal weapons within 90 days of each request.

It also addresses in detail that the gentleman from Florida (Chairman MICA) has already covered the provisions for training of flight attendants, including establishing a single contact person within TSA to oversee that training program; and it makes that training mandatory, as is evacuation procedure training mandatory and other safety measures mandatory for flight attendants.

I think the way we have crafted the training for cabin crew is very thoughtful and effective and should be carried out, if this legislation is enacted, with vigor by the Transportation Security Administration. As I think virtually every Member of the House does, I fully sympathize with the concerns raised by flight attendants. They are the first line of safety on board an aircraft. They also now are the first line of security, along with Federal air marshals, on board an aircraft; and the legislation we are presenting today makes the pilots the last line of security aboard an aircraft.

So I think we have covered all the concerns and enhanced the legislation with the manager's amendment, and I support its adoption.

Mr. BOSWELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise very enthusiastically supportive of what is going on here today. I thank the gentleman from Alaska (Mr. YOUNG) and the gentleman from Florida (Chairman MICA), the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), of the full committee and the ranking member, the gentleman from Illinois (Mr. LIPINSKI), for moving the ball forward today. I think our country will be safer.

I would just like to kind of make a general statement. I will try to be short.

I appreciate what is going on here today. I, like many others in this body, am a current commercial pilot, and I suppose that by being so I am a little more critical at times of those that man the cockpits of the airplane and just kind of look them over without even thinking about it too much.

I submit that the people that fly our airliners, and I want to emphasize the airliners, that carry many, many what people in the business call SOBs, we call them "souls on board," we are concerned about their safety. That has been in the vernacular for a long time, "souls on board." How many souls are on board? You know, there may be 100, there may be 200, there may be 300, and it is an important thing, their safety.

The pilots come on in a briefing and they will tell you their main purpose is a safe arrival at the destination. So they are high-quality people, very high-quality people we can have a lot of confidence in.

So I think this is appropriate, to do what we are doing. If it were left up to me, I would have probably gone to a little higher percentage and so on. I think we are moving forward, and I think the public will be safer as we arm the pilots.

Last Monday, flying out here, how many times I have reflected on it, as I sat there in the airliner and looked at that door, and I know it can be reinforced and will be in due time, but it is still not going to be attached to a piece of reinforced steel. It will be attached to a bulkhead of aluminum, and I suppose some enterprising terrorist can figure out how to get through that, even though it is reinforced.

If for some reason a terrorist did manage to get into the cockpit and we had not armed him, I think we would feel a lot of remorse if an F-16 pulled alongside and we had not done everything we could have in the last-resort possibility. That last-resort possibility is to arm the pilots. There are two of them on board. Each of them, either one, can land that airplane safely, if required to do so.

So I think we are doing the right thing. It is unfortunate that we live in a time after September 11 that we even have to consider this, but we live in that time.

Mr. Chairman, I support the manager's amendment and I support the underlying bill. I just hope we can move it forward today. Those listening, wherever you might be here on Capitol Hill, support this bill. It is the right thing to do.

Mr. TOWNS. Mr. Chairman, I have recently proposed an amendment to H.R. 4635, the "Arming Pilots Against Terrorism Act," which would establish a program for training pilots as Federal flight deck officers. This amendment enhances the bill by requiring the Under Secretary of Security to address the crucial issue

of accidental discharges. I am very pleased that the gentleman from Florida has agreed to include my amendment in the Manager's amendment.

While all law enforcement officers are trained to handle their firearms with the utmost care, accidental discharges do occur, and are a cause of firearm-related injuries. Typically, accidental discharges result in the wounding of the gun carrier, or of a limited number of bystanders. But in an aircraft flying at 30,000 feet, an accidental discharge, which can potentially shoot out a window, or damage other vital technology, endangers many more people.

To address this concern, I drafted a two-part amendment. The first part instructs the Under Secretary to consider the potential risk of accidental discharges prior to implementing the program. The second half requires the Under Secretary to include in his report to Congress, an account of the specific instances of accidental discharges, and the subsequent damage caused by them.

By requiring the Under Secretary to pay specific attention to the issue of accidental discharges, this amendment increases the security that the program proposed by the bill strives to provide to airline passengers. I therefore urge my colleagues to support the Manager's amendment, and I thank the Chairman and the subcommittee chair for its inclusion in the Manager's amendment.

The CHAIRMAN pro tempore. The question is on the amendment, as modified, offered by the gentleman from Florida (Mr. MICA).

The amendment, as modified, was agreed to.

□ 1245

AMENDMENT NO. 11 OFFERED BY MR. DEFAZIO

Mr. DEFAZIO. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. LINDER). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. DEFAZIO: Page 2, line 12, strike "pilot".

Page 3, lines 8 and 9, strike "selecting, training," and insert "training".

Page 3, line 9, after "pilots" insert "who are qualified to be Federal flight deck officers".

Page 3, line 10, strike the semicolon and all that follows through "first" on line 17.

Page 9, strike lines 3 through 9.

Page 9, line 10, strike "(5)" and insert "(4)".

Page 9, line 24, strike the comma and all that follows through the comma on line 25.

Page 11, strike line 20 and all that follows through line 4 on page 14.

Page 12, line 21, strike the comma and insert "and".

Page 12, line 23, strike the comma and all that follows through "program" on line 24.

Page 14, line 5, strike "(j)" and insert "(i)".

Mr. DEFAZIO. Mr. Chairman, today the gentleman from Washington (Mr. NETHERCUTT) and others and I rise in support of the base bill, but in the hopes of improving the legislation.

We are concerned that by specifying a cap on a reluctant administration, an administration, a President and a head

of the TSA who do not want to arm pilots, that by setting a very, very modest goal of 2 percent, a cap of 2 percent, without mandates, that they move ahead expeditiously with that program, that we are not going to adequately meet the identified threat.

Virtually everyone who has spoken today basically subscribes to the idea that the flight deck should be defensible, the weapons in the bill would not come away from the flight deck, they would be used to defend the flight deck. But the point is that under this legislation, if this reluctant administration moved quickly and expeditiously to the cap of 2 percent, on a daily basis, given pilots' schedules, one could be certain that less than 1 percent of the pilots flying were armed.

Now, I do not believe a chance of one in 100 is a significant deterrent to a suicidal, homicidal terrorist intent on causing death and destruction. So I really feel that by putting that cap in the bill that we would be making a mistake. I do not see why we should not set a goal of saying in an orderly basis, as we are hearing from the gentleman from Kentucky (Mr. ROGERS), as much as we can afford to finance, and I believe that security is worth financing, we should move forward with training all pilots who meet the minimum qualifications, and then all pilots who pass the proficiency test and pass through the training should be allowed, until the day when we have armored flight decks, flight decks which are secure, and which provide for the necessities of food and lavatories for the pilots where they do not have to come out at all, that we would continue to have pilots armed until that point in time.

That is what El Al did. Their pilots were armed until they came up with these secure flight decks where the pilots do not have to come out at all. The door is locked. They do not come out until the plane lands and the engines are shut down.

Now, the FAA says it is impossible to design that kind of a flight deck, and they are going to take a few years to approve the design, so we are a long way away from that here in the United States. Beyond that, we are not even envisioning one where they would have lav services, because that would cause some more money to redesign those planes. So we may be decades away from that.

So we should not have a bill that sunsets in 2 years. We should not have a bill that limits to 2 percent because, remember, the hard and fast bottom line here is there are standing orders from the President of the United States of America that if another plane is commandeered, that that plane will be shot from the sky. That is a horror beyond imagination for the pilot with the order to do that, but a horror that they would have, to avoid even more

mayhem on the ground. It should not ever come to that. Why not have this adequate, last line of defense, and that is what it is, defense.

Some say, oh, we are worried about the pilot running down the cabin with the gun or wandering the airport with the gun. All of those problems can be resolved. It should be a defensive weapon in the flight deck. I urge people to try these stun guns. You get one shot, and it takes about 10 seconds to reload and you get another. That is not going to work against perhaps one or more than one determined terrorist trying to storm a flight deck.

A legal force to repel murderous intent, I believe, is justified. The bill recognizes that, but it has these defects. I urge the Members to support this amendment.

Mr. NETHERCUTT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to thank the gentleman from Oregon (Mr. DEFAZIO) and the gentleman from South Dakota (Mr. THUNE) and the gentleman from Texas (Mr. BARTON) and the gentleman from North Carolina (Mr. HAYES). All of us worked hard to craft this amendment that we think improves the bill substantially, because it brings more reason to the concept of arming pilots as the base bill does.

We think it is unreasonable, and I submit it is unreasonable, to limit the number of pilots who would voluntarily participate in this program of defense on airlines to 2 percent. What that means is that 98 percent of the other flights, the other pilots who are in the air every day, every hour, carrying us and our families and friends and others of the traveling public, are subject to less protection than the 2 percent which would be implemented under the base bill. So what we do is lift the cap of 2 percent, and we make this program permanent.

I would submit, Mr. Chairman, that as we looked at the concept of arming pilots, the committee and subcommittee of jurisdiction have approved the concept of arming pilots. So if it is a concept that is valid, and I believe it is, then we should not limit the time under which it would be implemented to the multiyear term that is contained in the bill. So lifting the cap, lifting the time limitation and making this program permanent, as it should be, I think makes all the good sense in the world to protect the traveling public.

I know the committee worked hard to negotiate the package that is part of the bill as we look at it today, but I also think that this is an improvement in that package; and I believe there will be a strong deterrent associated in making more pilots available to voluntarily participate in the program and arm themselves to protect the passengers, protect against terrorism.

So my sense is that while again, the concept is good in the bill, we really

firmly protect and perfect the concept in our amendment. I think it makes all the sense to do that.

So we should make it permanent. I think if there are pilots as the last line of defense, then there should not be a limitation on numbers and time for providing that permanent line of defense to the traveling public. So our amendment achieves this.

Again, I thank the gentleman from Oregon (Mr. DEFAZIO), the gentleman from South Dakota (Mr. THUNE), the gentleman from Texas (Mr. BARTON), and the gentleman from North Carolina (Mr. HAYES). I am proud to be a part of this effort to make this change and make it in a commonsense fashion, in a reasonable way, to make sure the traveling public has all of the confidence in the world, as much as possible, in the dangerous world in which we live, that they are flying and that they are flying safe. Arming our pilots and lifting these restrictions will do just that.

Mr. LIPINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. I know that the sponsors of this amendment are very sincere and very genuine in what they want to do. I am personally very close to one of them, the gentleman from Oregon (Mr. DEFAZIO), as he and I have participated in a number of endeavors over the course of the years; and I know that his intentions are always for the benefit of all Americans. But in regards to this amendment, I must very strongly oppose it. It would just destroy the delicate balance that we have with this bill. We have come a long way in compromising on this bill, and I think that we finally have a bill that we can truly say represents the will of the American people.

Arming pilots with lethal weapons at the present time is opposed by the administration, opposed by the Secretary of Transportation, and opposed by the Under Secretary of Transportation for Security. So it is questioned whether or not our compromise, bipartisan piece of legislation is ever going to gain the support of those individuals. Certainly, if this amendment would be accepted, the chances of those individuals ever changing their position, the odds of their changing their positions would be much, much greater than they are today when they are not even in favor of it today.

Also, the American public is not totally sold on arming pilots. The issue definitely is in doubt. We should go about this slowly and in a very prudent manner.

There has been an awful lot thrown at the TSA since we passed our legislation establishing it. They are trying to do the best they possibly can with everything that we have given them to do, but they are moving slowly. It is

very possible that some of the deadline dates will have to be extended. If we were now to give them the authority and direct them to start processing approximately tens of thousands of pilots, I honestly and frankly do not know how they could ever do it in a reasonable, responsible manner. Consequently, I say to everyone, stick with the bill that we have before us. It is the most prudent course of action, and we do not want to make the skies less safe and less secure; and I believe this amendment would do that.

Mr. THUNE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am proud to join with my colleagues, the gentleman from Washington (Mr. NETHERCUTT), the gentleman from Oregon (Mr. DEFAZIO), the gentleman from Texas (Mr. BARTON), and the gentleman from North Carolina (Mr. HAYES), to introduce this amendment to H.R. 4635.

We have an opportunity today with this amendment to improve a critically important piece of legislation that I hope becomes law as quickly as possible. As a member of the Committee on Transportation and Infrastructure's Subcommittee on Aviation and a cosponsor of the original version of H.R. 4635, I strongly support the creation of a voluntary Federal program that would arm and train pilots to defend their cockpits against terrorist attacks. I believe the bill that we are considering today creates a good framework for the Transportation Security Administration to implement an effective Federal flight deck officer program. However, I feel a more aggressive benchmark is needed.

In an effort to strengthen the role that pilots play in our airline security, this amendment will make three commonsense changes to the Arming Pilots Against Terrorism Act.

First, our amendment would eliminate the ceiling on the number of pilots that are eligible to volunteer for this important program. In an effort to move the bill through the committee, the current 2 percent limit was included in the bill; and I am certainly pleased, Mr. Chairman, and I admire the work of the gentleman from Alaska (Mr. YOUNG) and the gentleman from Florida (Mr. MICA) and the distinguished ranking member, the gentleman from Minnesota (Mr. OBERSTAR), for moving this bill through the committee. However, I strongly believe that this program needs to allow all pilots to volunteer for this critical program.

Second, the amendment would require the Transportation Security Administration to begin training qualified volunteer pilots more quickly. Very simply, the sooner that there are armed pilots in the cockpit, the quicker they can respond to potential and future in-flight attacks.

Lastly, the amendment would eliminate the sunset for the Federal flight

deck officer program included in the bill and make it permanent. Mr. Chairman, I believe the need for this important program does not go away after 2 years.

Mr. Chairman, by arming pilots, Congress can create a last line of defense against terrorist attacks. It is critical that we take every possible action to protect passengers in this country and the aviation system, and this legislation is an important component of that process.

Since September 11, we have learned that we need to prepare for previously unthinkable acts of terror. This commonsense legislation and this commonsense amendment gives airlines and pilots an additional tool and creates the last line of defense against future attacks.

Mr. Chairman, this is a voluntary program. This is a program that pilots can choose to participate in. It is something that the pilots of this country have asked for, and I would dare say that anybody who uses the aviation system in this country and flies on a regular basis, there is no person that we put more trust and more confidence in than the person who is piloting that airplane. From the takeoff to the flight and the many miles in between and to the landing, it is important that we support our pilots in what they are asking for, and also what I believe the majority of the people in the country are asking for, and that is providing the last line of defense, giving those pilots, those people that we entrust our lives to on a daily basis, an opportunity if it presents itself to be saved from an airplane having to be shot down or, worse yet, although there is not anything worse yet, but having been shot down or having to experience what we saw on September 11.

□ 1300

So it is critically important, I believe, Mr. Chairman, that this amendment be added to this important legislation; that we strengthen it, that we put in place a provision that does not limit or in any way put a ceiling on the number of pilots who can participate in this program. It is a voluntary program.

I ask that we expedite and accelerate the training process, and finally, that we eliminate the sunset provisions so this program can continue long after the 2 years has expired. I believe it will have a deterrent effect and it will send a very, very strong message to the terrorists around the world who would commit acts of terrorism against the people of this country that they are going to be dealing with a system that is completely armed and ready to deal with any type of terrorist attack.

So I ask my colleagues here to support this amendment to make this legislation stronger, and then to move it out of this Chamber and hopefully on

the President's desk, and to get a signature so we can begin to implement these provisions.

Ms. BROWN of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

First of all, I want to thank the gentleman from Alaska (Chairman YOUNG) and the gentleman from Florida (Chairman MICA) and the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. LIPINSKI) for their hard work and cooperation in developing this compromise, and I want to stress, compromise legislation. There are many tough decisions that had to be made by members of the Committee on Transportation and Infrastructure.

The terrible acts of September 11 changed our perspective on how we protect our air passengers and citizens. The traveling public wants and deserves to be safe while traveling. In my home State of Florida, we rely heavily on tourists as the base of our economy, and we need to ensure for people that it is safe to fly.

Arming our pilots is a monumental action by this Congress, and it is a perfect example of why it is so important for us to decide policy through thoughtful deliberation and debate. We are beginning to undertake one of the most significant changes in our Nation's government. As we begin to develop the Department of Homeland Security, we should not be concerned about when we get it done; we should be concerned about whether this new agency is going to serve the best interests of the American public.

We have seen too many examples where the TSA has lacked communication with the local government or the airports, and it is very important that we have communications working with the local governments as far as this new agency is concerned.

The high percentage of missed weapons in the recent TSA undercover operation shows us how much we need to improve passenger safety programs. Arming pilots is one small step, but we still have a lot of work to do. I look forward to working with my colleagues on the committee, as well as DOT and the airline industry, in striving to provide the safest and most efficient air transportation system for the traveling public.

Mr. PAUL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment, but I would like to mention that this is essentially the same amendment that I had prepared to offer, an amendment that I put into the RECORD 2 days ago. But I will support this amendment because it is essentially doing what I was anxious to do.

Shortly after 9-11, as a matter of fact, on September 17, I introduced leg-

islation into this body, H.R. 2896. It would have taken care of this problem in a more conclusive way, and it would have removed all the prohibitions and legalized, once again, the right of property owners to defend their property.

Of course, that would be the ultimate solution, as far as I am concerned, because we are moving in a direction, unfortunately, towards more dependence on government and government regulation, and government programs that allow weapons in a cockpit.

An example I like to use, which I think is an accurate example, if we look at the inner cities, guns are denied to the citizens. There are a lot of police and there is a lot of crime. If we look to the suburbs and the rural areas, there are essentially no police, there are a lot of guns in the homes, and there are essentially no crimes.

That principle should be applied to the airlines. It should be applied because guns can prevent crime, and we should allow them to be placed in the hands of the owners. I have a tie that is a favorite tie of mine, and it has a picture of the Bill of Rights, but it has a stamp over it which says, "void where prohibited by law." I think we do too much of that around here.

A lot of times I get support from the other side of the aisle when they see the prohibitions that our legislation places on the First Amendment. Likewise, I get a lot of support when I would like to reduce the prohibitions on the Fourth Amendment in the area of privacy. Unfortunately, since 9-11, we have moved in the wrong direction. We are making more prohibitions by law on our Bill of Rights.

In this case we are moving in the right direction because we are trying to remove some prohibitions that are limiting our Second Amendment rights. Our job here in the Congress should be to protect the Second Amendment, never to get in the way of the Second Amendment. This is why, although this amendment improves the bill and the bill is moving in that direction, I can support it, but we ought to do a lot more.

Another example of how private property could work was the recent example at LAX Airport. Private owners of an airline assumed responsibility for security at the gate. Many lives were probably saved with El Al guards, private guards with private weapons, that tragically are denied to American airlines. Because of an agreement between one foreign airline and the U.S. Department of Transportation, it has been given permission to protect their people better than we are allowed to protect ourselves. That to me just seems downright foolish, and I think we in the Congress should demand our rights of the Second Amendment and insist on the responsibility of property owners to protect their property and to protect our lives.

We are moving in that direction, and El Al deserves definite compliments, but we deserve deep scrutiny. Why do we permit a foreign airline to provide more security for their people than we are allowed in our country?

The best step in the world, of course, would be to pass my bill, H.R. 2896, which would just legalize once again the Second Amendment and allow our airlines to make the decision, and let the people decide. The airlines that say, we have guns in the cockpit, I would go fly that airline; if they say no, we do not believe in guns, let it be.

We need to, once again, believe in America, believe in freedom, believe in the Bill of Rights, and let the people take care of so many of these problems instead of getting in the way. This bill, fortunately, is helping to get the government out of the way. That is why I support it.

Mr. BARTON of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to commend the Committee on Transportation and Infrastructure for bringing this bill to the floor. I want to commend the ranking member, the full committee chairman, the ranking subcommittee member, and the subcommittee chairman for this. It is an excellent piece of legislation, but, like most bills, it can be improved.

The district that I represent down in Texas includes D-FW airport, which is one of the hub airports in our great Nation. I am very close to Love Field, which is the hub airport for Southwest Airlines. I could be proven wrong on this, but I guess my estimate is that there are more pilots who live in my congressional district than any other district in the country.

As soon as we had the terrible tragedy back in September, my pilots began to come to me personally and collectively and in town meetings saying that they would like to have the right to carry a firearm in the cockpit. I support that right. It is guaranteed under the Constitution, the Second Amendment. We have had several pieces of legislation that have passed since September 11, and there have been numerous ways to try to give that right to the pilots.

The underlying bill before us would allow that in a limited fashion. The amendment that is sponsored by the gentleman from Oregon (Mr. DEFAZIO), myself, the gentleman from South Dakota (Mr. THUNE), and the gentleman from Washington (Mr. NETHERCUTT) would remove that 2 percent cap, it would make the program permanent, and it would accelerate the training of qualified pilots.

I would like to point out that this is a voluntary program. We are not forcing a pilot to carry a weapon if he or she feels that they do not need to or do not want to. The pilots have to be

trained. The pilots have to be certified. But as someone who has flown over 3 million miles, air miles on commercial airliners since I became a United States Representative in 1985, I can tell Members that as a passenger, I feel more comfortable if I know that the pilots at a minimum have the right to carry a weapon, and hopefully, are carrying that weapon and exercising that right. It makes the terrorists' job that much more difficult, should they in some way gain entry into the airplane or into the cockpit.

Most of our pilots are former military flyers, so they are very comfortable with firearms. Again, they have to be trained.

I think this is an excellent amendment. I would point out that a survey that was done back in October by the Air Line Pilots Association and by United Seniors Association, USA, this was done by the Winston Group in October of 2001, shows that 75 percent of Americans favor arming airline pilots, and 49 percent say they would switch to an airline that allows its pilots to be armed. More than half said they would be willing to pay extra to fly on a plane where they knew the pilot had a firearm.

Interestingly enough, 78 percent of married women with children would support arming our pilots, and 77 percent of adults over 55.

So at least in this survey taken last fall, there was overwhelming support. I believe, if this amendment comes to a roll call vote, we will see overwhelming support on the House floor.

I want to commend the gentleman from South Dakota (Mr. THUNE), the gentleman from Oregon (Mr. DEFazio), and the gentleman from Washington (Mr. NETHERCUTT) for working with me to bring forth this amendment, and I hope we adopt it expeditiously.

Mr. Chairman, I include for the RECORD information on the survey I referred to earlier.

The document referred to is as follows:

ALLIED PILOTS ASSOCIATION,
UNITED SENIORS ASSOCIATION,
October 17, 2001.

NEW NATIONAL SURVEY SHOWS OVERWHELMING PUBLIC SUPPORT FOR ARMING AIRLINE PILOTS
SUPPORT STRONGEST AMONG WOMEN, SENIORS; TRAVELERS WOULD SWITCH TO AIRLINES THAT ARM ITS PILOTS

WASHINGTON, DC.—A new national survey commissioned by the Allied Pilots Association and United Seniors Association and conducted by The Winston Group, will be released today, Wednesday, October 17, 2001. The survey reveals the biggest concerns of airline passengers and what security measures the government needs to take now to reassure the traveling public that it is again safe to fly.

75% of Americans favor arming airline pilots.

49% of those surveyed would switch to an airline that armed its pilots.

More than half (51%) would be willing to pay up to \$25 per ticket to pay for new security measures.

78% of married women with children support arming airline pilots.

77% of adults 55 and older support arming airline pilots.

The Airline Passenger Security Survey was conducted October 9-10, 2001 with 800 registered voters across the nation. Margin of error is +/-3.46

Last week, the United States Senate passed the Aviation Security Act and the U.S. House of Representatives will be debating these issues shortly.

"We hope the House considers these important views of American people when crafting their bill on airline security," said Charlie Jarvis, President and CEO of United Seniors Association.

Mr. MICA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my heart is with the proponents of this amendment, but my vote must reluctantly be with those with whom I have agreed to compromise, so I rise in opposition to this amendment.

Some of the things that have been said by the proponents of this amendment are correct, and all pilots should have the ability to defend themselves. However, in our system, nobody gets their way 100 percent.

Although it has been delightful to see some of the Members who were on the other side of the issue scampering to get back to my original proposal, it is always great to see Members in this body do a 180-degree turn back in the direction of the proposal which I had advocated in the first place, but nonetheless, we have thought this out. We learned some experiences from passing legislation in the heat of passion and in the heat of circumstances post-September 11.

We have heard that the Transportation Security Administration, which we created, which we gave far too many tasks to, which we tried to argue against but we lost that debate, we do not want to make the same mistake now in giving TSA any more than they can put on their platter.

The chairman of the subcommittee on the Committee on Appropriations was quoted a month ago saying that TSA is in chaos. We do not want to add to that chaos. Members have already heard how their finances are stretched. Therefore, we came up with a compromise that allows 2 percent. It does not sound like a lot, but it can be as many as 1,400 pilots to be trained on a voluntary basis with the specifications of weapons, of storage of weapons, of every detail involved in the process of defending the cabin and the cockpit. I think that is a reasonable compromise. I think this is a reasoned and well-thought-out approach.

Mr. Chairman, my colleagues have to understand, too, that TSA, the Transportation Security Administration, has the ability to put a rule in place today, before the day is out. We gave in our unprecedented legislation, signed by the President November 19, we gave them the ability to do this today. They

have not done that, and shame on them for not doing that. That is why we are here as policymakers, to put that in place.

We have not eliminated that possibility, but we have only put in place a beginning program. I think the program will work. I think it is well thought out.

So, again, it is with reluctance that I oppose this to honor the agreement that we have come forward with, which I think is a good agreement.

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. MICA. I yield to the gentleman from Texas.

Mr. BARTON of Texas. A friendly inquiry, Mr. Chairman. I am reading the underlying bill. In the bill that is on the floor, section 128, which has the section that the gentleman was alluding to that would give TSA the authority to do the rule, it is repealed.

Mr. MICA. Mr. Chairman, I would tell the gentleman that, no, we would repeal that, but we replace it with this provision.

Mr. BARTON of Texas. It is to be replaced?

Mr. MICA. Yes. So we do have that ability. I want to clarify that. That may appear to be contradictory, but in fact we are putting this in this particular provision.

□ 1315

Again, I think it is well thought out, I think it gives us the ability to defend the cockpit. And a terrorist will not know, a terrorist will not know which of these pilots are armed, but they will know that we as a Congress have acted and allowed some of those pilots to be armed. They will not know how many air marshals are on what plane either, but they will know there will be air marshals. They will know there will be another line of defense.

So, again, I think this is a good beginning. I think it is a good compromise. I want to honor the compromise that we have so carefully crafted. Again, I rise in reluctant opposition to the amendment offered by my friends, the DeFazio-Thune-Nethercutt amendment.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise without reluctance with great concern about this amendment in opposition to it. I have no hesitation at all in opposing this amendment, with great respect for the sincerity with which its authors come forward. But the road to destruction is paved with good intentions and sincerity, and we would be on a road to very serious problems with this amendment.

As the gentleman from Florida (Mr. MICA) has said and as the gentleman from Alaska (Mr. YOUNG) officially in his remarks has said, the bill before us

today is the product of a very carefully thought through, debated, negotiated compromise, like most legislation that passes this House. In this case we have the benefit of the best ideas from both sides of the aisle coming together in support of a bill that both sides of the Committee on Transportation and Infrastructure can support this far and no farther.

Now, the idea of creating a permanent program to arm pilots as compared to the bill which has a 2-year experimental program would totally undo this agreement. I could not support the bill should this pass.

Then the bill, I think, would not pass because I think there is great reluctance among Members on both sides of the aisle about the issue of arming pilots. There is, as was expressed by a previous speaker, the gentleman from Illinois, the public is not at all sure about this idea of arming pilots. In fact, time and again travelers aboard aircraft have asked me with some trepidation in their voice about having guns in the cockpit.

We have achieved a balance between those in this body who are vehemently opposed to arming flight deck crews and those who are vigorously in support of it, those who are in between. There are reservations on both sides. I think the bill before us balances the equity. Expanding the basic program to an unlimited number of commercial pilots within such a short time frame would frankly undermine aviation security in general. This would mean, passage of this amendment would mean training tens of thousands of commercial pilots to carry guns.

The Transportation and Security Administration already is having a difficult time training the airport security check point personnel. They have not been deployed at airports around this country. How in heaven's name are they going to take on the additional task of training tens of thousands of commercial pilots? They have not fully trained the Federal air marshals necessary to put them on board all flights. There just simply is not going to be enough personnel. There is not going to be enough time or money to train such a vast number of personnel.

I listened with great interest as the gentleman from Kentucky (Mr. ROGERS), chairman of the Subcommittee on Appropriations, addressed the issue of costs. Based on Congressional Budget Office estimates of some 70,000, their estimate is 100 percent of the 70,000 pilots. That is a low number. I think there are more like 85,000 commercial pilots. If you do 100 percent training, the cost estimate is \$560 million a year. Well, we do not have unlimited dollars to address this issue. There is not enough money in the aviation security charge that we have imposed upon air travelers to cover that cost. There is

not enough money to do all the other things that we are attempting to do that I think have a much higher priority than training flight deck crews.

We have a solid approach, sensible approach, a step-by-step approach. Let us take this 2-year pilot program, make sure that it works, make sure that under the circumstances we have set forth it will be effective, and let us not go beyond that point. Oppose this amendment.

Mr. HAYES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in strong support of the DeFazio-Nethercutt-Thune-Barton amendment. I appreciate very much the effort that our chairman, the gentleman from Florida (Mr. MICA) and the gentleman from Minnesota (Mr. OBERSTAR) have put into crafting a compromise. Their efforts are well intended and we are moving in the right direction, but the amendment before us today will take their good work and expand it. This will provide true security at a moment's notice, deterrence that will mean something that can be clearly understood and will provide a tremendous boost to both the confidence and the security of the flying public.

There are three things I want to mention briefly here. When an airplane leaves the ground, all the passengers and the crew are entirely dependent on the ability of the pilot to maintain control of the aircraft. Over 70 percent of the pilots and the majority of the public at large overwhelmingly agree that properly trained pilots should have the opportunity to carry a firearm.

If I might address my friend, the gentleman from Minnesota's comments about the training part of the bill. As I understand it, it allows appropriate training for the pilots to be armed. Of course, they will be experienced. They will have proper training. Training for the pilot is far different. This is about someone coming through the cockpit door. This is not about someone unidentified rising in a seat, perhaps coming out of a lavatory. The type of training and level of training is far less and, consequently, in my opinion, far less expensive than it would be to train a sky marshal.

At the same time, let me stress that the training they would receive would be appropriate. It would be sufficient, and it would also be very relevant to the task that you hope that they would never be called on to perform. Also, this is volunteer pilots. It increases the number of participants in the program. It is clearly more effective and more helpful than asking passengers to take their shoes off in a random fashion and checking them.

A potential terrorist who knows that the pilot is armed and trained to deal with anyone who comes to the door to take over control of that aircraft and

uses a weapon, that is a deterrent. That is a real deterrent.

Lastly, the amendment will accelerate the training of qualified pilots by requiring TSA to begin training the qualified pilots within 2 months of enacting the legislation. I also might add this keeps the under secretary, who has expressed some disfavor for this project, from stopping it arbitrarily in 2 years.

This is a good amendment and it can make a good bill even better. I urge support for the Barton-Thune amendment.

Mr. KINGSTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wanted to enter into a colloquy with the gentleman from Florida (Mr. MICA). First of all, I wanted to thank the gentleman and the ranking member and all the committee members for what they have done and for the gentleman's leadership on this important legislation. I am proud to be a cosponsor of the bill so I certainly support the gentleman's efforts.

Our airline pilots are already entrusted with every passenger on their aircraft, so it stands to reason that they be entrusted to serve as responsible Federal flight deck officers. All we have to do is ensure they receive the proper training, and with that in mind, I would like to request that we clarify the training aspect of the bill.

As the chairman knows, the bill states "the Under Secretary shall base requirements for training on the standards applicable to Federal air marshals."

The Federal air marshals conduct their training at the Federal Law Enforcement Training Center, FLETC. However, this bill simply states that the pilots' training should be conducted at "a facility approved by the Under Secretary."

Since FLETC is already the approved Federal training facility for the Federal air marshals, I am sure the gentleman would agree that this is appropriate to designate FLETC as an approved training facility for the Federal flight deck officer program. I request that the record reflect our intent to designate the Federal Law Enforcement Training Center as an approved training facility for both the Federal air marshal program and the Federal flight deck officer program.

Mr. MICA. Mr. Chairman, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from Florida.

Mr. MICA. Mr. Chairman, I agree with the gentleman from Georgia on this important issue of training standardization for our Federal flight deck officers and also for our Federal air marshals. The Federal Law Enforcement Training Center should be designated as an approved training facility for both the Federal Air Marshal

Program and also for the Federal Flight Deck Officer program.

Mr. EHLERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I first rise to state that I am opposed to the amendment, but as you will see in a moment, I am also opposed to the bill but not for the reasons you may think.

I am not fundamentally opposed to the idea of arming pilots in the cockpit as a last line of the defense against a terrorist attack on an airplane. The safety and security of the flying public is a central concern to us all, and a well-trained, armed pilot could be a valuable asset in defending ourselves against terrorist acts. Moreover, the bipartisan bill approved by the Committee on Transportation and Infrastructure addresses a number of the logistical and procedural issues for implementing a program for arming pilots, even if it leaves most of the sticky details to the TSA.

I must say that I am skeptical of the ability of the Transportation Security Administration to develop adequate procedures for this complicated process of safely getting a firearm on and off an airplane and securing it in the cockpit without incident. Let us hope that they can successfully answer many of the questions we do not firmly work out in this bill.

In summary, I am not fundamentally opposed to this bill. In fact, I have consistently voted against any measures to control firearms. But let me just say, having said all of that, that H.R. 4635 still has at least one fatal flaw and a few minor ones that prevents me from voting for it. The problem: the bill does not give the airlines a choice on whether their pilots, their employees, can carry guns on the airline's planes.

We have heard from the public. We have heard from the pilots. We have heard from the flight attendants. And we have responded to these groups, but we have shut out the airlines. This is entirely inappropriate.

The Federal Government should not mandate that a reluctant airline be required to allow one of its pilots to carry a firearm on board one of its planes. I acknowledge that we often tell employers what to do, such as how to treat employees and how to handle safety and security matters. However, I am not aware of any instance where the Federal Government has told an employer you have to let your employees carry guns to work if they want to.

We do not tell bus companies that they have to let their drivers carry weapons, but buses have been the subject of terrorist attacks. We do not tell rail service companies that they have to let their engineers carry weapons on their trains, but they are subject to terrorist attacks. We do not tell banks, gas stations or convenience stores that

they have to allow their tellers or employees to carry firearms at work in case they face a robbery. In fact, my home State of Michigan, like the State of Texas, has passed a concealed-carry weapons law, but even those broadly permissive laws do not force an employer to permit an employee to carry a weapon while at work. In fact, they very specifically, in their language, allow employers to exempt the workplace as a place where employees may carry their guns.

□ 1330

This bill does precisely the opposite of what those concealed-carry permissive laws do.

The airlines have indicated that they are opposed to allowing guns in their cockpit. We are depriving them of their voice in this important matter. This is wrong, and for this reason I will not vote in favor of this bill.

I have two other concerns about this bill as well. One is the total cost for implementation of the test program which, according to the CBO estimate, is \$47 million. This money could be better spent on other security measures, such as securing cockpit doors and bulkheads.

In addition, if this test program is broadened to include all pilots, how many millions of dollars will it cost to provide them the proper training and to implement the necessary procedures? The increased TSA spending that we are deciding today will result once again in higher taxes on the flying public, at a time in which we are already seeing the detriment to flying that security fees and taxes are having on the aviation economy.

My final objection to H.R. 4635 is that it exposes the Federal Government to massive amounts of potential liability. Under the bill's language, a Federal flight deck officer is treated as a Federal employee for purposes of liability. If an armed pilot accidentally shoots a passenger that posed no threat to the aircraft, the Federal Government could be on the hook for a huge amount.

There are a number of other situations that could lead to potential liability. For example, a pilot could improperly respond to a mentally deranged passenger attacking the cockpit. This very situation was faced by pilots on United Airlines Flight 855 from Miami to Buenos Aires in February of this year. Or a pilot could accidentally discharge a weapon in a scuffle with an intruder or injure an innocent passenger or flight attendant or, even worse, the pilot could use the weapon in a perfectly lawful manner to overcome a terrorist, but do so in an improper way which results in crew or passenger death or, in the worst possible case, the plane going down.

Coupled with the costs of implementing this program, this potentially

enormous liability makes this bill financially irresponsible.

For these reasons, the fact that we are forcing airlines to allow their pilots to carry guns, the fact that the program is very expensive, and the fact that the Federal Government is exposed to extremely high liability, I am opposed to this bill. I urge its defeat.

Mr. HOSTETTLER. Mr. Chairman, I move to strike the requisite number of words.

First of all, I would like to commend the committee and the chairman of the committee and the chairman of the subcommittee on this legislation for moving us in the right direction.

I would like to point out, however, first of all, I am in support of the Thune-DeFazio-Nethercutt amendment and I would like to suggest why.

As was stated earlier, that the underlying amendment makes a provision for 250 pilots to be trained, as such, if we use the lower number that was discussed earlier as to the total number of pilots that would be part of that overall pool, which would be 70,000 pilots, we are talking about training 0.4 percent of America's commercial pilots in this program. That would mean that 99.6 percent of pilots would not be trained. Therefore, a significant number and the overall majority of flights every single day would not be covered as a result of this training program.

It was mentioned earlier that the road to destruction is paved with good intentions, and I would agree with that, and I would like to share with the Members of the House one of those noble intentions that was discussed with me by General Ralph Eberhart, the commander in chief of the North American Aerospace Defense Command in a recent Committee on Armed Services hearing.

I asked General Eberhart what happened on September 11 when it was determined that the fourth plane, Flight 93, which crashed in Pennsylvania, may in fact have been aiming to target our Nation's capital. I asked, what were the actions that NORAD had contemplated?

General Eberhart stated the following: "At that time, the authority was passed, if we believed that, in fact, it constituted a threat to people on the ground, that we could take action to shoot it down."

"The decision was made rather than to go out and try to meet this airplane to stay over New York City and Washington, D.C., in case, if we left it uncovered, there was another airplane coming. So had we seen it continue toward one of those metropolitan areas or we were sure it was going to another metropolitan area, be it Baltimore or whatever, we would have engaged the airplane and shot it down."

He went on to say: "Obviously, we're always hoping, and we do not want to do that until the last minute because

we were hoping that, as those brave souls attempted, that maybe they regained control of the aircraft or that the skyjackers changed their mind. So we don't want to do this prematurely, and we want to see a hostile act, and we want to see it pose a threat.

"So we take this action after a lot of deliberation and to ensure that we have no other option. But we were prepared and we would have been able to shoot that aircraft down had we needed to."

I then asked General Eberhart: "General, there is still an action item that your command may be responsible for doing something similar to what was contemplated on September 11th, are you not? That is still a possibility?"

General Eberhart said, "Regrettably, I'm afraid that's always going to be a possibility now. We redefined it on 9-11, and we now train for that. We've established the procedures for that. We exercise for that, hoping that that would never happen. But hope's not a good strategy."

The road to destruction is, in fact, paved with good intentions. It is the intention of the North American Aerospace Defense Command to shoot down a commercial airliner, and they train for that if it is determined that that commercial airliner, if the pilots aboard have lost control of that airliner and that airliner is going to be used in a similar activity such as 9-11.

I think it would be a good intention today of Congress to take us down another road, not a path to destruction, as is the case with scrambled F-16s armed with Sidewinder and Sparrow missiles, but rather, takes us down a path that allows the pilots in the cockpit, not 0.4 percent of pilots in the cockpit, but 100 percent of pilots in the cockpit, who volunteer to be the last line of defense for passengers traveling across the air these days.

Mr. Chairman, I ask that the full House support the Thune-DeFazio amendment.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support not only the underlying bill but the DeFazio-Thune amendment, and let me tell my colleagues why.

I spoke a little bit on the bill itself. Two percent is a good step, and I commend the chairman and the ranking member. And we had 70 percent of our pilots qualified up to 1987; as a matter of fact, our mail planes required that a weapon was carried to protect it prior. And so that is in place.

I disagreed with one of the Members that spoke earlier that we do not mandate different folks. Very seldom can we take a car or in a post office or something like that and kill 3- to 10,000 people at one time. If we save one airplane, if we save one lawsuit, if one life that is lost, we are going to more than pay for this program.

I support, 100 percent. I do not think that we will ever get to 100 percent, but all that does is allow the airlines of those people that are qualified. And I would demand strict regimentation in the actual training because I do not believe everyone should be allowed to carry a gun on an airplane because they are not predisposed either psychologically or physically to do so. I do not believe everybody is. A large portion of our airline pilots today are former Air Force, Navy, Marine Corps, Coast Guard, and I think they are predisposed to do that; they have carried those kinds of weapons. But our passengers deserve to feel safe.

As my colleague mentioned, a wide array of security, starting with INS and Homeland Security, to when I go through, I had a knee replacement I have to end up doing this every time at the airport and take my shoes off. It is a pain, but I have to look at the alternative, and I am glad they are doing that job. But on that airplane, once I get on that airplane, like the gentleman from Oregon (Mr. DEFAZIO) spoke about, I have seen the cockpit door open, and it is vulnerable.

As a pilot with over 10,000 hours of flying both civilian and military airplanes, I know that I would never take that airplane and fly it into a building. Al Qaeda knows that, also. So the first thing they are going to do is cut the throat of that pilot and kill him and they are going to take over the airplane.

As a pilot, I would want to feel a last line of defense. I hope they stop it in all the other places. I hope a marshal, which I support flying with the airplanes, would stop it. I hope a Kevlar door would stop it, but once that fails, if we have got a pilot inside that airplane that is armed, it is going to deter, as a last line of defense. Or even if those guys overtake the airplane and they are using an ax to get through that door, we know that airplane is not going to be used against New York or any other target in this thing.

I feel very, very strong about that, and the fact that we need to pass this kind of legislation.

The gentleman talks about costs. Tell me one family member in New York who would worry about costs or one passenger that jumps on these airplanes that would worry about costs. Our lives have changed for good in this country, forever, and unless we take up the challenge, these rascals are going to attack us.

I serve on the Permanent Select Committee on Intelligence, and I truly believe we stand a 100 percent chance this year of being struck by al Qaeda, 100 percent, because these rascals are out there collating in all these different countries and raising money and raising arms. And it may not be an airplane because we are vulnerable in other areas.

If this amendment does not pass, I hope it does, I have got an amendment to strike it to 25 percent. I am not going to offer that because I do not want to take away from the gentleman from Oregon's (Mr. DEFAZIO) and the gentleman from South Dakota's (Mr. THUNE) amendment and have people split off from it. But this is a well-crafted, well-designed amendment that will supply security for citizens of this country, not just airline passengers, but for the people on the ground as well.

I thank the gentleman from Oregon (Mr. DEFAZIO) and the Members that support this.

Mr. KIRK. Mr. Chairman, I move to strike the requisite number of words.

I would like to engage our distinguished chairman of the subcommittee in a colloquy, if I may.

The Aviation and Transportation Security Act, passed last year, provided airlines with the option of deploying less-than-lethal technology as part of their security procedure enhancements with the approval of the Transportation Security Administration. To date, have any airlines been granted permission to employ this nonlethal technology.

Mr. MICA. Mr. Chairman, will the gentleman yield?

Mr. KIRK. I yield to the gentleman from Florida.

Mr. MICA. Mr. Chairman, I do not believe that the Transportation Security Administration has yet developed a process to review these applications at this time.

Mr. KIRK. As we today initiate this important pilot program to allow the use of firearms by flight crews, is it not also appropriate that the TSA expedite the implementation of less-than-lethal security plans when requested by the airlines?

Mr. MICA. Mr. Chairman, if the gentleman will yield, certainly the airlines and the flight crews should be given the tools they feel are appropriate to protect themselves and their passengers, and that is why we have set the 90-day deadline for the Transportation Security Administration to issue a decision on applications from carriers to utilize less-than-lethal technology.

Mr. KIRK. Mr. Chairman, is the gentleman aware of the request from United Airlines to the Transportation Security Administration to begin equipping properly trained flight crews with less-than-lethal technology in the form of Taser guns?

Mr. MICA. If the gentleman will yield again, I am aware that United has made such an application.

Mr. KIRK. Mr. Chairman, would the gentleman agree that in light of this important legislation we are preparing to pass today, it would be in the best interest of enhanced security at our Nation's airlines for the TSA to approve appropriate applications to allow

flight crews this extra measure of protection while we undertake this additional pilot program to evaluate the use of firearms on aircraft?

Mr. MICA. Again, if the gentleman would yield, I absolutely agree that as long as an airline has developed the appropriate training program and has the proper protocols ready to implement, that the TSA should quickly approve the airline's application to enhance security of their personnel and their passengers.

Mr. KIRK. Mr. Chairman, I thank the gentleman for his responses.

Right now, an application is pending before the Department of Transportation Secretary Mineta. If approved, it offers an immediate way to upgrade flight deck security using nonlethal technology. And I thank the chairman for his leadership, and I hope and urge the Department of Transportation to move quickly on this application and approve the use of nonlethal technology on the flight deck.

□ 1345

The CHAIRMAN pro tempore (Mr. FOSSELLA). The question is on the amendment offered by the gentleman from Oregon (Mr. DEFAZIO).

The question was taken; and the Chairman pro tempore announced that the yeas appeared to have it.

Mr. BARTON of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Oregon (Mr. DEFAZIO) will be postponed.

AMENDMENT NO. 7 OFFERED BY MR. HOSTETTLER

Mr. HOSTETTLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. HOSTETTLER:

Page 5, strike lines 18 through 21.

Page 5, line 22, strike "(5)" and insert "(4)".

Page 6, line 1, strike "(6)" and insert "(5)".

Mr. HOSTETTLER. Mr. Chairman, once again I would like to thank the committee for the legislation that is before us and that we are moving in the right way.

The amendment that I offer at this time strikes the language in this bill that gives preferential treatment to pilots who were former military or former law enforcement personnel.

Mr. Chairman, in order for us to determine whether this program really works, I believe that we should have a better cross-section of pilots. I would like to open this legislation up to all pilots. Since this bill creates a training program, there is no reason to discriminate against those pilots who truly want to provide a safe environment for their passengers.

Why not allow all pilots to carry firearms if they so choose? Had the pilots of the four airplanes that were commandeered on September 11 been carrying side arms, the hijackers, armed with box cutters, might not have been successful in their mission.

The American people support the idea. In a Time-CNN poll conducted just weeks after the September 11 terrorist attacks, 61 percent said they favored allowing pilots to carry guns. Two more recent polls, conducted by the Wilson Center and the Winston Group, found support for arming pilots has risen to 75 percent. Airline pilots themselves overwhelmingly favor this option. The Nation's five largest pilots unions, representing 90,000 pilots, sent a letter to President Bush seeking his "assistance in the immediate development and implementation of a program to defend the American traveling public with voluntary armed pilots."

The pilots make the very good point that they are the first line of deterrence and the last line of defense for their aircraft. And few professionals are better equipped to be armed. Pilots endure rigorous screening before they can work for a major airline. There is every reason to believe that all of these professionals have the ability to protect their planes. Most importantly, we already entrust pilots daily with the lives of hundreds of men, women, and children on airplanes weighing 450,000 pounds, traveling 530 miles per hour, carrying 24,000 gallons of fuel, while flying 7 miles above the Earth.

Clearly, these are responsible and trustworthy professionals. And whether they have a background in the military or law enforcement, they should be allowed to carry weapons and to be trained properly to carry weapons and to defend their airliners from potential terrorist attack.

Mr. Chairman, I ask my colleagues to support the amendment.

Mr. MICA. Mr. Chairman, I rise in opposition to this amendment. Again, we have tried to work out a bipartisan agreement. I think the gentleman from Indiana is well-intended in offering his amendment; but unfortunately, it has not been agreed to as part of this package.

This amendment, as I understand it, would eliminate a key section of the underlying bill, the selection preference that is granted to pilots who have former military or law enforcement experience. We think this is extremely important because we know that many of our pilots have previous military experience. They already have handled weapons and arms. They know how to defend themselves and have had extensive training. The same is true with law enforcement individuals.

Those who have had experience more than likely have had experience with weapons, arming themselves, defensive measures; and we think that, again,

this invaluable experience will be helpful in defending the cockpit, in learning the new procedures that are required as established under the guidelines of the TSA. So we think it is essential that having this selection process and giving preference to both military and law enforcement personnel, those who have had that experience, makes perfect sense.

When the determination as to which pilots are qualified to participate in the Federal flight deck program is being made, previous experience with a firearm should absolutely be taken into consideration. That is the agreement that we have reached, and that is the agreement we must stick to.

So, unfortunately, I must oppose the gentleman's amendment and urge Members also to oppose the amendment. We should leave the amendment as we have now passed it intact, and I think we will have a much better piece of legislation. So, again, I oppose this amendment by the gentleman from Indiana.

Mr. HOSTETTLER. Mr. Chairman, as a result of an error on my part, I ask unanimous consent to withdraw the amendment at this time and offer it at a later time.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

AMENDMENT NO. 8 OFFERED BY MR. HOSTETTLER

Mr. HOSTETTLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. HOSTETTLER:

Page 9, strike lines 3 through 9 and insert the following:

"(4) TIME LIMITS.—Not later than 180 days after the date of the enactment of this section, 20 percent of all pilots who volunteer to participate in the program within 30 days of such date of enactment shall be trained and deputized as Federal flight deck officers. Pilots may continue to participate in the program during the 2-year period of the pilot program. By the last day of such 2-year period, at least 80 percent of all pilots who volunteer to participate in the program must be trained and deputized as Federal flight deck officers.

Page 11, line 24, strike "250th pilot" and insert the following: "last pilot of the 20 percent of all pilots who volunteer to participate in the program within 30 days of such date of enactment of this Act".

Mr. HOSTETTLER. Once again, Mr. Chairman, the amendment I offer simply opens up the bill and the provisions of the bill to all the pilots that desire to take part in this program, that volunteer to take part in this program, and does not discriminate against them should they not have taken part in previous law enforcement activity nor been a member of the military.

Mr. OBERSTAR. Mr. Chairman, I rise in opposition to the amendment.

I am puzzled, however, by the gentleman's amendment. It apparently proposes to strike the 2 percent cap and establishes a new accelerated time line and requires the Transportation Security Administration to deputize 20 percent of pilots that volunteer in the first 30 days. Is that the gentleman's amendment?

Mr. HOSTETTTLER. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Indiana.

Mr. HOSTETTTLER. Mr. Chairman, I would advise the gentleman from Minnesota that we are currently considering amendment No. 8, which simply strikes the preferential treatment of individuals.

Mr. OBERSTAR. Reclaiming my time, Mr. Chairman. Is the gentleman's amendment the one that would strike the preference for pilots or the amendment that would strike the 2 percent cap?

Mr. HOSTETTTLER. If the gentleman will continue to yield, this is the preference with regard to military service personnel and law enforcement.

PARLIAMENTARY INQUIRY

Mr. OBERSTAR. Mr. Chairman, the gentleman has already addressed that subject, and we have had some discussion on it. This is, apparently, further debate on the amendment previously offered and withdrawn and then offered again because of a technical mistake. Is that correct, Mr. Chairman?

The CHAIRMAN pro tempore. Could the gentleman from Minnesota restate his inquiry?

Mr. OBERSTAR. Is the gentleman offering under a technical change the same amendment that he offered apparently in error earlier?

The CHAIRMAN pro tempore. Right now, currently under debate, is amendment No. 8 offered by the gentleman from Indiana as reported in the CONGRESSIONAL RECORD.

Mr. OBERSTAR. Which was previously discussed in error because it was misnumbered?

The CHAIRMAN pro tempore. No. Amendment No. 7 was offered, and then, by unanimous consent, withdrawn by the gentleman from Indiana. Now pending is amendment No. 8 offered by the gentleman from Indiana.

Mr. OBERSTAR. Is a copy of the amendment at the desk?

The CHAIRMAN pro tempore. The amendment is printed in the CONGRESSIONAL RECORD and is available at the desk.

Mr. OBERSTAR. Mr. Chairman, I insist that the Clerk read the amendment so that we are clear on what we are debating here.

The CHAIRMAN pro tempore. Without objection, the Clerk will report the amendment.

There was no objection.

The Clerk read the amendment.

Mr. OBERSTAR. Mr. Chairman, again, just to be clear on what we are

voting on here, because there is some great uncertainty, this is a very different amendment from the one on which I had an exchange with the gentleman. The gentleman from Indiana characterized his amendment as striking the preference for pilots. The amendment just read by the Clerk strikes the provisions of the underlying bill and would replace it with a different percentage of pilots and other requirements.

I just want to make sure. Is this the amendment the gentleman intends to offer? Is this the amendment the gentleman proposes to offer, the amendment that deals with the percentage of pilots who volunteer to participate in the program, et cetera?

Mr. HOSTETTTLER. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Indiana.

Mr. HOSTETTTLER. Yes, this is the amendment we are currently discussing, and I will talk to that.

Mr. OBERSTAR. Reclaiming my time, Mr. Chairman, the other amendment proposed by the gentleman from Indiana to strike the preference for pilots, that amendment has been withdrawn?

Mr. HOSTETTTLER. If the gentleman will continue to yield, it has been withdrawn; but under unanimous consent, as the Chair has pointed out, it will be brought up at a later time, and that unanimous consent request has been granted.

Mr. OBERSTAR. Mr. Chairman, once again reclaiming my time, I rise in opposition to both this one and the previous amendment withdrawn and do so because both are mistaken.

To delete the preference for pilots who are former military or law enforcement personnel is a blow at the underlying premise of the entire concept of arming flight deck crews. It has been said time and again in advocating the legislation that pilots should be armed because they are former military, they have experience, they know how to handle a gun, and we ought to provide arms for them in the flight deck.

This is simply a preference. This is not a mandatory requirement, but because of that argument, that pilots have prior military experience, know how to handle a gun, we should therefore arm them. The bill goes on to say that we should then give them preference in the hiring scheme. It does not make sense to strike that preference for those personnel who are the ones most likely to have experience and would probably need the least amount of training.

□ 1400

The present pending amendment by the gentleman from Indiana (Mr. HOSTETTTLER), we have already debated the issue of whether we ought to limit

or remove the limits, the 2 percent cap on a number of pilots that can be sent through the experimental program. We have had an extensive debate on that issue already. It was defeated on a voice vote. We will have a recorded vote on it later. This simply is another amendment masquerading under different terms, but it is essentially the same amendment that we have already debated and I hope put to rest. But to expand the program to an unlimited number of commercial pilots goes against the compromise that we reached, against the concept of a pilot program, an experimental program where we work out all the issues and then decide whether or not to go ahead.

I cannot support an unlimited program. I cannot support just go full bore ahead. We must address the issues that have already been discussed at great length, and I need not repeat them, of assuring the type of gun, type of bullet, the accidental discharge in the flight deck, shooting through navigational equipment. Those issues all have to be resolved before we can go through with a permanent program, and just for reasons I have already expressed, the costs and the burden on the Transportation Security Administration to train 70,000 to 85,000 pilots in a relatively brief period of time, when we have not got the security screeners trained yet, defies the imagination. It just does not make sense at all. The amendment should be defeated.

Mr. MICA. Mr. Chairman, I move to strike the requisite number of words.

My good friend and colleague, the gentleman from Indiana (Mr. HOSTETTTLER), I think is very well intended. I think he was probably well intended on his first amendment that he offered, and I see now what he was trying to achieve and what he is trying to achieve by these amendments, and he is saying we need to speed up this process. His amendment first, I think, was intended to have a larger body than just a smaller body of pilots trained, and I would concur with his intention. I appreciate his withdrawing that amendment.

His second amendment that we have this afternoon says that 20 percent should be trained in the first 6 months and I believe 80 percent by the end of the second year, and I think that is also well intended. I think the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), has pointed out that we looked at the tasks that have already been assigned to TSA and we said wait a minute, this agency was given much more than it can do, and usually when Government gets a program, it costs twice as much, takes twice as many employees and costs three times as much, and we are finding our prediction to be true, and some of my concerns about passing the full federalization without the private participation to also be accurate. We

found already that TSA, just in a simple assignment, assigned 429 airport security directors. To my knowledge, they have only named about four dozen, about 48. They have actually only deployed a little over two dozen, and here we are in July. So this amendment, while well intended, and we would like to have more pilots trained, is a very difficult task.

If we look at another task that was assigned to TSA, and that is to train screeners, my latest knowledge is they might have had 3,000 possibly trained. We might have a dozen airports deployed and federalized at this stage, again in July, and they just cannot do it. And that is not to mention anything about the lack of having explosive detection equipment deployed, which we said would be difficult, which we said is impossible for manufacturers to even produce. We now find ourselves with the possible requirement of training some 20,000 to 25,000 hand wand trace detection Federal employees to complete another requirement by Congress.

So, unfortunately, this is not achievable. I would like to see it. I would like to get on a plane and know that a pilot is ready and capable of defending that cockpit, but we have reached a compromise here where we think the maximum they can do is this 1,400. They start out with a group of 250 and that is sort of the kick-in trigger that we have put in the bill, but we can get up to 1,400. We hope they can get this assignment accomplished.

Let me just say one word about the airlines' opposition to some of this. We have provided protection for the airlines in an unprecedented manner to protect them against liability. I know that is their concern. But my concern, and it should be their concern, is if we have one more incident, it will be fatal to airlines. If we have one more incident, it will be fatal to our economy. If we have one more incident, it will be fatal to potentially thousands and thousands of Americans, and we lost 3,000 of them on September 11. We cannot afford to lose one more. So we need to put these measures in place on a well-thought-out basis. I think that is the approach.

I commend the gentleman for coming out and adding to the debate, offering this amendment, but I must reluctantly stand in opposition.

Mr. LIPINSKI. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to both Hostettler amendment number 7 and number 8, and I also want to say that the gentleman presented his amendments in the correct order. I do not know what happened that we got confused over here, but he was right in the first place on the way he presented the amendments.

I happen to believe that he is not correct in presenting these amendments,

so I oppose them. I oppose them because of what the chairman, the gentleman from Florida (Mr. MICA), has had to say about them; what the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), has had to say about them; and what I had to say about one of those two amendments really in dealing with the DeFazio amendment that we had here on the floor earlier.

I have said before, and it has been said a number of times on this floor, that this is truly a bipartisan bill. An awful lot of work went into it. A lot of compromise went into it. We spent an awful lot of time on it. I think it would be a tragic mistake to pass any amendment on this House floor today because I seriously believe it would jeopardize the possibility of passing this legislation.

Once again I reiterate that the administration is opposed to arming pilots with lethal weapons.

The Secretary of Transportation is opposed to it. The Under Secretary for Security of the Transportation Security Administration is opposed to it. So our pilot project bill that is reasonable, rational, and prudent is going to have a very difficult time passing. If we start enlarging this bill, it is going to spell the death of this bill and we will not be able to improve aviation security and safety.

Mr. COBLE. Mr. Chairman, I move to strike the requisite number of words.

I wanted to come to the House floor earlier to engage in debate on this significant legislation, but I have been tied up in a Committee on the Judiciary hearing most of the day. I do not want to portray myself as a naysayer, but I am confident there is evidence to suggest that additional terrorist cells have been trained to take over commercial aircraft, and in the event of another terrorist hijacking, the Department of Defense will be forced to make the difficult decision to shoot down a plane filled with passengers to prevent that plane from being used as a weapon. We have gone through that before, and we do not want to do it again.

As far as the amendment of the gentleman from Minnesota (Mr. OBERSTAR), I think the chairman of the Subcommittee on Aviation and the ranking member from Illinois may have said this, I think it is well-intentioned, and I do not see the gentleman on the floor, but what bothers me is the possible or probable additional cost that might have to be absorbed in the training of those additional pilots to qualify them to be armed in the appropriate cockpits.

Mr. LIPINSKI. Mr. Chairman, will the gentleman yield?

Mr. COBLE. I yield to the gentleman from Illinois.

Mr. LIPINSKI. Mr. Chairman, I would advise the gentleman that we are not discussing the amendment by

the gentleman from Minnesota (Mr. OBERSTAR). We are discussing an amendment by the gentleman from Indiana (Mr. HOSTETTTLER).

Mr. COBLE. Mr. Chairman, I thank the gentleman for that clarification. I appreciate that, and I will confine my remarks to the bill generally.

Our aviation system, it seems to me, oftentimes is based upon redundancy. When all else fails, we need a last line of defense. Providing pilots with firearms, it seems to me, affords additional assurance that the hijackers can no longer be assured of success. It is a significant deterrent since a potential hijacker will no longer know whether or not a pilot is armed prior to breaking into that cockpit. I regret that I missed the debate on this bill, and I thank the gentleman for setting me straight.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the two amendments, but I also rise in opposition to the bill, H.R. 4635. Although the program has been modified from the original version, I do not believe that it is prudent to deputize pilots as law enforcement officials and to arm them with lethal weapons, even on a pilot program basis.

But before I discuss the reasons for my opposition, let me first commend the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), and the ranking member on the Subcommittee on Aviation, the gentleman from Illinois (Mr. LIPINSKI) for negotiating a much-improved bill. I also thank the gentleman from Florida (Mr. MICA) for incorporating language in the bill and the report to address some specific concerns I raised. Even though the final compromise is not an acceptable one to me, I appreciate the good faith, and it is a much-improved bill.

The central issue in this debate is what is the proper role of an airline pilot in aviation security. The proponents of H.R. 4635 believe that pilots can serve in a dual capacity as navigators and as Federal law enforcement officers. I appreciate the desire and willingness of pilots to assume additional responsibilities. However, I am not convinced that law enforcement is an appropriate role for the airline pilots.

In the aviation security area, there are already Federal air marshals specially trained to deal with violent situations in the air. This is a full-time job that requires individuals' individual attention. They must undergo vigorous training, and after initial qualification, they still must spend a great deal of time to maintain their proficiency.

H.R. 4635 would essentially establish a Federal flight deck officer program that authorizes volunteer pilots to serve as adjuncts to the Federal air marshal program. The main reason why I oppose this idea is I have grave

doubts about whether pilots whose primary duty and experience involves manipulating complex electronic equipment can devote the time and attention necessary to reach a level of proficiency that is equivalent to that of a Federal air marshal.

Let me also remind Members that passenger cabins are relatively small, and they are a confined environment where gun battles are very likely to cause damage to bystanders and damage the aircraft instruments.

□ 1415

For this reason, Federal air marshals must undergo a training regimen that is far more demanding than the training programs for other law enforcement officials.

I would like to point out that the bill provides no role for the employers of the individuals who would become Federal flight deck officers of the airlines. Candidates for the Federal flight deck officer program apply directly to the TSA. Airlines might not even find out whether one of their pilots has applied for the program until after TSA requests a history of their work record and other background information. I know of no other private sector employee-employer relationship where the employees can seek authorization to carry a lethal weapon without the employer's knowledge and consent. After all, if something happens on a plane, it is the airline that is most likely to be sued, and yet they have no role to play in this program.

During the question-and-answer period at a Senate Commerce Committee hearing, the head of TSA, John Magaw, indicated that the agency is opposed to arming pilots with lethal weapons. TSA are the experts in this area, and they recognize the complexities involved. They know what it takes to train a Federal air marshal. It goes far beyond just training someone in basic gun safety and firing a weapon accurately.

Security tasks should be left to dedicated security professionals. We should not be second-guessing the TSA program and their judgment. At best, arming pilots increases security only marginally, while diverting precious time and resources that TSA could spend on more important endeavors.

TSA is already having great difficulty reviewing and coordinating plans with airports deploying detection systems. I am particularly concerned that requiring TSA to focus on developing procedures to arm pilots will make it virtually impossible to comply with the December 31 deadline for 100 percent deployment in this area.

I just want to remind Members, Mr. OBERSTAR, that two pilots were arrested for being drunk as they were getting ready to go fly a plane. I would hate for them to have had lethal weapons.

Mr. HOSTETTLER. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

The CHAIRMAN pro tempore (Mr. DAN MILLER of Florida). Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. HOSTETTLER. Mr. Chairman, we are currently considering Amendment No. 8, and that amendment does the following: The amendment ensures that the program proposed by this act will be carried out expeditiously by requiring that at least 20 percent of the pilots who volunteer during the first month be trained and deputized not more than 6 months after the program is enacted.

Also this amendment provides that at the end of 2 years, at least 80 percent of all those pilots who volunteered during those years will be trained and acting as Federal flight deck officers.

With our Nation's present safety concerns, time is of the essence to get this program up and running. Those who would cause harm to our citizens need to know that there are pilots who are trained and ready to defend their passengers against harm.

The Transportation Security Administration recognizes the deterrent and life-saving effect armed personnel can have in a terrorist incident at an airport. Just this past weekend, following the shooting deaths of two people at the El Al Airlines ticket desk at Los Angeles International Airport, the TSA, or Transportation Security Administration, announced that armed agents will begin patrolling the ticketing areas of the Nation's airports. According to press accounts, a TSA spokesman said these armed agents could react quickly to an incident, preventing additional deaths and injuries like the armed guard did in Los Angeles.

On Saturday, according to numerous press reports, the TSA issued a press release that said, "Had this event occurred at another airline counter without armed security guards, the situation, unfortunately, would have been worse."

This incident emphasizes that we cannot be complacent about any of the security measures that we put in place at our airports and at the other modes of transportation. I wish that I could verify these press reports with an actual copy of the TSA statement. However, the TSA and the Transportation Department will not make them available to my office, despite repeated requests.

Nevertheless, in the case of airport terminals, the TSA is absolutely right. Having firearms in the hands of people can thwart terrorists and save lives. Today we have an opportunity to apply that same logic to the airplanes themselves, the very place where the attacks took place on September 11.

Tom Heidenberger, a pilot for U.S. Airways, lost his wife Michelle, a flight attendant on American Airlines Flight 77, when terrorists hijacked the plane and flew it into the side of the Pentagon on September 11. Tom, who continues to fly, told me why arming pilots is so necessary. "Had the terrorists known there were means to protect the cockpit, had the crew been able to defend against the takeover, my wife would be here today," he said.

Let us learn from the horrible events of that day and make sure they can never happen again by arming as many pilots as soon as possible.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not going to take the whole 5 minutes, but I would like to counter some of the things the gentlewoman preceding spoke about.

First of all, it is almost laughable when you talk about the tight confines. Have you ever flown an A-4 Skyhawk or an F-14? I had 20-millimeter Gatling guns in those airplanes, I could disintegrate this building in a half-second burst, and I could operate it fine. If I was landing or taking off at a Naval airfield, I can assure you, I could use it.

When I was shot down over Vietnam, I had a .357 Magnum, I had a .38 flare pistol and a 9 millimeter Luger. I used them. I did not want to. When the time came, I used them, and they were effective. It let the enemy know I was armed. I probably did not hit anybody, but they knew I was armed.

I want to tell the gentlewoman that just a terrorist knowing that someone in that cockpit is armed is going to deter them. If I was a terrorist and I thought only 2 percent of these pilots were armed, I might take the bet. But if I knew between 25 and 100 percent of those guys were armed, I am probably not going to play those odds because I know I am not going to win.

I would like to enter into a colloquy with the gentleman from Minnesota (Mr. OBERSTAR), because I want to clarify something in the bill, if the gentleman does not mind.

It is my understanding that someone other than a military or policeman is not eliminated from participating in the armed pilots program, is that correct? They were just given a preference?

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, yes. The intention of the language in the bill is to give a preference to pilots who have previous military experience or law enforcement experience, but it is a preference only.

Mr. CUNNINGHAM. Mr. Chairman, reclaiming my time, it does not eliminate someone else?

Mr. OBERSTAR. It is only a preferential consideration.

Mr. CUNNINGHAM. Mr. Chairman, reclaiming my time, I thank the gentleman for clarifying that.

Mr. Chairman, if the DeFazio amendment fails, I am going to offer an amendment to put it at 25 percent. I will not do that if that passes. I cannot imagine it not passing, because the public has spoken, the airline pilots have spoken, and I think this House has spoken as far as that position.

I understand that, in drafting a bill, you have got to work in a tight way to craft a bill that you think is the best, but I think looking at what the needs are, we need more than a 2 percent chance of these pilots bearing arms.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. HOSTETTLER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HOSTETTLER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Indiana (Mr. HOSTETTLER) will be postponed.

AMENDMENT NO. 7 OFFERED BY MR. HOSTETTLER

Mr. HOSTETTLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. HOSTETTLER:

Page 5, strike lines 18 through 21.

Page 5, line 22, strike “(5)” and insert “(4)”.

Page 6, line 1, strike “(6)” and insert “(5)”.

Mr. HOSTETTLER. Mr. Chairman, there has already been a significant bit of discussion about this amendment, but I would like to clarify what this amendment does, one more time.

The amendment strikes the language in this bill that gives preferential treatment to pilots who were former military or former law enforcement personnel. It is correct, Mr. Chairman, that there is a preference only, but if we want a cross-section, a complete cross-section, of pilots who volunteer to take part in this plan, the question is, why do we have a preference in the first place?

The underlying bill calls for, at this time, a rigorous training program, a rigorous training program that would result in a pilot who has much responsibility in the safety of the crew and passengers of the flight already, a program that he or she would have to take part in in order to become a flight deck officer and wield a weapon potentially on board a flight.

Mr. Chairman, if we truly want a cross-section, then I believe that the preference is not necessary. There are

thousands of pilots who desire to carry firearms on to the flight deck, lethal force to protect the crew and passengers of their plane, of the flight, that have never been in the military or in law enforcement. If they are so willing to go through the rigorous training program and to adequately be able to wield lethal force aboard a plane, why should we give a preference to others?

So, Mr. Chairman, once again, this simply strikes the language that grants a preference for individuals who have been currently military or law enforcement personnel.

I think it is a good amendment. I think it does what the underlying premise of this bill would do, and that is to not only deter potential hijackings, but also to thwart those hijackings should they attempt to take place. Likewise, we would know that more pilots would be part of the pool of individuals that would be considered for volunteering to serve us.

So, Mr. Chairman, once again I ask that the full House accept this amendment.

Mr. MICA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, again, we have presented in a slightly altered technical fashion, I believe, this amendment which we have talked about before. I must reluctantly rise in opposition.

I think the gentleman, again, is well-intended in that he is saying, why not go to the full body of pilots and train them? We have though, again, as I have said before, tried to think through this bill how we could achieve training those who have the best credentials, the best experience, on an expedited basis. Certainly those with military and law enforcement backgrounds meet those criteria. So we will actually harm the bill by passing this amendment.

Mr. Chairman, I urge my colleagues to vote against it. Again, I think the gentleman is well-intended, both by this amendment and his previous amendment, in trying to get many pilots trained on an expedited basis and get many pilots, a large percentage of them, armed within a certain period of time.

I also realize his mistrust of the bureaucracy. We have seen that sometimes we assign tasks, and that task is not fulfilled or somehow gets distorted. Again, I understand his motivation, but must reluctantly oppose his amendment.

□ 1430

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

I would like to inquire of the offerer of the amendment, the gentleman from Indiana (Mr. HOSTETTLER), why he withdrew the amendment in the first place, Mr. Chairman, and I yield to the gentleman.

Mr. HOSTETTLER. Mr. Chairman, I would be glad to answer that question. The fact is that staff of the House had a different form, had a different paper that had transposed the numbers 7 and 8 on their sheets and had said that when I initially offered amendment No. 7, which is the amendment that is pending before us now, which is No. 7 and has always been No. 7, according to their paper was No. 8. So they spoke to the amendment No. 8 and all of us, including myself, were considering No. 7, that is actually No. 7. So I offered, because that was the best information at the time and was informed that we should do that, and so I asked unanimous consent to withdraw it and then to bring it up at a later time.

Then it was found out between that time and the previous amendment No. 8 that, in fact, the transposition had taken place, and so that is where we find ourselves now.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for explaining the circumstances which caused a great deal of consternation on the floor and caused us to debate this amendment twice.

As I said in debate the first time the amendment was offered, it goes contrary to the underlying principle of this entire bill, which is armed pilots. Because they have previous military or law enforcement experience, they know how to handle guns, they know how to handle a turbulent situation that clearly would be the case in the attempt of a hijacking of a lethal nature and, therefore, one of the principal motivating factors for this legislation.

Now the gentleman proposes to strike the preference in the bill which emerges from that underlying premise. I find it a contradiction in terms.

Furthermore, the language that the gentleman seeks to strike is a preference. It is not a prohibition, as I discussed in exchange with the gentleman from California. It is not an exclusion of anyone else, any person other than those in the two categories of previous military or law enforcement experience. So it just seems to me to be a puzzlement as to why we would. Notwithstanding the gentleman's explanation, I find it contrary to the amendment, contrary to the purpose of this legislation; and I urge my colleagues to defeat it.

The CHAIRMAN pro tempore (Mr. DAN MILLER of Florida). The question is on the amendment offered by the gentleman from Indiana (Mr. HOSTETTLER).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. HOSTETTLER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Indiana (Mr. HOSTETTLER) will be postponed.

AMENDMENT NO. 9 OFFERED BY MR. HOSTETTLER

Mr. HOSTETTLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. HOSTETTLER:

H.R. 4635

Page 11, after line 9, insert the following:

“(i) LIMITATION ON AUTHORITY OF AIR CARRIERS.—No air carrier shall prohibit or in any way refuse or discourage a pilot employed by the air carrier from becoming a Federal flight deck officer under this section. No air carrier shall—

“(1) prohibit a Federal flight deck officer from piloting an aircraft operated by the air carrier, or

“(2) terminate the employment of a Federal flight deck officer, solely on the basis of his or her volunteering for or participating in the program under this section.

Page 11, line 11, strike “(i)” and insert “(j)”.

Page 13, line 20, strike “(j)” and insert “(k)”.

AMENDMENT NO. 9, AS MODIFIED, OFFERED BY MR. HOSTETTLER

Mr. HOSTETTLER. Mr. Chairman, I respectfully ask unanimous consent to modify amendment No. 9 with the text that I have now and will deliver.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Amendment No. 9, as modified, offered by Mr. HOSTETTLER:

Page 11, after line 19, insert the following:

“(i) LIMITATION ON AUTHORITY OF AIR CARRIERS.—No air carrier shall prohibit or in any way refuse or discourage a pilot employed by the air carrier from becoming a Federal flight deck officer under this section. No air carrier shall—

“(1) prohibit a Federal flight deck officer from piloting an aircraft operated by the air carrier, or

“(2) terminate the employment of a Federal flight deck officer, solely on the basis of his or her volunteering for or participating in the program under this section.

Page 11, line 20, strike “(i)” and insert “(j)”.

Page 14, line 5, strike “(j)” and insert “(k)”.

The CHAIRMAN pro tempore. Is there objection to the modification offered by the gentleman from Indiana?

There was no objection.

Mr. HOSTETTLER. Mr. Chairman, this amendment that I am proposing today would clarify what I believe this bill infers. Air carriers would simply be prevented from firing or otherwise discouraging those pilots who join the flight deck officer program. It also ensures that air carriers cannot prohibit Federal flight deck officers from flying their aircraft.

This amendment simply ensures that the brave pilots who volunteer to protect the citizens of this country will not be discriminated against by airline carriers.

I want to ensure that terrorists know that if they attempt to hijack one of our airliners, in all likelihood they will not succeed. Given that pilots are not yet armed at this point, we have to ask: If an armed pilot is not the last line of defense against hijackers, where does that leave us?

In a recent Committee on Armed Services hearing, I asked the commander in chief of the North American Aerospace Defense Command, General Ralph Eberhart, about what happened on September 11 when it was determined that the fourth plane, Flight No. 93 which crashed in Pennsylvania, may in fact have been aiming to target our Nation's capital.

I asked, “What were the actions that NORAD contemplated?” General Eberhart stated, “At that time, the authority was passed, if we believed that, in fact, it constituted a threat to people on the ground, that we could take action to shoot it down.

“The decision was made rather than to go out and try to meet this airplane to stay over New York City and Washington, D.C., in case, if we left it uncovered, there was another airplane coming. So had we seen it continue toward one of those metropolitan areas or we were sure it was going to another metropolitan area, be it Baltimore or whatever, we would have engaged the airplane and shot it down.”

He went on, “Obviously, we're always hoping, and we don't do that until the last minute because we were hoping that, as those brave souls attempted, that maybe they regained control of the aircraft or that the hijackers changed their mind. So we don't want to do this prematurely, and we want to see a hostile act, and we want to see it pose a threat.

“So we take this action after a lot of deliberation and to ensure that we have no other option. But we were prepared and we would have been able to shoot that aircraft down had we needed to.”

I then asked General Eberhart: “General, there is still an action item that your command may be responsible for doing something that was similar to what was contemplated on September 11, are you not? That is still a possibility?”

General Eberhart said, “Regrettably, I'm afraid that's always going to be a possibility now. We redefined it on 9-11, and we now train for that. We've established the procedures for that. We exercise for that, hoping that that would never happen. But hope's not a good strategy.”

General Eberhart's remarks are obviously very telling. If terrorists get control of a commercial airline, the only alternative is for the Air Force to shoot it down. Does it not seem reasonable to insert one more preventive step before an F-16 launches a missile at a passenger plane? We allow law enforce-

ment officers, animal control officers, and forest rangers to carry their weapons on airplanes. Why not the individuals entrusted with the safety of the plane itself? These are the people we entrust with our lives every time we board a flight, and the majority of them possess distinguished military backgrounds. These are the ones who are trained in responding to life and death situations in a moment's notice.

Several months ago, I had the opportunity to join several commercial pilots and pilots associations in a press conference to agree that they, not F-16 missiles, are the preferred last line of defense against an attempted terrorist takeover of a commercial aircraft. They strongly prefer firearms to stun guns to do the job most effectively. In fact, every law enforcement official who uses a Taser backs it up with lethal force; no one depends on Tasers alone.

I will add that the open market currently offers some ammunition suitable for firing onboard aircraft.

These facts, combined with the fact that this bill shields the airlines from liability, leave no reason for the airlines to prohibit pilots from protecting their planes and passengers. This amendment simply ensures that pilots are able to do just that. I ask the House for its acceptance.

Mr. MICA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am pleased to rise in support of the amendment of the gentleman from Indiana. I strongly support his amendment before us.

I would like to thank the gentleman from Indiana for his making changes that have allowed us to support this amendment. While we have not received any indications from airlines that they would prohibit pilots from participating in the program, we feel pilots deserve ample protection in this matter. Pilots should not be punished for their desire to protect their aircraft, their crews, or their passengers from terrorists. I urge support of this amendment.

I might also say, since this will probably be the last amendment, I believe, offered, that it is important to respond to a couple of other items relating to the airlines and their participation in this program.

The very distinguished gentleman from Michigan (Mr. EHLERS), whom I greatly respect, a member of our committee, he rose in opposition. His opposition is primarily centered around giving the airlines the ability to opt out of this program. The gentleman from Indiana's amendment restrains the airlines from interfering with a pilot participating in this program; and we think that that approach, that provision is good.

I do think that the gentleman from Michigan is well intended to allow airlines to opt out, and that is something

they requested before. However, we have given them unprecedented exemption and liability, and I think that that should cover them. Again, my concern is that if we had one more incident of an airliner being taken out that we would not have to worry about airline survival; we would not have to worry about the economy, because they would all be going down the tubes. We have seen what the incidents of 9-11 have brought to us, and we are still trying to recover economically, and our airlines are trying to recover. So this is a good provision. It protects the pilots.

We have also heard in the debate today about the pilots, and I want to remember today some of the captains that flew those planes on September 11. If they had had the ability to defend themselves, if even one of them had had the ability to be armed, we could have saved destruction; we could have saved lives.

Some of those brave captains were Captain Jason Dahl, and he was the pilot on United Flight 93. On United Flight 175 was Captain Victor Saracini. On American Flight 11 was Captain John Ogonowski, and on American Flight No. 77 was Captain Charles Burlingame. If even one of those captains had had the ability to defend himself, history today might be entirely different.

We do not want anything to interfere with pilots' ability to defend themselves. Yes, I would like to have more pilots trained, and I would like to expedite this whole program. But again, our compromise does not allow that.

Finally, let me respond to the gentleman, also a distinguished Representative who serves on our committee, the gentleman from Texas (Ms. EDDIE BERNICE JOHNSON), and she referred to the TSA experts. Well, I will tell my colleagues, I would rather put my trust and faith in the pilots. We have to understand that sometimes we get letters from our constituents around the country and we get maybe 100, sometimes many hundreds of letters on a particular issue. As chairman of the Subcommittee on Aviation, I was presented with petitions from 58,000 pilots and many of their families who signed petitions asking us for this legislation. As I have said in the past, this is not something we just cooked up in the back room; this is not something that I sprung out. In fact, I was kind of lukewarm at the beginning. But the more I saw, the more I heard from pilots who see the weaknesses in our aviation security system. I put my trust in those pilots, and that is why we have moved forward with this bill.

□ 1445

It is not a perfect measure, by any means, but it is a good bill, a good start. I support the gentleman's amendment, and urge its adoption.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment of the gentleman from Indiana (Mr. HOSTETTLER), as further amended in the version just read by the Clerk, is acceptable. I did not think it was necessary to take this step, but I think we have agreed on both sides of the aisle to accept the gentleman's amendment.

Mr. Chairman, on the overall measure before us, since this is apparently the last amendment, and hopefully we will vote in the next 10 or 15 minutes, it is a good time to reflect back on where we are and where we have come with this legislation.

The gentleman from Florida (Chairman MICA) has already referenced the strong support of the commercial airline pilot community for this legislation, and that certainly has become evident in the months since the tragic events of September.

When first approached with the idea of arming flight deck crews, I was opposed to the idea. I have mentioned this in my opening remarks on the legislation. But as I weighed the progress being made by the Transportation Security Administration in putting in place the many provisions of our Transportation Security Act of last November, it became very clear that the interlocking web of security measures that we envisioned in that legislation is not in place.

Secondly, pilots are concerned about the order of the President to NORAD to scramble, whether active Air Force units or Air National Guard units, to intercept a plane on which there may be a skyjacking of the September 11 type.

Pilots rightly have said if that occurs, the pilot in command of the attacking jet could well be my right-hand pilot on the weekday, and on the weekend he would be ordered to scramble to shoot down my aircraft and my passengers, and I do not want that to happen. I want to be, if that is the case, the obstacle of last resort.

Now, in aviation security, as in aviation safety, the entire structure is dependent upon a web of redundancies. We have backups for virtually every aviation safety system, and so we have done in crafting the Transportation Security Administration Act to establish a web of redundant security measures that back up and overlap one another.

Those measures are now being put in place with great vigor by the Department of Transportation, by Secretary Mineta, Under Secretary Jackson or Deputy Secretary Jackson and Under Secretary McGaw, but it is a huge and daunting task.

They have gone through spring housecleaning and they have cleaned out the old system while still keeping its structure in place and preparing to replace it. They have established a

training curriculum for the instructors of the security screeners. They have established a system to recruit screeners who comply with the requirements of our law. They are in the process of training those security screeners, and have already put the first increment in place at Baltimore-Washington International Airport to test out the training curriculum, the operation of the new Federal security screeners, and to take those lessons into the classroom for the next wave of security screeners.

They have moved vigorously at TSA to work with the industry producing explosive detection systems, the two companies that produced the two versions of explosive detection systems, and are encouraging them and are helping, with all the resources of the government, to have multiple production of these units by other companies.

The CHAIRMAN pro tempore (Mr. DAN MILLER of Florida). The time of the gentleman from Minnesota (Mr. OBERSTAR) has expired.

(By unanimous consent, Mr. OBERSTAR was allowed to proceed for 5 additional minutes.)

Mr. OBERSTAR. Mr. Chairman, that is under way, but it is proving very difficult to manufacture this equipment in the time frame envisioned. We knew that a year ago. We knew very well it was going to be difficult to comply with, but this House, with an overwhelming vote, supported that legislation, supported those deadlines, because the public insisted on security in our aviation system.

The protection for the flight deck, there was an interim measure that has now been in place for securing all flight deck doors, as an interim measure. There is under way with Boeing and Airbus a development of the ultimate flight deck secure door that has yet to be certified by the FAA, although the FAA is in the process of final evaluation, and hopefully yet by the end of this summer they will be able to certify that the flight deck doors proposed by the two aircraft manufacturing companies will be able to withstand all of the assault measures envisioned on board an aircraft. So that piece of the web security is not in place.

We do not have positive passenger bag match required on all flights in the domestic service.

We do not have a universal biometric system for identifying potential problem travelers. I think that, too, needs to be put in place.

Absent all of those measures being put in place to provide the ultimate security for aviation that we envisioned in the Transportation Security Act, this bill before us does provide the next logical and responsible step of a test program to arm and to train pilots in the use of those armaments on board aircraft.

I hope that the amendments offered will be rejected. They are not in conformity with the spirit of the legislation. If they are not rejected, I will be constrained to oppose this bill. I do not want to oppose it, but if these amendments or if any one of them is adopted, except the one on which we have agreed, then I feel the bill and the bipartisan spirit will have failed and I will not be prepared to go forward with this legislation.

I know that the chairman of the subcommittee and the chairman of the full committee have expressed their opposition to all but this one amendment, and we anticipate that there will be a satisfactory outcome, that the amendments will be rejected, and that the underlying bill can then be adopted by the House and be sent on to the other body, and hopefully to the President.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, not very often do we find ourselves trying to stretch out the time. I guess leadership is downtown and they want to stretch it out until 3 o'clock.

One of the enjoyable things about this debate, and I see my friend, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Florida (Mr. MICA), but I have seen some people that, in my opinion, do not know what they are talking about. But even in that light, they were offering constructive types of legislation or comments that were in good faith. I think that is why this debate has been so healthy.

Quite often on this floor we sit here, and because it is an election year, there is partisan rancor. I want to thank my colleagues on the other side that that has not been the case. There has not been a partisan issue on this, and although we may disagree, it is based on wanting to help the American public.

With that, I would say that I disagree with my friend, the gentleman from Minnesota (Mr. OBERSTAR), on the amendment. I would say that it has been established that it is a benefit to have our aviators armed in the cockpit. If that is the case, should we only arm 2 percent of our Capitol Police? I think not, because 100 percent of our Capitol Police armed gives us better protection.

Should we arm 100 percent of our aviators? No, because I also agree with the gentleman that not 100 percent of aviators should carry a weapon, or even qualify for that. But I think a goal of that would be correct.

Of those that are allowed to do that, I think the training should be very, very intensive, with modern techniques, in the problems they may incur in a highly pressurized aircraft at elevation.

Our marshals carry weapons, 100 percent of them. I think we ought to

achieve that goal, and the DeFazio-Thune amendment I believe should pass. I would be sad if the gentleman that has tried so hard to craft a good bill, the gentleman from Minnesota (Mr. OBERSTAR), would oppose it because of that; but I think that the American people have spoken, the airline pilots have spoken, and I think this body will speak, and I expect that overwhelmingly to pass. I would hope the gentleman would join us in this with enthusiasm.

Mr. Chairman, I would take a look at professional aviators. I looked at the one amendment as far as preference. The reason I asked my friend if military and law enforcement had preference, but did not eliminate, I want to tell the gentleman, I have known some aviators that the only pistol they have ever handled was a .38 during qualifications when they were going through the AOC program in training; so again, they may have precedents, but there are people that I hunt and fish with that have far more experience.

If we look at Suzie Brewster, a former Member's wife, I would trust her in a cockpit with a weapon, and she has never been in law enforcement or been an aviator, more than I would some of my pilot friends. I would not want those individuals eliminated. I was glad to see that they are not.

I think there needs to be a real close look at the requirements and the capability and the overall experience, not just because they are in the military or in law enforcement.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, on the matter of the cap and the last point the gentleman made, the point of the bill, of doing a 2-year test and then evaluating, was to work out some of the very concerns the gentleman expressed.

The gentleman is quite right, that not all pilots that we know are qualified to handle a gun. That is why there is the training requirement in the legislation, to prepare and hopefully to weed out people who really do not qualify.

The idea of undertaking this limited program to test out these ideas and to ascertain the effects of a misfired gun in the cockpit that might send a bullet through the autopilot or through the flight deck computer are necessary preconditions. Then we stop, take stock, and the Secretary or the under secretary could make the determination to open it up to all pilots. But I think this is a matter of walking before we run.

□ 1500

Mr. CUNNINGHAM. Mr. Chairman, I thank the gentleman and I understand his argument except the fact that I

know, I do not have to study it, I know if I was in a cockpit of an airplane, I would want to be armed as protection because that guy is going to cut my throat and I want to be able to defend not only myself but the pilots in the back, and I do not need a pilot program.

Mr. LIPINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise at this time to reluctantly support the Hostettler amendment No. 9. I have said repeatedly I was opposed to all amendments that would be offered to this piece of legislation. But fortunately amendment No. 9 is an amendment which I do not believe breaks the delicate balance that we have achieved in this bipartisan piece of legislation. So I am reluctantly willing to support it.

I would like to go on to say, though, that the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), mentioned that if the DeFazio amendment were to pass that he would reluctantly have to be opposed to the bill, and I would want to say that I would have to be also.

The gentleman from Florida (Mr. MICA), the gentleman from Alaska (Mr. YOUNG), the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), and myself and our staff, particularly the staff, have worked enormously hard on putting this bill together. All of us in this body are interested in improving security and safety in our skies. But until we really get into a piece of legislation, we will not understand what ramifications it can have. And that is why it is so important that this bill that we have put together be passed without any amendments that would harm it, because these amendments that have been proposed have very serious ramifications which we who deal with aviation on a day-in and day-out basis and our staff that does it on a day-in, day-out basis realize what these ramifications will be in trying to implement this program if the program is changed.

So I ask all my colleagues to support the bill, the manager's amendment that was brought here to the floor, and oppose all the other amendments that are opposed by the ranking member of the full committee, by myself, by the chairman of the Subcommittee on Aviation, and by the chairman of the full committee.

Mr. Chairman, I also remind my colleagues if they really want to do something for aviation safety and security, support this bill in its present context without amendments because, once again, I say the administration is really opposed to arming pilots with lethal weapons. The Secretary of Transportation is and the Under Secretary for Security is also. And if we expand this bill too far, you can rest assured that the administration ultimately will

veto this piece of legislation. So to prevent that from happening, please defeat all amendments.

The CHAIRMAN pro tempore (Mr. DAN MILLER of Florida). The question is on the amendment, as modified, offered by the gentleman from Indiana (Mr. HOSTETTLER).

The amendment, as modified, was agreed to.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: Amendment No. 11, offered by the gentleman from Oregon (Mr. DEFAZIO); amendment No. 8, offered by the gentleman from Indiana (Mr. HOSTETTLER); amendment No. 7, offered by the gentleman from Indiana (Mr. HOSTETTLER).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 11 OFFERED BY MR. DEFAZIO

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Oregon (Mr. DEFAZIO) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 250, noes 175, not voting 9, as follows:

[Roll No. 288]

AYES—250

Abercrombie	Callahan	Dreier
Aderholt	Calvert	Duncan
Akin	Camp	Dunn
Armey	Cannon	Edwards
Baca	Cantor	Ehrlich
Bachus	Capito	Emerson
Baird	Carson (OK)	Engel
Baker	Chabot	English
Ballenger	Chambliss	Everett
Barcia	Clement	Flake
Barr	Coble	Fletcher
Bartlett	Collins	Foley
Barton	Combest	Forbes
Bass	Condit	Ford
Berry	Cooksey	Fossella
Biggert	Costello	Frank
Bilirakis	Cox	Gallegly
Blagojevich	Cramer	Ganske
Blunt	Crane	Gekas
Boehlert	Crenshaw	Gilchrest
Boehner	Cubin	Gillmor
Bonilla	Culberson	Gilman
Boozman	Cunningham	Goode
Boswell	Davis, Jo Ann	Goodlatte
Boucher	Davis, Tom	Gordon
Boyd	Deal	Graham
Brady (TX)	DeFazio	Granger
Brown (OH)	DeLay	Graves
Brown (SC)	DeMint	Green (TX)
Bryant	Deutsch	Green (WI)
Burton	Diaz-Balart	Greenwood
Buyer	Doolittle	Grucci

Gutknecht	McIntyre	Shadegg
Hall (OH)	McKeon	Shaw
Hall (TX)	McNulty	Shays
Hansen	Miller, Dan	Sherwood
Hart	Miller, Gary	Shimkus
Hastings (WA)	Miller, George	Shows
Hayes	Miller, Jeff	Shuster
Hayworth	Mollohan	Simmons
Hefley	Moran (KS)	Simpson
Herger	Nethercutt	Skelton
Hill	Ney	Smith (NJ)
Hilleary	Northup	Smith (TX)
Hilliard	Nussle	Smith (WA)
Hinchey	Ortiz	Stearns
Hobson	Ose	Stenholm
Holden	Otter	Strickland
Hostettler	Owens	Stump
Houghton	Oxley	Stupak
Hulshof	Paul	Sullivan
Hunter	Pence	Sununu
Isakson	Peterson (MN)	Sweeney
Issa	Peterson (PA)	Tancredo
Istook	Petri	Tanner
Jenkins	Phelps	Tauzin
Johnson (IL)	Pickering	Taylor (MS)
Johnson, Sam	Pitts	Taylor (NC)
Jones (NC)	Platts	Terry
Kanjorski	Pombo	Thompson (CA)
Keller	Pomeroy	Thompson (MS)
Kelly	Portman	Thune
Kennedy (MN)	Pryce (OH)	Thurman
Kerns	Putnam	Tiahrt
Kind (WI)	Rahall	Tiberi
Kingston	Ramstad	Toomey
Knollenberg	Regula	Turner
Kolbe	Rehberg	Upton
LaHood	Reyes	Vitter
Lampson	Reynolds	Walden
Latham	Riley	Walsh
LaTourette	Rogers (MI)	Wamp
Leach	Rohrabacher	Watkins (OK)
Lewis (CA)	Ros-Lehtinen	Watts (OK)
Lewis (KY)	Ross	Weldon (FL)
Linder	Royce	Weldon (PA)
LoBiondo	Ryan (WI)	Whitfield
Lucas (KY)	Ryun (KS)	Wicker
Lucas (OK)	Sandlin	Wilson (SC)
Luther	Saxton	Wolf
Manzullo	Schaffer	Wu
Matheson	Schroock	Young (FL)
McHugh	Sensenbrenner	
McInnis	Sessions	

NOES—175

Ackerman	Evans	Langevin
Allen	Farr	Lantos
Baldacci	Fattah	Larsen (WA)
Baldwin	Ferguson	Larson (CT)
Becerra	Filner	Lee
Bentsen	Frelinghuysen	Levin
Bereuter	Frost	Lewis (GA)
Berkley	Gephardt	Lipinski
Berman	Gibbons	Lofgren
Bishop	Gonzalez	Lowey
Blumenauer	Goss	Lynch
Bono	Gutierrez	Maloney (CT)
Borski	Harman	Maloney (NY)
Brady (PA)	Hinojosa	Markey
Brown (FL)	Hoefel	Mascara
Burr	Hoekstra	Matsui
Capps	Holt	McCarthy (MO)
Capuano	Honda	McCarthy (NY)
Cardin	Hooley	McCollum
Carson (IN)	Horn	McCrery
Castle	Hoyer	McDermott
Clay	Hyde	McGovern
Clayton	Inslee	McKinney
Clyburn	Israel	Meehan
Conyers	Jackson (IL)	Meek (FL)
Coyne	Jackson-Lee	Meeks (NY)
Crowley	(TX)	Menendez
Cummings	Jefferson	Mica
Davis (CA)	John	Millender-
Davis (FL)	Johnson (CT)	McDonald
Davis (IL)	Johnson, E. B.	Mink
DeGette	Jones (OH)	Moore
DeLauro	Kaptur	Moran (VA)
Dicks	Kennedy (RI)	Morella
Dingell	Kildee	Murtha
Doggett	Kilpatrick	Myrick
Dooley	King (NY)	Nadler
Doyle	Kirk	Napolitano
Ehlers	Kleczka	Neal
Eshoo	Kucinich	Oberstar
Etheridge	LaFalce	Obey

Osborne	Sánchez	Thornberry
Pallone	Sanders	Tierney
Pascarella	Sawyer	Towns
Pastor	Schakowsky	Udall (CO)
Payne	Schiff	Udall (NM)
Pelosi	Scott	Velazquez
Price (NC)	Serrano	Visclosky
Quinn	Sherman	Waters
Radanovich	Skeen	Watson (CA)
Rangel	Slaughter	Watt (NC)
Rivers	Smith (MI)	Waxman
Rodriguez	Snyder	Weiner
Roemer	Solis	Weller
Rogers (KY)	Souder	Wexler
Rothman	Spratt	Wilson (NM)
Roybal-Allard	Stark	Woolsey
Rush	Tauscher	Wynn
Sabo	Thomas	Young (AK)

NOT VOTING—9

Andrews	Delahunt	Olver
Barrett	Hastings (FL)	Roukema
Bonior	Norwood	Traficant

□ 1534

Messrs. WYNN, SKEEN, CROWLEY, PALLONE, ACKERMAN, RUSH, CLYBURN, and BISHOP, Ms. MCKINNEY, Mrs. CAPPs, and Mrs. NAPOLITANO changed their vote from “aye” to “no.”

Messrs. POMBO, TERRY, COSTELLO, FORD, SESSIONS, ENGLISH, McHUGH, GREENWOOD, STUPAK, GILCHREST, and Mrs. NORTHUP changed their vote from “no” to “aye.”

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. DAN MILLER of Florida). Pursuant to clause 6, rule XVIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 8 OFFERED BY MR. HOSTETTLER

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Indiana (Mr. HOSTETTLER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 169, noes 256, not voting 9, as follows:

[Roll No. 289]

AYES—169

Akin	Berry	Boucher
Armey	Biggert	Boyd
Baca	Blagojevich	Brady (TX)
Bachus	Blunt	Bryant
Barcia	Boehner	Burton
Bartlett	Bonilla	Buyer
Bass	Boswell	Cannon

July 10, 2002

CONGRESSIONAL RECORD—HOUSE

12449

Cantor
Capito
Carson (OK)
Chabot
Chambliss
Clement
Coble
Collins
Condit
Cooksey
Costello
Cox
Cramer
Crane
Cubin
Culberson
Davis, Jo Ann
DeFazio
DeLay
DeMint
Diaz-Balart
Doolittle
Duncan
Ehrlich
English
Everett
Flake
Fletcher
Foley
Forbes
Gallegly
Gilchrest
Goode
Goodlatte
Gordon
Graham
Granger
Graves
Green (TX)
Green (WI)
Grucci
Gutknecht
Hall (OH)
Hansen
Harman
Hayes
Hayworth
Herger
Hill
Hilleary

Hilliard
Hinchey
Hobson
Holden
Hostettler
Hulshof
Hunter
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kerns
Kind (WI)
Kingston
Knollenberg
Kobbe
LaHood
Lampson
Latham
Leach
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Luther
Manzullo
Matheson
McCrery
McInnis
McIntyre
McKeon
McNulty
Miller, Gary
Miller, George
Miller, Jeff
Mollohan
Moran (KS)
Nussle
Ortiz
Ose
Otter
Paul
Pence
Peterson (MN)
Phelps
Pickering
Pitts
Platts
Pombo

Pomeroy
Portman
Pryce (OH)
Radanovich
Ramstad
Regula
Riley
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shows
Skelton
Strickland
Stump
Sullivan
Sununu
Sweeney
Tancred
Tanner
Taylor (MS)
Taylor (NC)
Thune
Tiberti
Toomey
Turner
Upton
Vitter
Walsh
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (PA)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf

Larson (CT)
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-
McDonald
Miller, Dan
Mink
Moore
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup

Oberstar
Obey
Osborne
Owens
Oxley
Pallone
Pascarelli
Pastor
Payne
Pelosi
Peterson (PA)
Petri
Price (NC)
Putnam
Quinn
Rahall
Rangel
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (MI)
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Serrano
Shaw
Sherman
Sherwood
Shuster
Simmons

Simpson
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Stupak
Tauscher
Tauzin
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thurman
Tiahrt
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (FL)
Wexler
Whitfield
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—9

Andrews
Barrett
Bonior
Delahunt
Hastings (FL)
Norwood
Olver
Roukema
Traficant

□ 1546

Mr. DAN MILLER of Florida, Ms. PELOSI, and Mr. FRANK changed their vote from “aye” to “no.”

Messrs. BRADY of Texas, CULBERSON, ROHRABACHER, and LEACH changed their vote from “no” to “aye.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 7 OFFERED BY MR. HOSTETTLER

The CHAIRMAN pro tempore (Mr. DAN MILLER of Florida). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Indiana (Mr. HOSTETTLER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 49, noes 376, not voting 9, as follows:

Abercrombie
Ackerman
Aderholt
Allen
Baird
Baker
Baldacci
Baldwin
Ballenger
Barr
Barton
Becerra
Bentsen
Bereuter
Berkley
Berman
Bilirakis
Bishop
Blumenauer
Boehlert
Bono
Boozman
Borski
Brady (PA)
Brown (FL)
Brown (OH)
Brown (SC)
Burr
Callahan
Calvert
Camp
Capps
Capuano
Cardin
Carson (IN)
Castle
Clay
Clayton
Clyburn
Combust
Conyers
Coyne
Crenshaw

NOES—256

Crowley
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
Deal
DeGette
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Dreier
Dunn
Edwards
Ehlers
Emerson
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Ford
Fossella
Frank
Frelinghuysen
Frost
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goss
Greenwood

Gutierrez
Hall (TX)
Hart
Hastings (WA)
Hefley
Hinojosa
Hoeffel
Hoekstra
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hyde
Issa
Istook
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
King (NY)
Kirk
Kleczka
Kucinich
LaFalce
Langevin
Lantos
Larsen (WA)

Gutierrez
Hall (TX)
Hart
Hastings (WA)
Hefley
Hinojosa
Hoeffel
Hoekstra
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hyde
Issa
Istook
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
King (NY)
Kirk
Kleczka
Kucinich
LaFalce
Langevin
Lantos
Larsen (WA)

Delahunt
Hastings (FL)
Norwood
Olver
Roukema
Traficant

Olver
Roukema
Traficant

[Roll No. 290]
AYES—49
Graves
Gutknecht
Hayes
Hostettler
Hulshof
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kerns
Cooksey
DeLay
DeMint
Doolittle
Flake
Goode
Goodlatte
Gordon
Abercrombie
Ackerman
Aderholt
Allen
Armey
Baca
Bachus
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggart
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Boozman
Borski
Boswell
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Conyers
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham

AYES—49

Graves
Gutknecht
Hayes
Hostettler
Hulshof
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kerns
Cooksey
DeLay
DeMint
Doolittle
Flake
Goode
Goodlatte
Gordon

Pence
Peterson (MN)
Platts
Pombo
Rehberg
Rogers (MI)
Royce
Schaffer
Sessions
Shadegg
Shimkus
Tancred
Toomey
Vitter
Wilson (SC)

NOES—376

Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson

Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larsen (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott

McGovern	Quinn	Stearns
McHugh	Radanovich	Stenholm
McInnis	Rahall	Strickland
McIntyre	Ramstad	Stump
McKeon	Rangel	Stupak
McKinney	Regula	Sullivan
McNulty	Reyes	Sununu
Meehan	Reynolds	Sweeney
Meek (FL)	Riley	Tanner
Meeks (NY)	Rivers	Tauscher
Menendez	Rodriguez	Tauzin
Mica	Roemer	Taylor (MS)
Millender-	Rogers (KY)	Taylor (NC)
McDonald	Rohrabacher	Terry
Miller, Dan	Ros-Lehtinen	Thomas
Miller, George	Ross	Thompson (CA)
Mink	Rothman	Thompson (MS)
Mollohan	Roybal-Allard	Thornberry
Moore	Rush	Thune
Moran (KS)	Ryan (WI)	Thurman
Moran (VA)	Ryun (KS)	Tiahrt
Morella	Sabo	Tiberi
Murtha	Sánchez	Tierney
Myrick	Sanders	Towns
Nadler	Sandlin	Turner
Napolitano	Sawyer	Udall (CO)
Neal	Saxton	Udall (NM)
Nethercutt	Schakowsky	Upton
Northup	Schiff	Velazquez
Nussle	Schrock	Visclosky
Oberstar	Scott	Walden
Obey	Sensenbrenner	Walsh
Ortiz	Serrano	Wamp
Osborne	Shaw	Waters
Ose	Shays	Watkins (OK)
Otter	Sherman	Watson (CA)
Owens	Sherwood	Watt (NC)
Oxley	Shows	Watts (OK)
Pallone	Shuster	Waxman
Pascrell	Simmons	Weiner
Pastor	Simpson	Weldon (FL)
Payne	Skeen	Weldon (PA)
Pelosi	Skelton	Weller
Peterson (PA)	Slaughter	Wexler
Petri	Smith (MI)	Whitfield
Phelps	Smith (NJ)	Wicker
Pickering	Smith (TX)	Wilson (NM)
Pitts	Smith (WA)	Wolf
Pomeroy	Snyder	Woolsey
Portman	Solis	Wu
Price (NC)	Souder	Wynn
Pryce (OH)	Spratt	Young (AK)
Putnam	Stark	Young (FL)

NOT VOTING—9

Andrews	Delahunt	Olver
Barrett	Hastings (FL)	Roukema
Bonior	Norwood	Traficant

□ 1556

Mr. HEFLEY changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. Are there any further amendments to this bill?

Mr. OBERSTAR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time simply to state the case of the status of this legislation. With passage of the first amendment, the DeFazio, et al. amendment, the House has voted to make all 70,000-plus commercial airline pilots eligible immediately to be armed and trained to carry guns in the flight deck. That is fine. I am just stating the case of where we are.

The House has voted to delete the requirement for a 2-year pilot program, a test program, after which the plan was to stop, take stock and decide what issues needed to be addressed, what problems need to be fixed, and then to proceed with a permanent program if

the Transportation Security Administration decided to do so.

Under this legislation, even if the initial deployment demonstrates that there are safety problems, even if we learn in the initial going in a year or so in this initiative that there are safety problems or the program is ineffective in preventing a skyjacking, or if doors are installed to make the flight deck secure, as will happen next summer, according to the current schedule, this program is permanent. There is no stop, take stock, and decide whether to go permanently with it.

□ 1600

At a cost of \$8,000 of training per pilot per year, the cost is in excess of \$500 million a year. The Transportation Security Administration will have to start training within 2 months of enactment of the legislation.

Mr. Chairman, in the end, the current status of this bill violates, in my opinion and in reality, the agreement that we worked out on a bipartisan basis to bring to the floor measured, responsible, stop, take stock, before you go ahead, assess the effect of this program in a 2-year initiative and then decide whether to go ahead on a permanent basis.

That is now gone. I can no longer support the legislation in this form, and I urge a no vote on passage.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this has been one of the more honorable debates that I have taken part in, and my utmost respect goes to the gentleman from Minnesota (Mr. OBERSTAR). You will not find very many times that I vote with the gentleman from Oregon (Mr. DeFAZIO), so you know when I do it, it is pretty bipartisan.

But I want to tell Members that although it makes 100 percent allowable, that will never be reached. The only people that are going to be allowed in those cockpits are people that are qualified, that are trained and that complete the training; and that will never reach 100 percent, and it should not. All this did was raise the cap. If it is true that we should only have 2 percent, then why do we not just arm 2 percent of our Capitol Police? Arming 100 percent of them that are qualified makes it safer for all of us.

This is a bipartisan agreement. I think that you will see the vote on the DeFazio amendment was one of the most bipartisan votes we have had this year. Not just committee members, but of this body, of this House.

It is a good amendment. It makes our airways more safe. For that reason, I strongly support this. I ask Members to support the bill.

And I would also like to again express my appreciation to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I appreciate the gentleman's kind remarks. He said that previously.

It was a very balanced debate and one that stuck to the issues, and in the interest of sticking to the issues, I just want to point out further that while the underlying bill had a 2-year program, stop, take stock before going ahead, the bill, as now constructed, does not have that stop, take stock provision. That is my concern.

Mr. CUNNINGHAM. Mr. Chairman, reclaiming my time, the reason I did not vote for the Hostettler amendment, it required 30 percent within 30 days. There was no way to do that if the percentage was increased. I think that is why the DeFazio amendment strikes a good balance on this and gives us the maximum amount of protection.

I urge my colleagues on both sides to support this bill. It is a good bill for the American people. They want it, the American Pilots Association wants it.

God bless you.

Mr. DeFAZIO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is not often I disagree with the gentleman from Minnesota (Mr. OBERSTAR), who knows more about aviation than probably everybody on the floor of the House put together, but I do respectfully rise to disagree with his conclusion that Members should vote against this bill. Let me quickly lay out a case.

The threshold was crossed on a bipartisan basis by the Democrats and the Republican leaders of the Committee on Transportation and Infrastructure that there is a credible threat that continues in aviation. I can tell you it is going to be a very, very long time, if ever, before we have flight decks similar to what El Al has, where the pilots can go in and stay there until they land because they have a lav and food service. We are not even anticipating that.

We are seeing the FAA drag their feet on just giving us a door that can't be battered down by a deranged individual from Brazil with his head. They are dragging their feet on that, so it is going to be a long time before those flight decks are as secure as we want. At El Al, until they reached that point in time, they did arm their pilots. They never had an incident.

These are highly trained people. These are people you trust with your lives every week when you fly in those planes. These are people who do not want to feel helpless in losing control of their airplane to terrorists.

I am not going to say this is the most credible threat. Personally, I believe explosives are the most credible threat to killing people, maybe even personal explosives.

This continues to be a threat, and the leaders of the committee decided it was a threat, so the question becomes, why should we at that point restrict to 2 percent, which would be known to every terrorist in the world, of the pilots, on a daily basis? That would mean that less than one-half of 1 percent of the pilots flying would be armed because of the flight schedules they keep on a monthly basis.

So if you are a terrorist intent on mayhem and your chances are 99.5 to 1 that you are going to be successful, you might just take a chance. But with this amendment, we have created the uncertainty.

I would suggest that we will classify the number of pilots who have undergone the training and qualified, and it will be just like the sky marshals. You are not going to know how many of them are up there or whether they have a gun or do not have a gun. You are going to create that element of uncertainty for these people, so then they will try maybe some other place in the system to get us, and we have to be closing those gaps with explosives and maritime and all those other things.

So I respectfully disagree with the gentleman's conclusion that because of that we should vote against this bill. There is still administrative discretion. There will still be a conference with the Senate. If the gentleman finds horrible problems in terms of the pace or whatever, we can work on those things. But to kill the bill now would be to deny the threat that was identified on a bipartisan basis by the leaders of the committee and the American public and deny the American public this credible protection.

Mr. LIPINSKI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from Oregon (Mr. DEFazio) and I have fought many, many fights on this floor, and in subcommittee and full committee, and on most occasions, unfortunately, we lost. Today I am sorry to say that he won and I lost.

I think that the people who really lost here are the American flying public. We had a bill that the leadership of the committee on both sides agreed to. It was a balanced bill, it was a prudent bill, it was a cautious bill, it was a bill that really would be effective in the long run.

The Senate was not even interested in that bill. It was our hope that we could pass this bill here today by overwhelming numbers so that the Senate would be forced to take up that bill.

By passing the DeFazio amendment today, it ensures that you are not going to have the Senate take up this bill. If, through some miracle, the Senate does take up the bill, the Secretary of Transportation and the Under Secretary of Transportation for Security, has already come out against weapons of this nature being on planes with pi-

lots. The administration has said nothing on this because their Secretary of Transportation has already come out in opposition.

If we really want to do something for aviation safety and security, we will now defeat this bill so we can come back with a bill that has a chance of ultimately becoming law. If we want to improve aviation safety and security in this Nation and not make a point for a special interest group along political lines, we will vote against this bill and we will come back with a new one very shortly that has a chance.

The CHAIRMAN pro tempore (Mr. DAN MILLER of Florida). Are there any further amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. NETHERCUTT) having assumed the chair, Mr. DAN MILLER of Florida, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4635) to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes, pursuant to House Resolution 472, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. OBERSTAR. Mr. Speaker, I demand a separate vote on the so-called DeFazio amendment.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment?

If not, the Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment No. 11 offered by Mr. DEFazio: Page 2, line 12, strike "pilot".

Page 3, lines 8 and 9, strike "selecting, training," and insert "training".

Page 3, line 9, after "pilots" insert "who are qualified to be Federal flight deck officers".

Page 3, line 10, strike the semicolon and all that follows through "first" on line 17.

Page 9, strike lines 3 through 9.

Page 9, line 10, strike "(5)" and insert "(4)". Page 9, line 24, strike the comma and all that follows through the comma on line 25.

Page 11, strike line 20 and all that follows through line 4 on page 14.

Page 12, line 21, strike the comma and insert "and".

Page 12, line 23, strike the comma and all that follows through "program" on line 24.

Page 14, line 5, strike "(j)" and insert "(i)".

Mr. OBERSTAR (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBERSTAR. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 251, nays 172, not voting 11, as follows:

[Roll No. 291]

YEAS—251

Aderholt	Duncan	Kind (WI)
Akin	Dunn	Kingston
Armey	Edwards	Knollenberg
Baca	Ehrlich	Kolbe
Bachus	Emerson	LaHood
Baird	Engel	Lampson
Baker	English	Latham
Ballenger	Everett	LaTourette
Barcia	Flake	Leach
Barr	Fletcher	Lewis (KY)
Bartlett	Foley	Linder
Barton	Forbes	LoBiondo
Bass	Ford	Lucas (KY)
Berry	Fossella	Lucas (OK)
Biggert	Gallegly	Luther
Bilirakis	Ganske	Manzullo
Blagojevich	Gekas	Matheson
Blunt	Gilchrest	McHugh
Boehlert	Gillmor	McInnis
Boehner	Gilman	McIntyre
Bonilla	Goode	McKeon
Boozman	Goodlatte	McNulty
Boswell	Gordon	Miller, Dan
Boucher	Graham	Miller, Gary
Boyd	Granger	Miller, George
Brady (TX)	Graves	Miller, Jeff
Brown (OH)	Green (TX)	Mollohan
Brown (SC)	Green (WI)	Moran (KS)
Bryant	Greenwood	Nethercutt
Burton	Grucci	Ney
Buyer	Gutknecht	Northup
Callahan	Hall (OH)	Nussle
Calvert	Hall (TX)	Ortiz
Camp	Hansen	Ose
Cannon	Hart	Otter
Cantor	Hastings (WA)	Owens
Capito	Hayes	Oxley
Carson (OK)	Hayworth	Paul
Chabot	Hefley	Pence
Chambliss	Hergert	Peterson (MN)
Clement	Hill	Peterson (PA)
Coble	Hilleary	Petri
Collins	Hilliard	Phelps
Combest	Hinchey	Pickering
Condit	Hobson	Pitts
Cooksey	Holden	Platts
Costello	Hostettler	Pombo
Cox	Houghton	Pomeroy
Cramer	Hulshof	Portman
Crane	Hunter	Pryce (OH)
Crenshaw	Isakson	Putnam
Cubin	Issa	Rahall
Culberson	Istook	Ramstad
Cunningham	Jefferson	Regula
Davis, Jo Ann	Jenkins	Rehberg
Davis, Tom	John	Reyes
Deal	Johnson (IL)	Reynolds
DeFazio	Johnson, Sam	Riley
DeLay	Jones (NC)	Rogers (MI)
DeMint	Kanjorski	Rohrabacher
Deutsch	Keller	Ros-Lehtinen
Diaz-Balart	Kelly	Ross
Doolittle	Kennedy (MN)	Royce
Dreier	Kerns	Ryan (WI)

Ryun (KS)	Smith (WA)	Tiberi
Sánchez	Stearns	Toomey
Sandlin	Stenholm	Turner
Saxton	Strickland	Upton
Schaffer	Stump	Vitter
Schrock	Stupak	Walden
Sensenbrenner	Sullivan	Walsh
Sessions	Sununu	Wamp
Shadegg	Sweeney	Watkins (OK)
Shaw	Tancredo	Watts (OK)
Shays	Tanner	Weldon (FL)
Sherwood	Tauzin	Weldon (PA)
Shimkus	Taylor (MS)	Weller
Shows	Taylor (NC)	Whitfield
Shuster	Terry	Wicker
Simmons	Thompson (CA)	Wilson (SC)
Simpson	Thompson (MS)	Wolf
Skelton	Thune	Wu
Smith (NJ)	Thurman	Young (FL)
Smith (TX)	Tiahrt	

NAYS—172

Abercrombie	Hoekstra	Morella
Ackerman	Holt	Murtha
Allen	Honda	Myrick
Baldacci	Hooley	Nadler
Baldwin	Horn	Napolitano
Becerra	Hoyer	Neal
Bentsen	Hyde	Oberstar
Bereuter	Inslee	Obey
Berkley	Israel	Osborne
Berman	Jackson (IL)	Pallone
Bishop	Jackson-Lee	Pascarell
Blumenauer	(TX)	Pastor
Bono	Johnson (CT)	Payne
Borski	Johnson, E. B.	Pelosi
Brady (PA)	Jones (OH)	Price (NC)
Brown (FL)	Kaptur	Quinn
Burr	Kennedy (RI)	Rangel
Capps	Kildee	Rivers
Capuano	Kilpatrick	Rodriguez
Cardin	King (NY)	Roemer
Carson (IN)	Kirk	Rogers (KY)
Castle	Klecza	Rothman
Clay	Kucinich	Roybal-Allard
Clayton	LaFalce	Rush
Clyburn	Langevin	Sabo
Conyers	Lantieri	Sanders
Coyne	Larsen (WA)	Sawyer
Crowley	Larson (CT)	Schakowsky
Cummings	Lee	Schiff
Davis (CA)	Levin	Scott
Davis (FL)	Lewis (CA)	Serrano
Davis (IL)	Lewis (GA)	Sherman
DeGette	Lipinski	Skeen
DeLauro	Lofgren	Slaughter
Dicks	Lowey	Smith (MI)
Dingell	Lynch	Snyder
Doggett	Maloney (CT)	Solis
Dooley	Maloney (NY)	Souder
Doyle	Markey	Spratt
Ehlers	Mascara	Stark
Eshoo	Matsui	Tauscher
Etheridge	McCarthy (MO)	Thomas
Evans	McCarthy (NY)	Thornberry
Farr	McCollum	Tierney
Fattah	McCrery	Towns
Ferguson	McDermott	Udall (CO)
Filner	McGovern	Udall (NM)
Frank	McKinney	Velazquez
Frelinghuysen	Meehan	Visclosky
Frost	Meek (FL)	Watson (CA)
Gephardt	Meeks (NY)	Watt (NC)
Gibbons	Menendez	Waxman
Gonzalez	Mica	Weiner
Goss	Millender-	Wexler
Gutierrez	McDonald	Wilson (NM)
Harman	Mink	Woolsey
Hinojosa	Moore	Wynn
Hoefel	Moran (VA)	Young (AK)

NOT VOTING—11

Andrews	Hastings (FL)	Roukema
Barrett	Norwood	Traficant
Bonior	Olver	Waters
Delahunt	Radanovich	

□ 1628

Mr. COX changed his vote from “nay” to “yea.”

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated against:

Ms. SANCHEZ, Mr. Speaker, today I cast a vote in error on rollcall No. 291. It was my intention to cast a no vote on this rollcall.

□ 1630

The SPEAKER pro tempore (Mr. NETHERCUTT). The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBERSTAR. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 310, nays 113, not voting 11, as follows:

[Roll No. 292]

YEAS—310

Ackerman	Crane	Hansen
Aderholt	Crenshaw	Harman
Akin	Cubin	Hastings (WA)
Armey	Culberson	Hayes
Baca	Cummings	Hayworth
Bachus	Cunningham	Hefley
Baird	Davis, Jo Ann	Heger
Baker	Davis, Tom	Hill
Ballenger	Deal	Hilleary
Barcia	DeFazio	Hilliard
Barr	DeLay	Hinchey
Bartlett	DeMint	Hobson
Barton	Deutsch	Holden
Bass	Diaz-Balart	Holt
Berkley	Dicks	Hooley
Berry	Dingell	Horn
Biggert	Doolittle	Hostettler
Bilirakis	Dreier	Houghton
Bishop	Duncan	Hulshof
Blagojevich	Dunn	Hunter
Blunt	Edwards	Hyde
Boehrlert	Ehrlich	Isakson
Boehner	Emerson	Israel
Bonilla	Engel	Issa
Bono	English	Istook
Boozman	Eshoo	Jefferson
Boswell	Everett	Jenkins
Boucher	Flake	John
Boyd	Fletcher	Johnson (CT)
Brady (TX)	Foley	Johnson (IL)
Brown (OH)	Forbes	Johnson, Sam
Brown (SC)	Ford	Jones (NC)
Bryant	Fossella	Kanjorski
Burton	Frank	Keller
Buyer	Frelinghuysen	Kelly
Callahan	Gallely	Kennedy (MN)
Calvert	Ganske	Kennedy (RI)
Camp	Gekas	Kerns
Cannon	Gilchrest	Kildee
Cantor	Gillmor	Kind (WI)
Capito	Gilman	King (NY)
Capps	Goode	Kingston
Cardin	Goodlatte	Kirk
Carson (OK)	Gordon	Knollenberg
Castle	Goss	Kolbe
Chabot	Graham	LaHood
Clement	Granger	Lampson
Coble	Graves	Langevin
Collins	Green (TX)	Lantos
Combest	Green (WI)	Larsen (WA)
Condit	Greenwood	Latham
Cooksey	Grucci	LaTourette
Costello	Gutknecht	Leach
Cox	Hall (OH)	Lewis (CA)
Cramer	Hall (TX)	Lewis (KY)

Linder	Pickering	Smith (TX)
LoBiondo	Pitts	Smith (WA)
Lofgren	Platts	Stearns
Lowey	Pombo	Stenholm
Lucas (KY)	Pomeroy	Strickland
Lucas (OK)	Portman	Stump
Luther	Pryce (OH)	Stupak
Lynch	Putnam	Sullivan
Maloney (CT)	Quinn	Sununu
Maloney (NY)	Radanovich	Sweeney
Manzullo	Rahall	Tancredo
Matheson	Ramstad	Tanner
McCarthy (NY)	Regula	Tauscher
McCrery	Rehberg	Tauzin
McHugh	Reyes	Taylor (MS)
McInnis	Reynolds	Taylor (NC)
McIntyre	Riley	Terry
McKeon	Rodriguez	Thompson (CA)
McNulty	Roemer	Thompson (MS)
Meehan	Rogers (KY)	Thornberry
Meeks (NY)	Rogers (MI)	Thune
Mica	Rohrabacher	Thurman
Miller, Dan	Ros-Lehtinen	Tiahrt
Miller, Gary	Ross	Tiberi
Miller, George	Rothman	Toomey
Miller, Jeff	Royce	Turner
Mollohan	Ryan (WI)	Udall (NM)
Moore	Ryun (KS)	Upton
Moran (KS)	Sánchez	Vitter
Murtha	Sanders	Walden
Myrick	Sandlin	Walsh
Nadler	Saxton	Wamp
Napolitano	Schaffer	Watkins (OK)
Nethercutt	Schiff	Watts (OK)
Ney	Schrock	Weldon (FL)
Northup	Sensenbrenner	Weldon (PA)
Nussle	Sessions	Weller
Ortiz	Shadegg	Wexler
Osborne	Shaw	Whitfield
Ose	Shays	Wicker
Otter	Sherman	Wilson (NM)
Owens	Sherwood	Wilson (SC)
Oxley	Shimkus	Wolf
Paul	Shows	Wu
Pence	Shuster	Wynn
Peterson (MN)	Simmons	Young (AK)
Peterson (PA)	Simpson	Young (FL)
Petri	Skelton	
Phelps	Smith (NJ)	

NAYS—113

Abercrombie	Gonzalez	Oberstar
Allen	Gutierrez	Obey
Baldacci	Hinojosa	Pallone
Baldwin	Hoefel	Pascarell
Becerra	Hoekstra	Pastor
Bentsen	Honda	Payne
Bereuter	Hoyer	Pelosi
Berman	Inslee	Price (NC)
Blumenauer	Jackson (IL)	Rangel
Borski	Jackson-Lee	Rivers
Brady (PA)	(TX)	Roybal-Allard
Brown (FL)	Johnson, E. B.	Rush
Burr	Jones (OH)	Sabo
Capuano	Kaptur	Sawyer
Carson (IN)	Kilpatrick	Schakowsky
Clay	Klecza	Scott
Clayton	Kucinich	Serrano
Clyburn	LaFalce	Skeen
Conyers	Larson (CT)	Slaughter
Coyne	Lee	Smith (MI)
Crowley	Levin	Snyder
Davis (CA)	Lewis (GA)	Solis
Davis (FL)	Lipinski	Souder
Davis (IL)	Markey	Spratt
DeGette	Mascara	Stark
DeLauro	Matsui	Thomas
Doggett	McCarthy (MO)	Tierney
Dooley	McCollum	Towns
Doyle	McDermott	Udall (CO)
Ehlers	McGovern	Velazquez
Etheridge	McKinney	Visclosky
Evans	Meek (FL)	Waters
Farr	Menendez	Watson (CA)
Fattah	Millender-	Watt (NC)
Ferguson	McDonald	Waxman
Filner	Mink	Weiner
Frost	Moran (VA)	Woolsey
Gephardt	Morella	
Gibbons	Neal	

NOT VOTING—11

Andrews	Delahunt	Oliver
Barrett	Hart	Roukema
Bonior	Hastings (FL)	Traficant
Chambliss	Norwood	

□ 1646

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. ANDREWS. Mr. Speaker, I was unable to travel to Washington, DC on July 10, 2002 because I was attending the burial of Firefighter Thomas G. Stewart III, who died in the line of duty on July 4th, 2002 in Gloucester City, New Jersey.

Had I been present, I would have voted "yea" of rollcall No. 292, H.R. 4635, the Arming Pilots Against Terrorism Act.

Mr. CHAMBLISS. Mr. Speaker, on rollcall No. 292, I was unexpectedly detained.

Had I been present, I would have voted "yea."

Ms. HART. Mr. Speaker, on rollcall No. 292, I was unavoidably detained.

Had I been present, I would have voted "yea."

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 4635, ARMING PILOTS AGAINST TERRORISM ACT

Mr. MICA. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 4635, the Clerk be authorized to make technical corrections and conforming changes to the bill.

The SPEAKER pro tempore (Mr. NETHERCUTT). Is there objection to the request of the gentleman from Florida?

There was no objection.

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4635.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4865

Mr. QUINN. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 4865, the National Forest Roadless Area Conservation Act of 2002.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

ELECTION OF MEMBER TO COMMITTEE ON SCIENCE

Mr. QUINN. Mr. Speaker, I offer a resolution (H. Res. 477) and I ask unan-

imous consent for its immediate consideration in the House.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 477

Resolved, That the following Member be and is hereby elected to the following standing committee of the House of Representatives:

Science: Mr. J. Randy Forbes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4600

Mr. SIMMONS. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 4600.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

PUNISH UNETHICAL CEOS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GANSKE) is recognized for 5 minutes.

Mr. GANSKE. Mr. Speaker, I am outraged by the corporate scandals that are causing so much pain to Americans. I have listened to fellow Iowans who worked for the natural gas company that merged into Enron tell me with tears in their eyes that most of their pensions were wiped out in the Enron collapse.

Workers are taking it on the chin. WorldCom is laying off more than 17,000 people. Many more at other companies are legitimately worried. Besides the workers and pensioners directly affected, almost 50 percent of Americans now invest in the stock market and some are looking at their lifetime investments become pennies in a matter of days. The stories of greedy executives who cut corners to make themselves a profit at the expense of everyone else are becoming a daily occurrence. This has become such a problem that the loss of faith of investors in the capital markets threatens our Nation's security.

So how did the capitalist threaten capitalism? For the CEO's victory is measured in profits to boost stock prices to enable them to cash in op-

tions. It is clear that some CEOs over-aggressively pursued paper profits, even if it meant cheating the investors who provided the capital. These CEOs used various strategies to cheat others. Let me simplify their executive self-dealing.

I am indebted to columnist Paul Krugman of the New York Times for this example. Imagine the manager of an ice cream parlor who wants to get rich the easy way. First there is the Enron strategy. The ice cream manager assigns contracts to provide customers with an ice cream cone a day for the next 30 years. He deliberately underestimates the cost of providing each cone. This ice cream CEO then books all the projected profits on those future ice cream sales as part of this year's bottom line. Suddenly he appears to have a highly profitable business and sells shares in his store at inflated prices.

Then there is the Dynegy strategy. Ice cream sales are profitable. But the ice cream manager convinces investors that they will be profitable in the future. He enters into a quiet agreement with another ice cream parlor down the street, each to buy hundreds of ice cream cones from the other every day or, rather, pretend to buy, no need to go to the trouble of actually moving all those cones back and forth. The result is that this ice cream manager now appears to be a big player in the ice cream cone business world and sells shares at inflated prices.

There is the Adelphia strategy. The ice cream scam artist signs contracts with customers and gets investors to focus on the volume of contracts rather than their profitability. This time he does not engage in imaginary trades. He simply invents lots of imaginary customers. With his subscriber base growing so rapidly, analysts give his ice cream business high marks and he sells his shares at inflated prices.

Finally there is the WorldCom strategy. Here the greedy ice cream manager does not create imaginable sales. He simply makes real costs disappear, pretending the operating expenses like the cost of cream, sugar and flavorings are part of the price of the new refrigerator. So his unprofitable business looks like it is highly profitable and is borrowing money only to purchase new equipment. Once again, the ice cream executive sells his stock options at inflated prices.

Mr. Speaker, back in the Great Depression Congress passed the Securities and Exchange Act of 1933 and 1934. We created the SEC to enforce those laws. The results were protections like boards of directors, independent accounting firms, government regulators. But the system still relied on trusting the competence of the directors, the integrity of the CEOs, the accuracy of the accountants and the abilities of regulators.

It is clear that today the foundation of personal integrity has been eroded by the lure of huge personal profits.

I have been concerned about the need to separate an accountant's consulting function from his auditing work for several years. I supported former SEC chairman Arthur Levitt on his proposal to do that 2 years ago.

So, you ask, what is Congress doing to fix this serious problem? Well, we have held a series of hearings in my committee. Most of time the CEOs take the Fifth. But the House of Representatives has now passed two important pieces of legislation. First, we passed the Pension Security Act, and I will amend this statement with the details of that. Then we passed in the House in a bipartisan fashion the Corporate and Auditing Accountability, Responsibility and Transparency Act. I will also add some material to my statement on the details of that legislation.

These bills, Mr. Speaker, wait to be acted on by the Senate.

President Bush has also outlined a plan and many of his suggestions we need to look at. Those that cannot be implemented by SEC regulation we should act on.

I think that the rule of law requires that those CEOs who have committed malfeasance, who are no better than street thugs, should spend time in jail. Now that would send a real message. Those responsible for fraudulent strategies like the hypothetical ice cream manager I have talked about should end up in the slammer.

I am outraged by the corporate scandals that are causing so much pain to Americans. I've listened to fellow Iowans, who worked for the natural gas company that merged into Enron, tell me with tears in their eyes that most of their pensions were wiped out in the Enron collapse. Workers are taking it on the chin. WorldCom is laying off more than 17,000 people. Many more at other companies are legitimately worried.

Besides the workers and pensioners directly affected, almost 50% of Americans now invest in the stock market and some are looking at their lifetime investments become pennies in a matter of days. The stories of greedy executives who cut corners to make themselves a profit at the expense of everyone else are becoming a daily occurrence. This has become such a problem that the loss of faith of investors in the capital markets threatens our nation's security.

How did the capitalists threaten capitalism? For the CEOs, victory was measured in "profits" to boost stock prices to enable them to cash in options. It is clear that some CEOs over-aggressively pursued paper "profits," even if it meant cheating the investors who provided the capital. These CEOs used various strategies to cheat others. Let me simplify their executive self-dealing. Imagine the manager of an ice cream parlor (example courtesy of Paul Krugman, New York Times) who wants to get rich the easy way:

First there's the Enron strategy: The ice cream manager signs contracts to provide

customers with an ice cream cone a day for the next thirty years. He deliberately underestimates the cost of providing each cone. This ice cream CEO then books all the projected profits on those future ice cream sales as part of this year's bottom line. Suddenly he appears to have a highly profitable business, and sells shares in his store at inflated prices.

Then there's the Dynegy strategy. Ice cream sales aren't profitable, but the ice cream manager convinces investors that they will be profitable in the future. He enters into a quiet agreement with another ice cream parlor down the street: each to buy hundreds of cones from the other every day. Or rather, pretends to buy—no need to go to the trouble of actually moving all those cones back and forth. The result is that this ice cream manager now appears to be a big player in the ice cream cone business world and sell shares at inflated prices.

And there's the Adelphia strategy. The ice cream scam artist signs contracts with customers, and get investors to focus on the volume of contracts rather than their profitability. This time he doesn't engage in imaginary trades, he simply invests lots of imaginary customers. With his subscriber base growing so rapidly, analysts give his ice cream business high marks, and he sells shares at inflated prices.

Finally, there's the WorldCom strategy. Here the greedy ice cream manager doesn't create imaginary sales. He simply makes real costs disappear by pretending that operating expenses, like the cost of cream, sugar, and flavorings, are part of the price of the new refrigerator! So his unprofitable business looks like it is highly profitable and is borrowing money only to purchase new equipment. Once again, the ice cream executive sells his stock options at inflated prices.

Back in the Great Depression, Congress passed the Securities Exchange Act of 1933 and 1934 and created the SEC to enforce those laws. The results were protections like boards of directors, independent accounting firms to ensure that the numbers were correct and government regulators to supervise the rules. But the system still relied on trusting the competence of the directors, the integrity of the CEOs, the accuracy of the accountants, and the abilities of regulators.

It is clear that today that foundation of personal integrity has been eroded by the lure of huge personal profits.

Most corporations are honest, but the bad apples have severely damaged the reliability of the reported data upon which people make investment decisions. There is no question that the malfeasance of Arthur Anderson, the schemes of CEOs, and the ineptitude of the boards of insular directors of huge companies like Enron, Global Crossing, Xerox, Dynegy, and our second largest long distance carrier WorldCom, has spooked investors.

I have been concerned about the need to separate an accountant's consulting function from his auditing work for several years and supported former SEC Chairman Arthur Levitt on his proposal to do that two years ago.

What you ask, is Congress doing to help fix this serious problem? Well, my Committee has held numerous hearings on these scandals, even taking testimony under oath from these CEOs (most have taken the Fifth).

The House of Representatives has now passed two important pieces of legislation with bipartisan votes to address the security of retiree's pensions and to help secure the financial future of America's investors and employees.

First we passed the Pension Security Act (H.R. 3762). This bill:

Bars company insiders from selling the own stock during "blackout" periods when workers can't make changes to their 401(k)s.

Give workers new freedoms to sell their company stock within three years of receiving it in their 401(k) plan.

Fixed outdated federal rules that discourage employers from giving workers access to professional investment advice.

Empowers workers to hold company insiders accountable for abuses.

Requires that workers be notified 30 days before the start of any "blackout" period affecting their pensions.

Then we passed in the House, in a bipartisan manner, The Corporate and Auditing Accountability, Responsibility and Transparency Act (H.R. 3763). This legislation works to end abuses like those made by Enron and Global Crossing. It strengthens corporate responsibility, reforms accounting oversight, and increases corporate disclosure. It will:

Restore confidence in accounting standards. Increase corporate disclosure and responsibility.

Protect 401(k) plan participants.

Reduce analyst conflicts of interest.

These bills wait to be acted on by the Senate.

President Bush has also outlined a plan that Congress should act on such as requiring corporate CEO's to personally vouch for the veracity of their companies' financial disclosures, prohibiting CEO profit from false financial statements, setting up an independent accounting regulatory board and requiring accounting best practices, not simply minimum standards. Where these proposals can't be implemented by SEC regulation, Congress should act to do so.

Capitalism will survive this latest onslaught. It is clear, however, that government has a hand in making sure that the average investor gets information that isn't "cooked." Honesty is, ultimately, the best policy.

I also think that the rule of law requires that those CEOs who have committed malfeasance, who are no better than street thugs, should spend time in jail. Now that would send a real message to CEOs, CFOs, boards, and accountants in the future that these types of schemes will not be tolerated. Those responsible for fraudulent strategies, like the ice cream manager I hypothesized earlier in this letter, should end up in the slammer.

EQUITY IN FARM SUBSIDIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of Michigan. Madam Speaker, today I rise to discuss the farm bill that will be up in full Committee on Appropriations tomorrow, and I suspect the plans are to bring

that legislation before this Chamber next week.

I would like to discuss my and many others' beliefs that a great inequity exists in our farm policy that has been passed in the farm bill, and the fact that we have a chance to correct that inequity in this appropriations bill.

This is not a new topic in Congress and, as well, it is not a new topic on the floor of the House. As a farmer and a former administrator of farm programs at USDA, as a member of the Committee on Agriculture, I, like most of us, know the importance of providing help to our family farms. The inequity of farm subsidies, because there is no limit on price support subsidy guarantees, results in giving the very large farmers a greater advantage. That means they have price protection on all of the total acreage of the particular crops that they grow that were subsidized by the farm program. That means that we encourage more production and that means that the smaller farmers have a harder time surviving and that means that the larger farmers tend to buy out the smaller farmers.

While reasonable limits have been set for direct price support payments to farmers, these limits are meaningless to large or corporate farms. Why? Because of the creative use of generic certificates. Certs, as they were called, were introduced in 1999 as an amendment to the 1996 farm bill.

□ 1700

They are negotiable certificates which CCC, the Commodity Credit Corporation, exchanges for a commodity owned or controlled by CCC. They were designed to let producers receive the price support subsidy rather than forfeit their crop to the government, but it gives that farmer a loophole, an end run, if Members will, to have the same price supports even though in the farm bill we were told that there are limits of \$75,000 on price support payments. But the fact is that there is no limit on that larger farm that owns whatever, 40, 50, 60,000 acres, because he can end up receiving certificates that end up giving that particular landowner the same value as the rest of the price support loans that are subject to the \$75,000 limitation.

Sadly, farmers quickly figure out the loophole in the use of certificates that allows these unlimited price supports on the crops that a farmer grows. The more land one farms, the more certificates one can purchase, bypassing any limits that are otherwise existing in the farm bill in current law. The availability of this creative mechanism to bypass limits encourages overproduction and, as I mentioned, the buying up of land from smaller farms.

This is the acquisition of as much land as possible to maximize payments from the government, and I think the bottom-line request is, why should 17

percent of the farms in America get over 80 percent of the commodity payments?

I understood this principle long ago. I understood how forfeitures and certificates became literally overnight methods to circumvent payment limits. I introduced the reform of farm subsidy payments during the House debate on the farm bill last October; however, our farm policy, driven by our agricultural committee leadership favors the certificates that can be used as the loophole or end run to those very large farms.

The Senate, however, successfully implemented reasonable payment limits and curtailed the unlimited use of generic certificates by a vote of 66 to 31.

Then the farm bill came to conference, and on April 18, after days of stonewalling and nonresolution, I introduced a successful motion to instruct farm bill conferees to accept real subsidy payment limitations like the Senate had and limit the unbridled use of generic certificates; and a bipartisan majority of the House overwhelmingly passed that motion by a vote of 265 to 158. It was ignored in conference, and I am still working with Senator GRASSLEY.

Tomorrow, when the Committee on Appropriations meets to discuss this bill, I hope they will look at the effects on the small farmers, the traditional family-size farms, and have some kind of a payment limitation when this bill comes to the floor next week.

CORPORATE RESPONSIBILITY

The SPEAKER pro tempore (Mrs. CAPITO). Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Madam Speaker, the strength of our United States economy is built on the honesty, integrity and transparency of our financial institutions. But right now the confidence of the American public and international investors is truly shaken.

We must restore confidence in our economy before it is rocked any further so we can continue to attract capital investment for the future health and prosperity of our economic system. The spate of deregulation over recent years has left us with a system that benefits the powerful and the wealthy above all others. We cannot allow this to continue.

Weakened Federal regulation of accounting practices has allowed corporate greed to run rampant and has led to failure of some of our very largest corporations and businesses. Enron, Global Crossing, Owens Corning, ImClone, Merrill Lynch, Arthur Andersen, Tyco, WorldCom, the list grows every single day. When these big businesses fail, thousands of employees lose

their jobs and pensions while, undeservedly, many of the corporate executives become rich. They become not only millionaires, they become billionaires. These captains of industry do not stay with the sinking ship. They jump off first and with all the treasures.

This is not a simple problem about a few bad apples. The problems are systemic, and the accounting practices of America must be changed so we will be able to restore our economic health. We must support legislation like that in Senator SARBANES' bill, legislation that will provide real corporate responsibility. His bill calls for a strong, independent board to oversee the auditing of public companies, assures the independence of auditors, and provides for reform that will protect investors.

And in the House we must support the gentleman from New York's (Mr. LAFALCE) bill, H.R. 4083, the Corporate Responsibility Act of the Year 2002. His bill deals directly with the conduct of company officers and restores corporate credibility. Business executives must aspire to a higher business ethic because investors and employees are entrusting them with, oftentimes, their entire life savings; and business executives who break the rules must be punished.

The first step in restoring our Nation's confidence would be for the President, the President himself, to release records of the SEC's 1992 investigation of his trading in Harken Energy shares. In fact, we can talk about markets, economies, capital, and financial systems until we are blue in the face, but what is important to remember is that when a corporation fails, workers lose their jobs, families hit hard times, and children suffer.

The American economy is built on confidence and an expectation of fairness. If one works hard and plays by the rules, they deserve to share in a secure future. Unregulated business practices have allowed private-sector titans to act irresponsibly, and personal gain has tarnished the reputation of the American market as well as the confidence in our economy.

There must be zero tolerance for corporate corruption.

TRIBUTE TO BISHOP VICTOR CURRY, PASTOR OF NEW BIRTH BAPTIST CHURCH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Mrs. MEEK) is recognized for 5 minutes.

Mrs. MEEK of Florida. Mr. Speaker, I stand here in the well of the Congress of the United States to pay distinct honor and tribute to one of Miami's young great leaders, Bishop Victor T. Curry.

Victor T. Curry is now pastor of a New Birth Baptist Church in Miami. I

want to evoke the same sentiments of joy and gratitude that the 10,000 members of the New Birth Baptist Church in Miami lifted up to Almighty God this past weekend at the inauguration of the New Birth Cathedral.

Mr. Speaker, Bishop Curry truly represents the best and noblest of our community. As a bishop, pastor, and teacher, he exudes a remarkable wisdom in leading his congregation in the ways of God, and has tirelessly worked to enlighten our community on the agenda of spiritual wisdom and good governance impacting our duties and responsibilities.

It is indeed fitting for those of us who subscribe to the Judeo-Christian faith to acknowledge the important role that Bishop Victor Curry plays in the day-to-day affairs of our community.

I want to commend his tremendous work in guiding not only the members of his church, but also the residents of our entire community. He has exemplified the example of Christ as the Good Shepherd and has led his flock of believers by sharing with them the words of God's wisdom and the good news emanating from the gospel.

Bishop Curry's motto is from vision to victory. This motto has positively impacted the lives of countless people. Along with many others in our community, I am indeed a fortunate beneficiary of Bishop Curry's televised teachings and radio ministry through the church-owned radio station, WMBM 1490 AM.

He is especially effective in demonstrating both by way of word and example and unconditional love for and commitment to the children and the elderly, the poor and the disenfranchised. He reaffirms the centrality of God in our daily lives, conscious of the fact that the mandate of our faith must characterize our attitudes toward those who could least fend for themselves.

Our weekly paper, the Miami Times aptly describes Bishop Curry as a forceful, courageous and visionary leader not only of the religious community, but also of our wider society, with the recognition that our churches are a part of larger network of institutions that are the pillars of our community.

Bishop Curry is fully living up to his vocation as a caring and effective pastor. His standard for learning, sharing and achieving has won the accolades of our ecumenical community. Public and private agencies have often cited Bishop Curry for his untiring consecration to the truth and his uncompromising stance on simple justice and equal opportunity for all.

Moreover, Mr. Speaker, Bishop Curry's mission in teaching many a wayward youth has become legendary. He has gained the confidence of countless parents and teachers who see him as a no-nonsense motivator. They are will-

ing to entrust him with the future of their children, fully cognizant and genuinely confident that they would learn from him the pursuit of academic scholarship and the desire for personal excellence under the tenor of a faith-based, conscientious commitment and rigorous discipline.

With the recent inauguration of the New Birth Cathedral, our community is deeply touched and will benefit greatly by his undaunted leadership and perseverance. As head of one of the fastest growing churches in Florida, Bishop Curry preaches and lives by the adage that under God's providence our quest for personal integrity and spiritual growth is not beyond the reach of those willing to dare the impossible.

As a man of God and as an indomitable leader, he has indeed earned our deepest respect and genuine admiration.

This is a magnificent legacy, Mr. Speaker, of Bishop Victor T. Curry. I am truly privileged to enjoy his friendship and confidence, and I am grateful that he continues to teach us to live by the noble ethic of loving God by serving our fellow man. Bishop Curry has lived by the adage that service is a price we pay for the space which God has let us occupy.

TRIBUTE TO CLARENCE E. LIGHTNER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. ETHERIDGE) is recognized for 5 minutes.

Mr. ETHERIDGE. Mr. Speaker, I rise today with my colleagues, the gentleman from North Carolina (Mr. PRICE), and the gentleman from North Carolina (Mr. WATT), to call attention to my colleagues to the passing of a most distinguished North Carolinian, really one of the most prominent North Carolinians as it relates to the civil rights and a pioneer in that area.

Clarence E. Lightner, 80 years of age, died on July 8 of heart failure. He was the first and only African American to serve as mayor of our capital city in Raleigh. In a quiet and yet determined way he brokered the hundreds of compromises that moved Raleigh from a small segregated southern city to the growing metropolitan city that it is today. We have truly lost a giant in North Carolina.

As the son of an achiever, Clarence Lightner proved to be an achiever himself from the beginning. He graduated from a segregated school in Raleigh, North Carolina, where he went on to what is now North Carolina Central, to get a degree. And Clarence was an outstanding quarterback; most of us who knew him, he never talked about athletics, but he was an outstanding quarterback in his day on the football team.

□ 1715

After that he served in World War II, went on to get a degree in mortuary service in Philadelphia, and then returned to Raleigh, opened a business, his family business, and started to get involved in politics.

He was one of the leaders in that area. As I said, he was quiet spoken, always well dressed, of a courtly manner, and keenly intelligent. Clarence was a man for his time. He understood what needed to be done. He was a man of good will who attracted other people of good will in that very trying time that we found ourselves in.

He spoke softly and listened well. The issues of the day called for vision, hard work, determination, negotiation and compromise; and he proved to be great at all those. He followed his father in the Lightner funeral home business and he ran it successfully. He then became a Raleigh city councilman in those trying days. He saw his business grow and followed his footsteps and became a city council member in 1967.

He served in that post for 6 years, during which time Raleigh moved forward with equality for all of its citizens in a fair and, what many thought were, a justifiable way. But Clarence Lightner said it was time to move forward to the next level, and so Clarence Lightner was elected mayor in 1972, having put together a coalition of suburban precincts with African American precincts to capture city hall, being the first African American and the only African American to serve as mayor of the city of Raleigh. His election as mayor really became national news immediately. His election was a precursor to what would happen across the South in later years.

As the son of an achiever, Clarence Lightner proved to be an achiever from the beginning. He graduated from a segregated Raleigh High School, then from what is now North Carolina Central University, where he was an outstanding quarterback. After service in World War II, he completed a course at Echols College of Mortuary Science in Philadelphia and returned to Raleigh to take over the family funeral business. He immediately became involved in the political questions of the day in a period that marked the Civil Rights Movement in the segregated South.

Quiet spoken, always well dressed, courtly, keenly intelligent, Lightner was the quintessential man for the times in which he found himself. He was a man of good will who attracted other people of good will in that most trying of times. He spoke softly and listened well. The issues of the day called for vision, hard work, determination, negotiation and compromise. Lightner proved to be adept at all.

Lightner, whose father established Lightner Funeral Home, had run unsuccessfully for the Raleigh City Commission in 1919 in the tightly segregated city. Calvin Lightner then saw his businesses suffer because of a white backlash. Clarence Lightner, following in the footsteps of his father, ran successfully for the Raleigh City Council in 1967. He served in that

post for 6 years, during which Raleigh moved toward equality for all its citizens. It is fair, perhaps, to say that Lightner was the "go to" person on any question that involved racial equality during that period. The Raleigh of today is testimony that his decisions were good ones.

Lightner was elected mayor of Raleigh in 1972, having put together a coalition of suburban precincts with African-American precincts to capture a City Hall that had been run previously by bankers, merchants, and longtime established neighborhoods. His election as mayor of a capital city was national news. His election was the precursor to what would happen across the South in later years.

Defeated for re-election in 1975, Lightner never again ran for public office, though he was appointed by Governor James B. Hunt to the State Senate in 1977 to complete a term for developer John Winters, a close friend. He remained on the forefront of every question that had to do with Raleigh development and, in particular, with anything that would affect the south and southwest parts of the city.

Lightner's contribution after his service as mayor was of major importance. He was, in a sense, the power broker with whom politicians had to deal if they wanted to be successful in Raleigh and Wake County. He served as a model for—and mentor of—other African-American young people in whom he saw promise. Former State House Speaker Dan Blue, now running for the U.S. Senate, was a protégé. So was Brad Thompson, state director for U.S. Senator JOHN EDWARDS. Most of Raleigh's current African-American leaders share the Lightner stamp.

Clarence Lightner was a successful businessman, husband and father. He served his business profession at all levels, including as president of the National Morticians Associations. He served the Raleigh Citizens Associations, Rex Hospital, the Raleigh Human Relations Council, the NAACP, the Southern Policies Board and dozens of other organizations. He was chairman of both the Saint Augustine's College Board of Trustees and that of North Carolina State University.

Mr. WATT of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. ETHERIDGE. I yield to the gentleman from Charlotte, Mecklenburg County, North Carolina (Mr. WATT), who knew Clarence well.

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentleman for yielding to me, and I thank my colleague, the gentleman from North Carolina (Mr. ETHERIDGE), and my colleague, the gentleman from North Carolina (Mr. PRICE), for taking the time out to do this tribute to Clarence Lightner.

For African American politicians in North Carolina, there are a number of people on whose shoulders we believe we stand as Members of Congress, as mayors of cities, as city council people. Clarence Lightner was among the first of those on whose shoulders we stand and on whose shoulders a number of politicians in North Carolina have stood over the years.

I remember very well back in the early 1970s when I started getting into

politics, managing Harvey Gantt's campaign. Harvey Gantt went on to become, in later years, the first African American mayor of Charlotte, North Carolina, but he did that on the history and with the history there that Clarence Lightner had broken that barrier in Raleigh some years earlier.

He was just a magnificent man whom we all looked up to, respected, and admired; and his memory will certainly live on for years and years. He is the person who gave us advice and who mentored us.

TRIBUTE TO CLARENCE LIGHTNER

The SPEAKER pro tempore (Mr. BOOZMAN). Under a previous order of the House, the gentleman from North Carolina (Mr. PRICE) is recognized for 5 minutes.

Mr. PRICE of North Carolina. Mr. Speaker, I yield to the gentleman from North Carolina (Mr. WATT) to continue with a few comments on this tribute to Clarence Lightner.

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentleman for continuing to yield to me. I know I am kind of butting in on others' time, but the one thing I do want to say about Clarence Lightner, that I think both of my colleagues will acknowledge, is that all of us went to him for advice, but Clarence did not always tell you what you wanted to hear. He was sometimes blunt, he was sometimes humorous, but every time he gave advice, he did it in the context of a story that was based on some experiences that had shaped his life in many ways. And he did it with humor and with a smile, and he was always giving in that respect.

That is the thing that I will remember about Clarence Lightner above all else.

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman for those recollections, and also my colleague, the gentleman from North Carolina (Mr. ETHERIDGE), for taking the time to pay tribute to our friend, Clarence Lightner, who was a friend and a mentor to me and to so many others.

He was a prominent businessman, he was a ground-breaking political leader. Clarence Lightner, Raleigh's first and only African American mayor, died this week at the age of 80. He served a single term as mayor, as the gentleman from North Carolina (Mr. ETHERIDGE) has pointed out, from 1973 to 1975; and then he played a critical leadership role in North Carolina politics for decades to follow.

I have experienced firsthand Clarence's exceptional talent for bringing disparate groups together to effect positive change in both official and unofficial capacities. He led the city of Raleigh during a tumultuous period of expansion and development. His suc-

cess was directly attributable, I believe, to his ability to relate as easily to people on the street as he did to business and community leaders.

Clarence was frequently sought out for his insight and his guidance. It was often said, and was actually reported again in the News and Observer of Raleigh this week, that any candidate seeking voter support in Raleigh had better secure Clarence Lightner's support first. That was the truth, and I can attest to it.

Clarence was a mentor to me personally as I attempted to lead our State Democratic Party and then to represent the fourth district in Congress. I valued his wise counsel very much. It was always delivered with unfailing good humor, and his spirit was a generous one and a cooperative one.

Clarence Lightner offered leadership to organizations ranging from the National Funeral Directors and Morticians Association to the National League of Cities to the Democratic National Committee, the Raleigh-Wake Citizens Association, the Board of Trustees of St. Augustine's College, North Carolina Central University, and North Carolina State University.

He had a huge impact for good in Raleigh and throughout North Carolina and across the Nation. We will continue, Mr. Speaker, to feel this impact long after he is gone. We will miss him. We treasure his legacy.

Mr. Speaker, I enter into the RECORD at this point the editorial tribute to Clarence Lightner from the Raleigh News and Observer from July 10, 2002.

A PATHFINDER FOR RALEIGH

Clarence Lightner was a gentle, soft-spoken man of resolve. At his core he possessed a strength and a courage that helped him overcome racial barriers—and then he helped Raleigh overcome them, too. That is but one of the legacies he leaves following his death Monday at the age of 80.

Lightner, long-time proprietor of a funeral home that bears the family name, was the Capital City's first and thus far only African-American mayor, serving from 1973 to 1975. He also was the first mayor to be elected under a then-new procedure whereby the mayor is chosen directly by the people and not by the City Council.

Lightner grew up in a segregated city, the son of a prominent businessman, Calvin Lightner, who had run for the city commission in the early 1900s. In Clarence Lightner's lifetime, Raleigh was to change dramatically, and he was to help achieve that change.

Though he served just one term as mayor following a period as a council member, Lightner remained a powerful force in politics through his influence in Southeast Raleigh. Long after his term was over he continued to advise candidates whom he favored and to help shape issues in citywide campaigns.

Lightner was always unfailingly gracious, and keen in his remembrances of his growing-up in Raleigh. He had, after all, belonged to a family that was active in helping the city grow. He also served by spotting those young people he felt one day could serve in leadership roles. Many of them did not disappoint him, and in their service especially, Clarence Lightner's legacy is a living one.

Mr. ETHERIDGE. Mr. Speaker, will the gentleman yield?

Mr. PRICE OF North Carolina. I yield to the gentleman from North Carolina.

Mr. ETHERIDGE. Just briefly, Mr. Speaker, let me thank both my colleagues, because Clarence Lightner was an exceptional man; and my colleague was right when he said that if you ran for public office, as he and I did, and others, we are here to attest to the fact that you sought Clarence Lightner's counsel. You really wanted his support; but you sought his counsel first, as we well know.

He was honest, he was blunt, but he did it in such a nice way. Let me share what Webster's Dictionary defines as a Renaissance man, because I really think Clarence Lightner is one. It says, a Renaissance man is one who has wide interests; is an expert in several areas. And certainly Clarence Lightner fully met these descriptions. He earned that designation again and again, and he showed in many ways that he really did value liberty, equality, and human kindness; and he exhibited it every day.

Mr. PRICE of North Carolina. Mr. Speaker, I thank my colleague, and I hope that what is coming through these tributes today is the human qualities of Clarence Lightner. There was no question he exerted strong leadership and a visionary leadership. But one reason he had the impact that he did, and that so many people, like us, who regarded him as a mentor and a friend and a shaping force in their lives, is because of his human warmth and generosity of spirit and extraordinary sense of humor and an ability to bring out the best in people, and a desire to see people do their best. He did not need to claim the credit himself. He was very good at bringing along people and letting them shine.

There are many, many people in North Carolina whose lives have been enriched by this man and who join us in mourning his passing. So, Mr. Speaker, I appreciate the time to offer this tribute today; and it is entirely fitting that we gather here to honor Clarence Lightner, to testify as to what he has meant in our lives and to bear witness to what he has meant to North Carolina and the Nation.

OMNIBUS CORPORATE REFORM AND RESTORATION ACT OF 2002

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, we have heard over the last 48 hours a pronouncement of a crisis in corporate America; that many employees and pensioners and other people have been impacted negatively by the crumbling confidence in corporate

America and the procedures by which we invest in that system which have gone on for a very long time.

Let me simply recount a story, Mr. Speaker, that probably has been heard over and over again, but it bears telling again, and that is the story of many of my constituents and those that live in Houston. For a moment, we thought that the failings were indicative of a particular industry, the energy industry. We felt that something had gone awry with one of the companies that had been one of our most civic-minded corporate citizens. But just over a weekend we were able to see what happens when things go awry and the integrity of the process of running a large business is not adhered to.

Within a weekend's time, after the continued undermining and crumbling of Enron Corporation, \$105 million was given as retention bonuses to many of the executives. That probably happened on a Friday. On Sunday, bankruptcy occurred. On Monday, 4,500 employees were laid off, and investors around the country were finding out that they had lost millions and millions of dollars due to the largest bankruptcy filing in this Nation.

So it is more than a crisis of 48 hours; it is more than a crisis that has been acknowledged by this administration. It is an ongoing crisis. And I personally have said that the inertia and inaction of this Congress must stop and this Congress must move forward and ensure that we respond to the American people. My colleague, the gentleman from New York (Mr. LAFALCE), is attempting to do that, along with the distinguished gentleman from the other body, Mr. SARBANES, with a bill that really attacks the problem, particularly as it relates to the issues of accounting and consulting. This is so key.

But I want to say that the Omnibus Corporate Reform and Restoration Act of 2002 is a bill that is crucial. This is a bill that I hope will bring some attention and that will respond to all of the issues that we are addressing. It concerns the oversight of boards of directors. It concerns the idea of investor integrity. It concerns the protecting of employee stock options and pension plans.

This bill may not pass tomorrow or next week. This bill has no pride of authorship, because I believe that the key element for this Congress is to act. It is a bill I intend to file, the Omnibus Corporate Reform and Restoration Act of 2002.

□ 1730

Mr. Speaker, the \$4 billion that was lost by WorldCom is an indication that this is not industry-specific, this is systemwide. This is attacking all of us more than where it hurts because certainly money lost hurts, but it has to do with the integrity of our system of

governance and economy, the capitalistic system that we have attempted to promote throughout the world, that if you work hard, you have an opportunity in this Nation to succeed.

We encourage developing nations to look at our system of democracy and the economy. We provide incentives for particularly small businesses around the world, but nothing serves us in a worse way than to continue to have a system that does not have integrity and trust.

There is a crisis. It did not just occur in the last 48 hours. It has been going on for a while. It is a crisis when the stock of WorldCom sold for \$64 just 3 weeks ago and 7 cents in the last couple of days, and now in my terminology, it has been disenrolled off of NASDAQ. It is a crisis when we can construct SPEs in order to hide funds, and those are separate companies within where executives can in fact own a part of those companies within another company or the larger company and siphon off funds to the extent that boards of directors do not know what is going on.

Mr. Speaker, I simply say that in the course of having the responsibility of responding to an ongoing crisis, I am sad to say we have waited too long. But I am proud that we are speaking now in a voice that will be heard by the Democratic leadership, and I simply say that it is important that we all look to stand ready to force an issue that addresses the needs of American people, and the sadness of losing your home, of not being able to pay tuition, losing your pension, and trying to avoid going under. I do not think we can do any less other than trying to respond to corporate infractions, the corporate undermining of the economic system of this Nation.

INSTITUTIONALIZED DISCRIMINATION OF BLACK FARMERS

The SPEAKER pro tempore (Mr. BOOZMAN). Under a previous order of the House, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, first I would like to join my former colleague from North Carolina who acknowledged the contributions of a dear friend who died recently, Clarence Lightner.

Mayor Lightner was a friend to us in North Carolina who worked in the early 1970s, 1980s and 1990s. He was a pioneer not only because he became the first African American to become the mayor of the capital of North Carolina, but also because of his ability to raise issues that were controversial and get them on the table. He also inspired other people to do likewise. I certainly will miss him personally as a friend. I got to work with him on various committees that we served together on, and know of his beloved position in his

community and church and family, and I personally acknowledge what he has meant to me and meant to our State.

Mr. Speaker, I rise today to talk on another subject as well. I rise just 6 days after we celebrated Independence Day to call attention to the plight of our Nation's black and minority farmers, small business people, who continue to struggle for their own independence against the forces of institutionalized discrimination at the hand of field offices of the United States Department of Agriculture, despite modest gains in some recent legislative and legal victories.

Only days before we celebrated July 4, a group of 150 black farmers felt it necessary to stage a sit-in in a regional office of the Department of Agriculture to protest the continued discrimination practices used by Federal employees to deny them a Federal farm loan.

This follows on the settlement of a class action lawsuit in 1999 which all of us thought would bring remedies. That was a consent decree in which the government agreed to stop these practices and the court provided relief in the way of priorities and loans, and agreed to pay \$50,000 where there were acts of discrimination proven, and to provide other assistance.

But many who have applied for this relief have been denied, and the consent decree expires in 2 years. The government has paid more than half a billion dollars to farmers, while denying and refusing to assist many of the original plaintiffs. There is not a consistency in the application of the relief. So many of the farmers are finding this consent decree to be an empty victory or remedy that has no value to them whatsoever.

In a recent ruling by the U.S. Appellate Court in Washington, D.C., *Pigford v. Ann Veneman*, the Court clearly stated that the farmers had suffered a double betrayal, first by the Department of Agriculture and then by their own lawyers.

The protest by black farmers in the State of Tennessee demonstrates that the Department of Agriculture continues to ignore minority farmers who are small and disadvantaged. Secretary Veneman's response, to establish a high-level review of the issues within the department and to meet personally with these minority farmers, is indeed a positive step. However, there have been numerous studies, regulatory reviews, adjudication by the courts, and legislative direction by this Congress. The patterns of discrimination have been documented. The courts have decreed remedies. Congress has enacted specific reform, and it is past time for the Department of Agriculture to act and end discrimination.

The Committee on Agriculture committed here on the floor to hold hearings where they will examine the issues of black farmers. The committee is

considering a full hearing in September.

The recent legislative victories for civil rights within the farm bill must be implemented immediately to ensure that past and present practices of discrimination and denials are prevented and corrected.

Those victories included: An Assistant Secretary for Civil Rights at USDA; language that requires the Secretary of Agriculture to document and to track program participation for minority farmers; and also the county committee elections be open and fair, and where there is not minority participation, there would be.

Mr. Speaker, I call on Congress indeed to pass the resources necessary for these funds, and I call on the administration to implement these policies so we can end discrimination and act in good faith for these small farmers who are struggling to make a living for themselves.

CORPORATE REFORM NEEDED

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from New York (Mr. LAFALCE) is recognized for 60 minutes as the designee of the minority leader.

Mr. LAFALCE. Mr. Speaker, this morning I was very pleased to join with the gentleman from Missouri (Mr. GEPHARDT) and other Members to file a petition for discharge of H.R. 3818, the Comprehensive Investor Protection Act of 2002. I introduced this bill in February. When I introduced it, I wanted to provide a serious and credible alternative to a very weak industry-drafted, industry-driven bill that had been introduced by the Republicans. I later introduced another bill basically codifying the concept of President Bush's own 10-point plan on corporate responsibility.

As I discussed at the press conference this morning, at every single point in the debate, whether it was in the House Committee on Financial Services, whether it was in the House Committee on Rules, or whether it was on the floor of the House of Representatives, I sought to offer the provisions of my bills as amendments to the Republican initiative so we could strengthen the oversight of accountants, so we could make auditors more independent, so we could improve corporate governance, so we could hold executives responsible for the financial statements their companies issue, and many other absolutely necessary improvements.

On every single issue, on every single occasion, President Bush said no and the Republicans voted no. They opposed even the provisions of my bills that sought to codify President Bush's own proposals. They voted against them on the floor of this House. Instead of producing a strong bill that

could set the terms of debate for the Senate, the House instead produced a very weak bill, a cosmetic bill, that delegated major issues of accounting industry reform and corporate governance reform to the SEC. Basically, they codified the status quo.

Let me give some specifics. The Republican bill allowed the SEC to designate an accounting oversight board. But it did nothing to define the powers and duties of that board created under the bill, ensuring that it would be at best a weak institution without the authority to stand up to the accounting industry. Further, it did not specify the nature of the membership of that board. It is not just what powers the board has, it is who is going to serve on the board. Will they be zealots for investor protection? Or will they be protecting corporate America rather than the private individual investor?

The Republican bill also failed to address the conflicts faced by auditors in a meaningful way, allowing auditors to continue to provide the same consulting services that they do today. The Republican bill did nothing to enable the SEC to effectively bar guilty officers and directors from serving at other public companies because it preserved and codified the high burden of proof that even the SEC has said makes it virtually impossible to bar officers and directors even in the case of criminal misconduct.

The Republican bill prescribes studies, not legislative action, on issue after issue, even on whether corporate executives responsible for accounting fraud should be required to forfeit their bonuses and stock sale profits and whether the ties between analysts and investment banking should be restricted. We do not need to study that issue, we need to bar those conflicts.

At the time that the Republican bill passed, there was already a clear need for strong and reasoned legislation to protect workers and shareholders, but the House Republicans squandered that opportunity. While the House Republicans blocked any improvements to legislation in the House, and while the House Republicans voted against my substitute, while the House Republicans voted against my motion to recommit with instructions to report out stronger legislation, I was nevertheless gratified that at the very least our efforts, our bill, provided a model for Senator SARBANES as he developed his legislation now being considered by the Senate.

Unlike the House Republican bill, Senator SARBANES' bill provides for a strong accounting oversight board and significantly enhances auditor independence by limiting the consulting services auditors can provide to their audit clients and improving corporate governance. He has brought that bill to the floor of the Senate with strong bipartisan support and strong bipartisan

cooperation I wish we had in this House.

□ 1745

As the Senate continues the debate on the Sarbanes bill, however, I have been dismayed to note that the administration continues to resist strong legislation, and particularly continues to resist the creation of strong oversight for auditors of public companies. While the administration complains that the new organization may duplicate the efforts of the SEC, they continue to resist providing the SEC with the funding necessary for it to perform these functions itself. Moreover, they ignore the comprehensive authority provided to the SEC over the new oversight board.

Despite the administration's protestations, there is no reason to expect that the new board will not be able to work with the SEC in the same manner that the securities' self-regulatory organizations do at the present.

The administration and House Republicans must recognize what most Senate Republicans and even corporate leaders have already recognized, that the need for strong legislation that will restore the confidence of investors in our markets and public companies is urgent. I look forward to working with each and every one of my colleagues in the House or Senate on either side of the aisle and with the administration to produce a legislative product that can restore the integrity of our financial reporting system and our markets, that can provide the confidence needed to let our economy recover from the serious blows it has already been dealt; and I extend my hand to anyone who wants to work with me in that effort.

Mr. Speaker, I yield to the gentleman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I thank the gentleman from New York for yielding and for his leadership on this and so many issues that we face and address in this House.

As the gentleman from New York (Mr. LAFALCE) has indicated, we are facing a crisis of confidence in this country, a crisis in corporate America. In the last 9 months we have seen major corporation after major corporation fall because of greed, fraud and mismanagement. From Enron to Global Crossing to WorldCom, the failures of these businesses mean that millions of Americans are hurt. Workers lose their jobs, investors lose their profits in the stock market, retirees lose their pensions. It seems that we have a culture, really, of deceit in the corporate world.

From what we have learned recently, there apparently is collusion oftentimes between the corporation, the auditors and the analysts, who at the very least turn a blind eye to misdeeds and at most are really committing serious crimes that are defrauding the public, the government and investors.

What message are we really sending to the rest of the world when we in the United States so often criticize them for their corporate corruption? At the same time people are losing their jobs and life savings, greedy executives are managing not only to survive, but to flourish. They are taking huge bonuses and, in some cases, even hundreds of millions of dollars in loans, while the rest of their workers are being forced out with nothing. This is just downright criminal.

The corporations themselves are committing fraud by engaging in creative accounting. The auditors, such as Arthur Andersen, who are entrusted with ensuring the financial stability of these businesses, are really turning a blind eye to this fraud because of conflicts of interest between their auditing and consulting functions. And Wall Street analysts are compromising their integrity by recommending their customers buy stocks even when they have information that the companies are not in good shape because of their own conflict of interest between investment banking and analyst functions.

We must pass true accounting reform. In April, the House of Representatives passed really a sham accounting bill, H.R. 3763, the so-called Corporate and Auditing Accountability and Responsibility Act. This Republican corporate cover, that is what it is, this legislation does nothing to protect employees and investors. It allows corporate auditors to continue to perform both accounting and consulting functions. It does not hold corporate wrongdoers accountable if they knowingly release misleading financial statements. It does not increase oversight of the accounting industry.

We need to support the bill of the gentleman from New York (Mr. LAFALCE), which would, among other things, ban auditors from consulting services that create conflicts of interest.

Just this week, the Committee on Financial Services, on which I serve, held a hearing on the issue of the WorldCom failure. I was shocked, quite frankly shocked, to witness the total disregard for our oversight responsibility by the former CEO, Bernard Ebbers, and the former CFO, Scott Sullivan. Their consistent invoking of the Fifth Amendment did not allow for much insight into what happened. Their reluctance to provide our committee with necessary information so that we could be better prepared to put into place statutes to ensure corporate accountability was very, very disturbing.

What more are they hiding? We know that Mr. Ebbers received a \$400 million loan, which he has not repaid, from WorldCom because of some bad investments he made. When he became subject to market calls, instead of selling his WorldCom stock, which he reportedly used as collateral, he went to his

company and asked for loans so it would not look bad that the CEO was dumping tens of hundreds of millions of dollars of company stock.

When a working parent wants to send their child to college, they cannot go to their boss and expect a handout to cover the cost. When an adult child needs help to help their parents buy prescription drugs, their employer does not hand them thousands of dollars. When a family member gets in an accident and runs up thousands in medical costs and they end up in bankruptcy, they are unable to secure loans from their employer. Most ordinary working people do not have access to loans from their employer, let alone over \$400 million in loans, and CEOs really should not either. We need to prevent CEOs and other top executives from securing huge loans from their own companies to bail them out of bad investments.

Many corporations are using offshore locations, including those in the Caribbean, to avoid paying United States Federal income taxes. Allowing U.S. corporations to avoid their tax liability is not only unfair, but also contributes to our deficit. I have cosponsored, along with many, H.R. 3884, the Corporate Patriot Enforcement Act, which prevents corporations from avoiding U.S. income taxes by reincorporating in a foreign country.

Now what about corporate ethics? Isn't there a moral or ethical code in the business world? Shouldn't there be? We heard at the WorldCom hearing about a "close personal relationship" the chief analyst at Salomon Smith Barney, Mr. Jack Grubman, had with former WorldCom CEO Bernard Ebbers. I asked Mr. Grubman if his relationship with Mr. Ebbers was a working relationship as he stated, or a personal relationship as had been reported. He danced around his answer.

At this week's hearing, Representative JAY INSLEE from Washington asked the witnesses very pointedly about whether it was time to punish corporate criminals the same way people convicted of drug offenses are. I have always been opposed to mandatory minimums for drug offenses, which mostly affect low-income, urban minorities. However, if we are to be tough on crime, why don't we pass mandatory ten-year prison sentences for those convicted of fraud and other corporate crimes for the mostly upper-income executives? President Bush yesterday called for a doubling of maximum sentences—but what about strong minimum sentences? This President supports mandatory minimums for those convicted of drug offenses and he should support them for corporate criminals who defraud their corporations and our Nation.

As a member of the International Relations Committee, I participated in a hearing on international corruption and how U.S. companies were harmed when unfair practices were prevalent in other nations. Our then-Chairman and Ranking Member both talked about how corruption "undermines the basis of growth and stability," "deters investment," "demoralizes entrepreneurs and ordinary citizens who deserve good government." They also testified

about how in Asia and Africa, "democracies are threatened by corrupt practices of the government." I would argue that the United States is facing such a problem today. We must also clean our own house. One last quote from the 2000 hearing was: "If we believe in democracy, and we want to build a system where the world has faith in its elected leaders, we need to make sure that we get rid of corruption." I for one want to have faith in the elected leaders in this Nation, starting at the top—President Bush and Vice President CHENEY.

The American people must be able to trust the leadership in this country—the leaders of major corporations which are so important to our economy, but also to our political leadership. We know that last year, President Bush authorized his energy task force, headed by Vice President CHENEY, with participation by Kenneth Lay, the former Enron CEO. In my home state of California, we know that there was manipulation of rates in the energy market and all signs point to Enron. The question remains what role the Bush Administration—both the President and Vice President—may have played in the California energy crisis as a result of their close relationship with Enron and its CEO.

More recently, we have discovered that President Bush, while serving on the auditing committee and Board of Directors for Harken Energy Corporation in 1990, sold over 200,000 shares of that company's stock just 2 months before it announced losses. That stock subsequently lost $\frac{3}{4}$ of its value by the end of that year—well after George W. Bush was informed that there was a cash "crisis" at Harken. In addition, President Bush neglected to report this transaction with the SEC until almost a year later, a violation of SEC rules, stating the SEC "lost" the file, although the SEC stated in 1991 that it never received it.

We, as elected officials, need to set a good example. I hope that President Bush and Vice President CHENEY will be forthcoming with the details of these disturbing incidents.

However, instead of coming clean with the details of these irregularities, the Bush-Cheney team seems to be more intent on offering its "Corporate Protection Plan." At yesterday's press conference, the President announced a weak plan for corporate responsibility. We need to make clear how his plan falls far short of what's needed to reform the inherent flaws in our capitalist system, which seems to be exacerbating corporate fraud and crime.

President Bush asked for \$100 million additional dollars for the SEC. However, the House already passed a bipartisan bill providing an extra \$195 million above that amount for the SEC. This includes over \$70 million for pay parity so that the SEC can attract and retain qualified investigators to look into this corporate crime.

The President also asked for doubling the maximum jail sentence for corporate offenders—from 5 to 10 years—but only for mail and wire fraud, not for securities fraud. This is simply not enough. We need systemic change to prevent the crimes. An ounce of prevention is worth a pound of cure.

I call on the President to put some teeth into his proposal.

The American public needs to be able to count on their political leadership and corpora-

tions to be honest. Workers must have faith in their companies for their livelihood. Stockholders must have faith in the companies they invest their hard-earned money in. And retirees must have faith in the companies their pensions are invested in. We need true reforms. Let's restore the faith of the public. Let's end this corporate corruption now!

Mr. LAFALCE. Mr. Speaker, I yield to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. I thank the gentleman for yielding.

Mr. Speaker, obviously in light of the financial mismanagement of some of the major corporations of this country and the investor losses we have seen, this Congress has got a lot of work to do. Thank goodness we have our ranking member, the gentleman from New York (Mr. LAFALCE), still at the helm of the minority in the Committee on Financial Services as we undertake these difficult challenges.

We are called a nation of investors in light of the broad participation of private retirement dollars in the stock market. What that means is, as you look at the Enrons, as you look at the WorldComs, as you look at the other failed corporations due to executive mismanagement, we are a nation of financial losers because we have not had adequate protections in place to protect the investing public. And something needs to be done.

Let us take a look at the dollars lost. Today's Washington Post headline, "Workers' 401(k)s Lost \$1.1 Billion" on the misstatement of liability with WorldCom and the attendant misstatement of their stock price.

Their egregious accounting practices have impacted retirement income portfolios across the Nation. Accumulated losses from this one company will impact holdings in State pension funds from Maryland to California in the amount of \$52 million. Government workers and retirees in my home State of North Dakota held \$350,000 worth of WorldCom stocks and bonds and \$2.5 million in their pension fund.

What all of this means is that the failed private-sector checks and balances have caused a lot of damage to workers' retirement accounts, money they are counting on for their income security in retirement years. We need to fix it.

One area that I would hope this Congress addresses in particular involves having company financial balance sheets reflect the stock options that they have awarded by posting the liability. I believe presently you have an awful lot more out there in terms of potential liability and stock dilution impact than is reflected on the balance sheet, and I would urge this Congress to consider carefully the words of Chairman Alan Greenspan, former SEC Commissioner, Arthur Levitt, as we address the stock options issue.

In conclusion, I would say that it is extraordinarily important that we

have the leadership of the gentleman from New York (Mr. LAFALCE) and others as we restore worker protections. Our pension dollars are at stake. We have to have greater accountability.

Mr. LAFALCE. Mr. Speaker, I yield to the gentlewoman from Wisconsin (Ms. BALDWIN).

Ms. BALDWIN. Mr. Speaker, there is a crisis in America. People are out of work and are worried about losing their jobs.

In Wisconsin, I hear from the families that I represent. Wisconsin families' investments, college funds and retirement savings have been losing money for almost 2 years now. Without action to shore up the confidence of the American public, our faith in the stock market will be shattered and, along with it, the backbone of our country's financial system.

This crisis is rooted in one thing, and that is greed, the greed of the corporate CEOs that cooked their books, falsely reported earnings, exercised stock options and, when the bubble burst, walked away with millions in guaranteed salary payments and bonuses.

But the crisis goes deeper than a dozen CEOs and the crooked accounting firms that are hoping to pad their pockets. It stretches right into the halls of Congress and the Oval Office, where corporate CEOs have sought to roll back investor protection legislation and gain access to the Social Security funds.

WorldCom's recent announcement that it had overstated company profits by \$3.8 billion over the last five quarters gives it the dubious distinction of being the largest case of false corporate bookkeeping, or, simply put, fraud. Companies like Enron, Rite Aid, Merck, Tyco International, Global Crossing and Adelphia Communications are currently under investigation for a variety of reasons, such as insider trading, avoiding taxes and using fraudulent accounting practices, as Enron did.

I believe that we have come to the point where Congress and the administration must come together and take swift action to stop the corporate abuses that have infected our country.

The enormity of the Enron collapse alone sent shock waves throughout our economy. In Wisconsin, the Public Employee Retirement System lost an estimated \$40 million in stock and \$38 million in bonds because of Enron's illegal actions. The WorldCom debacle is estimated to have cost the Wisconsin Public Employees Retirement System \$29 million through the sale of WorldCom bonds.

Nearly half a million current or former employees of Wisconsin State agencies, school districts and local governments participate in the Wisconsin retirement system, which is also the tenth largest public pension

fund in the United States. This does not even begin to account for the millions of Americans, and you know that 52 percent of Americans are stockholders, and the institutions that invested retirement savings in Enron or WorldCom or any of the numerous other companies who have cooked their books to show false profits or hide their debt.

□ 1800

While most corporate abuse has hit individual and institutional investors the hardest so far, I think it is important to realize that the same corporations that are under investigation have had a tremendous amount of influence in government and, essentially, over the very policies that matter to people most. In fact, just one week before the revelation by WorldCom of their financial impropriety, they were handing over \$100,000 for a dinner featuring President Bush and benefiting the National Republican Congressional Committee and the National Republican Senatorial committee. That makes me question will these same officials really go after these CEOs and accounting companies and also pass legislation that will prevent future Enrons and WorldComs.

Mr. Speaker, it is time for accountability; it is time for the administration and the Republicans in Congress to say to their traditional base of big business and corporate CEOs, "Enough is enough."

There is a crisis in America. People are out of work or are worried about losing their jobs. In Wisconsin, I hear from the families that I represent. Wisconsin families' investments, college funds, and retirement savings have been losing money for almost two years now. Without action, to shore up the confidence of the American public, our faith in the stock market will be shattered and along with it, the backbone of our country's financial system.

This crisis is rooted in one thing—greed. The greed of the corporate CEOs that cooked their books, falsely reported earnings, exercised stock options, and when the bubble burst, walked away with millions in guaranteed salary payments and bonuses. But this crisis goes deeper than a dozen CEOs and crooked accounting firms hoping to paid their pockets. It stretches right into the halls of Congress and the Oval office, where corporate CEOs have sought to roll back investor protection legislation, and gain access to Social Security funds.

WorldCom's recent announcement that it had overstated company profits by more than \$3.8 billion over the last five quarters, gives it the dubious distinction of being the largest case of false corporate bookkeeping, or simply put, fraud. Companies like Enron, Rite Aid, Merck, Tyco International, Global Crossing, ImClone, and Adelphia Communications are currently under investigation for a variety of reasons such as, insider trading, avoiding taxes, and using fraudulent accounting practices as Enron did. I believe we have come to the point where Congress and the Administra-

tion must come together and take swift action to stop the corporate abuses that have infected our country.

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Perhaps the biggest accomplishment for corporate America this year was during the debate of passage of an economic stimulus bill. Their provision in this bill was so shocking it is a moment that I will not be able to forget for a long, long time. Our country was languishing in recession, and every day I heard from friends, neighbors, and constituents who said they were experiencing trauma in our struggling economy. They told me how important extending unemployment benefits would be in helping them to meet the next month's mortgage payment and keeping food on the table. At the time, no one knew how long our economic downturn would last; the genuine fear they expressed to me is something I'll never forget.

During this debate, the House leadership refused to consider a bill that would extend unemployment benefits for an additional 13 weeks. I urged the House to follow the State of Wisconsin's lead and pass a bill to extend unemployment benefits so displaced workers would have more time to get back on their feet and look for another job. Instead, the leadership put the concerns of huge corporations first. Valuable time was wasted as the House passed three bills that the Senate refused to consider because they centered on giving huge corporations millions of dollars in tax breaks instead of helping those who needed immediate relief. The bills included a provision that would have given energy-trading giant, Enron, a tax rebate check worth more than \$250 million—even though the corporation hadn't paid taxes in 4 out of the last 5 years.

It is time to return the confidence that investors once had. It is time to make corporate CEOs pay for their crimes and serve time for their crimes while strengthening the oversight ability of Congress and the Securities and Exchange Commission (SEC) so that we never again have to hear tale of illegal accounting practices and massive CEO payouts. It is time that the rest of Congress stand with me and my Democratic colleagues and return investor confidence to the free market system.

Mr. LAFALCE. Mr. Speaker, I thank the gentlewoman for her great comments. I now call upon the distinguished gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, let me thank the ranking member of the Committee on Financial Services for calling this Special Order. The gentleman has been on point on the subject of the crisis of confidence that we have in our public markets long before many, and he needs to be commended for that. He has worked diligently to craft legislation that would go a long way towards restoring that confidence.

I must say, it was somewhat ironic that yesterday, when the President addressed the luncheon in New York and outlined his proposals, that a large number of the proposals he outlined were those that the gentleman from New York himself had outlined and had proposed in our committee back in April, almost I guess every one, every single one, which had been voted down, unfortunately, mostly on a party line vote. But as things go on, just as some of the executives from WorldCom, the ones who did testify before our committee the other day, said that hindsight is really 20-20 vision and, as some of them said then, that they would not have voted to give the loans to the CEO that they did a year earlier, it now appears that some of our friends on the other side of the aisle have determined that some of the ideas of the gentleman from New York (Mr. LAFALCE) are worthy of consideration. So we are glad that he has received that recognition.

Mr. Speaker, we do have a crisis of confidence in our markets. The United States has the most efficient market system in the world. Yet it is a system that operates through transparency; it is a system that operates through rules, rules which have to be followed. What has occurred, unfortunately, over the last several years, is that executives have come to the conclusion that they do not always have to follow those rules, whether it is trying to meet earnings targets or revenue targets, or whether it is trying to increase the value of stock because of stock options that they own to increase the amount of revenues that they will personally earn. The fact is that we have ended up with very lax accounting, very lax standards; and as a result of that, in large part, investors have seen more than \$7 trillion of value wiped out.

In fact, as of the close of the markets today, the S&P index is now back below where it was in 1997. Last week, the NASDAQ gave everything back to 1997, and the Dow Jones closed today below 9,000 for the first time since October in the aftermath of the attacks on 9-11. More than \$30 billion of foreign investment in the United States, which helps fuel our current account deficit, has been pulled out of the U.S. markets, not because there is necessarily more value in investing in Europe and Asia so much as investors no longer feel confident with the information

that they are being provided of investments in the United States.

Mr. Speaker, this is a tragedy for the history of American capitalism; and until such time as our government speaks with one voice concerning corporate governance, concerning true independent auditing standards, this crisis of confidence will not evaporate, it will not go away.

Now, the House passed a bill in April, and it was a first step; but, quite frankly, it came up too short. The Senate, the other body, is working on a bill which may have things that Members do not completely agree with, but it is a step more in the right direction. It would be helpful, it would be helpful if the executive branch would begin to speak more forcefully on this issue. It would be helpful if the executive branch, which again, as I stated at the outset, has started to come around, perhaps a latter-day conversion, would speak more clearly about what standards it would have for establishing oversight of the auditing.

As the gentleman from New York will recall and the gentleman from Pennsylvania who was there the other day, we had the lead auditor, independent auditor for WorldCom and we asked him repeatedly, how come you did not find the overstatements of earnings and the fact that expenses were capitalized that should not have been capitalized? You are the auditor. You look at the books that are given to you by the CFO. And he said, well, we just take the numbers that are given to us. We do not actually look at them; we look at the system to see if they work.

If we do not pass significant legislation to restore confidence in the markets, our economy will continue to suffer from this malaise. The burden is now on the House, along with the other body and the executive branch, to speak with one voice to restore confidence to the markets, to ensure that we can have sufficient economic growth in our economy.

I commend the gentleman from New York for putting on this Special Order.

Mr. LAFALCE. Mr. Speaker, I thank the gentleman from Texas. Let me now yield to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentleman from New York for yielding and for his outstanding leadership on this important issue.

Before Enron Corporation's bankruptcy filing in December of 2001, all of us knew that the firm was widely regarded as one of the most innovative, fastest-growing, and best-managed businesses in the United States. With the swift collapse, shareholders, including thousands of Enron workers who held company stock in their 401(k) retirement accounts, lost tens of billions of dollars. It now appears that Enron

was in terrible financial shape as early as 2000, burdened with debt and money-losing businesses, but manipulated its accounting statements to hide these problems. Now, WorldCom, the Nation's second largest long-distance telephone company, has been charged with fraud by the Securities and Exchange Commission. Reports have revealed that WorldCom defrauded investors by improper accounting practices of \$3.9 billion in expenses during 2001.

We are discovering that publicly traded companies have contributed to bilking American investors and taxpayers out of \$4 trillion since 2000 due to unaccountable financial filings, accounting errors, misinformation, and mismanagement of funds. Where were our watchdogs? They were nowhere to be found.

In order to ensure corporate accountability, we need to establish under the jurisdiction of the Securities and Exchange Commission ways to regulate accounting firms that audit SEC registrants. This type of structure could be empowered to charge registrants with annual fees to pay for the cost of staff to carry out the suggested plan of surveillance of auditors.

This concept would intervene between a registrant and its auditor before, during, and at the end of an audit. It would be more effective than the current regulatory system in, one, achieving an early warning of potential financial disasters such as Enron and WorldCom; two, requiring a change in auditors when the SEC deems it appropriate; three, require pre-approval of consulting engagements for a registrant to be conducted by its auditor; and, four, improve the format and content of financial and auditor reports by including information about labor relations, research and development, marketing programs, and new products.

I believe that these kinds of safeguards would go a long way towards helping to rectify the situation.

Again, I commend the gentleman from New York (Mr. LAFALCE) for his outstanding leadership, and I thank him for the opportunity to participate in this Special Order.

Mr. LAFALCE. Mr. Speaker, I thank the gentleman very much.

Our next speaker will be someone who has been a full partner with me in the crafting of the strongest possible legislation to deal with this problem. He serves as the ranking Democrat on the Subcommittee on Capital Markets, which is the subcommittee of legislative jurisdiction over the entire field of securities. He is the distinguished gentleman from Pennsylvania (Mr. KANJORSKI).

Mr. KANJORSKI. Mr. Speaker, first of all, may I say how we are going to miss the gentleman's leadership after he completes his final term in Congress, because certainly he has been a stalwart supporter of transparency, ac-

countability, and responsibility, both in government and in private business.

Mr. Speaker, I guess I want to talk to the President of the United States. I had the opportunity to watch his speech yesterday. I have watched my colleagues struggle over these last 6 months with the disclosures that have occurred in American business, and I have talked to a lot of my constituents. I guess I want to set certain perspectives that I view this from.

First and foremost, it is one thing to lose money in the stock market if one is a direct buyer in the stock market, if one is wealthy enough to be a speculator or trader in the stock market. But unfortunately, the people that have really lost this money are pensioners and 401(k) owners, millions and millions of Americans that were persuaded over the last 20 or 30 years to become part of democratic capitalism; and they, through their pension funds and through their 401(k)s, bought into the idea that America is indeed a great capitalistic Nation and had the wherewithal to participate in the growth of that capitalism, in the creation of that wealth; and they entrusted their meager funds, their retirement funds to managers that primarily are located in and around Wall Street.

To a large extent, during the flaming years of the 1990s, it got to the point that one had to be a fool not to invest in the stock market. I used to run across constituents of mine that would receive a settlement in a personal injury case or a workman's compensation case and I asked them how they were protecting the money they had that they needed for the rest of their lives; and an unbelievable number used to tell me, oh, I am in the market and I am going to constantly make money and eventually be wealthy. Well, I think about a lot of those people in a lot of those coffee-house chats that I have had with them over the last 5 or 10 years, and I cannot imagine the tragedies their families and themselves suffer today as they see this deterioration in the market.

The question is, Is America sliding into a depression because we are not productive, because we are not profitable? I think not. I think the gentleman from Texas (Mr. BENTSEN) made a great point. This is the most vibrant economy in the world, in the history of the world; and yet the market is reflecting a loss on a daily basis, and I think it is an expression of a loss of confidence. Total confidence? No. But a sufficiently large portion of confidence to take some of the usual available purchasing money that is in the market out of the market, and that loss of money reflects the downward trend of prices.

Has it been discriminatory? Not really. It is not the bad actors that are paying the loan; it is business across the board. It is our very substantial

capital system that is contracting right before our eyes.

I heard the President say yesterday that one of his solutions would be he is going to double the sentences for the scoundrels. Well, first of all, we have not seen any convictions of any scoundrels, so we cannot assume any sentences at this point. But I wonder why it is so important, what kind of relief will this give the American pensioner or 401(k) owner if a scoundrel goes to jail for 10 years instead of 5 years?

□ 1815

Does it really matter? Does it get one cent back for the pensioner or the person who needs this money for retirement, or for the senior citizen who is indeed using this money in retirement? I think not.

So as we look at this issue, I get little solace as an individual or as a representative of so many of these pensioners and senior citizens than to think we are going to fill up the jails with these scoundrels. That is not going to give them one dollar more for them to have the quality of life that they have become used to.

I think we have to look prospectively into the future, to what this means and what it can mean, and what is this disease or infection that is affecting the capital markets of America.

I come to the conclusion that the most important thing is that we stabilize the capital markets of the United States, and the most important way of doing that is to find a way, either by statute or regulation or by the industries themselves, of disclosure of what the facts are.

So I think, first and foremost, we have to find a short period of time and make sure the corporations, most of them that are traded on the exchanges, go back and do proper auditing and accounting, and make a full restatement and disclosure of what they have there.

We cannot afford a daily, weekly, or monthly bleed of major corporations failing because of improper accounting procedures or other internal procedures, to take the respect and integrity out of those institutions and infect and affect the other institutions with a loss of credibility among the investing public.

Secondly, once we stabilize the markets, it seems to me that we have to move forward with a program, and hopefully this is what I address to the President.

I would say, Mr. President, we do not need a weak legislative response or a weak executive response, and 2002 is not a lot different from 1902. What we need is a member of the President's own party to make a revisit to America. We need a Theodore Roosevelt. We need someone who responds with looking at what the problem is, recognizing that it is systemic in some respects, it is dangerous, it could ultimately lead

to a deep recession or, in fact, depression, and could destroy the quality of life we have known in this country over the last 10 years.

It is up to the leadership of the President, together with private industry and the private market, to structure a response to this problem that is sufficient not to be overbearing and strangle our capital market system, but sufficient to send the word and the message and the standards that the type of activities that have been uncovered in the last several months will not be tolerated in the future; they will be disclosed to the American public, the investing public; and that, where necessary, government will set parameters to stabilize our markets, bring us back to relative security that truth is known, and to reinforce a very successful capital system.

I add only one respect: I agree with Secretary O'Neill in regard to the fact that this is not a crisis that all businessmen or executives are crooks. There are just a small number, but there are more than a few. This is not a total failure of the capital markets of America, but it is a bumpy road, and could be serious if not patched.

This is not a time for us to wring our hands and try and do as little as possible to prevent disturbance to our friends or our supporters; this is a time to rise above politics and recognize that the very structure and position of the United States of America is at risk.

We need the strength of a strong Commander in Chief. We need a second Theodore Roosevelt.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GUTKNECHT). The Chair would advise all Members to direct their remarks to the Chair.

Mr. LAFALCE. Mr. Speaker, one of the most important subcommittees of the Committee on Financial Services is the Subcommittee on Financial Institutions and Consumer Credit, and the ranking Democrat on that serves as the chief voice for consumer protection within the committee and the House of Representatives. That is the gentlewoman from California (Ms. WATERS).

Mr. Speaker, it is my pleasure to yield to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I thank the gentleman from New York (Mr. LAFALCE) for taking this time out for us to come to this floor and talk about one of the biggest crises confronting this country today.

I would like to start with an observation. Yesterday, the President of the United States of America was on Wall Street. He was up on Wall Street, and he was expected to give a very, very tough speech. He had signaled the press that he would give a very tough speech on Wall Street on corporate responsibility.

Well, the President went to Wall Street, and it was staged very well.

The curtain that hung behind him, the backdrop, had "corporate responsibility" written all over it, and he had great opening statements.

Of course, before getting into the subject matter, he talked about terrorism and how we were hunting down the terrorists who seek to sow chaos, and talked about his commitment. And, of course, he got a big applause on that, because Americans are concerned about terrorism, and the President knows when he speaks about terrorism, especially in New York, where we experienced terrible devastation, that that will soften up any crowd.

But then he went on into the speech, and many people sat watching, I am sure, as I did, wondering when was he going to get tough. He mentioned in the speech that we have learned of some business leaders obstructing justice and misleading clients, falsifying records, and business executives breaching the public trust and abusing power.

He kind of talked about that, and the CEOs that he had learned about earning tens of millions of dollars in bonuses, but he did not call any names. He did not call any names, despite the fact that we had just come from the Committee on Financial Services, where we had the top management and ex-management of WorldCom before us. We had very well documented that there had been accounting tricks where the operating expenses had been moved over to the capital column, which made the bottom line look bigger than it was, and the company look healthier than it was.

However, he did not call the name of Enron. He did not call the name of WorldCom. He did not mention the names of any of those who have been prominent in the news. He could not let it come out of his mouth. He could not say anything about Arthur Andersen and Tyco and Rite-Aid and Global Crossing and Xerox.

I think people expected him to call names and to talk about what we really have learned thus far, and to talk about what we were going to do about it. But as we further examine the speech, we found that the President talked a lot about more bureaucracy. He is going to create a new corporate fraud task force, headed by the deputy attorney general, which will target major accounting fraud and other criminal activities in corporate finance. The task force will function as a financial crimes SWAT team, overseeing the investigation of corporate abusers and bringing them to account.

Now, I am considered a liberal, a progressive. I am the one that they point the finger at and talk about creating bureaucracy. They say that people who believe as I do oftentimes do nothing but spend government money, create more bureaucracy, and we have to get rid of government; too much government.

Not only did he create more bureaucracy in his speech, he asked for \$100 million, \$100 million to give to the SEC. Now, this is a conservative spending money. Well, of course, this President has shown since he has been in office that he sure knows how to spend money. We are back into a deficit situation.

So he went to Wall Street, he talked about spending \$100 million more, talked about creating again another task force, but I forgot to tell the Members, at the top of his speech he said to the business people who were there, do not forget, in so many words, I have done tax reform, and I am now making it permanent. So at the same time that he is spending money, he is talking about how he is going to allow them not to be able to pay more taxes.

Mr. Speaker, I would just like to say, we have to get tough on corporate crime. We have to call it for what it is. We have got to put people in jail. They have to do some time. This business of having all of these stock options, this exorbitant pay, the severance pay, like the executive of Tyco who left with \$100 million in severance pay, this business of corporate heads being able to borrow huge sums of money, like Mr. Ebberts, who got \$408 million, we do not know what the terms are. We do not know if that was collateralized. All we know is they sit in the board rooms and they pass the money among themselves while the workers lose their jobs, the investors lose their investments, and the companies get driven in the ground.

Enough is enough. No, Mr. President, you were not tough enough. You were not believable. You did not send the real signal. You did not do anything. As a matter of fact, Wall Street did not pay any attention to you. There was no rally. As a matter of fact, I think we lost some points on Wall Street after you spoke. Get real, Mr. President. If you want to get tough, the American people are waiting.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KIRK). The Chair will remind Members that they will direct their remarks to the Chair and not to the President.

Mr. LAFALCE. Mr. Speaker, I thank the Chair for his reminder.

Mr. Speaker, I yield to the distinguished gentlewoman from California (Ms. SÁNCHEZ).

Ms. SÁNCHEZ. Mr. Speaker, I thank my ranking member, the gentleman from New York (Mr. LAFALCE), who has been doing such a great job, for yielding to me. I am going to miss him at the end of this year.

Mr. Speaker, I am a businesswoman, and I am really alarmed and saddened about what is going on, not just on Wall Street and in American business in particular, but how it is affecting us in our own hometowns, the confidence of people investing in the market.

As a former person in the financial markets, I am just dismayed at how this is affecting what I think is really a great institution and something that really marks our country apart from others, and that is the whole idea of American business.

I know what it feels like to start a business, to find dollars, to grow the business, to make it a corporation, to hand that company over to professional management when it is time as an entrepreneur to get out and seek for more. I know what it feels like to see my product on the grocery shelves when I go shopping. I know how excited I get when I first see my ads on national television about the product or the service I am doing. I think that is a great thing.

I think that is what marks America as such a different society than any historically or any currently. But there are always these excesses, and these questions and these demands, these questions that pop up: Why should corporations pay taxes?

I always have to sit back and think, corporations should be happy to have the type of system that we have in the United States. They should be happy that we have infrastructure; that we have railways, freeways; that we have ports, that we have the Internet; that we have banking; and that we train employees by sending them to universities, and that we pay for that with government funds.

They should be happy that we have information systems. If we go to do business in another country somewhere in the world, we do not necessarily have that. I remember doing business in Mexico, and every afternoon at 2 or 3 p.m. the electricity would shut off, and we were dead for a couple of hours' worth of business time.

We should be happy as corporations that we have this type of infrastructure. We should understand that we need to pay for that. We should be paying for it. They do in other countries. They have to put in their own road in other countries. They have to put in their own sewer system in other countries. Here we are doing it as a people to keep American business going, to keep these jobs.

□ 1830

But what happens with these corporations that want to do off-shore, that would take them off Stanley brands? We do not want to pay taxes here, let us make it a foreign corporation, tell everybody we are still American made but we do not want to pay taxes. Why do these corporations not want to pay their fair share?

My father used to say we do not get something for nothing. Everything in the long run costs. I took a look these last 3 or 4 years at this market, every business going up, well, every business that did not have a product, their

stock going up and up and up and everybody getting in and people telling me at cocktail parties, "You are stupid for not having your money in there, Sánchez." And there I stayed with these companies that had a product. I could see it. I could feel it. I could eat it. And I understand the pressures on those managers. Everybody else was getting money, everybody was getting bonuses, their stock options were going up, and these people making a real product, they were not seeing these increases. But to fake increases in one's own company in order to compensate oneself, that is also wrong. I mean two wrongs do not make a right. We do not get something for nothing.

And auditors, my God, what happened? I mean I was trusting them as an investor, that they were telling me the numbers of what was going on in the company. I have never believed in all these off balance-sheet transactions and loans and things that only had to be footnoted and one had to do 14 different inquiries until they got the information on what kind of deal was going on behind what. And, yes, things get more complicated and financing comes from all around the world and people take different pieces and corporations buy each other and everything going on, but we need to get back to the basics. We need good rules. That is a part of Congress. We need good rules. We need to set good rules. We need real regulatory agencies, and we need to fund them so that they are doing the work. We need to anticipate conflict of interest, and we need to ensure a way to stop that from happening, and we need to make examples of the bad guys.

Mr. President, I call on you, make examples of these bad guys.

Mr. LAFALCE. Mr. Speaker, I yield to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Speaker, first let me say what an honor it has been under the gentleman from New York's (Mr. LAFALCE) leadership over the last 4 years on the Democratic side of the Committee on Financial Services.

Second, let me express some disappointment in the President's speech yesterday. In his preview of his speech that was picked up by AP and other news stories, he said that he was planning to create a ban on huge loans to corporate executives; but when he actually delivered the speech, he simply called upon the corporations not to make such loans, which is like calling on a pack of wolves to become vegetarians.

It was indeed a disappointing speech, but what was more disappointing was the President's belief based on his own experience at Harken that the SEC is engaged typically in reviewing the materials filed with them and then, when they need to be restated, demanding that restatement. The fact is that the

Chair of the SEC has refused to provide our committee with even a cost estimate of what it would take to engage in the very kinds of activities only as to the top thousand corporations in America that the President states in his press conference that he believes that the SEC is already engaged in.

In answering questions about Harken, the President said he thought the SEC was engaged in these activities. The fact is the SEC did not read Enron's financial statement for 4 years in a row. So we need an SEC that rises to the President's image of what they do, and in order to do that we might need a chairman who actually wants to achieve that objective.

Mr. LAFALCE. Mr. Speaker, I yield to the gentleman from New York (Mr. ISRAEL).

Mr. ISRAEL. Mr. Speaker, I thank the gentleman, and certainly his leadership will be missed.

Mr. Speaker, I represent a middle-class, middle-income district on Long Island, New York. The people I represent play by the rules. They pay their taxes. They pay their dues. They raise their kids with the values of hard work and fairness. They know the value of real punishment for real crimes. And they know there is no difference between stealing with a gun and stealing with an accountant's pencil.

The worst crime that was committed in this crisis was the theft of time. The worst crime is that people's retirements were stolen away from them because the value of their 401(k)s, their pensions, their retirements will plummet as a result of this scandal, adding more time of hard work and paying taxes. This was the theft of time and that cannot be forgiven. People's retirements have been stolen. And where is the punishment? Ken Lay and his cronies continue to walk freely. There have been no personal bankruptcies for senior management. There have been no jail sentences, no disgorgements. There has been no accountability, but plenty of American corporations even today will continue to register themselves in Bermuda to escape paying their fair share of American taxes to support our troops in Afghanistan.

The American people will be looking at this House of Representatives wanting an assurance that we will return this country and its businesses to fair play and playing by the rules.

Mr. LAFALCE. Mr. Speaker, I thank the gentleman.

We have lost 5 to \$7 trillion. Now a significant portion of that, not all of that, is because of corporate mismanagement, earnings manipulation by officers, by directors, by the auditors, by the research analysts having conflicts of interest, by inadequate regulation from the self-regulatory organizations, by inadequate regulation from the SEC.

We need to correct the problem. We need strong legislation to correct the problem. We do not need a powder puff effort. We do not need a cosmetic approach. And I urge everyone in this House to get behind strong meaningful legislation such as the bill that I have introduced that has been endorsed by so many consumer groups across America.

OVERPRICED PRESCRIPTION DRUGS

The SPEAKER pro tempore (Mr. KIRK). Under the Speaker's announced policy of January 3, 2001, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 60 minutes as the designee of the majority leader.

Mr. GUTKNECHT. Mr. Speaker, let me say first before I begin on the issue that I really want to talk about tonight, I listened to much of my colleagues' Special Order for the last hour. And I have to say on behalf of most Republicans, and I think most Americans, we agree with what they have said.

The truth of the matter is when there have been frauds, and we have seen fraud committed against shareholders and against corporations, those people need to go to jail. And I think we are all in agreement on that. Frankly, I think just for the theater of it I would like to see some of these corporate executives that have been charged with crimes and will be charged with crimes, I would like to see them arrested and taken away in chains. I would like to see handcuffs on them. I think I speak for the overwhelming majority of people in this Congress.

I will say this: the one thing we have to be careful of is that we do not try to turn this into a partisan thing. I do not think this is a partisan issue. I think all of us can stand and talk about our moral outrage for some of the things that have gone on in corporate America, and the time has clearly come to clean them up.

I rise, though, tonight to talk about another crisis that all of us know about; and, frankly, we in Congress have done too little to really resolve, and that is the whole issue of about how much Americans pay for prescription drugs. It is a crisis particularly for those seniors, but not just seniors but for all Americans who do not currently have some kind of drug coverage in terms of insurance. And as we speak tonight, there are literally hundreds, if not thousands, perhaps even millions, of Americans who are having to make very, very difficult decisions about whether or not they can afford the drugs that the doctors say they need to regain their health. And I brought with me, and these charts are becoming all together too familiar to many of my colleagues, but I think they need to be restated because we have learned the

more you learn about this issue, the more we can come together with some kind of a solution.

But I want to point out this chart because as I was going through my closet here about half an hour ago, I found this chart from last year. This is dated 2001. And I wanted to bring this with me to show you a couple of examples, and what we have here is a chart that demonstrates the price that Americans pay, the average U.S. price versus the average European price.

The source of this, these are not my numbers. This is from the Life Extension Network. It is an independent foundation that has been studying this issue for more than 10 years. They continue to come to the same conclusion and that is that for prescription name-brand drugs Americans pay more than anybody else in the world for the same drugs. There are a lot of reasons for that, and we will talk about that during this Special Order. But what is interesting to me is to see how prices have changed just since last year.

Now, this chart is about a year and a half old. And what you see, for example, let us take a couple of these drugs, Claritin, a very commonly prescribed drug, a lot of people are taking it now for allergies. It is about to go off of patent so you will see the price come down dramatically in the United States in all probability, although I will tell you the pharmaceutical company that makes it is trying to replace that with a drug called Clarinex. Now according to at least one report, Clarinex is a better drug than Claritin. It is 2 percent better. That is not a huge improvement for the difference in price. But the thing that bothers me is that the average price for Claritin in the United States was about \$63.06 for a 30-day supply. That same drug sold on average in Europe for \$16.05.

Another commonly prescribed drug is one we have talked about here on the House floor because my 84-year-old father takes this drug every day. In fact, many senior take it. It is called Cumadin. It is a blood thinner. It is a very good drug. It is more effective than aspirin, and if you have had a stroke or if you have had a heart attack, if you have got a problem with blood clotting and platelets and so forth, it is a very effective drug.

Let me say from the outset, I am not here tonight to beat up on the pharmaceutical industry. I am not here to say shame on the pharmaceutical industry. They are only doing what any free enterprise company would do in terms of exploiting a market opportunity that we have given them. No, I am not here to say shame on them. I am here to say shame on us because we have created this situation and we need to change it.

Let us talk about Cumadin. Last year the average price, a year and a half ago in the United States was about \$37.74. The average price in Europe was \$8.22. Now, that price has changed.

I will pull up the next chart, which is this year's prices; but as we go down the list, we have seen the big differences. When you get into some of the very expensive drugs, Zithromax 500, United States price for a 30-day supply, \$486. The same drug in Europe made in the same plant under the same FDA approval sells for \$176. Huge differences.

There are some where the differences are less. You look at, for example, Lipitor. The average price for Lipitor in the United States, \$52.86. In Europe, \$41.25. Again, these prices are about a year and a half old.

Let me show some of the current prices because some of these drugs have changed dramatically in just a year and a half. I mentioned last year that Cumadin in the United States the average price was \$37.74. In just a year and a half that price has gone to \$64.88. Now, that makes me angry to see that huge difference because nothing has changed. It is exactly the same drug, put in exactly the same capsules, under the same FDA approval and the same FDA plants.

The interesting thing, too, is as far as I know there have been no major lawsuits so they have not had this tidal wave of litigation that we sometimes hear about. So the price has almost doubled in just about a year and a half.

Now, it makes me feel just a little better that the price in Europe has doubled as well. The price has gone up uniformly, but the price in Europe today is a little over \$15. The price in the United States is \$64.

□ 1845

One that has really gone up as well is glucophage. Glucophage is a marvelous drug. If a person suffers from diabetes, glucophage has changed their lifestyle. It is a fabulous drug, and the manufacturers deserve credit for what they have done for all of the millions of people, not only here in the United States, but around the world, who suffer from diabetes.

The price has gone up now to an average of \$124.65 for a 30-day supply in the United States. The average price in Europe, \$22, \$22. Some people will say, well, how can that be, how can it be that the prices are so much different? Let me just, first of all, say that many other countries do have various forms of price controls. We have price controls on hospitals and doctors and medical providers under Medicare as well. We determine how much they can charge, and essentially with some of the countries that is what they have done. They have price controls on these drugs, but that is not universally true.

If we look at countries like Germany and Switzerland, where a number of the big pharmaceutical companies are based, Germany and Switzerland, as far as I can tell, do not have what we would describe as price controls. Let

me give my colleagues a couple of examples, and these again, these are charts, the numbers are provided by the Life Extension Foundation. If any of my colleagues would like to take a look at these charts, they can just go to my Web site at gil.house.gov and we have this chart up there and have more information about the differences between what Americans pay for prescription drugs and what the rest of the world pays.

I was not completely satisfied just to use the numbers that we had received from the Life Extension Foundation, so we had one of our friends, or some friends in Europe, buy some drugs for us, so according to the FDA what I am holding up right now are illegal drugs. The FDA holds that it is illegal to bring these otherwise FDA-approved drugs, made in FDA-approved facilities into the United States. They do not always enforce their rules. For personal use, if a person brings them back with them from Europe or Canada or other industrialized countries, generally speaking, the FDA will not enforce what they believe are their own rules.

Let me show my colleagues this drug. It is a drug called Zocor, and this drug was bought about 3 weeks ago in Europe. In fact, I think I can even tell my colleagues where it was purchased. In fact, the story of Zocor is even more interesting because it is manufactured by a subsidiary of the Merck pharmaceutical companies. It was manufactured and distributed in Italy, and this was bought in a pharmacy in Como, Italy. The price for this Zocor in Como, Italy, was 13.94 Euros. The day that this was purchased, the American conversion on that was \$14.77.

I am sorry, it was 14.77 Euros; the American price is \$13.94.

I have a good friend who runs a pharmacy in Northfield, Minnesota, and so we called him and asked how much this exact same package of Zocor would sell for here in the United States in Northfield, Minnesota. The price, as I say again, in Europe was \$13.94. This drug bought at the pharmacy in Northfield, Minnesota, is \$45. I am not good in math, but that is more than five times the price, I am sorry more than four times the price for the same exact drug.

We also checked on another drug, Claritin. Interesting story about this particular drug. This drug is manufactured by, actually, a Swiss company by the name of Schering Plough. Many of us know the name of Schering Plough, but many do not know that it is a Swiss company. But the interesting thing is, this drug was actually manufactured in Spain and it was reimported into Germany where, as I say, they do not have price controls, but they do have open markets, and the Germans have the right to shop where they can get the best price.

This Claritin, manufactured by Schering Plough, a Swiss company, manu-

factured in Spain, was bought in Germany at a pharmacy in, let me get the name, in Riegensburg, Germany. It was purchased for 14.8 Euros; the American conversion that day was \$13.97. Again, we called my favorite pharmacist in Northfield, Minnesota, and asked him how much this package of Claritin would sell for in Northfield, Minnesota, and the answer is \$64.97; \$13.97 in Germany where they have no price controls, \$64.97 for the same drugs.

We have to ask ourselves, why do we permit this to happen? We have open markets for almost everything else. How can it be that we are paying so much?

Let me come back to something else. Let me talk about open markets and what open markets do for us every day. Some people say, well, if we open markets and if we allow Americans to purchase these drugs in other countries, there is a risk they may get the wrong drug or they may get a drug that has been adulterated or they may get a drug that is counterfeit. Well, that is true.

I must tell my colleagues that is true, but every year we, as Americans, consume enormous amounts of food that comes in from other places. For example, last year in the United States of America, we imported 500,000 tons of pork. I love pork. In fact, we produce a lot of pork in my part of the district. In fact, we produce one of the world's finest luncheon meats. It comes in a blue can with yellow lettering. It is called Spam. Every day in Austin, Minnesota, we turn 16,000 pigs into Spam.

I love pork. It is a wonderful product, and if it is managed properly, as far as we know, no one has ever gotten sick of any food-borne disease from eating Spam. It is a wonderful product. But the truth is, by eating imported pork, which is almost never inspected, and again, I want to give my colleagues that number, 500,000 tons of pork is imported. If a person eats pork that has not been properly refrigerated and so forth, they can get salmonella from pork, they can get trichinosis; and either one of those diseases can kill a person.

So some people say, well, if we import these drugs people might die. We keep records. In the last 10 years, according to the Food and Drug Administration, and the FDA that is responsible, that literally has built this wall, that says Americans cannot import or reimport legal, FDA-approved drugs into the United States, they are the ones who have literally made it possible for the drug companies to have one pricing strategy for Americans and another pricing strategy for people around the rest of the world. Our own Food and Drug Administration admits in their own studies that of the hundreds of thousands of tons of fruit and produce that come into the United States every year, at least 2 percent of

them are contaminated with food-borne pathogens, including salmonella. Salmonella can kill a person. It is a very dangerous food-borne pathogen.

At the same time, they keep records, though, of how many Americans have become ill or died from taking legal, FDA-approved drugs that came in from other countries. Do my colleagues know what the answer is? Zero. No one, no one has gotten sick or died from taking legal, imported drugs from other countries.

I have had town hall meetings around my district, and I can tell story after story, but I would like to share at least one of them with my colleagues.

It is about a lady who was traveling in Europe and was traveling in Ireland, and she has a special skin condition. I think it is called eczema. She has to take a special cream, and it works very well, and again we thank the pharmaceutical companies for coming out with these marvelous drugs that help us all live better, but she ran out of that cream while she was traveling in Ireland, and she stopped in to just a local pharmacy.

She was a cash customer. She walked in and she happened to have her prescription with her. She walked up to the pharmacist and said, could I get this prescription refilled here at this pharmacy, and he looked at it and he said, well, absolutely, and he sold her the cream. The price was \$30 American. The price she says in the United States, and she uses about one tube every month, is \$130. The difference in Ireland, \$30; in the United States, \$130.

She got back to the United States, and as is always the case, on the outside of the little box of the prescription ointment was the name, the address and the telephone number of that pharmacy back in Ireland, and so as she began to get low on that tube of ointment, she did what a lot of us would do. She picked up the phone and she called that pharmacy in Ireland and asked if she could have the prescription refilled, and he said, sure, and I think she gave him her credit card number.

He put it in a package and shipped it. I do not know whether it was FedEx'd or UPS'd or Parcel Post. I am not sure but when the package came through Customs, our own Food and Drug Administration intercepted that package, and they just opened it and they put a threatening letter in that package and ultimately sent it on its way to the lady and said this may be an illegal drug here in the United States, and in a sense they said if you try to do this again, you could be prosecuted.

If a person is a retired single woman and they get a threatening letter from their own Federal Government, that is a pretty intimidating thing and that is what the FDA has been doing. They have been concentrating on honest, law-abiding citizens who are trying to save a few bucks because, for her, if she

could buy that drug in Ireland, it would save her \$1,200 a year, and for her, \$1,200 is a lot of money. Let us be honest, for all of us, \$1,200 is a lot of money.

My vision, I want to make this clear, too. I want to include pharmacists in this whole thing. I want to be able, so that my dad or my wife or anybody who may be watching this particular C-SPAN program would be able to go to their local pharmacy and they would talk to their local pharmacist and say, listen, I need to renew my prescription for, pick one of these drugs, just name it, Claritin, I need a 3-month supply.

The pharmacist ought to be able to say to them, listen, I can fill it out of my inventory of United States supply, and they force me to charge \$89, or I can go on line and I can order it for you out of the pharmaceutical supply house in Geneva, Switzerland. We will have it shipped to your FedEx in about 3 days, and your price will not be \$89 or \$64, your price will be \$16, plus about \$8 shipping and handling.

Which one would my colleagues prefer?

If we multiply that by a 3-month supply, we are talking about 3 months. We want to keep the pharmacists involved because pharmacists play a very important role in the health care delivery system here in the United States, and we must not forget that.

I want to show my colleagues some other charts here because I think they deal with some of the arguments that we hear around this building which, in my opinion, are pretty much nonsensical, and I have already talked a little bit about. Some say that importation jeopardizes consumer safety, but as I said, the truth is, there is no known scientific study that demonstrates a threat of injury to patients importing medications with a prescription from industrialized countries. Zero, zero.

As I say, more people have gotten sick from eating imported strawberries. Thousands of people have gotten sick from eating imported strawberries, and we bring thousands of tons of strawberries into the United States every year and people get sick, and the Food and Drug Administration does almost nothing to stop it.

What is more, millions of Americans have no prescription drug coverage. Stopping importation of FDA-approved drugs threatens their safety. A drug that a person cannot afford is neither safe nor effective, and millions of Americans today, because they cannot afford the drugs, are going without the drugs, and so that drug is neither safe nor effective.

Let me go to the next question people raise. Some say that the FDA lacks the resources to inspect mail orders. The truth is the FDA is focusing on the wrong problem. They are putting all their resources, instead of stopping illegal drugs imported by illicit traf-

fickers, they are spending all their time enforcing their so-called rules on approved drugs imported by law-abiding citizens. We are again talking about FDA-approved drugs from FDA-approved facilities, and let me just say this for the benefit of Members.

There are only about 600 FDA-approved drug-making facilities in the world, and they inspect them regularly. We know what they are doing. They want to have FDA-approved facilities so that they can sell not only in the United States, but around the world.

So far, last year, the FDA detained 18 times more packages coming in from Canada than Mexico. Why are we putting so much emphasis on trying to stop imports from Canada rather than Mexico? I am not saying anything disparaging about Mexico, but if we have a problem with drugs, counterfeit drugs, drugs that have been adulterated in some way, it strikes me that we have a bigger problem with Mexico than we do with Canada, and yet we have stopped 18 times more packages from Canada than we have from Mexico.

Worse, last year, this was a year and a half ago, Congress appropriated \$23 million for border enforcement, but the Secretary of Health and Human Services at that time ultimately decided not to enforce that particular provision and refused to spend the funds.

Let me go to this next chart. Some say that a Medicare drug benefit will eliminate the need for importation, and we passed a pretty important bill in the House last week. I voted against it for a variety of reasons, but the truth is simply, shifting high drug prices on the government only transfers the burden to American taxpayers. It does not solve the problem.

□ 1900

Americans are paying far too much. Moreover, Medicare coverage will not help the millions of Americans that do not have prescription drug coverage in their health insurance plan.

Let me finally just show this last chart. Some say that importation is merely an indirect way of enacting price controls. But the truth is importing prescription drugs into the United States will lower prices here and, in the long run, force Europe to pay more of the drug research and development cost. The best way to break down price controls is to open up markets.

I did not say that. That is not a quote from me. That came from Steve Schondelmeyer, who has a Ph.D. and is a pharmacology professor and director of the Prime Institute at the University of Minnesota. He is the one who said the best way to bring down or to end price controls is to open markets.

And for those who do not believe it, look back at what happened to the former Soviet Union. When President

Reagan went to Berlin and said, Mr. Gorbachev, if you mean what you say, come here to Berlin and tear down this wall. And he knew better than anybody that markets, and as he said, markets are more powerful than armies. What ultimately brought down that wall more than anything else was they could not hold back free markets. And, my colleagues, neither can we.

Finally, let me just say that when we talk about how much Americans pay for research, and the drug companies are all saying, well, if we bring down the prices in the United States, and incidentally we believe that if we just open up markets we will see prices of prescription drugs in the United States come down by at least 35 percent, but some people say, well, if that happens, we are not going to have any money to spend on research. My colleagues, people need to know how much we subsidize research in the United States.

We often hear that the United States, the American people, represent roughly 4 percent of the world's population, and we consume 20 percent of the world's energy, and we consume 30 percent of the world's paper, and 30 percent of this and 22 percent of that. But, my colleagues, most people do not know this. We may represent 4 percent of the world's population, but we represent 44 percent of all the dollars spent on basic research. Americans are paying more than their fair share for the cost of research.

We subsidize that research in three separate ways here in the United States, and we all need to be aware of this: first of all, we subsidize it through government-paid research. This year, we will spend roughly \$21 billion in basic research through the NIH, the National Science Foundation, and others. Twenty-one billion for basic research will come out of this Congress and go into research, which ultimately the pharmaceutical companies know much of that research they can use to their benefit at no cost. The results of that research is published on the Internet and is available to everybody essentially free of charge.

The second way we subsidize them is through our Tax Code. Now, if they are profitable companies, and these are the most profitable companies in the Fortune 500, they are at a 50 percent tax bracket. So 50 percent of the research right off the top is written off on their Federal tax forms. Now, on top of that, many times they get tax credits. Some of them have moved their operations to Puerto Rico, where they pay no taxes; and as a result, we are subsidizing them through the Tax Code in several ways.

Finally, we subsidize in the prices we pay. When we are paying two, three, four, five times as much as they pay in Europe for exactly the same drugs, we are paying more than our fair share for all of the cost of research. We ought to

pay more. And let me just say that, and I have said this on the House floor, and I will say it again and again. I am more than willing as an American consumer, and as a public policymaker and a Member of Congress I think Americans ought to pay our fair share. I appreciate what the pharmaceutical industry has done. I appreciate the miracle drugs they have come out with. I am willing to pay more than the starving people of central Africa, but I am unwilling to continue to subsidize the starving Swiss.

The time has come for Europe, for Canada, for Japan, and the other industrialized countries around the world to pay their fair share. And the easiest, simplest, fastest, least bureaucratic way to do that is to open up the markets. I will repeat again to congressional leaders: If you mean what you say about free trade, whether we are talking about blackberries, whether we are talking about blueberries, whether we are talking about bananas, whether we are talking about pork bellies, or whether we are talking about Biaxin, then come here to the floor of this House, come here and tear down that wall, because that is the way we are going to bring down prices.

When we do that, it will be much easier for us to provide the kind of coverage that Americans need, particularly seniors in Medicare, if we can come up with a plan that will reduce those prices.

Mr. Speaker, with that, I yield to my close friend and dear colleague, the gentleman from the great State of Georgia (Mr. KINGSTON), who has been a fighter in this battle for a number of years with me.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman from Minnesota, and I wanted to say that I did not catch all of the gentleman's remarks on the way over here, so some of this may certainly be repetitive; but first of all, I think we need to say a word of thanks to the chairman of the Committee on Energy and Commerce, the gentleman from Louisiana (Mr. TAUZIN), and also to the House Republican leadership for scheduling some hearings on the drug reimportation issue. I am very excited about the hearings.

Because when people around America see some of the differences in the costs, and I see the gentleman has his latest chart up there, for instance with Premarin, and if I am reading it correctly, it is \$55.42 in America compared to \$8.95 in Europe. A statistic that our friend and colleague, the gentleman from Vermont (Mr. SANDERS) has brought up is that the Boston University School of Public Health, a particular professor there, says that America could save \$38 billion a year if American consumers could buy medications at Canadian prices. Of course, the gentleman has European prices on there, but we have also other charts with Canadian prices,

and they are just as attractive as the European prices.

What is odd, and I just want to enter into a dialogue with the gentleman, does the gentleman know how many people it is that have died because of drug reimportation? Surely it must be thousands upon thousands, given the great resistance some Members of Congress have to this.

Mr. GUTKNECHT. I mentioned this earlier. The Food and Drug Administration does keep pretty good records, and we know that thousands of people have become ill and died as a result of eating imported foods that were contaminated with some kinds of food-borne pathogens. As best we know, with the latest numbers we have over the last 10 years, the number of people who have died as a result of taking a legal drug imported from an industrialized country, that number is zero.

Mr. KINGSTON. Zero people.

Mr. GUTKNECHT. Zero. Not one. And let me say that we pay a very dear price for what apparently is no real protection.

Mr. KINGSTON. So for \$38 billion more in expenses a year, it appears that there was no real difference in public health.

Mr. GUTKNECHT. We do have to ask, Who are they protecting us from?

Mr. KINGSTON. Now, there is a statistic, though, that the Secretary of Health and Human Services gave to the gentleman and myself recently that 98,000 people a year actually do die from misapplication of prescription drugs, not taking their medicine properly or timely. And I know that the University of Minnesota, which I think is not in the gentleman's district, has done a study to find something like 40 percent of prescription drugs are used incorrectly. Is that the gentleman's understanding?

Mr. GUTKNECHT. I believe that is correct. That was a study that was done at the University of Minnesota, and I believe the gentleman's numbers are correct; that literally tens of thousands of Americans become seriously ill or die every year from not taking their medications correctly.

And we do not know at this point, based on that study, how many of them were cutting their pills in half or were mixing medications that they should not have mixed. Which brings me back to the point I did make before the gentleman came over, and that is our vision is to keep the pharmacists involved. We believe that the pharmacist is a very important component in the health care delivery system. They are the ones who know how drugs interact and how these drugs should be taken; whether they should be taken at mealtime or before bed, whether they should take a whole glass of water or drink with milk.

There are a number of different things that are important; and we

know an awful lot of people do become ill, thousands, tens of thousands, because they take the drugs incorrectly or they mix and match drugs they should not.

Mr. KINGSTON. I believe the last vote we had on this was July 10, 2000, which was, well, 2 years ago today, but at that point out of 435 Members, 363 voted in favor of drug reimportation. And, again, that was July 10, 2000.

To make sure folks understand, we are talking about drugs that have strict FDA oversight, proof of FDA approval of imported medicine. There must be a paper chain of custody so people know that they are not counterfeit drugs. We are also stating that only licensed pharmacists and wholesalers can import medicines for resale, not just somebody who decides to open up a shop somewhere. Importers would have to meet requirements for handling as strict as those already in place for existing manufacturers, and a registration of Canadian pharmacies and wholesalers who would be selling or exporting to America would need to be registered with Health and Human Services. And we would need to have lab testing to screen out counterfeits.

And counterfeit drugs can happen under the current market. This does not change the threat of counterfeit drugs.

Mr. GUTKNECHT. If the gentleman would yield, we know of at least one example that was well publicized of a pharmacist in the Kansas City area who was adulterating drugs. He was a licensed pharmacist, and he was ultimately caught. We do not know how many Americans ultimately died or lives were shortened or lost their health as a result of what he was doing. But that did not happen because of drugs that were being imported from a pharmaceutical supply house in Geneva, Switzerland. That happened right here in the United States of America, in Kansas City, Missouri.

Mr. KINGSTON. Well, I think that is important to point out, because people often bring up this counterfeit drug situation, and it is something that certainly scares us. My mother had breast cancer this year and has to take Tamoxifen, and I certainly want to know that the pill she is taking is as represented. I do not want any counterfeit pill for any American.

But it is a red herring to mix that with the reimportation question, because counterfeiting is taking place today without reimportation.

But another issue that I wanted to mention to the gentleman is one about the patent bill that our colleagues, the gentlewoman from Missouri (Mrs. EMERSON) and the gentleman from Ohio (Mr. BROWN), have been pushing. Now, as I understand it, and I do not know if the gentleman has covered this already, but most drugs have a 17-year patent. When that patent expires, in

order for a generic company to get to make that name-brand drug, they have to file, I guess with the FDA.

If the gentleman has a definition for generic drug, maybe he could share that with us.

Mr. GUTKNECHT. Let me share with my colleagues and those who may be watching, because this is something I did not know until a few years ago.

Before somebody can begin to make a generic drug, the patented drug, the name-brand drug, that patent will have had to expire. Or sometimes they will turn them back. Occasionally, they will turn them into an over-the-counter drug before the patent expires. But the point is, they have to go to the FDA and ask for approval just as if it were a new drug they were making, a brand-new drug.

What they are doing is they are copying the recipe for that drug, and they have to prove to the FDA beyond a shadow of a doubt that the difference between their drug, the generic drug, and the name-brand drug will be no more than the difference between one batch of the name-brand drug and the next batch.

Sometimes there is an impression left with people that, oh, if you take the generic drug, that is inferior to the name-brand drug. It simply is not true. The active components are identical in every way to the name-brand drug. And the savings can be 60, 70, 80, or 200 percent.

Mr. KINGSTON. So if I follow the gentleman, it is not going to be a substitute, for instance, Coca Cola with Pepsi Cola, two products that are very similar and neither one would cause any problems. The gentleman is not saying that at all. What the gentleman is saying is that we are simply taking the Coca Cola that is in this nice traditional Coca Cola can and pouring it into a cup, but it is the same content inside. The same brand-name inside that pill, is what a generic drug is, then.

Mr. GUTKNECHT. I will give an even better example. Go down to the Mint here in the United States capital, just a few blocks down here. They print \$1 bills. What I am saying is the difference between one sheet of \$1 bills will be no different than the next sheet.

Mr. KINGSTON. So that is it. I think it is very important because there is this stigma promoted by the name-brand drug companies, and I certainly can understand why they want to do it, but there is a stigma about generic drugs.

But getting back to the patent issue, when the patent expires on a drug, the generic company files with the FDA to say that they want to start making that drug. The FDA can say yes or no.

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And if the name brand company protects it and says we are changing this

drug, then they get a 30-month extension; is that correct?

Mr. GUTKNECHT. Mr. Speaker, that is my understanding, that almost any minute change, including changing the color of the tablet, if they say we are going to change the color of the tablet because it will increase the effectiveness of the drug or its shelf life, they almost automatically get a 30-month extension. And a 30-month extension is worth an enormous amount. But from the other side, that is an additional expenditure that American consumers have to make.

Mr. KINGSTON. And seniors who have to choose between drugs and food, in many cases they are going without medicine.

Prozac went off patent last August; is that correct?

Mr. GUTKNECHT. I am not sure if it has, or is in the process of going off patent.

Mr. KING. How much has the price fallen?

Mr. GUTKNECHT. Mr. Speaker, according to these charts, we have not seen a dramatic reduction.

But Claritin and Clarinex are a good example. Claritin is going off patent and so the drug company that manufactures it is in the process of converting people from Claritin to Clarinex. According to one published report, the improvement, if you can say the quality or the effects of moving from Claritin to Clarinex, and Claritin will soon be available in generic if they do not get a 30-month extension, which I do not think that they should, but the difference is 2 percent. One of the published reports says there is a 2 percent advantage in taking the Clarinex over Claritin.

What the drug companies try to do as they have a drug coming off patent, they try to come out with a new and improved version, which I appreciate, but a 2 percent improvement hardly justifies a \$60 a month difference in price.

Mr. KING. Mr. Speaker, the patent issue is a separate issue from reimportation, but we are all interested in making drugs affordable and accessible to the seniors of America. The Republican Party has made that one of its top issues this year.

To just review the patent situation, if you invent a computer chip like Steve Jobs, the proverbial dot-com success story, if you do that tinkering away in the midnight hours at your house, you get a patent. That patent helps you recoup the costs and all your time and pays you off for your ingenuity and genius mind.

With a drug company, they are a little different. The research is subsidized by the taxpayers, so why are we giving them such a long, 17-year patent when in fact so much of the research is subsidized?

Mr. GUTKNECHT. Mr. Speaker, I think that is a fair question and I am

not sure I can completely answer the question. That has happened with the taxpayers have underwritten most of the cost of developing at least the basic formula for a new drug, and then the company has gone out and patented that, and they have reaped all of the benefits. In fairness, they probably pay over the life of that drug, they pay an awful lot of taxes and so we recoup some of that through taxes. But the question is a fair one.

If a drug is developed mostly with taxpayer-funded research money through the NIH or other Federal grants, the taxpayers should get some kind of royalty and that is a question that we have not resolved. Frankly, we may need some help from the Secretary of Health and Human Services, the people at NIH, the National Science Foundation, as well as some of the folks at the Patent Office.

I am delighted to hear that we may have a hearing on this whole issue in the Committee on Energy and Commerce, and I hope we can bring some of those people in to explain to us as policymakers and to the people of the United States how it is that we can get shorted on both ends. In other words, we pay for the research and we pay exorbitantly high prices for the drugs relative to the rest of the world.

Mr. KINGSTON. I think the patent issue is one that we should discuss. On Glucophage, which is for diabetes, has the 17 years on that patent run out?

Mr. GUTKNECHT. I do not know about that one. I know some of the most important drugs for diabetes have literally been off patent for several years, or had their patents renewed. A number of these drugs were developed 50 years ago and are still being sold at relatively high prices, and the company has recovered all of what you could remotely suggest is a cost, and still have received additional patent protection from the U.S. Patent Office.

Mr. KINGSTON. So a patent, if it is gamed properly, it can be a government-sanctioned monopoly for drug companies.

Mr. GUTKNECHT. I think it was Glucophage that originally you had to take twice a day. There is a legitimate question whether or not they should have gotten an extra 17 years simply because they went from a two-a-day capsule to a once-a-day capsule.

Mr. KINGSTON. I think we should look at that with a very large magnifying glass because with what we are seeing with corporate greed, and there are a lot of great corporate citizens and CEOs, but the accounting games which seem to have been pulled by the Global Crossings of the world, and the Enrons and the Arthur Andersens, it seems like big corporations are just in it for themselves and are not worrying about the good of humanity.

One of the things that we in the Republican Party did April 24, we passed

an accounting accountability act to separate accountants from consultants and put things at arm's length. I am glad to hear that the Senate is waking up to this. I am glad to hear that Mr. DASCHLE and the other body has discovered there is an issue out there. We did ours on April 24. The Democratic leadership voted against it. It is time for the Senate to act on it. Let us get a bill into conference and hammer out the differences.

I think right now it is time for corporate goodwill to be exhibited. It is not time to game the accounting procedures and patent procedures. Maybe we as a Congress should look at an issue of patents and when are they legitimate and when are they not legitimate.

I know one thing that we have also done, switching back to the prescription drug issue, is shortened the drug approval time for FDA. FDA under the Clinton administration was taking about 8 years to approve a new drug. Today that is down to 2 to 3 years, and a lot of that progress was actually made under the Clinton administration as well, so I want to give them a compliment where compliments are due.

Mr. Speaker, 3 years is probably as short a time as we are going to get. I believe 2 years and 1 month on an average, and generics sometimes can take a little longer. But one of the things that our constituents complain about is a drug for cancer or epilepsy that is being used in France or another country, it has a track record and has been on the market for 15 or 20 years but it is not approved in America. I think for that reason we have to keep the heat on the FDA to get drugs approved faster.

Mr. GUTKNECHT. Mr. Speaker, I think the whole issue of reimportation will begin to force that issue. The question we are really asking today is how safe is safe. What is the FDA protecting us from? In their effort to make us absolutely safe from any imported drug that is clearly legal in the United States, and to keep us safe from drugs that have already been approved in other parts of the world, they are putting roadblocks in the way, and in many cases are costing American lives and not improving their health.

I think the question we have to ask as policymakers is how safe is safe enough. As I mentioned earlier, we import 500,000 tons of pork every year. You can get sick and die from bad pork, and yet 500,000 tons is imported every year with very little inspection by the Food and Drug Administration.

I think we have to be honest with ourselves. Even with all of the time and research that goes on, some people are going to have an adverse reaction to some drugs. That is just absolutely going to happen. Some people are going to take a drug, and they are going to get well. Some other people may get sick, and some might die from taking that drug.

There were some studies that came out on Premarin and Prempro. They are female hormone drugs. They come from horses. We have known about them for literally years and years. What we did not know, that by taking these two drugs, either of these drugs, you may begin to develop and have a significantly higher rate of breast cancer, heart disease and other diseases. I do not know what the future is going to be, but the point is we studied these hormone replacement therapies for years, and yet we did not know what we now know today about those drugs.

I think we have to ask ourselves how safe is safe. Is the FDA really protecting us from serious injury, and we want them to do that, or are they being so careful, both on the reimportation side and on the approval side, that they are endangering American lives? We are asking them for a serious analysis, and compare what we do in the United States with what they do in Europe. Ultimately I think we will get drugs on the market faster, we will get generic drugs on the market faster, and if we have reimportation, we will get much cheaper drugs.

Mr. KINGSTON. In terms of tort reform, what the drug companies are also telling us is in the two examples the gentleman gave us, if a woman is taking a hormone-enhancing drug and because of research down the road, for whatever reason, that drug develops or accelerates the development of breast cancer, the drug company, of course, is going to get sued. What kind of protection should the drug company have, if any, in terms of tort reform or liability?

Remember, when you go to court and you sue, you can get compensatory damages for the money you have lost. Then there is noncompensatory damages, and that is for pain and suffering. And that is harder to calculate, but still possible, it is an agreed-upon figure.

A third kind of damage is a punitive damage where the State holds up the tortfeasor, in this case the drug company, as an example to others who would exhibit negligence, and punitive damages really was more for intentional or gross negligence, but lately it has not been.

It would appear to me that limiting punitive damages at some point is sensible because the victim is already going to get compensatory and non-compensatory damages. We have not had much success with tort reform. Is that going to be part of the solution?

Mr. GUTKNECHT. Mr. Speaker, I think it definitely needs to be part of the solution. I think part of the reason that health care costs are so high in the United States relative to the rest of the world is the fact that we have literally allowed this jackpot justice.

Now, I do not think that the manufacturers of any of these drugs have intentionally put those drugs on the

market knowing that they were going to have these adverse consequences to whatever percentage of the people who take them. I think they have put these drugs on the market in good faith believing that the patients would receive a real health benefit from taking these drugs.

My view of tort liability is much more restrictive. I am not an attorney. I do not play one here in Congress. I do not think the gentleman is one, either. I think we have allowed this whole system to go out of control, and we all pay for it. They have a much more restrictive system in Europe, and that is part of the reason the drug companies are willing to sell the drugs for considerably less in Europe than in the United States. So long term, this needs to be part of the solution.

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Mr. KINGSTON. Mr. Speaker, may I say the gentleman has brought back his chart on the cost of drugs, and that is an astronomical figure, \$1.8 trillion. In fact, there is a book that was written in Georgia several years ago that is called *The Coming Economic Earthquake*. You may have read it, a Georgia author, so I have to brag on him.

He is saying the difference between 1 million and 1 trillion is that if you took \$1,000 bills, to stack them up to get to \$1 million, stack one \$1,000 bill on top of another \$1,000 bill, it would be about 4 inches high. That would become \$1 million at 4 inches. To get to \$1 trillion, it would be 33 miles high. People do not understand that.

Mr. GUTKNECHT. One million \$1,000 bills would be 4 inches high?

Mr. KINGSTON. \$1 million, 4 inches.

Mr. GUTKNECHT. Of \$1,000 bills.

And to get to \$1 trillion, how high?

Mr. KINGSTON. Thirty-three miles.

Mr. GUTKNECHT. Thirty-three miles?

Mr. KINGSTON. Thirty-three miles. That is from Larry Burkett in *The Coming Economic Earthquake*.

Mr. GUTKNECHT. Again, these are not my numbers, I am not making these things up. The only thing we have done in terms of real raw research is we had these drugs brought in Europe, and we found out what they were in Northfield, Minnesota, for the same drugs. But the other charts came from the Life Extension Foundation.

This number comes from the Congressional Budget Office, and they are the official scorekeeper of what they think things are going to cost as we go in the future. Now, they could be wrong. They could be high, they could be low. But this is their best guess in terms of how much seniors will pay for prescription drugs over the next 10 years. That is \$1.8, and then a zero - zero - zero - zero - zero - zero - zero - zero - zero. It is \$1.8 trillion.

Mr. KINGSTON. Excuse me, but that is just seniors.

Mr. GUTKNECHT. That is just people over 65. That is just seniors. That does not include you and me and our kids and grandkids and whomever, all the other people.

Mr. KINGSTON. How many people are over 65 are on a fixed income? Is it not about 70 percent?

Mr. GUTKNECHT. Yes.

Mr. KINGSTON. That \$1.8 trillion is going to be paid by 70 percent of the people on a fixed income. That is incredible.

Mr. GUTKNECHT. Here is what is interesting. Again, this is not my number, but this is what outside experts have told us, that if you just do reimportation, just reimportation, allowing seniors or anyone to go to their local pharmacy and at least price-shop from country to country to get the best price on the same drug, our estimate is you could save 35 percent.

Now, 35 percent of \$1.8 trillion is \$630 billion. That would go a long ways to helping to pay for the prescription drug coverage for those people who are currently falling through the cracks. We are talking about real money.

I think Everett Dirksen said a billion here and a billion there, and pretty soon you are talking about real money. \$1.8 trillion times 35 percent, \$630 million is a whole lot of money.

I want to congratulate our colleagues for the bill we passed last week. There are a lot of good things in it. But I do want to chastise them on this. The author of that bill stood here in front of this very microphone and said his plan would save about \$18 billion over 10 years. Well, that is good. \$18 billion versus \$630 billion. I will ask America which program they want.

Mr. KINGSTON. Well, I think that it is sensible to explore both options.

Mr. GUTKNECHT. Right.

Mr. KINGSTON. I did support the Tauzin bill, the Thomas bill, the one the gentleman from Ohio (Mr. PORTMAN) and the gentlewoman from Connecticut (Mrs. JOHNSON) and so many others on the Committee on Ways and Means and Committee on Energy and Commerce, the gentleman from North Carolina (Mr. BURR), have championed.

The way I understand that bill, it is basically for a premium of about \$35 a month, seniors on a voluntary basis would enroll in a program where they would take a \$250 deductible, and from \$250 to \$1,000 Medicare would pick up 80 percent of the cost of drugs; then from \$1,000 to \$2,000, Medicare would pick up 50 percent; and then there is a gap, and there is a reason for that.

Most of the people are going to fall under \$2,000, but from \$2,000 to about \$3,800, the senior would pay for 100 percent. Beyond that, Medicare picks up the tab. So you have catastrophic coverage. Unfortunately, there are a lot of people these days having to pay \$6,000, \$7,000, \$8,000, \$10,000, \$20,000 a year on

drugs. But so many people are in a lifestyle now where they have to take three, four, five, six pills a day.

I talked to a man over the weekend or over last week at one of my 11 town meetings, and he is actually having to take 2 pills a day, \$17 each. So he is having to spend each and every day \$34 on just two pills. He is only 51 years old. I hope he lives 50 more years at least, but the reality is, can you imagine at age 51 having to pay \$34 each and every single day?

These miracle drugs are important. They have done a lot. They reduce our pain, they give us a better quality of life, they keep us out of the hospital, so there is no argument about you are going to take your medicine. But the cost of it is phenomenal.

I do think that the Republican Party took a very significant first step on a bipartisan basis the week before last with the prescription drug plan. I hope that the other body will act on theirs and maybe we can get together. But the point is, we have taken a very significant step. But I certainly agree with the gentleman that the next logical step is drug reimportation.

Mr. GUTKNECHT. We only have about 1 minute left. I want to thank the gentleman for joining us for this special order tonight. I certainly agree with the gentleman. I think it is time we do something in terms of covering those seniors falling through the cracks, but I think as I said, and the gentleman and I both said at a news conference a few days before the vote on that bill, that the real issue is affordability. If we are to do our job and effectively deal, we cannot sustain this kind of a chart. With 19 percent increases in the costs of prescription drugs and 3.5 percent increases in Social Security cost-of-living adjustments, that just cannot last.

We have to do more on the affordability side so that we can do more on the coverage side, and reimportation, reforming the FDA, reforming the tort liability laws, making it easier for generic drugs to come on the market, all of those things will go a long ways toward making prescription drugs affordable here in the United States.

We are willing to pay our fair share in terms of the research for those prescription drugs, but the time has come to say to the rest of the world, we are not going to continue to subsidize the starving Swiss.

HELPING HAITI TO MOVE PAST CURRENT POLITICAL CRISIS

The SPEAKER pro tempore (Mr. OSBORNE). Under the Speaker's announced policy of January 3, 2001, the gentleman from Michigan (Mr. CONYERS) is recognized for 60 minutes.

Mr. CONYERS. Mr. Speaker, I will insert some materials in the RECORD

about the plight of the African American farmers in this country who, having won a wonderful court decision that resulted in a consent decree, are still faced with discrimination, delayed payments and all other kinds of problems which were really the basis of them bringing the suit in 1999. So I will insert in the RECORD the Federation of Southern Cooperatives' statement, the statement of our colleague the gentlewoman from North Carolina (Mrs. CLAYTON) and my own statement.

Black farmers demands:

1. To Meet with Secretary of Agriculture Ann M. Veneman before July 16, 2002 We want confirmation of her agreement to meet by 3:30 pm today, EST.

2. An immediate moratorium on all farm foreclosures by Secretary Veneman.

3. The immediate termination of all USDA officers who have been found guilty of discrimination.

4. The Federal Court halt of all proceedings in the Pigford Consent Decree until the mess can be straightened out.

5. That the USDA ceases and desists on intercepting the federal farm program payments to farmers in the *Pigford v. Glickman* Class Action.

6. That the USDA cease and desist on claiming tax return payments to farmers who are part of the *Pigford v. Glickman* Class Action.

7. That USDA tells us the loan status of Tennessee farmer James Hood, Gerald Pettaway, Coach Perkins, Barton Nelson, Ernest Camel and Robert Young.

8. The immediate firing by Judge Paul Friedman of Al Pires and Phil Frans as lead counsel in the *Pigford v. Glickman* Class Action.

9. Settle the Matthew Grant (deceased), Richard Grant, Dexter Davis and Howard Coates (deceased) administrative cases by August 1, 2002 in a fair and equitable manner.

FEDERATION/LAF SUPPORTS BLACK FARMER PROTEST AGAINST USDA IN TENNESSEE DEMANDS MEANINGFUL ACROSS THE BOARD RESPONSE FROM USDA AND CONGRESS

Atlanta, GA.—This week Black farmers occupied the US Department of Agriculture's Haywood County Agricultural Extension Agency in west Tennessee. They decried the fact that even in spite of the recent law suit against the USDA, grievous violations against Black farmers continue. As the primary organization working in support of Black farmers across the south for 35 years, the Federation of Southern Cooperatives/Land Assistance Fund (Federation/LAF) supports the efforts of the "Black Farmers and Agriculturalist Association" as it's members occupy the USDA offices.

"We support this effort because it highlights the appalling lack of justice to Black farmers over the past century and clearly demonstrates the need for immediate and corrective steps by Mr. Bush's Agriculture Secretary, Ann Veneman" said Ralph Paige, Executive Director of the Federation/LAF.

In 1999, Black farmers settled their suit against the USDA after years of struggle to receive information, technical assistance and loans from this agency that was touted as being the lending institution of last resort. The irony is that the USDA policies invariably are in place to support huge cor-

porate farms at the expense of family farmers everywhere, and, in particular, Black family farmers who now struggle to hold on to their dwindling land base. In fact, in 1982 the US Commission on Civil Rights reported that the primary reason Blacks have lost land is because of the USDA itself. These facts were supported by the USDA in it's Civil Rights Action Team report in the late 1990's.

When Black farmers sued the USDA, 22,692 farmers filed claims. To date more than \$615 million has been dispersed to class members. Currently only 60% of those who filed claims have received payment along with injunctive relief and thousands who were denied class status are appealing to the Monitor in the case for reconsideration. An additional 68,000 farmers filed late claims. The Federation/LAF has assisted the farmers as they struggled with the severe complications and delays in the law suit settlement process. To date, thousands of farmers who have filed late claims have yet to be processed and many of the initial claimants are still suffering from bureaucratic entanglements as they await their payment or other compensation.

Perhaps one of the most disturbing aftermaths of the law suit settlement is the assumption that things would change at USDA. This was not to be. While there is a Monitor in place to assist class members should they suffer discrimination in USDA offices, the same USDA staff that over the years has wreaked havoc on Black farmers still sit in USDA offices across the South. They have not been reprimanded or made accountable in any way for their discriminatory practices. These are the same staff who farmers face daily in USDA offices as they seek services and loans.

All this is further compounded by a USDA and Congress that continue to support corporate farmers rather than family farmers that have always been the backbone of American agriculture. The recently passed Farm Bill is a prime example of these policies, which provides for huge subsidies to benefit the largest corporate farmers in America. There is little in the 2002 Farm Bill that will assist small farmers.

For example, after the 1982 US Commission on Civil Rights cited the USDA violations against Black farmers, the Federal/LAF formed a coalition to address this issue. The Federation/LAF wrote the Minority Farmers Rights Act which, thanks to the Federation/LAF and coalition support, was incorporated into the 1990 Farm Bill. It is now known as the "Outreach and Technical Assistance Program" (Section 2501). This marked the first time that federal monies were to be devoted to provide technical assistance to minority farmers. Initially Congress authorized \$10 million annually for the program, and in the 2002 Farm Bill Congress raised the authorized to \$25 million. Yet the Congressional appropriations committee has never even come close to appropriating the authorized amount for this important program, which serves thousands of black and other minority farmers.

Out of the huge federal budget, not more than \$3.2 million has ever been appropriated for Section 2501, which must be distributed among numerous community based organizations and land grant colleges. Once again, this year Congress appears to be denying the needed funding for this program, suggesting an appallingly low \$3.4 million appropriation. This will yet again severely dilute the resources and technical assistance that could be provided to farmers. Many view funding

for this program as a hand-out to African American community based organizations and historically Black land grant colleges, while at the same time Congress distributes billions of tax payers dollars into the coffers of corporate agriculture.

"The \$3.4 million appropriation for thousands of minority farmers is too limited in comparison to the millions given to the top five corporate farmers in America" said John Zippert, Director of Programs for the Federation/LAF. "Where, we ask, is the justice and democracy in a system that builds the wealth of the top 5 farmers in a country of 270 million people? A program, such as 2501, however, serves thousands of farmers and insures pluralism and equity for all farmers and not just a few." The success of the Minority Farm Outreach and Technical Assistance Program cannot be overestimated. In virtually every area where the program has been implemented on a sustained basis there has been an increase in the number of Black farmers as well as farmer sustainability and profits.

Additionally, there needs to be a speedy implementation of other sections of the 2002 Farm Bill that deal with equity for minority farmers which include: the appointment of a new USDA Assistant Secretary for Civil Rights; sections of the bill that address a more equitable selection of the County Committees that govern agriculture policy at the local level; making more USDA direct and guaranteed loans available to family farmers; insuring that injunctive relief available through the Black farmer law suit is effectively disbursed which is, for one, priority consideration for USDA loans.

Even in spite of the law suit and now the on-going complaints by Black farmers due to the egregious treatment they continue to receive from USDA, Congress does not seem to open its eyes to programs already in place that could alleviate many of the problems experienced by minority farmers. Clearly, Congress needs to support programs that have a proven track record and the USDA needs to address the problems of its staff and the continuation of their discriminatory practices.

Finally, notwithstanding the huge number of farmers who have not been processed in the case as mentioned above, there are thousands of Black farmers across the country who learned about the suit too late to participate. It is also clear that the Black farmer settlement should have been stronger in addressing the systematic discrimination in the implementation of USDA programs. We urge U.S. District Court Judge Paul Friedman to seriously consider all of these issues as he reviews the problems in the law suit settlement and ways in which the case could still be used to improve the USDA's performance and services to minority farmers.

"Organizations that support Black farmers are often accused of playing the race card, but we have to play the card that we are dealt. It seems clear that race and size of farm operation are the reasons for the lack of support and assistance from Congress and the USDA and we demand a change in these policies toward an equitable and just agriculture system in America" said Jerry Pennick, director of the Federation's Land Assistance Fund.

Mr. Speaker, more than 200 black farmers in Tennessee stormed the U.S. Department of Agriculture (USDA) and occupied the agency's offices last week for six long days to protest the mistreatment they've suffered at the hands of USDA county officials. Agriculture Secretary

Ann Veneman has reportedly agreed to meet with the farmers this Friday, July 12th, to address their grievances. In my opinion, something had better come out of this meeting to address the wrongs these farmers have suffered for so long.

We thought we had settled this problem in 1999 when the black farmers signed a race discrimination settlement with the Department of Agriculture. That law suit, *Pigford v. Glickman*, charged that the Department had wrongly denied black farmers loans, crop subsidies and other farm program benefits because of discrimination. The Department was so indifferent to its responsibility to guard against discrimination that it had no procedural mechanism in place to deal with discrimination complaints; indeed, it had disbanded its Office of Civil Rights years earlier, in 1983.

The settlement was supposed to address a variety of past racial injustices. It was supposed to pay \$50,000 each to any black farmer who had suffered discrimination. It was also supposed to forgive those debts the Department of Agriculture had unfairly assessed against black farmers from 1983 to 1999. Incidentally, the sum of \$50,000 payments and forgiven debt was estimated to be about \$2.2 Billion. This agreement was supposed to assure black farmers discrimination-free access to USDA programs in the future. It was supposed to guarantee an expedited procedure designed to resolve quickly those claims that black farmers had pending with USDA for years.

The settlement might have been heralded today as a terrific agreement except for the fact that the Department's performance, meaning its execution of the agreement, did not live up to its promise.

Past wrongs were not redressed fully and timely.

Black farmers continued to get significantly lower program yields than their white counterparts in the same counties.

Without attributing blame here, there was some question of whether the filing deadlines were well publicized, and, when the deadlines were extended, it still reportedly remained difficult to know when or how to get or file the appropriate application.

As a result, the Department has only paid out about \$650 million of the \$2.2 Billion in damages estimated at the time of the settlement.

At the very least, the Secretary has to put in place immediately a moratorium on foreclosing black farmers. Justice requires a waiver for those farmers who lost their farms or who could not repay their loans because they suffered discrimination or natural disaster.

The Secretary has to institute policies that assure us that career employees at the USDA are taking seriously the promises USDA made to the farmers, namely, that USDA intended to remedy decades of discrimination. Among those policies, the Secretary must track the extent to which black farmers are participating in these programs. She must ensure that black farmers are being treated fairly and respectfully at the County level. She must therefore assure us that the county committee elections are democratic—and that means fair and open elections. She must appoint minority voting members if minorities are not otherwise represented.

Finally, it is high time that we have an Assistant Secretary for Civil Rights at the Department of Agriculture. It was wrong that that office was disbanded in 1983. It is a shame and a disgrace that nothing has been done to remedy that omission after the signing of this so-called settlement.

If the Secretary does these things that I've respectfully suggested are the bare minimum, and addressed the remaining demands of the black farmers, then the protest last week in Tennessee will not have been in vain and the meeting this Friday will not be the empty gesture the black farmers have grown accustomed to expect from the USDA.

Mrs. CLAYTON. Mr. Speaker, the plight of the Black Farmers continues to be fragile and uncertain in spite of the Black Farmer's Law Suit or because of it. The recent ruling by the U.S. Appellant Court in Washington, DC, *Pigford v. Ann M. Veneman*, clearly said that the farmers have suffered double-betrayal first by the Department and then by their own lawyers.

The Recent protest of Black Farmers in the State of Tennessee demonstrates that the U.S. Department of Agriculture continues to ignore minority farmers who are small and disadvantaged.

The recent legislative victories for Civil Rights within the Farm Bill must be implemented immediately to ensure that passed practices of discrimination and denials are prevented and corrected. Those victories included:

(1) An Assistant Secretary for Civil Rights at USDA

(2) Language that required the Secretary to track program participation of minority farmers; county committee elections to be fair and open; the appointment of a minority voting member when not represented

(3) Provide waivers for farmers who lost their farms or who could not repay their loans due to discrimination or natural disaster.

Additionally the Section 2501 Outreach Program to assist disadvantaged farmers was reauthorized and an annual funding level increased from \$10 million to \$25 million with approved increased funding for research and extension for Historical Black Land Grant Colleges.

I call on the House of Representatives to fully fund these programs and on the Administration to immediately implement these policies and administrative changes.

Mr. Speaker, this particular special order is brought about because of the circumstances in Haiti, which a number of us have been working on in this body for many years, both Democrats and Republicans. We have followed with great interest the attempts to get the democratic, both political and economic, bases in place in Haiti, so we want to discuss this program and these efforts with the membership today.

First of all, there has been what we call a political stalemate that arises from alleged irregularities in an election held in May 2000. As a result, there has been a freezing of needed financial aid that we think maybe there is a new effort coming forward to unblock. So we have new hope that the political

part of this problem will be resolved and that Haiti will begin to receive funds from international organizations, the International Monetary Fund, the World Bank, the Inter-American Bank and others that are anxious to help Haiti, which is in a very serious economic crisis.

Mr. Speaker, I will put my statement in the record and also background information on Haiti. In addition, I will include a letter to the distinguished Attorney General, John Ashcroft, which expresses the strong dissatisfaction toward the Haitian asylum seekers who are singled out and returned without any interviews or determination of whether they are at risk in going back to their country.

Today I rise to support Haiti in their ongoing efforts to end the political stalemate and move past the political crisis. Haiti's political stalemate stems from alleged irregularities in the May 2000 legislative elections. Efforts to reach an accord have been hampered by waves of violence which culminated with the December 17, 2000 attack at the National Palace. The continuing dispute has kept Haiti isolated on the international front freezing badly needed financial aid from abroad. According to the U.S. the OAS and many foreign governments, the Provisional Electoral Council unfairly tabulated results from Senate districts, which resulted in ten contested seats. It is the Congressional Black Caucus' position that the issue of electoral crisis should not be tied to these humanitarian funds. The political haggling between the U.S. and Haiti is killing the people of Haiti.

We must be encouraged with the movement on the political front, even though it may not be as much as we would like. For the first time in two years the President and the Opposition party met though they were unable to come to an agreement. However, OAS Assistant Secretary General Luigi Ennui met with President Aristide on Monday and insisted that "The government is assuming its responsibilities." This is especially positive in that it is an indication by the representative of the U.S. that the Government of Haiti is responding appropriately. This acknowledgment overcomes a great hurdle for the Government of Haiti and indicates significant progress. It is reported that Aristide has proposed elections for all 83 House of Assembly seats and two-thirds of the 27-seat Senate in November. Local elections would be held next year. We must encourage all parties to continue to come to the table to work out agreement for the good of all Haitians.

Also, we must end the unfair treatment of Haitians. Under the current policy in Miami, most people who arrive in the U.S. seeking asylum remained free after showing credible fear of persecution until their requests are decided. Before December, the INS routinely released refugees who passed credible-fear interviews—unless they were deemed special security risks connected to September 11. That is still the case for asylum seekers from Colombia, Venezuela, Central America and almost any place else—for everyone except Haitians. Unlike others, Haitians seeking a chance to prove that they deserve asylum status are immediately imprisoned even if they,

like others are able to demonstrate initial grounds of credible fear for an asylum claim.

[Memo from Cynthia Martin, Legislative Director and Counsel, Cong. John Conyers, Jr., to CBC AAs/COS; CBC Contacts; CBC LDs; CBC Press Scys; CBC Schedulers, July 10, 2002]

HAITI SPECIAL ORDER

Please join us for the special order on Haiti. We have the second Democratic hour—it should begin at approximately 7:30.

Let's support Haiti in to efforts to move past the current political crisis.

A. BACKGROUND

Haiti's political stalemate stems from alleged irregularities in the May 2000 legislative elections. Efforts to reach an accord have been hampered by wave of violence which culminated with the Dec. 17, 2000 attack at the National Palace. The continuing dispute has kept Haiti isolated on the international front freezing badly needed financial aid from abroad. According to the U.S., the OAS and many foreign governments, the Provisional Electoral Council unfairly tabulated results from Senate districts, which resulted in ten contested seats. It is the Congressional Black Caucus' position that the issue of electoral crisis should not be tied to these humanitarian funds. The political haggling between the U.S. and Haiti is killing the people of Haiti.

The U.S. Congress suspended aid with the following language which was a part of the Legislative Affairs Appropriation bill in July of 2000. In July of 2000, Mr. Conyers attempted to thwart efforts to have direct aid to Haiti suspended by introducing a motion to strike the language which precludes assistance to the government of Haiti unless it met the two following preconditions: (1) The Secretary of State reports to the Committee on Appropriations that Haiti has held free and fair elections to seat a new parliament; and (2) The Director of the Office of National Drug Policy Control reports to the Committees on Appropriations that the Government of Haiti is fully cooperating with the United States efforts to interdict drug traffic through Haiti to the United States.

Mr. Conyers stated, "This language limited assistance to the Government of Haiti and continues to represent a double standard. In effect, we are holding Haiti to a higher standard than we are holding other nations including ourselves. Lest we forget, it was only a few years ago that we had to send in federal re-enforcement to allow people to vote in my own backyard of Flint, Michigan and we, the great democratic country of the world had to enact not one but two voting rights acts to give blacks and other minority's unfettered access to the polls. And even today, this access continues to be undermined by court determinations of gerrymandering. But for those of us who are uncomfortable examining our own struggle with democracy as we are the beacon of democratic values, let us examine how we have dealt with other countries in similar straits, such the country of Peru."

The Inter-Development Bank also weighed in to preclude the distribution of aid when Executive Director of the United States, Larry Harriman, sent a letter to the President Iglesias of the Inter-American Bank requesting the Bank not to authorize disbursement of the 145.9 million in loans which has been approved prior to this legislation. This was an unprecedented step—never taken at this stage before by the Bank.

These loans are designated for the social sector: Rural roads and rehabilitation pro-

gram, \$50 million; reorganization of the health sector, \$22.5 million; potable water and sanitation, \$54 million; and basic education program, \$19.4 million.

B. ENCOURAGING SIGNS

(a) IDB has agreed to send mission to Haiti to investigate the re-institution of extending loans to Haiti.

(b) Political crisis end in sight—For the first time in two years President and the Opposition party met though they unable to come to an agreement. However, OAS Assistant Secretary General Luigi Ennuui met with President Aristide on Monday and insisted that "The government is assuming its responsibilities." This is especially positive in that it is an indication by the representative of the U.S. that the Government of Haiti is responding appropriately. This acknowledgement overcomes a great hurdle for the Government of Haiti and indicates significant progress. It is reported that Aristide has proposed elections for all 83 House of Assembly seats and two-thirds of the 27 Senate seats in November. Local elections would be held next year. We must encourage all parties to continue to come to the table to work our agreement for the good of all Haitians.

(c) Haiti Gains full integration into Carica.

C. IMMIGRATION

Under the current policy in Miami, most people who arrive in the U.S. seeking asylum remain free after showing credible fear of persecution until their requests are decided. Before December, the INS routinely released refugees who passed credible-fear interviews—unless they were deemed special security risks connected to Sept. 11. That is still the case for asylum seekers from Colombia, Venezuela, Central America and almost any place else—for everyone except Haitians. Unlike others, Haitians seeking a chance to prove that they deserve asylum status are immediately imprisoned even if they, like others are able to demonstrate initial grounds of credible fear for an asylum claim.

[Memo from Bob Corbett, June 16, 2002]

HAITI'S PRESIDENT, OPPOSITION LEADERS MEET

From: Greg Chamberlain

(By Michael Deibert)

PORT-AU-PRINCE, HAITI, June 15 (Reuters)—Haitian President Jean-Bertrand Aristide met with opposition leaders on Saturday for the first time in two years to resolve a two-year-old electoral crisis, and both sides made positive remarks afterward.

One of the opposition figures who attended the meeting said Aristide told them he would act to address their concerns. An Aristide aide said the president wanted to put an end to the dispute that has resulted in the freezing of some \$500 million in international aid.

Aristide met with officials of the Democratic Convergence opposition coalition at the Port-au-Prince residence of Haiti's papal nuncio, Luigi Bonazzi, the same location where they last met two years ago.

The Convergence has charged that legislative elections held in May 2000 were tabulated unfairly to favor Aristide's Lavalas Family political party. Convergence member parties then refused to participate in presidential elections that saw Aristide gain the presidency for a second time in November 2000.

After an apparent coup attempt in December 2001 during which gunmen stormed the National Palace, Aristide partisans took to the streets of the capital, burning down of-

fices and homes affiliated with the opposition.

"Aristide has assured us that he will act to satisfy the conditions needed to restart the negotiations," said Luc Mesadieu of the Convergence-affiliated MOCHRENA party, who attended the meetings along with opposition figures Gerard Pierre-Charles and Hubert de Ronceray.

"He said that he will act against impunity and address the issues of reparations and insecurity."

The Convergence's conditions for restarting substantive electoral negotiations include the holding of new elections for several disputed seats, the payment of reparations for property destroyed during the December unrest and the disarming of individuals they charge are pro-government militants.

"President Aristide feels that it's time to step forward," said National Palace spokesman Luc Espéca. "He would like to put an end to this crisis so we can concentrate on development and improving the lives of the people of Haiti."

The meeting was arranged by Luigi Eniadi, assistant secretary-general of the Organization of American States, who arrived in Haiti on June 10 to push for a resolution to the electoral dispute, sources close to the two sides said.

OAS officials were not immediately available for comment.

[Memo from Cliff Stammerman to Cynthia Martin, Paul Oostburg, Michael Riggs, July 10, 2002]

OAS OFFICIAL TO BREAK POLITICAL IMPASSE IN HAITI

(Dow Jones International News Service via Dow Jones)

PORT-AU-PRINCE, HAITI (AP)—Abandoning what may be the last OAS attempt to mediate an end to Haiti's 2-year-old political impasse, Assistant Secretary-General Luigi Einaudi left Wednesday, empty-handed.

"The way we have approached the problem has not produced the expected results," Einaudi told reporters as he prepared to fly back to the Organization of American States headquarters in Washington, D.C.

"We need a new formula," he said, without spelling out an alternative.

But Einaudi's impatience with opposition politicians filtered into his brief comments, leading some to conclude that the OAS may bypass the opposition in the future.

"The curtain has fallen on the sorry farce of OAS-mediated talks," said former President Leslie Manigat, who withdrew from the opposition negotiating team earlier this year.

Now, the OAS probably will use the pretext of an upcoming electoral deadline to go with an elections timetable set by President Jean-Bertrand Aristide's Lavalas Family party, Manigat suggested.

Einaudi's visit, which began Friday, was his third this year and his 24th since the crisis arose over flawed 2000 legislative elections swept by Aristide's party.

The international community blocked hundreds of millions of dollars in aid that it says will not be released until both sides agree on new elections.

Einaudi said he would ask the OAS Permanent Council for new instructions later this month.

[Memo from Misty Brown to Keenan Keller, Cynthia Martin, Kathleen Sengstock, John Schelble, Noelle Lusane, Brandi Hilliard, Michael Riggs, Paul Brathwaite, June 19, 2002]

HAITI—IDB ISSUE

Hey guys, I'm happy to report that the IDB's Full Board of Directors approved the waiver requested by the bank's management to allow a mission to travel to Haiti to discuss reformation of the four loans. "Go CBC!!!"

Of course my next question became "how soon?" I was informed that logistically the IDB will move post-haste. However, this mission will also include input from the OAS as well as the World Bank and therefore the need to coordinate efforts might delay the trip a bit. Nonetheless, it is the IDB's intention to move forward and to express the CBC's desire to the other parties that the mission is to move as thoroughly and quickly as possible to review conditions for renewed lending to Haiti.

As I pointed out in my earlier e-mail, receiving this conformation in writing will take just a minute. However, we can be reassured this time this information is on point. Good work!!!

[Memo from Paul Brathwaite, Policy Director, Congressional Black Caucus, to Misty Brown, Keenan Keller, Cynthia Martin, Kathleen Sengstock, John Schelble, Noelle Lusane, Brandi Hilliard, Michael Riggs, June 19, 2002]

Misty, Thanks for the clarification and for your work on this issue. And, thanks to everyone for helping out this. We'll keep our fingers crossed.

[Memo from Misty Brown to Keenan Keller, Cynthia Martin, Paul Brathwaite, Kathleen Sengstock, John Schelble, Noelle Lusane, Brandi Hilliard, Michael Riggs, June 19, 2002]

In a follow-up conversation with the IDB, I wanted to clarify the e-mail I sent out on yesterday. My Member was told on yesterday that the mission to Haiti was a go, to which I immediately relayed to you. However, as your e-mail pointed out only the Programming Committee deliberated on the management's proposal re: sending a mission from the IDB to Haiti to address or redress the loans. Support of this mission will require a suspension of the rule that states that "as long as a country is in the arrears, missions as well as loans will remain suspended." Nonetheless, the Programming Committee forwarded the Management's proposal to the Committee as a whole with a favorite response.

The Committee as a whole (which includes all 14 Countries) meets today. They will either ratify, amend, or veto (for lack of a better term) the measure. It is my understanding that given the pressing nature of the issue and the strong support from the CBC for the mission, the Committee is expected.

I was told that we might have a verbal answer as early as this afternoon. However, a written response from the Board will take some time.

Let's stay in touch as events unfold. Thanks, Misty.

JUNE 20, 2002.

Hon. JOHN ASHCROFT,
Attorney General, Department of Justice,
Washington, DC.

DEAR ATTORNEY GENERAL ASHCROFT: We write to express our strong dissatisfaction

with the current policy towards Haitian asylum-seekers which we believe is discriminatory and falls short of the law and principles according to which the American government should act. Under the current policy in Miami, asylum seekers from Haiti are treated differently from—worse than—asylum seekers from any other country solely on the basis of their national origin. This policy is highly discriminatory and supported by questionable legality and justifications.

As we understand the policy of your department in Miami, most people who arrive in the U.S. seeking asylum remain free after showing credible fear of persecution until their requests are decided. If the request is granted, they are allowed to stay. If the request is denied, they are subject to deportation and may be held in detention pending their removal. But beginning in December of last year, the INS has followed a sharply different and more restrictive policy regarding those people who arrive here from Haiti. Unlike others, Haitians seeking a chance to prove that they deserve asylum status are immediately imprisoned even if they, like others, are able to demonstrate initial grounds of credible fear for an asylum claim.

When the INS implemented this policy after the arrival of a boat carrying Haitian refugees in December of last year, your department explained that the policy was intended to "discourage further risk taking and avoid an immigration crisis of the magnitude which existed during the early 1980's and 1990's with the Haitian and Cuban mass migrations." But this explanation would appear to be contradicted by the simple fact that the policy does not apply to Cubans and there are many more potential refugees from Cuba than Haiti, due to Cuba's closer proximity for a risky sea voyage and larger population. Furthermore, we understand that Haitians arriving by airplane are also subject to this policy, with Haitians already approved for asylum being indefinitely detained. These reports make the deterrent justification deeply suspect.

Thus far, pursuant to this policy, we are aware of more than 250 Haitian asylum seekers now detained in Florida. This causes particular problems with regard to children who are separated from their parents and placed in separate facilities. In some cases the children are released without their parents, and the parents are not always able to ascertain the whereabouts of their children. In addition, many complaints have arisen regarding the conditions in which the asylees are held. There is extreme overcrowding at the Krome Detention facility, and some women are being held in maximum security county jails with violent criminals.

Many of the detainees—probably most—do not have legal representation. And those that do have counsel often face cases so expedited that the lawyers assisting them have insufficient time to adequately prepare the detainee's claims, thus leading to increases in denials of asylum and orders of removal since the policy went into effect. Indeed, the very fact that these Haitians are confined under these difficult conditions makes it less likely that they will be able to prove their claims, regardless of whether the claims are legitimate. The policy seems clearly designed to warehouse and then deport Haitians as quickly as possible, regardless of the merits of their cases and regardless of the law on asylum claims which gives all asylum-seekers an equal chance to prove their claims without regard to their national origin.

We would like you to include in your response to this letter, answers to the following questions:

How many Haitians are currently being detained by the INS in Miami and in which facilities? How many have been detained since December when the new policy went into effect?

How many Haitians have been intercepted on the high seas on a monthly basis over the last year? How many were brought to United States? How many were returned to Haiti?

How many Cubans have been intercepted on the high seas on a monthly basis over the last year? How many were brought to United States? How many were returned to Cuba?

Why does this policy apply only to Haitians and not to Cubans or people of any other nationality? How is this distinction singling out Haitians justified by law?

What was the rate of approval for Haitian asylum seekers prior to the institution of this policy? What is the rate of approval since the policy came into effect?

As the number of detainees appears to be small, though significant, it does not appear that a mass exodus of Haitians is taking place. And we stress again that there do appear to be fewer Haitians in this asylum category than Cubans. Thus, the decision to single out Haitians for this harsh treatment while they are seeking to avail themselves of the American tradition—and law—of granting refuge to people who face unjust persecution at home is discriminatory and unfair.

We see absolutely no justification for this policy. We strongly urge you to reverse this policy in Miami and treat Haitian asylum-seekers equally to the way we treat asylum seekers from other countries, as is required by law.

Representatives Barney Frank, John Conyers, Jr., Joseph Crowley, Howard L. Berman, Barbara Lee, Rosa L. DeLauro, Xavier Becerra, Corrine Brown, Carrie P. Meek, Alcee L. Hastings, Michael E. Capuano, Maxine Waters, Scherrod Brown, Michael M. Honda, Maurice D. Hinchey, José E. Serrano, William D. Delahunt.

Mr. Speaker, it is now with great pleasure that I yield to the gentlewoman from California (Ms. LEE), whose concern with Haiti I think has preceded her coming to the Congress. She has worked diligently on the subject.

Ms. LEE. Mr. Speaker, I want to thank my colleague from Michigan (Mr. CONYERS) for his leadership and for organizing tonight's special order on the humanitarian crisis in Haiti. I also want to acknowledge the leadership of the gentlewoman from Florida (Mrs. MEEK), the chairperson for the Congressional Black Caucus' Haiti Task Force, for her strong commitment to the people of Haiti.

For the past several months I have worked with my colleagues here in Congress to communicate to the White House that it is really time to revisit, now, United States policy toward Haiti. Since the 2000 elections, Haiti has been in a political impasse, as the gentleman from Michigan (Mr. CONYERS) mentioned. This impasse has framed U.S. policy in such a way that very little bilateral assistance is being sent to Haiti and all multilateral assistance has totally been blocked.

Despite the political problems, we have been increasingly aware of the humanitarian crisis which is brewing in

Haiti. Much of this crisis can be directly pinned to the social sector resources being blocked from the small island nation. In fact, the United States representative to the Inter-American Development Bank directed the bank's president to block disbursal of four social sector loans to Haiti. These loans had been approved by the bank's board of directors and were ratified by the Haitian parliament. Considering Haiti's current crisis, this action is really inexcusable.

In April, I was joined by the gentleman from Michigan (Mr. CONYERS) and all 38 of my colleagues in the Congressional Black Caucus as we introduced legislation that would decouple political impasse from the humanitarian crisis in Haiti. This legislation is called the New Partnership for Haiti Resolution, which now has over 60 cosponsors. So I strongly urge my colleagues to join us by signing on as a cosponsor on a bipartisan basis to this resolution.

I have learned today in a Dow Jones International news report that what may be the last attempt by the OAS Secretary General to mediate an end to a 2-year-old political impasse has failed. It is clear that efforts to come to a resolution are not working.

Furthermore, we really cannot wait to end the political impasse, because humanitarian relief must be sent. We cannot wait any longer. The time has come for the United States to demonstrate strong leadership by reforming its policy toward Haiti. The United States policy of stalling the delivery of international humanitarian aid to Haiti is fostering instability and anarchy in this struggling democracy. Haiti's miserable poverty is indisputable. Furthermore, we can no longer bury our heads in the sand on this issue.

□ 1945

Without strong United States leadership, the crisis will continue to spiral out of control.

Already, the national rate of persons with HIV and AIDS has risen to 300,000, or 4 percent of the entire population, leaving 163 children orphaned. The infant mortality rate has increased to 74 deaths out of every 1,000 babies born, and now, five mothers will die out of the same number of births. Mr. Speaker, 125 patients die daily of disease-related illnesses.

While most of the Western world has eradicated diseases like polio, health officials report that many Haitians do not have the resources to pay for lifesaving vaccinations for their children. This is just morally unacceptable. We must remember that many diseases know no boundaries. The doctor-to-patient ratio has fallen to 1 to 11,000, leaving very little chance that sick persons in the rural areas will ever get even the basic health care.

So it is unacceptable to simply stand by and watch a season of misery inflict

pain, suffering, and death on human beings right here in our own neighborhood. We must address this injustice. We must release IBD funds to Haiti. It is really our moral imperative, and we must urge President Bush to step up to the plate.

Mr. CONYERS. Mr. Speaker, I want to thank the gentlewoman for her excellent exposition of the circumstances there.

Am I correct in thinking that there is a ray of hope, that it looks like the political differences are being resolved to the satisfaction of the World Bank authorities and that we may be moving toward a resolution of the problem?

Ms. LEE. Mr. Speaker, I am cautiously optimistic. I believe that there is a team that went down to Haiti to begin to look at what is going on in the four sectors and we have urged, and I believe the gentleman participated in the meeting, the bank officials to really understand why these loans should be released, and regardless of whatever the political situation is, that the humanitarian assistance is very important to prevent misery and untold deaths which are now occurring as a result of no funding being there.

Mr. CONYERS. So the gentlewoman is saying that regardless of what the political position is, people should not starve or become destitute, subject to the ravages of extreme poverty, merely because there is a political dispute between the parties.

Ms. LEE. Absolutely. People have a right to basic health care, basic food, and basic shelter. There is no way that we should be party to creating more misery, and by our blocking funds which have already been negotiated; these are contracts that have already been signed off on, and for us to block that creates even more misery which creates even more instability, so it becomes a vicious cycle. And I believe, as all Members of the Congressional Black Caucus, as does the gentleman, that we must make sure that we take the moral high ground on this and encourage the loans to be released so that we can move forward to assist the people of Haiti, because they so deserve to be assisted.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. UNDERWOOD (at the request of Mr. GEPHARDT) for today on account of a typhoon in Guam.

Mrs. ROUKEMA (at the request of Mr. ARMEY) for July 8 and the balance of the week on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. CROWLEY) to revise and extend their remarks and include extraneous material:

Mr. ROSS, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mrs. MALONEY of New York, for 5 minutes, today.

Mrs. MEEK of Florida, for 5 minutes, today.

Mr. ETHERIDGE, for 5 minutes, today.

Mr. PRICE of North Carolina, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mrs. MEEKS of New York, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

The following Members (at the request of Mr. QUINN) to revise and extend their remarks and include extraneous material:

Mr. GUTKNECHT, for 5 minutes, today.

Mr. GANSKE, for 5 minutes, today.

Mr. KENNEDY of Minnesota, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes, today and July 11.

Mr. JONES of North Carolina, for 5 minutes, July 11.

The following Member (at her own request) to revise and extend her remarks and include extraneous material:

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

ADJOURNMENT

Mr. CONYERS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 50 minutes p.m.), the House adjourned until tomorrow, Thursday, July 11, 2002, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7797. A letter from the Secretary, Department of Housing and Urban Development, transmitting the Department's report entitled, "Measuring 'Need' for HUD's McKinney-Vento Homeless Competitive Grants"; to the Committee on Financial Services.

7798. A letter from the Managing Director, Federal Housing Finance Board, transmitting the Board's final rule — Federal Home Loan Bank Consolidated Obligations-Definition of the Term "Non-Mortgage Assets" [No. 2002-19] (RIN: 3069-AB10) received June 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7799. A letter from the Principal Deputy Associate Administrator, Environmental

Protection Agency, transmitting the Agency's final rule — Correction of Typographical Errors and Removal of Obsolete Language in Regulations on Reportable Quantities [FRL-7241-8] received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7800. A letter from the Secretary, Department of State, transmitting a report on verification of the Treaty between the United States of America and the Russian Federation on Strategic Offensive Reductions, pursuant to 22 U.S.C. 2577; to the Committee on International Relations.

7801. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-384, "Capitol Hill North Expansion and Expansion of Business Improvement Districts Amendment Act of 2002" received July 10, 2002, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

7802. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-385, "Washington Convention Center Authority Oversight and Management Continuity Amendment Act of 2002" received July 10, 2002, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

7803. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-387, "Excepted and Executive Service Domicile Requirement Amendment Act of 2002" received July 10, 2002, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

7804. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-388, "College Savings Program Temporary Act of 2002" received July 10, 2002, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

7805. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-389, "Mental Health Commitment Clarification Temporary Act of 2002" received July 10, 2002, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

7806. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-398, "RLA Revitalization Corporation Amendment Act of 2002" received July 10, 2002, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

7807. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-399, "Human Rights Amendment Act of 2002" received July 10, 2002, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

7808. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14-403, "Fiscal Year 2003 Budget Support Act of 2002" received July 10, 2002, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

7809. A letter from the Director, Office of Government Ethics, transmitting the Office's final rule — Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture; Financial Disclosure Requirements for Interests in Revocable Inter Vivos Trusts (RIN: 3209-AA00) received June 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

7810. A letter from the Acting Chair, Federal Subsistence Board, Fish and Wildlife

Service, Department of the Interior, transmitting the Department's final rule — Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D — 2002-2003 Subsistence Taking of Fish and Wildlife Regulations (RIN: 1018-AI06) received June 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7811. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Inspection Under, and Enforcement of, Coast Guard Regulations for Fixed Facilities on the Outer Continental Shelf by the Minerals Management Service [USCG-2001-9045] (RIN: 2115-AG14) received June 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7812. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Act Provisions; Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures [Docket No. 01121309-2090-03; I.D. 121301A] (RIN: 0648-A069) received June 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7813. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area [Docket No. 011218304-1304-01; I.D. 050802A] received June 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7814. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area [Docket No. 011218304-1304-01; I.D. 051002A] received June 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7815. A letter from the General Counsel, National Tropical Botanical Garden, transmitting the annual audit report of the National Tropical Botanical Garden, Calendar Year 2001, pursuant to 36 U.S.C. 4610; to the Committee on the Judiciary.

7816. A letter from the Paralegal, FTA, Department of Transportation, transmitting the Department's final rule — Clean Fuels Formula Grant Program [Docket No. FTA-2001-9877] (RIN: 2132-AA64) received June 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7817. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Special Local Regulations for Marine Events; Nanticoke River, Sharptown, MD [CGD05-02-013] (RIN: 2115-AB46) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7818. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Regulated Navigation Area; Kill Van Kull Channel, Newark Bay Channel, South Elizabeth Channel, Elizabeth Channel, Port Newark Channel and New Jersey Pierhead Channel, New York and New

Jersey [CGD01-02-069] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7819. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zones; Tampa Bay and Crystal River, FL [COTP TAMPA-02-053] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7820. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Oil Pollution Prevention and Response; Non-Transportation-Related Onshore and Offshore Facilities [FRL-7241-5] (RIN: 2050-AC62) received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7821. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Extension of Test of Arbitration Procedure for Appeals [Announcement 2002-60] received June 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7822. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Administrative, Procedural and Miscellaneous [Revenue Procedure 2002-44] received June 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7823. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Imposition of Tax [Revenue Ruling 2002-34] received June 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7824. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Qualified Pension, Profit-Sharing, and Stock Bonus Plans [Revenue Ruling 2002-42] received June 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7825. A letter from the Regulations Officer, Social Security Administration, transmitting the Administration's final rule — Collection of Supplemental Security Income Overpayments from Special Benefits for Certain World War II Veterans (RIN: 0960-AF53) received June 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7826. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the Administration's proposed legislation entitled, "To authorize appropriations to the National Aeronautics and Space Administration for human space flight; science, aeronautics and technology; and Inspector General, and for other purposes"; jointly to the Committees on Science, Government Reform, the Judiciary, Ways and Means, and Small Business.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HANSEN: Committee on Resources. H.R. 4870. A bill to make certain adjustments to the boundaries of the Mount Naomi Wilderness Area, and for other purposes; with an amendment (Rept. 107-561). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 4807. A bill to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Susquehanna National Wildlife Refuge (Rept. 107-562). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

[Omitted from the Record of July 9, 2002]

Pursuant to clause 2 of rule XII the Committee on the Judiciary discharged from further consideration. H.R. 4635 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BUYER:

H.R. 5084. A bill to amend title 38, United States Code, to improve accountability of research corporations established at Department of Veterans Affairs medical centers; to the Committee on Veterans' Affairs.

By Mr. CAMP (for himself, Mr. TANNER, Mr. FOLEY, Mr. MATSUI, Mr. BRADY of Texas, Mr. POMEROY, Mr. RAMSTAD, Mr. HAYWORTH, Mr. CRANE, Mr. ENGLISH, Mr. ROGERS of Michigan, Mr. HOEKSTRA, Mr. SCHAFER, Mr. EHRLICH, Mr. GRAHAM, Ms. RIVERS, Mr. FORD, Mr. THOMPSON of California, Mr. BERRY, Mr. SANDLIN, Mr. MICA, Mrs. MORELLA, Mr. MCGOVERN, Mr. HASTINGS of Florida, Mr. MATHE-SON, Mr. SIMMONS, Mr. SHIMKUS, Mr. HAYES, Mr. COCKSEY, Mr. UPTON, Mr. GANSKE, Mr. TOM DAVIS of Virginia, Mr. HALL of Texas, Mr. TIBERI, Mr. THUNE, Mr. PICKERING, Mr. LAHOOD, and Mr. GOODE):

H.R. 5085. A bill to amend the Internal Revenue Code of 1986 to increase the above-the-line deduction for teacher classroom supplies and to expand such deduction to include qualified professional development expenses; to the Committee on Ways and Means.

By Mr. HAYWORTH (for himself, Mr. UDALL of Colorado, Mr. MCINNIS, Mr. STUMP, Mr. SCHAFER, Mr. KOLBE, Mr. TANCREDO, and Mrs. WILSON of New Mexico):

H.R. 5086. A bill to establish Institutes to conduct research on the prevention of, and restoration from, wildfires in forest and woodland ecosystems of the interior West; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LARSEN of Washington:

H.R. 5087. A bill to require the Secretary of Veterans Affairs to conduct a two-year pilot project on medical care outreach for veterans in the State of Washington; to the Committee on Veterans' Affairs.

By Mr. MATSUI (for himself, Mr. GEPHARDT, Ms. PELOSI, Mr. RANGEL, Mr. NEAL of Massachusetts, and Mr. DOGGETT):

H.R. 5088. A bill to amend the Internal Revenue Code of 1986 to encourage more responsible corporate governance; to the Committee on Ways and Means.

By Mr. RANGEL (for himself, Mr. GEPHARDT, Ms. PELOSI, Mr. CARDIN, Mr. McNULTY, Mrs. THURMAN, Mr. STARK,

Mr. McDERMOTT, Mr. MATSUI, Mr. LEWIS of Georgia, Mr. BECERRA, Ms. SLAUGHTER, Mr. TOWNS, Mr. ENGEL, Mr. SERRANO, Mrs. MALONEY of New York, Mr. HINCHEY, Ms. VELÁZQUEZ, Mr. ISRAEL, Mr. NADLER, Mr. OWENS, Mr. ACKERMAN, Mrs. LOWEY, Mr. CROWLEY, and Mr. GEORGE MILLER of California):

H.R. 5089. A bill to extend and expand the Temporary Extended Unemployment Compensation Act of 2002; to the Committee on Ways and Means.

By Mr. TIAHRT:

H.R. 5090. A bill to establish a commission to conduct a comprehensive review of Federal agencies and programs and to recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. QUINN:

H. Res. 477. A resolution designating majority membership on certain standing committees of the House; considered and agreed to.

By Mr. BERRY (for himself, Mrs. EMERSON, Mr. BROWN of Ohio, Mr. POMEROY, Mr. BOSWELL, and Mr. ALLEN):

H. Res. 478. A resolution expressing the sense of the House of Representatives with respect to implementing the Medicine Equity and Drug Safety Act of 2000; to the Committee on Energy and Commerce.

By Ms. CARSON of Indiana (for herself and Mr. LAFALCE):

H. Res. 479. A resolution providing for consideration of the bill (H.R. 3818) to protect investors by enhancing regulation of public auditors, improving corporate governance, overhauling corporate disclosure made pursuant to the securities laws, and for other purposes; to the Committee on Rules.

By Mr. PHELPS:

H. Res. 480. A resolution providing for consideration of the bill (H.R. 4098) to provide for criminal prosecution of persons who alter or destroy evidence in certain Federal investigations or defraud investors of publicly traded securities, to disallow debts incurred in violation of securities fraud laws from being discharged in bankruptcy, to protect whistleblowers against retaliation by their employers, and for other purposes; to the Committee on Rules.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

303. The SPEAKER presented a memorial of the Senate of the State of New Jersey, relative to Senate Resolution No. 25 memorializing the United States Congress to increase the minimum monthly allotment for one-person and two-person households under the federal Food Stamp Program from \$10 to \$25 and require that the minimum be adjusted annually in accordance with changes in the federal cost-of-living; to the Committee on Agriculture.

304. Also, a memorial of the Legislature of the State of Idaho, relative to House Joint Memorial No. 13 memorializing the United States Congress to support and vote for the implementation of a national missile defense system; to the Committee on Armed Services.

305. Also, a memorial of the Legislature of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 229 memorializing the President and the United States Congress to reexamine the level of funding for veterans medical services in order to provide timely, high-quality service to veterans of the United States military services; to the Committee on Energy and Commerce.

306. Also, a memorial of the Legislature of the State of Michigan, relative to Senate Concurrent Resolution No. 6 memorializing the President and the Congress of the United States to support the addition of Estonia, Latvia, and Lithuania into the North Atlantic Treaty Organization; to the Committee on International Relations.

307. Also, a memorial of the Senate of the State of New Jersey, relative to Senate Resolution No. 48 memorializing the United States Congress and the President of the United States to enact legislation honoring all the senior citizens of the United States by designating May 15th as National Senior Citizen's Day; to the Committee on Government Reform.

308. Also, a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 211 memorializing the United States Congress to enact the Federal Prison Industries Competition in Contracting Act; to the Committee on the Judiciary.

309. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 452 memorializing the Congress of the United States to urge the United States Coast Guard to continue to operate a cutter ship out of Charlevoix when the United States Coast Guard Cutter, Acacia is decommissioned in 2005; to the Committee on Transportation and Infrastructure.

310. Also, a memorial of the Legislature of the State of Idaho, relative to House Joint Memorial No. 11 memorializing the United States Congress to support, work to pass and vote for the permanent repeal of the death tax; to the Committee on Ways and Means.

311. Also, a memorial of the Legislature of the State of Idaho, relative to House Joint Memorial No. 12 memorializing the United States Congress to support President George W. Bush's economic security package and specifically to urge Senate Majority Leader Senator Tom Daschle to allow the economic security package to receive a vote; jointly to the Committees on Ways and Means, Education and the Workforce, and Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 26: Mr. ABERCROMBIE, Mr. BISHOP, Mr. BOUCHER, Mr. CAPUANO, Mr. CARDIN, Mr. CONDIT, Mr. CONYERS, Mr. CROWLEY, Mr. DOYLE, Mr. FARR of California, Mr. FATTAH, Mr. FILNER, Mr. GONZALEZ, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. HOFFEL, Mr. HOYER, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KLECZKA, Mr. LAMPSON, Mr. LARSON of Connecticut, Ms. LEE, Mr. LEWIS of Georgia, Ms. LOFGREN, Ms. MCCARTHY of Missouri, Mr. McDERMOTT, Mr. MCGOVERN, Mr. McNULTY, Mr. MORAN of Virginia, Mr. MURTHA, Mr. MALONEY of Connecticut, Mr. MEEKS of New York, Mr. GEORGE MILLER of California, Mr. NADLER, Mr. PASTOR, Mr. PETERSON of Minnesota, Mr. RAHALL, Ms. ROYBAL-ALLARD, Mr. RUSH, Mr.

SABO, Ms. SÁNCHEZ, Mr. SANDLIN, Mr. SCOTT, Mr. SPRATT, Mr. STUPAK, Mr. TOWNS, Ms. WATERS, Mr. WEINER, and Mr. WYNN.

H.R. 218: Mr. ADERHOLT.

H.R. 267: Mrs. JOHNSON of Connecticut and Mr. ETHERIDGE.

H.R. 822: Mr. HOFFEL.

H.R. 831: Mr. THUNE and Mr. CALVERT.

H.R. 854: Mr. ENGEL and Mr. LAHOOD.

H.R. 969: Mr. SHADEGG and Mr. BARR of Georgia.

H.R. 1331: Mrs. NORTHUP and Mr. WILSON of South Carolina.

H.R. 1425: Mr. CLAY.

H.R. 1496: Mr. MCGOVERN.

H.R. 1626: Mr. PASCRELL.

H.R. 1774: Mr. SWEENEY and Mr. SMITH of New Jersey.

H.R. 1784: Mr. DAVIS of Illinois.

H.R. 2198: Mr. FATTAH.

H.R. 2349: Mr. LEVIN.

H.R. 2373: Mr. STENHOLM, Mr. BARR of Georgia, and Mr. TERRY.

H.R. 2414: Mr. KIND.

H.R. 2484: Mr. SMITH of New Jersey.

H.R. 2702: Mr. DOOLEY of California.

H.R. 2789: Mr. BRADY of Pennsylvania, Mr. CROWLEY, Mr. UNDERWOOD, and Mrs. CHRISTENSEN.

H.R. 2931: Mr. BARCIA.

H.R. 3132: Mr. SHAYS, Mr. GILCHREST, Mr. GREEN of Texas, and Mr. AKIN.

H.R. 3321: Mrs. CUBIN.

H.R. 3333: Mr. HILLEARY and Mr. MANZULLO.

H.R. 3358: Mr. DUNCAN.

H.R. 3413: Mr. FROST and Mr. WAXMAN.

H.R. 3424: Mr. CHAMBLISS.

H.R. 3464: Mr. UDALL of Colorado and Mr. LUTHER.

H.R. 3580: Mr. FORD.

H.R. 3592: Mr. PRICE of North Carolina, Mr. MCINTYRE, Mr. DIAZ-BALART and Mr. WEXLER.

H.R. 3612: Mr. ENGEL, Mr. PALLONE, and Mr. PAYNE.

H.R. 3673: Mr. KINGSTON.

H.R. 3794: Mr. BARCIA and Mrs. THURMAN.

H.R. 3831: Mr. LARSEN of Washington and Mr. ISRAEL.

H.R. 3838: Mr. STUPAK.

H.R. 3897: Mr. BERRY, Mr. RAHALL, and Mr. BRADY of Pennsylvania.

H.R. 3912: Mr. GUTIERREZ.

H.R. 3974: Mr. HALL of Ohio.

H.R. 4029: Mr. RODRIGUEZ.

H.R. 4086: Mr. WAXMAN, Mr. MCDERMOTT, and Mr. PRICE of North Carolina.

H.R. 4098: Mr. SKELTON.

H.R. 4123: Ms. KAPTUR.

H.R. 4524: Mr. SAWYER and Mr. WAXMAN.

H.R. 4561: Mr. FARR of California, Ms. MCKINNEY, and Ms. JACKSON-LEE of Texas.

H.R. 4600: Mr. HULSHOF, Mr. BILIRAKIS, Mr. PETERSON of Pennsylvania, Mr. TAYLOR of

Mississippi, Mr. TAUZIN, Mr. KENNEDY of Minnesota, Mr. SAXTON, Mr. FATTAH, and Mr. NORWOOD.

H.R. 4604: Ms. MILLENDER-MCDONALD.

H.R. 4611: Mrs. DAVIS of California.

H.R. 4643: Mr. FARR of California.

H.R. 4653: Mr. KINGSTON and Mr. KUCINICH.

H.R. 4654: Mr. SMITH of New Jersey.

H.R. 4665: Mr. SMITH of New Jersey.

H.R. 4676: Mr. PASTOR, Mr. GORDON, Mr. ROSS, Mr. UNDERWOOD, Mr. BACA, Mr. UDALL of New Mexico, Mr. PAYNE, and Mr. GEKAS.

H.R. 4691: Mr. SCHAFFER, Mr. KNOLLENBERG, Mr. PUTNAM, Mr. GRUCCI, Mr. MANZULLO, and Mr. PHELPS.

H.R. 4699: Mr. SHAYS.

H.R. 4738: Mr. ENGEL.

H.R. 4743: Mr. HASTINGS of Florida.

H.R. 4780: Ms. KILPATRICK, Mr. HASTINGS of Florida, Ms. BERKLEY, Mr. BONIOR, Ms. BROWN of Florida, Mr. PAYNE, Ms. MCKINNEY, and Mr. LEVIN.

H.R. 4798: Mr. PASCRELL.

H.R. 4822: Mr. GALLEGLY.

H.R. 4831: Mr. DEFazio and Mr. THOMPSON of California.

H.R. 4852: Ms. ROS-LEHTINEN.

H.R. 4857: Mrs. CAPPS, Mr. SCHIFF, Mrs. NAPOLITANO, and Ms. LEE.

H.R. 4884: Mr. CHAMBLISS.

H.R. 4939: Mr. KIRK.

H.R. 4958: Mr. HERGER.

H.R. 4963: Mr. PASCRELL, Mr. LOBIONDO, and Mr. STARK.

H.R. 4964: Mrs. MINK of Hawaii.

H.R. 4965: Mr. BROWN of South Carolina, Mr. CANNON, Mrs. EMERSON, Mr. ROGERS of Kentucky, and Mr. SCHAFFER.

H.R. 4967: Mr. STUPAK.

H.R. 4993: Ms. PELOSI, Ms. LEE, Mr. OWENS, Mr. NADLER, and Mr. FATTAH.

H.R. 5002: Mr. HOUGHTON.

H.R. 5033: Mr. PORTMAN, Mr. CANNON, Mr. SUNUNU, and Mr. GANSKE.

H.R. 5037: Mr. KUCINICH and Mr. MCGOVERN.

H.R. 5042: Mr. UDALL of Colorado, Mr. MCINNIS, and Mr. SCHAFFER.

H.R. 5044: Mr. BENTSEN.

H.R. 5047: Mr. FROST and Mrs. THURMAN.

H.R. 5050: Mr. HOFFEL, Mr. FOLEY, and Mr. HOEKSTRA.

H.R. 5076: Mr. MCGOVERN.

H.R. 5078: Mrs. NAPOLITANO, Mr. HOFFEL, and Mr. FOLEY.

H. Con. Res. 68: Ms. VELÁZQUEZ.

H. Con. Res. 315: Mr. DEAL of Georgia.

H. Con. Res. 333: Mr. STUPAK.

H. Con. Res. 382: Mr. WAXMAN.

H. Con. Res. 385: Mr. TIERNEY and Mr. BARRETT.

H. Con. Res. 407: Mr. KNOLLENBERG.

H. Con. Res. 418: Mr. FATTAH, Mr. BALDACCI, and Mr. HOFFEL.

H. Res. 346: Mr. HYDE.

H. Res. 410: Mr. CAPUANO, Mr. ENGEL, Mr. ABERCROMBIE, and Ms. KAPTUR.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4600: Mr. SIMMONS.

H.R. 4865: Mr. QUINN.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2486

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT No. 1: Page 2, line 24, strike “and”.

Page 3, line 5, strike the period and insert “; and”.

Page 3, after line 5, insert the following new paragraph:

(5) assess the long-term trends in frequency and severity of inland flooding, through research on how shifts in climate, development, and erosion patterns might make certain regions vulnerable to more continual or escalating flood damage in the future.

Page 3, lines 9 and 10, strike “\$1,150,000 for each of the fiscal years 2003 through 2007” and insert “\$1,250,000 for each of the fiscal years 2003 through 2005, of which \$100,000 for each fiscal year shall be available for competitive merit-reviewed grants to institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) to investigate and predict the long-term trends in inland flooding frequency and severity, and \$1,150,000 for each of the fiscal years 2006 and 2007”.

Page 4, line 4, insert “The National Oceanic and Atmospheric Administration shall also, not later than January 1, 2006, transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the long-term trends expected in inland flooding, the results of which shall be used in outreach activities conducted under section 2(4), especially to alert the public and builders to flood hazards.” after “emergency management professionals.”.

SENATE—Wednesday, July 10, 2002

The Senate met at 9:30 a.m. and was called to order by the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, You have called us to perform our duties with delight for Your glory and the good of our Nation. Tomorrow we celebrate the birthday of a great American, John Quincy Adams. His memorable words ring in our hearts; when asked why he never seemed discouraged or depressed he said, "Duty is ours; results are God's." We adopt this as our motto for today's relationships and responsibilities. We report for duty with our intellects, emotions, and wills. Today You will tap each of us on the shoulder and call us to some duty. We commit ourselves to do Your will as best we know it and leave the results to You. We say with Adams, "Providence has showered blessings unforeseen and unsought. Not to us, Lord, not to us, but to Your name be glory."

Thank You, eternal God, for the assurance of heaven. We ask for Your courage and comfort for Senator GEORGE VOINOVICH whose brother Paul joined the triumphant company of heaven on Monday. Strengthen the Senator and his family in this time of grief with renewed grace. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HILLARY RODHAM CLINTON led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD.)

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 10, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. CLINTON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized, the Senator from Nevada.

THOUGHTS AND PRAYERS FOR THE SENATE CHAPLAIN

Mr. REID. Mr. President, our good Chaplain, Dr. Ogilvie, each day comes before the Senate and the Nation and prays for our comfort and progress, as he does for other nations.

I think it is important for all of us to realize he is going through a very traumatic time himself. He has, for many months, been doing everything he can to help his very ill wife. She got out of intensive care, and she is back in intensive care now. Each of us in our individual thoughts and prayers should keep that in mind.

SCHEDULE

Mr. REID. Today the Senate will be in a period of morning business which the Chair will announce, with the first half under the control of the majority leader—Senator KENNEDY is here to take that time today—and the second half will be under the control of the Republican leader or his designee. Then at 10:30 the Senate will resume consideration of the accounting reform bill. We have been advised by the majority leader he expects to finish this bill this week.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for up to 10 minutes each. Under the previous order, the first half of the time shall be under the control of the majority leader or his designee.

The Senator from Massachusetts.

TED WILLIAMS

Mr. KENNEDY. Madam President, Senator JOHN KERRY and I will bring

before the Senate a resolution in honor of Ted Williams, one of the great sports heroes, military heroes, and a great patron for the Dana-Farber Center that looks after children who are afflicted with cancer.

EDUCATION

Mr. KENNEDY. Madam President, I would like to address the Senate on an issue of continuing importance and consequence to families all over this country, and that is what is happening in the schools of our country and what we can look forward to as we are approaching the return to school in late August and September.

This has not been a good summer for many families who have children struggling in the high schools of this country. Not long ago, we made a bipartisan commitment to the children of this country. We committed that no child would be left behind. I think we have a continuing responsibility to families in this country to give them an idea about the progress we are making in meeting that commitment.

When we all supported the No Child Left Behind Act, it was a commitment that no child would be left behind. However, we are finding out that because of state budget shortfalls and declining local revenues, school districts around the country have cancelled or severely cut summer school. Hundreds of thousands of students will not graduate, will not be promoted, or worse—will be socially promoted, unprepared academically, because of the cancellation of summer school. For example, the New York Times reported on July 4 that because of budget cuts, this year the number of students attending summer school for enrichment rather than promotion will be reduced to 60,000 from 140,000 last year. Summer school provides students with a second chance to improve their reading and math. A math teacher stated, "What is good about the summer school is that there are fewer kids." A reduced budget means fewer teachers and bigger classes in summer school. That has been true, Madam President, in schools across the country. And I'll include in the RECORD the various summer school reductions and cuts which have occurred since the end of the school year.

On June 2, 2002, the Orlando Sentinel reported that due to state budget cuts, schools in Volusia, Orange and Seminole counties in Florida have slashed summer offerings to the bare bones. Other schools statewide, such as those in the Tampa Bay region, have cancelled traditional summer-school programs. Schools in Volusia County

tapped federal funds to tutor struggling elementary-school students over the summer. This year, the district dramatically scaled back high school offerings due to nearly \$1 million in state cuts over the past two years. Orange County reduced its summer-school budget by \$8 million, scaling back high-school offerings and eliminating classes for struggling middle-schoolers. Seminole County cut summer school funding by about \$600,000 this year and will hold SAT prep course classes at only four high schools, instead of at all high schools.

On May 31, 2002, the Associated Press reported that state budget cuts in Indiana are forcing school systems to pay more for summer school programs or eliminate some programs. Last year, the state reimbursed school systems for about eighty percent of the costs of all summer classes. This year, they will pay no more than sixty-nine percent or less. School districts will now have to pick up more costs, and some teachers who planned on a summer job will have to look elsewhere because their classes have been canceled. Superintendents across the state were notified of the reductions in a May 15 letter from the Indiana Department of Education. The plan cut the summer school appropriation by \$3.2 million, from \$21.6 million to \$18.4 million. Administrators in the Greater Clark schools in southern Indiana notified parents about ten days ago that no enrichment classes would be offered to elementary school students. The district director of instructional services stated, "I know the teachers, the parents and the students were disappointed . . . but we just could not afford to offer classes without state support."

According to the May 29, 2002 edition of *The Herald* in Rock Creek, South Carolina, due to state budget cuts freezing thousands of dollars, the Rock Hill school district will have to limit enrollment in summer classes. On June 3rd, only 630 students began the summer sessions—220 less than last year's 850 students. The number of instructors and the sites for the classes will be downsized because of fewer students. Cuts totaling \$2.4 million will also come from teacher training stipends, school and department allocations and library book spending.

On May 29, 2002, the Associated Press reported that Enid, Oklahoma school officials canceled a federal summer school program because of reductions in state funding to the district. The district will have problems paying the costs of the program due to a cut of \$672,000 from the state for the 2001-02 school year. Enid's free, month-long summer program was scheduled to start June 3rd. 400 students would have received assistance, up from 366 last year. Fifty-five employees were to have worked in the program.

We have also found out that in the fall schools and universities will face

great challenges—and I will include in the *RECORD* a series of articles from the last few weeks. Overall, states are being forced to eliminate programs and positions in public schools in order to deal with growing budget cuts. As school budgets are being cut back, there is an increase in the number of students in the classes, there's a reduction in the number of teachers, and a reduction in the number of professional development programs. All of the indicators are going the wrong way.

On June 27, 2002 *The Contra Costa Times* reported that the West Contra Costa school district will cut department budgets by ten percent and will eliminate twenty-seven jobs and two after-school programs. The budget also includes \$4.2 million in cutbacks, with savings found in the elimination of school clerks, administrators, library assistants and professional development workers.

On June 25, 2002, *The Kansas City Star* reported that Johnson County, Kansas plans to vote on a quarter-cent sales tax meant to generate revenue for schools and cities. Across Kansas, school districts are facing tight budgets because of the state's \$700 million budget shortfall. If approved, the tax would provide \$45.3 million in three years for the county's six school districts. Educators are worried because the passage of the sales tax is the difference between adequate and excellent schools. The proposed \$20 per student increased state aid to schools is not even guaranteed, nor would it even total costs.

On June 19, 2002, *The St. Petersburg Times* reported that Pinellas County School Board (Florida) members are committed to raising teacher salaries over the next three to five years up to the national average. Currently, teachers in Pinellas are earning on average \$39,000 a year compared to the national average of \$45,800. Low salaries only feed the dwindling morale of teachers disheartened by recent budget cuts and increased responsibilities. Unfortunately, no one knows how salary increases will be funded, and the only option appears to be a tax hike for voters who may be unwilling to pay.

On May 29, 2002, *The Salt Lake Tribune* reported that the Jordan School District in Utah could be forced to lay-off 250 teachers if lawmakers force public schools to absorb half of the state's tax revenue shortfall. The school board has already raised the district's average class size to balance next year's budget following the Legislature's March decision to cut statewide public education funding by \$20 million. That cut reduced sixty teaching positions in Jordan. Jordan and the state's other thirty-nine districts have already sliced their budget proposals for the 2003 fiscal year, which starts July 1. But, districts fear they will face additional reductions after lawmakers

meet in July to adjust the state's budget to accommodate another shortfall, projected at \$173 million. If public education were cut in proportion to its share of the state budget, it would be reduced by \$83 million, and Jordan's share of that would be \$13 million, which would cause at least an additional two-student increase in class size. Granite will drop 157 teaching positions. Davis is considering cutting twenty-one teachers.

When we passed the No Child Left Behind Act, we said we were going to ensure accountability, we were going to make sure we had well-qualified teachers, afterschool programs, and supplementary services. And all the indicators are now going in the wrong direction.

State universities are also experiencing huge budget cuts, as decreasing financial aid and increased tuition make college less affordable. According to recent reports in Illinois, college tuition is increasing while the state's college financial aid program is facing severe cutbacks. Under the state budget that took effect on July 1, 2002, funding for the state's need-based Monetary Award Program will be cut by \$38 million. Just several days earlier, on June 27, 2002, the University of Illinois Board of Trustees decided to increase tuition by ten percent to fill a \$90 million budget hole.

State officials estimate that as many as 12,000 students across the state will not be eligible for the Monetary Award Program this year, and thousands more will learn that the grant aid they will receive under the program this year will be less than the grants that they received in previous years.

Of the 12,000 fewer students receiving the grants, about 7,000 are fifth-year students. Those students would lose their grants altogether, under a plan proposed by state lawmakers and Governor George Ryan to save the state \$20 million.

An estimated 5,000 students at Illinois State University and another 550 students at Illinois Wesleyan University could be forced to take out more loans, work extra jobs, or forego attending school. Cutbacks will hurt students like Kimberly Williams, 21, a Columbia College business management student. She said the assistance commission is still trying to determine if she is eligible for an award, even though she has received them in the past. If her award is less, "I'll either drop classes or I'll take out more loans." She is already \$10,000 in debt.

In Indiana, *The Indianapolis Star* reported on July 4, 2002, that at state-supported universities this upcoming year the average tuition bill will jump 14.2%. Last year the tuition increased by an average of 7.1%—still more than twice the rate of overall inflation. Tuition hikes were forced to make up for tighter state spending on higher education.

In Florida, The Bradenton Herald reported on July 4, 2002, that Florida State University trustees raised tuition for the fall semester to reflect: five percent for in-state undergraduate students and twenty percent for out-of-state students. The University of Florida and Florida A&M University have approved similar increases. The tuition increase is expected to bring in \$10.5 million in additional revenue for FSU.

What we are also seeing is an excellent report that was released last week by the Advisory Committee on Student Financial Aid. Its findings follow—they are enormously alarming.

More children are and will be attending college. Enrollment in higher education institutions was over fifteen million last year, and is expected to increase to nearly 17.5 million by 2010. The number of high school students qualified to attend college is also expected to grow by twenty percent over the next decade, and most of that increase will be among low-income and minority students.

The demand for college-educated workers has grown, and today's high-skilled job environment demands a college degree. In 1950, eighty percent of jobs were classified as "unskilled"; today eighty-five percent of all jobs are classified as "skilled."

Financial barriers to attending college are on the rise for low- and moderate-income students. Too many students are being forced to borrow too much—and work too much—to finance the rising costs of college. Debt levels are sky-rocketing for low-income college students and their families, causing financial hardships in repaying student loans. At the same time, state budget crunches continue to drive up college tuition at public universities, forcing shut the doors of college opportunity for too many.

Due to the cost of college, this year more than 400,000 students from families who make less than \$50,000 a year will graduate from high school, qualified and prepared to attend 4-year colleges, but will not be able to fulfill that dream.

Half of low- and moderate-income students who do attend college will have to live at home while attending school to lower the cost of college. Sixty-five percent of students will have to work part-time—an average of twenty-four hours a week—while attending college to cover costs. Excessive student work takes a heavy toll on academic performance, often delaying graduation by two years or more.

The college attendance gap between affluent and poor students is widening. In 1979, the most affluent students in the nation were four times more likely to have a bachelor's degree than poor students. Today, the most affluent students are ten times more likely to have a degree.

We must not sell students short. We must do all we can to increase aid to

college students to ensure that more students can afford to go to college.

I believe, as others do, that education is a national security issue. In many respects, it is as basic and as fundamental as the defense of this country. If we are not going to have well-qualified recruits, if we are not going to have men and women in the service who are going to be able to take advantage of the new technologies in terms of defending our country, we will not be able to preserve the values and the systems that we hold so dear. Education is a national security issue. That is why it is obviously key to our position in terms of global competition.

From the Advisory Committee Report, we can see that looking at the students coming out of our high schools, we find in so many instances that many of these students are coming from very moderate, limited economic means. We find their opportunities to continue on to higher education and to get the skills they need are being vastly diminished.

What do we see in the future? We see that those families—particularly low income families—have not benefitted much from the economic expansion of the 1990s. They are barely holding on. Those in the lower income are actually falling further behind because we have had no increase in the minimum wage for the last six years. They have been falling further and further behind. Now, what is happening to these families?

What has happened to the kids who are going on? We are finding increases in tuition for colleges and universities all across this country, ranging from nine percent, ten percent, twelve percent, fifteen percent. And looking into the future years, they will continue to go up.

We find that student aid has remained absolutely the same. The children are working more jobs. They are working minimum wage jobs. And they are working longer hours with less time for their schoolwork. They are now forced to borrow more and more resources in order to be able to continue.

One of the interesting ironies is that as they earn more money, it counts against their ability to get loans and grants in the future. It is an extraordinary circumstance. Children take one job, two jobs, and they get additional earnings which they will have to reflect on their financial statements in their ability to get additional income, which may very well reflect a lowering in terms of their scholarship assistance. It is a no-win situation. That is happening.

We find that hundreds of thousands and millions of American children are being left behind. That is what this Advisory Committee report has stated. We have a basic and fundamental re-

sponsibility. If we are concerned about our national security, if we are concerned about our economy, if we are concerned about our democracy, then we have to ensure that children are going to be able to continue to develop their skills and academic backgrounds.

They make a series of recommendations in terms of the enhanced Pell programs. Those programs have been evaluated, attested to, tried, and demonstrated as being effective. We shouldn't have to fight that fight every year in the Senate.

There is not an American, I believe, who doesn't understand that the GI bill paid back anywhere from six percent to eight percent more in dollars to the Federal Treasury for every dollar invested in America. That is true in terms of education investment today.

That is something we hear in this institution, and in terms of the administration refusing support. The fact that the administration has requested virtually zero in terms of Pell grant increases last year is a failure and an abdication of leadership in terms of meeting the responsibility for educating the children in this country.

The ACTING PRESIDENT pro tempore. The Senator has consumed 10 minutes.

Mr. KENNEDY. Thank you, Madam President.

I see my friend and colleague on the floor. He has a resolution, on which I am honored to join with him. I look forward to taking a moment of the Senate's time to address this issue, which both of us take a great sense of pride in doing.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KERRY. Madam President, I thank my colleague.

TRIBUTE TO TED WILLIAMS

Mr. KERRY. Senator KENNEDY and I are delighted to join in a resolution paying tribute to a unique American who passed away last Friday at the age of 83—a fighter to the end, and really a rather remarkable and fascinating individual—Ted Williams.

Over the span of 21 amazing years with the Boston Red Sox, Ted Williams redefined baseball's greatness. Everyone knows about his .406 batting average in 1941. Not everyone knows that he had an option to settle that year for a less than .400, or that he would have been rounded up to a .400 batting average. It was about .399.

In the last day of season, with the doubleheader, a day that he was offered the opportunity to sit it out so he wouldn't lose his .400 if he had a bad day, there was no way he would do that. It was not his style. He stepped up to bat, and hit 6 for 8 and took his average up to the .406, which now stands as a memorable and unequalled batting average since that period of

time. He had 521 career home runs; a .344 lifetime batting average; 2 of the 4 Red Sox Triple Crown Awards, twice the American League's Most Valuable Player; 6-time American League Batting Champion, 18 American League All-Star appearances; and a member of the Baseball Hall of Fame.

He was quite literally the father of the Red Sox nation, and, for millions of us, he came to live out what was his greatest wish—that if people ever saw him walk down the street they would say, There goes the greatest hitter who ever lived. Indeed, that is what people would have said.

Beyond the statistics and awards, which speak volumes about what he accomplished in a Red Sox uniform, so many of us in this country have an even deeper respect for the individuality he expressed in almost everything he did: His uniqueness as a fisherman; his uniqueness in his contributions to the Jimmy Fund to raise funds for fighting cancer to help others; but especially what he did in the 5 years he spent wearing the uniform of his country, reminding each of us of what it means to be a citizen soldier, to leave a citizen's life to go out and fight for your country and then come back to resume what you did before.

No one knows, but lots of people have speculated about what kind of career numbers this man might have posted, what records he would have broken, if it had not been for those 5 years during the prime of his baseball career while he served as a pilot and a member of the greatest generation.

All of us would wonder. He walked away from the major leagues to serve his country as a fighter pilot. He flew as a wingman beside our colleague, Senator John Glenn, during Korea, performing a memorable emergency landing in a damaged plane that was on fire. And when he was later asked why he didn't just bail out, he told people he was fearing the fact that he might injure his knees—as you punch the button to bail out and you pull out of the cockpit. If you were tall, your knees often would be broken hitting the edge of the cockpit itself. He would sooner have died than not have been able to play baseball because of that potential injury. It was a conscious choice. Another time, he escaped to safety after being hit with anti-aircraft fire.

Ted Williams was a courageous person, bigger than life, tough as nails, and he had that rare ability to sum up perfectly in his character so many things that speak about a generation, about our country, and about a game that is known as our national pastime.

We all hope we will find citizens such as him and ballplayers such as him again. We join in mourning his loss and reflect on all that he gave to his country.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. REID. Will the Senator from Massachusetts yield for a unanimous consent request? I would consider it an honor if the two Senators would allow me to be a cosponsor of this resolution dealing with one of my heroes, Ted Williams.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Madam President, we thank our leaders and we thank our colleagues for giving Senator KERRY and me a moment to bring to the attention of the Senate and to the American people once again the extraordinary sense of loss that the Williams family feels, the incredible sense of loss that people in Boston feel, the incredible loss that those who love baseball feel and those who served in the Marine Corps feel at the loss of Ted Williams.

His stories on the baseball field have been well documented, although they bear repeating. For example, his extraordinary lifetime average of over .406: When we think today of all the various baseball records that are being broken, every single one is being broken almost annually in so many different areas, but no one has even coming close to his. We know he was on a level of excellence in terms of that sport that I don't think will be replicated again.

His service in the military was, as my colleague pointed out, exemplary service to our country. Then the service as well to the Jimmy Fund, the Dana-Farber program—the Jimmy Fund that was just getting started. People didn't give a great deal of attention to the fact of children's cancer, but now you can't travel anyplace in this country, or probably in the world, and not find people who haven't heard of the Jimmy Fund or the Dana-Farber Center as an extraordinary place of excellence that has given great focus and attention and, most importantly, hope and life to hundreds of thousands of children, including one of my own who had serious cancer, osteocarcinoma, and was able to benefit from the extraordinary research and the gift of life that that center provides. The time Ted Williams would spend down in that center without any kind of fanfare, greeting and welcoming children, giving them a new sense of hope, was a real reflection of his humanity.

This is an extraordinary American, someone of whom baseball is proud, Boston is proud, all of Massachusetts is proud. We salute his family, we salute him, and we thank our Ted Williams for all the good things he has done for baseball and for our country.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I ask unanimous consent that an equal time for my speech be given to the Republican side because they were to control half the time in this morning business hour.

Mr. REID. Mr. President, will the Senator from West Virginia yield?

Mr. BYRD. Yes.

Mr. REID. I have been told by the Republican staff that Senator DOMENICI and Senator BROWNBACK wish to speak. How long does Senator DOMENICI wish to speak?

Mr. DOMENICI. Mr. President, I thought I was speaking earlier. I would like 10 to 15 minutes.

Mr. REID. Senator BROWNBACK wants 15 minutes.

Mr. DOMENICI. Did we not have a certain amount that some of our Senators—

Mr. REID. The Republican time was to start around 10 o'clock.

Mr. DOMENICI. That is correct.

Mr. REID. Senator WELLSTONE is here also.

Following Senator BYRD, Senator DOMENICI will be recognized for 15 minutes, Senator BROWNBACK will be recognized for 15 minutes, and then we will be on the bill. Senator WELLSTONE, being the timely person he is, came to speak at 10:30. He will not be able to do that now unless Senator BROWNBACK is late; we will be on the bill at that time.

I ask unanimous consent—the two managers are not here, but I do not think I am doing anything untoward—that he speak on the bill—he is not offering an amendment—that he be recognized as soon as the bill is called up.

The PRESIDING OFFICER (Mr. EDWARDS). Without objection, it is so ordered.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I, too, am proud of Ted Williams. I hope the two Senators will allow me to cosponsor the resolution.

As one who grew up in the Great Depression, I liked baseball. It was 1927. May I say to my two Senators from Massachusetts, it was 1927 when Babe Ruth, the Sultan of Swat, beat his own home run record when he swatted 60 home runs. I can remember those days when I watched for the baseball scores. I watched for Babe Ruth. I watched for Lou Gehrig. I watched for the Murderous Four on the New York Yankees team. That was the year in which Jack Dempsey fought Gene Tunney to regain the title.

May I say to my dear friend, TED KENNEDY, Jack Dempsey was a hero of the coal miners. He mined coal in Logan County, WV. So my foster father told me we would go down to the community grill, which was a place where one could buy Coca-Colas or a soda. I mean they were good Coca-Colas in those days, and you got them for 5 cents, a bottle of Coke for 5 cents. So he said we would go down to the community grill and listen to that fight.

Well, we went on that night. And there were fully 30 or 40 coal miners around that radio. I went home a disappointed lad because Jack Dempsey was my hero at that point as far as

sports figures were concerned, as well as Babe Ruth. And I went home a disappointed lad because Jack Dempsey did not win the fight.

I did not hear the fight. There was only one set of earphones, and Julius Slebocka, who was the manager of the grill—that was 75 years ago, he was the manager of the grill—he listened to the fight, but he didn't tell the rest of us anything about what was going on.

So, lo and behold, Mr. C.R. Stahl, a Scotsman who was the general manager of the coal mining operation, came into that room and took the earphones from Julius, put them on, and gave to those of us who were standing around with open eyes, open ears, and open mouths, a blow-by-blow account of the greatest prize fight, as far as I am concerned, that ever occurred in the United States—Jack Dempsey. And he lost the fight. That was 1927.

May I say to the distinguished Senator from Illinois, something happened in 1927. I can see the bulletins that were tacked up on the wall of the company store, the coal company store: "Lindbergh Crosses the Atlantic." He flew across the Atlantic in the Spirit of St. Louis. He started out, I believe it was May 9, 1927. The New York Times had a headline which said that he flew over Nova Scotia at the tremendous speed of 100 miles per hour in the Spirit of St. Louis. That was Lindbergh. He had a plane that had a load of 5,500 pounds. He had five sandwiches. He ate one-half of a sandwich on the way. Part of the time, he flew 10 feet above the water; part of the time, 10,000 feet above the water. He flew across the Atlantic in a single-engine plane, the Spirit of St. Louis. That was 1927.

That was the year Ford brought out the Model A Ford. It was also the year in which Sacco and Vanzetti were executed—1927, a great year.

Let me switch now to 2002. Congress had been requested to appropriate more than \$10 billion in fiscal year 2003 funds for a reserve fund from which the Department of Defense will draw to pay for its operations in the war against terrorism. Now, watch out. This war against terrorism is a terrible war, but watch out. Many things are being done under the rubric of the war on terrorism. We had better watch out. Let me tell you about this one. The President requested this huge amount of money, free of any restrictions.

Now, Senators, we have to watch this stampede to legislate a new Department—and I am for a new Department—but in this so-called reorganization plan that the President sent up to the Senate and the House, watch out, this is a reorganization plan. Let's be careful we don't reorganize the checks and balances in our constitutional system. I have seen a fair number of requests for blank checks in my time, but this one takes the cake.

The President's request for a large reserve fund for the military is not un-

precedented. Just within the last decade, Congress established reserve funds for military operations in Kosovo, Bosnia, and the Persian Gulf region. From 1996 to 2001, Congress appropriated funds to the overseas contingency operations transfer fund to pay for our peacekeeping missions in the Balkans and the enforcement of no-fly zones over Iraq. The result was an accounting nightmare.

As the General Accounting Office reported on May 22, 2002, the reserve fund for operations in the Balkans and the Persian Gulf was used for "questionable expenditures." That is an understatement. The GAO report details how this reserve fund was used in 2000 and 2001 to buy cappuccino machines—there are three Appropriations Committee members on the floor right now on this side of the aisle, and another one is coming in on the other side of the aisle. The GAO report details how this reserve fund was used in 2000 and 2001 to buy cappuccino machines, golf club memberships, decorator furniture, and even a bingo console. President Bush says he needs the reserve fund to move money around quickly with a minimum of congressional intrusion. But would some congressional oversight have stopped the purchase of a bingo console with defense funds? How about that?

That is your money, I say to the taxpayers who are watching this Senate floor right through those cameras there. That is your money.

How did these funds, intended for important military missions, become diverted to Government waste? As the GAO report says:

There is limited oversight—

We don't give enough time to oversight, and we have an administration that doesn't want us to give much time to oversight. That is my view of it.

There is limited oversight and a corresponding lack of visibility over how contingency operations funds are used that has also contributed to questionable uses of contingency funds.

That is not ROBERT BYRD talking, that is the GAO report, the General Accounting Office, an arm of the Congress. It is no wonder Congress refused to put any more money into this reserve fund in the Fiscal Year 2002 Appropriations Act.

We should also put this in the proper context of how the Department of Defense manages and accounts for the money that is appropriated to it. It is a miserable record. Twelve years after the enactment of the Chief Financial Officers Act of 1990, the Pentagon is unable to produce annual audited financial statements. It is a financial scandal that goes beyond the accounting chicanery perpetrated by the fallen giants of corporate America. In January 2001, the General Accounting Office reported that the Pentagon was unable to reconcile a \$7 billion difference—not

\$7 million, but \$7 billion—the Pentagon was unable to reconcile a \$7 billion difference between its available fund balances and the balances kept by the Department of the Treasury; that the Department made \$2.3 trillion—this is still the General Accounting Office report talking—that the Department made \$2.3 trillion in unsupported accounting entries in fiscal year 1999, and that the Pentagon was not able to keep track of all of their weapons systems and support equipment. Now, get that. Simply put, if the Pentagon were a corporation, its stock would be crashing and the Dow Jones would be in really serious trouble.

We should all know by now that the Pentagon's accounting mess requires closer oversight. It is a massive operation, and the Secretary of Defense has indicated it is a massive operation. Not all of this happened on his watch. He wants to try to get control over it, but how can he? It is so massive: Establishing a \$10 billion reserve fund for the war on terrorism, with no restrictions, no limitations, no controls on how the money can be spent. We are talking about \$10 billion; that is \$10 for every minute since Jesus Christ was born. It would be throwing gasoline on a fire that is already raging out of control. With the Government ledgers filling up with red ink, we need not only fiscal responsibility, but also accounting responsibility.

My concern with the reserve fund proposed by the President is not limited to its gross invitation for waste, fraud, and abuse, to use a hackneyed term.

As a Member of the Senate and chairman of the Appropriations Committee, I want to know how this money will be used because \$10 billion is a lot of money, looking at it from the standpoint of my background and my State. It is a lot of money. Will it be used for rooting out the terrorists who remain in Afghanistan? Will it be used for the creation of an Afghan national army? Will it be used to increase our military presence in the Philippines, Georgia, or Yemen? What about an invasion of Iraq? Is that what it is going to be used for? We don't know.

On July 3, 2002, President Bush sent a letter to congressional leaders to provide further details on how the \$10 billion fund might be used. This supposed explanation left me scratching my head. I bet it left the Senator from New Mexico scratching his head. Nobody in this Senate understands this budget and the appropriations process any better than he does, if as well as he does. But it left me scratching my head—even more than I had scratched it before. The letter from the President talks about \$10 billion being requested for a reserve fund with no controls and no oversight. But get this:

This request will improve collection, analysis, coordination, and execution of intelligence priorities and plans, as we expand into new theaters—

Oh, oh—
of operation and build new relationships.

That is not my quote. That is the quote in the message from the President.

Let me say that again. Hear me, Senators. The letter from the President states:

This request—

For \$10 billion of your money; your money; your money—

This request will improve collection analysis, coordination, and execution of intelligence priorities and plans as we expand into new theaters of operation and build new relationships.

Mr. President, there is no clarification on what is meant by “expanding into new theaters of operation.” Our imaginations are left to run wild. Are we talking about Iraq? If so, Mr. President, let’s hear it. Tell us. The American people are entitled to know where their money is going to be spent, where their boys and girls, the young men and women of this country, are going to be sent. Tell us.

Our imaginations are left to run wild. An accompanying letter from the Director of the Office of Management and Budget, Mitch Daniels, proposes to elaborate, he is going to explain, explain a bit more, on how the \$10 billion is going to be used. He is a favorite of us Members on the Appropriations Committee in both Houses. Mitch Daniels, the OMB Director, is a great favorite of ours.

According to Mr. Daniels’ letter, the reserve fund would contain—listen to this—the reserve fund would contain “up to \$2.550 billion for military personnel accounts; up to \$5.570 billion for operation and maintenance accounts, as well as military construction on working capital funds; and up to \$1.880 billion for procurement or research, development, test, and evaluation account.”

While this may be seen by some as making some progress in specifying how the requested funds might be used, the devil is still in the details, and we do not have them.

Under the President’s proposal, the allocations could be changed by the Secretary of Defense, after consultation with the Director of the OMB. Now get that, get that, pay close attention: Under the President’s proposal, the allocations could be changed by the Secretary of Defense, after consultation—get that—after consultation with the Director of OMB and 15 days after providing notification—not a request—but notification to the congressional defense committees. Ha, ha, ha. What are we going to do next?

It is not hard to see how that \$10 billion reserve fund could start out for a legitimate purpose, such as paying the

Guardsmen who have been mobilized for homeland security missions, but then be reallocated to fund any program that could be twisted around and redefined to encompass a defense against terrorism.

I suppose that additional missile defense spending could fall within that rubric, as would military action against Iraq. Watch out; be careful while you are back home in August. Be careful.

I could not imagine that a \$10 billion reserve fund would be considered for any other agency in our Government but the Department of Defense. I doubt that any of us would seriously consider a \$10 billion reserve fund that could be spent on health care, prescription drugs, or highway construction. The fiscal conservatives in Congress would hit the roof. “Where is the accountability?” they would say. If any Member of this body proposed on an appropriations bill a \$10 billion reserve funds for education, with no limits on how those funds would be used, I have no doubt that the President would assail that Member for fiscal irresponsibility and ready his veto pen.

It is true that we are engaged in a war on terrorism, and that war is expensive. At the height of our military operations in Afghanistan, we were spending more than \$1 billion a month. But there is already a well-established means of providing that money without resorting to blank checks and reserve funds. Congress passes supplemental appropriations bills to provide additional funds to address contingencies that were not anticipated in the regular appropriations process.

The Senate passed a supplemental appropriations bill on June 7 of this year that fully funds the President’s request for additional funds for the military to pay for the war on terrorism. At his news conference earlier this week, President Bush criticized the Congress for delays in final action on the supplemental bill, but he failed to mention that his administration is greatly responsible for at least partially delaying the legislation.

The administration slowed the supplemental bill down months ago by repeatedly refusing to allow Homeland Security Director Tom Ridge to testify about the funding request. Most recently, the administration, claiming that the supplemental bill invests too much in homeland security, has threatened to veto the legislation, despite its overwhelming 71 to 22 vote in the Senate. What our country needs is responsible leadership, and Presidential threats about a veto of homeland security funding is nothing short of irresponsible.

This supplemental appropriations bill does not include a reserve fund that will subvert government accountability for how taxpayer money is spent. But the administration con-

tinues to seek such a fund for the fiscal year 2003 Defense appropriations bill. I deeply regret this indication that the administration continues to view Congress as an impediment to the national interest, rather than a coequal branch of our Government with its own, non-delegable authorities and responsibilities under the Constitution.

The Founding Fathers granted Congress the power of the purse and the responsibility to provide for our national defense.

Accountability for how the funds are spent must be demanded by Congress as the directly elected representatives of the people. We were not sent here by an electoral college. We are directly accountable to our constituents. If this \$10 billion defense reserve fund is misused, who will have to answer to the letters and the phone calls from John Q. Public? It will not be the Secretary of Defense. It will not be the Director of the Office of Management and Budget. It will be us, the Members of Congress. We have a responsibility to see that funds we appropriate are well spent. We cannot allow ourselves to shirk that responsibility. It is the people’s tax dollars.

If the people are being told these dollars are to go to fight global terrorism, this Congress must never allow these funds to buy cappuccino machines instead.

I again thank all the Senators, and I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

THE SENATE NEEDS A BUDGET

Mr. DOMENICI. Mr. President, I might say to the distinguished Senator from West Virginia, since I like cappuccinos, it would be better than some other things we might buy.

In any event, the Senator from Kansas is going to speak shortly, and I will try not to go too long. The Senator from West Virginia, Mr. BYRD, I have been listening, and not to your entire speech, but I say the Senator from New Mexico agrees with some of what you said. But I would not expect you to lay the blame in Congress where the blame lies in Congress. I believe much of the delay on everything is attributable to the fact that the majority party has not yet as of this day produced a budget. So if we want to talk about delays, as chairman of the Budget Committee, my good friend, you do not know what number to mark to. Nobody has yet told you how many dollars you have to spend. If the budget does anything, it starts with that.

It also ropes in, in some good and major way, the entitlements that are supposed to come up the remainder of this year and next year. We do not have that around either. That is one of the reasons we keep getting 60 votes

for every proposal that might be something that we ought to be considering for the American people.

It is given an added burden because we do not have a budget. So I have said this, not as many times as some have urged me to say it, but I have said we need a budget. I do not know if we need it now—it is almost August—but I do believe we have to remind ourselves that whether we like the budget process or not, whether it will be in existence next year, we will know in advance. But as part of the process we go through, clearly it is not good for the American people that it not be done. It causes an awful lot of problems. It can cause us to spend an awful lot of money. It might indeed cause us to be behind schedule on things and we ought not be, especially in an election year when we have to tear ourselves away from an election, a number of the Senators do, plus the rest of the elections in our country.

Mr. BYRD. Will the Senator yield?

Mr. DOMENICI. I am pleased to yield.

Mr. BYRD. Inasmuch as he addressed some of his remarks to me, I share the Senator's concern that there is no budget. I was also concerned the previous year when there was no markup in the Budget Committee of the budget bill. I was a member of that committee.

Mr. DOMENICI. Yes, indeed.

Mr. BYRD. There was no markup. So each side, of course, can find some fault with the other. The point is, we are at the present moment, and Congress is being blamed by the administration for not passing a supplemental bill quickly. I have pointed out that the administration could be more helpful in this regard. Senator STEVENS and I, and other Members of the Appropriations Committee, have been working with a Republican House and we stand ready and have stood ready all along to meet to try and work out these differences.

The administration could be more helpful to us if it would urge the Republican House to move faster. We ought to get that supplemental back—that conference back to both Houses this week. We ought not to be any longer than that.

I am glad to say the distinguished chairman of the House side of the Appropriations Committee is calling me, I believe today, and he is working with Senator STEVENS and Mr. OBEY.

Mr. DOMENICI. Is that the House or the budget chairman?

Mr. BYRD. I beg your pardon?

Mr. DOMENICI. Is that the House or the Budget Committee chairman?

Mr. BYRD. I am glad the Senator pointed to my inadvertence. It is the House Appropriations Committee chairman, Mr. YOUNG. He is working with Mr. STEVENS, Mr. OBEY, and myself. So we hope to get a supplemental conference report this week.

I thank the distinguished Senator for his courtesy in yielding.

Mr. DOMENICI. I did not intend to get into a debate about the 27 years of budgets that I have been part of in the Senate. I merely call to the attention that right now, this year—we did get a budget last year. We did not get it out of committee, but the statute did not require that.

I do not want to debate that issue. I merely mentioned that my good friend was producing a litany of things that were causing the delay, and I thought it was a little bit lopsided toward blaming the administration for the delays. A lot of them are our fault, starting with the fact that we do not have a budget.

Yes, the President has a different approach to what he wants to use the money for than we do, but we better get on with it. It is not too much different than most Presidents in sending us their budgets, and the sooner we get on with facing up to our responsibility the better we are.

We have been sitting around waiting for somebody else—and it was not the President—for a long time in the Senate, as time ran by and the appropriations were needed. We are going to get them done just like we do every other year. I used to think because it got late and because I was worried we were not in session, that we would not get it done. We will get it some way or another. We always have. We have been late. We have had partial passages of supplementals and then we have had other ways of putting two or three bills together, all of which should not happen. But if you need to do them, you need to do them. That will be the case this year, too, I hope. I hope it will be done expeditiously.

Now, I want to move to the subject I came to the floor about.

Mr. BYRD. Will the Senator yield?

Mr. DOMENICI. I am glad to yield.

Mr. BYRD. I ask that the time for this colloquy not be taken out of the time allotted to the Senator from New Mexico.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. This colloquy will not come off of my time.

Mr. BYRD. I hope the Senator will have all the time he wants.

It is too bad we get into these little kinds of colloquies, but I believe the candidate who said he was going to change the tone in Washington would go a long way towards helping to change that tone if he would stop beating Congress over the head in his public speeches. Just the other day, he complained about the Congress not passing his supplemental bill and the chairman of that committee. I am not at fault for not getting it passed. The Republicans on that committee are not at fault. We voted it out of the committee solidly, 29 to 0. So we work in a bipartisan fashion in that committee.

Senator STEVENS and I are working in a bipartisan fashion, and the administration does not help things when it lambastes the Congress publicly and talks about the supplemental bill, the delays in getting that bill down to the President.

We put every dollar in that bill that the President asked for for defense, and part of that delay is caused by the administration itself. I cannot help but respond to that kind of partisanship when it is sent out over the public airwaves by the one man in this country who commands the attention of the press. Nobody else can compete with a President when it comes to that, but we all are going to have to answer to voters. I will stand at the judgment bar as well, but we on the Appropriations Committee are doing everything we can to move the bill.

We are scheduled to take up the remaining appropriations bills before this month is out. Senator STEVENS is working with me in that regard, and so is Senator DOMENICI and the others. Let us call it 50/50, a draw, like the All-Americans did last night?

Mr. DOMENICI. Well, you just added another one. You went to the 60. So I have to go to the 60.

Mr. BYRD. The Senator says "you." Under the Senate rules, we are not supposed to address another Senator in the second person.

Mr. DOMENICI. Mr. President, I am not here as much as the Senator and I slip every now and then.

Mr. BYRD. We all slip.

Mr. DOMENICI. It is pretty hard to get that out of your head, but I think I have the floor now. Is that correct?

Mr. BYRD. The Senator does.

Mr. REID. Will the Senator yield for a unanimous consent request?

Mr. DOMENICI. Yes.

Mr. REID. If the Senator will yield, Senator MCCONNELL, if he were here, wished to speak on his amendment, which is the pending matter on the bill that will be before the Senate in a few minutes. I ask unanimous consent that following the statement of the Senator from Minnesota, which is for debate only on the bill, the Senator from Kentucky, Mr. MCCONNELL, be recognized for debate only on his amendment for up to 30 minutes.

Mr. BROWNBACK. Reserving the right to object, if I could inquire, I believe in the former unanimous consent I was to be recognized after Senator DOMENICI. If that is not impacted by the unanimous consent request, I will have no objection.

The PRESIDING OFFICER. That is correct. It would not be affected by the unanimous consent request.

Mr. BROWNBACK. I remove my objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, am I limited by a certain amount of time?

The PRESIDING OFFICER. The Senator has 8½ minutes remaining.

FOREST FIRES

Mr. DOMENICI. Mr. President, for a couple of weeks, every time Americans look at their TV screen, they see a huge fire, a piece of America burning. Forests in our Southwest and West are on fire. We have seen huge fires in the State of Arizona, small but significant fires in New Mexico, and very large fires in the State of Colorado.

I do not want to discuss the why of the fires today, but I am very hopeful that another year will not pass in the Congress, at least the Senate, without a thorough analysis and research by a committee of Congress on why our forests are burning. Some say it is natural. Others say it is a terrible management mistake. They claim that we have gone along without pruning, thinning, or taking care of forests and are inviting either manmade fires, lightning, or some kind of natural fire starter.

We have a very serious problem with reference to our national forests and these fires. So far this year, over 3 million acres have burned, and the fire season is not yet over. This is 1 million acres more than the devastating 2000 fire season and twice the 10-year average. So far, twice the 10-year fire average has already occurred in our forests! This fire season has had a detrimental impact on communities throughout the West and Southwest, disrupting thousands of people's lives, hurting the economies in ways we cannot measure, and destroying homes and property. We must act in each instance to put out the fires, to contain them, and, yes, after that, provide whatever help we can to those suffering.

While the fires burn, there are people who need help. There are people in both the BLM and the Agriculture Department who are busy, day by day, using millions and millions of dollars, which we have provided.

I suggest today that the Department of the Interior and the Department of Agriculture indicate they will have to move resources from all kinds of activities that are supposed to occur during the rest of this year over into fire accounts because nobody expected such a huge, onerous, and costly fire season. The Department of the Interior and Department of Agriculture are about \$850 million short for 2002.

Those managing the bills, and the White House, should know it is a very difficult situation to let a supplemental catch up with the problem. That is what happened here. We have a supplemental appropriations bill waiting around. Now we have a new problem that did not exist when the supplemental started—reimbursement to the Departments of our Government that have used their money to pay for the

forest fires that are burning down America.

We ought to either find a place for that amendment on the supplemental or in some way accommodate it. We always say if it is an American problem, we will pay for it. If it is an earthquake, we pay for it. If it is a tornado, we pay for it. That is the collective insurance of America that we will pay for those emergencies, either on the supplemental or on the Interior appropriations bill, neither of which at this moment has money for these forest fires—neither bill, neither the supplemental nor the full yearly appropriation bill.

The whole of next year is ready to be appropriated without the fire money in it. So we need to provide the money the way I see it. It has been waiting long enough. I know the President does not want the supplemental over a certain amount. I will accommodate to arrange the additional funding, however he and others in the appropriations process and the Congress desire.

I repeat, the money that has been used to fight the forest fires has come out of various and sundry accounts, including the accounts for rehabilitation and restoration of burned lands. For those in the West who are suffering from these fires, we will get a bill ready.

I close by saying there is also a growing problem in Texas and other States regarding excessive water. The floods have caught up with this supplemental. I have been discussing the issue with the Senator from Texas, KAY BAILEY HUTCHISON. I have also talked to Senator GRAMM. We will be asking that they present their water issues, and maybe we can provide funding on one emergency supplemental bill to the extent it is necessary to accommodate the emergencies of our people.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Kansas is recognized.

Mr. MCCAIN. Mr. President, will the Senator yield for a unanimous consent to be placed in the queue to speak?

Mr. BROWNBACK. I yield.

Mr. MCCAIN. I ask unanimous consent that at the appropriate time, which I believe is following Senator MCCONNELL, I be allowed 15 minutes to speak in support of the Leahy amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas.

COMMISSION ON THE ACCOUNTABILITY AND REVIEW OF FEDERAL AGENCIES ACT

Mr. BROWNBACK. Mr. President, I rise to spend a few minutes talking about a growing fiscal and budgetary problem we have in the Senate, something I am not joyous about bringing up, but we have a problem. We are

quickly sliding into it, if not falling into it, and we need to get it addressed. We need to address it before we get completely caught up in the fiscal and budgetary track.

Time is growing short. This body has yet to pass a budget resolution. We have not passed a single 1 of the 13 annual appropriations bills yet. Here we are in the middle of July; no budget resolution, not 1 of the 13 annual appropriations bills. We are quietly moving into position for a fiscal train wreck. Many Members of the body expressed grave concern and doubt in 1998 when we did an omnibus appropriations bill. The course currently being charted by the Senate leadership will make that train wreck look like a fender bender.

We need to first consider the budget resolution created by the Budget Act of 1974. The budget resolution, which the Senate is legally required to pass by April 15—nearly 3 months ago—established caps on total annual discretionary spending. To waive the limits requires a 60-vote point of order. Without the mechanism in place, amendments to increase spending can be passed in the appropriations bills, regardless of their impact on Social Security, by a simple majority. So we are subjecting the Social Security surplus to simple majority movement by this body.

It is astounding, but despite the legal requirements for passage of the budget resolution by April 15, the leadership of the Senate has failed to even bring up the measure for consideration. And in the 27 years since the Budget Act of 1974, the Senate has had a budget.

To further put our current situation in perspective, consider the fact that just a year ago this body was composed of the exact 100 people here today, and we passed a budget resolution offered by Senator DOMENICI with the support of 65 Members.

Regardless of how the votes stack up, at the least, the Senate should pass a budget resolution so we have the fiscal caps in place that would take 60 votes—not just a majority, but 60 votes—to be able to raid the Social Security surplus. That is just prudence on our part that we ought to put the budget mechanisms in place.

I think we are sliding quickly into a situation where we are going to be spending ourselves into a bigger hole and not have any of these restraints or the mechanisms in place to help hold us back.

On the appropriations bills I mentioned at first, when the Senate should have passed 4 or 5 of these at least by this point in time, of the 13, we have passed none. These bills can take weeks to debate and pass. Then there are conference committees to work out the differences between the House and the Senate bills.

When considering these factors, coupled with the finite time remaining on

the legislative calendar, it seems evident that a super-omnibus bill, larger than the 1998 omnibus, may very well be necessary to break the inevitable logjam.

Most of us in this Chamber have been privileged enough to serve during the recent period of historic, large federal surpluses. While large surpluses can be an indicator of a robust economy, they are not necessarily an indicator of good fiscal management. Large surpluses, as I think we have seen, can lead to complacency with, and in some instances even misuse of, taxpayer dollars. While we should always be dedicated to ensuring the maximum benefit of every tax dollar that comes to Washington, we are now faced with the real possibility of a \$100 billion deficit in fiscal year 2002—a \$100 billion deficit.

Between increased funding for both the War on Terrorism and other domestic programs, our federal surpluses have vanished, and we are reentering the realm of deficit spending. We need to exercise fiscal restraint in our spending, and yet we appear to be headed for another omnibus appropriations bill at the end of this congressional session. Surely, Members on both sides of the aisle can understand that if this is the case, it means that there will be even more pork-laden measures tucked inside of these bills. Whether you are conservative or liberal, surely, it is an unacceptable strain on hard working Americans and our economy to have that type of pork barrel spending. The bottom line is that an omnibus appropriations bill prevents the proper individual consideration of spending measures, and it is bad for America.

Now more than ever, we should take steps to assure taxpayers that their hard-earned tax dollars are being well spent. Two months ago, I introduced the bipartisan Commission on the Accountability and Review of Federal Agencies Act—or CARFA Act for short. As in any bureaucracy, inefficient or low priority use of taxpayer's dollars are often serious threats to the credibility of an agency or program. We must be certain that the money we spend is not just allocated that way because we have historically spent it this way. Priorities change and our spending must change with it.

The CARFA Act would create a commission that is modeled on the successful Base Realignment and Closure BRAC Commission. Whereas the BRAC Commission examined military bases and the Department of Defense, CARFA would review Federal domestic agencies, and programs within agencies using a narrow set of criteria, which should produce significant results. The three areas of review are duplicative programs, wasteful or inefficient spending, outdated, irrelevant or failed programs.

If this legislation is enacted, the Commission, upon completion of its

two-year review, would submit to Congress both its recommendations for the realignment and elimination of domestic agencies and programs, and proposed legislation to implement these recommendations. The Congress would then consider the Commission's proposed legislation in an expedited manner, with input from the committees under whose jurisdiction the affected agencies or programs fall. Following the committee's comment period, the proposed legislation would be brought to the floor of each Chamber for debate and a vote. Like BRAC, the Commission's proposed legislation would be voted up-or-down without amendment.

The Commission on the Accountability and Review of Federal Agencies Act is about maximizing the benefit of Federal funds. Like BRAC, which directed that all funds saved be placed back into the DOD budget, any funds saved by implementation of CARFA's recommendations would be directed to support other more efficient domestic programs and agencies. In other words, any money saved would be put right back into other, higher priority domestic programs. That would be the best way we could spend the money.

The CARFA Act is about fiscal responsibility, and the Federal Government is accountable to the hard-working Americans who foot the bill. Personally, I think it would be wonderful if we were able to further increase the research budget for the National Institutes of Health, or IDEA—Individuals with Disabilities Education Act—because funds saved through the work of the CARFA commission would be more money available there. Priority spending would be done. This Commission has the potential to help us truly root out inefficiency, in the Federal Government in such a way that we can more fully realize the benefit of all Federal funds.

The CARFA Act is a good measure, and its enactment would send a positive signal to the American people that the Senate is attempting to exercise sound fiscal policy. I urge my colleagues to support it.

I urge my colleagues to look at the fiscal situation we are setting up right now with the spending and the lack of a budget bill, the lack of passing any appropriations bill, the \$100 billion fiscal deficit we are looking at for this fiscal year. We cannot afford this train wreck, and it is not wise at all for us to allow ourselves to slip into it. We really need to show the leadership to pass a budget resolution, to pass appropriations bills, to put caps in place, and to pass this CARFA bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. My colleague from Indiana wanted to speak for 5 minutes, so I ask unanimous consent he be allowed to speak for 5 minutes, after which I have the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I thank my colleague, the Senator from Minnesota, for his courtesy.

Mr. President, it is good to see you in the chair again. You have had the misfortune of being in the chair the last few times I took the floor, and I appreciate your forbearance as well.

ACCOUNTING REFORM ACT

Mr. BAYH. I come to the floor of this august body to call for the swift enactment of the accounting reform measure, including the Leahy amendment. I do so because I believe very strongly that it is in the best interests of America at this critical time in our history. I believe it goes way beyond mere accounting issues.

What we are debating today deals with the financial security of millions of individual investors across this country, the security of their pensions, their 401(k) programs, and their other investments for the future of their children and their grandchildren.

What we are talking about today involves the very vitality of our economy, for those who have invested and not invested alike, the amount of investment that will take place in the economy, the number of jobs that will be created, the vitality of farms. What we are debating today involves the standing of America in the international economy; whether we will continue to be a safe haven for investments from those abroad, attracting the capital that helps us build a strong foundation for America's economy.

More than anything else, what we are debating today is nothing less than the basic values upon which this country has been based; whether we will continue to encourage those virtues that have always characterized America, whether we will continue to be the land of opportunity based upon hard work, ability, thrift, honesty, and playing by the rules or, instead, whether we will be perceived as the land of opportunity based upon artifice, avarice, and financial deceit. I believe the choice is clear and that the right thing, based upon traditional values and virtues, is embodied in the Sarbanes bill, including the Leahy amendment.

I congratulate our colleague, Senator SARBANES. He has demonstrated leadership and foresight in this issue. I believe the record will show that Senator SARBANES was a leader in this issue a long time before it became popular. It is wonderful when events combine with leadership to give us an opportunity to truly make historic progress in this body. I think Senator SARBANES has seized the moment.

I congratulate Senator LEAHY for his protection of whistleblowers and strong penalties against document shredding and financial fraud. He has made this a better bill.

Mr. President, as you know, we serve on the Intelligence Committee together, and since the tragedies of 9/11, our country has been involved in twin struggles: One, the physical national security of this country; and, second, getting this economy moving again to ensure the economic security of Americans across this country. There are parallels between these two challenges. Both occurred as a result of unexpected tragedies but have presented us with opportunities to make this an even better, stronger, more secure Nation. Both involve breaking the political gridlock and the bureaucratic inertia that all too often make progress in this Capitol difficult. And both involve striking the right balance between individual freedom and liberty on the one hand, that we cherish, and collective security, which makes individual liberty meaningful, on the other.

I believe this bill strikes the right balance. It insists upon credibility and transparency of information provided to the marketplace, the very foundation upon which capitalism is built, but it does so with flexibility to ensure that the regulatory hand is as light as possible, and that the information provided, that transparency and credibility provided to the marketplace, is done in a manner that is least burdensome to shareholders and investors as possible.

For example, the prohibitions against auditors providing consulting services: We have seen, as the chairman would note, in recent years a vast expansion of expenses and consulting services which create an appearance of a conflict of interest.

We need to deal with this transparency to reassure the marketplace, but we need to do so in a way that imposes less regulation, burden, and cost upon existing shareholders as is humanly possible. This bill takes that approach by creating a presumption that certain consulting services will not be allowed, but by also providing flexibility to the new independent oversight board to waive that presumption, or the company and its auditors can go to the oversight board and say in this instance, under these facts, the presumption should be waived because we can provide the transparent data to the marketplace in a less costly manner by allowing our auditors to provide these consulting services.

Basically, the bottom line is where it makes sense to provide the consulting services, or the presumption or the appearance of conflict is not a conflict in fact, it can be waived, and the consulting services can be provided. That is the right balance for transparency and credibility provided in the marketplace in the less costly manner to shareholders.

I congratulate the chairman for incorporating that into the bill.

I have heard some of our colleagues and commentators talk about over-

burdensome regulations. I don't have the reflexive reaction to regulate. I am well aware that one of the few laws that we count on in Washington is the law of unintended consequences. But the fact that an error may be made is no excuse for doing nothing.

The right answer is not no action to address the inadequacies that we have seen, just as it is not an overburdensome action. The right answer, my friends, is a well-considered, thoughtful, well-balanced action to protect the interests of American investors, and to ensure the integrity of our economy. That is the balance which is struck in the Sarbanes bill.

That is why I compliment the chairman for all the work he has done.

Let me conclude. My colleague from Minnesota has been so gracious for allowing me to continue.

I am pleased to see the chairman in the Chamber. I hope he will have a chance to read the complimentary remarks I made about his leadership and his farsightedness.

I said he is the leader on this issue, and I congratulate him for that.

Let me conclude where I began.

This issue goes a long way beyond mere accounting issues. It goes a long way beyond economic policy. It goes to the very heart of who we are, what we stand for as a people, and the kind of values we cherish in United States of America. This will protect individual investors. It will help to ensure the integrity of our economy. But more than anything else, it will ensure that those Americans who have embraced our tradition with virtues, who have worked hard and saved their money, who have played by the rules, and are honest are able to get ahead in this society.

It will send a loud and clear signal to those who practice financial deceit and financial chicanery that they do not have an avenue to success in this country. That does not embody the best values of America.

That is why I strongly support the Sarbanes bill and the Leahy amendment.

I urge my colleagues to enact this important legislation.

I thank the Chair. I yield the floor.

Mr. SARBANES. Mr. President, I say to my good friend, the distinguished Senator from Indiana, that he said I should read his gracious comments. I actually saw them on one of the monitors. That is one of the reasons I came to the floor. I wanted to express my personal appreciation to the Senator for his very kind remarks.

But even more, I wanted to underscore the constructive contributions which the Senator made to this legislation in the course of its consideration by the committee. I know how closely he followed what we were trying to do. He came forward with a number of ideas that were most helpful to us in shaping this legislation. I think the

statement he just made reflects his own deep appreciation of the seriousness of the issue with which we are trying to deal, the import it has for the functioning of the American economy, and how he understands that they are very important issues.

If we don't move to restore confidence in the U.S. capital markets, there will be a negative impact on our economy. We are seeing some of that now. We have already seen this tremendous loss in the value of the retirement plans. People have just been wiped out. Tens of thousands of people are being laid off. The impact on the economy is beginning to spread. We need to move in order to counter that and start ascending in a different direction.

I particularly want to thank the Senator for his consistent help in the committee as we marked up this legislation.

Mr. BAYH. I thank the chairman.

Mr. SARBANES. I thank the Senator from Minnesota.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PUBLIC COMPANY ACCOUNTING REFORM AND INVESTOR PROTECTION ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2673, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

Pending:

Daschle (for Leahy) amendment No. 4174, to provide for criminal prosecution of persons who alter or destroy evidence in certain Federal investigations or defraud investors of publicly traded securities.

Gramm (for McConnell) amendment No. 4175 (to amendment No. 4174), to provide for certification of financial reports by labor organizations to improve quality and transparency in financial reporting and independent audits and accounting services for labor organizations.

Miller amendment 4176, to amend the Internal Revenue Code of 1986 to require the signing of corporate tax returns by the chief executive officer of the corporation.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I ask unanimous consent to be added as a cosponsor of the Leahy amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I wanted to come out here on the floor and thank Senator SARBANES for his leadership in putting together a piece of legislation that deals with structural reform of corporate governance and auditing independence.

I also think what the chairman didn't do is very important. Senator SARBANES didn't just call for a roundup of the usual suspects but for the prosecution of the worst offenders who deliberately have enriched themselves at the expense of the employees, investors, and creditors, and then try to claim that it is the end of the matter. This bill does hold bad actors accountable for their fraud and deception. And it is probably going to be stronger by the time it leaves the Senate Chamber.

The legislation goes much further, and it should because the problem goes much deeper. We are faced with much more than just the wrongdoing of individual executives. We are faced with a crisis in confidence in America's capital markets and in American business.

These corporate insider scandals are threatening the economic security of families all across Minnesota, North Dakota, New Jersey, Maryland, and all across the country. It is heartbreaking. You have people who have taken their savings and put them into stock. This is what was going to be their resources to help send their kids to college or to meet other family needs. The value of that has eroded.

Other people have 401(k) plans and are counting on that for retirement security. The value of that has eroded.

But I think the other big issue is really important, which is above and beyond hundreds of billions of dollars wiped out. That is what has happened already. You do not have investor confidence. Without investor confidence, we will not have the economic recovery that we need. Jobs aren't being created. Frankly, this affects all of us.

It is this last problem on which I want to focus. I see my colleague from New Jersey who knows much more about finance than I do.

There is a business cycle. Some years are good and some years are bad. Sometimes companies do well and sometimes companies don't do well. Sometimes people invest more and sometimes they invest less. That is the risk they take.

If the only problem was that executives at Enron were corrupt and their business failed—all of which is true—or WorldCom officers were fudging the books and the company really wasn't all that profitable—which is true—and that a lot of businesses, such as Global Crossing—what they were doing, to be blunt, was just fake—which is true—

even with all of that, I don't think we would be out here on the floor with this legislation.

In other words, if the story was only that a bunch of companies did badly, lost money, went bankrupt, and a whole lot of other people were hurt, frankly, I still don't think we would feel this sense of urgency. But that is not the end of the story.

The reason we need this legislation goes way beyond Enron and WorldCom. It is not just because of Global Crossing. It is not just because of MicroStrategy. We need this legislation, and it ought not be cluttered with extraneous amendments, or with delay, because the American investing public has lost its confidence in this corporate system.

I want to emphasize this point because I think some colleagues—some, not all of my colleagues—on the other side of the aisle don't seem to get it. I hate to say it, but I don't think the President or the administration gets what this is really about.

Again, the President yesterday basically focused on a handful of corporate executives who deliberately misled investors. He talked about a few bad apples. It goes much deeper than that.

Listen to the words of some other members of the administration, such as Donald Evans, Secretary of Commerce, who 2 days ago said:

The system has not failed us, but a few have failed the system.

The President said the same thing yesterday.

Treasury Secretary O'Neil said last year that Enron's collapse was "capitalism working." Now, if these individuals didn't have substantial responsibility for the economy, then their comments would be comical. I guess if we asked these guys about Watergate, they would say it was just a burglary. But we are dealing with more structural and deeper issues.

The crisis is a crisis in faith. Investors who thought that if a corporation was doing badly and making poor decisions it would show up on their financial reports now have found out that is not the case. By the way, we should not be shocked by this. In fact, this should be old news to us.

Almost 2 years ago, the then-Chairman of the SEC, Arthur Levitt, approached many of us—I remember the discussion with him in my office—and he said: "Paul, we are on the brink of a crisis in accounting."

What Levitt was saying is, I want to put into effect a rule which is basically going to say that the Andersens of this world cannot be pulling in all these luxurious contracts and money for their internal auditing and all the rest, because once they get all the money, they are going to be reluctant to bite the hand that feeds them. Secondly, they will be put in a position of auditing their own auditing. That is a con-

flict of interest, and the consequences of it could be tragic for a lot of innocent people.

Arthur Levitt was right. Of the decisions I have made in the Senate, one of the best decisions I ever made was 2 years ago in writing a strong letter of support for the then-Chair of the SEC for what he was trying to do. The auditors haven't done a good job because they have been too close to the firms that they were supposed to be auditing. That is what Arthur Levitt was talking about. He fought for greater auditor independence. His solution looked a lot like what is in this bill.

I am glad I supported his reform. That was a pretty lonely position back then for Chairman Levitt. I am glad the Sarbanes bill is going to get a lot more support. I believe it is going to pass overwhelmingly.

The Sarbanes bill does a number of different things. No. 1, at the core of this crisis is the need to have auditor independence. That is part of what the Sarbanes bill is all about. One hundred years ago, we had politicians and business leaders who were willing to take on entrenched corporate interests that were stifling competition—sound familiar—that were bilking customers and bilking consumers and that basically were enslaving their workers. We are dealing with similar kinds of issues now.

We are now in a new century. This is going to be a real interesting case study—I was a political science teacher—as to whether or not the Senate and the Congress and this administration will, in fact, be there for strong reform.

The other part of this legislation which is also important is to hold the corporate insiders accountable for their abusive actions. That is why I am so supportive of the Leahy amendment.

If you ask people in any coffee shop in Minnesota, should there be criminal penalties for altering the documents, such as a 10-year felony, they will say, absolutely. If you ask people in Minnesota, should there be whistleblower protection for employees of public companies who actually blow the whistle on these kinds of abuses of power and corruption, people in Minnesota say, absolutely. If you ask, should there be criminal penalties for securities fraud, create a new 10-year felony for defrauding shareholders of a publicly traded company, people in Minnesota will answer, absolutely.

The President spoke yesterday, and the problem is, he did not call for enough resources. He has a lot of tough rhetoric, but then when you look at what is behind the rhetoric you don't see the resources the SEC needs for the oversight. You don't see an oversight board that is set up, as the Sarbanes bill does, with authority and independence. Most importantly, from the President we don't get any proposals that insist on auditor independence.

If we have learned one thing, it is that Chairman Levitt was right. Two years ago, Arthur Levitt tried to warn all of us. All of these big companies, accounting companies and all these other people who are tied into this finance, some of the biggest investors, frankly, in politics in the country—I know of no other way to say it—all lobbied hard. Arthur Levitt was clobbered by a whole bunch of people, but he was right. Now we have a chance to do the right thing.

If you were to go back over the last decade, we have passed too much legislation that has taken away some of the individual investor rights, that has made it harder for us to have Government oversight, that refused to look at these blatant conflict of interest situations. As a result of that, we have these corporate insider scandals.

I will say one more time, it is heartbreaking, hundreds of billions of dollars have been lost. It is heartbreaking to see what this has done to people's savings who invested in stock. It is heartbreaking to see what it has done to 401(k) plans, heartbreaking to see the ways in which families are terrified in Minnesota and around the country. Most fundamental of all is, we don't have investor confidence any longer.

I say to my colleague from Maryland, the best thing he did, above and beyond this bill, is he didn't just say, let's go after a few bad apples. He didn't just say that. That would be the end of it. He has dealt with the underlying structural issues so we can prevent this from happening again.

I am extremely proud to support this bill. I can think of some zinger amendments. When I think of these guys who got the golden parachutes, I am amazed. Look at WorldCom.

Mr. SARBANES. Will the Senator yield for a moment?

Mr. WELLSTONE. I will just finish one quick point.

With WorldCom, you are looking at a situation where at the very time—the same old story—they are getting employees to do away with defined benefit packages and then they put their employees in 401(k)s, cheerleading the 401(k)s, while they are doing that, they are dumping their stock. They got out with golden parachutes, all this money. It is outrageous what has happened at the individual abuse level.

It is much deeper than the wrongdoing of these individual corporate chieftains and governance. It gets to the structural issues. That is what is so important about this bill.

Mr. SARBANES. If the Senator will yield, I thank him for that observation because he is absolutely on point. The bad apples ought to be punished. There is no question about it. They ought to be punished severely. But it is very clear, as this issue has unfolded, that we need to make structural changes. We need to change the system so that

the so-called gatekeepers are doing the job they are supposed to be doing. That has not been happening. That is why we need to remove these conflicts of interest on the part of auditors who are also consultants for the same company, collecting huge fees. And they are supposed to come in as outside auditors and be very tough on the company, which at the same time is giving them large fees for consultancy.

The Senator is absolutely on point. We have to put in place a framework, a system which tightens up and begins to screen out these things.

Furthermore, if you go after the bad apples, fine; but the damage has already been done, as the Senator just observed, for instance, WorldCom and the collapse of the whole pension program and pension provisions.

Punishing a bad apple may have something of a deterrent effect, but there is nothing like putting a system into place that gives a heightened assurance that you are going to be accountable. That is what investors are looking for.

Mr. WELLSTONE. One more minute. What I said earlier, the problem with rounding up the usual suspects is quite often you then say that is the end of the matter. That is why the President's proposals yesterday come in for strong constructive criticism.

The story in the Post today in the business section is another outrageous example of what happened. WorldCom swallows MCI and tells the MCI employees they don't have a defined benefit any longer and puts them on the 401(k), cheerleads them on to put the investment into the company, cooks the books, and doesn't give them any accurate information on what happened to them. Now what happens to all these MCI employees? They don't have any of the savings any longer.

So do you know what. We have to hold these people accountable, absolutely, but at the same time don't let anybody—people in Minnesota—get away with saying it is a few bad apples and that is all we are going to deal with. No. We are going to deal with the conflict of interest and we are going to have structural reforms. We are going to have oversight. We are going to protect consumers, the little people, and give the business community more confidence so they do the investing in the economy. That is what is at stake with this legislation.

I yield the floor.

Mr. SARBANES. Mr. President, I ask unanimous consent that following Senator MCCAIN, who will speak later, Senator CORZINE be recognized to speak for up to 15 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 4175

The PRESIDING OFFICER (Mr. REED). Under the previous order, the

Senator from Kentucky is recognized for up to 30 minutes.

Mr. MCCONNELL. Mr. President, I wish to take the opportunity now to describe in detail the amendment currently pending before us, that which I was unable to do yesterday.

There are two fundamental points to the amendment. What it seeks to do is require independent audits of union funds which, of course, are raised from union members in the vast majority of our States. You don't have a choice; you must belong to a union, and those dues are taken. So we have mandatory auditing of those funds to ensure they are being accurately accounted for, civil penalties for violating those auditing requirements, and, third—this is all the amendment is about, these three points—the president and the secretary of the union must certify as to the accuracy of the audit.

We are talking about guaranteeing the integrity of the funds raised from union members. The reason we require corporations to file financial statements is so corporate shareholders know how their money is being spent. As a second layer of protection for shareholders, we also require those financial statements to be independently audited. Why? So investors know that information filed is actually correct, so they know it is not just the creative writing of a crooked bookkeeper or a corrupt executive.

We take this independent audit requirement, or this second layer, very seriously—so seriously, in fact, that we are creating a third layer in the Sarbanes bill, an entirely new audit oversight board to better police these required audits for the benefit of corporate shareholders.

This third layer is a good idea, especially given today's stories of corporate fraud, deception, and outright theft that we all cite as the real motivation behind the underlying bill. My colleagues have cited the well-publicized financial failures and the endless corporate scandals and the need to hold corporate crooks accountable. I could not agree more. But we also have union corruption, union greed, union scandals.

My amendment will give American workers the assurances that their labor unions' books have been independently audited—the same second layer of protection we have given to corporate shareholders since 1933.

Unions already have to file financial statements. They do so with the Department of Labor on a form called the LM-2. Why? For the same reason corporations do: So American workers, the card-carrying, dues-paying union workers can see where their money goes. But we don't currently require independent audits of union financial statements. Unlike the corporate shareholder, the rank-and-file American worker has no earthly idea if the

financial information they rely on is correct—no idea at all. So why shouldn't the American steelworker or longshoreman be entitled to the same assurances as the corporate shareholder who has recklessly overinvested in a bundle of Internet stocks? Isn't the workers' money just as hard earned and deserving of protection—maybe even more so?

I cannot imagine that anyone in this body would argue that American workers do not suffer from the same type of greed and corruption that plagues our corporate and accounting culture, nor can I imagine that as a result of these scandals anybody in this body believes that American workers do not deserve the very same assurances that their unions' financial statements are correct.

But just in case, let me read for my colleagues a few recent accounts of union corruption. I am going to read quite a few, and I will do so for a specific reason—so nobody can stand up and say that greed and corruption only affects corporate shareholders, so no one can say the only stories here are Enron and WorldCom, and so no one can stand up and say we are wasting time by trying to protect the American workers from being cheated out of their money.

We have all heard of Arthur Andersen, but has anybody heard of Thomas Havey? That is the accounting firm where a partner confessed last month to helping a bookkeeper conceal her embezzlement of hundreds of thousands of dollars from a worker training fund of the International Association of Iron Workers.

Yesterday, a colleague of mine said that the problem at Global Crossing had nothing to do with labor unions. Maybe he hasn't heard of ULLICO. That is the multibillion-dollar insurance company owned primarily by unions and their members' pension funds that invested \$7.6 million in Global Crossing. Apparently, ULLICO directors received a sweetheart stock investment deal that allowed them to make millions on the sale of the stock. All the while, union pension funds, however, suffered the fate of Global Crossing.

There is plenty more, beginning with a couple of stories I briefly mentioned yesterday. An accountant with the National Association of Letter Carriers embezzled more than \$3.2 million from union funds over an 8-year period to buy 8 cars, 2 boats, 3 jet skis, a riding mower, and 105 collectible dolls.

A former official of the Laborers' Union District Council in Oregon, Idaho, and Wyoming is in jail for accepting hundreds of thousands of dollars in kickbacks for directing money into a Ponzi-like investment scheme that defrauded Oregon labor unions of \$355 million.

A former business manager and financial secretary of the International

Association of Heat and Frost Insulators and Asbestos Workers Local 87 was indicted by the U.S. attorney for the Western District of Texas for embezzling tens of thousands of dollars in union funds.

Mr. President, a comptroller of the American Federation of State, County and Municipal Employees, Council 71 of New Jersey, was sentenced to 13 months in prison and fined for embezzling tens of thousands of dollars from the union.

A trustee of Glass, Molders, Pottery, Plastics & Allied Workers International Union Local 63B, headquartered in Minneapolis, was charged with forgery and embezzlement in connection with the theft of thousands of dollars from the union.

Fourteen officers and members of Local 91 of the Laborers International Union in Niagara Falls were arrested on charges of labor racketeering, extortion, assault, vandalism, and bombing a dissenting union member's home and stabbing a worker.

A former business manager of IBEW Local 16 in Evansville, IN, was indicted for diverting union dues checks to his personal bank account.

A Federal grand jury recently indicted an ex-business manager of the United Association of Plumbers and Pipefitters Local 15 in Minneapolis in connection with the theft of tens of thousands of dollars from the union.

A former officer of United Food and Commercial Workers Local 1288, in Fresno, CA, was sentenced to 18 months in prison for embezzling almost \$300,000 from the union's credit union.

An ex-business manager and financial secretary of the United Union of Roofers, Waterproofers and Allied Workers Local 86, in Columbus, OH, was sentenced to 21 months in prison for embezzling \$130,000 from the union to pay his gambling debts.

An ex-president of the American Postal Workers Union Local 1616, in Roanoke Rapids, NC, was indicted for embezzling thousands in union funds and making false entries in union records.

Laborers International Union of North America Local 2, in Chicago, which recently came out of Federal trusteeship imposed because of its close ties to organized crime, failed an oversight audit and is again having significant accounting and bookkeeping problems.

An ex-secretary-treasurer of the American Postal Workers Union Local 761 in Las Vegas and ex-treasurer of the Postal Workers Nevada State Association pled guilty to embezzling \$200,000 in union funds.

Two former officers of Steelworkers Local 9339 in Virginia and a former administrator of the local union's disaster relief fund were indicted for conspiracy to embezzle union funds and make false recordkeeping entries.

A grand jury is investigating claims that a local United Auto Workers Union ended an 87-day strike against General Motors only after union officials received phony overtime payments and jobs for their relatives. Union members have also filed civil suits to recover over half a billion dollars—half a billion dollars—from alleged self-dealers.

My good friend, the senior Senator from Texas, always says you cannot argue about facts. Facts are a powerful thing. These are the cold hard facts of union corruption. Just like Enron, just like WorldCom, just like Global Crossing, these are the cold hard facts, and there are plenty more of these facts.

I have a stack of papers filled with what is called a union corruption update. If you look at this stack, this is just for the year 2002. This stack is just for the year 2002—this whole stack—and 2002 is only half over. It is compiled by the National Legal Policy Center. The Department of Labor's Office of Labor Management Standards reports 12 new indictments and 11 convictions of union fraud per month over the last 4 years.

Let's go over that one more time. DOL's Office of Labor Management Standards reports 12 new indictments and 11 convictions of union fraud per month over the last 4 years. This is a serious problem, and the Senate should not let whatever allegiance some Members may have to the leaders of organized labor affect their concern about the workers themselves, and that is what this amendment is about: Providing the same protection for union members that we insist on providing for investors in corporations.

We have a choice before us. Who should bear the cost of union corruption against the rank-and-file, dues-paying American workers? The unions, the perpetrators of much of this fraud, by bearing an incremental cost of an audit that will help prevent future workers from being cheated out of their money? Or the workers, whose money will continue to be embezzled, concealed? And if we do not provide them with minimal assurances of an independent audit, it will go on and on.

To me, this choice is identical—absolutely identical—to the choice in the Sarbanes bill. Who should bear the cost of the corporate and accounting corruption against shareholders, the corporations and accountants, obviously, through improved oversight, enforcement, and corporate responsibility or the investing public whose stock holdings will continue to be embezzled, concealed, if we do not provide them a new accounting oversight board?

Choosing the unions over the workers in this case is no different than siding with the accountants and corporate executives who quietly oppose the Sarbanes bill.

Mr. President, about the complaints I have heard of the burdens and costs associated with this bill. It would not surprise me if the leaders of organized labor have been on the phone calling particularly our Democratic colleagues over the last 24 hours concerned about the burdens and costs associated with this bill.

First of all, I find it absolutely astounding, given the pervasiveness of union corruption, that some of our colleagues are worried about the incremental cost of stopping that corruption, the cost of giving union workers the same quality assurance answers that we are prepared to give corporate shareholders in the underlying bill.

I do not hear any complaints about the cost of a new accounting oversight board or the cost of corporate responsibility or enhanced disclosure requirements in the Sarbanes bill. Why not? Because the accountants and executives are the ones responsible for the fraud and deception of investors. But for some reason, when it comes to unions, some of our colleagues speak less about the cost to the workers being ripped off and more about the burdens this amendment will place on unions whose officials are responsible for the greed and corruption documented in the binder I just held up a few minutes ago which represented only half of the year 2002.

We hear that unions are saddled with too many requirements on their financial statements. I am not concerned with the quantity of disclosure requirements. I am only concerned about the quality of that disclosure, specifically whether the information is accurate and certified as such for the benefit of the dues-paying American union workers.

We hear that we do not need audits. Some have said we do not need audits because the Department of Labor can conduct enforcement audits, if necessary. Well, let's play with that logic a little. If that is the case, we do not need public corporations to be audited either. Let's get the SEC to conduct enforcement audits. Could you imagine the uproar if someone suggested that? And no one has.

Think about the message this would send to American workers that it is not worth requiring your union to assure you that your money is going where they say it is; just take a number and hope the Department conducts an audit of your union.

At any rate, the Department, as most Federal agencies, needs more money to conduct the few enforcement audits that they conduct. The Deputy Secretary of the Department of Labor testified recently that the number of departmental audits has fallen from 1,583 in 1984 to a mere 238 last year, and the President has requested an additional \$3.4 million and 40 new staff positions to combat union fraud.

We hear that audits will be too expensive. Here is an easy tip for union officials to save money: Stop stealing it. That is a good way to save money. My amendment only requires audits to any union that already bears the cost of filing financial disclosure statements. In other words, this would apply only to unions that already have to file financial disclosure statements. That is unions with receipts topping \$200,000 annually. It goes to my original point. If you have to file an annual report, it ought to be verified as accurate.

We hear that smaller unions will be hit hardest by having to conduct an audit. Well, there is no national one-rate plan for audits of which I am aware. As any professional service, the rates are proportional to the size and scope of the client. Obviously, a union with \$500,000 is not going to pay in audit fees what a \$60 million corporation pays for an audit.

Let me close this part of my remarks with a simple suggestion for my colleagues who have been tricked into worrying about the cost this amendment would impose on unions. Just imagine this: the cost to American workers of not requiring audits. Let us think about the cost to American workers of not requiring audits: More embezzlement, more crooked bookkeeping, more abuse and concealment of workers' hard-earned money.

We do not need more embezzlement, more crooked bookkeeping, and more concealment of workers' hard-earned money. We have a choice. We can extend to American workers the same financial protection afforded corporate shareholders, or we can extend to unions the ability to continue to pilfer and profit off the workers' money. That is the choice.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Kentucky has 8 minutes 30 seconds remaining.

Mr. McCONNELL. I know the Senator from Arizona has been waiting patiently. I would like to reserve my 8 minutes because I am not clear how long this debate is going to go on. We do not have a time agreement yet for a vote. Is that correct? I guess I am asking my friend from Maryland what his plans are for the disposition of the McConnell amendment.

Mr. SARBANES. If the Senator will yield, we have people lined up to speak once the Senator has concluded, Senator McCain and then Senator Corzine. After that, I anticipate then dealing with the McConnell amendment.

Mr. McCONNELL. So is it the plan of the Senator from Maryland to have a vote sometime in the next hour or so?

Mr. SARBANES. I would anticipate a vote in relation to the McConnell amendment—well, we have 30 minutes.

Mr. McCONNELL. Could we do this, then? I ask unanimous consent that I

have 2 minutes prior to the vote to sum up what I think this amendment is about.

Mr. SARBANES. I certainly think that could be done. I intend to speak to it for a few minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Therefore, I yield the floor.

AMENDMENT NO. 4174

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona is recognized for up to 15 minutes.

The Senator from Arizona.

Mr. McCain. Mr. President, for the benefit of the managers, I do not intend to consume all 15 minutes.

I rise in strong support of the underlying Leahy amendment, and I hope we can dispose of that amendment within a reasonable length of time and move on to other changes that need to be made to this very important legislation.

Our publicly owned companies are an essential component to the economic health of our country. As we have seen over the past few months, the continued lapses of our corporate leaders, whether they are ethical, criminal or just plain ignorant, have a significant, sometimes crippling, effect on the welfare of our nation. We must make some fundamental changes in the current system of corporate oversight to protect Americans from avarice, greed, ignorance and criminal behavior. Now is the time for Congress to restore investor confidence and take the necessary action to protect the interests of the public shareholders and place those interests above the personal interests of those entrusted with managing and advising those companies. The deterioration of the checks and balances that safeguard the public against corporate abuses must be reversed.

We have to address the shortcomings in Federal law and send the message that prosecutors now have the tools to incarcerate persons who defraud investors or alter or destroy evidence in certain Federal investigations. This amendment is a step in the right direction. It creates two new criminal states that would clarify current criminal laws relating to the destruction or fabrication of evidence and the preservation of financial and audit records. The Enron debacle clearly indicated that there were gaping holes in the current framework. There will be a 10 year criminal penalty for the destruction or creation of evidence with the intent to obstruct a federal investigation. There will be a new 5 year criminal penalty for the willful failure to preserve, for a minimum of five years, audit papers of companies that issue securities.

The amendment also provides for the review and enhancement of criminal penalties in cases involving obstruction of justice and serious fraud cases.

All of these actions are necessary to deter future criminal action. Until somebody responsible goes to jail for a significant amount of time, I am not sure that these people are going to get the message. Defrauding the shareholder has to carry a meaningful penalty. Corporate decision-makers can make millions, tens of millions, even hundreds of millions of dollars by cheating investors. A relatively small fine or short prison term is not a deterrent; it's a slap on the wrist. The threat of real time in jail is a deterrent that will make people pay attention.

This amendment also creates a new securities fraud offense. The provision makes it easier, in a limited class of cases, to prove securities fraud. Currently prosecutors are forced to resort to a patchwork of technical offenses and regulations that criminalize particular violations of securities law, or to treat the cases as generic mail or wire fraud that results in a five-year maximum penalty. This new provision would criminalize any scheme or artifice to defraud persons in connection with securities of publicly traded companies or to obtain their money or property. This new ten-year felony is comparable to existing bank and health care fraud statutes. To those who would say that it's hard to define a scheme or artifice to defraud, I would say that full and honest disclosure of material dealings and accounting treatments is the best way for the officers who run America's corporations to protect themselves and those who invest in their companies. There are plenty of felony laws on the books that provide long prison terms for crimes that cause less damage than the losses to shareholders in Enron or WorldCom.

It is important to emphasize that when criminal charges are pursued, it is not necessarily the firm that should be charged but the individuals at the helm of the corporate ship who should be prosecuted. If they are the ones making the decisions out of self-interest, they are the ones that should be held accountable. I also believe that we must protect the "corporate whistleblower" from being punished for having the moral courage to break the corporate code of silence. This amendment does that.

This amendment also extends the current statute of limitations for matters concerning securities fraud, deceit or manipulation. The current statute of limitations for securities fraud cases is short given the complexity of many of these matters, and defrauded investors may be wrongly stopped short in their attempts to recoup their losses under current law. The existing statute of limitations for most securities fraud cases is one year after he fraud was discovered but no more than three years from the date of the fraud regardless of when it was discovered. Because this statute of limitations is so short, the

worst offenders may avoid accountability and be rewarded if they can successfully cover up their misconduct for merely three years. The more complex the case, the easier it will be for these wrongdoers to get away with fraud. According to at least one state Attorney General, the current short statute of limitations has forced some states to forgo claims against Enron based on alleged securities fraud in 1997 and 1998.

This situation essentially encourages offenders to attempt to cover up their misdeeds however they can, including by using questionable accounting procedures and financial shell games. Furthermore, in some cases, the facts of a case simply do not come to light until years after the fraud. If a person does not and cannot know they have been defrauded, it is unfair to bar them from the courthouse. We need to recognize the sophistication and complexity of modern-day schemes designed to defraud investors. The Leahy amendment does this.

Finally, this provision amends the federal bankruptcy code to prevent the corporate wrongdoer, the CEO or CFO, from sheltering their assets under the umbrella of bankruptcy and protecting them from judgments and settlements arising from federal and state securities law violations. Too many of these highly paid corporate officers are using bankruptcy laws to protect their assets while maintaining their high-rise penthouses and ski chalets. It is time to force accountability and punish the person, not the institution, who is not willing to abide by the moral and legal codes that accompany leadership and public trust.

I hope we will have an early and overwhelming vote in favor of the Leahy amendment.

I yield the floor.

Mr. SARBANES. Mr. President, so Members may have a sense of what the program is in the short term, I will propound a unanimous consent request and I hope it will be accepted and then we can move forward.

I ask unanimous consent that following Senator CORZINE, there be 15 minutes allotted to Senator GRAMM, 5 minutes allotted to Senator MCCONNELL, 10 minutes to myself as the manager of the bill—or up to these amounts of time; hopefully, they won't all be used—and at the conclusion thereof, there be a vote on or in relation to the McConnell amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from New Jersey is recognized for up to 10 minutes.

Mr. CORZINE. Mr. President, today I rise to speak on both the amendment proposed by Senator LEAHY and also to the underlying bill which I feel quite strongly about.

I am quite pleased to support Senator LEAHY's amendment. It creates tough

new securities fraud penalties and punishes corporate wrongdoers we have just heard the Senator from Arizona speak to. It is a meaningful and appropriate response to the kind of corruption we have seen and makes sure that punishment meets the nature of the act. It also protects corporate whistleblowers, prohibits corporate executives who violate securities laws from hiding behind the bankruptcy code.

In summary, this is more than mere lip service with regard to enforcement and punishment of corporate fraud. It is real reform. It is real response as a methodology to deter criminal conduct. It will go a long way toward providing incentives that are necessary to protect investors and pensioners and others who operate in the marketplace, in contrast to strong rhetoric from some with regard to what we need to do about punishment but not putting reality into place to deal with the issues. I am proud to cosponsor the Leahy amendment, and I urge all colleagues to do so as well.

Mr. President, we need to speak clearly and directly in the Senate about restoring and sustaining the trust in America's capital markets, trust in America's economic security going forward. For several days leading up to yesterday morning's Presidential speech on Wall Street, there was a buzz of anticipation that we would see a real embracing of change. Some went so far as to suggest the President's speech might lead to a Roosevelt moment, an embrace, a change in policy, a change in direction, maybe counterintuitive to the history of the man because it was in the Nation's best interests.

In retrospect, it is safe to say, while the President's speech was good with respect to rhetoric, it was hardly Rooseveltian or a Ruthian moment in the home of the New York Yankees. Unfortunately, it was far from a home run, in my view, and did emphasize rhetoric as a substitute for reform. Its lack of specifics or detail I found unfortunate.

It is not to say that the President's speech did not include some important themes, or, by the way, embrace an initiative that is quite important; that is, the corporate fraud task force in the Justice Department which will be a strong step in carrying out pursuit of wrongdoers.

However, stating the commitment of his administration pursuing these folks, while an important message, needs to be more substantive. We need specific undertakings to protect investors and shareholders. It was what the President did not say in terms of offering specifics, particularly specifics with regard to structural changes that will solve the problems, deal with the problems, provide checks and balances to the problems that we have seen from the Enrons, WorldComs, Global Crossings, et cetera. That is why the speech fell short of what many expected.

The best way, in my view, the President could have accomplished that simple important message would have been to acknowledge the comprehensive structural reform that needs to be put in place and is expressed most clearly, most effectively, by the legislation we are considering on this floor right now, the Public Company Accounting Reform and Investor Protection Act.

The Sarbanes bill, the bill we are talking about on this floor, comprehensively reforms our accounting profession. It is detailed, it is specific, and it is quite a strong element with regard to accounting professionals' responsibilities. It enhances corporate accountability, improves transparency of corporate financial statements, truly strengthens the ability of the SEC to operate as an enforcement agency, and as a regulatory agency to a significant degree. In combination, all those factors together will go a long way to restore investor confidence in American capital markets and, more importantly, restore faith in our economic system.

I think this is the direction it should take. But before I discuss the merits of the legislation in specific, I take a moment to pay tribute to the leadership of the distinguished chairman of the Banking Committee, Senator SARBANES. In shepherding this bipartisan legislation to the floor of the Senate, he has really done an outstanding job of bringing together a lot of disparate views on a very difficult and complex problem, synthesized into a terrific response to a real problem.

I see Senator ENZI in the Chamber. I also congratulate him for his help in making sure we have a bipartisan effort in this process. His contributions have been enormous. There are a number of people on staff who I think have done a terrific job to make sure this happens.

But PAUL SARBANES, chairman of the Banking Committee, has done an incredible job, a thorough job, making sure we have measured, balanced, deliberate steps to be taken to meet a crisis of confidence. I think the American people will be grateful that we have responded in a proper way. It has been a privilege for me to work with all my colleagues in the Banking Committee, but particularly the chairman. Particularly as a freshman, I learned so much of how this legislative process works.

I must say, after 30 years in business, working my way up, the 10 days of hearings we had with respect to this particular subject, with exhaustive testimony, thoughtful testimony provided from a large range of perspectives, was one of the best graduate seminars I have ever had in business. I hope actually somebody will take the time to try to publish these, and they will be used as an example both of how the legisla-

tive process should work but also how the structure and nature of public policy debates with regard to business policy will occur. It is extraordinary. I think it forms an enormously positive foundation for the kind of thoughtful legislation the chairman has brought to bear.

With that as backdrop, we all know that there are serious problems in our system. The list of companies involved is way too long and way too important—many of them supposed models of the new economy. But I want to move a little bit away from just some of the simple concepts we talk about, the most headlined, the name concepts or companies, to focus on the fact that we are going to have almost 300 restatements of earnings this year, this year in our economy—300 restatements. There have been almost 1,100 restatements since 1997 of company earnings reports. This is a problem.

It is not just the individual headline companies, it is the fact that this is going on every day in our marketplace. It is no wonder that investors—institutional, retail, foreign, pensioners—do not have a sense of where we should be or how they should make their commitments to markets. That is because they cannot trust the numbers. There have been broken retirement dreams, lost jobs, and companies shut down. This really needs to change.

Roughly 10 percent of major companies—of the 12,000 actively traded companies, almost 10 percent of them have had statements of change in the last 4 years. That is just bad. That is why investors worldwide have developed some skepticism about our markets. Some might even say that is why our dollar has depreciated as sharply as it has in the last 2 or 3 months. Confidence is shaken—it is real.

American financial markets have been a tremendous engine for economic growth. We have had a highly efficient capital market, and that has fueled our economy. We need to act.

While the depth and breadth of efficiency of our markets is still substantial, if we continue to have this kind of erosion of confidence, we are going to be missing one of the important drivers of America's great success in leadership in the world. While I will not go through every detail of this bill, if we do not come up with a strong oversight of our accounting industry, make sure the information that people make their decisions and take their decisions to the marketplace with is sound and secure, then we will not have those strong capital markets and strong economy. I think we can all agree upon that, in the nature of a bipartisan initiative, to make sure we are moving in the right direction.

I hope we can focus on the reality that some of the conflicts of interest that exist in our practices in the accounting world have been part of the

cause and the focus. Some of the conflicts of interest in the investment banking business, the world I came from, with regard to our analysts, have undermined our security with regard to how people analyze and understand where companies fit.

Other issues that need to be dealt with are the "revolving doors"—executives from accounting firms going to companies they worked for—and the lack of independence of audit committees. All of these factors underlie a growing public distrust in the corporate financial information. It really needs to be acted upon.

While these things are real, I think we need structural response. We cannot just identify a few bad apples. This is more than that. Remember: 1,100 corporate restatements in the last 4 years. There is a structural problem, a systemic problem that is undermining the health security of our economy. I hope people will realize that in the context of the kind of debates we are going to have with regard to this bill—but maybe even more important, when we get into a conference and try to put it together with the House response, and get it to the President.

Unfortunately, I think the other elements of proposals on the table just do not meet the kind of standards that the Sarbanes proposal, the Banking Committee proposal, brings to bear. I hope we will be able to deal with that going forward.

I would be happy to talk about the specifics as we go forward. I know others need to get into this aspect. Other than we need to have a real reform of the accounting industry, we need a strong oversight board. We need to really deal with the corporate accountability issues, which I think the Leahy amendment goes a long way to strengthen in this bill. There are many elements inside it.

We need to give the SEC the kinds of resources so it can actually do the job it is expected to do. The President talked about giving them \$100 million additional resources. Even the House has talked about \$300 million increments. We do not provide for pay parity. There are just so many weaknesses in some of the proposals that are watered down relative to what we have on the table before the Senate.

I can only say I hope we can keep this bipartisan effort together because I think what we need is a final product that will deal with the reality of the undermining of confidence we have across the board, in a whole host of ways with regard to our financial markets, with regard to our accounting statements and with regard to the economy itself. This is too important to make a political issue. This is one to make sure we move forward in a way that we secure America's economic future.

The continued vitality of America's markets is at stake. We need to make

this a priority. We need to move quickly. We need to understand it is systemic, it is not just anecdotal, it is not just a few bad apples. I think the bill we have on this floor will go a long way. Some of the amendments that are brought forward can strengthen it.

We need real reform. We need it now. We do not need rhetoric. We need to be able to restore the confidence the American people want to see, move away from the era of Enron and WorldCom, and get to an era where we have markets that are balanced and fair, where they have the checks and balances in them to give people the confidence that when they make an investment, that investment is what they thought it was when they entered into it.

I thank the chairman for an extraordinary effort in bringing together an exceptional bill. I am proud to be part of this effort. I look forward to continued debate and hopefully bringing it to the President's desk as soon as possible.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SARBANES. Mr. President, I ask unanimous consent to speak for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, I thank the able Senator for his very kind comments.

I underscore, as I said last night on the floor when Senator DODD was here, my deep appreciation for the very positive and constructive contribution which Senator DODD and Senator CORZINE have made to this legislation. Early on, they introduced S. 2004, the Dodd-Corzine bill that formed the basis of a great deal of what is now before the Senate. I really appreciate the tremendous effort on the part of the two Senators.

I think it is very important that I make it very clear how much I appreciate the Senator's continuing, very strong contributions in the committee and now as we consider this legislation.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. Mr. President, I think under the agreement there are 15 minutes allotted to Senator GRAMM, 5 minutes to Senator MCCONNELL, and I have reserved 10 minutes before we go to a vote on or in relation to the McConnell amendment.

Mr. LEAHY. Mr. President, I ask unanimous consent to proceed for 30 seconds without taking the time reserved for my colleagues.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Arizona, Mr. MCCAIN, for his kind words

earlier this morning. He is the supporter of the Leahy-McCain-Daschle, et al., amendment pending before the body. I will speak further at an appropriate time when I am not imposing on the time reserved by our colleagues. I wanted to thank Senator MCCAIN for his support of the amendment and for his kind remarks.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I believe the Senator from Texas is on the way. He is not here yet, so I will go ahead with my closing remarks.

Let me describe again what the McConnell amendment does. It is really quite simple. I think the first thing to remember is that it doesn't change in any way the Leahy proposal. It doesn't change in any way the Sarbanes proposal. It does not alter either of those. This is an addition to the underlying Sarbanes bill, and to the Leahy amendment, which I assume is going to be adopted sometime today. This doesn't in any way detract from the efforts underway to get greater accountability in corporate America.

The McConnell amendment is about adding to that union accountability so that rank-and-file union members can be assured—just as shareholders will now be assured in the underlying bill—that independent audits are being done. They can be assured that there will be civil penalties for violating these new auditing standards. They will be further assured by the fact that the president and the secretary-treasurers of the unions will have to certify as to the accuracy of the financial reports for unions just as we are requiring that for corporate CEOs and CFOs for publicly traded corporations.

We are simply completing the circle of protection for Americans, whether they be investors in corporations or union members whose dues are being paid every payday and who have a right to expect that those funds are going to be treated carefully and correctly.

It has been suggested—I expect it will be suggested again—that this is going to be expensive for the unions. My amendment has been carefully crafted to ensure that it does not impose any egregious new costs, especially on labor. And it only applies to unions with annual receipts over \$200,000.

Why did I pick that number for unions that already file financial information with the Department of Labor? They are already having to file. This amendment simply requires that labor organizations with over \$200,000 in annual receipts incur the incremental costs of running their financial statement and pass an independent audit, and abide by generally accepted accounting principles. This is a cost

borne by any public company with as little as \$1 million in total assets.

The additional costs here only apply to the larger unions that already have to file with the Department of Labor in any event.

I want to say again that this is the union corruption update. This massive stack is just for the first half of 2002. There are numerous examples of the problems about which I have been talking. This stack here represents just the first half of 2002.

Some will suggest that the examples I have given show how well DOL is catching and prosecuting union fraud. Unfortunately, that is not the case. The Department of Labor auditing of unions accounts for just 9 percent of all embezzlement cases. The other 91 percent of embezzlement comes from other sources. Without a required audit, union officials do not have to contend with the threat of an annual independent audit hanging over their heads.

The stories speak for themselves. Union corruption is rampant. It is absolutely rampant on the local, national, and pension fund levels all across our country. In the last 2 years, there has been a union embezzlement or closely related case in 40 out of our 50 States. This is a huge problem.

With regard to the financial information already required to be filed, it is not verified by an independent auditor. The current union filings are not verified by an independent auditor. The independent audits required in the McConnell amendment will help verify that the information is indeed accurate. Unions in many instances have not been complying with the filing requirement.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. MCCONNELL. I ask unanimous consent for a couple of more minutes of Senator GRAMM's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Unions have not been complying with the filing requirements. Up to 40 percent of unions required to file LM-2 reports filed late or not at all. The Department of Labor, under current law, can't even fine these organizations for noncompliance. My amendment would at least give them the ability to fine these organizations for noncompliance.

Let me summarize what this is about. We have decided in the Sarbanes bill and in the Leahy amendment that we want accountability in corporate America. We want to hold the CEOs and the CFOs responsible. We want the auditing done accurately. If it is not done accurately, somebody needs to be held responsible.

Why are we doing that? We are doing that because we want to reassure the shareholders that somebody is not cooking the books, that we don't have

more WorldComs and Enrons and Global Crossings and the like.

The McConnell amendment seeks to provide those very same protections to rank-and-file citizens who may or may not be big enough to invest in the market. But they are investing their dues every week in the majority of our States where they do not have a choice to not pay their dues. And they have every right to expect independent audits of their funds to make sure they are not being stolen and not being misused. They have every right to expect the presidents of those unions and the secretary-treasurers of those unions to certify as to the accuracy of those audits.

That is what this amendment is about. It is about providing the same fairness to the union member as we provide to the shareholder. Simple justice. I urge that the McConnell amendment be adopted.

I yield the floor.

The PRESIDING OFFICER (Mr. JOHNSON). Who yields time?
The Senator from Texas.

Mr. GRAMM. Mr. President, how much time do I have?

The PRESIDING OFFICER. Thirteen minutes.

Mr. GRAMM. Mr. President, first, I thank Senator MCCONNELL. I do not think anybody who listened to Senator MCCONNELL is going to believe the assertion that somehow this amendment has nothing to do with the logic of this bill. You can take a view that business is for real and that standards should apply there, but organized labor is a different kind of institution and they should not apply there; but if you are making that argument, you have to argue it on the basis of politics. You cannot argue it on the basis of logic. You cannot argue it on the basis of justice or fairness.

What Senator MCCONNELL has done, it seems to me—and I think it is a service to the process that he has done it—is that his amendment in no way changes Senator LEAHY's amendment. So whether you are for or against the Leahy amendment is not a relevant factor in whether you are for or against Senator MCCONNELL's amendment because he does not change the Leahy amendment. He simply says, at that moment in history where we are trying to enhance the quality of financial reporting in corporate America, to protect the investor and to strengthen the economy, that we should make the same changes with regard to financial reporting by labor unions.

There have been several arguments made against this amendment, but I do not believe any of them hold water, at least in terms of my ability to understand the amendment and the arguments.

The first argument that has been made is: There are already requirements that apply to unions, that they

have this vast array of reporting requirements.

The same thing is true with corporate America. If you accept that argument that there already is a body of law, and if that means that it should not be improved or strengthened, then what are we doing here?

There are differences over this bill, differences about how the board should be structured, differences about what the board should decide and what Congress should decide, but there is no difference over the issue that we need higher standards in accounting. There is no difference over the issue that people who knowingly violate the law ought to be held accountable.

So to say that unions are subject to requirements is not an argument that we should not have better requirements, because if it were an argument, that would be an argument against the bill; and not one Member of the Senate has bought that argument or made it or believes it.

The fact that there are requirements today does not mean, in a time when we are enhancing transparency and efficiency and honesty in reporting, that we should not improve it for both corporate America and for organized labor.

The second argument that is made is: Companies are public and unions are private. Not only is that argument invalid, but unions are more public than private investments, more public than public companies. Nobody made anybody invest in WorldCom. Nobody made them do that. But in some 40 States of the Union you have to pay union dues in order to work.

I do not think that is right. I think that is fundamentally wrong. I thank God every day that in Texas we have right-to-work laws that say I do not have to join a union to earn a livelihood. But in some 40 States you do.

I think the case is even stronger than the Senator from Kentucky made because nobody made anybody buy WorldCom, but in some 40 States you have to pay union dues. Surely, there is a public interest, in a mandatory institution, in seeing that it keeps straight books.

So this argument that we are talking about, public companies and private unions, what is private about a union that I have to join in order to have a job? Nothing is private about that union. It is as public as something can be public.

It seems to me—and Senator MCCONNELL made the point—nobody made people invest in WorldCom, but people are forced every day to pay union dues. Every day they are forced to pay them. So they are as public as public companies are, I would argue more public, and we have a stronger interest in protecting that money which was involuntarily taken, it seems to me, or just as strong an interest in protecting that

money that was involuntarily taken versus money that was voluntarily invested.

The strongest argument of this amendment—and something that is absolutely breathtaking to me—is that the annual report that is required of unions does not have to be certified and prepared by a CPA.

We are going to great lengths in every bill that has been proposed to set up an independent body to proctor high standards in accounting for CPAs. Shouldn't a union that is handling my money that they took from me involuntarily have its books audited by a CPA?

Why is that important? In fact, why do we care about accounting ethics? We care about them because there is no way the Government has enough resources to spot audit every company in America. So we have to rely on the integrity of the CPA. And it is the problem we have with that today that brings us to the floor of the Senate.

While we are enhancing that integrity through this oversight board, shouldn't we require organized labor that is taking people's money involuntarily to have their annual report certified and prepared by a certified public accountant? How can anybody—how can anybody—argue against requiring a CPA to do these audits?

You could say the Labor Department ought to go out and audit every one of these unions. Clearly, they do not have the resources to do it. The President has asked for more money to do it. I would guess this Congress will not provide that money. I will be watching the appropriations to see if they do. But even if they provide it, it is not enough money to audit every union in America.

What we have to do to bring honesty to union financial reports, as we bring honesty to corporate reports, is to require a CPA to do the audit. I can see no logic whatsoever to opposing requiring a CPA to certify.

Finally, we have gone to great lengths—and I think appropriately—to require the guy who is drawing the big check, the head man or head woman, to sign this annual financial statement to put their credibility on the line and give them nobody to hide behind. Should we not require the president of the union sign this audited report? And shouldn't the annual report be done by a certified public accountant?

Now, it is astounding to me—and, boy, it shows you the different level of enforcement of the law. If anybody does not believe that politics play a part in law enforcement in America, look at the fact that was given to us by the Senator from Kentucky, that 34 percent of unions are out of compliance in terms of filing these reports. Some of them just don't file the report.

It seems to me if 34 percent of the companies in America didn't file reports, we would be outraged, and rightly so. In fact, you couldn't trade your stock on the New York Stock Exchange or the American Stock Exchange or the Nasdaq because of the enforcement that exists in private entities.

The McConnell requirement that the reports be filed is straightforward and reasonable.

I reserve the remainder of my time by simply saying, what harm can come from requiring unions to have CPAs do these reports? I see good can come. I can see no possible harm that could come.

Secondly, why not have the union president certify the veracity of that report just as the corporate president does? Some people say this is punitive. Some people say this is political. If this were being used to try to kill the Leahy amendment, you might be able to make that argument. But this amendment in no way takes away any part of the Leahy amendment. It simply adds to it that the high standards we set for corporate America should apply likewise to unions.

I reserve the remainder of my time.

THE PRESIDING OFFICER. Who yields time? The Senator from Maryland.

MR. SARBANES. Could I ask what the time situation is?

THE PRESIDING OFFICER. The Senator from Maryland has 10 minutes.

MR. SARBANES. And how much time is left to the Senator from Texas?

THE PRESIDING OFFICER. The Senator from Texas has a minute and a half.

MR. SARBANES. Mr. President, it is important, in considering this amendment, to realize there exists now, under the labor management reporting and disclosure procedure, extensive and intensive provisions for reporting by labor organizations, officers, and employees of labor organizations.

If all of these provisions are not being carried out fully, the responsibility rests with the Secretary of Labor. The Secretary of Labor ought to be doing her job. If the Congress is not providing sufficient resources for that, that is an issue for the Congress. We ought to address that issue.

This supposed parallelism that is being argued completely misses the mark in the sense that there is already an existing statutory scheme covering reporting and disclosure by labor organizations.

I want to go through some of those provisions so Members appreciate how extensive they are and the amount of review and oversight that now exists.

I am now reading from the statute:

Every labor organization shall file annually with the secretary a financial report signed by its president and treasurer—

So much for this argument about they ought to sign, put their signature on the report—

or corresponding principal officers containing the following information in such detail as may be necessary accurately to disclose its financial condition and operations for its preceding fiscal year.

Listen to what they have to set out: Assets and liabilities at the beginning and end of the fiscal year; receipts of any kind and the sources thereof; salaries, allowances, and other direct or indirect disbursements, including reimbursed expenses to each officer and also to each employee who, during the fiscal year, received more than \$10,000 in the aggregate from such labor organization and any other labor organization.

Ten thousand dollars? Ken Lay of Enron got \$177 million. Twenty executives of Enron got over \$3 million in salary. Here we are talking about a \$10,000 figure which they have to report.

I am reading from the statute that governs labor organizations on their reporting and disclosure: Direct and indirect loans made to any officer, employee, or member which aggregated more than \$250 during the fiscal year, together with a statement of the purpose, security, if any, and arrangement for repayment. A \$250 loan, \$250. Bernard Ebbers of WorldCom got a \$366 million loan. This is just to underscore in a sense the tightness of this framework governing the labor organizations—a \$250 loan. WorldCom executive Ebbers, \$366 million? The Adelphia situation with the Rigas family, \$3 billion in loans.

Let's look at the power of the Secretary of Labor to enforce these requirements: Any person who willfully violates this subchapter shall be fined not more than \$10,000 or imprisoned for not more than 1 year. Any person who makes a false statement or representation of a material fact or who knowingly fails to disclose a material fact in any document, report required under the provisions of this subchapter shall be fined not more than \$10,000 or imprisoned for not more than 1 year. Any person who makes a false entry or willfully conceals, withholds or destroys books, records, reports shall be fined not more than \$10,000 or imprisoned for not more than 1 year.

"Personal responsibility of individuals required to sign report," I earlier said the president and the treasurer of the labor organization had to sign the reports. Listen to this:

Each individual required to sign reports under sections 431 and 433 of this title shall be personally responsible for the filing of such reports and for any statement contained therein which he knows to be false.

Of course, we have just noted from the previous provisions, that is a fine and possible imprisonment for up to 1 year. So we have a statutory scheme in place to control the labor organizations. If it is not fully adequate, it needs to be addressed in that context. But clearly, it goes well beyond many of the provisions that apply to cor-

porate officers. It has been carefully worked out over the years. The Labor-Management Reporting and Disclosure Act dates from 1959 originally, with subsequent modifications and adjustments, as we have proceeded.

There is a system in place to govern labor organizations. It has been asserted: well, the Labor Department has not been able to do everything it needs to do. That burden is on the Labor Department. In a sense, what has been raised represents a challenge to the Secretary of Labor.

If, in fact, the Congress hasn't given her adequate resources, that point needs to be made to the Congress and we need to address that.

But we have established a well-thought-out, comprehensive scheme with respect to the reporting and disclosure of the labor organizations, and if they are falling short of the statutory requirements, that needs to be addressed in the context of the statute.

The Labor Department has enormous authority over the labor organizations. Make no mistake about it, the powers and the authorities that reside in the Secretary of Labor and the Department are quite extensive to deal with the labor organizations. I mentioned only some of them, including these imprisonment for 1-year provisions.

So I am in opposition to the amendment. I think any shortcomings that one might perceive need to be addressed in the context of the reporting and disclosure provisions applicable to labor organizations; and I must say to you—and the Senator from Kentucky has outlined some of the problems—the Department needs to come to grips with them and come to the Congress, if it deems that necessary, to seek an appropriate congressional response in order to deal with them.

I very much hope my colleagues, when the time comes, will not be supportive of this amendment. When all time is used, I am prepared to make a motion with respect to the amendment.

MR. SPECTER. Mr. President, I am voting against the McConnell amendment because existing law already accomplishes what he seeks to do. There exists now under the Labor Management Reporting and Disclosure Act of 1959 extensive and intensive provisions for reporting by the President and Treasurer of labor organizations.

Furthermore, the audit requirements of this amendment, which apply to union filers with receipts of \$200,000 or more, impose under regulation of small entities. Public corporations subject to the SEC typically have many more assets with initial public offerings are customarily in the range of \$40 million. The annual costs of compliance might exceed the annual receipts of many filers who would be subjected to these requirements. To require audits of all unions regardless of size or complexity

of financial reports would cause an unreasonable burden on many smaller locals who already must file LM-2 reports. Unions with annual receipts of \$200,000 or more covered by the McConnell amendment come in an extremely wide range of types, sizes, and of performing services. Of the more than 5,000 labor organizations that currently meet this criterion and file LM-2 reports, only about 70 are national or international unions. The rest are locals—largely voluntary organizations, many with no or few full-time employees. The current Department of Labor reporting requirements take this “no one-size-fits-all” approach into account and build in some flexibility that the McConnell amendment does not allow. For example, many smaller locals do not need to retain outside CPAs because their financial statements are very simple and consistent from year to year.

The amendment's certification requirements are also redundant. For more than 40 years, union officers have been required to sign annual financial reports under penalty of perjury, attesting that the report's information accurately describes the union's financial condition and operations.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, let me paraphrase our colleague from Maryland. The SEC already has power. Let them do their job. We are not saying that. We are saying they need more power and they need help doing their job because the job is not getting done.

The same is true for unions. The Senator from Maryland said there is already a regulatory scheme. There is already a regulatory scheme for corporate America, but we are saying it is not good enough, not tough enough, it is not working, and we need to improve it.

The same is true for unions. The president of a corporation already has to sign an annual report. We are trying to expand that in this bill. Why not require the president—not other officers, but the president—to sign the report? I submit that illegality, whether it is \$100 million or \$10,000, is still theft. The President has asked us to bar loans.

The issue here is, should we have the same integrity standards for unions? I believe the answer is yes.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Texas has 17 seconds and the Senator from Maryland has 50 seconds.

Mr. MCCONNELL. Mr. President, it is true that unions file a lot of papers. The problem is that accuracy is not required. This requires certified records—certified by a CPA—and it requires the presidents and secretaries of their treasuries to certify that the records are accurate.

Union corruption is a serious problem. This will help correct it. I urge colleagues to support the amendment.

Mr. SARBANES. Mr. President, I only observe that if they file a false statement of representation, they can be fined and sent to jail for up to 1 year. That is a pretty heavy remedy if you stop and think about it.

Mr. President, I yield back the remainder of my time.

Mr. GRAMM. Mr. President, is any time remaining?

The PRESIDING OFFICER. No time remains.

Mr. SARBANES. Mr. President, I move to table the McConnell amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Ohio (Mr. VOINOVICH), are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote “nay.”

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 43, as follows:

[Rollcall Vote No. 168 Leg.]

YEAS—55

Akaka	Dorgan	Mikulski
Baucus	Durbin	Miller
Bayh	Edwards	Murkowski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Boxer	Graham	Nelson (NE)
Breaux	Harkin	Reed
Byrd	Hollings	Reid
Cantwell	Inouye	Rockefeller
Carnahan	Jeffords	Sarbanes
Carper	Johnson	Schumer
Chafee	Kennedy	Smith (OR)
Cleland	Kerry	Specter
Clinton	Kohl	Stabenow
Conrad	Landrieu	Torricelli
Corzine	Leahy	Wellstone
Daschle	Levin	Wyden
Dayton	Lieberman	
Dodd	Lincoln	

NAYS—43

Allard	Enzi	McConnell
Allen	Fitzgerald	Nickles
Bennett	Frist	Roberts
Bond	Gramm	Santorum
Brownback	Grassley	Sessions
Bunning	Gregg	Shelby
Burns	Hagel	Smith (NH)
Campbell	Hatch	Snowe
Cochran	Hutchinson	Stevens
Collins	Hutchison	Thomas
Craig	Inhofe	Thompson
Crapo	Kyl	Thurmond
DeWine	Lott	Warner
Domenici	Lugar	
Ensign	McCain	

NOT VOTING—2

Helms Voinovich

The motion was agreed to.

Mr. SARBANES. I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DIVISION OF AMENDMENT 4174

Mr. GRAMM. Mr. President, I ask for a division of the amendment with sections 801, 802, and 803 in division 1, section 804 in division 2, and the remainder of the amendment in division 3.

The PRESIDING OFFICER (Mrs. CARNAHAN). The amendment is divisible and is so divided.

Mr. GRAMM. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SARBANES. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Madam President, I would like to put forward a couple of inquiries. Could the Senator outline what his division of the amendment does?

Mr. GRAMM. The amendment was divisible, and my division divided it into three amendments. The amendment having to do with statute of limitations in filing a lawsuit is now division 2. So division 1 would be the pending business, as I understand it. Then division 2, and then division 3, seriatim, unless there was some other agreement that took us to another order or other amendments.

Mr. SARBANES. What does division 3 provide for?

Mr. GRAMM. I sent the division to the desk. Basically, division 1 was everything up to section 804. Then division 2 is 804. And then division 3 is 805 through the end of the bill.

Mr. SARBANES. Did the Senator consider dividing it only for section 804?

Mr. GRAMM. The way it was done, the easiest division was to do it in three parts.

Mr. SARBANES. It is that division you want a separate vote on, I take it?

Mr. GRAMM. It is that division on which I want an opportunity for the Senate to work its will, as well as the others.

Mr. LEAHY. Madam President, if the Senator will yield, there is another way, of course, for the Senate to work its will. The reason I mention it, this is a critical part of the legislation. It is nice to say, and we should say, my co-sponsor of the Sarbanes bill, which I think is superb—we should say we should have better accounting methods, we should say we should have more accountability, but we have a lot of these executives who have proven by their past behavior they are not going to do squat unless they think they are going to go to jail for what they do.

The Leahy-McCain, et al., amendment makes it very clear that these people are going to face jail terms if they loot the pension funds, if they defraud their investors, if they defraud

the people of their own company. And I might suggest if the Senator from Texas agrees, there ought to be real penalties; let's vote on Leahy-McCain. Let's vote on it, not divide it up. If he believes there is something he may want to do better—such as shield some of these people with a shorter statute of limitations or with a more restrictive statute of limitations—he has every right to do whatever he wants to shield these people. But bring it up as a separate amendment and let the Senate vote up or down on that.

When I look at places such as Washington State alone where the pension funds of firefighters and police lost \$50 million because of the fraud of the leaders of Enron, I don't feel too sympathetic. We already have a very short statute of limitations in here anyway. We ought to at least have that so people might be able to recover some of the money they have lost, if it is at all possible, instead of just a few executives going up and building their \$50 million mansions and hiding it there.

There ought to be some way for the people who lost their pensions, lost their live savings, to get it back. We ought to have criminal penalties for those who did this in the first place so they end up in the slammer.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, a wonderful speech, and it might be appropriate for another occasion, but what has happened is that a comprehensive bill has been offered as an amendment to the pending bill. All I asked for, which every Senator has the right to ask for, was a division of the question so that the Senate could work its will on individual parts.

I know of no living person, at least anyone who is in the Senate or the executive branch of Government—I don't know about the judicial branch of Government—who is not for the provision related to putting people in jail for knowing and willful behavior where they violate the law.

This bill which has been offered, however, has many different sections. The part I am concerned about has to do with statute of limitations and the securities reform legislation we adopted in 1995.

I remind my colleagues that in 1995 we had these massive strike lawsuits. One firm filed 80 percent of them. Almost all were settled out of court. It created an abuse that generated a bipartisan consensus that something should be done about it.

We passed a law, and then, incredibly, with Democrat support, we overrode President Clinton's veto of the bill. The only veto override of the Clinton administration was on this issue.

One of the reforms had to do with shortening the statute of limitations. I remind my colleagues, this has nothing

to do with the SEC or the Justice Department. We are not shortening their statute of limitations. In 1995, when we passed this bill with a strong bipartisan vote, we said: If I want to sue Senator SARBANES, I have to file the suit within a year of discovering that I believe I have been wronged, or I have to file it within 3 years of when I was wronged. That was the decision we made then.

Now, hidden away in this bill, which has been offered as an amendment, is a provision that effectively extends that to 5 years.

All my division of the amendment did was to say this ought to be dealt with separately so that those who are for mandatory prison sentences for knowing and willful behavior that violates the law can be for that without being for repealing our Private Securities Litigation Reform Act. The reason behind the rules of the Senate that give Members the ability to divide bills goes to exactly the heart of this point; that is, if someone could take a bill—if someone could take—

Mr. SARBANES. Will the Senator yield on that point?

Mr. GRAMM. Let me just finish my point and I will be happy to yield, as I try to always do.

Someone could take the securities bill of 1933 and they could put in it all kinds of things that the vast majority of Members of the Senate are for, and then they could put one little provision in one line in that virtually nobody is for, and they could send it as an amendment to the desk and then we would have no recourse except to vote against all the things that we are for in order to vote against the one little thing that we are against.

It seems to me there is nothing worse in public life than to have someone attack you for voting against a great big old bill and say: Well, you were against. It says here motherhood and the flag and Christmas and Easter—you were against that because you voted against a bill that busted the budget and bankrupt the public.

So in writing the rules of the Senate, we wrote the rules in such a way that when someone offered such a bill as an amendment that had different parts, any Member could ask for a division so it could be dealt with separately. All I have done is exercise that right.

We now have three amendments pending before the Senate—I guess four, counting the Miller amendment—but that is all I have done. Two of these amendments I am supportive of, one of them I am not supportive of, but that is where we are.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, let me say, first of all, the Senator is obviously within his rights to divide the amendment. The Senator could have offered an amendment striking

section 804, which is the section to which he objects. As I understand it, he approves of the remainder of the bill. By dividing it, he gains a one-vote advantage because if he moved to strike and we had a tie vote, he would lose. By dividing the bill, if there is a tie vote on section 804 the proponents of that provision lose. So by the division the Senator from Texas has gained a one-vote step up. I recognize that. That is permitted under the rules. I am not complaining about it.

I think it is inaccurate to use an example of the whole bill and say I either have to vote for all of the amendment or none of it because certainly he hasn't been in that position.

He could have offered an amendment to strike the section—am I right; 804 is the section on which the Senator is focused?

I make the following suggestion in order to try to move matters forward, if I could have the attention of my colleague.

Why don't we proceed and adopt the two divisions other than 804 right now and get those taken care of. Then we can address 804, which is the division to which the Senator objects. We can have an appropriate debate with respect to that division.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, we do have someone who wishes to speak. I am not sure whether it is on one of these sections or not. I am not ready to do that right now. We may reach a point where I will be ready to do that, but I am not ready to do that at this point.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, given that the Senator has indicated he is supportive of the Leahy amendment—I think he said that on more than one occasion—except for section 804, what is it that would have to transpire?

Mr. LEAHY. Madam President, if I might step in for just a moment, if the Senator from Maryland will not mind?

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I keep hearing this discussion by the senior Senator from Texas that my bill somehow changed the Securities Litigation Reform Act. It does not. It does not do that at all. It changes no provision in it at all.

The PSLRA did not establish the current statute of limitations. It did not deal with that issue at all. The Leahy bill does not impact on these provisions. It was a 5-to-4 Supreme Court case that overturned years of established law to set the current limitation periods in *Lampf v. Gilbertson*.

In fact, interestingly enough, former Secretary General Kenneth Starr and I take the same position on these statutes of limitations. In the dissent in

that case, two of the dissenters, Justices Kennedy and O'Connor, said the one in three statute of limitation makes the possibility of injured investors recovering basically a dead letter.

Here are some numbers. Florida lost \$335 million because of Enron; the University of California, \$144 million—all the way down to Vermont; we lost millions of dollars. These are people who would like, in these kinds of cases, at least to have a statute of limitations such that we can go after them.

We are not suggesting changing in any way—I want everybody to be clear on this—we are not suggesting changing the basic standards of the law on a statute of limitation. We are talking about extending the time. We are talking about extending the time so it will not be, as the Supreme Court said, with a short statute of limitations, a dead letter. We are saying we want enough of a statute of limitation—still very short but a long enough one so people can recover. We are perfectly willing to have exactly the same words as the law says now, with the exception the statute is slightly longer.

I cannot speak for an activist Supreme Court that seems to be meddling in most of our laws, but their case law, their stare decisis impacts on every single Federal court in this country—district level, court of appeals level. So there, with the exact same law, the stare decisis is *Lampf v. Gilbertson*. That would be controlling except it would be a longer statute of limitations.

The Senator from Texas, or anybody else, if they think that statute of limitations is too long, fine, vote against it. But I am here to try to protect people and give them an opportunity—when there has been such enormous fraud and all the pension funds have been lost, and all the people who have lost their life savings—give them at least some chance to recover something, especially as the executives of these companies walk off with tens of millions of dollars. We go two-five instead of one-three.

It makes sense to me. That was negotiated and voted on in the Judiciary Committee, and the final bill was passed unanimously.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I want to resume my discussion with the Senator from Texas. I am not going to engage in a substantive debate with respect to section 804 of the Leahy amendment, which is division 1 of the divisions the Senator has made.

I want to go back to the prospects of getting division 1 and division 3 accepted, to which the Senator has repeatedly indicated he has no objection. In fact, as I understand it, he is supportive of it.

I renew my inquiry as to whether we could move ahead and accomplish that,

since in our previous discussions the Senator has indicated concurrence with the notion that we need to move this legislation along. I don't understand what the objection would be to doing that. The Senator has divided the amendments. He has improved his holding position by doing so with respect to section 804. He has accomplished that objective under the rules. But as I understood it, he does not object to all of the matters in division 1 and division 3. I think it would help move the work along if we could adopt those two divisions, and then we could address division 2.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, first of all, let me say as the ranking member of the committee that I have yet to have an opportunity to offer an amendment. I only have two amendments I want to offer. No one is more eager to get this bill to conference where we might come up with something for which there would be virtually unanimous support. But I assume at some point during the deliberations we will have votes on division 1 and division 3. But I would like to have an opportunity to offer amendments myself.

All I want to do is follow the rules of the Senate.

Let me say that I am concerned, as I listen to colleagues on both sides of the aisle, that we are going to have a literal blizzard of amendments not directly related to this bill. I continue to believe that at some point, in order to finish the bill, we are going to have to file cloture.

I intend, as I said at the beginning of the debate, to support that cloture motion. I think someone would have a hard time portraying me as someone who is slowing down the process when I am ready to vote to bring debate on this bill to an end and force amendments to be germane to the bill itself.

My proposal is that we simply go on with the business of the Senate. I am ready to offer an amendment. I am ready to deal with the amendment of the Senator from Georgia. That amendment is amendable. All of these amendments are amendable. I suggest we simply proceed, let Members be recognized, and have those Members move forward.

In light of that, I send an amendment to the desk in the form of a second-degree amendment to division 1. It is a very short amendment. I think the best thing to do is to have it read.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I have spoken to the manager of the bill. He has indicated he has no problem with someone speaking on the bill as long as there is no effort to do anything in a parliamentary fashion because there are negotiations pending at the present time. We understand that. I ask unanimous consent that the Senator from Illinois be recognized to speak for purposes of debate only.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Following his remarks, the quorum call will be reinstituted.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

Mr. DURBIN. I thank my colleague from Nevada as well as the Senator from Wyoming for allowing me to speak to the bill.

I am happy to be an original cosponsor of this amendment with Senators LEAHY and DASCHLE. The Public Company Accounting Reform and Investor Protection Act is a long title, but what it basically seeks to do is to address what most Americans view as one of the most dangerous developments in our Nation's economy in the last several years, if not longer.

When you ask the average American what they think of all this corporate corruption, all of the disclosures about corporations that have literally lied to the public, to their shareholders, to their employees, and to pensioners, people across America say it does not give them much hope for recovery for our economy. It does not give them much confidence in terms of investing in the stock market. And it makes them feel very sad and worried about their own pension and retirement.

We were proud to announce several years ago that almost half of Americans owned stock. We had developed to that point where the average person thought owning stock was a normal thing to do.

I grew up in a family with a mother and father who never once purchased a share of stock until my mother in her later years decided "to gamble," as she called it. But it was unthinkable in their working years to buy stock. They were working people. They worked for a railroad. Workers didn't buy stock.

That has changed. More and more people across America buy mutual funds and stocks, 401(k)s, retirement plans. And why wouldn't they? Look at what happened over the last 10 years. If you were smart enough to buy yourself a dart board and put the Wall Street Journal up on it and throw the dart, just about any stock you hit was going to give you more money.

People came to realize that. They bought their mutual funds and stocks and sat back and relaxed and said: This is easy. I will be able to retire a lot sooner than I ever dreamed, and we have more financial security in our family than ever before.

Boy, have things changed in the last 2 or 3 years. We have seen a recession, the economy slow down, and then we watch as day after painful day reports come of the Dow Jones and the Nasdaq, all the rest of them, hitting new lows every single day.

It has to do with the state of the economy, the recession, but it has to do as much with consumer confidence, the belief that you just can't trust the corporate big boys.

There are too many instances where they decided to cash in with big stock options and walk away with millions—sometimes hundreds of millions—of dollars and leave a floundering corporation. They call it "restatement." When I went to grade school, if I tried to tell the nuns I wanted to restate something I had said, I never got by with it. I got slapped on the back of the hand with a ruler. They knew it was an admission that you lied, misrepresented something. Now that is commonplace when you deal with corporations across America. Every week, there is some new disclosure.

Senator LEAHY, Senator DASCHLE, and I sat down to say we have to get to the heart of this issue and try to resolve it, in terms of making certain there are penalties in place for those who are deceitful, misleading, lying to the American people about the status of corporations. From Wall Street to Main Street, confidence has been shaken. It started off with Enron, the poster child of runaway corporate greed. Isn't it curious that today, as we debate corporate corruption, and isn't it an oddity that there is an actress in Hollywood who is facing possible jail time for shoplifting and she is facing more time in jail than any officer of the Enron Corporation? What is wrong with this picture? Somebody who shoplifts might go to jail, but not the first person has been indicted at Enron, the seventh largest corporation in America, which goes bankrupt.

We had a series of hearings, and everybody on Capitol Hill was wringing their hands and calling in the cameras, saying we have to do something about it. Yet the Department of Justice has yet to indict the first person at Enron.

So what we are saying with this amendment is that we want to establish standards and practices so that those who violate the law, who are guilty of corporate corruption, will pay a price for it, not just a fine that may be ignored or paid off by the corporation but more.

In our criminal code, we establish mandatory minimum sentences for people who are caught with a thimbleful of cocaine. We will put them in jail, and we won't give the judge any flexibility. They go to jail for x number of years, no ifs, ands, or buts. But if a person is engaged in ripping off stockholders of a major corporation, lying about their books, causing tens of

thousands of people to lose their jobs, jeopardizing the retirement plans of millions of Americans, then, frankly, we say to them that yours is going to be a much easier punishment.

What is wrong with this picture? Where are the scales of justice? We should have known, when you have executives and board members who stand to gain millions of dollars from acting on insider information in the corporations they serve, that many would be tempted to do exactly that—especially when they knew there weren't any cops on the beat to keep an eye on them—no auditors, accountants, or government agencies.

In the Gingrich revolution that occurred a few years ago, we passed something called the "Contract on America." One of its provisions said, we are going to take away the power of individuals to sue corporations when there has been securities fraud. The argument was made that there were too many litigious people and greedy lawyers who were meddling in the corporate business and that we had to really close the door to that opportunity. Well, that law was enacted. I voted against it because it took away one more safeguard, one more protection for the public.

Isn't it coincidental that now we stand here and talk about the disintegration of corporate confidence? There were fewer people watching then, and some of these corporate leaders were reaching into the cookie jar and pulling out with both hands. It happened over and over again. We should have known that when you condition the salary of executives on potential gains from how the company's stock prices will rise—known as options—that would be a temptation to raise the stock prices artificially, especially when those on the inside knew that, as the prices would fall, they would already have their money.

We should have known that when you have auditors and accountants shifting numbers to come up with the right set of bottom-line figures they need to produce for Wall Street, they would be tempted to do that even when the audited numbers didn't add up. We should have known that when you have the smartest lawyers and bankers in the country scheming all night to come up with borderline legal ways to avoid paying taxes through a maze of fictitious straw companies, they would be tempted to do just that, especially when they knew Congress wrote the laws with plenty of loopholes for which their lobbyists paid.

We stand in the Senate and reflect upon the sad state of business in America, and we have to wonder who is really at fault.

Let me add that the vast majority of business leaders in America are honest, hard-working people who have taken a risk in our free enterprise system to

produce goods and services of value to our country and to the world, to create jobs and wealth. They deserve our admiration and respect. But, clearly, day after day, week after week, month after month, we read on the front pages of our major newspapers about the exceptions to what I just said.

Is it the executives who are responsible as the bad actors, or their accountants, their auditors, their bankers? The answer is all of the above. Every one of these must face up to their responsibilities.

In due course, I hope we will enact stricter rules for these corporate players. But we have to accept our responsibility; Government and Congress has a responsibility.

I salute Senator SARBANES of Maryland for what he has done with Senator ENZI in bringing this bill to the floor. There is an effort to divide up this bill in the hopes of changing a statute of limitations.

Why is a statute of limitations of importance in this debate? It really defines the reach of the law. If you tell me there is a statute of limitations that limits the liability of these corporate bad actors, I can tell you some people are going to get off the hook. The Leahy amendment to Senator SARBANES' bill broadens the statute of limitations so that more wrongdoers will be held accountable; those who have lied, cheated, and stolen will be held accountable.

The opponents of this approach are now suggesting we need to shorten the statute of limitations, limit the inquiry and investigation of the Government, and limit the liability of the bad actors. This is an answer to the prayers of many corporate big wigs who have ripped off their stockholders, employees, and pensioners across America.

This suggestion that we would lessen and shorten the statute of limitations is what they want to hear. Some will now be able to retire to their mansions, and they will be able to live in the lap of luxury with the hundreds of millions of dollars they have taken from these corporations and never be called to answer for their violations of the law. That is what happens when you shorten a statute of limitations. It is an answer to the prayer of the corporate big wigs' defense attorneys. Why in the world would we be doing that?

Why do we want to insulate from liability the very people who are guilty of wrongdoing? Why would we not support Senator LEAHY's amendment to say that those who have violated the public trust, those who have lied, misled, and been deceitful should be held accountable both on a criminal and civil standard?

So I certainly hope that at the end of this debate the Senate, on a bipartisan basis, will stand by Senator SARBANES and his bill. I also hope that when it is all said and done, the underlying

amendment I have offered with Senator LEAHY and Senator DASCHLE will be accepted.

Let me tell you what the amendment does, in brief. It punishes corporate criminals and creates a 10-year securities fraud felony for any "scheme or artifice" to defraud shareholders, and directs the U.S. Sentencing Commission to raise penalties in obstruction of justice cases.

Two, it preserves evidence of fraud, establishes a new felony for destroying evidence when records are under subpoena. It requires key financial audit documents to be retained for 5 years, and it creates a new 5-year felony for intentional destruction of documents.

Do you know what happened? As soon as Enron got in trouble, they called some of their buddies at Arthur Andersen, and the next thing you know, the documents are being shredded, evidence is disappearing. This underlying amendment, the Leahy-Daschle-Durbin amendment, addresses that specifically.

The third thing is that it protects victims. It creates protections for corporate whistleblowers. We need them. If insiders don't come forward, many times you don't know what is happening in large corporations. It lengthens the statute of limitations to 5 years from the date of fraud and 2 years from the date of discovery for victims to bring claims against the corporations. It prevents securities laws violators from using bankruptcy to shield debts based on fraud judgments.

What they are trying to do—I see Senator LEAHY in the Chamber; he is the major sponsor of this amendment—is to gut the provision that extends the statute of limitations and say that these people will not have to be held accountable for their wrongdoing.

I urge my colleagues in the Senate to resist this effort. We have to hold these corporate wrongdoers accountable. We should not be party to any kind of effort to reduce their liability; otherwise, what message are we sending? Mandatory minimum sentences for a thimbleful of cocaine, but allowing those guilty of corporate wrongdoing to get off the hook. What is wrong with this picture of justice?

I urge my colleagues to resist the change in the statute of limitations, and I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. SARBANES. Madam President, I suggest the absence of a quorum.

Mr. GRAMM. Madam President, was I recognized?

The PRESIDING OFFICER. The Senator from Texas was recognized.

Mr. GRAMM. Madam President, let me answer what has just been said and straighten out the facts. In 1995, we had a major problem in America in that we

had strike lawsuits being filed against high-tech industries where one firm filed 80 percent of the cases and settled almost all the cases out of court.

We had a bipartisan consensus that this represented abuse. So under the leadership of Senator DODD, Senator DOMENICI, and others, we passed a bill which President Clinton vetoed. We then overrode the veto. An important part of that reform was to say—and let me make it clear, this does not have anything to do with committing a crime where you can be put in jail. It has nothing to do with the SEC's jurisdiction. It has nothing to do with the Justice Department's jurisdiction. It simply has to do with my right to file a lawsuit against you and anybody else's right to file a lawsuit against anybody else.

We had a lot of reforms in that bill. You had to actually have a client. The lawyer who was the lead lawyer in 80 percent of these cases said he loved these type lawsuits because he did not have to fool with a client. In essence, he was suing on behalf of himself. Virtually a huge percent of the money went to the lawyer filing the suit, not to the people who supposedly had been harmed.

Part of the reform was to set a statute of limitation that if you believe I have done something wrong, and you want to sue me for it, you have 1 year from the time you find it out, or 3 years from when it happens to file a lawsuit.

When the Senator was talking about letting people off the hook, surely everybody understands that our system has no ex post facto laws. So if the provision raising that statute of limitation to 5 years became law, it would have no effect on anybody who has committed one of these violations about which we are talking.

AMENDMENT NO. 4184 TO DIVISION 1 OF
AMENDMENT NO. 4174

Mr. GRAMM. Mr. President, having straightened that out, that is not even the subject about which we are talking. We now have three amendments pending, and I send a second-degree amendment to the first amendment and ask for its immediate consideration.

This is a very short amendment and I ask it be read because the language of it is so clear that a lot of times we have an amendment, and what we say does not have much to do with the amendment. I want people to read the language.

The PRESIDING OFFICER (Mr. CARPER). The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for himself and Mr. SANTORUM, proposes an amendment numbered 4184 to division 1 of amendment No. 4174:

(Purpose: To provide the Board with appropriate flexibility in applying non-audit services restrictions to small businesses)

At the end of the division, insert the following new section:

"SEC. . EXEMPTION AUTHORITY.

"(1) CASE-BY-CASE WAIVERS.—Notwithstanding section 201(b) of this Act. The Board may, on a case by case basis, exempt any person, issuer, public accounting firm, or transaction from the prohibition on the provision of services under section 10A(g) of the Securities Exchange Act of 1934 (as added by this section), to the extent that such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors, and subject to review by the Commission in the same manner as for rules of the Board under section 107.

"(2) SMALL BUSINESS EXEMPTION.—The Board may, by rule exempt any person, issuer or public accounting firm (or classes of such persons, issuers or public accounting firms) from the prohibition on the provision of services under section 10A(g) of the Securities Exchange Act of 1934 (as added by this section), based upon the small business nature of such person, issuer or public accounting firm, taking into consideration applicable factors such as total asset size, availability and cost of retaining multiple service providers, number of public company audits performed, and such other factors and conditions as the Board deems appropriate consistent with the purposes of this Act."

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that I be allowed to yield to the Senator from Georgia.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Georgia.

AMENDMENT NO. 4176 WITHDRAWN

Mr. MILLER. Mr. President, I ask unanimous consent that the Miller amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIVISION 1 OF AMENDMENT NO. 4174 WITHDRAWN

Mr. DASCHLE. Mr. President, I withdraw Division 1 of the amendment.

The PRESIDING OFFICER. The division is withdrawn.

DIVISION 2 OF AMENDMENT NO. 4174 WITHDRAWN

Mr. DASCHLE. I withdraw Division 2 of the amendment.

The PRESIDING OFFICER. The division is withdrawn.

DIVISION 3 OF AMENDMENT NO. 4174 WITHDRAWN

Mr. DASCHLE. I withdraw Division 3 of the amendment.

The PRESIDING OFFICER. The division is withdrawn.

AMENDMENT NO. 4185

(Purpose: To provide for criminal prosecution of persons who alter or destroy evidence in certain Federal investigations or defraud investors of publicly traded securities, and for other purposes.)

Mr. DASCHLE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for Mr. LEAHY, for himself, Mr. MCCAIN, Mr. DASCHLE, Mr. DURBIN, Mr. HARKIN, Mr. CLELAND, Mr. LEVIN, Mr. KENNEDY, Mr. BIDEN, Mr. FEINGOLD, Mr. MILLER, Mr. EDWARDS, Mrs. BOXER, Mr. CORZINE, and Mr. KERRY, proposes an amendment numbered 4185.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. DASCHLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, first, let me say that we have had a very productive period over the last several minutes, and I think we now are in a position to move to a vote on the Leahy amendment.

Mr. President, I ask unanimous consent that a vote occur on the Leahy amendment at 3:15 this afternoon, and that there be no amendments offered prior to the vote.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. DASCHLE. I thank the Chair.

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, first, let me say, I am pleased we have reached an agreement on the Leahy amendment. This is one of these little technical things that does not mean much to many people, and it is one where, in fact, there is a dispute, but we have reached an agreement that will allow the Leahy amendment to go forward with certainty on our part that the 2-year statute of limitation is a real statute of limitation, that we simply change the number and that in the process, by the way we do it, we do not do anything that would challenge the current court ruling.

Mr. REID. Will my friend yield for a unanimous consent request?

Mr. GRAMM. I am happy to yield.

Mr. REID. Mr. President, I ask unanimous consent that the time from now until 3:15 be divided equally between the two managers of the bill.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. GRAMM. Mr. President, I thank the majority leader for helping us work this out. I think this will give us the ability now to move forward. As part of this agreement, we will have cloture filed on the bill. While that cloture is ripening, we will continue to consider amendments.

I think this agreement guarantees we will have an opportunity, if not to finish the bill this week, the opportunity to assure that it would be finished early next week.

Let me also say, for the record, I would not object to a unanimous consent request to have the cloture vote today or tomorrow. From my point of view, we do not need to wait until Friday to have the cloture vote. I would be willing to ask unanimous consent that it be moved up, if that were appropriate. I think that is up to the majority leader, obviously. But from my point of view, we are ready to move and head to conference with this bill.

This one small part of the Leahy amendment I do not think is prudent policy, but there is greater certainty about what it means in terms of the statute of limitations. So I am more satisfied at least in terms of certainty.

I thank Senator LEAHY for working this out. There is no doubt about the fact that he had the votes if we could have brought it all to a vote, but I think what we are doing, by working out this simple compromise, is guaranteeing that we are going to pass this bill in short order.

I am hopeful in conference we will be able to bring in the changes the President has proposed. I understand the Republican leader will offer them as an amendment. I will support them. I hope they are adopted unanimously.

But in any case, I think this agreement paves the way to guarantee we will pass this bill, hopefully, this week if not early next week.

Let me say to my colleagues on the Republican side of the aisle, I intend to vote for cloture. I think this is an important piece of legislation. I would do important parts of it differently than Senator SARBANES, but he is chairman and I am ranking member; and we have been in the different positions. There is a difference between the two, but we cannot get a bill which I want unless we go to conference.

The House bill is very different. I think we have an opportunity to work out a compromise, just as we did on financial services modernization. Senator SARBANES opposed it when we dealt with it on the floor of the Senate, but by the time we came back from conference, we got 90 votes. My guess is, we will do as well or better on this bill after going to conference.

So I think we have taken a major step toward moving on. I think it is

important. I think the American people want this bill passed. If we were willing to move up the cloture vote, which I am willing to do, we could pass it this week. If not, we will pass it next week.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, would the distinguished senior Senator from Maryland yield me, say, 5 minutes?

Mr. SARBANES. Would the Senator mind if I made a very short statement?

Mr. LEAHY. I would be delighted if the distinguished chairman did.

Mr. SARBANES. Mr. President, I rise to commend the distinguished Senator from Vermont for the excellent work that he and the Committee on the Judiciary did with respect to the amendment that is now pending at the desk.

This amendment will create tough new penalties to punish corporate fraud. It has very important provisions to protect corporate whistleblowers. Previously, they have been acting under wire and mail fraud provisions. And those are not adequate to deal with securities fraud. The committee recognized that and dealt directly with that question.

The President is talking about doubling the penalties for wire and mail fraud, as I understand it, but did not have a proposal to actually have a securities fraud offense. And that is very important because it would have been very difficult under those other statutes because they are not directly focused on securities fraud.

I think the committee has stepped into what was clearly a vacuum and has filled it in an exceedingly effective and craftsmanlike way.

There are also important provisions in this amendment to prohibit individuals from destroying documents or falsifying records with the intent to obstruct or influence a Federal investigation or a matter in bankruptcy. That is also very important. We have some provisions of that sort but, once again, they are not fully developed or fully focused. The committee, again, has applied itself in order to do that and obviously made a very substantial contribution in that regard.

I also want to touch, very briefly, on the provisions for whistleblower protection for employees of public companies. The legislation, as reported out of the Banking Committee, requires audit committees to have in place procedures to receive and address complaints regarding accounting and internal control or auditing issues and to establish procedures for employees' anonymous submissions of concerns regarding accounting or auditing matters. That was a provision championed by Senator STABENOW. We were very pleased to adopt it.

But Senator LEAHY and his colleagues on the Judiciary Committee have moved ahead to provide additional protections and remedies for

corporate whistleblowers that I think will help to ensure that employees will not be punished for taking steps to prevent corporate malfeasance.

There are a number of other very important provisions in this legislation of which I am very strongly supportive, but I, in deference to the limitation on time, will withhold with respect to those.

But, again, I thank the able chairman of the Judiciary Committee and his colleagues for this very important contribution to the legislation we are trying to develop.

Let me simply say it is a pleasure, once again, as we did back in the fall when we did money laundering, to be able to work closely with the committee in furthering the public interest.

I yield the remainder of my time to the Senator from Vermont.

The PRESIDING OFFICER. Thirteen minutes remain for the majority. The Senator from Vermont.

Mr. LEAHY. I thank the distinguished Senator from Maryland. I appreciate his comments also about last fall after the tragedies of September 11. He and I and our committees worked closely on the terrorism legislation. Realizing it was more than simply having a penalty against terrorism, we had to have the tools against terrorism, and the distinguished senior Senator from Maryland was very helpful in putting together the money-laundering legislation so we could come out with a counterterrorism package on which the Senate could vote for 99-1.

That is what we are trying to do today. I am a proud cosponsor of Senator SARBANES' legislation before the body. After years of experience in this body, I know how helpful it is if you have bills where the jurisdiction of various aspects may be in different committees. And considering having turf battles, when you work together, as we have in the Banking and Judiciary Committees, and others worked, you usually end up with a better package for the Senate.

The final product becomes better and more complete because of our joint work. Having served here for a quarter of a century with the Senator from Maryland, I know such things can be done.

With the members of his committee, he has had to craft a very complex, worthwhile bill on the issue of how do you account, how do you keep records, of all the various things to come under the SEC, to come under the jurisdiction of his committee.

What I am concerned about, from the Judiciary Committee, is, if you get these people, you get them; that if you have somebody who has gone and spent all their efforts to defraud their own company and the pension holders in their company and the investors in their company, that they not walk off

scot-free with their mansions in protected States and their offshore money.

When you look at what has happened, when you look at the out-and-out fraud of some of these executives as they have ruined their own company, actually damaged their own country as well, at the same time lining their pockets as if anybody could even have pockets as huge as the amounts of money they have put in, and they walk away scot-free and they say: This is such a tragedy. I hate to see my company collapse like that and tens of thousands of people out of work and all those pensioners gone and all those States defrauded. And I am just going to have to comfort myself for the rest of my life with my \$100 or \$200 or \$300 million I have absconded with.

Their comfort might be a little bit less if they find that those same pension holders and stockholders have the ability to go after the money they are walking away with, and their comfort might be a little bit less if instead of a very large mansion they are in a 12-by-12 cell behind steel doors. Instead of a complacent board of directors, they may have to be dealing with their fellow inmates who may not take very kindly to them.

Why do we have to have that kind of a tough law, and why do we have to have the statute of limitations? Just take a look at this chart. This is what Enron did. Does this look like a company that wants to be transparent in their dealings? Does this look like a company that wants to be on the up and up? These are their off-the-book transactions, hidden debt, fake profits, inflated stock.

What were some of the companies they were hiding this behind? Here is one named Ponderosa. If you look at that, you do not know it belongs to Enron. Or Jedi Capital or Big Doe—that is not D-O-U-G-H—or Sundance or Little River or Yosemite or OB-1 Holdings or Peregrine or Kenobe. I guess Kenobe is a different company than OB-1. And we have Braveheart and Mojave and Chewco and Condor. It seems the only time they had free between trying to hide the money was going to movies, when you look at some of the secret partnerships they created here, Jedi II, OB-1, Kenobe.

My point is, do you think if anybody stumbled across one of these companies they would think for even 1 minute that it belonged to Enron? Of course not. If you were the person who was to protect the pension rights of the employees, do you think if you found Osprey or Zenith or Egret or Cactus or Big River or Raptor you would think the money that was being tucked away and hidden in there could actually belong to the employees of Enron?

But Kenneth Lay comes up here, sidles up to the table where he is going to be called to testify and says: I wish you could know the whole story, but not from me. I am taking the fifth.

Well, he has that constitutional right. But he doesn't have a constitutional right to steal and defraud, and other people like him don't have the constitutional right to steal and defraud and hide the money.

This isn't a question of whether they walk away with only \$100 million instead of \$200 million. It is a question of a middle-age couple reaching retirement time and having virtually all their retirement save Social Security tied up in a pension fund such as this and seeing it wiped out that day. They are not facing a question of whether they will have \$200 million or \$100 million. They are going to face the question of whether they can even keep their home, whether they will have the money to visit their grandchildren, or have the money to take care of their medical needs in their old age. That is what we are talking about. Or the people who work so hard, show up for work every single day, help make the fortune for the Ken Lays of the world, but they suddenly find they can't make the mortgage payment, they can't make the car payment, they can't pay for their children's braces. They can't do any of these other things because the big guys have walked off with all the money.

That is why I wrote the legislation I did. I wrote legislation that is going to punish criminals. I wrote legislation that will preserve the evidence of fraud and protect victims.

As one who has prosecuted people, I know nothing focuses their attention more than knowing they will not go to jail. Suddenly that overlooked ethics course when they were getting their MBA, or that overlooked ethics course in the accounting school or law school, they are going to start looking at it again. If they think, because they can walk away from this, they will go to jail, they are going to go to jail. It is not going to be a complacent board of directors they will deal with. It will be a criminal in the cell next door. That is what they have to worry about.

These people deserve to go to jail. They have ruined the lives of thousands of people, good people, hard-working people, honest people. They have destroyed much of the confidence in Wall Street. They have destroyed the confidence in people who should be investing.

I am proud to be an American and proud to be in a country such as ours where you can invest, where people can grow companies, where they can make money if they do the right thing. But I am not proud of these kinds of people who destroy that sort of American dream.

The President says he is outraged. I suspect he is. But I am also outraged. I would hope the President's outrage will go to the point of supporting this kind of legislation, this kind of legislation which doesn't just say it is wrong for

you to do that, but if you do it, you are going to go to jail. Those iron bars are going to close.

We have worked hard on this legislation. That is why I compliment the distinguished senior Senator from Maryland. He and the members of his committee worked very hard. The people of my staff, including Ed Pagano, Steve Dettelbach, Jessica Berry, and Bruce Cohen worked so hard. They brought in people from across the political spectrum, Republicans and Democrats alike, to join us. I think all of those who joined it joined in one basic thing. They set aside their philosophical or partisan differences. They set aside their feelings of party and said they were overwhelmed with feelings of outrage.

Even in my own little State of Vermont, pension funds were damaged because of the excesses of Enron. And then we see WorldCom and Tyco and Xerox, and we say we had better look back 5 years.

That is not the American way. That is the way of some of the most arrogant, self-centered, spoiled criminals. That is what they are; they are criminals. They cooked the books in California during an energy crisis, so millions of people in California paid more for their electricity. Their arrogance was such that they did not care because all of those offshore corporations were hiding the money. Lord knows how much money is still there. You are not going to find out from these executives because they will take the fifth. They have the constitutional right to do that, and I will defend that right, as I will the rights of everybody else. But let us not shed tears for them. Just as Democrats and Republicans will join in voting for this, I call on the President and the Attorney General to step forward and say they support it. And I call on our Justice Department to go forward and find some of these people not just to say maybe we will find a corporation guilty of a crime; let's send some of these people to jail for what they have done. Let's send them to jail, and let's do everything we can to let the people defrauded by them recover some of their ill-gotten gains.

I see the Senator from Michigan has taken over the chair. Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LEAHY. I note that the Senator from Michigan is a cosponsor of this amendment.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Madam President, I think all time has expired on the majority side. I think I have about 13 minutes. I have said all I intended to say. I think we have cleared the way for this bill to be passed. I want to reiterate that when cloture is filed in a few

minutes, I will be supportive of having that cloture vote earlier than Friday, which would be the normal time it would ripen. Maybe others would not be supportive of having the vote, and they are perfectly within their rights. I think the agreement we worked out has guaranteed we are going to pass this bill either this week or very early next week.

The net result is that we can go to conference with the House, and we will have an opportunity, I believe, to come back with a strong bipartisan bill. I have to say that I think we have sort of reached the point where a lot of debate on this issue is more about the next election than it is about corporate integrity. I wonder if the debate has not reached the point where we are hurting equity values by making people fear not only the disease, but the absurd prescription of the doctor that might come from the Government.

I think the sooner we can finish this bill and go to conference and come out with a final product so that people know with certainty what the new rules are and how we are going to go about them, everybody will benefit. I think the only thing that will be lost by invoking cloture is that we will have fewer speeches, we will have fewer opportunities to denounce evil, however we define it, and we will be less likely to get on the 6 o'clock news; but we will also be less likely to spook the markets and more likely to get our job done; we will be more likely to produce a good bill we can all be proud of, not just when we read the editorial in the Washington Post, but when we submit it all to the front-porch-of-the-nursing-home test, as to how we feel about it someday when we are sitting on the front porch of the nursing home.

Mr. HARKIN. Mr. President, our economic system is based on transparency. Investors need accurate financial information about a company so that they can make informed investment decisions. They need information they can trust. Getting honest information requires accountability and honesty from three entities: corporate executives, stock brokers, and public auditors. Clearly, we are seeing breakdowns, if not outright criminality, at all three levels. And it requires additional accountability at all three levels in order to restore investor confidence.

First, we must expect that corporations present an honest portrait of the companies economic health and well-being. Corporate executives who cooks the books are no different than used car salesmen who roll back the car odometers, both are engaged in a fraud. They must be held accountable for their actions and severely punished.

Second, we must expect brokers provide their investors with honest, accurate, and unbiased advice. I stress unbiased. Unfortunately, many brokerage firms have a conflict of interest be-

cause they bring in businesses and increase their own profits by pushing bad stocks. One recent report indicated that 94 percent of Wall Street firms continued to recommend stocks for companies that went bankrupt this year up to the very day that companies filed for Chapter 11.

Third, we have to expect that public accounting firms are acting as watchdogs over corporate financial statements. Yet many of the auditing firms, not just Arthur Andersen, have had major failures.

Accounting firms gave a clean bill of health to over 93 percent of publicly traded companies that were subsequently involved in accounting problems within the year. And 42 percent of publicly traded companies that filed for bankruptcy were given a clean bill of health. Clearly, we need fundamental reform at all three levels to restore investor confidence and punish criminal behavior. Some say may say that Enron, Worldcom and the others are a few bad apples. That ignores the much wider, systemic problems that now plague corporate America.

Advocating half measures or saying that we do not need to strengthen the law is like saying that bank robbery should not be severely punished and banks should not have vaults because most people do not rob banks. Well, some people do rob banks. And some corporate executives rip off investors. But they are both criminals and both should be punished accordingly.

I commend Chairman SARBANES for his accounting reform bill, S. 2673, which is an excellent start at providing for stronger rules regarding accounting procedures. I am also pleased to be an original cosponsor of Senator LEAHY's "Corporate and Criminal Fraud Accountability Act," that is now being offered as an amendment. Will some key executives go to jail if this amendment passes? If they are guilty of fraud or destroying evidence of wrong doing, I certainly hope so.

First, the amendment creates a new crime for security fraud and helps prosecutors punish corporate criminality. This amendment is a lot like the "Go to Jail" card in the board game "Monopoly." It says to corporate criminals "go to jail, do not pass go and do not collect \$200." The amendment also increases penalties for obstruction of justice. The people who would shred documents to cover up criminal behavior are not better than the "wheel man" in a robbery. They may not have pulled the robbery, but the crook cannot get away without them. This amendment would make sure the shredders are held accountable as well.

Incidentally, the amendment also lengthens the statute of limitations on these crimes and protects corporate whistleblowers. Corporate criminals should not be allowed to run out the clock and avoid prosecution. And workers who discover corporate fraud

should be protected just as we protect government whistleblowers. I believe this amendment will go a long way toward preventing corporate crime and prosecuting those who would rip off their stock holders and employees. Restoring confidence and punishing criminal behavior is in everyone's best interest—honest corporate executives, their employees, investors, and the public at large. I urge adoption of the amendment and look forward to seeing it become law.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SARBANES. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. STABENOW). Without objection, it is so ordered.

Under the previous order, the question is on agreeing to amendment No. 4185. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Ohio (Mr. VOINOVICH), and the Senator from Idaho (Mr. CRAPO), are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 169 Leg.]

YEAS—97

Akaka	Durbin	McCain
Allard	Edwards	McConnell
Allen	Ensign	Mikulski
Baucus	Enzi	Miller
Bayh	Feingold	Murkowski
Bennett	Feinstein	Murray
Biden	Fitzgerald	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Graham	Nickles
Boxer	Graham	Reed
Breaux	Gregg	Reid
Brownback	Hagel	Roberts
Bunning	Harkin	Rockefeller
Burns	Hatch	Santorum
Byrd	Hollings	Sarbanes
Campbell	Hutchinson	Schumer
Cantwell	Hutchison	Sessions
Carnahan	Inhofe	Shelby
Carper	Inouye	Smith (NH)
Chafee	Jeffords	Smith (OR)
Cleland	Johnson	Snowe
Clinton	Kennedy	Specter
Cochran	Kerry	Stabenow
Collins	Kohl	Stevens
Conrad	Kyl	Thomas
Corzine	Landrieu	Thompson
Craig	Leahy	Thurmond
Daschle	Levin	Torricelli
Dayton	Lieberman	Warner
DeWine	Lincoln	Wellstone
Dodd	Lott	Wyden
Domenici	Lugar	
Dorgan		

NOT VOTING—3

Crapo	Helms	Voinovich
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The amendment (No. 4185) was agreed to.

Mr. DASCHLE. Madam President, I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4186

Mr. DASCHLE. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for Mr. BIDEN and Mr. HATCH, proposes an amendment numbered 4186.

Mr. DASCHLE. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase criminal penalties relating to conspiracy, mail fraud, wire fraud, and certain ERISA violations, and for other purposes)

At the end, add the following:

TITLE VIII—WHITE-COLLAR CRIME PENALTY ENHANCEMENTS

SEC. 801 SHORT TITLE.

This title may be cited as the "White-Collar Crime Penalty Enhancement Act of 2002".

SEC. 802. CRIMINAL PENALTIES FOR CONSPIRACY TO COMMIT OFFENSE OR TO DEFRAUD THE UNITED STATES.

Section 371 of title 18, United States Code, is amended by striking "If two or more" and all that follows through "If, however," and inserting the following:

"(a) IN GENERAL.—If 2 or more persons—

"(1) conspire to commit any offense against the United States, in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined or imprisoned, or both, as set forth in the specific substantive offense which was the object of the conspiracy; or

"(2) conspire to defraud the United States, or any agency thereof in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined under this title, or imprisoned not more than 10 years, or both.

"(b) MISDEMEANOR OFFENSE.—If, however,"

SEC. 803. CRIMINAL PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 of title 18, United States Code, is amended by striking "five years" and inserting "10 years".

(b) WIRE FRAUD.—Section 1343 of title 18, United States Code, is amended by striking "five years" and inserting "10 years".

SEC. 804. CRIMINAL PENALTIES FOR VIOLATIONS OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by striking "\$5,000" and inserting "\$100,000";

(2) by striking "one year" and inserting "10 years"; and

(3) by striking "\$100,000" and inserting "\$500,000".

SEC. 805. AMENDMENT TO SENTENCING GUIDELINES RELATING TO CERTAIN WHITE-COLLAR OFFENSES.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this title.

(b) REQUIREMENTS.—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses and the penalties set forth in this title, the growing incidence of serious fraud offenses which are identified above, and the need to modify the sentencing guidelines and policy statements to deter, prevent, and punish such offenses;

(2) consider the extent to which the guidelines and policy statements adequately address—

(A) whether the guideline offense levels and enhancements for violations of the sections amended by this title are sufficient to deter and punish such offenses, and specifically, are adequate in view of the statutory increases in penalties contained in this title; and

(B) whether a specific offense characteristic should be added in United States Sentencing Guideline section 2B1.1 in order to provide for stronger penalties for fraud when the crime is committed by a corporate officer or director;

(3) assure reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 806. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1348. Failure of corporate officers to certify financial reports

"(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chairman of the board, chief executive officer, and chief financial officer (or equivalent thereof) of the issuer.

"(b) CONTENT.—The statement required under subsection (a) shall certify the appropriateness of the financial statements and disclosures contained in the periodic report or financial report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer.

"(c) CRIMINAL PENALTIES.—Notwithstanding any other provision of law—

"(1) any person who recklessly violates any provision of this section shall upon conviction be fined not more than \$500,000, or imprisoned not more than 5 years, or both; or

"(2) any person who willfully violates any provision of this section shall upon conviction be fined not more than \$1,000,000, or imprisoned not more than 10 years, or both."

(b) TECHNICAL AND CONFORMING AMENDMENT.—The section analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1348. Failure of corporate officers to certify financial reports."

Mr. DASCHLE. Madam President, I know there are a number of Senators who wish to be recognized to offer amendments. I think Senator LOTT would like very much to offer an amendment as well. What I would like to do is to propound a unanimous consent request involving a number of Senators who have amendments to be offered so they will know the sequence. I know Senator EDWARDS has been waiting a long time to offer an amendment, as well as Senator LEVIN, Senator SCHUMER, Senator GRAMM, and Senator MCCAIN. Perhaps in the next couple of minutes we can put together a unanimous consent request which will sequence these amendments so Senators will know they are protected and have the opportunity to then have their amendments called up. I ask that all of our colleagues work with us over the course of the next few minutes.

I yield the floor to accommodate Senator LOTT's interest in offering his amendment. We will lay aside the Biden amendment temporarily as that amendment is considered as well.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Madam President, first, I thank Senators SARBANES, GRAMM, and LEAHY for the work they have put into moving through the amendment on which we just voted. That allows us to move on to other germane or important amendments that will be offered.

AMENDMENT NO. 4188

Madam President, I understand the Biden amendment will be set aside. So I send to the desk my amendment.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside, and the clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 4188.

Mr. LOTT. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To deter fraud and abuse by corporate executives)

At the appropriate place, insert the following:

SEC. . HIGHER MAXIMUM PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 is amended by striking "five" and inserting "ten".

(b) WIRE FRAUD.—Section 1343 is amended by striking "five" and inserting "ten".

SEC. . TAMPERING WITH A RECORD OR OTHERWISE IMPEDING AN OFFICIAL PROCEEDING.

Section 1512 of title 18, United States Code is amended—

(a) by re-designating subsections (c), (d), (e), (f), (g), (h), and (i) as subsections (d), (e), (f), (g), (h), (i) and (j);

(b) by inserting after subsection (b) the following new subsection:

"(c) Whoever corruptly—

"(1) alters, destroys, mutilates or conceals a record, document or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or

"(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so;

"shall be fined under this title or imprisoned not more than ten years, or both."

SEC. . TEMPORARY FREEZE AUTHORITY FOR THE SECURITIES AND EXCHANGE COMMISSION.

(a) IN GENERAL.—The Securities Exchange Act of 1934 is amended by inserting after section 21C(c)(2) (15 U.S.C. 78u-3(c)(2)) the following:

"(3) TEMPORARY FREEZE.—

"(A) Whenever during the course of a lawful investigation involving possible violations of the federal securities laws by an issuer of publicly traded securities or any of its directors, officers, partners, controlling persons, agents or employees, it shall appear to the Commission that it is likely that the issuer will make extraordinary payments (whether compensation or otherwise) to any of the foregoing persons, the Commission may petition a federal district court for a temporary order requiring the issuer to es-crow, subject to court supervision, those payments in an interest-bearing account for 45 days. Such an order shall be entered, if the court finds that the issuer is likely to make such extraordinary payments, only after notice and opportunity for a hearing, unless the court determines that notice and hearing prior to entry of the order would be impracticable or contrary to the public interest. A temporary order shall become effective immediately and shall be served upon the parties subject to it and, unless set aside, limited or suspended by court of competent jurisdiction, shall remain effective and enforceable for 45 days. The period of the order may be extended by the court upon good cause shown for not longer than 45 days, provided that the combined period of the order not exceed 90 days.

"(B) If the individual affected by such order is charged with violations of the federal securities laws by the expiration of the 45 days (or the expiration of any extended period), the escrow would continue, subject to court approval, until the conclusion of any legal proceedings. The issuer and the affected director, officer, partner, controlling person, agent or employee would have the right to petition the court for review of the order. If the individual affected by such order is not charged, the escrow will terminate at the expiration of the 45 days (or the expiration of any extended period), and the payments (with accrued interest) returned to the issuer.

(b) TECHNICAL AMENDMENT.—Section 21C(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3(c)(2)) is amended by striking "This" and inserting "Paragraph (1) of this".

SEC. . AMENDMENT TO THE FEDERAL SENTENCING GUIDELINES.

(a) REQUEST FOR IMMEDIATE CONSIDERATION BY THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission is requested to—

(1) promptly review the sentencing guidelines applicable to securities and accounting fraud and related offenses;

(2) expeditiously consider promulgation of new sentencing guidelines or amendments to existing sentencing guidelines to provide an enhancement for officers or directors of publicly traded corporations who commit fraud and related offenses; and

(3) submit to Congress an explanation of actions taken by the Commission pursuant to paragraph (2) and any additional policy recommendations the Commission may have for combating offenses described in paragraph (1).

(b) OTHER.—In carrying out this section, the Sentencing Commission is requested to:

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of securities, pension, and accounting fraud and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) assure reasonable consistency with other relevant directives and with other guidelines;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements;

(4) make any necessary conforming changes to the sentencing guidelines; and

(5) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.—The Commission is requested to promulgate the guidelines or amendments provided for under this section as soon as practicable, and in any event not later than the 120 days after the date of the enactment of this Act, in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not yet expired.

SEC. . AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.

(a) In section 21C of the Exchange Act of 1934, add at the end a new subsection as follows:

"() AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b) of this title or the rules or regulations thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to section 15(d) of this title if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer."

(b) In section 8A of the Securities Act add at the end a new subsection as follows:

"() AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) of this title from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934

or that is required to file reports pursuant to section 15(d) of that Act if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer."

AMENDMENT NO. 4189 TO AMENDMENT NO. 4188

Mr. GRAMM. Madam President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 4189 to amendment No. 4188.

Mr. GRAMM. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To deter fraud and abuse by corporate executives)

Strike all after the first word, and insert the following:

HIGHER MAXIMUM PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 is amended by striking "five" and inserting "ten".

(b) WIRE FRAUD.—Section 1343 is amended by striking "five" and inserting "ten".

SEC. . TAMPERING WITH A RECORD OR OTHERWISE IMPEDING AN OFFICIAL PROCEEDING.

Section 1512 of title 18, United States Code is amended—

(a) by re-designating subsections (c), (d), (e), (f), (g), (h), and (i) as subsections (d), (e), (f), (g), (h), (i) and (j);

(b) by inserting after subsection (b) the following new subsection:

"(c) Whoever corruptly—

"(1) alters, destroys, mutilates or conceals a record, document or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or

"(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so;

"shall be fined under this title or imprisoned not more than ten years, or both."

SEC. . TEMPORARY FREEZE AUTHORITY FOR THE SECURITIES AND EXCHANGE COMMISSION.

(a) IN GENERAL.—The Securities Exchange Act of 1934 is amended by inserting after section 21C(c)(2) (15 U.S.C. 78u-3(c)(2)) the following:

"(3) TEMPORARY FREEZE.—

"(A) Whenever during the course of a lawful investigation involving possible violations of the federal securities laws by an issuer of publicly traded securities or any of its directors, officers, partners, controlling persons, agents or employees, it shall appear to the Commission that it is likely that the issuer will make extraordinary payments (whether compensation or otherwise) to any of the foregoing persons, the Commission may petition a federal district court for a temporary order requiring the issuer to escrow, subject to court supervision, those payments in an interest-bearing account for 45 days. Such an order shall be entered, if the court finds that the issuer is likely to make such extraordinary payments, only after notice and opportunity for a hearing, unless the court determines that notice and hearing prior to entry of the order would be impracticable or contrary to the public interest. A temporary order shall become effective im-

mediately and shall be served upon the parties subject to it and, unless set aside, limited or suspended by court of competent jurisdiction, shall remain effective and enforceable for 45 days. The period of the order may be extended by the court upon good cause shown for not longer than 45 days, provided that the combined period of the order not exceed 90 days.

"(B) If the individual affected by such order is charged with violations of the federal securities laws by the expiration of the 45 days (or the expiration of any extended period), the escrow would continue, subject to court approval, until the conclusion of any legal proceedings. The issuer and the affected director, officer, partner, controlling person, agent or employee would have the right to petition the court for review of the order. If the individual affected by such order is not charged, the escrow will terminate at the expiration of the 46 days (or the expiration of any extended period), and the payments (with accrued interest) returned to the issuer.

(b) TECHNICAL AMENDMENT.—Section 21C(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3(c)(2)) is amended by striking "This" and inserting "Paragraph (1) of this".

SEC. . AMENDMENT TO THE FEDERAL SENTENCING GUIDELINES.

(a) REQUEST FOR IMMEDIATE CONSIDERATION BY THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission is requested to—

(1) promptly review the sentencing guidelines applicable to securities and accounting fraud and related offenses;

(2) expeditiously consider promulgation of new sentencing guidelines or amendments to existing sentencing guidelines to provide an enhancement for officers or directors of publicly traded corporations who commit fraud and related offenses; and

(3) submit to Congress an explanation of actions taken by the Commission pursuant to paragraph (2) and any additional policy recommendations the Commission may have for combating offenses described in paragraph (1).

(b) OTHER.—In carrying out this section, the Sentencing Commission is requested to:

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of securities, pension, and accounting fraud and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) assure reasonable consistency with other relevant directives and with other guidelines;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements;

(4) make any necessary conforming changes to the sentencing guidelines; and

(5) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.—The Commission is requested to promulgate the guidelines or amendments provided for under this section as soon as practicable, and in any event not later than the 120 days after the date of the enactment of this Act, in accordance with the procedures set forth in section 21(a) of

the Sentencing Reform Act of 1987, as though the authority under that Act had not yet expired.

SEC. . AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.

(a) In section 21C of the Exchange Act of 1934, add at the end a new subsection as follows:

"() AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b) of this title or the rules or regulations thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to section 15(d) of this title if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer."

(b) In section 8A of the Securities Act add at the end a new subsection as follows:

"() AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) of this title from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to section 15(d) of that Act if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer."

Mr. DASCHLE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4186, AS MODIFIED

Mr. DASCHLE. Madam President, I think we are working through the number of procedural issues with which we have to deal. I want to make sure we are in a position to be able to complete that work. So I call for the regular order.

The PRESIDING OFFICER. Amendment No. 4186 is pending.

Mr. DASCHLE. I modify the original amendment that I offered with the changes that are at the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 117 in line 12 strike "Act" and insert the following: Act.

TITLE VIII—WHITE-COLLAR CRIME PENALTY ENHANCEMENTS

SEC. 801 SHORT TITLE.

This title may be cited as the "White-Collar Crime Penalty Enhancement Act of 2002".

SEC. 802. CRIMINAL PENALTIES FOR CONSPIRACY TO COMMIT OFFENSE OR TO DEFRAUD THE UNITED STATES.

Section 371 of title 18, United States Code, is amended by striking "If two or more" and all that follows through "If, however," and inserting the following:

"(a) IN GENERAL.—If 2 or more persons—
 "(1) conspire to commit any offense against the United States, in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined or imprisoned, or both, as set forth in the specific substantive offense which was the object of the conspiracy; or

"(2) conspire to defraud the United States, or any agency thereof in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined under this title, or imprisoned not more than 10 years, or both.

"(b) MISDEMEANOR OFFENSE.—If, however,".

SEC. 803. CRIMINAL PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 of title 18, United States Code, is amended by striking "five years" and inserting "10 years".

(b) WIRE FRAUD.—Section 1343 of title 18, United States Code, is amended by striking "five years" and inserting "10 years".

SEC. 804. CRIMINAL PENALTIES FOR VIOLATIONS OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by striking "\$5,000" and inserting "\$100,000";

(2) by striking "one year" and inserting "10 years"; and

(3) by striking "\$100,000" and inserting "\$500,000".

SEC. 805. AMENDMENT TO SENTENCING GUIDELINES RELATING TO CERTAIN WHITE-COLLAR OFFENSES.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this title.

(b) REQUIREMENTS.—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses and the penalties set forth in this title, the growing incidence of serious fraud offenses which are identified above, and the need to modify the sentencing guidelines and policy statements to deter, prevent, and punish such offenses;

(2) consider the extent to which the guidelines and policy statements adequately address—

(A) whether the guideline offense levels and enhancements for violations of the sections amended by this title are sufficient to deter and punish such offenses, and specifically, are adequate in view of the statutory increases in penalties contained in this title; and

(B) whether a specific offense characteristic should be added in United States Sentencing Guideline section 2B1.1 in order to provide for stronger penalties for fraud when the crime is committed by a corporate officer or director;

(3) assure reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 806. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1348. Failure of corporate officers to certify financial reports

"(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chairman of the board, chief executive officer, and chief financial officer (or equivalent thereof) of the issuer.

"(b) CONTENT.—The statement required under subsection (a) shall certify the appropriateness of the financial statements and disclosures contained in the periodic report or financial report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer.

"(c) CRIMINAL PENALTIES.—Notwithstanding any other provision of law—

"(1) any person who recklessly violates any provision of this section shall upon conviction be fined not more than \$500,000, or imprisoned not more than 5 years, or both; or

"(2) any person who willfully violates any provision of this section shall upon conviction be fined not more than \$1,000,000, or imprisoned not more than 10 years, or both."

(b) TECHNICAL AND CONFORMING AMENDMENT.—The section analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1348. Failure of corporate officers to certify financial reports."

Mr. DASCHLE. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4190 TO AMENDMENT NO. 4186, AS MODIFIED

Mr. DASCHLE. Madam President, I send up an amendment in the second degree.

What we have done now is to assure that both the Biden amendment and the Lott amendment will have an opportunity to be considered and debated. I am hoping we might even be able to continue to work to see if we can have one vote rather than two.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for Mr. BIDEN, proposes an amendment numbered 4190 to amendment No. 4186, as modified.

The amendment is as follows:

(Purpose: To increase criminal penalties relating to conspiracy, mail fraud, wire fraud, and certain ERISA violations, and for other purposes)

Strike all after the first word and insert the following:

**TITLE VIII—WHITE-COLLAR CRIME
PENALTY ENHANCEMENTS****SEC. 801 SHORT TITLE.**

This title may be cited as the "White-Collar Crime Penalty Enhancement Act of 2002".

SEC. 802. CRIMINAL PENALTIES FOR CONSPIRACY TO COMMIT OFFENSE OR TO DEFRAUD THE UNITED STATES.

Section 371 of title 18, United States Code, is amended by striking "If two or more" and all that follows through "If, however," and inserting the following:

"(a) IN GENERAL.—If 2 or more persons—
 "(1) conspire to commit any offense against the United States, in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined or imprisoned, or both, as set forth in the specific substantive offense which was the object of the conspiracy; or

"(2) conspire to defraud the United States, or any agency thereof in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined under this title, or imprisoned not more than 10 years, or both.

"(b) MISDEMEANOR OFFENSE.—If, however,".

SEC. 803. CRIMINAL PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 of title 18, United States Code, is amended by striking "five years" and inserting "10 years".

(b) WIRE FRAUD.—Section 1343 of title 18, United States Code, is amended by striking "five years" and inserting "10 years".

SEC. 804. CRIMINAL PENALTIES FOR VIOLATIONS OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by striking "\$5,000" and inserting "\$100,000";

(2) by striking "one year" and inserting "10 years"; and

(3) by striking "\$100,000" and inserting "\$500,000".

SEC. 805. AMENDMENT TO SENTENCING GUIDELINES RELATING TO CERTAIN WHITE-COLLAR OFFENSES.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this title.

(b) REQUIREMENTS.—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses and the penalties set forth in this title, the growing incidence of serious fraud offenses which are identified above, and the need to modify the sentencing guidelines and policy statements to deter, prevent, and punish such offenses;

(2) consider the extent to which the guidelines and policy statements adequately address—

(A) whether the guideline offense levels and enhancements for violations of the sections amended by this title are sufficient to

deter and punish such offenses, and specifically, are adequate in view of the statutory increases in penalties contained in this title; and

(B) whether a specific offense characteristic should be added in United States Sentencing Guideline section 2B1.1 in order to provide for stronger penalties for fraud when the crime is committed by a corporate officer or director;

(3) assure reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 806. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

“§ 1348. Failure of corporate officers to certify financial reports

“(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chairman of the board, chief executive officer, and chief financial officer (or equivalent thereof) of the issuer.

“(b) CONTENT.—The statement required under subsection (a) shall certify the appropriateness of the financial statements and disclosures contained in the periodic report or financial report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer.

“(c) CRIMINAL PENALTIES.—Notwithstanding any other provision of law—

“(1) any person who recklessly violates any provision of this section shall upon conviction be fined not more than \$500,000, or imprisoned not more than 5 years, or both; or

“(2) any person who willfully violates any provision of this section shall upon conviction be fined not more than \$1,000,000, or imprisoned not more than 10 years, or both.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The section analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

“1348. Failure of corporate officers to certify financial reports.”.

This section shall take effect one day after date of this bill's enactment.

Mr. DASCHLE. Madam President, I yield the floor. It is my understanding Senator BIDEN and Senator LOTT would both like to address their amendments. I yield for that purpose now.

The PRESIDING OFFICER. The Republican leader.

AMENDMENT NO. 4188

Mr. LOTT. Madam President, if I could describe my amendment briefly. I understand Senator BIDEN is prepared to do the same thing.

First, I should note, in at least one area they overlap in what they propose. In some other areas, there are

some differences. But I don't see there are major problems.

Senator BIDEN's amendment, as I understand it, just from looking at it quickly, would increase penalties in some areas that are not included in my amendment. What this amendment would do, though, is increase penalties for corporate fraud.

Section 1 would increase maximum sentences for fraud. Mail fraud and wire fraud statutes are often used in criminal cases involving corporate wrongdoing. So obviously this is an area that is of concern and needs to be addressed. This section proposes doubling the maximum prison term for these crimes from 5 years to 10 years by amending 18 U.S.C. sections 1341 and 1343.

The second section would enact stronger laws against document shredding. Current law prohibits obstruction of justice by a defendant acting alone, but only if a proceeding is pending and a subpoena has been issued for the evidence that has been destroyed or altered. Timing is very important.

Most people understand that shredding documents is a very bad thing to do. Obviously, you cannot do it if there is something pending or if there is a subpoena. But as was the case recently, they knew that an investigation was underway and a subpoena was likely, and the shredding of documents went forward.

So this section would allow the Government to charge obstruction against individuals who acted alone, even if the tampering took place prior to the issuance of a grand jury subpoena. I think this is something we need to make clear so we do not have a repeat of what we saw with the Enron matter earlier this year.

Section 3 freezes payments of potential wrongdoers. This section would allow the SEC, during an investigation, to seek an order in Federal court imposing a 45-day freeze on extraordinary payments to corporate executives.

Again, this year we have seen just that sort of thing happening. While an investigation is underway, basically rewards were given to these corporate executives. While it would require a court order, there would be this 45-day freeze.

The targeted payments would be placed in escrow, ensuring that corporate assets are not improperly taken from an executive's personal benefit.

If an executive is charged with violations of Federal securities laws prior to the expiration of the court order, the escrow would continue until the conclusion of legal proceedings, again, with court approval.

Section 4 involves sentencing guideline enhancements for crimes committed by corporate officers and directors. This section would implement President Bush's call on the Sentencing Commission to quickly adopt the new “aggravating factor” to pro-

vide stronger penalties for fraud when the crime is committed by a corporate officer or director. This “aggravating factor” is a term of art used in the law. It would provide, under this section, stronger penalties for such fraud.

Section 5 would bar corporate officers and directors who engage in serious misconduct. Under current law, only a Federal court can issue an order prohibiting a person from acting as an officer or director of a public company.

The SEC cannot order this remedy in its own administrative cease-and-desist proceedings, even in a case of securities fraud where the person's conduct would otherwise meet the standards for imposing such a bar. This section would grant the SEC the authority to issue such orders if a person had committed securities law violation and his or her conduct demonstrated unfitness to serve as an officer or a director.

These points are all points that were made by the President, asking that legislation be provided to provide for these additional increases and strengthening of the law. We have found clearly that in recent events there has been improper conduct. There have been questionable accounting procedures, and there has probably been some illegal conduct. So you can put all the laws in the world on the books, but if people act in bad faith, violate the law, you can never legislate morality.

We have also seen that there are some cases where the law had some loopholes or where it was not timely or where it was not strong enough. One example, of course, is where there has been shredding. Another example is the very bad image of corporate executives taking increased payments, extraordinary payments, while they are being investigated. You can't have that sort of thing.

I think these are basic things that should be added to this bill. It would strengthen the bill. I have checked with a number of Senators on both sides of the aisle. There is general support for this legislation.

I thank Senator BIDEN for allowing me to make this brief statement about the amendment. Again, I emphasize that there are some similarities between this amendment and his amendment, but he does add additional penalties beyond what is in this proposal. But I did want to put into the bill what the President specifically recommended.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Delaware.

Mr. BIDEN. Mr. President, this amendment is from Senator HATCH and me. He had as much input in this as I had. Let me respond in the spirit in which I was asked to do this and explain what the Biden-Hatch amendment does and then yield to my colleague to make any additional statements.

Based on what Senator LOTT has just pointed out, he has indicated that there are four basic sections to his amendment. On the first one, doubling the penalties for title 18, sections 1341 and 1343, that is exactly the same provision that is in the Biden-Hatch bill.

Secondly, making it a crime for document shredding: If I am not mistaken, that is in the Leahy amendment we just passed and that I cosponsored, as well as many others.

The third part of the amendment discussed by the Republican leader is something with which I happen to agree. It is not in either the Leahy bill just passed or in the Biden-Hatch amendment. That is the 45-day freeze on corporate executives' extraordinary income based upon the SEC being able to hold that in escrow and freeze it for 45 days while they look at it. I, for one, would be willing—I will yield to my colleague from Utah at the appropriate time—to accept that or join that in our amendment.

Fourth, the Sentencing Commission provisions that were referred to by my friend from Mississippi are in the Biden-Hatch bill. There is only one piece of the legislation of the Senator from Mississippi, as I understand it, based on the summary, that is not either already passed or included in Biden-Hatch.

But there are three areas that are not included which we think are very important. One is in section 2 of our legislation, which relates to conspiracy. Under title 18, section 371, the maximum penalty for general conspiracy to commit a crime is 5 years in prison regardless of whether the penalty for the predicate offense—that is, the thing they are conspiring to do—is considerably more than 5 years. So what Senator HATCH and I do is we allow the penalty for conspiracy to be consistent with what the penalty would be for the underlying crime; that is, the predicate crime. That is not included in the amendment of the Senator from Mississippi.

Also, a very important provision of Biden-Hatch is that right now, under ERISA, the Employment Retirement Security Act of 1974—we were both here to vote for that—under current law, a violation for essentially squandering someone's pension to the tune of tens of millions, maybe billions, of dollars is a misdemeanor with a maximum penalty of 1 year. If you were to steal an automobile from my driveway, which is about 2 miles from the Pennsylvania line, drive it across the Pennsylvania line, under Federal law, it is a 10-year sentence. There is obviously a bizarre disparity.

What we do is we increase the penalty for criminal violation of ERISA to 1 to 10 years, based upon the value of what is stolen in ERISA. If the loss in ERISA is a \$20,000 pension versus several billion dollars' worth, the Sen-

tencing Commission can make that judgment, as they do now, to have the penalty be from 1 but up to 10 years. That is not in Senator LOTT's amendment.

Lastly, section 6 of Biden-Hatch. Currently, the Securities and Exchange Commission requires regulated companies to file periodic financial reports with the SEC. This section of Biden-Hatch creates a new section in title 18 of the United States Code to require certification, signed by the top officials of that corporation, that the financial reports being filed accurately reflect the financial condition of the company. Criminal penalties are created for failure to comply with this section. Reckless failure to certify—you have to be able to prove it; it is a high standard—requires a penalty of up to 5 years, while a willful failure to certify on the part of these executives includes a maximum penalty of up to 10 years.

The point is, A, everything but one provision of Senator LOTT's amendment either has been passed or is in Biden-Hatch. I will yield to my colleague, but I am willing to accept the one provision that is not included. That is the provision relating to freezing payments for up to 45 days under the authority of the SEC of compensation packages that are excessive so there is time to look at it. I am willing to accept that.

It does not include three sections: Conspiracy, the ERISA increased penalties, and the requirement of certification that the financial reports accurately reflect the financial condition of the company, with penalties to prevail if in fact they either recklessly or willfully do not sign such a document or they recklessly or willfully signed it and it does not reflect what in fact they say it reflects.

That is a response to the majority leader's request of what the difference is. That is the difference.

I now yield, with the permission of my colleagues, to the Senator from Utah, and I might add, this is not original stuff of JOE BIDEN; this was Hatch and Biden, Biden and Hatch. He takes equal responsibility for this. If we are wrong, we are equally wrong.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I am proud to stand here with my colleague from Delaware, who is one of the truly remarkable Senators who knows as much about criminal law as anybody in this body or in the Congress itself.

I also rise today and applaud President Bush and Senator LOTT, as well as Senator BIDEN, for offering what really, combined, will be a comprehensive legislative proposal that calls for harsh, swift punishment of corporate executives who exploited the trust of their shareholders and employees while enriching themselves.

Senator BIDEN and I have worked together for years now on many important pieces of legislation. This is not new for us. I always feel good when I can work with my colleagues on the other side. It is always a pleasure to work with him. I commend him for the care and attention he has given to the subject of white-collar penalties, as well as for his leadership in this area. Just in the past 4 weeks, Senator BIDEN scheduled two hearings to review the adequacy of current penalties for white-collar criminal offenses. I am thankful that he did so for I think this is a critically important area for us to focus on, especially in today's unprecedented climate of market turmoil and corporate responsibility—or should I say irresponsibility.

All of us well know that the past few months have been painful ones for our Nation's financial markets. At least some of the blame can be laid at the doors of some multibillion-dollar corporations, their highly paid executives, and the accounting firms that were supposed to assure the public's trust. We learn—each week it seems—of more and more accounting and corporate fraud and irregularities that have caused billions of dollars of losses to innocent investors. I am personally outraged by these scandals.

The amendment I cosponsor today is a product of much thoughtful attention and scrutiny. No Member feels more strongly than I do about the importance of our criminal laws. They must be fair, and they must be just. If our criminal laws are to bear credibility and provide deterrence, they must adequately reflect the severity of the offenses. But right now they do not do so in the context of so-called white collar crimes. They are, to put it bluntly, out of whack.

A person who steals, defrauds, or otherwise deprives unsuspecting Americans of their life savings—no less than any other criminal—should be held accountable under our system of justice for the full weight of the harm he or she has caused. Innocent lives have been devastated by the crook who cooks the books of a publicly traded company, the charlatan who sells phony bonds, and the confidence man who runs a Ponzi scheme out there. These sorts of white-collar criminals should find no soft spots in our laws or in their ultimate sentences, but all too often they have done so.

It is time for us to get tough with these offenders. We need to make crystal clear that we will not tolerate this sort of outrageous criminal conduct, conduct that not only devastates the savings of citizens, but also has lasting effects on the entire world's confidence in our American financial markets. This amendment will take away the soft landings these criminals have expected and obtained for far too long.

The amendment Senator BIDEN and I propose—with the acceptance of the additional language of the President and Senator LOTT—makes several notable improvements to current law. As Senator BIDEN said, and I will reiterate, first, our amendment increases the maximum penalties for those who commit mail fraud, wire fraud, and ERISA offenses, as well as those who conspire to violate Federal criminal laws. These changes are long overdue. The maximum penalty under current law for most of these offenses is 5 years, which is the same as the maximum penalty that could be handed down for mutilating a coin produced by the U.S. Mint. The current maximum penalty for ERISA fraud violations is just 1 year. In other words, a fraud committed in connection with employment retirement plans, no matter how severe or wide, is punishable now only as a misdemeanor. Under current law, one could get 5 years for scratching George Washington's face off a quarter but only 1 year for defrauding an entire company's pension plan. It goes without saying that we need to fix this problem.

Think about it. Pension plans go down the drain because of dishonest business people, which is sometimes hundreds of millions of dollars. Think of all the people who lose as a result of that.

Second, our amendment would make corporate officials criminally responsible for their public filings with the SEC. Make no mistake, these filings are critically important to investors who rely upon them to make decisions affecting how they should invest billions and billions of dollars. They need to be accurate. Our amendment makes it possible to hold somebody criminally accountable if they are not accurate.

Third, our amendment directs the U.S. Sentencing Commission to review the adequacy of current guidelines for white-collar offenders. We heard just a few weeks ago from the Department of Justice that these types of criminals often get off with a slap on the wrist and that judges too often do contortions to avoid handing down terms of imprisonment. This simply is not good and will not do. It undermines the deterrent effect of our criminal laws, makes a mockery of our system of fair and evenhanded justice, and ultimately sends the wrong message to all Americans. Our amendment will ensure that the Sentencing Commission will take steps designed to ensure that our system of justice no longer coddles criminals simply because they "just" steal.

It is time for the Senate to act on this important matter of fraud and responsibility. I think these amendments are a big step in the right direction. I compliment the President, Senator LOTT, and, of course, my dear friend and colleague from Delaware, Senator BIDEN, for the work they have all done

on these two amendments. I agree with Senator BIDEN that we are willing to accept that part of the preference package.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. EDWARDS. Mr. President, I ask unanimous consent that the pending amendment be laid aside.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. I object for the moment. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4190, AS MODIFIED

Mr. BIDEN. Mr. President, I ask unanimous consent to modify the Hatch-Biden amendment by changing on page 6 of our amendment, under the title "Failure of corporate officers to certify financial reports," line 19—it presently reads:

(1) any person who recklessly violates any provision of this section. . . .

I ask unanimous consent to amend it to say on line 19, subsection 1:

Any person who recklessly—

And add the words "and knowingly"—recklessly and knowingly.

Page 6, line 19, fourth word in, add as a fifth word "and" and the sixth word "knowingly."

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is so modified.

The amendment, as modified, reads as follows:

Strike all after the first word and insert the following:

VIII—WHITE-COLLAR CRIME PENALTY ENHANCEMENTS

SEC. 801 SHORT TITLE.

This title may be cited as the "White-Collar Crime Penalty Enhancement Act of 2002".

SEC. 802. CRIMINAL PENALTIES FOR CONSPIRACY TO COMMIT OFFENSE OR TO DEFRAUD THE UNITED STATES.

Section 371 of title 18, United States Code, is amended by striking "If two or more" and all that follows through "If, however," and inserting the following:

"(a) IN GENERAL.—If 2 or more persons—

"(1) conspire to commit any offense against the United States, in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined or imprisoned, or both, as set forth in the specific substantive offense which was the object of the conspiracy; or

"(2) conspire to defraud the United States, or any agency thereof in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined under this

title, or imprisoned not more than 10 years, or both.

"(b) MISDEMEANOR OFFENSE.—If, however,".

SEC. 803. CRIMINAL PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 of title 18, United States Code, is amended by striking "five years" and inserting "10 years".

(b) WIRE FRAUD.—Section 1343 of title 18, United States Code, is amended by striking "five years" and inserting "10 years".

SEC. 804. CRIMINAL PENALTIES FOR VIOLATIONS OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by striking "\$5,000" and inserting "\$100,000";

(2) by striking "one year" and inserting "10 years"; and

(3) by striking "\$100,000" and inserting "\$500,000".

SEC. 805. AMENDMENT TO SENTENCING GUIDELINES RELATING TO CERTAIN WHITE-COLLAR OFFENSES.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this title.

(b) REQUIREMENTS.—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses and the penalties set forth in this title, the growing incidence of serious fraud offenses which are identified above, and the need to modify the sentencing guidelines and policy statements to deter, prevent, and punish such offenses;

(2) consider the extent to which the guidelines and policy statements adequately address—

(A) whether the guideline offense levels and enhancements for violations of the sections amended by this title are sufficient to deter and punish such offenses, and specifically, are adequate in view of the statutory increases in penalties contained in this title; and

(B) whether a specific offense characteristic should be added in United States Sentencing Guideline section 2B1.1 in order to provide for stronger penalties for fraud when the crime is committed by a corporate officer or director;

(3) assure reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 806. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1348. Failure of corporate officers to certify financial reports

"(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—Each periodic report containing

financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chairman of the board, chief executive officer, and chief financial officer (or equivalent thereof) of the issuer.

“(b) **CONTENT.**—The statement required under subsection (a) shall certify the appropriateness of the financial statements and disclosures contained in the periodic report or financial report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer.

“(c) **CRIMINAL PENALTIES.**—Notwithstanding any other provision of law—

“(1) any person who recklessly and knowingly violates any provision of this section shall upon conviction be fined not more than \$500,000, or imprisoned not more than 5 years, or both; or

“(2) any person who willfully violates any provision of this section shall upon conviction be fined not more than \$1,000,000, or imprisoned not more than 10 years, or both.”.

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—The section analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

“1348. Failure of corporate officers to certify financial reports.”.

This section shall take effect one day after date of this bill's enactment.

Mr. BIDEN. I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maryland.

Mr. SARBANES. Mr. President, I ask unanimous consent that the pending second-degree amendments be withdrawn; that no second-degree amendments be in order to either of the two pending first-degree amendments; that the Daschle for Biden amendment No. 4186 be further modified with the changes that are at the desk; that the time until 4:45 p.m. today be for debate in relation to the pending first-degree amendments; that the time be equally divided between the two managers or their designees; that at 4:45 p.m., without further intervening action or debate, the Senate proceed to vote in relation to the Daschle for Biden amendment No. 4186, as further modified; that upon disposition of that amendment, the Senate vote in relation to the Lott amendment No. 4188; provided further that upon disposition of these amendments, Senator EDWARDS be recognized to call up amendment No. 4187.

The PRESIDING OFFICER. Is there objection?

The Senator from Nevada.

Mr. REID. Reserving the right to object, I ask the manager of this bill, the chairman of the committee, to insert after the words “Senator EDWARDS be

recognized to call up amendment No. 4187,” that following the disposition of that amendment, Senator GRAMM be recognized.

Mr. GRAMM. Following.

Mr. REID. That is right. We were sequencing this, that following Senator EDWARDS, Senator GRAMM be recognized; following that, Senator LEVIN be recognized; and following that, Senator GRAMM be recognized.

The PRESIDING OFFICER. Does the Senator from Maryland so modify his request? Is there objection?

Without objection, it is so ordered.

The amendments (Nos. 4189, and 4190, as modified) were withdrawn.

The amendment (No. 4186), as further modified, reads as follows:

On page 117 in line 12 strike “Act” and insert the following: Act.

TITLE VIII—WHITE-COLLAR CRIME PENALTY ENHANCEMENTS

SEC. 801. SHORT TITLE.

This title may be cited as the “White-Collar Crime Penalty Enhancement Act of 2002”.

SEC. 802. CRIMINAL PENALTIES FOR CONSPIRACY TO COMMIT OFFENSE OR TO DEFRAUD THE UNITED STATES.

Section 371 of title 18, United States Code, is amended by striking “If two or more” and all that follows through “If, however,” and inserting the following:

“(a) **IN GENERAL.**—If 2 or more persons—

“(1) conspire to commit any offense against the United States, in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined or imprisoned, or both, as set forth in the specific substantive offense which was the object of the conspiracy; or

“(2) conspire to defraud the United States, or any agency thereof in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined under this title, or imprisoned not more than 10 years, or both.

“(b) **MISDEMEANOR OFFENSE.**—If, however,”.

SEC. 803. CRIMINAL PENALTIES FOR MAIL AND WIRE FRAUD.

(a) **MAIL FRAUD.**—Section 1341 of title 18, United States Code, is amended by striking “five years” and inserting “10 years”.

(b) **WIRE FRAUD.**—Section 1343 of title 18, United States Code, is amended by striking “five years” and inserting “10 years”.

SEC. 804. CRIMINAL PENALTIES FOR VIOLATIONS OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by striking “\$5,000” and inserting “\$100,000”;

(2) by striking “one year” and inserting “10 years”; and

(3) by striking “\$100,000” and inserting “\$500,000”.

SEC. 805. AMENDMENT TO SENTENCING GUIDELINES RELATING TO CERTAIN WHITE-COLLAR OFFENSES.

(a) **DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.**—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate,

amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this title.

(b) **REQUIREMENTS.**—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses and the penalties set forth in this title, the growing incidence of serious fraud offenses which are identified above, and the need to modify the sentencing guidelines and policy statements to deter, prevent, and punish such offenses;

(2) consider the extent to which the guidelines and policy statements adequately address—

(A) whether the guideline offense levels and enhancements for violations of the sections amended by this title are sufficient to deter and punish such offenses, and specifically, are adequate in view of the statutory increases in penalties contained in this title; and

(B) whether a specific offense characteristic should be added in United States Sentencing Guideline section 2B1.1 in order to provide for stronger penalties for fraud when the crime is committed by a corporate officer or director;

(3) assure reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 806. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

(a) **IN GENERAL.**—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

“§ 1348. Failure of corporate officers to certify financial reports

“(a) **CERTIFICATION OF PERIODIC FINANCIAL REPORTS.**—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chairman of the board, chief executive officer, and chief financial officer (or equivalent thereof) of the issuer.

“(b) **CONTENT.**—The statement required under subsection (a) shall certify the appropriateness of the financial statements and disclosures contained in the periodic report or financial report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer.

“(c) **CRIMINAL PENALTIES.**—Notwithstanding any other provision of law—

“(1) any person who recklessly and knowingly violates any provision of this section shall upon conviction be fined not more than \$500,000, or imprisoned not more than 5 years, or both; or

“(2) any person who willfully violates any provision of this section shall upon conviction be fined not more than \$1,000,000, or imprisoned not more than 10 years, or both.”.

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—The section analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

“1348. Failure of corporate officers to certify financial reports.”.

Mr. BIDEN. Mr. President, I rise today—along with my good friend, Senator HATCH—to offer our bill, the White-Collar Penalty Enhancement Act of 2002 as a second-degree amendment to amendment No. 4174, Senator LEAHY's amendment to S. 2637.

Let me begin by applauding Senator SARBANES for his leadership in sponsoring S. 2637, and guiding it through his Banking Committee with a 17-4 vote. It is my hope and expectation that it will win the same overwhelming support on the floor of the Senate. I also commend Senators LEAHY and DASCHLE for offering the Corporate and Criminal Fraud Accountability Act, of which I am a cosponsor.

Let me briefly recount the events which bring me to the floor today to offer this amendment to increase penalties on white collar criminals. In recent months, dramatic events have shaken our country out of complacency. A decade of peace and prosperity came to an end, first with a shattering reminder of our vulnerability to external threats, and then with a series of spectacular corporate collapses that revealed cracks in the very foundation of our economic system.

Our response to terrorism was to come together as a nation, reminded of all we have in common, all we have to be proud of.

The shock of those high-flying corporations falling spectacularly to earth presents us with different problems. We have to examine our own system—the capitalist system that has brought us so much material success, the envy of the rest of the world.

As the stock market continues to lose value, as the dollar has dropped to a 2-year low, we know that investors, here at home and abroad, have lost some of their faith in the American economy.

That loss of faith has a material impact of the wealth of this country, as our currency and our securities lose value. Some observers worry aloud that a full-blown loss of faith in our economy could drain even more value from our markets.

The task before us is nothing less than restoring confidence in our market economy. There are many facets to this problem.

One is reforming the auditing process. On the Senate floor right now is the Sarbanes bill that is essential to any effort to restore investor's faith in our markets. Audit firms are supposed to be independent voices, providing disinterested information that investors need to assess risk and to allocate funds to those companies that will have the best chance of raising our standard of living.

We need more transparency, more accountability in the conduct of accounting firms, and more confidence that they have access to, and are willing to tell us, the truth about the businesses

they audit. Senator SARBANES has done us all a service by bringing this bipartisan bill to the floor.

Yesterday, I was hoping to hear the President support this bipartisan approach to reform, reform that is supported by the business community in the form of the Business Roundtable, when he spoke yesterday. I still hope he will soon add his voice in support of this landmark reform.

Just as important is the amendment to the Sarbanes bill that I am cosponsoring with Senator LEAHY. It will put real teeth in securities fraud enforcement, providing substantial criminal penalties for those who defraud investors of publicly traded securities or who destroy evidence to obstruct justice.

Yesterday, the President announced his support for tougher criminal penalties for fraud offenses. I applaud the President's call for increase penalties for wire and mail fraud, and my amendment contains identical provisions. But I am concerned that the President's proposals do not go far enough.

For example, in the wake of the publicly reported problems at Enron, WorldCom, and other companies, we need to restore people's faith in their pension plans. They need to know that the companies they work for will treat them fairly, handle their funds wisely, and that the investments made by pension funds are sound. Yet, I believe that the criminal penalties for violations under the Employment Retirement Investment Security Act of 1974, ERISA, limited to 1 year in jail, are woefully inadequate to protect defrauded pensioners.

As chairman of the Judiciary Subcommittee on Crime and Drugs, I held a hearing several weeks ago—and am holding a second hearing this afternoon—on the adequacy of criminal penalties to deter this type of corporate wrongdoing. Corporate executives who defraud investors by whatever means should go to jail—period—and we need to give investigators and prosecutors the tools they need to send them there.

One thing most of our hearing witnesses agreed on was that there is a "penalty gap" between white collar crimes and other crimes. For example, if a kid steals your car and drives it over the 14th Street Bridge into Northern Virginia, he could get up to 10 years in jail under the Federal interstate auto theft law. Yet, if a corporate CEO steals your pension and commits a criminal violation under ERISA, he is only subject to 1 year in jail.

At my hearing, we heard from Charlie Prestwood, a 63-year-old Enron retiree, who lives in Conroe, TX. Charlie worked proudly for some 33 years for that company, saved and invested in his pension, and retired with about \$1.3 million in his plan. Within a few tragic months, that was nearly wiped out—only \$8,000 remained. Charlie is not a

lawyer, but he had the good sense to know that it's just not fair that a car thief who steals a jalopy can get 10 years in prison and a Gucci-clad corporate crook can steal a person's life savings and might only end up with 1 year in prison.

Accordingly, the amendment that Senator HATCH and I offer today is carefully crafted to hold corporate officers responsible and to reduce the "penalty gap" between a number of white collar crimes and other serious crimes. It does 3 basic things.

First, it goes beyond President Bush's proposal by raising penalties for those white collar crimes that are most often violated but which have insufficient penalties to deter corporate crooks. For example, it raises the maximum penalties from 1 to 10 years for ERISA criminal violations. It doubles penalties for wire and mail fraud from 5 to 10 years, and it treats white collar who conspire with others like drug kingpins, by mandating that they receive the same maximum penalty for the offense underlying the charged conspiracy, rather than their sentence being capped at a 5-year penalty as exists under current law.

When these penalty enhancements are taken in combination with the new 10-year felony for securities fraud contained in the amendment I have cosponsored with Senator LEAHY, the Government will have the full range of prosecutorial arrows in its quiver to fight pension crooks and corporate wrongdoers. Respectfully, the President's penalty proposal is only one small piece of the white collar crime-fighting puzzle.

Second, our amendment tells corporate big wigs that they are no longer off the hook for their companies' misdeeds. My amendment requires top corporate officials to certify to the Securities and Exchange Commission that the periodic financial reports filed by their companies with the Commission accurately reflect the financial health of these corporations. Reckless failure by a corporate official to do so will result in up to 5 years in prison, while willful failure to do so will trigger a jail term of up to 10 years.

Third, our amendment directs the U.S. Sentencing Commission to review and amend the federal sentencing guidelines to lengthen sentences for white collar criminals to reflect these new, more serious penalties. It also directs the Commission to impose sentencing enhancement where corporate officials defraud victims. I applaud President Bush for announcing a similar proposal.

Make no mistake—this amendment will not stamp out white collar crime. We live in a fallen world where bad people do bad things—whether it's stealing cars or stealing pensions. But, it's time to "level the playing field" between white collar and blue collar criminals.

I believe the amendment that Senator HATCH and I are offering will move us substantially in the direction of deterring corporate wrongdoers by holding them responsible for the criminal acts. It will also begin the restoration of confidence in our financial markets. We must do both. The time to act is now. I urge my colleagues to support this amendment.

I yield the floor.

AMENDMENT NO. 4188

Mr. HATCH. Mr. President, I want to applaud President Bush and Senator LOTT for offering a comprehensive legislative proposal that calls for harsh, swift punishment of corporate executives who exploit the trust of their shareholders and employees, while enriching themselves.

This bill, which tracks the President's recent proposal, increases the criminal penalties that apply to fraud statutes that are frequently used to prosecute corporate wrongdoers. It also strengthens an existing obstruction of justice statute, and calls for an aggravated sentencing enhancement for frauds perpetrated by corporate officers and directors. Finally, it increases the Security and Exchange Commission's administrative enforcement tools by strengthening the SEC's ability to freeze improper payments to corporate executives while the company is under investigation, and by enabling the SEC to bar corporate officers and directors from continued service where they engage in serious misconduct.

I support these provisions because I strongly believe that it is critical that we hold corporate executives accountable for acts of wrongdoing. We can do so by supplying the SEC and federal prosecutors with the civil and criminal tools they need to investigate and prosecute acts of corporate misconduct.

Let me briefly elaborate on some of the specific provisions contained in this bill.

First, as I mentioned, the bill doubles the maximum prison term for mail and wire fraud offenses, from 5 years to 10 years. This is identical to a provision Senator BIDEN and I have included in our amendment. This is a necessary sentencing enhancement, and one that is long overdue. Because prosecutors frequently use the mail and wire statutes to charge acts of corporate misconduct, it is important that we ensure that the penalties that apply to such offenses are sufficiently severe to deter and punish corporate wrongdoers.

Second, like the suggested enhancement contained in the bill Senator BIDEN and I have proposed, this amendment directs the U.S. Sentencing Commission to review the sentencing guidelines that apply to acts of corporate misconduct and to enhance the prison time that would apply to criminal frauds committed by corporate officers and directors. As I have stated, I strongly support such an enhancement

because corporate leaders who hold high offices and breach their duties of trust should face stiff penalties.

Third, the amendment strengthens an existing federal offense that is often used to prosecute document shredding and other forms of obstruction of justice. Section 1520 of Title 18 of the United States code currently prohibits individuals from persuading others to engage in obstructive conduct. However, it does not prohibit an act of destruction committed by a defendant acting alone. While other existing obstruction of justice statutes cover acts of destruction that are committed by and individual acting alone, such statutes have been interpreted as applying only where a proceeding is pending, and a subpoena has been issued for the evidence that is destroyed.

This amendment closes this loophole by broadening the scope of the Section 1512. Like the new document destruction provision contained in S. 2010, this amendment would permit the government to prosecute an individual who acts alone in destroying evidence, even where the evidence is destroyed prior to the issuance of a grand jury subpoena.

Prosecutors in the Andersen case succeeded in convicting the corporation. However, in order to do, they had to prove that a person in the corporation corruptly persuaded another to destroy or alter documents, and acted with the intent to obstruct an investigation. Certainly, one who acts with the intent to obstruct an investigation should be criminally liable even if he or she acts alone in destroying or altering documents. This amendment will ensure that individuals acting alone would be liable for such criminal acts.

This amendment also includes new statutory provision that will strengthen the SEC's ability to freeze improper payments to corporate executives while a company is under investigation. These provisions would prevent corporate executives from enriching themselves while a company is subject to an SEC investigation, but before the SEC has gathered sufficient evidence to file formal charges.

In particular, these provisions would enable the SEC to freeze improper payments by obtaining a federal court order. The order, which could last for 45 days and be extended upon a showing of good cause, would freeze extraordinary payments to corporate executives and require that such payments be escrowed. And where an executive is charged with a securities law violation prior to the expiration of the court order, the escrow would continue, with court approval, until the conclusion of legal proceedings.

Finally, the amendment grants the SEC the authority to bar individuals who have engaged in serious misconduct from serving as officers and directors of any public company. Under

current law, only a court may order an officer and director bar. In an SEC enforcement action, a court may issue an order that bars a person from acting as an officer or director of a public company where the person has committed a securities fraud violation, and his or her conduct demonstrates "substantial unfitness" to serve as an officer or director. However, under current law, the SEC cannot order this remedy in an administrative cease-and-desist proceedings, even where the person's conduct would otherwise meet the standards for the bar.

This amendment would enable the SEC to issue such a bar where the officer or director has committed a securities law violation and his or her conduct demonstrates "unfitness" to serve as an officer or director. This will give the SEC the ability to punish an officer or director who has committed an unlawful act, where it has not yet instituted an enforcement action.

I strongly believe that if Congress and the President act together to increase corporate transparency and to enact tough civil and criminal provision, we will succeed in restoring confidence in our market economy. The Federal government plays an important role in upholding and enforcing standards of corporate conduct. I look forward to working with my colleagues and with the President to enact needed legislation to strengthen corporate accountability.

Mr. GRAMM. Mr. President, let me try to explain where we are. We are about to have two votes. One vote is on a bipartisan amendment that was put together prior to our receipt of the language of the President's proposal. That was done by Senator BIDEN and Senator HATCH. That amendment will be voted on first.

I believe that amendment deals with the same subject area as the President's proposal. The overlap is not perfect, but when you take Senator LEAHY's amendment that we have already adopted, when you take this amendment, the things that are covered in the President's proposal are covered.

We also have the legislative language proposed by the White House to follow on the proposals the President made yesterday in New York.

When we adopt these two amendments, we will have added a substantial amount to the underlying bill. We will have added, in essence, two different variants of the President's proposal of yesterday. I assume we will get a unanimous vote for both of these amendments. I commend to my colleagues to vote for both of them.

At that point, we will proceed in the outline we have. It is my understanding we will try to put together an additional list, depending on the amount of time we have. Once these

two votes are taken, the subject matter of the President's proposal of yesterday will be part of this bill. I commend to my colleagues to vote for both amendments.

Mr. SARBANES. Mr. President, in just a few minutes, at 4:45, we will move to the first of two votes. The first vote will be on the Daschle amendment, and the second vote on the Lott amendment. I urge my colleagues to support both amendments.

At the conclusion of those votes, we will go to Senator EDWARDS, who has been waiting patiently, to call up an amendment. Then we have sequenced behind Senator EDWARDS, for purposes of calling up amendments, Senator GRAMM, and Senator LEVIN has an amendment involving the powers of the SEC, and then back to Senator GRAMM. That is the procedure we have managed to put into place so far while continuing to work to try to compile a list of amendments and to do some sequencing.

We urge our colleagues to inform us—I am not urging to add amendments, but just informing colleagues of the process so they can be on the alert.

Very shortly we will begin the first of two rollcall votes. Both of these are amendments which strengthen the penalties. Many are related to the Leahy amendment which we adopted earlier today, and in a sense deal primarily with the subject matter that was in the Leahy amendment.

I urge my colleagues to be supportive of both amendments.

Mr. GRAMM. I yield back any time I may have.

Mr. SARBANES. I yield back the time.

The PRESIDING OFFICER (Mr. MILLER). The question is on agreeing to amendment No. 4186 as further modified. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID, I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent. I further announce that, if present and voting, the Senator from New Jersey (Mr. CORZINE) would vote "aye."

Mr. NICKLES, I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Ohio (Mr. VOINOVICH), and the Senator from Idaho (Mr. CRAPO) are necessarily absent. I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS), would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 170 Leg.]

YEAS—96

Akaka	Durbin	Lugar
Allard	Edwards	McCain
Allen	Ensign	McConnell
Baucus	Enzi	Mikulski
Bayh	Feingold	Miller
Bennett	Feinstein	Murkowski
Biden	Fitzgerald	Murray
Bingaman	Frist	Nelson (FL)
Bond	Graham	Nelson (NE)
Boxer	Gramm	Nickles
Breaux	Grassley	Reed
Brownback	Gregg	Reid
Bunning	Hagel	Roberts
Burns	Harkin	Rockefeller
Byrd	Hatch	Santorum
Campbell	Hollings	Sarbanes
Cantwell	Hutchinson	Schumer
Carnahan	Hutchinson	Sessions
Carper	Inhofe	Shelby
Chafee	Inouye	Smith (NH)
Cleland	Jeffords	Smith (OR)
Clinton	Johnson	Snowe
Cochran	Kennedy	Specter
Collins	Kerry	Stabenow
Conrad	Kohl	Stevens
Craig	Kyl	Thomas
Daschle	Landrieu	Thompson
Dayton	Leahy	Thurmond
DeWine	Levin	Torricelli
Dodd	Lieberman	Warner
Domenici	Lincoln	Wellstone
Dorgan	Lott	Wyden

NOT VOTING—4

Corzine	Helms
Crapo	Voinovich

The amendment (No. 4186), as further modified, was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 4188

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to Lott amendment No. 4188.

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Ohio (Mr. VOINOVICH), and the Senator from Idaho (Mr. CRAPO) are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote "yea."

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 171 Leg.]

YEAS—97

Akaka	Burns	Craig
Allard	Byrd	Daschle
Allen	Campbell	Dayton
Baucus	Cantwell	DeWine
Bayh	Carnahan	Dodd
Bennett	Carper	Domenici
Biden	Chafee	Dorgan
Bingaman	Cleland	Durbin
Bond	Clinton	Edwards
Boxer	Cochran	Ensign
Breaux	Collins	Enzi
Brownback	Conrad	Feingold
Bunning	Corzine	Feinstein

Fitzgerald	Landrieu	Santorum
Frist	Leahy	Sarbanes
Graham	Levin	Schumer
Gramm	Lieberman	Sessions
Grassley	Lincoln	Shelby
Gregg	Lott	Smith (NH)
Hagel	Lugar	Smith (OR)
Harkin	McCain	Snowe
Hatch	McConnell	Specter
Hollings	Mikulski	Stabenow
Hutchinson	Miller	Stevens
Hutchison	Murkowski	Thomas
Inhofe	Murray	Thompson
Inouye	Nelson (FL)	Thurmond
Jeffords	Nelson (NE)	Torricelli
Johnson	Nickles	Warner
Kennedy	Reed	Wellstone
Kerry	Reid	Wyden
Kohl	Roberts	
Kyl	Rockefeller	

NOT VOTING—3

Crapo	Helms	Voinovich
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The amendment (No. 4188) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. SARBANES. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina is recognized.

AMENDMENT NO. 4187

Mr. EDWARDS. Mr. President, I wish to say a few words about an amendment I intend to offer along with Senators ENZI and CORZINE. This amendment addresses an important player in the problem we have had with corporate misconduct in this country. It is a player with which I have a lot of personal experience. That player is a lawyer.

As most people know, I practiced law for 20 years and spent a lot of time representing kids and families against very powerful interests. I think I have a reasonably good understanding of what responsibilities we as lawyers have to the people we represent. While those are the kinds of folks that I mostly represented, other lawyers have different kinds of clients. Some lawyers represent corporations rather than individuals. The lawyers who represent corporations have the same kind of responsibility, but it is to a different entity and a different group of people. They have a responsibility, though, to represent that corporation, their client, zealously, the same way I had the responsibility to represent kids and families.

One of the problems we have seen occurring with this sort of crisis in corporate misconduct is that some lawyers have forgotten their responsibility. We have heard a great deal

about managers and accountants, which Senator ENZI is familiar with, and scandals such as Enron and WorldCom. Managers and accountants are the focus of Senator SARBANES' bill, and they are critical to us doing what needs to be done to correct this problem and restore the public confidence.

The truth is that executives and accountants do not work alone. Anybody who works in corporate America knows that wherever you see corporate executives and accountants working, lawyers are virtually always there looking over their shoulder. If executives and/or accountants are breaking the law, you can be sure that part of the problem is that the lawyers who are there and involved are not doing their jobs.

For the sake of investors and regular employees, ordinary shareholders, we have to make sure that not only the executives and the accountants do what they are responsible for doing, but also that the lawyers do what they are responsible for doing as members of the bar and as citizens of the country.

Let me be a little more specific about what this amendment does and what the responsibility of a lawyer is and should be. If you are a lawyer for a corporation, your client is the corporation and you work for the corporation and you work for the shareholders, the investors in that corporation; that is to whom you owe your responsibility and loyalty. And you have a responsibility to zealously advocate for the shareholders and investors in that corporation.

What we have seen some lawyers do, unfortunately, is different. We have seen corporate lawyers sometimes forget who their client is. What happens is their day-to-day conduct is with the CEO or the chief financial officer because those are the individuals responsible for hiring them. So as a result, that is with whom they have a relationship. When they go to lunch with their client, the corporation, they are usually going to lunch with the CEO or the chief financial officer. When they get phone calls, they are usually returning calls to the CEO or the chief financial officer. The problem is that the CEO and the chief financial officer are not the client. Their responsibility and the client they have to advocate for—and which they have an ethical responsibility to advocate for—is, in fact, the corporation, not the CEO or the chief financial officer.

One of the most critical responsibilities that those lawyers have is, when they see something occurring or about to occur that violates the law, breaks the law, they must act as an advocate for the shareholders, for the company itself, for the investors. They are there and they can see what is happening. They know the law and their responsibility is to do something about it if they see the law being broken or about to be broken.

This amendment is about making sure those lawyers, in addition to the accountants and executives in the company, don't violate the law and, in fact, more importantly, ensure that the law is being followed. For some time, the SEC actually tried to do that in the late 1970s and early 1980s. They brought legal actions to enforce this basic responsibility of lawyers—the responsibility to take steps to make sure corporate managers didn't break the law and harm shareholders in the process. If you find out that the managers are breaking the law, you must tell them to stop. If they won't stop, you go to the board of directors, which represents the shareholders, and tell them what is going on. If they won't act responsibly and in compliance with the law, then you go to the board and say something has to be done; there is a violation of the law occurring. It is basically going up the ladder, up the chain of command.

For years, the SEC recognized the principle that lawyers had a legal responsibility to go up the ladder if they saw wrongdoing occurring. But then they stopped. One of the reasons they stopped is because there were a lot of protests coming from the organized bar. With Enron and WorldCom, and all the other corporate misconduct we have seen, it is again clear that corporate lawyers should not be left to regulate themselves no more than accountants should be left to regulate themselves. There has been a lot of debate, rhetoric, and discussion—rightfully so—about the necessity about not “letting the fox guard the chicken coop.” The same is true with lawyers. This has become clear through various acts of misconduct. The lawyers have involvement and responsibility, and they also cannot be left to regulate themselves.

In January, a bipartisan group of the top securities lawyers and legal ethics experts in the country wrote a letter to Harvey Pitt telling him it was time for the SEC to enforce the up-the-ladder principle, as in the past. Mr. Pitt's top lawyer said: We are not going to do anything. If Congress wants something done, Congress should act. Then I wrote a letter to Mr. Pitt in essence saying: We are ready to act here. Will you help us in crafting legislation and working out this problem?

That was 3 weeks ago. As of now, I have not yet received a response.

The time has come for Congress to act. This amendment acts in a very simple way. It basically instructs the SEC to start doing exactly what they were doing 20 years ago, to start enforcing this up-the-ladder principle.

This is what the amendment says specifically: First, the SEC shall establish rules to protect investors from unprofessional conduct by lawyers, conduct that violates the legal standards of the profession.

Second, the SEC shall make one rule in particular, and it is a simple rule with two parts. No. 1, a lawyer with evidence of a material violation of the law has to report that evidence either to the chief legal counsel or the chief executive officer of the company. No. 2, if the person to whom that lawyer reports doesn't respond appropriately by remedying the violation, by doing something that makes sure it is cured, that lawyer has an obligation to go to the audit committee or to the board. It is that simple. You report the violation. If the violation isn't addressed properly, then you go to the board.

Three important details about this amendment address some of the concerns that I have heard voiced. First, the way we have drafted the bill, the duty to report applies only to evidence of a material violation of the law. That means no reporting is required for piddling violations or violations that don't amount to anything. The obligation to report is triggered only by violations that are material—violations that a reasonable investor would want to know about. So we have been very careful there.

Second, when the evidence is reported within the company, we have not specified how a CEO or a general counsel should act to rectify the violation. That is because the truth is that the appropriate response to cure the problem will vary dramatically, depending on the circumstances. If the CEO can do a short investigation, for example, and figure out that no violation occurred, then the obligation stops there. But if there is a serious violation of the law, the appropriate response is clear: The CEO has to act promptly to remedy the violation. If he doesn't, the lawyer has to go to the board. It is that simple.

One final point. Nothing in this bill gives anybody a right to file a private lawsuit against anybody. The only people who can enforce this amendment are the people at the SEC.

They will enforce this amendment not on behalf of any private party, but in the name of the American people. This is about forcing the SEC to do its job and protect the American people.

Mr. President, I call up amendment No. 4187 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. EDWARDS], for himself, Mr. ENZI, and Mr. CORZINE, proposes an amendment numbered 4187.

Mr. EDWARDS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To address rules of professional responsibility for attorneys)

On page 108, line 15, insert before the end quotation marks the following:

“(c) RULES OF PROFESSIONAL RESPONSIBILITY FOR ATTORNEYS.—Not later than 180 days after the date of enactment of this section, the Commission shall establish rules, in the public interest and for the protection of investors, setting forth minimum standards of professional conduct for attorneys appearing and practicing before the Commission in any way in the representation of public companies, including a rule requiring an attorney to report evidence of a material violation of law by the company or any agent thereof to the chief legal counsel or the chief executive officer of the company (or the equivalent thereof) and, if the counsel or officer does not appropriately respond to the evidence (adopting, as necessary, appropriate remedial measures or sanctions with respect to the violation), requiring the attorney to report the evidence to the audit committee of the board of directors or to another committee of the board of directors comprised solely of directors not employed directly or indirectly by the company, or to the board of directors.

Mr. EDWARDS. I yield the floor.

Mr. GRAMM addressed the Chair.

Mr. SARBANES. Will the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 4200 TO AMENDMENT NO. 4187

(Purpose: To modify attorney practices relating to clients, and for other purposes)

Mr. GRAMM. Mr. President, on behalf of Senator MCCONNELL, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for Mr. MCCONNELL, proposes an amendment numbered 4200 to amendment No. 4187.

Mr. GRAMM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under “Text of Amendments.”)

Mr. GRAMM. Mr. President, I am not going to talk about the amendment. Senator MCCONNELL was concerned—he has an appointment tonight and he wanted to be recognized, so I offered the amendment for him. I wish to say a few words before I yield, giving him an opportunity to speak on behalf of the second-degree amendment.

I wish to print in the RECORD the lead editorial from today's Wall Street Journal. I would like to read the first paragraph. I want to make it clear, I am not talking about this amendment, I am just talking about the climate we are in. This is the lead editorial in today's Wall Street Journal:

As if investors weren't frightened enough, the politicians are now offering to help. That was worth more than 180 points off the Dow yesterday, but then stock prices aren't the point. Everything you're hearing now from Washington is aimed at winning the November elections, not calming financial markets.

This is an excellent editorial. One can agree with it or not agree with it. The point I want to make is the following: There is a wonderful line in a

very famous economics book, “The Wealth of Nations,” where Adam Smith is talking about government and talking about problems. A line in “The Wealth of Nations” goes something like: The economy is powerful and it overcomes not only the illness but the absurd prescription of the doctor that comes from the Government.

I believe we have now put together the makings of a good bill. We still have differences of opinion. We still have differences not on whether we should set up a board, not on how strong it should be. We agree on those issues. We have differences about how independent the SEC should be. We have differences as to whether that board ought to set audit standards and independent standards or whether we ought to do it by law.

As we go through the process in the next 2 days, if the some 30 amendments that people on my side of the aisle are proposing to offer is any index, and as someone once said—and I am sorry I cannot remember his name—I have only seen the heart of a good man, not necessarily the heart of an evil man. I have just seen these amendments.

I am concerned that people who are looking at investing are going to say: My God, it is one thing that my stock has been battered because there were people who did things that were wrong, there were people who did things that were illegal, but now I am going to be battered by one-upmanship efforts to show that Congress is really tough, that Congress is tougher than the President, the President is tougher than the Congress, that Republicans are tougher than Democrats, or Democrats are tougher than Republicans.

I would just like to say, not that anybody is going to be calmed by what I say, but I would like to say, in the end, I think we will end up with a fairly responsible bill, and I hope people who are thinking about investing money will take into account that this, too, will pass; that this summer will pass; that after all the charges are made and the one-upmanship has occurred, in the end, normally this process has worked pretty well for over 200 years, and my guess is it will work well again and we will end up in a give-and-take in conference, with the White House involved, measuring each amendment in terms of what we think will work and what we think probably hurts more than it helps—the absurd prescription of the doctor about which Adam Smith talked.

If we do go too far in one area or we do not go far enough in another, there is going to be another Congress next year and the year after and for every year from now until the end of the world, I hope.

Just reading this article set me thinking about it. There are probably people trying to decide this afternoon what they are going to do tomorrow on

Wall Street. We have this bill passed in the House where, if you are domiciled outside the United States and move your domicile, you cannot get Government contracts. This is the era of where, if you want to slap an accountant around, it is not going to do a lot of harm. It is not fair, it is not right, I am not for it, and I am not going to do it, but if you want to slap business around, this is a wonderful time to do it.

The problem is the market is going to open in the morning and people are going to either buy or sell or they are going to do both.

I ask unanimous consent to print this lead editorial from the Wall Street Journal in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal]

REVIEW & OUTLOOK: THE NOVEMBER MARKETS

“Congress must now act to restore public confidence.”—Senator Carl Levin (D., Mich.)

As if investors weren't frightened enough, the politicians are now offering to help. That was worth 180 more points off the Dow yesterday, but then stock prices aren't the point. Everything you're hearing now from Washington is aimed at winning the November elections, not calming financial markets.

That includes President Bush's much-touted Wall Street speech yesterday on “corporate responsibility.” His stern words for CEO wrongdoers were perfectly apt, and some of his proposals might even help. But coming so long after the Enron scandal first broke, and amid election season, the speech was widely and accurately described as an exercise in defensive politics.

Democrats immediately panned it as inadequate, but they'd have said that if Mr. Bush had proposed public hangings. Their goal is to associate Republicans with corporate “greed,” to knock Mr. Bush's approval rating from its war-time pedestal and develop a campaign issue.

You can judge their sincerity by the sop to trial lawyers that has suddenly appeared in the “reform” queue. For months Maryland Democrat Paul Sarbanes has worked to form a bipartisan coalition for accounting reform. But now Senate Democrats are also demanding that Mr. Bush sign onto expanding the time available for plaintiff plutocrat Bill Lerach to file shareholder suits. In other words, what they're really after is a Bush veto, which they will then run against.

It's not as if Mr. Bush is letting business off the moral hook. He's creating a new Justice Department task force on corporate fraud, which as these things go will find someone to indict. He's also painted a bull's-eye on CEOs, who will now be personally and criminally liable (and face stiff penalties) for their companies' financial results.

We only hope Justice keeps in mind the requirement of mens rea, or criminal intent, when it's CEO hunting. This legal principle got trampled in the rush to convict Arthur Andersen. If otherwise honest CEOs can be indicted merely for putting their names to a statement that turns out to be false, good luck finding competent executives.

The brighter CEOs have also been busy cleaning up their own act. They understand something that politicians won't admit, which is that only business is truly capable of restoring confidence in business. The New

York Stock Exchange and Goldman Sachs chief Hank Paulson have proposed more CEO supervision by independent directors, among other reforms.

Just as significant, major pension funds and large investors have begun to scrutinize stock options and other forms of executive compensation. This sort of due diligence too often went missing in the "decade of greed," as liberals now like to call the 1990s. (Or are we confusing our decades?)

Mr. Bush put it well yesterday: "I challenge every CEO in America to describe in the company's annual report, prominently and in plain English, details of his or her compensation package, including salary and bonus and benefits. And the CEO, in that report, should also explain why his or her compensation package is in the best interests of the company he serves." The point isn't that there is a moral taint to high pay but that it has to be justified in shareholders value.

The one place we've thought regulatory change might help is audit reform. Clearly the culture of the accounting trade went awry in the 1990s, and not only at Arthur Andersen. We favored Paul Volcker's plan, which would have restored some internal accounting-firm discipline and reduced conflicts of interest. But the accounting lobby resisted and now finds itself fending off much more intrusive regulation in Congress. Serves them right.

As a political matter, Republicans are also paying for protecting the accountants. Bush SEC Chairman Harvey Pitt, who once worked for the Big Five, is now being urged to resign by the likes of Al Gore, Tom Daschle and John McCain. As these columns noted long before these politicians wet their finger to the wind, Mr. Pitt's temptation now will be to appease these critics by cracking down too hard on too many, in a way that further roils financial markets. A regulator with more credibility usually has to regulate less.

The investing public, fortunately, seems to understand this. While rightly angry about WorldCom and Enron, the public hasn't panicked even after three years of stock-market losses. Americans know that even scarier than a bear market in stocks is a bull market for politicians.

Mr. GRAMM. Mr. President, I ask my colleagues to read the editorial and pray over it. As I say, there are some things in it one may like, some one may not like; one may not like any of it, or one may like all of it.

In the next couple of days, we are going to have a lot of proposals that are going to be frightening to investors. I wanted to take this opportunity tonight to tell them that—I know my dear colleague who is sitting in the chair as a Presiding Officer remembers the old hymn, "This is My Father's World." Remember that hymn? It talks about all these things that are happening, all these bad things that happen, but in the end it is going to be right. I think the Lord is going to count on us to right it. I hope it is in good hands.

In any case, I wanted to say that as we hear all these ideas brought up, if you are thinking about investing money tomorrow or next week or next year, do not be frightened. I think this issue is going to move back toward a middle course, and if we go too far—

and I hope we will not, and I am dedicated to not doing more harm than good—then we will fix it, and if in some areas we do not go far enough, we can come back and fix it, too.

As I said, I offered the second-degree amendment for Senator McCONNELL who has an appointment and wanted to get his amendment in. I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. McCONNELL. Mr. President, I say to my friend from Texas, I have enjoyed his wisdom over the last 18 years. I am going to save my remarks about how I feel about his departure until later in the year. We have just heard another example of the extraordinary wisdom of the senior Senator from Texas from which I have benefited for 18 years. I wish to tell him again how much his service has meant not only to his State but to our Nation.

I say to my friends from Wyoming and North Carolina, they will be relieved to know I do not intend to make my speech on the second-degree amendment. This is an amendment about which I am sure the junior Senator from South Carolina is going to be particularly enthusiastic. I say that with tongue in cheek. I will briefly describe what it is.

This is an amendment to provide a client's bill of rights for clients with Federal claims or who are in Federal court. Fundamentally, what this client's bill of rights would provide is an opportunity for an orderly and systematic notice from their lawyers of the fee arrangements to which they are subjecting themselves; in addition to that, a bereavement rule which would prevent the solicitation of business within 45 days of the occurrence of the event. That is a brief summary of what my amendment is about. There will be ample time for everyone to take a look at the amendment over the evening. It does not in any way detract from the underlying Edwards-Enzi amendment, which I support and commend the authors for offering. I think it is right on the mark. I would like to see these principles expanded to a larger class of clients so they, too, can receive adequate protection.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that following the previous sequence already in place, the amendments listed in this agreement be the next six amendments in the sequence, in the order listed: Carnahan amendment regarding electronic filing; McCain amendment regarding accounting treatment/stock options; Dorgan amendment regarding bankruptcy/disgorgement; Enzi amendment regarding materiality; Schumer amendment regarding restitution; and Murkowski amendment regarding the Ninth Circuit.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

Mr. REID. Mr. President, I would say to the Chair that I ask the Senator to yield to me for a unanimous consent request so the Senator from Illinois would have the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I want to make a comment about the second-degree amendment that is pending. I want to commend my colleague, the Senator from Kentucky.

Last night, at the close of the session, there was an amendment offered by the Senator from Kentucky and the Senator from Texas. Now remember, this bill is about corporate misconduct. This is about corporate corruption. Last night, they decided we ought to expand the jurisdiction and scope of this debate to include reforming labor unions.

I have followed Enron, WorldCom, and others very closely and do not recall ever hearing anybody say the root cause of the problem of these corporations was labor unions. Thank goodness the Senate rejected that notion.

The Senator from Kentucky comes back tonight and says, no, it is not just labor unions, it is the fees paid to lawyers; that is the problem. When you are dealing with corporate corruption, it is the fees paid to lawyers, contingency fee contracts, and class actions.

I was stopped cold when I heard this amendment being described to try to understand what this has to do with making certain that criminal misconduct by corporate officers will result in time in jail. I do not get the connection. Perhaps the Senator from Kentucky can help me understand this. How does the issue of attorney's fees relate to corporate misconduct and corporate corruption?

I am sorry he cannot join us in this debate to respond, but I say to my colleagues I am beginning to get the distinct impression that the other side of the aisle is trying to change the subject on us. I do not think they want to talk about wrongdoing in corporate boardrooms and what we can do to restore confidence.

Yesterday, the President used the bully pulpit and turned the bears loose on Wall Street. Today, we had another dip in the stock market. We had better get honest. We had better get real. We had better make some real changes in the law to bring honesty in transactions with major businesses if we want to restore America's confidence in business dealings and bring people back to the stock market and get this economy back on track and give people a chance to save for their retirement. That is what this is all about.

Somehow or another the other side of the aisle wants us to veer off now and

talk about attorney's fees. I do not get the connection, and I urge my colleagues to take a close look at this long amendment and try to join me in divining what they are trying to achieve other than to perhaps change the subject.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I do rise in support of the Edwards-Enzi-Corzine amendment. I am disappointed there has been a second-degree amendment to this, on which amendment we are working. It does not deal with the same topic. It does not deal with the same bill. It is going off in a different direction. If we keep having second-degree amendments throughout that go off in other directions, we are not going to get this bill finished and through the process. So it would be my hope it would be withdrawn.

I will concentrate my efforts on the amendment I have worked on with Senator EDWARDS, Senator CORZINE, and others. This amendment is designed to assure that attorneys are responsible for fully informing their corporate client of evidence of material violations of Federal securities law. That is what we are talking about through the whole accounting reform.

Over the past few months, Congress and the public have concentrated on the role of accountants and auditors involved in Enron, WorldCom, Global Crossing, and others. We have held hearings and drafted legislation intended to restore a high level of ethical behavior to corporate America and the accounting industry. This breach in ethical behavior led to the problems these companies are now experiencing. I have to say through all of those hearings, as an accountant, I felt the profession was very picked on, and the profession deserved to be picked on—not everybody in the profession. Again, it is that one-half of 1 percent or one-tenth of 1 percent who are fouling up everything for everybody. It happens in a lot of different professions.

As we beat up on accountants a little bit, one of the thoughts that occurred to me was that probably in almost every transaction there was a lawyer who drew up the documents involved in that procedure. I know as to the companies we looked at, that was the case. It seemed only right there ought to be some kind of an ethical standard put in place for the attorneys as well. All of the people who are involved should be looking at a new way of doing business.

As an accountant, I have been deeply disturbed by the action taken by some in my profession, and as a result I have taken a more personal interest than others might in drafting legislation which will ensure that accountants act professionally and responsibly, and which will protect the interests of corporate shareholders.

Following hearings on this matter, it has become clear that the role of attorneys who counseled these corporations and their accountants must be scrutinized as well. Just like accountants, these lawyers are expected to represent the corporation in the best interests of the shareholders. In doing so, these attorneys are hired to aid the corporation and its accountants in adhering to Federal securities law.

When their counsel and advice is sought, attorneys should have an explicit, not just an implied, duty to advise the primary officer and then, if necessary, the auditing committee or the board of directors of any serious legal violation of the law by a corporate agent. Currently, there is no explicit mandate requiring this standard of conduct. It is clearly in the best interest of their client to disclose this kind of information to the board, rather than just upper management.

Maybe it could be called the "smell test." If something smells wrong, somebody who can do something to fix it ought to be told.

It is important to understand the corporate attorney's client is the whole corporation and its shareholders, and not just the CEOs or some of the executives, accountants, or auditors. As a result, their ultimate duty of representation is not to the people to whom they normally report but to the shareholders through the board of directors.

This amendment would require the Securities and Exchange Commission to enact rules within 180 days to set forth minimum standards of professional conduct and responsibility for attorneys appearing and practicing before the Commission; not all attorneys, just attorneys appearing and practicing before the Commission; that is, those who are dealing with documents that deal with companies listed by the Securities and Exchange Commission.

This amendment instructs the Commission to establish rules that require an attorney, with evidence of material legal violation by the corporation or its agent, to notify the chief legal counsel or the chief executive officer of such evidence and the appropriate response to correct it. If these officers do not promptly take action in response, the Commission is instructed to establish a rule that the attorney then has a duty to take further appropriate action, including notifying the audit committee of the board of directors or the board of directors themselves, of such evidence and the actions of the attorney and others regarding this evidence. It is all within the corporation.

This amendment is simple. It requires the attorney to contact specific persons who are part of the management hierarchy and explain the problem. If that fails to correct the problem, the attorney must contact the audit committee or the board of directors.

I am usually in the camp that believes States should regulate professionals within their jurisdiction. However, in this case, the State bars as a whole have failed. They have provided no specific ethical rule of conduct to remedy this kind of situation. Even if they do have a general rule that applies, it often goes unenforced. Most States also do not have the ability to investigate attorney violations involved with the complex circumstances of audit procedures within giant corporations.

Similarly, the American Bar Association's Model Rules of Professional Responsibility do not have mandatory rules for professional conduct for corporate practitioners which require them to take specific action. The ABA merely has a general rule that an attorney must represent the best interests of an organization and suggests a number of ways an attorney could respond, including reporting illegal conduct to a responsible constituent of the organization, such as the board of directors. But this does not mandate action.

In response to Enron and the current environment concerning corporate integrity, on March 27 of this year the ABA did form a task force on corporate responsibility. But how many task forces have been formed and accomplished nothing? Task forces are often used to delay implementation of necessary changes. When task forces are used, we all know it takes years to set up the rules. When they are established, States may not actively enforce them or even have the means to enforce them.

In any event, it is my understanding that the ABA's task force's preliminary recommendations are for the attorney to report law violations through a chain or ladder of the corporation. That is what, in fact, this amendment does, first through the legal counsel or CEO and then to the audit committee or the board of directors.

While I almost always advocate a State solution, in this instance I must advocate a Federal solution. In the past, Congress has authorized a Federal commission to regulate the conduct of attorneys through promulgation of rules on attorneys practicing before them. For example, 31 U.S.C. section 330 provides the Treasury Department authority to regulate the practice of attorneys appearing before the Internal Revenue Service. Accordingly, the IRS has promulgated rules on the conduct of attorneys.

Under 31 CFR, part 10.21 of the IRS regulations, each attorney who knows the client has not complied with the revenue laws or who has made an error or omission on any return or document required by the IRS shall advise the client promptly of the fact of such non-compliance, error, or omission. The amendment I am supporting will give

the SEC authority to promulgate a rule similar to the IRS rule.

In the past, the SEC has tried to impose ethical conduct on attorneys. SEC rule 2(e), previously 102(e), authorizes the Commission to disbar or suspend from practice before it a lawyer or other professional who violates the securities law, assists in someone else's violation, or otherwise engages in unprofessional conduct.

Through this process, the SEC previously instituted proceedings under rule 102(3) to enforce the ethical standards for the practice of Federal securities law. But it has stopped bringing these types of actions. This amendment will get the SEC back on track and make attorneys stand up and pay attention if they have evidence a corporate agent has committed a material legal violation.

In the wake of Enron, over forty professors with expertise in Federal securities and ethics law, have written to SEC Chairman Harvey Pitt asking for some form of regulation over the practice and conduct of attorneys involved in Federal securities law.

In their letter, they state that if senior managers will not rectify a violation, lawyers who are responsible for the corporation's securities compliance work, should be required to report to the board of directors.

As they point out, such a disclosure obligation is still less onerous than that imposed on accountants under section 10A of the 1934 Securities Exchange Act, which requires an auditor to report, both to the client's directors and simultaneously to the SEC, and illegal act if management fails to take remedial action.

The amendment I am supporting would not require the attorneys to report violations to the SEC, only to corporate legal counsel or the CEO, and ultimately, to the board of directors.

Some argue that the amendment will cause a breach of client/attorney privilege, which is ludicrous. The attorney owes a duty to its client which is the corporation and the shareholders. By reporting a legal violation to management and then the board of directors, no breach of the privilege occurs, because it is all internal—within the corporation and not to an outside party, such as the SEC.

This amendment also does not empower the SEC to cause attorneys to breach their attorney/client privilege. Instead, as is the case now, attorneys and clients can assert this privilege in court.

In addition, this amendment creates a duty of professional conduct and does not create a right of action by third parties. The Fourth Circuit has made such a ruling concerning the code of conduct applied by the IRS Rules.

The SEC has already found that attorneys who fail to take steps to prevent their clients from violating Fed-

eral securities law are guilty of aiding and abetting. This amendment will put attorneys on the right course. By reporting violations to the board of directors, they can avoid being found guilty of aiding and abetting their client.

Just as I am concerned about the conduct of accountants because that is my profession, I would think member attorneys would be as concerned about the conduct of the legal profession. To ignore the role attorneys played in Enron, World.Com and Global Crossing is a disservice to their profession.

I hope you will join me in ensuring that attorneys are required to conduct themselves ethically and in the best interests of their client when they see evidence of a material legal violation. They should be expressly required to report that type of activity to upper managers, and ultimately, to the board of directors who represent the shareholders.

After Enron, it is clear we need some hard and fast rules, and not just an arcane honor code rarely adhered to, so the necessary measure of client duty is placed into the hearts and minds of the legal profession. Again, I am disappointed there is a second-degree amendment. This is an important amendment and something that I thought would be cleared by both sides. We will deal with the rest of the process.

I yield the floor.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Wyoming yields the floor.

The Senator from New Jersey.

Mr. CORZINE. Mr. President, first, I am proud to have worked with Senator EDWARDS and Senator ENZI on this amendment on lawyer responsibility in corporate practice. It is an exceptional piece of additional effort in dealing with corporate fraud, corporate crime, and corporate abuse. I am very happy to have participated with him, and I particularly compliment Senator EDWARDS on bringing this important issue to the attention of the Senate and for making sure that we propose this strong amendment, to ensure corporate lawyers' ethical responsibilities.

I, too, with the Senator from Wyoming, am disappointed. We are mixing apples and oranges when we are talking about lawyer's fees. This is dealing with corporate actions of lawyers. I don't understand why we are trying to move to a completely different subject when what we are trying to deal with is corporate responsibility. Lawyers play a role in that as much as accountants and management.

Again, I thank Senator ENZI for his cooperation and leadership, not only on this effort but with regard to the core bill, which is going to make a big difference in the marketplace. People talk about weakness in the market and are fearful of what we do in Congress,

but they are really fearful of what we will not do or what we might do in addressing some of the quite obvious needed reforms.

We have talked a lot in the wake of Enron and WorldCom about the responsibility of accountants and corporate managers. Rightly so, as we have seen far too much bending of the rules, breaking of the rules in pursuit of profit, pursuit of personal gain. In their wake, shareholders, employees, and frankly the whole economy, has suffered from the selfishness that we have seen demonstrated by the actions of many—the criminal actions, in some instances.

It is not insignificant that even before this week, before there was so much focus on this issue, this year there had been roughly \$2 trillion worth of damage, value lost in the stock market, which is reflective of the discomfort that investors across the globe, as well as here at home, feel about where we stand.

As a former corporate leader, I tell you I am disgusted with many of the actions I have seen taken by some corporate managers when they betrayed shareholders' trust, employees' trust, and the public confidence in general. I think they have basically betrayed our whole Nation's economy. That is why I have been pleased to work on this critical legislation that Senator SARBANES has proposed regarding the accounting industry's corporate responsibility.

But I do not think that is enough. I think, as Senator EDWARDS said when he brought this to our attention, executives and accountants do not work alone. In fact, in our corporate world today—and I can verify this by my own experiences—executives and accountants work day to day with lawyers. They give them advice on almost each and every transaction. That means when executives and accountants have been engaged in wrongdoing, there have been some other folks at the scene of the crime—and generally they are lawyers.

This is not a new issue. The SEC had an unambiguous view about this more than 10, 15 years ago. More than 10 years ago Judge Stanley Sporkin, while commenting on the criminal actions of Charles Keating, noted that Keating had:

... surrounded himself with literally scores of accountants and lawyers to make sure all the transactions were legal.

In a now famous refrain, Sporkin lamented:

Where were these professionals . . . when these clearly improper transactions were being consummated? . . . Where, also, were the outside accountants and attorneys when these transactions were being effectuated?"

That sounds a little familiar in the current circumstance. The bottom line is this. Lawyers can and should play an important role in preventing and addressing corporate fraud. Our amendment seeks to ensure that. It seeks to

go back to the old way: When lawyers know of illegal actions by a corporate agent, they should be required to report the violation to the corporation.

Let me be clear. The same as I feel about most accountants and most business leaders, the vast majority of lawyers discharge their duties with integrity and in an ethical manner. This is not an effort to blame corporate lawyers. But we cannot overlook the role corporate lawyers, the lowest common denominator, can play in addressing abuses and ensuring that our markets have integrity. We need to clarify that corporate lawyers have a duty to the shareholders, not just to the management that hired them.

That is why Senator EDWARDS, Senator ENZI, and I have crafted an amendment that will clarify that lawyers who know of wrongdoing by a corporation must report that wrongdoing to the client so it can be corrected. The client is more than just the person who hired them. The lawyer's client is the corporation's shareholders, not the manager. As we have seen far too often this year, when management is engaged in fraud it harms the shareholders. That is why we need to ensure that lawyers who know of illegal acts report those acts to the board of directors which represent those shareholders. Our amendment would require the SEC to establish rules in the public interest and for the protection of investors, setting forth minimum standards of professional conduct for attorneys appearing and practicing before the Commission. Those rules would include—shall include a requirement that lawyers who have evidence of a violation of law would be required to go up the ladder of corporate management and report the violation.

It is a simple principle—very much common sense. If a manager doesn't respond appropriately, including remedying any violation, the lawyer would then be required to report the violation to the board of directors which represents the shareholders.

We should recognize that in some instances where there may be evidence of a violation, it may become apparent after a more complete investigation that there is not an actual violation. But when lawyers are aware of a potential violation, they do have a duty to investigate. And if they determine there is a material violation of law—not some small violation, some insignificant rule—that violation should be remedied by the corporation. If it is not remedied, it is the duty of the lawyer, under our language, to report it to the board.

I am pleased that Senator EDWARDS and Senator ENZI and I have been able to craft an amendment that will firmly establish the ethical duty of corporate lawyers to report wrongdoing to their client, including, if necessary, to the board of directors that represents a company's shareholders.

Addressing the role of corporate lawyers is just as important a step as it is with accountants and with corporate officers. If we want to truly address this breakdown in corporate responsibility, it is a critical piece of the puzzle that cannot be overlooked. I urge my colleagues to support this sensible amendment.

Once again I say I am disappointed with the McConnell amendment. I suggest we move to table that, in light of its irrelevance with respect to the underlying matter.

I will withdraw that motion, and I suggest the absence of a quorum.

Mr. REID. Will the Senator withhold?

Mr. SARBANES. Does the Senator yield the floor?

The PRESIDING OFFICER. Does the Senator withhold suggesting the absence of a quorum?

Mr. CORZINE. Yes. I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

AMENDMENT NO. 4206

Mr. MILLER. Mr. President, I ask unanimous consent the pending amendments be laid aside so I may offer an amendment, and that there be a time limitation of 2 minutes on my amendment, with no amendments in order to my amendment. This amendment has been agreed to by both managers.

Mr. REID. Reserving the right to object, and following the disposition of this that we will return to the Edwards amendment?

The PRESIDING OFFICER. That is the understanding of the Chair. Is there objection? Without objection, it is so ordered.

Mr. MILLER. I send my amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Georgia (Mr. MILLER) proposes an amendment numbered 4206.

Mr. MILLER. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate that the chief executive officer of a corporation should sign the corporation's income tax returns)

At the end add the following new title:

TITLE VIII—CORPORATE TAX RETURNS
SEC. 801. SENSE OF THE SENATE REGARDING THE SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICERS.

It is the sense of the Senate that the Federal income tax return of a corporation should be signed by the chief executive officer of such corporation.

Mr. MILLER. Mr. President, this amendment is only three lines long. Let me read them to the Senate:

It is the sense of the Senate that the Federal income tax return of a corporation shall

be signed by the chief executive officer of such corporation.

Believe it or not, that is not in the law right now, and it should be. The average wage earner on his 1040 form has to sign it. We require it of him. That is what we should require of the CEO of a corporation, just treat them the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland, Senator SARBANES.

Mr. SARBANES. I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. GRAMM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. GRAMM. Mr. President, I withdraw the request. I don't have any problem. It was a confusion of which amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4206) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I announce that there will be no more roll-call votes tonight. I hope Senators will come to the floor and continue to participate in the debate. But for the interest of Senators and schedules, we will have no additional rollcall votes tonight.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, while we are all waiting for further business, I will take just a moment to speak to the amendment that has been offered by the very able Senator from North Carolina. In fact, I would like to put a couple of inquiries to the Senator, if I might.

It is my understanding that this amendment, which places responsibility upon the lawyer for the corporation to report up the ladder, only involves going up within the corporate

structure. He doesn't go outside of the corporate structure. So the lawyer would first go to the chief legal officer, or the chief executive officer, and if he didn't get an appropriate response, he would go to the board of directors. Is that correct?

Mr. EDWARDS. Mr. President, my response to the question is the only obligation that this amendment creates is the obligation to report to the client, which begins with the chief legal officer, and, if that is unsuccessful, then to the board of the corporation. There is no obligation to report anything outside the client—the corporation.

Mr. SARBANES. I think that is an important point. I simply asked the question in order to stress the fact that that is the way this amendment works. This has been a very carefully worked out amendment. I engaged in an exchange with the distinguished Senator from North Carolina, and the Senator from Wyoming, Mr. ENZI, the cosponsors of this amendment. I know how careful they have been in trying to craft the amendment and in bringing it here. I think they have done an absolutely first-rate job in sort of focusing the amendment, considering questions that were raised from one source or another, and adjusting it in order to meet them.

I think the amendment they have now put before us is an extremely well reasoned amendment, and it ought to command the support of the Members of this body.

I very deeply regret that Senator MCCONNELL has added an amendment to the amendment. His amendment really doesn't address this amendment. It doesn't really address the subject matter of this legislation. It is a total diversion. Of course, I presume it will complicate our ability to try to move ahead as we consider amendments. It obviously complicates the consideration of the Edwards-Enzi amendment which is now pending.

Furthermore, I understand that under this amendment it can only be enforced by the SEC through an administrative proceeding. Is that correct?

Mr. EDWARDS. The answer is yes. The only way to enforce this legal requirement is through an administrative process.

Mr. SARBANES. That was an effort, of course, to deal with the idea that somehow it might bring causes of action from outside, or somewhere else. So it is limited to the SEC. The SEC, as I understand it, had something like this in place in the past. Is that correct?

Mr. EDWARDS. The answer is yes. Years ago, the SEC had and enforced such a regulation, which they have not been doing for some time.

Mr. SARBANES. I further understand that a number of professors of securities regulations and professional ethics

are, in fact, supportive of this proposal. I think at an earlier time they wrote to the SEC urging the SEC itself to put some provision such as this into place. Is that correct?

Mr. EDWARDS. The Senator is correct. There is a large group of distinguished securities lawyers and legal ethics lawyers who have written the SEC suggesting exactly what the Senator said—that it become part of the regulations and part of the law.

Mr. SARBANES. This amendment really, in effect, parallels or follows those recommendations—at least in substantial respect—as I understand it.

Mr. EDWARDS. That is correct.

Mr. SARBANES. Again, that letter which I have had the chance to review, and also the signatories to it—some 40 or so distinguished professors of securities regulations or professors of professional ethics at the law schools—is also a very carefully reasoned proposal. The one they submitted to the SEC is the one the Senator from North Carolina has tracked in his amendment.

I thank both Senator EDWARDS and Senator ENZI for their very careful work. And I very much hope at the appropriate time we will be able to adopt this amendment and include it in this legislation. I think it makes an important contribution.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I ask unanimous consent at this time that I be called upon to offer an amendment; that the amendment be debated tonight—it is the amendment on SEC enforcement—and that when the debate is completed tonight and when we recess until the morning, that when the morning arrives, we would then return immediately to the Edwards underlying amendment and the McConnell second-degree amendment thereto.

The reason I make this unanimous consent proposal tonight is that there are a lot of relevant amendments which are waiting in line, which are important amendments, which have a lot of support, I believe, on a bipartisan basis in this body that ought to be considered prior to cloture or else; because they may not be technically germane, they would be precluded if cloture is invoked.

I have a number of amendments on the list. I think we should move this train forward tonight, utilize the time this evening to move this process forward so as many of these amendments as possible can be considered before cloture. I make that unanimous consent proposal at this time.

The PRESIDING OFFICER. Is there objection?

The Senator from Texas.

Mr. GRAMM. Mr. President, reserving the right to object, let me say that we have a lot of people who want to offer amendments. I have on my side some 30 amendments. We had better follow the regular order. Let me say that I would intend, once we have disposed of this unanimous consent request, to ask that all further amendments be germane to the bill and that at noon tomorrow we proceed to third reading. But I object to the unanimous consent request.

The PRESIDING OFFICER. Objection is heard.

The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that at 10:30 tomorrow morning, Thursday, July 11, the Senate resume consideration of S. 2673 and that the time until 12 noon be divided as follows: The first 45 minutes under the control of Senator BYRD; the remaining 45 minutes under the control of Senator MCCONNELL or his designee; that at 12 noon Senator ENZI be recognized to make a motion to table the McConnell second-degree amendment No. 4200, with no intervening amendment in order prior to disposition of the McConnell amendment.

That is not part of this agreement. For the information of Senators, we would have an hour, beginning at 9:30, for morning business for both sides, equally divided.

Mr. LEVIN. Mr. President, reserving the right to object.

Mr. GRAMM. Mr. President, I think this is a perfectly reasonable unanimous consent request, and I do not object.

Mr. LEVIN. Reserving the right to object, Mr. President, I have two questions relative to this unanimous consent request. The first question is, Does this then mean we would move to the disposition of the Edwards amendment?

Mr. REID. Mr. President, that is my hope. One of the reasons we want to dispose of the second-degree amendment—Senator ENZI, who has worked with you and others on the underlying amendment, is going to move to table. We hope we can move to the Edwards amendment.

The Senator from Texas, Mr. GRAMM, has told us he wants to study this tonight and he will give us word on it tomorrow. I think it has been debated quite sufficiently. It appears to me the Edwards amendment is reasonable. I think in the dialog he answered all the questions of the Senator from Texas. I have no problem if the Senator wants to spend the night looking it over more.

Mr. LEVIN. My second question under the reservation is this: This does not then change the order that has been previously listed for amendments

under the earlier UC request; is that correct?

Mr. REID. That is correct. We have a number of amendments queued up. Senator EDWARDS has been here all day, for example. The Senator from Michigan has been here a long time today. We hope we can move through some of these tomorrow.

As the Senator knows, there is anticipation tonight that a cloture motion will be filed on this bill. The majority leader has told everyone that we have only 3 weeks remaining in this little session before the August recess. We would like to do prescription drugs. We are going to move, we hope, to the MILCON appropriations bill in the next day or so. We have homeland security we have to do. There is so much to do and a limited amount of time in which to do it.

Mr. LEVIN. Further reserving the right to object, Mr. President, I will simply add the following because there are relatively few hours between now and a vote on cloture, assuming that cloture motion is filed. I think we should fully utilize that time to consider relevant amendments. What my great fear is—which is being reinforced tonight—is that the time is going to be filled not by relevant amendments but in other ways which would preclude the consideration of relevant amendments in the event cloture is adopted. That is a major concern I have. I don't know if other people waiting in line with amendments that are relevant amendments have the same concern, but I hope and believe they do.

I hope it will be possible for relevant amendments to be considered, if not tonight, then tomorrow, and that the time be fully utilized; otherwise, it would simply preclude important relevant amendments that are waiting in line.

Mr. REID. Mr. President, the Senator also speaks for others. We have had, over the last several months, problems getting legislation up the way we used to do it here. It is difficult when we have obstacles that are brought up. It does not allow us to proceed in the normal fashion. I hope the Senator will allow the agreement to go forward.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Texas.

Mr. GRAMM. Madam President, I am told one of my colleagues is coming down to object to this unanimous consent request. I have to suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I renew my unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Madam President, the reservations of the Senator from Michigan have no impact on this unanimous consent request? That is a parliamentary inquiry. The reservations expressed by the Senator Michigan have no impact on the unanimous consent request as it is written?

The PRESIDING OFFICER. That is correct.

Mr. GRAMM. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

Mr. REID. Madam President, I appreciate very much the work of the managers of this bill. This is very important legislation. I was advised by the chairman of the committee just a few minutes ago the stock market dropped again today almost 300 points. We need to do something to reestablish credibility and to reestablish the confidence of the American people in corporate America. This legislation goes a long way toward that end. I hope there will be cooperation tomorrow so that some of these relevant amendments can be offered.

I hope everyone understands the importance of this legislation. I am confident they do. I appreciate the ability to work this out so we can at least move forward tomorrow to the extent we do in this unanimous consent agreement.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, let me just outline, if I may, where I see we are in the process. Tonight, a cloture motion is going to be filed. Tomorrow we are going to have a series of amendments. As everybody knows, when cloture is invoked, the relevant test is germaneness, not relevance, not significance, not the feeling of a Member that their amendment is important or more important than any other Member. The test is germaneness.

Anybody who has ever been involved in a situation where we move toward cloture understands that once we are on that track, unless amendments are relatively acceptable on a broad basis to all parties involved, knowing that the amendment is sheared off at the hour of cloture, that amendment in all probability—let me state it more precisely—that amendment is not going to be adopted.

We can do this in one of two ways, and either way works perfectly with me. We can either try for the non-germane amendments—if your amendment is germane, you are solid, you can offer it now, you can offer it later, and you are going to get a vote on it. But if your amendment is not germane, I suggest we try to get our staffs together and see if something can be worked out where if part of the amendment or all of the amendment or the

amendment and something else is non-controversial, it could be adopted.

At the end of the day, we will all be happier if we do that. If we spend all of tomorrow butting heads knowing what the final outcome is going to be, the net result is we are just going to have unhappiness and no good will come out of it.

I say to anyone who has a non-germane amendment, in the end, to have that amendment adopted it is going to have to be generally supported because, obviously, any Member is going to be able to prevent it from being voted on. It is going to get sheared off at cloture.

I have a list of amendments, most of which have absolutely nothing to do with this bill. I have amendments on bankruptcy. I have amendments on the Ninth Circuit Court of Appeals. I have amendments on pensions. I have amendments on tax policy. I have numerous amendments on stock options.

I submit to all these people who want to offer amendments that what we ought to do if we are going to try to get something done is to have them have their staff sit down with staff on both sides of the aisle and say: Is there anything in here that might be generally agreed to, and if that is the case, we could move in that direction.

Finally, let me say we have in place a unanimous consent agreement about how we are going to proceed tomorrow morning, and I ask the Democratic floor leader, if I can, given that we have a unanimous consent agreement in place for the morning, can we simply have the floor open for the purpose of debate only tonight so that those of us who are going to be here all day tomorrow, as we were all day today, can go home?

Mr. REID. I say to my friend, there are some things we have to do, such as filing cloture, and if that situation of debate only is in effect, we could not do that.

Mr. GRAMM. With what now?

Mr. REID. If there is debate only, we could not file the cloture motion.

Mr. GRAMM. If you can just tell us, if we can have an agreement—the Senator can amend it. All I am saying is, if people want to stay and debate any pending amendment or talk about whatever they want to talk about, that is fine. It seems to me if we are through with all of our business except debate, we could let people who have debated enough go home.

Mr. REID. The leader has stated there will be no more rollcall votes tonight. I hope if one wants to talk about the bill, they will do that, but I do not think we need a UC to accomplish that.

Mr. GRAMM. If the Senator will yield, what about a unanimous consent request, except to file a cloture motion, that there will be debate only tonight? That way we do not have a problem of potentially someone asking unanimous consent for something.

Mr. REID. My personal feeling is I have no problem with that. I have to check with staff to make sure I am not missing anything, but I want to make sure the Senator from North Carolina is protected.

Mr. EDWARDS. Will the Senator from Texas yield, if he has the floor?

Mr. GRAMM. If I do I yield to him.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 4187, AS MODIFIED

Mr. EDWARDS. Madam President, I have a modification to my amendment at the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 108, line 15, insert before the end quotation marks the following:

“(C) RULES OF PROFESSIONAL RESPONSIBILITY FOR ATTORNEYS.—Not later than 180 days after the date of enactment of this section, the Commission shall establish rules, in the public interest and for the protection of investors, setting forth minimum standards of professional conduct for attorneys appearing and practicing before the Commission in any way in the representation of public companies, including a rule requiring an attorney to report evidence of a material violation of securities law or breach of fiduciary duty or similar violation by the company or any agent thereof to the chief legal counsel or the chief executive officer of the company (or the equivalent thereof) and, if the counsel or officer does not appropriately respond to the evidence (adopting, as necessary, appropriate remedial measures or sanctions with respect to the violation), requiring the attorney to report the evidence to the audit committee of the board of directors or to another committee of the board of directors comprised solely of directors not employed directly or indirectly by the company, or to the board of directors.

Mr. EDWARDS. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

CLOTURE MOTION

Mr. REID. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on Calendar No. 442, S. 2673, the Public Company Accounting Reform and Investor Protection Act of 2002:

Jon Corzine, Deborah Stabenow, Paul Wellstone, Ron Wyden, Daniel Akaka, Barbara Boxer, Charles Schumer, Byron Dorgan, Harry Reid, Paul Sarbanes, Daniel Inouye, John Edwards, Barbara Mikulski, Thomas Carper, Jack Reed, Tim Johnson.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, before the Senator from Texas departs,

I wish to add an observation to the comments he made before about how to proceed.

There are a number of amendments. The definition of germaneness, once cloture has been invoked, is very narrow. There are amendments that Members have which in the normal terminology would be regarded as germane and are certainly relevant. It seems to me an effort should be made to address those amendments as well as ones that are perceived to be germane in the very narrow sense.

There is another category of amendments that I am not very sympathetic to, and those are ones that have really nothing to do with this bill. The second-degree amendment offered by the Senator from Kentucky that is now pending, in my judgment, is an example of that. We probably ought to move very quickly to table those kinds of amendments when they come up so we have an opportunity for colleagues who have amendments that are really relevant to this legislation to bring them up and to have them considered.

Mr. GRAMM. Will the Senator yield?

Mr. SARBANES. Yes.

Mr. GRAMM. I think we have a fairly broad consensus that is the direction in which we should go. The fact that we are getting ready to have cloture should not prevent us from adopting amendments where there is support and where there is a collective judgment that the amendment is relevant. The plain truth is that anyone knowing that cloture was coming could have held up the President's amendment which added criminal sanctions. Any Member of the Senate could have prevented that from being voted on knowing that it was nongermane, but nobody did that because there was a general base of support for it.

All I was saying was that every Member of the Senate knows the germaneness rule and everybody knows that, come whenever we invoke cloture, any amendment that is nongermane is going to fall. Then what is going to happen is, unless there is some consensus for the amendment, it is simply going to be delayed until it is cut off.

If what the Senator is saying is that if an amendment is relevant, if it would improve the bill, if it is not highly controversial, we ought to take it, I agree with that. Looking down my amendment list, there are not a lot of such amendments, but the ones that are there, if people want to bring them up, I am not going to oppose an amendment simply because it is not germane.

Mr. SARBANES. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent that the previously agreed to Daschle for Biden amendment, No. 4186, as modified, be inserted in the appropriate place in the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BINGAMAN. Madam President, I ask unanimous consent that the Senate now proceed to a period for morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

HONORING THE LIFE OF JOHN WIRTH

Mr. BINGAMAN. Madam President, I rise to give a few comments about a good friend of mine, John Wirth. On June 20, 2 weeks ago, the life of John Wirth, a great American and a citizen of my State of New Mexico, ended way too soon. His death brings deep sadness to his family, to his friends, and indeed to all of us who knew him and knew his important life's work.

John was an internationally acclaimed scholar in the history of Latin America. He taught at Stanford University for many years. His vision was for a more integrated world and for a Western Hemisphere in which countries work together for the common good of all. Many of his efforts were personal, and many of his efforts he pursued through the good works of the North American Institute.

Several weeks ago, I heard former President Clinton describe the current circumstances that we confront in the world as a struggle between the forces of integration and harmony on the one side and the forces of disintegration and chaos on the other. Throughout his entire life, John Wirth was a leader in that struggle for world integration and harmony. He sought to understand the world in his travels and in his studies. He sought to explain it through his teaching and through his writing. He applied his very fine mind and good heart to every situation, every problem, and the result was one in which everyone could have confidence because of the judgment and thought he used.

His vision, his commitment, his strength of character, and bedrock decency as a human being served his mission well. The world and all of us who knew him are poorer because of his death, but certainly richer because of his life. Our sympathy goes out to his wife Nancy, to their children, and to all of the Wirth family.

I ask unanimous consent that immediately following my remarks, the remarks of former Senator Tim Wirth,

which were delivered at his brother's memorial service in Santa Fe, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOHN DAVIS WIRTH—REMEMBRANCES OF MY BROTHER

(By Tim Wirth)

Thank you for being here, for coming this morning to help us—John's family—and to help each other—John's friends and colleagues and neighbors—his extended family—as we try to soften the shock and the sorrow of his death.

In recent years it has become customary to speak of funeral services as celebrations of life.

And there was much in John's life to celebrate, much of his life that we will hold and cherish in our lives for a very long time to come.

But this morning I grieve not just because he was my older, much-loved brother, but because he was an exceptional man, a perceptive scholar and teacher and thinker, a visionary, quietly passionate, civic activist, and a devoted husband, proud father, and loving grandfather.

John saw himself and all of us as citizens not just of the Southwest, not just of the United States, but of a diverse, unique community as big as a continent—as citizens of North America where he saw a future of regional collaboration, a model for the world.

He was working toward that future when he died. I think he had a very big book in mind, a capstone of an extraordinarily influential career.

I grieve that he did not live to see the next stages in the process to which he had dedicated so much imagination and energy.

I grieve for a life cut off far too early.

In what was supposedly the beginning of retirement, he was actually entering what were becoming his most productive and creative professional years.

We cannot know what he have lost. We can be sure our loss is beyond measuring.

I grieve for John's three sons, Peter the community leader; Timothy the conservationist; and Nicholas like his father and grandfather, also a teacher of history. Each in his own way reflects his father's deep public service commitment. He was so proud of all of you, the choices you have made in your lives, the women you were fortunate to marry, the men you have become.

Most of all, I grieve for his grandchildren—for Alex and Elena and Charlotte and Zoe and for their brothers and sisters who have not yet entered the world that John has left. He had so much to give you—his love, his steady hand, his example.

He loved the times he did have to share with you—as he had loved earlier times with Peter, Tim and Nicholas. He knew how to share the many joys he took from life, and the many gifts he brought to living.

From your grandfather you already have a wonderful, special inheritance. Part of it is the joy he took in study and in the quest for excellence.

Your grandfather valued hard work and discipline, and he was tough on himself, because being tough brought out the best in him—his four, first-rate books of Brazilian history, and the eight other volumes he co-authored or edited.

His focus, energy and discipline earned him many proud accomplishments, including being named Gildred Professor of Latin American studies at Stanford, and winning

the prestigious Bancroft prize for excellence in history. Those qualities—focus, hard work, and discipline—will bring out the best in you when you take his example as your guide.

Remember, too, the joy he took in fine writing—his own and others'; the joy he gained from music; his utter delight in the first run of a new ski season; and the days he spent matching wits with the wily trout.

I hope you will share and carry forward his passion for nature and the outdoors, which will translate for you, as it did for him, into care for the beauty of our planet and for the danger that face our fragile environment.

Of all the gifts he had and all the gifts he would have wanted to share with you as you grow up with his memory but without his presence, his enormous curiosity is the highest of his legacies.

John always had to know why things worked, and how they connected.

His curiosity was not idle. It drove him, all through life, to look deeply into any question that animated him and to pry out the reasons behind history and to sort out the connections between past and future. And while it drove him, John's curiosity often drove his family crazy—his stubbornness, sometimes misplaced enthusiasms—all curious, too!

John had discovered himself as a historian when he was an undergraduate at Harvard, and then from teaching history at Putney. He originally planned to make Asian studies his specialty, and he decided to come back to the west—to Stanford—to become a scholar of the far east.

However, the spring vacation of his last year in Vermont (before his first class in Palo Alto), he and Nancy took a vacation to Brazil, to stay with some of Nancy's family. This proved to be a voyage of discovery, and it changed the course of his life.

John became a modern explorer, not a conquistador hunting for El Dorado, but an investigator intrigued by a vibrant, complex culture and a land and people as full of possibility as his own country.

His scholarship evolved, from Brazilian history, to comparative studies within Brazil to regional economic studies in South America to trying to understand why some countries develop, and others don't. As Susan Herter has told us, he ended up studying North America—Mexico, Canada, and the U.S.—and became the most distinguished continental scholar.

His last book analyzed transborder environmental problems, especially air pollution. In showing that cooperation could work, John used one central story—how the U.S. and Mexico had worked to clean up two copper smelters on each side of the Rio Grande. He took pleasure in the irony that, 60 years earlier, our grandfather had managed the huge open pit copper mine in Morenci, Arizona, that had fed those two same smelters.

Beyond love and scholarship and his wide-ranging, enthusiastic curiosity, John was driven all his life by a gnawing desire to reconnect with the life that had been shattered for him during a short six months in 1943 when he was only six years old.

In that period, illness took our father, the Manhattan project took our home in Los Alamos, and, when we had to move away, the army took John's beloved collie, Tor, to serve in the war effort.

Separately, those were terrible losses for a child to suffer. They drove him and throughout his life as he has worked to try to understand, to put the pieces back together.

Only two days ago I found a short piece that John had written about the weight of

those early years—one including even the loss of his birthplace, Dawson, New Mexico (in 1936, when John was born, Dawson was a vibrant coal mining community, now it is a ghost town.)

Writing about his childhood, he said, "Thus, by age 8, I had already developed a keen sense of life's contingencies. Displaced by the war, single parented, and with a birth certificate from nowhere, I felt the pull and the need for historical explanation."

John's "pull and need" were scholarly.

But his curiosity fed a steadily expanding drive to apply his knowledge, and to stimulate inquiry by others, beyond the lecture hall, beyond the campus and into the messy realities of public policy.

His curiosity led him to see, for instance, the connections between environmental history, which he taught with his heart as well as his intellect, and the immediate pressures on the environment of the Southwest—which he worked to alleviate.

Curiosity also fired his perception of our continent as a single region—well before most policymakers even thought of it as a single market.

His thirst to make sense of history fed his skill as a teacher and his vision as a citizen.

If you, as his grandchildren, take some measure of his curiosity out the door with you every day, your lives will surely have the richness and satisfaction that his had.

His last, great gift to you is actually one he inherited, lost and regained.

It is his sense of this place to which he so deeply belonged, to the Southwest, to New Mexico, to Santa Fe.

His mind traveled far and wide, but his heart was always here. Born in New Mexico, John spent much of his childhood in Colorado.

For education he went east. He started his school years in New England as a scholarship student at Putney School to which he returned as a teacher, then a trustee, father of three Putney students, and then chairman of the board. The help he got from Putney, and the help he in turn gave to make it an even better school, became a major part of his life.

But one other school, a school that no longer exists, was probably even more important to him. It was called the Los Alamos Ranch School. Our father, Cecil Wirth, taught there.

As Bill Carson has reminded us, John's earliest memories were of that oasis on the edge of the beautiful New Mexico desert. His last book, which will be published this fall by the University of New Mexico Press, is a history of this school.

When some day you read it, you will find your grandfather in its pages. When his childhood ended, your grandfather was younger than Alex is today. Loss upon loss sent him out to find why the world worked the way it did and how to fit it all together.

In that world, in fact in this church, 42 years ago last week, he married your grandmother. She gave him a wonderful, warm, sustaining love that helped him search, filled so many vacuums, and was his partner in every way. Nancy molded and softened the man whose death we mourn today.

So, as we grieve, we thank John too for his strong will, exemplary focus and vision, for his energy and legendary enthusiasms, and for his optimism.

He gave us much and left his own legacy, broad and deep.

Thank You.

Mr. BINGAMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NEED TO ENACT ACCOUNTING AND CORPORATE REFORMS

Mr. LEVIN. Madam President, this week we will hopefully act with strength and unity to help bring confidence back to the investing public. The last 18 months have shaken the foundation of the public's belief in the accuracy of the financial statements of our major U.S. corporations, beginning with the precipitous fall of Enron last year. The Public Company Accounting Reform and Investor Protection Act sponsored by Senator SARBANES and reported last month by the Banking Committee, will make significant headway in restoring the needed confidence in our financial markets, and I strongly support it. Senator SARBANES and the supporters of this bill on the Banking Committee have shown vision and leadership in tackling the tough issues of corporate and auditor misconduct, and the Congress needs to enact this legislation as quickly as possible.

On Monday, July 8, in my role as chairman of the Permanent Subcommittee on Investigations, I released an official Subcommittee report on the role of the Board of Directors in Enron's collapse. This bipartisan report found that much of what was wrong with Enron—from its use of high risk accounting, extensive undisclosed off-the-books activity, conflict of interest transactions and excessive executive compensation—was not hidden from the company's directors but was known and permitted to happen. The report also found that Enron board members refused to admit any missteps, mistakes, or responsibility for the company's demise. The refusal of the Board to accept any share of blame for Enron's fall is emblematic of a broader failure in Corporate America to acknowledge the ongoing, widespread problems with misleading accounting, weak corporate governance, conflicts of interest, and excessive executive compensation. Corporate misconduct is not only fueling a loss in investors confidence, but also threatens to derail the recovery of the American economy.

The plain truth is that the system of checks and balances in the marketplace designed to prevent, expose, and punish corporate misconduct is broken and needs to be repaired. Action is critically needed on a number of fronts to restore these checks and balances.

American business success is a vital part of the American dream. That

dream is that any person in this country who works hard, saves, and invests can be a financial success. If that person sets up a company, that company's success can be magnified through our capitalist system which allows other investors to buy company stock, invest in the company's future, and share in the company's financial rewards.

The American stock market is part of that American dream. In recent years it has been the biggest and most successful stock market in the world, an engine of growth and prosperity. It has not only brought capital to a company so they can set up new businesses and employ more people, it has brought financial rewards to individual investors who put their money in the market.

Over the years, the Government has developed checks and balances on the marketplace to put cops on the beat to try to make sure that people who are using other investors' money play by the rules. That is why we have the Securities and Exchange Commission, the Commodity Futures Trading Commission, and banking regulators. That is why we have rules requiring publicly traded companies to issue financial statements and why we have accounting standards to make those financial statements understandable and honest. That is why we require companies to submit their books to auditors and why auditors certify whether the financial statements fairly present the company's financial activity.

Today we are in the middle of another ugly episode. In the aftermath of the go-go 1990s where American business grew at breakneck strength, the famed high-tech bubble inflated stock prices and the stock market got tagged with the strange new phrase "irrational exuberance." Company after company, especially in the high-tech sector, announced profits that increased by huge percentages year after year. Mergers and acquisitions proliferated, and corporate fees went through the roof. Executive pay skyrocketed. The highest paid executives made as much as \$700 million in a single year. By 2000, average CEO pay at the top 350 publicly traded companies topped \$13 million per executive CEO, while the workplace pay gap deepened. In 1989, CEO pay was 100 times the average worker pay. By the year 2000, it was 500 times.

Some pointed to this alleged prosperity during the 1990s as a justification for deregulating business, weakening regulators, and making it harder to seek corporate insiders and advisers. But now we are learning that some portion of the success and profits claimed by the companies during the 1990s—we still don't know how much—were based on corporate misconduct.

Lies about income and profits, hidden debt, improper insider trading, tax evasion, conflicts of interest—the list of

recent corporate malfeasance is an alphabet of woe.

Adelphia Communications. This is a publicly traded company, but the company founders, the Rigas family, are accused of using the company treasury as if it were the family piggy bank. The allegation is that the family borrowed from the company over \$2 billion—yes, billion—and has yet to pay it back. The company recently declared bankruptcy under Chapter 11.

Dynegy. This high tech energy firm is under SEC investigation for possibly inflated earnings and hidden debt. The questions include how it valued its energy derivatives, whether it booked imaginary income from capacity swaps with other companies, and whether it manipulated the California energy market. Senior executives, including CEO Chuck Watson, have recently been forced out.

Enron. This high tech company epitomizes much of the corporate misconduct hurting American business today, from deceptive financial statements to excessive executive pay. Its executives, directors, auditors and lawyers all failed to prevent the abuses, and many profited from them.

Global Crossing. This is another high tech corporate failure with outrageous facts. Less than 5 years old, Global Crossing was founded in 1997 by Chairman of the Board Gary Winnick. In 1998, the company went public, touting its plans to establish a worldwide fiber optic network. Global Crossing gave Mr. Winnick millions of dollars in pay, plus millions more in stock and stock options. In the 4 years the company traded on the stock market, Mr. Winnick cashed in company stock for more than \$735 million. Other company insiders sold almost \$4 billion in company stock. Then questions began to arise about inflated earnings, related party transactions, insider dealing, and board of director conflicts. In January 2002, the company suddenly declared bankruptcy. The company's shareholders and creditors have lost almost everything, while corporate insiders have so far walked away with their billions intact.

Halliburton. The question here is whether this construction company improperly booked income from contract cost overruns on construction jobs, before the company actually received the income. The company is under SEC investigation.

IBM. This all-American company, once a model of American know-how and can-do, has recently acknowledged misreporting about \$6 billion in revenue and restated its earnings by more than \$2 billion. Another high tech disaster for investors and American business.

ImClone. ImClone's CEO, Samuel Waksal, has been indicted for insider trading. The company produced a new drug whose effectiveness is still in

question and whose developer, Dr. John Mendelsohn, was not only an ImClone board member but also the President of M.D. Andersen Cancer Center in Texas. Dr. Mendelsohn arranged for the Center to conduct tests on the drug without telling patients that the Center's President had a direct economic interest in the drug's success. Dr. Mendelsohn was also a board member at Enron.

Kmart. This once successful company, headquartered in my home state of Michigan, is now bankrupt and under scrutiny by the SEC for possible accounting fraud. The pain of the employees who lost their jobs and the investors who lost their savings is ongoing, not only in Michigan but across the country.

Merrill Lynch. Once a highly respected investment advisor, this company has become a poster child for financial advisors who mislead their investors, telling them to buy the stock of companies the advisers privately think are losers. Merrill Lynch recently paid \$100 million and agreed to change how its financial analysts and investment bankers operate to settle a suit filed by New York Attorney General Elliot Spitzer.

Qwest Communications. This is another high tech company under SEC investigation. Questions include whether it inflated revenues for 2000 and 2001 due to capacity swaps and equipment sales. Qwest's CEO Joe Nacchio, made \$232 million in stock options in 3 years before the stock price dropped, leaving investors high and dry. Its Chairman Philip Anschutz made \$1.9 billion.

Rite Aid. Last month, three former top executives of Rite Aid Corporation, a nationwide drugstore chain, were indicted for an illegal accounting scheme that briefly—until WorldCom—qualified as the largest corporate earnings restatement in U.S. business history. The restatement involved \$1.6 billion. The indictment alleges that the company used brazen accounting gimmicks to overstate its earnings during the late 1990s, and when investigators came after them, made false statements and obstructed justice.

Stanley Works. This company is a leading example of U.S. corporations that have pretended to move their headquarters to Bermuda to avoid paying U.S. taxes. It joins a growing number of companies that want to go on enjoying US banks, US laws, and US workers, but do not want to pay their fair share of the costs that make this country work from the costs of public education, to police and the courts, to environmental protection laws. To me, these companies are not just minimizing their taxes, they are demeaning their citizenship. They are taking advantage of this country by enjoying its fruits without giving anything back. No company ought to be allowed to get away with this fiction and throw their

tax burden on the backs of other US taxpayers.

Tyco International. Last month, the CEO of Tyco, Dennis Kozlowski, was indicted in New York for failing to pay sales tax due on millions of dollars of artwork. The allegation is that Mr. Kozlowski shipped empty boxes to New Hampshire in a scam to show that \$13 million worth of artwork was sent out of state and exempt from sales tax when, in fact, the artwork never left New York. This is a millionaire, many times over, who could have easily afforded the tax bill but engaged in a sham to avoid paying it. The question is whether he ran his company the same way he ran his own affairs.

Tyco is one of those companies that has allegedly moved its headquarters to Bermuda. It has numerous offshore subsidiaries, including more than 150 in Barbados, the Cayman Islands and Jersey. The company's U.S. tax payments have apparently dropped dramatically. Allegations of corporate misconduct by insiders have also emerged. There was a \$20 million payment made to one of the company's directors and another \$35 million in compensation and loans paid to the company's former legal counsel. That's \$55 million paid to two corporate insiders, allegedly without the knowledge of the Board of Directors. Added to that is an ongoing SEC investigation allegedly examining whether a Tyco subsidiary paid bribes to win a contract in Venezuela.

WorldCom. WorldCom is the latest in this list of corporate embarrassments. It built a glowing earnings record through the acquisition of high tech companies like MCI and UUNet. It became a favorite investment for pension companies, mutual funds and average investors. Then we learn that the longtime CEO Bernard Ebbers borrowed over \$366 million in company funds and has yet to pay it back. After he's forced out and a new CEO takes over, we learn that the company booked ordinary expenses as if they were capital investments in order to string out the expenses over several years and make the current bottom line look great. The result was \$3.8 billion that had been conveniently left off the books—more than enough to wipe out the company's entire earnings for last year; more than enough for 17,000 workers to lose their jobs; more than enough to wipe out billions in investments across the country. Just one example in Michigan is the Municipal Employee's Retirement System which lost \$116 million that supported workers' pensions. At the same time, we're told that Mr. Ebbers has a corporate pension that will pay him over \$1 million per year for life.

Xerox. This all-American company has already paid \$10 million to settle an SEC complaint that, for four years, the company used fraudulent accounting to improve its financial results. As

part of the settlement, Xerox agreed to restate its earnings after allegedly recording over \$3 billion in phony revenues between 1997 and 2000.

This list is painful in part because it includes some icons of American business, symbols of what was right about the American dream. Now they symbolize corporate misconduct damaging to the entire country. The S&P index has plunged. The Nasdaq has been down 20% and even 30%. Mutual funds, the equity of choice for average investors, have dropped in value by more than 10%. The average daily trading volume at Charles Schwab & Co.—a measure of average investor activity—is down 54% from the height of the bull market, according to *Fortune Magazine*. Investor confidence in the U.S. stock market has dramatically declined. Foreign investment is fleeing.

There are many explanations for the corporate misconduct now tainting American business. One key factor is the terrible performance of too many in the accounting profession.

Auditors play an essential role in the checks and balances on the corporate marketplace. Under current law, a publicly traded company is not allowed to participate in the stock market unless its financial statements have been audited and found by an independent public accounting firm to be fair and honest. Auditors are supposed to be the first line of defense against companies cheating on their books.

The Supreme Court put it this way in *United States v. Arthur Young*, 465 U.S. 805, 1984, a case that contrasts the role of auditors with the role of lawyers. The Court noted that a lawyer is supposed to be a client's confidential advisor, but the:

... independent certified public accountant performs a different role. By certifying the public reports that collectively depict a corporation's financial status, the independent auditor assumes a public responsibility transcending any employment relationship with the client . . . [and] owes ultimate allegiance to the corporation's creditors and stockholders, as well as to the investing public. . . . This 'public watchdog' function demands that the accountant maintain total independence from the client at all times and requires complete fidelity to the public trust.

But that's not what has happened recently.

In Adelphia, the auditors, Deloitte Touche, allegedly missed the fact that the Rigas family borrowed company funds totaling \$2 billion.

At WorldCom, Andersen allegedly never knew that \$3.8 billion in expenses had been incorrectly accounted for as capital investments.

At Xerox, KPMG allegedly missed errors involving \$6 billion in revenue and \$2 billion in earnings.

These are not marginal amounts; they involve billions. How did the auditors miss the accounting errors and dishonest financial reports? Or are

these cases like Enron, where the auditor didn't miss the problems—they knew of them, had misgivings about the accounting, but allowed questionable transactions and financial statements to go forward anyway?

And there are many more cases than the high profile scandals I just described. In the last few years, there has been a surge in corporate restatements—financial filings in which a publicly traded company admits that a prior financial statement was inaccurate and corrects the earlier information. From 1990 through 1997, publicly traded companies averaged 49 of these restatements per year. In 1999 and 2000, that number tripled—publicly traded companies filed about 150 each year.

These restatements go beyond the list of companies I started with, reaching much deeper into corporate America. In addition to those already reported in the media over the last few years, I asked the Congressional Research Service to look at the most recent corporate restatements, those filed since January of this year. On June 17th, CRS issued a report listing over 100 completed and expected restatements in the first six months of 2002, and predicted that the total number of restatements in 2002 may exceed 200. A smattering of these restatements, another alphabet of corporate woe, include the following.

American Physicians Service Group. This health services company restated its 2000 and 2001 earnings due to a revaluation of a private stock investment.

CMS Energy Corporation. This energy company, which has operations in Michigan, has restated its 2000 and 2001 financial statements to include \$4.4 billion in revenues attributable to "wash trades" with other companies involving energy commodities.

Dollar General Corporation. This company has restated its financial results for three years, 1998 through 2000.

Hanover Compression. This company has restated its earnings for seven quarters in a row, ending September 2001.

Microsoft. Following an SEC investigation, the flagship American company agreed to restate its earnings for 1995 through 1998, when it used accounting devices to "smooth" its reported earnings.

PNC Financial Services. This financial services company has restated its financial results for 2001 after questionable accounting under investigation by the Federal Reserve and SEC involving the sale of over \$700 million in problem loans and other non-performing assets to three companies it set up with the insurance conglomerate, American International Group.

Pacific Gas & Electric. This energy company has announced that it will restate its earnings back to 1999 to ac-

count for off-the-books "synthetic leases" involving about \$1 billion in financing for several power plants.

Peregrine Systems. This company announced it would restate earnings for 2000, 2001, and 2002, and that an SEC investigation was in progress.

Stillwater Mining Co. This company announced that the SEC had criticized its accounting practices and a restatement of earnings would be issued.

There are many more examples. What is happening that more and more financial results have to be restated, erasing more and more questions about the reliability of the original financial reports? Why this surge in corporate restatements?

Part of the answer is that too many accounting firms apparently no longer value in their watchdog role. Today, they celebrate instead the earnings they receive as tax advisers and business consultants.

During the 1990s, all the major accounting firms dramatically increased the non-audit services they provided to their audit clients. By 1999, 50% of firm revenues at the big five accounting firms came from consulting, while only 34% came from auditing. A few years later, the data indicates that almost 75 percent of the fees earned by the big five accounting firms came from non-audit services. Specific company proxy statements show that many publicly traded companies now pay millions more for consulting than they do for auditing, including such companies as Raytheon, Apple Computer, Nike, International Paper, AT&T, Honeywell and Coca-Cola. A January 2002 Harvard Business School publication raising questions about auditor independence cited anecdotal evidence that accounting firms were using their positions as auditors to obtain consulting work, including by "lowballing" audit fees if a company simultaneously agreed to a consulting contract. The work done by the Permanent Subcommittee on Investigations, which I chair, includes evidence that accounting firms are shopping around to publicly traded companies, including their audit clients, complex accounting arrangements that they say will improve a company's financial results and pending complex tax strategies that will lower its tax bills.

The role of Arthur Andersen at Enron illustrates the profession's movement from auditor to moneymaker. Andersen was Enron's outside auditor from the company's inception in 1985. As Enron grew, Andersen's role at the company grew, with more and more of Andersen's time spent on financial services other than auditing.

Andersen began to offer Enron business and tax consulting services which included assistance in designing special purpose entities, offshore affiliates, and complex structured finance transactions. For example, Andersen was

paid about \$5.7 million to help Enron design the LJM and Chewco partnerships and engage in a series of purported asset sales to these entities. Andersen was paid more than \$1.3 million to help Enron set up the Raptors, a series of four complex transactions that were an improper attempt by Enron to use the value of its own stock to offset losses in its investment portfolio. Andersen also helped Enron engage in ever more exotic and complex transactions, such as prepaid forward contracts, swaps, and merchant asset sales. For two years, Andersen even acted as Enron's internal auditor while also serving as Enron's outside auditor.

By 1999, Andersen was earning more for its non-audit services than for its audit services at Enron. By then, Andersen had set up its own offices at the company site to enable it to work with Enron employees on a daily basis. A number of Andersen employees switched to Enron's payroll. Enron became one of Andersen's largest clients. In 2000, Andersen was paid \$1 million per week for the many services it was providing Enron. Andersen partners handling the Enron account earned millions in bonuses and partnership income.

Common sense tells us that as Andersen's joint efforts with Enron management increased, it became tougher and tougher for Andersen auditors to challenge Enron transactions—after all, these transactions had been set up with Andersen's assistance at the cost of millions of dollars. How could Andersen auditors say that Andersen consultants were wrong? And in many cases the same Andersen employee served as both consultant and auditor, essentially auditing his or her own work. We now know that internal Andersen documents demonstrate serious misgivings up and down the Andersen chain of command with respect to Enron's transactions or accounting. To the contrary, one of the few Andersen senior partners to raise gentle objections to some Enron transactions was, at Enron's request, removed from the Enron account. In the end, Andersen approved questionable transactions and financial statements that made Enron's financial condition appear better than it was.

Andersen once had a proud tradition that stressed its commitment to the public trust to ensure accurate financial reporting and honest accounting. But that tradition gave way in the Enron case. And it gave way in other recent cases of corporate misconduct as well, from Sunbeam to Waste Management to the Baptist Foundation of America.

Worse, Andersen was not alone. Media reports are filled with tales of auditors going along with questionable transactions and financial reporting.

PricewaterhouseCoopers and Microstrategy. Ernst & Young and PNC Financial. Deloitte Touche and Adelphia. KPMG and Xerox.

The conflicts of interest inherent in auditors performing consulting services for their audit clients have been building for years and were not lost on those concerned about accurate financial reporting by U.S. companies. In 2000, SEC Chairman Arthur Levitt waged a highly visible campaign to rein in auditor conflicts of interest and restore auditor independence. In July 2000, under his leadership, the SEC proposed regulations to stop auditors from providing certain non-audit services to their audit clients. The rules proposed four principles to determine whether, in fact and in appearance, an accountant was independent of its audit client. The proposed regulations stated that an accountant would not be considered independent if the accountant: (1) had a mutual or conflicting interest with the audit client; (2) audited the accountant's own work; (3) functioned as an employee of the audit client; or (4) acted as an advocate for the audit client. Using these four principles, the regulations proposed a ban on audit firms performing certain non-audit services for their audit clients.

The reaction of the accounting profession was to fight the proposal tooth and nail. The proposed regulations were also pummeled by the corporate community, which lost sight of how important reliable financial statements and reliable auditors are to the viability of American business and investment.

In the end, the proposed Levitt regulations were gutted. Instead of eliminating auditor conflicts, a compromise emerged that simply increased disclosure of the scope of the conflicts and the extent to which auditors were auditing their own work. That was the wrong result, which I hope the Senate will remedy through enactment of the Sarbanes bill.

What happened to the board?

In U.S. corporations, Boards of Directors are at the top of a company's governing structure. According to the Business Roundtable, the Board's "paramount duty" is to safeguard the interests of a company's shareholders. Persons who serve on corporate boards are required by state law to serve as fiduciaries to the shareholders and employees of the corporation for which they serve. As the Fifth Circuit said in 1984:

Three broad duties stem from the fiduciary status of corporate directors: namely, the duties of obedience, loyalty and due care. The duty of obedience requires a director to avoid committing . . . acts beyond the scope of the powers of a corporation as defined by its charter or the laws of the state of incorporation. . . . The duty of loyalty dictates that a director must not allow his personal interest to prevail over the interests of the corporation. . . . [T]he duty of care requires

a director to be diligent and prudent in managing the corporation's affairs.

One of the most important duties of the Board—along with corporate officers and company auditors—is to make sure that the financial statements are in fair representation of the company's financial condition. It requires more than technical compliance; it requires, as the Second Circuit Court of Appeals said in 1969, that the Board ensure that the financial statement "as a whole fairly present[s] the financial position" of the company.

The key committee of a board in carrying out that function is the Audit Committee, and a Blue Ribbon Commission in 2000 issued a report on what Audit Committees should do to meet their obligation to the shareholders. Among the responsibilities the Audit Committee should meet are: ensuring that the auditor is independent and objective; assessing the quality, not just the acceptability, of an auditor's work; discussing with the auditor significant auditing issues; and making sure that the financial statement are "in conformity with generally accepted accounting principles."

As I mentioned at the beginning of this statement, the Permanent Subcommittee on Investigations, which I chair, looked in depth at the actions of the Board of Directors on the Enron Corporation in light of its sudden collapse and bankruptcy. The Subcommittee on a bipartisan basis found that the Enron Board failed to safeguard Enron shareholders and contributed to Enron's collapse. If failed, we found, because the Board allowed Enron to engage in high risk accounting, inappropriate conflict of interest transactions, extensive undisclosed off-the-books activities, and excessive executive compensation. Based on review of the hundreds of thousands of Enron-related documents by the PSI staff and dozens of interviews, the Subcommittee concluded that the Board knew about numerous questionable practices by Enron management over several years, but it chose to ignore these red flags to the detriment of Enron shareholders, employees, and business associates. In short, the Enron Board failed to meet its fiduciary responsibility to the shareholders and employees of Enron.

When pressed to explain their conduct at a PSI hearing, the Board accepted no responsibility for Enron's failure. The Board members claimed they didn't know what was going on in the company—that management didn't tell them, and that the auditor, Arthur Andersen, told them everything was OK. The Subcommittee didn't accept that answer, because a review of the documents, the Board meetings, the Audit and Finance Committee meetings, and interviews with the Board members revealed that the Board Members did know what was happening at Enron and went along with it.

The Board failed with respect to the Enron Corporation, and my guess is that the boards of the other corporations now under investigation for investor fraud and auditing misconduct will fare little better. Although the performance of corporate boards in American corporations must be addressed by the corporations themselves, Congress must also do everything it can to ensure that this important watchdog of corporate governance operates properly in each U.S. company.

What happened to other corporate players?

The auditors and the Boards of Directors are not the only ones with oversight responsibility for corporate conduct who have let down the investing public. Top-name law firms wrote legal opinions that allowed some of the worst deceptions to go forward. Financial analysts who depend upon large corporations for investment banking business and at the same time promote the stock of those corporations to their clients, operate with clear conflicts of interest. They may know inside information about the financial condition of the companies with which they do business, but keep that information from the investors to whom they are promoting the company stock.

What needs to be done now?

The Sarbanes bill, with additional amendments, will address the duties and failings of their corporate players. After 10 days of hearings, the Banking Committee has reported to the Senate floor a bill that significantly addresses not only the audition failures, but failures of corporate governance and conflicts with financial analysts. I understand there may be an amendment to hold the legal profession accountable as well.

We have got to take action on this legislation now, this Congress. We need to restore the checks and balances on the marketplace, and we need to give our cops on the beat the tools and resources to crack down on corporate misconduct.

We need to change the laws to make it possible to punish corporate and auditor misconduct swiftly and with appropriate penalties. We need to ensure that crime does not pay for corporate executives seeking to profit from corporate misconduct. We need to shake up the auditing industry and remind them that their profession calls for them to be watchdogs, not lapdogs for their clients. We need to give SEC administrative enforcement powers and more funds for investigations and civil enforcement actions. We need to increase investor protections to restore investor confidence.

The Sarbanes bill takes many of the actions needed, and I want to commend

the hard work of not only Senator SARBANES who chairs the Banking Committee, but also the many other Senators on that Committee who contributed to this much needed bill. It offers strong medicine, and it is what this country needs.

On corporate misconduct, the bill presents a number of new provisions to deter and punish wrongdoing. For the first time, CEOs and CFOs would be required to certify that company financial statements fairly present the company's financial condition. If a misleading financial statement later resulted in a restatement, the CEO and CFO would have to forfeit and return to the company coffer any bonus, stock or stock option compensation received in the 12 months following the misleading financial report. The bill would also make it an unlawful act for any company officer or director to attempt to mislead or coerce an auditor. It would also require auditors to discuss specific accounting issues with the company's audit committee, which will not only increase the understanding of the company's board of directors, but also prevent directors from later claiming they were not informed about the company's accounting practices. The bill would also enable the SEC to remove unfit officers or directors from office and to bar them from holding any future position at a publicly traded corporation. These are powerful new tools to help prevent and punish corporate misconduct.

The Sarbanes bill takes on another great issue of importance that I've been working on for years, strengthening the independence of the Financial Accounting Standards Board or FASB, which has the task of issuing generally accepted accounting principles or GAAP. Among other important measures, the bill grants statutory recognition to FASB and sets out its obligation to act in the public interest to ensure the accuracy and effectiveness of financial reporting; states that the trustees who select FASB's members must represent investors and the public, not just the accounting industry or corporate interests; and streamlines FASB's operations by requiring it to act by majority vote instead of through a supermajority.

Most important of all, the bill sets up a system that provides FASB with an independent, stable source of funding through fees assessed on publicly traded companies. Once this new system is set up, it will no longer be the case, as it has been for years, that FASB will have to go hat in hand for funds from the very companies and accounting firms that want to affect its decision-making. I have no doubt that this conflict of interest has contributed to some of the distortions and weaknesses in current accounting standards. I proposed a similar change in FASB's funding status in my Shareholder Bill of

Rights Act, and I appreciate the Committee's including the provision for my bill making it clear that FASB's funding cannot be affected by the congressional appropriations process and the political pressures that can be exerted through it. The point of the bill is to set up an independent, stable source of funding that is insulated from political pressure and funding threats so that FASB can do its work free of such pressures and threats. Once the new funding system is in place, I urge FASB to begin to reassess U.S. accounting standards and to begin to clear up some of the problems that have allowed so many companies to engage in dishonest accounting while claiming to be in compliance with GAAP.

On auditor conflicts of interest, the bill takes concrete action to stop auditors from providing non-audit services to their audit clients. For the first time, the bill specifically prohibits auditors from providing 8 types of non-audit services to their audit clients. The 8 prohibited services are bookkeeping services; financial information systems design; appraisal and valuation services and fairness opinions; actuarial service; internal auditing services; management functions and human resource services; broker-dealer, investment adviser of investment banking service; and non-audit legal or expert services. The bill also enables a newly established Public Company Accounting Oversight Board to specify other prohibited services. Any other non-audit service can be provided by an auditor to its audit client only if the client's audit committee specifically authorizes the auditor to undertake the service. While I would have preferred an even stronger provision barring auditors from providing any non-audit services to an audit client, this bill makes a meaningful change in law that would help put an end to auditor conflicts of interest.

Additional work is needed. For example, many of the key terms in the 8 prohibited non-audit services were left undefined after the Banking Committee, as part of the negotiations over the bill, dropped a requirement for the SEC to promulgate the July 2000 Levitt regulations which would have defined many of the terms. If enacted into law, the new Board and the SEC would need to place a priority on further defining the key terms in the 8 prohibited services. That task would be a key test of their willingness to use the bill's authority to eliminate auditor conflicts of interest and restore auditor independence.

Let me give you an example. The bill currently prohibits auditors from providing their audit clients with "investment banking services" but does not define this term. Based upon the work of the Permanent Subcommittee on Investigations into the Enron scandal, I believe it is crucial for that term to in-

clude prohibiting auditors from working with their audit clients to design special purpose entities and structured finance arrangements, as investment bankers do, and then audit the structures they helped to create. In the case of Enron, Andersen was paid about \$7 million to help Enron design the LJM, Chewco and Raptor structures, which Andersen then audited and approved. That never should happen. Auditors should not be auditing their own work. To make sure that this conduct is stopped, the SEC and Board would have to prohibit it either by further defining the term "investment banking services" or by specifying another prohibited service. The public companies' audit committees could also accomplish this goal by prohibiting the company's auditor from designing these structures and then auditing its own work.

In addition to defining the key terms in the 8 prohibited services, additional work is needed to clarify how auditors and companies are supposed to treat the issue of "tax services." The bill states explicitly that an auditor may provide "tax services" to an audit client if the specific tax services are cleared beforehand by the company's audit committee. There are several problems with this approach. First, like investment banking services, one danger is that an auditor will end up auditing its own work, which means that a critical check and balance on possible company misconduct will be circumvented. No auditor should assist a company in designing a tax strategy to lower the company's tax bill and then also serve as the auditor approving the accounting for that tax strategy. Two different parties must be involved—one to design the strategy and one to audit it for improper accounting and possible illegal tax evasion. A second problem involves the fees paid for various types of tax services. In the July 2000 regulations proposed by the SEC under former Chairman Levitt, concerns were raised about allowing an auditor to provide an audit client with written opinions related to a tax shelter or other tax strategy to lower the client's tax bill. Providing these opinions, especially for complex or questionable tax strategies, can lead to lucrative fees for an accounting firm and, in so doing, raise the same conflict of interest concerns that have so damaged auditor independence.

These and other non-audit service issues needed to be examined by the Board and the SEC, not only to develop definitions for key terms, but also to determine whether additional non-auditing services should be added to the list of 8 prohibited services now specified in the Senate bill. Audit committees must also confront these issues and take the steps necessary to prohibit the company's auditor from engaging in non-auditing services that

raise conflict of interest concerns or lead to an auditor's auditing its own work for the company.

On auditor misconduct and oversight of accounting firms, the Sarbanes bill offers fundamental change that is sorely needed. The new Public Company Accounting Oversight Board that the bill would establish is designed to be free of domination by either accounting or corporate interests and would enjoy an independent and stable source of funding. This Board would have several duties including issuing auditing, auditor independence, and auditor ethical standards; inspecting and reporting on the internal controls and operations of registered public accounting firms; and conducting disciplinary proceedings regarding accountants suspected of wrongdoing.

With respect to investigating possible auditor misconduct, the Board will have the authority to subpoena documents, take sworn testimony, and impose meaningful sanctions on individual accountants and accounting firms found to have engaged in wrongdoing. The sanctions include revoking the registration that a firm needs to audit public companies, barring a person from participating in a public company audit, imposing a civil fine on an individual or firm, and issuing a censure. The Board must also disclose its disciplinary proceedings to the public so that we will know what misconduct was involved and what sanction was imposed.

This provision represents significant improvement over existing disciplinary proceedings which are dominated by the accounting industry, secretive, time-consuming, and ineffective. It also has at least two weaknesses. First, although the bill requires the Board to issue a public report on any disciplinary proceeding that results in a sanction on an auditor, the bill is silent on public disclosure of disciplinary proceedings that do not result in a sanction. The bill apparently leaves it to the discretion of the Board on whether to disclose these disciplinary proceedings, but a better approach might have been to direct the Board to disclose such proceedings when doing so would be in the public interest. A second, more serious weakness is that the provision imposes an automatic, unlimited stay on any auditor sanction imposed by the Board if the sanction is appealed to the SEC. Until the SEC lifts the stay, the Board is prohibited from disclosing to the public the name of the auditor, the sanction imposed, or the reasons for the disciplinary action. These provisions are out of line with broker-dealer disciplinary proceedings and only serve to prolong criticisms of auditor disciplinary practices as overly secretive and slow moving.

On the issue of auditing, auditor independence, and auditor ethical standards, I fully support making the

Board the final arbiter of these standards. The standard-setting process has for too long been under the direct control of the accounting industry, and one of the most important changes the bill makes is to put an end to this arrangement. Of course, the accounting industry is not and should not be excluded from the Board's standard-setting process; the bill requires the Board to engage in an ongoing dialog with the accounting, corporate and investor communities to take advantage of their expertise. The bill explicitly requires the Board to "cooperate" with any designated professional group of accountants or any advisory board convened by the Board to assist its deliberations. The bill also states that the Board must "respond in a timely fashion" to any request for a change in the standards if the request is made by a designated professional group or advisory committee. It is important to note, however, that the bill does not grant any preferential status to these groups compared to other participants in the standard-setting process, and participants such as the SEC, state accounting boards, other federal and state agencies and standard-setting bodies, and investors are entitled to receive equal consideration from the Board in its standard-setting deliberations.

On the issue of accounting oversight, the Sarbanes bill again offers vast improvement over the status quo. The newly created Board offers oversight authority that will be more independent, more systematic and more public than the existing system. And, again, one comment. With respect to the inspection reports that the Board is supposed to disclose to the public regarding a registered public accounting firm's operations, the bill states that the Board must develop a procedure to allow the registered public accounting firm that is the subject of the inspection an opportunity to comment on the draft report before it is finalized. I support this process. However, it is also my understanding after consulting with the Committee, that the bill is not intended to require the Board to submit the actual text of its draft report to the subject firm prior to making it public, but rather to inform and discuss the key points with the firm and provide the firm with a meaningful opportunity to comment on the Board's analysis, commit to specific steps to cure any defects in the firm's quality control systems, and commit to other reforms.

Finally, on the issue of increased resources, the Sarbanes bill takes long needed steps to beef up the SEC's enforcement staff through authority to hire new accountants, lawyers, investigators and support personnel. It also increases the SEC's budgetary authority. Once this is enacted into law, it will be up to the Bush Administration

and the Appropriations Committees to give the SEC what it needs to respond to the current wave of corporate scandals and help restore investor confidence.

There are many other provisions in the bill that I could comment on, but I will stop here. The bottom line is that the Sarbanes bill is a strong bill. It provides new tools and resources to go after corporate misconduct. It offers fundamental change in the way we oversee the accounting industry and punish auditor wrongdoing. It tackles auditor conflicts of interest by setting up, for the first time, prohibitions on the non-auditing services that an auditor can provide to an audit client. It provides new ways to hold corporate insiders accountable, so the next time a public company erupts in scandal, the senior officers and directors can't claim that they were out of the loop and not responsible.

As strong as it is, the Sarbanes bill would benefit from a number of strengthening measures. This includes the amendment by Senator LEAHY to strengthen criminal penalties for corporate misconduct and to protect corporate whistleblowers, which I am cosponsoring, and an amendment by Senator EDWARDS to require legal counsel to play a more active role in deterring corporate misconduct.

I intend to offer several amendments myself.

Administrative penalties: Senators BILL NELSON, TOM HARKIN, and I will offer an amendment to give new authority to the SEC to impose administrative penalties for corporate wrongdoing. The amendments would allow the SEC to impose civil monetary penalties on persons who violate the securities laws such as companies, officers, directors, auditors, and lawyers and to bar unfit officers and directors of publicly traded corporations without having to go to court to do so. The amendment would also allow the SEC to subpoena financial records as part of an official SEC investigation without notifying the subject of the records request. This amendment would also increase the maximum civil fines the SEC can impose on securities laws violators under current law and the new authority provided by this amendments. Today's fines of \$6,500 to \$600,000 per violation would increase to \$100,000 to \$10 million.

Auditor certification. A second amendment I intend to offer would require that auditors of publicly traded corporation provide a written opinion on whether a client company's financial statements fairly present the financial condition of the company. The Sarbanes bill has a similar provision with respect to CEOs and CFOs. Many think this is already required of auditors of publicly traded companies, but there is no provision in current law that imposes such a requirement; there

is only guidance pursuant to SEC regulation.

Auditors communication with board of directors: My third amendment would require that an auditor of a publicly traded corporation discuss with the Audit Committee on the Board of Directors the "quality, acceptability, clarity, and aggressiveness" of the company's financial statements and accounting principles. This amendment will eliminate any excuse that the Board of Directors of a company didn't know what the company was doing.

There were many investors and commentators in the 1990's who expressed their awe of the astronomical growth in the stock market by saying it was too good to be true. Well, they were right. It was too good to be true, and now we know that. This bill, particularly with some strengthening amendments will bring credibility and accuracy back to the financial statements of our publicly traded corporations. It will bring reality into the marketplace and make the deceptive practices of the 1990's the true exception rather than the rule.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DELAYING ACTION ON S. 2673

Mr. NELSON of Florida. Madam President, it is my understanding that what has happened here is that our friend and colleague, the senior Senator from Michigan, has asked for unanimous consent, earlier, and it was denied by the senior Senator from Texas, in order to proceed with the offering of an amendment that would considerably strengthen the underlying bill that we have under consideration.

It is with a heavy heart that I saw the parliamentary tactics—clearly within any Senator's opportunity to utilize—to delay a piece of legislation that would address the issue before us that is resonating in the hearts of every American, that being the subject of corporate greed.

Indeed, what we have seen is that which is obviously resonating because I am told the stock market has gone down almost 300 points today, down to a range of about 8,800. You would think folks would realize that the stock market is a reflection of the confidence of the American people, not only in the economy but in a lot of the engines that drive the economy.

Most of the great corporate structures are very solid financially as well as ethically, but having seen some of the lapses in ethical judgment have led

to some of the exposes that we have seen over the course of the last months, I am rather surprised to see these parliamentary delaying tactics by folks from the other side of the aisle when in fact what the American people would like to know is that their Representatives in the U.S. Congress are responding with very tough laws enacted to address the problems of corporate greed.

We can talk about the Enrons. We can talk about the WorldComs. We can talk about whatever. Lord knows what is going to be next. But that is why Senator LEVIN and I will be coming to the floor after being denied, tonight, the opportunity to offer an amendment that will strengthen the underlying bill. We will come to offer reforms aimed at preventing corporate fraud and punishing its perpetrators.

The senior Senator from Michigan, as the Chairman of the Armed Services Committee, lends an expertise to this body in matters of defense. He has a perspective that, to keep America strong from a military standpoint, we have to be economically strong and we have to be morally strong. So that is getting right to the heart of what we are doing, trying to enact a law preventing the perpetrating of corporate fraud or then seeing that the perpetrators are punished.

There were at WorldCom 17,000 workers who received pink slips. While it was realizing \$1.1 billion in losses in the retirement funds of those employees, and while those 17,000 employees were getting those pink slips, the corporate executives were attending a retreat in Hawaii. One of them was putting the finishing touches on a new \$15 million mansion. I am not absolutely sure, but I think that person is one and the same person whose \$15 million mansion is in my State.

Then late last year, Global Crossing laid off 1,200 people, giving them no severance package, while the CEO there walked away with hundreds of millions of dollars. Is there something wrong with this picture? Yes, there is. And the American people are feeling it. Part of that is what we are seeing resonating in the plunge of America's stock markets.

So last summer, while Enron executives were selling their shares for hundreds of millions of dollars and protecting their portfolios, their employees and their retirees lost more than \$1.2 billion in retirement savings.

Sadly, that includes Janice Farmer, a former Enron employee who is now a retiree. She lives in Orlando. Janice Farmer lost her whole savings—\$700,000—in her retirement plan with Enron.

Then, if you will recall, the pension fund of the State of Florida lost \$335 million—more losses than any other State—from Enron stock purchases.

When we had a hearing in the Commerce Committee with the managers of

Florida's pension fund, which covers all of our public employees in Florida, the testimony came out that the money managers of that fund were buying Enron shares based on the management's and the company's assertions that everything was OK. But it wasn't. The stock was dropping like a rock, but, oh, by the way, not before company executives had unloaded their shares.

In the last 18 months alone, we have seen corporate abuses of monumental proportions. People have had it. Their representatives in Congress, I hope, have had it. I can tell you I have had it. So has my colleague, Senator LEVIN. Eventually, after we have to go through all the parliamentary rankling, we will be allowed to offer our amendment.

We must act now to protect taxpayers and employees and investors. We must prevent huge losses for public institutional investors.

Now we are looking sadly at thousands of layoffs, earnings and restatements by more than 300 companies with billions of dollars lost by ordinary people. The victims are the ones demanding the reforms that we are talking about today. Unfortunately, because of the objections rendered by that side of the aisle, we are not able to take that up today.

Those victims and the American people who believe in a strong economy want us to act strongly and swiftly to punish such corporate abuse and to prevent corporate abuse. That is why Senator LEVIN and I want to introduce stronger enforcement measures.

We have a package of three amendments. They complement the Sarbanes bill by streamlining and strengthening procedures to punish corporate and auditor misconduct.

There is a glaring shortcoming of our current statutes. The Securities and Exchange Commission is essentially powerless today, even after conducting an investigation and even after finding wrongdoing. What the SEC needs is more enforcement authority.

The amendments that Senator LEVIN and I are offering will strengthen civil penalties and provide for more enforcement authority over corporate misconduct. And it will do it in several ways.

First, these amendments will grant the SEC administrative authority to ban unfit officers and directors from publicly traded corporations. And the SEC will be able to do so without having to go through the lengthy court proceedings in advance that makes it so difficult under the present law to get anything done. Their decisions, however, will be subject to judicial review so that we have the checks and balances.

Yesterday, the President gave a speech on Wall Street. He echoed the idea that unscrupulous officers and directors should not be able to serve in

that capacity again. But he offered nothing to enforce that principle.

I hope the President will realize that he was a day late and a dollar short—that his proposal did not have the strength and the backbone behind it. What we offer here will allow the SEC to have the authority to remove crooked executives.

This amendment also will increase the maximum civil fines that the SEC can impose on violators of securities laws and increase those by manifold. Future fines against crooked executives would range from \$100,000 up to \$2 million. Right now some of the fines are only \$6,500. When you are dealing with white-collar crime, you have to hit the criminals where it hurts—in the pocketbook.

Our amendment also broadens the authority of the SEC to impose fines on companies, officers, directors, auditors, and lawyers. Currently, the Commission can only impose fines on narrow categories of regulated individuals, such as brokers and dealers. But this amendment would allow the SEC to cast the net wider and go after a broad range of bad actors who engage in fraudulent conduct.

Earlier this year, Senator CARNAHAN and I introduced legislation advocating that the SEC take a tough enforcement approach, including criminal prosecutions whenever necessary. We also sought to end the cozy relationships among company executives, auditors, and directors, money managers, analysts, lawyers, and others who create this incestuous kind of relationship that does nothing but undermine the confidence of the American people in the corporate structure of this country.

Senator LEVIN and I are glad to see that a consensus is coming to embrace this approach, and if the other side of the aisle will ever let us bring this to a vote, it will be widely accepted in this body.

The recent Enrons, WorldComs, and other financial tragedies have demonstrated that white-collar crimes can be incredibly damaging—robbing hard-working Americans of their jobs, their savings, and their retirements.

There is simply no justification for handling corporate wrongdoers with kid gloves. Earlier today Senator LEAHY pointed out that if you defraud the public you must go to jail.

I came over here hoping that I could give a speech to support Senator LEVIN before we adopted this amendment. But I guess it is going to be Friday, or if they drag us on, I guess it will be Monday, or Tuesday. But we will pass this amendment, and we will pass this bill. It is a reflection of the will of the American people to keep our country strong and to keep our country free.

I yield the floor.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred July 7, 2002 in St. Petersburg, FL. Sonny Gonzales and his friends were walking to their limousine after a gay pride party when an angry man approached them in a parking garage. "The first thing out of his mouth was, 'faggots,'" said Gonzales. The man taunted the group, screamed obscenities, and then punched Gonzales and his friends. Gonzales suffered a head laceration. His partner, Stephen Hair, 25, suffered a skull fracture, a cracked sinus, and a broken tooth trying to defend him. Authorities arrested Devin Scott Angus, 20, in the attack. He was charged with aggravated battery with great bodily harm and battery evidencing prejudice.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

LOW MEDICARE REIMBURSEMENTS

Mr. SPECTER. Madam President, I submit for the CONGRESSIONAL RECORD several additional supporting documents regarding Medicare Metropolitan Statistical Areas referenced in my statement on Monday, July 8, 2002.

I therefore ask unanimous consent that the additional documents be printed in today's RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BERWICK HOSPITAL CENTER,
Berwick, PA, July 3, 2002.

Senator ARLEN SPECTER,
Scranton District Office,
Scranton, PA.

DEAR SENATOR SPECTER: I am writing to reiterate our support for the proposed increase in Medicare Reimbursement Rates for hospitals in Northeastern Pennsylvania. The proposed increase would mean an additional \$800,000 in increased annual reimbursement to Berwick Hospital Center.

This increase, if granted, would go directly for training and recruiting health care personnel who are in critically short supply in our area. The hospital currently has 19 registered nurse and 6 licensed practical nurse vacancies. In addition, there are 10 vacancies in the support departments, such as laboratory and radiology. A significant factor in these vacancies is the higher wages and benefits that are paid in the Philadelphia and New York metropolitan areas that are with-

in a 2.5 hour drive from our hospital. Our hospital cannot afford to match these urban wages due to the disparity in our Medicare Reimbursement levels.

As such, the proposed increase in Medicare Reimbursement is critical to stop the out-migration of skilled health care workers from our area. Since the average age of nurses in our state is now approaching 45, in the next decade when the Baby Boomer generation reaches retirement age, there will be no nurses and other support personnel to take care of their medical needs in our community. A concerned effort to improve educational opportunities for high school graduates, as well as improved wages for existing workers is needed.

Finally, I would urge the Congress to take immediate action on this issue. It will take years to reverse the current trend, through support of new educational programs, and other programs to retain the existing workforce. Postponing a decision will make the current crisis worsen to the point where the health care delivery system in our community will not function.

MARIAN COMMUNITY HOSPITAL,
Carbondale, PA, July 8, 2002.

Hon. ARLEN SPECTER,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR SPECTER: On behalf of Marian Community Hospital, its Board of Directors, and the greater Carbondale area community, which we serve, we thank you for the efforts that you, Representative Sherwood and your respective staffs have committed to addressing the disparity caused by the Medicare wage index.

We know that you are keenly aware of the challenges facing the hospitals in our region but we would like to share with you the following points that were communicated to our Board of Directors through our current operating budget:

Over half of the Hospital's healthcare service and activities are provided to patients who are poor and elderly. The reimbursement received from the federal government for services provided to these patients under the Medicaid and Medicare programs are not sufficient to cover the cost of care (approximately 55% of the hospital's costs is for salaries and fringe benefits).

For the fourth year in a row, revenues from operations have not been or expect to be adequate to cover the cost of providing care and, accordingly, savings intended for building and equipment replacement were used to cover the unreimbursed costs (Pennsylvania Cost Containment Council indicates these losses are consistent for those hospitals residing in Northeastern Pennsylvania).

The Hospital has been faced with a health professional shortage requiring the payment for caregiver services through overtime and use of temporary agencies at a level much greater than anticipated. (Even when staff becomes available, we have been forced to pay higher hourly rates to attract health professionals to the Carbondale area.)

This past spring, the Hospital's provider of professional and general liability insurance (PHICO) become insolvent requiring the use of expensive alternatives and financial resources that were not planned until a solution could be formulated with other Pennsylvania hospitals in a like situation.

Capital expenditures and replacement of medical equipment in the current fiscal year will need to be reprioritized until relief from unreimbursed costs can be resolved.

Thank you again for your interest in our Hospital and in the Northeast region of Pennsylvania. We are prepared to participate

in any way in hearings with your Committee to resolve this crises.

Respectfully yours,

THOMAS L. HERON,
Chief Financial Officer.

TYLER MEMORIAL HOSPITAL,
Tunkhannock, PA, July 8, 2002.

Below please find a history of our hospital's reimbursement rate under Medicare's prospective payment system:

	Labor component	Wage index	Adjusted labor	Non-labor component	Actual base rate	Increase (percent)	Consumer price index (percent)
1998	\$2,732.26	0.8539	\$2,333.08	\$1,110.58	\$3,443.66		
1999	2,739.36	0.8683	2,378.59	1,113.47	3,492.06	1.41	1.70
2000	2,764.70	0.8524	2,356.63	1,123.76	3,480.39	-0.33	1.60
2001	2,818.85	0.8578	2,418.01	1,145.78	3,563.79	2.40	2.70
2002	2,908.65	0.8683	2,525.58	1,182.27	3,707.85	4.04	3.40

As you can see, in three of the last four years, our increase in payment has fallen short of the increase in the consumer price index. In 2000, our base payment rate actually decreased because of a reduction in the wage index.

With increases in our payments that do not surpass the rising cost of healthcare, the hospital is put in a position where, in order to staff the lone hospital within a 45-mile radius, it must tap into its own cash reserves that were earmarked for improved capital equipment.

It's imperative that the wage index be increased to allow the patients that we serve get the equipment and the care that they deserve. Without that increase, it's only a matter of time before the hospital's own cash reserves are depleted.

In negotiating with an HMO, the hospital can bargain to receive higher payments; with federal or state insurance, the hospital has to take what is offered. Congress should do its best to make sure that the payment it offers is a fair one.

TRIBUTE TO WILLIAM B. RUGER, SR.

Mr. GREGG. Mr. President, one of New Hampshire's leading citizens, William B. Ruger, Sr., Chairman Emeritus of Sturm, Ruger & Company died peacefully at home on Saturday, July 6, 2002.

I have had the pleasure of knowing Bill Ruger for several decades. He was one of America's great gun designers and a true American entrepreneur.

Not only was Bill a giant in the firearm industry, his other interests were noted nationally as well. His philanthropy was especially evident through charities in communities throughout New Hampshire, as well as the Buffalo Bill Historical Center in Cody, WY where he served as a member of the Board of Trustees for over 15 years. Also, his Western Art Collection is thought to be one of the finest in the country.

In 1999 he was honored by the Camp Fire Club of America, one of the most prestigious hunting and conservation organizations in the country. In awarding Bill their Medal of Honor, they appropriately said, "he embodies a natural sense of justice and a passion for exploration, not only in the traditional sense, but in a business sense as well. Through the various and substantial endowments he has created, he has established a way to train and educate the youth of our country in the importance of personal responsibility, conservation, and truth."

New Hampshire, and especially the community of Croydon, has lost a great citizen, and he will be sorely missed.

ADDITIONAL STATEMENTS

TRIBUTE TO NANCY LÓPEZ

• Mr. DOMENICI. Madam, President, I rise today to pay tribute to one of New Mexico's favorite daughters, Nancy López, who over the Fourth of July holiday concluded her full-time career on the Ladies Professional Golf Association tour.

Nancy has a remarkable history not only as a player, but as an inspirational role model, who overcame hardships like racial and gender bias, to reach remarkable heights as a golfer. She did so with an inner strength, natural talent and the sustaining guidance of her loving parents, Marina and Domingo. They scrimped and saved to help Nancy reach her potential, which culminated at the pinnacle of the professional golfing world.

Her father's love for golf helped Nancy tap her natural talent for the sport at the young age of 8. She soon excelled, winning the New Mexico Women's Amateur title at 12, followed by twice winning the USGA Junior Girls Championship.

Nancy successfully petitioned the New Mexico Activities Association to be allowed to play on the boy's team at the Robert H. Goddard High School in Roswell. She honed her talents as a player at Tulsa University and turned pro in 1977.

From the little girl who first swung a club with her father on Roswell's public course, Nancy embarked on a 25-year career that brought greater public attention to the LPGA. In her first full year as a professional, she won nine tournaments and grabbed another eight titles in 1979. In all, Nancy has won 48 titles on the LPGA Tour and has rightfully been identified as the key figure who helped popularize women's golf.

In 1987, she was inducted into the LPGA Hall of Fame, and in 1992, I was privileged to personally congratulate her as she received the prestigious Flo Hyman Award from the Women's Sports Foundation for "exemplifying dignity, spirit and commitment to excellence."

I think it is only fitting that a school in her old stomping grounds has been renamed, through the efforts of the Roswell Hispano Chamber of Commerce, the Nancy López Elementary School. This tribute serves as one reminder of the enduring pride the people of Roswell and New Mexico have for Nancy. As she makes the transition from the LPGA tour to devote more time to her family and charitable endeavors, I believe it is proper to honor and congratulate Nancy López.

I fully expect Nancy will continue to serve as a model for Hispanic youth, female athletes, and parents striving to provide a nurturing and loving environment for their children.●

U.C. DAVIS CANCER CENTER NATIONAL CANCER INSTITUTE DESIGNATION

• Mrs. BOXER. Madam President, I am pleased to note that the University of California, Davis Cancer Center has achieved National Cancer Institute, NCI, designation. With this designation, the UC Davis Cancer Center becomes one of only nine centers in California.

The NCI designation is most prestigious, awarded to cancer institutions that have significantly contributed innovative cancer research to the scientific community. Furthermore, this notable distinction provides ongoing Federal support for research in the fight against this disease.

The center is a collaboration of over 200 scientists, working at the UC Davis Medical Center in Sacramento, the main UC campus in Davis, and the Lawrence Livermore National Laboratory.

The partnership with Lawrence Livermore, the first of its kind in the Nation, was a major factor in winning the NCI designation. Physicians and scientists work together to use technology developed for the defense industry and other non-medical uses to advance cancer diagnosis and treatment.

In addition to hundreds of cancer studies underway at the cancer center, joint research collaborations with Lawrence Livermore include such innovative projects as photonic probes testing, which is used to instantly detect cancer and save patients from unnecessary biopsies.

The center serves a population of five million people throughout Northern

and Central California, Nevada, Arizona and Oregon and cares for about 3,000 newly diagnosed cancer patients each year.

I commend the UC Davis Cancer Center on this impressive achievement, and I extend my confidence that the center will make meaningful contributions to our search for a cure for this devastating disease.●

PEACHES FROM SOUTH CAROLINA FARMERS

● Mr. HOLLINGS. Madam President, today, peaches from my home State have been delivered to offices throughout the Senate and the U.S. Capitol. Those of us here in Washington can cool off from the summer heat with fresh, juicy peaches, thanks to South Carolina's peach farmers.

For a tiny State, South Carolina is second, only to California, in peach production. This year we planted 16,000 acres, and expect to harvest 160 to 180 million pounds—twice what we harvested last year when cold weather devastated the crop. Because of hot, dry weather this past month, the peaches are slightly smaller, but the small size usually results in a sweeter peach for the consumer. So with all due respect to my colleagues from Georgia, South Carolina is known as the "Tastier Peach State" for good reason.

Earlier this spring, in a bipartisan fashion, this Congress passed a generous farm bill that when times are tough, will help the people who feed us. I voted for it. I did so because farmers are dedicated people who need support they can depend on. I hope as Senators and their staffs feast on these peaches, they think about the farmers who get up early every morning and labor all summer in the heat and humidity to bring us this delicious, nutritious, and satisfying harvest. We are so fortunate to have in this country safe, plentiful, and affordable fresh fruit and vegetables—but this Congress can never take that for granted.

I thank the South Carolina Peach Council, and especially David Winkles and the South Carolina Farm Bureau, for giving the U.S. Senate a taste of South Carolina. And I remind the rest of America to ask for South Carolina peaches at their groceries.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a withdrawal and

sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 3:34 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 2594. An act to authorize the Secretary of the Treasury to purchase silver on the open market when the silver stockpile is depleted, to be used to mint coins.

The enrolled bill was signed subsequently by the President pro tempore (Mr. BYRD).

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 4954. An act to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize and reform payments and the regulatory structure of the Medicare Program, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-7718. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Hedging Transactions" (RIN1545-AY02) received on June 26, 2002; to the Committee on Finance.

EC-7719. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Modification of Rev. Proc. 97-27 and Rev. Proc. 2002-9" (Rev. Proc. 2002-19) received on June 26, 2002; to the Committee on Finance.

EC-7720. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rockpile Viticultural Area" (2000R-436P) received on June 26, 2002; to the Committee on Finance.

EC-7721. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Delegation of Authority" (RIN1512-AC59) received on June 26, 2002; to the Committee on Finance.

EC-7722. A communication from the President of the United States, transmitting, pursuant to law, a report concerning emigration laws and policies of Armenia, Azerbaijan, Kazakhstan, Moldova, The Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan; to the Committee on Finance.

EC-7723. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Waiver of 60-Month Bar on Reconsolidation After Disaffiliation" (Rev. Proc. 2002-32, 2002-20) received on July 3, 2002; to the Committee on Finance.

EC-7724. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Bureau of Labor Statistics Price Indexes for Department Stores—February 2002" (Rev. Rul. 2002-29) received on July 3, 2002; to the Committee on Finance.

EC-7725. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update Notice" (Notice 2002-32) received on July 3, 2002; to the Committee on Finance.

EC-7726. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Information Reporting for Payments of Interest on Qualified Education Loans; Magnetic Media Filing Requirements for Information Returns" (RIN1545-AW67; TD8992) received on July 3, 2002; to the Committee on Finance.

EC-7727. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Equity Options with Flexible Terms" (RIN1545-AX66; TD8990) received on June 3, 2002; to the Committee on Finance.

EC-7728. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Guidance Necessary to Facilitate Electronic Tax Administration" (RIN1545-AY04; REG-107184-00) received on June 3, 2002; to the Committee on Finance.

EC-7729. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Tax and Revenue Anticipation Notes" (Rev. Proc. 2002-31) received on June 3, 2002; to the Committee on Finance.

EC-7730. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rev. Proc. 2002-33; Additional First Year Depreciation" (RP-114523-02) received on June 3, 2002; to the Committee on Finance.

EC-7731. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Appeals Settlement Guidelines: Gaming—Class Life of Floating Gaming Facilities" (UIL 168.20-07) received on June 3, 2002; to the Committee on Finance.

EC-7732. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Designation by Common Parent of a New Agent for the Consolidated Group" (Rev. Proc. 2002-43, 2002-28) received on June 3, 2002; to the Committee on Finance.

EC-7733. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Revenue Ruling on Accelerated Deductions" (Rev. Rul. 2002-46) received on June 3, 2002; to the Committee on Finance.

EC-7734. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Agent for Consolidated Group" (RIN1545-AX56; TD9002) received on June 3, 2002; to the Committee on Finance.

EC-7735. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Stranded Costs—Safe Harbor for Recovery of Stranded Costs by Electrical Utility Companies" (Rev. Proc. 2002-49) received on June 3, 2002; to the Committee on Finance.

EC-7736. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "1099B—Safe Harbor" (Rev. Proc. 2002-50) received on June 3, 2002; to the Committee on Finance.

EC-7737. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Notice on Accelerated Deductions" (Notice 2002-48) received on June 3, 2002; to the Committee on Finance.

EC-7738. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Bureau of Labor Statistics Price Indexes for Department Stores—May 2002" (Rev. Rul. 2002-47) received on June 3, 2002; to the Committee on Finance.

EC-7739. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of the Office of the Inspector General for the period October 1, 2001 through March 31, 2002; to the Committee on Governmental Affairs.

EC-7740. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, the Agency's Annual Performance Report; to the Committee on Governmental Affairs.

EC-7741. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the Departments Commercial Activities Inventory for Fiscal Year 2001; to the Committee on Governmental Affairs.

EC-7742. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled "NARA Facilities; Address and Hours" (RIN3095-AB08) received on June 27, 2002; to the Committee on Governmental Affairs.

EC-7743. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled "NARA Regulations; Technical Amendments" (RIN3095-AB15) received on June 27, 2002; to the Committee on Governmental Affairs.

EC-7744. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the Office of Management and Budget's Fiscal Year 2002 Inventory of Commercial Activities; to the Committee on Governmental Affairs.

EC-7745. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled "National Historical Publications

and Records Commission Grant Regulations" (RIN3095-AA93) received on June 27, 2002; to the Committee on Governmental Affairs.

EC-7746. A communication from the Chairman, Postal Rate Commission, transmitting, pursuant to law, the annual Postal Rate Commission Report on International Mail Costs, Revenues, and Volumes for Fiscal Year 2001; to the Committee on Governmental Affairs.

EC-7747. A communication from the Chief Judge, Superior Court of the District of Columbia, transmitting, pursuant to law, the Supplement to the Family Court Transition Plan; to the Committee on Governmental Affairs.

EC-7748. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update Notice" (Notice 2002-49) received on July 3, 2002; to the Committee on Finance.

EC-7749. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans: South Carolina: Nitrogen Oxides Budget and Allowance Trading Program" (FRL7238-6) received on June 26, 2002; to the Committee on Environment and Public Works.

EC-7750. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Michigan" (FRL7226-6) received on June 26, 2002; to the Committee on Environment and Public Works.

EC-7751. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Salt Lake County—Trading of Emission Budgets for PM10 Transportation Conformity" (FRL7238-5) received on June 26, 2002; to the Committee on Environment and Public Works.

EC-7752. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Idaho: Final Authorization of State Hazardous Waste Management Program Revision" (FRL7239-7) received on June 26, 2002; to the Committee on Environment and Public Works.

EC-7753. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "OMB Approvals Under the Paperwork Reduction Act; Technical Amendment" (FRL7237-5) received on June 26, 2002; to the Committee on Environment and Public Works.

EC-7754. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan; Bay Area Air Quality Management District; South Coast Air Quality Management District" (FRL7232-6) received on June 26, 2002; to the Committee on Environment and Public Works.

EC-7755. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Depart-

ment of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for the Carolina Heelsplitter" (RIN1018-AH31) received on June 27, 2002; to the Committee on Environment and Public Works.

EC-7756. A communication from the Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Ambrosia pumila (San Diego Ambrosia) from Southern California" (RIN1018-AF86) received on June 27, 2002; to the Committee on Environment and Public Works.

EC-7757. A communication from the Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Southern California District Vertebrate Population Segment of the Mountain Yellow-legged Frog (*Rana muscosa*)" received on June 27, 2002; to the Committee on Environment and Public Works.

EC-7758. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Supplemental Allocation of Fiscal Year 2002 Operator Training Grants for Wastewater Security" received on July 3, 2002; to the Committee on Environment and Public Works.

EC-7759. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District" (FRL7234-5) received on July 3, 2002; to the Committee on Environment and Public Works.

EC-7760. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Santa Barbara County Air Pollution Control District, El Dorado County Air Pollution Control District" (FRL7220-8) received on July 3, 2002; to the Committee on Environment and Public Works.

EC-7761. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Oil Pollution Prevention and Response: Non-Transportation-Related Onshore and Offshore Facilities" (FRL7241-5) received on July 3, 2002; to the Committee on Environment and Public Works.

EC-7762. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Allocation of Fiscal Year 2002 Youth and the Environment Training and Employment Program Funds" received on July 3, 2002; to the Committee on Environment and Public Works.

EC-7763. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Determination of Attainment for the Carbon Monoxide National Ambient Air Quality Standard for Fairbanks Carbon Monoxide Nonattainment Area, Alaska" (FRL7240-8) received on July 3, 2002; to the

Committee on Environment and Public Works.

EC-7764. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Finding of State Implementation Plan Inadequacy; Arizona—Salt River Monitoring Site; Metropolitan Phoenix PM-10 Nonattainment Area" (FRL7238-8) received on July 3, 2002; to the Committee on Environment and Public Works.

EC-7765. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Georgia: Final Authorization of State Hazardous Waste Management Program Revision" (FRL7241-4) received on July 3, 2002; to the Committee on Environment and Public Works.

EC-7766. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry" (FRL7240-5) received on July 3, 2002; to the Committee on Environment and Public Works.

EC-7767. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Ocean Dumping; Site Designation" (FRL7241-2) received on July 3, 2002; to the Committee on Environment and Public Works.

EC-7768. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Correction of Typographical Errors and Removal of Obsolete Language in Regulations on Reportable Quantities" (FRL7241-8) received on July 3, 2002; to the Committee on Environment and Public Works.

EC-7769. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Magnuson Act Provisions; Fisheries off West Coast States in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specification; Pacific Whiting" (RIN0648-AP85) received on June 26, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7770. A communication from the Legal Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operations of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range" (ET Doc. No. 98-206) received on June 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7771. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations (including 10 regulations)" ((RIN2115-AE46)(2002-0001)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7772. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations; APBA Off-

Shore Boat Race, Tybee Island, GA" ((RIN2115-AE46)(2002-0023)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7773. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Georgetown Channel, Potomac River, Washington D.C." ((RIN2115-AA97)(2002-0105)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7774. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations; Skull Creek, Hilton Head, SC" ((RIN2115-AE46)(2002-0022)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7775. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Naval Submarine Base Bangor, Puget Sound" ((RIN2115-AA97)(2002-0106)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7776. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations; Harbour Town Fireworks Display, Calibogue Sound, Hilton Head, SC" ((RIN2115-AE46)(2002-0021)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7777. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Liquefied Natural Gas Tankers, Cook Inlet, AK" ((RIN2115-AA97)(2002-0104)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7778. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Atlantic Intracoastal Waterway, Mile 1069.4 at Dania Beach, Broward County, FL" ((RIN2115-AE47)(2002-0059)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7779. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Saginaw River, Bay City, MI" ((RIN2115-AA97)(2002-0109)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7780. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Port of New York and New Jersey" ((RIN2115-AA97)(2002-0113)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7781. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Saginaw River, Bay City, MI" ((RIN2115-AA97)(2002-0103)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7782. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Charleston Harbor River, SC" ((RIN2115-AA97)(2002-0108)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7783. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; San Francisco Bay, San Francisco, CA and Oakland, CA" ((RIN2115-AA97)(2002-0107)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7784. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Festa Italiana 2002; Milwaukee, Wisconsin" ((RIN2115-AA97)(2002-0111)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7785. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations; Savannah Waterfront Association July 4th Fireworks Display, Savannah River, Savannah, GA" ((RIN2115-AE46)(2002-0002)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7786. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Sturgeon Bay Fireworks, Sturgeon Bay, Wisconsin" ((RIN2115-AA97)(2002-0112)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7787. A communication from the Commander, Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Detroit River, Grosse Ile, MI" ((RIN2115-AA97)(2002-0110)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7788. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model AS350B, BA, B1, B2, B3, C, D, DI; and AS355E, F, F1, F2, N, and EC130 B4 Helicopters; CORRECTION" ((RIN2120-AA64)(2002-0293)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7789. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation,

transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: MD Helicopters Inc. Model MD 900 Helicopters" ((RIN2120-AA64)(2002-0292)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7790. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Sikorsky Model S-70A and S-70C Helicopters" ((RIN2120-AA64)(2002-0295)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7791. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileira de Aeronautica SA Model EMB 135 and 145 Series Airplanes" ((RIN2120-AA64)(2002-0294)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7792. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls Royce plc RB211 Trent 875, 877, 884, 892, 892B, and 895 Series Turbofan Engines" ((RIN2120-AA64)(2002-0296)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7793. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls Royce plc RB211 Trent Series Turbofan Engines" ((RIN2120-AA64)(2002-0298)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7794. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Air Tractor, Inc. Models AT400, 401, 401B, 402, 402A, 402B, AT 501, AT 802, and AT 802A Airplanes" ((RIN2120-AA64)(2002-0299)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7795. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Fees for Services for Certain Flights; Notice of Agency Reconsideration of Final Rule" ((RIN2120-AG17)(2002-0001)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7796. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 777 Series Airplanes" ((RIN2120-AA64)(2002-0302)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7797. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model SA330F, G, J, and AS332C1, L, and L1 Helicopters; request for comments" ((RIN2120-AA64)(2002-0301)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7798. A communication from the Program Analyst of the Federal Aviation Ad-

ministration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B4-600 and A300 B4 600R Series Airplanes; and Model A300 F4-605 Airplanes" ((RIN2120-AA64)(2002-0303)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7799. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company CF34 341 and -3B1 Series Turbofan Engines" ((RIN2120-AA64)(2002-0304)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7800. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls Royce plc RB211 Trent 875, 877, 884, 892, 892B, and 895 Series Turbofan Engines" ((RIN2120-AA64)(2002-0305)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7801. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations (including 64 regulations)" ((RIN2115-AA97)(2002-0001)) received on July 2, 2002; to the Committee on Commerce, Science, and Transportation.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. FEINSTEIN:

S. 2716. A bill to modify the authority of the Federal Energy Regulatory Commission to conduct investigations, to increase the criminal penalties for violations of the Federal Power Act and the Natural Gas Act, and to authorize the Chairman of the Federal Energy Regulatory Commission to contract for consultant services; to the Committee on Energy and Natural Resources.

By Mr. BIDEN (for himself and Mr. HATCH):

S. 2717. A bill to increase criminal penalties relating to conspiracy, mail fraud, wire fraud, and ERISA violations, and for other purposes; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 515

At the request of Mr. DOMENICI, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 515, a bill to amend the Internal Revenue Code of 1986 to establish a permanent tax incentive for research and development, and for other purposes.

S. 572

At the request of Mr. CHAFEE, the names of the Senator from Kentucky (Mr. BUNNING) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 572, a bill to amend

title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 830

At the request of Mr. CHAFEE, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Missouri (Mrs. CARNAHAN) were added as cosponsors of S. 830, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 873

At the request of Mr. HELMS, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 873, a bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities.

S. 946

At the request of Ms. SNOWE, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 946, a bill to establish an Office on Women's Health within the Department of Health and Human Services.

S. 1022

At the request of Mr. WARNER, the names of the Senator from Nevada (Mr. REID) and the Senator from Missouri (Mrs. CARNAHAN) were added as cosponsors of S. 1022, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 1760

At the request of Mr. THOMAS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1760, a bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes.

S. 1945

At the request of Mr. JOHNSON, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1945, a bill to provide for the merger of the bank and savings association deposit insurance funds, to modernize and improve the safety and fairness of the Federal deposit insurance system, and for other purposes.

S. 1975

At the request of Mr. REID, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1975, a bill to amend title III of the Public Health Service Act to include

each year of fellowship training in geriatric medicine or geriatric psychiatry as a year of obligated service under the National Health Corps Loan Repayment Program.

S. 2010

At the request of Mr. LEAHY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2010, a bill to provide for criminal prosecution of persons who alter or destroy evidence in certain Federal investigations or defraud investors of publicly traded securities, to disallow debts incurred in violation of securities fraud laws from being discharged in bankruptcy, to protect whistleblowers against retaliation by their employers, and for other purposes.

S. 2013

At the request of Mr. HARKIN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2013, a bill to clarify the authority of the Secretary of Agriculture to prescribe performance standards for the reduction of pathogens in meat, meat products, poultry, and poultry products processed by establishments receiving inspection services.

S. 2268

At the request of Mr. MILLER, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Alabama (Mr. SHELBY) were added as cosponsors of S. 2268, a bill to amend the Act establishing the Department of Commerce to protect manufacturers and sellers in the firearms and ammunition industry from restrictions on interstate or foreign commerce.

S. 2272

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2272, a bill to clarify certain provisions of the Tariff Suspension and Trade Act of 2000.

S. 2273

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2273, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2274

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2274, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2275

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2275, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2276

At the request of Mrs. CLINTON, the name of the Senator from New Jersey

(Mr. TORRICELLI) was added as a cosponsor of S. 2276, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2277

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2277, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2278

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2278, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2279

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2279, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2280

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2280, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2281

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2281, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2282

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2282, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2283

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2283, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2284

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2284, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2285

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2285, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2286

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2286, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2287

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2287, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2288

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2288, a bill to reliquidate certain entries of tomato sauce preparation.

S. 2480

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. 2480, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.

At the request of Mr. LEAHY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2480, supra.

S. 2484

At the request of Mr. BAUCUS, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 2484, a bill to amend part A of title IV of the Social Security Act to reauthorize and improve the operation of temporary assistance to needy families programs operated by Indian tribes, and for other purposes.

S. 2554

At the request of Mr. SMITH of New Hampshire, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2554, a bill to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

S. 2560

At the request of Mr. ALLARD, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 2560, a bill to provide for a multi-agency cooperative effort to encourage further research regarding the causes of chronic wasting disease and methods to control the further spread of the disease in deer and elk herds, to monitor the incidence of the disease, to support State efforts to control the disease, and for other purposes.

S. 2622

At the request of Mr. HOLLINGS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2622, a bill to authorize the President to posthumously award a gold medal on behalf of Congress to Joseph A. De Laine in recognition of his contributions to the Nation.

S. 2642

At the request of Mr. NELSON of Florida, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2642, a bill to require background checks of alien flight school applicants without regard to the maximum certificated weight of the aircraft for which they seek training, and

to require a report on the effectiveness of the requirement.

S. 2648

At the request of Mr. HUTCHINSON, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 2648, a bill to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes.

S. 2663

At the request of Mr. MCCAIN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 2663, a bill to permit the designation of Israeli-Turkish qualifying industrial zones.

S. 2672

At the request of Mr. BINGAMAN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2672, a bill to provide opportunities for collaborative restoration projects on National Forest System and other public domain lands, and for other purposes.

S. 2674

At the request of Mr. BROWNBAC, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2674, a bill to improve access to health care medically underserved areas.

S. RES. 293

At the request of Mr. BIDEN, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. Res. 293, a resolution designating the week of November 10 through November 16, 2002, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

S. RES. 302

At the request of Mr. REID, his name was added as a cosponsor of S. Res. 302, a resolution honoring Ted Williams and extending the condolences of the Senate on his death.

At the request of Mr. BYRD, his name was added as a cosponsor of S. Res. 302, *supra*.

AMENDMENT NO. 4174

At the request of Mr. WELLSTONE, his name was added as a cosponsor of amendment No. 4174 proposed to S. 2673, an original bill to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN:

S. 2716. A bill to modify the authority of the Federal Energy Regulatory Commission to conduct investigations, to increase the criminal penalties for violations of the Federal Power Act and the Natural Gas Act, and to authorize the Chairman of the Federal Energy Regulatory Commission to contract for consultant services; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Madam President, I am pleased to introduce this bill today to strengthen the authority of the Federal Energy Regulatory Commission. In May, 2000 an energy crisis began in California and eventually spread to the other Western States. For about a year, FERC refused to execute its mandate to enforce the provisions of the Federal Power Act which required the Agency to enforce "just and reasonable" electricity prices.

In May, 2001 Pat Wood became the Chairman of the Commission and under his leadership the Commission has finally begun to aggressively investigate what went wrong in the California and Western energy markets.

However, there are still some weaknesses in FERC's authority to investigate problems in energy markets, solicit necessary information and punish wrongdoers. A report by the General Accounting Office, GAO, last month concluded that FERC does not have the necessary legal authority to police competitive energy markets.

This legislation is designed to bolster FERC's authority and allow the Agency to levy penalties that will hold market manipulators accountable for violations of the law. This legislation will go a long way toward providing FERC with the resources and legal authority it needs to protect consumers and ensure that energy prices are just and reasonable.

My legislation would do five things: 1. It would grant FERC the authority to use monetary penalties on companies that don't comply with requests for information. This is essentially the same authority that the Securities and Exchange Commission has; 2. It would make it easier for FERC to hire the necessary outside help they need including accountants, lawyers, and investigators for investigative purposes; 3. It would eliminate the requirement that FERC receive approval from the Office of Management and Budget before launching an investigation or price discovery of electricity or natural gas markets involving more than 10 companies; 4. It would increase the penalty amounts to \$1 million instead of the current \$5,000 for violations of the Federal Power Act and the Natural Gas Act; five years instead of the current two for violations of the statute; and, \$50,000 per day per violation in-

stead of the current \$500 for violations of rules or orders under the Federal Power Act and the Natural Gas Act; and 5. It would increase the Commission's authority to impose civil penalties, it also broadened to all sections of Part II of the Federal Power Act and the penalty amount is increased from \$10,000 to \$50,000 per violation per day.

I continue to support FERC and Chairman Pat Wood in its efforts to stabilize energy prices, and ensure that our energy markets function properly although I believe that much more still needs to be done.

But even if FERC has the will, the GAO report correctly points out that it may not have all the necessary tools. It is my hope that this legislation will help by providing FERC the necessary authority to continue to aggressively monitor energy markets and investigate wrongdoing.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4182. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table.

SA 4183. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2673, *supra*; which was ordered to lie on the table.

SA 4184. Mr. GRAMM (for himself and Mr. SANTORUM) proposed an amendment to amendment SA 4174 proposed by Mr. DASCHLE (for Mr. LEAHY (for himself, Mr. MCCAIN, Mr. DASCHLE, Mr. DURBIN, Mr. HARKIN, Mr. CLELAND, Mr. LEVIN, Mr. KENNEDY, Mr. BIDEN, Mr. FEINGOLD, Mr. MILLER, Mr. EDWARDS, Mrs. BOXER, Mr. CORZINE, Mr. KERRY, Mr. SCHUMER, Mr. BROWNBAC, and Mr. NELSON of Florida)) to the bill (S. 2673) *supra*.

SA 4185. Mr. DASCHLE (for Mr. LEAHY (for himself, Mr. MCCAIN, Mr. DASCHLE, Mr. DURBIN, Mr. HARKIN, Mr. CLELAND, Mr. LEVIN, Mr. KENNEDY, Mr. BIDEN, Mr. FEINGOLD, Mr. MILLER, Mr. EDWARDS, Mrs. BOXER, Mr. CORZINE, Mr. KERRY, Mr. SCHUMER, Mr. BROWNBAC, Mr. NELSON of Florida, Mr. WELLSTONE, Ms. STABENOW, and Mr. JOHNSON)) proposed an amendment to the bill S. 2673, *supra*.

SA 4186. Mr. DASCHLE (for Mr. BIDEN (for himself and Mr. HATCH)) proposed an amendment to the bill S. 2673, *supra*.

SA 4187. Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 2673, *supra*.

SA 4188. Mr. LOTT proposed an amendment to the bill S. 2673, *supra*.

SA 4189. Mr. GRAMM proposed an amendment to amendment SA 4188 proposed by Mr. LOTT to the bill (S. 2673) *supra*.

SA 4190. Mr. DASCHLE (for Mr. BIDEN (for himself and Mr. HATCH)) proposed an amendment to amendment SA 4186 proposed by Mr. DASCHLE (for Mr. BIDEN (for himself and Mr. HATCH)) to the bill (S. 2673) supra.

SA 4191. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4192. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4193. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4194. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4195. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4196. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4197. Mr. SHELBY (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4198. Mr. CLELAND submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4199. Mr. CLELAND submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4200. Mr. GRAMM (for Mr. MCCONNELL) proposed an amendment to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) supra.

SA 4201. Mrs. CARNAHAN (for herself and Mr. LEAHY) submitted an amendment intended to be proposed by her to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4202. Mrs. CARNAHAN (for herself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by her to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4203. Mr. MURKOWSKI (for himself, Mr. STEVENS, Mr. CRAIG, Mr. BURNS, Mr. CRAPO, Mr. SMITH of Oregon, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4204. Mr. SMITH of New Hampshire (for himself, Mrs. BOXER, and Mr. BURNS) submitted an amendment which was ordered to lie on the table.

SA 4205. Mr. SMITH of New Hampshire (for himself, Mrs. BOXER, and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill S. 2554, to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes; which was referred to the Committee on Commerce, Science, and Transportation.

SA 4206. Mr. MILLER proposed an amendment to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public compa-

nies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

SA 4207. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4208. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4182. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

TITLE —PENSION PLAN PROTECTION

SEC. 00. SHORT TITLE.

This title may be cited as the “Pension Plan Protection Act”.

Subtitle A—Provisions To Promote Ensuring Pension Plan Asset Diversification

SEC. 01. DIVERSIFICATION REQUIREMENTS FOR CERTAIN PLANS HOLDING EMPLOYER SECURITIES.

Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end the following new subsection:

“(e)(1) An applicable individual account plan shall meet the requirements of paragraphs (2), (3), and (4).

“(2) A plan meets the requirements of this paragraph if the plan provides participants and beneficiaries with at least 4 different investment options, including 3 options which do not involve the acquisition or holding of qualifying employer securities or qualifying employer real property.

“(3) A plan meets the requirements of this paragraph if the plan provides that no employee contribution or elective deferral may be required to be invested in qualifying employer securities or qualifying employer real property either—

“(A) pursuant to the terms of the plan, or

“(B) at the direction of a person other than the participant making the employee contribution or elective deferral or a beneficiary of the participant.

“(4)(A) A plan meets the requirements of this paragraph if each employee who has a nonforfeitable right to 100 percent of the employee’s accrued benefit derived from employer contributions may, at any time after the 90th day following the allocation of any qualifying employer securities or qualifying employer real property to the employee under the plan, direct the plan to divest the employee’s account of such securities or property and reinvest an equivalent amount in other assets.

“(B) The Secretary of the Treasury, in consultation with the Secretary, shall prescribe regulations under which an employee is given reasonable notice of the opportunity, and a reasonable period of time, to make the divestiture and reinvestment under subparagraph (A).

“(5) For purposes of this subsection—

“(A) The term ‘applicable individual account plan’ means any individual account plan, except that such term shall not include an employee stock ownership plan (within the meaning of section 4975(e)(7) of the Internal Revenue Code of 1986), or a plan which meets the requirements of section 409(a) of such Code, under which the only contributions which may be made are qualified non-elective contributions (as defined in section 401(m)(4)(C) of such Code).

“(B) **ELECTIVE DEFERRALS.**—The term ‘elective deferrals’ has the meaning given such term by section 402(g)(3) of such Code.

“(C) The terms ‘qualifying employer securities’ and ‘qualifying employer real property’ have the meanings given such terms by section 407(d).”

SEC. 02. MANDATORY QUARTERLY STATEMENTS.

(a) **IN GENERAL.**—Section 104 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and

(2) by inserting after subsection (b) the following new subsection:

“(c)(1) The plan administrator of an applicable individual account plan shall, within a reasonable period of time following the close of each calendar quarter, provide to each participant or beneficiary a statement with respect to his or her individual account which includes—

“(A) the fair market value as of the close of such quarter of the assets in the account in each investment option,

“(B) the percentage as of such calendar quarter of assets which each investment option is of the total assets in the account,

“(C) any administrative and transaction fees incurred in connection with the account during such quarter, and

“(D) such other information as the Secretary of the Treasury may prescribe.

“(2) If, as of the close of any calendar quarter, the aggregate fair market value of applicable securities held by a participant or beneficiary in an applicable individual account plan exceeds 25 percent of the aggregate value of all assets held by the participant or beneficiary in the plan, the plan administrator shall include with the statement under paragraph (1) a separate notice which—

“(A) notifies the participant or beneficiary of such percentage, and

“(B) reminds the participant or beneficiary of the right to diversify plan assets and recommends that the participant or beneficiary seek advice from a professional investment advisor as to the need for a reassessment of the participant’s or beneficiary’s investment diversification.

“(3) The Secretary of Labor may by regulation provide that this subsection shall not apply to plans with fewer than 100 participants, except that any such exception shall not apply for any requirement under this subsection to provide a statement and notice to a participant or beneficiary under the plan to whom paragraph (2) applies for any calendar quarter.

“(4) Any statement or notice under this subsection shall be written in a manner calculated to be understood by the average plan participant.

“(5) For purposes of this subsection—

“(A) the term ‘applicable individual account plan’ has the meaning given such term by section 404(e), and

“(B) the term ‘applicable securities’ means any securities described in subparagraph (A), (B), or (C) of section 407(d)(5) which are issued by the same person or an affiliate of, or related person to, such person.

“(6) For purposes of this subsection, all applicable individual account plans maintained by the same employer shall be treated as one employer.”

(b) ENFORCEMENT.—Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by striking “or section 101(e)(1)” and inserting “, section 101(e)(1), or section 104(c)”.

SEC. 403. STUDY RELATING TO INDIVIDUAL ACCOUNT PLANS.

(a) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Labor, in consultation with the Secretary of the Treasury and the Securities and Exchange Commission, shall conduct a study relating to the investment of plan assets of individual account plans in stock or other securities.

(b) MATTERS TO BE STUDIED.—In conducting the study under subsection (a), the Secretary shall—

(1) consider the feasibility and likely effects of a statutory requirement that plan participants and beneficiaries be allowed to trade securities on a daily basis,

(2) consider the feasibility and likely effects of a mechanism to allow plan participants and beneficiaries to sell employer securities during a period of high market volatility if a blackout period is in effect,

(3) consider the feasibility and likely effects of establishing an insurance program to protect participants and beneficiaries from losses of their initial investment of employer and employee contributions in employer securities due to fraud, and

(4) consider such other matters as the Secretary determines appropriate to ensure the protection of participants or beneficiaries from insufficient diversification of plan assets.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Labor shall submit to each House of Congress a report setting forth the results of the study conducted under this section, including any statutory or administrative changes as the Secretary determines appropriate.

Subtitle B—Prohibited Transaction Exemption For the Provision of Investment Advice

SEC. 411. PROHIBITED TRANSACTION EXEMPTION FOR THE PROVISION OF INVESTMENT ADVICE.

(a) EXEMPTION FROM PROHIBITED TRANSACTIONS.—Section 408(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

“(14)(A) Any transaction described in subparagraph (B) in connection with the provision of investment advice described in section 3(21)(A)(ii), in any case in which—

“(i) the investment of assets of the plan is subject to the direction of plan participants or beneficiaries,

“(ii) the advice is provided to the plan or a participant or beneficiary of the plan by a fiduciary adviser in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of plan assets, and

“(iii) the requirements of subsection (g) are met in connection with the provision of the advice.

“(B) The transactions described in this subparagraph are the following:

“(i) the provision of the advice to the plan, participant, or beneficiary;

“(ii) the sale, acquisition, or holding of a security or other property (including any lending of money or other extension of credit associated with the sale, acquisition, or holding of a security or other property) pursuant to the advice; and

“(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with a sale, acquisition, or holding of a security or other property pursuant to the advice.”

(b) REQUIREMENTS.—Section 408 of such Act is amended further by adding at the end the following new subsection:

“(g) REQUIREMENTS RELATING TO PROVISION OF INVESTMENT ADVICE BY FIDUCIARY ADVISERS.—

“(1) IN GENERAL.—The requirements of this subsection are met in connection with the provision of investment advice referred to in section 3(21)(A)(ii), provided to an employee benefit plan or a participant or beneficiary of an employee benefit plan by a fiduciary adviser with respect to the plan in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of amounts held by the plan, if—

“(A) in the case of the initial provision of the advice with regard to the security or other property by the fiduciary adviser to the plan, participant, or beneficiary, the fiduciary adviser provides to the recipient of the advice, at a time reasonably contemporaneous with the initial provision of the advice, a written notification (which may consist of notification by means of electronic communication)—

“(i) of all fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property,

“(ii) of any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in the security or other property,

“(iii) of any limitation placed on the scope of the investment advice to be provided by the fiduciary adviser with respect to any such sale, acquisition, or holding of a security or other property,

“(iv) of the types of services provided by the fiduciary adviser in connection with the provision of investment advice by the fiduciary adviser, and

“(v) that the adviser is acting as a fiduciary of the plan in connection with the provision of the advice,

“(B) the fiduciary adviser provides appropriate disclosure, in connection with the sale, acquisition, or holding of the security or other property, in accordance with all applicable securities laws,

“(C) the sale, acquisition, or holding occurs solely at the direction of the recipient of the advice,

“(D) the compensation received by the fiduciary adviser and affiliates thereof in connection with the sale, acquisition, or holding of the security or other property is reasonable, and

“(E) the terms of the sale, acquisition, or holding of the security or other property are

at least as favorable to the plan as an arm's length transaction would be.

“(2) STANDARDS FOR PRESENTATION OF INFORMATION.—The notification required to be provided to participants and beneficiaries under paragraph (1)(A) shall be written in a clear and conspicuous manner and in a manner calculated to be understood by the average plan participant and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of the information required to be provided in the notification.

“(3) EXEMPTION CONDITIONED ON CONTINUED AVAILABILITY OF REQUIRED INFORMATION ON REQUEST FOR 1 YEAR.—The requirements of paragraph (1)(A) shall be deemed not to have been met in connection with the initial or any subsequent provision of advice described in paragraph (1) to the plan, participant, or beneficiary if, at any time during the provision of advisory services to the plan, participant, or beneficiary, the fiduciary adviser fails to maintain the information described in clauses (i) through (iv) of subparagraph (A) in currently accurate form and in the manner described in paragraph (2) or fails—

“(A) to provide, without charge, such currently accurate information to the recipient of the advice no less than annually,

“(B) to make such currently accurate information available, upon request and without charge, to the recipient of the advice, or

“(C) in the event of a material change to the information described in clauses (i) through (iv) of paragraph (1)(A), to provide, without charge, such currently accurate information to the recipient of the advice at a time reasonably contemporaneous to the material change in information.

“(4) MAINTENANCE FOR 6 YEARS OF EVIDENCE OF COMPLIANCE.—A fiduciary adviser referred to in paragraph (1) who has provided advice referred to in such paragraph shall, for a period of not less than 6 years after the provision of the advice, maintain any records necessary for determining whether the requirements of the preceding provisions of this subsection and of subsection (b)(14) have been met. A transaction prohibited under section 406 shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

“(5) EXEMPTION FOR PLAN SPONSOR AND CERTAIN OTHER FIDUCIARIES.—

“(A) IN GENERAL.—Subject to subparagraph (B), a plan sponsor or other person who is a fiduciary (other than a fiduciary adviser) shall not be treated as failing to meet the requirements of this part solely by reason of the provision of investment advice referred to in section 3(21)(A)(ii) (or solely by reason of contracting for or otherwise arranging for the provision of the advice), if—

“(i) the advice is provided by a fiduciary adviser pursuant to an arrangement between the plan sponsor or other fiduciary and the fiduciary adviser for the provision by the fiduciary adviser of investment advice referred to in such section,

“(ii) the terms of the arrangement require compliance by the fiduciary adviser with the requirements of this subsection, and

“(iii) the terms of the arrangement include a written acknowledgment by the fiduciary adviser that the fiduciary adviser is a fiduciary of the plan with respect to the provision of the advice.

“(B) CONTINUED DUTY OF PRUDENT SELECTION OF ADVISER AND PERIODIC REVIEW.—Nothing in subparagraph (A) shall be construed to exempt a plan sponsor or other person who is

a fiduciary from any requirement of this part for the prudent selection and periodic review of a fiduciary adviser with whom the plan sponsor or other person enters into an arrangement for the provision of advice referred to in section 3(21)(A)(ii). The plan sponsor or other person who is a fiduciary has no duty under this part to monitor the specific investment advice given by the fiduciary adviser to any particular recipient of the advice.

“(C) AVAILABILITY OF PLAN ASSETS FOR PAYMENT FOR ADVICE.—Nothing in this part shall be construed to preclude the use of plan assets to pay for reasonable expenses in providing investment advice referred to in section 3(21)(A)(ii).

“(6) DEFINITIONS.—For purposes of this subsection and subsection (b)(14)—

“(A) FIDUCIARY ADVISER.—The term ‘fiduciary adviser’ means, with respect to a plan, a person who is a fiduciary of the plan by reason of the provision of investment advice by the person to the plan or to a participant or beneficiary and who is—

“(i) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

“(ii) a bank or similar financial institution referred to in section 408(b)(4),

“(iii) an insurance company qualified to do business under the laws of a State,

“(iv) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

“(v) an affiliate of a person described in any of clauses (i) through (iv), or

“(vi) an employee, agent, or registered representative of a person described in any of clauses (i) through (v) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of the advice.

“(B) AFFILIATE.—The term ‘affiliate’ of another entity means an affiliated person of the entity (as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(3))).

“(C) REGISTERED REPRESENTATIVE.—The term ‘registered representative’ of another entity means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) (substituting the entity for the broker or dealer referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(17)) (substituting the entity for the investment adviser referred to in such section).”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to advice referred to in section 3(21)(A)(ii) of the Employee Retirement Income Security Act of 1974 provided on or after January 1, 2002.

Subtitle C—General Provisions

SEC. 21. EFFECTIVE DATE AND RELATED RULES.

(a) IN GENERAL.—Except as otherwise provided in this title, the amendments made by this title shall apply with respect to plan years beginning on or after January 1, 2002.

(b) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, subsection (a) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for “January 1, 2002” the date of the commence-

ment of the first plan year beginning on or after the earlier of—

(1) the later of—

(A) January 1, 2003, or

(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 2004.

(c) PLAN AMENDMENTS.—If the amendments made by this title require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 2004, if—

(1) during the period after such amendments made by this title take effect and before such first plan year, the plan is operated in accordance with the requirements of such amendments made by this title, and

(2) such plan amendment applies retroactively to the period after such amendments made by this title take effect and before such first plan year.

SA 4183. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 103, line 4, insert “, or any household member of the securities analyst,” after “analyst”.

SA 4184. Mr. GRAMM (for himself and Mr. SANTORUM) proposed an amendment to SA 4174 proposed by Mr. DASCHLE (for Mr. LEAHY (for himself, Mr. MCCAIN, Mr. DASCHLE, Mr. DURBIN, Mr. HARKIN, Mr. CLELAND, Mr. LEVIN, Mr. KENNEDY, Mr. BIDEN, Mr. FEINGOLD, Mr. MILLER, Mr. EDWARDS, Mrs. BOXER, Mr. CORZINE, Mr. KERRY, Mr. SCHUMER, Mr. BROWNBAC, and Mr. NELSON of Florida)) to the bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the division, insert the following new section:

“SEC. 1. EXEMPTION AUTHORITY.

“(1) CASE-BY-CASE WAIVERS.—Notwithstanding section 201(b) of this Act, the Board may, on a case-by-case basis, exempt any person, issuer, public accounting firm, or transaction from the prohibition on the provision of services under section 10A(g) of the Securities Exchange Act of 1934 (as added by this section), to the extent that such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors, and subject to review by the Commission in the same manner as for rules of the Board under section 107.

“(2) SMALL BUSINESS EXEMPTION.—The Board may, by rule exempt any person, issuer or public accounting firm (or classes of such persons, issuers or public accounting firms) from the prohibition on the provision of services under section 10A(g) of the Securities Exchange Act of 1934 (as added by this section), based upon the small business nature of such person, issuer or public accounting firm, taking into consideration applicable factors such as total asset size, availability and cost of retaining multiple service providers, number of public company audits performed, and such other factors and conditions as the Board deems appropriate consistent with the purposes of this Act.”

SA 4185. Mr. DASCHLE (for Mr. LEAHY (for himself, Mr. MCCAIN, Mr. DASCHLE, Mr. DURBIN, Mr. HARKIN, Mr. CLELAND, Mr. LEVIN, Mr. KENNEDY, Mr. BIDEN, Mr. FEINGOLD, Mr. MILLER, Mr. EDWARDS, Mrs. BOXER, Mr. CORZINE, Mr. KERRY, Mr. SCHUMER, Mr. BROWNBAC, Mr. NELSON of Florida, Mr. WELLSTONE, Ms. STABENOW, and Mr. JOHNSON)) proposed an amendment to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 117, strike Act and insert the following:

TITLE VIII—CORPORATE AND CRIMINAL FRAUD ACCOUNTABILITY

SEC. 801. SHORT TITLE.

This title may be cited as the “Corporate and Criminal Fraud Accountability Act of 2002”.

SEC. 802. CRIMINAL PENALTIES FOR ALTERING DOCUMENTS.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

“§ 1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy

“Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or

makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 10 years, or both.

“§ 1520. Destruction of corporate audit records

“(a)(1) Any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(a)) applies, shall maintain all audit or review workpapers for a period of 5 years from the end of the fiscal period in which the audit or review was concluded.

“(2) The Securities and Exchange Commission shall promulgate, within 180 days, after adequate notice and an opportunity for comment, such rules and regulations, as are reasonably necessary, relating to the retention of relevant records such as workpapers, documents that form the basis of an audit or review, memoranda, correspondence, communications, other documents, and records (including electronic records) which are created, sent, or received in connection with an audit or review and contain conclusions, opinions, analyses, or financial data relating to such an audit or review, which is conducted by any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(a)) applies.

“(b) Whoever knowingly and willfully violates subsection (a)(1), or any rule or regulation promulgated by the Securities and Exchange Commission under subsection (a)(2), shall be fined under this title, imprisoned not more than 5 years, or both.

“(c) Nothing in this section shall be deemed to diminish or relieve any person of any other duty or obligation, imposed by Federal or State law or regulation, to maintain, or refrain from destroying, any document.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new items:

“1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy.

“1520. Destruction of corporate audit records.”.

SEC. 803. DEBTS NONDISCHARGEABLE IF INCURRED IN VIOLATION OF SECURITIES FRAUD LAWS.

Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking “or” after the semicolon;

(2) in paragraph (18), by striking the period at the end and inserting “; or”; and

(3) by adding at the end, the following:

“(19) that—

“(A) arises under a claim relating to—

“(i) the violation of any of the Federal securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), any State securities laws, or any regulations or orders issued under such Federal or State securities laws; or

“(ii) common law fraud, deceit, or manipulation in connection with the purchase or sale of any security; and

“(B) results, in relation to any claim described in subparagraph (A), from—

“(i) any judgment, order, consent order, or decree entered in any Federal or State judicial or administrative proceeding;

“(ii) any settlement agreement entered into by the debtor; or

“(iii) any court or administrative order for any damages, fine, penalty, citation, restitutionary payment, disgorgement payment, attorney fee, cost, or other payment owed by the debtor.”.

SEC. 804. STATUTE OF LIMITATIONS FOR SECURITIES FRAUD.

(a) IN GENERAL.—Section 1658 of title 28, United States Code, is amended—

(1) by inserting “(a)” before “Except”; and

(2) by adding at the end the following:

“(b) Notwithstanding subsection (a), a private right of action that involves a claim of fraud, deceit, manipulation, or contrivance in contravention of a regulatory requirement concerning the securities laws, as defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), may be brought not later than the earlier of—

“(1) Two years after the discovery of the facts constituting the violation; or

“(2) Five years after such violation.”.

(b) EFFECTIVE DATE.—The limitations period provided by section 1658(b) of title 28, United States Code, as added by this section, shall apply to all proceedings addressed by this section that are commenced on or after the date of enactment of this Act.

(c) NO CREATION OF ACTIONS.—Nothing in this section shall create a new, private right of action.

SEC. 805. REVIEW OF FEDERAL SENTENCING GUIDELINES FOR OBSTRUCTION OF JUSTICE AND EXTENSIVE CRIMINAL FRAUD.

Pursuant to section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend, as appropriate, the Federal Sentencing Guidelines and related policy statements to ensure that—

(1) the base offense level and existing enhancements contained in United States Sentencing Guideline 2J1.2 relating to obstruction of justice are sufficient to deter and punish that activity;

(2) the enhancements and specific offense characteristics relating to obstruction of justice are adequate in cases where—

(A) documents and other physical evidence are actually destroyed, altered, or fabricated;

(B) the destruction, alteration, or fabrication of evidence involves—

(i) a large amount of evidence, a large number of participants, or is otherwise extensive;

(ii) the selection of evidence that is particularly probative or essential to the investigation; or

(iii) more than minimal planning; or

(C) the offense involved abuse of a special skill or a position of trust;

(3) the guideline offense levels and enhancements for violations of section 1519 or 1520 of title 18, United States Code, as added by this title, are sufficient to deter and punish that activity;

(4) the guideline offense levels and enhancements under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) are sufficient for a fraud offense when the number of victims adversely involved is significantly greater than 50;

(5) a specific offense characteristic enhancing sentencing is provided under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) for

a fraud offense that endangers the solvency or financial security of a substantial number of victims; and

(6) the guidelines that apply to organizations in United States Sentencing Guidelines, chapter 8, are sufficient to deter and punish organizational criminal misconduct.

SEC. 806. PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES WHO PROVIDE EVIDENCE OF FRAUD.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by inserting after section 1514 the following:

“§ 1514A. Civil action to protect against retaliation in fraud cases

“(a) WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES.—No company with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l), or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)), or any officer, employee, contractor, subcontractor, or agent of such company, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee—

“(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders, when the information or assistance is provided to or the investigation is conducted by—

“(A) a Federal regulatory or law enforcement agency;

“(B) any Member of Congress or any committee of Congress; or

“(C) a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct); or

“(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed (with any knowledge of the employer) relating to an alleged violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders.

“(b) ENFORCEMENT ACTION.—

“(1) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c), by—

“(A) filing a complaint with the Secretary of Labor; or

“(B) if the Secretary has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

“(2) PROCEDURE.—

“(A) IN GENERAL.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

“(B) EXCEPTION.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the employer.

“(C) BURDENS OF PROOF.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

“(D) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 90 days after the date on which the violation occurs.

“(c) REMEDIES.—

“(1) IN GENERAL.—An employee prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the employee whole.

“(2) COMPENSATORY DAMAGES.—Relief for any action under paragraph (1) shall include—

“(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

“(B) the amount of back pay, with interest; and

“(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

“(d) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law, or under any collective bargaining agreement.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by inserting after the item relating to section 1514 the following new item:

“1514A. Civil action to protect against retaliation in fraud cases.”

SEC. 807. CRIMINAL PENALTIES FOR DEFRAUDING SHAREHOLDERS OF PUBLICLY TRADED COMPANIES.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

“§ 1348. Securities fraud

“Whoever knowingly executes, or attempts to execute, a scheme or artifice—

“(1) to defraud any person in connection with any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)); or

“(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property in connection with the purchase or sale of any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d));

shall be fined under this title, or imprisoned not more than 10 years, or both.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following new item:

“1348. Securities fraud.”

SA 4186. Mr. DASCHLE (for Mr. BIDEN (for himself and Mr. HATCH)) proposed an amendment to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen

the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

At the end, add the following:

TITLE VIII—WHITE-COLLAR CRIME PENALTY ENHANCEMENTS.

SEC. 801 SHORT TITLE.

This title may be cited as the “White-Collar Crime Penalty Enhancement Act of 2002”.

SEC. 802. CRIMINAL PENALTIES FOR CONSPIRACY TO COMMIT OFFENSE OR TO DEFRAUD THE UNITED STATES.

Section 371 of title 18, United States Code, is amended by striking “If two or more” and all that follows through “If, however,” and inserting the following:

“(a) IN GENERAL.—If 2 or more persons—

“(1) conspire to commit any offense against the United States, in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined or imprisoned, or both, as set forth in the specific substantive offense which was the object of the conspiracy; or

“(2) conspire to defraud the United States, or any agency thereof in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined under this title, or imprisoned not more than 10 years, or both.

“(b) MISDEMEANOR OFFENSE.—If, however,”

SEC. 803. CRIMINAL PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 of title 18, United States Code, is amended by striking “five years” and inserting “10 years”.

(b) WIRE FRAUD.—Section 1343 of title 18, United States Code, is amended by striking “five years” and inserting “10 years”.

SEC. 804. CRIMINAL PENALTIES FOR VIOLATIONS OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by striking “\$5,000” and inserting “\$100,000”;

(1) by striking “one year” and inserting “10 years”; and

(3) by striking “\$100,000” and inserting “\$500,000”.

SEC. 805. AMENDMENT TO SENTENCING GUIDELINES RELATING TO CERTAIN WHITE-COLLAR OFFENSES.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this title.

(b) REQUIREMENTS.—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses and the penalties set forth in this title, the growing incidence of serious fraud offenses which are identified above, and the need to modify the sentencing guidelines and policy statements to deter, prevent, and punish such offenses;

(2) consider the extent to which the guidelines and policy statements adequately address—

(A) whether the guideline offense levels and enhancements for violations of the sections amended by this title are sufficient to deter and punish such offenses, and specifically, are adequate in view of the statutory increases in penalties contained in this title; and

(B) whether a specific offense characteristic should be added in United States Sentencing Guideline section 2B1.1 in order to provide for stronger penalties for fraud when the crime is committed by a corporate officer or director;

(3) assure reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 806. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

“§ 1348. Failure of corporate officers to certify financial reports

“(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chairman of the board, chief executive officer, and chief financial officer (or equivalent thereof) of the issuer.

“(b) CONTENT.—The statement required under subsection (a) shall certify the appropriateness of the financial statements and disclosures contained in the periodic report or financial report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer.

“(c) CRIMINAL PENALTIES.—Notwithstanding any other provision of law—

“(1) any person who recklessly violates any provision of this section shall upon conviction be fined not more than \$500,000, or imprisoned not more than 5 years, or both; or

“(2) any person who willfully violates any provision of this section shall upon conviction be fined not more than \$1,000,000, or imprisoned not more than 10 years, or both.”

(b) TECHNICAL AND CONFORMING AMENDMENT.—The section analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

“1348. Failure of corporate officers to certify financial reports.”

SA 4187. Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) submitted an amendment intended to be proposed to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence

of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

On page 108, line 15, insert before the end quotation marks the following:

“(c) **RULES OF PROFESSIONAL RESPONSIBILITY FOR ATTORNEYS.**—Not later than 180 days after the date of enactment of this section, the Commission shall establish rules, in the public interest and for the protection of investors, setting forth minimum standards of professional conduct for attorneys appearing and practicing before the Commission in any way in the representation of public companies, including a rule requiring an attorney to report evidence of a material violation of law by the company or any agent thereof to the chief legal counsel or the chief executive officer of the company (or the equivalent thereof) and, if the counsel or officer does not appropriately respond to the evidence (adopting, as necessary, appropriate remedial measures or sanctions with respect to the violation), requiring the attorney to report the evidence to the audit committee of the board of directors or to another committee of the board of directors comprised solely of directors not employed directly or indirectly by the company, or to the board of directors.

SA 4188. Mr. LOTT proposed an amendment to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . HIGHER MAXIMUM PENALTIES FOR MAIL AND WIRE FRAUD.

(a) **MAIL FRAUD.**—Section 1341 is amended by striking “five” and inserting “ten”.

(b) **WIRE FRAUD.**—Section 1343 is amended by striking “five” and inserting “ten”.

SEC. . TAMPERING WITH A RECORD OR OTHERWISE IMPEDING AN OFFICIAL PROCEEDING.

Section 1512 of title 18, United States Code is amended—

(a) by re-designating subsections (c), (d), (e), (f), (g), (h), and (i) as subsections (d), (e), (f), (g), (h), (i) and (j);

(b) by inserting after subsection (b) the following new subsection:

“(c) Whoever corruptly—

“(1) alters, destroys, mutilates or conceals a record, document or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or

“(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so;

“shall be fined under this title or imprisoned not more than ten years, or both.”

SEC. . TEMPORARY FREEZE AUTHORITY FOR THE SECURITIES AND EXCHANGE COMMISSION.

(a) **IN GENERAL.**—The Securities Exchange Act of 1934 is amended by inserting after section 21C(c)(2) (15 U.S.C. 78u-3(c)(2)) the following:

“(3) **TEMPORARY FREEZE.**—

“(A) Whenever during the course of a lawful investigation involving possible violations of the federal securities laws by an issuer of publicly traded securities or any of its directors, officers, partners, controlling persons, agents or employees, it shall appear to the Commission that it is likely that the issuer will make extraordinary payments (whether compensation or otherwise) to any of the foregoing persons, the Commission may petition a federal district court for a temporary order requiring the issuer to es-crow, subject to court supervision, those payments in an interest-bearing account for 45 days. Such an order shall be entered, if the court finds that the issuer is likely to make such extraordinary payments, only after notice and opportunity for a hearing, unless the court determines that notice and hearing prior to entry of the order would be impracticable or contrary to the public interest. A temporary order shall become effective immediately and shall be served upon the parties subject to it and, unless set aside, limited or suspended by court of competent jurisdiction, shall remain effective and enforceable for 45 days. The period of the order may be extended by the court upon good cause shown for not longer than 45 days, provided that the combined period of the order not exceed 90 days.

“(B) If the individual affected by such order is charged with violations of the federal securities laws by the expiration of the 45 days (or the expiration of any extended period), the escrow would continue, subject to court approval, until the conclusion of any legal proceedings. The issuer and the affected director, officer, partner, controlling person, agent or employee would have the right to petition the court for review of the order. If the individual affected by such order is not charged, the escrow will terminate at the expiration of the 45 days (or the expiration of any extended period), and the payments (with accrued interest) returned to the issuer.

(b) **TECHNICAL AMENDMENT.**—Section 21C(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3(c)(2)) is amended by striking “This” and inserting “Paragraph (1) of this”.

SEC. . AMENDMENT TO THE FEDERAL SENTENCING GUIDELINES.

(a) **REQUEST FOR IMMEDIATE CONSIDERATION BY THE UNITED STATES SENTENCING COMMISSION.**—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission is requested to—

(1) promptly review the sentencing guidelines applicable to securities and accounting fraud and related offenses;

(2) expeditiously consider promulgation of new sentencing guidelines or amendments to existing sentencing guidelines to provide an enhancement for officers or directors of publicly traded corporations who commit fraud and related offenses; and

(3) submit to Congress an explanation of actions taken by the Commission pursuant to paragraph (2) and any additional policy recommendations the Commission may have

for combating offenses described in paragraph (1).

(b) **OTHER.**—In carrying out this section, the Sentencing Commission is requested to:

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of securities, pension, and accounting fraud and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) assure reasonable consistency with other relevant directives and with other guidelines;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements;

(4) make any necessary conforming changes to the sentencing guidelines; and

(5) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) **EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.**—The Commission is requested to promulgate the guidelines or amendments provided for under this section as soon as practicable, and in any event not later than the 120 days after the date of the enactment of this Act, in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not yet expired.

SEC. . AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.

(a) In section 21C of the Exchange Act of 1934, add at the end a new subsection as follows:

“() **AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.**—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b) of this title or the rules or regulations thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to section 15(d) of this title if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.”

(b) In section 8A of the Securities Act add at the end a new subsection as follows:

“() **AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.**—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) of this title from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to section 15(d) of that Act if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.”

SA 4189. Mr. GRAMM proposed an amendment to amendment SA 4188 proposed by Mr. LOTT to the bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to

enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

Strike all after the first word, and insert the following:

SEC. . HIGHER MAXIMUM PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 is amended by striking “five” and inserting “ten”.

(b) WIRE FRAUD.—Section 1343 is amended by striking “five” and inserting “ten”.

SEC. . TAMPERING WITH A RECORD OR OTHERWISE IMPEDING AN OFFICIAL PROCEEDING.

Section 1512 of title 18, United States Code is amended—

(a) by re-designating subsections (c), (d), (e), (f), (g), (h), and (i) as subsections (d), (e), (f), (g), (h), (i) and (j);

(b) by inserting after subsection (b) the following new subsection:

“(c) Whoever corruptly—

“(1) alters, destroys, mutilates or conceals a record, document or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or

“(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so;

“shall be fined under this title or imprisoned not more than ten years, or both.”

SEC. . TEMPORARY FREEZE AUTHORITY FOR THE SECURITIES AND EXCHANGE COMMISSION.

(a) IN GENERAL.—The Securities Exchange Act of 1934 is amended by inserting after section 21C(c)(2) (15 U.S.C. 78u-3(c)(2)) the following:

“(3) TEMPORARY FREEZE.—

“(A) Whenever during the course of a lawful investigation involving possible violations of the federal securities laws by an issuer of publicly traded securities or any of its directors, officers, partners, controlling persons, agents or employees, it shall appear to the Commission that it is likely that the issuer will make extraordinary payments (whether compensation or otherwise) to any of the foregoing persons, the Commission may petition a federal district court for a temporary order requiring the issuer to escrow, subject to court supervision, those payments in an interest-bearing account for 45 days. Such an order shall be entered, if the court finds that the issuer is likely to make such extraordinary payments, only after notice and opportunity for a hearing, unless the court determines that notice and hearing prior to entry of the order would be impracticable or contrary to the public interest. A temporary order shall become effective immediately and shall be served upon the parties subject to it and, unless set aside, limited or suspended by court of competent jurisdiction, shall remain effective and enforceable for 45 days. The period of the order may be extended by the court upon good cause shown for not longer than 45 days, provided that the combined period of the order not exceed 90 days.

“(B) If the individual affected by such order is charged with violations of the federal securities laws by the expiration of the

45 days (or the expiration of any extended period), the escrow would continue, subject to court approval, until the conclusion of any legal proceedings. The issuer and the affected director, officer, partner, controlling person, agent or employee would have the right to petition the court for review of the order. If the individual affected by such order is not charged, the escrow will terminate at the expiration of the 46 days (or the expiration of any extended period), and the payments (with accrued interest) returned to the issuer.

(b) TECHNICAL AMENDMENT.—Section 21C(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3(c)(2)) is amended by striking “This” and inserting “Paragraph (1) of this”.

SEC. . AMENDMENT TO THE FEDERAL SENTENCING GUIDELINES.

(a) REQUEST FOR IMMEDIATE CONSIDERATION BY THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission is requested to—

(1) promptly review the sentencing guidelines applicable to securities and accounting fraud and related offenses;

(2) expeditiously consider promulgation of new sentencing guidelines or amendments to existing sentencing guidelines to provide an enhancement for officers or directors of publicly traded corporations who commit fraud and related offenses; and

(3) submit to Congress an explanation of actions taken by the Commission pursuant to paragraph (2) and any additional policy recommendations the Commission may have for combating offenses described in paragraph (1).

(b) OTHER.—In carrying out this section, the Sentencing Commission is requested to:

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of securities, pension, and accounting fraud and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) assure reasonable consistency with other relevant directives and with other guidelines;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements;

(4) make any necessary conforming changes to the sentencing guidelines; and

(5) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.—The Commission is requested to promulgate the guidelines or amendments provided for under this section as soon as practicable, and in any event not later than the 120 days after the date of the enactment of this Act, in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not yet expired.

SEC. . AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.

(a) In section 21C of the Exchange Act of 1934, add at the end a new subsection as follows:

“() AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist pro-

ceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b) of this title or the rules or regulations thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to section 15(d) of this title if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.”

(b) In section 8A of the Securities Act add at the end a new subsection as follows:

“() AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) of this title from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to section 15(d) of that Act if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.”

SA 4190. Mr. DASCHLE (for Mr. BIDEN (for himself and Mr. HATCH)) proposed an amendment to amendment SA 4186 proposed by Mr. DASCHLE (for Mr. BIDEN (for himself and Mr. HATCH)) to the bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

Strike all after the first word and insert the following:

TITLE VIII—WHITE-COLLAR CRIME PENALTY ENHANCEMENTS.

SEC. 801 SHORT TITLE.

This title may be cited as the “White-Collar Crime Penalty Enhancement Act of 2002”.

SEC. 802. CRIMINAL PENALTIES FOR CONSPIRACY TO COMMIT OFFENSE OR TO DEFRAUD THE UNITED STATES.

Section 371 of title 18, United States Code, is amended by striking “If two or more” and all that follows through “If, however,” and inserting the following:

“(a) IN GENERAL.—If 2 or more persons—

“(1) conspire to commit any offense against the United States, in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined or imprisoned, or both, as set forth in the specific substantive offense which was the object of the conspiracy; or

“(2) conspire to defraud the United States, or any agency thereof in any manner or for

any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined under this title, or imprisoned not more than 10 years, or both.

“(b) MISDEMEANOR OFFENSE.—If, however,”.

SEC. 803. CRIMINAL PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 of title 18, United States Code, is amended by striking “five years” and inserting “10 years”.

(b) WIRE FRAUD.—Section 1343 of title 18, United States Code, is amended by striking “five years” and inserting “10 years”.

SEC. 804. CRIMINAL PENALTIES FOR VIOLATIONS OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by striking “\$5,000” and inserting “\$100,000”;

(1) by striking “one year” and inserting “10 years”; and

(3) by striking “\$100,000” and inserting “\$500,000”.

SEC. 805. AMENDMENT TO SENTENCING GUIDELINES RELATING TO CERTAIN WHITE-COLLAR OFFENSES.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this title.

(b) REQUIREMENTS.—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses and the penalties set forth in this title, the growing incidence of serious fraud offenses which are identified above, and the need to modify the sentencing guidelines and policy statements to deter, prevent, and punish such offenses;

(2) consider the extent to which the guidelines and policy statements adequately address—

(A) whether the guideline offense levels and enhancements for violations of the sections amended by this title are sufficient to deter and punish such offenses, and specifically, are adequate in view of the statutory increases in penalties contained in this title; and

(B) whether a specific offense characteristic should be added in United States Sentencing Guideline section 2B1.1 in order to provide for stronger penalties for fraud when the crime is committed by a corporate officer or director;

(3) assure reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 806. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

“§ 1348. Failure of corporate officers to certify financial reports

“(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chairman of the board, chief executive officer, and chief financial officer (or equivalent thereof) of the issuer.

“(b) CONTENT.—The statement required under subsection (a) shall certify the appropriateness of the financial statements and disclosures contained in the periodic report or financial report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer.

“(c) CRIMINAL PENALTIES.—Notwithstanding any other provision of law—

“(1) any person who recklessly violates any provision of this section shall upon conviction be fined not more than \$500,000, or imprisoned not more than 5 years, or both; or

“(2) any person who willfully violates any provision of this section shall upon conviction be fined not more than \$1,000,000, or imprisoned not more than 10 years, or both.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The section analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

“§ 1348. Failure of corporate officers to certify financial reports.”.

This section shall take effect one day after date of this bill's enactment.

SA 4191. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes, which was ordered to lie on the table; as follows:

On page 78, strike lines 15 through 24, and insert the following:

In supervising public accounting firms that are not registered by the Board and their associated persons, appropriate State regulatory authorities should make an independent determination of the proper standards applicable, particularly taking into consideration the size and nature of the business of the accounting firms they supervise and the size and nature of the business of the clients of those firms. The standards applied by the Board under this Act could create undue burdens and costs if applied without independent consideration to nonpublic accounting companies and other accounting firms that provide services to small business clients.

SA 4192. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve qual-

ity and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysis, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . STOCK OPTIONS MUST BE BOOKED AS EXPENSE WHEN GRANTED.

Any corporation that grants a stock option to an officer or employee to purchase a publicly traded security in the United States shall record the granting of the option as an expense in that corporation's income statement for the year in which the option is granted.

SA 4193. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysis, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 69, strike line 8 and all that follows through page 70, line 19, and insert “any non-audit service.”.

SA 4194. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 82, strike lines 19 through 24 and insert the following:

(b) CONTENT.—The chief executive officer and chief financial officer—

(1) shall certify, under penalty of perjury, that the reports and statements described in subsection (a) fairly present, in all material respects, the operations and financial condition of the issuer; and

(2) shall include a brief narrative of the basis for the decision to so certify, including a discussion of any questionable accounting treatment.

SA 4195. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 86, line 8, strike “during” and all that follows through page 89, line 20 and insert the following: “at any time during the term of employment of that person by the issuer, or service to that issuer as a director or executive officer, or during the 90-day period following the date of termination of such employment or service.

“(b) EXCEPTION.—Nothing in subsection (a) shall be construed to prohibit the purchase, sale, acquisition, or other transfer of equity securities of the issuer for the purpose of avoiding expiration of stock options, but only to the extent necessary to pay the option price of the securities and any applicable taxes or to satisfy a court ordered judgment.

“(c) REMEDY.—

“(1) IN GENERAL.—Any profit realized by a director or executive officer referred to in subsection (a) from any purchase, sale, or other acquisition or transfer in violation of this section shall inure to and be recoverable by the issuer, irrespective of any intention on the part of such director or executive officer in entering into the transaction.

“(2) ACTIONS TO RECOVER PROFITS.—An action to recover profits in accordance with this section may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and in behalf of the issuer if the issuer fails or refuses to bring such action within 60 days after the date of request, or fails diligently to prosecute the action thereafter.

“(d) RULEMAKING AUTHORIZED.—The Commission may issue rules to clarify the application of this subsection, to ensure adequate notice to all persons affected by this subsection, and to prevent evasion thereof by the issuer.”.

SA 4196. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the

standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 82, line 9, strike the quotation marks and the final period and insert the following:

“(n) STANDARDS RELATING TO BOARDS OF DIRECTORS.—

“(1) COMMISSION RULES.—

“(A) IN GENERAL.—Effective not later than 270 days after the date of enactment of this subsection, the Commission shall, by rule, direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that is not in compliance with the requirements of any portion of paragraph (2).

“(B) OPPORTUNITY TO CURE DEFECTS.—The rules of the Commission under subparagraph (A) shall provide for appropriate procedures for an issuer to have an opportunity to cure any defects that would be the basis for a prohibition under subparagraph (A), before the imposition of such prohibition.

“(2) INDEPENDENCE.—

“(A) IN GENERAL.—Each member of the board of directors of the issuer (other than the chief executive officer) shall be independent.

“(B) CRITERIA.—In order to be considered independent for purposes of this paragraph, a member of a board of directors of an issuer may not, other than in his or her capacity as a member of that board of directors—

“(i) accept any consulting, advisory, or other compensatory fee from the issuer;

“(ii) be an affiliated person of the issuer or any subsidiary thereof; or

“(iii) otherwise maintain any other material relationship with the issuer or the management thereof.

“(C) EXEMPTION AUTHORITY.—The Commission may exempt from the requirements of subparagraph (B) a particular relationship with respect to members of a board of directors, as the Commission determines appropriate in light of the circumstances.”.

SA 4197. Mr. SHELBY (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . LITIGATION PROVISIONS.

(a) COMMISSION AUTHORITY.—Section 20(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78t(e)) is amended by striking “knowingly” and inserting “recklessly”.

(b) PRIVATE LITIGATION.—Section 21D of the Securities Exchange Act of 1934 (15 U.S.C. 78u-4) is amended—

(1) in subsection (f)(10)(B), by inserting “notwithstanding subsection (g),” before “reckless”; and

(2) by adding at the end the following:

“(g) PERSONS THAT AID OR ABET VIOLATIONS.—Any person that recklessly provides substantial assistance to another person in violation of a provision of this title, or of any rule or regulation issued under this title, shall be deemed to be in violation of such provision to the same extent as the person to whom such assistance is provided.”.

SA 4198. Mr. CLELAND submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 84, strike lines 12 through 15, and insert the following: “executive officer, chief financial officer, and any other officer or director of the corporation with knowledge, at the time of the misconduct, of the material noncompliance of the issuer shall reimburse the issuer for—

“(1) any bonus, compensation derived from a severance agreement, or other incentive-based or equality-based compensation received by that person”.

SA 4199. Mr. CLELAND submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. **INDIVIDUAL ACCOUNT PLANS REQUIRED TO GIVE PARTICIPANTS ADEQUATE INFORMATION TO ASSIST THEM IN DIVERSIFYING PENSION ASSETS.**

(a) **IN GENERAL.**—Section 104 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and

(2) by inserting after subsection (b) the following new subsection:

“(c)(1) The plan administrator of an applicable individual account plan shall, within a reasonable period of time following the close of each calendar quarter, provide to each participant or beneficiary a statement with respect to his or her individual account which includes—

“(A) the fair market value as of the close of such quarter of the assets in the account in each investment option,

“(B) the percentage as of such calendar quarter of assets which each investment option is of the total assets in the account,

“(C) the percentage of the investment in employer securities which came from employer contributions other than elective deferrals (and earnings thereon) and which came from employee contributions and elective deferrals (and earnings thereon), and

“(D) such other information as the Secretary may prescribe.

“(2)(A) Each statement shall also include a separate statement which is prominently displayed and which reads as follows:

“Under commonly accepted principles of good investment advice, a retirement account should be invested in a broadly diversified portfolio of stocks and bonds. It is unwise for employees to hold significant concentrations of employer stock in an account that is meant for retirement savings’.

“(B) The plan administrator of an applicable individual account plan shall provide the separate statement described in subparagraph (A) to an individual at the time the individual first becomes a participant in the plan.

“(3) Any statement or notice under this subsection shall be written in a manner calculated to be understood by the average plan participant.

“(4) For purposes of this subsection—

“(A) The term ‘applicable individual account plan’ means an individual account plan to which section 404(c)(1) applies.

“(B) The term ‘elective deferrals’ has the meaning given such term by section 402(g)(3) of such Code.

“(C) The term ‘employer securities’ has the meaning given such term by section 407(d)(1).”

(b) **ENFORCEMENT.**—Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by striking “or section 101(e)(1)” and inserting “, section 101(e)(1), or section 104(c)”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to calendar quarters beginning on and after January 1, 2003.

SA 4200. Mr. GRAMM (for Mr. McCONNELL) proposed an amendment to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the

independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

On page 2, line 17, strike “directors,” and insert the following:
directors.

SEC. ____. **ATTORNEY PRACTICES RELATING TO CLIENTS.**

(a) **DEFINITIONS.**—In this section:

(1) **AGENCY.**—The term “agency” means any agency or department of the United States or State government including a local government.

(2) **ATTORNEY.**—The term “attorney” means any natural person, professional law association, corporation, or partnership authorized under applicable law to practice law.

(3) **ATTORNEY SERVICES.**—The term “attorney services”—

(A) means the professional advice or counseling of or representation by an attorney; and

(B) shall not include services requiring out-of-pocket expenses in connection with providing attorney services, such as travel expenses, witness fees, copying, messengers, postage, phone, or preparation by a person other than the attorney of any study, analysis, report, or test.

(4) **CLASS ACTION.**—

(A) **IN GENERAL.**—The term “class action” means—

(i) any civil action filed under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by 1 or more representative persons as a class action; or

(ii) any civil action in which—

(I) the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

(II) monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

(B) **CLASS TREATMENT.**—In any civil action described under subparagraph (A)(ii), the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and the monetary relief that is sought shall be treated as the claims of individual class members.

(5) **CONTINGENT FEE.**—The term “contingent fee”—

(A) means the cost or price of attorney services determined by applying a specified percentage, which may be a firm fixed percentage, a graduated or sliding percentage, or any combination thereof, to the amount of the settlement or judgment obtained or otherwise allowing the attorney to share in the proceeds of a settlement or judgment obtained which the defendant was required to make payment in order to satisfy an obligation to the plaintiff; and

(B) includes any fees a defendant pays directly to an attorney retained by a plaintiff outside the terms of a settlement or judgment.

(6) **HOURLY FEE.**—The term “hourly fee” means the cost or price per hour of attorney services.

(7) **LOCAL GOVERNMENT.**—The term “local government”—

(A) means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty; and

(B) includes—

(i) a local public authority;

(ii) a special district;

(iii) an intrastate district;

(iv) a council of governments;

(v) a sponsor group representative organization; or

(vi) any other instrumentality of a local government.

(8) **PAYMENT.**—The term “payment” means any gift, subscription, loan, advance, or deposit of money or anything of value.

(9) **PERSON.**—The term “person” includes—

(A) an individual, corporation, company, association, authority, firm, partnership, or society, regardless of whether such entity is operated for profit or not for profit; and

(B) the Federal Government or any State or local government.

(10) **PLAINTIFF.**—The term “plaintiff” means a person who retains an attorney to represent that person in asserting or bringing a civil claim or civil action.

(11) **RETAIN.**—The term “retain” means the act of a plaintiff in obtaining attorney services, whether by express or implied agreement, by seeking and obtaining attorney services.

(12) **STATE.**—The term “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

(b) **APPLICABILITY.**—

(1) **IN GENERAL.**—This section shall apply to any cause of action brought in Federal court or under Federal law, including any related settlement.

(2) **NONAPPLICABILITY.**—

(A) **CERTAIN CONTRACTS.**—Except in the case of class actions, this section does not apply to agreements to provide attorney services if the person who enters into such an agreement is represented at that time by another attorney who is retained for the purpose of negotiating a contingency fee contract on behalf of that person.

(B) **GOVERNMENT ATTORNEYS.**—This section does not apply to attorneys who are classified as employees of the United States Government, a State, or an agency thereof.

(c) **DISCLOSURES BY ATTORNEY.**—

(1) **WRITTEN DISCLOSURE.**—

(A) **IN GENERAL.**—Before an attorney is retained by a plaintiff, the attorney shall disclose in writing to the potential plaintiff the plaintiff’s rights under this section, including the right to receive a written statement of the information described in this subsection and subsection (e).

(B) **CONTENTS OF DISCLOSURE.**—Specifically, the attorney shall provide a written statement to the potential plaintiff containing—

(i) the estimated number of hours of attorney services that will be spent—

(I) settling or attempting to settle the claim or action; and

(II) handling the claim or action through trial or appeal;

(ii) the attorney’s hourly fee or fees for services in pursuing the claim or action and any conditions, limitations, restrictions, or

other qualifications on the fee including likely expenses and the plaintiff's obligation for those expenses;

(iii) the attorney's contingent fee for services in pursuing the claim or action and any conditions, limitations, restrictions, or other qualifications on the fee, including likely expenses and the plaintiff's obligation for those expenses;

(iv) the probability of a successful outcome in the case (which may be expressed as a percentage);

(v) the estimated recovery reasonably expected in the case (which may be expressed as a range);

(vi) the estimated costs or expenses that the plaintiff will bear; and

(vii) all fee agreements to be made concerning the case, including the amount to be paid to any cocounsel associated with the case or to refer the plaintiff to another attorney in exchange for a referral fee.

(2) MONTHLY STATEMENT.—In addition to the requirements under paragraph (1), the attorney shall render monthly statements to the plaintiff containing a description of the amount of time expended and expenses incurred in the pursuit of the plaintiff's claim or action by each attorney assigned to the plaintiff's matter.

(d) AGREEMENT ON COMPENSATION.—

(1) CONTINGENT FEE.—An attorney who has been retained on a contingent fee basis may not be paid a contingent fee greater than the attorney's contingent fee rate disclosed under subsection (c).

(2) HOURLY FEE.—An attorney representing a plaintiff in connection with the claim or action may not be paid an hourly fee greater than the attorney's hourly fee or fees disclosed under subsection (c) multiplied by the total number of hours spent by the attorney in connection with the claim or action.

(3) EXCEPTIONS.—

(A) OTHER REQUIREMENTS.—A plaintiff may not be given the option of choosing to compensate the attorney on a contingent fee basis for claims or actions where it would be a violation of an applicable Code of Professional Responsibility or otherwise illegal for an attorney to be compensated on a contingent fee basis.

(B) GOVERNMENT ATTORNEYS.—This section does not authorize the United States or any State or subdivision thereof to retain an attorney on a contingent fee basis.

(e) INFORMATION ABOUT SETTLEMENT OFFERS, SETTLEMENT, OR ADJUDICATION.—

(1) SETTLEMENT OFFERS.—An attorney retained by a plaintiff shall immediately transmit to the plaintiff—

(A) all written settlement offers to the plaintiff with an estimate of the likelihood of achieving a more or less favorable resolution to the claim or action;

(B) the likely timing of such resolution; and

(C) the likely attorney's fees and expenses required to obtain such a resolution.

(2) SETTLEMENT OR ADJUDICATION.—An attorney retained by a plaintiff shall, within a reasonable time not later than 30 days after the date on which the claim or action is finally settled or adjudicated, provide a written statement to the plaintiff containing—

(A) in a case in which an attorney is compensated with an hourly fee—

(i) the actual number of hours expended by each attorney on behalf of the plaintiff in connection with the claim or action and such attorney's hourly rate, as set forth in the written disclosure statement required to be provided under subsection (c); and

(ii) the total amount of the hourly fees;

(B) in a case in which an attorney is compensated with a contingent fee—

(i) the contingent fee rate, as set forth in the written disclosure statement required to be provided under subsection (c);

(ii) the total amount of the contingent fee;

(iii) the number of hours expended in the case; and

(iv) the effective hourly rate, determined by dividing the total amount of the contingent fee by the number of hours expended in the case; and

(C) the expenses to be charged to the plaintiff under the agreement for attorney services consistent with this section.

(f) REASONABLENESS OF ATTORNEYS FEES.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, an attorney to whom this section applies may not charge an unreasonable or excessive fee.

(2) RIGHT TO REVIEW.—A plaintiff may request an objective review of his attorney's fee by a court of competent jurisdiction to assure that it is reasonable and fair in light of the circumstances, based on such factors as whether liability was contested, whether the amount of damages was clear, and how much actual time a lawyer reasonably spent on the case.

(g) CLASS ACTIONS.—

(1) IN GENERAL.—An attorney representing a class in a civil action shall make the disclosures, transmittals, and provisions of information required under this section to the presiding judge. The presiding judge shall determine, upon certifying the action as a class action, the appropriate hourly fee or fees and the maximum percentage of the recovery to be paid in attorney's fees. Notwithstanding any other provision of law or agreement to the contrary, the presiding judge shall award attorneys fees consistent with this section.

(2) LIMITATION.—Attorneys fees described under paragraph (1) may not exceed a reasonable fee, based on—

(A) the number of hours of nonduplicative, professional quality legal work, provided by the attorney of material value to the outcome of the representation of the class; and

(B) reasonable hourly rates for the individuals performing such work, based on hourly rates charged by other attorneys for the rendition of comparable services including rates charged by adversary defense counsel in the class action.

(3) ADJUSTMENT FACTOR.—To the extent that items are not taken into account in establishing the reasonable hourly rates referred to in this subsection, an appropriate adjustment factor, including reasonable multipliers, to compensate the attorney for risks of nonpayment of fees and, when clearly established, for exceptionally skillful or innovative services provided during such periods of risk, may be employed, except that—

(A) in no case shall the appropriate adjustment factor be greater than 6; and

(B) in all cases, the appropriate adjustment factor shall be determined in accordance with the strict standards established by the Federal courts for permissible lodestar multipliers.

(h) RESIGNATION OR DISCHARGE.—If an attorney who is retained on a contingent fee basis is discharged or resigns, any fee owed to that attorney shall be based on that attorney's contribution to the plaintiff's ultimate success.

(i) UNSOLICITED COMMUNICATIONS DURING BEREAVEMENT PERIOD.—

(1) IN GENERAL.—In the event of a death or personal injury resulting in bodily harm, no unsolicited communication concerning a po-

tential civil action for personal injury or wrongful death may be made by an attorney (including any associate, agent, employee, or other representative of an attorney) or any potential party to the litigation to an individual injured in that event, or to a relative of an individual killed or injured in that event, before the 45th day following the date of the death or injury.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to authorize a communication otherwise prohibited by Federal or State or local government law or a rule or standard of any bar association or similar entity.

(j) ENFORCEMENT.—

(1) IN GENERAL.—The Attorney General of the United States may file a civil action in an appropriate district court of the United States to enforce this section.

(2) CIVIL PENALTY.—A person violating this section is liable to the United States Government for a civil penalty of not more than \$5,000 for each violation.

SA 4201. Mrs. CARNAHAN (for herself and Mr. LEAHY) submitted an amendment intended to be proposed by her to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . FAIR TREATMENT OF COMPENSATION IN BANKRUPTCY.

(a) INCREASED PRIORITY CLAIM AMOUNT FOR EMPLOYEE WAGES AND BENEFITS.—Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (3), by striking “\$4,000” and inserting “\$13,500”; and

(2) in paragraph (4), by striking “\$4,000” and inserting “\$13,500”.

(b) RECOVERY OF EXCESSIVE COMPENSATION.—Section 547 of title 11, United States Code, is amended by adding at the end the following:

“(h) The court, on motion of a party of interest, may avoid any transfer of compensation made to a member of the board of directors or an employee of the debtor on or within 90 days before the date of the filing of the petition that the court finds, after notice and a hearing, to be—

“(1) out of the ordinary course of business; or

“(2) unjust enrichment.”.

SA 4202. Mrs. CARNAHAN (for herself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by her to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company

Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 89, after line 20, insert the following:

SEC. 307. PUBLIC COMPANY COMPENSATION COMMITTEES.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78f) is amended by adding at the end the following:

“(n) **STANDARDS RELATING TO COMPENSATION COMMITTEES.**—

“(1) **COMMISSION RULES.**—

“(A) **IN GENERAL.**—Effective not later than 270 days after the date of enactment of this subsection, the Commission shall, by rule, direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that is not in compliance with the requirements of any portion of paragraphs (2) through (6).

“(B) **OPPORTUNITY TO CURE DEFECTS.**—The rules of the Commission under subparagraph (A) shall provide for appropriate procedures for an issuer to have an opportunity to cure any defects that would be the basis for a prohibition under subparagraph (A), before the imposition of such prohibition.

“(2) **INDEPENDENCE.**—

“(A) **IN GENERAL.**—Each member of the compensation committee of the issuer shall be a member of the board of directors of the issuer, and shall otherwise be independent.

“(B) **CRITERIA.**—In order to be considered to be independent for purposes of this paragraph, a member of a compensation committee of an issuer may not, other than in his or her capacity as a member of the compensation committee, the board of directors, or any other board committee—

“(i) accept any consulting, advisory, or other compensatory fee from the issuer; or

“(ii) be an affiliated person of the issuer or any subsidiary thereof.

“(C) **EXEMPTION AUTHORITY.**—The Commission may exempt from the requirements of subparagraph (B) a particular relationship with respect to compensation committee members, as the Commission determines appropriate in light of the circumstances.

“(3) **COMPENSATION COMMITTEE.**—For purposes of this subsection, the term ‘compensation committee’ means—

“(A) a committee (or equivalent body) established by and amongst the board of directors of an issuer for the purpose of overseeing the establishment of compensation for employees of the issuer; and

“(B) if no such committee exists with respect to an issuer, the entire board of directors of the issuer.”.

SA 4203. Mr. MURKOWSKI (for himself, Mr. STEVENS, Mr. CRAIG, Mr. BURNS, Mr. CRAPO, Mr. SMITH of Oregon, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies,

to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ____ NINTH CIRCUIT COURT OF APPEALS REORGANIZATION.

(a) **SHORT TITLE.**—This section may be cited as the “Ninth Circuit Court of Appeals Reorganization Act of 2002”.

(b) **NUMBER AND COMPOSITION OF CIRCUITS.**—Section 41 of title 28, United States Code, is amended—

(1) in the matter before the table, by striking “thirteen” and inserting “fourteen”; and

(2) in the table—

(A) by striking the item relating to the ninth circuit and inserting the following:

“Ninth Arizona, California, Nevada.”;

and

(B) by inserting after the item relating to the eleventh circuit the following:

“Twelfth Alaska, Guam, Hawaii, Idaho, Montana, Northern Mariana Islands, Oregon, Washington.”.

(c) **NUMBER OF CIRCUIT JUDGES.**—The table in section 44(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

“Ninth 20”;

and

(2) by inserting after the item relating to the eleventh circuit the following:

“Twelfth 8”.

(d) **PLACES OF CIRCUIT COURT.**—The table in section 48(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

“Ninth San Francisco, Los Angeles.”;

and

(2) by inserting after the item relating to the eleventh circuit the following:

“Twelfth Portland, Seattle.”.

(e) **ASSIGNMENT OF CIRCUIT JUDGES.**—Each circuit judge in regular active service of the former ninth circuit whose official station on the day before the effective date of this section—

(1) is in Arizona, California, or Nevada is assigned as a circuit judge of the new ninth circuit; and

(2) is in Alaska, Guam, Hawaii, Idaho, Montana, Northern Mariana Islands, Oregon, or Washington is assigned as a circuit judge of the twelfth circuit.

(f) **ELECTION OF ASSIGNMENT BY SENIOR JUDGES.**—Each judge who is a senior judge of the former ninth circuit on the day before the effective date of this section may elect to be assigned to the new ninth circuit or to the twelfth circuit and shall notify the Director of the Administrative Office of the United States Courts of such election.

(g) **SENIORITY OF JUDGES.**—The seniority of each judge—

(1) who is assigned under subsection (e); or

(2) who elects to be assigned under subsection (f);

shall run from the date of commission of such judge as a judge of the former ninth circuit.

(h) **APPLICATION TO CASES.**—The provisions of the following paragraphs of this subsection apply to any case in which, on the day before the effective date of this section, an appeal or other proceeding has been filed with the former ninth circuit:

(1) If the matter has been submitted for decision, further proceedings in respect of the matter shall be had in the same manner and with the same effect as if this section had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which the matter would have been submitted had this section been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) A petition for rehearing or a petition for rehearing en banc in a matter decided before the effective date of this section, or submitted before the effective date of this section and decided on or after the effective date as provided in paragraph (1), shall be treated in the same manner and with the same effect as though this section had not been enacted. If a petition for rehearing en banc is granted, the matter shall be reheard by a court comprised as though this section had not been enacted.

(i) **DEFINITIONS.**—In this section, the term—

(1) “former ninth circuit” means the ninth judicial circuit of the United States as in existence on the day before the effective date of this section;

(2) “new ninth circuit” means the ninth judicial circuit of the United States established by the amendment made by subsection (b)(2); and

(3) “twelfth circuit” means the twelfth judicial circuit of the United States established by the amendment made by subsection (b)(3).

(j) **ADMINISTRATION.**—The court of appeals for the ninth circuit as constituted on the day before the effective date of this section may take such administrative action as may be required to carry out this section and the amendments made by this section. Such court shall cease to exist for administrative purposes on July 1, 2004.

(k) **EFFECTIVE DATE.**—This section and the amendments made by this section shall take effect 60 days after the date of enactment of this Act.

SA 4204. Mr. SMITH of New Hampshire (for himself, Mrs. BOXER, and Mr. BURNS) submitted an amendment which was ordered to lie on the table; as follows:

At the appropriate place, insert the following new title:

TITLE ____—FLIGHT AND CABIN SECURITY ON PASSENGER AIRCRAFT

SECTION ____ 1. SHORT TITLE.

This title may be cited as the “Arming Pilots Against Terrorism and Cabin Defense Act of 2002”.

SEC. ____ 2. FINDINGS.

Congress makes the following findings:

(1) Terrorist hijackers represent a profound threat to the American people.

(2) According to the Federal Aviation Administration, between 33,000 and 35,000 commercial flights occur every day in the United States.

(3) The Aviation and Transportation Security Act (public law 107-71) mandated that air marshals be on all high risk flights such as those targeted on September 11, 2001.

(4) Without air marshals, pilots and flight attendants are a passenger's first line of defense against terrorists.

(5) A comprehensive and strong terrorism prevention program is needed to defend the Nation's skies against acts of criminal violence and air piracy. Such a program should include—

- (A) armed Federal air marshals;
- (B) other Federal agents;
- (C) reinforced cockpit doors;
- (D) properly-trained armed pilots;
- (E) flight attendants trained in self-defense and terrorism prevention; and
- (F) electronic communications devices, such as real-time video monitoring and hands-free wireless communications devices to permit pilots to monitor activities in the cabin.

SEC. 4. 3. FEDERAL FLIGHT DECK OFFICER PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

“§ 44921. Federal flight deck officer program

“(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security shall establish a program to deputize qualified pilots of commercial cargo or passenger aircraft who volunteer for the program as Federal law enforcement officers to defend the flight decks of commercial aircraft of air carriers engaged in air transportation or intrastate air transportation against acts of criminal violence or air piracy. Such officers shall be known as ‘Federal flight deck officers’. The program shall be administered in connection with the Federal air marshal program.

“(b) QUALIFIED PILOT.—Under the program described in subsection (a), a qualified pilot is a pilot of an aircraft engaged in air transportation or intrastate air transportation who—

- “(1) is employed by an air carrier;
- “(2) has demonstrated fitness to be a Federal flight deck officer in accordance with regulations promulgated pursuant to this title; and
- “(3) has been the subject of an employment investigation (including a criminal history record check) under section 44936(a)(1).

“(c) TRAINING, SUPERVISION, AND EQUIPMENT.—The Under Secretary of Transportation for Security shall provide or make arrangements for training, supervision, and equipment necessary for a qualified pilot to be a Federal flight deck officer under this section at no expense to the pilot or the air carrier employing the pilot. The Under Secretary may approve private training programs which meet the Under Secretary's specifications and guidelines. Air carriers shall make accommodations to facilitate the training of their pilots as Federal flight deck officers and shall facilitate Federal flight deck officers in the conduct of their duties under this program.

“(d) DEPUTIZATION.—

“(1) IN GENERAL.—The Under Secretary of Transportation for Security shall train and deputize, as a Federal flight deck officer

under this section, any qualified pilot who submits to the Under Secretary a request to be such an officer.

“(2) INITIAL DEPUTIZATION.—Not later than 120 days after the date of enactment of this section, the Under Secretary shall deputize not fewer than 500 qualified pilots who are former military or law enforcement personnel as Federal flight deck officers under this section.

“(3) FULL IMPLEMENTATION.—Not later than 24 months after the date of enactment of this section, the Under Secretary shall deputize any qualified pilot as a Federal flight deck officer under this section.

“(e) COMPENSATION.—Pilots participating in the program under this section shall not be eligible for compensation from the Federal Government for services provided as a Federal flight deck officer.

“(f) AUTHORITY TO CARRY FIREARMS.—The Under Secretary of Transportation for Security shall authorize a Federal flight deck officer under this section to carry a firearm to defend the flight deck of a commercial passenger or cargo aircraft while engaged in providing air transportation or intrastate air transportation. No air carrier may prohibit a Federal flight deck officer from carrying a firearm in accordance with the provisions of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002.

“(g) AUTHORITY TO USE FORCE.—Notwithstanding section 44903(d), a Federal flight deck officer may use force (including lethal force) against an individual in the defense of a commercial aircraft in air transportation or intrastate air transportation if the officer reasonably believes that the security of the aircraft is at risk.

“(h) LIMITATION ON LIABILITY.—

“(1) LIABILITY OF AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the air carrier employing a pilot of an aircraft who is a Federal flight deck officer under this section or out of the acts or omissions of the pilot in defending an aircraft of the air carrier against acts of criminal violence or air piracy.

“(2) LIABILITY OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the officer in defending an aircraft against acts of criminal violence or air piracy unless the officer is guilty of gross negligence or willful misconduct.

“(3) EMPLOYEE STATUS OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall be considered an ‘employee of the Government while acting within the scope of his office or employment’ with respect to any act or omission of the officer in defending an aircraft against acts of criminal violence or air piracy, for purposes of sections 1346(b), 2401(b), and 2671 through 2680 of title 28 United States Code.

“(i) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Under Secretary of Transportation for Security, in consultation with the Firearms Training Unit of the Federal Bureau of Investigation, shall issue regulations to carry out this section.

“(j) PILOT DEFINED.—In this section, the term ‘pilot’ means an individual who is responsible for the operation of an aircraft, and includes a co-pilot or other member of the flight deck crew.”.

(b) CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The analysis for such chapter 449 is amended by inserting

after the item relating to section 44920 the following new item:

“44921. Federal flight deck officer program.”.

(2) EMPLOYMENT INVESTIGATIONS.—Section 44936(a)(1)(B) is amended—

- (A) by aligning clause (iii) with clause (ii);
- (B) by striking “and” at the end of clause (iii);

(C) by striking the period at the end of clause (iv) and inserting “; and”; and

(D) by adding at the end the following:

“(v) qualified pilots who are deputized as Federal flight deck officers under section 44921.”.

(3) FLIGHT DECK SECURITY.—Section 128 of the Aviation and Transportation Security Act (49 U.S.C. 44903 note) is repealed.

SEC. 5. 4. CABIN SECURITY.

(a) TECHNICAL AMENDMENTS.—Section 44903, of title 49, United States Code, is amended—

- (1) by redesignating subsection (h) (relating to authority to arm flight deck crew with less-than-lethal weapons, as added by section 126(b) of public law 107-71) as subsection (j); and

(2) by redesignating subsection (h) (relating to limitation on liability for acts to thwart criminal violence or aircraft piracy, as added by section 144 of public law 107-71) as subsection (k).

(b) AVIATION CREWMEMBER SELF-DEFENSE DIVISION.—Section 44918 of title 49, United States Code, is amended—

- (1) by striking subsection (a) and inserting the following new subsection:

“(a) IN GENERAL.—

“(1) REQUIREMENT FOR AIR CARRIERS.—Not later than 60 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security, shall prescribe detailed requirements for an air carrier cabin crew training program, and for the instructors of that program as described in subsection (b) to prepare crew members for potential threat conditions. In developing the requirements, the Under Secretary shall consult with appropriate law enforcement personnel who have expertise in self-defense training, security experts, and terrorism experts, and representatives of air carriers and labor organizations representing individuals employed in commercial aviation.

“(2) AVIATION CREWMEMBER SELF-DEFENSE DIVISION.—Not later than 60 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security shall establish an Aviation Crew Self-Defense Division within the Transportation Security Administration. The Division shall develop and administer the implementation of the requirements described in this section. The Under Secretary shall appoint a Director of the Aviation Crew Self-Defense Division who shall be the head of the Division. The Director shall report to the Under Secretary. In the selection of the Director, the Under Secretary shall solicit recommendations from law enforcement, air carriers, and labor organizations representing individuals employed in commercial aviation. The Director shall have a background in self-defense training, including military or law enforcement training with an emphasis in teaching self-defense and the appropriate use of force. Regional training supervisors shall be under the control of the Director and shall have appropriate training and experience in teaching self-defense and the appropriate use of force.”.

(2) by striking subsection (b), and inserting the following new subsection:

“(b) PROGRAM ELEMENTS.—

“(1) IN GENERAL.—The requirements prescribed under subsection (a) shall include, at a minimum, 28 hours of self-defense training that incorporates classroom and situational training that contains the following elements:

“(A) Determination of the seriousness of any occurrence.

“(B) Crew communication and coordination.

“(C) Appropriate responses to defend oneself, including a minimum of 16 hours of hands-on training, with reasonable and effective requirements on time allotment over a 4 week period, in the following levels of self-defense:

“(i) awareness, deterrence, and avoidance;

“(ii) verbalization;

“(iii) empty hand control;

“(iv) intermediate weapons and self-defense techniques; and

“(v) deadly force.

“(D) Use of protective devices assigned to crewmembers (to the extent such devices are approved by the Administrator or Under Secretary).

“(E) Psychology of terrorists to cope with hijacker behavior and passenger responses.

“(F) Live situational simulation joint training exercises regarding various threat conditions, including all of the elements required by this section.

“(G) Flight deck procedures or aircraft maneuvers to defend the aircraft.

“(2) PROGRAM ELEMENTS FOR INSTRUCTORS.—The requirements prescribed under subsection (a) shall contain program elements for instructors that include, at a minimum, the following:

“(A) A certification program for the instructors who will provide the training described in paragraph (1).

“(B) A requirement that no training session shall have fewer than 1 instructor for every 12 students.

“(C) A requirement that air carriers provide certain instructor information, including names and qualifications, to the Aviation Crew Member Self-Defense Division within 30 days after receiving the requirements described in subsection (a).

“(D) Training course curriculum lesson plans and performance objectives to be used by instructors.

“(E) Written training bulletins to reinforce course lessons and provide necessary progressive updates to instructors.

“(3) RECURRENT TRAINING.—Each air carrier shall provide the training under the program every 6 months after the completion of the initial training.

“(4) INITIAL TRAINING.—Air carriers shall provide the initial training under the program within 24 months of the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002.

“(5) COMMUNICATION DEVICES.—The requirements described in subsection (a) shall include a provision mandating that air carriers provide flight and cabin crew with a discreet, hands-free, wireless method of communicating with the flight deck.

“(6) REAL-TIME VIDEO MONITORING.—The requirements described in subsection (a) shall include a program to provide flight deck crews with real-time video surveillance of the cabins of commercial airline flights. In developing this program, the Under Secretary shall consider—

“(A) maximizing the security of the flight deck;

“(B) enhancing the safety of the flight deck crew;

“(C) protecting the safety of the passengers and crew;

“(D) preventing acts of criminal violence or air piracy;

“(E) the cost of the program;

“(F) privacy concerns; and

“(G) the feasibility of installing such a device in the flight deck.”; and

(3) by adding at the end the following new subsections:

“(f) RULEMAKING AUTHORITY.—Notwithstanding subsection (j) (relating to authority to arm flight deck crew with less than-lethal weapons) of section 44903, of this title, within 180 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security, in consultation with persons described in subsection (a)(1), shall prescribe regulations requiring air carriers to—

“(1) provide adequate training in the proper conduct of a cabin search and allow adequate duty time to perform such a search; and

“(2) conduct a preflight security briefing with flight deck and cabin crew and, when available, Federal air marshals or other authorized law enforcement officials.

“(g) LIMITATION ON LIABILITY.—

“(1) AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the air carrier's training instructors or cabin crew using reasonable and necessary force in defending an aircraft of the air carrier against acts of criminal violence or air piracy.

“(2) TRAINING INSTRUCTORS AND CABIN CREW.—An air carrier's training instructors or cabin crew shall not be liable for damages in any action brought in a Federal or State court arising out of an act or omission of a training instructor or a member of the cabin crew regarding the defense of an aircraft against acts of criminal violence or air piracy unless the crew member is guilty of gross negligence or willful misconduct.”.

(c) NONLETHAL WEAPONS FOR FLIGHT ATTENDANTS.—

(1) STUDY.—The Under Secretary of Transportation for Security shall conduct a study to determine whether possession of a non-lethal weapon by a member of an air carrier's cabin crew would aid the flight deck crew in combating air piracy and criminal violence on commercial airlines.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Under Secretary of Transportation for Security shall prepare and submit to Congress a report on the study conducted under paragraph (1).

SA 4205. Mr. SMITH of New Hampshire (for himself, Mrs. BOXER, and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill S. 2554, to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes; which was referred to the Committee on Commerce, Science, and Transportation; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Arming Pilots Against Terrorism and Cabin Defense Act of 2002”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Terrorist hijackers represent a profound threat to the American people.

(2) According to the Federal Aviation Administration, between 33,000 and 35,000 commercial flights occur every day in the United States.

(3) The Aviation and Transportation Security Act (public law 107-71) mandated that air marshals be on all high risk flights such as those targeted on September 11, 2001.

(4) Without air marshals, pilots and flight attendants are a passenger's first line of defense against terrorists.

(5) A comprehensive and strong terrorism prevention program is needed to defend the Nation's skies against acts of criminal violence and air piracy. Such a program should include—

(A) armed Federal air marshals;

(B) other Federal agents;

(C) reinforced cockpit doors;

(D) properly-trained armed pilots;

(E) flight attendants trained in self-defense and terrorism prevention; and

(F) electronic communications devices, such as real-time video monitoring and hands-free wireless communications devices to permit pilots to monitor activities in the cabin.

SEC. 3. FEDERAL FLIGHT DECK OFFICER PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

“§44921. Federal flight deck officer program

“(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security shall establish a program to deputize qualified pilots of commercial cargo or passenger aircraft who volunteer for the program as Federal law enforcement officers to defend the flight decks of commercial aircraft of air carriers engaged in air transportation or intrastate air transportation against acts of criminal violence or air piracy. Such officers shall be known as ‘Federal flight deck officers’. The program shall be administered in connection with the Federal air marshal program.

“(b) QUALIFIED PILOT.—Under the program described in subsection (a), a qualified pilot is a pilot of an aircraft engaged in air transportation or intrastate air transportation who—

“(1) is employed by an air carrier;

“(2) has demonstrated fitness to be a Federal flight deck officer in accordance with regulations promulgated pursuant to this title; and

“(3) has been the subject of an employment investigation (including a criminal history record check) under section 44936(a)(1).

“(c) TRAINING, SUPERVISION, AND EQUIPMENT.—The Under Secretary of Transportation for Security shall provide or make arrangements for training, supervision, and equipment necessary for a qualified pilot to be a Federal flight deck officer under this section at no expense to the pilot or the air carrier employing the pilot. The Under Secretary may approve private training programs which meet the Under Secretary's specifications and guidelines. Air carriers shall make accommodations to facilitate the training of their pilots as Federal flight deck officers and shall facilitate Federal flight deck officers in the conduct of their duties under this program.

“(d) DEPUTIZATION.—

“(1) IN GENERAL.—The Under Secretary of Transportation for Security shall train and deputize, as a Federal flight deck officer

under this section, any qualified pilot who submits to the Under Secretary a request to be such an officer.

“(2) INITIAL DEPUTIZATION.—Not later than 120 days after the date of enactment of this section, the Under Secretary shall deputize not fewer than 500 qualified pilots who are former military or law enforcement personnel as Federal flight deck officers under this section.

“(3) FULL IMPLEMENTATION.—Not later than 24 months after the date of enactment of this section, the Under Secretary shall deputize any qualified pilot as a Federal flight deck officer under this section.

“(e) COMPENSATION.—Pilots participating in the program under this section shall not be eligible for compensation from the Federal Government for services provided as a Federal flight deck officer.

“(f) AUTHORITY TO CARRY FIREARMS.—The Under Secretary of Transportation for Security shall authorize a Federal flight deck officer under this section to carry a firearm to defend the flight deck of a commercial passenger or cargo aircraft while engaged in providing air transportation or intrastate air transportation. No air carrier may prohibit a Federal flight deck officer from carrying a firearm in accordance with the provisions of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002.

“(g) AUTHORITY TO USE FORCE.—Notwithstanding section 44903(d), a Federal flight deck officer may use force (including lethal force) against an individual in the defense of a commercial aircraft in air transportation or intrastate air transportation if the officer reasonably believes that the security of the aircraft is at risk.

“(h) LIMITATION ON LIABILITY.—

“(1) LIABILITY OF AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the air carrier employing a pilot of an aircraft who is a Federal flight deck officer under this section or out of the acts or omissions of the pilot in defending an aircraft of the air carrier against acts of criminal violence or air piracy.

“(2) LIABILITY OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the officer in defending an aircraft against acts of criminal violence or air piracy unless the officer is guilty of gross negligence or willful misconduct.

“(3) EMPLOYEE STATUS OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall be considered an ‘employee of the Government while acting within the scope of his office or employment’ with respect to any act or omission of the officer in defending an aircraft against acts of criminal violence or air piracy, for purposes of sections 1346(b), 2401(b), and 2671 through 2680 of title 28 United States Code.

“(i) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Under Secretary of Transportation for Security, in consultation with the Firearms Training Unit of the Federal Bureau of Investigation, shall issue regulations to carry out this section.

“(j) PILOT DEFINED.—In this section, the term ‘pilot’ means an individual who is responsible for the operation of an aircraft, and includes a co-pilot or other member of the flight deck crew.”

(b) CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The analysis for such chapter 449 is amended by inserting

after the item relating to section 44920 the following new item:

“44921. Federal flight deck officer program.”.

(2) EMPLOYMENT INVESTIGATIONS.—Section 44936(a)(1)(B) is amended—

(A) by aligning clause (iii) with clause (ii);

(B) by striking “and” at the end of clause (iii);

(C) by striking the period at the end of clause (iv) and inserting “; and”; and

(D) by adding at the end the following:

“(v) qualified pilots who are deputized as Federal flight deck officers under section 44921.”.

(3) FLIGHT DECK SECURITY.—Section 128 of the Aviation and Transportation Security Act (49 U.S.C. 44903 note) is repealed.

SEC. 4. CABIN SECURITY.

(a) TECHNICAL AMENDMENTS.—Section 44903, of title 49, United States Code, is amended—

(1) by redesignating subsection (h) (relating to authority to arm flight deck crew with less-than-lethal weapons, as added by section 126(b) of public law 107-71) as subsection (j); and

(2) by redesignating subsection (h) (relating to limitation on liability for acts to thwart criminal violence or aircraft piracy, as added by section 144 of public law 107-71) as subsection (k).

(b) AVIATION CREWMEMBER SELF-DEFENSE DIVISION.—Section 44918 of title 49, United States Code, is amended—

(1) by striking subsection (a) and inserting the following new subsection:

“(a) IN GENERAL.—

“(1) REQUIREMENT FOR AIR CARRIERS.—Not later than 60 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security, shall prescribe detailed requirements for an air carrier cabin crew training program, and for the instructors of that program as described in subsection (b) to prepare crew members for potential threat conditions. In developing the requirements, the Under Secretary shall consult with appropriate law enforcement personnel who have expertise in self-defense training, security experts, and terrorism experts, and representatives of air carriers and labor organizations representing individuals employed in commercial aviation.

“(2) AVIATION CREWMEMBER SELF-DEFENSE DIVISION.—Not later than 60 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security shall establish an Aviation Crew Self-Defense Division within the Transportation Security Administration. The Division shall develop and administer the implementation of the requirements described in this section. The Under Secretary shall appoint a Director of the Aviation Crew Self-Defense Division who shall be the head of the Division. The Director shall report to the Under Secretary. In the selection of the Director, the Under Secretary shall solicit recommendations from law enforcement, air carriers, and labor organizations representing individuals employed in commercial aviation. The Director shall have a background in self-defense training, including military or law enforcement training with an emphasis in teaching self-defense and the appropriate use force. Regional training supervisors shall be under the control of the Director and shall have appropriate training and experience in teaching self-defense and the appropriate use of force.”;

(2) by striking subsection (b), and inserting the following new subsection:

“(b) PROGRAM ELEMENTS.—

“(1) IN GENERAL.—The requirements prescribed under subsection (a) shall include, at a minimum, 28 hours of self-defense training that incorporates classroom and situational training that contains the following elements:

“(A) Determination of the seriousness of any occurrence.

“(B) Crew communication and coordination.

“(C) Appropriate responses to defend oneself, including a minimum of 16 hours of hands-on training, with reasonable and effective requirements on time allotment over a 4 week period, in the following levels of self-defense:

“(i) awareness, deterrence, and avoidance;

“(ii) verbalization;

“(iii) empty hand control;

“(iv) intermediate weapons and self-defense techniques; and

“(v) deadly force.

“(D) Use of protective devices assigned to crewmembers (to the extent such devices are approved by the Administrator or Under Secretary).

“(E) Psychology of terrorists to cope with hijacker behavior and passenger responses.

“(F) Live situational simulation joint training exercises regarding various threat conditions, including all of the elements required by this section.

“(G) Flight deck procedures or aircraft maneuvers to defend the aircraft.

“(2) PROGRAM ELEMENTS FOR INSTRUCTORS.—The requirements prescribed under subsection (a) shall contain program elements for instructors that include, at a minimum, the following:

“(A) A certification program for the instructors who will provide the training described in paragraph (1).

“(B) A requirement that no training session shall have fewer than 1 instructor for every 12 students.

“(C) A requirement that air carriers provide certain instructor information, including names and qualifications, to the Aviation Crew Member Self-Defense Division within 30 days after receiving the requirements described in subsection (a).

“(D) Training course curriculum lesson plans and performance objectives to be used by instructors.

“(E) Written training bulletins to reinforce course lessons and provide necessary progressive updates to instructors.

“(3) RECURRENT TRAINING.—Each air carrier shall provide the training under the program every 6 months after the completion of the initial training.

“(4) INITIAL TRAINING.—Air carriers shall provide the initial training under the program within 24 months of the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002.

“(5) COMMUNICATION DEVICES.—The requirements described in subsection (a) shall include a provision mandating that air carriers provide flight and cabin crew with a discreet, hands-free, wireless method of communicating with the flight deck.

“(6) REAL-TIME VIDEO MONITORING.—The requirements described in subsection (a) shall include a program to provide flight deck crews with real-time video surveillance of the cabins of commercial airline flights. In developing this program, the Under Secretary shall consider—

“(A) maximizing the security of the flight deck;

“(B) enhancing the safety of the flight deck crew;

“(C) protecting the safety of the passengers and crew;

“(D) preventing acts of criminal violence or air piracy;

“(E) the cost of the program;

“(F) privacy concerns; and

“(G) the feasibility of installing such a device in the flight deck.”; and

(3) by adding at the end the following new subsections:

“(f) **RULEMAKING AUTHORITY.**—Notwithstanding subsection (j) (relating to authority to arm flight deck crew with less than-lethal weapons) of section 44903, of this title, within 180 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security, in consultation with persons described in subsection (a)(1), shall prescribe regulations requiring air carriers to—

“(1) provide adequate training in the proper conduct of a cabin search and allow adequate duty time to perform such a search; and

“(2) conduct a preflight security briefing with flight deck and cabin crew and, when available, Federal air marshals or other authorized law enforcement officials.

“(g) **LIMITATION ON LIABILITY.**—

“(1) **AIR CARRIERS.**—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the air carrier's training instructors or cabin crew using reasonable and necessary force in defending an aircraft of the air carrier against acts of criminal violence or air piracy.

“(2) **TRAINING INSTRUCTORS AND CABIN CREW.**—An air carrier's training instructors or cabin crew shall not be liable for damages in any action brought in a Federal or State court arising out of an act or omission of a training instructor or a member of the cabin crew regarding the defense of an aircraft against acts of criminal violence or air piracy unless the crew member is guilty of gross negligence or willful misconduct.”.

(c) **NONLETHAL WEAPONS FOR FLIGHT ATTENDANTS.**—

(1) **STUDY.**—The Under Secretary of Transportation for Security shall conduct a study to determine whether possession of a non-lethal weapon by a member of an air carrier's cabin crew would aid the flight deck crew in combating air piracy and criminal violence on commercial airlines.

(2) **REPORT.**—Not later than 6 months after the date of enactment of this Act, the Under Secretary of Transportation for Security shall prepare and submit to Congress a report on the study conducted under paragraph (1).

SA 4206. Mr. MILLER proposed an amendment to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources

and oversight, and for other purposes; as follows:

At the end add the following new title:

TITLE VIII—CORPORATE TAX RETURNS
SEC. 801. SENSE OF THE SENATE REGARDING THE SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICERS.

It is the sense of the Senate that the Federal income tax return of a corporation should be signed by the chief executive officer of such corporation.

SA 4207. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 101, line 25, insert after “dealers” the following: “, or who have conducted advisory assignments with respect to mergers and acquisitions, divestitures, corporate defense activities, restructurings, or spin-offs on behalf of the issuer.”.

SA 4208. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . ADMINISTRATIVE SUBPOENAS.

(a) **CIVIL MONEY PENALTIES.**—Section 21(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(c)) is amended by inserting before the final period “, and the court may impose civil money penalties pursuant to subsection (d)(3)”.

(b) **FAILURE TO COMPLY WITHOUT JUST CAUSE.**—Section 21(d)(3)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(A)) is amended by inserting “or without just cause, has failed or refused to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if in his power so to do, in obedience to the subpoena

of the Commission,” after “pursuant to section 21A.”.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HARKIN. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on July 10, 2002 in SD-106 at 10:00 a.m. The purpose of this hearing will be to discuss energy derivatives.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, July 18, at 9:30 a.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the effectiveness and sustainability of U.S. technology transfer programs for energy efficiency, nuclear, fossil and renewable energy; and to identify necessary changes to those programs to support U.S. competitiveness in the global marketplace.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, ATTN Democratic Staff, United States Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Jennifer Michael on 202-224-7143 or Jonathan Black on 202-224-6722.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, July 18, 2002, at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills:

S. 1865, to authorize the Secretary of the Interior to study the suitability and feasibility of establishing the Lower Los Angeles River and San Gabriel River watersheds in the State of California as a unit of the National Park System, and for other purposes;

S. 1943, to expand the boundary of the George Washington Birthplace National Monument, and for other purposes;

S. 2571, to direct the Secretary of the Interior to conduct a special resources study to evaluate the suitability and feasibility of establishing the Rim of the Valley Corridor as a unit of the Santa Monica Mountains National Recreation Area;

S. 2595, to authorize the expenditure of funds on private lands and facilities at Mesa Verde National Park, in the State of Colorado, and for other purposes; and

H.R. 1925, to direct the Secretary of the Interior to study the suitability and feasibility of designating the Waco Mammoth Site Area in Waco, Texas, as a unit of the National Park System, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact David Brooks of the Committee staff at (202) 224-9863.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, July 25, at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on S. 2672, to provide opportunities for collaborative restoration projects on National Forest System and other public domain lands, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Kira Finkler of the Committee staff at 202/224-8164.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to conduct a hearing during the session of the Senate on Wednesday, July 10, 2002. The purpose of this

hearing will be to discuss energy derivatives. The hearing will take place at 9:30 a.m.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a Hearing during the session of the Senate on Wednesday, July 10, 2002, at 2:30 p.m. in SD-366.

The purpose of the hearing is to explore the present and future roles of the Department of Energy/National Nuclear Security Administration national laboratories in protecting our homeland security.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Wednesday, July 10, 2002, at 2:00 p.m. to conduct a hearing to receive testimony on the President's proposal to establish the Department of Homeland Security.

The hearing will be held in SD-406.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Wednesday, July 10, 2002, at 10:00 a.m. in SD-430 during the session of the Senate.

Agenda

S. 710, Eliminate Colorectal Cancer Act of 2001.

S. 2328, Safe Motherhood Act for Research and Treatment.

S. 812, Greater Access to Affordable Pharmaceuticals Act of 2001.

S. 2489, Lifespan Respite Care Act of 2002.

Nominations: Richard H. Carmona, of Arizona to be Surgeon General of the Public Health Service; Naomi Shihab Nye, of Texas, to be a Member of the National Council on the Humanities; Earl A. Powell III, of Virginia, to be a Member of the National Council on the Arts; Robert Davila, of New York, to be a Member of the National Council on Disability; Michael Pack, of Maryland, to be a Member of the National Council on the Humanities; Peter J. Hurtgen, of Maryland, to be Federal Mediation Conciliation Director.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, July 10, 2002, at 10:00 a.m.

in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on Native American Elder Health Issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Wednesday, July 10, 2002, for a hearing on "Military Exposures: The continuing challenges of care and compensation."

The hearing will take place in SR-418 of the Russell Senate Office Building at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CRIME AND DRUGS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Crime and Drugs be authorized to meet to conduct a hearing on "Penalties From White Collar Crime: Are We Really Getting Tough on Crime?" on Wednesday, July 10, 2002, at 2:30 p.m. in Room 226 of the Dirksen Senate Office Building.

Agenda

Witnesses

Panel I: Michael Chertoff, Assistant Attorney General, Criminal Division, U.S. Department of Justice, Washington, DC; and William W. Mercer, U.S. Attorney for the District of Montana, U.S. Attorneys' White Collar Crime Working Group, Billings, MT.

Panel II: John C. Coffee, Jr., Adolf A. Berle Professor of Law, Columbia University Law School, New York, NY; Thomas Donaldson, Mark O. Winkelman Professor, the Wharton School, University of Pennsylvania, Philadelphia, PA; Charles M. Elson, Edgar S. Woolard, Jr. Professor of Corporate Governance, Director, Center for Corporate Governance, University of Delaware, Newark, DE; George Terwilliger, Partner, White & Case, LLP, Washington, DC; and Tom Devine, Legal Director, Government Accountability Project, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation and Merchant Marine be authorized to meet at 9:30 a.m. on rail safety on Wednesday, July 20, 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be

authorized to hold a Hearing during the session of the Senate on Wednesday, July 10, 2002, at 9:30 a.m. in SD-366.

The purpose of the hearing is to receive testimony on water resource management issues concerning the Missouri River.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT COMMITTEE ON PRINTING

Mr. REID. Mr. President, I ask unanimous consent that the Joint Committee on Printing be authorized to meet during the session of the Senate on Wednesday, July 10 at 11:00 a.m., in SR-301, Russell Senate Office Building. The Committee is holding a hearing to receive testimony from The Honorable Mitchell E. Daniels, Jr., Director, Office of Management and Budget; The Honorable Michael F. DiMario, Public Printer, United States Government Printing Office; Ms. Julia F. Wallace, Regional Depository Librarian (representing the American Library Association, Association of Research Librarians, American Association of Law Libraries, and the Medical Library Association); Benjamin Y. Cooper, Executive Vice President for Public Affairs, Printing Industries of America; Mr. William J. Boorman, President Printing, Publishing and Media Workers Sector, Communication Workers of America on federal government printing and public access to government documents.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Madam President, I ask unanimous consent Fiona Wright of my staff be given floor privileges for the duration of the debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF LAVENSKI R. SMITH, OF ARKANSAS, TO BE UNITED STATES CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT

Mr. REID. Madam President, I move to proceed to executive session to consider Executive Calendar No. 903, Lavenski Smith, to be United States Circuit Judge.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

CLOTURE MOTION

Mr. REID. Madam President, this nomination is cleared on this side but because of an objection from a Member on the other side of the aisle, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented

under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 903, the nomination of Lavenski R. Smith, of Arkansas, to be United States Circuit Judge for the Eighth Circuit:

Zell Miller, Fritz Hollings, Kent Conrad, Byron L. Dorgan, Harry Reid, Jeff Bingaman, Debbie Stabenow, Jack Reed, Barbara Boxer, Patrick Leahy, Barbara Mikulski, Blanche R. Lincoln, Bob Graham, Jean Carnahan, Jay Rockefeller, Charles Schumer.

Mr. REID. Madam President, I ask unanimous consent that the live quorum prior to this vote as required under rule XXII be waived and that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

The PRESIDING OFFICER (Mr. REID). The Senator from Washington is recognized.

PROVIDING FOR AN INDEPENDENT INVESTIGATION OF FOREST SERVICE FIREFIGHTER DEATHS

Ms. CANTWELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3971, Calendar No. 446.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3971) to provide for an independent investigation of Forest Service firefighter deaths that are caused by wildfire entrapment or burnover.

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I rise today to urge the passage of this legislation. Roughly a year ago, about this time of night, my colleague, Senator MURRAY, and I stood before the Senate in a terrible moment to describe our sympathy for the deaths of four young firefighters: Devin Weaver, Jessica Johnson, Karen Fitzpatrick, and Tom Craven.

They lost their lives fighting a forest fire that had been out of control, and, as we found out, these four young people were barely trained. They were on the job, having had training, but were new, and this was their first fire.

Since that day on the Senate floor, we have had hearings, investigations, a lot of discussion, and what we found in the report from the Forest Service on the Thirtymile fire is that some of the

same issues that had arisen in a fire, the Storm King fire, many years ago were the same issues that were arising again; the fact that maybe there were rules in place but they were not being followed.

When the report came back to say that, sadly, the young men and women who perished fighting the Thirtymile fire did not have to die, it was a very painful moment. The fact that they did not have to die meant we were not really implementing the processes and procedures that needed to be in place.

Tonight I am glad to say that we are taking a big step forward in assuring the oversight and accountability of the Forest Service, by making sure there is an independent investigation in the case of forest fire fatalities.

This legislation will not bring back Devin Weaver, Jessica Johnson, Karen Fitzpatrick, or Tom Craven, but it will say that the Congress—the House and the Senate—does believe there needs to be accountability, there needs to be oversight, there needs to be protection. There needs to be rules in place not just because we can point to them on a piece of paper but that they are actually being followed.

So tonight, even though it has been just 1 year, I feel at least we can go to families and say we do believe accountability is important.

I thank my colleague in the House, DOC HASTINGS, for getting this legislation passed as companion legislation to what we have.

I note that the Senate did take action earlier this year. We passed this as an amendment as part of the farm bill, and, unfortunately, it did not make it through the conference process. So we are passing this legislation tonight, to send on to the President for his signature, in hopes he will sign this in fast order and help improve the process to make sure we have accountability in the Forest Service in this particular area.

Mr. President, I ask unanimous consent the bill be read three times, passed, and the motion to reconsider be laid upon the table, with no further intervening action or debate, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3971) was read the third time and passed.

LOUISIANA STATE UNIVERSITY TIGERS MEN'S OUTDOOR TRACK AND FIELD TEAM

Mr. REID. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 298 and the Senate now proceed to its consideration.

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:
A resolution (S. Res. 298) honoring the Louisiana State University Tigers Men's Outdoor Track and Field Team.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD as if read, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 298) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 298

Whereas Louisiana State University Men's Outdoor Track and Field Team won the 2002 NCAA Division I Championship;

Whereas head coach Pat Henry was awarded the MONDO NCAA Division I Coach of the Year, and led the team to victory over top seeded Tennessee;

Whereas 9 time all-American and 6 time national champion senior Walter Davis was awarded the MONDO Athlete of the Year and won the long jump event and the triple jump event in the 2002 NCAA Division I Championship hosted by Louisiana State University, as well as running the beginning leg of the 4x100 meter relay;

Whereas Tiger athletes Robert Parham, Pete Coley, and Bennie Brazell also competed in the 4x100 meter relay with a time of 38.32 seconds, the fourth fastest time in NCAA history;

Whereas Robert Parham also won his heat in the 200 meter dash with a time of 20.45 seconds and Bennie Brazell and Lueroy Colquhoun advanced to the finals in the 400 meter hurdles by winning their preliminaries with respective times of 49.57 and 49.99;

Whereas Javier Nieto finished eighth in the hammer throw to become the first Louisiana State University Tiger to be honored as an all-American in that event since 1993;

Whereas due to the efforts and abilities of the student athletes and head coach Pat Henry, the Louisiana State University Men's Outdoor Track and Field team won the 2002 NCAA Division I Championship; and

Whereas the team's victory exemplifies the hard work ethic and high goals set by Louisiana State University and the State of Louisiana: Now, therefore, be it

Resolved, That the Senate congratulates the Tigers of the Louisiana State University Men's Outdoor Track and Field team on winning the 2002 NCAA Division I Championship.

NATIONAL NIGHT OUT

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 455, S. Res. 284.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 284) expressing support for "National Night Out" and request-

ing that the President make neighborhood crime prevention, community policing, and reduction of school crime important priorities of the Administration.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 284) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 284

Whereas neighborhood crime is a continuing concern of the American people;

Whereas the fight against neighborhood crime and terrorism requires the cooperation of community residents, neighborhood crime watch organizations, schools, community policing groups, and other law enforcement officials;

Whereas neighborhood crime watch organizations are effective in promoting awareness about, and the participation of volunteers in, crime prevention activities at the local level;

Whereas the vigilance of neighborhood crime watch organizations creates safer communities and discourages drug dealers from operating in the communities monitored by those organizations;

Whereas the American people are concerned about violence and crime in schools, especially about incidents that result in fatalities at school, and are seeking methods to prevent such violence and crime;

Whereas community-based programs involving law enforcement personnel, school administrators, teachers, parents, and local communities are effective in reducing violence and crime in schools;

Whereas the Federal Government has made efforts to prevent neighborhood crime, including supporting community policing programs;

Whereas the Attorney General has called Federal efforts to support community policing a "miraculous sort of success";

Whereas the Administration has supported neighborhood watch programs through the establishment of the Citizen Corps;

Whereas on August 6, 2002, people across America will take part in National Night Out, an event that highlights the importance of community participation in crime prevention efforts;

Whereas on National Night Out participants will light up their homes and neighborhoods between 7:00 p.m. and 10:00 p.m. on that date, and spend that time outside with their neighbors; and

Whereas schools that turn their lights on from 7:00 p.m. to 10:00 p.m. on August 6, 2002, send a positive message to the participants of National Night Out and show their commitment to reducing crime and violence in schools: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals of National Night Out;

(2) recognizes that the fight against neighborhood crime and terrorism requires individuals, neighborhood crime watch organizations, schools, and community policing

groups and other law enforcement officials to work together;

(3) encourages neighborhood residents, crime watch organizations, and schools to participate in National Night Out activities on August 6, 2002, between 7:00 p.m. and 10:00 p.m.; and

(4) requests that the President—

(A) issue a proclamation calling on the people of the United States to participate in National Night Out with appropriate activities; and

(B) make neighborhood crime prevention, community policing, and reduction of school crime important priorities of the Administration.

SUDDEN OAK DEATH SYNDROME CONTROL ACT OF 2001

Mr. REID. Madam President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of S. 997 and the Senate proceed to that legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 997) to direct the Secretary of Agriculture to conduct research, monitoring, management, treatment, and outreach activities relating to sudden oak death syndrome and to establish a Sudden Oak Death Syndrome Advisory Committee.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent the bill be read three times, passed, the motion to reconsider be laid upon the table; that any statements relating thereto be printed in the RECORD at the appropriate place as if given, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 997) was read the third time and passed, as follows:

S. 997

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sudden Oak Death Syndrome Control Act of 2001".

SEC. 2. FINDINGS.

Congress finds that—

(1) tan oak, coast live oak, Shreve's oak, and black oak trees are among the most beloved features of the topography of California and the Pacific Northwest and efforts should be made to protect those trees from disease;

(2) the die-off of those trees, as a result of the exotic *Phytophthora* fungus, is approaching epidemic proportions;

(3) very little is known about the new species of *Phytophthora*, and scientists are struggling to understand the causes of sudden oak death syndrome, the methods of transmittal, and how sudden oak death syndrome can best be treated;

(4) the *Phytophthora* fungus has been found on—

(A) *Rhododendron* plants in nurseries in California; and

(B) wild huckleberry plants, potentially endangering the commercial blueberry and cranberry industries;

(5) sudden oak death syndrome threatens to create major economic and environmental problems in California, the Pacific Northwest, and other regions, including—

(A) the increased threat of fire and fallen trees;

(B) the cost of tree removal and a reduction in property values; and

(C) loss of revenue due to—

(i) restrictions on imports of oak products and nursery stock; and

(ii) the impact on the commercial rhododendron, blueberry, and cranberry industries; and

(6) Oregon and Canada have imposed an emergency quarantine on the importation of oak trees, oak products, and certain nursery plants from California.

SEC. 3. RESEARCH, MONITORING, AND TREATMENT OF SUDDEN OAK DEATH SYNDROME.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this Act as the “Secretary”) shall carry out a sudden oak death syndrome research, monitoring, and treatment program to develop methods to control, manage, or eradicate sudden oak death syndrome from oak trees on both public and private land.

(b) RESEARCH, MONITORING, AND TREATMENT ACTIVITIES.—In carrying out the program under subsection (a), the Secretary may—

(1) conduct open space, roadside, and aerial surveys;

(2) provide monitoring technique workshops;

(3) develop baseline information on the distribution, condition, and mortality rates of oaks in California and the Pacific Northwest;

(4) maintain a geographic information system database;

(5) conduct research activities, including research on forest pathology, Phytophthora ecology, forest insects associated with oak decline, urban forestry, arboriculture, forest ecology, fire management, silviculture, landscape ecology, and epidemiology;

(6) evaluate the susceptibility of oaks and other vulnerable species throughout the United States; and

(7) develop and apply treatments.

SEC. 4. MANAGEMENT, REGULATION, AND FIRE PREVENTION.

(a) IN GENERAL.—The Secretary shall conduct sudden oak death syndrome management, regulation, and fire prevention activities to reduce the threat of fire and fallen trees killed by sudden oak death syndrome.

(b) MANAGEMENT, REGULATION, AND FIRE PREVENTION ACTIVITIES.—In carrying out subsection (a), the Secretary may—

(1) conduct hazard tree assessments;

(2) provide grants to local units of government for hazard tree removal, disposal and recycling, assessment and management of restoration and mitigation projects, green waste treatment facilities, reforestation, resistant tree breeding, and exotic weed control;

(3) increase and improve firefighting and emergency response capabilities in areas where fire hazard has increased due to oak die-off;

(4) treat vegetation to prevent fire, and assessment of fire risk, in areas heavily infected with sudden oak death syndrome;

(5) conduct national surveys and inspections of—

(A) commercial rhododendron and blueberry nurseries; and

(B) native rhododendron and huckleberry plants;

(6) provide for monitoring of oaks and other vulnerable species throughout the United States to ensure early detection; and

(7) provide diagnostic services.

SEC. 5. EDUCATION AND OUTREACH.

(a) IN GENERAL.—The Secretary shall conduct education and outreach activities to make information available to the public on sudden oak death syndrome.

(b) EDUCATION AND OUTREACH ACTIVITIES.—In carrying out subsection (a), the Secretary may—

(1) develop and distribute educational materials for homeowners, arborists, urban foresters, park managers, public works personnel, recreationists, nursery workers, landscapers, naturalists, firefighting personnel, and other individuals, as the Secretary determines appropriate;

(2) design and maintain a website to provide information on sudden oak death syndrome; and

(3) provide financial and technical support to States, local governments, and nonprofit organizations providing information on sudden oak death syndrome.

SEC. 6. SUDDEN OAK DEATH SYNDROME ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a Sudden Oak Death Syndrome Advisory Committee (referred to in this section as the “Committee”) to assist the Secretary in carrying out this Act.

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Committee shall consist of—

(i) 1 representative of the Animal and Plant Health Inspection Service, to be appointed by the Administrator of the Animal and Plant Health Inspection Service;

(ii) 1 representative of the Forest Service, to be appointed by the Chief of the Forest Service;

(iii) 2 individuals appointed by the Secretary from each of the States affected by sudden oak death syndrome; and

(iv) any individual, to be appointed by the Secretary, in consultation with the Governors of the affected States, that the Secretary determines—

(I) has an interest or expertise in sudden oak death syndrome; and

(II) would contribute to the Committee.

(B) DATE OF APPOINTMENTS.—The appointment of a member of the Committee shall be made not later than 90 days after the enactment of this Act.

(3) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Committee have been appointed, the Committee shall hold the initial meeting of the Committee.

(b) DUTIES.—

(1) IMPLEMENTATION PLAN.—The Committee shall prepare a comprehensive implementation plan to address the management, control, and eradication of sudden oak death syndrome.

(2) REPORTS.—

(A) INTERIM REPORT.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit to Congress the implementation plan prepared under paragraph (1).

(B) FINAL REPORT.—Not later than 3 years after the date of enactment of this Act, the Committee shall submit to Congress a report that contains—

(i) a summary of the activities of the Committee;

(ii) an accounting of funds received and expended by the Committee; and

(iii) findings and recommendations of the Committee.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of fiscal years 2002 through 2007—

(1) to carry out section 3, \$7,500,000, of which up to \$1,500,000 shall be used for treatment;

(2) to carry out section 4, \$6,000,000;

(3) to carry out section 5, \$500,000; and

(4) to carry out section 6, \$250,000.

MEASURE READ THE FIRST TIME—H.R. 4954

Mr. REID. Mr. President, it is my understanding that H.R. 4954 is now at the desk and is due for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The assistant legislative clerk read as follows:

A bill (H.R. 4954) to amend Title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize and reform payments and the regulatory structure of the Medicare Program, and for other purposes.

Mr. REID. Madam President, I now ask for its second reading and I object to my own request.

The PRESIDING OFFICER. The bill will receive its second reading on the next legislative day.

ORDERS FOR THURSDAY, JULY 11, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it recess until 9:30 a.m., Thursday, July 11; that following the prayer and the pledge, there be a period for morning business until 10:30 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the first half of the time under the control of the Republican leader or his designee and the second half of the time under the control of the majority leader or his designee; that leader time be reserved; that at 10:30 a.m. the Senate resume consideration of the accounting reform bill under the previous order; and, further, that the live quorum with respect to the cloture motion filed on the accounting bill be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. The next rollcall vote will occur at approximately 12 noon tomorrow in relation to the McConnell second-degree amendment. Cloture has been filed on this most important legislation. All first-degree amendments must be filed prior to 1 p.m. tomorrow.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. REID. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 8:02 p.m., recessed until Thursday July 11, 2002, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 10, 2002:

FEDERAL COMMUNICATIONS COMMISSION

JONATHAN STEVEN ADELSTEIN, OF SOUTH DAKOTA, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 30, 2003, VICE GLORIA TRISTANI, RESIGNED.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

ROBERT BOLDREY, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM EXPIRING MAY 26, 2007, VICE JUDITH M. ESPINOSA, TERM EXPIRED.

MALCOLM B. BOWEKATY, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2006, VICE BILL ANOATUBBY, TERM EXPIRED.

HERBERT GUENTHER, OF ARIZONA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM OF TWO YEARS. (NEW POSITION)

RICHARD NARCIA, OF ARIZONA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM EXPIRING

AUGUST 25, 2006, VICE NORMA GILBERT UDALL, TERM EXPIRED.

BRADLEY UDALL, OF COLORADO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2006, VICE MATT JAMES, TERM EXPIRED.

WITHDRAWAL

Executive message transmitted by the President to the Senate on July 10, 2002, withdrawing from further Senate consideration the following nomination:

STUART D. RICK, OF MARYLAND, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE TERM OF SEVEN YEARS EXPIRING MARCH 1, 2007, WHICH WAS SENT TO THE SENATE ON APRIL 9, 2002.

EXTENSIONS OF REMARKS

RECOGNIZING BONNI GAYLE
TISCHLER

HON. DANA ROHRBACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. ROHRBACHER. Mr. Speaker, this month marks the end of an era in law enforcement when Bonni Gayle Tischler, the highest ranking woman to ever serve this country in federal law enforcement, leaves the United States Customs Service to pursue other opportunities in private industry. Industry's gain is truly our loss.

Ms. Tischler, the Assistant Commissioner for Field Operations at Customs and the first woman to ever hold that position, began her career at the National Republican Congressional Committee. But politics did not quench her thirst for adventure so, in 1971, she became one of the first women to become a United States Sky Marshall. In 1977, Ms. Tischler became one of the very first women to become a federal agent with the Customs Service, working undercover in the Miami based "Operation Greenback," an innovative anti-money laundering program established by the United States Department of Treasury. Playing roles ranging from a crooked executive to the madam of a brothel, Ms. Tischler, by her example, proved that law enforcement and the public were the beneficiaries of strong, smart women cops.

During the Administration of President Ronald Reagan, Ms. Tischler became the first woman in the federal government to head a law enforcement field office when she took over as Special Agent in Charge in Tampa Florida. While in Tampa she oversaw the investigation into the Bank of Credit and Commerce International, the largest money laundering investigation of its kind. Her work not only gained her attention in Washington, but also resulted in a contract put out on her life.

Named, in 1997 to oversee 4,500 agents and investigative personnel at 152 field offices throughout the world, she became the first woman to become the Assistant Commissioner for Investigations at Customs. During her tenure she had responsibility for the largest money-laundering probe in U.S. history, "Operation Casablanca," and "Operation Cheshire Cat", also the largest-ever international child pornography and exploitation case among many others.

In June of 2000, Ms. Tischler was tapped to head Customs Office of Field Operations, by far the largest segment of the Customs Service, with over 13,000 employees, a \$1 billion dollar budget, 300 Ports of Entry and all Customs Management Centers and Field Laboratories.

The National Center for Women and Policing has honored her with its prestigious Lifetime Achievement Award for her work as a

mentor to thousands of other women who have followed her footsteps into law enforcement careers.

Perhaps, however, her biggest challenge was personal. Bonni Tischler is a breast cancer survivor.

Today, the sight of a woman in a police uniform is not at all uncommon. This is partly due to the fact that Bonni Tischler was never an armchair feminist. While other adventuresome young women of her generation pursued careers as lawyers or businesswomen, Bonni Tischler was on the firing range, mastering the use of a gun. She marched on a different road to a different drummer and we are all better off because of it. For thousands of women today, and a countless number in the future, Bonni Tischler not only broke the glass ceiling, she shattered it, and in doing so she changed the face of federal law enforcement forever.

COMMENDING EFFORTS OF JOHN
KEATING, JOE SAPERE, AND
JERRY SUGGS

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. PAUL. Mr. Speaker, I rise today to commend the efforts of three men, John Keating, Joe Sapere and Jerry Suggs. These three gentlemen are now embarked upon a bicycle ride across America, having begun June 8 in Newport Beach, CA with anticipated completion in Jamestown, VA on the 21st of July, the anniversary of the "Americans with Disabilities Act" (ADA). What is most extraordinary about this journey Mr. Speaker is that each of these gentlemen is an amputee.

John Keating, age 40, is the son of a former U.S. Defense attache and is the father of three sons. Joe Sapere, age 61, is a retired Air Force Colonel and a recent amputee. Jerry Suggs, 68, is retired from our U.S. Navy.

The reason for this trip, Mr. Speaker, is to demonstrate that life does not end with amputation, but can include high-intensity activities such as bicycling and skydiving. These men are visiting rehab facilities along the way and giving encouragement to those who have felt constrained. One young lady they have met was a tennis player and had given up the sport when she lost a leg. They convinced her to take up the racquet again and start playing.

As a Physician and Congressman, I honor these gentlemen for their efforts and invite others to learn more about these activities on line at www.amputees-across-america.com.

CONGRATULATING TASHIANNA
AVERY, MAHOGANY WILLIAMS,
AND WILLIAM HARRIS

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Ms. CARSON of Indiana. Mr. Speaker, I rise today to offer my heartfelt and enthusiastic congratulations to the team of Tashianna Avery and Mahogany Williams for placing first in the junior division of the National African-American History Challenge. I also wish to recognize William Harris, the team alternate, for all of his efforts in helping the team of Avery and Williams win this competition.

The first-place team of Avery and Williams won the distinguished Hayling Cup at the 100 Black Men of America's National African-American History Challenge in Orlando, FL in June. Before receiving the distinguished Hayling Cup, Avery and Williams won first-place in the junior division of the fifth annual African-American History Challenge in Indianapolis, IN.

These three young people are an excellent example that through dedication, commitment, diligence, and hard work one can accomplish great things. This extra-ordinary team has shown the people of Indiana what it means to work hard to accomplish a goal.

Mr. Speaker, to Miss Avery, Miss Williams, and Mr. Harris, congratulations on your first-place win, and continue to aspire to achieve great things.

The people of Indianapolis are very proud of you.

TRIBUTE TO MS. DELAINIA
HOFFACRE

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. GARY MILLER of California. Mr. Speaker, it is with great pleasure that I rise to honor Ms. Delainia Hoffacre, teacher of visual arts at Brea-Olinda High School, for her unflagging commitment to the creative development of her students and her outstanding record of service in advancing the cultural arts in the city of Brea.

A lifetime supporter of the arts, Ms. Hoffacre is an accomplished artist with an emphasis in drawing. Incorporating her passion for art in her professional career, Ms. Hoffacre began teaching high-school level visual arts after completing her Bachelor of Science degree in Art Education at Ohio State University. During her more than sixteen years with the Brea-Olinda Unified School District (BUSD), Ms. Hoffacre has been instrumental in the development and coordination of the district-wide

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

elementary-level arts curriculum, Artology, and has initiated the first Advanced Placement (AP) in Studio Art program. Moreover, her classroom instruction is dynamic and effective, evident by the many awards her students have earned at local art competitions, particularly in my Artistic Discovery competition.

In addition to her outstanding professional accomplishments, Ms. Hoffacre has contributed much of her free-time to enhancing the arts within the community and her impact has been dramatic. Serving as an appointed member of the Brea Cultural Arts Commission since its inception, Ms. Hoffacre helped initiate the Art in Public Places program, the Brea Fest, featuring "A Taste of the Arts," and the Brea Children's Theater, all of which continue to be popular community events. She is affiliated with the Brea Art Association and the Brea Gallery and is highly regarded among artists and community members alike for her impeccable eye for fine art.

In a time when the quality of America's educational system has become the object of national criticism and debate, it gives me great pleasure to highlight the positive contributions of exceptional teachers like Ms. Hoffacre, who not only give of themselves in the classroom, but also set an example in the community for students to emulate. Far too often, the critical role that teachers play in the development of our nation's youth is overlooked, and in some cases, even discounted. However, today it is my hope that all Americans will join me in commending Ms. Hoffacre and teachers across the nation for their unflinching dedication, persistence, and commitment to providing students with the tools necessary for their success.

Again, I would like to congratulate Ms. Hoffacre on these accomplishments and thank her for her contributions to her students and the community.

MEDICARE MODERNIZATION AND PRESCRIPTIONS DRUG ACT OF 2002

SPEECH OF

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 2002

Mr. CAPUANO. Mr. Speaker, I rise today in opposition to this rule and in opposition to H.R. 4954, the Medicare Modernization and Prescription Drug Act of 2002.

Tonight we are voting on legislation that represents the most drastic change in Medicare since the program was enacted in 1965. With this drastic change, one would assume there would be an open and honest rule that would allow Members to consider and vote on various legislative proposals. Unfortunately, for millions of seniors utilizing Medicare, this is not the case. Democrats have been denied the opportunity to present their plan to America's seniors. What is left is a bad bill, with no amendments, leaving no chance to make it better. Once again, the Republican Leadership of the House of Representatives has presented Members with the option of voting for a benefit that doesn't do enough, or voting for nothing at all.

The current bill includes provider reimbursements and has been endorsed by doctors and hospitals, but this bill does not provide adequate benefits to those seniors who really need it. Under the proposed bill, Medicare beneficiaries would be eligible to enroll in the drug program paying a premium estimated at \$35 per month and a deductible of \$250 a year. For drug expenditures between \$251–\$1000 the beneficiary would pay 20 percent and the government would pay 80 percent. For drug costs \$1001–\$2000, the program and enrollees would split the cost 50–50. Now comes the unbelievable part, for expenditures between \$2000 and \$3700, the enrollee would have to pay out of his own pocket. That's right—there is a \$1700 gap where the seniors are left with the burden. As a result, nearly half of all seniors will fall into the gap and be forced to pay the full cost of their medications.

If we are going to give seniors a benefit, it needs to be a meaningful one that actually provides coverage. Seniors need a benefit in which they can afford their drugs and do not have to worry about their medications being covered. In addition, there should be one bill that will address the problems with Medicare reimbursement and provider payments and another that will focus solely on the needs of seniors. The bill before us is a combined version of reform—done in order to secure votes and pass. The Republicans have catered to the needs of various industries in order to pass their bill—knowing that this is the only way this proposal could stay alive. This is an insurance plan that cannot work. This legislation would rely on private insurance companies and health plans to cover the costs of the drugs. In particular, the bill before us allows insurers to refuse to participate and allows them to control costs at the expense of patients' welfare. No insurance program can work unless it attracts premiums from people who will not use the service. Those premiums are used to offset the cost associated with those beneficiaries whose drugs cost more than their premiums. This plan is doomed to failure because there is no way premiums can cover costs—especially when it is geared toward the senior population. The end result unfortunately is those seniors without insurance will still be unable to afford prescribed medicines and those seniors with insurance will continue to pay high premiums or co-pays for their insurance—ultimately changing little and helping very few.

If we in Congress are serious about strengthening Medicare for future generations, we need to invest in our seniors and Congress needs to be prepared to spend the funds necessary to provide a suitable prescription drug program. If the federal government can afford a \$273 billion farm bill and an \$800 billion bill making the estate tax permanent, I think we owe it to our seniors to find the money to provide a prescription drug benefit. The federal government has a responsibility to ensure that Americans who contribute to the Medicare program during their working years will have dependable, equitable, and affordable health coverage when they retire or become disabled regardless of their income or health status.

Mr. Speaker, the Democrat's intended to do that. We intended to come to the floor and present a proposal that would lower drug

prices, guarantee coverage and enable seniors to get their medicines at the pharmacy of their choice. Since we have been denied a fair chance to present our proposal I cannot support this rule or the proposed bill and I urge my colleagues to vote no on both.

A BOUNTIFUL HARVEST

HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. MORAN of Kansas. Mr. Speaker, across Kansas, combines and harvest crews are wrapping up another wheat harvest. This year, the harvest story is not about the wheat being cut, but about the wheat that should have been cut—wheat destroyed by drought and wheat plowed into the dry ground. Where there has been wheat to harvest, low yields are evidence of the ravages of drought. While farmers see harvests come and go every year, this one will certainly not soon be forgotten. Unfortunately, this year it's the dry weather and failed crop that will be remembered.

Last year drought took a heavy toll on Kansas. This year will be far worse. In Kansas, almost a million acres of wheat have been abandoned—an area larger than the state of Rhode Island. In southwest Kansas, the driest area of the state, as much as 90 percent of the wheat planted was lost to drought. This translates into a loss of over \$277 million in farm income this year. After last year's dismal crop, few thought things could get worse. But Kansas farmers now have \$277 million less than last year to pay their bills and to care for their families.

Behind the millions of dollars lost from the agricultural economy are real people. I am contacted daily by farmers and ranchers hurting from last year's drought, whose difficulties have been compounded by this year's losses. In Hugoton, farmers have seen less than an inch of rain in the last year, and cracks in the earth run several feet deep. Here, there is not even enough moisture to replant failed crops. In Rolla, where the federal grassland is being closed due to drought, ranchers are selling the cattle herds they have spent a lifetime building. All across western Kansas, ranchers are liquidating herds, as the little grass that was there has been grazed to the ground.

For the last 2 years, farmers in drought-affected areas have worked tirelessly, only to come away with less than what they started with. Crop insurance alone cannot relieve the cash flow crisis of these farm families. The need for assistance is greater, and more urgent, than it was a year ago. Farmers and ranchers need help to compensate for this natural disaster.

These are tough times in farm country, and we cannot close our eyes to the severity of this drought or the magnitude of its consequences. A dark cloud is hovering over the future of many producers in western Kansas; unfortunately, that cloud holds no rain. Without disaster assistance, this year, some farmers may simply dry up and blow away.

July 10, 2002

CONCERNING RISE IN ANTI-SEMITISM IN EUROPE

SPEECH OF

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. CAPUANO. Mr. Speaker, I rise to congratulate the House on its unanimous support of H. Res. 393. Concerning the rise in Anti-Semitism in Europe.

Last month ground was broken in Boston at our Holocaust Memorial for a Liberators' Memorial. Survivors had long urged that tribute be paid to the American and Allied soldiers who fought and died to defeat the Third Reich. It is a fitting memorial and it inspires us to defend life, liberty, and justice for all persons.

I am troubled, however, that it has become necessary to defend human dignity and religious liberty in Europe, in Western Europe, in the twenty-first century. Anti-Semitic outrages have taken place in many countries in the European Union. Some have been shameful, like the desecration of cemeteries and synagogues. Some have been brutal assaults that maimed or blinded their victims. Some have been tragedies averted: Molotov cocktails tossed at schools or synagogues that failed to ignite the buildings. We should not trivialize the horrors of the past by foolish comparisons. These are not attempts at systematic genocide.

Nonetheless, bigotry cannot be too often or too forcefully condemned. This resolution calls on the governments of Europe to protect their Jewish citizens and to promote understanding and reconciliation among all persons. Such moral leadership is essential and, sadly, it has been lacking.

The political geography of these attacks has been particularly disturbing. In the first four months of this year, forty-three anti-Semitic episodes were reported in France. In the same period, Germany had nine and Ukraine, where the Babi Yar massacre took place, five. In Moldova, close to the anniversary of the 1903 Kishinev pogrom, there was only one. In Slovakia also, only one: gravestones defaced on Hitler's birthday.

France taught Europe to think in terms of liberty and equality. Its Declaration of the Rights of Man and the Citizen proclaimed: "Men are born and remain free and equal in rights." Its revolutionary traditions shaped the Universal Declaration of Human Rights whose first article reads: "All human beings are born free and equal in dignity and rights." That important moral voice needs to be heard once more.

When France was convulsed over an injustice done to one Jewish officer, Capt. Alfred Dreyfus, Emile Zola wrote a Letter to France: "your most illustrious children have fought . . . given their intelligence and their blood to fight intolerance . . . return to yourself, find yourself once more." I ask that France heed Zola now.

No nation is without prejudice. We all fall short of perfect civility. None of us, unfailingly, treats all our fellow citizens as we should. It is essential, nonetheless, that all democracies invoke our shared principles.

EXTENSIONS OF REMARKS

I know that every criticism of United States policy is not an expression of "anti-Americanism." Nor should this resolution be seen as anti-European. In condemning anti-Semitism, we remind European democracies of their own ideals.

PERSONAL EXPLANATION

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Ms. WOOLSEY. Mr. Speaker, yesterday I missed rollcall votes Nos. 283 and 284. Had I been present, I would have voted: rollcall No. 283—"yes", rollcall No. 284—"yes".

IN HONOR OF DR. LES ADELSON, A LEADER IN EDUCATION

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. SCHIFF. Mr. Speaker, I rise today to honor an outstanding citizen of California's 27th Congressional District, Dr. Les Adelson. Dr. Adelson has served as Superintendent of the South Pasadena Unified School District for nine years and has been a positive force in my Congressional District and in the field of education for much longer.

Dr. Adelson's career in education has spanned over thirty years. He began his service with the South Pasadena Unified School District over thirteen years ago as Director of Instructional Services, and in 1992 he was made Assistant Superintendent and a year later was appointed as Superintendent. During his tenure as Superintendent, he has made a positive impact on the policies of the school district, and has also received such honors as Superintendent of the Year in Los Angeles County, as well as local, State, and Parent-Teacher Association service awards.

Dr. Adelson has been a faculty member of the Special Education Department at California State University, Northridge for eighteen years, and a faculty member in the School Management Program at the University of California, Los Angeles. Dr. Adelson has also contributed much to his community through his volunteer work with the Rotary Club of South Pasadena and the City of Hope.

Les is now leaving the South Pasadena School District to take the position of Superintendent of the Moreland School District in San Jose County.

Dr. Adelson will be greatly missed in the South Pasadena community for all that he has done as an educator, an administrator, and as a man dedicated to public service. At this time, I ask all Members to join me in extending congratulations to Dr. Adelson for all that he has given to the community of South Pasadena and wish him continued success in his new endeavors.

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HONORING REVEREND DAVID ARIAS

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. ROTHMAN. Mr. Speaker, I rise today to pay tribute to a great public servant and a remarkable spiritual leader—Reverend David Arias. Ordained to the priesthood just over 50 years ago on May 31, 1952 in Barcelona, Spain, Reverend Arias has served the Christian community with distinction as Auxiliary Bishop of Newark, Regional Bishop of Hudson County, Vicar of Hispanic Affairs for the Archdiocese of Newark, and Pastor of St. Joseph's of the Palisades Church.

As a voice of comfort and reason, Reverend Arias has committed himself to the church and provided guidance and wisdom to those in his congregation and community. Anyone who has ever known Reverend Arias knows full well that his heart is filled with love, compassion, and faith.

As a pillar of our community, Reverend Arias opened the Catholic Hispanic Center in Union City, was named head of the Spanish Cursillo Movement, and has written seven books including Spanish Roots in America and Spanish Cross in Georgia.

Yet Reverend Arias's record of service, numerous appointments, and accomplishments are only part of what makes him so remarkable. Anyone who has had the pleasure of his company or the opportunity to work by his side, knows that his eloquence, intellect, and dignity have made him a model leader for his congregants and a venerable advocate for the people of his community.

I wish Reverend Arias and his family all the best. We thank him for his service and commitment to our community and to the people of the great State of New Jersey.

MARKING THE 25TH ANNIVERSARY OF THE NATIONAL RENEWABLE ENERGY LABORATORY

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. UDALL of Colorado. Mr. Speaker, I rise to honor the National Renewable Energy Laboratory (NREL), based in Golden, Colorado, on the occasion of its 25th anniversary. As the Department of Energy's premier laboratory for renewable energy and energy efficiency research and development, NREL has played a critical role in advancing our knowledge and technical ability to integrate power from renewable resources into our nation's energy supply.

On July 5, 1977, NREL opened its doors. Created as the Solar Energy Research Institute, it began its work during an energy crisis, with a mission to make renewable energy a viable national energy option.

NREL has succeeded in its mission, and it continues to make remarkable strides. For a modest investment in renewable energy research and development over the last two

decades, the price of wind energy has dropped from 30 cents/kWh to between 4–6 cents/kWh, mostly due to past research at NREL. Photovoltaic modules have lowered their cost by nearly a factor of ten, while the cost of solar systems has been reduced by 50 percent in the last decade. Biomass ethanol has decreased its cost per gallon from roughly \$4.00 fifteen years ago to \$1.20 today due to research at this laboratory. Commitment to co-operative research and development with laboratories, universities, and the private sector has led to ground-breaking technology improvements that are now beginning to make their way into the market in nearly all renewable energy technologies.

NREL's work has earned it many awards over the last 25 years. Among them are 31 R&D 100 awards, the most per researcher of any Department of Energy laboratory.

But NREL does more than good research. I have always been particularly impressed by NREL's dedication to its community in Colorado. A good example of this dedication: As a way of celebrating the laboratory's anniversary, NREL's employees chose to build an energy-efficient home for Habitat for Humanity. NREL's managing partners are funding the project, and NREL employees and their friends and families will contribute 3,000 volunteer hours to build the house.

So NREL has a great deal to celebrate on this anniversary. As NREL Director Richard Truly remarked earlier this year, the goal of the anniversary activities is not only to call attention to NREL's great achievements, but also to recognize NREL's 1,000-plus employees, to remind stakeholders how NREL's efforts helped them achieve success, and to announce that there will be much more to come from NREL in the next 25 years.

And there must be much more to come. With total world energy use expected to double by the year 2025 and quadruple by 2100, it is clear that NREL has an increasingly important role to play in transforming the way we think about and use energy.

As co-chair of the Renewable Energy and Energy Efficiency Caucus in the House, I have consistently supported NREL's vision for a sustainable energy future. I look forward to sharing in NREL's future successes.

A SPECIAL TRIBUTE TO HARRY C. BRADFORD ON HIS RETIREMENT FROM THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. GILLMOR. Mr. Speaker, it is with great pride that I rise today to pay special tribute to Harry C. Bradford. Harry is completing an exemplary career with the Department of Health and Human Services, and after forty-five years of dedicated service Harry entered into retirement on June 28, 2002.

Mr. Speaker, Harry began work with the former Department of Health, Education and Welfare in 1972, and, over the years, has risen through the ranks to his current position

serving as Director of the Division of Payment Management, Financial Management Service, and Program Support Center for the Department of Health and Human Services. On his way to the directorship, Harry served as an Operating Accountant, Branch Chief of Governmental and Tribal Payments, and the Division of Payment Management.

Harry has proven his skills as an effective leader and organizational manager. In 1996 Harry assumed control of the federal government's largest centralized grant payment system, the HHS Payment Management System. During fiscal year 2001, the system was used to disburse over \$217 billion dollars to over 23,000 recipient organizations throughout the country. Through Harry's diligent efforts, the Payment Management System has been selected by the Chief Financial Officers Council to serve as one of only two grant payment systems for the entire federal government.

Harry has been recognized for his diligent service and unselfish commitment to developing a sound system of fund disbursement and exceptional customer service. Among his numerous awards and recognition, Harry has received the U.S. Treasury Award for Distinction in Cash Management, HHS Office of the Inspector General Award for Outstanding Efforts in Cash Management. Then in 2000, Harry was awarded the HHS Program Support Center's highest award, the Premier Customer Service Award, which he dedicated to his staff for their diligent efforts.

Harry will be enjoying his retirement at his home in Upper Marlboro, Maryland with his wife and two children. He plans to pursue his many hobbies as well as continue his involvement with local church and community activities.

Mr. Speaker, I would ask my colleagues to join me in paying special tribute to Harry C. Bradford. Our federal service agencies and the American people are better served through the diligence and determination of public servants, like Harry, who dedicate their lives to serving the needs of others. I am confident that Harry will continue to serve his community and positively influence others around him. We wish him the very best on this special occasion.

TRIBUTE TO THE ST. CHARLES BORROMEO PARISH

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. SHIMKUS. Mr. Speaker, I rise today to pay tribute to the St. Charles Borromeo Parish and to commemorate over 125 years of service to the community of DuBois, Illinois.

The church's doors opened for mass on December 16, 1877, and ever since it has served as a cornerstone for religious growth throughout southern Illinois. They have spent 125 years preaching the word of Christ in DuBois and making a difference in the lives of countless individuals.

To such people as Father Melvin Vandeloo and his congregation, the motivation lies not in recognition, but rather in the good deeds

themselves. Their purpose is far greater than any message my words could possibly relate. Yet, on this special day, I think it is appropriate that they are recognized for their efforts. In a time when we must come together as a nation, the members of St. Charles Borromeo Parish strive to set an example for all to follow.

To the people of the St. Charles Borromeo Parish, thank you for your unrelenting devotion to the Lord's work over the past 125 years; and may God grant you the opportunity to continue spreading His word for many years to come.

HONORING MAJ. GEN. GERALD F. PERRYMAN

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. PAUL. Mr. Speaker, I rise to honor Maj. Gen. Gerald F. Perryman, Jr. on the occasion of his retirement from his position as Assistant Deputy Chief of Staff for Warfighting Integration, Headquarters U.S. Air Force, Washington, DC. General Perryman entered the Air Force in 1970 through Texas A&M University's ROTC program. During his distinguished career he commanded the Air Force's Peacekeeper missile squadron during its transition from the Minuteman weapon system, and led the 91st Missile Group to win the 1994 Omaha Trophy as the best of U.S. Strategic Command's Air Force and Navy ballistic missile units. The general has commanded a missile wing and space wing. He also commanded 14th Air Force and was Component Commander of U.S. Air Force space operations within U.S. Space Command. As Commander of the Aerospace Command and Control, intelligence, Surveillance and Reconnaissance Center, General Perryman was responsible for integrating command and control, and intelligence, surveillance and reconnaissance for the Air Force to improve the ability of commanders to create desired effects in the battlespace. The general has served as a missile combat crew commander in the Minuteman and Peacekeeper weapons systems, and as a space warning crew commander.

Again, Mr. Speaker, I would like to commend General Perryman on the occasion of his retirement from a distinguished military career.

RECOGNITION OF DAVID SAFAVIAN

HON. CHRIS CANNON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. CANNON. Mr. Speaker, on July 11th, David Safavian will be sworn in as the Chief of Staff for the Administrator Stephen Perry at the General Services Administration. President Bush has made a wise choice, I know.

Prior to accepting his new position, David was my Chief of Staff in Washington DC. In

that role, he demonstrated the dedication to public service that I wish all Federal employees had.

David never let partisanship get in the way of sound public policy. He is a leader who never forgets that only through teamwork do things get accomplished. And even though he was not born in Utah, he learned the culture, and as a result, was adopted by the Beehive State.

Theodore Roosevelt once indicated that a man who never failed is someone who never did anything. David took challenges head on, fully knowing that failure was possible. Yet he was able to keep his eye on the ultimate objective: helping the people of Utah's Third Congressional District and the United States of America.

Mr. Speaker, we remain good friends, and I will miss David's counsel. But my loss is the Administration's gain. And for that, I could not be more pleased.

CONCERNING RISE IN ANTI-SEMITISM IN EUROPE

SPEECH OF

HON. ERIC CANTOR

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. CANTOR. Mr. Speaker, I rise today in strong support of H. Res. 393. I would like to thank my colleague from New York, Mr. Crowley for introducing this resolution and for his leadership. This legislation calls for the governments of Europe to protect the safety and well-being of their Jewish communities and cultivate an atmosphere of cooperation and reconciliation among Jewish and non-Jewish residents. The resolution urges them to act quickly to respond to the escalating violence against Jews in Europe.

In the past 18 months, there has been a significant rise in anti-Semitic attacks on Jewish people and Jewish institutions in Europe. Not since the end of World War II have we seen so much anti-Semitic violence throughout Europe. Many European leaders continue to shrug off the violence as an episode in the Mideast conflict and not a reflection of a serious problem closer to home.

In the wake of this wave of anti-Semitic violence, the Anti-Defamation League (ADL) surveyed 2,500 people from 5 European countries and the results were shocking. The survey found that nearly a third of Europeans harbor some traditional anti-Jewish views, while 62% believe the recent violence against Jews is the result of anti-Israel sentiment. The survey goes on to find that 30% of Europeans believe that Jews have too much power in the business world and nearly 1 in 4 say Jews don't care about anyone but their own kind.

In no European country is there a greater concern than in France. It has been reported that French Jews fear for their safety if they walk down the street in Paris wearing yarmulkes. In April, the Maccabi Jewish soccer team was practicing in Paris and was attacked by French youths with baseball bats. One Jewish youth was severely beaten. According to the ADL survey, only 14 percent of

French respondents say they are "very concerned" about recent violence against Jews. Additionally, more than a third of French respondents say they are "fairly unconcerned" or "not at all concerned" by the increasing amount of anti-Semitic violence.

The festering intolerance has manifested itself through attacks on synagogues and other Jewish institutions. The seeming failure to properly speak out against these attacks brings into question the commitment of some to stamp out this wave of anti-Semitism. We in the United States must take a firm stand on this issue today. Neglecting the problem of anti-Semitism is unacceptable. I urge all my colleagues to support this resolution and send a message to Europe and the rest of the world that the United States will not sit by silently as anti-Semitism rears its head on the streets of Europe.

PERSONAL EXPLANATION

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. RILEY. Mr. Speaker, I was unavoidably detained for rollcall No. 283, on H.R. 4609, Rathdrum Prairie Spokane Valley Aquifer Study Act, had I been present I would have voted "yea," on rollcall No. 284, H.R. 4858, on H.R. 2643, Fort Clatsop National Memorial Expansion Act, I would have voted "yea," on rollcall No. 285, the Langevin Motion to Instruct Conferees on H.R. 3295, the Help America Vote Act of 2002, I would have voted "yea," on rollcall No. 286, H.R. 5063, the Armed Services Tax Fairness Act, I would have voted "yea," on rollcall No. 287, H.J. Res. 393, Concerning anti-Semitism in Europe, I would have voted "yea."

HONORING THE RETIREMENT OF ARAPAHOE COUNTY SHERIFF PATRICK SULLIVAN

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. TANCREDO. Mr. Speaker, today I rise to honor the work of Arapahoe County Sheriff Patrick Sullivan who has chosen to retire after 19 years of service to his community, and his country.

For the past 40 years, since he was a Littleton police officer and dispatcher, he has shown an unwavering devotion to "serve and protect." In 1979, he joined the Arapahoe County sheriff's office as a patrol division commander. In 1983 he was named as the undersheriff and six months later appointed to the position of Arapahoe County Sheriff after the death of his predecessor Ed Nelson who suffered a heart attack. Sheriff Sullivan went on to win four popular elections and although he is still eligible for one additional term under Colorado's term-limit laws, he has chosen to serve as the security director of Cherry Creek School District.

During his tenure as sheriff, Arapahoe County has grown from a relatively sparsely populated area of rural Colorado to a thriving suburb consisting of more than 500,000 and he has done an excellent job of dealing with the problems that arise with such rapid growth.

He has served admirably and with distinction since being appointed in June, 1983. Sheriff Sullivan was named Sheriff of the Year by the National Sheriff's Association, during the 2000 election cycle, he was the Law Enforcement Chairman for the Colorado George W. Bush for President Committee and a member of the Law Enforcement Coalition for the Republican National Committee Victory 2000. He received the Valor Award by the Kiwanis Club of Littleton and was named one of the 10 "Outstanding Men of the Decade" by the Littleton Times newspaper as well as "Man of the Decade" by the Littleton Sentinel Independent. He received the Anti-Defamation League's Civil Rights Award, and was instrumental in discussions concerning Homeland Defense from the perspective of local law enforcement.

It has been an honor to work with Sheriff Sullivan, particularly when difficult and tragic events in my district required the cool-minded consideration of experienced members of the law enforcement community. Pat Sullivan represents the best our country has to offer and in his retirement, I look forward to his continued friendship.

TRICKY ACCOUNTING

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. Paul. Mr. Speaker, I am inserting into the RECORD an article from yesterday's Financial Times written by Jude Wanniski which properly identifies our policy of fiat money as the underlying cause of most of our current market concerns as well as the true source of the worst sort of "tricky accounting" now occurring in the United States.

While Mr. Wanniski and I may not exactly agree on definitional issues relative to deflation and the gold standard I believe that he is completely accurate in his assessment of the approach leading to the tremors we have witnessed recently in the markets and throughout our economy. I strongly commend this article to my colleagues.

[From the Financial Times, July 9, 2002]

ACCOUNTING MISERY IS DOWN TO LACK OF A GOLD STANDARD

(From Mr. Jude Wanniski)

Sir, Martin Wolf's "Rescue plan for capitalism" (July 3) begins with the observation that "the trickiest question in capitalism is how precisely companies can be controlled". Perhaps—but the question becomes trickiest in a capitalist system with a floating unit of account. The floating dollar is at the core of the problem in the US today.

The simple reason for the accounting miseries now surfacing with Enron and WorldCom et al is that we are not on a gold standard—and for the past 30 years have been struggling through inflations and deflations.

The US Savings & Loan crisis of the 1980s was the result of inflation, which made it impossible for creditors to recover their assets. An S&L needs a gold footing so it can borrow short and lend long.

When those who made the worst loans faced bankruptcy, they made riskier and riskier loans, trying to make up for the losses. Those who were caught went to jail. Those who were caught went to jail. Those who survived then benefited from the deflation that followed, where customers were required to give the S&Ls more in real terms than they had borrowed.

This is what has happened in the current monetary deflation, which has emerged over the past five years, with gold falling from \$383 to as low as \$253, now at \$310. For the economy to recover, gold would have to be at \$350—and it cannot get there as long as the Federal Reserve is not (and has no means) to target gold. At the margin, those debtors who could not pay their debts juggled the books, hoping for economic recovery that was promised by the Bush tax cuts and the Greenspan interest rate cuts, neither of which can solve the monetary deflation.

When the recovery did not come, the jugglers at Enron and WorldCom and so on had to come clean. It is something like the otherwise honest bank teller promising to return the cash as soon as his luck improves at the race track.

Note that the gold price has been in decline these past few weeks. This, I believe, is the result of the lower risks of political terrorism, as there has been progress towards diplomatic solutions in the Middle East and on the subcontinent. When there is increased risk of doing business, there is less demand for dollar liquidity; and if the Fed does not drain it off, the gold price rises. When the risk declines there is more demand for liquidity and if the Fed does not supply it, the gold price falls.

This is a nonsensical way to manage a domestic monetary regime, let alone a global capitalist system. No amount of new rules and accounting procedures can keep pace with such monetary turbulence in the unit of account.

Unless the US takes the lead in re-establishing a dollar/gold foundation to the world economy, it will have to be done elsewhere. Both Europe and Greater China have the economic mass required to anchor the world monetary system to their currencies, as the UK once did.

PERSONAL EXPLANATION

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. WILSON of South Carolina. Mr. Speaker, I very much regret that I was unavoidably detained and unable to vote on rollcall No. 278, the motion to commit S. 2578, on June 27, 2002. Had I been present, you may be assured that I would have cast my vote in opposition. My beeper did not work.

EXTENSIONS OF REMARKS

DEPARTMENT OF VETERANS AFFAIRS RESEARCH CORPORATION ACCOUNTABILITY ACT OF 2002

HON. STEVE BUYER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. BUYER. Mr. Speaker, today I am introducing the "Department of Veterans Affairs Research Corporation Accountability Act of 2002."

In 1988 Congress enacted Public Law 100-322, the Veterans' Benefits and Services Act, which included a provision that gave the VA the authority to establish nonprofit research corporations. This was done to provide a flexible funding mechanism for the conduct of approved research at medical centers. Prior to giving VA this authority any funding received from private sources such as pharmaceutical companies was placed in a General Post fund. However, it became virtually impossible to track the funding stream. There was no way to identify the source of the funding, nor how the money was being spent. The impetus behind establishing the research corporations was to create an accounting mechanism whereby the VA would submit to Congress an annual report on the number and location of corporations established and the amount of contributions made to each such corporation. Unfortunately, these reports have turned out to be nothing more than ledger sheets with numbers with little or no detail.

Earlier this year, my Subcommittee held a hearing on VA Research Corporations and we heard from the VA's Assistant Inspector General for Auditing that during the years 1994 through 1997, that his office published three reports that identified the need for stricter accountability and oversight with regard to the administration of funds by the Veterans Health Administration research corporations. For instance, in 1994, the IG audit of a million dollars of the \$3.6 million in expenditures spent at three research corporations and identified approximately \$625,000 that was spent on salaries of medical residents, staff travel not clearly related to research or administration. Funds were also spent for non-research related conferences, honorary gifts, awards, entertainment, other than non-research expenditures. This one but one example of how money can be misspent when in this case the corporation is not held accountable.

Under current law, the VA nonprofit research corporations are required to provide Congress with an annual report summarizing their activities and accomplishments. These reports have turned out to be nothing more than bare bones financial statements. The legislation I have introduced today amends section 7366 of Title 38 of the United States Code to require each VA corporation submit a detailed statement that includes the corporation's operations, activities, and accomplishments during the preceding year to the Secretary of the VA by not later than March 1 of each year. The report should include the amount of funds received along with the source of funding; and an itemized accounting of all disbursements. Those corporations with funding in excess of \$300,000 must obtain an audit of the corpora-

July 10, 2002

tion for that year, corporations with funding totaling less than \$300,000 must obtain an audit every three years. These audits must be conducted by an independent auditor and shall be performed in accordance with generally accepted Government auditing standards.

The VA's Inspector General will be required to randomly review audits to determine whether or not they were carried out in accordance with the auditing standards outlined in the legislation. My bill would also extend the life of the corporations by providing authority to establish such corporations until December 31, 2006.

The VA has made tremendous contributions in the field of medical research. I think we all recognize the many accomplishments made by the VA in discovering new drug therapies and developing medical devices that have benefited not only veterans but all Americans. For instance, the VA invented the implantable cardiac pacemaker, developed the nicotine patch, performed the first successful liver transplant, and the development of the first oral vaccine for smallpox.

It is not my intention to prevent VA research from continuing to make great strides as it has in the past, but we must ensure that all research funds are directed with focus and accountability.

LYNDA SCOTT EVERETT

HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. BRADY of Texas. Mr. Speaker, I rise today to pay tribute to a special lady who is not only a constituent, but a close personal friend, Lynda Scott Everett. On July 11, 2002, Lynda will receive the Texas Council of Community MHMR Centers' "Betty Hardwick Best of Texas Award" for her long and distinguished record of service and commitment to providing the citizens of Texas with the best possible mental health, mental retardation, and substance abuse services. Lynda is only the second person to receive this distinguished recognition.

Concerned about the quality of care her son, Andy, who suffers from autism and mental retardation, was receiving, Lynda became a tireless voice for those who could not speak out for themselves. She began her volunteerism for the mentally disabled as a consultant for the Tri-County MHMR in Montgomery County, Texas. She was then appointed to the Board of Trustees in 1989 and continued her fight for better services, stronger rights, and additional funds for more effective medications for those who are disabled. Lynda's presence was quickly felt as she attended hearings, meetings and conventions in order to improve the lives of individuals with mental disabilities, as well as their families. Her work expanded her cause across the state of Texas when she was appointed by Governor George W. Bush to the Texas Board of Mental Health and Mental Retardation in 1999.

As part of Lynda's efforts to help the mentally disabled, she also has been a member of

the Texas State Autism Task Force, served on the Montgomery County United Way Campaign Cabinet, as a Board member of the Texas Council of Community MHMR Centers and the Mental Health Association in Texas, as well as being president and co-founder of the Citizens for the Developmentally Disabled.

While Lynda was also a recipient of the Montgomery County Women of Distinction Award from 1997–1999, I am personally grateful for her role as a key, and indispensable member of my first U.S. congressional campaign committee.

Mr. Speaker, I want to congratulate Lynda Scott Everett on her hard work and dedication to the mentally and physically disabled on behalf of the eighth Congressional District of Texas. She not only is an exemplary Texan, but an exemplary American with a wonderful heart and inspiring courage. As Cindy Sill, Executive Director of the Tri-County MHMR, who nominated Lynda for the “Betty Hardwick Best of Texas Award” said, “She began her journey into advocacy and volunteer work to help her son, but quickly expanded her focus and has spoken for countless individuals whose voices are often not heard or ignored. . . . She makes a difference in countless lives throughout Texas.”

IN CELEBRATION OF THE 90TH
BIRTHDAY OF GRACE VIGNEAU

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. LARSON of Connecticut. Mr. Speaker, I rise today to pay tribute to Grace Vigneau of East Hartford, Connecticut, who is celebrating her 90th birthday. Grace is a fellow Mayberryite whose enthusiasm and good will shine through in all she does. Her continued involvement and energy make the Energizer Bunny pale by comparison.

The impact Grace has had on our community in East Hartford is sizable and her accomplishments numerable. She was an original organizer of the Mayberry Village Social and Athletic Club and provided many years of outstanding service to the Democratic Women's Club. She is also a prime mover behind the “Golden Girls,” a group of women that includes my mother who have been friends for years and remain nearly as active as they were when they first met. One of their main goals is community involvement, which Grace exemplifies. I must admit, I would not be standing here on the floor of the House today without the support of Grace and the Golden Girls.

Grace is known not only for her community service, but also for her competitive spirit in my annual charity bocce tournament. For the past eleven years, Grace has displayed a superior level of skill and sportsmanship on the bocce court. No tournament would be complete without Grace's ever-present smile and humor.

Even at 90 years of age, Grace maintains her high energy level and the organizing skills that made her such a leader. I would not be surprised if the phrase “growing old grace-

fully” was created to describe Grace Vigneau. She is loved by family and friends for her infectious enthusiasm, good will, and caring ways. Therefore, I ask my colleagues to rise with me today and celebrate the 90th birthday of Grace Vigneau and wish her continued health and happiness for years to come.

PERSONAL EXPLANATION

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Ms. SCHAKOWSKY. Mr. Speaker, on roll-call Nos. 283, 284 I would have voted “aye.”

WATER RIGHTS IN CALIFORNIA

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. STARK. Mr. Speaker, the following editorial was written by my fellow colleague from California, Representative GEORGE MILLER. It was published in The Los Angeles Times on June 20, 2002 under the title, “Damming the Money Stream of the Water Profiteers.”

I commend Representative MILLER for eloquently addressing the issue of water rights in California. I support the conviction that California's water belongs to all Californians. We should not allow big agribusiness to profit off antiquated government subsidies at the expense of California's water-strapped communities and family farms.

The following is a reprinted version of Mr. MILLER's editorial:

[From the Los Angeles Times, June 20, 2002]

DAMMING THE MONEY STREAM OF THE WATER PROFITEERS

(By George Miller)

Californians who recently learned a very expensive lesson about futures trading from Enron Corp. may soon get a second dose of market manipulation, this time courtesy of the federal government.

Instead of watching out for the water needs—and pocketbooks—of taxpayers, the Department of the Interior may soon sign long-term water contracts that provide multimillion-dollar windfalls to agricultural corporations at the expense of cities and consumers.

A hundred years ago, Congress made a bargain with farmers in the dry West: Taxpayers would subsidize dams, canals and water to promote settlement and irrigate family farms. In return, farmers would have to repay only a fraction of the true cost of the investment. The subsidies were locked into long-term contracts that the Interior Department signed with water districts promising to deliver millions of acre-feet.

Yet for decades, some reclamation beneficiaries in California's Central Valley have been farming the taxpayers as much as the land.

Huge companies maneuvered to capture the multibillion-dollar subsidy intended for family farmers, leading Congress to close the loopholes and reduce the subsidies that encourage overuse of water resources.

Now the original water contracts are expiring, and Interior must negotiate new contracts under much tighter terms dictated by a historic 1992 water reform law. Given the growing demand for water throughout the state, some of these giant farm operations have a new scheme for enriching themselves at public expense: Instead of using subsidized water for growing crops, they want to sell some of their government-provided water back to the government—or to water-short cities or farms—for huge profits.

Bennett Raley, who is in charge of the federal water program at the Interior Department, approves. “We believe in the free market,” Raley says. “It's their water.” Well, actually, it isn't “their” water.

The water originates in the mountains and the rivers of this great state. It belongs not to any particular contractor or farmer but to all the people of California, who paid for its development, storage and delivery with costly subsidies. The Interior Department's customers enjoy the use of the water only because of their contracts with the government, and those contracts now need to be renegotiated.

The government signed contracts to provide subsidized water for food and fiber production, not to award a public resource to a particular group that could convert it into an annuity for personal profit. If there is a market in California for \$1,000 an acre-foot—and there is—why would any responsible federal official sign a 25-year contract to sell water to farming concerns that will resell it for a profit of 800% or 1,000%?

If the water market is that healthy, why shouldn't the taxpayers, who built and subsidized the projects in the first place, get to sell the water for a large profit?

If the contractor's intent in signing a new contract is merely to market a portion of the water, then, learning from the Enron example, we should not be concentrating public resources in the hands of a few private individuals.

Yet farming interests, many with longstanding ties to the Bush administration, are pressuring federal officials to sign new contracts that deliver them control of vast amounts of water.

Water is already an overcommitted resource in California, with competing interests divided among cities, agriculture, industry and the environment. Global warming has raised concerns of diminished Sierra snowpacks and runoffs in the future, which would reduce our ability to fill our reservoirs.

Surely this is not the time for responsible government officials to commit water to one group of contractors and force the rest of the state to cut deals that enrich private interests from the sale of public resources.

Doesn't it make sense for Raley and his co-workers at the Interior Department to use great caution in deciding how much of the public's subsidized water to include in those new contracts, instead of promising vast volumes that irrigators will turn around and resell—perhaps even to the government—at a huge profit?

It's not their water, Mr. Raley, unless you give it away.

WILLIAMS SISTERS AT
WIMBLEDON

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Ms. WATERS. Mr. Speaker, I rise today to congratulate Serena Williams on her impressive win at Wimbledon. Over the holiday weekend, Serena beat her older sister, Venus, to win her third grand slam title but her first Wimbledon title. I congratulate the two sisters on a great match.

Serena said she gained a lot of momentum from her French Open win, and it showed. In the end, Serena won in straight sets. With the win, Serena became the first woman to win the French Open and Wimbledon back-to-back since Steffi Graf in 1996.

The next day, the two sisters teamed up to win the Wimbledon Doubles Title over French Open champions, Paola Suarez and Virginia Ruano Pascual. While the weather did not look great, the skill these young ladies displayed certainly was. It was an entertaining match, but in the end the Williams sisters proved too strong for their opponents. They won 6-2, 7-5. With that win, the sisters' 2002 Wimbledon record was 19 wins and 1 loss. The one loss came when Venus lost to Serena in the Singles Finals.

Serena now is ranked number one in the world. Venus, who previously was ranked first, is now second. They are quickly becoming the most dominant figures in tennis. They are extremely skilled, they can hit both forehands and backhands with pinpoint accuracy. And their serves are clocked at well over 100 mph.

Venus and Serena enter each match well-prepared and confident, but the sisters always handle themselves with grace. What is perhaps most telling about them, though, is their love for each other. Even after battling it out on the tennis courts for nearly two hours, Venus said, "Serena is my sister and I'm really happy she won, especially her first time. I would have loved to have won. At the same time, I'm so happy for her."

These young ladies are true competitors, but also great individuals. Again, I would like to congratulate Serena on her win this past Saturday. I wish both of them, Serena and Venus, the best of luck in upcoming tournaments.

SAN MATEO SCHOOL STUDENTS
DISCUSS WHAT THE AMERICAN
FLAG STANDS FOR

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 2002

Mr. LANTOS. Mr. Speaker, I would like to bring to the attention of my colleagues six of my constituents who have been selected winners in a very important essay contest. The six were authors of first, second, and third place winners in an Americanism essay competition for school children in grades 5 and 6 and in grades 7 and 8.

This contest was designed to promote and encourage patriotism. The theme for this year's competition was "What the Flag of the United States Stands For." The competition was sponsored by lodge No. 1112 of the Benevolent and Protective Order of the Elks in San Mateo, California. I want to commend the Elks for their public-spirited effort in sponsoring this competition in order to foster a spirit of patriotism among the young people of our country.

The two first place winners were Julian Zhukivsky from Park Elementary School and Salone Kapur from Borel Middle School. The second place winners were Michael Kruger of Abbott Middle School and Martin Rofael of Bayside Middle School. The third place winners were Robert Gill of St. Timothy School and Brian Dunn of St. Gregory School.

Mr. Speaker, I commend these outstanding students for their excellent essays and for their thoughtful expressions of patriotism. After the events of September 11th, the flag has become a heightened symbol of our national unity and pride.

Mr. Speaker, I ask that these six excellent essays be placed in the CONGRESSIONAL RECORD, and I urge my colleagues to read them.

FIRST PLACE WINNER (GRADES 7 & 8): SALONE KAPUR WHAT THE AMERICAN FLAG STANDS FOR

One June 14, 1777, the Continental Congress passed an act to establish an official flag for America. Today, the American Flag is eminent in all public places. The flag means a significant amount in people's lives.

The American flag is a symbol of our nation's unity, and is a source of pride and inspiration for all its citizens. We all come from different backgrounds, but here, we all unite and belong in one big family.

SECOND PLACE WINNER (GRADES 7 & 8):
MARTIN ROFAEL OUR FLAG

What does the flag of the United States stand for? We always stand and salute, but some of us don't know what it represents. Our flag has a tremendous story. On July 4, 1776 the Continental Congress declared the 13 colonies free from the British to be the United States of America.

The fifty stars on our flag represent the fifty states. The white color on the flag represents purity and innocence. The blue background color on the flag represents vigilance, perseverance, and justice.

The 13 stripes on our flag represent the first 13 colonies. There are seven red stripes and six white stripes. The red color represents hardness and valor.

Some flags have fringe, which resembles honorable enrichment. Also some flags have a gold trim which has no meaning.

That is what the flag of the United States of America means. It has awesome and tremendous meaning.

THIRD PLACE WINNER (GRADES 7 & 8): BRIAN DUNN THE MEANING OF THE FLAG

The flag represents many different things. The stripes represent the 13 original colonies and the stars represent the fifty states. It also represents our freedom, our religion, and the freedom to express however we feel. To the people in the United States the flag represents peace, love, courage, bravery and freedom. The flag is an inspiration to all of those who see it to be all that they can be. It also represents opportunity, the opportunity to succeed and become successful at

whatever you want to be. But, most of all, the American flag represents the greatest country ever to inhabit this earth.

FIRST PLACE WINNER (GRADES 5 & 6): JULIAN ZHUKOVSKY THE AMERICAN FLAG

I think the flag of the United States stands for liberty and justice for all. We are all equal and have the same rights. We are made of many cultures and religions. We are united and we are one nation under God.

I think the white stripes on the flag stand for the purity of ideals. The red stripes on the flag stand for the blood of the people who fought in the war for independence in 1776. The stripes together stand for the original thirteen colonies that gave birth to the fifty states with their name of glory.

The fifty stars on the flag stand for the fifty states of our country. They are like bright stars glistening high above in the sky. Our country's flag will shine forever with those stars. Today, after the terrorist attack on September 11th, thousands of Americans have put up their American flags. They did it to show the world that we still stand for liberty and justice for all.

SECOND PLACE WINNER (GRADES 5 & 6): MICHAEL KRUGER WHAT THE FLAG OF THE UNITED STATES STANDS FOR

The United States flag stands for freedom, justice, equality, hope and faith. The freedom to live wherever you want to live and be free. Freedom also allows us the freedom of speech to say whatever we want. Justice is to be held accountable for the laws of our country and to be treated fairly. Equality is for all people to be treated equal. The faith in people to keep our country free. The flag also gives me hope and faith for my family, country and myself. When I see the United States Flag I feel very proud and lucky to be living in America. Everything on the American flag means something. There are thirteen stripes, seven are red and six are white. There is a blue box in the upper corner with fifty stars in it. The stripes represent the thirteen colonies and the stars represent the fifty states.

THIRD PLACE WINNER (GRADES 5 & 6): ROBERT GILL WHAT THE FLAG OF THE UNITED STATES STANDS FOR

To me and for a lot of other Americans the flag is a symbol of peace. There have been some difficult times but our flag will always stand for peace. I think it stands for the peace because it also stands for a peaceful country. That flag stands for the people who love it. Everybody should know it as a sign of peace and justice.

The flag also stands for being united and having liberty. When people say "united we stand" they don't mean just Americans, they mean everybody. Everybody does or should know that. The flag is more than just something that waves in the air, it's something we should cherish. The American Flag stands for you and me, and everyone else in this country and everyone who loves it too.

As you can see the flag stands for peace, justice, liberty, and our rights. That's why I'm proud of it!

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference.

This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 11, 2002 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 16

9:30 a.m.

Energy and Natural Resources

To hold hearings to examine the Administration's plans to request additional funds for wildland firefighting and forest restoration as well as ongoing implementation of the National Fire Plan.

SD-366

10 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine livestock packer ownership issues.

SD-562

Health, Education, Labor, and Pensions

To hold hearings to examine the proposed Department of Homeland Security issues.

SD-430

Banking, Housing, and Urban Affairs

To hold oversight hearings to examine the Semi-Annual Report on Monetary Policy of the Federal Reserve.

SH-216

Environment and Public Works

Judiciary

To hold joint hearings to examine new source review policy, regulations, and enforcement activities, with respect to clean air.

SD-106

Finance

To hold hearings to examine homeland security and international trade issues.

SD-215

2 p.m.

Judiciary

Administrative Oversight and the Courts Subcommittee

To hold hearings to examine the Federal Bureau of Investigations computer hardware problems from 1992 to 2002.

SD-226

Commission on Security and Cooperation in Europe

To hold hearings to examine the state of property restitution in Central and Eastern Europe for American claimants.

334, Cannon Building

JULY 17

10 a.m.

Indian Affairs

To hold oversight hearings to examine the protection of Native American sacred places.

SR-485

EXTENSIONS OF REMARKS

Health, Education, Labor, and Pensions

Business meeting to consider S. 2394, to amend the Federal Food, Drug, and Cosmetic Act to require labeling containing information applicable to pediatric patients; S. 2499, to amend the Federal Food, Drug, and Cosmetic Act to establish labeling requirements regarding allergenic substances in food; S. 1998, to amend the Higher Education Act of 1965 with respect to the qualifications of foreign schools; proposed legislation authorizing funding for the Child Care and Development Block Grant; and the nomination of Richard H. Carmona, of Arizona, to be Medical Director in the Regular Corps of the Public Health Service, and to be Surgeon General of the Public Health Service.

SD-430

Judiciary

Constitution Subcommittee

To hold hearings on S.J. Res. 35, proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SD-226

Joint Economic Committee

To hold hearings to examine economic outlook issues.

Room to be announced

10:30 a.m.

Foreign Relations

To resume hearings on the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002 (Treaty Doc. 107-08).

SD-419

2 p.m.

Governmental Affairs

To hold hearings to examine the nomination of Mark W. Everson, of Texas, to be Deputy Director for Management, Office of Management and Budget.

SD-342

JULY 18

9:30 a.m.

Energy and Natural Resources

To hold hearings to examine the effectiveness and sustainability of U.S. technology transfer programs for energy efficiency, nuclear, fossil and renewable energy, and to identify necessary changes to those programs to support U.S. competitiveness in the global marketplace.

SD-366

10 a.m.

Indian Affairs

To hold hearings to examine proposed legislation to approve the settlement of water rights claims of the Zuni Indian Tribe in Apache County, Arizona.

SR-485

10:30 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine Food and Drug Administration regulation of tobacco products.

SD-430

2 p.m.

Indian Affairs

To hold hearings on proposed legislation to ratify an agreement to regulate air quality on the Southern Ute Indian Reservation.

SR-485

2:30 p.m.

Energy and Natural Resources

National Parks Subcommittee

To hold hearings to examine S. 1865, to authorize the Secretary of the Interior to study the suitability and feasibility of establishing the Lower Los Angeles River and San Gabriel River watersheds in the State of California as a unit of the National Park System; S. 1943, to expand the boundary of the George Washington Birthplace National Monument; S. 2571, to direct the Secretary of the Interior to conduct a special resources study to evaluate the suitability and feasibility of establishing the Rim of the Valley Corridor as a unit of the Santa Monica Mountains National Recreation Area; S. 2595, to authorize the expenditure of funds on private lands and facilities at Mesa Verde National Park, in the State of Colorado; and H.R. 1925, to direct the Secretary of the Interior to study the suitability and feasibility of designating the Waco Mammoth Site Area in Waco, Texas, as a unit of the National Park System.

SD-366

JULY 24

9:30 a.m.

Veterans' Affairs

To hold hearings to examine mental health care issues.

SR-418

10 a.m.

Indian Affairs

To hold hearings on S. 1344, to provide training and technical assistance to Native Americans who are interested in commercial vehicle driving careers.

SR-485

Joint Economic Committee

To hold hearings to examine the measuring of economic change.

311, Cannon Building

JULY 25

2:30 p.m.

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine S. 2672, to provide opportunities for collaborative restoration projects on National Forest System and other public domain lands.

SD-366

JULY 30

10 a.m.

Indian Affairs

To hold hearings on proposed legislation concerning the Department of the Interior/Tribal Trust Reform Task Force; and to be followed by S. 2212, to establish a direct line of authority for the Office of Trust Reform Implementations and Oversight to oversee the management and reform of Indian trust funds and assets under the jurisdiction of the Department of the Interior, and to advance tribal management of such funds and assets, pursuant to the Indian Self-Determinations Act.

SR-485

12574		EXTENSIONS OF REMARKS		<i>July 10, 2002</i>	
	JULY 31				
9:30 a.m.		partment of the Interior/Branch of Ac-	2 p.m.		
Finance		knowledgegment.	Indian Affairs		
To hold hearings to examine the Report			To hold oversight hearings to examine		
of the President's Commission to			problems facing Native youth.		
Strengthen Social Security.					
	SD-215				SR-485
		AUGUST 1			
10 a.m.		10 a.m.			
Indian Affairs		Indian Affairs			
To hold oversight hearings to examine		To hold oversight hearings to examine			
the application of criteria by the De-		the Secretary of the Interior's Report			
		on the Hoopa Yurok Settlement Act.			
					SR-485

HOUSE OF REPRESENTATIVES—Thursday, July 11, 2002

The House met at 10 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Father of all in the human family, open our minds, hearts and imaginations to ever greater compassion for all our brothers and sisters, especially those in most need of Your mercy and our attention.

Let arbitrary boundaries or blinding prejudice not set limits to our concern.

Ward off the pride that comes with worldly wealth and positions of power, that leaders in government and corporate America may be Your instruments to establish equal justice and stability in this Nation.

Give Members of this House the courage to open themselves in love to the service of Your people now and forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from North Carolina (Mrs. MYRICK) come forward and lead the House in the Pledge of Allegiance.

Mrs. MYRICK led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 3971. An act to provide for an independent investigation of Forest Service firefighter deaths that are caused by wildfire entrapment or turnover.

The message also announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 997. An act to direct the Secretary of Agriculture to conduct research, monitoring, management, treatment, and outreach activities relating to sudden oak death syndrome and to establish a Sudden Oak Death Syndrome Advisory Committee.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 15 one-minutes on each side.

WORKING TOGETHER

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, our chaplain just spoke of opening our hearts with love in this country and solving some of our great dilemmas, homeland security, the fight against terrorism and, yes, corporate responsibility.

I hope the other side of the aisle listened to that prayer carefully because I think what we need today is people to open their hearts with love and kindness, thinking about the American economy and our citizens and their 401(k)s and their futures. Rather than pointing fingers at the President and Vice President CHENEY, let us work together to solve the problem.

On April 24, we sent over a bill to the other Chamber that passed 334 to 90; 119 Democrats voted for it. It is about accountability. It is about establishing a good audit committee. It is about peer review and oversight to ensure corporations factually report their numbers, but it has languished because the majority leader does not have time for the important bills that face this Nation, and he happens to be a Democrat.

All of a sudden when it breaks in the headlines, he is in a panic and he is asking everybody to rally around the Democratic bill.

There is a bill on his desk. There has been a bill on his desk since April 24. Wake up, smell the coffee, get that bill passed, and we will restore moral order.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. QUINN). The Chair would remind the Member that remarks in debate should be addressed to the Chair and avoid characterizing Senate action.

SANTA ANA KIWANIS CLUB CONTRIBUTION TO LITERACY

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Speaker, today I rise to honor the Santa Ana Kiwanis

Club for its efforts to curb illiteracy in my district. The Kiwanis Club has donated \$5,000 to the Orange County Board of Education to finance the printing of 20,000 bilingual booklets that encourage parents to read to their children. The aim of the booklets is to increase the listening and the verbal vocabularies of children, both of which help to improve reading abilities.

I am thankful that my parents took the time to read with me while I was growing up. Their dedication to my education helped me to improve my reading ability and to get good grades in school. My parents knew that success in the classroom and in life depended on a grasp of basic life skills like reading, and I commend the Kiwanis Club of Santa Ana for their efforts to improve literacy among the children of Santa Ana.

PORKER OF THE WEEK AWARD

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, since 1971 taxpayers have subsidized Amtrak to the tune of \$25.3 billion, yet they have not received a reliable or efficient mode of transportation in exchange for 31 years. Amtrak has not made a profit.

Almost since its inception Amtrak has hemorrhaged money in all directions, particularly on many of its routes. Of the 40-plus routes of Amtrak, only two are profitable. Its worst performing route, from Los Angeles to Orlando, loses \$347 per passenger, meaning it would be cheaper for Amtrak to keep the train on the platform and buy its passengers airline tickets. Last year, Amtrak ended the year with a record operating loss of \$1.1 billion and a \$5.8 billion backlog in maintenance and repair.

Despite receiving Federal funds totaling \$5 billion in the last 5 years, Amtrak has made no progress toward achieving self-sufficiency and is in a weaker financial condition than in 1997.

It is time to wean Amtrak from the public trough. Amtrak gets my Porker of the Week Award this week and it ought to get the Porker of the Week Award for several decades, as a matter of fact.

WORKING TOGETHER ON A BIPARTISAN BASIS

(Mr. SHERMAN asked and was given permission to address the House for 1

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

minute and to revise and extend his remarks.)

Mr. SHERMAN. Mr. Speaker, so much corporate malfeasance, so little time, so much to do. I join with the earlier speaker in saying that we should work together on a bipartisan basis, and indeed this House did pass a bill in April, but it passed a bill in which virtually every Democratic amendment was rejected out of hand, rejected on a partisan vote.

So we do not have a bill that requires the SEC to actually read the financial statements of the largest companies and make sure that they are not misleading or obtuse.

We do not have a requirement that audit firms have malpractice insurance or that they require their technical review partners to sign off on their audits.

What we have is a bill that is bipartisan in form only. Working together is not just working with the other body. It is working with both sides of the aisle.

Let me also take this opportunity to commend the Financial Accounting Standards Board whose slow and ineffectual action makes the House and the Senate look effective by comparison.

CONGRATULATING MARTHA DE NORFOLK

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I congratulate Martha De Norfolk, a single mother in my congressional district who has worked to found and maintain the Arthrogryposis Foundation. In order to help her disabled child Bryant Amastha and other local children, Mrs. De Norfolk has dedicated her time and effort to the success of this foundation.

One in every 3,000 babies is born with arthrogryposis, which limits the motion in joints and causes severe muscle weakness. In the classic case of this disease, hands, wrists, elbows, shoulders, hips, feet and knees are affected.

Most people with this disease are of normal intelligence and are able to lead productive lives. However, if not treated through physical therapy or surgery, this disease can become fatal as the body deforms so that internal organs are unable to function properly.

With the help of the foundation that my constituent Martha De Norfolk is working to establish, children suffering with this disease will soon have financial assistance and support groups on which to depend, and local doctors will have access to education on this disease and its treatment, and that is why I congratulate her today.

CORPORATE EVILDOERS ABROAD IN THE LAND

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, the gentleman from Florida talked about the phony reform that was passed by this House and the fact that the Senate will not take it up. Thank God for the Senate.

That was a phony reform. It was written by the securities industry. It was written to touch them with a feather duster. Now there are corporate evildoers abroad in the land, and they have stolen and diverted billions, bankrupted firms, thousands of hard-working Americans have lost their jobs, millions of seniors' savings and pensions evaporated, and even the President has noticed.

He went to Wall Street to admonish his corporate contributors not to do it again, but not to worry, Harvey Pitt, the former security firm lobbyist, has been named to head the enforcement agency, but he did not go to the President's speech because he was on vacation at the beach hobnobbing with the same corporate evildoers he is supposed to be investigating, his former clients. We do not have to worry about a thing, I guess.

WORKING TOGETHER TO STOP ACCOUNTING SCANDALS

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, yesterday the stock market took its sharpest dive since last fall. Some of the major indexes are lower than they have been since 1998.

The reason, Mr. Speaker, is not that the economy is not strong. GDP grew at a rate of 6.1 percent last quarter. The reason is that a handful of dishonest executives got greedy during the heady days of the nineties. They began to lie and deceive in order to make it look like their companies were making more money than they actually were. By lying, they kept their stock prices up and made themselves rich.

Even though only a few companies were involved, investor confidence has suffered severely. The President has a tough and sensible plan to punish the wrongdoers and make sure this does not happen again.

The House has already acted on parts of the President's plan. There is only one thing standing in the way of fixing the problem: Politics, Mr. Speaker. Our friends on the other side of the aisle, especially in the other body, are intent on trying to blame this President and Republicans for what happened on their President's watch.

This is not about blame, Mr. Speaker. It is about fixing a problem. Just

once we ought to put politics aside and get the job done.

WE NEED A STATE DEPARTMENT THAT FIGHTS FOR OUR CITIZENS

(Mr. LAMPSON asked and was given permission to address the House for 1 minute.)

Mr. LAMPSON. Mr. Speaker, my mother used to tell me where there is a will, there is a way. Last month, the Committee on Government Reform held a hearing on U.S. women and children who are being held in Saudi Arabia, and that continues to play out in the news. While the situation in Saudi Arabia obviously deserves attention, the issue of international child abduction exists in countries all over the world. Right now, and my colleagues have heard the story that I am telling about Ludwig Koons who is being held in Italy, one of our closest friends. Ludwig Koons is a young boy who has been there in Italy for 8 years being held by his mother in a pornographic compound, and the Italian authorities and our State Department did nothing essentially to help.

For years I have been working with left-behind parents who are trying to get their children back where they belong, and for years I have witnessed a State Department that does nothing tangible to help. We need a State Department that fights for United States citizens, not an idle information agency.

This issue is one that none of us can afford to ignore. Be aware, put pressure on those other countries that are not sending their children home. American parents are asking for someone to help and help them bring their children home. If the State Department had the will, they would find a way to bring our children home.

BALANCED ENERGY POLICY VITAL TO AMERICA'S NATIONAL SECURITY

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, I rise today to urge the House and Senate conferees to reach a compromise on energy legislation that President Bush can sign into law this Congress. In this time of war, we forget about that sometimes a balanced energy policy has never been more vital to America's national security.

□ 1015

In fact, it is long overdue. It is estimated that we import about 60 percent of our energy, much of which comes from hostile parts of the world. When the American people are confronted with quotes from Saddam Hussein urging other nations to use oil as a weapon against the United States, the

pressing need for an energy bill cannot be any clearer.

A balanced energy policy is also crucial to spur a much-needed economic rebound. Less reliance on foreign energy imports and increased domestic production would create hundreds of thousands of jobs for the American people. That is jobs in this country.

I urge my colleagues to reach a compromise and pass this legislation. It will protect and revitalize our national and economic security.

CORPORATE RESPONSIBILITY

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, the strength of our economy is built on the honesty, integrity and transparency of our financial institutions. Over the years, weakened Federal regulation of accounting practices has allowed corporate greed to run rampant and has led to the failure of some of our largest businesses. When these businesses fail, thousands of employees lose their jobs and pensions while corporate executives become rich. These captains of industry do not stay with a sinking ship, they jump off first, and they jump off with all the treasure.

This is not a simple problem of a few bad apples; the problems are systemic, and we need major changes in our country's accounting practices of our corporations.

What is important to remember is that when corporations fail, workers lose their jobs, families hit hard times and children suffer. There must be a zero tolerance for corporate corruption.

CORPORATE RESPONSIBILITY

(Mrs. MYRICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MYRICK. Mr. Speaker, corporate responsibility and personal integrity is on the minds of most Americans. After all, honesty and integrity have always been the backbone of our American way of life.

When I was a young girl, I used to frequently see my dad seal a business deal with a handshake, which he always honored. There sure is not a lot of that going around today, is there?

We, the Members of Congress, have an opportunity to play an important role, beyond our usual duties, in determining the future direction of America. We have a very clear choice of either being examples of steadfast integrity or continuing to just be more examples of the lack of integrity we see so much of today.

Which will it be?

CORPORATE RESPONSIBILITY

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, why was President Bush's speech on Tuesday so badly received? Why did worker after worker who attended the speech just say it was mere politics and not substance? Why did the market drop hundreds of points after the President made his speech on Tuesday?

It is because of a lack of confidence in the Bush-Cheney team that it will demand accountability from its big contributors on Wall Street and its CEO friends; because of the coziness that the Bush-Cheney team have with wealthy interest group after wealthy interest group.

Let me give an example. Three weeks ago, President Bush and House Republicans trooped off to a big fund-raiser where the prescription drug industry gave \$2 million to the Republicans. The next day, on a party-line vote on amendment after amendment after amendment, the consumer side lost and the drug industry side won.

The oil industry is writing energy legislation for the Republicans, the chemical industry is writing environmental legislation, Wall Street is writing Social Security privatization legislation, the insurance companies are writing Medicare privatization legislation, and the pharmaceutical companies are writing prescription drug legislation.

Mr. Speaker, it must stop.

PRESIDENT CALLS FOR NEW ETHIC OF RESPONSIBILITY

(Mrs. BIGGERT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BIGGERT. Mr. Speaker, I rise in support of President Bush's plan to cut down on corruption in America's corporate community. The President's plan creates tough new criminal penalties and enforcement provisions to punish those who refuse to play by the rules.

This is America, and those who break the law and threaten the integrity of our financial markets must pay the piper and return their ill-gotten gains.

Mr. Speaker, the House earlier this year took steps to codify the President's plan into law, even before his address on Wall Street. On March 7, the President first said that CEOs or other corporate executives should not profit from erroneous financial statements. He also said that corporate officers who clearly abuse their power should not serve in the leadership of public companies.

The House overwhelmingly passed a bipartisan accounting reform bill in April that included both of these ini-

tatives. When the President called, the House responded.

As we continue to install a new ethic of corporate responsibility, we must strike the right balance between empowering the SEC to do a better job and not overregulating or tying ourselves up in unnecessary red tape. At the end of the day, we must punish the crooks, not the honest brokers.

CORPORATE RESPONSIBILITY

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Mr. Speaker, corporate responsibility. Well, my colleagues, Enron got away with robbing thousands of pension holders from their life savings, and millions of Americans are watching us, waiting to see why there is a double standard. Why is it that someone who walks into the local grocery store, who picks up maybe a box of Cracker Jacks gets thrown into jail and the CEOs that rob thousands and millions of people, pensioners and retirees, of their life savings do not have anything going against them. No record, no nothing. They are let off with hardly a scandal.

The other thing I want to bring up is, why are we allowing for corporate America to get away with not paying for the pollution that they create in our waters, in particular Superfund sites? I have two Superfund sites in my own district now, and I ask why is it that we are giving them a break to get off the hook? It is not fair for our communities.

Why should the consumers and the taxpayers that I represent have to pay for corporate America's mistakes and mishaps? We ought to use a big stick, not a pillow, and we ought to talk big and make punishment real for those people that break the law.

TRIBUTE TO ALFRED L. WATKINS

(Mr. ISAKSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ISAKSON. Mr. Speaker, I am pleased to stand today and pay tribute to a man of great vision in my district, Alfred Watkins.

Twenty years ago, he took over the leadership of a brand-new high school in my community. He built a music program from 78 participants to the largest music program in public education east of the Mississippi River. His children have won the John Philip Sousa Award, the Louis Sudler Flag Award, a Grammy for the best music program in a public school, twice marched in the Grand Parade at the Tournament of Roses, the World's Fair, and the Macy's Thanksgiving Day Parade.

But is his legacy the great music or the great music his children perform? No. It is countless numbers of young people who, through the discipline of participation and through the appreciation of music, are changing the lives of other people all over this country.

Alfred Watkins has been a visionary leader who has been great for our community and great for its children. Dr. Theodore Hesburgh once said, "Leadership requires that you have a vision, for without a vision, you cannot blow an uncertain trumpet." It is ironic that Alfred Watkins was a trumpeter, and his music are my district's children, who are a symphony of perfection in my district and in the lives of countless thousands of Americans.

CORPORATE RESPONSIBILITY THREATENS HOMELAND SECURITY

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, the House is now throwing themselves as fast as they can at developing a homeland security plan. Somehow, however, we have forgotten half the problem. The problem of the external dangers we all know about, but Pogo, the cartoon character, once said, "We have discovered the enemy, and he is us."

We forget what the internal threats in this country really are. What we have watched on Wall Street is threatening the homeland security of all of us, our pensions, our health care, the economy, and whether we can retire. All those issues are in danger because of, as some of my colleagues say, a few bad apples.

In Washington State, where the apple is really the symbol of the State, we know if you have a bad apple in the barrel, it can ruin the whole barrel. The American people recognize that the barrel has bad apples in it, like the leadership of Halliburton and the leadership of Enron and the leadership of Harken and the leadership of all these companies.

Maybe we should throw some of those apples out of the barrel.

RESPONSIBLE FOREST MANAGEMENT

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, it is summertime, and out West it is the height of the fire season. Every day we ask our brave fire fighters to risk their lives to put out these dangerous blazes. Unfortunately, their job is made more difficult primarily due to extreme environmental groups.

The U.S. Department of Agriculture reported that nearly half of the 2002

projects to reduce wildfires and wildfire risks have been blocked by lawsuits brought by these same extreme environmental groups. These delays have significantly slowed efforts to remove the tinder-dry overgrowth out of our Federal forests and contributed greatly to the West's worst fire year on record. With half of the fire season left, more than 3 million acres have been lost to forest fires and wildfires, lost for all Americans to enjoy, lost for 100 years to come.

Today, the Subcommittee on Forests and Forest Health of the Committee on Resources will hold a hearing to address this issue. We need to find a way to end the misguided crusade against responsible forest management. Only then will we be able to prevent destructive wildfires that decimate our national forests.

BUSH DISCOVERS IMPORTANCE OF CORPORATE ACCOUNTABILITY

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, like a preacher welcoming every convert to the fold, we welcome all converts, no matter how belated their interest in controlling corporate corruption.

To date, this Administration's "See no evil, hear no evil" approach has produced and condoned a steady stream of corporate misconduct in this country. So long as more special-interest lobbyists are appointed to fill key regulatory roles and the Administration continues to conspire with House Republicans to undermine every genuine reform that is proposed, the President's newly professed concern amounts to little more than a fresh coat of paint on rotten wood, very rotten wood.

The American people can see right through the thin paint and see the damage that is caused to retirement savings, to investors' earnings, and to taxpayers that are cheated by corporations that use accounting tricks to avoid paying their fair share.

Our patience has been exploited and our trust has been taxed by the culpable inaction, indifference, and complacency of this Administration and its House Republican allies.

LEXINGTON COUNTY PEACH FESTIVAL

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, South Carolina is the second largest producer of peaches in the Nation, and yesterday fresh peaches from South Carolina were hand delivered to every congressional office.

I would like to commend the efforts of the South Carolina Farm Bureau, the South Carolina Peach Council, and the interns and staffers for their efforts yesterday in delivering the peaches on Capitol Hill.

Last Thursday, I was honored to be the guest Speaker at the 44th annual Lexington County Peach Festival in Gilbert, South Carolina. This wonderful event is held every July 4th, a time for patriotic families to come together to celebrate the independence of our great Nation. The festival features a parade with wonderful floats and, of course, fresh peaches, peach ice cream, and peach cobbler available for everyone.

I would like to thank all the supporters and organizers of the Lexington County Peach Festival and especially the festival coordinator, Raymond Boozer, along with Gilbert mayor, Phil Price; First Lady Frances Price, and long-time parade coordinator, R. J. Taylor.

My family has attended 32 Lexington County Peach Festivals, and I look forward to many more years of this special July 4th celebration.

□ 1030

CORPORATE RESPONSIBILITY

(Mr. HINOJOSA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HINOJOSA. Mr. Speaker, recent corporate scandals, including Enron, WorldCom, Tyco, Merck, Rite-Aid, Xerox, and so many other corporations have demonstrated the need for our government to take action and bring order, justice, and trust back to our Nation's corporate infrastructure. Criminal practices put in place by high-paid executives demonstrate irresponsibility, hurt investors and employees, jeopardize innocent rank-and-file-worker pensions and retirement systems, and must come to an end.

We need to send strong legislation from this House that will make crooked accounting, cooked financial records, and careless corporate executives a thing of the past.

To do this effectively, we must craft legislation that puts fear in would-be corporate criminals. Stiff prison sentences for white collar criminals are a must and not an option.

High-level executives who have defrauded investors, misled employees, and mismanaged company pension funds must be held accountable.

I support legislation that requires honest accounting, independent investment advice, sensible regulation, and criminal penalties for those guilty of wrongdoing. We cannot have economic growth without eliminating corporate crime.

HIV/AIDS FUNDING

(Mr. KIRK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIRK. Mr. Speaker, the HIV epidemic is making headlines in the international AIDS conference in Barcelona. New projections concerning the disease show there is little good news.

Secretary Thompson leads the U.S. delegation, and I thank him for his recent commitment to work with China to fight HIV. The United States will sponsor collaboration with China using a \$14 million CDC grant for research on HIV prevention and treatment. China currently has over a million cases of HIV, estimated to rise to over 10 million by 2010. HIV has no cure, and prevention is our only means to fight it.

Since the President set a precedent for funding CDC work in China, he should also fund the U.N. population fund. UNFPA provides family planning services in 140 countries, including Mexico, and supports HIV awareness campaigns in 78 countries. The \$34 million approved by Congress for UNFPA is being held because UNFPA works in China, but we are now funding CDC work in China, so it is hard to see the distinction.

Mr. Speaker, we need every tool to fight this lethal disease. Our contribution to UNFPA will help reduce the immigration pressure on the United States, reduce the damage of overpopulation, and slow the spread of HIV. I urge the President to fund both CDC and UNFPA.

CORPORATE ACCOUNTABILITY

(Mr. PASCRELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PASCRELL. Mr. Speaker, the other evening the President provided a policy speech on corporate accountability. In response to the President's speech, business experts such as John Bogle, founder of Vanguard Group, stated that in terms of real substance of what will solve the problems, it does not get nearly as far as I would have hoped. I agree with Mr. Bogle, Mr. Speaker.

While the President discusses transparency and required disclosures by corporate executives, his own Vice President refuses to disclose which energy moguls sat in the White House and put together our energy policy. None of us on either side of the aisle should be cavalier about these problems. These are systemic, serious problems. We are not talking about a few bad apples.

When regulators refuse to do their job, the result is that the American people are injured. Just look at the situation with Enron and the Federal Energy Regulatory Commission. Members

know Enron was manipulating the system. Lawmakers have been urging FERC to investigate market manipulation long before the Enron scandal broke.

When FERC's chairman, Pat Wood, who was handpicked by Enron's Ken Lay, joined FERC last June, he said it was FERC's job to act like a vigilant market cop walking the beat.

I would say the fox is guarding the hen house. These regulators ought to resign.

CORPORATE RESPONSIBILITY

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, when I was selling football programs at the University of Georgia back when I was in junior high, I was robbed once. Two older kids beat me up and took about \$100. I felt humiliated and violated. Victims of crime, and I have talked to many victims of crime, it is a very personal thing.

But yet when somebody steals a worker's pension plan, their retirement money, or cooks the books and devalues the stock, there is no difference. In fact, I would say the criminals who come out of the closet and beat their victims up and take their money are, if anything, more noble than corporate CEOs who do this behind the books of accounting procedures and fancy talk, and certainly do not follow the general accounting principles.

That is why this House on April 24 passed corporate accountability. There is no difference between ethics and business ethics. Businesses have to operate with honesty and integrity. We need that in society. Too many widows and orphans are counting on their stock to be the value they claim it is worth. That is why people buy it in their retirement account.

I am glad that the Senate is moving on this legislation. We passed it out of the House 3 months ago, but let us get it to the conference committee so we can address corporate accountability. America needs it. Business integrity is important for the prosperity of our country.

CORPORATE RESPONSIBILITY

(Mr. EHLERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EHLERS. Mr. Speaker, some corporate executives have been lying and cheating. They have betrayed their companies, their stockholders, their employees, and the public. I am angry about it. They are as bad as the previous speaker said, as bad as a street punk who mugs someone. It is totally unacceptable behavior.

At the same time, we have to recognize this is just a small fraction of the corporate executives in the country, just as the aberrant priests in the Catholic Church are a very small fraction of that church. Or the number of Members in this body who are accused and convicted of breaking the law are a small number of this body. Nevertheless, their behavior is totally unacceptable, and we have to take action.

It is not simply a matter of changing the law or strengthening the law, although that may be part of it. What we need is enforcement of the law. I am pleased President Bush went to Wall Street yesterday and spoke to them about the need for enforcing the law and enforcing regulations. We must do that. It is not just a matter of punishment, but we also should seek retribution from these highly paid executives who have cheated employees out of their 401(k) accounts, who betrayed stockholders and reduced the value of the company; and not only that, have scared the American public from participating in the stock market.

Mr. Speaker, it is high time that our Nation take action against these individuals, both through regulation and enforcement of the law. I hope it happens soon. The American people are angry at this betrayal of the free enterprise system. I am angry about it, and we have to see that something is done about it.

PROVIDING FOR CONSIDERATION OF H.R. 2486, INLAND FLOOD FORECASTING AND WARNING SYSTEM ACT OF 2002

Mr. DIAZ-BALART. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 473 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 473

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2486) to authorize the National Weather Service to conduct research and development, training, and outreach activities relating to tropical cyclone inland forecasting improvement, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Science. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Science now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority

in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommend with or without instructions.

The SPEAKER pro tempore (Mr. QUINN). The gentleman from Florida (Mr. DIAZ-BALART) is recognized for 1 hour.

Mr. DIAZ-BALART. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. DIAZ-BALART. Mr. Speaker, House Resolution 473 is an open rule providing for the consideration of H.R. 2486, the Inland Flood Forecasting and Warning System Act of 2002. The rule provides 1 hour of general debate evenly divided and controlled by the chairman and ranking minority member of the Committee on Science.

This is a fair and balanced rule that will afford Members every opportunity to debate the important issue before us.

The underlying legislation will help to improve the capability to forecast accurately inland flooding associated with tropical cyclones. Florida knows the fury of hurricanes all too well, but the damage goes much deeper than that which occurs on our battered coasts.

As storms move inland, they begin to slow and often come to a stop over a particular area. The residents of my district in western Miami-Dade County have seen firsthand the damage that inland flooding can cause. Hurricanes and other tropical disturbances cause homes to flood and streets to become impassable. The danger associated with this type of flooding is a major issue that many Americans are simply not aware of.

This legislation instructs the National Weather Service to develop, test, and deploy an inland flood warning system for use by public and emergency management officials. With passage of the legislation, we will also provide increased training to improve forecasting and risk-management techniques for inland flooding.

Mr. Speaker, this is a good bill. It will help protect Americans across the Nation. I urge, accordingly, my col-

leagues to support this open rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Florida (Mr. DIAZ-BALART) for yielding me the customary 30 minutes. This is a fair and open rule for a non-controversial bill. H.R. 2486 will direct the National Oceanic and Atmospheric Administration, through the U.S. Weather Research Program, to improve the ability to accurately forecast inland flooding. Additionally, this bill will direct NOAA to develop, test, and install a new flood warning index so that weather service personnel and local meteorologists will be able to explain the dangers of weather emergencies to the public.

Currently, the National Weather Service does not have the ability to accurately forecast coastal inland flooding caused by either tropical cyclones or excessive heavy rains. This legislation gives the National Weather Service the technology to better forecast these natural disasters.

Simply put, the information that will be provided by the National Weather Service to the American public is a vital step towards limiting fatalities and property damage.

As many remember, Hurricane Floyd killed 48 people and caused almost \$3 billion in property damage to inland locations in 1999. One year later, Tropical Storm Allison left areas of Texas with over 35 inches of rain, and then continued its course through the southwest, ultimately leading to the deaths of more than 50 people.

Over the past week, eight people have died and two more are missing as a result of over 30 inches of rain in Texas. According to the Red Cross, at least 48,000 houses have been affected by this rainfall and flash flooding.

□ 1045

The Governor of Texas estimates this damage will cost over \$1 billion. These examples of fatalities and property damage were a direct result of inland flooding.

The New England region also suffers from severe storms that result in devastating inland flooding. In 2000, a Nor'easter hit the coast of Massachusetts, and FEMA and other Federal agencies are still working with families and businesses in central Massachusetts on recovery programs. Based on information gathered as a result of this legislation, families and communities will be better able to plan for these storms. Hopefully this will lead to saving lives and property across the country.

Mr. Speaker, this bill was unanimously referred to the House by the Committee on Science. It authorizes approximately \$1 million annually for

FY 2003 through FY 2007. Of that, \$250,000 can be used for merit review grants to colleges and universities like the Worcester Polytechnic Institute and the University of Massachusetts-Dartmouth, which are in my congressional district, for improving coastal and inland flooding forecasting.

In order to avoid a recurrence of the devastating results of previous inland flooding, NOAA needs this funding to develop research that will help solve these problems. The bill before us today is an important step in that direction.

Mr. Speaker, I commend the members of the Committee on Science for their bipartisan work on this bill. I especially want to thank my colleague, the gentleman from North Carolina (Mr. ETHERIDGE), for his leadership on this issue. I ask Members to support this open rule and to support the Inland Flood Forecasting and Warning System Act. I hope this Congress will not just authorize these important programs, but make sure the funds are made available to carry them out.

Mr. Speaker, I reserve the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. EHLERS), the distinguished chairman of the Subcommittee on Environment, Technology, and Standards of the Committee on Science.

Mr. EHLERS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, most Americans do not understand the power of floods until they encounter them. Floods cause an immense amount of damage to this Nation and also cause an average of approximately 100 deaths per year throughout America. Most Americans are not aware of how dangerous they are and do not realize that we lose almost as many people to floods as we do to tornadoes within this country.

Flooding affects every Congressional District in this country. The force of only 6 inches of swiftly moving water can easily knock people off their feet and carry them away into a nearby stream. The force of 2 feet of moving water can sweep cars away.

I am sure all of us have seen night after night on the evening news pictures of cars being trapped in water and we say, how could that happen? How could these people not know the danger? But it fools us. We think it is a small amount of water, but there is so much force that it can easily stall a car or sweep it away and carry it down the river.

The public needs more useful information about flooding, about the nature of floods, the damage from floods, and, most importantly, they need more and better information about when floods are likely to occur.

The bill that is before us, H.R. 2486, the Inland Flood Forecasting and

Warning System Act, which came out of our subcommittee, provides that the National Oceanic and Atmospheric Administration, better known as NOAA, will have a \$6 million authorization for a 5-year period to, first of all, develop a new flood warning index that will give the public, the media, and emergency management officials more useful information about the risks and dangers posed by expected floods.

We have done very well in this country in terms of tornado warnings, we have done very well in terms of hurricane warnings, and we have saved not just hundreds, but thousands, of lives over the past few decades with these new warning systems that have been in place. But we have ignored the need to warn people about floods; and not just about the general nature of a flood, but we have to outline roughly the boundaries of the expected flood so people know when to evacuate before the water hits them. So this bill will help develop the new flood warning index that will be understandable by the public, can be easily broadcast by the media, so that we can give warnings out so people will know precisely what to do before the flood hits.

The second aspect of the bill is that it will conduct research and develop, new flooding models, to improve the capability to more accurately forecast inland flooding due to tropical storms. Most people are not aware of the fact that deaths from hurricanes are not from these strong winds that come in from offshore. Most of the deaths are due to floods which occur when the hurricane moves inland and drops huge amounts of rain with resulting flood waters occurring.

It is an excellent bill. I was very pleased to work with the gentleman from North Carolina (Mr. ETHERIDGE) on this bill. We have perfected it in every way possible. It will serve the people of our Nation well. I urge that we pass this rule and then pass the bill.

Mr. McGOVERN. Mr. Speaker, I reserve the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, I appreciate the leadership of the Committee on Rules and appreciate the leadership of the subcommittee chairman, the gentleman from Michigan (Mr. EHLERS), on this issue.

Mr. Speaker, I would like to express my strong support for the Inland Flood Forecasting and Warning System Act and urge all Members to vote for this important, truly lifesaving, measure.

Mr. Speaker, when flood water starts to pour through your front door, it does not care if you are a Republican or Democrat, and for this reason I am pleased to be an original cosponsor in working on this common-sense bill with my colleague, the gentleman from North Carolina (Mr. ETHERIDGE), and

fellow Texan, the gentleman from Texas (Mr. HALL).

When it comes to hurricanes and tropical storms, the gulf coast of Texas where I am from is pretty experienced. The hurricane season is something we prepare for, we monitor daily and we have grown to live with.

However, we were hit especially hard by Tropical Storm Allison, and it was extremely difficult to see lives lost and people left homeless in its aftermath. Tropical Storm Allison was the costliest tropical storm in U.S. history, both in terms of life and in property damage. That means homes, things people have worked their lives for. More than 50 people died. The storm caused more than \$5 billion in damage throughout the Southeast United States, but especially in our Houston area, where 35 inches of rain fell in just a few days.

The amount of flooding and the unprecedented damage caused by Allison surprised even the most experienced among us. It has caused our communities to wonder whether we are doing all we can to prepare for and prevent this level of damage in the future.

This legislation is a big step forward in the right direction. It would help prepare residents for future natural events like Allison by finding ways to improve the weather system modeling and early forecasting. It would allow NOAA, the National Oceanic and Atmospheric Administration, to develop an inland early warning index so we would understand how severe these storms could be, and then to train our emergency management personnel in improving these methods.

Here is the key point: Research that leads to earlier, more accurate forecasting is a sound investment, an awfully sound investment. So is finding new ways to alert communities to inland flooding. Flooding affects all of us in the United States, as the gentleman from Michigan (Chairman EHLERS) told us.

In conclusion, I will tell you, no one can control the weather, but we can certainly control our preparation for it. This bill will help provide inland residents with the warning system that raises the awareness of the destructiveness of such storms so we can protect ourselves, our families and our property, as well as ultimately lowering tax costs to the United States taxpayers.

I urge all of my colleagues to support this very important bill.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will just simply close by reminding my colleagues that this is a fair and open rule for a good bill, and I would urge my colleagues to support the rule and support the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also would urge all of my colleagues to support the rule as well as the underlying legislation, for which the debate will now begin shortly.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 2733, ENTERPRISE INTEGRATION ACT OF 2002

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 474 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 474

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2733) to authorize the National Institute of Standards and Technology to work with major manufacturing industries on an initiative of standards development and implementation for electronic enterprise integration. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Science. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Science now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. QUINN). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my friend, the gentlewoman from New York (Ms.

SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, the resolution before us is an open rule that provides for consideration of H.R. 2733, the Enterprise Integration Act of 2002. The rule allows for 1 hour of general debate and provides that the amendment in the nature of a substitute recommended by the Committee on Science shall be considered as an original bill for the purposes of amendment. Priority in recognition will be given to Members whose amendments were preprinted in the CONGRESSIONAL RECORD. Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, today the House will consider H.R. 2733, the Enterprise Integration Act. The bill authorizes the National Institute of Standards and Technology to work with major manufacturing industries to set standards for developing and implementing electronic enterprise integration.

Before the Internet, factories were automated on their own with no consideration of how to share manufacturing data. Factories installed software packages that best met their individual needs or customized software to address particular problems. This resulted in a typical supply chain where suppliers used a variety of different and incompatible software packages.

The burden resulting from incompatible software was more pronounced further down the supply chain as smaller companies had to comply with all the manufacturers higher up the chain. These companies, who must bear the greatest burden, tend to be the ones least able to afford multiple software systems.

However, the Internet and other technological advances have made it possible for manufacturing companies to work together electronically, something that was impossible just a few years ago. This seamless exchange of information, along with the vertical supply chain, is known as enterprise integration.

For example, if Ford Motor Company decided to change a design specification for a bumper, every one of the suppliers that contribute to that part would then have the ability to easily and quickly see the new specification and how it would impact their component.

□ 1100

This integration helps large and small businesses all along the supply chain to reduce costs and productivity times.

A 1999 study commissioned by the National Institute of Standards and Technology estimated that enterprise integration in the auto supply chains of General Motors, Ford, and Chrysler

would result in a potential savings of at least \$1 billion annually.

This estimated savings from just select companies in the automobile industry is an example. Similar savings are also possible all across other industries such as shipbuilding, major construction, home-building, furniture manufacturing, and electronics manufacturing, just to name a few.

One solution to compatibility problems in design and manufacturing is to develop standards for the exchange of product data. Through this legislation, the NIST, which has 20 years of experience in this area, will be tasked to work with government and industry representatives to identify and develop ways of enterprise standardization and integration.

The measure also requires NIST to work with companies and trade associations to raise awareness of enterprise integration activities, as well as developing training materials for businesses to participate in an integrated enterprise.

Manufacturers today must be more flexible, efficient, and responsive to the changing needs and preferences of consumers. The European Union understands the importance of enterprise integration and has already been aggressively developing standardized protocols in such areas as I have talked about. In order to maintain and remain competitive to ensure that international standards are compatible with U.S. software packages, the United States must be active in helping to develop these standards.

Mr. Speaker, in this day where technology is so intertwined with our economic prosperity, we must take the necessary steps to streamline our operations and ensure that there is coordination from top to bottom. I commend the gentleman from New York (Mr. BOEHLERT), the chairman of the Committee on Science, and the Committee on Science for taking this necessary first step to ensure that our manufacturing industries are not only able to function more efficiently, but also to remain competitive worldwide.

I urge my colleagues to support this fair and open rule, as well as the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the open rule. Again, Mr. Speaker, this is an entirely noncontroversial measure that might have been put on the suspension calendar, but nevertheless, it is an important measure for many regions of the country, including my own district in upstate New York, and I urge its favorable consideration.

Mr. Speaker, the manufacturing sector remains one of the most critical

economic engines of the U.S. economy. My region of the country, with a combination of Fortune 500 companies, as well as midsize and smaller firms, has emerged as the leading per capita exporting city in America. Many of our smaller and midsize firms have become the lifeblood of our community and, indeed, have led the Nation in innovation and expansion. These firms know the critical importance of a coordinated exchange of information up and down the supply chain.

With the emergence of the World Wide Web, international standards for product data exchange greatly accelerated the movement toward electronically integrated supply chains during the last half of the 1990s. European and Asian countries are investing heavily in preparing their smaller manufacturers to do business in the new environment. European efforts are well advanced in the aerospace, automotive, and shipbuilding industries and are beginning in other industries, including home building, furniture manufacturing, textiles, and apparel. This investment could give overseas companies a major competitive advantage in the months and years to come.

The legislation before us today will give the small manufacturers in the United States access to the same electronic integration that the large firms enjoy. The measure would increase efficiency and productivity throughout all sectors of our economy by providing technical and financial assistance to small- and medium-sized businesses.

I was pleased to see in this legislation that the National Institute of Standards and Technology would spearhead these efforts. With a long history of working cooperatively with manufacturers, and the nationwide reach which of its manufacturing extension program, the institute is in a unique position to help the United States, large and small manufacturers alike, in their responses on this challenge.

Moreover, the institute will involve the Manufacturing Extension Program, MEP, which I know firsthand is making a real difference in my district. The MEP program, through High Tech Rochester, has assisted more than 1,000 small manufacturing firms within my district. Established in 1987, High Tech Rochester has been a force in the region's economy. By 1997, High Tech Rochester could boast that its client base had collectively realized a 2½-fold growth in employment and a \$43 million increase in sales to \$61 million. Enterprise integration, as provided for in this bill, would provide High Tech Rochester and other successful MEP programs throughout the Nation with a promising new tool to assist the small manufacturing firms.

Mr. Speaker, I have seen what a difference this kind of support can make for not only existing small manufacturers, but for manufacturing start-

ups. High Tech Rochester's business incubator supports fledgling small businesses by helping them to spin off, creating new companies to diversify the economy, making it stronger in the long run.

I have been a strong supporter of High Tech Rochester's business incubator program which, over the past 4 years, has successfully supported dozens of start-up companies to ensure that they survive in their first years in business. It has been a tremendous success. In the year 2000, four companies "graduated" from the facility and moved to new larger facilities in our community. By their graduation, the combined numbers grew from 13 to 61, a nearly 370 percent increase. In 2001, the facility graduated twice as many firms, and we look forward to them doubling the success of their predecessors.

It is my firm hope that other regions of the country will benefit from similar programs, and I urge my colleagues to support this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Grand Rapids, Michigan (Mr. EHLERS), the rocket scientist from the Republican Conference.

Mr. EHLERS. Mr. Speaker, I thank the gentleman for yielding me this time.

In 1994, when I first arrived in this Congress, I was absolutely astounded. I went to my office and, first of all, found that I did not have a computer in my office, but when I tried to use staff computers to send e-mails, I discovered that I could send an e-mail more easily and more rapidly to Moscow than I could to a colleague 20 feet down the hall. Why was that? Because in the House of Representatives, we had allowed a system to develop that did not have standards for the whole House of Representatives, and each Representative had a kingdom where they had set their own standards for their computer systems. Each individual system could not talk to each other.

When the Republicans took the majority, then Speaker Gingrich put me in charge of standardizing the system. Today, we have a system that seamlessly allows over 10 million e-mails a month to flow between offices in this Capitol, saving us a lot of money and a lot of staff time. That is an illustration of what we can accomplish with standards. Without standards, this place barely functioned in terms of Internet usage, e-mail and Web sites. Today, with standards, it functions extremely well, and the American people have access to each and every one of us almost instantaneously, and the American public, through Web sites, can receive information on our activities instantaneously.

This bill is about something similar. It will help industry by setting standards—standards for enterprises working together. Let me give an example.

A smaller auto parts supplier from my district visited me recently. As my colleagues know, in Michigan we make a lot of automobiles and we have many auto parts suppliers around the State. He had a good business. But he commented that he was working very well with the Japanese manufacturer. He was making parts for this manufacturer, who manufactured cars in this country, and they had a good system working together.

Everything was computerized, everything was set up from the beginning so each side knew exactly what the other was doing, and they could relate to each other well. But with the American manufacturers, they did not have that relationship. They were trying to establish it, but it was going to be different than the one with the Japanese manufacturer, so he was going to have to have two different systems to deal with these two different manufacturers.

That does not make sense, and that is what this bill is about: so that small businesses such as this gentleman's can be assured that whichever manufacturer he makes parts for, he will be able to use the same communication system via the Internet, and that his business will flourish, because it will reduce his expenses tremendously.

This bill will help both large and small manufacturers alike, because it will cut costs and improve efficiency. By taking advantage of information technology such as the Internet and other parameters relating to that, our manufacturing industry will be able to fully integrate their supply chain so information will be able to flow freely up and down the supply chain.

This integration, however, will require the development of standards on how the information is going to be exchanged between businesses within a supply chain. Going back to my example of the small parts supplier working with the Japanese manufacturer and American manufacturer, each of them thinks their own standards are the best. There has to be some outside force that works out the differences and gets agreement.

This bill will provide that outside force by supporting this integration through authorizing the National Institute of Standards and Technology, better known as NIST, to work with industry to identify what research, testing, and development needs to be undertaken to develop these information exchange standards. NIST has been in the standards business for over 150 years. They are experienced at this. They are experts at bringing together different parties and establishing standards, and this is the logical place to put this particular effort.

This legislation provides NIST an authorization of \$47 million over 4 years, starting with \$2 million in fiscal year 2002 and ramping up to \$20 million in fiscal year 2005; and with this money, they will be able to carry out this effort.

Mr. Speaker, I urge my colleagues to support this rule and this legislation. Small and large businesses in America will benefit from it. I urge my colleagues to vote for this rule and this bill.

Ms. SLAUGHTER. Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Rochester, Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman for yielding me this time. I rise in support of this rule and this bill.

There is an old expression that ideas in children are brilliant when they are your own, and we have a problem sometimes with technology because we have one group who has an idea and another group that has an idea, and they begin to speak different languages. What this bill, the Enterprise Integration Act of 2002, is about is ultimately getting everybody talking the same language.

Imagine, for example, if we had a situation where pilots from one airline here in the United States spoke Greek and the next one spoke Latin and the next one spoke German; what we want them all speaking is the same language.

It is said that 50 percent of our economic growth over the next 10 years is going to come from small business. It is also said that more than 50 percent of our economic growth is going to come from technology. This is the way we tie together small business and technology. This is a very, very important bill in the long-term economic future of this country, and particularly for our small businesses here in the United States.

Let me take a minute, though, to say what a wonderful agency the National Institute of Standards and Technology is. I have had the chance to visit two of their campuses, and I cannot tell my colleagues enough how impressed I am with the scientists who work there. The National Institute of Standards and Technology is involved in all kinds of basic research. They study everything from fire to atomic clocks, and they do it very well and they do it on a very limited budget.

□ 1115

In fact, I was so impressed when the chairman and I went out to Boulder, Colorado, to see the way they do business out there at their labs to see how much duct tape they are using in their various labs, and this is very high technology that they are working on. They do not waste any of the taxpayers'

money, but what they do best is come up with standards so that various industries are all working on the same language, and the language of science is something that is probably way above my ability to completely understand, and we are delighted to have the good doctor being a very important part of this discussion, but I understand this: if we can get big business and small business, manufacturers and suppliers, all using the same language, both the big business, the small business, the consumer, everyone; the American economy will benefit.

This is a very important piece of legislation. I hope Members will join me in supporting the rule and the bill.

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

The Committee on Rules brought this rule forward. It is great legislation. It makes sense. It will aid not only small business but encourage the opportunity for big business and small business to be more competitive around the globe. In my prior life, I worked for a company that was called Bell Communications Research, formerly known as Bell Labs. It was our mission at that time to make sure that we ensured the standards for the telecommunications industry were the same across the United States, albeit the world.

The ability to speak together in the same language, as the gentleman from Minnesota (Mr. GUTKNECHT) talked about, is so critical to the success of people who are trying to provide products worldwide. This not only makes sense, what we are doing, but it will help America be more competitive. I wholeheartedly support not only this rule but the underlying legislation. And I would say, Mr. Speaker, that this is a great bill; and I urge my colleagues to support this.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

INLAND FLOOD FORECASTING AND WARNING SYSTEM ACT OF 2002

The SPEAKER pro tempore (Mr. SESSIONS). Pursuant to House Resolution 473 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2486.

□ 1118

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2486) to

authorize the National Weather Service to conduct research and development, training, and outreach activities relating to tropical cyclone inland forecasting improvement, and for other purposes, with Mr. QUINN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Michigan (Mr. EHLERS) and the gentleman from Texas (Mr. HALL) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Chairman, I yield myself such time as I may consume.

I rise today in strong support of H.R. 2486, the Inland Flood Forecast and Warning System Act of 2002.

Mr. Chairman, everyone talks about the weather, but no one does anything about it. That is a famous statement I remember from my youth, but I am here today to talk about a way that we are going to do something about the weather.

When it comes to hurricanes, wind speeds do not tell the whole story. Hurricanes produce storm surges, tornadoes, and often the most deadly of all, inland flooding. While storm surge is always a potential threat, more than half of all deaths associated with tropical cyclones during the last 30 years are due to inland flooding.

Inland flooding can be a major threat to communities hundreds of miles from the coast. In 1999, Hurricane Floyd killed 48 people and caused nearly \$3 billion in property damage, primarily because of flooding of inland communities. The severity was quite unexpected because these communities are 50 to 100 miles inland from hurricane landfall. However, this type of flooding has become all too common.

While the National Weather Service has the ability to accurately predict most flood events, it has difficulty in forecasting inland flooding events that are caused by tropical cyclones.

In addition, the flood warning index currently used by the National Weather Service for all flood events does not include enough information about the potential risks and dangers posed by expected floods. This index defines floods as minor, moderate, or major. Sometimes the category is accompanied by a warning of a comparable flood from another year. However, most major floods happen several years or even decades apart, so this information may not be very helpful. We need only to watch the news during the past few weeks as flooding in Texas has caused the deaths of many people.

It is time for a new warning system that will provide more information to emergency managers and the public and will save lives in the process.

This bill, H.R. 2486, the Inland Flood Forecasting and Warning System Act

of 2002, provides the National Oceanic and Atmospheric Administration, lovingly known as NOAA, an authorization of \$5.75 million over 5 years to do several things: first, improve the capability to accurately forecast inland flooding, including flooding influenced by coastal and ocean storms, through research and modeling; second, develop, test, and deploy an inland flood-warning index that will give the public, the media, and emergency management officials more accurate information about the risks and dangers posed by expected floods; third, train emergency management officials, National Weather Service personnel, meteorologists, and others regarding the improved forecasting techniques for inland flooding, risk-management techniques, and the use of the new flood-warning index; and, fourth, conduct research, outreach, and education activities for local meteorologists, media, and the public regarding the dangers and risks associated with inland flooding, as well as the use and understanding of the new inland flood-warning index.

Mr. Chairman, I want to thank the gentleman from North Carolina (Mr. ETHERIDGE) for introducing this important bill. It was my pleasure to work closely with him in perfecting it.

I might add, Mr. Chairman, that the two bills before us this day coming from my subcommittee were both authored by Democrats, and in both cases I worked very closely with them. That is a good example of the bipartisanship that one experiences on the Committee on Science, and I believe is a model for other committees, as well.

It was the district of the gentleman from North Carolina (Mr. ETHERIDGE) that suffered the loss of 48 people in 1999 because of the unexpected severe inland flooding caused by Hurricane Floyd. I appreciate his leadership by responding with this legislation, which will help communities to more fully understand the risks and dangers of floods. We worked together closely during consideration of the bill in the Committee on Science to ensure that the new flood-warning index would help all our States, whether landlocked or coastal.

But, more importantly, I am confident that training managers in the use of this new index and educating the public on its meaning and importance will save lives.

This bill received strong bipartisan support in the Committee on Science, and I urge all of my colleagues to vote in favor of this important and timely piece of legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 2486, the Inland Flood

Forecasting and Warning System Act of 2002. This legislation was developed by the gentleman from North Carolina (Mr. ETHERIDGE), who has done a good job on it. He has worked on it for quite some time. I have great admiration for the gentleman. He is from the home State of my father and most of my family. He is a gentleman, and good to work with.

This bill has strong bipartisan support, not only on the committee but among Members from coastal areas, as well. The gentleman from Michigan (Chairman EHLERS) has already outlined the provisions of this bill, so I just want to take a few minutes to talk about the need for this legislation.

Flooding affects, of course, every part of the country; and although we have improved our flood forecasting capabilities, we still lack an effective means of transmitting to the public the nature and severity of a flood.

Mr. Chairman, one day this country will capture and hold the devastating flood waters to fight future droughts in additional lakes, above-ground giant containers, and some underwater storage. Water and fire, fearful enemies, could become wonderful friends for the future to allow these devastating floods to fight the droughts.

One of the least-understood flood patterns is related to tropical storms. For example, we still do not fully understand the interaction between storm surges and flooding caused by precipitation. As a result, our flood forecasting is often inaccurate. In addition, tropical storms impact not only coastal areas, but can have devastating and disastrous effects as they continue to move inland.

For example, Tropical Storm Allison dumped more than 35 inches of rain on my State of Texas. There were 50 deaths. The flood damage to Houston and surrounding areas was estimated in the several billions of dollars. Just last week, parts of central Texas received more than 30 inches of rain.

In Texas, we have firsthand knowledge about the damaging effects of floods, so I am proud to be a cosponsor of this legislation, and I strongly support the efforts of the gentleman from North Carolina (Mr. ETHERIDGE) to develop an improved inland flood-forecasting index. I also want to thank the gentleman from Michigan (Chairman EHLERS) and the gentleman from New York (Chairman BOEHLERT) for their strong support of this legislation. I urge my colleagues to vote "yes" on the so-called Etheridge bill.

Mr. Chairman, I reserve the balance of my time.

Mr. EHLERS. Mr. Chairman, it is my pleasure to yield 5 minutes to the gentleman from Texas (Mr. BRADY), who has firsthand experience with the problems this bill is designed to address, because, as we know, there have been some disastrous floods in Texas the past week.

Mr. BRADY of Texas. Mr. Chairman, I appreciate the gentleman's leadership as subcommittee chairman on this important issue to our region and the Nation as well. I also especially appreciate the leadership of my colleague, the gentleman from North Carolina (Mr. ETHERIDGE), as well as the gentleman from Texas (Mr. HALL), who have taken such a lead role in this legislation.

When flood waters come through our homes, destroy our businesses, knock out our local hospitals, it does not care if we are Republican or Democrat; it just does the damage. In Houston, Tropical Storm Allison, we are told, was the costliest tropical storm. We lost 50 lives, 50 neighbors in that storm.

We have lost some \$5 billion in our damage to our homes and businesses; and in our medical research center, we lost just tons of research in so many areas, from cancer to genetics, in some of our life-saving research that is being done. Some of the experiments that we lost were 10 years in the making. Scientific experts tell us that there was not a single discipline of science that was not in some way set back from the loss of research from Tropical Storm Allison.

What we heard over and over in our community was that people, families and businesses, were saying, if we only had some notice; if we only had some warning about this devastation, we could have prevented it, or we could have lessened the damage. This is why I appreciate the lead of the gentleman from North Carolina.

Mr. Chairman, this bill is so commonsense. It says, let us invest in the research which tells us why this flooding is coming and how quickly it is coming, and then let us do an early warning system for us, for those of us in the community, so we know how severe this storm would be on inland flooding and how it could affect us, so we can take those preventive steps.

Then it goes another step and works with our local emergency response people to train them how to respond so they can assist us in leaving that area and preventing that damage, that loss of lives and loss of property.

I am convinced that in our region, which is very experienced in flooding, we were watching for flooding from the coast. We were prepared for the punch from the right; we did not see the punch from the left, from inland flooding. That is what I appreciate so much about this bill.

□ 1130

It takes the inland flooding, provides the research, gives us the warning, trains the communities to prevent. And I am convinced this will save lives, it will save properties, it will save tax dollars to us in the end. It is a compassionate, smart, intelligent investment

and the very best next step in preventing inland flooding.

Mr. HALL of Texas. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina (Mr. ETHERIDGE).

Mr. ETHERIDGE. Mr. Chairman, I thank the gentleman from Texas (Mr. HALL) for yielding me time. I also want to take this opportunity to thank the gentleman from New York (Mr. BOEHLERT) and the gentleman from Michigan (Mr. EHLERS) and others who have been on the Committee on Science, who have helped so much with this piece of legislation. As the gentleman said earlier, the Committee on Science has a tradition of bipartisanship and this bill is another indication of that bipartisanship at work.

Mr. Chairman, as the 2002 hurricane season begins to heat up, I am pleased that we were able to get H.R. 2486, a bill to improve the forecasting of inland flooding and develop an inland flooding index on the floor of the House, and hopefully we can get it through quickly to the Senate and on to the President.

I know it seems a bit strange, and if the folks back home happen to be watching this morning, to be talking about flooding when my State and many other States across this country are facing some extreme drought conditions, some of the worst we have seen certainly in our State in almost 100 years. But much of my district desperately needs rain today, and right now they would like to have a little rain to bring some of the plants to life and replenish our falling water supplies.

However, we in North Carolina know all too well how devastating tropical storms and hurricanes can be. As you have already heard, just 3 years ago in 1999, Hurricane Floyd killed 48 of our citizens. Almost all of them lived hundreds of miles from the coast, and died not from storm surge as we have heard, not from hurricane wind forces, but from flooding caused by the torrential rains associated with the tropical storms. And as we have already heard this morning, the one thing they did not have was time because this storm hit at night. People lost their lives, they lost their property, and many people lost everything they had because they did not have the one thing that would have made all the difference in the world, which was time.

Last year Tropical Storm Allison, as we have heard others talking about already, demonstrated all too effectively the power of these floods, killing more than 50 people in several States, starting in Texas and moving up the eastern coast; and more recently torrential rains have caused major flooding in Texas all over again, killing 12 people. These and other storms clearly indicate that current methods of predicting whether storm rains will produce heavy flooding are insufficient

and that flood warnings are tragically inadequate.

Last year, the House Subcommittee on Environment, Technology and Standards of the Committee on Science heard testimony as to the need of improving the inland flooding forecasting and developing a better warning system that raises public awareness on the destructiveness of inland flooding so people can protect themselves, their property and their families.

Ever since Floyd hit my State with such devastating power, I have been working with experts in storm predictions to help develop an effective piece of legislation to respond, and H.R. 2486 is the result of that effort with my colleagues here in the House.

This bill authorizes a small sum in the terms of the dollars we produce, only \$5.75 million over 5 years to provide the National Oceanic and Atmospheric Administration with additional resources to enhance the science of flood prediction and, more importantly, develop an improved, effective flood warning index that really will save lives and warn people. NOAA's forecast for this year calls for the potential of nine to 13 tropical storms in the Atlantic, including six to eight hurricanes with two to three of them to be classified as major hurricanes, Category 3 or higher on the Saffir-Simpson scale.

William Gray, a professor of atmospheric sciences at Colorado State University and a leading hurricane expert, predicts a 75 percent chance of a Category 3 or higher hurricane striking land in the United States this year. In an average year, that chance is only 52 percent, so you can see this year we stand a chance of really getting hit. Let me repeat that. Experts say there is a 75 percent chance the United States could experience another Floyd, another Fran, another Andrew, or another devastating storm hitting the U.S. coast.

When you consider that more than 50 percent of America's population lives in coastal areas around this country, that makes it a frightening prediction. That is why, along with 23 of my colleagues, I have sponsored H.R. 2486, because as our Nation enters what appears to be a period of increasing storm activity, we need to better understand the damages these storms can cause and better inform our citizens of the danger that these storms pose.

I am pleased that this measure has won the bipartisan support of so many of my colleagues on the Committee on Science, including the gentleman from New York (Mr. BOEHLERT), the gentleman from Texas (Mr. HALL), the gentleman from Michigan (Mr. EHLERS) and others. I want to thank the gentlemen, as well as the gentleman from Michigan (Mr. BARCIA), for their help on the subcommittee, for their assistance in moving this legislation forward.

I want to express my appreciation to the staff of the full Committee on Science and the subcommittee on both the majority and the minority side, in particular Mike Quear, Eric Webster, Bob Palmer, Mark Harkins, and Dave Goldston and others who have worked to get this bill to the floor.

I also want to acknowledge the help of the staff of NOAA and the National Weather Service, and cite the work of Dr. Leonard Pietrafesa, a professor at North Carolina State University, who helped in the crafting of this legislation.

Mr. Chairman, at this very moment a storm is brewing in the Gulf of Mexico that may or may not develop into a tropical storm. Time is of the essence. I encourage my colleagues to pass this with haste, get it to the Senate so the President can sign this legislation as quickly as possible.

Mr. EHLERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to join the gentleman from North Carolina in commending the chairman of the Committee on Science, the gentleman from New York (Mr. BOEHLERT) for his good work, and also the ranking member, the gentleman from Texas (Mr. HALL), as well as the staff. They have made the Committee on Science into a smoothly working machine, one of the most productive committees in the House, and I commend all of them for that.

Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding me time.

I too rise in support of this legislation. I remember very well being a witness to one of the most devastating floods that ever hit Pennsylvania, and I was reminded of the fact that in Hurricane Floyd, which was just referred to by the previous speaker, many Pennsylvanians went down to help in that disaster; and they did so because they remembered, did these Pennsylvanians, what happened to us in central Pennsylvania in 1972. Agnes, the mother of all hurricanes, swept over Pennsylvania and lingered on top of that topographical area for a long period of time.

We learned many, many different lessons at that time. And one of them was, of course, what is common sense: that the more ability we have to forecast and prepare, the less risk there is to human life and the less risk there is to destruction of property. And that is what the essence is of this piece of legislation.

We are all eager to put into place the highest form of technology possible so that we can have these early warnings and be able to give the warnings that are necessary to residents, to businesses, to everyone concerned, and thereby minimize the damage.

Since Agnes, we have formed a task force with the Susquehanna River Basin in which flood warning is the key element. So we are becoming more and more aware of the new science that can help in flood forecasting and also in the quick recovery from damage and flooding that may occur.

So I rise with great enthusiasm to support this legislation. If it is a matter of common sense, we ought to have a unanimous vote in the Chamber for this piece of legislation. It will reap numbers of thousands of dollars and millions of dollars in savings as we proceed down the line of preparing our populaces for natural disasters in the most scientific way possible.

Mr. HALL of Texas. Mr. Chairman, I yield 5 minutes to the gentlewoman from Houston, Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished chairman and the distinguished ranking member of the full committee and the gentleman from Michigan (Mr. EHLERS) for their leadership and, of course, my friend and colleague from North Carolina, the distinguished Congressman who has come forward with an enormously important legislative initiative that deals with inland flooding forecasting and warning system.

Mr. Chairman, I think it is important with the changes, climatic changes that we are facing, so many of us who come from very warm climates are used to what the Northeast and the Midwest are facing now over the last couple of years with intense heat over the summer and, in fact, intense heat during some of the winter and fall months.

We know that the weather and prediction of such is coming upon a new turn. And this legislation will be an indicator, a predictor of saving lives and saving property and saving local government. Having come from a local government situation, being a member of the Houston city council, I am very close to our local officials, both county and city.

Mr. Chairman, if I can express to you a phenomenon that none of us expected to happen, that was the occurrence of June 10 approximately, 2001, where a few days of rain turned into the largest storm that we had ever seen and one that the Gulf Coast had never experienced. There were areas in our communities that were under the 500-year flood warning, under the 100-year flood warning and, unfortunately, received enormous amounts of water in the inner city and surrounding areas.

I remember that morning. It was a Saturday morning. I remember being here at the United States Congress earlier in the week, and as it began to rain and I checked on my constituents in Houston, all they said was, it was heavy rain and I am sure things will be well. It stopped and then started again

on Friday night. And, lo and behold, when we arose early that morning, the medical center, hundreds of billions of dollars, under water. Millions and millions of dollars of research lost. Thousands upon thousands of research mice lost. Individuals in that medical center having to be or patients having to be, en masse, evacuated. Literally, the medical center was shut down. Universities shut down. Thousands of homes under water. Twenty plus deaths and all because of Tropical Storm Allison.

The concept of forecasting is imperative. It is imperative for saving dollars in the Federal Government. It is imperative for planning for local governments. It is imperative for helping in our local communities; and, yes, in causing or decreasing the amount of pain experienced by those impacted by these floods.

Right now, as we speak, we know that the Guadalupe River is overflowing in areas that many of the residents in that area never expected. This legislation will go throughout the country to not only areas that are used to flooding in some of the outlying areas, but in the inland areas.

My area happens to be 50 miles inland, but it is also 50 feet under sea level; and it is by a port, it is by waters that might overflow. The idea of forecasting is imperative. So I would ask my colleagues to be particularly sensitive to the importance of this legislation. I look forward to presenting an amendment that will complement this legislation in its structure. I will be looking for long-term forecasting as this legislation has short-term forecasting.

I am very delighted to be able to work with my colleague who had a brilliant idea in seeing this legislation come to fruition. I look forward again to discussing the proposal I have and would ask my colleagues to consider it as I will be giving my enthusiastic support to this legislation.

□ 1145

Mr. EHLERS. Mr. Chairman, I am delighted to yield such time as she may consume to the gentlewoman from Maryland (Mrs. MORELLA), the angel of NIST and NOAA.

Mrs. MORELLA. Mr. Chairman, I want to thank the gentleman from Michigan (Mr. EHLERS) for that wonderful introduction that I hardly deserve, but this has been a good week for the Committee on Science. It demonstrates again how we work together on both sides of the aisle to do what we believe is in the best interests of scientific research, development, education and what is best for the country.

It is with pleasure that I rise in support of H.R. 2486, the Inland Flood Forecasting and Warning System Development Act of 2002. Congratulations to the gentleman from North Carolina (Mr. ETHERIDGE) for his leadership on

the issue, his willingness to work with members of the Committee on Science. Congratulations to the gentleman from Michigan (Mr. EHLERS), chairman, the gentleman from Virginia (Mr. Boucher), the ranking member, as well as the gentleman from Ohio (Mr. BOEHLERT), chairman, and the gentleman from Texas (Mr. HALL), ranking member of the full committee, for having this piece of legislation come to the floor today.

Together we have expanded the focus of the original bill to take it beyond North Carolina and other hurricane-prone regions to include the protection of all regions subject to inland flooding due to severe weather events. The Committee on Science has a strong history of bipartisan collaboration, and this bill, as I have said, is yet again another example of how working together we can forge a bill that is much stronger than the original intent.

Each year hazardous weather causes thousands of fatalities and tens of billions of dollars in property damage, largely due to inland flooding. Moreover, the problem appears to be growing. Severe weather events, particularly hurricanes, appear to be cyclical, and we are recently coming off a period of low frequency. The Atlantic Ocean is beginning to enter another active period, and scientists tell us we can expect increasingly frequent events of greater and greater severity.

In addition, the capacity for damage has increased dramatically, as coastal development has continued to boom for the last 20 years. More and more people are living near coastal, estuarine or inland waters, creating a heightened potential for disaster and loss of life.

The improved ability to predict and prepare for severe storm events can have a substantial and immediate impact. Research dollars are desperately needed to protect both the lives and the livelihoods of the millions of Americans who live in regions susceptible to severe inland flooding.

The purpose of this bill is simply to develop, test and deploy an effective inland flood warning index for use by public and emergency management officials. Managing disasters by predicting their occurrence is much more effective than reacting to their results. It is a modest bill with modest goals that will have a huge impact. I urge my colleagues to support its passage.

Mr. HALL of Texas. Mr. Chairman, I yield 4 minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentleman for yielding time.

I actually seldom come to the floor to speak on a bill that I have not had any personal involvement in before it comes to the floor, that does not come through a committee that I sit on, but I wanted to take the opportunity today to come and praise this bill and say

that it is a wonderful bill for North Carolina and for the Nation and to say some nice things about the gentleman from North Carolina (Mr. ETHERIDGE) who is the sponsor of this bill.

I have been following him for quite a while. We started out in the State legislature together and in the State legislature sometimes, people come up to a person and say, there are people in this body who are destined for other things in life, and we all knew at that time that the gentleman from North Carolina (Mr. ETHERIDGE) was one of those people.

He went on, after serving in the State legislature, to serve as Superintendent of Public Construction in North Carolina and did an outstanding job there, and the thing that has been characteristic of him throughout this process is his ability to reach across party lines and understand that education and science and all of the issues that we deal with on an ongoing basis really are not Republican or Democrat, they are American issues, world issues, issues that are important to deal with on a bipartisan basis.

This bill is another example of that, where he has recognized a need based on the experiences that we observed in North Carolina as a result of hurricanes, and used that same kind of bipartisan approach and added to try to solve a problem that existed and addressed that need.

I want to applaud the chairman and ranking member of the Committee on Science for putting aside, as they always do, the partisanship that so often can pervade this institution, and recognizing the importance of this bill to the people of our country. The problem of inland flooding, I am not sure we were as much aware of until we had a series of floods in North Carolina.

I live in Charlotte, North Carolina, and that is about 150 miles from the coast. I grew up thinking that a hurricane was fed by the ocean and the water and that it really could not come that far inland to impact a community, until Hurricane Hugo came charging right through the center of the city that I lived in and did tremendous damage and devastation to the community.

If we had had better warning systems and research available to detect that possibility, I think we would all have been better served. We would have saved substantial amounts of money, and whatever amount is going to be expended for this important purpose, I think we will more than benefit from it over time, and I applaud the Committee on Science for the work that it has done on this bill in recognition of that fact.

I want to just thank my colleague again for the introduction of this bill, and I thank the gentleman for yielding time for me to say some nice things about my colleague and about the bill and about the Committee on Science.

Mr. EHLERS. Mr. Chairman, I yield myself such time as I may consume.

First of all, I would observe that at one time my parents lived in Canada and the area north of Toronto suffered tremendously from a hurricane. So we are not safe from hurricanes almost anywhere inland.

Mr. Chairman, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Chairman, I yield back the balance of my time.

Mr. EHLERS. Mr. Chairman, I yield myself such time as I may consume, and I will proceed to close.

The preamble to our Constitution specifies as one of the major duties of government to promote the general welfare of its people. This bill is an example of what we can do to promote the general welfare of our people.

This bill will save lives, it will save property, and it will cost very little. In fact, the cost per capita in this Nation of this bill is 10 cents per capita, and I think that is a good bargain. By developing an inland waterway and flooding bill of this nature, that will protect the people of this country, we will save undoubtedly at least 15, probably 100 lives per year and we pay only 10 cents apiece—that is a good deal.

So I strongly encourage this House to pass this bill.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the Committee amendment in the nature of a substitute printed in the bill shall be considered by sections as an original bill for the purpose of amendment, and each section is considered read.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Inland Flood Forecasting and Warning System Act of 2002".

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. AUTHORIZED ACTIVITIES.

The National Oceanic and Atmospheric Administration, through the United States Weather Research Program, shall—

(1) improve the capability to accurately forecast inland flooding (including inland flooding influenced by coastal and ocean storms) through research and modeling;

(2) develop, test, and deploy a new flood warning index that will give the public and emergency management officials fuller, clearer, and more accurate information about the risks and dangers posed by expected floods;

(3) train emergency management officials, National Weather Service personnel, meteorologists, and others as appropriate regarding improved forecasting techniques for inland flooding, risk management techniques, and use of the inland flood warning index developed under paragraph (2); and

(4) conduct outreach and education activities for local meteorologists and the public regarding the dangers and risks associated with inland flooding and the use and understanding of the inland flood warning index developed under paragraph (2).

The CHAIRMAN. Are there any amendments to section 2?

Mr. EHLERS. Mr. Chairman, I ask unanimous consent that the remainder of the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The text of the remainder of the bill is as follows:

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the National Oceanic and Atmospheric Administration for carrying out this Act \$1,150,000 for each of the fiscal years 2003 through 2007. Of the amounts authorized under this section, \$250,000 for each fiscal year shall be available for competitive merit-reviewed grants to institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) to develop models that can improve the ability to forecast the coastal and estuary-inland flooding that is influenced by tropical cyclones. The models should incorporate the interaction of such factors as storm surges, soil saturation, and other relevant phenomena.

SEC. 4. REPORT.

Not later than 90 days after the date of the enactment of this Act, and annually thereafter through fiscal year 2007, the National Oceanic and Atmospheric Administration shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on its activities under this Act and the success and acceptance of the inland flood warning index developed under section 2(2) by the public and emergency management professionals.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE of Texas:

Page 2, line 24, strike "and".

Page 3, line 5, strike the period and insert "; and".

Page 3, after line 5, insert the following new paragraph:

(5) assess, through research and analysis of previous trends, among other activities—

(A) the long-term trends in frequency and severity of inland flooding; and

(B) how shifts in climate, development, and erosion patterns might make certain regions vulnerable to more continual or escalating flood damage in the future.

Page 3, lines 9 and 10, strike "\$1,150,000 for each of the fiscal years 2003 through 2007" and insert "\$1,250,000 for each of the fiscal years 2003 through 2005, of which \$100,000 for each fiscal year shall be available for competitive merit-reviewed grants to institutions of higher education (as defined in sec-

tion 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) to carry out the activities described in section 2(5), and \$1,150,000 for each of the fiscal years 2006 and 2007".

Page 4, line 4, insert "The National Oceanic and Atmospheric Administration shall also, not later than January 1, 2006, transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the likely long-term trends in inland flooding, the results of which shall be used in outreach activities conducted under section 2(4), especially to alert the public and builders to flood hazards." after "emergency management professionals."

Ms. JACKSON-LEE of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

Ms. JACKSON-LEE. Mr. Chairman, again, let me rise, expressing my very strong support for H.R. 2486, the Inland Flood Forecasting and Warning System Development Act which will save lives and money by improving forecasting, education and by setting the stage to get timely and useful information to the people in the way of big storms and subsequent floods.

Let me also add again my appreciation to the gentleman from Michigan (Mr. EHLERS) and as well to the proponent of this bill, the gentleman from North Carolina (Mr. ETHERIDGE), who has firsthand experienced the devastation of flooding and has taken this issue up and worked this issue in a way that will help all of America.

I thank the gentleman from Texas (Mr. HALL), the ranking member, for his support on this legislation and as well his leadership and knowledge about these issues as he has continued to serve on the House Committee on Science.

We come from an area, as I indicated earlier, that knows water and knows it in many ways. We enjoy it. We recreate in it. We make our livings from it in the Gulf Coast of Texas, but at the same time we know of its power. In Harris County, Texas, alone in the past 10 years, there have been five major flooding events, in 1992, 1994, mid-1998, late 1998 and the big one, Tropical Storm Allison of 2001, that individuals 80-years-plus had never seen a flood such as Tropical Storm Allison. Remember, I said a storm and not a hurricane.

Flood waters in Tropical Storm Allison reached heights known as hundred-year flood levels. These five storms damaged or destroyed thousands of homes and businesses, and so it is imperative that this legislation be passed and that I would offer this amendment that would, in fact, provide a long-term study for a period of 3 years, costing \$100,000.

As it stands, the bill will improve short-term forecasting of cyclones and associated flooding and will provide for the development of a warning system to get minute-to-minute information to the public and to emergency management officials regarding flood dangers. These functions will operate on the time scales of days to weeks, for example, saying there will be a storm this weekend or evacuate our homes now.

My amendment will simply add a long-term component to this important project. This will enable officials to warn people what they might expect over the next 5 years or even the next decades. A small amount of money I am proposing to spend on this long-term component could save billions of dollars and save many lives in the future by providing information to help people make prudent decisions today.

We will have to look at other science in order to determine how we can provide a safe place for people to live and save lives prospectively, but as we move this legislation along, I think the idea of providing a long-term component will be very effective.

In my home district alone in the past 10 years, as I indicated, we have had several storms, and as I indicated as well, the Tropical Storm Allison, the big one, caused an estimated \$5 billion in damage, flooded almost 100,000 homes and killed at least 20 people in our community. Right now, Mr. Chairman, I am still living with those who are suffering from the damages of the flood.

The questions I have are, after the first four floods, why are so many people and homes still in flood zones when the big one hit a year later?

□ 1200

It seems that the first four floods might have let us know that more may be coming soon and people should move to higher ground.

And, two, why have there been so many devastating 100-year floods in rapid succession? In other words, are floods, indeed, becoming more severe over recent years?

I have been asking these questions and cannot find anyone to give me an answer with even a modicum of confidence. It seems that no one knows exactly why this happens; and if they do, they have information that should be shared, whether it is simply a natural variation or if it is due to shifts in development or erosion patterns or climate. And no one knows whether there is a real long-term trend in such major flooding events.

Right now, people in Texas are getting over yet another flood, and they need to make informed decisions about whether to rebuild their homes. These are life-altering and costly decisions which can devastate communities, families, and neighborhoods, and also break down the spirit.

Some of these people right now are deciding what to do and how to do it after losing their precious resources. It was hearing of their struggles last week that inspired me to write this amendment. The proposed act, as it stands, would have helped those people protect their lives and property before and during the floods, but my amendment would be helping them make tough decisions now by giving them an indication of whether they should expect more frequent or severe floods in the future. It is about planning.

With this amendment, the National Oceanic and Atmospheric Administration would receive an additional \$100,000 only during the first 3 years of the program. This money would fund grants for research at higher institutions to study the long-term trends in flooding to help predict future risk in flood zones.

May I first start by expressing my strong support for H.R. 2486. The Inland Flood Forecasting and Warning System Development Act will save lives and money by improving forecasting, and education, and by setting the stage to get timely and useful information to people in the way of big storms and subsequent floods. The Congressman from North Carolina has been a champion of this issue, and deserves great credit. I am pleased to have co-sponsored the proposed legislation with him.

As it stands, the bill will improve short-term forecasting of cyclones and associated flooding, and will provide for the development of a warning system to get minute-to-minute information to the public, and to emergency management officials regarding flood dangers. These functions will operate on the time-scales of days to weeks, for example saying "there will be a storm this weekend," or "evacuate your homes now."

My bill will simply add a long-term component to this important project. This will enable officials to warn people of what they might expect over the next five years, or even the next decades. The small amount of money I am proposing to spend on this long-term component could save billions of dollars and save many lives in the future, by providing information to help people make prudent decisions today.

In my home district alone, in the past 10 years there have been five major flooding events. In 1992, 1994, mid-98, late-98, and the big one—Tropical Storm Allison in 2001—flood waters reached heights known as "100 year flood levels." These 5 storms damaged or destroyed thousands of homes and businesses. The last storm, Allison, alone caused an estimated five billion dollars in damage, flooded almost 100,000 homes, and killed 41 people nationwide.

The questions I have are (1) After the first four floods, why were so many

people and homes still in flood zones when the big one hit a year later? It seems that the first four floods might have let us know that more may be coming soon and people should move to higher ground. And (2) Why have there been so many devastating "100 year floods" in rapid succession? In other words, are floods indeed becoming more frequent and severe over the years?

I have been asking these questions, and cannot find anyone who can give me an answer with even a modicum of confidence. It seems that no one knows exactly why this happened—whether it is simply natural variation, or if it is due to shifts in development, or erosion patterns, or climate. And no one knows whether there is a real long-term trend in such major flooding events.

Right now people in Texas are getting over yet another flood, and they need to make informed decisions about whether to rebuild their homes or relocate to higher ground. These are life-altering and costly decisions, which can devastate neighborhoods or even entire towns.

It was hearing of their struggles last week that inspired me to write this amendment. The proposed Act as it stands would have helped these people protect their lives and property before and during the floods. But my amendment would be helping them make tough decisions now by giving them an indication of whether they should expect more frequent or severe floods in the future.

In my proposed amendment, the National Oceanic and Atmospheric Administration would receive an additional \$100,000 per year, only during the first 3 years of the program. This money would fund grants for research at higher institutions, to study the long-term trends in flooding, to help predict future risk in flood zones.

At the end of the 3 years, a report will be written that will be sent to Congress to report its findings. More importantly, the findings will be disseminated to the public, through the educational outreach already planned in the original bill. This will enable citizens, builders, and planners to make better-informed decisions about where people should live, or stop living.

This amendment has quite a narrow scope. It is not a global warming amendment. It is small, and focuses only on the flooding associated with cyclones which affect a limited region of the country. However, my amendment has a very important target. The amendment is meant to get much-needed information to people who might be in continual danger from escalating flooding. It could also give assurance to those people whose risks of continual flooding might be low.

If insights gleaned from these studies lead to a smarter distribution of homes and businesses, and prevent a tiny fraction of the damage in the next five billion dollar flood—this amendment will earn its pay. I urge my colleagues to support this amendment.

Mr. Chairman, I want to applaud this legislation, as I close, because it has a great outreach provision, and this amendment will help with this outreach.

I ask my colleagues to support this amendment because it is narrow in scope.

Mr. EHLERS. Mr. Chairman, I rise in support of the amendment, and I thank the gentlewoman from Texas for it. This is something we have worked on together. It is something I had hoped that would happen anyway when this bill reached NOAA; that they would interpret it this way. But it is good of her to point out that this must be done. This makes things very specific, and we have reached agreement on this amendment, so I am pleased to accept it.

I would just comment that I will have to revise my cost estimate. I commented earlier this bill would cost us a grand total of 10 cents per person in this country. Because of this amendment I have to raise that to 11 cents per person in this country. But I should also make it clear, which I did not before, that that cost is spread over 5 years. So rounding off, it is still 2 cents per person per year for 5 years, and we are getting a lot for our money. But I am very pleased to accept this amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. EHLERS. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. First, let me thank the gentleman very much, Mr. Chairman, for working with our office and, of course, working with the champion of this legislation, the gentleman from North Carolina (Mr. ETHERIDGE).

We come from different parts of the country, and I think it is important to note that Michigan, Texas, and North Carolina all worked together because these issues are far-reaching. And I would simply hope, as the gentleman has been so fiscally responsible, that they can see the amount of money that we will save in the future. Again, I thank the gentleman for supporting this amendment.

Mr. HALL of Texas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I support this amendment and I support this gentlewoman. I think we have observed here representation at its very best. The gentleman from North Carolina (Mr. WATT) and the gentlewoman from Texas (Ms. JACKSON-LEE) personally testified to the tragedies that they had experienced in their own hometowns of Houston and Charlotte, and I think it was refreshing to hear the gentleman from North Carolina (Mr. WATT) express his admiration for a long-time, fellow public servant.

This is the way it ought to be, and I certainly thank the gentlewoman from

Texas (Ms. JACKSON-LEE) for going that extra mile, offering this study, a needed study, and I appreciate the gentleman from Michigan (Mr. EHLERS) accepting it. I urge the adoption of this amendment.

The CHAIRMAN pro tempore (Mr. JEFF MILLER of Florida). The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there any further amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. BIGGERT) having assumed the chair, Mr. JEFF MILLER of Florida, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2486), to authorize the National Weather Service to conduct research and development, training, and outreach activities relating to tropical cyclone inland forecasting improvement, and for other purposes, pursuant to House Resolution 473, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. EHLERS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

GENERAL LEAVE

Mr. EHLERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to

revise and extend their remarks and to include extraneous material in the RECORD on the bill just considered, H.R. 2486.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ENTERPRISE INTEGRATION ACT OF 2002

The SPEAKER pro tempore. Pursuant to House Resolution 474 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2733.

□ 1210

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2733) to authorize the National Institute of Standards and Technology to work with major manufacturing industries on an initiative of standards development and implementation for electronic enterprise integration, with Mr. JEFF MILLER of Florida in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Michigan (Mr. EHLERS) and the gentleman from Texas (Mr. HALL) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Chairman, I yield myself such time as I may consume; and I rise in support of the Enterprise Integration Act of 2002.

Much has changed about the manufacturing industry during the past 30 years. In the 1970s and 1980s, our manufacturing sector was in trouble. Plagued by quality problems and inefficiency, our domestic manufacturing sector was on the decline, and it was costing U.S. workers their jobs. I saw this firsthand in my home State of Michigan, when one observer noted in a national column how much Michigan's auto manufacturing sector had fallen and asked for, in print, "The last person to leave the State to please turn off the lights."

This decline served as a wake-up call not only for State and Federal governments but especially for domestic manufacturers, and they have worked hard over the past three decades to become leaner and more competitive in the global marketplace. Automation, outsourcing, efficiency, and quality became the buzzwords of this effort, as manufacturers made fundamental changes to their business models. When these changes were coupled with the information technology revolution, manufacturers were able to unleash the

untapped potential of American workers.

Over the past 10 years, our workers increased their productivity as never before in the modern era. These gains led to one of the greatest economic expansions in U.S. history and made a bold statement that U.S. domestic manufacturing was ready to compete in the global marketplace.

Domestic manufacturing industries are now beginning to undertake new steps to ensure that they stay globally competitive. Our manufacturing industries are moving away from the traditional models where products are mass produced and consumer preferences are aggregated at the end of a manufacturing chain. The new model is marked by a commitment to flexibility, networked supply chains, just-in-time inventories, and responsiveness to changes and customers' preferences. Underpinning all these elements is the need to be able to exchange information quickly, reliably, and without fear that the information contains errors or is incomplete.

The purpose of the legislation before us today is to support this critical component. H.R. 2733 will establish an enterprise integration initiative within the National Institute of Standards and Technology, better known as NIST. At the heart of this initiative is what modern manufacturing industry craves—the ability to exchange information up and down the supply chain without error or loss.

For example, with a fully integrated supply chain, if Ford were to design a change for a bumper, every one of the suppliers that contributes parts to Ford for that bumper would be able quickly and easily to see how the new specifications would affect the component they manufacture. Each supplier would be able to redesign the component knowing that the information used does not have errors and has not lost data along the way.

As I said earlier, the new manufacturing model requires industry to respond to consumer choices quickly and with a high degree of quality and reliability. This flexibility can only be achieved with a fully integrated supply chain.

Two of Michigan's key industries, automotive and furniture, can derive tremendous benefits from this legislation. A 1999 study by NIST found that General Motors, Ford and Chrysler together could save \$1 billion per year if they fully integrated their supply chains. West Michigan's worldwide office furniture suppliers, Steelcase, Herman Miller, and Haworth, are facing significant challenges both as a result of the economic downturn and stiff foreign competition. Information technology is a powerful tool for bringing together the various elements of design, manufacturing, and delivery of furniture, and the U.S. furniture indus-

try is beginning to utilize this tool to better integrate these elements.

□ 1215

All three firms, and others, can realize huge benefits through better linkage with their suppliers, which will lead to reductions in inventory, fewer manufacturing slow downs, lower purchasing costs, and higher quality.

Achieving this level of integration, however, is complex and requires a substantial amount of research regarding what information exchange standards need to be developed and implemented for different supply changes. H.R. 2733 will allow NIST to capitalize on its existing knowledge in this field by authorizing the agency to work with major manufacturing sectors, such as automotive, aerospace, electronics, shipbuilding, and furniture, to reach a consensus on what standards are needed to integrate supply chains, support the development of those standards, and help smaller businesses in those industries integrate fully into their respective supply chain.

Under this legislation, NIST will work with major manufacturing industries to identify current enterprise integration standardization and implementation activities within the United States and abroad and assess the current state of these activities within any given industry.

NIST will also work with individual industries to develop goals and milestones for fully integrating the industry's supply chains. Additionally, NIST will support the development, testing, promulgation, integration, adoption and upgrading of standards related to enterprise integration efforts.

I want to note that this legislation has strong bipartisan and industry support. The gentleman from Michigan (Mr. BARCIA) and I have introduced this legislation, and we have worked together every step of the way as it moved to the House floor. The legislation also unanimously passed the Committee on Science. In addition, industry groups such as the National Association of Manufacturers and the National Coalition for Advanced Manufacturing support the legislation.

If our manufacturing sector is to remain competitive in the global marketplace, and if it is going to continue to provide jobs for American workers, it must undertake the efforts envisioned by this legislation. I urge Members to support the Enterprise Integration Act so we can meet this goal.

Let me also comment to explain this in a very simple fashion, using the words that the gentleman from Minnesota (Mr. GUTKNECHT) used earlier during discussion on the rule, and that is if we do not talk the same language with each other, we cannot communicate and we cannot get the job done. The whole purpose of this bill is to ensure that the computers and the offi-

cials of the companies involved can talk the same language using the Internet, and that through that common language the whole system will work much more efficiently, the manufacturers will benefit through increased profits, the workers of the companies will benefit through higher pay and more jobs. This is a good bill, and I urge all Members to support this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the Enterprise Integration Act of 2002. I rise to commend the gentleman from Michigan (Mr. BARCIA) for his vision in creating this legislation, and I thank the gentleman from New York (Mr. BOEHLERT) and the gentleman from Michigan (Mr. EHLERS) for their efforts in moving this bill through the legislative process.

Manufacturing has been and must continue to be one of the pillars of the American economy. Federal Government support for U.S. small businesses engaged in manufacturing is not a new thing. It dates way back to the early days of our century when Alexander Hamilton led efforts to help United States manufacturers adjust to the industrial revolution. We understood even then, while we are first and foremost a Nation of free enterprise, that free enterprise works best when our manufacturers are equipped to compete on a level playing field and acceptable to American industry.

As H.R. 2733 clearly points out, we have entered a period that could be just as wrenching to today's manufacturers as the industrial revolution was to Alexander Hamilton's contemporaries. Even a decade ago, it was still possible to think of small manufacturers as independent businessmen and women who made products for consumers and other companies. Now the business environment is changing rapidly, with the advent of the Internet and business-to-business software. Companies which cannot function as close partners of other companies at every step of the manufacturing process risk being left behind.

Products are now designed in weeks rather than in months. Products become out of date in months rather than years. Suppliers now deliver what they call "just in time." In this new time frame, all waste time must be squeezed from the manufacturing process. Manufacturers and their suppliers must design products together. They must exchange manufacturing data electronically. The day when virtual manufacturing arrives and it becomes difficult to tell where one company ends and its suppliers begin seems just around the corner. Our job is to ensure we, the government, do not force them offshore

like they have done to the chemical companies in Texas, Louisiana, and Arkansas.

Mr. Chairman, I just comment that both software and standards that are driving this process, advanced software that knows everything happening on a factory floor, are becoming more and more common; and as new Internet software will soon make it possible to transmit three-dimensional data anywhere in the world, this is helpful only if the receiving computer system can understand and use what is sent. Unfortunately, the millions of legacy computer systems are more like an electronic Tower of Babel than a seamless communication system.

This will change. Work on product data exchange international standards that will now solve this problem is ongoing in Europe as well as in the United States. However, the European Union is investing much more money and much more heavily than in the United States. It is funding product data exchange standards, industry by industry, from autos and aerospace to textiles and furniture. If we do not match these efforts, we run the risk of an international standard being promulgated that favors European manufacturers over our own.

I am pleased that the bill is supported by the trade associations for several of these manufacturing sectors, as well as the National Association of Manufacturers and the National Coalition for Advanced Manufacturing.

Mr. Chairman, we cannot afford to let our small businesses fall behind as the world moves toward Internet-based manufacturing. I urge Members to support America's smaller manufacturers, and their larger partners as well, by voting for H.R. 2733.

Mr. Chairman, I reserve the balance of my time.

Mr. EHLERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. CAMP).

Mr. CAMP. Mr. Chairman, I rise in support of the Enterprise Integration Act. This bill authorizes the National Institute of Standards and Technology to promote best practice standards and facilitate understanding between industry and government.

Approximately 90 percent of U.S. manufacturing companies are small and medium-sized businesses. Quick and easy access to information in the supply chain is critical for small businesses to be competitive. Suppliers without the capability to collect and exchange data electronically run the risk of being replaced by other suppliers who can.

The last decade has seen a dramatic shift in the way information and data are exchanged. This is due to the emergence of the Internet and the movement toward electronically integrated supply chains.

Enterprise integration permits a group of manufacturers and suppliers

to operate as a single virtual company, without time delays and data loss or corruption. Manufacturers must be flexible, efficient, and responsive to changes in customer preference.

NIST will work with industry and small business to improve the way they share product and standard information. With over 20 years of experience in data integration, NIST has the experience to accelerate efforts to develop industry standards and integration techniques that are necessary to increase efficiency and lower costs. Connecting enterprise together will streamline the manufacturing process, break down communication barriers, improve knowledge sharing, and connect information systems.

In my home State of Michigan, small businesses are vital to the State economy. Over 45 percent of Michigan small businesses are in the manufacturing sector and enterprise integration is extremely important to ensure that the manufacturing industry in Michigan and around the Nation remain strong.

The investment in enterprise integration is essential for U.S. industry to remain competitive with overseas companies, many of which are already heavily investing in electronic standards development.

I thank the gentleman from Michigan (Mr. BARCIA) for developing this important legislation and the gentleman from Michigan (Mr. EHLERS) of the Committee on Science for bringing this to the floor. I appreciate their hard work on behalf of the small business community, and I urge Members to join me in supporting the Enterprise Integration Act.

Mr. HALL of Texas. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan (Mr. BARCIA), the creator of this legislation.

Mr. BARCIA. Mr. Chairman, I rise in support of H.R. 2733, the Enterprise Integration Act of 2002; and I thank the chairman of the Committee on Science, the gentleman from New York (Mr. BOEHLERT), and ranking member, the gentleman from Texas (Mr. HALL), for recognizing the importance of this bill and taking the steps necessary for this bill to be considered here today. I also want to thank the gentleman from Michigan (Mr. EHLERS), the subcommittee chairman and lead cosponsor, for the gentleman's efforts over the past year. His suggested changes have enhanced the legislation, and his legislative efforts have contributed significantly to the progress we have made on this legislation.

I just want to take a couple of minutes to outline the need and purpose of the Enterprise Integration Act of 2002 and say I appreciate the comments of my colleagues who have spoken before me on the need for this legislation to become law, to not only help small and medium-sized businesses throughout the Midwest, but across the country.

And also to say that as impressive as the growth of Internet companies has been, its impact pales in significance to the impact that the Internet is having on how businesses work together. Changes already under way in the manufacturing sector will permit a manufacturer and its suppliers to function as one virtual company. Companies will be able to exchange information of all types with their suppliers at the speed of light.

This will dramatically shorten design-cycle times and reduce the costs of manufacturing complex products. Information on design flaws will be instantly transmitted from repair shops to manufacturers and their supply chains.

However, to exchange this information, each company's computers have to speak the same language. Sometimes the document can be converted, other times someone has to reenter the information. The problems get much more severe when the information being exchanged is three-dimensional engineering drawings or complex data from the manufacturing process. How companies address this basic question of data exchange will determine how quickly enterprise integration occurs in the United States.

This legislation tasks the National Institute of Standards and Technology to help nine key industries stay competitive in the electronic enterprise age, if those industries want the help. The legislation instructs the director of NIST, through various NIST programs, to support the auto, aerospace, furniture, shipbuilding, textile, apparel, electronics, home building, and major construction industries in the establishment of an industry-led effort on enterprise integration. If an industry has not yet begun an effort, NIST would be asked to help convene companies and trade associations in the industry to develop a strategy for developing and implementing a unified vision for supply chain integration.

If efforts are already under way and the industry wants NIST's help, NIST is to support the ongoing efforts. NIST is asked to look at the suite of standards now in place and to help fill the holes such as compatibility of older standards with emerging Internet standards.

With the continued assistance of the gentleman from New York (Mr. BOEHLERT), the gentleman from Texas (Mr. HALL), and the gentleman from Michigan (Mr. EHLERS), I am hopeful that this legislation will become the catalyst to allow American businesses to successfully compete with our European counterparts.

The bill authorizes appropriations of \$10 million for fiscal year 2003 and \$15 million for fiscal year 2004, and \$20 million in fiscal year 2005.

Enterprise integration has the potential to be the most important innovation in manufacturing since Henry

Ford's assembly line. I urge a "yes" vote on this bill because H.R. 2733 will give U.S. industry the opportunity to be a leader in this innovation.

□ 1230

Mr. EHLERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I regret that my next speaker, the gentlewoman from Maryland, had to leave for the Committee on Government Reform to present an amendment there. I particularly regret it because she is such an outstanding Member of Congress and an extremely conscientious member of the committee and has worked very hard on this bill. But her comments will be entered into the RECORD.

Mr. Chairman, I also want to at this time thank the gentleman from Michigan (Mr. BARCIA) for his work on this bill and his work on the Committee on Science. He has been an outstanding ranking member to work with on this subcommittee and we have accomplished a great deal this year by sharing ideas and working together on bills.

I have shared a legislative career with the gentleman from Michigan (Mr. BARCIA) longer than most people in this Congress have. We served together in the State House of Michigan and the State Senate of Michigan. He preceded me to this Congress by 11 months and 7 days, but we have worked together since then in this Congress.

I am very sorry to see him leave this Congress, even though he will be returning to the State of Michigan and will continue to make his contributions there. But it has been an outstanding partnership on this committee. We have produced some really good work together with a minimum of strife because both of us are interested in results and not in seeking partisan advantage on an issue. I just want to publicly state how much I have enjoyed working with the gentleman, how much I appreciate his work and his person and his ethical standards, and just state my regret that he will be leaving us at the end of this year.

Mr. Chairman, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Chairman, I yield 4 minutes to the gentlewoman from Michigan (Ms. RIVERS), a member of our committee.

Ms. RIVERS. Mr. Chairman, I rise in support of the Enterprise Integration Act of 2002. This bill directs the National Institute of Standards and Technology, NIST, to establish a program to help major manufacturing industries, especially small businesses, standardize and better integrate exchange of data between manufacturers, assemblers and suppliers.

H.R. 2733 is a timely and smart piece of legislation. Small manufacturers are the backbone of our economy. However, they do not operate in a vacuum.

Manufacturers, large and small, work together along a vertical supply chain, making a seamless flow of information critical to their success.

Currently, many small businesses do not have the knowledge or ability to access the type of electronic media large manufacturers use to integrate purchases. In other cases, compatibility issues between different computer networks, software and hardware make it difficult, and sometimes impossible, for the full benefits of virtual manufacturing environments to be realized.

This lack of compatibility in computer hardware, software and their interfaces with machinery makes it difficult for these supply chain firms to supply the goods and services to their traditional clients in an efficient manner, and makes it even harder to develop relationships with new clients.

As we move forward into an international economy, our domestic producers must be able to keep up with suppliers and manufacturers overseas. The European Union is already investing substantially in ensuring that its companies will be able to perform in the emerging virtual business environment, where the Internet will permit companies anywhere in the world to exchange data and function as a single virtual company.

H.R. 2733 addresses this need and establishes an enterprise integration initiative at the National Institute of Standards and Technology. This will allow NIST to work with industry to develop road maps that outline the steps a given industry must take to become more integrated electronically and also help industry develop volunteer consensus standards and agreements on protocols for information exchange which will provide assistance to conduct pilot projects to support the initiative.

The Enterprise Integration Act of 2002 takes the necessary steps to get standards in place to create the first truly virtual companies. When industries become fully integrated electronically, information can flow freely along the entire supply chain without corruption or loss of important data. All types of manufacturers, from automobiles to furniture to shipbuilding, will stand to benefit from the efficiency gains that this legislation will help usher in. I stand in support of this legislation.

Mr. HALL of Texas. I have no further requests for time, and I yield back the balance of my time.

Mr. EHLERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to conclude by saying that this is a very worthwhile bill which, even though I gave all the examples as benefiting Michigan industry, it will benefit the industry of every State in this Union, and, for that matter, every territory. It

is a good thing for us to do, to help create more jobs and to make sure that we are more competitive in the world marketplace. I urge passage of this bill.

Mrs. MORELLA. Mr. Chairman, it is with great pleasure that I rise in support of H.R. 2733, the Enterprise Integration Act of 2002. I want to commend Chairman EHLERS and Ranking Member BARCIA for their bipartisan efforts in bringing this bill before us today.

Enterprise integration is quickly becoming one of the most important business concepts of the electronic age. Developing a seamless exchange of information along a vertical supply chain is essential to maintaining production in our new, fast-paced, just-in-time-manufacturing economy. Companies are increasingly interconnected and must rely on one another in ways never before imagined. Standardization of their means of communication is imperative for their continued success.

Enterprise integration allows a group of businesses to act as a single "virtual" company. Design or management changes are immediately transmitted throughout the supply chain, allowing real time integration into the various components. The result is a leaner and more efficient manufacturing process. Implementation of such a plan has been projected to save the auto industry over \$1 billion/year. Similarly dramatic savings are possible in a host of other manufacturing industries as well. Any industry that relies on a series of companies efficiently working together would benefit.

However, there are significant challenges. Significant numbers of incompatible design, engineering and manufacturing systems abound within a typical supply chain. Various vendors have been selling management systems to individual companies for years without incorporating concern for future interconnectivity. Even new development causes problems. New software packages with greater functionality create difficulties for small companies at the bottom of the supply chain, since they can ill-afford to keep up with the latest technology.

One promising solution is in data exchange standards. The creation of standard protocols for the exchange of information between systems could alleviate the difficulties associated with inter-company communication. NIST has over 20 years experience in this critical area and is well positioned to take the lead for enterprising integration in the United States. NIST has a long track record and a close and trusted relationship among industry leaders. It has obtained this reputation by working with industry and including them in the standards setting process rather than imposing one on them. In addition, NIST already has a number of programs designed at improving the role of small businesses and is aware of their particular needs.

Standards are essential to enterprise integration and traditionally it has been the role of government to foster their development. NIST has all of the expertise and experience required and is the ideal agency to lead this effort. I want to thank the leadership for recognizing the importance of this issue to the small business community and I urge my colleagues to support this bill.

Mr. EHLERS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered by sections as an original bill for the purpose of amendment and each section is considered read.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will designate section 1.

The text of Section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Enterprise Integration Act of 2002".

Mr. EHLERS. Mr. Chairman, I ask unanimous consent that the remainder of the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The text of the remainder of the bill is as follows:

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Over 90 percent of United States companies engaged in manufacturing are small and medium-sized businesses.

(2) Most of these manufacturers produce goods for assemblage into products of large companies.

(3) The emergence of the World Wide Web and the promulgation of international standards for product data exchange greatly accelerated the movement toward electronically integrated supply chains during the last half of the 1990's.

(4) European and Asian countries are investing heavily in electronic enterprise standards development, and in preparing their smaller manufacturers to do business in the new environment. European efforts are well advanced in the aerospace, automotive, and shipbuilding industries and are beginning in other industries including home building, furniture manufacturing, textiles, and apparel. This investment could give overseas companies a major competitive advantage.

(5) The National Institute of Standards and Technology, because of the electronic commerce expertise in its laboratories and quality program, its long history of working cooperatively with manufacturers, and the nationwide reach of its manufacturing extension program, is in a unique position to help United States large and smaller manufacturers alike in their responses to this challenge.

(6) It is, therefore, in the national interest for the National Institute of Standards and Technology to accelerate its efforts in helping industry develop standards and enterprise integration processes that are necessary to increase efficiency and lower costs.

SEC. 3. ENTERPRISE INTEGRATION INITIATIVE.

(a) **ESTABLISHMENT.**—The Director shall establish an initiative for advancing enterprise integration within the United States. In carrying out this section, the Director shall involve, as appropriate, the various units of the National Institute of Standards and Technology, including the National Institute of Standards and Technology laboratories (including the Building

and Fire Research Laboratory), the Manufacturing Extension Partnership program established under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k and 278l), and the Malcolm Baldrige National Quality Program. This initiative shall build upon ongoing efforts of the National Institute of Standards and Technology and of the private sector, shall involve consortia that include government and industry, and shall address the enterprise integration needs of each United States major manufacturing industry at the earliest possible date.

(b) **ASSESSMENT.**—For each major manufacturing industry, the Director may work with industry, trade associations, professional societies, and others as appropriate, to identify enterprise integration standardization and implementation activities underway in the United States and abroad that affect that industry and to assess the current state of enterprise integration within that industry. The Director may assist in the development of roadmaps to permit supply chains within the industry to operate as an integrated electronic enterprise. The roadmaps shall be based on voluntary consensus standards.

(c) **REPORTS.**—Within 180 days after the date of the enactment of this Act, and annually thereafter, the Director shall submit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the National Institute of Standards and Technology's activities under subsection (b).

(d) **AUTHORIZED ACTIVITIES.**—In order to carry out this Act, the Director may work with industry, trade associations, professional societies, and others as appropriate—

(1) to raise awareness in the United States of enterprise integration activities in the United States and abroad, including by the convening of conferences;

(2) on the development of enterprise integration roadmaps;

(3) to support the development, testing, promulgation, integration, adoption, and upgrading of standards related to enterprise integration including application protocols; and

(4) to provide technical assistance and, if necessary, financial support to small and medium-sized businesses that set up pilot projects in enterprise integration.

(e) **MANUFACTURING EXTENSION PROGRAM.**—The Director shall ensure that the Manufacturing Extension Program is prepared to advise small and medium-sized businesses on how to acquire the expertise, equipment, and training necessary to participate fully in supply chains using enterprise integration.

SEC. 4. DEFINITIONS.

For purposes of this Act—

(1) the term "automotive" means land-based engine-powered vehicles including automobiles, trucks, busses, trains, defense vehicles, farm equipment, and motorcycles;

(2) the term "Director" means the Director of the National Institute of Standards and Technology;

(3) the term "enterprise integration" means the electronic linkage of manufacturers, assemblers, suppliers, and customers to enable the electronic exchange of product, manufacturing, and other business data among all partners in a product supply chain, and such term includes related application protocols and other related standards;

(4) the term "major manufacturing industry" includes the aerospace, automotive, electronics, shipbuilding, construction, home building, furniture, textile, and apparel industries and such other industries as the Director designates; and

(5) the term "roadmap" means an assessment of manufacturing interoperability requirements

developed by an industry describing that industry's goals related to enterprise integration, the knowledge and standards including application protocols necessary to achieve those goals, and the necessary steps, timetable, and assignment of responsibilities for acquiring the knowledge and developing the standards and protocols.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director to carry out functions under this Act—

- (1) \$2,000,000 for fiscal year 2002;
- (2) \$10,000,000 for fiscal year 2003;
- (3) \$15,000,000 for fiscal year 2004; and
- (4) \$20,000,000 for fiscal year 2005.

AMENDMENT NO. 1 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Ms. JACKSON-LEE of Texas:

Page 5, line 6, insert "including awareness by businesses that are majority owned by women, minorities, or both," after "in the United States".

Ms. JACKSON-LEE of Texas. As a Member of the House Committee on Science, I remember having the pleasure of joining this committee when I first was elected and I started out by saying science is the work of the 21st century. This legislation epitomizes that thought.

I want to thank the gentleman from Michigan (Mr. BARCIA) for his long-standing leadership on this issue to recognize that it is our job in this Congress to help create jobs and to make a better pathway for those jobs to be created and for the products to be the best product that you can produce here in the United States. This legislation does that. I do thank him for that.

I thank the gentleman from Michigan (Mr. EHLERS) again for his leadership and the bipartisan spirit that this legislation has moved, and the ranking member, the gentleman from Texas (Mr. HALL), and the gentleman from New York (Mr. BOEHLERT), the chairman of the committee, for putting forward H.R. 2733, the Enterprise Integration Act of 2002.

I believe that this country loses when we lose the opportunity to manufacture. We lose the opportunity to have that kind of technology and expertise, because I agree with the chairman of this subcommittee and, of course, the ranking member, that computers are very important in allowing their language to be the same. We speak now in computers. We use computers almost for everything that we can think of. We use it in our consumer life and in our nonbusiness life, but we certainly do use it in our business life, and it is important for computers of all companies, of all size companies, to be able to communicate. That means that the language must be the same, the whole system must be integrated and they must understand each other.

I believe that manufacturers in the United States will benefit, and I have a

particular area in my district where there are small manufacturers and small businesses, and they depend upon producing a product that large manufacturers will buy. They need to have the right language to produce the safest and best product. I believe the workers will benefit because that small company will benefit, and, as well, I believe that we will have a better and more diverse product.

With that, Mr. Chairman, I am now submitting this amendment, as I said, in order to ensure that our women-owned and minority-owned businesses are likewise involved; that they have the same outreach, the same capacity, the same language, the same computer technology.

We said some few years ago, and it seems like it was a long time ago, that we must close the digital divide. The Committee on Science has worked diligently with many members of the Committee on Science to make sure the digital divide is closed and our schools are linked, our small businesses are linked, our communities are linked.

I might say there is work to be done in our rural areas and our urban areas and some of the schools across the Nation, I would say a large number. This is a step in the direction of ensuring that the manufacturing system, large and small, is integrated together. I know the gentleman from Michigan (Mr. BARCIA) has worked very long on this, and again I would like to say this is where Texas and Michigan are working together, because even though we are in different regions, we know that automation, technology and manufacturing speak in one voice and one language.

I would like to make sure that when we talk about these issues, we talk about the richness of the diversity of America and all businesses, small businesses, minority-owned businesses and women-owned businesses, have the ability to access H.R. 2733.

With that, Mr. Chairman, I would ask my colleagues to support this amendment.

Mr. Chairman, from the dawn of the computer age, integrated automation has been the Holy Grail of computing. Achieving full integrated automation remains elusive, despite huge investments in a wide array of technologies that promise integration—from database technologies to single-vendor application suites. The integration challenge is fundamentally twofold: (1) business process assets (programs and documentation) and (2) information assets (databases and files). A complete enterprise integration strategy must encompass both of these critically important asset classes.

The guiding philosophy behind integration at the data layer is that the real currency of the enterprise is its data and that the best path to this data is usually not through the original application. Additionally, the implied business logic in the data and metadata can be easily manipulated directly by applications in the new architecture of the enterprise. This premise is

underscored by the fact that in both application integration and data integration, business logic is transferred and/or rewritten outside the original applications. The challenge is in actually getting to the data. Current business processes are critical to initiatives focused on the improved automation of internal workflow as well as interactions with suppliers, partners and distributors. Reusing the existing application packages is reasonable, because the focus is on improving the delivery mechanism or extending the system-level interfaces of the current processes. Data asset integration is critical to the success of externally focused initiatives that are driven by new business processes. For example, self-service initiatives are driven by the needs of new audiences to access existing information.

Today's U.S. economy depends more than ever on the talents of skilled, high-tech workers. To sustain America's preeminence we must take drastic steps to change the way we develop our technology landscape. The continually evolving nature of every business's application landscape drives the need for easy-to-use automated information integration between application platforms. While the ideal is a single database infrastructure that supports all applications within a business, the evolutionary nature of technology investments makes this an unattainable goal for most.

To address these challenges, companies are devising integration architectures designed to leverage their data assets while insulating themselves from ongoing changes in technology. Unfortunately, there is no single strategy or product that addresses all the diverse integration challenges faced by most enterprises. Therefore, enterprise integration is not a one-size-fits-all problem, and there is no one-size-fits-all solution. The businesses need that drive to search for integration solutions that demand a mix of technologies. Understanding the dynamics of application-driven and data-driven integration solutions empowers technology to implement the right solution for the problem at hand.

By not tapping into the potential of all our groups, we are losing ground by not tapping into the potential of all our groups. We must take some bold steps today, for the rewards to our country and our citizens will be great. Many minority people feel it's an impossible field to get into because they have had little or no knowledge about career choices in the field.

Changes are sweeping our computer-intertwined real lives in many different directions and our society is being further fragmented, not only by levels of education, financial status, and ethnic background, but also by accessibility to and knowledge of the world of the artificial. The world of interactions with computers has extended from programming to dialogs and navigation in virtual and simulated worlds of information that will further divide our children and adults into "haves and have-nots." The underrepresented minority population in the United States, while increasing in numbers, is decreasing in numbers of people entering the computer field at a time when the bounty of new opportunities seems to be rising without end in sight. Large segments of the population, on the basis of ethnicity and gender, are not participating in proportional num-

bers in supplying the information technology needs of the nation.

The lack of diversity of science, engineering and technology education and careers is nothing new. Stereotypes based on race, ethnicity, gender, and disability have long discouraged inquisitive minds whose bodies do not match the public image. This is why I have proposed these amendments, I believe that women and minorities should be included in this technology revolution. They should not be left behind.

I urge support of the amendments to H.R. 2733.

Mr. EHLERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is a pleasure to rise and indicate my willingness to accept this amendment, just as we did in the previous bill.

Mr. Chairman, I have worked with the gentlewoman from Texas on many issues relating to this. I am very familiar with NIST and their work, and, I suspect, in fact, I believe it is correct to say that they are as color-blind and gender-blind as anyone I have known, largely because on issues such as this they are working primarily on the computer language rather than on other issues.

But, nevertheless, given the past history of our Nation and of some business practices, it never hurts to add the language that the gentlewoman from Texas has included in her amendment, and it certainly enhances the bill, does not detract from it, and I am very pleased to accept this amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. EHLERS. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me thank the gentleman very much as well, because we have worked on the Committee on Science for a number of years and I believe he has consistently joined in on issues dealing with outreach to minorities and women. I thank the gentleman for accepting this particular amendment that adds to this very excellent bill on this issue.

Mr. HALL of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is a good amendment, and I want to thank the gentlewoman from Houston, Texas. It is an upgrading amendment. It is in the area of a housekeeping amendment, but it is much more than that.

This amendment actually accentuates awareness, delineates the requirement that all sectors are addressed. The gentlewoman included all businesses, including women and minorities. It is a good amendment. It certainly helps to close the digital divide, and I support the amendment and ask for its passage.

Mr. BARCIA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I simply want to thank the gentlewoman from Texas for her amendment, which strengthens the bill and sends the right signal that we all recognize here in Congress and across the country that the major growth of small- and medium-sized businesses in this country is at the behest of women entrepreneurs, as well as minority entrepreneurs. Certainly it is the intent of this legislation to include all of those risk-takers who create jobs and create growth in our economy. Obviously I think the bill is a better bill with the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE). I am fully supportive of the amendment.

Mr. Chairman, I also want to thank the gentleman from Michigan (Chairman EHLERS) for his kind remarks and say that I have enjoyed serving on our subcommittee thoroughly with each and every member of that subcommittee who worked so diligently and in a bipartisan fashion each and every week throughout the year we are in session to produce a great quality of legislation and measures that will enhance competitiveness for our domestic business community, as well as strengthen science in business and our environmental regulations.

I am proud as a member of that subcommittee to say that we always approached these issues with a bipartisan approach, and I am very grateful to the chairman of the subcommittee as well as the members of the subcommittee and the full committee, along with the ranking member, the gentleman from Texas (Mr. HALL), and the gentleman from New York (Chairman BOEHLERT), for moving this legislation so expeditiously.

□ 1245

It will help, and I am grateful for their support.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE). The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Ms. JACKSON-LEE of Texas:

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 2: Page 5, after line 25, insert the following new subsection:

(f) WOMEN AND MINORITY AWARENESS STUDIES.—

(1) BASELINE STUDY.—Not later than 1 year after the date of the enactment of this Act, the Director shall transmit to the Congress a report describing the extent of awareness of, and participation in, enterprise integration development activities by businesses that are majority owned by women, minorities, or both.

(2) PROGRAM EVALUATION.—Not later than 3 years after the date of the enactment of this Act, the Director shall transmit to the Congress a report evaluating the extent to which activities under this section, especially under subsection (d)(1), have increased the awareness of, and participation in, enterprise integration development activities by businesses that are majority owned by women, minorities, or both.

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me frame my interest in this amendment, and that is that I believe to sustain America's preeminence we must take drastic steps to change the way we develop our technology landscape. The continually evolving nature of every business's application landscape drives the need for easy-to-use automated integration between application platforms.

This is an excellent legislative initiative that we are now discussing. And I wanted to make sure that as we implemented this legislation, I encourage my colleagues to vote enthusiastically for H.R. 2733, that we would put in place a women-and-minority awareness study to ensure that we are reaching out to women-owned businesses as we do to all businesses and to minority businesses all over this country.

But I have had the opportunity to discuss with the distinguished ranking member of the subcommittee, the gentleman from Michigan (Mr. BARCIA), and I am very pleased with both the gentleman from Michigan (Mr. EHLERS) and his commitment to this issue, and I would like to work with them with the idea of working this legislation through its process as it works its will to ensure that these aspects of the legislation are included, and we will work together on that. And in that vein, Mr. Chairman, I am going to ask unanimous consent to withdraw this amendment.

Mr. BARCIA. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Michigan.

Mr. BARCIA. I would like to thank the gentlewoman for withdrawing this amendment, but also pledge my support in work with her and other members of the subcommittee and Chairman EHLERS, as well as those officials at NIST, to accomplish the goals of this amendment, and I appreciate again the intent of what she is trying to accomplish. It certainly will enhance the mission that we are attempting to achieve with this bill, and I want to thank the gentlewoman for the amendment which was just adopted which strengthens the bill, but also agreeing today to work further on this issue as the process moves forward.

Ms. JACKSON-LEE of Texas. I thank very much the distinguished ranking member. We are going to miss him very much as he goes on to other great opportunities in his great State, and we appreciate very much his leadership on this issue.

Mr. EHLERS. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Michigan.

Mr. EHLERS. I thank the gentlewoman for yielding, and I thank her for offering the amendment that once again raises an issue that deserves to be raised. But I also appreciate her withdrawing this because it would be inappropriate in this bill at this time simply because it would likely detract from the central goal and slow it down, and it is very important to get this into action soon. But once again, this is something we would pursue down the line, I am sure, if there is a problem that has to be followed. So I appreciate her offering it, and I appreciate her willingness to withdraw it at this time.

Ms. JACKSON-LEE of Texas. I look forward to working with the gentleman from Michigan on this.

Mr. Chairman, with the acknowledgment of the great work of our respective ranking member, the gentleman from Texas (Mr. HALL), and the gentleman from New York (Chairman BOEHLERT) and the gentleman from Michigan (Mr. EHLERS) and the gentleman from Michigan (Mr. BARCIA) on this matter, I look forward to working with them on this. More importantly, I am delighted that this legislation will bear the gentleman's name and so many lives will be improved by this legislation. Mr. Chairman, with that I will work on this matter with my colleagues.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substituted, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HASTINGS of Washington) having assumed the chair, Mr. JEFF MILLER of Florida, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2733) to authorize the National Institute of Standards and Technology to work with major manufacturing industries on an initiative of standards development and implementation for electronic enterprise integration, pursuant to House Resolution 474, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute

adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. EHLERS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair announces that this vote will be followed by a 5-minute vote on the passage of H.R. 2486.

The vote was taken by electronic device, and there were—yeas 397, nays 22, not voting 15, as follows:

[Roll No. 293]

YEAS—397

Abercrombie	Castle	Foley
Ackerman	Chabot	Forbes
Aderholt	Chambliss	Ford
Allen	Clay	Fossella
Andrews	Clayton	Frank
Armey	Clement	Frelinghuysen
Baca	Clyburn	Frost
Bachus	Combust	Galleghy
Baird	Condit	Ganske
Baker	Conyers	Gekas
Baldacci	Cooksey	Gephardt
Baldwin	Costello	Gibbons
Ballenger	Cox	Gilchrest
Barcia	Coyne	Gillmor
Barr	Cramer	Gilman
Bartlett	Crane	Gonzalez
Barton	Crenshaw	Goode
Bass	Crowley	Gordon
Bentsen	Cummings	Goss
Bereuter	Cunningham	Graham
Berkley	Davis (CA)	Granger
Berman	Davis (FL)	Graves
Berry	Davis (IL)	Green (TX)
Biggert	Davis, Jo Ann	Green (WI)
Bilirakis	Davis, Tom	Greenwood
Bishop	Deal	Grucci
Blumenauer	DeFazio	Gutierrez
Blunt	DeGette	Gutknecht
Boehlert	Delahunt	Hall (OH)
Boehner	DeLauro	Hall (TX)
Bonilla	DeLay	Hansen
Bono	DeMint	Harman
Boozman	Deutsch	Hart
Borski	Diaz-Balart	Hastings (WA)
Boswell	Dicks	Hayes
Boucher	Dingell	Hayworth
Boyd	Doggett	Herger
Brady (PA)	Dooley	Hill
Brady (TX)	Doolittle	Hilleary
Brown (FL)	Doyle	Hilliard
Brown (OH)	Dreier	Hinchey
Brown (SC)	Edwards	Hinojosa
Bryant	Ehlers	Hobson
Burr	Ehrlich	Hoeffel
Buyer	Emerson	Hoekstra
Callahan	Engel	Holden
Calvert	English	Holt
Camp	Eshoo	Honda
Cannon	Etheridge	Hooley
Cantor	Evans	Horn
Capito	Everett	Houghton
Capps	Farr	Hoyer
Capuano	Fattah	Hulshof
Cardin	Ferguson	Hunter
Carson (IN)	Filner	Hyde
Carson (OK)	Fletcher	Inslee

Isakson	Mica	Scott
Israel	Millender-Issa	Serrano
Issa	McDonald	Sessions
Istook	Miller, Dan	Shadegg
Jackson (IL)	Miller, Gary	Shaw
Jackson-Lee	Miller, George	Shays
(TX)	Mink	Sherman
Jefferson	Mollohan	Sherwood
Jenkins	Moore	Shimkus
John	Moran (KS)	Shows
Johnson (CT)	Moran (VA)	Shuster
Johnson (IL)	Morella	Simmons
Johnson, E. B.	Murtha	Simpson
Johnson, Sam	Myrick	Skeen
Jones (NC)	Nadler	Skelton
Jones (OH)	Napolitano	Slaughter
Kanjorski	Neal	Smith (MI)
Kaptur	Nethercutt	Smith (NJ)
Keller	Ney	Smith (TX)
Kelly	Northup	Smith (WA)
Kennedy (MN)	Norwood	Snyder
Kennedy (RI)	Nussle	Solis
Kildee	Oberstar	Souder
Kilpatrick	Obey	Spratt
Kind (WI)	Oliver	Stark
King (NY)	Ortiz	Stenholm
Kingston	Osborne	Strickland
Kirk	Ose	Stump
Klecicka	Owens	Stupak
Knollenberg	Oxley	Sullivan
Kolbe	Pallone	Sununu
Kucinich	Pascarell	Sweeney
LaFalce	Pastor	Tanner
LaHood	Payne	Tauscher
Lampson	Pelosi	Tauzin
Langevin	Peterson (MN)	Taylor (MS)
Lantos	Peterson (PA)	Taylor (NC)
Larsen (WA)	Petri	Terry
Larson (CT)	Phelps	Thomas
Latham	Pickering	Thompson (CA)
LaTourette	Pitts	Thompson (MS)
Leach	Platts	Thornberry
Lee	Pombo	Thune
Levin	Pomeroy	Thurman
Lewis (CA)	Portman	Tiahrt
Lewis (KY)	Price (NC)	Tiberi
Linder	Pryce (OH)	Tierney
Lipinski	Putnam	Towns
LoBiondo	Quinn	Turner
Lofgren	Radanovich	Udall (CO)
Lowey	Rahall	Udall (NM)
Lucas (KY)	Ramstad	Upton
Lucas (OK)	Rangel	Visclosky
Luther	Regula	Vitter
Lynch	Rehberg	Walden
Maloney (CT)	Reynolds	Walsh
Maloney (NY)	Riley	Wamp
Manzullo	Rivers	Waters
Markey	Rodriguez	Watson (CA)
Mascara	Roemer	Watt (NC)
Matheson	Rogers (KY)	Watts (OK)
Matsui	Rogers (MI)	Waxman
McCarthy (MO)	Ros-Lehtinen	Weiner
McCarthy (NY)	Ross	Weldon (FL)
McColum	Rothman	Weldon (PA)
McCrery	Roybal-Allard	Weller
McDermott	Rush	Wexler
McGovern	Ryan (WI)	Whitfield
McHugh	Sabo	Wicker
McInnis	Sanchez	Wilson (NM)
McIntyre	Sanders	Wilson (SC)
McKeon	Sandlin	Wolf
McKinney	Sawyer	Woolsey
McNulty	Saxton	Wu
Meek (FL)	Schakowsky	Wynn
Meeks (NY)	Schiff	Young (AK)
Menendez	Schrock	Young (FL)

NAYS—22

Akin	Hostettler	Ryun (KS)
Burton	Kerns	Schaffer
Coble	Miller, Jeff	Sensenbrenner
Cubin	Otter	Stearns
Culberson	Paul	Tancredo
Duncan	Pence	Toomey
Flake	Rohrabacher	
Hefley	Royce	

NOT VOTING—15

Barrett	Dunn	Reyes
Becerra	Goodlatte	Roukema
Blagojevich	Hastings (FL)	Trafigant
Bonior	Lewis (GA)	Velázquez
Collins	Meehan	Watkins (OK)

□ 1314

Messrs. DUNCAN, SCHAFFER, HEFLEY, AKIN, BURTON, and ROHR-ABACHER and Mrs. CUBIN changed their vote from “yea” to “nay.”

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

INLAND FORECASTING IMPROVEMENT AND WARNING SYSTEM DEVELOPMENT ACT OF 2002

The SPEAKER pro tempore (Mr. SHIMKUS). The pending business is the question of the passage of the bill, H.R. 2486, on which further proceedings were postponed earlier today.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 413, nays 3, not voting 18, as follows:

[Roll No. 294]

YEAS—413

Abercrombie	Carson (OK)	Ferguson
Ackerman	Castle	Filner
Aderholt	Chabot	Fletcher
Akin	Chambliss	Foley
Allen	Clay	Forbes
Andrews	Clayton	Ford
Armey	Clement	Fossella
Baca	Clyburn	Frank
Bachus	Coble	Frelinghuysen
Baird	Combust	Frost
Baker	Condit	Galleghy
Baldwin	Conyers	Ganske
Ballenger	Cooksey	Gekas
Barcia	Costello	Gephardt
Barr	Coyne	Gibbons
Bartlett	Cramer	Gilchrest
Barton	Crane	Gillmor
Bass	Crenshaw	Gilman
Becerra	Crowley	Gonzalez
Bentsen	Cubin	Goode
Bereuter	Culberson	Gordon
Berkley	Cummings	Goss
Berman	Cunningham	Graham
Berry	Davis (CA)	Granger
Biggert	Davis (FL)	Graves
Bilirakis	Davis (IL)	Green (TX)
Bishop	Davis, Jo Ann	Green (WI)
Blumenauer	Davis, Tom	Greenwood
Blunt	Deal	Grucci
Boehlert	DeFazio	Gutierrez
Boehner	DeGette	Gutknecht
Bonilla	Delahunt	Hall (OH)
Bono	DeLauro	Hall (TX)
Boozman	DeLay	Hansen
Borski	DeMint	Harman
Boswell	Deutsch	Hart
Boucher	Diaz-Balart	Hastings (WA)
Boyd	Dicks	Hayes
Brady (PA)	Dingell	Hayworth
Brady (TX)	Doggett	Hefley
Brown (FL)	Dooley	Herger
Brown (OH)	Doolittle	Hill
Brown (SC)	Doyle	Hilleary
Bryant	Dreier	Hilliard
Burr	Duncan	Hinchey
Buyer	Edwards	Hinojosa
Callahan	Ehlers	Hobson
Calvert	Ehrlich	Hoeffel
Camp	Emerson	Hoekstra
Cannon	Engel	Holden
Cantor	English	Holt
Capito	Eshoo	Honda
Capps	Etheridge	Hooley
Capuano	Everett	Horn
Cardin	Farr	Hostettler
Carson (IN)	Fattah	Houghton

Hoyer	Millender-	Scott
Hulshof	McDonald	Serrano
Hunter	Miller, Dan	Sessions
Hyde	Miller, Gary	Shadegg
Inslee	Miller, Jeff	Shaw
Isakson	Mink	Shays
Israel	Mollohan	Sherman
Issa	Moore	Sherwood
Istook	Moran (KS)	Shimkus
Jackson (IL)	Moran (VA)	Shows
Jackson-Lee	Morella	Shuster
(TX)	Murtha	Simmons
Jefferson	Myrick	Simpson
Jenkins	Nadler	Skeen
John	Napolitano	Skelton
Johnson (CT)	Neal	Slaughter
Johnson (IL)	Nethercutt	Smith (MI)
Johnson, E. B.	Ney	Smith (NJ)
Johnson, Sam	Northup	Smith (TX)
Jones (NC)	Norwood	Smith (WA)
Jones (OH)	Nussle	Snyder
Kanjorski	Oberstar	Solis
Kaptur	Obey	Souder
Keller	Oliver	Spratt
Kelly	Ortiz	Stark
Kennedy (MN)	Ose	Stearns
Kennedy (RI)	Otter	Stenholm
Kildee	Owens	Strickland
Kilpatrick	Oxley	Stump
Kind (WI)	Pallone	Stupak
King (NY)	Pascarella	Sullivan
Kingston	Pastor	Sununu
Kirk	Paul	Sweeney
Klecza	Payne	Tancredo
Knollenberg	Pelosi	Tanner
Kolbe	Pence	Tauscher
Kucinich	Peterson (MN)	Tauzin
LaFalce	Peterson (PA)	Taylor (MS)
LaHood	Petri	Taylor (NC)
Lampson	Phelps	Terry
Langevin	Pickering	Thomas
Lantos	Pitts	Thompson (CA)
Larsen (WA)	Platts	Thompson (MS)
Larson (CT)	Pombo	Thornberry
Latham	Pomeroy	Thune
LaTourette	Portman	Thurman
Leach	Price (NC)	Tiahrt
Lee	Pryce (OH)	Tiberi
Levin	Putnam	Tierney
Lewis (CA)	Quinn	Toomey
Lewis (KY)	Radanovich	Towns
Linder	Rahall	Turner
Lipinski	Ramstad	Udall (CO)
LoBiondo	Rangel	Udall (NM)
Lofgren	Regula	Upton
Lucas (KY)	Rehberg	Velázquez
Lucas (OK)	Reyes	Visclosky
Luther	Reynolds	Vitter
Lynch	Riley	Walden
Maloney (CT)	Rivers	Walsh
Maloney (NY)	Rodriguez	Wamp
Manzullo	Roemer	Waters
Markey	Rogers (KY)	Watkins (OK)
Mascara	Rogers (MI)	Watson (CA)
Matheson	Rohrabacher	Watt (NC)
Matsui	Ros-Lehtinen	Watts (OK)
McCarthy (MO)	Ross	Waxman
McCarthy (NY)	Rothman	Weiner
McCollum	Roybal-Allard	Weldon (FL)
McCrery	Royce	Weldon (PA)
McDermott	Rush	Weller
McGovern	Ryan (WI)	Wexler
McHugh	Ryun (KS)	Whitfield
McInnis	Sabo	Wicker
McIntyre	Sanchez	Wilson (NM)
McKeon	Sanders	Wilson (SC)
McKinney	Sandlin	Wolf
McNulty	Sawyer	Woolsey
Meek (FL)	Saxton	Wu
Meeks (NY)	Schaffer	Wynn
Menendez	Schakowsky	Young (AK)
Mica	Schiff	Young (FL)
	Schrock	

NAYS—3

Flake	Kerns	Sensenbrenner
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NOT VOTING—18

Baldacci	Cox	Lowey
Barrett	Dunn	Meehan
Blagojevich	Evans	Miller, George
Bonior	Goodlatte	Osborne
Burton	Hastings (FL)	Roukema
Collins	Lewis (GA)	Traficant

□ 1322

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to authorize the National Oceanic and Atmospheric Administration, through the United States Weather Research Program, to conduct research and development, training, and outreach activities relating to inland flood forecasting improvement, and for other purposes."

A motion to reconsider was laid on the table.

Stated for:

Mr. BALDACCI. Mr. Speaker, on the last recorded vote, I was unable to get to the recorded vote. I would have voted "yea" if I had an opportunity to do that.

PERSONAL EXPLANATION

Ms. DUNN. Mr. Speaker, on Thursday, July 11, 2002, I was unable to be present for roll-call votes No. 293 and No. 294.

Had I been present, I would have voted "yea" on rollcall No. 293, in favor of H.R. 2733, the Enterprise Integration Act of 2002, and "yea" on rollcall No. 294, in favor of H.R. 2486, the Tropical Cyclone Inland Forecasting Improvement and Warning System Development Act of 2002.

COMMUNICATION FROM THE HON. EDOLPHUS TOWNS, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable EDOLPHUS TOWNS, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 1, 2002.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House, that I have been served with a grand jury subpoena for documents issued by the U.S. District Court for the Eastern District of New York.

After consultation with the Office of General Counsel, I have determined that it is consistent with the precedents and privileges of the House to comply with the subpoena.

Sincerely,

EDOLPHUS TOWNS,
Member of Congress.

COMMUNICATION FROM WASHINGTON OPERATIONS DIRECTOR, OFFICE OF HON. TOM LATHAM, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from James D. Carstensen, Washington Operations Director, Office of the Honorable TOM LATHAM, Member of Congress:

CONGRESS OF THE UNITED STATES,
Washington, DC, July 10, 2002.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House, that I have been served with a grand jury subpoena for testimony issued by the Superior Court of the District of Columbia.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

JAMES D. CARSTENSEN,
Washington Operations
Director, Office of Congressman
Tom Latham (IA-05).

GENERAL LEAVE

Mrs. BIGGERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2733.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

RECONSTRUCTIVE SURGERY ACT OF 2002

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ROSS) is recognized for 5 minutes.

Mr. ROSS. Mr. Speaker, I rise this afternoon to share with my colleagues the heartbreaking story of a constituent of mine. After hearing of the challenges she has faced and still faces today in order to try and live a normal life, I introduced the Reconstructive Surgery Act of 2002, H.R. 4959.

This bill requires health insurance plans to cover medically necessary reconstructive surgery for congenital defects, developmental abnormalities, infection, trauma or disease.

As an infant, Wendelyn Osborne was diagnosed with a rare, congenital bone disease, craniometaphysial dysplasia, or CMD, which involves an overgrowth of facial bone that never deteriorates.

At the time of her diagnosis, she was the sixteenth CMD case in the world in medical history. Doctors told her parents that she would not live past the age of 10. After many surgeries, starting at the age of 6, Wendelyn has lived to be 36 years old. But she is not free of the harmful effects of her disease. Her facial muscles are paralyzed. Her optic

nerve is damaged, and she must wear a hearing aid in order to hear properly. The severity of her abnormalities requires further orthognathic surgeries so she may continue to be able to eat properly. Yet, Mrs. Osborne's insurance company will not cover this procedure because it is considered cosmetic.

Mr. Speaker, I am pleased to have my colleague from Arkansas (Mr. BERRY) as a cosponsor on this legislation with me. I yield to the gentleman.

Mr. BERRY. Mr. Speaker, I want to thank my colleague from the Fourth District of Arkansas (Mr. ROSS) for his leadership on this matter. Clearly, the bill that he has introduced and I cosponsored, H.R. 4959, that requires health insurance to cover medically necessary reconstructive surgery for congenital defects, developmental abnormalities, trauma or disease is the right thing to do.

□ 1330

People that are so unfortunate that they would be faced with a situation like this and desperately need insurance coverage should be respected by the insurance companies that choose to take advantage of a situation and refuse to pay for the care that these people need.

My colleague from the 4th District has already referred to Ms. Osborne, an Arkansas resident who was diagnosed with a rare, life-threatening congenital bone disease as a child. This should not be something that the insurance companies are allowed to take advantage of. It is time that this House does the right thing. It is time that we make it possible for Ms. Osborne and others that have been unfortunate enough to need this kind of treatment, that they will be allowed and that they will have the opportunity and that the insurance companies will provide the necessary coverage for their treatment.

Mr. ROSS. Mr. Speaker, I appreciate the gentleman from Arkansas (Mr. BERRY) for joining me here today in our fight in trying to correct the wrong by the big insurance companies.

They covered the surgeries that Wendelyn needed until she was about 18, maybe 21. Then it is like they are saying she was not supposed to live this long so we will not cover her operations any more. That is wrong.

The Reconstructive Surgery Act that we have written defines medically necessary reconstructive surgery as surgery performed to correct or repair abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors or disease. The surgery must be designed to improve functions or to give the patient a normal appearance to the extent possible in the judgment of the physician performing the surgery.

It specifically excludes cosmetic procedures defined as surgery that is per-

formed to alter or reshape the normal structures of the body in order to improve appearance.

This bill draws a line between improving looks and improving life, oftentimes, as in Wendelyn's case, perhaps saving a life. Several States have a law requiring insurance coverage of medically necessary reconstructive surgery up to the age of 18. The Reconstructive Surgery Act is an effort to build upon what the States have started as well as address the apparent arbitrary decision-making of some big insurance plans that refuse coverage and question physicians' judgments when patients like Wendelyn Osborne try to get coverage under the plan for which they pay premiums every month.

The Reconstructive Surgery Act is endorsed by the National Organization for Rare Disorders, National Foundation for Facial Reconstruction, Easter Seals and the March of Dimes.

I am going to fight to move this legislation forward, to help people like Wendelyn Osborne get the reconstructive surgeries that they must have to stay alive and to live as normal and healthy a life as possible, and I urge my colleagues to join me in this fight.

According to one Harvard researcher, there have been CMD sufferers in their 50's and 60's who continue to need surgery to prevent conditions such as this, procedures that will allow them to continue eating and breathing, yet orthognathic surgery is considered cosmetic.

Many of you remember the movie "Mask" in which Cher played the mother of a boy named Rocky who died from a disease similar to CMD. That movie was based on a true story. Rocky died because his mother couldn't afford the life-saving reconstructive surgeries he needed.

Ms. Osborne has never met another person who suffers from CMD, but she has met countless people who struggle with trying to get the reconstructive surgeries they need. People born with cleft lips and palates, with missing pectoral muscles that cause chest deformities, even burn victims—all cases where reconstructive surgery is considered merely cosmetic.

For these people, falling into the wrong category means denial of coverage for their medical needs.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4600

Mr. FATTAH. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 4600.

The SPEAKER pro tempore (Mr. SHIMKUS). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

SECURITIES AND EXCHANGE COMMISSION

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, the President gave a stunning speech the other day and talked about corporate responsibility. This is the new face of corporate responsibility, the chief law enforcement officer of the Securities and Exchange Commission. His name is Harvey Pitt. He is a former lobbyist for securities firms and accounting firms, and as a lobbyist, he opposed all reforms and tightening of regulations.

He was not there at the President's speech and some would say, well, the President's trying to kind of hide this guy because he is an embarrassment. Well, no, despite the fact that some of us think there is a crisis in corporate ethics and the meltdown and the bankruptcies and the pension losses and the tanking of the stock market and all the basic outright thievery that was going on, he was at the beach on vacation, but it really does not matter much because Harvey Pitt is so conflicted he cannot vote as the chief law enforcement officer of the Securities and Exchange Commission.

They were recently undertaking an enforcement action against an accounting firm. There were three commissioners present. They heard the evidence of the staff. It was compelling. They wanted to prosecute that firm, but Mr. Pitt had to say, oh, excuse me, they are my former clients, I represent them, I cannot vote. The other woman commissioner there said, gee, actually, I represented them, too; I cannot vote. So there was one commissioner left who could vote, a Clinton appointee, who did not have a conflict of interest. He voted to prosecute them, but then they appealed to an administrative law judge and said, hey, you cannot convict us with one vote, and in fact, the administrative law judge said you are right.

So here we have the new push for corporate accountability and responsibility, and we have a Securities and Exchange Commission that cannot prosecute anybody because two of the three sitting members named by President Bush are so conflicted because these are their former clients and their future clients when they leave their so-called public service they cannot vote.

So this is wonderful. We can talk about getting tough, but nobody is going to be prosecuted, fined or go to jail. It is a very interesting sort of turn of events.

Mr. Pitt has had and said some pretty interesting things. Here is his philosophy as the chief law enforcement officer of the Securities and Exchange Commission. In general, Mr. Pitt said in November, My preferred approach to any regulatory issue is one in which the government's participation is as limited as reasonably possible.

Well, he is at the beach and he cannot vote so I guess he is following his own provisos here.

Then we have his other famous statement when he was first sworn in. He went up to his buddies on Wall Street, had lunch, had a great time, lot of champagne and stuff. They are celebrating his becoming their regulator because they knew they would not have to worry much, and he said and promised, "a kinder and gentler place for accountants." The crooks could come to Harvey, share lunch, and it would be a kinder and gentler SEC.

If my colleagues saw the President's speech, there was this wonderful back-drop. Corporate responsibility, it said time and time and time again so one would not miss the message, even though, of course, the President was not advocating anything new or anything stringent or anything that might really jeopardize any of his corporate friends and contributors. Actually, what most people in the public do not know is actually that was the punishment. There was already very stiff punishment levied on those Wall Street tycoons. They had had to write 1,000 times on the wall "corporate responsibility" before the President's speech. That was their punishment, and that is about the only punishment they are going to get out of this administration.

RESTRICTION ON OCEAN DUMPING OFF NEW JERSEY COAST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I just wanted to mention that I just introduced H.R. 5092 along with my cosponsors, the gentleman from New Jersey (Mr. ANDREWS) and the gentleman from New Jersey (Mr. HOLT), and the purpose of this legislation is to put in place as a matter of law a restriction on ocean dumping off the coast of New Jersey, actually at a site about 6 miles off the coast of my hometown in the 6th Congressional District, where several years ago myself and the two senators from New Jersey, Mr. TORRICELLI played a major role in this as well, worked out an agreement with the Federal Environmental Protection Agency that ocean dumping of toxic dredge materials would cease being dumped at this site called the mud dump site off the Jersey shore and that henceforth the site would be closed and the only thing that could be placed there would be clean fill material in order to remediate the site and serve as a cap for the toxic dredge materials that had been dumped there for so many years.

I was very disappointed last week when the EPA announced they were going to allow dredging once again of toxic materials from the Earl Naval Weapons Depot in my district in Leonardo, New Jersey, to be dumped at this site, contrary to this agreement that had been worked out. The agree-

ment specifically said that nothing could be used as remediation material and dumped at the mud dump site that exceeded what was called a standard or guideline of 113 parts per billion in terms of PCBs.

We know that PCBs are very damaging to human health, particularly when they get into the marine life, and they ultimately pass up through the food chain, and we had all agreed pursuant to this understanding several years ago that this standard or guideline of 113 would be the standard for any kind of materials that would have to be placed at the mud dump site.

Unfortunately, last week the EPA decided to give a waiver so that the Navy at Earl could dump materials that exceeded the 113 at the site, and yesterday, pursuant to a court action that was taken by U.S. Gypsum Company, the Federal court in New York ruled that because the EPA had not properly promulgated the 113 standard, that it could not be applied any more for ocean dumping, and now there is some concern about whether U.S. Gypsum and other companies would be able to dump again off the coast of New Jersey.

So this legislation is necessary in order to guarantee that ocean dumping does not continue. Myself, the two Senators from New Jersey and other Members of Congress have called upon the administrator of the EPA, Mrs. Whitman, our former governor, to put the 113 standard into regulation as a matter of law, and hopefully she will do that, but at the same time, in order to back that up, I think it is necessary for us to introduce legislation in the House that would accomplish the same goal, and that is what this legislation would attempt to do.

Mr. Speaker, I do not have to tell my colleagues how important it is that we not continue to dump any kind of toxic material off the coast of New Jersey or anywhere else in the country. New Jersey's number one industry is tourism, and particularly now in July, after the July 4 holiday, there are so many people using the beaches, coming down to the Jersey Shore, both from New Jersey as well as New York and the State of Pennsylvania and even other States. If people do not feel or do not have the guarantee that the ocean water will be clean, obviously they are not going to swim and they should not swim.

The issue of ocean dumping does not just affect bathers. It affects marine life. It affects people who eat fish. It affects so many things along the coast of New Jersey and around the country, and I think it really is imperative that we stick to this standard of 113 parts per billion to make sure that human health is safeguarded and that we do not go back into the trend that we had so many years ago of continuing to dump everything in the ocean with the theory that somehow nobody would

know about it and it would not make a difference.

It does make a difference. We have to have clean water, and this legislation hopefully will move quickly.

It is being sponsored and introduced in the Senate today by Senators Torricelli and Corzine from New Jersey, and hopefully we will get a lot more support for it and we can move it quickly so that it becomes law.

REPORT ON H.R. 5093, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

Mr. KOLBE, from the Committee on Appropriations, submitted a privileged report (Rept. No. 107-564) on the bill (H.R. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore. Pursuant to clause 1 of rule XXI, all points of order are reserved on the bill.

RESOLUTION OF CONFLICT BETWEEN ETHIOPIA AND ERITREA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MEEKS) is recognized for 5 minutes.

Mr. MEEKS of New York. Mr. Speaker, today I would like to discuss an important issue in the Horn of Africa, a final and binding resolution of the conflict between Ethiopia and Eritrea.

The Horn of Africa is one of the poorest regions in the world but also one of the most strategic. It is a region plagued by years of war and conflict, some of which were caused by colonial legacies, the Cold War, and border disputes, but now with the help of the international community, the nations of Eritrea and Ethiopia sit at the cusp of permanently breaking a cycle of conflict.

One of my top priorities when I came to this House was to help end conflict on the continent of Africa by serving as a member on the Subcommittee on Africa. There have been many wars in Africa. Some were just wars where African peoples fought to overthrow the yokes of colonialism and systems of racism. However, other wars in Africa fall into the category of unjust or senseless wars.

□ 1345

In the category of senseless wars in Africa, very few would top the 2-year border war between Eritrea and Ethiopia, two former brothers-in-arms who once fought together for over 30 years against dictatorships and for the right to self-determination.

The conflict that erupted in 1998 between the two countries was the result

of a dispute over land in a barren, roadless area of shrubs and desert, and subsequent claims of military incursions. Two years of fighting left tens of thousands of people dead and more than a million refugees on both sides of the border displaced. What made this war even more destructive was that these nations, two of the poorest nations in the world and dependent upon foreign aid, were able to spend \$3 billion to purchase weapons to wage this war.

Mr. Speaker, during the war, I always kept my doors open to officials from both nations. The only side I ever chose during the conflict was to stand on the side of all Ethiopians and all Eritreans who were committed to peace and who opposed the voices of militarism on either side.

On December 12, 2000, the two countries signed a United Nations-backed peace treaty, resulting in the end of hostilities and the creation of an independent commission to study and demarcate the disputed border area. According to the treaty, the border demarcation by the Hague Commission was to be final and binding. At the time, both countries stated their commitment to peace by vowing to fully implement the commission's ruling no matter what the outcome.

Mr. Speaker, on April 13 of this year, the Hague Commission released its decision on the demarcation of the Eritrean and Ethiopian border. Their decision reiterated the senselessness of the war by leaving the border substantially unaltered. Hence, what was this war about? Why did thousands of Ethiopians and Eritrean men and women have to die to resolve a border dispute?

Following the decision by the Hague Commission on May 13, 2002, the Ethiopian Government requested an interpretation of the commission's decision and order to implement the border demarcation process. While the original peace agreement gave no room for appeals by either party, the Hague Commission decided to accept the request by Ethiopia and pledged to provide a response within 30 days. This is why I wanted to speak on this issue today.

On June 24, the Hague Commission released its clarification report in response to Ethiopia's request. While the commission reviewed each of the points in Ethiopia's clarification request, it concluded by saying, "The Ethiopian request for clarification and interpretation appears to be founded on a misapprehension regarding the scope and effect of the Boundary Commission's Rules of Procedure. The commission does not find in any of the items that appear in section 2, 3 or 4 of the Ethiopian request anything that identifies an uncertainty in the commission's decision that could be resolved by interpretation at this time. Accordingly, the commission concludes that the Ethiopian request is inadmissible

and no further action will be taken upon it."

With this decision, it is high time for a newly created African Union, the United States, and the entire international community to emphasize the following points to the leaders of both Eritrea and Ethiopia:

One, that the Hague Commission's decision and reply to Ethiopia's clarification request must be adopted by both parties as the final decision, once and for all; that both countries must abide by the Hague Commission's ruling, and the international community should offer support to both nations to fully implement the decision.

Two, both societies should learn the lessons of the history of this war so that its causes are not repeated in the future. Conflicts over boundaries using extreme forms of nationalism or ethnic exaggerations are senseless struggles.

Finally, I would like to urge the leaders of both nations to have the courage to place the will of their citizens over the interests of their power and outdated ideas about security.

Neither society won anything from the war and both sides lost. Previous progress was set back and both Ethiopia and Eritrea wasted human and financial resources. The only winners in unjust wars, are international arms sellers and traders.

I am confident that the peoples of both nations are tired of war. It is up to the leadership of both nations to serve the will of their citizens and demonstrate the vision to chart an irreversible course towards a permanent peace. I would like to challenge the leaders of both nations to understand that real power comes from leading a strong and prosperous society in a nation that is respected and able to assume its rightful place and responsibilities in the global community.

More importantly, real security and sustainable processes of peace are not attainable simply by having defined borders and territorial integrity. In this era of globalization, well defined borders and territorial integrity do not and can not always guarantee security.

Yes borders and territorial integrity are important, but they can't prevent instability and insecurity in any nation whose citizens face poverty, health crises and other forms of violence. Real security for any nation or society in the 21st century is linked to the degree of the political, social and economic conditions, rights, and opportunities of its citizens.

So I say to the Governments of Ethiopia and Eritrea: Accept the principle contained in OAU's framework for peace agreement which calls for both sides to: "Reject the use of force as a means of proposing solutions to disputes." Recognize that it is in your national security interests to accept the ruling as final and binding. Recognize that it is in your national strategic interests to put a senseless war behind you once and for all, because you have real wars to wage.

A war against poverty and HIV-AIDS which demand that both governments shift the focus of your energies and your scarce resources to not only to rebuild your economies to help those hurt most by the war, your citizens. But

to also face the challenges of transforming the public and private institutions and structures in the economy for the development of your societies in the 21st century.

These are the wars which must be waged if the vision of a strong and vibrant African Union is going to be realized. An African Union which needs the Horn of Africa to be stable. I will work in this Congress to support new forms of broad based US engagement with both nations, as long as both nations demonstrate their commitment to fighting for peace, development, health care, education and democracy.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS). The Chair announces that at 2 p.m. we will cut off 5-minute special orders, and so we will expeditiously move forward.

HIV-AIDS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, the brutality of the corporate scandal that has occurred here in this Nation is one that clearly we should all be concerned about. But the idea of ignoring the crisis of HIV-AIDS should be one that we abhor.

When I refer to the tragedy of the corporate scandal here in the United States, it is to the loss that so many have suffered and so many millions and billions of dollars that have been lost. It is my belief that those billions of dollars could be vitally used for the tragedy of what is going on in HIV-AIDS.

It is important to note that the World Conference on AIDS has said progress has been made. But in addition to progress being made, we also find that there is much work to be done, particularly as it relates to the infection of HIV-AIDS, to the issues dealing with immune systems and the kinds of infections that are now becoming immune to the various drugs that are being utilized, the lack of monies for developing nations, the lack of dollars for helping with the mother-to-child infection transmission. We have found that where you have the circumstance of mother-to-child transmission and you have intervention, you will find that it works to save lives.

The increase of HIV-infected persons is enormous. The increase in countries like India and Bangladesh and China is enormous. The number of HIV-infected people who do not know that they are infected is enormous. The key thing we must do is to be able to find a way to address this question.

The Millennium Project has been announced. There has been a request for \$1 billion. There has been an additional

request for \$2 billion. Mr. Speaker, let me suggest that that is not enough. We are being tortured in this country by our own increase in HIV-AIDS, particularly among African American women, and I believe it is important for us to be able to focus our concern on many issues.

Corporate accountability is particularly important, as is corporate responsibility. Accountability is particularly important. So, too, are the concerns regarding HIV-AIDS infection, as has been indicated by the World Conference on AIDS.

I am delighted to have this opportunity to address the House on this very important issue because we cannot forget. As we parallel our track on the issues of corporate accountability and recognizing the billions of dollars that have been lost in insider trading and the need to provide security for our own employees with pension reform and protections as relates to bankruptcy issues, we cannot afford to lose sight of the devastation of HIV-AIDS.

I am looking forward to working on the increase in funds coming from this House and this body, and the President signing legislation to intervene internationally on the tremendous costs of HIV-AIDS. We lose people, we lose the ability for nations to thrive and grow, we undermine their economy, and they simply cannot thrive. They cannot feed the malnourished, they cannot provide affordable housing, and they cannot provide education because large percentages of their budget are taken up with issues such as HIV-AIDS.

We need to do proactive things, and one of them is to increase the relief or the forgiving of the debt that our Third World developing nations have so they can use those resources to provide health care for those in need. South Africa has been a leader, Zimbabwe; Zambia has been a leader, and now it is important that we find our way to emphasize HIV-AIDS intervention and protection thereof.

This is an important issue. It is important for this Nation, and I cannot leave, Mr. Speaker, without acknowledging that each is our brother's keeper. We are our brothers' and sisters' keepers, and as we need to help those in this country, we must help those who are seeking our aid in fighting HIV-AIDS and the intervention of such.

FARM SUBSIDIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, today the Committee on Appropriations marked up and passed out the agricultural appropriations bill. That will be on the House floor next week.

In that effort this morning, there was an attempt to put language into that appropriations bill that would have the effect of having limits on the payments that go out to some of the very, very, big, big farmers. That amendment was squelched. A tremendous amount of pressure.

In the House, where we attempted to instruct conferees when the farm bill went through, that vote was overwhelming in giving the will of this House, this body, that we should have some kind of payment limits for farmers on farm price supports.

Let me just briefly, Mr. Speaker, explain the problem. We sort of hoodwink a lot of the American people by saying there are limits on what a farmer can receive. Not so. Because there is a loophole in the law. It is called generic certificates. After a farmer reaches the \$75,000 limit that is allocated in the bill as a limit, from that point on there is a gimmick called generic certificates, that the government will sell the farmer the generic certificate to pay for the commodity. The farmer ends up getting the same kind of benefit as what is limited under the \$75,000 limitation.

I would call to my colleagues' attention that next week we are trying to get language in the agricultural appropriations bill that will have some kind of a limit. So some of the farmers that are huge, that are big, are not getting million dollar payments that put the smaller farmer at a very distinct disadvantage, and that is good policy.

We should not have programs that wipe the small farmer out, and that is what is happening. Because the farm program is capitalized on land values, land values have gone up because of this last farm bill, and that means that it is harder for a small farmer to survive.

Let me just ask my colleagues to seriously look at this issue in the next several days and consider the amendment that we intend to offer on the floor.

Mr. BACA. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentleman from California.

VIDEO GAME BILL

Mr. BACA. Mr. Speaker, while our Nation is defending ourselves from attacks from abroad, we are facing another battle here at home. We are in a battle for the hearts and the minds and souls of our children. We must address the cultural issues that are influencing the behavior of our children.

They are being drowned by the flood of sex and violence from the video game industry. When four out of five kids walk into the neighborhood stores and buy video games that show people having sex with prostitutes, killing police officers, using drugs, and attacking our senior citizens, it is time to take action. These games are brainwashing our children. They teach them the skills and the will to kill.

I am a parent, a grandparent, and I have had enough of violence that we are experiencing amongst our youth. From Columbine, from Texas, to Germany we have seen the tragic consequences of youth violence.

The video game industry is a \$9 billion industry. But it is not about money, it is about our children. As an adult, you can shoot a gun, you can drink a beer, you can smoke a cigar. But if you are giving these substances to a child, you are a criminal. When it comes to video games with violent or sexual content, the same should be true.

The pornography industry, the gun industry, the tobacco industry, and the alcohol industry all accept regulations on their products when it comes to kids. And so must the video industry do the same.

We, as parents, need to take responsibility for our children. We have to monitor where and what they are learning and the type of behavior. We are the first and last line of defense. But stores also have a responsibility. Parents cannot be undermined by stores that are only looking to make a profit.

□ 1400

Nine out of 10 parents want the stores to prevent our children from buying these games. The fact is that these stores are not enforcing their own policies. When stores have to decide whether to sell a game or make it quick, they do not enforce the policies. That is why, Mr. Speaker, I have introduced H.R. 4645, the Protect Children from Video Game Sex and Violence Act.

RECESS

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 2 p.m.), the House stood in recess subject to the call of the Chair.

□ 1643

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. JEFF MILLER of Florida) at 4 o'clock and 43 minutes p.m.

PERSONAL EXPLANATION

Mr. BISHOP. Mr. Speaker, on roll-calls 288 and 291, I inadvertently voted "no" when I intended and should have voted "yes."

THE 14TH INTERNATIONAL AIDS
CONFERENCE FOR KNOWLEDGE
AND COMMITMENT TO ACTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. LEE) is recognized for 5 minutes.

Ms. LEE. Mr. Speaker, this weekend in Barcelona, Spain, 15,000 people came together for the 14th International AIDS Conference for Knowledge and Commitment for Action.

I had the privilege to participate in this very important conference and can say with certainty that while Congress and the administration are waking up to the desperate call of millions of individuals living with HIV and AIDS, and those yet to be born to this scourge, we are still not doing enough.

Let me bring the Members up to date on this global pandemic. In 2001, there were 5 million new AIDS infections across the globe. Today there are 40 million people living with AIDS worldwide, and there are 14 million AIDS orphans.

In the United States, 950,000 have been diagnosed with AIDS. African Americans make up only 13 percent of the total United States population, but 54 percent of new infections and 82 percent of women who are newly infected with HIV are African American and Hispanic.

In my district in Oakland, California, we declared a state of emergency in order to focus attention on this tragic, tragic crisis. The latest statistics indicate that the number of new infections is slowing in Alameda County; yet we must do more.

□ 1645

AIDS is a disease that affects the entire human family. It has impacted every corner of the Earth. Therefore, we must discuss this problem in a global context. We must address prevention, treatment, vaccines, access, and funding in a comprehensive fashion.

At the conference, I heard repeated over and over again that while developing a vaccine we must help developing countries develop the required health care delivery systems and infrastructure to ensure equal access. We cannot repeat the pattern we have seen on the African continent where access to anti-retroviral drugs and AIDS treatment are far from equal. Currently in Africa more than 28 million people are living with HIV and AIDS. However, only 30,000 are in treatment. In comparison to the United States, nearly 100 percent of people who are infected are in treatment and they need it and they receive it.

At the conference we again engaged the ongoing debate over prevention versus treatment. Most concluded, and rightfully so, that it must not be an either/or dilemma. Working to prevent the mother-to-child transmission must not exclude keeping the mother, father

and child alive. Once again, there is no way we should buy into an either/or strategy.

While I am pleased that President Bush has acknowledged the need for drugs to reduce mother-to-child transmissions, that is only one component of what should be a multifaceted approach to tackling this pandemic. In Barcelona at a remarkable AIDS march for life, thousands came together to call for treatment now and presented the Barcelona Declaration, which was read into the opening session of the conference.

This declaration called for securing donations of \$10 billion per year for global AIDS; antiretroviral treatment for at least 2 million people with HIV/AIDS in the developing world by 2004; lower affordable drug prices and universal access to generics in the developing world; and a new global partnership between government and NGOs.

Mr. Speaker, the entire Barcelona Declaration is as follows:

BARCELONA DECLARATION
\$10 BILLION FOR AIDS TREATMENT
2 MILLION PEOPLE WORLDWIDE IN TREATMENT
BY 2004

Whereas every single day AIDS claims 8,500 lives, or the equivalent of three World Trade Center disasters daily;

Whereas by December 2001, 40 million people were living with HIV/AIDS, and by 2005 an estimated 100 million will be infected;

Whereas more than 40 million children—most of them in developing nations—will be orphaned by AIDS by 2010;

Whereas the World Health Organization this year has stated that anti-retroviral treatment is medically essential and has issued specific treatment guidelines, monitoring standards and regimen recommendations;

Whereas those on treatment represent less than 2% of all those infected with HIV because such treatment is almost completely unavailable in developing nations;

Whereas over 500 non-governmental organizations globally have endorsed the Barcelona March for Life, which demands treatment access to at least 2 million individuals in the developing world by the time of the 2004 International Conference on AIDS in Bangkok;

Whereas these organizations represent AIDS activists from Africa, Asia and the Pacific Islands, Australia, Europe, Central and South America, and North America

Therefore, we declare as activists pledged to life for all persons with HIV/AIDS that we are committed to the following goals:

1. Securing donation of \$10 billion dollars per year for global AIDS;

2. Antiretroviral (ARV) treatment for at least two million people with HIV/AIDS in the developing world by the 2004 Bangkok AIDS conference;

3. Lower, affordable ARV drug prices in the developed world and universal access to generics in the developing world by Bangkok, 2004; and

4. A new global partnership between government and NGOs recognizing the primary role of NGOs in the global fight against AIDS.

We call on the delegates of the Barcelona International AIDS Conference to pledge themselves to these goals.

Now, I must mention a very disappointing turn of events leading up to the Barcelona conference. Many African delegates, especially those living with HIV and AIDS, were singled out and denied visas by Spain for questionable reasons. Therefore, the conference did not benefit from the insights of those living with this disease at its epicenter in Africa. We lost the voices we heard at the 13th conference in Durban, South Africa, in 2000.

In Barcelona we heard many strategies and staggering statistics of lives destroyed, but we also heard models of hope. In Uganda, Thailand and Senegal, for example, strong national leadership partnered with community-wide response are reducing new HIV infections and AIDS diagnoses and focusing on treatment measures for their people.

We must continue to support these efforts by increasing U.S. bilateral and multilateral funding for vital AIDS, tuberculosis and malaria programs. I am even more convinced that the United States must put at least, and this is a minimum, just at least \$1 billion into the global trust fund for starters. Dr. Peter Piot, the director of UNAIDS, said that a \$10 billion effort will only begin to make a dent in this crisis. We will never see a favorable result in a crisis of this magnitude if we continue to nickel and dime our efforts.

I agree that we must streamline bureaucracies and facilitate better coordination, but that should happen while we ramp up our response. Together in a bipartisan effort we must now move forward with appropriate significant resources for this life-and-death effort. It is time to put our money where our mouth is.

Mr. Speaker, I want to thank the gentleman from Illinois (Mr. HYDE) and his very diligent staff, and the ranking member, the gentleman from California (Mr. LANTOS), and his staff, the gentleman from Iowa (Mr. LEACH) and Mary Andrus of his staff, and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), the gentlewoman from California (Ms. MILLENDER-MCDONALD), and Michael Riggs of my staff for making HIV/AIDS a priority of the Committee on International Relations.

THEORY OF THE ORIGIN OF MAN

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

Mr. PENCE. Mr. Speaker, I have always been interested in origins. Even though my training is in the law and in history, it has ever been an avocation of mine to contemplate and to study the origins of man and of life here on Earth.

Many theories of origins have been propounded throughout our Nation's history. In 1859, a sincere biologist returned from the Galapagos Islands and

wrote a book entitled "The Origins of Species," in which Charles Darwin offered a theory of the origin of species which we have come to know as evolution. Charles Darwin never thought of evolution as anything other than a theory. He hoped that some day it would be proven by the fossil record but did not live to see that, nor have we.

In 1925 in the famous Scopes Monkey Trial, this theory made its way through litigation into the classrooms of America, and we have all seen the consequences over the last 77 years: evolution not taught as a sincere theory of a biologist, but rather, Mr. Speaker, taught as fact. Unless anyone listening in would doubt that, we can all see in our mind's eye that grade school classroom that we all grew up in with the linear depiction of evolution just above the chalkboard. There is the monkey crawling on the grass. There is the Neanderthal dragging his knuckles and then there is Mel Gibson standing in all of his glory.

It is what we have been taught, that man proceeded and evolved along linear lines. But now comes a new find by paleontologists. In the newspapers all across America, a new study in "Nature" magazine, 6- to 7-million-year-old skull has been unearthed, the Toumai skull and it suggests that human evolution was actually, according to a new theory, human evolution was taking place, and I am quoting now, "all across Africa and the Earth," and the Earth was once truly, and I quote, "a planet of the apes on which nature was experimenting with many human-like creatures."

Paleontologists are excited about this, Mr. Speaker. But no one is pointing out that the textbooks will need to be changed because the old theory of evolution taught for 77 years in the classrooms of America as fact is suddenly replaced by a new theory, or I hasten to add, I am sure we will be told a new fact.

The truth is it always was a theory, Mr. Speaker. And now that we have recognized evolution as a theory, I would simply and humbly ask, can we teach it as such and can we also consider teaching other theories of the origin of species? Like the theory that was believed in by every signer of the Declaration of Independence. Every signer of the Declaration of Independence believed that men and women were created and were endowed by that same Creator with certain unalienable rights. The Bible tells us that God created man in his own image, male and female. He created them. And I believe that, Mr. Speaker.

I believe that God created the known universe, the Earth and everything in it, including man. And I also believe that someday scientists will come to see that only the theory of intelligent design provides even a remotely ration-

ale explanation for the known universe. But until that day comes, and I have no fear of science, I believe that the more we study the science, the more the truth of faith will become apparent. I would just humbly ask as new theories of evolution find their ways into the newspapers and into the textbooks, let us demand that educators around America teach evolution not as fact, but as theory, and an interesting theory to boot. But let us also bring into the minds of all of our children all of the theories about the unknowable that some bright day in the future through science and perhaps through faith we will find the truth from whence we come.

14TH INTERNATIONAL AIDS CONFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) is recognized for 5 minutes.

Mrs. CHRISTENSEN. Mr. Speaker, I too recently had the privilege of attending the 14th International AIDS Conference in Barcelona, Spain. I want to thank the House leadership for making it possible for me to join the gentlewoman from California (Ms. LEE). AIDS experts, activists and government representatives from all over the world assembled to share their invaluable knowledge and expertise in fighting the global HIV/AIDS pandemic and issuing a call to action.

This is a critically important conference happening at a very important time. UNAIDS and the World Health Organization recently released an updated report of where we are today. The most important thing to realize is that we are still at the beginning, the beginning of this terrible scourge. Yet there are already over 40 million people estimated to be living with HIV/AIDS around the world today and an estimated 28 million who have died. At this incipient stage of the pandemic, there are already 13.4 million children orphaned by this disease. More than a third of those living with HIV and AIDS are under the age of 25.

There are 5 million new infections each year, 6,000 new every day; and young people ages 15 to 24 account for half of all new infections. Even in developed nations such as the United States, young people continue to represent half of all new infections; and yet this is only the beginning. What lies ahead, the future course of this pandemic is in large measure in the hands of this body and our government.

Mr. Speaker, we are at a critical stage in this pandemic. A major crossroads where our decision to act or not to act, or not to act fully, will determine the course of our own and world history from this time forward.

Several things became increasingly clear even in the few days I was able to

attend the conference. First, we have wasted a lot of time arguing over prevention versus treatment, and with that many lives have been lost and others changed forever. We have made dangerous and deadly assumptions that have kept life-saving treatments out of the hands of those who could otherwise have been saved. We have provided but token funding; and because we are falling short, the needed infrastructure is not in place to allow programs that began in homes, churches and community meeting places to expand across the infected countries so that they could save more lives and get on with the work of nation building.

We, the United States, have the power to make the difference, to dramatically change the course of this dreaded disease by meeting our commitment to the global trust fund and by exerting our influence on the other industrialized nations to meet theirs. Yet the United States, the richest country in the world, despite the fanfare surrounding recent increases in our contributions, ranks last in those who have pledged for the global trust fund.

To continue to fund this epidemic in drips and drabbles would be unconscionable because our delays and the delays of other nations have already caused it to spiral completely out of control on a global scale.

Today, at home, our ADAP program needs an additional \$80 million and the minority AIDS initiative needs \$450 million. Globally, 10 billion dollars is what is needed every year; and we must commit and act to contribute at least our full share, not over a period of time, but now.

It should be exceedingly clear that we cannot continue to fall short of providing the required level of funding. If we continue at the present level, we can anticipate another 45 million new infected persons within the next 20 years. It would also mean that there would be 20 million new children left without a mother or father, alone to grow up as orphans, denied of love and nurturing and probably education since the teachers too are among the dying. This portends a serious and ever-increasing threat to the national security of the most effected countries and, unless we think otherwise, also to ours.

Mr. Speaker, clearly the time for arguing over what must come first must be behind us. We must have treatment and prevention. We must find ways in this dire emergency to put life-saving medication within the reach of all who need it. Neither should research be pitted against prevention and treatment, because the need for vaccine, which may be just a few years ahead and which is where hope truly lies, must be given all the resources it needs to go forward. As we approach its availability, we must begin to work even now to avoid the gaps in access that we

are still working to address in the case of medication.

Lastly, we can not tie the hands of health professionals, community organizations, and workers as they work on the front lines of this epidemic. Family planning funding or population funding provides much of the first line of defense. Continuing to impose the values of a minority of Americans on countries where there are people just fighting to live by denying them the basic staff and supplies is not befitting a country that is built on Christian values and principles.

I join my colleagues today to call on the leadership of this body and our President to provide the funding, to lift the gag, release the funding for all international family planning programs and provide the leadership which has always been our hallmark by making the full contribution to the global trust fund and influencing all of our allies to do the same.

□ 1700

WHERE'S THE MONEY?

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, I would like to take my time that I am allotted tonight to talk a little bit about the loss of \$17.3 billion.

On June 6 of this year I wrote a letter to the Secretary of the Treasury, and the reason that I wrote this letter is because I had been back in North Carolina during the break and I was listening to a talk show and they were quoting from the New York Post, and I want to read the first two paragraphs of this article.

It says, May 28, 2002, Washington complains about deceptive corporate accounting, but the government last year misplaced an incredible \$17.3 billion because of shoddy bookkeeping or worse. Again, the article says, Let me put that into numbers so that you can fully appreciate the amount. It is \$17.3 billion, the price of a few dozen urban renewal projects, a nice size fleet of warships or about half the tax cut that everyone made such a fuss about last year.

In addition, the London Times also wrote an article on the fact that we in this Nation, that our accounting system for this government, that we have lost or misplaced \$17.3 billion.

I share with my colleagues on both sides of the political aisle my frustration and disgust with what happened with Enron and also with WorldCom, but I do want to make the point, Mr. Speaker, that as sad as that is, and it is terribly sad, that the investors had a choice to make an investment. The taxpayers do not have a choice. They

are mandated by law to pay their taxes.

So, therefore, we collect their taxes and yet in the year 2001, we have, and this is the term used, unreconciled transactions in the amount of \$17.3 billion.

So this is about my third or fourth week of coming to the floor, and I actually on June 6, I wrote Secretary O'Neill a letter, and I am just going to read two paragraphs. I said, The report provides minimal data and information regarding these unreconciled transactions. Not only is the Federal Government missing \$17.3 billion but there is no reason given for this loss. While I appreciate the Department of Treasury's statement, the identification and accurate reporting of these unreconciled transactions is a priority. The fact remains, the public nor the Congress has the information on how this loss occurred, what agencies were responsible for this unreconciled transactional; would these transactions eventually be reconciled; if so, what is the time line for this reconciliation; what agency or agencies will be responsible for the reconciliation; will this reconciliation be available to the public when completed.

Mr. Speaker, the reason I am down here on the floor, I realize the Secretary is a very busy man, but I did write this letter on June 6 of this year, and I have not received a response. I am going to give the Secretary the benefit of the doubt, that like many of us here in the Congress, we have wonderful assistants that sometimes get the mail and they go through the letters before we see them. So I am going to give him the benefit of the doubt. I did write on June 27 a letter to the gentleman from Indiana (Mr. BURTON), and I have asked that the oversight committee hold a hearing on this issue of where we have misplaced the \$17.3 billion.

Again, Mr. Speaker, I will continue to come to the floor. Next week, I will have a chart that I will hold up before me as I speak, reminding the American people that we in Congress, on both sides of the political aisle, want to find out where that \$17.3 billion of the taxpayers' money has gone, and if it has been misspent or misplaced, somebody needs to answer for it.

HONORING ANDREA FOX

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, I rise today to honor Andrea Fox of San Rafael, California, a talented professional planner, community volunteer, athlete and breast cancer activist, and an inspiration to everyone who knew her.

Andrea Fox lost her life in a battle against breast cancer on July 2 at the

age of 35, leaving a legacy of extraordinary courage and compassion. A beautiful young woman with incredible grace and dignity, Annie Fox was dedicated to finding a cure for breast cancer. Diagnosed with a particularly aggressive cancer in 1998, the former triathlete, who ate organically and exercised regularly, had none of the traditional risk factors for cancer.

Undergoing a lumpectomy, she continued her athletic training and stage IV cancer seemed to disappear. But in April 2000, the cancer came back, and pursuing every treatment she could find, including non-Western, nontraditional methods, Annie appeared to have beaten it back again.

Andrea focused her considerable energies on increasing public awareness and getting national attention for this serious epidemic of breast cancer in Marin County, joining the board of Marin Breast Cancer Watch. "Annie was one of our angels," said board president Roni Mentzer.

Whether lobbying in Sacramento for breast cancer research or educating the community about the dangerously high rates of cancer in Marin County, Annie made a difference. She made history.

Never daunted, she participated in athletic events such as the renowned Dipsea race and the human race, and she organized new events like the July 20, 2002 foot race from Mill Valley to the Mountain Theater on Mount Tamalpais to increase public knowledge and raise much-needed funds for research.

In October 2001, only 2 months after her engagement to long-time partner and soulmate Chris Stewart, the cancer came back and Annie mounted still another heroic campaign. Not one to seek sympathy, she was driven to passionately lead the fight for all women to find a cause for this insidious disease.

Despite increasing pain, she continued her work at the Marin Civic Center. "Annie was a special person," Stewart said, "bringing a wonderful happiness to all those who knew her. She was passionate about her work and about preserving the environment."

A woman of uncommon positive spirit, Andrea Fox lost her courageous battle with breast cancer surrounded by friends and family, leaving her devoted fiancé, her mother, her brother and a grieving community.

We are all more fortunate to have been graced by the presence of Andrea Fox, her beauty, her wisdom and her strength. Her love, resolve and remarkable will are cornerstones for the legacy of courage she has left so that we might continue the fight.

While Annie is gone, the spirit of this angel of our community will forever be with us.

STATUS REPORT ON CURRENT SPENDING LEVELS OF ON-BUDGET SPENDING AND REVENUES FOR FY 2003 AND THE 5-YEAR PERIOD FY 2003 THROUGH FY 2007

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. NUSSLE) is recognized for 5 minutes.

Mr. NUSSLE. Mr. Speaker, I am transmitting a status report on the current levels of on-budget spending and revenues for fiscal year 2003 and for the five-year period of fiscal years 2003 through 2007. This report is necessary to facilitate the application of sections 302 and 311 of the Congressional Budget Act and section 301 of House Concurrent Resolution 353, which is currently in effect as a concurrent resolution on the budget in the House. This status report is current through July 11, 2002.

The term "current level" refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature.

The first table in the report compares the current levels of total budget authority, outlays,

and revenues with the aggregate levels set forth by H. Con. Res. 353. This comparison is needed to enforce section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels. The table does not show budget authority and outlays for years after fiscal year 2003 because appropriations for those years have not yet been considered.

The second table compares the current levels of budget authority and outlays for discretionary action by each authorizing committee with the "section 302(a)" allocations made under H. Con. Res. 353 for fiscal year 2003 and fiscal years 2003 through 2007. "Discretionary action" refers to legislation enacted after the adoption of the budget resolution. A separate allocation for the Medicare program, as established under section 213(d) of the budget resolution, is shown for fiscal year 2003 and fiscal years 2003 through 2012. This comparison is needed to enforce section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 302(a) discretionary action allocation of new budget authority for the committee that reported the measure. It is also needed to

implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a).

The third table compares the current levels of discretionary appropriations for fiscal year 2003 with the "section 302(b)" suballocations of discretionary budget authority and outlays among Appropriations subcommittees. The comparison is also needed to enforce section 302(f) of the Budget Act because the point of order under that section equally applies to measures that would breach the applicable section 302(b) suballocation.

The fourth table gives the current level for 2004 of accounts identified for advance appropriations under section 301 of H. Con. Res. 353 printed in the Congressional Record on May 22, 2002. This list is needed to enforce section 301 of the budget resolution, which creates a point of order against appropriation bills that contain advance appropriations that are: (i) not identified in the statement of managers or (ii) would cause the aggregate amount of such appropriations to exceed the level specified in the resolution.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR DISCRETIONARY ACTION REFLECTING ACTION COMPLETED AS OF JULY 11, 2002

[Fiscal years, in millions of dollars]

House Committee	2003		2003–2007 total		2003–2012 total	
	BA	Outlays	BA	Outlays	BA	Outlays
Agriculture:						
Allocation	7,825	7,271	37,017	34,479	n.a.	n.a.
Current Level	8,532	8,406	49,206	47,592	n.a.	n.a.
Difference	707	1,135	12,189	13,113	n.a.	n.a.
Armed Services:						
Allocation	516	516	5,804	5,804	n.a.	n.a.
Current Level	0	0	0	0	n.a.	n.a.
Difference	–516	–516	–5,804	–5,804	n.a.	n.a.
Banking and Financial Services:						
Allocation	0	0	0	0	n.a.	n.a.
Current Level	0	0	0	0	n.a.	n.a.
Difference	0	0	0	0	n.a.	n.a.
Education and the Workforce:						
Allocation	0	0	0	0	n.a.	n.a.
Current Level	0	0	0	0	n.a.	n.a.
Difference	0	0	0	0	n.a.	n.a.
Commerce:						
Allocation	95	59	2,709	2,649	n.a.	n.a.
Current Level	776	776	–795	–795	n.a.	n.a.
Difference	681	717	–3,504	–3,444	n.a.	n.a.
International Relations:						
Allocation	0	0	0	0	n.a.	n.a.
Current Level	0	0	0	0	n.a.	n.a.
Difference	0	0	0	0	n.a.	n.a.
Government Reform:						
Allocation	0	0	0	0	n.a.	n.a.
Current Level	0	0	0	0	n.a.	n.a.
Difference	0	0	0	0	n.a.	n.a.
House Administration:						
Allocation	0	0	0	0	n.a.	n.a.
Current Level	0	0	0	0	n.a.	n.a.
Difference	0	0	0	0	n.a.	n.a.
Resources:						
Allocation	0	0	700	700	n.a.	n.a.
Current Level	0	0	0	0	n.a.	n.a.
Difference	0	0	–700	–700	n.a.	n.a.
Judiciary:						
Allocation	0	0	0	0	n.a.	n.a.
Current Level	0	0	0	0	n.a.	n.a.
Difference	0	0	0	0	n.a.	n.a.
Small Business:						
Allocation	0	0	0	0	n.a.	n.a.
Current Level	0	0	0	0	n.a.	n.a.
Difference	0	0	0	0	n.a.	n.a.
Transportation and Infrastructure:						
Allocation	0	0	17,476	0	n.a.	n.a.
Current Level	0	0	0	0	n.a.	n.a.
Difference	0	0	–17,476	0	n.a.	n.a.
Science:						
Allocation	0	0	0	0	n.a.	n.a.
Current Level	0	0	0	0	n.a.	n.a.
Difference	0	0	0	0	n.a.	n.a.
Veterans' Affairs:						
Allocation	0	0	0	0	n.a.	n.a.
Current Level	0	0	0	0	n.a.	n.a.
Difference	0	0	0	0	n.a.	n.a.
Ways and Means:						
Allocation	2,203	174	7,855	5,861	n.a.	n.a.
Current Level	0	0	0	0	n.a.	n.a.
Difference	–2,203	–174	–7,855	–5,861	n.a.	n.a.
Medicare:						
Allocation	4,650	4,575	n.a.	n.a.	347,270	347,270

July 11, 2002

CONGRESSIONAL RECORD—HOUSE

12607

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR DISCRETIONARY ACTION REFLECTING ACTION COMPLETED AS OF JULY 11, 2002—Continued

[Fiscal years, in millions of dollars]

House Committee	2003		2003–2007 total		2003–2012 total	
	BA	Outlays	BA	Outlays	BA	Outlays
Current Level	0	0	n.a.	n.a.	0	0
Difference	–4,650	–4,575	n.a.	n.a.	–347,270	–347,270

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 2003—COMPARISON OF CURRENT LEVEL WITH APPROPRIATIONS SUBCOMMITTEE 302(b) SUBALLOCATIONS

[In millions of dollars]

Appropriations Subcommittee	302(b) suballocations as of June 24, 2002 (H. Rpt. 107–529) ¹		Current level reflecting action completed as of July 11, 2002		Current level minus suballocations	
	BA	OT	BA	OT	BA	OT
Agriculture, Rural Development	17,601	17,907	12	4,913	–17,589	–12,994
Commerce, Justice, State	40,333	43,104	0	13,635	–40,333	–29,469
National Defense	354,447	346,110	0	99,708	–354,447	–246,402
District of Columbia	517	581	0	111	–517	–470
Energy & Water Development	26,027	25,824	0	8,795	–26,027	–17,029
Foreign Operations	16,350	16,481	0	10,281	–16,350	–6,200
Interior	19,670	18,969	36	6,431	–19,634	–12,538
Labor, HHS & Education	129,902	125,701	19,128	84,622	–110,774	–41,079
Legislative Branch	3,413	3,467	0	592	–3,413	–2,875
Military Construction	10,083	10,058	0	7,349	–10,083	–2,709
Transportation ²	19,411	60,767	20	37,185	–19,391	–23,582
Treasury—Postal Service	18,501	18,237	45	4,358	–18,456	–13,879
VA–HUD—Independent Agencies	91,841	97,713	3,448	52,302	–88,393	–45,411
Unassigned	0	271	0	0	0	–271
Grand Total	748,096	785,190	22,689	330,282	–725,407	–454,908

¹ Reflects 2003 outlays from FY2002 appropriations contained in H.R. 4775, making supplemental appropriations act for further recovery from and response to terrorist attacks on the United States.

² Does not include mass transit BA.

STATEMENT OF FY 2004 ADVANCE APPROPRIATIONS UNDER SECTION 301 OF H. CON. RES. 353 REFLECTING ACTION COMPLETED AS OF JULY 11, 2002

Interior Subcommittee: Elk Hills.
Labor, Health and Human Services Education Subcommittee: Employment and Training Administration, Education for the Disadvantaged, School Improvement, Children and Family Services (head start), Special Education, Vocational and Adult Education.

Transportation Subcommittee: Transportation (highways; transit; Farley Building).

Treasury, General Government Subcommittee: Payment to Postal Service.

Veterans, Housing and Urban Development Subcommittee: Section 8 renewals.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET—STATUS OF THE FISCAL YEAR 2003 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 353 REFLECTING ACTION COMPLETED AS OF JULY 11, 2002

[On-budget amounts, in millions of dollars]

	Fiscal year 2003	Fiscal years 2003–2007
Appropriate Level:		
Budget Authority	1,784,073	n.a.
Outlays	1,767,146	n.a.
Revenues	1,531,893	8,671,656
Current Level:		
Budget Authority	1,045,172	n.a.
Outlays	1,304,705	n.a.
Revenues	1,536,324	8,699,516
Current Level over (+)/under (–) Appropriate Level:		
Budget Authority	–738,901	n.a.
Outlays	–462,441	n.a.
Revenues	4,431	27,860

n.a. = Not applicable because annual appropriations Acts for fiscal year 2003 through 2007 will not be considered until future sessions of Congress.

Budget Authority.—Enactment of measures providing new budget authority for FY 2003 in excess of \$738,901,000,000 (if not already included in the current level estimate) would cause FY 2003 budget authority to exceed the appropriate level set by H. Con. Res. 353.

Outlays.—Enactment of measures providing new outlays for FY 2003 in excess of \$462,441,000,000 (if not already included in the current level estimate) would cause FY 2003 outlays to exceed the appropriate level set by H. Con. Res. 353.

Revenues.—Enactment of measures that would result in revenue reduction for FY 2003 in excess of \$4,431,000,000 (if not already included in the current level estimate) would cause revenues to fall below the appropriate level set by H. Con. Res. 353.

Enactment of measures resulting in revenue reduction for the period FY 2003 through 2007 in excess of \$27,860,000,000 (if not already included in the current level estimate) would cause revenues to fall below the appropriate levels set by H. Con. Res. 353.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 12, 2002.

Hon. JIM NUSSLE,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR CHAIRMAN: The enclosed report shows the effects of Congressional action on the fiscal year 2003 budget and is current through July 11, 2002. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended. This is my first letter for fiscal year 2003.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 353, the Concurrent Resolution on the Budget for Fiscal Year 2003. The budget resolution figures incorporate revisions submitted by the Committee on the Budget to the House to reflect funding for emergency requirements. These revisions are required by section 314 of the Congressional Budget Act, as amended.

Since the beginning of the second session of the 107th Congress, the Congress has cleared and the President has signed the following acts that changed budget authority and outlays for 2003: the Job Creation and Worker Assistance Act of 2003 (Public Law 107–147), the Farm Security and Rural Investment Act of 2002 (Public Law 107–171), the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188), and the Auction Reform Act of 2002 (Public Law 107–195). The effects of these new laws are identified in the enclosed table.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

FISCAL YEAR 2003 HOUSE CURRENT LEVEL REPORT AS OF JULY 11, 2002

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in previous sessions:			
Revenues	0	0	1,536,324
Permanents and other spending legislation	1,090,473	1,038,707	0
Appropriation legislation	0	313,127	0

FISCAL YEAR 2003 HOUSE CURRENT LEVEL REPORT AS OF JULY 11, 2002—Continued

(In millions of dollars)

	Budget authority	Outlays	Revenues
Offsetting receipts	- 346,866	- 346,866	0
Total, previously enacted	743,607	1,004,968	1,536,324
Enacted this session:			
Job Creation and Worker Assistance Act of 2002 (P.L. 107-147)	3,524	3,587	0
Farm Security and Rural Investment Act of 2002 (P.L. 107-171)	8,532	8,406	0
Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (P.L. 107-188)	1	1	0
Auction Reform Act of 2002 (P.L. 107-195)	775	775	0
Total, enacted this session	12,832	12,769	0
Entitlements and Mandatories: Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	288,733	286,968	0
Total Current level	1,045,172	1,304,705	1,536,324
Total Budget Resolution	1,784,073	1,767,146	1,531,893
Current Level Over Budget resolution	0	0	4,431
Current Level Under Budget Resolution	- 738,901	- 462,441	0
Memorandum:			
Revenues, 2003-2007:			
House Current Level ¹	0	0	8,699,516
House Budget Resolution	0	0	8,671,656
Current Level Over Budget Resolution	0	0	27,860

¹ The revenue effects of the Clergy Housing Allowance Clarification Act of 2002 (P.L. 107-181) begin in 2004 and are included in this revenue figure.

Source: Congressional Budget Office.

Notes: P.L.—Public Law.

Section 314 of the Congressional Budget Act, as amended, requires that the House Budget Committee revise the budget resolution to reflect funding provided in bills reported by the House for emergency requirements. To date, the Budget Committee has increased the outlay allocation in the budget resolution by \$10,714 million for this purpose. This amount is not included in the current level because the funding has not yet been enacted.

GLOBAL HIV, TUBERCULOSIS AND MALARIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. SOLIS) is recognized for 5 minutes.

Ms. SOLIS. Mr. Speaker, I appreciate the opportunity to be here tonight, and I want to especially thank my good friend, the gentlewoman from California (Ms. LEE) and applaud her for her work in bringing us together here tonight to talk about the HIV pandemic. We have all been closely following the happenings this week at the 14th International AIDS Conference in Barcelona, Spain, and although it is exciting to hear about the new research breakthroughs and findings, it is also disheartening to hear about the sheer number of people who are infected and affected by this disease throughout the world.

More than 40 million people are living with HIV worldwide, and nearly 5 million of those people were diagnosed with HIV just last year alone. Ninety-six percent of those people living with HIV reside in developing countries, Third World countries and, for example, 1.5 million children and adults in Latin America alone are living with HIV. About 130,000 of these were diagnosed just last year.

Unfortunately, many HIV-positive individuals do not even know they have the deadly disease. We still have a long way to go to raise awareness about the disease and to ensure that Nations have the resources to implement proven prevention and treatment programs. We must do more to help our global neighbors combat this deadly disease.

UNAIDS has estimated that between \$7 billion and \$10 billion is needed each year to effectively respond to the global HIV/AIDS epidemic, but during this last fiscal year, the United States only contributed an estimated \$1 billion to HIV and AIDS research. This includes a \$200 million of contribution to the

Global Fund to Fight AIDS, Tuberculosis and Malaria, and I think that is great, but we can do a lot better.

It is important to note that aid for global HIV effort is more than a moral responsibility. It is an economic and political necessity. Countries with AIDS face economic and social threats as governments struggle with the burden of trying to pay for HIV treatment and prevention, and often the populations most affected by HIV are the key to the economic stability of these nations.

As an example, these people are the ones between the age of 15 and 24 years old. They represent 42 percent of the newest HIV infections and make up about one-third of the global total of people living with AIDS. When these people face the threat of AIDS, their families and communities are devastated and, of course, HIV also has a particularly devastating impact on the youngest of our global population.

Worldwide, an estimated 14 million children under the age of 15 have lost one or both parents from AIDS. The stories of children who are orphaned by AIDS are heartbreaking to all of us. We cannot afford to ignore the AIDS crisis. We must commit ourselves to doing more, and I hope that this Congress can make that commitment, and I certainly urge and strongly urge the President of the United States to do the same.

CALLING FOR U.S. ACTION ON GLOBAL HIV AND AIDS PANDEMIC

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, it is with a heavy heart that I rise today to talk about the global AIDS pandemic and the catastrophic consequences of doing so little, too little to combat it here at home and around the world.

Here at home, HIV and AIDS is the number one killer of young black men. Here in the United States, where most are able to afford or have access to the standard of care for this disease, the instance of mortality has declined sharply, thanks to antiretroviral combination therapy. But make no mistake about it, HIV is a clever, still lethal virus, and the emphasis of these drugs is limited.

For many who have developed resistance to these drugs, the treatment is called salvage therapy. Think about the term, salvage therapy. It is shocking and sad that the two words are used in the same breath, but it is true.

The pharmaceutical industry, often with substantial government funding and research support from NIH and CDC, has made great strides, and it will have to do so again because many of the newest HIV cases are diagnosed resistant to one or more of the existing drugs. I call on the pharmaceutical industry to redouble its effort to consider spending much less on public relations and marketing and much more on research and development.

I would ask this Congress to take up and pass the legislation authored by the gentleman from New York (Mr. NADLER), who has long advocated for an anti-AIDS effort similar to the Manhattan Project.

Twenty million people have died from AIDS in the last two decades. According to the United Nations AIDS agency, 70 million more people could perish in the next 20 years.

Looking internationally, the picture is bleak and in danger of becoming a world destabilizing force, a holocaust due to woefully inadequate resources. The problem is not limited to African nations, which currently have the greatest share of the infection. Other developing countries, as well as Russia and China, are only just coming to grips with the severity of the HIV and AIDS epidemic.

The devastation of vast percentages of populations in African nations will create national security concerns for the United States and other nations within the near future unless we act now to arrest and eradicate this scourge.

Sub-Saharan Africa represents 77 percent of AIDS deaths, 70 percent of HIV-infected people and nearly 70 percent of all new infections and 90 percent of children infected with the virus.

□ 1715

These are truly, truly grim statistics.

We will not begin to change these numbers until we begin to invest as though HIV-AIDS were a profound threat to the public health worldwide and a threat to national security as well. We cannot afford to be penny-wise and pound-foolish. Eight thousand five hundred people die each day from AIDS, more than twice as many as perished on September 11. Another sobering statistic.

I want to thank my colleague, the gentlewoman from California, for her continuous leadership on the complex issues involved with HIV and AIDS. I share her concern that support for another \$1 billion contribution by the United States to the Global Trust Fund is needed. We are obligated to do that. We are morally challenged to do that. We need to do that to support comprehensive prevention and treatment efforts, and, ultimately, to find a cure.

HIV/AIDS PANDEMIC

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) is recognized for 5 minutes.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today with my colleagues to draw attention to the ongoing HIV/AIDS pandemic.

This week, the 16th Annual International AIDS Conference was held in Barcelona, Spain. The conference highlighted the fact that, contrary to previous beliefs, the global AIDS crisis has not peaked and is only getting worse. According to UNAIDS, 40 million people live with HIV/AIDS in the world today; 28.5 million of them are in sub-Saharan Africa. Three million of those infected are children younger than 15. Last year, five million people were newly infected with HIV, and three million died of AIDS.

In Botswana, almost 44 percent of pregnant women visiting clinics in urban areas are HIV positive. In several countries in West Africa—such as Burkina Faso and Cameroon—the adult prevalence rate surpassed 5 percent, a level that many experts agree precedes a larger scale epidemic. This devastating disease is erasing decades of development and cutting life expectancy by nearly half in the most affected areas.

These statistics are staggering, but they also obscure the human cost of the epidemic. Infected teachers pass away and are unable

to transmit knowledge to the next generation. Business owners die and their enterprises die with them. The deaths of trained professionals, such as nurses, civil servants, and lawyers mean that their skills disappear from their country. By 2010, UNAIDS believes that twenty million children in sub-Saharan Africa will have lost at least one of their parents to AIDS. Mr. Speaker, entire societies are being destroyed by this terrible virus.

There are a few—very few—signs of hope. Some countries, such as Uganda, have stemmed the rate of infection and have averted a wider catastrophe. Other countries are finally acknowledging that HIV/AIDS poses a serious risk to their stability and are beginning to remove the stigma associated with the disease. Last week, the government of Nigeria announced that it had ordered free HIV/AIDS test for half a million of its citizens. And programs that seek to prevent the transmission of the virus from mothers to children are proving to be effective and are being implemented on a larger scale.

But Mr. Speaker, there is more that we as the sole superpower can do to stop the spread of this scourge that threatens the stability of many parts of the globe. We can increase assistance for education and prevention efforts and involve more sectors of societies in such prevention campaigns. We can continue to lower the cost of life-saving anti-retroviral drugs so that people in developing countries have the hope of treatment and are more willing to learn their HIV status. We can support the research and development of an effective, practical vaccine for HIV. And we can increase the United States' contributions for the Global Fund to Fight AIDS, Tuberculosis, and Malaria.

What we are doing simply is not enough to stem this global massacre. As a world leader, we must step up our efforts and contributions in this global struggle.

GLOBAL AIDS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATERS) is recognized for 5 minutes.

Ms. WATERS. Mr. Speaker, I would like to thank my colleague, Congresswoman BARBARA LEE, for organizing today's Special Orders on Global AIDS.

Over the past 5 days, the 14th International AIDS Conference has been meeting in Barcelona, Spain. The statistics that have been reported at the Conference are devastating. More than one in five adults in seven sub-Saharan African countries are already infected with HIV. In Botswana, Lesotho, Swaziland and Zimbabwe, the rate is one in three.

The AIDS pandemic will cause a decline in life expectancy in 51 countries over the next two decades. This demographic effect is without precedent in modern times. Seven countries in sub-Saharan Africa now have average life expectancies of less than 40 years. By the end of this decade, 11 African countries will have life expectancies of less than 40 years. This is a level they have not experienced since the end of the 1800s. Sub-Saharan countries could lose 25 percent of their labor forces by 2002.

At the Conference, there was overwhelming support for a \$7–10 billion annual commitment to fight global AIDS. This worldwide commitment should begin with a commitment of \$2.5 billion from the United States in fiscal year 2003. Unfortunately, the countries that attended the recent G–8 Summit offered only empty promises of more development assistance for Africa. We need to do more.

On March 12, 2002, I sent a letter to the Chairman and Ranking Member of the House Budget Committee requesting a total of \$2.5 billion in the fiscal year 2003 budget for bilateral and multilateral HIV/AIDS programs. Sixty-eight Members of Congress signed this letter, but our letter was ignored.

I call on this Congress to provide \$2.5 billion for the fight against global AIDS in fiscal year 2003.

U.S. ROLE IN HIV-AIDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. McDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, I appreciate my colleague, the gentlewoman from California (Ms. LEE) for bringing this issue and for taking the time to take the trip to Barcelona and go to the conference.

One of the striking things this morning was looking at the newspaper clips and finding that the Secretary of Health and Human Services of the United States of America was booed off the stage. When you look at that, you ask yourself, why is it that we, the strongest, the most wealthy, the most advanced, the most scientifically creative country in the world is booed off the stage of an international conference on a world plague?

I think that it is important for us to think about what role we in this country have played. We have not taken our rightful leadership. There has not been an international conference in the United States since this Congress passed the Helms-Burton amendment some years ago, which excluded from this country anybody who has AIDS. If you have AIDS, you are not supposed to be able to get into this country.

Now, the statement we made to the world with that particular amendment from this Congress was that somehow coming in here you are bringing something that is not already here. AIDS is in this country. As we have already heard from previous speakers, like my friend from North Carolina, it is the leading cause of death among young black men in this country, and it is a leading illness among Hispanic women in this country.

We in this country have a problem that we have not dealt with. This Congress has not put money into the kind of prevention and education programs that we ought to be doing for young people in this country. But that statement of the Helms-Burton amendment

said to the world, you have got the problem, do not bring it over here. Clearly, this was not looking at our own position.

Now, the reason that conference in Barcelona was so important is that it is starting to talk about more and more advances of treatment and more and more complicated illnesses being found. There is all kinds of research there, but one must not lose sight of the fact that education and prevention still are the best hope for the world. We can have retroviral therapy, and we want that, and we should push the drug companies, and we should do everything possible, but administering those drugs and monitoring them, and it is as somebody described it, savage therapy. It is tough treatment. It is not an easy regimen. It has only so much effectiveness.

The real thing we have to get is people educated and aware of their own status. That is not expensive. If we would spend the money for the diagnostic tools that we have available and developed in this United States by USAID, we could make it possible for everyone to know their status. So at least they would know whether or not they were passing it on to their partner. But we do not put our money where our mouth is.

We say we want to do things for the world. We go and we make speeches, we put up a little bit of money, and then we double-count it so it looks like more. But the fact is, the United States is not putting up their fair share. Kofi Annan asked for an enormous contribution, said how much would be necessary, and the United States put up a pitiful amount.

Our contribution is something like 0.1 percent of our gross domestic product. The Norwegians, the Swedes, the Danes, the Dutch put up 0.2, 0.3 percent. Why can these little countries do that and we, the country with all the resources in the world, not put the money into the Global AIDS Fund that Kofi Annan has set up, or through our USAID? Or there are many ways in which we could put that money out there, but it requires a commitment.

Now, thanks to the work of people like the gentlewoman from California (Ms. LEE) and the gentlewoman from California (Ms. MILLENDER-MCDONALD) and other Members of the Congress, the devastation that is occurring in Africa is now much better understood than it was 10 years ago.

I remember in 1991 having lunch with the President of Zambia, Mr. Kaunda, who said, what will I do with 500,000 orphans? Today, we are dealing with those orphans worldwide. And if we do not do something about it, it will not be 500,000, it will be millions and millions and millions of orphans. We must do more.

HIV AND AIDS IN AFRICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PAYNE) is recognized for 5 minutes.

Mr. PAYNE. Mr. Speaker, let me begin by commending the gentlewoman from California (Ms. LEE) for the outstanding work that she has done in her tireless efforts to bring to the attention of America, the Congress, and the world the need for us to do much more as relates to the HIV and AIDS pandemic; and also the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), a physician, who also has been spearheading this. Let me commend them for attending the 14th International Conference on AIDS where the question of HIV and AIDS, of course, was the center of discussion.

It has been indicated that AIDS will kill at least 68 million people by 2020 unless rich nations invest far more in global prevention, says a report that was released last week. It is now clear to me that we have only seen the beginning of the worst epidemic in human history, says Peter Piot, Director of the joint United Nations program for HIV and AIDS, UNAIDS. He said that the disease will not only destabilize Africa but it will affect economic and political stability worldwide, particularly when the epidemic begins to peak in the most populated countries, such as China, India, and Russia.

The UNAIDS update, released ahead of the planned meeting that started on July 7 in Barcelona, indicates the number will grow to 40 million people worldwide, there has been a jump of 6 million cases, new cases, in 2 years, and that the infection rate continues to steadily rise in India, China, Russia, and Eastern Europe.

So we have a very, very serious situation. This terrorism is far more deadly than anything we could ever imagine. As we have indicated, the numbers are staggering, and AIDS is ripping through every continent destroying everything in its path. But let me concentrate a bit on Africa.

Botswana is currently experiencing the worst of the pandemic, with over 30 percent of its population affected. South Africa has also been hard hit. It is estimated that one out of three adults are infected. We have seen, to date, with President Mbeki, that there currently is really no national agenda to deal with the problem. We have seen statistics from Zimbabwe which say that 35 percent of that population has been infected with HIV and AIDS.

In many instances, the largest number of victims are from the public service sector: teachers, civil servants. So we can imagine what that will mean for most of the developed world when we are losing the leaders in those countries, with 14 percent of the teachers in South Africa infected. The rate is ex-

pected to increase to 30 percent in 10 years. So we have a very, very serious problem.

What we need to do, though, is to increase the amount of funds that are available. On the eve of the G8 meeting, President Bush announced a new initiative to address the pandemic through a pledge of an additional \$500 million over 3 years to help prevent mother-to-child transmission in parts of Africa and the Caribbean. As little as a single dose of medication to mother and child at birth is reported to prevent transmission 50 percent of the time.

While this is a positive step, it does not address the problem itself. The disease many times is transmitted through sexual activity, but this initiative focuses on the least politically sensitive aspect of care and treatment. U.S. AIDS programs, through the Agency for International Development, focus on education and do not offer treatment. Fewer than 2 percent of the people living with AIDS in sub-Saharan Africa have access to antiretroviral drugs that are saving lives and improving the quality of life for those who are fortunate enough to receive them.

So focusing primarily on the innocent newborns, Bush's pledge leaves out women and children and communities and families. So I urge that we push and stress that the U.S. House of Representatives step up to the plate and offer additional funding.

BARCELONA CONFERENCE ON HIV-AIDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mrs. JONES) is recognized for 5 minutes.

Mrs. JONES of Ohio. Mr. Speaker, I stand here, along with my colleagues, to commend the gentlewoman from California (Ms. LEE) for her leadership on the issue of the AIDS pandemic internationally. My colleague already read the declaration from the Barcelona conference. I am going to read the whereas clauses, because I think they set forth specifically the status of this AIDS pandemic internationally.

"Whereas every single day AIDS claims 8,500 lives, or the equivalent of three World Trade Center disasters daily;

Whereas by December 2001, 40 million people were living with HIV-AIDS, and by 2005 an estimated 100 million will be infected;

Whereas more than 40 million children, most of them in developing nations, will be orphaned by AIDS by 2010;

Whereas the World Health Organization this year has stated that the antiretroviral treatment is medically essential and has issued specific treatment guidelines, monitoring standards, and regimen recommendations;

Whereas those on treatment represent less than 2 percent of all those infected with HIV because such treatment is almost completely unavailable in developing nations;

□ 1730

Whereas, over 500 nongovernmental organizations globally have endorsed the Barcelona March for Life, which demands treatment access to at least 2 million people in the developing world by the time of the 2004 International Conference on AIDS in Bangkok;

Whereas these organizations represent AIDS activists from Africa, Asia and the Pacific Islands, Australia, Europe, Central and South America, and North America, therefore, we declare as activists pledged to life for all persons with HIV/AIDS that we are committed to the following goals, which the gentlewoman from California (Ms. LEE) has set forth.

Mr. Speaker, I had an opportunity to represent the gentlewoman from California (Ms. LEE) at World AIDS Day in Seattle 2 years ago during the WTO, and it was my pleasure to sit on her behalf. What was most interesting to me was the fact that an epidemiologist came and testified before the organization that there were hundreds and thousands of grandparents raising grandchildren because the parents of these children have been infected with the HIV/AIDS virus and, therefore, were unable to take care of their own children. So grandparents are taking care of as many as 25 of their grandchildren.

I think we need to pay attention to, as the United States of America, and when we start thinking about the companies and corporations that are doing business in these developing countries, that they will not have available to them the workers to do the work in these countries. We need to pay attention to the HIV/AIDS virus and pay attention not only in developing countries, but in our own Nation.

In the United States, 950,000 have been diagnosed with AIDS. African Americans make up 13 percent of the total U.S. population, but 54 percent of the new infections, 82 percent of the women who are newly infected with HIV/AIDS are African American and Latino.

The time is up for us to sit back and believe the HIV/AIDS virus is affecting people other than Americans and we can just think about it being in another country and not deal with the issue.

I stand here in support of the Barcelona Declaration. I stand here in support of it on behalf of all the people of the world, but particularly on behalf of the people of the 11th Congressional District of Ohio, and I salute the gentlewoman from California (Ms. LEE) for her work in this area.

PRESIDENT BUSH REFUSES TO SUPPORT REAL REFORM

The SPEAKER pro tempore (Mr. KIRK). Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, on Tuesday of this week, President Bush gave a major speech on his administration's plan to curb executive greed and corporate misgovernance in America.

Why was the President's speech so poorly received? Why did the markets drop by several hundred points in the 2 days following the speech? Why did so many Wall Street workers who attended the speech ask, How much of this speech was politics, and how much of it is about real change?

Because despite his calls for corporate America to clean its act, President Bush, at the behest of his corporate sponsors, his major contributors, his political base, his political friends, continues to oppose real reform on Capitol Hill. He has refused to support pension and accounting reform and takes millions of dollars from the securities and accounting professions. He will not support legislation to halt offshore tax avoidance, while receiving contributions from many major companies who have moved offshore to avoid paying those taxes. His budget severely underfunds the Securities and Exchange Commission.

To make matters worse, the President has pushed to turn the public program of Medicare over to the health insurance industry and to HMOs, again while receiving millions of dollars from that health industry for his campaign and for Republican campaigns in the House and Senate.

The President also advocates turning Social Security over to the same Wall Street banks that advised American investors to buy WorldCom, Enron, Adelphia, and Bristol-Myers, and all those others companies over the last few years, while their analysts have privately ridiculed these companies and investors.

More recently, the President endorsed a prescription drug plan that would be administered by the health insurance industry and would make no provision for dealing with the skyrocketing prices American seniors pay for prescription drugs, simply because the President and Republican leaders in this Congress do not want to upset the prescription drug industry.

Apparently, the President has been convinced by the brand-name drug industry that prices simply are not a problem. The plan would undercut seniors' purchasing power and enable the drug industry to sustain its outrageous drug prices by permitting the continued abuse and manipulation of drug patent laws. Three weeks ago in the Committee on Energy and Commerce as we were marking up the drug bill, the chairman notified us that we would

be quitting at 5 p.m., even though we had 20 more hours of work to do, because all of the Republican Members trooped off to a \$30 million fundraiser headlined by President Bush and Vice President CHENEY, and underwritten by the prescription drug industry.

The Chair of this fundraiser was the CEO of Glaxo, a British drug company which donated \$250,000 to that event. The next day when we returned to business and our committee continued its markup on the prescription drug bill, amendment after amendment after amendment that was pro consumer was defeated because the drug companies wanted those amendments defeated.

The insurance industry has written legislation for the White House and the Republican leadership on Medicare privatization. The chemical industry has written legislation for the Republican leadership and the White House on environmental policy. The oil industry has written for Republican leadership and the White House legislation on energy. Wall Street has written for the White House and Republican leadership legislation on privatizing Social Security; and the prescription drug industry has written legislation dealing with pharmaceuticals for the White House and Republican leadership.

Coincidentally, Mr. Speaker, the most recent example of the President taking industry's side comes from today's headlines and also concerns prescription drugs. To avoid more questions about corporate accountability, President Bush left town today to give a speech in Minnesota on prescription drugs, and of course to headline a Republican fundraiser, his 34th this year, while we fight the war on terrorism.

The speech is timed to coincide with the release of an administration report, which conveniently concludes that the drug industry, America's most profitable industry year after year after year over the last 20 years, and an industry which enjoys the lowest tax rate of any industry year after year, his report concludes that the drug industry will be harmed by additional regulatory burdens, by lower prices imposed in part by this Congress.

Democrats are more concerned about the burden on seniors and their families who are being gouged by the predatory pricing of the pharmaceutical industry. That is why we support a direct prescription drug benefit with guaranteed coverage inside Medicare, not an insurance policy plan written by the drug industry.

Mr. Speaker, when will the administration do work in the public interest rather than on corporate interests?

CORPORATE ACCOUNTABILITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Pennsylvania (Mr. GREENWOOD) is recognized for 60 minutes as the designee of the majority leader.

Mr. GREENWOOD. Mr. Speaker, it is fitting that this new hour follows that last 5-minute presentation which was a perfectly classic example of partisan rhetoric aimed more to gain political favor than to shed light on an issue.

What we are going to do for the next hour is exactly the opposite, that is, my colleagues from the Committee on Energy and Commerce are going to talk about how we can, in bipartisan fashion, deal with the corporate malaise, the corporate scandals that have rocked our country to make sure that American investors are in better shape and enjoy more confidence in the market in the future.

We are here to talk about the best way to ensure corporate accountability, restore investor confidence in our markets, and build a 21st-century model of corporate governance that will give us an honest, open, transparent and efficient marketplace.

Before I am joined by my other colleagues, I want to describe the challenges we in Congress, the administration, and the overwhelming number of honest men and women who run our country's publicly traded companies face in this effort. I want to begin by placing our work in the larger context of the remarkable events that have occurred in the executive suites of some of America's largest corporations and the unsettling erosion in corporate accountability.

What we have been witness to this year with the collapse of WorldCom, Adelphia Corporation, Tyco International, ImClone, Enron, and Global Crossing is almost beyond comprehension. Certainly the markets themselves remain confused. The Standards & Poor stock index is down 17 percent since the year began, and as Business Week reported, "The inability of investors to distinguish honest companies from dishonest ones have caused them to sit on the sidelines. They are not buying."

More disturbing, however, is the behavior of overseas investors. They are getting out. They are selling off their holdings and driving down the dollar, which has slipped 9 percent against the Euro since February.

Clearly we need in bipartisan fashion to take every reasonable and prudent step to restore confidence in our markets. But in doing that, we need to remember that this decline in the character of corporate governance did not occur overnight. What we are now experiencing are the terrible costs of the 1990s corporate culture that placed too high a premium on the effort to do well at the expense of doing what is right.

Look at the evidence. While there will probably be nearly 250 corporate earnings restatements this year, the number has been mounting since the mid-1990s. For example, while there were 157 financial restatements last year, there were nearly 200 in 1999, and 100 in 1998. The cost to investors has been high. It is estimated in a just-released study that these restatements resulted in total market value losses of \$31.2 billion in 2000, but 1998 and 1999 restatements which accounted for market value losses of roughly \$18 billion and \$24 billion respectively were disturbing as well.

This brings me to a remark of one of our witnesses, Professor Bala Dharan of Rice University. He made it 2 weeks ago at our first hearing on the reform of the Financial Standards Accounting Board. When I asked if perhaps the boards of directors of our largest companies were too busy at the shrimp bowl to pay attention to their duties, his reply was that they were either "snoring or ignoring."

Then he went on to make what I believe was a chilling and sobering observation. Commenting on the events that led to the unraveling of firms like WorldCom, Tyco, and Enron he said, "What is going on is that this is a case that involves an enormous number of people, and that is why I refer to them as financial engineering rather than just accounting. In order to do this, you also have to have the compliance of lawyers and investment bankers from the outside."

He then concluded, "We are witnessing a comprehensive approach to financial engineering that has been going on for the last 5-10 years."

This is what we are confronting in our markets and in too many executive suites, a complex web of self-dealing and private arrangements which were conceived in a culture poisoned by a downward spiral in corporate ethics and management character.

This spectacular explosion of the Enron supernova brought all this to light in a dramatic fashion, but it did not happen overnight, nor can we hope to restore the integrity of our markets and the character of the men and women who run America's publicly traded companies without a long-term commitment to comprehensive reform in a wide array of areas.

We believe that our Republican approach both in the Congress and the White House embraces nearly all of the steps needed to accomplish our goal. We also believe that there is broad agreement by the members of both parties on nearly all the critical issues that need to be addressed.

I would be remiss if I did not mention that there will be a temptation in this political year to play up partisan differences by Members on both sides of the aisle. The heated rhetoric of the past few days has convinced me, and no

doubt many others, that there are some in this body who are more interested in acquiring political capital than in protecting the financial capital of America's investors.

As we are a political body, nobody should be surprised at this. But I am asking my colleagues to remember this: what we are dealing with is very large, and it is about so much more than money or crime or greed, although there has been plenty of that. We must restore investor confidence and market integrity in the most potent weapon in democracy's arsenal, free markets directed by a free people. This is a sobering task, and my hope is that each of us will bring the level of seriousness and cooperation to it that allows us to achieve our common goal.

□ 1745

Mr. Speaker, I yield to the gentleman from New Hampshire (Mr. BASS).

Mr. BASS. Mr. Speaker, I thank my friend from Pennsylvania for yielding to me.

I have to say in the 8 years I have been here, at no time has it been more painful for me to listen to partisan rhetoric associated with an issue than has been the case in this debate. The issue of corporate governance is not a Republican issue or a Democratic issue; it is not the fault of one administration or another. Certainly the problems arose and occurred during the previous administration, but I do not blame the previous administration, any more than I blame this administration.

We will not solve these problems, we will not address these problems proactively and effectively, by pointing fingers at each other and trying to accuse each other and make political hay out of a situation that demands calm, pragmatic and cooperative work on the part of everybody in this body to come up with a solution that restores confidence and creates growth and begins the process of growth again in our economy.

Mr. Speaker, I want to commend the work that has been done by our President and the speech that he made earlier this week in New York City. I want to pay particular attention to the exhaustive hearings that have been held by both the Subcommittee on Oversight and Investigations and the Subcommittee on Commerce, Trade, and Consumer Protection over the past 6 months.

Some of these hearings were held well before the crisis erupted to the point where it is today and may have in their content given regulators significant assistance and information and a prodding, quite honestly, to move forward and to make changes that may be way overdue.

Let me just say from the outset that the problem we face in corporate America is that there are a few very bad apples that have broken the law,

and, as our distinguished committee chairman has said on a number of different occasions, these individuals should be prosecuted to the fullest extent of the law and they should be sent to jail, just like any other common criminal in this country. There is no difference between stealing money from investors and robbing a bank and stealing money or shoplifting in a store, except it is more serious, and they ought to go to jail for it.

Secondly, as I alluded to in the beginning of my comments, the solution to this problem should be bipartisan, bipartisan. The more we talk about whether it is a Republican's fault or a Democrat's fault, the harder it is going to be to come to a good, quick, effective solution, and the only people who are going to suffer from that are going to be consumers, investors, retirees, parents and families. So it is time we got together and cut out this partisan discussion.

Thirdly, I think we should direct regulators to move expeditiously to clean up the problems that we face and provide recommendations, which we have done in two pieces of legislation, one that was marked up by the Subcommittee on Commerce, Trade, and Consumer Protection yesterday and another one passed earlier by the committee.

But what we should not do, in my opinion, is put into statute what should be done by regulators, because when you place ideas into statute, they are there forever, effectively, for a long time, and conditions in the financial world change and you have to have flexibility to deal with problems as they arise and change things over time. We run the risk by forcing regulators to do things that we want or by passing laws that set regulations in statute that we will create problems in the economy that were unintended.

Thirdly, we should be very careful not to stifle capitalism in this country, that we should not stifle the ability of the hundreds of thousands of honest entrepreneurs in this country and hard-working Americans who are trying to make a go of it and are doing it honestly.

We do not want to turn every CPA in this country into a Federal bureaucrat. We do not want to have chief financial officers and executives answerable to the Federal Government instead of to their shareholders and to their boards of directors. We want to have a system of regulations in place that is flexible, accountable, transparent; no more, no less.

The fact is, we cannot in Congress legislate honesty. We never have and we never will. But we can work together as Republicans and Democrats to assure that the rule of law applies to all and that corporate America is held accountable. If we do this, we will get out of this problem quickly and we will

look at a bright and prosperous period of economic growth in the years to come.

Mr. GREENWOOD. Mr. Speaker, I thank the gentleman.

I yield to the chairman of the Committee on Energy and Commerce, the man who has been leading us in all of these investigations, the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Speaker, let me first thank the gentleman from Pennsylvania (Chairman GREENWOOD) for the extraordinary job he has done and the members of the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce in the now many-month-long series of investigations beginning with the Enron scandal and the series of hearings we had, exposing what we found to be massive, in our opinion, fraud and massive cooking of the books at that corporation, and the subsequent investigations that are ongoing even today in the failure of other corporate managers and boards of directors which have led to much of what we see, the carnage on Wall Street and the loss of millions and billions of dollars, in fact, in investor funds over the last year or so.

Those hearings and those investigations began as we learned of the serious problems at Enron. Our investigative staff, as you know, began working throughout over the Christmas holidays gathering information that was available to us. We uncovered the fact that Arthur Andersen employees were shredding documents, and we had to have hearings in advance of our hearings on Enron to expose that problem. That, as you know, has led to a Federal indictment and now a conviction.

We had to literally examine thousands and thousands of documents, and in those documents we found indeed the whistleblower memo that told us an awful lot about what had happened and what was going on at Enron that caused it to collapse and why, in fact, all the special partnerships and the outside special entities that were created were designed, not for economic reasons, but simply to hide debts and inflate income.

We have seen that replicated now in a number of different cases that the gentleman from Pennsylvania (Chairman GREENWOOD) has already mentioned and that most of us know about now, including with the latest criminal investigation announced of Quest Communications and the collapse of WorldCom on the world stage.

The one thing that we have learned out of all of these hearings is that when greed is unchecked by the fear of discovery, a lot of bad things happen. I suppose it is a little bit like having a lot of great laws against bank robbing, but then leaving the doors open and telling the policeman to go home, and then being surprised when somebody robs the bank.

Banks get robbed and laws can be as strong as we want to make them, but we still need good policemen on the beat and still need good laws to ensure that vaults are secure at night and managers of banks take care of the money in the bank on behalf of those who put their trust and their confidence and money in those banks.

So is it true with corporate America. More and more Americans are invested now in publicly traded companies. More and more Americans, without even knowing it sometimes, have their pension funds invested in corporate America and public funds. More and more Americans directly now invest over the Internet and trade stocks every day in the stock market. More and more millions of Americans, in fact, are now owners of American corporations, instead of just the few who might have owned them in years past. So more and more millions of Americans have a great stake in the way corporate America behaves.

The notion that corporate governance in the cases of these massive failures has now let these Americans down and that workers have been put out of their jobs and that pension funds have been devastated, not simply at the companies where those workers have their pension funds, but all the pension funds around America that were invested in these companies, the notion that that is happening in America at a time when we should have indeed a strong protective system at the SEC, we should have indeed strong enforcement of our laws, we should have boards of directors who carefully are representing the interests of those millions of American owners of American corporations, the notion that that could happen has literally shaken, I think, American investor confidence in this system, and we need to restore it quickly.

Now let me say something, Mr. Speaker, that I think needs to get said. The reason why our committee has been so passionate about what we have found and what we are learning about the failures in corporate America is that our committee is the Committee on Interstate Commerce. It is the oldest committee in this Congress. It is the only one mentioned in the United States Constitution.

Our Committee on Interstate Commerce has been for many, many years the committee that literally bears responsibility for making sure that the commerce of our country is conducted properly, that the economy of our country is strong, that its laws and regulations and the institutions that guide our economy are well-funded and operate well. To the extent this is happening on our watch, we have a responsibility to fix what is wrong and to make better laws and regulations to make sure it does not happen again.

But it also offends us more than anyone else. As defenders of the free market system, as people who have fought to make sure that free enterprise and the capital markets were allowed to flourish in America, as opposed to those who would like to strangle them with regulations and socialize many conditions in this country, we are the most offended when bad players, when corporate criminals mess it up for all the good players in this country, the thousands upon thousands of small business corporations and medium-sized corporations and even the large corporations in this country who do it right.

That is why we become so offended when some in the accounting industry violate their trust with so-called aggressive accounting and cook the books in a sense in collaboration with crooked executives to make it look like the companies are doing better than they should be, and then to take off with the stock and to sell it, where the pension holders cannot sell their stock, or while the rest of America who is invested in the company finds out they have lost so much of their savings.

That is why we are so passionately angry about what has occurred and why our committee is so desperate to get all the facts and to understand what is wrong with this system and to fix it so it does not happen again.

We are engaged today at our committee level in an investigation of 13 companies who have seen similar failure like Enron, who have gone through some efforts to either hide debt or inflate income beyond that which really existed, some effort to convince investors they were doing a lot better than they really were, and have now collapsed, and we have seen the loss of millions and billions of dollars to those investors.

We are investigating those 13 companies right now and looking particularly at the boards of directors. We are very interested in knowing who those boards of directors were, how were they selected. Were they selected to represent the interests of the investors, or were they selected to represent the interests of the managers? Were they selected to be the CEO's men and women on the board of directors, or were they selected to represent the interests of the real owners of the corporation, the American investors who put their hard-earned dollars into a belief that those companies were being run properly?

It shocked us in the Enron hearings to see how little the boards of director members who testified before our committee knew about what was going on, how much they took at faith the statements of the executives in that company that everything was okay and they were doing everything correctly and they should not ask any hard questions. It shocked us at how little the audit committees had done in review-

ing those special partnerships in those entities created to hide debts and inflate income. It shocked us to think that those people who were serving on some of the most prestigious boards in America knew so little about what was really going on in their corporations, or at least claimed to.

So we are going after that issue. We are going to find out what is happening in the boardrooms of America.

There is some good news out of all of this. The good news in the face of all this carnage is that changes are occurring in corporate boardrooms of America. CEOs no longer have a friendly visit to their boards, they tell me. Boards are beginning to ask tougher questions. CEOs are having to answer the tough, hard questions about how their accounting is done. Accounting firms are beginning to have to answer hard questions by the audit committees and the finance committees of boards across America.

There is a sea change going on. On Wall Street, reforms are being recommended to separate those analysts who work for the investment houses, to separate them so people are not putting lipstick on ugly pigs and selling them to us as beauty queens.

□ 1800

We are beginning to see that change is being made at the SEC as they are recommending independent boards, and legislation is moving through Congress as a result of our hearings. Not only did this House, but the Senate now is taking up bills to deal with some of the issues of accounting misuse and abuses and to deal with the issues of independence of accounting and independence of corporate governance.

Just this week our committee produced a bill to reform the accounting standards at the FASB, the board under our jurisdiction that sets accounting standards for America. In addition, a committee of this House passed through this Congress a bill to protect the pension funds of America to make sure that corporate executives could not sell their stock while the pensioners were stuck holding theirs. That legislation is now in the Senate waiting for final action.

The bottom line is, we are beginning to see legislative action. We are beginning to see executive action, as the President himself has now issued an executive order. We are beginning to see reforms in corporate boardrooms across America and at the Wall Street offices in New York and around the country. We are beginning to see turnaround.

So the outrage that we have seen in our committee, the ugly picture we have seen in our committee of corporate misbehavior, corporate criminal conduct, is at least beginning to produce some good results. People are beginning to take it seriously. As my

friends have said, the Justice Department and others are beginning to look seriously at indictments and, hopefully, convictions of those corporate criminals, and reforms are literally in the wind.

So it will take a little while for investors to really feel like things have changed, that they can put their money into an American corporation again and really believe that the boards of directors are going to represent them instead of someone else; who can really believe that corporate managers are going to be looking after their interests and not their own golden parachutes. Things are changing. The result of these hearings, the result of our ongoing investigations, I think, are going to build a better market for this country and beginning to have the investor confidence that really means something again.

But if anyone in this country owes an obligation to protect this free market system and the capital markets and how they are structured, a free market by which this American economy has led the world, it is those of us in Congress who serve on the Committee on Energy and Commerce, who have been responsible for over 200 years of protecting the interstate commerce of this country. Our committee will continue to do its work, and we will do it in a bipartisan fashion. We will ask our friends on the other side of the aisle, as we have always done in our committee and who have joined us in our FASB reforms, to join us as we go through these reforms and investigations until all the truth is known and all the reforms are in. This is great work we do. I hope we do it well.

I want to commend the gentleman from Pennsylvania (Mr. GREENWOOD) and the members of his Subcommittee on Oversight and Investigations for the incredible work they have done so far and, believe me, we have much work yet to do.

Mr. GREENWOOD. Mr. Speaker, I thank the chairman of the full committee for his remarkable remarks.

I recognize and yield such time as he may consume to the gentleman from Florida (Mr. STEARNS), the chairman of the Subcommittee on Commerce, Trade and Consumer Protection.

Mr. STEARNS. Mr. Speaker, I thank my colleague, and I am glad to be here and commend him for his special order on this issue.

As the gentleman knows, we marked up in the subcommittee that I chair H.R. 5058, which is the Financial Accounting Standards Board Act, which was introduced and passed by bipartisan support out of my subcommittee, which attempts to bring some of these financial accounting standards up-to-date and modern.

Mr. Speaker, in the roaring 1990s, investors were all caught in a spiral of ever-increasing optimism about the

outlook for economic growth and stock valuations. It seemed the increase in stock valuations would never end, but of course, it did end. History teaches us they always do. In 2000, the so-called Internet bubble burst, and many investors lost money, not only monies invested in an Internet company, but also investments in leading, established blue chip companies. All of us remember when Alan Greenspan aptly characterized the phenomena of the stock market as "irrational exuberance." All of us had sort of a special sense of spiraling optimism.

Unfortunately, something that even Alan Greenspan did not predict has happened. In the wake of the roaring 1990s, we have witnessed corporate failures, bankruptcies, earnings restatements at unprecedented levels. Established companies that may have been overvalued were expected to weather these difficult times as business slowed, but they did not. The culture of the 1990s created something far worse: the race to up the earnings at all costs. Hype, hype, hype.

Of course, the first to fall was Enron. Amid its ashes, we discovered a host of problems involving corporate governance, audit independence, accounting fraud, and accounting standards. It would have been easier to accept the collapse of Enron were it an aberration. That no longer, of course, appears to be the case, given the recent news of Tyco, Global Crossing, and WorldCom, just to name a few. There is one every week.

These failures have put a strain on market recovery. Investors do not trust financial statements and that undermines their trust of all companies, good or bad. To stabilize our markets, accounting and corporate governance systems must be improved. We on the Committee on Commerce are committed to do that. This committee will do its part by acting on that which falls within our jurisdiction, which is accounting standards.

Now, the President just recently offered additional steps to stem the tide of investor mistrust of the capital markets. The markets themselves have taken significant steps in that direction, as seen in the new rules that have been proposed by the New York Stock Exchange. Of course, on the legislative front, the House has already passed legislation out of the Committee on Financial Services to reform the corporate governance and the audit system. The Senate, as we speak, is moving towards legislation as well.

Mr. Speaker, all of these efforts have primarily been focused on corporate and auditor governance. I believe changes to accounting standards and the process of setting those standards is another critical component of complete reform. I think that in addition to procedural reforms addressing governance issues, we must also carefully

study and address substantive reform, which means that the content of the GAAP principles of accounting must be reexamined in light of Enron-like accounting scandals.

So that is why our bill, H.R. 5058, which passed out of my subcommittee, the Financial Accounting Standards Board Act, is just an important first step for improving the transparency and reliability of financial accounting.

Now, I thought I would review just briefly what the bill does. The bill does simply four main things. First, it gives FASB standards Federal recognition for the first time.

Second, it directs FASB to promulgate rules in areas in which our investigations have revealed current standards need improvement: specifically, off-balance sheet accounting, revenue recognition, and mark-to-market accounting.

Third, it requires FASB to promulgate a primary standard that must be used to ensure the application of accounting rules complies with principles of transparency and comprehensibility. This will go a long way to preventing the abuse of accounting standards like those that have been revealed in the oversight committee investigations, as the gentleman from Pennsylvania (Mr. GREENWOOD) is involved in with Enron and Global Crossing.

Fourth and finally, the bill requires the GAO and FASB to report on FASB's compliance with the act and other issues relevant to the standard-setting process.

Again, Mr. Speaker, this was within our jurisdiction and this is the only thing that we could attack. I had an amendment in the bill which would also create a blue ribbon commission to study accounting standards and standard-setting processes. Specifically, the commission will evaluate FASB's 30-year record, evaluate the role of accounting standards, how they played in recent accounting failures, and explore alternative standard-setting mechanisms. This commission is not involved with governance. It is all involved with accounting standards and the standard-setting process. The commission, of course, will then present its findings and recommendations to our full committee.

I would like to just mention one of the witnesses that we had in our hearing dealing with financial accounting standards, a Professor Coffee, who is an expert; and he testified that "Reasonable people can disagree about the appropriate reforms that are needed to improve the regulation of the accounting profession and, not surprisingly, quite different proposals are currently pending in the House and Senate. But while reasonable, and sometimes even heated, disagreement is possible on many questions, there should be consensus on one fundamental point: our current substantive system of account-

ing principles, rule-based and hyper-technical, has shown itself to be vulnerable to exploitation by those willing to game the system."

So I think our passage of H.R. 5058 will move forward, and when it moves to the full committee in the House and hopefully, to the conference, we will be able to add, expand, and make it more comprehensive.

Mr. Speaker, I just wanted to conclude by bringing to the attention of my colleagues some comments from the former president of Arthur Andersen, who gave an editorial in the Wall Street Journal, Mr. Berardino. He was managing partner and CEO of Andersen and, of course, we know Andersen was found by the Justice Department to be guilty of shredding documents. But sometimes when you go to somebody who has seen the failure intimately they can sometimes bring to bear some very important points, so I would share with my colleagues some of his points.

He admits we need to rethink some of our accounting standards. Heaven knows, the Tax Code has gotten so complex. Likewise, our accounting standards have gotten complex and technical. Enron used sophisticated financing vehicles known as special purpose entities and other off-balance-sheet structures to hide debt, and they did it in such a way that no one could even understand them. In fact, the management's discussion and analysis in their profit and loss statement was 16 pages of footnotes. That was in its 2000 annual report.

Now, some of them, institutional investors as well as sophisticated investors, they all studied these 16 pages. Some sold short and made profits, but others who were also sophisticated analysts and fund managers said, well, I may be confused, but they went ahead and bought the shares anyway of Enron, and, of course, they lost money.

So if these people, institutional investors, fund managers, cannot understand these 16 pages of footnotes, how can the common investor understand them? We need to change that. We need to fix this problem. We cannot maintain trust in our capital markets with a financial reporting system that delivers volumes and volumes of complex information about what happened in the past, but leaves some investors with limited understanding of what is happening in the present and, more importantly, what is likely to occur in the future.

So the current financial reporting system has to be changed, and I would say to my colleagues, it was developed in the 1930s. It was developed for the Industrial Age. That was during times when assets were very tangible and everybody understood them. The investors who were involved at that time were very sophisticated, but they were few. There were no derivatives, the derivatives at Enron and all of these organizations used to hedge their bets;

none of that was happening in the 1930s. There was no structured off-balance-sheet financing, no instant stock quotes or mutual funds, no First Call estimates and, of course, there was no Lou Dobbs on CNBC.

So we need to move quickly here in Congress to establish and rethink our accounting standards and to modernize them, because I think the public is right, they have lost credibility, and this can be changed.

The other area that I would like to discuss is the patchwork of regulatory environment we have here. We have an alphabet soup of institutions, from the American Institute of Certified Public Accountants to the Securities and Exchange Commission to the Auditing Standards Boards to the Emerging Issues Task Force to the Financial Accounting Standards Board, FASB, to the Public Oversight Board. All of these have important roles in our profession, in the accounting profession, of regulation, and they are made up of very smart, very diligent, competent people.

But the problem, I submit, is all of these alphabetized, this alphabet soup of institutions, there are too many of them, there are too many cross-purposes. Somehow we need to bring them all together so they are focused better. And so the process, the whole process of oversight of all of these different institutions I talked about, needs to be redesigned. I do not think we should eliminate them, but I think somehow we have to get them more flexible and more suitable for the modern world.

□ 1815

Lastly, I would say improving accountability across our capital system. Two years ago, scores of new-economy companies soared. They came out of nowhere. Of course, they had public offerings, initial public offerings, and they went up and they collapsed in dust. A lot of investors questioned their business model and prospects. The dot-com bubble cost investors trillions of dollars.

So I think if we come together in a bipartisan fashion and look how to increase the market's integrity, I think we can do it. I think some of the comments from the former managing partner and CEO of Andersen are some ideas we should think about, and I think some of the things we have started in my bill, H.R. 5058, that came out of my subcommittee, is another good start for reforming the accounting standards in this country. I look forward to continuing this process.

Mr. GREENWOOD. Mr. Speaker, I thank the gentleman from Florida for his contributions in this Special Order, as well as his very excellent contributions in the leadership of his subcommittee.

Mr. Speaker, to underscore the importance of this issue, I would like to make a few more remarks.

America's place in the world, our leadership place in the world, is derived in many respects from the character of our people. It is derived in large measure from the nature and the beauty of our Constitution; but it is also derived in no small manner from our wealth, from our economy, the strength of our economy.

Our wealth as a Nation is the wealth that produced the military apparatus that fought wars and preserved democracy, that overcame Communism, that just liberated Afghanistan. Our wealth as a Nation is the wealth that is used to pull people from poverty into middle-class luxuries. Our wealth as a Nation is the wealth that enables us to find cures for diseases.

Also, our wealth is derived from our marketplace. Our wealth is derived because our marketplace is extraordinary in its ability to allow Americans to use their savings, and we are not good at savings in this country. Compared to the rest of the world, we save very little. But our marketplace is so efficient that the relatively meager savings of America can be used in the marketplace so that investment goes to the most productive companies and to the brightest ideas. That has enabled us to create a level of productivity that is unrivaled in the world, even by those nations that save far more money than we do, because we have this efficient market.

Now, the efficiency of that market is completely dependent upon the notion that investors can, on a regular basis, look at the independently audited financial statements of companies and make a decision about where they want to make their investments.

They want to make their investments in companies that are doing well, that are showing progress, that are showing profit, that are showing promise. They get to make a decision. They get to decide if they want to take a lot of risk in the marketplace. If they think they have analyzed a company and it has a promising product, if it has not made it yet, but may emerge and may solve a problem in this country; or they may take a high risk; or they may decide to take a little bit of risk and invest more modestly. But they do that based on their ability to trust the audited financial statements that these companies put out pursuant to law.

Now, what has happened? What has created this problem? What has created this problem is that the companies that we have seen in the headlines of America's newspapers are companies who refused to abide by the simple premise that they have a responsibility to issue audited financial statements that can be believed.

They have decided to do what is called "managing revenues," not just reporting their revenues, not just saying to their auditing committee, how

much money did we make this year, what were our revenues, but saying to their auditors and accountants, how can we boost those revenues above what they really were? How can we phony up the numbers?

Why did they do this? They did this because, particularly in a market which was heavily invested and experiencing this bubble, they did it because they knew if their revenues began to fall, if they did not meet expectations, investors might take their money and go elsewhere. That is one reason they did it.

Another reason they did it in some of the worst cases is because corporate executives had stock options, and they knew if they could push the revenues up way beyond where they really were, if they could report revenues way beyond the actual revenues of the company, that the stock prices would follow, and then they could cash out, sell their stock at a very high price, and yet leave a company or leave the rest of the investors with a company that really was a phony company and a false company and a company that did not have the value that they had reported in their own financial statements.

This is not the first time that this kind of thing has happened in our history. We went through a savings and loan debacle which cost the American taxpayers and investors billions of dollars. We went through problems with junk bonds.

I was reading a book over the last week called "Financial Shenanigans." There was a story, a true story, about a man whose business was vegetable oil. He was bringing in, or allegedly bringing in, boatloads of vegetable oil to this repository. He would impress his investors with all of the vegetable oil that he had accumulated; and they were investing in this product, in this market that he had.

What they did not know was that he had a vast system of underground piping that pumped water into the tanks. The vegetable oil was just a thin veneer that sat on the top of the water. So the researchers and analysts and underwriters would come, and he would take the tops off of his tanks and say, Look how much vegetable oil I have, millions of gallons of vegetable oil, when in fact it was all a phony scheme.

This is not unlike what we have seen in the marketplace here. The kind of reforms that we take here in a bipartisan fashion are going to have to have the effect on this corporate greed that ultimately happened when they let the water out of the tanks on this gentleman's vegetable oil barrels.

Mr. Speaker, I yield to the gentleman from Louisiana (Mr. TAUZIN), the chairman of the full committee.

Mr. TAUZIN. Mr. Speaker, I wanted to cite another example of how the gentleman's committee has worked on a problem in America that was awful,

the Firestone tire failure problem just last year.

When the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce did the deep investigations of Firestone and followed through in the current cycle of Congress, through to a point where not only did Firestone itself begin to fix its own problems, but it is reestablishing its name, it is beginning to hire back its people, its products are beginning to find their way back into the marketplace with confidence again; and it has now realized that it cannot have a defective product out there.

It is doing much better today, I should report to the American public; but we in Congress, after those very extensive hearings, those awful hearings where we looked at so many people who had died on the highway because of the failure of tires on the traveling roads of our country, we in Congress acted swiftly. We amended for the first time in 30 years the highway safety laws of our country. NHTSA, our National Highway Safety Administration, was empowered to gather much more information about the safety of tires. It was empowered to do much deeper testing. It was empowered to require the companies to build better tires and to test them more efficiently and effectively.

It is now going through a rulemaking that is going to give all of us a chance to know, in the new automobiles we buy, just what our tire pressure looks like and whether or not we are losing tire pressure so our tires become more dangerous again. The work the Subcommittee on Oversight and Investigations of the Committee on Commerce produced is now producing stronger regulations, legislation which mandated stronger tires, safer automobiles; and therefore we are saving lives because of what we did with that extensive investigation and the subsequent legislation.

We are in the same position here, except the lives we are trying to save are the financial lives of the citizens of our country; the financial life of Wall Street, to try to restore its confidence again; the financial life of corporations that are suffering.

I bleed today for the workers at Enron. I bleed for the good accountants who worked for Arthur Andersen who have lost their jobs, who have seen their company come under such disastrous publicity and indictment and conviction for what occurred in the shredding. I bleed for the folks at WorldCom today, who are suffering through layoffs because their corporate executives participated in an apparent scheme to cook the books, and now their company is on the verge of bankruptcy.

We should bleed for those workers, but we also bleed for the American public who invested in those companies and who trusted them.

So what is the work product we have to come out with? We have to come out with a work product that literally strengthens our regulations, strengthens our laws, strengthens the enforcement agencies, but also does something the President called upon, and that is reinstills in corporate America, in those companies who may have lost their way, an understanding that character counts and that truth-telling is important. When they sign on the dotted line what the value of their company is, it should be a true value.

It says to accountants, when they go and audit the books, they ought to do a fair auditing. They ought not hide debt and inflate income, and they ought to give people the truth about how well their corporation is doing.

The good news is that most American corporations, the vast majority of American corporations, are not experiencing these problems. They have good boards and good managers, and the American public can have faith in them. But for those who have violated the trust of the American investors and the laws of our land, there are laws to punish them today, without us passing a single new law. There is justice coming, and there is reform in the wind.

Again, I think the Firestone story tells the truth about this situation. When we shed light on the problem honestly, faithfully, get all the facts on the table, put the witnesses in front of the American public, let them tell their stories, when we do that, Congress acts, the regulatory agencies act, and the American public responds.

Corporate America is waking up, I believe, to their responsibilities. I believe they are going to learn out of this horrible experience how important it is to keep, not just to build and to have, but to keep the trust of the folks who put their money into those corporations; who fund them, essentially, in their businesses through their investments and their pensions and 401(k)s, and the daily buying and selling of stock in our major markets.

Mr. Speaker, again I want to thank the gentleman for the great work that the Subcommittee on Oversight and Investigations has done. The Committee on Financial Services, led by the gentleman from Ohio (Mr. OXLEY), is doing a good job; and the combination of that and the work the gentleman from Ohio (Mr. BOEHNER) is doing in the Committee on Education and the Workforce on pension reform, I think that work together with what the Senate will do on the Sarbanes bill and what may happen yet on our FASB legislation and other bills that may make it through in terms of strengthening the criminal penalties against bad behavior.

All that work will complement, I hope, the good work that is going on in corporate America now to clean up

their act, and the good work that is going on in the accounting field to make sure that aggressive accounting is a thing of the past and that honest accounting is the way of the future.

Mr. GREENWOOD. Mr. Speaker, I thank the gentleman from Louisiana (Mr. TAUZIN), the chairman, for joining us again on this Special Order.

Mr. Speaker, there has been a fear, a nervousness, that if we continued these investigations, if we brought these corporate moguls before our Subcommittee on Oversight and Investigations, that somehow that would rock the markets and it would shake the confidence of the investors and make things worse instead of better.

We thought long and hard about that in our subcommittee, but we decided to continue on with our investigations and to continue to pursue these matters because we cannot, we cannot get the reforms that are required to protect the investor in this country until we lance the boil. We have to pick the scab. We have to open the wound, look at it, allow it to be seen by the American people, to show the American people that the United States Congress understands that this cannot stand and it will not stand, and that we will move to make reforms.

There are those who want to do too little. I think, frankly, some of the most conservative Members of the Congress want to do too little. They are afraid that these reforms are too much of an invasion into the private sector. They are not.

The marketplace of this country that drives our economy, that provides our wealth and provides our greatness, does not spring up like Topsy. It is the result of the laws and the regulations that we impose on the marketplace to keep it honest, to maintain its integrity so that investors can make smart decisions, so money can move efficiently to smart ideas and efficient companies and products, and make us wealthy as a result.

There are those who would do too much. There are those who would create a new Department of Auditing and make sure that every auditor in every company was a Federal employee. That would be bureaucratic and costly and invasive and wrong.

So we do have to find the middle way. We do have to find that which separates the most liberal Members of Congress from the most conservative Members of Congress, and I think we are well on our way.

I think the legislation that we passed in this House in April, the bill of the gentleman from Ohio (Mr. OXLEY), was the middle way. I think what Mr. SARBANES did yesterday with 100 percent support in the Senate represents the middle way. I think the President's bold remarks of 2 days ago were right on and illustrated the things that the executive branch particularly needs to do to bring us these reforms.

The only thing we need to worry about now is what we began this Special Order with, and that is the fear of partisanship. If Members of Congress and if political consultants and if leaders in political parties decide that, rather than solve this problem, rather than do the things that we need to do in a bipartisan fashion to restore confidence in the marketplace, they want to exploit this issue, create fear among the American people, try to cast false blame on particular individuals in the Congress or in the White House or elsewhere, then we will fail.

□ 1830

Then we will fail to meet our obligation to the American people and solve this problem. When this Congress, the 107th Congress of this country's history, concludes its work at the end of this year, I think two things must occur. We must be able, as we wish each other well for the holidays, clap each other on the back and say I think, number one, we have done everything we could in a bipartisan fashion to win the war on terrorism and provide security for America's people, and, secondly, we must say, as we leave this body for our Christmas holidays, I think that we have done everything we possibly could in bipartisan fashion to restore the confidence in the marketplace that this country so relies upon, that we did that in bipartisan fashion and that we can feel good about beginning a new year with growth in the economy and with security for the American people, not only physical security but economic security as well.

UNINSURED AMERICANS

The SPEAKER pro tempore (Mr. REHBERG). Under the Speaker's announced policy of January 3, 2001, the gentlewoman from Wisconsin (Ms. BALDWIN) is recognized for 60 minutes as the designee of the minority leader.

Ms. BALDWIN. Mr. Speaker, I am pleased to have the next hour on the floor to discuss with my colleagues a grave situation in our country, the issue of the uninsured. I would like to set the stage on this topic before calling on a number of my colleagues who are equally committed and tenacious about fighting to bring this issue back to the forefront.

We are facing an extremely serious health crisis. I listen carefully to those that I represent in Congress. I hear from constituents every day who have lost their health insurance and have nowhere to turn. I hear from mothers and fathers who are afraid that their healthcare premiums will become so expensive that they simply cannot afford them any more. I hear from small business owners who are facing skyrocketing premium increases and may not be able to offer health care coverage to their employees any more.

I believe that it is time once again to bring the issue of the uninsured and health care for all back to this House floor. I believe we need to act soon if we are going to save those families teetering on the edge of losing their health insurance, and I believe that it is unconscionable that in our country, the richest country on earth, that almost 40 million Americans have no health care coverage at all.

During 1999, about 15 percent of our population was uninsured. The Government defines being uninsured as being uninsured for a full year, but almost three out of every 10 Americans, more than 70 million people, were uninsured for at least a month over a 3-year period between 1993 and 1996. Although the uninsured population decreased slightly in 1999, the long-term trend has been growing of uninsured people. Without substantial restructuring of the opportunities for coverage, this trend is likely to continue. It is clear that the time to take action to solve this crisis is now.

I am sure many are aware of the recent reports issued by the Institute of Medicine of the National Academy of Sciences regarding the uninsured in America. The Institute of Medicine is in the process of conducting a 3-year study on the uninsured. It has two major objectives. The first is that the study will assess and consolidate evidence about the health and economic consequences of being uninsured for persons without health insurance and their families, for health care systems and institutions, and for communities as a whole.

Secondly, the study will raise awareness and improve understanding for the public and the policymakers about the magnitude and nature of the consequences of lacking health insurance.

The 16-member committee on the consequences of the uninsured has already issued two reports and plans to issue four more by September of next year. The first report, Coverage Matters: Insurance and Health Care, concluded, and I should mention not surprisingly, that the high cost of health insurance along with public policies prevent tens of millions of Americans from obtaining health care coverage. The Institute on Medicine report also found that there are persistent misperceptions about the uninsured that present obstacles to addressing the issue constructively.

I would like to talk briefly about some of these misconceptions. First, many people may think that the number of uninsured in the United States is not large and that it might not have increased in the recent years. But despite a very modest dip at the end of the 1990s and in 2000 following an obviously extended period of economic prosperity and growth and low unemployment in our country, the number of uninsured people has grown over the long term.

According to the Institute of Medicine report, the number of uninsured people is greater than the combined population of Texas, Florida and Connecticut.

In 1992 Congress debated health care reform and a plan that would guarantee every American the health care they needed. That vision was never realized. And now we have more Americans who are uninsured than we did back in 1992.

The second misperception is that it is assumed that the people who are uninsured do not live in families that work. This is incorrect. According to the Institute on Medicine study, 80 percent of the uninsured children and adults live in working families. Included among the uninsured are parents who are working two, sometimes three, jobs just to make ends meet. But increasingly they work in sectors of our economy like small business, family farms, the service sector or maybe part-time employment that do not offer health insurance coverage to their employees or that require them to pay so much of it that they simply cannot afford it and do not take the coverage. Even families with two full-time wage earners have a one-in-ten chance of being uninsured.

The third myth is that it is improper to assume that the uninsured get adequate medical attention. A report by the Kaiser Commission on Medicaid and the Uninsured found that the uninsured receive less preventative care and are diagnosed at more advanced stages of diseases. The uninsured are less likely to see a doctor within any given year and have fewer visits annually, and they are less likely to have a regular source of medical care. Uninsured persons receive fewer preventative services and less care for chronic conditions than those who have health insurance. This ultimately adds to the costs because in many cases their medical conditions become much more serious, producing adverse outcomes that will need extensive follow-up care.

It is clear that the costs associated with the delay of care for the uninsured could be prevented if they had access to affordable coverage.

Another problem we are facing in our system is that the cost of health care services and insurance premiums have been steadily increasing and more employers and consumers are viewing coverage as prohibitively expensive. A gap in the ability to purchase health care coverage has been growing ever since the growth in the cost of health insurance has outpaced real income. This gap has added almost 1 million people to the ranks of the uninsured every year.

Now many employers absorbed premium increases during the economic boom of the 1990s, but they cannot be expected to continue this practice in our current economy. Many lower wage

workers pass up on coverage because they cannot afford their share of the premium. On average, workers pay 14 percent of the costs of individual coverage and 27 percent of family coverage. Over the past 20 years, private sector employers have become less likely to cover part-time workers or new employees. And small businesses are faced with hurdles such as higher group premium rates and frequently do not offer coverage these days to their employees.

A business owner in my district could no longer provide health insurance to her employees because of the high costs of the premiums. Nancy Potter owned a bakery in New Glaris, Wisconsin for 25 years. Her health insurer left the region, and when she sought coverage from other companies, the quotes she received represented a 180 percent increase in premiums. She would have had to pay an additional \$50,000 each year to continue offering coverage. Unfortunately, she had to tell her 20 employees that she could no longer provide health insurance to them and their families. Even more devastating to her was the knowledge that one of her employees had recently been diagnosed with cancer and was undergoing treatment. This tragic state of affairs is not isolated and it is simply wrong.

On that note I would like to recognize one of my colleagues who has been a champion of the uninsured and of health care for all. We have worked very closely together and it is my privilege to yield to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I would like to thank the gentlewoman from Wisconsin (Ms. BALDWIN) for her leadership on health issues as well as on each and every issue that affects Americans on a daily basis, and also I want to just thank the gentlewoman for organizing this special order, because oftentimes health care remains under the radar, and I thank the gentlewoman for raising the level of awareness of this issue for all Americans, because for the wealthiest country in the world which claims liberty and justice for all, the fact that there are 44 million people without health insurance is really a shame and disgrace.

The fact that the bulk of the uninsured are low income and people of color is really no surprise. Although our Nation has a record low unemployment level, we still have one in six Americans who do not have health insurance. How fair and how just is that? Most Americans receive health insurance through their employers, but millions lack coverage because their employers do not offer insurance or simply cannot afford to pay it. Medicaid covers 40 million low income individuals, but millions more do not meet its limiting income and eligibility requirements because of really, quite frankly,

savage welfare reform restrictions, leaving the most vulnerable uninsured.

Although State Children's Health Insurance Program is supposed to cover all low income children, 16 million low income children still remain uninsured. Who are the uninsured? The uninsured are predominantly workers and their families, low income people, and oftentimes people of color. Fifty-six percent of the uninsured population is low income and nearly one in five of the uninsured are low income children.

Although people of color comprise only 34 percent of the population, over half of the Nation's uninsured are minorities. Twenty percent of those uninsured are African-Americans and 34 percent are Hispanic. In my own district we have one of the only organizations studying the disparities in the minority community. The Ethnic Health Institute is a community service of Summit Medical Center engaged in coordinating health education, research, health provider training and community outreach and awareness for the entire community with a very special focus on the underserved and community of color.

We must correct this imbalance in access which results in racial and ethnic disparities in care, and I am very proud that the Ethnic Health Institute is a wonderful example of an organization committed to this goal. People of color and the underserved bear a real disproportionate burden of mortality and morbidity rates across a wide range of health conditions. Mortality is a cruel indicator of health status and demonstrates how critical these disparities are for minorities. For African-Americans and Latinos, these disparities begin early in life and they persist. African-American infant mortality rates are more than double those of whites, 14 percent versus 6 percent; and the rate for Latinos is 9 percent compared to 6 percent for whites. The death rate for African-Americans is 55 percent higher for whites, with AIDS being the sixth leading cause of death for African American males.

I could go on and on with the multitude of statistics that clearly illustrates the stark disparities that exist for people of color. Yet the point remains that these disparities are the result of a lack of insurance, lack of access to health care, and, of course, still we are dealing with the economic divide.

Health insurance is important because it impacts health outcomes. Nearly 40 percent of the uninsured have no regular source of health care and use emergency care more due to avoiding higher costs of regular business. This situation creates an ongoing cycle of adults and children skipping routine checkups for common conditions, recommended tests, and treatments because of the financial burden resulting in serious illnesses that are, of course,

more costly. The uninsured are more likely than those with insurance to be hospitalized for conditions that could have been avoided such as the flu.

I would ask my colleagues, are the people dying who have no access to health care, are they really important to you? Is it because mainly that they are maybe children or poorer people of color or the working class that really blinds us all to their importance?

□ 1845

I do not believe that this is the message that any of us want to send, but that is the message that is being communicated.

The message that we must have then, however, is that universal health care, which provides high quality health care, should be provided without discrimination.

This challenges us as Americans to take another look at the fundamental role of government. We must do this if we are ever to achieve an equitable health care system, and I am totally convinced that sooner or later we must really come to grips with the fact that as long as the profit motive is central to our own health care system, and as long as health care remains big business, an industry, we will never have equal access to health care.

Universal health care is the only way we can provide equal access and fairness to our health care system. The uninsured are suffering, and if we do not acknowledge health care, sooner or later, as a basic human right, our society's most vulnerable will continue to grow.

Our Nation is the only industrialized nation that does not have a health insurance program for everyone and our health care system is truly failing. So we should make health care accessible. We should make health care affordable. We should really make health care a guarantee, and I want to once again thank my colleague from Wisconsin for continuing to beat the drum on health care and for calling us all down here tonight so we can ensure that our country knows that there are many Members of Congress who are going to insist that this be part of our legislative agenda.

Ms. BALDWIN. Mr. Speaker, I would next like to recognize a physician Member of this House of Representatives, and a distinguished member of the Committee on Ways and Means, and a champion for universal health care, the gentleman from Washington (Mr. McDERMOTT).

Mr. McDERMOTT. Mr. Speaker, I thank the gentlewoman very much for yielding to me. I am pleased that she has called this special order today. Of the lady from Wisconsin, from the day she ran, do not, they told her, do not run on universal health care. She ran on it, anyway, and she is here. That tells us something about what is out

there in this country. The American people know that there is really no excuse for what is going on in this country, and my colleague from California (Ms. LEE) just gave us the statistics about the unfairness and the inadequacy of our health care system in this country.

I think the fact that we are the richest country in the world and that 72 percent of the uninsured are from a family where somebody works full time, and, in fact, 13 million or 16 percent are in a family where two people work full-time and still do not have health insurance is simply a disgrace to this country.

I know there are people out there who say, well, it is going to cost so much money and we cannot handle it. Let me tell my colleagues what the real facts are, because a lot of what we will hear and see in advertisements is simply misleading.

Today, the United States spends \$1.2 trillion on health care. That averages out to \$4,350 a person. The average in the next 29 industrialized countries in the world, Sweden, Norway, France, Japan, Australia and so forth and so on, the average is \$1,760. We spend \$4,350. They spend an average of \$1,760.

Switzerland, which is the next one below us in amount of expenditure, only spends \$2,853, about 60 percent of what we spend, and none of those people have the problem we have in the United States that a person can be bankrupted by an illness or an injury at any time because we do not have health assurance of insurance.

We take care of people, oh, yes, we do. We take care of them in the emergency room, in the absolutely most inefficient way, when they have had a major catastrophe, no prevention, in an attempt to deal with it when it is a small problem. But when it is a catastrophe, they come into the emergency room. We see the strokes, the heart attacks. We see all of the things that could have been dealt with by medication for blood pressure or heart medication, a variety of other things.

Low birthweight children in this country. We spend a quarter of a million dollars on a child that is born at two or three pounds. If we had taken care of that young woman during the time the child was being developed, we would have had a normal child without the expenditure of a quarter of a million dollars. We could have done it for nickels and dimes.

So it is simply not that we do not have enough money in our health care system, it is that we spend it inefficiently and very wastefully.

A recent article in *Health Affairs* highlighted that most of the money for health care comes from, where do my colleagues suppose? Government spending. Either through direct expenditures of Medicare and Medicaid, but also through public employees' health bene-

fits and tax breaks offered to businesses that give insurance.

That means that \$720 billion out of the \$1.2 trillion that we spend every year, remember that, \$1.2 trillion, and \$720 billion of it is tax-financed. That is about 60 percent. More than half is presently paid for by the government. \$213 billion comes from Medicare. That is about 18 percent of the spending. \$186 billion is for Medicaid, which is 15 percent of the spending. \$65 billion is spent on public employee benefits between Federal and State and local people, and then there is \$110 billion worth of tax subsidies to businesses to provide health insurance for those companies that do it for their employees. If they do not, of course they do not get the benefit.

When we take that, that is over \$2,600 that we spend on average in this country from the government. The average, remember, in industrialized countries is only \$1,760. So we already spend more money in our country from the government than they spend in any country in the world.

So then the question we ask ourselves is, why, if we spend that much money and we still have forty some million people without insurance, how can this be? What is going on? We have the best technology in the world, the best physician training. Doctors come from all over the world to train here. We have the most advanced services in the world. Those are good things. So we have good things for our money, and then what do we pay for it? Well, we pay for the profit of a myriad of health care companies and two groups, I think, deserve special attention.

One is insurance companies. Every time there is an attempt to deal with a health insurance program for the country, we suddenly see the insurance companies throwing millions of dollars out there as they did when Mrs. CLINTON in 1993 and 1994 tried, they spent \$110 million advertising at the American people that you do not want the government to get into your health care. We are in health care. We are paying 60 percent of the bill right now.

The insurance companies get 15 percent or more for their overhead costs. Medicare, for example, the government program, gets 1 percent, 1 percent; insurance companies, 15 percent. So right there we have got heaps of dough. We have got way more than \$100 billion right there that we waste on insurance company overheads, and then they have to take away a profit, of course. So we have got all kinds of ways.

The argument that they help control costs may have worked in the mid-1990s, but they do not hold up today. Premiums have increased 50 percent in the last 5 years and are projected to go up as much as 15 to 20 percent per year in the foreseeable future. So the insurance companies, everybody says, well, oh, they are so efficient and they are so

creative and the private sector can do all this. They are not doing a thing. It is totally out of control.

The second place that we spend more money than we need to is with drug companies. They are the single most profitable industry in this country. We have seen recently two companies that have had to go back and kind of recalculate because they were playing with the numbers a little bit, but the profit margin as an industry has been 16 percent. If we put money into the drug industry, we can get 16 percent a year. That has been the average over the last few years. On revenues of about \$200 billion a year, they make money. Do not ever listen to their crying.

They are right out there. They had a fundraiser for the Republicans the other day. The president of a British company, his pharmaceutical company came in, laid down a quarter of a million dollars, and they said, well, if you are going to lay down that much, why do you not be chairman. They raised \$30 million. If my colleagues do not think that affects what goes on the floor of this House, they do not understand how this place works.

The argument that they need these profits to continue research into new drugs is very questionable, not when so much money for the development of the drugs has been done by the Federal Government itself through the National Institutes of Health and the government pays for the trials and everything else.

They spend three times as much on marketing as they do on research and development. Every time a person opens the newspaper and there is a full-page ad that says if you feel this in your stomach, you should go to your doctor and get X, Y, Z drug, that is where that advertising is going. They are direct-advertising to the American people. The people then go to the doctor and say, well, I should have that drug I saw in the newspaper, it is right there, here is the ad, doctor.

That costs us money. Whether that is necessary or not, they are doing advertising just like selling cars and Coca-Cola and new clothes and whatever. They are just like every other company and they are using three times as much. Do not forget that, three times as much for advertising as they spend on research. They always say, well, if we clamp down on our profits, we will not have any money to develop any more new magic drugs. Nonsense. They are taking us for a ride.

I think it is time, and I think the gentlewoman from Wisconsin (Ms. BALDWIN) is absolutely correct in bringing up the issue again of a universal health care plan for this country. We should have health insurance that can never be taken away. We can do it a lot of different ways.

I have one plan that I have been pushing for 10 years, but there are

other ways to do it. Why do we not say in Medicare, if you are 50 years old, between 50 and 65, you can buy into Medicare. If you get laid off by your company or you get an early out for retirement or whatever, you can buy into Medicare. It is a good deal and you have guaranteed coverage. My brother is, I forget, 56 or 57. He is at Boeing. Boeing's laid off 30,000 people. My brother's 57 years old and he is going to go out and he is going to find insurance as an individual? How? Do my colleagues know how much it costs? Most people cannot afford it even when they are working to buy an individual policy. That is why we buy group policies, but to do it on an individual policy, on our own, when a person is unemployed, is simply not possible.

So why not let my brother buy into Social Security early or buy into Medicare early? Or we could say, let us start with all the children and we could work our way up. There are many ways to do it. It is simply what is lacking in this House is the will to do it.

We know it can be done. It is done all over the world, and yet when it comes to this issue, we will not look over and see how the Germans do it or how the Canadians do it or how the British do it or how the Australians do it or the Japanese. We say no, our way is the best way, and we have got 44 million people without health insurance and we have got people bankrupted all the time. It is a disgrace, and we must begin to work on this, and I commend the gentlewoman for bringing this issue to the floor.

Ms. BALDWIN. Mr. Speaker, next I would like to recognize the gentlewoman from Indiana (Ms. CARSON), a colleague who has been a tremendous champion on advocating for the uninsured and advocating for universal health care.

□ 1900

Ms. CARSON of Indiana. Mr. Speaker, let me first and foremost enthusiastically and with a great deal of appreciation commend the gentlewoman from Wisconsin (Ms. BALDWIN) for her leadership in bringing this issue to the fore, to the United States House of Representatives, and certainly to the United States of America.

It is unconscionable, I believe, that there are over 40 million people in the country who are living without insurance. That is over 14 percent of the population of the most advanced nation of the world.

I am a Member of the Democratic Party. This House represents, for the most part, a two-party system, and of course, we have a list of sundry Independents and Libertarians, et cetera, but it is like the mathematical axiom that the whole equals the sum of its parts, and there is not a Member in this House who does not have universal health care.

We pay a pittance of a fee on an annual basis and we have top-drawer medical care, emergency care, we get all kinds of physical examinations, and it is just wonderful. So if anyone wonders why we stay here sometimes until 2 a.m. in the morning debating issues that have nothing to do with anything, it is probably because we have good insurance and we do not want to walk off and leave it. I am just going to be perfectly honest about it.

I am very concerned about all the women in this country. We had welfare reform, which was needed in a lot of ways, but we threw a lot of women out into the job market with no insurance. They have children who are uninsured.

I come from the State of Indiana, where there are countless people who are in dire need. Something happens unexpectedly and they need emergency medical attention. Our urban hospitals are on the brink of bankruptcy right now. We have one large caregiver of the indigent, a hospital, who can dispatch an ambulance out to an emergency situation. When the ambulance returns, if that person is uninsured, oftentimes that person gets turned away at the emergency room even though they are in dire need of emergency medical care.

In Indiana, there are over 625,000 non-elderly people without access to insurance. I say nonelderly because those over the age of 65 have access to medical care through Medicare, no matter what their income level might be. One constituent wrote to me saying that in the span of 18 months her husband died, she broke her ankle and foot in two different accidents, and she could no longer walk. She is losing her job. She has not been able to find a new job. Her preteen child was diagnosed as having a moderate mental handicap. She cannot get insurance. Her bills are piling up. If it were not for her church, she would not be able to even feed her daughter and herself.

These are the kind of people that represent a major segment of the population, not just in my district of Indianapolis or in my State of Indiana, but in the United States as a whole.

We have corporate greed that has knocked so many people out of work. WorldCom, 17,000 people, boom, unemployed. People who wanted to work, who enjoyed going to work and being responsible, American citizens who paid their taxes, abruptly, suddenly, without notice, unemployed and uninsured.

The number of young people under the age of 18 who are uninsured in Indiana is like 167,600 people. Now, how can we expect these young people to be productive members of society if, in fact, they have a medical condition that could be reversed with proper medical care and yet they are uninsured?

Now, there is a tendency of some to accuse doctors of being insensitive, and it is true that a lot of doctors are no

longer interested in the medical field because they cannot even get reimbursed for the expenses that they apply to a patient. We have to be realistic about what is right in terms of how we reimburse medical providers.

This country has a major, acute shortage of nurses, and we do not have the wherewithal to insist and provide opportunities for people to go to nursing school if they do not have the resources.

We in this House last week raised the debt ceiling for some reason. I am still trying to figure out why Congress voted to raise the national debt ceiling. For what? It certainly was not for we the people of the United States.

According to the nonpartisan Congressional Research Service, people who lack health insurance differ totally from the population as a whole. They are more likely to be young adults, poor, Hispanic, other minority cultures, or employees in small firms. More than 17 percent of the uninsured were 19 to 24 years of age, even though this age group represents less than 9 percent of the under-65 population.

For the first time since 1994, when the Congressional Research Service first began this annual analysis, the percentage of the uninsured who were white fell below 50 percent. Also for the first time since 1994, more than three-quarters of the uninsured were above the poverty level. The poor accounted for 12 percent of the under-65 population, but represented 24 percent of the uninsured.

About 76 percent of the uninsured were native citizens, and 27 percent worked or were dependents of workers in small firms. More than half were full-time, full-year workers or their dependents; 27 percent had less than full-time attachment to the labor force; and 17 percent had no labor force ties at all.

We need to ensure that even women who have cardiovascular disease, even though they may not be insured, can have access to quality medical care. I stand here today as an example of the benefits of quality medical care when a woman like me finds herself confronted with a very critical and serious medical situation diagnosed as a cardiovascular problem. More women than we can count are dying every year with cardiovascular disease and heart attacks. Many of them are uninsured, and they avoid going to see about how they are feeling and why they are having the symptoms because they cannot afford it.

A lot of people who work lost their insurance and are now losing their assets because of the spiraling costs of medical insurance, which wiped them out. They do not have any way to compensate for their medical needs. We need to make sure that the uninsured

have access to health care, that it is affordable, and that it covers all the people all of the time within this great country of ours.

When I first came to Congress, I introduced legislation calling for universal health care. I believe that this country of ours, this superpower nation, can actually access the resources when it needs the resources. It makes it happen. And certainly one of the priorities that this Congress should have is to ensure that we the people, all of the people, regardless of who they are, where they are, how they look and how they do not look have access to insurance and that they become insured for the benefit of getting quality medical care whenever and however it may be needed.

I applaud the gentlewoman once again for her keen interest, her compassion, her concern, and her incredible leadership in this regard.

Mr. BALDACCI. Mr. Speaker, I appreciate my colleagues who have joined me this evening to share their concerns about this issue and offer practical solutions to the problem.

Before I close, I would like to discuss a couple of measures that are or have the capacity to reignite the debate on the uninsured and health care for all. One was just referenced by the gentlewoman from Indiana, and that is House Concurrent Resolution 99. It is a resolution that was crafted by the Universal Health Care Task Force, of which I am a member.

This resolution directs Congress to enact legislation by October of 2004 that provides access to comprehensive health care for all Americans. The resolution designates 14 separate principles that would guide us in that process. They include issues such as affordability and removal of financial barriers to access to care, cost efficiency, comprehensive care, including making mental health parity a priority, and promotion of prevention and early intervention. Our health care system should eliminate disparities in access to quality health care.

One of the other guiding principles is that it should address the needs of people with special health care needs and underserved populations in rural and urban areas. These are basic guiding values that we should look to as we reform our health care system.

Now, my colleagues and I mentioned various approaches to assuring health care for all and addressing the needs of the uninsured. I have offered universal health care legislation, as have a number of our speakers here this evening, and I have certainly cosponsored many of their bills. All of these bills abide by the principles that I just outlined and are an effort to reach the goal of health care coverage for all.

The legislation that I have offered achieves this goal by allowing the States to decide for themselves how to

provide quality, affordable health care to all of their residents, and it provides broad Federal guidelines and financial assistance. My Health Security for All Act will secure health insurance for all Americans, guarantee affordable health care by limiting out-of-pocket expenses, and provide comprehensive health care by guaranteeing a minimum benefit package equal to the benefits offered to Members of Congress. It would also ensure the quality of health care benefits by providing very strong patient protections.

This is a proposed answer to our uninsured crisis, and I know my colleagues with me tonight share my commitment to addressing the needs of the uninsured and those underinsured in this country.

I would like to reiterate the point that being uninsured is not a choice. Over 40 million people do not have access to quality, affordable health care in America not because they choose that, but because circumstances beyond their control result in their inability to access affordable health insurance. Our country has the most expensive health care system in the world, and the gentleman from Washington (Mr. McDERMOTT) brilliantly outlined that in his remarks. This is in terms of absolute costs, per capita costs, and percentage of gross domestic product.

Despite being the first in spending in the United States, the World Health Organization has ranked the United States number 37 among nations in this world in terms of meeting the health care needs of its people. More and more people are slipping through the cracks in the system of health care coverage in our Nation.

So what are the consequences for all of us in having tens of millions of Americans uninsured? We have a sicker population, we as a society have to assume the loss of productivity and the costs for serious medical conditions that go undiagnosed and untreated. We suffer the shame of being the richest nation on Earth that cannot provide basic health care to all of its citizens.

In just a few decades, we have put astronauts on the moon, we have created a global village united by computer technology, we have perfected travel from one end of the world to the other in mere hours, and yet 40 million of us cannot afford or cannot get health care. And there are tens of millions of Americans who have lost faith in this system, lost faith that comprehensive, quality health care will be available to them without a struggle when they need it, where they need it, and from whom they want it.

My colleagues, it is time to put health care for all at the top of our national agenda. Many people have called for it and many more believe it should happen. But universal health care will never happen until we create the na-

tional will to make it so. We know that if 40 million uninsured people found their political voice tomorrow, and spoke as one and demanded universal health care, that we would have it.

□ 1915

Mr. Speaker, I ask my colleagues to join me in helping them find their voices. The voters in my district are tired of hearing "we cannot." They reject the cynicism of the naysayers and the keepers of the status quo. I ask these naysayers if you are not for health care for all, who would you leave behind? If you agree that everyone should have health care and affordable access to quality comprehensive health care, then let us talk about the best way to achieve that. That is why we are here tonight. Together we must reignite the debate about extending quality, affordable, comprehensive health care to everyone in our country.

JUSTICE FOR WORLD WAR II POWS

The SPEAKER pro tempore (Mr. KIRK). Under the Speaker's announced policy of January 3, 2001, the gentleman from California (Mr. HONDA) is recognized for 60 minutes.

GENERAL LEAVE

Mr. HONDA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HONDA. Mr. Speaker, it is an honor to be here today to address the situation of our former American POWs who fought in the Pacific Theater during World War II. My commitment to addressing these issues is deep-seated. I am proud to be a co-author of the bill H.R. 1198, the Justice for U.S. Prisoners of War Act of 2001, with the gentleman from California (Mr. ROHRBACHER). We are joined by 226 of our House colleagues on this bill.

I am a teacher by training, and I am not an expert on the issue of war and the atrocities that all too often accompany the prosecution of war between nations. I want to share with Members why I think it is important to pay attention to events that happened over 50 years ago.

My involvement in the pursuit of justice for American POWs stems from something that is deeply personal and uniquely American. It is a view that is held by a great many of us that are part of the new generation of Asian Americans whose parents were born in the United States.

The roots of my involvement in the POW reparation movement was embedded in me as a youth, well before I had any idea about the atrocities that some

Japanese companies visited upon our servicemen during World War II.

Like many Japanese American families, my family and relatives were interned in a camp in Amache, Colorado, in 1942. We were eventually able to leave the camp because my father volunteered to serve in the Navy's military intelligence service.

Later in the 1970s and 1980s, the Japanese American redress movement focused the United States on coming to terms with the injustices of the internment of Japanese Americans during World War II. This shaped my desire to set the record straight.

It was once taboo in my community to discuss the internment issues. The redress movement brought the issue out into the open and allowed the healing process to begin, and this enabled many of us to put aside our bitterness and understand clearly what happened to us in our own country during World War II.

Just as the healing process began in my community, it is my great hope that this historic bill will bring some measure of closure for our brave soldiers, sailors, airmen and marines who were so severely mistreated as prisoners of war while educating our Nation about what really happened during World War II so that together we can learn from the lessons of those dark times.

As we go forward, it is critical to remember that the relationship between the U.S. and Japan is important to our national interests and that nothing in this bill is intended to harm the strong friendship the United States and Japan have enjoyed for these many decades. But we cannot ignore the past and sweep the events of the past under the rug.

When I think about forgiveness, I think about a friend, Dr. Lester Tenney, an American veteran and POW who once told me as he was recalling a conversation he had with a fellow POW, his friend said I cannot forgive nor forget, and he told his friend if you cannot forgive, you are still a prisoner.

Dr. Tenney's story mirrors what many of the POWs went through. He became a prisoner of war on April 19, 1942, with the fall of Bataan in the Philippines. A survivor of the Bataan Death March, he was sent in a hell ship to Japan where he became part of the slave labor force in a Mitsui company coal mine. Dr. Tenney has stated and I quote, "I was forced to shovel coal 12 hours a day, 28 days a month for over 2 years, and the reward I received for this hard labor was beatings by the civilian workers in the mine. If I did not work fast enough or if the Americans had won an important battle, the beatings would be that much more severe."

It is important to stress that this legislation we have introduced, H.R. 1198, is by no means an instrument to further anyone's agenda that fosters

anti-Asian sentiments, racism, or Japan bashing. What this bill will do is to give our veterans their long-awaited day in court, restore some measure of dignity to them, and set the record straight. Our intention in pushing for this bill, the Justice for U.S. Prisoners of War Act of 2001, is to support our former prisoners of war held in Japan during World War II. These heroes survived the Bataan Death March only to be transported to Japan in death ships, forced to work for private companies under the most horrendous and horrific conditions.

Private employees of these companies tortured and physically abused our GIs while the corporations withheld essential medical and even the most minimal amounts of food.

After the war, approximately 16,000 POWs returned, all battered and nearly starved to death, many permanently disabled, all changed forever. More than 11,000 POWs died in the hands of the Japanese corporate employers, among the worst records of physical abuse of POWs in recorded history.

Now, like many other victims of World War II era atrocities, the remaining survivors and their heirs are seeking justice and historical recognition of their ordeal. The former POWs do not seek any action or retaliation against the current Japanese Government or against the Japanese people, nor do they seek to portray Asian Americans in any sort of negative light. Rather, they simply seek just compensation from the Japanese companies who were unjustly enriched by the slave labor and sufferings.

The main problem these POWs face today has been the way in which the peace treaty with Japan has been interpreted by our State Department. To date, the State Department has asserted that former POWs can claim no benefits due to the State Department's interpretation of the terms of the peace treaty.

However, other countries such as the Netherlands, Spain, and even the former Soviet Union, have helped their nationals in receiving benefits, and Japan has extended more favorable peace treaty settlement terms with those countries, and has continued to settle war claims by nationals of other countries.

The United States State Department has stood in the way of our POWs' efforts to obtain their measure of justice by the State Department's reading of the peace treaty.

In the face of these obstacles, Congress passed a resolution, S. Con. Res. 158, in the final days of the 106th Congress, calling upon the State Department to put forth its best efforts to facilitate discussions designed to resolve all issues between the former members of the Armed Forces of the United States who were prisoners of war forced into slave labor for the benefit

of the Japanese companies during World War II and the private companies who profited from this slave labor.

Today, the State Department has apparently taken no significant actions to resolve this matter. It is, therefore, up to this Congress to press this issue firmly and fairly. Our bill is a balanced and fair response to the situation. H.R. 1198 would, one, pursue justice through the U.S. court system as any former employee of a private company can; two, allow States such as California to extend the statute of limitations applicable to these claims for a period of up to 10 years; and, three, require any U.S. Government entity to provide the Department of Veterans Affairs any medical records relating to chemical or biological tests conducted on any POW and make those available to the POW upon request.

Since the end of World War II, the Japanese corporations that abused these former POWs profited from their forced labor have prospered enormously. Many of these companies are household names in the United States. As an ethical and moral matter, they long ago they should have voluntarily reached out to their victims and settled this injustice.

On the eve of America's entrance into World War II, former U.S. Secretary of the Interior Harold Ickes, Sr., once asked, "What constitutes an American? Not color, nor race, nor religion. Not the pedigree of his family, nor the place of his birth. Not the coincidence of his citizenship. Not his social status, nor his bank account. Not his trade, nor his profession."

"An American is one who loves justice and believes in the dignity of man. An American is one who will fight for his freedom and that of his neighbor. An American is one who will sacrifice property and security in order that he and his children may retain the rights of free men. An American is one in whose heart is engraved the immortal second sentence of the Declaration of Independence: 'We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty, and the pursuit of happiness.'"

"Americans have always known how to fight for their rights and their way of life. Americans are not afraid to fight. They fight joyously in the pursuit for a just cause."

Mr. Speaker, I am honored to stand here today in the House of Representatives and give you my word that I will continue to fight joyously in the just cause of America's World War II POWs. We must remember these men, these men of our Nation's greatest generation. They volunteered to serve our country and some were only 17, 18, 19 years old. They were young, strong, and spirited. They survived the ordeal of a forced surrender in the Philippines. They survived the cruelties of

the Bataan Death March, the hell ships, and being POWs in Japan. They survived the tortures of slavery. And today, they are surviving our justice system.

In the beginning of this year, there were only 5,300 surviving POWs, but we are losing these men on a daily basis. For the sake of these men, for the sake of reconciliation, for the sake of our future, we must do right by these men. Let us give these heroes their day in court.

Mr. Speaker, I yield to the gentleman from California (Mr. ROHRBACHER).

Mr. ROHRBACHER. Mr. Speaker, let me draw Members' attention to the job that the gentleman from California (Mr. HONDA) is doing for these noble Americans. He did not have to do this, but he has put enormous energy into this bill to bring justice to the survivors of the Bataan Death March. He has my respect, and I am very, very proud to be working with the gentleman on this issue.

I could not help but think as he read the definition of what is an American, that the gentleman from California (Mr. HONDA) himself represents the essence of what he was reading: an American is someone who stands for justice first and foremost. Thank goodness we have people who are taking time to care about those people who defended our country.

Eisenhower once said that any country that forgets its defenders will itself soon be forgotten.

Mr. Speaker, there are no greater heroes that we have today than those heroes that survived the Bataan Death March. There is no group of survivors of any war to whom we owe a greater thanks; but yet who we have done a great injustice through our inaction, through our unwillingness as a government to step up to do what was right by them.

□ 1930

There are many such causes around, good causes. This is one good cause.

I got personally involved in this because this issue happens to touch my family. My wife's father passed away about 10 years ago, and when we were married 5 years ago, at our wedding my wife was given away by Uncle Lou, now the great male patriarch of our family, because my father has passed away as well.

Uncle Lou is a survivor of the Bataan Death March. What he told me surprised me. I was totally surprised when I heard about what had happened.

First of all, and I went to several of the reunions they have of the Mukden survivors. The Mukden survivors are the people who survived the Bataan Death March and then were sent on to Manchuria where, I might add, they not only were worked as slave laborers, but many times used for experiments and many of them were brutally murdered by their Japanese guards.

What he told me is that originally, of course, they felt that they had been betrayed by their countrymen, or at least had been hung out to dry, as you say, by our fellow Americans who they believed in. My Uncle Lou was unfortunate enough, like these other Bataan Death March victims and survivors, to be stationed in the Philippines just prior to the Japanese attack in December of 1941. They fought hard and they retreated back to the Bataan Peninsula, where they were able to hold out for months against overwhelming odds. And their relief never came. It just never came. They were supposed to hold out until the Americans came forward.

Now, could we have saved them? We had a tremendous attack on Pearl Harbor that eliminated much of our strength in the Pacific. Maybe we were not able to. Maybe with the ships and planes we had available, if we tried a rescue mission, we would not have succeeded. Maybe that was the right decision to make by our military, not to go there to rescue these men.

Then as they went through this horrific death march and captivity, which we will discuss in a moment, and then sent off to work as slave labor, those who were fit for slave labor duty in Japan and Manchuria.

After the war again they believe they were hung out to dry, because again, rather than coming to their assistance and their aid, the United States decided to cut a deal, and that is what the treaty with Japan in 1951, the peace treaty, represents, a deal that was cut with the leadership in Japan and of the way we would handle ourselves in a peaceful world.

It was a peace treaty. But instead of including in the peace treaty a consideration for these brave heroes, who had never been compensated by the Japanese or given an apology, not even an official apology issued for the way they were treated, instead of holding out for at least letting them have some modicum of justice, we cut the deal.

The deal in the treaty says that they would not be able to sue. They would not be able to sue for compensation for the crimes committed against them. This was part of an overall thing, that nobody is going to be able to sue.

Well, guess what? There is another portion of the treaty, because that portion that I just mentioned of the treaty is always held up by the State Department and they say, oh, we cannot let these Bataan Death March survivors sue the Japanese corporations that worked them as slave labor because that would violate the treaty. All of a sudden it would open up a Pandora's box. It would just destabilize the entire relationship we have with Japan.

But, no, there is another part of the treaty, and that part of the treaty says, and I do not have the quote right here in front of me, but it says that if

any rights are given to the people of any other country by Japan that are not included in this treaty as rights of Americans, then those rights that Japan has given to the other people automatically also become the rights of the Americans.

Well, guess what? Japan has permitted their companies in their country to be sued by others who were victimized during the Second World War. The Dutch and most recently Chinese citizens are able to sue, and I believe they received \$85,000 apiece in compensation.

This clearly then suggests by this section of the treaty that the Americans should have a right to sue for those crimes and those losses and to compensate them for those losses and crimes against them during the war. But instead, our State Department continues, continues, to hold that, no, this would destabilize our relationship with Japan, ignoring that portion of the treaty that permits Americans to have the very same rights, legal rights, that other citizens are granted by the Japanese.

So what we have is a travesty. America's greatest war heroes, and their greatest adversary is not the Japanese, but, instead, their own government.

Yesterday in a court in California these Bataan Death March survivors again attempted to state their case and to bring their case against a Japanese corporation which had worked them during the Second World War. It is a travesty that representatives of their government, of us, of us, the United States of America, U.S., our representatives, paid for by our tax dollars, were in that court, not to pay homage to these great Americans who sacrificed so much for our freedom, but instead to offer a brief to the court, to offer their own testimony to the court, of why the court should not even consider the case of these brave Americans.

Talking about adding insult to injury. The movie *Saving Private Ryan* and *The Code Talkers* and all these other movies that are now at last coming forward to show not just action-adventure type movies we had in the '50s or '60s, but instead to demonstrate the true heroism of that generation of Americans that saved us during the Second World War, we have those movies, and the American people feel that we owe that generation a great debt, and we do. But what kind of debt do we have when we sit and let our government, our government, using our tax dollars, thwart the efforts of the greatest of the heroes of that war to receive some sort of justice for the crimes that were committed against them?

Do not tell me about *Saving Private Ryan*. Do not tell me about *The Code Talkers* and the rest of these, how they made you cry, when we have got people who are our heroes and went through that savagery and took the blows for

us, who are now being thwarted in their attempt for justice by our own government.

The gentleman from California (Mr. HONDA) and I have tried to do our best to put at least the legislative branch of government on record, to be on the side of these Bataan Death March survivors. We have tried our best. I will have to say that the President, I do not know if he even knows about this issue, but I will say that he should, and if he hears about it tonight, he should intervene and make sure that his State Department, the people who he has appointed there, do not continue on this insult and this attack on the dignity and honor of the Bataan Death March survivors.

But at least we have tried here in the legislative branch. We have 227 bipartisan cosponsors of this legislation, of H.R. 1198. The gentleman from California (Mr. HONDA) has worked hard on this, as I say, and I have worked hard, and we have done our best on this legislation, and that is that over half the Members of Congress are cosponsors of this bill to bring justice to the Bataan Death March survivors.

Who can stand against it, you ask? Well, we have not yet been able to get a hearing on this bill. We have yet to get the committee chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), I might add, to agree to have a hearing on this bill. There is always a reason, of course. There is an excuse. But the gentleman from Wisconsin (Mr. SENSENBRENNER) could have a hearing on this bill, if he so chooses. But we do not.

I would suggest that the leadership of the House has not stepped forward to try to put pressure on those that are getting in the way of this bill, to make sure we get a hearing on this bill. I would think that those people who are reading the CONGRESSIONAL RECORD or listening tonight might want to call the White House and ask the President to make sure that we do right by the Bataan Death March survivors and we quit assigning members of the State Department to go into court to undercut their efforts to sue the people who tortured them and worked them as slave labor in World War II. I would suggest even calls to the leadership of the House, or to the gentleman from Wisconsin (Mr. SENSENBRENNER) might be an appropriate thing to see if we can move this legislation forward.

But we did not wait just for this legislation. There was another attempt that the gentleman from California (Mr. HONDA) and I worked out of how we might be able to get a vote on this, even though we were being thwarted in getting this bill to the floor.

Last year when the appropriations bills were going through, we wrote an amendment to the Commerce, State and Justice appropriations bill that stated that no one in the State Depart-

ment could use the funds in that bill in order to thwart the efforts of American citizens to sue the Japanese corporations that had worked them as slave labor during the war for compensation for that slave labor. So we basically were putting the essence of H.R. 1198 into the appropriations bill as a limitation so that no money could be used for that, meaning they could not pay the salary of anybody, they could not send them out, because that was using money, appropriated money, for that end.

That amendment caused a great deal of stir in this body, because we had at last got something on the floor. Some people thought that it was going to be ruled out of order. In fact, I believe the leadership felt it was going to be ruled out of order. But the person who was occupying the Chair when someone was asked to rule whether or not the amendment was in order, the person in the Chair took a look at it and said no, that is in order, and the shock waves could be felt all over the world.

Of course, it did not come up for a few days, and during that time period, the Japanese lobby went into full gear, and I am sorry to say that many Americans who you would never believe would take money to undercut America's heroes, people who, yes, it does bring tears to their eyes when they see movies like *Saving Private Ryan*, people who have made their whole lives helping the veterans, signed on to the effort of the Japanese companies to undermine that effort on our part to amend the appropriations bill, and, I might add, to undercut the bill of the gentleman from California (Mr. HONDA) and myself, H.R. 1198.

□ 1945

There was enormous pressure brought, but when the bill came to the floor in the House, we won overwhelmingly. It was an overwhelming vote. Only 33 votes were against us.

Well, it also passed the United States Senate, the appropriations vote in the United States Senate. Senator BOB SMITH from New Hampshire put forward the very same amendment, exact wording; so we had on both sides, the United States Senate by a majority and in the House by a huge majority, voted for that very same language to make sure that our tax dollars were not being used to undermine the rights of the Bataan Death March survivors. And guess what happened?

We have a process here, which is if there is any difference between the Senate appropriations bill and a House appropriations bill, they meet in a conference committee. The rules are supposed to be that they only make changes in those parts of the bills that have a difference. Those are the rules. But, of course, who cares for the rules when they have lobbyists paying millions of dollars in order to make just

one point, or when they are going to have some argument: Oh, we have to protect the stability of the relationship between Japan and the United States, because everything will just go to pieces if we permit these Americans, these heroes, to sue the Japanese corporations that worked them as slave labor.

Of course, the Japanese relations with the Chinese and with the Dutch have not gone to pot. No, only with Americans would that be considered an insult, for us to stand up for our people over these Japanese companies, huge multinational companies, huge Japanese corporations worth billions of dollars. Yes, they cannot afford to do justice by these people whom they treated like animals during the Second World War.

So behind the scenes in a conference committee where we are only supposed to change the things that are different between the House and the Senate, someone stepped forward to take out this provision. These were provisions that passed on the floor of both Houses. Now, somebody is negating the democratic process here. Somebody, I do not know who, somebody is negating the democratic process on an issue that concerns America's greatest heroes; and we need to step up to the plate and make sure that it does not happen again.

Those listening or those reading the CONGRESSIONAL RECORD should know that the gentleman from California (Mr. HONDA) and I are planning again to offer this same amendment to the appropriations bill, but this time, we are going to draw the bead of the American people. We are going to focus people's attention on the conference committee so that behind closed doors, we will find out who it is that takes away the rights of the Bataan Death March survivors for their justice. We will find out who intercedes to negate the democratic process and behind closed doors, do this dirty deed to America's greatest heroes. We will find that out, and we will come to this floor, and we will make sure that the American people know exactly who it is that is doing this. Because the American people need to know if the democratic process is going to be thwarted, who it is here who is doing that, especially at the expense of these brave, brave men.

That will probably be in the next few months. I am not sure when the appropriations bill will be coming, it probably will be coming sometime in September, but we will be drawing people's attention to it, and I hope that people pay attention to this issue. It is only if we mobilize American opinion that we are going to be able to thwart those who are trying to thwart democracy.

Let us take a look at that. Let us take a look at it. How many people are we talking about? After the war, approximately 16,000 POWs returned.

These were people that returned, some of them were turned into walking skeletons; most of them had had the most traumatic times in their lives, both physically and mentally. They had seen their friends murdered in front of them, butchered. Sixteen thousand returned, and 11,000 POWs died in the hands of their Japanese corporate employers. These Japanese companies and the Japanese government had the worst record of abuse of their prisoners in World War II, and that is saying a lot.

Unfortunately, of the 16,000 that returned, only 2,000 remain alive today. It is up to us to set the record straight and to do what is right and to bring justice to these 2,000 men, if for nothing else, in memory of those many other thousands that have died waiting for justice, and the many thousands who died before them at the hands of these Japanese corporations and the Japanese prison guards.

Uncle Lou, my wife's great uncle, told me of his capture in the Bataan Death March at Bataan and details of the Bataan Death March and of the Filipino people who were watching this from the side. By the way, the Bataan Death March had many, many Filipinos as well, not just American soldiers, but Filipino soldiers. We are about to do justice to those Filipino soldiers, by the way, for the first time, thanks to the gentleman from California (Mr. FILNER) from San Diego, and some others of us; I am sure the gentleman from California (Mr. HONDA) is on this bill as well. We promised the Filipinos who served with us that they would get veterans' benefits, the same veterans' benefits as the Americans who served in World War II.

Mr. Speaker, this is a black mark on our government again. We just betrayed them. We just took them out of the loop. I think it was in 1948 that we reneged on that promise. But these Filipino soldiers who were with us, they died by the thousands as well. The Filipino people, the citizens would see these poor people coming by, these brave Americans and Filipinos who were being treated in this way, by the sword-swirling Japanese who were cutting their heads off if they dropped out of line, and they had no water, and the Americans with the heat; it was a horror story, the Bataan Death March.

But the Filipino people would throw little packets of food or little containers of water on them. If they did, they knew that if the Japanese guards saw them, that they would be murdered, but they took that chance to help these brave souls, these heroic people. They did that at such great risk that some of them lost their lives when the Japanese guards would come right over and bayonet them to death.

Do we not have the courage to do something? We are not going to lose our lives. Do we not have the courage

to step forward, or the caring in our heart to step forward to help these heroes as they march by?

This is a black mark on this Congress that we permitted that provision to be taken out behind closed doors in that conference committee. It is a black mark that this bill that the gentleman from California (Mr. HONDA) and I have worked on, H.R. 1198, has not been brought to the floor. This is a black mark. This is a shameful episode.

We can make it right, Mr. Speaker, but we have to have the support of the American people to do so. In the months ahead when we bring this forward and try to put this amendment on the Commerce, State, and Justice appropriations bill, we need to have everyone there focused on this issue. I would hope the veterans' organizations, which they were the last time around, will join us.

By the way, one other reason I feel so deeply about this is that my father also served in the Philippines as one of the liberators after the war. He too had a very high opinion of the Filipino people, and he flew DC-3s up and down the battle areas as we liberated the Philippines from the Japanese. And it was a very bloody battle, and many people risked their lives and many people lost their lives. Many people remained. That truly was, that generation truly was the great generation.

So we have a chance now to repay that debt. We have now a chance to send the message that we believe in justice and even if it is justice delayed, we will do our part to try to bring this honor, this honor that these men, the survivors of the Bataan Death March who were the heroes of all of those people, like my father who went after them, it was their courage that inspired my father and others to be involved.

Let us know this: This is not an anti-Japanese piece of legislation. The gentleman from California (Mr. HONDA) would be the last person who would come forward and try to do something anti-Japanese. The fact is that many people in Japan, and I would say if not most of the people in Japan, understand that there were things that were done wrong in World War II.

As we know, our own Japanese Americans who joined up in our own military were some of the most decorated war heroes in World War II. Of course, they used them in Italy and in the European theater, but they were heroic. So we know that. This is not against the Japanese Americans and it is not against the Japanese people, because we know that they would like to make it right and move on.

After all, the Germans, after World War II and in the decades since, tried to make it right, some of the evil things that they did. And they knew that it was not them, they did not do wrong; it was another generation of

Germans that did that. But they have not run away from their history.

Mr. Speaker, there are many people in Japan who want to shut the book. Let these Japanese corporations, if they do not want us to go through this, let them step forward and make a settlement with the Bataan Death March survivors. Let them make a settlement. But we are not going to stand by and let them just be tortured with silence after they had been tortured and worked as slave laborers during the war. We will not let the indignity of the crime against them, and the indignities that they had to suffer, we will not let that continue and go without being addressed.

As I say, there are many Japanese who would like to see the book closed, and I would plead with the powers in Japan to step forward and just close this book, get it over with.

□ 2000

This will not disrupt American-Japanese relations. Those people who are suggesting that, they are just using lala words, meaningless phrases and words, to try to say something that would justify the insult that they are giving to America's greatest war heroes; or perhaps they have been lobbied by someone, someone who they respect or they owe a special favor to, who told them not to vote for this, or to oppose it in some way.

This is not going to disrupt American-Japanese relations. The corporations that we are talking about are worth billions of dollars. They can afford to compensate these men who they treated as animals and dogs, and beat. They can afford it. In fact, it would be money well spent, because it would establish a tie, a bond between all of us, knowing that they were willing to do it. There would be no disruption of American relations. It is ludicrous to say that.

So tonight we draw attention to this bill, to this piece of legislation that has not been permitted on the floor, or that the gentleman from Wisconsin (Mr. SENSENBRENNER) has not seen fit to have a hearing on. We draw attention to the Japanese people; let us work together and bring justice and close this book. Let us honor these American heroes and recognize that the Japanese people are not the same people who had been brainwashed, as they were; the Japanese had been brainwashed for generations to react the way they did to orders during World War II.

But that has to be recognized, that there were crimes in World War II, and acknowledged and forgiven and forgotten, because there are so many things; and we have such close ties with the Japanese people now, and it is a wonderful thing.

Certainly Japanese-Americans, again, have proven their patriotism,

just with their honor and courage. And the fact that the gentleman from California (Mr. HONDA) is one of the leaders in this demonstrates again just how willing they are to step up to the plate and be patriotic Americans.

Mr. Speaker, I just close with this thought about my father, and the many fathers who fought in the Philippines and who fought in that generation. Some of them are lost to us now. We will do what is right by them, and we will honor them by doing what is right. What is right is not to forget the Bataan Death March survivors while any of them survive. Two thousand survive. Let us not let them pass away until we have done justice by them.

In this way, we will do honor by them; but we will make sure that our own country stands for liberty and justice and freedom, and these things that the gentleman from California (Mr. HONDA) just mentioned a few moments ago. If we are Americans, we are going to stand for these things, and we are going to stand together. Sometimes that means overpowering certain special interest groups that maybe have influence here. But no interest group can stand up to the American people if they are motivated and if they understand what the issues are.

So let us join together and let us make sure we do what is right by the survivors, to the survivors of the Bataan Death March, and let us pass H.R. 1198. Let us make sure that bill gets to the floor, and let us make sure that our amendment on the Commerce-State-and-Justice appropriations bill is passed and remains in the bill, and is not taken out behind closed doors this time.

Mr. HONDA. Mr. Speaker, I want to thank my good friend, the gentleman from California (Mr. ROHRBACHER), for his passion, for his conviction, and for his understanding of what it is that we need to do, and for his precise words that hopefully, as in church we say, convicts us to move and do the right thing.

A couple of words I would like to close with. One is "spirit" and the other is "reconciliation."

The spirit that I have learned in this process is the spirit of the victims, the ex-POWs, the spirit that was exhibited by Dr. Lester Tenney, by Mr. Frank Bigelow from Florida, who at 6-4, as a young man hunched over in the tunnels of the coal mines in Japan, had his leg broken by a boulder that fell down and shattered his leg; no medical facilities, no medical attention.

In a couple of days they realized that his leg was gangrenous, and they needed to do something in order to save his life. The choice was, do we amputate his leg and take the chance that he may die because of that, or do we allow the gangrene to continue and know that he will die? And he said, take it, and they took it with a pocket knife and a hacksaw and no anesthesia.

Yet today, both Dr. Tenney and Frank Bigelow have the spirit and the grace to say that they forgive what had happened to them, and what they seek today is just justice in their own court system.

The other word is "reconciliation." We just left a millennium of wars and atrocities, of the inhumanity of one person against another for many reasons. We have an opportunity in the new millennium to make this the millennium of reconciliation, of forgiveness, of healing.

I believe if this bill is passed and considered by our committees that is supported by over 226 Members of this House, that would move right through our committees if heard, that would move right to the President's desk, and to be signed by him would be the stroke that would allow our Members, the generation that we consider the greatest generation of our time in this country, to be able to attain the measure of dignity, the recapturing of justice, that they would seek and would attain when they have their day in court.

That is all we are seeking. We are not seeking to predetermine the outcome of the court action, but we are seeking their right for their day in court.

Mr. UDALL of New Mexico. Mr. Speaker, I would first like to thank my distinguished colleague Mr. HONDA for organizing this special order to raise awareness of the former POW's who were used as slave laborers in Japan during World War II. This is a particularly important veteran's issue to me and my constituents because of the significant role that New Mexicans played in the South Pacific during World War II. I am very glad to have this opportunity to come here tonight to honor those brave soldiers who battled in Bataan.

Shortly after the United States formally declared their entry into World War II, American forces stationed in Bataan, Luzon, and Corregidor on the southern coast of the Philippines began their valiant six-month defensive struggle against overwhelming Japanese military forces. Included in these American and Philippine forces were New Mexico's 200th and 515th Anti-Aircraft Coast Artillery units. In fact, when the Japanese bombed Clark Field and Fort Stotsenberg, Philippine Islands on December 8, 1941, eight hours after the attack on Pearl Harbor, the 200th Coast Artillery was the first to fire on the enemy.

The superior numbers of Japanese forces, however, compelled these brave American and Philippine forces to surrender on April 9th, 1942, and then forced them to commence the horrifying 85-mile Death March to the now infamous Japanese prison camps north of Manila. It is estimated that during the march over 10,000 American and Filipino soldiers died as a result of malnutrition and torture. Following the march, the thousands of men fortunate enough to survive were subsequently placed on "hell ships" and transferred to Japan, Taiwan, Manchuria, and Korea to perform slave labor in support of the Japanese war industry.

The American soldiers captured on Bataan, Luzon, and Corregidor endured a longer cap-

tivity—over three and a half years—than any other POW's in World War II. Of the approximately 36,000 U.S. soldiers who were captured by the Japanese during World War II, only 21,000 survived to return to the U.S. at the end of the war. Of the 1,800 men deployed in New Mexico's 200th and 515th Coast Artillery Regiments, fewer than 900 returned to the United States after the three and a half years of captivity.

Today, the men forced to perform slave labor in the Japanese corporations still await their just and overdue compensation and recognition for the labor performed. Recently, however, a California law was enacted that enables these men to seek damages up to the year 2010 against responsible Japanese companies. Seventeen lawsuits have been filed on behalf of former POWs, but their claims are currently pending in the California State court system and have been since they were filed in 1999.

Over the past few years, the U.S. government has helped facilitate the resolution of claims for thousands of individuals who were forced to perform slave labor for German companies during World War II. However, the U.S. State Department and the Department of Justice have been opposing, rather than supporting, the claims of the U.S. POW's who were forced to perform slave labor in Japan.

I am a cosponsor and strongly support the important legislation introduced by several Members present at this special order today, H.R. 1198. "The Justice for U.S. POWs Act of 2001," will allow POW suits against Japanese companies to go forward without interference from the Department of State. This legislation has broad bipartisan support and I am hopeful that we can soon bring this legislation before the full House for consideration to help bring compensation and recognition for the hardship these POW's endured at the hands of their captors.

Finally, I would like to invite my colleagues here as well as anyone else to visit the recently dedicated Bataan Memorial Park in Albuquerque, New Mexico. This touching memorial is a poignant reminder of the sacrifices made by both the living and the dead for the freedoms we enjoy today.

Again, thank you Mr. HONDA for organizing this special order. I look forward to working with you further to bring H.R. 1198 to the floor for passage.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. ROSS) to revise and extend their remarks and include extraneous material:

Mr. ROSS, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. MEEKS of New York, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

Mrs. CHRISTENSEN, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Ms. SOLIS, for 5 minutes, today.

Mr. PAYNE, for 5 minutes, today.

Mr. INSLEE, for 5 minutes, today.

The following Members (at the request of Mr. BISHOP) to revise and extend their remarks and include extraneous material:

Mr. CONYERS, for 5 minutes, today.

Ms. EDDIE BERNICE JOHNSON of Texas, for 5 minutes, today.

Ms. WATERS, for 5 minutes, today.

The following Members (at the request of Mrs. BIGGERT) to revise and extend their remarks and include extraneous material:

Mr. BILIRAKIS, for 5 minutes, July 18.

Mr. PENCE, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

The following Members (at the request of Mr. BISHOP) to revise and extend their remarks and include extraneous material:

Mr. NUSSLE, for 5 minutes, today.

The following Members (at their own request) to revise and extend their remarks and include extraneous material:

Mr. McDERMOTT, for 5 minutes, today.

Mrs. JONES of Ohio, for 5 minutes, today.

SENATE BILLS REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 997. An act to direct the Secretary of Agriculture to conduct research, monitoring, management, treatment, and outreach activities relating to sudden oak death syndrome and to establish a Sudden Oak Death Syndrome Advisory Committee; to the Committee on Agriculture.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.J. Res. 87. A joint resolution approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982.

H.R. 2362. An act to establish the Benjamin Franklin Tercentenary Commission.

H.R. 3971. An act to provide for an independent investigation of Forest Service firefighter deaths that are caused by wildfire entrapment or turnover.

ADJOURNMENT

Mr. HONDA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 8 minutes p.m.), the House adjourned until tomorrow, Friday, July 12, 2002, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7827. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Irish Potatoes Grown in Colorado; Increase in the Minimum Size Requirement for Area No. 2 [Docket No. FV02-948-1 FR] received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7828. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Nectarines Grown in California; Decreased Assessment Rate [Docket No. FV02-916-2 IFR] received June 25, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7829. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Raisins Produced From Grapes Grown in California; Addition of a New Varietal Type and Quality Requirements for Other Seedless-Sulfured Raisins [Docket No. FV02-989-1-IFR] received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7830. A letter from the Administrator, Cotton Program, Department of Agriculture, transmitting the Department's final rule—Revision of User Fees for 2002 Crop Cotton Classification Services to Growers [Docket No. CN-02-001] (RIN: 0581-AC04) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7831. A letter from the Administrator, Cotton Program, Department of Agriculture, transmitting the Department's final rule—Cotton Board Rules and Regulations: Adjusting Supplemental Assessment on Imports, (2002 Amendments) [Docket No. CN-02-002] received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7832. A letter from the Chief Financial Officer, Government of the District of Columbia, transmitting a report of two violations of the Antideficiency Act by the District of Columbia, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

7833. A letter from the Comptroller, Department of Defense, transmitting a letter regarding the Department of the Navy's multiyear procurement for F/A-18E/F aircraft engines for fiscal year 2002 through FY 2006, as authorized in the Department of Defense Appropriations Act, 2002 (P.L. 107-117) and the National Defense Authorization Act for Fiscal Year 2002 (P.L. 107-107); to the Committee on Armed Services.

7834. A letter from the Director, Regulations Policy and Management Staff, FDA, Department of Health and Human Services, transmitting the Department's final rule—Listing of Color Additives Exempt From Certification; Sodium Copper Chlorophyllin [Docket No. 00C-0929] received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7835. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule—Status of Certain Additional Over-the-Counter Drug Category II and III Active Ingredients [Docket No. 80N-0280] (RIN: 0910-AA01) received

June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7836. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule—Food Additives: Food Contact Substance Notification System [Docket No. 99N-5556] (RIN: 0910-AB94) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7837. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule—Status of Certain Additional Over-the-Counter Drug Category II and III Active Ingredients [Docket No. 78N-036L] (RIN: 0910-AA01) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7838. A letter from the Attorney-Advisor, Department of Transportation, transmitting the Department's final rule—Federal Motor Vehicle Safety Standards; Head Impact Protection [Docket No. 02-12480] (RIN: 2127-A186) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7839. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act—received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7840. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of justification for determination to waive section 620 (q) of the Foreign Assistance Act of 1961, as amended relating to Yemen, pursuant to 22 U.S.C. 2370(q); to the Committee on International Relations.

7841. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the 2001 Program Performance Report; to the Committee on Government Reform.

7842. A letter from the Acting Chairman, Merit Systems Protection Board, transmitting the Board's revised Reauthorization Act of 2002 and Justification for Legislative Initiative; to the Committee on Government Reform.

7843. A letter from the Chairman and General Counsel, National Labor Relations Board, transmitting the semiannual report on the activities of the Office of Inspector General of the National Labor Relations Board for the period October 1, 2001 through March 31, 2002, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

7844. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—Montana Abandoned Mine Land Reclamation Plan [SPATS No. MT-021-FOR] received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7845. A letter from the Executive Director, Naval Sea Cadet Corps, transmitting the Annual Audit Report of the Naval Sea Cadet Corps for the fiscal year ending 31 December 2001, pursuant to 36 U.S.C. 1101(39) and 1103; to the Committee on the Judiciary.

7846. A letter from the Assistant Attorney General, Department of Justice, transmitting a letter regarding H.R. 4466, the National Transportation Safety Board Reauthorization Act of 2002; to the Committee on Transportation and Infrastructure.

7847. A letter from the Attorney-Advisor, Transportation Security Administration, Department of Transportation, transmitting the Department's final rule—Private Charter Security Rules [Docket No. TSA-2002-12394; Amendment Nos. 1540-2, 1544-2] (RIN: 2110-AA05) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7848. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; Norfolk Harbor, Elizabeth River, Norfolk and Portsmouth, Virginia [CGD05-02-031] (RIN: 2115-AE46) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7849. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; Northeast River, North East, Maryland [CGD05-02-032] (RIN: 2115-AE46) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7850. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Special Local Regulations; SAIL MOBILE 2002, Port of Mobile, Mobile, Alabama [CGD08-02-011] (RIN: 2115-AE46) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7851. A letter from the Trial Attorney, Department of Transportation, transmitting the Department's final rule—Passenger Equipment Safety Standards [FRA Docket No. PCSS-1, Notice No. 8] (RIN: 2130-AB48) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7852. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Revocation of Class E Surface Area at Lompoc, CA [Airspace Docket No. 01-AWP-23] received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7853. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30302; Amdt. No. 2099] received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7854. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; General Electric Company CF6-80E1 Series Turbofan Engines [Docket No. 2002-NE-05-AD; Amendment 39-12684; AD 2002-06-07] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7855. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce Corporation (Formerly Allison Engine Company) 250-C28 Series Engines [Docket No. 2001-NE-31-AD; Amendment 39-12685; AD 2002-06-08] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7856. A letter from the Program Analyst, FAA, Department of Transportation, trans-

mitting the Department's final rule—Airworthiness Directives; Eurocopter France Model AS350B, AS350B1, AS350B2, AS350B3, AS350BA, AS350C, AS350D, AS350D1, AS355E, AS355F, AS355F1, AS355F2, and AS355N Helicopters [Docket No. 2001-SW-20-AD; Amendment 39-12680; AD 2002-06-04] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7857. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Hatchett Creek (US 41), Gulf Intracoastal Waterway, Venice, Sarasota County, FL [CGD07-02-061] received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7858. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Sikorsky Aircraft Corporation Model S-76A Helicopters [Docket No. 2002-SW-46-AD; Amendment 39-12674; AD 2002-05-06] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7859. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, mile 1069.4 at Dania Beach, Broward County, FL [CGD07-02-057] received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7860. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; MD Helicopters, Inc. Model 600N Helicopters [Docket No. 2001-SW-57-AD; Amendment 39-12706; AD 2001-24-51] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7861. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F.28 Series Airplanes [Docket No. 2002-NM-94-AD; Amendment 39-12697; AD 2002-07-03] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7862. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Israel Aircraft Industries, Ltd., Model Galaxy Airplanes and Model Gulfstream 200 Series Airplanes [Docket No. 2002-NM-65-AD; Amendment 39-12696; AD 2002-07-02] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7863. A letter from the Administrator, FAA, Department of Transportation, transmitting the Department's report in response to the direction in Public Law 104-264, Section 502, Employment Investigations of Pilot Applicants; to the Committee on Transportation and Infrastructure.

7864. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; General Electric Company GE90 Series Turbofan Engines [Docket No. 98-ANE-39-AD; Amendment 39-12668; AD 2002-04-11] (RIN: 2120-AA64) received June 17,

2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7865. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter France Model AS350BA and B2 Helicopters [Docket No. 2001-SW-62-AD; Amendment 39-12664; AD 2002-04-07] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7866. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737, 757, and 767 Series Airplanes [Docket No. 98-NM-298-AD; Amendment 39-12249; AD 2001-11-07] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7867. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747-400, 747-400F, 757-200, 757-200CB, 757-200PF, 767-200, 767-300, and 767-300F Series Airplanes [Docket No. 99-NM-350-AD; Amendment 39-12250; AD 2001-11-08] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7868. A letter from the Acting Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule—Small Business Size Standards; Travel Agencies (RIN: 3245-AE95) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

7869. A letter from the Acting Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule—Small Business Size Standards; Travel Agencies; Economic Injury Disaster Loan Program (RIN: 3245-AE93) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

7870. A letter from the Acting Director, Office of Regulatory Law, Veterans Health Administration, Department of Veterans Affairs, transmitting the Department's final rule—Filipino Veterans Eligible for Hospital Care, Nursing Home Care, and Medical Services (RIN: 2900-AL18) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

7871. A letter from the Chief, Regulations Branch, Customs Service, Department of the Treasury, transmitting the Department's final rule—Passenger Name Record Information Required for Passengers on Flights in Foreign Air Transportation to or from the United States [T.D. 02-33] (RIN: 1515-AD06) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7872. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Disclosure of Return Information to Officers and Employees of the Department of Agriculture for Certain Statistical Purposes and Related Activities [TD 9001] (RIN: 1545-BA56) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7873. A letter from the Secretary, Federal Trade Commission, transmitting the First Annual report entitled, "College Scholarship Fraud Prevention Act of 2000"; jointly to the Committees on Education and the Workforce and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HANSEN: Committee on Resources. H.R. 3258. A bill to amend the Federal Lands Policy and Management Act of 1976 to clarify the method by which the Secretary of the Interior and the Secretary of Agriculture determine the fair market value of rights-of-way granted, issued, or renewed under such Act to prevent unreasonable increases in certain costs in connection with the deployment of communications and other critical infrastructure; with amendments (Rept. 107-563). Referred to the Committee of the Whole House on the State of the Union.

Mr. SKEEN: Committee on Appropriations. H.R. 5093. A bill making appropriations for the Department of Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes (Rept. 107-564). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. House Concurrent Resolution 408. Resolution honoring the American Zoo and Aquarium Association and its accredited member institutions for their continued service to animal welfare, conservation education, conservation research, and wildlife conservation programs (Rept. 107-565 Pt. 1). Referred to the House Calendar.

Mr. YOUNG of Florida: Committee on Appropriations. Report on the Revised Sub-allocation of Budget Allocations for Fiscal Year 2002 (Rept. 107-566). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Florida: Committee on Appropriations. Report on the Revised Sub-allocation of Budget Allocations for Fiscal Year 2003 (Rept. 107-567). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Agriculture discharged from further consideration. House Concurrent Resolution 408 referred to the House Calendar.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H. Con. Res. 408. Referral to the Committee on Agriculture extended for a period ending not later than July 11, 2002.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. GRAHAM (for himself, Mr. BOEHNER, Mr. BURR of North Carolina, Mr. COOKSEY, Mr. GRAVES, Mr. GREENWOOD, Mr. HILLEARY, Mr. ISAKSON, Mr. MCKEON, Mr. NORWOOD, Mr. PLATTS, Ms. ROS-LEHTINEN, and Mr. TIAHRT):

H.R. 5091. A bill to increase the amount of student loan forgiveness available to qualified teachers, with an emphasis on special

education teachers; to the Committee on Education and the Workforce.

By Mr. PALLONE (for himself, Mr. ANDREWS, and Mr. HOLT):

H.R. 5092. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to restrict ocean dumping at the site off the coast of New Jersey, known as the "Historic Area Remediation Site", to dumping of dredged material that does not exceed polychlorinated biphenyls levels of 113 parts per billion; to the Committee on Transportation and Infrastructure.

By Mr. KIRK: (for himself, Mr. BEREUTER, Mr. HYDE, Mrs. MCCARTHY of New York, Mrs. MINK of Hawaii, Mr. NUSSLE, Mr. PETRI, Mrs. TAUSCHER, and Mr. WILSON of South Carolina):

H.R. 5094. A bill to establish the Federal Accounting Standards Advisory Board; to the Committee on Government Reform.

By Mr. THOMAS (for himself, Mr. MCCRERY, Mrs. JOHNSON of Connecticut, and Mr. HOUGHTON):

H.R. 5095. A bill to amend the Internal Revenue Code of 1986 to improve and simplify compliance with the internal revenue laws, and for other purposes; to the Committee on Ways and Means.

By Mrs. CHRISTENSEN:

H.R. 5096. A bill to direct the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the St. Croix National Heritage Area in St. Croix, United States Virgin Islands, and for other purposes; to the Committee on Resources.

By Mrs. CHRISTENSEN:

H.R. 5097. A bill to adjust the boundaries of the Salt River Bay National Historical Park and Ecological Preserve located in St. Croix, Virgin Islands; to the Committee on Resources.

By Mr. DINGELL (for himself, Mr. UPTON, and Mr. WAXMAN):

H.R. 5098. A bill to provide disadvantaged children with access to dental services; to the Committee on Energy and Commerce.

By Mr. HANSEN:

H.R. 5099. A bill to extend the periods of authorization for the Secretary of the Interior to implement capital construction projects associated with the endangered fish recovery implementation programs for the Upper Colorado and San Juan River Basins; to the Committee on Resources.

By Mr. SMITH of New Jersey (for himself, Mr. LOBIONDO, Mr. SAXTON, and Mr. ANDREWS):

H.R. 5100. A bill to deem a certain memorandum of agreement issued by the Environmental Protection Agency and the Corps of Engineers to be a final rule; to the Committee on Transportation and Infrastructure.

By Mr. HEFLEY:

H.R. 5101. A bill to overrule United States v. Fior D'Italia, Inc; to the Committee on Ways and Means.

By Mr. HEFLEY (for himself, Mr. UDALL of Colorado, Mr. MCINNIS, Mr. HAYWORTH, and Mr. TANCREDO):

H.R. 5102. A bill to expedite the process by which the Secretary of the Interior and the Secretary of Agriculture may utilize military aircraft to fight wildfires, and for other purposes; to the Committee on Agriculture, and in addition to the Committees on Resources, Government Reform and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEVIN (for himself and Mr. MATSUI):

H.R. 5103. A bill to amend the Internal Revenue Code of 1986 to simplify certain rules relating to the taxation of United States businesses operating abroad, and for other purposes; to the Committee on Ways and Means.

By Mr. LYNCH (for himself, Mr. CAPUANO, Ms. BROWN of Florida, Ms. MILLENDER-MCDONALD, Ms. NORTON, Ms. SLAUGHTER, Mrs. CAPPS, Mrs. JONES of Ohio, Mr. DAVIS of Illinois, Mrs. NAPOLITANO, Mr. SERRANO, Ms. LEE, and Mr. WYNN):

H.R. 5104. A bill to amend the Public Health Service Act to provide for expanding, intensifying, and coordinating activities with respect to research on autoimmune diseases in women; to the Committee on Energy and Commerce.

By Mr. NADLER (for himself and Mr. CROWLEY):

H.R. 5105. A bill to amend the Internal Revenue Code of 1986 to deny any deduction for direct-to-consumer advertisements of prescription drugs; to the Committee on Ways and Means.

By Ms. RIVERS:

H.R. 5106. A bill to provide for coverage of scalp hair prosthesis for individuals who have scalp hair loss as a result of alopecia areata under the Medicare and Medicaid Programs, State children's health insurance program (SCHIP), Federal employees health benefits program (FEHBP), veterans health care programs, TRICARE, and Indian Health Service (IHS); to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Government Reform, Veterans' Affairs, Armed Services, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. SANCHEZ (for herself, Ms. KAPTUR, Mr. HILLIARD, Mr. FROST, Mr. HALL of Ohio, Mr. SANDERS, Mr. MATSUI, Ms. LEE, Mr. LAFALCE, Mrs. MINK of Hawaii, Ms. MILLENDER-MCDONALD, Mr. WAXMAN, Mrs. JONES of Ohio, Mrs. NAPOLITANO, Mr. FRANK, Ms. WOOLSEY, Ms. WATSON, Mrs. CAPPS, and Mrs. EMERSON):

H.R. 5107. A bill to amend the Agriculture and Consumer Protection Act of 1973 to assist the neediest of senior citizens by modifying the eligibility criteria for supplemental foods provided under the commodity supplemental food program to take into account the extraordinarily high out-of-pocket medical expenses that senior citizens pay, and for other purposes; to the Committee on Agriculture.

By Mr. THOMPSON of California:

H.R. 5108. A bill to authorize leases for terms not to exceed 99 years on lands held in trust for the Yurok Tribe and the Hopland Band of Pomo Indians; to the Committee on Resources.

By Mr. WATKINS:

H.R. 5109. A bill to direct the Secretary of Energy to convey a parcel of land at the facility of the Southwestern Power Administration in Tupelo, Oklahoma; to the Committee on Resources.

By Mr. COBLE (for himself, Mr. SPRATT, Mr. NORWOOD, Mr. GRAHAM, Mr. TAYLOR of North Carolina, Mr. TAYLOR of Mississippi, Mrs. CLAYTON, Mr. EVERETT, Mr. WILSON of South Carolina, Mr. HUNTER, Mr. FROST, Mr. PRICE of North Carolina, Mr. BOUCHER, Mr. KENNEDY of Rhode Island, Mr. JONES of North Carolina, Mr. MCINTYRE, Mr. HAYES, Mr.

THOMPSON of Mississippi, Mr. PALLONE, Mr. GOODE, Mr. SHOWS, Mr. CRAMER, Mr. COLLINS, Mr. WATT of North Carolina, Mr. DEAL of Georgia, Mr. MCHUGH, Mr. CLYBURN, Mr. PASCRELL, Mr. DUNCAN, Mr. CLEMENT, Ms. KAPTUR, Mr. HILLIARD, Mr. ETHERIDGE, Ms. MCKINNEY, Mr. EVANS, Mr. LEWIS of Georgia, Mr. HILLEARY, Mr. LANGEVIN, Mr. RILEY, Mr. CHAMBLISS, Mr. PICKERING, and Mr. MCGOVERN):

H.J. Res. 105. A joint resolution calling on the President to take all necessary steps under existing law and international trade agreements to respond to the serious injury currently being experienced by the United States textile and apparel industry, and for other purposes; to the Committee on Ways and Means.

By Ms. BALDWIN (for herself and Mr. MEEKS of New York):

H. Con. Res. 438. Concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued in honor of Charles Hamilton Houston; to the Committee on Government Reform.

By Mr. VITTER (for himself, Mr. TAUZIN, Mr. JEFFERSON, Mr. MCCRERY, Mr. COOKSEY, Mr. BAKER, Mr. JOHN, Mrs. BIGGERT, and Ms. MILLENDER-MCDONALD):

H. Con. Res. 439. Concurrent resolution honoring Corinne "Lindy" Claiborne Boggs on the occasion of the 25th anniversary of the founding of the Congressional Women's Caucus; to the Committee on House Administration.

By Mr. RYUN of Kansas:

H. Res. 481. A resolution providing a sense of the House of Representatives that a standing Committee on Homeland Security should be established; to the Committee on Rules.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

312. The SPEAKER presented a memorial of the General Assembly of the State of Ohio, relative to House Concurrent Resolution No. 28 memorializing the United States Congress to urge the citizens and civic and community leaders of Ohio to vigorously maintain and encourage positive leadership and youth character qualities by designating Ohio as a character-building state, and to request the Ohio Department of Education to seek available federal funding for character education and program development; to the Committee on Education and the Workforce.

313. Also, a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 211 memorializing the United States Congress to sustain the President's affirmative decision on Yucca Mountain's suitability as a permanent Federal repository for used nuclear fuel; to the Committee on Energy and Commerce.

314. Also, a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 142 memorializing the United States Congress to condemn the Taliban's discrimination against women; to the Committee on International Relations.

315. Also, a memorial of the Legislature of the State of Hawaii, relative to House Con-

current Resolution No. 28 memorializing the United States Congress that Governor Benjamin Cayetano, of the State of Hawaii, or his designee, be authorized and is requested to take all necessary actions to establish a sister-state affiliation with the Province of Pangasinan; to the Committee on International Relations.

316. Also, a memorial of the House of Representatives of the State of Hawaii, relative to House Concurrent Resolution No. 117 memorializing the United States Congress that Governor Benjamin Cayetano, of the State of Hawaii, or his designee, be authorized and is requested to take all necessary actions to establish a sister-state affiliation with the municipality of Tianjin of the People's Republic of China; to the Committee on International Relations.

317. Also, a memorial of the House of Representatives of the State of Hawaii, relative to House Resolution No. 15 memorializing the United States Congress to support the acquisition by the United States National Park Service of Kahuku Ranch for expansion of the Hawaii Volcanoes National Park and of Ki'ila Village for expansion of Pu'uho'ua O Honaunau National Historic Park; to the Committee on Resources.

318. Also, a memorial of the Legislature of the State of Hawaii, relative to Senate Concurrent Resolution No. 36 memorializing the United States Congress that the Legislature supports the acquisition by the United States National Park Service of Kahuku Ranch for expansion of the Hawaii Volcanoes National Park and of Ki'ila Village for expansion of Pu'uho'ua O Honaunau National Historic Park; to the Committee on Resources.

319. Also, a memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 16 memorializing the United States Congress that the Legislature supports the acquisition by the United States National Park Service of Kahuku Ranch for expansion of the Hawaii Volcanoes National Park and of Ki'ila Village for expansion of Pu'uho'ua O Honaunau National Historic Park; to the Committee on Resources.

320. Also, a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 34 memorializing the President and the United States Congress to support legislation to repeal the Rescission Act of 1946 and the Second Supplemental Surplus Appropriation Rescission Act (1946), and to restore Filipino World War II veterans' to full United States veterans' status and benefits; to the Committee on Veterans' Affairs.

321. Also, a memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 26 memorializing the President and the United States Congress to take action necessary to honor our country's moral obligation to provide these Filipino veterans with the military benefits that they deserve; to the Committee on Veterans' Affairs.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 257: Mr. SHIMKUS.

H.R. 822: Mr. BOSWELL.

H.R. 902: Mr. SCHIFF and Mr. OBERSTAR.

H.R. 945: Ms. SANCHEZ.

H.R. 975: Mr. INSLEE.

H.R. 1201: Mr. DEUTSCH.

H.R. 1811: Mr. SCHAFER.

H.R. 2035: Mr. ROTHMAN.

H.R. 2125: Mr. LEWIS of Georgia and Ms. PELOSI.

H.R. 2144: Ms. HOOLEY of Oregon.

H.R. 2282: Mr. HOYER.

H.R. 2357: Mr. COLLINS.

H.R. 2408: Mr. THUNE.

H.R. 2677: Mr. RANGEL.

H.R. 2966: Mrs. MEEK of Florida, Mr. DAVIS of Illinois, Mr. OWENS, Ms. BERKLEY, Mr. GEORGE MILLER of California, and Mr. HOEFFEL.

H.R. 3017: Mr. BOSWELL.

H.R. 3135: Mr. GRUCCI.

H.R. 3154: Mr. KIND.

H.R. 3238: Mr. BOSWELL and Mr. CARDIN.

H.R. 3305: Mr. STENHOLM.

H.R. 3368: Ms. BALDWIN, Mr. SCOTT, Mr. TRAFICANT, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. MCGOVERN.

H.R. 3414: Mr. COYNE.

H.R. 3584: Mr. HORN.

H.R. 3616: Mr. JACKSON of Illinois.

H.R. 3961: Mr. HOLDEN and Mr. RANGEL.

H.R. 3974: Mr. HOLT.

H.R. 3992: Mr. BLAGOJEVICH and Mr. BALDACC.

H.R. 4010: Mr. SAM JOHNSON of Texas.

H.R. 4084: Mr. FRANK.

H.R. 4098: Mr. WAXMAN and Mr. BLAGOJEVICH.

H.R. 4152: Mr. MICA.

H.R. 4194: Mr. CHAMBLISS, Mr. KILDEE, Ms. JACKSON-LEE of Texas, Mr. FROST, Mr. DAVIS of Illinois, and Mr. HILLIARD.

H.R. 4483: Mr. FRELINGHUYSEN and Mr. LUCAS of Kentucky.

H.R. 4548: Mr. GILCHREST, Mr. WHITFIELD, and Mr. GEKAS.

H.R. 4555: Mr. PASTOR and Mr. PASCRELL.

H.R. 4606: Mr. KILDEE, Mr. GEORGE MILLER of California, Ms. WATERS, Mrs. MINK of Hawaii, and Mr. BALDACC.

H.R. 4607: Mr. STARK and Mr. WAXMAN.

H.R. 4622: Mr. SIMPSON and Mr. OTTER.

H.R. 4668: Mr. EHRLICH and Mr. WATT of North Carolina.

H.R. 4703: Mr. KNOLLENBERG.

H.R. 4738: Mr. GREEN of Texas, Mr. WYNN, and Ms. WATSON.

H.R. 4778: Mr. ROTHMAN.

H.R. 4804: Mr. SOUDER, Mr. DAVIS of Illinois, Mr. FATTAH, and Mr. ROGERS of Michigan.

H.R. 4831: Mr. FRANK.

H.R. 4937: Mr. WYNN.

H.R. 4943: Mr. WEXLER.

H.R. 4947: Ms. WATERS, Mrs. DAVIS of California, and Mr. WEXLER.

H.R. 4951: Mr. MCGOVERN, Ms. KILPATRICK, and Mr. CLAY.

H.R. 4964: Mr. FROST and Mr. MCGOVERN.

H.R. 4967: Mr. BARCIA.

H.R. 4998: Mr. OWENS.

H.R. 5001: Ms. MILLENDER-MCDONALD and Mr. MCGOVERN.

H.R. 5005: Mr. SCHIFF.

H.R. 5033: Mr. LATHAM, Mr. FOSSELLA, Mr. WOLF, Mr. CULBERSON, Mr. DIAZ-BALART, and Mr. GOSS.

H.R. 5059: Mr. HAYES.

H.R. 5060: Mr. WEXLER, Mr. YOUNG of Alaska, and Mr. QUINN.

H.R. 5064: Mr. SHADEGG, Mr. GOODE, Mr. PITTS, Mr. TOOMEY, Mr. DOOLITTLE, Mr. CUNNINGHAM, Mr. SAM JOHNSON of Texas, Mr. TIBERI, Mr. DEMINT, Mrs. MYRICK, Mr. FLAKE, Mr. SCHAFER, Mr. SULLIVAN, Mr. MANZULLO, Mr. SMITH of Michigan, Mr. HAYWORTH, Mr. BARTLETT of Maryland, and Mr. WILSON of South Carolina.

H.R. 5075: Mr. TOM DAVIS of Virginia, Mr. GOODLATTE, Mr. SCOTT, and Mr. WOLF.
H. Con. Res. 367: Mr. TERRY, Mr. SESSIONS, and Mr. BARR of Georgia.
H. Con. Res. 385: Mr. ROTHMAN.
H. Con. Res. 399: Mr. FOSSELLA.
H. Con. Res. 435: Mr. BALLENGER.
H. Res. 313: Mr. CROWLEY and Mr. BONIOR.
H. Res. 398: Mr. CARDIN.
H. Res. 437: Mr. FORBES and Mr. WAXMAN.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4600: Mr. FATTAH.

SENATE—Thursday, July 11, 2002*(Legislative day of Wednesday, July 10, 2002)*

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable DEBBIE STABENOW, a Senator from the State of Michigan.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, the Reverend Dr. David Jefferson, Sr., Metropolitan Baptist Church, Newark, NJ.

PRAYER

The guest Chaplain offered the following prayer:

Eternal and all wise God, we assemble this morning thanking You for this opportunity that You have given us. We thank You for the abundance of Your grace, for the extension of Your mercy, and the assurance of Your protection. Help these Senators to be faithful to the higher ideals of justice, liberty, and righteousness. Speak to their collective consciousness as they endeavor to make our Nation, and, yes, even the world, a house of hope, love, and peace.

Gracious Master, hold Your ideals over the women and men of this governing body. Place a crown of righteousness above them, and encourage them to grow tall enough to wear it. Your sacred scripture says that without a vision, the people will perish. Give the Senators a vision for America—a vision that will enable this country to be a responsible citizen of the world.

Now, Lord, grant unto these Senators the courage to lead this Nation in complex and confusing times. Help them to rely on that which is greater than themselves. May they be guided by Your Spirit and Your intelligence as they seek to establish the laws of this land. Bless us all. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DEBBIE STABENOW led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 11, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DEBBIE STABENOW, a Senator from the State of Michigan, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Ms. STABENOW thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

ORDER OF PROCEDURE

Mr. REID. Madam President, the Senator from New Jersey wishes to make a few remarks relative to the guest Chaplain. I ask unanimous consent that following my very brief statement, the Senator from New Jersey be recognized for up to 3 minutes and that time not count against the morning business time this morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. REID. Madam President, the Senate will be in a period for morning business until 10:30 this morning. As the Chair will announce shortly, the first half of the time is under the control of the Republican leader. The Senator from Maine is here to use the first 15 minutes. She has been courteous in allowing the Senator from New Jersey to precede her. Following her time, the second half hour will be under the control of the Democratic leader or his designee.

At 10:30 a.m., we will be back on the accounting reform bill, with 90 minutes of debate prior to a vote in relation to the McConnell amendment. The first 45 minutes of that time will be under the control of Senator BYRD, and the second 45 minutes will be under the control of Senator McCONNELL, the offerer of the amendment to be voted upon at noon today.

Cloture was filed on the accounting reform bill. Therefore, all first-degree amendments must be filed prior to 1 p.m.

Madam President, I have spoken with the majority leader today. He intends to finish this bill. We will have a vote on cloture tomorrow. So tomorrow could be a day with some votes. If anyone is planning on leaving early, they should understand there could be some votes tomorrow. We have 30 hours after that cloture motion vote has taken place. The leader has indicated he is going to finish the bill. Senators should be aware.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey.

THE GUEST CHAPLAIN

Mr. CORZINE. Madam President, I thank the Senator from Maine for her courtesy in allowing me the opportunity to say a few words about my friend and minister who led us in prayer this morning.

I say to my colleagues in the Senate, it is an honor that we were able to have Rev. David Jefferson from the Metropolitan Baptist Church in Newark with us today. I assure my colleagues, from my own life experience, this is a remarkable man of tremendous energy, leadership, and moral character. He leads the largest Baptist church, a very dynamic community of believers, in Newark, NJ. Not only are they active in their religious life, but they make an enormous contribution to redevelopment and the support of the community, reaching out to all who are part of the community who sometimes have been left behind. Through their example, they are demonstrating that access to the American promise is true for everyone.

In his spare time, he is a senior executive at AT&T where he brings both great skills as a business person and moral character and leadership to his efforts in the business world. We need examples of people who are able to both recognize that our free enterprise system needs to be strong and powerful and have brilliant people who care about producing good services, good products at the right price but on an honorable basis. Reverend Jefferson is one who I think demonstrates we can do that, and he does it with great grace.

Most importantly, he is a moral leader for a broader community by demonstrating with all aspects of his life how important it is to recognize that we all live under a greater power than what I think we sometimes think we live under in our own lives. Sometimes we are too focused on what we are

about, and he is a great teacher about the importance that we are one nation under God.

I am honored and privileged he has joined us today. I am honored and privileged that he is my friend. I thank the Presiding Officer for the opportunity to welcome Rev. David Jefferson to the Senate Chamber.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for up to 10 minutes each.

Under the previous order, the first half of the time shall be under the control of the Republican leader or his designee.

The Senator from Maine.

Ms. COLLINS. I thank the Chair. Madam President, I ask unanimous consent that I be permitted to proceed for 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LAPSES IN CORPORATE RESPONSIBILITY

Ms. COLLINS. Madam President, as every Member of this Chamber knows and, more importantly, as every American investor knows, we have recently witnessed lapses in corporate responsibility unlike anything that has occurred during the past 70 years. It is our role to determine why this has happened and what can be done to prevent it from continuing to happen. I rise to offer some thoughts, as well as to lend my support, to the accounting reform legislation now on the Senate floor.

Several years ago, Federal Reserve Chairman Alan Greenspan characterized the latter stages of the great bull market of the 1990s as irrational exuberance. Although stock prices rose for a few years after that statement, they ultimately collided with economic reality and embarked upon an extended decline. It now appears that that irrational exuberance was being sustained in some instances by improper accounting. Put differently, one way of satisfying the insatiable appetite of some for ever-increasing corporate profits, as well as for rich compensation packages, was to cook the books. Many, although not all, of the recent alleged abuses have occurred in what has been the hot sectors of our economy.

Electric deregulation, the development of the Internet, new medical treatments, and the spread of broadband are all thought to hold enormous prospect for future growth. Unfortunately, for some of the companies in those areas the growth in accounting creativity outstripped the growth in business fundamentals. I make this point because I think it contains a lesson for those of us in Congress, as well as for Federal and State regulators.

During my years as a financial regulator in my home State of Maine, the advice we gave to investors, to the point where it began to sound like a broken record, was that if it seems too good to be true, it almost certainly is. The comparable message for those of us with oversight responsibility is that if one is not vigilant during the boom, when things seem too good to be true, cleaning up after the bust will be far more difficult.

During my first 4 years in the Senate, I was privileged to serve as the chairman of the Senate Permanent Subcommittee on Investigations. During that time, I held more investigations into fraud and abuse in our securities markets than on any other subject, despite the fact we were in the midst of a roaring bull market. Indeed, the roaring bull market made those investigations seem all the more necessary.

More recently, Senator LEVIN and I teamed up in an investigation of Enron Corporation, an investigation that is ongoing. In fact, we just released our first report on the failures of the Enron board of directors to exercise its fiduciary responsibilities. We found that too many of the Enron directors acted as rubber stamps rather than as watchdogs.

In short, the principal lesson of recent events for those of us in Congress may be the need to remember the importance of vigorous oversight and tough enforcement during the good times as well as the bad.

Let me now turn my attention to the conflicts of interest faced by some accountants, brokers, and corporate directors. American capitalism relies heavily on the fiduciary duty concept to protect those who entrust their money to large and often distant corporations. Accountants have a duty to investors to ensure the accuracy of financial statements. Directors have a duty to make certain that managers act in the best interest of the corporation, and stockholders have a duty to give advice that will best serve their client's needs. I believe that this structure is fundamentally sound, but I also believe we have allowed these trust relationships to be seriously eroded by conflicts of interest.

Confidence in our capital markets depends upon accurate and fair financial statements. To achieve that objective, we follow a maxim that President

Reagan put forth in another context; namely, "trust but verify." We trust corporate managers to give us honest financial statements but, just in case, we look to accountants to verify the numbers. Too often in the recent past accountants have let us down, principally because, in my view, conflicts of interest have undermined their fundamental fiduciary duty to investors. The source of this problem is that some accountants can depend on those whose books they examine not only for their auditing jobs but much more worrisome for lucrative consulting contracts.

In some ways, the situation for brokers can be even worse, because they frequently have a personal, as well as an institutional, relationship with those to whom they owe a duty. As the recent Merrill Lynch settlement demonstrated, when the same individuals are involved in giving advice to retail customers and securing underwriting business from the corporations they are supposed to be objectively rating, it is the investor who loses. Again, the fiduciary duty concept is not inherently flawed. Rather, it has been eroded by conflicting interests that cannot comfortably coexist.

The third component of what might be called the fiduciary duty triad is the corporate board. Frequently owing their positions to those whose activities they are to monitor, some board members suffer from the appearance, and in some cases the reality, of conflicts of interest. In my view, given their part-time status and their dependence on management for information, the role of the independent directors, perhaps even more than the role of accountants or those of brokers, needs more scrutiny.

In our recent report on the role of the Enron board of directors in the corporation's failure, the Permanent Subcommittee on Investigations found that the board ignored countless warning signs of wrongdoing. In some cases, the board actually approved highly irregular, off-the-books partnerships that masked the company's true liabilities. The board's audit committee failed miserably to ensure the independence of the company's auditor, allowing Andersen to provide internal audit and consulting services while at the same time serving as Enron's outside auditor. In other words, in some ways, Andersen was auditing itself.

Finally, directors blessed financial deals that created conflicts of interest for the top executives of Enron Corporation. Such conflicts of interest are rotting the pillars supporting an essential element of capitalism, and that is the ability of investors to rely on those to whom they entrust their money.

Excising that rot requires two steps. First, we must redefine the roles of the accountant, the broker, and the board member. We must make it absolutely

clear that their undiluted responsibility is to the investor.

Second, we must enforce those obligations with tough sanctions, such as those we approved yesterday, that will deter those who would breach these fiduciary duties. This leads logically to the role of the Government regulator. I do not see regulation replacing the fiduciary roles I have described for the simple reason that having Government verify every number in every financial statement would create a nation of regulators. The more effective role for the regulator is to make certain that others honor their obligations and to take swift and meaningful action when they do not.

I know from personal experience as a regulator in Maine that this is no easy task, and it is our responsibility to ensure that the regulators who carry it out have the necessary authority and the financial resources to do the job.

I am pleased the bill before us today incorporates provisions from legislation that I have introduced that will allow the Securities and Exchange Commission to discipline those brokers and investment advisers who have been barred by State regulators from operating within that State. As a result, the SEC will have the option of giving nationwide effect to the bans imposed by individual States, thus protecting citizens nationwide from dishonest or unethical brokers without having to undertake separate investigations. This is especially important because as we learned in my subcommittee's hearings on fraud in the microcap stock market, it is very easy for small-time crooks to move out of one State and into another, setting up shop and defrauding investors all over again.

The reforms needed to restore trust in our capital markets will require tough, effective action by government and self-regulatory organizations. I call on our Nation's business schools to examine the ethical and professional training they provide to corporate managers, accountants, brokers, and board members. The concept of a free market is one that is free from government direction but not free from the duty to act ethically, honestly, and competently. If our corporate leaders lack integrity, no amount of regulation will preserve our economy. How effectively we are conveying this message strikes me as well within the unique expertise of those running our business schools and training our future corporate leaders.

Congress, the SEC, State regulators, the exchanges, and perhaps even our educational institutions can help solve our current problem. Nowhere is the obligation to act greater than on Wall Street and in our corporate boardrooms. The American people are justifiably outraged by the breakdown in corporate ethics. This is not thievery by those lacking the resources to buy

food and medicine, this is thievery by those with the resources to buy Picassos and Porsches. As a people, we do not begrudge others who earn their success, but we will not tolerate those whose success rests on breaching ethical and legal obligations.

We must also recognize that although not often mentioned, this problem has ramifications for our standing in the world community at a time when others are waging war on the American system. Our most successful exports since the end of World War II have been our political democracy and our free markets. Indeed, as China demonstrates, our economic views have prevailed even when our political ideals have yet to take root. Having persuaded the rest of the world of the vitality and the creativity of free markets, it would be tragic if we lost our way just when our economic values are gaining widespread acceptance.

A particularly ironic aspect of the current situation and one that would have Marx and Lenin spinning in their graves: Russia is taking steps to strengthen its system of corporate governance at a time when ours appears to be crumbling. While we need not worry that Moscow will replace New York as the world's financial center, it is not unreasonable to be concerned about how other nations judge our response to our current problems. Indeed, the rise in the euro and the drop of the dollar are disconcerting indications of their view to date. This is just one more reason we must act swiftly to put our house in order.

Recent corporate misdeeds have caused great harm, costing our economy and our shareholders billions of dollars and many people their retirement savings as well as their jobs. The impact on investor-employees who have lost both their jobs and their retirement savings has been especially cruel, and those responsible have forgotten that, because capitalism can survive only if people believe they can trust strangers with their money. Honesty and fair dealing are the lifeblood of our economic system.

It would also be unfair to paint with too broad a brush. We should take care not to condemn the many executives who do honor their obligations to their employees and their shareholders. Indeed, it is partly for their benefit as well as for the benefit of all Americans that we must restore confidence in our corporate sector.

In 1997, in my first statement on the floor of the Senate, I quoted the following observation from Winston Churchill: "Some see private enterprise as a predatory target to be shot, others as a cow to be milked, but few see it as a sturdy horse pulling the wagon."

I added that I do see private enterprise as that sturdy horse, and in the wagon it is pulling are the jobs of our

constituents. I continue to hold that view. But we must recognize that the wagon has some loose wheels. It is our responsibility to the American people to make sure they are tightened and to institute the reforms that are needed to restore faith in corporate America.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

AFGHANISTAN FREEDOM SUPPORT ACT OF 2002

Mr. HAGEL. Madam President, this week I introduced the Afghanistan Freedom Support Act of 2002, S. 2712. I am pleased to be joined in this effort by the senior Senator from North Carolina, Mr. HELMS, the former chairman of the Foreign Affairs Committee in the Senate. I ask unanimous consent his name be added to this bill as an original cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HAGEL. This legislation is similar to H.R. 3994, sponsored by the chairman of the House International Relations Committee, Congressman HYDE. This bill was passed in the House of Representatives on May 16 by a vote of 390 to 22.

The Afghan Freedom Support Act commits the United States to the democratic and economic development of Afghanistan. In addition to the economic and political assistance found in title I of this legislation, title II seeks to enhance the stability and security of Afghanistan in the region by authorizing military assistance to the Afghan Government and to certain other countries in the region, including assistance for counternarcotics, crime control, and police training.

The United States must stay closely and actively engaged in helping Afghanistan through a very dangerous and difficult transition to stability, security, and, ultimately, to a democratic government. We are at the beginning of a long process. We cannot be distracted or deterred from this objective. Our credibility, our word, and our security, are directly linked to success in Afghanistan. And there cannot be political stability and economic development in Afghanistan without security.

My legislation, and the companion legislation passed by the House, would authorize \$1.15 billion over 4 years for economic and democratic development assistance for Afghanistan, as well as up to \$300 million in drawdown authority for military and other security assistance. The main elements of my legislation are as follows:

It authorizes continued efforts to address the humanitarian crisis in Afghanistan and among Afghan refugees in neighboring countries; it authorizes resources to help the Afghan government fight the production and flow of

illicit narcotics; it assists efforts to achieve a broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan; it supports strengthening the capabilities of the Afghan government to develop projects and programs that meet the needs of the Afghan people; it supports the reconstruction of Afghanistan through creating jobs, clearing landmines, and rebuilding the agriculture sector, the health care system, and the educational system of Afghanistan; and it provides specific resources to the Ministry for Women's Affairs of Afghanistan to carry out its responsibilities for legal advocacy, education, vocational training, and women's health programs.

This legislation also strongly urges the President to designate within the State Department an ambassadorial-level coordinator to oversee and implement these programs and to advance United States interests in Afghanistan, including coordination with other countries and international organizations with respect to assistance to Afghanistan. In general, the Afghanistan Freedom Support Act provides a constructive, strategic framework for our Afghan policy, and flexible authority for the President to implement it. We must not allow this fragile interim Afghan government to unwind. We must put forward the appropriate investment of men, effort, and resources to complete the objective of a democratic government in Afghanistan.

If Afghanistan goes backward, this will be a defeat for our war on terrorism, for the people desiring freedom in Afghanistan and in central Asia, for America, symbolically, in this region, and for the world. It would be disastrous for our country because it would crack the confidence that people all over the world have in the United States. Afghanistan is the first battle in our war on terrorism. We must not fail.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CLELAND). The clerk will call the roll. The legislative clerk proceeded to call the roll.

Ms. STABENOW. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan.

ORDER OF PROCEDURE

Ms. STABENOW. Mr. President, I yield myself 6 minutes this morning to speak, and then I ask that the distinguished Senator from Georgia, Mr. CLELAND, be yielded 6 minutes; additionally, the senior Senator from North Dakota, Mr. DORGAN, be yielded 6 minutes; and 6 minutes also to the Senator from Florida, Mr. GRAHAM; and

an additional 6 minutes to the distinguished junior Senator from Georgia, Mr. MILLER.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESCRIPTION DRUGS

Ms. STABENOW. Mr. President, next week we begin one of the most important debates that we will have, I believe, as a Senate, throughout this session and possibly for years to come. That is a debate about whether or not we are going to meet two goals that the American people have been asking us to address. The first is a Medicare prescription drug benefit for our seniors, for those who have disabilities—a comprehensive Medicare prescription drug benefit. Second, we want to lower prices—lower prices for everyone.

We know in fact not only do seniors, who use the majority of prescriptions, have high prices, but everyone who has prescription drugs does. If you are paying through insurance, you are paying higher insurance rates. If you are a businessperson, you are seeing your health care premiums rising. Small businesses—many in Michigan come to me and talk about 30-percent, 35-percent, 40-percent increases. The big three automakers are juggling between being able to afford new materials for their automobiles and research and all the other costs that they have, versus health care, most of which is prescription drug increases. So everyone is paying.

We have two goals. We as Democrats are working very hard, and we invite our colleague to join with us, to provide real coverage for prescription drugs and lower prices for everyone.

It is incredibly important that we do that. I am concerned, as we move into this debate, given what was done in the House of Representatives and the efforts now on the airwaves by the organization funded by the pharmaceutical companies that are talking about how what was passed in the House was good enough, I am concerned that we really do what is necessary and not just what is in the interests of the drug companies.

The drug companies are here in force every single day. We know next week and the week after, as long as we debate issues of lower prices and real Medicare coverage, they will be here fighting everything—unfortunately. They do wonderful work in research and development. I am so pleased that we have so many that are out there doing good work. But we see, as an industry now, their efforts to fight everything.

We are talking about corporate responsibility this week on the floor of the Senate, the need for corporate accountability. We need corporate accountability and ethics in the drug industry as well. I am deeply concerned

that we do not see efforts to work with us for something that provides reasonable profit. We want them to succeed, but we do not want to continue to see exorbitant price increases and profits on the backs of our seniors, those with disabilities, our families, our small businesses.

I am deeply concerned about what we were reading in the paper during the House debate. Our Republican colleagues, in fact a senior House GOP leadership aid said yesterday:

Republicans are working hard behind the scenes on behalf of PhRMA [which is the drug industry lobby] to make sure that the party's prescription drug plan for the elderly suits drug companies.

This was in the Washington Post, June 19 of this year. They are:

... working hard behind the scenes to make sure that their ... plan ... suits the drug companies.

I hope next week we will work just as hard in this body for a prescription drug plan that suits the American people.

I am so pleased to see my distinguished colleagues from Georgia here, one in the chair and the junior Senator who came into the Senate with me, who is one of the lead sponsors of the bill that we have in front of us along with the Senator from Florida, Mr. GRAHAM.

We have a plan. We have a plan that works, that pays the majority of the bills, that does the job, that brings together the collective buying power of 39 million seniors, and which will require that prices be lowered. We have the plan. Our plan is not the plan of the drug companies. It is not the plan which drug companies are advertising about—the pretty ads from Seniors United that are on the air from the drug company, the front senior group that thanks the Republican colleagues in the House for voting for their plan, the plan that supports the drug companies.

We have a plan for the American people.

I would like to share for a moment two stories from the Web site which I set up. I set up the Prescription Drug People's Lobby. There are six drug company lobbyists for every one Member of the Senate. I invited the people of Michigan to join with me to be part of our people's lobby to make sure the real story gets heard. I would like to share a story from Rochelle Dodgson of Oak Park, MI. I thank her for being a part of our Prescription Drug People's Lobby.

She writes:

My mother is currently insured under COBRA after losing her job in August 2001. While she has her basic Medicare coverage, she will lose her supplemental medical coverage in January 2003. She has recently been diagnosed with Multiple Myeloma and will require treatment for this blood disorder the rest of her life. The medications she was taking before this new illness cost over \$500 retail monthly. I have not checked the prices

of the 'chemo' she takes monthly nor the cost of the Procrit she takes weekly. I expect her monthly out-of-pocket expenses to be around \$700 a month. Her social security is just over \$800 monthly. I can't imagine having to budget food and housing expenses along with medication on that kind of income. My husband and I will try to find a way to budget some of her medical costs into our own expenses but we also care for my husband's mother.

My mother is still a viable part of society. She doesn't deserve to be struggling just because she has chronic illness.

Rochelle, thank you for your story. Your mother does not deserve to struggle with \$700 medical bills with a \$700-a-month income.

I shared that one story today from Michigan. For those who want to get involved, please go to my Senate Web site around the country at Fairdrugprices.org. You can be involved and make your voice heard, and the right thing will happen here in the Senate.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. DORGAN). Who seeks recognition?

The Senator from Georgia is recognized.

Mr. CLELAND. Mr. President, I echo the eloquent words of the distinguished Senator from Michigan, who has done yeoman service for this body, for seniors and the disabled of America in helping put together and advocate for a meaningful drug benefit under Medicare. And special kudos go to my colleague from Georgia, Senator MILLER, and to my distinguished friend from Florida, Senator GRAHAM, for really taking the lead in articulating a Medicare supplement that we can embrace in this body and that the American people can embrace.

When I talk to my fellow Georgians about the issues that are most on their minds, that most affect their lives, the one that I hear about more often than any other is the high cost of prescription drugs. Everywhere I go, people ask me, "When are Congress and the President going to make good on their promise to help us with prescription drugs?" And all I can tell them is, That's a fair question; I'd like to know, too. Over the past couple of years, their comments have become increasingly urgent. The cost of prescription medications rose a staggering 19 percent in 2000, and another 17 percent in 2001. I can assure you most people's incomes didn't rise by 17 percent in 2001. It is an iron-clad law of economics that if you live on a fixed income, and one portion of your monthly expenses rises dramatically, other portions must be reduced. For many of those seniors whose budgets are already stretched as thin as they can go, an increase in prescription drug costs means that expenditures on the other necessities of life—basics like groceries or rent—must be cut. The choice between medically necessary, life-sustaining pre-

scription drugs and the other basics of life is an impossible one—and one that no American should be forced to make.

The Medicare program has provided for many critical aspects of health care for seniors over the course of its 36-year history, and by and large it has been a great success. But it has been said that while Medicare is a Cadillac program, its model year is 1965. Indeed, if we are to claim that Medicare provides health care security for seniors, we must update it to cover the component of health care that for many has become more burdensome than any other—prescription medications. People are desperate for any help they can get. Congress and the President promised to deliver that help. If we can't, or won't, the people ought to send this Congress home and elect one that will.

There are a number of options on the table right now. Some are serious efforts to provide meaningful relief to seniors. Some are not. No one in Congress wants to admit that they are against providing a prescription drug benefit for seniors. And I don't blame them. That's an indefensible position. So some, especially in the House, write weak legislation that they call a Medicare prescription drug benefit but which allows drug companies to charge whatever premiums they want, leaves huge gaps in coverage, charges a high deductible, relies on private insurers who have already told us they will not participate, and will cover just 19 percent of seniors drug costs over the next decade, according to the CBO. Such a proposal amounts to little more than a "legislative placebo," which its authors know has no chance of really helping seniors, and no chance of passing this Senate. But they draft such legislation not because they think it will help seniors but so they can go back home and say that they supported a prescription drug benefit for Medicare beneficiaries. They cynically believe that people won't pay enough attention to the substantive differences between a real proposal and theirs, enabling them to shirk the responsibility that they rightly must bear if this Congress once again fails to pass a Medicare prescription drug benefit. Where I come from, when you promise people one thing and then try to give them another, that's called a "bait-and-switch" scheme. And where I come from, we have a saying: "That dog won't hunt."

President Bush has made it clear that, in the war against terror, there are no shades of gray. Either you are for us, or you are for the terrorists. The same clarity that exists in the Bush doctrine ought to apply to the present debate on prescription drugs. Either you are for a real prescription drug benefit for seniors, or you aren't. If you are for a weak measure that purports to be a prescription drug benefit but has no chance of ever benefitting

anyone, you are not for a real prescription drug benefit for seniors, and it is time to come clean and say it. It is long past time to dispense with artful dodging and equivocation. Just as no country that deals only halfway with terrorists can be considered on our side in the war against terror, so no one who proposes a halfway approach to prescription drugs under Medicare can be considered to be for real help for seniors. If you don't know whether or not the legislation you are for will provide a real benefit for seniors, let me make it real clear for you: if it was written by the insurance lobby and endorsed by the drug companies, you can bet it is not a real benefit for seniors.

People are hurting. If you need proof, go back to your state or your district and spend a day talking with seniors about their daily struggles. You will find genuine hardships, and you will see that it is the most vulnerable among us who are struggling the most. This is a serious problem, and we need serious people who will work in good faith toward a solution. In the Senate, I am pleased to have teamed up with Senators ZELL MILLER and BOB GRAHAM as an original cosponsor of the Medicare Outpatient Prescription Drug Act of 2002, which will provide a voluntary Medicare prescription drug benefit that will deliver real, meaningful help to seniors. Under this proposal, which has received high marks from the AARP, any Medicare beneficiary who chooses to participate would, for a monthly premium of \$25, receive drug coverage from the very first prescription filled of the year. There is no deductible, and there are no gaps in coverage. The lowest-income seniors would receive full subsidies for premiums and co-payments, and those who earn a little more would receive partial assistance. Our proposal, if adopted, will dramatically reduce seniors' out-of-pocket costs for prescription drugs, allowing them to use their food money for food and their rent money for rent. It is with full confidence that I say that this measure is the best proposal on prescription drugs I have seen to date, and I commend Senators GRAHAM and MILLER in particular for their leadership on it. I urge my colleagues in this body and in the House to act favorably on it without delay.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Dakota.

Mr. DORGAN. Mr. President, I join my colleagues in saying that the piece of legislation we are considering, authored by Senator GRAHAM, Senator MILLER, and others, is a good piece of legislation. I am proud to support it. But let me talk just for a few minutes about this issue that brings us to the floor of the Senate, the issue of prescription drugs, and prescription drug pricing especially.

Last year, the cost of prescription drugs in the United States rose 18 percent; the year before that, 16 percent; the year before that, 17 percent. So 16, 17, 18 percent: relentless increases in the price of the cost of prescription drugs.

What does that mean to the American people? It is devastating to all Americans who must access these lifesaving, miracle prescription drugs but cannot afford them. It is especially devastating to senior citizens. They make up 12 percent of our population in this country, and they consume one-third of all the prescription drugs. They have reached those declining income years and discover that miracle and lifesaving drugs they need to take are beyond their reach.

A woman in North Dakota, at a meeting 1 day, came up to me and said: May I speak with you a moment? She was a thin, frail-looking lady close to 80 years of age. She grabbed me by the arm and said: Could you help me? I said: I'll sure try.

She said: I have problems—diabetes, heart disease—and need to take medicine that the doctor has prescribed, but I can't afford that medicine. Could you help me?

And then her eyes filled with tears and her chin began to quiver and she began to cry.

All over this country there are men and women—particularly senior citizens, but others as well—who need access to these prescription drugs and cannot afford them.

We are going to pass a prescription drug benefit, and we are going to put it in the Medicare Program. I support that. Senator GRAHAM, Senator MILLER, and others have done wonderful work in that area.

We are going to do two other things as well. We are going to pass a piece of legislation, I hope, that deals with the issue of generic drugs, which is another way to bring down costs; for if we do not do something about driving down costs, or at least putting downward pressure on drug costs, then we will simply break the bank. We will attach a drug benefit to the Medicare Program but if we don't lower drug costs we will suck that tank dry, and break the back of the American taxpayer. We have to put downward price pressure on prescription drugs.

One other piece of legislation that we are going to consider next week is the issue of reimportation. Senator STABENOW and I, and others, have worked on the issue of reimportation, not because we want Americans to buy their prescription drugs from Canada—and that is what our bill will allow to happen; pharmacists and distributors will be able to access from Canada the FDA-approved drugs and bring them to this country and pass the savings along to the consumer—it is because we want to use this mechanism to put down-

ward pressure on drug prices in this country and force the pharmaceutical manufacturers to reprice their prescription drugs in the United States. That is exactly what will happen.

With unanimous consent, I would like to show two pill bottles on the floor of the Senate.

The PRESIDING OFFICER (Mr. CLELAND). Without objection, it is so ordered.

Mr. DORGAN. This is Celebrex, widely advertised, used for pain, particularly arthritis. It is widely advertised all across this country. The company that makes this markets it successfully, and good for them for helping produce this medicine. But let me describe the pricing strategy.

If you buy this medicine, Celebrex, in Canada, you get it in this bottle, and it costs you 79 cents per tablet. Buy it in the United States, and you get it in this bottle which is essentially the same.

So 79 cents for this prescription drug per tablet in Canada, but if you are a U.S. citizen, you pay \$2.22. It is the same pill, made by the same company, put in the same bottle, FDA approved. The difference? The price.

The U.S. consumer is told: You should pay nearly triple what a Canadian consumer is charged by the same company.

Question: Why should we allow that to happen? Why should the U.S. consumer pay the highest prices in the world for prescription drugs that are sold at a fraction of the cost in virtually every other country of the world?

The answer is: It should not continue to happen. We need to put downward pressure on prices in this country on prescription drugs. This is not about, as the pharmaceutical industry would allege, shutting off research and development if you put downward pressure on prices. That is nonsense.

The fact is, the Europeans pay lower prices—much lower prices—for the same prescription drugs than we do, and yet there is more research and development done in Europe than in the United States by the pharmaceutical manufacturers.

My only point is this: The pharmaceutical manufacturers are good companies. They are the most profitable companies in the world. Good for them. I appreciate, and all Americans appreciate the research and development they do. We, of course, do a substantial amount of it here in the Federal Government that is federally paid for as well.

I am not suggesting there are bad actors here. I am suggesting the pricing policy is wrong. The pricing policy is bad. It is not fair to say to the American consumer: You pay the highest prices in the world by far for the same drug. No American should have to go to Canada to get a fair price on a pre-

scription drug made in the United States. That ought not happen. We aim to change it, even as we debate this issue of a prescription drug benefit in the Medicare plan.

Why do we want to do that? Because I believe there should be a benefit in Medicare for prescription drugs. But I believe if we do not do something to put downward pressure on prices, we simply break the back of the taxpayers and break the bank of the Federal Government. That is why reimportation goes hand in hand with the underlying legislation I am pleased to support, and I commend Senator GRAHAM and Senator MILLER and Senator STABENOW and others for their leadership.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. MILLER. Mr. President, first, I congratulate my colleague from North Dakota on that very timely and very compelling message he has just given.

I rise today, also, to speak, once again, about prescription drugs and the struggle our seniors are facing each and every day.

We are on record as saying we will have a vote in this Senate before the August recess on a prescription bill. I have always hoped that meant adding a prescription drug benefit to Medicare. We must stick to that schedule. We must honor that commitment.

We have kept our seniors waiting in line for too many years, and we have bumped them too many times in the past. We have disappointed them time and time again. We cannot make them wait through another election cycle for who knows how many years. If that happens—and a lot of political pundits are predicting it will—then we should be ashamed of ourselves.

I am telling you, our seniors are not going to accept just a shrug of the shoulders and a "well, I tried" explanation. I don't think that is going to get it this time around.

There is a lot we can do to help seniors with the cost, as the Senator from North Dakota has discussed, and also about the coverage of their prescription drugs. I will work hard to make sure the bill we pass in the Senate offers real help for our seniors, especially our neediest seniors.

I recently saw the results of a new study that were shocking to me. It said nearly 1 in 5 American women ages 50 to 64 did not fill a prescription for needed medication because they could not afford it. That is ages 50 to 64. Think what the number must be for those over 65.

Those are our mothers and our grandmothers. They are those women who gave us life and tended to our needs who are now foregoing their needs because they cannot afford medication. They are putting their health in jeopardy. Their very lives are being endangered. Their years on this Earth are

being cut short. Make no mistake about it, if we allow that to continue, this Congress is an accessory to that crime.

I believe the bill I am a cosponsor of, along with Senator GRAHAM and Senator KENNEDY and Senator DASCHLE and the senior Senator from Georgia who is presiding, and about 30 other Senators, fulfills our promise to all seniors and offers the most for our neediest seniors.

Our bill gives our neediest seniors their medicine for free. For those who earn less than \$11,900 a year—and that is about 12 million seniors out there—there is no premium, there is no copayment. They receive 100-percent coverage from the first prescription filled.

To that widow with trembling hands who is trying to cut that pill in half so her medicine will last a little longer, I hope the Senate will send a message to her that help is on the way. To that old man, proud and self-sufficient all his life, who has to whisper to his pharmacist that he doesn't have quite enough in his checking account and he will have to come back later, I hope the Senate will send the message to him that help is on the way.

I look forward to debating this provision of our bill and many others when we take up the prescription drug legislation next week. I urge my colleagues in both Houses and in both parties to keep this in mind: Our duty to seniors is not to just debate an issue. They have heard all that before. Our duty is to pass a bill, a meaningful bill.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I am pleased to join my colleagues today in the discussion of pending legislation, as of next week, which will relate to the long-held desire of senior Americans to have within the Medicare Program a prescription drug benefit.

One of the key issues in the debate we will begin next week will be, How will this benefit be administered? As we answer that question, we need to ask some questions about what do older Americans want. Older Americans want a plan that is straightforward, simple, a plan with which they are familiar. Even more important, they want a plan that actually works, that they can take to the local pharmacy or, if they use a mail order pharmacy, that they can take to the post office box and get their drugs.

That is why the Senate Democratic bill, which I am sponsoring with Senator MILLER, Senator KENNEDY, and

others, including the Presiding Officer, uses the exact same system that America's private insurance companies use. As an example, this happens to be the Blue Cross Blue Shield service benefit plan, a plan which many of us as Federal employees utilize. If you turn to page 119, you will see the outline of what Blue Cross Blue Shield provides and how they provide it. It is exactly the same structure we are proposing in our plan. It is a structure with which older Americans, most Americans, are extremely familiar. It is the same system that predominates in not only Blue Cross Blue Shield but virtually every other major private insurance plan.

These plans are based on the concept of using a pharmacy benefit manager, or PBM, as the intermediary between the beneficiary and the pharmaceutical companies.

What do these PBMs do? They negotiate directly with the pharmaceutical companies in order to achieve the lowest prices. They are held accountable for containing costs and providing quality care and service. If they fail to do so, their payments are reduced or can be eliminated.

To America's seniors, this plan would be like a pair of comfortable old shoes, shoes they have been wearing for most of their lives. Would it be fair to ask Medicare beneficiaries at the time of retirement to suddenly change shoes? Even more significant, would it be appropriate to ask them to put on shoes that don't fit very well? But even more than that, is it fair to ask them to put on shoes of a design which has never been worn by another American anywhere, any time?

That is what the House Republican plan runs on: An untried, untested delivery system that would force our seniors to be the guinea pigs for a social experiment.

Their plan would give to a different set of insurance companies taxpayers' dollars as a subsidy to lure them into the market since insurers have already said they don't intend to offer this benefit. They do not believe it is an appropriate use of the insurance system.

Our plan would be easy and familiar. Let me briefly mention some of the features of our plan. It would ask seniors who voluntarily elect to participate—no senior would be required to participate unless they chose to do so—to pay a \$25 monthly premium. There is no deductible. There will be coverage from the first pill purchased after you sign up. There would be a copayment of \$10 for generics, \$40 for formulary necessary drugs, and \$60 for other drugs. There would be a maximum payment out of pocket of \$4,000 per year. Beyond that, there would be no more copayments.

The plan says what it means and it means what it says for all seniors all over America. Seniors with incomes

below 135 percent of the poverty level would not pay premiums or copayments. Beneficiaries with incomes between 135 and 150 percent of poverty would pay reduced premiums. That is the plan.

We would allow all seniors a choice of which PBM to use. It would be required that there be multiple PBMs within every section of the country. Those of you who live in Georgia would have a choice. Those of us in Florida would have a choice. Those in North Dakota and Vermont would have a choice.

The PBMs would be accountable to the Medicare Program, would be required to prove their ability to contain costs, or else they wouldn't be awarded a contract to participate. In fact, they would not even get paid if they were unable to contain costs and provide the high-quality service which our older Americans deserve. That is in the language of the Graham-Miller-Kennedy-Cleland, and others, legislation.

The House Republican plan would leave all these choices in the hands of an insurance company. The companies would be allowed to choose the benefit for seniors. Why is that? The House plan only requires that the individual plan meet a vague standard of actuarial equivalence. It does not provide the certainty which American seniors deserve and which they will receive in the Graham-Miller-Kennedy-Cleland, and others, plan.

I look forward to a full discussion of this beginning next week.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PUBLIC COMPANY ACCOUNTING REFORM AND INVESTOR PROTECTION ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2673, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and

the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

Pending:

Edwards modified amendment No. 4187, to address rules of professional responsibility for attorneys.

Gramm (for McConnell) amendment No. 4200 (to amendment No. 4187), to modify attorney practices relating to clients.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, this has been cleared by both managers of the bill. We have had a number of inquiries about the need for more time to talk on various issues. As the Chair knows, from 12:30 until 2 o'clock, we have our policy luncheon, and normally we don't have votes.

I ask unanimous consent that the previously scheduled order, which provided that Senator ENZI be recognized at 12 noon today to make a motion to table the McConnell amendment No. 4200, be modified to provide that the recognition of Senator ENZI occur at 12:45 today, with the additional 45 minutes, from 12 to 12:45, equally divided and controlled between Senators SARBANES and GRAMM, or their designees, and that all other provisions of the previous order remain in effect.

Mr. DORGAN. Mr. President, reserving the right to object, I would like to engage in a brief discussion with my colleague from Nevada under my reservation of an objection, if I might. I shall not object to the specific request of the Senator, but I have just visited with the chairman of the committee and you know there exists a list of amendments that Members of the Senate wish to offer to this legislation.

As I have watched this process over the last couple of days, it appears to me that we have set up a gatekeeper of sorts for determining who will offer amendments and whether there will be votes on the amendments, and it appears to me we are not making very much progress. I would like to get some sense of whether we have a clear process beginning this afternoon, so that this afternoon and this evening we might be able to move through 6, 8, 10 amendments and get time agreements so Members of the Senate have the opportunity under the rules to offer and have considered amendments that they consider important in this legislation.

Mr. REID. Mr. President, I say to my friend, the chairman of the committee has worked for hours and hours trying to get movement so people could offer relevant amendments. We have been not very successful, to be very candid with the Senator from North Dakota. I have stood by the Senator from Maryland and coerced, urged, and we haven't gotten to the debating point yet. We have done everything we can.

There are a number of Senators, not the least of whom is the Senator from

North Dakota, who have amendments. There is the Senator from Michigan, the Senator from New York, and others who have spent a lot of time wanting to offer amendments. We are doing everything we can. We hope the Enzi motion to table will break some of this loose.

I say to my friend from North Dakota that we understand how he feels. The only thing I will say is there is no gatekeeper. On one bill the two managers said they would oppose any amendment that was not relevant, but that is not the case now. The Senator from Maryland has expressed to me that there are some relevant amendments which should be offered. He has done everything he can to—

Mr. BYRD. Mr. President, who controls time?

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia controls the next 45 minutes. There is a unanimous consent request pending.

Mr. BYRD. Mr. President—

Mr. DORGAN. Mr. President, reserving the right to object.

Mr. REID. If I can ask my friend to let me finish. I ask unanimous consent that the time in the colloquy between the Senator from North Dakota and the Senator from Nevada not take away from the time of the Senator from West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, continuing on my reservation—and it is not my intention to delay the Senator from West Virginia—I want to try to understand what is happening.

First, my comments should not in any way suggest that the chairman of the committee hasn't done an extraordinary job. I have great respect for him. But it has been difficult to get amendments up and get votes on them in the last day or two. There are a good number of very important amendments.

Under the reservation, I say that we know what has happened to the stock market in the last few days. We know this is a critically important issue—this legislation and the amendments to it. We ought not to treat this lightly. This piece of legislation ought to be on the floor and open for amendment, having a robust discussion on the very important issues dealing with corporate responsibility.

Instead, what is happening is we have a couple people on the floor who seem to want to stall this process and prevent amendments from being considered in order. I hope—and I will come back after lunch today—to offer at least two amendments. I want to debate them and get them voted on. At least as a Senator I have a right to do that.

It is very important to me that I be able to add these amendments. If the

Senate doesn't like them, fine, we will vote. But it is important to me to have that opportunity. I shall not object to the unanimous consent request with respect to the tabling motion.

I wanted to say to the Senator from Nevada and the Senator from Maryland, who have done everything humanly possible to try to make this process work, that there are others in the Chamber who are trying to drag this process out and prevent others from offering amendments. I am going to assert my rights, to the extent I can, to say that before this bill is completed we need to have the best ideas everyone in the Senate has to offer about how to do this job.

The economy in this country is in significant trouble. We know it. The confidence the American people have in this economy and corporate governance has been shattered in many ways. It rests upon the shoulders of this institution to pass this legislation and do everything we can to make it the best piece of legislation possible to restore that confidence and give some lift to this economy. I wanted to make that point.

I appreciate the indulgence and the patience of the Senator from Nevada. If the Senator from Maryland will give me a chance to say this once again: In no way am I saying the chairman hasn't done everything humanly possible to move this along. He wants to move quickly. I shall not object.

Mr. GRAHAM. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I express my great admiration for what Senator SARBANES has done in presenting to America such a meaningful piece of legislation to deal with one of the great scandals that has occurred in the history of our free enterprise system, and taking a step toward restoring the confidence of the public in the investment community.

But as Senator DORGAN, I have an idea which, in fact, in one instance, is parallel to Senator DORGAN's; that is, I believe we need to be very clear that we are applying the same standards to corporations that have their corporate headquarters inside the United States as we do to corporations that take advantage of our capital markets and have chosen to locate or relocate their headquarters outside of the United States.

Mr. REID. Mr. President, I am reclaiming my time.

Mr. GRAHAM. Reserving the right to object, there are enough incentives to do that already in the Tax Code and otherwise. We should not be creating additional incentives for companies to run from their responsibilities within the United States. My specific—

Mr. REID. Mr. President, I want the floor back.

Mr. GRAHAM. I am raising this today—

Mr. REID. Mr. President, I have the floor.

The PRESIDING OFFICER. The Senator from Nevada has the floor.

Mr. GRAHAM. Mr. President, I am reserving my right to object.

Mr. REID. Mr. President, I have the floor.

Mr. GRAHAM. I will conclude my comments in short order.

The PRESIDING OFFICER. The Senator can either object or not. Reserving the right to object occurs at the indulgence of those who have the floor.

Mr. REID. Mr. President, we have built in time for people to speak. It is not fair to Senator BYRD and others who have been waiting to speak. I have no problem with Senator GRAHAM coming. I agree with his position. There is time to be allowed under this unanimous consent agreement. Otherwise, the time will be all gone, and there are two Senators who have an hour and a half, by virtue of a unanimous consent agreement entered into last night.

It is not fair to use the extra half hour with these speeches that are taking away from Senator BYRD and Senator MCCONNELL.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM. Reserving the right to object, just for the purpose of concluding my remarks.

Mr. BYRD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. Mr. President, I will be happy to yield to the Senator when I get the floor. We cannot make long speeches on reservations to object. We either object or we don't. I object and then I will be happy to yield to the Senator. I want to be fair. Am I recognized?

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. How much time does the Senator wish?

Mr. GRAHAM. Just 1 minute.

Mr. BYRD. Mr. President, I yield to the distinguished Senator from Florida for 1 minute, reserving my right to the floor.

Mr. GRAHAM. I appreciate the courtesy of the Senator. I want to bring to your attention an article from the Washington Post today. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SEC CHAIRMAN PITT A POTENTIAL LIABILITY
TO ADMINISTRATION

(By Dana Milbank)

While President Bush was delivering his long-awaited speech on corporate governance Tuesday, Securities and Exchange Commission Chairman Harvey L. Pitt was exactly where many Bush aides wanted him to be: on a week-long beach vacation.

"We were not surprised that the chairman was not included in administration plans for public appearances," SEC spokeswoman Christi Harlan said. "The commission is an independent agency."

White House officials, though calling it a coincidence, acknowledged they had no desire for Pitt's presence.

The arms-length treatment of Pitt underscores a dilemma for Bush and his radio-active SEC chairman. Many Democrats and even a few Republicans have called for Pitt's resignation because of his alleged conflicts of interest and ties to the accounting industry. There is no sign that Bush is even thinking of dropping Pitt. But whether Pitt stays or goes, he is a potential liability.

Dismissing Pitt would violate the Bush code of loyalty and would be viewed as validating Bush's critics, from Senate Majority Leader Thomas A. Daschle (D-S.D.) to Bush's Republican nemesis, Sen. John McCain (Ariz.). "Dropping Harvey Pitt right now would be an acknowledgment of wrongdoing where there's been no wrongdoing," said GOP lobbyist Ed Gillespie, a former Bush campaign aide.

Forcing Pitt out would also open the White House to charges of interfering in the SEC's investigation of Halliburton Co.'s activities when Vice President Cheney was its chief executive. Underscoring that danger, Halliburton shareholders yesterday filed a fraud lawsuit in Dallas against the company and Cheney. White House press secretary Ari Fleischer said the suit is "without merit." That prompted Larry Klayman, whose group, Judicial Watch, represents the shareholders, to accuse the White House of seeking to influence the SEC's investigation.

Yet Pitt's presence as the government's top securities watchdog carries dangers for Bush, too. Even some Pitt defenders say his close ties to the accounting industry limit his credibility as a reformer. In his first speech as SEC chairman last year, Pitt told an audience of auditors that the SEC would be "a kinder and gentler place for accountants."

"Pitt has been in hot water since day one and WorldCom turned it into a full boil," said GOP operative Scott Reed. Because Bush will not drop Pitt, Reed said, "McCain and the Democrats have turned him into a political piñata, and that will continue ad infinitum."

Democrat Chris Lehane, who defended Bill Clinton and Al Gore during that administration's scandals, said Bush is making the wiser political choice in keeping Pitt, even though Pitt could undermine faith in Bush's reforms. "Pitt could do everything right and nobody's going to give him credit for it," he said.

Pitt's foes point to his past legal work for executives of now-sullied corporations, including MCI, Merrill Lynch & Co., Arthur Andersen LLP and other accounting firms. He has also been criticized for meeting in April with a former client, KPMG Consulting Inc., while KPMG's audits of Xerox Corp. were being investigated by the SEC. Critics also say that as a lawyer, Pitt favored restricting federal oversight of auditing firms. Over the years, Pitt has represented figures such as Ivan Boesky and Michael Saylor in SEC actions.

Bush, in his Monday news conference, generously defended Pitt. "I support Harvey Pitt—Harvey Pitt has been fast to act," Bush said. Later, Bush added: "I'm going to give him a chance to continue to perform."

Privately, Bush has expressed amazement at the conflict-of-interest charges. "It's only

in this town that people want someone who doesn't know what they're talking about to lead an agency," he told congressional Republicans visiting the White House yesterday.

Pitt has an unlikely defender in Lanny J. Davis, one of President Clinton's scandal handlers. "The attack being made by Democrats could be made on most anyone for having conflicts from prior positions," he said. But Davis said the administration has been making matters worse. "The more you bottle up Harvey Pitt, the more you allow Democrats to make him an issue," Davis said.

Observers on both sides expect Pitt to make a public effort to build his credibility by demonstrating that he can be hard on his old friends. Indeed, some in the administration joke that Pitt will come to resemble a model Democratic SEC chairman, one heavy on regulations.

The White House has distributed evidence of Pitt's activity on the job: requiring chief executive and chief financial officers of the 947 largest companies to personally recertify the accuracy of their disclosures; seeking to bar 54 officers and directors; and issuing a long list of new reporting rules and regulations.

Pitt was not Bush's first choice for the SEC job, and officials say he continues to be far from Bush's inner circle. The reforms Bush announced Tuesday were developed largely by Treasury Secretary Paul H. O'Neill and White House deputy staff chief Joshua Bolten, with help from Bush economic advisers Lawrence B. Lindsey and R. Glenn Hubbard.

But Bush is stubborn about demonstrating loyalty to his aides, which enables him to claim reciprocal loyalty. Officials say he continues to defend Army Secretary Thomas E. White, embattled because of his Enron Corp. ties and personal travel, because White has been faithful to Bush.

But when underlings act disloyal, Bush can quickly cut them loose. Linda Chavez was dropped as Bush's nominee to be labor secretary when it appeared she had misled those vetting her background. Michael Parker, the civilian chief of the Army Corps of Engineers, was ousted for complaining about administration budget cutting.

Pitt so far has demonstrated fealty to Bush, and Bush aides remain loyal to him. "The best thing to do is vigorously enforce the law, and that's what he's doing," Lindsey said.

Mr. GRAHAM. In this article, the President of the United States has given as one of his reasons to continue his support for the Chairman of the Securities and Exchange Commission, Chairman Harvey L. Pitt, the fact that Mr. Pitt has required chief executives and chief financial officers of the 947 largest companies to personally recertify the accuracy of their disclosures.

What was left out were all the American companies which have their corporate headquarters outside the United States of America. Apparently, the Chairman of the SEC believes he can discriminate and apply a principle only against those corporations which are sited in the United States and exclude corporations outside the United States.

That is an irrational and unfair distinction and one that we should correct as promptly as possible in this legislation.

I thank the Senator from West Virginia.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. REID. Mr. President, will the Senator yield for a unanimous consent request?

Mr. BYRD. Gladly.

Mr. REID. Madam President, I renew my unanimous consent request.

The PRESIDING OFFICER (Ms. LANDRIEU). Without objection, it is so ordered.

The Senator from West Virginia.

Mr. BYRD. Madam President, since the revelation last month of yet another corporate accounting scandal—this time involving the second largest telecommunications provider, WorldCom—the Bush administration seems to have lost its patience with corporate America. In fact, from the rhetoric we have heard from the administration in recent weeks, I expected to hear the President tell corporate America this week that his top advisors had been in the White House basement planning, not just a corporate fraud task force, but a new Department of Corporate Security.

The President said last month at the G8 summit in Canada, "The revelations that WorldCom has misaccounted [\$3.8] billion is outrageous."

In his June 29 weekly radio address, the President warned corporate America that "no violation of the public's trust will be tolerated. The Federal Government will be vigilant in prosecuting wrongdoers to ensure that investors and workers maintain the highest confidence in American business."

The President apparently is so miffed with these corporate "wrongdoers" that he has elevated them in his rhetoric to a bad-guy level that is almost, but not quite as bad, as al-Qaeda's "evildoers." Almost the same level; perhaps not quite.

WorldCom president and CEO John Sidgmore, in a June 28 letter to President Bush, joined the President in expressing his outrage. "I want you to know that we, the current management team, are equally surprised and outraged . . . about past accounting irregularities at WorldCom," he said.

So the Bush administration and the CEO of WorldCom now both agree that American corporations teaming up with unscrupulous (or incompetent) accountants to mislead shareholders about how much money the company is making is an "outrageous" practice.

Madam President, how comforting it is. As Jackie Gleason used to say: "How sweet it is." How sweet it is. How comforting it is to know that we have finally reached a consensus on that issue.

Despite the excuses and the explanations, I find little credibility in the argument that certain corporate executives lacked sufficient knowledge to ask the right questions about their companies' accounting practices.

If CEOs are worth their generous pay, one would think they could take the time to make sure that the company's chief financial officer is not padding earnings by omitting costs from the balance sheet.

In fact, one finds disconcerting the acute lack of shame—the acute lack of shame—S-H-A-M-E—on the part of some of these corporate executives. Former Enron CEO Jeffrey Skilling told the House Energy and Commerce Oversight Subcommittee that Enron had tight control on financial risk, but that he could not be expected to oversee everything and "close out the cash drawers . . . every night."

Can you imagine that kind of statement? I think it was Wordsworth who said: No matter how high you are in your department, you are responsible for what the lowliest clerk is doing.

Let me repeat that. Wordsworth said: No matter how high you may be in your department, you are responsible for what the lowliest clerk is doing. That was William Wordsworth. Let's take that statement and put it beside the statement of former Enron CEO Jeffrey Skilling when he told the House Energy and Commerce Oversight Subcommittee that Enron had tight controls on financial risk but that he could not be expected to oversee everything and "close out the cash drawers . . . every night." Oh, that poor man. What a heavy burden he carried. That poor man. We can all shed crocodile tears for someone who is put into that very difficult position and then consider the kinds of salaries these people draw down.

Shakespeare said: "The quality of mercy is not strain'd, it droppeth as the gentle rain . . . upon the place beneath." I will tell you, it does strain gentle mercy when we read about these scandals that have swept over this country and how these people plead the fifth amendment when they are called up before Senate committees and House committees—plead the fifth amendment. That is a stunningly irresponsible attitude for a chief executive.

It is something that you might hear from the teenage manager of a fast food restaurant who cannot account for a handful of change missing from the cash drawer at the end of the night. You might hear that from the teenage manager of a fast food restaurant who cannot account for a handful of change missing from the cash drawer at the end of the night. But we are not talking about a handful of change. We are talking about the American public. Those eyes that are peering—they are peering at this Senate floor at this very minute through the lenses of those cameras. They are the taxpayers out there. I see them looking through those cameras. I see them in West Virginia. I see them in Texas. I see them in Wyoming. I see them in New York looking through those cameras.

We are talking about them, the American public having lost by some estimates tens of billions—not millions—tens of billions of dollars of invested savings in companies that issued false—the Ten Commandments, I keep them on my walls; some of these CEOs should keep them on their walls—financial reports and tens of thousands of workers who have lost their jobs, and many have lost their meager earnings that they, too, invested, that is what we are talking about.

So here is an individual who tells a House committee he cannot be expected to oversee everything and close out the cash drawers every night—such a stunning, irresponsible, arrogant attitude on the part of a chief executive. I say again it is something that you might expect to hear—you might—from the teenage manager of a fast food restaurant who could not account for a handful of change missing from the cash drawer at the end of the night.

We are not talking, let me say again, about a handful of change. We are talking about the American public, those people out there, Republicans and Democrats and Independents, in the Alleghenies, along the eastern coast, on the storm-beaten coast of Maine, the fishermen on the mighty deep, the people in the Plains and the Rockies and beyond. These are the people, north and south, the public. We are talking about the American public having lost, by some estimates, tens of billions of dollars of invested savings in companies that issued false—and they knew they were issuing false—financial reports. Tens of thousands of workers who have to wash the grime from their hands and their faces, workers in the fields, in the mines, in the shipyards, those are the people we are talking about, the public, tens of thousands of workers who have lost their jobs.

Even after these corporations' fraudulent accounting, somebody ought to go to jail, and the doors should be locked and the keys thrown away. Throw away the keys. It really would not be too severe a punishment for some of these four-flushers.

Even after these corporations' fraudulent accounting methods are exposed, the accounting games seem to continue. After telling the Securities and Exchange Commission that it hid nearly \$4 billion in expenses last year, WorldCom submitted revised financial reports to the SEC which the SEC Chairman, Harvey Pitt, immediately called wholly inadequate and incomplete. Apparently, WorldCom's revised financial statements included additional accounting errors dating back to 1999 and 2000. That, Chairman Pitt said, could add at least \$1 billion to the company's financial revision.

No wonder the trust of those people is broken. No wonder the public's trust in corporate America has eroded. What

kind of trust can the public have in companies that hide information in an effort to pull the wool over the eyes of American investors?

After WorldCom's announcement, the Bush administration sharpened its rhetoric and is now working to assure the American public that it recognizes the importance of transparency and disclosure. The Chairman of the White House Council of Economic Advisers, Glenn Hubbard, said in an interview last month that the President wants to reassure investors about the economy while also delivering a shot across the bow to leaders of corporations that abuses of the public trust will not be tolerated.

In the midst of congressional hearings last March, after the collapse of Enron, the President lectured corporate America about how to regain the public's trust. He said corporations must disclose relevant facts to the investing public and they must focus on the interests of shareholders, who are the real owners of any publicly held enterprise, to properly inform shareholders and the investing public that we must adopt better standards of disclosure.

That is nice rhetoric, but this administration hardly sets the model for openness and transparency. In fact, this is an administration that prides itself on operating in secrecy and governing by surprise. Remember the secret government that was being set up? In fact, this is an administration, let me say again, that prides itself in operating in secrecy and governing by surprise.

I find it difficult to watch this administration lecture corporate America about virtues of disclosing information to the public while at the same time it is restricting the public's access to information about its own executive actions.

Last October, Attorney General John Ashcroft issued a memo encouraging Federal agencies to withhold unclassified records under the Freedom of Information Act, the law that gives the American public the legal right to certain Government information. The Attorney General even told the Federal agencies that the Justice Department would defend agency decisions to deny FOIA, Freedom of Information Act, requests.

Last November, the President issued an Executive order to limit access to Presidential papers that, under the Presidential Records Act of 1978, would normally be made available to the American public. The Executive order allows a former or a sitting President to block the release of records requested under the law by invoking "constitutionally based privileges." The words "constitutionally based privileges" are in quotation marks.

The American people would have to go to court to challenge the privilege

claim. The order could even permit a former or incumbent President to impede requests for old records simply by withholding approval for their release, effectively negating the need for the Chief Executive to even make the claim of executive privilege.

We have had our own little taste of this side of the coin from the executive branch as we on the Appropriations Committee, Senator STEVENS and I, tried to have the administration let Tom Ridge come up before the committee and testify.

Then we see this creation of this mammoth reorganization of Government that sprang like Minerva, fully clothed and armed, from the forehead of Jupiter.

When this administration's chief executive talks about adopting better standards of disclosure, I hope that these executive actions are not what he has in mind. These are just examples of the administration directly restricting the public's access to government information. The administration has also moved to limit access by Members of Congress, who are elected by the people and responsible for the oversight of executive actions in the public's behalf.

Last December, the President gave notice that he was unilaterally withdrawing the United States from the Antiballistic Missile Treaty, allowing the administration to begin development of a new antiballistic missile defense system. Soon after, the Pentagon began to exempt missile defense projects from traditional reporting requirements and Congressional oversight, an overt attempt to keep the Congress and the American people in the dark about the progress of that system. As the administration requests additional defense funds, the Pentagon is taking further steps to shield cost estimates and time tables from the Congress, making it harder to keep the administration accountable for technical and budgetary assessments.

The Dark Ages were supposed to have ended in about 1000 A.D. They lasted 1,000 years, the Dark Ages. Reminiscent of the Dark Ages, an administration that believes in keeping a Congress in the dark, the American people in the dark, and we are hearing a lot of sword rattling about it. An attack on Iraq—the administration should level with the Congress. It is an equal branch. It is not a subordinate branch to the Government. It never has been, and I hope never will be. Let's hear more about this plan to invade Iraq. Watch out for August when Congress is out of town, or before the election. Who knows?

This reorganization of Government sprang like Aphrodite from the ocean foam, and she was carried on a leaf to the island of Crete. She later appeared in full dress before the gods on Mount Olympus. They were stunned with her beauty.

This is what we see. These ideas sprang from where? This idea to reorganize the Government—and I am concerned it will also reorganize the checks and balances of the Constitution unless we are watchful—sprang from the bowels of the White House, the creation of four individuals who are named in the public press. Not exactly the equal, perhaps, of that committee that wrote the Declaration of Independence—Thomas Jefferson, Benjamin Franklin, Roger Sherman, John Adams, and Livingston, those five. Not exactly.

But look at all the commotion that ideas has created. Look out, the Congress is being stampeded into putting its imprimatur on that idea. Well, some parts of the idea may be OK, but we should not be in too big a hurry.

And that is to say nothing of the fact that these executive actions toward secrecy have occurred during a period in which the President has refused to allow Tom Ridge, in his capacity as the Director of Homeland Security, to testify before the Congress, and in which the Comptroller of the General Accounting Office was forced to sue the Vice President of the United States to obtain information about the White House energy task force and its connections to Enron.

These are not the actions of an administration that believes in the virtues of disclosing information to the public. This is an administration that not only embraces the idea of operating in secrecy, but flaunts its abilities to hide information from the Congress and the American public.

Upon announcing its proposal for a new Department of Homeland Security, the administration bragged to the media about how the plan had been pieced together by just four men and a few trusted aides in the basement of the White House. As the work became more detailed and the working groups expanded, the code of silence was gravely explained to each new arrival. At the end of each meeting, all papers were collected: nothing left that room, we've been told. The work was completed before any member of the Congress was briefed on the plan. White House Chief of Staff Andrew Card even arrogantly proclaimed, "We consulted with agencies and with Congress, but they might not have known we were consulting."

Now, get that. I can hardly believe my eyes, except my eyes have seen this prior to my having stated it on the floor. White House chief of staff Andrew Card even proclaimed—I used the adverb "arrogantly," I will put it back in—White House chief of staff Andrew Card arrogantly proclaimed, "We consulted with agencies and with Congress but they might not have known we were consulting."

What a reflection on Congress. What is he saying about Congress? That is

hardly a model of transparency that I want corporate America to follow.

We don't want to hear corporate CEOs saying we shared information with the American public, but they might not have known we were sharing it with them. The administration's euphoria for secrecy seems motivated in large part by its desire to implement a political agenda. That is what it is. A political agenda, regardless of whether it has the support of the American people.

Mr. REID. Will the Senator yield?

Mr. BYRD. I would be glad to yield.

Mr. REID. Mr. President, I have been listening to the Senator from West Virginia give his speech, and I am of the opinion maybe the reason all that secrecy takes place is they are running the White House like people run corporations. Rather than having a public institution as the administration and White House should be, maybe they are running the White House like a corporation.

I say to my friend that the White House, this administration is covered with corporate America. Maybe they think the White House is to be run like a corporation.

Mr. BYRD. The distinguished Senator from Nevada introduces an interesting idea. Maybe they do. Maybe anything goes. All is fair in love and in war they say. Now we can add, big business. Big business.

That is not a fair thing to say about many big businesses really because many of the people in big business are honest and try to do the right thing. They are open, they are transparent. It is too bad a few bad apples reflect on the whole barrel. I used to sell produce. I was a produce boy, married, with children coming on, and I found that a few bad peaches would quickly ruin the whole bushel. The same thing with apples and other fruits and so on.

When the administration's polls suggest opposition to certain policies from the American public, it limits access to information about that policy. I fear that the American public, and their elected representatives in Congress, at times are viewed by this administration as some sort of obstacle or hurdle that is to be avoided. There is a contempt, there is an arrogance in this administration, there is a contempt for Congress. They hold Congress in contempt.

This kind of executive mentality can only emanate from the arrogance of an administration that believes the White House is the fountain of wisdom in Washington. Wisdom is the principal thing. Such a mentality is dangerous, it is absolutely dangerous. I was here in the Nixon administration. I remember what happened to that administration. Such a mentality is dangerous. We need only look to the corporate accounting scandals which this administration has so harshly criticized in recent weeks to see why.

Most economic pundits seem convinced that the hyperactive stock market of the late 1990s was the catalyst for a slow, steady deterioration in professional and ethical standards in corporate America. The pressure on CEOs and companies to produce earnings, quarter after quarter, resulted in a kind of competitive behavior that encouraged companies to push the accounting envelope. Rising profits and stock prices provided cover for underlying ethical lapses. The longer the boom lasted, the more brazen these corporations became in cutting corners and taking a little more off the top.

By the end of the boom, many companies appear to have been engaged in the kind of fudging, gamesmanship and ethical corner-cutting that, while legal in some cases, was certainly less than ethical. Unfortunately, it was only after the stock market began its inevitable decline and great piles of money were lost that people began to ask the critical, penetrating questions that should have been asked earlier to prevent this kind of behavior in the first place. Those harder questions are now leading to accounting revisions, executive resignations, lawsuits, and criminal investigations.

So far, the reflexive instinct of the business community and the Bush administration largely has been to blame a "few bad apples," but that assertion is hardly consistent with the fact that the SEC opened 64 financial-reporting cases between January and March of this year, and that almost a thousand companies, not just a handful, have been asked to recertify to the SEC their financial statements through the last fiscal year.

It is somewhat ironic that the actions of chief executives were protected by soaring stock prices, since the administration finds itself in a similar position. Just like soaring stock, as long as the President's approval ratings remain high, presumably propped up by the American public's understandable desire to support the war on terrorism, the more latitude the administration will be granted in restricting information about its executive actions under the guise of national security. This kind of culture can be extremely dangerous. It was allowed to flourish in corporate America during the late 1990s, and now threatens the public trust.

The administration would do well to take some of its own medicine and make itself more transparent to the American public. For all of its expressed concerns about the public's loss of confidence in corporate America, this administration seems to have given little, if any, consideration to the loss of the public's trust in government. That is the most basic of commodities in republican government. I do not refer to it, as many politicians who ought to know better glibly refer

to this, our system, as a democracy. They ought to go back and read Madison's 10th and 14th essays in the *Federalist Papers*. They will finally learn the difference—or be reminded of the difference. They probably have forgotten the difference between a democracy and a republic.

The public's trust in government—when the public loses its trust, when the public's trust is eroded, all is lost: The public trust. And sooner or later, high poll numbers will tumble, as they always do. We have seen them do it before.

Don't read the polls, I say to my colleagues, so assiduously, read the Constitution—which I hold in my hand. Read the Constitution. I say to the administration, I say to the executive branch, read the Constitution. Don't be so enamored with the polls. They are fleeting. Read the Constitution.

This administration's Chief Executive came into office touting himself as the first President to earn a master's degree in business administration. That is certainly more than I have. He announced that he would run the White House like a modern-day corporation. Ha-ha-ha; watch out.

To be fair, the President probably didn't realize at the time that he would be faced with the exposure of a corporate culture—not all his. The President probably didn't realize at the time that he would be faced with the exposure of a corporate culture which encouraged shoddy auditing, negligent or criminal management, and impudent and secretive corporate CEOs.

In hiding its own actions from the public view, this administration is fostering the same kind of arrogant, arrogant culture in which these corporate accounting scandals were allowed to flourish. This administration would do well to take preventive measures to keep the nasty, nasty little seeds of arrogance and secrecy that have affected corporate America from taking root in the executive branch and threatening the public's trust.

I close with a Biblical parable: Pride goeth before destruction, and the haughty spirit before a fall.

I ask unanimous consent to have printed in the *RECORD* an article from today's Washington Post titled "Bush Took Oil Firm's Loans as Director"; and an article from today's Washington Times titled "Cheney named in fraud suit."

There being no objection, the material was ordered to be printed in the *RECORD*, as follows:

[From the Washington Post, July 11, 2002]

BUSH TOOK OIL FIRM'S LOANS AS DIRECTOR

(By Mike Allen)

As a Texas businessman, President Bush took two low-interest loans from an oil company where he was a member of the board of directors, engaging in a practice he condemned this week in his plan to stem corporate abuse and accounting fraud.

Bush accepted loans totaling \$180,375 from Harken Energy Corp. in 1986 and 1988, according to Securities and Exchange Commission filings. Bush was a director of Harken from 1986 to 1993, after he sold his failed oil and gas exploration concern to the company. He used the loans to buy Harken stock.

Corporate loans to officers came under scrutiny after WorldCom Inc., the long-distance carrier that last month reported huge accounting irregularities, revealed it had lent nearly \$400 million to Bernard J. Ebbers to buy the company's stock when he was chief executive. He resigned in April as the stock price tumbled.

Bush attacked corporate loans during his speech on Wall Street on Tuesday, when he offered proposals to tighten the accountability of corporate executives while stopping short of the tougher measures headed toward passage in the Senate. "I challenge compensation committees to put an end to all company loans to corporate officers," he said.

A senior administration official, briefing reporters on Bush's plan, said Tuesday that Bush wants public companies to ban loans to their officers, including directors. "Corporate officers should not be able to treat a public company like their own personal bank," the official said.

The contrast between Bush's record as a business executive and his rhetoric in the face of corporate scandals underscores the challenge his administration faces in trying to credibly foster what he calls "a new era of integrity in corporate America."

Bush was investigated by the SEC in 1991 for possible illegal insider trading, although the SEC did not take action against him, and he has admitted making several late disclosures to the agency, which regulates public companies.

Harken's loans to Bush—at 5 percent interest, below the prime rate—were reported several times in filings to the SEC in the years before the debt was retired in 1993 and were noted in news accounts at the time. The loans were for the purchase of Harken stock, which was then held as collateral.

Rajesh K. Aggarwal, a Dartmouth College professor who specializes in executive compensation and incentives, said such loans "are not unique, but are by no means widespread."

White House communications director Dan Bartlett said Harken offered the loans to directors to buy shares in the company as part of an incentive for board members "to have a long-term commitment with the company." Bartlett said the loans to Bush were "totally appropriate—there was no wrongdoing there."

"This is a common practice in small, medium and large companies," Bartlett said. "These recent abuses of certain types of loans led the president to believe that the government should draw a bright line concerning loans going forward. This is one of the main things that undermined the confidence of investors and shareholders."

Bartlett said the loans were for \$96,000 in 1986, for 80,000 shares, and \$84,375 in 1988, for 25,000 shares. He said that in 1993, Harken changed its compensation policies and discontinued the loan program. He said Harken converted to a program giving directors stock options, allowing them to buy stock later at a fixed price.

Bartlett, asserting that Bush did not profit on the loans, said Bush traded the 105,000 shares being held as collateral for the loans, retiring his debt. Bush then received 42,503 options under the new compensation plan,

Bartlett said. The options were never exercised and expired after Bush left the board, Bartlett said.

With administration officials privately expressing concern about the impact of so much fresh attention to old questions about Bush's career, the White House yesterday distributed talking points headlined "If you get asked about Harken" to Bush loyalists who might be contacted by reporters. Bartlett said the fact sheets were sent to members of Congress after they asked for them.

White House press secretary Ari Fleischer said aides to Bush have "talked to the private accountants and private counsels who are involved in the president's private transactions" while preparing answers to reporters' question during the growing debate over corporate responsibility.

Vice President Cheney also is receiving unwanted attention to his corporate past. The SEC is investigating an accounting practice begun by Halliburton Co., the Dallas-based energy services company, when Cheney was chief executive before joining Bush's campaign ticket.

Also yesterday, the White House refused to release records of Bush's service on Harken's board. Bush had pointed to those records during a news conference on Monday when asked about his role in the sale of a subsidiary. The transaction later was used by Harken to mask losses.

"You need to look back on the director's minutes," Bush said.

Bartlett said the administration does not have the minutes and does not plan to ask Harken for them. "He personally would not have access to them," Bartlett said. "These are company documents. I can't release something I don't have."

Harken has declined to release board records ever since questions about Bush's record on the board were raised during his first campaign for Texas governor, in 1994.

Bartlett also said the White House would not accept a challenge by Senate Majority Leader Thomas A. Daschle (D-S.D.) on Sunday to ask the SEC to make public the records of its investigation into whether Bush had engaged in illegal insider trading of Harken stock.

Daschle said on CBS's "Face the Nation" that Bush would do well to ask the SEC to release the file. "We've had different explanations as to what actually occurred," Daschle said. "I think that would clarify the matter a good deal."

Bartlett said Bush will not do that. "Those are documents in the possession of an independent regulatory agency," Bartlett said. "I'm not in a position to call on them to do that. We've made available every relevant document we have in our possession."

Administration officials said they would take the same position about an SEC investigation that resulted in Harken's restating its earnings to show a \$12.6 million loss for a quarter instead of an earlier reported loss of \$3.3 million. Bush was a member of the board's audit committee.

[From the Washington Times, July 11, 2002]

CHENEY NAMED IN FRAUD SUIT

(By Patrice Hill)

Vice President Richard B. Cheney was named yesterday with the energy company he headed in a lawsuit by investors that cited bookkeeping practices under investigation by the Securities and Exchange Commission.

The lawsuit arranged by Judicial Watch, a government watchdog group, charges that Halliburton Inc. overstated its revenue by

\$534 million between 1998 and the end of last year by illegally booking revenue from oil construction projects that were in dispute and had not been collected from its clients. The suit says the accounting fraud resulted in overvaluation of Halliburton's stock, deceiving investors.

Mr. Cheney was Halliburton's chief executive from 1995 until August 2000, after he joined the Bush presidential campaign. The White House and Halliburton yesterday said the suit was without merit but both acknowledged that the SEC investigation is continuing.

"We are working diligently with the SEC to resolve its questions regarding the company's accounting practices," said Doug Foshee, Halliburton's chief financial officer. The claims in this lawsuit are untrue, unsupported and unfounded."

SEC Chairman Harvey L. Pitt has vowed to pursue the investigation. "We don't give anyone a pass," he told ABC's "This Week" on June 30. "If anybody violates the law, we go after them."

President Bush on Tuesday called for stronger SEC enforcement and longer prison terms for corporate executives found guilty of the kind of accounting fraud charged in the lawsuit. The suit was filed in the U.S. District Court in Dallas, where Halliburton is based.

A unified Senate approved harsh new penalties yesterday for corporate fraud and document shredding, adding enforcement teeth to Mr. Bush's plan to curb accounting scandals. In a series of unanimous votes, senators added the penalties to an accounting oversight bill moving toward passage.

Also named as a defendant in the lawsuit is the Arthur Andersen firm, Halliburton's former auditor, which was fired in April after the accounting firm was charged with obstructing an SEC investigation of Enron Corp. Andersen was convicted of the obstruction charge last month and is no longer permitted to audit public companies.

The suit says Andersen was a champion of "aggressive" accounting tactics and masterminded the bookkeeping maneuvers that defrauded Halliburton investors.

As evidence of Mr. Cheney's knowledge and approval of these maneuvers, the suit refers to his appearance in a promotional video for Andersen in which he said he got "good advice" from the firm, advice that went "over and above just the normal by-the-books auditing arrangements."

The lawsuit cites a critical accounting change made by Halliburton and Andersen in late 1998. Halliburton was facing losses because of a recession in the oil industry and cost overruns on construction contracts in which the company had negotiated fixed, or lump-sum, payment plans.

Before the accounting change, which was never formally disclosed to investors, Halliburton had booked the cost overruns as losses on such projects as long as they were in dispute and customers had not agreed to pay them.

But starting in 1998, the company booked payment for the cost overruns as revenue if it believed the disputes would be resolved and the customers would pay the bills.

As a result of this change, Halliburton showed a profit for several quarters in 1998 and 1999 when it otherwise would have posted losses, the suit charges. In some years, the disputed revenue appears to account for as much as half of the company's reported profits.

"Halliburton overstated profits that many American citizens relied upon," said Larry

Klayman, chairman of Judicial Watch. "That's fraudulent security practices, and it resulted in those Americans suffering huge losses."

The suit says Halliburton and Andersen violated securities laws when they did not disclose and justify the accounting change in a letter to investors. Halliburton's financial statements starting in 1998 do note, however, that it was booking uncollected revenue from cost overruns.

Mr. REID. Madam President, if the Senator will yield for a parliamentary inquiry.

Mr. BYRD. Yes. I yield.

Mr. REID. The Senator was allocated 45 minutes. Of course, we have other time. We have an extra 15 minutes. It is my understanding there are 4 or 5 minutes left. Is that right?

The PRESIDING OFFICER. There are 3½ minutes remaining.

Mr. REID. If the Senator so desires, we could also allocate 15 minutes to the Senator from West Virginia if he has more to say.

Mr. BYRD. Madam President, I thank the distinguished majority whip for his courtesies and generosity, and for his characteristic ways of helping his colleagues. I think I will let my remarks remain today as they are. I thank him.

I yield the floor.

Mr. REID. Madam President, while there are a couple of minutes remaining of the Senator's time, I am sure the chairman of the committee joins with me in expressing our pleasure at being able to listen to such a profound statement which the Senator made. I think it again is what this is all about. By "this," I am talking about the legislation.

I talked with a friend of mine. We played football together as young men. He runs a company in Las Vegas. He said: HARRY, I took all of my money out of the stock market. I will never invest in the stock market until something is done. He said: I am afraid. I said: We all feel that way.

I think the Senator really condensed what is going on in corporate America. It needs to be changed, and hopefully this legislation will help that.

Mr. BYRD. Madam President, let me express my gratitude to the distinguished Senator for his comments.

And with respect to the manager of this legislation, let me state without any equivocation that this is one of the finest minds I have seen in the Senate. I have been here 44 years. I have seen the equivalent of the entire Senate come and go, and I have never seen a sharper intellect. I have seen some sharp ones—John Pastore, Herman Tamadge, and there are others. I have never seen any sharper than that of PAUL SARBANES, in my judgment. I don't know a great deal about the intelligence quotients. I don't know what the high range is. I assume it could be 150, or 155, or 160—whatever it is. PAUL SARBANES is the brightest.

Also, he has a way about him of not flaunting his intellect in front of others. Most of us—not because of that kind of intellect—have been inclined to speak more often—maybe too much, and perhaps I do already, but not because of that kind of intellect. But I salute the manager and commend that kind of intellect. He applies it. I watch him in the committees, and I watch him on the floor as he manages a bill. He is never a man to act in haste, or to be too rhetoric in haste. I admire his patience. He is plotting; he is studying; he is working; and he is extremely effective.

When I was majority leader, there were certain Senators I would call into my office from time to time. I would try to pick their brains as to what we should do on this or that. Scoop Jackson was one. PAUL SARBANES is always there.

Mr. REID. Madam President, will the Senator yield for a comment?

Mr. BYRD. Yes.

Mr. REID. What the Senator is saying is that the Rhodes Scholar Committee a number of years ago made a good choice in selecting PAUL SARBANES to be a Rhodes scholar. Is that what the Senator is saying?

Mr. BYRD. I am saying exactly that. I am happy the distinguished Senator put it that way.

This bill before the Senate is the product of that kind of mind, that kind of attention, and that kind of dedication.

I hope we can pass this bill with an overwhelming vote, and, also in conference so that when put on the President's desk he can sign it. I am eager to support it in any way I can.

Before I yield the floor, let me say that when we talk about intellect and sharp intellects, this man from Texas, PHIL GRAMM, is another. He is sharp. I have talked to my staff many times about that kind of intellect. He can talk about anything. He doesn't need a script. I have prided myself on working with him on several challenges, and I have found him to be fair and straightforward.

I admire people—like these two—having that kind of sharp intellect.

I was told by an old Baptist pastor, former chief chaplain in the Army during the war—I don't remember which war it was. But he always said: The mark of brilliance is to surround yourself with brilliant people.

I am really proud to look around this Chamber and see people such as PAUL SARBANES and PHIL GRAMM. Sometimes I say that North Dakota has the highest overall quotient, perhaps of all, with its two Senators—Senators CONRAD and DORGAN. I don't know whether they are Rhodes scholars or not. I am not a Rhodes scholar. I was not fortunate enough. I just barely made it by working at night for 10 years just to get a law degree. But

these people make me proud to serve in this body.

Let me yield to the Senator from Maryland.

Mr. SARBANES. Madam President, I thank the distinguished Senator for his extraordinarily generous remarks. I am very appreciative of them.

I want to echo what the very able Senator from Nevada said about the Senator's eloquent address just a few minutes ago, which is reflective of the pattern that he has established—which is to go on the floor of the Senate and go to the very fundamentals of what our system is all about. His constant reference to the Constitution draws us back to those fundamentals. The Senator has always put before the Senate this broader and deeper vision of why we are here, what we ought to be doing, and calling us back to our basic principles as a nation—right back to the Founding Fathers—as the Senator pointed out in his talk today. Important aspects of that are being challenged today in a very serious way.

I echo what my colleague said and express my appreciation to the Senator from West Virginia.

Mr. BYRD. Madam President, I thank the distinguished Senator. I am going to yield the floor.

Before I yield it, I apologize to the distinguished Senator from Kentucky, Mr. MCCONNELL. He is a Republican and I am a Democrat.

I have been known to go down into Kentucky at his invitation and speak, and I value his friendship. I apologize to him for imposing on his time.

Mr. GRAMM. Before the Senator yields, if he would yield very briefly to me, I thank him for his very sweet comments. I am very happy to be named along with PAUL SARBANES. And someday when I am talking to my grandchildren about the fact that their grandpa actually was a pretty important guy in his day—though his mind, I am sure, at that point will have seemed to have largely slipped away—I will say: I got to serve with the great ROBERT C. BYRD.

Mr. BYRD. I thank the Senator.

AMENDMENT NO. 4200

The PRESIDING OFFICER. The Senator from Kentucky will now be recognized for up to 45 minutes.

Mr. MCCONNELL. Thank you, Madam President.

I rise to speak on behalf of the McConnell amendment which will be voted on sometime in the not too distant future. It is my understanding that my own colleague, Senator ENZI, may make a motion to table at the end of the debate. So let me, at the outset, say I support the Edwards-Enzi amendment.

The second-degree amendment that is pending at the desk, which I will shortly discuss, does not, in any way, change or diminish the Edwards-Enzi amendment. I think it is a good idea.

However, I think it simply does not go far enough.

I also supported the Leahy amendment yesterday after my amendment to combat union fraud was defeated. I will continue to support responsible corporate accountability measures in this bill.

My only point is, corporations do not have a monopoly on misconduct, deception, and fraud. As long as we are addressing professional misconduct, deception, and fraud, we ought to recognize this is a problem in our entire professional culture, not just in corporate culture. Let me repeat that. This is a problem in our entire professional culture, not just in corporate culture.

I understand the mood at the moment is to beat up on corporations. And they deserve it. That is what the underlying bill is about. On the other hand, to ignore other areas of abuse, it seems to me, is to miss an opportunity to address the problem in a broader way.

The Senator from North Carolina raises real problems with the ethics and conduct of corporate lawyers. I commend him for that. And I commend the Senator from Wyoming for that. But I have long sought to curb similar and well-documented abuses in the general practice of law, specifically in the case of personal injury law.

Let me say at this point that the McConnell amendment applies only to Federal claims and Federal courts. We are talking here about Federal claims and Federal courts. My point in offering this amendment is not to obstruct but to extend and enhance our debate on professional conduct.

We ought to set standards for corporate attorneys. I favor that. And we ought to set standards for personal injury lawyers as well. Corporations and corporate attorneys do not have a monopoly on misconduct. We are doing a real disservice to the American public if, during this important debate on professional misconduct, we turn a blind eye to abuses in our society that have been piling up way before—long before—Enron, WorldCom, and Global Crossing.

All too often we hear stories about lawyers who take advantage of their clients by not informing them of the legal fees and costs those clients will incur. This sad practice results in consumers of legal services receiving next to nothing in personal injury and other claims.

Let me recount the story of Diana Saxon. Ms. Saxon was a victim of, among other things, attempted forcible rape. The defendant was convicted, and Ms. Saxon brought a personal injury action against that defendant. The attorney she hired said the fee he was going to charge was 40 percent, plus costs.

Ms. Saxon received an award of \$25,000. Of that, per her agreement,

\$8,300 went to her lawyer in attorney's fees. But an additional \$20,716 went to her lawyer for expenses. However, none of those costs was made known to Ms. Saxon during the course of the litigation. She was only informed of them after her case was concluded.

Now, it gets even better—or, for Ms. Saxon's unfortunate situation, it gets worse. After her lawyer charged her his costs, she ended up owing her attorney \$4,000—\$4,000. That is right. For poor Ms. Saxon, she was actually left over \$4,000 in the hole, in debt.

Now, to be fair, Ms. Saxon's lawyer was actually magnanimous in that he waived a few costs and a small portion of his fee so that she was actually able to walk away with the princely sum of \$833—\$833.

In his letter to her, where he agreed to offer her these few hundred dollars from her award of \$25,000, he wrote:

I'm agreeable to pay the sum of \$833. This is the only money you will receive from your \$25,000 settlement.

So, in sum, even though Ms. Saxon's lawyer told her that the lawyer would get 40 percent of her award, plus costs, in reality, after including these costs, he got 96 percent—96 percent—of her award. That is right, 96 cents on every dollar that Ms. Saxon received.

We need to make sure that consumers of legal services are not duped by this type of inaccurate and incomplete information.

Let me quote Ms. Saxon. She has put the problem better than I could. Here is what she had to say:

This is not how our civil justice system is supposed to work. What happened to me should never happen to anyone again. You have a chance today to make a difference by passing a law to protect people from the kind of thing my attorney did to me. Had I known in advance or at some point along the way how little of my lawsuit was going to benefit anyone but my lawyer, I might have thought different about enduring 2 years of emotional trauma during the litigation.

Summing up what she had to say: Had she had any idea how little of the money she might get, she might not have wanted to endure the trauma of this litigation for 2 long years.

Now, Ms. Saxon, in a sense, was lucky in that at least her lawyer told her she would be liable for costs, although he obviously did not tell her the magnitude of the costs she was looking at and, thereby, completely misled her.

But as these excerpts from the Yellow Pages here in the District of Columbia area phonebook indicate, some lawyers are not even that candid.

So let's take a look at the first chart out of the DC phonebook. On this first chart, we have an ad with the big banner entitled "AUTOMOBILE ACCIDENTS." There is a line almost as big—the fourth line down—proclaiming: "No Recovery, No Legal Fees"—"No Recovery, No Legal Fees." It does not say anything about the cost

the plaintiff is going to have to bear and, therefore, does not paint an accurate picture.

Let's take a look at the second chart, again out of the DC phonebook. It has a big banner down the right side entitled "PERSONAL INJURY." At the top is says: "Personal Injury Lawyers Who Put You First." "The Firm Boasts an All-Star Roster of Top Personal Injury [Lawyers]." And it makes the point: "No fee if no recovery." But, again, like the last ad, it does not mention at all anywhere in the ad—nowhere in all of this ad—that the client will be liable for costs.

Let's take a look at chart No. 3. This ad is marginally—marginally—better. At the top of the ad there is a headline, in bold, saying: "Legal Problems Require a Lawyer." Obviously, legal problems require a lawyer. About midway down is a line item saying: "Call Me. I can help." "Call me. I can help." And right below this line, another line says: "No Legal Fee If No Recovery." In a little bit smaller print you will notice, "No Legal Fee If No Recovery." But this lawyer, at least, to his credit, has an asterisk by this line. If you look very carefully, you see an asterisk; and way down here at the bottom of the ad, in minuscule print—which might require you getting your glasses adjusted or to get a magnifying glass—it says: "Cost May Be Additional."

This lawyer at least gets credit in his ad for mentioning that there might be some cost, although you better have your glasses adjusted in order to find it.

Chart No. 4 is a familiar pitch, that there be "no legal fees unless recovery." This lawyer, to his credit, at least has it in print large enough to where you might actually see that line. But there is, of course, an asterisk; down here at the bottom, again, in tiny, minuscule print, "Clients may be responsible for reasonable fees."

This lawyer, at least, gets some credit—be the print ever so small—for pointing out that there could be a cost involved, and maybe a careful client would see that in the ad.

Chart No. 5, really my favorite one, it has a big banner at the top, "accidents," all the way across the top. You wouldn't have any trouble missing that. Underneath, "No legal fee if no recovery." Very enticing observation to an injured client, potential client, and there is an asterisk after it.

Going to the bottom of the page, below the Visa and MasterCard logos, it says, "excluding costs." That is about the smallest print on the ad. But a careful potential client might be able to find that there could conceivably be a cost attached to this.

Frankly, I am not sure if this phrase means that costs are excluded and, therefore, you don't have to pay for these either, or if it means that costs are excluded from the exclusion, which

means you do have to pay for them. A consumer of legal services should not be enticed by the prospect of free legal services, including what appears to be an exclusion of cost from the charges for which he is responsible.

As I will shortly describe, the amendment I am offering would help prevent people from being duped by incomplete and misleading representations such as these. Let me repeat that the scope of my amendment is not every court in America but only applies to Federal claims and Federal courts.

Shifting gears for a moment, we also hear stories of ambulance chasers who take advantage of grieving families when they are most vulnerable. For example, at the scene of a 1993 collision between two commuter trains in Gary, IN, witnesses reported seeing lawyers' business cards being passed around at the scene of the accident. And the injured were being videotaped as they were removed on stretchers.

After an August 1987 crash of a commercial airline flight in Detroit, a man posing as a Roman Catholic priest, Father John Irish, appeared at the scene to console families of the victims. He hugged crying mothers and talked with grieving fathers of God's rewards in the hereafter. Then he would hand them the business card of a Florida attorney, urging them to call the lawyer, and then the father would disappear.

We should make sure that misleading ads and shameless ambulance chasing do not occur. I propose a clients' bill of rights for consumers of legal services. We have talked a lot in recent years about a Patients' Bill of Rights to make sure patients are treated properly by health maintenance organizations. We need a clients' bill of rights to make sure consumers of legal services are treated fairly.

This clients' bill of rights would do two things. The first thing it would do is require consumers of legal services to receive basic information at the beginning, during the course, and at the end of the case so that all along the way the client, the consumer of legal services, has a clear understanding of what the financial relationship is between the lawyer and the client.

As the old saying goes: Knowledge is power. My amendment empowers consumers by giving them the knowledge they need to make informed decisions about their legal representation. As I pointed out earlier in one of my examples, there was a lady who had no earthly idea, because of not receiving proper information about the extent of the cost that could be involved in her case, that after getting a \$25,000 settlement she would essentially get nothing. The lawyer then benevolently gave her \$833.

So clients need information all along the way to make informed decisions about legal representation.

At the initial meeting before they are retained, under the McConnell

amendment, attorneys would have to provide would-be clients with the following things—and this is not unreasonable; it's elementary justice—No. 1, the estimated number of hours that will be spent on the case; No. 2, the hourly fee or the contingent fee that will be charged; No. 3, very importantly, the probability of a successful outcome; next, the estimated recovery reasonably expected; next, the estimated cost or expenses the plaintiffs will bear; and whether a client will be subject to fee arrangements with other lawyers.

This is elementary consumer protection. Let me say to my friends in the Senate who are close to and allied with the plaintiffs' lawyers in America: We are not talking about capping anybody's fees. This is not about capping fees. The fee arrangement could still be whatever astronomical amount the lawyer believes he can charge. But we are talking about providing basic information to the client so the client can understand what the fee arrangement is going to be. There are no fee caps in this amendment.

Monthly statements: My amendment would also require lawyers to provide their clients with monthly statements so that consumers of legal services will be informed on a regular basis of the basic progress of their case. Specifically, the lawyers would have to tell clients how much time they are expending on their case, what they are spending their time doing, and what expenses they are incurring in the case. Again, this is basic information clients should receive so they know how their case is progressing and how in essence their money is being spent.

Then an accounting at the end of the case: Clients should receive basic information at the end of the case so they know exactly what they paid for during their representation. To this end, my amendment provides that within 30 days after the end of the case, attorneys shall provide clients with the number of hours expended; the amount of expenses to be charged; the total hourly fee or the total contingency fee in a contingency fee case; the effective hourly fee charged, which would be determined by dividing the total contingency fee by the total number of hours expended.

Again, this is elementary, reasonable information, no fee caps, just providing reasonable information to the client at the end of the case so they can understand just what the legal services have provided.

Madam President, in the age of disclosure, I cannot believe that my colleagues would not support some basic disclosures that the first part of my amendment would provide. It does not limit—I say again—attorney's fees in any regard. There are no fee caps of any sort in this amendment. Frankly, I would like to see that. We have had fee

caps under the Federal Tort Claims Act for years, and I am told there is no dearth of lawyers prepared to bring tort claims against the United States. But there are not any fee caps in this legislation. That is something a large number of Members of the Senate do not support. The first part of my amendment simply enables consumers of legal services to make informed choices.

The second thing my amendment does is establish a bereavement rule. A bereavement rule means the provision for a period of mourning, or a period of bereavement, during which lawyers would have to be respectful of injured victims or their families. As I mentioned, this provision is important because there are disturbing stories of ambulance-chasing lawyers who prey upon victims and their families when these people are the most vulnerable.

To address this problem, my amendment simply provides that there will be no unsolicited communication by lawyers to victims, or to their families, regarding an action for personal injury, or wrongful death, for 45 days from the date of death or personal injury—just 45 days to give the victims, or their families, an opportunity to begin to get their feet back under them before they start considering which lawyer, if any, they want to retain to pursue the legal action to which they may be entitled.

Let me repeat. This amendment applies only to unsolicited communications. If the victims or their families are feeling like it 2 days after the event, they are certainly free to call whomever they choose. This only applies to unsolicited communications to victims or their families. Injured parties and their families are free to contact whomever they want whenever they want.

Madam President, there is precedent for this respectful, considerate principle in existing Federal law. In 1996, we passed legislation that prohibited lawyers from engaging in unsolicited communications for 30 days following an airline disaster. Let me say it again. There is precedent for a bereavement rule already in Federal law. In 1996, we passed legislation that prohibited lawyers from engaging in unsolicited communications for 30 days following an airline disaster. Just 2 years ago, in 2000, we extended this prohibition to 45 days from the date of an airline crash. That prohibition is codified at 49 U.S.C. section 1136(g)(2).

The point I am making here is that there is precedent in Federal law already for a bereavement rule, and this simply expands upon that preference and provides this protection for additional victims during a period of mourning.

Madam President, someone who has been killed or injured in a train crash or a shipping accident is just as dead, or just as injured, as someone who is

killed or injured in an airline crash. These victims and their families deserve the same type of respect and consideration. All these types of victims and their families are in a vulnerable state where it is easy for them to be pressured or taken advantage of.

The second part of my amendment would afford victims of other tragedies the same protection that we afford victims of airline disasters. The language in my amendment that we used to do so is virtually identical to current Federal law. It would guarantee these people a reasonable period of time to grieve, collect their thoughts, and to think clearly about what action they want to take and who they want to take such action on their behalf.

As I said, there is current precedent for it in Federal law, and I hope my colleagues will support it, along with the disclosure provisions in my amendment.

Madam President, what is the time situation?

The PRESIDING OFFICER. The Senator has 20 minutes remaining.

Mr. MCCONNELL. Madam President, let me sum up what the McConnell amendment is. There are essentially two parts to it. First, it would require that lawyers provide to their clients all along the way, from initially being retained until the conclusion of the case, adequate consumer protection information so the clients will have a sense at every stage of the case how the case is moving along, what the likelihood of success is and, very importantly, what kind of costs the client may be incurring in the course of the litigation.

Secondly, we provide for a bereavement rule of 45 days to give the victims and their families an opportunity to get back on their feet during an atmosphere in which unsolicited efforts to retain these victims are put off. If, however, the family at any point during that 45-day period decides it is ready to move on and wants to look at its legal options, there is nothing in the amendment that would prevent the victim or victim's families from retaining a lawyer at any time. All this does is protect them from unwanted solicitations for a brief period of 45 days following the occurrence of the event.

As I pointed out, there is already precedent in Federal law for such a bereavement period of 45 days. That applies in the wake of airline disasters.

Finally, let me repeat this because I know this is something that is offensive to many Members of the Senate, particularly on the other side of the aisle. As much as I would like to see fee caps established, this amendment has no fee caps in it. Even though, under the Federal Tort Claims Act, since the late 1940s, we have had a fee cap of 25 percent in tort actions against the Federal Government, no such fee cap is in this amendment.

So I think this is a modest proposal to provide consumer protection to vic-

tims of accidents as they contemplate their futures and determine, first, which lawyer to hire, and after hiring the lawyer, have adequate information along the way to make sure they understand what the fee arrangement is.

I yield the floor and retain the remainder of my time and now urge—and I will also do so later—the Senate to adopt this amendment.

The PRESIDING OFFICER (Mrs. CLINTON). Who yields time?

Mr. SARBANES. Madam President, can I inquire as to what the allocation of time is? Let me make a parliamentary inquiry. I understand the vote on a motion to table that will be offered by Senator ENZI is scheduled to take place at 12:45.

The PRESIDING OFFICER. That is correct.

Mr. SARBANES. Can the Chair inform us as to the allocation of time from now until quarter to 1?

The PRESIDING OFFICER. The unanimous consent agreement provided that the time between the conclusion of Senator MCCONNELL's remarks and the 12:45 p.m. vote will be evenly divided between Senators GRAMM and SARBANES, and Senator MCCONNELL has a remaining amount of time of 16 minutes.

Mr. SARBANES. Sixteen minutes?

The PRESIDING OFFICER. That is correct.

Mr. MCCONNELL. Madam President, is it the Senator's thought we move up the vote?

Mr. SARBANES. Staff has made an announcement, and people have planned accordingly. I understand that is the situation on both sides of the aisle for that matter. It was announced earlier on. People, therefore, made plans accordingly.

The PRESIDING OFFICER. If Senator MCCONNELL used all of his remaining time, each side would have approximately 10 minutes.

Mr. MCCONNELL. I say to my friend from Maryland, I will be happy to hear from the other side on the amendment. I am reluctant to yield back my time until I know the extent of the debate in which we are going to engage. In any event, the vote, Madam President, occurs at quarter to 1?

The PRESIDING OFFICER. That is correct.

Mr. MCCONNELL. I retain the remainder of my time until such time we decide otherwise. I have not heard from the other side.

Mr. SARBANES. As I understand the agreement, I do not think others can use time until the Senator from Kentucky uses his time.

The PRESIDING OFFICER. That is the Chair's understanding.

Mr. MCCONNELL. I suggest we divide the remainder of the time between now and the vote. Will that be acceptable?

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. I ask unanimous consent that the remaining time between now and quarter of 1 be divided equally to the manager of the bill, to Senator ENZI, and to Senator MCCONNELL. That will give us about 10 minutes each, I think.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maryland.

Mr. SARBANES. Madam President, I will speak briefly to the McConnell amendment which has been added as a second-degree amendment to the Edwards-Enzi amendment. Before I address that amendment itself, let me again indicate my very strong support for the underlying first-degree amendment, the Edwards-Enzi amendment, which was very carefully worked out and I believe represents a constructive suggestion. I am hopeful we can get to that amendment and have a vote on it sometime in the near future.

Obviously, the way things are now structured, we have to dispose of the McConnell second-degree amendment in order to get to the Edwards-Enzi amendment, but I think the Edwards-Enzi amendment warrants both the attention and the support of this body. I hope at some point we will be able to do that.

I am not going to address the substance of the McConnell amendment, or perhaps I will discuss it only in passing. I simply wish to observe that it is not relevant to this bill. It is talking about a client's bill of rights which may or may not be a worthy subject to examine.

How we regulate the lawyers is a complicated problem, obviously. It has mostly been done at the State level. The Senator from Kentucky has some sweeping proposals on a national basis, and they may warrant examination, but I certainly do not think they warrant coming into this debate on a very different issue. I do not know that there has been any study of it. I do not think this represents the recommendation or the report of any committee that is putting this forward, having undertaken an appropriate series of hearings in order to examine the subject. I have not had the benefit of testimony from the proponents and opponents. In fact, if the Senator from Kentucky will yield for a question, has a committee of the Senate recommended anything like this?

Mr. MCCONNELL. I say to my friend from Maryland, no committee of the Senate recommended the energy bill on which we spent 6 weeks in the Senate, and the majority leader has bypassed committees consistently throughout the last year. So I do not know that the Senate was constrained in any way—

Mr. SARBANES. It may be a response to say to me it was done somewhere else. I have a very specific question: Has a committee of the Senate recommended this proposal?

Mr. MCCONNELL. I would like to provide my own answer. If the Senator is asking for an answer from the Senator from Kentucky, I would like to be able to express myself, if that is OK with the Senator from Maryland.

Mr. SARBANES. The Senator from Kentucky is very skilled. I watched him on these television programs. I know he is very good when the question is put to him to give the answer he wants to give, even though it is not directed to the question. Obviously, I will have to go through that same experience on the floor of the Senate now.

Mr. MCCONNELL. I thank my friend from Maryland for his compliment and respond, as with many other bills over the last year that we dealt with on the floor of the Senate, it has not been reported by a committee. But many worthwhile ideas have been adopted and made a part of law that have been recommended by both Democratic and Republican Senators that, in the years my friend and I have been here, were not officially reported out of a committee.

Mr. SARBANES. Have any hearings been held on these proposals—the bereavement period and the fees proposal? Have hearings been held on those issues?

Mr. MCCONNELL. I am unaware of any hearings to that effect, but I ask my friend from Maryland why he thinks something as elementary as this, something as obviously as fair as this, and in the case of the bereavement rule, which we adopted in Federal law for families and victims of airline crashes, would not be an appropriate thing to do with or without hearings?

Mr. SARBANES. It seems to me there are complicated issues that are raised by Senator MCCONNELL's proposal, and they certainly should have been preceded by hearings in which the pros and cons could have been carefully examined.

Madam President, I reiterate my point, this amendment is not relevant to the issue before us. It does not come to us on the basis of any hearings that back up or buttress the proposal. It has not worked through any committee. It certainly has not been recommended by any committee, and there have not even been any hearings, as I understand it, by any committee.

At the appropriate time, I will be very strongly supportive of the motion to table that will be offered by the able Senator from Wyoming. This is, of course, the second McConnell second-degree amendment we have had to deal with on this legislation.

I hope the Senator from Kentucky does not view this as a kind of fair hunting game to bring forth at each step along the way, whenever there is an opening for a second-degree amendment, whatever sort of pet project he has been harboring in his office for whatever period of time.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. I yield myself some of my time to respond to my friend from Maryland.

As I listened carefully to my friend from Maryland, he is straining to think of a good argument against this worthwhile amendment. It has been my experience over the years in the Senate that when we start saying there has been no committee action, there have been no hearings, we are having a hard time thinking of a good argument against the proposal on the merits.

So let me repeat again what the merits are. It seems to me we do not need committee hearings or committee action to convince us that a 45-day bereavement rule for victims and their families, which we have already adopted in Federal law for victims and families of plane crashes—we do not need committee action to tell us this is a fundamentally appropriate thing to do.

Do we need hearings and committee action to tell us that in Federal claims and in Federal cases it is appropriate and only right that lawyers provide information to their clients at the beginning, during, and at the end of their handling of the case as to the possible costs involved? That is what is before us, not the issue of whether or not we should have hearings on this or whether or not the committee should act. My goodness, we spent 6 weeks on an energy bill that the committee did not pass out of the Energy Committee. We do that frequently. The Senate is not known to be constrained by tight rules of germaneness, nor by official committee action.

So I urge my colleagues to look at the amendment itself, not these rather extraneous arguments seeking to divert our attention away from what the amendment itself provides, which is protections for consumers of legal services.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, on the energy analysis, I simply point out that the Energy Committee held extended hearings over a long period of time on the energy issue. Then, they did not actually evolve a bill, but they had a very full set of hearings and a lot of recommendations available to be included in an energy package.

On the other, I say to my colleague, I forbore from discussing the substance because I did not want to prejudice the Senator on some future occasion by having to go substantively into the weaknesses and deficiencies of the proposal that is before us. Since the time is limited and that would take quite a while to do, I intend to continue to do that out of a sense of consideration to my colleague because presumably, if this amendment is tabled, he will be

back visiting with us on another day, perhaps on an appropriate vehicle. I do not know. One would have to wait and see whether that would be realized.

Out of some deference of respect for my friend from Kentucky, I simply thought I would not undertake to go into this point by point on the substance because it is really not appropriate. We ought to recognize that and go ahead and table the amendment, and maybe when it finally comes up in an appropriate context, we can then address its substantive weaknesses or strengths. Perhaps at that time it would have evolved into a different animal.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Wyoming.

Mr. ENZI. Madam President, I yield myself such time as I may consume. At 12:45, I will be making a motion to table the McConnell second-degree amendment to amendment No. 4200. We are working on a bill that I have spent hundreds of hours on, part of them in hearings, much of the time in drafting my own legislation, then working with Senator GRAMM to come up with an even better bill, and then working with Senator SARBANES to come up with the bill we have before us.

There is a crisis in the stock market. Two days ago, it dropped by 185 points. Yesterday, it dropped by 285 points. Some suggest that is because Congress is working on this issue and it is scaring the heck out of the people of the United States. I hope that is not the case. I hope it is a sign that they do want to have a solution, and they want to have a solution quickly. We do have the solution that, combined with the House bill, can serve the purpose of restoring the confidence of American investors.

The McConnell amendment is a clients' bill of rights to reform the way attorneys treat their clients. It is not about securities and exchange. It is all about attorneys. Senator EDWARDS and I modified our amendment so it applies only to action before the Securities and Exchange Commission. That was so that if this debate draws out with multiple second-degree amendments well beyond the time we have the cloture vote, our amendment will still be germane.

A standard that the Senator from Texas, Mr. GRAMM, has put on amendments is that they be germane. He did an extensive speech last night about the need to do germane amendments and get this finished.

This amendment is good and well intended. It requires attorneys to do a number of things in representing those who put their trust in attorneys' hands, and this includes requiring attorneys to provide written disclosure to their clients on the number of hours that will be spent on their case, the attorney's hourly or contingent fee, the

probability of successful outcome, estimated recovery of costs, and bereavement.

Under normal circumstances, I probably would be very excited about this bill. The reason I am opposing it is simply because it does not have any place in the accounting reform bill that we are debating today. I realize it does not change anything in my amendment. It is not a substitute amendment, but it is an addition that will cause problems further down the road. It will delay actually getting accounting reform into place. The accounting reform bill is being used as a vehicle to provide a free ride for a non-germane, unrelated amendment. I will probably use that same line again on a number of other amendments that come up later—it is non-germane.

The McConnell amendment needs to hitchhike on a different road with a different vehicle at a different time.

Over several months, I and my esteemed colleagues on both sides of this aisle have worked hard on the accounting reform bill. We have worked hard to keep out surplus, nonrelevant issues so we can get through the process of getting accounting legislation through in a timely fashion and in a bipartisan manner. We have been very successful at keeping out exact amendments even that deal with how to do accounting and have set up a process where people who are knowledgeable on that can figure out the right way to do it and the right way to do it faster than before.

I strongly believe this bill cannot afford to be held up any longer just for Members on both sides of the aisle to score political points on hot button issues. A lot of us have pet projects and issues we would have liked to add on, but we resisted and we encouraged our colleagues on the Banking Committee to do the same thing.

We are now in the amendment process, but amendments should be germane to the contents of the underlying bill and amendment. That is not a requirement until after cloture, but we need to get the bill done. There is no reason we even need to go to cloture if we would get the germane amendments done and get this into a conference committee so we can get the work done.

The McConnell second-degree amendment, while well intended, is not germane. It does not deal solely with securities laws or those attorneys appearing and practicing before the SEC. It does not deal solely with attorneys working for publicly traded companies but to any attorney and any client practicing any form of Federal law. It does not deal with an attorney's professional responsibilities of reporting Federal securities law violations to its corporate client. It is much broader than the underlying amendment which does deal strictly with Federal securities laws, attorneys appearing and prac-

ticing before the SEC, and internal reporting by an attorney within a publicly traded company.

In addition, the McConnell amendment is going to require study and debate, meaning more time spent diverting passage of the much needed accounting reform bill. We are running out of time before the next recess and have several important bills yet to consider, including Homeland Security Department legislation.

While the McConnell amendment is well intended, the timing is simply wrong. I respect my colleague from Kentucky and his constant support and earnest effort to make attorneys play it straight with their clients. But I must respectfully oppose this amendment at this time. I hope we will be able to debate and vote on it on another day. When the time is appropriate under the agreement, I will make a motion to table the amendment.

I yield the floor, and I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Madam President, let me say first with regard to whether this is appropriate to be added to this bill, the ranking member of the Banking Committee, the manager of the bill on this side, supports my amendment. Obviously, it is not his view that this is in any way inappropriate for this legislation.

I also say to my good friend from Wyoming, this will not slow down the bill. This amendment will be voted on at 12:45. There is a time agreement on it. We certainly are not in any way trying to slow down the passage of the underlying bill which I fully expect to support.

The issue is whether we are only interested in corporate defense counsel misbehavior. Why are we only interested in corporate defense counsel misbehavior? My amendment applies to the other side, the plaintiff's side. It would apply to cases, for example, brought under the Federal Employers Liability Act, which governs injury and wrongful death actions against railroads in interstate commerce by railroad workers and their families. It would apply to cases brought under the Longshore and Harbor Workers Compensation Act, which establishes no-fault compensation for employees injured on navigable rivers. And it would apply to plaintiffs bringing action under the Price Anderson Act amendments of 1998, which creates a Federal cause of action for nuclear accidents. It would also apply to the Federal Tort Claims Act, which creates Federal causes of action for tort claims against the U.S. Government. It would apply to lawyers representing clients bringing cases under the Public Health Service Act, which are suits against certain federally supported health centers and

their employees brought under the Federal Tort Claims Act. And finally, it would apply to lawyers representing clients bringing actions under part of Federal law, very important in my State, the Black Lung Benefits Act of 1972, which establishes a compensation scheme for coal miners allegedly suffering from black lung disease and survivors of miners who died from or were totally disabled by the disease.

Let me sum it up again: it is not my intent to slow the bill down. This amendment will be voted on at 12:45, so it clearly is not slowing anything down. It seems to me entirely consistent with the underlying amendment dealing with corporate defense counsel misbehavior to also address the question of a plaintiff's lawyer's misbehavior.

Beyond that, we are talking simply about providing consumers of legal services with basic information, at the beginning, during, and at the end of a lawsuit, and a modest 45-day bereavement rule giving the victims and their families a chance to get back on their feet before they are contacted by lawyers seeking to represent them in court. It would not in any way prevent families from contacting a lawyer during that time but would protect them from unwarranted solicitation of legal services for a mere 45 days.

This is a very modest proposal. I would love to go a lot further. I like the fee caps in the Federal Tort Claims Act. That is not what we have offered. That is not what I offered. There is no impact on fees, no caps on damages. This is strictly consumer protection in the area of legal services. It is a very modest proposal which I hope the Senate will adopt when we vote on it at 12:45.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, I will give a little explanation for the point raised that this particular bill—because a time has been set for the vote—will not hold things up. There are about 60 amendments out there; there are probably 10 that actually deal with what is in the bill. There has to be some point where we have to ask, Can we not concentrate on what is in the bill instead of bringing up the other things? I am sorry that yours is the bill on which we are starting that.

Mr. McCONNELL. Will the Senator yield?

Mr. ENZI. Sure.

Mr. McCONNELL. It was my understanding that cloture was filed last night. Would my friend from Wyoming not agree, that cloture vote brings the bill to a conclusion? I am not in any way trying to delay the passage of the bill. I support the underlying bill. I believe my amendment is appropriate to be considered.

Mr. SARBANES. Will the Senator yield?

Mr. ENZI. Yes.

Mr. SARBANES. Actually, I will use my own time, and the Senator may reserve his time.

We must table this amendment. Otherwise, it becomes an invitation for others to come in and offer second-degree amendments that are not relevant to the bill. This amendment is not relevant to the bill—nowhere close. If we start this process now, opening up the bill to these nonrelevant amendments, what will happen to the relevant amendments, some of which are germane under cloture and others of which might miss the tight test of germaneness but are relevant material, which are pending, which other colleagues have offered, if they want to get to those amendments?

We could have done the Edwards amendment yesterday and moved on to something else, but we came in with a second-degree amendment, not relevant—not only not relevant to the Edwards amendment, not relevant to the bill.

Frankly, we are well beyond the point where we at least ought to set aside amendments that have no relevance to the underlying legislation.

Mr. MCCONNELL. Will the Senator yield?

Mr. SARBANES. Certainly, I yield.

Mr. MCCONNELL. I ask my friend from Maryland, if he believes my amendment may have some merit, whether he would support taking it up as a freestanding measure with a time agreement.

Mr. SARBANES. No, I would not support that.

Mr. MCCONNELL. I thank the Senator.

Mr. SARBANES. Why would I support a request like that? Surely the Senator from Kentucky is just making a joke on the floor of the Senate by making that inquiry. That must be apparent to all. I appreciate the Senator's sense of humor in that regard. I also appreciate his indication, just a moment or two ago, he intends to support the underlying bill. Of course, we are gratified to hear that.

I yield the floor and reserve whatever time I may have left.

What is the time situation?

The PRESIDING OFFICER. The Senator has 33 seconds, Senator MCCONNELL has 4 minutes 38 seconds, and the Senator from Wyoming has 3 minutes.

Who yields time?

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. It was my understanding that Senator SANTORUM was on the way. But if he has not arrived yet, I suppose the best thing to do would be to enter a quorum call knowing full well my time is running.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I will alert Members we are going to have a vote later. The two members of the Appropriations Committee have finally gotten a meeting with the House appropriators on the supplemental appropriations bill. I think it would be in everyone's best interest that they are allowed to go forward with that most important meeting.

We received a request from the chairman of the Appropriations Committee, Senator BYRD. Therefore, I ask unanimous consent that the order that is now in effect be modified and that Senator ENZI would be recognized at 2 p.m. to move to table the amendment, and that 8 minutes prior to that would be devoted to debate between the two managers of the bill, Senator SARBANES and Senator GRAMM, and that Senator ENZI would be recognized for 2 minutes, and Senator MCCONNELL for 2 minutes—a total of 8 minutes. All other provisions of the unanimous consent agreement now in effect would remain the way they are.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Madam President, the vote will occur at 2 o'clock today. In the meantime, I ask there be a period from now until then for morning business, with the time equally divided between Senator DASCHLE or his designee or Senator LOTT or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum, and I ask the time be charged equally between Senator DASCHLE and Senator LOTT.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. CLINTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MILLER). Without objection, it is so ordered.

UNEMPLOYMENT INSURANCE EXTENSION

Mrs. CLINTON. Mr. President, I rise in this period of morning business to raise a continuing and serious problem that we believe most acutely in New York but which I know is shared in other parts of our Nation.

Last month, the Nation joined New Yorkers in our reflection and sorrow as the workers at ground zero removed the final debris from the 16-acre World Trade Center site.

While this event, which was accomplished ahead of schedule and below

budget by the most dedicated workforce that I think you could find anywhere in the world—unionized building trades and construction workers who worked on that pile for 12- to 15-hour days, 7 case days a week, for months, and, therefore, because of their heroic efforts we moved one step closer to the beginning of the rebuilding process—there are many workers who have not been able to begin rebuilding their lives simply because there are not enough jobs right now.

Many of us will remember a photograph shortly after September 11 that the press ran showing hundreds of people standing in lines at a job fair that was held in the city, people who had lost their jobs, both directly because of the attack on the World Trade Center and indirectly because of the ripple effect through the economy.

There were workers—and I have met with scores and scores of them—whose jobs were literally destroyed when the Twin Towers collapsed. They were the janitors. They were the doormen. They were the waiters and waitresses. They were the secretaries and the messengers. They went to work every day in that huge complex of offices. There were those who served the small businesses that took care of the workers in those buildings. And, of course, then there were those throughout the city who may not have worked at ground zero but who lost their jobs because of the aftermath on the entire economy because of the terrorist attacks.

We all know that thousands of hard-working Americans have been thrown out of work because of the combination of the jobless recovery and the terrorist attacks.

Prior to September 11, our economy was beginning to slow down. Our national unemployment rate rose from 4.5 percent a year ago to 4.9 percent in September and to 5.9 percent today. But I think that somehow does not even tell the whole story because what we have seen occurring since September 11 is this so-called jobless recovery.

The Wall Street Journal just ran an article about it stating that employment has now shown 13 consecutive months of decline through April. That exceeds the 11 straight months of loss in the 1990-91 recession, the only recent comparable period, about a decade ago.

I ask unanimous consent that article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal]

UNEMPLOYMENT HIT 5.9% IN JUNE; REVISIONS
SHOW GRIM JOB PICTURE

(By Greg Ip)

WASHINGTON—With weak stock prices and corporate scandals damping companies' hiring plans, the recovery is starting for workers to look as bad as, if not worse than, the "jobless recovery" of 1991-92.

The number of nonagricultural jobs rose just 36,000 in June from May, and the unemployment rate edged up to 5.9% from 5.8%, the Labor Department said Friday. Government statisticians once again revised down prior months' levels of employment, revealing a job market far weaker than previously thought.

"The economy is on the road to recovery [though] the recovery is a bit anemic," said Labor Secretary Elaine Chao. "The labor market lags behind changes in real economic activity."

While the Labor Department regularly revises its payroll estimates, those revisions have been strikingly negative this year, with every month's report being revised downward—often sharply. The agency originally said payrolls rose 66,000 in February, but now it says they fell 165,000. An originally reported gain of 58,000 jobs in March is now a loss of 5,000, and a gain of 43,000 in April is a loss of 21,000. May's gains were revised down to 24,000 from 41,000.

A "benchmark" revision a month ago also reduced employment throughout last year. Employment in November 2001 was 340,000 below original estimates.

As a result, employment now shows 13 consecutive monthly declines through April. That exceeds the 11 straight losses in 1990–1991, though those declines were steeper. Back then, job losses continued intermittently through 1991 and into early 1992. A similarly tough spell could be in store for workers now, with the recovery so far subpar and employers more determined than usual to boost output per employee rather than the number of employees.

Lois Orr, acting commissioner of the Bureau of Labor Statistics, said recent revisions haven't been statistically significant, but she couldn't explain why they have been overwhelmingly negative. Data compiled by the Federal Reserve Bank of Philadelphia show that in 1991, as the economy emerged from recession, early payroll revisions were alternately positive and negative, though benchmark revisions years later sharply lowered employment levels.

While job creation was stagnant last month, there were still signs in the jobs report that the economy is continuing to grow. The average work week rose to 34.3 hours from 34.2 hours, and in manufacturing it jumped to 41.1 from 40.9 hours. When firms see an increase in business but aren't sure if it will last, they often boost the hours of current employees before hiring new ones, because it is easier to cut back hours later than to sack workers.

Temporary employment, another way for firms to raise output without adding to permanent payrolls, edged up by 9,000. Manufacturing payrolls fell 23,000, though that was one of the smallest declines in two years. In services, losses in retail trade were offset by gains in health care and government.

"Businesses are hesitant to expand, due to concerns about the stock market and heightened uncertainty over the geopolitical outlook," Bank Credit Analyst, a financial-markets research firm, said in a report Friday. "The attack on accounting standards and concerns about re-regulation are additional factors keeping corporate executives from expanding."

Long-distance phone company WorldCom Inc. announced 17,000 layoffs two weeks ago when it disclosed it had understated operating expenses by \$3.8 billion. Electronic Data Systems Corp., a major supplier to WorldCom whose accounting has also come under scrutiny by investors, said last week it

would lay off about 2,000 employees in response to sluggish demand for its computer services.

The weak job market doesn't mean a shrinking economy because firms are squeezing increased production out of their current employees.

Merrill Lynch estimates that productivity, or output per hour worked, expanded at more than a 3% annual rate in the second quarter, down from the first quarter's remarkable 8.4%, but still robust.

Mrs. CLINTON. So here we are with a national unemployment rate of 5.9 percent, and the situation in New York is even worse. In our State, it is 6.1 percent unemployment, and in New York City, 8 percent unemployment.

We did the right thing a few months ago when we passed unemployment insurance and disaster unemployment assistance for 13 weeks. Those are both very important programs.

The disaster unemployment assistance, which comes through FEMA, goes directly to those workers who actually lost their jobs because of the physical destruction of September 11. Unemployment insurance, as we know, is triggered when there is a lack of jobs for whatever reason. And, of course, more people are out of work in New York and throughout our Nation because of the impact of September 11.

Unfortunately, these extensions, which provided a very needed safety net for thousands of workers, are about to expire for many of those workers. Nationally, 686,000 individuals will have exhausted their benefits with no job to enter.

On Monday, I participated in an announcement of a study that was commissioned by a group called the 9/11 United Services, which is a coordinating group that tried to bring all the charities together. A very accomplished corporate executive was asked to come in and serve as the temporary chairman. He immediately said: We don't have any data. We don't know what the facts are.

He commissioned a study by McKenzie and Company to try to figure out what the economic challenges are that we are confronting. Their survey, which was announced on Monday, showed that approximately 45,000 workers in New York City whose jobs were affected continue to suffer an income loss of more than 25 percent. Approximately 28,000 are still unemployed. In other words, we got down to about 45,000, and of those 45,000, about 17,000 did get a job, although it cut their income considerably, and 28,000 are still unemployed.

It is clear, despite the very best efforts of private charities and very extraordinarily generous people, we just cannot make up the losses of income and joblessness that we are still confronting.

The New York State Department of Labor confirmed these figures from the McKenzie study, but, in fact, theirs are

even more dire, and they are the official figures. They show that 105,000 people were on unemployment insurance as a direct result of the World Trade Center attacks. We have an increasing number who are running out of time. Nearly 7,000 of the 24,000 are still unemployed, looking for jobs, and have exhausted all their benefits. There is no job in sight.

The disaster unemployment assistance expired, dropping 1,100 people who still have not found a job, who have not been placed anywhere else because their companies, if they are still in New York—as many, thankfully, are—have downsized, have moved, and have not been able to provide all the jobs that were once there.

I have provided these statistics just to give you some insight. But, of course, the personal stories are what are most wrenching and what I encounter every time I am in the city, or my caseworkers and staff, as they field phone calls, e-mails, and letters from people who worked at jobs for 18 years, 25 years, who put two children through college, and now have nothing to fall back on, who are on the brink of being evicted from the apartment they have lived in for decades, or are about to be foreclosed on in the homes they have struggled to buy.

I know that it is sometimes difficult to think about these faceless people out there, but we have tried very hard to do the right thing in the wake of the World Trade Center. We certainly tried to provide the resources that businesses needed to get back on their feet.

This body and the President and the House were extremely generous to provide the public funds that we needed to begin the rebuilding process, to clean up the debris, to do what we needed to get back on the right track in Lower Manhattan. But I just do not want to see our workers—people who were gainfully employed, doing the right thing—forgotten.

Certainly, I have a great deal of sympathy for people in other parts of the country who are really caught up in this so-called jobless recovery as well.

I am introducing two pieces of legislation, along with Senators SCHUMER and KENNEDY, to extend both unemployment insurance and disaster unemployment assistance for an additional 13 weeks. It is our hope that the jobs will start coming back into the economy.

In fact, experts certainly agree that extending unemployment insurance is more likely than anything else we can do to get money into the economy that people will have to start spending because they do not have any choice.

Over the last five recessions, every \$1 spent on unemployment benefits generated a \$2.15 increase in the gross domestic product. I went back and looked. What did we do the last time we were in any kind of comparable period?

Mr. President, the period of 1990–91 was the most recent time in which to compare this. In the early 1990s, benefits were extended four times, for it became clear, in the absence of that safety net, that lifeline, we would have even greater problems with which to deal.

What are we going to do with people who get foreclosed on and evicted? Not everybody has a family to go to and crowd on to a sofa bed or into a spare room. We are going to have increases in homelessness. We are going to have all kinds of problems that at least we can try to forestall and, hopefully, eliminate.

These benefits would be extended for just an additional 13 weeks—half the time they were extended back in the early 1990s.

Clearly, I think we need systemic changes to the unemployment insurance system. I think it is kind of an odd position for us all to be in: Coming back, asking to extend it whenever it is needed, that we have to have new congressional action. There ought to be some ways where we can also be more sensitive to different parts of the country.

I know there are parts of the country—there are parts of my State—that are below the national average in unemployment. But there are concentrated pockets that we don't, frankly, want to spread and have more expensive problems to deal with, which is one of the additional reasons I hope the Senate will support this action.

I am very appreciative of all of the support that New York and New Yorkers have received over the last many months. This has been obviously a traumatic and terrible time for many families. Certainly nothing we can say or do will bring back a loved one or even bring back a job that was there for 20, 25 years. But we do have to continue to try to send out this lifeline, the help that is needed, so people can try to get themselves back on their feet and that we don't claim more victims because of the horrific attack on September 11.

Mrs. CLINTON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. I ask unanimous consent the time be equally charged to both sides during the course of the quorum calls.

The PRESIDING OFFICER. Without objection, it is so ordered.

INVESTOR CONFIDENCE

Mr. REED. Mr. President, I rise in strong support of the Sarbanes legislation.

We have been buffeted over the last several months on a daily basis with news of companies with accounting practices that have led them to bankruptcy, have left them without the means to carry on their business, have left their workers without jobs, and have devastated their pension funds. Day after day after day, a litany of accounting irregularities surface on the front pages of America. It has translated into a growing lack of confidence in our markets.

We are here today with the critical role of reassuring the American public that we will pass legislation quickly that will restore their confidence in our financial system.

This crisis is deepening with each day. Therefore, we must move forward deliberately, carefully but very quickly, to ensure that we can communicate with the American people and let them know we are aware of these problems and we are correcting them.

I just came from a press conference to which we invited representatives who manage public pension funds. It is a staggering sense that we are seeing out there, not just problems on Wall Street but problems on Main Street. Essentially what has happened is that the American public has become invested heavily in our capital markets, in our equities, not just individually but particularly through pension funds. Sixty percent of the assets of defined contribution plans are invested in equities or mutual funds. About 70 percent of all of these funds together is creating a situation in which, when Wall Street has a problem, it translates to every corner of the country.

We have to step forward. We are stepping forward. The Sarbanes bill is a strong bill. It has been made even stronger with the adoption yesterday, in a bipartisan vote, of the Leahy amendment. We are going to create an oversight board for accountants that will truly be independent and will have the force and the teeth to get the job done.

The Sarbanes bill also proposes the serious separation of the auditing function and other consulting functions that accountants can perform. If you are going to be an auditor, you have to be an auditor, not an auditor and consultant. This is an important step forward.

Also importantly, the Sarbanes bill will require that the SEC receive the necessary resources to get the job done. There have been for decades extensive security laws on our books. Unless these laws are enforced, they are not effective. Frankly, some of what we are discovering is a lack of enforcement. You have the SEC that is overwhelmed with filings and not capable

of reviewing all those filings, not capable of taking the kind of proactive action which is necessary to avert the crisis we have seen.

We are indeed at a critical moment in our history. We have seen the market over the last few days take huge losses. That suggests that not just the American public but the world is growing more and more concerned with our accounting practices, our transparency, whether or not a financial statement by an American publicly traded company can be relied upon.

One of the ironies of this is a year or 2 ago, 3 or 4 years ago certainly, we were out offering our market to an emerging economy in Russia as the model; in a way, sort of looking at them, saying: Boy, if only they would adopt our accounting practices, the kind of tough rules we have, it would be a huge step forward in their development as a market economy.

Well, ironically, today we have discovered that what we thought was a very thorough, comprehensive system is not as thorough and comprehensive as we thought and did not have the kind of integrity we need to ensure investors that when they read a report from an American company, that report is accurate. That used to be the standard.

I mentioned previously that I had the occasion to attend a press conference with representatives of public pension funds. One of the individuals was the first comptroller of New York City.

Let me give you an idea of the dimension of a problem we are talking about. On an annual basis, the city of New York has been contributing about \$600 million a year to their pension funds in order to make sure those pension funds are actuarially sound, that they can pay the benefits for all of their retirees. They still can do that today, but the pricetag has gone up to over \$1 billion a year. They estimate, if the market continues, that they will be paying on the order of \$3 billion in a few years. That money comes from taxes paid by the people of New York, and it comes from cutting other programs. It is a huge problem.

At the core of the problem is this lack of confidence, the daily spate of news reports saying essentially that the accounting practices of major publicly held companies are absolutely erroneous. We have to reverse that tidal wave, and we have to do it quickly. We can begin to do that by strong support of the Sarbanes bill.

Many people have called this an investors' bill of rights. I think they are correct. I commend and compliment the chairman of the Banking Committee, Senator SARBANES.

This is an example of how legislation should be done. This is an example of a careful, thoughtful process through the committee. I know the Presiding Officer, as a member of that committee,

contributed substantially to that process. It was a delight and pleasure to work with Senator SARBANES on the Banking Committee, to see that careful, thoughtful approach—with 10 hearings, witnesses from every sector of our economy, including perspectives from those who manage pensions, those who are security experts, and those who are business leaders. All of those perspectives were brought together in this legislation, which is thorough, comprehensive, and, in my view, outstanding.

Then, also, to be able to fashion a bipartisan group of support was critical here and throughout our country. This is a textbook example by a master of how to move legislation through this body, but, more importantly, how to respond to the compelling needs of the American public. I commend and thank Senator SARBANES and his staff for their great effort.

We are at a point we can begin to see—if we move forward in the next few days—a new regime of securities laws that will feature an independent, full-time professional oversight board to monitor the behavior of accountants. We will also see guidelines on which nonaudit services are prohibited, so there will be a separation between the audit and nonaudit services. That should prevail. This is very important.

I was an attorney in private practice and did corporate work. Frankly, I assumed that what I saw in that report, signed by a distinguished auditing firm, was gospel and not to be contradicted; that it was the final judge about disputes on costs and facts about what the company was doing and what they were disclosing and what they didn't have to disclose. I always assumed that it was the accountants who were answering those tough questions. They were literally the bad guys. There were a lot of creative CEOs, CFOs, and lawyers. In fact, they were often satirized, and the most uncreative part of the management was that auditor who was telling you, no, you cannot do this. That, obviously, over the last few years, has eroded tremendously.

With the Sarbanes bill, we will clearly delineate those activities that can and should be performed by an auditor. It will also shore up tremendously corporate responsibility and require CEOs and CFOs to certify the accuracy of the company's financial statements. It will also increase the amount of the financial disclosure that a company must conduct in the course of their business.

Many of the exotic arrangements that brought down Enron were never disclosed to shareholders and the investing public. As a result, those entities, when discovered—such as CHEWCO—were the instruments of the demise of that company. Those kinds of off-balance-sheet transactions will have to be disclosed if the bill passes, and I think it is necessary to do that.

We are also dealing with the very real need for increasing funding for the SEC. That is a critical component of the legislation.

The President was in New York City making a speech, calling for \$100 million—or probably closer to \$300 million, or more—that we need to ensure that the SEC has to conduct their activities. So we are moving forward and ensuring that, I hope, we do this.

Our record over the last several years has not been as aggressive as I would have liked it to be. I supported a measure a few years ago—in fact, I think last year—in which we passed legislation that lowered various fees that are involved in securities transactions, with the idea that we would, at the same time, increase the pay within the SEC to attract better workers and more sophisticated individuals there, to complement what is going on in the private market where legal salaries are very high. The transaction reduction fee went down, but the pay parity never went into effect. So I think we have to follow through not only with this authorization but also with appropriations to make sure that can occur.

So we have a situation where we are moving forward and in which the Sarbanes legislation, I hope, will be complemented by legislation proposed by Senator KENNEDY to directly affect pension operations in the United States. These two pieces of legislation—hopefully brought together quickly, passed through this body and by the other body, and signed by the President—will send a signal to the American public, the investing public in the U.S. and around the world that our markets are the best in the world, that they can rely upon every word in a financial report, and to have fully disclosed the financial conditions of publicly held companies in the United States. If we do that, it will be a huge benefit not just to Wall Street but to Main Street.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Mr. President, I support the McConnell amendment. I think it is a good government amendment. I think it is a full disclosure amendment. I don't even see why we are voting on it. I am convinced it will be defeated because any good government amendment that has anything to do with plaintiffs' attorneys is routinely defeated in the Senate.

Having said that, I make note of the fact that the Dow is down again today. I do not believe the primary problem in the markets today is the disease we are

fighting. The primary problem we have now is fear about the absurd prescription of the doctor. I believe there is concern that in this frenzy, things are going to be done that will have a long-term negative impact on the capital market.

If you take the bill the House has already passed and the Senate bill as it is now, and you take the President's position reiterated yesterday by the Secretary of the Treasury, we have the makings of a good bill that can be broadly supported.

I reiterate my hope and desire that we bring this debate to a close. We could, by unanimous consent, have a vote on cloture today. We could deal very quickly with germane amendments. We could pass this bill tonight, and next week we could be going to conference. That would be prudent policy.

We are going to have a lot of amendments offered, if my list is indicative, that if anyone really believed they would be adopted, would be terribly frightening to investors.

The PRESIDING OFFICER. The Senator's 2 minutes has expired.

Mr. GRAMM. I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. If anybody took this list of amendments seriously, they would not be willing to risk thousands, millions, or billions of dollars. But they should not take this list seriously because these amendments are not going to become law.

The sooner we bring this debate to an end, the sooner we pass this bill in the Senate, the sooner we go to conference, the sooner we put together a bill that will represent a compromise, the more certainty there will be on Wall Street and the quicker we will rebuild equity values in America and rebuild confidence in our market.

I urge my colleagues, let's move ahead. Nothing good is going to happen today to this bill. Nothing bad is going to happen either, I make that clear, but it will not be clear to people watching this debate. The sooner the debate ends, the better off we will be. The sooner we get to conference, the sooner we will have a bill. That cannot come soon enough to suit me.

The PRESIDING OFFICER. Who yields time?

The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I expect shortly my amendment will be tabled. That will be further evidence that there is not a majority of the Senate willing to confront the issue of either union corruption as we discovered yesterday or, in the case of the amendment about to be voted on, plaintiff's lawyer misconduct.

The underlying amendment, the Edwards-Enzi amendment, addresses the issue of corporate counsel, defense

counsel misconduct, and it seemed only appropriate to me that we deal with the other side of the equation; that is, the lawyers who represent plaintiffs in Federal claims and in Federal courts.

This is a long overdue matter to be dealt with. If not now, when? My good friend from Maryland said this is an inappropriate bill to deal with it, so I suggested maybe he would support me in bringing up my matter freestanding with a time agreement; he smiled, but clearly the answer was no.

Mr. SARBANES. Will the Senator yield?

The answer was no. I didn't smile. I said no and smiled along with it.

Mr. MCCONNELL. Mr. President, I respectfully correct the observation, in case the Senator from Maryland misunderstood. I didn't doubt that his answer was no. He doesn't want to deal with this at any point, ever—not now, not tomorrow, not ever.

The issue before the Senate is whether it is appropriate to deal with client misbehavior when they are representing plaintiffs, as well as when they might be representing defendants.

My amendment is very simple. I would love to have gone further. My amendment does not cap fees, does not cap damages. It simply deals with the following: Providing, for the client, information about the arrangements under which the client is retaining the lawyer at the beginning, in the middle, and at the end of the case so the client fully understands the terms of the arrangement; second, that there be a 45-day bereavement rule established 45 days after the occurrence of the accident where the victims and their families would not be harassed by those seeking to represent them. It is just a 45-day bereavement rule which we already did under Federal law for airplane accidents.

I hope this amendment will be adopted. It is very reasonable and very appropriate to this bill.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Maryland.

Mr. SARBANES. Mr. President, what is the time situation? I have 2 minutes?

The PRESIDING OFFICER. The Senator from Maryland has 2 minutes and the Senator from Wyoming has 2 minutes. The Senator from Maryland.

Mr. SARBANES. Mr. President, I urge my colleagues to table this amendment. I do not know what amendment the Senator from Kentucky will come with next out of his grab bag, but he has obviously got a whole set of pet projects that he has been husbanding there in his committee and that he will seek to offer. They are not relevant to this legislation.

Here we are again trying to deal with an issue that is relevant. I suggest to the distinguished Senator from Ken-

tucky that he allow the second-degree amendment staffer to take the weekend off so we do not have to continue to go through this exercise of being confronted with these second-degree amendments not relevant to the legislation. We have important legislation to deal with here. We have some good amendments pending out there. This repeated effort to just gum up the works is difficult to understand.

In any event, I urge my colleagues on the vote that is shortly to come to vote to table the McConnell amendment.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, we have, I think, before us, about 60 amendments. I join my ranking member, the Senator from Texas, in his comments about how we need to get this bill done as quickly as possible. The stock market is dropping. It may be because of what we are doing. It may be because of the need to have this bill done. Either way, getting this bill done will give some assurance to the stock market both that we are not dabbling in it anymore, and that we have completed our work and have provided a solution.

As a result—and I regret that it is on this amendment with my friend from Kentucky—I will begin making tabling motions on amendments that do not have a direct aspect to the bill. I also would be doing that to amendments that put specific accounting language into the bill, even if it is relevant. This bill is not designed to put in specific accounting language; it is designed to set up a process for getting to specific accounting language. That is a very fine distinction and a very important one if we want to have the kind of stock market and the companies that we envision.

With those comments, at this time I move to table the McConnell amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. I ask unanimous consent we be permitted 1 minute to make an introduction.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCING THE HONORABLE PAT COX, PRESIDENT OF THE EUROPEAN PARLIAMENT

Mr. DASCHLE. Mr. President, one of the privileges accorded the majority leader is the opportunity to welcome and introduce our fellow legislators from the European Parliament. This is a tradition that was begun in 1972, and has continued every year since.

I find it especially meaningful, because although the Atlantic Ocean separates us from our European friends, we are connected by a belief in the rule of law, and a commitment to the betterment of the people we serve, and the world we share.

This afternoon I have the distinct honor of introducing The Honorable Pat Cox, President of the European Parliament. This is an exciting time of growth and change in the European Union, and as President of the European Parliament, Pat Cox has been instrumental in fostering greater European unity and advocating for EU expansion.

As Europe becomes ever more unified, the extension of EU membership to free and democratic nations will be crucial to ensuring that diversity and pluralism accompany unification. In the face of persistent disputes among EU nations and political factions, President Cox has not wavered in his support for expansion, or in his denouncement of far right politicians who do not express the views of most Europeans. For that, we are all grateful.

Mr. President, Mr. Cox will be available to meet our Senate colleagues here on the floor during this vote.

Let me, on behalf of the U.S. Senate, welcome President Cox.

(Applause.)

PUBLIC COMPANY ACCOUNTING REFORM AND INVESTOR PROTECTION ACT OF 2002—Continued

AMENDMENT NO. 4200

The PRESIDING OFFICER (Mr. CARPER). The question is on agreeing to the motion to table amendment No. 4200. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Ohio (Mr. VOINOVICH), and the Senator from Idaho (Mr. CRAPO) are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote "no."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 62, nays 35, as follows:

(Rollcall Vote No. 172 Leg.)

YEAS—62

Akaka	Chafee	Enzi
Allen	Cleland	Feingold
Baucus	Clinton	Feinstein
Bayh	Collins	Graham
Biden	Conrad	Hagel
Bingaman	Corzine	Harkin
Boxer	Daschle	Hollings
Breaux	Dayton	Inouye
Byrd	Dodd	Jeffords
Cantwell	Dorgan	Johnson
Carnahan	Durbin	Kennedy
Carper	Edwards	Kerry

Kohl	Murray	Snowe
Landrieu	Nelson (FL)	Specter
Leahy	Nelson (NE)	Stabenow
Levin	Reed	Thompson
Lieberman	Reid	Torricelli
Lincoln	Rockefeller	Warner
McCain	Sarbanes	Wellstone
Mikulski	Schumer	Wyden
Miller	Shelby	

NAYS—35

Allard	Fitzgerald	McConnell
Bennett	Frist	Murkowski
Bond	Gramm	Nickles
Brownback	Grassley	Roberts
Bunning	Gregg	Santorum
Burns	Hatch	Sessions
Campbell	Hutchinson	Smith (NH)
Cochran	Hutchison	Smith (OR)
Craig	Inhofe	Stevens
DeWine	Kyl	Thomas
Domenici	Lott	Thurmond
Ensign	Lugar	

NOT VOTING—3

Crapo	Helms	Voinovich
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The motion was agreed to.

Mr. SARBANES. I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

AMENDMENT NO. 4269 TO AMENDMENT NO. 4187

(Purpose: To address procedures for banning certain individuals from serving as officers or directors of publicly traded companies, civil money penalties, obtaining financial records, broadened enforcement authority, and forfeiture of bonuses and profits)

Mr. DASCHLE. Mr. President, I have an amendment I send to the desk on behalf of Senator LEVIN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for Mr. LEVIN, for himself, Mr. NELSON of Florida, Mr. HARKIN, Mr. CORZINE, and Mr. BIDEN, proposes an amendment numbered 4269.

Mr. DASCHLE. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. DASCHLE. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, this amendment is offered—and I thank the majority leader—on behalf of myself, Senator BILL NELSON, Senator HARKIN, Senator CORZINE, and Senator BIDEN.

Our amendment would grant the SEC administrative authority to impose civil fines on persons who violate securities laws, regulations, and rules. Now the SEC has to go to court, which is difficult and burdensome.

We, just the other day, decided we wanted to give the SEC the power to remove directors and officers from public companies who violate rules and regulations and laws without having to go to court.

Of course, those decisions administratively by the SEC are subject to an appeal. That is always true and always must be true. The same approach is essential relative to the imposition of civil fines. If the SEC is going to have power, without a lot of cumbersome, costly, and expensive procedures, to really take on those directors and those auditors who violate the law, who violate rules and regulations, the SEC must have the same authority which other regulatory bodies have to impose civil fines.

A few examples: The Commodity Futures Trading Commission has authority to impose civil fines up to three times the monetary gain from a violation plus restitution of customer damages. The Department of Transportation can impose civil fines. The Consumer Product Safety Commission can impose civil fines. The Occupational Safety and Health Administration, OSHA, can impose civil fines. The Federal Communications Commission can impose civil fines.

As a matter of fact, the Securities and Exchange Commission can impose civil fines on some of the people it regulates—brokers. But unless we act today, there will be a great gap in the enforcement power of the SEC, a continuing gap. That gap is, it does not have the power, without legislation, to impose an administrative civil fine on auditors and members of boards of directors who violate rules and regulations in the law of the land.

Our amendment would give the SEC that authority to impose administratively civil fines on those people who violate our securities laws and regulations and rules. That includes officers, directors, and auditors of publicly traded companies.

I emphasize, these fines would be, and must be, subject to judicial review, as are the other SEC administrative determinations which they have authority to answer at this point. That is the first objective of the amendment.

Secondly, our amendment would significantly increase the civil fines the SEC can impose on law violators. I particularly thank Senator NELSON of Florida for highlighting the problem and supporting the inclusion of these provisions in the amendment.

The civil fines that currently can be imposed on broker-dealers administratively have maximum amounts that start at \$6,500 per violation. That is the maximum amount under the so-called tier 1 civil fine. If a broker-dealer now violates the securities laws under so-called tier 1 where there is a violation found, not yet proven to be fraudulent but a violation nonetheless, \$6,500 is the maximum fine under current law. Tier 2 for individuals is a \$60,000 fine. That is where you find fraud, deceit, manipulation, and deliberate or reckless disregard—\$60,000 for an individual for that violation.

It is laughable. The current structure of fines which can be imposed on those people who administratively can be subject to a civil action or civil fine by the SEC is so low, these fines are a joke. We are talking about people who frequently are walking away, lining their pockets, violating rules and regulations for millions of dollars, sometimes tens of millions of dollars. To have a system where the maximum fine under tier 1 is \$6,500 for an individual and under tier 2 is \$60,000 is just simply inadequate.

Here is what the SEC staff said in June of this year: The current maximum penalty amounts may not have the desired deterrent effect on an individual or a corporate violator. For example, an individual who commits a negligent act is subject to a maximum penalty of \$6,500 per violation.

This is the conclusion of the SEC staff: The amount is so trivial that it cannot possibly have a deterrent effect on the violator.

I would say that is an understatement: \$6,500, given the current amount of money flowing through these violations of rules and regulations, is pitifully trivial. In fact, it is no deterrent at all. It might as well not be there. If we are going to have a deterrent system, we have to have fines which have some bite, which are real, which have an impact on people.

We would, under our amendment, increase the maximum fines from a range of \$6,500 to \$600,000, which is the current range for tiers 1 through 3, to a range which goes from \$100,000 to \$5 million in fines per violation.

We are seeing these corporate restatements and misconduct involving \$2 billion, \$4 billion, and even \$12 billion. These new fine amounts are critical if they are to have the desired deterrent and punitive effects on wrongdoers in the corporate world.

Our bill also has language which is similar to the language in the Leahy and Lott amendments that were adopted relative to the removal from office. We do this for the sake of completeness, so that we can lay out the entire structure being proposed in our bill for administratively imposed civil fines. That part of the amendment is the same as the removal from office provisions adopted by the Senate yesterday in the Leahy and Lott amendments.

Finally, our amendment would grant the SEC new administrative authority, when the SEC has opened an official investigation, to subpoena financial records from a financial institution without having to notify the subject that such a records request has been made. This authority would allow the SEC to evaluate financial transactions, to trace funds, to analyze relationships, without having to alert the subject of the investigation to the SEC's action.

Under current law, the SEC either has to give the subject advance notice

of the subpoena or to obtain a court order that can delay notification for no longer than 90 days. That is a huge impediment to enforcement by the SEC. We ought to change that.

The staff of the SEC wrote the following relative to this amendment:

This amendment would enhance the Commission's ability to trace money and relationships quickly and effectively. The Commission typically requests bank records when it has reason to suspect possible relationships between persons or entities and that passage of money between those persons or entities may be relevant to violations of the securities laws. Identifying those relationships and quickly identifying assets obtained or transferred in connection with possible unlawful activity is critical to the Commission's ability to obtain orders freezing assets and other appropriate relief.

In many situations, the Commission could proceed much more effectively if it could obtain relevant bank records without providing notice to the persons whose account records are sought.

Under current law, however—

The SEC staff wrote—

the right to the Financial Privacy Act generally requires the commission to provide those persons with notice and a substantial period—10 to 14 days—in which to file a contest to the commission's authority to obtain the records.

Let me continue with the SEC staff analysis of this language that is in our bill:

Because Congress recognized that the notice requirement can, in some cases, compromise important and legitimate commission investigative objectives, Congress provided in section 21(h) of the Exchange Act that the commission may seek court authorization to obtain relevant bank records without notifying the customer for at least 90 days. Unfortunately—

The SEC staff wrote—

those important investigative objectives are also compromised by the inherent delay in obtaining the necessary court order.

The proposed amendment to section 21(h)—

Our language in this amendment—

addresses both the notice and delay problem by allowing the commission the discretion only in those cases in which it has already authorized a formal investigation to proceed without notice to the customer. The proposed amendment also reiterates and strengthens the commission's authority to require that financial institutions not compromise investigations by notifying any persons or entities that their bank records have been subpoenaed.

Mr. NELSON of Florida. Will the Senator yield for a question?

Mr. LEVIN. I will be happy to yield for a question, but I do have an additional thought.

Mr. NELSON of Florida. I am proud to be here today with my colleague from Michigan to offer these reforms aimed at preventing and punishing perpetrators of corporate fraud. The questions I wanted to ask the very distinguished Senator from Michigan, who has the foresight of why we need this at this particular time, are these: Would it not intrigue the Senator from

Michigan and other Senators here that all of this is happening in an environment when 17,000 workers at WorldCom have received pink slips and have realized losses of over a billion dollars in their retirement plans; and at the same time they were receiving pink slips, the corporate executives were attending a retreat in Hawaii? That would not surprise the Senator, would it?

Mr. LEVIN. It would not surprise me at all.

Mr. NELSON of Florida. I doubt that it would surprise the Senator that one of those executives, by the way, was putting the finishing touches on a \$15 million mansion, derived from that money from WorldCom. Would it surprise the Senator that late last year Global Crossing laid off 1,200 people, giving them no severance package, while the CEO of that company walked away with hundreds of millions of dollars?

Mr. LEVIN. I am afraid very little would surprise me about some of these violations and deceptions these days.

Mr. NELSON of Florida. I know it would not surprise the Senator, but I will ask him this anyway. After what went on with Enron last summer, while Enron executives were selling their shares for hundreds of millions of dollars and protecting their portfolios, their retirees and employees lost more than a billion dollars in retirement savings. Does that surprise the Senator?

Mr. LEVIN. Tragically, it is not a surprise.

Mr. NELSON of Florida. It is unconscionable. One of those we had testify in our Commerce Committee was Janice Farmer, an Enron retiree who lost her entire life savings that she had built up in a retirement plan from Enron. In her case, it was \$700,000. She has nothing now.

And then, I suppose it also would not surprise the distinguished Senator that, while we are talking about these excesses of corporate irresponsibility and corporate greed, the Florida pension fund for the Florida retirement system had a loss of \$335 million—more losses than any other State—from Enron stock purchases, and that the money managers of that Florida pension fund, which covers all of the public sector retirees in Florida—the money managers kept buying Enron stock, based on the assertions from the company's management that everything was OK, that doesn't surprise us either, does it?

Mr. LEVIN. No surprise. I am afraid that the public, having lost so much of its pension money, is disgusted but no longer surprised.

Mr. NELSON of Florida. The management said everything was OK, but it was not OK. While the stock was dropping like a rock, but not before the company's management had unloaded their shares, the money managers were

buying that stock as it dropped like a rock, and it caused to a dozen or so pension funds, retirement systems, public pension funds in this country over a billion dollars in losses. My State had the most losses of \$335 million.

So we have seen in the last year and a half corporate abuses of monumental proportions, and it is time for us to stop it. I am grateful to the Senator from Michigan for his leadership in bringing forth the amendment that he has described, which is basically going to give some additional teeth to the Securities and Exchange Commission to cause disclosure and to cause some hurt when these corporate managers, motivated and operated by greed, cross the line.

I thank the Senator for his leadership.

Mr. LEVIN. I very much thank the Senator from Florida for his comments and his questions, and also for the active role he has taken in shaping this language. He has identified the feeble nature of the fine structure that we have in the current law. We have some ruthless people out there who have lined their own pockets in violation not only of law and regulation, but of any code of morality and fiduciary duty. We have some ruthless people.

We also have some toothless laws. The SEC, when it has to go to court to impose a civil fine, is put through hoops that other regulatory agencies are not put through. They can impose civil fines administratively—always subject to an appeal by the respondent or the defendant. But they have the capability to seek civil fines administratively—these other agencies. I have given examples of some of them. But when it comes to the SEC—outside of the brokers, where the SEC has that power—they have to go through the cumbersome proceedings of going to court.

Now, we have cured some of this already in the bill. When it comes to the removal from office, yesterday we took action to give the SEC the ability to act administratively and to order the removal of directors or executives from office. What we didn't do yet, and what this amendment does, is add a critical component to regulatory effectiveness, which is the ability to impose civil fines administratively.

This is what the administration said in supporting the grant to the SEC of the power to remove directors from office, which we have now already done. It says that if we didn't do that—and now I am quoting the Statement of Administration Policy:

It would continue to require the SEC to expand significant time and resources in order to attempt to gain similar relief in the Federal courts.

That is what we are talking about now with civil fines.

If we do not adopt this amendment, if we do not give the SEC these enforcement tools that other agencies have relative to directors and auditors, we will be requiring the SEC to be wasting time and wasting resources that they otherwise should be using to chase these corrupt and immoral people.

Mr. NELSON of Florida. Will the Senator yield for another question?

Mr. LEVIN. I will be happy to yield.

Mr. NELSON of Florida. The distinguished Senator from Michigan has laid out how this amendment will give stronger enforcement measures to the Securities and Exchange Commission. We have a saying in the South: It is beyond me. It is beyond me why there are other people in this Chamber, when confronted with such corporate and auditor misconduct, would not want to strengthen the law to prevent and punish such corporate abuse.

Does the senior Senator from Michigan have any idea why people would oppose us trying to strengthen existing law and, indeed, strengthen the underlying bill?

Mr. LEVIN. I am hopeful there will be broad support for this amendment, just for the reason the Senator from Florida gives. There should be. This is not novel. This capability of imposing civil fines administratively belongs to other regulatory agencies. The protection is always an appeal to the court, but without this tool, the SEC has a weaker capability. They are not in a position then to do what other enforcement agencies can do in the face of some of the worst deception this country has ever seen—the deception which is now unfolding in too much of corporate America.

This is of the worst attack on our system we have seen. It is unfolding in front of our eyes, and the SEC should be given the powers to deter it or punish it—all the power.

We want the court to be able to review administrative actions. I think most Members of this body do not want any administrative agency to be able to act without court review if they are excessive or if they are wrong. I think most of us believe in that. I believe in that. But I also believe an administrative agency has to have enforcement tools.

We have given the SEC some additional tools in the last few days. Senator LEAHY and Senator LOTT, for instance, in the criminal law area, toughened the criminal penalties, and the SEC now has the capability to impose fines against the stockbroker, although they are pitifully small.

Our amendment would include directors, corporate executives, and auditors in the purview of the SEC power to act administratively and would toughen the fines so they would be far more realistic and could have some deterrent effect. The current fine structure against a limited class of people is useless; it is toothless.

This is a huge gap in the bill before us. This is a terrific bill, by the way, and I do not want anything I say to suggest otherwise. The Banking Committee has given the Senate, and hopefully the country—if we can get some support for it from the administration and if it can get through conference—the Banking Committee has come up with a very strong law. We have strengthened it so far on the floor.

This amendment will strengthen it further by filling a gap that exists in the toolbox. It is the missing tool in the toolbox of enforcement capabilities that the SEC should have.

Mr. NELSON of Florida. The Senator's timing is just uncanny. We need look back no further than to yesterday when the stock market dropped almost 300 points, all the way down close to 8,800, the stock market being a reflection of the confidence of the American people in their investments in public corporations. Lo and behold, that confidence is sinking, and the American people need some greater sense of confidence that, indeed, they will not be hoodwinked, that they will not be fooled by greedy corporate executives or greedy auditors who blur the lines on what their auditing duties ought to be and instead get in bed with those who would mismanage the finances of a corporation. The people of America who invest their hard-earned dollars ought to have the confidence that when they see the financial reports, those financial reports are accurate. That confidence is not there, and we saw it yesterday in the reaction of the people in their purchases and sales in the stock market.

I thank the Senator from Michigan for his timeliness in trying to put some teeth in the authority of the Securities and Exchange Commission to give greater confidence to the Joe and Jane Citizen of America who invest their money because they want to invest in the future of their country and they need to do it and know they are getting accurate figures. I thank the Senator.

Mr. LEVIN. I thank the Senator from Florida.

Mr. President, I wish to expand for one moment on the question of the notice provision in our amendment.

As I indicated before, where there are allegations that officers, directors of companies are misusing the accounting rules and abusing their powers, the SEC has to be able to look at financial records without giving the account holder an opportunity to move funds or to change accounts or to further muddy the investigative waters. Other agencies have that power, and this agency must have that power.

We have carefully circumscribed that power in a number of ways. We have not just simply said you can subpoena any documents you want. We have criteria for doing that or else they have to give notice.

One of the criteria is that it has to be an official investigation that has been ordered by the Commission. That is an important safeguard. This is not just the beginning of an investigation. This is not during a discovery process. This is where the Securities and Exchange Commission has initiated an official investigation, which is a very formal act on the part of the Securities and Exchange Commission.

At that point, they should be able to subpoena documents under certain circumstances. These are the circumstances that we set forth in the amendment:

If the Commission so directs in its subpoena, no financial institution or officer, director, partner, employee, shareholder, representative or agent can directly or indirectly disclose that records have been requested or provided in accordance with subparagraph (A).

In other words, you cannot disclose to the subject of the investigation that you, as a financial institution, have been subpoenaed for those records if the Commission finds reason to believe that such disclosure may—and then we set forth the rules, and the rules are intended to make sure that the Commission can act after it has announced or determined there should be an official investigation but does not want to risk that the subject of the investigation is going to remove documents or remove money or hide assets.

So we set forth the protections, and they are: If the Commission finds reason to believe that disclosing the fact of the official investigation to the subject of that investigation by a financial institution would, one, result in the transfer of assets or records outside of the territorial limits of the United States. So if the Commission says, hey, we have reason to believe if that person is notified in advance of those records being obtained by us or if there is a delay in our obtaining records that person may transfer assets or records outside of the United States, there could be nondisclosure.

The second criteria which, if it exists, would permit this to happen is if the disclosure would result in improper conversion of investor assets.

The third cause for the requirement that there be nondisclosure is that if such disclosure would impede the ability of the Commission to identify, trace, or freeze funds involved in any securities transaction. That speaks for itself.

The fourth way in which nondisclosure would be permitted is that if it endangers the life or physical safety of an individual. If the Commission has reason to believe the life or physical safety of an individual would be compromised by disclosure, surely we ought to not require disclosure.

Fifth, if it results in flight from prosecution, if they have reason to believe

that could happen, or if the Commission has reason to believe that the disclosure may result in destruction of or tampering with evidence, or if such disclosure may result in intimidation of potential witnesses or otherwise seriously jeopardize an investigation or unduly delay a trial.

Those are carefully set forth reasons for why disclosure should not be required. These are similar to what other agencies have in terms of powers, and it seems to me with this careful delineation of this subpoena power that we should surely give the Securities and Exchange Commission that power.

Again, staff has given the reasons for the importance of that amendment, and I hope that reasoning of the SEC staff would be persuasive on this body. We have to give the SEC some administrative authority to impose civil fines. It would provide a tool that is now missing from the toolbox. It would add this tool, this weapon, to their arsenal. Without this weapon in their arsenal, they still have one hand tied behind their back. Without this amendment, they do not have the same administrative authority that other agencies have.

Given the environment we are in, that we must use all legitimate means to put an end to the abuses and the deceptions of too many of our corporate leaders, corporate executives, corporate directors, and auditors, we must surely bring our laws up to date in terms of the powers we give to the SEC, and in terms of the civil fines we authorize them to impose, always subject to an appeal to the courts.

I yield the floor.

The PRESIDING OFFICER (Mr. CORZINE). The Senator from Texas.

Mr. GRAMM. Mr. President, some of my colleagues change positions on issues like privacy so quickly that it gives me whiplash, and I will get to that point. I do not know how many people have seen the movie "Minority Report." If you have not, I want to tell you the story. I never thought I would see a real-life example of what happens in this movie, but I have found one right here on the floor of the Senate.

In the movie "Minority Report," you have a cop who has almost supernatural powers, and his job is to arrest people before they commit a crime. It starts with three people, two guys who naturally do not have very much ESP, and then you have this lady, who naturally is quite attractive, who has these massive powers of ESP. They visualize crimes that are going to happen, their brain waves activate a computer, and then it prints out what they are seeing. They see crimes happening that have not yet occurred.

The action in the movie begins with a guy finding his wife in bed with another man. The husband is obviously a nice guy—probably an accountant—and he is leaving his house. His wife seems

so eager for him to leave, he figures out something is going on. He is sort of an old, balding fellow and as he is leaving, he misses his bus. While he is waiting for the next bus, a young guy comes in and walks in his front door. Needless to say, the husband is upset about it. (Who wouldn't be upset about it? No one would want that to happen to them or anybody they knew.) So the husband goes in and he is sort of in shock. He finds himself in the bedroom, sitting by the bed. He goes crazy, and picks up a pair of scissors.

At this point, the computer system (hooked up to the people with ESP) alerts this superwarrior for law enforcement that there is about to be a murder. He jumps in this sort of minijet that flies fast and stops on a dime. The officer zooms in—have you seen this movie, Senator McCain?—and just as the guy is getting ready to stab his wife, the officer grabs the knife, puts the handcuffs on the husband, takes him off and they put him in prison for murder.

Mr. MCCAIN. Will the Senator yield? That is a better description than the movie was.

Mr. GRAMM. Now, I thought, the whole thing is sort of a moral question: Were these people really going to commit these crimes? They put them in prison for life. They put them in these metal cylinders and wired them up to control their brain waves. It is not very pleasant. So the question is, Do you have a right to do this to people who have not yet committed a crime simply because some person with extrasensory perception said it was going to happen?

That is what the movie is about. It is a big hit movie. It made over \$100 million the first week. It sounds silly when I tell it, but they got \$100 million and I am giving this speech.

In any case, I thought, what an absurd plot. Who in the world could ever believe—this is the U.S. of A, by the way. This movie is off in the future.

Why would we ever have a law under which people can be punished for what they might do? Is that absurd? Can anybody believe that would happen? If you think not, you are wrong.

Let me read from this amendment. This is in general. It is talking about authority of the Commission to assess monetary penalties. This is from the amendment that is pending.

In general, in any cease and desist proceedings under subsection A, the commission may impose a civil monetary penalty if it finds on the record, after notice and opportunity of hearing, that a person is violating, has violated, or is about to violate or has been or will be the cause of violation.

Senator LEVIN is going to fine people because we are concluding that they are about to do something before they have done it. Or that they "will be" the cause of a violation.

I submit, first of all, this is not from the SEC. The SEC has not asked for

this provision. This is from staff at the SEC—maybe "a" staff person, for all I know.

The point is, do we really want to say we are going to penalize people because they are about to violate the law or we believe they are going to? How can you tell? How are you going to tell that they will be the cause of a violation? I submit that is a standard I am unaware has ever existed. If so, I didn't know about it or I would have tried to change it.

Let me mention a second problem. The second problem has to do with financial records. Correct me, my colleague on the Banking Committee, if somehow I have fallen into a time warp and am in a different world than last year. Was it not last year we were going to shut down the Internet, we were going to put people in prison for putting out your mailing address or for mailing you a letter where someone could read your address off of it and go murder you? Were we not just in this time warp where privacy was the be-all and end-all of society?

I get whiplash, we change positions so often.

Let me state what the current law is and then read what Senator LEVIN is proposing. The current law is the following: The SEC and other Federal agencies have the power to get your financial records, and they can do it through administrative subpoena or judicial subpoena.

Now, normally there is one little inconvenience. Normally, they have to tell you they have taken your financial records. Not an unreasonable thing, it would seem to me, if this is still America. But we are talking about business people here, and there is a different standard. Two consenting adults can engage in any activity other than commerce, with full constitutional protection, but if they engage in job creation or wealth creation, they stand naked before the world in terms of any rights whatever.

Under current law, the Government can come in and take your financial records, but they have to tell you they have done it—"except." And there are three reasons they can do it without telling you. I think we all would say they make reasonably good sense. They cannot tell you if they have reason to believe that there is going to be a flight from prosecution; or if they believe there is going to be destruction of or tampering with evidence; or if telling you would otherwise seriously jeopardize an investigation of official proceedings, or unduly delay a trial of an ongoing official process.

That is the current law. What is unreasonable about that? If the Government believes someone is doing something wrong, they can come in and take their records. Unless they believe there is going to be a flight from prosecution or there will be tampering with

evidence or it will jeopardize the investigation, they have to tell you they took the records. That is not unreasonable. But if they believe any of these things to be the case, they can go in and take your records and not tell you.

Now, what does the amendment of the Senator from Michigan do? It says notwithstanding—that is always dangerous—notwithstanding sections 1105 or 1107 of the Right To Financial Privacy Act of 1978—that law has been around here a long time. But notwithstanding it, which means throw it out, the Commission may obtain access to and copies of or information contained in financial records of any person held by a financial institution, including financial records of a customer, without notice to that person.

If you think someone is going to flee prosecution or destroy evidence or that will jeopardize an ongoing investigation, maybe we would accept the limits of our individual liberty. But under the Levin amendment, you don't have to find any of those things. The government doesn't have to find that any of those circumstances is the case to be able to go in and take financial records.

Since this bill is a bill that amends our securities laws and our financial laws, this bill falls under this jurisdiction. So what this literally means is that a government agency, without ever going to the courthouse, could come and take all of your financial records—your banking records, your investment records, any financial records you have or have ever had—and without finding that there is any risk that you are going to flee from justice or destroy evidence or jeopardize an investigation, they can take them and not tell you about it.

There is a limit, it seems to me, to the logic in this case. If the Senator had an amendment that simply raised these fines for people who are criminals, that would be an amendment I could support. It shows how far we have flown from reality when we are talking about penalizing people because they are "about" to violate the law; or that "will be" the cause of a violation.

It is very hard to know when someone is going to violate the law. I have not yet gotten any kickback, I am not a stockholder even. I don't think I have received a contribution from the PAC of the people who made the movie I've described—though if they had any decency, they would have contributed to my campaign over the years. But if you watch this movie, you are going to see what the problem with the Levin amendment is.

The problem with the Levin amendment, as it turns out, is these psychics are not always right, and they don't always agree. Sometimes there is a "Minority Report." The superwarrior cop discovers this. It turns out they try to

frame him for a murder. A good movie. I recommend seeing it.

In any case, I am opposed to this amendment. It is a thick amendment. There are a lot of things in it. There are some things in it that I support. But I do not support penalizing people for what you think they are going to do. I do not support taking people's financial records without telling them about it. It sounds to me as if somebody at the SEC has got the idea that maybe they are living in a different era in a different country and they are saying: Look, if we didn't have to fool with civil liberties, if we could get rid of the Bill of Rights, we could be a more effective law enforcement agency. If we could arrest people we think are going to violate the law, we could be more efficient. We don't live in that country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first let me assure my good friend from Texas that I have seen "Minority Report."

Mr. GRAMM. You have?

Mr. LEVIN. I have.

Mr. GRAMM. Then you got the idea from it.

Mr. LEVIN. As a matter of fact, I got the idea for the protections we write in here from "Minority Report" just because, as a tribute to the protections and civil liberties that are defended and protected in "Minority Report," I had to be absolutely certain we would put these protections in our bill, to make sure that only if there were reason to believe a transfer of assets was going to go outside of the United States, or there would be conversion of assets, or it would endanger the life or physical safety of an individual, or result in flight from prosecution—those very criteria, carefully delineated, that are a tribute to the civil liberties and protections and privacy rights in this country to which my good friend from Texas just referred.

I can assure my good friend from Texas, the lesson of "Minority Report" is carefully reflected in this amendment. I saw that because I knew the Senator from Texas was going to raise that movie. With that kind of foresight, I decided, knowing just how he does this so beautifully on the floor of the Senate, I had better see "Minority Report." That is why I want to assure the Senator from Texas that these very protections which he is so careful to delineate are in fact set forth in this amendment. We have these criteria laid out in this amendment.

Mr. REID. I don't want to take away from the seriousness of the debate, but I haven't seen "Minority Report." I have seen "Big Fat Greek Wedding," and I would recommend that.

(Laughter.)

Mr. LEVIN. It sounds as if I have not been doing too much else, but I have

also seen that—since we are giving testimonials to movies here.

The language to which the Senator from Texas objects, about penalizing people for what they are going to do—that is language which the good Senator from Texas, as chairman and ranking member of the Banking Committee, has overseen for years. That is the same language that currently exists in the SEC law. We are not adding anything new here. This is the SEC law, section 77(h)(1): Cease and desist proceeding, authority of the Commission.

If the Commission finds after notice and opportunity for a hearing that any person is violating, has violated or is about to violate any provision—

That is existing law. The Senator from Texas has overseen that for all these years. He has done a brilliant job as chairman and ranking member of the Banking Committee, and we are just simply following the language that exists already in the SEC law and applying it to folks who are not now covered.

Mr. GRAMM. Will the Senator yield?

Mr. LEVIN. For a question, I will be happy to.

Mr. GRAMM. What the Senator is saying is they can issue cease and desist orders under these circumstances, but they can't fine somebody. You are not only ceasing and desisting them—I have no problem. In the movie—and that is where you got this idea from. I thought it was.

In the movie, I don't object to them grabbing the guy who is about to stab his poor wife. It is putting him in prison, not for attempted murder—he did that—but for killing her when she is not dead.

Mr. LEVIN. The Senator from Texas raises an issue which, I am afraid, is also addressed in current law. It is not just cease and desist orders, it is the implementation of civil fines. We are following the same language. But what we are saying is, if the SEC has power to impose a fine on a broker, based on the standards which exist in this law, there is no reason the SEC should not have the same power to impose a fine on an auditor or on a director who violates the regulations and laws of this land. This is the same language. We haven't added anything new.

What is new here is that for the first time there will be the potential, the power in the SEC, subject to an appeal to the court—which is another protection of our civil liberties—subject to an appeal to the court, to impose a civil fine, administratively, on people who are now let off the hook. There is no reason for this gap in the law.

If, in fact, there is a problem that the Senator has raised, with language, that language is in the existing law for SEC. It is in the existing law for FDIC, the Federal Deposit Insurance Corporation:

If, in the opinion of the appropriate Federal banking agency, any insured depository

institution, depository institution which has insured deposits, or any institution affiliated party is engaged or has engaged, or the agency has reasonable cause to believe that the depository institution or any institution affiliated party is about to engage—

The words which the Senator from Texas mocks are in existing law, in the FDIC law, in the SEC law.

There may be reasons the Senator wants to maintain this gap in enforcement, but that cannot be used as the reason. That cannot be used.

The PRESIDING OFFICER. The Senator from Arizona.

MOTION TO RECOMMIT WITH AMENDMENT NO. 4270

(Purpose: To require publicly traded companies to record and treat stock options as expenses when granted for purposes of their income statements)

Mr. MCCAIN. Mr. President, I move to recommit the bill to the Committee on Banking, Housing, and Urban Affairs with instructions to report the bill back forthwith, with the following amendment that I send to the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Arizona (Mr. MCCAIN) moves to recommit the bill (S. 2673) to the Committee on Banking, Housing and Urban Affairs, with instructions to report back forthwith with the following amendment, numbered 4270:

At the appropriate place, insert the following:

SEC. . STOCK OPTIONS MUST BE BOOKED AS EXPENSE WHEN GRANTED.

Any corporation that grants a stock option to an officer or employee to purchase a publicly traded security in the United States shall record the granting of the option as an expense in that corporation's income statement for the year in which the option is granted.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4271

Mr. REID. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. EDWARDS, for himself, Mr. ENZI, and Mr. CORZINE, proposes an amendment numbered 4271 to the instructions of the motion to recommit S. 2673 to the Committee on Banking.

Mr. REID. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

Mr. MCCAIN. I object. I would like to hear what the amendment says.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to read the amendment.

Mr. REID. I say to my friend, I will be happy to have it read, but it is the exact same amendment that was pending beforehand.

Mr. MCCAIN. Thank you.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To address rules of professional responsibility for attorneys)

At the end of the instructions add the following:

“(c) RULES OF PROFESSIONAL RESPONSIBILITY FOR ATTORNEYS.—Not later than 180 days after the date of enactment of this section, the Commission shall establish rules, in the public interest and for the protection of investors, setting forth minimum standards of professional conduct for attorneys appearing and practicing before the Commission in any way in the representation of public companies, including a rule requiring an attorney to report evidence of a material violation of securities law or breach of fiduciary duty or similar violation by the company or any agent thereof to the chief legal counsel or the chief executive officer of the company (or the equivalent thereof) and, if the counsel or officer does not appropriately respond to the evidence (adopting as necessary, appropriate remedial measures or sanctions with respect to the violation), requiring the attorney to report the evidence to the audit committee of the board of directors, or to another committee of the board of directors comprised solely of directors not employed directly or indirectly by the company, or to the board of directors.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

AMENDMENT NO. 4272 TO AMENDMENT NO. 4271

(Purpose: To address procedures for banning certain individuals from serving as officers or directors of publicly traded companies, civil money penalties, obtaining financial records, broadened enforcement authority, and forfeiture of bonuses and profits)

Mr. REID. Mr. President, I send a second amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. LEVIN, for himself, Mr. NELSON of Florida, Mr. HARKIN, Mr. CORZINE, and Mr. BIDEN, proposes an amendment numbered 4272 to amendment No. 4271.

Mr. REID. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under “Text of Amendments.”)

Mr. REID. Mr. President, I appreciate the cooperation of the Senator from Arizona. There are other ways we could have gotten to the point we are now. This just made it a lot easier. I appreciate that very much.

I say this, before I yield the floor, to my friend from Arizona. We are now in the exact same posture we were in

prior to the Senator from Arizona offering his amendment—his instructions, I should say.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, before the Senator from Nevada leaves the floor, I wonder if he would respond to a question. Do we intend to vote on these pending amendments and the motion to recommit?

Mr. REID. I say to my friend, we have been trying very hard. I have received instructions—it is probably the wrong word, but Senator EDWARDS has been here for 2 days, and he left here for a while this afternoon waiting to vote on his amendment. Senator LEVIN has been here for several days—2 days. We would like very badly to vote on the Levin second-degree amendment and the Edwards first-degree amendment.

I have spoken to the manager of the bill for the minority. It appears very unlikely that we are going to be able to do that. I think that is a disappointment. I think some of these relevant—I shouldn't say some—I think all of these relevant amendments we can get up to prior to the cloture vote, we should try to dispose of.

But I understand the rules of the Senate. I am disappointed to say, my friend from Texas also understands them, so even though I would like votes, it does not appear we are going to be able to have votes.

Mr. MCCAIN. Mr. President, I thank my friend from Nevada for his candor. I think it is pretty obvious. Everybody ought to understand what is happening as we go through these arcane procedures.

The whole purpose of this—the whole purpose of what we just went through—is to not have a vote on anything that has to do with stock options. Let's be very clear what that is all about.

Whatever side you are on on the issue, the fix is in, as we say all too often in the sport of boxing. The fix is in and we will now have cloture invoked and there will not be a vote on stock options.

While my friend from Nevada is still here, I can tell him, I understand the rules of the Senate. I have been through other difficult issues on which I have been blocked from getting votes. I tell my friend from Nevada, and all of my colleagues, we will have a vote on stock options. We will have—sooner or later—a vote on stock options. And I only regret that we cannot do it now, get it over with, and get everybody on record.

I also would make one additional comment. I hope I do not harm the feelings of any of my colleagues. This is an important issue. This is a very important issue, no matter where you stand on the issue of stock options and how they should be accounted. It is a very important issue.

Why is it that this body would not take up the issue and have an up-or-down vote on how stock options are treated? I would ask the manager of the bill, why would we not at least allow a vote up or down?

I will read editorials. In fact, it may be sometime before I give up the floor because I have a lot to say about this issue. I will read from Mr. Greenspan's speech, a fairly widely respected individual, who says—well, I will read his speech in just a minute. He is in favor of treating stock options as an expense.

So is Mr. Stiglitz and Mr. Buffett, and so many others, who are aware of this issue and its impact and the way it has been terribly abused by the same people we are trying to go after, the same people we are after.

Mr. SARBANES. Will the Senator yield for a response to his question?

Mr. McCAIN. According to a recent analysis from 1996 to 2000, Enron issued nearly \$600 million in stock options, collecting tax deductions, which allowed the corporation to severely reduce their payment in taxes. According to reports that I think I have here, over \$1 billion in stock options were issued to the senior executives of WorldCom.

This is an important issue. I respect the views of my colleagues who disagree with my position and that of Mr. Greenspan, Mr. Stiglitz, and Mr. Buffett in various op-eds and editorials in newspapers throughout America. But why would we not vote on it? That is the question.

Why would the distinguished Senator and friend from Nevada feel it incumbent upon himself to not allow a vote on stock options? I guess that question can be answered by observers.

But here is the deal. I want to tell my friend from Nevada again, there will be a vote on how stock options are treated. I will repeat the amendment. I will repeat the amendment and will repeat it again several times before I finish discussing this issue. The issue, no matter how you feel, should be addressed. But through the invocation of cloture, everybody knows that the amendment and the motion to recommit will fall.

I want to repeat. The amendment is fairly clear-cut, fairly simple. We deal with a lot of arcane issues in the discussion of this regulatory reform. But I repeat:

Any corporation that grants a stock option to an officer or employee to purchase a publicly traded security in the United States shall record the granting of the option as an expense in that corporation's income statement for the year in which the option is granted.

It is very simple. It does not say anything about the tax treatment of it. It does not say anything about a number of other rather controversial aspects. It just says it will "record the granting of the option as an expense in that corporation's income statement. . . ."

Mr. President, it is curious to me—actually, it is not curious to me—why a vote on this amendment is blocked. It is because every lobbyist in this town for the high-tech community has said: Don't do it. Don't do it. The one thing that the folks in Silicon Valley are scared of more than anything else is that they would lose their precious stock options—all of it, of course, in the interest of the employee, only the employees, the secretaries, the workers, those people who are down there toiling in the bowels of the corporation, trying to get some incentive to stay there and have their retirement.

Meanwhile, Mr. Ellison, the CEO of Oracle, last year, cashes in \$706 million worth of stock options, \$706 million worth of stock options in 1 year. Are we going to vote on it? Yes, we will vote on it. Maybe not now, but unless there is cloture on every single bill that comes before this body, there will be a vote on stock options. I want to assure my friend from Nevada of that.

I will just remind him, there were many who wanted to block a vote on campaign finance reform for a long period of time. Well, we got our vote on campaign finance reform, and we will get a vote on stock options.

We have to end the double standard for stock options. Currently corporations can hide these multimillion-dollar compensation plans from their stockholders or other investors because these plans are not counted as an expense when calculating company earnings.

I want to make it perfectly clear to all, I am not in favor of doing away with stock options. Stock options have a valuable place in American corporate life. What we are addressing here is how they are treated so investors can know exactly what the profit and loss of a corporation is.

I repeat: I am not in favor of eliminating stock options. What I am trying to do is exactly in accordance with Mr. Greenspan's comments from which I will quote. Federal Reserve Chairman Alan Greenspan, New York University, March 26, 2002:

Some changes, however, appear overdue. In principle, stock-option grants, properly constructed, can be highly effective in aligning corporate officers' incentives with those of shareholders. Regrettably, the current accounting for options has created some perverse effects on the quality of corporate disclosures that, arguably, is further complicating the evaluation of earnings and hence diminishing the effectiveness of published income statements in supporting good corporate governance. The failure to include the value of most stock-option grants as employee compensation and, hence, to subtract them from pretax profits has increased reported earnings and presumably stock prices. This would be the case even if offsets for expired, unexercised options were made. The Financial Accounting Standards Board proposed to require expensing in the early to middle 1990s but abandoned the proposal in the face of significant political pressure.

The Federal Reserve staff estimates that the substitution of unexpensed option grants for cash compensation added about 2½ percentage points to reported annual growth in earnings of our larger corporations between 1995 and 2000. Many argue that this distortion to reported earnings growth contributed to a misallocation of capital investment, especially in high tech firms.

Especially in high-tech firms? Where is most of the opposition coming from to the proper accounting of stock options? From the high-tech firms. I repeat:

Many argue that this distortion to reported earnings growth contributed to a misallocation of capital investment, especially in high tech firms. If market participants indeed have been misled, that, in itself, should be surprising, for there is little mystery about the effect of stock-option grants on earnings reported to shareholders. Accounting rules require enough data on option grants be reported in footnotes to corporate financial statements to enable analysts to calculate reasonable estimates of their effect on earnings.

Some have argued that Black-Scholes option pricing, the prevailing means of estimating option expense, is approximate. But so is a good deal of other earnings estimates, as I indicated earlier. Moreover, every other corporation does report an implicit estimate of option expense on its income statement. That number for most, of course, is zero. Are option grants truly without any value?

I repeat Mr. Greenspan's question: Are option grants truly without any value?

Critics of option expensing have also argued that expensing will make raising capital more difficult. But expensing is only a bookkeeping transaction. Nothing real is changed in the actual operations or cash-flow of the corporation. If investors are dissuaded by lower reported earnings as a result of expensing, it means only that they were less informed than they should have been. Capital employed on the basis of misinformation is likely to be capital misused.

Critics of expensing also argue that the availability of options enables corporations to attract more-productive employees. That may well be true. But option expensing in no way precludes the issuance of options. To be sure, lower reported earnings as a result of expensing could temper stock price increases and thereby exacerbate the effects of share dilution. That, presumably, would inhibit option issuance. But again, that inhibition would be appropriate, because it would reflect the correction of misinformation.

I am not sure this debate is between me and the high-tech community. I think the debate is somewhat different. When you look at the preponderance of opinion, not only that stock options need to be expensed but the incredible effect that it has had on the whole distortion of the market, then it is an important issue.

I ask again: How can we really address the entire issue we are facing without addressing the issue of stock options? That is like playing a baseball game without third base.

Mr. Joseph Stiglitz, noble laureate professor of economics at Columbia University on Tuesday, March 12, 2002:

Some contend that it is difficult to obtain an accurate measure of the value of the options. But this much is clear: zero, the implicit value assigned under current arrangements, is clearly wrong. And leaving it to footnotes, to be sorted out by investors, is not an adequate response, as the Enron case has brought home so clearly. At the Council of Economic Advisers, we devised a formula that represented a far more accurate lower bound estimate of the value of the options than zero. Moreover, many firms use formulae for their own purposes, in valuing stock options (charging them against particular divisions of the firm). However, Treasury, in its opposition to the FASB concerns, was singularly uninterested in these alternatives. I leave it to others to hypothesize why that might have been the case.

If we are to have a stock market in which investors are to have confidence, if we are to have a stock market which avoids the kind of massive misallocation of resources that result when information provided does not accurately report the true condition of firms, we must have accounting and regulatory frameworks that address these issues. As derivatives and other techniques of financial engineering become more common, these problems too will become more pervasive. While headlines and journalistic accounts describe some of the inequities—those who have seen their pensions disappear as corporate executives have stashed away millions for themselves—what is also at stake is the long run well being of our economy. The problems of Enron and Global Crossing are part and parcel of the current downturn.

I was under the impression this legislation was all about trust and transparency—regaining the trust of the American people and investors in the stock market and, frankly, the economic system that drives America and has been so successful, and transparent. Perhaps under this legislation, by beefing up many of the penalties and regulations and many other things—many of which I have recommended and strongly supported and will have in further amendments, but how in the world do we say that we have given transparency when, in the view of most experts, this is one of the greatest hindrances to transparency in the system as it exists today?

I would now like to read the opinion of Mr. Warren Buffett, in the Washington Post, April 9, 2002, Stock Options and Common Sense:

In 1994 seven slim accounting experts, all intelligent and experienced, unanimously decided that stock options granted to a company's employees were a corporate expense.

Six fat CPAs, with similar credentials, unanimously declared these grants were no such thing.

Can it really be that girth, rather than intellect, determines one's accounting principles? Yes indeed, in this case. Obesity—of a monetary sort—almost certainly explained the split vote.

The seven proponents of expense recognition were the members of the Financial Accounting Standards Board, who earned \$313,000 annually. Their six adversaries were the managing partners of the (then) Big Six accounting firms, who were raking in multiples of the pay received by their public-interest brethren.

In this duel the Big Six were prodded by corporate CEOs, who fought ferociously to

bury the huge and growing cost of options, in order to keep their reported earnings artificially high. And in the pre-Enron world of client-influenced accounting, their auditors were only too happy to lend their support.

The members of Congress decided to adjudicate the fight—who, after all, could be better equipped to evaluate accounting standards?—and then watched as corporate CEOs and their auditors stormed the Capitol. These forces simply blew away the opposition. By an 88-9 vote, U.S. senators made a number of their largest campaign contributors ecstatic by declaring option grants to be expense-free. Darwin could have foreseen this result: It was survival of the fittest.

The argument, it should be emphasized, was not about the use of options. Companies could then, as now, compensate employees in any manner they wished. They could use cash, cars, trips to Hawaii or options as rewards—whatever they felt would be most effective in motivating employees.

But those other forms of compensation had to be recorded as an expense, whereas options—which were, and still are, awarded in wildly disproportionate amounts to the top dogs—simply weren't counted.

The CEOs wanting to keep it that way put forth several arguments. One was that options are hard to value. This is nonsense: I've bought and sold options for 40 years and know their pricing to be highly sophisticated. It's far more problematic to calculate the useful life of machinery, a difficulty that makes the annual depreciation charge merely a guess. No one, however, argues that this imprecision does away with a company's need to record depreciation expense. Likewise, pension expense in corporate America is calculated under widely varying assumptions, and CPAs regularly allow whatever assumption management picks.

Believe me, CEOs know what their option grants are worth. That's why they fight for them.

It's also argued that options should not lead to a corporate expense being recorded because they do not involve a cash outlay by the company. But neither do grants of restricted stock cause cash to be disbursed—and yet the value of such grants is routinely expensed.

Furthermore, there is a hidden, but very real, cash cost to a company when it issues options. If my company, Berkshire, were to give me a 10-year option on 1,000 shares of A stock at today's market price, it would be compensating me with an asset that has a cash value of at least \$20 million—an amount the company could receive today if it sold a similar option in the marketplace. Giving an employee something that alternatively could be sold for hard cash has the same consequences for a company as giving him cash. Incidentally, the day an employee receives an option, he can engage in various market maneuvers that will deliver him immediate cash, even if the market price of his company's stock is below the option's exercise price.

Finally, those against expensing of options advance what I would call the "useful fairy-tale" argument. They say that because the country needs young, innovative companies, many of which are large issuers of options, it would harm the national interest to call option compensation as expense and thereby penalize the "earnings" of these budding enterprises.

Why, then, require cash compensation to be recorded as an expense given that it, too, penalizes earnings of young, promising companies? Indeed, why not have these compa-

nies issue options in place of cash for utility and rent payments—and then pretend that these expenses, as well, don't exist? Berkshire will be happy to received options in lieu of cash for many of the goods and services that we sell corporate America.

At Berkshire we frequently buy companies that awarded options to their employees—and then we do away with the option program. When such a company is negotiating a sale to us, its management rightly expects us to proffer a new performance-based cash program to substitute for the option compensation being lost. These managers—and we—have no trouble calculating the cost to the company of the vanishing program. And in making the substitution, of course, we take on a substantial expense, even though the company that was acquired had never recorded a cost for its option program.

Companies tell their shareholders that options do more to attract, retain and motivate employees than does cash. I believe that's often true. These companies should keep issuing options. But they also should account for this expense just like any other.

A number of senators, led by Carl Levin and John McCain, are now revising the subject of properly accounting for options. They believe that American businesses, large or small, can stand honest reporting, and that after Enron-Andersen, no less will do.

I think it is normally unwise for Congress to meddle with accounting standards. In this case, though, Congress fathered an improper standard—and I cheer its return to the crime scene.

This time Congress should listen to the slim accountants. The logic behind their thinking is simple.

One, if options aren't a form of compensation, what are they?

Two, if compensation isn't an expense, what is it?

Three, and if expenses shouldn't go into the calculation of earnings, where in the world should they go?

Mr. President, I have to admit to you that I stood fifth from the bottom of my class at the Naval Academy. I don't pretend to understand a lot of the nuances and hidden workings of the stock market or many of the issues we are facing today because there were some very imaginative CEOs and corporate officers who have deprived investors of their money and hundreds of thousands of people of their jobs. But even I can understand Mr. Buffett's questions:

If options aren't a form of compensation, what are they?

If compensation isn't an expense, what is it?

And if expenses should not go into the calculation of earnings, where in the world should they go?

Mr. President, that is why this amendment is simple:

Any corporation that grants a stock option to an officer or employee to purchase a publicly traded security in the United States shall record the granting of the option as an expense in that corporation's income statement for the year in which the option is granted.

That is not a complicated issue, and there will be discussion from time to time about what the tax implications are and all those things. I would be glad to have smarter people than I figure it out.

I want to read a letter to the editor of the New York Times by Steven Barr, senior contributing editor of CFO Magazine, April 5, 2002. Reference: "Leave Options Alone" by John Doerr and Frederick W. Smith:

What if, in the mid-1990s, accounting-rule makers had not caved in to lobbyists and instead had forced companies to recognize options as a compensation expense on financial statements?

There would still have been a technology boom, a bear market, and a period of recession. Such cycles are immutable. But there may have been less of the accounting gamesmanship that is now the object of government investigation and investor ire.

Options should count as an expense to the corporation, and the ability to exercise them should be based on stock performance that exceeds an index of peers.

Mr. President, one of the more egregious activities we have seen with some of these really unsavory people has been that while their company stock was declining, they exercised their stock options and sold them, making hundreds of millions of dollars.

As I said earlier, in the case of Enron—I heard WorldCom was \$1.8 billion, or Enron, I am not sure which—at the same time in the case of Enron, the employees, in testimony before the Commerce Committee, said they were urged to hang on to the stock, hang on to the Enron stock. Meanwhile, the executives were selling the stock. I do not know of anything quite as egregious as that.

As I mentioned, according to a recent analysis from 1996 to 2000, Enron issued nearly \$600 million in stock options, collecting tax deductions which allowed the corporation to severely reduce their payment in taxes.

I repeat, no other type of compensation gets treated as an expense for tax purposes without also being treated as an expense on the company books. This double standard is exactly the kind of inequitable corporate benefit that makes the American people irate and must be eliminated.

If companies do not want to fully disclose on their books how much they are compensating their employees, then they should not be able to claim a tax benefit for it.

The Washington Post, Thursday, April 18, 2000:

Alan Greenspan, perhaps the nation's most revered economist, thinks employee stock options should be counted, like salaries, as a company expense. Warren Buffett, perhaps the nation's foremost investor, has long argued the same line. The Financial Accounting Standards Board, the expert group that writes accounting rules, reached the same conclusion eight years ago. The London-based International Accounting Standards Board recently recommended the same approach. In short, a rather unshort list of experts endorses the common-sense idea that, whether you get paid in cash or company cars or options, the expense should be recorded. Yet today's Senate Finance Committee hearing on the issue is likely to be filled with dissenting voices. There could

hardly be a better gauge of money's power in politics.

The Washington Post said:

There could hardly be a better gauge of money's power in politics.

Why does this matter? Because the current rules—which allow companies to grant executives and other employees millions of dollars in stock options without recording a dime of expenses—make a mockery of corporate accounts. Companies that grant stock options lavishly can be reporting large profits when the truth is they are taking a large loss. In 2000, for example, Yahoo reported a profit of \$71 million, but the real number after adjusting for the cost of employee stock options was a loss of \$1.3 billion. Cisco reported \$4.6 billion in profit; the real number was a \$2.7 billion loss.

Mr. President, those numbers are staggering. Let me repeat:

Yahoo reported a profit of \$71 million, but the real number after adjusting for the cost of employee stock options was a loss of \$1.3 billion. Cisco reported \$4.6 billion in profits; the real number was a \$2.7 billion loss. By reporting make-believe profits, companies may have conned investors into bidding up their stock prices. This is one cause of the Internet bubble, whose bursting helped precipitate last year's economic slowdown.

It is not surprising, therefore, that the expert consensus favors treating options as a corporate expense, which would mean that reported earnings might actually reflect reality. But the dissenters are intimidated by neither experts nor logic. They claim that the value of options is uncertain, so they have no idea what number to put into the accounts. But the price of an option can actually be calculated quite precisely, and managers have no difficulty doing the math for purposes of tax reporting. The dissenters also claim options are crucial to the health of young companies. But nobody wants to ban this form of compensation; the goal is merely to have it counted as an expense. Finally, dissenters say that options need not be so counted because granting them involves no cash outlay. But giving employees something that has cash value amounts to giving them cash.

The dissenters include weighty figures in both parties. Sen. JOE LIEBERMAN (D-Connecticut) is the chief opponent of options sanity in the Senate, and last week President Bush himself declared that Mr. Greenspan is wrong on this issue. What might be behind this? Many of the corporate executives who give generously to politicians are themselves the beneficiaries of options—often to the tune of millions of dollars. High-tech companies, an important source of campaign cash, are fighting options reform with all they've got. But if these lobbyists are allowed to win the argument, they will undermine a key principle of the financial system. Accounting rules are meant to ensure investors get good information. Without good information, they cannot know which companies will best use capital, and the whole economy suffers in the long run.

Mr. President, again, transparency and trust. Transparency and trust. Without transparency, we are not going to have trust.

A Washington Post, April 21, 2002, editorial; byline David S. Broder. Mr. Broder writes:

Thanks to the Enron scandal, the public is getting to know about a scheme that corporate executives have used for years, but

that most of us were not smart enough to understand.

I include myself in that group that Mr. Broder describes.

You can call it the have-your-cake-and-eat-it-too ploy.

It involves stock options, the rights to buy company stock some time in the future at the (presumably bargain) price at which it is selling currently. Stock options awarded to senior management by their (usually hand-picked) boards of directors mushroomed from \$50 billion in 1997 to \$162 billion just three years later. As Business Week pointed out in its April 15 issue, boards have been "lavishing options on executives" so profiligately "that they now account for a staggering 15 percent of all shares outstanding."

This is obviously a good deal for the executives. One of them, Oracle Corporation's Lawrence Ellison, exercised options worth \$706 million in one week. A nice mouthful of cake, by any standard.

But here's how his company—and all others like it—can have its cake, too. The value of the stock options granted Ellison is a cost to Oracle for tax purposes, but it doesn't come off the bottom line when Oracle is reporting its earnings for the year.

This would seem to defy common sense—and it does. Almost a decade ago, as the options craze was getting under way, the Federal Accounting Standards Board—the watchdog group—said that when options are granted, they should be treated as an expense in company reports as well as in tax returns. The corporate CEOs and the accounting firms they hire went nuts, and the next thing you knew, the Senate in 1994 was passing a resolution . . . telling the watchdog: forget it.

Mr. GRAMM. Mr. President, will the Senator yield? I do not want to break in, but a key point I would like to make—and I thought the Senator might want a breather—

Mr. MCCAIN. I would appreciate it if the Senator would phrase it in the form of a question, as he is very adept at doing. I will be glad to yield for his question.

Mr. GRAMM. I thought it was very important to make this point. What happened almost a decade ago when we saw this blossoming of stock options? The answer is, in 1993, we passed a law that said that if you paid a corporate executive more than \$1 million a year in a plain old paycheck, you could not deduct it as an expense in running the business.

At that time, the largest companies in America—and I am trying to make a point that is in no way contradicting anything the Senator says, though I do not agree with a word of it, but what we said was you could not pay a corporate executive, through their paycheck, more than a million a year, even though the 50 largest companies in America were paying their corporate executives \$3 million a year, on average.

When we passed that law, what happened? What happened is that corporate America, being clever—you do not make \$3 million a year if you are not pretty smart—figured out ways around the law. Some of the ways

around the law were getting loans from the company at low interest rates and getting stock options, which are now criticized as giving corporate leadership a very short-term horizon.

The only point I want to make is that everybody has forgotten that in 1993 Congress, in a demagogic amendment aimed at "rich people," started this whole process.

It struck me when you were saying this group of accountants got together in 1994, what they were doing was responding to a bad law, and the bad law helped trigger this. One of the things—and God knows it is not going to happen in the environment we are in now—but one of the things Congress ought to do is to repeal that law so General Electric could pay its CEO with a paycheck, like everybody else, instead of trying to find all these ways around the law. I just wanted to get in that advertisement.

Mr. MCCAIN. I would like to respond to the Senator's question by saying that I think the Senator makes a very valid point. I think this is probably none of Congress's business as to what salaries should be bestowed on a corporate executive, with truly independent boards of directors and with a voice of the stockholders.

Let me say to the Senator before he leaves, I am not talking about doing away with stock options. I am talking about how they are treated. They may have gotten around that, but it is how they are treated. As we get into the debate further, I would be glad to hear him respond to Mr. Buffett's three questions.

Mr. GRAMM. I would be happy to respond to Mr. Buffett.

Mr. MCCAIN. I ask unanimous consent for Senator GRAMM to respond without me losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. I would be happy to respond to him. First, I would have been happy to have voted on the Senator's amendment.

Mr. MCCAIN. I thank the Senator.

Mr. GRAMM. Second, this is something I am happy to debate. The only point I wanted to make is that while we are all damning corporate America, our law, which said if you paid somebody more than \$1 million a year it could not count as a business expense, really helped trigger all of this. One of the things we ought to be doing in the name of reform is to repeal that law.

When I tried today in Finance—the Senator said this would not be brought up in Finance, but today in the Finance Committee I thought we ought to have one Good Government amendment, and it failed, like logic and truth, for the lack of a second. That is my only point.

Mr. MCCAIN. I thank the Senator. I especially thank him for agreeing be-

cause the Senator from Texas—we have had our agreements, mostly agreements and occasional disagreements—has never, in all the years we have known each other, which goes back to our days in the other body, wanted to deprive anybody of a vote on an issue, no matter where he stood on that issue.

I regret deeply that it is clear, as I said earlier, the fix is in; there is not going to be a vote on this issue before cloture is invoked, but I want to again assure my colleagues there will be a vote. There will be a vote on this issue, just like when I was blocked for a long time on the line-item veto, I was blocked for a long time on campaign finance reform, I have been blocked on a lot of other issues but we always got a vote because that is my right as a Senator to get a vote.

It is not my right as a Senator to determine the outcome, but it is my right as a Senator to get a vote on an issue, particularly when, in the view of any observer, stock options are a key issue in this entire debate.

Again, I respect the views of the Senator from Texas who disagrees with my position. I think it is a respectful disagreement that we have. I look forward to debating him. I do so at some disadvantage because he is a trained economist and former professor of economics.

I can also see why he would want to do away with that million-dollar cap because I am sure the Senator from Texas will make more than a million dollars when he leaves this body, and justifiably so given his talent, expertise, and experience. I wish him well. I wish him every success in doing so.

At least the Senator from Texas is in agreement that we should have a vote on this issue.

The question is going to be raised by me and others, time after time: Why did we not have a vote on this issue? If we are truly committed to reforming the system, restoring trust and transparency to the system, why do we not have a vote on it? That is a very legitimate question. There will be a vote.

I will return to Mr. Broder's editorial. He talks about that:

The Federal Accounting Standards Board said that when options are granted, they should be treated as an expense.

And the Senate passed a resolution telling the watchdogs, forget it.

And that has had a truly wondrous effect. On average, the Federal Reserve Board estimates, the ruling has boosted the reported earnings growth of corporations by 3 percentage points from a realistic 6 percent to an inflated 9 percent. Enron, it is estimated, used that same ruling in 2000 to inflate its earnings by more than 10 percent. Overstated earnings, of course, boost stock prices, thus benefiting the executives who have been given stock options.

By the way, I might add, not only stock options but it increases compensation because the stock value is inflated.

But that is not the end of it. Because these stock options are deductible for tax purposes, and their cost can be carried forward for years, they also enable companies that hand out a lot of options to stiff-arm the IRS. In Enron's case, they allowed the company to cut its tax bill by \$625 million between 1996 and 2000.

Especially on my side of the aisle, there is this continuous drumbeat: Let us make the tax cuts permanent; let us do away with the death taxes; let us make the tax cuts permanent; let us help the American taxpayer. Should we not try to make a corporation pay its legitimate taxes? In Enron's case, because of the use of stock options, they allowed the company to cut its tax bill by \$625 million over a period of 4 years. Amazing.

Thanks to Enron, another push is under way to stop the double-dealing. But it faces tough sledding. The Coalition to Preserve and Protect Stock Options, which includes 32 influential trade associations, is flooding Congress with 'talking points' claiming that 'stock options are a vital tool in the battle for economic growth and job creation . . . (and) to attract, retain and motivate talent.'

The coalition is trying to kill a bill that would not end stock options but simply specify that companies could not use them to reduce their taxes unless they also report them as an expense in their financial statements.

The bill has bipartisan sponsorship: Democratic Senators CARL LEVIN of Michigan, MARK DAYTON of Minnesota and DICK DURBIN of Illinois; Republican Senators JOHN MCCAIN of Arizona and PETER FITZGERALD of Illinois. FITZGERALD is particularly interesting. He is from a wealthy banking family and is a staunch conservative, but Enron has made him almost a raging populist.

It has had no such effect on President Bush. Concerned as always for the deserving rich, he told the Wall Street Journal he opposes this kind of legislation. . . . But Federal Reserve Board Chairman Alan Greenspan testified recently in support of expensing stock options. The only issue, he said, is whether under current rules, "is income being properly recorded? And I would submit to you that the answer is no."

That is what Alan Greenspan says: Is income being properly reported? And I would submit to you that the answer is no.

And superinvestor Warren Buffett, who hands out bonuses but not stock options to his employees—

By the way, I have not heard of any bad morale or failure to attract employees out at Berkshire Hathaway out in Omaha, a lovely place to live—for years has been asking three questions: "If options aren't a form of compensation, what are they? If compensation isn't an expense, what is it? And if expenses shouldn't go into the calculation of earnings, where in the world should they go?"

That is what Mr. Broder has to say.

Paul Krugman, on May 17, 2002:

On Tuesday Standard & Poor's, the private bond rating agency, announced that it would do something unprecedented: It will try to impose accounting standards substantially stricter than those required by the federal

government. Instead of taking corporate reports at face value, S&P. will correct the numbers to eliminate what it considers the inappropriate treatment of "one-time" expenses, pension fund earnings and, above all, stock options—a major part of executive compensation that, according to federal standards, somehow isn't a business expense. S&P.'s estimate of "core earnings" for the 500 largest companies slashes reported profits by an astonishing 25 percent.

Why does S&P.—along with Warren Buffett, Alan Greenspan and just about every serious financial economist—think that current accounting standards require a drastic overhaul? And if such an overhaul is needed, why doesn't the government do it? Why does S&P. think that it must do the job itself?

To see the absurdity of the current rules, consider stock options. An executive is given the right to purchase shares of the company's stock, at a fixed price, some time in the future. If the stock rises, he buys at bargain prices. If the stock falls, he doesn't exercise the option. At worst, he loses nothing; at best, he makes a lot of money. Nice work if you can get it.

Yet according to federal accounting standards, such deals don't cost employers anything, as long as the guaranteed price isn't below the market price on the day the option is granted. Of course, this ignores the "heads I win, tails you lose" aspect; executives get a share of investors' gains if things go well, but don't share the losses if things go badly. In fact, companies literally apply a double standard: they deduct the cost of options from taxable income, even while denying that they cost anything in their profit statements.

So how could it possibly make sense not to count options as a cost? Defenders of the current system argue that stock options align the interests of executives with those of investors. Even if that were true, however, it wouldn't justify ignoring the cost—no more than it would make sense to deny that wages, which provide incentives to workers, are a business expense. Furthermore, it's now clear that stock options, far from reliably inducing executives to serve shareholders, often create perverse incentives. At worst, they handsomely reward managers who run their companies as pump-and-dump schemes, executives at Enron and many other companies got rich thanks to stock prices that soared before they collapsed.

I hope the opponents of this provision, including my friend from Texas, will put it into the real-world context. It is nice to talk about economic theory. I know of no one better at that than the Senator from Texas. What happened at Enron? What happened at Enron when it cashed in \$600 million worth of stock options and the stock tanks and there are 10,000 or so employees out of work? And there was a period of time where the employees were not allowed, because they were undergoing some managerial change of their portfolio, to cash in their stock options. But the executives were not prohibited from doing so. They kept on doing it. They kept on doing it.

So I hope we can have this debate not in the world of theories of economics. I am not a CPA, nor am I a professor of economics, nor am I as smart as most of the Members of this body, but I

know what happened to these people. I know of the thousands left penniless. I know of the thousands whose retirement savings were wiped out.

Meanwhile, the very people this whole stock option deal was supposed to be protecting were not protected, and yet somehow the executives all made out like bandits.

Perhaps my colleagues, as they oppose this legislation, can talk about the real-world examples—not the theoretical world of economics, which I will immediately grant them a distinct advantage on. I would like for them to have the opportunity to meet some of these employees, as I have, who were told by the executives of the corporation the stock was in great shape, while they were dumping the stock. I would like for them to talk to the employees or the retirees who invested enormous amounts of their money and their life savings, in some cases in a stock, and were told by their employers and executives that everything was great, things could not be better, estimates of double the stock value over the next few years.

That is the framework of this debate, not the framework of whether certain economic theories are valid or not.

Options are only part of an accounting system in deep trouble. As David Blitzer, S&P.'s chief investment strategist, recently wrote, "Financial markets are as much a social contract as is democratic government." Yet there is a growing sense that this contract is being broken, undermining the trust that is so essential to the operation of financial markets. Clearly, major reforms are needed. And bear in mind that this isn't a left-right issue; it's about protecting investors—middle-class and wealthy alike from exploitation by self-dealing insiders. So who could possibly be opposed? You'd be surprised.

Harvey Pitt, the accounting industry lawyer who heads the Securities and Exchange Commission, has clearly been dragging his feet on reform.

Bear in mind, this is not a left-right issue. It is about protecting investors, middle class and wealthy alike, from exploitation by self-dealing insiders. So who could possibly be opposed? You would be surprised. Harvey Pitt, the accounting industry lawyer who heads the Securities and Exchange Commission, has clearly been dragging his feet on reform. Mr. Blitzer of S&P points out that in previous periods of corporate scandal, legislatures and prosecutors took the lead with public concerns over the market.

It is a sad commentary on our leadership that this time he believes he must do the job himself—referring to Standard and Poors—and announced that it would impose accounting standards substantially stricter than those required by the Federal Government.

Boston Globe, June 10, 2002:

Stock options have become the currency of choice to reward high ranking executives in part because under current rules the company need not count them as an expense with much of their compensation. Depending

on the difference between the option price of the stock and the market price, it is no wonder that some executives have used trickery to show quarterly growth and inflate the worth of their companies. Excessive reliance on stock options is a license for some executives to drive their companies along treacherous roads.

I have a number of other views, but I think I have made my point. The point is this: Why should we, in the name of restoring confidence, trust, and transparency to the American people on an issue of this import, not have a vote? That is the first question.

The second question that needs to be answered is Mr. Buffett's question, not mine; not mine because I don't claim to have a corner on expertise and knowledge on this issue. But I believe that Mr. Buffett does. I believe that Mr. Greenspan does. I believe that literally every outside observer and economist does. If options aren't a form of compensation, what are they? If compensation isn't an expense, what is it? And if expenses shouldn't go into the calculation of earnings, where in the world should they go?

I know what I will hear in response. In fact, most of those have already been responded to so I don't intend to engage in extended debate about it. We all know where the majority stock options have gone—to the executives, not to the workers. Mr. Buffett, and many others, have been able to attract good and talented employees and retain them without having to resort to stock options.

But the real question is not whether stock options are good or bad because the intent of the amendment is not to do away with stock options. The intent of the amendment is simply to give an accurate depiction of what stock options are. And that is clearly compensation. Depreciation is listed as an expense. In the view of many, that is much harder to calculate than a stock option.

Another argument I anticipate will be, how do you treat it taxwise? Frankly, I would be glad to treat it taxwise as to how the smartest people at the SEC would say it should be treated. I would leave that up to the two experts. But to not treat it as an expense, as Mr. Buffett says, of course is just Orwellian. It is Orwellian.

Mr. LEVIN. Will the Senator yield for a question?

Mr. McCAIN. I am sorry my colleague will not allow a vote. I will be glad to respond to my colleague from Michigan.

Mr. LEVIN. I appreciate the Senator's yielding for a question. I wonder if the Senator would agree that the following individuals and organizations support the change in accounting for stock options, which the Senator has outlined: Alan Greenspan, Paul Volcker, Arthur Levitt, Warren Buffett, as the Senator mentioned, TIAA-CREF, Paul O'Neill, Standard &

Poor's, Council for Institutional Investors, Consumer Federation, Consumers Union, AFL/CIO—among others? Would the Senator agree that those organizations support a change in the accounting for stock options?

Mr. MCCAIN. I would say to my friend, yes. I think there is another important organization, the Federal Accounting Standards Board—I believe it is—the international.

Mr. LEVIN. There are some additional organizations.

Mr. MCCAIN. Yes.

Mr. LEVIN. I wanted to give the Financial Accounting Standards Board.

Mr. MCCAIN. Yes.

Mr. LEVIN. Does the Senator remember, as I do very vividly because I appeared before the Federal Financial Standards Board in the middle 1990s to support their independence, when they decided that you had to expense options, that it was compensation, that it had value like all other forms of compensation?

Does the Senator remember what the Financial Accounting Standards Board decided when they left it optional, as to whether or not to either expense options or to show them as a footnote—just to disclose them without actually expensing them? Because if the Senator does not, I would like to read what the Financial Accounting Standards Board said about the pressure they were put under, the horrendous, horrific pressure they were put under, and how they could have, indeed, been put out of existence if they went forward with what they believed was right, which is what Warren Buffett says.

If the Senator does not remember those words, I wonder if he might yield to me to read them, without losing his right to the floor.

Mr. MCCAIN. Yes.

Mr. LEVIN. This is what the Financial Accounting Standards Board said. They had proposed that stock options be expensed. That was their proposal. This is the board of accountants.

The debate on accounting for stock-based compensation, unfortunately, became so divisive that it threatened the Board's future working relationship with some of its constituents. Eventually the nature of the debate threatened the future of accounting standards setting in the private sector. The Board continues to believe that financial statements would be more relevant and representationally faithful if the estimated fair value of employee stock options was included in determining an entity's net income, just as all other forms of compensation are included. To do so would be consistent with accounting for the cost of all other goods and services received as consideration for equity instruments. However, in December 1994, the Board decided that the extent of improvement in financial reporting that was envisioned when this project was added to its technical agenda and when the Exposure Draft was issued was not attainable because the deliberate, logical consideration of issues that usually leads to improvement in financial reporting was no longer present.

That is the climate that was created for this Board in 1994. And when the accountants, the Board, the Financial Accounting Standards Board of this country, said they have value, these options, they are compensation, they should be accounted for in the financial statement, they were hit upon so hard that even when they said we are throwing in the towel because it could destroy us, even when they said we will allow it to be shown as a footnote, not required to be taken as an expense—even then, they said this is not the right way to proceed.

We are now creating—I should ask a question, I think, given the request I made.

Does the Senator not agree that ideally what we should be allowing here is an independent Financial Accounting Standards Board to determine the rules?

Mr. MCCAIN. I could not agree more with the Senator from Michigan. I think he knows how strongly I believe that options should be expensed because they are compensation and they have value and there is no other form of compensation that is not expensed. It is a stealthy form of compensation and has driven the excesses of the 1990s. These options have driven the deceptions that make these financial statements for corporations look better than those corporations' situations really are because they have created so much value in those options that then executives—mainly executives—were able to cash in on these options and make tens of millions of dollars based on financial accounting which was deceptive.

Would the Senator agree with that and agree that ideally these standards should be set by an independent financial accounting standards board?

Mr. MCCAIN. I say to my friend from Michigan, first of all, it was the Senator from Michigan who first initiated discussion with me on this issue several years ago. We were treated as virtual pariahs for having the audacity to challenge what was then, as we now know, a high-tech bubble in the way stock options were being disbursed.

By the way, let's do away with the myth that these stock options are for the average worker. The fact is the overwhelming majority of the stock options have gone to the chief executives. That is just a matter of record and fact.

But I think the Senator is correct. I think the Senator has also an additional, I think important, corollary to this amendment, that we could have certain direction from FASB, as it is known. But I think it is also a clear-cut, black-and-white issue as to how stock options should be treated.

I would be glad to agree with the Senator from Michigan that some of these aspects of it can be better handled by the experts.

Finally, the Senator from Nevada and the Senator from Maryland are in the Chamber. I hope they will reconsider and allow a vote postcloture at some time on this important amendment. I do not see how you can possibly go to the American people and say: Look, we have discussed and debated all these issues, but we wouldn't allow a vote on the issue of stock options.

There is no observer who does not believe that the issue of stock options is one of significant importance in this entire scenario of returning trust and transparency so we can regain the confidence of the American investor.

Again, I assure my friends, we will have a vote on this issue at some time, whether it be now on this bill or whether it be the next bill or the bill after that. So I hope my colleague from Nevada and my colleague from Maryland will allow an up-or-down vote on this amendment.

Mr. LEVIN. Will the Senator yield for one last question?

Mr. MCCAIN. I am glad to.

Mr. LEVIN. Assuming cloture is invoked, there is still, does my friend agree, the possibility at least of voting on germane amendments relating to this subject? So the amendment which is germane postcloture does not state what the Senator from Arizona and I believe, which is that unless we deal with this, we are missing a huge problem, we are not addressing a huge problem that has driven the situation that we now face in terms of deceptive financial statements. But, in any event, will the Senator from Arizona agree that at least postcloture, if an amendment is germane which says it is determined that FASB or an independent accounting board reviewed this matter, that at least there could be a vote at that time on something which carries out the spirit of what the Senator from Arizona and I have been fighting for, which is that an independent accounting board be allowed to proceed without threatening its very existence to determine what is the proper accounting for stock options?

Mr. MCCAIN. I apologize to my colleagues for taking as much time as I have on this subject. As I said, I believe it is one of transcending importance in the minds of average American citizens. Yes. I would support the Senator's amendment postcloture. But I would also have to add that it doesn't address the issue completely. Here is why.

The Senator from Michigan just talked about how these boards have been intimidated and bullied into backing off of a position they had before. I can't have the confidence that any board that is subject to the kind of intimidation and bullying that has happened in the past would properly carry out what is a pretty simple operation.

I understand the Senator's point. I will support his amendment

postcloture. I think it is an important one. But there has to be a clear signal sent. That clear signal is this: As Mr. Buffett says, if it isn't compensation, what is it? If options are not a form of compensation, what are they? If compensation is not an expense, what is it? If expenses shouldn't go into the calculation of earnings, where in the world should they go? This answers Mr. Buffett's question. We know where it should go—as an expense.

Again, I am not trying to do away with stock options but how it is treated so the American people can restore their confidence.

Mr. LEVIN. Will the Senator yield for a couple of questions which his comments have raised?

Mr. SARBANES. Will the Senator yield? The Senator directed a question.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. MCCAIN. I would be glad to yield to the Senator from Maryland for a comment without yielding my right to the floor.

Mr. SARBANES. I wanted to respond at this point because the Senator just directed a question. We are not trying to prevent a vote on your amendment. We have been trying repeatedly to get votes on these amendments. Senator EDWARDS has had an amendment pending in here for now more than a day. We can't get a vote on it. Senator LEVIN has had an amendment pending. We have a list of people who want to offer amendments. We have been trying to work through these amendments. Now the Senator has come with his amendment. There are a lot of amendments around here on which people are trying to get votes. I think they are entitled to those votes.

I know you have a problem. But I take some umbrage as sort of having it placed on my shoulders. In fact, I think that is totally inaccurate, and I just want to make sure I put that on the record.

Mr. MCCAIN. Thank you.

I ask unanimous consent that the McCain amendment be allowed postcloture.

Mr. REID. Objection.

Mr. MCCAIN. So you see.

Mr. SARBANES. No. That doesn't approve anything. The Senator wants his amendment—

Mr. MCCAIN. I have the floor.

Mr. SARBANES. And denies everybody else.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. MCCAIN. I thank the Chair.

I think I have made my point.

Mr. SARBANES. No. You haven't made your point.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. MCCAIN. I would like to respond to the question of the Senator from Michigan, if he would like.

Mr. SARBANES. Will the Senator yield?

Mr. MCCAIN. I would be glad to yield, if the Senator from Michigan would be glad to yield.

Mr. SARBANES. It is a very clever trick, but you haven't made your point. There are other Members here with amendments that are very important to them which they are trying to have considered. We have been trying to process those amendments in an orderly way. The Senator arrives on the scene and apparently thinks, well, there should be a special set of rules for the Senator to do his amendment. So he just now tried to jump ahead of other people, and a reasonable objection was made. And I think it ought to have been made. The Senator from Arizona comes in, and, all of a sudden, there is going to be a special set of rules to deal with his amendment. The Senator doesn't even recognize what is in the bill, which does try to address to some extent this problem with independent funding and FASB that this legislation provides for—which everyone agrees is long overdue and is an important contribution.

But we have these people lined up here who want to do amendments. We have the Edwards amendment, we have the Levin amendment, and we have a whole list of people with amendments. We have been trying to process those amendments, and we have not been able to do it.

As one who is down here trying to work overtime to get these amendments processed, I want to very strongly register that point.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. MCCAIN. I still have the floor. I thank the Senator from Maryland. I appreciate his hard work managing the legislation. I have managed bills in my time. I know that sometimes it gets very frustrating and difficult.

I have some suggestions. One is that the Senator oppose cloture so that we can address all of these issues and prevail on his colleagues to do so so that we can have relevant amendments considered.

I also think—it is not just in this Senator's view but in the view of almost everyone, in the view of Alan Greenspan, in the view of Warren Buffett, in the view of the Washington Post and the New York Times, and everybody—that this is a serious and vital issue.

So my suggestion is that we not have a cloture vote, and that we go ahead and take up the amendments in an orderly fashion. The Senator from Nevada, obviously, will not allow my amendment to be considered postcloture.

The Senator from Michigan has a question. Would the Senator from Nevada, the distinguished whip, like to wait until the Senator from Michigan is finished, or would you like to go ahead?

Mr. LEVIN. My question was actually touched upon by the Senator from Arizona relative to the independence of the Financial Accounting Standards Board, and as to whether or not the Senator was aware—at least now in this bill—that we have the source of financing for that board which hopefully will not only allow it to reach its own conclusion, as it did once before, that options have value and should be expensed but also that it carry through with it without threatening their own survival.

I think that is an important part of this. But at least that gives us hope this time that when the Financial Accounting Standards Board reviews this matter—if it does—it will reach a conclusion not only that it believes it, but it can then implement it through an accounting standard.

That was my question about that funding source in this bill.

Mr. MCCAIN. I would like to respond. I understand that. I did know it is part of the bill. I also know what has happened in the past. The fact is that we have not made the changes which are necessary because of enormous pressures that have been brought to bear.

The Senate should be on record on this issue. This is not a minor issue. This is not a small item. The Senate should be on record on this issue, and it apparently will not be at this time.

I thank my colleagues, though I do think that it is an important step forward. But I also believe this is something that we could address in a straightforward fashion.

Mr. LEVIN. Mr. President, will my colleague yield for 60 seconds so I can make a statement on this subject prior to a unanimous consent, or an address on a different part of my amendment?

Mr. MCCAIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank Senator MCCAIN for his steadfast support of the issue which is critically important.

Unless we address the way stock options are dealt with in this country—the fact that it is now a free ride, and stealth compensation which has caused, in large measure, the problems because accepted accounting practices, as we have seen, are significantly driven by the option accounting which allows options to be left off the financial statements as an expense, and, therefore, cashed in when those books of the company show great value, which is not reality, but nonetheless drives up stock prices—I want to say that I agree with the Senator from Arizona. Unless we address this issue, we are leaving a huge gap in our reform efforts.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the Senator from Maryland has tried now for several days to figure out a way to have

amendments. We have tried to negotiate. We have had those which have been arbitrated. We have had some cajoling. We have had a little bit of begging. We have gotten nowhere. But the rules of the Senate are the rules of the Senate. Therefore, it would be contrary to my beliefs to have a special set of rules for the Senator from Arizona, as well intentioned as his amendment may be.

I have had phone calls. I have had personal visits from at least 15 Democratic Senators saying they have amendments that they believe in very strongly. They and their staffs have worked on some of these amendments for months. They are not going to be able to offer those amendments.

Mr. GRAMM. There are 58 Democratic amendments.

Mr. REID. So it would be totally unfair to have a nongermane amendment that would be available for us postcloture. That is why I object. If I had to do it again, I would do the same thing.

But let me say this. People can complain—and I have no problem with their doing so—that we have not been able to go through the relevant amendments, but this legislation that has been brought to us by the Banking Committee and has now been improved upon by the Judiciary Committee's amendment of Senator LEAHY is a very fine piece of legislation.

Let's not lose track of that. This is a very fine vehicle. Maybe we could do a better job—put some rearview mirrors on both sides of it, maybe improve the upholstery a little bit, but the legislation we have that will be voted on and approved by the Senate is very good.

The Public Company Accounting Reform and Investor Protection Act would establish the Public Company Accounting Oversight Board to set standards for auditing public companies.

It would inspect accounting firms. It would conduct investigations into possible violations of its rules and impose a full range of sanctions. It would restrict the nonaudit services a public accounting firm may provide to its clients that are public in nature. It would require a public accounting firm to rotate its lead partner and review partner on audits after 5 consecutive years of auditing a public company.

It would require chief executive officers and chief financial officers to certify the accuracy of financial statements and disclosures. It would require CEOs and CFOs to relinquish bonuses and other incentive-based compensation and profit on stock sales in the event of accounting restatements resulting from fraudulent noncompliance with Securities and Exchange Commission financial reporting requirements.

It would prohibit directors and executive officers from trading company stock during blackout periods. It would

require scheduled disclosures of adjustment statements. It would establish bright-line boundaries to prohibit stock analyst conflicts of interest.

It would authorize about \$300 million more than the President's budget for the SEC next year to enhance its investigation and enforcement capabilities.

I will not go through all the details of the amendment that has been approved by the Senate, offered by Senator LEAHY, making certain things criminal in nature and increasing the penalties.

This is a fine piece of legislation. But I do say this. The Senator from Maryland is in the Chamber. I am confident the Senator from Maryland would agree to a unanimous consent request that on relevant amendments, determined by the Parliamentarian, we have a half hour on each one, and as soon as the half hour is up, vote on them.

I ask the Senator from Maryland, you would agree to that, wouldn't you?

Mr. SARBANES. It would be one way of trying to deal with these amendments and dispose of them. A request of that sort ought to be carefully considered, certainly.

We have this problem. Members have amendments pending. We have been trying to move the amendments forward. We have not been able to do that. I know how frustrated they are. I share their frustration.

(Mrs. CARNAHAN assumed the chair.)

Mr. REID. But in spite of all this, I want the RECORD to be spread with the fact that we have a good piece of legislation. I would like, as I said before, to have some of the fancier upholstery—

Mr. SARBANES. If the Senator will yield, it is interesting, in the debate we just had, until the Senator from Michigan underscored the fact, it was not pointed out that we provide independent funding in this legislation for the Financial Accounting Standards Board, which has the responsibility of setting these accounting standards.

Their problem in the past has been that they are voluntarily funded from the industry. They have to go to them and beg for money in order to carry out their activities. And if the industry thinks they are going to do a ruling that is contrary to what they want, then they are not as willing to support their activity.

We eliminate that in this bill because we have a mandatory fee that must be paid by all issuers, and the Board will be funded out of that money. So that, in itself, is a very important and significant step in establishing the independence of the Accounting Standards Board.

Mr. REID. Madam President, I have spoken with the Presiding Officer and staff on several occasions. Yours is our next amendment in order. You have been waiting 2 days to have that amendment offered, a very important

amendment. And you are just one of several. You are fortunate in that you are the next one, if we can ever get to the next one.

I would ask my friend—

Mr. GRAMM. I have the next Republican amendment.

Mr. REID. We know we have to be burdened with a Republican amendment once in a while.

I say to my friend, would the Senator consider my proposal to have relevant amendments debated—and the relevancy would be determined by the Chair—for a half hour on each one of those and, at the end of the half hour, have a vote up-or-down on that amendment?

Mr. GRAMM. The Senator is already in a big fight with Senator MCCAIN. I do not know why he wants to try to pick one with other people.

Where we are is, we are going to cloture. And there are rules in the Senate. And postcloture, for an amendment, the ticket to get into the arena is it has to be germane, which means it must be directly related to a provision in the bill. It cannot amend the bill in more than one place. There is a certain set of rules.

If the Senator would indulge me a second, we have 36 Republicans who want to offer an amendment. My amendment is next on the list. I am the ranking member of this committee, and it appears I am not going to get an opportunity to offer an amendment. Now, I could cry and pout about it, but it would not change anything and would not change the world either. There are 58 Democrat amendments.

The point is, we all agree on one thing: Whether you like this bill or you do not like it, it is an important bill and we need to get on with it. We need to pass it. We need to go to conference. We need to work out an agreement with the House and with the White House. If we sat here and tried to do 36 Republican amendments and 58 Democrat amendments—and some of them having to do with things such as the Ninth Circuit Court of Appeals and bankruptcy law—we would literally spend 3 or 4 months. So there is no other alternative than following the rules of the Senate. And that is exactly what I want to do.

Mr. REID. Reclaiming the floor, I have always enjoyed the Texas drawl of my friend, the senior Senator from Texas. But even through the drawl, I understood that to be a no.

Mr. GRAMM. Yes. Yes, it was a no.

Mr. REID. My friend, the other Senator from Arizona, is on the floor. We are waiting for the Republican leader. I assume that will be soon.

I ask my friend from Wyoming, when the Republican leader does appear, if he would be kind enough to allow us to attempt to enter into an agreement.

I ask the Senator, if you see him come to the floor, would you be so kind

as to yield the floor for just a short time? It would be appreciated.

Mr. ENZI. I would be happy to interrupt my remarks at that time. I would hope my remarks would appear as uninterrupted.

Mr. REID. I would agree.

UNANIMOUS CONSENT REQUEST—
H.R. 5011

Mr. REID. Madam President, the Republican leader is on the floor. I will propound a unanimous consent request. This relates to H.R. 5011, the military construction appropriations bill.

I ask unanimous consent that a time to be determined by the majority leader, following consultation with the Republican leader, the Senate proceed to the consideration of Calendar No. 486, H.R. 5011, the military construction appropriations bill; and that it be considered under the following limitations: that immediately after the bill is reported, all after the enacting clause be stricken and the text of Calendar No. 479, S. 2709, the Senate committee-reported bill, be inserted in lieu thereof; that debate time on the bill and substitute amendment be limited to a total of 45 minutes, with an additional 20 minutes under the control of Senator MCCAIN; that the only other amendment in order be an amendment offered by Senators FEINSTEIN and HUTCHISON of Texas which is at the desk, with debate limited to 10 minutes on the Feinstein and Hutchison of Texas amendment; that upon the use or yielding back of time on the amendment, without further intervening action or debate, the Senate proceed to vote on adoption of the amendment; that all debate time not already identified in this agreement be equally divided and controlled between the Chair and ranking member of the subcommittee or their designee; that upon the disposition of the Feinstein-Hutchison amendment and the use or yielding back of the time, the substitute amendment, as amended, be agreed to; the bill, as amended, be read three times; that section 303 of the Congressional Budget Act be considered waived; and the Senate then vote on passage of the bill; that upon passage of the bill, the Senate insist on its amendment and then request a conference with the House on the disagreeing votes of the two Houses; and that the Chair be authorized to appoint conferees on the part of the Senate without further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Madam President, reserving the right to object, first, I would say that I am glad we have reached the point where we are prepared to start trying to move some appropriations bills. We are way late in the year. But ordinarily, we move anywhere from as

few as five to as many as nine in July. I hope we can begin to get on a roll here pretty soon on the appropriations bills because there are a lot of things we need to do, but there are a few things we must do. One of them is, we have to pass the bills to fund the Government for the next fiscal year, and the fiscal year ends the 1st of October.

I am glad this is being asked for consideration now. I want to thank the managers and both sides of the aisle for allowing time for Senator MCCAIN and others to review the managers' package. I understand that has been worked out and has been cleared. I think this is a good way to consider this legislation.

There may be objection, but I want the RECORD to reflect that I strongly support this unanimous consent request and I support this legislation. It is more than what the President asked for in this particular category, but it still has to go to conference. I hope that it can be worked out in such a way that it would be acceptable to the President.

There are those who are worried that any time a bill of this nature moves through the process, they lose an opportunity for critical matters to be considered. For instance, let me be specific, because I think Senator KYL may talk about this, there are those from the West and maybe other areas that have had fires in their States—we know some of those in Colorado, Arizona, and New Mexico—and floods, such as the one they have had in Texas. There has probably been well in excess of \$1 billion used, involved in fighting the fires. Now that is going to be needed to deal with the floods in Texas.

Those funds have been provided by transfer of funds from other accounts. One of two things is going to happen: We are going to replenish the funds taken from those accounts or those accounts are going to come up short. Understandably, the Senators from the States affected want to make sure there is going to be an opportunity for them to provide the funds that have been used or replace the funds that have been used to make sure money is there for upcoming needs.

I am sympathetic to that. I don't think this is the last train out of the Senate. If this bill moves, there will be another one, and hopefully we will be moving two or three appropriations bills every week.

There may be other considerations about what do we do if we don't get an agreement on the supplemental this week. I hope that within the next 24 hours something can be worked out on the supplemental appropriations bill, which, by the way, has been hanging around now for over 100 days, probably closer to 120 days by now. It is time to get an agreement. At some point, if we don't get the supplemental funds, we may wind up not having adequate

funds for our airport security workers, the Transportation Security Agency, and it will begin to affect the Defense Department. I hope we can get all of this worked out.

I am sympathetic to those worried about that and the fires. But I don't think that is justification for not moving forward on the military construction appropriations bill. I support this request. I want the RECORD to be clear about how I feel about the request and the legislation.

With that, I withdraw my reservation.

The PRESIDING OFFICER. Is there objection?

The Senator from Nevada.

Mr. REID. Madam President, I know there is another reservation, but I just want to respond to the leader because I want him to be able to retire to his office when he feels necessary.

I had the opportunity to chair the Military Construction Subcommittee and worked as ranking member. It is an extremely important subcommittee for the military. With what has been going on in Afghanistan, it is compounded as to its importance. That is why the two Senators who run this committee, the Senators from California and Texas, Mrs. FEINSTEIN and Mrs. HUTCHISON, have worked so hard getting it in a posture that has been signed off by literally everyone, including Senator MCCAIN, who has reviewed the work done. They have done a wonderful job.

I would also say to my friend from Arizona, Nevada, last year and the year before, was scourged with terrible fires. We didn't have forest fires; we had range fires that burned millions of acres. We were able to get money to help replenish those rangelands so depleted as a result of the fires.

I have been here a long time. I never remember a time when we did not respond to take care of the needs caused by fires in this country. Most of the fires occur in the West. We have always handled that.

We have 12 other appropriations bills coming through here. With all due respect, I say to the junior Senator from Arizona, this is not the time to hold up this legislation. There are at least 12 other bills. We reported another one out of the committee today.

I would say to my friend, the Republican leader, I had the opportunity to speak to Senator BYRD a short time ago. There is hope that the supplemental conference will be completed tomorrow. Great progress is being made. I hope we can move forward on this bill. This is so important that we get it out of here and get it to the House.

I have no doubt, as tight as money is, that we will take care of the fire needs of the western part of the United States. We always take care of emergency needs, whether it is fire or flood. We will do so in the future.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, I object, and I would like to explain the reason why. I concur with the comments Senator LOTT has made about the importance of moving this legislation forward. I have conferred with the ranking member of the committee, the Senator from Texas, who makes a strong case that the legislation has been carefully crafted, and it is important to move it forward. I totally concur with her on that.

I also have no problem with the way in which the unanimous consent agreement has been constructed in terms of moving forward as soon as it is possible to do so. I have no objection to any of that.

I do simply want to, as the minority leader said, preserve the option of dealing with the subject of the recent floods and droughts on this appropriation bill. The reason is as follows: The ranking member of the committee, the chairman of the Appropriations Committee, and the ranking member of the Energy and Water Subcommittee are all meeting today with other people, including the Director of the OMB, the Senator from Texas, and others, to try to figure out the best way to deal with the new issue of the fire and flood and drought damages that have occurred in this country since the supplemental appropriations bill was put together.

My personal view is that the supplemental would probably be a preferable place to include the disaster relief to replenish the funds for the forest fires to the BIA and the Forest Service. There are those, however, who disagree. If the Director of OMB and chairman and ranking member of the Appropriations Committee believe that it is not appropriate to use the supplemental as the vehicle for doing that, then one of the other appropriations bills will be appropriate, and the first one before us is the military construction bill. That would be the next appropriate vehicle.

I am simply preserving their option to decide which is the best vehicle for moving this forward. The reason specifically for wanting to do it right now—in response to the Senator from Nevada, I am confident that we will deal with this issue because it has to be dealt with.

Here is the very practical problem. We have had about one-fourth of the entire budget of the Forest Service now consumed in fighting forest fires; whereas, ordinarily it is something like 4 percent of their budget, or something like that. So they have borrowed from other accounts in order to pay these firefighters.

The fires in Arizona cost almost \$50 million to fight. As a result, they have had to borrow that money from other accounts. The result of that is that right after the fire is over, before it is

even cool, they will not be able to go into the area of these fires and prevent the erosion that inevitably occurs as soon as the rains start, and now the rainy season is beginning, and the planting of the grasses and trees and so on that further inhibits that erosion. They literally want to go in as soon as they can after the fire to stabilize the ground. If they wait too long, it doesn't do any good. So they have to do that right away.

The problem is, they have spent all the money in the restoration accounts. The head of the Forest Service put a stop on the expenditure of any money that doesn't have to be spent almost on an emergency or daily operations basis. So right now, both the Department of the Interior and the Department of Agriculture are significantly precluded from doing the other things Congress mandated that they do.

We need to make sure they know they are going to have the funds to restore those accounts so they can get on with the jobs we have asked them to do; and, most importantly, in the very near term they can get into the area of these fires and begin the restoration that is essential in a timely fashion. That is why the first vehicle in terms of an appropriations bill that can be used should be used for this process—whether it is the supplemental or this appropriations bill.

There have been suggestions that the Interior Appropriations bill would be a better vehicle. From a purely substantive point of view, that is true, but that will not come before us for another month, or 6 weeks, or 2 months. That is, obviously, way too late.

That is the reason why we need to preserve this particular option. I hope we can move quickly to the consideration of the MILCON bill, both for the purpose of completing the work of the Senator from Texas, as well as the work we are talking about.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Madam President, I am the ranking member of the Military Construction Subcommittee. I have worked very hard with Senator FEINSTEIN, the chairman of that committee, to produce a bill that takes into account all of the priorities of the Department of Defense, the administration, and the Members' requests. I think we have done a good job. We didn't give every Member everything they asked for, of course, but I think we have done a terrific job in meeting the needs of the military and the requests of the administration.

We need to pass this bill. I appreciate the support of Senator LOTT, along with, of course, Senator REID and Senator DASCHLE and Senator FEINSTEIN, that we need to move this forward. However, I wanted to say that although Senator KYL has objected—and I disagree with his decision to do so—I un-

derstand his frustration, and Senator REID said he understands his frustration. We see it every night on the news—the fighting of these incredible fires, people being put out of their homes, ruining vast hundreds of thousands of acres of our forestland in this country, and we are running out of money.

I hope that people have also seen the floods in my home State of Texas. The Governor is now saying that the damage is estimated to be \$2 billion. It only happened last week, so I cannot tell you exactly what we are going to need to clean up the floods. But I know that the people are suffering. I am going to be there tomorrow with Joe Albaugh, head of FEMA, to look at the damage myself because I want to make sure we are doing the right thing for the people of Arizona, the people of Colorado, the people of New Mexico, the people of Idaho, and the people of Texas. We have always done that.

So I understand Senator KYL's frustration. I am sorry he is holding up this bill, but I am committed to seeking a vehicle for an amendment that would ensure that the money is there to fight the forest fires in this country and to clean up the flood damage that we see happening in Texas. We will do that. We will find the vehicle to do it. I commit that we will. We are not going to appropriate money that isn't needed. We are going to have a contingency appropriation so that if the money is needed, it is there.

We all want to be careful with taxpayer dollars, but there has never been an earthquake, or a flood, or a fire that we have not responded to as a country and said we are not going to let people suffer when they have nowhere to turn but to us. We will be there for them. So I am committed to trying to find the right vehicle. I want to make the decision now so we can get on with MILCON. If military construction is the right vehicle, let's put that emergency appropriation on military construction. I would prefer to see it on the supplemental appropriations on which we are having a conference tomorrow. I would like to put it there.

This is an emergency. We have had a change in circumstances since the President sent his request to Congress. It seems to me that it is common sense that we have had a change in circumstances that would warrant a change in the cap. That would be the preferred way to handle this emergency, which we all acknowledge we need to do. If we cannot do that, I want the commitment for Senator KYL, for Senator DOMENICI, for the Senator from Colorado, that we will handle this issue. So if it is not going to be on the supplemental, then I am willing to try to help them put it on military construction. If it is not military construction, then I don't think we will be handling any appropriations bills until

we get a commitment to address this issue.

I yield the floor to my colleague from New Mexico.

Mr. DOMENICI. I don't need the Senator to yield for a question, but I will talk for a moment. Sometime yesterday I raised this issue when most of the Republican Senators were in a meeting. It seemed, from the feedback, that most of them agreed with the comments that were made then. Essentially, we don't often have this situation, but what really happened—I used the word “yesterday”—the supplemental has been around here for so long that it has run into a new problem. It ran into the problem of forest fires—huge ones—and into flooding that has been described by those who come from States where flooding has occurred. But there is no question that the forest fires and the floods, because they came a long time after these urgent supplementals, should have cleared it.

In normal times you would be beyond the supplemental and you would be waiting for something else; but the supplemental bumped right into the fires and the floods, it took so long to get its rightful place here on the Senate floor. It didn't seem to be very urgent when it took 2 months to get done. But now we want to try to live by the facts the White House put into the budget before this new set of facts occurred. After that meeting yesterday, I was very pleased to note that the distinguished Republican leader joined with us and submitted to the White House, to the Budget Director for the executive branch the fact that this was going to happen sooner or later, that most of the people we had talked to and that he had talked to—and shortly thereafter we started talking with Democrats—that there was going to be substantial support, if not 100 percent.

So I am pleased that we are at a point where we are going to put this amendment on one of the bills.

I understand our distinguished ranking member of Appropriations has concurred with others and doesn't want it put on the supplemental. That is all right with me, provided we are standing in line with commitments from those who we need commitments from, that the fire and flood money will be on the next appropriations bill that comes by. Since I don't want to take additional time, I assume that is where we are.

I will ask the Senator from Nevada a question: Are we now at a point where we are going to decide on which appropriations bill we are going to be free to put the emergency language for the floods and the fires?

Mr. REID. I say to the distinguished senior Senator from New Mexico that we are trying to move these bills.

I cannot imagine that Senator BYRD and Senator STEVENS would have the

fire money in the military construction bill. We reported, as the Senator knows, another bill out of the committee, the legislative branch appropriations bill. There are other bills coming up. As the Senators from New Mexico and Arizona said, fire money should be in the supplemental, but it is not. I just do not think it is going to be in the military construction bill. That is why we should get it out of the Senate and get it to the President. There are some significant military needs that will be satisfied.

I say to my friend who is so aware of everything that goes on around here because of his position on the Appropriations Committee and the Budget Committee, I can never ever remember a time when we have not taken care of fire needs and the flood needs of this country, and we will do it this year also. If there needs to be another supplemental, we will do that, or if we have to put the money in the Interior appropriations bill or other bills, we will do that. I just do not think this is the vehicle on which to do it.

Mr. DOMENICI. Madam President, I said yesterday that I do not recall—I have been here a few years longer than the Senator from Nevada—a situation where we would not pay for an emergency of forest fires and the damages and costs that ensued.

Frankly, there are a lot of people in the West, particularly in Nevada and my State, who have seen these fires and now hear on the television that the Forest Service does not have money in its budget to pay for them. They do. They are borrowing from another account.

As the Senator said and I have said, they are going to get reimbursed shortly. The sooner we do it, the sooner we keep faith with the hundreds of thousands of people in Arizona, Nevada, Utah, New Mexico, and Colorado who have been watching. It would be good if it is sooner rather than later. While we are paying for many things, we should pay for their account also. I assume that is what you are going to try to do in the Senate.

Mr. REID. Yes, and I say to my friend, these moneys are so important to the people of our respective States, there is no question about that. I think it is a shame, for lack of a better description, that we do not have it in the supplemental. I repeat that. If there ever was an emergency, this is it. We have not budgeted for these moneys, and the fire that swept Arizona is 400,000 acres.

We had a fire in Nevada at Lake Tahoe—we are so thankful it did not ravage that basin—of only 1,000 acres. In the last 2 years, we have had over 2 million acres burn in Nevada, not forestland but rangeland.

We need to take care of this emergency. It should be done in the supplemental, but the majority leader, my-

self, and anyone on this side who has jurisdiction will do whatever we can to speed this up as quickly as possible.

Mr. DOMENICI. I thank the Senator. I say to those who want to make sure the supplemental not only passes but is signed, the Senator from New Mexico is on their side. I am with them. I am certainly not going to do anything to delay that, although it does seem strange to this Senator, an urgent supplemental, which is intended for urgent supplemental needs, would have to be isolated from this need because some kind of arrangement has been made. The arrangement comes very late, but it is an effort to get the bill done and to get the important parties to agree.

I yield the floor.

PUBLIC COMPANY ACCOUNTING REFORM AND INVESTOR PROTECTION ACT OF 2002—Continued

Mr. REID. Madam President, I ask unanimous consent that there be a vote immediately on or in relation to the Levin amendment, the second-degree amendment. Following disposition of that amendment, we vote immediately on the Edwards amendment; and following that, we vote on cloture, which motion was filed yesterday.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Reserving the right to object, I noticed the McCain amendment was not listed. Was that an inadvertent error or was it the intention to exclude that amendment which was offered after the two listed?

Mr. REID. The last two amendments offered were the Levin and Edwards amendments.

Mr. GRAMM. Madam President, I have to object.

The PRESIDING OFFICER. Objection is heard. The Senator from Texas.

Mr. GRAMM. Madam President, I ask unanimous consent that the vote on cloture occur immediately; that we proceed with the process of dealing with germane amendments; and that we set the time of 8 o'clock for all debate on the bill to end.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. I object.

The PRESIDING OFFICER. Objection is heard.

AMENDMENT NO. 4269

Mr. ENZI. Madam President, I do have to answer some of the questions. I am sorely disappointed that the Senator from Arizona left the floor. He asked some important questions. He has asked three questions about accounting. I don't get to answer questions about accounting very often. I was very excited about that.

Now, I do warn people who may be watching in their offices, or somewhere else, that accounting questions often put people to sleep. So it might not always be that exciting for them.

But I do have to say, from what we saw, there is no passion like the passion of a repentant sinner. This is not the first time somebody has said we are going to tell FASB what to do.

On May 4, 1994, the Senate said: We do not care what you said in your multiple pages of FASB rules, we are going to tell you what to do. And the vote was 88 to 9 the last time we interfered with FASB. I have to tell you, the Senator from Arizona was in the 88. He was one of the people who said: I know how to do this. I know how to do this better than FASB. So listen to me: I am going to vote my conscience on this and dictate how FASB is going to handle accounting on stock options.

If he and several other people had not voted to tell FASB what to do at that time, we wouldn't be having this discussion at all.

Now we have another amendment. It is very important to pay attention to the wording.

What I am trying to do is—as I mentioned, there is no passion like the passion of a repentant Senator—I am trying to keep people from sinning again. There are some very important reasons. We cannot take a complex situation such as stock options, which I think all of us can spell but for which not all of us can account, and put it into a simple little paragraph on how it should be handled. This amendment, which is just one sentence which makes up the whole paragraph, says:

Any corporation that grants a stock option to an officer employee to purchase a publicly traded security in the United States shall record the granting of the option as an expense in that corporation's income statement for the year in which the option is granted.

One of the problems we are having right now is investors are a little bit shaken because there are restatements of income being done. Not all restatements are because something was hidden. Some of those restatements are because of changes in rules. This will be one of the biggest changes in rules we have made in decades, and the way this is written, while it is intended to move to an expense system, does not really say that. It says that you have to expense it in that corporation's income statement for the year in which the option is granted.

There are a lot of options that are already granted. Some of them are outstanding maybe 25 years. It is more common that it be 2 or 3 years. The new stock options are done on a much shorter period of time. Even if it is just 2 or 3 years, what this amendment is saying is, redo your income statements and restate them for the last 3 years for all of your options that are outstanding. We did not make you do that before; now we want you to show a huge change or maybe just a small change, but at any rate a change, and every time a company announces a

change—and I have had some call and say: I am going to have to do a restatement and that restatement is going to be upward; you know what it is going to do to my stock; I am showing an increase in profit, and it is going to destroy me. All I can say is, it is the law; you have to restate.

This will cause the biggest restatement in the history of the United States, the way it is done. One cannot dictate in very simple language something that will take multiple pages to be able to explain and to allow reconciliation. If we listened to the explanation earlier, it sounds as if companies are writing this stuff off and nothing ever happens with it. That is not true. Every time there is an exercise, every time somebody trades their option for real stock, there is an accounting for it. At the end of each year there is a reconciliation for it to make sure the taxes are paid on the stock options that are exercised.

We heard something earlier about \$625 million that we are losing because of Enron. It is because they went bankrupt. It is not because they are not reconciling, because they are not paying taxes. They do not have anything with which to pay the taxes.

One of the problems with this bill is that we have gotten into a feeding frenzy. I think of Enron as this huge, dead carcass. In Wyoming, we have kind of a pecking order of feeding. There are the grizzly bears, there are the wolves, and there are the coyotes. Each of them come up and take their bite out of the carcass, but not until the previous one has finished, and that is kind of the way that we are handling this bill.

We have this huge carcass of Enron, and we are trying to figure out how to get rid of it and make sure we do not have any more carcasses. We have a bill that has the primary right to feed on it. Then we have the wolves, which are the germane amendments, that have the right to feed on it. Then we have the coyotes, which do not have any right until everything else is finished. Those are the nongermane amendments.

What we are trying to say is let us get this carcass finished off before we have a whole bunch more carcasses, before the stock market has more problems. They are a little bit worried about us working on this stuff at all, and if they see an amendment like this with the oversimplification being thrust on this legislative body to make a massive accounting decision, they ought to panic. We do not want that to happen.

There are a lot of reasons this amendment should not be passed should it ever come to a vote, and I hope everybody would do that. Now, I have an option I had drafted up. I have over 25 cosponsors from both sides of the aisle now. It deals with stock op-

tions. What it does is put it back on FASB to come up with a proper solution and gives them some guidelines to look at. That would be the way to handle a massive problem like this with a lot of detail for which none of us, including me, have the expertise.

I am kind of fascinated that Warren Buffett is the main authority on stock options these days. As I look at it, there are several camps of people that are opposed to stock options, not opposed to the accounting of stock options. They are flat out opposed to stock options. Warren Buffett is one of those. And that is because when stock options are exercised, it dilutes his stock. I think he probably has more stock than anybody else in the whole world, and I guess if I had more stock than anybody else in the whole world I would have gotten there by being sure that every single piece of that was accounted for. Unfortunately, that is not the case. But that would give one some compunction to make sure that none of it can be diluted, which is what stock options have the possibility of doing.

It is also based on the premise that the company is going to grow and expand, and that is why all of the people who are employees are willing to take stock options instead of hard cash. I think all of them would love to have hard cash as Berkshire is doing.

I suspect that the hard cash does not come to quite as much as the increase in value of the stock. So given an option between hard cash and potential in a company that you yourself can work in, you yourself believe in, you yourself know can grow, you want to participate in all of that economic growth. So stock options would be something that might lure you from another company, that might lure you into a startup company, that might lure your expertise to where you can make this company grow.

One of the questions that was asked was: If stock options are not a form of compensation, what are they? At the time they are granted, they are not anything. There is no assurance of them being worth anything. They are a potential liability, and there are some models for determining how to calculate that. They are very complicated. I am not even sure an accountant can handle all of those things. I think they have computer models now that are designed by engineers that go through this thing to calculate what that worth would be so they could put down some number on their balance sheet. Or they can use the other option, which is to disclose it in a footnote. If I wanted to devote more time to this, I would bring over a chart that shows the disclosure that is in the footnote.

So if people read the annual report of the corporation, they know what the potential dilution and value of those stock options are.

Then the next two questions are: If compensation is not an expense, then what is it? And if expenses should not go in this calculation, where should they go? Those are two questions built on a false premise. That is why it makes it difficult to answer the last two questions. If you answer the first one, the next two are not answerable.

Like I said, if I were one of those people such as Warren Buffett who wanted to do away with stock options, that is the attack I would take. I would appreciate it if they were a little more honest: We just want to do away with stock options.

There is another group of people who say all the stock options go to the top employees and consequently they do not want stock options either, but the honest part of that is that they do not want stock options either.

I heard all the references to the newspapers that say expense these things. Of course, I know that all the newspapers have all the technical expertise to make that kind of an evaluation. I say that facetiously, of course.

Senator SARBANES and I have been working on this accounting bill for months, and as we went through the hearings that he did with so much care, very carefully picking the people with the most expertise to be able to explain to us what went wrong in the Enron situation and what could be done in the future to prevent that sort of thing from happening again, it was very educational and he did a magnificent job.

While we were going through that process, I was keeping notes and he was keeping notes. I think everybody else in the Banking Committee was keeping notes. From those notes, several of us drafted up a bill. I noticed that an editorial in the Washington Post down near the end said something needed to be done, which all of us agree on, and then down at the end it says Senator ENZI's bill is a sham.

My first reaction was to get ahold of them and say: Can I talk to the accountant that looked at my bill? Well, the newspaper has journalists, not accountants. It might be a small flaw in expertise even on stock option expensing. I have not seen anything in there since I continued to work with Senator SARBANES, and some of the principles I had in mind were some of the same principles that he had, and those were easy to resolve. Some of the other ones that I had wound up in the bill and are in this bill that we have before us now. I have not seen any editorial that recognizes their expertise of that evaluation either.

There were comments about Chairman Greenspan, and I did read the speech he gave. As soon as I read the speech he gave, I wanted a little bit more information. So I asked if I could get together with him, and he was nice enough to come to my office. Through the discussion, which, again, was edu-

cational, I keep learning things every day. This is such a marvelous institution for education. One of the things he concluded with was to say: Yes, they should be expensed, but Congress should not decide how that is done. He was not in favor of us passing something that said how to handle stock options. I think he could see the wisdom or the folly, whichever way you want to consider it.

Now, one may have guessed that I am in opposition to the McCain amendment on expensing stock options. I think there are some other ways of doing it better. I think there are ways that it could actually be voted on by this group if it were done better. I do not think the one that is presented is the one that is votable, and I assume he will work with us and make some changes.

As we all know, Enron's executives and employees were issued numerous stock options. It is now clear that months before Enron filed for bankruptcy, executives were aware of the true condition of the company. They exercised millions of dollars of options. Enron employees kept in the dark on company finances are left with worthless Enron stock, and retirement savings, while some bad Enron executives absconded with stock openings. The financial fraud causing the collapse of Enron had nothing to do with the company's accounting procedures for stock options.

I appreciate my colleagues' effort to try to fix the problems posed by Enron, and perhaps WorldCom and Xerox and Global Crossing as we get into those. Congress must react to what happened with Enron, but it must be careful not to overreact. I have a principle with legislation having watched it for a long time: If it is worth reacting to, it is worth overreacting to. It goes back to the feeding frenzy on the huge carcass that is here—an overreaction, adding things to one up or outbid.

While legislation may be appropriate to ensure employees are protected and prevent future Enrons from occurring, we should not do anything to hamper rank-and-file employees from receiving stock in their company. A couple of years ago we passed a bill that went through both Houses by unanimous consent. That bill was so that the rank-and-file employees could get it without more difficult accounting. We said we want the rank-and-file folks to have it. We passed a bill by unanimous consent. That means everybody who was here at the time said yes, that is good, without any amendments. That is tough to do around here. It was a definite recognition we wanted all employees to have stock options. When properly used, stock options can be a marvelous opportunity for all of the employees.

In addition, as I mentioned, small businesses and startup companies must

continue to have an incentive to issue options, which is often their only means to attract qualified employees. I feel so strongly about protecting stock options for rank-and-file employees in small businesses that on April 18 of this year I testified before the Finance Committee against the legislation in this McCain amendment, although it had more detail to it so it made a little bit more sense. This was revised so it could perhaps meet the test of not being blue-slipped by the House because it has the potential for being a revenue issue.

I am against this amendment because it seriously hurts employees, small businesses, startup companies, and in general the high-tech industry and many listed corporations which employ thousands of employees. This legislation will not solve the problem of Enron, that dead carcass I referred to, or WorldCom, which is still out there kicking a little bit, Xerox, and perhaps failing dot-com companies, but instead it will create additional problems for the rank-and-file employees of the small and large corporations because they will no longer get the benefit of stock options. Why? Because companies will no longer have an incentive but, rather, a disincentive to grant them.

We have all heard that Federal Reserve Chairman Alan Greenspan and Warren Buffett support the purpose behind the McCain legislation because they believe stock options should be treated as compensation. Admittedly, they may at some point become compensation, but there is disagreement at what point that is. Even Chairman Greenspan admitted to me, as I mentioned earlier, that Congress should not legislate expensing but that the Federal Accounting Standards Board, or the FASB, should make such a determination.

This is not an easy determination, although in our discussions we make it sound like an easy determination. Concepts are much easier than the detail. That is what makes our legislating so difficult. We can all agree on huge concepts, but when you figure out the details of how you get to that, it becomes very difficult.

Secretary O'Neill disagrees that expensing of stock options is a solution and believes better disclosure provisions would cure the current problem with regard to stock options. The McCain-Levin bill is creating the same debate over expensing stock options on company financial statements that occurred a few years ago. At that time, the solution was to give companies the option of listing the number of stock options issued by a company in a footnote to the financial sheets or directly on its income or financial statements as an expense. Either way, investors and employees have the ability to see how much stock is outstanding before

they invest in the company or before they exercise their stock options. These footnotes provide a lot more information to shareholders or investors than you might imagine, or than the supporters of the McCain amendment would like you to believe.

Some would like you to believe the average person out there doesn't have the ability to read a footnote, let alone understand it. I think at any meeting of employees they would have people contesting that. They look at some of those annual reports, probably more so than some of the major investors. Some of it is difficult to understand. Financial literacy is difficult but very important when you are investing.

It was mentioned that Berkshire buys companies and switches to cash bonuses. It does not cause any problem. The problem is, except cash bonus, you lose your job. Now if they had the option between cash bonuses and a stock option, in a growing company, which would they take? It is hard to tell.

Rather than estimate the value of stock options and expense them on the balance sheets, the companies estimate them in a footnote using something called the Black-Scholes model. That is because they don't know what the future value of the stock will be when the option is actually exercised and sold. That is very important because I have seen a number of different proposals on this, and one of them, unless you expensed it and guess exactly what it was at the time you expensed it, you are not allowed to claim any additional expense. But they don't realize these things are reconciled so that there is a running value of actually expensed items.

Again, that gets into a lot of the accounting detail that would put people to sleep. I have some fascinating charts I would love to drag out, but I have already lost most of my audience so I won't do that. They use that model because they don't know what the future value of the stock will be when the stock option is actually exercised and sold. So they attempt to make an educated guess. Their footnote predicts what the expense might be and the diluted earnings per share for the outstanding stock.

Currently, most companies list the outstanding stock options as a note to their financial statements. Unlike Boeing, Microsoft, Winn Dixie, and a few other companies, most companies do not want to list the options as an expense on their financial statement because it creates a perception of a drop in value of the company, even though the stock options have not yet been exercised. In other words, there has been no expense yet and may not be an expense if the options are never exercised. Yet under the McCain amendment, companies must list these stock options as an actual expense to their company when granted. This would

mean taking the estimated value in a footnote and making it an expense to the company.

A problem with expensing early on, how do you value stock options which have been granted but not exercised or sold? Almost everyone believes the current practice of using the Black-Scholes method to value stock options as currently used on footnotes is fatally flawed. Under the McCain amendment, companies are going to now have to use this flawed model to make a guess at what the value of the options are to determine an expense to the company.

The tax consequences will also be based on this flawed estimate. But later, when some of the stock options are exercised and the value is different than estimated, this amendment provides no opportunity for a reconciliation of company records or taxes. That is kind of an accounting principle that there is supposed to be an explanation for how taxes match up with the books of the company. Yes, we do force different kinds of calculations for taxes than we do for the accounting that goes to the stockholders. But the accountants are able to draw the reconciliation, they are able to show how one number goes to another number. That is a requirement, as well.

Currently, when the estimates are placed in the footnote, they appear as what they are, a best guess at their value, with no effects on the company's books and no need for reconciliation of records later. Yet an investor can see what outstanding, possible estimated expense might occur to the company.

Another problem with the McCain amendment is it does not provide for a method of reconciliation if the stock options are never exercised. So what appeared as an expense may never happen, yet the value of that stock actually goes down instead of up. No one would buy the option and have it cost more than just going out and buying stock. So it is not exercised. So what appears as an expense may never happen, yet the financial statement prepared months before reflects an expense and a decrease in company profit that never occurred. Meanwhile, the current footnote method shows this estimate to investors as a worst case scenario of what could occur if all the options were exercised but no reconciliation were required.

As a result, the McCain amendment creates a disincentive for companies to issue stock options to those rank-and-file employees.

If this amendment becomes law, many companies will cut back on giving stock options to rank-and-file employees rather than list those options as an expense, and create a perception of a decrease in the value of a company when the stock options are not yet an expense and may never be exercised. This means employees will lose a valuable means of increasing their income.

But, these companies are not going to cease offering CEOs and senior executives this form of compensation—that is deferred compensation. Big companies will continue to issue stock options to attract the best talent to top levels of their companies, because this is the only way they can get the most talented management personnel. Despite what the media and supporters of this amendment want you to believe, stock options are not issued to just executives. In fact, those who claim only a small percentage of stock options are offered to rank-and-file companies are misguided. For example, Sun Microsystems, which has approximately 40,000 employees, distributed only 9 percent of its stock options to executives in 2000 and 2001. In contrast, distribution of stock options to employees who were not executives was a whopping 91 percent for both those years.

This is not an isolated example. In 1998, over 66 percent of large companies gave options to some portion of their non-executive workforce. Of this group, 26 percent granted options to all their workers and another 15 percent gave options to at least half of their employees. A 2000 survey of PricewaterhouseCoopers and the National Association of Stock Plan Professionals reported 44 percent of 345 large domestic companies with stock option plans made grants to all employees, including hourly employees. The San Francisco Chronicle reports that in the technology sector, this percentage is even higher. Of the top 100 e-commerce companies, 97 percent give options to all their employees.

The San Francisco Chronicle also points out that:

Ten years ago, about a million workers were in a few hundred employee stock programs around the country.

In 2001, that number had grown to 10 millions Americans receiving stock options. The National Center for Employee Ownership confirmed the trend is toward more non-managers receiving stock options. However, the Levin legislation will stop this trend by having a negative effect on companies which offer stock option compensation packages to their rank-and-file employees. The McCain/Levin Amendment will also hurt small businesses and start-up companies which cannot afford to offer the salaries larger companies give, so they offer stock options as an incentive to attract highly-skilled employees. And it works. They do not have the hard cash for bonuses, but they have stock options. In turn, employees that risk working for start-up companies have the ability to make much more money than through traditional methods of payment by salaries or wages.

The National Commission on Entrepreneurship points out that, without stock options, startup companies which are now household names, like Intel, Federal Express, Apple, Dell and

Starbuck, would not exist. In addition, the McCain-Levin bill will cause the whole tax structure to dramatically change. Currently, when stock options are granted or issued there is no tax consequence for either the employer or employee. But when stock options are exercised, the employees are taxed as if it is ordinary income. The income amount is based on the difference between the market price and the exercise price.

Of course, if it goes down and there are not stock options exercised, then there is no income tax because there is no gain.

I do have some charts, again, too, that show that the Federal Government does receive the taxes that are due, unless there is a bankruptcy.

At the same time, the employer can take a deduction based on the amount equal to what is considered income to the employees. For example, if the amount is \$25,000 worth of income to employees, the company may take a deduction based on the same amount, \$25,000, times its marginal tax rate. If the marginal tax rate is 35 percent, the company would have a tax savings of \$8,700. This deduction provides a useful incentive for a company to offer options to its rank-and-file employees. Unfortunately, the McCain-Levin bill will force companies to list the numbers of stock options issued as an expense on its financial statement before they can take the current tax deduction. And they way that this particular amendment is written, it will have to be a restatement for all the years for which there are stock options out. As I mentioned, this added expense to the financial statement alone is a disincentive for companies to issue stock options. In addition, under the McCain-Levin amendment, the tax treatment of the deduction totally changes, becoming much more complicated because it involves valuing stock that has never been exercised. The tax complexity created by this amendment is another disincentive for companies to issue stock options to rank-and-file employees.

Add to all of this, the fact that stock options are not all exercised at the same time. But that is the optional part of it. When you are given a stock option, you have the control over when you personally want to take the stock option or not take the stock option.

Then there are some other interesting amendments out there that could deal with stock options and whether lawyers could ever exercise them, or whether they would have to reinvest them—a lot of complications. But even assuming they are exercised at the same time, the McCain amendment imposes much more complexity to the current system.

Again, I have some charts that could show how all that complexity comes about, but it looks as if we are ready to

move on to another decision here so I will pass on that.

If I have confused anybody, I know that I have not confused them nearly as much as if I showed them how this actually worked. This is not easy stuff. I guess that is what keeps accountants in business. It really isn't all the taxes that people pay, although a lot of the revenue comes from figuring the taxes.

I do hear from accountants who say: You really need to simplify the system. Yes, I do hear from accountants that way—not just about this system but the tax system as well. There is plenty of work out there for them to do and not enough accountants, and there are less and less every day. However, I think I have made one thing crystal clear—99 Senators with no accounting degree, and 1 Senator with an accounting degree, have no business trying to rewrite the accounting methods of publicly listed companies. In other words, if you or your staff don't understand any of this, then you shouldn't vote for the McCain-Levin amendment. Instead, the Federal Accounting Standards Board, or even the Securities and Exchange Commission, have much more expertise to make these determinations. We can direct them to look at current accounting methods, rather than passing specific legislation on replacing the current system. We can direct them to look at possibly developing a better pricing model to value stock options than the Black Scholes method. We can ask it to look at possibly improving disclosure provisions to better inform investors, including using plain English and charts and graphs. We should direct them to create rules that continue to promote ownership of company stock by employees, rather than providing disincentives to companies in granting stock options. Let's let the entities with expertise study and recommend what will prevent future Enrons. Otherwise, we may create a remedy that is worse than the disease.

As mentioned before, I worked with Senator LIEBERMAN and Senator ALLEN and Senator BOXER and numerous other Senators to come up with an amendment that would give some direction to FASB. It would show them that we do want them to take a look at this, that it is a priority, and that we would like to have a solution as soon as possible, but not one that will destroy the entire market, not one that will require retroactive restatements for all of the companies to bring them up to a specific present point.

There will be companies that will choose to do that, but in the present atmosphere that could be very detrimental to the entire stock market. So I hope we will not try to go with something oversimplified as the McCain amendment is, and that we will take a look at making sure that options are treated properly, as we are trying to do

in this bill, with all accounting. We are trying to set up a mechanism—a mechanism, not specific language on accounting—a mechanism for determining proper accounting, and I think the bill before us does a good job of doing that. It sets up oversight for discipline and ethics. It will be the first time that we have had centralized any profession. But it will solve some problems, and it needs to be done quickly for the sake of the stock market. I am sure we will get to address this at a later time.

I heard the threat of the Senator from Arizona. I hope in the meantime that his threat will include a little rewrite that gives a little bit more latitude and puts the situation in the hands of the people who actually have some expertise on this.

I yield the floor.

Mr. LIEBERMAN. Mr. President, I want to talk briefly today about how America got caught in the current quicksand of corporate scandal and how we can help dig our economy out of it.

Our economy is in trouble today not because we have a shortage of parts, labor, or ingenuity, but because the American people have a shortage of confidence in the basic mechanics of the marketplace. Every new corporate scandal jostles our markets with the force of a jab or an uppercut. If the punches keep coming and we don't react, our economy will get even wobblier. It may even get knocked down.

Investors are shaken. They don't know what's real anymore. Trust has eroded. The stock exchanges are suffering. These are serious problems that demand a serious response, which is why I strongly support Senator SARBANES' legislation to reform accounting oversight and strengthen corporate accountability.

I welcome President Bush's voice to this discussion, and appreciated the principled remarks he made in New York on Tuesday. But the President's substantive proposals were late and they were limited. I regret that he still hasn't committed, and committed forcefully, to the meaningful, systemic reforms in the legislation before the Senate today. This is a responsive bill. It is a responsible bill. A vote for it is a strong vote of confidence in the American economy. And the President's failure to speak out in favor of it, in my view, sends the wrong message to our markets.

In the wake of Enron's collapse, I had hopes that self-regulation could heal many of the wounds inflicted on our markets and on our economy. I have called for the markets to toughen listing standards, and for companies to make ethics a front-burner issue, not a footnote. Many companies have made progress. The stock exchanges and other business groups have worked to

root out conflicts of interest and to demand more independent corporate oversight.

But the new revelations, which seem to come daily, have demonstrated that these problems go far beyond a bad company or two or three. We now have to ask not whether there are more scandals lurking in the fine print, but how many more are there? And we have to ask, what is it about the shape of the system that needs to be corrected to prevent similar debacles from happening again?

The system isn't broken, but it is strained. And we all now understand that self-regulation, as critical as it is, will not do enough to fix the damage.

The stakes are high. Over the last two decades we have witnessed an explosion in middle-class participation in the capital markets. A majority of Americans now have a direct stake in stock or mutual funds, usually, through their 401-k plans. Those American investors have discovered, through the painful shock of every new recent revelation, that the basic, traditional ethical values of small businesses, where you respect every dollar, pay back your investors, treat your employees well, and serve your customers honestly, are not always shared in the boardrooms of some large corporations.

Today and tomorrow, the American people deserve every confidence that their government is setting the highest standards of honesty, transparency, and accountability and enforcing those standards without hesitation.

That is why I strongly support Senator SARBANES' bill. It is a potent prescription for the serious ethical ills that ail our economy. The aim here is not just to penalize individuals when fraud happens; it is to prevent future economic catastrophes, to the degree that we can, and re-install confidence in the marketplace. I regret that after the collapse of Enron and the pretty pathetic parade that has followed of Global Crossings, Tycos, ImClones, and WorldComs, the President still hasn't awakened to the full scope of the problem or the need for a strong solution like that proposed by Senator SARBANES.

Gene Sperling, former Economic Adviser to President Clinton, put it well. After September 11, we all understood what was necessary to get people back in airports and on airplanes. Cracking down on hijackers with tough new criminal penalties wouldn't be enough. We knew that we needed to improve baggage and passenger screening, fortify cabin doors, and make a whole host of other changes that addressed the systemic problems that let the attacks happen in the first place.

The same is true here. If we want Americans to regain confidence in our economy and get back in the market, as they have gotten back in the skies, we need to not only get tough on of-

fenders, but to get tough on the structural problems that enable the offenses. That means closing loopholes and rooting out the endemic conflicts of interest that put even decent people in difficult if not untenable situations.

Senator SARBANES' bill would set up a strong, independent board to oversee accountants—a critical step that will give Americans reason to believe their numbers again. The President hasn't come out clearly in favor of that. The bill would restrict firms from doing both consulting and auditing for the same company in most cases, addressing what is a corrosive conflict in the system today. The President hasn't supported that as a law yet. The bill would also go further than the new NASD or NYSE rules to address the inherent conflicts of interest that currently prevent Wall Street analysts, who make the judgments so many Americans rely upon in making their investment decisions, from thoroughly and independently scrutinizing the companies they cover. In the hearings of the Senate Governmental Affairs Committee I chair, we discovered that those conflicts are real, deep, and widespread. Unfortunately, the President hasn't been strong enough or sharp enough on this issue. And the bill would require disclosure within 7 days anytime a corporate executive takes a loan from the company he is working for.

We in Washington cannot and should not pretend to be able to fix all these problems single-handedly, but we have an essential role to play. We must lead. And at the same time, we must take care not to let this turn into an anti-business crusade. I believe in American business. My father was a small business owner in Stamford, CT. Through hard work he bought a house, sent his kids to college, prepared for retirement, and bettered his community.

You cannot be pro-jobs and anti-business. You can't be pro-growth and anti-business. You can't be pro-opportunity and anti-business. Business has created our unprecedented prosperity, and business will continue to extend more and more opportunities to more and more Americans and people around the world. But not if we let this erosion of confidence, this rust of distrust, keep eating away at our markets.

American values are better than Enron's values. They're better than Global Crossing's values. They're better than WorldCom's values. And so is the American economy better and stronger than these companies' ethical and economic breaches of trust. This bill will point the way to both better ethics and better economics. It should become law.

Mr. FEINGOLD. Mr. President, I support S. 2673, the Public Company Accounting Reform and Investor Protection Act of 2002, and I commend Senator SARBANES for his efforts to

produce this measure. That it is needed is a sad commentary on the state of corporate finance, but it is also a reminder that free markets do not work well without a set of rules and regulations in which the marketplace can be confident. It is also a reminder that if government is to farm out the task of regulating corporate finance, then those entities that are designated to patrol corporate activities must also have the confidence of the marketplace.

The Enron and WorldCom disasters were notable but not isolated. Observers have noted the increase in corporate financial restatements in recent years. In testimony on this point, Robert Litan of the Brookings Institution reports that the number of American corporations whose earnings have been restated had been modestly rising throughout the 1990s, but then took a big jump in 1998 and hit a peak of over 200 in 1999. Many reasons have been offered for this development. Some point to the tying of executive compensation to stock performance. Others have noted the potential conflict of interest that arises when a firm provides both auditing and consulting services to the same firm. Both explanations have some merit.

And I will add to both of those reasons the enactment of a so-called securities reform measure in December of 1995, a law that made it more difficult for stockholders to hold corporations and accounting firms accountable for bad behavior. One newspaper has characterized that law as expanding "a climate that invites the kinds of securities and accounting abuses that investors and employees suffered in Enron's colossal collapse." In reviewing the history of that bill, the Washington Post reported that "accountants at what were then the Big Six firms lobbied aggressively for the measure, spending millions of dollars." The Post story also adds a foreboding note that "leaders of Arthur Andersen were so pleased with their efforts they encased the text of the new law in a paper-weight and handed it out as a souvenir."

The reforms we consider today are extremely modest, and I look forward to supporting amendments that will further strengthen this bill, including Senator Leahy's amendment that will strengthen enforcement and sanctions for securities fraud. That amendment passed unanimously out of the Judiciary Committee earlier this year. It creates new criminal laws for altering or shredding documents and provides tough new penalties specifically for securities fraud. It prevents wrongdoers from avoiding those monetary damages by filing for bankruptcy. It provides specific whistleblower protections for employees who provide information to Federal regulators or criminal investigator about corporate wrongdoing. And

it increases the statutes of limitation in securities fraud cases, responding to clear evidence that the shorter time limits put in place by the 1995 securities reform law have allowed wrongdoers to escape liability. These are necessary steps, and I applaud the chairman of the Judiciary Committee for bringing this amendment forward on this bill.

We should also consider other steps, if not on this bill then as part of another vehicle, to close down abusive tax shelters that encourage the kind of creative bookkeeping used by Enron, and to address the double standard of allowing certain forms of executive compensation to be deducted from taxes, while remaining hidden from investors.

All of these steps face opposition by interests who are more concerned with their own profits and survival than with the public interest. Unfortunately, these interests have held great sway over the Congress over the last decade, using soft money contributions and lobbying might to smother reform proposals before they could receive a fair hearing and action by the Congress. It is very unfortunate that the measures we are considering today were not enacted years ago. If they had been in place, thousands of employees might not have lost their jobs and millions of investors might not have lost their life savings.

Let us not forget that the central players in the scandals of the past year are not rogue companies operating at the fringe of American economic life. No, they are some of the biggest companies in the country, and they have been central players in a corrupt campaign finance system that this Congress finally started to address by passing the McCain-Feingold/Shays-Meehan bill a few months ago.

We have all heard of how Enron curried favor in Government. It gave a total of nearly \$3.7 million in soft money to the political parties from the 1992 election cycle through June 3 of this year according to Democracy 21. Arthur Anderson made about \$645,000 in soft money contributions during that period. Global Crossing gave just over \$3 million to the parties in soft money from the 1998 election cycle to the present. And WorldCom, whose failure has brought us to the point where we will actually pass these long needed reforms, has given over \$4 million in soft money, dating back to the 1992 cycle. Just in this cycle, with all its problems, WorldCom has already made \$400,000 in soft money contributions, according to the Center for Responsive Politics.

These are enormous sums. They show, frankly, that our political parties are among those who were unjustly enriched by these companies who cheated their shareholders and employees. I understand that some

contributions have been returned, but just as in the case of the employees who lost their jobs or the investors who lost their life savings, the damage has been done. The contributions had their intended effect when they were given.

As I mentioned before, and as we all know, Congress passed and the President signed a bill to ban soft money earlier this year. So these enormous soft money contributions should be a thing of the past starting in the next election cycle. Members of Congress will no longer be allowed to call up the CEOs of Enron, or Arthur Anderson, or Global Crossing or WorldCom, or any other corporation, and ask for enormous contributions for the political parties and then have to come back to this floor and vote on legislation that might affect their activities. At least that is what we intended. But in just the last few weeks, the Federal Election Commission has undermined the law that we passed after so many years of effort. The new regulations on our soft money ban that are about to be promulgated open enormous new loopholes in the law before it even goes into effect. If we want to remove the stain of soft money from the legislation we pass in this Congress, we cannot allow that to happen.

The sponsors of campaign finance reform intend to invoke the Congressional Review Act to overturn these regulations. That will send the FEC back to the drawing board to do the job of implementing the law right. Doing this is part and parcel of addressing the corporate scandals that have led to our work on the floor today on this important bill. Unless we defend the soft money ban, the influence of unscrupulous corporations on the Congress will continue, and we will find ourselves again in the situation of trying to explain to America why we didn't act to prevent further corporate and accounting scandals or other scandals before they happened.

According to Consumers Union, just over half of all U.S. households are investing in the stock market, many through their retirement savings. If the public is to have confidence in the financial markets, they must have a complete and honest accounting of the financial health of the firms in which they invest. This bill is a good starting place, and I look forward to supporting it. And I look forward to maintaining public confidence in the Bipartisan Campaign Reform Act of 2002 by overturning the FEC's loophole-ridden regulations before they take effect.

Mr. KYL. Mr. President, as Congress debates S. 2673, the Public Company Accounting Reform and Investor Protection Act of 2002, it is important to keep in mind certain facts: The United States of America is the most successful country in the world. No other country outworks, outproduces, or economically outperforms the United

States. Americans have much to be proud of and it is due to the vigor of our businesses, the entrepreneurial spirit of our citizens, and the willingness of both to take risks. For hundreds of years, people from every corner of the globe have chosen to come to our country and pursue what has become known to the world as the American Dream.

The American Dream can and should be available to all Americans who, with diligence, determination, and a sound moral compass, choose to pursue it. Unquestionably, our government has an important role to play in ensuring its viability. By the passage and enforcement of laws to protect Americans seeking to achieve success, lawmakers reaffirm that America's prosperity rests on the rule of law, on the existence of safeguards, checks, and balances to ensure that all compete fairly in the marketplace. These protections must be transparent and easy to understand. This is not only so that businesses and individuals can readily determine what distinguishes appropriate from inappropriate action, but so that all may have faith in the governmental bodies tasked with enforcing the rules.

The implosion of Enron, Global Crossing, WorldCom, and other public companies has caused widespread concern about the soundness of American businesses. Public confidence in corporate practices has been undermined, and serious questions have been raised about the accuracy of corporate audits and the integrity of auditors. Many Americans have become worried that neither internal corporate safeguards nor the government's financial oversight mechanisms are functioning properly.

I share these concerns and I am glad that the Senate is seeking to address them. All Americans have a stake in a healthy business climate, and we know that health depends on having an ethical business climate. While the past two decades have unleashed a tidal wave of entrepreneurship and successful business growth, we have also witnessed, most notably throughout the late 1990's, an "anything goes" relativism that has increasingly penetrated our corporate business and political culture.

We've always taught our children a moral principle well expressed by Macauley: that "The measure of a man's real character is what he would do if he knew he would never be found out." We do so because, as parents, we know that we cannot supervise our children forever. When they face, as they inevitably will, a choice between the easy road of cheating or the tough road of following the rules, we want them to choose right, not wrong.

Sadly, this lesson seems to have been forgotten lately. In the haze of morally gray areas, corporate executives have come right up against the limits of

what is acceptable behavior, and in several cases, have gone beyond it. What's worse, these companies' boards of directors have stood by in the face of wrongdoing, either unable to discover it or unwilling to rouse themselves to take corrective action.

I am very troubled by the inability of the markets to see through the phony numbers being generated by these enterprises. As a result, average investors no longer enjoy the protections put in place to ensure accountability and transparency. I agree with President Bush, who said that "to properly inform shareholders and the investing public we must adopt better standards of disclosure and accounting practices for all of corporate America."

Yesterday, President Bush outlined an aggressive plan to rejuvenate the mechanisms that ensure corporate responsibility. This plan will expose and punish acts of corruption, make corporate accounting standards more transparent, and protect small investors and pension holders. The President has urged Congress to adopt tough new criminal penalties and enforcement provisions in order to punish those who refuse to play by the rules and who choose to undermine the integrity of our financial markets.

The House of Representatives have already passed legislation addressing this slippage in corporate responsibility, while also permitting enough legal and regulatory flexibility to tackle future problems. Rather than seeking to provide a statutory answer for every current deficiency and every recent transgression, the House bill recognizes that this is a job for experts and gives the Securities and Exchange Commission the authority necessary to prevent future abuses.

By attempting to legislate detailed accounting standards, the bill before us puts Congress in the position of micromanaging details that we know less about than SEC experts. So, the legislation before the Senate represents a less workable approach than the President's proposal. Although I support its goals, particularly the need to improve the quality of independent audits and financial reporting and ensure meaningful accountability by executives of public companies, this bill has other specific problems.

For example, the Public Company Accounting Oversight Board, which would be created by the bill, would be allowed to begin proceedings against accounting firms without affording them the same due-process protections they would have in court. Their livelihood could be at stake. Certainly, bad actors should be held accountable for wrongdoing. But our system of justice has always had safeguards to protect the innocent; checks need to be in place to prevent the wielding of unbridled government power.

The bill would make accountants liable for not reporting "any material

noncompliance" with the law that auditors "should know" about. What does that mean? That standard is so vague that it is certain to invite a flood of litigation. Unfortunately, we have had some experience with frivolous lawsuits trumped up by trial lawyers over alleged securities violations.

Section 105 of the bill establishes liability for any "failure to supervise," another vague standard that is likely to invite litigation.

Again, let me say that bad actors must be held accountable for wrongdoing. But as we attempt to root out and punish the wrongdoers, we must be mindful of the impact legislation will have on the greater number of people who are acting in good faith. Setting up a system that is too costly to comply with, or one that even good people find too onerous to comply with, will ultimately harm the very people we are trying to protect—employees, retirees, and others who have invested in American corporations. If the liability potential is too great, it will be hard for many businesses to obtain accounting services at a reasonable cost.

Fortunately, we can still improve the bill in conference, before we send it to the President and he must decide whether to sign it.

And while we're at it, the Senate would be wise to look at its own financial practices. We, too, are accountable to the American people. The Budget Enforcement Act of 1974 requires Congress to approve a budget resolution on how much the government can spend each fiscal year. Yet, this year, the Majority has refused to bring a budget to the Senate floor. This is unprecedented and unacceptable. The majority is abrogating its duty to the Senate and the American people. Its stubborn refusal to do what is right, while the whole country watches, is indefensible. Its eagerness to hammer away at what are admittedly acts of wrongdoing in American business, while gliding over its own dereliction of duty in the same general area—is breathtakingly hypocritical.

So while we work to pass these important reforms, we must remember that, like the CEOs of public companies, we, too, have an ethical duty to protect and use wisely other people's money. I would remind my colleagues that it is thoroughly disingenuous to rise today to demand clean accounting practices by the private sector, while failing to ensure even basic general accounting standards for the federal government.

In closing, consider the thoughts of George Will on capitalism and ethics. Mr. Will wrote that a properly functioning free-market system is "a complex creation of laws and mores that guarantee, among much else, transparency, meaning a sufficient stream, a torrent, really, of reliable information about the condition and conduct of cor-

porations. By casting a cool eye on Enron's debris and those who made it, government can strengthen an economic system that depends on it."

I am confident that, despite these recent abuses of the public's trust, our economy and our system remain fundamentally sound and strong. The vast majority of businesspeople respect legal norms and live by them. We will make our free enterprise system better for them, and for all Americans, by penalizing those who did wrong and repairing creaky enforcement mechanisms. The President has acted. The House has acted. Now it is time for the Senate to act, to return trust, accountability and transparency to our financial institutions.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Nevada.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that there be a period for morning business with Senators allowed to speak therein for 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

DROUGHT

Mr. DOMENICI. Mr. President, I rise today to discuss the effects of a natural disaster that lingers across much of the west, drought. There is not a segment of the New Mexico population that will not be touched, in some form or fashion, by drought this year.

People in other parts of the country have turned on their television sets over the past few weeks and have seen the blazes of catastrophic wildfires that are again devastating the western United States. This may be the only effect of the drought that many are aware of. Let me tell you, the devastation is even more profound.

Ranchers are being forced to sell off livestock because they can't find enough water for them and can't afford the significant feed costs. Other agricultural businesses are being forced to shut their doors because the agriculture sector as a whole is hurting.

Most of the National Forests in New Mexico are closed to the public. This has added to a decrease in tourism. Let me mention a couple of specific examples. First of all, there is a small railroad, the historic Cumbres and Toltec Railroad, that takes people through a very beautiful part of the State. The railroad contributes to the tourism and economic stability of a very poor part of the State. That railroad has had to close because it runs through National Forest system lands and the fear that the railroad might spark and start a wildfire is a threat to imminent to risk. A second example is the river rafting operations that have been forced to cease operations because of

the drought conditions and lack of river flows.

Municipal and private wells are running dry. In the City of Santa Fe, emergency wells for municipal water use are needed because Santa Fe's water storage is at 18 percent capacity, the spring run off is only at 2 percent, and current wells are pumping 24 hours a day. The City of Santa Fe is at a Stage 3 water shortage emergency, which allows outdoor watering once a week, but the City Council is considering going to Stage 4, which would eliminate all outdoor watering. To put this in perspective, the last substantial rain for the area was in late January.

A recent article in the New York Times accurately depicts the dire situation. It talks about how gardening in a desert is challenging, especially during a drought and at a time of mandatory water restrictions. The article went on to talk about people spray painting plastic flowers and artificial turf, while also using freeze dried plants to beautify porches and other areas.

Santa Fe is only one of the numerous municipalities that have imposed restrictions on water use. The article also notes that these restrictions are enforced by "water police" and that violators face steep fines ranging from \$20 for a first offense to \$200 for a fourth offense and stay at \$200 for each repeat violation.

A second article appearing in the Albuquerque Journal, referenced a "drought reduction" cattle sale. The sale took place last week on the edge of the Navajo reservation. While most livestock sales generally take place on the reservation during September and October, this year emergency sales are being held almost every weekend. Hundreds of cattle, horses and sheep have already died as a result of the severe drought conditions.

The article goes on to describe the severity of the conditions. "Stock ponds have gone dry, fish have died in evaporating lakes, and grass has disappeared. Sand blows across reservation roads, and the stiff bodies of dead cattle litter the land."

The seriousness of the water situation in New Mexico becomes more acute every single day. I reiterate that every single New Mexican will feel the impact of this drought in one way or another—whether they are selling off the essence of their livelihood—livestock, or losing daily revenues in other small business, whether they are actually having to refrain from watering their own lawns and washing their cars to looking for alternative recreational opportunities this summer, the drought and its devastation is very real.

There is a need out west and I stand ready to do what I can. It will be a monumental and expensive challenge, but one we cannot avoid. I ask unani-

mous consent that the two articles referenced in my remarks be printed in the RECORD.

[From the New York Times, July 8, 2002]

IN SANTA FE, IT'S TIME TO PAINT THE PLANTS

Gardening in a desert is challenging. Gardening in a desert in a drought is tough. Gardening in a desert in a drought at a time of mandatory water restrictions is ridiculous.

It's enough to make a hard-core gardener break out the spray paint and feather dusters. Why? To brighten the artificial turf and plastic flowers, of course, and to keep the cobwebs off the freeze-dried evergreens.

"Isn't this a hoot?" said Kay Hendricks, a 70-year-old interior designer who cheerfully pointed out a now-dead wisteria vine as she stuffed a plastic sprig of purple lavender into a pot of freshly painted silk red flowers. "A little red paint will make any flower a geranium."

In a whirlwind tour of her home, Ms. Hendricks showed off a bouquet of what may have once been silk purple zinnias, now painted red to match an American flag hanging on her garage; a potted four-foot-tall plastic cactus with fake thorns; and English ivy with fake dewdrops draped from another pot.

With drought gripping several Western states this summer, Santa Fe is one of a number of municipalities that have instituted mandatory restrictions on lawn watering, car washing and other uses of water. The restrictions are enforced by "water police," who can impose steep fines and even decrease water flows to scofflaws' homes. Phone lines have been set up so people can report wasteful neighbors to city officials.

Fines for illegal watering here start at \$20 and go up to \$200 after the fourth offense, and then stay at \$200 for each repeated violation.

"There is a guilt to watering things," said Mary Thomas, manager of the American Country Collection furniture store in downtown Santa Fe. She used to plant colorful annuals in pots outside her store each spring, but now she has 18 freeze-dried miniature evergreens instead.

"They don't have to be watered and we can paint them if they lose their color," she said. Ms. Thomas said her parents liked the freeze-dried trees so much that they bought some for their own patio.

The city is at a Stage 3 water shortage emergency, which allows outdoor watering once a week, but the City Council is considering going to Stage 4, which would eliminate all outdoor watering. Reservoirs that the city relies on for water are at 23 percent of normal capacity, and the last substantial rain was in late January, said Chandra Marsh, a water conservation educator and compliance specialist with the City of Santa Fe Water Department.

Not every plant here is fake or dead. Established low-water perennials are surviving, and hollyhocks and lilies can be seen blooming here and there. But, Ms. Marsh said, it is difficult to establish many plants without regular watering.

It seems as if everyone in this town is either adding a few silk and plastic plants to their yards, or knows someone who is doing so while letting the grass die in the baking dry heat.

Mary Branham, 71, has switched from pots with nearly 200 red geraniums to all silk and plastic plants and flowers this year. "It seemed irresponsible even when we can water once a week," she said. Ms. Branham's terra cotta pots now have blue hydrangeas, orna-

mental grasses, orange marigolds and pink and purple lilacs "planted" in the soil.

She said she now dusts her flowers twice a week.

[From the Albuquerque Journal, July 7, 2002]

IT'S LIKE THE SAHARA

(By Leslie Linthicum)

Life-draining drought drives ranchers on Navajo reservation to sell off gaunt livestock.

About 200 people filled the stands of the Naschitti Livestock Association arena on the eastern edge of the Navajo reservation last week, waiting for the start of what was being billed as a "drought reduction" cattle sale.

Livestock auctions usually take place on the reservation in September and October, when sheep and cattle are fat.

But this is a year when the reservation is baking in one of the worst droughts anyone can remember, and hundreds of cattle, horses and sheep have already died. This year, emergency sales have been cropping up almost every weekend.

In a place where harmony is prized and people live close to the land, hot afternoon winds carry fear and uneasiness as the landscape becomes ever drier and prayers for rainfall go unanswered. Stock ponds have gone dry, fish have died in evaporating lakes, and grass has disappeared. Sand blows across reservation roads, and the stiff bodies of dead cattle litter the land.

"It's bad, really bad," said John Blueeyes, director of the tribe's agriculture department. "Mother Nature's not too nice to us lately."

Sagebrush turns black.

Livestock are not the only victims of the lingering drought.

Last week an elk cow wandered into The Gap, a community on the edge of the Grand Canyon, desperate for water.

She jumped a fence and sought relief in a sewage lagoon, where she died and lay floating three days later.

Many Farms Lake on the Arizona side of the reservation usually spreads across about 1,500 acres, shimmering in the summer sun and inviting fishermen to try their luck catching bass and catfish.

With no water flowing in the creeks and washes that feed it, the lake has gone completely dry. It is now a 2½-square-mile, crackly graveyard for tens of thousands of fish.

At the base of Gray Mountain just east of the Grand Canyon, usually hardy sagebrush has turned black.

Elsewhere, sand blows across highways in a rippling reminder that rain is a distant memory. The last rain most people can remember was last October.

Last week on the two-lane highway that links Canyon de Chelly to Monument Valley a road that sees plenty of tourists' cars during the summer a front-end loader scooped buckets of sand into dump trucks bound for a construction site at a nearby community.

Chancellor Damon, a heavy equipment contractor from Window Rock, was doing the work under hire by the Bureau of Indian Affairs to keep the road safe from sand dunes that had been encroaching on the roadway since the spring.

"It's like the Sahara," Damon said. "It's just been windy, hot and dry."

Damon is a lifelong resident of the Navajo reservation and is accustomed to huge winter snows in the mountains that hug the New Mexico-Arizona border. Usually, a three-wheeler is needed to make it through the

snow. This year, passenger cars had no trouble.

"Almost no snow. No rain whatsoever, It's bad," Damon said.

Hardship bargains

Elderly women in velveteen blouses, ranchers in Wranglers and toddlers in pint-sized straw hats helped to fill the stands during a 100-degree afternoon at the livestock auction while a handful of Anglo ranchers from out of state lined the top row.

The Navajos, out of water and feed, had come to sell.

The cattlemen, fortunate to have rain and pasture grass in Nebraska and Louisiana, were looking for some hardship bargains.

First, the invocation in Dine, the native language of the Navajo: "Please give us rain. Please give us moisture. Let it be like it used to be grass green and high and rain every day."

As the auction rolled on under a sizzling sun, stunted calves and skinny cows were paraded in and sold.

Some were to be fattened up in greener pastures; others were bound directly for the slaughterhouse. Prices were moderate and, considering that the cost of hay to continue feeding the cows hovers between \$6 and \$11 a bale on the reservation the auction satisfied both the buyers and the sellers.

The Becenti family from Naschitti had brought 30 calves and cows to the auction. Three weeks ago they sold another group of 30 cattle and sheep at an auction in Aztec.

Ilene Becenti is reducing her herds by about 50 percent, banking the money from the sales and hoping to buy more animals once rains come.

Like the rest of the animals on sale at Naschitti, Becenti's animals are healthy; they are just much lighter than they should be at this time, and it is costing more to feed them as hay prices rise.

"There's no grass. It's completely dry," said Patricia Arviso, Becenti's niece and one of the many family members who look after the animals.

"When I was growing up," Arviso said, "it never looked like this."

Becenti is not in the ranching business to make money, and she did not consider only economics when she made the decision to sell.

"There's no rain, no grass. We don't want these animals to suffer," she said.

She will not, under the advice of some of the tribe's range management specialists, sell all of her animals and wait out the duration of this drought with no livestock.

"It makes you feel good if you have livestock around your house. It's how we were raised," Becenti said. "If you look outside your house and you don't see cows and sheep and goats and horses, it doesn't feel right. It's life to us."

Too many animals.

About 700 cattle and horses were sold at Naschitti, less than one-fifth of what the tribe's range management specialists and tribal president had been hoping for.

"We want people to sell," said Blueeyes, of the tribe's agriculture department.

Rather than use hay to feed cows that are old, sick or not reproducing, the agriculture department wants owners to thin their herds dramatically, keeping only young and healthy animals.

The drought has brought into sharper focus an issue that has troubled natural resource managers for a century: The Navajo reservation, with so much land and so little vegetation, is being eaten away by too many animals.

The reservation is immense some 25,000 square miles spread over northwestern New Mexico, northeastern Arizona and southeastern Utah. Range surveys have found large portions where overgrazing and drought have combined to kill grass. Without grass anchoring the soil, it blows away.

As early as 1930, a federal survey described the Navajo range as "deteriorating rather steadily and more rapidly each year." In 1933, tribal lawmakers approved a livestock reduction plan that, carried out over one traumatic decade, reduced the livestock on Navajo lands from 800,000 head to about 460,000.

Estimates of the number of sheep, cattle, goats and horses on the reservation today vary between 100,000 and 200,000.

They have symbolism that goes beyond their ability to provide meat and transportation. Sheep and goats are an integral part of family and ceremonial life; cattle are vital to the Indian cowboy tradition; and Navajo elders believe horses bring rain.

Last week Navajo President Kelsey Bagaye issued a statement to Navajos, imploring them to sell some of their animals.

"We need to help our Mother Earth recover so that it may yield and sustain green pastures again in the future when moisture comes to our land," Begaye said.

"Owning livestock," he said, "is more a privilege and gift than a right."

Grazing reforms have been suggested for years and never enacted. Blueeyes expects Navajos will haul water and buy hay for their animals and wait for rain to make things better, but will not be open to discussions of limiting their herds so the land can heal.

"It is the Navajo sacred cow," said Blueeyes. "Nobody wants to talk about it."

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred September 19, 2000 in Cambridge, MA. A Muslim student, who was wearing a praying cap, was returning to his dorm from Islamic prayer when two white men with shaved heads attacked him. The men grabbed the student from behind and punched and kicked him. One of the perpetrators used a racial epithet during the beating. The victim required medical attention and received stitches for a wound to his head.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

HONORING THE COMPANY OF FIFERS AND DRUMMERS

• Mr. DODD. Madam President, I rise to recognize the outstanding contributions of The Company of Fifers and Drummers to the people of Connecticut and beyond. One of the largest organizations of its kind in the Western world, The Company has both increased awareness of fife and drum history and fostered communication amongst corps worldwide. I would like to take the opportunity to commend its hard work and numerous achievements over the years.

Rooted in early American musical tradition, The Company of Fifers and Drummers is a nonprofit organization founded in 1965. The historical significance of The Company is evidenced through the early establishment of various corps dating back to the 1760s and 1800s. Throughout its existence, The Company has broadened corps membership beyond Connecticut and New England to include an impressive 125 corps worldwide, including corps in Europe and along the Pacific coast. In addition to showcasing fife and drum music and history, The Company organizes all activities for member corps, both inside and outside the United States.

The efforts of The Company of Fifers and Drummers extends far beyond musical events and fellowship. The commitment of this organization to the art of fife and drum is also evidenced through its creation of the Museum of Fife and Drum in Ivoryton, CT. Since 1987, the museum has serviced the community by providing access to artifacts, including eighteenth and nineteenth century instruments and uniforms, a music and video library, as well as an extensive archives. The Company is certainly worthy of praise for its efforts in maintaining the only museum devoted to fife and drum to date.

As the fife and drum first appeared in the early colonies, The Company of Fifers and Drummers is a reminder of the importance of our history as Americans. While the drum arrived in America with the first English settlers, the fife was introduced in the colonies during the French and Indian War. By 1775, the year of the Lexington Alarm, most colonial regiments were comprised of fifers and drummers. The spirit of patriotism rooted in the Company is a great example for all Americans.

I am proud to honor The Company of Fifers and Drummers for its remarkable service and accomplishments over the past 30 years. My experience with The Company, most recently at the Eight Mile River Dedication Ceremony in East Haddam, CT, has proved both enlightening and inspiring. I wish to show my appreciation for its outstanding contributions to society, and

I wish The Company continued success in the future.●

CONGRATULATIONS TO LIEUTENANT COLONEL TIM JONES, BATTALION COMMANDER, U.S. ARMY

● Mr. MCCONNELL. Madam President, I rise today to pay tribute to Lieutenant Colonel, LTC, Timothy A. "Tim" Jones as he assumes command of the 9th Battalion, 101st Aviation Regiment, 101st Airborne/Air Assault Division, at Fort Campbell, KY. This well deserved honor is the latest achievement in a long and distinguished Army career that started with Tim's graduation in 1984 from the U.S. Military Academy at West Point, NY. After being commissioned as a Second Lieutenant, 2LT, in the brand new branch of Aviation, Tim returned to his home state of Alabama to complete rotary wing flight training at Fort Rucker. He then served in numerous positions including Company Commander with the 7th Infantry Division, Light, at Fort Ord, CA. His service at Ft. Ord was highlighted by his heroic actions in Panama during Operation Just Cause. He then served with the elite 160th Special Operations Aviation Regiment, also based at Ft. Campbell, KY. Only the "best of the best" in Army Aviation are invited to serve with the 160th, the "Nightstalkers." Most recently, Tim completed an overseas assignment in Korea, and now returns to the United States to provide the leadership and experience desperately needed by combat units such as the 9th Battalion. Please join me in congratulating the Army's newest battalion commander, LTC Tim Jones, as well as his family, including wife Theresa, daughter Megan, and sons John and Daniel on this latest achievement in a long and distinguished career in Army Aviation.●

TRIBUTE TO DR. ALBERT SOLNIT

● Mr. LIEBERMAN. Madam President, it is with sadness that I come to the floor today to note the untimely passing of a great man whose life and work in Connecticut have made my State, and our country, a better place, particularly for our children.

Dr. Albert Solnit, Chair of the Yale Child Study Center from 1966 to 1983 and Commissioner of Mental Health and Addiction Services for the State of Connecticut from 1991 to 2000, died tragically and suddenly on June 21, as a result of injuries sustained in a car accident earlier that day. This loss has compounded the mourning of the men and women of the Yale Child Study Center, who lost another former director in Donald Cohen last October.

Albert Solnit spent an entire lifetime serving his fellow human beings with great dedication, enthusiasm, and distinction. Having served in the U.S.

Army as a psychiatrist, Dr. Solnit arrived at Yale, my alma mater, in 1948, as a psychiatric resident. Two years later, he became the first trainee in child psychiatry ever at the Child Study Center. In another 2 years, he joined the faculty of the Center. And by 1964, he was a full professor there. With years of diverse training in medicine, pediatrics, anatomy, and communicable diseases and a passionate commitment to bettering the lives of children of Connecticut, Dr. Solnit became director of the Child Study Center in 1966.

Every day, Dr. Solnit would arrive at the Yale Child Study Center long before his colleagues. He would work late into the evening. He didn't have to; after all, he was the boss. But he did, because he had a tireless work ethic and a clear vision of how his effort could better the world.

Even if I had an hour or two here on the floor, I could not catalogue Dr. Solnit's accomplishments in full. So let me focus briefly on what were his deepest interests: assisting children caught in complicated custody situations, children being adopted, or children committed to the well-intentioned, though often challenging, foster care system of my state. Dr. Solnit didn't simply observe and dissect problems with the status quo; he corrected them. He helped set the standards for how the legal system would work with child development experts on behalf of children. In the late 1960s, he worked with the state government to develop a new department of juvenile delinquency called the Department of Children and Youth Services, and to build a separate State psychiatric hospital that would treat only children, and treat them with special focus and care.

He wrote two books, "In the Best Interests of the Child" and "Beyond the Best Interests of the Child," that are known as classics in the field of child mental health.

This man was always taking his vast range of knowledge and figuring out how best to apply it to touch the lives of others. He was always mentoring his colleagues. He was always nurturing children. It is with sorrow that I mourn his sudden death, and it is with far greater pride, respect, and love that I pay tribute today to the life of inspiration that Dr. Al Solnit gave to us all.

I extend my deepest condolences to his colleagues at the Child Study Center, to his wife Martha, and to his children David, Ruth, Ben, and Aaron—and their families.

And I ask that the following obituary, written by Dean David Kessler of the Yale School of Medicine, be printed into the RECORD, so that this man's life, a model to which we might all aspire, is remembered forever.

The obituary follows:

DEAR FACULTY, It is with great sadness that I write to inform you of yet another

deep and tragic loss of a member of the faculty and senior leadership of the Yale Child Study Center and Yale School of Medicine. Dr. Albert J. Solnit died on Friday evening, June 21st, as a result of injuries he sustained in an automobile accident earlier that day. His wife, Martha, was also involved in the accident and is in stable condition in the intensive care unit of Waterbury Hospital.

Dr. Solnit was chair of the Child Study Center from 1966 to 1983 and Commissioner of Mental Health and Addiction Services for the State of Connecticut from 1991 to 2000. He was also the Sterling Professor Emeritus of Pediatrics and Psychiatry in the Child Study Center. Named a Sterling Professor in 1970, he was the middle of three Sterling professors who led the Center. The most recent was Donald J. Cohen who succeeded Dr. Solnit as chairman of the Center in 1983, and who died last October.

Al arrived at Yale in 1948 as a psychiatric resident and in 1950 became the first trainee in child psychiatry in the Child Study Center. He was born in 1919 and grew up in Los Angeles, California, attended the University of California in Berkeley and San Francisco, and received his medical degree in 1943. After pediatric training in Long Island College Hospital, he entered the U.S. Army and served as a psychiatrist during his two-year commitment. He joined the faculty of the Child Study Center in 1952 and became a full professor in 1964. Like his predecessor, Al came to his leadership position at the Child Study Center with a broad background that also included a masters degree in anatomy and a year as a resident in communicable diseases. He also had begun psychoanalytic training in the New York Psychoanalytic Institute from which he graduated in 1955.

Al's tenure as chair of the Center was infused with his distinctive energy and broad vision, he was a man of remarkable stamina, arriving at Center long before his colleagues and continuing to work late into the evening, a characteristic that was enduring from his very first years at Yale through the day before this death. Long concerned for the needs for poor and underprivileged children, he had been working as consultant to various school districts and many child-serving such social agencies in the New Haven community and the state. In the late 60's, he worked with the state government of Connecticut to develop new department of juvenile delinquency, the Department of Children and Youth Services, and to build a separate state psychiatric hospital for children.

In his effort to bring the Center into the community, Al built bridges throughout the university and the city of New Haven. Among those initiatives was his collaborative work with the law school. Trained as a child and adult psychoanalyst he cared deeply for children caught in the turmoil of the foster care system, or complicated custody situations. With his close colleagues, Anna Freud and Joseph Goldstein, he set the standards for an informed, collaborative interface between the legal system and child development experts on behalf of children. His books, *In the Best Interests of the Child* and *Beyond the Best Interests of the Child*, are recognized classics in the field of child mental health. Throughout his career—even up to last week—he was regularly consulting with colleagues and trainees about how to think about complex questions of adoption, custody, and child placement. His perceptiveness in these often difficult areas was legendary and much respected by judges and child psychiatrists alike. Other of his scholarly contributions, set forth in seventeen

books and over two hundred papers and chapters, set the tone of the emerging field of child psychiatry.

Al maintained strong and close ties to pediatrics and to pediatricians. He established a long-standing collaborative group involving both child psychiatrists and practicing pediatricians that has met monthly for over forty years to discuss the common clinical ground between the two disciplines. He developed the concept of the "vulnerable child" that detailed the effects on parents and children of neonatal or very clearly serious illness or threatened illness. With his close colleagues, Sally Provence, Julius Richmond, and Irving Harris, Al also began the organization Zero To Three that defined the field of infant psychiatry.

Al was a recognized and prodigious leader in the world of child mental health and child psychoanalysis. He was president of the American Psychoanalytic Association from 1970 to 1971; of the American Academy of Child and Adolescent Psychiatry from 1971-73; and of the International Association of Child and Adolescent Psychiatry and Allied Professions from 1974-76. In the latter organization, he remained an active, contributing member of the leadership and was intimately involved just this past week in developing a new training agenda to bring international child mental health scholars together. He was editor of the *Psychoanalytic Study of the Child*, a position he assumed in 1971 and through which he turned the journal into one of the leading publications in the field. Al was an international leader in psychoanalysis. He was actively involved with the Yale Press and with the Muriel Gardiner Seminar for Psychoanalysis and the Humanities. Both of these efforts reflect Al's broad intellectual interests and his ability to span fields. He was an enduringly curious scholar and enjoyed most bringing individuals from different disciplines together to encourage cross-talk and interdisciplinary understanding. He was masterful in his ability to detect even the faintest possibility of common ground among apparently disparate points of view and for bringing these groups together.

Many individuals in the field of child psychiatry, and more broadly child mental health, attribute their careers to Al's ability to see their potential and make connections that put them in the right place at a critical time for their personal development. He worked often quietly behind the scenes to help young faculty members find sufficient help and resources to start their research or to feel sufficiently grounded so that they could flourish. He stayed in touch with his patients for years, long after they were adults and parents, even grandparents, themselves and he never ceased to be their physician, always available and sensitive to their needs.

Though an emeritus professor, Al Solnit was by no means retired. He was mentoring, guiding, and caring every hour of the day. He was a vital, present member of the Child Study Center's leadership and carried the wisdom afforded by living the history of a place. His untimely, unexpected death cuts short a continuing vigorous life with mentoring and leadership yet to give.

I know you join me in extending sympathy to all of his colleagues in the Child Study Center and to his wife Martha, his children David, Ruth, Ben, Aaron, and their families.

Al Solnit was a vital citizen of this medical school and university. We shall miss him and do our best to carry out his constant imperative that there is always more to be

done on behalf of the world's children.—David Kessler, M.D., Dean, Yale School of Medicine.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting treaties and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:50 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3130. An act to provide for increasing the technically trained workforce in the United States.

H.R. 4481. An act to amend title 49, United States Code, relating to airport project streamlining, and for other purposes.

H.R. 4878. An act to provide for estimates and reports of improper payments by Federal agencies.

H.R. 5017. An act to amend the Temporary Emergency Wildfire Suppression Act to facilitate the ability of the Secretary of the Interior and the Secretary of Agriculture to enter into reciprocal agreements with foreign countries for the sharing of personnel to fight wildfires.

H.R. 5063. An act to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services.

At 2:14 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that it has passed the following bill, in which it requests the concurrence of the Senate.

H.R. 4635. An act to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3130. An act to provide for increasing the technically trained workforce in the United States; to the Committee on Health, Education, Labor, and Pensions.

H.R. 4481. An act to amend title 49, United States Code, relating to airport project

streamlining, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 4878. To provide for estimates and reports of improper payments by Federal agencies; to the Committee on Governmental Affairs.

H.R. 5063. An act to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services; to the Committee on Finance.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 4635. An act to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

H.R. 5017. An act to amend the Temporary Emergency Wildfire Suppression Act to facilitate the ability of the Secretary of the Interior and the Secretary of Agriculture to enter into reciprocal agreements with foreign countries for the sharing of personnel to fight wildfires.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, July 11, 2002, she had presented to the President of the United States the following enrolled bill:

S. 2594. An act to authorize the Secretary of the Treasury to purchase silver on the open market when the silver stockpile is depleted, to be used to mint coins.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-7802. A communication from the Administrator of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a violation of the Antideficiency Act; to the Committee on Appropriations.

EC-7803. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of a nomination confirmed for the position of Chair, Foreign Claims Settlement Commission, Department of Justice, received on June 26, 2002; to the Committee on the Judiciary.

EC-7804. A communication from the Director of Operations and Finance, American Battle Monument Commission, transmitting, pursuant to law, the Commission's report of its administration of the Freedom of Information Act for Fiscal Year 2001; to the Committee on the Judiciary.

EC-7805. A communication from the Secretary of the Interior, transmitting, pursuant to law, the Annual Report entitled "Outer Continental Shelf Lease Sales: Evaluation of Bidding Results" for Fiscal Year 2001; to the Committee on Energy and Natural Resources.

EC-7806. A communication from the Acting Director, Office of Regulatory Law, Veterans Benefits Administration, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule entitled "Information Collection Needed in VA's Flight-Training Programs" (RIN2900-AJ23) received on June 26, 2002; to the Committee on Veterans' Affairs.

EC-7807. A communication from the Managing Director, Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled "Office of Finance Board of Directors Meetings" (RIN3069-AB15) received on June 26, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-7808. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "National Flood Insurance Program (NFIP); Increased Rates for Flood Coverage" (RIN3067-AD27) received on June 26, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-7809. A communication from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Requirement that Brokers or Dealers in Securities Report Suspicious Transactions" (RIN1506-AA21) received on July 2, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-7810. A communication from the Deputy Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC-7811. A communication from the Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Research and Development Streamlined Contracting Procedures" (DFARS Case 2001-D002) received on June 26, 2002; to the Committee on Armed Services.

EC-7812. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "Amendment to the List of Proscribed Destinations" (22 CFR Part 126) received on June 26, 2002; to the Committee on Foreign Relations.

EC-7813. A communication from the Assistant Secretary for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC-7814. A communication from the Assistant Secretary for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC-7815. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Nectarines Grown in California; Decreased Assessment Rate" (Doc. No. FV02-916-2IFR) received on June 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7816. A communication from the Administrator, Fruit and Vegetable Programs, Research and Promotion Branch, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Rules of Practice" (Doc. No. AMS-02-001) received on June 26, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7817. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Raisins Produced from Grapes Grown in California; Additional Opportunity for Participation in 2002 Raisin Diversion Program" (Doc. No. FV02-989-5IFR) received on June 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7818. A communication from the Executive Vice President, Commodity Credit Corporation, Farms Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Dairy Recourse Loan Program" (RIN0560-AF41) received on June 26, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7819. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Vidalia Onions Grown in Georgia; Revision of Reporting and Assessment Requirements" (Doc. No. FV02-955-1 IFR) received on June 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7820. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary, Economic Policy, received on June 26, 2002; to the Committee on Finance.

EC-7821. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of the discontinuation of service in acting role and a nomination confirmed for the position of Assistant General Counsel (Treasury)/Chief Counsel, IRS, received on June 26, 2002; to the Committee on Finance.

EC-7822. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of the discontinuation of service in acting role and a nomination confirmed for the position of Chief Financial Officer, received on June 26, 2002; to the Committee on Finance.

EC-7823. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of the discontinuation of service in acting role and a nomination confirmed for the position of Assistant Secretary (Management), received on June 26, 2002; to the Committee on Finance.

EC-7824. A communication from the Chief of the Regulations Division, Bureau of Alcohol, Tobacco and Firearms, Treasury Department, transmitting, pursuant to law, the report of a rule entitled "Elimination of Application to Remove Tobacco Products from Manufacturer's Premises for Experimental Purposes" (RIN1512-AC32) received on June 26, 2002; to the Committee on Finance.

EC-7825. A communication from the Chairman, Medicare Payment Advisory Commission, transmitting, pursuant to law, a report regarding Medicare Beneficiaries' Access to Hospice; to the Committee on Finance.

EC-7826. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Health Reimbursement Arrangements" (Rev. Rul. 2002-41) received on June 26, 2002; to the Committee on Finance.

EC-7827. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule

entitled "Restorative Payments to Defined Contribution Plans" (Rev. Rul. 2002-45) received on June 26, 2002; to the Committee on Finance.

EC-7828. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Health Reimbursement Arrangements" (Notice 2002-45) received on June 26, 2002; to the Committee on Finance.

EC-7829. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Prohibited Transactions Excise Tax Computation" (Rev. Rul. 2002-43) received on June 26, 2002; to the Committee on Finance.

EC-7830. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "New York Liberty Zone Questions and Answers" (Notice 2002-42) received on June 26, 2002; to the Committee on Finance.

EC-7831. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates—July 2002" (Rev. Rul. 2002-40) received on June 26, 2002; to the Committee on Finance.

EC-7832. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Application of Employment Taxes to Statutory Stock Options" (Notice 2002-47) received on June 26, 2002; to the Committee on Finance.

EC-7833. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Update of Rev. Proc. 2001-17—Employee Plans Compliance Resolution System" (Rev. Proc. 2002-47) received on June 26, 2002; to the Committee on Finance.

EC-7834. A communication from the Regulations Coordinator, Center for Medicare Management, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of rule entitled "Medicare Program; Criteria for Submitting Supplemental Practice Expense Survey Data under the Physician Fee Schedule" (RIN0938-AL99) received on June 27, 2002; to the Committee on Finance.

EC-7835. A communication from the Acting General Counsel, Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, the report of a nomination for the position of Deputy Director for Demand Reduction, received on June 26, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-7836. A communication from the Deputy General Counsel, Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, the report of a change in previously submitted reported information and a nomination confirmed for the position of Deputy Director for Demand Reduction; to the Committee on Health, Education, Labor, and Pensions.

EC-7837. A communication from the Chairman of the Barry M. Goldwater Scholarship and Excellence in Education Foundation, transmitting, pursuant to law, the Annual Report regarding the activities of the Foundation; to the Committee on Health, Education, Labor, and Pensions.

EC-7838. A communication from the White House Liaison, Department of Education, Office of Postsecondary Education, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary, received on June 26, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-7839. A communication from the White House Liaison, Office of Postsecondary Education, Department of Education, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary, received on June 26, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-7840. A communication from the Assistant Secretary of Labor for Mine Safety and Health, transmitting, pursuant to law, the report of a rule entitled "Electric Motor-Driven Mine Equipment and Accessories and High-Voltage Longwall Equipment Standards for Underground Coal Mines" (RIN1219-AA75) received on June 26, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-7841. A communication from the Acting Assistant Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a nomination for the position of Chief Financial Officer, received on June 26, 2002; to the Committee on Environment and Public Works.

EC-7842. A communication from the Assistant Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a change in previously submitted reported information and a nomination for the position of Assistant Administrator for Enforcement and Compliance Assurance, received on June 26, 2002; to the Committee on Environment and Public Works.

EC-7843. A communication from the Assistant Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of the designation of acting officer for the position of Chief Financial Officer, received on June 26, 2002; to the Committee on Environment and Public Works.

EC-7844. A communication from the Director, Office of Congressional Affairs, Office of the Chief Financial Officer, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Revision of Fee Schedules; Fee Recovery for FY 2002" (RIN3150-AG95) received on June 26, 2002; to the Committee on Environment and Public Works.

EC-7845. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the monthly status report on the licensing activities and regulatory duties of the Commission; to the Committee on Environment and Public Works.

EC-7846. A communication from the District of Columbia Auditor, transmitting, a report entitled "City Charges DCPS Nearly \$1 Million in Utility Expenses That Should Have Been Charged To Other Entities"; to the Committee on Governmental Affairs.

EC-7847. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company CF6-80E1 Series Turbofan Engines" ((RIN2120-AA64)(2002-0273)) received on June 18, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7848. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation,

transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model AS350B, AS350B1, AS350B1, AS350B2, AS350B3, AS350BA, AS350C, AS350D, AS350D1, AS355E, AS355F, AS355F1, AS355F2, and AS355N Helicopters" ((RIN2120-AA64)(2002-0275)) received on June 18, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7849. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls Royce Corporation 250-C28 Series Engines" ((RIN2120-AA64)(2002-0274)) received on June 18, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7850. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Israel Aircraft Industries, Ltd. Model Galaxy Airplanes and Model Gulfstream 200 Series Airplanes" ((RIN2120-AA64)(2002-0272)) received on June 18, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7851. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Fokker Model F.28 Series Airplanes" ((RIN2120-AA64)(2002-0271)) received on June 18, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7852. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, correspondence with the Office of Management and Budget regarding H.R. 4466, the National Transportation Safety Board Reauthorization Act of 2002; to the Committee on Commerce, Science, and Transportation.

EC-7853. A communication from the Chairman of the National Transportation Safety Board, transmitting, a draft of proposed legislation entitled "National Transportation Safety Board Amendments Act of 2002"; to the Committee on Commerce, Science, and Transportation.

EC-7854. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Implement Amendment 3 to the Fishery Management Plan for the Golden Crab Fishery of the South Atlantic Region" (RIN0648-AO23) received on June 26, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7855. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Notice of Agency Action; Withdrawal of Proposed Rule" received on June 26, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7856. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska—Closes a Season Inshore Component Pacific Cod in the Western Regulatory Area, Gulf of Alaska" received on June 26, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7857. A communication from the Acting Director, Office of Sustainable Fisheries, Na-

tional Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska—Closes a Season Pacific Cod Fishing for Offshore Processing Component in the Western Regulatory Area, Gulf of Alaska" received on June 26, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7858. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Atlantic Herring Fishery; Closure of the Directed Fishery for Atlantic Herring for Management Area 1A" (ID041892A) received on June 26, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7859. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Closure of Directed Fishing for Rock Sole/Flathead Sole/Other Flatfish" by Vessels Using Trawl Gear in Bycatch Limitation Zone 1 (Zone 1) of the Bering Sea and Aleutian Islands Management Area (BSAI). This Action is Necessary to Prevent Exceeding the 2002 Bycatch Allowance of Red King Crab Specified for the Trawl Rock Sole/Flathead Sole/Other Flatfish Fishery Category in Zone 1" received on June 26, 2002; to the Committee on Commerce, Science, and Transportation.

EC-7860. A communication from the Deputy Assistant Director for Regulatory Programs, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; Western Pacific Pelagic Fisheries; Hawaii-Based Longline Restrictions and Seasonal Area Closure, and Sea Turtle and Sea Bird Mitigation Measures" (RIN0648-AP24) received on June 26, 2002; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DURBIN, from the Committee on Appropriations, without amendment:

S. 2720: An original bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107-209).

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment:

S. 812: A bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

John M. Rogers, of Kentucky, to be United States Circuit Judge for the Sixth Circuit.

Marcos D. Jimenez, of Florida, to be United States Attorney for the Southern District of Florida for the term of four years.

Miriam F. Miquelon, of Illinois, to be United States Attorney for the Southern District of Illinois.

James Robert Dougan, of Michigan, to be United States Marshal for the Western District of Michigan for the term of four years.

George Breffni Walsh, of Virginia, to be United States Marshal for the District of Columbia for the term of the District.

By Mr. KENNEDY for the Committee on Health, Education, Labor, and Pensions.

*Peter J. Hurtgen, of Maryland, to be Federal Mediation and Conciliation Director.

*Robert Davila, of New York, to be a Member of the National Council On Disability for a term expiring September 17, 2003.

*Earl A. Powell III, of Virginia, to be a Member of the National Council on the Arts for a term expiring September 3, 2006.

*Naomi Shihab Nye, of Texas, to be a Member of the National Council on the Humanities for a term expiring January 26, 2006.

*Michael Pack, of Maryland, to be a Member of the National Council on the Humanities for a term expiring January 26, 2004.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BURNS:

S. 2718. A bill to redesignate the position of the Secretary of the Navy as Secretary of the Navy and Marine Corps, and for other purposes; to the Committee on Armed Services.

By Mr. DOMENICI:

S. 2719. A bill to authorize the Secretary of the Army to carry out critical restoration projects along the Middle Rio Grande; to the Committee on Environment and Public Works.

By Mr. DURBIN:

S. 2720. An original bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. SARBANES (for himself, Mr. REED, Mr. SCHUMER, Mr. CARPER, Ms. STABENOW, Mr. CORZINE, and Mr. AKAKA):

S. 2721. A bill to improve the voucher rental assistance program under the United States Housing Act of 1937, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROCKEFELLER:

S. 2722. A bill to amend the Internal Revenue Code of 1986 to ensure the proper tax treatment of executives compensation, and for other purposes; to the Committee on Finance.

By Mr. LEAHY:

S. 2723. A bill to provide transitional housing assistance for victims of domestic violence; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. FEINSTEIN (for herself, Mr. FITZGERALD, Mr. HARKIN, Mr. LUGAR, Ms. CANTWELL, Mr. WYDEN, Mr. CORZINE, Mr. LEAHY, Mrs. BOXER, Mr. DURBIN, and Mr. NELSON of Nebraska):

S. 2724. A bill to provide regulatory oversight over energy trading markets and metals trading markets, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CORZINE (for himself and Mr. TORRICELLI):

S. 2725. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to restrict ocean dumping at the site off the coast of New Jersey, known as the "Historic Area Remediation Site", to dumping of dredged material that does not exceed polychlorinated biphenyls levels of 113 parts per billion; to the Committee on Environment and Public Works.

ADDITIONAL COSPONSORS

S. 847

At the request of Mr. DAYTON, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 847, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 995

At the request of Mr. AKAKA, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 995, a bill to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in non-disclosure policies, forms, and agreements that such policies, forms and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1298

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1298, a bill to amend title XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, and for other purposes.

S. 1394

At the request of Mr. ENSIGN, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 1394, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 1678

At the request of Mr. MCCAIN, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 1678, a bill to amend the

Internal Revenue Code of 1986 to provide that a member of the uniformed services or the Foreign Service shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

S. 1785

At the request of Mr. CLELAND, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1785, a bill to urge the President to establish the White House Commission on National Military Appreciation Month, and for other purposes.

S. 1924

At the request of Mr. LIEBERMAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1924, a bill to promote charitable giving, and for other purposes.

S. 1956

At the request of Mr. KOHL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1956, a bill to combat terrorism and defend the Nation against terrorist attacks, and for other purposes.

S. 2047

At the request of Mr. BREAUX, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 2047, a bill to amend the Internal Revenue Code of 1986 to allow distilled spirits wholesalers a credit against income tax for their cost of carrying Federal excise taxes prior to the sale of the product bearing the tax.

S. 2055

At the request of Ms. CANTWELL, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 2055, a bill to make grants to train sexual assault nurse examiners, law enforcement personnel, and first responders in the handling of sexual assault cases, to establish minimum standards for forensic evidence collection kits, to carry out DNA analyses of samples from crime scenes, and for other purposes.

S. 2059

At the request of Ms. MIKULSKI, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2059, a bill to amend the Public Health Service Act to provide for Alzheimer's disease research and demonstration grants.

S. 2119

At the request of Mr. GRASSLEY, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 2119, a bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of inverted corporate entities and of transactions with such entities, and for other purposes.

S. 2135

At the request of Mr. BAUCUS, the name of the Senator from Maryland

(Mr. SARBANES) was added as a cosponsor of S. 2135, a bill to amend title XVIII of the Social Security Act to provide for a 5-year extension of the authorization for appropriations for certain medicare rural grants.

S. 2395

At the request of Mr. BIDEN, the names of the Senator from Vermont (Mr. LEAHY), the Senator from California (Mrs. FEINSTEIN), the Senator from Ohio (Mr. DEWINE) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 2395, a bill to prevent and punish counterfeiting and copyright piracy, and for other purposes.

S. 2425

At the request of Mr. BAYH, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2425, a bill to prohibit United States assistance and commercial arms exports to countries and entities supporting international terrorism.

S. 2466

At the request of Mr. KERRY, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 2466, a bill to modify the contract consolidation requirements in the Small Business Act, and for other purposes.

S. 2480

At the request of Mr. LEAHY, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 2480, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.

S. 2489

At the request of Mrs. CLINTON, the names of the Senator from Virginia (Mr. WARNER), the Senator from Maine (Ms. COLLINS), and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 2489, a bill to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes.

S. 2498

At the request of Mr. BAUCUS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2498, a bill to amend the Internal Revenue Code of 1986 to require adequate disclosure of transactions which have a potential for tax avoidance or evasion, and for other purposes.

S. 2525

At the request of Mr. KERRY, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2525, a bill to amend the Foreign Assistance Act of 1961 to increase assistance for foreign countries seriously affected by HIV/AIDS, tuberculosis, and malaria, and for other purposes.

S. 2554

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 2554, a bill to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

S. 2622

At the request of Mr. HOLLINGS, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2622, a bill to authorize the President to posthumously award a gold medal on behalf of Congress to Joseph A. De Laine in recognition of his contributions to the Nation.

S. 2686

At the request of Mr. KERRY, his name was added as a cosponsor of S. 2686, a bill to strengthen national security by providing whistleblower protections to certain employees at airports, and for other purposes.

S. 2697

At the request of Mr. REID, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 2697, a bill to require the Secretary of the Interior to implement the final rule to phase out snowmobile use in Yellowstone National Park, John D. Rockefeller Jr. Memorial Parkway, and Grand Teton National Park, and snowplane use in Grand Teton National Park.

S.J. RES. 10

At the request of Mr. KENNEDY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S.J. Res. 10, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men.

S. RES. 266

At the request of Mr. ROBERTS, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. Res. 266, a resolution designating October 10, 2002, as "Put the Brakes on Fatalities Day."

S. CON. RES. 122

At the request of Ms. SNOWE, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Con. Res. 122, a concurrent resolution expressing the sense of Congress that security, reconciliation, and prosperity for all Cypriots can be best achieved within the context of membership in the European Union which will provide significant rights and obligations for all Cypriots, and for other purposes.

AMENDMENT NO. 4140

At the request of Mr. GRAHAM, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of amendment No. 4140 proposed to S. 2514, an original bill to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the De-

partment of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 4141

At the request of Mr. FRIST, his name was added as a cosponsor of amendment No. 4141 proposed to S. 2514, an original bill to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 2719. A bill to authorize the Secretary of the Army to carry out critical restoration projects along the Middle Rio Grande; to the Committee on Environment and Public Works.

Mr. DOMENICI. Madam President, great endeavors begin with a vision. Last fall, I joined the Middle Rio Grande Conservancy District and the Army Corps of Engineers in unveiling a vision that would rehabilitate and restore the Rio Grande Bosque in Albuquerque, NM.

Today, I rise to introduce a bill that will make that vision a reality. Since last fall, the Army Corps of Engineers has undertaken the task of conducting a feasibility study so that we might gain a better understanding of how best to rehabilitate and restore this beautiful Albuquerque green belt.

I remain grateful to each of the parties who have been involved with this idea since its inception. Each one contributes a very critical component. The Middle Rio Grande Conservancy District owns this vital part of the Bosque which runs from the National Hispanic Cultural Center north to the Paseo Del Norte bridge. The MRGCD has proven to be a valuable local partner in identifying areas for non-native species and other environmental restoration work. Additionally, MRGCD continues to work on the development and implementation of an educational campaign for local public schools on the importance of the Bosque. Finally, MRGCD has continually worked with all parties to provide options on how the Bosque can be preserved, protected and enjoyed by everyone.

Last year I committed to requesting the Army Corps of Engineers to develop a preliminary restoration plan for the Bosque along the Albuquerque corridor. I have done that and the plan is well underway. This bill that I introduce today is the next step in following through on this project.

Specifically, this bill authorizes \$75 million dollars to complete projects, activities, substantial ecosystem restoration, preservation, protection and

recreation along the Middle Rio Grande.

Having grown up in Albuquerque, the Bosque is something I treasure. I have been very involved in Bosque restoration since 1991 and I commend the Bosque Coalition for the work they have done, and will continue to do, all along the river.

This new vision, specific to the Albuquerque Corridor, builds on that idea and is a logical complement to these previous efforts as well as towards Bosque revitalization, restoration and recovery along the entire Rio Grande river.

This area was designated as a State park many years ago. As many of you know, this area has been overrun by non-native vegetation, peppered with graffiti, cluttered with trash and as we saw this past year, has become more susceptible to fire.

I want to ensure that the Albuquerque corridor, which is a unique and irreplaceable part of the desert Southwest's ecosystem, is preserved for generations to come. A healthy ecosystem is key to such things as the protection of threatened species and overall river flow.

We know that the river in this area is vital habitat for many species, including the endangered Rio Grande Silvery minnow. Efforts reducing non-native species, while protecting all from the possibility of devastating wildfire, will also improve the flow of the river and habitat for its many species.

At the same time, the Bosque is a natural green belt through Albuquerque. This area should be made beautiful and more accessible to the public for enjoyment.

I am grateful that all parties have come together and that I can be a part of making this vision a reality. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2719

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that—

(1) the Middle Rio Grande bosque is—

(A) a unique riparian forest located in Albuquerque, New Mexico;

(B) the largest continuous cottonwood forest in the Southwest;

(C) 1 of the oldest continuously inhabited areas in the United States;

(D) home to portions of 6 pueblos; and

(E) a critical flyway and wintering ground for migratory birds;

(2) the portion of the Middle Rio Grande adjacent to the Middle Rio Grande bosque provides water to many people in the State of New Mexico;

(3) the Middle Rio Grande bosque should be maintained in a manner that protects endangered species and the flow of the Middle Rio Grande while making the Middle Rio Grande bosque more accessible to the public;

(4) environmental restoration is an important part of the mission of the Corps of Engineers; and

(5) the Corps of Engineers should reestablish, where feasible, the hydrologic connection between the Middle Rio Grande and the Middle Rio Grande bosque to ensure the permanent healthy growth of vegetation native to the Middle Rio Grande bosque.

SEC. 2. DEFINITIONS.

In this Act:

(1) **CRITICAL RESTORATION PROJECT.**—The term “critical restoration project” means a project carried out under this Act that will produce, consistent with Federal programs, projects, and activities, immediate and substantial ecosystem restoration, preservation, recreation, and protection benefits.

(2) **MIDDLE RIO GRANDE.**—The term “Middle Rio Grande” means the portion of the Rio Grande from Cochiti Dam to the headwaters of Elephant Butte Dam, in the State of New Mexico.

(3) **SECRETARY.**—The term “Secretary” means the Secretary of the Army.

SEC. 3. MIDDLE RIO GRANDE RESTORATION.

(a) **CRITICAL RESTORATION PROJECTS.**—The Secretary shall carry out critical restoration projects along the Middle Rio Grande.

(b) **PROJECT SELECTION.**—

(1) **IN GENERAL.**—The Secretary may select critical restoration projects in the Middle Rio Grande based on feasibility studies.

(2) **USE OF EXISTING STUDIES AND PLANS.**—In carrying out subsection (a), the Secretary shall use, to the maximum extent practicable, studies and plans in existence on the date of enactment of this Act to identify the needs and priorities for critical restoration projects.

(c) **LOCAL PARTICIPATION.**—In carrying out this Act, the Secretary shall consult with, and consider the priorities of, public and private entities that are active in ecosystem restoration in the Rio Grande watershed, including entities that carry out activities under—

(1) the Middle Rio Grande Endangered Species Act Collaborative Program; and

(2) the Bosque Improvement Group of the Middle Rio Grande Bosque Initiative.

(d) **COST SHARING.**—

(1) **COST-SHARING AGREEMENT.**—Before carrying out any critical restoration project under this Act, the Secretary shall enter into an agreement with the non-Federal interests that shall require the non-Federal interests—

(A) to pay 25 percent of the total costs of the critical restoration project;

(B) to provide land, easements, rights-of-way, relocations, and dredged material disposal areas necessary to carry out the critical restoration project;

(C) to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs associated with the critical restoration project that are incurred after the date of enactment of this Act; and

(D) to hold the United States harmless from any claim or damage that may arise from carrying out the critical restoration project (other than any claim or damage that may arise from the negligence of the Federal Government or a contractor of the Federal Government).

(2) **RECREATIONAL FEATURES.**—

(A) **IN GENERAL.**—Any recreational features included as part of a critical restoration project shall comprise not more than 30 percent of the total project cost.

(B) **NON-FEDERAL FUNDING.**—The full cost of any recreational features included as part of a critical restoration project in excess of the

amount described in subparagraph (A) shall be paid by the non-Federal interests.

(3) **CREDIT.**—The non-Federal interests shall receive credit toward the non-Federal share for any design or construction activities carried out by the non-Federal interests before the date of execution of a cost-sharing agreement for a critical restoration project if the Secretary determines in the feasibility study for the critical restoration project that the activities are part of the critical restoration project.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act—

(1) \$10,000,000 for fiscal year 2003; and

(2) such sums as are necessary for each of fiscal years 2004 through 2012.

By Mr. SARBANES (for himself, Mr. REED, Mr. SCHUMER, Mr. CARPER, Ms. STABENOW, Mr. CORZINE, and Mr. AKAKA):

S. 2721. A bill to improve the voucher rental assistance program under the United States Housing Act of 1937, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SARBANES. Madam President, I come to the floor today to introduce the Housing Voucher Improvement Act of 2002. I am pleased that this legislation is being co-sponsored by a number of my colleagues on the Committee on Banking, Housing, and Urban Affairs: Senators REED, SCHUMER, CARPER, STABENOW, CORZINE, and AKAKA. This legislation will make important changes to the housing voucher program, a program that serves over 1.5 million low-income American families. These 1.5 million families are part of a growing number of people in this country who are unable to afford rising housing costs. As we learned in hearings before the Committee earlier this year, for too many people, the paycheck they bring home is too small to cover housing and other expenses. Low-income families are forced to live in crowded, unsafe conditions or forgo other necessities to make ends meet.

In order to ensure that families have decent, safe and affordable housing, the government provides assistance in a variety of ways including public housing, section 8 vouchers, FHA mortgage insurance, and homeless assistance programs. While we have provided funding for these programs over the years, more must be done. It is estimated that over 14 million working families in this country pay more than they can afford for housing. In addition, 1.7 million families live in substandard housing—housing that is unsafe or overcrowded. Homelessness continues to be a major problem, with approximately 2 million people experiencing homelessness at some point this year. These statistics show that millions of Americans are unable to afford the most basic of needs, housing.

The solution to the affordable housing crisis is not found in any one program or in any one policy. We must

work on a variety of fronts to combat this crisis. We must preserve the affordable housing that already exists; we must build new affordable housing; and, we must ensure that the housing programs we have in place work effectively to house families in need. The Housing Voucher Improvement Act is not intended to address all of these needs, but it is an important step forward in making sure that the voucher program works to provide the greatest range of housing opportunities to the lowest income Americans.

The bill I am introducing today is intended to work towards three objectives: ensuring that the voucher program works effectively and that all families receiving vouchers are able to find adequate housing; providing families with vouchers the widest range of possibilities as to where to live; and assisting families receiving housing assistance in attaining self-sufficiency.

The voucher program has provided millions of Americans with the opportunity to live in safe and decent homes. However, as housing markets tighten, families are finding it more difficult to use housing vouchers. This difficulty may result from a lack of rental housing, available housing being too expensive, or too few landlords who accept tenants with housing vouchers. The Housing Voucher Improvement Act will give local public housing authorities a number of tools to assist voucher holders in finding housing and to make the voucher program attractive to private market landlords.

To help people find decent and safe housing, this bill will give public housing agencies the flexibility to use a limited amount of their funds to provide search assistance to voucher holders. For many people who receive vouchers, additional assistance, such as housing counseling, transportation services, or security deposit funds may make the difference in finding a place to live. This bill will also increase housing opportunities for voucher holders by allowing public housing agencies to increase the amount that the voucher is worth where a significant number of families given vouchers are unable to find adequate housing. Provisions are also included in the bill to make it easier to use vouchers in housing developed with HOME funds or Low Income Housing Tax Credits. Ensuring that vouchers can be used in these developments will greatly expand housing opportunities for extremely low-income families.

In order to operate a successful program, enough apartments must be available for people with vouchers. Therefore, vouchers must be an attractive option for landlords. Towards that end, the Housing Voucher Improvement Act allows public housing agencies to use their funds to reach out to local property owners to increase landlord participation in the vouchers pro-

gram. It also scales penalties for inspection violations to the magnitude of the violation and helps guarantee timely payments to apartment owners by creating an incentive for housing authorities to use automatic payment systems for interested owners. This bill will also allow public housing authorities to streamline inspections while still ensuring that housing is decent, safe and sanitary. All of these provisions will make vouchers easier to use for private-market apartment owners.

This bill also creates a new use for vouchers, allowing housing authorities to couple a limited number of vouchers with housing being constructed with HOME dollars, tax credits, or other funds. These "thrifty vouchers" will cost less than regular vouchers, allowing more families to be served.

While most of this bill will help to expand housing opportunities for people searching for housing, one critical component of housing policy is self-sufficiency. Housing assistance is key in moving people from welfare to work. A stable home is needed for job stability. While this seems intuitive, I do not rely on intuition alone in making this assertion. Recent studies, including one done by the Manpower Demonstration Research Corporation, show that people receiving housing assistance are more successful in moving from welfare to work. They had higher wages and retained employment for longer periods of time. This bill strengthens the role that housing plays in self-sufficiency by providing greater opportunities for voucher holders to become involved in educational and employment programs. We also authorize welfare to work vouchers, which will strengthen relations between housing and welfare agencies. Given the role that housing assistance can play in promoting self-sufficiency, greater coordination between housing and welfare agencies makes good common sense.

I introduce this bill today with the hope that it will strengthen one of the most important federal housing programs. People given vouchers should be able to find adequate housing, and should have greater choices in where to live. And those families already receiving housing assistance should be able to access programs that will assist them in meeting their educational and employment goals. There is widespread consensus that the changes made in this bill will assist in these efforts. This bill is supported by a wide range of organizations including public housing agencies, industry groups, and advocacy organizations. The bill is strongly supported by the National Association of Housing and Redevelopment Officials, the Center on Budget and Policy Priorities, the Local Initiatives Support Corporation, the Enterprise Foundation, the National Low Income Housing Coalition, the National

Apartment Association, the National Affordable Housing Management Association and others.

I want to take a moment to thank my staff for their hard work on this bill, and I want to specifically thank Mary Grace Folwell, a fellow from the American Planning Association, who has been crucial in working on this legislation.

I urge my colleagues to support this critical legislation and to recognize the important role that housing assistance plays in the lives of millions of Americans.

Madam President, I ask unanimous that letters of support and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JULY 11, 2002.

Senator PAUL S. SARBANES,
Chairman, Senate Banking Housing and Urban Affairs, Washington, DC.

DEAR SENATOR SARBANES: We, the organizations signed below, are writing in support of the Housing Voucher Improvement Act of 2002. The Section 8 housing voucher program provides many low-income families with the means to find affordable housing. However, in many cities, suburbs, and rural housing markets around the country, vouchers are very difficult to use. In some markets, there is just not a lot of rental housing available, the available housing is too expensive, or there are too few landlords who accept tenants with Section 8 vouchers. This legislation is narrowly tailored to make vouchers more effective by giving PHAs various tools to assist voucher holders in finding housing and by making vouchers easier for private properly owners to use.

To make vouchers easier to use for private-market apartment owners, the Housing Voucher Improvement Act changes the unit inspection requirement to make it more time-efficient; scales penalties for inspection violations to the magnitude of the violation; and, to guarantee timely payments by the PHA, creates an incentive for PHAs to use automatic payment systems for interested owners.

To help PHAs deal with high-cost rental markets, the bill increases local flexibility in setting maximum rents. The legislation grants PHAs limited authority to increase their Fair Market Rents to a maximum of 120% of the area's fair market rent. Current law allows PHAs to use this maximum only after the waiver is granted by HUD. The bill also adds provisions to facilitate the use of vouchers in units in lower-poverty neighborhoods that are developed with HOME funds or Low Income Housing Tax Credits.

To help voucher-holders find housing, the bill authorizes PHAs to use existing funding to provide landlord outreach and education and apartment-search assistance to voucher-holders as well as assistance with security deposits, application fees and credit checks.

The bill gives local public housing authorities the option of turning a limited portion of its available vouchers into lower cost "thrifty vouchers," which can be attached to a new housing development or to a development this rehabilitated or preserved. Because the vouchers cost less than regular vouchers, a larger number of families can be served by the same level of funding. The bill also makes it easier to administer the

project-based component on the vouchers program and to attach vouchers to buildings in a range of neighborhoods.

Appropriately in this year of welfare reauthorization, the bill contains several provisions to promote employment among tenants of HUD's major rental assistance programs, including a 5-year authorization of Welfare-to-Work vouchers.

We thank you for your leadership on this issue and for your continued support of affordable housing programs.

Consortium for Citizens with Disabilities Housing Task Force, Center on Budget and Policy Priorities, Local Initiatives Support Corporation (LISC), National Apartment Association, National Association of Housing and Redevelopment Officials (NAHRO), National Coalition for the Homeless, National Housing Conference, National Housing Law Project, National Low Income Housing Coalition, National Multi Housing Council, The Enterprise Foundation, and Volunteers of America.

NATIONAL AFFORDABLE HOUSING
MANAGEMENT ASSOCIATION,
Alexandria, VA, July 11, 2002.

Hon. PAUL S. SARBANES,
Chairman, Senate Committee on Banking, Housing,
and Urban Affairs, Washington, DC.

DEAR CHAIRMAN SARBANES, The National Affordable Housing Management Association (NAHMA) is pleased to support provisions in the Housing Voucher Improvement Act which make the Section 8 voucher program more user-friendly for both tenants and landlords, improve administration, and address many problems which inhibit voucher utilization.

In recent years, the difficulty of satisfying the Section 8 regulatory burdens has created a strong disincentive for private landlords to accept the vouchers. The Housing Voucher Improvement Act makes several constructive reforms to the voucher program which address this reality. First, it makes the unit inspection requirement more time efficient. Likewise, it makes penalties for inspection violations commensurate with the severity of the violation. Furthermore, it will improve the timeliness of payments to landlords by creating an incentive for public housing authorities (PHAs) to use automatic payment systems.

This bill also addresses voucher utilization problems in high-cost areas by offering PHAs flexibility to establish maximum rents in high cost areas. By allowing PHAs to set the voucher payment standard at 120 percent of fair market rent (FMR), housing authorities will be able to automatically increase their payment standard to address market changes.

In short, NAHMA is pleased that you have offered legislation to improve Section 8 voucher utilization and increase housing opportunities for extremely low income families.

Sincerely,

GEORGE CARUSO,
Executive Director.

COUNCIL OF LARGE PUBLIC HOUSING
AUTHORITIES,
1250 EYE STREET NW, SUITE 901 A,
Washington, DC, June 27, 2002.

Hon. PAUL SARBANES,
Chair, Committee on Banking, Housing and
Urban Affairs, Washington, DC.

DEAR CHAIRMAN SARBANES: We write in support of your efforts to make Section 8 vouchers easier to use through the "Housing Voucher Improvement Act of 2002." In light

of the great need for more affordable housing opportunities and the difficulty many low-income families have encountered in utilizing the program due largely to rising costs in many markets, we agree that legislative changes are needed so that the program can be more effective in providing housing subsidy to low-income families. We very much appreciate the attention this legislation will bring to this important issue.

As a November 2001, HUD study shows, tight market conditions brought about by extremely low vacancy rates in many communities is biggest impediment to voucher holders succeeding in utilizing their subsidy. We support several provisions in the bill that would help address this problem, particularly the proposal to enable PHAs to increase payments to 120% of the payment standard without prior HUD approval. In addition, the sections which authorize a \$50 million Voucher Improvement Fund and provide some flexibility for PHAs to use voucher resources to pay for housing counseling, search assistance, and incentives to landlords will help voucher holders become more competitive in the market place. The proposed revisions to the current project-based Section 8 program will also assist PHAs that can better serve low-income families by increasing the supply of assisted units, instead of relying on exclusively on private market.

While we understand that this bill is designed to make only modest changes to the Section 8 program, it highlights the need for a more dramatic reform. Legislative changes over the years have addressed particular issues to help Section 8 keep pace with changing market conditions, however, some of these piecemeal modifications have added significantly to the program's complexity. Ultimately, we believe that local authorities need even more flexibility to make the most efficient use of Federal funding for housing in an ever-changing market place. Your bill is a step in that direction.

Again, we very much appreciate your staunch support of affordable housing programs and your efforts to increase Federal investment in this area. We look forward to our continued work with you and your dedicated staff to continue to make the Section 8 program work better for needy families.

Sincerely,

SUNIA ZATERMAN,
Executive Director.

SUMMARY OF THE HOUSING VOUCHER IMPROVEMENT ACT OF 2002

Section 1. Short Title.

Section 2. Purposes—(1) to ensure that the Section 8 program works effectively and all families receiving vouchers are able to find adequate housing; (2) to provide families with vouchers the widest range of possibilities as to where to live; and (3) to assist families receiving housing assistance in attaining self sufficiency through encouraging partnerships between housing authorities and welfare agencies.

Section 3. Authorize "Thrifty Vouchers" designed to make additional housing affordable to extremely low-income families.

Thrifty Vouchers (TVs) are intended to encourage the production or preservation of housing affordable to extremely low-income families. PHAs would be authorized to issue TVs out of their existing allocation of vouchers. In addition, Congress could appropriate additional incremental assistance for use as TVs.

TVs would cost less than regular vouchers because there would be no debt service included in the rent calculation for a TV unit.

Rents would be based on the operating costs of a development and would be capped at 75% of the FMR (unlike regular vouchers which are set between 90 and 110% of the FMR). Data indicate that 75% of FMR should be adequate in most places to cover the costs of operation of multifamily housing. The bill provides an exception to the 75% cap for PHAs that can demonstrate both that this cap could not support a reasonable operating cost of rental housing and a need for the production or preservation of affordable housing in the PHA's service area. Since these vouchers cost less than regular vouchers, PHAs could serve more families with the same amount of funding.

At the beginning of the development of a project, developers receiving tax credits, HOME funds, or other capital subsidies could link TVs to not more than 25% of the units in a development. The 25% cap is intended to prevent concentration of poverty. While tax credits and HOME are producing new rental housing, such housing is not affordable to extremely low income families without additional operating subsidies. A recent study done by HUD found that extremely low-income families living in HOME units who do not also receive vouchers, pay 69% of their income for rent. In some cases, residents use tenant-based vouchers to afford such units. However, linking TVs to a project would ensure that some of the units in a given project would be affordable to those most in need of housing.

This section makes TVs a subparagraph of the project-based voucher statute. This is in response to a concern expressed by HUD that they do not want to administer two separate programs. Thus, TVs would be counted against a PHA's 20% cap on project-based vouchers; however, new incremental assistance appropriated by Congress for use as TVs would not be counted against the 20% cap.

Several changes were made to the project-based voucher statute to make it easier for PHAs and private owners to administer these vouchers. The most significant include the expansion of the purpose of project-based vouchers to include the revitalization of low-income communities and the prevention of the displacement of extremely low-income families, and changes to the waiting list provisions to allow for separate project-based lists and to permit PHAs to allow owners to maintain their own waiting lists, subject to certain requirements.

Section 4. Providing assistance to voucher holders in their search for decent, safe and affordable housing.

1. Allow PHAs with unutilized Section 8 funds to use those funds on activities designed to assist families in finding housing. PHAs that have low utilization rates (they do not use all of their Section 8 funds to house families) will have unused Section 8 funds that could be made available to assist families in finding housing. This legislative change would allow PHAs to use 2% of the funds they receive under the voucher program to provide additional services to families searching for housing if they have a low voucher success rate and/or problems with concentration of voucher holders in high-poverty neighborhoods. PHAs could use funds for counseling, security deposits, application and credit check fees, and search assistance such as transportation services.

2. Allow PHAs that use all of their Section 8 funds to use up to one week of reserves on activities designed to assist families in finding housing. For PHAs that use all of their funds and whose families still face difficulties in funding adequate housing (a success

rate less than 80%), the bill allows PHAs to use up to one week of reserves to provide additional service to families searching for housing.

3. Create a Voucher Success Fund of \$50 million for PHAs that do not have unused funds, but still need additional resources to assist families in finding housing. These PHAs use almost all of their Section 8 funds, but families that receive vouchers still face difficulties in finding adequate housing. PHAs that use almost all of their Section 8 funds but have a success rate lower than 80% would apply to HUD for funds to help families find housing through counseling, security deposits, application and credit check fees, and search assistance such as transportation services.

Section 5. Expanding housing opportunities for voucher holders

1. All PHAs to set their voucher payment standard at 120% of FMR if they have had their payment standard set at 110% or above for the previous 6 months AND continue to have problems with utilization, success rates, or concentration of Section 8 units. Currently, PHAs may set their payment standard (which determines the amount the voucher is worth) between 90% and 110% of the Fair Market Rent. HUD can approve higher payment standards on a case by case basis. This change will allow housing authorities to automatically increase their payment standard to address market changes. Raising the payment standard will help ensure that more vouchers could be used in high cost areas.

2. Allow PHAs to pay 120% of FMR as the payment standard in individual cases for people with disabilities. People with disabilities may be limited in their housing opportunities, and their choices may be restricted based on special needs. This provision will allow housing authorities to pay up to 120% of the FMR as a reasonable accommodation for voucher holders with disabilities without prior HUD approval, and would authorize HUD approval for payment standards above 120%.

3. Allow PHAs to set higher payment standard for voucher used in Low Income Housing Tax Credit (LIHTC) developments. The LIHTC program provides substantial funding for low-income housing development. Though tax credit housing serves low-income people, these properties are not usually affordable to extremely low-income households (with incomes below 30% of the Area Median Income). One way to serve the poorest families in tax credit developments is to house families with vouchers. The recent increase in tax credits presents an opportunity to expand housing choice for even the lowest income families. In some areas, the tax credit units will have higher rents than are normally covered by a voucher. In 2000, Congress changed the project-based statute to allow project-based assistance to cover these higher rents so long as the LIHTC building was not in a high poverty census tract. This provision would make a similar change for vouchers.

4. Allow PHAs to pay up to their full payment standard for units in HOME developments. Currently, HOME units may only be rented up to the Fair Market Rent to voucher holders. This provision will allow a PHA to pay a rent at their regular payment standard, where above the FMR, in order to provide an incentive to HOME developments to seek out voucher holders as renters, only where the units are located outside of high-poverty areas.

5. Addressing Housing in the Consolidated Plan. Cities, counties and states that receive

Community Development Block Grant (CDBG) funds (known as "participating jurisdictions") are required to complete Consolidated Plans detailing the housing and community development needs in their jurisdictions. This provision of the bill makes the following changes to the Consolidated Plan requirements:

a. Include a requirement that the jurisdiction identify barriers to voucher utilization and potential solutions. This would ensure that entities other than the PHA (such as cities and counties) are aware of issues with voucher recipients and their ability to find housing. While no direct action would be required from the city or participating jurisdiction, they would be acknowledging the difficulties in using vouchers, and identifying the causes. This would hopefully lead to the jurisdiction deciding to take actions to alleviate the barriers where possible.

b. Include a requirement that the jurisdiction consider employment opportunities in determining the location of housing development. Housing opportunities close to employment opportunities and/or transportation are important to ensuring the success of low-income people in finding and retaining employment. This provision would ensure that jurisdictions are looking at location in determining where housing resources should be allocated.

c. Include a requirement that a participating jurisdiction must consult with social service agencies in certain aspects of planning for housing opportunities. When determining how to address affordable housing problems, housing planners and welfare administrators should be working together to help plan for people moving from welfare to work, and to help link people receiving housing assistance with welfare agencies and resources (and vice versa).

Section 6. Access to HOME and LIHTC developments

Require that HUD ensure that PHAs have a list of LIHTC and HOME developments to give to voucher holders. While LIHTC developments could provide housing opportunities to very poor families, and while LIHTC developments may not discriminate against voucher holders, there is almost no communication or coordination between PHAs and state HFAs, which operate the LIHTC program. This provision will require HUD to compile information on where tax credit and HOME developments are located and ensure that this information is readily available to PHAs. PHAs will be responsible to access such information and provide it to families searching for housing assistance with vouchers.

Section 7. Reallocation of vouchers. Currently, HUD allows PHAs to return unused vouchers to HUD. HUD published a notice (which has not yet been fully implemented) which requires that unused budget authority be recaptured from PHAs with low utilization rates (under 95% utilization). While HUD's notice describes how they will reallocate these vouchers, the reallocation is not structured in a way that ensures that communities do not lose needed vouchers. This provision will require that vouchers to be reallocated be distributed to one or more administrators in the region. HUD would, through a competition, designate such an administrator with Section 8 experience, which could be a PHA, a state or local agency, a non-profit, or a private entity. The administrator would receive all vouchers available for reallocation in its region and would be able to operate the vouchers on a regional basis, allowing and encouraging families to

live anywhere in the metropolitan area while still serving people on the original PHA's waiting list. The new administrator would have to reach certain levels of performance—in both success rates and utilization in order to retain the vouchers.

Section 8. Promoting Self-Sufficiency

1. Allow people who live in a project-based Section 8 housing to be eligible for Family Self Sufficiency activities. The Family Self Sufficiency (FSS) program provides services to assist families in public housing or those who receive vouchers in attaining educational and employment goals. This provision would also make residents of project-based Section 8 housing eligible for the FSS program. Under this provision, owners of project-based section 8 housing would be able to choose to operate their own FSS program, and if they opted not to provide such services, the PHA, at its discretion, could choose to serve such families in its FSS program. While this change will have some cost, it will be small, given that only a small percentage of families currently participate in FSS programs.

2. Allow Resident Opportunities and Self-Sufficiency (ROSS) funds to be used to serve Section 8 families. ROSS grants are given to PHAs and resident organizations to fund self-sufficiency activities. Currently, PHAs can only serve public housing residents with these funds, though the predecessor to ROSS allowed PHAs to serve Section 8 residents as well. This provision would permit PHAs to serve Section 8 tenants with ROSS funds, though it would leave the decision to each PHA to determine where funds are best used.

3. Incentives to Families to Increase Earnings. State and local welfare agencies have an enormous amount of flexibility in using their funds to help low-income families. In some cases, welfare agencies and housing authorities have worked together to use some of these funds to assist people receiving federal housing assistance. This section would ensure that payments made by welfare agencies (or other agencies) to help families with rental payments that have increased because of increased earnings, are deducted from the family's income when the PHA determines that family's share of rent. These provisions will create incentives for families to increase earnings and retain employment by allowing them to retain more of their income.

4. Authorize Welfare to Work Vouchers. In FY 1999, Congress authorized 50,000 Welfare to Work vouchers in an appropriations bill. The program has never been authorized and new vouchers have not been allocated beyond the initial 50,000. However, given that welfare will be reauthorized this year, the timing seems perfect to authorize this program, giving housing authorities additional incentives to collaborate with welfare agencies. In authorizing this program, we strengthen the requirements that PHAs work with welfare agencies in administering these vouchers. Recent studies show that housing assistance is critical in allowing people to retain employment, and these vouchers will help in this effort.

Section 9. Inspection of Units under Section 8. Currently, when a voucher holder wants to rent a unit, prior to the voucher holder moving in, and payments being made to an owner, the PHA must inspect that individual unit and any deficiencies must be repaired. Owners and PHAs agree that this is disincentive to owners participating in the program because of the amount of time it takes to lease-up the unit and receive payment. This provision will allow a PHA to begin payments to an owner prior to inspection of that particular unit so long as: (1) a

building inspection has been conducted by the PHA in the last 6 months; (2) a unit inspection is completed within 30 days; and (3) the PHA and the owner have an agreement that any repairs on the unit must be made within 30 days of the unit inspection. This section will also allow PHAs to annually inspect units within 3 months of the anniversary date of that unit entering the Section 8 program if they are conducting inspections on a geographical basis.

Current regulation allows PHAs to withhold their entire portion of a rent payment for an inspection violation, regardless of the magnitude of the violation. This provision would scale penalties for inspection violations to the severity of the violation—if a garbage disposal needs to be fixed the PHA payment will only be withheld to the extent that the garbage disposal would merit.

These changes will help to bring owners into the program while still ensuring that units meet HUD standards for being safe and decent.

Section 10. Automatic Payment Systems. Currently, some, but not all, PHAs use electronic fund transfers to pay Section 8 dwelling unit owners. This section would allow PHAs to use technical assistance funds and other means to establish electronic fund transfer systems for rental payments. Landlord participation is optional. Automatic payment systems would assist PHAs in making timely rent payments and thereby encourage owner participation in the Section 8 program.

Section 11. Enhanced Workers. To protect tenants from displacement, in 1999 Congress passed legislation creating “enhanced vouchers” for all tenants facing conversion of a project from project-based Section 8 to market-rate housing. In several respects, the law as passed and interpreted by HUD fails to clearly protect tenants as Congress intended. Some PHAs require existing tenants to go through an application process for enhanced vouchers, which occasionally results in a tenant being denied voucher benefits. To protect tenants, this section amends the existing statute to clarify that tenants cannot be required to go through the application process again to receive an enhanced voucher.

“Empty nesters,” elderly tenants whose household members have either moved or died, sometimes reside in units that are too large for their current family size under normal program and occupancy requirements. Likewise, growing families may reside in units that are too small under normal program and occupancy requirements. In both situations, these tenants could be displaced due to family/unit size mismatches. This section clarifies the current enhanced voucher statute to allow tenants with family size/unit mismatches to remain in the unit until an appropriately sized unit becomes available in the property.

By Mr. ROCKEFELLER:

S. 2722. A bill to amend the Internal Revenue Code of 1986 to ensure the proper tax treatment of executives compensation, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Madam President, the corporate accounting scandals that have unfolded over the previous few months have caused incalculable damage to the American economy. Millions of people have been harmed, among them some of our most vulnerable citizens, including retirees on fixed incomes and families who have

saved for years to educate their children or finally buy a home. Loss of confidence threatens our economy and diminishes hope for the millions who have lost their jobs in the last 18 months. And the cost of equity is rising, making it more difficult for the vast majority of honest and energetic entrepreneurs to turn their ideas into economic growth.

This is not a bubble bursting; it is, in great measure, the result of a considerable diminution of regulation at the behest of powerful lobbies, over the objections of many people.

Today, the Senate is debating the most effective way to restore balance between entrepreneurship and oversight, to ensure that corporate excesses do not again steal the savings of millions of people. The underlying Senate bill is based on accounting reforms and tougher enforcement. The Finance Committee is about to mark up its own bill dealing with diversification requirements, executive compensation, and notification and disclosure regarding 401(k) plans.

I fully support Senator SARBANES' bill and will support the Finance Committee proposal as well. And today I propose legislation that will complement my colleagues' efforts and help us move toward our goal of restoring confidence in American business and American businesspeople. Where legislation already under consideration focuses largely on oversight and punishment—two critical sides of the triangle—my bill attacks the incentives to cut corners or commit crimes in the arena of executive compensation.

This legislation will protect workers and shareholders as Congress carefully sorts through the appropriate measures.

Currently, Federal regulations permit a number of frankly sleazy accounting practices which allow corporations and their executives to take millions of dollars away from shareholders, creditors, and the Treasury, without any penalty at all. Some of the most obvious abuses aren't even crimes. My proposal will help to stop white collar crime before it is committed, by taking the common sense step of putting the lid on the cookie jar.

This bill will do four things: 1. Right now, corporations may transfer funds to an executive's deferred compensation account, giving that executive certain access to the money but potentially also removing it from the reach of shareholders and creditors. But since it is termed “deferred,” the executive pays no taxes. Currently, Section 132 of the Revenue Code prevents regulators from cracking down on this practice. My legislation gives Treasury the authority to examine the constructive receipt doctrine and close loopholes that allow inappropriate deferral of taxation. It also gives Treasury the au-

thority to act on situations where executive assets are supposedly subject to the claims of an employer's creditors, but in reality, are protected from legitimate claims. Either the individual must pay income tax, or the funds must be corporate assets subject to claims. They can't have it both ways.

2. Currently, corporations can give their senior executives massive loans, with no real expectation of repayment. These loans are effectively theft from the employees and shareholders, since they represent revenue given in compensation which will never be repaid, reinvested, or distributed as dividends. And they are theft from the Treasury as well; since they are accounted as loans, the recipient doesn't pay taxes on them. It's a tax-free performance bonus, often given—as we saw in the Adelphi and WorldCom cases—when the executive deserves more to be fired than to be paid. My legislation will make sure a loan is a loan: if a loan doesn't require security or have any enforceable repayment schedule, it's income and it will be taxed, just like the salaries of rank-and-file workers are taxed.

3. Right now, company employees may be unable to sell their stock while executives are dumping theirs and creating—as analysts take note and supply overwhelms demand—the kind of stock-price death spiral that took the life savings of thousands of Enron employees.

Back in the early 1980's, Congress responded to the trend of corporations providing their executives with “gold parachutes” with a 20 percent excise tax on those payments. I believe that the excise tax on golden parachutes should also be applied to the sales of corporate stock by corporate executives during periods when regular employees of the company are not able to freely sell their stock in their company retirement plans. This would be a temporary, six-month provision, to deter corporate executives from taking advantage of the existing uncertainty as Congress considers other possible reforms to encourage more equitable treatment of rank-and-file employees and corporate executives. And it will be a bridge from the current structure to one in which employees have the same ability to sell their stock as insiders have.

4. Additionally, my bill will prevent corporate executives from getting a free ride when their corporation moves offshore for tax avoidance purposes. Under current law, if an American corporation dissolves and is then reincorporated in a foreign country, shareholders of the corporation are required to pay capital gains on the “exchange” of their stock in the “old corporation” for stock in the “new corporation,” even though they never actually sell their stock. Meanwhile, corporate executives, who have engineered the

move offshore, are under no such obligation regarding stock options they receive as compensation. My bill would require executives to pay capital gains taxes on the "exchange" of their stock options when they move offshore to avoid taxation. I believe this provision will provide a much-needed disincentive to corporate executives seeking to avoid the reach of the IRS through corporate expatriation.

I agree with all those who would increase oversight and penalties, but I say, let's also look at first causes—the executive compensation funds. That's where some of the greatest opportunities for inappropriate, unfair, and unethical practices are—practices that disadvantage average workers and investors and are undermining confidence in America's capital markets. And it's time for that to change.

Finally, I am appalled at the problem of executives benefitting from what can only be considered excessive compensation arrangements in the waning days before bankruptcy of a failing corporation. I am looking for a way to prevent those arrangements in the final months before a corporation closes, and I hope to have a proposal ready for introduction soon.

By Mr. LEAHY:

S. 2723. A bill to provide transitional housing assistance for victims of domestic violence; to the Committee on Banking, Housing, and Urban Affairs.

Mr. LEAHY. Madam President, I am pleased to introduce the Transitional Housing Assistance for Victims of Domestic Violence Act of 2002 to provide grants for transitional housing and related services to people fleeing domestic violence situations.

I witnessed the devastating effects of domestic violence early in my career as the Vermont State's Attorney for Chittenden County. Today, a growing number of homeless individuals are women and children fleeing domestic violence. More than half the cities surveyed by the U.S. Conference of Mayors in 2000 cited domestic violence as a primary cause of homelessness. Shelters offer short-term assistance, but are overcrowded and unable to provide the support needed. Transitional housing allows women to bridge the gap between leaving a domestic violence situation and becoming fully self-sufficient.

A transitional housing grant program was last authorized for only one year as part of the reauthorization of the Violence Against Women Act in 2000. This program would have been administered through the Department of Health and Human Services and provided \$25 million in FY2001. Unfortunately, funds were never appropriated for the program, and the authorization has now expired.

The grant program established in the bill I am introducing today would be

administered through the Department of Justice, in consultation with the Departments of Health and Human Services and Housing and Urban Development. This program would have the benefit of a wide range of expertise in the three departments, and has enormous potential to improve people's lives.

This new grant program will make a big impact, in many areas of the country, availability of affordable housing is at an all-time low. There are many dedicated people working to provide victims of domestic violence with resources, such as Rose Pulliam of the Vermont Network Against Domestic Violence and Sexual Assault, but they can not work alone. We should all be concerned with providing victims of domestic violence a safe place to gain the skills and stability needed to make the transition to independence. This is an important component of reducing and preventing crimes that take place in domestic situations, ranging from assault and child abuse to homicide, and helping the victims of these crimes. I urge the Senate to take prompt action on this legislation.

By Mrs. FEINSTEIN (for herself, Mr. FITZGERALD, Mr. HARKIN, Mr. LUGAR, Ms. CANTWELL, Mr. WYDEN, Mr. CORZINE, Mr. LEAHY, Mrs. BOXER, Mr. DURBIN, and Mr. NELSON of Nebraska):

S. 2724. A bill to provide regulatory oversight over energy trading markets and metals trading markets, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mrs. FEINSTEIN. Madam President, I am very pleased to introduce this bill today along the Senator HARKIN and Senator LUGAR, chairman and ranking member of the Senate Agriculture Committee. Our bill is already co-sponsored by Senators FITZGERALD, CANTWELL, WYDEN, CORZINE, LEAHY, DURBIN, and BOXER.

The Senate Agriculture Committee held a hearing on this bill yesterday and I understand it is the intentions of the chairman and ranking member to try and have a bill that can be marked up before the recess.

The bill closes the loophole that was created when Congress passed the Commodity Futures Modernization Act in 2000 which exempted on-line energy and metals trading from regulatory oversight.

The bill is supported by: The New York Mercantile Exchange, The Pacific Exchange, Aquila Energy Corporation, Cambridge Energy Research Associates, Mid-America Energy Holding Company, Pacific Gas and Electric, Southern California Edison, Calpine, The Apache Corporation, The American Public Gas Association, The American Public Power Association, The Texas Independent Producers and

Royalty Association, The California Municipal Utilities Association, The Consumers Union, The Consumer Federation of America, The Derivatives Study Center, The National Rural Electric Cooperative Association U.S. PIRG, The Transmission Access Policy Study Group, The Sierra Club, and all four FERC Commissioners.

This bill could not be more timely in light of what we have learned about the energy sector in the past couple of months and the operations of these energy companies: 1. CMS Energy admitted that 80 percent of its trades were round trip or wash trades and were made simply to increase volume; 2. Reliant admitted to \$6.4 billion in wash trades from 1999–2001 which the company characterized as energy swaps; 3. Duke confessed to \$2 billion in wash trades and stated that \$650 million of these trades were executed on the Inter-Continental Exchange, ICE, and electronic trading facility exempt from CFTC oversight because of the Commodity Futures Modernization Act.

But electronic exchanges like ICE have no responsibility for trades or wash trades executed on its exchange and does not even have any responsibility for checking that a transaction has been executed. Thus, a company that wanted to manipulate prices or game the market would not have to even execute a single trade.

In the past year, 12 of the largest energy companies in the U.S. have lost about \$188 billion of capital, accounting for 71 percent of the market value. The credit ratings of several of those energy companies have been severely downgraded; some are at junk bond or near-junk bond status.

In May, 2000, a severe energy crisis began in California. Electricity that had typically sold for about \$30 a Megawatt hour all of a sudden started selling for 10 times that. This led to the bankruptcy of California's largest utility and the near-bankruptcy of California's second largest utility. It also resulted in overcharges of billions of dollars to California ratepayers and taxpayers.

In November, California encountered a natural gas crisis. Natural gas is the main cost component of electricity. At one point gas was selling for \$12 per decatherm in San Juan New Mexico and \$59 in Southern California when the cost to transport it was less than one dollar.

Just about the time Congress passed the Commodity Futures Modernization Act exempting electronic energy trading exchanges from oversight, the crisis began spreading to the other western states. For more than six months Oregon, Washington, and the other Western States experienced the same price spikes as California.

The entire crisis lasted for more than a year while energy companies like Reliant, Enron, Duke, Williams, and AES

enjoyed record revenues and profits. Obviously we are all a bit wiser today about energy markets and about wash trades in particular.

Wash trades or round trip trades involve two or more companies plotting together to execute offsetting trades. These trades would be illegal if they were done on NYMEX, the Chicago Merc, or the Pacific Exchange and those exchanges would have the responsibility to report it.

However, there is no such reporting or enforcement requirement on electronic exchanges because as I said before, the CFMA created a big loophole. This legislation would ensure that wash trades are subject to full CFTC oversight no matter where they are done.

And of course there is Enron which controlled a large share of the energy market while they engaged in activities that were downright illegal. Many of these activities could have been prevented or at least stopped if regulators simply had the proper authority and the will.

Let me recap what happened with the Commodity Futures Modernization Act. In November, 1999, the SEC, the Federal Reserve, the CFTC and the Department of Treasury produced a study titled *Over the Counter Derivative Markets and the Commodity Exchange Act*, A Report of the President's Working Group on Financial Markets.

It was signed by Federal Reserve Chairman Alan Greenspan, Secretary of Treasury Larry Summers, SEC Chairman Arthur Levitt and CFTC Chairman Bill Rainer.

The report said that the case had not been made that energy or other tangible commodities should be exempted from CFTC oversight. The report found that because of the immaturity of the energy market, the lack of liquidity in the market and finite supplies, in energy markets, energy markets were more susceptible to manipulation than the deep and liquid financial markets.

Recent history has certainly borne that to be correct; these commodities are more subject to manipulation!

On June 21, 2000 shortly after the President's Working Group issued its report, the Banking Committee and Agriculture Committee held a hearing on the Report and the Commodity Futures Modernization Act.

Let me read from that committee report:

The Commission has reservations about the bill's exclusions of Over the Counter (OTC) derivatives from the Commodities Exchange Act. On this point the bill diverges from the recommendations of the President's Working Group, which limited the proposed exclusions to financial derivatives. The Commission believes the distinction drawn by the Working Group between financial (non-tangible) and non-financial transactions was a sound one and respectfully urges the Committees to give weight to that distinction.

And the Senate Agriculture Committee marked up the Commodity Fu-

tures Modernization Act consistent with what was in the President's Working Group Report.

That version of the bill however, was not reflected in the final provision that passed Congress as part of a much bigger bill at the end of the 106th Congress.

I urge my colleagues in Congress to pass this legislation and fix this problem as soon as possible.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4209. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table.

SA 4210. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4211. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4212. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4213. Mr. GRAMM (for Mr. VOINOVICH (for himself and Mr. AKAKA)) submitted an amendment intended to be proposed by Mr. Gramm to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4214. Mr. DORGAN (for himself and Mr. WELLSTONE) submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4215. Mr. DORGAN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4216. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4217. Mr. DORGAN (for himself and Mr. McCAIN) submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4218. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4219. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4220. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4221. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4222. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4223. Mrs. CARNAHAN (for herself, Mr. KERRY, and Mr. DURBIN) submitted an amendment intended to be proposed by her to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4224. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4225. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4226. Mr. GRAMM (for himself, Mr. SANTORUM, and Mr. BOND) submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4227. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4228. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4229. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4230. Mr. SCHUMER (for himself and Mr. SHELBY) submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4231. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4232. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4233. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4234. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4235. Mr. ENZI (for Mr. LIEBERMAN (for himself, Mr. ENZI, Mrs. BOXER, Mr. ALLEN, Ms. CANTWELL, Mr. LOTT, Mr. BENNETT, Mr. WYDEN, Mrs. MURRAY, and Mr. BURNS)) submitted an amendment intended to be proposed by Mr. Enzi to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4236. Mr. CLELAND submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4237. Mr. BYRD (for himself and Mr. THOMPSON) submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4238. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4239. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4240. Mr. LIEBERMAN (for himself, Mr. ENZI, Mrs. BOXER, Mr. ALLEN, Ms. CANTWELL, Mr. BENNETT, Mr. WYDEN, Mr. LOTT, Mrs. MURRAY, Mr. BURNS, and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4241. Mr. LIEBERMAN (for himself, Mr. ENZI, Mrs. BOXER, Mr. ALLEN, Ms. CANTWELL, Mr. BENNETT, Mr. WYDEN, Mr. LOTT, Mrs. MURRAY, Mr. BURNS, and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4242. Mr. KENNEDY (for himself, Mr. REED, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4243. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4244. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4245. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4246. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4247. Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4248. Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4249. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4250. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4251. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4252. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4253. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4254. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4255. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4256. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4257. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4258. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4259. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4260. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4261. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4262. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4263. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4264. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4265. Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4266. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4267. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4268. Mr. SMITH, of Oregon submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4269. Mr. DASCHLE (for Mr. LEVIN (for himself, Mr. NELSON, of Florida, Mr. HARKIN, Mr. CORZINE, and Mr. BIDEN)) proposed an amendment to the bill S. 2673, supra.

SA 4270. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, supra.

SA 4271. Mr. REID (for Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE)) proposed an amendment to the bill S. 2673, supra.

SA 4272. Mr. REID (for Mr. LEVIN (for himself, Mr. NELSON, of Florida, Mr. HARKIN, Mr. CORZINE, and Mr. BIDEN)) proposed an amendment to amendment SA 4271 proposed by Mr. REID (for Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE)) to the bill (S. 2673) supra.

TEXT OF AMENDMENTS

SA 4209. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 16, beginning on line 8, strike "Two members" and all that follows through line 12, and insert "One member, and only 1 member, of the Board shall be or shall have been a certified public accountant pursuant to the laws of 1 or more States, and he or she may not have been".

SA 4210. Mrs. BOXER submitted an amendment intended to be proposed by

her to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 18, strike line 11 and insert the following:

"(6) INDEPENDENCE STANDARD FOR PUBLIC MEMBERS.—Prior to the appointment of a member of the Board who is not a certified public accountant, the Commission shall certify that the appointee does not have any material conflicts of interests with respect to accounting firms that audit public companies. A conflict of interest may arise from past employment with a public accounting firm or the American Institute of Certified Public Accountants, or a commercial, banking, consulting, legal, charitable, or familial relationships with a public accounting firm. In making its independent determination, the Commission shall broadly consider all relevant facts and circumstances, including whether a reasonable investor would consider the appointee to be independent of the accounting profession.

"(7) REMOVAL FROM OFFICE.—A member of the "

SA 4211. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 82, line 18, strike the period and all that follows through "certify" on line 20 and insert the following: ", regardless of whether such issuer is located in or organized under the laws of the United States or any State, or any foreign country.

SA 4212. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting

practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 82, line 20 insert “, under oath,” after “certify”.

SA 4213. Mr. GRAMM (for Mr. VOINOVICH (for himself and Mr. AKAKA)) submitted an amendment intended to be proposed by Mr. GRAMM to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 114, insert between lines 2 and 3 the following:

SEC. 605. CHIEF HUMAN CAPITAL OFFICER.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 4C (as added by this Act) the following:

“SEC. 4D. CHIEF HUMAN CAPITAL OFFICER.

“(a) IN GENERAL.—The Commission shall appoint or designate a Chief Human Capital Officer, who shall—

“(1) advise and assist the Commission and other Commission officials in carrying out the Commission’s responsibilities for selecting, developing, and managing a high-quality, productive workforce in accordance with merit system principles; and

“(2) implement the rules and regulations of the President and the Office of Personnel Management and the laws governing the civil service within the Commission.

“(b) FUNCTIONS AND AUTHORITIES.—

“(1) FUNCTIONS.—The functions of the Chief Human Capital Officer shall include—

“(A) setting the workforce development strategy of the Commission;

“(B) assessing workforce characteristics and future needs based on the Commission’s mission and strategic plan;

“(C) aligning the Commission’s human resources policies and programs with organization mission, strategic goals, and performance outcomes;

“(D) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

“(E) identifying best practices and benchmarking studies;

“(F) applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth; and

“(G) providing employee training and professional development.

“(2) AUTHORITIES.—In addition to the authority otherwise provided by this section, the Chief Human Capital Officer—

“(A) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that—

“(i) are the property of the Commission or are available to the Commission; and

“(ii) relate to programs and operations with respect to which the Chief Human Capital Officer has responsibilities; and

“(B) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided under this section from any Federal, State, or local governmental entity.”.

SA 4214. Mr. DORGAN (for himself and Mr. WELLSTONE) submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 84, line 23, strike “(b) COMMISSION” and insert the following:

“(b) PROCEEDS FROM THE SALE OF SECURITIES PRIOR TO BANKRUPTCY FILING.—If an issuer files for bankruptcy protection under title 11, United States Code, each director, chief executive officer, and chief financial officer of the issuer shall pay to the issuer all amounts described in paragraphs (1) and (2) of subsection (a) (to the extent that such amounts have not been reimbursed under subsection (a)) realized by such director or officer from the sale of the securities of the issuer during the 12-month period preceding the date of the bankruptcy filing.

“(c) COMMISSION”.

SA 4215. Mr. DORGAN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 82, line 14 insert after “issuer” the following: “, whether domiciled, incorporated, or reincorporated under the laws of

the United States or any individual State, or under the laws of a foreign country or political subdivision thereof.”.

SA 4216. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 70, between lines 19 and 20, insert the following:

(c) NON-AUDIT SERVICE REGULATIONS.—The regulations of the Commission to carry out section 10A(g) of the Securities Exchange Act of 1934, as added by this section, shall be substantially similar to the scope of practice provisions of the proposed rule issued by the Commission and published in the Federal Register on July 12, 2000, regarding revision of the auditor independence requirements contained in Parts 210 and 240 of title 17, Code of Federal Regulations (65 Fed. Reg. 43190 et seq.), consistent with the provisions of this Act.

SA 4217. Mr. DORGAN (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table, as follows:

On page 44, strike lines 8 through 11 and insert the following:

(2) PUBLIC HEARINGS.—All hearings under this subsection shall be public, unless otherwise ordered by the Board for good cause shown on its own motion or after considering the motion of a party to the hearing.

SA 4218. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting

practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ____ . REQUIREMENT THAT PLAN ADMINISTRATOR NOTIFY PARTICIPANTS OF INVOLUNTARY PLAN TERMINATION.

(a) IN GENERAL.—Section 4042(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1342(b)) is amended by adding at the end the following:

“(4)(A) Not later than 30 days (or such longer period as the corporation finds reasonable) after the corporation notifies a plan administrator of a plan of the corporation’s determination under subsection (a) to institute proceedings under this section with respect to such plan, the plan administrator shall provide to each affected party (other than the corporation) a written notice of the corporation’s determination that the plan should be terminated and the corporation’s proposed termination date. The written notice shall be made in such form and manner as the corporation may require. Such notice shall be written in a manner so as to be understood by the average plan participant.

“(B) A plan administrator’s failure to comply with the requirement under subparagraph (A) shall not affect the validity of any determination or action by the corporation or the termination date established under section 4048.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to termination proceedings commenced after the date of the enactment of this Act.

SA 4219. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 84, strike lines 13 through 25 and insert the following: “shall forfeit to the Department of Labor—

“(1) any bonus or other incentive-based or equity-based compensation received by that person from the issuer during the 12-month period following the first public issuance or filing with the Commission (whichever first occurs) of the financial document embodying such financial reporting requirement; and

“(2) any profits realized from the sale of securities of the issuer during that 12-month period.

“(b) COMMISSION EXEMPTION AUTHORITY.—The Commission may exempt any person from the application of subsection (a), as it deems necessary and appropriate.

“(c) DISTRIBUTION OF FUNDS.—

“(1) FORMER EMPLOYEES.—Except as provided in paragraph (4), and in accordance with paragraphs (2) and (3), the Secretary of Labor shall distribute the funds forfeited under subsection (a) to former employees of the issuer whose employment was terminated by the issuer.

“(2) ELIGIBILITY FOR FUNDS.—Before distributing funds to an applicant under this subsection, the Secretary of Labor shall certify that the job loss of the applicant resulted from a business decision made by the issuer as a consequence of a restatement of earnings, as described in subsection (a).

“(3) EXCEPTION.—A former employee of the issuer who was complicit in the misstatement of earnings of the issuer referred to in paragraph (2) shall not be eligible to receive funds distributed under this subsection.

“(4) NO LOSS OF EMPLOYMENT.—If no employee of the issuer is laid off by the issuer within 12 months of a restatement of earnings as a consequence of such restatement, the Secretary of Labor shall distribute the funds forfeited under subsection (a) to the issuer.”.

SA 4220. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 84, strike lines 13 through 25 and insert the following: “shall forfeit to the Commission—

“(1) any bonus or other incentive-based or equity-based compensation received by that person from the issuer during the 12-month period following the first public issuance or filing with the Commission (whichever first occurs) of the financial document embodying such financial reporting requirement; and

“(2) any profits realized from the sale of securities of the issuer during that 12-month period.

“(b) COMMISSION EXEMPTION AUTHORITY.—The Commission may exempt any person from the application of subsection (a), as it deems necessary and appropriate.

“(c) DISTRIBUTION OF FUNDS.—

“(1) FORMER EMPLOYEES.—Except as provided in paragraph (4), and in accordance with paragraphs (2) and (3), the Commission shall distribute the funds forfeited under subsection (a) to former employees of the issuer whose employment was terminated by the issuer.

“(2) ELIGIBILITY FOR FUNDS.—Before distributing funds to an applicant under this subsection, the Commission shall certify that the job loss of the applicant resulted

from a business decision made by the issuer as a consequence of a restatement of earnings, as described in subsection (a).

“(3) EXCEPTION.—A former employee of the issuer who was complicit in the misstatement of earnings of the issuer referred to in paragraph (2) shall not be eligible to receive funds distributed under this subsection.

“(4) NO LOSS OF EMPLOYMENT.—If no employee of the issuer is laid off by the issuer within 12 months of a restatement of earnings as a consequence of such restatement, the Commission shall distribute the funds forfeited under subsection (a) to the issuer.”.

SA 4221. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III, insert the following:

SEC. ____ . PROVISIONS RELATING TO WHISTLEBLOWER ACTIONS INVOLVING PENSION PLANS.

(a) AUTHORITY TO BRING ACTIONS.—Section 502(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)) is amended by striking “or” at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting “; and”, and by adding at the end the following new paragraph:

“(10) by the Secretary, or other person referred to in section 510—

“(A) to enjoin any act or practice which violates section 510 in connection with a pension plan, or

“(B) to obtain appropriate equitable or legal relief to redress such violation or to enforce section 510 in connection with a pension plan.”

(b) ADDITIONAL ACTIONS WHICH MAY BE BROUGHT.—The second sentence of section 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1140) is amended by striking “person because he” and inserting “other person because such other person has opposed any practice in connection with a pension plan that is made unlawful by this title or”.

SA 4222. Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect

the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III, add the following:

SEC. 307. FORFEITURE OF CERTAIN BONUSES AND PROFITS IN BANKRUPTCY.

Section 541(a) of title 11, United States Code, is amended by adding at the end the following:

“(8) Any bonus or other incentive-based or equity-based compensation received by a chief executive officer or chief financial officer of an issuer of securities (as defined in section 2(a) of the Public Company Accounting Reform and Investor Protection Act of 2002) from that issuer during the 24-month period before the date of the filing of the bankruptcy petition by the issuer.

“(9) Any profits realized by a chief executive officer or chief financial officer of an issuer of securities (as defined in section 2(a) of the Public Company Accounting Reform and Investor Protection Act of 2002) from the sale of securities of the issuer during the 24-month period before the date of the filing of the bankruptcy petition by the issuer.”.

SA 4223. Mrs. CARNAHAN (for herself, Mr. KERRY, and Mr. DURBIN) submitted an amendment intended to be proposed by her to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 94, line 16, beginning with “shall file” strike all through “feasible” on line 24 and insert “shall file electronically with the Commission (and if such security is registered on a national securities exchange, shall also file with the exchange), a statement before the end of the second business day following the day on which the subject transaction has been executed, or at such other times as the Commission shall establish, by rule, in any case in which the Commission determines that such 2 day period is not feasible, and the Commission shall provide that statement on a publicly accessible Internet site not later than the end of the business day following that filing, and the issuer (if the issuer maintains a corporate website) shall provide that statement on that corporate website not later than the end of the business day following that filing (the requirements of this paragraph shall take effect 1 year after the date of enactment of this paragraph).”.

SA 4224. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and ac-

counting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 70, line 12, insert the following after “transaction”: “(or classes of such persons, issuers or public accounting firms from the prohibition on the provision of services under section 10A(g) of the Securities Exchange Act of 1934 (as added by this section), based upon the small business nature of such person, issuer or public accounting firm, taking into consideration applicable factors such as total asset size, availability and cost of retaining multiple service providers, number of public company audits performed, and such other factors and conditions as the Board deems necessary or appropriate in the public interest and consistent with the protection of investors and consistent with the purposes of this Act)”.

SA 4225. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 51, after line 2, insert the following new paragraph:

(3) **JUDICIAL REVIEW OF DISCIPLINARY ACTION.**—Instead of filing an application for Commission review under paragraph (1), a public accounting firm or person associated with such firm may, not later than 10 days after the date on which a disciplinary action by the Board becomes final, seek review of such disciplinary action by the United States District Court for the District of Columbia or the appropriate Federal district court in the State in which such person is domiciled. Application to a Federal district court for review of such disciplinary sanction shall operate as a stay of such disciplinary action.”.

SA 4226. Mr. GRAMM (for himself, Mr. SANTORUM, and Mr. BOND) submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company

Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 201(b) and insert in lieu thereof the following:

“(b) **EXEMPTION AUTHORITY.**—

“(1) **CASE-BY-CASE WAIVERS.**—The Board may, on a case by case basis, exempt any person, issuer, public accounting firm, or transaction from the prohibition on the provision of services under section 10A(g) of the Securities Exchange Act of 1934 (as added by this section), to the extent that such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors, and subject to review by the Commission in the same manner as for rules of the Board under section 107.

“(2) **SMALL BUSINESS EXEMPTION.**—The Board may, by rule (subject to review by the Commission in the same manner as for rules of the Board under section 107), exempt any person, issuer or public accounting firm (or classes of such persons, issuers or public accounting firms) from the prohibition on the provision of services under section 10A(g) of the Securities Exchange Act of 1934 (as added by this section), based upon the small business nature of such person, issuer or public accounting firm, taking into consideration applicable factors such as total asset size, availability and cost of retaining multiple service providers, number of public company audits performed, and such other factors and conditions as the Board deems necessary or appropriate in the public interest and consistent with the protection of investors and consistent with the purposes of this Act.”.

SA 4227. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 91, strike line 19 and all that follows through page 93, line 22 and insert the following:

SEC. 402. ENHANCED CONFLICT OF INTEREST PROVISIONS.

(a) **PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.**—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by this Act, is amended by adding at the end the following:

“(k) **PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.**—

“(1) IN GENERAL.—It shall be unlawful for any issuer, directly or indirectly, to extend or maintain credit, or arrange for the extension of credit, in the form of a personal loan to or for any director or executive officer (or equivalent thereof) of that issuer.

“(2) LIMITATION.—Paragraph (1) does not preclude any extension of credit under an open end credit plan (as defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)) that is—

“(A) made in the ordinary course of the consumer credit business of an issuer;

“(B) of a type that is generally made available by the issuer to the public; and

“(C) made on market terms, or terms that are no more favorable than those offered by the issuer to the general public for such loans.”.

SA 4228. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . MANDATORY RESTITUTION FOR FEDERAL CRIMES OF FRAUD.

Section 2327(a) of title 18, United States Code, is amended—

(1) by striking “all victims of any offense” and all that follows through the period and inserting the following: “all victims of any offense—

“(1) for which an enhanced penalty is provided under section 2326; or

“(2) relating to a Federal crime of fraud under section 371, 1131, 1341, 1343, 1348, 1519, or 1520.”.

SA 4229. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 99, between lines 15 and 16, insert the following:

SEC. 408. AVAILABILITY OF CORPORATE TAX RETURNS.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

“(1) AVAILABILITY OF TAX RETURNS.—

“(1) FILING REQUIREMENT.—Each issuer that is required to file a return under section 6012 of the Internal Revenue Code of 1986, shall annually provide a complete copy of that return to the Commission.

“(2) PUBLIC AVAILABILITY.—Each return provided to the Commission under paragraph (1) shall be made available to the public for inspection.”.

SA 4230. Mr. SCHUMER (for himself and Mr. SHELBY) submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 91, between lines 18 and 19, insert the following:

(c) STUDY AND REPORT ON SPECIAL PURPOSE ENTITIES.—

(1) STUDY REQUIRED.—The Commission shall, not later than 1 year after the effective date of adoption of off-balance sheet disclosure rules required by section 13(j) of the Securities Exchange Act of 1934, as added by this section, complete a study of filings by issuers and their disclosures to determine—

(A) the extent of off-balance sheet transactions, including assets, liabilities, leases, losses, and the use of special purpose entities; and

(B) whether generally accepted accounting rules result in financial statements of issuers reflecting the economics of such off-balance sheet transactions to investors in a transparent fashion.

(2) REPORT AND RECOMMENDATIONS.—Not later than 6 months after the date of completion of the study required by paragraph (1), the Commission shall submit a report to the President, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, setting forth—

(A) the amount or an estimate of the amount of off-balance sheet transactions, including assets, liabilities, leases, and losses of, and the use of special purpose entities by, issuers filing periodic reports pursuant to section 13 or 15 of the Securities Exchange Act of 1934;

(B) the extent to which special purpose entities are used to facilitate off-balance sheet transactions;

(C) whether generally accepted accounting principles or the rules of the Commission result in financial statements of issuers reflecting the economics of such transactions to investors in a transparent fashion;

(D) whether generally accepted accounting principles specifically result in the consoli-

dation of special purpose entities sponsored by an issuer in cases in which the issuer has the majority of the risks and rewards of the special purpose entity; and

(E) the recommendations of the Commission for improving the transparency and quality of reporting off-balance sheet transactions in the financial statements and disclosures required to be filed by an issuer with the Commission.

SA 4231. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 91, between lines 18 and 19, insert the following:

(c) STUDY AND REPORT ON SPECIAL PURPOSE ENTITIES.—

(1) STUDY REQUIRED.—The Commission shall, not later than 1 year after the effective date of adoption of off-balance sheet disclosure rules required by section 13(j) of the Securities Exchange Act of 1934, as added by this section, complete a study of filings by issuers and their disclosures, to determine—

(A) the extent of off-balance sheet transactions, including assets, liabilities, leases, losses, and the use of special purpose entities; and

(B) whether generally accepted accounting rules result in financial statements of issuers reflecting the economics of such off-balance sheet transactions to investors in a transparent fashion.

(2) REPORT.—Not later than 6 months after the date of completion of the study required by paragraph (1), the Commission shall submit a report to the President, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, setting forth—

(A) the amount or an estimate of the amount of off-balance sheet transactions, including assets, liabilities, leases, and losses of, and the use of special purpose entities by, issuers filing periodic reports pursuant to section 13 or 15 of the Securities Exchange Act of 1934;

(B) the extent to which special purpose entities are used to facilitate off-balance sheet transactions;

(C) whether generally accepted accounting principles or the rules of the Commission result in financial statements of issuers reflecting the economics of such transactions to investors in a transparent fashion; and

(D) whether generally accepted accounting principles specifically result in the consolidation of special purpose entities sponsored by an issuer in cases in which the issuer has the majority of the risks and rewards of the special purpose entity.

(3) RULES.—If the Commission reports under paragraph (2) that such special purpose entities are not generally consolidated by the issuer having the majority of the risks and rewards of the assets, liabilities, leases, and losses of the special purpose entity, the Commission shall, not later than 12 months after the date of submission of the report, adopt rules or regulations to require consolidation of such entities by the sponsoring issuer.

SA 4232. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 15, strike line 11 and inserting the following:

(8)(A) review and conduct oversight audits of the financial statements of issuers and using its resources effectively to focus on highest risk audit areas and to target questionable audit practices of which the Board is aware, including practices that the Board is made aware of from communications with the Division of Enforcement of the Commission;

(B)(i) refer findings of accounting or auditing irregularity to the Division of Enforcement of the Commission for further investigation of the issuer or the public accounting firm, as appropriate; and

(ii) if appropriate, refer findings of accounting or auditing irregularity to—

(I) any other Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)), in the case of an audit report for an institution that is subject to the jurisdiction of such regulator;

(II) the Attorney General of the United States;

(III) the attorneys general of 1 or more States; or

(IV) the appropriate State regulatory authority; and

(C) on an annual basis, report its findings and make recommendations for change to—

(i) the Commission; and

(ii) the Comptroller General of the United States.

SA 4233. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate re-

sponsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 85, after line 23, insert the following:

(c) INVESTIGATIONS AND ACTIONS.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end the following:

“(6) DISGORGEMENT OF BENEFITS.—In any action or proceeding brought or instituted by the Commission under the securities laws against any person for engaging in, causing, or aiding and abetting any violation of the securities laws or the rules and regulations prescribed under those laws, such person, in addition to being subject to any other appropriate order, may be required to disgorge any or all benefits received from any source in connection with the conduct constituting, causing, or aiding and abetting the violation, including salary, commissions, fees, bonuses, options, profits from securities transactions, and losses avoided through securities transactions.”.

SA 4234. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . ANNUAL LIMIT ON AMOUNT REALIZED FROM EXERCISE OF STOCK OPTIONS.

(a) IN GENERAL.—It is unlawful for any officer or director of a corporation to exercise stock options with respect to securities registered pursuant to section 12 of the Securities and Exchange Act of 1934 granted by a corporation for its stock, or the stock of any subsidiary or affiliated corporation, to the extent that the net proceeds (determined without regard to taxes) to, or for the benefit of, that officer or director realized from the exercise of the stock options exceed \$20,000,000 during any 12-month period.

(b) EXCEPTION.—Subsection (a) does not apply if—

(1) at least 80 percent of the net proceeds are attributable to the exercise of options held by the officer, employee, or director for 5 years or more; or

(2) the exercise of the stock options has been approved in advance by majority vote of the publicly-held shares voted during the 12-month period within which the options are exercised.

(c) REMEDY.—The provisions of section 306(c) of this Act apply to any violation of

subsection (a) in the same manner as if the violation were a violation of section 306(a).

(d) EFFECTIVE DATE.—Subsection (a) applies to stock options granted after the date of enactment of this Act.

SA 4235. Mr. ENZI (for Mr. LIEBERMAN (for himself, Mr. ENZI, Mrs. BOXER, Mr. ALLEN, Ms. CANTWELL, Mr. LOTT, Mr. BENNETT, Mr. WYDEN, Mrs. MURRAY, and Mr. BURNS)) submitted an amendment intended to be proposed by Mr. ENZI to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . RECOMMENDATIONS ON THE TREATMENT OF STOCK OPTIONS.

(a) ANALYSIS.—The Commission shall conduct an analysis and make regulatory and legislative recommendations on the treatment of stock options in which the Commission shall analyze—

(1) the accounting treatment for employee stock options, including the accuracy of available stock option pricing models;

(2) the adequacy of current disclosure requirements to investors and shareholders on stock options;

(3) the adequacy of corporate governance requirements, including shareholder approval of stock option plans;

(4) any need for new stock holding period requirements for senior executives; and

(5) the benefit and detriment of any new options expensing rules on—

(A) the productivity and performance of large, medium, and small companies, and start-up enterprises;

(B) the recruitment and retention of skilled workers; and

(C) employees at various income levels, with a particular focus on the effect on rank-and-file employees and the income of women.

(b) RECOMMENDATIONS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commission shall submit regulatory and legislative recommendations and supporting analysis to—

(A) the standard setting body designated pursuant to section 19(b) of the Securities Act of 1933, as amended by section 106 of this Act;

(B) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(C) the Committee on Financial Services of the House of Representatives.

(2) CONTENTS.—The analysis, and regulatory and legislative recommendations submitted under paragraph (1) shall include—

(A) the results of the analysis conducted under subsection (a); and

(B) regulatory and legislative recommendations, if any, for changes in the treatment of stock options.

SA 4236. Mr. CLELAND submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 84, strike lines 6 through 22, and insert the following:

(a) **ADDITIONAL COMPENSATION AND PROFITS RECEIVED SUBSEQUENT TO NONCOMPLIANCE WITH COMMISSION FINANCIAL REPORTING REQUIREMENTS.**—If an issuer is required to prepare an accounting restatement due to the material noncompliance of the issuer, as a result of misconduct by such issuer or its agents, with any financial reporting requirement under the securities laws, the chief executive officer and chief financial officer of the issuer, and any other officer and director of the issuer who had knowledge of such noncompliance, at the earlier of the first public issuance or the filing with the Commission of the financial document embodying such financial reporting requirement, shall reimburse the issuer for the value of—

(1) any bonus, compensation derived from a severance agreement, or other incentive-based or equity-based compensation received by that person from the issuer during the 12-month period following the earlier of the first public issuance or the filing with the Commission of the financial document embodying such financial reporting requirement;

(2) any profits realized from the sale of securities of the issuer during that 12-month period; and

(3) any profits realized from the exercise of any warrants, options, or rights received by that person during that 12-month period.

SA 4237. Mr. BYRD (for himself and Mr. THOMPSON) submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ DISCLOSURE OF INVESTMENTS, HOLDINGS, OR TRANSACTIONS IN CERTAIN FOREIGN COUNTRIES.

(a) **SECURITIES EXCHANGE ACT OF 1934.**—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following new subsection:

“(i) **DISCLOSURE OF INVESTMENTS, HOLDINGS, OR TRANSACTIONS IN OR WITH CERTAIN FOREIGN ENTITIES.**—

“(1) **IN GENERAL.**—Each designated issuer shall, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors—

“(A) disclose in each report or other document required to be filed under this section, including all annual filings, and in each registration statement required under section 14, the nature and scope of the operations of the designated issuer in or with any designated entity, and the Commission shall consider material, any investments, holdings, or transactions by a designated issuer in or with any designated entity that, in the aggregate, exceed \$100,000 at any time during the period to which the filing relates; and

“(B) display all disclosures required by subparagraph (A) prominently for investors.

“(2) **DEFINITIONS.**—For purposes of this subsection—

“(A) the term ‘designated entity’ means any company or other entity that is organized under the laws of a foreign country, a government-owned corporation of a foreign country, or the government of any foreign country—

“(i) that is subject to sanctions by the Office of Foreign Assets Control; or

“(ii) the government of which has been determined by the Secretary of State under section 6(j)(1)(A) of the Export Administration Act of 1979, section 40(d) of the Arms Export Control Act, or section 620A of the Foreign Assistance Act of 1961, to have knowingly provided support for acts of international terrorism; and

“(B) the term ‘designated issuer’—

“(i) means any issuer of a security registered pursuant to section 12, or the securities of which (including American Depository Receipts) are directly or indirectly listed for trading or sold on any national securities exchange or in any United States over-the-counter market; and

“(ii) includes any subsidiary or other affiliate of such an issuer.”

(b) **SECURITIES ACT OF 1933.**—Section 10 of the Securities Act of 1933 (15 U.S.C. 77j) is amended by adding at the end the following new subsection:

“(g) **DISCLOSURE OF INVESTMENTS, HOLDINGS, OR TRANSACTIONS IN OR WITH CERTAIN FOREIGN ENTITIES.**—

“(1) **IN GENERAL.**—Each designated issuer shall, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors—

“(A) disclose in each prospectus required or permitted under this section, the nature and scope of the operations of the designated issuer in or with any designated entity, and the Commission shall consider material, any investments, holdings, or transactions by a designated issuer in or with any designated entity that, in the aggregate, exceed \$100,000 at any time during the 6-month period preceding the date of issuance of the prospectus; and

“(B) display all disclosures required by subparagraph (A) prominently for investors.

“(2) **DEFINITIONS.**—For purposes of this subsection—

“(A) the term ‘designated entity’ means any company or other entity that is organized under the laws of a foreign country, a government-owned corporation of a foreign country, or the government of any foreign country—

“(i) that is subject to sanctions by the Office of Foreign Assets Control; or

“(ii) the government of which has been determined by the Secretary of State under section 6(j)(1)(A) of the Export Administration Act of 1979, section 40(d) of the Arms Export Control Act, or section 620A of the Foreign Assistance Act of 1961, to have knowingly provided support for acts of international terrorism; and

“(B) the term ‘designated issuer’—

“(i) means any issuer of a security registered pursuant to section 12 of the Securities Exchange Act of 1934, or the securities of which (including American Depository Receipts) are directly or indirectly listed for trading or sold on any national securities exchange or in any United States over-the-counter market; and

“(ii) includes any subsidiary or other affiliate of such an issuer.”

(c) **ANNUAL REPORT ON INVESTMENTS, HOLDINGS, OR TRANSACTIONS IN OR WITH CERTAIN FOREIGN ENTITIES.**—

(1) **IN GENERAL.**—The Secretary of Defense, in coordination with the Secretary of the Treasury, the Secretary of State, the Director of Central Intelligence, and any other departments or agencies that the Secretary of Defense determines appropriate, shall submit a report to Congress on an annual basis, regarding—

(A) whether material investments, holdings, or transactions by designated issuers in or with any designated entities have provided during the preceding year, or are providing, financial or technical support for any terrorist-sponsoring government, or terrorist-sponsoring group or organization, in the form of revenues, equipment, technology, or by other means; and

(B) the impact of such types of support on the regional and global security interests of the United States.

(2) **FORM OF REPORTS.**—Each report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(3) **DEFINITIONS.**—In this subsection—

(A) the terms “designated entity”, and “designated issuer” have the same meanings as in section 13(i) of the Securities Exchange Act of 1934, as added by this section; and

(B) the term “terrorist-sponsoring government” means the government of a foreign country—

(i) that is subject to sanctions by the Office of Foreign Assets Control; or

(ii) that has been determined by the Secretary of State under section 6(j)(1)(A) of the Export Administration Act of 1979, section 40(d) of the Arms Export Control Act, or section 620A of the Foreign Assistance Act of 1961, to have knowingly provided support for acts of international terrorism.

SA 4238. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting

practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 69, strike line 8 and all that follows through page 70, line 19, and insert "any non-audit service.".

On page 82, line 9, strike the quotation marks and the final period and insert the following:

"(n) STANDARDS RELATING TO BOARDS OF DIRECTORS.—

"(1) COMMISSION RULES.—

"(A) IN GENERAL.—Effective not later than 270 days after the date of enactment of this subsection, the Commission shall, by rule, direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that is not in compliance with the requirements of any portion of paragraph (2).

"(B) OPPORTUNITY TO CURE DEFECTS.—The rules of the Commission under subparagraph (A) shall provide for appropriate procedures for an issuer to have an opportunity to cure any defects that would be the basis for a prohibition under subparagraph (A), before the imposition of such prohibition.

"(2) INDEPENDENCE.—

"(A) IN GENERAL.—Each member of the board of directors of the issuer (other than the chief executive officer) shall be independent.

"(B) CRITERIA.—In order to be considered independent for purposes of this paragraph, a member of a board of directors of an issuer may not, other than in his or her capacity as a member of that board of directors—

"(i) accept any consulting, advisory, or other compensatory fee from the issuer;

"(ii) be an affiliated person of the issuer or any subsidiary thereof; or

"(iii) otherwise maintain any other business relationship with the issuer or the management thereof.

On page 82, line 24, insert before the period the following: "and shall include a brief narrative of the basis for the decision to so certify, including a discussion of any questionable accounting treatment."

On page 86, line 8, strike "during" and all that follows through page 89, line 20 and insert the following: "at any time during the term of employment of that person by the issuer, or service to that issuer as a director or executive officer, or during the 90-day period following the date of termination of such employment or service.

"(b) EXCEPTION.—Nothing in subsection (a) shall be construed to prohibit the purchase, sale, acquisition, or other transfer of equity securities of the issuer for the purpose of avoiding expiration of stock options, but only to the extent necessary to pay the option price of the securities and any applicable taxes or to satisfy a court ordered judgment.

"(c) REMEDY.—

"(1) IN GENERAL.—Any profit realized by a director or executive officer referred to in subsection (a) from any purchase, sale, or other acquisition or transfer in violation of this section shall inure to and be recoverable by the issuer, irrespective of any intention on the part of such director or executive officer in entering into the transaction.

"(2) ACTIONS TO RECOVER PROFITS.—An action to recover profits in accordance with this section may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and in behalf of the issuer if the issuer fails or refuses to bring such action within 60 days after the date of request, or fails diligently to prosecute the action thereafter.

"(d) RULEMAKING AUTHORIZED.—The Commission may issue rules to clarify the application of this subsection, to ensure adequate notice to all persons affected by this subsection, and to prevent evasion thereof by the issuer."

SA 4239. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 69, strike line 8 and all that follows through page 70, line 19, and insert "any non-audit service.".

On page 82, line 24, insert before the period the following: "and shall include a brief narrative of the basis for the decision to so certify, including a discussion of any questionable accounting treatment."

On page 86, line 8, strike "during" and all that follows through page 89, line 20 and insert the following: "at any time during the term of employment of that person by the issuer, or service to that issuer as a director or executive officer, or during the 90-day period following the date of termination of such employment or service.

"(b) EXCEPTION.—Nothing in subsection (a) shall be construed to prohibit the purchase, sale, acquisition, or other transfer of equity securities of the issuer for the purpose of avoiding expiration of stock options, but only to the extent necessary to pay the option price of the securities and any applicable taxes or to satisfy a court ordered judgment.

"(c) REMEDY.—

"(1) IN GENERAL.—Any profit realized by a director or executive officer referred to in subsection (a) from any purchase, sale, or other acquisition or transfer in violation of this section shall inure to and be recoverable by the issuer, irrespective of any intention on the part of such director or executive officer in entering into the transaction.

"(2) ACTIONS TO RECOVER PROFITS.—An action to recover profits in accordance with this section may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and in behalf of the issuer if the issuer fails or refuses to bring such action within 60 days after the date of request, or fails diligently to prosecute the action thereafter.

"(d) RULEMAKING AUTHORIZED.—The Commission may issue rules to clarify the appli-

cation of this subsection, to ensure adequate notice to all persons affected by this subsection, and to prevent evasion thereof by the issuer."

SA 4240. Mr. LIEBERMAN (for himself, Mr. ENZI, Mrs. BOXER, Mr. ALLEN, Ms. CANTWELL, Mr. BENNETT, Mr. WYDEN, Mr. LOTT, Mrs. MURRAY, Mr. BURNS, and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill insert the following:
SEC. ____ . RECOMMENDATIONS ON THE TREATMENT OF STOCK OPTIONS.

(a) ANALYSIS.—The Commission shall conduct an analysis and make regulatory and legislative recommendations on the treatment of stock options in which the Commission shall analyze—

(1) the accounting treatment for employee stock options, including the accuracy of available stock option pricing models;

(2) the adequacy of current disclosure requirements to investors and shareholders on stock options;

(3) the adequacy of corporate governance requirements, including shareholder approval of stock option plans;

(4) any need for new stock holding period requirements for senior executives; and

(5) the benefit and detriment of any new options expensing rules on—

(A) the productivity and performance of large, medium, and small companies, and start-up enterprises;

(B) the recruitment and retention of skilled workers; and

(C) employees at various income levels, with a particular focus on the effect on rank-and-file employees and the income of women.

(b) RECOMMENDATIONS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commission shall submit regulatory and legislative recommendations and supporting analysis to—

(A) the standard setting body designated pursuant to section 19(b) of the Securities Act of 1933, as amended by section 106 of this Act;

(B) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(C) the Committee on Financial Services of the House of Representatives.

(2) CONTENTS.—The analysis, and regulatory and legislative recommendations submitted under paragraph (1) shall include—

(A) the results of the analysis conducted under subsection (a); and

(B) regulatory and legislative recommendations, if any, for changes in the treatment of stock options.

SA 4241. Mr. LIEBERMAN (for himself, Mr. ENZI, Mrs. BOXER, Mr. ALLEN, Ms. CANTWELL, Mr. BENNETT, Mr. WYDEN, Mr. LOTT, Mrs. MURRAY, Mr. BURNS, and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ____ . RECOMMENDATIONS ON THE TREATMENT OF STOCK OPTIONS.

(a) **ANALYSIS.**—The Commission shall conduct an analysis and make regulatory and legislative recommendations on the treatment of stock options in which the Commission shall analyze—

(1) the accounting treatment for employee stock options, including the accuracy of available stock option pricing models;

(2) the adequacy of current disclosure requirements to investors and shareholders on stock options;

(3) the adequacy of corporate governance requirements, including shareholder approval of stock option plans;

(4) any need for new stock holding period requirements for senior executives; and

(5) the benefit and detriment of any new options expensing rules on—

(A) the productivity and performance of large, medium, and small companies, and start-up enterprises;

(B) the recruitment and retention of skilled workers; and

(C) employees at various income levels, with a particular focus on the effect on rank-and-file employees and the income of women.

(b) **RECOMMENDATIONS.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Commission shall submit regulatory and legislative recommendations and supporting analysis to—

(A) the standard setting body designated pursuant to section 19(b) of the Securities Act of 1933, as amended by section 106 of this Act;

(B) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(C) the Committee on Financial Services of the House of Representatives.

(2) **CONTENTS.**—The analysis, and regulatory and legislative recommendations submitted under paragraph (1) shall include—

(A) the results of the analysis conducted under subsection (a); and

(B) regulatory and legislative recommendations, if any, for changes in the treatment of stock options.

SA 4242. Mr. KENNEDY (for himself, Mr. REED, Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 2673, to improve qual-

ity and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . LIABILITY FOR BREACH OF FIDUCIARY DUTY.

(a) **LIABILITY FOR PARTICIPATING IN OR CONCEALING FIDUCIARY BREACH.**—

(1) **APPLICATION TO PARTICIPANTS AND BENEFICIARIES OF 401(K) PLANS.**—

(A) **IN GENERAL.**—Part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101 et seq.) is amended by adding after section 409 the following new section:

“SEC. 409A. LIABILITY FOR BREACH OF FIDUCIARY DUTY IN 401(K) PLANS.

“(a)(1)(A) Any person who is a fiduciary with respect to an individual account plan that includes a qualified cash or deferred arrangement under section 401(k) of the Internal Revenue Code of 1986 who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this title shall be personally liable to make good to each participant's and beneficiary's individual account in the plan (or directly to such participant or beneficiary in the absence of an individual account) any losses to the participant's or beneficiary's individual account in the plan resulting from each such breach, and to restore to the participant's or beneficiary's individual account in the plan (or directly to such participant or beneficiary in the absence of an individual account) any profits of such fiduciary which have been made through use of assets of the plan by the fiduciary, and shall be subject to such other equitable or remedial relief as the court may deem appropriate, including removal of such fiduciary. A fiduciary may also be removed for a violation of section 411 of this Act.

“(B) If an insider (as defined in section 409(b)(1)(B)) with respect to the plan sponsor of an employer individual account plan that holds employer securities that are readily tradable on an established securities market—

“(i) knowingly participates in a breach of fiduciary responsibility to which subparagraph (A) applies, or

“(ii) knowingly undertakes to conceal such a breach,

such insider shall be personally liable under this subparagraph to each participant's and beneficiary's individual account in the plan (or directly to such participant or beneficiary in the absence of an individual account) for such breach in the same manner as the fiduciary who commits such breach.

“(2) Nothing in this subsection shall be construed as permitting the recovery by a participant or beneficiary of any consequential or punitive damages.

“(b) The right of participants and beneficiaries under subsection (a) to sue for breach of fiduciary duty with respect to an

individual account plan that includes a qualified cash or deferred arrangement under section 401(k) of such Code shall be in addition to all existing rights that participants and beneficiaries have under section 409, section 502, and any other provision of this title, and shall not be construed to give rise to any inference that such rights do not already exist under section 409, section 502, or any other provision of this title.

“(c) No fiduciary shall be liable with respect to a breach of fiduciary duty under this title if such breach was committed before he or she became a fiduciary or after he or she ceased to be a fiduciary, unless such liability arises under subsection (a)(1)(B).”

(B) **CONFORMING AMENDMENT.**—The table of contents for part 4 of subtitle B of title I of such Act is amended by inserting the following new item after the item relating to section 409:

“Sec. 409A. Liability for breach of fiduciary duty in 401(k) plans.”

(2) **INSIDER LIABILITY.**—

(A) **IN GENERAL.**—Section 409 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1109) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

“(b)(1)(A) If an insider with respect to the plan sponsor of an employer individual account plan that holds employer securities that are readily tradable on an established securities market—

“(i) knowingly participates in a breach of fiduciary responsibility to which subsection (a) applies, or

“(ii) knowingly undertakes to conceal such a breach,

such insider shall be personally liable under this subsection to the plan or to any participant or beneficiary of the plan for such breach in the same manner as the fiduciary who commits such breach.

“(B) For purposes of subparagraph (A), the term ‘insider’ means, with respect to any plan sponsor of a plan to which subparagraph (A) applies—

“(i) any officer or director with respect to the plan sponsor, or

“(ii) any independent qualified public accountant of the plan or of the plan sponsor.

“(2) Any relief provided under this subsection or section 409A—

“(A) to an individual account plan shall inure to the individual accounts of the affected participants or beneficiaries, and

“(B) to a participant or beneficiary shall be payable to the participant's or beneficiary's individual account in the plan (or directly to such participant or beneficiary in the absence of an individual account).”

(B) **CONFORMING AMENDMENT.**—Section 409(c) of such Act (29 U.S.C. 1109(c)), as redesignated by subparagraph (A), is amended by inserting before the period the following: “, unless such liability arises under subsection (b)”.

(b) **EFFECTIVE DATE; PLAN AMENDMENTS.**—

(1) **GENERAL EFFECTIVE DATE.**—Except as otherwise provided in this section, the amendments made by this section shall apply with respect to plan years beginning on or after January 1, 2003.

(2) **SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.**—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, paragraph (1) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for

"January 1, 2003" the date of the commencement of the first plan year beginning on or after the earlier of—

(A) the later of—
 (i) January 1, 2004, or
 (ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or
 (B) January 1, 2005.

(3) **PLAN AMENDMENTS.**—If any amendment made by this section requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 2005, if—

(A) during the period after such amendment made by this section takes effect and before such first plan year, the plan is operated in good faith compliance with the requirements of such amendment made by this section, and

(B) such plan amendment applies retroactively to the period after such amendment made by this section takes effect and before such first plan year.

SA 4243. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practice, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . TREATMENT OF THE TENNESSEE VALLEY AUTHORITY.

(a) **SECURITIES ACT OF 1933.**—The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended—

(1) in section 3(a)(2) (15 U.S.C. 77c(a)(2)), by inserting "(other than the Tennessee Valley Authority)" after "Congress of the United States";

(2) in section 3 (15 U.S.C. 77c), by adding at the end the following:

"(d) **TENNESSEE VALLEY AUTHORITY BONDS NOT EXEMPT.**—Notwithstanding any provision of this title, no bond issued or sold by the Tennessee Valley Authority pursuant to section 15d of the Tennessee Valley Authority Act (16 U.S.C. 831n-3(d)) shall be exempt from the requirements of this title."; and

(3) in section 28 (15 U.S.C. 77z-3)—

(A) by inserting "(a) IN GENERAL.—" before "The"; and

(B) by adding at the end the following:

"(b) **APPLICABILITY.**—Notwithstanding subsection (a), the Commission may not exempt from any provision of this title, or any rule or regulation issued under this title any bond issued or sold by the Tennessee Valley Authority pursuant to section 15d of the Tennessee Valley Authority Act (16 U.S.C. 831n-3(d))."

(b) **SECURITIES EXCHANGE ACT OF 1934.**—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended—

(1) in section 3(c) (15 U.S.C. 78c(c)), by inserting "(other than the Tennessee Valley Authority)" after "establishment of the United States";

(2) in section 3 (15 U.S.C. 78c), by adding at the end the following:

"(h) **TENNESSEE VALLEY AUTHORITY.**—Notwithstanding any other provision of this title, no bond issued or sold by the Tennessee Valley Authority pursuant to section 15d of the Tennessee Valley Authority Act (16 U.S.C. 831n-3(d)) shall be exempt from the requirements of this title or the rules or regulations issued under this title."; and

(3) in section 36(b) (15 U.S.C. 78mm(b))—

(A) by striking "exempt any" and inserting "exempt—

"(1) any";

(B) by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(2) any bond issued by the Tennessee Valley Authority pursuant to section 15d of the Tennessee Valley Authority Act (16 U.S.C. 831n-3(d))."

SA 4244. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 84, after line 25, insert the following:

(c) **FRAUDULENT TRANSFERS AND OBLIGATIONS.**—Section 548(a) of title 11, United States Code, is amended by adding at the end the following:

"(3) The trustee may avoid any transfer of an interest of the debtor in property, or any obligation incurred by the debtor, including any bonuses, loans, nonqualified deferred compensation, or other extraordinary or excessive compensation as determined by the court, paid to any officer, director, or employee of an issuer of securities (as defined in section 2(a) of the Public Company Accounting Reform and Investor Protection Act of 2002), if—

"(A) that transfer of interest or obligation was made or incurred on or within 4 years before the date of the filing of the petition; and

"(B) the officer, director, or employee has committed—

"(i) any violation of the Federal securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934), State securities laws, or any regulation or order issued under Federal or State securities laws; or

"(ii) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 or under section 6 of the Securities Act of 1933."

SA 4245. Mr. SESSIONS submitted an amendment intended to be proposed by

him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . COMPLIANCE COMMITTEES.

(a) **ESTABLISHMENT.**—The Commission shall, by rule, require each of the largest 1,000 publicly traded companies (as determined by the Commission) to establish a compliance committee of the board of directors to receive and investigate complaints or concerns of employees that question the integrity of financial records, financial statements, or other practices of the company.

(b) **COMPOSITION.**—Each compliance committee shall be made up of not fewer than 3 members of the board of directors.

(c) **RECORDKEEPING.**—The compliance committee shall keep records of complaints and investigation for a period of 5 years, which records shall be deemed confidential, and shall not be discoverable by any private party litigant in any civil action.

(d) **PROCEDURES FOR REVIEW.**—Each member of the compliance committee shall—

(1) personally review each complaint and investigation; and

(2) sign and certify that they have read the complaint and investigation and that records thereof are true and accurate in all material respects.

(f) **REPORTS TO BOARD.**—The compliance committee shall report to the board of directors its findings with respect to each investigation for appropriate action.

SA 4246. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . REPORTING COMPLAINTS.

The Commission shall establish, by rule, on easily available option (toll free number, website, e-mail, or other means) for employees of the largest 1,000 publicly traded companies (as determined by the Commission) to

report to the Enforcement Division of the Commission confidentially any complaints or concerns that questions the integrity of the financial records or financial statements of the company.

SA 4247. Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

() **RULES OF PROFESSIONAL RESPONSIBILITY FOR ATTORNEYS.**—Not later than 180 days after the date of enactment of this section, the Commission shall establish rules, in the public interest and for the protection of investors, setting forth minimum standards of professional conduct for attorneys appearing and practicing before the Commission in any way in the representation of public companies, including a rule requiring an attorney to report evidence of a material violation of securities law or breach of fiduciary duty or similar violation by the company or any agent thereof to the chief legal counsel or the chief executive officer of the company (or the equivalent thereof) and, if the counsel or officer does not appropriately respond to the evidence (adopting, as necessary, appropriate remedial measures or sanctions with respect to the violation), requiring the attorney to report the evidence to the audit committee of the board of directors or to another committee of the board of directors comprised solely of directors not employed directly or indirectly by the company, or to the board of directors.

SA 4248. Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 108, line 15, insert before the end quotation marks the following:

“(c) **RULES OF PROFESSIONAL RESPONSIBILITY FOR ATTORNEYS.**—Not later than 180

days after the date of enactment of this section, the Commission shall establish rules, in the public interest and for the protection of investors, setting forth minimum standards of professional conduct for attorneys appearing and practicing before the Commission in any way in the representation of public companies, including a rule requiring an attorney to report evidence of a material violation of securities law or breach of fiduciary duty or similar violation by the company or any agent thereof to the chief legal counsel or the chief executive officer of the company (or the equivalent thereof) and, if the counsel or officer does not appropriately respond to the evidence (adopting, as necessary, appropriate remedial measures or sanctions with respect to the violation), requiring the attorney to report the evidence to the audit committee of the board of directors or to another committee of the board of directors comprised solely of directors not employed directly or indirectly by the company, or to the board of directors.

SA 4249. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, line 17 strike “directors.” and insert the following: “directors.”

SEC. 605. ADMINISTRATIVE PROCEEDINGS REGARDING BANS ON SERVICE.

(a) **SECURITIES EXCHANGE ACT OF 1934.**—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3) is amended by adding at the end the following new subsection:

“(f) **AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.**—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b), or the rules or regulations thereunder, from acting as an officer or director of any issuer that has a class or securities registered pursuant to section 12, or that is required to file reports pursuant to section 15(d), if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.”

(b) **SECURITIES ACT OF 1933.**—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h-1) is amended by adding at the end the following new subsection:

“(f) **AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICER AND DIRECTORS.**—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) from acting as an officer or di-

rector of any issuer that has a class or securities registered pursuant to section 12 of the Securities Exchange Act of 1934, or that is required to file reports pursuant to section 15(d) of that Act, if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.”

SEC. 606. AUTHORITY TO ASSESS CIVIL MONEY PENALTIES.

(a) **SECURITIES ACT OF 1933.**—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h-1) is amended by adding at the end a new subsection as follows:

“(g) **AUTHORITY OF THE COMMISSION TO ASSESS MONEY PENALTY.**—

“(1) **IN GENERAL.**—In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that a person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.

“(2) **MAXIMUM AMOUNT OF PENALTY.**—

“(A) **FIRST TIER.**—The maximum amount of penalty for each act or omission described in paragraph (1) shall be \$100,000 for a natural person or \$250,000 for any other person.

“(B) **SECOND TIER.**—Notwithstanding subparagraph (A), the maximum amount of penalty for such act or omission described in paragraph (1) shall be \$500,000 for a natural person or \$1,000,000 for any other person, if the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement.

“(C) **THIRD TIER.**—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each act or omission described in paragraph (1) shall be \$1,000,000 for a natural person or \$2,000,000 for any other person, if—

“(i) the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement; and

“(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.”

(b) **SECURITIES EXCHANGE ACT OF 1934.**—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-2(a)) is amended—

(1) in paragraph (4), by striking “supervision;” and all that follows through the end of the subsection and inserting “supervision.”;

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and moving the margins 2 ems to the right;

(3) by inserting “that such penalty is in the public interest and” after “hearing;”

(4) by striking “In any proceeding” and inserting the following:

“(1) **IN GENERAL.**—In any proceeding;” and

(5) by adding at the end the following:

“(2) **OTHER MONEY PENALTIES.**—In any proceeding under section 21C against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.”

(c) INVESTMENT COMPANY ACT OF 1940.—Section 9(d)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(d)(1)) is amended—

(1) in subparagraph (C), by striking “therein,” and all that follows through the end of the paragraph and inserting “supervision.”;

(2) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and moving the margins 2 ems to the right;

(3) by inserting “that such penalty is in the public interest and” after “hearing.”;

(4) by striking “In any proceeding” and inserting the following:

“(A) IN GENERAL.—In any proceeding”; and

(5) by adding at the end the following:

“(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (f) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.”.

(d) INVESTMENT ADVISERS ACT OF 1940.—Section 203(i)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(i)(1)) is amended—

(1) in subparagraph (D), by striking “supervision,” and all that follows through the end of the paragraph and inserting “supervision.”;

(2) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and moving the margins 2 ems to the right;

(3) by inserting “that such penalty is in the public interest and” after “hearing.”;

(4) by striking “In any proceeding” and inserting the following:

“(A) IN GENERAL.—In any proceeding”; and

(5) by adding at the end the following:

“(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (k) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.”.

SEC. 607. INCREASED MAXIMUM CIVIL MONEY PENALTIES.

(a) SECURITIES ACT OF 1933.—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is amended—

(1) in subparagraph (A)(i), by—

(A) striking “\$5,000” and inserting “\$100,000”; and

(B) striking “\$50,000” and inserting “\$250,000”;

(2) in subparagraph (B)(i), by—

(A) striking “\$50,000” and inserting “\$500,000”; and

(B) striking “\$250,000” and inserting “\$1,000,000”; and

(3) in subparagraph (C)(i), by—

(A) striking “\$100,000” and inserting “\$1,000,000”; and

(B) striking “\$500,000” and inserting “\$2,000,000”.

(b) SECURITIES EXCHANGE ACT OF 1934.—

(1) PENALTIES.—Section 32 of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended—

(A) in subsection (b), by striking “\$100” and inserting “\$10,000”; and

(B) in subsection (c)—

(i) in paragraph (1)(B), by striking “\$10,000” and inserting “\$500,000”; and

(ii) in paragraph (2)(B), by striking “\$2,000” and inserting “\$500,000”.

(2) INSIDER TRADING.—Section 21A(a)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-1(a)(3)) is amended by striking “\$1,000,000” and inserting “\$2,000,000”.

(3) ADMINISTRATIVE PROCEEDINGS.—Section 21B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-2(b)) is amended—

(A) in paragraph (1), by—

(i) striking “\$5,000” and inserting “\$100,000”; and

(ii) striking “\$50,000” and inserting “\$250,000”;

(B) in paragraph (2), by—

(i) striking “\$50,000” and inserting “\$500,000”; and

(ii) striking “\$250,000” and inserting “\$1,000,000”; and

(C) in paragraph (3), by—

(i) striking “\$100,000” and inserting “\$1,000,000”; and

(ii) striking “\$500,000” and inserting “\$2,000,000”.

(4) CIVIL ACTIONS.—Section 21(d)(3)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(B)) is amended—

(A) in clause (i), by—

(i) striking “\$5,000” and inserting “\$100,000”; and

(ii) striking “\$50,000” and inserting “\$250,000”;

(B) in clause (ii), by—

(i) striking “\$50,000” and inserting “\$500,000”; and

(ii) striking “\$250,000” and inserting “\$1,000,000”; and

(C) in clause (iii), by—

(i) striking “\$100,000” and inserting “\$1,000,000”; and

(ii) striking “\$500,000” and inserting “\$2,000,000”.

(c) INVESTMENT COMPANY ACT OF 1940.—

(1) INELIGIBILITY.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(d)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking “\$5,000” and inserting “\$100,000”; and

(ii) striking “\$50,000” and inserting “\$250,000”;

(B) in subparagraph (B), by—

(i) striking “\$50,000” and inserting “\$500,000”; and

(ii) striking “\$250,000” and inserting “\$1,000,000”; and

(C) in subparagraph (C), by—

(i) striking “\$100,000” and inserting “\$1,000,000”; and

(ii) striking “\$500,000” and inserting “\$2,000,000”.

(2) ENFORCEMENT OF INVESTMENT COMPANY ACT.—Section 42(e)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(e)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking “\$5,000” and inserting “\$100,000”; and

(ii) striking “\$50,000” and inserting “\$250,000”;

(B) in subparagraph (B), by—

(i) striking “\$50,000” and inserting “\$500,000”; and

(ii) striking “\$250,000” and inserting “\$1,000,000”; and

(C) in subparagraph (C), by—

(i) striking “\$100,000” and inserting “\$1,000,000”; and

(ii) striking “\$500,000” and inserting “\$2,000,000”.

(d) INVESTMENT ADVISORS ACT OF 1940.—

(1) REGISTRATION.—Section 203(i)(2) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(i)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking “\$5,000” and inserting “\$100,000”; and

(ii) striking “\$50,000” and inserting “\$250,000”;

(B) in subparagraph (B), by—

(i) striking “\$50,000” and inserting “\$500,000”; and

(ii) striking “\$250,000” and inserting “\$1,000,000”; and

(C) in subparagraph (C), by—

(i) striking “\$100,000” and inserting “\$1,000,000”; and

(ii) striking “\$500,000” and inserting “\$2,000,000”.

(2) ENFORCEMENT OF INVESTMENT ADVISORS ACT.—Section 209(e)(2) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9(e)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking “\$5,000” and inserting “\$100,000”; and

(ii) striking “\$50,000” and inserting “\$250,000”;

(B) in subparagraph (B), by—

(i) striking “\$50,000” and inserting “\$500,000”; and

(ii) striking “\$250,000” and inserting “\$1,000,000”; and

(C) in subparagraph (C), by—

(i) striking “\$100,000” and inserting “\$1,000,000”; and

(ii) striking “\$500,000” and inserting “\$2,000,000”.

SEC. 608. AUTHORITY TO OBTAIN FINANCIAL RECORDS.

Section 21(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(h)) is amended—

(1) by striking paragraphs (2) through (8);

(2) in paragraph (9), by striking “(9)(A)” and all that follows through “(B) The” and inserting “(3) The”;

(3) by inserting after paragraph (1), the following:

“(2) ACCESS TO FINANCIAL RECORDS.—

“(A) IN GENERAL.—Notwithstanding section 1105 or 1107 of the Right to Financial Privacy Act of 1978, the Commission may obtain access to and copies of, or the information contained in, financial records of any person held by a financial institution, including the financial records of a customer, without notice to that person, when it acts pursuant to a subpoena authorized by a formal order of investigation of the Commission and issued under the securities laws or pursuant to an administrative or judicial subpoena issued in a proceeding or action to enforce the securities laws.

“(B) NONDISCLOSURE OF REQUESTS.—If the Commission so directs in its subpoena, no financial institution, or officer, director, partner, employee, shareholder, representative or agent of such financial institution, shall, directly or indirectly, disclose that records have been requested or provided in accordance with subparagraph (A), if the Commission finds reason to believe that such disclosure may—

“(i) result in the transfer of assets or records outside the territorial limits of the United States;

“(ii) result in improper conversion of investor assets;

“(iii) impede the ability of the Commission to identify, trace, or freeze funds involved in any securities transaction;

“(iv) endanger the life or physical safety of an individual;

“(v) result in flight from prosecution;

“(vi) result in destruction of or tampering with evidence;

“(vii) result in intimidation of potential witnesses; or

“(viii) otherwise seriously jeopardize an investigation or unduly delay a trial.”;

(4) by striking paragraph (10); and
(5) by redesignating paragraphs (11), (12), and (13) as paragraphs (4), (5), and (6), respectively.

SA 4250. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

Amend Section 108 by creating a new (d) and relettering the rest of the section accordingly:

“(d) REVIEW OF STOCK OPTION ACCOUNTING TREATMENT.—A standard setting body described in paragraph (1) and funded pursuant to Section 109 shall review the accounting treatment of employee stock options and shall, within one year of the date of enactment of this Act, adopt an appropriate generally accepted accounting principle for the treatment of employee stock options.”.

SA 4251. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 114, between lines 2 and 3, insert the following:

SEC. 605. ADMINISTRATIVE PROCEEDINGS REGARDING BANS ON SERVICE.

(a) SECURITIES EXCHANGE ACT OF 1934.—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3) is amended by adding at the end the following new subsection:

“(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b), or the rules or regulations thereunder, from acting as an officer or director of any issuer that has a class or securities

registered pursuant to section 12, or that is required to file reports pursuant to section 15(d), if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.”.

(b) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h-1) is amended by adding at the end the following new subsection:

“(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) from acting as an officer or director of any issuer that has a class or securities registered pursuant to section 12 of the Securities Exchange Act of 1934, or that is required to file reports pursuant to section 15(d) of that Act, if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.”.

SEC. 606. AUTHORITY TO ASSESS CIVIL MONEY PENALTIES.

(a) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h-1) is amended by adding at the end a new subsection as follows:

“(g) AUTHORITY OF THE COMMISSION TO ASSESS MONEY PENALTY.—

“(1) IN GENERAL.—In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that a person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.

“(2) MAXIMUM AMOUNT OF PENALTY.—

“(A) FIRST TIER.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be \$100,000 for a natural person or \$250,000 for any other person.

“(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of penalty for such act or omission described in paragraph (1) shall be \$500,000 for a natural person or \$1,000,000 for any other person, if the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement.

“(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each act or omission described in paragraph (1) shall be \$1,000,000 for a natural person or \$2,000,000 for any other person, if—

“(i) the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement; and

“(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.”.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-2(a)) is amended—

(1) in paragraph (4), by striking “supervision;” and all that follows through the end of the subsection and inserting “supervision.”;

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and moving the margins 2 ems to the right;

(3) by inserting “that such penalty is in the public interest and” after “hearing.”;

(4) by striking “In any proceeding” and inserting the following:

“(1) IN GENERAL.—In any proceeding”; and
(5) by adding at the end the following:

“(2) OTHER MONEY PENALTIES.—In any proceeding under section 21C against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.”.

(c) INVESTMENT COMPANY ACT OF 1940.—Section 9(d)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(d)(1)) is amended—

(1) in subparagraph (C), by striking “therein;” and all that follows through the end of the paragraph and inserting “supervision.”;

(2) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and moving the margins 2 ems to the right;

(3) by inserting “that such penalty is in the public interest and” after “hearing.”;

(4) by striking “In any proceeding” and inserting the following:

“(A) IN GENERAL.—In any proceeding”; and
(5) by adding at the end the following:

“(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (f) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.”.

(d) INVESTMENT ADVISERS ACT OF 1940.—Section 203(i)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(i)(1)) is amended—

(1) in subparagraph (D), by striking “supervision;” and all that follows through the end of the paragraph and inserting “supervision.”;

(2) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and moving the margins 2 ems to the right;

(3) by inserting “that such penalty is in the public interest and” after “hearing.”;

(4) by striking “In any proceeding” and inserting the following:

“(A) IN GENERAL.—In any proceeding”; and
(5) by adding at the end the following:

“(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (k) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.”.

SEC. 607. INCREASED MAXIMUM CIVIL MONEY PENALTIES.

(a) SECURITIES ACT OF 1933.—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is amended—

(1) in subparagraph (A)(i), by—
(A) striking “\$5,000” and inserting “\$100,000”; and

(B) striking “\$50,000” and inserting “\$250,000”;

(2) in subparagraph (B)(i), by—

(A) striking “\$50,000” and inserting “\$500,000”; and

(B) striking "\$250,000" and inserting "\$1,000,000"; and

(3) in subparagraph (C)(i), by—

(A) striking "\$100,000" and inserting "\$1,000,000"; and

(B) striking "\$500,000" and inserting "\$2,000,000".

(b) SECURITIES EXCHANGE ACT OF 1934.—

(1) PENALTIES.—Section 32 of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended—

(A) in subsection (b), by striking "\$100" and inserting "\$10,000"; and

(B) in subsection (c)—

(i) in paragraph (1)(B), by striking "\$10,000" and inserting "\$500,000"; and

(ii) in paragraph (2)(B), by striking "\$10,000" and inserting "\$500,000".

(2) INSIDER TRADING.—Section 21A(a)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-1(a)(3)) is amended by striking "\$1,000,000" and inserting "\$2,000,000".

(3) ADMINISTRATIVE PROCEEDINGS.—Section 21B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-2(b)) is amended—

(A) in paragraph (1), by—

(i) striking "\$5,000" and inserting "\$100,000"; and

(ii) striking "\$50,000" and inserting "\$250,000";

(B) in paragraph (2), by—

(i) striking "\$50,000" and inserting "\$500,000"; and

(ii) striking "\$250,000" and inserting "\$1,000,000"; and

(C) in paragraph (3), by—

(i) striking "\$100,000" and inserting "\$1,000,000"; and

(ii) striking "\$500,000" and inserting "\$12,000,000".

(4) CIVIL ACTIONS.—Section 21(d)(3)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(B)) is amended—

(A) in clause (i), by—

(i) striking "\$5,000" and inserting "\$100,000"; and

(ii) striking "\$50,000" and inserting "\$250,000";

(B) in clause (ii), by—

(i) striking "\$50,000" and inserting "\$500,000"; and

(ii) striking "\$250,000" and inserting "\$1,000,000"; and

(C) in clause (iii), by—

(i) striking "\$100,000" and inserting "\$1,000,000"; and

(ii) striking "\$500,000" and inserting "\$2,000,000".

(c) INVESTMENT COMPANY ACT OF 1940.—

(1) INELIGIBILITY.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(d)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking "\$5,000" and inserting "\$100,000"; and

(ii) striking "\$50,000" and inserting "\$250,000";

(B) in subparagraph (B), by—

(i) striking "\$50,000" and inserting "\$500,000"; and

(ii) striking "\$250,000" and inserting "\$1,000,000"; and

(C) in subparagraph (C), by—

(i) striking "\$100,000" and inserting "\$1,000,000"; and

(ii) striking "\$500,000" and inserting "\$2,000,000".

(2) ENFORCEMENT INVESTMENT COMPANY ACT.—Section 42(e)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(e)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking "\$5,000" and inserting "\$100,000"; and

(ii) striking "\$50,000" and inserting "\$250,000";

(B) in subparagraph (B), by—

(i) striking "\$50,000" and inserting "\$500,000"; and

(ii) striking "\$250,000" and inserting "\$1,000,000"; and

(C) in subparagraph (C), by—

(i) striking "\$100,000" and inserting "\$1,000,000"; and

(ii) striking "\$500,000" and inserting "\$2,000,000".

(d) INVESTMENT ADVISORS ACT OF 1940.—

(1) REGISTRATION.—Section 203(i)(2) of the Investment Advisors Act of 1940 (15 U.S.C. 80b-3(i)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking "\$5,000" and inserting "\$100,000"; and

(ii) striking "\$50,000" and inserting "\$250,000";

(B) in subparagraph (B), by—

(i) striking "\$50,000" and inserting "\$500,000"; and

(ii) striking "\$250,000" and inserting "\$1,000,000"; and

(C) in subparagraph (C), by—

(i) striking "\$100,000" and inserting "\$1,000,000"; and

(ii) striking "\$500,000" and inserting "\$2,000,000".

(2) ENFORCEMENT OF INVESTMENT ADVISORS ACT.—Section 209(e)(2) of the Investment Advisors Act of 1940 (15 U.S.C. 80b-9(e)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking "\$5,000" and inserting "\$100,000"; and

(ii) striking "\$50,000" and inserting "\$250,000";

(B) in subparagraph (B), by—

(i) striking "\$50,000" and inserting "\$500,000"; and

(ii) striking "\$250,000" and inserting "\$1,000,000"; and

(C) in subparagraph (C), by—

(i) striking "\$100,000" and inserting "\$1,000,000"; and

(ii) striking "\$500,000" and inserting "\$2,000,000".

SEC. 608. AUTHORITY TO OBTAIN FINANCIAL RECORDS.

Section 21(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(h)) is amended—

(1) by striking paragraphs (2) through (8);

(2) in paragraph (9), by striking "(9)(A)" and all that follows through "(B) The" and inserting "(3) The";

(3) by inserting after paragraph (1), the following:

"(2) ACCESS TO FINANCIAL RECORDS.—

"(A) IN GENERAL.—Notwithstanding section 1105 or 1107 of the Right to Financial Privacy Act of 1978, the Commission may obtain access to and copies of, or the information contained in, financial records of any person held by a financial institution, including the financial records of a customer, without notice to that person, when it acts pursuant to a subpoena authorized by a formal order of investigation of the Commission and issued under the securities laws or pursuant to an administrative or judicial subpoena issued in a proceeding or action to enforce the securities laws.

"(B) NONDISCLOSURE OF REQUESTS.—If the Commission so directs in its subpoena, no financial institution, or officer, director, partner, employee, shareholder, representative or agent of such financial institution, shall, directly or indirectly, disclose that records have been requested or provided in accordance with subparagraph (A), if the Commission finds reason to believe that such disclosure may—

"(i) result in the transfer of assets or records outside the territorial limits of the United States;

"(ii) result in improper conversion of investor assets;

"(iii) impede the ability of the Commission to identify, trace, or freeze funds involved in any securities transaction;

"(iv) endanger the life or physical safety of an individual;

"(v) result in flight from prosecution;

"(vi) result in destruction of or tampering with evidence;

"(vii) result in intimidation of potential witnesses; or

"(viii) otherwise seriously jeopardize an investigation or unduly delay a trial.";

(4) by striking paragraph (10); and

(5) by redesignating paragraphs (11), (12), and (13) as paragraphs (4), (5), and (6), respectively.

SA 4252. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 93, strike line 22, and insert the following: "sion shall specify.

"(4) CERTAIN INFORMATION TO BE INCLUDED.—Disclosures required by paragraph (1)(B)(ii) shall include whether any payment was made through the tender of a security and, if so, the number of shares tendered.

"(5) DEADLINE FOR RULEMAKING.—The Commission shall—

"(A) propose rules to implement this subsection, not later than 90 days after the date of enactment of this subsection; and

"(b) issue final rules to implement this subsection, not later than 180 days after that date of enactment."

SA 4253. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 114, between lines 2 and 3, insert the following:

SEC. 605. ADMINISTRATIVE PROCEEDINGS REGARDING BANS ON SERVICE.

(a) SECURITIES EXCHANGE ACT OF 1934.—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3) is amended by adding at the end the following new subsection:

“(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditional or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b), or the rules or regulations thereunder, from acting as an officer or director of any issuer that has a class or securities registered pursuant to section 12, or that is required to file reports pursuant to section 15(d), if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.”

(b) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h-1) is amended by adding at the end the following new subsection:

“(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICER AND DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditional or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) from acting as an officer or director of any issuer that has a class or securities registered pursuant to section 12 of the Securities Exchange Act of 1934, or that is required to file reports pursuant to section 15(d) of that Act, if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.”

SEC. 606. AUTHORITY TO ASSESS CIVIL MONEY PENALTIES.

(a) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h-1) is amended by adding at the end a new subsection as follows:

“(g) AUTHORITY OF THE COMMISSION TO ASSESS MONEY PENALTY.—

“(1) IN GENERAL.—In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that a person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.

“(2) MAXIMUM AMOUNT OF PENALTY.—

“(A) FIRST TIER.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be \$100,000 for a natural person or \$250,000 for any other person.

“(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of penalty for such act or omission described in paragraph (1) shall be \$500,000 for a natural person or \$1,000,000 for any other person, if the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement.

“(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each act or omission described in paragraph (1) shall be \$1,000,000 for a natural person or \$2,000,000 for any other person, if—

“(i) the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement; and

“(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.”

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-2(a)) is amended—

(1) in paragraph (4), by striking “supervision;” and all that follows through the end of the subsection and inserting “supervision.”;

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and moving the margins 2 ems to the right;

(3) by inserting “that such penalty is in the public interest and” after “hearing.”;

(4) by striking “In any proceeding” and inserting the following:

“(1) IN GENERAL.—In any proceeding;” and

(5) by adding at the end the following:

“(2) OTHER MONEY PENALTIES.—In any proceeding under section 21C against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.”

(c) INVESTMENT COMPANY ACT OF 1940.—Section 9(d)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(d)(1)) is amended—

(1) in subparagraph (C), by striking “therein;” and all that follows through the end of the paragraph and inserting “supervision.”;

(2) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and moving the margins 2 ems to the right;

(3) by inserting “that such penalty is in the public interest and” after “hearing.”;

(4) by striking “In any proceeding” and inserting the following:

“(A) IN GENERAL.—In any proceeding;” and

(5) by adding at the end the following:

“(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (f) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.”

(d) INVESTMENT ADVISERS ACT OF 1940.—Section 203(i)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(i)(1)) is amended—

(1) in subparagraph (D), by striking “supervision;” and all that follows through the end of the paragraph and inserting “supervision.”;

(2) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and moving the margins 2 ems to the right;

(3) by inserting “that such penalty is in the public interest and” after “hearing.”;

(4) by striking “In any proceeding” and inserting the following:

“(A) IN GENERAL.—In any proceeding;” and

(5) by adding at the end the following:

“(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (k) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is

about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.”

SEC. 607. INCREASED MAXIMUM CIVIL MONEY PENALTIES.

(a) SECURITIES ACT OF 1933.—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is amended—

(1) in subparagraph (A)(i), by—

(A) striking “\$5,000” and inserting “\$100,000”; and

(B) striking “\$50,000” and inserting “\$250,000”; and

(2) in subparagraph (B)(i), by—

(A) striking “\$50,000” and inserting “\$500,000”; and

(B) striking “\$250,000” and inserting “\$1,000,000”; and

(3) in subparagraph (C)(i), by—

(A) striking “\$100,000” and inserting “\$1,000,000”; and

(B) striking “\$500,000” and inserting “\$2,000,000”.

(b) SECURITIES EXCHANGE ACT OF 1934.—

(1) PENALTIES.—Section 32 of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended—

(A) in subsection (b), by striking “\$100” and inserting “\$10,000”; and

(B) in subsection (c)—

(i) in paragraph (1)(B), by striking “\$10,000” and inserting “\$500,000”; and

(ii) in paragraph (2)(B), by striking “\$10,000” and inserting “\$500,000”.

(2) INSIDER TRADING.—Section 21A(a)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-1(a)(3)) is amended by striking “\$1,000,000” and inserting “\$2,000,000”.

(3) ADMINISTRATIVE PROCEEDINGS.—Section 21B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-2(b)) is amended—

(A) in paragraph (1), by—

(i) striking “\$5,000” and inserting “\$100,000”; and

(ii) striking “\$50,000” and inserting “\$250,000”; and

(B) in paragraph (2), by—

(i) striking “\$50,000” and inserting “\$500,000”; and

(ii) striking “\$250,000” and inserting “\$1,000,000”; and

(C) in paragraph (3), by—

(i) striking “\$100,000” and inserting “\$1,000,000”; and

(ii) striking “\$500,000” and inserting “\$2,000,000”.

(4) CIVIL ACTIONS.—Section 21(d)(3)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(B)) is amended—

(A) in clause (i), by—

(i) striking “\$5,000” and inserting “\$100,000”; and

(ii) striking “\$50,000” and inserting “\$250,000”; and

(B) in clause (ii), by—

(i) striking “\$50,000” and inserting “\$500,000”; and

(ii) striking “\$250,000” and inserting “\$1,000,000”; and

(C) in clause (iii), by—

(i) striking “\$100,000” and inserting “\$1,000,000”; and

(ii) striking “\$500,000” and inserting “\$2,000,000”.

(c) INVESTMENT COMPANY ACT OF 1940.—

(1) INELIGIBILITY.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(d)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking “\$5,000” and inserting “\$100,000”; and

(ii) striking “\$50,000” and inserting “\$250,000”; and

(B) in clause (ii), by—

(i) striking “\$50,000” and inserting “\$500,000”; and

(ii) striking “\$250,000” and inserting “\$1,000,000”; and

(C) in clause (iii), by—

(i) striking “\$100,000” and inserting “\$1,000,000”; and

(ii) striking “\$500,000” and inserting “\$2,000,000”.

(c) INVESTMENT COMPANY ACT OF 1940.—

(1) INELIGIBILITY.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(d)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking “\$5,000” and inserting “\$100,000”; and

(ii) striking “\$50,000” and inserting “\$250,000”; and

(B) in clause (ii), by—

(i) striking “\$50,000” and inserting “\$500,000”; and

(ii) striking “\$250,000” and inserting “\$1,000,000”; and

(C) in clause (iii), by—

(i) striking “\$100,000” and inserting “\$1,000,000”; and

(ii) striking “\$500,000” and inserting “\$2,000,000”.

(c) INVESTMENT COMPANY ACT OF 1940.—

(1) INELIGIBILITY.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(d)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking “\$5,000” and inserting “\$100,000”; and

(ii) striking “\$50,000” and inserting “\$250,000”; and

(B) in clause (ii), by—

(i) striking “\$50,000” and inserting “\$500,000”; and

(ii) striking “\$250,000” and inserting “\$1,000,000”; and

(C) in clause (iii), by—

(i) striking “\$100,000” and inserting “\$1,000,000”; and

(ii) striking “\$500,000” and inserting “\$2,000,000”.

(B) in subparagraph (B), by—
 (i) striking “\$50,000” and inserting “\$500,000”; and
 (ii) striking “\$250,000” and inserting “\$1,000,000”; and
 (C) in subparagraph (C), by—
 (i) striking “\$100,000” and inserting “\$1,000,000”; and
 (ii) striking “\$500,000” and inserting “\$2,000,000”.

(2) ENFORCEMENT INVESTMENT COMPANY ACT.—Section 42(e)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(e)(2)) is amended—

(A) in subparagraph (A), by—
 (i) striking “\$5,000” and inserting “\$100,000”; and
 (ii) striking “\$50,000” and inserting “\$250,000”;
 (B) in subparagraph (B), by—
 (i) striking “\$50,000” and inserting “\$500,000”; and
 (ii) striking “\$250,000” and inserting “\$1,000,000”; and
 (C) in subparagraph (C), by—
 (i) striking “\$100,000” and inserting “\$1,000,000”; and
 (ii) striking “\$500,000” and inserting “\$2,000,000”.

(d) INVESTMENT ADVISORS ACT OF 1940.—
 (1) REGISTRATION.—Section 203(i)(2) of the Investment Advisors Act of 1940 (15 U.S.C. 80b-3(i)(2)) is amended—

(A) in subparagraph (A), by—
 (i) striking “\$5,000” and inserting “\$100,000”; and
 (ii) striking “\$50,000” and inserting “\$250,000”;
 (B) in subparagraph (B), by—
 (i) striking “\$50,000” and inserting “\$500,000”; and
 (ii) striking “\$250,000” and inserting “\$1,000,000”; and
 (C) in subparagraph (C), by—
 (i) striking “\$100,000” and inserting “\$1,000,000”; and
 (ii) striking “\$500,000” and inserting “\$2,000,000”.

(2) ENFORCEMENT OF INVESTMENT ADVISORS ACT.—Section 209(e)(2) of the Investment Advisors Act of 1940 (15 U.S.C. 80b-9(e)(2)) is amended—

(A) in subparagraph (A), by—
 (i) striking “\$5,000” and inserting “\$100,000”; and
 (ii) striking “\$50,000” and inserting “\$250,000”;
 (B) in subparagraph (B), by—
 (i) striking “\$50,000” and inserting “\$500,000”; and
 (ii) striking “\$250,000” and inserting “\$1,000,000”; and
 (C) in subparagraph (C), by—
 (i) striking “\$100,000” and inserting “\$1,000,000”; and
 (ii) striking “\$500,000” and inserting “\$2,000,000”.

SA 4254. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securi-

ties analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 50, line 1, strike “public (once)” and all that follows through page 51, line 2 and insert the following: “public.”

“(2) CONTENTS.—The information reported under paragraph (1) shall include—

“(A) the name of the sanctioned person;
 “(B) a description of the sanction and the basis for its imposition; and
 “(C) such other information as the Board deems appropriate.”.

SA 4255. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 74, line 7, strike “and” and all that follows through “other” on line 8, and insert the following:

“(3) the quality, acceptability, clarity, and aggressiveness of the financial statements, financial reports, accounting principles, and related decision-making of the issuer; and
 “(4) other”.

SA 4256. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 84, line 8, strike “If an issuer” and all that follows through line 20 and insert the following: “If, as a result of misconduct under the securities laws, an issuer is required by the board of directors, auditor, regulatory agency, bankruptcy official, civil or criminal settlement, court, or other legal proceeding to prepare an accounting restatement due to the material noncompliance of the issuer with any financial reporting requirement under the securities laws, the chief executive officer and chief financial of-

ficer of the issuer shall reimburse the issuer for—

“(1) any bonus or other incentive-based or equity-based compensation received by that person from the issuer during the 12-month period following the first public issuance or filing with the Commission (whichever first occurs) of the document containing the financial information subject to correction in such restatement; and”.

SA 4257. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 73, beginning on line 17, strike “amended by adding” and insert the following: “amended—

“(1) in subsection (a)—
 “(A) in paragraph (2), by striking ‘and’ at the end;

“(B) by redesignating paragraph (3) as paragraph (4); and

“(C) by inserting after paragraph (2) the following:

“(3) a statement of opinion by the registered public accounting firm on whether the financial statements of the issuer are appropriate and fairly present, in all material respects, the operations and financial condition of the issuer; and”; and

“(2) by adding”.

SA 4258. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 99, between lines 15 and 16, insert the following:

SEC. 408. ACCOUNTABILITY TO SHAREHOLDERS FOR ISSUANCE OF STOCK OPTIONS.

(a) RULES REQUIRED.—Not later than 180 days after the date of enactment of this Act, the Commission shall prescribe final rules to ensure that—

(1) all issuers require shareholder approval of any stock option plan, stock purchase

plan, or other arrangement by which employees may acquire an equity interest in the issuer in exchange for consideration that is less than the fair market value of the equity interest at the time of the exchange;

(2) the shareholder approval requirement under paragraph (1) is waived whenever such approval is impracticable; and

(3) shareholder approval of a plan or arrangement under paragraph (1) is disclosed to the public immediately after such approval, through the Internet or similar means of broad distribution.

(b) **REPORT TO CONGRESS.**—Not later than 180 days after the date of enactment of this Act, the Commission shall report to Congress on the issuance of the rules pursuant to subsection (a).

SA 4259. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 91, strike line 19 and all that follows through page 93, line 22 and insert the following:

SEC. 402. PROHIBITION ON LOANS TO OFFICERS AND DIRECTORS.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by this Act, is amended by adding at the end the following:

“(k) **PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.**—

“(1) **IN GENERAL.**—It shall be unlawful for any issuer, directly or indirectly, to extend or maintain credit, or arrange for the extension of credit, to or for any director or executive officer (or equivalent thereof) of that issuer, except as provided in paragraph (2).

“(2) **LIMITATION.**—Paragraph (1) does not preclude any extension of credit under an open end credit plan (as defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)) that is—

“(A) made in the ordinary course of the consumer credit business of an issuer;

“(B) of a type that is generally made available by the issuer to the public; and

“(C) made on market terms, or terms that are no more favorable than those offered by the issuer to the general public for such loans.”.

SA 4260. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public

companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 73, strike lines 3 through 14 and insert the following:

SEC. 203. AUDIT FIRM ROTATION

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1), as amended by this Act, is amended by adding at the end the following:

“(j) **AUDIT FIRM ROTATION.**—It shall be unlawful for a registered public accounting firm to provide audit services to an issuer if that public accounting firm has performed audit services for that issuer in each of the 5 previous fiscal years of that issuer.”.

SA 4261. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 107, line 22 add the following:

(b) **STUDY AND REPORT ON AIDING AND ABETTING SECURITIES FRAUDS.**—

(1) The Commission shall, not later than 1 year after the adoption of the new rules on appearance and practice before the Commission as required under this section of the bill, complete a study to determine—

(A) the number of securities professionals including accountants, lawyers and other securities professionals practicing before the Commission, who have been found to have aided and abetted a violation of the securities laws or the rules and regulations issued thereunder; and

(B) the extent to which such violations indicate the existence of a pattern or practice; and

(C) the amount of shareholder value that was lost in the instances where securities professionals are found to have aided and abetted a violation of the securities laws; and

(D) the amount of disgorgement, restitution or any other fines or payments the Commission has obtained from securities professionals who have aided and abetted violations of the securities laws for such conduct; and

(E) the amount of remuneration shareholders have received in civil suits from securities professionals who have been found to have committed primary violations of the securities laws; and

(F) the number of securities professionals who have been found to have aided and abetted securities violations who have been cen-

sured or denied the privilege of practicing before the Commission for their aiding and abetting activities.

SA 4262. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 107, line 22 add the following:

(b) **STUDY AND REPORT ON AIDING AND ABETTING SECURITIES FRAUDS.**—

(1) The Commission shall, not later than 1 year after the adoption of the new rules on appearance and practice before the Commission as required under this section of the bill, complete a study to determine—

(A) the number of securities professionals including accountants, lawyers and other securities professionals practicing before the Commission, who have been found to have aided and abetted a violation of the securities laws or the rules and regulations issued thereunder; and

(B) the extent to which such violations indicate the existence of a pattern or practice; and

(C) the amount of shareholder value that was lost in the instances where securities professionals are found to have aided and abetted a violation of the securities laws; and

(D) the amount of disgorgement, restitution or any other fines or payments the Commission has obtained from securities professionals who have aided and abetted violations of the securities laws for such conduct; and

(E) the amount of remuneration shareholders have received in civil suits from securities professionals who have been found to have committed primary violations of the securities laws; and

(F) the number of securities professionals who have been found to have aided and abetted securities violations who have been censured or denied the privilege of practicing before the Commission for their aiding and abetting activities.

SA 4263. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities

and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 74, strike lines 1 through 4 and insert the following:

“(2) all material alternative treatments of financial information within generally accepted accounting principles that have been discussed with management officials of the issuer, ramifications of the use of such material”.

SA 4264. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 78, strike lines 15 through 24, and insert the following:

In supervising public accounting firms that are not registered by the Board and their associated persons, appropriate State regulatory authorities should make an independent determination of the proper standards applicable, particularly taking into consideration the size and nature of the business of the accounting firms they supervise and the size and nature of the business of the clients of those firms. The standards applied by the Board under this Act could create undue burdens and costs if applied without independent consideration to nonpublic accounting companies and other accounting firms that provide services to small business clients.

On page 68, strike line 22 and all that follows through page 69, line 9, and insert the following:

“(g) PROHIBITED ACTIVITIES.—A registered public accounting firm (and any associated person of that firm, to the extent determined appropriate by the Commission) shall not be deemed independent if such firm or person performs for any issuer any audit required by this title or the rules of the Commission under this title or, beginning 180 days after the date of commencement of the operations of the Public Company Accounting Oversight Board established under section 101 of the Public Company Accounting Reform and Investor Protection Act of 2002 (in this section referred to as the ‘Board’), the rules of the Board, to provide to that issuer, contemporaneously with the audit, the following non-audit services:

On page 70, strike lines 3 and all that follows through page 73, line 2, and insert the following:

(b) EXEMPTION AUTHORITY.—The Board may, on a case by case basis, exempt any person, issuer, public accounting firm, or transaction from the prohibition on the provision of services under section 10A(g) of the Securities Exchange Act of 1934 (as added by this section), to the extent that such exemp-

tion is necessary or appropriate in the public interest and is consistent with the protection of investors, and subject to review by the Commission in the same manner as for rules of the Board under section 107.

SEC. 202. PREAPPROVAL REQUIREMENTS.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1), as amended by this Act, is amended by adding at the end the following:

“(h) PREAPPROVAL REQUIRED FOR NON-AUDIT SERVICES.—

“(1) IN GENERAL.

“(A) TERMS OF PROVISION OF SERVICES.—A registered public accounting firm may engage in any non-audit service, including tax services, that is not described in any of paragraphs (1) through (9) of subsection (g) for an audit client, only if such services are provided in accordance with policies and procedures established by the audit committee of the issuer requiring the committee to approve in advance the provision of non-audit services.

“(B) DE MINIMUS EXCEPTION.—The preapproval requirement under subparagraph (A) is waived with respect to the provision of non-audit services for an issuer, if—

“(i) the aggregate amount of all such non-audit services provided to the issuer constitutes not more than 5 percent of the total amount of revenues paid by the issuer to its auditor;

“(ii) such services were not recognized by the issuer at the time of the engagement to be non-audit services; and

“(iii) such services are promptly brought to the attention of the audit committee of the issuer and approved by the audit committee prior to the completion of the audit, by 1 or more members of the audit committee who are members of the board of directors to whom authority to grant such approvals has been delegated by the audit committee.

“(2) DISCLOSURE TO INVESTORS.—Policies and procedures for approval by an audit committee of an issuer under this subsection of a non-audit service to be performed by the auditor of the issuer shall be disclosed to investors in periodic reports required by section 13(a).

“(3) DELEGATION AUTHORITY.—The audit committee of an issuer may delegate to 1 or more designated members of the audit committee who are independent directors of the board of directors, the authority to grant preapprovals required by this subsection. The decisions of any member to whom authority is delegated under this paragraph to preapprove an activity under this subsection shall be presented to the full audit committee at each of its scheduled meetings.”.

SA 4265. Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes;

which was ordered to lie on the table; as follows:

On page 108, line 15, insert before the end quotation marks the following:

“(c) RULES OF PROFESSIONAL RESPONSIBILITY FOR ATTORNEYS.—Not later than 180 days after the date of enactment of this section, the Commission shall establish rules, in the public interest and for the protection of investors, setting forth minimum standards of professional conduct for attorneys appearing and practicing before the Commission in the representation of public companies, including a rule requiring an attorney to report evidence of a material violation of law by the company or any agent thereof to the chief legal counsel or the chief executive officer of the company (or the equivalent thereof) and, if the counsel or officer does not appropriately respond to the evidence (adopting, as necessary, appropriate remedial measures or sanctions with respect to the violation), requiring the attorney to report the evidence to the audit committee of the board of directors or to another committee of the board of directors comprised solely of directors not employed directly or indirectly by the company, or to the board of directors.

SA 4266. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . MANDATORY RESTITUTION FOR FEDERAL CRIMES OF FRAUD.

Section 1348 of title 18, United States Code as added by this bill, is amended—

(1) by striking “all victims of any offense” and all that follows through the period and inserting the following: “all victims of any offense—

“(1) for which an enhanced penalty is provided under section 2326; or

“(2) relating to a Federal crime of fraud under section 371, 1131, 1341, 1343, 1348, 1519, or 1520.”.

SA 4267. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate

financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

Insert at the appropriate place:

“(c) FOREIGN REINCORPORATIONS.—This subsection shall not be interpreted or applied in any way to allow any issue to lessen the legal force of the statement required under this subsection, by reincorporating, or engaging in other transaction that result in the transfer of corporate domicile or offices from inside to outside the United States.

SA 4268. Mr. SMITH of Oregon submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . . GAO ANALYSIS AND REPORT.

(a) ANALYSIS.—The Comptroller General of the United States shall, in consultation with the Commission and the Department of Labor, shall conduct an analysis of—

(1) decline in the value of the securities of publicly traded companies under investigation by the Commission for possible violations of the Federal securities laws; and

(2) how such declines have affected assets held in public and private pension plans.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Comptroller shall submit a report to Congress on the results of the analysis conducted under subsection (a).

SA 4269. Mr. DASCHLE (for Mr. LEVIN (for himself, Mr. NELSON of Florida, Mr. HARKIN, Mr. CORZINE, and Mr. BIDEN)) proposed an amendment to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

In the amendment on page 2 in line 17 strike director. and insert directors.

SEC. 605. ADMINISTRATIVE PROCEEDINGS REGARDING BANS ON SERVICE.

(a) SECURITIES EXCHANGE ACT OF 1934.—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3) is amended by adding at the end the following new subsection:

“(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b), or the rules or regulations thereunder, from acting as an officer or director of any issuer that has a class or securities registered pursuant to section 12, or that is required to file reports pursuant to section 15(d), if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.”

(b) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h-1) is amended by adding at the end the following new subsection:

“(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICER AND DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) from acting as an officer or director of any issuer that has a class or securities registered pursuant to section 12 of the Securities Exchange Act of 1934, or that is required to file reports pursuant to section 15(d) of that Act, if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.”

SEC. 606. AUTHORITY TO ASSESS CIVIL MONEY PENALTIES.

(a) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h-1) is amended by adding at the end a new subsection as follows:

“(g) AUTHORITY OF THE COMMISSION TO ASSESS MONEY PENALTY.—

“(1) IN GENERAL.—In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that a person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.

“(2) MAXIMUM AMOUNT OF PENALTY.—

“(A) FIRST TIER.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be \$100,000 for a natural person or \$250,000 for any other person.

“(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of penalty for such act or omission described in paragraph (1) shall be \$500,000 for a natural person or \$1,000,000 for any other person, if the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement.

“(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each act or omission described in paragraph (1) shall be \$1,000,000 for a natural person or \$2,000,000 for any other person, if—

“(i) the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement; and

“(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.”

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-2(a)) is amended—

(1) in paragraph (4), by striking “supervision;” and all that follows through the end of the subsection and inserting “supervision.”;

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and moving the margins 2 ems to the right;

(3) by inserting “that such penalty is in the public interest and” after “hearing;”;

(4) by striking “In any proceeding” and inserting the following:

“(1) IN GENERAL.—In any proceeding;”;

(5) by adding at the end the following:

“(2) OTHER MONEY PENALTIES.—In any proceeding under section 21C against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.”

(c) INVESTMENT COMPANY ACT OF 1940.—Section 9(d)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(d)(1)) is amended—

(1) in subparagraph (C), by striking “therein;” and all that follows through the end of the paragraph and inserting “supervision.”;

(2) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and moving the margins 2 ems to the right;

(3) by inserting “that such penalty is in the public interest and” after “hearing;”;

(4) by striking “In any proceeding” and inserting the following:

“(A) IN GENERAL.—In any proceeding;”;

(5) by adding at the end the following:

“(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (f) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.”

(d) INVESTMENT ADVISERS ACT OF 1940.—Section 203(i)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(i)(1)) is amended—

(1) in subparagraph (D), by striking “supervision;” and all that follows through the end of the paragraph and inserting “supervision.”;

(2) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and moving the margins 2 ems to the right;

(3) by inserting “that such penalty is in the public interest and” after “hearing;”;

(4) by striking “In any proceeding” and inserting the following:

“(A) IN GENERAL.—In any proceeding;”;

(5) by adding at the end the following:

“(B) OTHER MONEY PENALTIES.—In any proceeding under subsection (k) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is

about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.”.

SEC. 607. INCREASED MAXIMUM CIVIL MONEY PENALTIES.

(a) SECURITIES ACT OF 1933.—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is amended—

(1) in subparagraph (A)(i), by—
(A) striking “\$5,000” and inserting “\$100,000”; and
(B) striking “\$50,000” and inserting “\$250,000”;

(2) in subparagraph (B)(i), by—
(A) striking “\$50,000” and inserting “\$500,000”; and
(B) striking “\$250,000” and inserting “\$1,000,000”; and

(3) in subparagraph (C)(i), by—
(A) striking “\$100,000” and inserting “\$1,000,000”; and
(B) striking “\$500,000” and inserting “\$2,000,000”.

(b) SECURITIES EXCHANGE ACT OF 1934.—
(1) PENALTIES.—Section 32 of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended—

(A) in subsection (b), by striking “\$100” and inserting “\$10,000”; and
(B) in subsection (c)—

(i) in paragraph (1)(B), by striking “\$10,000” and inserting “\$500,000”; and
(ii) in paragraph (2)(B), by striking “\$2,000” and inserting “\$500,000”.

(2) INSIDER TRADING.—Section 21A(a)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-1(a)(3)) is amended by striking “\$1,000,000” and inserting “\$2,000,000”.

(3) ADMINISTRATIVE PROCEEDINGS.—Section 21B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-2(b)) is amended—

(A) in paragraph (1), by—
(i) striking “\$5,000” and inserting “\$100,000”; and
(ii) striking “\$50,000” and inserting “\$250,000”;

(B) in paragraph (2), by—
(i) striking “\$50,000” and inserting “\$500,000”; and
(ii) striking “\$250,000” and inserting “\$1,000,000”; and

(C) in paragraph (3), by—
(i) striking “\$100,000” and inserting “\$1,000,000”; and
(ii) striking “\$500,000” and inserting “\$2,000,000”.

(4) CIVIL ACTIONS.—Section 21(d)(3)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(B)) is amended—

(A) in clause (i), by—
(i) striking “\$5,000” and inserting “\$100,000”; and
(ii) striking “\$50,000” and inserting “\$250,000”;

(B) in clause (ii), by—
(i) striking “\$50,000” and inserting “\$500,000”; and
(ii) striking “\$250,000” and inserting “\$1,000,000”; and

(C) in clause (iii), by—
(i) striking “\$100,000” and inserting “\$1,000,000”; and
(ii) striking “\$500,000” and inserting “\$2,000,000”.

(c) INVESTMENT COMPANY ACT OF 1940.—

(1) INELIGIBILITY.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(d)(2)) is amended—

(A) in subparagraph (A), by—
(i) striking “\$5,000” and inserting “\$100,000”; and
(ii) striking “\$50,000” and inserting “\$250,000”;

(B) in subparagraph (B), by—
(i) striking “\$50,000” and inserting “\$500,000”; and
(ii) striking “\$250,000” and inserting “\$1,000,000”; and

(C) in subparagraph (C), by—
(i) striking “\$100,000” and inserting “\$1,000,000”; and
(ii) striking “\$500,000” and inserting “\$2,000,000”.

(2) ENFORCEMENT OF INVESTMENT COMPANY ACT.—Section 42(e)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(e)(2)) is amended—

(A) in subparagraph (A), by—
(i) striking “\$5,000” and inserting “\$100,000”; and
(ii) striking “\$50,000” and inserting “\$250,000”;

(B) in subparagraph (B), by—
(i) striking “\$50,000” and inserting “\$500,000”; and
(ii) striking “\$250,000” and inserting “\$1,000,000”; and

(C) in subparagraph (C), by—
(i) striking “\$100,000” and inserting “\$1,000,000”; and
(ii) striking “\$500,000” and inserting “\$2,000,000”.

(d) INVESTMENT ADVISORS ACT OF 1940.—
(1) REGISTRATION.—Section 203(i)(2) of the Investment Advisors Act of 1940 (15 U.S.C. 80b-3(i)(2)) is amended—

(A) in subparagraph (A), by—
(i) striking “\$5,000” and inserting “\$100,000”; and
(ii) striking “\$50,000” and inserting “\$250,000”;

(B) in subparagraph (B), by—
(i) striking “\$50,000” and inserting “\$500,000”; and
(ii) striking “\$250,000” and inserting “\$1,000,000”; and

(C) in subparagraph (C), by—
(i) striking “\$100,000” and inserting “\$1,000,000”; and
(ii) striking “\$500,000” and inserting “\$2,000,000”.

(2) ENFORCEMENT OF INVESTMENT ADVISORS ACT.—Section 209(e)(2) of the Investment Advisors Act of 1940 (15 U.S.C. 80b-9(e)(2)) is amended—

(A) in subparagraph (A), by—
(i) striking “\$5,000” and inserting “\$100,000”; and
(ii) striking “\$50,000” and inserting “\$250,000”;

(B) in subparagraph (B), by—
(i) striking “\$50,000” and inserting “\$500,000”; and
(ii) striking “\$250,000” and inserting “\$1,000,000”; and

(C) in subparagraph (C), by—
(i) striking “\$100,000” and inserting “\$1,000,000”; and
(ii) striking “\$500,000” and inserting “\$2,000,000”.

(3) AUTHORITY TO OBTAIN FINANCIAL RECORDS.—Section 21(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(h)) is amended—

(1) by striking paragraphs (2) through (8);
(2) in paragraph (9), by striking “(9)(A)” and all that follows through “(B) The” and inserting “(3) The”;

(3) by inserting after paragraph (1), the following:

“(2) ACCESS TO FINANCIAL RECORDS.—

“(A) IN GENERAL.—Notwithstanding section 1105 or 1107 of the Right to Financial Privacy Act of 1978, the Commission may obtain access to and copies of, or the information contained in, financial records of any person held by a financial institution, including the

financial records of a customer, without notice to that person, when it acts pursuant to a subpoena authorized by a formal order of investigation of the Commission and issued under the securities laws or pursuant to an administrative or judicial subpoena issued in a proceeding or action to enforce the securities laws.

“(B) NONDISCLOSURE OF REQUESTS.—If the Commission so directs in its subpoena, no financial institution, or officer, director, partner, employee, shareholder, representative or agent of such financial institution, shall, directly or indirectly, disclose that records have been requested or provided in accordance with subparagraph (A), if the Commission finds reason to believe that such disclosure may—

“(i) result in the transfer of assets or records outside the territorial limits of the United States;

“(ii) result in improper conversion of investor assets;

“(iii) impede the ability of the Commission to identify, trace, or freeze funds involved in any securities transaction;

“(iv) endanger the life or physical safety of an individual;

“(v) result in flight from prosecution;

“(vi) result in destruction of or tampering with evidence;

“(vii) result in intimidation of potential witnesses; or

“(viii) otherwise seriously jeopardize an investigation or unduly delay a trial.”;

(4) by striking paragraph (10); and
(5) by redesignating paragraphs (11), (12), and (13) as paragraphs (4), (5), and (6), respectively.

SA 4270. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . STOCK OPTIONS MUST BE BOOKED AS EXPENSE WHEN GRANTED.

Any corporation that grants a stock option to an officer or employee to purchase a publicly traded security in the United States shall record the granting of the option as an expense in that corporation's income statement for the year in which the option is granted.

SA 4271. Mr. REID (for Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE)) proposed an amendment to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence

of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

At the end of the instructions add the following:

“(c) **RULES OF PROFESSIONAL RESPONSIBILITY FOR ATTORNEYS.**—Not later than 180 days after the date of enactment of this section, the Commission shall establish rules, in the public interest and for the protection of investors, setting forth minimum standards of professional conduct for attorneys appearing and practicing before the Commission in any way in the representation of public companies, including a rule requiring an attorney to report evidence of a material violation of securities law or breach of fiduciary duty or similar violation by the company or any agent thereof to the chief legal counsel or the chief executive officer of the company (or the equivalent thereof) and, if the counsel or officer does not appropriately respond to the evidence (adopting, as necessary, appropriate remedial measures or sanctions with respect to the violation), requiring the attorney to report the evidence to the audit committee of the board of directors, or to another committee of the board of directors comprised solely of directors not employed directly or indirectly by the company, or to the board of directors.

SA 4272. Mr. REID (for Mr. LEVIN (for himself, Mr. NELSON of Florida, Mr. HARKIN, Mr. CORZINE, and Mr. BIDEN)) proposed an amendment to amendment SA 4271 proposed by Mr. REID (for Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE)) to the bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

In the amendment on page 2 in line 17 strike director. and insert directors.

SEC. 605. ADMINISTRATIVE PROCEEDINGS REGARDING BANS ON SERVICE.

(a) **SECURITIES EXCHANGE ACT OF 1934.**—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3) is amended by adding at the end the following new subsection:

“(f) **AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.**—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b), or the rules or regulations thereunder, from acting as an officer or director of any issuer that has a class or securities

registered pursuant to section 12, or that is required to file reports pursuant to section 15(d), if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.”

(b) **SECURITIES ACT OF 1933.**—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h-1) is amended by adding at the end the following new subsection:

“(f) **AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICER AND DIRECTORS.**—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) from acting as an officer or director of any issuer that has a class or securities registered pursuant to section 12 of the Securities Exchange Act of 1934, or that is required to file reports pursuant to section 15(d) of that Act, if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.”

SEC. 606. AUTHORITY TO ASSESS CIVIL MONEY PENALTIES.

(a) **SECURITIES ACT OF 1933.**—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h-1) is amended by adding at the end a new subsection as follows:

“(g) **AUTHORITY OF THE COMMISSION TO ASSESS MONEY PENALTY.**—

“(1) **IN GENERAL.**—In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that a person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.

“(2) **MAXIMUM AMOUNT OF PENALTY.**—

“(A) **FIRST TIER.**—The maximum amount of penalty for each act or omission described in paragraph (1) shall be \$100,000 for a natural person or \$250,000 for any other person.

“(B) **SECOND TIER.**—Notwithstanding subparagraph (A), the maximum amount of penalty for such act or omission described in paragraph (1) shall be \$500,000 for a natural person or \$1,000,000 for any other person, if the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement.

“(C) **THIRD TIER.**—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each act or omission described in paragraph (1) shall be \$1,000,000 for a natural person or \$2,000,000 for any other person, if—

“(i) the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement; and

“(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.”

(b) **SECURITIES EXCHANGE ACT OF 1934.**—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-2(a)) is amended—

(1) in paragraph (4), by striking “supervision;” and all that follows through the end of the subsection and inserting “supervision.”;

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and moving the margins 2 ems to the right;

(3) by inserting “that such penalty is in the public interest and” after “hearing.”;

(4) by striking “In any proceeding” and inserting the following:

“(1) **IN GENERAL.**—In any proceeding;”;

(5) by adding at the end the following:

“(2) **OTHER MONEY PENALTIES.**—In any proceeding under section 21C against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.”

(c) **INVESTMENT COMPANY ACT OF 1940.**—Section 9(d)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(d)(1)) is amended—

(1) in subparagraph (C), by striking “therein;” and all that follows through the end of the paragraph and inserting “supervision.”;

(2) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and moving the margins 2 ems to the right;

(3) by inserting “that such penalty is in the public interest and” after “hearing.”;

(4) by striking “In any proceeding” and inserting the following:

“(A) **IN GENERAL.**—In any proceeding;”;

(5) by adding at the end the following:

“(B) **OTHER MONEY PENALTIES.**—In any proceeding under subsection (f) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.”

(d) **INVESTMENT ADVISERS ACT OF 1940.**—Section 203(i)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(i)(1)) is amended—

(1) in subparagraph (D), by striking “supervision;” and all that follows through the end of the paragraph and inserting “supervision.”;

(2) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and moving the margins 2 ems to the right;

(3) by inserting “that such penalty is in the public interest and” after “hearing.”;

(4) by striking “In any proceeding” and inserting the following:

“(A) **IN GENERAL.**—In any proceeding;”;

(5) by adding at the end the following:

“(B) **OTHER MONEY PENALTIES.**—In any proceeding under subsection (k) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, is about to violate, or has been or will be the cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.”

SEC. 607. INCREASED MAXIMUM CIVIL MONEY PENALTIES.

(a) **SECURITIES ACT OF 1933.**—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is amended—

(1) in subparagraph (A)(i), by—

(A) striking “\$5,000” and inserting “\$100,000”; and

(B) striking “\$50,000” and inserting “\$250,000”;

(2) in subparagraph (B)(i), by—

(A) striking “\$50,000” and inserting “\$500,000”; and

(B) striking "\$250,000" and inserting "\$1,000,000"; and

(3) in subparagraph (C)(i), by—

(A) striking "\$100,000" and inserting "\$1,000,000"; and

(B) striking "\$500,000" and inserting "\$2,000,000".

(b) SECURITIES EXCHANGE ACT OF 1934.—

(1) PENALTIES.—Section 32 of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended—

(A) in subsection (b), by striking "\$100" and inserting "\$10,000"; and

(B) in subsection (c)—

(i) in paragraph (1)(B), by striking "\$10,000" and inserting "\$500,000"; and

(ii) in paragraph (2)(B), by striking "\$2,000" and inserting "\$500,000".

(2) INSIDER TRADING.—Section 21A(a)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-1(a)(3)) is amended by striking "\$1,000,000" and inserting "\$2,000,000".

(3) ADMINISTRATIVE PROCEEDINGS.—Section 21B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-2(b)) is amended—

(A) in paragraph (1), by—

(i) striking "\$5,000" and inserting "\$100,000"; and

(ii) striking "\$50,000" and inserting "\$250,000";

(B) in paragraph (2), by—

(i) striking "\$50,000" and inserting "\$500,000"; and

(ii) striking "\$250,000" and inserting "\$1,000,000"; and

(C) in paragraph (3), by—

(i) striking "\$100,000" and inserting "\$1,000,000"; and

(ii) striking "\$500,000" and inserting "\$2,000,000".

(4) CIVIL ACTIONS.—Section 21(d)(3)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(B)) is amended—

(A) in clause (i), by—

(i) striking "\$5,000" and inserting "\$100,000"; and

(ii) striking "\$50,000" and inserting "\$250,000";

(B) in clause (ii), by—

(i) striking "\$50,000" and inserting "\$500,000"; and

(ii) striking "\$250,000" and inserting "\$1,000,000"; and

(C) in clause (iii), by—

(i) striking "\$100,000" and inserting "\$1,000,000"; and

(ii) striking "\$500,000" and inserting "\$12,000,000".

(c) INVESTMENT COMPANY ACT OF 1940.—

(1) INELIGIBILITY.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(d)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking "\$5,000" and inserting "\$100,000"; and

(ii) striking "\$50,000" and inserting "\$250,000";

(B) in subparagraph (B), by—

(i) striking "\$50,000" and inserting "\$500,000"; and

(ii) striking "\$250,000" and inserting "\$1,000,000"; and

(C) in subparagraph (C), by—

(i) striking "\$100,000" and inserting "\$1,000,000"; and

(ii) striking "\$500,000" and inserting "\$2,000,000".

(2) ENFORCEMENT OF INVESTMENT COMPANY ACT.—Section 42(e)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(e)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking "\$5,000" and inserting "\$100,000"; and

(ii) striking "\$50,000" and inserting "\$250,000";

(B) in subparagraph (B), by—

(i) striking "\$50,000" and inserting "\$500,000"; and

(ii) striking "\$250,000" and inserting "\$1,000,000"; and

(C) in subparagraph (C), by—

(i) striking "\$100,000" and inserting "\$1,000,000"; and

(ii) striking "\$500,000" and inserting "\$2,000,000".

(d) INVESTMENT ADVISORS ACT OF 1940.—

(1) REGISTRATION.—Section 203(i)(2) of the Investment Advisors Act of 1940 (15 U.S.C. 80b-3(i)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking "\$5,000" and inserting "\$100,000"; and

(ii) striking "\$50,000" and inserting "\$250,000";

(B) in subparagraph (B), by—

(i) striking "\$50,000" and inserting "\$500,000"; and

(ii) striking "\$250,000" and inserting "\$1,000,000"; and

(C) in subparagraph (C), by—

(i) striking "\$100,000" and inserting "\$1,000,000"; and

(ii) striking "\$500,000" and inserting "\$2,000,000".

(2) ENFORCEMENT OF INVESTMENT ADVISORS ACT.—Section 209(e)(2) of the Investment Advisors Act of 1940 (15 U.S.C. 80b-9(e)(2)) is amended—

(A) in subparagraph (A), by—

(i) striking "\$5,000" and inserting "\$100,000"; and

(ii) striking "\$50,000" and inserting "\$250,000";

(B) in subparagraph (B), by—

(i) striking "\$50,000" and inserting "\$500,000"; and

(ii) striking "\$250,000" and inserting "\$1,000,000"; and

(C) in subparagraph (C), by—

(i) striking "\$100,000" and inserting "\$1,000,000"; and

(ii) striking "\$500,000" and inserting "\$12,000,000".

SEC. 608. AUTHORITY TO OBTAIN FINANCIAL RECORDS.

Section 21(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(h)) is amended—

(1) by striking paragraphs (2) through (8);

(2) in paragraph (9), by striking "(9)(A)" and all that follows through "(B) The" and inserting "(3) The";

(3) by inserting after paragraph (1), the following:

"(2) ACCESS TO FINANCIAL RECORDS.—

"(A) IN GENERAL.—Notwithstanding section 1105 or 1107 of the Right to Financial Privacy Act of 1978, the Commission may obtain access to and copies of, or the information contained in, financial records of any person held by a financial institution, including the financial records of a customer, without notice to that person, when it acts pursuant to a subpoena authorized by a formal order of investigation of the Commission and issued under the securities laws or pursuant to an administrative or judicial subpoena issued in a proceeding or action to enforce the securities laws.

"(B) NONDISCLOSURE OF REQUESTS.—If the Commission so directs in its subpoena, no financial institution, or officer, director, partner, employee, shareholder, representative or agent of such financial institution, shall, directly or indirectly, disclose that records have been requested or provided in accordance with subparagraph (A), if the Commission finds reason to believe that such disclosure may—

"(i) result in the transfer of assets or records outside the territorial limits of the United States;

"(ii) result in improper conversion of investor assets;

"(iii) impede the ability of the Commission to identify, trace, or freeze funds involved in any securities transaction;

"(iv) endanger the life or physical safety of an individual;

"(v) result in flight from prosecution;

"(vi) result in destruction of or tampering with evidence;

"(vii) result in intimidation of potential witnesses; or

"(viii) otherwise seriously jeopardize an investigation or unduly delay a trial.";

(4) by striking paragraph (10); and

(5) by redesignating paragraphs (11), (12), and (13) as paragraphs (4), (5), and (6), respectively.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, July 11, 2002, at 9:30 a.m., on global climate change and the U.S. Climate Action Report.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a hearing during the session of the Senate on Thursday, July 11, 2002, at 10 a.m. in SD-366.

The purpose of the hearing is to explore the Department of Energy's progress in implementing its accelerated cleanup initiative and the changes DOE has proposed to the Environmental Management science and technology program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Thursday, July 11, 2002, at 9:30 a.m. to conduct a hearing to assess the progress of national recycling efforts. The Committee will evaluate two areas of recycling. First, the Committee is interested in assessing what the federal government is doing to ensure the federal procurement of recycled-content products, and what can be done to improve these efforts. Second, the Committee is interested in evaluating the concept of producer responsibility specifically related to the beverage industry.

The hearing will be held in SD-406.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on

Finance be authorized to meet in Open Executive Session during the session of the Senate on Thursday, July 11, 2002 at 10 a.m.

Agenda:

S. 321, Family Opportunity Act.

S. 724, Mothers and Newborns Health Insurance.

S. 1971, National Employee Savings and Trust Equity Guarantee Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, July 11, 2002 at 2 p.m., to hear testimony on "Protecting the Social Security Number."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session on the Senate on Thursday, July 11, 2002 at 2:30 p.m. to hold a hearing on implementing U.S. Policy in Sudan.

Agenda

Witnesses

Panel 1: The Honorable Walter Kansteiner, Assistant Secretary of State for African Affairs, Department of State, Washington, DC and the Honorable Roger Winter, Assistant Administrator for Democracy, Conflict, Humanitarian Assistance, U.S. Agency for International Development, Washington, DC.

Panel 2: Mr. John Prendergast, Co-Director, Africa Program, International Crisis Group, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Thursday, July 11, 2002, at 10:00 a.m. in SD-430 during the session of the Senate.

Agenda

S. 710, Eliminate Colorectal Cancer Act of 2002.

S. 2328, Safe Motherhood Act for Research and Treatment

S. 812, Greater Access to Affordable Pharmaceuticals Act of 2001

S. 2489, Lifespan Respire Care Act of 2002

Nominations: Naomi Shihab Nye, of Texas, to be a Member of the National Council on the Humanities, Earl A. Powell III, of Virginia, to be a Member of the National Council on the Arts, Robert Davila, of New York, to be a

Member of the National Council on Disability; Michael Pack, of Maryland, to be a Member of the National Council on the Humanities; and Peter J. Hurtgen, of Maryland, to be Federal Mediation Conciliation Director.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, July 11, 2002 at 10:00 a.m., in SD226.

AGENDA

NOMINATIONS

John M. Rogers to be a United States Circuit Court Judge for the Sixth Circuit.

To be a United States Attorney; Marcos D. Jimenez for the Southern District of Florida, and Miriam F. Miquelon for the Southern District of Illinois.

To be a United States Marshal: James Robert Dougan for the Western District of Michigan, and George Brefini Walsh for the District of Columbia.

BILLS

H.R. 3375, Embassy Employee Compensation Act [Blunt].

S. 486, Innocence Protection Act [Leahy/Smith].

S. 862, State Criminal Alien Assistance Program Reauthorization Act of 2001 [Feinstein/Kyl/Durbin/Cantwell].

S. 2395, Anticounterfeiting Amendment of 2002 [Biden/Hatch/Leahy/Feinstein/DeWine].

S. 2513, DNA Sexual Assault Justice Act of 2002 [Biden/Cantwell/Specter/Clinton/Carper].

RESOLUTIONS

S. Res. 293, A resolution designating the week of November 10 through November 16, 2002, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country. [Biden].

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EMPLOYMENT, SAFETY, AND TRAINING

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Employment, Safety, and Training be authorized to meet for a hearing on Workplace Safety and Health: Oversight of MSHA and OSHA regulation and enforcement during the session of the Senate on Thursday, July 11, 2002 at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. SARBANES. Madam President, I ask unanimous consent that Glenna Humphries, a fellow in the office of

Senator BILL NELSON of Florida, be granted the privilege of the floor during deliberations of S. 2673, the Public Company Accounting Reform and Investor Protection Act of 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent that Bill Michael, a fellow on the staff of the majority leader, be granted floor privileges during the debate on S. 2673.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY, JULY 12, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it recess until 9:15 a.m., Friday, July 12; that following the prayer and pledge, the Senate resume consideration of the accounting reform bill with the time until 9:30 equally divided between the two managers for debate only prior to the vote on cloture on the bill; further, that Senators have until 9:25 a.m. to file second-degree amendments to the accounting reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Madam President, we are not going to go out right now. The staff has a number of things they need to do so we can complete our wrap-up. On behalf of the majority leader, there will be no more rollcall votes today. The next rollcall will occur tomorrow morning at approximately 9:30 a.m. The leader asked me to notify everyone that additional rollcall votes are very possible until about noon tomorrow; also, that there likely will be votes Monday afternoon starting at 2 o'clock.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

GLOBAL AIDS AND TUBERCULOSIS RELIEF ACT OF 2000

Mr. REID. Madam President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of H.R. 2069 and the Senate proceed to its immediate consideration; that the substitute amendment at the desk be agreed to; that the act, as amended, be read the third time and passed; the amendment to the title be agreed to; and that the motion to reconsider be laid on the

table, all with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. ENZI. Madam President, this has not been cleared on our side, so I have to object.

The PRESIDING OFFICER. Objection is heard.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENTS NUMBERED 107-9, 107-10, AND 107-11

Mr. REID. Madam President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty, agreement, and protocol transmitted to the Senate on July 11, 2002, by the President of the United States:

Treaty with Ireland on Mutual Legal Assistance in Criminal Matters—Treaty Document No. 107-9;

Agreement with Russian Federation concerning Polar Bear Population—Treaty Document No. 107-10;

Second Protocol Amending the Extradition Treaty with Canada—Treaty Document No. 107-11.

I further ask that the treaty, agreement, and protocol be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Agreement between the Government of the United States of America and the Government of Ireland on Mutual Legal Assistance in Criminal Matters, signed at Washington on January 18, 2001. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activities more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of crimes, including terrorism, drug trafficking, fraud, and other white-collar offenses. The Treaty is self-executing.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: taking the testimony or statements of persons; providing documents, records, and articles of evidence; locating or identifying persons; serving documents; transferring persons in custody for testimony or other purposes; executing requests for

searches and seizures; identifying, tracing, freezing, seizing, and forfeiting the proceeds and instrumentalities of crime and assistance in related proceedings; and such other assistance as may be agreed.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

GEORGE W. BUSH.
THE WHITE HOUSE, July 11, 2002.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Agreement between the Government of the United States of America and the Government of the Russian Federation on the Conservation and Management of the Alaska-Chukotka Polar Bear Population done at Washington on October 16, 2000 (the "U.S.-Russia Agreement"). I also transmit, for the information of the Senate, the report of the Department of State with respect to that Agreement.

The U.S.-Russia Agreement provides legal protections for this population of polar bears in addition to those found in the Agreement on the Conservation of Polar Bears done at Oslo, November 13, 1973 (the "1973 Agreement"), which was a significant, early step in the international conservation of polar bears. The 1973 Agreement is a multilateral treaty to which the United States and Russia are parties. (The other parties are Norway, Canada, and Denmark.) The 1973 Agreement provides authority for the maintenance of a subsistence harvest of polar bears and provides for habitat conservation.

The proposed U.S.-Russia Agreement, which would operate as a free-standing treaty separate from the 1973 Agreement, is the culmination of an 8-year effort. The U.S.-Russia Agreement builds on the 1973 Agreement to establish a common legal, scientific, and administrative framework for the conservation and management of the Alaska-Chukotka polar bear population, which is shared by the United States and the Russian Federation. For example, the U.S.-Russia Agreement provides a definition of "sustainable harvest" that will help the United States and Russia to implement polar bear conservation measures while safeguarding the interests of native people. In addition, the U.S.-Russia Agreement establishes the U.S.-Russia Polar Bear Commission, which would function as the bilateral managing authority to make scientific determinations, establish taking limits, and carry out other responsibilities under the terms of the U.S.-Russia Agreement. The proposed U.S.-Russia Agreement would strengthen the conservation of our shared polar bear population through a coordinated sustainable harvest management program.

Early ratification of the U.S.-Russia Agreement by the United States will reinforce our leadership role in international conservation of marine mammals and will encourage similar conservation action by other countries. I recommend that the Senate give early and favorable consideration to this Agreement and give its advice and consent to ratification.

GEORGE W. BUSH.
THE WHITE HOUSE, July 11, 2002.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Second Protocol Amending the Treaty on Extradition Between the Government of the United States of America and the Government of Canada, as amended, signed at Ottawa on January 12, 2001. In addition, I transmit, for the information of the Senate, the report of the Department of State with respect to the Second Protocol. As the report explains, the Second Protocol will not require implementing legislation.

The Second Protocol amends the Extradition Treaty Between the United States of America and Canada, signed at Washington on December 3, 1971, as amended by an Exchange of Notes of June 28 and July 9, 1974, and by a Protocol signed at Ottawa on January 11, 1988.

The Second Protocol, upon entry into force, will enhance cooperation between the law enforcement communities of both nations. The Second Protocol incorporates into the U.S.-Canada Extradition Treaty a provision on temporary surrender of persons that is a standard provision in more recent U.S. bilateral extradition treaties. It also provides for new authentication requirements for documentary evidence, which should streamline the processing of extradition requests.

I recommend that the Senate give early and favorable consideration to the Second Protocol and give its advice and consent to ratification.

GEORGE W. BUSH.
THE WHITE HOUSE, July 11, 2002.

MEASURE READ THE FIRST TIME—H.R. 4635

Mr. REID. Madam President, it is my understanding that H.R. 4635 is at the desk, and I now ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The legislative clerk read as follows:

A bill (H.R. 4635) to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

Mr. REID. Madam President, I now ask for its second reading, but I object to my own request.

The PRESIDING OFFICER. The bill will receive its second reading on the next legislative day.

MEASURE READ THE FIRST
TIME—H.R. 5017

Mr. REID. Madam President, I understand H.R. 5017 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The legislative clerk read as follows:

A bill (H.R. 5017) to amend the Temporary Emergency Wildfire Suppression Act to facilitate the ability of the Secretary of the Interior and the Secretary of Agriculture to enter into reciprocal agreements with foreign countries for the sharing of personnel to fight wildfires.

Mr. REID. Madam President, I now ask for its second reading, but I object to my own request.

The PRESIDING OFFICER. The bill will receive its second reading on the next legislative day.

ORDER FOR RECESS

Mr. REID. Madam President, I ask unanimous consent that following the remarks of Senator SHELBY, the Senate stand in recess under the order previously entered by the Chair.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SHELBY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECURITIES FRAUD

Mr. SHELBY. Madam President, over the course of the last 6 months, the longstanding, systemic fraudulent activities of numerous corporations have been exposed in America and around the world. This fraud has cost American investors massive amounts, perhaps hundreds of billions of dollars, perhaps more. Beyond the tangible losses, investor confidence in the integrity of our capital markets has also taken a tremendous hit, as the Presiding Officer knows.

As we move forward to address the shortcomings in the oversight of our financial markets, we must carefully consider the true impact of what has occurred. Thousands of people have lost billions of dollars. Thousands of people have lost jobs. Millions of people have lost or are losing faith in our capital markets every day.

The fact is, none of this is made any easier because of the manner in which this has happened. Americans don't feel better because the mugging took place in the boardroom rather than the back alley. In many ways, what has

happened is even worse. Because of the sheer size and number of participants in our markets, the corporate scams have been much more efficient and much more effective than the average boiler room fraud.

The bottom line is this: Real people are facing tremendous losses, and confidence in our system is eroding.

I believe we must address this situation with concrete measures. Fraud, even if committed by white-collar individuals—indeed, especially if committed by white-collar individuals—needs to be severely punished with criminal sanctions.

I commend the efforts to create new, tough penalties for people who commit fraud through our securities markets. I supported that, as most of the people in the Senate did.

Additionally, I believe there is more that we can do to stop or slow down the kinds of conduct that lead to situations where investing Americans are swindled out of hundreds of billions of dollars. The fact is, in one key area, the appropriate disincentives for participating in securities fraud are just not in place today.

Since 1994, after the Supreme Court ruling in the Central Bank case, there has been no liability for secondary actors who aid and abet securities fraud in America. Think about that. Since 1994, there has been no liability for secondary actors who aid and abet securities fraud. In effect, the decision in the Central Bank case led to legions of accountants, lawyers, and other security specialists who play a vital yet behind-the-scenes role in securities transactions, off the hook for down-the-line fraud in the sale of securities.

Think of it like this: The guys who procure the getaway car before the robbery, tune it up, fill it up with gas, put air in the tires, and sometimes even drive it away, face no financial liability for their involvement.

Does that make any sense? Not to me. I believe not to the majority of the Senate, if we could get a vote on the Shelby-Durbin amendment. And we will someday because this is not an issue that is going to go away.

When attorneys, accounting firms, and other securities professionals know that assisting securities fraud is nothing to worry about, as it is today, there is no wonder there has been a proliferation of audit failures, restatements, Enrons, Global Crossings, WorldComs, and many more to come. Civil and criminal penalties are important and necessary, but they are not sufficient. They serve a separate but important purpose of punishing fraudulent behavior. But they do nothing to ensure that investors, the victims, have an opportunity to seek financial redress. Civil liability supplements criminal and civil penalties and acts as a further disincentive to engage in or assist fraudulent activities.

Here are a couple of basic questions we all need to answer. Why shouldn't investors—that is, so many million in America—be able to recover losses from aiders and abettors of securities fraud? What public interest do we serve by inoculating aiders and abettors of securities fraud from civil liability? Why should this type of tort, this fraud, not give rise to a civil claim, particularly when the loss to the investor and impact on the markets is so great, as it is today?

Investors are intentionally being defrauded. Yet they have no remedy at the moment to seek monetary redress from those who aid and abet these crimes. Why? The answer is, aiders and abettors play a vital role in allowing primary actors to commit fraud. They should, accordingly, be held proportionately liable for their participation in these fraudulent schemes.

I believe for our capital markets to function properly, it is not sufficient that financial information is accurate. The public must also have full faith and confidence that it is honest, that we have integrity there.

Accountants, lawyers, and other securities professionals perform, by design, a gatekeeping function within our securities markets. It is unacceptable, I believe, that those upon whom so many rely—all of us—those whose activities can literally move markets, are not held to the highest standards. Something is wrong.

Forty years ago, at a time when securities transactions were considerably less sophisticated than they are today, Judge Henry Friendly, a distinguished jurist remarked:

In our complex society, the accountant's certificate and the lawyer's opinion can be instruments for pecuniary loss more potent than the chisel or the crowbar.

Today's staggering shareholder losses demonstrate that over time legal and accounting gimmicks have only grown more potent.

I believe we must create greater disincentives for those who would assist securities fraud. Restoring liability for aiders and abettors of securities fraud should make securities professionals think once, twice, even three times before they put their seal of approval on information sent to the marketplace. Such carefulness will serve investors and our markets well in the future.

Our economy has provided the best material standard of living in the world because our capital markets have traditionally favored clarity over complexity, disclosure over dissembling, and fairness over favoritism. For the sake of future economic growth and prosperity, I believe we must put those principles back into practice.

Senator DURBIN and I are going to continue to pursue our amendment. As I said earlier, this is not going to go away because there are going to be more scheduled. I wish we could have done it on this bill. I yield the floor.

July 11, 2002

CONGRESSIONAL RECORD—SENATE

12721

RECESS UNTIL 9:15 A.M.
TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 9:15 a.m. tomorrow.

Thereupon the Senate, at 6:41 p.m. recessed until Friday, July 12, 2002, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate July 11, 2002:

FEDERAL RESERVE SYSTEM

BEN S. BERNANKE, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR THE UNEXPIRED TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 1990, VICE EDWARD W. KELLY, JR., RESIGNED.

DONALD L. KOHN, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 2002, VICE LAURENCE H. MEYER, RESIGNED.

FEDERAL DEPOSIT INSURANCE CORPORATION

JOHN M. REICH, OF VIRGINIA, TO BE VICE CHAIRPERSON OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION, VICE ANDREW C. HOVE, JR.

NATIONAL TRANSPORTATION SAFETY BOARD

RICHARD F. HEALING, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRED DECEMBER 31, 2006, VICE GEORGE W. BLACK, JR., TERM EXPIRED.

THE JUDICIARY

ALIA M. LUDLUM, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS, VICE HARRY LEE HUDSPETH, RETIRED.

EXTENSIONS OF REMARKS

PAYING TRIBUTE TO TANO VALLE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Tano Valle, an outstanding member of the Pueblo, Colorado community. Tano has provided the community with quality entertainment and dining for almost sixty years through his restaurant, El Valle. The establishment has become an icon of the Pueblo restaurant community and I am honored to congratulate Tano for his success before this body of Congress, and this nation.

Tano began running the family business in 1937 and provides Pueblo with a terrific dining and entertainment experience. In fact, he now serves the children and grandchildren of his original customers. His menu ranges from Valencia hot dogs to chocolate-stuffed conchas and has hosted some of the biggest acts in the music business, notably Little Richard, Fats Domino, and Gracie Slick. Tano takes immense pride in this family business and I am grateful for his dedication and commitment to excellence in the community.

Mr. Speaker, Tano's dedication to his customers and quality service serves as a model of business excellence in Colorado. He is a well-appreciated and respected member of the Pueblo business community and I am honored to represent him and his family before you today. Thanks for all your hard work Tano, and I wish you all the best in your future endeavors.

CONCERNING RISE IN ANTI-SEMITISM IN EUROPE

SPEECH OF

HON. GIL GUTKNECHT

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. GUTKNECHT. Mr. Speaker, while I support the general spirit of H. Res. 393, which condemns the rise of anti-Semitism in Europe, I am concerned that the initial findings might lead to misconceptions regarding our German friends. The citations of anti-Semitic incidents in Germany misrepresent the actual frequency of anti-Semitic activity. Germany has very assertively attacked anti-Semitic trends within its borders. For instance, on June 28, 2002, the German Parliament passed, by unanimous vote, a resolution condemning all aspects of anti-Semitism. Additionally, recent statistics gathered by the German Interior Ministry cited an average of 130 anti-Semitic incidents per month in 2001. Incidents have decreased dramatically thus far in 2002. The Interior Ministry

reports 127 anti-Semitic acts in the first three months of 2002, an average of 42 incidents per month; a decrease of 68 percent. I encourage and commend our German colleagues in their continued attention and efforts against anti-Semitism.

ARMED FORCES TAX FAIRNESS ACT (H.R. 5063)

SPEECH OF

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. POMEROY. Mr. Speaker, I rise in strong support of the Armed Forces Tax Fairness Act. This bill makes it easier for military families to sell their homes without tax penalty and ensures that death benefits received by families of deceased military personnel are exempt from taxation.

At this time, we should do everything in our power to better the quality of life for our service men and women who are fighting on our behalf. These tax cuts benefit our military families who have committed so much to protecting our freedoms.

This bill makes it easier for military families, like those at Grant Forks and Minot Air Force bases, to sell their homes without incurring capital gains taxes. Currently, a taxpayer can exclude from taxable income up to \$250,000 of gain realized from the sale of a home. To qualify for the exemption, the taxpayer must have owned and lived in the home for at least two of the five years prior to the sale. For military personnel who are often deployed for long periods of time, this time requirement poses a real hardship.

This bill suspends the five-year requirement for the capital gains exemption for the time that the service member is serving on extended military duty away from their home. This provision could save service members and their families a capital gains tax hit as much as 20% of the value of their homes.

The legislation also exempts from taxes the full \$6,000 death benefit received by families of deceased military personnel and allows for tax-free treatment of future increases in the death gratuity. This change to the tax law furthers our commitment to taking care of military families who lose a service member in the line of fire.

I strongly support this bill and encourage my colleagues to adopt the legislation. We should act together to honor and show our support for the men and women in uniform.

IN HONOR OF JACK CALEGARI DISTINGUISHED LEGIONNAIRE OF THE MISSOURI AMERICAN LEGION

HON. KAREN MCCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise today to pay tribute to Mr. Jack Calegari, an outstanding individual, Veteran, and public servant from the State of Missouri. Mr. Calegari is known for his gentle manner, warm smile, and his tireless efforts for the betterment of our community and region. His dedication and consistent support to various veterans programs and issues have proven to be a valued resource. It is with great pride that we acknowledge the honor bestowed on him as the Distinguished Legionnaire in the Western Region of Missouri from the R.C. Connie Burns American Legion Post 71.

In the tradition of the American Legion, Jack Calegari has demonstrated the patriotic and philanthropic values throughout his military and civilian careers. On January 28, 1952, Mr. Calegari began his service in the United States Army and performed duties as a valuable cryptographer. He was later stationed in Stuttgart, Germany and quickly made the rank of Corporal. Shortly after his return from overseas, he married Tessa and their family soon expanded to include their son, Jack. Mr. Calegari worked as a television repairman and eventually began employment at Bendix Corporation, which would later evolve into Allied Signal and is currently Honeywell's Kansas City Plant integral to the Department of Energy's manufacturing system.

Mr. Jack Calegari has held every office in Post 71, serving as Post Commander for four terms and as Fifth District Commander in 1997-1999. This noble gentleman and his charming wife, Tessa, have donated much of their time at the Kansas City VA Hospital lifting spirits, helping the Women's Auxiliary wrapping Christmas gifts, and taking pictures around the holidays. As a member of the American Legion's Forty-Eight Club, Honor Society of the American Legion, he volunteered to work on their fund raising bingo project. The proceeds from bingo have furnished four rooms on the 11th floor of the Kansas City VA Medical Center so family members have a place to stay with their critically ill veterans. In addition, the Forty-Eight recently donated a new van with a wheelchair lift to the hospital. At Christmas time you can find Jack volunteering as a Christmas Kettle bell ringer for the Post 71 Salvation Army Bell Ringers.

Jack Calegari is active in many local causes and civic endeavors. He has been a mentor for our youth through his work in programs such as Boys State Program Committee that

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ensures leadership in future generations. He promotes and has worked with the District Oratorical Program to provide high school students with the opportunity to develop oratory skills while learning and understanding our Constitution. Another important youth project he participates in is the J.R.O.T.C. program at Paseo High School of Performing Arts where he is a beloved figure.

For the past ten years he has served as Chairman of the Cadet Patrol Committee for Missouri. The American Legion sponsors Missouri high school students to attend the Missouri State Highway Patrol Academy. Yearly preparations required six months of Jack's time to organize, market and purchase necessities like uniforms and insurance for the cadets. In an effort to provide the cadets with a college opportunity he partnered with Central Missouri University to insure the availability of two college scholarships. The reward for Jack has been the opportunity to work with the cadets and attend graduation ceremonies. He believes that students obtain an understanding of law enforcement while developing practical lifetime skills.

Mr. Calegari is quite active as President of the Permanent Memorial Day Committee and worked on the KC150 Committee to honor Veterans during Kansas City's celebration of its 150th birthday. Most significantly, Jack was instrumental in a national project very dear to me. We both worked for several years in partnership with community stakeholders to restore and rededicate the Liberty Memorial to honor our World War I veterans. He has been a wonderful resource to me and for my staff.

Jack's legacy lives in the work he has so graciously performed, and in the lives of those he has assisted with kindness and understanding. Jack gives his time and energies to make our community a better place to live.

Mr. Speaker, please join me in saluting Jack Calegari the Western Region's District Legionnaire of 2002 from Missouri's Fifth District.

INTRODUCTION OF THE ALOPECIA FAIRNESS EXPANSION ACT

HON. LYNN N. RIVERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Ms. RIVERS. Mr. Speaker, I rise today to introduce the Alopecia Fairness Expansion Act of 2002.

Last year I introduced the Alopecia Areata Fairness Act, a bill requiring private insurance plans to cover hairpieces for victims of alopecia, a disease causing partial or total hair loss. Today, I am happy to introduce this companion bill requiring that Federal health programs provide coverage of hairpieces for alopecia victims.

Over 4 million Americans suffer from alopecia, some losing small amounts of hair and some all of it. The onset most often begins in childhood, and it can be psychologically devastating. Children with the disease are often teased in school, and adults frequently have trouble in the workplace. Many people with alopecia must purchase hairpieces to keep their jobs or to avoid ostracism. Yet private and

public insurance plans often discriminate between people who suffer from alopecia and those losing hair because of cancer or other diseases, refusing to cover alopecia victims.

My first bill, the Alopecia Areata Fairness Act (H.R. 547), would take a critical step toward changing this by requiring insurance companies to cover a hairpiece as a prosthetic device, provided a doctor prescribes it as a medical necessity.

My new bill, the Alopecia Fairness Expansion Act of 2002, would extend this fairness to victims of alopecia who receive medical care through Federal health care programs and who would not be helped by H.R. 547 alone. It would require that Federal health programs cover hairpieces for people suffering from alopecia when prescribed by a doctor as a medical necessity. These programs include Medicare, Medicaid, TRICARE, the State Children's Health Insurance Program (CHIP), the Federal Employees Health Benefits Program (FEHBP), veterans health care programs, and the Indian Health Service (IHS).

We already recognize the difficulties associated with hair loss and provide prosthetic hairpieces to patients who lose their hair due to cancer treatment. Let's do the same for victims of alopecia. I urge my colleagues to join me as cosponsors of this bill.

MOB OWNS FBI IN YOUNGSTOWN

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. TRAFICANT. Mr. Speaker, the following reflects the truthful and reliable investigation by Congressman JAMES TRAFICANT into the association between the FBI and organized crime (mafia) in Youngstown, Ohio and surrounding areas.

In addition, FBI agent, Anthony Speranza did rape one of my constituents. The matter was adjudicated in the Northern District of Ohio Court of Judge O'Malley, where Speranza admitted to "digital penetration" of a woman who had suffered problems of mental instability, which under Ohio law is felony one rape.

The following facts and sources speak for themselves, making FBI-mob connections in Boston, Massachusetts look like a Rotary meeting.

TRAFICANT INVESTIGATION

JOSEPH NAPLES—JAMES PRATO

1. Fact: Joseph Naples issued a contract to kill one Paul Calautti; Source: FBI Affidavit; Result: Paul Calautti murdered October 11, 1968; Finding: Joseph Naples never brought to trial.

2. Fact: Joseph Naples issued a contract to kill one Joseph DeRose; Source: FBI Affidavit; Result: Joseph DeRose suffered two bullet wounds May 13/14 1980. Joseph DeRose missing-murdered or in protective custody; Finding: Joseph Naples never brought to trial.

3. Fact: Joseph Naples issued a contract to kill one Robert Furey; Source: FBI Affidavit; Result: Robert Furey murdered April 12, 1979; Finding: Joseph Naples never brought to trial.

4. Fact: Joseph Naples and James Prato issued a contract to kill Charles Carrabbi; Source: La Cosa Nostra underboss Angelo Lonardo's testimony under oath during a U.S. Senate hearing on organized crime (1988); Result: Charles Carrabbi missing-presumed murdered; Finding: Joseph Naples and James Prato never brought to trial.

5. Fact: Joseph Naples ordered the burning of a car belonging to a Youngstown City Councilman one Robert Spencer; Source: FBI Affidavit and Robert Spencer's Affidavit presented during a U.S. Senate hearing on organized crime (1984); Result: Robert Spencer's car fire bombed and totally destroyed. (1978/1979); Finding: Joseph Naples never brought to trial.

6. Fact: Joseph Naples ordered the burning of the Desert Inn; Source: FBI Affidavit; Result: Desert Inn bar burned; Finding: Joseph Naples never brought to trial.

7. Fact: Joseph Naples ordered numerous other arsons and bombings; source: FBI Affidavit; Result: Numerous other arsons and bombings occurred; Finding: Joseph Naples never brought to trial.

8. Fact: Joseph Naples and James Prato had influence with Sheriff Yarash and associates around Sheriff Tablack; Source: FBI Affidavits. Affidavit and Testimony submitted during U.S. Senate hearing on organized crime (1984); Result: Organized crime activities continued; Finding: Joseph Naples and James Prato never brought to trial.

9. Fact: James Prato gave an attempted campaign contribution to Sheriff candidate James Traficant; Source: FBI Affidavit—James Traficant Trial. Testimony submitted during U.S. Senate hearing on Organized Crime (1984); Result: James Traficant acquitted; Finding: James Prato never brought to trial.

10. Fact: James Prato gave an \$80,000 campaign contribution to Sheriff candidate Terrence Sheidel; Source: Michael Terlecky Affidavit. Affidavit of Congressional Lead Staff Investigator Frederick V. Hudach; Result: Terrence Sheidel advertised aggressively during his campaign for Sheriff; Finding: James Prato never brought to trial due to no grand jury being assembled.

11. Fact: Informant who wished to stay anonymous for now revealed the following: (1) On or about 1979 and 1980 Terry Sheidel, a faculty member at Youngstown State University who taught Criminal Justice courses, was running for Mahoning County, Ohio Sheriff at the same time James A. Traficant was seeking the same position; (2) Informant advised Terry Sheidel that he did not have enough money to forge an effective campaign against James A. Traficant and that he (informant) could ask Lenny Strollo for campaign money for him (Sheidel). Terry Sheidel agreed to informant's recommendation to ask Lenny Strollo for campaign money; (3) Informant met with Lenny Strollo and he (Strollo) gave him (informant) \$80,000 in cash for Terry Sheidel's campaign for Mahoning County Sheriff. Strollo also told informant that if Terry Sheidel needed more money he would give him another \$80,000; (4) Informant felt that James A. Traficant had to take the money from whoever gave him the money to keep it off the streets or it would have certainly been used against him to keep him from becoming the Mahoning County, Ohio Sheriff; (5) As far as informant knows, Terry Sheidel never received the second \$80,000 from Lenny Strollo. James A. Traficant won the election.

Source: Michael Terlecky Affidavit. Affidavit of Congressional Lead Staff Investigator, Frederick V. Hudach; Result: Terry

Sheidel never investigated by FBI; James Trafficant investigated by FBI; Finding: Incident never thoroughly investigated by FBI Agents before bringing James Trafficant to trial.

STANLEY PETERSON AS FBI AGENT

1. Fact: Isabella Callard witnessed her husband Joe Ezzo giving money to FBI Agent Stanley Peterson so that he would permit gambling and other illegal activity to continue; Source: Isabella Callard Affidavit; Result: Illegal activity continued; Finding: Stanley Peterson retired from the FBI and subsequently became the Chief of Police of Youngstown, Ohio.

STANLEY PETERSON/FRIEND OF THE MOB/CHIEF OF POLICE

1. Fact: The FBI was informed that a candidate for Mayor of Youngstown, Emanuel Catsoules stated that in 1978 a friend of organized crime wanted Stanley Peterson to be his Chief of Police.

2. Fact: The FBI was informed that a candidate for Mayor of Youngstown, Thomas A. Shipka, was contacted by a friend of the mob who would support his campaign based on certain conditions, one of which that he would appoint Stanley Peterson as his Chief of Police.

3. Fact: Thomas A. Shipka turned over his information to the FBI and actually brought 13-14 police officers who had first-hand knowledge of gambling joints, prostitution, and other activities that they alleged Mr. Peterson was protecting.

4. Fact: Allegation of Mr. Peterson being involved in an illegal wiretap of a rival mob group was given to the strike force.

5. Fact: The FBI was informed that in 1969, Jack Hunter, a candidate for Mayor of Youngstown, was contacted by an intermediary representing organized crime figures who were well known. They wanted veto powers over Chief of Police in exchange for campaign funds. A high ranking official in the Sheriff's Department was to act as the bagman.

6. Fact: The FBI was informed that in 1971 an intermediary for organized crime contacted Mayor of Youngstown, Jack Hunter, expressing a desire for him to name Stanley Peterson as Chief of Police.

7. Fact: On two separate occasions during the period that Stanley Peterson was Chief of Police of Youngstown, concerned citizens took substantial evidence to the local FBI office implicating Peterson in promoting or protecting organized criminal activity in the City of Youngstown. The Youngstown Police Department took evidence to the FBI identifying over 30 specific sites where organized criminal activity was being permitted to operate within the city.

8. Fact: Evidence was presented to the FBI that Chief of Police, Stanley Peterson was disciplining certain members of the Youngstown Police Department to discourage them from taking action against operations being conducted by LCN figures within the city.

Source: Affidavits and testimony submitted during U.S. Senate hearings on Organized Crime (1984); Result: The FBI said they were aware of the information about Stanley Peterson and that they investigated same, however, the nature of the information lacked specificity; Finding: The evidence against Stanley Peterson was never brought before a Grand Jury.

1. Fact: Joseph Naples and James Prato who were aligned with the Sebastian John LaRocca Mafia Family located in Pittsburgh, Pennsylvania ran the organized crime faction in the Mahoning County, Ohio area

which included: conspiracy to commit murder, murder for hire, aggravated murder, arson, bombings, burglary-criminal trespass, extortion, illegal gambling, numerous illegal campaign contributions, promoted the hiring of certain police officers, "signed off" on key elected officials, sheriffs, prosecutors and mayors.

Source: FBI Affidavits, Testimony, written statements and affidavits submitted to the U.S. Senate hearings on Organized Crime (1984 and 1988).

2. Fact: An informant who wished to stay anonymous for now, revealed the following: (1) Informant was a Youngstown, Ohio police officer during 1977 and 1978; (2) Informant during 1977 and 1978 worked for six months on Phillip Richley's campaign for Mayor of Youngstown, Ohio. Informant felt that his campaign work for Philip Richley would bring him a patrolman to white shirt and tie promotion with the Youngstown, Ohio Police Department. After Phillip Richley won the election and became the Mayor of Youngstown, Ohio, retired FBI Agent Stanley Peterson became the Youngstown, Ohio Chief of Police. Informant became angry when he was made aware that he was not going to get his expected promotion. Informant then contacted Lenny Strollo, who at the time along with Vic Calautti and Joey Naples reported to James Prato. Immediately after informant told Strollo of what happened to him, Strollo made a telephone call. Immediately following Strollo's telephone call, Strollo told informant he was promoted to a white shirt and tie promotion. Informant did not hear Strollo's telephone conversation, however, he strongly feels that Strollo talked to Youngstown, Ohio Chief of Police, Stanley Peterson, the retired FBI Agent; (3) Informant revealed that when Stanley Peterson was an FBI Agent he was often seen at Standard Motors, 901 Andrews Avenue, Youngstown, Ohio where mafia affiliated often met. Informant said that FBI Agent Stanley Peterson "had a key to the place." Informant also stated that Stanley Peterson was Joey Naples' man.

Source: Affidavit of Congressional Lead Staff Investigator, Frederick V. Hudach; Result: The evidence against Stanley Peterson never brought before a Grand Jury; Finding: Stanley Peterson, friend of the mob.

LENINE STROLLO/FRANK FASLINE—TELEPHONE CONVERSATION, NOVEMBER 23, 1996

Fact: Lenine Strollo told Frank Fasline during a November 23, 1996 telephone conversation: that FBI Agent Robert Kroner was on Joseph Naples payroll; that FBI Agent Robert Kroner said in essence that he has lots of friends, that they can do whatever they want to do in this valley as long as they cooperate with him; that the FBI got away with illegal activity in the Mahoning Valley and the FBI was planning to get away with illegal activity again; that the FBI got involved in illegal activity and that the FBI wanted to make him (Strollo) a scapegoat again.

Source: FBI transcript of telephone wiretap titled Government Exhibit #4; Result: Lenine Strollo recanted above statements. Lenine Strollo in a plea bargain kept over \$10 million in assets; Finding: Lenine Strollo traded the truth in exchange for his assets.

ASSOCIATE OF LENINE STROLLO PROFFER

Fact: (1) He caught Youngstown Police following him in Campbell and he heard that the FBI was across the road, in the mill with binoculars. Paulie told him not to worry about it because they had an "inside guy" in FBI. (Page 4); (2) Lenny Strollo told him

about Biondillo running stags in the City of Youngstown and they wondered how he was able to do it. Lenny Strollo told him he heard that money went from Biondillo through Vic Calautti to the Randall Wellington campaign and that Biondillo had to have the okay from Wellington to be able to hold stags inside the city of Youngstown. (Page 45). He said that he heard that Biondillo paid \$25,000 to Vic Calautti to donate to Wellington's campaign. (Page 49); (3) Lenny Strollo and he thought that the guys at the Center (Youngstown United Music) were doing business with FBI Agent Kroner as they were operating without any pressure and therefore must have had the FBI's okay. Lenny or Danny Strollo told him that Biondillo was talking to and dealing with the FBI. (Page 58); (4) Lenny Strollo told him that an agent told someone who told Strollo that FBI Agent Kroner and those guys were on the Naples payroll for years. He heard from Strollo that someone went to Kroner's father to see if he could control Kroner. That person found out that his father had no control over what he did. The reason for this was to see if Lenny Strollo could have control over Kroner like Naples did.

Source: The Proffer of a Lenine Strollo Associate given at the Euclid City Jail, Euclid, Ohio on 5-28, 6-4, 6-9, 6-30, 9-1, 11-13, 1998 in the presence of Assistant U.S. Attorneys, FBI Special Agents and a Special Agent of the IRS; Result: Information within Proffer suppressed; Finding: Obstruction of Justice-Misprision by Assistant U.S. Attorneys, Special Agent FBI and Special Agent IRS.

Fact: Informant, who wished to stay anonymous because of fear for himself and family revealed the following: during the early fall of 1997, Lenny Strollo, reputed leader of Youngstown, Ohio Organized Crime, told me at his now closed restaurant, at the northwest corner of Calla Road near Market Street, North Lima, Ohio that Joey Naples had told him the following: (a) he (Joey Naples) owned the FBI; and (b) he (Joey Naples) made payoffs to the FBI through Special Agent Lynch.

Source: Affidavit of Congressional Lead Staff Investigator Frederick V. Hudach; Result: FBI cover-up; Finding: FBI Agents on Joey Naples' payroll.

JUDICIAL CORRUPTION

Fact: Five separate crimes reported to the Youngstown office of the FBI and the Department of Justice, and three separate crimes reported to the Youngstown office of the FBI and IRS who used their authority in aid of and in furtherance to conceal the reported crimes by refusing to investigate and prosecute members of the bench and bar in both Mahoning and Trumbull Counties, Ohio; Source: Robert A. Frank Affidavits; Result: FBI and Office of the U.S. Attorney refused to totally investigate and prosecute; Finding: FBI, IRS and office of U.S. Attorney has carried out and made effective a pattern of selective prosecution and in some cases became an accessory after the fact.

Fact: An Investigative Chronology Exposing Extortion within the Trumbull County Common Pleas Court System of four Defendant's families for buyouts from prison was presented to both the FBI Offices in Youngstown and Cleveland and to the IRS Office in Youngstown; Source: Affidavit of Congressional Lead Staff Investigator, Frederick V. Hudach. Affidavit of Carl Stere; Result: No action taken by the United States Department of Justice; Finding: Selective Prosecution. The FBI/IRS/U.S. Attorneys will not prosecute their criminal friends for political reasons.

FBI refused to help a citizen of Trumbull County, Ohio who was being extorted by members of the Aryan Brotherhood. If the extortion money was not paid the citizen's son would be killed in prison; Source: Affidavit of Congressional Lead Staff Investigator, Frederick V. Hudach; Result: Troopers of the Ohio State Highway Patrol saved the life of the son of the citizen and arrested members of the Aryan Brotherhood; Finding: Members of the FBI were deliberately indifferent to their jurisdictional responsibility.

Fact: Two Investigative Summaries exposing police perjury and a bogus autopsy which occurred in Trumbull County, Ohio was submitted to Members of the FBI and the Office of Professional Responsibility; Source: Correspondence between Congressional Lead Staff Investigator Frederick V. Hudach and members of the FBI and member of Office of Professional Responsibility; Result: Assistant U.S. Attorney decided they did not have jurisdiction; Finding: Assistant U.S. Attorney practiced selective prosecution.

PAYING TRIBUTE TO FRANCISCO
GARCIA

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. McINNIS. Mr. Speaker, it gives me great honor to stand before you today and praise the accomplishments of Mr. Francisco Garcia. Mr. Garcia is the Founder and CEO of Integrated Information Technology Corporation, and through his company he has provided employment opportunities to 360 Coloradans in his eight offices. Francisco Garcia lives his business life by the motto: "Treat others with the same level of respect, professionalism and fairness that you wish to be treated", and I am proud to bring forth his accomplishments before this body of Congress.

Francisco has two degrees, a Bachelor of Science in chemistry from the University of Texas-San Antonio, and a Bachelor of Science in Electrical Engineering from Ohio University in Athens. He also served our country in the United States Air Force as a Communications Officer where he achieved the rank of captain. Later in life, Mr. Garcia established his own company to provide important satellite, communications, network and installation services to the state of Colorado. His good fortune and quality business ethics have earned him many awards, including the SBA Region VIII Subcontractor of the Year in 2002, the Denver Post Minority-Owned Business of the Year in 2001, the Family Business Award in 2001, and also the SBA's National Minority Small Business Person of the Year in 1996.

Mr. Speaker, I am honored to recognize the accomplishments of this pillar of the Denver Business community. Francisco Garcia has been a great asset to the State of Colorado and to the world of communications. Francisco, I wish you all the best in your future endeavors.

JULY 4TH ADDRESS BY MAYOR
ROBERT BLOMQUIST OF
OLMSTED FALLS, OH

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. KUCINICH. Mr. Speaker, I am grateful for the opportunity to share a 4th of July speech given by Robert Blomquist, Mayor of Olmsted Falls. Mayor Blomquist eloquently spoke of the values and principles on which our country was founded that we must remember and cherish on Independence Day.

Welcome to the City of Olmsted Falls 4th of July festivities. Five weeks ago we gathered here to honor and remember the members of our countries' armed forces whom paid with their lives for the ideas behind the event and document that we celebrate today, the anniversary of the signing, and adoption, by the continental congress, or the declaration of independence.

Today is just not about the birth of a nation. Today is a day in which we pay respect and tribute to the men that pulled together in one document, the most comprehensive and complete ordered thoughts about the nature of man, the nature of government, and how human beings can exist to pursue life, liberty, and the pursuit of happiness. The careful thinking that is the fabric of our great nation. A statement of how we can be free as individuals, but still coexist in a structured and orderly society.

When I think about the history of our country, I am so grateful that I am a citizen of the United States, that my children and I are the beneficiaries of the ideals of the best human nature.

Think with me for a moment.

This land is the product of a unique confluence of the evolution of technology, economics, politics, and the nature of man. In the 17th century it became technically and economically possible for European powers to claim and settle lands beyond their boundaries. Politically Spain, France and Great Britain competed to exploit their claims in the new world and expand their influence.

The original 13 colonies were settled between 1607 and 1732, by Great Britain. It took 125 years and began 170 years before the birth of our nation. People first came as agents of the king to exploit the natural resources, and later came to escape the king and a situation where men were not recognized as being created equal, but where it was believed that men were given rights by station of birth.

At the time this land was being settled. The ideas of what is the true natural state of man. What is freedom and liberty? What is the role of government? What are the divine rights of the king as a sovereign? Should a king truly govern without the consent of his subject people? These ideas were being explored by such philosophers as Thomas Hobbes, John Locke, and Jean Jacques Rousseau. At the time the colonies were flourishing.

These ideas flourished with the American colonies. They took root and grew in the minds of both the intellectual and the layman as natural state of the human desire to be free and independent itself.

We know that this led to the events of our American Revolution. As we openly rebelled against an unjust king we still tried to orga-

nize ourselves and our government to better reflect man's desires.

The declaration of independence when you read it was nothing more than an indictment and redress of grievances in the literal sense. It was an announcement to the world of the reasoning behind the rebellion. When Congress adopted the declaration of July 4, 1776, England virtually ignored it. It received a 6 line mention in the London Morning Post, just below a theater notice. But on these shores it galvanized a people, to expend treasure and lives to fight for the ideals of life, liberty, and the pursuit of happiness that we still enjoy today.

The Declaration of Independence was the product of the best thinking on social and political philosophy of the time. It became the blueprint of our constitution. And continues to this day to inspire men to pledge their lives, their fortunes, and their sacred honor.

In the year that has just passed, between today, and last year's celebration we again find it necessary to defend the foundation of our freedoms enjoyed as Americans.

At the time Jefferson wrote it and 56 men signed it and were declared treasonous, and sentenced to death, no one knew what would happen as a result of the Declaration of Independence. We have the advantage of 226 years of history to evaluate and appreciate this event.

Shortly before his death in 1826, Thomas Jefferson also had the advantage of the passage of time to reflect. The following is a passage of a letter written by Jefferson, as he had to decline an invitation to Washington City to celebrate Independence Day because of ill health. Expressing his regrets that he could not join with the small group of worthy gentlemen who created and signed the declaration, he said, "I should have indeed delighted to gather with an exchanged congratulations with those who joined with us to have elected to not submit to the sword, and to enjoyed with our fellow citizens after a half century of prosperity to continue of the choice we made. To assume the blessings of self government that restores the right of the exercise of reason and freedom of opinion. All eyes are open to the rights of man. For ourselves, let the annual return of this day forever refresh our recollections of these rights and our devotion to them."

A TRIBUTE TO REBEKAH REVELS
MISS NORTH CAROLINA 2002

HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. McINTYRE. Mr. Speaker, I rise today to pay tribute to Rebekah Revels who was recently crowned Miss North Carolina 2002. A native of St. Pauls in my home county of Robeson and a teacher at my alma mater, Lumberton Senior High School, Rebekah's recent accomplishment is a source of immense pride throughout our county and all of southeastern North Carolina.

The American historian, James Truslow Adams, once said, "Seek out that particular mental attribute which makes you feel most deeply and vitally alive, along with which comes the inner voice which says, 'This is the

real me,' and when you have found that attitude, follow it." With dedication and determination, Rebekah has followed her heart and mind and become Miss North Carolina 2002.

Rebekah is a woman of dedication who does not rest on her laurels. Having held the past titles of Junior Miss Lumbee, Miss Lumbee, Miss University of North Carolina at Pembroke, Miss St. Pauls and Miss Fayetteville, Rebekah has kept the fire and energy alive to reach her dream of Miss North Carolina. She is a woman of dedication who provides a positive example for all to follow.

Rebekah is a very determined young woman. She set the goal of becoming Miss North Carolina and worked tirelessly to achieve this high distinction. She now will use this same drive and determination to inform people all across North Carolina of the devastating effects of Alzheimer's disease.

Rebekah, thank you for your dedication and your determination. We wish you continued success, and may God's strength, peace and joy be with you as you begin your reign as Miss North Carolina 2002 and as you compete for the title of Miss America.

TRIBUTE TO THE REGISTERS OF WILLS AND CLERKS OF OR- PHANS' COURT

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. SHUSTER. Mr. Speaker, I rise today to congratulate the Registers of Wills & Clerks of Orphans' Court (ROW/OC), comprising Pennsylvania's 67 counties, for their 75th Anniversary as a state association. This organization is a collective group of elected professionals who have come together to learn from one another and to work as one body. By doing this, they have succeeded in creating one set of standards, procedures, rules, and statutes that are used statewide.

First organized in 1927, the ROW/OC Association of Pennsylvania, has strived to promote more effective government by concentrating on the priorities of information dissemination, education, and legislation. To best do this, they conduct an annual statewide conference for their members, which is an effective forum for education and the sharing of information. The result of this hard work, is the creation of a critical link between Pennsylvania's various departments, agencies, and the public who depend on these offices for a wide variety of purposes.

I would like to once again congratulate the Register of Wills & Clerks of Orphans' Court Association of Pennsylvania on their 75th Anniversary as a state association and thank them for their hard work and dedication.

COMMENDING JASON HIBNER

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. HALL of Ohio. Mr. Speaker, each year the Veterans of Foreign Wars and its Ladies

Auxiliary conduct a national audio essay contest entitled the Voice of Democracy. 85,000 secondary school students participated this year on the theme, Reaching Out to America's Future. Jason Hibner, a young man from my congressional district, took second place with his entry, and was awarded the \$16,000 Charles Kuralt Memorial Scholarship. Jason has just completed his junior year at Vandalia-Butler High School. I am pleased to insert his remarks into the CONGRESSIONAL RECORD.

2001-2002 VFW VOICE OF DEMOCRACY SCHOLARSHIP CONTEST

"REACHING OUT TO AMERICA'S FUTURE"

The train ride must have been nearly unbearable. The biting cold, so unlike the warmth of the Hawaiian harbor, likely did nothing to dull the pain of his recent losses as the iron machine chugged along the parallel tracks. The telegram giving word of his father's death had come only a week prior, it would be difficult to comfort his sister and mother with the tragedy of his brother's death also fresh in their minds. The date was December 7, 1941. The title, "a date that shall live in infamy" would come later as would the declaration of war. But for my great uncle Arthur the day would mark the grimmest day of his life. He should have been there, at Pearl Harbor, as all his friends and fellow crewmen were when the Zeroes began dropping their deadly cargo. Such cruel irony, only his personal tragedies had prevented the loss of his own life. The thoughts of friends dying to the West and his family grieving to the East must have made the long ride nearly unbearable.

In December of '41, the world changed for every American young and old. The threat to our liberty could not be questioned; it could only be answered with such extraordinary force and purpose. However, the war was won, not by the adults who earlier questioned the next generation's patriotism, but by the young men and women who were pulled from their homes and thrown into battle for all those who would come after. Today we call them "The Greatest Generation," once they were called the future of America.

Within my own short lifetime, I can remember another period when everyone felt it was time to create some more patriotism and concern for our nation. That time was roughly from the moments during my childhood as coherent thoughts began to fill my mind to a date that shall always occupy a front position in my memory: September 11, 2001. Now, no one acts concerned about the need to teach the cost of freedom. We just want to go back to that time, before America once again lost her innocence as children watched from their school room desks both the toppling of the World Trade Center Towers and the disappearance of hope from their teachers' faces.

The young people of America's future will not have the luxury of being gently educated by the wiser members who have experienced Vietnam and Desert Storm. Instead, they have been ripped from their shelter of indifference into the ultimate struggle of good versus evil, a united nation against a radical terror network. The leaders of America have been handed a burden of monstrous proportions for the terrorists' instrument of evil has also become an image demanding retaliation for the American people. Today, the concern of reaching out to America's future has become a universal thread, weaving together all the citizens of this great nation.

America's future is unclear. But it has always been so from first cries of revolution,

to the separation of the Union, to the grinding of war on Normandy Beach. Our future citizens of this country may live with daily threats of violence and the fearful anxiety of what will come next. But as Benjamin Franklin once declared, "They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety * * *". The American way will continue as long as there are Americans to sustain it.

Before, I could only imagine the thoughts of my great-uncle during that long ride home. Now we, America's youth, are riding the same journey across the fruited plains and under the spacious skies of America the Beautiful. The parallel tracks of hardened metal resemble the tracks of change through the history of our nation. Often there will be treacherous turns and steep declines, but America always levels herself and turns to the morning dawn. My generation is the future of America and we will fight for liberty and freedom just as all those before us.

PAYING TRIBUTE TO TED ALBERS

HON. SCOTT MCINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. MCINNIS. Mr. Speaker, it is with a solemn heart that I take this opportunity to pay respect to the passing of Ted Albers, who recently passed away at the age of 78. Ted was the former Mesa College president-Administrator who helped reform higher education in Western Colorado to meet vocational and academic ambitions. Ted is credited as an innovative thinker who not only transformed Mesa College from a community college into an accredited four year institution but also preserved the two-year aspects of the institution so that Mesa could continue offering associate degrees and vocational certification.

Ted was born in the small Northwestern Colorado town of Maybell and became a teacher and principal at Rio Blanco High School in Meeker in 1949. He went on to become an administrator for the University of Colorado extension division in Grand Junction and served as an assistant superintendent of School District 51. In 1969, he returned to receive higher education at Denver Community College and then returned to Mesa in 1970.

Ted's leadership guided Mesa College on a course geared toward providing young adults with a quality and affordable education aimed to meet as many needs as possible in western Colorado. Ted was almost perfectly suited to the job of reshaping Mesa because he was first and foremost an educator in the highest sense of the word.

Ted is survived by his wife, Maxine, who served as a Mesa County Commissioner for 15 years and his two children, T.L. and Rhonda. Throughout his life Ted remained a strong supporter of the Mesa State College and its role in the community.

Mr. Speaker, it is with profound sadness that we remember Ted Albers. He was a remarkable man whose innovative teaching techniques have educated thousands of people and whose good deeds deserve the recognition of this body of Congress and this nation. The impact of Ted's life on those with

whom he has come in contact is a testament to this great man. I would like to express my condolences to the family of Ted Albers.

IN RECOGNITION OF FATHER
BYRON COLLINS OF THE GOLDEN
ANNIVERSARY OF HIS ORDINA-
TION INTO THE PRIESTHOOD

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. MURTHA. Mr. Speaker, on Friday, June 21, 2002, a gentleman who has been a friend to many of us in this chamber over the last quarter century, Father T. Byron Collins, S.J., celebrated the golden anniversary of his ordination into the priesthood. He entered the Jesuit Order in September, 1940.

Through fifty years of ordained priesthood, Father Collins has left a lasting impression on the lives of many devout Catholics. Virtually every weekend, Father Collins travels over 150 miles round trip to say Mass at Our Mother of Sorrows Catholic Church in Centreville on Maryland's Eastern Shore. During the week, he is an active presence on the campus of Georgetown University where he not only has played a major role in shaping the physical presence of that institution, but has also enhanced the understanding of the Catholic faith among the students. Now in his eighth decade of life, Father Collins is still seen rowing on the Chesapeake Bay and bicycling in the vicinity of the Georgetown campus. This is a man who is living life to the fullest and continuing in many ways to serve his faith.

I know that Father Collins is immensely proud—in his very humble way—of having been able to play a significant role in the life of Georgetown University, the Nation's oldest Catholic university. Likewise, I know that many of us in this House have come to admire and respect this man of the cloth. He has been a friend who has been with us in times of joy and of tribulation. He is to be commended for the fifty years of service he has provided since his ordination.

THE CRISIS OF THE UNINSURED

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. RANGEL. Mr. Speaker, today America faces a crisis that affects more than 40 million people. This is the number of Americans who are currently without health insurance. Additionally, if we account for the number of people who have insurance but are underinsured, then we arrive at a far more disturbing number. Let's face it. The health care system as we know it is falling far short of its goals.

During a time in which the economy is lagging and health care prices are rising, companies are having to make cutbacks and consumers are having to choose between health coverage and meeting their daily needs. For example, when faced with the choice of pay-

ing for a vehicle needed to get to work each day or for expensive health care coverage, millions opt to forgo their health in favor of a much needed paycheck.

On the other hand as business profits have been decreasing substantially, employers can no longer afford to offer employees lower prices for health insurance. This means that businesses feel the pressure to pass the health care bill on to employees. Since 74% of the U.S. population is covered by private health care insurers, mostly provided by the workplace, this means that most consumers will feel the squeeze of skyrocketing health care premiums.

Why is it so important that we insure all Americans? Lack of health care drastically affects access to proper medical treatment. Since the uninsured are less likely to have regular health care treatment, their level of health is lower on average compared to the insured. People without health insurance tend to allow medical problems to go untreated because they cannot afford doctor visits or recommended medications. More than a third of uninsured adults say they have not filled a drug prescription in the past year due to cost. More than a third did not get a medical test or treatment that had been recommended.

The uninsured do not normally have access to preventative care, which may mean the difference between catching cancer in its early, treatable stages as opposed to a stage in which the cancer is incurable. For example, uninsured women diagnosed with breast cancer are more likely to die from it because they have a much greater chance of being diagnosed with late-stage cancer.

We must address the problem of the uninsured because this health care crisis also affects the decisions of health care providers. Under the current system of competitive managed care, physicians are often forced to choose between giving proper treatment to the uninsured (risking uncompensated care) and not providing adequate treatment (risking the life of the patient). To alleviate this problem, the uninsured are often required to pay for services "up front." This requirement causes uninsured individuals to either wait until they can afford treatment or charge their medical bills to credit cards, potentially building debt that may take years to pay.

Another problem evident in the current health care system is that minorities disproportionately represent the uninsured. Roughly a third of Hispanic and Native Americans are uninsured. About 20% of African Americans and Asians are uninsured compared to 11% of whites.

The poor and near-poor are also much more likely to be without health insurance. If it were not for Medicaid, many more of the poor would be uninsured and would have reduced access to medical care. Yet Medicaid does not cover a significant number of the near-poor. Since nearly 60% of the uninsured at or below the poverty level have at least one worker in the family, many near-poor individuals earn too much to qualify for Medicaid. It is evident that we must work to narrow the gaps of health care coverage disparities along racial and socioeconomic lines.

We can no longer sit back and hope that the problems within the current health care

system correct themselves. It is imperative that we rise together in a bipartisan effort to address the health care crisis of the uninsured. We must find a solution before this crisis grows to affect additional millions of Americans.

INDIA AND IRAQ: "STRATEGIC
PARTNERS" STRENGTHEN
TRADE TIES WITH OIL DEAL

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. BURTON of Indiana. Mr. Speaker, India calls itself "the world's largest democracy" and it claims it is a partner in the fight against terrorism, yet it just signed an agreement to strengthen its trade ties with one of the world's major sponsors of terrorism, Iraq. According to the British Broadcasting Company (BBC), Amir Muhammad Rasheed, the Iraqi Oil Minister, called India a "strategic partner."

Under the agreement, India will provide medicine, wheat, rice, railway equipment, and turbines for electrical generators to Iraq. In addition, India, Iraq, and Algeria are in the final stages of an agreement to drill oil in the southern part of Iraq. Mr. Rasheed's counterpart, Indian Oil Minister Ram Naik, said that India opposes the sanctions on Iraq.

On May 18, 1999, the Indian Express reported that Indian Defense Minister George Fernandes organized and led a meeting with the Ambassadors from Iraq, Red China, Cuba, Russia, Serbia, and Libya to discuss setting up a security alliance "to stop the U.S." This demonstrates that many in India do not view America as an ally, but instead, view us as an enemy. Apparently, these people are even willing to support America's enemies.

The time has come for the United States to recognize the truth about India. India has a long way to go before it can be considered an American ally. It is a supporter of terrorist regimes and a practitioner of terrorism itself. It has already been placed on the State Department's watch list of violators of religious freedom. Now it is time to impose appropriate sanctions on India. We should immediately cut off all American aid to India, and we should declare our support for the self-determination movements in South Asia, such as those in Kashmir, in Punjab, Khalistan, and in Nagalim, among others. If India is going to support terrorism around the world, it is not worthy of the support of the hard-working, freedom-loving people of the United States.

Mr. Speaker, I would like to place the BBC report on the India-Iraq deal into the RECORD at this time for the information of my colleagues and the American people.

IRAQ AND INDIA TIES WARMED BY OIL DEALS

Iraq and India have signed an agreement to boost trade ties, especially in the oil sector.

Indian Oil Minister Ram Naik told a press conference that the Indian oil firm Oil Natural Gas Corporation Limited (ONGC) would soon open offices in Baghdad.

Mr. Naik added, after meeting his Iraqi counterpart Amir Muhammed Rasheed, that "work was progressing" on an ONGC oil concession in southern Iraq.

Iraq has awarded Indian companies a number of contracts under the United Nations "oil-for food" programme, in return for India's diplomatic support.

The programme allows Iraq to bypass sanctions imposed for its 1990 invasion of Kuwait and use oil revenues to buy food and humanitarian goods.

The U.S. has classified Iraq as a member of the "axis of evil" while it has strengthened relations with India to prosecute the war in Afghanistan.

STRATEGIC PARTNER

After meeting with Iraqi President Saddam Hussein on Saturday, Mr. Naik said that India opposed the sanctions on Iraq, and called for them to be ended immediately.

Mr. Rasheed described India as a "strategic partner".

"We have entered new projects in railways, oil and gas, health and industry in addition to technical co-operation and this will give a boost to the economic relations of the two countries, which in consequence will be reflected on the volume of trade exchange," Mr. Rasheed said.

Under the agreement, India is to supply Iraq with medicine, wheat, rice, railway equipment and turbines for electricity generations.

Mr. Rasheed said trade between Baghdad and New Delhi under an "oil-for-food" deal with the UN had reached \$1.1 bn.

EXPANDING OIL INTERESTS

Iraq, India and Algeria are "in the final state" of a deal to start exploring and drilling the Tuba oil field between Zubair and Rumaila in the south of the country.

"It is a consortium between Indian companies and the Algerian Sonatrach Company, and we hope to realize it by the end of summer," Mr. Rasheed was quoted as saying in the ruling Baath party's Al-Thawra newspaper.

The field was being developed by Iraq until the 1991 Gulf War, when storage facilities were destroyed.

ONGC is awaiting approval from its board to invest approximately \$63m in Iraq.

India, which imports more than two-thirds of its crude oil requirement, has been seeking foreign sources as domestic output matures.

Last month it took over a concession in Sudan from Canadian oil company Talisman.

INTRODUCTION OF THE CHILDREN'S ACCESS TO ORAL HEALTH ACT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. DINGELL. Mr. Speaker, tooth decay is the most prevalent chronic childhood disease; it is five times more common than asthma, and seven times more common than hay fever. Without proper treatment, dental caries (tooth decay) can result in serious infection, pain, and swelling, interfering with the ability to eat or drink, and, in severe cases, sleep or school performance.

Unfortunately, low-income children suffer disproportionately from oral disease. While dental care is covered for children in Medicaid, and most states opt to cover it for children in Children's Health Insurance Programs

(SCHIP), merely covering services does not guarantee children will have access to them. Low participation by providers, program barriers, and parent's lack of knowledge about the importance of early dental care and prevention have greatly contributed to the disproportionate number of low-income children who suffer from tooth decay.

Such problems can be overcome. Recent demonstration projects have shown that increased attention to the issue coupled with expanded federal support can go a long way toward ensuring low-income children have access to quality oral health care. My home state of Michigan is an example of where change has begun to take hold.

Michigan tried a new approach to dental coverage when they implemented a dental benefit for their SCHIP program. Not surprisingly, by paying dentists market rates, simplifying billing procedures, and requiring that plans prohibit participating dentists from discriminating against SCHIP patients, access and utilization soared to levels never seen under Medicaid. Between 70–90% of dentists participated in the plan networks and nearly three-quarters of children received a dental visit in a year. In comparison, in the Medicaid program where similar changes were not undertaken, only 27% of dentists participated and barely a quarter of Medicaid children had a dental visit. The State of Michigan has had the common sense to expand this effort to Medicaid through a demonstration project and the results have been similar.

All children, however, regardless of where they get their health insurance, should be able to count on quality dental care. That is why Congressman Upton and I are introducing the "Children's Access to Oral Health Act," a bill that will provide incentives and new flexibility to states to encourage them to improve and expand the provision of dental care to low-income children.

The Children's Access to Oral Health Act establishes improved dental care for low-income children as a priority within the Department of Health and Human Services by establishing a dental health initiative led by a newly created Chief Dental Officer for Medicaid and CHIP. The legislation provides grant funding for states to undertake outreach and improve coordination in the dental care provided through these programs, as well as to improve provider reimbursement rates to secure adequate access to services for these children. The legislation also provides grants to improve the delivery of pediatric dental services through community health centers, public health departments, and the Indian Health Service to address problems in areas facing a shortage of dental professionals.

Finally, the legislation ensures that dental care is a part of the core benefits package of the SCHIP program and gives states the flexibility to provide dental coverage (or supplemental additional benefits or cost sharing) for children in families who meet SCHIP income requirements but who have private insurance which is inadequate in these areas. For every child who lacks health insurance coverage, there are 2.6 children who do not have dental coverage. This problem is concentrated among low-income families, but currently states' hands are tied and they cannot supple-

ment inadequate private insurance with SCHIP coverage.

I believe the Children's Access to Oral Health Act will go a long way in terms of improving dental services for children and in reducing the dental caries among low-income children. Michigan, like a number of other states, has made significant progress in this area, but much more can be done. The gains made in the Michigan SCHIP program should be expanded to children who have coverage through Medicaid. States that have not focused as much attention on this problem can be encouraged to do so. This bill will provide incentives, resources, and new flexibility for states to tackle this problem. I look forward to working with my colleague Mr. Upton as well as our friends in the dental community, like Dr. Dan Briskie, in moving this legislation forward.

VFW VOICE OF DEMOCRACY PROGRAM COMPETITION

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. WOLF. Mr. Speaker, each year the Veterans of Foreign Wars (VFW) of the United States and its Ladies Auxiliary conduct the Voice of Democracy audio-essay scholarship competition designed to give high school students the opportunity to voice their opinion on their civic responsibility to our country.

The program is now in its 55th year and requires high school student entrants to write and record a three-to five-minute essay on an announced patriotic theme. This year over 85,000 secondary school students participated in this contest competing for the 58 national scholarships. The contest theme was "Reaching Out to America's Future."

I am pleased to announce that Elizabeth Buckner from the 10th District of Virginia has been named a national winner in the 2002 Voice of Democracy Program and the recipient of the \$1,000 Roy Chandler VFW Post 762 and Ladies Auxiliary Award. Elizabeth, a senior at Clarke County High School, is the daughter of Larry Buckner and Michele Worthing. She was sponsored by VFW Post 9760 and its Ladies Auxiliary in Berryville, Virginia.

Mr. Speaker, I would like to share Elizabeth's scholarship-winning essay with our colleagues:

2001-2002 VFW VOICE OF DEMOCRACY SCHOLARSHIP CONTEST—REACHING OUT, TO AMERICA'S FUTURE

(By Elizabeth Buckner)

Imagine if you will, the year 2020. The intense winter sun is fading on the city of New York and a light dusting of snow glistens on the sidewalk. As you hurry home from work, you stop inside a small bakery where the warmth and the aroma of holiday cookies surrounds you. Initially the sound of jumbled words is all that you hear, but soon you can distinguish between the different voices and various languages that have entranced you. First Italian, then Arabic and Chinese. Although, you cannot understand the words, the emotions of excitement and joy are universal. And as you slowly make your way home in this city, which is alive with energy

and hope, you read the newspaper and think about all the events, some memorable, some already forgotten, that have transpired today in this great nation.

Although this episode may seem ordinary and insignificant; in actuality, it is a phenomenon, made only more significant because it is common and widespread in this country. This episode is a vision of America's future, where prosperity, freedom and diversity flourish.

Today, the United States is a country of unparalleled prosperity and security. Our nation celebrates pluralism in, culture, language, religion and custom. It is the land of freedom of expression, freedom of belief, freedom of information, and freedom of opportunity.

Each day, however, we are faced with a difficult question. How can we, both as individuals and as a society, reach out to this vision of the future, and how can we guarantee that the country our posterity will come to know is ever greater than the one we have experienced?

The answer to this question, the only one that can be given, is through the present. The future can only ever be built on the events of the past and the present. So the question becomes, not how can we, but how are we already reaching out to America's future?

The ways in which we are reaching out to America's future are:

1. By exercising the rights we are guaranteed in the Constitution
2. By educating our children and instilling them with the values that we cherish
3. By defending our country and our way of life against outside attacks
4. By embracing our freedoms and our diversity

First, we as individuals, are exercising the fights that are guaranteed to us in the Constitution. For example, on November 6th, millions of U.S. citizens went to the polls to take part directly in our government and its processes. By voting, and helping to elect our representatives at both the state and federal levels, we are helping to influence the future of legislature and our country.

Secondly, we as a society realize that our children are our future. Everyday we strive to provide them not only with an economically sound, but also a healthy and happy future. In order to achieve this goal, we guarantee our children a public education, we help provide health care, and we instill our values of freedom, patriotism and equality in them.

Third, currently our country is fighting a war for our future. We are fighting for our freedom, and defending our country against the ineffable attack that our nation experienced on September 11th. We are fighting in order to ensure that our children and our grandchildren will know the peace and the prosperity that we have enjoyed for so long.

Lastly, we are currently embracing the diversity in our own culture. We are witnesses of this diversity. We worship in the churches, temples, and mosques; we speak and hear the different languages, and we observe the contrasting beliefs and opinions presented by the media. By acknowledging our differences, and by protecting our civil liberties today, we are ensuring that in the future, the citizens of our country will know and will accept such diversity and will experience and enjoy such freedom.

In conclusion, the only way that we can truly reach out to America's future is to affirm our principles of freedom and equality each and every day. The truth is that, while

we are caught up in our busy lives and absorbed by our personal concerns, the eternal rhythm of time will persist. And we will not even notice. But all too soon, we will open our eyes and realize that the vision of tomorrow has faded and has become the gift of today. Only then, when America's future has become it's past, on those wintry nights when we are hurrying home, enjoying all the benefits of American society, will we truly be able to appreciate the significance of today.

PAYING TRIBUTE TO WAYNE THOMPSON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. McINNIS. Mr. Speaker, I would like to take a moment and pay tribute to the life, legacy, and memory of Wayne Douglas Thompson. Wayne departed us on June 2, 2002 in his Monte Vista home, and as we mourn his loss, I would like to take the opportunity to honor Wayne—a man of great character and conduct.

Wayne was a native of Colorado, born and raised by Douglas and Agnes Thompson in Monte Vista. He graduated from Monte Vista High School in 1952, and entered Adams State College, graduating with honors in 1956. He enlisted in the United States Marine Corps and served our country courageously through three tours in South Vietnam and also in the Middle East, defending the freedoms and liberties we all hold dear. Wayne served with integrity, and today we honor him as a soldier and a patriot.

After 21 years of military service, Wayne retired from the Marine Corps and returned home to accept a position as the Executive Director of the Colorado Potato Administration Committee. His leadership and guidance have inspired his peers and co-workers—Wayne leads by example and has always taken time to pass along his wisdom to the youth of his community.

Mr. Speaker, I proudly honor Wayne before this body of Congress and this nation. He is survived by his two daughters Dawn and Kali, his three grandchildren Nicholas, Melanie, and Devin, and his beloved wife Maryann. Thank you, Wayne, for your many years of service and countless contributions to our society. Although we all mourn the loss of Wayne Thompson, we recognize that he has left a piece of himself with each of those who were lucky enough to have known him.

INTERNATIONAL TAX SIMPLIFICATION, FAIRNESS, AND COMPETITIVENESS ACT OF 2002

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. LEVIN. Mr. Speaker, today I am introducing a bill, the "International Tax Simplification, Fairness, and Competitiveness Act of

2002." I have worked for many years with my dear colleague, AMO HOUGHTON, to help bring sensible and low-cost simplifications and reforms to the U.S. international tax rules. I look forward to working with him this year and in future years on these important issues.

The bill contains a menu of proposals unified by a common theme: The way we tax the income of U.S. companies doing business abroad should reflect the economic realities of doing business abroad and should facilitate the efficient allocation of resources. Guided by that principle, the bill provides a list of possible amendments to the U.S. international tax regime that will simplify the reporting burden, update the rules to reflect the new realities of globalization, enhance the competitiveness of U.S. businesses and their workers, and promote exports. While I do not anticipate that all of these provisions would be enacted at once, and certainly the fiscal impact of any provision must be considered as it progresses through the legislative process including by considering appropriate offsets, I look forward to working to get provisions of the bill enacted into law.

In the context of trade policy I have spoken for some time about the need to address head-on the changing nature of trade which has followed from the phenomenon of economic globalization. That need exists in the international tax sphere, as well. The nature of business and commerce has changed dramatically in the past fifty years and continues to change rapidly. Today, companies regularly take advantage of the gains in efficiency that may come from locating strategically in multiple points around the globe. Not only can strategic location around the globe make U.S. companies more competitive, it also can increase demand for U.S. exports, since U.S. companies operating overseas are very likely to purchase U.S. goods and services. In the trade context, I have worked to establish basic rules of international competition, including a floor of core labor standards, to ensure that there is a level playing field for U.S. companies and workers. Just as we need relentless innovation in our trade policy, we must ensure that our tax policy is keeping up with the realities of domestic and international business.

Additionally, as international business transactions have increased dramatically, it is increasingly necessary to be sure that the rules meet two challenges: they must be updated to prevent new types of abusive transactions with little or no purpose other than the avoidance of U.S. taxes, and at the same time they should not have the effect of deterring or severely burdening transactions undertaken for legitimate and, from the point of view of American competitiveness, desirable, economic reasons.

Toward that end, and as someone who has spent a lot of time working to simplify and improve the U.S. international tax regime, I want to put forth a proposition—although there is a need to discuss the competitive implications of the U.S. international tax rules and there is a need for simplification, the issue of corporate inversions does not provide an appropriate vehicle for that discussion.

Corporate inversions are not truly about the complexities of the U.S. international tax rules; they are driven by tax avoidance, plain and simple.

Whether a corporation is headquartered in Germany, France, the Netherlands, Japan, or the United States, it has a tax-based incentive to do an inversion into a tax haven. Coming from any OECD country with a responsible tax authority, an inversion into a tax haven will allow a company to avoid the relevant passive income rules, embodied in subpart F of the U.S. Tax Code, but in existence in one form or another throughout the OECD.

Also, once a corporation from any OECD country has undertaken an inversion, the corporation can reap further tax benefits through earnings stripping transactions that avoid domestic taxes on domestic-source income.

So, the corporate inversion phenomenon is not about territorial systems versus the U.S. modified worldwide system of taxation. An inversion results in a tax regime more favorable than either of these systems. Any attempt to turn the inversion phenomenon into an indictment of the U.S. system is therefore misguided. Inversions are about tax havens versus developed taxing jurisdictions like those in OECD countries. The only "business reason" driving an inversion—reflected in disclosure filings accompanying each inversion reassuring shareholders that the transaction will not impact business operations—is tax avoidance.

I will therefore resist any effort to draw a false link between the inversion phenomenon and the need for reform of the U.S. international tax rules. I believe that consideration of legislation to close off inversions is important and should be considered on its own merits, similarly, legislation to reform and simplify the U.S. international tax rules to improve the competitiveness of U.S. companies is important and should be considered on its own merits. Attempts to link the two issues together will only add unnecessary difficulty and will jeopardize the types of needed changes included in the bill introduced today.

CELEBRATING THE 100TH ANNIVERSARY OF THE
VOORHEESVILLE VOLUNTEER
FIRE DEPARTMENT

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. McNULTY. Mr. Speaker, I am so proud to recognize with gratitude the 100th Anniversary of the Voorheesville Volunteer Fire Department, which is located in my congressional district in Albany County, New York.

For more than a century, members of the Voorheesville Volunteer Fire Department have put their lives on the line—day in and day out—to ensure the safety and well being of the citizens of the Village of Voorheesville and its surrounding communities.

Founded April 1, 1902, the Voorheesville Fire Department enjoys a rich tradition of heroism and service. Never have these most admirable qualities been so honorably displayed than by the heroic rescue efforts of firefighters from across New York State following the terrorist attacks of September 11, 2001.

Through their actions, Mr. Speaker, we understand true patriotism.

The heroic efforts of our 'First Responders' are finally being given the recognition they have always deserved.

I proudly extend my highest regard to the Department's President, Richard Berger, to its Fire Chief, Michael Wiesmaier, and to all of the volunteer firefighters and their families. They have my best wishes for continued safe and successful service.

FBI's MILLIE PARSONS RETIRES—
AT AGE 88 AFTER NEARLY 63
YEARS OF SERVICE

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. WOLF. Mr. Speaker, I want to call to the attention of our colleagues the remarkable career of a dedicated federal employee who just retired from the Federal Bureau of Investigation after nearly 63 years of service to her country.

When Mrs. Mildred C. Parsons—known as "Millie"—ended her career on June 28 at age 88, she was the longest continuously serving employee in the FBI. What's even more extraordinary, Millie Parsons never took a day of sick leave in her 62 years and nine months of work at the FBI.

She was 25 years old in September 1939—Franklin D. Roosevelt was president of the United States and World War II was beginning—when she began her career at the FBI as a junior clerk-typist in the chief clerk's office at FBI headquarters.

The next year she transferred to the Washington Field Office, where, over the course of her career, Mrs. Parsons served as the secretary to 30 agents in charge of that office, the second largest division in the FBI. She proudly displayed all the portraits of her bosses lining a corridor leading to her office.

Van A. Harp, assistant director in charge of the FBI's Washington Field Office, recently commented that "Millie, who embodies all the positive attributes of Fidelity, Bravery and Integrity, has certainly contributed to the fine reputation of the FBI. Her career and dedication have been a hallmark for those who follow in her path. Millie will be missed by all of her associates."

A native of Frederick, Maryland, and a widow since 1967, Mrs. Parsons has lived in the Maryland suburbs of the nation's capital during her career with the FBI. She says she plans to relax and travel—now that she has some leisure time.

Mr. Speaker, Millie Parsons stands as an outstanding role model for all in public service to emulate. We wish her the best in her retirement.

INTRODUCTION OF LIVER DISEASE
RESEARCH ENHANCEMENT ACT

HON. DAN MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. DAN MILLER of Florida. Mr. Speaker, I rise today with my colleague from Massachu-

setts, Mr. LYNCH, to introduce legislation to improve treatment options for millions of Americans living with liver disease. The "Liver Research Enhancement Act" organizes and streamlines the efforts by the National Institutes of Health (NIH) to combat liver disease by creating a comprehensive vision of how to fight this epidemic in our country. This bill establishes a National Center on Liver Research, which will work with a Liver Disease Advisory Board within the National Institutes of Health to construct a Liver Disease Research Action Plan. The national plan will help coordinate research currently administered by 14 different institutes and centers at the NIH. By prioritizing research goals, the NIH will be able to maximize its liver research.

The need for liver research and an effective funding projection is critical to our Nation's health. At present, it is estimated that twenty-five million people in the United States suffer from a liver or liver-related disease. Every year as many as fifteen thousand children are hospitalized by their illness. The medical care for individuals with liver disease each year costs over 5.5 billion dollars annually. Over four million Americans are afflicted with Hepatitis C alone, a disease claiming ten thousand lives each year and with no vaccine available. Without the proper public health measures, that number is expected to rise to thirty thousand a year. At this time, the majority of cases of Hepatitis C have no effective treatments. In addition, a newly discovered liver disease related to obesity, nonalcoholic fatty liver disease (NAFLD) could touch one in every four adults in the United States. At the same time, the waiting list for liver transplants stretches over 17,500 patients, of which only 5,100 receive livers and 1,300 die hoping for a transplant. The time has come to greatly improve liver research and preserve the public health for future generations.

The Center on Liver Research, to be based in the National Institute of Diabetes and Digestive and Kidney Diseases, will provide the much-needed leadership to ensure that the liver research opportunities are increased and that promising medical leads do not go unexplored. The Liver Disease Advisory Board will suggest future funding priorities and recognize underperformance as well as achievement in the field. The Center's first mission will be to make an action plan to deal with research to prevent, cure and treat liver disease in America. By establishing this unifying bond for the 14 different institutes involved in liver research, this bill will make liver research more effective and responsive to the needs of the liver community.

I have enclosed letters from the American Liver Foundation and the Hepatitis Foundation International endorsing this bill.

I urge my colleagues to support this important legislation.

AMERICAN LIVER FOUNDATION,
June 18, 2002.

Hon. DAN MILLER,
Cannon House Office Bldg.,
Washington, DC.

DEAR CONGRESSMAN MILLER: The purpose of this letter is to express, on behalf of the American Liver Foundation (ALF), our strong support and enthusiasm for your leadership to pursue enactment of the Liver Research Enhancement Act.

As you know, approximately 10% of the population, or over 25,000,000 Americans, are afflicted with liver, bile duct or gallbladder disease and over 4 million Americans have been infected with hepatitis C. The CDC has projected that deaths due to hepatitis C will more than triple by the year 2010 to more than 30,000 deaths per year unless there are appropriate research and public health interventions. Furthermore, due to limited research, current treatments for hepatitis C are effective in fewer than 50 percent of the cases. As such, hepatitis C is a leading cause for liver transplants in the United State, but the availability of liver transplants, as you know, falls far short of the need. These are numerous liver diseases other than hepatitis C such as primary biliary cirrhosis affecting 15 out of every 100,000 Americans with 95% of the infected population being women. Finally, there is an emerging obesity-related chronic liver disease, nonalcoholic fatty liver disease (NAFLD), that may affect as many as 1 in every 4 adults over the age of 18.

Mr. Miller, your legislation to create a National Center on Liver Disease Research at the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) will provide the dedicated scientific leadership necessary to create an action plan for liver disease research, and new authorities necessary to help assure that the scientific opportunities identified by the Liver Disease Research Action Plan are adequately funded. The coordination and focus this Center will provide for liver disease research will help increase our ability to find better treatments and cures for the millions of Americans afflicted with liver diseases.

We thank you for your tireless leadership on this issue and for all of your persistence in working to better the health of the nation. We stand ready to support the passage of this legislation.

Sincerely,

PAUL D. BERK, MD,
*Chairman of the
Board of Directors,*
ALAN P. BROWNSTEIN,
MPH,
President and CEO.

HEPATITIS FOUNDATION INTERNATIONAL,
June 26, 2002.

Hon. Dan Miller,
Cannon House Office Bldg., Washington, DC.
DEAR CONGRESSMAN MILLER: Hepatitis Foundation International (HFI) would like to express our support for the Liver Research Enhancement Act.

As you know, approximately 10% of the nation's population suffer from liver, bile duct, or gallbladder disease and over 4 million Americans have been infected with Hepatitis C. The Centers for Disease Control and Prevention (CDC) has projected that deaths due to Hepatitis C will more than triple by the year 2010 to more than 30,000 deaths per year unless there are appropriate research and public health interventions.

Mr. Miller, your legislation to create a National Center on Liver Disease Research at the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) will provide the leadership necessary to create an action plan for liver disease research. The coordination and focus of this Center will help increase our ability to find better treatments and cures for the millions of Americans suffering with liver diseases.

Thank you for your leadership on this issue and for your persistence in working to better the health of all Americans. We offer

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our support for the passage of this important legislation.

Sincerely,

THELMA KING THIEL,
Chairwoman and CEO.

H.R. 4481, THE AIRPORT STREAMLINING APPROVAL PROCESS ACT

SPEECH OF

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Ms. WATERS. Mr. Speaker, I rise to express my opposition to H.R. 4481, the Airport Streamlining Approval Process Act, which encourages the construction of airport capacity expansion projects at congested airports like Los Angeles International Airport (LAX).

LAX is the third largest airport in the United States, serving approximately 65 million air passengers per year. Nevertheless, the operator of LAX had proposed a massive expansion plan that could have increased the airports' capacity to as many as 120 million air passengers per year. A diverse coalition of over 80 cities and several grassroots organizations, known as the Coalition for a Truly Regional Airport Plan, organized to oppose LAX expansion and support a regional approach to Southern California's air transportation needs.

The proposed expansion of LAX would have had a severe impact upon the surrounding communities. According to the Draft Environmental Impact Statement and Report released by LAX expansion proponents, increased traffic in and out of LAX would have added 1,592 tons of pollutants per year to Los Angeles' air; an additional 7,150 persons would have been exposed to noise levels above 65 decibels; and inadequate noise mitigation efforts would have forced residents to remain indoors or move. Because of these negative impacts, many residents of the surrounding communities expressed strong opposition to LAX expansion.

Furthermore, the proposed expansion of LAX would have interfered with the development of a regional solution to Southern California's air transportation needs. While the communities surrounding LAX have been forced to endure a disproportionate share of the region's air traffic, other communities are eager for the economic benefits of development at their local airports. The expansion of LAX would have made it extremely difficult for these communities to attract service to their local airports. Residents and businesses in these communities would have had no alternative other than to commute to an expanded LAX for their air transportation needs, resulting in an increase in traffic congestion on the streets surrounding LAX. Clearly, the proposed expansion of LAX would not have ended air transportation-related gridlock in the Southern California region.

On April 18, 2002, I sent a letter to Chairman MICA and Congressman LIPINSKI, the Chairman and Ranking Member of the Aviation Subcommittee of the House Transportation and Infrastructure Committee, regarding the effect of airport streamlining legislation on

the Southern California region. This letter, which was signed by three other Southern California Representatives, explained that we would oppose any legislation that would prevent the State of California and its regional and local governments from enacting a regional solution to our future aviation needs, including limiting or prohibiting the proposed expansion of LAX.

Airport expansion should not be carried out over the objections of local communities. It would be both unfair and unwise for the Federal government to disregard local concerns or override the authority of state and local officials to plan local airport development.

I strongly oppose H.R. 4481, the Airport Streamlining Approval Process Act. Airport expansion is a local issue. It should not be encouraged by the Federal government.

H.R. 5094, GOOD GOVERNMENT ACCOUNTING ACT

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. KIRK. Mr. Speaker, our confidence in the financial information reported by U.S. corporations was shaken by the disclosures of accounting irregularities discovered on the books of some of the largest companies on the New York Stock Exchange. Congress is taking important steps to improve the financial reporting requirements for every public corporation. The public should have similar confidence in the financial information it hears about our own Federal Government. This is not an obscure subject—literally trillions of dollars are at stake.

Two laws—The Chief Financial Officers Act passed in 1990, and the Government Management Reform Act passed in 1994—require Federal executive branch agencies to prepare audited financial statements, in accordance with undefined "applicable standards." Who would set these standards and make sure they were fairly applied to all government agencies? In October 1990, the Secretary of the Treasury, Director of OMB and Comptroller General of the Government Accounting Office jointly agreed to create and sponsor the Federal Accounting Standards Advisory Board, better known as "FASAB," to play a major role in establishing the rules that assess the government's efficiency and effectiveness. FASAB is entirely different from the Financial Accounting Standards Board, or "FASB," that governs private sector standards.

In carrying out its mission, the government's FASAB has published 18 Federal Government accounting standards and four accounting interpretations, covering topics as diverse as direct student lending, social insurance, and deferred maintenance of federal property. In addition, FASAB writes technical bulletins and releases, and makes a public reading room available to any citizen who wants more information on Federal Government accounting standards.

On January 11, Treasury, OMB, and GAO published a Memorandum of Understanding, or MOU, that announced a restructuring of

FASAB. This MOU is designed to enhance the independence of FASAB and increase public involvement in the setting standards process. It became effective June 30, 2002. I am introducing legislation that simply takes the President's MOU and puts it into law. This bill, called the "Good Government Accounting Act," has already gained bipartisan support. It establishes FASAB as an independent entity, operating under the terms of the structure that has just been put into force.

Like the private sector, the Federal Government can benefit from using unbiased, equitable accounting standards with disclosures that increase public understanding of how our government works. FASAB should exist by law—not just by agreement between Treasury, OMB, and GAO.

This bill, H.R. 5094, makes a major step forward to ensure that public accounting standards that govern trillions of dollars in taxpayer funds are well spent and reported accurately to the American people.

**TEXTILE AND APPAREL
RECOGNITION ACT (TARA)**

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. COBLE. Mr. Speaker, today I am pleased to join with my colleague, Representative JOHN SPRATT, along with 40 other original cosponsors to introduce the "Textile and Apparel Recognition Act" (TARA). This legislation recognizes the significant contributions the U.S. textile industry continues to make to our economy while also acknowledging that this industry is confronting a terrible crisis and deserves our attention.

Though it still employs nearly half a million Americans, the textile industry is in a state of crisis. Since 1994, a staggering 675,000 jobs have been lost in textiles and apparel. Last year alone the industry lost nearly 150,000 jobs and 2002 appears to be more of the same. These negative effects are not only being felt by the many thousands of textile workers who have lost their jobs, but by our local communities and states as well. As tax revenues have fallen as a result of plant closings, funding for schools, water infrastructure improvements, and basic services, such as garbage collection, have also been negatively affected.

Closed foreign markets, which persist despite trade policies that have opened our own markets; continuing large-scale customs fraud and transshipment; and currency devaluation in several textile-producing nations along with a strong dollar have all contributed to a prolonged period of industry-wide downsizing and plant closings. Those of us representing U.S. textile and apparel producers have seen thousands and thousands of jobs in our districts disappear.

We remain encouraged by the attention this administration has given to the crisis confronting this important sector of our economy and believe that this resolution offers an opportunity to show our support for continued efforts in this regard. I encourage my colleagues

to join with us in this effort by cosponsoring this resolution, and I thank the Speaker for yielding me this time.

**TRIBUTE TO QUEEN CHAPEL
A.M.E. CHURCH**

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Queen Chapel African Methodist Episcopal (A.M.E.) Church on the occasion of their celebration of a new sanctuary after 136 years. It was my hope to join the congregation at the dedication and a daylong jubilee celebration this coming Saturday.

Queen Chapel A.M.E. Church is not only the oldest church on Hilton Head Island, but also the oldest A.M.E. church in the State of South Carolina. Queen Chapel represents the rich Gullah-Geechee cultural history and religious heritage that is characteristic of the coastal Sea Islands.

Queen Chapel A.M.E. Church was founded when Minister Richard Harvey Cain—who served in this body for four years—Reverend James A. Johnson, and Reverend James Handy arrived on Hilton Head Island in the area called Cherry Hill. As they waited for a violent storm to pass over, they decided to have church services with prayer and singing under a large, oak tree. This was to be an historic event because it was where the African Methodist Episcopal religion began in the state of South Carolina.

The property where Queen Chapel now sits was purchased from W.D. Brown in 1886, and the first church was built on September 11, 1892. The pastor of Queen Chapel during that era was Reverend R.C. Williams, and the presiding elder was Reverend P.W. Jefferson. Some of the Church's early members include Abraham Grant; Ben Singleton, Sr.; Jake Green; Ceasar Johnson; Paul Edwards; Ed Green; Perry Ward; Sarah Grant; Joe Jones; Ben Jones; Harry Burke; John Burke; John Henry Perry; Nellie Perry; Fannie Burke; Christina Williams; Martha Goff; Sarah Singleton; Mary Cannick; Maria Green; Blind Joe Ellis; Backus Johnson; Julia Reed; Lula Jones; Chamberlin Robinson; Mae Bell Simmons; and Ida Singleton. Later members were Charlie Singleton; Willie Singleton; Mae Bell Aiken; Beulah Kellerson; Raymond Perry; James Grant, Sr.; Viola Murray; Marion Aiken, Sr.; William Kellerson; William Brown, Sr.; Abraham Johnson; John Patterson; and many others whose relatives are still members of the congregation today.

The present church was built in 1954, with the Reverend S.C. Washington serving as pastor, the Reverend F.M. Reid as Bishop, and the Reverend J.C. James as presiding elder. The officers credited with building the new church were James Grant, Sr.; Solomon Grant, Sr.; John Patterson; Marion Aiken, Sr.; William Kellerson; Abraham Johnson; and Leander Cannick, Sr., just to name a few.

The new facilities of this prominent church on Hilton Head Island will not only serve the Queen Chapel congregation, but will also

serve the entire community with considerations for amenities such as day care and after school tutoring.

Mr. Speaker, I ask you and my colleagues to join me today in honoring Queen Chapel A.M.E. Church which is raising another sanctuary after 136 years on the same hallowed grounds. I wish the congregation and surrounding community Good Luck and God-speed on this special occasion.

**RECOGNIZING THE 19TH ANNUAL
FREMONT FESTIVAL OF THE ARTS**

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Mr. STARK. Mr. Speaker, I rise today to pay tribute to the 19th Annual Fremont Festival of the Arts sponsored by the Fremont Chamber of Commerce.

The two-day Festival, to be held on July 27 and 28, 2002, is expected to attract over 450,000 attendees and has become a model of success for the modern festival. This single event provides some \$400,000 in contributions to non-profits for the betterment of communities in Fremont, California.

Over 800 artists, 40 culinary selections and 20 musical groups will be featured at the Festival. Three thousand volunteers give willingly of their time to contribute to the Festival's success.

It takes generous and concerned individuals, such as the volunteers, to reach out and make a difference, ensuring promise and opportunity for this and future generations. It also takes the support of business sponsors and patrons to ensure the success of the Festival.

The Festival typifies the spirit of community service, which is alive and thriving in Fremont. I am proud to salute the efforts of this year's Festival Chairman, David M. O'Hara and Fremont Chamber of Commerce CEO Cindy Bonilor, the organizers, the volunteers, the sponsors and the patrons of the Fremont Festival of the Arts for their generous and inspiring efforts to ensure continued success.

**UNDERGRADUATE SCIENCE, MATHEMATICS,
ENGINEERING, AND
TECHNOLOGY EDUCATION
IMPROVEMENT ACT**

SPEECH OF

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Ms. ESHOO. Mr. Speaker, I rise as a cosponsor and in support of this important bill.

Despite predictions for an increase in jobs requiring technical skills over the next decade, the number of students graduating with degrees in the sciences has decreased during the last decade.

This pattern has had serious ramifications for our nation's economic growth.

The H1-B visa increase we passed two years ago was a reflection of the failure of our

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educational system to produce students with strong proficiency in math, science and engineering . . . this bill addresses this failure.

The Tech Talent Bill is innovative legislation that will help reverse current trends by rewarding colleges and universities for taking steps

to increase the numbers of science and engineering majors.

A relatively small investment made through the grants authorized in this bill will seed U.S. companies with the employees they need to remain competitive in a global marketplace.

By providing these financial incentives, we will not only be strengthening our own workforce but also lessening our dependence on foreign experts who may be here on H1-B visas.

I urge my colleagues to support this bill and look forward to its swift passage.

SENATE—Friday, July 12, 2002

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the Honorable DEBBIE STABENOW, a Senator from the State of Michigan.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Blessed God, we praise You for this new day. You gave us good rest last night, replenishing our souls and our bodies. You awakened us with the reminder that this is Your day and You will show the way. With awe and wonder we acknowledge that any wisdom we will have will be a gift from You. You have given the Senators oversight of this Nation; now give them insight to know and do Your will. Give them humility to ask for a clear picture of Your best for each of the challenges ahead and for how they are to vote on the crucial legislation before them. You give wisdom to the humble, vision to the open-minded, and guidance to the receptive. Bless these Senators today, dear God. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DEBBIE STABENOW led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 12, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DEBBIE STABENOW, a Senator from the State of Michigan, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Ms. STABENOW thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Madam President, the two managers will be here shortly. Senator SARBANES is now here. The vote will occur at 9:30 a.m. There are a number of people who have requested I not extend the time because they have work to do. So we will vote at 9:30 a.m. Additional rollcall votes could be possible until 12 noon today. As indicated last night, there will be votes Monday afternoon beginning at 2 o'clock.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

PUBLIC COMPANY ACCOUNTING REFORM AND INVESTOR PROTECTION ACT OF 2002

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2673, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

Pending:

Edwards modified amendment No. 4187, to address rules of professional responsibility for attorneys.

Daschle (for Levin) amendment No. 4269 (to amendment No. 4187), to address procedures for banning certain individuals from serving as officers or directors of publicly traded companies, civil money penalties, obtaining financial records, broadened enforcement authority, and forfeiture of bonuses and profits.

McCain motion to recommit the bill to the Committee on Banking, Housing, and Urban Affairs with instructions to report back forthwith with amendment No. 4270, to require publicly traded companies to record and treat stock options as expenses when granted for purposes of their income statements.

Reid (for Edwards) amendment No. 4271 (to the instructions of the motion to recommit the bill to the Committee on Banking, Housing, and Urban Affairs), to address rules of professional responsibility for attorneys.

Reid (for Levin) amendment No. 4272 (to amendment No. 4271), to address procedures for banning certain individuals from serving

as officers or directors of publicly traded companies, civil money penalties, obtaining financial records, broadened enforcement authority, and forfeiture of bonuses and profits.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 9:30 a.m. shall be equally divided between the two managers for debate only. Who yields time?

The Senator from Maryland.

Mr. SARBANES. Madam President, I understand there will be about 5 minutes allotted each manager now. Is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. SARBANES. Madam President, very shortly we will be voting on a cloture petition with respect to this legislation, S. 2673. I urge my colleagues to vote for the cloture motion.

I know there are a lot of amendments pending, but we have now been on this legislation a full week. Even with the voting of cloture today, this matter will carry over into next week. There have been a range of amendments, some that are pending that are germane under cloture to the bill. In other words, they have been drawn in a way and the subject matter is focused and limited enough that they remain germane even after cloture.

There are a number of amendments that are relevant to the bill but not germane. Once cloture is invoked, they will fall. I know that is a matter of some concern to those who are proposing those amendments, but I do not know how we can handle this differently and move along towards a resolution.

In addition to those relevant amendments—and I have sympathy there because while they may not meet the very narrow definition of germaneness, they do touch the subject matter of the legislation—there are also amendments that are not even relevant to the bill that are sort of—I was going to say floating around, but it would be more accurate to say they are sort of present. They touch matters that have nothing to do with this legislation.

I am frank to say to my colleagues, I do not see how we can progress and move towards a final vote and resolution on this issue without invoking cloture this morning. We tried not to precipitate that early on, although I know people were then blocked from getting votes, and I regret that. I was concerned, as anyone, to get the votes and give people a chance to have their amendments considered. Nevertheless, we are now where we are, and I urge my colleagues to vote for cloture.

We have to move forward on this legislation. This is important legislation.

I think the committee and my colleagues have fashioned legislation which will make a very important contribution toward addressing the serious economic challenge now confronting the country and this loss of confidence in the workings of our economic system. The fact that people cannot have any trust in or reliance on the basic financial information upon which they make important economic decisions is having a major impact on the workings of the economy and carries with it the very real potential of having an even more significant impact.

This is serious business, and the potential for an economic downturn, triggered in part by the difficulties we are trying to address in this legislation, I think is not insignificant. So I think it is important that we move forward and pass this legislation. This is but one step along the way, and there are many steps left yet to be done.

I am hopeful at some point the administration will come to see the necessity of putting into place a statutory framework to provide for an independent oversight board with respect to the accounting industry, to address the conflict that exists on the part of auditors when they are the auditor of a company and at the same time are providing certain consulting services to the company which carry with them an inherent conflict of interest with their responsibilities as an auditor.

There are extensive provisions in this bill with respect to corporate responsibility and accountability with respect to corporate disclosure and, of course, with respect to the conflict of interest we have seen manifest with respect to stock analysts who are often in the position of giving buy recommendations on the stock of a company with which the analyst's company is also having investment banking deals which, of course, raises the question: Is the recommendation on the stock being done in order to gain the investment banking business? So we try to provide some, as they call them, Chinese walls between those two sides of the company in order to reduce the degree of that conflict.

Furthermore, this has a very significant authorization of additional monies for the SEC in order to be able to meet its responsibilities, which I think is very important. The President asked the other day in his address for another \$100 million. That is not sufficient. We have to do better than that so the SEC can do its job.

So we can move forward, I urge my colleagues to support the cloture motion which will be before us for a vote at 9:30.

I presume I have used my time, and I yield the floor so my colleague, the ranking Republican Member, may use his time.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. GRAMM. Madam President, we need to pass a bill. We are going to conference with a House bill that is substantially different from this bill. I believe that between the two bills, we can find a virtually unanimous vote. I think we can write a bill that will satisfy the President and both Houses of Congress. I do not think we are making the bill better. The amendments that are being offered now are largely non-germane. We have gotten into sort of a one-upmanship position, and I think we are harming the markets by convincing people that the cure may very well be worse than the disease.

It is very important that we get on with our business and that we pass this bill. I intend to vote for it today. I do not think it is the bill we need in the end, but it gets us to conference where we can get the bill we need in the end. I urge my Republican colleagues to vote for it, not because in the end they are for this version but because they want to do something. We need to bring this debate to a close. We do have some germane amendments. We will be dealing with those, but the time has come to get on about our business. Getting on about our business means bringing this debate to a close.

So I urge my colleagues to vote to end the debate. Let us go to conference. Let us write this bill. Let us let it be known with certainty what our policy is going to be. If we do that, it will help restore confidence in the country. So I urge my colleagues to vote for cloture and, as we get to the end of the process, for the bill.

I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. I do not know if the manager has any time.

Mr. SARBANES. Do I have any time remaining?

The ACTING PRESIDENT pro tempore. The manager has no time.

Mr. LEVIN. Madam President, I ask unanimous consent that I be allowed to proceed until 9:30 when cloture is invoked.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEVIN. Madam President, a number of amendments have been pending where we have been unable to get a vote. These are highly relevant amendments, including mine which would have given the SEC administrative powers to impose civil fines.

The Republican manager said the amendments were not particularly relevant. Well, we had a highly relevant amendment that goes directly to the issue of abuses by corporate officers and corporate directors. The current fine structure of the SEC does not reach officers and does not reach directors, except by going to court. They have no administrative authority in

the SEC to impose civil fines, the way they do with brokers and the way a lot of other agencies that regulate business have authority to do. The SEC does not have the power to impose administrative fines on directors and on officers of corporations. They should have that power administratively.

We were blocked in getting a vote, and the amendment which is pending is going to fall if cloture is invoked. That is the use of the rules. But let it be clear what the rules were used to do, which was to prevent a strengthening amendment for this bill.

It is a good bill. I compliment the sponsors of this bill. I compliment Senator SARBANES and his cosponsors that this bill can be strengthened; it should be strengthened. One of the strengthening amendments was blocked from getting to a vote yesterday and will fall if cloture is invoked.

We also have a question. What about postcloture? There are 48 germane or arguably germane amendments. The question is whether or not the rules are going to be used again to block votes on germane amendments. I will object to that happening. I will do everything I can to make sure germane amendments, including some that I have filed, are considered postcloture.

I thank the manager for yielding. I yield the floor.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on Calendar No. 442, S. 2673, the Public Company Accounting Reform and Investor Protection Act of 2002:

Jon Corzine, Deborah Stabenow, Paul Wellstone, Ron Wyden, Daniel Akaka, Barbara Boxer, Charles Schumer, Byron Dorgan, Harry Reid, Paul Sarbanes, Daniel Inouye, John Edwards, Barbara Mikulski, Thomas Carper, Jack Reed, Tim Johnson.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum has been waived.

The question is, Is it the sense of the Senate that debate on S. 2673, the Public Company Accounting Reform and Investor Protection Act of 2002, shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUE), the Senator from Massachusetts (Mr. KERRY), and the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Ohio (Mr.

VOLINOVICH), the Senator from Idaho (Mr. CRAPO), and the Senator from Virginia (Mr. WARNER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 91, nays 2, as follows:

[Rollcall Vote No. 173 Leg.]

YEAS—91

Akaka	Domenici	McConnell
Allard	Dorgan	Mikulski
Allen	Dubin	Miller
Baucus	Edwards	Murkowski
Bayh	Ensign	Murray
Bennett	Enzi	Nelson (FL)
Biden	Feingold	Nelson (NE)
Bingaman	Feinstein	Nickles
Bond	Fitzgerald	Reed
Boxer	Frist	Reid
Breaux	Graham	Roberts
Brownback	Gramm	Rockefeller
Bunning	Grassley	Santorum
Burns	Gregg	Sarbanes
Byrd	Hagel	Schumer
Campbell	Harkin	Sessions
Cantwell	Hatch	Shelby
Carnahan	Hollings	Smith (NH)
Carper	Hutchinson	Smith (OR)
Chafee	Hutchison	Snowe
Cleland	Inhofe	Specter
Clinton	Jeffords	Stabenow
Cochran	Johnson	Stevens
Collins	Kennedy	Thomas
Conrad	Kohl	Thompson
Corzine	Kyl	Thurmond
Craig	Leahy	Torricelli
Daschle	Lieberman	Wellstone
Dayton	Lincoln	Wyden
DeWine	Lott	
Dodd	Lugar	

NAYS—2

Levin McCain

NOT VOTING—7

Crapo	Kerry	Warner
Helms	Landrieu	
Inouye	Voinovich	

The PRESIDING OFFICER (Mr. CARPER). On this vote, the yeas are 91, the nays are 2. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The pending motion to recommit is out of order.

Mr. SARBANES. Mr. President, I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate is not in order. The Senate will be in order. The Senate is not in order.

The Senator from West Virginia.

Mr. BYRD. Mr. President, we can have order in the Senate with Senators in their seats. At least they do not need to be cluttering up the well. I want to say a few words.

The PRESIDING OFFICER. The Senate will be in order. The Senator will suspend.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BYRD. I have the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

SUPPLEMENTAL APPROPRIATIONS

Mr. BYRD. Mr. President, no committee in this Senate works harder than the Appropriations Committee. We have been working for months on the supplemental appropriations bill. We held hearings, months ago now, on the supplemental appropriations bill, hearings specifically concerning budget requests for homeland security.

The administration put its feet in cement and its head in the sand and adamantly opposed the committee's request, which was in writing, and signed by Mr. STEVENS and myself, to have Mr. Ridge come up and testify so that the Appropriations Committee in the Senate, following a practice of 135 years of having witnesses appear in open sessions so that the people can hear what they said—the administration did not want that, and the President put a muzzle on his Homeland Security Director and said, no, he will not come.

Mr. STEVENS and I wrote a joint letter asking for an appointment with the President. We wanted to state our case. The President did not answer that letter. No. Some underling answered the letter.

So we had to proceed. We did. We proceeded as best we could. The full committee had excellent hearings over a period of 5 days, with testimony from firemen, policemen, local health officials, also testimony from seven Cabinet Members and the Director of FEMA.

So we proceeded as best we could. We put together a bill we thought was a good bill. Then, however, the President threatened to veto it because it had too much money, in his way of looking at it, too much money for homeland security. So there was the threat to veto the bill.

Only this week—perhaps it was Monday—the President, in a speech, assailed Congress for “delay” in getting this appropriations bill downtown, saying the Defense Department is hard up for moneys. So Mr. YOUNG, chairman of the House Appropriations Committee, Mr. OBEY, Mr. STEVENS, and I have been meeting. We met yesterday and we thought we had the whole thing pretty much wrapped up and that we could meet this morning in full committee and vote the conference report out, and send it back to both Houses for their judgments.

Lo and behold! At 7 o'clock last night, here comes a request from the

White House to hold up further action. They want to send up a different budget.

So, who is holding up defense? The President, in a public speech, lambasts the Congress for not getting this appropriations bill to him sooner. We have been wanting to go with the President and get this bill on his desk, but he just has not supported the efforts of the appropriations members on both sides of the Capitol to move this bill, first withholding Mr. Ridge, who is the point man for the administration on homeland security, adamantly refusing to let him testify; then threatening to veto the bill. This is a difficult bill. The staffs work into the night around here on this bill; we try to work hard to get the bill down to the President. He assails the Congress for not sending the bill to him, saying that if he doesn't have it by a certain hour or day, it is going to affect the national defense, going to affect the military with personnel reductions and so on.

So we were prepared today to have a conference. I want all appropriations members within the sound of my voice to know that the meeting is canceled. Canceled, why? I understand that Mr. YOUNG is going to call me to tell me that it is canceled at the request of the Speaker of the House, who often acts at the request of the White House, I assume.

Mr. STEVENS. Will the Senator yield?

Mr. BYRD. I don't mean any disrespect to the Speaker. I am just saying how this is being put off. Yes, I will, just in a moment, if I may.

I am upset about it. I am the chairman of this Appropriations Committee. I have never seen the appropriations process so meddled in and delayed by the White House. I know that Mr. YOUNG is doing this at the request of the White House. They want to send up a new budget right at the last minute, 7 o'clock last night. Mitch Daniels, I understand—

Mr. STEVENS. Will the Senator yield?

Mr. BYRD. I will yield right in the middle of my sentence.

Mr. STEVENS. I am sorry to do this, Mr. President, but my distinguished friend, our chairman, I think is implying that this was done at the request of the White House. That is not my information. It was a decision of the Speaker because the Office of Management and Budget has not delivered to us the information we need to close this bill. The Speaker asked, notwithstanding the White House request that we get the bill done today, that we wait until we get the information from the Office of Management and Budget.

If the Senator will let me have one other comment, then I will yield back. I apologize for interrupting the distinguished President pro tempore, chairman of our committee, but the difficulty is this: We have faced such an

enormous demand from the Office of Management and Budget to adhere to a line, a top line barrier that the Office of Management and Budget is willing to accept, \$1.6 billion from the airline bill, airline supplemental bill, stabilization bill, that expired.

We have such a blind mindset down there about top lines that we are unwilling to look at reality. The reality is, the Senate and the House have worked, and we are almost closed, and now we are waiting for some more Enron-type offsets, offsets that are meaningless in order to justify this top line mentality with which we are dealing.

From my point of view, I think we should go see the President. I am going to ask to see the President. I have been here 34 years, not nearly as long as my friend from West Virginia, but I, too, have never gone through a period as I have gone through on this supplemental. This is not worthy of the constitutional process at all, and it is time we had an understanding of what the role of the Congress is with regard to appropriations.

Right now we face this demand, and because we wanted to get the bill out, we did meet with the Office of Management and Budget Director last night. Our staffs worked late into the night, and we came to an agreement about what we would do. But the Office of Management and Budget was to submit rescissions to us or at least changes in their budget by 8 a.m. this morning. They are not here.

But the Senator from West Virginia is absolutely right, part of it is a reduction in defense. We fought to increase defense. Some of these offsets may make a little sense in this sense; that the supplemental was submitted to us in March and there certainly has been a series of months pass by that people were not paid to carry out the work that was covered by the supplemental. That would be a legitimate offset, if it were identified properly.

We were told last night that there was such a list. When we asked to see it, it didn't appear. When we asked for it to appear here by 8, it was agreed to, to be here by 8. It didn't appear this morning either, hardly worthy of people who are working for the President.

The only thing on which I cannot agree with my friend from West Virginia is that this is the President. The President is ill served by what is going on, in my opinion. I hope people understand: This is blind adherence to a line that was established—a crazy line, in my opinion—without regard to the needs of the country at all, and we are asked now to get down on our knees and really thank God for this list when it comes. But I have to tell you, my good friend, I am up to here with this process. People know I have a short fuse anyway. I hope to calm down before I see the President, but I do thank

the Senator from West Virginia for yielding to me.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Alaska. He is precisely on point. If I have presumed to err in my judgment as to what was going on exactly in the process and have cast any reflection on the Speaker of the other body, I apologize for doing that.

My colleague is correct: This Office of Management and Budget, as far as I am concerned, is just above my ears. Upon what meat doth this our little Caesar feed? I am talking about Mitch Daniels, the Director of OMB. He is always meddling, always meddling in the Congress, in its work and in appropriations. Not only that; he is always lecturing the Congress. I have never mentioned his name publicly until now. But I am fed up to my ears also.

The appropriations process is being mangled. It is being maimed. It is being murdered at the hands of someone who is not elected by the people of this country. What bar of judgment does he stand before?

I repeat, "Upon what meat doth this our Caesar feed that he is become so great?"

I want to voice my disappointment in the circumstances that have brought about a cancellation of this appropriations conference today. If I have said something amiss here, which Mr. STEVENS felt I might have, I certainly apologize for that. But I am just fed up. I am tired. I am tired of this mangling of the appropriations process. Here is this outfit, blows into town like a tornado and they are going to change the tone in Washington. And the tone has been changed. It is to the nth degree worse than what it has ever been before. I wish the President would step in and stop this interruption, this mangling of the appropriations process, this meddling by his Office of Management and Budget director, and stop that bigmouth down there from constantly meddling in appropriations bills and criticizing the Congress.

That man, Mitch Daniels, is not elected by anybody. I hate to say this about a man. I like him personally, but he just goes too far. I am tired of it. We have Members who had planned to leave town, who canceled their trips, believing they were going to have this meeting this morning and that we would wrap up this appropriations bill and send it down to the President.

I don't want to hear anybody in the administration accusing the Congress of delay in passing this bill. It is on their table. Let them come into court with clean hands before they attack the Congress.

I am sorry to my colleagues for taking so much of their time. I am sorry profusely, I say, to the members of the Appropriations Committee who were here and who made changes in their day's schedule on the presumption that

we were going to have a conference. I don't know when we will have a meeting. I suppose it will be soon.

I hope those Senators who are attempting to hold up the military construction bill, because of the need for moneys to help their States and districts in the case of floods and fires and drought, will desist. That is what a supplemental is for. We have a supplemental now. Let's do something about the drought, the fires, and the floods in this supplemental. It is my desire, as chairman of the Appropriations Committee, to get all of these appropriations bills passed by the beginning of the new fiscal year. We are going to do that. Mr. STEVENS and I worked hard on this.

I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue calling the roll.

The assistant legislative clerk continued with the call of the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection—

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue calling the roll.

The legislative clerk continued with the call of the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. REID. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard. The clerk will continue calling the roll.

The legislative clerk continued with the call of the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

**PUBLIC COMPANY ACCOUNTING
AND INVESTOR PROTECTION ACT
OF 2002—Continued**

Mr. REID. Mr. President, will the Chair inform us what the matter before the Senate now is?

The PRESIDING OFFICER. The Daschle second-degree amendment to the Edwards first-degree amendment.

Mr. REID. That is Daschle for Levin; is that not right?

The PRESIDING OFFICER. That is correct.

The Senator from Nevada.

Mr. ENSIGN. Mr. President, I raise a point of order that the pending second-degree amendment is not germane to the bill postcloture.

The PRESIDING OFFICER. The point of order is well taken. The amendment falls.

The deputy majority leader.

AMENDMENT NO. 4286, AS MODIFIED, TO
AMENDMENT NO. 4187

Mr. REID. I call up amendment No. 4286, and I ask unanimous consent that Carnahan amendment No. 4286 be modified with the change at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mrs. CARNAHAN, for herself, Mr. DODD, Mr. DURBIN, Mr. LEVIN, Mr. HARKIN, and Mr. CORZINE, proposes an amendment numbered 4286, as modified, to amendment No. 4187.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require timely and public disclosure of transactions involving management and principal stockholders)

At the end of the amendment, insert the following:

(b) ELECTRONIC FILING.—Notwithstanding the provisions of section 403 of this Act, section 16(a)(2) of the Securities and Exchange Act of 1934, as added by section 403, is amended to read as follows:

“(2) if there has been a change in such ownership, or if such person shall have purchased or sold a security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) involving such equity security, shall file electronically with the Commission (and if such security is registered on a national securities exchange, shall also file with the exchange), a statement before the end of the second business day following the day on which the subject transaction has been executed, or at such other times as the Commission shall establish, by rule, in any case in which the Commission determines that such 2 day period is not feasible, and the Commission shall provide that statement on a publicly accessible Internet site not later than the end of the business day following that filing, and the issuer (if the issuer maintains a corporate website) shall provide that statement on that corporate website not later than the end of the business day following that filing (the requirements of this paragraph with respect to electronic filing and providing the statement on a corporate

website shall take effect 1 year after the date of enactment of this paragraph), indicating ownership by that person at the date of filing, any such changes in such ownership, and such purchases and sales of the security-based swap agreements as have occurred since the most recent such filing under this paragraph.”.

The PRESIDING OFFICER. The Senator from Missouri.

Mrs. CARNAHAN. Mr. President, I am offering this amendment on behalf of myself and Senators DODD, DUBBIN, LEVIN, HARKIN, and CORZINE.

The Senate is engaged in an important debate about how to improve our Nation's financial system. Today I am offering an amendment that is intended to provide more timely information to average investors. America has the most vibrant and dynamic economy in the world. Our robust and resilient capital markets are the foundation of our economy. But the success of those markets depends on the free flow of accurate, reliable information.

Recent disclosures about the inaccuracy of some companies' financial reports have shaken that confidence. I am pleased the Senate has acted quickly to take up this important reform legislation. I believe that this bill makes tremendous progress in improving the quality of information available to the markets. In the interest of further improvement, I am offering an amendment to modernize the method of disclosure required when insiders trade in their own companies' stock.

One warning sign that a company may be in trouble is when its executives are selling large amounts of company stock, as occurred at Enron. I have learned, however, that information about insider selling is not easily accessible.

Under our current system a company's officers are required to file a disclosure form with the Securities and Exchange Commission, SEC, any time they sell securities of their company. Tens of thousands of these forms are filed annually. These are not complicated forms. I have a copy here. It is a simple 2-page form.

The Office of Management and Budget estimates that the form should not take more than 30 minutes to fill out. With capital markets as sophisticated as they are in the U.S., information must be available quickly to be useful. However, insiders currently have up to six weeks to file their disclosure forms. And the overwhelming majority of these forms—95 percent—are filed on paper, rather than electronically.

The Banking Committee has already addressed the issue of timely disclosure. This legislation would require disclosure of sales within 2 days, a vast improvement over the current deadlines. However, this legislation is silent on the issue of modernizing this arcane paper filing system.

Right now, there is no way for an investor in Missouri to quickly learn

that a company executive is selling off company stock. The only ways to get the information are to go to a reading room at the SEC in Washington, or to write a letter to the SEC. These written requests may take weeks to process. This is unacceptable in the electronic age.

My amendment requires that information about insider sales of publicly traded companies be filed electronically. The SEC would then be required to make the forms available to the public over the Internet. Any company that maintains a corporate Web site would be required to post these disclosure forms on the Web site. The SEC, itself, has acknowledged the value of having these forms filed electronically.

I have here a letter from SEC Chairman, Harvey Pitt. He wrote to me that “expedited disclosure of trading by company insiders is imperative.” In fact, he applauded the legislation I introduced earlier this year that requires electronic disclosure.

I ask unanimous consent that a copy of this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SECURITIES AND
EXCHANGE COMMISSION,
Washington, DC, March 1, 2002.

Hon. JEAN CARNAHAN,
U.S. Senate, Hart Office Building,
Washington, DC.

DEAR SENATOR CARNAHAN: Thank you for your February 14th letter regarding S. 1897, the Fully Informed Investor Act which you recently introduced. I share your concerns about the issues regarding reporting of insiders' securities transactions that your bill addresses. As we announced on February 13th, the Commission will shortly propose rules that would provide accelerated reporting by companies of insider transactions in public company securities. This is an integral part of our effort to supplement the periodic disclosure system with “current disclosure” in order to put information investors want and need into their hands more promptly.

I also share the view reflected in your bill that expedited electronic disclosure of trading by company insiders is imperative, and I applaud your initiative. As you know, the Securities Exchange Act of 1934, rather than rules adopted by the Commission, sets the deadlines for officers, directors and beneficial owners of ten percent of a class of equity securities of a public company to report their trading in those securities. A legislative solution, therefore, will be necessary to address fully the issue of investors' timely access to information about insiders' securities transactions.

While formal Commission comment on legislation is normally reserved for testimony or a response to a request from a committee or subcommittee given jurisdiction over the bill, we would welcome the opportunity to provide you with technical assistance on your bill if you would find that helpful. I have asked Casey Carter, the Director of our Office of Legislative Affairs, to contact your staff to see if you would like our assistance. Please feel free to call me or to have your staff call Ms. Carter at (202) 942-0019 if you have any questions.

Yours truly,

HARVEY L. PITT.

Mrs. CARNAHAN. This is not a new idea. In fact, more than 2 years ago, in April 2000, the SEC published a rulemaking for its electronic data system. In that rulemaking, the SEC indicated that it "anticipated" making insiders file disclosure forms electronically. I applaud the SEC for recognizing the need to modernize, but I am frustrated by the delay. It has been over 2 years since the SEC made this proposal.

An agency that is responsible for monitoring markets where trillions of dollars are electronically exchanged ought to be able to develop a fairly simple electronic database to make this information available.

The Senate now has the opportunity to require the SEC to move quickly. I am very pleased that the bill I introduced earlier this year on this subject was included in the House accounting reform bill. The House has required that insiders file electronically, within one day of their transactions. The House has also required that corporations disclose insider sales on their corporate Web sites.

I encourage my colleagues to support my amendment. We should not make investors wait any longer for these basic reforms.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have an amendment at the desk.

Mr. DODD. Mr. President, I ask to be heard on the Carnahan amendment very briefly. Does the Senator mind?

Mr. DORGAN. How briefly?

Mr. DODD. Two minutes or so.

Mr. DORGAN. I am happy to yield to the Senator from Connecticut, provided that I am recognized following his presentation.

Mr. DODD. I appreciate that.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I commend my colleague from Missouri for this very fine amendment. I think it is going to make a strong difference by improving electronic reporting. It doesn't get the kind of attention it should.

This is a positive and constructive suggestion. I am a cosponsor of the amendment and commend the distinguished Senator from Missouri for offering the amendment. It makes the bill stronger. It is something all our colleagues will be willing to support. I commend the Senator for her work.

AMENDMENT NO. 4215, AS MODIFIED

Mr. DORGAN. Mr. President, I have an amendment numbered 4215 at the desk. I have submitted a modification of that amendment which I believe has been reviewed by both sides. I ask for its immediate consideration and I ask unanimous consent that the amendment be modified.

The PRESIDING OFFICER. Is there objection to laying aside the pending

amendment of the Senator from Missouri?

Mr. SARBANES. Will the Senator yield?

Mr. DORGAN. I am happy to yield.

Mr. SARBANES. Is this the amendment that deals with the offshore companies?

Mr. DORGAN. Yes.

Mr. SARBANES. I have no objection to setting aside the pending amendments in order to consider this amendment. I understand upon the conclusion of the consideration of this amendment we will revert to the Edwards-Carnahan amendment.

Mr. SCHUMER. Reserving the right to object, I believe I have two amendments that have been cleared by both sides. I would like to offer them immediately after the Senator from North Dakota.

Mr. SARBANES. We are hoping to get to the Senator from New York. I make a unanimous consent request that following the disposition of the amendment of the Senator from North Dakota, we turn to the amendments referred to by the Senator from New York.

Mr. ENSIGN. Provided that no second-degree amendments are in order to any of the three amendments.

Mr. SARBANES. Furthermore, upon conclusion of the consideration of the Schumer amendments, we return to the regular order, which I take it would be the Edwards-Carnahan amendment.

Mr. REID. Reserving the right to object, Senator SCHUMER has a number of amendments on the list. I think we better get numbers of those amendments before there is an agreement they be next in order.

Mr. SARBANES. Let us withdraw the unanimous consent request and make it only that Senator SCHUMER be recognized after the disposition of the Dorgan amendment and we can address those questions.

The PRESIDING OFFICER. Is there objection?

Mr. ENSIGN. Reserving the right to object, just to make sure we have this clarified, the unanimous consent request is just to the Dorgan amendment pending, and we would not object as long as the second-degree amendment is not in order to his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

Mr. DORGAN. Mr. President, first of all I will offer an amendment that I believe will be accepted. I understand the process is that those who have amendments that will be accepted will be allowed to offer them and those whose amendments are not approved by both sides will not be allowed to offer them. In my judgment, this is not the kind of procedure we ought to use when considering this legislation. But I understand the Senator from Texas indicated he

will object to setting aside or laying aside an amendment for the purpose of offering another first-degree amendment unless he agrees with the amendment. I will talk a little bit more about that in a couple of minutes.

I had asked unanimous consent my amendment be modified. Was the consent agreed?

The PRESIDING OFFICER. It was agreed to.

Mr. DORGAN. Is amendment No. 4215 called up at this point?

The PRESIDING OFFICER. The pending amendment is set aside and the clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself and Mr. GRAHAM of Florida, proposes an amendment numbered 4215, as modified.

Mr. DORGAN. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To clarify that the requirement that certain officers certify financial reports applies to domestic and foreign issuers)

On page 82, after line 24, insert the following:

(c) FOREIGN REINCORPORATIONS HAVE NO EFFECT.—Nothing in this section 302 shall be interpreted or applied in any way to allow any issuer to lessen the legal force of the statement required under this section 302, by an issuer having reincorporated or having engaged in any other transaction that resulted in the transfer of the corporate domicile or offices of the issuer from inside the United States to outside of the United States.

Mr. DORGAN. Let me describe what this amendment is briefly. There was a Wall Street Journal article on July 8 this week titled: "Offshore-based Firm's Officials Won't Have to Swear to Results."

The Securities and Exchange Commission's new order requiring chief executives and chief financial officers of the nation's biggest companies to swear to the accuracy of their financial results was intended to restore investors' battered confidence. But two of the companies that have promised the biggest concerns don't have to comply.

Why? Because Tyco International Ltd. and Global Crossing Ltd. are based in Bermuda, even though they conduct many of their operations and have main office in the United States and are listed on the U.S. stock exchanges.

Securities and Exchange Commission spokesmen said large foreign-domiciled companies over which the SEC has jurisdiction, such as and Global Crossing and Tyco, were excluded from the list because the agency wanted to issue the order "very quickly." Therefore it focused only on U.S. companies.

So the Securities and Exchange Commission says that the chief executives and chief financial officers of some of the biggest companies must swear to the accuracy of their financial results. But in recent times, we have had U.S. corporations decide that they want to

renounce their American citizenship and they want to become citizens, for example, of Bermuda. That is called a corporate inversion. They have essentially renounced their American citizenship, saying we are now corporate citizens of another country.

Guess what? Under the SEC order, they are rewarded for leaving the United States, in that their chief executives no longer have to certify financial results. The SEC says: We had to get this done quickly, and we don't expect to change it at this point.

Why does a company renounce its U.S. citizenship? They do it because they don't want to pay U.S. taxes. Very simple. If they can become a citizen of another country and renounce their U.S. citizenship, they can save substantial money on their U.S. tax bill.

At a time when we are at war with terrorists, is that a patriotic thing to do? No, I don't think so. I hope the Senate, and I certainly encourage my colleagues to do this, will shut that door tight and stop these corporate inversions. Stop these corporations from creating a sham of renouncing their U.S. citizenship in order to avoid paying U.S. taxes.

It might be interesting to ask companies such as Tyco: If you get yourself in trouble someplace around the world, who are you going to call? The Bermuda navy? The Bermuda army? The Bermuda marines? You want the full protection of the U.S. Government and the U.S. military and all the benefits that being a U.S. citizen brings along. But then you want to renounce your citizenship and move to Bermuda, in a technical sense, while keeping your offices in the United States and saving big money on taxes. And then, under the SEC order, you don't even have to have your chief executive officers certify the financial results of the corporation.

That is a shame. The SEC should know better. What could they have been thinking? I have accused them of sleeping, but this is not sleeping; this is making really dumb decisions.

I have discussed my concern with the staff of the Banking Committee. They believe that their bill implicitly addresses the reincorporation problem. But Senator GRAHAM of Florida and I said we are not satisfied with "implicitly" being covered. We want the issue addressed explicitly.

Let me also say, the technical people smile when I talk about this, but, frankly, it took a day and a half for us to evaluate whether it was implicitly covered in the bill. So because of that, I think it is important to have an explicit provision in this bill that says those companies involved in inversions that renounce their citizenship, they, too, will be required to certify their results. Their chief executive officers and their CFOs will be required to certify their results.

In a moment I will conclude and ask that this amendment be attached to the bill. As I do that, I ask for the attention of the Senator from Maryland and the manager on the other side to say that I have another amendment that I will offer. I understand, based on your process, you don't want it offered now. Let me describe it briefly.

The other amendment deals with the issue of what is called disgorgement of profits.

The top executives of these corporations make bonuses, commissions, and a substantial amount of compensation—some of them hundreds of millions of dollars. Then they issue a restatement of earnings and everything collapses. But they keep their profits and they keep their commissions and they keep their bonuses.

This legislation says you can't do that. When you restate, and just prior to restatement you have made all these bonuses, you have to disgorge this money. It is a \$2 word, but I think everybody understands what it means.

The thing that is missing in this bill is that disgorgement should be required in cases of bankruptcy as well. So I have an amendment that will say: Yes, disgorgement in this bill with respect to periods prior to restatement, but also disgorgement for the 12 months prior to the filing of bankruptcy by a corporation as well.

A fair number of people have had a lot to say about this. Former SEC Chairman, Richard Breeden, who was the Chairman of the SEC under President H.W. Bush from 1989 to 1993, said:

We should consider disgorgement to the company of any net proceeds of stock sales or option exercises within a 6-month or a 1-year period prior to a bankruptcy filing.

So he feels that way.

Goldman Sachs CEO Henry Paulson has also spoken in favor of this idea.

This bill will be incomplete if it does not include disgorgement in the period prior to bankruptcy. Those making a fortune, getting bonuses and commissions of tens of millions, yes hundreds of millions, as their companies are headed to bankruptcy—that is unfair. We need to do something about this.

I will not ask consent at the moment because I want to get my first amendment approved, but I will, following some discussions, either this morning or else on Monday, ask consent to set aside the second-degree amendment so we can consider, in first-degree, this issue. My hope is we would have a 100-to-0 vote on this matter because, failing that, this bill will be incomplete.

This bill is a great bill. I have credited Senator SARBANES and others at length. This is a wonderful piece of legislation that I fully support. It can be and will be improved by my amendments and by the amendments of Senator SCHUMER and others. Let's complete this amendment process.

Let me just say one last thing, if I might.

I know it has taken the patience of Job to try to manage this bill on the floor of the Senate. I understand all the difficulties that Senator SARBANES and Senator REID and many others have had these recent days because I have been here every day when this bill has been on the floor. My aggressiveness in trying to get these amendments considered has nothing at all to do with the wonderful stewardship of the chairman. I am very proud of the result he brings to the floor, and I believe both of my amendments will improve it. I hope I can work with him from now until Monday afternoon to have the bankruptcy amendment included in this legislation.

Mr. SARBANES. Will the Senator yield for just a moment?

Mr. DORGAN. I will be happy to yield.

Mr. SARBANES. Madam President, I simply want to say I think the subject matter with which the Senator's other amendment, that he just referred to, deals is a very important subject, and I think his observations are very much on point. Working with the other side, we are trying to work through the amendment. We are in the process of trying to do that. Of course, we will be continuing to talk with the Senator, and I hope we can resolve it. It would be very helpful. I appreciate his kind words.

Mr. DORGAN. I thank the Senator from Maryland. I ask my amendment be considered at this point and be voted upon.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 4215, as modified.

The amendment, (No. 4215), as modified, was agreed to.

Mr. SARBANES. I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from New York.

AMENDMENT NO. 4295

Mr. SCHUMER. I ask unanimous consent the Carnahan amendment be laid aside, and I send an amendment to the desk which we have talked about.

Mr. SARBANES. Will the Senator describe the amendment?

Mr. SCHUMER. Yes. This amendment is the amendment that enhances the conflict of interest provisions by prohibiting personal loans by issuers to chief officers of the issuer. It has been agreed to by both sides.

Mr. SARBANES. I ask unanimous consent no second-degree amendment to the Schumer amendment, when it is sent to the desk, be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there objection to laying aside the pending amendment for purposes of sending up a new amendment? Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. SCHUMER) proposes an amendment No. 4295.

Mr. SCHUMER. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To enhance conflict of interest provisions by prohibiting personal loans by issuers to chief officers of the issue)

On page 91, strike line 19 and all that follows through page 93, line 22 and insert the following:

SEC. 402. ENHANCED CONFLICT OF INTEREST PROVISIONS.

(a) PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by this Act, is amended by adding at the end the following:

“(k) PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.—

“(1) IN GENERAL.—It shall be unlawful for any issuer, directly or indirectly, to extend or maintain credit, or arrange for the extension of credit, in the form of personal loan to or for any director or executive officer (or equivalent thereof) of that issuer.

“(2) LIMITATION.—Paragraph (1) does not preclude any home improvement and manufactured home loans (as that term is defined in Section 5 of the Home Owners Loan Act, consumer credit (as defined in section 103 of the Truth in Lending Act), or any extension of credit under an open end credit plan (as defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)), that is—

“(A) made in the ordinary course of the consumer credit business of such issuer;

“(B) of a type that is generally made available by such issuer to the public; and

“(C) made by such issuer on market terms, or terms that are no more favorable than those offered by the issuer to the general public for such loans.”.

Mr. SCHUMER. Madam President, I also ask unanimous consent that Senator FEINSTEIN be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Madam President, I am going to be very brief because I know we do not have too much time and we have other business. I thank both the majority and minority managers, Senator SARBANES and Senator GRAMM, for their work on this amendment. I have also spoken to the people in the White House who were supportive of this amendment. It is a very simple amendment. It basically says that with certain narrow exceptions, CEOs and CFOs of companies will not be able to get loans from those companies.

In his speech before Wall Street yesterday, President Bush forcefully stated: “. . . I challenge compensation committees to put an end to all company loans to corporate officers.”

I couldn't agree more. It seems like we didn't learn our lessons during the S&L crisis in the 1980's? These same kinds of transactions were used then to

“cook the books” and our Nation's economy and financial institutions paid the price for it. Once again, history repeats itself.

My amendment is very simple: it makes it unlawful for any publicly traded company to make loans to its executive officers. Let me give a few examples as to why we should do this.

Executives of major corporations, including Enron, WorldCom, and Adelphia, collectively received more than \$5 billion in company funds in the form of personal loans. For example, Bernard Ebbers, CEO of WorldCom, borrowed a mind-boggling \$408 million from the corporation over several years, while receiving a compensation package valued at over \$10 million annually, all the while the company was facing massive losses. In the case of Adelphia, the Rigas Family received loans and other financial benefits totaling a staggering \$3.1 billion, while that company has also reported huge financial losses.

The question is: Why can't these super rich corporate executives go to the corner bank, the Suntrust's or Bank of America's, like everyone else to take loans?

In the case of WorldCom, Ebbers had funded his personal stock market activities by borrowing on margin. When the value of those investments plunged, Ebbers had to pay up. How did he do it? He borrowed money from his board of directors to pay for the stock he had bought that was now being called in.

This is just wrong, and it must be stopped.

I urge the amendment be agreed to.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 4295) was agreed to.

Mr. SARBANES. I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4296

Mr. SCHUMER. I have a second amendment that has also been agreed to, so I ask, again, the Carnahan amendment be laid aside, and I send the amendment to the desk and ask for its consideration. I ask unanimous consent Senator SHELBY be added as a cosponsor on this amendment on the SPEs.

Mr. SARBANES. I ask unanimous consent no second-degree amendment be in order to the Schumer amendment being sent to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. Is there objection to laying aside the pending amendments for the purpose of introducing a new amendment? Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. SCHUMER), for himself and Mr. SHELBY, proposes an amendment numbered 4296.

Mr. SCHUMER. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require a study of the accounting treatment of special purpose entities)

On page 91, between lines 18 and 19, insert the following:

(c) STUDY AND REPORT ON SPECIAL PURPOSE ENTITIES.—

(1) STUDY REQUIRED.—The Commission shall, not later than 1 year after the effective date of adoption of off-balance sheet disclosure rules required by section 13(j) of the Securities Exchange Act of 1934, as added by this section, complete a study of filings by issuers and their disclosures to determine—

(A) the extent of off-balance sheet transactions, including assets, liabilities, leases, losses, and the use of special purpose entities; and

(B) whether generally accepted accounting rules result in financial statements of issuers reflecting the economics of such off-balance sheet transactions to investors in a transparent fashion.

(2) REPORT AND RECOMMENDATIONS.—Not later than 6 months after the date of completion of the study required by paragraph (1), the Commission shall submit a report to the President, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, setting forth—

(A) the amount or an estimate of the amount of off-balance sheet transactions, including assets, liabilities, leases, and losses of, and the use of special purpose entities by, issuers filing periodic reports pursuant to section 13 or 15 of the Securities Exchange Act of 1934;

(B) the extent to which special purpose entities are used to facilitate off-balance sheet transactions;

(C) whether generally accepted accounting principles or the rules of the Commission result in financial statements of issuers reflecting the economics of such transactions to investors in a transparent fashion;

(D) whether generally accepted accounting principles specifically result in the consolidation of special purpose entities sponsored by an issuer in cases in which the issuer has the majority of the risks and rewards of the special purpose entity; and

(E) any recommendations of the Commission for improving the transparency and quality of reporting off-balance sheet transactions in the financial statements and disclosures required to be filed by an issuer with the Commission.

Mr. SCHUMER. Madam President, I will again be brief. This amendment relates to a second problem that we have seen in the latest crisis that we have faced in our financial markets, and that is the special purpose entities. Sometimes special purpose entities have a valid purpose. Many companies use them for valid purposes.

We have seen, particularly most egregiously in the case of Enron, these have been entities that have been used to take losses off the books, and then

shareholders, and everybody else, don't know much about them.

Enron, for instance, conducted business through thousands of these with names such as LJM, Cayman LP, and Raptor. They become pretty famous and the Enron's former CFO, Andrew Fastow, contributed hard assets and related debt to Raptor SPE and then Raptor would turn around and borrow large sums of money from a bank to purchase assets or conduct other business.

This is the key. The debts of this SPE, Raptor, never showed up on Enron's financial statements.

People make money on it. Fastow made \$30 million in management fees. These things go way overboard. The way we had proposed originally legislating on this was too complicated, but there are some good ones. There are some with legitimate purposes and many with bad purposes.

Congress can't set these accounting standards, nor should we. Rather, that is the SEC and FASB's job.

We have asked in this amendment that the SEC do a comprehensive study of the SPEs to show where the damage is, point the way to reform, and make recommendations. This amendment does not put Congress in the business of setting accounting standards.

It does, however, say to thousands of Enron and other employees who have lost pensions that we are stepping up to the plate now to stop these kinds of egregious practices.

I add that there are probably many of these SPEs for bad purposes floating around in other companies, and this study cannot come too soon.

We have received agreement. I thank Senators SARBANES and GRAMM.

I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 4296) was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote.

Mr. SANTORUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Madam President, I thank Senator SARBANES and his staff as well as Senator GRAMM and his staff for their work on accepting these two important amendments that I think improves the bill, which is a very fine bill that I am proud to support.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, let me spend a few minutes talking about the underlying legislation, S. 2673.

There has been a great deal of debate over the last good number of days on

this issue. I am pleased that we were able to get cloture. It is time we move on to this issue.

The American public, a good many stockholders, a good many pension plans, a good many retirement plans are discussing what are we going to do about the meltdown that last occurred in corporate America at the executive level with some key corporations. It is really, in most instances, a crisis of confidence.

There are a lot of well-run corporations across America that are publicly held. They have historically observed the prudent rules. Their boards have acted responsibly. But there are bad players. There are big, bad players that have had a dramatic impact on the markets. There is no question that we have to deal with this straight away.

When I look at the whole of this issue, it isn't just in the markets where there is a crisis of confidence that Americans share: When you look at 9/11, then Enron, then WorldCom, and, of course, all the scandals that have occurred, and out in the West with the Ninth Circuit suggesting that the Pledge of Allegiance isn't constitutional, put all of that together, and America has to be scratching its head at this moment, asking: Where does all of this take us? Where is that rock of stability that we have come to rely on for so long?

I suggest that when we are debating this issue, while this is an issue that has to be dealt with, and we are now moving appropriately, it is one of a combination of factors that is critically important for our country to deal with.

One issue we have to deal with is the war on terrorism. The DOD appropriations ought to be the first bill we deal with on the defense side to begin to shore up again this sense of confidence in the American structure. Certainly, protecting our soldiers in the post-9/11 fighting that has gone on in Afghanistan is appropriate, and now, as we search out terrorism around the world, that is critical.

The next step I would suggest is the confirming of judges. It is important that we deal with judges. For the judicial system of this country to remain strong, vacancies need to be filled. People should receive their day in court in a timely fashion. That has been one of the hallmarks and the strengths of this country throughout its history, and it ought to be today.

Clearly, I hope we appoint judges who will not act as the ones in the Ninth Circuit who suggested that the Pledge of Allegiance is unconstitutional. I think President Bush has gone a long way in nominating good judges to the Senate.

Yet, the politics here in the Senate today is obvious: Withhold as long as you can. Withhold as long as you can.

The President spoke the other day on Wall Street relating to corporate ac-

counting. The U.S. Senate is speaking today, as they should.

I ask unanimous consent that a commentary by Lawrence Kudlow be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Times, July 11, 2002]

A CLASS ABOVE THE CORRUPTION AND CRITICS

(By Lawrence Kudlow)

In front of a New York audience on Tuesday, President Bush unveiled a revised plan to counter corporate wrongdoing and accounting fraud, saying, "There can be no capitalism without conscience, no wealth without character." Adam Smith, the father of free-market economics, couldn't have said it better.

Smith always argued that smooth-functioning markets require ethical behavior at their center. From Day One of his presidency, Mr. Bush has applied this rule even more broadly, emphasizing the need for ethical clarity and moral certitude in all areas of American life. He has successfully applied the rule of ethics to the war on terror, and now he is transferring the very same principle to root out corporate corruption.

From the election campaign to today, poll after poll shows that the public believes Mr. Bush is a leader with strong character and unshakable moral principles. Following the blowups of WorldCom, Enron and Tyco—and many other rotten apples—Mr. Bush's honest outrage has been heartfelt, and not political.

It has also shone above the political carping of Tom Daschle, Al Gore, Richard Gephardt and other national Democrats who would locate the source of the contagious virus of accounting fraud and corporate corruption within the Bush administration. Theirs is a political, reckless, and silly approach to a serious situation. The bad-business bug gained strength and spread well before George W. Bush became president. And today it is a grave problem that requires sober solutions.

Serious Democrats, such as Senate Banking Committee head Paul Sarbanes and Senate Investigations Subcommittee Chairman Carl Levin, have taken a completely different tack from the business-as-usual partisan politics of the Daschle gang.

Mr. Sarbanes has crafted a significant proposal to set up an independent accounting-standards board—one that will end conflict of interests between the auditing and consulting functions, properly score stock options, create new pressure for independent boards of directors, and legislate tough legal sanctions on executives, bankers, auditors, accountants and others who violate the new standards.

The accounting system desperately needs a fix; it is even more incoherent than the dreaded tax code. A new accounting-standards board should come under the aegis of the Securities and Exchange Commission. Along with proposals from the New York Stock Exchange to create truly independent boards of directors, this action will promote honest accounting and shareholder-based corporate governance.

Meanwhile, Mr. Levin has just as seriously proposed giving the SEC, the federal government's principal accounting overseer, the right to levy tough fines on corporate evildoers without having to go to court first.

Suburban liberals like Sens. Sarbanes and Levin, it seems, have suddenly become conservative lawmakers who will "move corporate accounting out of the shadows," as

Mr. Bush rightly put it, and protect the basic workings of our wealth-creating capitalist system.

President Bush, in tune with these focused Democrats, has proposed a doubling of the maximum prison term for mail- and wire-fraud statutes from five to 10 years. This severe jail-time penalty will greatly concentrate the executive mind. And so will Mr. Bush's proposal that fraudulently earned bonuses and compensation must be returned; and so will his request that corporate officers and directors who engage in serious misconduct be barred from again sitting in corporate-leadership positions. More, if the Bush corporate doctrine moves through Congress, top executives will now have to certify their financial statements with their own signatures. False reporting could lead to jail.

It seems that our more serious men in Washington want to bolster the rule of law by strengthening the incentive to choose right from wrong.

Incentives matter. If you tax something more you get less of it. If you tax something less you get more of it. A 10-year jail term for rotten corporate apples—or their accountants—is a huge legal tax on wrongful actions.

Of course, standing behind higher ethical standards in business is the great American investor class. Covering more than 50 percent of American households and more than 80 million people, this group is positively changing financial practices and the political culture. These shareholders have lost enormous wealth, in part from dishonest accounting and egocentric corporate misdeeds. And they're furious.

Financial markets have been democratized in the past 15 years with the rise of this investor class. They have already voted to depress the stock market as a signal of their indignation, and they're now prepared to vote this November against the silly politicians who fail to realize the enormity of the current problem. Consider this: Slightly more than 60 percent of the investor class voted in the last election. This may be the most powerful lobby in America.

In no uncertain terms, this new political movement is forcing Washington to renew the rule of law, strengthen accounting and financial standards across the board, and restore a proper incentive system that will return Adam Smith's ethical epicenter to the greatest wealth-creating machine in all of history. The days of egocentric and corrupt Soviet-style corporation have come to an end. In the stock market, moral amnesia is dead.

Mr. CRAIG. Madam President, I see Chairman SARBANES on the floor. It is not often that Lawrence Kudlow praises the chairman, but he did the other day in an op-ed and commentary that he often writes. He talked about the Sarbanes bill and said:

Serious Democrats, such as the Senate Banking Committee head Paul Sarbanes and Senate Investigations Subcommittee Chairman Carl Levin, have taken a completely different tact from the business as usual—

I will not repeat the remainder of it. But that ought to be a part of the RECORD because I think it reflects the spectrum of the thinking on the floor of the U.S. Senate at this moment. Whether you are conservative, moderate, or liberal, we know that we have to regain the confidence of the American investing public and the world in-

vesting public, and for that matter, the market systems of our country and in corporate America.

As long and as loud as many of us speak about the good corporations out there and how well run they are, the moment another Enron occurs or someone else speaks out about misdealings, that confidence is once again dashed.

This legislation moves to create a bright line between, good and bad accounting by separating auditing and consulting services for accountants in public corporations. It requires disclosure of off-balance sheet transactions and other obligations that might affect the corporate financial condition, and it establishes independent auditing boards to oversee corporate accounting.

All of those are very critical in creating bright lines of clarity, understanding, confidence, and stronger enforcement of criminal behavior.

Someone in my State said the other day: You don't have to strengthen the accounting procedure, CRAIG. Put the bums in jail. Those are criminal acts. When you knowingly are distorting the financial strength of a company which affects its stock, destroys retirement funds, employee's stock options, and all of that, it is, in fact, a criminal act.

Our President has said it. Others have spoken on the floor. But there is a line we have to draw. It is not one of grandstanding for political purposes but doing the right thing, to set in place good public policy that directs the free market system in the appropriate fashion. Do we want to make it so restrictive that decisionmaking in the board room means always looking over their shoulder to see that they have done it exactly right against a Federal law when the marketplace is a dynamic place and laws are static?

We know there have to be some static lines attached. There is no doubt about it. Those have to be clear. At the same time, we cannot be so restrictive that we blight the market and send investments outside the United States to the rest of the world.

The Wall Street Journal wrote yesterday that everything you are hearing now from Washington is aimed at winning the November elections and not at calming financial markets. I hope this bill is all about calming financial markets. And I believe the majority of this bill does have that goal. Some of rhetoric may not reflect it. But I truly believe the chairman and the ranking member are working in the direction of building a substantive bill that will go to conference, that works out our differences between the House and that goes to the President's desk.

I hope the Wall Street Journal is wrong. I hope we refrain from making corporate accountability simply another political exercise. It ought not be. It has not been. It should never be.

In Idaho they say: "You can't hang the same man twice." "You can't hang the same person twice."

So let's make the laws clear, easily defined, not arbitrary, not like our tax laws today where even the best consultants cannot give good advice.

What we are working with, I hope, is clean and clear and appropriate. There are more than 16,000 corporations under the jurisdiction of the SEC. Of those, no more than a handful have been accused of criminal wrongdoing. In the end—when all the dust settles, the market stabilizes, and investors begin again to regain confidence, and the Congress has acted—no more than a handful of corporations will have been the bad actors.

So I hope and I trust we can finalize what we are doing here today, and Monday possibly. It is important. The bottom line is very simple: Congress needs to act, and act now, and reaffirm the confidence the American people have in our public institutions.

I just came from a Republican bicameral meeting between the House and the Senate Republican leaders. They said: Get us the bill immediately. Assign conferees. Let's go to work. Let's get this out before the August recess.

Let's send a message to the American and the world investor that we have acted timely, that we have acted responsibly. The President has laid down his marker. The House has laid down their marker. It is now time for us to do the same. And in doing so, and in moving with expeditious action—not haste, not in an irresponsible way—I think we can turn to the American people and say: We have put in place the right safeguards, the right protections, the right firewalls. Study the papers, study the financials, and begin, once again, to reinvest in the American marketplace because it will be the right place to put your money.

Madam President, I yield floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Madam President, I want to pick up on what the Senator from Idaho just said, which is, we were just meeting on the House side among the leadership. One of the messages that was very clear was, when this bill passes, the House is very eager to appoint conferees and to move forward to get a bill out as quickly and as responsibly as possible, to send all the right messages to the investing public and to Wall Street that Congress has seen the problem and that we are ready, willing, and able to act, and act in an expeditious way.

I think it is important for us to act. I agree with that sentiment. The House, obviously, acted months ago in dealing with this problem. We have taken a little bit longer, which we have a tendency to do in the Senate—take a little longer to get things done. But we

are now moving forward, and we should not delay in getting to conference. We should not delay in appointing conferees in the Senate. And we should have a process by which we engage in these meetings earnestly and come up with a product, if possible, by the August recess.

It is little difficult. The House is going to be out a week before the Senate. So it is a pretty big task ahead of us, but we should go about it in earnest, and we should do our best to move this forward and send the signals that the Congress has moved as expeditiously as possible to meet the concerns of the investing public about the markets and the reliability of the numbers that corporations are sending out to the investing public.

I have to say, as one of the four members of the committee who voted against this bill in the committee, I have some concerns about the underlying bill that came out of committee. I have some concerns about particularly the impact on some of the small companies that will be governed by this legislation.

A lot has been made that this is a piece of legislation that just deals with publicly traded companies, and so we are talking about the big companies. As any of you who have watched the market for any length of time know, there are a lot of small companies that go into the equity markets and are publicly traded, particularly a lot of technology companies.

A lot of the economic growth engines of our economy are small publicly traded companies. One of the concerns I have is this bill may be appropriate for large multinational corporations—such as General Motors or IBM; you can go down the list; Xerox, whatever—but it may not be particularly an appropriate vehicle of regulation for small-cap stocks.

As you know, there are small-capital stocks, mutual funds, small-cap funds. To apply the same rigorous accounting standards and rules and regulations that very well may be appropriate for these large companies to these smaller companies could have a very significant negative effect on economic growth in our country.

To put these kinds of rules and regulations in place for these small companies is going to be very expensive, very onerous, and make it very difficult for them to conduct business. And remember, folks, who is responsible for economic growth in America, job creation in America. Let me underscore this. We have job claims up again just last week. The economic engine for job creation is smaller businesses. A lot of them are these small publicly traded companies.

It is a very grave concern to me that, yes, we look at these companies we are talking about here. These are big companies that have done a lot of things

that, obviously, they should not have done, and with big accounting firms. We are not hearing about scandal in these smaller publicly traded companies that use small accounting firms in most cases. To apply these rules to these smaller companies is really problematic and has a negative effect on our economy.

The last thing I want to see us do—yes, we want to strengthen confidence in the capital markets. Yes, we want to deal with the problems of fraud, and we want to hold people who commit fraud more accountable, and toughen punishments, which is what we have done on the floor. Those are very important things to do. But we should not do that at the expense of jobs and economic growth in our economy.

I understand there is a provision in the bill that allows smaller—any company, I guess, to seek a waiver as to some of the provisions of this act. I know a lot of small businesses, and most of them do not have a lot of money to hire lobbyists and lawyers and other people to come here to Washington, DC, or to New York and plead their case that they should somehow be preempted from the provisions of this act.

You are talking about 16,000 publicly traded companies, most of which—well over 75 percent—are relatively small in size. Imagine the burden of the regulators having to deal with petition after petition after petition.

Senator GRAMM has an amendment, which I presume he will offer on Monday. I am hopeful that the Senate will seriously consider giving the regulatory body some flexibility in providing blanket waivers to classes of companies, or based on some sort of rational scheme of determination of size and scope of a company, that we give a little flexibility to the regulators not to sort of throw all the babies in this one big basket, and understand that there are real significant consequences to jobs and future growth of this economy if we did that.

So I know that is an issue on which we are going to have a discussion next week. But, to me, it is a very significant issue, one where you can be for tougher regulation, you can be for increased accountability, you can be for tougher penalties—all those things, setting up this governing board, having standards in place—you can be for all these things in the bill, but you have to understand that General Motors and ABC Tech Company in Scranton, PA, are fundamentally different entities and should not be treated the same way.

It really is important for us to have some sort of provision for the regulatory body to exempt some of these smaller entities, where some of these regulations do not really apply or misapply, from this scheme of regulation that is in this bill.

So with that, it looks as if we have another Member who might be interested in offering an amendment or giving a speech.

I am happy to yield.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, later I want to address a couple of points made by the Senator from Pennsylvania, but the Senator from Delaware is in the Chamber and wishes to speak. So I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Madam President, I know the Senator from Maryland is getting tired of receiving all these bouquets, but he deserves them. Senator ENZI is not on the floor, but he deserves one or two as well, along with others of our colleagues, not just on the Banking Committee but other Members as recently as this morning who offered amendments to this legislation which improve it materially, especially the amendment offered by the Senator from Missouri, Mrs. CARNAHAN. It is all well and good that we say to those who are senior officials within companies, if you have a stock transaction, you have to report it. Give them the paperwork, they report it, and it goes somewhere where few people ever have a chance to see it or be aware of it. It is quite another thing to list that transaction, do it electronically so anyone who has access to the Internet can find out about it. Senator CARNAHAN's amendment includes this electronic disclosure, and that is a very good improvement to the legislation.

I like what the Senator from North Dakota, Mr. DORGAN, has offered today, with respect to the process where we have companies normally registered and incorporated here in a State in America who somehow slip off to Bermuda and incorporate. We actually provide an incentive; if we don't adopt the Dorgan amendment, we provide an incentive for that kind of behavior. Not only does that have an adverse effect on States such as New York or Delaware or Maryland or Pennsylvania, it also has an adverse effect on shareholders because the heads of companies that are registered or incorporated in a place such as Bermuda would otherwise not have to sign off and vouch for the financial statements they are providing.

Even as recently as this morning, a good bill has gotten better.

I appreciate the amendment offered earlier by Senator LOTT on behalf of the President and the addition of a number of provisions in the bill that the administration supports, and, frankly, I think we all should.

I came across an interesting column this week. I didn't know if I would read it, but given that the Senator from New York is presiding, I have to at least read the first paragraph. This is a

column by a fellow who writes in the LA Times and is syndicated across the country, Ronald Brownstein. I will read a paragraph and perhaps ask unanimous consent that the entire column be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BUSH NEEDS TO DROP THE VELVET GLOVE
APPROACH

(By Ronald Brownstein)

It's easy to imagine the frenzy that would be engulfing Washington if it was President Clinton now revising his explanation of a controversial 12-year-old stock deal.

Bush Limbaugh would be roaring in outrage. Robert H. Bork would be decrying the loss of moral authority in the Oval Office. Sen. Arlen Specter, R-Pa., would be demanding a special prosecutor. Congressional committees would be subpoenaing the president's old business partners.

President Bush probably will be spared all that, even after suddenly altering his explanation for why he was eight months late in reporting to the Securities and Exchange Commission his 1990 sale of stock in Harken Energy Corp., a company on whose board he sat, shortly before it announced large losses. (For years he blamed it on the SEC; now he's fingering Harken's lawyers.)

After the fanatical ethics wars of the Clinton years, few in Washington have much stomach for a full-scale confrontation—though the Washington Post raised eyebrows by revealing Bush's former personal attorney was the SEC general counsel at the time commission cleared him of wrongdoing in the stock sale. The attorney, James Doty, says he recused himself.

The demands of the war against terrorism also will discourage a political firefight over the sale. But even so, the disclosures were still creating awkward moments for Bush as he prepared to call for greater corporate responsibility.

Actually, the focus on Bush's behavior 12 years ago may frame the wrong debate. It's likely that the dominant argument in Washington will be over whether it's credible for Bush to demand better corporate behavior while facing these personal questions. The more relevant issue is whether it's credible for Bush to threaten a crackdown now after his administration spent its first 18 months promising business kinder and gentler enforcement of the range of federal laws against corporate misconduct—from the environment to the stock markets to the workplace.

In other words, can Bush plausibly shake the iron fist after stroking the Fortune 500 for so long with a velvet glove?

BUSINESS AS USUAL

For all the nouvelle elements of Bush's thinking on social issues such as education or home ownership, he's always been a conventional conservative on government oversight of business. As governor of Texas, presidential candidate and president, Bush has focused more on intrusive government than irresponsible corporations.

His consistent message has been that, in pursuing its goals and enforcing its laws, government should be more cooperative and less coercive. During the 2000 campaign, he crystallized his view on government's relationship with business when he insisted: "I do not believe you can sue your way or regulate your way to clean air and clean water."

Bush has put flesh on that philosophy by staffing many federal agencies with alumni

of the industries they now regulate. The Interior Department is crowded with former lobbyists for the coal and oil industries. A former timber lobbyist is watching the national forests: Harvey L. Pitt, the SEC chairman, came from the accounting industry; Bush already has appointed another accounting industry alum to the five-member commission and nominated yet a third. (That means Bush is seeking to construct an SEC, for the first time, with a majority of commissioners tied to accounting.)

To monitor safety in the workplace, Bush found an executive from the chemical industry. To monitor safety in the mines, he appointed an executive from the mining industry. The list goes on.

In chorus, Bush's appointees have sung the same tune. At her confirmation hearing last year, Environmental Protection Agency Administrator Christie Whitman promised more negotiation and less litigation against recalcitrant companies. "Instilling fear does not solve problems," she insisted.

Over at the Occupational Safety and Health Administration, director John Henshaw as late as last month told a business audience: "Hopefully we can put the days of OSHA as an adversary behind us."

And before Enron and WorldCom and Martha Stewart forced the SEC chair to try to morph into Harvey Pitt-bull, he was sending the same message, telling the accounting industry last fall that he viewed them as the agency's "partner" and pledging "a new era of respect and cooperation" after the confrontations of the Clinton years.

Partnership with industry has its place. But enforcing federal law to police the market place isn't it. No cop anywhere would agree with Whitman; they instead would argue that the best way to discourage drug dealing or street crime is to instill fear—of relentless enforcement. The same is true in the boardroom. Polluters or stock swindlers are more likely to stop because they fear being caught than because Washington asks them nicely.

Mr. CARPER. Here is the first paragraph:

It's easy to imagine the frenzy that would be engulfing Washington if it was President Clinton now revising his explanation of a controversial 12-year-old stock deal. Rush Limbaugh would be reacting in outrage. Robert Bork would be decrying the loss of moral authority in the Oval Office. [One of our Senators] would be demanding a special prosecutor. Congressional committees would be subpoenaing the president's old business partners.

This is a whole lot more important than trying to find political advantage in a particularly difficult debate and a difficult time in this economic recovery. This is about the economy.

As a nation, we are trying to come out of a recession. There is a fair amount of financial data which suggests we are heading in the right direction. The number of people being laid off is slowing. Manufacturing activity is increasing. Even economic activity among some of the most hard-hit sectors of the economy, technology sectors, is showing signs of life. I am encouraged by that.

If you look at the stock exchange for much of the last several weeks and months, it does not really reflect the returning, emerging vibrancy in the

rest of the economy. That is not a good thing.

One of the reasons why it is so important for us to pass this legislation is to send a clear signal to investors not just around the country, but around the world that the United States is a good place in which to invest. Our trade deficit last year was about \$300 billion. This year it is going to be even more than \$300 billion.

We are starting to see the value of American currency, the dollar, which was robust and strong for the last several years, deteriorate. The worst thing that could happen for us, at a time when we need to attract foreign investments, would be to send a message that the United States is not a good or safe place in which to invest. When we are looking to much of the rest of the world to help finance a trade deficit of over \$300 billion, it is important that we send a strong message throughout the world that the U.S. remains the best place in which to invest.

There are a number of provisions. I will not go through this bill provision by provision. I want to talk about some of the groups that have the greatest interest, the most at stake, what our obligation is to them, and how this legislation seeks to make sure that we not only recognize that obligation but that we act on it.

Shareholders of companies, publicly traded companies, should have confidence. They should have confidence not only in the CEOs and top officials, but they should have confidence in the board of directors whose job it is to represent the interest of the shareholders and to know that that board is indeed independent. Shareholders should have confidence in the audit committees of the board. Investors should know that the audit committees of the board are comprised of independent-minded board members, knowledgeable board members who will act, not as a lap dog, but as a watchdog every day as they serve on the audit committee.

Shareholders should have confidence that there are rigorous auditing standards that exist in this country and not that there are rigorous auditing standards that are on a piece of paper somewhere, but there is a strong, independent, knowledgeable entity that is going to make sure that those auditing standards are enforced.

How about the auditors of publicly traded companies? We should take away from them the temptation to look the other way or give the benefit of the doubt to a company that they are auditing because of the temptation from some other part of the auditing company which deals with consulting services; in many cases, these are lucrative services. We want to make sure the folks doing the audits of publicly traded companies are interested in doing a good job because that is their

responsibility. Auditors should not be interested in cutting corners, looking the other way because doing so might enable their accounting company to attract and to retain lucrative consulting services.

This bill goes a long way—some would say too far—toward curtailing that activity. To me, it strikes the right balance.

Most of us know of someone who used to work for one of the big eight, then big five, now the big four accounting firms who actually went to work for one of the companies that they audited. I do. I suspect all of us could think of someone who has made that transition in their lives. There is nothing wrong with that. However, the revolving door can be more troublesome when the person moves from the auditing company one day, the company responsible for doing the audit, and the next day, the next week, the next month ends up as a senior official of the company that last week, last month they were auditing.

This measure doesn't completely stop that revolving door, but it slows it down.

Another area that this bill tries to address is the question: How often is it appropriate to have a fresh set of eyes in charge of those independent auditors doing that independent audit of a publicly traded company? Under current standards every 7 years we say that the lead partner of an audit should be changed. This measure takes it down to 5 years. Not everyone agrees with that. Some would like to have a change in auditing companies, requiring auditing companies to rotate every 5 or 7 years. I don't think that is a good idea. I do believe the approach we take in this measure, moving from 7 to 5 years the period of time after which the lead auditor, the lead partner has to be changed, is sound.

How about investors? I talked about shareholders, about the auditors themselves. How about investors? The investors in this country and other countries need to be comforted by the knowledge that when they hear an analyst on television or read of an analyst's recommendation of a particular stock or stocks, when an analyst says buy, they mean buy. When an analyst says sell, they mean sell. When an analyst says hold, they mean hold.

Investors have the right to know that the analysts whose advice they are following or attempting to follow are not being pressured to color their recommendations of a buy, sell, or hold by what is happening on the investment banking side of the business, and to know that the analyst's compensation is going to be derived more from how well the analyst does his job, providing good analysis and investment advice, and not about how much new business that analyst can help bring to the investment banking side of their company.

How about the CEOs and senior management? When they break the law, they should be fully prosecuted under the law, and if what they have done is an offense for which they can be imprisoned, they ought to be. Our job in the Congress is to pass laws and to say what the crime or penalty should be when people violate those laws.

It is the job of the Justice Department to fully prosecute—with the help of the SEC and the other watchdog agencies—people who violate the laws. Senator LEAHY, on behalf of a number of Senators, earlier this week—yesterday, I believe—offered legislation that provides a new law that says not only can we prosecute some of the corporate wrongdoers—I am tempted to call them criminals, but I won't—who violate the trust, and to not only say you have to go after them under the mail and fraud provisions of the criminal code, but to broaden that—which is sometimes difficult to do—and make the prosecutions more easily done and with very tough penalties under another part of the code.

CEOs should not be allowed to profit from financial misinformation or from manipulation of their books. I commend the President and those who have worked on this legislation to say, to the extent that this does happen—a CEO or senior official benefits financially from tampering or cooking the books—they would be compelled to give that money back.

I mentioned earlier the legislation offered by Senator CARNAHAN of Missouri which would actually make sure there is a disclosure of sale when a CEO or senior official sells their stock; that the transaction would not only have to be reported to the SEC, but disclosed electronically.

Another provision in the bill that I think is especially good and timely, given what has gone on at WorldCom, where apparently a senior official of that company received a \$360 million loan from the company—a loan which I don't believe the shareholders ever knew about—at least when they found out about it, it was too late for a lot of them. That kind of information should be fully disclosed promptly and through a medium that allows those who have some need to know—investors and shareholders—to have that information in a timely way.

Finally, a word about the employees who work for some of these companies that have gone through, or are going through, a meltdown. They need, I think, recourse when they are urged, on the one hand, by senior officials to buy company stock for their 401(k) investment plans at the very time when senior officials are bailing out of the company stock. There should be some kind of recourse for employees when that happens. In the belief of what is good for the goose is good for the gander, employees should never again face

the situation that Enron employees faced where, during a lockdown period of time, employees could not sell their stock while senior officials were able to bail out and sell their stock. What is good for the goose is good for the gander. To the extent that employees in a lockdown period are not able to sell their company stock in their 401(k) plan, the senior officials of the company should not be able to enter into transactions involving their stock either.

There is one thing I don't believe we address in this bill; the others I mentioned, we do. One area we do not address—and I suspect it comes later—and a member of the staff will tell me if I am mistaken. One of the problems we have with 401(k)s for the employees, the investors, is that they don't get very good advice. The companies don't want to be held liable if they provide bad advice when all is said and done. And when we move on to other issues, I hope we will have agreed on a way to better ensure that the employees who are not getting very good advice do get that good advice.

I worry about the concentration of assets and investments. I know some people believe there should be a cap and that they should not be able to invest any more than half or a quarter in company stock for your 401(k). If I am an employee and I am buying company stock, maybe I should have to sign a form that is an acknowledgment that I am about to do something very stupid—something similar to what the employees did at Enron, where they put all their eggs in one basket—and acknowledge that is not a bright thing to do, and acknowledge that I am doing that unwise thing myself. Maybe that is needed here. In addition to that kind of disclosure, I think we do need to address the need for better advice for employees.

I will go back to where I started; that is to say, a lot is riding on this legislation—a whole lot more than we would have guessed 6 months ago. Six months ago, as we saw Enron melt down and the disclosures come forward, we thought it was one company that was poorly run, maybe fraudulently run. A lot of people were hurt who worked at that company. A lot of people who worked for the auditor, the accounting firm, Arthur Andersen, have lost their jobs and were, frankly, fully innocent, but they have been harmed. Six months ago, there was a full sense of outrage at Enron and the people who led it to its fall.

We know now that what happened at Enron may not be precisely the same as other companies, but it is symptomatic of the behavior in other companies, where the people who run those companies do not meet their obligations to the shareholders, to the employees, and where greed has corrupted too many people. While it is difficult

for us to pass a law outlawing greed, we can try to outlaw fraud. But it is tough to do that; I acknowledge that.

With the developments within a whole host of other companies—disclosures of financial mismanagement and misstatements, misrepresentation of performance of other companies in recent months—the importance of what we are doing this week and next has grown. We need to get this economy moving in the right direction. I believe that, underneath, a lot of the fundamentals are pretty sound. If you look at growth, and productivity, and the manufacturing activity to which I alluded earlier, there is some good news. The troubling news is what is going on in the stock market, as investors are skittish, and that is understandable.

We can begin to restore, in a very meaningful and tangible way, the confidence of those investors in America and in American companies, and we ought to do that.

The last word I will say is this. I commend Chairman SARBANES. He is not presently on the floor. I also commend the committee staff and personal staffs for the kinds of hearings that have been held this year which have led us to this day. Chairman SARBANES is not the sort of person who is interested in rushing out and being on television every night. He is not interested so much in seeing his name or picture in the newspaper. He is interested in getting at the truth. I think the hearings that were held over many months have led us to finding the truth and, maybe just as important, to finding the right course for us to take as a nation, to be able to right some of the wrongs that have been done and to reduce the likelihood that further wrongs will occur in the future.

I know some have been impatient for us to get to this day and to take up this legislation, pass it, and to send it to the President. I think it has been worth the wait. I acknowledge that not everything that needs to be done ought to be done by the Congress. The stock exchanges have made a number of excellent changes, and they are to be commended. Many companies and many corporate boards, that have sort of been tarred with the same brush, and senior officials and CEOs who are doing a good job in acting and behaving in a most important way, have been tarred and feathered with the same brush.

A lot of companies have said, themselves, they have taken a look in the mirror—boards of directors, audit committees, and others—and said: We can do better. And they have adopted reforms. Shareholders—market forces—have come to bear on companies, their boards of directors, as they should, and that is helpful as well.

In the end, there are some things the Congress can do and ought to do,

maybe not all of them, but a lot of them are included in this legislation before us. I am proud to have participated as a member of the Banking Committee in its development and proud to be a witness to the work that is going on in this Chamber to make a good bill even better. I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Michigan.

Mr. LEVIN. Madam President, in a moment I am going to ask unanimous consent that the pending amendment be set aside and that I be allowed to call up amendment No. 4283. This amendment relates to stock options. The amendment is one line. It says that the standard-setting body for accounting principles that is set up in this bill shall review the accounting treatment of employee stock options—just review it—and shall within a year of enactment of this act adopt an appropriate generally accepted accounting principle for the treatment of employee stock options. They shall review it within a year and adopt an appropriate standard.

There has been a huge amount of debate about stock options. Recently the Republican Senate staff of the Joint Economic Committee issued a report about “Understanding the Stock Option Debate.” In that report, it concluded that, “Basic principles of financial accounting imply that stock option awards should be treated as a cost in corporate financial statements, and this cost should be recognized at the time of grant.”

We have a Republican Senate staff report which, after reviewing all of the pros and cons, concludes that stock option awards should be treated as costs in financial statements. It is a very strong document. It is an analysis that I recommend to people to read.

Our amendment, however, does not do that. Our amendment, which is an amendment I am offering on behalf of myself, Senator MCCAIN, and Senator CORZINE, simply says that the board we are funding in this bill should review the accounting treatment of employee stock options and adopt an appropriate standard.

How anybody can be opposed to the proper accounting board doing a review and coming up with an appropriate standard is something beyond my understanding. I can understand the arguments, the pros and the cons. I have been through them for 10 years. I have argued that we ought to treat stock options like any other form of compensation, and I believe we should. But I do not set accounting standards. That is not my job. That is the job of this newly independent board to set accounting standards, and we should urge them to take a look at this. This is where this matter should be referred and at a minimum, Madam President, I ought to be allowed to get a vote on this amendment.

This is a germane amendment. We are in a postclosure situation, and I do not know of a time—there may be; I have not been around here as long as some—but I do not know of a time when a germane amendment postclosure has not been permitted to go to a vote.

Apparently, that is what is going to happen, from what I hear. I hope it is not true, and I do not want to be unfair to my good friend from Pennsylvania. He may not object. But I think it is a misuse of our rules now I am going to get to a process issue—to not permit a germane amendment postclosure to be voted on. And this amendment is germane.

On the stock option issue, we have everyone from Alan Greenspan to economists. Let me read the list of some of the people who support a change in stock option accounting: Alan Greenspan; Paul Volcker; Arthur Levitt; Warren Buffett; TIAA-CREF, one of the largest pension funds in the United States for teachers; several economists; Paul O'Neill; Standard & Poors; Council for Institutional Investors; Citizens for Tax Justice; Consumer Federation of America; Consumers Union; AFL-CIO; on and on. They believe that stock options are a form of compensation, they have value, and they should be part of the expenses on the books of a corporation just as they are taken as a tax deduction at this point.

One of the driving factors in the corporate abuses that we have seen are the huge gobs of stock options which have been handed out to executives. Then executives push accounting principles beyond any comprehension to raise the value of the stock and then exercise their options and sell the stock. We have seen this situation repeated in corporation after corporation, and I believe we ought to try to put an end to it, but that is not what this amendment does. This amendment simply says: We are creating a newly independent board. This independent board should decide on what the appropriate standard is. That is why we are providing independent funding for it.

I want to read a part of a Washington Post editorial of April 18, 2002:

Alan Greenspan, perhaps the nation's most revered economist, thinks employee stock options should be counted, like salaries, as a company expense. Warren Buffett, perhaps the nation's foremost investor, has long argued the same line.

Skippping down:

The London-based International Accounting Standards Board recently recommended the same approach. In short, a rather unshort list of experts endorses the common-sense idea that, whether you get paid in cash or company cars or options, the expense should be recorded. . . .

Why does this matter? Because the current rules—which allow companies to grant executives and other employees millions of dollars in stock options

without recording a dime of expenses—make a mockery of corporate accounts. Companies that grant stock options lavishly can be reporting large profits when the truth is that they are taking a large loss. In 2000, for example, Yahoo reported a profit of \$71 million, but the real number after adjusting for the cost of employee stock options was a loss of \$1.3 billion. Cisco reported \$4.6 billion in profits; the real number was a \$2.7 billion loss. By reporting make-believe profits, companies may have conned investors into bidding up their stock prices. This is one cause of the Internet bubble.

Then this editorial goes on:

But nobody wants to ban this form of compensation; the goal is merely to have it counted as an expense.

Madam President, that is what most of the accounting profession, economists, and business people, other than those executives who are taking such huge amounts of stock options, want to do. This is what the Accounting Standards Board wanted to do in 1993, but then were beaten down so badly that they had to come up with an alternative instead called disclosure.

Even when the accounting board decided to do that—which was not an independent accounting board because it did not have an independent source of financing, unlike this accounting board will have after we enact this bill—and now to read their report of 1994. The board issued an exposure draft called, “Accounting for Stock-Based Compensation,” and they decided that stock option values should be expensed. Then they said the draft was extraordinarily controversial, and the board not only expects but actively encourages debate on issues. Then they pointed out in the FASB document that the controversy escalated throughout the exposure process.

Then in paragraph 60 of their findings, the FASB board said the following, that “the debate on accounting for stock-based compensation unfortunately became so divisive that it threatened the board’s future working relationship with some of its constituents. The nature of the debate threatened the future of accounting standards-setting in the private sector.”

This is an extraordinary document and everybody should read it so people understand the kind of pressure that not only that board was under—hopefully, the newly independently funded board will not be under—but the kind of pressure which exists in this Congress. We have, in essence, a new board, because it has an independent source of funding. We ought to let that board reach an independent conclusion on one of the most controversial, contentious issues we have before us.

This is a tremendous bill we are voting on. But it can be strengthened. It is not a perfect bill, and from the point of view of pure fairness and deliberation,

this Senate should be allowed to vote on a germane amendment postcloture.

I will read one additional paragraph from the FASB document report to set out the extent of the pressure which exists in this area and why it is so important there be a review of this whole matter by an independent board.

In December 1994, the board said it decided that “the extent of improvement in financial reporting that was envisioned when this project was added to its technical agenda was not attainable.”

Why was it not attainable, the FASB said? Because the “deliberate, logical consideration of issues that usually leads to improvement in financial reporting was no longer present.” These are incredible words. This is from the board that is supposed to set accounting standards in this country. They wrote in their report that when their proposal to expense stock operations was issued, it was not attainable because the “deliberate, logical consideration of issues that usually leads to the improvement in financial reporting was no longer present.”

Why was it no longer present? Because the debate had become so divisive, in their words, that it threatened the board’s future working relationship with some of its constituents.

The nature of the debate, they wrote, threatened the future of accounting standards-setting in the private sector.

Finally, the board, beaten down, threatened with extinction, said this: “The board chose a disclosure-based solution for stock-based employee compensation to bring closure to a divisive debate on this issue, not because it believes the solution is the best way to improve financial accounting and reporting.”

That was in 1994. We have seen what has happened in terms of stock option abuses because this board, if it had proceeded in the way it thought best, would have gone out of existence.

This bill creates a newly independent board, a board that has an independent source of revenue. This bill, it seems to me, is not complete, is not strong, unless we now say to this country that the newly independent board should review this accounting standard and reach an appropriate conclusion.

This amendment, which is cosponsored by Senators MCCAIN and CORZINE, does not say what that conclusion is. It does not, unlike the McCain amendment which was not allowed a vote yesterday, conclude that stock options should be expensed. It does say we have an independently funded board which should review this matter and reach the appropriate conclusion.

Mr. REID. Will the Senator yield for a question?

Mr. LEVIN. I would be happy to.

Mr. REID. I am just curious. I am not sure I should get involved at this stage because the Senator knows the subject

so well, but this board that is set up in this proposed law, they would not have authority to do that on their own?

Mr. LEVIN. They would.

Mr. REID. Why do we need your amendment?

Mr. LEVIN. Because this Congress has been on record as saying what the accounting standard should be. In the early 1990s we took a position. This neutralizes that position. This says, the accounting board is the right place. The Senate is on record by a vote of 88 to 9 as saying there should not be the expensing of stock options. What this amendment says is that the board should decide. It should review this matter. It takes a neutral position, thereby clearing the record as to what the position of this Senate is.

As of now, all we have on record is that stock options should not be expensed. What this amendment would say is, you should review this and reach an appropriate standard.

Mr. REID. My question to the Senator was, If we did not have the Senator’s amendment, would the board not have that authority anyway?

Mr. LEVIN. They could do it, but all that there would be on the record would be our last statement saying they should not expense. That same kind of pressure we put on them would still be on the record, and I think that should not be the last statement this Senate should make on this subject.

The last statement we ought to make on this subject is that the accounting board is the appropriate place to make that decision, not the Senate.

Mr. REID. I still ask my friend for the third time, if we have no Levin amendment, it would seem to me this newly created board would still have authority to do what the Senator is talking about.

Mr. LEVIN. Under the cloud we created in 1994. I would refer my friend to the debate in this body back on May 3, 1994, where the Senate reached a conclusion that it is the sense of the Senate, that was approved by, again, a vote of 88 to 9 or something like that, that the Financial Accounting Standards Board should not change the current generally accepted accounting treatment of stock options.

Mr. SARBANES. Will the Senator yield?

Mr. LEVIN. I am happy to yield.

Mr. SARBANES. I asked the Senator to yield because I do want to underscore that the legislation that is before us takes a major step in trying to guarantee the independence of the Financial Accounting Standards Board in terms of how it provides for its funding, and that is a dramatic improvement of the situation because heretofore the standard board had to seek voluntary funding. So the standards board ended up going to the people for whom it was establishing the standards in order to get money to fund its operations. Well, when it came to the

crunch—and this issue was one such crunch as far as the Financial Accounting Standards Board was concerned—the people from whom they were voluntarily getting the money said we are not going to give you any money. You are not going to be able to carry out your activities.

So we moved in this legislation because one of the things we require is that the issuers pay a mandatory fee. If you are an issuer, you are registered with the SEC and you have to pay a fee. That goes into a fund and that fund pays for the budget of the Public Accounting Oversight Board and the budget of the Financial Accounting Standards Board, so they are assured a revenue source.

I urge people to stop and think about that because it is a very important step to ensuring the independence of both boards. But here we are talking about the Financial Accounting Standards Board, and the dramatic change from its previous situation.

So it really will have, at least on the budget side, the independence to go ahead and make these decisions as they choose to call them. The issue that becomes involved in all of this otherwise is the question, Should the Congress of the United States be itself actually establishing accounting standards? Of course, as the Senator indicated, when an opinion was voiced on that a few years ago, it went in one direction. And now people want the Congress to come along and express an opinion in another direction. I have some sympathy. Obviously, we have seen things happen. Most people might have sympathy.

But we come back to the basic question, whether the Congress should be doing this. We set up this accounting standards board so it could make independent judgments. Unfortunately, there is no question about the fact that previously the standards board was subjected to tremendous pressure which affected its ability to make an independent judgment. It got tremendous pressure from industry groups, pressure from Congress reflecting the pressure of industry groups, and of course this exposure on its budget.

We have tried in the legislation to address this very basic question of making sure this board has its independence. That does not reach to the specific issue the Senate is now addressing, but I wanted that on the record. It is important that be understood.

Mr. REID. Mr. President I ask unanimous consent I be allowed to speak using my own time for up to 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. I will conclude, but I need to reclaim the floor because apparently all time otherwise is counted against my allotted time postcloture.

Mr. President, I ask unanimous consent the pending amendment be set

aside and that I be allowed to call up the amendment I filed at the desk relative to this subject which I understand has been ruled germane.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Reserving the right to object, I want to make a couple of points.

No. 1, the Senator from Michigan suggested that all amendments that are germane postcloture should be allowed to be offered. I wish that were the case. I wish we had the opportunity to do that in all situations, but that has not been the case in this Senate, or has not been necessarily the history of the Senate. There have been many instances where germane amendments have not been allowed to be offered postcloture.

No. 2, I make a point and reiterate the point that the chairman of the committee has made. The Senator from Michigan has made the point that FASB has been compromised because it wanted to do things and it felt constrained by the constituency which funds it. We have set up an independent funding source for FASB now, and I think that would allow a lot more independence to be able to deal with these accounting issues, such as the way we treat stock options, in a way that allows an independent judgment.

Finally, while we do have a sense of the Senate that is 8 years old on this issue, the Congress has never directed FASB to study an issue of accounting. This is precedent setting. There is nothing in this bill that directs FASB to do anything. It is an independent board. It sets up the accounting standards. I think there is no question that it will in all likelihood review this issue.

For the Congress to begin to weigh in—even 8 years ago, we did not direct FASB to do this; we simply expressed our opinion. To direct FASB to do something would be a very bad precedent to set.

I object.

The PRESIDING OFFICER. The objection is heard.

The Senator from Michigan.

Mr. LEVIN. Mr. President, I see no reason that a vote should not be permitted on this amendment. That is what this objection leads to. I urge we come back on Monday, or whenever we do come back, and I will make this motion again because this is a critical issue, that is not addressed in this bill, which is a big part of the lack of credibility we have right now in our markets. It needs to be addressed in some way. This is a neutral way to do it.

The arguments given by our friend from Pennsylvania are reasons to vote no on an amendment. They are not reasons to prevent an amendment from being called up and being offered.

I will say again, I don't know where an amendment that is ready to be of-

fered is not permitted to be offered because postcloture one side of the aisle has decided it is going to leave a first- and second-degree amendment standing out there without a vote in order to prevent other germane amendments from being voted on. I don't think that has ever happened. Obviously, we have reached the end of the 30 hours at times and there are still germane amendments that are pending. But this is not that situation.

There is no further debate on the Carnahan amendment that I know of. Why not vote on the Carnahan amendment? There is no further debate—or if there is, let the debate take place so that other people can offer their germane amendments. That is being precluded here. I believe it is a misuse of postcloture rules to do that.

That being the situation, I will be offering a unanimous consent at this time that my amendment be made in order at 2 p.m. on Monday.

The PRESIDING OFFICER. Is there objection?

Mr. SANTORUM. I object.

Mr. LEVIN. I thank the Chair, and I will make a unanimous consent request again on Monday that we be allowed to offer germane amendments in the time that remains on Monday and that we not be precluded by a blocking action which, it seems to me, is a distortion and a misuse of the postcloture rules which are intended to allow 30 hours to consider germane amendments. If that 30 hours is being used up and either being sworn off or not used, it seems to me that then precludes consideration of highly relevant—indeed, germane—amendments which are important to strengthening this bill.

I thank the sponsors of this bill. It is a strong bill. There is no reason we should not be able to vote on a way to make it stronger.

I yield the floor.

Mr. GRAHAM. Mr. President, I appreciate the chance to speak about the Public Company Accounting Reform and Investor Protection Act. I would like to strengthen section 302 of this legislation which is entitled, "Corporate Responsibility For Financial Reports."

I have discussed several ideas with Senator SARBANES and greatly appreciate his leadership on this legislation. He has been tireless in his efforts to strengthen corporate accountability and protect the American investing public.

My first area of concern involves companies that have chosen to move their headquarters overseas. This legislation requires that CEOs and CFOs sign a statement saying that the financial documents they have filed are fair and accurate. This is consistent with an order just issued by the Securities and Exchange Commission, SEC, that requires CEOs and CFOs to attest to the accuracy of their company's most recent financial statement.

But there is a glaring omission to this recent SEC order. Only companies that are U.S.-based would be required to send in these signed documents. If a company once based in the U.S. has fled our shores and gone overseas for tax reasons, they now just received a reward for leaving our Nation. Those CEOs and CFOs would not have to sign financial documents and attest to their accuracy.

The SEC has also overlooked the accuracy of future financial documents by non-U.S.-based companies. Under a proposed rule, that is in the "open comment period," foreign based companies are again enjoying a lesser standard of accountability. This is wrong, and unfair to American companies.

In the proposed rule, the SEC does invite comments on how to cover overseas-based companies. However, this could be a case of "too little too late." If companies are being publicly traded in the United States, regardless of where their headquarters are located, they ought to be required to meet the same level of accountability that we are establishing for everyone else in this legislation.

Let's not give U.S.-based companies one more reason to leave our Nation and incorporate someplace else. We need to hold all companies in our markets to the same high standard—there should be no reward of a lower standard if your company leaves the U.S. for a new overseas headquarters.

My staff placed a call to the SEC to uncover the reason why foreign based companies were excluded from their recent order. To the credit of the SEC, they wanted to act quickly. They thought that the quickest way to promulgate this order was to cover only U.S.-based companies. However, in doing this quickly, they ended up sending the wrong message. U.S.-based CEOs and CFOs are "on the hook" in signed statements. Foreign-based CEOs and CFOs, simply put, are not.

Senator DORGAN and I want to change this. We want it to be clear in the statute that no matter where your company is based, you must comply with this obligation. Senator DORGAN has filed an amendment to correct this, amendment No. 4125.

I appreciate the consideration that the floor managers, Senator SARBANES and Senator GRAMM, have given our amendment and I encourage all my colleagues to support us in this effort. I look forward to seeing it in the final legislation.

Mr. JOHNSON. Mr. President, I rise today to urge my colleagues to take swift and decisive action to stem the tide of corporate greed that is eroding the integrity of America's capital markets. I am a strong believer in the free enterprise system, and I am proud of America's leadership in creating tremendous economic opportunity for all

investors, big or small, domestic or foreign. However, it is time that Congress curb the appalling corporate excesses and misinformation that have hurt investors, employees and taxpayers. Passage of the Public Company Accounting Reform and Investor Protection Act is a critical step in addressing these concerns.

It is tempting to blame the problems corporate America is facing on just a few bad actors. For the most part, America's business men and women are industrious, innovative, and honest people who work hard to build our economy and provide jobs for our communities. However, we simply cannot ignore the shocking number and size of failed or failing companies, the marked increase in earnings restatements, and the profound toll this has taken on hard-working Americans. In fact, state pension funds have plummeted more than \$1 billion from the WorldCom restatement and billions more from other companies involved in the scandals.

In light of these inexcusable revelations, it is hard to believe that these problems are just isolated instances. Almost daily discoveries of accounting irregularities at some of America's largest and most highly respected companies, such as Enron, WorldCom, Tyco, and Xerox, to name just a few, clearly demonstrate the need for systemic accounting and corporate governance reform. Just recently, in fact, the Wall Street Journal reported that the drug company Merck may have understated revenue by over \$12 billion.

We must address systemic problems that are undermining the efficiency and transparency of our free market system, and which are eroding the faith of everyday Americans in the fundamental fairness of American business practices. We must clean up the current corporate culture that rewards misleading financial reporting and lax or corrupt corporate governance. We need strong legislation that will end the conflicts of interest and lack of disclosure that have misled investors and shaken their faith in America's financial markets. And we need to ensure that the SEC has the tools and money it needs to become a strong and formidable enforcer of securities laws. A kinder and gentler SEC serves only those corporate executives who have something to hide.

The Public Company Accounting Reform and Investor Protection Act addresses these problems in a way that limits regulatory burden but provides affirmative measures to restore the integrity of our free market system. I support the bill's creation of a strong Public Company Accounting Oversight Board and restrictions on non-audit services accounting firms can provide to public company audit clients. Further, the bill imposes tough new corporate responsibility standards and implements controls over stock analyst

conflicts of interest. Also, the bill requires public companies to quickly and accurately disclose financial information, so that high-level executives don't have a head start over small investors in bailing out when a company is in trouble. Finally, the bill ensures that the SEC has the resources to accomplish its mission of regulating the securities markets.

On this last point, I was disappointed that President Bush's budget did not include money that the Banking Committee authorized last year that would have strengthened the SEC. The SEC has long been hobbled by its inability to compete for top-notch employees because of a pay scale that was out of line with other financial regulators. Late last year, Congress passed, and the President signed, H.R. 1088, which provided pay parity for SEC employees. Unfortunately, the President's budget did not allocate additional funds, making it difficult if not impossible for the SEC to carry out its enforcement mission. I am pleased that President Bush is now calling for additional funding for the SEC, which should be better able to police public companies with adequate resources.

Without the threat of real consequences, however, dishonest corporate executives have little to fear from being caught with their hands in the cookie jar. For this reason, Congress must implement a plan to hold irresponsible corporate executives responsible for their actions. We must not allow these criminals to hide behind the corporate veil, while stealing millions of dollars from hard-working Americans. In that vein, I support provisions contained in the Corporate and Criminal Fraud Accountability Act, sponsored by Senator LEAHY. The bill would provide stronger criminal penalties for corporate managers who defraud investors of publicly traded securities, criminal prosecution of persons who alter or destroy documents related to investigations, and protection for corporate whistleblowers against retaliation by their employers, among other provisions designed to protect investors from corporate greed.

Finally, I believe that we should take a strong stance against another form of corporate greed: corporations that profit from American consumers, yet intentionally dodge U.S. taxes by moving their headquarters abroad. It is outrageous that these so-called "American" companies take advantage of the benefits of operating in this country and yet shirk even the most basic responsibilities of corporate citizenship. That's why I strongly support the Tax Shelter Transparency Act, sponsored by Senator BAUCUS, which would close the loopholes that allow corporate executives to use evasive accounting tactics to enrich themselves on the backs of American taxpayers.

Before I close, I would like to thank Chairman SARBANES for his leadership

on this important issue. I also want to thank the Chairman as well as the Banking Committee staff for conducting a series of ten inclusive and comprehensive hearings on the issues addressed in his bill. The content of those hearings provided a conceptual foundation for our subsequent discussions of Senator SARBANES' bill and a previous bill proposed by Senators DODD and CORZINE. In addition, our work has been enhanced by the fine contributions of Senator ENZI, who is the Senate's only Certified Public Accountant. The deliberative process used to develop this legislation has led to an appropriate, thoughtful, bipartisan bill that makes great strides in addressing the problems in our financial markets and restoring investor confidence.

Ms. LANDRIEU. Mr. President, I would like to voice my strong support for S. 2673, the Public Company Accounting Reform and Investor Protection Act. This legislation will bring accountability to our corporate boardrooms and end the accounting abuses that threaten to undermine the free enterprise system.

The hallmark of our economic system is free, fair, and open competition. The system rewards innovation, efficiently, and hard work. It allows individuals to take an idea, a dream, or an invention; build a business around it; and turn it into a livelihood. Some of our greatest corporations today started with just one idea.

The recent revelations from Wall Street have thrown much of this in doubt. For the Enrons, and WorldComs of the world, success was based on hiding losses, misstating earnings, destroying documents, and getting cozy with their so-called "independent" auditors and the stock analysis who are supposed to give the stock buying public objective information. Instead of winning through open competition, these companies and others won through accounting sleight-of-hand.

The price of this deception has been too high. While much has been made in the media about how far the Dow, the NASDAQ, and the S & P 500 have fallen on Wall Street, the real pain is being felt on Main Street—in retirement plans, pensions, and the investment portfolios of hard working people in our country. The pain is being felt by the very wealthy and people with modest means. Fortunately no Louisiana-based corporation has been caught up in this mess and hopefully that will remain the case, but many Louisiana investors were not so lucky.

Many have said that all of these problems have been caused by a few bad apples. But when we hear about corporations hiding losses, creating off-book partnerships, insider trading, and inside loans to corporate officers, it means that something may be wrong with the whole tree: the tree is rotten because of loopholes in regulations and limited oversight.

My State of Louisiana is home to a large number of small businesses—94,000 of the employer businesses in my state employ fewer than 500 people—and they employ about 54 percent of the state's workforce. This does not include the estimated 135,000 self-employed people in my state. I find myself wondering what small business owners think of all of the news reports about these big, sophisticated corporations and their crooked accounting?

Small business owners work hard to keep clean books. They do not have a team of creative accountants that turn losses into gains. The small business does not create sham, off-book partnerships to hide losses. I have never heard of a small business being forced to restate its earnings. Small business grow by playing by the rules. Many small business owners dream of taking the honest approach to turning their ideas and dreams into big businesses. How disheartening must it be for them to see that in the world of big corporate business the way to get ahead is by cheating.

The bill before us today will help restore faith in the free market. It creates a strong oversight board that will set auditing standards for public companies backed up with the power to investigate abuses. It gets rid of the inherent conflict of interest faced by accounting firms that provide management consulting services to their auditing clients. Here on the floor we have added tough criminal penalties to this bill and given greater protections to whistle blowers. The whistle blower protections are an especially needed reform. We want the honest people in business to know that there is still a place for them.

We must take this opportunity to restore confidence in the free market. I urge my colleagues to vote in favor of this legislation and I want to commend the chairman of the Committee, Mr. SARBANES, for bringing this legislation to the floor.

VOTE EXPLANATION

• Mr. KERRY. Mr. President, due to a longstanding commitment I was necessarily absent for the vote on cloture on the Public Company Accounting Reform and Investor Protection Act of 2002 (S. 2673). Although my vote would not have affected the outcome, had I been present, I would have voted for cloture on the bill. •

ANDEAN TRADE ACT

Mr. REID. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on H.R. 3009.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Presiding Officer (Mr. BAUCUS) laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendment to the amendment of the Senate to the bill (H.R. 3009) entitled "An Act to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following Members be the managers of the conference on the part of the House.

From the Committee on Ways and Means, for consideration of the House amendment and the Senate amendment, and modifications committed to conference: Mr. Thomas, Mr. Crane, and Mr. Rangel.

From the Committee on Education and the Workforce, for consideration of section 603 of the Senate amendment, and modifications committed to conference: Mr. Boehner, Mr. Sam Johnson of Texas, and Mr. George Miller of California.

From the Committee on Energy and Commerce, for consideration of section 603 of the Senate amendment, and modifications committed to conference: Mr. Tauzin, Mr. Bilirakis, and Mr. Dingell.

Mr. REID. Mr. President, I ask unanimous consent that the Senate disagree to the House amendment, agree to the request for a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate with the ratio being 3 to 2.

The PRESIDING OFFICER. Without objection, it is so ordered.

TO AMEND FOREIGN ASSISTANCE ACT AND THE GLOBAL AIDS AND TUBERCULOSIS RELIEF ACT

Mr. REID. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of H.R. 2069 and the Senate proceed now to that matter.

The PRESIDING OFFICER (Mr. BAUCUS). Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2069) to amend the Foreign Assistance Act of 1961 to authorize assistance to prevent, treat, and monitor HIV/AIDS in sub-Saharan Africa and other developing countries.

There being no objection, the Senate proceeded to the immediate consideration of the bill.

AMENDMENT NO. 4297

(Purpose: To amend the Foreign Assistance Act of 1961 to increase assistance for foreign countries seriously affected by HIV/AIDS, tuberculosis, and malaria; to amend the Public Health Service Act with respect to the authority of the Department of Health and Human Services to act internationally with respect to HIV/AIDS, tuberculosis, and malaria; and for other purposes)

Mr. REID. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. KERRY, Mr. FRIST, Mr. KENNEDY, Mr.

BIDEN, and Mr. HELMS, proposes an amendment numbered 4297.

Mr. REID. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments".)

AMENDMENT NO. 4298

Mr. REID. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. KERRY, Mr. FRIST, Mr. KENNEDY, Mr. BIDEN, and Mr. HELMS, proposes an amendment numbered 4298.

Mr. REID. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the title)

Amend the title to read as follows: "An Act to amend the Foreign Assistance Act of 1961 to increase assistance for foreign countries seriously affected by HIV/AIDS, tuberculosis, and malaria; to amend the Public Health Service Act with respect to the authority of the Department of Health and Human Services to act internationally with respect to HIV/AIDS, tuberculosis, and malaria; and for other purposes."

Mr. REID. I ask unanimous consent both amendments at the desk be agreed to; the bill, as amended, be read the third time and passed; the motion to reconsider be laid upon the table, all with no intervening action or debate; and any statements be placed in the RECORD at the appropriate place as if read.

Mr. SANTORUM. Reserving the right to object—and I will not object—this is a very important piece of legislation for the continent of Africa and has to do with AIDS relief, tuberculosis, and other infectious diseases. There is a provision in this legislation that Senator BIDEN and I have offered on debt relief for Third World countries. This is a vitally important piece of legislation that dovetails very well with the President's initiative in trying to stem the scourge of AIDS in Africa and provide some hope for some of these heavily debt ridden countries.

I am very pleased we were able to do this in wrap-up today. I will not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4297) was agreed to.

The amendment (No. 4298) was agreed to.

The bill (H.R. 2069), as amended, was read the third time and passed.

Mr. DASCHLE. Mr. President, I am very pleased that we have just passed a bill that will give the President and his team the tools they will need to back up their words about fighting the scourge of HIV and AIDS with action.

The omnibus HIV, AIDS, TB, and malaria authorization bill vastly increases our focus on treatment, giving hope to the millions of people already infected with this virus. It intensifies our ongoing prevention efforts. And it makes a new commitment to training local health care workers so that underdeveloped nations can create modern health infrastructures.

The bill also authorizes nearly \$5 billion over 2 years so that this commitment is matched with the resources to get it done. But unless we work in a bipartisan fashion to see that money appropriated, this bill offers little more than false hope. I want to commend Senators KENNEDY, KERRY, BIDEN, HELMS, FRIST, and GREGG for their leadership on this vital effort. And I want to ask the House of Representatives to match the commitment the Senate has shown.

More than 20 million people have already died from HIV/AIDS. Last year, 5 million people contracted the virus, more than half of these new infections in young people. The UN estimates that 65 million more people could die by 2020. These numbers are so horrible as to seem unreal. But they are real, and we must act. Nothing we can do here is the solution—but today the Senate is taking a step, and a meaningful one.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, first of all I thank our majority leader for his leadership in the development of this legislation, which is true bipartisan legislation. It is the United States Leadership on HIV/AIDS, Tuberculosis, and Malaria Act to deal with the AIDS pandemic that is most evident in the continent of Africa, and also expanding it through India, central Asia, China, and so many parts of the Third World.

I am grateful to him for his persistence in making sure that this legislation would pass just a few moments ago. I thank him and I thank the cooperation of our Republican leader as well, making sure the Senate would go on record, as it did a few moments ago, in favor of this extremely important legislation.

At the outset I want to acknowledge the very strong leadership of my friends and colleagues in this body who have been very much involved in shaping and helping develop this legislation: Senator KERRY, my colleague from Massachusetts, who had introduced very similar legislation with members of the Foreign Relations Committee, Senators BIDEN, BOXER, DASCHLE, DEWINE, DODD, DURBIN, FEINGOLD, FRIST, HAGEL, HELMS, LEAHY, LUGAR, SANTORUM, SARBANES, SMITH of Oregon, and WELLSTONE. This is truly not only bipartisan, but it is also a real reflection from all different philosophies, of the recognition that the

United States has an important opportunity—in many respects, a responsibility—to take action.

I am grateful to all those Members for their support of our legislation. I also thank a number of our colleagues, Senators EDWARDS, FEINSTEIN, FRIST, HARKIN, JEFFORDS, MIKULSKI, MURRAY, and REED, who are strong supporters of this program.

We, in America, know the pain and the loss that this disease cruelly inflicts. Millions of our fellow citizens—men, women, and children—are infected with HIV/AIDS, and far too many have lost their lives.

While we still seek a cure to AIDS, we have learned to help those infected by the virus to lead long and productive lives through the miracle of prescription drugs. But this disease knows no boundaries. It travels across borders to infect innocent people in every continent across the globe. We have an obligation to continue the fight against this disease at home. But we should also share what we have learned to help those in other countries in this life-and-death battle. And we must do all we can to provide new resources to help those who cannot afford today's therapies. We must carry the fight against AIDS to every corner of the globe, and the legislation passed this afternoon is a step in that direction.

The United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2002 provides new legal authority and funding to our nation's strongest health care agencies to join the global battle against AIDS. It promotes models of community-based care that reach the real people affected by this disease; better access to the research and therapies needed to prevent transmission of this deadly disease; and most importantly, funds research and treatment models to prevent transmission of HIV/AIDS from mothers to their infants including the family support service necessary to stem the orphan crisis.

Governments can make the difference in battling this epidemic. When governments in poor countries have been provided resources to fight the spread of AIDS, infection rates have dropped 80 percent. With this legislation, the United States will do its part to support countries to turn the corner on AIDS on their own.

I am pleased that the administration increased funding for the fight against the global AIDS epidemic, and together with this legislation, we can truly lead the international community in the fight against the greatest public health threat of our times.

I have a summary of the legislation that I ask unanimous consent to have printed in the RECORD. I think it will help people better understand the aspects of the legislation that can really not only make an immediate lifesaving difference to millions of our fellow

human beings in Africa but to those other Third World countries as well.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE UNITED STATES LEADERSHIP AGAINST HIV/AIDS, TUBERCULOSIS, AND MALARIA ACT OF 2002

The bill strikes all after the enacting clause of the House-passed HIV/AIDS bill (H.R. 2069) and inserts S. 2525 (Kerry) and S. 2649 (Kennedy). Both bills have broad bipartisan support.

S. 2525 (Kerry) was co-sponsored by Senators Biden, Boxer, Daschle, DeWine, Dodd, Durbin, Feingold, Frist, Hagel, Helms, Leahy, Lugar, Santorum, Sarbanes, Smith (OR), and Wellstone. S. 2649 (Kennedy) was co-sponsored by Senators Bingaman, Clinton, Corzine, Daschle, DeWine, Dodd, Durbin, Edwards, Feinstein, Frist, Harkin, Jeffords, Mikulski, Murray, Reed, Santorum, and Sarbanes.

The S. 2525 portion of the bill would:

Mandate a comprehensive, integrated 5-year U.S. government strategy for promoting goals and objectives of the June 2001 UN General Assembly Declaration of Commitment on HIV/AIDS;

Require the U.S. Agency for International Development (USAID) to develop an "empowerment of women" plan, including provision of currently available technologies to prevent the spread of HIV/AIDS;

Create a new HIV/AIDS Response Coordinator in the Department of State;

Create a new Health Care Provider Service and Training Program enabling American health care professionals to provide basic health care services and on-the-ground training to African and other countries severely affected by HIV/AIDS, tuberculosis and malaria; and

Require a comprehensive report on U.S. efforts to increase access to treatment for people living with HIV/AIDS.

The bill would authorize more than \$4.5 billion over two years for U.S. efforts to fight global HIV/AIDS, tuberculosis and malaria. Of this, \$2.152 billion would be authorized in FY 2003, including \$1 billion for the Global Fund to Fight HIV/AIDS, Tuberculosis and Malaria, and \$2.521 billion would be authorized in FY 2004, including \$1.2 billion for the Global Fund.

The bill would require a new 5-year strategy to meet or exceed the maternal-to-child transmission (MTCT) goals in the UN Declaration of Commitment on HIV/AIDS; create a new Assistance to Children Program to provide care and treatment to parents and/or care givers infected with HIV; and mandate a comprehensive report on U.S. government MTCT and MTCT plus programs.

The bill would authorize expansion of the Enhanced Heavily Indebted Poor Countries (HIPC) Initiative to achieve debt reduction for health programs; expand the Department of Defense's HIV/AIDS Prevention Education Program to include countries beyond Africa and international peacekeepers; and set forth an HIV/AIDS Code of Conduct for U.S. Businesses Abroad.

Funding levels for this portion of the bill are summarized in the attached chart.

The S. 2649 portion of the bill would: authorize \$400 million (in 2003) for the Centers for Disease Control and Prevention (CDC) and Health Resources Services Administration (HRSA) to work in collaboration with USAID to carry out care, treatment, and capacity building for HIV/AIDS, malaria, and tuberculosis in countries with, or at-risk for severe HIV/AIDS epidemics.

The bill would authorize \$50 million (in both 2003 and 2004) for grants for clinical education and training in the delivery of HIV/AIDS care and treatment services; authorize \$45 million (in 2003) and \$30 million (in 2004), out of amounts authorized under Prevention and Treatment, for public-private partnerships to prevent mother-to-child transmission; provide for inter-agency coordination of global HIV/AIDS initiatives under the Secretary of Health and Human Services (HHS); direct the HHS Secretary to write a strategic plan to carry out and support microbicide research, develop research teams through contacts with private and public entities, and report to Congress on this initiative; and authorize \$10 million (in 2003) for the Department of Labor for work-based prevention and education programs that protect against discrimination, promote on-site wellness, and strengthen collaboration among governmental, business, and labor leaders.

Mr. KENNEDY. Mr. President, I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. REID. Mr. President, we intend to be back on this bill at 1 o'clock on Monday. I ask unanimous consent the Senator from Michigan, Mr. LEVIN, be recognized at 1 o'clock when we resume consideration of the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that when the Senate reconvenes on Monday and resumes consideration of this bill at 1 o'clock, there be 5 hours of time left postcloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators allowed to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANNIVERSARY OF THE REORGANIZATION OF THE SENATE JUDICIARY COMMITTEE

Mr. LEAHY. Mr. President, this week marks the first anniversary of the reorganization of the Senate Judiciary Committee following the change in majority last year. This past year has been a busy one for our committee.

Just this week the Senate adopted as an amendment to the accounting re-

form and investor protection bill the text of S. 2010, the Corporate and Criminal Fraud Accountability Act. That is a bill we reported in May after committee action in February and April. The Senate also acted on important amendments offered by Senator BIDEN, Senator HATCH, and Senator EDWARDS to that bill and many members of this committee have made important contributions to improve these measures over the last several months.

In the days and months following the terrorist attacks on September 11, members of this committee led the Senate in its responses leading to enactment of the USA PATRIOT Act, the Enhanced Border Security and Visa Entry Reform Act, the Terrorist Bombings Convention Implementation Act, and the Mychal Judge Police and Fire Chaplains Public Safety Officers' Benefit Act. The committee also reported a number of resolutions to honor the victims of those attacks with the Public Safety Medal of Valor and the Law Enforcement Tribute Act, S. 2431. We continue to work on important matters for victims of terrorism.

We have reported a number of other law enforcement related measures including the Drug Abuse Education, Prevention and Treatment Act, S. 304; the Federal Judiciary Protection Act, S. 1099; the National Child Protection Improvement Act, S. 1868; the Safe Explosives Act, S. 1956; the National Cyber Security Defense Team Authorization Act, S. 1989; a bill clarifying the definition of "vehicle," S. 2621; and an annual authorization for the Department of Justice, S. 1319 and its House counterpart H.R. 2215. The committee reported the Local Law Enforcement Enhancement Act, S. 625, which is an important hate crimes bill; and the COPS Reauthorization Act, S. 924, which extends the highly successful COPS Program. We have also reported legislation on identity theft, such as the Social Security Number Misuse Prevention Act, S. 848, and the Restore Your Identity Act, S. 1742.

In addition, we have reported a number of measures to improve competitive business conditions and protect consumers, such as the Drug Competition Act, S. 754; the Motor Vehicle Franchise Contract Arbitration Fairness Act, S. 1140; and the Product Packaging Protection Act, S. 1233. We have acted on important intellectual property legislation, such as the Madrid Protocol Implementation Act, S. 407; the TEACH Act, S. 487; and the Patent and Trademark Office Authorization Act, S. 1754, as well as related House measures H.R. 1866 and H.R. 1886.

We have reported and worked on a number of immigration matters, including the Anti-Atrocity Alien Deportation Act, S. 864; the Child Status Protection Act, S. 672, and its House counterpart, H.R. 1209; a bill for children of Vietnamese refugees, H.R. 1840;

bills to provide work authorization for spouses, H.R. 2277 and H.R. 2278; and others.

Among our most important work has been our aggressive oversight efforts involving the Department of Justice, the FBI, the INS, and the Civil Rights Division. Our oversight efforts have already led to the committee's reporting a bipartisan FBI Reform Act, S. 1974, which is awaiting Senate action.

This week the committee finally began its consideration of a most important legislative initiative we began years ago, the Innocence Protection Act, S. 486.

All in all, in our first year we reported 80 legislative matters and over 250 Presidential nominations to the Senate. We have held more than 100 hearings during our first tumultuous year.

We have had a record year in considering this President's nominees. Partisans have perpetuated an untrue and unfortunate myth that the Democratic-led Senate and Judiciary Committee have blocked the President's nominees. Nothing could be further from the truth.

The Democratic-led Judiciary Committee has had a recordbreaking year fairly and promptly considering President Bush's nominees. In addition to the dozens of high-ranking Justice Department officials for whom we held hearings, and our work in connection with more than 180 executive branch nominees the committee reported, we have had a record year with respect to judicial nominees.

In this, our first year, we held hearings for 78 of the President's nominees. That is more hearings for this President's district and circuit court nominees than ever held in any of the 6½ years that preceded the change in majority last summer.

In particular, we held more hearings for more of President Bush's circuit court nominees, 16, than in any of the 6½ years in which the Republicans controlled the committee before the change in majority last summer. For that matter, we held twice as many hearings for court of appeals nominees than were held in the first year of the Reagan administration when the Senate was controlled by Republicans and five times more than in the first year of the Clinton administration when the Senate was controlled by Democrats. Those are the facts.

Under Democratic leadership, this Committee in its first year also voted on more judicial nominees, 74, than in any of the 6½ years of Republican control that preceded the change in majority. We voted on almost twice as many circuit court nominees, 15, than the Republican majority averaged in the years they were in control. In fact, this last year we voted on more nominees than were voted on in 1999 and 2000 combined and on more circuit court

nominees than the Republicans allowed during 1996 and 1997 combined. And the committee voted on an additional court of appeals nominee yesterday.

We have achieved what we said we would by treating President Bush's nominees more fairly and more expeditiously than President Clinton's nominees were treated by Republicans. By many measures the Senate Judiciary Committee has achieved almost twice as much this last year as Republicans averaged during their years in control.

The Senate has confirmed more circuit and district court judges, 57, than were confirmed during 2000, 1999, 1997, 1996, and 1995, 5 of the prior 6 years of Republican control of the Senate. Republicans averaged 38 confirmations a year. By contrast the Democratic Senate achieved 57 judicial confirmations in our first 10 months, before the Administration's obstructionism stalled Senate floor actions on nominations for more than 2 months. There are another 17 judicial nominees on the Senate Executive Calendar. The delay in the votes on these nominees has been due to the delay in the administration's fulfilling its responsibility to work with the Senate in the naming of members of bipartisan boards and commissions.

I congratulate the majority leader for overcoming this impediment and for his patience and determination in achieving some movement on these matters. I understand that he hopes to be able to resume voting on judicial nominations as soon as next Monday. Had the administration not caused this delay, I am confident that the Senate would have confirmed more than 70 judicial nominations before the end of this week and far outdistanced any Republican total for any preceding year. Nonetheless, we were able to overcome the other obstacles created by the administration and proceed to confirm 57 circuit and district court nominees in our first 10 months in the majority, a record outpacing any Republican total in any 10-month period in which they held the majority.

We have also addressed longstanding vacancies on circuit courts caused by Republican obstruction of President Clinton's judicial nominees. We held the first hearing for a Fifth Circuit nominee in 7 years, the first hearings for Sixth Circuit nominees in almost 5 years, the first hearing for a Tenth Circuit nominee in 6 years, and the first hearings for Fourth Circuit nominees in 3 years.

We have reformed the process for considering judicial nominees. For example, we have ended the practice of anonymous holds that plagued the period of Republican control, when any Republican Senator could hold any nominee from his home State, his own circuit or any part of the country for any reason, or no reason, without any acknowledgment or accountability. We

have returned to the Democratic tradition of holding regular hearings, every few weeks, rather than going for months without a single hearing.

It would certainly have been easier and less work to retaliate for the unfair treatment of the last President's judicial nominees. We did not. We have been, and will continue to be, more fair than the Republican majority was to President Clinton's judicial nominees. More than 50 of Clinton's nominees never got a vote; many languished for months and years before they were returned without a hearing. Others waited years—not just a year, but up to more than 4 years to be confirmed. Some never were accorded a hearing, some were finally confirmed after years of delay.

Those who now seek to pretend that the Democratic majority in the Senate caused a vacancy crisis in the Federal courts are ignoring the facts. Under Republicans, court vacancies rose from 63 in January 1995 to 110 in July 2001, when the committee reorganized. During Republican control before the reorganization of the committee, vacancies on the courts of appeals more than doubled, increasing from 16 to 33. That is what we inherited. But in 1 year of Democratic control, and despite 45 additional vacancies caused largely by the retirements of many past Republican appointees, we have reduced the number of district and circuit court vacancies.

Vacancies continue to exist on the court of appeals, in particular, because a Republican Senate majority was not willing to hold hearings or vote on more than half—56 percent—of President Clinton's circuit nominees in 1999 and 2000, and was not willing to confirm a single circuit judge during the entire 1996 session. Republicans caused the circuit vacancy crisis, and it has taken a tremendous effort to evaluate and have hearings for 16 circuit court nominees in less than a year.

We are hard at work evaluating the records of the few remaining nominees who have not yet had hearings. While we have moved as quickly as possible to evaluate all of the nominees, the Senate is not, and should not be, a rubber stamp. If this President is successful in filling all of the vacancies he inherited due to Republican obstruction as well as the new vacancies that have arisen on the circuits, Republican appointees will constitute the majority, and often a two-thirds majority, on 11 of the 13 appellate courts below the Supreme Court. Such a takeover would affect the next 20 years of judicial decisions coming from the courts of appeal.

The President and his advisers know this and, aside from the few relatively moderate nominees we have been able to confirm quickly, they have also chosen a number of people with records of judicial activism or out-of-mainstream ideology, including several young men

in their thirties and early forties, for many of these lifetime appointments to the federal bench. What the President and his advisers acknowledge they are doing is nominating ideologically conservative judicial nominees to stack the fifth, sixth, and DC Circuits with judicial activists of their choice. That is part two of the Republican strategy.

In part one, several Republicans in the Senate prevented many of these vacancies from being filled in the first place, so that whatever balance there might be, or might have been, on those courts is missing. They kept off well qualified moderate nominees, not chosen because of any litmus test or ideology. They did so to provide a Republican President with the opportunity to load the bench, especially the appellate court bench, with right wingers.

Advice and consent does not mean giving the President *carte blanche* to pack the courts. The ingenious system of checks and balances in our Constitution does not give the power to make lifetime appointments to one person alone, to remake the courts along narrow ideological lines, to pack the courts with judges whose views are outside of the mainstream, and whose decisions would further divide our Nation.

We have worked hard to balance these competing concerns over the past year: how to address the vacancy crisis we inherited, while also not being a rubberstamp and abdicating our responsibilities to provide a democratic check on the President's choices for lifetime appointment to the Federal courts. These are the only lifetime appointments in our system of government, and they matter a great deal to our future.

In 1801, when Thomas Jefferson, the first President who was not a member of the Federalist Party was elected, he faced a similar situation. The Federalists in Congress had passed, and the lame duck President Adams had signed, a bill creating a number of new seats on the Federal courts. President Adams then appointed a number of Federalists who have been called "midnight judges." One of the first things President Jefferson did was to get that law repealed and to refuse to sign the appointment papers of some of those judges. That is part of the story of the famous Supreme Court case, *Marbury v. Madison*.

Thus, it took only 12 years of our new Nation for an effort to pack the courts to occur. It took the first transition in political parties for one to give in to the temptation to try to stack the deck and affect the outcome of cases through the appointment of judges.

The best-known attempt to pack the courts occurred during the administration of President Franklin Roosevelt. President Roosevelt's attempt to pack the Supreme Court with justices of his

choosing, to get more votes on the side of cases he wanted to win, was rejected by Congress and the American people.

If one thoroughly examines the types of nominees this President is sending us, one might conclude that we are facing another attempt to pack the courts. The Senate Judiciary Committee is working very hard to analyze all of President Bush's judicial nominees fairly, one by one. In our first year, we have already had 21 hearings on 78 judicial nominees, including 16 circuit court nominees. We are planning another hearing for next week.

In the meantime, Republicans have been unfairly critical that not every nominee has yet had a hearing or been confirmed. Some have asserted that there is some sort of "honeymoon" period for Presidents in getting confirmation of their first choices for the courts. Of course, the Constitution provides for no such abdication of responsibility for a President's first few lifetime appointees or his last. To support this extra-constitutional theory, Republicans assert that the last three Presidents had a 100-percent confirmation rate of their first several circuit court nominees. When they say this, they conveniently leave a few details out. First, it took previous Senates more than a year to confirm 11 circuit court nominees of past Presidents. We have only had a year and the Senate has already confirmed nine of this President's circuit court nominees and five more are awaiting a vote by the full Senate.

President George W. Bush has said previously that he would choose judges in the mold of two ideologically conservative activists, Justice Scalia and Justice Thomas. No judicial nominees should be rubber-stamped by the Senate, not even a President's first few choices. All nominees for these lifetime positions merit careful review by the Senate. When a President is using ideological criterion to select nominees, it is fair for the Senate to consider it as well. Federalist Society credentials are not a substitute for fairness, moderation or judicial temperament. When a President is intent on packing the courts and stacking the deck on outcomes, consideration of balance and how ideological and activist nominees will affect a court are valid considerations for Senators entrusted by the Constitution to evaluate these lifetime appointees.

The high dudgeon expressed by Republicans about the order in which we have been considering this President's circuit court nominees is especially unwarranted in light of the objectively unfair way they treated President Clinton's circuit court nominees. Some of the vacancies we inherited date back to 1990, 1994 and 1996.

Partisans conveniently ignore the Republicans' terrible record of obstruction when they complain that a few of

President Bush's nominees have not yet had a hearing. Those nominees chosen without consultation with both parties in the Senate and, in particular, those who do not have home-State Senator support do not get hearings, according to longstanding Senate tradition. Republicans have tried to measure our achievements by standards they never met but surely even they are not now suggesting overriding the longstanding Senate tradition of consent or blue slips from both home-State Senators on which they themselves insisted. Republicans averaged only seven confirmations a year for President Clinton's circuit court nominees. We confirmed nine in our first 10 months.

I have tried to work with the White House on judicial nominations. I have gone out of my way to encourage them to work in a bipartisan way with the Senate, like past Presidents, but in all too many instances they have chosen to bypass bipartisanship. I have encouraged them to include the ABA in the process earlier, like past Presidents, but they have refused to do so even though their decision adds to the length of time nominations must be pending before the Senate before they can be considered.

This past January, I again called on the President to stop playing politics with judicial nominations and act in a bipartisan manner. Just last month I sent a detailed letter to the President on these issues. My efforts to help the White House improve the judicial nominations process have been rejected. My most recent effort met with a perfunctory acknowledgment or receipt, which I will ask unanimous consent to have printed in the RECORD at the end of my remarks. Unfortunately, this letter is about the most constructive response that I have received from the White House to my many efforts to improve the process and speed up the filling of judicial vacancies with qualified, fair-minded judges.

Republican statements on judicial nominees regularly rely on superficially appealing but misleading statistics to gloss over the types of nominees they are choosing for our Federal courts. For example, they complain that Presidents Reagan, Bush and Clinton got 97, 95 and 97 percent, respectively, of their first 100 judicial nominations confirmed. What they conveniently fail to mention is that it took 2 full years for President Reagan to have 89 of his judicial nominees confirmed, and well into year 3 to reach the 100 mark. Similarly, the first President Bush had only 71 judicial nominees confirmed after 2 full years, and it took well into year 3 to reach 100 confirmations.

We are moving quickly, but responsibly, to fill judicial vacancies with qualified nominees we hope will not be

activists. In our first year we confirmed 57 judges and reported 74 judicial nominees. Partisans ignore these facts. The facts are that we are reporting President Bush's nominees at a faster pace than the nominees of prior Presidents, including those who worked closely with a Senate majority of the same political party. We have accomplished all this during a period of tremendous tumult and crisis.

The Judiciary Committee noticed the first hearing on judicial nominations within 10 minutes of the reorganization of the Senate, and held that hearing on the day after the committee was assigned new members. Yesterday was the 1-year anniversary of that first hearing for Judge Roger Gregory, who was initially nominated by President Clinton, but like so many other judicial candidates, including other African-American nominees to the Fourth Circuit, his nomination languished without a hearing by the Republican-controlled Senate. Because of this history of inaction on such nominees to that court, President Clinton made a recess appointment to make Roger Gregory the first African-American judge in history to sit on the Fourth Circuit, and he sent his nomination for a permanent position on that court back to the Senate at the beginning of the 107th Congress. Unfortunately, President Bush withdrew Judge Gregory's nomination in March of 2001, but he finally sent it back to us later that year. When the Senate Judiciary Committee held the hearing on the nomination of Judge Roger Gregory to the Fourth Circuit last year, it was the first hearing on a Fourth Circuit nominee in 3 years, although five nominees to that court during that period were never given hearings by Republicans.

Subsequent to that hearing, we held unprecedented hearings during the August recess last year and proceeded with a hearing 2 days after the 9/11 attacks and shortly after the anthrax attack. We will hold our 22nd hearing for judicial nominees next week. We are doing our best to address the vacancy crisis we inherited.

The Senate Judiciary Committee and the Democratic-led Senate has a record of achievement and of fairness to be proud of on this anniversary. I thank the Members who have worked cooperatively with me to make progress in so many areas over the last year.

Mr. President, I ask unanimous consent that the letter previously referred to be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, June 27, 2002.

Hon. PATRICK LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: This is to acknowledge the receipt of your letter to the President expressing the need for bipartisan co-

operation while the Senate considers judicial nominations.

I hope you will understand that in light of the tragic events of September 11th, enhanced screening of all incoming White House mail prevented our office from receiving your correspondence and providing you with a prompt reply to your letter.

I have shared your letter with the President's advisors and the appropriate agencies who have been formulating policy recommendations in this area. Your letter is receiving their close and careful attention.

Thank you for your patience.

Sincerely,

NICHOLAS E. CALIO,
Assistant to the President and
Director of Legislative Affairs.

HONORING 65 MEN FROM ALEXANDRIA WHO WERE KILLED IN ACTION OR MISSING IN ACTION IN SOUTHEAST ASIA DURING THE VIETNAM WAR

Mr. ALLEN. Mr President, I rise today to recognize 65 fallen servicemen from Alexandria, VA, who paid the ultimate sacrifice with their life while defending freedom in the Vietnam war.

No mere words can express the depth of gratitude this country owes to the families of our fallen service members for the loss of their sons, daughters, brothers, sisters, husbands, or wives. By touching their names etched in granite and marble on monuments and statues in countries around the world, we who are living and those who come after us have the ability to connect with these fallen heroes. We must never take the sacrifices of past generations of Americans for granted, for each new generation is called upon to defend representative democracy's first axiom: that "freedom is not free."

On July 6, 2002, the city of Alexandria dedicated a beautiful memorial plaza to pay tribute to the 65 fallen American heroes from Alexandria who were killed in action or who remain missing in action in southeast Asia from the Vietnam war. Toby Mendez, a brilliant young sculptor, has created a work that will allow us to touch the names of the brave men whose sacrifice will be memorialized for all time.

A statue of U.S. Army Cpt. Humbert Roque "Rocky" Versace is the centerpiece of the plaza. On July 8, 2002, I had the distinct honor of being present at the White House for the posthumous awarding of the Medal of Honor by President George W. Bush for Rocky's conspicuous gallantry at the risk of his life above and beyond the call of duty while a captive of the Viet Cong from October 29, 1964, until he was executed on or about September 26, 1965. His captors took his life after they had given up trying to break Rocky's indomitable will to resist interrogation and indoctrination, his unshakable faith in God, and his steadfast trust in his country and his fellow prisoners.

Captain Versace was a 1959 graduate of the U.S. Military Academy and lived

his life by the West Point ideals of Duty, Honor, and Country. His fellow prisoner, U.S. Army 1st Lt James Nicholas "Nick" Rowe recalled that Rocky told his captors that "as long as he was true to God and true to himself, what was waiting for him after this life was far better than anything that could happen now. So he told his captors that they might as well kill him then and there if the price of his life was getting more from him than name, rank, and serial number."

Captain Versace's statue shows him holding hands with two Vietnamese children, who had been orphaned by Viet Cong terror against their parents. Rocky did many good works on his own to improve the lives of the many orphans he came in contact with. In fact, he planned on entering the Maryknoll priesthood after his tour of duty ended in Vietnam. It was Rocky's desire to return to Vietnam after ordination to be a missionary priest to work among the villagers and help educate their children so they could achieve a better life for themselves, free of Communist domination.

The remains of Captain Versace and three other men from Alexandria lie in unmarked graves in southeast Asia, known only to God. They are: U.S. Army SSG Douglas Randolph Blodgett; U.S. Air Force Maj Joseph Edwin Davies; and U.S. Air Force Maj Morgan Jefferson Donahue.

Additionally, two other servicemen drowned, and their bodies did not resurface: U.S. Army 1st Lt Leland S. McCants III, who drowned on his first day in Vietnam while trying to save another soldier; and U.S. Navy Seaman Apprentice John Anthony Winkler, who was swept off of the deck of the Navy aircraft carrier USS *Bon Homme Richard* and was lost at sea. The waters, jungles, and mountains of southeast Asia may never reveal these missing men's remains, but the U.S. Government is committed to continue to search for all those of our missing in action personnel, those brave souls who, in the words of General of the Army Douglas MacArthur gave up their "youth and strength, . . . love and loyalty . . . all that mortality can give."

Each of the 65 names engraved on the limestone benches in Alexandria has a story to tell of honor and courage. Two outstanding examples of the dedication and service of this fine group of men are Robert William Cupp and Herman Leroy Judy, Jr.

U.S. Army Cpl. Robert William Cupp served proudly with Company D, 2d Battalion, 1st Infantry Brigade of the Americal Division. He was killed in action in South Vietnam on June 6, 1968, by an enemy booby trap. Corporal Cupp was laid to rest in his family's plot at Mount Comfort Cemetery on June 17, 1968, his 21st birthday.

U.S. Cpl. Herman Leroy Judy, Jr. served proudly with Company B, 2nd

Battalion, 505th Infantry, 82nd Airborne Division. He was killed in action in South Vietnam on May 29, 1969, a day before his first wedding anniversary. He is buried in Arlington National Cemetery.

Both of these brave men received the Combat Infantryman's Badge, Bronze Star Medal, and Purple Heart Medal for their heroism in combat.

Plato, that wise philosopher of ancient times, observed that "only the dead have known the end of war." So it is today with the never-ending struggle between freedom and evil. All those brave men and women who proudly wear the uniform of our armed services, and who willingly risk their lives to achieve battlefield victories over our enemies, deserve our Nation's eternal gratitude.

Mr. President, it is my great honor to enter into the CONGRESSIONAL RECORD the names of the 65 men from Alexandria who were killed in action or remain missing in action in southeast Asia during the Vietnam war, and who were memorialized on July 6, 2002.

I ask unanimous consent that the list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

NAMES AND DATES OF CASUALTY FOR 65 MEN
KILLED IN ACTION OR MISSING IN ACTION,
ENTERING SERVICE FROM ALEXANDRIA, VA
(Dates are from thevirtualwall.org website.)

Lewis L. Stone, January 11, 1963.
Ray B. Browne, January 16, 1964.
Humbert R. Versace, September 26, 1965.
John A. Winkler, November 22, 1965.
Paul M. Bayliss, November 7, 1966.
Carl L. Young, December 24, 1966.
Paul R. Karas, February 3, 1967.
Wayne L. Jordan, March 17, 1967.
Ralph B. Pappas, March 30, 1967.
Ronald W. Ward, May 22, 1967.
Richard H. Freudenthal, June 30, 1967.
Joseph C. Shartzter, July 29, 1967.
Foster J.G. Touhart, Jr., September 6, 1967.
Darrell L. Gibbons, October 11, 1967.
Robert E. Whitbeck, January 30, 1968.
Harry F. Richardson, Jr., January 31, 1968.
Raymond L. Conway, February 1, 1968.
Douglas R. Blodgett, April 19, 1968.
Jeron F. Valentine, May 7, 1968.
Michael E. Ludwig, May 27, 1968.
Robert W. Cupp, June 6, 1968.
Henry L. Page III, June 25, 1968.
Henry A. Ledford, July 5, 1968.
Charles H. Elliott, Jr., August 21, 1968.
Henry L. Warner III, August 27, 1968.
Joseph L. Powell, Jr., October 17, 1968.
James E. King, November 25, 1968.
Morgan J. Donahue, December 13, 1968.
Leland S. McCants III, December 30, 1968.
Matthew W. Thornton, January 11, 1969.
Kenneth E. Norris, January 31, 1969.
Charles L. Suthard, Jr., February 6, 1969.
Kenneth R. Sawyer, February 12, 1969.
David J. Warczak, March 4, 1969.
Philip N. Malone, March 6, 1969.
Ross W. Collins, Jr., March 29, 1969.
Robert W. Clirehugh, Jr., April 22, 1969.
James W. Ward, May 9, 1969.
Raymond L. Williams, May 13, 1969.
Herman L. Judy, Jr., May 29, 1969.
Robert W. Dean, July 11, 1969.
Michael O. Thomas, July 26, 1969.
Richard W. Hoffer, August 31, 1969.

Michael J. Keberline, October 1, 1969.
Donald W. Gill, Jr., November 12, 1969.
David A. Lerner, November 20, 1969.
George B. Colgan III, December 1, 1969.
Brian J. O'Callaghan, January 16, 1970.
Thomas M. Gaither, January 21, 1970.
Michael J. McCarron, March 9, 1970.
Kermit W. Holland, Jr., March 22, 1970.
Tschann S. Mashburn, May 5, 1970.
Johnny J. Smith, May 20, 1970.
Bruce E. Graham, May 26, 1970.
Clarence M. Overbay, Jr., June 25, 1970.
Kevin C. McElhannon, Jr., September 15, 1970.
James W. Dickey, October 21, 1970.
Cleveland R. Harvey, November 18, 1970.
William D. Holmes, April 22, 1971.
Bernard G.J. Dillenseger, September 4, 1971.
Michael J. Kilduff, September 11, 1971.
Henry M. Spengler III, April 5, 1972.
George B. Lockhart, December 21, 1972.
Richard T. Gray, January 5, 1973.
Joseph E. Davies, October 9, 1973.

ADDITIONAL STATEMENTS

RECOGNIZING THE NATIONAL HIGH SCHOOL FINALS RODEO IN FARMINGTON, NM

• Mr. DOMENICI. Mr. President, I rise to recognize the Tres Rios High School Rodeo Association, which will soon host the 2002 National High School Finals Rodeo in Farmington, NM. The association, formed in cooperation with San Juan County and the cities of Farmington, Aztec, and Bloomfield, is rolling out the welcome mat for all to visit the beautiful Four Corners area of New Mexico for the July 22–28 competition.

I join in welcoming the thousands of student athletes and spectators who will descend on Farmington to celebrate the athleticism associated with the rodeo competitions. Farmington, a burgeoning city that has already proven itself as an excellent host for sporting events with the annual Connie Mack World Series tournament, will be a wonderful setting for this rodeo. The Tres Rios High School Rodeo Association knows it is in a national spotlight for showcasing a richly blessed, multicultural region that has been cherished since the dawn of the ancient Anasazi and Navajo cultures.

Just last month, I had the pleasure of meeting with students from San Juan County who briefed me on their work to host this national competition. Their enthusiasm and excitement was contagious, and I share in their anticipation for hosting the rodeo in northwest New Mexico. This is a great opportunity for the youth in the area to showcase their talents, and an excellent chance to boost the Four Corners area economy.

This year's competition is a continuation of a tradition begun in 1949 in Hallettsville, TX, with the first National Championship Rodeo. That contest laid the foundation for what became the National Championship High

School Rodeo Association. New Mexico was one of the first five charter members. Subsequently, in 1961, this association was incorporated into the National High School Rodeo Association and included 20 states. Today, they have grown to include 39 States and two foreign countries.

Every year, the National High School Rodeo Association holds a National High School Finals Rodeo. New Mexico has been the proud host of three previous finals, and is proudly hosting the 2002 and 2003 competitions at the San Juan County Fairgrounds.

The National High School Rodeo Association serves to challenge high school students to keep alive a rich tradition of Western life through rodeo competitions. By providing a competitive environment, participants learn the spirit of sportsmanship and grow as individuals. In addition, participation in the association promotes student achievement and provides opportunities for college scholarships and further professional development. I believe their efforts at furthering student education bodes well for the association, and I applaud them for impacting young lives in such a positive manner.

Being selected as a host site is an honor, and I commend the Tres Rios High School Rodeo Association, San Juan County, the cities of Farmington, Aztec and Bloomfield, and everyone associated with the event for their efforts to prepare for the National High School Finals Rodeo. I wish all participants in the rodeo the best of luck.●

TRIBUTE TO JOE FORD

• Mrs. LINCOLN. Mr. President, for the last several months the American people have been subjected to a string of stunning revelations from some of our largest public companies. Accounting irregularities, shady business practices, and exorbitant executive compensation packages are apparently standard operating practice in some of our corporate boardrooms. As a result, thousands of families have lost their jobs and their savings, and investor confidence in our system of free enterprise has been severely shaken.

I would like to take a few minutes today to pay tribute to an Arkansas businessman who represents a vastly different picture of the American business leader Joe Ford of ALLTEL Corporation, who retired from his position as CEO this year.

A native of Conway, AR, Joe graduated from the University of Arkansas in 1959 before joining Little Rock's Allied Telephone Company. He advanced through several management positions and was named vice-president in 1963. By 1977, he was named president of Allied, a position he held until 1983 when

his company merged with the Mid-Continent Telephone Corporation of Hudson, OH, to form ALLTEL. This merger, along with the 1990 purchase of Systematics, Inc., in Little Rock, laid the foundation for the telecommunications leader that ALLTEL has since become. Joe Ford was named ALLTEL president and CEO in 1987. He became chairman and CEO in 1991.

In a competitive and rapidly changing environment, Joe steered ALLTEL through a number of changes, including the deregulation of the telephone industry. He also led ALLTEL into a number of new, growing markets most notably wireless communications.

When ALLTEL turned on its cellular service in 1986, they had only 310 customers. Ford and many of his colleagues were unsure as to whether the new technology would catch on. But as we know now, the wireless industry exploded, and ALLTEL expanded across the southeastern United States. Today, ALLTEL covers portions of 23 States, serving six million wireless customers. Today, the company has expanded even further into information services, financial services, and mortgage processing.

When Joe Ford joined Allied Telephone in 1959, the company had 65 employees and 5,000 telephone customers. Today, ALLTEL is my State's largest high-tech company, with 4,100 employees working at the main campus in Little Rock. ALLTEL is also the sixth largest wireline and wireless company in the world, a Fortune 500 company with 26,000 employees worldwide serving 8 million communications customers. Many have contributed to ALLTEL's success in the American marketplace, but clearly it has been Joe Ford's vision and leadership that has brought the company to this level.

I will also pause to note that, throughout his career, Joe Ford has been the very embodiment of the engaged corporate citizen. In 1966, while serving as a vice-president for Allied Telephone, Joe ran for a seat in the Arkansas Senate. He served in this body from 1967 to 1982, a term spanning the administrations of five governors. A longtime advocate for public education, Joe chaired the Senate Education Committee, where he worked to improve our state's educational system and helped to create the kindergarten program in Arkansas public schools. He has also been involved with numerous civic organizations.

Joe Ford once offered the following words of advice to his son: "In all that you do in life, seek to make life better for others, work hard and honestly, be a man of strong character, humble in times of greatness, and try to leave things a little better than they were left to you." His record certainly indicates that he has lived by these words himself. On the occasion of Joe's retirement, I'm proud to pay tribute to

an Arkansan whose every move has represented the ideals of the American business world: trust, responsibility, hard work, and the greater public good. I hope that all of our business leaders will follow Joe's example in adhering to these ideals.●

LOCAL LAW ENFORCEMENT ACT OF 2001

● Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in November 1998 in Providence, MA. A gay man was assaulted outside a bar. The assailants, David E. Sheldon, 19, and Taylor Grenier, 18, who used antigay slurs during the attack, were charged with a hate crime in the incident.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

DO THE WRITE THING CHALLENGE 2002

● Mr. LEVIN. Mr. President, Do the Write Thing Challenge, sponsored by the National Campaign to Stop Violence, is a national writing contest in which students express their concerns about subjects such as domestic violence, easy access to guns, and gang activity. DtWT currently operates in 14 cities, including Detroit, MI. In 2002, more than 75,000 students from more than 550 schools participated in the DtWT program. This week 38 Do the Write Thing national finalists came to Washington, DC, to talk to lawmakers about the impact of and solutions to the epidemic of youth violence in our Nation.

The national student finalists, along with their teachers and family members, also attended a ceremony at the Library of Congress on Monday. Representatives of the Secretary of Education and the Library of Congress placed the students' writings in the Library of Congress. The writings, ranging from poems to essays to stories, describe the impact of youth violence on the lives of children. Two students from Michigan, Chastity Stewart and Justin Mozader, were honored by the National Campaign to Stop Violence for their writings on youth violence. Justin's poem offers excellent advice on dealing with feelings of anger and aggression.

What can I do about the problem at hand?
It can't be solved by one man
To begin, I must look inside myself
And put my violence on the shelf

One of the top priorities of the Do the Write Thing Challenge is to address youth violence by drawing attention to the problem of easy access to guns. This is a laudable and important goal. One step the Senate can take to prevent easy access to guns is to pass the Children's Access Prevention Act, which Senator DURBIN introduced. Under this bill, adults who fail to lock up a loaded firearm or an unloaded firearm with ammunition would be held criminally liable if a child uses the weapon to kill or injure him or herself or another person. The bill also increases the penalties for selling a gun to a juvenile and creates a gun safety education program that includes parent-teacher organizations, local law enforcement, and community organizations. This bill is similar to a bill President Bush signed into law during his tenure as the Governor of Texas. I support this bill and hope the Senate will act on it during this Congress.

In addition to preventing our youth from having unsupervised access to deadly weapons, we should encourage schools to conduct violence prevention programs. We need to provide funding to allow schools to partner with local law enforcement in crime prevention, creative onsite school violence prevention programs, and alcohol and drug counseling.

I know my colleagues will want to join me in congratulating Chastity and Justin for their writings and efforts to combat youth violence, and I urge my colleagues to join me in pushing for the passage of sensible gun safety legislation like Senator DURBIN's bill.●

CEDAR GROVE'S 100TH YEAR OF INCORPORATION

● Mr. ROCKEFELLER. Mr. President, I rise today in recognition of a historical milestone in my State of West Virginia. July 13, 2002, marks the 100th year of incorporation for the town of Cedar Grove—making it the oldest town in Kanawha County. I take this opportunity to congratulate Cedar Grove on its centennial.

Cedar Grove is a small community nestled along the upper Kanawha Valley. Although only in existence for 100 years, the history of the town's site is much longer. The first settlement in the Kanawha Valley was on the site of what is now Cedar Grove. Walter Kelly first settled the area, then known as Kelly's Fort, in 1744. This was one of the first settlements started after the English bought what is now West Virginia from the Iroquois Indians. This site was also hotly contested land during the Civil War, when control of the Kanawha Valley went back and forth between the North and the South.

From being the oldest settlement in the area to the oldest town, Cedar Grove has stood the test of time and remains strong to this day. It has been a historical keystone to the Kanawha Valley, and has greatly contributed to the richness of West Virginia culture and history.

On behalf of all citizens from the Mountain State, I would like to once again commend Cedar Grove on its 100th birthday and ask that my distinguished colleagues join with me in recognizing its rich history.●

DISTRICT OF COLUMBIA'S FISCAL YEAR 2003 BUDGET REQUEST ACT—PM 102

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

Pursuant to my constitutional authority and consistent with sections 202(c) and (e) of The District of Columbia Financial Management and Responsibility Assistance Act of 1995 and section 446 of The District of Columbia Self-Governmental Reorganization Act as amended in 1989, I am transmitting the District of Columbia's Fiscal Year 2003 Budget Request Act.

The proposed FY 2003 Budget Request Act reflects the major programmatic objectives of the Mayor and the Council of the District of Columbia. For FY 2003, the District estimates total revenues and expenditures of \$5.7 billion

GEORGE BUSH.

THE WHITE HOUSE, July 11, 2002.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:29 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 2362. An act to establish the Benjamin Franklin Tercentenary Commission.

H.R. 3971. An act to provide for an independent investigation of Forest Service fighter deaths that are caused by wildlife entrapment or turnover.

H.J. Res. 87. A joint resolution approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982.

The enrolled bills and joint resolution was signed subsequently by the President pro tempore (Mr. BYRD).

At 11:08 a.m., a message from the House of Representatives, delivered by Ms. Niland, the of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2486. An act to authorize the National Oceanic and Atmospheric Administration, through the United States National Weather Research Program, to conduct research and development, training, and outreach activities relating to inland flood forecasting improvement, and for other purposes.

H.R. 2733. An act to authorize the National Institute of Standards and Technology to work with major manufacturing industries on an initiative of standards development and implementation for electronic enterprise integration.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2486. An act to authorize the National Oceanic and Atmospheric Administration, through the United States National Weather Research Program, to conduct research and development, training, and outreach activities relating to inland flood forecasting improvement, and for other purposes, to the Committee on Commerce, Science, and Transportation.

H.R. 2733. An act to authorize the National Institute of Standards and Technology to work with major manufacturing industries on an initiative of standards development and implementation for electronic enterprise integration; to the Committee on Commerce, Science, and Transportation.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BINGAMAN (for himself, Mr. BREAUX, Mr. CONRAD, and Mrs. LINCOLN):

S. 2726. A bill to treat certain motor dealer transitional assistance as an involuntary conversion, and for other purposes; to the Committee on Finance.

By Mr. AKAKA:

S. 2727. A bill to provide for the protection of paleontological resources on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. LANDRIEU (for herself and Mr. BREAUX):

S. Res. 303. A resolution expressing the sense of the Senate that a commemorative postage stamp should be issued to celebrate the 250th anniversary of the arrival of the first Acadians in the American colonies; to the Committee on Governmental Affairs.

ADDITIONAL COSPONSORS

S. 1828

At the request of Mr. LEAHY, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 1828, a bill to amend chapter III of chapter 83 and chapter 84

of title 5, United States Code, to include Federal prosecutors within the definition of a law enforcement officer, and for other purposes.

S. 2513

At the request of Mr. BIDEN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 2513, a bill to assess the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence.

S. 2528

At the request of Mr. DOMENICI, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2528, a bill to establish a National Drought Council within the Federal Emergency Management Agency, to improve national drought preparedness, mitigation, and response efforts, and for other purposes.

S. 2622

At the request of Mr. HOLLINGS, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2622, a bill to authorize the President to posthumously award a gold medal on behalf of Congress to Joseph A. De Laine in recognition of his contributions to the Nation.

S. 2642

At the request of Mr. NELSON of Florida, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 2642, a bill to require background checks of alien flight school applicants without regard to the maximum certificated weight of the aircraft for which they seek training, and to require a report on the effectiveness of the requirement.

S. 2654

At the request of Ms. CANTWELL, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 2654, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income loan payments received under the National Health Service Corps Loan Repayment Program established in the Public Health Service Act.

S. 2667

At the request of Mr. DODD, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2667, a bill to amend the Peace Corps Act to promote global acceptance of the principles of international peace and nonviolent coexistence among peoples of diverse cultures and systems of government, and for other purposes.

S. RES. 293

At the request of Mr. BIDEN, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. Res. 293, a resolution designating the week of November 10 through November 16, 2002, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

AMENDMENT NO. 4215

At the request of Mr. DORGAN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of amendment No. 4215 proposed to S. 2673, an original bill to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. BREAUX, Mr. CONRAD, and Mrs. LINCOLN):

S. 2726. A bill to treat certain motor dealer transitional assistance as an involuntary conversion, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation important to thousands of independent small businesses across the country. The legislation I am introducing is a modest tax proposal designed to aid the Nation's 2,801 Oldsmobile franchised automobile dealers who are currently in the process of ending that relationship with General Motors, GM, due to GM's decision to eliminate the Oldsmobile product line. This legislation is similar to legislation that has been introduced in the House with bipartisan majority of the House Ways and Means Committee.

As many of my colleagues know, GM notified their 2,801 Oldsmobile dealers in the United States on December 12, 2000 that they were phasing out the 100 year-old Oldsmobile brand and its complete line-up of vehicles. The announcement came with little warning to Oldsmobile dealers. In fact, many of the dealers had recently signed a new agreement with GM on November 1, 2000, with most dealers receiving a five-year term.

As a consequence of its actions, GM is in the process of compensating Oldsmobile dealers to assist in the phase-out of their Oldsmobile dealerships. These dealers will be required, out of financial necessity, to reinvest the payment from GM into other dealership opportunities. In many cases, these dealers may face a significant financial burden in connection with their efforts to continue in the automobile retail business.

The legislation I am introducing today seeks to lessen that burden by

treating GM's financial assistance payments, made in connection with GM's unilateral decision to phase-out the Oldsmobile product line, as an involuntary conversion under an existing section of the Internal Revenue Code. Thus, the effect of the legislation is to allow the Oldsmobile dealer to defer tax consequences on GM's payments, provided that the proceeds are reinvested in other dealership properties in the time period specified in the Code.

Small and family-owned businesses, such as automobile dealerships, form the economic backbone of local communities across our country, particularly in rural states like my home state of New Mexico. Allowing Oldsmobile dealers to reinvest the entire payment received from GM into replacement dealership property gives these dealers an opportunity to continue family-owned businesses and greatly benefits local economies throughout New Mexico and the Nation. I look forward to working with my colleagues on advancing this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2726

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MOTOR VEHICLE DEALER TRANSITIONAL ASSISTANCE TREATED AS AN INVOLUNTARY CONVERSION.

(a) IN GENERAL.—For purposes of subtitle A of the Internal Revenue Code of 1986, in the case of a taxpayer who was a party to a motor vehicle sales and service agreement with a motor vehicle manufacturer who announced in December 2000 that it would phase-out the motor vehicle brand to which such agreement relates—

(1) amounts received by such taxpayer from such manufacturer on account of the termination of such agreement shall be treated as received in an involuntary conversion to which section 1033 of such Code applies, and

(2) the period described in section 1033(a)(2)(B) of such Code shall begin on December 12, 2000.

(b) CHARACTER OF CONVERTED PROPERTY.—In applying section 1033 of such Code for purposes of this section, the property involuntarily converted shall be treated as being property used in the trade or business of a motor vehicle retail sales and service dealership.

(c) EFFECTIVE DATE.—This section shall apply to amounts received after December 12, 2000, in taxable years ending after such date.

By Mr. AKAKA:

S. 2727. A bill to provide for the protection of paleontological resources on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. AKAKA. Mr. President, I rise today to introduce the Paleontological Resources Preservation Act to protect

and preserve the Nation's important fossil record for the benefit of our citizens. Vertebrate fossils are rare and valuable natural resources that are threatened by a growing commercial market which is being supplied, in part, by the illegal collection of fossil specimens. This Act establishes a comprehensive national policy for preserving and managing paleontological resources found on Federal lands. It provides uniformity to the patchwork of statutes and regulations that currently exist, and it ensures that the public will have educational and scientific access to this part of their geological and biological past.

I would like to emphasize that this bill in no way affects archaeological or cultural resources under the Archaeological Resources Protection Act of 1979 or the Native American Graves Protection and Rehabilitation Act. They are exempted. This bill covers paleontological remains, fossils on Federal lands only.

Fossils are the remains, imprints and traces of once-living organisms preserved in the earth's crust. Fossils of vertebrates are the remains of animals with a backbone or spinal column, such as dinosaur bones, sabertooth tiger teeth, or imprints of bear paws and mammoth tusks. The fossil record is our only evidence that life existed on earth 3.5 billion years ago. Fossils show us that dinosaurs evolved about 220 million years ago, and that four-legged creatures first walked on land about 350 million years ago. Fossils tell us how the physical earth has changed over time, how the climate has warmed and cooled, and how the mountains have been lifted up from the ocean depths. Fossils can also explain how living things have responded to changing conditions, such as why mass extinctions of species have occurred at certain times in our planet's history.

In 1999, Congress requested that the Secretary of the Interior review and report on the Federal policy concerning paleontological resources on Federal lands. In its request, Congress noted that no unified Federal policy exists regarding the treatment of fossils by Federal land management agencies, and our concern was that the lack of appropriate standards would lead to the deterioration or loss of fossils, which are valuable scientific resources.

In response, seven Federal agencies and the Smithsonian Institution released a report in May 2000 entitled, "Assessment of Fossil Management on Federal and Indian Lands." The report presented seven governing principles for the management of fossils on Federal lands. These principles are that fossils on Federal lands are rare and a part of America's heritage; that effective stewardship requires accurate information and inventories; that penalties for fossil theft should be strengthened; and that Federal fossil

collections should be preserved and available for research and public education.

The Paleontological Resources Preservation Act embodies these principles, and provides the paleontological equivalent of protections found in the Archeological Resources Preservation Act. The bill finds that fossil resources on Federal lands are an irreplaceable part of the heritage of the United States. It affirms that reasonable access to fossil resources should be provided for scientific, educational, and recreational purposes. The bill acknowledges the value of amateur collecting, but protects vertebrate fossils under a system of permits.

You might wonder why such a bill is needed. Who would want to take these fossils, and what would a person do with them? Let me give you an example. On September 24, 2000, four individuals at Badlands National Park in South Dakota collected 1,700 fossil specimens that represented a variety of different types of animals. This area was scheduled for a scientific survey in July 2002, but because these four individuals removed the fossils from their context, scientists could no longer ascertain the position of the fossils in the layers of rock, and the scientific and educational value of the fossils was destroyed. So what happened to these individuals? To be honest, not much. Each one of the four was fined between \$250 and \$1,000 for the theft of 1,700 pieces of our paleontological history.

You might think the fines were a lot of money until you realize how much fossils are worth. Trade in fossils is big business. With the popularity of paleontology programs on the Discovery Channel and movies like Jurassic Park, people are starting their own collections at home, and corporations are buying fossils as investments, similar to the purchase of works of art. For example, the complete skeleton of a T-Rex was recently sold for \$8.6 million at auction to the Field Museum of Chicago.

Paleontological resources can be sold on the market for a hefty price, and they are being stolen from public lands without regard to science and education. Even worse is the fact that the people who steal fossils aren't being held responsible for their actions and there is no incentive to stop the theft in the future. Less than one percent of organisms become fossils, and they are the key to understanding evolutionary patterns and processes. We need to protect these resources before it's too late.

The protections I offer in this Act are not new. Federal land management agencies have individual regulations prohibiting theft of government property. However, the reality is that U.S. Attorneys are reluctant to prosecute cases involving fossil theft because they are difficult. We in Congress have not provided a clear statute stating the

value of paleontological resources to our nation, as we did for archeological resources. Fossils are too valuable to be left within the general theft provisions that are impossible to defend in court, and they are too valuable to the education of our children to not ensure public access. We need to work together to make sure that we in Congress fulfill our responsibility as stewards of public lands, and as protectors of our nation's natural resources.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2727

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Paleontological Resources Preservation Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Paleontological resources are non-renewable. Such resources on Federal lands are an accessible and irreplaceable part of the heritage of the United States and offer significant educational opportunities to all citizens.

(2) Existing Federal laws, statutes, and other provisions that manage paleontological resources are not articulated in a unified national policy for Federal land management agencies and the public. Such a policy is needed to improve scientific understanding, to promote responsible stewardship, and to facilitate the enhancement of responsible paleontological collecting activities on Federal lands.

(3) Consistent with the statutory provisions applicable to each Federal land management system, reasonable access to paleontological resources on Federal lands should be provided for scientific, educational, and recreational purposes.

SEC. 3. PURPOSE.

The purpose of this Act is to establish a comprehensive national policy for preserving and managing paleontological resources on Federal lands.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) CASUAL COLLECTING.—The term "casual collecting" means the collecting of a reasonable amount of paleontological resources for noncommercial use with the use of non-powered hand tools resulting in negligible disturbance to the Earth's surface.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior with respect to lands administered by the Secretary of the Interior or the Secretary of Agriculture with respect to National Forest System Lands administered by the Secretary of Agriculture.

(3) FEDERAL LANDS.—The term "Federal lands" means lands administered by the Secretary of the Interior or National Forest System Lands administered by the Secretary of Agriculture.

(4) PERSON.—The term "person" includes an individual, corporation, partnership, trust, institution, association, any other private entity, an officer, employee, agent, department, or instrumentality of the United States, an Indian tribe, and a State or political subdivision of a State.

(5) STATE.—The term "State" means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(6) PALEONTOLOGICAL RESOURCE.—The term "paleontological resource" means any fossilized remains, traces, or imprints of organisms, preserved in or on the Earth's crust, except that the term does not include—

(A) any materials associated with an archaeological resource (as defined in section 3(1) of the Archeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1));

(B) any cultural item (as defined in section 2 of the Native American Graves Protection and Rehabilitation Act (25 U.S.C. 3001)); or

(C) energy minerals such as coal, oil and gas, oil shale, bitumen, lignite, asphaltum, and tar sands.

SEC. 5. MANAGEMENT.

(a) IN GENERAL.—The Secretary shall manage and protect paleontological resources on Federal lands using scientific principles and expertise. The Secretary shall develop appropriate plans for inventory, monitoring, and the scientific and educational use of paleontological resources, in accordance with applicable agency laws, regulations, and policies. These plans shall emphasize inter-agency coordination and collaborative efforts where possible with non-Federal partners, the scientific community, and the general public.

(b) COORDINATION OF IMPLEMENTATION.—To the extent possible, the Secretary of the Interior and the Secretary of Agriculture shall coordinate in the implementation of this Act.

SEC. 6. PUBLIC AWARENESS AND EDUCATION PROGRAM.

The Secretary shall establish a program to increase public awareness about the significance of paleontological resources.

SEC. 7. COLLECTION OF PALEONTOLOGICAL RESOURCES.

(a) PERMIT REQUIREMENT.—

(1) IN GENERAL.—Except as provided in this subsection, a paleontological resource may not be collected from Federal lands without a permit issued under this Act by the Secretary.

(2) CASUAL COLLECTING EXCEPTION.—The Secretary may allow casual collecting of abundant invertebrate and plant paleontological resources, for scientific, educational, and recreational uses, without a permit, where such collection is consistent with the laws governing the management of those Federal lands and this Act.

(3) PREVIOUS PERMIT EXCEPTION.—Nothing in this section shall affect a valid permit issued prior to the date of enactment of this Act.

(b) CRITERIA FOR ISSUANCE OF A PERMIT.—The Secretary may issue a permit for the collection of a paleontological resource pursuant to an application if the Secretary determines that—

(1) the applicant is qualified to carry out the permitted activity;

(2) the permitted activity is undertaken for the purpose of furthering paleontological knowledge or for public education;

(3) the permitted activity is consistent with any management plan applicable to the Federal lands concerned; and

(4) the proposed methods of collecting will not threaten significant natural or cultural resources.

(c) PERMIT SPECIFICATIONS.—A permit for the collection of a paleontological resource issued under this section shall contain such terms and conditions as the Secretary deems

necessary to carry out the purposes of this Act. Every permit shall include requirements that—

(1) the paleontological resource that is collected from Federal lands under the permit will remain the property of the United States;

(2) the paleontological resource and copies of associated records will be preserved for the public in an approved repository, to be made available for scientific research and public education; and

(3) specific locality data will not be released by the permittee or repository without the written permission of the Secretary.

(d) MODIFICATION, SUSPENSION, AND REVOCATION OF PERMITS.—

(1) The Secretary shall modify, suspend, or revoke a permit—

(A) for resource, safety, or other management considerations; or

(B) when there is a violation of term or condition of a permit issued pursuant to this section.

(2) The permit shall be revoked if any person working under the authority of the permit is convicted under section 9 or is assessed a civil penalty under section 10.

(e) AREA CLOSURES.—In order to protect paleontological resource or other resources and to provide for public safety, the Secretary may restrict access to or close areas under the Secretary's jurisdiction to the collection of paleontological resources.

SEC. 8. CURATION OF RESOURCES.

Any paleontological resource, and any data and records associated with the resource, collected under a permit, shall be deposited in an approved repository. The Secretary may enter into agreements with non-Federal repositories regarding the curation of these resources, data, and records.

SEC. 9. PROHIBITED ACTS; PENALTIES.

(a) IN GENERAL.—A person may not—

(1) excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any paleontological resources located on Federal lands unless such activity is conducted in accordance with this Act;

(2) exchange, transport, export, receive, or offer to exchange, transport, export, or receive any paleontological resource if such resource was excavated, removed, exchanged, transported, or received from Federal lands in violation of any provisions, rule, regulation, law, ordinance, or permit in effect under Federal law, including this Act; or

(3) sell or purchase or offer to sell or purchase any paleontological resource if such resource was excavated, removed, sold, purchased, exchanged, transported, or received from Federal lands.

(b) FALSE LABELING OFFENSES.—A person may not make or submit any false record, account, or label for, or any false identification of, any paleontological resource excavated or removed from Federal lands.

(c) PENALTIES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a person who knowingly or willingly violates or counsels, procures, solicits, or employs another person to violate subsection (a) or (b) shall, upon conviction, be guilty of a class A misdemeanor.

(2) DAMAGE OVER \$1,000.—If the sum of the scientific or fair market value of the paleontological resources involved and the cost of restoration and repair of such resources exceeds the sum of \$1,000, such person shall, upon conviction, be guilty of a class E felony.

(3) MULTIPLE OFFENSES.—In the case of a second or subsequent such violation, such

person shall, upon conviction, be guilty of a class D felony.

(d) GENERAL EXCEPTION.—Nothing in subsection (a) shall apply to any person with respect to any paleontological resource which was in the lawful possession of such person prior to the date of the enactment of this Act.

SEC. 10. CIVIL PENALTIES FOR VIOLATIONS OF REGULATIONS OR PERMIT CONDITIONS.

(a) IN GENERAL.—

(1) HEARING.—A person who violates any prohibition contained in an applicable regulation or permit issued under this Act may be assessed a penalty by the Secretary after the person is given notice and opportunity for a hearing with respect to the violation. Each violation shall be considered a separate offense for purposes of this section.

(2) AMOUNT OF PENALTY.—The amount of such penalty assessed under paragraph (1) shall be determined under regulations promulgated pursuant to this Act, taking into account the following factors:

(A) The scientific or fair market value, whichever is greater, of the paleontological resource involved.

(B) The cost of response, restoration, and repair of the resource and the paleontological site involved.

(C) Any other factors considered relevant by the Secretary assessing the penalty.

(3) MULTIPLE OFFENSES.—In the case of a second or subsequent violation by the same person, the amount of a penalty assessed under paragraph (2) may be doubled.

(4) LIMITATION.—The amount of any penalty assessed under this subsection for any one violation shall not exceed an amount equal to double the cost of response, restoration, and repair of resources and paleontological site damage plus double the scientific or fair market value of resources destroyed or not recovered.

(b) PETITION FOR JUDICIAL REVIEW; COLLECTION OF UNPAID ASSESSMENTS.—Any person against whom an order is issued assessing a penalty under subsection (a) may file a petition for judicial review of the order with an appropriate Federal district court within the 30-day period beginning on the date the order making the assessment was issued. The court shall hear the action on the record made before the Secretary and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

(b) HEARINGS.—Hearings held during proceedings instituted under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code.

(c) USE OF RECOVERED AMOUNTS.—No penalties collected under this section shall be available to the Secretary and without further appropriation may be used only as follows:

(1) To protect, restore, or repair the paleontological resources and sites which were the subject of the action, or to acquire sites with equivalent resources, and to protect, monitor, and study the resources and sites. Any acquisition shall be subject to any limitations contained in the organic legislation for such Federal lands.

(2) To provide educational materials to the public about paleontological resources and sites.

(3) To provide for the payment of Rewards as provided in section 11.

SEC. 11. REWARDS FORFEITURE.

(a) REWARDS.—The Secretary may pay from penalties collected under section 9 or 10 of this Act an amount equal to the lesser of one-half of the penalty or \$500, to any person

who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which the penalty was paid. If several persons provided the information, the amount shall be divided among the persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

(b) FORFEITURE.—All paleontological resources with respect to which a violation under section 9 or 10 occurred and which are in the possession of any person, and all vehicles and equipment of any person that were used in connection with the violation, may be subject to forfeiture to the United States upon—

(1) the person's conviction of the violation under section 9;

(2) assessment of a civil penalty against any person under section 10 with respect to the violation; or

(3) a determination by any court that the paleontological resources, vehicles, or equipment were involved in the violation.

SEC. 12. CONFIDENTIALITY.

Information concerning the nature and specific location of a paleontological resource the collection of which requires a permit under this Act or under any other provision of Federal law shall be withheld from the public under subchapter II of chapter 5 of title 5, United States Code, or under any other provision of law unless the responsible Secretary determines that disclosure would—

(1) further the purposes of this Act;

(2) not create risk of harm to or theft or destruction of the resource or the site containing the resource; and

(3) be in accordance with other applicable laws.

SEC. 13. REGULATIONS.

As soon as practical after the date of the enactment of this Act, the Secretary shall issue such regulations as are appropriate to carry out this Act, providing opportunities for public notice and comment.

SEC. 14. SAVINGS PROVISIONS.

Nothing in this Act shall be construed to—

(1) invalidate, modify, or impose additional restrictions on any activities permitted under the general mining laws, or the mineral leasing, geothermal leasing, and mineral materials disposal laws;

(2) apply to, or require a permit for, amateur collecting of a rock, mineral, or invertebrate or plant fossil that is not protected under this Act;

(3) affect any lands other than Federal lands or affect the lawful recovery, collection, or sale of paleontological resources from lands other than Federal lands; or

(4) alter or diminish the authority of a Federal agency under any other law to provide protection for paleontological resources on Federal lands in addition to the protection provided under this Act.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 303—EX-PRESSING THE SENSE OF THE SENATE THAT A COMMEMORATIVE POSTAGE STAMP SHOULD BE ISSUED TO CELEBRATE THE 250TH ANNIVERSARY OF THE ARRIVAL OF THE FIRST ACADIANS IN THE AMERICAN COLONIES

Ms. LANDRIEU (for herself and Mr. BREAUX) submitted the following resolution; which was referred to the Committee on Governmental Affairs:

S. RES. 303

Whereas, in 1755, British troops expelled 6,000 Acadians from their home in Acadie, an area that is part of modern-day Nova Scotia, Canada, and many of these Acadians relocated to the American colonies;

Whereas this expulsion, known as the Grand Derangement, resulted in the dispersal of the Acadians and the spread of their French-Canadian culture throughout the American colonies;

Whereas, as a result of the Treaty of Paris in 1763, many Acadians migrated to Louisiana;

Whereas the unique Acadian culture had a strong influence on life in the American colonies;

Whereas, the 1990 census found that there were just under 700,000 people of Acadian ancestry in the United States, and the uniquely Acadian culture and traditions of this group continue to influence culture in the United States;

Whereas the 250th anniversary of the arrival of the first Acadians in the United States occurs in 2005; and

Whereas a postage stamp would be an appropriate commemoration of this anniversary, would increase public awareness of the history of American prerevolutionary immigration, and would benefit the American public by giving recognition to a distinct and truly American subculture: Now, therefore, be it

Resolved,

SECTION 1. SENSE OF THE SENATE.

It is the sense of the Senate that the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that a commemorative postage stamp be issued in 2005 to celebrate the 250th anniversary of the arrival of the first Acadians in the American colonies in 1755.

SEC. 2. TRANSMITTAL TO CITIZENS' STAMP ADVISORY COMMITTEE.

The Secretary of the Senate shall transmit a copy of this resolution to the chairperson of the Citizens' Stamp Advisory Committee.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4273. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve

Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table.

SA 4274. Mr. LIEBERMAN (for himself, Mr. ENZI, Mrs. BOXER, Mr. ALLEN, Ms. CANTWELL, Mr. LOTT, Mr. BENNETT, Mr. WYDEN, Mrs. MURRAY, and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4275. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4276. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4277. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4278. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4279. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4280. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4281. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4282. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4283. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) supra; which was ordered to lie on the table.

SA 4284. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) supra; which was ordered to lie on the table.

SA 4285. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4286. Mr. REID (for Mrs. CARNAHAN) proposed an amendment to the bill S. 2673, supra.

SA 4287. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4288. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 4267 submitted by Mr. DORGAN and intended to be proposed to the bill (S. 2673) supra; which was ordered to lie on the table.

SA 4289. Mr. DORGAN (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) supra; which was ordered to lie on the table.

SA 4290. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) supra; which was ordered to lie on the table.

SA 4291. Mr. DORGAN submitted an amendment intended to be proposed to

amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) supra; which was ordered to lie on the table.

SA 4292. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) supra; which was ordered to lie on the table.

SA 4293. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 2673, supra; which was ordered to lie on the table.

SA 4294. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 4293 submitted by Mr. GRAHAM and intended to be proposed to the bill (S. 2673) supra; which was ordered to lie on the table.

SA 4295. Mr. SCHUMER (for himself and Mrs. FEINSTEIN) proposed an amendment to the bill S. 2673, supra.

SA 4296. Mr. SCHUMER (for himself and Mr. SHELBY) proposed an amendment to the bill S. 2673, supra.

SA 4297. Mr. REID (for Mr. KERRY (for himself, Mr. FRIST, Mr. KENNEDY, Mr. BIDEN, and Mr. HELMS)) proposed an amendment to the bill H.R. 2069, To amend the Foreign Assistance Act of 1961 and the Global AIDS and Tuberculosis Relief Act of 2000 to authorize assistance to prevent, treat, and monitor HIV/AIDS in sub-Saharan Africa and other developing countries.

SA 4298. Mr. REID (for Mr. KERRY (for himself, Mr. FRIST, Mr. KENNEDY, Mr. BIDEN, and Mr. HELMS)) proposed an amendment to the bill H.R. 2069, supra.

TEXT OF AMENDMENTS

SA 4273. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

On page 82, line 24, insert before the period the following: “, and shall include a brief narrative of the basis for the decision to so certify, including a discussion of any questionable accounting treatment.”.

SA 4274. Mr. LIEBERMAN (for himself, Mr. ENZI, Mrs. BOXER, Mr. ALLEN, Ms. CANTWELL, Mr. LOTT, Mr. BENNETT, Mr. WYDEN, Mrs. MURRAY, and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create

a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ____ . RECOMMENDATIONS ON THE TREATMENT OF STOCK OPTIONS.

(a) ANALYSIS.—The Commission shall conduct an analysis and make regulatory and legislative recommendations on the treatment of stock options in which the Commission shall analyze—

(1) the accounting treatment for employee stock options, including the accuracy of available stock option pricing models;

(2) the adequacy of current disclosure requirements to investors and shareholders on stock options;

(3) the adequacy of corporate governance requirements, including shareholder approval of stock option plans;

(4) any need for new stock holding period requirements for senior executives; and

(5) the benefit and detriment of any new options expensing rules on—

(A) the productivity and performance of large, medium, and small companies, and start-up enterprises;

(B) the recruitment and retention of skilled workers; and

(C) employees at various income levels, with a particular focus on the effect on rank-and-file employees and the income of women.

(b) RECOMMENDATIONS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commission shall submit regulatory and legislative recommendations and supporting analysis to—

(A) the standard setting body designated pursuant to section 19(b) of the Securities Act of 1933, as amended by section 106 of this Act;

(B) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(C) the Committee on Financial Services of the House of Representatives.

(2) CONTENTS.—The analysis, and regulatory and legislative recommendations submitted under paragraph (1) shall include—

(A) the results of the analysis conducted under subsection (a); and

(B) regulatory and legislative recommendations, if any, for changes in the treatment of stock options.

SA 4275. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect

the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On line 8 of the Levin amendment after “options” insert the following: “and the standard setting body mentioned in Sections 3, 107, 108, 208, 301, 501, and 601, and the body directed to conduct studies and reports in Section 702 shall, within six months of the date of enactment of this Act, conduct an analysis and make recommendations regarding an appropriate generally accepted accounting principle for the treatment of employee stock options and transmit it to the standard setting body funded pursuant to Section 109.”.

SA 4276. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On line 8 of the Levin amendment after “options” insert the following: “and the standard setting body mentioned in Sections 3, 107, 108, 208, 301, 501, and 601, and the body directed to conduct studies and reports in Section 702 shall, within six months of the date of enactment of this Act, conduct an analysis and make recommendations to the standard setting body funded pursuant to Section 109 regarding an appropriate generally accepted accounting principle for the treatment of employee stock options and conduct an analysis and make recommendations to the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Financial Services of the House regarding the adequacy of disclosure requirement to investors and shareholders on stock options, corporate governance requirements, including shareholder approval of stock option plans, and the need for new stock option holding period requirements for senior executives.”.

SA 4277. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of se-

curities analysts, improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On line 8 of the Levin amendment after “options” insert the following: “provided that this standard setting body shall not take action to adopt such standard until the standard setting body mentioned in Sections 3, 107, 108, 208, 301, 501 and 601 has conducted an analysis and made regulatory and legislative recommendations regarding the adequacy of disclosure requirements to investors and shareholders on stock options, corporate governance requirements, including shareholder approval of stock option plans, and the need for new stock option holding period requirements for senior executives”.

SA 4278. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On line 8 of the Levin amendment after “options” insert the following: “provided that this standard setting body shall not take action to adopt such standard until the standard setting body mentioned in Sections 3, 107, 108, 208, 301, 501 and 601 has conducted an analysis and made regulatory and legislative recommendations regarding the adequacy of disclosure requirements to investors and shareholders on stock options, corporate governance requirements, including shareholder approval of stock option plans, and the need for new stock option holding period requirements for senior executives, which shall be completed within nine months.”.

SA 4279. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On line 8 of the Levin amendment after “options” insert the following: “and the

standard setting body mentioned in Section 3, shall, within six months of the date of enactment of this Act, conduct an analysis and make recommendations regarding an appropriate generally accepted accounting principle for the treatment of employee stock options and transmit it to the standard setting body funded pursuant to Section 109."

SA 4280. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On line 8 of the Levin amendment after "options" insert the following: "and the standard setting body mentioned in Section 3, shall, within six months of the date of enactment of this Act, conduct an analysis and make recommendations to the standard setting body funded pursuant to Section 109 regarding an appropriate generally accepted accounting principle for the treatment of employee stock options and conduct an analysis and make recommendations to the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Financial Services of the House regarding the adequacy of disclosure requirements to investors and shareholders on stock options, corporate governance requirements, including shareholder approval of stock option plans, and the need for new stock option holding period requirements for senior executives."

SA 4281. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On line 8 of the Levin amendment after "options" insert the following: "provided that this standard setting body shall not take action to adopt such standard until the standard setting body mentioned in Section 3, has conducted an analysis and made regulatory and legislative recommendations regarding the adequacy of disclosure require-

ments to investors and shareholders on stock options, corporate governance requirements, including shareholder approval of stock option plans, and the need for new stock option holding period requirements for senior executives."

SA 4282. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On line 8 of the Levin amendment after "options" insert the following: "provided that this standard setting body shall not take action to adopt such standard until the standard setting body mentioned in Section 3, has conducted an analysis and made regulatory and legislative recommendations regarding the adequacy of disclosure requirements to investors and shareholders on stock options, corporate governance requirements, including shareholder approval of stock option plans, and the need for new stock option holding period requirements for senior executives, which shall be completed within nine months."

SA 4283. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, line 17 strike "directors." and insert the following: "directors."

"SEC. . REVIEW OF STOCK OPTION ACCOUNTING TREATMENT."

"A standard setting body described in Section 108 paragraph (1) of this Act and funded pursuant to Section 109 of this Act shall review the accounting treatment of employee stock options and shall, within one year of the date of enactment of this Act, adopt an appropriate generally accepted accounting principle for the treatment of employee stock options."

SA 4284. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, line 17 strike "directors." and insert the following: "directors."

SEC. . INCREASED MAXIMUM CIVIL MONEY PENALTIES.

(a) SECURITIES ACT OF 1933.—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is amended—

(1) in subparagraph (A)(i), by—

(A) striking "\$5,000" and inserting "\$100,000"; and

(B) striking "\$50,000" and inserting "\$250,000";

(2) in subparagraph (B)(i), by—

(A) striking "\$50,000" and inserting "\$500,000"; and

(B) striking "\$250,000" and inserting "\$1,000,000"; and

(3) in subparagraph (C)(i), by—

(A) striking "\$100,000" and inserting "\$1,000,000"; and

(B) striking "\$500,000" and inserting "\$2,000,000".

(b) SECURITIES EXCHANGE ACT OF 1934.—

(1) PENALTIES.—Section 32 of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended—

(A) in subsection (b), by striking "\$100" and inserting "\$10,000"; and

(B) in subsection (c)—

(i) in paragraph (1)(B), by striking "\$10,000" and inserting "\$500,000"; and

(ii) in paragraph (2)(B), by striking "\$10,000" and inserting "\$500,000".

(2) INSIDER TRADING.—Section 21A(a)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-1(a)(3)) is amended by striking "\$1,000,000" and inserting "\$2,000,000".

(3) ADMINISTRATIVE PROCEEDINGS.—Section 21B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-2(b)) is amended—

(A) in paragraph (1), by—

(i) striking "\$5,000" and inserting "\$100,000"; and

(ii) striking "\$50,000" and inserting "\$250,000";

(B) in paragraph (2), by—

(i) striking "\$50,000" and inserting "\$500,000"; and

(ii) striking "\$250,000" and inserting "\$1,000,000"; and

(C) in paragraph (3), by—

(i) striking "\$100,000" and inserting "\$1,000,000"; and

(ii) striking "\$500,000" and inserting "\$2,000,000".

(4) CIVIL ACTIONS.—Section 21(d)(3)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(B)) is amended—

(A) in clause (i), by—

(i) striking “\$5,000” and inserting “\$100,000”; and
 (ii) striking “\$50,000” and inserting “\$250,000”;

(B) in clause (ii), by—
 (i) striking “\$50,000” and inserting “\$500,000”; and

(ii) striking “\$250,000” and inserting “\$1,000,000”; and

(C) in clause (iii), by—
 (i) striking “\$100,000” and inserting “\$1,000,000”; and

(ii) striking “\$500,000” and inserting “\$2,000,000”.

(c) INVESTMENT COMPANY ACT OF 1940.—

(1) INELIGIBILITY.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(d)(2)) is amended—

(A) in subparagraph (A), by—
 (i) striking “\$5,000” and inserting “\$100,000”; and

(ii) striking “\$50,000” and inserting “\$250,000”;

(B) in subparagraph (B), by—
 (i) striking “\$50,000” and inserting “\$500,000”; and

(ii) striking “\$250,000” and inserting “\$1,000,000”; and

(C) in subparagraph (C), by—
 (i) striking “\$100,000” and inserting “\$1,000,000”; and

(ii) striking “\$500,000” and inserting “\$2,000,000”.

(2) ENFORCEMENT INVESTMENT COMPANY ACT.—Section 42(e)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(e)(2)) is amended—

(A) in subparagraph (A), by—
 (i) striking “\$5,000” and inserting “\$100,000”; and

(ii) striking “\$50,000” and inserting “\$250,000”;

(B) in subparagraph (B), by—
 (i) striking “\$50,000” and inserting “\$500,000”; and

(ii) striking “\$250,000” and inserting “\$1,000,000”; and

(C) in subparagraph (C), by—
 (i) striking “\$100,000” and inserting “\$1,000,000”; and

(ii) striking “\$500,000” and inserting “\$2,000,000”.

(d) INVESTMENT ADVISORS ACT OF 1940.—

(1) REGISTRATION.—Section 203(i)(2) of the Investment Advisors Act of 1940 (15 U.S.C. 80b-3(i)(2)) is amended—

(A) in subparagraph (A), by—
 (i) striking “\$5,000” and inserting “\$100,000”; and

(ii) striking “\$50,000” and inserting “\$250,000”;

(B) in subparagraph (B), by—
 (i) striking “\$50,000” and inserting “\$500,000”; and

(ii) striking “\$250,000” and inserting “\$1,000,000”; and

(C) in subparagraph (C), by—
 (i) striking “\$100,000” and inserting “\$1,000,000”; and

(ii) striking “\$500,000” and inserting “\$2,000,000”.

(2) ENFORCEMENT OF INVESTMENT ADVISORS ACT.—Section 209(e)(2) of the Investment Advisors Act of 1940 (15 U.S.C. 80b-9(e)(2)) is amended—

(A) in subparagraph (A), by—
 (i) striking “\$5,000” and inserting “\$100,000”; and

(ii) striking “\$50,000” and inserting “\$250,000”;

(B) in subparagraph (B), by—
 (i) striking “\$50,000” and inserting “\$500,000”; and

(ii) striking “\$250,000” and inserting “\$1,000,000”; and

(C) in subparagraph (C), by—

(i) striking “\$100,000” and inserting “\$1,000,000”; and

(ii) striking “\$500,000” and inserting “\$2,000,000”.

SA 4285. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment insert the following new section

SEC. .—(a) RULES REQUIRED.—Notwithstanding section 404 of the Act, the Commission shall prescribe rules requiring each annual report required by section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) to contain an internal control report, which shall—

(1) state the responsibility of management for establishing and maintaining an adequate internal control structure and procedures for financial reporting; and

(2) contain an assessment, as of the end of the most recent fiscal year of the issuer, of the effectiveness of the internal control structure and procedures of the issuer of financial reporting.

(b) **INTERNAL CONTROL EVALUATION AND REPORTING.**—With respect to the internal control assessment required by subsection (a), each registered public accounting firm that prepares or issues the audit report for the issuer shall attest to, and report on, the assessment made by the management of the issuer. An attestation made under this subsection shall be made in accordance with standards for attestation engagements issues or adopted by the Board.

SA 4286. Mr. REID (for Mrs. CARNAHAN) proposed an amendment to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

At the end of the amendment, insert the following:

(b) **ELECTRONIC FILING.**—Notwithstanding the provisions of section 403 of this Act, section 16(a)(2) of the Securities and Exchange

Act of 1934, as added by section 403, is amended to read as follows:

“(2) if there has been a change in such ownership, or if such person shall have purchased or sold a security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) involving such equity security, shall file electronically with the Commission (and if such security is registered on a national securities exchange, shall also file with the exchange), a statement before the end of the second business day following the day on which the subject transaction has been executed, or at such other times as the Commission shall establish, by rule, in any case in which the Commission determines that such 2 day period is not feasible, and the Commission shall provide that statement on a publicly accessible Internet site not later than the end of the business day following that filing, and the issuer (if the issuer maintains a corporate website) shall provide that statement on that corporate website not later than the end of the business day following that filing (the requirements of this paragraph with respect to electronic filing and providing the statement on a corporate website shall take effect 1 year after the date of enactment of this paragraph), indicating ownership by that person at the date of filing, any such changes in such ownership, and such purchases and sales of the security-based swap agreements as have occurred since the most recent such filing under this paragraph.”.

SA 4287. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after “SEC.” and insert: “**PROVISION OF BOOK AND TAX DIFFERENCES TO COMMISSION.**

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

“(1) **SUBMISSION OF TAX FORMS AND SCHEDULES RELATING TO BOOK AND TAX DIFFERENCES.**—

“(1) **IN GENERAL.**—Each issuer shall provide to the Commission—

“(A) any schedule or form included with its return of income tax required to be filed under section 6012 of the Internal Revenue Code of 1986 which reconciles the differences between the treatment of an item for purposes of such return and the treatment of such item for purposes of audited financial statements required to be filed under this Act, and

“(B) any supporting documents filed with any such schedule or form.

“(2) **TIME AND MANNER.**—An issuer shall file information required to be submitted under paragraph (1) at such time, and in such form and manner, as the Commission determines

appropriate after consultation with the Secretary of the Treasury.

“(3) INFORMATION MADE AVAILABLE TO THE PUBLIC.—The Commission shall make information required to be submitted under paragraph (1) available to the public.”

SA 4288. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 4267 submitted by Mr. DORGAN and intended to be proposed to the bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

“REINCORPORATIONS HAVE NO EFFECT.—Nothing in section 302 shall be interpreted or applied in any way to allow any issuer to lessen the legal force of the statement required under section 302, by having reincorporated or having engaged in any other transaction that resulted in the transfer of the corporate domicile or offices of the issuer from inside the United States to outside of the United States.”.

SA 4289. Mr. DORGAN (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table, as follows:

At the end of the matter proposed to be inserted insert the following:

(2) PUBLIC HEARINGS.—Notwithstanding all hearings under that subsection (c) shall be public, unless otherwise ordered by the Board for good cause shown on its own motion or after considering the motion of a party to the hearing.

SA 4290. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and

Mr. CORZINE) to the bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

(C) FOREIGN REINCORPORATIONS HAVE NO EFFECT.—Nothing in section 302 shall be interpreted or applied in any way to allow any issuer to lessen the legal force of the statement required under section 302, by having reincorporated or having engaged in any other transaction that resulted in the transfer of the corporate domicile or offices of the issuer from inside the United States to outside the United States.

SA 4291. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

(b) PROCEEDS FROM THE SALE OF SECURITIES PRIOR TO BANKRUPTCY FILING.—If an issuer files for bankruptcy protection under title 11, United States Code, each director, chief executive officer, and chief financial officer of the issuer shall pay to the issuer all amounts described in paragraphs (1) and (2) of section 304(a) (to the extent that such amounts have not been reimbursed under that section 304(a)) realized by such director or officer from the sale of the securities of the issuer during the 12-month period preceding the date of the bankruptcy filing.

SA 4292. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 4187 submitted by Mr. EDWARDS (for himself, Mr. ENZI, and Mr. CORZINE) to the bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company

Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

Section 302 shall apply whether the issuer is domiciled, incorporated, or reincorporated under the laws of the United States or any individual State, or under the laws of a foreign country or political subdivision thereof.

SA 4293. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On page 82, line 18, strike the period and all that follows through “certify” on line 20 and insert the following: “, regardless of whether such issuer is located in or organized under the laws of the United States or any State, or any foreign country.”

SA 4294. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 4293 submitted by the Mr. GRAHAM and intended to be proposed to the bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; which was ordered to lie on the table; as follows:

On line 1 of this amendment, strike after “on page 82,” and insert:

(C) FOREIGN REINCORPORATIONS.—This subsection shall not be interpreted or applied in any way to lessen the legal force of the statement required under this subsection by an issuer having reincorporated or having

engaged in any other action that results in the transfer of corporate domicile or offices from inside to outside the United States.

SA 4295. Mr. SCHUMER (for himself and Mrs. FEINSTEIN) proposed an amendment to the bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

On page 91, strike line 19 and all that follows through page 93, line 22 and insert the following:

SEC. 402. ENHANCED CONFLICT OF INTEREST PROVISIONS.

(a) **PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.**—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by this Act is amended by adding at the end the following:

“(k) **PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.**—

“(1) **IN GENERAL.**—It shall be unlawful for any issuer, directly or indirectly, to extend or maintain credit or arrange for the extension of credit in the form of a personal loan to or for any director or executive officer (or equivalent thereof) of that issuer.

“(2) **LIMITATION.**—Paragraph (1) does not preclude any home improvement and manufactured home loan (as that term is defined in section 5 of the Home Owners Loan Act), consumer credit (as defined in section 103 of the Truth in Lending Act), or any extension of credit under an open end credit plan (as defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)), that is—

“(A) made in the ordinary course of the consumer credit business of such issuer;

“(B) of a type that is generally made available by such issuer to the public; and

“(C) made by such issuer on market terms, or terms that are no more favorable than those offered by the issuer to the general public for such loans.”.

SA 4296. Mr. SCHUMER (for himself and Mr. SHELBY) proposed an amendment to bill S. 2673, to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes; as follows:

On page 91, between lines 18 and 19, insert the following:

(c) **STUDY AND REPORT ON SPECIAL PURPOSE ENTITIES.**—

(1) **STUDY REQUIRED.**—The Commission shall, not later than 1 year after the effective date of adoption of off-balance sheet disclosure rules required by section 13(j) of the Securities Exchange Act of 1934, as added by this section, complete a study of filings by issuers and their disclosures to determine—

(A) the extent of off-balance sheet transactions, including assets, liabilities, leases, losses, and the use of special purpose entities; and

(B) whether generally accepted accounting rules result in financial statements of issuers reflecting the economics of such off-balance sheet transactions to investors in a transparent fashion.

(2) **REPORT AND RECOMMENDATIONS.**—Not later than 6 months after the date of completion of the study required by paragraph (1), the Commission shall submit a report to the President, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, setting forth—

(A) the amount or an estimate of the amount of off-balance sheet transactions, including assets, liabilities, leases, and losses of, and the use of special purpose entities by, issuers filing periodic reports pursuant to section 13 or 15 of the Securities Exchange Act of 1934;

(B) the extent to which special purpose entities are used to facilitate off-balance sheet transactions;

(C) whether generally accepted accounting principles or the rules of the Commission result in financial statements of issuers reflecting the economics of such transactions to investors in a transparent fashion;

(D) whether generally accepted accounting principles specifically result in the consolidation of special purpose entities sponsored by an issuer in cases in which the issuer has the majority of the risks and rewards of the special purpose entity; and

(E) any recommendations of the Commission for improving the transparency and quality of reporting off-balance sheet transactions in the financial statements and disclosures required to be filed by an issuer with the Commission.

SA 4297. Mr. REID (for Mr. KERRY (for himself, Mr. FRIST, Mr. KENNEDY, Mr. BIDEN, and Mr. HELMS)) proposed an amendment to the bill H.R. 2069, To amend the Foreign Assistance Act of 1961 and the Global AIDS and Tuberculosis Relief Act of 2000 to authorize assistance to prevent, treat, and monitor HIV/AIDS in sub-Saharan African and other developing countries; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2002”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.
- Sec. 4. Purpose.

TITLE I—POLICY PLANNING AND COORDINATION

Sec. 101. Development of a comprehensive, five-year, global strategy.

Sec. 102. Comprehensive plan to empower women to prevent the spread of HIV/AIDS.

Sec. 103. HIV/AIDS Response Coordinator.

Sec. 104. Report on reversing the exodus of critical talent.

TITLE II—PUBLIC-PRIVATE PARTNERSHIPS

Sec. 201. Sense of Congress on public-private partnerships.

Sec. 202. Participation in the Global Fund to Fight AIDS, Tuberculosis, and Malaria.

Sec. 203. Voluntary contributions to international vaccine funds.

TITLE III—MULTILATERAL EFFORTS

Sec. 301. Improvement of the Enhanced HIPC Initiative.

Sec. 302. Reports on implementation of improvements to the Enhanced HIPC Initiative.

TITLE IV—BILATERAL EFFORTS

Subtitle A—General Assistance and Programs

Sec. 401. Assistance to combat HIV/AIDS.

Sec. 402. Assistance to combat tuberculosis.

Sec. 403. Assistance to combat malaria.

Sec. 404. Pilot program for the placement of health care professionals in overseas areas severely affected by HIV/AIDS, tuberculosis, and malaria.

Sec. 405. Department of Defense HIV/AIDS prevention assistance program.

Sec. 406. Report on treatment activities by relevant Executive branch agencies.

Subtitle B—Assistance for Children and Families

Sec. 411. Findings.

Sec. 412. Policy and requirements.

Sec. 413. Annual reports on prevention of mother-to-child transmission of the HIV infection.

Sec. 414. Pilot program of assistance for children and families affected by HIV/AIDS.

TITLE V—BUSINESS PRINCIPLES

Sec. 501. Principles for United States firms operating in countries affected by the HIV/AIDS pandemic.

TITLE VI—ADDITIONAL AUTHORITIES

Sec. 601. Authority of the Department of Health and Human Services.

Sec. 602. Microbicide research at the National Institutes of Health.

Sec. 603. Authority of the Department of Labor.

Sec. 604. Authority for international programs.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) During the last 20 years, HIV/AIDS has assumed pandemic proportions, spreading from the most severely affected region, sub-Saharan Africa, to all corners of the world, and leaving an unprecedented path of death and devastation.

(2) According to the Joint United Nations Programme on HIV/AIDS (UNAIDS), more than 60,000,000 people worldwide have been infected with HIV since the epidemic began; more than 22,000,000 of these have lost their lives to the disease; and more than 13,000,000 children have been orphaned by the disease. HIV/AIDS is the fourth-highest cause of death in the world.

(3) At the end of 2001, an estimated 40,000,000 people were infected with HIV or living with AIDS. Of these, more than 2,700,000 were children under the age of fifteen and more than 17,600,000 were women.

Women are four times more vulnerable to infection than are men and are becoming infected at increasingly high rates because in many societies women lack control over sexual encounters and cannot insist on the use of protective measures. Women and children who are refugees or are internally displaced persons are especially vulnerable to sexual violence, thereby increasing the possibility of HIV infection.

(4) As the leading cause of death in sub-Saharan Africa, AIDS has killed more than 17,000,000 people (more than 3 times the number of AIDS deaths in the rest of the world) and will claim the lives of one-quarter of the population, mostly adults, in the next decade.

(5) An estimated 1,800,000 people in Latin America and the Caribbean and another 7,100,000 people in Asia and the Pacific region are infected with HIV or living with AIDS. Infection rates are rising alarmingly in Eastern Europe (especially in the Russian Federation), Central Asia, and China.

(6) HIV/AIDS threatens personal security by affecting the health, lifespan, and productive capacity of the individual and the social cohesion and economic well-being of the family.

(7) HIV/AIDS undermines the economic security of a country and individual businesses in that country by weakening the productivity and longevity of the labor force across a broad array of economic sectors and by reducing the potential for economic growth over the long term.

(8) HIV/AIDS destabilizes communities by striking at the most mobile and educated members of society, many of whom are responsible for security at the local level and governance at the national and subnational levels as well as many teachers, health care personnel, and other community workers vital to community development and the effort to combat HIV/AIDS. In some countries the overwhelming challenges of the HIV/AIDS epidemic are accelerating the outward migration of critically important health care professionals.

(9) HIV/AIDS weakens the defenses of countries severely affected by the HIV/AIDS crisis through high infection rates among members of their military forces. According to UNAIDS, in sub-Saharan Africa, many military forces have infection rates as much as five times that of the civilian population.

(10) HIV/AIDS poses a serious security issue for the international community by—

(A) increasing the potential for political instability and economic devastation, particularly in those countries and regions most severely affected by the disease; and

(B) decreasing the capacity to resolve conflicts through the introduction of peace-keeping forces because the environments into which these forces are introduced pose a high risk for the spread of HIV/AIDS.

(11) The devastation wrought by the HIV/AIDS pandemic is compounded by the prevalence of tuberculosis and malaria, particularly in developing countries where the poorest and most vulnerable members of society, including women, children, and those living with HIV/AIDS, become infected. According to the World Health Organization (WHO), HIV/AIDS, tuberculosis, and malaria accounted for more than 5,700,000 deaths in 2001 and caused debilitating illnesses in millions more.

(12) Tuberculosis is the cause of death for one out of every three people with AIDS worldwide and is a highly communicable disease. HIV infection is the leading threat to tuberculosis control. Because HIV infection

so severely weakens the immune system, individuals with HIV and latent tuberculosis infection have a 100 times greater risk of developing active tuberculosis diseases thereby increasing the risk of spreading tuberculosis to others. Tuberculosis, in turn, accelerates the onset of AIDS in individuals infected with HIV.

(13) Malaria, the most deadly of all tropical parasitic diseases, has been undergoing a dramatic resurgence in recent years due to increasing resistance of the malaria parasite to inexpensive and effective drugs. At the same time, increasing resistance of mosquitoes to standard insecticides makes control of transmission difficult to achieve. The World Health Organization estimates that between 300,000,000 and 500,000,000 new cases of malaria occur each year, and annual deaths from the disease number between 2,000,000 and 3,000,000. Persons infected with HIV are particularly vulnerable to the malaria parasite. The spread of HIV infection contributes to the difficulties of controlling resurgence of the drug resistant malaria parasite.

(14) Although HIV/AIDS is first and foremost a health problem, successful strategies to stem the spread of the pandemic will require not only medical interventions, the strengthening of health care delivery systems and infrastructure and determined national leadership and increased budgetary allocations for the health sector in countries affected by the epidemic but also measures to address the social and behavioral causes of the problem and its impact on families, communities, and societal sectors.

(15) Basic interventions to prevent new HIV infections and to bring care and treatment to people living with AIDS, such as voluntary counseling and testing and mother-to-child transmission programs, are achieving meaningful results and are cost-effective. The challenge is to expand these interventions from a pilot program basis to a national basis in a coherent and sustainable manner.

(16) The magnitude and scope of the HIV/AIDS crisis demands a comprehensive, long-term, international response focused upon addressing the causes, reducing the spread, and ameliorating the consequences of the HIV/AIDS pandemic, including—

(A) prevention and education, care and treatment, basic and applied research, and training of health care workers, particularly at the community and provincial levels, and other community workers and leaders needed to cope with the range of consequences of the HIV/AIDS crisis;

(B) development of health care infrastructure and delivery systems through cooperative and coordinated public efforts and public and private partnerships;

(C) development and implementation of national and community-based multisector strategies that address the impact of HIV/AIDS on the individual, family, community, and nation and increase the participation of at-risk populations in programs designed to encourage behavioral and social change and reduce the stigma associated with HIV/AIDS; and

(D) coordination of efforts between international organizations such as the Global Fund to Fight AIDS, Tuberculosis and Malaria, the Joint United Nations Programme on HIV/AIDS (UNAIDS), the World Health Organization (WHO), national governments, and private sector organizations.

(17) The United States has the capacity to lead and enhance the effectiveness of the international community's response by—

(A) providing substantial financial resources, technical expertise, and training, particularly of health care personnel and community workers and leaders;

(B) promoting vaccine and microbicide research and the development of new treatment protocols in the public and commercial pharmaceutical research sectors;

(C) encouraging governments and community-based organizations to adopt policies that treat HIV/AIDS as a multisectoral problem affecting not only health but other areas such as education, the economy, the family and society, and assisting them to develop and implement programs corresponding to these needs; and

(D) encouraging active involvement of the private sector, including businesses, pharmaceutical and biotechnology companies, the medical and scientific communities, charitable foundations, private and voluntary organizations and nongovernmental organizations, faith-based organizations, community-based organizations, and other nonprofit entities.

SEC. 3. DEFINITIONS.

In this Act:

(1) AIDS.—The term “AIDS” means the acquired immune deficiency syndrome.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(3) DESIGNATED CONGRESSIONAL COMMITTEES.—The term “designated congressional committees” means the Committee on Foreign Relations and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on International Relations and the Committee on Energy and Commerce of the House of Representatives.

(4) GLOBAL FUND.—The term “Global Fund” means the public-private partnership known as the Global Fund to Fight AIDS, Tuberculosis and Malaria that was established upon the call of the United Nations Secretary General in April 2001.

(5) HIV.—The term “HIV” means the human immunodeficiency virus, the pathogen that causes AIDS.

(6) HIV/AIDS.—The term “HIV/AIDS” means, with respect to an individual, an individual who is infected with HIV or living with AIDS.

(7) RELEVANT EXECUTIVE BRANCH AGENCIES.—The term “relevant Executive branch agencies” means the Department of State, the United States Agency for International Development, the Department of Health and Human Services (including the Centers for Disease Control and Prevention, the Health Resources and Services Administration, the National Institutes of Health, the Agency for Health Care Research and Quality, and the Food and Drug Administration), the Department of Labor, the Department of Commerce, the Department of the Treasury, and the Department of Defense.

SEC. 4. PURPOSE.

The purpose of this Act is to strengthen United States leadership and the effectiveness of the United States response to certain global infectious diseases by—

(1) establishing a comprehensive, integrated five-year, global strategy to fight HIV/AIDS that encompasses a plan for phased expansion of critical programs and improved coordination among relevant Executive branch agencies and between the United States and foreign governments and international organizations;

(2) providing increased resources for multilateral efforts to fight HIV/AIDS;

(3) providing increased resources for United States bilateral efforts, particularly for technical assistance and training, to combat HIV/AIDS, tuberculosis, and malaria;

(4) encouraging the expansion of private sector efforts and expanding public-private sector partnerships to combat HIV/AIDS; and

(5) intensifying efforts to support the development of vaccines and treatment for HIV/AIDS, tuberculosis, and malaria.

TITLE I—POLICY PLANNING AND COORDINATION

SEC. 101. DEVELOPMENT OF A COMPREHENSIVE, FIVE-YEAR, GLOBAL STRATEGY.

(a) **STRATEGY.**—The President shall establish a comprehensive, integrated, five-year strategy to combat global HIV/AIDS that promotes the goals and objectives of the Declaration of Commitment on HIV/AIDS, adopted by the United Nations General Assembly at its Special Session on HIV/AIDS in June 2001, and strengthens the capacity of the United States to be an effective leader of the international campaign against HIV/AIDS. Such strategy shall—

(1) include specific objectives, multisectoral approaches, and specific strategies to treat individuals infected with HIV/AIDS and to prevent the further spread of HIV infections, with a particular focus on the needs of women, young people, and children;

(2) assign priorities for relevant Executive branch agencies;

(3) improve coordination among relevant Executive branch agencies and foreign governments and international organizations;

(4) project general levels of resources needed to achieve the stated objectives;

(5) expand public-private partnerships and the leveraging of resources; and

(6) maximize United States capabilities in the areas of technical assistance and training and research, including vaccine research.

(b) REPORT.—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the President shall submit to designated congressional committees a report setting forth the strategy described in subsection (a).

(2) **REPORT ELEMENTS.**—The report required by paragraph (1) shall include a discussion of the following:

(A) The objectives, general and specific, of the strategy.

(B) A description of the criteria for determining success of the strategy.

(C) A description of the manner in which the strategy will address the fundamental elements of prevention and education; care and treatment, including increasing access to pharmaceuticals and to vaccines and microbicides when available; research, including incentives for vaccine development and new protocols; and training of health care workers, and the development of health care infrastructure and delivery systems.

(D) A description of the manner in which the strategy will promote the development and implementation of national and community-based multisectoral strategies and programs, including those designed to enhance leadership capacity particularly at the community level.

(E) A description of the specific strategies developed to meet the unique needs of women, including the empowerment of women in interpersonal situations, young people and children, including those orphaned by HIV/AIDS.

(F) A description of the programs to be undertaken to maximize United States con-

tributions in the areas of technical assistance, training particularly of health care workers and community-based leaders in affected sectors, and research including the promotion of research on vaccines.

(G) An identification of the relevant Executive branch agencies that will be involved and the assignment of priorities to those agencies.

(H) A description of the role of each relevant Executive branch agency and the types of programs that the agency will be undertaking.

(I) A description of the mechanisms that will be utilized to coordinate the efforts of the relevant Executive branch agencies, to avoid duplication of efforts, to enhance on-site coordination efforts, and to ensure that each agency undertakes programs primarily in those areas where the agency has the greatest expertise, technical capabilities, and potential for success.

(J) A description of the mechanisms that will be utilized to ensure greater coordination between the United States and foreign governments and international organizations including the Global Fund, UNAIDS, international financial institutions, and private sector organizations.

(K) The level of resources that will be needed on an annual basis and the manner in which those resources would generally be allocated among relevant Executive agencies.

(L) A description of the mechanisms to be established for monitoring and evaluating programs and for terminating unsuccessful programs.

(M) A description of the manner in which private, nongovernmental entities will factor into the United States Government-led effort and a description of the type of partnerships that will be created to maximize the capabilities of these private sector entities and to leverage resources.

(N) A description of the manner in which the United States strategy for combating HIV/AIDS relates to and promotes the goals and objectives of the United Nations General Assembly's Declaration of Commitment on HIV/AIDS.

(O) A description of the ways in which United States leadership will be used to enhance the overall international response to the HIV/AIDS pandemic and particularly to heighten the engagement of the member states of the G-8 and to strengthen key financial and coordination mechanisms such as the Global Fund and UNAIDS.

(P) A description of the manner in which the United States strategy for combating HIV/AIDS relates to and enhances other United States assistance strategies in developing countries.

SEC. 102. COMPREHENSIVE PLAN TO EMPOWER WOMEN TO PREVENT THE SPREAD OF HIV/AIDS.

(a) **STATEMENT OF POLICY.**—It is in the national interest of the United States—

(1) to assist in empowering women socially, economically, and intellectually to prevent coercive practices which contribute to the spread of HIV/AIDS;

(2) to ensure that there are affordable effective female controlled preventative technologies widely available;

(3) to assist in providing adequate pre- and post-natal care to women infected with HIV or living with AIDS to prevent an increase in the number of AIDS orphans; and

(4) to educate communities in order to lessen the stigma facing women who are infected with HIV or living with AIDS.

(b) **DEVELOPMENT OF PLAN.**—The United States Agency for International Develop-

ment, working in conjunction with other relevant Executive branch agencies, shall develop a comprehensive plan to empower women to protect themselves against the spread of HIV/AIDS. The plan shall include—

(1) immediately providing women greatly increased access to and program support for currently available prevention technologies for women and microbicides when they become available;

(2) providing funding for research to develop safe, effective, usable microbicides, including support for—

(A) development and preclinical evaluation of topical microbicides;

(B) the conduct of clinical studies of candidate microbicides to assess safety, acceptability, and effectiveness in reducing the HIV infection and other sexually transmitted infections;

(C) behavioral and social science research relevant to microbicide development, testing, acceptability, and use; and

(D) introductory studies of safe and effective microbicides in developing countries;

(3) increasing women's access to microfinance programs;

(4) comprehensive education for women and girls including health education that emphasizes skills building on negotiation and the prevention of sexually transmitted infections and other related reproductive health risks and strategies that emphasize the delay of sexual debut;

(5) community-based strategies to combat gender-based violence and sexual coercion of women and minors;

(6) expansion of peer education strategies for men which emphasize responsible sexual behavior and consultation with their wives and partners in making decisions about sex and reproduction;

(7) resources for households headed by females caring for AIDS orphans;

(8) followup monitoring of and care and support for post-natal women living with HIV or at high risk of infection; and

(9) targeted plans to reduce the vulnerability of HIV/AIDS for women, young people, and children who are refugees or internally displaced persons.

(c) **REQUIREMENT.**—The plan shall specify, for the assistance to achieve each of the objectives set forth in paragraphs (1) through (9) of subsection (b), the section of the Foreign Assistance Act of 1961 or other law that authorizes such assistance.

(d) **STAFFING.**—The Administrator of the United States Agency for International Development shall ensure that the Agency dedicates a sufficient number of employees to implementing the plan described in subsection (b).

(e) **REPORT.**—Not later than 270 days after the date of enactment of this Act and every year for the next 3 years thereafter, the Administrator of the United States Agency for International Development shall submit to the appropriate congressional committees a report on the plan being implemented by the United States Agency for International Development on empowering women in order to prevent the spread of HIV/AIDS. The report shall include a description of—

(1) the programs being carried out that are specifically targeted at women and girls to educate them about the spread of HIV/AIDS and the use and availability of currently available prevention technologies for women, together with the number of women and girls reached through these programs;

(2) the steps taken to increase the availability of such technologies; and

(3) the progress on developing a safe, effective, user-friendly microbicide.

SEC. 103. HIV/AIDS RESPONSE COORDINATOR.

(a) **ESTABLISHMENT OF POSITION.**—Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 265(a)) is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by adding after subsection (e) the following:

“(f) **HIV/AIDS RESPONSE COORDINATOR.**—

“(1) **IN GENERAL.**—There shall be within the Department of State a Coordinator of United States Government Activities to Combat HIV/AIDS Globally, who shall be appointed by the President, by and with the advice and consent of the Senate. The Coordinator shall report directly to the Secretary of State and shall have the rank and status of ambassador.

“(2) **DUTIES.**—

“(A) **IN GENERAL.**—The Coordinator shall have primary responsibility for the oversight and coordination of all activities of the United States Government to combat the international HIV/AIDS pandemic, including all programs, projects, and activities of the United States Government under titles I through V of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2002 or any amendment made by those titles.

“(B) **SPECIFIC DUTIES.**—The duties of the Coordinator shall specifically include the following:

“(i) Ensuring program and policy coordination among the relevant Executive branch agencies.

“(ii) Ensuring that each relevant Executive branch agency undertakes programs primarily in those areas where the agency has the greatest expertise, technical capabilities, and potential for success.

“(iii) Avoiding duplication of effort.

“(iv) Enhancing onsite coordination.

“(v) Pursuing coordination with other countries and international organizations.

“(vi) Resolving policy, program, and funding disputes among the relevant Executive branch agencies.”.

(b) **FIRST COORDINATOR.**—The President may designate the incumbent Special Representative of the Secretary of State for HIV/AIDS as of the date of enactment of this Act as the first Coordinator of United States Government Activities to Combat HIV/AIDS Globally.

SEC. 104. REPORT ON REVERSING THE EXODUS OF CRITICAL TALENT.

(a) **IN GENERAL.**—Not later than one year after the date of enactment of this Act, the President shall submit a report to designated congressional committees analyzing the emigration of critically important medical and public health personnel, including physicians, nurses, and supervisors from sub-Saharan African countries that are acutely impacted by HIV/AIDS.

(b) **ELEMENTS OF THE REPORT.**—The report shall include—

(1) an analysis of the causes for the exodus of such personnel, the present and projected trend lines, and the impact on the stability of health infrastructures; and

(2) a description of incentives and programs that the United States could provide, in concert with other private and public sector partners and international organizations, to stabilize health institutions by encouraging critical personnel to remain in their home countries.

TITLE II—PUBLIC-PRIVATE PARTNERSHIPS**SEC. 201. SENSE OF CONGRESS ON PUBLIC-PRIVATE PARTNERSHIPS.**

(a) **FINDINGS.**—Congress makes the following findings:

(1) Innovative partnerships between governments and organizations in the private sector (including foundations, universities, corporations, faith-based and community-based organizations, and other nongovernmental organizations) have proliferated in recent years, particularly in the area of health.

(2) Public-private sector partnerships multiply local and international capacities to strengthen the delivery of health services in developing countries and to accelerate research for vaccines and other pharmaceutical products that are essential to combat infectious diseases decimating the populations of these countries.

(3) These partnerships maximize the unique capabilities of each sector while combining financial and other resources, scientific knowledge, and expertise toward common goals which neither the public nor the private sector can achieve alone.

(4) Sustaining existing public-private partnerships and building new ones are critical to the success of the international community's efforts to combat HIV/AIDS and other infectious diseases around the globe.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(1) the sustainment and promotion of public-private partnerships should be a priority element of the strategy pursued by the United States to combat the HIV/AIDS pandemic and other global health crises; and

(2) the United States should systematically track the evolution of these partnerships and work with others in the public and private sector to profile and build upon those models that are most effective.

SEC. 202. PARTICIPATION IN THE GLOBAL FUND TO FIGHT AIDS, TUBERCULOSIS, AND MALARIA.

(a) **AUTHORITY FOR UNITED STATES PARTICIPATION.**—

(1) **UNITED STATES PARTICIPATION.**—The United States is hereby authorized to participate in the Global Fund to Fight AIDS, Tuberculosis and Malaria.

(2) **PRIVILEGES AND IMMUNITIES.**—The Global Fund shall be considered a public international organization for purposes of section 1 of the International Organizations Immunities Act (22 U.S.C. 288).

(b) **REPORTS TO CONGRESS.**—Not later than one year after the date of the enactment of this Act, and annually thereafter for the duration of the Global Fund, the President shall submit to the appropriate congressional committees a report on the Global Fund, including contributions pledged, contributions received (including donations from the private sector), projects funded, and the mechanisms established for transparency and accountability in the grant making process.

(c) **UNITED STATES FINANCIAL PARTICIPATION.**—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to funds otherwise available for such purpose, there are authorized to be appropriated to the President \$1,000,000,000 for the fiscal year 2003 and \$1,200,000,000 for the fiscal year 2004 for contributions to the Global Fund.

(2) **AVAILABILITY OF FUNDS.**—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(3) **REPROGRAMMING OF FISCAL YEAR 2001 FUNDS.**—Funds made available for fiscal year 2001 under section 141 of the Global AIDS and Tuberculosis Relief Act of 2000—

(A) are authorized to remain available until expended; and

(B) shall be transferred to, merged with, and made available for the same purposes as,

funds made available for fiscal year 2002 under paragraph (1).

(4) **STATUTORY CONSTRUCTION.**—Nothing in this Act may be construed to substitute for, or reduce resources provided under any other law for bilateral and multilateral HIV/AIDS, tuberculosis, and malaria programs.

SEC. 203. VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL VACCINE FUNDS.

(a) **VACCINE FUND.**—Section 302(k) of the Foreign Assistance Act of 1961 (22 U.S.C. 2222(k)) is amended—

(1) by striking “\$50,000,000” and all that follows through “2002” and inserting “\$60,000,000 for the fiscal year 2003 and \$70,000,000 for the fiscal year 2004”; and

(2) by striking “Global Alliance for Vaccines and Immunizations” and inserting “Vaccine Fund”.

(b) **INTERNATIONAL AIDS VACCINE INITIATIVE.**—Section 302(l) of the Foreign Assistance Act of 1961 (22 U.S.C. 2222(l)) is amended by striking “\$10,000,000” and all that follows through “2002” and inserting “\$12,000,000 for the fiscal year 2003 and \$15,000,000 for the fiscal year 2004”.

(c) **MALARIA VACCINE INITIATIVE OF THE PROGRAM FOR APPROPRIATE TECHNOLOGIES IN HEALTH (PATH).**—Section 302 of the Foreign Assistance Act of 1961 (22 U.S.C. 2222) is amended by adding at the end the following new subsection:

“(m) In addition to amounts otherwise available under this section, there are authorized to be appropriated to the President \$5,000,000 for the fiscal year 2003 and \$6,000,000 for the fiscal year 2004 to be available only for United States contributions to the Malaria Vaccine Initiative of the Program for Appropriate Technologies in Health (PATH).”

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect October 1, 2002.

TITLE III—MULTILATERAL EFFORTS**SEC. 301. IMPROVEMENT OF THE ENHANCED HIPC INITIATIVE.**

(a) **AMENDMENT OF THE INTERNATIONAL FINANCIAL INSTITUTIONS ACT.**—Title XVI of the International Financial Institutions Act (22 U.S.C. 262p–262p–5) is amended by adding at the end the following new section:

“SEC. 1625. IMPROVEMENT OF THE ENHANCED HIPC INITIATIVE.

“(a) **AUTHORITY.**—In order to ensure that the Enhanced HIPC Initiative achieves the objective of substantially increasing resources available for human development and poverty reduction in heavily indebted poor countries, the Secretary of the Treasury is authorized and requested to conclude as soon as possible an agreement within the Paris Club of Official Creditors, as well as the International Bank for Reconstruction and Development (World Bank), the International Monetary Fund, and other appropriate multilateral development institutions to accomplish the modifications in the Enhanced HIPC Initiative described in subsection (b).

“(b) **AGREEMENT.**—The agreement referred to in subsection (a) is an agreement that provides the following:

“(1) **LEVEL OF EXPORTS AND REVENUES.**—

“(A) **IN GENERAL.**—The amount of debt stock reduction approved for a country eligible for debt relief under the Enhanced HIPC Initiative shall be sufficient to reduce, for at least each of the first 3 years after date of enactment of this section or the Decision Point, whichever is later—

“(i) the net present value of the outstanding public and publicly guaranteed debt of the country to not more than 150 percent

of the annual value of exports of the country for the year preceding the Decision Point; and

“(ii) the annual payments due on such public and publicly guaranteed debt to not more than 10 percent or, in the case of a country suffering a public health crisis (as defined in subsection (c)), not more than 5 percent, of the amount of the annual current revenues received by the country from internal sources.

“(B) LIMITATION.—In financing the objectives of the Enhanced HIPC Initiative, an international financial institution shall give priority to using its own resources.

“(2) RELATION TO POVERTY AND THE ENVIRONMENT.—The debt cancellation under the Enhanced HIPC Initiative shall not be conditioned on any agreement by an impoverished country to implement or comply with policies that deepen poverty or degrade the environment, including any policy that—

“(A) implements or extends user fees on primary education or primary health care, including prevention and treatment efforts for HIV/AIDS, tuberculosis, malaria, and infant, child, and maternal well-being;

“(B) provides for increased cost recovery from poor people to finance basic public services such as education, health care, clean water, or sanitation;

“(C) reduces the country's minimum wage to a level of less than \$2 per day or undermines workers' ability to exercise effectively their internationally recognized worker rights, as defined under section 526(e) of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1995 (22 U.S.C. 262p-4p); or

“(D) promotes unsustainable extraction of resources or results in reduced budget support for environmental programs.

“(3) FOREIGN GOVERNMENT POLICIES.—A country shall not be eligible for cancellation of debt under the Enhanced HIPC Initiative if the government of the country—

“(A) has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)) or section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)); and

“(B) engages in a consistent pattern of gross violations of internationally recognized human rights (including its military or other security forces).

“(4) PROGRAMS TO COMBAT HIV/AIDS, TUBERCULOSIS, AND MALARIA.—A country that is otherwise eligible to receive cancellation of debt under the Enhanced HIPC Initiative may receive such cancellation only if the country has agreed—

“(A) in the case of a country suffering a public health crisis (as defined in subsection (c)), to ensure that, where practicable, 10 to 20 percent of the financial benefits of debt cancellation are applied to programs to combat HIV/AIDS, tuberculosis, and malaria in that country;

“(B) to ensure that the financial benefits of debt cancellation are applied to programs to combat poverty (in particular through concrete measures to improve basic services in education, nutrition, and health), and to redress environmental degradation;

“(C) to ensure that the financial benefits of debt cancellation are in addition to the government's total spending on programs to combat HIV/AIDS and poverty reduction for the previous year or the average total of such expenditures for the previous 3 years, whichever is greater;

“(D) to implement transparent and participatory policymaking and budget pro-

cedures, good governance, and effective anticorruption measures; and

“(E) to broaden public participation and popular understanding of the principles and goals of poverty reduction.

“(c) DEFINITIONS.—In this section:

“(1) COUNTRY SUFFERING A PUBLIC HEALTH CRISIS.—The term ‘country suffering a public health crisis’ means—

“(A) a country in which HIV/AIDS, tuberculosis, or malaria is causing significant family, community, or societal disruption; and

“(B) a country that has rapidly rising rates of incidence of at least one of such diseases that is likely to lead to conditions described in subparagraph (A).

“(2) DECISION POINT.—The term ‘Decision Point’ means the date on which the executive boards of the World Bank and the International Monetary Fund review the debt sustainability analysis for a country and determine that the country is eligible for debt relief under the Enhanced HIPC Initiative.

“(3) ENHANCED HIPC INITIATIVE.—The term ‘Enhanced HIPC Initiative’ means the multilateral debt initiative for heavily indebted poor countries presented in the Report of G-7 Finance Ministers on the Cologne Debt Initiative to the Cologne Economic Summit, Cologne, June 18-20, 1999.”

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President such sums as may be necessary for the fiscal year 2003 and each fiscal year thereafter to carry out section 1625 of the International Financial Institutions Act, as added by subsection (a).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 302. REPORTS ON IMPLEMENTATION OF IMPROVEMENTS TO THE ENHANCED HIPC INITIATIVE.

(a) INITIAL REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Treasury shall submit to the appropriate congressional committees a report describing the progress made in concluding an agreement under section 1625(b) of the International Financial Institutions Act (as added by section 301 of this Act) to modify the Enhanced HIPC Initiative.

(b) SUBSEQUENT REPORT.—Not later than one year after the date of submission of the initial report under subsection (a), the Secretary of the Treasury shall submit to the appropriate congressional committees a report describing the actions taken by countries to satisfy the conditions set forth in the agreement referred to in subsection (a).

TITLE IV—BILATERAL EFFORTS

Subtitle A—General Assistance and Programs

SEC. 401. ASSISTANCE TO COMBAT HIV/AIDS.

(a) AMENDMENT OF THE FOREIGN ASSISTANCE ACT OF 1961.—Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended—

(1) in section 104(c) (22 U.S.C. 2151b(c)), by striking paragraphs (4) through (7); and

(2) by inserting after section 104 the following new section:

“SEC. 104A. ASSISTANCE TO COMBAT HIV/AIDS.

“(a) FINDING.—Congress recognizes that the alarming spread of HIV/AIDS in countries in sub-Saharan Africa and other developing countries is a major global health, national security, and humanitarian crisis.

“(b) POLICY.—It is a major objective of the foreign assistance program of the United States to provide assistance for the prevention, treatment, and control of HIV/AIDS. The United States and other developed coun-

tries should provide assistance to countries in sub-Saharan Africa and other countries and areas to control this crisis through HIV/AIDS prevention, treatment, monitoring, and related activities, particularly activities focused on women and youth, including strategies to prevent mother-to-child transmission of the HIV infection.

“(c) AUTHORIZATION.—

“(1) IN GENERAL.—Consistent with section 104(c), the President is authorized to furnish assistance, on such terms and conditions as the President may determine, to prevent, treat, and monitor HIV/AIDS, and carry out related activities, in countries in sub-Saharan Africa and other countries and areas.

“(2) ROLE OF NGOS.—It is the sense of Congress that the President should provide an appropriate level of assistance under paragraph (1) through nongovernmental organizations in countries in sub-Saharan Africa and other countries and areas affected by the HIV/AIDS pandemic.

“(3) COORDINATION OF ASSISTANCE EFFORTS.—The President shall coordinate the provision of assistance under paragraph (1) with the provision of related assistance by the Joint United Nations Programme on HIV/AIDS (UNAIDS), the United Nations Children's Fund (UNICEF), the World Health Organization (WHO), the United Nations Development Programme (UNDP), the Global Fund to Fight AIDS, Tuberculosis and Malaria and other appropriate international organizations (such as the International Bank for Reconstruction and Development), relevant regional multilateral development institutions, national, state, and local governments of foreign countries, appropriate governmental and nongovernmental organizations, and relevant Executive branch agencies.

“(d) ACTIVITIES SUPPORTED.—Assistance provided under subsection (c) shall, to the maximum extent practicable, be used to carry out the following activities:

“(1) PREVENTION.—Prevention of HIV/AIDS through activities including—

“(A) education, voluntary testing, and counseling (including the incorporation of confidentiality protections with respect to such testing and counseling), including integration of such programs into health programs and the inclusion in counseling programs of information on methods of preventing transmission of the HIV infection, including delaying sexual debut, abstinence, reduction of casual sexual partnering, and, where appropriate, the use of condoms;

“(B) assistance for the purpose of preventing mother-to-child transmission of the HIV infection, including medications to prevent such transmission and access to infant formula and other alternatives for infant feeding;

“(C) assistance to ensure a safe blood supply, to provide—

“(i) post-exposure prophylaxis to victims of rape and sexual assault and in cases of occupational exposure of health care workers; and

“(ii) necessary commodities, including test kits, pharmaceuticals, and condoms;

“(D) assistance through nongovernmental organizations, including faith-based organizations, particularly those organizations that utilize both professionals and volunteers with appropriate skills and experience, to establish and implement culturally appropriate HIV/AIDS education and prevention programs;

“(E) research on microbicides which prevent the spread of HIV/AIDS; and

“(F) bulk purchases of available prevention technologies for women and for appropriate program support for the introduction and distribution of these technologies, as well as education and training on the use of the technologies.

“(2) TREATMENT.—The treatment and care of individuals with HIV/AIDS, including—

“(A) assistance to establish and implement programs to strengthen and broaden indigenous health care delivery systems and the capacity of such systems to deliver HIV/AIDS pharmaceuticals and otherwise provide for the treatment of individuals with HIV/AIDS, including clinical training for indigenous organizations and health care providers;

“(B) assistance to strengthen and expand hospice and palliative care programs to assist patients debilitated by HIV/AIDS, their families, and the primary caregivers of such patients, including programs that utilize faith-based and community-based organizations; and

“(C) assistance for the purpose of the care and treatment of individuals with HIV/AIDS through the provision of pharmaceuticals, including antiretrovirals and other pharmaceuticals and therapies for the treatment of opportunistic infections, nutritional support, and other treatment modalities.

“(3) MONITORING.—The monitoring of programs, projects, and activities carried out pursuant to paragraphs (1) and (2), including—

“(A) monitoring to ensure that adequate controls are established and implemented to provide HIV/AIDS pharmaceuticals and other appropriate medicines to poor individuals with HIV/AIDS; and

“(B) appropriate evaluation and surveillance activities.

“(4) PHARMACEUTICALS.—

“(A) PROCUREMENT.—The procurement of HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines, including medicines to treat opportunistic infections.

“(B) MECHANISMS FOR QUALITY CONTROL AND SUSTAINABLE SUPPLY.—Mechanisms to ensure that such HIV/AIDS pharmaceuticals, antiretroviral therapies, and other appropriate medicines are quality-controlled and sustainably supplied.

“(C) DISTRIBUTION.—The distribution of such HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines (including medicines to treat opportunistic infections) to qualified national, regional, or local organizations for the treatment of individuals with HIV/AIDS in accordance with appropriate HIV/AIDS testing and monitoring requirements and treatment protocols and for the prevention of mother-to-child transmission of the HIV infection.

“(5) RELATED ACTIVITIES.—The conduct of related activities, including—

“(A) the care and support of children who are orphaned by the HIV/AIDS pandemic, including services designed to care for orphaned children in a family environment which rely on extended family members;

“(B) improved infrastructure and institutional capacity to develop and manage education, prevention, and treatment programs, including training and the resources to collect and maintain accurate HIV surveillance data to target programs and measure the effectiveness of interventions;

“(C) vaccine research and development partnership programs with specific plans of action to develop a safe, effective, accessible, preventive HIV vaccine for use throughout the world; and

“(D) the development and expansion of financially sustainable microfinance institutions and other income generation programs that strengthen the economic and social viability of communities afflicted by the HIV/AIDS pandemic, including support for the savings and productive capacity of affected poor households caring for orphans.

“(e) ANNUAL REPORT.—

“(1) IN GENERAL.—Not later than January 31 of each year, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report on the implementation of this section for the prior fiscal year.

“(2) REPORT ELEMENTS.—Each report shall include—

“(A) a description of efforts made to implement the policies set forth in this section;

“(B) a description of the programs established pursuant to this section; and

“(C) a detailed assessment of the impact of programs established pursuant to this section, including—

“(i) the effectiveness of such programs in reducing the spread of the HIV infection, particularly in women and girls, in reducing mother-to-child transmission of the HIV infection, and in reducing mortality rates from HIV/AIDS; and

“(ii) the progress made toward improving health care delivery systems (including the training of adequate numbers of staff) and infrastructure to ensure increased access to care and treatment.

“(f) FUNDING LIMITATION.—Of the funds made available to carry out this section in any fiscal year, not more than 7 percent may be used for the administrative expenses of the United States Agency for International Development in support of activities described in this section. Such amount shall be in addition to other amounts otherwise available for such purposes.

“(g) DEFINITIONS.—In this section:

“(1) AIDS.—The term ‘AIDS’ means acquired immune deficiency syndrome.

“(2) HIV.—The term ‘HIV’ means the human immunodeficiency virus, the pathogen that causes AIDS.

“(3) HIV/AIDS.—The term ‘HIV/AIDS’ means, with respect to an individual, an individual who is infected with HIV or living with AIDS.”

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to funds available under section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) for such purpose or under any other provision of that Act, there are authorized to be appropriated to the President \$800,000,000 for the fiscal year 2003 and \$900,000,000 for the fiscal year 2004 to carry out section 104A of the Foreign Assistance Act of 1961, as added by subsection (a).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(3) ALLOCATION OF FUNDS.—

(A) RESEARCH ON MICROBICIDES.—Of the amounts authorized to be appropriated by paragraph (1) for the fiscal years 2003 and 2004, \$20,000,000 for the fiscal year 2003 and \$24,000,000 for the fiscal year 2004 are authorized to be available to carry out section 104A(d)(1)(D) of the Foreign Assistance Act of 1961 (as added by subsection (a)), relating to research on microbicides which prevent the spread of HIV/AIDS.

(B) PHARMACEUTICALS.—Of the amounts authorized to be appropriated by paragraph (1) for the fiscal years 2003 and 2004, \$100,000,000 for the fiscal year 2003 and \$120,000,000 for the

fiscal year 2004 are authorized to be available to carry out section 104A(d)(4) of the Foreign Assistance Act of 1961 (as added by subsection (a)), relating to the procurement and distribution of HIV/AIDS pharmaceuticals.

(4) TRANSFER OF PRIOR YEAR FUNDS.—Unobligated balances of funds made available for the fiscal year 2001 or the fiscal year 2002 under section 104(c)(6) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(6)) (as in effect immediately before the date of enactment of this Act) shall be transferred to, merged with, and made available for the same purposes as funds made available for fiscal year 2003 under paragraph (1).

SEC. 402. ASSISTANCE TO COMBAT TUBERCULOSIS.

(a) AMENDMENT OF THE FOREIGN ASSISTANCE ACT OF 1961.—Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), as amended by section 401 of this Act, is further amended by inserting after section 104A the following new section:

“SEC. 104B. ASSISTANCE TO COMBAT TUBERCULOSIS.

“(a) FINDINGS.—Congress makes the following findings:

“(1) Congress recognizes the growing international problem of tuberculosis and the impact its continued existence has on those countries that had previously largely controlled the disease.

“(2) Congress further recognizes that the means exist to control and treat tuberculosis through expanded use of the DOTS (Directly Observed Treatment Short-course) treatment strategy and adequate investment in newly created mechanisms to increase access to treatment, including the Global Tuberculosis Drug Facility established in 2001 pursuant to the Amsterdam Declaration to Stop TB.

“(b) POLICY.—It is a major objective of the foreign assistance program of the United States to control tuberculosis, including the detection of at least 70 percent of the cases of infectious tuberculosis, and the cure of at least 85 percent of the cases detected, not later than December 31, 2005, in those countries classified by the World Health Organization as among the highest tuberculosis burden, and not later than December 31, 2010, in all countries in which the United States Agency for International Development has established development programs.

“(c) AUTHORIZATION.—To carry out this section and consistent with section 104(c), the President is authorized to furnish assistance, on such terms and conditions as the President may determine, for the prevention, treatment, control, and elimination of tuberculosis.

“(d) COORDINATION.—In carrying out this section, the President shall coordinate with the World Health Organization, the Global Fund to Fight AIDS, Tuberculosis, and Malaria, the Department of Health and Human Services (including the Centers for Disease Control and Prevention and the National Institutes of Health), and other organizations with respect to the development and implementation of a comprehensive tuberculosis control program.

“(e) ANNUAL REPORT.—Not later than January 31 of each year, the President shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives specifying the increases in the number of people treated and the increases in number of tuberculosis patients cured through each program, project, or activity receiving United States foreign assistance for tuberculosis control purposes.

“(f) PRIORITY TO DOTS COVERAGE.—In furnishing assistance under subsection (c), the President shall give priority to activities that increase directly observed treatment shortcourse (DOTS) coverage, including funding for the Global Tuberculosis Drug Facility and the Stop Tuberculosis Partnership.

“(g) DEFINITIONS.—In this section:

“(1) DOTS.—The term ‘DOTS’ or ‘Directly Observed Treatment Short-course’ means the World Health Organization-recommended strategy for treating tuberculosis.

“(2) GLOBAL TUBERCULOSIS DRUG FACILITY.—The term ‘Global Tuberculosis Drug Facility (GDF)’ means the new initiative of the Stop Tuberculosis Partnership to increase access to high-quality tuberculosis drugs to facilitate DOTS expansion.

“(3) STOP TUBERCULOSIS PARTNERSHIP.—The term ‘Stop Tuberculosis Partnership’ means the partnership of the World Health Organization, donors including the United States, high tuberculosis burden countries, multilateral agencies, and nongovernmental and technical agencies committed to short- and long-term measures required to control and eventually eliminate tuberculosis as a public health problem in the world.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to funds available under section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) for such purpose or under any other provision of that Act, there are authorized to be appropriated to the President \$150,000,000 for the fiscal year 2003 and \$200,000,000 for the fiscal year 2004 to carry out section 104B of the Foreign Assistance Act of 1961, as added by subsection (a).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(3) TRANSFER OF PRIOR YEAR FUNDS.—Unobligated balances of funds made available for the fiscal year 2001 or the fiscal year 2002 under section 104(c)(7) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(7)) (as in effect immediately before the date of enactment of this Act) shall be transferred to, merged with, and made available for the same purposes as funds made available for fiscal year 2003 under paragraph (1).

SEC. 403. ASSISTANCE TO COMBAT MALARIA.

(a) AMENDMENT OF THE FOREIGN ASSISTANCE ACT OF 1961.—Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), as amended by sections 401 and 402 of this Act, is further amended by inserting after section 104B the following new section: “SEC. 104C. ASSISTANCE TO COMBAT MALARIA.

“(a) FINDING.—Congress finds that malaria kills more people annually than any other communicable disease except tuberculosis, that more than 90 percent of all malaria cases are in sub-Saharan Africa, and that children and women are particularly at risk. Congress recognizes that there are cost-effective tools to decrease the spread of malaria and that malaria is a curable disease if promptly diagnosed and adequately treated.

“(b) POLICY.—It is a major objective of the foreign assistance program of the United States to provide assistance for the prevention, control, and cure of malaria.

“(c) AUTHORIZATION.—To carry out this section and consistent with section 104(c), the President is authorized to furnish assistance, on such terms and conditions as the President may determine, for the prevention, treatment, control, and elimination of malaria.

“(d) COORDINATION.—In carrying out this section, the President shall coordinate with

the World Health Organization, the Global Fund to Fight AIDS, Tuberculosis, and Malaria, the Department of Health and Human Services (the Centers for Disease Control and Prevention and the National Institutes of Health), and other organizations with respect to the development and implementation of a comprehensive malaria control program.

“(e) ANNUAL REPORT.—Not later than January 31 of each year, the President shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives specifying the increases in the number of people treated and the increases in number of malaria patients cured through each program, project, or activity receiving United States foreign assistance for malaria control purposes.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to funds available under section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) for such purpose or under any other provision of that Act, there are authorized to be appropriated to the President \$70,000,000 for the fiscal year 2003 and \$80,000,000 for the fiscal year 2004 to carry out section 104C of the Foreign Assistance Act of 1961, as added by subsection (a).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(3) TRANSFER OF PRIOR YEAR FUNDS.—Unobligated balances of funds made available for the fiscal year 2001 or the fiscal year 2002 under section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) (as in effect immediately before the date of enactment of this Act) and made available for the control of malaria shall be transferred to, merged with, and made available for the same purposes as funds made available for fiscal year 2003 under paragraph (1).

(c) CONFORMING AMENDMENT.—Section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)), as amended by section 401 of this Act, is further amended by adding after paragraph (3) the following:

“(4) RELATIONSHIP TO OTHER LAWS.—Assistance made available under this subsection and sections 104A, 104B, and 104C, and assistance made available under chapter 4 of part II to carry out the purposes of this subsection and such other sections of this Act, may be made available in accordance with this subsection and such other provisions of this Act notwithstanding any other provision of law.”.

SEC. 404. PILOT PROGRAM FOR THE PLACEMENT OF HEALTH CARE PROFESSIONALS IN OVERSEAS AREAS SEVERELY AFFECTED BY HIV/AIDS, TUBERCULOSIS, AND MALARIA.

(a) IN GENERAL.—The President shall establish a program to demonstrate the feasibility of facilitating the service of American health care professionals in sub-Saharan Africa and other parts of the world severely affected by HIV/AIDS, tuberculosis, and malaria.

(b) REQUIREMENTS.—Participants in the program shall—

(1) provide basic health care services for those infected and affected by HIV/AIDS, tuberculosis, and malaria in the area in which they are serving;

(2) provide on-the-job training to medical and other personnel in the area in which they are serving to strengthen the basic health care system of the affected countries;

(3) provide health care educational training for residents of the area in which they are serving;

(4) serve for a period of up to two years; and

(5) meet the eligibility requirements in subsection (d).

(c) ELIGIBILITY REQUIREMENTS.—To be eligible to participate in the program, a candidate shall—

(1) be a national of the United States who is a trained health care professional and who meets the educational and licensure requirements necessary to be such a professional such as a physician, nurse, nurse practitioner, pharmacist, or other individual determined to be appropriate by the President; or

(2) a retired commissioned officer of the Public Health Service Corps.

(d) RECRUITMENT.—The President shall ensure that information on the program is widely distributed, including the distribution of information to schools for health professionals, hospitals, clinics, and nongovernmental organizations working in the areas of international health and aid.

(e) PLACEMENT OF PARTICIPANTS.—To the maximum extent practicable, participants in the program shall serve in the poorest areas of the affected countries, where health care needs are likely to be the greatest. The decision on the placement of a participant should be made in consultation with relevant officials of the affected country at both the national and local level as well as with local community leaders and organizations.

(f) EXTENDED PERIOD OF SERVICE.—The President may extend the period of service of a participant by an additional period of 6 to 12 months.

(g) INCENTIVES.—The President may offer such incentives as the President determines to be necessary to encourage individuals to participate in the program, such as partial payment of principal, interest, and related expenses on government and commercial loans for educational expenses relating to professional health training and, where possible, deferment of repayments on such loans, the provision of retirement benefits that would otherwise be jeopardized by participation in the program, and other incentives.

(h) REPORT.—Not later than 18 months after the date of enactment of this Act, the President shall submit a report to the designated congressional committees on steps taken to establish the program, including—

(1) the process of recruitment, including the venues for recruitment, the number of candidates recruited, the incentives offered, if any, and the cost of those incentives;

(2) the process, including the criteria used, for the selection of participants;

(3) the number of participants placed, the countries in which they were placed, and why those countries were selected; and

(4) the potential for expansion of the program.

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts otherwise available for such purpose, there is authorized to be appropriated to the President \$10,000,000 for the fiscal year 2003 and \$20,000,000 for the fiscal year 2004 to carry out the program.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 405. DEPARTMENT OF DEFENSE HIV/AIDS PREVENTION ASSISTANCE PROGRAM.

(a) EXPANSION OF PROGRAM.—The Secretary of Defense is authorized to expand, in accordance with this section, the Department of Defense program of HIV/AIDS prevention educational activities undertaken in

connection with the conduct of United States military training, exercises, and humanitarian assistance in sub-Saharan African countries.

(b) **ELIGIBLE COUNTRIES.**—The Secretary of Defense may carry out the program in all eligible countries. A country shall be eligible for activities under the program if the country—

(1) is a country suffering a public health crisis (as defined in subsection (e)); and

(2) participates in the military-to-military contacts program of the Department of Defense.

(c) **PROGRAM ACTIVITIES.**—The Secretary of Defense shall provide for the activities under the program—

(1) to focus, to the extent possible, on military units that participate in peace keeping operations; and

(2) to include HIV/AIDS-related voluntary counseling and testing and HIV/AIDS-related surveillance.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—Of the amount authorized to be appropriated to the Department of Defense for operation and maintenance of the Defense Health Program for the fiscal year 2003, \$30,000,000 may be available for carrying out the program described in subsection (a) as expanded pursuant to this section.

(2) **AVAILABILITY OF FUNDS.**—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(e) **COUNTRY SUFFERING A PUBLIC HEALTH CRISIS DEFINED.**—In this section, the term “country suffering a public health crisis” means a country that has rapidly rising rates of incidence of HIV/AIDS or in which HIV/AIDS is causing significant family, community, or societal disruption.

SEC. 406. REPORT ON TREATMENT ACTIVITIES BY RELEVANT EXECUTIVE BRANCH AGENCIES.

(a) **IN GENERAL.**—Not later than 15 months after the date of enactment of this Act, the President shall submit to designated congressional committees a report on the programs and activities of the United States Agency for International Development, the Centers for Disease Control and Prevention, and other relevant Executive branch agencies that are directed to the treatment of individuals in foreign countries infected with HIV or living with AIDS.

(b) **REPORT ELEMENTS.**—The report shall include—

(1) a description of the activities of relevant Executive branch agencies with respect to—

(A) the treatment of opportunistic infections;

(B) the use of antiretrovirals;

(C) the status of research into successful treatment protocols for individuals in the developing world; and

(D) technical assistance and training of local health care workers (in countries affected by the pandemic) to administer antiretrovirals, manage side effects, and monitor patients' viral loads and immune status;

(2) information on existing pilot projects, including a discussion of why a given population was selected, the number of people treated, the cost of treatment, the mechanisms established to ensure that treatment is being administered effectively and safely, and plans for scaling up pilot projects (including projected timelines and required resources); and

(3) an explanation of how those activities relate to efforts to prevent the transmission of the HIV infection.

Subtitle B—Assistance for Children and Families

SEC. 411. FINDINGS.

Congress makes the following findings:

(1) Approximately 2,000 children around the world are infected each day with HIV through mother-to-child transmission. Transmission can occur during pregnancy, labor, and delivery or through breast feeding. Over ninety percent of these cases are in developing nations with little or no access to public health facilities.

(2) Mother-to-child transmission is largely preventable with the proper application of pharmaceuticals, therapies, and other public health interventions.

(3) The drug nevirapine, reduces mother-to-child transmission by nearly 50 percent. Universal availability of this drug could prevent up to 400,000 infections per year and dramatically reduce the number of AIDS-related deaths.

(4) At the United Nations Special Session on HIV/AIDS in June 2001, the United States committed to the specific goals with respect to the prevention of mother-to-child transmission, including the goals of reducing the proportion of infants infected with HIV by 20 percent by the year 2005 and by 50 percent by the year 2010, as specified in the Declaration of Commitment on HIV/AIDS adopted by the United Nations General Assembly at the Special Session.

(5) Several United States Government agencies including the United States Agency for International Development and the Centers for Disease Control are already supporting programs to prevent mother-to-child transmission in resource-poor nations and have the capacity to expand these programs rapidly by working closely with foreign governments and nongovernmental organizations.

(6) Efforts to prevent mother-to-child transmission can provide the basis for a broader response that includes care and treatment of mothers, fathers, and other family members that are infected with HIV or living with AIDS.

(7) HIV/AIDS has devastated the lives of countless children and families across the globe. Since the epidemic began, an estimated 13,200,000 children under the age of 15 have been orphaned by AIDS, that is they have lost their mother or both parents to the disease. The Joint United Nations Program on HIV/AIDS (UNAIDS) estimates that this number will double by the year 2010.

(8) HIV/AIDS also targets young people between the ages of 15 to 24, many of whom carry the burden of caring for family members living with HIV/AIDS. An estimated 10,300,000 young people are now living with HIV/AIDS. One-half of all new infections are occurring among this age group.

SEC. 412. POLICY AND REQUIREMENTS.

(a) **POLICY.**—The United States Government's response to the global HIV/AIDS pandemic should place high priority on the prevention of mother-to-child transmission, the care and treatment of family members and caregivers, and the care of children orphaned by AIDS. To the maximum extent possible, the United States Government should seek to leverage its funds by seeking matching contributions from the private sector, other national governments, and international organizations.

(b) **REQUIREMENTS.**—The 5-year United States Government strategy required by section 101 of this Act shall—

(1) provide for meeting or exceeding the goal set by the United Nations General Assembly Declaration of Commitment on HIV/

AIDS to reduce the rate of mother-to-child transmission of HIV by 20 percent by 2005 and by 50 percent by 2010;

(2) include programs to make available testing and treatment to HIV-positive women and their family members, including drug treatment and therapies to prevent mother-to-child transmission; and

(3) expand programs designed to care for children orphaned by AIDS.

SEC. 413. ANNUAL REPORTS ON PREVENTION OF MOTHER-TO-CHILD TRANSMISSION OF THE HIV INFECTION.

(a) **IN GENERAL.**—Beginning 270 days after the date of enactment of this Act, and annually thereafter for the ensuing eight years, the President shall submit to designated congressional committees a report on the activities of relevant Executive branch agencies during the reporting period to assist in the prevention of mother-to-child transmission of the HIV infection.

(b) **REPORT ELEMENTS.**—Each report shall include—

(1) a statement of whether or not all relevant Executive branch agencies have adopted the targets set by the United Nations General Assembly at the Special Session for HIV/AIDS, held June 25 to 27, 2001, with respect to mother-to-child transmission of the HIV infection;

(2) a description of efforts made by the United States Agency for International Development and the Centers for Disease Control and Prevention to expand those activities, including—

(A) information on the number of sites supported for the prevention of mother-to-child transmission of the HIV infection;

(B) the specific activities supported;

(C) the number of women tested and counseled; and

(D) the number of women receiving preventative drug therapies;

(3) a statement of the percentage of funds expended out of the budget of each relevant Executive branch agency for activities to prevent mother-to-child transmission of the HIV infection and, in the case of United States Agency for International Development, whether or not its expenditures on bilateral assistance have met the 8.3 percent target in section 104(c)(6)(D) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(6)(D)), as in effect immediately before the date of enactment of this Act, with respect to strategies to prevent mother-to-child transmission of the HIV infection;

(4) a discussion of the extent to which the programs of the relevant Executive branch agencies are meeting targets set by the United Nations General Assembly; and

(5) a description of efforts made by the Centers for Disease Control and Prevention and the United States Agency for International Development to expand care and treatment services for families at established sites for the prevention of mother-to-child transmission of HIV infection.

(c) **REPORTING PERIOD DEFINED.**—In this section, the term “reporting period” means, in the case of the initial report, the period since the date of enactment of this Act and, in the case of any subsequent report, the period since the date of submission of the most recent report.

SEC. 414. PILOT PROGRAM OF ASSISTANCE FOR CHILDREN AND FAMILIES AFFECTED BY HIV/AIDS.

(a) **IN GENERAL.**—The President, acting through the United States Agency for International Development, shall establish a program of assistance that would demonstrate the feasibility of the provision of care and

treatment to orphans and other children and young people affected by HIV/AIDS in foreign countries.

(b) **PROGRAM REQUIREMENTS.**—The program shall—

(1) build upon and be integrated into programs administered as of the date of enactment of this Act by the United States Agency for International Development for children affected by HIV/AIDS;

(2) work in conjunction with indigenous community-based programs and activities, particularly those that offer proven services for children;

(3) reduce the stigma of HIV/AIDS to encourage vulnerable children infected with HIV or living with AIDS and their family members and caregivers to avail themselves of voluntary counseling and testing, and related programs, including treatments;

(4) provide, in conjunction with other relevant Executive branch agencies, the range of services for the care and treatment, including the provision of antiretrovirals and other necessary pharmaceuticals, of children, parents, and caregivers infected with HIV or living with AIDS;

(5) provide nutritional support and food security, and the improvement of overall family health;

(6) work with parents, caregivers, and community-based organizations to provide children with educational opportunities; and

(7) provide appropriate counseling and legal assistance for the appointment of guardians and the handling of other issues relating to the protection of children.

(c) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the President, acting through the United States Agency for International Development, shall submit a report on the implementation of this section to the appropriate congressional committees. The report shall include a plan for scaling up the program over the following year.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—In addition to amounts otherwise available for such purpose, there is authorized to be appropriated to the President \$15,000,000 for the fiscal year 2003 and \$30,000,000 for the fiscal year 2004 to carry out the program.

(2) **AVAILABILITY OF FUNDS.**—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

TITLE V—BUSINESS PRINCIPLES

SEC. 501. PRINCIPLES FOR UNITED STATES FIRMS OPERATING IN COUNTRIES AFFECTED BY THE HIV/AIDS PANDEMIC.

(a) **FINDINGS.**—Congress finds that the global spread of HIV/AIDS presents not only a health crisis but also a crisis in the workplace that affects—

(1) the productivity, earning power, and longevity of individual workers;

(2) the productivity, competitiveness, and financial solvency of individual businesses; and

(3) the economic productivity and development of individual communities and the United States as a whole.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that United States firms operating in countries affected by the HIV/AIDS pandemic can make significant contributions to the United States effort to respond to this pandemic through the voluntary adoption of the principles and practices described in subsection (c).

(c) **PRINCIPLES AND PRACTICES.**—The principles and practices referred to in subsection (b) are the following:

(1) With respect to employment and health policies and practices, the treatment of HIV/AIDS in the same manner as any other illness.

(2) The promotion of policies and practices that eliminate discrimination and stigmatization against employees on the basis of real or perceived HIV/AIDS status, including—

(A) assessing employees on merit and ability to perform;

(B) not subjecting employees to personal discrimination or abuse; and

(C) imposing disciplinary measures where discrimination occurs.

(3) A prohibition on compulsory HIV/AIDS testing for recruitment, promotion, or career development.

(4) An assurance of the confidentiality of an employee's HIV/AIDS status.

(5) Permission for employees with HIV/AIDS-related illnesses to work as long as they are medically fit and, when they are no longer able to work and sick leave has been exhausted, an assurance that the employment relationship will be terminated in accordance with antidiscrimination and labor laws and respect for general procedures and full benefits.

(6) An assurance that employment practices will comply, at a minimum, with national and international employment and labor laws and codes.

(7) The involvement of employees and individuals infected with HIV or living with AIDS, drawn from the workplace or the community, in the development and assessment of HIV/AIDS policies and programs for the workplace.

(8) An offer to all employees of access to culturally appropriate preventive education programs and services to support those programs.

(9) An assurance that programs offered in the workplace will support and be integrated into larger community-based responses to the problems posed by HIV/AIDS.

(10) Work with community leaders to expand the availability of treatment for those employees and others infected with HIV or living with AIDS.

TITLE VI—ADDITIONAL AUTHORITIES

SEC. 601. AUTHORITY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) **IN GENERAL.**—Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

“PART R—HIV/AIDS, TUBERCULOSIS, AND MALARIA PREVENTION, CARE AND TREATMENT IN DEVELOPING COUNTRIES

“SEC. 399AA. GENERAL AUTHORITY OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

“(a) **PURPOSE.**—It is the purpose of this section to provide the Secretary, acting through the Director of the Centers for Disease Control and Prevention, with the authority to act internationally to carry out prevention, care, treatment, support, capacity development, and other activities (determined appropriate by the Secretary) for HIV/AIDS, tuberculosis, and malaria in countries determined by the Secretary to have or be at risk for severe HIV epidemic with particular attention to resource constrained countries.

“(b) **ACTIVITIES AND ASSISTANCE.**—In carrying out the purpose described in subsection (a), the Secretary, acting through the Director of the Centers for Disease Control and Prevention, in coordination with the Administrator of the United States Agency for International Development and the Administrator of the Health Resources and Services

Administration, may provide support and assistance under this section relating to—

“(1) HIV prevention services provided through—

“(A) education and voluntary counseling and testing activities, including rapid testing, the development and application of confidentiality protections with respect to such counseling and testing, and the integration of such activities into programs serving women and children;

“(B) programs to reduce the mother-to-child transmission of HIV, including the treatment and care of HIV-infected women, their children, and families, and including the involvement of fathers in such programs;

“(C) activities involving behavioral interventions for youth, women, and other vulnerable populations;

“(D) programs to prevent the transmission of HIV and other pathogens at health care facilities (including the use of universal precautions, equipment sterilization, post-exposure prophylaxis for health care workers and other individuals determined to be appropriate, and other interventions appropriate to the resources available), and to support the use of post exposure prophylaxis, when indicated, for patients;

“(E) activities to ensure a safe blood supply;

“(F) programs to provide prevention, care, treatment, and patient management services for sexually transmitted infections to infected individuals and individuals at risk of infection; and

“(G) activities, including laboratory support, to collect and maintain accurate HIV/AIDS surveillance and epidemiologic data, to target and monitor programs, and to measure the effectiveness of interventions;

“(2) HIV/AIDS care and treatment services provided through—

“(A) programs to provide care and treatment, integrated with prevention services to further reduce the transmission of HIV, for individuals living with HIV/AIDS, including the treatment of opportunistic infections (including tuberculosis) and the provision of antiretroviral therapies and nutritional services;

“(B) programs to provide support services that are needed to enhance the effectiveness of health services and to promote family stability, including services for family members affected by, but not infected with, HIV such as children orphaned by AIDS; and

“(C) programs that link care and treatment services to proven prevention programs, including linkages with voluntary counseling and testing efforts (including rapid testing);

“(3) infrastructure and training through—

“(A) activities to improve the health infrastructure and institutional capacity within participating countries, including the training of appropriate personnel, and to assist such countries in expanding and improving the availability of health care facilities, to enable such countries to develop and manage HIV/AIDS education, prevention, care and treatment programs and to conduct evaluations of such programs; and

“(B) activities to provide laboratory support as well as technical assistance and training to increase the capacity for the diagnosis, care, and treatment of HIV/AIDS and related health conditions (including rapid testing);

“(4) HIV/AIDS treatment protocols through—

“(A) the provision of support and assistance to countries determined by the Secretary to have or be at risk for severe HIV

epidemic with particular attention to resource constrained countries for the development of treatment protocols for the delivery of HIV/AIDS treatment and prevention services; and

“(B) the provision of assistance to countries determined by the Secretary to have or be at risk for severe HIV epidemic with particular attention to resource constrained countries, and to be ready to implement the protocols described in subparagraph (A); and

“(5) other activities determined appropriated by the Secretary.

“(c) UTILIZATION OF EXISTING CAPACITIES.—In carrying out activities under subsection (b), the Secretary, acting through the Director of the Centers for Disease Control and Prevention and in coordination with the Administrator of the United States Agency for International Development and the Administrator of the Health Resources and Services Administration, shall, to the maximum extent practicable, utilize existing indigenous capacity in developing countries, including coordinating with relevant government ministries and carrying out activities in partnership with non-governmental organizations and affected communities.

“(d) HEALTH RESOURCES AND SERVICES ADMINISTRATION.—In carrying out activities under paragraphs (2) and (3) of subsection (b), the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall enter into interagency agreements, monetary transfers, and contracts with the Administrator of the Health Resources and Services Administration to ensure that such activities benefit from the specialized expertise of such Administration related to the assessment of needs as well as the development and implementation of community-based systems of care and appropriate infrastructure, including the training of health care providers and community workers.

“(e) BLOOD SUPPLY.—In carrying out activities under subsection (b)(1)(E), the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall assist participating countries in developing national, regional, or local systems to—

“(1) monitor, manage, and test the blood supply to ensure that such supply is screened for HIV;

“(2) increase recruitment and retention of appropriate blood donors; and

“(3) provide for technology transfer and capacity building in proven best blood safety practices appropriate to local conditions, including anemia prevention efforts.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$400,000,000 for fiscal year 2003, and such sums as may be necessary for fiscal year 2004. Of the amount appropriated under the preceding sentence for each fiscal year, the Secretary shall make available \$45,000,000 in fiscal year 2003 and \$30,000,000 in fiscal year 2004 to carry out section 399DD. Amounts appropriated under this subsection shall remain available until expended.

“SEC. 399BB. GENERAL AUTHORITY OF THE HEALTH RESOURCES AND SERVICES ADMINISTRATION.

“(a) PURPOSE.—It is the purpose of this section to provide the Secretary, acting through the Administrator of the Health Resources and Services Administration, with the authority to act internationally to carry out prevention, care, treatment, support, capacity development, and other activities (determined appropriate by the Secretary) for

HIV/AIDS, tuberculosis, and malaria in countries determined by the Secretary to have or be at risk for severe HIV epidemic with particular attention to resource constrained countries.

“(b) ACTIVITIES AND ASSISTANCE.—In carrying out the purpose described in subsection (a), the Secretary, acting through the Administrator of the Health Resources and Services Administration, in coordination with the Director of the Centers for Disease Control and Prevention and the Administrator of the United States Agency for International Development, may provide assistance under this section relating to—

“(1) activities to assist communities in assessing the strengths and capabilities of the existing system of care and treatment relating to HIV/AIDS and other opportunistic infections, including critical unmet needs;

“(2) activities to assist communities in the development and implementation of appropriate systems of care that provide for a continuum of HIV/AIDS-related services for prevention, treatment, palliative care, and hospice services based on an assessment under paragraph (1);

“(3) activities to improve the health-related infrastructure and institutional capacity of participating countries, including the training of health care providers and community workers, to enable such countries to develop and manage HIV/AIDS education, prevention, care and treatment programs and to conduct evaluations of such programs;

“(4) activities to assist in the development of training modules and curricula on HIV/AIDS and associated conditions as part of the professional training programs for physicians, nurses, dentists, pharmacists, and other health care providers;

“(5) activities to improve the coordination between American medical centers and hospitals and indigenous hospitals and clinics in participating countries; and

“(6) other activities determined appropriated by the Secretary.

“(c) UTILIZATION OF EXISTING CAPACITIES.—In carrying out activities under subsection (b), the Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with the Director of the Centers for Disease Control and Prevention and the Administrator of the United States Agency for International Development, shall, to the maximum extent practicable, utilize existing indigenous capacity in countries determined by the Secretary to have or be at risk for severe HIV epidemic with particular attention to resource constrained countries, including coordinating with relevant government ministries and carrying out activities in partnership with non-governmental organizations and affected communities.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$40,000,000 for fiscal year 2003, and such sums as may be necessary for fiscal year 2004. Amounts appropriated under this subsection shall remain available until expended.

“SEC. 399CC. HIV/AIDS TRAINING PARTNERSHIP.

“(a) IN GENERAL.—The Secretary, acting through the Director of the National Institutes of Health and in coordination with the Administrator of the Health Resources and Services Administration, shall award supplemental grants to eligible entities to enable such entities to provide support for clinical education and training in the delivery of HIV/AIDS care and treatment services.

“(b) ELIGIBLE ENTITIES.—To be eligible to receive a supplemental grant under subsection (a), an entity shall—

“(1) be a recipient of an international HIV/AIDS clinical research, education, or training grant awarded by the National Institutes of Health or the Health Resources and Services Administration;

“(2) provide assurances to the Secretary that the entity has developed a partnership with a hospital-based or community-based health care entity in the host country for the purpose of providing services under each grant; and

“(3) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the activities to be carried out with amounts received under the grant.

“(c) USE OF FUNDS.—An entity shall use amounts received under a supplemental grant under subsection (a) to provide clinical education and training in the delivery of HIV/AIDS care and treatment services. Such education and training shall be designed to develop health care provider capacity to deliver HIV/AIDS care and treatment services in a variety of institutional and community-based settings.

“(d) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to applicants that will carry out activities that assess existing provider capacity and address the training needs of a range of health care providers (from physicians to nurses to other health care providers).

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$50,000,000 for fiscal year 2003, and such sums as may be necessary for fiscal year 2004. Amounts appropriated under this subsection shall remain available until expended.

“SEC. 399DD. FAMILY SURVIVAL PARTNERSHIPS.

“(a) PURPOSE.—The purpose of this section is to provide support, through a public-private partnership, for the provision of medical care and support services to HIV positive parents and their children identified through existing programs to prevent mother-to-child transmission of HIV in countries with or at risk for severe HIV epidemic with particular attention to resource constrained countries, as determined by the Secretary.

“(b) GRANTS.—

“(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, is authorized to award a grant to an eligible administrative organization to enable the organization to award subgrants to eligible entities to expand activities to prevent the mother-to-child transmission of HIV by providing medical care and support services to HIV infected parents and their children.

“(2) ADMINISTRATIVE ORGANIZATION.—To be eligible to receive a grant under paragraph (1), an administrative organization shall—

“(A) have a demonstrable record in managing large scale maternal and child health programs in countries with or at risk for severe HIV epidemic with particular attention to resource constrained countries, as determined by the Secretary, and sufficient HIV/AIDS expertise;

“(B) have established relationships with major international organizations and multi-lateral institutions;

“(C) provide an assurance to the Secretary that the organization will contribute (either directly or through private sector financial support) non-Federal funds to the costs of the activities to be carried out under this

section in an amount that is not less than the amount of funds provided to the organization under a grant this section; and

“(D) prepare and submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

“(3) **USE OF FUNDS.**—Amounts provided under a grant awarded under paragraph (1) shall be used—

“(A) to award subgrants to eligible entities to enable such entities to carry out activities described in subsection (c);

“(B) for administrative support and subgrant management;

“(C) for administrative data collection and reporting concerning grant activities;

“(D) for the monitoring and evaluation of grant activities;

“(E) for training and technical assistance for subgrantees; and

“(F) to promote sustainability.

“(c) **SUBGRANTS.**—

“(1) **IN GENERAL.**—An organization awarded a grant under subsection (b) shall use amounts received under the grant to award subgrants to eligible entities.

“(2) **ELIGIBILITY.**—To be eligible to receive a subgrant under paragraph (1), an entity shall—

“(A) be a local health organization, an international organization, or a partnership of such organizations;

“(B) demonstrate to the awarding organization that such entity—

“(i) is currently administering a proven intervention to prevent mother-to-child transmission of HIV in countries with or at risk for severe HIV epidemic with particular attention to resource constrained countries, as determined by the Secretary;

“(ii) serves a catchment area with a minimum HIV seroprevalence of 3 percent in pregnant women;

“(iii) has demonstrated support for the proposed program from relevant government entities;

“(iv) is able to provide HIV care, including antiretroviral treatment when medically indicated, to HIV positive women, men, and children with the support of the project funding; and

“(v) has the ability to enroll a minimum of 250 HIV infected women per service site, based on the current uptake rate, into existing HIV mother-to-child transmission programs; and

“(C) prepare and submit to the awarding organization an application at such time, in such manner, and containing such information as the organization may require.

“(3) **LOCAL HEALTH AND INTERNATIONAL ORGANIZATIONS.**—For purposes of paragraph (2)(A)—

“(A) the term ‘local health organization’ means a public sector health system, non-governmental organization, institution of higher education, community-based organization, or non-profit health system that provides directly, or has a clear link with a provider for the indirect provision of, primary health care services; and

“(B) the term ‘international organization’ means—

“(i) a non-profit international entity;

“(ii) an international charitable institution;

“(iii) a private voluntary international entity; or

“(iv) a multilateral institution.

“(4) **SELECTION OF SUBGRANT RECIPIENTS.**—In awarding subgrants under this subsection, the organization shall—

“(A) consider applicants from a range of health care settings, program approaches, and geographic locations; and

“(B) if appropriate, award not less than 1 grant to an applicant to fund a national system of health care delivery to HIV positive families.

“(5) **USE OF SUBGRANT FUNDS.**—An eligible entity awarded a subgrant under this subsection shall use subgrant funds to expand activities to prevent mother-to-child transmission of HIV by providing medical treatment and care and support services to parents and their children, including—

“(A) providing treatment and therapy, when medically indicated, to HIV-infected women, their children, and families;

“(B) the hiring and training of local personnel, including physicians, nurses, other health care providers, counselors, social workers, outreach personnel, laboratory technicians, data managers, and administrative support personnel;

“(C) paying laboratory costs, including costs related to necessary equipment and diagnostic testing and monitoring (including rapid testing), complete blood counts, standard chemistries, and liver function testing for infants, children, and parents, and costs related to the purchase of necessary laboratory equipment;

“(D) purchasing pharmaceuticals for HIV-related conditions, including antiretroviral therapies;

“(E) funding support services including adherence and psychosocial support services;

“(F) operational support activities; and

“(G) conducting community outreach and capacity building activities, including activities to raise the awareness of individuals of the program carried out by the subgrantee, other communications activities in support of the program, local advisory board functions, and transportation necessary to ensure program participation.

“(d) **REPORTS.**—Not later than 6 months after the date of enactment of this section, and annually thereafter, an administrative organization awarded a grant under subsection (b)(1) shall submit to the Secretary and the appropriate committees of Congress, a report that includes—

“(1) the progress of programs funded under this section;

“(2) the benchmarks of success of programs funded under this section; and

“(3) recommendations of how best to proceed with the programs funded under this section upon the expiration of funding under subsection (e).

“(e) **FUNDING.**—In making amounts available under section 399AA(f) to carry out this section, the Secretary shall ensure that not less than—

“(1) \$45,000,000 is made available to carry out this section for fiscal year 2003; and

“(2) \$30,000,000 is made available to carry out this section for fiscal year 2004.

“(f) **LIMITATION ON ADMINISTRATIVE EXPENSES.**—An administrative organization shall ensure that not more than 12 percent of the amount of a grant received under this section by the organization is used for the administrative activities described in subparagraphs (B), (C), (D), and (E) of subsection (b)(3) and subsection (b)(5)(E).

“**SEC. 399EE. INTRA-AGENCY COORDINATION OF GLOBAL HIV/AIDS INITIATIVES.**

“(a) **IN GENERAL.**—The Secretary, acting through the Director of the Office of Global Health Affairs (referred to in this section as the ‘Director’) of the Department of Health and Human Services (referred to in this section as the ‘Department’), shall ensure—

“(1) the coordination of all Department programs related to the prevention, treatment, and monitoring of HIV/AIDS, tuberculosis, and malaria in countries with or at risk for severe HIV epidemic with particular attention to resource constrained countries, as determined by the Secretary (referred to in this section as ‘Department programs’); and

“(2) that global HIV/AIDS, tuberculosis, and malaria activities are conducted in a coordinated, strategic fashion, utilizing the expertise from the various agencies within the Department, to the maximum extent practicable.

“(b) **DUTIES.**—In carrying out this section, the Secretary shall—

“(1) review all Departmental programs to ensure proper coordination and compatibility of the activities, strategies, and policies of such programs; and

“(2) ensure that the Departmental programs utilize the best possible practices for HIV/AIDS prevention, treatment, and monitoring to improve the effectiveness of Department programs in countries in which the Department operates.

“(c) **REPORT.**—

“(1) **IN GENERAL.**—The Director shall prepare an annual report that—

“(A) describes the actions that are being taken to coordinate the multiple roles and policies of, and foster collaboration among, the offices and agencies of the Department that contribute to global HIV/AIDS activities;

“(B) describes the respective roles and activities of each of the offices and agencies of the Department;

“(C) contains any recommendations for legislative and funding actions that are needed to create a coherent, effective departmental approach to global HIV/AIDS that achieves the goals for Department programs; and

“(D) describes the progress made towards meeting the HIV/AIDS goals and outcomes as identified by the Director.

“(2) **SUBMISSION TO CONGRESS.**—Not later than 1 year after the date of enactment of this part, and annually thereafter, the Secretary shall submit the report described in paragraph (1) to the appropriate committees of Congress.”.

(b) **EXTENSION OF TUBERCULOSIS PREVENTION PROGRAM.**—Section 317E(g) of the Public Health Service Act (42 U.S.C. 247b-6(g)) is amended—

(1) in paragraph (1)(A), by striking “2002” and inserting “2004”;

(2) in paragraph (2), by striking “2002” and inserting “2004”; and

(3) by adding at the end the following:

“(3) **COORDINATION.**—Activities under this section shall, to the extent practicable, be coordinated with related activities carried out under title VI of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2002 (and the amendments made by that title).”.

SEC. 602. MICROBICIDE RESEARCH AT THE NATIONAL INSTITUTES OF HEALTH.

Subpart I of part D of title XXIII of the Public Health Service Act (42 U.S.C. 300cc-40 et seq.) is amended by inserting after section 2351 the following:

“**SEC. 2351A. MICROBICIDES FOR PREVENTING TRANSMISSION OF HIV AND OTHER SEXUALLY TRANSMITTED INFECTIONS.**

“(a) **EXPANSION AND COORDINATION OF ACTIVITIES.**—The Secretary, acting through the Director of the Office of AIDS Research and in coordination with other relevant institutes and offices, shall expand, intensify, and

coordinate the activities of all appropriate institutes and components of the National Institutes of Health with respect to research on the development of microbicides to prevent the transmission of HIV and other sexually transmitted infections (in this section referred to as 'microbicide research').

"(b) RESEARCH PLAN.—The Secretary, acting through the Director of the Office of AIDS Research and in consultation with the Director of the Institute of Allergy and Infectious Diseases, shall expedite the implementation of the strategic plan for the conduct and support of microbicide research, and shall annually review and as appropriate revise the plan. In developing, implementing, and reviewing the plan, the Director of the Office of AIDS Research shall coordinate with the heads of other Federal agencies, including the Director of the Centers for Disease Control and Prevention and the Administrator of the United States Agency for International Development, involved in microbicide research, with the microbicide research community, and with health advocates.

"(c) MICROBICIDE RESEARCH AND DEVELOPMENT TEAMS.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the National Institutes of Health, shall award grants or contracts to public and private entities for the development and operation of multidisciplinary teams to conduct research on innovative microbicide concepts, including combination microbicides.

"(2) PEER REVIEW REQUIREMENT.—The Director shall award a grant or contract to an entity under paragraph (1) only if the grant or contract has been recommended after technical and scientific peer review in accordance with regulations under section 492.

"(d) REPORT.—Not later than 1 year after the date of the initial submission of the research plan under subsection (b), and annually thereafter, the Secretary, acting through the Director of the Office of AIDS Research and in consultation with the Director of the Institute of Allergy and Infectious Diseases, shall submit to the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate a report that describes the activities of the National Institutes of Health regarding microbicide research. Each such report shall include—

"(1) an updated research plan;

"(2) a description and evaluation of the progress made, during the period for which such report is prepared, in research on microbicides;

"(3) a summary and analysis of expenditures made, during the period for which the report is made, for activities with respect to microbicides research conducted and supported by the National Institutes of Health, including the number of full-time equivalent employees; and

"(4) recommendations as the Director of the Office of AIDS Research considers appropriate.

"(f) DEFINITION.—In this section, the term 'HIV' means the human immunodeficiency virus. Such term includes acquired immune deficiency syndrome."

SEC. 603. AUTHORITY OF THE DEPARTMENT OF LABOR.

(a) PURPOSE.—It is the purpose of this section to provide the Secretary of Labor with the authority to carry out workplace-based HIV/AIDS programs in countries with or at

risk for severe HIV epidemic with particular attention to resource constrained countries, as determined by the Secretary.

(b) ACTIVITIES AND ASSISTANCE.—In carrying out the purpose described in subsection (a), the Secretary of Labor, in coordination with the Secretary of Health and Human Services and the Administrator of the United States Agency for International Development, may provide assistance under this section relating to—

(1) the establishment and implementation of workplace HIV/AIDS prevention and education programs in countries with or at risk for severe HIV epidemic with particular attention to resource constrained countries, as determined by the Secretary, including programs that emphasize protections against discrimination and the creation of supportive environments for individuals living with HIV/AIDS;

(2) the development and implementation of on-site care and wellness programs that enhance the health and productivity of the workforce in countries with or at risk for severe HIV epidemic with particular attention to resource constrained countries, as determined by the Secretary;

(3) activities to strengthen collaboration among governments, business, and labor leaders to respond to the HIV/AIDS pandemic; and

(4) other activities determined appropriated by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$10,000,000 for fiscal year 2003, and such sums as may be necessary for fiscal year 2004. Amounts appropriated under this subsection shall remain available until expended.

SEC. 604. AUTHORITY FOR INTERNATIONAL PROGRAMS.

Section 307 of the Public Health Service Act (42 U.S.C. 2421) is amended—

(1) in subsection (b)—

(A) in paragraph (6), by adding "and" at the end;

(B) in paragraph (7), by striking "and" and inserting a period;

(C) in the flush sentence after paragraph (7), by inserting "new" before "facility in any foreign country"; and

(D) by striking paragraph (8); and

(2) by adding at the end the following:

"(d)(1) The Secretary is authorized to utilize the authority contained in section 2 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669), subject to the limitations set forth in subsection (e).

"(2) The Secretary is authorized to use the authority contained in section 1 of the Act of April 18, 1930 (46 Stat. 177; 22 U.S.C. 291) and section 1 of the Foreign Service Buildings Act (22 U.S.C. 292) directly or through contract, grant, or cooperative agreement to lease, alter, or renovate facilities in foreign countries as necessary to conduct programs of assistance for international health activities, including activities relating to HIV/AIDS and other infectious diseases, chronic and environmental diseases, and other health activities abroad.

"(e) In exercising the authority set forth in paragraphs (1) and (2) of subsection (d), the Secretary shall consult with the Secretary of State to ensure that planned activities are within the legal strictures of the State Department Basic Authorities Act of 1956 and other applicable laws."

SA 4298. Mr. REID (for Mr. KERRY (for himself, Mr. FRIST, Mr. KENNEDY, Mr. BIDEN, and Mr. HELMS)) proposed

an amendment to the bill H.R. 2069, To amend the Foreign Assistance Act of 1961 and the Global AIDS and Tuberculosis Relief Act of 2000 to authorize assistance to prevent, treat, and monitor HIV/AIDS in sub-Saharan African and other developing countries; as follows:

Amend the title to read as follows: "An Act to amend the Foreign Assistance Act of 1961 to increase assistance for foreign countries seriously affected by HIV/AIDS, tuberculosis, and malaria; to amend the Public Health Service Act with respect to the authority of the Department of Health and Human Services to act internationally with respect to HIV/AIDS, tuberculosis, and malaria; and for other purposes."

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HARKIN. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on July 16, 2002 in SD-562 at 10 a.m. The purpose of this hearing will be to discuss the proposed ban on packer ownership and also the enforcement of the packers and stockyards act.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HARKIN. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on July 17, 2002 in SH-216 at 2 p.m. The purpose of this hearing will be to discuss homeland security.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HARKIN. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry Subcommittee on Production and Price Competitiveness will conduct a hearing on July 18, 2002 in SR-328A at 2 p.m. The purpose of this hearing will be to discuss S. 532, the Pesticide Harmonization Act.

HONORING THE 19 UNITED STATES SERVICEMEN WHO DIED IN THE TERRORIST BOMBING OF THE KHOBAR TOWERS MILITARY HOUSING COMPOUND IN DHAHRAN, SAUDI ARABIA

Mr. REID. Mr. President, I ask unanimous consent that the Armed Services Committee be discharged from further consideration of H. Con. Res. 161 and the Senate now proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con Res. 161) honoring the 19 United States servicemen who died in the terrorist bombing of the Khobar Towers military housing compound in Dhahran, Saudi Arabia, on June 25, 1996.

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD, without further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 161) was agreed to.

The preamble was agreed to.

COMMENDING THE DISTRICT OF COLUMBIA NATIONAL GUARD, THE NATIONAL GUARD BUREAU, AND THE ENTIRE DEPARTMENT OF DEFENSE

Mr. REID. Mr. President, I ask unanimous consent that the Armed Services Committee be discharged from further consideration of H. Con. Res. 378 and that the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 378) commending the District of Columbia National Guard, the National Guard Bureau, and the entire Department of Defense for the assistance provided to the United States Capitol Police and the entire Congressional community in response to the terrorist and anthrax attacks of September and October 2001.

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in

the RECORD, without further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 378) was agreed to.

The preamble was agreed to.

ORDER FOR RECORD TO REMAIN OPEN

Mr. REID. Mr. President, I ask unanimous consent that the RECORD remain open today until 2 p.m. for the submission of statements and the introduction of legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, JULY 15, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 noon, Monday, July 15; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business until 1 p.m., with Senators permitted to speak for up to 10 minutes each, with the first half of the time under the control of the minority, that is, Senator LOTT or his designee, and the second half under the control of Senator DASCHLE or his designee; that at 1 p.m., the Senate resume consideration of the accounting reform bill under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mr. REID. Mr. President, following the remarks of the Senator from West Virginia, Mr. BYRD, I ask unanimous consent the Senate stand in adjournment under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Montana, asks unanimous consent that further proceedings under the quorum call be dispensed with.

Without objection, it is so ordered.

APPOINTMENT OF CONFEREES—H.R. 3009

The PRESIDING OFFICER. Pursuant to the previous order, the Chair will appoint the following conferees.

The Presiding Officer appointed Senators BAUCUS, ROCKEFELLER, BREAU, GRASSLEY, and HATCH conferees on the part of the Senate.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Montana, suggests the absence of a quorum.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL MONDAY, JULY 15, 2002

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until Monday, July 15, at 12 noon.

There being no objection, the Senate, at 12:53 p.m. Adjourned until Monday, July 15, 2002, at 12 noon.

HOUSE OF REPRESENTATIVES—Friday, July 12, 2002

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. SIMPSON).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 12, 2002.

I here appoint the Honorable MICHAEL K. SIMPSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, guardian of this Nation throughout its history, be with Your people today as in the past. Through the power of Your spirit, keep the Members of the United States House of Representatives constant in their service to Your people. Help each to play his or her part in shaping the life and well-being of this Nation. May thoughts be guided by truth and integrity and all determinations conform to Your commands so as to build the public trust while assuring peace.

To You be glory and honor forever and ever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from California (Ms. SOLIS) come forward and lead the House in the Pledge of Allegiance.

Ms. SOLIS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 1-minute at the end of the legislative day.

NATIONAL CONSTRUCTION SAFETY TEAM ACT

Ms. PRYCE of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 475 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 475

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4687) to provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Science. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Science now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from Ohio (Ms. PRYCE) is recognized for 1 hour.

Ms. PRYCE of Ohio. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time

yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 475 is an open rule which provides for 1 hour of general debate, equally divided between the chairman and ranking member of the Committee on Science, on H.R. 4687, the National Construction Safety Team Act. The rule provides that it shall be in order to consider for the purpose of amendment the amendment in the nature of a substitute now printed in the bill.

The rule waives all points of order against the committee amendment in the nature of a substitute and provides that it shall be open for amendment by section.

Mr. Speaker, this is yet another open rule which affords any Member the opportunity to offer an amendment as long as it complies with the regular rules of the House. However, the rule allows the chairman of the Committee of the Whole to accord priority in recognition to those Members who have preprinted their amendments in the CONGRESSIONAL RECORD.

Finally, the rule permits the minority to offer a motion to recommit, with or without instructions.

Mr. Speaker, I would like to commend the gentleman from New York (Mr. BOEHLERT), chairman of the Committee on Science, and the lead Democrat sponsor, the gentleman from New York (Mr. WEINER), along with the gentleman from Texas (Mr. HALL), the ranking member, and all the members of the committee for their hard work and bipartisan efforts to further the use of science in our public policy decisions.

Mr. Speaker, after every plane crash, whether a small, single-engine plane or a large, commercial airliner, a team of investigators arrives on the scene and begins to try and determine how did this happen. These teams of experts are brought together by the National Transportation Safety Board, simply known as the NTSB. These NTSB teams try and determine whether pilot error, mechanical failure, or forces of nature were to blame.

In the end, the main goal of this group of experts is to try and prevent such an incident from happening again. After the horrible collapse of the World Trade Center on September 11, it was realized that the United States needs to develop similar teams of experts that could investigate the structural failure of buildings.

H.R. 4687, the National Construction Safety Team Act, authorizes the development of teams of experts in building construction and engineering.

This legislation establishes a clear procedure for the creation of construction safety teams to investigate building or structural collapses that result in large numbers of deaths. Under H.R. 4687, this task will be given to the National Institute of Standards and Technology.

The national construction safety teams will have several important roles. First, these teams of experts will conduct investigations to determine the likely technical causes for the failure of the building. By finding out why it collapsed, specific recommendations can be made to improve building standards, codes, and construction practices to possibly prevent it from happening again.

These safety teams also will be tasked with determining the technical aspects of evacuation and emergency response procedures. They will be looking at questions such as whether sprinkler systems are adequate or if there are enough stairways to handle a large exodus of people in a real emergency situation.

Finally, upon completion of an investigation, these experts will then recommend research and other appropriate actions needed to improve the structural safety of buildings and improve evacuation and emergency response procedures based on these findings.

Mr. Speaker, this is a good bill and it deserves our support. As many of my colleagues know, this legislation is the product of a number of high-profile hearings, discussions with the administration, the American Society of Civil Engineers, families of the victims of the World Trade Center collapse, as well as many other interested parties.

I urge all of my colleagues to support this straightforward and noncontroversial rule, as well as this bipartisan legislation which will allow us to apply a clear scientific process to prevent the future catastrophic loss of life and property.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleague from Ohio for yielding me the customary 30 minutes.

Mr. Speaker, I rise in support of this open rule. The underlying bill is noncontroversial and was passed by voice vote out of the House Committee on Science.

Mr. Speaker, on September 11 we learned many hard lessons about our Nation's vulnerability to attack, and the underlying bill before us today sets out to improve our ability to respond to an attack, especially our ability to investigate building failures that cause a substantial loss of life.

The aftermath of the collapse of the World Trade Center towers revealed se-

rious flaws in how the Federal Government moves forward with these investigations. For instance, first FEMA responded to the Trade Center disaster by sending search and rescue teams to the site. FEMA also employed a team tasked with analyzing information about the sequence of events and failures that resulted in the progressive collapse of the World Trade Center towers. Its goal was to analyze how the structures performed and determine whether changing building codes and design practices might prevent future disasters.

Eventually, FEMA recognized that it did not have the resources or the authority to conduct a comprehensive and thorough investigation; and in January, FEMA asked the National Institute of Standards and Technology to take over the investigation. Before all was said and done, the National Science Foundation was involved as well.

Eventually, despite the extraordinary commitment of the agents and workers investigating the site, confusion became the order of the day. None of these agencies were prepared to conduct a comprehensive and thorough investigation immediately following the collapse of the buildings.

In addition, the Federal efforts that were undertaken to study the building failures were hindered by many impediments: no Federal agency was clearly charged with investigating building failures; nothing ensured that an investigation would begin quickly enough to preserve evidence; no Federal agency had the investigative authority to ensure access to all the needed information; and nothing ensured that the public was kept informed of the progress of the investigation; and inadequate funding limited the efforts that were undertaken.

The measure before us today is modeled on the legislation that created the National Transportation Safety Board and will go a long way toward addressing these problems. First, the act establishes NIST as the lead agency to investigate building failures that have caused a substantial loss of life or that posed significant potential for substantial loss of life. The legislation also requires NIST to deploy a team within 48 hours of a disaster so that the investigation is not hindered by delay.

Additionally, the legislation gives NIST authority to enter the site of the building failure, inspect and move records and materials, issue subpoenas and impound evidence; and moreover, a provision of critical importance to the families of victims would require teams to hold regular public briefings on the status of the investigation in order to ensure that the public is informed.

Finally, to prevent funding limitations from inhibiting future investigation, the legislation authorizes appropriations of \$25 million.

Mr. Speaker, we owe it to the families of the victims to ensure timely and orderly investigation of this tragedy, and I urge favorable consideration of this bill; and, again, Mr. Speaker, I know of no controversy surrounding this measure.

Mr. Speaker, I yield back the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Again, this is an open rule and noncontroversial, but a necessary piece of legislation. It sets up a clear process for building investigation and will allow use, upgrade of the safety of existing buildings and future structures. I urge all my colleagues to support this rule and this very, very important piece of legislation.

I want once again to commend the committee and the gentleman from New York (Mr. BOEHLERT), the chairman, and all who have participated in drafting this important piece of legislation.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 0915

The SPEAKER pro tempore (Ms. PRYCE of Ohio). Pursuant to House Resolution 475 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4687.

□ 0915

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4687) to provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life, with Mr. SIMPSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New York (Mr. BOEHLERT) and the gentleman from Texas (Mr. HALL) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I approach the task of bringing this bill to the floor with great solemnity. H.R. 4687 is, in many ways, a memorial to those who lost

their lives on September 11 and a tribute to their families, who have joined together to advocate for this measure in the Campaign for Skyscraper Safety.

It is fitting, therefore, that we are discussing this bill as Congress pulls together a Department of Homeland Security, another reaction to last fall's attack. Both H.R. 4687 and the Department are intelligent, targeted efforts to discern and apply the lessons of September 11.

While the National Construction Safety Team Act will not do anything as dramatic as help us foil terrorist attacks, it will save lives in a more workaday manner than anti-terrorism legislation.

The idea behind this bill is simple: we cannot make our buildings safer unless we understand what goes wrong when they fail. That has been a basic principle of engineering from its inception, and the Federal Government has been long involved in efforts to learn from building failures. But we learned from our Committee on Science hearings into the investigation that followed the World Trade Center collapse that our investigation system has its own failures. This bill is a carefully crafted attempt to address each and every failure that hampered the investigation into the World Trade Center collapse.

The first problem was that no Federal agency was clearly charged with investigating building failures. The bill solves that problem by giving the National Institute of Standards and Technology clear responsibility to handle the investigations.

Second, nothing ensured that investigations would begin quickly enough to preserve valuable evidence. The bill solves that problem by requiring NIST to act within 48 hours of a building failure.

Third, no Federal agency had the investigative authority it needed to ensure access to all needed information. The bill solves that problem by giving NIST clear authority to enter sites, access documents, test materials, and move evidence, as well as clear authority to issue subpoenas.

Fourth, nothing ensured that the public was kept informed of the progress of the investigation. The bill solves that problem by requiring NIST to provide regular public briefings and to make public its findings and the material that led to those findings.

We have listened to expert witnesses, including the American Society of Civil Engineers, and the Nation owes a great debt of gratitude to the American Society of Civil Engineers, which conducted the Trade Center investigation under the aegis of the Federal Emergency Management Agency. We have responded with a measure targeted precisely to remedy the issues that came to our attention. And we base the bill on a highly successful model: the National Transportation

Safety Board, the Federal agency that investigates airline crashes.

I should emphasize this bill is not just about responding to terrorist attacks. It will come into play anytime a building failure has lessons to teach, whether the building failed from a natural disaster or human action, regardless of whether that action was intentional.

So I urge my colleagues to support this measure. It is a simple lifesaving measure. It has the support of the groups who worked to put together our Nation's life safety codes, like the Civil Engineers and the National Fire Protection Association; and it is fully supported by the administration.

There are a lot of thanks due to a lot of people for helping to assemble this important measure. I want to thank the professional staff on both sides of the aisle on this Committee on Science. I want to thank all of my colleagues who invested so much of their time and energy and talent into producing this document, particularly the gentleman from New York (Mr. WEINER), who was a real leader, and my colleagues on the committee, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from New York (Mr. GRUCCI), who have been key right from the beginning in working with us every step of the way. And Sally Regenhard, a wonderful woman, who has been there every step of the way representing the families, guiding us and inspiring us. And Dr. Gene Corley of the American Society of Civil Engineers. What a magnificent job they did under some very difficult circumstances. There are a lot of people who deserve credit for where we are today.

But the basic point is this: we are taking action that, hopefully, will prevent something like this from ever happening again.

Mr. Chairman, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Chairman, I yield myself such time as I may consume.

I want to join the chairman, the gentleman from New York (Mr. BOEHLERT), in strong support of H.R. 4687. Of course, he has well laid out the provisions of it, the need for it, and the action that was taken.

We all look back to September 11, 2001, when our country was subjected to a cowardly attack on the World Trade Center and the Pentagon. These attacks, of course, will rank with any of the great tragedies of American history. As with any tragedy, we need to look for lessons that can help us against possible future tragedies.

I know that we also need to carefully examine our emergency preparedness, our evacuation procedures and emergency responses as well as the structural integrity of our tall buildings. That is a tall order. And H.R. 4687 is

the result of careful evaluation of how the various governmental agencies, State, local and Federal, investigated the collapse of the World Trade towers, and also emergency response and evacuation proceedings.

During the course of the hearings and in consultations with professional societies and citizen groups, the Committee on Science discovered the Federal Government's inability to quickly deploy a building investigative team to the World Trade Center site. The committee found valuable data was lost because we had no one with the authority to sequester or to set aside for future observation. In haste, and amidst tragedy and disbelief, trails to analyze were lost.

Citizen groups were angry and suspicious because the government in charge did not really provide public briefings on its building investigative team's activities. Our President reported to us as he could, as he visited the site and did everything he could to cooperate with the officials of the City of New York, as did the entire Nation.

We also discovered, though, that there is not a good system in place to translate the findings of an investigation into a major building collapse and to improve building standards and codes. And, finally, Federal investigative efforts were woefully underfunded to do a thorough and comprehensive job.

So, Mr. Chairman, H.R. 4687 is the Committee on Science's attempt to address these shortcomings. I will not go through the specific provisions of the bill. Chairman BOEHLERT has done a good job of that. However, this bill provides solutions to each of the problems that we uncovered, and we have placed them in the bill.

The National Construction Safety Team Act is going to enable, I think, the Federal Government to respond more quickly and comprehensively in the event of a major building failure. It is only by studying building disasters that we can improve building design and evacuation and emergency response procedures that ultimately make buildings safer.

I am convinced that some of the actions that this country has taken are working, because we have not had another tragedy to date. And though we are warned repeatedly that one is on its way, I think a lot of what we have done at the local government level, the State government, and the Federal government, all acting in cooperation, may be working.

I want to command Chairman BOEHLERT, well, I do not want to command Chairman BOEHLERT to do anything because he does such a good job of leading this committee, but I do want to commend him, and I want to certainly commend my colleagues, the gentleman from New York (Mr. WEINER) and the gentleman from New York (Mr.

ISRAEL), for their hard work on this legislation. As New Yorkers, they felt the hurt, they know the tragedy, and they were a lot of the life and breath of this bill as we labored through it and listened to the testimony. I also want to thank Chairman BOEHLERT for working with us in his usual bipartisan fashion.

As I said at the beginning, this is a bill about lessons learned. If we are serious about making our buildings safer against future terrorist attacks, then we ought to pass this legislation.

I yield 5 minutes to the gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Chairman, I thank the gentleman from Texas (Mr. HALL) for his leadership on our side of the aisle, and I want to join in the words he had to say about the gentleman from New York (Mr. BOEHLERT). The chairman has led this committee with great dignity and pursued this issue with thoroughness and with a great compassion and respect for the families of the victims who came to this committee and came to this Congress with a very reasonable request, and that is that we try to do what we can to make buildings safer in the future.

I also want to thank Mike Quear, and Geoff Hockert of my staff, who helped draft this bill.

Mr. Chairman, no one would dispute that the attack on the World Trade Center could not have been anticipated. In many respects, one can only marvel at the skill of the designers of the Twin Towers and the workmanship of thousands of nameless steelworkers and laborers. Thousands of families will enjoy dinner together tonight because, even under the most unimaginable circumstances, these proud buildings stood tall for more than an hour.

But for the families of those lost, this testament offers little consolation and leaves many questions about the causes of the collapse unanswered. And, sadly, because of the early missteps in the investigation, some of the most vexing questions may never be unraveled.

Thousands of tons of steel were carted away from Ground Zero and were recycled before any expert could examine what could have been telltale clues. Support trusses, fireproofing fragments, and even burnt-out electrical switches that might have given scientists and engineers insight were lost forever, even before an investigation was underway.

These failures mean that we are, even to this day, short on conclusions about design decisions that may have contributed to the deaths of so many firefighters and workers on the top floors.

Should future building avoid the concentration of stairwells that was used in the Twin Towers? Was enough attention given to the communications infrastructure that failed in the 1993

bombing, and tragically left hundreds of emergency workers climbing stairs up while officials on the ground knew that the buildings were about to come down? Did the fireproofing separate from the steel beams because of the intense heat, or did the design of the post-asbestos treatment that is in place in thousands of buildings in this country fail for other reasons?

We cannot bring back those that were lost on September 11, and today there are more than 25,000 mothers, fathers, aunts, uncles, husbands, wives, and loved ones that we thank God escaped that day. But if we want to ensure that the legacy of this tragedy is that future building collapses are avoided or mitigated, we need to do a better job investigating the causes.

We pray that no other plane ever crashes into a tall building. And we hope that an earthquake never rattles our Nation's high-rises. We remain vigilant against threats of a bomb in our city centers.

□ 0930

But just as we are not satisfied to hope that another plane does not crash, we need to create an investigative team like the NTSB, like the National Transportation Safety Board, to jump into action to investigate building collapses, protect and preserve evidence, issue regular briefings and reach conclusions that formalize standards of building design, egress and emergency escape.

The gentleman from New York (Mr. BOEHLERT), whose leadership on this issue has provided comfort to so many victims, and I have worked closely to craft legislation to create this authority. I call particular attention to two reforms contained in this bill.

First, just as the NTSB immediately sequesters evidence involved in a plane crash, our bill creates immediate on-site authority for investigators of building collapses to have access and preservation of important materials. And if necessary, the new panel may subpoena materials. Never again will we see the destruction of material and the legal jousting that marked the scene of the September 11 attack, where even the blueprints of the building were kept from investigators and took weeks to secure.

Secondly, the bill encourages the national construction safety teams to make recommendations to improve the design of buildings, evacuation and emergency plans, and I hope give localities guidance to avoid the tragic pitfalls in communication that befell so many in the World Trade Center.

We cannot mitigate the tragedy that befell so many of my neighbors. Families of the victims, particularly Sally Regenhard and the others of the Skyscraper Safety Campaign, have asked that we do what we can to give meaning to their loss. Today, we pay tribute

to those who perished at Ground Zero by taking another step to ensure that we learn the lessons of our past. One thing is certain, we will not stop reaching for the heavens in our lives or in our buildings.

Mr. HALL of Texas. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. ISRAEL).

Mr. ISRAEL. Mr. Chairman, I commend the gentleman from Texas (Mr. HALL) and the gentleman from New York (Chairman BOEHLERT) for their work on this important legislation. It was bipartisan from the beginning; and on such an important issue, that is the way it should be.

Mr. Chairman, I lost over 100 constituents in the rubble of the World Trade Center. In the days after September 11, their families wanted to know why our national intelligence and our airport security were not strong enough to withstand the attack. Now their families are asking whether our building, fire and safety codes were strong enough to withstand the attack. They want to know if we learned anything from the collapse of the Federal building in Oklahoma, or did bureaucracy simply file a report on some shelf, only to be opened in the scrutiny of September 11. They want to make sure that the lessons lost on September 11 will never be lost again.

Since September 11, we have responded to the assault on the World Trade Center and the Pentagon in many ways. Militarily, we have eviscerated al Qaeda. We have replaced the Taliban theocracy with a secular interim government that will lead Afghanistan to democracy, we have started to revamp our airport security systems, we have passed the Comprehensive Bioterrorism Act and the PATRIOT Act.

On Capitol Hill, we have erected steel barricades and shatterproof glass to protect Members of Congress; but we are still asking our police, our fire, and our emergency workers around the country to risk their lives running into buildings without really knowing what they need to know about the technical conditions of those buildings.

We need to know what can be done to make our buildings more structurally sound and control the intense fires caused by airplanes or bombs, and what precautions should be taken to minimize the weakening of steel, even under the most catastrophic conditions.

Mr. Chairman, I went to the wreckage of the World Trade Center with President Bush a few days after the attack. We have an obligation to those lost in that rubble and to everyone who enters a skyscraper in this new age of terrorist warnings to shine some light, to get some answers, and to act on what we have learned. Protecting our skyscrapers and economic security is just as important an issue as flying F-

16s over the Capitol Building in Washington.

That is why the gentleman from New York (Mr. BOEHLERT), the gentleman from New York (Mr. WEINER), and I have asked the Office of Management and Budget to allocate the \$40 million needed to complete a comprehensive study. When the Committee on Science held a hearing to study the progress of the investigation of the collapse, there was unanimity among the witnesses on the need for a comprehensive assessment and research agenda to address evacuation procedures, emergency response, and structural analysis of the World Trade Center.

We need to give scientists the resources that they need to make and conclude this full, comprehensive study.

Mr. Chairman as the gentleman from New York said, we were not ready for a building disaster like the one at the World Trade Center. This legislation will help us find the answers that our families are looking for and prepare us for a more secure future. We will always look at the site of the World Trade Center and ask why. Now it is our obligation to know how, and this bill gives us the tools.

Mr. BOEHLERT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I cannot emphasize enough the sensitivity with which the committee handled this very important assignment and the leadership provided by the gentleman from New York (Mr. WEINER), the gentleman from New York (Mr. ISRAEL), the gentleman from Texas (Mr. HALL), and the gentleman from Connecticut (Mr. SHAYS), whom I am about to yield time to. They were very sensitive and compassionate in dealing with the families and helped to craft a bill that we can all be proud of.

Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I rise in support of H.R. 4687, the National Construction Safety Team Act. The reason why I think this bill is so well drafted and so well thought out is because of the work of both the chairman and the ranking member, along with the extraordinary Science Committee staff.

When we first began these hearings, I thought, "Wait a second, we had two gigantic, wide-body planes filled with fuel imploding in these buildings? What would Members expect?"

But as we began this investigation, we realized there were a lot of things we could learn from the collapse of these buildings. It is sad and unfortunate that no one was in charge of this investigation. Because no one was empowered to be in charge, we could not gain access to some of this material right away to understand how this building, for instance, imploded. It was

fascinating for me to review the fire escape options. Had they not all been concentrated in one place, maybe more people could have gotten out.

We learned that materials and building construction made a difference. Studying building No. 7, a building over 40 stories tall, while it burned indefinitely and then basically collapsed was an incredible opportunity for us to discover a number of things about building materials.

The collapse of the World Trade Center forever changed the landscape in New York City. In Connecticut's fourth district alone, over 60 constituents perished in the attacks, and the lives of their families, friends and colleagues will never be the same again.

When both buildings imploded, I was unfortunately brought to remember what had happened in Bridgeport, Connecticut, shortly before I was elected in 1987. The L'Ambiance building in Bridgeport, a 16-story apartment building, collapsed when 16 concrete slabs crashed to the ground. We lost 28 construction workers.

The collapse of L'Ambiance was due in large measure to poor construction practices. The tragedy made clear the need to improve the inspection and reporting requirements for building construction—which we did.

I think what we are doing here does so much more to guarantee in the future we will build better buildings. In the future when there is a building collapse, we will have procedures to govern the investigation and understand what caused the collapse. And just like when an airplane crash takes place, we will understand why it happened and how we can prevent it from happening again.

I have tremendous respect for what the Committee on Science has done. There has not been a lot of press on this issue, not a lot of attention to the extent I think it deserves, but from this horrible experience we have learned so much and will have the ability in the future to take command of a site and understand what needs to be done. I thank the chairman and the ranking member for their extraordinary work, and for the work of the staff, and I urge my colleagues to support this important legislation.

Mr. Chairman, I rise in support of H.R. 4687, the National Construction Safety Team Act.

The collapse of the World Trade Center forever changed the landscape in New York City. In Connecticut's Fourth district alone, over 60 constituents perished in the attacks on the Twin Towers; and the lives of their families, friends and colleagues will never be the same again.

As I watched in horror as the towers collapsed, I was reminded of the 1987 collapse of L'Ambiance in Bridgeport, Connecticut. L'Ambiance was a 16-story apartment building which collapsed when 16 concrete slabs crashed to the ground, killing 28 construction workers.

The collapse of L'Ambiance was due in large measure to poor construction practices.

The tragedy made clear the need to improve the inspection and reporting requirements for building construction—when we did.

As we continue to fight the war on terrorism and strive to prevent future conventional biological, chemical and nuclear attacks, we must also find more effective ways to respond to disasters.

The study of the World Trade Center collapse made clear that we must improve procedures for investigating building collapses. H.R. 4687 will clarify who is in charge and their respective responsibilities in case of future disasters.

This legislation grants the National Institute of Standards and Technology (NIST) authorities similar to those of the National Transportation Safety Board, and establishes a procedure to govern all future building disasters. It grants NIST access and control of the disaster site, subpoena power and the ability to move and preserve key evidence.

I commend Chairman BOEHLERT for his leadership on this issue, and I urge my colleagues to support this important legislation.

Mr. HALL of Texas. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BOEHLERT. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. GRUCCI), someone who has been with us every step of the way, a very valuable member of the Committee on Science.

Mr. GRUCCI. Mr. Chairman, I thank the gentleman from New York (Mr. BOEHLERT) for his steadfast leadership on this important issue; and I thank the ranking member, the gentleman from Texas (Mr. HALL), for his leadership as well.

Mr. Chairman, my congressional district lies just 45 miles from Ground Zero. My constituents were the first responders, opening up their emergency rooms, volunteering their rescue services to help mothers and fathers, brothers and sisters, friends, and even strangers, all that were trapped in the rubble of the World Trade Center on that morning of September 11.

America sat with fear and awe, our eyes captivated by the sight of these once-great towers reduced to a pile of smoking debris. But as the hallowed ground of Lower Manhattan is cleared of the rubble and America attempts to heal from the horror of September 11, we continue to work together to find what answers can be mustered from this tragedy and ask the critically important questions to find out how these towers failed.

This key legislation, the National Construction Safety Team Act, will give the National Institute of Standards and Technology clear authority and responsibility, as well as the necessary legal tools, to investigate building failures. These tools allow for a complete understanding and study into why a building fails and how to ensure that it never happens again.

Mr. Chairman, the crash of TWA Flight 800 was yet another tragic event

that resulted in substantial loss of life. In order to learn what happened, the National Transportation Safety Board was sent to the scene to begin a full investigation. As a local leader at that time, I saw firsthand the vital importance of this effort. But in the collapse at Ground Zero, there was no clear mandate to what Federal agents would lead an investigation into the buildings' failure. This confusion cannot happen again.

H.R. 4687 clarifies this process and makes certain that NIST has the authority to study building collapse. I am proud to be an original cosponsor of this legislation and place my full support behind the bill. I urge Members to join me in supporting this legislation. The tragedy that took place at the World Trade Center was one of unimaginable magnitude. Now 10 months after the tragedy of September 11, we continue to work together to see that a tragedy like this never happens again.

Mr. Chairman, I thank the gentleman from New York (Mr. BOEHLERT) for his leadership, and thank him for his commitment to New York.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Chairman, I rise in support of H.R. 4687, the National Construction Safety Team Act, and I thank the gentleman from New York (Mr. WEINER) as well as the gentleman from New York (Mr. ISRAEL) for their work on this important legislation.

September 11 changed New York and changed our world. Since September 11, volunteers and scientific experts have traveled to Ground Zero in the name of recovery and understanding. These workers, volunteers and experts have all pushed themselves and their skills to the ultimate limit to deal with an unusually grave situation.

In particular, the National Institute of Standards and Technology had to deftly work with a myriad of concerns and concerned New Yorkers. People like Arthur Taub and Sally Regenhart of Co-op City, who had concerns about the NIST investigation. Mr. Taub and Ms. Regenhart were among thousands of family members, both grieving and seeking answers.

NIST has worked with constituents who wanted answers and who had information. Even seasoned NIST employees admitted they were covering new ground as no one could ever have imagined such an event as September 11.

In the immediate aftermath of 9-11, NIST had to try to do its job amidst emergency responders, police officers, and incomprehensible losses. In this extraordinarily challenging situation, critical evidence like beams, steel work and cables, were being carted off before the NIST team had a time to catalog or identify them. Given the fact that the scope of this tragedy had never been seen before, it is under-

standable that this investigation would be less than ideal. However, it is important that we learn from this tragedy.

There are several lessons to be learned from September 11. One lesson is the importance of a swift and thorough investigation of a building failure. NIST must have access to building debris as soon as it is safe to enter a site, and they must be able to move and preserve critical evidence. This bill gives NIST that authority.

Looking toward the future, it is important to do all we can to prevent a building failure of any kind from ever happening again. This bill will allow us to obtain information to help prevent building failures in the future.

□ 0945

It is important for us to swiftly and thoroughly respond to the community when buildings fail. God forbid if they fail like this again. This bill does that, and more. I urge my colleagues to support H.R. 4687.

Mr. Chairman, I thank the ranking member as well as the chairman for this fine piece of work.

Mr. LARSON of Connecticut. Mr. Chairman, I rise today in support of a measure that will end up saving many lives by allowing America's foremost experts in the area of structural collapses to conduct inquiries with adequate investigative authorities, and thereby allowing the American people to learn lessons that can be applied to future building construction and emergency procedures. I speak of the bill before us today, the National Construction Safety Team Act, H.R. 4687, of which I am a proud original sponsor and on which I have been working with my colleagues on the Science Committee for the past few months. This issue was first brought to my attention by Ms. Monica Gabrielle from my home State of Connecticut, who lost her husband, Richard, as a result of the collapse of 2 World Trade Center. As part of the Skyscraper Safety Campaign, Ms. Gabrielle's efforts to bring this issue to the attention of me and to other Members of Congress were invaluable in getting the Science Committee and now the House to act on this important legislation. Her efforts, and those of the Skyscraper Safety Campaign, to ensure that we know all we need to know about the structural collapse of the World Trade Center, the subsequent investigation, and to make sure that any recommendations are followed through and implemented so that we can avoid preventable deaths in the future are the principle reason we are voting today on this bill. And for that they should be mentioned here and praised. Thank you Ms. Gabrielle.

I also want to specifically commend the efforts of two of my colleagues on the Science Committee, Chairman BOEHLERT and Mr. WEINER of New York. Their tireless efforts on behalf of the families of the victims who died on that terrible day last September is awe-inspiring.

One of the unexpected and tragic lessons we learned from the attacks on the World Trade Center is that the Federal government is ill-equipped to respond quickly to disasters and discover the lessons that building failures

can teach—lessons that could save many lives in the future.

In the case of the World Trade Center, the Federal Emergency Management Agency (FEMA) was the Federal agency primarily responsible for responding to the disaster. A key component of that response was the deployment of a team of experts in engineering, design, construction, and building codes to investigate the causes of the collapse of the buildings and determine what lessons could be learned from the disaster.

Unfortunately, FEMA's investigative team encountered roadblocks from the beginning. It was not deployed as rapidly as it should have been. It was unable to stop the recycling of many of the steel beams that had fallen from the towers and that could have provided valuable clues as the sequence of events that led to the collapse of the Trade Center towers. It was unable to obtain the blueprints for the buildings until almost 4 months after the collapse, and it was never given access to other important documents that could have been useful for the investigation.

As a result, FEMA requested that the National Institute of Standards and Technology (NIST) conduct a second, more extensive investigation. NIST has the only Federal laboratory dedicated to research on building design and fire and has existing statutory authority for conducting investigations into the structural failures.

However, NIST does not currently have those authorities, and this bill provides that authority. It would require new authorities to conduct an effective investigation, so that lives can be saved in the future. Such authorities would be akin to those of the National Transportation Safety Board (NTSB) which is authorized by statute to enter the site of airplane crashes, preserve evidence, and issue subpoenas to witnesses or for documents to facilitate its investigation.

I am very proud to have worked on this bill with my colleagues for the Science Committee and as we prepare to vote on it, I urge my colleagues to consider the impact this legislation will have in saving lives in the future, and therefore I urge them to support it. We owe this to the victims of the events of September 11, their families, and the American people.

Mrs. MORELLA. Mr. Chairman, I rise in strong support of HR 4687. As an original cosponsor of this legislation, I want to thank the leadership Chairman BOEHLERT and Ranking Member HALL for bringing this issue forward and I strongly urge my colleagues to pass this important piece of legislation. On September 11th, there were no Republicans or Democrats in the rubble, only Americans and I am proud to stand here with my colleagues from both parties to honor their memory and support this bill.

Over the past few months, the Science Committee has heard disturbing testimony about the investigation into the reasons for the catastrophic building failure at the World Trade Center. We have learned that there was no federal agency clearly in charge of the investigation nor anything to assure it began in a timely fashion. Worse still, when FEMA was given authority to investigate, they lacked critical access to information, documents and materials and no legal authority to compel cooperation. Finally, the public was frequently

kept out of the loop leading to confusion and resentment among victim's friends and families.

We listened closely to these concerns and have responded with a precise and targeted remedy. Using the National Transportation Safety Board as a model, we have proposed the creation of a National Construction Safety Team to investigate catastrophic collapse complete with subpoena power, investigatory authority, and a clear chain-of-command under the direction of the National Institute of Standards and Technology. We are firmly establishing who's in charge of future investigations with clear mandates for action, without impeding search and rescue operations.

In addition, we are supporting additional research by the NIST into the technical causes of the World Trade Center collapse and other fire safety issues in an attempt to provide the necessary research for future building safety codes. NIST is the premier federal laboratory for research in building design and safety and is uniquely positioned to conduct the extensive study required to fully understand the World Trade Center disaster and thereby prevent future collapses.

Finally, while I applaud the efforts and support of my colleagues, I caution them that it may not be enough. As this work goes forward, we will likely come up with more questions than answers and as NIST uncovers deficiencies in our building designs, they may also discover gaps in our knowledge. New studies and new facilities may be needed to fill these voids and those investigations may require a new commitment. Today we take an important first step, and I hope I can count on my colleagues to be there when we take the next one.

Mr. GILMAN. Mr. Chairman, I rise today in strong support of H.R. 4687, the National Construction Safety Act. I urge my colleagues to support this important measure.

This legislation authorizes the National Institute of Standards and Technology (NIST) within the Department of Commerce to establish national construction safety teams to investigate the structural causes of building failures that cause substantial loss of life. This measure authorizes the appropriation of \$75 million over 3 years for this purpose. The NIST also will be allowed to accept and spend monetary gifts to support the teams.

Mr. Chairman, this measure was drafted in response to the difficulties encountered by those who sought to investigate the collapse of the World Trade Center buildings last September 11th. It has been designed to address every problem encountered by those investigators, including bureaucratic confusion, a lack of investigative tools and excessive restrictions on the flow of information.

We know why the World Trade Center Towers collapsed. This bill seeks to ensure that such an event is never repeated. By providing NIST with the authority it needs to swiftly carry out future investigations, H.R. 4687 will help that organization develop an institutional knowledge base to improve its response to future tragedies, and hopefully to head off that alternative altogether. Moreover, the legislation will also help both NIST and the greater architectural and engineering communities improve their existing designs with the goal of developing better buildings in the future.

Accordingly, I urge my colleagues to give this measure their strong support.

Mr. BOEHLERT. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered by sections as an original bill for the purpose of amendment, and each section is considered read.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Construction Safety Team Act".

Mr. BOEHLERT. Mr. Chairman, I ask unanimous consent that the remainder of the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The text of the remainder of the bill is as follows:

SEC. 2. NATIONAL CONSTRUCTION SAFETY TEAMS.

(a) **ESTABLISHMENT.**—The Director of the National Institute of Standards and Technology (in this Act referred to as the "Director") is authorized to establish National Construction Safety Teams for deployment after events causing the failure of a building or buildings that has resulted in substantial loss of life or that posed significant potential for substantial loss of life. To the maximum extent practicable, the Director shall establish and deploy a Team within 48 hours after such an event. The Director shall promptly publish in the Federal Register notice of the establishment of each National Construction Safety Team.

(b) **PROCEDURES.**—

(1) **DEVELOPMENT.**—Not later than 3 months after the date of the enactment of this Act, the Director, in consultation with the United States Fire Administration and other appropriate Federal agencies, shall develop procedures for the establishment and deployment of National Construction Safety Teams. The Director shall update such procedures as appropriate. Such procedures shall include provisions—

(A) regarding conflicts of interest related to service on the Team;

(B) defining the circumstances under which the Director will establish and deploy a National Construction Safety Team;

(C) prescribing the appropriate size of National Construction Safety Teams;

(D) guiding the disclosure of information under section 8;

(E) guiding the conduct of investigations under this Act;

(F) identifying and prescribing appropriate conditions for the provision by the Director of additional resources and services National Construction Safety Teams may need;

(G) to ensure that investigations under this Act do not impede and are coordinated with any

search and rescue efforts being undertaken at the site of the building failure;

(H) for regular briefings of the public on the status of the investigative proceedings and findings;

(I) guiding the National Construction Safety Teams in moving and preserving evidence as described in section 5(a)(4), (b)(2), and (d)(4);

(J) providing for coordination with Federal, State, and local entities that may sponsor research or investigations of building failures, including research conducted under the Earthquake Hazards Reduction Act of 1977; and

(K) regarding such other issues as the Director considers appropriate.

(2) **PUBLICATION.**—The Director shall publish promptly in the Federal Register final procedures, and subsequent updates thereof, developed under paragraph (1).

SEC. 3. COMPOSITION OF TEAMS.

National Construction Safety Teams shall be led by an individual named by the Director. National Construction Safety Team members shall include at least 1 employee of the National Institute of Standards and Technology and shall include other experts who are not employees of the National Institute of Standards and Technology, who may include private sector experts, university experts, representatives of professional organizations with appropriate expertise, and appropriate Federal, State, or local officials.

SEC. 4. FUNCTIONS OF TEAMS.

National Construction Safety Teams shall—

(1) conduct investigations to establish the likely technical cause or causes of the building failure;

(2) evaluate the technical aspects of evacuation and emergency response procedures;

(3) recommend specific improvements to building standards, codes, and practices based on the findings made pursuant to paragraphs (1) and (2); and

(4) recommend research and other appropriate actions needed to improve the structural safety of buildings, and improve evacuation and emergency response procedures, based on the findings of the investigation.

SEC. 5. AUTHORITIES.

(a) **ENTRY AND INSPECTION.**—In investigating a building failure under this Act, members of a National Construction Safety Team, and any other person authorized by the Director to support a National Construction Safety Team, on display of appropriate credentials provided by the Director, may—

(1) enter property where a building failure being investigated has occurred, or where building components, materials, and artifacts with respect to the building failure are located, and do anything necessary to conduct the investigation;

(2) inspect any record (including any design, construction, or maintenance record), process, or facility related to the investigation;

(3) inspect and test any building components, materials, and artifacts related to the building failure; and

(4) move such records, components, materials, and artifacts as provided by the procedures developed under section 2(b)(1).

(b) **AVOIDING UNNECESSARY INTERFERENCE AND PRESERVING EVIDENCE.**—An inspection, test, or other action taken by a National Construction Safety Team under this section shall be conducted in a way that—

(1) does not interfere unnecessarily with services provided by the owner or operator of the building components, materials, or artifacts, property, records, process, or facility; and

(2) to the maximum extent feasible, preserves evidence related to the building failure, consistent with the ongoing needs of the investigation.

(c) COORDINATION.—

(1) **WITH SEARCH AND RESCUE EFFORTS.**—A National Construction Safety Team shall not impede, and shall coordinate its investigation with, any search and rescue efforts being undertaken at the site of the building failure.

(2) **WITH OTHER RESEARCH.**—A National Construction Safety Team shall coordinate its investigation, to the extent practicable, with qualified researchers who are conducting engineering or scientific (including social science) research relating to the building failure.

(3) **MEMORANDA OF UNDERSTANDING.**—The National Institute of Standards and Technology shall enter into a memorandum of understanding with each Federal agency that may conduct or sponsor a related investigation, providing for coordination of investigations.

(d) INTERAGENCY PRIORITIES.—

(1) **IN GENERAL.**—Except as provided in paragraph (2) or (3), a National Construction Safety Team investigation shall have priority over any other investigation of any other Federal agency.

(2) **NATIONAL TRANSPORTATION SAFETY BOARD.**—If the National Transportation Safety Board is conducting an investigation related to an investigation of a National Construction Safety Team, the National Transportation Safety Board investigation shall have priority over the National Construction Safety Team investigation. Such priority shall not otherwise affect the authority of the Team to continue its investigation under this Act.

(3) **CRIMINAL ACTS.**—If the Attorney General, in consultation with the Director, determines, and notifies the Director, that circumstances reasonably indicate that the building failure being investigated by a National Construction Safety Team may have been caused by a criminal act with intent to cause the building failure, the National Construction Safety Team shall relinquish investigative priority to the appropriate Federal law enforcement agency. The relinquishment of investigative priority by the National Construction Safety Team shall not otherwise affect the authority of the Team to continue its investigation under this Act.

(4) **PRESERVATION OF EVIDENCE.**—If a Federal law enforcement agency suspects and notifies the Director that a building failure being investigated by a National Construction Safety Team under this Act may have been caused by a criminal act with intent to cause the building failure, the National Construction Safety Team, in consultation with the Federal law enforcement agency, shall take necessary actions to ensure that evidence of the criminal act is preserved.

SEC. 6. BRIEFINGS, HEARINGS, WITNESSES, AND SUBPOENAS.

(a) **GENERAL AUTHORITY.**—The Director, on behalf of a National Construction Safety Team, may conduct hearings, administer oaths, and require, by subpoena and otherwise, necessary witnesses and evidence as necessary to carry out this Act.

(b) **BRIEFINGS.**—National Construction Safety Teams shall hold regular public briefings on the status of investigative proceedings and findings.

(c) **PUBLIC HEARINGS.**—During the course of an investigation by a National Construction Safety Team, the National Institute of Standards and Technology may, if the Director considers it to be in the public interest, hold a public hearing for the purposes of—

(1) gathering testimony from witnesses; and

(2) informing the public on the progress of the investigation.

(d) **PRODUCTION OF WITNESSES.**—A witness or evidence in an investigation under this Act may be summoned or required to be produced from any place in the United States. A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(e) **ISSUANCE OF SUBPOENAS.**—A subpoena shall be issued under the signature of the Director but may be served by any person designated by the Director.

(f) **FAILURE TO OBEY SUBPOENA.**—If a person disobeys a subpoena issued by the Director or a National Construction Safety Team under this Act, the Director may bring a civil action in a district court of the United States to enforce the subpoena. An action under this subsection may be brought in the judicial district in which the person against whom the action is brought resides, is found, or does business. The court may punish a failure to obey an order of the court to comply with the subpoena as a contempt of court.

SEC. 7. ADDITIONAL POWERS.

In order to support National Construction Safety Teams in carrying out this Act, the Director may—

(1) procure the temporary or intermittent services of experts or consultants under section 3109 of title 5, United States Code;

(2) request the use, when appropriate, of available services, equipment, personnel, and facilities of a department, agency, or instrumentality of the United States Government on a reimbursable or other basis;

(3) confer with employees and request the use of services, records, and facilities of State and local governmental authorities;

(4) accept voluntary and uncompensated services;

(5) accept and use gifts of money and other property;

(6) make contracts with nonprofit entities to carry out studies related to purpose, functions, and authorities of the National Construction Safety Teams; and

(7) provide nongovernmental members of the National Construction Safety Team reasonable compensation for time spent carrying out activities under this Act.

SEC. 8. DISCLOSURE OF INFORMATION.

(a) **GENERAL RULE.**—Except as otherwise provided in this section, a copy of a record, information, or investigation submitted or received by a National Construction Safety Team shall be made available to the public on request and at reasonable cost.

(b) **EXCEPTION.**—Subsection (a) does not require the release of information described by section 552(b) of title 5, United States Code, or protected from disclosure by any other law of the United States.

(c) **PROTECTION OF VOLUNTARY SUBMISSION OF INFORMATION.**—Notwithstanding any other provision of law, a National Construction Safety Team, the National Institute of Standards and Technology, and any agency receiving information from a National Construction Safety Team or the National Institute of Standards and Technology, shall not disclose voluntarily provided safety-related information if that information is not directly related to the building failure being investigated and the Director finds that the disclosure of the information would inhibit the voluntary provision of that type of information.

(d) **PUBLIC SAFETY INFORMATION.**—A National Construction Safety Team and the National Institute of Standards and Technology shall not publicly release any information it receives in the course of an investigation under this Act if the Director finds that the disclosure of that information might jeopardize public safety.

SEC. 9. NATIONAL CONSTRUCTION SAFETY TEAM REPORT.

Not later than 90 days after completing an investigation, a National Construction Safety Team shall issue a public report which includes—

(1) an analysis of the likely technical cause or causes of the building failure investigated;

(2) technical recommendations for changes to or the establishment of evacuation and emergency response procedures;

(3) recommended specific improvements to building standards, codes, and practices; and

(4) recommendations for research and other appropriate actions needed to help prevent future building failures.

SEC. 10. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACTIONS.

After the issuance of a public report under section 9, the National Institute of Standards and Technology shall comprehensively review the report and, working with the United States Fire Administration and other appropriate Federal and non-Federal agencies and organizations—

(1) conduct, or enable or encourage the conducting of, appropriate research recommended by the National Construction Safety Team; and

(2) promote the appropriate adoption by the Federal Government, and encourage the appropriate adoption by other agencies and organizations, of the recommendations of the National Construction Safety Team with respect to—

(A) technical aspects of evacuation and emergency response procedures;

(B) specific improvements to building standards, codes, and practices; and

(C) other actions needed to help prevent future building failures.

SEC. 11. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ANNUAL REPORT.

Not later than February 15 of each year, the Director shall transmit to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a report that includes—

(1) a summary of the investigations conducted by National Construction Safety Teams during the prior fiscal year;

(2) a summary of recommendations made by the National Construction Safety Teams in reports issued under section 9 during the prior fiscal year; and

(3) a description of the actions taken by the National Institute of Standards and Technology during the prior fiscal year in response to reports issued under section 9.

SEC. 12. ADVISORY COMMITTEE.

(a) **ESTABLISHMENT AND FUNCTIONS.**—The Director, in consultation with the United States Fire Administration and other appropriate Federal agencies, shall establish an advisory committee to advise the Director on carrying out this Act and to review the procedures developed under section 2(b)(1) and the reports issued under section 9.

(b) **ANNUAL REPORT.**—On January 1 of each year, the advisory committee shall transmit to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a report that includes—

(1) an evaluation of National Construction Safety Team activities, along with recommendations to improve the operation and effectiveness of National Construction Safety Teams; and

(2) an assessment of the implementation of the recommendations of National Construction Safety Teams and of the advisory committee.

(c) **DURATION OF ADVISORY COMMITTEE.**—Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this section.

SEC. 13. ADDITIONAL APPLICABILITY.

The authorities and restrictions applicable under this Act to the Director and to National Construction Safety Teams shall apply to the activities of the National Institute of Standards and Technology in response to the attacks of September 11, 2001.

SEC. 14. AMENDMENT.

Section 7 of the National Bureau of Standards Authorization Act for Fiscal Year 1986 (15

U.S.C. 281a) is amended by inserting “, or from an investigation under the National Construction Safety Team Act,” after “from such investigation”.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the National Institute of Standards and Technology for carrying out this Act \$25,000,000 for each of the fiscal years 2003 through 2005, to remain available until expended.

AMENDMENT OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOEHLERT:

Page 4, line 24, insert: “Team members who are not Federal employees shall be considered Federal Government contractors.” after “or local officials.”.

Page 5, line 7, insert “, as necessary,” after “recommend”.

Page 5, line 10, insert “any” after “recommend”.

Page 8, lines 9 and 10, strike “with intent to cause the building failure”.

Page 8, lines 21 and 22, strike “with intent to cause the building failure”.

Page 10, line 8, strike “the Director” and insert “the Attorney General, acting on behalf of the Director,”.

Page 11, line 7, insert “, to the extent provided in advance in appropriations Acts” after “and other property”.

Page 13, line 19, insert “(consistent with existing procedures for the establishment of building standards, codes, and practices)” after “promote”.

Page 16, after line 6, insert the following new section:

SEC. 15. CONSTRUCTION.

Nothing in this Act shall be construed to confer any authority on the National Institute of Standards and Technology to require the adoption of building standards, codes, or practices.

Page 16, line 7, redesignate section 15 as section 16.

Page 16, line 10, strike “\$25,000,000” and insert “such sums as may be necessary”.

Mr. BOEHLERT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BOEHLERT. Mr. Chairman, this is a manager's amendment that clarifies a number of issues in the bill. It reflects the discussions between the committee and the administration, especially the White House and the Department of Commerce. It also includes language worked out with the Committee on Appropriations. So I appreciate the willingness of both the White House and the gentleman from Florida (Chairman YOUNG) of the Committee on Appropriations to work with us to bring this bill to the floor with their support.

This is an en bloc amendment that clarifies or alters several different sections of the bill.

First, the amendment clarifies that members of investigative teams should be treated as contract employees, thereby shielding them from liability.

Second, it clarifies that team members not recommend code changes or further research in the unlikely event that they do not believe any code changes or further research is necessary.

Third, it expands the types of criminal investigations that would require NIST to stop serving as the lead agency at the site of the building collapse.

Fourth, the amendment clarifies how certain decisions of the Director of NIST can be enforced.

Fifth, it clarifies that all expenditures in the bill are subject to appropriations.

Sixth, it clarifies in two separate places that the bill gives NIST no regulatory authority over the adoption of building standards, codes and practices.

Finally, it changes the authorization to “such sums,” which is fitting, given that it is impossible to predict how many investigations will be conducted in any given year. We hope there will not be any. There are no ongoing expenses associated with the bill.

Mr. Chairman, this is a straightforward and carefully negotiated amendment, agreed to in a bipartisan fashion, and I urge its adoption.

Mr. HALL of Texas. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, Chairman BOEHLERT has succinctly laid out the amendment and has worked with us on it. We support it, and I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BOEHLERT).

The amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GIBBONS) having assumed the chair, Mr. SIMPSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4687) to provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life, pursuant to House Resolution 475, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amend-

ment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BOEHLERT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 338, nays 23, not voting 73, as follows:

[Roll No. 295]

YEAS—338

Abercrombie	Davis (FL)	Hinojosa
Aderholt	Davis (IL)	Hobson
Allen	Davis, Jo Ann	Hoefel
Andrews	Davis, Tom	Hoekstra
Armey	DeGette	Holden
Baca	DeLahunt	Holt
Bachus	DeLauro	Honda
Baird	DeLay	Hooley
Baldacci	DeMint	Horn
Baldwin	Deutsch	Houghton
Ballenger	Dingell	Hoyer
Barcia	Doggett	Hulshof
Barr	Dooley	Hyde
Bartlett	Doolittle	Inslee
Bass	Doyle	Israel
Bentsen	Dreier	Istook
Bereuter	Dunn	Jackson (IL)
Berkley	Edwards	Jackson-Lee
Berry	Ehlers	(TX)
Biggert	English	Jefferson
Bilirakis	Eshoo	Johnson (CT)
Bishop	Etheridge	Johnson (IL)
Blunt	Evans	Johnson, E. B.
Boehlert	Everett	Johnson, Sam
Boehner	Farr	Kanjorski
Bonilla	Ferguson	Kaptur
Bono	Filner	Keller
Boozman	Fletcher	Kelly
Boswell	Foley	Kennedy (MN)
Boyd	Forbes	Kennedy (RI)
Brady (TX)	Ford	Kerns
Brown (FL)	Frank	Kildee
Brown (OH)	Frelinghuysen	Kilpatrick
Brown (SC)	Frost	Kind (WI)
Burr	Gekas	King (NY)
Burton	Gephardt	Kirk
Buyer	Gibbons	Kleczka
Callahan	Gilchrest	Knollenberg
Camp	Gilman	Kolbe
Capito	Gonzalez	Kucinich
Capps	Goss	LaFalce
Cardin	Graham	LaHood
Carson (IN)	Granger	Lampson
Carson (OK)	Graves	Langevin
Castle	Green (TX)	Larson (CT)
Chabot	Green (WI)	Latham
Clayton	Greenwood	LaTourette
Clyburn	Grucci	Leach
Collins	Gutknecht	Lee
Combest	Hall (OH)	Levin
Condit	Hall (TX)	Lewis (CA)
Cooksey	Harman	Lewis (KY)
Costello	Hart	Linder
Cox	Hastings (WA)	LoBiondo
Coyne	Hayes	Lowe
Cramer	Hayworth	Lucas (KY)
Crenshaw	Hefley	Lucas (OK)
Crowley	Herger	Luther
Cummings	Hill	Lynch
Cunningham	Hilliard	Maloney (CT)
Davis (CA)	Hinche	Maloney (NY)

Mascara	Portman	Solis
Matheson	Price (NC)	Souder
Matsui	Pryce (OH)	Spratt
McCarthy (NY)	Putnam	Stark
McCollum	Rahall	Stearns
McCrery	Ramstad	Stenholm
McGovern	Rangel	Strickland
McInnis	Regula	Stump
McIntyre	Rehberg	Stupak
McKeon	Reyes	Sullivan
McKinney	Reynolds	Sununu
McNulty	Rivers	Tanner
Meek (FL)	Rodriguez	Tauscher
Meeks (NY)	Roemer	Tauzin
Menendez	Rogers (KY)	Taylor (MS)
Mica	Rogers (MI)	Terry
Millender-	Rohrabacher	Thomas
McDonald	Ros-Lehtinen	Thompson (CA)
Miller, Dan	Ross	Thompson (MS)
Miller, Jeff	Rothman	Thornberry
Mink	Roybal-Allard	Thune
Mollohan	Rush	Thurman
Moore	Ryan (WI)	Tiberi
Moran (KS)	Sabo	Towns
Moran (VA)	Sanchez	Turner
Morella	Sanders	Udall (CO)
Murtha	Sandlin	Udall (NM)
Myrick	Sawyer	Upton
Nadler	Saxton	Visclosky
Napolitano	Schakowsky	Vitter
Neal	Schiff	Walsh
Nethercutt	Schrock	Wamp
Ney	Scott	Waters
Northup	Sensenbrenner	Watkins (OK)
Nussle	Serrano	Watson (CA)
Obey	Sessions	Watt (NC)
Olver	Shaw	Watts (OK)
Ortiz	Shays	Waxman
Osborne	Sherman	Weiner
Ose	Sherwood	Weldon (FL)
Oxley	Shimkus	Weldon (PA)
Pallone	Shows	Weller
Pastor	Shuster	Whitfield
Payne	Simmons	Wicker
Pelosi	Simpson	Wilson (NM)
Peterson (MN)	Skeen	Wilson (SC)
Peterson (PA)	Skelton	Wolf
Petri	Slaughter	Woolsey
Phelps	Smith (MI)	Wu
Pitts	Smith (NJ)	Wynn
Platts	Smith (TX)	Snyder
Pombo		
Pomeroy		

NAYS—23

Akin	Goode	Paul
Cannon	Goodlatte	Pence
Cantor	Hostettler	Royce
Chambliss	Isakson	Ryun (KS)
Coble	Jones (NC)	Shadegg
Culberson	Kingston	Taylor (NC)
Duncan	Norwood	Toomey
Flake	Otter	

NOT VOTING—73

Ackerman	Emerson	McDermott
Baker	Engel	McHugh
Barrett	Fattah	Meehan
Barton	Fossella	Miller, Gary
Becerra	Galleghy	Miller, George
Berman	Ganske	Oberstar
Blagojevich	Gillmor	Owens
Blumenauer	Gordon	Pascarell
Bonior	Gutierrez	Pickering
Borski	Hansen	Radanovich
Boucher	Hastings (FL)	Riley
Brady (PA)	Hilleary	Roukema
Bryant	Hunter	Schaffer
Calvert	Issa	Smith (WA)
Capuano	Jenkins	Sweeney
Clay	John	Tancredo
Clement	Jones (OH)	Tiahrt
Conyers	Lantos	Tierney
Crane	Larsen (WA)	Trafiacant
Cubin	Lewis (GA)	Velazquez
Deal	Lipinski	Walden
DeFazio	Lofgren	Wexler
Diaz-Balart	Manzullo	Young (AK)
Dicks	Markey	
Ehrlich	McCarthy (MO)	

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Messrs. PENCE, AKIN, RYUN of Kansas, ISAKSON, and GOODLATTE

changed their vote from “yea” to “nay.”

Messrs. BLUNT, ARMEY, BARR, and WAMP, and Ms. KILPATRICK changed their vote from “nay” to “yea.”

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. CLAY. Mr. Speaker, on rollcall No. 295, H.R. 4687, National Construction Safety Team Act, had I been present, I would have voted “yea.”

Ms. MCCARTHY of Missouri. Mr. Speaker, on rollcall No. 295, I was unavoidably detained. Had I been present, I would have voted “yea.”

Mrs. CUBIN. Mr. Speaker, on roll call 295 I was detained by the construction on the Capitol Hill complex. Had I been present, I would have voted “yea.”

Mr. McDERMOTT. Mr. Speaker, I was unable to be in Washington, DC today. As a result, I was unable to vote on the National Construction Safety Team Act (H.R. 4687). Had I been capable of voting, I would have voted “yea.”

GENERAL LEAVE

Mr. BOEHLERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material in the RECORD on H.R. 4687.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from New York?

There was no objection.

LEGISLATIVE PROGRAM

Ms. PELOSI. Mr. Speaker, I rise for the purpose of inquiring about the schedule for next week.

Mr. ARMEY. Mr. Speaker, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, I am so pleased to announce that the House has completed its legislative business for the week.

The House will next meet for legislative business on Monday, July 15, at 12:30 p.m. for morning hour and at 2 o'clock p.m. for legislative business.

I will schedule a number of measures under suspension of the rules, a list of which will be distributed to Members' offices later today. Recorded votes on Monday will be postponed until 6:30 p.m.

On Tuesday and the balance of the week, I have scheduled the following measures for consideration in the House:

On Tuesday, H.R. 5093, the Department of Interior Appropriations Act for Fiscal Year 2003;

On Wednesday, the Treasury and Postal Operations Appropriations Act for Fiscal Year 2003;

On Thursday, the Legislative Branch Appropriations Act for Fiscal Year 2003;

And again on Thursday and on Friday, the Department of Agriculture Appropriations Act for Fiscal Year 2003.

Mr. Speaker, the conferees are meeting this morning to complete work on the President's emergency defense and homeland security supplemental appropriation request, and I intend to schedule that conference report as soon as it is available next week.

Obviously, Mr. Speaker, we have a busy and productive week ahead of us, so I would advise Members to expect long days and nights as we work to complete our work on five appropriations bills next week.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for that presentation. I would just like to know how late he expects these long days and nights to go. Are we talking 3 a.m. in the morning? Can Members make plans with their families in the evening?

Mr. ARMEY. I thank the gentlewoman for the inquiry. As the gentlewoman may have noticed, other than Monday, we have appropriations bills on each of these days. Appropriations bills come to the floor under the 5-minute rule. This provides ample opportunity for maximum participation by the Members.

One can never say for certain. We will try to work as late as is necessary to maintain the schedule for the completion of the bills, with an eye toward a reasonable time to catch our planes for our weekend work recesses at home on Friday. So while I would anticipate no extraordinarily late evenings, we must be prepared, I think, to work into the evenings each night to sustain that schedule.

Ms. PELOSI. I appreciate that.

I would like to further inquire, Mr. Speaker, if there is any other legislative business besides appropriations bills that the gentleman expects to come up next week.

Mr. ARMEY. I thank the gentlewoman for that question. We do not see anything. Obviously, we have several things out in conference, and insofar as any of those conferences, and most hopefully the emergency supplemental conference should report, we would want to bring those conference reports to the floor as quickly as possible.

Ms. PELOSI. Mr. Speaker, I would say to the leader that I had a couple of issues in that regard.

As Members know, the Senate will finish a very tough corporate accountability measure early next week that the President and the Speaker have expressed support for.

Given deep concern about the corporate scandals and impact on pensions and retirement savings of Americans, we in this House need to act as quickly as possible. Would it not make sense

simply to adopt the Senate bill and send it right to the President before we leave for the August recess? Is that possible?

Mr. ARMEY. I thank the gentlewoman for her inquiry. I, too, like the gentlewoman, am so pleased that the other body has finally understood how necessary this is and has finally tried to catch up with the House, which passed a bill on April 24 with a vote of 334 to 90, and 119 Members of the gentlewoman's own party voted for that excellent product from the House.

While the other body is finally getting aware of the urgency of moving on this, and we do, indeed, hope they might complete work on a bill that relates to our work next week, we would be quite anxious to get to conference with them as quickly as possible and work out the most reasonable and effective compromise between the two bodies to get sent to the President as soon as possible.

So I would join the gentlewoman from California in wishing Godspeed and good work to the other body so that we could get to that conference and complete the work so ably begun in this body almost 3 months ago with that marvelous vote of 334 to 90 on our own bill on this matter.

Ms. PELOSI. Mr. Speaker, if the subject were not so serious about the pensions of America's families, the hopes and aspirations for their children and their children's education that has been greatly diminished by the collapse of the stock market, I would think that the distinguished majority leader was jesting in the comments that he just made.

Mr. ARMEY. No, no, Mr. Speaker.

Ms. PELOSI. The Senate has acted very responsibly and in a manner that I hope this body will follow suit on in the bill that they have passed. The difference between the House bill and the Senate bill is drastic. That is why I asked that we take up the Senate bill tout suite and send it to the President. I had a couple of other questions, however.

Mr. ARMEY. Mr. Speaker, if the gentlewoman will continue to yield, if, indeed, the subject were not so grave before the American people, we might find this body willing to pick up the work product of another body that had taken 3 months to even see how serious the problem is.

But since this body so quickly perceived the problem, so effectively worked on the problem, we must insist on the opportunity for this body's earlier prompt, timely, and most professionally well done work to be honored in the process.

There is no way that this body could consider its duty to America to take the tardy, less well-understood and generally-feared-to-be-less-effective legislation from the other body, when we have the most perfect opportunity to go to conference and get it right.

Ms. PELOSI. Methinks the gentleman doth protest too much. The fact is that the events that have followed the passage of the bill in this body have demonstrated its weakness so very clearly.

So again, I reiterate my request of the gentleman to take up the Senate bill ASAP so we can send it to the President.

Mr. ARMEY. Mr. Speaker, if the gentlewoman will continue to yield, this body demonstrated on April 24 that there is nothing to be learned from the second kick of a mule. Unfortunately, it took 3 months and several more kicks for the other body to wake up, and there is no way that we will set our good work aside, take up their work, and deny America the opportunity to have a well-conferenced work where the work of this body can be presented in this process.

Ms. PELOSI. Mr. Speaker, I reiterate, methinks the gentleman doth protest too much.

Mr. Speaker, another bill that I am wondering will come up is the bill on the Permanent Select Committee on Intelligence, on which I serve as ranking member. We finished our work a long time ago, and have been hoping to move that very important piece of legislation.

Mr. ROEMER. Mr. Speaker, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Indiana (Mr. ROEMER) to pursue that question with the very distinguished majority leader.

Mr. ROEMER. Mr. Speaker, I thank my good friend, the gentlewoman from California, for yielding to me, and am pleased to have the opportunity to engage the distinguished majority leader in a question or two.

It seems to me when the majority leader points the finger at the so-called other body for not doing its work, it comes on the tail of a workweek, so-called workweek, that we have had here of a half an hour on the floor Monday, we were out of session Wednesday by 4:30, yesterday by 1:30, and today at the late hour of 10:29 we have concluded legislative business.

It seems to me that there are a lot of important things for the country and the Congress to engage in. One of them is the business of the Permanent Select Committee on Intelligence. The saberrattling of the al Qaeda is out there saying they are going to attack America again, yet we have had an intelligence bill languishing in the Committee on Rules for 1½ months.

I would be very interested in knowing and inquiring of the majority leader why that intelligence bill is not on the floor and why that platform for supporting some changes and reforms in the intelligence community is not leading the way here at a very, very important time in the Nation's history.

Mr. ARMEY. If the gentlewoman will continue to yield, Mr. Speaker, I do ap-

preciate that the fact of the matter is before we left for our July 4 work recess we did advise the body to prepare to come back for this week just past and spend their time in the committee room, where, indeed, 12 of our committees worked, the last of which finishing at 1:30 in the morning last night on this very important business of homeland security.

We also had the Committee on Appropriations mark up four bills this week. We did in fact have the committee work week that we asked and anticipated for the week. I am sorry the gentleman from Indiana (Mr. ROEMER) missed out on all the fun, but the committee members that worked so late in the evening will tell the gentleman that their work was comprehensive and exhaustively attended to during the course of this week.

□ 1030

The bill under consideration about which you ask has not been filed by the Committee on Rules; therefore, it is not prepared to bring to the floor. The committee chairman has himself been steeped in work on homeland security and I would guess that the gentleman from Florida (Mr. GOSS) will be very anxious to get together with his ranking member and work out any final details they need to in order to file a bill, at which time, obviously, we would move the bill to the floor as quickly as possible and maintain the excellent work record of this body that has indeed done a level of work for the past 2 years that would be commensurate with two legislative sessions in order to keep pace with all that is before us and stay so far ahead of the other body that just does not seem to be able to catch up with the enormous amounts of work we produce.

Mr. ROEMER. I would just engage the majority leader a little bit further on this particular bill in saying that the committee reported this unanimously out of the committee a month and a half ago in a bipartisan fashion after we worked very hard on it. The reason it is not filed, my understanding from staff is because the leadership has not asked that it be filed, that as soon as they ask that it be filed that the bill will come immediately to the floor. Why is the leadership not supportive of the intelligence authorization bill coming to the floor, especially in light of the defense appropriations bill having already gone through this body?

Mr. ARMEY. I thank the gentleman. Let me say to the gentleman as clearly as I can, this leadership has an unqualified respect and admiration for the gentleman from Florida (Mr. GOSS). And when it comes to the business of filing the chairman's bill, this leadership is at the chairman's disposal, with all due respect and admiration for an outstanding Member of this body. And I promise the gentleman

from Indiana that as soon as the chairman decides that he would like to file this bill, it will be attended to by the leadership and by the Committee on Rules.

Mr. ROEMER. I would just say to the distinguished majority leader, as a member of the Permanent Select Committee on Intelligence nobody has higher respect for the bipartisan way that the gentleman from Florida (Mr. Goss) handles that committee. We respect him. We work with him, and we look forward to that very important bill coming to the floor, especially before something else happens in this country or abroad and so it does not get so far behind the defense appropriations that has already gone through.

If the distinguished gentleman would further respond to a comment, we had plenty of time this past week to do another bipartisan piece of legislation, which was the reauthorization of the AmeriCorps National Service Bill. Thousands of Americans have lined up to volunteer in this country in light of September 11. The President of the United States has put a high priority on this bill. Yet, again, this is a bill that has not made its way to the House floor.

Would the majority leader care to comment with all the time we have had on the floor this past week, why that priority of the President has not come to the floor?

Mr. ARMEY. I appreciate the gentleman's inquiry. The fact of the matter is we have attended to a great many matters, and when and if that bill is appropriate to be brought to the floor in the judgment of the majority leader, the bill will then be brought to the floor. That time has not yet come.

Ms. PELOSI. I thank the gentleman.

Mr. ROEMER. I thank the majority leader, and I thank the gentlewoman from California. I hope this bipartisan bill will get to the floor. I think it would pass with over 300 votes.

Ms. PELOSI. Mr. Speaker, I would encourage once again the leaders of the majority to bring the Senate bill to the floor expeditiously.

ADJOURNMENT TO MONDAY, JULY 15, 2002

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Monday next for morning hour debates.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business

in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind Members of both sides to please refrain from improper references to the Senate.

FINDING A CURE FOR ALS

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, upon retiring from baseball due to a debilitating disease known as ALS, Lou Gehrig said, "I consider myself the luckiest man on the face of the Earth . . . I might have had a tough break, but I have an awful lot to live for."

Today this attitude is personified in Matthias Radits, the corporate chef of The Breakers resort, who was diagnosed with ALS last year. With The Breakers' kitchen serving as the classroom, Mr. Radits has established an apprenticeship for high school graduates interested in culinary arts.

ALS is a fatal, neurodegenerative disease that attacks nerve cells of the brain and spinal cord. When cells die, voluntary muscle control and movement ceases, yet a patient's mind remains intact.

The average life expectancy is 2 to 5 years. But with recent advancements, ALS patients are living longer and having more productive lives.

I urge my colleagues to work hard towards additional funding for ALS so that more aggressive and productive research can be done and we can imagine a day when this disease disappears for all of the Matthias Raditses of the world.

RESTORE INVESTOR CONFIDENCE

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, last Saturday in Houston, Texas, my constituents, many of them laid off ex-Enron employees, joined me to announce the need for immediate action for corporate accountability. Large speeches were made this week by the administration joining in that voice, but the only action that will be respectful of the pain that so many have experienced is immediate action.

So I call upon my colleagues to immediately address an outstanding leg-

islative initiative that deals with separating accounting functions from consulting functions offered by the gentleman from New York (Mr. LAFALCE). I believe we can immediately begin to answer the concerns of the American people. We can address the concerns of a WorldCom stock that 3 weeks ago sold for \$64 and is now 7 cents.

So to answer the needs and the pain of my constituents, I will file today the Omnibus Corporate Reform and Restoration Act of 2002, an omnibus bill that has sweeping measures to change the face of corporate America. I hope we have heard the voices and the cries of the American people. We must do it now to restore investor confidence.

STRONG LEADERSHIP OF THE PRESIDENT

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I rise to congratulate President Bush on the very bold speech that he made on Wall Street the other day demonstrating his outrage over the kind of business that we have seen within a number of corporations. I know many people are talking about these scandals; my colleague from Texas just mentioned it. I think that if we look at the way President Bush has responded, there are a number of issues on which he states his very strong feelings.

There is nothing about which he feels more strongly than the fact in a capitalist system which is one of the greatest aspects of the United States of America, honesty and ethics are a priority and they are to be expected. And that is why I believe that the legislation which we have moved from this House and we hope we will be able to see legislation emerge from the Senate so that we can bring about a bipartisan compromise to deal with accounting reform that will not in any way jeopardize the free market system which is so important to us will succeed. I congratulate President Bush for the very strong leadership he has shown on this issue.

STEEL REVITALIZATION ACT

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, almost every day we hear about another major U.S. corporation sell out its stockholders, lay off workers, destroy pension funds for those workers. Almost every day we see my Republican friends do the bidding of another corporate interest and fail the American public.

I call on this body to pass H.R. 808, the Steel Revitalization Act. In my district, RTI Technologies, a steel producer, has seen, its workers have seen their pension and their health benefits in jeopardy.

This body which every day acts on behalf of corporate interests on behalf of Republican leadership has failed workers in this country, has failed pensioners in this country, has failed to correct health care abuses by corporate America in this country. It is time that this body pass H.R. 808, the Steel Revitalization Act.

ACTING AGAINST CORPORATE ABUSES

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, I am often admonished for urging the other body to take up action on a bill, and yet I just heard a dialogue between the minority whip and the majority leader on urging us to take up a Senate bill.

I was on the floor yesterday when that bill was under consideration. Ironically, Senator JOHN MCCAIN from Arizona had a very, very important provision in that bill that would have accounted for stock options, which is one of the biggest problems in the accounting of corporate income and expenses. He was blocked by the majority, the Democratic majority, from accepting his amendment that would have brought to light how these stock options are treated.

Now, in fairness, we are willing to consider a bill urgently to clean up corporate abuse, accounting abuse; but they cannot have it both ways. They cannot say it is a perfect bill that has been produced by Senator SARBANES without acknowledging that they failed to address a very important option test, accounting for options, which has been the fundamental root of the problems. WorldCom, Enron, all of these options that were allowed by the corporations had faulty accounting techniques applied.

So I commend Senator MCCAIN for introducing that, and I urge those on the other side to consider it as well.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind the Member to refrain from improper references to the Senate.

UNNECESSARY DEPARTMENT OF HOMELAND SECURITY

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, I realize that almost everyone in the Congress is going to vote to create the new Department of Homeland Security, but I am afraid all this new Department is going to do is make the government bigger, more bureaucratic and more expensive and the country will not be any safer.

In yesterday's "Congress Daily," we read that the Congressional Budget Office has estimated it will cost \$43 billion just to implement the new Department.

The New York Times on June 23 had a column which said the proposed Department contains "elements so big that even a fee-hungry Wall Street investment banker might have hesitated to propose it."

William Schneider, in the "National Journal," said it will "simply add another layer of bureaucracy. Will adding another layer of government at the top make a great deal of difference? Not if the problem is at the bottom."

Tony Blankley, in Wednesday's Washington Times said, "Congress should slow down, be more deliberative . . . Perhaps some bill can be cobbled together at such breakneck speed, but not the bill that this country needs."

Mr. Speaker, we should not have to create a new cabinet-level Department just to get Federal agencies to cooperate with each other.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. KIRK). Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

MEDICAL MALPRACTICE INSURANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FOLEY) is recognized for 5 minutes.

Mr. FOLEY. Mr. Speaker, we spend a lot of time in Congress talking about health care, and reasonably so, we should. Health care is probably the one thing none of us as citizens can totally control on our own. We can exercise, diet. We can work out. We can do all the right things, but we may be stricken at sometime in our life with Lupus, leukemia, Alzheimer's, AIDS, cancer, any number of maladies that face us. It is important to talk about these subjects because it is important for Congress to grapple with these issues.

□ 1045

There is also a looming issue that needs to be discussed, vetted and a solution found for, and that is medical malpractice insurance rates. Florida particularly has been inundated with liability crises and looming coverage

where we may see our physicians unable to afford any coverage at all, and if they can find it, the cost prohibitive for them to continue to practice their vital roles that they play in society.

Malpractice rates have been rising 20 to 40 percent per year, 20 to 40 percent per year, while inflation has remained virtually stagnant. The hardest-hit doctors in Florida are over 50,000 obstetricians, radiologists, orthopedic surgeons, lung specialists, oncologists, among the list of people.

Average damage awards, which is part of the root problem, ordered by courts have doubled over the past 3 years, meaning jury awards for courts have increased damage awards substantially and significantly. Hospitals, one insurer increased a local hospital rate to \$1.5 million this year from \$500,000 a year ago. That is a tripling of premium, which any person can routinely understand that if we add an expense like that to a category, it has to come out of somewhere; and ultimately we pay more for health care, pay more for all the services provided for indigents and others in our community.

Some doctors are paying up to 80 percent of their annual income in premiums. Many people snicker and say physicians make a lot of money. I beg to differ. Some do, but most have been working tirelessly to provide the important roles they do for society and are often compromised because they are not only having to pay extraordinary liability insurance, but with all the regulations and all the attendant things that they are expected to do, including continuing medical education and the like, they are consequently under the great glare of looming bankruptcy or finding themselves wanting to leave the practice of medicine that they have loved doing for all their life.

We need to do something about this issue. It needs to revolve around getting the parties together, and this is not a shot at the trial lawyers, but they have to be intimately involved in some of these discussions where there would be another system like a loser pay something where at least the onus is on those bringing charges, to be certain they have valuable and vital suits to bring to the courts. Oftentimes litigation ends with a letter to the plaintiff defendant, ultimately trying to shake down a few dollars, and hopefully the insurance company will settle because they will tell us it is more expensive to go to court than to settle out of court; and consequently, doctors are hemorrhaging incomes because of these consequences.

I do not stand aside or take any notion that we should excuse wrongful and wilful malpractice. Somebody cuts off the wrong limb, absolutely the person who has been aggrieved demands full compensation for damages rendered. That is not what we are talking about. We are talking about a system

that has run amuck; that does not recognize dangerous procedures that were done to people, devastating their lives and frivolous lawsuits.

This Congress nationally, as well as legislators in 50 States, needs to grapple with this issue because I can tell my colleagues today that if this does not get resolved soon, we will have a mass exodus of professionals leaving health care, a mass exodus because they can simply no longer afford the premiums that this malpractice insurance costs. It is affecting hospitals. It is affecting nursing homes. It is affecting practitioners. It is affecting every American, because as these rates rise, they must be passed on to others, and that is the patient. The patient pays more; health insurance becomes less available. Cost of treatment and facilities increases; cost of health care premiums skyrocket. Costs to the consumers in every product, good or service produced, sold or distributed in this country is exponentially increased because of the underlying costs of these looming crises.

So we can stand here and do nothing, afraid to tackle a tough issue; or we should include it in at least the act of debate.

CORPORATE GREED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, on Tuesday of this week President Bush gave a major speech on his administration's plans to curb executive greed and corporate misgovernance in America. Why, one should ask, was the President's speech so poorly received? Why did the market drop several hundred points in the 3 days since the President gave his speech, including a couple of hundred points actually the same day that he delivered the speech on Wall Street? Why did so many Wall Street workers who attended the speech ask afterwards how much of this speech was just politics and how much of it is about real change?

Despite the President's calls for corporate America to clean up its act, President Bush, at the behest of his corporate sponsors, continues to oppose real reform on Capitol Hill. He has refused to support meaningful pension and accounting reforms, even though a bipartisan bill just passed the other House. He will not support other legislation to halt offshore tax avoidance. His budget severely underfunds the SEC; and to make matters worse, the President has pushed to turn Medicare over to the health insurance industry, which brought us HMOs and has brought us disaster in many, particularly rural, communities around the country.

Why is all this happening? Why would all this be? It is pretty simple.

The President and Republican leadership have invited corporate interests into the inner sanctum of government to help them run this country. Insurance companies write the legislation that Republicans and the President try to get through this Congress to privatize the Medicare system.

The chemical industry has written legislation that the Republican President and the Republican leaders in Congress have tried to push through on environmental policies. The oil industry has written legislation for the President and written legislation that the President and Republican leadership have tried to push through on energy policy. At Wall Street, bankers have written the legislation on behalf of Republican leadership and the President to privatize Social Security, but worst of all is what Republican leaders in the House have pushed through on behalf of the prescription drug industry.

Let me relate a story of an event. About 3 weeks ago, as the senior Democrat on the Subcommittee on Health, I have worked extensively with my colleagues on legislation to provide a Medicare prescription drug benefit and do something about the outrageous prices that the drug industry, the most profitable industry in America, with the lowest tax rate in America, has inflicted upon the public.

During the markup of the Republican plan, because they are in the majority in committee, at five o'clock in the afternoon, while we still had 15 to 20 hours of work to do, as it turned out, Republican leaders adjourned the committee so the Republican Members could go off to join President Bush and Vice President CHENEY at a big fundraiser underwritten by the drug industry to the tune of at least \$2 million, maybe \$3 million, and sponsored by the drug industry and chaired by the CEO of a British drug company who, he and his firm, contributed \$250,000 to the Republicans. Other drug companies, the drug industry trade association and others contributed hundreds of thousands of additional dollars.

When we returned the next day to our committee to continue the work on the prescription drug bill, on every single major amendment consumers and seniors lost, and the drug industry won issue after issue after issue. Amendments such as saying that Medicare beneficiaries should have a prescription drug plan as good as a Member of Congress, voted down on a party-line vote, Republicans opposing because the drug industry wanted them to.

On issues such as dealing with bringing the price down, perhaps Medicare, the 40 million Medicare beneficiaries, the government could negotiate prices on behalf of all of them and bring the price down like they do in Canada. Republican party-line voted no because the prescription drug industry wanted it that way.

Issue after issue after issue, the Republicans sided with the prescription drug industry against reform, against seniors, against American consumers.

This government, the Republican leadership in this House of Representatives is too close to corporate America. It is too close to the oil industry when writing energy policy. It is too close to the chemical industry when writing chemical policy. It is too close to the drug industry when writing Medicare prescription drug policy. It is too close to the insurance industry when they try to privatize Medicare, and it is too close to Wall Street when they try to privatize the Social Security system.

Mr. Speaker, the Democratic plan does something about Medicare by providing a benefit and doing something about the outrageous pricing.

THE NATIONAL DEBT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. TAYLOR) is recognized for 5 minutes.

Mr. TAYLOR of Mississippi. Mr. Speaker, I know I am not supposed to address folks up there in the balcony, but they have got to find it a little strange that it is about 10:30 here in Washington and Congress is not here. In fact, in the whole of this week, Speaker HASTERT scheduled 13 votes, flew 435 Members of Congress back from across the country, majority of them coming from California where there are 52 Congressmen, for 13 votes. Today is the 1,281 day that he has been Speaker, and for not one of those days has he found the time to schedule a vote on what I think is the most important thing facing those young people in the balcony, those young people, my kids, everybody else's kids in America, and that is the national debt.

At least one of those people up there is 23 years old like my daughter Sarah; and if a person is 23 years old, on the day they were born, our Nation was less than \$1 trillion in debt. It means they have gone all the way from when George Washington became the President until just before Ronald Reagan assumed office, through the Civil War, let us walk through it, the Revolutionary War, the War of 1812, Mexican-American War, the Civil War, Spanish American War, World War I, World War II, Korea, Vietnam, all the things that have happened along the way, the building of the interstate highway system, the building of the great barge canals in our country, all the great things that have been done for our Nation, the Nation borrowed less than \$1 trillion. In the past 23 years, the Nation has borrowed over \$5 trillion.

Just 2 weeks ago in a straight party-line vote, every single Republican voted to raise the debt limit by an additional \$400 billion. When folks stop me at the K-Mart or the Wal-Mart or

the local hardware store, they say where does the money go, where does all that money go? They are absolutely dumbfounded when I tell them the biggest expense of their Nation is not defense, not health care, not taking care of our veterans. It is paying interest on this enormous national debt.

Our Speaker in the 1,281 days that he has been Speaker has not even allowed us a vote on a simple constitutional amendment that says Congress cannot spend more than it collects in taxes. About half the States have that requirement. That is why most of the States have very low indebtedness. That is why they squander very little of our money on interest on the debt.

President Bush introduced the very first \$2 trillion budget this year. He increased spending by about 8 percent over last year because of his tax breaks. Revenues are down 16 percent; and the net result of that is in the past 12 months, the national debt has increased by \$399,653,925,113.31.

Why is that so horrible? How many of us as parents would go out and buy a car, go down to the car lot and buy the most expensive car on the lot and say I do not care what it costs, I do not care what kind of frills are put on it, and by the way, send the bill to my 6-year-old son when he turns 30, plus interest? How many would dream of going to the local Realtor and saying I want the most expensive house in this country, and I do not care what it costs and bill my 7-year-old grandson?

That is precisely what our Nation has been doing, and yet the Speaker will not give us in the 1,200-plus days that he has been Speaker even one vote on a balanced budget amendment.

□ 1100

It came up in the House about 6 years ago. It passed. We got the two-thirds votes necessary. It went to the other body. It failed by only one vote. So instead of forcing the other body to vote on this again and again and again until we do the right thing for the American people, our Speaker has chosen to run up the debt.

Mr. Speaker, since you have become Speaker, our Nation has increased the national debt by \$511,040,208,939. That is more debt than was incurred in this country from the day George Washington became President to halfway through World War II, on your watch. You are the man. You schedule the floor debate. You decide what we vote on and when we vote on it and you keep deciding we cannot have a vote on a balanced budget amendment.

Mr. Speaker, my name is GENE TAYLOR. I represent the citizens of South Mississippi. For every day of the rest of this session, I am going to come to this House floor and tell the American people the truth, that you will not give us a vote on a balanced budget amendment and that you are the guy who is

responsible for this debt, and I am personally going to make them aware of it, and I am going to let them decide in November if you have managed this House very well.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind Members to refrain from references to occupants of the gallery.

REVISIONS TO THE 302(a) ALLOCATIONS AND BUDGETARY AGGREGATES ESTABLISHED BY THE CONCURRENT RESOLUTIONS ON THE BUDGET FOR FISCAL YEARS 2002 AND 2003

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. NUSSLE) is recognized for 5 minutes.

Mr. NUSSLE. Mr. Speaker, Pursuant to Section 314 of the Congressional Budget Act, Section 221 of H. Con. Res. 83, and Section 231 of H. Con. Res. 353, I submit for printing in the CONGRESSIONAL RECORD revisions to the 302(a) allocations and budgetary aggregates established by the Concurrent Resolutions on the Budget for Fiscal Years 2002 and 2003.

As reported to the House, H.R. 5093, the Interior and Related Agencies Appropriations bill, includes emergency-designated appropriations for wildland firefighting. Those appropriations total \$700,000,000 in new budget authority for fiscal year 2002. There are no outlays from those appropriations in fiscal year 2002. Outlays flowing from fiscal year 2002 emergency appropriations increase the 302(a) allocation for fiscal year 2003 outlays. Under the procedures set forth in section 314 of the Budget Act, adjustments may be made for emergency-designated budget authority through fiscal year 2002 and for the outlays flowing from such budget authority in all fiscal years. Outlays from those appropriations total \$400,000,000 in fiscal year 2003.

After making the required adjustments, the 302(a) allocation for fiscal year 2002 for the House Committee on Appropriations becomes \$736,127,000,000 in new budget authority and \$736,420,000,000 in outlays. The 302(a) allocation for fiscal year 2003 for the House Committee on Appropriations becomes \$748,096,000,000 in new budget authority and \$785,590,000,000 in outlays. The budgetary aggregates for fiscal year 2002 become \$1,709,299,000,000 in new budget authority and \$1,653,073,000,000 in outlays. The budgetary aggregates for fiscal year 2003 become \$1,784,073,000,000 in new budget authority and \$1,767,547,000,000 in outlays.

IN OPPOSITION TO INCLUDING TURKEY IN THE QUALIFIED INDUSTRIAL ZONE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I come to the House floor today to express my strong opposition to H.R. 5002, a bill to include Turkey in the Qualified Industrial Zone, allowing duty-free goods from Turkey to enter U.S. markets. This bill is not only an inappropriate and fiscally irresponsible back-door approach to establishing a free trade agreement with Turkey, but also rewards a country that has been illegally blockading Armenia, also a U.S. ally in the war against terror, for the past 9 years. This bill would send the wrong message to countries that are seeking access to our trade markets. It sends the presumably unintended message that violating the Humanitarian Trade Corridor Act will not be punished but instead rewarded for conducting internationally recognized illegal activity.

Since 1993, Armenia has suffered from the coordinated, dual blockades by its neighbors to the west and east. Turkey and Azerbaijan have largely choked off the transportation of goods from Armenia, eliminating a major east-west shipping route in the Caucasus and contributing to the destabilization of the regime.

These illegal blockades are in direct violation of the Humanitarian Corridors Act, passed by both the House and the Senate in 1995. The act states that, and I quote, "recipients of U.S. assistance should not hinder or delay the transport or delivery of United States humanitarian assistance to other countries." Unfortunately there is also language in this bill that gives the President the authority to waive sanctions if the country that is guilty of prohibiting U.S. assistance to reaching a third country is deemed vital to the United States' national security. Turkey has flagrantly disregarded international trade norms because of this waiver that effectively gives them a free pass to act without fear of consequences. This proposed bill represents seriously flawed trade policy and sends the message that some countries do not have to honor international norms in U.S. law as long as such countries fill a national security need. This bill would not only reflect poorly on the United States' moral authority in trade policy, Mr. Speaker, but also represents dangerous fiscal policy; in effect subsidizing a politically unstable and economically irresponsible regime.

Last week 34 members of Prime Minister Ecevit's ruling party resigned in protest of the Prime Minister's refusal to step down as ruler of Turkey. Just yesterday two of the highest-level ministers resigned, economic Minister Kemal Dervis and Foreign Minister Ismail Cem, triggering calls within Turkey for new elections as early as September. Minister Dervis is widely recognized as the architect of the colossal International Monetary Fund bailouts of Turkey, which saved Turkey from immediate financial disaster

but has put Turkey in debt to the IMF for a staggering \$31 billion.

The \$9 billion that were made available for release this year have not made any impact on the rapidly shrinking economy and massive unemployment in Turkey. We should not reward Turkey and put our own economy in further jeopardy without radical reform of Turkey's economic and trade policy. Mr. Speaker, the U.S. and international community may pour as much money into Turkey directly through fiscally careless legislation or indirectly through massive unprecedented IMF loans, but there will be minimal net benefits to the citizens of Turkey, and there are fundamental changes that are necessary.

Mr. Speaker, it is time to stop making special concessions for Turkey. Their blatant disregard for international norms, whether it is trade policy or their abysmal human and minority rights records, no longer can be ignored. I do not dispute that Turkey has been one of our closest allies in the war on terrorism, but that fact alone should not give them carte blanche to operate outside the boundaries of the American and European ideals that Turkish officials profess to honor.

CORPORATE CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SHERMAN) is recognized for 5 minutes.

Mr. SHERMAN. Mr. Speaker, this has been a week of disappointment. In the effort to combat corporate crime, we heard from the President something that was more of a pep talk than a policy pronouncement. He called upon us to reenact all the laws and regulations we already have and to say this time we really mean it.

Let us face it. The biggest reason for crime is that under certain circumstances crime pays, and the biggest reason why circumstances arise in which people conclude that crime pays is inadequate law enforcement. That is true with grand theft auto. It is true with corporate grand theft. And unfortunately the other party for the last 6 years has been working to undermine the enforcement at the SEC. As David Ruder, a former Republican head of the SEC, said in 1995, the Republican Congress is dealing with the SEC as though it were the enemy instead of the policeman on the beat.

Earlier this year, the President put forward a budget to this Congress which cut the SEC budget in real terms, allowed no increase for inflation, and cut the enforcement budget. This spring, I proposed to the Committee on Financial Services an increase in the authorization of the SEC of \$120 million to focus enforcement on the financial statements filed by the thousand largest companies in Amer-

ica. Every Republican on our committee voted no, every Democrat voted yes, the amendment went down.

It is time for us, if we are serious about dealing with securities crime, to fund the SEC. But it is time for us to do more as well. The bill passed by the Senate, the other body, is a good first step, but I hope in conference, or perhaps in a second bill, that we go beyond that.

There are a whole host of ideas that we ought to include. We ought to explore the idea of having our thousand largest companies audited every 6 months instead of every year. We have been auditing every 12 months since the 1933 act. Certainly the speed by which decisions are made, the speed at which stocks are bought and sold, is far more than twice as fast as it was in 1933. And if WorldCom is going to try to misstate its income for five quarters, it is better that they are caught after two quarters than after four quarters, assuming the audit is competent. And I will get to that in a second.

In addition, the Federal Government ought to certify some stock analysts as being genuinely independent. And to be independent, under this standard, it is not enough that the particular analyst does not get direct cash from the issuer, but rather that the employer of the analyst do no underwriting, consulting or in any other way receive money from the very companies that are being analyzed.

Now, some may accept a lower standard, and they are welcome to, but to be certified as independent, I would expect an analyst to be loyal to his or her employer. And, therefore, it would be good to have analysts who are employed by those who are not getting money from the very companies that are being analyzed.

Mr. Speaker, the Chair of the Committee on Energy and Commerce, the gentleman from Louisiana (Mr. TAUZIN), was on the morning shows this past Sunday indicating that Arthur Andersen had a peculiar problem that has led to a great overrepresentation of Arthur Andersen among the problem audits. He indicated that the structure of that firm was such so that the engagement partner, the salesman partner, had total power, and the technical review partners were not necessarily even consulted before the audit was concluded.

I had put forward to our committee back in April a requirement that accounting firms dealing with publicly traded companies avoid that Arthur Andersen structure and use a structure that almost all of them have always used, and that is that the technical review partners who are insulated from the client make the final determination. Unfortunately, even while the Republican Chair of the Committee on Energy and Commerce is saying this is the problem, the Republicans on our

committee are voting against a solution.

It is time that we go beyond rhetoric and adopt legislation. We have a long way to go in restoring confidence to our capital markets.

H.R. 5110, OMNIBUS CORPORATE REFORM AND RESTORATION ACT OF 2002

The SPEAKER pro tempore (Mr. KIRK). Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I believe that there are a number of issues that deserve the attention of this body, and I asked to address this House at this time because I have completed the assignment that was given to me, or the initial part of the assignment given to me by the pain of my constituents. Just a few moments ago I announced that I would file, and now I have filed, the Omnibus Corporate Reform and Restoration Act of 2002, H.R. 5110, an omnibus bill that lays clearly on this Congress an opportunity to make sweeping corporate changes now.

I said before that there is no pride of authorship. There should not be. We should work together on behalf of the American people. And if by chance this bill gets dissected and pieces of it pass, it may not be the whole but it will be the part. Right now, this bill encompasses a number of provisions that, if passed, could immediately address some of the concerns that we have.

We will never get to the point of restoring investor confidence until we stabilize and allow the American people to have a sense that we are inside the board room peering in to oversee the proper activity of those who govern the corporations of America. We will never restore confidence until we again see corporate executives as leaders of United Way and Civic Citizens, that many of us have come to know and appreciate. We will never restore corporate confidence and investor confidence until we determine that those who have been broken and lost such large amounts of money, like the grandmother in my constituency that lost \$150,000 as a new investor. That is a lot for someone who is just exposing themselves to the market.

This bill will, in fact, do something historic and different. It will make for the first time unemployed employees, fired employees, whose company files bankruptcy, secured creditors. What does that mean? Just a few days before Enron filed bankruptcy, they gave \$105 million in retention bonuses to corporate executives. On Sunday, they filed for bankruptcy. On Monday, they laid off 5,000 of my constituents, many of them without severance pay, who lost their pensions and 401(k)s. For the

last 6 months, we fought with the bankruptcy court because they were not secured creditors. They had no status in the bankruptcy proceedings. This bill will give them secured creditor status. They will be inside the courtroom to be able to fight for their benefits.

This bill provides for criminal penalties for altering or destroying documents. We know what happens with that. All of us panic sometimes. Everyone wishes they had not made the wrong decision, tearing up a piece of paper to cover up. Coverup is worse than a crime. So we need to make sure they do not run to their office by mistake or otherwise and tear up documents.

The bill provides for prohibition on loans to officers and directors. I frankly think we might be able to regulate it, but clearly we can see from WorldCom what can be done in crumbling one's own company. This will help in curtailing large loans by boards of directors to company executives; it will stop creating offshore companies and inside special companies that the board does not even know anything about and that is used to puff up the bottom line.

□ 1115

Also to protect the pensions of employees, and many others. I believe that the Committee on the Judiciary, of which I am a member, should hold hearings on whether or not enhanced criminal penalties or criminal initiatives need to be passed.

I move now to share with Members, we had a surplus. In fact, in March 2001, we had a \$5.6 trillion surplus with a decreasing debt. Because of the large tax cut that went nowhere and no one can remember, we now have no surplus. Yet we have the responsibility to our senior citizens because many of them are not able to pay rent or to get good food because they have an enormous prescription drug cost. We need a guaranteed prescription drug benefit. Where is our heart in America? Where is our reason and our respect for the Greatest Generation?

I would like this to be bipartisan, but we need it to work; and the Republican plan is a voluntary card that insurance companies have. And if they do not make the money in their area, as they did not in my area, then they will close up shop. There is a period when they stop paying for the prescription drugs.

Mr. Speaker, there is a lot left to be done. Let me conclude by saying we are working on the homeland security department, and I am for it. But as we create this Department, we cannot forget our civil liberties and due process. We must have those as we move this Department forward.

Mr. Speaker, this is work undone. We must get to work in this Congress.

REINSTATE CALIFORNIA'S MEDICAID UPPER PAYMENT LIMIT

The SPEAKER pro tempore (Mr. KIRK). Under the Speaker's announced policy of January 3, 2001, the gentleman from California (Mr. DREIER) is recognized for 60 minutes as the designee of the majority leader.

Mr. DREIER. Mr. Speaker, I know that we have been talking about a wide range of issues today, corporate responsibility, establishing the Department of Homeland Security, and many other challenges that we are facing; economic recovery, of course, being very important. But I would like to take a few minutes to share with our colleagues some prepared remarks that I have on a very unique challenge that we as Californians face when it comes to dealing with the issue of health care.

As I said, California's public health care system is one of the most unique in our country. Unlike most States which run their own hospitals or States which have no public hospitals at all, California relies on a network of county-supported public hospitals working in conjunction with a network of private safety net hospitals. Together these public and private hospitals care for over 5 million Californians eligible for Medicaid and an additional 7 million Californians who are uninsured.

Obviously, supporting this network of health care for low-income Americans requires a reliable source of funding. California, like a number of other States, relies heavily on Federal dollars paid through what is known as Medicaid's Upper Payment Limit Program. The safety net hospitals in my County of Los Angeles receive over \$120 million each year through the Upper Payment Limit Program. UPL was initiated a decade ago based on the recognition that public hospitals are the hospitals of last resort for most needy patients.

It is a mechanism that allows qualified public hospitals to receive reimbursement for services at 150 percent of the Medicare allowable payment rate. Only city and county public hospitals which provide trauma and emergency room services to a large number of uninsured and low-income patients are eligible for the program. The reason for the increased payments is very simple, there is no market incentive for hospitals to offer emergency services to patients who will never have the means to pay for expensive procedures.

So it was with great dismay this past January when I learned that the Center for Medicare and Medicaid Services had instituted a rule to actually lower the upper payment limit and reduce Medicaid reimbursements for city and county public hospitals to 100 percent of the Medicare allowable payment rate.

Mr. Speaker, implementation of this rule will have immediate and dev-

astating consequences for the public health system in my State. By the time final implementation of this new policy is complete, California will lose over \$300 million in Medicaid funding each year, an amount that cannot be replaced by any State or local source. The stated explanation for reducing UPL is that certain States were misallocating UPL payments and using them for non-Medicaid-related expenditures, and we all understand that concern; and we want to make sure that those States are in fact getting back on track.

While several States were identified as misusing these Federal Medicaid dollars, it is very important to note that California was not among them. In fact, a number of States did misuse UPL dollars; California was not one of those States. In fact, we never spent any Federal Medicaid dollars on anything other than public health care.

In its haste to close the so-called upper payment limit loophole, CMS has issued this regulation with too broad a stroke. This lowered upper payment limit punishes not only the States that were abusing Federal funds, and they should be punished, but it has hurt States like California which were operating properly.

This program for 10 years, under both Democrats and Republicans, has been implemented and strongly supported. Moreover, this regulation ignores the will of this Congress in regards to the upper payment limit for public hospitals. When the allegations of misused UPL funds came to light several years ago, this body responded by severely limiting these supplemental payments and by fixing the upper payment limit at the 150 percent level.

As I said, the House and Senate reached a bipartisan agreement that was codified when the Medicare and Medicaid Beneficiaries and Improvement Act was signed into law in the 106th Congress. By lowering the Medicaid upper payment limit to 100 percent, CMS is undoing a carefully crafted compromise that balanced the Federal Treasury with the need to ensure that health care remain available to the most vulnerable of our fellow citizens.

Mr. Speaker, as I stand here today, there may be skeptics out there who say that when compared to the overall Medicaid budget for the State of California, the \$300 million received under the 150 percent UPL is nothing more than a drop in the bucket. Well, to that let me say that the financial situation in California, and indeed in many of our State and local governments across this country, is so constrained that not one Federal dollar can be cut from the Federal Medicaid allocation without it adversely affecting the availability of care for Medicaid patients.

Just recently, Los Angeles County revealed that it plans to close nearly a

dozen community health clinics and lay off over 5,000 health care workers because of a lack of budgetary resources. What alarms me the most is that the county's budget does not include the tidal wave of Federal Medicaid cuts that are scheduled to go into effect next year, including the reduction in the upper payment limit.

The fact is, if the UPL reduction is implemented by CMS, health care for low-income and uninsured patients will be compromised as a result. If the counties across California are forced to reduce hospital services because of decreased Federal support, those patients faced with long waits at the few remaining open public hospitals will turn to private hospitals for emergency care. While Federal law prohibits private hospitals from refusing to treat uninsured emergency care patients, it does not prohibit them from closing their emergency room doors.

Faced with overflowing emergency rooms and inadequate Medicaid reimbursements, this is the choice that many private hospitals would be forced to make. Therefore, a decreased upper payment limit would force both public and private hospitals in California to curtail emergency and trauma care services resulting in an absurd situation where a constituent of mine from Claremont, California, could conceivably be forced to drive over 30 miles in rush hour traffic to the Los Angeles USC Medical Center to find an open trauma center. The prospect of such an occurrence is simply unacceptable.

Mr. Speaker, I wanted to make clear that, in stating my opposition to the reduction of the UPL, I am not asking for special treatment for California. I am simply asking for fair treatment of California.

Under its federally approved Medicaid UPL, California follows some of the most stringent requirements for UPL eligibility. To access those funds in California, more than 25 percent of a hospital's patients have to be Medicaid-eligible or uninsured. I reiterate that California has exclusively spent the money that it has received under the UPL program on health care, not on anything else. To punish California for the misdeeds of other States is unwise and unfair.

We are all aware of the fact that California provides more tax dollars to the Federal Treasury than it receives in Federal support. Our State is third to the last in Federal Medicaid spending on a per capita basis. We can afford to fall no further. The public health system in California is at a critical juncture, and we must act now to prevent a crisis that will affect tens of millions of California taxpayers.

Yet I am very cognizant of the fact that our Nation is currently at war, and because of that we face significant budgetary limitation this fiscal year and we will face challenges next year

as well. I do not believe, however, that we should reduce health care services for our most disadvantaged people in our efforts to reduce costs. Such action will undoubtedly cause more instability and expense in the long run than any benefit that would be provided in the short term.

Because implementation of the reduction of the upper payment limit is not scheduled to take place for California until fiscal year 2004, we have a unique opportunity to address these concerns without impacting the budget of this Congress, but we must take action this year. We must further the bipartisan compromise that was put together in the 106th Congress, and I am underscoring the importance of that.

Mr. Speaker, I am here today to ask for the support of Members on both sides of the aisle to find a common-sense solution to this impending crisis and to protect California's public health system from financial attack. The people of California deserve no less. We obviously want to do everything that we possibly can to ensure that there is not a continued reliance on emergency services, and we are working on a broad range of reforms in the area of health care, including the delivery of prescription drugs to seniors and other reforms which we believe are very important. But in the meantime, until we bring about those reforms, we cannot leave those who are the most disadvantaged among us hurting.

Mr. Speaker, I thank my colleagues on both sides of the aisle from California who have joined in working hard to deal with this Medicaid upper payment limit issue. We remain strongly united as a California delegation to preserve the health care system in our State and for the country.

TROPICAL STORMS HIT GUAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Guam (Mr. UNDERWOOD) is recognized for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, I come to the floor having been absent all week from the deliberations of the House due to two storms which hit my home island of Guam. The first typhoon, the eye of the storm, passed over Guam on July 5, 2002, Chamorro Standard Time, with sustained winds of over 110 miles an hour.

□ 1130

Subsequently, Typhoon Ha Long was supposed to hit Guam on July 11, but, fortunately, it just veered a little bit to the south of the island. These storms, which frequent my part of the world quite often, of course, have caused a great deal of damage and a great deal of interruption of public services, and obviously I was not able to come back to the House this week as originally planned.

I have just gotten off the phone with Mr. Joe Allbaugh of the Federal Emergency Management Agency, FEMA, and they have assured me that FEMA is on the ground in Guam. In fact, they have chartered a plane with some 300 people to come out to Guam to try to provide all of the services that are necessary, including individual services for those who were directly affected by the typhoon.

Historically, Guam has suffered a major typhoon nearly every decade. There are some 60 to 70 storms which this part of the world generates every year, tropical storms, and sometimes they reach the level of typhoons. Typhoon Chata'an is the first major storm to hit us since Typhoon Paka directly hit Guam also in 1997.

There are a number of issues that always pertain to typhoon recovery, including power and water situations, and, of course, the vast majority of Guam is still without power. Those areas which have been powered up are the hospital, the two hospitals, the Guam Memorial Hospital and Naval Hospital, and the water system is basically inoperable at this time, so that those areas that are getting water are required to boil water if they want to use it for consumption, as opposed to just bathing or taking care of the bathroom facilities. This situation is likely to continue on for at least 2 to 3 more weeks.

It is important that as we try to learn the lessons of typhoon recovery, which are indeed painful lessons and lessons which I hope many of the Members of this body and the people they represent never have to undergo, they really have a capacity to strain human relations, have the capacity to generate feelings about maybe people are not pulling their share of the load.

But I am happy to report that the people of Guam in general are in great spirits. The people of Guam understand, as they have so often in the past, that at a time of a typhoon, the time of typhoon recovery is a time to pull together, a time to act together and a time to rebuild together, and the people of Guam will rebuild their island, will rebuild the utilities and the services which most other Americans take for granted on a day-to-day basis.

Chata'an, which is in Chamorro, means rainy day, means having a bad day, but indeed it was a bad day. Chata'an also had affected the Island of Chuuk in the Federated States of Micronesia, which is the area where the storms generate. At that time it was still under 75 miles per hour so it was only called a tropical storm, but it caused a number of landslides there and killed over 40 people. So Chuuk in the Federated States of Micronesia has also suffered greatly, perhaps not as much in damage as the people of Guam have, but certainly more in the sense of human loss and the effect on families.

Both the Federated States of Micronesia, which is an independent nation in free association with the United States, as well as the Territory of Guam, will be fully eligible for FEMA. I thank Mr. Allbaugh's recognition of this in our phone call just a few minutes ago, indicating that he will make sure that Guam is treated fairly and that it will receive all the services it needs, just like any other American community, and that as a result of the special relationship with the Federated States of Micronesia, also the FSM will be afforded the same treatment.

Typhoon Ha Long, which was supposed to pass directly over Guam 2 days ago, fortunately passed about 50 miles south of Guam. The people of Guam today are, in the main, without power, are without water, and they continue to deal with their conditions in the spirit that has always sustained them for centuries, and that is understanding we are always at the mercy of natural events, but that it is our own spirit, our own intelligence and our own capacity to work together, to collaborate together, which will see us through.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BECERRA (at the request of Mr. GEPHARDT) for today on account of personal reasons.

Mrs. EMERSON (at the request of Mr. ARMEY) for today on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. SHERMAN) to revise and extend their remarks and include extraneous material:

Mr. FILNER, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. TAYLOR of Mississippi, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. SHERMAN, for 5 minutes, today.

Mr. UNDERWOOD, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

The following Members (at the request of Mr. FOLEY) to revise and extend their remarks and include extraneous material:

Mr. JONES of North Carolina, for 5 minutes, July 15.

Mr. FOLEY, for 5 minutes, today.

Mr. NUSSLE, for 5 minutes, today.

ADJOURNMENT

Mr. UNDERWOOD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 36 minutes a.m.), under its previous order, the House adjourned until Monday, July 15, 2002, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7874. A letter from the Acting Director, OSHA Directorate of Safety Standards, Department of Labor, transmitting the Department's "Major" final rule — Occupational Injury and Illness Recording and Reporting Requirements [Docket No. R-02A] (RIN: 1218-AC06) received July 2, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

7875. A letter from the Director, Defense Security Cooperation Agency, transmitting the Department of Defense's proposed lease of defense articles to the Government of Malaysia (Transmittal No. 08-02), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

7876. A letter from the Director, Defense Security Cooperation Agency, transmitting the Department of Defense's proposed lease of defense articles to the Government of India (Transmittal No. 10-02), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

7877. A letter from the Director, Defense Security Cooperation Agency, transmitting the Department of Defense's proposed lease of defense articles to the Government of the Philippines (Transmittal No. 07-02), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

7878. A letter from the Director, Defense Security Cooperation Agency, transmitting the Department of Defense's proposed lease of defense articles to the Government of Singapore (Transmittal No. 09-02), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

7879. A letter from the Director, Defense Security Cooperation Agency, transmitting the Department of Defense's proposed lease of defense articles to the Government of the Thailand (Transmittal No. 11-02), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

7880. A letter from the Director, International Cooperation, Department of Defense, transmitting copy of Transmittal No. 14-02 which informs of the intent to sign Amendment Number 1 to the Joint Strike Fighter Engineering and Manufacturing Development (EMD) Phase Framework Memorandum of Understanding (MOU) and the Supplement for Italy Participation under the JSF EMD Framework between the United States, Italy and the United Kingdom, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

7881. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 21-02 which informs the intent to sign the Fifth Amendment to the Arrow Deployability Program (ADP) between the United States and Israel, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

7882. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal

No. 20-02 which informs of the intent to sign the MK48 Advanced Capability (ADCAP) Common Broadband Advanced Sonar System (CBASS) Heavyweight Torpedo Memorandum of Understanding (MOU) between the United States and Australia, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

7883. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the request for the Government of Egypt to cash flow finance a Letter of Offer and Acceptance (LOA) for the upgrade of six CH-47C CHINOOK helicopters to the newer CH-47D configuration, spare and repair parts, avionics equipment, publications and technical data, communications equipment, maintenance, personnel training and training equipment, U.S. Government Quality Assurance Team, contractor representatives, contractor engineering and technical support services, preparation of aircraft for shipment and other related elements of logistics support; to the Committee on International Relations.

7884. A letter from the Director, Defense Security Cooperation Agency, transmitting notification that during FY 2002, U.S. industry expects to present a Direct Commercial Contract to the Government of Israel (GOI) for the cash flow financing of up to three Group A Modified Gulfstream V Aircraft with associated spares, support, and training; to the Committee on International Relations.

7885. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives: General Electric Company CF 6-6, CF6-45, and CF6-50 Series Turbofan Engines [Docket No. 96-ANE-41-AD; Amendment 39-12671; AD 2002-05-03] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7886. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives: General Electric Company CF34-3A1 and -3B1 Series Turbofan Engines [Docket No. 99-NE-49-AD; Amendment 39-12670; AD 2002-05-02] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7887. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives: Boeing Model 737, 747, and 777 Series Airplanes [Docket No. 2000-NM-156-AD; Amendment 39-12254; AD 2001-11-11] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7888. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives: Boeing Model 747 Series Airplanes [Docket No. 98-NM-283-AD; Amendment 39-12248; AD 2001-11-06] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7889. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives: Boeing Model 737-600, -700, -700C, and -800 Series Airplanes [Docket No. 2001-NM-126-AD; Amendment 39-12251; AD 2001-09-51] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7890. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-600, -700, -700C, and -800 Series Airplanes [Docket No. 2001-NM-356-AD; Amendment 39-12679; AD 2002-06-03] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7891. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce, plc. Models Tay 650-15 and 651-54 Turbofan Engines [Docket No. 2001-NE-02-AD; Amendment 39-12624; AD 2002-01-29] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7892. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-9-80 Series Airplanes and Model MD-88 Airplanes [Docket No. 98-NM-326-AD; Amendment 39-12163; AD 2001-06-16] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7893. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3, AS350C, AS350D, AS350D1, AS355E, AS355F, AS355F1, AS355F2, AS355N, and EC130 B4 Helicopters [Docket No. 2002-SW-09-AD; Amendment 39-12681; AD 2002-03-52] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7894. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes [Docket No. 2001-NM-135-AD; Amendment 39-12252; AD 2001-11-09] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7895. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Cirrus Design Corporation Models SR20 and SR22 Airplanes [Docket No. 2002-CE-06-AD; Amendment 39-12673; AD 2002-05-05] received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7896. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Honeywell International Inc. (formerly AlliedSignal Inc. and Textron Lycoming) LTS101 Series Turbo-shaft and LTP101 Series Turboprop Engines [Docket No. 2000-NE-14-AD; Amendment 39-12676; AD 2002-03-09 R1] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7897. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney JT8D Series Turbofan Engines [Docket No. 98-ANE-71-AD; Amendment 39-12353; AD 2001-15-18] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7898. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney PW4000 Series Turbofan Engines [Docket No. 2000-NE-25-AD; Amendment 39-12448; AD 2001-20-02] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7899. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Fokker Model F.28 Mark 0100 Series Airplanes [Docket No. 2001-NM-21-AD; Amendment 39-12453; AD 2001-20-05] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7900. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30303; Amdt. No. 3000] received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7901. A letter from the SSA Regulations Officer, Social Security Administration, transmitting the Administration's "Major" final rule — Extension of Expiration Date for the Respiratory System Listings (RIN: 0960-AF76) received July 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 3479. A bill to expand aviation capacity in the Chicago area; with an amendment (Rept. 107-568). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 3214. A bill to amend the charter of the AMVETS organization (Rept. 107-569). Referred to the House Calendar.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 3838. A bill to amend the charter of the Veterans of Foreign Wars of the United States organization to make members of the armed forces who receive special pay for duty subject to hostile fire or imminent danger eligible for membership in the organization, and for other purposes (Rept. 107-570). Referred to the House Calendar.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 3988. A bill to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion (Rept. 107-571). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 5005. The Committees on Agriculture, Appropriations, Armed Services, Energy and Commerce, Financial Services, Government Reform, Intelligence (Permanent Select), International Relations, the Judiciary, Science, Transportation and Infrastructure and Ways and Means discharged.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Ms. JACKSON-LEE of Texas:

H.R. 5110. A bill to provide for improved pension plan security, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on Ways and Means, Financial Services, the Judiciary, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of New Jersey (for himself, Mr. EVANS, Mr. SIMPSON, and Mr. REYES):

H.R. 5111. A bill to restate, clarify, and revise the Soldiers' and Sailors' Civil Relief Act of 1940; to the Committee on Veterans' Affairs.

By Mr. BALDACCI (for himself, Mr. DOYLE, Mr. GREEN of Texas, Mr. FRANK, Mr. ROHRBACHER, and Mr. MCGOVERN):

H.R. 5112. A bill to authorize the Secretary of Veterans Affairs to provide grants to States for programs to financially assist veterans who experience certain emergencies; to the Committee on Veterans' Affairs.

By Ms. DUNN (for herself, Mrs. CUBIN, Mr. DICKS, Mr. NETHERCUTT, Mr. INSLEE, Mr. McDERMOTT, Mr. LARSEN of Washington, Mr. HASTINGS of Washington, Mr. SMITH of Washington, Mr. BAIRD, Mr. OTTER, Mr. WALDEN of Oregon, and Mr. SIMPSON):

H.R. 5113. A bill to provide for the establishment of demonstration programs to address the shortages of health care professionals in rural areas, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SMITH of Texas:

H.R. 5114. A bill to make emergency supplemental appropriations for fiscal year 2002 to provide relief from damages caused by flooding in the Guadalupe River valley in 2002; to the Committee on Appropriations.

By Mrs. CHRISTENSEN:

H. Con. Res. 440. Concurrent resolution expressing the sense of the Congress that schools in the United States should honor the contributions of individuals from the commonwealths, territories, and possessions of the United States by including such contributions in the teaching of United States history; to the Committee on Education and the Workforce.

By Mr. MARKEY (for himself, Mr. FRANK, Mr. NEAL of Massachusetts, Mr. OLIVER, Mr. MEEHAN, Mr. DELAHUNT, Mr. TIERNEY, Mr. MCGOVERN, Mr. CAPUANO, and Mr. LYNCH):

H. Res. 482. A resolution honoring Ted Williams and extending the condolences of the House of Representatives on his death; to the Committee on Government Reform.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

322. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of Massachusetts, relative to a Resolution memorializing the United States Congress to adopt a Joint Resolution in its current session approving Yucca Mountain for development as the nation's permanent geologic repository; to the Committee on Energy and Commerce.

323. Also, a memorial of the Senate of the State of Connecticut, relative to Senate Resolution 4 memorializing the United States Congress to pass a Joint Resolution this year approving Yucca Mountain for development as the nation's permanent geologic repository; to the Committee on Energy and Commerce.

324. Also, a memorial of the House of Representatives of the State of Illinois, relative to House Resolution No. 605 memorializing the United States Congress to urge the Federal Communications Commission to grant a permanent waiver of the 11-digit dialing mandate in the 847 region and to change its policy on overlay area codes; to the Committee on Energy and Commerce.

325. Also, a memorial of the House of Representatives of the State of Illinois, relative to House Resolution No. 835 memorializing the United States Congress to commit to a transportation policy that includes federal high-speed and regional rail policy programs; to the Committee on Transportation and Infrastructure.

326. Also, a memorial of the Legislature of the State of Illinois, relative to House Joint Resolution No. 54 memorializing the United States Congress to authorize funding to construct 1,200-foot locks on the Upper Mississippi and Illinois River System; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 257: Mr. DEAL of Georgia.
H.R. 267: Mr. PICKERING and Mr. JONES of North Carolina.
H.R. 303: Mr. FATTAH.
H.R. 602: Mr. LAHOOD.
H.R. 792: Mr. POMEROY.
H.R. 912: Mr. CALVERT and Mr. GILCHREST.
H.R. 951: Mr. HERGER and Mr. HULSHOF.
H.R. 984: Mr. SULLIVAN.
H.R. 1021: Mr. PAUL.
H.R. 1143: Mr. COYNE.

H.R. 1382: Mr. GEORGE MILLER of California.
H.R. 1436: Mr. BOSWELL.
H.R. 1520: Mr. RODRIGUEZ.
H.R. 1577: Mr. BRADY of Pennsylvania, Mr. UDALL of Colorado, and Mr. NUSSLE.
H.R. 1839: Mr. ROSS.
H.R. 1935: Mrs. CAPITO, Mr. BACA, Ms. LEE, Mr. RAHALL, and Mr. ABERCROMBIE.
H.R. 2117: Mr. ISSA and Mr. WU.
H.R. 2148: Ms. MILLENDER-MCDONALD.
H.R. 2163: Mr. BALDACCIO.
H.R. 2219: Ms. MILLENDER-MCDONALD, Mr. KUCINICH, Mr. PHELPS, Ms. LEE, Mrs. DAVIS of California, Mrs. MINK of Hawaii, Mr. CAPUANO, and Mr. ETHERIDGE.
H.R. 2220: Mr. DICKS and Mr. INSLEE.
H.R. 2335: Mrs. NORTHUP.
H.R. 2373: Mr. CANNON and Mr. CUNNINGHAM.
H.R. 2724: Mr. THORNBERRY.
H.R. 2874: Mr. MENENDEZ and Mr. LARSEN of Washington.
H.R. 3006: Mr. DEAL of Georgia.
H.R. 3058: Mr. STEARNS.
H.R. 3214: Mr. FORBES and Mr. GRAHAM.
H.R. 3278: Mr. SESSIONS and Mr. McDERMOTT.
H.R. 3320: Mr. BARTLETT of Maryland, Mr. AKIN, and Mr. NETHERCUTT.
H.R. 3413: Mr. McNULTY.
H.R. 3430: Mr. PICKERING.
H.R. 3431: Mr. LAHOOD, Mr. McDERMOTT, Mr. McINTYRE, Mr. SESSIONS, and Mr. JONES of North Carolina.
H.R. 3741: Mr. FORD and Mr. PAUL.
H.R. 3814: Mr. BENTSEN, Mrs. MORELLA, Ms. GRANGER, Mr. EHRLICH, and Ms. MCCOLLUM.
H.R. 3897: Mr. SNYDER.
H.R. 3916: Mr. LUTHER.
H.R. 3992: Mr. MCGOVERN.
H.R. 4018: Mr. OLVER and Mr. BOUCHER.
H.R. 4099: Mr. SIMPSON.
H.R. 4561: Mr. PENCE, Mr. KENNEDY of Minnesota, Ms. BALDWIN, Mr. RANGEL, and Mr. HEFLEY.
H.R. 4643: Ms. MCCOLLUM and Ms. LEE.
H.R. 4707: Ms. BERKLEY, Ms. MCCOLLUM, and Ms. STARK.
H.R. 4757: Mr. SHAYS.
H.R. 4783: Mr. PICKERING.
H.R. 4843: Mr. EVANS, Mr. McINTYRE, Mr. KIRK, Ms. MCCOLLUM, and Mr. SMITH of Michigan.

H.R. 4866: Mr. HORN and Mr. SHERMAN.
H.R. 4887: Mr. BACA.
H.R. 4920: Mr. JACKSON of Illinois.
H.R. 4965: Mr. LATOURETTE, Mr. JENKINS, Mr. SMITH of Texas, Mr. OXLEY, Mr. MICA, Mr. CALVERT, Mr. COBLE, Mr. BRADY of Texas, Mr. PETERSON of Pennsylvania, Mr. EHLERS, and Mr. HOEKSTRA.
H.R. 4979: Mr. WATKINS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LEACH, and Ms. LOFGREN.
H.R. 5005: Mr. PENCE, Mr. BISHOP, and Mr. VITTER.
H.R. 5033: Mr. LATOURETTE, Mr. McKEON, Mr. COOKSEY, Mr. SMITH of Texas, and Mr. GREEN of Wisconsin.
H.R. 5048: Mr. OWENS, Mr. SANDERS, Mr. BONIOR, and Mr. SCOTT.
H.R. 5078: Mr. BAIRD.
H.R. 5107: Mr. WU, Mr. FARR of California, Mr. DELAHUNT, Mr. JACKSON of Illinois, Mr. SERRANO, Mr. TOWNS, Mr. PAYNE, Mr. MURTHA, Mr. OLVER, Mr. MOLLOHAN, Mr. BISHOP, and Mr. UDALL of New Mexico.
H.J. Res. 23: Mr. BARR of Georgia.
H.J. Res. 104: Mr. WATKINS.
H. Con. Res. 33: Mr. KELLER.
H. Con. Res. 38: Ms. BROWN of Florida.
H. Con. Res. 180: Mr. LUTHER.
H. Con. Res. 345: Ms. MILLENDER-MCDONALD.
H. Con. Res. 382: Mr. ROTHMAN.
H. Res. 87: Mr. UDALL of New Mexico.
H. Res. 448: Mr. ETHERIDGE, Mr. BROWN of South Carolina, Mr. BACHUS, Mr. FROST, Mr. FOLEY, Mr. GOODLATTE, Ms. MILLENDER-MCDONALD, and Mr. OXLEY.

DISCHARGE PETITIONS— ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 7 by Ms. THURMAN on House Resolution 425: Jay Inslee, Howard L. Berman, John Lewis, and Robert Wexler.

EXTENSIONS OF REMARKS

HONORING DEZIE WOODS-JONES

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Ms. LEE. Mr. Speaker, I rise today to honor Dezie Woods-Jones for her lifetime of distinguished public service. She has been a tireless community activist, civic and educational leader for more than 40 years.

Dezie's long history of civic involvement began in high school, while working in the Civil Rights Movement. She served as President of the Fresno Youth Chapter of the National Association for the Advancement of Colored People (NAACP), later becoming an organizer for the Congress of Racial Equality (CORE), and a national fundraiser for the Student Non-violent Coordinating Committee (SNCC).

Ms. Woods-Jones has continued to demonstrate her commitment to social and economic equity by striving to empower women and working with young people. She joined the Peralta Community College District in 1969, as Director of the Merritt College Outreach Center. During her 34-year career, she served as an administrator of Student Services, Community Relations, and Governmental Affairs. First and foremost, however, Dezie considers herself an instructor and teacher. Indeed, she has taught all of us so much.

Ms. Woods-Jones was the first woman to run for the office of Mayor of Oakland. She was elected to the Oakland City Council in June of 1991 and served as the City's Vice Mayor from 1996–1997. While in office, Ms. Woods-Jones served as Chair of the Rules Committee, the Finance and Legislation Committee, and the Health and Human Services Committee. After her term ended, she returned to the Peralta Community College District and presided as Vice Chancellor for External Affairs.

Over the years, she has continued her community activism, working diligently on behalf of the underprivileged and disenfranchised, particularly on behalf of youth and women. Dezie Woods-Jones was a founding member of Black Women Organized for Political Action (BWOPA) and has served as the organization's president for over 30 years. She is also founder of Black Women Organized for Educational Development and its outreach arm, the Black Women's Resource Center.

Ms. Woods-Jones' commitment to the Oakland/Bay Area community is indeed unparalleled. She has been part of the Alameda County Interagency Task Force, the Greater Oakland International Trade Center Board of Directors, Chair of the Oakland Community Policing Advisory Board, and President of the Oakland Private Industry Council. Her outstanding service has been recognized by the Department of Defense, the Department of

Energy, the American Heart Association, the City and County of San Francisco, the City of Oakland, the State of California, and the Congress of the United States of America.

Finally, as we honor Dezie Woods-Jones today, I want to thank her on behalf of the entire 9th Congressional District of California for being a great friend and leader. Dezie has shared with me her wisdom and has given me support.

I have known Dezie since the early 1970's and continue to be inspired by her optimism, her energy, her boldness, her intellect, her heart, and her soul. Those who meet her cannot forget her incredible sense of style and exquisite hats. She is a true role model who continues to touch the lives of women—young and old—in magnificent ways. Her love for people transcends race and gender.

I take great pride in joining Ms. Woods-Jones' friends, family, and colleagues to salute the extraordinary Dezie Woods-Jones. Her Spirit soars even through difficult times. What a remarkable woman!

RESTORE DEVELOPMENT
ASSISTANCE TO HAITI**HON. MAXINE WATERS**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

Ms. WATERS. Mr. Speaker, Haiti is the poorest country in the Western Hemisphere. Yet the U.S. government is blocking aid to Haiti in order to expand the influence of a single Haitian political party. This party, known as the Democratic Convergence, is supported by only a small fraction of the Haitian electorate. Nevertheless, the Democratic Convergence and the Organization of American States raised questions about the May 21, 2000, elections in Haiti.

Meanwhile, Haiti's population is facing a serious humanitarian crisis. Haiti's per capita income is only \$460 per year. Four percent of the population is infected with the AIDS virus, and 163,000 children have been orphaned by AIDS. Every year, there are 30,000 new AIDS cases. The infant mortality rate is over seven percent. For every 1000 infants born in Haiti, five women die in childbirth. Furthermore, there are only 1.2 doctors for every 10,000 people in this desperately poor country.

Not only has the United States suspended development assistance to Haiti, the United States has been blocking loans from international financial institutions such as the World Bank, the International Monetary Fund (IMF) and the Inter-American Development Bank. U.S. policy has effectively prevented Haiti from receiving \$146 million in loans from the Inter-American Development Bank that were already approved by that institution's Board of Directors. These loans are desperately needed by the people of Haiti.

The Board of Directors of the Inter-American Development Bank recently agreed to send a special mission to Haiti to review conditions for the renewal of lending to Haiti. This mission, which will take place later this month, is purely technical. Its purpose is twofold. First, the mission's participants will reassess past loans to Haiti that are in arrears. Second, they will assess current efforts by the Haitian government to resolve the political crisis. Unfortunately, there is no indication that participants in this mission will discuss conditions for the restoration of loans or development assistance to Haiti.

President Jean-Bertrand Aristide has taken several steps to address the concerns raised by the international community regarding the May 21, 2000, elections. Yet the U.S. government continues to refuse to negotiate with the Haitian government.

It is time for the United States to end this political impasse and restore development assistance to this impoverished democracy.

IN CELEBRATION OF THE 60th
ANNIVERSARY OF WAVES**HON. LOUISE MCINTOSH SLAUGHTER**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 12, 2002

Ms. SLAUGHTER. Mr. Speaker, I am pleased today to pay special tribute to WAVES, "Women Accepted For Voluntary Emergency Service", on the 60th anniversary of its incorporation. WAVES brings together all former, retired, and present Navy women, promotes the Navy and Navy women, serves women veterans, and supports the traditions and history of the Women of the United States Navy.

During World War I, while the Army remained committed to its prohibition against enlisted women, the Navy Department took advantage of the skills women offered by signing up 13,000 women into the Navy and the Marine Corps.

World War II marked a turning point in the history of women in the military. On July 30, 1942, Congress enacted legislation establishing a Women's Reserve for duty with the U.S. Navy stateside, and on August 3, 1942, WAVES was established. Women have continued to make invaluable contributions to the United States military ever since.

The Bureau of Labor Statistics estimates that there are over 1,448,000 women veterans in this country, representing 5 percent of the total veteran population. Women have served in and with the military services since our country was founded. As medics, mechanics, postal workers, clerks, cooks, or MP's, women have contributed and continue to contribute mightily to our national defense in times of both war and peace. Women veterans have

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

served proudly in nearly every United States military action risking their lives in the service of their country.

I am proud to have the Finger Lakes Unit #49 of WAVES National, with members from Rochester and surrounding towns, as an active organization in my district. Our local unit carries out national programs with special emphasis on service to women veterans in VA hospitals, at home, and in nursing homes. In addition, our dedicated group continuously supports the Institute of Logopedics for Special children.

I am happy to offer my congratulations to WAVES on their 60th anniversary and my strong support for the important work they do recognizing and promoting the valuable service of women veterans.

HOUSE RESOLUTION 393

SPEECH OF

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Ms. SOLIS. Mr. Speaker, I rise today in support of H. Res. 393, the resolution offered by Representative JOSEPH CROWLEY.

We have all heard during the past year and a half about the egregious acts of anti-Semitic behavior that have spread through Europe—vandalism of synagogues; desecration of graveyards; personal attacks of people of Jewish faith; boycott of products made in Israel. These actions are cowardly and have resulted in the worst wave of anti-Semitic behavior since 1945.

Today, I rise to support this resolution that calls upon the governments of Europe to protect their residents—Jewish and non-Jewish alike. We must fight for understanding and cooperation between people of all religions, not just in the turbulent Middle East but wherever prejudice and discrimination occur.

Our nation prides itself on maintaining an atmosphere where people can practice whatever religion they choose. Religious tolerance is the root of our peace and prosperity; we must strive to ensure that it is practiced throughout the world so that others may benefit from this spirit of cooperation.

No one deserves to be discriminated against, harmed or even killed simply because of their personal religious beliefs. I urge my colleagues to support this resolution to ensure that this behavior ceases immediately.

TRIBUTE TO ANTHONY A. MINISSALE

HON. TODD RUSSELL PLATTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 12, 2002

Mr. PLATTS. Mr. Speaker, it is with great admiration and respect that I offer congratulations to my constituent, Anthony A. Minissale, D.O. of York, Pennsylvania. On July 20, Dr. Minissale will be inducted as the President of the American Osteopathic Association (AOA)

at its annual House of Delegates meeting in Chicago, Illinois. Dr. Minissale will serve from July 2002 through July 2003.

Dr. Minissale is a board-certified osteopathic surgeon. He will lead 47,000 osteopathic physicians (D.O.s) and the AOA, an association organized to advance the philosophy and practice of osteopathic medicine by promoting excellence in education, research and the delivery of quality and cost-effective healthcare in a distinct, unified profession. In addition to protecting the right and privilege to practice osteopathic medicine, Dr. Minissale will work with the AOA to enhance professional unity, ensure quality education and training and preserve osteopathic principles.

Dr. Minissale, vice president of medical affairs and director of medical education at Memorial Hospital in York, earned his Doctor of Medicine degree from the Philadelphia College of Osteopathic Medicine. He completed a rotating internship at Green Cross General Hospital in Cuyahoga Falls, Ohio, and a residency in general surgery at Parkview Hospital in Philadelphia.

A member of the AOA for 45 years, he has served as a member of its Board of Trustees for nine years and as a delegate to its legislative body, the House of Delegates, for over 20 years. Additionally, he has chaired all departments of the AOA and acts as the AOA's internship inspector, a post he has held since 1973.

Dr. Minissale, a fellow of the American College of Osteopathic Surgeons, also serves the Pennsylvania Osteopathic Medical Association (POMA). A member of POMA since 1961, he has worked in such capacities as vice chairman, secretary/treasurer, and board member. A founding member and chairman of the Pennsylvania Osteopathic Surgical Society, Dr. Minissale is also a member of the York Osteopathic Medical Society.

Above and beyond his osteopathic duties, Dr. Minissale has worked with civic organizations, such as Leadership York, the Coalition for a Healthy York, and the Gladwyne Civic Association. Dr. Minissale resides in York with his wife, Adele, and their two children, Anthony and Angela.

Mr. Speaker, osteopathic medicine plays an important role in the health of my fellow Pennsylvanians. We are proud to be the home of two osteopathic medical schools—the Philadelphia College of Osteopathic Medicine and the Lake Erie College of Osteopathic Medicine. Over 4,600 osteopathic physicians serve residents of the Keystone State.

I am pleased to congratulate Anthony A. Minissale, D.O. on achieving the high honor of being named President of the American Osteopathic Association. I look forward to working with him to advance the health of my fellow Pennsylvanians and all Americans.

TRIBUTE TO THE GREAT DOMINICAN PARADE AND FESTIVAL OF THE BRONX

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 12, 2002

Mr. SERRANO. Mr. Speaker, it is with great pride that I rise today to pay tribute to the thir-

teenth annual Great Dominican Parade and Festival of the Bronx which will take place this Sunday, July 14, 2002. This famed event is eagerly anticipated by the Dominican and Bronx communities each year. It is a wonderful celebration of the spirit and richness of Dominican culture.

As the second largest Latino community in New York City, Dominicans have made invaluable contributions to the city, as well as to the entire nation. Although the highest concentration of Dominican people live in Washington Heights, a significant number have enriched the Bronx with their unique culture and spirit. The Dominican culture is one characterized by, among other things, diverse multiculturalism, strong family values, distinctive art, amazing music and unique cuisine. We are grateful that so many have chosen to make the Bronx home.

Mr. Speaker, the roots of Dominican New Yorkers lie in a country with a fascinating history and arresting beauty. The Dominican Republic is the home of numerous peoples from various heritages. As a result, the culture is charged with strong Taino, African, and European influences. One visit to the Dominican Republic will put to rest any questions one might have as to why Dominicans in America retain such a strong sense of pride in their homeland and never stop missing it.

The achievements and contributions made by Dominican-Americans and Dominican residents have spanned the realms of politics, science, the Armed Forces, literature, public service, and the arts, and undoubtedly make them an integral part of American society. The Great Dominican Parade and Festival of the Bronx is a great opportunity to celebrate the Dominican people's culture, history, and bright future.

I ask my colleagues to please join me in honoring the Great Dominican Parade and Festival of the Bronx.

HAPPY BELATED BIRTHDAY TO EILEEN COUNIHAN

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 12, 2002

Ms. VELÁZQUEZ. Mr. Speaker, I rise to wish a very happy belated birthday to Eileen Counihan, born June 21, 1952, in New York City. Eileen celebrated her 50th birthday with family and friends in Yorkville and Margaretville in Upstate New York.

Eileen is known for her loyalty to friends and her commitment to her family, a quick smile and a warm sense of humor. She is a dedicated, active member of her community, volunteering to distribute food to the homeless on Friday evenings and even Thanksgiving Day. On Earth Day this year she led a project that planted 100 trees.

For these reasons and more I would like to extend the warmest best wishes to her and her family. Happy Belated Birthday, Eileen!

ADDRESSING THE GLOBAL AIDS PANDEMIC

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 12, 2002

Mr. DAVIS of Illinois. Mr. Speaker, I rise today in urge of dramatic funding increases to stop the spread of an epidemic that is taking the lives of millions of people throughout the world.

Today there are more than 40 million people in the world living with HIV/AIDS. Last year 5 million people contracted the virus, and 3 million people died of AIDS related causes. This current health crisis was once again brought to my attention yesterday, when the Chicago Tribune reported that African-Americans account for 67 percent of all newly reported cases of HIV in Chicago. They went on to state that the rate of undiagnosed AIDS cases among women in Chicago has nearly tripled in the last decade, with 80 percent of those women being African-American.

But Chicago is not the only place where people are affected by AIDS. In the words of U.S. Secretary of State, Colin Powell, "AIDS respects no man, woman, or child. It knows no race, religion, class, or creed. No community, country, or continent is immune from its ravages."

Ninety-five percent of those infected with HIV/AIDS live in the developing world. Across the Atlantic, millions of Africans are battling with an epidemic that has ravaged the human capital infrastructure, leaving homes and communities barren. The dreams and hopes of millions of people have been deferred as men, women, and children engage in a losing battle with the silent but powerful enemy that is sweeping and dismantling Africa at an alarming rate. Last year in sub-Saharan Africa alone 2.3 million people have died from AIDS related causes.

HIV/AIDS has made a devastating impact on the fruit of Africa's future, the children. Thirteen million African children have been orphaned due to AIDS, by the end of the decade this number is expected to exceed 40 million.

Global infection rates will continue to rise at alarming rates unless education and treatment options are made available. Recent surveys in 17 countries found that more than half of the adolescents questioned could not name a single method for protecting themselves against HIV/AIDS. In developing nations only 6 to 10 percent of HIV-infected people are receiving treatment for HIV-related opportunistic infection.

If we are serious about finding solutions to this epidemic, then I charge us to commit ourselves to fighting for the humanity of our African brothers and sisters, at whatever the cost. The World Health Organization Commission on Macroeconomics and Health estimates that the cost of mounting an effective global response to HIV/AIDS could reach \$14 billion by 2007. This figure includes programs for prevention, care, and treatment.

We must provide life-saving drugs at reasonable cost. We must support funding for innovative research in finding a cure. We must

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July 12, 2002

support the regulation of affordable drugs for all Africans infected by this deadly disease. We must support the development of comprehensive HIV/AIDS policy for Africa.

As a civil society, we ourselves must unite to confront this dilemma head on, to defeat this plague which has us anxious and on the run. It is time for us to stop running and start to act.

SEC CHAIRMAN PITT SHOULD NOT RESIGN

HON. DAVID L. HOBSON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 12, 2002

Mr. HOBSON. Mr. Speaker, I rise today to bring attention to the recent calls by some of our colleagues for Securities and Exchange Commission Chairman Harvey Pitt to resign in the wake of the public disclosure of inaccurate corporate accounting measures and other problems on Wall Street.

Mr. Pitt should resign, they say, because in his term of office he has done nothing to crack down on corporate abuse of the law and because he is too "cozy with the business community." These calls for Mr. Pitt's resignation are the epitome of hypocrisy. These schemes were hatched in the mid to late 1990s and the Bush administration inherited our current situation. Where was the SEC then? And why haven't these individuals who have been recently critical of the SEC only spoken up in the last week if they believed no one was "minding the store?"

The President correctly said recently that some corporate executives lack an "ethical compass." But the current cycle of free-wheeling financial dealings did not begin with the Bush Administration but during the heady, consequence-free years of the Clinton Administration. The calls for Mr. Pitt to step down are political posturing of the worst kind. President Bush said he believes that Mr. Pitt should get a chance to do the job for which the Senate confirmed him.

The President has decided to give Mr. Pitt that chance, and so should my colleagues in Congress.

WE WILL LEAD ON, JUSTIN DART

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 12, 2002

Ms. SCHAKOWSKY. Mr. Speaker, our Nation has never seen the likes of Justin Dart. His vision, his dedication, and his passion for improving our country and the lives of our people were unwavering. What he accomplished during his lifetime was nothing short of miraculous. Justin Dart's contributions for equality for persons with disabilities and for justice for all people will be felt for generations to come. He would have expected nothing less of himself and from those who joined him in the struggle.

Justin Dart was a trailblazer for justice. For 30 years, with his lifetime partner, companion,

friend and wife Yoshiko, and with many of us following closely behind, he led the way for the radical empowerment of persons with disabilities and for universal healthcare.

Justin Dart's life was changed forever when he contracted polio and the doctors proclaimed that he was only 3 days away from death. Those 3 days turned into 40 years. Polio left him in a wheelchair, but Justin often said, "I count the good days in my life from the time I got polio." He used each and every day to the fullest. He traveled, organized, spoke, and enjoyed every minute of it.

He began his advocacy campaign in earnest following his visit to a rehabilitation center for children with Polio in Vietnam in 1966. He would later write of the scene of young starving children left to suffer. "That scene is burned forever in my soul. For the first time in my life I understood the reality of evil, and that I was a part of that reality." Since that day forward, he dedicated himself and his resources to what he believed to be the most basic of human and civil rights—the right to live free and in dignity. Through sheer will, he fought to end the centuries old discrimination against people with disabilities.

Because of his years of hardwork, along with those who joined him in the fight, people with disabilities in this country finally received what is rightfully theirs, but what took so many years and so many struggles to achieve. In 1990, with Justin Dart on the podium, the Americans with Disabilities Act was signed into law. Understanding that without a grass-roots movement, there is no catalyst for change, Justin Dart did not miss the opportunity to protest that the fact that he and only two other disability advocates were on stage when President George Bush signed the ADA. He said, "hundreds of others should have been there as well."

Justin Dart, the father of the ADA, did not stop, did not rest, but instead pushed ahead with another cause after the victory of 1990. Universal healthcare became his passion and he once again traveled the nation calling himself "a full-time citizen soldier in the trenches of justice." When he spoke in Chicago in the early 1990s on universal healthcare, people drove hundreds of miles to hear him. He later fought tirelessly against attempts to weaken or even repeal the ADA and the Individuals with Disabilities Education Act. He turned back the attacks. Once again, Justin Dart was victorious.

In his lifetime, Justin Dart was unwavering in his convictions. And in his final words to us, he wrote, "Thanks to you, I die in the beautiful belief that the revolution of empowerment will go on. I love you so much. I'm with you always. Lead on! Lead on! Justin, we will."

EXPRESSING REGRET AND SYMPATHY FOR FAMILIES OF THE UKRAINIAN COAL MINERS KILLED ON JULY 7, 2002

HON. LOUISE MCINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 12, 2002

Ms. SLAUGHTER. Mr. Speaker, I rise today to express my humblest condolences to the

families of the thirty-five coal miners who lost their lives in a July 7th fire in Donetsk, Ukraine.

The terrible loss of life in Donetsk hits home on a number of levels. A tragedy of this magnitude is suffered not only by the families who lost their loved ones but the larger community. As the representative of a sizeable Ukrainian-American community and the co-chairperson of the Congressional Ukrainian Caucus, I would like to express our condolences to the families of the lost Ukrainian miners. The Ukrainian community in Monroe county, which was established over a century ago, maintains close times with their counterparts in Ukraine. In fact, in recent years, the Rochester-area Ukrainian community opened its arms to a new wave of immigrants.

As a Kentucky native, I have seen, firsthand, the enormous toll that underground mining can exact. Underground mining is dangerous. Tunnels can collapse. Coal in the mines can catch on fire. Sometimes there are poisonous gases near coal. In the U.S., the modernization of mining methods has made it less dangerous but there is always risk. I appreciate that Ukraine's efforts at enhancing its economy and modernizing its industrial structures has not been without setbacks. However, I am troubled by the fact that this terrible incident is not an isolated one.

Mr. Speaker, Ukraine's mines have one of the highest accident rates in the world due to poor maintenance and neglect of safety regulations. This accident comes a year after a gas explosion killed at least 50 miners in Donetsk and two years after 80 miners died in another underground mining explosion. More than 3,700 miners have died since Ukraine's independence from the Soviet Union in 1991. At this time of reflection, it is my sincere hope that this terrible incident marks a turning point for Ukraine and the Ukrainian government takes substantial steps to close the roughly 200 mines that the World Bank rates as highly prone to methane blasts.

Mr. Speaker, I extend my condolences to the victims' families in Ukraine, and offer my sorrow and sympathy to the people of Ukraine for this shocking tragedy that resulted in thirty-five deaths and my sincerest hope for real reforms in the Ukrainian mining industry.

RECOGNIZING THE PLANNED PARENTHOOD LOS ANGELES PROMOTORAS COMUNITARIAS TRAINING PROGRAM

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 12, 2002

Ms. SOLIS. Mr. Speaker, it is my distinct pleasure to rise today to honor the 10th anniversary of the Planned Parenthood Los Angeles Promotoras Comunitarias Training Program.

This innovative community outreach program started in 1991 to help promote family planning education programs in Latino communities by training women within the commu-

nity to do the outreach. This is important because it helps spread the message of family planning in a culturally sensitive manner.

Not only did the program help spread much-needed information about family planning methods, it also instilled in the women who became Promotoras a sense of pride and helped them develop critical life skills. By giving their families, friends and neighbors vital health care information and then facilitating access to gynecological health care, Promotoras are empowering women to advocate for their own health care. In return, these dedicated women were able to develop job skills, communication methods and leadership traits.

In short, the Promotoras program has helped thousands of women in my area learn about gynecological care and domestic violence prevention. I urge all of my colleagues to join me in recognizing this remarkable organization.

CARLTON REESE, MUSIC DIRECTOR OF THE CIVIL RIGHTS MOVEMENT

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 12, 2002

Mr. HILLIARD. Mr. Speaker, I wish to commemorate the life of Carlton Reese today. Professor Reese led the Freedom Choir in Birmingham during the days of struggle in the 1960's and continued to lead it to his death this month. He provided the soul to the movement—without him the struggle might have failed or fallen into violence and disorder.

He was the original writer of the great anthem of the movement, "We Shall Overcome," now one of the most well known songs in the world and sung everywhere that people are struggling for freedom. It has been sung in the freedom rallies in Chile, in democratic rallies in Turkey and in the bomb shelters of Hanoi. In this song, Professor Reese left a permanent legacy of freedom, equality, peace and hope for all to come.

At the tender age of 17, Rev. Fred Shuttlesworth asked him to be the music director of the Alabama Christian Movement for Human Rights, which organized and directed the demonstrations in Birmingham. It was his music that defined the movement and its spirit. Some of that music can be found on the Smithsonian Institute's CD, "Voices of the Civil Rights Movement."

When he graduated from Miles College in the '60s with a teaching degree, he was blacklisted by the Birmingham School system, and had to go to Tupelo, Mississippi to begin his career as a teacher. The Birmingham school system said that they did not want teachers who had been in jail—even if imprisoned for their commitment to freedom.

Upon returning to Alabama to teach in the Shelby County schools, South of Birmingham, he became Minister of Music at the New Bethlehem Baptist Church in Dolomite, where he served for over 40 years, turning down posi-

tions with many of the great gospel churches throughout the nation. This humble giant of freedom and music also served as a Deacon in the church, Religious Education Consultant, Youth Staff Worker, Advisor to the Senior Citizens Program and Financial Planner for the building fund.

Upon returning to Birmingham, he reorganized the Freedom Choir, which later took the name of the Sacred and Heritage Singers. Using this as a base, he became the Music Director for the City-Wide Unity Breakfast Program, an annual major event in Birmingham which brings members of the white and Black communities together to celebrate our progress and unity.

We have lost this great freedom fighter, but he will march on wherever people struggle for freedom, peace and the human family. His music will be sung wherever people are celebrating their victories. His music will be sung in every valley and on every hill of this planet. Carlton Reese will be with us forever. He has overcome!

THE TRAGIC DEATH OF 35 MINERS IN UKRAINE ON 7 JULY 2002

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 12, 2002

Mr. SCHAFFER. Mr. Speaker, I rise today to offer my condolences to the families and comrades of 35 Ukrainian miners who died Sunday, 7 July 2002, in a mining accident in eastern Ukraine. I also offer my condolences to the people of Ukraine who have suffered too many such tragedies in the years since independence, as a result of an aging mining sector that is in dire need of reform and modernization.

Ukraine's miners have endured turmoil for too long. Miners have been forced to work under intolerable and life-threatening conditions, in some cases without being paid for years. It is estimated Ukraine's mining industry employs about half a million people in 193 mines, mostly in the eastern region of the country. However, the mortality rate in Ukraine's coalmining industry is staggering, with five to six miners lives sacrificed for every ton of coal produced, constituting nearly 4,000 deaths in the last 11 years.

Mr. Speaker, despite the obvious threat to its citizens, Ukraine's government has resisted shutting down unsafe mines. Rather, it appears avoiding profit loss, instability from mass unemployment and lack of heating coal far outweigh the considerations for human life.

In August this year, I intend to lead a Congressional Delegation to countries surrounding the Black Sea, including Ukraine. One focus of this trip will be on the mining industry to gain a better understanding of the crisis facing Ukraine and to help alleviate the suffering of miners and their families.

PERSONAL EXPLANATION

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 12, 2002

Mr. GOODLATTE. Mr. Speaker, on rollcall Nos. 293 and 294, I was unavoidably detained.

Had I been present, I would have voted "yea" on both.

RECOGNIZING THE
REDEVELOPMENT OF STAPLETON**HON. MARK UDALL**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 12, 2002

Mr. UDALL of Colorado. Mr. Speaker, I rise today to honor Forest City Stapleton, Inc., for their role in the redevelopment of the former Stapleton International Airport in Denver, Colorado.

Stapleton International Airport served as Denver's municipal airport from 1929 to 1995. After that function ended with opening of the new Denver International Airport, there was much discussion about what to do with the 7.5 square mile Stapleton property—land that once was at the edge of town but that is now surrounded by residential development.

What evolved from those discussions is the vision that Forest City Stapleton, Inc. is implementing today—a vision that I am proud to recognize as an example of the kinds of responsible community redevelopment.

As Colorado continues to increase rapidly in population, policies that promote smart, responsibly managed growth become ever more important. The new Stapleton community that Forest City Stapleton, Inc. has planned displays the finest aspects of both smart growth and "New Urbanism."

New Urbanism refers to community development that concentrates a diversity of uses (residential, commercial, governmental) and thus avoids some of the impacts that come with suburban sprawl (such as long commutes, lost open space). Forest City Stapleton, Inc. has consistently remained mindful of the critical importance of developing land so as to maximize the use of natural resources while minimizing the impact on the natural environment.

Over the next 20 years, Stapleton's 4,700 acres will become a new community of 12,000 homes and 13 million square feet of offices and shops as well as over 1,100 acres of parks and open space. The Stapleton redevelopment alone will increase the acreage of Denver parks by 30 percent. With new homes, schools, retail and office space, Stapleton will be a self-sustainable community where people can live, learn, work and play. By varying land-use and density of development, Forest City Stapleton, Inc. is able to create the social and economic diversity characteristic of any great urban community.

Essentially, through the foresight of the Stapleton redevelopment committee, the surrounding communities and the City and County of Denver, Coloradans are converting a once productive property into a new commu-

nity that will serve its residents well. The redevelopment of Stapleton represented an opportunity to employ innovative and workable approaches that will result in healthy, livable communities. I hope that this model can be used as an example of alternatives to traditional development in communities throughout Colorado.

Mr. Speaker, I ask my colleagues to join with me in expressing our appreciation for the conscientious development Forest City Stapleton, Inc. has undertaken. I wish them continued success.

HONORING USCG CAPTAIN RICK
YATTO COMMANDING OFFICER
OF AIR STATION CAPE COD**HON. WILLIAM D. DELAHUNT**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 12, 2002

Mr. DELAHUNT. Mr. Speaker, I rise today to bring to the attention of this Congress the accomplishments of Captain Rick Yatto of the United States Coast Guard. We extend our appreciation for his three years of outstanding service as Commanding Officer of Air Station Cape Cod.

Today, Captain Yatto will step down as the Commanding Officer of the largest Air Station on the East Coast. It is an assignment that is one of the most difficult in the entire Coast Guard, with a unique set of challenges both at sea and on land.

On the water, the Air Station provides law enforcement and search-and-rescue coverage throughout much of the Northwest Atlantic, with a large boating and fishing community that operates in some of the most difficult conditions. In the past three years, the Air Station performed over 750 search-and-rescue cases and saved over 200 lives. On land, the Air Station is a large industrial complex spread out over 1,400 acres, with over 600 housing units, a medical clinic, and dozens of buildings that support hundreds of Coast Guard and military families. The Air Station is also located on top of a fragile underground drinking water supply, located next to one of the largest Superfund sites in the country. The job is so large, that those who work and live at the base often see Captain Yatto as the local mayor.

However, unlike politics, in the Coast Guard there is no margin for error. During Captain Yatto's tenure, the Air Station has not only had its fair share of daring rescues, it has successfully tackled a host of environmental challenges critical to the future of the installation. The Air Station's success in pollution prevention, innovative environmental management, and energy efficiency has won national recognition from the Environmental Protection Agency, the Department of Transportation, and the White House.

In my district, the Coast Guard is widely respected as the oldest maritime service in the country, with a tradition forever linked to the heritage of Cape Cod and the Islands. Many of the first Coast Guard stations were built on the Massachusetts coast, manned by brave men from local families with deep roots in our community. Their gallant deeds and heroics

are not only a part of the Coast Guard's proud tradition, they are permanently etched into the communities and family histories of the people I represent.

This explains why the Coast Guard is so much a part of our community, why there is so much local pride in its rich tradition and in the work they do today saving lives, protecting our fisheries, the marine environment and defending our homeland. That pride in our Coast Guard will continue as long as it is led by people like Captain Rick Yatto and served by the fine men and women of Air Station Cape Cod.

On behalf of a very grateful constituency, Captain Yatto: "Mission accomplished, and job well done."

INTRODUCTION OF THE TEACHER
TAX RELIEF ACT**HON. DAVE CAMP**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 12, 2002

Mr. CAMP. Mr. Speaker, the economic stimulus package signed into law by President Bush on March 9, 2002 offers school teachers a \$250 deduction for qualified "out of pocket" educational expenses such as books and other supplies. These important provisions will provide almost half a billion dollars worth of tax relief to teachers all across America. However these provisions are only effective in tax years 2002 and 2003.

It is now estimated that the average teacher spends \$521 out of their own pocket each year on classroom materials—materials such as pens, pencils and books. First year teachers spend even more. Moreover, in addition to spending substantial money on classroom supplies, many teachers spend even more money out of their own pocket on professional development.

The bottom line is that these out-of-pocket costs place lasting financial burdens on our teachers and this is one reason our teachers are leaving the profession. Congressmen JOHN TANNER, MARK FOLEY and I have introduced the Teacher Tax Relief Act of 2002. This important legislation will build on current law in three ways: increase the above-the-line deduction for educators from \$250 allowed under current law to \$500, allow educators to include professional development costs within that \$500 deduction and make these provisions permanent.

This legislation has bi-partisan cosponsors and support from the education community. I urge the House to support this measure.

CELEBRATING THE 30TH ANNIVER-
SARY OF THE IOLA OLD CAR
SHOW**HON. MARK GREEN**

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 12, 2002

Mr. GREEN of Wisconsin. Mr. Speaker, this weekend marks the 30th anniversary of the Iola Old Car Show.

July 12, 2002

Iola is a village in my northeastern Wisconsin district filled with great people. For a few days each summer it is filled with even more terrific folks, who bring their truly extraordinary historic cars for this event.

This year, the Iola Car Show will focus on "Ford's Fabulous Model A," and will have more than 200 Ford Model A's on display. But that's just a fraction of the more than 2,500 cars built between 1900 and 1975 that will be there.

There are few things more distinctly American than our adoration for the automobile, and the Iola Old Car Show celebrates that love. It also showcases who we are and who we've been—retelling nearly a century of American history through the automobile. This year's Ford Model A exhibition is a perfect example of that expression of our history.

The car show has come a long way from its humble beginnings in 1972, when Chet Krause invited some of his buddies who happened to own old cars to the Iola Lions Chicken Roast. Today, it's grown into one of the largest car shows in the nation. It's an event that I'm very proud to host in my district, and I wish them all the best this year for a great show and a happy 30th anniversary.

EXTENSIONS OF REMARKS

H.R. 2486 "INLAND FLOOD FORECASTING AND WARNING SYSTEM ACT OF 2002"

SPEECH OF

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 2002

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2486) to authorize the National Weather Service to conduct research and development, training, and outreach activities relating to tropical cyclone inland forecasting improvement, and for other purposes:

Mr. JONES of North Carolina. Mr. Chairman, as I stand before you today, homeowners of my district in Eastern North Carolina are making preparations for another hurricane season along the coast. Unfortunately, many of my constituents have yet to fully recover from effects of seasons past.

The United States has a significant hurricane problem. More than 60 percent of our population live in coastal states, and every year these citizens must rely on the most accurate information at their disposal as they take the measures necessary to remain safe.

Mr. Chairman, when most people think of the dangers of hurricanes, high winds and storm surges come to mind. However, more

people have died from inland flooding over the past 30 years than any other cause. While high winds are a major source of damage, their impacts are often localized to immediate coastal areas. On the contrary, inland flooding threatens communities hundreds of miles from the coast, as powerful rains fall from these huge tropical air masses.

My constituents know all too well the perils of inland flooding. In 1999, Hurricane Floyd brought torrential rains and record flooding to Eastern North Carolina. As riverbanks and dams gave way, townspeople were lucky to find safety before their homes and businesses were washed away. Of the 56 people who lost their lives in this storm, 50 of them drowned due to inland flooding.

Mr. Chairman, even more heartbreaking is the fact that these deaths could have been prevented. That is why I stand before you today to voice my full support for H.R. 2486, the Inland Flood Forecasting and Warning System Act, introduced by my colleague from North Carolina, BOB ETHERIDGE.

This bill will give the National Weather Service, emergency officials, and meteorologists the tools necessary to moderate the dangers of tropical cyclones and inland flooding. More importantly it saves lives.

Mr. Chairman, each year citizens along coastal areas do their part to protect families and communities from the effects of hurricanes, now it's time for Congress to do ours.

12807

HOUSE OF REPRESENTATIVES—Monday, July 15, 2002

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. CULBERSON).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 15, 2002.

I hereby appoint the Honorable JOHN ABNEY CULBERSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2069. An act to amend the Foreign Assistance Act of 1961 and the Global AIDS and Tuberculosis Relief Act of 2000 to authorize assistance to prevent, treat, and monitor HIV/AIDS in sub-Saharan Africa and other developing countries.

The message also announced that the Senate has passed without amendment in which the concurrence of the House is requested, concurrent resolutions of the House of the following titles:

H. Con. Res. 161. Concurrent resolution honoring the 19 United States servicemen who died in the terrorist bombing of the Khobar Towers military housing compound in Dhahran, Saudi Arabia, on June 25, 1996.

H. Con. Res. 378. Concurrent resolution commending the District of Columbia National Guard, the National Guard Bureau, and the entire Department of Defense for the assistance provided to the United States Capitol Police and the entire Congressional community in response to the terrorist and anthrax attacks of September and October 2001.

The message also announced that the Senate disagrees to the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 3009) "An Act to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes.", and agrees to a conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BAUCUS, Mr. ROCKEFELLER, Mr. BREAU, Mr. GRASSLEY, and Mr. HATCH, to be the conferees on the part of the Senate.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of Janu-

ary 23, 2002, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Illinois (Mr. WELLER) for 5 minutes.

URGING MEMBERS TO JOIN IN OPPOSITION TO H.R. 3479, LEGISLATION WHICH EXPANDS O'HARE AIRPORT BUT EXCLUDES FUNDING FOR PEOTONE AIRPORT

Mr. WELLER. Mr. Speaker, today is the first day we are in session in the week. Usually on the first day we deal with noncontroversial issues, something called the Suspension Calendar.

It is my understanding we have almost 15 pieces of legislation before us today on what is normally a noncontroversial day. But I want to draw the attention of my colleagues to a very controversial piece of legislation that is on the Suspension Calendar, and I want to ask my colleagues to join me in opposition to this legislation, legislation which, frankly, breaks a bipartisan agreement back in my home State in Illinois.

I am referring to H.R. 3479, legislation that is before us that we in the Chicago area know as the O'Hare bill, legislation that federally mandates construction of O'Hare and expansion of O'Hare. I want to ask my colleagues to join me today in opposition to this legislation.

Let me explain why. I stand here in strong support of O'Hare. I stand in strong support of Midway. I also believe we need to build a third airport to serve the Chicago region. As we know, air travel is going to double over the coming decade, and O'Hare and Midway in the Chicago area are today at capacity. We need to rebuild and modernize O'Hare, but we also need to build a third airport in south suburban Peotone to serve the Chicago region.

This past year, Governor Ryan and Mayor Daley entered into a historic agreement which provided for the reconfiguration and expansion of O'Hare, as well as development of Chicago's south suburban airport near Peotone, Illinois. My colleague, the gentleman from Illinois (Mr. LIPINSKI), introduced legislation which originally would have

codified this agreement into law, modernizing O'Hare, and pushing development of a south suburban airport.

I had originally stood here and stated time after time that I wanted to support this legislation and that I was ready to cosponsor the bill if it truly reflected the integrity of the agreement between the Governor and the mayor.

However, this legislation, H.R. 3479, which will be before us this afternoon, does not reflect the agreement between the Governor and the mayor. In fact, the Governor has indicated he does not support the bill today in its current form. That is why I think it is important to note that H.R. 3479 breaks the bipartisan agreement between Governor Ryan and Mayor Daley on O'Hare. That is why I ask my colleagues to join me in opposition to this bill today.

My hope is that the Committee on Transportation and Infrastructure will go back and move legislation again, and bring it back to the floor, which truly reflects the bipartisan agreement which expands O'Hare as well as moves forward on construction of an airport at Peotone.

Mr. Speaker, this legislation, as I noticed, breaks the agreement between the mayor and the Governor. I would note that the legislation, H.R. 3479, has no language in it which reflects the agreement that the Governor and mayor agreed to, which moves forward with the construction of a third airport at Peotone.

The legislation takes away the State of Illinois's rights and undercuts the authority of the State of Illinois to make its own decisions regarding air travel.

H.R. 3479 completely ignores the needs of the south suburbs of Chicago, where 2.5 million people live within 45 minutes of the proposed airport at Peotone. Additionally, I would note that failure to develop Peotone would shortchange the entire Chicago region by forfeiting almost 250,000 new jobs.

Unfortunately, H.R. 3479 does not pay any heed to the studies that have, since the 1980s, consistently shown that Chicago, the region, and our Nation will have aviation gridlock, and the best solution is a new airport, a third airport to serve the Chicago region. Both the Governor and mayor recognized these studies when they reached their agreement last year.

I would note that the bill that will be before us today breaks the agreement between the mayor and the Governor

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and does not reflect the integrity of the agreement. Nevertheless, the bill imposes a Federal solution on a State problem and does not have the full support of the Illinois delegation nor the people of Illinois, who will be most impacted by the legislation.

In fact, the three members of the Illinois delegation most affected by H.R. 3479, the gentlemen from Illinois, Mr. HYDE, Mr. JACKSON, and myself, stand in opposition to this bill this afternoon.

I support Chicago-O'Hare and believe it needs to be expanded and modernized to be a safer airport with more capacity, but expanding O'Hare is not enough. It will not solve the capacity problem or face it in the future. Even with the development of a south suburban airport, O'Hare can still expect a 40 percent increase in passenger load, so they are still going to increase their business.

Air travel is expected to double in the next 15 years. Expanding O'Hare will take 12 to 15 years, and we know we cannot land airplanes while pouring concrete. The south suburban airport at Peotone could be expanding capacity in just 4 to 5 years as a complement to O'Hare expansion. However, this legislation will kill any development of a south suburban airport and keep Chicago aviation gridlocked for years to come.

Mr. Speaker, we need a bipartisan solution. The mayor and the Governor came together with an agreement. The bill before us today, H.R. 3479, fails to honor that agreement; in fact, it breaks the agreement between the mayor and the Governor.

I urge opposition to this bill and ask that my colleagues join me in voting "no."

CORPORATE GREED

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Ohio (Mr. BROWN) is recognized during morning hour debates for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, it has been almost a week since President Bush went to Wall Street to present his plan to curb executive greed and corporate misgovernance. The response, unfortunately, has been pretty underwhelming. The markets dropped by several hundred points day after day after day. The press and the American people have openly questioned the President's commitment to real change.

Even Wall Street workers who attended the speech, mostly Bush supporters, wondered aloud about how much of the speech was just politics and how much was about real change.

Why was this speech so poorly received? One, because so many officials in the Bush administration are themselves former corporate CEOs, lawyers,

and accountants who lack the moral authority or the will to change corporate practices, or even to enforce current law.

Second, because in the middle of the current crisis, the President and the Vice President, both former oil company CEOs, have been forced to answer questions about their own ethics and business practices in the private sector.

Third, because, despite his rhetorical calls for corporate America to clean up its act, President Bush continues to oppose real reform on Capitol Hill. He has refused to support meaningful pension and accounting reform; he opposes legislation to halt offshore tax avoidance by huge corporations; and, to make matters worse, even though America's capital markets lost \$2.4 trillion last year, more than the gross domestic product of Germany, the President continues to favor turning Social Security over to Wall Street in a privatization scheme. This is the same Wall Street that advised American investors to buy Enron and WorldCom and Adelphia and others while their analysts privately ridiculed those companies.

In addition, the President has supported a whole slew of bills that have been written by and for big industry. He supports energy legislation written by the oil companies, he supports environmental legislation written by the chemical companies, he supports privatization of Social Security written by Wall Street bankers.

Most recently, the President endorsed a prescription drug benefit to be administered by the health insurance industry, the same people who brought us HMOs. This plan would provide seniors with totally inadequate coverage, making no provision for dealing with the outrageous prices Americans are paying for their prescription drugs. It would undercut seniors' purchasing power and enable the drug industry to sustain its outrageous drug prices.

Apparently, the President has been convinced by the brand-name big drug companies that prices are not a problem. Democrats are more concerned about the burden on seniors and their families who are being gouged by the predatory pricing of the prescription drug industry. The Democratic plan provides a direct prescription drug benefit inside Medicare and combats high prescription drug prices. The Republican plan, written by the drug companies, calls for a privatized system that coddles industry and leaves gaps in coverage for seniors.

The Republicans claim they are offering the best drug benefit possible under current budgetary constraints; but a year ago, when the Bush tax cut plan, the tax breaks, which went overwhelmingly to the richest 1 percent of people in this society, when that was being debated, we were assured by the President and Republican leadership of

huge budget surpluses. We were told these surpluses would be enough to address long-term solvency of Medicare and Social Security and still have the money for education and the money for a prescription drug benefit. Since then, these projected surpluses promised by President Bush and others have evaporated, mostly because of the overly-generous-to-the-most-privileged-in-this-society tax cut.

Maybe the President and his administration, full of corporate executives, were using the same accounting practices as America's big companies. Maybe, Mr. Speaker, this is what President Bush and Vice President CHENEY meant when they said that, under their leadership, the country would be run like a corporation.

HONORING TED WILLIAMS

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, today we will honor Ted Williams, the baseball legend, here on the House floor. I am here this morning to also honor him.

On July 5, of course, of this year, he died. He is one of baseball's greatest legends. He was known as the "Splendid Splinter," "Teddy Ballgame," "the Kid," "the Thumper"; he was a man who turned the art of batting into a science.

Mr. Speaker, he began his major league career with the Boston Red Sox on December 7, 1937, and played for the team exclusively for 19 years. He retired with a career high .344 batting average, and was, of course, the last player to hit over 400 for a full season in 1941. Ted Williams is tied for 11th all time, with 521 home runs, and 11th with 1,839 RBIs.

He won two Triple Crowns, and was a two-time MVP. He held six American League batting championships and received 18 All-star game selections.

These tremendous achievements, Mr. Speaker, were reached despite Ted missing five seasons serving his country as a naval aviator in World War II, and then later he went on to become a Marine aviator, flying 39 combat missions in Korea and earning an Air Medal and two Gold Stars.

On January 20, 1966, Ted Williams was inducted into the Baseball Hall of Fame, and on May 29, 1984, the Red Sox formally retired his number 9.

In 1994, the so-called "Einstein of batting" opened the Ted Williams Museum and Library in Hernando, Florida, becoming the number one tourist attraction in Citrus County. My family has had the opportunity to visit this wonderful museum, and I was his Congressman for many years. We had an opportunity to meet and talk with him many times.

But Mr. Speaker, Ted Williams was much more to his country than just a baseball legend.

□ 1245

He was also a legend in terms of helping others. When I first came to Congress, Ted Williams, as I mentioned, was one of my constituents. Unfortunately, districts were redrawn in 1991 and I moved away from him. However, I continued to work with him and to speak with him on a number of key issues. And one issue, Mr. Speaker, I would like to share with you this afternoon.

In 1995 he was recovering from a stroke that he suffered. During his therapy he came to know a young woman whose name was Tricia Miranti. She was also going through therapy much like him, and he used to play checkers with her and talk to her. She had a brain hemorrhage which she suffered at the age of five. Ted Williams is a man who exemplified determination and hard work. He was impressed with her determination and her hard work and he watched her go through therapy. They became fast friends and out of their friendship grew Williams' creation of a scholarship fund for disabled students.

In 1997 I had the honor of working with Ted to raise funds for that scholarship program. Ted's dedication to Tricia and those who share her experiences can be summed up in the following quote he gave to an article in 1998. He said, "It makes me feel lucky. If ever, as long as I live, I can help anyone in any way possible, I will. It makes you just feel great."

This statement, of course, is no surprise to those who knew Ted. His passionate support of the Jimmy Fund, an organization dedicated to raising funds for cancer research and treatment for children, is also legend. In his autobiography Ted wrote, "I think one of the greatest things ever said is that a man never stands so high as when he stoops to help a kid."

Mr. Speaker, Ted Williams is one of the greatest hitters to ever play the game, if not the greatest. But he should also be remembered for what he accomplished outside of the game, accomplishments that we will not find in career statistics, but the impact of which will be felt for years to come. God bless Ted Williams and his family.

RECESS

The SPEAKER pro tempore (Mr. CULBERSON). Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 12 o'clock and 48 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. CULBERSON) at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer: Lord, You are wisdom for the ages and strength in times of weakness, renew Your people in faith and by our prayer wash us clean in Your Holy Spirit.

Guide the Members of Congress during this week. Bring forth from their diversity a unity of purpose. Born out of honest exchange and compromise, let there emerge great leadership for Your people.

Through the power of Your own Spirit work through them and in them.

By works in the mind provide new understanding and by works in the heart bring about freedom and unity, enough to hold a Nation, now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Wisconsin (Mr. SENBRENNER) come forward and lead the House in the Pledge of Allegiance.

Mr. SENBRENNER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM DISTRICT DIRECTOR OF HON. SHERROD BROWN OF OHIO, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Elizabeth Thames, District Director to the Honorable SHERROD BROWN of Ohio, Member of Congress:

JULY 8, 2002.

Hon. DENNIS J. HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House, that I have been served with a civil subpoena for testimony issued by the Geauga County Court of Common Pleas, Chardon, Ohio.

After consultation with the Office of General Counsel, I determined that it is incon-

sistent with the precedents and privileges of the House to comply with the subpoena.

Sincerely,

ELIZABETH THAMES,
District Director.

COMMUNICATION FROM THE HON. SHERROD BROWN OF OHIO, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the HONORABLE SHERROD BROWN of Ohio, Member of Congress:

JULY 8, 2002.

Hon. DENNIS J. HASTERT,
Speaker, House of Representatives,
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After consultation with the Office of General Counsel, I determined that it is inconsistent with the precedents and privileges to the House to comply with the subpoena.

Sincerely,

SHERROD BROWN,
Member of Congress.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 12, 2002.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Friday, July 12, 2002 at 1:21 p.m., and said to contain a message from the President whereby he transmits the District of Columbia's Fiscal Year 2003 Budget Request Act.

Sincerely yours,

MARTHA C. MORRISON,
Deputy Clerk.

DISTRICT OF COLUMBIA FISCAL YEAR 2003 BUDGET REQUEST ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107-)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

Pursuant to my constitutional authority and consistent with sections 202(c) and (e) of the The District of Columbia Financial Management and Responsibility Assistance Act of 1995 and

section 446 of The District of Columbia Self-Governmental Reorganization Act as amended in 1989, I am transmitting the District of Columbia's Fiscal Year 2003 Budget Request Act.

The proposed FY 2003 Budget Request Act reflects the major programmatic objectives of the Mayor and the Council of the District of Columbia. For FY 2003, the District estimates total revenue and expenditures of \$5.7 billion.

GEORGE W. BUSH.
THE WHITE HOUSE, July 11, 2002.

REMEMBERING OUR VETERANS THROUGH SERVICE ORGANIZATIONS

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, 1941 was a banner year for American baseball and baseball in the American League, as it were. In that year Joe DiMaggio hit in 56 games straight, and Ted Williams batted 406. These are not the important historical facts, although they are great for those of us who follow baseball, but both of them did something extraordinary. Joe DiMaggio, very soon after that wonderful streak, entered the United States Army and served until 1946 as a noncommissioned officer in the United States Army. Ted Williams went into the Air Force, or Army, and served the balance of the war in his branch of the service.

Then dramatically twice after that, Ted Williams reported back for duty and served in the Korean conflict. These are the great Americans that we remember and we will continue to remember through the service organizations which we will discuss a little bit later.

CORPORATE GREED

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, this morning in Birmingham, President Bush gave another speech aimed at restoring investor confidence at the same time the country's equity markets were well on their way to a sixth day of losses. Why is that?

Could it be because so many administration officials in the Bush White House are themselves former corporate CEOs, lawyers, or accountants who lack the moral authority or the will to change corporate practices, or even to enforce current law? Or could it be because in the middle of the current financial crisis, the President and the Vice President have been forced to answer questions about their own ethics and business practices as oil company CEOs? Or could it be, because despite his rhetorical calls for corporate Amer-

ica to clean up its act, the President continues to oppose real reform on Capitol Hill?

Maybe, Mr. Speaker, with the recent spate of corporate collapses, the American people have begun to wonder whether running the company like a corporation, as the President and Vice President have promised, is all that good an idea.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on motions to suspend the rules ordered prior to 6:30 p.m. will be taken today. Record votes on remaining motions to suspend the rules will be taken tomorrow.

CYBER SECURITY ENHANCEMENT ACT OF 2002

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3482) to provide greater cybersecurity, as amended.

The Clerk read as follows:

H.R. 3482

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cyber Security Enhancement Act of 2002".

TITLE I—COMPUTER CRIME

SEC. 101. AMENDMENT OF SENTENCING GUIDELINES RELATING TO CERTAIN COMPUTER CRIMES.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend its guidelines and its policy statements applicable to persons convicted of an offense under section 1030 of title 18, United States Code.

(b) REQUIREMENTS.—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses described in subsection (a), the growing incidence of such offenses, and the need for an effective deterrent and appropriate punishment to prevent such offenses;

(2) consider the following factors and the extent to which the guidelines may or may not account for them—

(A) the potential and actual loss resulting from the offense;

(B) the level of sophistication and planning involved in the offense;

(C) whether the offense was committed for purposes of commercial advantage or private financial benefit;

(D) whether the defendant acted with malicious intent to cause harm in committing the offense;

(E) the extent to which the offense violated the privacy rights of individuals harmed;

(F) whether the offense involved a computer used by the government in furtherance of national defense, national security, or the administration of justice;

(G) whether the violation was intended to or had the effect of significantly interfering with or disrupting a critical infrastructure; and

(H) whether the violation was intended to or had the effect of creating a threat to public health or safety, or injury to any person;

(3) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 101A. STUDY AND REPORT ON COMPUTER CRIMES.

Not later than May 1, 2003, the United States Sentencing Commission shall submit a brief report to Congress that explains any actions taken by the Sentencing Commission in response to this Act and includes any recommendations the Commission may have regarding statutory penalties for offenses under section 1030 of title 18, United States Code.

SEC. 102. EMERGENCY DISCLOSURE EXCEPTION.

(a) IN GENERAL.—Section 2702(b) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (5);

(2) by striking subparagraph (C) of paragraph (6);

(3) in paragraph (6), by inserting "or" at the end of subparagraph (A); and

(4) by inserting after paragraph (6) the following:

"(7) to a Federal, State, or local governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of communications relating to the emergency."

(b) REPORTING OF DISCLOSURES.—A government entity that receives a disclosure under this section shall file, no later than 90 days after such disclosure, a report to the Attorney General stating the subparagraph under which the disclosure was made, the date of the disclosure, the entity to which the disclosure was made, the number of customers or subscribers to whom the information disclosed pertained, and the number of communications, if any, that were disclosed. The Attorney General shall publish all such reports into a single report to be submitted to Congress one year after enactment of the bill.

SEC. 103. GOOD FAITH EXCEPTION.

Section 2520(d)(3) of title 18, United States Code, is amended by inserting "or 2511(2)(i)" after "2511(3)".

SEC. 104. INTERNET ADVERTISING OF ILLEGAL DEVICES.

Section 2512(1)(c) of title 18, United States Code, is amended—

(1) by inserting "or disseminates by electronic means" after "or other publication"; and

(2) by inserting "knowing the content of the advertisement and" before "knowing or having reason to know".

SEC. 105. STRENGTHENING PENALTIES.

Section 1030(c) of title 18, United States Code, is amended—

(1) by striking “and” at the end of paragraph (3);

(2) in each of subparagraphs (A) and (C) of paragraph (4), by inserting “except as provided in paragraph (5),” before “a fine under this title”;

(3) by striking the period at the end of paragraph (4)(C) and inserting “; and”; and

(4) by adding at the end the following:

“(5)(A) if the offender knowingly or recklessly causes or attempts to cause serious bodily injury from conduct in violation of subsection (a)(5)(A)(i), a fine under this title or imprisonment for not more than 20 years, or both; and

“(B) if the offender knowingly or recklessly causes or attempts to cause death from conduct in violation of subsection (a)(5)(A)(i), a fine under this title or imprisonment for any term of years or for life, or both.”.

SEC. 106. PROVIDER ASSISTANCE.

(a) SECTION 2703.—Section 2703(e) of title 18, United States Code, is amended by inserting “, statutory authorization” after “subpoena”.

(b) SECTION 2511.—Section 2511(2)(a)(ii) of title 18, United States Code, is amended by inserting “, statutory authorization,” after “court order” the last place it appears.

SEC. 107. EMERGENCIES.

Section 3125(a)(1) of title 18, United States Code, is amended—

(1) by striking “or” at the end of subparagraph (A);

(2) by striking the comma at the end of subparagraph (B) and inserting a semicolon; and

(3) by adding at the end the following:

“(C) an immediate threat to a national security interest; or

“(D) an ongoing attack on a protected computer (as defined in section 1030) that constitutes a crime punishable by a term of imprisonment greater than one year;”.

SEC. 108. PROTECTING PRIVACY.

(a) SECTION 2511.—Section 2511(4) of title 18, United States Code, is amended—

(1) by striking paragraph (b); and

(2) by redesignating paragraph (c) as paragraph (b).

(b) SECTION 2701.—Section 2701(b) of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting “, or in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or any State” after “commercial gain”;

(2) in paragraph (1)(A), by striking “one year” and inserting “5 years”;

(3) in paragraph (1)(B), by striking “two years” and inserting “10 years”; and

(4) so that paragraph (2) reads as follows:

“(2) in any other case—

“(A) a fine under this title or imprisonment for not more than one year or both, in the case of a first offense under this paragraph; and

“(B) a fine under this title or imprisonment for not more than 5 years, or both, in the case of an offense under this subparagraph that occurs after a conviction of another offense under this section.”.

(c) PRESENCE OF OFFICER AT SERVICE AND EXECUTION OF WARRANTS FOR COMMUNICATIONS AND CUSTOMER RECORDS.—Section 3105 of title 18, United States Code, is amended by adding at the end the following: “The presence of an officer is not required for service or execution of a search warrant directed to a provider of electronic communication serv-

ice or remote computing service for records or other information pertaining to a subscriber to or customer of such service.”.

TITLE II—OFFICE OF SCIENCE AND TECHNOLOGY**SEC. 201. ESTABLISHMENT OF OFFICE; DIRECTOR.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is hereby established within the Department of Justice an Office of Science and Technology (hereinafter in this title referred to as the “Office”).

(2) AUTHORITY.—The Office shall be under the general authority of the Assistant Attorney General, Office of Justice Programs, and shall be independent of the National Institute of Justice.

(b) DIRECTOR.—The Office shall be headed by a Director, who shall be an individual appointed based on approval by the Office of Personnel Management of the executive qualifications of the individual.

SEC. 202. MISSION OF OFFICE; DUTIES.

(a) MISSION.—The mission of the Office shall be—

(1) to serve as the national focal point for work on law enforcement technology; and

(2) to carry out programs that, through the provision of equipment, training, and technical assistance, improve the safety and effectiveness of law enforcement technology and improve access to such technology by Federal, State, and local law enforcement agencies.

(b) DUTIES.—In carrying out its mission, the Office shall have the following duties:

(1) To provide recommendations and advice to the Attorney General.

(2) To establish and maintain advisory groups (which shall be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.)) to assess the law enforcement technology needs of Federal, State, and local law enforcement agencies.

(3) To establish and maintain performance standards in accordance with the National Technology Transfer and Advancement Act of 1995 (Public Law 104-113) for, and test and evaluate law enforcement technologies that may be used by, Federal, State, and local law enforcement agencies.

(4) To establish and maintain a program to certify, validate, and mark or otherwise recognize law enforcement technology products that conform to standards established and maintained by the Office in accordance with the National Technology Transfer and Advancement Act of 1995 (Public Law 104-113). The program may, at the discretion of the Office, allow for supplier's declaration of conformity with such standards.

(5) To work with other entities within the Department of Justice, other Federal agencies, and the executive office of the President to establish a coordinated Federal approach on issues related to law enforcement technology.

(6) To carry out research, development, testing, and evaluation in fields that would improve the safety, effectiveness, and efficiency of law enforcement technologies used by Federal, State, and local law enforcement agencies, including, but not limited to—

(A) weapons capable of preventing use by unauthorized persons, including personalized guns;

(B) protective apparel;

(C) bullet-resistant and explosion-resistant glass;

(D) monitoring systems and alarm systems capable of providing precise location information;

(E) wire and wireless interoperable communication technologies;

(F) tools and techniques that facilitate investigative and forensic work, including computer forensics;

(G) equipment for particular use in counterterrorism, including devices and technologies to disable terrorist devices;

(H) guides to assist State and local law enforcement agencies;

(I) DNA identification technologies; and

(J) tools and techniques that facilitate investigations of computer crime.

(7) To administer a program of research, development, testing, and demonstration to improve the interoperability of voice and data public safety communications.

(8) To serve on the Technical Support Working Group of the Department of Defense, and on other relevant interagency panels, as requested.

(9) To develop, and disseminate to State and local law enforcement agencies, technical assistance and training materials for law enforcement personnel, including prosecutors.

(10) To operate the regional National Law Enforcement and Corrections Technology Centers and, to the extent necessary, establish additional centers through a competitive process.

(11) To administer a program of acquisition, research, development, and dissemination of advanced investigative analysis and forensic tools to assist State and local law enforcement agencies in combating cybercrime.

(12) To support research fellowships in support of its mission.

(13) To serve as a clearinghouse for information on law enforcement technologies.

(14) To represent the United States and State and local law enforcement agencies, as requested, in international activities concerning law enforcement technology.

(15) To enter into contracts and cooperative agreements and provide grants, which may require in-kind or cash matches from the recipient, as necessary to carry out its mission.

(16) To carry out other duties assigned by the Attorney General to accomplish the mission of the Office.

(c) COMPETITION REQUIRED.—Except as otherwise expressly provided by law, all research and development carried out by or through the Office shall be carried out on a competitive basis.

(d) INFORMATION FROM FEDERAL AGENCIES.—Federal agencies shall, upon request from the Office and in accordance with Federal law, provide the Office with any data, reports, or other information requested, unless compliance with such request is otherwise prohibited by law.

(e) PUBLICATIONS.—Decisions concerning publications issued by the Office shall rest solely with the Director of the Office.

(f) TRANSFER OF FUNDS.—The Office may transfer funds to other Federal agencies or provide funding to non-Federal entities through grants, cooperative agreements, or contracts to carry out its duties under this section.

(g) ANNUAL REPORT.—The Director of the Office shall include with the budget justification materials submitted to Congress in support of the Department of Justice budget for each fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a report on the activities of the Office. Each such report shall include the following:

(1) For the period of 5 fiscal years beginning with the fiscal year for which the budget is submitted—

(A) the Director's assessment of the needs of Federal, State, and local law enforcement agencies for assistance with respect to law enforcement technology and other matters consistent with the mission of the Office; and

(B) a strategic plan for meeting such needs of such law enforcement agencies.

(2) For the fiscal year preceding the fiscal year for which such budget is submitted, a description of the activities carried out by the Office and an evaluation of the extent to which those activities successfully meet the needs assessed under paragraph (1)(A) in previous reports.

SEC. 203. DEFINITION OF LAW ENFORCEMENT TECHNOLOGY.

For the purposes of this title, the term "law enforcement technology" includes investigative and forensic technologies, corrections technologies, and technologies that support the judicial process.

SEC. 204. ABOLISHMENT OF OFFICE OF SCIENCE AND TECHNOLOGY OF NATIONAL INSTITUTE OF JUSTICE; TRANSFER OF FUNCTIONS.

(a) TRANSFERS FROM OFFICE WITHIN NIJ.—The Office of Science and Technology of the National Institute of Justice is hereby abolished, and all functions and activities performed immediately before the date of the enactment of this Act by the Office of Science and Technology of the National Institute of Justice are hereby transferred to the Office.

(b) AUTHORITY TO TRANSFER ADDITIONAL FUNCTIONS.—The Attorney General may transfer to the Office any other program or activity of the Department of Justice that the Attorney General, in consultation with the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, determines to be consistent with the mission of the Office.

(c) TRANSFER OF FUNDS.—

(1) IN GENERAL.—Any balance of appropriations that the Attorney General determines is available and needed to finance or discharge a function, power, or duty of the Office or a program or activity that is transferred to the Office shall be transferred to the Office and used for any purpose for which those appropriations were originally available. Balances of appropriations so transferred shall—

(A) be credited to any applicable appropriation account of the Office; or

(B) be credited to a new account that may be established on the books of the Department of the Treasury; and shall be merged with the funds already credited to that account and accounted for as one fund.

(2) LIMITATIONS.—Balances of appropriations credited to an account under paragraph (1)(A) are subject only to such limitations as are specifically applicable to that account. Balances of appropriations credited to an account under paragraph (1)(B) are subject only to such limitations as are applicable to the appropriations from which they are transferred.

(d) TRANSFER OF PERSONNEL AND ASSETS.—With respect to any function, power, or duty, or any program or activity, that is transferred to the Office, those employees and assets of the element of the Department of Justice from which the transfer is made that the Attorney General determines are needed to perform that function, power, or duty, or for that program or activity, as the case may be, shall be transferred to the Office.

(e) REPORT ON IMPLEMENTATION.—Not later than 1 year after the date of the enactment

of this Act, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the implementation of this title. The report shall—

(1) identify each transfer carried out pursuant to subsection (b);

(2) provide an accounting of the amounts and sources of funding available to the Office to carry out its mission under existing authorizations and appropriations, and set forth the future funding needs of the Office;

(3) include such other information and recommendations as the Attorney General considers appropriate.

SEC. 205. NATIONAL LAW ENFORCEMENT AND CORRECTIONS TECHNOLOGY CENTERS.

(a) IN GENERAL.—The Director of the Office shall operate and support National Law Enforcement and Corrections Technology Centers (hereinafter in this section referred to as "Centers") and, to the extent necessary, establish new centers through a merit-based, competitive process.

(b) PURPOSE OF CENTERS.—The purpose of the Centers shall be to—

(1) support research and development of law enforcement technology;

(2) support the transfer and implementation of technology;

(3) assist in the development and dissemination of guidelines and technological standards; and

(4) provide technology assistance, information, and support for law enforcement, corrections, and criminal justice purposes.

(c) ANNUAL MEETING.—Each year, the Director shall convene a meeting of the Centers in order to foster collaboration and communication between Center participants.

(d) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Director shall transmit to the Congress a report assessing the effectiveness of the existing system of Centers and identify the number of Centers necessary to meet the technology needs of Federal, State, and local law enforcement in the United States.

SEC. 206. COORDINATION WITH OTHER ENTITIES WITHIN DEPARTMENT OF JUSTICE.

Section 102 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712) is amended in subsection (a)(5) by inserting "coordinate and" before "provide".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3482.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, our society has become technologically dependent. Computers and related technologies have improved every aspect of our lives, our

health care, our education, and our security. Unfortunately, this same technology has also facilitated terrorist and criminal activity alike. At the stroke of a key, someone can cause millions of dollars of damage to our economy as well as threaten our national security and the public's safety.

This threat is not new; but after the September 11 attacks, the risks are greater. Even prior to the attacks, the Committee on the Judiciary's Subcommittee on Crime, Terrorism, and Homeland Security was working on legislation to improve Federal law to protect the Nation from cybercrime and cyberterrorism.

Last summer, the subcommittee held three hearings on the growing threat of cybercrime and cyberterrorism. Those hearings highlighted the fact that cybercrime knows no borders or restraints and can substantially harm the American people and our economy.

The law enforcement officials and private industry representatives at the hearings agreed that better coordination, cooperation and information-sharing were needed as well as stronger penalties for cyberattacks.

The U.S.A. PATRIOT Act, which the Committee on the Judiciary adopted much of H.R. 2915, an earlier cybersecurity bill introduced by the gentleman from Texas (Chairman SMITH), and began to improve the Nation's cybersecurity, this bill, the Cyber Security Enhancement Act of 2002, continues that work.

The bill strengthens penalties to better reflect the seriousness of cyberattacks, assists State and local law enforcement through better grant management, accountability and dissemination of technical advice and information, helps protect the Nation's critical infrastructure, and enhances privacy protections.

On May 8, the Committee on the Judiciary reported this bill favorably by voice vote. The bill as introduced and reported out of committee contained an authorization for the National Infrastructure Protection Center within the Department of Justice.

Since that time, it appears that the center will be transferred out of the Department of Justice into the new Department of Homeland Security proposed in H.R. 5005. Accordingly, the committee has removed that authorization to be consistent with H.R. 5005 in this amended version of H.R. 3482. The bill also contains a few technical changes as well.

H.R. 3482, the Cyber Security Enhancement Act of 2002, is designed to increase the cybersecurity of our Nation against criminal and terrorist attacks. As one of the most technologically advanced nations in the world, we must deal with a new vulnerability, the interconnectedness of our Nation's economy and national security. I urge Members to support this bill.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to join the gentleman from Wisconsin (Mr. SENSENBRENNER) in support of H.R. 3482, the Cyber Security Act of 2002. I support the concept of allowing internal service providers to give information to law enforcement officials when emergency threat of death or serious bodily injury exists.

In general, information held by an ISP is private information which is entitled to protection as such. In fact, we have worked very hard to ensure that the privacy of Internet users and providers have been secured. This is a new way that America provides its information and communication; and, therefore, we believe the privacy issues are extremely important.

□ 1415

Under current law, an ISP is authorized to release information to law enforcement officials when the ISP reasonably believes an immediate danger exists. For an ISP to reasonably believe an immediate danger exists, an assessment of relevant information must be made. However, if the FBI presents information which an ISP believes, if true, would present a threat of death or serious bodily injury, the ISP dispatcher on duty should not have to wake up the corporate general counsel to assess the information to determine if it can be reasonably believed, particularly as relates to saving lives. If there is time to do all that, there is time to go to a magistrate or judge and get a search warrant. Accordingly, I would support changing "reasonably believed" to "believes in good faith" as the bill does.

I appreciate the adjustments Subcommittee Chairman SMITH made to the bill to address concerns that we had with the bill and Ranking Member SCOTT had with the bill, including adding a reporting requirement for law enforcement officials to report on their use of the provision during the year following enactment so that we can see how it is being used. This is in keeping with the balance that I think is important in fighting terrorism and providing law enforcement officers with the tools that they need, as well as balancing the rights of Americans. It is one thing to use this emergency authority for genuine emergencies involving threats to life or safety. It is another thing to use it in a calculated manner to get around the regular requirement of obtaining a warrant from a detached magistrate or judge before being given access to private information. Since the subscriber may never know of the access by law enforcement to his or her private information, there will be no way to know if they are as-

sessing information erroneously or improperly. With this particular requirement, providing this information in the year following, this will help determine that. With the reporting requirement, we should be able to assess whether this provision is being used as contemplated and not abused.

With this understanding of the bill, Mr. Speaker, I support it and urge my colleagues to vote for it.

Mr. Speaker, I rise to join Chairman SENSENBRENNER in support of H.R. 3482, the Cyber Security Act of 2002.

I support the concept of allowing Internet Service Providers (ISP) to give information to law enforcement officials when an emergency threat of death or serious bodily injury exists. In general, information held by an ISP is private information which is entitled to protection as such. Under current law, an ISP is authorized to release information to law enforcement officials when the ISP "reasonably believes" an immediate danger exists. For an ISP to "reasonably believe" an immediate danger exists, an assessment of relevant information must be made. However, if the FBI presents information which an ISP believes, if true, would present a threat of death or serious bodily injury, the ISP dispatcher on duty shouldn't have to wake up the corporate general counsel to assess the information to determine if it can be reasonably believed. If there is time to do all that, there is time to go to a magistrate or judge and get a search warrant. Accordingly, I support changing "reasonably believes" to "believes in good faith", as the bill does.

I appreciate the adjustments Subcommittee Chairman SMITH made to the bill to address concerns I had with the bill, including adding a reporting requirement for law enforcement officials to report on their use of the provision during the year following enactment, so that we can see how it is being used. It is one thing to use this emergency authority for genuine emergencies involving threats to life or safety, it is another thing to use it in a calculated manner to get around the regular requirement of obtaining a warrant from a detached magistrate or judge before being given access to private information. Since the subscriber may never know of the access by law enforcement to his or her private information, there will be no way to know if they are accessing information erroneously or improperly. With the reporting requirement, we should be able to assess whether this provision is being used as contemplated, and not abused.

With this understanding of the bill, Mr. Speaker, I support it and urge my colleagues to vote for it.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. SMITH), the subcommittee chairman.

Mr. SMITH of Texas. Mr. Speaker, I thank the chairman of the Committee on the Judiciary for yielding me this time.

Mr. Speaker, many people think of cybercrime simply as a form of vandalism involving hacking or planting

viruses. Cybercrime is much more than this. It can devastate our businesses, economy and national infrastructure. Cybercrime also includes child pornography, which terrorizes our children and our families. Criminals use computer technology to steal life savings and the identities of unsuspecting individuals. These attacks threaten the lives and the livelihoods of many innocent victims.

Mr. Speaker, a crime is still a crime, whether it occurs on the Internet or on the street. We are in a war against terrorism. According to a recent newspaper article, "Unsettling signs of al Qaeda's aims and skills in cyberspace have led some government experts to conclude that terrorists are at the threshold of using the Internet as a direct instrument of bloodshed."

The article stated, "Most significantly, perhaps, U.S. investigators have found evidence in the logs that mark a browser's path through the Internet that al Qaeda operators spent time on sites that offer software and programming instructions for the digital switches that run power, water, transport and communication grids."

Cybercrimes and cybercriminals know no borders. As long as there is technology, cybercrime will exist. We must improve our Nation's cybersecurity and strengthen our criminal laws to prevent, deter and respond to such attacks.

This legislation, H.R. 3482, the Cyber Security Enhancement Act of 2002, increases penalties to better reflect the seriousness of cybercrime, enhances Federal, State and local law enforcement efforts through better coordination, and assists State and local law enforcement officials through better grant management, accountability and dissemination of technical advice and information. The Information Technology Association of America stated that the bill is important for strengthening guidelines on sentencing people who are convicted of cybercrimes. The Information Technology Industry Council concluded that the bill will remove obstacles to information-sharing between the public and private sectors to strengthen Internet security.

Mr. Speaker, we must protect our Nation and our economy from the growing threat of cyberattacks. Penalties and law enforcement capabilities must be able to prevent and deter cybercriminals. Until we secure our cyberinfrastructure, a few keystrokes and an Internet connection is all one needs to disable the economy or endanger lives. A mouse can be just as dangerous as a bullet or a bomb. That is why I urge my colleagues to support this legislation.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. BOEHLERT), the chairman of the Committee on Science.

Mr. BOEHLERT. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of H.R. 3482, the Cyber Security Enhancement Act of 2002. I want to thank the gentleman from Texas (Mr. SMITH), the Subcommittee on Crime, Terrorism and Homeland Security chairman, for his excellent work in bringing this bipartisan bill to the floor. I also want to thank the gentleman from Wisconsin (Mr. SENSENBRENNER), Judiciary chairman, former chairman of the Committee on Science, where he received his best training. From his years of service on the Committee on Science, the gentleman from Wisconsin understands that research and development are critical weapons in the war on terrorism as well as our fight against all forms of crime. We know that the next war, the current war, the ongoing war, is going to be won as much in the laboratory as on the battlefield.

Mr. Speaker, title I of the legislation enhances penalties for cybercrime and allows for better cooperation between law enforcement and the private sector to investigate cybercrime. This is critical. However, in the interest of time, I will limit my comments to title II of the bill before the House today.

Title II establishes an Office of Science and Technology within the Office of Justice Programs at the Justice Department. It is a needed step forward in our fight against all forms of crime and terrorism. I have said repeatedly, the war on terrorism, like the Cold War, will be won in the laboratory as much as on the battlefield. That means that, as in the Cold War, we must properly organize our government to put the most into and get the most out of our academic, government and industry laboratories. Criminal use of technology, specifically information technology, is now commonplace. We rely on computers, the Internet, cell phones and pagers every day. But so, too, do the criminals and terrorists.

Increasingly criminals are becoming more and more sophisticated. Online fraud, identity theft, child pornography, computer intrusions, hacking and introduction of viruses are all on the rise. Unfortunately, U.S. law enforcement is often ill-equipped to counter this criminal high tech trend. It is particularly true for State and local law enforcement that often lack the resources, training and expertise to effectively use advanced information technology to stop crime. Currently the Justice Department does support the development of new technologies, mostly through the National Institute of Justice, to serve the needs of law enforcement and corrections agencies, but the effort as it stands today is unfocused and limited.

That is why I have sought for over 3 years to establish an office for science and technology within the Department of Justice with the mission of improv-

ing the technical capabilities of law enforcement at all levels. The bill before us today would do just that. Let me also note that this bill would not create a new bureaucracy. In fact, the Congressional Budget Office has scored this bill as revenue-neutral. Rather, the bill would transfer existing assets within the Justice Department to give the agency an improved science and technology capability to better respond to threats posed by technically savvy criminals and terrorists. This is a commonsense proposition. U.S. law enforcement agencies traditionally do not have research and development capabilities like those found in the military. Rather than creating a new R&D infrastructure for law enforcement, we must find ways to help law enforcement gain access to the scientific expertise found in our colleges and universities as well as our defense and national laboratories.

H.R. 3482 does this by explicitly authorizing DOJ's existing network of regional technology assistance centers, the National Law Enforcement and Corrections Technology Centers. These centers are able to leverage existing defense capabilities in sensitive areas such as information security, chemical, biological and nuclear security to provide Federal, State and local law enforcement access to the best technologies available to meet these emerging threats.

In my home district, one such center is leading the Nation in the fight against cybercrime and all forms of crime. This is the National Law Enforcement and Corrections Technology Center, Northeast Region, located at the Air Force Research Laboratory Information Directorate at Rome, New York. A prominent example of the center's work was the establishment of the highly successful Utica Arson Strike Force in 1997. In less than a year, the city went from worst to first in the Nation in the rate of arson convictions. Leveraging the high tech expertise of the Air Force research laboratory, the center was able to create affordable technology tools for the Utica task force's use.

While the track record of the center and others around the Nation is impressive, the amount of resources available for technical assistance is meager. The entire center system, as well as the science and technology function within the Department of Justice, needs a clear congressional mandate and an adequate budget. This bill would bring needed focus to R&D in support of law enforcement and establish the Office of Science and Technology as a key liaison between DOJ and other Federal research agencies.

Mr. Speaker, the Committee on Science recently heard testimony from a distinguished panel of the National Academy of Sciences about the need for greater science and technology in-

vestment to combat terrorism. For this reason, the Committee on Science unanimously approved the creation of an under secretary for research and development in the proposed Homeland Security Department. The bill before us today is consistent with this vision. As we move forward in this process, I hope to forge a close working partnership between DOJ's Office of Science and Technology and the new Homeland Security Department.

I look forward to working with Chairman SENSENBRENNER, Chairman SMITH and all members of the Committee on the Judiciary to ensure appropriate coordination of effort to help combat terrorism and to ensure that more and more State and local first responders have access to first-rate scientific and technological expertise.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume. I rise to support this legislation. I just want to make note that this legislation has provided a reporting requirement placed in the bill to help address the concerns, making sure that the legislation is used properly. I would have liked to have added additional safeguards dealing with the unreasonable search and seizure, but I believe that the reporting requirement will go a long way to addressing that concern, and I would ask my colleagues to support this legislation.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 3482, the Cyber Security Enhancement Act of 2002.

This resolution achieves several goals. The act will serve as a national focal point for science and technology and it will also aid in the development and dissemination of cyber law enforcement and technology.

Moreover, it will make technical assistance available to Federal, State, and local law enforcement agencies which is increasingly critical for our national security and infrastructure.

Crimes of fraud in computers with protected information or computers used by the Federal Government are addressed in the legislation.

A program will be established and maintained to certify, validate, and mark, or otherwise recognize law enforcement technology products that conform to standards set by the National Infrastructure Protection Center.

The National Infrastructure Protection Center will operate for regional national law enforcement and corrections technology centers and, to the extent necessary, establish additional centers through a competitive process.

This bill further provides that law enforcement agencies utilize and establish forensic technology, and technologies that support the judicial process.

The use of these forensic tools will assist State and local law enforcement agencies in combating cybercrime. In addition, penalties will increase for violations where the offender knowingly causes death or serious bodily injury.

Mr. Speaker, I urge this body to support this measure as it addresses the growing and increasingly visible problem of cybercrime.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3482, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Ms. JACKSON-LEE of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

AMERICAN LEGION AMENDMENTS ACT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3988) to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion.

The Clerk read as follows:

H.R. 3988

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF REQUIREMENTS FOR ELIGIBILITY IN THE AMERICAN LEGION.

Section 21703(2) of title 36, United States Code, is amended by inserting "during or" after "continues to serve honorably".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 3988 under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3988 would amend the Federal charter of the American Legion.

□ 1430

Current law makes a veteran eligible to become a member of the legion if that veteran has served since "August 2, 1990 through the date of cessation of hostilities as decided by the United

States Government" and was "honorably discharged or separated from that service or continues to serve honorably after that period."

The United States Government has never issued a cessation of hostilities declaration for the Persian Gulf War. For those who are no longer serving, they have discharge papers stating that they honorably served during that period. Servicemen who have served since August 2, 1990, and are still on active duty, have no discharge papers for the period, and are not serving after the cessation of hostilities, but during that period.

The amendment would simply change the standard for qualification for membership in the legion by adding the words "during or" so that it states "continues to serve during or after that period" to make it clear that legion membership is open to active duty personnel who served during Operations Desert Shield, Desert Storm, and all of the operations that followed in Iraq, Bosnia, Kosovo, and Afghanistan.

Mr. Speaker, I urge the House to pass H.R. 3988 to make this change in the Federal charter of the American Legion.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. I yield myself such time as I may consume.

Mr. Speaker, it is always important to respect our veterans and to provide additional assistance to them.

This bill makes a technical amendment to the membership qualifications language of the Federal charter of the American Legion. Currently, under the statute, veterans who get out of service are eligible to become members of the American Legion if they served since "August 2, 1990 through the date of cessation of hostilities, as decided by the United States Government" and "was honorably discharged or separated from that service or continues to serve honorably after that period."

Under the charter, however, the U.S. Government has never issued a cessation of hostilities decision signifying the end to a conflict. Those who are no longer serving have discharge papers stating they served honorably during that period, so they are unaffected. However, servicemen who served since August 2, 1990, and are still on active duty have no discharge papers for the period, and serve without the benefit of a U.S. Government-issued cessation of hostilities decision.

The amendment would simply change the standard for qualification to say a veteran that "continues to serve during or after that period" will qualify for membership. This makes it clear that membership is open to thousands of active duty personnel who served during Operations Desert Shield, Desert Storm, and all of the operations that followed in Iraq, Bosnia, Kosovo

and Afghanistan, thereby respecting these particular service personnel and veterans and allowing them to participate in a very important and certainly honorable organization, the American Legion.

"The American Legion was chartered by Congress in 1919 as a patriotic, mutual-help, wartime veterans organization." The 2.8 million-member American Legion is the Nation's largest veterans organization with nearly 15,000 American Legion posts worldwide. The Legion assists our Nation's communities through "fundraising programs, educational activities, library, and museum services, and many others."

As has been stated, this is a technical amendment that allows thousands upon thousands of veterans and service personnel and others to join the American Legion, and I believe this will add vitality to the American Legion.

This bill makes a technical amendment to the membership qualifications language of the federal charter of the American Legion. Currently, under the statute, veterans who get out of service are eligible to become members of the American Legion if they served since: "August 2, 1990 through the date of cessation of hostilities, as decided by the United States Government" and "was honorably discharged or separated from that service or continues to serve honorably after that period."

Under the Charter, however, the U.S. Government has never issued a cessation of hostilities decision signifying the end to a conflict. Those who are no longer serving have discharge papers stating they served honorably during that period so they are unaffected. However, servicemen who served since August 2, 1990 and are still on active duty have no discharge papers for the period, and serve without the benefit of a U.S. government issued cessation of hostilities decision.

The amendment would simply change the standard for qualification to say a veteran that "continues to serve during or after that period" will qualify for membership. This makes it clear that membership is open to the thousands of active duty personnel who served during Operations Desert Shield, Desert Storm, and all the operations that followed in Iraq, Bosnia, Kosovo, and Afghanistan.

"The American Legion was chartered by Congress in 1919 as a patriotic, mutual-help, war-time veterans organization." The 2.8-million member American Legion is the nation's largest veterans organization with nearly 15,000 American Legion Posts worldwide. The Legion assists our nations communities through "fund-raising program, educational activities, library and museum services, and many others."

As has been stated, this Amendment simply allow more veterans to join in the good works of the American Legion. This will provide additional vitality to the Legion and I urge my colleagues to support this Act.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me this time.

This is an opportunity for us to pay tribute to the American Legion that goes beyond the purpose of the bill, which is laudable, and that is to allow the legion to expand its membership by inclusion of certain categories of veterans who heretofore have not been able to qualify.

But I want to bring into the CONGRESSIONAL RECORD remembrances of the American Legion as a young boy growing up in central Pennsylvania. Most of the parades and most of the patriotic functions of that era were either sponsored by or joined in by the American Legion, but that was not all. They also sponsored teenage baseball organizational sports, they also sponsored essay and oratorical contests in the high schools, and in a variety of ways went beyond their chief function of honoring the veteran, because they were part of the actual life of the community in so many different ways.

Then the other portion of the American Legion that sticks hard to my memory is that during the time I served in the Armed Forces myself, there were two refuges for us in the various bases in which we served, and in particular, I remember in Fort Knox, Kentucky, the USO was always there on the weekends for the purpose of providing extra services and relaxation for the veterans who were serving or the members of the Armed Forces who were serving at Fort Knox, and also the American Legion always had some kind of hostmanship-type of function to welcome the soldiers who were stationed at Fort Knox.

So for a whole series of remembrances for this Member, we support the bill and hope that many more veterans will be joining the ranks of the American Legion in the next several years.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 3988, the American Legion Amendments Act. I urge my colleagues to support this timely measure.

This legislation amends the charter of the American Legion to revise eligibility for the organization to those individuals who have served honorably in the Armed Forces during or after specific periods. Presently, service members are only eligible if they have served during specific periods, including designated windows for World War I, World War II, Korea, Vietnam, Lebanon/Grenada, Panama, and Desert Storm. Because the window governing Desert Storm has not closed, under current law, Desert Storm veterans are not eligible to join the American Legion. This measure corrects this problem.

The American Legion was founded and chartered by Congress in 1919. Its first major accomplishment was the creation of the U.S. Veterans Bureau, which was the precursor to the Veterans' Administration. Significant accomplishments of the Legion include the enactment of the G.I. bill, and the establishment of the cabinet-level department of Veterans Affairs.

The Legion also led the fight for an investigation into the use of Agent Orange in Viet-

nam, the investigations into gulf-war illnesses among Desert Storm veterans, and for the constitutional amendment to prohibit physical desecration of the American flag.

Like its fellow veterans service organizations, the American Legion offers valuable service to its membership, including, but not limited to: seeking discharge upgrades, record corrections, education benefits, disability compensation matters and pension eligibility. The Legion also has a long and distinguished history of community service.

Given our current war on terrorism, I believe it is appropriate for Congress to recognize, expand and promote the efforts of our veterans service organizations. For this reason, I urge my colleagues to support this bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3988.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

AMVETS CHARTER AMENDMENT ACT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3214) to amend the charter of the AMVETS organization.

The Clerk read as follows:

H.R. 3214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO AMVETS CHARTER.

(a) NAME OF ORGANIZATION.—(1) Sections 22701(a) and 22706 of title 36, United States Code, are amended by striking “AMVETS (American Veterans of World War II, Korea, and Vietnam)” and inserting “AMVETS (American Veterans)”.

(2)(A) The heading of chapter 227 of such title is amended to read as follows:

“CHAPTER 227—AMVETS (AMERICAN VETERANS)”.

(B) The item relating to such chapter in the table of chapters at the beginning of subtitle II of such title is amended to read as follows:

“227. AMVETS (AMERICAN VETERANS) 22701”.

(b) GOVERNING BODY.—Section 22704(c)(1) of such title is amended by striking “seven national vice commanders” and all that follows through “a judge advocate,” and inserting “two national vice commanders, a finance officer, a judge advocate, a chaplain, six national district commanders.”.

(c) HEADQUARTERS AND PRINCIPAL PLACE OF BUSINESS.—Section 22708 of such title is amended—

(1) by striking “the District of Columbia” in the first sentence and inserting “Maryland”; and

(2) by striking “the District of Columbia” in the second sentence and inserting “Maryland”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3214, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3214 would amend the Federal charter for the American Veterans of World War II, Korea and Vietnam to American Veterans to more accurately reflect the membership of AMVETS. AMVETS membership now includes not only veterans from those three wars, but also anyone who served honorably after 1940, and the National Guardsmen and Reservists.

At the AMVETS annual convention in 1998, the delegates voted for an official name change from American Veterans of World War II, Korea, and Vietnam to American Veterans to more accurately reflect the membership. Additionally, AMVETS has voted to change the structure of their governing body. This bill contains language to reflect the structure change in the statute.

Finally, because AMVETS has moved the location of their headquarters from the District of Columbia to Lanham, Maryland, the “Headquarters and principal place of business” section of their charter needs to be changed to indicate that they are now located in Maryland. In order for these changes to be recognized by the Department of Veterans Affairs, the AMVETS Federal charter must be amended, and this bill does that.

Mr. Speaker, I urge the House to pass H.R. 3214, and I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation that we have before us, H.R. 3214, would amend the Federal charter of the American veterans of World War II, Korea, and Vietnam to reflect changes made at its 1998 convention. It is extremely important to ensure that we respond to the request of these valiant and heroic servicemen and women.

Their original charter, received in 1947, has been amended by Congress

over the years to give membership to Korean War veterans and Vietnam veterans, and to reflect other changing characteristics of the organization.

In 1998, at the AMVETS annual convention, the delegates voted for an official name change of American veterans of World War II, Korea, and Vietnam to "American Veterans" to more accurately reflect the membership of AMVETS. Additionally, AMVETS voted to change the structure of their governing body. The organization also voted to change the location of their headquarters from the District of Columbia to Lanham, Maryland. Therefore, the "Headquarters and principal place of business" section of their charter needs to be changed to indicate that they are now located in Maryland.

In order for these changes to be recognized by the Department of Veterans Affairs, the AMVETS Federal charter must be amended. This bill will accomplish that and allow them to continue to do the service that they do on behalf of the American people and as well to continue to honor the veterans who participate in this organization.

I support H.R. 3214 as it would amend the Federal charter of the American Veterans of World War II, Korea, and Vietnam (AMVETS), to reflect changes made at its 1998 convention. Their original charter, received in 1947, has been amended by Congress over the years to give membership to Korean War veterans and Vietnam veterans, and to reflect other changing characteristics of the organization.

In 1998, at the AMVETS annual convention, the delegates voted for an official name change from American Veterans of World War II, Korea, and Vietnam to "American Veterans" to more accurately reflect the membership of AMVETS. Additionally, the AMVETS voted to change the structure of their governing body. The organization also voted to change the location of their headquarters from the District of Columbia to Lanham, Maryland. Therefore, the "Headquarters and principal place to business" section of their charter needs to be changed to indicate they are now located in Maryland.

In order for these changes to be recognized by the Department of Veterans Affairs the AMVETS federal charter must be amended. This bill will accomplish all of this.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me this time.

This time, of course, I want to speak about the AMVETS who, in Pennsylvania, throughout the time that I served in the legislature, continuously participated in legislative action that pertained to veterans. On the question of veterans preference in civil service examinations and placement, in veterans benefits of all types, and in the question that arose from time to time

on the legitimacy of when certain holidays were to be observed: Memorial Day, Veteran's Day back then, which was Armistice Day, et cetera.

So the AMVETS themselves, just like the American Legion aforementioned, have participated in civic, as well as neighborhood, events throughout Pennsylvania and, I am sure, throughout the Nation.

I wanted the record to be complete that this veterans organization, just as the American Legion, have been a part of the neighborhood for many, many years and will continue to expand now that we know the parameters, through this legislation, will have been expanded.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Let me just simply say that today as we stand here on this floor, we have young men and women fighting for us in Afghanistan, young men and women serving in Guantanamo Bay, Cuba. This is important legislation, as the previous legislation was, to make procedural changes for our vets; and we honor them as we amend this particular legislation, and I would ask my colleagues to support it.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 3214, the AMVETS Charter Amendment Act. I urge my colleagues to support this timely measure.

This legislation amends the charter of the AMVETS organization to: change the meaning of AMVETS to American veterans, revises the composition of its governing body, and provides for its headquarters and place of business to move from the District of Columbia to Maryland.

AMVETS, which previously stood for the American Veterans of World War II, Korea and Vietnam, was founded in 1944 out of the belief that WWII Veterans needed an organization that represented their generation. In the following decades, veterans from Korea and Vietnam were permitted to join through charter modifications made by Congress.

Like its fellow veterans service organizations, AMVETS offers valuable services to its membership, including, but not limited to: seeking discharge upgrades, record corrections, education benefits, disability compensation matters and pension eligibility. AMVETS also has a long and distinguished history of community service.

Given our current war on terrorism, I believe it is appropriate for Congress to recognize, expand and promote the efforts of our veterans service organizations. For these reasons, I urge my colleagues to support this measure.

Mr. BILIRAKIS. Mr. Speaker, I rise in strong support of H.R. 3214, a bill I introduced to amend the Federal charter for the AMVETS organization. The bill makes a number of simple changes to the organization's current charter, which was first approved in 1947.

First, my bill changes the meaning of AMVETS from American Veterans of World War II, Korea and Vietnam to American veterans. AMVETS was founded on December 10, 1944, in Kansas City, Missouri. It was born

out of the desire for WWII veterans to have their own organization.

Overtime, AMVETS' charter has been amended to allow veterans from following wars to join the organization. In 1984, the charter was amended to allow anyone who served honorably after 1940 to join the veterans' group. As a result, its current name does not encompass this broader membership. H.R. 3214 would correct this discrepancy and allow the organization's name to more adequately reflect its current membership. This name change was also approved by the organization's members at their 1998 annual convention.

In 1961, AMVETS modified the structure of its governing body. However, its current charter still reflects its old organizational structure. Therefore, H.R. 3214 also revises the organization's Federal charter to reflect the new composition of AMVETS' governing body.

Finally, since the approval of the original charter, the organization has relocated their headquarters from the District of Columbia to Lanham, Maryland. H.R. 3214 amends the original AMVETS charter to provide for its headquarters and principal place of business to be in Maryland rather than the District of Columbia.

I want to thank Chairman SENSENBRENNER, Subcommittee Chairman GEKAS, full Committee Ranking Member CONYERS and Subcommittee Ranking member SHEILA JACKSON-LEE for their assistance in moving this legislation.

H.R. 3214 is noncontroversial and I urge my colleagues to support the legislation.

Mr. EVANS. Mr. Speaker, as an original cosponsor of H.R. 3214, the AMVETS Charter Amendment Act, I am pleased this important measure has been considered and favorably reported by the Committee on Judiciary. This measure amends the AMVETS charter to bring the charter into conformance with current practices. It deserves the support of every Member.

Mr. Speaker, I also want to thank the gentleman from Florida, MIKE BILIRAKIS, for his leadership on this issue. As the author of H.R. 3214, MIKE BILIRAKIS has been a strong and committed advocate for H.R. 3214 and his efforts in large measure are responsible for this important legislation being considered by the House today.

Again, I urge all of my colleagues to support passage of H.R. 3214, the AMVETS Charter Amendment Act.

Ms. JACKSON-LEE of Texas.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3214.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

VETERANS OF FOREIGN WARS CHARTER AMENDMENT ACT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3838) to amend the charter of the Veterans of Foreign Wars of the United States organization to make members of the armed forces who receive special pay for duty subject to hostile fire or imminent danger eligible for membership in the organization, and for other purposes.

The Clerk read as follows:

H.R. 3838

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO VETERANS OF FOREIGN WARS OF THE UNITED STATES CHARTER.

(a) ELIGIBILITY FOR MEMBERSHIP OF INDIVIDUALS RECEIVING SPECIAL PAY FOR DUTY SUBJECT TO HOSTILE FIRE OR IMMINENT DANGER.—Section 230103 of title 36, United States Code, is amended—

(1) by striking “or” at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting “; or”; and

(3) by adding at the end the following new paragraph:

“(3) in an area which entitled the individual to receive special pay for duty subject to hostile fire or imminent danger under section 310 of title 37.”.

(b) CLARIFICATION OF PURPOSES OF THE CORPORATION.—Section 230102 of such title is amended in the matter preceding paragraph (1) by inserting “charitable,” before “and educational.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3838, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3838 would amend the Federal charter of the Veterans of Foreign Wars to allow any member of the Armed Forces who received hostile fire or imminent danger pay to be a member of the VFW. The language would allow veterans from conflict areas such as Somalia or Kosovo to be eligible for membership in the VFW.

Currently, VFW membership is limited to those who have honorably served in the Armed Forces and who have received a campaign medal for service or those who served honorably

for a specific period on the Korean peninsula.

□ 1445

Without this amendment, members of the Armed Forces who served under equally dangerous conditions, such as those experienced in the campaign medal service in Korea, are not eligible for VFW membership.

The bill also adds the word “charitable” to the purpose of the VFW. VFW members volunteer millions of hours to local communities. Although volunteerism has always been a large part of the mission of the VFW, in some States the VFW is being denied qualification as a charitable organization because “charitable” is not included in their charter language.

These amendments reflect the language of two resolutions approved by the voting delegates of the VFW at their national convention in Milwaukee, Wisconsin. I urge the House to pass this bill to ratify the changes to the VFW Federal charter, which have been approved by the membership.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to support this legislation. This bill amends the Federal charter of the Veterans of Foreign Wars, VFW, to allow any members of the armed services or Armed Forces who have received hostile fire or imminent-danger pay to be a member of the VFW, and that is a great honor for so many of our men and women who have served in the United States military.

Without this amendment, members of the Armed Forces who have served under equally dangerous conditions as those experienced in campaign medal service in Korea and in conflict areas such as Somalia or Kosovo are not eligible for VFW membership.

The act also amends the charter of the VFW to include the word “charitable” as one of the purposes. VFW members have provided substantial amounts of time and volunteer efforts in their communities and to the needy. This will prevent some States from denying the VFW qualification as a charitable organization under 501(c) of the Tax Code simply because the word “charitable” is not mentioned in the charter.

In Texas, there are tens of thousands of members of the VFW. In my district there are thousands of VFW members, and I can assure the Members they are outstanding members of our community. They always provide us with honor and grace in our patriotic parade, and they serve us in the Memorial Day commemoration as well as the Veterans Day commemoration, along with the many other veterans groups. Also, they are there to serve the community when we are in need.

As I speak today, I pay tribute to all of the veterans groups in the State of Texas, in the 18th Congressional District, and, of course, this Nation. These members provide critical assistance to other veterans, they help raise funds for the March of Dimes, and they provide scholarships to our Nation's youth.

I urge my colleagues to support this measure, which will simply allow veterans of succeeding conflicts entry into these esteemed veterans organizations. Again, I would be remiss without acknowledging the brave men and women who serve us now in Afghanistan, throughout the Nation, and throughout the world.

Mr. Speaker, this bill amends the federal charter of the Veterans of Foreign Wars, VFW, to allow any member of the armed forces who has received hostile fire or imminent danger pay to be a member of the VFW. Without this amendment members of the armed forces who served under equally as dangerous conditions as those experienced in campaign medal service in Korea and in conflict areas such as Somalia or Kosovo are not eligible for VFW membership.

The Act also amends the charter of the VFW to include the word “charitable” as one of the purposes of the VFW. VFW members have provided substantial amounts of time to volunteer efforts in the communities and to the needy. This will prevent some states from denying VFW qualification as a charitable organization under 501(c) of the Tax Code simply because the word charitable is not mentioned in the charter. In the state of Texas, there are ten of thousands of members of the VFW. In my district there are thousands of VFW members. These members provided critical assistance to other Veterans, help raise funds for the March of Dimes and provide scholarships to our nation's youth.

I urge my colleagues to support this measure which will simply allow veterans of succeeding conflicts entry into these esteemed veterans organizations.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this time I rise to pose some reflections on the VFW. Many people will recall historically that during the Truman years there was an act of terrorism right in this Chamber, when terrorists of a different era shot up the entire Chamber here, wounding several people.

One of the Members of the House at that time was the gentleman from Pennsylvania, Jimmy Van Zandt from Altoona, Pennsylvania, who helped to apprehend one of the terrorists with a gallant leap into the back portion of the balcony, and brought him or helped bring him to justice.

But more than that, this Jimmy Van Zandt was also, prior to that, national commander of the VFW. He holds a

place of honor in that organization for his special efforts and for his service directly to the country.

Then there was Dominique DeFrancesco, also from central Pennsylvania, served as national commander of the American Legion when, in 1991, he joined then President Bush in the 50-year commemorations at Pearl Harbor.

These are the kinds of devoted veteran citizens who are in the background of what we do here today when we enlarge the membership potential of their organizations.

But the most important portion of the VFW, as far as I am concerned, is because the last 30 years or more I have participated as a judge in the VFW's annual Voice of Democracy contest. Here is a contest of radio-spoken essays by our high school students who speak on what America means to them, or some other subject matter having to do with patriotism. In this way, the VFW spreads the notion of loyalty to our Nation, service to our communities, and patriotism. For that, I salute the VFW and urge everyone to support the legislation that is in front of us.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just say that just a few minutes ago we have supported H.R. 3988, H.R. 3838, and H.R. 3214, legislative initiatives helping our veterans.

I want to acknowledge and applaud the President for his recent pronouncement of allowing those who are serving in our military to apply for citizenship immediately, without having to wait a period of time previously embodied in our law.

With that in mind, Mr. Speaker, I think as member of the Subcommittee on Immigration, Border Security, and Claims of the Committee on the Judiciary, I hope that the Congress will move swiftly to pass 245(i) that will allow immigrants to access legalization and become citizens. This is long overdue. This is legislation that recognizes that we do not equate immigration to terrorism, and it is as patriotic as the legislation that we have just passed today.

So I hope that the Congress will move quickly on this legislation, and I rise again to support the legislation before us and ask my colleagues to support this legislation as we honor the men and women who have served us in the United States military and now our veterans; and as we honor those, as well, who serve us every day fighting for our freedoms.

I know the veterans of the nation, are sympathetic to doing the right thing for all of us! Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, just let me make it clear, this bill has nothing to do with the immigration law, lest anybody have a misimpression on this. It is legislation that changes the qualification for membership in the VFW, as well as makes it clear that the VFW is a charitable organization. Both of these changes were requested by the delegates to the last VFW annual convention that was held in August of last year in my hometown of Milwaukee, Wisconsin.

The best way we can help our veterans, I think, is by not confusing the issue. Let us help our veterans by doing what they asked us to do, which is to allow them to expand their membership, as well as to get some State departments of revenue off their back claiming that what the VFW does is not charitable in nature.

I think all of us in this Chamber know that the VFW is a legitimate and honorable charitable organization, and I think that we can send the message very clearly by amending their charter to get the State tax departments off their backs so that they can continue to do their very meritorious work.

Mr. SMITH of New Jersey. Mr. Speaker, as the sponsor of H.R. 3838, I rise to urge all of my colleagues to support this legislation that will amend the Congressional charter of the Veterans of Foreign Wars (VFW). As Chairman of the Veterans' Affairs Committee, I was pleased to introduce this bill on March 4, 2002, at the request of the VFW to allow Members of the armed forces who have received hostile fire or imminent danger pay to be eligible for VFW membership.

Mr. Speaker, I want to especially commend the Chairman of the Judiciary Committee, Mr. SENSENBRENNER; the Committee's Ranking Member, Mr. CONYERS, the Chairman of the Judiciary Subcommittee on Immigration and Claims; Mr. GEKAS; and the Subcommittee's Ranking Member, Ms. JACKSON-LEE, for their attention to this matter in moving the bill through the committee and to the floor for House consideration.

This bipartisan amendment to the VFW charter simply allows the organization to keep up with the times as the nature of our Nation's military operations has changed. The VFW's charter currently requires a veteran to have received a campaign medal in order to join the organization. But the dangerous contingency operations our servicemembers have participated in over the past twenty or so years have not resulted in the award of campaign medals. Servicemen doing their duty in global hot spots have faced the type of risks that should qualify them for VFW membership. My bill would remove this barrier to membership in a way that is consistent with the type of military service the VFW has always required.

Mr. Speaker, H.R. 3838 would also address a technical problem the VFW has occasionally encountered with the language of its charter regarding its purposes as an organization. The VFW has maintained a tax-exempt, nonprofit status, but some states do not want to qualify it as a tax-exempt charitable organization despite its long history of charitable work in com-

munities across America, because its charter does not contain the word "charitable". Well, Congress can and should fix this relatively simply problem by inserting the word "charitable" as one of its purposes in order to silence anyone who insists on elevating form over substance.

Mr. Speaker, with roots that go back more than a century to the Spanish-American War, the Veterans of Foreign Wars has an admirable history of helping its fellow veterans, their communities and their Nation. This legislation will help to ensure that the VFW continues to perform these services in the 21st century and beyond. H.R. 3838 deserves the support of every House member and I urge its approval.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 3838, the Veterans of Foreign Wars Charter Amendment act. I urge my colleagues to support this timely measure.

This legislation amends the charter of the Veterans of Foreign Wars Organization to make members of the armed forces who receive special pay for duty that is subject to hostile fire or imminent danger eligible for membership in the organization. This change would allow veterans of operations in Somalia and Kosovo to become eligible for VFW membership.

The VFW is one of the oldest veterans service organizations in the country, and has a long and hallowed history. The VFW was founded in 1899 for soldiers returning from the Spanish-American war and Philippine insurrection. It was instrumental in creating the Veterans Administration and its subsequent elevation to cabinet level status.

The VFW participates in numerous community service efforts, and assists its members in seeking discharge upgrades, record corrections, education benefits, disability compensation matters and pension eligibility.

Given our current military environment, it is appropriate for Congress to both recognize and promote the efforts of our Veterans Service Organizations. Accordingly, I urge my colleagues to support this bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3838.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

HONORING INVENTION OF MODERN AIR-CONDITIONING BY DR. WILLIS H. CARRIER ON OCCASION OF ITS 100TH ANNIVERSARY

Mr. SHAYS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 413) honoring the invention of modern air-conditioning by Dr. Willis H. Carrier on the occasion of its 100th anniversary.

The Clerk read as follows:

H. CON. RES. 413

Whereas on July 17, 1902, Dr. Willis H. Carrier submitted designs to a printing plant in Brooklyn, New York, for equipment to control temperature, humidity, ventilation, and air quality, marking the birth of modern air conditioning;

Whereas air-conditioning has become an integral technology enabling the advancement of society through improvements to the Nation's health and well-being, manufacturing processes, building capacities, research, medical capabilities, food preservation, art and historical conservation, and general productivity and indoor comfort;

Whereas Dr. Carrier debuted air-conditioning technology for legislative activity in the House of Representatives Chamber in 1928, and the Senate Chamber in 1929;

Whereas the air-conditioning industry now totals \$36 billion on a global basis and employs more than 700,000 people in the United States; and

Whereas the year 2002 marks the 100th anniversary of modern air-conditioning: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress honors the invention of modern air-conditioning by Dr. Willis H. Carrier on the occasion of its 100th anniversary.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. TIERNEY) each will control 20 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. SHAYS).

GENERAL LEAVE

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the concurrent resolution, H. Con. Res. 413.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. SHAYS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to have the House consider House Concurrent Resolution 413, important legislation introduced by my distinguished colleague (JOHN WALSH of New York). This resolution expresses the sense of the House of Representatives in honoring the invention of modern air conditioning by Dr. Willis H. Carrier on its 100th anniversary.

Only 1 year after graduating with a master's degree from Cornell University, Dr. Carrier submitted designs and later installed the first modern air conditioning equipment. Installed in Brooklyn, New York, the air conditioner was designed to control indoor humidity and temperature.

When granted a U.S. patent for "the apparatus for treating air," as it was called in 1906, Dr. Carrier became known as the "father of modern air conditioning." The formula Dr. Carrier used to develop the modern air conditioner still stands today as the basis for all fundamental calculations for the air conditioning industry.

Air conditioning became the integral technology enabling the advancement

of society through improvements to the Nation's health and well-being. Industries also grew with the new ability to control the temperature and humidity levels during and after production.

The invention of air conditioning has also improved areas such as film development, preservation of processed meats, medical capsules, textiles, and other products. In 1921, Carrier received a patent for the centrifugal refrigerator machine that became the first practical method for air conditioning large spaces. This single achievement paved the way for the upward expansion of cities, as well as bringing human comfort to hospitals, schools, office buildings, airports, hotels, and department stores.

Dr. Carrier debuted air conditioning technology for legislative activity in this very Chamber in 1928 and in the Senate Chamber in 1929. After World War II, the air conditioner began to be installed in homes across America. According to the Carrier Corporation, 10 percent of American homes were air conditioned by 1965. By 1995, more than 75 percent of American homes were air conditioned; and in some portions of the South, 90 percent of homes have air conditioning or central air systems. Now the air conditioning industry totals \$36 billion on a global basis and employs more than 700,000 people in the United States alone.

Mr. Speaker, it is appropriate on this hot summer day that the House recognizes and honors the invention of modern air conditioning by Dr. Willis H. Carrier on its 100th anniversary.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. WALSH).

Mr. WALSH. Mr. Speaker, I thank my good friend and colleague, the gentleman from Connecticut, for yielding time to me, and also the gentleman from Massachusetts (Mr. TIERNEY) for bringing this resolution to the floor.

Mr. Speaker, as my colleague, the gentleman from Connecticut, pointed out, this Wednesday marks the 100th anniversary of the invention of the modern-day air conditioner by Dr. Willis Carrier, a New Yorker. Today I offer before the House, House Concurrent Resolution 413, recognizing this historic event.

Raised on a farm on the snowy eastern shore of Lake Erie in Angola, New York, the young Carrier grew up as an only child, raised by his grandparents and great aunt. Known for his superior problem-solving capabilities, Carrier would solve every complex problem he encountered by reducing it to its simplest form and solving each component one by one.

He once stated in a high school graduation essay, "A man with the power of will could make himself anything he wished, no matter what the circumstances." These words would define the rest of Mr. Carrier's life.

Carrier entered Cornell University at Ithaca College in Ithaca, New York, on a 4-year scholarship, but he was forced to earn room and board by mowing lawns, stoking furnaces, and during his senior year, forming a co-op student laundry.

□ 1500

With a degree in mechanical engineering, he found a job at the Buffalo Forge Company in 1901 and he began designing heating systems to dry lumber and coffee. Carrier was soon made head of the company's department of experimental engineering. It was here that he solved his first problem in temperature and humidity control for the Sackett-Wilhelms Lithographing and Publishing Company in Brooklyn in 1902. Marking the birth of modern air conditioning, Carrier's device controlled temperature, humidity, ventilation and air quality.

In 1915, Carrier and six colleagues pooled together their life savings and founded Carrier Engineering Corporation in New York. In 1910 the company bought its first building in Newark, New Jersey and soon found its way back to our Empire State. In 1937 Carrier consolidated five plants on Geddes Street near my home in Syracuse. In 1947 Carrier moved to its present location on Thompson Road in the town of Dewitt, also in my congressional district. Today Carrier Corporation, the company that bears the founder's name, is a nearly \$9 billion organization and remains the global leader in providing heating, cooling and refrigeration solutions in more than 172 countries around the world.

As an aside, my colleague from Connecticut (Mr. SHAYS) will appreciate this. As a Peace Corps volunteer in Nepal, the only night I spent in an air-conditioned room in about 2-and-a-half years was in a Carrier air-conditioned room in Kathmandu, Nepal.

The 43,000 worldwide employees of Carrier Corporation can be proud that they continue to carry on their founder's tradition of excellence by generating comfort wherever people work, live and play. Many of us take for granted the fact that air conditioning has become an integral technology, enabling the advancement of society through improvements to our Nation's health and well-being, manufacturing processes, building capacities, food preservation and general productivity and indoor comfort.

From its birth 100 years ago to today's \$36 billion industry, employing 700,000 Americans, we can all be very proud of Dr. Carrier. He did indeed change history. I suspect that if he did not invent air conditioning, we would not be meeting in Washington today because they used to close the Capitol in the beginning of the summer and stay away long until late in the fall. This invention also may have created a

tremendous upsurge in the amount of legislation passed by this body, so maybe all is not progress.

The Sistine Chapel in Rome is air-conditioned with Carrier air conditioning. Many great documents of this country are enshrined in museums and the air is conditioned also by Carrier air conditioning. Indeed, this building in which we meet today is also chilled by Carrier air chillers.

So in gratitude for all of that, I would ask unanimous support of H. Con. Res. 413 and I ask Members to join me in celebrating this 100-year anniversary.

Mr. TIERNEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise only to say that we thank the gentleman from New York (Mr. WALSH) for bringing this matter before the House; and we, of course, agree that Mr. Carrier has a long and distinguished career and a great invention; and we obviously would support this resolution.

I add only in his memory the one thing we might concentrate on doing is concentrating more on research and develop to improve efficiencies. Through smart public policy we can reduce energy consumption by improving the energy standards and efficiency standards required of common appliances like air conditioners as well as refrigerators, photo copiers and fax machines. I think that would be a great testament to Mr. Carrier's life and his hard work. If we just applied those standards already on the books in this country, we would be estimated to save consumers some \$150 billion in energy costs by 2020. In fact, if we really looked at our research and development monies, we will know and realize that they have decreased from \$6.55 billion in 1978 to some \$2 billion now in 1998.

In 1998 the President's Committee of Advisors on Science and Technology recommended that our research and development costs over 5 years be increased because right now they are not commensurate in scope or scale with the energy challenges and opportunities of the 21st century and those that they will present.

Again, I also add our voice to the congratulations of Dr. Carrier. I thank the gentleman from New York (Mr. WALSH) for bringing this forward and say we look forward to improving the efficiencies of technology like this so we continue to do better and better by our energy consumption.

Mr. Speaker, I yield back the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the invention of modern air conditioning has clearly changed our country. Modern air conditioning fueled the post-war growth of sunbelt cities such as Miami, Phoenix, Las Vegas and Houston. The invention of modern air conditioning also led to the

building of glass skyscrapers, shopping malls and pressurized modules for space exploration.

On this, the 100th anniversary of the invention of modern air conditioning, we truly honor Dr. Willis H. Carrier. Mr. Speaker, I urge all Members to support this concurrent resolution.

Mr. BOEHLERT. Mr. Speaker, I rise in support of House Concurrent Resolution 413, offered by Mr. WALSH, marking the centennial of Dr. Willis H. Carrier's invention of modern air conditioning. I can think of no better place to recognize this accomplishment than in the House Chamber—first air-conditioned by Dr. Carrier in 1929—on a 90 degree July day.

For the past century, Carrier air conditioning and refrigeration systems have been keeping our offices and homes cool. The man responsible for this phenomenon is Carrier's founder, Dr. Willis Haviland Carrier. Born on a farm in Angola, New York in 1876, the only child had a humble upbringing yet possessed high hopes from the start. At the time he could not have known the worldwide impact his invention would create. It would boost industrial production. It would change the face of urban architecture, including providing comfort cooling to some of the world's most prestigious buildings. It would improve health care for millions. It would allow unimagined industries to flourish.

Today, Carrier Corporation, the company that bears the founder's name, is an \$8.895 billion organization providing heating, cooling and refrigeration solutions in more than 172 countries around the world. The nearly 43,000 worldwide employees of Carrier Corporation create comfort wherever people work, live or play—from private residences and apartments to grand hotels; from sprawling factories to soaring office towers; from theme parks to centuries-old cultural centers. Overall, the air-conditioning industry totals \$36 billion and employs more than 700,000 people in the United States.

One hundred years later, we benefit now more than ever from Dr. Carrier's invention. I urge my colleagues to pass the Resolution.

Mr. SHAYS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Connecticut (Mr. SHAYS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 413.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CLARENCE MILLER POST OFFICE BUILDING

Mr. SHAYS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4755) to designate the facility of the United States Postal Service located at 204 South Broad Street in Lancaster, Ohio, as the Clarence Miller Post Office Building.

The Clerk read as follows:

H.R. 4755

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARENCE MILLER POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 204 South Broad Street in Lancaster, Ohio, shall be known and designated as the "Clarence Miller Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Clarence Miller Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. TIERNEY) each will control 20 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. SHAYS).

GENERAL LEAVE

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4755, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. SHAYS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4755, introduced by our distinguished colleague from the State of Ohio (Mr. HOBSON), designates a post office in Lancaster, Ohio as the Clarence Miller Post Office Building.

Members of the entire House delegation from the State of Ohio are cosponsors of this legislation.

Mr. Speaker, this post office will recognize former Congressman Clarence Miller and his 5 decades of public service to the citizens of Lancaster, Ohio whom Congressman Miller served as a city councilman, mayor and U.S. representative. Born in Lancaster on November 1, 1917, Clarence Miller served 13 terms as a United States Congressman, from 1967 until 1993. Prior to his term in Congress, he was mayor of Lancaster from 1964 to 1966 and a member of the Lancaster City Council, 1957 to 1963.

Congressman Miller originally made his living as a utility company engineer before entering into public service.

Mr. Speaker, I urge adoption of H.R. 4755.

Mr. Speaker, I reserve the balance of my time.

Mr. TIERNEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the Committee on Government Reform, I am pleased to join my colleague in consideration of H.R. 4755, a bill in fact to designate a facility of the United States Postal Service after Clarence Miller. Obviously the gentleman from

Ohio (Mr. HOBSON) has introduced this bill. It enjoys great support, from my understanding, from the entire Ohio delegation. Not having been a Member of Congress when Mr. Miller was in fact serving, I do know that by reputation he served from 1966 until January of 1993. I am also informed that the former Representative Miller served on the Committee on Agriculture, Committee on Public Works and Transportation, and the Committee on Transportation and Infrastructure, on the 3 subcommittees of that group. He was well known as a budget watchdog because of his fierce dedication to fiscal responsibility.

Former Representative Miller is now retired but he is also active in his Lancaster community. He is a member of the First United Methodist Church, the recipient of numerous awards and honors in recognition of his untiring efforts to serve his fellow Ohioans.

Mr. Speaker, I urge the swift passage of this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. HOBSON).

Mr. HOBSON. Mr. Speaker, I rise today to ask for the House to approve the bill to deem the Lancaster, Ohio, post office for former congressman Clarence Miller, to recognize his years of public service to the citizens of Lancaster, Ohio.

Clarence Miller served the people of Lancaster and central Ohio for over five decades and for thousands of Ohioans he exemplified the proper role of a public servant.

Clarence was a true community leader who was committed to improving the lives of those he represented, whether it was in the Lancaster City Hall or the United States Congress. His vision and civic spirit have made lasting contributions to our area, and he truly deserves this honor.

Mr. Miller was born in Lancaster on November 1, 1917. After attending Lancaster public schools and receiving technical training in Scranton, Pennsylvania, Mr. Miller was employed as a utility company engineer.

He served as a member of the Lancaster City Council from 1957 to 1963 and as mayor of Lancaster from 1964 to 1966. In 1967, he was elected to the U.S. House of Representatives where he served until his retirement in 1993.

In Congress, Mr. Miller first served on the Committee on Agriculture and Committee on Public Works and Transportation. In 1973, he became a member of the House Committee on Appropriations and served on the Subcommittee on Foreign Operations; Subcommittee on Commerce, Justice, State; Subcommittee on Treasury, Postal Service and General Government; and Subcommittee on Defense.

Clarence also holds U.S. and Canadian patents for technical innovations

he developed in his professional ability as an electrical engineer.

There are many in Congress and in Washington today with fond memories of Clarence Miller. This legislation would provide a lasting tribute to this fine individual that would be most visible to those he served for so many years in Lancaster, Ohio.

I might say that Mr. Miller today lives in Lancaster, Ohio. He visits the office often and still takes part in trying to help make our community better.

So it is with deep appreciation that I thank the House for passing this piece of legislation today.

Mr. SHAYS. Mr. Speaker, I urge adoption of this measure.

Mr. PORTMAN. Mr. Speaker, as an original cosponsor of H.R. 4755, I rise in strong support of this bill to designate the post office in Lancaster, Ohio as the Clarence Miller Post Office Building. This building served as Clarence's district office while he served the people of Southern Ohio for 26 years as a member of the House of Representatives.

Clarence Miller is a native and lifelong resident of Lancaster, Ohio. He was born in 1917. He was the third of six children born to Clarence Miller, Sr., and Delores Lloyd Miller. He married his high school sweetheart, Helen Brown, on December 25, 1936, and they spent 50 happy years together until her passing in 1986.

Clarence has two children, Jacqueline and Ronald. He has five grandchildren, Tyler Williams, Todd Williams, Amy Jackson, Jennifer Smith, and Drew Miller and four great-grandchildren—Morgan, Connor, Drew and Grant. He has a surviving brother, Paul, a retired broadcaster and marketing executive in Cincinnati.

Clarence grew up during the Great Depression. He was the son of an electrician. Clarence and his brothers and sisters worked to help the family financially during those troubled times, and as a young boy he delivered papers for the Lancaster Eagle Gazette.

During high school he unloaded trucks after school at the Omar Bakery, often not returning home until after midnight, and then rising early the next morning to attend classes.

Clarence always prided himself on being a self-made man. Following high school he went to work digging ditches for the Ohio Fuel and Gas Co., now called Columbia Gas, and rose through the ranks to become a practicing electrical engineer. While continuing to work full time at Ohio Fuel, Clarence and his brother, Paul, along with their mother, started Miller Electric, a small retail and electric wiring business in Lancaster.

Clarence first became interested in politics in the 1950s when the Ohio Fuel and Gas Co. offered courses in civics to its employees to help provide them with a better appreciation of how government operates. Clarence found the subject so captivating that he himself started teaching those courses, and afterwards began thinking about entering politics.

His political career began in 1957, when he was appointed to fill an unexpired term as a member of the Lancaster City Council. He was elected to a full term, and then was elected

mayor of Lancaster, receiving the largest plurality in the history of the city.

Clarence was first elected to the House of Representatives in 1966 and was elected each succeeding Congress by wider margins. Clarence and President George Herbert Walker Bush were members of the same freshman class. For six years Clarence served on the House Agriculture Committee and the Public Works and Transportation Committee, and then he was selected to serve on the powerful Appropriations Committee where he served for the next 20 years. Clarence was noted for his efforts to reduce federal spending during times of skyrocketing deficits. He originated the idea of offering 2-percent across-the-board reduction amendments to appropriations bills, which became known as the Miller Amendments.

Clarence always had a keen interest in technology, and was one of a handful of Members of the House to hold both United States and Canadian patents for technical innovations developed while he worked as an electrical engineer. Clarence successfully merged his technical background with his work in Congress. In 1977 he was appointed by the Speaker to be a member of the Technology Assessment Board of the Congress.

Clarence received many honors and awards including: honorary doctorate degrees from Marietta College in Marietta, Ohio, and Rio Grande College in Rio Grande, Ohio; the Phillips Medal of Public Service from Ohio University in Athens, OH; the National Associated Businessmen's "Watchdog of the Treasury Award"; the Americans for Constitutional Action's "Distinguished Service Award"; and the National Rifle Association's "Legislator of the Year Award."

He always took great pride in his work. He was not one to seek the public limelight. Clarence worked quietly and diligently over the years for our nation and for his constituents. He always said it is not important to get your name in the Washington Post or on the network news. Instead, you have to look after the people who sent you here to represent them, and to do what they think is best for the country as a whole.

Apparently Clarence's philosophy served him well, because he consistently defeated his opponents over the years by a better than 2-to-1 margin.

Mr. Speaker, I urge all members to vote for H.R. 4755 to honor Clarence Miller, a gentleman who served the people of Southern Ohio and our Nation very well in this chamber for 26 years.

Mr. SHAYS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut (Mr. SHAYS) that the House suspend the rules and pass the bill, H.R. 4755.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SHAYS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the

Chair's prior announcement, further proceedings on this motion will be postponed.

HONORING TED WILLIAMS

Mr. SHAYS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 482) honoring Ted Williams and extending the condolences of the House of Representatives on his death.

The Clerk read as follows:

H. RES. 482

Resolved, That the House of Representatives honors the outstanding accomplishments of Ted Williams and expresses its deepest sympathies and condolences to the family of Ted Williams on his passing.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. TIERNEY) each will control 20 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. SHAYS).

GENERAL LEAVE

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 482.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. SHAYS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to have the House consider House Resolution 482, and I commend my distinguished colleague, the gentleman from Massachusetts (Mr. MARKEY) for introducing it. This resolution recognizes the enduring contributions, heroic achievements and dedicated work of Ted Williams.

Mr. Speaker, it is truly my honor to rise today to support this resolution that honors Ted Williams. Ted Williams is not only one of baseball's greatest hitters, he was also a member of this Nation's greatest generation. Many of his baseball exploits still stand today.

The last hitter to bat over .400, Ted approached that endeavor like anything else in his life, never taking a shortcut. Batting under .400 but rounded off to .400 going into the last two games of the 1941 season, Ted took to the field and went six for eight in a double header on the last day of the season, raising his average to .406, the last player to hit over .400. He led the American league in batting six times, slugging percentage nine times, and total bases six times, and runs scored six times. He won two triple crown titles and was named Most Valuable Player of the league twice. He was also named to the All Star Team 16 times. Yet Ted's love of country and duty to serve took him away from the game twice, once during the Second World War and again during the Korean War.

During the Korean War, he flew 39 combat missions and earned an Air Medal and two Gold Stars. During his baseball career Ted had always hoped that people would see him and refer to him as the greatest hitter who ever lived. He was the greatest hitter that ever lived. But today this House recognizes Ted Williams as also a Navy aviator, a Marine, and a great American who exemplified dedication and sacrifice in absolutely everything he did.

Mr. Speaker, I urge all Members to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. TIERNEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to just reiterate some of the points that my esteemed colleague from Connecticut made, who has to travel a little bit further to Fenway Park than some of us who live in Massachusetts. The points he made are worth noting, but we also have a number of young people in the House today observing this particular proceeding, and I hope that what they take away from this even more so than the feats accomplished on Fenway Park and on the baseball fields around this country are the facts that Ted Williams served his country in the military, as the gentleman from Connecticut (Mr. SHAYS) said, on two occasions. When he left the baseball field first was for World War II and, secondly, for the Korean Conflict. He served his country nobly there and was a hero and continued on beyond that. Even after he finished his baseball career, he provided invaluable assistance to the Commonwealth of Massachusetts and to others through his work and service for the Jimmy Fund, helping to eradicate cancer in children.

So for all the good deeds he did in baseball, he was a rounded individual who served this country, who has continued to serve his fellow man in a humanitarian way, with very serious issues of health. Besides that, he had some fantastic eyesight, a great athletic ability, was a terrific fisherman, and probably was the greatest hitter to ever live.

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. MARKEY), an individual who is better known around the House of Representatives for his fowl shooting percentage, more so than his batting average, the dean of the Massachusetts delegation, and a great baseball fan.

□ 1515

Mr. MARKEY. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. TIERNEY) for yielding me the time, and I thank the gentleman from Connecticut (Mr. SHAYS) for helping organize this tribute to Ted Williams.

As has already been said, he served 5 years in the military, 3 years in World

War II, 2 years in the Korean war, each of those years at the prime of his baseball career.

We in Boston and many across the country believed that if he had not been forced because of the need to protect our country to actually play those five seasons that he would hold the record in just about every single offensive category of baseball statistics. That is how great a hitter he was. The amazing thing is that even though he missed 5 years, he is still near the top in so many of the important baseball categories.

When I was a boy growing up in Malden, Massachusetts, playing baseball for 3 or 4 or 5 hours a day, the one thing that I did at night was to lie there at night trying to go to sleep, dreaming of myself as Ted Williams, trying to hit Whitey Ford or Bob Turley or Don Larson or some other Yankee pitcher because we knew that of all of the people who we could call upon in order to protect us against the hated Yankees that Ted Williams was at the top of the list. And not only did I go to sleep dreaming that I was Ted Williams with that perfect swing, but I am sure that there were millions of others having the very same dream about their own baseball aspirations.

He not only was a great baseball player and a great patriot, but he was also a great fisherman. He is in the Fisherman's Hall of Fame. He, for over 50 years, was the living embodiment of the Jimmy Fund which is a fund which has been created up in Boston at the Farber Institute, which is now global in its reach which helps to treat cancer in children, which was his passion.

A lot of people say that Ted Williams reminds them of John Wayne; but in reality, John Wayne only played those parts in movies. John Wayne wishes he was Ted Williams, wishes that he had had the life, the career, the success that he had had in every single endeavor that he touched in his life.

If somebody says 406, everyone knows that Ted Williams hit that for batting average in 1941. There are so many things that we could talk about here today; but at bottom, this was a great man, a great American and someone who is deserving of all of the praise which he is receiving across this country, and I thank the gentleman from Massachusetts for yielding me the time.

Mr. TIERNEY. Mr. Speaker, we have no other speakers, and I yield back the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield myself such time as I may consume. Again, I thank the distinguished gentleman from Massachusetts (Mr. MARKEY) for introducing this resolution and working so hard to bring it to the floor. Frankly, when he speaks, no one else needs to.

I also thank the gentleman from Indiana (Mr. BURTON), chairman of the

Committee on Government Reform, and the gentleman from California (Mr. WAXMAN), the ranking member, for expediting its consideration. I ask all Members to support this resolution to express our condolences on Ted Williams' death and honor his awesome life and achievements.

Mr. LARSON of Connecticut. Mr. Speaker, I rise today in support of H. Res. 482 to honor and recognize the life of baseball legend Ted Williams. I would like to extend my condolences on his recent passing away on July 5, 2002. It is both fitting and proper to recognize Mr. Williams for both his on the field and off the field heroics. From his patriotism to his love for America's greatest past time, Ted Williams has touched the lives of millions.

Theodore Samuel Williams was born in San Diego, California on August 30, 1918. Immediately after high school graduation, he signed a contract with the San Diego minor league baseball team. There he played one and half seasons with the team until the Red Sox obtained him in 1937, where he finished his career in 1960. After one year with the Red Sox, it was clear that Williams was destined to be a star. Throughout his career, the "Splendid Splinter" was one of the few people to post a batting average over .400 for a season and is the last player to date to do so. Ted Williams achieved the "Triple Crown" twice for leading the league in batting average, home runs, and runs-batted-in. He won the American League's Most Valuable Player Award twice and led the Red Sox to the pennant in 1946. He was elected into the Baseball Hall Of Fame in 1966. In his career, he slugged 521 home runs with a batting average of .344. In almost 8,000 at-bats, he struck out only 709 times. Ted Williams once said, "When I walk down the street and meet people I just want them to think 'There goes the greatest hitter who ever lived.'" Few people would disagree with this statement.

Not only did Ted Williams play baseball with excitement, but he loved his country with a passion as well. Mr. Williams was dedicated to his country and served in the Marine reserves for nearly five years. He selflessly put his baseball career aside two times at the peak of his performance in order to serve his country in its time of need. While in the service, he flew bomber planes in both World War II and in the Korean War. Many called him a hero. Williams was a patron for America.

Ted Williams had no tolerance for anything but the best from his colleagues. His stubbornness and need for perfection helped Williams be the best at his trade, whether it be playing baseball, flying fighter planes, or fishing. Ted Williams will be missed. I ask my colleagues to join me in our condolences and remembrances of Ted Williams for his brilliant accomplishments, patriotism, and fantastic memories throughout the 20th century by voting in favor of H. Res. 482.

Mr. MCGOVERN. Mr. Speaker, I thank my colleague Mr. MARKEY for sponsoring H. Res. 482 honoring the great Ted Williams.

Ted Williams—the Splendid Splinter—dominated baseball throughout the 1940s and 50s. As the Boston Red Sox left fielder, he batted a lifetime .344, batted in 1,839 runs, had 2654 hits, and hit 521 home runs. Throughout this

time, he won two Triple Crowns. However, it is his season batting average of .406 in 1941 that will forever live in the hearts of all baseball fans. No other player has hit over .400 for a season since.

Yet, if one asked Mr. Williams what he was most proud of in his life, he would say it was the time he spent fighting for this great nation. Mr. Williams spent five years—in the prime of his life and his baseball career—fighting in World War II and in the Korean War. Many often wonder how many more hits Williams would have had, had he not dedicated his life to the Navy and the Marines. And people throughout New England will remember Ted Williams for all the charitable work he performed for children.

Ted Williams spend 19 seasons with the Red Sox, 19 summers in Fenway Park. In a city where baseball is more than just a pastime, Ted Williams is an icon. A tunnel running underneath the city of Boston is named after the Splendid Splinter—the first of many expected tributes and memorials. Baseball fans throughout New England and across the nation now join in mourning the loss of Ted Williams—the greatest hitter of all time and a man of great dignity and character.

And I think I speak for Red Sox fans everywhere in encouraging this year's team to win the World Series in Ted Williams' honor. A guy can always hope, Mr. Speaker.

Mr. Speaker, again I would like to thank Mr. MARKEY and my other colleagues in the Massachusetts delegation for sponsoring this resolution. I ask Members to support this bill.

Mrs. THURMAN. Mr. Speaker, I rise today to honor the life of a great American, Ted Williams and in strong support of a resolution that the House with my support passed earlier this afternoon.

I would also like to bring to my colleagues' attention legislation that I am introducing to name a post office in Hernando, Florida the "Ted Williams Post Office Building."

We all know about Mr. Williams' legendary baseball achievements, such as hitting .406 in 1941 and hitting a home run in his last at bat. We also know about his dedication to our country, which he showed by interrupting his baseball career TWICE, to serve in World War II and Korea.

However, I am here to talk about what Mr. Williams did for Citrus County in my district, where he lived from the mid-1980's until his passing earlier this month.

As most of you know, Mr. Williams was a fabulous fisherman, and he first came to Citrus County in 1950 for that reason. However, it wasn't until over 30 years later that he began to leave his mark on the County.

In 1982, Mr. Williams was named a marketing consultant for the Citrus Hills residential development, lent his name to the project and, most importantly, moved to the County shortly afterward. This helped bring thousands of transplanted New Englanders who followed his playing career to retire in Citrus County.

Mr. Williams put Citrus County in the national spotlight in 1994 with the opening of the Ted Williams Museum and Hitters Hall of Fame, which is located in Citrus Hills. The event brought plenty of celebrities to the area, such as Joe DiMaggio, Muhammad Ali and Bob Costas, who served as master of ceremonies.

The Museum would have an incredible effect on tourism in the area—which continues to this day. Despite his failing health, Mr. Williams appeared before 2,000 fans at the Museum's yearly hall of fame induction ceremony in February.

Everyone in Citrus County—baseball fans or not—had tremendous pride in the fact that one of the world's greatest baseball players lived in the area. However, he wasn't just a great ballplayer—he was a great American, and he left his mark on Citrus County.

The last day of the 1941 season, Mr. Williams was hitting .400 and was given the opportunity by his manager to sit out the game in order to preserve this monumental achievement. Of course, he did not sit, and finished going 6 for 8 in both games of a double-header.

Ted Williams would continue that dedication when he arrived in Citrus County. Indeed, the last player to bat over .400 batted 1.000 in Citrus County.

Mr. HOYER. Mr. Speaker, I rise today in support of House Resolution 482, legislation that honors one of baseball's finest players, and one of America's finest citizens, Ted Williams. I also want to commend the gentleman from Massachusetts, Mr. MARKEY for offering this fitting resolution.

Mr. Speaker, Ted Williams was respected by his peers, admired by his successors, and adored by his fans. His work-ethic was second to none, and he toiled day in and day out, dreaming that one day people would see him and remark: "There goes the greatest hitter who ever lived."

His wiry frame and pure talent earned him the nickname "The Splendid Splinter," and Ted Williams never failed to live up to that reputation on the field.

Williams is best remembered for batting .406 in 1941. In the sixty years since that tremendous season, no one has approached the milestone.

That 1941 season typified Williams' supreme devotion to the sport of baseball. Before the final day of the season, Williams had secured a .400 batting average. Yet he refused to sit out that day's double-header, playing both games and batting 6 for 8, raising his average 6 points.

Ted Williams' dedication to the game of baseball was evident as he continued to excel at an age when most ballplayers would have long since hung up their cleats. At the age of 40, he added his sixth and final batting title to his long list of accomplishments, becoming the oldest player to ever lead the league in hitting.

Williams was also a master of dramatic finishes, as he closed out his career in Fenway Park with a home run in his last at-bat. It was a fitting end for Boston's greatest and most beloved baseball player of all time.

While Teddy Ballgame will always be remembered as a baseball player, some of his greatest accomplishments came off the field. Williams' devotion to baseball was matched only by his devotion to his country. He acted as a true role model and hero during a time of war, sacrificing three years in the prime of his career to serve in the United States Marines in World War II from 1943–1945. Seven years later, he again left the baseball diamond to serve his country, this time in the Korean

War. And even though his time in the military undoubtedly cost him some of his best playing days, he never regretted his service. In fact, Williams often counted his enlistment as a Marine as one of his greatest accomplishments.

In addition to his heroic sacrifices as a Marine, Williams will be remembered as the first Hall of Famer to have the courage to insist upon the inclusion of Negro League stars in Cooperstown. And we will be forever grateful to Williams for his generous support of the Jimmy Fund, a local charity that aids the fight against cancer.

Mr. Speaker, when Ted Williams passed away on July 5th, America lost a baseball legend. But we also lost a man with courage, dedication, and desire rarely equaled. It was these qualities that allowed Ted Williams to accomplish his lifelong goal. For when Ted Williams, the Splendid Splinter, passed away, there was one phrase that was on everyone's lips: "There goes the greatest hitter who ever lived."

Mr. SHAYS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Connecticut (Mr. SHAYS) that the House suspend the rules and agree to the resolution, H. Res. 482.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SHAYS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONGRATULATING DETROIT RED WINGS FOR WINNING 2002 STANLEY CUP CHAMPIONSHIP

Mr. SHAYS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 452) congratulating the Detroit Red Wings for winning the 2002 Stanley Cup Championship.

The Clerk read as follows:

H. RES. 452

Resolved, That the House of Representatives—

(1) congratulates—

(A) the Detroit Red Wings for winning the 2002 Stanley Cup Championship and for their outstanding performance during the entire 2001–2002 National Hockey League season; and

(B) all of the 16 National Hockey League teams that played in the postseason;

(2) recognizes the achievements of the Red Wings players, coaches, and support staff who worked hard and were instrumental in bringing the Stanley Cup back to the city of Detroit;

(3) commends the Carolina Hurricanes for a valiant performance during the playoff finals and for showing their strength and skill as a team; and

(4) directs the Clerk of the House of Representatives to transmit an enrolled copy of this resolution to—

(A) the Red Wings players;

(B) Head Coach Scotty Bowman; and

(C) President and team owner Mike Ilitch.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. TIERNEY) each will control 20 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. SHAYS).

GENERAL LEAVE

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 452.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. SHAYS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am grateful to have an opportunity to salute the Detroit Red Wings and will just point out that my statement was written by a staff member who does not even happen to be a Detroit Red Wings fan, but he has done a gracious job in preparing this statement.

Mr. Speaker, House Resolution 452, introduced by our distinguished colleague from the State of Michigan (Ms. KILPATRICK), congratulates the National Hockey League's Detroit Red Wings for winning the Stanley Cup for the third time in 6 years. The entire House delegation from the State of Michigan are cosponsors of this legislation.

Last month, the Detroit Red Wings defeated the Carolina Hurricanes in just five games to win the Stanley Cup Finals and bring the title back to, as the writer says, Hockeytown. En route to the finals, the Red Wings beat last year's Stanley Cup champions, the Colorado Avalanche, to clinch the Western Conference title.

The Red Wings' roster features such NHL superstars as team captain Steve Yzerman, Brett Hull, Sergei Federov, Chris Chelios, and goalie Dominik Hasek.

I would specifically like to congratulate Detroit Head Coach Scotty Bowman for his impressive leadership this season and throughout his frankly awesome career. Coach Bowman has been with the team since 1993, and he has guided the Red Wings to three Stanley Cup championships, including back-to-back wins in 1997 and 1998. Bowman is retiring from the NHL and thus closing out a truly remarkable career, during which he set many coaching records including a record nine Stanley Cup championships during his tenure with the Montreal Canadiens, the Pittsburgh Penguins, and now with the Detroit Red Wings.

Mr. Speaker, for these reasons, I urge adoption of House Resolution 452.

Mr. Speaker, I reserve the balance of my time.

Mr. TIERNEY. Mr. Speaker, I yield myself such time as I may consume.

I rise to also support House Resolution 452 for consideration this afternoon. Obviously, all the things that the gentleman from Connecticut (Mr. SHAYS) has already mentioned are on my list of comments to make here on behalf of the gentlewoman from Michigan (Ms. KILPATRICK) and the other members of the Michigan delegation who, unfortunately, could not be here this afternoon to bring this matter forward and speak to it.

I do think it takes note again for the young people that are here that this is not just about winning and losing a hockey game, but more about the hard work and determination and teammanship that goes into a championship effort; and for that, the Red Wings are certainly to be congratulated for the skill, tenacity, and dominance with which they finished the regular season and then clinched the President's trophy.

They have done a great job. They deserve all the credit. For a Boston Bruins fan like myself, it is always difficult to understand that once again the Stanley Cup slipped away, but it went to a team who had a great year, was a very deserving; and we want to make sure that everybody acknowledges this important feat as well as the hard work of Mr. Bowman as the gentleman from Connecticut (Mr. SHAYS) said, the team captain and other players there.

Their whole delegation, I am sure all of Michigan, take great pride in the work that this team and the effort that they have made.

Mr. Speaker, I reserve the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield myself such time as I may consume.

I think it says something that a Boston Bruins, one of the original six, and a New York Rangers fan are saluting the Detroit Red Wings. They have been an awesome team, remarkable players, and truly outstanding coach; and I will just say that given that some Members have not had the opportunity to speak, with some trepidation, I am going to ask for a rollcall vote and know that my House Members from different hockey towns will have the good nature and goodwill to make this a unanimous resolution.

Mr. TIERNEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. LEVIN), and we are honored to have in this body today a member of this body who takes great pride in being from Michigan.

Mr. LEVIN. Mr. Speaker, I appreciate my friend from Massachusetts yielding me the time.

I just want to say a few words about the Red Wings as someone who has been a fan for quite a few years. The Red Wings are for Michigan more than

a hockey team, and I think that is the secret.

A lot of us do care they are a successful hockey team. Some of us go back to the days when we played and there were not any indoor rinks. Some of us who are Red Wings fans used to fool around with hockey on ponds, and sometimes because the winter was not long enough, falling in while we were playing hockey.

But as I said, the Red Wings really are much more than a hockey team and that has been especially true under the ownership of Mike and Marion Ilitch. They understand what sports mean to Detroit and the whole metropolitan area in the State. They also understand, though, that sports can mean something more than just who wins and who loses.

□ 1530

And the Red Wings, I think, have such wonderful following because, especially under the Ilitches, and the coaches there, led by Scotty Bowman, there has been continuity. We have come to know the players. I must say, on some teams, the players change so much every year, it is hard to identify with them. But that has not been true of the Red Wings.

The team that won the championship and the Stanley Cup really melded together and became a family, taking in new members, and I think that gave us a sense of community and a sense, if I may say so, even of family. When Vladi Konstantinov was seriously injured, everybody rallied around him. And it is always a moving few moments when he rejoins the team for various events.

So I just wanted to come to the floor and to say, in tribute to the Red Wings, many thanks to all of the players, led by Steve Yzerman, the captain; to all of the coaches, led by Scotty Bowman; and to the entire Ilitch family, for making a sports team something more than a sports team. This wonderful group won the Stanley Cup, but they really also won the hearts of a lot of us in Michigan.

And if I daresay, as I close, to all my colleagues who have not been in the Detroit metropolitan area recently, there are more Red Wing flags flying from cars than you will see such flags anywhere else in America. If we who are candidates for office had just one-fiftieth of the flags that fly from the cars supporting the Red Wings, we could never lose an election. The Red Wings maybe can lose a Stanley Cup contest in future years, but they won it again this year and all of us from Michigan are very, very proud of them. And I thank the House for bringing up this resolution of congratulations.

Mr. TIERNEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield myself such time as I may consume to

thank the gentleman from Michigan for his very thoughtful comments, and to say whether you are a Bruin fan, or Ranger fan, like Mr. TIERNEY and me, you can still be very happy to support this important resolution honoring the Detroit Red Wings.

Mr. DINGELL. Mr. Speaker, I would like to take this opportunity to congratulate the entire Detroit Red Wings organization for winning the 2002 Stanley Cup on June 13, 2002, and collecting their 10th Cup by defeating the Eastern Conference Champion Carolina Hurricanes. After 82 games, followed by perhaps the most grueling playoff setup in professional sports, the Red Wings proved once again that talent and experience could triumph over more youthful competition.

Marian and Mike Ilitch, the owners of the Red Wings and community leaders in Detroit, have once again returned Lord Stanley's Cup to "Hockeytown," where it rightfully belongs. I would like to thank the Ilitch family for their dedication to the city of Detroit, State of Michigan, and to all Red Wing fans.

Red Wing fans are indebted to retiring head coach Scotty Bowman, who has brought the Red Wings to the playoffs 7 times in the last 8 years, won three Stanley Cups in the past 6 years, and who, with this year's victory, has earned his ninth Stanley Cup victory, surpassing his mentor Toe Blake for the most championships in National Hockey League history. This is truly an amazing accomplishment and I wish him well in his retirement.

Finally, I express my congratulations to the Red Wing players for their incredible season, and for showing all of us how to perform under great pressure. I applaud the hard work and dedication which made this victory possible, and would offer my personal appreciation on behalf of Michigan's 16th Congressional District, to Captain Steve Yzerman, Brett Hull, Igor Larionov, Brendan Shanahan, Lue Robitaille, Sergei Federov, Darren McCarty, Chris Chelios, Niklas Lidstrom, Dominik Hasek, Kris Draper, Jiri Fischer, Jesse Wallin, Uwe Krupp, Mathieu Dandenault, Pavel Datsyuk, Ladislav Kohn, Kirk Maltby, Boyd Devereaux, Fredrik Olausson, Steve Duchesne, Jason Williams, Maxim Kuznetsov, Manny Legace, Jason Elliott, Sean Avery, Jiri Sleg, and Tomas Holmstrom.

With the recent signing of Curtis Joseph and re-signing of Chris Chelios, I look forward to seeing another Stanley Cup Parade in Hockeytown next year!

Mr. BONIOR. Mr. Speaker, today I rise in congratulations of the 2001–2002 Stanley Cup Champion Detroit Red Wings.

Although history will be the final judge, the Detroit Red Wings are already being considered one of the greatest hockey teams ever assembled. Led by the winningest coach in NHL history, a team made up of truly great players—more than half a dozen prospective Hall of Famers and a rookie class with seemingly boundless potential—the Red Wings are a team that is greater than the sum of its parts. If there is one thing that can be said about the team, it's that they could never be counted out.

Throughout the year and the playoffs, the stars stepped up and led when leadership was

needed, and when the veterans had difficulties, the rookies came through when it really mattered. Under Scotty Bowman, the Red Wings came together with an offense as quick and precise as a surgeon's scalpel, and a defense as tenacious as the octopus that we in Detroit have adopted as our symbol for the playoffs.

The Red Wings have shown themselves to be outstanding role models both on and off the ice. They embody the values of teamwork, discipline and dignity, and their involvement with the community has brought it together. For our young people becoming passionate about the sport of hockey, they couldn't look up to a better group of players.

And so today I join with my colleagues in congratulating the Detroit Red Wings for their Stanley Cup victory. This team has guts, determination and finesse. Sports Illustrated has called them the New York Yankees of Hockey, but I'm not so sure that's appropriate. They're the Detroit Red Wings of Hockey, and that speaks volumes more.

Ms. KILPATRICK. Mr. Speaker, I would like to thank the Representatives for bringing up H. Res. 452, a resolution that I, along with support from the entire Michigan delegation, introduced congratulating the Red Wings on a tremendous year that culminated in winning the 2002 Stanley Cup Championship.

As a native Detroiter, I am so proud of the Red Wings for bringing the Stanley Cup back to the City of Detroit and the State of Michigan. They showed true heart, dominance, skill, and tenacity throughout regular and post-season play in the National Hockey League. More importantly, they showed all of us that anything is possible with hard work, determination, and a strong team spirit. The Red Wings are true champions.

Thank you to head coach Scotty Bowman, who led the Red Wings to their third Stanley Cup under his leadership, with the back to back wins in 1997 and 1998. I wish, Mr. Bowman, "the Winningest Coach in Hockey," all the best in his retirement and thank him for all that he has brought to this great sport. Congratulations to President and team owner Mike Ilitch and his wife, Marian, who have shown steadfast support for the team and the City of Detroit and have been owners of the Red Wings franchise since 1982. Their commitment to the team and the City rings true everyday.

For all hockey fans out there and for anyone that knows even a little bit about hockey, clinching the Stanley Cup is no easy feat. The Red Wings went through four grueling playoff rounds and defeated four very competitive and skilled teams to win the Cup, including the 2001 Stanley Cup Championships, the Colorado Avalanche in the Western Conference finals, and the valiant Caroline Hurricanes in the Stanley Cup finals.

The Red Wings faced strong opposition, but showed their true grit and skill every step of the way, getting stronger as each playoff series progressed. All the players on the Red Wings contributed to the team's success. Deservedly, each player will have his name engraved on the Stanley Cup, which is considered to be the most coveted sports trophy in North America.

I would like to thank my Michigan colleagues for cosponsoring this resolution. We

congratulate the Detroit Red Wings on an awesome year. Way to go Red Wings! Hockeytown is proud.

Mr. KNOLLENBERG. Mr. Speaker, I rise today in support of congratulating the Detroit Red Wings for winning the 2002 Stanley Cup Hockey Championship.

As one of the Original Six hockey clubs, the Red Wings have proven time and time again that they are one of hockey's premiere franchises of all time. With their three to one victory over the Carolina Hurricanes in game five of the 2002 Stanley Cup Finals, the Wings clinched their third Stanley Cup in six years, totaling an impressive ten Cups since the team became a franchise in 1926. With a record like that, it makes sense that Detroit has come to be known as Hockeytown USA.

So congratulations and a special farewell go to Red Wing coach Scotty Bowman, who announced his retirement just before Steve Yzerman handed him the Cup after the final game. Congratulations also to Mike Illitch and Jimmy Devallano for putting this team together. Congratulations, obviously, to captain Steve Yzerman, to the playoff MVP Nicklas Lidstrom, to Brendan Shanahan, to goalie Dominik Hasek, and to all the members of this great club for bringing yet another of Lord Stanley's coveted chalices to Hockeytown. And congratulations to the Detroit fans that stood behind their team through it all. Mr. Speaker, we have done it again.

Mr. SHAYS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Connecticut (Mr. SHAYS) that the House suspend the rules and agree to the resolution, House Resolution 452. The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SHAYS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

BLACKWATER NATIONAL WILDLIFE REFUGE EXPANSION ACT

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4807) to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Susquehanna National Wildlife Refuge, as amended.

The Clerk read as follows:

H.R. 4807

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Blackwater National Wildlife Refuge Expansion Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Garrett Island, located at the mouth of the Susquehanna River in Cecil County, Maryland, is a microcosm of the geology and geography of the region, including hard rock piedmont, coastal plain, and volcanic formations.

(2) Garrett Island is the only rocky island in the tidal waters of the Chesapeake.

(3) Garrett Island and adjacent waters provide high-quality habitat for bird and fish species.

(4) Garrett Island contains significant archeological sites reflecting human history and prehistory of the region.

SEC. 3. AUTHORITY TO ACQUIRE PROPERTY FOR INCLUSION IN THE SUSQUEHANNA NATIONAL WILDLIFE REFUGE.

(a) ACQUISITION.—The Secretary of the Interior may use otherwise available amounts to acquire the area known as Garrett Island, consisting of approximately 198 acres located at the mouth of the Susquehanna River in Cecil County, Maryland.

(b) ADMINISTRATION.—Lands and interests acquired by the United States under this section shall be managed by the Secretary as the Garrett Island Unit of the Blackwater National Wildlife Refuge.

(c) PURPOSES.—The purposes for which the Garrett Island Unit is established and shall be managed are the following:

(1) To support the Delmarva Conservation Corridor Demonstration Program.

(2) To conserve, restore, and manage habitats as necessary to contribute to the migratory bird populations prevalent in the Atlantic Flyway.

(3) To conserve, restore, and manage the significant aquatic resource values associated with submerged land adjacent to the unit and to achieve the habitat objectives of the agreement known as the Chesapeake 2000 Agreement.

(4) To conserve the archeological resources on the unit.

(5) To provide public access to the unit in a manner that does not adversely impact natural resources on and around the unit.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland (Mr. GILCHREST) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to present this legislation to the House of Representatives to expand the boundaries of Blackwater National Wildlife Refuge, which is located in my Congressional District in Maryland.

Garrett Island, which consists of approximately 198 acres, was the site of Maryland's second settlement in the 1600s. It is the only rocky island in the tidal waters of the Chesapeake Bay system, and it is a vital link between the Susquehanna River and the Chesapeake Bay. It also provides habitat to 44 different bird species, including eagles, common loons, tundra swans, and 14 kinds of ducks.

I have visited Garrett Island a number of times, and there is no question that its rich history, geographic location and wildlife resource values make

it an excellent candidate for inclusion within the National Wildlife Refuge system. As a Nation, we can ill afford to allow unique places like Garrett Island to be lost forever.

While I was disappointed to hear the U.S. Fish and Wildlife Service's initial reaction to the idea was that it opposed its inclusion, I am pleased they will be visiting the island next month to evaluate its trust resources. I am confident that once a comprehensive review has been concluded, as promised by the end of the summer, the service will join me in enthusiastically urging the protection of Garrett Island.

The Cecil Land Trust has done everything they can to protect the important property, contributing \$150,000 toward the purchase of the island. And based on our hearing, Federal acquisition costs would be less than \$400,000, and little, if any, maintenance or personnel will be required for the future of this inclusion.

The Chesapeake Bay Foundation had it right when they wrote that steps must be taken to ensure protection of this largely unspoiled historical and geological gem. I would urge my colleagues to vote aye on H.R. 4807. This is an important and necessary inclusion in our National Wildlife Refuge system, which will celebrate its hundredth birthday next year.

This is exactly the type of place that Teddy Roosevelt had in mind when the unique system of public lands was created.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we on this side have no objection to this legislation that would authorize the Secretary of the Interior to acquire Garrett Island for its future inclusion as part of the Blackwater National Wildlife Refuge in Maryland.

Certainly the protection of the last undeveloped island in the lower reach of the Susquehanna River is a positive step toward preserving the remaining fish and wildlife habitat found near the headwaters of the Chesapeake Bay. I want to applaud the gentleman from Maryland (Mr. GILCHREST) for this bill and for his leadership on this subcommittee on this and many other issues.

The U.S. Fish and Wildlife Service has voiced some minor reservations concerning the legislation, as we have just heard. These concerns are mostly due to the administration's ongoing effort to reevaluate current land acquisition policies governing the refuge system. However, the technical changes made to the bill, I think, will help to address these minor concerns. And the relatively low cost of acquisition should warrant a new assessment of Garrett Island by the Fish and Wildlife Service. The island is deserving of the

service's full and unbiased consideration.

H.R. 4807 is a noncontroversial bill. I also urge all Members to support this legislation to help protect fish and wildlife habitat in the Chesapeake Bay.

Mr. Speaker, I reserve the balance of my time.

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume to mention just one other item.

There is a family in Cecil County, the Kilbys, that live and work on a dairy farm, and they have been strong supporters of the concept of Garrett Island being included in the National Wildlife Refuge system. There are broad and varied opportunities for this island to be included, and so I urge not only my colleagues to vote aye on this legislation, but I also urge the Interior Department, when they are visiting the island, to recognize those varied opportunities.

The United States often sends biologists, zoologists, ornithologists, you name it, to vast areas of the world to study ecosystems. We have in our backyard, here in Maryland, a magnificent Chesapeake Bay watershed ecosystem, and this island can be one of those facilities that will be included in what could be known as an island corridor in the Chesapeake Bay so that people from the University of Maryland or the Baltimore Zoo or the Baltimore Aquarium, or other universities and community colleges and even high schools do not have to travel to Brazil or Southeast Asia or regions of Africa to show their interns or their students the kinds of ecosystems that make communities drive. They can send them to the island corridor, Garrett Island being the jewel of that concept.

So I urge my colleagues to vote for this legislation. I also want to thank the gentlewoman from the Virgin Islands for her support and the staff for their work on this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. GILCHREST) that the House suspend the rules and pass the bill, H.R. 4807, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read:

"A bill to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Blackwater National Wildlife Refuge."

A motion to reconsider was laid on the table.

HONORING AMERICAN ZOO AND AQUARIUM ASSOCIATION

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 408) honoring the American Zoo and Aquarium Association and its accredited member institutions for their continued service to animal welfare, conservation education, conservation research, and wildlife conservation programs.

The Clerk read as follows:

H. CON. RES. 408

Resolved by the House of Representatives (the Senate concurring), That the Congress recognizes and honors the American Zoo and Aquarium Association and its member institutions of zoological parks and aquariums for their dedicated service in animal welfare, conservation education, conservation research, and wildlife conservation programs.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland (Mr. GILCHREST) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, founded in 1924, the American Zoo Association is a nonprofit organization dedicated to the advancement of zoos and aquariums. AZA institutions draw over 135 million visitors annually and have more than 5 million zoo and aquarium members. These institutions teach more than 12 million people each year in living classrooms, dedicate an estimated \$50 million annually to education programs, invest an estimated \$50 million annually to scientific research, and support over 1,300 field conservation research projects in 80 countries.

AZA member institutions are a critical component in the conservation of marine mammals in the wild through broad-based education research and standing recovery rehabilitation programs.

Additionally, many AZA facilities and scientists collaborate with researchers from colleges, universities, and other scientific institutions to conduct studies important to species conservation and health. AZA facilities have developed species survival plans which are cooperative long-term breeding and conservation programs that provide many species with an insurance policy against extinction. Some of the species covered by these plans include all the great apes, Africa and Asian elephants, Siberian and Sumatran tigers, and black, white Sumatran and greater one-horned rhinos.

These cooperative conservation programs support both field and institutional research to ensure that these animals are carefully managed and maintain a healthy self-sustaining pop-

ulation that is genetically diverse and demographically stable.

AZA institutions across the United States have maintained high curatorial and veterinarian standards for zoos and aquariums in addition to supporting programs that protect, conserve, and restore wild animal populations.

Mr. Speaker, H. Con. Res. 408 commends the American Zoo and Aquarium Association for all the great work they have done, and I urge Members to support passage of this bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise also in support of this concurrent resolution recognizing the American Zoo and Aquarium Association for its outstanding role in the conservation of the world's biodiversity and for its advancement of zoos and aquariums here and abroad.

Collectively, AZA member institutions draw over 135 million visitors each year. This affords the AZA facilities a huge opportunity and responsibility to instruct the public on the need to protect and conserve the wonders of the natural world.

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The wide variety of public education and interpretive programs made available through AZA institutions admirably fulfills this mission, and I applaud the AZA for their important work towards developing the next generation of wildlife conservation.

In closing, H. Con. Res. 408 is noncontroversial, and I urge its adoption by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentlewoman from the Virgin Islands and the staff on both sides of the aisle for supporting this legislation in recognizing all of those people, whether it is a tiny zoo in Cecil County, Maryland, or Salisbury, Maryland, or the magnificent aquarium in Baltimore, Maryland, to zoos and aquariums all across this country by trying to understand, and doing a pretty good job of it, of understanding the nature of the magnificence of where people fit into the natural environment on this blue planet.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the chairman of the subcommittee for the gentleman's leadership and the work he has done to accommodate the needs and unique considerations of the territories as we work on the Committee on Resources. We have no members of AZA, but we do

have Coral World in St. Thomas, and I am hoping at some point in the near future they will be a member of this wonderful organization.

Mr. Speaker, I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Virgin Islands is a beautiful place in the Caribbean; that is its own AZA.

Mr. GILCHREST. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Maryland (Mr. GILCHREST) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 408.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CELEBRATING 50TH ANNIVERSARY OF CONSTITUTION OF COMMONWEALTH OF PUERTO RICO

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 395) celebrating the 50th anniversary of the constitution of the Commonwealth of Puerto Rico, as amended.

The Clerk read as follows:

H. CON. RES. 395

Resolved by the House of Representatives (the Senate concurring), That the Congress celebrates the 50th anniversary of the Constitution of the Commonwealth of Puerto Rico.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland (Mr. GILCHREST) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H. Con. Res. 395. The gentleman from Utah (Mr. HANSEN), the gentleman from West Virginia (Mr. RAHALL), and Resident Commissioner ANIBAL ACEVEDO-VILÁ worked together to compose this nonpartisan and status-neutral resolution celebrating the 50th anniversary of the constitution of the Commonwealth of Puerto Rico.

H. Con. Res. 395 celebrates the 50th anniversary of this important historical event in our Nation's history by listing some highlights Puerto Rico's local constitution went through in becoming adopted. The resolution is non-controversial, and I ask Members to join me in its support.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H. Con. Res. 395 is a resolution authored by the gentleman from Puerto Rico (Mr. ACEVEDO-VILÁ) in close collaboration and with the full support of both the chairman and ranking member, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL).

The gentleman from Puerto Rico (Mr. ACEVEDO-VILÁ) regrets that he is not here for the House consideration of the resolution commemorating the 50th anniversary of the constitution of the Commonwealth of Puerto Rico, but a long-standing commitment in his district this morning made it impossible for him to be here until later today. He has already submitted a statement for the RECORD on his support of this historic occasion.

I take this opportunity, also, Mr. Speaker to commend the resident commissioner, the gentleman from Puerto Rico (Mr. ACEVEDO-VILÁ) for his work on this resolution. H. Con. Res. 395 commemorates the 50th anniversary of the constitution of the Commonwealth of Puerto Rico. Mindful of the spirited debate over Puerto Rico's political status, the resolution was crafted to be nonpartisan and status neutral.

The adoption of Puerto Rico's constitution began in 1950 with the enactment of the U.S. law which permitted Puerto Rico to draft its own constitution. A referendum held in March of 1952 ratified the work of a constitution convention 6 months in the making. In July 1952, Congress approved Puerto Rico's constitution, and it was thereafter signed by President Harry S. Truman as Public Law 82-447.

The relationship between Puerto Rico and the United States predates the adoption of their constitution. Their contribution to the diversity of the U.S. along with their economic and social development begins in 1898 and continues today. The constitution is but yet a milestone for Puerto Rico, and they look forward to greater political progress.

Mr. Speaker, Puerto Ricans living in my district, the U.S. Virgin Islands, and particularly my home island of St. Croix, have contributed significantly to the development of the Virgin Islands. They are now an integral part of the fabric of every facet of life in our community.

I am sure that all of the residents of the U.S. Virgin Islands join me in congratulating the esteemed Governor, Sila Calderon, and our neighbors, friends and oft times family, the people of Puerto Rico, on this 50th anniversary and wish them God's continued blessings not only during this celebration but as they continue to realize their dreams and aspirations for the future.

Mr. Speaker, I encourage Members to support this resolution. We look for-

ward to expeditious consideration in the other body.

Mr. Speaker, I yield such time as he might consume to the gentleman from New York (Mr. SERRANO).

Mr. SERRANO. Mr. Speaker, I rise with utmost respect for my colleagues and with some sadness in my heart because I rise in opposition to this resolution. I do so because in our profession, perception is a strong weapon. And the perception of this weapon or the result will be that we are in fact celebrating the relationship between Puerto Rico and the United States. While that relationship has had some wonderful moments, it has never stopped, in my opinion, being a colonial relationship, in fact.

I do not think the Congress should at this moment or at any other moment celebrate and encourage continued colonial relationships. Now, why do I believe that Puerto Rico is a colony of the United States? Because while citizenship has been granted since 1917, the same rights as other American citizens have not been granted to the American citizens who live in Puerto Rico. I often startle some of my colleagues by reminding them that if any of us were to move back to Puerto Rico right now, we could not serve in Congress with a vote, we could not vote for Members of Congress, we could not vote for the President, or have full representation. Yet our citizenship supposedly would stay intact. I find it very difficult to do what I am doing, but I think it needs to be done so we can continue once and for all to discuss this issue and bring it to the front of the political discussion in this country.

A few years ago I joined with the gentleman from Indiana (Mr. BURTON) in the so-called Young bill, which I think was the first real attempt for our country to tell the place where I was born what to do about its political future. What the Young bill did was say here are your options, take a vote, and 180 days from the time you take the vote, we will respond. That bill passed the House, never passed the Senate. That is sad because that bill in my opinion would have put this thing in motion.

Mr. Speaker, it is clear today that Puerto Rico remains a U.S. territory subject to the absolute powers of the U.S. Congress under the territorial clause of the United States Constitution in spite of the level of internal self-government given by the U.S. Congress.

When in 1952 the Jones Act was replaced by Public Law 447, which is what we are celebrating today, which approved the constitution of Puerto Rico, the law governing Puerto Rico changed. However, the territorial relationship previously existing did not change at all. And a territory, as we all know, is neither a State of the Union nor a nation of the world. It is simply

a colony. In fact, Puerto Rico holds the dubious distinction of being the oldest colony in the world, having been a colony of Spain for over 400 years until 1898 and now a colony of the U.S. for over 100 years.

To celebrate any colonial status is to promote and prolong it. And I cannot, and I refuse to do that, however benign this resolution may seem.

This Congress should not be celebrating nor promoting the continued colonialism of Puerto Rico, and it is time we did something about it. The United Nations recognizes two options for decolonization: Puerto Rico becomes the 51st State of the Union and joins the other States with full powers and responsibilities; or Puerto Rico becomes a sovereign nation unto itself and takes its place among other nations of the world.

Under separation, there is also the option for free association where Puerto Rico could negotiate with the United States, common currency, postal service, military service; but all negotiated as equals, not as it exists today.

Rather than celebrating and promoting this status, we should let the 4 million American citizens of Puerto Rico know that the only option real to them is not the present option, but the option of statehood or independence. Most importantly and most urgently, we must move forward to put an end to this colonialism that shames both our Nation and Puerto Rico and brings indignity to the over 4 million fellow citizens living in Puerto Rico.

Mr. Speaker, I come to this discussion as a person who feels emotion on both sides. I grew up in New York City since I was a little boy coming from Puerto Rico. I was born in Puerto Rico. I grew up in a State called New York. I know the dignity and strength and democracy of being a State. I grew up in an independent Nation called the United States. I know the dignity and strength of that. That is all I ask for the place I was born in.

Let me say for those on the island who may not care for these comments, I do not approach it as someone who was born there only. I approach it as a Member of the United States Congress who, looking at the Caribbean, says today, 2002, 104 years later, Puerto Rico should no longer be a colony of the United States.

I respect my colleagues, and I know that their intent is to celebrate the relationship. However, I have some problems, serious problems, with the relationship. Statehood or independence, that is the way to go.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the constitution that we are celebrating the 50th anniversary of is really a milestone for Puerto Rico. As we have heard, this is but a

step on their road to progress and a future status yet to be determined by the people of the Commonwealth of Puerto Rico. I appreciate the remarks of the gentleman and his sentiment on this issue.

Mr. Speaker, I yield back the balance of my time.

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Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

I do want to say that the gentleman from Puerto Rico (Mr. ACEVEDO-VILÁ) asked us to propose this resolution for the 50th anniversary of the constitution of Puerto Rico with the full intent of giving the people of Puerto Rico a great deal of dignity. It is about that that we are discussing this issue here this afternoon.

I urge my colleagues to vote "aye" on the resolution.

Mr. GILMAN. Mr. Speaker, while I do not have any objections to this resolution, it does not paint the complete picture regarding the status of Puerto Rico. H. Con. Res. 395, does not represent the views of the majority of our fellow citizens in Puerto Rico.

It is important that my colleagues are aware that most of our fellow citizens in Puerto Rico and many of our citizens of Puerto Rican descent do not share the sentiments of this resolution. Many of our constituents do not support continuation of Puerto Rico's current political status.

The constitution enshrined Puerto Rico's status as a U.S. territory. Its approval attempted to legitimize the status, but it was controversial from the start. This subject to many is visceral, and several years ago nationalists were so enraged by this often-divisive issue that they fired shots in this very chamber. Their violence was unjustified and reprehensible, and world events clearly show that resorting to violence to have your voice heard does not advance one's cause. Advocates of the constitution were disappointed with the final result of an effort that was intended to enable Puerto Ricans to choose a permanent, non-territorial status as well as draft a local constitution. It only accomplished the latter goal. In fact, the counsel to the governor at the time who had a significant role in drafting not only the laws that authorized and approved the constitution but the constitution itself, recently wrote that even the constitution was "mauled" in Congress. The counsel called the vents of fifty years ago that we rise to celebrate today "a tawdry record."

In fact, approving the equivalent of a state constitution for a territory was a democratic innovation in territorial governance at the time, even though Puerto Ricans were already electing their own governor as well as legislature.

The current governing arrangement is a sad anachronism in this era. It no longer has the support of our fellow citizens in Puerto Rico. A 12-year governor from the party that is generally associated with the current status wrote a few years ago "all factions do agree on the need to end the present undemocratic arrangement, whereby Puerto Rico is subject to the laws of Congress but cannot vote in it."

In the most recent referendum on the islands' status options, in December 1998, the current status received .06% of the vote. The party that has been associated with the current status abandoned that losing proposition—and never really wanted it.

Even the most ardent defenders of the status quo, like the current Governor, recognize that the current arrangement has had its day, although in careful words. The Governor recently said that "fifty years ago" the arrangement "fared quite well when compared with the prevailing colonial arrangements then existing in the Caribbean. Half a century later there are areas where that is no longer the case."

Mr. Speaker, with all due respect to the distinguished gentleman from the territory and the Governor who were elected with a plurality; they are not in a position to speak for the people of Puerto Rico on the issue. While a plurality is adequate for conducting day-to-day government functions, it is not enough to act on behalf of the islands on questions that can change the complete status of the territory. For issues of paramount importance a majority is required.

Puerto Rico has a tradition of handling all such questions on a tri-partisan basis. This resolution was not the subject of consultations with the two minority parties, which together represent a clear majority of the vote and the majority of citizens' views on status matters. It is important to note that spokesmen for the two parties have criticized the resolution because of the status that it symbolizes.

Mr. Speaker, while I do not object to H. Con. Res. 395, we should recognize that a majority of Puerto Ricans would not be pleased by our passage of this Resolution.

Mr. ACEVEDO-VILÁ. Mr. Speaker, I want to thank Chairman Hansen and Ranking Member Rahall and the leadership of both parties for their support of this Concurrent Resolution celebrating the 50th anniversary of the Constitution of the Commonwealth of Puerto Rico.

In order to fully appreciate the historical significance of the Constitution of the Commonwealth proclaimed in 1952, I will share with my colleagues some of the pertinent historical facts.

In 1917 Congress approved the Jones Act, conferring the U.S. citizenship to all Puerto Ricans. While citizenship has always been and remains cherished by Puerto Ricans, the Jones Act did not provide increased local rule or a democratic process through which the people of Puerto Rico could exercise their right to self-determination.

While the Jones Act included a bill of rights, the central principle of a democratic system—consent by the governed—was non-existent in Puerto Rico. Puerto Rico was therefore treated at this time like a colony. For decades, the Puerto Rican people struggled to achieve self-determination, and democratic rule. After World War II, the colonial regime founded under the Jones Act became difficult to sustain in Puerto Rico and in Washington. In 1947 Congress responded to Puerto Rico's claim for democracy, by enacting the Elective Governor Act. This statute provided for the election, every 4 years, of the governor of Puerto Rico by the people of Puerto Rico.

There years later, with Public Law 600 of 1950, Congress began a process through

which the people of Puerto Rico would exercise their right to self-determination by drafting their own constitution. It is important to note that Congress did not impose this Act upon the people of Puerto Rico, but rather it made an offer to Puerto Ricans that could be accepted or rejected. Section 2 of the Act provides: "This Act shall be submitted to the qualified voters of Puerto Rico for acceptance or rejection through an island-wide referendum to be held in accordance with the laws of Puerto Rico. Upon the approval of this Act by a majority of the voters participating in such referendum, the Legislature of Puerto Rico is authorized to call a constitutional convention to draft a constitution for the said island of Puerto Rico."

Puerto Rico accepted the offer and a constitutional convention drafted the new constitution and in March 1952, the people of Puerto Rico ratified it. Months later, the President signed Public Law 447, approving the Constitution of the Commonwealth. In that Joint Resolution, Congress expressed that Public Law 600 had been approved "as a compact with the people of Puerto Rico." Finally, in July 25, 1952, Governor Luis Muñoz Marín proclaimed the Constitution of the Commonwealth.

This Constitution established a republican form of government, provided for a broad Bill of Rights that followed not only the U.S. Constitution but also the Universal Declaration of the Rights of Man. This Constitution also provided for the election of all members of the legislature by the people.

As expected, democratic rule, paved the way for cultural growth and economic development. After 1952, under the Commonwealth status, Puerto Rican culture flourished, and a stronger sense of identity grew. Our symbols were brought back to our public landscape, our flag, our anthem, etc. The Commonwealth allowed Puerto Ricans to fully and freely express their identity and their pride. Moreover, under Commonwealth, our economic foundations have grown stronger and the relationship has been very beneficial for both Puerto Rico and the United States. Today Puerto Rico consumes more U.S. goods per capita than any jurisdiction in the world and represents the 9th largest market for U.S. goods in the world. In 1999, Puerto Rico purchased \$16 billion worth of U.S. products, which translates into over 320,000 jobs in the mainland U.S. Today I want my colleagues to recognize that Puerto Rico purchases more from the U.S. than much larger countries such as China, Italy, Russia and Brazil.

Clearly the Commonwealth Constitution has served well the people of Puerto Rico and the status of Commonwealth has benefited the United States.

While the Commonwealth alternative has won every referendum held on the Island since 1952, the issue of Puerto Rico's status is not settled. It is actually a highly divisive issue. As the representative of Puerto Rico in Congress I will continue working to make sure that the will of the people of Puerto Rico is heard and respected in Washington, and to make sure that any petition to improve the Commonwealth be properly addressed.

Notwithstanding the current debate of status in Puerto Rico, there is no doubt that the Con-

stitution of the Commonwealth of Puerto Rico represents the greatest democratic achievement of the Puerto Rican people, in the 20th century. It is this historical achievement that we celebrate on July 25th.

The Commonwealth is the result of the pragmatic genius and the progressive spirit of a great generation of leaders in Puerto Rico and in the United States. I quote President Harry Truman on April 22, 1952, regarding the approval by Congress of the Puerto Rican Constitution: "The Commonwealth of Puerto Rico will be a government which is truly by consent of the governed. No government can be invested with higher dignity and greater worth than one based upon the principle of consent. The people of the United States and the people of Puerto Rico are entering into a new relationship that will serve as an inspiration to all who love freedom and hate tyranny. We are giving new substance to man's hope for a world with liberty and equality under law. Those who truly love freedom know that the right relationship between a government and its people is based on mutual consent and esteem. The Constitution of the Commonwealth of Puerto Rico is a proud document that embodies the best of our democratic heritage. I recommend its early approval by the Congress."

Some fifty year have passed since Congress ratified the Constitution of Puerto Rico. I am very proud to represent my people and to recognize and celebrate this historic event through this resolution today. It is an honor to work with my colleagues in Congress and to celebrate with all Americans the Commonwealth Constitution and our ongoing commitment to democracy, liberty, progress and self-determination.

I thank my colleagues for their support of this Resolution.

Mr. RAHALL. Mr. Speaker, as the ranking Democrat on the Resources Committee I want to begin by thanking JIM HANSEN for his work in getting this important resolution celebrating the 50th Anniversary of the Constitution of the Commonwealth of Puerto Rico before the House of Representatives.

While it is true that Chairman HANSEN and I often have a difference of opinion when it comes to issues involving Puerto Rico, on the matter before us today we stand united.

I also want to commend the gentleman from Puerto Rico, Mr. ACEVEDO-VILÁ, for his diligence in bringing this measure to our attention, and working to have it considered by the House of Representatives in a timely fashion.

During my tenure in Congress, I've come to appreciate the passionate deliberations over Puerto Rico's future political status. Anyone who is familiar with this history will recognize how studious one must be in crafting legislation, or otherwise, that makes mention of Puerto Rico's political status. In this regard, I offer my deep appreciation to Mr. ACEVEDO-VILÁ for working collaboratively with both Chairman HANSEN and myself to compose a nonpartisan and status-neutral resolution recognizing this milestone for Puerto Rico.

It is times such as this occasion that we are given good cause to step back and appreciate all that the relationship between Puerto Rico and the United States has meant to each other over the years. The U.S. has benefitted

from Puerto Rican achievements in business, the arts, government, and athletics. More importantly, the U.S. has been enriched by Puerto Rican history, culture, and language. I would also emphasize the in time of war the people of Puerto Rico have also shed their blood in defense of the United States of America.

For her part, Puerto Rico has capitalized on the access to economic opportunities provided to her from the U.S. relationship. The result of this, being a prosperous economy and society.

The relationship will be perfected. The determination of the people of Puerto Rico will make it so. I have a special fondness for the people of Puerto Rico. I have found them to be a hard working and diligent people with deep passions. Today, I congratulate the people of Puerto Rico on this anniversary and encourage my colleagues to support this measure.

Mr. GILCHREST. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Maryland (Mr. GILCHREST) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 395, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SERRANO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 4807, H. Con. Res. 408, and H. Con. Res. 395, the legislation just debated.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

NATIONAL AVIATION CAPACITY EXPANSION ACT OF 2002

Mr. KIRK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3479) to expand aviation capacity in the Chicago area, as amended.

The Clerk read as follows:

H.R. 3479

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—NATIONAL AVIATION CAPACITY EXPANSION

SEC. 101. SHORT TITLE.

This title may be cited as the "National Aviation Capacity Expansion Act of 2002".

SEC. 102. FINDINGS.

Congress finds the following:

(1) O'Hare International Airport consistently ranks as the Nation's first or second busiest airport with nearly 34,000,000 annual passengers enplanements, almost all of whom travel in inter-state or foreign commerce. The Federal Aviation Administration's most recent data, compiled in the Airport Capacity Benchmark Report 2001, projects demand at O'Hare to grow by 18 percent over the next decade. O'Hare handles 72,100,000 passengers annually, compared with 64,600,000 at London Heathrow International Airport, Europe's busiest airport, and 36,700,000 at Kimpo International Airport, Korea's busiest airport, 7,400,000 at Narita International Airport, Japan's busiest airport, 23,700,000 at Kingsford-Smith International Airport, Australia's busiest airport, and 6,200,000 at Ezeiza International Airport, Argentina's busiest airport, as well as South America's busiest airport.

(2) The Airport Capacity Benchmark Report 2001 ranks O'Hare as the third most delayed airport in the United States. Overall, slightly more than 6 percent of all flights at O'Hare are delayed significantly (more than 15 minutes). On good weather days, scheduled traffic is at or above capacity for 3½ hours of the day with about 2 percent of flights at O'Hare delayed significantly. In adverse weather, capacity is lower and scheduled traffic exceeds capacity for 8 hours of the day, with about 12 percent of the flights delayed.

(3) The city of Chicago, Illinois, which owns and operates O'Hare, has been unable to pursue projects to increase the operating capability of O'Hare runways and thereby reduce delays because the city of Chicago and the State of Illinois have been unable for more than 20 years to agree on a plan for runway reconfiguration and development. State law states that such projects at O'Hare require State approval.

(4) On December 5, 2001, the Governor of Illinois and the Mayor of Chicago reached an agreement to allow the city to go forward with a proposed capacity enhancement project for O'Hare which involves redesign of the airport's runway configuration.

(5) In furtherance of such agreement, the city, with approval of the State, applied for and received a master-planning grant from the Federal Aviation Administration for the capacity enhancement project.

(6) The agreement between the city and the State is not binding on future Governors of Illinois.

(7) Future Governors of Illinois could stop the O'Hare capacity enhancement project by refusing to issue a certificate required for such project under the Illinois Aeronautics Act, or by refusing to submit airport improvement grant requests for the project, or by improperly administering the State implementation plan process under the Clean Air Act (42 U.S.C. 7401 et seq.) to prevent construction and operation of the project.

(8) The city of Chicago is unwilling to continue to go forward with the project without assurance that future Governors of Illinois will not be able to stop the project, thereby endangering the value of the investment of city and Federal resources in the project.

(9) Because of the importance of O'Hare to the national air transportation system and the growing congestion at the airport and because of the expenditure of Federal funds for a master-planning grant for expansion of capacity at O'Hare, it is important to the national air transportation system, interstate commerce, and the efficient expenditure of

Federal funds, that the city of Chicago's proposals to the Federal Aviation Administration have an opportunity to be considered for Federal approval and possible funding, that the city's requests for changes to the State implementation plan to allow such projects not be denied arbitrarily, and that, if the Federal Aviation Administration approves the project and funding for a portion of its cost, the city can implement and use the project.

(10) Any application submitted by the city of Chicago for expansion of O'Hare should be evaluated by the Federal Aviation Administration and other Federal agencies under all applicable Federal laws and regulations and should be approved only if the application meets all requirements imposed by such laws and regulations.

(11) As part of the agreement between the city and the State allowing the city to submit an application for improvement of O'Hare, there has been an agreement for the continued operation of Merrill C. Meigs Field by the city, and it has also been agreed that, if the city does not follow the agreement on Meigs Field, Federal airport improvement program funds should be withheld from the city for O'Hare.

(12) To facilitate implementation of the agreement allowing the city to submit an application for O'Hare, it is desirable to require by law that Federal airport improvement program funds for O'Hare be administered to require continued operation of Merrill C. Meigs Field by the city, as proposed in the agreement.

(13) To facilitate implementation of the agreement allowing the city to submit an application for O'Hare, it is desirable to enact into law provisions of the agreement relating to noise and public roadway access. These provisions are not inconsistent with Federal law.

(14) If the Federal Aviation Administration approves an airport layout plan for O'Hare directly related to the agreement reached on December 5, 2001, such approvals will constitute an action of the United States under Federal law and will be an important first step in the process by which the Government could decide that these plans should receive Federal assistance under chapter 471 of title 49, United States Code, relating to airport development.

(15) The agreement between the State of Illinois and the city of Chicago includes agreement that the construction of an airport in Peotone, Illinois, would be proposed by the State to the Federal Aviation Administration. Like the O'Hare expansion proposal, the Peotone proposal should receive full consideration by the Federal Aviation Administration under standard procedures for approving and funding an airport improvement project, including all applicable safety, utility and efficiency, and environmental review.

(16) Gary/Chicago Airport in Gary, Indiana, and the Greater Rockford Airport, Illinois, may alleviate congestion and provide additional capacity in the greater Chicago metropolitan region. Like the O'Hare airport expansion proposal, expansion efforts by Gary/Chicago and Greater Rockford airports should receive full consideration by the Federal Aviation Administration under standard procedures for approving and funding an airport capacity improvement project, including all applicable safety, utility and efficiency, and environmental reviews.

SEC. 103. STATE, CITY, AND FAA AUTHORITY.

(a) PROHIBITION.—In furtherance of the purpose of this Act to achieve significant air

transportation benefits for interstate and foreign commerce, if the Federal Aviation Administration makes, or at any time after December 5, 2001 has made, a grant to the city of Chicago, Illinois, with the approval of the State of Illinois for planning or construction of runway improvements at O'Hare International Airport, the State of Illinois, and any instrumentality or political subdivision of the State, are prohibited from exercising authority under sections 38.01, 47, and 48 of the Illinois Aeronautics Act (620 ILCS 5/) to prevent, or have the effect of preventing—

(1) further consideration by the Federal Aviation Administration of an O'Hare airport layout plan directly related to the agreement reached by the State and the city on December 5, 2001, with respect to O'Hare;

(2) construction of projects approved by the Administration in such O'Hare airport layout plan; or

(3) application by the city of Chicago for Federal airport improvement program funding for projects approved by the Administration and shown on such O'Hare airport layout plan.

(b) APPLICATIONS FOR FEDERAL FUNDING.—Notwithstanding any other provision of law, the city of Chicago is authorized to submit directly to the Federal Aviation Administration without the approval of the State of Illinois, applications for Federal airport improvement program funding for planning and construction of a project shown on an O'Hare airport layout plan directly related to the agreement reached on December 5, 2001, and to accept, receive, and disburse such funds without the approval of the State of Illinois.

(c) LIMITATION.—If the Federal Aviation Administration determines that an O'Hare airport layout plan directly related to the agreement reached on December 5, 2001, will not be approved by the Administration, subsections (a) and (b) of this section shall expire and be of no further effect on the date of such determination.

(d) WESTERN PUBLIC ROADWAY ACCESS.—As provided in the December 5, 2001, agreement referred to in subsection (a), the Administrator of the Federal Aviation Administration shall not consider an airport layout plan submitted by the city of Chicago that includes the runway redesign plan, unless the airport layout plan includes public roadway access through the existing western boundary of O'Hare to passenger terminal and parking facilities located inside the boundary of O'Hare and reasonably accessible to such western access. Approval of western public roadway access shall be subject to the condition that the cost of construction be paid for from airport revenues consistent with Administration revenue use requirements.

(e) NOISE MITIGATION.—As provided in the December 5, 2001, agreement referred to in subsection (a), the following apply:

(1) Approval by the Administrator of an airport layout plan that includes the runway redesign plan shall require the city of Chicago to offer acoustical treatment of all single-family houses and schools located within the 65 DNL noise contour for each construction phase of the runway redesign plan, subject to Administration guidelines and specifications of general applicability. The Administrator may not approve the runway redesign plan unless the city provides the Administrator with information sufficient to demonstrate that the acoustical treatment required by this paragraph is feasible.

(2)(A) Approval by the Administrator of an airport layout plan that includes the runway

redesign plan shall be subject to the condition that noise impact of aircraft operations at O'Hare in the calendar year immediately following the year in which the first new runway is first used and in each calendar year thereafter will be less than the noise impact in calendar year 2000.

(B) The Administrator shall make the determination described in subparagraph (A)—

(i) using, to the extent practicable, the procedures specified in part 150 of title 14, Code of Federal Regulations;

(ii) using the same method for calendar year 2000 and for each forecast year; and

(iii) by determining noise impact solely in terms of the aggregate number of square miles and the aggregate number of single-family houses and schools exposed to 65 or greater decibels using the DNL metric, including only single-family houses and schools in existence on the last day of calendar year 2000. The Administrator shall make such determination based on information provided by the city of Chicago, which shall be independently verified by the Administrator.

(C) The conditions described in this subsection shall be enforceable exclusively through the submission and approval of a noise compatibility plan under part 150 of title 14, Code of Federal Regulations. The noise compatibility plan submitted by the city of Chicago shall provide for compliance with this subsection. The Administrator shall approve measures sufficient for compliance with this subsection in accordance with procedures under such part 150. The United States shall have no financial responsibility or liability if operations at O'Hare in any year do not satisfy the conditions in this subsection.

(f) REPORT TO CONGRESS.—If the runway redesign plan described in this section has not received all Federal, State, and local permits and approvals necessary to begin construction by December 31, 2004, the Administrator shall submit a status report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives within 120 days of such date identifying each permit and approval necessary for the project and the status of each such action.

(g) JUDICIAL REVIEW.—An order issued by the Administrator, in whole or in part, under this section shall be deemed to be an order issued under part A of subtitle VII of title 49, United States Code, and shall be reviewed in accordance with the procedure in section 46110 of such title.

(h) DEFINITION.—In this section, the terms "airport layout plan directly related to the agreement reached on December 5, 2001" and "such airport layout plan" mean a plan that shows—

(1) 6 parallel runways at O'Hare oriented in the east-west direction with the capability for 4 simultaneous independent visual aircraft arrivals in both directions, and all associated taxiways, navigational facilities, and other related facilities; and

(2) closure of existing runways 14L-32R, 14R-32L and 18-36 at O'Hare.

SEC. 104. CLEAN AIR ACT.

(a) IMPLEMENTATION PLAN.—An implementation plan shall be prepared by the State of Illinois under the Clean Air Act (42 U.S.C. 7401 et seq.) in accordance with the State's customary practices for accounting for and regulating emissions associated with activity at commercial service airports. The State shall not deviate from its customary practices under the Clean Air Act for the

purpose of interfering with the construction of a runway pursuant to the redesign plan or the south suburban airport. At the request of the Administrator of the Federal Aviation Administration, the Administrator of the Environmental Protection Agency shall, in consultation with the Administrator of the Federal Aviation Administration, determine that the foregoing condition has been satisfied before approving an implementation plan. Nothing in this section shall be construed to affect the obligations of the State under section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)).

(b) LIMITATION ON APPROVAL.—The Administrator of the Federal Aviation Administration shall not approve the runway redesign plan unless the Administrator of the Federal Aviation Administration determines that the construction and operation will include, to the maximum extent feasible, the best management practices then reasonably available to and used by operators of commercial service airports to mitigate emissions regulated under the implementation plan.

SEC. 105. MERRILL C. MEIGS FIELD.

The State of Illinois and the city of Chicago, Illinois, have agreed to the following:

(1) Until January 1, 2026, the Administrator of the Federal Aviation Administration shall withhold all Federal airport grant funds respecting O'Hare International Airport, other than grants involving national security and safety, unless the Administrator is reasonably satisfied that the following conditions have been met:

(A) Merrill C. Meigs Field in Chicago either is being operated by the city of Chicago as an airport or has been closed by the Administration for reasons beyond the city's control.

(B) The city of Chicago is providing, at its own expense, all off-airport roads and other access, services, equipment, and other personal property that the city provided in connection with the operation of Meigs Field on and prior to December 1, 2001.

(C) The city of Chicago is operating Meigs Field, at its own expense, at all times as a public airport in good condition and repair open to all users capable of utilizing the airport and is maintaining the airport for such public operations at least from 6:00 A.M. to 10:00 P.M. 7 days a week whenever weather conditions permit.

(D) The city of Chicago is providing or causing its agents or independent contractors to provide all services (including police and fire protection services) provided or offered at Meigs Field on or immediately prior to December 1, 2001, including tie-down, terminal, refueling, and repair services, at rates that reflect actual costs of providing such goods and services.

(2) If Meigs Field is closed by the Administration for reasons beyond the city of Chicago's control, the conditions described in subparagraphs (B) through (D) of paragraph (1) shall not apply.

(3) After January 1, 2006, the Administrator shall not withhold Federal airport grant funds to the extent the Administrator determines that withholding of such funds would create an unreasonable burden on interstate commerce.

(4) The Administrator shall not enforce the conditions listed in paragraph (1) if the State of Illinois enacts a law on or after January 1, 2006, authorizing the closure of Meigs Field.

(5) Net operating losses resulting from operation of Meigs Field, to the extent consistent with law, are expected to be paid by

the 2 air carriers at O'Hare International Airport that paid the highest amount of airport fees and charges at O'Hare International Airport for the preceding calendar year. Notwithstanding any other provision of law, the city of Chicago may use airport revenues generated at O'Hare International Airport to fund the operation of Meigs Field.

SEC. 106. APPLICATION WITH EXISTING LAW.

Nothing in this Act shall give any priority to or affect availability or amounts of funds under chapter 471 of title 49, United States Code, to pay the costs of O'Hare International Airport, improvements shown on an airport layout plan directly related to the agreement reached by the State of Illinois and the city of Chicago, Illinois, on December 5, 2001.

SEC. 107. SENSE OF CONGRESS ON QUIET AIRCRAFT TECHNOLOGY RESEARCH AND DEVELOPMENT.

It is the sense of the Congress that the Office of Environment and Energy of the Federal Aviation Administration should be funded to carry out noise mitigation programming and quiet aircraft technology research and development at a level of \$37,000,000 for fiscal year 2004 and \$47,000,000 for fiscal year 2005.

TITLE II—AIRPORT STREAMLINING APPROVAL PROCESS

SEC. 201. SHORT TITLE.

This title may be cited as the "Airport Streamlining Approval Process Act of 2002".

SEC. 202. FINDINGS.

Congress finds that—

(1) airports play a major role in interstate and foreign commerce;

(2) congestion and delays at our Nation's major airports have a significant negative impact on our Nation's economy;

(3) airport capacity enhancement projects at congested airports are a national priority and should be constructed on an expedited basis;

(4) airport capacity enhancement projects must include an environmental review process that provides local citizenry an opportunity for consideration of and appropriate action to address environmental concerns; and

(5) the Federal Aviation Administration, airport authorities, communities, and other Federal, State, and local government agencies must work together to develop a plan, set and honor milestones and deadlines, and work to protect the environment while sustaining the economic vitality that will result from the continued growth of aviation.

SEC. 203. PROMOTION OF NEW RUNWAYS.

Section 40104 of title 49, United States Code, is amended by adding at the end the following:

"(c) AIRPORT CAPACITY ENHANCEMENT PROJECTS AT CONGESTED AIRPORTS.—In carrying out subsection (a), the Administrator shall take action to encourage the construction of airport capacity enhancement projects at congested airports as those terms are defined in section 47179."

SEC. 204. AIRPORT PROJECT STREAMLINING.

(a) IN GENERAL.—Chapter 471 of title 49, United States Code, is amended by inserting after section 47153 the following:

"SUBCHAPTER III—AIRPORT PROJECT STREAMLINING

"§ 47171. DOT as lead agency

"(a) AIRPORT PROJECT REVIEW PROCESS.—The Secretary of Transportation shall develop and implement a coordinated review process for airport capacity enhancement projects at congested airports.

“(b) **COORDINATED REVIEWS.**—The coordinated review process under this section shall provide that all environmental reviews, analyses, opinions, permits, licenses, and approvals that must be issued or made by a Federal agency or airport sponsor for an airport capacity enhancement project at a congested airport will be conducted concurrently, to the maximum extent practicable, and completed within a time period established by the Secretary, in cooperation with the agencies identified under subsection (c) with respect to the project.

“(c) **IDENTIFICATION OF JURISDICTIONAL AGENCIES.**—With respect to each airport capacity enhancement project at a congested airport, the Secretary shall identify, as soon as practicable, all Federal and State agencies that may have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project.

“(d) **STATE AUTHORITY.**—If a coordinated review process is being implemented under this section by the Secretary with respect to a project at an airport within the boundaries of a State, the State, consistent with State law, may choose to participate in such process and provide that all State agencies that have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project, be subject to the process.

“(e) **MEMORANDUM OF UNDERSTANDING.**—The coordinated review process developed under this section may be incorporated into a memorandum of understanding for a project between the Secretary and the heads of other Federal and State agencies identified under subsection (c) with respect to the project and the airport sponsor.

“(f) **EFFECT OF FAILURE TO MEET DEADLINE.**—

“(1) **NOTIFICATION OF CONGRESS AND CEQ.**—If the Secretary determines that a Federal agency, State agency, or airport sponsor that is participating in a coordinated review process under this section with respect to a project has not met a deadline established under subsection (b) for the project, the Secretary shall notify, within 30 days of the date of such determination, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Council on Environmental Quality, and the agency or sponsor involved about the failure to meet the deadline.

“(2) **AGENCY REPORT.**—Not later than 30 days after date of receipt of a notice under paragraph (1), the agency or sponsor involved shall submit a report to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Council on Environmental Quality explaining why the agency or sponsor did not meet the deadline and what actions it intends to take to complete or issue the required review, analysis, opinion, license, or approval.

“(g) **PURPOSE AND NEED.**—For any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal or State agency that is participating in a coordinated review process under this section with respect to an airport

capacity enhancement project at a congested airport and that requires an analysis of purpose and need for the project, the agency, notwithstanding any other provision of law, shall be bound by the project purpose and need as defined by the Secretary.

“(h) **ALTERNATIVES ANALYSIS.**—The Secretary shall determine the reasonable alternatives to an airport capacity enhancement project at a congested airport. Any other Federal or State agency that is participating in a coordinated review process under this section with respect to the project shall consider only those alternatives to the project that the Secretary has determined are reasonable.

“(i) **SOLICITATION AND CONSIDERATION OF COMMENTS.**—In applying subsections (g) and (h), the Secretary shall solicit and consider comments from interested persons and governmental entities.

“§ 47172. Categorical exclusions

“Not later than 120 days after the date of enactment of this section, the Secretary of Transportation shall develop and publish a list of categorical exclusions from the requirement that an environmental assessment or an environmental impact statement be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for projects at airports.

“§ 47173. Access restrictions to ease construction

“At the request of an airport sponsor for a congested airport, the Secretary of Transportation may approve a restriction on use of a runway to be constructed at the airport to minimize potentially significant adverse noise impacts from the runway only if the Secretary determines that imposition of the restriction—

“(1) is necessary to mitigate those impacts and expedite construction of the runway;

“(2) is the most appropriate and a cost-effective measure to mitigate those impacts, taking into consideration any environmental tradeoffs associated with the restriction; and

“(3) would not adversely affect service to small communities, adversely affect safety or efficiency of the national airspace system, unjustly discriminate against any class of user of the airport, or impose an undue burden on interstate or foreign commerce.

“§ 47174. Airport revenue to pay for mitigation

“(a) **IN GENERAL.**—Notwithstanding section 47107(b), section 47133, or any other provision of this title, the Secretary of Transportation may allow an airport sponsor carrying out an airport capacity enhancement project at a congested airport to make payments, out of revenues generated at the airport (including local taxes on aviation fuel), for measures to mitigate the environmental impacts of the project if the Secretary finds that—

“(1) the mitigation measures are included as part of, or are consistent with, the preferred alternative for the project in the documentation prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

“(2) the use of such revenues will provide a significant incentive for, or remove an impediment to, approval of the project by a State or local government; and

“(3) the cost of the mitigation measures is reasonable in relation to the mitigation that will be achieved.

“(b) **MITIGATION OF AIRCRAFT NOISE.**—Mitigation measures described in subsection (a) may include the insulation of residential buildings and buildings used primarily for educational or medical purposes to mitigate

the effects of aircraft noise and the improvement of such buildings as required for the insulation of the buildings under local building codes.

“§ 47175. Airport funding of FAA staff

“(a) **ACCEPTANCE OF SPONSOR-PROVIDED FUNDS.**—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may accept funds from an airport sponsor, including funds provided to the sponsor under section 47114(c), to hire additional staff or obtain the services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project.

“(b) **ADMINISTRATIVE PROVISION.**—Instead of payment from an airport sponsor from funds apportioned to the sponsor under section 47114, the Administrator, with agreement of the sponsor, may transfer funds that would otherwise be apportioned to the sponsor under section 47114 to the account used by the Administrator for activities described in subsection (a).

“(c) **RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.**—Notwithstanding section 3302 of title 31, any funds accepted under this section, except funds transferred pursuant to subsection (b)—

“(1) shall be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted;

“(2) shall be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and

“(3) shall remain available until expended.

“(d) **MAINTENANCE OF EFFORT.**—No funds may be accepted pursuant to subsection (a), or transferred pursuant to subsection (b), in any fiscal year in which the Federal Aviation Administration does not allocate at least the amount it expended in fiscal year 2002, excluding amounts accepted pursuant to section 337 of the Department of Transportation and Related Agencies Appropriations Act, 2002 (115 Stat. 862), for the activities described in subsection (a).

“§ 47176. Authorization of appropriations

“In addition to the amounts authorized to be appropriated under section 106(k), there is authorized to be appropriated to the Secretary of Transportation, out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), \$2,100,000 for fiscal year 2003 and \$4,200,000 for each fiscal year thereafter to facilitate the timely processing, review, and completion of environmental activities associated with airport capacity enhancement projects at congested airports.

“§ 47177. Judicial review

“(a) **FILING AND VENUE.**—A person disclosing a substantial interest in an order issued by the Secretary of Transportation or the head of any other Federal agency under this part or a person or agency relying on any determination made under this part may apply for review of the order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 60 days after the order is issued. The court may allow the petition to be filed after the 60th day only if there are reasonable grounds for not filing by the 60th day.

“(b) **JUDICIAL PROCEDURES.**—When a petition is filed under subsection (a) of this section, the clerk of the court immediately

shall send a copy of the petition to the Secretary or the head of any other Federal agency involved. The Secretary or the head of such other agency shall file with the court a record of any proceeding in which the order was issued.

“(c) **AUTHORITY OF COURT.**—When the petition is sent to the Secretary or the head of any other Federal agency involved, the court has exclusive jurisdiction to affirm, amend, modify, or set aside any part of the order and may order the Secretary or the head of such other agency to conduct further proceedings. After reasonable notice to the Secretary or the head of such other agency, the court may grant interim relief by staying the order or taking other appropriate action when good cause for its action exists. Findings of fact by the Secretary or the head of such other agency are conclusive if supported by substantial evidence.

“(d) **REQUIREMENT FOR PRIOR OBJECTION.**—In reviewing an order of the Secretary or the head of any other Federal agency under this section, the court may consider an objection to the action of the Secretary or the head of such other agency only if the objection was made in the proceeding conducted by the Secretary or the head of such other agency or if there was a reasonable ground for not making the objection in the proceeding.

“(e) **SUPREME COURT REVIEW.**—A decision by a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28.

“(f) **ORDER DEFINED.**—In this section, the term ‘order’ includes a record of decision or a finding of no significant impact.

*§ 47178. Definitions

“In this subchapter, the following definitions apply:

“(1) **AIRPORT SPONSOR.**—The term ‘airport sponsor’ has the meaning given the term ‘sponsor’ under section 47102.

“(2) **CONGESTED AIRPORT.**—The term ‘congested airport’ means an airport that accounted for at least 1 percent of all delayed aircraft operations in the United States in the most recent year for which such data is available and an airport listed in table 1 of the Federal Aviation Administration’s Airport Capacity Benchmark Report 2001.

“(3) **AIRPORT CAPACITY ENHANCEMENT PROJECT.**—The term ‘airport capacity enhancement project’ means—

“(A) a project for construction or extension of a runway, including any land acquisition, taxiway, or safety area associated with the runway or runway extension; and

“(B) such other airport development projects as the Secretary may designate as facilitating a reduction in air traffic congestion and delays.”

(b) **CONFORMING AMENDMENT.**—The analysis for chapter 471 of such title is amended by adding at the end the following:

“SUBCHAPTER III—AIRPORT PROJECT STREAMLINING

“47171. DOT as lead agency.

“47172. Categorical exclusions.

“47173. Access restrictions to ease construction.

“47174. Airport revenue to pay for mitigation.

“47175. Airport funding of FAA staff.

“47176. Authorization of appropriations.

“47177. Judicial review.

“47178. Definitions.”

SEC. 205. GOVERNOR’S CERTIFICATE.

Section 47106(c) of title 49, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting “and” after the semicolon at the end of subparagraph (A)(ii);

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B);

(2) in paragraph (2)(A) by striking “stage 2” and inserting “stage 3”;

(3) by striking paragraph (4); and

(4) by redesignating paragraph (5) as paragraph (4).

SEC. 206. CONSTRUCTION OF CERTAIN AIRPORT CAPACITY PROJECTS.

Section 47504(c)(2) of title 49, United States Code, is amended—

(1) by striking “and” at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting “; and”; and

(3) by adding at the end the following:

“(E) to an airport operator of a congested airport (as defined in section 47178) and a unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection to carry out a project to mitigate noise in the area surrounding the airport if the project is included as a commitment in a record of decision of the Federal Aviation Administration for an airport capacity enhancement project (as defined in section 47178) even if that airport has not met the requirements of part 150 of title 14, Code of Federal Regulations.”

SEC. 207. LIMITATIONS.

Nothing in this Act, including any amendment made by this Act, shall preempt or interfere with—

(1) any practice of seeking public comment; and

(2) any power, jurisdiction, or authority of a State agency or an airport sponsor has with respect to carrying out an airport capacity enhancement project.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. KIRK) and the gentleman from Illinois (Mr. LIPINSKI) each will control 20 minutes.

Mr. JACKSON of Illinois. Mr. Speaker, I seek the time in true opposition to the bill.

The SPEAKER pro tempore. The Chair would inquire if the gentleman from Illinois (Mr. LIPINSKI) is opposed to the motion.

Mr. LIPINSKI. No, Mr. Speaker, I am not.

The SPEAKER pro tempore. Under clause 1(c) of rule XV, the Chair recognizes the gentleman from Illinois (Mr. JACKSON) to control the time in opposition to the motion.

The Chair recognizes the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Speaker, out of deference to my friend and colleague, the gentleman from Illinois (Mr. LIPINSKI), I would like him to control 10 minutes of the time available to me during the debate.

The SPEAKER pro tempore. Without objection, the gentleman from Illinois (Mr. LIPINSKI) will control 10 minutes of the time allotted to the gentleman from Illinois (Mr. KIRK) for this debate.

There was no objection.

Mr. KIRK. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I am a proud cosponsor of this legislation. I want to thank the gentleman from Illinois (Mr. LIPINSKI) for authoring it and Speaker HASTERT for calling it to the floor.

O’Hare is our Nation’s busiest airport. More passengers use O’Hare International Airport than New York’s LaGuardia, Washington’s Reagan, and Boston’s Logan Airports combined. O’Hare is an engine of economic growth, affecting jobs and income for thousands of Illinois families. Experts say when O’Hare gets a cold, other airports get pneumonia. Delays at O’Hare leave travelers stranded around the world. Today, scheduled departures at O’Hare have only a two-thirds chance of actually leaving on time. Without modernization, air travelers will continue to be delayed and Chicago’s economy will stall.

This legislation does not impose a Washington solution. Illinois is one of only two States that requires the Governor’s approval for runway modification. We have that approval. This legislation ratifies a historic agreement between Chicago’s Democratic mayor and the Republican Governor of Illinois. It represents a local agreement made by elected officials who showed leadership.

Enactment of this legislation unlocks over \$6 billion in economic development, overwhelmingly paid for from private, not public, funds. The new airport will use parallel runways that are safer than the intersecting runways we use today. The new plan will help reduce airport noise over Arlington Heights, Mount Prospect and Palatine. To the leaders of the O’Hare Noise Compatibility Commission, Mayor Arlene Mulder and Mayor Rita Mullins, our plan opens the way for more work on enhanced noise control programs, soundproofing for schools, and research into super quiet Stage IV aircraft, issues for which they have fought for years.

Our plan upholds environmental safeguards and improves the quality of life for people in northern Illinois by reducing noise and making the airport more efficient. This legislation represents cooperation and collaboration between Republicans and Democrats, both in Illinois and in Washington. Tonight, half of the Congress will say “yes” to O’Hare and provide a strong impetus for the Senate to make this project a reality before Congress adjourns.

I urge adoption of this legislation, and I compliment the gentleman from Illinois (Mr. LIPINSKI), my partner on this effort.

Mr. Speaker, I reserve the balance of my time.

Mr. JACKSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 3479. Votes on the suspension calendar are supposed to be, by definition, noncontroversial. But to argue that H.R. 3479 is noncontroversial is like arguing that the elimination of estate taxes, gun control legislation, a patients’ bill of rights, and prescription

drug benefits for seniors should all be put on the suspension calendar. H.R. 3479 is the most controversial of bills to come before the House this year. It has been extremely controversial in Chicago, in the northwest suburbs, in Illinois generally, in the Illinois congressional delegation where our two U.S. Senators are divided over it, in all House and Senate committees, in the full Senate, and if a full debate were held here on the House floor today, the Nation would actually see just how controversial this bill is.

This bill has already been delayed in the Senate with one virtual filibuster. It will be subjected to every parliamentary and tactical maneuver possible to try to stop it when it comes before the Senate again. Hardly noncontroversial. To tear down and rebuild O'Hare will cost taxpayers three times as much money as it will cost to build a third south suburban airport, 15 to \$20 billion, not the \$6.6 billion that has been floated about during this debate, versus the 5 to \$7 billion to build a third airport. This bill, Mr. Speaker, is highly controversial. Tearing down and rebuilding O'Hare is estimated to take 15 to 20 years, assuming it proceeds on schedule, without lawsuits, which is not likely, while building a new south suburban airport would only take 5 years, it would expand thereafter as need arises and would be a more permanent solution to the capacity crisis. When the new O'Hare is completed, we will be in the same position we are today with regard to the air capacity crisis. How can that possibly not be seen as controversial?

This bill will increase environmental pollution. O'Hare already is the number one polluter in Illinois. Hardly noncontroversial. The Chicago Tribune won a Pulitzer Prize for documenting the sleaze surrounding Chicago O'Hare and its vendor and service contracts, hardly an uncontroversial bill for Congress to be considering without full debate.

But, Mr. Speaker, most importantly, H.R. 3479 falls woefully short of providing an adequate, equitable solution to a profound problem. Although I oppose this bill for many reasons, I rise today to discuss an important element of this bill, its constitutionality. By the attempt to rebuild and expand O'Hare Airport, Congress is inappropriately violating the 10th amendment. Under the framework of federalism established by the Federal Constitution, Congress is without power to dictate to the States how the States delegate power, or limit the delegation of that power, to their political subdivisions. Unless and until Congress decides that the Federal Government should build airports, airports will continue to be built by States or their delegated agents, State political subdivisions or other agents of State power, as an exercise of State law and State power.

Further compliance by the political subdivision of the oversight conditions imposed by the State legislature as a condition of delegating the State law authority to build airports is an essential element of that delegation of State power. If Congress strips away a key element of that State law delegation, it is highly unlikely that the political subdivision, the city of Chicago, would continue to have the power to build airports under State law. The political subdivision's attempts to build runways would likely be ultra vires, without authority, under State law.

Under the 10th amendment and the framework of federalism built into the Constitution, Congress cannot command the States to affirmatively undertake an activity. Nor can Congress intrude upon or dictate to the States the prerogatives of the States as to how to allocate and exercise their State power, either directly or by the State or by delegation of State authority to its political subdivisions.

It is increasingly clear, Mr. Speaker, that under *New York v. United States*, *Printz v. United States*, *Gregory v. Ashcroft*, and *Reno v. Condon* that this bill is without the authority of the Constitution of the United States, and our position is that we stand firmly on the side of our Founding Fathers when Congress seeks to impose upon the State of Illinois, ignoring the Illinois Aeronautics Act, this unconstitutional piece of legislation.

Mr. Speaker, I rise in opposition to H.R. 3479.

Votes on the suspension calendar are supposed to be, by definition, noncontroversial. But to argue that H.R. 3479 is noncontroversial is like arguing that the elimination of estate taxes, gun control legislation, a patients bill of rights, and prescription drug benefits for seniors should all be on the suspension calendar. H.R. 3479 is one of the most controversial bills to come before the House this year. It has been extremely controversial in Chicago, in the northwest suburbs, in Illinois generally, in the Illinois congressional delegation (our two U.S. Senators are divided over it), in all House and Senate Committees, in the full Senate, and, if a full debate were held on the House floor today, the nation would see just how controversial this bill is.

This bill has already been delayed in the Senate with one virtual filibuster—and it will be subjected to every parliamentary and tactical maneuver possible to try to stop it when it comes before the Senate again. Hardly noncontroversial!

To tear down and rebuild O'Hare will cost taxpayers three times as much money as it will cost to build a third South Suburban airport—\$15–20 billion (not the \$6.6 billion generally used) versus \$5–7 billion. This bill is hardly noncontroversial for taxpayers!

Tearing down and rebuilding O'Hare is estimated to take 15–20 years, assuming it proceeds on schedule, without lawsuits—not likely—while building a new South Suburban Airport would take five years, it would expand thereafter as need arises, and would be a

more permanent solution to the capacity crisis. When the new O'Hare is completed, we will be in the same position we are today with regard to the air capacity crisis. How is that not controversial?

This bill will double the noise pollution in the suburban communities surrounding O'Hare. It is hardly noncontroversial in the polluted northwest suburbs of Chicago.

Doubling the traffic in the air space around O'Hare from 900,000 to 1.6 million operations will make flying into O'Hare less safe for the public—hardly noncontroversial for the flying public.

This bill will increase environmental pollution—O'Hare is already the number one polluter in Illinois—hardly noncontroversial for those having to live in the increased pollution.

The Chicago Tribune won a Pulitzer Prize for documenting “sleaze” surrounding the City of Chicago and past O'Hare construction, vendor, and service contracts. By passing this bill—and removing the Illinois Aeronautics Law and by-passing the Illinois General Assembly—we are virtually sanctioning more “sleaze” to be found around O'Hare construction, vendor, and service contracts. Since when has such potential “sleaze” become noncontroversial for Congress.

I don't consider the Federal Government running over any future Governor of Illinois, the Illinois General Assembly, the Illinois Aeronautics Law, and the 10th Amendment of the U.S. Constitution—to build an airport—noncontroversial.

Finally, we're already finding out how controversial this bill is as Judge Hollis Webster on July 9, 2002, stopped the City of Chicago from running rough-shod over their northwest suburban neighbors by illegally trying to buy up and tear down their homes and businesses to make room for O'Hare expansion. This is just one of many controversial lawsuits that have been and will be filed in the future if this bill passes and becomes law.

How is tearing down and rebuilding O'Hare—which will be three times as expensive, take three times longer, be less protective of the environment, make the skys less safe, and be a less permanent solution than building a third airport—noncontroversial? I say, solve the current air capacity crisis by building Peotone first, faster, cheaper, and safer, then evaluate what needs to be done with O'Hare.

H.R. 3479 fall woefully short of providing an adequate, equitable solution.

Please know that I do not oppose fixing the current air capacity crisis surrounding O'Hare. But I have many, many grave concerns about this specific expansion plan. Concerns about cost. About safety. About environmental impact. About federal precedence—and I associate myself completely with the remarks of my good friend, Mr. HYDE.

Although I oppose this bill for many reasons, I rise today to discuss an important element of this bill—constitutionality.

The attempt to rebuild and expand O'Hare Airport—Congress is inappropriately violating the Tenth Amendment.

In other contexts—specifically with regard to certain human rights—I believe that the Tenth Amendment serves to place limitations on the federal government with which I disagree. Indeed, in the area of human rights, I believe

new amendments must be added to the Constitution to overcome the limitations of the Tenth Amendment. However, building airports is not a human right. Therefore, in the present context, I agree that building airports is appropriately within the purview of the states.

I believe attempts by Congress to strip the authority of Governor Ryan and the Illinois Legislature over the delegation and authorization to Chicago of state power to build airports—along with the authority of governors and state legislatures in a host of other states such as Massachusetts (Logan), New York (LaGuardia and JFK), New Jersey (Newark), California (San Francisco airport), and the State of Washington (Seattle)—raise serious constitutional questions.

Under the framework of federalism established by the federal constitution, Congress is without power to dictate to the states how the states delegate power—or limit the delegation of that power—to their political subdivisions. Unless and until Congress decides that the federal government should build airports, airports will continue to be built by states or their delegated agents (state political subdivisions or other agents of state power) as an exercise of state law and state power. Further compliance by the political subdivision of the oversight conditions imposed by the State legislature as a condition of delegating the state law authority to build airports is an essential element of that delegation of state power. If Congress strips away a key element of that state law delegation, it is highly unlikely that the political subdivision would continue to have the power to build airports under state law. The political subdivision's attempts to build runways would likely be *ultra vires* (without authority) under state law.

Under the Tenth Amendment and the framework of federalism built into the Constitution, Congress cannot command the States to affirmatively undertake an activity. Nor can Congress intrude upon or dictate to the states, the prerogatives of the states as to how to allocate and exercise state power—either directly by the state or by delegation of state authority to its political subdivisions.

As stated by the United States Supreme Court:

[T]he Framers explicitly chose a Constitution that confers upon Congress the power to regulate individuals, not States. . . . We have always understood that even where Congress has the authority under the Constitution to pass laws requiring or prohibiting certain acts, it lacks the power directly to compel the States to require or prohibit those acts. *New York v. United States*, 505 U.S. 144, at 166 (1992) (emphasis added)

It is incontestable that the Constitution established a system of "dual sovereignty." *Printz v. United States*, 521 U.S. 898, 981 (1997) (emphasis added)

Although the States surrendered many of their powers to the new Federal Government, they retained "a residuary and inviolable sovereignty." *The Federalist* No. 39, at 245 (J. Madison). This is reflected throughout the Constitution's text.

Residual state sovereignty was also implicit, of course, in the Constitution's conferral upon Congress of not all governmental powers, but only discrete, enumerated ones, Art. I, Sec. 8, which implication was rendered express by the Tenth Amendment's as-

sertion that "[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." *Id.* at 918-919.

This separation of the two spheres is one of the Constitution's structural protections of liberty. "Just as the separation and independence of the coordinate branches of the Federal Government serve to prevent the accumulation of excessive power in any one branch, a health balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front. *Id.* at 921 quoting *Gregory v. Ashcroft*, 501 U.S. 452 at 458 (1991)

The Supreme Court in *Printz* went on to emphasize that this constitutional structural barrier to the Congress introducing on the States' sovereignty could not be avoided by claiming either (a) that the congressional authority was pursuant to the Commerce Power and the "necessary and proper clause of the Constitution or (b) that the federal law 'preempted' state law under the Supremacy Clause. 521 U.S. at 923-924.

It is important to note that Congress can regulate—but not affirmatively command—the states when the state decides to engage in interstate commerce. See *Reno v. Condon*, 528 U.S. 141 (2002). Thus in *Reno*, the Court upheld an act of Congress that restricted the ability of the state to distribute personal drivers' license information. But *Reno* did not involve an affirmative command of Congress to a state to affirmatively undertake an activity desired by Congress. Nor did *Reno* involve (as proposed here) an intrusion by the federal government into the delegation of state power by a state legislature—and the state legislature's express limits on that delegation of state power—to a state political subdivision.

H.R. 3479 would involve a federal law which would prohibit a state from restricting or limiting the delegated exercise of state power by a state's political subdivision. In this case, the proposed federal law would seek to bar the Illinois Legislature from deciding the allocation of the state's power to build an airport or runways—and especially the limits and conditions imposed by the State of Illinois on the delegation of that power to Chicago. The law is clear that Congress has no power to intrude upon or interfere with a state's decision as to how to allocate state power.

A state's authority to create, modify, or even eliminate the structure and power of the state's political subdivision—whether that subdivision be Chicago, Bensenville, or Elmhurst—is a matter left by our system of federalism and our federal Constitution to the exclusive authority of the states. As stated by the Seventh Circuit in *Commissioners of Highways v. United States*, 653 F.2d 292 (7th Cir. 1981) (quoting *Hunter v. City of Pittsburgh*, 207 U.S. 161, 178 (1907)):

Municipal corporations are political subdivisions of the State, created as convenient agencies for exercising such of the governmental powers of the State as may be entrusted to them. For the purpose of executing these powers properly and efficiently they usually are given the power to acquire, hold, and manage personal and real property. The number, nature and duration of the powers conferred upon these corporations and the territory over which they shall be exercised rests in the absolute discretion of the

State. . . . The State, therefore, at its pleasure may modify or withdraw all such power, may take without compensation such property, hold it itself, or vest it in other agencies, expand or contract the territorial area, unite the whole or a part of it with another municipality, repeal the charter and destroy the corporation. All this may be done, conditionally or unconditionally, with or without the consent of the citizens, or even against their protest. In all these respects the State is supreme, and its legislative body, conforming its action to the state constitution, may do as it will, unrestrained by any provision of the Constitution of the United States.

Commissioners of Highways, 653 F.2d at 297 Chicago has acknowledged that Illinois has delegated its power to build and operate airports to its political subdivisions by express statutory delegation. 65 ILCS 5/11-102-1, 11-102-2 and 11-102-5. These state law delegations of the power to build airports and runways are subject to the Illinois Aeronautics Act requirements—including the requirement that the State approve any alterations of the airport—by their express terms. Any attempt by Congress to remove a condition or limitation imposed by the Illinois Legislature on the terms of that state law delegation of authority would likely destroy the delegation of state authority to build airports by the Illinois Legislature to Chicago—leaving Chicago without delegated state legislative authority to build runways and terminals at O'Hare or midway. The requirement that Chicago receive a state permit is an express condition of the grant of state authority and an attempt by Congress to remove that condition or limitation would mean that there was no continuing valid state delegation of authority to Chicago to build airports. Chicago's attempts to build new runways would be *ultra vires* under state law as being without the required state legislative authority.

Clearly this bill sets dangerous precedence by stating that Congress—not the FAA, not Departments of Transportation, not aviation experts—but Congress shall plan and build airports.

Further, it ignores the 10th Amendment to the U.S. Constitution. It guts and/or undermines state laws and environmental protections. And it sidesteps the checks-and-balances and the public hearing process.

My focus today is the same as it's always been. Finding the best fix. And that best fix is the construction of a third Chicago airport near Peotone, Illinois. The plain truth is Peotone could be built in one-third the time at one-third the cost. For taxpayers and travelers, it's a no-brainer.

Unfortunately, this bill mandates expansion of O'Hare yet pays mere lip service to Peotone. It puts the projects on two separate and unequal tracks. That is my opinion. That is also the opinion of the Congressional Research Service, whose analysis I will provide for the record.

What we don't need at this critical juncture is favoritism or interference from politicians and profit-oriented airlines to stack the deck against Peotone. What we don't need is a bill that increases the likelihood of a constitutional challenge that prolongs the debate and delays the fix.

Thus, I urge members to reject this unprecedented, unwise, and unconstitutional bill.

RONALD D. ROTUNDA, UNIVERSITY OF
ILLINOIS COLLEGE OF LAW,

Champaign, IL, March 1, 2002.

Re: Proposed federal legislation granting
new powers to the city of Chicago.

Hon. JESSE L. JACKSON, JR.,

House of Representatives, Washington, DC.

DEAR CONGRESSMAN JACKSON. As you know, I serve as the Albert E. Jenner Professor of Law at the University of Illinois Law School. I have authored a leading course book on Constitutional Law, published by West Publishing Company. In addition, I co-author, along with my colleague John Nowak, the widely-used multi-volume Treatise on Constitutional Law, published by West Publishing Company. In addition to my books, I have taught and researched in the area of Constitutional Law since 1974.

I have been asked to give my opinion on the constitutionality of proposed federal legislation entitled "National Aviation Capacity Expansion Act," identical versions of which have been introduced in both the Senate and the House of Representatives by Senator Durbin and Congressman Lipinski (S. 1786, HR 3479), hereafter the "Durbin-Lipinski legislation."

The Durbin-Lipinski legislation seeks to enact Congressional approval of a proposal to construct a major alteration of O'Hare Airport in Chicago. While this legislation focuses on Chicago and the State of Illinois, the issues raised by the legislation have serious constitutional implications for all 50 States.

There are two key components of the legislation that have been the subject of my examination.

First Section 3(a)(3) attempts to give the City of Chicago (a political subdivision and instrumentality of the State of Illinois) the legal power and authority to build a proposed major alteration of O'Hare even though state law does not authorize Chicago to build the alteration without first receiving a permit from the State of Illinois. Chicago, as a legal entity, is entirely a creation of state—not federal law—and Chicago's authority to build airports is essentially an exercise of state law power delegated to Chicago by the Illinois General Assembly.

The requirement that Chicago first obtain a state permit is an integral and essential element of that delegation of state power. The U.S. Constitution prohibits Congress (1) from invading and commandeering the exercise of state power to build airports, and (2) from changing the allocation of state-created power between the State of Illinois and its political subdivisions. The U.S. Constitution, in short, prohibits Congress from essentially rewriting state law dealing with the delegation of state power by eliminating the conditions, restrictions, and prohibitions imposed by the Illinois General Assembly on that delegation. These constitutional restrictions on Congress' power—which prohibit Congress from requiring states to change their state laws governing cities—are often termed Tenth Amendment restrictions.

Similarly, the provisions of Section 3(f) of the proposed Durbin-Lipinski legislation are necessarily conditioned upon the existence of state law authority of Chicago to enter into agreements for a third party (the FAA) to alter O'Hare without first obtaining a permit from the State of Illinois. But Chicago has no state law authority (under the delegation of state power to build and alter airports) to enter into an agreement to engage in a massive alteration of O'Hare without a state permit. Congress cannot confer powers on a political subdivision of a State where the State has expressly limited its delega-

tion of state power to build airports to require a state permit. Congress has no constitutional authority to create powers in an instrumentality of State law (Chicago) when the very authority and power of Chicago to undertake the actions proposed by Congress depends on compliance with—and is contrary to—the mandates of the Illinois General Assembly.

For the reasons discussed below, it is my opinion that the proposed legislation is unconstitutional.

Summary of Analysis

The following is a summary of my analysis:

1. Under the governing United States Supreme Court decisions of *New York v. United States* and *Printz v. United States*, which are discussed below, the proposed legislation is not supported by any enumerated power and thus violates the limitations of the Tenth Amendment of the Constitution. In these decisions, the Supreme Court held that legislation passed by Congress, purportedly relying on its exercise of the Commerce Power (nuclear waste legislation in *New York* and gun control legislation in *Printz*) was unconstitutional because the federal laws essentially commandeered state law powers of the States as instrumentalities of federal policy.

2. The same constitutional flaws afflict the proposed Durbin-Lipinski legislation. Central to the Durbin-Lipinski legislation are two provisions [sections 3(a)(3) and 3(f)] that purport to empower or authorize Chicago (a political instrumentality of the State of Illinois, and thus a city that has no authority or even legal existence independent of state law) to undertake actions for which Chicago has not received any delegation of authority from the State of Illinois and that, in fact, are directly prohibited by Illinois law when the conditions and limitations of the State delegation of authority have not been satisfied.

3. Under Illinois law, Chicago (like any other political subdivision of a State) has no authority to undertake any activity (including constructing airports) without a grant of state authority from the State of Illinois. Under Illinois law, actions taken by political subdivisions of the State (e.g., Chicago) without a grant of authority from the State, or actions taken by political subdivision in violation of the conditions, limitations or prohibitions imposed by the State in delegating the state authority, are plainly ultra vires, illegal, and unenforceable. The City of Chicago is a creature of state law, not federal law.

4. The power exercised by any state political subdivision (e.g., the power to construct airports) is in reality a power of the State—not inherent in the existence of the political subdivision. For the political subdivision to have the legal authority to exercise that state power, there must be a delegation of that state power by the State to the political subdivision. Further, it is axiomatic that any such delegation of state power to a political subdivision must be exercised in accordance with the conditions, limitations, and prohibitions accompanying the State's delegation of that power.

5. In the case of airport construction, the Illinois General Assembly has enacted a statute that delegated to Chicago (and other municipalities) the state law power to construct airports explicitly and specifically subject to certain limits and conditions that the General Assembly imposed. One basic requirement is that Chicago must first comply with all of the requirements of the Illinois Aero-

nautics Act—including the requirement that Chicago first receive a permit (a certificate of approval) from the State of Illinois. The Illinois General Assembly has expressly provided that municipal construction or alteration of an airport without such a state permit is unlawful and ultra vires.

6. Section 3(a)(3) of the Durbin-Lipinski legislation expressly authorizes Chicago to proceed with the "runway redesign plan" (a multi-billion dollar modification of O'Hare) without regard to the clear delegation limitations and prohibitions imposed by the Illinois General Assembly on the state statutory delegation to Chicago of the state law power to construct airports. Illinois law explicitly says Chicago has no state law authority to build or alter airports without first complying with the Illinois Aeronautics Act, including the state permitting requirements of §47 of that Act. Even though Chicago (a political creation and instrumentality of the State of Illinois) has no power to build or modify airports (a state law power) unless Chicago obtains State approval, Section 3(a)(3) purports to infuse Chicago (which has no legal existence independent of state law) with a federal power to build airports and to disregard Chicago's fundamental lack of power under state law to undertake such actions (absent compliance with state law). Like *New York v. United States* and *Printz v. United States* the proposed Durbin-Lipinski legislation involved Congress attempting to use a legal instrumentality of a State (i.e., the state power to build airports exercised through its delegated state-created instrumentality, the city of Chicago) as an instrument of federal power. As the Supreme Court held in *New York* and *Printz*, the Tenth Amendment—and the structure of "dual sovereignty" it represents under our constitutional structure of federalism—prohibits the federal government from using the Commerce power to conscript state instrumentalities as its agents.

7. Similar problems articulated in *New York* and *Printz* fatally afflict Section 3(f) of the proposed Durbin-Lipinski legislation. That section provides that, if (for whatever reason) construction of the "runway design plan" is not underway by July 1, 2004, then the FAA Administrator (a federal agency) shall construct the "runway redesign plan" as a "Federal Project". But, Section 3(f)(1) then provides that this "federal project" must obtain several agreements and undertakings from Chicago—agreements and undertakings that are controlled by state law, which limits Chicago's authority to enter into such agreements or accept such undertakings. Chicago has no authority under the state law (which confers upon Chicago the state power to construct airports) to enter into agreements with any third party (be it the United States or a private party) to make alterations of an airport without the state permit required by state statute. Thus, Chicago has no authority under state law to enter into an agreement with the FAA Administrator to have the runway redesign plan constructed by the Federal government because Chicago has not received approval from the State of Illinois under the Illinois Aeronautics Act—a specific condition and prohibition of the delegation of state power (to build airports) to Chicago by the Illinois General Assembly. Just as Chicago (a creation and instrumentality of the State of Illinois) has no power or authority under state law (absent compliance with the Illinois Aeronautics Act) to enter into an agreement for the FAA to construct the runway

redesign plan, Chicago also has no power or authority (absent compliance with the Illinois Aeronautics Act) to enter into the other agreements provided for in Sections 3(f)(1)(B) of the Durbin-Lipinski legislation. Again, Section 3(f) is an attempt to have Congress use the Commerce power to conscript state instrumentalities as its agents. Instead of Congress regulating interstate commerce directly (which both *New York v. United States* and *Printz* allow), the Durbin-Lipinski legislation seeks to regulate how the State regulates one of its cities (which both *New York v. United States* and *Printz* do not allow).

8. The Durbin-Lipinski legislation is not a law of "general application". There is a line of Supreme Court decisions which allow Congress to use the Commerce Power to impose obligations on the States when the obligations imposed on the States are part of laws which are "generally applicable" i.e., that impose obligations on the States and on private parties alike. See e.g., *Reno v. Condon*, 528 U.S. 141 (2000) (Federal rule protecting privacy of drivers' records upheld because they do not apply solely to the State), *South Carolina v. Baker*, 485 U.S. 505 (1988); (state bond interest not immune from nondiscriminatory federal income tax); *Garcia v. San Antonio Metropolitan Transit Authority*, 469 U.S. 528, (1985) (law of general applicability, binding on States and private parties, upheld). But these cases have no application where, as here and in *New York* and *Printz*, the Congressional statute is not one of general application but a specifically directed at the States to use state law instrumentalities as tools to implement federal policy. Here the Durbin-Lipinski legislation is doubly unconstitutional, because it does not apply to private parties or even to all States but only to one State (Illinois) and its relationship to one city (Chicago). The Durbin-Lipinski legislation proposes to use Chicago (an instrumentality of state power whose authority to construct airports is an exercise of state power expressly limited and conditioned on the limits and prohibitions imposed on that delegation by the Illinois legislature) as a federal instrumentality to implement federal policy. Congress is commandeering a state instrumentality of a single State (Illinois) against the express statutory will of the Illinois Legislature, which has refused to confer on Chicago (an instrumentality of the State) the state law power and authority to build airports unless Chicago first obtains a permit from the State of Illinois. This is an unconstitutional use of the Commerce Power under the holdings *New York* and *Printz* and does not fall within the "general applicability" line of cases such as *Reno v. Condon*, *South Carolina v. Baker*, and *Garcia*.

ANALYSIS

Before discussing any further the specific provisions of the Durbin-Lipinski legislation, let us review some important background law.

A. The basic legal principles

Cities are Creatures of the States and State Law—Not Instrumentalities of Federal Power. Normally, this controversy surrounding the proposed expansion of O'Hare Airport would be left to the state political process. Under Illinois law, the cities in this state have only the power that the State Constitution or the legislature grants to them, subject to whatever limits the State imposes. This legal principle has long been settled.

Nearly a century ago, the U.S. Supreme Court, in *Hunter v. City of Pittsburgh*, 207

U.S. 161, 28 S.Ct. 40, 52 L.Ed. 151 (1907) held that, under the U.S. Constitution, cities are merely creatures of the State and have only those powers that the State decides to give them, subject to whatever limits the States choose to impose:

"This court has many times had occasion to consider and decide the nature of municipal corporations, their rights and duties, and the rights of their citizens and creditors. [Citations omitted.] It would be unnecessary and unprofitable to analyze these decisions or quote from the opinions rendered. We think the following principles have been established by them and have become settled doctrines of this court, to be acted upon wherever they are applicable. Municipal corporations are political subdivisions of the state, created as convenient agencies for exercising such of the governmental powers of the state as may be [e]ntrusted to them. . . . The number, nature, and duration of the powers conferred upon these corporations and the territory over which they shall be exercised rests in the absolute discretion of the state. . . . The state, therefore, at its pleasure, may modify or withdraw all such powers, may take without compensation such property, hold it itself, or vest it in other agencies, expand or contract the territorial area, unite the whole or a part of it with another municipality, repeal the charter and destroy the corporation. All this may be done, conditionally or unconditionally, with or without the consent of the citizens, or even against their protest. In all these respects the state is supreme, and its legislative body, conforming its action to the state Constitution, may do as it will, unrestrained by any provision of the Constitution of the United States."

Hunter held that a State that simply takes the property of municipalities without their consent and without just compensation did not violate due process. While *Hunter* is an old case, it still is the law, and the Seventh Circuit recently quoted with approval the language reprinted here.

The Illinois Aeronautics Act Expressly Limits Chicago's Power to Build and Alter. The State of Illinois has delegated to Chicago the power to build and alter airports. But that power is expressly limited by the requirement that Chicago must comply with the Illinois Aeronautics Act. And the Illinois Aeronautics Act provides that Chicago has no power to make "any alteration" to an airport unless it first obtains a permit, a "certificate of approval," from the State of Illinois. Finally, Chicago has not obtained this certificate of approval. That fact is what has led to the proposed federal intervention.

B. The federalism problem

As mentioned above, section 3(a)(3) of the proposed federal law overrides the licensing requirements of §47 of the Illinois Aeronautics Act. This section states:

"(3) The State shall not enact or enforce any law respecting aeronautics that interferes with, or has the effect of interfering with, implementation of Federal policy with respect to the runway redesign plan including sections 38.01, 47, and 48 of the Illinois Aeronautics Act."

In addition, section 3(f) authorizes Chicago to enter into an agreement with the federal government to construct the O'Hare Airport expansion. This project is called a "Federal project," but Chicago must agree to construct the "runway redesign as a Federal Project," and Chicago provides the necessary land, easements, etc., "without cost to the United States."

What this proposed legislation does is authorize the City of Chicago to implement an airport expansion approved by the Administrator of the Federal Aviation Administration. But, under state law, Chicago cannot expand O'Hare because it does not have the required state permit.

There is no doubt that the O'Hare Airport is a means of interstate commerce, and Congress may certainly impose various rules and regulations on airports, including O'Hare. Congress, for example, may decide to require airport security and require that the security agents be federal employees. Or, Congress could provide that it would build and takeover the O'Hare Airport and construct expansion if the State of Illinois refused to do so.

Congress may also use its spending power to take land by eminent domain and then construct or expand an airport, no matter that the state law provides. The limits on the spending clause are few.

But, the proposed law does not take such alternatives. It does not impose regulations on airports in general, nor does it exercise the very broad federal spending power. Nor does the proposed law authorize the federal government take over ownership and control of O'Hare Airport. Instead, it seeks to use an instrumentality of state power (i.e., the state law power to build airports as delegated to a state instrumentality, the city of Chicago) as an exercise of federal power.

The proposed federal law is stating that it is creating a federal authorization or empowerment to the City of Chicago to do that which state law provides that Chicago may not do—expand O'Hare Airport without complying with state laws that create the City of Chicago and delegate to it certain limited powers that can be exercised only if within the limits of the authorizing state legislation.

New York v. United States

The proposed federal law is very similar to the law that the Supreme Court invalidated a decade ago in *New York v. United States*. The law that *New York* invalidated singled out states for special legislation and regulated that states' regulation of interstate commerce. The proposed Durbin-Lipinski legislation singles out a State (Illinois) for special legislation and regulates the State's regulation of interstate commerce dealing with O'Hare Airport.

While the law in this area has shifted a bit over the last few decades, it is now clear that Congress can use the Interstate Commerce Clause to impose various burdens on States as long as those laws are "generally applicable." The federal law may not single out the State for special burdens. For example, Congress may impose a minimum wage on state employees in, or affecting, interstate commerce as long as Congress imposes the same minimum wage requirements on non-state workers in, or affecting, interstate commerce. Congress can regulate the States using the Commerce Clause if it imposes requirements on the States that are generally applicable—that is, if it imposes the same burdens on private employers. Congress cannot single out the States for special burdens; it cannot commandeer or take control over the States or order a state legislature to increase the home rule powers of the City of Chicago; it cannot enact federal legislation that adds to or revises Chicago's state created and limited delegated powers.

The leading case, *New York v. United States*, held that the Commerce Clause does not authorize the Federal Government to conscript state governments as its agents.

"Where a federal interest is sufficiently strong to cause Congress to legislate, it must do so directly; it may not conscript state governments as its agents." The proposed Durbin-Lipinski legislation will do exactly what New York prohibits: it will conscript the City of Chicago as its agent and interfere with the relationship between the State of Illinois and the entity it created, the City of Chicago.

New York invalidated a legislative provision that is strikingly similar to the proposed federal Durbin-Lipinski legislation. The Court, in the New York case, considered the Low-Level Radioactive Waste Policy Amendments Act of 1985. Congress was concerned with a shortage of disposal sites for low level radioactive waste. The transfer of waste from one State to another is obviously interstate commerce. Congress, in order to deal with the waste disposal problem, crafted a complex statute with three parts, only one of which was unconstitutional. There were a series of monetary incentives, which the Court unanimously upheld under Congress' broad spending powers. Congress also authorized States that adopted radioactive waste and storage disposal guidelines to bar waste imported from States that had not adopted certain storage and disposal programs. The Court, again unanimously, relied on long-settled precedent that approves of Congress creating such trade barriers in interstate commerce.

Then the Court turned to the "take title" provisions and held (six to three) that they were unconstitutional. The "take title" provision in effect required a State to enact certain regulations and, if the State did not do so, it must (upon the request of the waste's generator or owner), take title to and possession of the waste and become liable for all damages suffered by the generator or owner as a result of the State's failure to promptly take possession.

The Court explained that Congress could, if it wished, preempt entirely state regulation in this area and take over the radioactive waste problem. But Congress could not order the States to change their regulations in this area. Congress lacks the power, under the Constitution, to regulate the State's regulation of interstate commerce. This is what the proposed federal O'Hare Airport bill will do: it will regulate the State's regulation of interstate commerce by telling the State that it must act as if the City of Chicago has complied with the Illinois Aeronautics Act and other state rules.

In a nutshell, Congress cannot constitutionally commandeer the legislative or executive branches. The Court pointed out that this commandeering is not only unconstitutional (because nothing in our Constitution authorizes it) but also bad policy, because federal commandeering serves to muddy responsibility, undermine political accountability, and increase federal power.

The proposed Durbin-Lipinski legislation prohibits Illinois from applying its laws regulating one of its cities. The proposed federal law also authorizes the federal government to make an agreement with Chicago, pursuant to which Chicago will assume some significant obligations, even though present state law gives Chicago no authority to engage in this activity. As the six to three New York decision made clear:

"A State may not decline to administer the federal program. No matter which path the State chooses, it must follow the direction of Congress. . . . No other federal statute has been cited which offers a state government no option other than that of imple-

menting legislation enacted by Congress. Whether one views the take title provision as lying outside Congress' enumerated powers, or as infringing upon the core of state sovereignty reserved by the Tenth Amendment, the provision is inconsistent with the federal structure of our Government established by the Constitution."

The proposed Durbin-Lipinski legislation is very much like the law that six justices invalidated in New York. The O'Hare bill provides that, no matter what the State chooses, "it must follow the direction of Congress." The State has "no option other than that of implementing legislation enacted by Congress."

The Court in New York went on to explain that there are legitimate ways that Congress can impose its will on the states:

"This is not to say that Congress lacks the ability to encourage a State to regulate in a particular way, or that Congress may not hold out incentives to the States as a method of influencing a State's policy choices. Our cases have identified a variety of methods, short of outright coercion, by which Congress may urge a State to adopt a legislative program consistent with federal interests. Two of these methods are of particular relevance here."

The Court then discussed those two alternatives. First, there is the spending power, with Congress attaching conditions to the receipt of federal funds. The proposed Durbin-Lipinski legislation rejects the spending power alternative. Second, "where Congress has the authority to regulate private activity under the Commerce Clause, we have recognized Congress' power to offer States the choice of regulating that activity according to federal standards or having state law preempted by federal regulation." The proposed Durbin-Lipinski legislation rejects that alternative as well. It does not propose that Congress directly takeover and expand O'Hare Airport. Instead, it proposes that the City of Chicago be allowed to exercise power that the State does not allow the City to exercise.

New York v. United States did not question "the authority of Congress to subject state governments to generally applicable laws." But Congress cannot discriminate against the States and place on them special burdens. It cannot commandeer or command state legislatures or executive branch officials to enforce federal law. Congress can regulate interstate commerce and States are not immune from such regulation just because they are States. For example, Congress can forbid employers from hiring child labor to work in coal mines, whether a private company or a State owns the coal mine and employs the workers.

Printz v. United States. Following the New York decision, the Court invalidated another federal statute imposing certain administrative duties on local law enforcement officials, in *Printz v. United States*. The Brady Act, for a temporary period of time, required local law enforcement officials to use "reasonable efforts" to determine if certain gun sales were lawful under federal law. The federal law also "empowered" these local officers to grant waivers of the federally prescribed 5-day waiting period for handgun purchases. Note that the proposed Durbin-Lipinski legislation will also "empower" the City of Chicago to do that which Illinois does not authorize the city to do.

To make the analogy even more compelling, the chief law enforcement personal suing in the *Printz* case said that state law prohibited them from undertaking these fed-

eral responsibilities. That, of course, is the exact position in which Chicago finds itself. State law prohibits Chicago from entering into and committing to these federal responsibilities (e.g., the agreements between Chicago and the FAA in §3(f) of the proposed Durbin-Lipinski legislation call for construction as a "federal project" but then require Chicago to either construct or allow construction without a permit from the State of Illinois).

We should realize that the proposed Durbin-Lipinski legislation—in commanding and singling out the State of Illinois to, in effect, repeal its legislation governing the powers delegated to the City of Chicago—is quite unusual and not at all in the tradition of federal legislation. For most of our history, Congress would explicitly only "recommend" or "request" the assistance of the governors and state legislatures in implementing federal policy. It is only in very recent times that Congress has sought explicitly to commandeer or order the legislative and executive branches of the States to implement federal policies. Because such federal legislative activity is recent, the case law in this area is recent, but the case law is clear in prohibiting this type of federal assertion of power.

New York v. United States held that Congress cannot "command a State government to enact state regulation." Congress may regulate interstate commerce directly, but it may not "regulate state governments' regulation of interstate commerce." The Federal Government may not "conscript state governments as its agents." Congress has the "power to regulate individuals, not States."

In short, there are important limits on the power of the federal government to commandeer the state legislature or state executive branch officials for federal purposes. Another way to think about this issue is that, to a certain extent, the Constitution forbids Congress from imposing what recently have been called "unfunded mandates" on state officials. Congress cannot simply order the States or state officials or a city to take care of a problem. Congress can use its spending power to persuade the States by using the carrot instead of the stick.

While there are those who have attacked the restrictions that New York v. United States have imposed on the Federal Government, it is worth remembering the line-up of the Court in *Maryland v. Wirtz* when the justices first considered this issue. That case rejected the applicability of the Tenth Amendment and held that it was constitutional for Congress to set the wages, hours, and working conditions of employees, including state employees in interstate commerce. However, Justice Douglas, who was joined by Justice Stewart, dissented. Douglas found the law to be a "serious invasion of state sovereignty protected by the Tenth Amendment" and "not consistent with our constitutional federalism." He objected that Congress, using the broad commerce power, could "virtually draw up each State's budget to avoid 'disruptive effect[s]' on interstate commerce. *New York v. United States* prevents this result.

The "generally applicable" restriction is important, and it explains *Reno v. Condon*. Congress enacted the Driver's Privacy Protection Act (DPPA), which limited the ability of the States to sell or disclose a driver's personal information to third parties without the driver's consent. Chief Justice Rehnquist, for a unanimous Court, upheld the law as a proper regulation of interstate commerce and not violating any principles of federalism found in *New York v. United*

States or Printz because the law was "generally applicable."

Reno grew out of a congressional effort to protect the privacy of drivers' records. As a condition of obtaining a driver's license or registering a car, many States require drivers to provide personal information, such as name, address, social security number, medical information, and a photograph. Some States then sell this personal information to businesses and individuals, generating significant revenue. To limit such sales, Congress enacted the DPPA, which governs any state department of motor vehicles (DMV), or state officer, employee, or contractor thereof, and any resale or re-disclosure of drivers' personal information by private persons who obtained the information from a state DMV. The Court concluded: "The DPPA's provisions do not apply solely to States." Private parties also could not buy the information for certain prohibited purposes nor could they resell the information to other parties for prohibited purposes, and the States could not sell the information to the private parties for certain purposes if the private parties could not buy it for those purposes.

Unlike the law in New York, the Court concluded that the DPPA does not control or regulate the manner in which States regulate private parties, it does not require the States to regulate their own citizens, and it does not require the state legislatures to enact any laws or regulations. Unlike the law in Printz, the DPPA does not require state officials to assist in enforcing federal statutes regulating private individuals. This DMV information is an article of commerce and its sale or release into the interstate stream of business is sufficient to support federal regulation.

The DPPA is a "generally applicable" federal law regulating commerce because it regulates the universe of entities that participate as suppliers to the market for motor vehicle information—the states as initial suppliers and the private resellers or redisclosers of this information. "South Carolina has not asserted that it does not participate in the interstate market for personal information. Rather, South Carolina asks that the DPPA be invalidated in its entirety, even as applied to the States acting purely as commercial sellers."

CONCLUSION

The proposed federal law dealing with the O'Hare Airport expansion is most likely unconstitutional because it imposes federal rules on the relationship between a city and the State that created the city. It subjects Illinois to special burdens that are not generally applicable to private parties or even to other States. It authorizes the City of Chicago to do that which Illinois now prohibits.

There is no escape from the conclusion that the proposed federal law does not regulate the behavior of private parties in interstate commerce. It does not subject the State of Illinois to "generally applicable" legislation. Instead, Congress is regulating the state's regulation of interstate commerce. Congress may not conscript the instrumentalities of state government and state power as tools of federal power. The case law is clear that Congress does not have this power.

Sincerely,

RONALD D. ROTUNDA,

The Albert E. Jenner, Jr. Professor of Law.

CHICAGO IS NOT AN AGENCY OF THE FEDERAL GOVERNMENT

(By Ronald D. Rotunda)

Congress is at it again. The Senate Commerce Committee has cleared a bill that would, in effect, enlist Chicago as an agency of the federal government. The immediate dispute involves O'Hare Airport, but the underlying constitutional issue affects us all. The question is whether there should be a major expansion of O'Hare, or a new airport. That decision has been entrusted to Chicago, a city created under Illinois law. But the state placed an important condition on Chicago's power to expand O'Hare. First, the city has to secure a state permit.

That's the rub. Some people who favor the expansion don't want Chicago to comply with the state permit requirement, so they urged Congress to enact legislation that authorizes Chicago to do what state law forbids. Enter the U.S. Constitution. For over two centuries, the federal government has had the power to regulate interstate commerce. After the terrorist attacks, for example, Congress relied on that power to federalize airport security. Notably, Congress didn't deal with the problem by ordering state and city police to take over security and pay the bills. That's because the federal government knew it could not regulate by conscripting state or city governments as its agents.

Congress acknowledged that fundamental principle in 1789, the very year that the Constitution was ratified. The First Congress enacted a law that requested state assistance to hold federal prisoners in state jails at federal expense. The law did not command the states' executives, but merely recommended to their legislatures, and offered to pay 50 cents per month for each prisoner. When Georgia refused, Congress authorized the U.S. marshal to rent a temporary jail until a permanent one could be found. It never occurred to Congress that it could make city or state officials its minions by instructing them to act as if they were federal employees.

All this changed a little over a decade ago, when Congress had to decide how to dispose of radioactive waste. Rather than handle the matter directly, it chose a low-cost solution: it simply ordered the states to take care of the problem. The law required the states to take title to radioactive waste that private parties had generated, and be responsible for its disposal, at not cost to the federal government. In 1992, the Supreme Court invalidated the law, calling it an unprecedented effort by the federal government to co-opt legislative and executive branch officials of state government.

A few years later, Congress mandated background checks in connection with gun purchases. It didn't want to spend federal money for bureaucrats to enforce the new law, so it told city and state law enforcement personnel to carry out the background checks. *Printz v. United States* invalidated that portion of the federal law. The Supreme Court explained that city and state officials do not work for the federal government; they work for the state. Cities are creatures of state law, and they have only the powers that the state chooses to give them.

Federalism, the Court tells us, exists to protect the people by dividing power between the states and the federal government. That protection is undermined if Congress can bypass the federal bureaucracy by directing state or city officials to do its bidding. The Court added that allowing Congress to treat state officials as its worker bees is bad pol-

icy because it muddies responsibility, weakens political accountability, and increases federal power.

The Constitution gives Congress plenty of ways to deal with O'Hare, but they all cost money: Congress can use its spending power to expand the airport; it can give the state money on the condition that it expand the airport; it can order federal officials (the Army Corps of Engineers) to build the O'Hare expansion. But Congress may not simply order or authorize state or city officials to violate state law and act like federal employees. The proposed federal law dealing with the expansion of O'Hare Airport subjects Illinois to special burdens that are not applicable to other states or to private parties, and it authorizes Chicago, a city created by the state, to do that which Illinois law prohibits.

Justice Sandra Day O'Connor, speaking for the Court in 1992, put it bluntly: "Where a federal interest is sufficiently strong to cause Congress to legislate, it must do so directly; it may not conscript state [or city] governments as its agents."

A CONTROLLER'S VIEW

Ladies and gentlemen; I have proudly served the FAA for the past 14 years as an Air Traffic Controller. I have been employed at several air traffic control facilities throughout the Chicagoland area, and feel that I have a unique perspective on enhancing future airport development.

To date, most of you have heard numerous insights on a proposed third major airport for Chicago. Let me offer another perspective from a "controller's viewpoint". Within a small twenty-mile radius of the Chicagoland area, lie four of the busiest airports in the country. Approximately one and one half million airplanes take off and land at Palwaukee, Dupage, Midway, and O'Hare Airports yearly! This puts a tremendous strain on the Air Traffic Controllers who struggle to keep this area safe and without significant delay. With air travel continuously increasing, delays and safety will become a nearly impossible challenge.

Plans for expansion at the two major Chicago airports will not be enough to meet demands. O'Hare airport has reached its maximum capacity creating consequential delays. There are not enough available gates, runways, and taxiways to serve all the aircraft. Although there are plans to add additional gates and another runway, this will not address the taxiway problem. Due to the layout of O'Hare airport, in my opinion there is no effective way to construct additional taxiways that will have a positive impact on airport operations. Thus making any other method to increase capacity ineffective.

The problems that face O'Hare are some of the same problems facing Midway Airport. Midway boasts as being aviation's busiest square mile. Nowhere else are there more commercial airplanes landing and departing in such a condensed area. Unfortunately, Midway Airport is very condensed. Due to runway lengths, it can only handle the smallest commercial aircraft. The airport is severely landlocked with major streets, houses and businesses immediately surrounding the field. Even with the current terminal expansion project in effect, an insufficient number of taxiways and the size of the runways, in my opinion limit any significant increase in traffic.

The need for a third major airport is loud and clear. With the projections of air traffic on the rise, additional airports must become available. In my opinion, Peotone is an excellent location for a major commercial airport. Peotone is located just outside the

main flow of air traffic in and out of Chicago. Any additional airplanes created by the third airport would not adversely effect air traffic facilities located east, south, and west of Peotone. A third airport located in Peotone would not be significantly effected by Chicago's air traffic, which is rapidly reaching a saturation point, but instead would aid in alleviating the congestion heading into Chicago.

Another point of interest, which may have been overlooked, is corporate aircraft. The use of corporate aircraft is one of the fastest growing fields in aviation. There are very few, if any airports that can accommodate corporate aircraft in the south Chicagoland area. With the pending closure of Meigs Field in Chicago, the Petone airport would fill the need for another corporate airport crucial to south Chicagoland businesses. Furthermore, suggestions that a third major airport being located in the immediate Chicagoland area, namely Gary, Indiana, would not alleviate the saturation problem Chicago is already facing.

In closure, I would like to thank all those involved with the Petone Airport project. I am greatly anticipating the future events surrounding this project.

JOHN W. TEERLING,
Lockport, IL, January 18, 1999.

Re: A Third Chicago Airport.
Governor GEORGE RYAN,
State Capitol, Springfield, IL.

DEAR GOVERNOR RYAN: My name is John Teerling and I recently retired, after 31.5 years with American Airlines as a Captain, flying international routes in Boeing 767 and 757's. I was based at Chicago's O'Hare my entire career. I have seen the volume of traffic at O'Hare pick up and exceed anyone's expectations, so much so, that on occasion mid-air were only seconds apart. O'Hare is at maximum capacity, if not over capacity. It is my opinion that it is only a matter of time until two airliners collide making disastrous headlines.

Cities like Atlanta, Dallas and especially Miami continue to increase their traffic flow, some months exceeding Chicago, and at some point could supersede Chicago permanently. If Chicago and Illinois are to remain as the major Hub for airline traffic, a third major airport has to be built, and built now. Midway, with its location and shorter runways will never fill this void. A large international airport located in the Petone area, complete with good ground infrastructure (rail and highway) to serve Chicago, Kankakee, Joliet, Indiana and the Southwest suburbs, would be win, win situation for all. The jobs created for housing, offices, hotels, shopping, manufacturing and light industry could produce three to four hundred thousand jobs. Good paying jobs.

Another item to consider, which I feel is extremely important, is whether. I have frequently observed that there are two distinct weather patterns between O'Hare and Kankakee. Very often when one is receiving snow, fog or rain the other is not. These conditions affect the visibility and ceiling conditions determining whether the airports operate normally or not. Because of the difference in weather patterns when one airport, say O'Hare, is experiencing a hampered operation, an airport in Peotone, in all probability, could be having more normal operations. Airliners could then divert to the "other" Chicago Airport, saving time and money as well as causing less inconvenience to the public. (It's better to be in Peotone than in Detroit).

It is well known that American and United, who literally control O'Hare with their massive presence, are against a third airport. Why? It is called market share competition and greed. A new airport in the Peotone area would allow other airlines to service Chicago and be competition. American and United are of course dead set against that. What they are not considering is that their presence at a third airport would afford them an even greater share of the Chicago regional pie as well as put them in a great position for future expansion.

You also have Mayor Daley against a third airport because he feels a loss of control and possible revenue for the city. This third airport, if built, and it should be, should be classified as the Northern Illinois Regional Airport, controlled by a Board with representatives from Chicago and the surrounding areas. That way all would share in the prestige of a new major international airport along with its revenues and expanding revenue base.

The demand in airline traffic could easily expand by 30% during the next decade. Where does this leaves Illinois and Chicago? It leaves us with no growth in the industry if we have no place to land more airplanes. If Indiana were ever to get smart and construct a major airport to the East of Peotone, imagine the damaging economic impact it would have on Northern Illinois!

Sincerely,

JOHN W. TEERLING.

THE FUTURE OF THE CHICAGO REGION: SMART GROWTH, INFILL REDEVELOPMENT AND REGIONAL BALANCE

The Midwest and, in particular, the Chicago Metropolitan Area, has had a remarkable turnaround in economic fortune over the past decade. It has shed its "rust-belt" image and has produced remarkable economic growth.

Between 1990 and 1998, the six-county Chicago area grew by 505,500 persons, a 7 percent increase. While this percent increase is moderate, the numerical increase is equivalent to a city larger than Denver.

Between 1990 and 1997, the six-county area grew by 275,000 jobs, a 9 percent increase. Between 1970 and 1996, the region (Kenosha to Michigan City) grew by 1.310 million jobs, the fifth largest increase in the nation.

Between 1996 and 2020, the Chicago region is projected to grow by 785,000 persons. This is a city the size of San Francisco.

Between 1996 and 2020, the Chicago region is projected to have the largest growth of any metro area in the U.S., adding 1.118 million jobs.

In spite of these significant regional turnarounds, the City of Chicago continued to lose ground. Between 1991 and 1997, the City of Chicago lost over 27,000 jobs; 11,000 were from the South Loop. Every one of the City's eight major community areas experienced losses, with the exception of North Michigan Avenue and the Northwest area around O'Hare International Airport. The Far South, Southwest and South communities experienced the greatest losses.

This development trend extended to the suburban area. While the six-county Chicago Area grew by 275,000, the north and northwest suburbs were the major beneficiaries. DuPage, Lake and Northwest Suburban Cook (around O'Hare) Counties contributed 194,000 jobs, or 71 percent of the net growth. With 500,000 jobs in Chicago's Central Business District versus 450,000 in North Suburban Cook County and 150,000 in Northeast DuPage County, the economic center of the region has shifted from downtown to O'Hare.

O'Hare International Airport is, undoubtedly, the great economic engine it is portrayed. But, it has run out of space, both in the air and on the ground. Its enormous attraction, to business and industry, has brought thousands of enterprises, hundreds of thousands of jobs, millions of visitors and billions of dollars, annually, to the Chicago region. On this, we all agree. But, the area surrounding it is choking on the development. Other areas, particularly the South Side, are in great need of both jobs and better airport access. In fact, the two issues are closely related.

The massive development attracted by O'Hare Airport makes airport expansion there costly, time-consuming, difficult and intrusive. Traffic often is brought to a near halt on the expressways leading to O'Hare; future traffic problems would be compounded many times over. O'Hare's neighbors—well-aware of its many economic contributions—also are wary of expansion, weary of noise and traffic, and fearful of possible future compromises on safety. On the opposite side of the region—and the other side of the ledger—are the communities of the Chicago South Side and the South Suburbs. By all accounts, these areas find themselves overlooked and under-served—primarily due to their distance from the region's airports. This economic disparity is clearly evident from the following maps, which show job concentrations in 1960 and 1990. This period marked major declines in manufacturing jobs in the region's South Side; and a rise in both manufacturing and service jobs in the North/Northwest, around O'Hare. Airport access was the difference.

The solution to the region's needs is the Third Chicago Airport. Development of the Third Chicago Airport is a true urbanist's dream: obtaining multiple benefits from one investment. Why, then, is it being ignored? When you have two powerful and thoughtful representatives of the people—Congressman Henry Hyde saying "we've had enough," and Congressman Jesse Jackson, Jr. saying "let us have some—perhaps we should listen to them. Other representatives—Congressmen Jerry Weller, Bobby Rush, and Tom Ewing, Senator Peter Fitzgerald, Governor George Ryan, Senate President Pate Phillip—plus scores of local mayors, hundreds of local businesses and hundreds of thousands of residents, have joined in the effort to bring the airport to the South Suburbs. Perhaps, with the airport in place, we can begin to truly balance growth, encourage infill development and share the wealth of the region.

THE PLANNING PROCESS: TWELVE YEARS OF FINDINGS

The state agency responsible for planning the region's transportation infrastructure, the Illinois Department of Transportation (IDOT), has been planning for the region's aviation needs for the past twelve years. IDOT, and its aviation consultants, are convinced, without a doubt, that Chicago's aviation demands will more than double by 2020. The Federal Aviation Administration (FAA), the Airports Council International (ACI) and other industry groups have forecasted national growth of similar magnitude. For a brief time, the City of Chicago agreed, as well. The Chicagoland Chamber study predicts a five-fold increase in international traffic. IDOT's studies support the contention that Chicago has an excellent opportunity to be the dominant North American hub for international flights, as well as its premier domestic hub, into the next century. That point has been stated and documented on many occasions by IDOT. The State's

forecasts have been corroborated, independently, by a decade of observations. They are reinforced in the latest study for the Chicagoland Chamber of Commerce. It is agreed, by all key interest groups, that the Chicago region must increase its aviation capacity.

The region cannot double its aviation service without building major new airport capacity. O'Hare and Midway are now at capacity. Enplanements already are being affected, with growth limited to increases in plane size or load factor; neither is expected to increase further. The City's \$1.8 billion investment in terminals will not increase capacity. But, the adverse impact on the region already is evident. Businesses and residents are witnessing major increases in fares in the Chicago region, according to IDOT, the USDOT, the GAO and the FAA, itself. Perhaps in response to these obvious constraints, both the Chicagoland Chamber and the Commercial Club of Chicago have begun to address the region's aviation issues. The Chamber calls for O'Hare expansion. The "Metropolis 2020" study also recognizes the need for additional aviation capacity, with a call for expansion of O'Hare and land banking of the Third Airport site in Peotone. This call for action comes none too soon. There are many indications that the Chicago region has begun to suffer from capacity constraints.

Ten years ago, Chicago was one of the nation's least expensive regions to fly to, due to its central location. Obviously, its location has not changed; however, now, due to O'Hare's capacity overload and higher fares, it is cheaper to fly from all around the country to many other cities than to Chicago. For instance, according to data supplied by the airlines to the U.S. Department of Transportation, it is now cheaper to fly from Green Bay to Las Vegas than from Green Bay to Chicago. It is cheaper to fly from Seattle to Orlando than from Seattle to Chicago. Something is wrong. Due to capacity constraints, O'Hare's airlines are overcharging their patrons by \$750 million, annually (the difference between average fares for large U.S. airports and those at O'Hare). This fact is beginning to affect regional development—especially conventions and tourism—but, it also affects every major and start-up business, every individual with family and friends in far-flung places. As is well-known, access to a major airport is one of the top three requirements of a locating or expanding business. But, access must be at competitive fares. Expanding O'Hare will simply buttress the monopolistic behavior of its airlines. Such monopolistic practices currently are a major concern of Congress.

THE DEVELOPMENT ALTERNATIVES

Aviation infrastructure must be expanded—and expanded soon—to bring true competition, lower fares and increased service to the region. The alternatives are two: adding runways to O'Hare; or building the Third Chicago Airport. The two alternatives have far different consequences. The question is: "Will we continue to spend great outlays of public-private funds on an area that is overwhelmed with both riches and the congestion those riches bring; or do we make those investments in mature urban areas that are wanting for jobs and economic development?"

As is clearly documented by a recent Chamber study, O'Hare's benefits are conferred, primarily, on the west, north and northwest suburbs. Virtually all of O'Hare's employees reside near it. In addition, it has garnered high concentrations of develop-

ment. These concentrations, however, have led to congestion and increased land values. High land prices have forced businesses and developers to plan future growth on the most environmentally-sensitive fringes of the region and in areas farther removed from the region's central core.

THE TWO SIDES OF THE COIN

While unprecedented growth takes place around O'Hare, to the north, the three million residents of the region who reside south of McCormick Place are left with long trips to the airport for flights and out of the running for the many jobs it produces. The consequences, for South Side/South Suburban residents and the dwindling businesses that serve them, are the highest property tax rates in the State. Because jobs have disappeared, residents have some of the longest trips to work in the nation. Because transit only to the Loop is convenient, recent job losses in that area, as well, (11,000 since 1991; 25,000 since 1983) have compounded the job searches of the South Side's residents. For decades, regional planning agencies have called for the development of moderate-income housing near job concentrations. Instead, let us bring the jobs to the residents.

Recent public forums on the disparity of property tax rates in Cook County's north and south communities have led to the South's designation as the "Red Zone," signifying its concentration of highest property tax rates. This disparity was not always so. It has occurred over the last three decades and proliferated in the last two, as shown below. The "Metropolis 2020" study addresses this disparity issue by calling for a sharing of revenues with the "lesser haves." The more-responsive, enduring and—ultimately—more-equitable solution is to provide the South Side with the Economic opportunities generated by the Third Chicago Airport.

Whether the region expands O'Hare or builds a supplemental airport, O'Hare's riches will remain and grow. It is currently enjoying a \$1 billion public investment to upgrade its terminals. Midway, as well, will continue to thrive, as the recipient of an \$800-million-publicly-funded new terminal. However, this \$1.8 billion investment will not increase capacity. The initial infrastructure investment of \$500 million (\$2.5 billion through 2010) to build the Third Chicago Airport, will. And, it will produce more than just added aviation capacity. The Third Chicago Airport will provide 235,000 airport-related jobs—in the right places—by 2020. Additional airport access jobs will benefit the entire region. In addition, it will reinforce the City of Chicago's role as the center of the region's growth.

Spokesmen for the incumbent airlines claim that other airlines will not invest in the Third Chicago Airport; this is a traditional response to discourage competition. Furthermore, the financing of any airport comes, principally, from its users. The Third Chicago Airport market comprises 16.5 percent of the region's current air trip users, with a potential for contributing 20 percent. They should not be left behind. Upfront airport development costs, for planning and engineering and land acquisition traditionally have come from the federal government. In this "Year of Aviation", these funds are expected to increase by 50 percent; and Passenger Facility Charges (PFC's) are expected to increase from \$3 to \$6. Currently, \$1 in PFC's at O'Hare yields \$37 million per year. At the Full-Build forecast and \$6 rate, the Third Chicago Airport will generate \$100 million in PFC's annually by 2010. The FAA

must provide the needed approvals and normal up-front funding. A Third Airport development in the Sought Suburbs can provide social and economic parity; and it can do it with a hand-up rather than a hand-out.

THE ARGUMENT FOR SMART GROWTH WITH CHICAGO'S THIRD AIRPORT

Independent studies have demonstrated overwhelmingly, the need for expanded aviation capacity in the Chicago region.

Demand will more than double by 2020.

Needed is a Third Airport that can grow as future demand dictates.

The need is now. The region is beginning to experience the costs of capacity constraints. These are:

Dampened aviation growth.

Increased and non-competitive fares.

Lost jobs, conventions and other opportunities.

There are two alternatives for meeting the region's demand:

Adding runways at O'Hare—an area already well-served and suffering the effects of overdevelopment and congestion, or;

Building the Third Chicago Airport—investing in an existing, mature part of the region suffering losses due to changes in the national/regional economies and lack of access to a major airport.

Doubling traffic at O'Hare drives new development farther away from the region's core—the Chicago Central Area—and its residents and businesses to the South.

It will encroach on environmentally-sensitive areas.

It will compound noise, pollution and traffic congestion; and impose these on hundreds of thousands of additional residents.

It will buttress monopolistic behavior by major airlines.

Building the Third Chicago Airport is a true urbanist's dream. It solves multiple problems with one investment.

It develops an environmentally-sensitive, new airport, that can provide increased capacity for decades to come.

It provides nearby, inexpensive land for development.

It brings jobs and development to mature portions of the region.

It allows three airport facilities to function at optimal capacity.

It maintains the Chicago region as the nation's aviation capital.

Because of planning already completed, the Third Chicago Airport can be built before additional runways at O'Hare.

Resources are available to build the airport.

Federal Funds for airport development will increase by 50 percent.

The U.S. Congress, many businesses and consumers are demanding access to and through the Chicago area.

Ultimately, the passenger pays through Passenger Facility Charges.

THE GROWING IMBALANCE IN THE REGION'S GROWTH, AND ACCESS TO JOBS

1. The Chicago region has grown robustly over the past 25-30 years.

Over 1.310 million jobs (1970-96) for the consolidated area.

Over 275,000 jobs between 1990 and 1997, alone, for the six-county area.

2. This growth has been very uneven. The North has prospered, while the South has languished.

3. The region's center has migrated from Downtown Chicago (with its excellent public transportation access) to the area around O'Hare (dependent on autos).

4. The City of Chicago lost over 27,000 jobs between 1991 and 1997; 11,000 of these losses were from the South Loop.

5. The suburbs grew by 300,000 jobs. The areas to the north, northwest and west (O'Hare-influenced) contributed nearly 200,000 of this growth.

6. With 500,000 jobs in Chicago's CBD, versus 450,000 in North Suburban Cook and 150,000 in Northeast DuPage, the economic center of the region has shifted from Downtown to O'Hare.

7. Consequently, residents of the South Side and South Suburbs have commutes to work that are among the nation's longest. There is little public transit between suburbs.

8. These same residents do have the region's highest tax rates, however; without businesses and industries, the residents, alone, must pay for all their services.

9. New businesses and industries want access to major airports. O'Hare's nearby communities have run out of space to offer. The South Side has ample land, but no airport. The ample land also allows the construction of an environmentally-sensitive airport.

10. To accommodate the economic growth anticipated over the next 20 years, the Chicago region needs additional airport capacity. To balance the economic growth, it needs a South Suburban Airport.

SOUTH SUBURBAN AIRPORT: AVIATION DEMAND IN THE CHICAGO REGION

Background Assumptions for Demand Forecasts

Aviation demand is derived from a few basic factors:

The national/international growth in aviation.

The socio-economic dynamics and growth of the region.

The location/desirability of the region for providing connecting flights.

The ability of the region to accommodate this demand depends on:

The capacity of its airports.

The competitiveness of its fares.

National/International Aviation Growth

The FAA forecasts a doubling in aviation growth over a 15 year period.

International enplanements and freight are growing even more rapidly.

The FAA and the Airports Council International have equated this growth to 10 O'Hare Airports.

By 2012, there will be more than 1 billion enplanements, 2 billion passengers in the U.S..

Socio-Economics Create Demand

Since the original aviation forecasts, made in 1994, the socio-economic performance of the Chicago region has matched or exceeded expectations:

In 1990-1996, population and employment for the 14- and 9-County regions grew at rates and volumes slightly above those forecast.

The Chicago Consolidated Area (Kenosha to Michigan City) produced 1,311,000 jobs between 1970 and 1996; and added 617,260 persons.

The regional planning agencies have increased their 2020 forecasts, to reflect this growth. So has NPA, author of forecasts used by City of Chicago.

Woods & Poole Economics (the national forecast used by IDOT), in its 1999 edition, expects the Chicago region to produce the largest volume growth in employment of any metropolitan region in the U.S.:—for 1996-2020, a 1,118,660 job growth—for 1990-2020, a 1,635,570 job growth

Chicago's economy can continue its robust growth only if it can provide excellent aviation access. And it, can serve the region fairly, only if it provides that access to the south suburbs.

Location Drives Connecting Flights

Because of its central location and high concentration of jobs and population, the Chicago region is a critical location for connecting flights:

The recent Booz-Allen study, prepared for the City, forecasts an international growth that is higher than IDOT's; and claims that high ratios of connecting to O/D are not just desirable, but necessary.

The City of Chicago, in 1998, forecast connecting enplanements based on regional location; their connecting forecasts were higher than IDOT's.

O'Hare's current connecting is 54.7%, slightly under its past average. IDOT assumed 50% connecting for O'Hare in 2001; 51% for the region.

Aviation Growth Parallels IDOT Forecasts

Since their national forecasts of 1994 (base for IDOT forecast), the FAA has generated five 12-year forecasts, five long-range national forecasts through 2020, and five terminal area forecasts.

All the FAA national forecasts are higher than the study's base forecast.

Although it continues to contest IDOT's forecasts, the City and Chicago and its consultants are using forecasts that are nearly identical.

The City and State are using IDOT socio-economic and aviation forecasts for all short- and long-term regional transportation planning.

Other aviation plans (Gary Airport Master Plan; Booz-Allen forecasts for O'Hare International) are consistent with IDOT forecasts. *Capacity Constraints Jeopardize Economic and Aviation Growth*

The ability of the region's airports to accommodate demand is a most-serious concern. The Chicago region has reached aviation capacity. These aviation capacity constraints have dampened regional growth:

Since 1995, O'Hare's growth in commercial operations has stopped.

Domestic enplanements at O'Hare have declined this year.

Small cities have been dropped from service.

Booz-Allen says the international market is not being well served.

Fares at O'Hare have risen above the average for large airports.

O'Hare's delays have been much greater this year than last; O'Hare's delays are among the nation's highest and cascade throughout the nation's airports.

The FAA has long forecasted such capacity problems and resultant delays. In 1992 it forecasted a doubling of airports with delay problems by 2001.

The forecasts have arrived a bit ahead of schedule. Without additional capacity, the economic well-being of both Chicago and the nation are jeopardized.

NIPC FINDINGS—NOVEMBER 1996

TALKING ABOUT THE REGION'S FUTURE

We recently asked a cross-section of the region's leaders:

Should water quality protection measures for our rivers, lakes, and streams be implemented even if this means placing development limits on presently undeveloped high-quality watersheds?

Should the region pursue infill and redevelopment strategies that lead to employment and income growth in older communities that have experienced diminished tax base and disinvestment?

Should priority in transportation funding be given to maintenance of the existing system?

Should measures to encourage reclamation of contaminated properties, including tax credits and limits on liability, be enacted?

Yes, said strong majorities of participants in two public workshops conducted by NIPC in June and September of this year. The workshops were held as part of an effort to engage the region in a discussion of growth choices facing us. Participants representing local governments, state and federal agencies, and civic and community organizations were asked to respond to possible future development patterns, their probable consequences, and the tools it would take to bring them about. The broad choice which framed the discussions was this: should anticipated future growth continue along the path of past trends or should efforts should be made to moderate the physical decentralization of the region?

NIPC is not alone in the region in raising these issues. In fact, it is hard to remember a time when the future development of the region has been discussed more widely or fervently. Numerous civic and community organizations have been developing analyses and recommendations on transportation and development and encouraging discussion of regional issues by their members and constituents.

The Commission's immediate purpose in conducting the workshops was to seek public guidance in the development of new demographic forecasts for the region. These forecasts will be used in the preparation of the Regional Transportation Plan for 2020. Draft forecasts will be completed by early 1997. At the same time, the Chicago Area Transportation Study (CATS) will complete a draft transportation plan. After a period of public review, the transportation plan will be tested for conformity with the requirements of the Clean Air Act. Following additional opportunity for public comment, final forecasts will be endorsed and the Regional Transportation Plan for 2020 will be adopted. These actions are scheduled for June 1997.

Beyond the immediate need to support the transportation planning process, this regional discussion advances NIPC's mission of striving for consensus on policies and plans for action which will promote the sound and orderly development of the northeastern Illinois area. The purpose of this newsletter is to inform the region of what we have heard and to encourage continuing deliberation on what kind of region we want to be in the next century.

What We Have Heard

Several general conclusions emerged from the workshops. The first is that there is widespread, though by no means unanimous, belief that the past trend of dispersed, low-density residential and employment growth has had unintended negative consequences which must be moderated to some degree in the interests of environmental quality, prudent public investment, and social equity. There is also substantial support for some public policy measures which could help achieve that moderated growth. These will be described in more detail below. Some measures which could be highly effective in moderating past trends are widely agreed to lack political acceptability in this region. Finally, there is broad support for measures which would improve the quality of local planning and development within either a continued trends or moderated trend approach.

The Forecast: A Growing Region

The preparation of forecasts of future population, households, and employment is one

of NIPC's most important responsibilities. These are not simply forecasts of the numbers of people, households and jobs which will be in the region in a future year. People, households, and jobs imply houses, roads, sewers, and parks. The forecasts thus represent the Commission's best estimate of how activities and facilities will be distributed across the region: where new housing will be necessary and old housing may become vacant, where new or expanded streets and sewers will be required, and where streams and wetlands will come under pressure from growing population. The forecasts thus have implicit in them a generalized land use plan for the region. It is critical that they be as realistic as possible in reflecting the trends and constraints of the market, the influences of public policy, and expectations of local governments.

We have previously described the process being used to develop forecasts for the year 2020 (NIPC Reports, January 5, 1996). In March 1994, the Commission endorsed regional forecast totals of 9 million people, 3.4 million households, and 5.3 million jobs in 2020. These figures represent a 25 percent increase in population and a 37 percent increase in employment from 1990 to 2020. By way of comparison, between 1970 and 1990 the region's population increased by only four percent and employment by 21 percent. The amount of land devoted to urban uses, however, increased by 34 percent during that twenty-year period. In view of this finding about land consumption, the forecasted future growth has the potential to add seriously to pressures on the transportation system, air and water quality, and agricultural land. The Commission thus concluded that alternatives to past patterns of growth had to be presented to the region for discussion. *A Preferred Development Pattern in Northwestern Illinois*

On June 26, 1996, the Commission conducted the first of two regional workshops on alternative growth scenarios and their implications. The intent was to assess how much support there might be for different development patterns and how much acceptance of their probable costs. It was hoped that participants would set aside issues of feasibility for the time being and respond to the question of what is the most desirable future for the region. The workshop was attended by 127 people representing a broad spectrum of organizations and interests.

Three general scenarios were presented. Each was designed to illustrate the outcome of a unique combination of public policies with respect to transportation and community development. The broad patterns of new household and job growth to which these scenarios would lead are shown in the maps below. Participants were not asked to express a preference among the scenarios themselves, but to evaluate the relative importance of the impacts which each would have on communities and the natural environment. Questions to the participants concerned the importance of land development patterns which would (1) help preserve farmland, (2) encourage the use of public transit, (3) protect high-quality watersheds from the impacts of urbanization, and (4) promote affordable housing close to centers of job growth.

Continued Trends. This is the "baseline" scenario which assumes the least change, in terms of public policy, from recent conditions. Only limited highway and rail transit capacity would be built beyond what is currently committed for funding. Future demand for aviation service would be met at

O'Hare and Midway. The broad pattern of low-density dispersal of jobs and households would continue. Households and jobs in Chicago and some inner suburbs would continue to decline while they would increase in the rest of the region. The largest number of new jobs would be located in suburban Cook County, and DuPage County would gain jobs but at a slower rate. The four outer counties would show the greatest percentage gains in employment. Household growth would be strongest in the middle ring of suburbs. The loss of farmland would be substantial, as would the negative impact of urban densities on lakes and streams. Automobile use would continue to increase and transit use to decline. The separation of affordable housing from low-income jobs would continue to increase.

South Suburban Airport. The central assumption of this scenario is that future need for additional aviation capacity would be provided at the proposed south suburban airport. Otherwise, the scenario makes essentially the same land use and transportation policy assumption as the trends alternative. Employment and population in Chicago would increase, although the city's regional share would decline slightly. Job growth would be lower than under existing trends in the northern and western parts of the region and substantially higher in south Cook and Will counties. Household growth would be similar to that expected under a continuation of trends. Conversion of agricultural land would be extensive, particularly in Will County, as would development pressure on lakes and streams. The development of the airport could have a positive effect on jobs-housing balance and on redevelopment by bringing employment to a portion of the region which is now relatively job-poor.

Redevelopment and Infill. This scenario represents a deliberate attempt to moderate the trend of dispersed development and to encourage reinvestment in mature communities. Like the trends scenario, this alternative assumes limited investment in new surface transportation and satisfaction of future aviation requirements at the existing regional airports. In addition, the scenario assumes (1) implementation of very strong farmland protection policies in the agricultural protection zones in Kane, McHenry and Will counties, (2) intensive population and employment growth within walking distance of selected transit stops in Chicago and the inner suburbs, and (3) high employment growth through redevelopment in certain built-up areas in Chicago, the inner suburbs, Waukegan, and Joliet. Under this scenario, Chicago's loss of population and employment would be reversed. At the same time, the other sectors of the region would all gain both people and jobs, though their rates of growth would be lower than under a continuation of trends. Conversion of farmland for development and urban stress on water resources would be at lower levels than the other two scenarios, but still significant. Similarly, automobile use would increase and transit ridership decrease, but at lower rates. Because both jobs and population would increase in the communities with the greatest low-income population, jobs-housing balance would change only slightly.

The redevelopment scenario was designed to simulate the effect of efforts to moderate the worst unintended consequences of recent trends. Two important conclusions emerge from an examination of the scenario results:

Given NIPC's overall forecasts, economic growth in northeastern Illinois need not be an either-or situation. Even with deliberate

efforts to encourage reinvestment in the mature core communities, the balance of the region can sustain a relatively high level of growth.

Under conditions of high overall growth, managing negative environmental consequences will be very difficult even if the trend of decentralized, low-density development is moderated.

Following the presentation of the scenarios, a panel of five experts on aspects of the region's development commented on the alternatives and on issues related to their implementation. These are some of the highlights of their comments:

Barry Hokanson, Director of Planning, Lake County: Lake County is expected to experience high growth under any one of the scenarios. While the county has programs to meet the demands on resources and services generated by growth, the multiplicity of local governments makes the translation of regional projections into coordinated local planning difficult. There are strong voices in Lake County advocating constraint on new transportation capacity as a means of limiting growth and encouraging mature-area reinvestment.

David Schulz, Director, Infrastructure Technology Institute, Northwestern University: The outward movement of households is driven by a variety of forces having to do with the quality of schools, perceptions of safety, tax levels, and job availability. Transportation systems do not induce people to move but influence where they move. Constraining the transportation system will simply force people to move farther out past the perceived zone of congestion and will thus worsen the problem of dispersal rather than curing it.

Rusty Erickson, Director of Development, City of Aurora: Aurora has benefited from the decentralizing trend in the region. Continued growth is necessary to provide quality schools and other services to residents. It is important that new suburban growth be concentrated in areas with full public services. Low-density development in rural areas will destroy the open countryside which is a strong quality-of-life value.

Frank Martin, President, Shaw Homes Inc.: There is a market for residential development which integrates the natural and built environments and which provides the resource efficiency and quality of life of a dense community, including access to public transportation, while preserving high-quality natural surroundings. However, developers will find this kind of balanced development hard to do successfully if local government does not address inefficiencies in public services and excessive regulations which work against affordability by raising land values and construction costs.

Benjamin Tuggle, Field Office Supervisor, U.S. Fish and Wildlife Service: Making maximum use of existing infrastructure and established urban areas is an important way of preserving high-quality air, surface water, and wetlands in . . .

IF YOU BUILD IT, WE WON'T COME—THE COLLECTIVE REFUSAL OF THE MAJOR AIRLINES TO COMPETE IN THE CHICAGO AIR TRAVEL MARKET

AN ANALYSIS OF THE PER SE VIOLATIONS OF FEDERAL ANTITRUST LAWS BY MAJOR AIRLINES IN THEIR REFUSAL TO COMPETE WITH EACH OTHER IN FORTRESS HUB MARKETS—WITH METROPOLITAN CHICAGO AS A CASE EXAMPLE—MAY 2000

The Suburban O'Hare Commission

The Suburban O'Hare Commission (SOC) is an inter-governmental agency representing

more than one million residents who live in communities surrounding O'Hare Airport. SOC's leadership is made up of mayors and other officials who are both advocates for the quality of life and health of their communities and business persons who are concerned about the economic health of the region. Over the past several years SOC has conducted a number of studies relating to the environmental, safety, public health, and economic issues surrounding air transportation in the Chicago metropolitan region.

This current (SOC) report focuses on one of the significant economic issues relating to air transportation—monopoly power and high monopoly-supported air fares—and the legality of the Fortress Hub system under the nation's antitrust laws. However, as is discussed in the report, the major airlines' drive for preservation and expansion of their Fortress Hub system (especially at Fortress O'Hare)—and their corresponding refusal to compete in each other's Fortress Hub markets—creates serious economic, social, and environmental harm in broad areas of the metro Chicago region.

PREFACE

In the past several years there have been numerous congressional hearings and media stories about a phenomenon in the airline industry known as "Fortress Hubs" and the problem of high monopoly supported airfares charged to airline passengers traveling from or through these Fortress Hubs.

However, most of the attention of Congress, the Administration, and the media has focused on two narrow facets of the Fortress Hub problem (1) restrictions on access by so-called "low cost" "new entrant" carriers to a few of the Fortress Hubs, and (2) the allegations of predatory pricing by a dominant major airline against a new low-cost entrant. But this narrow focus has ignored a much more fundamental question: Does the Big Seven Airlines Fortress Hub geographic allocation of markets—and their corresponding refusal to compete in each other's Fortress Hub markets—violate federal antitrust laws?

Virtually ignored by Congress and the Administration has been the concerted refusal of the major airlines—the so-called "Big Seven" (Northwest, United, American, Delta, US Air, Continental, and Trans World)—to compete with their fellow major airlines in each other's Fortress Hub cities. This study, prepared by the Suburban O'Hare Commission (SOC), focuses on the collective refusal of the Big Seven to compete with each other and examines the question as to whether this geographic allocation of Fortress Hub markets by the Big Seven violates federal antitrust laws. Does the Big Seven's refusal to compete in Metropolitan Chicago—their refusal to use the South Suburban Airport: "If you build it, we won't come."—violate federal anti-trust law?

The SOC study also focus on the Metropolitan Chicago market as a case study of the Big Seven's de facto arrangement not to compete with their fellow major airlines in each other's Fortress Hub cities. A glaring example of this concerted refusal by the major airlines to compete in the fellow major airlines' Fortress Hub markets can be found in the decision of the major airlines to boycott the proposed new South Suburban Airport in metropolitan Chicago. The major airlines' "If you build it, we won't come" argument is simply a manifestation of the majors' overall horizontal geographic restraint of major markets across the nation—and particularly in metropolitan Chicago.

THE FINDINGS OF THIS STUDY

The study's findings include:

1. De Facto Geographic Allocation of Fortress Hub Markets by the Big Seven. The heart of the monopoly problem in Fortress Hub markets—and the resultant high monopoly-induced air fares—has been the de facto agreement among the Big Seven to stay out of each other's Fortress Hub markets with any competitively significant level of entry into that market.

2. The Fortress Hub Monopoly Dominance Geographic Allocation by the Big Seven is Likely Costing the Nation's Air Travelers Billions of Dollars Annually. There is an overwhelming body of evidence that—because of the Fortress Hub monopoly dominance of one of two of the Big Seven at many metropolitan areas across the country—the Big Seven airlines are able to charge excessive air fares totaling billions of dollars a year. The principal victims of this monopoly-induced Fortress Hub excess fares are: (1) the time-sensitive business traveler who pays unrestricted coach fares and (2) the so-called "spoke" passenger who must connect through one of the "Fortress Hubs" monopoly tithe American consumer: billions of dollars per year in excess fares—hundreds of millions per year in metropolitan Chicago alone.

3. The Big Seven's De Facto Geographic Allocation of Major Air Travel Markets in the Nation through the Development of "Fortress Hubs" Constitutes a Per Se Violation of Federal Antitrust laws. Little discussion or analysis has been undertaken by Congress or the Administration as to whether this concerted refusal by the Big Seven to compete in their fellow major airlines' Fortress Hub markets—which costs consumers billions annually—constitutes a violation of federal antitrust laws. Based on clear and repeated Supreme Court precedent, it clearly does. The Big Seven's de facto geographic allocation of major air travel markets in the Fortress Hub through the development of "Fortress Hubs" constitutes a per se violation of the antitrust laws. The Supreme Court has uniformly condemned arrangements to carve up horizontal markets as per se violations of section 1 of the Sherman Act. See e.g., *Palmer v. BRG Group of Georgia*, 498 U.S. 46, 49 (1990); *United States v Topco Associates, Inc.*, 405 U.S. 596, 607–609 (1972).

4. The Big Seven's Explicit Refusal to Compete in Metropolitan Chicago: If You Build It, We Won't Come. In the metropolitan Chicago air travel market, the illegal collective refusal of the Big Seven to compete is manifested by two actions: (1) the de facto abandonment by members of the Big Seven (other than United and American) of any significant role at O'Hare Airport and (2) the announcement by the Big Seven and its allied in the Air Transport Association that they would refuse to use a new South Suburban Regional Airport. In the popular jargon of the media, the Big Seven have said "If you build it, we won't come."

In reality, this collective refusal to use a new regional airport is nothing more than a manifestation of the Big Seven's horizontal market agreement not to compete in any significant way with United and American in their dominant Chicago market. This refusal by major airlines such as Delta, Northwest, USAir, and Continental to use new metropolitan Chicago airport capacity to compete in metropolitan Chicago is but an individual example of the per se antitrust violation of allocating geographic markets by the major airlines. "If you build it, we won't come" is a blatant violation of the federal antitrust laws.

5. The City of Chicago's Participation in Opposing New Capacity and in Assisting Big Seven in Their Refusal to Use the New South Suburban Airport is Not Immune from Antitrust Law Prosecution. The available evidence is clear that the City of Chicago and its agents have been active participants in helping the Big Seven Airlines in their refusal to compete in the Chicago market and their refusal to use the proposed South Suburban Airport. Absent express approval by the State of the monopolistic practice, political subdivisions of the State—like the City of Chicago—are not free to violate the antitrust laws under the guise of state action.

While Congress has made municipalities immune from damages for violations of the antitrust laws, Chicago and its officials are not immune from prosecution for their attempts to assist the Big Seven in their refusal to compete in the metro Chicago market and in United and American's attempts to monopolize that market.

6. It Appears That Federal Taxpayer Funds May Have Been Used to Suppress Competition and Violate the Antitrust Laws in the Chicago Market. United and American (the dominant carriers at O'Hare)—along with other major airlines through the Air Transport Association—have engaged in a concerted effort to defeat construction of a new South Suburban Airport, an airport that would provide significant capacity opportunities for major new competition to enter the Chicago market. United executives have stated their goal as "Kill Peotone".

United and American have been assisted in their "Kill Peotone" (and thus kill new competitive capacity) campaign by representatives of the City of Chicago—including Chicago's consultants have been paid several million dollars in fees to assist Chicago and United and American in expanding O'Hare and in obstructing development of a new South Suburban Airport.

Much of the money paid to these consultants has come from either: (1) federal Passenger Facility Charge (PFC) funds, (2) federal Airport Improvement Program (AIP) funds, or (3) federally subsidized municipal airport bonds ("GARBS" General Airport Revenue Bonds). Thus, we have the following spectacle—not only are the airlines and Chicago engaged in a monopolistic arrangement designed to prevent new competition from entering the Chicago market (i.e., through the new airport)—but much of the money to implement this illegal arrangement is coming from federal taxpayer dollars. The GAO and the Department of Justice should be asked to conduct an independent audit of all PFC, AIP, and GARB expenditures at O'Hare to determine if any federal funds were used as part of a campaign to "Kill Petone"—i.e., a campaign to oppose construction of a new South Suburban Airport.

7. Federal Officials Have Participated in and Supported the Big Seven's Illegal Monopolistic Arrangement to Refuse to Compete in the Chicago Market. Not only have federal funds been used to support the major airlines illegal monopolistic arrangement to refuse to compete in the Chicago market, but it appears that federal officials within the Administration have worked with the major airlines and Chicago to assist in this antitrust arrangement to prevent the development of a new airport in metropolitan Chicago. For the last several years, federal administration officials—several of whom are former Chicago officials who worked for the City of Chicago—have blocked development of the new South Suburban Airport through a series of spurious legal claims that federal

law requires that there be a "consensus" between the State of Illinois and the City of Chicago before a new metropolitan airport can be constructed. No such legal requirement exists.

Because of the active participation of key figures in the current administration in promoting and supporting the continued blockage of new airport development in metropolitan Chicago—in concert with the illegal refusal of the major airlines to compete in the Chicago market by using the new airport—the impartiality and lack of bias of the Administration in conducting law enforcement in this area is legitimately suspect. The Attorney General should be asked to appoint an independent prosecutor to conduct the antitrust investigation and to undertake all appropriate civil legal actions needed to correct the ongoing antitrust violations.

8. Defining the Market Under Monopoly Control and in Need of New Competition—The Hub-and-Spoke Market. The heart of the monopoly overcharges to travelers in the Chicago market is the absence of competition in the "hub-and-spoke" market in Chicago. None of the other Big Seven will come into the Chicago market to establish a competitive hub-and-spoke operation.

In an attempt to expand their monopoly and prevent new competition from entering the Chicago market, United and American—along with their surrogate allies—have sought to distract attention by suggesting a south suburban airport in metro Chicago as a "point-to-point" airport—not unlike Midway. United and American argue that O'Hare should be the only "hub-and-spoke" airport in metropolitan Chicago.

By shaping the argument in this fashion, United and American guarantee that they will be allowed to continue and dramatically expand their Fortress Hub monopoly at O'Hare. According to their arguments, the lion's share of all the origin-destination traffic in the region—and all of the connecting and international traffic—should go to the sole hub-and-spoke airport in the region: O'Hare. Any minor overflow of "point-to-point" origin-destination traffic that a dramatically expanded O'Hare and Midway could not handle (if any) could be addressed in a small "point-to-point" airport like the South Suburban Airport or Gary.

What United and American gloss over is the fact that there is plenty of competition in the Chicago market in point-to-point service. The real lack of competition in the Chicago market is in the lack of additional hub-and-spoke competition to challenge the hub-and-spoke duopoly of United and American at Fortress O'Hare. It is this market dominance of the hub-and-spoke market—not the point-to-point—where lack of competition gouges the business traveler and those travelers from "spoke" cities who must use a single Fortress Hub. There is a desperate need for new competitive hub-and-spoke service in the Chicago market and the place to put that hub-and-spoke is the new South Suburban Airport.

9. Beyond Antitrust Law Enforcement, Federal Transportation Officials Play a Major Antitrust Policy Role—In Either Promoting Monopoly Abuses or Encouraging Competition—By Their Decisions on the Use of Federal Taxpayer Funds. Not only have federal officials blocked development of new competition by blocking a new airport, federal approval of federal expenditures for major physical changes at O'Hare will exacerbate the monopoly power of American and United in this region.

Chicago's so-called "World Gateway" program has been designed in consultation with

United and American to enhance and expand United and American's hub-and-spoke system at O'Hare. Chicago's World Gateway proposal is not designed to bring new hub-and-spoke competition into O'Hare or the Chicago market to compete with United and American.

Thus, Chicago's World Gateway proposal will enhance and expand United and American's Fortress Hub monopoly in the Chicago market. Since the physical design proposed by United and American and Chicago can only go forward if federal Transportation Department officials approve federal taxpayer funds to subsidize the project, federal officials are being asked to use billions of dollars in federal taxpayer funds to expand and enhance the illegal Fortress Hub monopoly of American and United at O'Hare. No federal officials appear to be examining whether spending 10 billion dollars (much of it from federal taxpayers) at O'Hare makes economic sense when much more new capacity to support competitive hub-and-spoke operations can be constructed at a new metropolitan airport for less than half the cost. Nor are federal officials examining whether the use of billions of dollars of federal taxpayer funds to expand United and American's hub-and-spoke duopoly at Fortress O'Hare—essentially using federal taxpayer funds to subsidize expansion of monopoly power—is a proper use of federal funds.

10. The Lifting of the Slot Limits at O'Hare Will Not Provide Sufficient Capacity to Allow Significant New Competition to Enter the Chicago Area Market. Much of the debate over the recent passage of the federal reauthorization of the Federal Aviation Program involved the issue of lifting "slot restrictions" at LaGuardia and Kennedy airports in New York and O'Hare in Chicago. One of the principal asserted justifications for lifting the slots was to provide access to so-called "new entrant" carriers that would presumably provide competition for the dominant carriers at O'Hare and force prices down. Yet FAA's own capacity studies at O'Hare demonstrate that O'Hare is already beyond acceptable limits of capacity and can provide only marginal capacity access—if any.

In addition, as predicted by Senator Peter Fitzgerald and Congressman Henry Hyde, any arguable incremental theoretical capacity at O'Hare will rapidly be consumed by United and American—expanding their monopoly. As stated by the Illinois Department of Transportation, the only effective way to provide sufficient capacity for major new competition in the Chicago market is to build major new capacity in the metropolitan Chicago area.

11. A New Runway at O'Hare is Intended to Increase Capacity to Expand United and American's Monopoly Power. The airlines' current public relations argument is that the lion's share of all the origin-destination traffic in the region (and all of the connecting and international traffic) should go to the sole hub-and-spoke airport in the region (O'Hare). Any minor overflow of point-to-point origin-destination traffic that a dramatically expanded O'Hare and Midway could not handle (if any) could be addressed in a small point-to-point airport like the South Suburban Airport or Gary.

Paralleling this argument is the claim by the airlines' allies that a new runway at O'Hare is needed to "reduce delays." They claim that a new runway would not increase O'Hare capacity but simply reduce delays.

Yet an analysis using FAA's own capacity analysis standards and criteria demonstrates

that a new runway at O'Hare would substantially increase the capacity of the airport. This capacity increase at O'Hare would dramatically expand American's and United's hub-and-spoke monopoly at Fortress O'Hare. Further, it would virtually doom the economic justification for the new south suburban airport because the new "delay" runway—once built—could easily be used to carry the new additional traffic for which the new airport was intended. Simply by piecemealing incremental expansion at O'Hare, Chicago and American and United can keep the region under the thumb of the Fortress O'Hare monopoly.

12. United's and American's Fight to Preserve and Expand Fortress Hub Monopoly Power at O'Hare Has Grave Social, Economic, Public Health, and Quality of Life Consequences for the Region. Much of the discussion in this paper focuses on the billions of dollars in monopoly induced overcharges inflicted on air travelers—particularly the business traveler—as a result of the Fortress Hub monopoly system. But these monopoly abuses also inflict other serious harm on a variety of important public and social interests.

The consequences of these abuses of monopoly power for the metro Chicago region are stark and severe:

O'Hare area communities will be subjected to more noise, more air pollution, and more safety hazards because—under the United, American, and Chicago proposal—all the international, all the transfer traffic, and the lion's share of the origin-destination traffic are jammed into an already over-stuffed O'Hare. Any new airport—even if built—will simply receive the origin-destination overflow (if any) from a vastly expanded O'Hare and Midway.

South Chicago and south suburban communities will continue to suffer serious economic decline because the South Suburban Airport—which should have been built years ago—lies hostage to the unholy alliance struck between the monopoly interest of United and American and the political pique of Chicago's mayor.

RECOMMENDATIONS

Based on the facts and the antitrust law analysis contained in this report, the Suburban O'Hare Commission recommends the following actions:

1. The United States Attorney General and the United States Attorney for the Northern District of Illinois should initiate an investigation into the collective refusal of the Big Seven airlines to compete against each other in each other's Fortress Hub Markets. Included in the investigation should be an examination of the role of third party collaborators in the antitrust violations—including the City of Chicago and other private organizations and individuals who have assisted the Big Seven (including United and American) in perpetrating these violations. Because of the involvement by federal officials in affirmatively assisting the Big Seven and the City of Chicago in keeping significant competition out of Chicago, the Attorney General should be asked to consider the appointment of independent counsel.

2. The United States Attorney General and the United States Attorney should bring a civil action in federal court to enjoin and break up the illegal Fortress Hub geographic market allocation by the Big Seven and prohibit the collective refusal by the Big Seven to compete in each other's Fortress Hub markets. Included in the relief should be a requirement that members of the Big Seven halt their collective refusal to use a new

South Suburban Airport in metropolitan Chicago and a requirement that competitive hub-and-spoke operations be established in metro Chicago to compete with United and American.

3. The State Attorneys General should initiate civil damage actions to recover treble damages for the billions of dollars per year in excess monopoly profits in airfare overcharges that have been charged at the Big Seven's Fortress Hubs. The Illinois Attorney General should bring suit to recover treble damages for the hundreds of millions of dollars in monopoly overcharges by American and United at Fortress O'Hare. On a multiple year basis in Illinois alone, the treble damages recoverable for consumers would exceed several billion dollars.

4. The GAO and the Department of Justice should undertake an immediate and detailed audit of all federal funds that may have been used to further the refusal of the other members of the Big Seven to compete with United and American in metropolitan Chicago—particularly the campaign by the airlines and Chicago to "Kill Peotone."

5. The United States Department of Transportation should withhold any further approvals of federal funds for expansion of the United and American duopoly at Fortress O'Hare.

6. The House and Senate Judiciary Committees should conduct immediate hearings on these issues.

7. Our Governor and our two United States Senators, the Speaker of the House, and our Illinois Attorney General should be respectfully asked what specific actions they will take to (1) break up the Fortress Hub system—particularly Fortress O'Hare; (2) bring new hub-and-spoke competitors into the Chicago market; (3) recover the billions in excess monopoly profits from the Fortress O'Hare overcharges; (4) prevent the Big Seven from continuing to refuse to use the new capacity provided to the South Suburban Airport; and (5) assemble the federal and state resources needed to rapidly build the South Suburban Airport.

8. Our Governor should hold fast to his promise not to permit any additional runways at O'Hare. To do otherwise would simply enhance and expand the monopoly power of Fortress O'Hare and doom the opportunity to bring new competition into the region at the South Suburban Airport.

9. The two candidates for President of the United States—both of whom have likely received large campaign contributions from the Big Seven—should be respectfully asked what they will do to break up the Fortress Hub system nationally and Fortress O'Hare in particular. Vice President Gore in particular should be asked why his administration has for the past eight years looked the other way while the Big Seven has used violations of the nation's antitrust laws to literally steal billions of dollars from American consumers. Mr. Gore should also be asked to explain why his administration has literally blocked development of new competitive capacity in metro Chicago—i.e., a new South Suburban Airport—at every turn. Finally, Mr. Bush should be asked specifically what he will do to build the South Suburban Airport and break up Fortress O'Hare.

INTRODUCTION—RELEVANT QUOTATIONS

Alfred Kahn, the "father" of airlines deregulation:

Anyone who says applying antitrust laws is the same as re-regulation is simply ignorant. To preserve competition we need the antitrust laws and vigorous enforcement of the antitrust laws.

When we deregulated the airlines, we certainly did not intend to exempt them from the antitrust laws.

Gordon Bethune, Chairman and CEO, Continental Airlines:

"Continental chief says hub competition over."

Competition among airlines for dominance at major U.S. airports is virtually a thing of the past, the chairman of Continental Airlines said on Monday.

Continental chief executive Gordon Bethune, in a break from the usual industry line that competition reigns supreme, said the large air carriers have staked out their respective hubs and will be difficult to dislodge.

"In the last 20 years, the marketplace of the United States has been sorted out. American (Airlines) kind of controls Dallas-Fort Worth and Miami and we've got Newark, Houston and Cleveland. Delta's got Atlanta," Bethune said in remarks to the National Defense Transportation Association annual conference.

U.S. Senator Mike DeWine:

During the last year, there has been rising concern among some of the smaller airlines that the seven largest passenger carriers in the U.S. are no longer competing against each other. Essentially, the argument goes, the "Big Seven" have carved up the U.S. aviation market . . .

CEOs of 16 major airlines tell Illinois' Governor that they will not use new airport in metropolitan Chicago:

We are writing to express our concerns about further planning and development of the so-called Third Chicago Airport. It is our understanding that the State of Illinois will not proceed with the construction of a third airport without the support of the airlines. This letter is intended to inform you that the airlines oppose further planning and construction of this facility. . .

USA Today:

In the two decades since deregulation forced the government to stop telling carriers what fares to charge and which cities to serve, the big airlines have built up "fortress hubs" where, without meaningful competition, they alone decide where to go, how often to go there and how much to charge.

What travelers suspect is true: Airfares are climbing fast, and nowhere is the situation worse than at the hubs for the nation's largest airlines.

Business travelers have been especially hard hit at hubs.

And almost everywhere, hub fares, especially for business fliers, are soaring.

Even when low-fare carriers enter a hub market, they usually control so little of the traffic that they can't do much to bring fares down.

New York Times:

Business travelers feel particularly abused because they account for more than half of airline revenue. For in the through-the-looking-glass world of airline pricing, the fares paid by leisure travelers, who book as long as a month in advance and stay over a weekend night, have in many cases declined, while last-minute fully refundable fares, which are most often paid by business travelers, are skyrocketing.

"The carriers always say that the business traveler is inelastic," said Peter M. Buchheit, director of travel and meeting services for the Black & Decker Corporation, which spent \$18 million on air tickets for its American employees last year. "We need to travel so we will pay whatever it costs. But it has reached a point where we can't pay it anymore."

The burden of high fares is even greater on small companies. John W. Galbraith, president of Twin Advertising, a small company based in Rochester that had \$2 million in billings last year, said he was thinking about dropping clients outside the city because the high cost of visiting them cancels out the profit he makes from having their business.

"Basically, what the airlines have done to companies like ours is kept us from growing," he said. (New York Times January 11, 1998)

United States Supreme Court on horizontal market allocations as *per se* violations of federal antitrust law:

One of the classic examples of a *per se* violation of §1 [of the Sherman Antitrust Act] is an agreement between competitors at the same level of the market structure to allocate territories in order to minimize competition. . . . This Court has reiterated time and time again that '[h]orizontal territorial limitations . . . are naked restraints of trade with no purpose except stifling of competition.' Such limitations are *per se* violations of the Sherman Act. (The United States Supreme Court in the 1990 decision in *Palmer v. BRG Group of Georgia*, 498 U.S. 46, 49 (1990).)

Relevant Provisions of The Sherman Act:

Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal. Every person who shall make any contract or engage in any combination or conspiracy hereby declared to be illegal shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding \$10,000,000 if a corporation, or, if any other person, \$350,000, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court. (Title 15 United States Code §1)

Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding \$10,000,000 if a corporation, or, if any other person, \$350,000, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court. (Title 15 United States Code §2)

The several district courts of the United States are invested with jurisdiction to prevent and restrain violations of sections 1 to 7 of this title; and it shall be the duty of the several United States attorneys, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. (Title 15 United States Code §4)

[A]ny person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee. (Title 15 United States Code §15)

1. Focusing on the Elephant in the Corner.

Over the last decade there have been extensive congressional hearings and much media coverage of so-called "Fortress Hubs." But much of the attention has focused on two aspects of the Fortress Hub phenomenon:

Various "constraints" that the so-called "low-cost" "new-entrant" airlines (e.g.,

Spirit Vanguard) say have prevented these new entrants from entering and competing in Fortress Hub markets; and

In those instances where the new low-cost airlines could physically enter the Fortress Hub market, the dominant hub airlines are alleged to have engaged in predatory pricing to drive the so-called "low-cost" "new-entrant" competitors out of the market.

But while Congress and the Administration have focused on these elements, they have ignored what might be called "the elephant in the corner" aspect of the Fortress Hub issue. Virtually ignored in these debates has been the role of the so-called "major" airlines—i.e., the so-called "Big Seven" controlling members of the trade group known as the Air Transport Association (ATA)—in creating and maintaining the Fortress Hub system. While Congress and the U.S. DOT talked about the anti-competitive aspects of keeping the new "low-cost" airlines out of the Fortress Hub market, little attention has been directed toward the issue of whether the Big Seven's Fortress Hub system is itself a violation of the nation's antitrust laws.

The purpose of this study is to: (1) analyze the known facts of the Fortress Hub system; (2) determine if the known facts demonstrate the existence of a violation of federal antitrust laws, (3) examine the role of the "Big Seven's" conduct in the Chicago air travel market as a case study illustration of their collaborative conduct nationally in maintaining the national Fortress Hub network, and (4) propose remedial action.

The findings of this study unequivocally demonstrate that the Fortress Hub system maintained by the Big Seven—alone and through their trade organizations, the Air Transport Association—is an illegal cartel in violation of the Nation's antitrust laws.

2. Geographic Market Allocation through Fortress Hubs—Mutual Protection of Fortress Hub Dominance Against New Competition from Other Big Seven Airlines.

There is overwhelming and incontrovertible evidence that, since "deregulation" in 1978, the market airlines have carved up major areas of the Nation into territories of geographic market dominance known as "Fortress Hubs". Under this Fortress Hub arrangement, one or two major airlines are ceded geographic market dominance and other major airlines tactically agree not to compete in that geographic market.

Thus Delta has Fortress Hubs at Atlanta and Cincinnati, USAir at Pittsburgh, Northwest at Minneapolis and Detroit, American at Dallas-Ft. Worth, American and United at Chicago O'Hare, etc. The other Big Seven airlines—either implicitly or by explicit agreement—have agreed to stay out of each other's Fortress Hub markets in any significant way. Thus, for example, Delta remains unchallenged by United, Northwest, and others in Atlanta. In turn, Delta doesn't provide significant challenge to United States and American at O'Hare or to Northwest at Minneapolis and Detroit. Similar de facto, quid pro quo non-compete accommodations by the major airlines can be found at virtually every Fortress Hub where one or two airlines have dominant control of the local market.

As stated by one congressional witness:

"The major airlines * * * developed high market share hubs in large sections of the country. Given the market power that they have developed, the major airlines have raised prices far above the competitive level in their market hubs (as study after study has shown). Furthermore, the major airlines defend their high price hub markets with

predatory pricing. These markets are descriptively called 'fortress hub's'.

"There are two things the major airlines are doing to monopolize large segments of the country. First, they work hard to see that entry to their large markets remains closed or difficult. Second, if a discounter enters a few of their markets they use predatory pricing to drive the discounters out of business."

The broad reach of this Fortress Hub system is illustrated in a table prepared by the National Association of Attorneys General.

CITIES WHERE FORTRESS HUBS ARE LOCATED *City and Dominant Airline*

Atlanta, Delta; Chicago O'Hare, United and American; Cincinnati, Delta; Dallas, American; Detroit, Northwest; Houston International, Continental; Minneapolis/St. Paul, Northwest; Denver, United; Pittsburgh, US Air; St. Louis, TWA.

3. Monopoly Fare Premiums at Fortress Hubs.

There is a large body of evidence and expert opinion—as articulated by the General Accounting Office, USDOT, business travel organizations, and the Illinois Department of Transportation—that the dominance of these major markets by one or two carriers results in a monopolistic ability to raise fares beyond the air fares that would exist if there was strong competition in these Fortress Hub markets. As stated by the GAO as far back as 1990:

"Airports where one or two carriers handle most of the enplaning traffic have higher fares than airports where the traffic is less concentrated. Moreover, the data show that fares tend to rise as concentration increases. While many factors can influence fare changes, the evidence that we have collected strongly suggests that fares and concentration at an airport are related. Fares are higher at concentrated airports than at relatively less concentrated ones, and the evidence suggests that the gap is increasing."

Subsequent studies by GAO since 1990 have confirmed the problem of higher fares at Fortress Hubs—higher than would exist in a competitive environment. See e.g., *Barriers to Entry Continue in Some Markets* (GAO/RCED-98-112; March 5, 1998); *Airline Deregulation: Barriers to Entry Continue to Limit Competition in Several Key Domestic Markets* (GAO/RCED-97-4, Oct. 18, 1996); *Domestic Aviation: Barriers to Entry Continue to Limit Benefits of Airline Deregulation* (GAO/RCED-97-120, May, 13, 1997); *Airline Competition: Higher Fares and Less Competition Continue at Concentrated Airports* (GAO/RCED-93-141, July 15, 1993); *Airline Competition: Effects of Airline Market Concentration and Barriers to Entry on Airfares* (GAO/RCED-91-101, Apr. 26, 1991).

While repeatedly emphasizing the problem of higher monopoly fares caused by lack of competition, GAO continued to emphasize the lifting of slot restrictions at three of the nation's airports as a partial solution to the problem. GAO's prime emphasis has been to obtain access to airport capacity for the so-called "low-cost" new entrant airlines into the Fortress Hub markets.

But GAO has never analyzed the issue of the "capacity" of these slot-restricted airports to service new competition—even if the slot restrictions were lifted. As discussed below, the FAA has repeatedly emphasized that the practical capacity of an airport is limited (see discussion, *infra.*) and that as traffic growth approaches the physical limits of the airport's capacity, aircraft delays rise geometrically—essentially leading to gridlock.

As the analysis contained in the 1995 DOT report *A Study of the High Density Rule*, and this study show, there simply is not enough capacity at O'Hare—even with the slots lifted—to all significant new competition to enter the Chicago market. This is why the Big Seven's collective refusal (discussed *infra.*) to use and support the major new capacity that would be provided by the new South Suburban Airport is a central component in the preservation of the Fortress Hub problem in metropolitan Chicago. Moreover, any arguable minor increment of available capacity at O'Hare will rapidly be consumed by United and American. There simply is not enough room at O'Hare to allow a major new competitor to gain the "critical mass" to compete with United and American.

The Illinois Department of Transportation has repeatedly emphasized its opinion that monopoly dominance at O'Hare results in higher airfares paid by Chicago area travelers and that major new regional airport capacity is essential to breaking the monopoly stranglehold of Fortress O'Hare:

"There are numerous examples besides these to demonstrate that without the competition of a new entrant, the fares at Chicago are increasing or remain inordinately high."

"We encourage and support your [USDOT's] focus on anticompetitive practices that are injuring commerce, smaller cities, and consumers in Illinois and throughout the region serviced by O'Hare Airport as the hub of United Airlines and American Airlines. We strongly urge, however, that the enforcement policies should be part of a broader initiative that will insure that there will be airport capacity available in the Chicago area that will provide new airline entrants the opportunity to compete with United and American. Additional airport capacity is vital to restoring airline competition in the Chicago, Illinois, and Midwestern markets."

"There is simply no room at O'Hare for new entrant airlines to pose competitive challenges to the dominant airlines."

4. Time Sensitive Business Traveler Biggest Loser in Fortress Hub Monopoly System.

The air travel consumer most seriously harmed by this horizontal Fortress Hub market allocation is the business traveler—particularly the small to medium size business traveler who cannot negotiate bulk fare discounts and who must make time sensitive business trips at unrestricted coach fares.

The Illinois Department of Transportation estimates this monopoly based fare penalty at O'Hare alone exceeds several hundred million dollars per year. Nationally, the loss to the traveling public from these monopoly premiums at Fortress Hubs is likely to exceed several billion dollars annually.

As stated in major articles on the subject by USA Today and the New York Times:

What travelers suspect is true: Airfares are climbing fast, and nowhere is the situation worse than at the hubs for the nation's largest airlines.

Business travelers have been especially hard hit at hubs

And almost everywhere, hub fares, especially for business fliers, are soaring. (USA Today February 23, 1998)

Business travelers feel particularly abused because they account for more than half of airline revenue. For in the through-the-looking-glass world of airline pricing, the fares paid by leisure travelers, who book as long as a month in advance and stay over a weekend night, have in many cases declined,

while last-minute fully refundable fares, which are most often paid by business travelers, are skyrocketing.

"The carriers always say that the business traveler is inelastic," said Peter M. Buchheit, director of travel and meeting services for the Black & Decker Corporation, which spent \$18 million on air tickets for its American employees last year. "We need to travel so we will pay whatever it costs. But it has reached a point where we can't pay it anymore."

The burden of high fares is even greater on small companies. John W. Galbraith, president of Twin Advertising, a small company based in Rochester that had \$2 million in billings last year, said he was thinking about dropping clients outside the city because the high cost of visiting them cancels out the profit he makes from having their business.

"Basically, what the airlines have done to companies like ours is kept us from growing," he said. (New York Times January 11, 1998)

Put bluntly, the Big Seven has used their monopoly power at Fortress Hubs to literally extort billions of dollars annually from captive travelers—most often time sensitive business travelers living in these airlines' own Fortress Hub communities.

5. The Second Biggest Loser in the Fortress Hub Monopoly System is the "Spoke" Passenger.

The second biggest loser from this Fortress Hub monopoly system is the so-called "spoke" passenger in the small to medium size community that serves as the "spoke" to a single large metropolitan Fortress Hub. Because the dominant Big Seven airline at a Fortress Hub has no competition at its hub, it is free to charge the spoke passenger—who must use the hub to get to his or her destination—excessive monopoly fares.

The Illinois Department of Transportation—again emphasizing the lack of capacity to handle both new competition and service to smaller and mid-size communities—has stated the problem as follows:

"The dominant airlines are diminishing and even abandoning service to smaller Illinois and Midwestern cities in favor of routes that are more lucrative or that increase the power of their hub networks."

Because the dominant O'Hare airlines prioritize the limited capacity at O'Hare to service the flight operations with the highest profitability, the small community "spoke" traveler gets harmed on two levels. First, he loses service when the dominant airlines cut small community service to use the limited capacity to service more lucrative long-haul or international traffic—eliminating less profitable small community service. Second, as to the small community traffic that the dominant airlines still service, they are able to charge exorbitant rates—knowing that the small community spoke traveler is at their mercy.

6. The Big Seven's Fortress Hub Geographic Market Allocation is a Per Se Violation of the Antitrust laws.

Neither the Administration nor the Congress appears to have critically examined a central question: Does the Big Seven's Fortress Hub geographic market allocation violate the Nation's antitrust laws? Based on clear and repeated Supreme Court precedent, it clearly does.

The major airlines general de facto geographic allocation of major air travel markets in the nation through the development of "Fortress Hubs" constitutes a per se violation of the antitrust laws. The Supreme Court has uniformly condemned arrange-

ments to carve up horizontal markets as per se violations of Section 1 of the Sherman Act. See e.g., *Palmer v. BRG Group of Georgia*, 498 U.S. 46, 49 (1990); *United States v. Topco Associates, Inc.*, 405 U.S. 596, 607–609 (1972).

Virtually all laymen and most lawyers shy away from antitrust law as an economic morass difficult to understand. But there is one area where the United States Supreme Court has been clear and unequivocal: horizontal arrangements to carve up geographic markets are an automatic—a "per se"—violation of the federal antitrust laws. Because this law is so-clear and unambiguous—and recognizing that the airlines will claim that the law can be ignored—we believe it important to quote the United States Supreme Court on this subject:

"While the Court has utilized the 'rule of reason' in evaluating the legality of most restraints alleged to be violative of the Sherman Act, it has also developed the doctrine that certain business relationships are per se violations of the Act without regard to a consideration of their reasonableness. In *Northern Pacific R. Co. v. United States*, 356 U.S. 1, 5, 78 S.Ct. 514, 518, 2 L.Ed.2d 545 (1958), Mr. Justice Black explained the appropriateness of, and the need for, per se rules:"

"(T)here are certain agreements or practices which because of their pernicious effect on competition and lack of any redeeming virtue are conclusively presumed to be unreasonable and therefore illegal without elaborate inquiry as to the precise harm they have caused or the business excuse for their use. This principle of per se unreasonableness not only makes the type of restraints which are prescribed by the Sherman Act more certain to the benefit of everyone concerned, but it also avoids the necessity for an incredibly complicated and prolonged economic investigation into the entire history of the industry involved, as well as related industries, in an effort to determine at large whether a particular restraint has been unreasonable—an inquiry so often wholly fruitless when undertaken."

"It is only after considerable experience with certain business relationships that courts classify them as per se violations of the Sherman Act. See generally *Van Cise, The Future of Per Se in Antitrust Law*, 50 Va.L.Rev. 1165 (1964). One of the classic examples of a per se violation of §1 is an agreement between competitors at the same level of the market structure to allocate territories in order to minimize competition. Such concerted action is usually termed a 'horizontal' restraint, in contradistinction to combinations of persons at different levels of the market structure, e.g., manufacturers and distributors, which are termed 'vertical' restraints. The Court has reiterated time and time again that '(h)orizontal territorial limitations . . . are naked restraints of trade with no purpose except stifling of competition.' *White Motor Co. v. United States*, 372 U.S. 253, 263, 83 S. Ct. 696, 702, 9 L.Ed.2d 738 (1963). Such limitations are per se violations of the Sherman Act. See *Addyston Pipe & Steel Co. v. United States*, 175 U.S. 211, 20 S.Ct. 44 L.Ed.136 (1989), aff'g 85 F. 271 (C.A.6 1898) (Taft, J.); *United States v. National Lead Co.*, 332 U.S. 319, 67 S.Ct. 1634, 91 L.Ed. 2077 (1947); *Timken Roller Bearing Co. v. United States*, 341 U.S. 593, 71 S.Ct. 971, 95 L.Ed. 1199 (1951); *Northern Pacific R. Co. v. United States*, supra; *Citizen Publishing Co. v. United States*, 394 U.S. 131, 89 S.Ct. 927, 22 L.Ed.2d 148 (1969); *United States v. Sealy, Inc.*, 388 U.S. 350, 87 S.Ct. 1847, 28 L.Ed.2d 1238 (1967); *United States v. Arnold, Schwinn &*

Co., 388 U.S. 365, 390, 87 S.Ct. 1856, 1871, 18 L.Ed.2d 1249 (1967) (Stewart, J., concurring in part and dissenting in part); *Serta Associates, Inc. v. United States*, 393 U.S. 534, 89 S.Ct. 870, 21 L.Ed.2d 753 (1969), aff'g 296 F.Supp. 1121, 1128 (N.D.Del.1968)." (*United States v. Topco Associates, Inc.*, 405 U.S. at 607–608 (emphasis added))

The Big Seven's carving up of geographic markets into the current Fortress Hub system is nothing more than a naked horizontal restraint repeatedly condemned by the Supreme Court as a per se violation of the Sherman Act.

Put in terms the average citizen understands—Could McDonald's tell Burger King: We won't compete in Atlanta if you won't compete in Chicago? Could Ford tell GM: We won't sell Fords in Michigan if you won't sell Chevys in Illinois? The answer is clearly no. Each would be a horizontal market restraint and a per se violation of the Sherman Act just as the Big Seven's Fortress Hub system—and their refusal to compete in each other's hub market—is a horizontal market restraint and a per se violation of the Sherman Act.

The law is equally clear it is not necessary to demonstrate a formal written agreement among the Big Seven to carve up the geographic Fortress Hub market in order to find a conspiracy in violation of the Sherman Act. The existence of such an agreement or arrangement can be inferred from the course of conduct of the members of the industry. *Norfolk Monument Company v. Woodlawn Memorial Gardens*, 394 U.S. 700, 704 (1969); *American Tobacco Company v. United States*, 328 U.S. 781, 809–810 (1946); *Interstate Circuit v. United States*, 306 U.S. 208, 221, 226–227 (1939).

7. The Metropolitan Chicago Market: An Egregious Example of the Geographic Market Allocation and Refusal to Compete—"If You Build It, We Won't Come."

A particularly egregious implementation of this horizontal agreement not to compete in each other's Fortress Hub markets can be found in the major airlines' announced refusal to use a new major airport in the metropolitan Chicago. The most visible manifestation of their refusal to compete in the Chicago market can be found in letters written by sixteen Chief Executive Officers (CEOs) of the major airlines to Illinois Governor Jim Edgar and his successor George Ryan. In those letters—drafted in coordination with representatives of the City of Chicago and the Air Transport Association—the major airlines tell the Illinois Governor that they will refuse to use the proposed new metropolitan Chicago airport:

"We are writing to express our concerns about further planning and development of the so-called Third Chicago Airport. It is our understanding that the State of Illinois will not proceed with the construction of a third airport without the support of the airlines. This letter is intended to inform you that the airlines oppose further planning and construction of this facility . . ."

Chicago area news media have characterized the major airlines' refusal to use a new airport as "If you build it, we won't come." In reality, this collective refusal to use a new regional airport is nothing more than a manifestation of the major airlines' horizontal market agreement not to compete in any significant way with United and American in their dominant Chicago market. This refusal by major airlines such as Delta, Northwest, USAir, and Continental to use new metropolitan Chicago airport capacity to compete in metropolitan Chicago is but

an individual example of the per se antitrust violation of allocating geographic markets by the major airlines.

8. The Fortress Hub System and the Big Seven's Collective Refusal to Compete in Each Other's Fortress Hub Markets—as Illustrated by Their Collective Refusal to Use the New South Suburban Airport—Represent Serious Violations of Federal Law.

These clear violations by the Big Seven airlines in creating and maintaining the Fortress Hub system and the refusal of the Big Seven to compete in each other's markets represent serious violations of the antitrust laws. If the GAO and IDOT estimates are accurate, nationally the Fortress Hub system literally illegally steals several billion dollars per year from the nation's air travelers—several hundred million dollars in the Chicago area alone.

Because these antitrust violations are so blatant, it is important for the public to know the significant sanctions and remedies available to cure these violations.

Section 1 of the Sherman Act provides:

Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal. Every person who shall make any contract or engage in any combination or conspiracy hereby declared to be illegal shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding \$10,000,000 if a corporation, or, if any other person, \$350,000, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court. (Title 15 United States Code §1 (emphasis added))

Section 2 of the Sherman Act provides:

Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding \$10,000,000 if a corporation, or, if any other person, \$350,000, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court. (Title 15 United States Code §2 (emphasis added))

Section 4 of the Act provides civil injunction remedies and mandates the Department of Justice to “institute proceedings in equity to prevent and restrain such violations”:

The several district courts of the United States are invested with jurisdiction to prevent and restrain violations of sections 1 to 7 of this title; and it shall be the duty of the several United States attorneys, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. (Title 15 United States Code §4 (emphasis added))

Section 15 provides that any person injured by the violations of the antitrust laws can recover treble (triple) damages for the monetary losses caused by the violations.

[A]ny person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefore in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee. (Title 15 United States Code §15).

In summary, the statutory sanctions for these antitrust violations are significant.

Thus far, federal Department of Justice officials have been unwilling to initiate antitrust enforcement proceedings to break up the Fortress Hub monopoly of the Big Seven.

9. The Major Airlines Geographic Market Allocation—A Per Se Violation of the Antitrust Laws—Is Not Immunized by the “Noerr-Pennington” Doctrine.

The major airlines have engaged in this de facto Fortress Hub geographic market allocation scheme for more than a decade. It is likely that the airlines will assert that their collective refusal to compete in the metropolitan Chicago market—and the manifestation of that refusal by their letters to Governors Edgar and Ryan—is immunized from antitrust law enforcement by the “Noerr-Pennington” doctrine. That doctrine immunizes antitrust violations where the principal vehicle for achieving the monopolistic goal is political expression—i.e., lobbying government.

But the post-Noerr-Pennington case law makes clear that where a business arrangement—that otherwise violates the antitrust laws—has one component that involves the exercise of First Amendment speech, there is no immunity from antitrust enforcement under the “Noerr-Pennington” doctrine. See *Allied Tube & Conduit Corp. v. Indian Head, Inc.*, 486 U.S. 492, 505–506 (1988); *FTC v. Superior Court Trial Lawyers Ass'n*, 493 U.S. 411, 423–426 (1990); *Sandy River Nursing Care v. Aetna Casualty*, 985 F.2d 1138, 1142–43 (1st Cir. 1993); *In re Brand Name Prescription Drugs Antitrust Litigation*, 186 F.3d 781, 788–789 (7th Cir. 1999).

10. The Major Airlines Geographic Market Allocation—A Per Se Violation of the Antitrust Laws—Is Not Immunized by the “State Action Doctrine”.

It is common for those accused of antitrust violations to claim that their monopolistic practices are immunized from antitrust liability under the so-called “state action” doctrine of *Parker v. Brown*, 317 U.S. 341 (1943). The Supreme Court's rationale in *Parker* for “state action” immunity was the Congress had not intended in the Sherman Act to control the activities of states in engaging in conduct directed by the state legislature. 317 U.S. at 351–352.

But the Supreme Court has severely limited the availability of “state action” immunity when invoked by private parties such as the airlines in an attempt to immunize conduct clearly violative of the antitrust laws. The Supreme Court has established two requirements for “state action” immunity where private parties participate in the antitrust violation: (1) the monopolistic activity must be clearly expressed and affirmatively adopted as being the policy of the State, and (2) the monopolistic activity must be actively supervised by the State itself. *Federal Trade Commission v. Ticor Title Insurance Co.*, 504 U.S. 621, 633–634 (1992); *Patrick v. Burget*, 486 U.S. 94, 101–102 (1988); *California Retail Liquor Dealers Assn. v. Midcal Aluminum, Inc.*, 445 U.S. 97, 105–106 (1980).

In the case of Fortress O'Hare and the collective campaign of United, American and Chicago to keep significant new hub-and-spoke competition from coming into the metro Chicago market, there is no question that the “state action” defense does not apply. First, the State of Illinois has not authorized the Fortress O'Hare monopoly maintained by United and American and has actively spoken out against the monopoly problem there. Second, the State is not actively supervising and approving the anti-competitive conduct by United and United and American and Chicago.

11. Federal Taxpayer Funds May Have Been Used to Suppress Competition and Violate the Antitrust Laws in the Chicago Market.

As stated above, other major airlines through the (ATA), United and American (the dominant carriers at O'Hare) have engaged in a concerted effort to defeat construction of a new South Suburban Airport, an airport that would provide significant capacity opportunities for major new competition to enter the Chicago market. United executives have privately stated their goal as “Kill Peotone”.

United and American have been assisted in their “Kill Peotone” (and thus kill new competitive capacity) campaign by representatives of the City of Chicago—including Chicago's consultants. Chicago's consultants have been paid several million dollars in consulting fees to assist Chicago and United and American in expanding O'Hare and in obstructing development of a new South Suburban Airport.

Much of the money paid to these consultants has come from either: (1) federal Passenger Facility Charge (PFC) funds (2) federal Airport Improvement Program (AIP) funds, or (3) federal tax subsidies for municipal airport bonds (“GARBS” General Airport Revenue Bonds). Not only are the airlines and Chicago engaged in a monopolistic arrangement designed to prevent new competition from entering the Chicago market (i.e., through the new airport), but much of the money to implement this illegal arrangement is coming from federal taxpayer dollars. The GAO and the Department of Justice should be asked to conduct an independent audit of all PFC, AIP, and GARB expenditures at O'Hare to determine if any federal funds were used as part of a campaign to “Kill Peotone” and to assist in the violation of federal antitrust laws.

12. Federal Officials Have Participated in and Supported the Big Seven's Illegal Monopolistic Arrangement to Refuse to Compete in the Chicago Market.

Not only have federal funds been used to support the major airlines illegal monopolistic arrangement to refuse to compete in the Chicago market, but it appears that federal officials within the Administration have worked with the major airlines and Chicago to assist in this antitrust arrangement to prevent the development of a new airport in metropolitan Chicago. For the last several years, federal administration officials—several of whom are former Chicago officials who worked for the Chicago Aviation Department—have blocked development of the new South Suburban Airport through a series of spurious legal claims that federal law requires that a “consensus” must exist between the State of Illinois and the City of Chicago before a new metropolitan airport can be constructed. No such legal requirement exists.

Because of the active participation of key figures in the current administration in promoting and supporting the continued blockage of new airport development in metropolitan Chicago—in concert with the illegal refusal of the major airlines to compete in the Chicago market by using the new airport—and impartiality and lack of bias of the Administration in conducting law enforcement in this area is suspect. The Attorney General should be asked to appoint an independent prosecutor to conduct the antitrust investigation and to undertake all appropriate actions needed to correct the ongoing antitrust violations.

13. Defining Essential Remedies—A New Regional Airport With Sufficient Capacity to

Support New Competitive Hub-And-Spoke Operations.

There have been two "remedies" asserted to eliminate the monopoly dominance of Fortress O'Hare in the Chicago market. The first—eliminating slot restrictions at O'Hare—was proposed and passed by Congress this year. According to proponents of lifting the slot limits, elimination of slot controls would bring new competition into O'Hare.

A. Lifting the Slot Limits Was an Unmitigated Disaster.

At the time the federal laws lifting the slot limits was passed, Illinois Senator Peter Fitzgerald and Congressman Henry Hyde both voted against the bill. They argued that the slot limitations were not an artificial constraint but a recognition of the already exhausted limited capacity of O'Hare. They argued that lifting the slots would be a disaster because: (1) added flights should lead to a massive delay gridlock at O'Hare, and (2) that even if there were any additional capacity, that capacity would be rapidly consumed by American and United. Under these circumstances, they argued that lifting the slot limits would simply expand United's and American's monopoly—not increase competition.

Senator Fitzgerald and Congressman Hyde can rightfully say: I told you so. On April 20, 2000 United and American announced their intent to add 400 new daily flights to O'Hare. The sad reality is that O'Hare does not have the capacity for these 400 new flights. But Fitzgerald's and Hyde's point was made; whatever arguable minor incremental capacity exists at O'Hare (if any), it has been rapidly consumed by United and American—not used by new competition. Instead of reducing the monopoly, the new federal law has helped United and American expand the monopoly.

United's and American's actions—coupled with the limited capacity of O'Hare—illustrates a salient point. There simply is not enough capacity at O'Hare to bring any significant new competition into O'Hare. Any new competitive entry will be token at best and not provide meaningful competition to the hub-and-spoke dominance of United and American.

Lifting the slot limit, coupled with United and American's actions to jam more than 400 new flights into O'Hare also means massive new delay increases for the traveling public this Summer. To illustrate these points and to demonstrate why the recently passed federal legislation makes matters much worse at O'Hare requires a brief analysis of the related issues of capacity and delay at airports—particularly O'Hare.

FAA, the airlines, Chicago and IDOT define capacity as the number of operations that can be processed at an airport at an acceptable level of delay. There is a recognition that there is a difference between absolute maximum physical throughput and a lower level of operations that can be put through without experiencing intolerable levels of delay and cancellations. As stated by the City of Chicago:

"The practical capacity of an airfield will be defined as the maximum level of average all-weather throughput achievable while maintaining an acceptable level of delay."

"Ten minutes per aircraft operation will be used as the maximum level of acceptable delay for the assessment of the existing airfield's capacity, subject to future levels of forecast demand. This level of delay represents an upper bound for acceptable delays at major hub airports."

This relationship between maximum physical throughput and practical, delay-sensitive capacity is illustrated in an FAA chart copied from an FAA report on the subject, *Airfield and Airspace Capacity/Delay Policy Analysis*, FAA-AP0-81-14.

This relationship holds true whatever the input data as to the level of demand or whatever the capacity of the airport under study. Once the demand reaches a point approaching the physical capacity of the airport the delay levels for all traffic at the airport rise geometrically. The acceptable or "practical capacity" of the airport is that level where delays are acceptable. To push more traffic beyond that point is a certain invitation to massive delays, major cancellations, and gridlock.

At one point FAA defined the acceptable level for practical capacity of an airport as four minutes average annual delay. That translated into about a 30-minute delay in peak periods. Now FAA, IDOT and Chicago defined the acceptable level of delay to define practical capacity as 10 minutes average annual delay. This translates (in equivalent terms) into more than an hour delay in peak periods.

What is important to emphasize is that all FAA and Chicago—and most likely Booz-Allen and United and American—runs of the SIMMOD model for O'Hare show average annual delay at O'Hare is currently in excess of 10 minutes average annual delay—already above acceptable capacity limits without adding more flights. FAA and Chicago and United and American all know that a push 400-500 new flights per day into O'Hare is going to lead to: (1) massive increases in delays and (2) widespread cancellations. FAA (USDOT) A Study of the High Density Rule illustrates the massive delay increase that adding just a few flights at O'Hare beyond the slot limits will do to all passengers at O'Hare. This analysis shows that adding 400-500 flights per day will lead to disastrous delays for all passengers—more than doubling the delays for all passengers, not just those who are on the new additional flights.

We anticipate that FAA and United and American will claim that the delay and capacity results of DOT in 1995 have been changed because of capacity improvements at O'Hare in intervening years. But if so, a few questions need answering. What are the capacity improvements since 1995? How much new capacity has been provided? What will be the capacity/delay numbers (comparable to DOT's 1995 analysis) with the new capacity? Why were there no public hearings and environmental disclosure on these capacity improvements?

We suspect the answer is that there have not been any capacity changes at O'Hare since 1995 and DOT's numbers remain valid. Conversely, if there have been capacity changes, FAA has failed to inform both affected elected officials (e.g., Congressman Hyde and Senator Fitzgerald) and they have failed to tell the public and give the public an opportunity to be heard.

There is another important point to emphasize about this throughput/delay relationship shown on the FAA charts. Where the airport is at the limits of acceptable delays—i.e., the practical capacity limit—very small shifts in either traffic demand or capacity can dramatically increase delays for all passengers. Thus a small increase in traffic demand beyond the practical capacity limit will generate huge increases in delays for all passengers. Similarly, a slight decrease in capacity—such as experienced this past year when regional jet pilots were refus-

ing Land-And-Hold-Short for safety reasons—can dramatically increase delays with little or no increase in throughput. The point here is that O'Hare is already at the breaking point—brought there by the resistance of Chicago and the Fortress Hub airlines at O'Hare (United and American) to the building of a new regional airport. O'Hare cannot handle 400-500 new flights per day and United and American know it. Their own SIMMOD analysis tells them that.

Why then do United and American announce a literally foolhardy plan to jam 400-500 flights into O'Hare—an announcement made the same day that United's and American's front organization (the Civic Committee) calls for a new runway at O'Hare? By deliberately creating chaos at O'Hare, United and American will then be able to say that delays are at crisis levels and we must immediately build a new runway at O'Hare.

B. The "Point-To-Point" Shell Game: Building the South Suburban Airport as a "Point-To-Point" Airport Will Not Break the Hub-And-Spoke Monopoly of Fortress O'Hare.

The heart of the monopoly overcharges to travelers in the Chicago market is the absence of competition in the hub-and-spoke market in Chicago. None of the other Big Seven will come into the Chicago market to establish a competitive hub-and-spoke operation.

United and American propose using close to 10 billion dollars (much of it in federal funds) to expand United and American's hub-and-spoke empire at Fortress O'Hare. In an attempt to expand their monopoly and prevent new competition from entering the Chicago market, United and American (along with the "Civic Committee" and the Chicagoland Chamber) have sought to distract attention by suggesting a south suburban airport in Chicago as a "point-to-point" airport—not unlike Midway. United and American argues that O'Hare should be the only "hub-and-spoke" airport in metropolitan Chicago.

By shaping the argument in this fashion, United and American guarantee that they will be allowed to continue and dramatically expand their Fortress Hub monopoly at O'Hare. According to their arguments, the lion's share of all the origin-destination traffic in the region—and all of the connecting and international traffic—should go to the sole hub-and-spoke airport in the region: O'Hare. Any minor overflow of "point-to-point" origin-destination traffic that Midway could not handle could be addressed in a small "point-to-point" airport like the South Suburban Airport or Gary.

What United and American gloss over is the fact there is plenty of competition in the Chicago market in point-to-point service. The real lack of competition in the Chicago market is in the lack of additional hub-and-spoke competition to challenge the hub-and-spoke duopoly of United and American at Fortress O'Hare. It is this market dominance of the hub-and-spoke market—not the point-to-point—where lack of competition gouges the business traveler and the traveler from "spoke" cities. There is a desperate need for new competitive hub-and-spoke service in the Chicago market and the place to put that hub-and-spoke is the new South Suburban Airport.

No federal administration officials appear to be examining whether spending 10 billion dollars (much of it from federal taxpayers) at O'Hare makes economic sense when much more new capacity to support competitive hub-and-spoke operations can be constructed

at a new metropolitan airport for less than half the cost. Nor are federal officials examining whether the use of billions of dollars of federal taxpayer funds to expand United and American's hub-and-spoke duopoly at Fortress O'Hare—essentially using billions of dollars of federal taxpayer funds to subsidize expansion of monopoly power—is proper use of federal funds.

C. A New Runway at O'Hare is Intended to Increase Capacity to Expand United and American's Monopoly Power.

As discussed above, the airlines' current public relations argument is that the lion's share of all the origin-destination traffic in the region (and all of the connecting and international traffic) should go to the sole hub-and-spoke airport in the region (O'Hare). Any minor overflow of point-to-point origin-destination traffic that a dramatically expanded O'Hare and Midway could not handle (if any) could be addressed in a small point-to-point airport like the South Suburban Airport or Gary.

Paralleling this argument is the claim by the airlines allies that a new runway at O'Hare is needed to "reduce delays". They claim that a new runway would not increase O'Hare capacity but simply reduce delays.

Yet an analysis using FAA's own capacity analysis standards and criteria demonstrates that a new runway at O'Hare would substantially increase the capacity of the airport. As discussed above, the concepts of capacity and delay are closely interrelated. The FAA and Chicago both define capacity as that level of aircraft operations that can be processed at an airport at an acceptable level of delay.

The FAA's published graphic showing the relationship of capacity and delay illustrates a how a so-called "delay reduction" at one level of traffic results in an increase in capacity at the airport to accommodate additional levels of traffic.

This capacity increase at O'Hare—by building a runway to "reduce delay"—would dramatically expand American's and United's hub-and-spoke monopoly at Fortress O'Hare. Further, it would virtually doom the economic justification for the new south suburban airport because the new "delay" runway—once built—could easily be used to carry the new additional traffic for which the new airport was intended. Simply by piecemealing incremental expansion at O'Hare, Chicago and American and United can keep the region under the thumb of the Fortress O'Hare monopoly.

14. United's and American's Fight to Preserve and Expand Fortress Hub Monopoly Power at O'Hare has Grave Social, Economic, Public Health, and Quality of Life Consequences for the Region.

In their passion to expand Fortress O'Hare and defeat the prospect of new hub-and-spoke competition coming into a new airport, United and American have disregarded safety, public health, and quality of life for the communities around O'Hare. All parties are in agreement that growth in air traffic should be accommodated with major increases in new airport capacity in the metropolitan Chicago region.

The choices are stark: (1) a new regional airport which will have an environmental land buffer three times the size of O'Hare and plenty of capacity to accommodate new hub-and-spoke competition or (2) an over-stuffed O'Hare with no land buffer and continued dominance of the metropolitan hub-and-spoke market by United and American. But for the addiction to monopoly revenues at Fortress O'Hare, the decision is simple—

send the traffic growth to a new environmentally sound, competitively open new regional airport.

Instead we have United and American and their political surrogates urging more air pollution, more noise, and more safety hazards be imposed on O'Hare area communities—simply to protect and expand the Fortress O'Hare monopoly. We now live in a bizarre world where the desire to protect and expand violations of antitrust law and illegal overcharges trumps protection of public health, safety and quality of life.

The consequences of these abuses of monopoly power for the metro Chicago region are stark and severe:

O'Hare area communities will be subjected to more noise, more air pollution, and more safety hazards because—under the United, American, and Chicago proposal—all the international, all the transfer traffic, and the lion's share of the origin-destination traffic are jammed into an already over-stuffed O'Hare. Any new airport—even if built—will simply receive the origin-destination overflow (if any) from a vastly expanded O'Hare and Midway.

South Chicago and south suburban communities will continue to suffer serious economic decline because the South Suburban Airport—which should have been built years ago—lies hostage to the unholy alliance struck between the monopoly interest of United and American and the political pique of Chicago's mayor. Residents of South and South Suburban Chicago legitimately ask why United and American oppose the hundreds of thousands of jobs and billions in economic benefits that would accrue to this area if the new airport is built. Some attribute United and American's position to racial intent. More accurately, United and American are willing to ignore the severe economic harm their monopolistic position inflicts on an area with a significant African-American population if that harm is a necessary consequence of preserving and expanding their monopoly at Fortress O'Hare. In a world of pure economic rationality, monopoly power and the social and economic injustices incident to that monopoly power might be excused as central to the maximization of profit. However, in a world of law and justice—where political leaders must account for their failure to correct these abuses—such destructive monopoly power should not be tolerated.

RECOMMENDATIONS

Based on the facts and the antitrust law analysis contained in this report, the Suburban O'Hare Commission recommends the following actions:

The United States Attorney General and the United States Attorney for the Northern District of Illinois should initiate an investigation into the collective refusal of the Big Seven airlines to compete against each other in each other's Fortress Hub Markets. Included in the investigation should be an examination of the role of third party collaborators in the antitrust violations—including the City of Chicago and other private organizations and individuals who have assisted the Big Seven (including United and American) in perpetrating these violations. Because of the involvement by federal officials in affirmatively assisting the Big Seven and the City of Chicago in keeping significant competition out of Chicago, the Attorney General should be asked to consider the appointment of independent counsel.

The United States Attorney General and the United States Attorney should bring a civil action in federal court to enjoin and

break up the illegal Fortress Hub geographic market allocation by the Big Seven and prohibit the collective refusal by the Big Seven to compete in each other's Fortress Hub markets. Included in the relief should be a requirement that members of the Big Seven halt their collective refusal to use a new South Suburban Airport in metropolitan Chicago and a requirement that competitive hub-and-spoke operations be established in metro Chicago to compete with United and American.

The State Attorneys General should initiate civil damage actions to recover treble damages for the billions of dollars per year in excess monopoly profits in airfare overcharges that have been charged at the Big Seven's Fortress Hubs. The Illinois Attorney General should bring suit to recover treble damages for the hundreds of millions of dollars in monopoly overcharges by American and United at Fortress O'Hare. On a multiple year basis in Illinois alone, the treble damages recoverable for consumers would exceed several billion dollars.

The GAO and the Department of Justice should undertake an immediate and detailed audit of all federal funds that may have been used to further the refusal of the other members of the Big Seven to compete with United and American in metropolitan Chicago—particularly the campaign by the airlines and Chicago to "Kill Peotone".

The United States Department of Transportation should withhold any further approvals of federal funds for expansion of the United and American duopoly at Fortress O'Hare.

The House and Senate Judiciary Committees should conduct immediate hearings on these issues.

Our Governor and our two United States Senators, the Speaker of the House, and our Illinois Attorney General should be respectfully asked what specific actions they will take to (1) break up the Fortress Hub system—particularly Fortress O'Hare; (2) bring new hub-and-spoke competitors into the Chicago market; (3) recover the billions in excess monopoly profits from the Fortress O'Hare overcharges; (4) prevent the Big Seven from continuing to refuse to use the new capacity provided by the South Suburban Airport; and (5) assemble the federal and state resources needed to rapidly build the South Suburban Airport.

Our Governor should hold fast to his promise not to permit any additional runways at O'Hare. To do otherwise would simply enhance and expand the monopoly power of Fortress O'Hare and doom the opportunity to bring in new competition into the region at the South Suburban Airport.

The two candidates for President of the United States—both of whom have likely received large campaign contributions from the Big Seven—should be respectfully asked what they will do to break up the Fortress Hub system nationally and Fortress O'Hare in particular. Vice President Gore in particular should be asked why his administration has for the past eight years looked the other way while the Big Seven has used violations of the nation's antitrust laws to literally steal billions of dollars from American consumers. Mr. Gore should also be asked to explain why his administration has blocked development of new competitive capacity in metro Chicago—i.e. a new South Suburban Airport—at every turn. Finally, Mr. Bush should be asked specifically what he will do to build the South Suburban Airport.

CONCLUSION

The monopoly abuses of the Fortress Hub system—and especially the abuses of Fortress O'Hare and the refusal of the Big Seven

to compete in metropolitan Chicago—are a national disgrace. It's time to end it.

SUBURBAN O'HARE COMMISSION—EXECUTIVE SUMMARY

A study prepared by the Suburban O'Hare Commission concludes that the major airlines have committed per se violations of federal antitrust laws by refusing to compete with each other in Fortress Hub markets, such as in the metro Chicago region now dominated by "Fortress O'Hare".

The glaring example of these monopolistic practices are documented by the major airline's letter to former Illinois Gov. Jim Edgar which, in effect, said if the state builds a new airport in Chicago's southern suburbs, "we won't come."

That leaves United and American airlines, which control over 80 percent of the air traffic at O'Hare in an unchallenged market position. It would be as if Ford Motor Company told General Motors, "If you agree not to sell cars in Chicago, we will agree not to compete with you in Los Angeles."

SOC's major findings include:

The de facto agreement among the "Big Seven" airlines—Northwest, United, American, Delta, US Air, Continental and Trans World—not to compete in each others hub market is the heart of the monopoly problem.

The resulting fortress hub monopolies are costing American air travelers billions of dollars annually in monopoly induced higher fares, especially the fares charged to time-sensitive business travelers and "spoke" passenger who must connect through the hub to get to their ultimate destinations.

The Big Seven's geographic market allocation violates the nation's antitrust laws, based on clear and repeated Supreme Court decisions which have roundly condemned arrangements to carve up geographic markets horizontally.

In Chicago, the clear violation of the antitrust law is demonstrated by the abandonment by major airlines of meaningful competition to United and American at O'Hare and the announcement that they would not use a South Suburban Airport if built.

The airlines can't defend their anti-competitive practices with the "Noerr-Pennington" doctrine, which asserts that petitioning the government to help the industry engage in antitrust actions is protected under Free Speech guarantees. Case law doesn't protect anti-competitive practices that have evolved independent of any government authorization, as in the present case.

Nor can the airlines or Chicago defend themselves by the "state action" doctrine, which allows states, as a matter of federalism, to consciously participate in monopoly practices. For this defense to succeed, Supreme Court decisions require that the state must clearly endorse and supervise the monopoly practices. Here there has been no such approval of the Fortress Hub monopoly abuses by the State of Illinois.

Chicago and its officials are not immune from antitrust law liability for helping the major airlines avoid competing with the United/American cartel at O'Hare.

Federal taxpayer funds may have been used to suppress competition and violate antitrust laws in the Chicago market.

The Clinton administration has not only looked the other way in not bringing antitrust enforcement action to break up the Fortress Hub system, but has affirmatively assisted Chicago and United and American in blocking significant new competition from

entering the region by blocking development of a new regional airport in metro Chicago.

The lifting of slot limitations will not allow significant competition to enter the Chicago market. Instead—as predicted by Senator Fitzgerald and Congressman Hyde—the lifting of the slots will be accompanied by massive increase in delays and by United and American simply expanding their monopoly control at the airport.

Construction of a new runway for "delay reduction" is simply subterfuge to expand the size of United and American's Fortress Hub operation at O'Hare. Building a new runway at O'Hare will make the monopoly problem—and resultant air fare overcharges—even worse. Moreover, it will doom the economic viability of the New South Suburban Airport.

Recommendations

Based on these findings, SOC recommends: Investigations by the U.S. Attorney General and U.S. Attorney for Northern Illinois into activities by the airlines, the city of Chicago, consultants and other third parties which have been used to protect and expand the Fortress Hub system nationally—and in particular to prevent new airport development in the metro Chicago region.

Civil action by the Attorney General and U.S. Attorney here to break up the Fortress Hub system and to compel the major airlines to stop their refusal to compete in metro Chicago.

Action by state attorneys general to recover treble damages for fliers who were charged billions of dollars in excess fares as a result of the Fortress Hub system.

A Government Accounting Office and Department of Justice audit of federal taxpayer funds to subsidies that abetted the antitrust violations, particularly efforts to kill the South Suburban Airport.

Governor Ryan should hold fast to his promise not to permit any additional runways at O'Hare. To allow additional runways would simply enhance and expand the monopoly power of Fortress O'Hare and doom the opportunity to bring in new competition into the region by the South Suburban Airport.

The withholding of U.S. Transportation Department of any more federal funds for expansion of the United and American duopoly at Fortress O'Hare.

An explanation and action by Illinois' highest elected officials as to what they will do to break up the Fortress O'Hare monopoly and provide for a new south suburban airport.

A clear statement by Republican and Democratic candidates for president to state their positions on Fortress Hubs, especially O'Hare and the role of the federal government in either breaking up Fortress O'Hare or building new capacity for new competition at the South Suburban Airport.

STUDY FINDS MAJOR AIRLINES AND CHICAGO VIOLATE FEDERAL ANTITRUST LAWS TO SUPPORT HIGH MONOPOLY FARES AND BLOCK NEW COMPETITION

BENSENVILLE, IL, May 21, 2000.—The nation's major airlines have committed serious violations of U.S. antitrust laws by refusing to compete with each other in "Fortress Hub" markets, including Chicago, a study by the Suburban O'Hare Commission concludes.

The study (entitled "If You Build It, We Won't Come: The Collective Refusal of the Major Airlines to Compete in the Chicago Air Travel Market") calls for an investigation by the Justice Department into the anti-competitive practices by the airlines,

and also by the city of Chicago, its consultants and third party allies, which have been complicit in the antitrust violations. Based on the study, SOC officials also called for:

U.S. Attorney General Janet Reno to begin civil action to break up the hub monopolies.

State attorneys general to recover treble damages for fliers who have been billed billions of dollars in excessive fares made possible by the monopolistic practices. The U.S. Transportation Department to withhold any more federal funds for the expansion, and further strengthening, of the United and American airlines' cartel at O'Hare Airport in Chicago.

General Accounting Office and Department of Justice audits of funds that have been used to abet the antitrust violations, including the airlines' and Chicago Mayor Richard M. Daley's efforts to kill a proposed hub airport in Chicago's south suburbs.

Governor Ryan to hold to his firm commitment not to permit new runways at O'Hare since such runways would expand United's and American's Fortress Hub monopoly at O'Hare and would doom the economic justification for the new South Suburban Airport.

SOC is a government agency representing more than 1 million residents who live in communities surrounding O'Hare airport. The study alleges that the airlines, the city of Chicago, its consultants and allies have used millions of dollars of taxpayers' money to thwart a south suburban airport that would bring competition to the United and American airlines' cartel at O'Hare and to expand the Fortress Hub monopoly at O'Hare.

"The antitrust violations are as clear and as egregious as if Ford said to General Motors, 'We won't compete against you in Chicago, if you agree not to compete against us by selling cars in Los Angeles'" said John Geils, SOC chairman and mayor of Bensenville, which borders O'Hare Airport. "The major airlines even went so far as to write two governors of Illinois, in their infamous 'If you build it, we won't come' letters that they would not use a south suburban airport. This extraordinarily public flaunting of the nation's antitrust laws simply cannot be tolerated."

The heart of the antitrust violations, according to the study, is found in the de facto agreement among the big seven airlines—Northwest, United, American, Delta, US Air, Continental and Trans World—to not significantly compete in each others' hub markets. The resulting domination by these airlines of their "own" airports (such as Delta in Atlanta, TWA in St. Louis and Northwest in the Twin Cities), forces fliers, especially time-sensitive business travelers, billions of dollars in unwarranted and additional fares, government studies have shown.

"Taxpayers should be concerned that millions of dollars of federal money, raised in part through taxes on every passenger using O'Hare, among other airports, have gone towards financing costly public relations and political lobbying campaigns to support this restraint of trade," said Craig Johnson, vice president of SOC and mayor of Elk Grove Village. "At every turn, the recommendation of expert panels to relieve the pressure on O'Hare and the national aviation system by building an airport in Chicago's south suburbs has been stymied by this campaign. It begins with two airlines' insatiable desire to dominate the Chicago market and is abetted by other major airlines interested in protecting their own turf. And it is carried out by a compliant Chicago mayor who is dependent on the political spoils of a monopolistic O'Hare airport and those who share in

those spoils—contractors, political consultants, big public relations firms, concessionaires and their friends in corporate board rooms and the media.”

Said Geils: “The antitrust movement 100 hundred years ago was aimed at breaking up precisely this sort of attack on the public and consumers. After a century, we don’t need new laws. What we need are responsible public officials who won’t look the other way, who will carry out the sworn duties of their office.”

The hub-and-spoke airline market was made possible by aviation deregulation two decades ago, which gave commercial carriers the right to compete where, when and at what price they wanted. But instead of the robust competition that deregulation was intended to spawn, it led to increasing concentrations of power of separate airlines at separate “Fortress Hub” airports. While the industry will argue that this leads to economies of scales that are passed along to some air travelers in the form of price savings, government and independent studies show that large numbers of travelers—especially time-sensitive business travelers—are actually paying billions more.

The costs, said Geils, are paid in more than just higher fares. “They come in the form of more air pollution, more noise and more safety hazards that the airlines are willing to impose on O’Hare area communities—simply to protect and expand the Fortress O’Hare monopoly. We now live in a bizarre world where the desire to protect and profit from illegal overcharges trump the protection of public health, safety and quality of life.”

[From The Sun Times, May 20, 2000]

GORE’S INTEREST HARDLY PUBLIC

(By Jesse Jackson, Jr.)

At a recent Democratic fund-raiser hosted by Mayor Daley, Al Gore, the vice president and presumptive Democratic nominee, said: “The Department of Transportation has said at the present time it’s a bit premature to build a third airport . . . and I have agreed with that. What happens in the future depends on the best public interest. I know there is a strong public interest in making sure that the health of O’Hare remains very strong.”

Let’s look at Gore, O’Hare and the public interest.

First, is the “best public interest” served through local or national control of federal transportation policy? Gore came before the Congressional Black Caucus and said that “federalism” would be an important issue in the 2000 campaign. Since George W. Bush is openly a “states’ righter,” I assumed that the vice president was appealing to us for support by saying, as president, he would fight for federal policies that contributed to the public interest. Gore did that in the South Carolina flag issue, but in the case of Elian Gonzalez in Florida and a third airport in Chicago he, too, deferred to the locals.

Gore is right that the DOT has recommended against building a third airport now. However, Gore did not share the rationale for the DOT’s recommendation. Did he draw his conclusion after a thoughtful series of dispassionate, hard-nosed government studies? Or were 2000 political considerations uppermost? President Clinton has told some Chicagoans privately that, “Jesse Jr. may be right about the airport, but this is an election year.” However, at Daley’s request, the Clinton-Gore administration in 1997 took Peotone off the nation’s planning list, making it ineligible for federal funds. Thus, one

is led to conclude that, in Chicago, local politics control federal aviation policy, rather than the public interest. O’Hare is the new patronage system in Chicago—which includes lucrative no-bid contracts, jobs and vendor access.

Is unbalanced growth in the public interest? Chicago eventually plans to spend at least \$15 billion to gold-plate O’Hare (and Midway) and build additional runways at O’Hare. For considerably less money—\$2.3 billion—one could build four runways and 140 gates and, more important, achieve balanced economic growth. A recent downtown business study said current plans will add \$10 billion to the economy around O’Hare and 110,000 new jobs. Such a plan will meet Chicago’s transportation needs for the foreseeable future and “keep the health of O’Hare . . . very strong,” as Gore desires. But such a policy will kill Peotone and its potential 236,000 new jobs, and will lead to increased class and caste segregation in the Chicago metropolitan area—a community already well known for such patterns. Was that understanding part of Gore’s calculation of the “public interest” when he affirmed O’Hare and negated Peotone?

The top 11 businesses in the 2nd Congressional District, with nearly 600,000 residents, employ a mere 11,000 people—one job for every 60 people. By contrast, more than 100,000 people go to work in Elk Grove Village, a city of 36,000 people—three jobs for every person. The effect of Gore’s position on O’Hare will only add to this disparity. Apparently, Gore sees the option as either a “zero sum” game—if we build Peotone it will hurt O’Hare—or he is willing to accept the consequences of unbalanced growth that would make the southern part of Chicago and Cook County even poorer, blacker, more segregated and dependent on government and taxpayers. Is Gore claiming that such economic imbalance and racial segregation are in the public interest?

Are increased class and caste disparities in the political interests of Gore? Quite naturally, politicians representing areas of excess private jobs will want lower taxes and less government—the Republican agenda. My area, in desperation, will turn to the government as the lifeboat of last resort to keep it afloat at a subsistence level, even as crime soars, social needs rise, services fail and hardworking, middle-class taxpayers revolt against “welfare cheats and free-loaders.” With nowhere else to go, these African Americans and poor people who vote will turn to Democrats to save them. Thus, it will perpetuate a Democratic image as the party of big government and undermine Gore’s efforts to downsize and “reinvent” government.

Balanced economic growth better serves the entire region. In Gore’s own political interests, he should look anew at O’Hare and Peotone and make another assessment of what is truly in the public interest.

MEMORANDUM—JULY 13, 2002

To: Senator Peter Fitzgerald, Congressman Henry Hyde, Congressman Jesse Jackson, Jr.

From: Joe Karaganis.

Re: Impact of the Lipinski/Oberstar Bill on Illinois Law and Unchecked Condemnation Powers for Chicago to Condemn Land in Other Communities.

Sandy Murdock asked me to give you some background legal analysis of the impact of the language in the Lipinski/Oberstar bill (see §3 of the bill) to create a federal law override (preemption) of the Illinois Aero-

nautics Act—specifically as that impact relates to expanding Chicago’s power to engage in widespread condemnation and demolition of residential and business properties in other municipalities outside Chicago’s boundaries.

As you know, on July 9, 2002 Judge Hollis Webster of the DuPage County Circuit Court entered a ruling declaring that Chicago had no authority under Illinois law to acquire property in other municipalities without complying first with §47 of the Illinois Aeronautics Act, 620 ILCS 5/47 which requires any municipality to first obtain a “certificate of approval” from the Illinois Department of Transportation before making any alteration or extension of an airport.

Prior to her ruling, Chicago had proposed to acquire and demolish over 500 homes in Bensenville before seeking a certificate of approval. In testimony at the July 9, injunction hearing before Judge Webster, the lead IDOT official in charge of the IDOT approval process (James Bildilli) testified:

1. Without judicial enforcement of the Illinois Aeronautics Act, Chicago could acquire and demolish all the homes and businesses proposed in Bensenville and Elk Grove (over 500 homes and dozens of businesses) and only after such acquisition and demolition, would IDOT some years later hold a hearing in which IDOT would hear evidence and consider whether the harm caused by the acquisition and demolition justified IDOT’s approval of the project. Essentially IDOT, in reaching its decision on the certificate of approval, would hear and consider evidence of the harm caused by the acquisition and demolition and consider this harm as a basis of its decision—but only after the harm (and destruction) had been inflicted.

2. Without judicial enforcement of the Illinois Aeronautics Act, Chicago could acquire by condemnation or otherwise all of Bensenville, Wood Dale, Elk Grove Village (thousands of homes and businesses) and any other municipality—without any need for a prior certificate of approval from IDOT under §47.

Thankfully, Judge Webster rejected Chicago and IDOT’s claims and applied and enforced the plain language of the statute—prohibiting Chicago from acquiring and demolishing homes and businesses in another municipality without first obtaining a certificate of approval from IDOT.

It is important for you to understand that the preemption approach of the Lipinski Bill (as well as Durbin’s) will not simply federally destroy key provisions of the Illinois Aeronautics Act (namely §§47, 48, and 38.01). The Lipinski legislation has the effect of destroying the entire framework that Illinois has created under the Illinois Constitution and Illinois Municipal Code for preventing abuses of the state law condemnation power by municipalities. Here is the Illinois constitutional and Illinois statutory framework as upheld and enforced by Judge Webster:

1. Under the Illinois Constitution, Chicago has only that condemnation authority to condemn lands in other municipalities for airport purposes that is expressly delegated to Chicago by the laws of the State of Illinois. Article VII, Section 7 of the Illinois Constitution. Under long standing Illinois law (“Dillon’s rule”) followed in almost all of the 50 states) any powers delegated to a municipality by the General Assembly under this constitutional provision are narrowly construed against assertions of authority by the municipality.

2. The Illinois General Assembly has delegated to Chicago the authority to condemn

lands in other municipalities for airport purposes in the Illinois Municipal Code) (65 ILCS 5/11-102-4) but as an essential element of that authority to condemn has expressly mandated in the Illinois Municipal Code (65 ILCS 5/11-102-10) that this grant of authority to condemn must be in accordance with the requirements of the Illinois Aeronautics Act.

3. Acquisition of land by Chicago without complying with the Illinois Aeronautics Act is thus not only a violation of the Illinois Aeronautics Act, such failure constitutes an unlawful *ultra vires* action by Chicago in violation of the Illinois Constitution and the Illinois Municipal Code. Without compliance with the Illinois Aeronautics Act, Chicago has no authority under either Article VII, Section VII of the Illinois constitution and no authority under the Illinois Municipal Code to acquire land in other municipalities.

The Lipinski (and Durbin) legislation seeks to “preempt” and destroy the Illinois Aeronautics Act, but in doing so the Lipinski (and Durbin) legislation attempts to destroy and rewrite the framework created by the Illinois Constitution and the Illinois Municipal Code. Why not just abolish state constitutions and state statutory codes altogether and let Congress rewrite the state constitutions and state statutory codes of all 50 states?

Beyond the enormous legal implication of such action, the practical effect of the Lipinski (and Durbin) legislation is to do exactly what Judge Webster said Illinois law prohibits:

1. The Lipinski (and Durbin) legislation will “authorize” Chicago to condemn land in other municipalities even though no such authorization exists for Chicago to do so under the Illinois Constitution or Illinois Municipal Code.

2. The Lipinski (and Durbin) legislation will “authorize” Chicago to engage in unfettered condemnation authority with the ability to acquire and destroy thousands of homes and businesses in many other municipalities—all in violation of the limits on Chicago’s state constitutional and state Municipal Code authority imposed by the Illinois Constitution and Illinois General Assembly.

As Senator Fitzgerald has pointed out in his remarks in his recent colloquy with Senator Durbin, the Lipinski (and Durbin) legislation would give Chicago unfettered ability to condemn properties outside the City of Chicago. If applied in other states, it would “authorize” one municipality (whichever municipality Congress chose) to disregard the limits on that municipality’s delegated powers created by that state’s constitution and state statutory code) and to condemn land in any other municipality in that state—in total federal preemption of that state’s constitution and municipal code.

As we have said before, such radical action is a blatant violation of the federalism/Tenth Amendment Structure of the federal Constitution. But even if Congress did have such power, should Congress be overriding state constitutions and municipal codes to give federal “authorization” to one municipality in a state to run roughshod over other municipalities in that state in violation of the state constitution and municipal statutory code?

Postscript: There is another aspect of the Lipinski preemption which may be of interest. The Lipinski bill proposes to preempt §38.01 of the Illinois Aeronautics Act, 620 ILCS 5/38.01. This section requires Chicago to obtain IDOT approval for any grant of federal funding to be used on airport projects which the Illinois General Assembly has au-

thorized Chicago to construct. This is an important financial oversight tool (created by the Illinois General Assembly as a condition of a grant of authority to build airports) which allows the State of Illinois to engage in financial oversight of airport actions by Chicago. Given the widespread abuses in contract awards that have been documented at O’Hare, the Lipinski (and Durbin) legislation will literally “open the chicken coop” to widespread potential for corruption.

July 24, 2001.

Hon. DON YOUNG,
*Chairman, Transportation and Infrastructure
Committee,
Washington, DC.*

DEAR CONGRESSMAN YOUNG: I am writing to you about the grave concerns I have with H.R. 2107, The End Gridlock at Our Nation’s Critical Airports Act of 2001. I share the concerns of Congressmen Henry Hyde, Jerry Weller and Philip Crane, who have sent a virtually identical letter to you under separate cover. I agree that in H.R. 2107—the attempt to rebuild and expand O’Hare Airport—Congress is inappropriately violating the Tenth Amendment.

In other contexts—specifically with regard to certain human rights—I believe that the Tenth Amendment serves to place limitations on the federal government with which I disagree. Indeed, in the area of human rights, I believe new amendments must be added to the Constitution to overcome the limitations of the Tenth Amendment. However, building airports is not a human right. Therefore, in the present context, I agree that building airports is appropriately within the purview of the states.

I believe attempts by Congress to strip the authority of Governor Ryan and the Illinois Legislature over the delegation and authorization to Chicago of state power to build airports—along with the authority of governors and state legislatures in a host of other states such as Massachusetts (Logan), New York (LaGuardia and JFK), New Jersey (Newark) California (San Francisco airport), and the State of Washington (Seattle)—raise serious constitutional questions.

Under the framework of federalism established by the federal constitution, Congress is without power to dictate to the states how the states delegate power—or limit the delegation of that power—to their political subdivisions. Unless and until Congress decides that the federal government should build airports, airports will continue to be built by states or their delegated agents (state political subdivisions or other agents of state power) as an exercise of state law and state power. Further compliance by the political subdivision of the oversight conditions imposed by the State legislature as a condition of delegating the state law authority to build airports is an essential element of that delegation of state power. If Congress strips away a key element of that state law delegation, it is highly unlikely that the political subdivision would continue to have the power to build airports under state law. The political subdivision’s attempts to build runways would likely be *ultra vires* (without authority) under state law.

Under the Tenth Amendment and the framework of federalism built into the Constitution, Congress cannot command the States to affirmatively undertake an activity. Nor can Congress intrude upon or dictate to the states, the prerogatives of the states as to how to allocate and exercise state power—either directly by the state or by delegation of state authority to its political subdivisions.

As stated by the United States Supreme Court.

[T]he Framers explicitly chose a Constitution that confers upon Congress the power to regulate individuals, not States. . . . We have always understood that even where Congress has the authority under the Constitution to pass laws requiring or prohibiting certain acts, it lacks the power directly to compel the States to require or prohibit those Acts. *New York v. United States*, 505 U.S. 144, at 166 (1992) (emphasis added)

It is incontestable that the Constitution established a system of “dual sovereignty.” *Printz v. United States*, 521 U.S. 898, 918 (1997) (emphasis added)

Although the States surrendered many of their powers to the new Federal Government, they retained “a residuary and inviolable sovereignty.” *The Federalist* No. 39, at 245 (J. Madison). This is reflected throughout the Constitution’s text.

Residual state sovereignty was also implicit, of course, in the Constitution’s conferral upon Congress of not all governmental powers, but only discrete, enumerated ones, Art. I, Sec. 8, which implication was rendered express by the Tenth Amendment’s assertion that “[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

This separation of the two spheres is one of the Constitution’s structural protections of liberty. “Just as the separation and independence of the coordinate branches of the Federal Government serve to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front. Id at 921 quoting *Gregory v. Ashcroft*, 501 U.S. 452 at 458 (1991)

The Supreme Court in *Printz* went on to emphasize that this constitutional structural barrier to the Congress intruding on the State’s sovereignty could not be avoided by claiming either a) that the congressional authority was pursuant to the Commerce Power and the “necessary and proper clause of the Constitution or b) that the federal law “preempted” state law under the Supremacy Clause. 521 U.S. at 923-924.

It is important to note that Congress can regulate—but not affirmatively command—the states when the state decides to engage in interstate commerce. See *Reno v. Condon*, 528 U.S. 141 (2000). Thus in *Reno*, the Court upheld an act of Congress that restricted the ability of the state to distribute personal drivers’ license information. But *Reno* did not involve an affirmative command of Congress to a state to affirmatively undertake an activity desired by Congress. Nor did *Reno* involve (as proposed here) an intrusion by the federal government into the delegation of state power by a state legislature—and the state legislature’s express limits on that delegation of state power—to a state political subdivision.

H.R. 2107 would involve a federal law which would prohibit a state from restricting or limiting the delegated exercise of state power by a state’s political subdivision. In this case, the proposed federal law would seek to bar the Illinois Legislature from deciding the allocation of the state’s power to build an airport or runways—and especially the limits and conditions imposed by the State of Illinois on the delegation of that power to Chicago. The law is clear that Congress has no power to intrude upon or interfere with a state’s decision as to how to allocate state power.

A state's authority to create, modify, or even eliminate the structure and powers of the state's political subdivisions—whether that subdivision be Chicago, Bensenville, or Elmhurst—is a matter left by our system of federalism and our federal Constitution to the exclusive authority of the states. As stated by the Seventh Circuit in *Commissioners of Highways v. United States*, 653 F.2d 292 (7th Cir. 1981) (quoting *Hunter v. City of Pittsburgh*, 207 U.S. 161, 178 (1907)):

Municipal corporations are political subdivisions of the State, created as convenient agencies for exercising such of the governmental powers of the State as may be entrusted to them. For the purpose of executing these powers properly and efficiently they usually are given the power to acquire, hold, and manage personnel and real property. The number, nature and duration of the powers conferred upon these corporations and the territory over which they shall be exercised rests in the absolute discretion of the State. . . . The State, therefore, at its pleasure may modify or withdraw all such powers, may take without compensation such property, hold it itself, or vest it in other agencies, expand or contract the territorial area, unite the whole or a part of it with another municipality, repeal the charter and destroy the corporation. All this may be done, conditionally or unconditionally, with or without the consent of the citizens, or even against their protest. In all these respects the State is supreme, and its legislative body, conforming its action to the state constitution, may do as it will, unrestrained by any provision of the Constitution of the United States. *Commissioners of Highways*, 653 F.2d at 297

Chicago has acknowledged that Illinois has delegated its power to build and operate airports to its political subdivisions by express statutory delegation. 65 ILCS 5/11-102-1, 11-102-2 and 11-102-5. These state law delegations of the power to build airports and runways are subject to the Illinois Aeronautics Act requirements—including the requirement that the State approve any alterations of the airport—by their express terms. Any attempt by Congress to remove a condition or limitation imposed by the Illinois Legislature on the terms of that state law delegation of authority would likely destroy the delegation of state authority to build airports by the Illinois Legislature to Chicago—leaving Chicago without delegated state legislative authority to build runways and terminals at O'Hare or Midway. The requirement that Chicago receive a state permit is an express condition of the grant of state authority and an attempt by Congress to remove that condition or limitation would mean that there was no continuing valid state delegation of authority to Chicago to build airports. Chicago's attempts to build new runways would be ultra vires under state law as being without the required state legislative authority.

Very truly yours,

JESSE L. JACKSON, JR.
Member of Congress.

STATEMENT OF U.S. REPRESENTATIVE JESSE L. JACKSON, JR. BEFORE THE U.S. SENATE COMMERCE COMMITTEE—THURSDAY, MARCH 21ST, 2002, WASHINGTON, DC

I want to commend and thank Members of the Committee on Commerce, Science and Transportation for this opportunity to again discuss the future of Chicago's airports. As you know, I sent a letter to each of you stating my opposition to this bill. Many Members responded favorably, and for that I

thank them. Today, my position has not changed.

As you know, my commitment to resolving Chicago's aviation capacity crisis predates my days in Congress. I ran on this issue in my first campaign. I won on this issue. It remains my first priority. It was the subject of my first speech in Congress. And it was the topic of my first debate in Washington.

I am elated that this issue—my issue—is now before the Congress. And while I thank Members of the Senate for their interest in trying to resolve this regional and national crisis, I must say that HR 3479 as amended falls woefully short of providing an adequate, equitable solution.

Please know that I do not oppose fixing O'Hare's problems. But I have many, many grave concerns about this specific expansion plan. Concerns about cost. About safety. About environment impact. About federal precedence. And about constitutionality.

Clearly this bill sets dangerous precedence by stating that Congress—not the FAA, not Departments of Transportation, not aviation experts—but Congress shall plan and build airports. Further, it ignores the 10th Amendment to the U.S. Constitution. It guts and/or undermines state laws and environmental protections. And it sidesteps the checks-and-balances and the public hearing process.

My focus today is the same as it's always been. Finding the best fix. And that best fix is the construction of a third Chicago airport near Peotone, Illinois. The plain truth is Peotone could be built in one-third the time at one-third the cost. For taxpayers and travelers, it's a no-brainer.

Unfortunately, this bill mandates expansion of O'Hare yet pays mere lip service to Peotone. It puts the projects on two separate and unequal tracks. That is my opinion. That is also the opinion of the Congressional Research Service, whose analysis I will provide to you.

FEDERAL STUDY CONFIRMS AIRPORT DEAL SHORTCHANGES PEOTONE

An analysis released today by the independent, non-partisan research arm of Congress confirmed what Peotone proponents have said all along: The Ryan-Daley airport agreement puts O'Hare on the fast track and just pays lip service to Peotone.

An analysis released today by the Congressional Research Service concludes that the proposed National Aviation Capacity Expansion Act puts the two projects on separate and unequal tracks.

The CRS analysis states that the Federal Government "shall construct the runway redesign plan" at O'Hare but would merely "review" and give "consideration" to the Peotone Airport project.

In reaction to the release of today's report, Congressman Jackson reiterated his opposition to the measure. "This study unmasks the bare truth about the agreement between the Mayor and the Governor. For those claiming that the deal is good for the Third Airport, it's not. The masquerade ball is over," Jackson said.

"Peotone has been stuck in the paralysis of analysis for 15 years. We don't need any more reviews. We need a Third Airport," Jackson said. "Peotone can be built faster, cheaper, safer, and cleaner than expanding O'Hare, and presents a more secure and more permanent solution to Illinois' aviation crisis. This is shortsighted legislation and a bad deal for the public."

The CRS report states that the Lipinski-Durbin bill "specifically states that the (FAA) Administrator 'shall construct' the

runway redesign plan; however, there is no parallel language regarding the construction of the south suburban airport."

CRS concludes that the bill "provides for the Administrator's review of the Peotone Airport project (and) provides for the expansion of O'Hare. The provisions appear to operate independently of each other and are not drafted in parallel language, and provide different directions to the Administrator."

CONGRESSIONAL RESEARCH SERVICE MEMORANDUM—FEBRUARY 6, 2002

To: Hon. Jesse L. Jackson, Jr., Attention: George Seymour
From: Douglas Reid Weimer, Legislative Attorney, American Law Division
Subject: Examination of Certain Provisions of H.R. 3479: National Aviation Capacity Expansion Act

BACKGROUND

This memorandum summarizes various telephone discussions between George Seymour and Rick Bryant of your staff, and Douglas Weimer of the American Law Division. Your staff has expressed interest in certain provisions of H.R. 3470, the proposed National Aviation Capacity Expansion Act ("bill"). These provisions are examined and analyzed in the following memorandum.

The bill contains various provisions relating to the expansion of aviation capacity in the Chicago area. Among the provisions contained in the bill are provisions relating to O'Hare International Airport ("O'Hare"), Meigs Field, a proposed new carrier airport located near Peotone, Illinois ("Peotone"), and other projects. Your office has expressed repeated concern that the news media and various commentators have reported that the bill would apparently implement the various projects in a similar manner and that similar legislative language is used to implement the various projects. The news articles that you have cited concerning the bill tend to report the various elements of the bill without distinguishing the bill language and the differences as to the means in which the various projects may be implemented.

ANALYSIS

The chief purpose of the bill is to expand aviation capacity in the Chicago area, through a variety of means. Section 3 of the bill deals with airport redesign and other issues. Your staff has focused upon the interpretation and the bill language of two particular subsections—(e) and (f)—of Section 3, which are considered below.

"(e) SOUTH SUBURBAN AIRPORT FEDERAL FUNDING.—The Administrator shall give priority consideration to a letter of intent application submitted by the State of Illinois or a political subdivision thereof for the construction of the south suburban airport. The Administrator shall consider the letter not later than 90 days after the Administrator issues final approval of the airport layout plan for the south suburban airport." If enacted, this bill language would relate to the federal funding for the proposed airport to be constructed at Peotone. The "Administrator" refers to the Administrator of the Federal Aviation Administration. The Administrator is directed to give priority consideration to a letter of intent application ("application") submitted by Illinois, or a political subdivision for the construction of the "south suburban airport" the proposed airport at Peotone.

The Administrator is given specific directions concerning the application and for the time consideration of the application. Concern has been expressed that the Administrator is given certain duties and directions,

but that there is no specific language to ensure and/or to compel that the Administrator will comply with the Congressional mandate, if the Administrator does not choose to follow the Congressional direction. Congress possesses inherent authority to oversee the project, as well as the Administrator's compliance with the statutory requirements, by way of its oversight and appropriations functions. Congress and congressional committees have virtually plenary authority to elicit information which is necessary to carry out their legislative functions from executive agencies, private persons, and organizations. Various decisions of the Supreme Court have established that the oversight and investigatory power of Congress is an inherent part of the legislative function and is implied from the general vesting of the legislative power of Congress. Thus, courts have held that Congress' constitutional authority to enact legislation and appropriate money inherently vests it with power to engage in continuous oversight. The Supreme Court has described the scope of this power of inquiry as to be "as penetrating and far-reaching as the potential power to enact and appropriate under the Constitution."

Specific interest is focused on the language "shall consider" used in the second sentence of the subsection. In the context of this subsection, it should not necessarily be considered to mean the implementation of an accelerated approval/construction process for the airport. While these events may occur, such a course of action is not specifically provided by the legislation.

Your staff has also focused on subsection (f), dealing with the proposed federal construction at O'Hare. The bill provides:

"(f) FEDERAL CONSTRUCTION.—

(1) On July 1, 2004, or as soon as practicable thereafter, the Administrator shall construct the runway redesign plan as a Federal project, if—

(A) the Administrator finds, after notice and opportunity for public comment, that a continuous course of construction of the runway design plan has not commenced and is not reasonably expected to commence by December 2, 2004;

(B) Chicago agrees in writing to construction of the runway redesign plan as a Federal project without cost to the United States, except such funds as may be authorized under chapter 471 of title 49, United States Code, under authority of paragraph (4);

(C) Chicago enters into an agreement, acceptable to the Administrator, to protect the interests of the United States Government with respect to the construction, operation, and maintenance of the runway redesign plan;

(D) the agreement with Chicago, at a minimum provides for Chicago to take over ownership and operations control of each element of the runway redesign plan upon completion of construction of such element by the Administrator;

(E) Chicago provides, without cost to the United States Government (except such funds as may be authorized under chapter 471 of title 49, United States Code, under the authority of paragraph (4)), land easements, rights-of-way, rights of entry, and other interests in land or property necessary to permit construction of the runway redesign plan as a Federal project and to protect the interests of the United States Government in its construction, operation, maintenance, and use; and

(F) the Administrator is satisfied that the costs of the runway redesign plan will be

paid from sources normally used for airport development projects of similar kind and scope.

(2) The Administrator may make an agreement with the City of Chicago under which Chicago will provide the work described in paragraph (1), for the benefit of the Administrator.

(3) The Administrator is authorized and directed to acquire in the name of the United States all land, easements, rights-of-way, rights of entry, or other interests in land or property necessary for the runway redesign plan under this section, subject to such terms and conditions as the Administrator deems necessary to protect the interests of the United States.

(4) Chicago shall be deemed the owner and operator of each element of the runway reconfiguration plan under section 40117 and chapter 471 of title 49, United States Code, notwithstanding any other provision of this section or any of the provisions in such title referred to in this subsection."

The Administrator is directed to construct the O'Hare runway plan as a Federal project if certain conditions are met: (1) construction of the runway design plan has not begun and is not expected to begin by December 1, 2004; (2) Chicago agrees to the runway plan as a Federal project without cost to the United States, with certain exceptions; (3) Chicago enters into an agreement to protect Federal Government interests concerning construction, operation, and maintenance of the runway project; (4) the agreement provides that Chicago take over the ownership and operation control of each element of the runway design plan upon its completion; (5) Chicago provides, without cost, the land, easements, right-of-way, rights of entry, and other interests in land/property as are required to allow the construction of the runway plan as a Federal project and to protect the interests of the Federal Government in its construction, operation, maintenance, and use; and (6) the Administrator is satisfied that the redesign plan costs will be paid from the usual sources used for airport development projects of similar kind and scope.

Paragraph 2 provides that the Administrator "may" make an agreement with Chicago, whereby Chicago will provide the work described above in paragraph (1) for the benefit of the Administrator. It should be noted that the use of the word "may" would appear to make this language optional, and would not necessarily require the Administrator to enter into such agreement with Chicago.

Paragraph 3 authorizes and directs the Administrator to acquire in the name of the Federal Government those property interests needed for the redesign plan, subject to the terms and conditions that the Administrator feels are necessary to protect the interests of the United States.

Paragraph 4 provides that Chicago will be deemed to be the owner and operator of each element of the runway reconfiguration plan, notwithstanding any other provision of this section.

Discussion has focused on the different legislative language used in subsection (e) and (f). Subsection (f) specifically states that the Administrator "shall construct" the runway redesign plan; however, there is no parallel language regarding the construction of the south suburban airport in subsection (e). The provisions of the subsections appear to be independent of each other and provide very different directions to the Administrator. Hence, it may be interpreted that subsection (f) would authorize runway construction (if

certain conditions are met), and subsection (e) is concerned primarily with the review and the consideration of an airport construction plan.

It is possible that the Administrator's actions concerning the implementation of this legislation, if enacted, may be subject to judicial review. Judicial review of agency activity or inactivity provides control over administrative behavior. Judicial review of agency action/inaction may provide appropriate relief for a party who is injured by the agency's action/inaction. The Administrative Procedure Act ("APA") provides general guidelines for determining the proper court in which to seek relief. Some statutes provide specific review proceedings for agency actions. Subsection (h) of the bill provides for judicial review of an order issued by the Administrator. The bill provides that the bill may be reviewed pursuant to the provisions contained at 49 U.S.C. §46110.

If the Administrator does not issue an order and judicial review is not possible under this provision, then it is possible that "nonstatutory review" may occur. When Congress has not created a special statutory procedure for judicial review, an injured party may seek "nonstatutory review." This review is based upon some statutory grant of subject matter jurisdiction. Therefore, a party who wants to invoke nonstatutory review will look to the general grants of original jurisdiction that apply to the federal courts. It is possible that an available basis for jurisdiction in this case—if the Administrator does not carry out his/her Congressional mandate—may be under the general federal question jurisdiction statute which authorizes the federal district courts to entertain any case "arising under" the Constitution or the laws of the United States. An action for relief under this provision is usually the most direct way to obtain nonstatutory review of an agency action. Hence, it is possible that an action could be brought under this statute to compel the Administrator to comply with the provisions contained in the bill.

CONCLUSION

This memo has summarized staff discussion concerning certain provisions contained in the proposed National Aviation Capacity Expansion Act. Subsection (e) provides for the Administrator's review of the Peotone Airport project. Subsection (f) provides for the expansion of O'Hare. The provisions appear to operate independently of each other, are not drafted in parallel language, and provide different directions to the Administrator. The Administrator is given certain responsibilities under both subsections. Congress possesses plenary oversight authority over federally funded projects. This would provide oversight Administrator is given certain responsibilities under both subsections. Congress possesses plenary oversight authority over federally funded projects. This would provide oversight over the Administrator and his/her actions. A judicial proceeding may be possible against the Administrator to compel the Administrator to fulfill the statutory responsibilities provided by the bill.

STATEMENT OF U.S. REPRESENTATIVE JESSE L. JACKSON JR. BEFORE THE U.S. HOUSE AVIATION SUBCOMMITTEE—WEDNESDAY, AUGUST 1ST, 2001, WASHINGTON, DC

I want to thank Members of the House Aviation Subcommittee for this opportunity to discuss Chicago's aviation future. As you may know, I ran on this issue in 1995, and have supported expanding aviation capacity

by building a third regional airport in Peotone, Illinois.

Let me begin with a personal anecdote that, from my perspective, illustrates why we're here. I won my first term in a special election and on December 14th, 1995 took the Oath of Office. Congressman Lipinski, my good friend and fellow Chicagoan whose district borders mine, was present and his was the seventh or eighth hand I shook as a new Member. He told me then: "Young man, I want you to know that I can be very helpful to you during your stay in Congress, but you're never going to get that new airport you spoke about during your campaign."

Since then, Congressman Lipinski has been helpful and we've worked together on many important issues. But, he's also made good on his word to block a third airport.

It is this rigid stance by many Chicago officials that's allowed a local problem to escalate into a national crisis. Once the nation's best and busiest crossroads, O'Hare is now its worst choke point—overpriced, overburdened and overwhelmed.

And to think it was avoidable. This debate dates back to 1984 when the Federal Aviation Administration determined that Chicago was quickly running out of capacity. The FAA directed Illinois, Indiana and Wisconsin to conduct a feasibility study for a new airport. The exhaustive study of numerous sites concluded almost 10 years ago that gridlock could be best avoided by building a south suburban airport. The State of Illinois then drafted detailed plans for an airport near Peotone.

Unfortunately, despite the FAA's dire warning and the State's best efforts, I watched in amazement as the City of Chicago went to extremes to thwart and delay any new capacity.

In the late 1980s, Mayor Daley mocked the idea of a third airport. By 1990, the City did an about-face and proposed building a third airport within the City. The City even initiated federal legislation creating the Passenger Facility Charge (PFC) to pay for it. But two years later the City reversed itself again and abandoned the plan, yet continued to collect \$90 million a year in PFCs. This summer, the City told the Illinois Legislature that O'Hare needed no new capacity until the year 2012, then, in yet another reversal, three weeks ago declared O'Hare needed six new runways.

As the City was spending hundreds of millions of dollars on consultants to tell us that the City didn't, did, didn't, did need new capacity, it continued to be consistent on the one thing—fighting to kill the third airport.

Sadly, that opposition was never based on substantive issues—regional capacity, public safety or air travel efficiency. Instead it was rooted in protecting patronage, inside deals and the status quo. In fact, earlier this year the Chicago Tribune won a Pulitzer Prize for documenting the "stench at O'Hare."

Still, for eight years, City Hall leveraged the Clinton FAA to stall Peotone. The FAA, ignoring its own warnings of approaching gridlock, conspired with the city to:

(1) Mandate "regional consensus," thus requiring Chicago mayoral approval for any new regional airport;

(2) Remove Peotone from the NPIAS list in 1997, after it emerged as the frontrunner. Peotone had been on the NPIAS for 12 years;

(3) Hold up the Peotone environmental review from 1997 to 2000.

In short, the same parties who created this aviation mess are now saying "trust us to clean it up" with H.R. 2107. But their hands are too dirty and their interests are too nar-

row. Proponents of this legislation claim to be taking the high road. But this is a dead end.

Fortunately, there is a better alternative. Compared to O'Hare expansion, Peotone could be built in one-third the time at one-third the cost—both important facts given that the crisis is imminent and that the public will ultimately pay for any fix.

Site selection aside, however, there is yet another, even bigger problem with H.R. 2107. It is the United States Constitution.

H.R. 2107 strips Illinois Governor George Ryan of legitimate state power in an apparent violation of the "reserved powers" clause of the 10th Amendment.

Under the 10th Amendment, Congress cannot command Illinois to affirmatively undertake an activity, nor can it intrude upon Illinois' prerogative to exercise or delegate its power. As stated by the United States Supreme Court: "[T]he Framers explicitly chose a Constitution that confers upon Congress the power to regulate individuals, not States . . . We have always understood that even where Congress has the authority under the Constitution to pass laws requiring or prohibiting certain acts, it lacks the power directly to compel the States to require or prohibit those acts." [New York v. United States, 1992]

Supporters have cited the Commerce Clause in defending this legislation. But the Supreme Court in *Printz v. United States* specifically emphasized the 10th Amendment barrier to Congress intruding on a state's sovereignty by saying that it could not be avoided by claiming either, one, that congressional authority was pursuant to the Commerce Power, or, two, that federal law "preempted" state law under the Supremacy Clause.

Chicago has acknowledged Illinois' authority to build and operate airports by express statutory delegation through the Illinois Aeronautics Act, including the requirement that the State approve any airport alterations. Under the 10th Amendment, if Congress strips away a key element of the Illinois law, Chicago's attempt to build runways would likely be ultra vires (without authority) under Illinois law.

Moreover, H.R. 2107 converts the concept of dual sovereignty into tri-sovereignty, by going beyond states' rights to city rights. It gives Mayor Daley (and the other local officials in charge of the 68 largest airports in the country) a greater say over national aviation policy than the federal government or the fifty governors.

Indeed, H.R. 2107 sets federalism on its head. It makes about as much sense as putting the local police department in charge of national defense.

Such legislation won't improve aviation services. In fact, it increases the likelihood for a constitutional challenge that will further prolong this crisis.

So, from a practical standpoint, I urge the subcommittee to reject this measure, to reject cramming more planes into one of the nation's most overcrowded airports, to reject turning O'Hare into the world's largest construction site for the next 20 years, and to reject sticking the taxpayers with an outrageous bill.

I strongly urge the committee to reject this unprecedented, unwise and unconstitutional attack against our fifty states and our Founding Fathers. Thank you.

SUBURBAN O'HARE COMMISSION, FEBRUARY 13, 2002—A BETTER PLAN FOR CURING THE O'HARE AIRPORT BOTTLENECK

Chicago—A plan for relieving the Chicago aviation bottleneck was unveiled today that

costs less, is more efficient, less destructive and can be realized quicker than a "compromise" plan that Chicago Mayor Richard M. Daley and Illinois Gov. George Ryan are trying to rush through Congress.

The plan was crafted by the Suburban O'Hare Commission, a council of governments representing a million residents living around O'Hare Airport.

The plan includes runway, terminal and other improvements at O'Hare International Airport, to make it more efficient, competitive and convenient. The plan also includes alternatives to the costly and destructive "western access" proposed in the Daley-Ryan plan. The centerpiece of the plan remains, as it has for well over a decade, a major hub airport in the south suburbs that had been urged by experts and government officials from three states, and would be operational now if not for obstruction from Chicago Mayor Richard M. Daley. The plan provides for many more flights to the region, and, consequently, many more jobs.

"We always have been in favor of a strong O'Hare Airport because of its importance to our communities and to the regional economy," said John Geils, SOC Chairman and president of the Village of Bensenville. "This will come as a surprise only to those who have been taken in by the rhetoric of our opponents, who maliciously tried to portray us as anti-O'Hare zealots, willing to damage or even destroy O'Hare. Our plan will expand the region's aviation and economic growth; the Daley-Ryan plan will stifle that growth."

"The claimed benefits—including delay reductions, job increases, improved safety, greater competition and less noise—of the Daley-Ryan O'Hare expansion plan are untrue. We have a plan that is better for the entire region, and not just for Chicago City Hall and its big business friends," Geils said.

Among the improvements are a realistically modernized O'Hare, instead of the impossible attempt by Daley and Ryan to stuff ten pounds of potatoes into a five-pound sack. Terminals would be updated, with an eye to matching them with capacity and making them more user friendly. Selected runways would be widened to accommodate the large new jets, such as the A380X, thus increasing the number of passengers the airport can serve, without increasing air traffic. Western access and a bypass route would be built on airport property, skirting O'Hare to the south—as originally planned, thus avoiding the destruction of uncounted homes and businesses, as under the Daley-Ryan plan.

The SOC Solution also would increase competition at O'Hare, through terminal and other facilities improvements so that air travelers using the competition are not treated as second-class customers. Funding of O'Hare improvements would be disconnected from a complicated bonding scheme that allows United and American airlines to become more entrenched and to continue to charge anti-competitive fares. In addition, some of the lucrative gambling revenues, now going to enrich political insiders, would be used for a competitive makeover of O'Hare.

SOC's plan also would provide better safety and environmental protections. Every home impacted by noise at O'Hare and Midway would be soundproofed, instead of a select few as provided under the current, flawed standards adopted by Chicago. O'Hare neighbors would be spared the concentration of air pollution brought by a doubling of flights at what is already the state's largest single air polluter. Under the Daley-Ryan plan, O'Hare neighbors would find themselves in federally

required crash zones at the end of runways, forcing them to either give up their homes or live in devalued property in great risk. Because most of the region’s air traffic growth would use the South Suburban airport where pollution and safety buffers are required under current federal standards, fewer total people in the region would be subjected to health and safety risks.

Key to the SOC Solution is the construction of a truly regional hub airport in the South Suburbs, rather than an inadequate “reliever” airport as envisioned under the Daley-Ryan plan. Just as New York City and

Washington, D.C. have more than one hub airport, a true regional airport in the South Suburbs would give Chicago the kind of potential it needs with three hub airports (O’Hare, Midway and Peotone) to maintain its aviation dominance for decades. Despite the long-made assertions by entrenched interests, such as United and American airlines, that the Chicago area didn’t need a second hub airport, Midway already is developing into a hub simply because of market forces. With Midway reaching capacity in just a few years, and O’Hare already at ca-

capacity, the sounds of “no one will come to Peotone” no longer are heard.

Finally, the SOC Solution will protect taxpayers by creating an oversight board of improvements at all airports, including the south suburban airport and Midway.

“The SOC Solution is not a fragmented plan that simply focuses on O’Hare, which under the Daley-Ryan proposal is merely an instrument for extending the political and economic might of a select few,” said Gells. “Ours is a plan for a regional airport system—one that is based on common sense and what is fair and good for the entire public.”

COMPARISONS OF THE DALEY-RYAN PLAN AND THE SOC SOLUTION

	Daley-Ryan O'Hare plan	SOC Plan
Provides Immediate Solution to the Delay Problem at O'Hare?	No—runways will not be built for years and by the time they are built, delays will increase with increased traffic growth.	Yes—delays addressed immediately by FAA recommended demand management techniques such as proposed for LaGuardia.
Which Plan Provides Greatest Capacity Growth for Region?	Max increase of 700,000 operations; likely much less	1,600,000 operations capacity at South Suburban Airport—far more than Daley-Ryan plan.
Which Plan Produces Greatest Opportunity for New Competition and Lower Fares?	Daley-Ryan O'Hare plan solidifies and expands United-American monopoly dominance—hundreds of millions in losses to Chicago travelers each year.	Wide open opportunity for major competition—both at O'Hare and at South Suburban Airport.
Which Plan Provides Greater Job Growth?	Daley-Ryan O'Hare plan job growth of 195,000 jobs dependent on 700,000 new operations capacity at O'Hare—real capacity unlikely and far less jobs.	Suburban O'Hare Commission plan provides 1.6 million new operations capacity in addition to O'Hare—far more jobs than Daley-Ryan O'Hare plan.
Which Plan Makes Peotone A Reality?	No provision in Daley-Ryan O'Hare plan to actually fund and build Peotone—an exercise in political rhetoric with little likelihood of success.	SOC plan borrows from idea by Senator Patrick O'Malley to use huge excess gambling income now going to political insiders to fund Peotone construction.
Which Plan Produces Less Toxic Air Pollution Impact on Surrounding communities?	Daley-Ryan O'Hare plan makes toxic emissions at O'Hare much worse—900,000 flights to 1, 600,000—no environmental buffer.	Huge non-residential land buffer at Peotone protects public health and prevents residential exposures.
Which Plan Produces Less Noise Impact on Surrounding communities?	Daley-Ryan O'Hare plan makes aircraft noise at O'Hare much worse—900,000 flights to 1, 600,000—no environmental buffer.	Huge non-residential land buffer at Peotone protects against residential noise exposure.
Which Plan is Safer?	Daley-Ryan O'Hare plan reduces safety margins at O'Hare—more congested airspace, less safety on runways and taxiways, occupied runway crash zones.	SOC plan much safer because South Suburban Airport site can address runway safety concerns much easier than O'Hare because much more land available.
Which Plan Provides Justice and Equity for the South Side and South Suburbs?	Daley-Ryan O'Hare plan guarantees exactly what Daley wants—an empty cornfield at Peotone.	SOC plan insures construction of major new airport with adequate funding.
Which Plan Preserves State Law protections?	Daley-Ryan O'Hare plan destroys state law protections for public, health, the environment, the consumer.	SOC plan preserves and protects state law safeguards for our environment, public health and the consumer.
Which Plan Provides Greatest Economic Benefits Over Costs?	Daley-Ryan O'Hare plan has huge costs that likely far exceed the economic benefits. (which are far less than claimed).	SOC plan provides much greater regional capacity, eliminates the delay problem in the short and long term, and can be built far faster, with far less cost. Also provides much greater potential for new competition and lower fares. A much greater economic bang for far less bucks.

THE DALEY-RYAN PLAN'S ALLEGED BENEFITS AND THE REALITY

Daley-Ryan O'Hare Plan Claims	Reality
Delay Reduction Untrue. Daley-Ryan O'Hare plan claims it reduces bad weather delays by 95% and overall delay by 79%.	Total bad weather and good weather delays will increase dramatically under Daley-Ryan O'Hare plan.
Delay Savings Untrue. Daley-Ryan O'Hare plan claims it will produce delay savings of \$370 million annually and passenger delay savings of \$380 million annually.	Daley-Ryan O'Hare plan will increase total delay costs by hundreds of millions of dollars annually.
Cost Claims Untrue. Daley-Ryan O'Hare plan says cost is: \$6.6 billion	Real Costs—\$15 billion to \$20 billion.
Capacity Claims Untrue. Daley-Ryan O'Hare plan claims it will meet aviation needs of Region	Real Capacity of Daley-Ryan O'Hare plan:
Increase O'Hare passenger “enplanements” (boarding passengers) from current 34 million to 76 million	Falls far short of 76 million passenger capacity and far short of capacity of 1,600,000 operations.
Increase O'Hare operational capacity from 900,000 to 1,600,000 operations	Leaves region with huge capacity gap for both passengers and aircraft operations.
Peotone Claim untrue. Daley-Ryan O'Hare plan says they will build Peotone	Daley-Ryan O'Hare plan destroys economic rationale and funding for Peotone:
	If Daley-Ryan O'Hare plan meets its capacity claims, no economic justification for Peotone—not needed.
	If Daley-Ryan O'Hare plan falls short of capacity, \$15 billion to \$20 billion spent at O'Hare will exhaust federal and state funding resources.
Jobs Claims untrue. Daley-Ryan O'Hare plan says it will create 195,000 jobs	Actual jobs fall far short of the 195,000 jobs claimed because of enormous capacity shortfall; much greater job growth under SOC alternative.
Financial Claims Untrue. Daley-Ryan O'Hare plan says there is plenty of federal and airlines money to expand O'Hare and pay \$15 billion to \$20 billion cost.	Daley-Ryan O'Hare plan will bankrupt federal airport aid trust fund and United and American cannot afford billions in bonds.
Hiding the Data and Information. Daley-Ryan O'Hare plan claims based on slick Power Point Slides—no backup information provided.	Daley and Ryan O'Hare plan stonewall on documents and data backing up their claims—refuse to produce documents in Freedom of Information requests.
Monopoly Overcharge Problem. Daley-Ryan O'Hare plan makes no mention of monopoly overcharge problem at O'Hare—costing Chicago based travelers hundreds of millions of dollars per year. As Governor-Elect George Ryan said, monopoly overcharges at O'Hare gouged travelers over \$600 million per year.	Daley-Ryan O'Hare plan will expand and strengthen the monopoly hold United and American have on Chicago market—costing Chicago business travelers hundreds of millions annually in overcharges.
Where is the Western Ring Road? Daley-Ryan O'Hare plan say western ring road is needed for O'Hare expansion; yet refuse to disclose location, cost, and impact on local jobs, industry, housing.	Western Ring Road route pushed west by Daley-Ryan O'Hare plan into valuable and important industrial and residential areas of Elk Grove Village and Bensenville—leading to huge losses in jobs, tax revenues, economic development and residential quality of life.
Where are all the Terminals? Daley and Ryan say they have identified all the terminals needed for the Daley-Ryan O'Hare plan.	Daley now says all but one of the new terminals shown on the Daley-Ryan O'Hare plan (new Terminals 4 and 6) needed for existing runways and that new (as yet unidentified terminals will be needed for Daley-Ryan O'Hare plan—no locations shown, unidentified billions of dollars in additional unstated costs.
Noise—the Daley Ryan New Math. Daley-Ryan O'Hare plan says noise will be less at 1,600,000 operations than at 900,000 operations.	There will be significantly more noise at 1,600,000 operations than at 900,000 operations.
Toxic Air Pollution. Daley-Ryan O'Hare plan makes no mention of toxic air pollution yet Ryan as Governor said O'Hare should not be expanded because of toxic air pollution problem.	There will be significantly more toxic air pollution at 1,600,000 operations than at 900,000 operations.
Benefit-Cost Analysis. Daley-Ryan O'Hare plan says it meets federal benefit-cost analysis requirements—including requirement that federal government chose the alternative that produces greatest net benefits.	Reality is that benefits of Daley-Ryan O'Hare plan may not exceed the huge costs. It is also clear that placing the new capacity at the new South Suburban Airport rather than an expanded O'Hare produces far greater economic benefits at far less cost than the Daley-Ryan O'Hare plan.
Increased Safety Hazards. Daley and Ryan say their plan is safe	Daley-Ryan O'Hare plan creates major safety hazards, including: increase in traffic incursions (collision risk), destruction of safest runways for bad weather winter storm conditions (14/32s), high congestion in O'Hare area air space, risky runway protection (crash zones) in occupied areas.
Compliance With State Law. Daley and Ryan say that their plan complies with state law and that they are seeking federal preemption of state law only to prevent upsetting Daley-Ryan deal by a future governor.	Daley and Ryan both know that they (not some future governor) have both violated state law by failing to meet the requirements of the Illinois Aeronautics Act: purpose of bill is to immunize this illegality.
\$15 Billion into the O'Hare Money Pit: Problems of Corruption in Management of O'Hare. Daley and Ryan make no mention of the history of rampant corruption and kickbacks to Daley friends and cronies in O'Hare contracts or the need for safeguards and reforms to insure the integrity of the process.	Putting \$15 or more billion dollars into the corrupt contract management system that infects Chicago public works awards—especially at O'Hare, is pouring public resources into a cesspool. The First Commandment of Chicago O'Hare contracts is that the contractor has to hire one of Daley's friends or political associates on contract awards.
Economic Equity and Justice for the South Side and South Suburbs. Daley-Ryan O'Hare plan offers little but empty rhetoric for Peotone and south suburban economic development.	Daley-Ryan O'Hare plan calls for putting virtually all of the economic growth of aviation demand at O'Hare—leaving South Side and South Suburbs either empty promises, or a white elephant token airport.

GRAVE CONCERNS NEAR O'HARE

(By Robert C. Herguth)

American Indian remains that were exhumed 50 years ago to make way for O'Hare Airport might have to be moved again to accommodate Mayor Daley's runway expansion plans.

That's disturbing to some Native Americans, who say they want their ancestors and relics treated with greater respect.

And it's prompting local opponents of the proposed closure of two O'Hare cemeteries—one of which has Indians—to explore whether federal laws that offer limited protection to Native American burial sites and artifacts could help them resist the city's efforts.

"Maybe the federal law might come to our aid," said Bob Placek, a member of Resthaven Cemetery's board who estimates 40 of his relatives, all German and German-American, are buried there. "The dead folks out there aren't trying to be obstructionists, they're trying to rest in peace. . . . I feel it's a desecration to move a cemetery. It's a disregard for our family's history."

Resthaven is a resting place for European settlers, their descendants and, possibly, Potawatomi.

It seems unlikely federal law, specifically the Native American Grave Protection and Repatriation Act, would lend much muscle to those opposed to Daley's plan, which calls for knocking out three runways, building four new ones and adding a western entrance and terminal.

"Primarily, the legislation applies to federal lands and tribal lands," said Clarice Smith, deputy regional director for the Bureau of Indian Affairs.

Even if someone made the argument that O'Hare is effectively federal land because it uses federal money, the most Resthaven proponents could probably hope for is a short delay, a say in how any disinterment takes place and, if they are Indian, the opportunity to claim the bodies of Native Americans.

"They've got a hard road," Smith said of those who might try to halt a Resthaven closure on the basis of Indian remains.

When O'Hare was being built five decades back, an old Indian burial ground that had become a cemetery for the area's white settlers was bulldozed. Some bodies were moved to a west suburban cemetery and some, including an unknown number of Indians, were believed to be transferred to Resthaven, according to published accounts and those familiar with local history.

"Ma used to talk about Indians being buried at Resthaven," said the 44-year-old Placek, who believes the Indians share a mass grave. His mother, who died in 1996, also is buried at Resthaven. "I used to hear as a little kid Potawatomi" were there.

Regardless of the tribe to which the dead belonged, the Forest County Potawatomi Community of Wisconsin, one of several Potawatomi bands relatively close to Chicago, plans to get involved.

"It's concerning," said Clarice Ritchie, a researcher for the community of about 1,000 who hadn't heard about the issue until contacted by a reporter.

"At this stage of the game, who can determine who they were specifically? But we run into this sort of circumstance in many instances throughout the state of Wisconsin, and some in Illinois, and we take care of them as if they were relatives," she said. "We're all related, we're all created from God, so we do the right thing, we take care of anybody and try to see that they're either not disturbed or properly taken care of."

"I guess we'd have to keep our mind broad as to what would be done," Ritchie said.

"Naturally we don't like to see graves disturbed, but somebody has already disturbed them once. . . . I guess what I'd probably do is talk to the tribal elders and spiritual people and other tribes who could be in the area and come to a conclusion of what should be done."

Bill Daniels, one of the Potawatomi band's spiritual leaders, said spirits may not look kindly on those who move remains.

"It's not good to do that—move a cemetery or just plow over it," he said.

Daley's plan, which still must be approved by state and federal officials, also may displace nearby St. Johannes Cemetery, which is not believed to have any Native American bodies.

John Harris, the deputy Chicago aviation commissioner overseeing the mayor's \$6 billion project, said this is the first he's heard that there might be Indian remains at Resthaven, and city officials are trying to verify it.

"I have no reason to doubt them at this time, but I have no independent knowledge," he said. But "whether they're Indians or not, we would exercise an extreme level of sensitivity in the interest of their survivors."

Resthaven, which is loosely affiliated with the United Methodist Church, has about 200 graves, some of which date to the 19th century. It's located on about 2 acres on the west side of O'Hare, in Addison Township just south of the larger St. Johannes.

Self-described "advocate for the dead" Helen Sclair has heard there might be Indians buried at Resthaven, but she suspects not all Native American remains were retrieved when Wilmer's Old Settlers Cemetery was closed in the early 1950s to make room for O'Hare access roads.

She said the Chicago region, which used to be home to Potawatomi, Chippewa and other Indians, doesn't have enough cemetery space, and the dead should be treated with more respect.

"We don't have much of a positive attitude toward cemeteries in Chicago," Sclair said. "Do you know why? Because the dead don't pay taxes or vote. . . . Well, technically they don't vote."

ROSEMARY MULLIGAN,

STATE REPRESENTATIVE 55TH DISTRICT,

Des Plaines, IL, July 5, 2002.

Hon. JESSE L. JACKSON, JR.,

U.S. House of Representatives, Washington, DC.

SUBJECT: VOTE "NO" ON H.R. 3479

DEAR REPRESENTATIVE JACKSON, JR.: As an Illinois state legislator, I would like to use this opportunity to express my concern and opposition to the National Aviation Capacity Act. The issue of expansion of Chicago O'Hare Airport is extremely important but has been so misrepresented that I believe it is imperative to make a personal plea on behalf of my local residents to each member of the House of Representatives. This plan in the form it has been presented to you contains gross misrepresentations of fact and will inflict harm on the over 100,000 constituents I have taken an oath to protect.

You may not realize that "Chicago" O'Hare Airport is virtually an outcropping of land annexed by the City of Chicago that is over 90 percent surrounded by suburban municipalities. It is the only major city airport where the people directly impacted by airport activity do not elect the mayor or city officials that make decisions about the airport. Therefore, we have had little control or recourse over what happens at the airport. This plan represents a "deal" between two men and has never been debated or voted on by the Illinois General Assembly!

My family moved to Park Ridge in 1955, long before anyone had an idea of what an overpowering presence O'Hare would become. Unfortunately, the amount of land dedicated to the airport set its fate long before the current crisis. Plainly speaking, there isn't enough room to expand.

For the past several years, I and other legislators have introduced nearly a dozen measures in the Illinois General Assembly to conduct environmental studies, provide tax relief for soundproofing, defend suburban neighborhoods from unfair "land grabs," require state legislative approval of any airport expansion and to generally protect the people we represent whose residences abut airport property. Because of the political make-up of our body and the great influence of Chicago's mayor, we have been unsuccessful. Our efforts and the health and safety of our constituents are ignored because of politics.

Please, before you vote on HR 3479, consider the following facts:

1. If the people who surround this airport could vote for the mayor of the City of Chicago, an agreement to expand O'Hare could not have been made. Whoever is mayor would have to take into consideration his immediate constituency.

2. Thorough environmental studies are being blocked. There are many documented health concerns related to current pollution levels. 800,000 additional flights will nearly double the environmental hazard.

3. The State of Illinois' rights are being trampled. The House of Representatives vote is setting a precedent that may impact your home state at some later date.

4. The safety of this plan has been questioned, particularly with its inadequate FAA Safety Zones. The lack of land does not allow for significant changes. It jeopardizes surrounding schools, homes and businesses.

5. No matter what configuration or expansion moves forward, O'Hare's Midwest location means it will always be impacted by weather from many directions.

6. Proponents claim a 79 percent decline in delays with reconfiguration of runways. However, when the increase of 800,000 flights is factored in, delays will increase to above their current levels.

Notwithstanding the economic benefits proponents subscribe to this project, the responsibility of elected officials must be first to the health, welfare and public safety of the people we represent.

Lastly, there exists a glaring discrepancy between the legislation before you and what has been told to Illinoisans. A simpler answer to all of the O'Hare congestion problems exists in the development of a third regional airport. The legislation has downgraded the priority of this solution and will further delay any true relief for our nation's transportation woes. This fact is omitted from news reports and official proponent propaganda.

With all due respect, I ask that you vote "no" on HR 3479. Let this remain a state's rights issue. Please feel free to contact me anytime if you have any questions at (847) 297-6533. Thank you for your time.

Respectfully,

ROSEMARY MULLIGAN,
Illinois State Representative, 55th District.

NATIONAL AIR TRAFFIC
CONTROLLERS ASSOCIATION,
CHICAGO O'HARE TOWER,
Chicago, IL, November 30, 2001.

Hon. PETER FITZGERALD,
U.S. Senate, Washington, DC.

SENATOR FITZGERALD, As requested from your staff, I have summarized the most obvious concerns that air traffic controllers at O'Hare have with the new runway plans being considered by Mayor Daley and Governor Ryan. They are listed below along with some other comments.

1. The Daley and Ryan plans both have a set of east-west parallel runways directly north of the terminal and in close proximity to one another. Because of their proximity to each other (1200') they cannot be used simultaneously for arrivals. They can only be used simultaneously if one is used for departures and the other is used for arrivals, but only during VFR (visual flight rules), or good weather conditions. During IFR (instrument flight rules, ceiling below 1000' and visibility less than 3 miles) these runways cannot be used simultaneously at all. They basically must be operated as one runway for safety reasons. The same is true for the set of parallels directly south of the terminal; they too are only 1200' apart.

2. Both sets of parallel runways closest to the terminal (the ones referred to above) are all a minimum of 10,000' long. This creates a runway incursion problem, which is a very serious safety issue. Because of their length and position, all aircraft that land or depart O'Hare would be required to taxi across either one, or in some cases two runways to get to and from the terminal. This design flaw exists in both the Daley and the Ryan plan. A runway incursion is when an aircraft accidentally crosses a runway when another aircraft is landing or departing. They are caused by either a mistake or mis-understanding by the pilot or controller. Runway incursions have skyrocketed over the past few years and are on the NTSB's most wanted list of safety issues that need to be addressed. Parallel runway layouts create the potential for runway incursions; in fact the FAA publishes a pamphlet for airport designers and planners that urge them to avoid parallel runway layouts that force taxiing aircraft to cross active runways. Los Angeles International airport has lead the nation in runway incursions for several years. A large part of that incursion problem is the parallel runway layout; aircraft must taxi across runways to get to and from the terminals.

3. The major difference in Governor Ryan's counter proposal is the elimination of the southern most runway. If this runway were eliminated, the capacity of the new airport would be less than we have now during certain conditions (estimated at about 40% of the time). If you look at Mayor Daley's plan, it calls for six parallel east-west runways and two parallel northeast-southwest runways. The northeast-southwest parallels are left over from the current O'Hare layout. These two runways simply won't be usable in day-to-day operations because of the location of them (they are wedged in between, or pointed at the other parallels). We would not use these runways except when the wind was very strong (35 knots or above) which we estimate would be less than 1% of the time. That leaves the six east-west parallels for use in normal day-to-day operations. This is the same number of runways available and used at O'Hare today. If you remove the southern runway (Governor Ryan's counter proposal), you are leaving us five runways which is one less than we have now. That

means less capacity than today's O'Hare during certain weather conditions. With good weather, you may get about the same capacity we have now. If this is the case, then why build it?

4. The Daley-Ryan plans call for the removal of the NW/SE parallels (Runways 32L and 32R). This is a concern because during the winter it is common to have strong winds out of the northwest with snow, cold temperatures and icy conditions. During these times, it is critical to have runways that point as close as possible into the wind. Headwinds mean slower landing speeds for aircraft, and they allow for the airplane to decelerate quicker after landing which is important when landing on an icy runway. Landing into headwinds makes it much easier for the pilot to control the aircraft as well. Without these runways, pilots would have to land on icy conditions during strong cross-wind conditions. This is a possible safety issue.

These are the four major concerns we have with the Daley-Ryan runway plans. There are many more minor issues that must be addressed. Amongst them are taxiway layouts, clear zones (areas off the ends of each runway required to be clear of obstructions), ILS critical areas (similar to clear zones, but for navigation purposes), airspace issues (how arrivals and departures will be funneled into these new runways) and all sorts of other procedural type issues. These kinds of things all have to go through various parts of the FAA (flight standards, airport certification etc.) eventually. These groups should have been involved with the planning portion from day one. Air traffic controllers at the tower are well versed on what works well with the current airport and what does not. We can provide the best advice on what needs to be accomplished to increase capacity while maintaining safety. It is truly amazing that these groups were not consulted in the planning of a new O'Hare. The current Daley-Ryan runway plans, if built as publicized, will do little for capacity and/or will create serious safety issues. This simply cannot happen. The fear is that the airport will be built, without our input, and then handed to us with expectations that we find a way to make it work. When it doesn't, the federal government (the FAA and the controllers) will be blamed for safety and delay problems.

Sincerely,

CRAIG BURZYCH,
Facility Representative, NATCA-O'Hare
Tower.

HOUSE OF REPRESENTATIVES,
Washington, DC, January 31, 2001.

Re: Key Points Why The Chicago Region
Needs A New Airport—And Why New
O'Hare Runways Are Contrary To The
Region and Nation's Best Interests.

Hon. ANDREW H. CARD,
Chief of Staff to the President,
The White House, Washington, DC.

DEAR ANDY: A matter of great importance to us is the need for safe airport capacity expansion in the metro Chicago region. At your earliest convenience, we would like to schedule a meeting with you and Secretary Mineta to discuss the situation. Enclosed is a detailed memorandum summarizing our views. We are convinced that we must build a new regional airport now and, for the same reasons, we believe that construction of one or more new runways at O'Hare would be harmful to the public health, economy and environment of the region.

As set forth in that memorandum:

Most responsible observers agree that the Chicago region needs major new runway capacity now.

The question is where to build that new runway capacity—1) at a new regional airport, 2) at O'Hare, 3) at Midway, or 4) a combination of all of the above. An assessment of these alternatives reaches the following conclusions:

1. The new runways can be built faster at a new airport as opposed to O'Hare or Midway.

2. More new runway capacity can be built at a new site than at O'Hare or Midway.

3. The new runways can be built at far less cost at a new airport than at O'Hare or Midway.

4. Construction of the new capacity at a new airport will have far less impact on the environment and public health than would expansion of either Midway or O'Hare.

5. Construction of the new capacity at a new airport offers the best opportunity to bring major new competition into the region.

6. The selected alternative cannot be expansion at O'Hare and construction of a new airport. New runways at O'Hare would doom the economic feasibility of the new airport, guarantee its characterization as a "white elephant" and insure the expansion of the monopoly dominance of United and American Airlines in the Chicago market.

The memorandum contains a series of related questions and a detailed list of suggestions that would ensure the rapid development of major new runway capacity in the Chicago region, open the region to major new competition, and accomplish these objectives in a low-cost, environmentally sound manner.

Again, we would appreciate the opportunity to discuss these matters with you and Secretary Mineta at your earliest convenience.

Very truly yours,
HENRY HYDE,
JESSE JACKSON, JR.

To: White House Chief of Staff Andrew Card.
From: Congressman Henry Hyde, Congressman Jesse Jackson, Jr.

Re: Key Points Why Chicago Region Needs A
New Airport—And Why New O'Hare Run-
ways Are Contrary To The Region and
Nation's Aviation Best Interests

Date: January 31, 2001.

This memorandum summarizes our views in the debate over the need for airport capacity expansion in the metro Chicago region. For the reasons set forth herein, we are convinced that we must build a new regional airport now and, for the same reasons, believe that construction of one or more new runways at O'Hare would be harmful to the public health, economy and environment of the region.

The debate can best be summarized in a simple question and answer format.

Does the Region need new runway capacity now? Unlike The City of Chicago—which has for more than a decade privately known that the region needs new runway capacity while publicly proclaiming that new runway capacity is not needed—bipartisan leaders like Jesse Jackson, Jr. and myself have openly acknowledged the need for, and urged the construction of, new runway capacity in the region.

The need for new runway capacity is not a distant phenomenon; we should have had new runway capacity built several years ago. While 20 year growth projections of air travel demand show that the harm caused by this failure to build capacity will only get worse,

the available information suggests that the region has already suffered serious economic harm for several years because of our past failure to build the new runway capacity.

If the answer to the runway question is yes—and we believe it is—the next question is where to build the new runway capacity? Though the issue has been discussed, the media, Chicago and the airlines have failed to openly discuss the alternatives as to where to build the new runway capacity—and especially, the issues, facts and impacts to the pros and cons of each alternative.

The alternatives for new runway capacity in the region are straightforward: (1) build new runways at a new airport, (2) build a new runway at O'Hare, (3) build new runways at Midway, or (4) a combination of all of the above. Given these alternatives, the following facts are clear:

1. The new runways can be built faster at a new airport as opposed to O'Hare or Midway. Simply from the standpoint of physical construction (as well as paper and regulatory planning) the new runways can be built faster at a "greenfield" site than they can at either O'Hare or Midway.

2. More new runway capacity can be built at a new site than at O'Hare or Midway. Given the space limitations of O'Hare and Midway, it is obvious that more new runways (and therefore more new runway capacity) can be built at a new larger greenfield site than at either O'Hare and Midway. We acknowledge that additional space can be acquired at Midway or O'Hare by destroying densely populated surrounding residential communities—but only at tremendous economic and environmental cost.

3. The new runways can be built at far less cost at a new airport than at O'Hare or Midway. Again, it is obvious that the new runways—and their associated capacity—can be built at far less cost at a "greenfield" site than they can at either O'Hare or Midway. Given the enormous public taxpayer resources that must be used for any of the alternatives—and the relative scarcity of public funds—the Bush Administration should compare the overall costs of building the new runway capacity (and associated terminal and access capacity) at a new airport vs. building the new capacity at O'Hare or Midway.

4. Construction of the new capacity at a new airport will have far less impact on the environment and public health than would expansion of either Midway or O'Hare. Midway, and later O'Hare, were sited and built at a time when concerns over environment and public health were far less than they are today. As a result, both existing airports have virtually no "environmental buffer" between the airports and the densely populated communities surrounding these airports. In contrast, the site of the new South Suburban Airport has, by design, a large environmental buffer which will ameliorate most, if not all, of the environmental harm and public health risk from the site. Indeed, prudence would suggest an even larger environmental buffer around the South Suburban site than is now contemplated. We can create the same or similar environmental buffer around O'Hare or Midway—but only at a cost of tens of billions of dollars and enormous social and economic disruption.

5. Construction of the new capacity at a new airport offers the best opportunity for bringing major new competition into the region. When comparing costs and benefits of alternatives, the Bush Administration must address the existing problem of monopoly (or duopoly) fares at "Fortress O'Hare" and the

economic penalty such high fares are inflicting on the economic and business community in our region. Does the lack of significant competition allow American and United to charge our region's business travelers higher fares than they could if there was significant additional competition in the region? What is the economic cost to the region—in both higher fares and lost business opportunities—of the existing "Fortress O'Hare" business fare dominance of United and American?

The State of Illinois has stated that existing "Fortress O'Hare" business fare dominance of United and American costs the region many hundreds of millions of dollars per year. Bringing in one or more significant competitors to the region would bring enormous economic benefits in increased competition and reduced fares.

And the only alternative that has the room to bring in significant new competition is the new airport. Certainly the design of Chicago's proposed World Gateway program—designed in concert with United and American to preserve and expand their dominance at O'Hare—does not offer opportunities for major competitors to come in and compete head-to-head with United and American.

6. The selected alternative cannot be expansion at O'Hare and construction of a new airport. The dominant O'Hare airlines are pushing their suggestion: add another runway at O'Hare and allow a "point-to-point" small airport to be built at the South Suburban Site.

That is not an acceptable alternative for several reasons:

First, it presumes massive growth at O'Hare, as it is based on the assumption that all transfer traffic growth—along with the origin-destination traffic to sustain the transfer growth—stays at O'Hare. If that assumption is accepted, the airlines already know that demand growth for the traffic assumed to stay at O'Hare will necessitate not one, but two or more additional runways. This increase in traffic at O'Hare will have serious environmental and public health impacts on surrounding communities.

Second, this alternative destroys the economic justification for the new airport. With massive new capacity at O'Hare, there would be no economic need for the new airport.

Third, assuming the new airport is built anyway, as a "compromise", this alternative guarantees that the new airport will be a "white elephant"—much as the Mid-America airport near St. Louis is today because of the Fortress Hub practices of the major airlines and as was Dulles International as long as Washington National was allowed to grow. With limits on the growth of National finally recognized, Dulles is now the thriving East Coast Hub for United.

RELATED QUESTIONS

If the Region needs new runways, what is the sense of spending over several billion dollars—much of it public money—to build the World Gateway Program at O'Hare if we decide that new runway capacity should be built elsewhere? If the decision is to build the new runways at O'Hare, then much of the 5-6 billion dollar terminal and roadway expansion proposed for O'Hare may be justified.

But if the decision is that the new runway capacity should be built elsewhere, then the proposed multi-billion dollar expansion makes no sense. We will be spending billions of dollars in taxpayer funds for a massive project that standing alone—without new runways—will not add any new capacity to our region.

The airlines know this fact and that is why they—and their surrogates at the Civic Committee and the Chicagoland Chamber—are pushing for new runways.

If the Region needs new runways and we wish to explore the alternative of putting the new runways in at O'Hare, what is the full cost of expanding O'Hare as opposed to constructing a new airport? If others wish to explore the alternative of an expanded O'Hare as the place to build the new runways capacity for the region, let's have an honest exploration and discussion of the full costs of expanding O'Hare with new runways and compare it to the cost of building the new airport. Chicago and the airlines already know what the components of an expanded O'Hare would be.

These components are laid out in Chicago's "Integrated Airport Plan and include a new "quad runway" system for O'Hare and additional ground access through "western access".

Based on information available, we believe that the cost of the O'Hare expansion would exceed ten billion dollars. These costs should be compared with the costs of a new airport.

Are the delay and congestion problems experienced at O'Hare self-inflicted? Sadly, when Chicago and the major O'Hare airlines advocated lifting of the "slot" restrictions at O'Hare and other major "slot" controlled airports, the Clinton Administration and others ignored the warnings of Congressman Jackson, and myself that the airport could not accommodate the additional flights without a chaotic increase in delays and congestion. Indeed, the chaos we predicted has come true and we now have a "Camp O'Hare" where air traffic is managed by cancellation rather than by adequate service.

Like Cassandra, our prophecy was ignored. The Clinton Administration endorsed lifting the slot controls and chaos ensued.

But just because our warnings were ignored doesn't mean that practical solutions should continue to be ignored. The delays and congestion were predictable and certain—predicted based on delay/capacity analysis conducted by the FAA. Just as certain are the short term remedies.

Just as the congestion was brought on by overstuffing O'Hare with more aircraft operations than it can handle, the congestion and delay can immediately be reduced to acceptable levels by reducing the scheduled air traffic to the level that can be easily accommodated by O'Hare without the risk of unacceptable delays. The delay chaos was self-inflicted by ignoring the flashing warnings put out by the FAA and other experts. The solution can be easily administered by the FAA recognizing—as it has at LaGuardia—that limits must be placed on uncontrolled airline desire to overschedule flights.

Should the short-term "fix" to the delays and congestion include "capacity enhancement" through air traffic control devices? Absent new runways, the FAA has encouraged and permitted a variety of operational devices designed to allow increased levels of departures and arrivals in a set period of time. These procedures—known as "incremental capacity enhancement"—focus on putting moving aircraft closer together in time and space—to squeeze more operations into a finite amount of runways. Typically, this squeezing is done in low visibility, bad weather conditions because these are the conditions where FAA wants to increase capacity.

While the air traffic controllers remain mute on the safety concerns raised by these procedures, the pilots sure have not:

"We have seen the volume of traffic at O'Hare pick up and exceed anyone's expectations, so much so, that on occasion *mid-air collisions were only seconds apart*. O'Hare is at maximum capacity, if not over capacity. It is my opinion that it is *only a matter of time until two airliners collide making disastrous headlines*." Captain John Teerling, Senior AA Airline Captain with 31 years experience flying out of O'Hare January 1999 letter to Governor Ryan (emphasis added)

Paul McCarthy, ALPA's [Airline Pilots Association] executive air safety chairman, condemned the incremental capacity enhancements *as threats to safety*. Each one puts a small additional burden on pilots and controllers, he said. Taken together, they *reduce safety margins*, particularly at multiple runway airports, to the point that they invite a *midair collision, a runway incursion or a controlled flight into terrain*. Aviation Week, September 18, 2000 at p. 51 (emphasis added)

It is clear that FAA's constant attempts to squeeze more and more capacity out of the existing overloaded runways—through such "enhancement" procedures as the recently announced "Compressed Arrival Procedures" and other ATC changes—is incrementally reducing the safety margin so cherished by the pilots and the passengers who have entrusted their safety to them.

The answer to growth is new runways at a new airport—not jamming more aircraft closer and closer together at O'Hare. The answer to delays and congestion with existing overscheduled levels of traffic is to reduce traffic levels to the capacity of the runways without the need to jam aircraft closer and closer together.

Does the current level of operations at O'Hare (and Midway) generate levels of toxic air pollutants that expose downwind residential communities to levels of these pollutants in their communities at levels above USEPA cancer risk guidelines? Though our residents have complained for years about toxic air pollution from O'Hare, none of the state and federal agencies would pay attention. Recently however, Park Ridge funded a study by two nationally known expert firms in the field of air pollution and public health to conduct a preliminary study of the toxic air pollution risk posed by O'Hare. That study, Preliminary Study and Analysis of Toxic Air Pollution Emissions From O'Hare International Airport and the Resultant Health Risks Caused By Those Emissions in Surrounding Residential Communities (August 2000), found that current operations at O'Hare—based on emission data supplied by Chicago—created levels of toxic air pollution in excess of federal cancer risk guidelines in 98 downwind communities. The highest levels of risk were found in those residential communities that O'Hare uses as its "environmental buffer"—namely Park Ridge and Des Plaines.

Is the Park Ridge study valid? Park Ridge has challenged Chicago, the airlines, and federal and state agencies to come forward with any alternative findings as to the toxic air pollution impact of O'Hare's emissions on downwind residential communities. And that does not mean simply listing what comes out of O'Hare. The downwind communities are entitled to know how much toxic pollution comes out of O'Hare, where the toxic pollution from O'Hare goes, what are the concentrations of O'Hare toxic pollution when it reaches downwind residential communities, and what are the health risks posed by those O'Hare pollutants at the concentrations in those downwind communities.

Should not something be done to control and reduce the already unacceptable levels

of toxic air pollution coming into downwind residential communities from O'Hare's current operations?

Should not the relative toxic pollution risks to surrounding residential communities created by the alternatives of a new airport, expanding O'Hare, or expanding Midway be added to the analysis and comparison of alternatives?

What about the monopoly problem at Forttress O'Hare and what should be done about it? We have already alluded to the factor of high monopoly fares as a consideration in choosing alternatives for the new runway capacity. But the monopoly problem of Forttress O'Hare will be relevant even if no new airport is built. The entire design of the proposed World Gateway Program is premised on a terminal concept that solidifies and expands the current market dominance of United and American at O'Hare and in the Chicago air travel market.

What can the Bush Administration do if indeed there is a monopoly air fare problem at O'Hare or monopoly dominance is costing Chicago area business travelers hundreds of millions of dollars per year?

When these questions were raised in the Suburban O'Hare Commission report, If you Build It We Won't Come: The Collective Refusal of The Major Airlines To Compete In The Chicago Air Travel Market, Chicago and the airlines responded with smoke and mirrors. First they produced glossy charts showing that more than 70 airlines serve O'Hare. What they neglected to show was that United and American control over 80% of those flights with the remaining 60 plus airlines operating only a small percentage.

Similarly, the airlines and Chicago talked about the competitive low fares charged to passengers. What they emphasized, however, were low fares for reservations far in advance. The major business travel organizations representing business travel managers report that business travelers predominantly use unrestricted coach fares since they have to respond on short notice to business needs. An examination of fares for unrestricted business travel from Chicago to major business markets shows that these routes are dominated by United and American and that they charge extremely high "lock-step" fares to business travelers to these business markets.

Finally, the airlines and Chicago argued that O'Hare is "competitive" with fares charged to business travelers in other Forttress Hub Markets. That statement ignores the fact that all the major airlines are gouging captive business travelers in all their own Forttress Hub markets. Indeed, a repeated anecdote is the fact that a passenger from a "spoke" city—e.g., Springfield, Illinois—pays a lower fare for a trip to O'Hare and then to Washington D.C. than a Chicago based traveler who gets on the same plane to Washington. Why? Because the Springfield traveler has the choice of hubbing either through O'Hare or St. Louis while the Chicago based business traveler is locked into Chicago.

Where are the antitrust enforcers to break up these geographic cartels? Equally important, in addition to antitrust enforcement powers, the federal government has enormous leverage to break up the cartels through the funding approval process of the Airport Improvement Program (AIP) and Passenger Facility Charge (PFC) programs. Yet billions of federal taxpayer funds go to United and American without so much as a raised eyebrow.

What about Noise? Shouldn't we be happy to exchange some soundproofing for new run-

ways at O'Hare? The City of Chicago has a residential soundproofing program which was created on the advice of its public relations consultants to create a spirit of "compromise" that would lead to acceptance of new runways at O'Hare.

But here are some facts that are little publicized:

1. Most of our residents feel that soundproofing—while improving their interior quality of life—essentially assumes that we will give up living-out-of-doors or with our windows open in nice weather.

2. Whereas many major airport cities with residential soundproofing programs are soundproofing all homes experiencing 65 DNL (decibels day-night 24-hr. average) or greater, Chicago and the airlines are only committing funds to the 70 DNL level. Result: Chicago is only soundproofing less than 10% of the homes that Chicago itself acknowledges to be severely impacted.

3. Chicago came into our communities asking to put in noise monitors to collect "real world" data as to the levels of noise. Yet, despite promises to share the data, Chicago refuses to share the data with our communities.

4. Instead of an atmosphere of trust, these tactics by Chicago have created additional animosity as neighbors on one side of an alley or street get soundproofing while their neighbors across that alley or street get no soundproofing. Indeed, Chicago's residential soundproofing program—because it is so limited in scope and ignores thousands of adversely impacted homes—has caused even more animosity in our communities.

In short, residential soundproofing is not the panacea that Chicago and many in the downtown media perceive it to be. Moreover, it does nothing to address the toxic air pollution and other safety related concerns of our residents.

Can we have more than one "hub" airport operating in the same city? Faced with the potential inevitability of a new airport, the airlines for the last two years have been arguing for an expansion of O'Hare (instead of a major new airport) with the argument that a metropolitan area cannot have more than one hub airport. Based on that premise, United and American say that the sole hub airport in metro Chicago should be O'Hare. That simply is not correct:

1. There are several domestic and international cities with more than one hubbing airport. Competing airlines create hubbing operations wherever airport space is available. Thus, there are multiple hubbing airports in metro New York (JFK and Newark), Washington, D.C., London, and Paris.

2. The Lake Calumet Airport proposed by Mayor Daley would have been a second hub airport.

3. There is simply no reason—given the size of the business and other travel origin-destination market in metro Chicago—that a new hub competitor could not establish a major presence at a new south suburban airport.

How do we fund new airport construction? The answer is simply and the same answer Mayor Daley had for the proposed Calumet Airport. Daley proposed using a mix of PFC and AIP funds to induce carriers to use the new airport. Indeed, the entire justification for his urging the passage of PFC legislation was to collect PFCs at O'Hare and use them for the new airport.

But United and American claim that the PFC revenues are "their" money. On the contrary, the PFC funds are federal taxpayer funds no different in their nature as taxpayer dollars than the similar "AIP" tax

charged to air travelers. These funds don't belong to the airlines. They are federal funds collected and disbursed through a joint program administered by the FAA and the airport operator.

Nor are these federal taxpayer funds "Chicago's" money. Chicago is simply a tax collection agent for the federal government.

But how do we get the funds from O'Hare to the new airport? We do it the same way Mayor Daley is transferring funds from O'Hare to Gary and the same way he proposed getting federal funds collected at O'Hare to the Lake Calumet project: a regional airport authority.

SUGGESTIONS

We have respectfully posed some questions and posited some answers for the President's and your consideration. We believe that a thorough and candid examination and discussion of these questions leads to only one conclusion: we should build a new airport and we should not expand O'Hare.

But more than raising questions, we also have several concrete suggestions for addressing the region's air transportation needs:

1. Let's stop the paper shuffling and build the new airport. The program we outline in this letter is virtually identical to the proposal drafted by Mayor Daley for construction of the Lake Calumet Airport. We believe that a cooperative fast-track planning and construction program for a new airport could see the new airport open for service in 3-5 years.

2. The money, resources and legal authority to build the new airport can be assembled by passage of a regional airport authority bill similar to the regional airport authority bill drafted in 1992 by Mayor Daley for the Lake Calumet project. So the Illinois General Assembly is a necessary partner in any effort. But equally important is the dominant role of the federal Administration in controlling the use of AIP and PFC funds and in assertive enforcement of federal anti-trust laws. Let's put together a federal-state partnership to get the job done.

3. Give the O'Hare suburbs guaranteed protection against further expansion of O'Hare. Such guarantees are needed not only for our protection but for the viability of the new regional airport.

4. Provide soundproofing for all of the noise impacted residences around O'Hare and Midway. The new airport addresses future needs; it does not correct existing problems caused by existing levels of traffic.

5. Initiate a regulatory program to control and reduce air toxics emissions from O'Hare.

6. Fix the short-term delay and congestion at O'Hare by returning to a recognition of the existing capacity limits of the airport. The delay and congestion now experienced at O'Hare is a self-inflicted wound brought about by airline attempts to stuff too many planes into that airport. The delays and congestion will be dramatically reduced immediately by reducing scheduled traffic to a level consistent with the existing capacity of the airport.

7. Demand a break-up and reform of the Fortress Hub anti-competitive phenomenon—both at O'Hare and at other Fortress Hubs around the nation. This can be done with either aggressive antitrust enforcement or with proper oversight of the disbursement of massive federal subsidies.

8. The entire World Gateway Program should be examined in light of the questions raised here and should be modified or abandoned depending on the answers provided to these questions.

We would appreciate the opportunity to discuss these matters with you and Secretary Minter at your convenience.

HOUSE OF REPRESENTATIVES,
Washington, DC.

FIVE REASONS TO OPPOSE THE NATIONAL AVIATION CAPACITY EXPANSION ACT (HR 3479)

DEAR COLLEAGUE: This legislation to expand O'Hare International Airport is fatally flawed because it will:

1. SET A TERRIBLE PRECEDENT: This bill will allow the federal government to preempt state law requiring approval of airport construction and expansion—approval that requires the blessing of the state legislature. Will your state legislature be next to lose its power to decide local airport matters?

The bill also will lead to a rash of demands from various localities for priority standing for airport funding, bypassing reasonable administrative planning and environmental review processes.

2. THREATEN SAFETY AND THE ENVIRONMENT: This legislation attempts to superimpose what amounts to an airport the size of Dulles International on a land-locked airport the size of Reagan National—an absurd idea on its face. Former U.S. Department of Transportation Inspector General Mary Schiavo has called this proposal "a tragedy waiting to happen."

Putting 1.6 million planes a year into the O'Hare airspace already overcrowded with 900,000 flights doesn't make sense. It increases the risk of a serious accident and it jeopardizes surrounding schools, homes and businesses.

A third regional airport that can be built in one-third of the time and at one-third of the cost of expanding O'Hare.

O'Hare is already the largest polluter in the Chicago region. With expansion, noise and air pollution will increase exponentially.

3. UPROOT THOUSANDS OF FAMILIES: This legislation will destroy the single largest concentration of federally assisted affordable housing in one of the nation's most affluent counties. These are the homes that low-income people and other minorities, particularly Hispanics, depend on.

Up to 1,500 or more homes will be destroyed. These homes will be condemned or taken by eminent domain, leaving those homeowners few options to find affordable housing elsewhere.

4. THREATEN THOUSANDS OF JOBS: This legislation will destroy as much as one-third of the nation's largest contiguous industrial park, threatening tens of thousands of jobs. How many jobs will be created by the airport expansion? That remains a great mystery.

5. COST TOO MUCH: This legislation will require the expenditure of \$15 billion or more once the entire infrastructure, relocation, soundproofing and other costs are figured in. This is much more costly than the \$6.6 billion that supporters keep touting.

Commits Chicago, Illinois and federal taxpayers to a plan whose costs have not been adequately detailed. We have requested documentation of the costs, but have been rebuffed. That is why a Freedom of Information lawsuit is pending in Illinois court.

Mr. Speaker, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to express my strongest possible support for H.R. 3479, the National Aviation Capacity

Expansion Act of 2002. This measure will help end over 20 years of aviation gridlock at the most important crossroads of American aviation by modifying and codifying a historic agreement between Republican Governor George Ryan of Illinois and Democratic Mayor of Chicago Rich Daley that would expand and modernize O'Hare International Airport.

In December 2000, I spoke to Speaker HASTERT, Governor Ryan and Mayor Daley, asking them for their help in solving this national and international aviation capacity crisis. I am very happy to say that all these men have helped in moving this legislation forward.

Chicago O'Hare is a vital economic engine in Chicago, the State of Illinois, the Midwest and the entire Nation. It serves as the only major dual hub with United and American Airlines basing significant equipment, employees and assets at the facility. O'Hare serves more than 190,000 travelers per day, nearly 73 million in the year 2000. It is the world's busiest airport in the number of passengers. Forty-seven States have direct access to O'Hare.

But O'Hare needs to be redesigned to meet the demands of today's marketplace. Designed in the 1950s, this airport has intersecting runways and a layout designed for smaller aircraft. By simply reconfiguring the airport layout, many weather-related delays could be avoided. By replacing old runways with safer, parallel configurations, delays and cancellations would be greatly reduced, eliminating delays that often ripple through the entire Nation. Ninety percent of O'Hare's modernization will be paid by airline and airport-generated funds, including passenger facility charges, landing fees, concessions and bonds. The rest of these funds will come through the regular, and I repeat, regular FAA process for airport construction, and this legislation is very clear on that point.

The Governor-Mayor agreement also includes a south suburban airport near Peotone. This legislation will ask the FAA to give full consideration to Peotone. Just as expanding O'Hare does not eliminate the need for a third airport, building Peotone will not replace O'Hare modernization. They are not mutually exclusive. Both are needed to address serious aviation capacity problems in the region and the Nation. Simply put, just as the city wants to move ahead with using its own funds to expand its own airport, this agreement allows the State to do the same for Peotone.

While expanding O'Hare and building Peotone are needed to address the region and the Nation's aviation capacity, forward thinkers will agree that even more capacity will be needed. That is why this measure includes full consideration of commercial airports at Gary, Indiana and Rockford, Illinois.

This legislation also addresses traffic congestion along O'Hare's Northwest Corridor, including western airport access, and maintains the quality of life for residents near these airports. We have carefully crafted clean air and environmental language that is acceptable to all parties involved, including 15 environmental groups and the Sierra Club. In addition, the new runway configuration will reduce by half the number of people impacted by noise, and this agreement also includes \$450 million in funds for soundproofing.

Some might call this legislation unprecedented, but it is clear that the Chicago situation is unprecedented and unique.

□ 1615

When the Subcommittee on Aviation held a hearing on this issue in August of 2001, no other similar situation could be found where a State has veto power over a city's airport project.

In closing, Mr. Speaker, I wish to thank the gentleman from Florida (Mr. MICA) and the gentleman from Alaska (Mr. YOUNG) for their great help with this legislation. I would also like to thank the gentleman from Minnesota (Mr. OBERSTAR) for his efforts in working with me on this legislation. I agree with him that it is important that we craft a measure that is good not only for the Chicago region, but for the Nation as a whole. It is my hope that we can pass this legislation out of the House today, because I firmly believe that this bill will do more to end the aviation gridlock that plagues the American flying public than any other measure this Congress could pass.

Mr. Speaker, I reserve the balance of my time.

Mr. JACKSON of Illinois. Mr. Speaker, I yield myself 30 seconds.

Clearly, Mr. Speaker, the fact that we are debating this bill on the floor of the Congress sets a dangerous precedent by stating that Congress, not the FAA, not the Department of Transportation, not aviation experts, but Congress shall build and plan airports. That is what we are discussing today. If Congress was not planning to build an airport, we would not be here discussing this bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. HYDE), the chairman of the Committee on International Relations.

Mr. HYDE. Mr. Speaker, my congressional district encompasses O'Hare International Airport and many of the residential communities that surround O'Hare, communities, I might add, that will lose hundreds, if not thousands, of homes and businesses to airport development should this expansion plan be approved.

Please do not be deceived because this bill is on the Suspension Calendar. As the gentleman from Illinois (Mr.

JACKSON) said, it is highly controversial, involves constitutional issues, antitrust issues, environmental issues and, most seriously, the issue of bulldozing an entire community of low-income homes, largely peopled by the Hispanic population.

Northern Illinois does need additional airport capacity; everyone agrees to that. O'Hare is at capacity. So the real question is whether we build a new airport that is safe and can expand with time, or whether we refurbish the old airport.

The proponents of this bill that the gentleman from Illinois (Mr. KIRK) and the gentleman from Illinois (Mr. LIPINSKI) are advancing want to double the amount of flights going into the busiest airport in the world each year to accommodate 1,600,000 operations a year. Opponents like the gentleman from Illinois (Mr. JACKSON) and myself say, build a new airport. Build one far away from urban areas that will not do violence to the environment and one that can expand as the future of our air traffic grows.

A new airport can be built faster and cheaper than expanding O'Hare, but a lot of proponents of the bill object to that. Why? Well, I can think of two reasons. One is the City of Chicago would not own the new airport and the City of Chicago has to own that airport, and the other reason is the two major airlines that dominate O'Hare might find some competition, and competition is not a healthy thing, some people think.

This bill is corporate welfare of the most blatant sort. It is being marketed as a great leap forward for airport development; but it is a death blow to local government, because it forbids the Illinois legislature from having any voice in the deal between the City of Chicago and the governor of Illinois to double the air traffic. This bill suggests the State of Illinois has approved the deal. Well, if the Illinois general assembly is no longer relevant, if the Illinois Aeronautics Act is unimportant, I guess they are right. I do not know what they propose to do about the 10th amendment.

The City of Chicago has only those powers given to it by the Illinois general assembly. Chicago is a municipal government, a political subdivision created and empowered by the State legislature, and this State legislature has never given to Chicago or to the Governor, for that matter, the authority to, on their own, authorize the massive expansion of O'Hare. Thousands of people's homes and businesses will be bulldozed; two cemeteries with well over 1,600 graves dating back to the 1840s will be invaded by the same bulldozers.

This bill radically restructures the constitutional relationship between Congress, the States, and their municipalities. Why, it creates what amounts

to a new Federal zoning law, an idea I am sure our constituents will welcome.

If, however, establishing a dangerous precedent is not reason enough to vote against this legislation, let me add some more. This legislation ratifies a deal that was struck without adequate public participation, without an open planning process; and despite the public having no say in this matter, the airlines certainly got their say. This is corporate welfare utilizing tax dollars to subsidize a monopoly.

Right now, United and American Airlines have a stranglehold on the market at home, forcing Illinois residents to pay far too much for tickets. The Government Accounting Office estimates this market lock costs Chicago travelers \$623 million a year in overcharges.

This legislation will destroy two cemeteries and the single largest concentration of federally assisted affordable housing in one of the Nation's most affluent counties. These are the homes of low-income people and other minorities, particularly Hispanics. Proponents claim only 500 homes will need to be torn down; the truth is closer to 1,500.

This proposed expansion will ruin the quality of life for more than a million people living near O'Hare. It will increase air pollution in a region that is already nonconforming under Federal air regulations and will increase noise pollution to horrendous levels for those living near O'Hare.

What about safety? Putting 1.6 million planes a year into the O'Hare airspace, which is limited and already overcrowded with 900,000 flights, does not make sense. It increases a risk of a serious accident. I could go on and on and on.

Let me just say this: when the big and the powerful go after the weak and the vulnerable, usually the big and the powerful win. I certainly do not speak for the big and the powerful. I am speaking for the families whose homes are going to be taken, the families whose relatives and ancestors are buried in those graves, and I am saying that we have an expectation that this Congress will think of the human side of this, not just the economic side of it.

MOVING GRAVES CAN BE "ROYAL MESS"
[From the Chicago Sun-Times, July 14, 2002]

(By Robert C. Herguth)

In the 1990s, St. Louis' Lambert Airport moved thousands of bodies from the crumbling, mostly black Washington Park Cemetery to make way for a transit line and create a larger, flatter buffer for runways.

Trouble, it turned out, was almost as bountiful as bones.

An archaeologist hired to help with disinterment was accused of snatching limbs and yanking out teeth, supposedly for research, and later of hiding corpses to ensure he got paid. A state inspector climbed into a burial vault and held what was described as a "mock funeral." There also were reports of coffins being accidentally pulverized by machinery.

"That was a royal mess," a person associated with the project recently remarked.

While an extreme example, the St. Louis work demonstrates how bad an already difficult and delicate process get.

And it serves as a cautionary tale as the City of Chicago—using one of the same consultants involved in the Washington Park effort—makes plans to bulldoze two historic suburban cemeteries, and 433 acres of homes and businesses, to accommodate a proposed O'Hare Airport runway expansion.

"We've thought about those kinds of things," said Bob Sell, referring to Lambert's problems.

The Loop attorney has dozens of relatives buried at St. Johannes Cemetery, which is targeted for relocation, along with tiny Resthaven Cemetery.

"The notion of someone going to the cemetery and putting a shovel to my family member is horrible. That something could go wrong in that process, it makes me sick to my stomach."

Like many homeowners in the proposed expansion zone, leaders of Resthaven and St. Johannes don't want to sell. One and perhaps both graveyards will fight the city in court, cemetery officials said.

The process, as of last Tuesday, is in a holding pattern because of a DuPage County judge's ruling in a different lawsuit. The judge ordered Chicago to halt land buys until it receives a state permit, something city officials believe is unnecessary and will appeal. Meanwhile, the city won't even be negotiating sales.

WHERE TO MOVE THE REMAINS

In another room Tuesday in another part of DuPage, a different aspect of the same thorny issue played out as two of the city's hired guns met for the first time with leaders of Resthaven to "open up the dialogue."

That's how Jeff Boyle—a former top aide to Mayor Daley now being paid \$240 an hour as a no-bid consultant—portrayed the meeting at the Bensenville Community Public Library.

Resthaven president Lee Heinrich, vice president Bob Placek and their attorney said they were there to listen to Boyle and another consultant, Robert Merryman of O.R. Colan Associates.

Merryman—after Boyle nearly canceled the meeting because of the presence of a reporter and the lawyer—outlined several options, all of which involved the city buying the cemetery land.

"Let's start with the assumption that you have to go," he said softly, speaking in the consoling tones of a funeral director.

"The airport could simply purchase Resthaven and Resthaven is no more," he said.

The second possibility, he said, would be to "functionally replace Resthaven" by building "a new Resthaven" elsewhere.

Third, he said, the cemetery could be moved to another graveyard, where "a section can be Resthaven."

Headstones and monuments would go with the remains, the city would cover costs, and if some families wanted relatives reburied elsewhere, that would be fine, too, he said. Relatives could decide who "disinters and reinters the body," and help monitor the process, he said.

Merryman's company was involved in the Washington Park Cemetery relocation. The firm did not select the archaeologist facing the allegations of desecrating the remains and, in fact, was asked "to come and correct the situation," according to Chicago Aviation Department spokeswoman Monique Bond.

The firm also helped handle the "land acquisition aspects" of moving graves from Bridgeton Memorial Cemetery St. Louis, which currently is being excavated to make way for new and longer runways at Lambert, said Lambert spokesman Mike Donatt.

HOW A CEMETERY IS MOVED

Locating and moving remains can be a tough process, but it's one played out quite frequently for road, airport and other public works projects, said Randolph Richardson.

He owns Kentucky-based Richardson Corp., which does the physical part of relocating graves.

For big jobs, Richardson may bring in 15 workers in blue jeans and knee boots, and heavy equipment. After mapping a cemetery, a worker with a "probe rod" tries to gauge the depth of graves and directs a backhoe operator on how far to dig. "If the grave itself is 6 feet deep, you dig down around 4½ feet, and the rest of it is hand digging," he said.

"Say we've got a row of 50 graves, we'd start at the end with a backhoe, the man with the probe rod is guiding the backhoe to tell him how deep to go, we dig a trench to expose those 50 graves, that allows us to get the men in there to work," he said.

Bodies are placed in individual wooden boxes—there are several sizes—unless coffins are intact, he said, adding that his workers may get tetanus shots before a project because of old rusty nails.

Caskets are put on trucks and driven to their new resting place, he said. His company typically charges between \$1,000 and \$1,500 per body.

Richardson, whose firm relocated some of the bodies from St. Louis' Washington Park, recalls some of the trouble there, but insists things usually are more smooth.

GUARDS QUESTIONING VISITORS

Boyle and Chicago's first deputy aviation commissioner, John Harris, have said they want to handle their cemetery situation with dignity and sensitivity. But the city is having its own public relations headaches.

The cemeteries are outside Chicago's borders, but can only be reached by a city-owned access road monitored by city guards.

Twice this month, a guard approached a St. Johannes visitor at the cemetery, questioned the person and asked that they "sign in."

In the first instance, the visitor said, he was interrupted while praying at a grave site, and after refusing to sign in was met by five Chicago police cars on the access road. The visitor in the second case was the pastor of the church that owns St. Johannes.

Just before being confronted—on Wednesday, after the judge's ruling—the minister was surprised to find four O.R. Colan employees nosing around graves at St. Johannes, apparently taking down names from headstones, although they had no permission to be there.

"They said they were doing a study," Sell said. "They're trespassing on private property."

Merryman did not return phone calls. City officials were at a loss to explain.

But Roderick Drew, a spokesman for Daley, said Friday that there's been a "change in policy" that "nobody will have to sign in any more."

"Anybody who wants access to that cemetery during those posted hours will not be stopped, will not have to sign in," he said, adding that the sign-in "has turned out to be a much greater inconvenience to the people who access it."

NATIONAL AIR TRAFFIC CONTROLLERS ASSOCIATION CHICAGO O'HARE TOWER,

Chicago, IL, Nov. 30, 2001.

Hon. PETER FITZGERALD,
U.S. Senate, Washington, DC.

SENATOR FITZGERALD, as requested from your staff, I have summarized the most obvious concerns that air traffic controllers at O'Hare have with the new runway plans being considered by Mayor Daley and Governor Ryan. They are listed below along with some other comments.

1. The Daley and Ryan plans both have a set of east/west parallel runways directly north of the terminal and in close proximity to one another. Because of their proximity to each other (1200') the cannot be used simultaneously for arrivals. They can only be used simultaneously if one is used for departures and the other is used for arrivals, but only during VFR (visual flight rules), or good weather conditions. During IFR (instrument flight rules, ceiling below 1000' and visibility less than 3 miles) these runways cannot be used simultaneously at all. They basically must be operated as one runway for safety reasons. The same is true for the set of parallels directly south of the terminal; they too are only 1200' apart.

2. Both sets of parallel runways closest to the terminal (the ones referred to above) are all a minimum of 10,000' long. This creates a runway incursion problem, which is a very serious safety issue. Because of their length and position, all aircraft that land or depart O'Hare would be required to taxi across either one, or in some cases two runways to get to and from the terminal. This design flaw exists in both the Daley and the Ryan plan. A runway incursion is when an aircraft accidentally crosses a runway when another aircraft is landing or departing. They are caused by either a mistake or misunderstanding by the pilot or controller. Runway incursions have skyrocketed over the past few years and are on the NTSB's most wanted list of safety issues that need to be addressed. Parallel runway layouts create the potential for runway incursions; in fact the FAA publishes a pamphlet for airport designers and planners that urge them to avoid parallel runway layouts that force taxiing aircraft to cross active runways. Los Angeles International airport has lead the nation in runway incursions for several years. A large part of their incursion problem is the parallel runway layout; aircraft must taxi across runways to get to and from the terminals.

3. The major difference in Governor Ryan's counter proposal is the elimination of the southern most runway. If this runway were eliminated, the capacity of the new airport would be less than we have now during certain conditions (estimated at about 40% of the time). If you look at Mayor Daley's plan, it calls for six parallel east-west runways and two parallel northeast-southwest runways. The northeast-southwest parallels are left over from the current O'Hare layout. These two runways simply won't be usable in day-to-day operations because of the location of them (they are wedged in between, or pointed at the other parallels). We would not use these runways except when the wind was very strong (35 knots or above) which we estimate would be less than 1% of the time. That leaves the six east/west parallels for use in normal day-to-day operations. This is the same number of runways available and used at O'Hare today. If you remove the southern runway (Governor Ryan's counter proposal), you are leaving us five runways

which is one less than we have now. That means less capacity than today's O'Hare during certain weather conditions. With good weather, you may get about the same capacity we have now. If this is the case, then why build it?

4. The Daley-Ryan plans call for the removal of the NW/SE parallels (Runways 32L and 32R). This is a concern because during the winter it is common to have strong winds out of the northwest with snow, cold temperatures and icy conditions. During these times, it is critical to have runways that point as close as possible into the wind. Headwinds mean slower landing speeds for aircraft, and they allow for the airplane to decelerate quicker after landing which is important when landing on an icy runway. Landing into headwinds makes it much easier for the pilot to control the aircraft as well. Without these runways, pilots would have to land on icy conditions during strong cross-wind conditions. This is a possible safety issue.

These are the four major concerns we have with the Daley-Ryan runway plans. There are many more minor issues that must be addressed. Amongst them are taxiway layouts, clear zones (areas off the ends of each runway required to be clear of obstructions), ILS critical areas (similar to clear zones, but for navigation purposes), airspace issues (how arrivals and departures will be funneled into these new runways) and all sorts of other procedural type issues. These kinds of things all have to go through various parts of the FAA (flight standards, airport certification etc.) eventually. These groups should have been involved with the planning portion from day one. Air traffic controllers at the tower are well versed on what works well with the current airport and what does not. We can provide the best advice on what needs to be accomplished to increase capacity while maintaining safety. It is truly amazing that these groups were not consulted in the planning of a new O'Hare. The current Daley-Ryan runway plans, if built as publicized, will do little for capacity and/or will create serious safety issues. This simply cannot happen. The fear is that the airport will be built, without our input, and then handed to us with expectations that we find a way to make it work. When it doesn't, the federal government (the FAA and the controllers) will be blamed for safety and delay problems.

Sincerely,

CRAIG BUREYCH,

Facility Representative, NATCA—O'Hare Tower.

ROBERT J. SELL, ELECTED
SPOKESMAN,
ST. JOHN'S UNITED CHURCH OF
CHRIST,

Bensenville, IL., Mar. 5, 2002.

Congressman HENRY J. HYDE,
Rayburn House Office Building, Washington,
DC.

RE: O'HARE AIRPORT EXPANSION/ST. JOHN'S
UNITED CHURCH OF CHRIST

DEAR REPRESENTATIVE HYDE: From press reports, I understand that Governor Ryan and Mayor Daley have submitted to Congress their proposal for the expansion of O'Hare Airport, which will be the subject of hearings on Wednesday, March 6th. I also understand that you will be given the opportunity to testify at these hearings.

Although I am sure that you will cover many important issues in your testimony, our hope is that you will alert the other members of Congress to an additional issue

that is of great importance to me, my family and the members of Churches within your District. This issue is the treatment of two religious cemeteries that stand in the path of the runways proposed by the City of Chicago and Governor Ryan (see attached maps).

The two cemeteries are St. Johannes Cemetery (which is owned and maintained by St. John's United Church of Christ) and Resthaven Cemetery (affiliated with the Methodist Church). Most people have never heard of these cemeteries, but they serve as the final resting place of some of the first Illinois pioneers, as well as many of their modern era descendants. These cemeteries have served this purpose for over 150 years, since their first Church members were laid to rest in the 1840's.

As an example, my great, great, great grandfather, Christian Dierking came to the United States in the 1840's when the land around O'Hare was wild land. He settled in land that is now occupied by O'Hare's United Airlines Terminal. One of my other great, great, great grandfathers, Henry Kolze and his brothers, William and Frederick also came to the area in the 1840's and were heavily involved in local Republican politics in the 1850's and 1860's. The Schiller Park Historical Society has reported that Abraham Lincoln once visited property owned by William Kolze during one of his election campaigns. Together, they and their families and neighbors constructed the first Church buildings.

These individuals, their descendants and an estimated 1600 other souls lie at rest at St. Johannes Cemetery, including some buried within the last year. Hundreds of others lie at rest at Resthaven Cemetery, including one buried in the last few months. These people were mayors, business owners, farmers, factory workers, soldiers and housewives. The Chicago Sun Times has also reported that those buried at Resthaven include members of the Potawatamie tribe. But, most importantly to us, they were mothers and fathers, grandmothers and grandfathers, brothers and sisters, and children.

Although the City of Chicago's and the Governor's proposals have mentioned the relocation of homes and businesses, they curiously have failed to mention the treatment of these sacred burial grounds. Unfortunately, Church members have received letters from the Governor's office confirming that completion of the expansion plan would require removal of the cemeteries, and the Chicago Sun Times has reported the City's confirmation of this fact. The Church, its members, and the families of members past and present are understandably upset.

It is my understanding that, pursuant to Illinois law, an active cemetery may not be removed without approval of the cemetery's owner. St. John's Church, and the caretakers of Resthaven Cemetery, have stated publicly and to State of Illinois officials that *they will not* provide this consent, and will exercise all available remedies to protect the sanctity of their hallowed ground. It may be that Representative Lipinski's and Senator Durbin's federal legislation seeks to preempt the foregoing Illinois statutes, just as it seeks to preempt other Illinois statutes that stand in the way of the O'Hare Plan. However, we would hope that they are not at the same time attempting to discard the fundamental religious protections offered by our Constitution.

We would appreciate it if you would enter this letter into the record, to provide this important information to those deliberating

about the O'Hare Plan. On behalf of St. John's United Church of Christ, my family and the tens of thousands of family members of those at rest in these Cemeteries, thank you for your kind consideration and any assistance that you may be able to provide.

Very Truly Yours,

ROBERT J. SELL,

Elected Spokesman, St. John's United Church
of Christ.

UNIVERSITY OF ILLINOIS,

COLLEGE OF LAW,

Champaign, IL, March 1, 2002.

Hon. HENRY J. HYDE,

U.S. House of Representatives,

Rayburn House Office Bldg., Washington, DC.

RE: PROPOSED FEDERAL LEGISLATION GRANTING
NEW POWERS TO THE CITY OF CHICAGO

DEAR CONGRESSMAN HYDE: As you know, I serve as the Albert E. Jenner Professor of Law at the University of Illinois Law School. I have authored a leading course book on Constitutional Law. In addition, I co-author, along with my colleague John Nowak, the widely-used multi-volume Treatise on Constitutional Law, published by West Publishing Company. In addition to my books, I have taught and researched in the area of Constitutional Law since 1974.

I have been asked to give my opinion on the constitutionality of proposed federal legislation entitled "National Aviation Capacity Expansion Act," identical versions of which have been introduced in both the Senate and the House of Representatives by Senator Durbin and Congressman Lipinski (S. 1786, HR 3479), hereafter the "Durbin-Lipinski legislation."

The Durbin-Lipinski legislation seeks to enact Congressional approval of a proposal to construct a major alteration of O'Hare Airport in Chicago. While this legislation focuses on Chicago and the State of Illinois, the issues raised by the legislation have serious constitutional implications for all 50 States.

There are two key components of the legislation that have been the subject of my examination.

First Section 3(a)(3) attempts to give the City of Chicago (a political subdivision and instrumentality of the State of Illinois) the legal power and authority to build a proposed major alteration of O'Hare even though state law does not authorize Chicago to build the alteration without first receiving a permit from the State of Illinois. Chicago, as a legal entity, is entirely a creation of state—not federal law—and Chicago's authority to build airports is essentially an exercise of state law power delegated to Chicago by the Illinois General Assembly.

The requirement that Chicago first obtain a state permit is an integral and essential element of that delegation of state power. The U.S. Constitution prohibits Congress (1) from invading and commandeering the exercise of state power to build airports, and (2) from changing the allocation of state-created power between the State of Illinois and its political subdivisions. The U.S. Constitution, in short, prohibits Congress from essentially rewriting state law dealing with the delegation of state power by eliminating the conditions, restrictions, and prohibitions imposed by the Illinois General Assembly on that delegation. These constitutional restrictions on Congress' power—which prohibit Congress from requiring states to change their state laws governing cities—are often termed Tenth Amendment restrictions.

Similarly, the provisions of Section 3(f) of the proposed Durbin-Lipinski legislation are

necessarily conditioned upon the existence of state law authority of Chicago to enter into agreements for a third party (the FAA) to alter O'Hare without first obtaining a permit from the State of Illinois. But Chicago has no state law authority (under the delegation of state power to build and alter airports) to enter into an agreement to engage in a massive alteration of O'Hare without a state permit. Congress cannot confer powers on a political subdivision of a State where the State has expressly limited its delegation of state power to build airports to require a state permit. Congress has no constitutional authority to create powers in an instrumentality of State law (Chicago) when the very authority and power of Chicago to undertake the actions proposed by Congress depends on compliance with—and is contrary to—the mandates of the Illinois General Assembly.

For the reasons discussed below, it is my opinion that the proposed legislation is unconstitutional.

SUMMARY OF ANALYSIS

The following is a summary of my analysis:

1. Under the governing United States Supreme Court decisions of *New York v. United States* and *Printz v. United States*, which are discussed below, the proposed legislation is not supported by any enumerated power and thus violates the limitations of the Tenth Amendment of the Constitution. In these decisions, the Supreme Court held that legislation passed by Congress, purportedly relying on its exercise of the Commerce Power (nuclear waste legislation in *New York* and gun control legislation in *Printz*) was unconstitutional because the federal laws essentially commandeered state law powers of the States as instrumentalities of federal policy.

2. The same constitutional flaws afflict the proposed Durbin-Lipinski legislation. Central to the Durbin-Lipinski legislation are two provisions [sections 3(a)(3) and 3(f)] that purport to empower or authorize Chicago (a political instrumentality of the State of Illinois, and thus a city that has no authority or even legal existence independent of state law) to undertake actions for which Chicago has not received any delegation of authority from the State of Illinois and that, in fact, are directly prohibited by Illinois law when the conditions and limitations of the State delegation of authority have not been satisfied.

3. Under Illinois law, Chicago (like any other political subdivision of a State) has no authority to undertake any activity (including constructing airports) without a grant of state authority from the State of Illinois. Under Illinois law, actions taken by political subdivisions of the State (e.g., Chicago) without a grant of authority from the State, or actions taken by a political subdivision in violation of the conditions, limitations or prohibitions imposed by the State in delegating the state authority, are plainly *ultra vires*, illegal, and unenforceable. The City of Chicago is a creature of state law, not federal law.

4. The power exercised by any state political subdivision (e.g., the power to construct airports) is in reality a power of the State—not inherent in the existence of the political subdivision. For the political subdivision to have the legal authority to exercise that state power, there must be a delegation of that state power by the State to the political subdivision. Further, it is axiomatic that any such delegation of state power to a political subdivision must be exercised in accord-

ance with the conditions, limitations, and prohibitions accompanying the State's delegation of that power.

5. In the case of airport construction, the Illinois General Assembly has enacted a statute that delegated to Chicago (and other municipalities) the state law power to construct airports explicitly and specifically subject to certain limits and conditions that the General Assembly imposed. One basic requirement is that Chicago must first comply with all of the requirements of the Illinois Aeronautics Act—including the requirement that Chicago first receive a permit (a certificate of approval) from the State of Illinois. The Illinois General Assembly has expressly provided that municipal construction or alteration of an airport without such a state permit is unlawful and *ultra vires*.

6. Section 3(a)(3) of the Durbin-Lipinski legislation expressly authorizes Chicago to proceed with the "runway redesign plan" (a multi-billion dollar modification of O'Hare) without regard to the clear delegation limitations and prohibitions imposed by the Illinois General Assembly on the state statutory delegation to Chicago of the state law power to construct airports. Illinois law explicitly says Chicago has no state law authority to build or alter airports without first complying with the Illinois Aeronautics Act, including the state permitting requirements of §47 of that Act. Even though Chicago (a political creation and instrumentality of the State of Illinois) has no power to build or modify airports (a state law power) unless Chicago obtains State approval, Section 3(a)(3) purports to infuse Chicago (which has no legal existence independent of state law) with a federal power to build airports and to disregard Chicago's fundamental lack of power under state law to undertake such actions (absent compliance with state law). Like *New York v. United States* and *Printz v. United States* the proposed Durbin-Lipinski legislation involves Congress attempting to use a legal instrumentality of a State (i.e., the state power to build airports exercised through its delegated state-created instrumentality, the city of Chicago) as an instrument of federal power. As the Supreme Court held in *New York* and *Printz*, the Tenth Amendment—and the structure of "dual sovereignty" it represents under our constitutional structure of federalism—prohibits the federal government from using the Commerce power to conscript state instrumentalities as its agents.

7. Similar problems articulated in *New York* and *Printz* fatally afflict Section 3(f) of the proposed Durbin-Lipinski legislation. That section provides that, if (for whatever reason) construction of the "runway design plan" is not underway by July 1, 2004, then the FAA Administrator (a federal agency) shall construct the "runway redesign plan" as a "Federal Project". But, Section 3(f)(1) then provides that this "federal project" must obtain several agreements and undertakings from Chicago—agreements and undertakings that are controlled by state law, which limits Chicago's authority to enter into such agreements or accept such undertakings. Chicago has no authority under the state law (which confers upon Chicago the state power to construct airports) to enter into agreements with any third party (be it the United States or a private party) to make alterations of an airport without the state permit required by state statute. Thus, Chicago has no authority under state law to enter into an agreement with the FAA Administrator to have the runway redesign

plan constructed by the federal government because Chicago has not received approval from the State of Illinois under the Illinois Aeronautics Act—a specific condition and prohibition of the delegation of state power (to build airports) to Chicago by the Illinois General Assembly. Just as Chicago (a creation and instrumentality of the State of Illinois) has no power or authority under state law (absent compliance with the Illinois Aeronautics Act) to enter into an agreement for the FAA to construct the runway redesign plan, Chicago also has no power or authority (absent compliance with the Illinois Aeronautics Act) to enter into the other agreements provided for in Section 3(f)(1)(B) of the Durbin-Lipinski legislation. Again, Section 3(f) is an attempt to have Congress use the Commerce power to conscript state instrumentalities as its agents. Instead of Congress regulating interstate commerce directly (which both *New York v. United States* and *Printz* allow), the Durbin-Lipinski legislation seeks to regulate how the State regulates one of its cities (which both *New York v. United States* and *Printz* do not allow).

8. The Durbin-Lipinski legislation is a law of "general application". There is a line of Supreme Court decisions which allow Congress to use the Commerce Power to impose obligations on the states when the obligations imposed on the States are part of laws which are "generally applicable" i.e., that impose obligations on the States and on private parties alike. See e.g., *Reno v. Condon*, 528 U.S. 141 (2000) (federal rule protecting privacy of drivers' records upheld because they do not apply solely to the State); *South Carolina v. Baker*, 485 U.S. 505 (1988) (state bond interest not immune from nondiscriminatory federal income tax); *Garcia v. San Antonio Metropolitan Transit Authority*, 469 U.S. 528, (1985) (law of general applicability, binding on States and private parties, upheld). But these cases have no application where, as here and in *New York* and *Printz*, the Congressional statute is not one of general application but is specifically directed at the States to use state law instrumentalities as tools to implement federal policy. Here the Durbin-Lipinski legislation is doubly unconstitutional, because it does not apply to private parties or even to all States but only to one State (Illinois) and its relationship to one city (Chicago). The Durbin-Lipinski legislation proposes to use Chicago (an instrumentality of state power whose authority to construct airports is an exercise of state power expressly limited and conditioned on that delegation by the Illinois legislature) as a federal instrumentality to implement federal policy. Congress is commandeering a state instrumentality of a single State (Illinois) against the express statutory will of the Illinois Legislature, which has refused to confer on Chicago (an instrumentality of the State) the state law power and authority to build airports unless Chicago first obtains a permit from the State of Illinois. This is an unconstitutional use of the Commerce Power under the holdings *New York* and *Printz* and does not fall within the "general applicability" line of cases such as *Reno v. Condon*, *South Carolina v. Baker*, and *Garcia*.

ANALYSIS

Before discussing any further the specific provisions of the Durbin-Lipinski legislation, let us review some important background law.

A. The Basic Legal Principles.

Cities are Creatures of the States and State Law—Not Instrumentalities of Federal

Power. Normally, this controversy surrounding the proposed expansion of O'Hare Airport would be left to the state political process. Under Illinois law, the cities in this state have only the power that the State Constitution or the legislature grants to them, subject to whatever limits the State imposes. This legal principle has long been settled.

Nearly a century ago, the U.S. Supreme Court, in *Hunter v. City of Pittsburgh*, 207 U.S. 161, 28 S. Ct. 40, 52 L.Ed. 151 (1907) held that, under the U.S. Constitution, cities are merely creatures of the State and have only those powers that the State decides to give them, subject to whatever limits the States choose to impose:

This court has many times had occasion to consider and decide the nature of municipal corporations, their rights and duties, and the rights of their citizen and creditors. [Citations omitted.] It would be unnecessary and unprofitable to analyze these decisions or quote from the opinions rendered. We think the following principles have been established by them and have become settled doctrines of this court, to be acted upon whenever they are applicable. Municipal corporations are political subdivisions of the state, created as convenient agencies for exercising such of the governmental powers of the state as may be [e]ntrusted to them. . . . The number, nature, and duration of the powers conferred upon these corporations and the territory over which they shall be exercised rests in the absolute discretion of the state. . . . The state, therefore, at its pleasure, may modify or withdraw all such powers, may take without compensation such property, hold it itself, or vest it in other agencies, expand or contract the territorial area, unite the whole or a part of it with another municipality, repeal the charter and destroy the corporation. All this may be done, conditionally or unconditionally, with or without the consent of the citizens, or even against their protest. In all these respects the state is supreme, and its legislative body, conforming its action to the state Constitution, may do as it will unrestrained by any provision of the Constitution of the United States.

Hunter held that a State that simply takes the property of municipalities without their consent and without just compensation did not violate due process. While Hunter is an old case, it still is the law, and the Seventh Circuit recently quoted with approval the language reprinted here.

The Illinois Aeronautics Act Expressly Limits Chicago's Power to Build and Alter. The State of Illinois has delegated to Chicago the power to build and alter airports. But that power is expressly limited by the requirement that Chicago must comply with the Illinois Aeronautics Act. And the Illinois Aeronautics Act provides that Chicago has no power to make "any alteration" to an airport unless it first obtains a permit, a "certificate of approval," from the State of Illinois. Finally, Chicago has not obtained this certificate of approval. That fact is what has led to the proposed federal intervention.

B. The Federation Problem

As mentioned above, section 3(a)(3) of the proposed federal law overrides the licensing requirements of §47 of the Illinois Aeronautics Act. This section states:

(3) The State shall not enact or enforce any law respecting aeronautics that interferes with, or has the effect of interfering with, implementation of Federal policy with respect to the runway redesign plan including sections 38.01, 47, and 48 of the Illinois Aeronautics Act.

In addition, section 3(f) authorizes Chicago to enter into an agreement with the federal government to construct the O'Hare Airport expansion. This project is called a "Federal project," but Chicago must agree to construct the "runway redesign as a Federal Project," and Chicago provides the necessary land, easements, etc., "without cost to the United States."

What this proposed legislation does is authorize the City of Chicago to implement an airport expansion approved by the Administrator of the Federal Aviation Administration. But, under state law, Chicago cannot expand O'Hare because it does not have the required state permit.

There is no doubt that the O'Hare Airport is a means of interstate commerce, and Congress may certainly impose various rules and regulations on airports, including O'Hare. Congress, for example, may decide to require airport security and require that the security agents be federal employees. Or, Congress could provide that it would build and takeover the O'Hare Airport and construct expansion if the State of Illinois refused to do so.

Congress may also use its spending power to take land by eminent domain and then construct or expand an airport, no matter what the state law provides. The limits on the spending clause are few.

But, the proposed law does not take such alternatives. It does not impose regulations on airports in general, nor does it exercise the very broad federal spending power. Nor does the proposed law authorize the federal government take over ownership and control of O'Hare Airport. Instead, it seeks to use an instrumentally of state power (i.e., the state law power to build airports as delegated to a state instrumentality, the city of Chicago) as an exercise of federal power.

The proposed federal law is stating that it is creating a federal authorization or empowerment to the City of Chicago to do that which state law provides that Chicago may not do—expand O'Hare Airport without comply with state laws that create the City of Chicago and delegate to it certain limited powers that can be exercised only if within the limits of the authorizing state legislation.

New York v. United States. The proposed federal law is very similar to the law that the Supreme Court invalidated a decade ago in *New York v. United States*. The law that New York invalidated singled out states for special legislation and regulated the states' regulation of interstate commerce. The proposed Durbin-Lipinski legislation singles out a State (Illinois) for special legislation and regulates that State's regulation of interstate commerce dealing with O'Hare Airport.

While the law in this area has shifted a bit over the last few decades, it is now clear that Congress can use the Interstate Commerce Clause to impose various burdens on States as long as those laws are "generally applicable." The federal law may not single out the state for special burdens. For example, Congress may impose a minimum wage on state employees in, or affecting, interstate commerce as long as Congress imposes the same minimum wage requirements on non-state workers in, or affecting, interstate commerce. Congress can regulate the States using the Commerce Clause if it imposes requirements on the States that are generally applicable—that is, if it imposes the same burdens on private employers. Congress cannot single out the States for special burdens; it cannot commandeer or take control over the states or order a state legislature to in-

crease the home rule powers of the City of Chicago; it cannot enact federal legislation that adds to or revises Chicago's state created and limited delegated powers.

The leading case, *New York v. United States*, held that the Commerce Clause does to authorize the Federal Government to conscript state governments as its agents. "Where a federal interest is sufficiently strong to cause Congress to legislate, it must do so directly; it may not conscript state governments as its agents. The proposed Durbin-Lipinski legislation will do exactly what New York prohibits it will conscript the City of Chicago as its agent and interfere with the relationship between the State of Illinois and the entity it created, the City of Chicago.

New York invalidated a legislative provision that is strikingly similar to the proposed federal Durbin-Lipinski legislation. The Court, in the New York case, considered the Low-Level Radioactive Waste Policy Amendments Act of 1985. Congress was concerned with a shortage of disposal sites for low level radioactive waste. The transfer of waste from one State to another is obviously interstate commerce. Congress, in order to deal with the waste disposal problem, crafted a complex statute with three parts, only one of which was unconstitutional. There were a series of monetary incentives, which the Court unanimously upheld under Congress' broad spending powers. Congress also authorized States that adopted radioactive waste and storage disposal guidelines to bar waste imported from States that had not adopted certain storage and disposal programs. The Court, again unanimously, relied on long-settled precedent that approves of Congress creating such trade barriers in interstate commerce.

Then the Court turned to the "take title" provisions and held (six to three) that they were unconstitutional. The "take title" provision in effect required a State to enact certain regulations and, if the State did not do so, it must (upon the request of the waste's generator or owner), take title to and possession of the waste and become liable for all damage suffered by the generator or owner as a result of the State's failure to promptly take possession.

The Court explained that Congress could, if it wished, preempt entirely state regulation in this area and take over the radioactive waste problem. But Congress could not order the States to change their regulations in this area. Congress lacks the power, under the Constitution, to regulate the State's regulation of interstate commerce. That is what the proposed federal O'Hare Airport bill will do: it will regulate the State's regulation of interstate commerce by telling the State that it must act as if the City of Chicago has complied with the Illinois Aeronautics Act and other state rules.

In a nutshell, Congress cannot constitutionally commandeer the legislative or executive branches. The Court pointed out that this commandeering is not only unconstitutional (because nothing in our Constitution authorizes it) but also bad policy, because federal commandeering serves to muddy responsibility, undermine political accountability, and increase federal power.

The proposed Durbin-Lipinski legislation prohibits Illinois from applying its laws regulating one of its cities. The proposed federal law also authorizes the federal government to make an agreement with Chicago, pursuant to which Chicago will assume some significant obligations, even though present state law gives Chicago no authority to engage in this activity. As the six to three New York decision made clear:

A State may not decline to administer the federal program. No matter which path the State chooses, it must follow the direction of Congress. . . . No other federal statute has been cited which offers a state government no option other than that of implementing legislation enacted by Congress. Whether one views the take this provision as lying outside Congress' enumerated powers, or as infringing upon the core of state sovereignty reserved by the Tenth Amendment, the provision is inconsistent with the Federal structure of our Government established by the Constitution.

The proposed Durbin-Lipinski legislation is very much like the law that six justices invalidated in *New York*. The O'Hare bill provides that, no matter what the State chooses, "it must follow the direction of Congress." The State has "no option other than that of implementing legislation enacted by Congress."

The Court in *New York* went on to explain that there are legitimate ways that Congress can impose its will on the states:

This is not to say that Congress lacks the ability to encourage a State to regulate in a particular way, or that Congress may not hold out incentives to the States as a method of influencing a State's policy choices. Our cases have identified a variety of methods, short of outright coercion, by which Congress may urge a State to adopt a legislative program consistent with federal interests. Two of these methods are of particular relevance here.

The Court then discussed those two alternatives. First, there is the spending power, with Congress attaching conditions to the receipt of federal funds. The proposed Durbin-Lipinski legislation rejects the spending power alternative. Second, "where Congress has the authority to regulate private activity under the Commerce Clause, we have recognized Congress' power to offer States the choice of regulating that activity according to federal standards or having state law preempted by federal regulation." The proposed Durbin-Lipinski legislation rejects that alternative as well. It does not propose that Congress directly takeover and expand O'Hare Airport. Instead, it proposes that the City of Chicago be allowed to exercise power that the State does not allow the City to exercise.

New York v. United States did not question "the authority of Congress to subject state governments to generally applicable laws." But Congress cannot discriminate against the States and place on them special burdens. It cannot commandeer or command state legislatures or executive branch officials to enforce federal law. Congress can regulate interstate commerce and States are not immune from such regulation just because they are States. For example, Congress can forbid employers from hiring child labor to work in coal mines, whether a private company or a State owns the coal mine and employs the workers.

Printz v. United States. Following the *New York* decision, the Court invalidated another federal statute imposing certain administrative duties on local law enforcement officials, in *Printz v. United States*. The Brady Act, for a temporary period of time, required local law enforcement officials to use "reasonable efforts" to determine if certain gun sales were lawful under federal law. The federal law also "empowered" these local officers to grant waivers of the federally prescribed 5-day waiting period for handgun purchases. Note that the proposed Durbin-Lipinski legislation will also "empower" the

City of Chicago to do that which Illinois does not authorize the city to do.

To make the analogy even more compelling, the chief law enforcement personal suing in the *Printz* case said that state law prohibited them from undertaking these federal responsibilities. That, of course, is the exact position in which Chicago finds itself. State law prohibits Chicago from entering into and committing to these federal responsibilities (e.g., the agreements between Chicago and the FAA in §3(f) of the proposed Durbin-Lipinski legislation call for construction as a "federal project" but then require Chicago to either construct or allow construction without a permit from the State of Illinois).

We should realize that the proposed Durbin-Lipinski legislation—in commanding and singling out the State of Illinois to, in effect, repeal its legislation governing the powers delegated to the City of Chicago—is quite unusual and not at all in the tradition of federal legislation. For most of our history, Congress would explicitly only "recommend" or "request" the assistance of the governors and state legislatures in implementing federal policy. It is only in very recent times that Congress has sought explicitly to commandeer or order the legislature and executive branches of the States to implement federal policies. Because such federal legislative activity is recent, the case law in this area is recent, but the case law is clear in prohibiting this type of federal assertion of power.

New York v. United States held that Congress cannot "command a State government to enact state regulation." Congress may regulate interstate commerce directly, but it may not "regulate state governments' regulation of interstate commerce." The Federal Government may not "conscript state governments as its agents." Congress has the "power to regulate individuals, not States."

In short, there are important limits on the power of the federal government to commandeer the state legislature or state executive branch officials for federal purposes. Another way to think about this issue, is that, to a certain extent, the Constitution forbids Congress from imposing what recently have been called "unfunded mandates" on state officials. Congress cannot simply order the States or state officials or a city to take care of a problem. Congress can use its spending power to persuade the States by using the carrot instead of the stick.

While there are those who have attacked the restrictions that *New York v. United States* have imposed on the Federal Government, it is worth remembering the line-up of the Court in *Maryland v. Wirtz* when the justices first considered this issue. That case rejected the applicability of the Tenth Amendment and held that it was constitutional for Congress to set the wages, hours, and working conditions of employees, including state employees in interstate commerce. However, Justice Douglas, who was joined by Justice Stewart, dissented. Douglas found the law to be a "serious invasion of state sovereignty protected by the Tenth Amendment" and "not consistent with our constitutional federalism." He objected that Congress, using the broad commerce power, could "virtually draw up each State's budget to avoid 'disruptive effect[s]' on interstate commerce. *New York v. United States* prevents this result.

The "generally applicable" restriction is important, and it explains *Reno v. Condon*. Congress enacted the Driver's Privacy Protection Act (DPPA), which limited the ability of the States to sell or disclose a driver's

personal information to third parties without the driver's consent. Chief Justice Rehnquist, for a unanimous Court, upheld the law as a proper regulation of interstate commerce and not violating any principles of federalism found in *New York v. United States* or *Printz* because the law was "generally applicable."

Reno grew out of a congressional effort to protect the privacy of drivers' records. As a condition of obtaining a driver's license or registering a car, many States require drivers to provide personal information, such as name, address, social security number, medical information, and a photograph. Some States then sell this personal information to businesses and individuals, generating significant revenue. To limit such sales, Congress enacted the DPPA, which governs any state department of motor vehicles (DMV), or state officer, employee, or contractor thereof, and any resale or re-disclosure of drivers' personal information by private persons who obtain the information from a state DMV. The Court concluded: "The DPPA's provisions do not apply solely to States." Private parties also could not buy the information for certain prohibited purposes nor could they resell the information to other parties for prohibited purposes, and the States could not sell the information to the private parties for certain purposes if the private parties could not buy it for those purposes.

Unlike the law in *New York*, the Court concluded that the DPPA does not control or regulate the manner in which States regulate private parties, it does not require the States to regulate their own citizens, and it does not require the state legislatures to enact any laws or regulations. Unlike the law in *Printz*, the DPPA does not require state officials to assist in enforcing federal statutes regulating private individuals. This DMV information is an article of commerce and its sale or release into the interstate stream of business is sufficient to support federal regulation.

The DPPA is a "generally applicable" federal law regulating commerce because it regulates the universe of entities that participate as suppliers to the market for motor vehicle information—the states as initial suppliers and the private resellers or redisclosers of this information. "South Carolina has not asserted that it does not participate in the interstate market for personal information. Rather, South Carolina asks that the DPPA be invalidated in its entirety, even as applied to the States acting purely as commercial sellers."

CONCLUSION

The proposed federal law dealing with the O'Hare Airport expansion is most likely unconstitutional because it imposes federal rules on the relationship between a city and the State that created the city. It subjects Illinois to special burdens that are not generally applicable to private parties or even to other States. It authorizes the City of Chicago to do that which Illinois now prohibits.

There is no escape from the conclusion that the proposed federal law does not regulate the behavior of private parties in interstate commerce. It does not subject the State of Illinois to "generally applicable" legislation. Instead, Congress is regulating the state's regulation of interstate commerce. Congress may not conscript the instrumentalities of state government and state power as tools of federal power. The

case law is clear that Congress does not have the power.

Sincerely,

RONALD D. ROTUNDA,

The Albert E. Jenner, Jr. Professor of Law.

Mr. KIRK. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Illinois (Mr. MANZULLO), the chairman of the Committee on Small Business, another bipartisan supporter of this legislation.

Mr. MANZULLO. Mr. Speaker, I rise in support of H.R. 3479, the National Aviation Capacity Expansion Act. I want to thank the gentlemen from Illinois (Mr. KIRK) and (Mr. LIPINSKI) and other members of the Illinois delegation and the surrounding region for their hard work in coming to an agreement on this legislation.

O'Hare serves as the main hub for the Nation's two largest commercial airlines, and expansion is without a doubt going to be a tremendous benefit to travelers and businesses in the northern Illinois area, as well as the Nation.

What I particularly appreciate about this legislation is that it acknowledges the role of other regional airports, especially the Greater Rockford Airport, and the role it can have in helping to alleviate congestion at O'Hare. This legislation clearly states how important it is for the FAA to consider existing infrastructure when constructing a plan to streamline traffic through O'Hare. With a runway that can land virtually any jet today at a distance of only 1 hour's drive from Chicago, Rockford Airport stands ready to immediately supplement traffic congestion at O'Hare during construction or in the future.

The efficiency of our Nation's air travel is ready for a dramatic upgrade in the Chicago area, and this bill is a critical step in addressing that need. I urge my colleagues to support its passage today.

Mr. LIPINSKI. Mr. Speaker, I yield 1½ minutes to the gentleman from Indiana (Mr. VISCLOSKY).

Mr. VISCLOSKY. Mr. Speaker, I appreciate the gentleman yielding me this time.

Mr. Speaker, I rise today in support of H.R. 3479, the National Aviation Capacity Expansion Act.

First, I am a supporter of increased airport capacity for the Chicago metropolitan area, and I commend the gentleman from Illinois (Mr. LIPINSKI) and the leadership of the Committee on Transportation and Infrastructure for achieving this equitable regional solution that will help relieve air congestion in our Nation and the Chicago region.

Second, increasing air capacity in the Chicago metropolitan area is a national concern and not just a Chicago or an Illinois problem. Air congestion is also a regional problem and it demands a regional answer. I happen to believe that the Gary/Chicago Airport

has a role in helping solve the air traffic congestion problems facing the region and Nation. H.R. 3479 provides full consideration for expansion and improvement projects at the Gary/Chicago Airport.

I have worked in this body for my entire career to modernize and improve the Gary/Chicago Airport. It can play an increasingly valuable role in delivering passenger and cargo service to the area. Last year, the FAA approved the Gary/Chicago Airport's 20-year master plan. The master plan outlines the airport's existing facilities and ability to handle air traffic growth and economic forecasts.

Mr. Speaker, H.R. 3479 would guarantee that the Gary/Chicago Airport would be considered for growth and needed improvements, which will enhance its role as the Chicago airport.

Mr. JACKSON of Illinois. Mr. Speaker, I am proud to yield 6 minutes to the distinguished gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Speaker, it is interesting what we have before us today. Usually Suspension Calendar legislation is noncontroversial; but today we have a proposal which most people say only affects Illinois, so most Members may not be paying attention to it. But I think it is important to note that this legislation splits the Illinois delegation right down the middle.

I stand in opposition to this legislation, and I also urge my colleagues to vote against this legislation with the hope that it is defeated and that the Committee on Transportation and Infrastructure will revisit this legislation and produce legislation that truly recognizes the bipartisan agreement between Mayor Daley and Governor Ryan.

I support O'Hare expansion, and I support a third airport at Peotone. As we all know, air travel will double in the coming decade. O'Hare and Midway Airports are at capacity. We need to rebuild and modernize O'Hare, and we need to build the South Suburban Airport near Peotone.

Governor Ryan and Mayor Daley entered into a historic agreement last year which would provide for the reconfiguration and expansion of Chicago O'Hare and the development of the Chicago South Suburban Airport located near Peotone, Illinois. The gentleman from Illinois (Mr. LIPINSKI) introduced legislation which would originally have codified this agreement into law, modernizing O'Hare and pushing development of a south suburban airport. I had originally hoped to cosponsor and support this legislation, if it truly reflected the integrity of the agreement between the Governor and the mayor.

However, I would note that that is not the bill that is before us today. It is also important to note that the Governor of Illinois does not support this bill in its current form. In fact, Mr.

Speaker, the bill that is before us today is only a fragment of the original legislation and represents none of the compromise that was reached between the Governor and the mayor. Rather, the legislation that is proposed before us today is an attempt to force the Congress to take an unprecedented step in mandating that Chicago O'Hare be rebuilt, as the mayor demanded, while completely ignoring the Governor's side of the agreement, the Governor's side of the agreement that a south suburban airport should also be built. As such, the Governor of Illinois, as I noted earlier, does not support this bill in its current form and as it is currently written.

□ 1630

We ask that language moving for the construction of a south suburban third airport be added to this legislation.

This legislation breaks the agreement of the mayor and the Governor, as I have noted here in my chart. There is nothing in this legislation that reflects the agreement to promote the development of a south suburban airport.

This legislation takes away Illinois State's rights, and it undercuts the authority of the State of Illinois to make its own decisions regarding air travel. The legislation completely ignores the needs of the south suburbs of Chicago, where 2.5 million Illinois residents live within 45 minutes of the proposed airport site.

Additionally, I would note that failure to develop Peotone will short-change the entire Chicago region by forfeiting almost 250,000 new jobs.

Unfortunately, H.R. 3479 does not pay heed to the studies that since the 1980s have consistently shown that Chicago, our region, and the Nation will have aviation gridlock in the near future, and that the best solution is a south suburban third airport. The Governor and mayor recognized these studies when they reached their agreement this past year.

Nevertheless, the bill imposes a Federal solution on a State problem and does not have the full support of the entire delegation, nor the people of Illinois, who are most impacted. In fact, the four Members of the Illinois delegation most impacted in their own districts by H.R. 3479 stand in opposition today, the gentlemen from Illinois, Mr. CRANE, Mr. HYDE, Mr. JACKSON, and myself.

Mr. Speaker, I support Chicago O'Hare, and I believe that it needs to be expanded and modernized to be a safer airport with more capacity; but expanding O'Hare alone will not solve the capacity needs of the future. Even with the development of a south suburban airport, O'Hare could still expect a 40 percent increase in passenger load. Air travel is expected to double in the next 10 to 15 years.

Expanding O'Hare will take 12 to 15 years, and we cannot land an airplane while we are pouring concrete. The South Suburban Airport at Peotone could be expanding capacity and up and running in 4 to 5 years as a complement to O'Hare expansion. However, this legislation stifles any development of the South Suburban Airport and keeps Chicago aviation gridlocked for the next decade.

Aviation is a key part of our economy for Chicago and our Nation. We must expand our capacity to accommodate the growth in aviation by building a third airport in Chicago's south suburbs, as well as expanding O'Hare. H.R. 3479 fails this goal and should be defeated.

I urge my colleagues to join me by voting "no" and asking the Committee on Transportation and Infrastructure to produce a bill that reflects the historic agreement between Mayor Daley and Governor Ryan, working towards building a south suburban third airport as well as expansion of O'Hare.

Again, the legislation before us today breaks the bipartisan agreement between Governor Ryan and Mayor Daley. I ask for a "no" vote.

Mr. LIPINSKI. Mr. Speaker, I yield 6 minutes to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the Committee on Transportation and Infrastructure, and the former chairman of the Subcommittee on Aviation.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding such an abundance of time to me. I especially want to compliment the gentleman from Illinois (Mr. LIPINSKI) for the hours and weeks of time he has personally dedicated to mediating between the City of Chicago and the State of Illinois, and working to bring us the legislation that is before the House today.

Mr. Speaker, when President John F. Kennedy dedicated O'Hare Airport in 1963, he said, "There is no other airport in the world that serves so many people and so many airplanes. This is an extraordinary airport. It could be classed as one of the wonders of the world."

Mr. Speaker, the pulse of national and international air travel remains dependent on O'Hare today, as it did when opened in 1963; but few would suggest that today it is that wonder of the world. It is simply failing to meet the capacity demands put on this airport by the extraordinary increase in air travel throughout world, as well as throughout our own Nation.

Delays at O'Hare ricochet around the world. They reverberate as far away as Frankfurt, Germany; London's Heathrow Airport; Tokyo's Narita Airport; and elsewhere around the United States. A weather delay in Chicago means business travelers inbound from the European continent or the Pacific

Rim are delayed, either at their point of origin or en route.

This airport is truly an extraordinary facility in the world of aviation. It is our Nation's premier airport. It is the crown jewel of aviation in the United States, but it cannot continue to serve that role in its current configuration.

When I met with the mayor and the staff, the professional staff of the O'Hare International Airport operation over 1½ years ago to discuss their plans for expansion, I was greatly impressed with the proposals for reconfiguring this airport that would result in a 4,300-foot separation between two groups of parallel runways, the addition of an entirely new runway, and for operational improvements that would reduce reductions in operations by 95 percent in bad weather, and overall reduce delays by almost 80 percent.

That is an extraordinary improvement in aviation service and will result in untold benefits, benefits we can only estimate today, but that will run into the billions of dollars over the years and more than justify the cost of the investments needed to make these improvements.

There has been a good deal of discussion throughout the proposal when it was first surfaced over a year ago about whose responsibility it is to build this airport and what should be the role of the State. There has been, let us be candid about it, a great deal of conflict between the city and the State, not only on O'Hare Airport, but on, as Mayor Daley testified at our committee hearings, on such matters as transit improvements, on highway improvements, where the State repeatedly has vetoed City of Chicago plans to expand, improve, and deal with its infrastructure needs.

The gentleman from Illinois, working with the city and the State, attempted to resolve the complexities through the channeling process, whereby the city must channel its request for FAA approval through the State of Illinois; but over time, contrary to best hopes and expectations, that proved to be very difficult.

The city and the State came up with a plan that initially I found to be unacceptable because it would be violative of national aviation policy. Over months of negotiations, the two parties, the State and the city, have come to an agreement. The gentleman from Illinois (Mr. LIPINSKI), our ranking member on the Subcommittee on Aviation, served as a midwife and attending physician, caregiver and nurturer of all good things. I think it has really come to fruition here.

The National Aviation Capacity Expansion Act, H.R. 3479, will facilitate projects to enhance capacity in the Chicago area, including major expansion of Chicago O'Hare Airport, our Nation's second-busiest airport and the

third-most delayed. As I noted previously, the City of Chicago, which runs the airport, has proposed development that it estimates will improve O'Hare's operations in optimal conditions by 79 percent and in less-than-optimal conditions by 95 percent, while making quantum leaps in O'Hare annual capacity. The proposal, which involves one new runway and reconfiguration of the seven existing runways, is predicted to more than double O'Hare's annual enplanements, from 31 million to 76 million, and to allow the airport to handle 1.6 million annual operations, compared with the current level of less than 1 million.

Under this legislation, the State of Illinois will be preempted from using unique provisions of state law to prevent the Federal Aviation Administration (FAA) from even considering the expansion and reconfiguration of O'Hare airport. The preemption provision is narrowly crafted to preempt the *unique provisions* of the Illinois Aeronautics Act, which for years have been used to delay any consideration of expanding O'Hare.

When H.R. 3479 was introduced, I was extremely concerned with the provisions that crafted preferences or exemptions for the O'Hare and Peotone projects from: (1) the federal and state National Environmental Policy Act (NEPA) processes, (2) the Clean Air Act, (3) and the need to compete with other airports, on a merit basis, for the limited Airport Improvement Program (AIP) funding available.

The Transportation and Infrastructure Committee, however, accepted an amendment offered by Mr. Lipinski that makes it clear that O'Hare-related projects will not receive any preference in seeking funds from the Airport Improvement Program. The amendment only allows the City of Chicago to submit to the FAA a request for AIP funds for the planning and construction of O'Hare airport, without the prior approval of the State of Illinois. FAA will use its best professional judgment to determine whether the projects should be funded under the criteria used to evaluate applications for AIP grants.

The bill makes it clear that any application submitted by the City of Chicago for the expansion of O'Hare must be evaluated under all applicable federal laws and regulations, including the federal NEPA process. In addition, it requires that proposals for the construction or expansion of Peotone, Gary/Chicago, and Greater Rockford airports should be evaluated on the same basis as any other airport project.

The bill also addresses my main concern with the Clean Air Act provision in the introduced bill. I believed that under the introduced bill, the people of Illinois would lose the right to decide which emissions should be curtailed to meet the Clean Air Act's requirements.

The reported bill requires the State to follow its usual and customary practices for accounting for, and regulating emissions associated with, airport activities. The bill prevents the State from deviating from customary practices to interfere with construction of a runway at O'Hare airport or the south suburban airport. The FAA can request a review by the Federal Environmental Protection Agency to ensure that the State has followed its customary practices. The bill also prohibits the FAA from approving the O'Hare runway design plan unless FAA determines that the construction and the operations at the airport will include best management practices to mitigate emissions.

In sum, the National Aviation Capacity Expansion Act of 2002 ensures that the unique provisions of Illinois law will not stand in the way of the O'Hare redesign project, while at the same time, O'Hare will not have unfair advantage in competing for scarce AIP funds; and environmental laws will not be short-circuited.

Mr. LIPINSKI. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Illinois.

Mr. LIPINSKI. Mr. Speaker, I would just like to speak on one point. It has been mentioned here on the floor that the Governor is not in favor of this legislation. I spoke to the Governor Friday afternoon, and he is still in favor of this legislation.

Now, if he changed his mind over the weekend, I cannot attest to that; but as of last Friday, he was in favor of this particular piece of legislation. I have read nothing in the newspaper, saw nothing on television, or heard nothing on the radio that he has changed his position.

Mr. OBERSTAR. I thank the gentleman for that addition. That has been our understanding on our side on a bipartisan basis, that the Governor is in support.

Mr. Speaker, it is important to point out that cities were the first to champion airports; States came along much later.

The SPEAKER pro tempore (Mr. RYAN of Wisconsin). The time of the gentleman from Illinois (Mr. LIPINSKI) has expired.

Mr. JACKSON of Illinois. Mr. Speaker, I ask unanimous consent that the gentleman from Illinois may have 2 additional minutes for himself and 2 minutes to our side as well.

The SPEAKER pro tempore. Is the gentleman from Illinois (Mr. JACKSON) asking for equal distribution of minutes for each side?

Mr. JACKSON of Illinois. Yes, 2 minutes for each side.

Mr. LIPINSKI. Mr. Speaker, I would like to make that 5 minutes for each side.

The SPEAKER pro tempore. Without objection, each side is distributed an additional 5 minutes.

There was no objection.

Mr. LIPINSKI. Mr. Speaker, the gentleman from Illinois (Mr. KIRK) will have an additional 5 minutes?

The SPEAKER pro tempore. The gentleman from Illinois (Mr. KIRK) will have an additional 5 minutes, and the gentleman from Illinois (Mr. JACKSON) will have an additional 5 minutes.

Mr. KIRK. Mr. Speaker, I believe I have 8 minutes now available to me?

The SPEAKER pro tempore. That is correct.

Mr. KIRK. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. LIPINSKI) and ask unanimous consent that he control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. LIPINSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman from Illinois (Mr. JACKSON) for his request and the gentleman from Illinois (Mr. LIPINSKI) for yielding that additional time to me.

Mr. Speaker, in the early years of aviation, with cities that first built airports, only later did States come. As late as 1958, only seven States provided financial assistance and support for airport construction. It was in the 1940s, long before the State of Illinois ever got into the business of supporting airports, that the Chicago City Council looked into the crystal ball and saw that the future was aviation and had the foresight to buy orchard fields and an additional 7,000 acres to build O'Hare.

On the matter of constitutionality, I just want to point out, and I was concerned about this, we inquired with the John Paul Stephens professor of law at Northwestern University, Professor Thomas Merrill, to get his opinion on the constitutionality. His view is that "the Illinois Aeronautics Act was not protected by the Tenth Amendment. The Illinois Aeronautics Act is unique. Regulation aviation capacity cannot be deemed a core or traditional State function that might be protected by the Tenth Amendment. This legislation does not require the State of Illinois to proactively regulate its citizens, it merely prohibits the State of Illinois from interfering with the city of Chicago's ability to expand capacity at O'Hare."

Mr. Speaker, I think that clearly this legislation is within the authority of the Congress. It is in the public interest. It is necessary to resolve a deadlock between the State of Illinois and the City of Chicago. It was requested by the State of Illinois. It was sought by the City of Chicago, which has the primary responsibility for airport construction, and has nurtured O'Hare Airport into the world's premier facility that it is and represents today.

We are talking here not just about this airport, but we are talking about service to the entire Nation, facilitating air service to smaller communities as well as large communities, and service to the world.

Mr. JACKSON of Illinois. Mr. Speaker, I am proud to yield 2½ minutes to the distinguished gentleman from Illinois (Mr. CRANE).

Mr. CRANE. Mr. Speaker, I rise today in strong opposition to the so-called National Aviation Capacity Expansion Act of 2002. If enacted into law, this measure would not accomplish the goal that most Americans have in mind, namely, a reduction in air traffic congestion as quickly and cheaply as it can be accomplished. To the contrary, it would mean years of waiting for relief, expenditures far in excess of those associated with other more effective alternatives, and the establishment of a troublesome precedent that could come back to haunt other airports around the Nation in the future.

This legislation mandates the addition of one runway at Chicago's O'Hare Airport and the reconfiguration of O'Hare's existing runways. State law, local objections, noise problems, pollution threats, cost considerations, condemnation proceedings, safety concerns, ongoing litigation, and the fate of two cemeteries notwithstanding.

Worse yet, the measure, the total cost of which is likely to far exceed the \$6.6 billion price tag, in fact, it has been estimated to be more in the neighborhood of 12 billion to \$15 billion that has been associated with it, conveniently overlooks the fact that there are at least three other ways, such as making greater use of the greater Rockford Airport, which has a runway of over 10,000 feet, the second largest runway in the State, and it can relieve O'Hare's air traffic congestion problems almost immediately.

Not only that, but all of these alternatives can be implemented less expensively and/or more quickly than the ill-conceived plan to expand O'Hare.

□ 1645

Furthermore, this legislation poses a threat to people who live near many other airports in this country because it will set a precedent for Federal government preemption of State and/or local laws governing airport planning and development.

Mr. Speaker, I urge my colleagues to vote against H.R. 3479. It is a prescription for mischief that bodes ill, not just for the residents of Chicago's northwest suburbs, but for millions of other Americans as well.

Mr. JACKSON of Illinois. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. RYAN of Wisconsin). The gentleman from Illinois (Mr. JACKSON) has 7 minutes remaining.

Mr. JACKSON of Illinois. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, we have heard some arguments about the constitutionality of this act, this unprecedented act of Congress. But in *New York v. The United States*, the Supreme Court was really clear. The Framers, they said, explicitly chose a Constitution that confers upon Congress the power to regulate individuals, not States. We have always understood that even where Congress has the authority under the Constitution to pass laws requiring or prohibiting certain acts, it lacks the power to directly compel the States to prohibit those acts, *New York v. The United States*.

Printz v. The United States: It is uncontested that the Constitution established a system of "dual sovereignty." And Federalist No. 39: Although the States surrendered many of their powers to the new Federal Government, they retained "a residuary and inviolable sovereignty," Federalist No. 39.

Mr. Speaker, that brings us to, from my perspective, the *Printz* decision. You heard some of the economic arguments about 47 States going through O'Hare Airport and the implications of that. This is about process and it is about doing it right. In *Printz*, the court went on to emphasize that this constitutional structural barrier to the Congress intruding on a State's sovereignty could not be avoided by claiming, A, that the Congressional authority was pursuant to the Commerce Power. All of the economic arguments are irrelevant, according to *Printz v. The United States*; and, B, that the Federal law preempted the State law under the supremacy clause. Even the supremacy clause arguments of Congress are not unavailable. And last I checked, the majority on the current Supreme Court are the same majority that decided *Printz*. And unless they are willing to overturn *Printz*, this piece of legislation before us, Mr. Speaker, is unconstitutional, which raises the next point.

Because this is likely heading to Federal court, we are not going to solve the national aviation capacity problem any time soon, which is why we need a faster, cheaper, safer solution of expanding aviation capacity for our Nation's aviation system. That can be accomplished, not with a 13 to \$15 billion, 20-year project at O'Hare Airport; it is accomplishable by building a third airport in Peotone, Illinois, which my colleagues who have risen today aptly support.

Mr. Speaker, I reserve the balance of my time.

Mr. KIRK. Mr. Speaker, the majority will close.

Mr. JACKSON of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. HYDE), the distinguished chairman

of the Committee on International Relations.

Mr. LIPINSKI. Mr. Speaker, how much time remains?

The SPEAKER pro tempore. The gentleman from Illinois (Mr. LIPINSKI) has 4 minutes remaining, and the gentleman from Illinois (Mr. KIRK) has 3 minutes remaining. The gentleman from Illinois (Mr. JACKSON) has 5 minutes remaining.

Mr. HYDE. Mr. Speaker, I want to say that my disdain for this legislation is in reverse ratio to my admiration for the chief sponsors, the gentlemen from Illinois (Mr. LIPINSKI), (Mr. KIRK), who are splendid legislators. They are just wrong on this bill. So I want to make that clear.

First of all, I just want to appeal to your common sense. I know this is a big deal. You want to add additional flights, nearly doubling already the busiest airport in the world. That is a big deal. We are talking about a lot of money. And when you talk about a lot of money, people's ears perk up. But we are also talking about so much space in the sky. You can keep condemning people's homes and their cemeteries and get bigger and bigger, and I do not understand why a Republican would put an imprimatur on transferring local authority; and this should be a local decision. When I say local, I do not mean the Governor. I mean the legislature, the people's body. That is what the Illinois Aeronautics Act says. We shred that and throw it away?

The Illinois Aeronautics Act gives the legislature or expresses the will of the legislature on this issue; and that requires permission from the legislature to expand this airport. But you are just riding roughshod over that, saying if we cannot get that, we will go to Congress.

Mr. LIPINSKI. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Illinois (Mr. LIPINSKI).

Mr. LIPINSKI. Mr. Speaker, the gentleman refers to the State legislature in the Illinois Aeronautics Act. It is my understanding reading it and talking to other people about it that the Illinois legislature is not involved in the process at the present time. It is exclusively the Governor's office with its arbitrary veto power and then the Department of Transportation which he controls on the channeling acts. The legislature is not involved in the process at the present time.

Mr. JACKSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Illinois (Mr. JACKSON).

Mr. JACKSON of Illinois. Mr. Speaker, is it the gentleman's contention then that a governor who is essentially not running for reelection is under an obligation to enter into an agreement and, therefore, obligate this Congress and future governors to a piece of legis-

lation that future governors cannot alter? Is that the gentleman's position?

Mr. LIPINSKI. Mr. Speaker, I am saying my position is simply expressing to the gentleman from Illinois (Mr. HYDE) what my understanding is of the Aeronautics Act in the State of Illinois. The legislature is not involved.

Mr. HYDE. Reclaiming my time, I would suggest if we are going to prolong this seminar on the law, that we do it on the gentleman's time.

Mr. Speaker, I simply want to point out that there is only so much space in the sky. And when you already have the busiest airport, and busiest does not mean people walking into Starbucks. It means planes coming in and taking off.

I sit in my living room in the evening and look out and I see them stretched all the way up to Wisconsin, plane, plane, plane, waiting to come in.

Of course, there are delays. There will always be delays at O'Hare because we have terrible weather in the winter and the airlines schedule too many flights. That is what happens and that needs to be corrected. But to double the size of O'Hare, the flights in and out of O'Hare, is really dangerous. It is dangerous.

We have pollution, noise pollution. We have air pollution. And now we are going to have a safety situation which is really dangerous. Now, that does not solve the problem of capacity, because we need it. We are up to the hilt at O'Hare. Do we expand? What is the most efficient, cheapest, effective way to meet the need for capacity?

Peotone. Build another airport. New York has Newark, Idlewild, John F. Kennedy. That shows how old I am, Idlewild, LaGuardia, of course, which we all go in and out of regularly. But Chicago has Midway, which the gentleman has a proprietary interest in, and O'Hare. So we need another airport, one that can be out in the green where it can expand, where it has a buffer so that the homes that are as adjacent to it as possible can survive.

This is an answer to a real problem. Why do not we take that answer? Why do we not build Peotone? Because the Mayor would not have much to do with it. I have always said he ought to. I would name it after the Mayor if he would let it get built. But that is the problem; and I hope this bill is defeated.

Mr. LIPINSKI. Mr. Speaker, how much time remains?

The SPEAKER pro tempore. The gentleman from Illinois (Mr. LIPINSKI) has 4 minutes remaining. The gentleman from Illinois (Mr. JACKSON) has no time remaining. The gentleman from Illinois (Mr. KIRK) has 3 minutes remaining.

Mr. LIPINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have heard a lot of charges made here on the floor, one of

which is that this bill will prevent Peotone from ever being built. There is nothing in this legislation that prevents Peotone from being built if there is a need for Peotone.

Some people wanted in this legislation, for the United States House of Representatives, the U.S. Senate and the President of the United States to say we have to build Peotone. We cannot do that. That is not right. If we did that, we would have every airport that had a conflict in the country coming over here to see us trying to legislate their problem out of existence. We do not do that for O'Hare Airport in this legislation either.

Expanding and modernizing O'Hare Airport does not become a Federal law until the Federal Aviation Administration has signed off on it. We also have an airport in Rockford. We have an airport in Gary. Airports that have already been established. In all deference to the gentlemen from Illinois (Mr. JACKSON), (Mr. WELLER), Peotone at the present time is a corn field. They have been asking commercial air carriers for years to agree to come down to Peotone and operate out of Peotone. As of this moment they still do not have one single air carrier who has been willing to say they would go down and operate out of Peotone.

They talk about relocating individuals because of O'Hare's expansion. If you were to build Peotone, you would relocate almost three times as many individuals as you will by expanding and modernizing O'Hare Airport.

The only way to solve the aviation gridlock problem in this country is by modernizing and expanding O'Hare Airport. If the capacity needs grow that much greater in the future, put some of that commercial aviation into Gary, put some of it into Rockford, build Peotone. Nothing in this legislation prevents Peotone from being built.

This is the one piece of legislation that this Congress will act upon this year that can truly expand aviation capacity in this country and for the rest of the world.

Mr. Speaker, I yield back the balance of my time.

Mr. KIRK. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. MICA), the distinguished chairman of the Subcommittee on Aviation, my chairman, a supporter of this bill.

Mr. MICA. Mr. Speaker, I thank the gentleman for yielding me time and I thank the gentleman for handling this legislation today.

Having just arrived by air, it sounds like a simple thing, I just arrived by air, but remember back to September 11, September 12, September 13, and we see the impact that aviation has on every American. We see how dependent our economy has become on aviation.

Mr. Speaker, I chair the subcommittee and I try to be fair, and the worst thing to do is get in the middle

of a food fight in a delegation or delegations of Members affected by legislative proposal.

I tried to be fair in this proposal. I have the greatest respect for the gentleman from Illinois (Mr. HYDE). No one is held in higher esteem than the gentleman from Illinois (Mr. HYDE). I have great respect for the gentleman from Illinois (Mr. MANZULLO). I have tremendous respect for the gentleman from Illinois (Mr. WELLER) and have worked with him on the Peotone question. As chair of the subcommittee, however, I have to look not only at their interests but the interests of the Nation and the interests of the American people. And this is a difficult battle.

The gentleman from Illinois (Mr. HYDE) does not want any more planes over the residents he represents and feels that this airport is already at capacity. The gentleman from Illinois (Mr. WELLER) wants additional traffic. The gentleman from Illinois (Mr. MANZULLO) wants additional traffic for an existing facility. But we have to move forward. I believe that this is as good a compromise as we can get. It is based on codifying an agreement.

Now, mayors of Chicago come and mayors of Chicago will go. Governors of Illinois will come and go.

□ 1700

One of the problems we have in trying to make these improvements that are so key to safety and capacity is that the players keep changing. This does codify an agreement, allows us to go forward in our national interest.

Our national interest is, first, the safety of people who fly in and out of O'Hare. That airport has been congested. There has not been a single runway added since 1971, and something has to give in the modernization of those runways and capacity.

If O'Hare were by itself, we could leave it by itself; but when O'Hare closes down, the Nation's air system also closes down. So we must do something to deal with that.

Do we need improvements at O'Hare? Yes, we do. Do we need additional capacity at Peotone? I believe we will. Do we need to better utilize Rockford and Gary? Yes, and I think through our policy we can bring some of those changes about.

So I support the legislation, and I ask my Members to agree with this compromise.

Mr. KIRK. Mr. Speaker, I yield myself such time as I may consume.

This bill has the support of the gentleman from Alaska (Mr. YOUNG), chairman of the Committee on Transportation and Infrastructure; the gentleman from Minnesota (Mr. OBERSTAR), the ranking minority member; the gentleman from Florida (Mr. MICA), the chairman of the Subcommittee on Aviation; the gentleman from Illinois

(Mr. LIPINSKI), the ranking minority member; Illinois' Governor, a Republican; Chicago's mayor, a Democrat; the chamber of commerce and the AFL-CIO. It has no objection from the Sierra Club and was scheduled on the floor by Speaker HASTERT and Minority Leader GEPHARDT.

It eliminates delays, not just at O'Hare but over 100 airports connecting through O'Hare. It is the right thing to do. I urge adoption of the legislation.

Mr. Speaker, I am inserting for the RECORD an exchange of letters between the gentleman from Alaska (Mr. YOUNG) and the gentleman from New York (Mr. BOEHLERT) regarding H.R. 3479.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC., July 12, 2002.

Hon. DON YOUNG,
Chairman, Committee on Transportation and Infrastructure, House of Representatives,
Washington, DC.

DEAR MR. CHAIRMAN. The Committee on Transportation and Infrastructure has had under consideration H.R. 3479 the National Aviation Capacity Expansion Act. In that bill there is a provision which falls under the jurisdiction of the Committee on Science. Specifically, that provision is a sense of Congress amendment which would ask that the Federal Aviation Administration expend monies for research and development for noise mitigation programs.

By waiving consideration of H.R. 3479 the Committee on Science does not waive any of its jurisdictional rights and prerogatives.

I ask that you would support our request for conferees on H.R. 3479 or similar legislation if a conference should be convened with the Senate. I also ask that our exchange of letters be included in your committee's report and also in the Congressional Record.

I look forward to working with you on this and other important pieces of legislation.

Sincerely,

SHERWOOD BOEHLERT,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND
INFRASTRUCTURE,
Washington, DC, July 12, 2002.

Hon. SHERWOOD L. BOEHLERT,
Chairman, Committee on Science,
Washington, DC.

DEAR MR. CHAIRMAN. Thank you for your letter of July 12, 2002, regarding H.R. 3479, the National Aviation Capacity Expansion Act, and for your willingness to waive consideration of provisions in the bill that fall within your Committee's jurisdiction under House rules.

I agree that your waiving consideration of relevant provisions of H.R. 3479 does not waive your Committee's jurisdiction over the bill. I also acknowledge your right to seek conferees on any provisions that are under your Committee's jurisdiction during any House-Senate conference on H.R. 3479 or similar legislation, and will support your request for conferees on such provisions.

Your letter and this response will be included in the Congressional Record during consideration on the House Floor.

Thank you for your cooperation in moving this important legislation.

Sincerely,

DON YOUNG
Chairman.

Ms. WATERS. Mr. Speaker, I rise to express my opposition to H.R. 3479, the National Aviation Capacity Expansion Act, which would force airport expansion on a community in the Chicago region that is already overburdened by airport operations.

The people of my congressional district in Southern California are overburdened by the noise, pollution and traffic congestion generated by Los Angeles International Airport (LAX). Airport expansion would only exacerbate these problems. That is why I am introducing the Careful Airport Planning for Southern California Act (the CAP Act).

The CAP Act would cap LAX air traffic at its current capacity of 78 million passengers per year. The CAP Act would encourage airport development in Southern California communities that are eager for the benefits of a local airport. The CAP Act would ensure that the benefits and burdens of airport development are fairly distributed throughout the Southern California region.

I urge my colleagues to support the CAP Act, to oppose the National Aviation Capacity Expansion Act and oppose the expansion of Chicago O'Hare and LAX.

Mr. RUSH. Mr. Speaker. I rise in support of H.R. 3479, the National Aviation Capacity Expansion Act. This legislation will codify a historic agreement reached between the Republican Governor of Illinois and the Mayor of Chicago to expand and modernize O'Hare International airport. As you know, O'Hare airport is one of the busiest airports in this nation and the hub to hundreds of destinations across the globe. Therefore, making it the center of our national transportation system.

Unfortunately, O'Hare is the third leading airport for congestion and delays. According to the FAA, O'Hare's systematic flight delays and cancellations has a crippling affect on our nation's aviation system.

Many of us, and the flying public, have spent countless hours sitting on a runway or in an airport waiting for a flight to taxi or depart. In 2000, it was estimated that O'Hare airport had 545 delays, or 63.3 delays per 1,000 operations. The principal reason attributed for these delays rests solely on the fact that O'Hare airport has antiquated runways. Hence, expanding O'Hare's runways is essential in remedying our nation's aviation crisis. It is estimated that modernizing O'Hare airport will reduce air traffic delays by 79 percent and weather delays by 95 percent.

I am glad to see that this bill includes a provision to develop a third Airport in Illinois. This airport, known as the Peotone Airport, will provide our nation's air transportation system with the additional relief required to reduce airport congestion while creating thousands of construction and permanent jobs for the South Suburban region of the state.

We need solutions to aviation delays and congestion. Let's end this 20 year old debate. Expanding O'Hare and constructing a third airport is the right thing to do. I urge my colleagues on both sides of the aisle to support this critical legislation.

Mr. BLAGOJEVICH. Mr. Speaker, I am honored to join my colleague from Illinois, Mr. LIPINSKI, here today in supporting legislation that is very important not only to my constituents in Illinois, but to the entire nation. I would also

like to thank the distinguished Speaker, Mr. HASTERT, for allowing this bill to come before us today.

I have been proud to serve as an original cosponsor of the National Aviation Capacity Expansion Act here in the House, and to have worked in Illinois with a broad coalition of labor, business and civic leaders to promote the effort in Illinois. Today is the result of the unified effort of diverse groups of Illinoisans who have joined to fight for a proposal that will strengthen our state's economic and fiscal health. The bill would create 195,000 new jobs, and would bring an estimated \$19 billion to the State of Illinois.

This bill calls for comprehensive expansion of O'Hare. H.R. 3749 calls for each of the essential elements that transportation industry experts and local officials agree must be included in any effective O'Hare modernization proposal: foremost among them, the addition of a southern runway, the reconfiguration of existing runways, and the introduction of western access to the airport.

I also commend Congress' commitment to addressing the crucial issue of the nation's aviation capacity. The National Aviation Capacity Expansion Act would not only benefit my constituents and the State of Illinois, it would have an affect on the entire nation. O'Hare is not only the world's busiest airport, but it is a critical national hub through which thousands of flights connect everyday. Congestion in Chicago has a ripple effect throughout the United States and abroad, grounding and delaying flights miles away, some that are not even bound for O'Hare.

In addition to inconveniencing travelers, these delays and congestion cripple the ability of businesses to function effectively. The gridlock at O'Hare has been responsible for everything from missed business meetings to delayed shipments of goods. Mr. Lipinski's bill would reduce delays by 79 percent, and with it save a projected \$380 million that is lost due to the delays.

O'Hare's airfield has not been improved since 1971. Repeated initiatives to modernize it fell prey to local political disputes that led to delays in the project in recent years. Last year, however, the Mayor of the City of Chicago and the Governor of Illinois reached an historic agreement to modernize O'Hare and take an inclusive approach to meet the aviation needs of Chicago and the nation. On behalf of Illinois, and with the support of elected officials and businesses, labor and community groups across the nation, they are working with Congress to help meet the long-term transportation needs of the nation.

Such State and local leadership demonstrates that Illinois takes its responsibility to the nation very seriously. Nearly 10,000 organizations and individuals in all 50 states have voiced their support for expanding Chicago's aviation capacity. H.R. 3479 has been endorsed by a wide range of national groups. The bill has received the support of the U.S. Chamber of Commerce, the AFL-CIO, the National Air Traffic Controllers Association, the Airline Pilots Association, the Aircraft Owners and Pilots Association and the National Air Transportation Association—to name just a few.

This broad base of support speaks to the legislation's vital impact on the efficiency and

reliability of our aviation infrastructure, as well as to the unique opportunity for enhanced business activity and increased job creation that would accompany comprehensive O'Hare expansion. As with the delays at the airport, a failure to keep this economic engine vibrant will surely affect businesses and working women and men in many parts of the nation. It is important to note that O'Hare already generates some \$35 billion annually in economic activity and produces more than 400,000 jobs in northeastern Illinois and northwest Indiana. This includes tens of thousands of people whose jobs are tied directly to the travel and tourism industry and countless others—employed in virtually every sector of the economy—whose wages are earned thanks to the economic engine that is O'Hare.

I support H.R. 3479 because I am committed to ensuring that the economic security of those workers—and that of nearly 200,000 new workers—will expand and grow.

The time to act on O'Hare's expansion is today. H.R. 3479 represents an historic opportunity that we must seize. By doing so, we will guarantee a safe, reliable air transportation system for our constituents. We will also demonstrate our commitment to a healthy economy and our ability to take decisive action in the face of a national need.

I respectfully urge you to support this vital legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of H.R. 3479, the National Aviation Capacity Expansion Act.

This Bill is long overdue.

Chicago O'Hare has been in need of a new runway for the last 20 years.

It's annually one of the worst airports in terms of cancellations and delays.

What's worse, problems at O'Hare ripple through our entire system, creating tie-ups and delays at dozens of other airports.

This bill furthers the agreement reached by local and State leaders to allow the city of Chicago to go ahead with a proposed capacity expansion project from O'Hare.

It likewise allows the State to go forward with its proposal for peotone and guarantees that Meig's Field will remain open.

I support H.R. 3479 to address these vital national transportation issues and urge everyone to support this bill.

Mr. DAVIS of Illinois. Mr. Speaker, I would like to commend Mr. LIPINSKI for his leadership concerning transportation issues in Illinois and especially the issue of O'Hare Expansion and today I stand in firm support of H.R. 3479.

Chicago has a vast and growing transportation industry. Over the years Chicago's O'Hare International Airport has continued its growth, in traffic and demand. Presently, O'Hare ranks as the Nation's first or second busiest airport with nearly 34,000,000 annual passengers traveling both domestically and internationally.

Expanding O'Hare offers an array of benefits: from employment to economic growth. As Chicago continues to grow, O'Hare continues to experience the backlog of delays. According to the Airport Capacity Benchmark Report in 2001, O'Hare was the third most delayed airport.

Sitting in the heart of the Mid West, these delays continue to burden connecting airports

creating a snowball affect and frustrated passengers. By the addition of runways, and the expansion of O'Hare delay times will diminish and air travel at Chicago's bustling O'Hare will undoubtedly improve for the consumer and the region.

I encourage my colleagues to support H.R. 3479.

Mr. KIRK. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RYAN of Wisconsin). The question is on the motion offered by the gentleman from Illinois (Mr. KIRK) that the House suspend the rules and pass the bill, H.R. 3479, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. JACKSON of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. KIRK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3479.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 5 o'clock and 3 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. TERRY) at 6 o'clock and 30 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put the question on motions to suspend the rules on which further proceedings were postponed earlier today.

Votes will be taken in the following order:

H.R. 3482, by the yeas and nays;

H.R. 4755, by the yeas and nays;

H.R. 3479, by the yeas and nays.

Votes on motions to suspend the rules on House Resolution 482, House Resolution 452, and House Concurrent Resolution 395 will be taken tomorrow.

Record votes on remaining motions to suspend the rules, if ordered, will also be taken tomorrow.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

CYBER SECURITY ENHANCEMENT ACT OF 2002

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3482, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3482, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 385, nays 3, not voting 46, as follows:

[Roll No. 296]

YEAS—385

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Baird
Baker
Baldaacci
Baldwin
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)

Carson (OK)
Castle
Chabot
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
DeLauro
DeLay
DeMint
Deutscher
Diaz-Balart
Dicks
Dingell
Doggett
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson

Flake
Fletcher
Foley
Forbes
Ford
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Graves
Green (TX)
Green (WI)
Greenwood
Grucchi
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson

Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E.B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kind (WI)
Kingston
Kirk
Klecza
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBlundo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (NY)
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Mica
Millender-McDonald
Miller, Dan

Miller, Gary
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Oliver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascarell
Pastor
Payne
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Sabo
Sanchez
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner

Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberti
Tierney
Toomey
Towns
Turner
Udall (NM)
Upton
Velázquez
Visclosky
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—3

Miller, Jeff Paul

NOT VOTING—46

Bachus
Barrett
Becerra
Bonior
Boucher
Bryant
Chambliss
Conyers
Coyne
Crowley
Dooley
Doyle
Filner
Fossella
Gephardt
Granger
Gutierrez
Harman
Hastings (FL)
Hilleary
Hinchey
John
Kilpatrick
King (NY)
Lantos
Maloney (CT)
Mascara
McDermott
Meeks (NY)
Miller, George
Nadler
Pelosi
Pombo
Riley
Roukema
Ryun (KS)
Sanders
Schaffer
Smith (MI)
Stark
Sweeney
Taylor (NC)
Traficant
Udall (CO)
Vitter
Waxman

□ 1859

Ms. RIVERS changed her vote from “nay” to “yea.”

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. FILNER. Mr. Speaker, on rollcall No. 296, I was in my district on official business.

Had I been present, I would have voted “yea.”

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TERRY). Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

CLARENCE MILLER POST OFFICE BUILDING

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4755.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut (Mr. SHAYS) that the House suspend the rules and pass the bill, H.R. 4755, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 389, nays 0, not voting 45, as follows:

[Roll No. 297]

YEAS—389

Abercrombie	Boozman	Cooksey
Ackerman	Borski	Costello
Aderholt	Boswell	Cox
Akin	Boyd	Cramer
Allen	Brady (PA)	Crane
Andrews	Brady (TX)	Crenshaw
Armey	Brown (FL)	Cubin
Baca	Brown (OH)	Culberson
Baird	Brown (SC)	Cummings
Baker	Burr	Cunningham
Baldacci	Burton	Davis (CA)
Baldwin	Buyer	Davis (FL)
Ballenger	Callahan	Davis (IL)
Barcia	Calvert	Davis, Jo Ann
Barr	Camp	Davis, Tom
Bartlett	Cannon	Deal
Barton	Cantor	DeFazio
Bass	Capito	DeGette
Bentsen	Capps	Delahunt
Bereuter	Capuano	DeLauro
Berkley	Cardin	DeLay
Berman	Carson (IN)	DeMint
Berry	Carson (OK)	Deutsch
Biggert	Castle	Diaz-Balart
Bilirakis	Chabot	Dicks
Bishop	Clay	Dingell
Blagojevich	Clayton	Doggett
Blumenauer	Clement	Doolittle
Blunt	Clyburn	Doyle
Boehlert	Coble	Dreier
Boehner	Collins	Duncan
Bonilla	Combust	Dunn
Bono	Condit	Edwards

Ehlers	LaFalce	Rehberg
Ehrlich	LaHood	Reyes
Emerson	Lampson	Reynolds
Engel	Langevin	Rivers
English	Larsen (WA)	Rodriguez
Eshoo	Larson (CT)	Roemer
Etheridge	Latham	Rogers (KY)
Evans	LaTourette	Rogers (MI)
Everett	Leach	Rohrabacher
Farr	Lee	Ros-Lehtinen
Fattah	Levin	Ross
Ferguson	Lewis (CA)	Rothman
Flake	Lewis (GA)	Roybal-Allard
Fletcher	Lewis (KY)	Royce
Foley	Linder	Rush
Forbes	Lipinski	Ryan (WI)
Ford	LoBiondo	Sabo
Frank	Lofgren	Sanchez
Frelinghuysen	Lowey	Sandlin
Frost	Lucas (KY)	Sawyer
Gallegly	Lucas (OK)	Saxton
Ganske	Luther	Schakowsky
Gekas	Lynch	Schiff
Gibbons	Maloney (NY)	Schrock
Gilchrest	Manzullo	Scott
Gillmor	Markey	Sensenbrenner
Gilman	Matheson	Serrano
Gonzalez	Matsui	Sessions
Goode	McCarthy (MO)	Shadegg
Goodlatte	McCarthy (NY)	Shaw
Gordon	McCollum	Shays
Goss	McCrery	Sherman
Graham	McGovern	Sherwood
Graves	McHugh	Shimkus
Green (TX)	McInnis	Shows
Green (WI)	McIntyre	Shuster
Greenwood	McKeon	Simmons
Grucci	McKinney	Simpson
Gutknecht	McNulty	Skeen
Hall (OH)	Meehan	Skelton
Hall (TX)	Meek (FL)	Slaughter
Hansen	Menendez	Smith (MI)
Hart	Mica	Smith (NJ)
Hastings (WA)	Millender-	Smith (TX)
Hayes	McDonald	Smith (WA)
Hayworth	Miller, Dan	Snyder
Hefley	Miller, Gary	Solis
Herger	Miller, Jeff	Souder
Hill	Mink	Spratt
Hilliard	Mollohan	Stearns
Hinojosa	Moore	Stenholm
Hobson	Moran (KS)	Strickland
Hoefl	Moran (VA)	Stump
Hoekstra	Morella	Stupak
Holden	Murtha	Sullivan
Holt	Myrick	Sununu
Honda	Napolitano	Tancred
Hooley	Neal	Tanner
Horn	Nethercutt	Tauscher
Hostettler	Ney	Tauzin
Houghton	Northup	Taylor (MS)
Hoyer	Norwood	Terry
Hulshof	Nussle	Thomas
Hunter	Oberstar	Thompson (CA)
Hyde	Obey	Thompson (MS)
Inslee	Oliver	Thornberry
Isakson	Ortiz	Thune
Israel	Osborne	Thurman
Issa	Ose	Tiahrt
Istook	Otter	Tiberi
Jackson (IL)	Owens	Tierney
Jackson-Lee	Oxley	Toomey
(TX)	Pallone	Towns
Jefferson	Pascarell	Turner
Jenkins	Pastor	Udall (NM)
Johnson (CT)	Paul	Upton
Johnson (IL)	Payne	Velázquez
Johnson, E.B.	Pence	Visclosky
Peterson (MN)	Peterson (MN)	Walden
Peterson (PA)	Petri	Walsh
Phelps	Pickering	Wamp
Pitts	Pitts	Waters
Platts	Platts	Watkins (OK)
Pomeroy	Pomeroy	Watson (CA)
Portman	Portman	Watt (NC)
Price (NC)	Price (NC)	Watts (OK)
Pryce (OH)	Pryce (OH)	Weiner
Putnam	Putnam	Weldon (FL)
Quinn	Quinn	Weldon (PA)
Radanovich	Radanovich	Weller
Rahall	Rahall	Whitfield
Ramstad	Ramstad	Wicker
Rangel	Rangel	Wilson (NM)
Regula	Regula	Wilson (SC)

Wolf	Wu	Young (AK)
Woolsey	Wynn	Young (FL)

NOT VOTING—45

Bachus	Gutierrez	Pelosi
Barrett	Harman	Pombo
Becerra	Hastings (FL)	Riley
Bonior	Hilleary	Roukema
Boucher	Hinchey	Ryun (KS)
Bryant	John	Sanders
Chambliss	Kilpatrick	Schaffer
Conyers	King (NY)	Stark
Coyne	Lantos	Sweeney
Crowley	Maloney (CT)	Taylor (NC)
Dooley	Mascara	Trafficant
Filner	McDermott	Udall (CO)
Fossella	Meeks (NY)	Vitter
Gephardt	Miller, George	Waxman
Granger	Nadler	Wexler

□ 1908

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. FILNER. Mr. Speaker, on roll call No. 297, I was in my district on official business.

Had I been present, I would have voted “yea.”

NATIONAL AVIATION CAPACITY EXPANSION ACT OF 2002

The SPEAKER pro tempore (Mr. TERRY). The pending business is the question of suspending the rules and passing the bill, H.R. 3479, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. KIRK) that the House suspend the rules and pass the bill, H.R. 3479, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 247, nays 143, not voting 44, as follows:

[Roll No. 298]

YEAS—247

Abercrombie	Cantor	Eshoo
Ackerman	Capito	Etheridge
Allen	Capps	Evans
Andrews	Capuano	Farr
Armey	Cardin	Fattah
Baca	Carson (IN)	Ferguson
Baird	Carson (OK)	Fletcher
Baker	Clement	Ford
Baldacci	Combust	Frank
Barcia	Cooksey	Frelinghuysen
Barton	Costello	Frost
Bass	Cox	Ganske
Bentsen	Cramer	Gekas
Bereuter	Cunningham	Gibbons
Berkley	Davis (CA)	Gillmor
Berman	Davis (IL)	Gilman
Berry	Davis, Tom	Gonzalez
Biggert	DeFazio	Gordon
Bishop	DeGette	Graves
Blagojevich	Delahunt	Green (TX)
Blumenauer	DeLauro	Green (WI)
Boehlert	DeLay	Grucci
Boehner	DeMint	Hall (OH)
Bonilla	Diaz-Balart	Hart
Boozman	Dicks	Hayes
Borski	Doggett	Hill
Boswell	Doolittle	Hinojosa
Boyd	Doyle	Hobson
Brady (PA)	Dreier	Hoefl
Brady (TX)	Duncan	Hoekstra
Brown (SC)	Ehlers	Holden
Callahan	Engel	Honda

Hooley
Hoyer
Hulshof
Isakson
Israel
Istook
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E.B.
Johnson, Sam
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kind (WI)
Kirk
Klecza
Knollenberg
Kolbe
LaFalce
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lewis (GA)
Lewis (KY)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (NY)
Manzullo
Markey
Matheson
Matsui
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McIntyre
McKeon
McNulty

Meehan
Menendez
Mica
Millender-
Shimkus
Miller, Gary
Mink
Mollohan
Moore
Moran (KS)
Murtha
Napolitano
Neal
Ney
Northup
Nussle
Oberstar
Oliver
Ortiz
Osborne
Pallone
Pascarell
Pastor
Pence
Peterson (MN)
Petri
Phelps
Platts
Pomeroy
Portman
Price (NC)
Quinn
Rahall
Rangel
Rehberg
Reyes
Reynolds
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Ross
Roybal-Allard
Royce
Rush
Ryan (WI)
Sanchez
Sandlin
Sawyer
Saxton
Schakowsky

Schrock
Serrano
Sessions
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Solis
Souder
Spratt
Stenholm
Strickland
Sullivan
Tanner
Tauscher
Tauzin
Taylor (MS)
Thomas
Thompson (CA)
Thornberry
Thune
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Watkins (OK)
Watts (OK)
Weiner
Weldon (PA)
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Woolsey
Wu
Young (AK)
Young (FL)

Stearns
Stump
Stupak
Sununu
Tancredo
Terry

Thompson (MS)
Thurman
Toomey
Walsh
Wamp
Waters

Watson (CA)
Watt (NC)
Weldon (FL)
Weller
Wolf
Wynn

NOT VOTING—44

Bachus
Barrett
Becerra
Bonior
Boucher
Bryant
Chambliss
Conyers
Coyne
Crowley
Dooley
Filner
Fossella
Gephardt
Granger

Gutierrez
Harman
Hastings (FL)
Hilleary
Hinchey
John
Kilpatrick
King (NY)
Lantos
Maloney (CT)
Mascara
McDermott
Meeks (NY)
Miller, George
Nadler

Pelosi
Pombo
Riley
Roukema
Ryun (KS)
Sanders
Schaffer
Stark
Sweeney
Taylor (NC)
Traficant
Udall (CO)
Waxman
Wexler

□ 1922

Messrs. MORAN of Virginia, DEUTSCH, and SHOWS changed their vote from “yea” to “nay.”

Ms. HART and Mr. OLIVER changed their vote from “nay” to “yea.”

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. FILNER. Mr. Speaker, on rollcall no. 298, I was in my district on official business. Had I been present, I would have voted “yea.”

PERSONAL EXPLANATION

Mr. McDERMOTT. Mr. Speaker, I was unable to vote on today's suspension bills. Had I been capable of voting, I would have voted in support of H.R. 3482, Cyber Security Enhancement Act; H.R. 4755, Clarence Miller Post Office Building Designation; and H.R. 3479, National Aviation Capacity Expansion Act.

PERSONAL EXPLANATION

Ms. KILPATRICK. Mr. Speaker, district business prevents me from being present for legislative business scheduled for today, Monday, July 15, 2002. Had I been present, I would have voted “yea” on the following rollcall votes: H.R. 3482, the Cyber Security Enhancement Act (rollcall No. 296); and H.R. 4755, the Clarence Miller Post Office Building Designation Act (rollcall no. 297). I would have voted “nay” on H.R. 3479, the National Aviation Capacity Expansion Act (rollcall No. 298).

ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING AMENDMENTS TO LEGISLATIVE BRANCH APPROPRIATIONS BILL

Ms. PRYCE of Ohio. Mr. Speaker, the Committee on Rules is planning to meet later this week to grant a rule which may limit the amendment process on the legislative branch appropriations bill for fiscal year 2003. The bill was ordered reported by the Committee on Appropriations Thursday, July 11, and is expected to be filed later today.

Any Member wishing to offer an amendment must submit 55 copies of

the amendment and one copy of a very brief explanation of the amendment to the Committee on Rules in room H-312 of the Capitol no later than 12 noon on Wednesday, July 17. Members should draft their amendments to the bill as reported by the Committee on Appropriations. The text is available at the Committee on Appropriations.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

HOUR OF MEETING TOMORROW

Mr. LUCAS of Oklahoma. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. tomorrow for morning hour debates.

The SPEAKER pro tempore (Mr. TERRY). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1577

Mr. LUCAS of Oklahoma. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1577.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

WHERE IS THE MONEY?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, first, I would like to say I join my colleagues on both sides of the aisle in my concerns about the corporate scandals that are taking place throughout this country and certainly the investors who have lost so much money. I resent very much the corporate leadership and how they have misled and manipulated the investors, and I hope that there will be a severe price to pay for this action.

However, Mr. Speaker, I wanted to come back to the floor tonight to talk about my concerns about the government in their report, which was the “2001 Financial Report of the United States Government.” On page 110, we

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Aderholt
Akin
Baldwin
Ballenger
Barr
Bartlett
Bilirakis
Blunt
Bono
Brown (FL)
Brown (OH)
Burr
Burton
Buyer
Calvert
Camp
Cannon
Castle
Chabot
Clay
Clayton
Clyburn
Coble
Collins
Condit
Crane
Crenshaw
Cubin
Culberson
Cummings
Davis (FL)
Davis, Jo Ann
Deal
Deutsch
Dingell
Dunn
Edwards
Ehrlich
Emerson
English
Everett
Flake

Foley
Forbes
Gallegly
Gilchrest
Goode
Miller, Jeff
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastings (WA)
Hayworth
Hefley
Herger
Hilliard
Holt
Horn
Hostettler
Houghton
Hunter
Hyde
Inslee
Issa
Jackson (IL)
Jackson-Lee
(TX)
Jenkins
Jones (NC)
Jones (OH)
Keller
Kerns
Kildee
Kingston
Kucinich
LaHood
Lee
Levin
Lewis (CA)
Linder
LoBiondo

McCarthy (MO)
McInnis
McKinney
Meek (FL)
Miller, Dan
Miller, Jeff
Moran (VA)
Morella
Myrick
Nethercutt
Norwood
Obey
Ose
Otter
Owens
Oxley
Paul
Payne
Peterson (PA)
Pickering
Pitts
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rivers
Rohrabacher
Ros-Lehtinen
Rothman
Sabo
Schiff
Scott
Sensenbrenner
Shadegg
Shaw
Shays
Sherman
Shows
Smith (MI)
Smith (WA)
Snyder

can see from the chart that they acknowledge in this report that the taxpayers or the government has lost \$17.3 billion of the taxpayers' money. My biggest concern is because the taxpayers do not have a choice, they have to pay their taxes at the end of the year, and those of us in Congress, I think we have a responsibility to make sure that the monies of our taxpayers are certainly being protected so there is not a report like the "2001 Financial Report of the United States Government," that said we have misplaced or lost or cannot reconcile transactions that total \$17.3 billion.

Mr. Speaker, I actually wrote to Secretary O'Neill on June 6 asking him to please respond to my letter asking questions as to where in the world could this \$17.3 billion have gone. I certainly think that the taxpayers of this country have a right to know. Certainly they are required to pay taxes, so they are investors in this government; and we have a responsibility to make certain that we can account for their monies.

In addition, there was the GAO testimony that was released on April 9, 2002. This was an appearance before the Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations. I want to read one statement from David Walker, Comptroller General of the United States. He said, "As in the four previous fiscal years, we were unable to express an opinion on the consolidated financial statements because of certain material weaknesses in internal control and accounting and reporting issues. These conditions prevented us from being able to provide the Congress and the American citizens an opinion as to whether the consolidated financial statements are fairly stated in conformity with the U.S. generally accepted accounting principles."

Mr. Speaker, when I read that information to the House and to the American people, we certainly have our responsibility as elected officials to make certain that the people that have the privilege to work for the taxpayers of this country make sure that we spend their money wisely. I am almost embarrassed to be here on the floor to say to the American people and to my colleagues on the floor of the House that in this 2001 report we have acknowledged that we have lost \$17.3 billion of the taxpayers' money.

□ 1930

Mr. Speaker, I am going to close by saying in addition to Secretary O'Neill, I have written a letter to Chairman DAN BURTON asking that he hold a hearing and let us see if we cannot find out where the taxpayers' \$17.3 billion has gone. We owe them an explanation.

As we look into the corporate scandals, let us also look at the accounting system of the United States Govern-

ment so that we can explain to the taxpayers of this country where their money is going.

TIME FOR SEC HEAD TO GO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, those who were watching television just before the vote would have been treated to a softball interview with Mr. Harvey Pitt. Mr. Harvey Pitt is a former lobbyist for securities firms and accounting firms and, knowing so well the backrooms, he was named by the President of the United States to be our chief watchdog when it comes to securities enforcement. There is a little problem with Mr. Pitt as a watchdog, unfortunately. He is so ethically and morally compromised, he often cannot vote.

Recently, the Securities and Exchange Commission staff provided a compelling case against Ernst & Young, an accounting firm. There were three commissioners present, and apparently they found the evidence compelling, but unfortunately two of them were so ethically and morally challenged, both appointees of President Bush, Mr. Pitt, the chairman, and another member, they could not vote. The only person that could vote was a Clinton holdover. He did not have the ethical problems of voting for or against his former clients and buddies and he voted to fine them. An administrative law judge threw it out.

So here we have it. The chief enforcement arm of the United States Government to rein in corporate misconduct, securities fraud, the accounting firms, and the chairman cannot vote. In his first 10 months in office, he had to recuse himself from voting 29 times because these were all people whom he had represented and he will represent again soon when he leaves his position as chair of the Securities and Exchange Commission.

This is the tough new Securities and Exchange Commission which is supposed to instill confidence? Mr. Pitt carried on at great length about what he really cares about is the little guy, you know, Main Street. I do not think Mr. Pitt has seen Main Street from his penthouse apartment, his thousand-dollar-an-hour consulting with these securities and accounting firms for a heck of a long time, except maybe from the tinted windows of his limousine.

He has represented other outstanding folks: MCI, WorldCom, a \$4 billion problem there. Merrill Lynch. Arthur Andersen. Whoops. Yeah, a little bit of a problem there. In April he met with a former client, KPMG Consulting, while their audits were being investigated. He said, "Hey, you can't tell me that I can't meet with people who I

worked for who are currently under investigation because I wouldn't be able to meet with anybody." This is our chief watchdog, Harvey Pitt.

Harvey Pitt. Yes, perhaps he would be a great enforcer because he knows all the backroom tricks. One of the big problems we have was conflicts of interest with the accounting companies. Mr. Pitt as a \$1,000-an-hour lobbyist/lawyer, he always talks about himself as a lawyer, not a lobbyist—he was a lobbyist with a law degree and a license to practice law—had in fact worked very hard to prevent those conflict of interest rules from going into effect which, of course, allowed many of the current accounting shenanigans to go forward because these same firms, Arthur Andersen and others, were selling services to the companies that they were supposedly providing arm's length auditing services to and the companies were not going to be real eager to buy those services if their CEO was not earning tens or hundreds of millions of dollars of bonuses by inflating their earnings reports and having the accounting firms sign off on it. This is our chief watchdog.

It is not just his actions that belie Mr. Pitt. It is his words. When he was sworn in, he said the SEC will be a kinder and gentler place for accountants. He would have us believe that now he has become a veritable pit bull of enforcement, that he is the best person for the job. It is extraordinary that the Bush administration has not joined notables such as Senator JOHN MCCAIN in asking for Mr. Pitt to resign. He is an embarrassment to this administration. To have a chief law enforcement officer who cannot enforce the law because he is so morally and ethically compromised, he cannot even vote on enforcement actions recommended by his own staff and investigators.

It is time for Mr. Pitt to go if you want to restore some modicum of faith in how straight these markets, these reports and these investigations are.

DEMOCRACY AT WORK: MILITARY RETIREE GRASSROOTS SET AN EXAMPLE FOR ALL AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. SHOWS) is recognized for 5 minutes.

Mr. SHOWS. Mr. Speaker, today through access to advanced technical means of communication, Americans are able to unite their individual voices and present a message, loud and clear, that makes Congress pay heed to what they have to say. This is truly democracy in action.

July 16 is the sixth anniversary of the beginning of a grassroots movement that exemplifies the spirit of democracy our Founding Fathers envisioned and represents the power of many individual voices uniting as one.

On July 16, 1996, Colonel George "Bud" Day, a Congressional Medal of Honor recipient who was Senator JOHN MCCAIN's cellmate in North Vietnam for many years, filed a class action lawsuit against the government of the United States for breaking promises of lifetime health care. Specifically, since the founding of the Republic, the U.S. Government routinely promised military recruits if they served a career in uniformed service for 20 years, they and their dependents would receive health care for life. Indeed, that is what they received.

But beginning with laws enacted in 1956, lifetime health care benefits were chipped away. Personnel who joined the service before 1956, with the promise of lifetime care, later retired from the service to find the government had gone back on its promise. When laws passed in the mid 1990s finally kicked military retirees over the age of 65 out of the military health care system, that is when Colonel Day filed his suit on behalf of two Florida military retirees. Today, Colonel Day's class act group, CAG, represents thousands of military retirees and families across the country in a case that is pending in a Federal appeals court in Washington. Last year a three-judge panel of that court ruled in Colonel Day's favor that the United States did break a contract with its career uniformed personnel. The full 11-judge panel has reheard the case and a ruling will be forthcoming.

The government attorneys put themselves in a position of claiming essentially the military recruiters made promises on behalf of the United States Government that they never intended to keep because, in these attorneys' opinion, the law did not require them to keep their promise. The attorneys should just have said, "They make promises but had their fingers crossed behind their backs." Most observers believe the court will again side with Colonel Day. The question will be whether the United States attorneys will appeal the ruling to the Supreme Court.

Colonel Day forged a coalition of Americans who had a shared grievance against their own government. Colonel Day and the class act group's historic lawsuit and the power of the thousands of retirees who are members of CAG represent the best of what our Founding Fathers envisioned. There are other issues relating to the broken promise and the military grassroots continues to make its collective voice heard. In 1999, thousands of retirees across the country came together when I introduced the Keep Our Promise to America's Military Retirees Act. This was the first legislation in Congress that addressed the broken promise head-on. By writing letters and e-mails to newspapers and Congress and by posting billboards across the country, military retirees made their voices heard. In

just one year, the voice of the military retirees grassroots, united loud and clear around the legislation, forced Congress to act. Congress enacted TRICARE for Life, which restored much of the promises of lifetime health care for retirees over the age of 65.

TFL, as it is known, was a significant achievement for many military retirees over 65, but much more needs to be done to restore the promise of military health care to many more of our retired uniformed personnel. For too many retired military personnel, the military health care system currently in place does not provide the level of quality care they have been promised, earned and deserve. A new coalition representing military retirees has emerged to challenge the government to provide that health care. They call themselves the MRGRG, the Military Retiree Grassroots Group. These retirees do not have a formal organization or membership but are all over the country wired together via the Internet. The MRGRG's goal is to achieve full restoration of the broken promise now and have it done this year.

Recently, nine MRGRG members, recognized as leaders in the retiree movement, drafted a white paper on military health care. The 200-page white paper spells out the retirees' case clearly and in great detail. At their own expense, MRGRG members have reproduced and hand-delivered white paper binders and CDs to every member of the House and Senate. Like Colonel Day's group, the MRGRG represents exactly what our Founding Fathers intended, American citizens acting freely and of their own will, telling their elected representatives what they ought to do.

The good people of CAG and MRGRG are already heroes—they fought to defend the freedoms we all enjoy, and they made a career doing it. And now they are heroes all over again, setting an example for all of us by showing how democracy is supposed to work and by making it work exactly the way our Founding Fathers intended.

Our Founding Fathers would be proud of today's military retirees' faith in our democratic institution. I know I am. God bless them, and God Bless America.

THE NATIONAL DEBT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. TAYLOR) is recognized for 5 minutes.

Mr. TAYLOR of Mississippi. Mr. Speaker, as we read about the scandals in the private sector and as we hear the President go to Wall Street to try to get them to do a better job with their accounting practices, it strikes me that the President would have much better spent his time if he had given that speech here in these halls. You see, as we talk about false billing and cooking the books going on on Wall

Street, there is no more false billing and there is no bigger cooking of the books than right here in the halls of Congress and in the other body. I guess the average American would be dumfounded to know that the taxes that they pay every month called FICA, their Social Security taxes, they think is being set aside for their Social Security, would they not be surprised to find out that as of this moment, our Nation owes the Social Security trust fund \$1.3 trillion. There is not a penny in that account, nothing but an IOU of some government securities. Folks who pay taxes know that on that pay stub is a tax for Medicare. They presume it is being set aside to pay for their medical expenses when they get older. They would be shocked to find out that as of this moment, if you could find that imaginary lockbox, that we owe the Medicare trust fund \$271 billion. For folks back home, I realize a billion is a lot of money, so I walk you through it the way I have to remind myself. A billion is a thousand times a thousand times a thousand, and in this instance again times 271 is how much is owed to the Medicare trust fund.

Every year money is taken out of the Department of Defense budget with the promise that it will be set aside to pay military retirement pay. I am sure that after what the gentleman from Mississippi (Mr. SHOWS) said, and rightly so, that they would be aghast to find out that if you were to find the so-called military retiree fund, all you would find there is an IOU for a thousand times a thousand times a thousand times 168.

The civil servants, the people on the Border Patrol, the people who work for Customs, the FBI agents who are out there trying to find kidnapped kids, the ATF agents who get shot at on a regular basis trying to keep violent people from building bombs that would harm other Americans, they have a retirement plan. They pay into it. The government pays into it. That money is supposed to be set aside just to pay for their retirement. If they could find that mythical lockbox, they would find that what is missing is a thousand times a thousand times a thousand times 540. \$540 billion.

□ 1945

In fact, I guess the average Joe would be a little surprised that after coming to Congress and promising to balance the books, that in the approximately 1,286 days that DENNIS HASTERT has been the Speaker of the House, that the Federal debt has grown by \$511,040,208,939.15, which is more debt than was accumulated in this country from the day that George Washington became President until 1975. Our Nation went for almost 199 years and accumulated only as much debt since DENNIS HASTERT has been Speaker.

I say that to express my severe disappointment that in those 1,286 days,

Speaker HASTERT has not allowed, and he sets the schedule for floor debate; only bills that he approves come to the floor and bills that he disapproves do not come to the floor. He has never set a day of debate for a Balanced Budget Amendment to the Constitution of the United States. So that regardless of which party, be they Democrats, be they Republicans, or whoever is controlling the House, and regardless of which party controls the Senate, and regardless of who is the President, they are going to spend no more money than is collected in taxes.

In the 23 years my daughter has been alive, this Nation has added \$5 trillion to that debt. We could have gone all the way from the day George Washington became President to the day Ronald Reagan became President and our Nation was only \$1 trillion in debt. In just 23 years, this much has been added. I think the American people are rightly demanding that Congress spend no more than they collect in taxes. Because no good parent would go out and buy a car and say, by the way, I have a 6-year-old child and let them pay for it, plus interest, when they grow up. No good parent would go buy a house, the most expensive house, because they are not going to pay for it, they are going to stick their grandkids with the bill.

That is what you have been doing, Speaker HASTERT; and I think it is time we had a vote on a Balanced Budget Amendment to the Constitution to stop this Congress and stop future Congresses from doing that. This is a message that I am going to deliver every day until we get a vote on the Balanced Budget Amendment.

I want to encourage Americans to check my sources. Because unlike those guys who were talking about big budget surpluses last year, but never followed it up with the facts, I want Americans to check these numbers because they will be as shocked and appalled as I am. So please look for the monthly statement of the public debt, June 2002, under <http://www.publicdebt.treas.gov>, and see for yourselves how broke our Nation is. And then when we hear the politicians ranting and raving about irresponsibility on Wall Street, maybe you will encourage them to look in the mirror.

FREEDOM OF RELIGION IS WHAT MADE AMERICA GREAT

The SPEAKER pro tempore (Mr. KELLER). Under the Speaker's announced policy of January 3, 2001, the gentleman from Maryland (Mr. BARTLETT) is recognized for 60 minutes as the designee of the majority leader.

Mr. BARTLETT of Maryland. Mr. Speaker, I want to spend a few minutes this evening talking about two events that have happened in our country recently. One of them is national and the other is very local.

The national event was the decision of two of three members of the Ninth Circuit Court in San Francisco that the Pledge of Allegiance to the flag, including the words "under God," can no longer be used in our schools with those two words; that if we are going to say the Pledge of Allegiance in our schools, we have to take "under God" out.

The second event is a very local event. It is in the town of Frederick, Maryland. I live just 5 miles from there on a farm. We have a little memorial park in Frederick across from the armory. We have there memorials to our soldiers in all of the wars with their individual names on these memorials. There is also in that park a replica of the Ten Commandments on the two stones. A senior student in one of our schools; interestingly, a student in one of our schools wrote asking, is it really appropriate to have the Ten Commandments in this memorial park because the park is owned by the city and the city is a part of what we call the State, and certainly, there is this big wall of separation between church and State?

Now, this has caused quite a dither in Frederick. The ACLU came out and they said, yes, that is right, the Ten Commandments should not be there. Why do we not just sell the park for \$1 to the American Legion and then the problem will go away? But if you do not do that, then we are going to sue.

Most of our institutions are, I guess all of them, are creatures of our culture. We remember from history that the Supreme Court pre-Civil War handed down the Dred Scott decision. Now, I suspect there are very few people today who believe that that was a correct decision handed down by that Court. So our courts today are creatures, at least to some extent, of our culture. These two events would have been absolutely unheard of in my childhood, that a court would say that one could not say under God in the Pledge of Allegiance to the flag and that one could not have the Ten Commandments in a memorial park for our service people who fought and bled and died for this country.

Now, how did we get here? What has happened to this Nation? I can clearly remember 60 years ago. I can remember writing 1933 on my school papers, so I can easily remember 60 years.

There are three great lies in our Nation today, and they are the result of, well, of two things. They are the result of an educational system that has, in large measure, tried to rewrite our history. These three lies are also the result of a media which has joined with our educational institutions in educating the American people about a history which really is not true. These three great lies are that our Founding Fathers were atheists and deists. Now, everybody knows what an atheist is. It is a person who does not believe there

is a God. A deist believes there is a God. He believes that God created the Earth, but then God stood back and he placed in effect a number of physical laws and biological laws, and there is no use praying to him, because these laws are going to determine what happens to us.

So the first great lie is that our Founding Fathers were atheists and deists. The second great lie is that they sought to establish a non-Christian Nation. They did not want God associated with this country. As a corollary to this, they sought to erect a wall of separation between church and State. They wanted to make sure that there was never, ever any discussion of religion in the State.

To understand how we got here, I think we need to put this in some context. It all started, of course, in 1776. We read that Declaration of Independence which, by the way clearly, three times, perhaps four, refers to God. I wonder if the courts will declare our Declaration of Independence unconstitutional because it has very clear references to God and our creator.

This was a very radical document. We read it without really concentrating on what it is and what it says. It said that all men are created equal. Now, we take that for granted, but that was not the society from which our forefathers came. Now, of course, unless you are a descendant of an American Indian, you are the child of an immigrant and today, our citizens come from, or their forefathers have come from all parts of the world. But in 1776, essentially all of our Founding Fathers had come from England and the European continent. And in England and on the continent, essentially every country was ruled by a king or an emperor who incredibly claimed and was granted divine rights. What that says is that the rights came from God, divine rights, rights came from God to the king and he would then give what rights he wished to his people.

Our Declaration of Independence made a radical departure from that, because it said that all men are created equal. Then they set about the task of writing a Constitution that embodied the promise of the Declaration of Independence. It took them 11 years to do this. It was not until 1787 that the Constitution was ratified. And in that Constitution they sought to embody all of those promises made in the Declaration of Independence.

The story is told of Ben Franklin coming out from the constitutional convention and being asked by a lady, Mr. Franklin, what have you given us? And his reply was, A Republic, madam, if you can keep it.

Now, I hear my colleagues and most everybody in this country talking about this great democracy that we have. Yet, when Ben Franklin was asked, What have you given us, he

says, A Republic, Madam, if you can keep it, if we think back through that Pledge of Allegiance to the flag, we will note that it refers to a Republic.

Why is this important? It is important to the subject that we are discussing this evening.

I heard an interesting definition of a democracy. It was two wolves and a lamb voting on what they were going to have for lunch. And someone noted that an example of a democracy was a lynch mob, because clearly, in a lynch mob, the will of the majority is being expressed. Are we not glad, Mr. Speaker, that we live in a Republic where one respects the rule of law, regardless of what the majority would like at that moment?

Now, clearly, we can change the law against which all other laws are measured, which is the Constitution, and we have done that 27 times; but this is a considered event. It takes two-thirds of the House and two-thirds of the Senate; it bypasses the President and goes directly to the State legislatures and three-fourths of them must ratify it.

Our Founding Fathers were not certain that the promise of the Declaration of Independence was, in fact, made crystal-clear in the Constitution, so before the ink was hardly dry on the Constitution, they started 12 amendments through the process of two-thirds of the House, two-thirds of the Senate, and three-fourths of the State legislatures. Ten of them made it through that process, and we know them as the Bill of Rights. If we read down through the Constitution, it is a little book that has had a big, big effect. If we read down through that, we will see that their primary aim in this Bill of Rights was to make sure that everybody understood what was implicit in the Constitution was explicit in these 10 amendments.

□ 2000

That is that they really wanted most of the rights to reside with the people. Remember, they had come from monarchies, from empires where the king or the emperor said that all the rights came to him. In the Declaration of Independence, they said that all men are created equal, and they wanted to make sure that it was very clear that essentially all of the rights remained with the people.

Now, our Founding Fathers came to this country not to get wealthy; as a matter of fact, many of them left wealth to come here. They came here for freedom. They came here to achieve freedom from two tyrannies.

One was the tyranny of the church. In England, it was the Episcopal church; and on the continent, it was the Roman church. For both of those churches, power had been given to them by the state, so our Founding Fathers wanted to make sure that never, ever in this new country would the

state ever give power to a religion so that it could oppress the people.

I guess our Founding Fathers could be excused for some shortsightedness before they wrote the Constitution, because in old Virginia, Roman Catholics could not vote. In colonial Maryland, I understand that both Roman Catholics and Jews could not vote.

But to their great credit, when it came time to write the First Amendment, they recognized that that is really not what they came here to achieve; that they really wanted freedom of religion, which is very different, as Ronald Reagan pointed out, from freedom from religion, which is what the courts now want to achieve.

It was a Roman Catholic, Charles Carroll, for whom Carroll County is named, one of the counties in the district I represent; Carroll Creek runs through Frederick City, not far from the Ten Commandments in that little memorial park. So it was a Roman Catholic who was a major architect of the establishment clause in the First Amendment.

In the Second Amendment, they addressed their concerns of the tyranny of the state. This is a subject for another day, but let me just read it in that context: "A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."

Abraham Lincoln understood that this was a new experiment and that it might not succeed. In his Gettysburg Address, we remember, Four score and seven years ago, and if we go back 87 years, we will come to 1776; "Four score and 7 years ago, our fathers brought forth upon this continent a new Nation, conceived in liberty and," and note, "dedicated to the proposition that all men are created equal." He recognized what a radical departure this was from the norms of the time, and he knew that this experiment might not succeed.

He said, we are now engaged in a war "testing whether this Nation or any Nation so conceived and so dedicated can long endure."

Then he ended that Gettysburg Address with almost a prayer: "that this government of the people, by the people, and for the people shall not perish from the Earth."

I am going to use four sources to refute these three lies. Again, the three lies are that our Founding Fathers were atheists and deists; that they wanted to establish a non-Christian Nation; that they wanted a wall of separation between the church and the state. To do that, I am going to let our Founding Fathers speak for themselves. I am going to quote from some court decisions. I am going to note some actions of Congress. Then we will take a brief look at our schools. I will use a number of quotes this evening,

and I would like to make two comments regarding those quotes.

The first is that not everyone will agree to the specific wording of these quotes. No one argues that these are the kinds of things that these men, these courts, that the Congress would have said or would have done; but Members may find some dispute as to the exact wording. I will tell the Members my references, and Members can talk to those on whom I depended for these quotes.

One is David Barton, who probably is the most knowledgeable person in America today on the Christian nature of our Founding Fathers. He has thousands of original documents. He conducts a fascinating tour through the Capitol building here, stopping at statue after statue and reading from original documents their quotes.

The second source for my quotes this evening is Dr. Richard Fredericks, who is the pastor of the Damascus Road Community Church in Montgomery County.

The second observation I want to make about the quotes this evening is that there will be a lot of references to Christianity and Jesus Christ. I would submit that when these quotes were made, that these words were more synonymous with the words that we would use today which would probably be "God-fearing." They meant no affront to other religious persuasions who worshipped the same God.

I just want to note that there will be lots of references to Christianity and Jesus Christ, if Members would simply hear "Judeo-Christian" and "God-fearing" when these quotes are read.

Freedom is not free. It is said that the price of freedom is eternal vigilance. That is just as true today as it was then. Certainly, our national freedom was very costly. Five of the 55 signers of the Declaration of Independence were captured and executed by the British; nine of them died in battlefields of the war; another dozen lost their homes, possessions, and fortunes to British occupation. Our birth as a Nation was not cheap for these men.

Let us first look at this wall of separation which our courts today talk so much about. That does not appear anywhere in our Constitution. It does not appear in the First Amendment. As a matter of fact, those three words, "separation," "church," and "state," do not appear, but they do appear in one constitution. It is the Constitution of the United Soviet Socialist Republics, the USSR.

Let me read from that Constitution. It is Article 124: "In order to ensure to citizens freedom of conscience, the church in the USSR is separated from the state and the schools from the church."

Let me let the Founding Fathers speak for themselves now, and then Members can decide whether they think they are atheist or deist.

Patrick Henry is often called the "firebrand of the American Revolution." I want to quote his words spoken in St. John's Church in Richmond on March 23 in 1775. Those words are very well known: "Give me liberty or give me death," and they are still memorized by most students. But I will challenge the Members to go to their child's school and look in their history books and see if these words are put in context.

Here is what he said, in context: "An appeal to arms and the God of hosts is all that is left us, but we shall not fight our battle alone. There is a just God that presides over the destinies of nations. The battle, sir, is not to the strong alone. Is life so dear or peace so sweet as to be purchased at the price of chains and slavery? Forbid it, almighty God. I know not what course others may take, but as for me, give me liberty or give me death."

Now, those words have a whole lot different meaning when we place them in that context, and I will wager that Members will have great difficulty finding any textbook in our current schools that puts them in that context.

Benjamin Franklin is widely noted by our history books today as being a deist. Was he a deist? Let us let him speak for himself. The time was June 28, 1787. We will recognize that that is during the Constitutional Convention.

Benjamin Franklin was 81 years old. He was the Governor of Pennsylvania, and perhaps the most honored member of the Constitutional Convention. The convention was deadlocked over several issues, and one of the key issues was the balance of State and Federal rights.

When Franklin rose and reminded them of the Continental Congress in 1776, just 11 years prior, this is what he said: "In the days of our contest with Great Britain, when we were sensible of danger, we had our daily prayer in this room for divine protection. Our prayers, sir, were heard, and they were graciously answered. All of us who were engaged in the struggle must have observed frequent instances of superintending Providence in our favor. To that kind Providence we owe this happy opportunity to establish our Nation. And have we now forgotten that powerful friend? Do we imagine that we no longer need his assistance?" And then I love these words: "I have lived, sir, a long time. And the longer I live, the more convincing proofs I see of this truth, that God governs in the affairs of men. And if a sparrow cannot fall to the ground without his notice, is it probable that a new nation can rise without his aid? We have been assured, sir, in the sacred writing that except the Lord build a house, they labor in vain that build it. I therefore beg leave to move," and this began a precedent that we follow today; we begin every day in the House with prayer, and every day in the Senate.

This is what he asked: "I therefore beg leave to move that henceforth, prayers imploring the assistance of heaven and its blessings on our deliberations be held in this assembly every morning before we proceed to any business." Thanks to Mr. Franklin, we still do this.

The following year, in a letter to the French minister of state, Franklin, speaking of our Nation, said "Whoever shall introduce into public office the principles of Christianity will change the face of the world."

And now to that second person who is very often noted as being a deist, and by the way, did Members think these are the words of a deist, these words of Benjamin Franklin; that God created a world and then let it run on its own, with just the physical laws and the biological laws that he developed guiding it?

Thomas Jefferson was a great student of Scriptures who honored Christ as his greatest teacher and mentor, but doubted his divinity. On the front of his well-worn Bible Jefferson wrote, "I am a real Christian; that is to say, a disciple of the doctrines of Jesus. I have little doubt that our country will soon be rallied to the unity of our creator, and I hope to the pure doctrine of Jesus, also."

And note his words relative to slavery. See if this sounds like a deist. "Almighty God has created men's minds free. Commerce between master and slave is despotism. I tremble for my country when I reflect that God is just, and his justice cannot sleep forever." These are certainly not the words of a deist.

George Washington is called the Father of our Nation. Listen to his heart on the Christian faith in his farewell speech September, 1796; the only President, by the way, unanimously elected by the Electoral College not once but twice, and perhaps the first ruler in 2000 years to voluntarily step down from power.

"It is impossible to govern the world without God and the Bible. Of all the dispositions and habits that lead to political prosperity, our religion and morality are the indispensable supporters. Let us with caution indulge the supposition that is the idea that morality can be maintained without religion. Reason and experience both forbid us to expect that our national morality can prevail in exclusion of religious principle."

What did Washington mean by religion? Was he a true Christian? Let me excerpt several lines from his personal prayer book: "Oh, eternal and everlasting God, direct my thoughts, words, and work. Wash away my sins in the immaculate blood of the lamb, and purge my heart by thy holy spirit. Daily frame me more and more in the likeness of thy son, Jesus Christ, that living in thy fear and dying in thy

favor, I may, in thy appointed time, obtain the restoration justified onto eternal life."

In Mount Vernon, and we can go there today, just down the river, we can see on the little crypt the benediction that George Washington asked to be put there over his grave and his wife's grave. It is John 11:25: "I am the resurrection and the life. He that believes in me shall live, even if he dies."

□ 2015

And you may wonder why as you tour through Washington and go to our monuments that you see so many references to scripture. It is because that is the milieu in which these men lived.

John Adams, our second President, also served as chairman of the American Bible Society started by our Congress, by the way. In an address to military leaders he said, "We have no government armed with the power capable of contending with human passions, unbridled by morality and true religion. Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other."

John Jay, our first Supreme Court Justice, stated that when we select our national leaders and preserve our Nation, we must select Christians. This is what he said, "Providence has given to our people the choice of their rulers. It is the duty as well as the privilege and interest of our Christian Nation to select and prefer Christians for their rulers."

In fact, 11 of the 13 new State constitutions were also ratified in 1776. All required leaders to take an oath similar to this oath in Delaware. This is the oath in Delaware: "Everyone appointed to public office must say, I do profess faith to God, the Father, and in the Lord, Jesus Christ, his only son, and in the Holy Ghost and in God who is blessed forevermore. I do acknowledge the Holy Scriptures, both Old and New Testaments, which are given by divine inspiration."

The time of our Nation's bicentennial in 1976, political science professors at the University of Houston began to ask some questions. Why is it that the American Constitution has been able to stand the test of time? We have the longest enduring republic in the history of the world. Why has it not gone through massive revisions? Why is it looked on as a model by dozens of nations? What wisdom possessed these men to produce such an incredible document? Who did they turn to for inspiration?

So they looked at the writings of our Founding Fathers and they catalogued 15,000 documents. They found the Founding Fathers quoted most often three men, Baron Charles Montesquieu, Sir William Blackstone, and John Locke. Yet, most importantly they found that the Bible itself was directly

quoted four times more than Montesquieu, six times more than Blackstone and 12 times more than John Locke. In fact, 34 percent of all the quotes and the writings of the Founding Fathers were direct word-for-word quotes from the Bible. Further, another 60 percent of their quotes were quoting from men who were quoting the Bible. So that an incredible 94 percent of all of the quotes in these 15,000 documents were direct quotes or references to the Bible.

So how did they produce a document that has withstood the test of an evolving government and growing Nation for 226 years now? The answer, they were steeped in the word of God. They understood their need of its constant direction, and they established a Nation based on its underlying principles.

John Quincy Adams, the son of John Adams, was the sixth President of the United States. He was a Congressman, the U.S. minister to Russia, France and Great Britain, Secretary of the State under James Monroe. He was also the chairman of the American Bible Society, as was his father. As a matter of fact, he felt that chairmanship of that society was a more important function and a higher honor than being President of the United States. I might note that the Continental Congress bought 20,000 copies of the Bible to distribute to its new citizens. And for 100 years at the beginning of our country, taxpayers' money was used to send missionaries to the Indians.

Mr. Speaker, 104 years later, the 30th President of the United States, Calvin Coolidge reaffirmed this truth on March 4, 1925. "America seeks no empires built on blood and forces. She cherishes no purpose save to merit the favor of Almighty God." He later wrote, "The foundations of our society and our government rest so much on the teachings of the Bible that it would be difficult to support them if faith and these teachings would cease to be practically universal to our country."

Let us turn now to the Supreme Court. We have let our Founding Fathers speak for themselves. I think it is very clear they were not atheists or deists. It is very clear that they did not attempt to establish a nonChristian nation. Let us look now at the Supreme Court. For 160 years the court consistently and categorically ruled in favor of church and State united hand in hand, but never the State empowering the church, a single church, so that it could oppress the people.

The first ruling came in 1796, *Runkle v. Winemiller*. The Supreme Court ruled, "By our form of government, the Christian religion is the established religion of all sects."

The Supreme Court consistently ruled for Christian principle as the foundation of our American laws. In 1811 in the *Peoples v. Ruggles*, Mr. Ruggles' crime was that he publicly

slandered the Bible. What would happen today if somebody publicly slandered the Bible? Let me read the decision the court made then. In 1811 he was arrested and his case went all the way to the Supreme Court. This was their verdict. "You have attacked the Bible. In attacking the Bible, you have attacked Jesus Christ. And in attacking Jesus Christ, you have attacked the roots of our Nation. Whatever strikes at the root of Christianity manifests itself in the dissolving of our civil government."

The Justices sentenced him to three months in prison and a \$500 fine. That is one year's wage in those days. You might contrast that today with convicted rapists who on average serve 85 days in jail.

In 1844, *Vida v. Gerrard*, a public school teacher decided she would teach morality without using the Bible. Incredibly she was sued and it went to the Supreme Court and this is what they said. "Why not use the Bible, especially the New Testament? It should be read and taught as the divine revelation in the schools. Where can the purest principles of morality be learned so clearly and so perfectly as from the New Testament?"

And then the Justices went on to cite 87 different legal precedents to affirm that America was formed as a Christian Nation by believing Christians.

This was in a court case in February 29, 1892, against the claims of the cult called the Church of the Holy Spirit that Christianity was not the faith of the people. The Supreme Court made a decision saying that it clearly was and they marshalled 87 different legal precedents to affirm that America was formed as a Christian Nation by believing Christians. They even spent the first 100 years' tax dollars for Christian missionaries, which I mentioned previously.

Regardless of how we feel about it today, the historical fact is there was no separation of church and state. There was a clear denial of the right of the state to empower any one religion so that it could oppress the people. But never, ever could our Founding Fathers ever imagine that we would interpret that establishment clause of the First Amendment as requiring freedom from religion. They certainly meant it to assure freedom of religion.

Let us move across the street from this House to the Supreme Court. As humanism and Darwinism began to rise in the 19th century, some made challenges to the idea that America was a Christian Nation. Both houses of Congress spent one year, from 1853 to 1854, studying the connection of America and the Christian faith.

On March 27 of 1854, Senator Badger, from the Senate, issued the final report. Let me quote very briefly from that final report. "The First Amendment religion clause speaks against an

establishment of religion. What is meant by that expression? The Founding Fathers intended by this amendment to prohibit an establishment of religion such as the Church of England presented or anything like it. But they had no fear or jealousy of religion itself. Nor did they wish to see us an irreligious people."

I really like these next words. They are so picturesque. "They did not intend to spread all over the public authorities and the whole public action of the Nation the dead and revolting spectacle of atheistic apathy." And I continue the quote, "In this age there can be no substitute for Christianity. By its general principles, the Christian faith is the great conserving element on which we must rely for the purity and permanence for our free institutions." And it goes on and on to quote more and more in this vein.

Based on his report in May of 1854, in joint session of Congress, this resolution was passed by our Congress. "The great, vital and conserving element in our system of government is the belief of our people in the pure doctrines and divine truths of the gospel of Jesus Christ." This was a resolution of the Congress in May of 1854.

Let us move from Congress to our public schools. For over 140 years after the First Amendment was passed, we spent tax dollars to educate students in public schools that were distinctly Christian. In 1782 the United States Congress voted this resolution: "The Congress of the United States recommends and approves the Holy Bible for use in our schools." That was this Congress. All of our institutions, even our Congress, is at least to some extent the product of a culture, creatures of a culture.

In grammar schools from 1690 until after World War II, two books were the dominant teaching tools. The first and oldest was the New England Primer, used for 200 years. The basics of alphabet were taught as follows:

"A, A wise son makes a glad father but a foolish son is heaviness to his mother.

"B, Better is little with the fear of the Lord than abundance apart from him.

"C, Come unto Christ all you who are weary and heavily laden.

"D, Do not the abominable thing, which I hate, sayeth the Lord.

"E, Except a man be born again, he cannot see the Kingdom of God."

The second great teaching tool for 100 years was the McGuffey Reader, and not too many years ago it was called back to some of our schools because when students used that reader, they learned to read. Now we have graduated about a million from our high schools who literally cannot read their diploma.

William Holmes McGuffey was the Professor of Moral Philosophy at Jefferson's University of Virginia and the

first president of Ohio University. President Lincoln called him the School Master of the Nation.

In the introduction to teachers in the beginning of his textbook, McGuffey laid out his rationale. "The Christian religion is the religion of our country. From it are derived our notions on the character of God, on the great moral Governor of the universe. On its doctrines are funded the peculiarities of our free institutions."

"From no source has the author drawn more conspicuously than from the sacred Scriptures. For all these extracts from the Bible I make no apology."

Of the first 108 universities founded in this country, 106 were distinctly religious. The first of those was Harvard, named for a very popular New England teacher, Pastor John Harvard. In the original student Harvard handbook, it said that the students should come knowing Greek and Latin so they could study the scriptures. Now a direct quote. "Let every student be plainly instructed and earnestly pressed to consider well, the main end of his life and studies is, to know God and Jesus Christ, which is eternal life, John 17:3; and therefore to lay Jesus Christ as the only foundation of all sound knowledge and learning."

For over 100 years, more than 50 percent of all of Harvard's graduates were pastors.

In 1947, the Supreme Court in *Emerson v. The Board of Education* deviated from every precedent for the first time and in a limited way affirmed a wall of separation between church and state and the public classroom. Now they did this ignoring 160 years of precedents. And I have read several decisions during these 160 years and there are many, many others. There is no decision of the Supreme Court today relative to this issue that will go back to precedents before 1947 because there are none. For 160 years, clearly the Supreme Court ruled 180 degrees different than the way it is ruling today.

In 1962, less than 40 years ago, in *Engle v. Vitale*, the Supreme Court removed prayer from the public schools. Since the founding of the Nation, public school classrooms have begun their day with prayer. Now that was declared unconstitutional; an arbitrary use of the word.

I have mentioned God is referred to three or perhaps four times in our Declaration of Independence. Will our courts now declare that unconstitutional?

Then things happened fast. On June 17, 1963, the Supreme Court ruled in *Abington v. Schemp* that Bible reading was outlawed as unconstitutional in our public school system. Remember that our Congress had recommended it for use in schools before that.

What has happened in America in these past 40 years? When we were true

to our roots, we were the greatest Nation in the world, the dream destination of millions in every country. But starting in 1963, the Bible was banned as psychologically harmful to children.

□ 2030

That year, 1963, was the first year an entry about the separation of church and State ever appeared in the *World Book Encyclopedia* under the United States.

What have we reaped? America 100 years ago had the highest literacy rate of any nation on Earth. Today we spend more on education than any other nation in the world; and yet since 1987, as I mentioned before, we have graduated more than 1 million high school students who cannot even read their diploma.

We spend more than any other nation in the industrialized world to educate our children; and yet SAT scores fell for 24 straight years before finally leveling off in the 1990s.

Has this protection from religion produced better students? Morally have they changed? Are things better in this new climate of protection from the dangers of religion?

In 1960, a survey found 53 percent of America's teenagers had never kissed and 57 percent had never necked. Necking is hugging and kissing, if my colleagues wonder what that meant then; and 92 percent of teenagers in America said they were virgins.

Just 30 years later, in 1990, 75 percent of American high school students were sexually active by 18. In the next 5 years, we spent \$4 billion to educate them how to have safe sex and it worked. One in five teenagers in America today lose their virginity before their 13th birthday, and 19 percent of America's teenagers say they have had more than four sexual partners before graduation.

The result? Every day 2,700 students get pregnant, 1,100 hundred get abortions and 1,200 give birth. Every day, another 900 contract a sexually transmitted disease, many incurable. AIDS infection among high school students climbed 700 percent between 1990 and 1995. We have 3.3 million problem drinkers on our high school campuses, over half a million are alcoholics and on any given weekend in America, 30 percent of the student population spends some time drunk.

A young woman in a high school in Oklahoma wrote this poem as a new school prayer. Let me read it for you: Now I sit me down in school where praying is against the rule For this great Nation under God finds mention of Him very odd. If scripture now the class recites, it violates the Bill of Rights.

And any time my head I bow becomes a Federal matter now.

Our hair can be purple, orange, or green, that's no offense, it's a freedom scene. The law is specific, the law is precise! Only prayers spoken out loud are a serious vice.

For praying in a public hall might offend someone with no faith at all.

In silence alone we must meditate, God's name is prohibited by the State.

We are allowed to cuss and dress like freaks, and pierce our noses, tongues and cheeks.

They've outlawed guns but first the Bible. To quote the Good Book makes me liable.

We can elect a pregnant senior queen and the unwed daddy our senior king.

It's inappropriate to teach right from wrong; we're taught that such judgments do not belong.

We can get our condoms and birth controls, study witchcraft, vampires and totem poles.

But the Ten Commandments are not allowed, no word of God must reach this crowd.

It is scary here I must confess; when chaos reigns the school's a mess.

So Lord, this silent plea I make: Should I be shot, my soul please take!

Our Nation, which used to lead the world in every arena, now leads the world in these areas: We are number one in violent crime. We are number one in divorce. We are number one in teenage pregnancies. We are number one in voluntary abortion. We are number one in illegal drug abuse. We are number one in the industrialized world for illiteracy. What happened?

First of all, Christianity went to sleep. Forty years ago, the church gave up the public arena to an increasingly secular government and said we would focus on the souls of men. Actually, the first leader to call for that division was not one of our Founding Fathers. His name was Adolph Hitler, who told the preachers of Germany, "You take care of their souls and I will take care of the rest of their lives."

Here is a million dollar question. Are we better off today? Since we banished God from all our public life and systems and allowed a vocal group of humanist activists to tell us our faith is dangerous to the liberties of this Nation, are we better off? Are we satisfied with what is happening in America?

Alexis de Tocqueville was a famous French statesman and scholar. Beginning in 1831, he toured America for years to find the secret of her genius and strength which was marveled at throughout the world. He published a two-part book entitled "Democracy in America," which is still hailed as the most penetrating analysis of the relationship of character to democracy ever written.

Here is how de Tocqueville summed up his experience: "In the United States, the influence of religion is not confined to the manners, but shapes the intelligence of the people. Christianity therefore reigns without obstacle, by universal consequence. The consequence is, as I have before observed, that every principle in a moral world is fixed and in force."

"I sought for the key to the greatness and genius of America in her great harbors; her fertile fields and boundless

forests; in her rich mines and vast world commerce; in her universal public school system and institutions of learning. I sought for it in her democratic Congress and in her matchless Constitution.

"But not until I went into the churches of America and heard her pulpits flame with righteousness did I understand the secret of her genius and power. America is great because America is good; and if America ever ceases to be good, America will cease to be great!"

Let me close by suggesting the answer offered by President Abraham Lincoln in the address he gave calling for April 30, 1860, seeking a national day of humiliation, fasting and prayer.

"We have been the recipients of the choicest bounties of Heaven. We have been preserved these many years in peace and prosperity. We have grown in numbers, wealth and powers as no other Nation has ever grown.

"But we have forgotten God. We have forgotten the gracious Hand which preserved us in peace, and multiplied and enriched us; and we have vainly imagined, in the deceitfulness of our hearts, that all these blessings were produced by some superior wisdom and virtue of our own.

"Intoxicated with unbroken success, we have become too self-sufficient to feel the necessity of redeeming and preserving Grace, too proud to pray to the God that made us! It behooves us then to humble ourselves before the offended Power, to confess our national sins and to pray for clemency and forgiveness."

That was Abraham Lincoln.

Today, we have an entire population that has no clue as to its true American heritage. They have not forgotten. They never knew.

Our textbooks have been bled dry of all of this aspect of the founding of our Nation. Abraham Lincoln said this to our Nation. We need to hear it again, and this also comes from his Gettysburg address.

"It is rather for us to be here dedicated to the great task remaining before us, that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion that we here highly resolve that these dead shall not have died in vain, that this Nation, under God, shall have a new birth of freedom."

The three great lies are our Founding Fathers were atheists and deists. We let them speak for themselves. They clearly were not.

The second is that they sought to establish a non-Christian Nation. We let them speak. We let the courts speak. We let the Congress speak. We listened to what was said in our schools. Clearly, this was not the case.

That wall of separation never intended that religion should not be in

government. It was intended that government should not empower any religion so that it could oppress the people.

What do we do now that our textbooks have been bled dry, that so few, even those in leadership positions, understand the true beginnings of our Nation? What we need to do is to make sure that all of our people, especially our leaders, become familiar with the milieu in which our Nation was born. We need to symbolically shout it from the housetop so that none can refuse to hear it.

The two events that I started this little discussion with, the Ninth Circuit Court ruling in San Francisco and the question of whether the Ten Commandments should be taken down from Memorial Park in Frederick, these two things would have been unthinkable in the Nation that I grew up in. I can remember very well 60 years ago, and they should be unthinkable today, and since all of the institutions of our country are at least to some extent creatures of our culture, before we change our institutions, we need to change our culture. Mr. Speaker, every one of us has a responsibility and an obligation and the privilege to do that.

MEDICARE PRESCRIPTION DRUG PROGRAM

The SPEAKER pro tempore (Mr. KELLER). Under the Speaker's announced policy of January 3, 2001, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I wanted to spend the time this evening talking about the need for a Medicare prescription drug program and also highlight the fact that more and more of my constituents, and I know this is true all over the country, are concerned about the price of prescription drugs and their inability to buy the medicine or prescription drugs that they feel that is necessary.

I have been to the floor, to the well here many times over the last 2 years, basically saying that we need on the one hand a benefit, a Federal benefit under Medicare to provide prescription drug funding for seniors through Medicare, through the Federal Government and through the Medicare program. But at the same time I have said that we need the coverage that would come from a Federal benefit, we also need to deal with the issue of price because prices continue to go up.

I know that many times during the debate that we had a few weeks ago over prescription drugs, when the Republican leadership would talk about their initiative, their bill that ultimately passed the House, and compare it with the Democratic proposal, which they did not allow to come to the floor, that there had been a hot and heated

discussion about the differences between the two bills.

Of course, I have been very critical of the Republican proposal because it is not Medicare. It does not provide a guaranteed benefit, and it does not address the issue of price; and essentially, what the Republicans did when they passed a prescription drug bill a few weeks ago is that they decided to give some money to private insurance companies to essentially subsidize private insurance companies in the hope that they would offer drug-only or medicine-only policies to seniors that the seniors would find affordable.

My major concern over the Republican proposal is that like HMOs, which are private health insurance, that these private insurance companies simply would not offer a prescription drug plan, that there would be many areas in the country where there would be no coverage or even if there was a private insurer that decided to provide a prescription drug-only policy, that it would not be affordable and that essentially we would be passing a program that would never work and no one would be able to take advantage of as a senior citizen, or at least the average senior citizen.

I contrasted that and I continue to with the Democratic proposal, which, as I said, the Republicans never allowed us to bring up; but the Democratic proposal was simply an expansion of Medicare. We have a great Medicare program that almost all seniors participate in, covers their hospitalization, covers their doctors' bills. And what the Democrats said is we would simply add another plank, or provision, to Medicare so that seniors could pay \$25 a month in a premium. After the \$100 deductible, would get 80 percent of their prescription drug costs paid for by the Federal Government under Medicare, and after \$2,000 out-of-pocket expenditures for these seniors with higher drug bills 100 percent of the costs would be paid for by the Federal Government under Medicare.

It is a very simple process, expansion of Medicare. The price issue was addressed by the Democrats, unlike the Republicans, because the Democrats said that the Secretary of Health and Human Services, who basically administers the Medicare program now, would have the bargaining power of 30 to 40 million American seniors under Medicare, and he would be mandated by the Democratic bill to negotiate to reduce prices substantially, maybe 30, 40 percent.

So we had a price provision in there, too. The Republican bill, of course, could not do that kind of negotiation essentially with the Republican bill because it is with private insurance companies. It is not Medicare, and all the seniors would not be covered; but just in case there was some concern about trying to reduce price, the Republican

bill specifically had a noninterference clause that said that the administrator of the program could not set up a price stricture or negotiate lower prices.

So we know the Republicans were not seeking to address the price issue. They wanted to make sure, in fact, that it was not addressed at all.

During this whole debate, a lot of my colleagues said to me, even some constituents said to me, why would the Republicans want to put forth this sham? Why would the Republicans want to pretend that they are putting forth a prescription drug plan that no private insurance company will offer or that no senior would be able to take advantage of? And why do they not want to address the issue of price?

The answer to that is fairly simple, and that is because of the special interests, because the brand-name companies do not want a Medicare benefit. They are afraid that if there is a Medicare prescription drug benefit like the Democrat's proposal and they are afraid that if there is an effort to address price, that somehow they will lose profits. I do not believe that because I think if they cover everybody under a universal program, they will be selling more medicine and they will make more money.

□ 2045

Even if the price does come down individually for the senior, the overall fact that so many more seniors are in the program should make the drug companies happy.

But they do not feel that way. They are opposed to the Democratic proposal, and they are doing whatever they can financially to make sure that the Republican proposal passes and the Democratic proposal does not. They have been taking out ads, they have been financing a huge ad program, they have been giving a lot of money to Republican candidates, Congressmen, and Senators, but I will go into that as part of this special order this evening a little later.

What I really want to point out is that this effort on the part of these large pharmaceutical brand name companies to do this, in my opinion, is very much linked to the overall problem we have in this country that has been highlighted in the last few weeks of corporate irresponsibility. We know that many of the corporations, and I do not have to go through the list, Enron, WorldCom, there are so many out there now, that basically doctored the books at the request of certain CEOs or financial officers, used accounting systems to basically doctor the books and show that they had profits when they were actually operating at a net loss or at a lot less profit than they reported. And so nationally, and here in the Congress, in the House of Representatives, we are getting a lot of my colleagues on both sides of the aisle coming up and talk-

ing about the need for corporate responsibility; the need for companies, large corporations, to be responsible in their actions.

I would suggest to my colleagues that the effort of the prescription drug industry to mask what they are doing, to give large contributions to candidates, to run massive ad campaigns where they did not even indicate they are paying the cost of them in order to support candidates or to support the Republican bill, is another example of what I call corporate irresponsibility. They need to be held to task.

Now, I want to talk a little tonight, if I could, Mr. Speaker, about some of the things that these pharmaceutical companies have been doing to promote the Republican proposal and to oppose the Democratic alternative. As we know, the other body, this week or next, will be taking up a prescription drug bill. And since the other body is dominated by the Democrats, the proposals that are out there are Medicare prescription drug programs, very much like the House Democratic bill. So we will probably have the opportunity at some point in conference to see the House Republican version and the Democratic version from the other body. So these efforts by the pharmaceutical companies to kill the House Democratic bill will obviously extend over the next few weeks in an effort to kill the Democratic majority bill in the other House as well.

During the course of the debate that we had in the Committee on Energy and Commerce on the Republican proposal here in the House, we actually had to end our debate and our committee hearing one night in the middle of the markup of the bill because Republicans had to go to a fund-raiser that was being given by the National Republican Committee that was being paid for, in large part, or in significant part, by the pharmaceutical companies.

I want to give a little flavor of that and then I want to talk about the ad campaign, because I see one of my colleagues has joined us tonight and I certainly want to yield to him.

But regarding the debate a few weeks ago in the Committee on Energy and Commerce, there was an article in the Washington Post, and I just want to read a little bit from it, it says, "Drug Firms Among Big Donors at GOP Event. Pharmaceutical companies are among 21 donors paying \$250,000 each for red carpet treatment at tonight's GOP fundraiser gala starring President Bush, 2 days after Republicans unveiled the prescription drug plan the industry is backing, according to GOP officials." Not Democrats, but GOP officials.

"Drug companies, in particular, have made a rich investment in tonight's event. Robert Ingram, Glaxo-Smith-Klein PLC's chief operating officer, is

the chief corporate fundraiser for the gala. His company gave at least \$250,000. Pharmaceutical Research and Manufacturers of America, a trade group funded by the drug companies, kicked in \$250,000, too. PhRMA, as it is best known inside the beltway, is also helping underwrite a TV ad campaign touting the GOP's prescription drug plan. Pfizer contributed at least \$100,000 to the event, enough to earn the company the status of a vice chair for the dinner. Eli Lilly and Company, Bayer, AG and Merck each paid up to \$50,000 to sponsor a table. Republican officials said other drug companies donated money as part of the fund-raising extravaganza."

Then it says, "Every company giving money to the event has business before Congress. But the juxtaposition of the prescription drug debate on Capitol Hill and drug companies helping underwrite a major fundraiser highlights the tight relationship lawmakers have with groups seeking to influence the work before them. A senior House GOP leadership aide said yesterday that Republicans are working hard behind the scenes on behalf of PhRMA to make sure that the party's prescription drug plan for the elderly suits drug companies."

Now, we had an editorial from the New York Times Saturday, June 22, and I just want to read a certain section where it says: "House Republicans, who regard traditional Medicare as antiquated, would provide money to private insurance companies, a big source of GOP campaign donations, to offer prescription drug policies. The idea of relying on private companies seems more ideological than practical. Even with Federal subsidies, it is unclear that enough insurance companies would be willing to participate and provide the economies that come from competition."

So the bottom line is, and the reason why this scam, the reason why this Republican proposal, which relies on private insurance companies and does not address the price issue is out there and passed the House is because of the contributions from the drug companies.

And just today, and there is so much more I could talk about, but I want to hear from my colleague from Maine, just today, Public Citizen issued a report and basically unmasked the ad campaign that PhRMA and the other drug companies have been conducting, which started, I guess, about a month ago and continues.

Basically, what PhRMA and the drug companies are doing is they are contributing money to United Seniors Association, which is the front senior group that is now running these issue ads in various Republican districts, telling people how wonderful Republican Congressmen are because they voted for this Republican bill, this sham bill.

It is amazing to me. I had no idea how much money we were talking about here. A few weeks ago we thought it was \$2 million, \$3 million, or \$4 million. Now this report from Public Citizen shows clearly that it is already \$10 million, and who knows where it is going, \$20 million, \$30 million, \$40 million, \$50 million, maybe \$100 million that the drug industry is going to pay to try to promote the Republican bill.

I just want to give a little breakdown of some of the things that this report says about United Seniors Association that is fronting the pharmaceutical industry ads. It says today that "Public Citizen estimates that USA," that United Seniors Association, I hate to use the acronym USA for them, but that is what they use, I guess, "that United Seniors Association has spent \$12 million on issue ads during the past 17 months. The lion's share of this spending, \$9.6 million, was used to promote President Bush and House Republican leaders' prescription drug plan."

It is amazing to me, because this talks about how in the 2000 election United Seniors Association joined Citizens for Better Medicare, which was also a drug industry front group created by the brand name drug company's trade association PhRMA, and they spent approximately \$65 million on TV advertising, a large chunk dedicated to electioneering issue ads.

So I do not know, the sky is the limit. I have to assume that we are probably talking, what, maybe \$100 million, if 2 years ago it was 65. Maybe now it will be 100. With inflation and everything, it is probably going to go up.

I will not go into all this now because I see my colleague from Maine. But we have to point out, and I want to say to my colleague, who has been the person that has been the most outspoken in this Congress on the issue of price, and how the price of prescription drugs is just making it impossible for so many people, and not just senior citizens but all Americans, to afford their medicine any more. It is just a shame that the reason this is happening is because of the money coming from the brand name drug industry.

I said before that we keep talking about corporate responsibility. I think this is the height of corporate irresponsibility that they spend this kind of money to basically back a plan that will help no one, in my opinion.

I yield to the gentleman from Maine.

Mr. ALLEN. Mr. Speaker, I thank the gentleman from New Jersey for yielding to me and for his leadership on this issue; for constantly trying to articulate to the American people the profound differences between the Republican prescription drug plan and the Democratic alternative here in the House.

As the gentleman knows, the Republican plan that was passed last month

in this House was really a remarkable plan. Members on the Republican side stood up and said there is a \$35-a-month premium. They repeated it over and over again, \$35-a-month premium. Yet when we go to the bill and try to find the \$35 figure in the bill, it is not there. It is only an estimate. This is a bill with no guaranteed monthly premium, no guaranteed copayment, no guaranteed reduction in price.

It is one of those marvelous things that my friends on the other side of the aisle think will somehow emerge from the wonders of the private sector; that we will have a private stand-alone insurance policy that will take care of seniors. It is remarkable that they can imagine a world in which the insurance industry, which has said repeatedly we really do not want to provide these kinds of insurance policies, will have a change of heart and will step forward and will provide a policy that will not change year to year, will have a consistent premium, a consistent copay, and some reduction in price. We know it will not happen.

Anybody who has been paying any attention to politics in the last 2 years knows that if this prescription drug coverage for seniors were a priority for the Republican Party, it would have been brought up last year; that it would have been brought up before the tax cut. But for Republicans, tax cuts for the wealthy are far more important than prescription drug coverage for seniors. Now we can see that, as the gentleman referred to a few moments ago, the pharmaceutical company is thanking our friends on the Republican side of the aisle for coming up with this sham proposal and voting for it.

This is a hope, which has proved successful in the past, that if you repeat something often enough to a large enough group of people, a certain percentage of them will actually believe it. And that is basically what is going on. Almost \$10 million spent by the pharmaceutical industry in the last 15 months or so, \$4.6 million in the last 2 months alone, thanking Republicans for supporting a bill that has no guaranteed premium, no guaranteed benefit, no guaranteed reduction in price, no guaranteed copay, but sounds good.

It is another election year inoculation. And if we are not successful this year in passing a real prescription drug benefit, then 2 years from now Republicans will step forward and they will say, just before the next election, we have a plan. We have a plan, and somehow it will, like magic, emerge.

There was a physician in Bangor, Maine, who wrote recently in a letter to the editor, and I quote, "The bill would be dropped like a bad date by House Republicans if they and President Bush did not need it in reelection campaigns."

It seems to me that this really comes down to a question of values, and the

fundamental value is whether the first priority, when it comes to prescription drugs, is to protect the profits of the pharmaceutical industry or whether the first priority is to make sure that our seniors can afford to buy the drugs that their doctors tell them they have to take.

Now, the first half of last year, as my colleague will remember, the President traveled all across the country, and there was not any talk of prescription drugs for seniors then. It was one theme repeated over and over and over and over again: It was simply, "It is not the government's money, it is your money."

□ 2100

Mr. Speaker, it was an appeal to the American people to think of themselves first, to think of their own individual interests before the common good. That appeal was pounded in in the first 6 months of the administration, pounded in over and over again. It is not the government's money; it is your money.

What is the refrain today? Now that we are deep in deficit with \$165 billion projected deficit for this year with a comparable deficit projected for next year, is there an effort to say, We are in this problem together and we have to work out of it together? No. What we see is the same kind of appeal to individual interests over the common good and the common interest.

Mr. Speaker, the question really is when it comes to prescription drugs and the other issues that we face before us, whether the governing ideal of this House of Representatives will be me first or all of us together. That really is the fundamental choice. Those who come and say we are going to rely on private stand-alone insurance for prescription drugs for seniors are really saying that each individual should go out and buy his or her own insurance policy rather than having the Secretary of Health and Human Services, as in the Democratic bill, negotiate lower prices on behalf of all Medicare beneficiaries.

That is what we have done in our legislation. We have said seniors belong to the largest health care plan in the country. It is called Medicare. Well, they ought to get a discount. If they are in the largest health care plan and 39 million Americans are getting their prescription drugs through Medicare, there ought to be a discount that reflects the market power of that buying group; but seniors on Medicare do not have the buying power of Aetna beneficiaries or Cigna beneficiaries. They do not have bargaining power at all today.

We have this anomaly. We have the largest group of health care beneficiaries in the country, Medicare beneficiaries, paying the highest prices not just in the United States but in the

world for their prescription drugs. Here we have a group of seniors that make up 12 percent of the population, but they buy one-third of all prescription drugs, 33 percent of all prescription drugs. Half of them have either no coverage or very inadequate coverage for their prescription drugs, and our friends on the Republican side of the aisle, for fear of strengthening Medicare because it is a Federal health care plan, are basically saying no, no, you have to rely on the private insurance market.

In Maine and many other rural States, 15 to be exact, there is no private managed care under Medicare, no options at all. And those who say the private market provides more choice ignore the fact when private insurance companies do not want to offer prescription drug coverage or health insurance in a particular area, they just pull up and leave.

We have a program that works. It is called Medicare. It has kept our seniors with affordable health care despite its flaws, despite its problems. There is not a health care plan in the world that does not have problems. It has lifted seniors out of the condition where a trip to the hospital meant a trip to the bankruptcy court as well. That is something we have to preserve.

But coming back to this question of values, what we have seen in all of the corporate scandals over the last few years is an attitude at the top in too many American corporations which basically comes down to the same thing, me first. I will get mine. We will cook the books, drive up the stock price, and then the CEOs and officers sellout. And who gets hit in the end? The shareholders get hit in the pocketbook. Shareholders find that their pensions have dropped dramatically. What happens to the workers? They get laid off. They do not have all this money tucked away. They cannot party on their yachts when they leave the company, as some CEOs have done. They are stuck. This is fundamentally a question about values.

Are we going to take our common problems and deal with them as common problems, or are we going to say to the American people, as our friends on the other side of the aisle do all the time, each person on his own? Each person stands alone. Do the best you can with what you have got, but we are certainly not going to all work together.

Well, it is time for this country to pull together. It is time for us to take our common challenges, our economic challenges, our health care challenges, our environmental challenges and work together to build a better and stronger America. I know we can do it; but we have to shed that old motto, the "me first" motto and get to something that really reflects how much we depend on each other and how much we need to

work together to build a better country.

Mr. Speaker, I thank the gentleman from New Jersey (Mr. PALLONE) for his leadership on this issue.

Mr. PALLONE. Mr. Speaker, I have to say until I saw this latest information about the level of funding that was going to United Seniors Association and how much money they were spending on this ad campaign, I still was under the belief that some of our Republican colleagues did not like the Democratic proposal and liked the private insurance option because ideologically they did not like Medicare, they thought Medicare was not a good program, they did not like government, and they had a hard time supporting a government program like Medicare, even if it works, because it is a government program.

But I am becoming more cynical now as I see the level of funding that is being spent on these ad campaigns and how it is just targeting Republicans, and particularly Republicans that are vulnerable. If we talk about a \$100 million ad campaign divided over some of the most seriously contested seats, it will be almost as much money as some of the candidates will spend on their own campaigns. I think the support on the other side is linked to the money, is linked to the fact that PhRMA and the drug companies are putting all this money out to promote Republican campaigns.

I am so glad that the gentleman raised the value issue. That is what this is about. This is about some greedy people who want to make more profit and do not care about the consequences for the average senior.

Last week, last Thursday I believe, there was a bus load of about 50 seniors that came from New Jersey. They did not go to Canada; they were highlighting that they were taking a bus to come to Washington instead of Canada. The gentleman from Maine knows about all of the people that go over to Canada because of the cheaper drug prices. We had 15 buses that went the week before to Canada from all of the border States. All the seniors from New Jersey were talking about was the price, how the price of prescription drugs keeps going up, and it is so unaffordable to them. I do not understand how these brand-name drug companies can spend \$100 million on ad campaigns which are going to do nothing more than prevent these senior citizens from getting the medicine that they need. It is pathetic. It really is.

Mr. ALLEN. Mr. Speaker, they may be spending millions and millions on contributions to candidates, on TV ads promoting their point of view, or the feel-good ads about the industry itself as a way of trying to resurrect the industry's image; but it is also the case that many of the drugs that they have been developing these days are so close

to drugs that already exist on the market that they cannot get the kind of sales volumes they want without a very heavy investment into direct-to-consumer advertising. Last year the industry spent \$2.5 billion on direct-to-consumer advertising. We can feel what has happened to the industry. It really has become a marketing operation. They depend very much on blockbuster drugs. Some of those drugs are blockbuster. This is an industry that does some remarkable things, but they move from the argument that we are earning very high profits right now to the conclusion that we have to sustain those profits at exactly the level we are at; and more particularly, that we have to charge our seniors the highest prices in the world in order to get enough money to do research. That is not true.

Just think about it. We are 280 million people in this country. Thirty-nine million are on Medicare. That is a very small percentage of the total market for prescription drugs in this country. There are 330 million people living in Europe, 125 million living in Japan, 25 million living in Canada. There are lots of people around the world who are buying prescription drugs. They are all paying lower prices than the seniors, that 39 million or maybe half that, really, half that group which is buying their prescription drugs from the pharmacist with no support from an insurance company.

Mr. Speaker, it just cannot be the 20 million Americans, very high prices charged to 20 million Americans, is the salvation of the pharmaceutical industry. It cannot be. It is not true.

But if we give enough money to groups like United Seniors Association, which sounds like a legitimate seniors organization, and they will run ads supporting the pharmaceutical industry's solution to the issue that is raised here, thanking our friends on the Republican side of the aisle for supporting a bill that will do virtually nothing for America's seniors, then we begin to understand how money has distorted the policy-making process in this House.

It is profoundly troubling that we cannot get a clean vote even. We could not get a clean vote from the Republican Committee on Rules on the Democratic alternative. That, I think, is a scandal that if people fully understood, they would be outraged about. They expect us to have a debate here. They expect us to have a choice between competing alternative plans, and we do not. The Democratic plan gets buried in a few minutes of debate on a procedural motion. That is another part of the scandal that really we need to deal with.

If we do not pass a real Medicare prescription drug bill this year, we will just do it again 2 years down the road. They will come in with a bogus plan and hope that once again for the third

cycle in a row that enough of the American people will be fooled into thinking that for them, prescription drugs is as important as tax cuts for the wealthy. It is not. We know it is not; but that is the continuing effort, to try to prove that they care.

Mr. PALLONE. Mr. Speaker, reclaiming my time, what I do not understand, it seems to me if we provide a Medicare benefit the way we have proposed as Democrats, and we take in that other half of the senior population, 20 million that are having problems, some of them are not buying the drugs or have difficulty, we are going to increase the volume of sales that the brand-name manufacturers are going to have. If we do some of the other things, like the gentleman has addressed the issue of price, not just in the context of a senior benefit, but we have collectively talked about doing more with generics, like the other body passed the bill last week that would plug up the loopholes and make it easier to move to generics.

□ 2115

We have talked about this: I know that in the other body, one of the Members has a bill which I have sponsored here that would eliminate the tax underwriting of advertising for pharmaceuticals. I mean, those are the kinds of things that would make a lot more people, even those who are not seniors, able to buy drugs. Even generics, a lot of the brand-name companies own a lot of the generic companies too, so it is not like there is this huge division between generics and brand names. A lot of the brand-name companies manufacture generics too.

So why is it that they do not see the increased volume that would come with that with many more Americans purchasing the drugs, even at a reduced price, as basically lifting their sales and their profits as well? That is what I do not understand.

Mr. ALLEN. Mr. Speaker, I am confident that they do. They do, in fact, understand that. The evidence I would give for that is the largest pharmaceutical company, Pfizer, has offered to seniors living under 200 percent of the poverty level, with incomes of less than 200 percent of the poverty level, they have said that we will sell to you all of our drugs, which average in retail \$61 or \$62 a month; we will sell all of our drugs to you for \$15 a month. That is a 75 percent discount; \$61 and \$62 drugs on average, all of them for \$15 a month. How can they do that? Well, they will sell more medication. They will sell more drugs. We can bet that the cost of producing pills is a very, very small amount of the sale price. There is a lot that goes into research and development, no question. There is a lot, obviously, that goes into marketing. But the cost of production itself is a minor thing.

Mr. PALLONE. So what the gentleman is saying is that there may be

one or two companies that see the benefit if they can get a larger volume; but overall, the trade group PhRMA does not see it that way, and they would rather keep their prices artificially high.

Mr. ALLEN. Mr. Speaker, I would distinguish between what they say and what they believe. Because if we look at all of the pharmaceutical industry drug discount card plans, they are out there advertising their discounts at being between 25 and 40 percent. That is what we have been talking about with my legislation and with other bills, getting to a 25 to 40 percent discount for all seniors. The pharmaceutical industry is out there saying, we have discount cards that will do that; we have discount prices that will do that.

Now, the question is, if they are willing to do that, what is the problem with the legislation that requires them to do that? Well, the answer is, we do not want to be hemmed in. We do not want to be required. We do not want the government to be able to tell us what to charge. In fact, a promise that is made on a temporary basis to say, we are going to promise you 25 to 40 percent does not mean they can actually deliver that or will deliver it. They will, in all likelihood, do what they have done with all of their other markets, which is charge what the market will bear; and if they give a little bit of a discount today, they may take it away tomorrow.

Seniors need predictability and continuity and stability in their Medicare plan. They need to know what the benefits are; they need to know what the premiums are for whatever services they are getting. If it is a physician service or if it is, as we have proposed, a prescription drug benefit on top of that, they need to have predictability. The pharmaceutical industry is not willing to provide it voluntarily. That is why we need legislation, so that seniors can sleep at night knowing that they are going to be able to take the medication that their doctors tell them they have to take.

That ultimately is the goal, because ultimately, lifesaving prescription drugs should not be dispensed on the basis of seniors' income. They ought to be dispensed on the basis that everyone who needs the medication will be able to get it; everyone should be able to have to pay some portion of the cost, but people who need lifesaving drugs ought to be able to get them.

Mr. PALLONE. Mr. Speaker, I see that the gentleman from Ohio (Mr. STRICKLAND) is here joining me. I know he was there at the Committee on Commerce markup the day that we had to adjourn so that the chairman, the Republican chairman of the committee and other Republican members could go to the big fundraiser; and at the end, at 5 o'clock, because we knew that

the clock was getting close to 5 and they had to leave for the fundraiser, we were sort of kidding them and hoping that they would stay for an extra half hour or hour; but boy, they certainly did not want to do that; they were determined to get out of there by 5 o'clock, no matter what. I mean, I laugh, and it really is not funny, because we have talked about the consequences in terms of seniors. But there is no question about what they were up to that night.

Mr. STRICKLAND. Mr. Speaker, I want to thank my friend. I was there and, as the gentleman knows, the next day we worked all day long and all night long; and we finally passed out a bill which only provides coverage for a person who has a prescription drug need of \$400 a month. The bill that finally passed out, the Republicans passed it out, would only provide coverage for 4½ months out of the 12-month year; and yet the poor senior would have to pay premiums every month, even during the months when they were receiving no coverage at all and, as the gentleman knows, they tell us that the premium would be on average \$35 a month, but there is no guarantee that it would not be \$65 or \$85 or \$125 a month.

So it is quite shameful, I think, that at a time when nearly every person in this Chamber, as they go home and talk to their constituents, say the right words, and they tell their seniors that they want to get them a prescription drug benefit and they want it to be affordable and they want it to provide choice, but when it comes to making the tough decisions here in this Chamber, they simply make the wrong decision.

Now, the Democratic proposal would add a voluntary drug benefit to Medicare. Why is that important? I know the gentleman from New Jersey and the gentleman from Maine have been talking about the fact that every citizen in every other country on Earth pays less for their prescription medications than does the American citizen. That is really quite sad because, as the gentleman knows, so many of these drugs are discovered, developed using tax dollars. So the American citizen pays the taxes to help develop these drugs, and then the pharmaceutical companies decide they are going to charge American citizens more than citizens anywhere else on Earth. That is shameful, and we ought to change it.

But there is something that I think is even more shameful than that, and that is the fact that here in America, America's most vulnerable, who are our elderly, our seniors citizens, end up paying more for their drugs than do HMOs or large insurance companies or even the Federal Government. Why is that? It is simply because the individual senior citizen does not have any clout when it comes to buying their

medications. They are only one little individual. And the large insurance companies, the large HMOs and the Federal Government, they buy in bulk, they buy in large quantities, and so they can get discounts. But the individual senior citizen, because we have no Medicare benefit, just simply is on their own. It is quite shameful.

It is troubling to me that this vulnerable population, the people who are most likely to be on fixed incomes, are seniors; the people most likely to have chronic health conditions that require continuous medications for the rest of life are senior citizens. The population that is most likely to need multiple medications are senior citizens. Yet senior citizens are the ones who are being charged the most for the medications. There is something really fundamentally wrong about that. I believe the American people expect us to fix that problem.

I hope the American people are paying attention, because we are going to have an election here in 4 months or so, and I believe that those of us who are willing to stand up to the pharmaceutical companies, to stand for America's senior citizens, to fight for a Medicare prescription drug benefit that is predictable, affordable, voluntary, accessible to any senior who wants to participate, I think we are the ones, quite frankly, who deserve to be returned to this lofty Chamber; and I believe those who will not support America's senior citizens, quite frankly, do not deserve to return to this Chamber.

So I hope the American people are paying attention. It is important that they pay attention to the details because, as the gentleman knows, the devil is always in the details, and words are cheap, talk is cheap. Certainly actions speak louder than words, especially when it comes to this particular issue.

I would like to point out another problem that I think deserves attention. The Congress, I think, must take action in this era of corporate misdeeds. They must look at the drug industry's behavior, including the misstatement of profits and the abuse of patents.

Particularly damaging to consumers is when drug companies use patent laws to file frivolous claims that extend their market exclusivity, blocking far more affordable generic drugs from coming to the market. I would just like to use a case in point.

Prilosec is a case study of the failure of our current patent law. Many seniors in my district take Prilosec. It is a good medication. It is the number one medication prescribed for seniors for the treatment of heartburn and acid reflux disease. Now, the original patent for Prilosec expired in October of 2001, but the manufacturer delayed market entry of a generic by filing nearly a dozen lawsuits and by claim-

ing that Prilosec has unique benefits when administered with applesauce. As a result, the generic manufacturer had to do time-consuming research on how the generic research works when given with applesauce before it could be approved.

In 2001, the company had Prilosec sales of more than, and this is an astounding figure, more than \$16 million per day. And during the year, the company raised the price of Prilosec by more than four times that of the rest of the inflation within our economy.

Now, this specific scenario and others like it amount to an incredible windfall for the drug industry, one that Congress simply must not allow to continue. These higher drug prices hurt seniors who depend on Medicare the most, because they are not shielded by the full cost of drugs like those who have insurance coverage.

During the past 10 years, 10 of the 50 drugs most frequently used by seniors were generic drugs, while the remaining 40 were brand-name drugs. Now, the prices of generic drugs used most frequently by seniors rose 1.8 percent, 1.8 percent from January 2001 to January 2002. During the same period, prices for the brand-name drugs increased by an average of 8.1 percent, or three times the rate of inflation.

So I think this brings us to only one reasonable conclusion and that is that we need a voluntary prescription drug benefit with a predictable premium that is a part of the Medicare benefit package that America's seniors can depend upon, just as they depend upon the Medicare system today.

As I said, I hope the American people are paying attention, because talk is cheap, actions speak louder than words; and those who do what is right for America's senior citizens, in my judgment, are those who deserve to remain in this institution. And those who turn their back on America's seniors and instead support the pharmaceutical industry, they are the ones that I think have relinquished their right to serve here.

□ 2130

Mr. PALLONE. Mr. Speaker, I want to thank the gentleman because he brought up so many good points on this issue. But particularly when the gentleman was talking about the roadblocks, if you will, that the brand-name companies put up to try to prevent generics from coming to the market, I think that is so significant.

As the gentleman mentioned earlier, the other body last week actually passed out of committee a bill that would close a lot of these loopholes with the generics, and particularly this idea that once they file suit, it is up to 30 months that they can prevent the generic from coming to market. Thirty months? We are talking about almost 3 years, 2½ years, which is absolutely

crazy, when we know all these seniors that are out there that are suffering.

In fact, they passed that bill before they even passed the benefit bill. They are probably going to attach the benefit structure to that bill. I have to say that the other body, I think in large part because they have a Democratic majority, has been trying to address this price issue even before, in a sense, they have addressed the benefit issue, because they realize how important the price issue is.

The gentleman could argue, and I do not agree with that, but the gentleman could argue that if we addressed the price issue effectively, that that would go far toward solving the problem. I still think we need the benefit; but we need both, essentially.

I just find that so often the issue of price, though, is what people talk about, as my colleague, the gentleman from Maine, knows. That is what our constituents are constantly bringing up when we have a town meeting or when we see them on the street. That is what they talk about: how to address the price issue.

The Republicans here in the House did absolutely nothing to address that issue. They had that noninterference clause. I actually brought it with me, because it is amazing.

The gentleman will remember, in the Committee on Commerce markup, they never even mentioned it. They sort of suggested they were going to have discounts through competition. I remember the Republican chairman kept saying, well, we are going to have discounts.

I think the gentlewoman from Connecticut (Mrs. JOHNSON) on the floor said there was going to be a discount because of competition between the private insurance companies. But they have right in the bill, I am just going to read it, that "the administrator may not institute a price structure for the reimbursement of covered outpatient drugs, or interfere in any way with negotiations between the sponsors and Medicare+Choice organizations and drug manufacturers" that relate to price. In other words, they cannot bring up the price issue in the course of negotiations.

It is just amazing to me how, on the one hand, they suggest that somehow these private insurance companies are going to compete with each other, but that has to be totally on their own. That cannot be anything that the administrator of the Medicare program does. They cannot interfere in any way to try to bring the price down.

Mr. STRICKLAND. If the gentleman will continue to yield, Mr. Speaker, that provision certainly was influenced by the pharmaceutical industry. Basically, they are putting into law a prohibition on the Secretary of Health and Human Services, who is supposed to be representing the American people.

They are really going to try to prohibit him by law from doing anything that is going to lower the prices of these prescription drugs.

Mr. PALLONE. Exactly.

Mr. STRICKLAND. Why would we do that if it were not simply to satisfy the pharmaceutical industry?

I want to tell the gentleman, this is not a Republican or Democratic issue back home at the grassroots. I went to a VFW hall this past Sunday morning for breakfast, and there were people there at that hall that were talking about not being able to afford their medicines. They were Republicans and Democrats. This is an issue that cuts across parties.

It cuts across economic levels, as well, because people can be fairly well-to-do and be unable to see that their parents or their relatives or their neighbors, their elderly neighbors, have access to life-saving medications.

People are sick of this. They are absolutely outraged at what is happening. Why that outrage does not result in some meaningful action here in the House of Representatives is beyond me. This problem has been with us for quite some time. We talk and we talk, and we have campaigns, and we say we are going to do something about it; yet time passes, and then we go through that kind of farcical exercise that we went through in our committee, where every amendment that we brought up that was designed to make these drugs more affordable was shot down by our Republican friends. They simply would not take the first step in trying to lower the cost of these drugs.

They use all kinds of rhetoric. They talk about price controls. Well, I think when a pharmaceutical company charges a large HMO a certain amount for a medication and then charges some elderly, sick, income-limited senior citizen two or three times as much for that same medication, I think that is price discrimination; and I think that is what we should be looking for, getting rid of price discrimination that is directed toward America's most vulnerable citizens.

Mr. PALLONE. Mr. Speaker, if the gentleman will remember specifically, they actually went the opposite direction, because they wanted to eliminate the Medicaid, not Medicare, but the Medicaid price structure, if you will. And actually they did vote to do that at one point and suggested that somehow it was something that the pharmaceutical industry opposed; that somehow the pharmaceutical industry did not want to eliminate the pricing structure that existed under Medicaid. That is just not true. That was another thing that was a bone, basically, to the pharmaceutical industry.

And then I remember the biggest affront to me is when, I think it was our colleague, the gentleman from Michigan (Mr. STUPAK), who introduced a

couple of amendments that would basically use the negotiating or price structure, the price negotiations that we use now for the VA and I guess maybe for military, as well, and we just wanted to take that and use it for seniors. They said no, no, we do not want that; we cannot do that for seniors. We can do it for the military and the veterans, but we cannot do it for the seniors. It was amazing.

Mr. Speaker, I yield to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding; and I agree with my friend, the gentleman from Ohio, that this is really an issue of price discrimination. Why do seniors in America pay the highest prices in the world? It is because, frankly, they do not have any bargaining power or leverage now. The only way they can get that leverage, get that bargaining power, is through Medicare, through giving the Secretary of Health and Human Services the ability to bargain on their behalf.

I have to smile sometimes when we hear about how competition is going to drive down price. Well, I am open to hearing from anybody the last time there was a price war among brand-name pharmaceutical companies, where first one cut prices and then another cut prices, and then the original one responded with a further cut in prices. I do not remember that happening, ever.

In fact, the prices basically keep going up, even though the utilization is also going up. Even though people are using more drugs, they are buying more drugs; and it does not cost that much to make them. So when people use more Prilosec, or whatever, the profits go up at a very rapid rate; but even so, the pharmaceutical companies are increasing prices on brand-name drugs. We do not have competition.

Mr. PALLONE. We do not because we have a monopoly. Basically, the patent structure is giving a particular company a monopoly for that particular drug for a period of time. Unless we allow generics or others to come in, which they obviously try to prevent, as my colleague, the gentleman from Ohio, mentioned, we essentially have a monopoly for a period of time and do not have competition.

The thing that was amazing to me, too, is this whole idea that they are going to create competition among the private insurance companies, but the private insurance companies do not even offer the insurance. How can there be any competition? That is the competition they are talking about with the private insurance companies.

Mr. STRICKLAND. If my friend, the gentleman from New Jersey (Mr. PALLONE), will continue to yield, I keep going back to the fact, how long are the American people going to tolerate this situation? We can go to Canada,

we can go to Mexico, Belgium, England, Japan, we can go anywhere on Earth and buy medications that are developed within this country, many of them, in part using American taxpayer dollars; and we can buy those medications with much less cost to the consumer than the American citizen must pay.

How much longer are the American people going to put up with that situation? This is just a matter of gross discrimination. American citizens are subsidizing the costs of prescription medications for citizens all over this world. When are we going to put a stop to it? When are we going to say that our people are being treated unfairly?

Then, when are we going to say that in this country, America's seniors are not going to continue to be gouged and charged more than insurance companies or HMOs for the same medication? It seems like a no-brainer to me. I cannot understand why there is so much determination on the other side of the aisle to keep us from taking action against this situation.

Mr. PALLONE. I want to thank my colleagues. The answer, obviously, is because of what the brand-name pharmaceutical companies are doing to pay for the ads and pay for the campaigns. It is the special interest money.

REPORT ON H.R. 5120, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2003

Mr. ISTOOK (during the Special Order of Mr. PALLONE), from the Committee on Appropriations, submitted a privileged report (Rept. No. 107-575) on the bill (H.R. 5120) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore (Mr. SHUSTER). Pursuant to clause 1, rule XXI, all points of order are reserved on the bill.

REPORT ON H.R. 5121, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2003

Mr. ISTOOK (during the Special Order of Mr. PALLONE), from the Committee on Appropriations, submitted a privileged report (Rept. No. 107-576) on the bill (H.R. 5121) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore. Pursuant to clause 1, rule XXI, all points of order are reserved on the bill.

RECOMMENDING VIGOROUS PROSECUTION OF CORPORATE WRONGDOERS

The SPEAKER pro tempore (Mr. SHUSTER). Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes.

Mr. MCINNIS. Mr. Speaker, I have heard the gentleman from Ohio (Mr. STRICKLAND), and I have heard the previous speaker make a little comment about political donations. I hope the gentlemen have the opportunity to read the article this morning about the Democratic Party, the Democratic National Committee, and their \$100,000 sponsorship. They were hosted by Bristol-Myers this weekend. That is the prescription drug company. I think that is what these guys are talking about.

The gentleman from Ohio (Mr. STRICKLAND) I have a good deal of respect for. He is very capable, a bright gentleman. But I would like the gentleman to show me anybody on this House floor, anybody on this House floor who opposes seniors.

He makes a statement out here on the House floor about, well, we should be the party, I guess he is referring to the Democrats, we should be the party that comes back here because the Republicans are against seniors. I challenge the gentleman from Ohio (Mr. STRICKLAND) to show me one Republican or one Democrat or one Independent or Socialist, whatever our one party is registered as, show me one person on this House floor, just one, I say to the gentleman, that is opposed to seniors.

I do not know anybody opposed to seniors. That is as absurd as the statement we hear in here, well, they are against education. Show me one Congressman, show me one elected official in this Nation, whether it is a State representative, whether it is a school board member, whether it is a city council member, whether it is a Congressman, whether it is an appointed position in our political system, a cabinet member, that is opposed to education.

These statements are absurd on their face. They should not be made in a debate, where we really want results, or we want solutions. The prudent man is not going to come up here and accuse the other side of being against seniors: they do not support seniors, they do not like seniors, they want prescription care costs to continue to skyrocket. There is nobody in this country that wants that. I do not know anybody opposed to seniors.

If Members really want to get progress, if they really want to have bipartisan efforts towards a solution, do not stand up here and blatantly make statements that the other side is opposed to education, or the other side is opposed to seniors. We do not get anywhere doing that.

So I would suggest, constructively and in a positive fashion, to my colleagues to entertain a few more positive statements. Maybe they do not agree with the process, or maybe they have a disagreement with one of the proposals dealing with a matter that impacts seniors. Then address the proposal, instead of doing the politically expedient thing, and that is to take a jab at the other party by saying, well, they oppose seniors, in whole.

Obviously, Mr. Speaker, that is not the purpose of me being here today, although I do mention it; and it was with interest that Bristol-Myers, who announced last week, one of these corporations that is looking at restating their earnings, or they took some income in by prepay of customers when they picked up their drugs at the pharmacy, I do want to note that as the Democrats, as they were attacking us this evening, take a look at who hosted their event this weekend, this last weekend.

So both parties need to be very careful about that kind of thing, because there is some corporate sickness out there.

Let me give an example. Go to any shopping mall we can find in the country and look for the most beat-up car, the most beat-up automobile we can find on the shopping mall lot and tell people around there that you are going to steal the car so somebody will call the police and say you are stealing the car. Then drive that car off the parking lot. Try and steal the car.

Do Members know what is going to happen in our society? No matter what the value of the car, and let us just say it is the biggest piece of junk we would ever see in our life, and the car is worth \$200, that is all anybody would give us, \$200, probably to drive it straight to a junkyard, you drive it off, get it on the street, and immediately the police, the law enforcement in our Nation, the police will stop the vehicle. They will surround you.

I used to be a police officer, and I know what it is like to make a stolen car arrest. We do not go up and issue a ticket. We get out of the car, hold a weapon on them, a deadly weapon, and we aim it at them, right where we could kill them if they tried to make any kind of move towards us. We demand and order them out of their car.

□ 2145

You have them lay on the pavement. You immediately go up. You take that car thief. You put them in handcuffs. You take them back to your police unit and you take them to jail. That is exactly what you do for somebody that steals a junk car. And yet today what we are witnessing in this country is corporate thievery the likes that we have never seen.

Last week we had a guy named Scott Sullivan, 40 years old or so, who was

the chief financial officer for a corporation called WorldCom. And he was up here testifying in front of the United States Congress. Actually he refused to testify. But he was up here in front of the committee with a big smirk on his face. He took away tens and tens and tens of millions of dollars away from that corporation. By the way, he has never been in handcuffs. He has never ever been surrounded by police officers with their weapons drawn. And while he was smirking in front of that committee, as he was full of himself, construction continued on his 20 or \$25 million home that he is building in Florida at the expense of not only the stockholders of WorldCom, not only the bondholders of WorldCom, but probably the most important components of WorldCom Corporation and that is the employees. How many employees of WorldCom saw their pensions wiped out, saw many, many years of service?

Now, understand that WorldCom is not that old of a corporation. What they did is went out and acquired other companies, companies that had been in business for a long, long time; companies that had employees who had worked for them for many, many years; faithful employees, had dedicated their careers to that company. And WorldCom bombed and Scott Sullivan and his boss, Bernie Ebbers, who went to the board of directors and borrowed \$400 million from the corporation, walked away with a loan of \$400 million, not from a bank where anybody else has to go to get their loans, from the board of directors, the people that he wined and dined.

One of the directors, in fact, he supplied him a jet for a year. Actually he leased him a private jet. This jet probably cost the corporation 50 to 100 to maybe \$200,000 a month for that jet. And the president of the corporation loaned it to a member of the board of directors, leased it to him for a dollar a year. Those people are having these mansions built while they are testifying or appearing in front of the committee. And all of these thousands of employees of WorldCom, and many more to come, there will be layoffs, WorldCom will very likely file bankruptcy this week. It makes me ill to see the likes of Scott Sullivan building that mansion in Florida at the expense of our society. So I want to talk a little bit about that this evening.

I will keep my comments to about 30 minutes because we will shift from that to agriculture. Let me start out with kind of a basic lesson, and that is how corporations are formed. Remember that in America not all corporations are bad. In fact, most corporations are not bad. Most corporations in America, if you figure by the number of corporations, are small family businesses.

I will give you an example. My wife's family is in the ranching business.

They have that incorporated. It is a small corporation. Her dad runs the ranch and he is the president of the corporation. She and her brothers are on the board of directors. Her mom is chairman or the vice president of the corporation. So there are a lot of small businesses that are corporations. A lot of your friends in their little businesses are incorporated. So not all corporations are bad, just like not all priests are bad, but you have got a few bad apples.

The thing to think about is what is the structure of a corporation? Where are the checks and balances for a corporation? Our society works because we have checks and balances. What are the checks and balances of a corporation, and where do those checks and balances go wrong? What went wrong? Why did the system not correct itself?

Well, let us look at the structure of a corporation, and specifically look at the checks-and-balances system. A corporation consists of shareholders. Those are people in this country, a lot of people who have no idea that they own shares in a corporation or are actually shareholders probably through their mutual funds or through their pension funds. What they do is they put their retirement funds in trust for an organization that then turns around and uses those proceeds to buy stock in corporations. And there are a lot of people that have owned stock. Many Americans over the years, over the history of this country. The old corporations, the General Electrics, the General Motors, the car manufacturers like Ford and Chrysler and people like that. So the shareholders come together. They are the owners of the corporation. They are the people that invest the money, that put the capital, that is what the money is called, they put the capital in to purchase that and form that corporation.

What they do is oversee, because if you own a \$30 share of Chrysler Corporation or a share of some other company out there, you are not going to be involved in the day-to-day management of a corporation like Chrysler, for example. What you do is the shareholder gets together and they elect people to represent them in the corporation, and the people that they elect are called the board of directors.

Now the board of directors are very, very important people, very important people for a corporation. They are the trustees of the corporation, so to speak. They are a fiduciary duality, not only to the shareholders of the corporation, but they also have a fiduciary duty in their responsibilities that they carry out on behalf of the corporations. And they have a fiduciary duty not to act in their own self-interest, not to act in such a way that they make themselves rich at the expense of the corporation.

We are seeing this time after time after time. These corporations that are

in trouble today, I can tell you one of the points that the checks and balances failed, the check point that failed is right there on your board of directors. You can take a look at Enron Corporation. You can take a look at Kmart Corporation. You can look at WorldCom. You can look at Adelphia. You can look at TYCO Corporation. These are people that self-enriched themselves. Instead of carrying out their fiduciary duties to protect the shareholders, to represent the shareholders, because of the fact that they were induced for self-enrichment, in other words, put money in their own pockets, put it in their own pockets, they did this. They walked away from their very fundamental duties as a member of the board of directors. So we are having a failure in the system in some of these companies.

Well, the board of directors, remember, they were elected by the shareholders. They then turn around and they hire a president. They hire a president or a chief executive officer to run the corporation.

Now, the board of directors is not intended to be there every day, but the president of the corporation is. The president then installs his management team. And the management team in turn hires the employees underneath the management team that carry out the duties of the corporation. Now, obviously, these employees are very important, but the employees do not serve on the board of directors. The employees have to trust that the board of directors has the best interest of the corporation, which is the shareholders, in mind and the employees in mind. They have a lot of trust. These employees, they have a lot of trust in this board of directors. A lot of trust in that board of directors, and they got let down.

Without exception, in every one of these corporations you read about in Wall Street or you read about in your morning newspaper that are deceiving the shareholders, that are deceiving the American public, in every one of those cases you will see a fallacy or a letdown of the fiduciary duties by the board of directors.

Now, theoretically under the structure of a corporation, the board of directors should have legal counsel and they should have auditors. I do not have to say much about what has happened to the auditing profession with some of these corporations. What has happened, frankly, is they got in bed with the board of directors and they got in bed with the president. They have thought about self-enrichment. If there is one word that has led to the downfall of many of these major corporations, and I am not so concerned about the corporation as I am the employees of these corporations, the thousands and thousands of employees that are without their jobs, that their pen-

sion plans are wiped out, their savings plans are wiped out. They are not young people any more. They do not have a career ahead of them. Their career is behind them, and it gets wiped out. There is one word that describes all of that and that word is called self-enrichment. Self-enrichment.

The auditors did not do their job. I will tell you in the banking business, the auditors, when the Federal Government goes in and audits that bank, you cannot give the auditor his pencil. You cannot buy them a cup of coffee. You do not know those auditors. They do not go with you afterwards and have dinner. They do not go out and party with you. They do not socialize with you on weekends. That is what an auditor should be.

An auditor should be at arm's length. But that is not what happened. These little symbols mean arm's length. That is not what happened. What happened is the auditors, and in the case of the TYCO Corporation, the legal counsel got in with the president and the CEO, and this is the president who does not pay taxes on his art, sales taxes, so you can imagine what other deceitment he has worked on the American public, and the legal counsel gets in and starts paying himself bonuses of \$20 or \$30 million a year and then structures the bonuses in such a way that he can hide it from the board of directors. Or if the board of directors figures it out, he can say, do not worry, the reports that we give to the shareholders, and every year the board reports to the shareholders in what is called an annual report, I can structure our pay in such a way that we do not have to reveal it in this report to the shareholders. Because if the shareholders found out that the auditors were in bed with us or if the shareholders found out that our attorney was paid \$30 million a year for bonuses, they might get upset about it. So how do we conceal it from them? And that is exactly what they did in TYCO.

Let me give you a few examples of where this structure has failed, and almost without exception, in fact, I do not think we can find exception on the examples I will give you, you will find a breakdown either with the legal counsel, the attorneys, a breakdown with the auditors that started getting too cozy. They started getting contracts with the president. They started getting opportunities to put other companies together where they could self-enrich themselves. Enron is the perfect example of that. Andrew Fastow, who was the chief financial officer on the management team, goes out and makes separate companies, makes a sweetheart deal with the auditors, makes sweetheart deals with the attorneys, and pays himself \$30 million to run these partnerships.

By the way, where is Andrew Fastow this evening? He is in his multi-million

dollar home in Texas. In Enron's bankruptcy, does he have to give that up? No, in Texas and Florida you get to keep your home from bankruptcy, so Scott Sullivan gets to stay in his \$20 million home and Andrew Fastow gets to stay in his.

I can tell you if you went in and stole one hour of electricity from Enron, you would suffer more of a penalty than any of those people have suffered so far as far as criminal behavior is concerned. But let me go back here. I will point out to you where this breakdown occurred, where it has either been the board has not exercised proper oversight over the management or the management has gotten too cozy with the board and got the board intimidated to ask the management, where the management has concealed numbers with the auditors or concealed it from the auditors, or they got the legal counsel to buy into some of these deals.

Guess who the losers are? The losers in this case are at the bottom and top of this chart. The bottom, most important, the employees. They lose. They lose everything. Next, the shareholders. They lose. They lose everything. Now the shareholders knew there was some risk when they bought the stock, but they did not expect risk of fraud, but they knew there was a risk when they bought it. But the employees, they did not know there was a risk that the management would defraud the corporation, that management would walk away with multi-million dollar homes and money in accounts probably hidden all over the world. They did not know that.

Let us take a look at some of these examples. Well, let us take a look at a few examples here of where the corporate structure went wrong because some of the individuals contained within that corporate structure were focused on self-enrichment, broke or breached their fiduciary duties to their employees, to their customers, to their shareholders, to their profession, the accounting profession, which is an honorable profession. They breached their duties to the legal profession, which is an honorable profession. In any one of these cases you will see individuals who breached. They are thieves. They lied. They stole. These are two-bit crooks. That is exactly what they are, two-bit crooks. Remember my comparison at the beginning of the speech about you steal a car and the police surround you with their guns drawn. That is exactly what should have happened to the executives of these companies once they determine that they have stolen, these two-bit crooks.

Take a look at Kmart Corporation. How many employees lost their jobs because of the Kmart Corporation? What happened with the chief executives at Kmart? They went and got the

money. The president of the corporation, I think the vice president of Kmart got the corporation to loan them millions of dollars; millions. Remember, the numbers we talked about tonight are not thousands of dollars, hundreds of dollars. They did not loan you a candy bar, a pen or a pencil. These are millions. We talk about numbers in the millions.

So Kmart Corporation executives loaned themselves millions of dollars, and then what did they do? They go back to the corporation and say we know it is a loan. Let us make it a grant. What does a grant mean? It means you do not have to pay back the loan. So at the expense of the employees of the Kmart Corporation, at the expense of the customers of the Kmart Corporation, at the expense of the shareholders of Kmart Corporation, the executives of Kmart Corporation go get this money. And what do they do a week after they get the loans? Forgiven. In other words, you do not have to pay me back.

□ 2200

They sign their own papers saying the corporation does not have to be paid back. They take it into bankruptcy. Where are those executives with Kmart Corporation this evening? They are probably filling their bellies at a local steakhouse.

Let us look at WorldCom. I have talked about WorldCom a little, but let us talk about the loans again. How can you have a board of directors, for example, where the chief executive officer, Bernie Ebbers, allows one of the board members to have one of the corporation's private jets for \$1 a year, \$1 a year? Do my colleagues think that board member's going to stand up to Bernie Ebbers when Bernie Ebbers said, look, I need \$400 million.

Why did that board director not say we are not bank, we represent the shareholders, we represent the employees? We are not going to loan you \$400 million. What do you mean you want it forgiven, \$400 million. But that is not what happened. In WorldCom, they gave Bernie Ebbers \$400 on a so-called loan.

Then Scott Sullivan dances in. Scott Sullivan's a little numbers guy, the guy who wears the green shades. He is the one that moves numbers, moves expenses into capital expenditures so that he can show higher income so his bonus is higher. Scott Sullivan takes out millions and million of dollars. What is Scott Sullivan doing tonight? Right here. Here is what Scott Sullivan, and Gary Winnick of Global Crossing. Global Crossing, Gary Winnick's been here before. He walked out with 900-and-some million dollars. I want you to see what they are doing tonight. You see that headline in USA Today, "Homes of the Rich and the Infamous." There is Gary Winnick's

home in Bel Air, California, \$90 million. Here is Scott Sullivan's home and I have got a poster.

Let me show you Scott Sullivan's home. That is where Scott Sullivan is this evening. While I am giving this speech, he is sitting somewhere in that mansion. That is a \$20 million mansion. He is the guy. He is the accountant. He is the one that broke his fiduciary duties to WorldCom. And where are most of the employees of WorldCom this evening, the ones that do not have jobs? Probably sitting there in a family room with their family in tears, trying to figure out what they are going to do, all because of the corruption of these individuals.

We have got to nail these people. The Bush administration, I think, has made a solid commitment to do that. They ought to have the IRS at these people's doors. They ought to have the Securities and Exchange Commission at these people's doors; and by the way, kudos to the Securities and Exchange Commission and kudos to the Justice Department.

The Justice Department today under the President's direction came out with indictments against Adelphia, that is the cable company where the family took \$3.5 billion out of the corporation, not million, \$3.5 billion out of that corporation, self-enrichment, but they got indicted today. Good, good, good.

Every one of these people I speak about ought to be indicted. Andersen corporation, they are the auditors. Where are their fiduciary duties? Unfortunately, because we have got a few crooked two-bit crooks, two-bit accountants in Andersen, they brought the whole corporation down.

I hope that the Justice Department or the Attorneys General of these various States or whatever local enforcement agency can do it brings charges against the individuals. There are a lot of good hardworking people for Andersen corporation, and a few of these auditors who got money in their pockets, who became the two-bit crooks, brought down the entire corporation.

How many jobs were lost with Andersen, 20, 30,000? How many of them were crooked, couple hundred? The rest of the people were hardworking people, but they have lost their careers thanks to the people at the very top of Andersen who did not maintain their fiduciary duties to the people of that corporation.

ImClone Systems Incorporated, oh, what an ironic situation there. That is the Martha Stewart case. How ironic that Martha Stewart sells her stock the day before the announcement is made, which everybody knows will result in the stock collapsing, and the president of the corporation, close friend of hers and close friend of her daughter. Start taking a look at the interrelationships that exist. I am not

talking about sexual relationships. I am talking about looking at the inter-related business transactions they have with the auditors, with the lawyers, with their buddies at these parties. Take a look at how many fiduciary duties were breached as a result of that.

Who suffered there? Every investor that did not know to sell their stock. Ironically, Martha Stewart had some kind of divine message to sell her stock right before the thing collapsed, the day before, hours before it collapsed. What about the poor suckers that bought that? What about the employees of that corporation? Does the president of that corporation and the chairman of the board of that corporation feel good tonight about what he has put those employees through?

We talked about Enron, Tyco. What a ripoff Tyco was. Take a look at the attorney for Tyco. The legal profession, why does the local bar in that State, the legal profession not have this guy up for disbarment? That attorney of Tyco ought to be in front of the State bar of New York trying to fight for his license to practice law, but he is not. I hope somebody from New York asks their State bar association why the attorney for Tyco is not in front of their bar fighting for his legal license. He ought to go to jail; and of course, I am addressing the Members on the floor, but I would hope that he might hear my comments here.

Here is what ought to happen to him: Go to jail, just like that monopoly card. Now, some people say you are giving a charged speech tonight, you are speaking with a lot of emotion tonight, you are making a lot of charges.

I am not just making them on this. I can pull up another chart. Sunbeam Corporation, Global Crossing and I could talk for quite a bit of time on that, Conesco, Waste Management. The reason I feel so deeply committed to this issue, the reason I feel so strongly about this is our system has to work based on consumer confidence, based on credibility.

The system has to have self-correction in it. If one side gets out of kilter, the other side kicks in so you keep it generally in balance. We have got to make sure that the prudent standards are upheld.

What is happening is I am not so concerned about Scott Sullivan's \$20 million home in Florida or Gary Winnick's home out there in California, \$90 million. I am concerned about why the system did not catch them earlier, why is the system not in balance.

What about the employees of these corporations? What about all those people for Global Crossing or Enron or WorldCom, just about to lose it, why did not all those people, they are wiped out. That is why I am emotional this evening.

It was not the Democrats, although Sunbeam and Conesco and several of

those occurred under the Clinton administration. It was not the Republican administration, although we have had this last couple of weeks. This is not a partisan issue. This is not politicians who have gone astray, who are corrupt or a massive bribery scandal. That is not what we are talking about here. This is a breakdown that must be addressed immediately by very aggressive and active and unforgiving prosecution of the people who have violated the trust of the employees and who have violated the trust of the shareholders and who have violated their fiduciary responsibilities to their professions and to the corporations and the people for whom they work.

That is not asking too much. I hope in the next few weeks we see action like we have seen from the Bush administration in the last 24 hours, and that is criminal indictment against those families with the Adelphia Cable Corporation that stole 2.3 or 3.3, I cannot remember, but I can tell you it was in the billions. We need indictments. We ought to have indictments every day.

We ought to have the IRS. About 6 weeks ago, the IRS announced they are going to start doing random audits. They will come down here and just randomly pick somebody seated behind me and say hey, they may make \$40,000 a year, we are going to audit them. IRS ought to give up their random audits and focus audits strictly on these people, like that lawyer with Tyco, like WorldCom, like the Kmart people.

We need to come together on this, Republicans and Democrats. Again, it is not a Republican issue; it is not a Democrat issue. It is an issue that challenges the very business community, which we need in this country. This is a cleansing process. We have got to make sure that we cleanse correctly. We have got to make sure we get the cancer out, and it does require active prosecution and active pursuit of these two-bit crooks. They should not be treated any better than the way we treat somebody that steals a car. They ought to be treated exactly like that and that is go directly to jail and do not collect your \$200 as you pass go.

Enough of that subject, Mr. Speaker. Mr. Speaker, we have a fascinating half an hour. I would like to have my colleague, we have chatted about it, on agriculture, the gentleman from Nebraska (Mr. OSBORNE). All my colleagues know of his reputation. Obviously, he is one of the most reputable people here. His integrity is impeccable, and his knowledge on agriculture is second to none. I would like to at this point in time yield the balance of my time to the gentleman from Nebraska (Mr. OSBORNE) so we can have some discussions on the issue of agriculture and farming.

GENERAL PERCEPTION OF THE FARM BILL

Mr. OSBORNE. Mr. Speaker, I would like to thank the gentleman from Colo-

rado for yielding this time, appreciate his insights on the business community and some of the difficulties we have been having; and Mr. Speaker, tonight I would like to discuss the general perception of the farm bill that was passed in May, the Farm Security and Rural Investment Act.

It has been very interesting as we have watched what has gone on around the country, particularly in the urban areas, particularly areas of both coasts here in Washington.

The farm bill has been labeled as obscene. It has been labeled as fat. It has been labeled as pork, et cetera. I would like to read just three quotes from leading newspapers that pretty much express the general sentiments that we have been hearing.

This was from the Las Vegas Review Journal. The headline was "Farm Welfare," and the body of the article said this: "The House voted to slide backwards some 70 years, choosing socialism and abandoning market-based reforms in the Nation's Stalinesque farm policy in voting for the new farm bill." Those are very strong words, that we decided to slide back 70 years, chose socialism and Stalinesque policy.

The Washington Post, under the headline: "Grins for Mr. Bush," editorialized, "Mr. Bush signed a farm bill that represents a low point in his presidency, a wasteful corporate welfare measure that penalizes taxpayers and the world's poorest people in order to bribe a few voters." So the farm bill was labeled as a bribe and was a low point of the Bush presidency.

The Wall Street Journal, under the headline, "The Farm State Pigout," says this: "That great rooting snorting noise you hear in the distance, dear taxpayer, is the sound of election year farm State politics rolling out of the U.S. Congress. This alone amounts to one of the greatest urban to rural wealth transfers to wealth in history. A sort of farm bill great society."

The question is are these perceptions, are these quotes truly representative of the farm bill? Is this what we are all about? I would like to take a look at some of the actual data concerning this farm bill that was passed in May.

We will see that the spending on agriculture in 1999 was about \$19 billion. In 2000, under Freedom to Farm, spending was roughly \$33 billion; and in 2001, a year ago, it was roughly \$23 billion. So those were the last 3 years of Freedom to Farm, and the amounts above these marks here were emergency payments. In other words, farmers were losing their livelihood so Congress passed emergency payments.

Here we see a substantial increase of about \$12 billion emergency here, an increase of 6 or \$7 billion for emergency payments. The interesting thing is that if we look at this very carefully, we will find that the average here of these last 3 years of Freedom to Farm were \$24.5 billion per year.

We look at the new farm bill, 2002. We are projecting roughly \$19 billion. Then it goes up to 22. Then it starts to level off, and from that point on it is projected to go down. So what we are talking about in the first 4 years of the new farm bill, the projection, a little less than \$21 billion a year, which means that is \$3.5 billion less than what we averaged in the previous 3 years under the old farm bill.

□ 2215

Now, as far as I can tell, this does not represent a huge increase. Actually, it is a decrease. I do not believe that this is irresponsible policy.

And so the thing that people need to remember is that the reason that the new farm bill was passed was people decided that we could not continue to rely on emergency payments. These emergency payments were not made until October–November, so the banker did not know at the planting time what the farmer was going to receive and the farmer did not know what he was going to receive until well after harvest. So in this policy we have folded in what is emergency payments, and we believe this is a more reasonable approach and, actually, probably, will save money at this point.

Is this farm bill 15 percent of the Federal budget? We have heard of all the anguish, the weeping, wailing, and gnashing of teeth about how expensive it is. Is it 20 percent of the total tax bill? Is it 25 percent of the Federal budget? The answer, Mr. Speaker, is that this farm bill costs roughly one-half of 1 percent of the total Federal budget. Roughly one-half of 1 percent. And, actually, less than one-half of 1 percent goes to farmers, because 30 percent of the farm bill goes to school lunch programs through nutrition programs.

So we feel the question probably should be asked then at this point, is that one-half of 1 percent being well spent? Certainly, even though it is not a huge amount of the Federal budget, do we want to waste that money? I guess if people think about it, they will realize that in that one-half of 1 percent, the United States has the safest food supply in the world. We have no foot-and-mouth disease in this country. We have no mad cow disease in this country. When we buy a piece of fruit at the grocery store, we know it has not been sprayed by DDT. So we have the safest food supply, we have the most diverse food supply, and we also have the cheapest food supply in the world.

We spend roughly 9 percent of our total income on food in this country, whereas most countries are spending 20, 25, 30, sometimes as much as 50 percent for food. So I think that this one-half of 1 percent is certainly well spent.

Another question that might arise is, are farmers getting rich? That is the

perception, that this farm bill makes farmers wealthy and it is sort of a welfare system, as one of the newspaper articles said, for agriculture. Actually, I guess I can speak in terms of what my own home State has experienced. Last year, we lost 1,000 farmers in the State of Nebraska. These were farmers who no longer could keep going. Most of them left because of financial reasons.

The census figures in 1997 indicated that there were 5,500 farmers in the State of Nebraska that were under the age of 35 years of age. Ten years before that, in 1987, there were 12,600 farmers under 35 years of age. So we lost 60 percent of our farmers 35 years of age and younger. There simply are not young farmers in the business any more because it is not profitable.

So you may say, well, certainly the older farmers increased. And actually, again in Nebraska, the ages between 60 and 64 declined. Two thousand farmers left the profession at that point. So we have been losing all age brackets in the farm community.

In addition, I might mention, Mr. Speaker, that at the present time Nebraska has the three poorest counties in the country in terms of average per capita income. Now, that does not mean just three of the poorer. It is the three poorest, one, two and three. In one of these counties, the average per capita income is a little over \$4,000 a year per person. The other two counties are in the \$5,000 range. All of these counties do not have any urban area. They are totally rural. They are totally dependent upon agriculture. So I can assure my colleagues that we do not find that agriculture is something where people are getting rich.

The environmental working group has published a Web site in which all of the farm payments over the preceding 4 years have been published and anyone can access that site and see the horror stories that Scotty Pippin, the NBA player, got some farm payments; and we see cases where multiple entities of 10 or 15 or 20 or 30 people have gone together and maybe they have received payments of \$1 million. So the assumption is that those payments represent net profit. And yet I guess anybody in agriculture understands that that is not the case.

Now, let me give an example. Over the past 3 or 4 years, the pricing of a bushel of corn, what it will bring at the elevator, has probably averaged about \$1.70 per bushel. The cost of production for a bushel of corn is roughly \$2.20 per bushel. So after paying for fertilizer, seed, equipment, the combine, the tractor, the pesticides, it costs about \$2.20 a bushel, on the average, to produce a bushel of corn, which means, obviously, that the farmer is losing 50 cents a bushel.

So if that farmer has a couple thousand acres of corn and they are losing

50 cents a bushel and their yield is roughly 200 bushels per acre, that means, essentially, that the farmer would need a \$200,000 payment just to break even. Now, that does not allow the farmer any profit. It does not allow for any surplus of any type and obviously, he goes out of business if all he does is break even. So most of these farm payments have been to cover rather severe deficits in the farm economy.

The question we might ask ourselves is, well, why do we need a farm bill? People often wonder, well, the person who runs the drugstore on Main Street, the person who has an implement dealership or a clothing store has no guarantees. If Wal-Mart moves in, they have trouble. Why in the world should we help farmers? Let me talk a little about that tonight, Mr. Speaker.

I believe there is some reasons why we want to think about the importance of agriculture and why agriculture deserves some special attention.

First of all, farming is a unique industry in this sense. Farming is almost totally weather-dependent. I cannot think of any other industry where you can work a whole year and do things right, and in 10 minutes of hailstorm lose your whole crop. You cannot make it rain nor can you have it rain too much. You cannot prevent a 60 or 70-mile-an-hour windstorm that knocks down all your corn or your wheat. So because of the fact that agriculture is totally weather-dependent, it is somewhat unique.

Second, in regard to agriculture, it is impossible to control inventory. When you start to plant your crop in the spring, you have no idea what your yield is going to be, you have no idea what the yield around the United States is going to be, you have no idea what the yield in Australia or China or the European Union is going to be. And so there is no way, if there is too much of a crop, to cut back at that point.

Now, if you work for Ford, and there are too many SUVs on the road, you close down a production line or you begin to cut back on a whole plant. If there are too many suits of clothes on the market, then you begin to produce fewer suits of clothes. It is impossible for the agriculture industry to do this in adjusting their inventory.

Third, producers do not set the price. Now, I cannot think of any other industry where the person producing does not decide what it is going to cost, what the price is going to be. If you produce an automobile, you put a sticker on there that says \$20,000, \$25,000, \$30,000. A suit of clothes is \$300, \$400, or whatever. Yet the farmer, when he has harvested his crop, goes down to the elevator and finds out what the elevator operator will pay him for his crop. It may be \$2.50 for a bushel of corn, it may be \$1.50 for a bushel of corn. The same is true of the livestock

producer. The cattleman has to go to the packer, the pork producers go to the packer to find out what he can receive. So in agriculture, the producer does not set the price.

Fourth, and this is a very important point, farming is critical to national security. And the reason I say this is if we think about our oil industry, our petroleum industry, about 15, 20 years ago we realized that we could buy petroleum from OPEC for roughly \$12 a barrel, \$10 a barrel. In this country, it was costing \$18, \$22 a barrel to produce. So what we did is we quit exploring, we shut down our wells, and we began to decrease the number of refineries and began to shift our petroleum industry overseas. We decided if we could get it for \$12 a barrel from OPEC, that was a good deal. So now, all of a sudden, we wake up and one day we find that we are roughly 60 percent dependent on OPEC for our oil.

As we begin to add up the price of the Gulf War, as we begin to consider what it cost to keep the fleet in the Gulf and all of the military maneuvers that we have had to protect our oil supply, we would probably have to admit that we are now paying \$60, \$70, \$80, maybe even \$100 a barrel for that oil. So we have let our petroleum industry slip overseas.

The point is, Mr. Speaker, that this can easily happen to our agriculture. If we begin to ignore agriculture, it can easily go to other countries and then, all of a sudden, we are dependent upon our food supply, which is even more critical than being dependent upon the petroleum industry from OPEC.

Fifth, there is no level playing field worldwide. So it is assumed right now by many who have criticized the farm bill that the United States is the only country in the world that is helping our farmers, or farmers in general. And, actually, Mr. Speaker, the European Union subsidizes their farmers more than \$300 per acre, Japan subsidizes their farmers more than \$1,000 per acre, and in the United States our average subsidy is \$45 per acre. So it is a tremendous disparity here. It is much less than these other nations are subsidizing their agriculture.

So when we throw in the fact that our agricultural exports are being taxed or have tariffs of roughly 60 percent as they are sent overseas to other countries, and as goods come in from other countries to our Nation the tariff is roughly an average of 12 percent, and we look at that great disparity and then look at the difference in subsidization, we realize our agriculture producers right now are at somewhat of a disadvantage.

Sixth, I might mention this, that land, labor, and production costs vary widely worldwide. In Brazil, for instance, you can buy top quality land for \$100 to \$500 an acre. About an average of \$250 an acre. And that is top

grade land. The topsoil is 50 feet deep, enough rainfall to sometimes produce two crops in one year on that cropland. And cropland like that in the United States would cost at least \$2,500 to \$3,000 an acre. So you can buy it in Brazil for one-tenth what you would spend here in the United States.

The labor cost in Brazil is 50 cents an hour. Here in the United States it would be at least 20 times that amount. And, of course, in Brazil and many South American, many Third World countries, there are absolutely no environmental regulations. Of course, here in the United States, we have those regulations.

So the point of all this argument is that if we do not do something to protect our farmers, if we do not have a farm bill of some kind, we will simply be run over by what is going on around the rest of the world, and we need to be competitive because we do not want to rely on someplace else and the rest of the world for our food supply.

Let me also mention another item here, Mr. Speaker, that I think is very important. It may have some relationship to our previous speaker, the gentleman from Colorado. And the reason I am going through all of this background work is that at the present time we are experiencing a tremendous drought throughout much of this country, particularly in the Western States.

□ 2230

At the present time, roughly 40 percent of the United States is in a severe drought situation. In an average year, we have 15 percent of the country in a drought. So we have reached a crisis situation. Looking at this chart, we can see the areas that are heavily affected. Most of the western States are in severe drought. For instance, the home State of the gentleman from Colorado (Mr. MCINNIS) had the driest spring ever in recorded history, the last 97 years. They are in this black area. Arizona is in a huge drought. Southern California is in the same situation. We see the same thing in North Dakota, South Dakota, Kansas, Nebraska and so on.

Our livestock producers, particularly our cattlemen, have no pasture. The roots are dead in the pasture. There is no moisture. Cattlemen are very independent people. These people have no safety net. They do not participate in hardly any of the farm bill. Right now we are concerned because these folks need some type of disaster assistance. Yet because of the perception of the farm bill, that it is so fat, there is so much money for agriculture, it is going to be very, very difficult to get any help for these people who are going to have to sell their herds because there is no pasture.

When everybody sells their herds at the same time, there is a huge glut and the price goes way down. We have been

told that we have to have an offset from the present farm bill. In other words, we have to get some money from the farm bill that is already in the bill from somewhere else, and that is going to be very, very difficult to do. So the perception makes it difficult for agriculture at the present time.

If we think about New York State, if they had a huge flood, we would expect that they would get some disaster assistance, and we would hope that somebody would not say New York State has already received a great deal of disaster help for other causes and, therefore, they really should not get any more. This is the mentality that we are concerned about with regard to this drought and particularly with regard to our livestock producers at the present time.

Mr. Speaker, this really is pretty much the summary of what I wanted to say tonight. I appreciate the gentleman from Colorado (Mr. MCINNIS) yielding me this time. I would imagine that the gentleman has a comment or two regarding the drought situation that he has endured in his State.

Mr. MCINNIS. Mr. Speaker, reclaiming my time, I think the comments by the gentleman from Nebraska (Mr. OSBORNE) are particularly appropriate at this point.

Out in Colorado, we are suffering the most significant drought that we have seen in the last 97 years that the gentleman from Nebraska (Mr. OSBORNE) mentioned. The only reason I say that, that is as far back as the records are kept. It is impacting our cattle people significantly. We are looking for a pretty tough year out there. I appreciate the gentleman's comments, and I thank the gentleman for working with me this evening.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5093, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

Mr. HASTINGS of Washington (during the Special Order of Mr. MCINNIS), from the Committee on Rules, submitted a privileged report (Rept. No. 107-577) on the resolution (H. Res. 483) providing for consideration of the bill (H.R. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BECERRA (at the request of Mr. GEPHARDT) for today on account of official business in the district.

Ms. HARMAN (at the request of Mr. GEPHARDT) for today on account of attending a memorial service.

Ms. KILPATRICK (at the request of Mr. GEPHARDT) for today on account of official business.

Mr. MASCARA (at the request of Mr. GEPHARDT) for today on account of personal reasons.

Mr. HASTINGS of Florida (at the request of Mr. GEPHARDT) for today and July 16 on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. DEFazio) to revise and extend their remarks and include extra-neous material:

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFazio, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

Mr. SHOWS, for 5 minutes, today.

Mrs. THURMAN, for 5 minutes, today.

Mr. TAYLOR of Mississippi, for 5 minutes, today.

The following Members (at the request of Mr. PORTMAN) to revise and extend their remarks and include extra-neous material:

Mr. BURTON of Indiana, for 5 minutes, today and July 16, 17, and 18.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. JACKSON of Illinois to include extra-neous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost \$9,630.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on July 12, 2002 he presented to the President of the United States, for his approval, the following bills.

Number and Title

H.J. Res 87. Approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982.

H.R. 2362. To establish the Benjamin Franklin Tercentenary Commission.

H.R. 3871. To provide for an independent investigation of Forest Service firefighter deaths that are caused by wildfire entrapment or turnover.

ADJOURNMENT

Mr. MCINNIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 34 minutes p.m.) under its previous order, the House adjourned until tomorrow, Tuesday, July 16, 2002, at 10 a.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7902. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Modifying Procedures and Establishing Regulations To Limit the Volume of Small Red Seedless Grapefruit [Docket Nos. FV01-905-1 FIR; FV01-905-2 FIR] received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7903. A letter from the Administrator, Farm Loan Program, Department of Agriculture, transmitting the Department's final rule — Streamlining of the Emergency Farm Loan Program Loan Regulations; Correction (RIN: 0560-AF72) received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7904. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule — Raisins Produced From Grapes Grown in California; Additional Opportunity for Participation in 2002 Raisin Diversion Program [Docket No. FV02-989-5 IFR] received June 25, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7905. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule — Vidalia Onions Grown in Georgia; Revision of Reporting and Assessment Requirements [Docket No. FV02-955-1 IFR] received June 25, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7906. A communication from the President of the United States, transmitting his requests for FY 2003 budget amendments for the Securities and Exchange Commission and for the Departments of Agriculture, Commerce, and Housing and Urban Development; (H. Doc. No. 107-243); to the Committee on Appropriations and ordered to be printed.

7907. A communication from the President of the United States, transmitting his request to make available funds for the disaster relief program of the Federal Emergency Management Agency; (H. Doc. No. 107-244); to the Committee on Appropriations and ordered to be printed.

7908. A letter from the Principal Deputy, Department of Defense, transmitting an annual report on the STARBASE Program for FY 2001; to the Committee on Armed Services.

7909. A letter from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Department of the Treasury, transmitting the Department's final rule — International Banking Activities: Capital Equivalency Deposits [Docket No. 02-10] (RIN: 1557-AC05) received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7910. A letter from the Assistant General Counsel for Regulations, Office of Housing,

Department of Housing and Urban Development, transmitting the Department's final rule — Nonprofit Organization Participation in Certain FHA Single Family Activities; Placement and Removal Procedures [Docket No. FR-4585-F-02] (RIN: 2502-AH49) received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7911. A letter from the Director, FDIC Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule — Prohibition Against Use of Interstate Branches Primarily for Deposit Production (RIN: 3064-AC36) received June 26, 2002; to the Committee on Financial Services.

7912. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-P-7610] received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7913. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Changes in Flood Elevation Determinations — received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7914. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-D-7523] received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7915. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Final Flood Elevation Determinations — received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7916. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Final Flood Elevation Determinations — received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7917. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Changes in Flood Elevation Determinations — received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7918. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Department's final rule — Technical Amendments to Rules and Forms Due to the National Securities Markets Improvement Act of 1996 and the Gramm-Leach-Bliley Act [Release Nos. 34-46106 and IC-25621] (RIN: 3235-AI53) received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7919. A letter from the Acting Assistant General Counsel for Regulations, Special Education and Rehabilitative Services, Department of Education, transmitting the Department's final rule — Rehabilitation Engineering Research Centers (RERC) Program — received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

7920. A letter from the Assistant Secretary of Labor for Mine Safety and Health, Department of Labor, transmitting the Department's final rule — Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners (RIN: 1219-AB28) received

June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

7921. A letter from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule — Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits — received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

7922. A letter from the Inspector General, Environmental Protection Agency, transmitting the Agency's Annual Superfund Report to the Congress for Fiscal 2001, pursuant to 31 U.S.C. 7501 note; to the Committee on Energy and Commerce.

7923. A letter from the Secretary, Department of Energy, transmitting the Department's report entitled, "Fleet Alternative Fuel Vehicle Acquisition Report For Fiscal Year 2000"; to the Committee on Energy and Commerce.

7924. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to State Implementation Plan [GA-50; GA-53; GA-56; GA-58; GA-59-200230(a); FRL-7244-5] received June 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7925. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule -Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to State Implementation Plans [GA-49-200232(a); FRL-7244-7] received June 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7926. A letter from the Chief Financial Officer and Assistant Secretary for Administration, Department of Commerce, transmitting the Department's inventory of functions pursuant to the Federal Activities Inventory Reform Act of 1998; to the Committee on Government Reform.

7927. A letter from the Inspector General, Environmental Protection Agency, transmitting a report on the "EPA's Inventory of Commercial Activities"; to the Committee on Government Reform.

7928. A letter from the Chairman, Federal Housing Finance Board, transmitting the semiannual report on the activities of the Office of Inspector General ending March 31, 2002, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

7929. A letter from the Chairman, Federal Mine Safety and Health Review Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 2001, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

7930. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule — Pay for Administrative Appeals Judge Positions (RIN: 3206-AJ44) received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

7931. A letter from the Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Ballast Water Treatment Technology Demonstration Program; Request for Proposals for FY 2002 [Docket

No. 020418091-2091-01] (RIN: 0648-ZB20) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7932. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin by Vessels Using Trawl Gear in Bycatch Limitation Zone 1 of the Bering Sea and Aleutian Islands Management Area [Docket No. 011218304-1304-01; I.D. 051702C] received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7933. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Atlantic Highly Migratory Species; Commercial Shark Management Measures [Docket No. 011218303-1303-01; I.D. 110501B] (RIN: 0648-AP70) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7934. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-9-81, -82, -83, and -87 Series Airplanes, Model MD-88 Airplanes, and Model MD-90-30 Series Airplanes [Docket No. 2001-NM-44-AD; Amendment 39-12176; AD 2001-07-10] (RIN: 2120-AA64) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7935. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zone; Ohio River Mile 34.6 to 35.1, Shippingport, Pennsylvania [COTP Pittsburgh-02-005] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7936. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Special Local Regulations for Marine Events; Back River, Hampton, Virginia [CGD05-02-029] (RIN: 2115-AE46) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7937. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Fort Vancouver Fireworks Display, Columbia River, Vancouver, Washington [CGD13-02-009] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7938. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zones; Liquefied Hazardous Gas Tank Vessels, San Pedro Bay, California [COTP Los Angeles-Long Beach 02-010] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7939. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zones; Ports of Jacksonville and Canaveral, FL [CGD07-02-060] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7940. A letter from the Chief, Regulations and Administrative Law, USCG, Department

of Transportation, transmitting the Department's final rule — Regulated Navigation Area, Safety and Security Zones; Long Island Sound Marine Inspection and Captain of the Port Zone [CGD01-01-187] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7941. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations; Atlantic Avenue Bridge (SR 806), Atlantic Intracoastal Waterway, mile 1039.6, Delray Beach, FL [CGD07-02-062] received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7942. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Ohio River Miles 269.0 to 270.0, Gallipolis, Ohio [COTP Huntington-02-007] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7943. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Silver Dollar Casino Cup hydroplane races, Lake Washington, WA [CGD13-02-007] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7944. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zone; Port of Tampa, Tampa, FL [COTP TAMPA 02-046] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7945. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zone Regulations; St. Croix, U.S. Virgin Islands [CGD07-02-052] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7946. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zone; San Juan, Puerto Rico [CGD07-02-047] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7947. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Buffalo River, Buffalo, NY [CGD09-02-029] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7948. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Racine Harbor, Lake Michigan, Racine, Wisconsin [CGD09-02-010] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7949. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Ohio River Miles 252.0 to 253.0, Middleport, Ohio [COTP

Huntington-02-006] (RIN: 2115-AA97) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7950. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30311; Amdt. No. 3007] received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7951. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Calipatria, CA [Airspace Docket No. 01-AWP-18] received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7952. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30314; Amdt. No. 3010] received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7953. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30312; Amdt. No. 3008] received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7954. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Athens, OH [Airspace Docket No. 01-AGL-17] received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7955. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Air Tractor, Inc. Models AT-502, AT-502A, AT-502B, and AT-503A Airplanes [Docket No. 2002-CE-10-AD; Amendment 39-12764; AD 2002-11-03] (RIN: 2120-AA64) received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7956. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 777-200 and -300 Series Airplanes [Docket No. 2002-NM-38-AD; Amendment 39-12714; AD 2002-08-06] (RIN: 2120-AA64) received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7957. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron, Inc. Model 205A, 205A-1, 205B, 212, 412, 412EP, and 412CF Helicopters [Docket No. 2001-SW-37-AD; Amendment 39-12737; AD 2002-09-04] (RIN: 2120-AA64) received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7958. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the

Department's final rule — Airworthiness Directives; Boeing Model 767-200, -300, and -300F Series Airplanes [Docket No. 2002-NM-133-AD; Amendment 39-12772; AD 2002-11-11] (RIN: 2120-AA64) received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7959. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter Deutschland Model EC135 Helicopters [Docket No. 2001-SW-69-AD; Amendment 39-12762; AD 2002-11-01] received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7960. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Security Considerations for the Flightdeck on Foreign Operated Transport Category Airplanes [Docket No. FAA-2002-12504; Amendment No. 129-33] (RIN: 2120-AH70) received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7961. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Aircraft Company Model 390 Airplanes [Docket No. 2002-CE-19-AD; Amendment 39-12763; AD 2002-11-02] (RIN: 2120-AA64) received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7962. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Gulfstream Aerospace LP Model Galaxy and Gulfstream 200 Airplanes [Docket No. 2002-NM-123-AD; Amendment 39-12755; AD 2002-10-09] (RIN: 2120-AA64) received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7963. A letter from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30313; Amdt. No. 3009] received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7964. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Regulated Navigation Area; Chesapeake Bay Entrance and Hampton Roads, VA and Adjacent Waters [CGD05-01-066] (RIN: 2115-AE84) received June 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7965. A letter from the Chairman, Federal Maritime Commission, transmitting the Commission's final rule — Update of Existing and Addition of New Filing and Service Fees [Docket No. 02-05] received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7966. A letter from the Chairman, Surface Transportation Board, transmitting the Board's final rule — Arbitration-Various matters relating to its use as an effective means of resolving disputes that are subject to the Board's jurisdiction [STB Ex Parte No. 586] received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7967. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Modification of Tax Shelter Rules III [TD 9000] (RIN: 1545-BA62) received June 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7968. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — New York Liberty Zone Questions and Answers [Notice 2002-42] received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7969. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Application of Employment Taxes to Statutory Stock Options [Notice 2002-47] received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7970. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Tax on Prohibited Transactions [Rev. Rul. 2002-43] received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7971. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property [Rev. Rul. 2002-40] received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7972. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Amounts received under Accident and Health Plans (Rev. Rul. 2002-41) received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7973. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Health Reimbursement Arrangements (Notice 2002-45) received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7974. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Constructive Sales Treatment for Appreciated Financial Positions (Rev. Rul. 2002-44) received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7975. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Renewable Electricity Production Credit, Publication of Inflation Adjustment Factor and Reference Prices for Calendar Year 2002 [Notice 2002-39] received June 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7976. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Changes in accounting periods and methods of accounting (Rev. Proc. 2002-46) received June 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7977. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Qualified Pension, Profit-sharing and Stock Bonus Plans (Rev. Rul. 2002-45) received June 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk

for printing and reference to the proper calendar, as follows:

Mr. THOMAS: Committee on Ways and Means. H.R. 4946. A bill to amend the Internal Revenue Code to provide health care incentives related to long-term care; with an amendment (Rept. 107-572). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 3048. A bill to resolve the claims of Cook Inlet Region, Inc., to lands adjacent to the Russian River in the State of Alaska; with an amendment (Rept. 107-573). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 3401. A bill to provide for the conveyance of Forest Service facilities and lands comprising the Five Mile Regional Learning Center in the State of California to the Clovis Unified School District, to authorize a new special use permit regarding the continued use of un conveyed lands comprising the Center, and for other purposes; with an amendment (Rept. 107-574). Referred to the Committee of the Whole House on the State of the Union.

Mr. ISTOOK: Committee on Appropriations. H.R. 5120. A bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, and for other purposes (Rept. 107-575). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAYLOR of North Carolina: Committee on Appropriations. H.R. 5121. A bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes (Rept. 107-576). Referred to the Committee of the Whole House on the State of the Union.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 483. Resolution providing for consideration of the bill (H.R. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes (Rept. 107-577). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. RANGEL:

H.R. 5115. A bill to suspend temporarily the duty on Polymethylpentene (TPX); to the Committee on Ways and Means.

By Mr. HASTINGS of Washington:

H.R. 5116. A bill to designate the facility of the United States Postal Service located at 608 2nd Avenue in Zillah, Washington, as the "Sid Morrison Post Office Building"; to the Committee on Government Reform.

By Mr. YOUNG of Florida:

H.R. 5117. A bill making supplemental appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; to the Committee on Appropriations.

By Mr. SENSENBRENNER (for himself, Mr. SMITH of Texas, Mr. GOODLATTE, Mr. GEKAS, Mr. TAUZIN, Mr. COBLE, Ms. HART, and Mr. HYDE):

H.R. 5118. A bill to provide for enhanced penalties for accounting and auditing improprieties at publicly traded companies, and for other purposes; to the Committee on the

Judiciary, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ISSA:

H.R. 5119. A bill to make technical corrections in patent law; to the Committee on the Judiciary.

By Mr. BACA (for himself, Mr. SIMPSON, Mr. SABO, Mr. BURR of North Carolina, Mr. WALSH, Mr. TIAHRT, Mr. KELLER, Mr. MURTHA, and Mrs. MYRICK):

H.R. 5122. A bill to provide for the award of a gold medal on behalf of Congress to Arnold Palmer in recognition of his service to the Nation in promoting excellence and good sportsmanship in golf; to the Committee on Financial Services.

By Mr. HUNTER:

H.R. 5123. A bill to address certain matters related to Colorado River water management and the Salton Sea by providing funding for habitat enhancement projects at the Salton Sea, and for other purposes; to the Committee on Resources.

By Mr. LUTHER (for himself, Mr. OBERSTAR, Mr. RAMSTAD, Mr. PETERSON of Minnesota, and Ms. MCCOLLUM):

H.R. 5124. A bill to provide for the establishment of a National Organ Donor Registry, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GARY G. MILLER of California (for himself, Mr. RADANOVICH, Mr. MOLLOHAN, Mr. WICKER, Mr. BACHUS, and Mr. DUNCAN):

H.R. 5125. A bill to amend the American Battlefield Protection Act of 1996 to authorize the Secretary of the Interior to establish a battlefield acquisition grant program; to the Committee on Resources.

By Mr. PAUL:

H.R. 5126. A bill to prohibit the provision of Federal funds to the housing-related government-sponsored enterprises and to remove certain competitive advantages granted under law to such enterprises; to the Committee on Financial Services.

By Mr. SMITH of New Jersey:

H.R. 5127. A bill to amend title 38, United States Code, to provide for payment by the Secretary of Veterans Affairs of dependency and indemnity compensation to the surviving spouse of a deceased veteran who for at least one year preceding death had a combination of service-connected disabilities rated totally disabling that included a compensable service-connected cold-weather injury; to the Committee on Veterans' Affairs.

By Mr. ANDREWS:

H. Con. Res. 441. Concurrent resolution expressing the sense of the Congress that the Children's Internet Protection Act is constitutional as it applies to public libraries; to the Committee on the Judiciary.

By Ms. BROWN of Florida (for herself, Mr. ABERCROMBIE, Ms. BALDWIN, Mr. BLAGOJEVICH, Mr. BOEHLERT, Mrs. CAPPS, Mr. CAPUANO, Ms. CARSON of Indiana, Mr. FROST, Mr. HINCHEY, Mr. HINOJOSA, Mr. HOLT, Mr. HYDE, Mr. ISRAEL, Mr. JACKSON of Illinois, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Ms. KILPATRICK, Mr. KLECZKA, Mr. LAMPSON, Mrs. MCCARTHY of New

York, Mr. McDERMOTT, Ms. McKINNEY, Mrs. MEEK of Florida, Mr. MEEKS of New York, Ms. MILLENDER-McDONALD, Mrs. MORELLA, Mr. MURTHA, Mrs. NAPOLITANO, Mr. OWENS, Mr. PAYNE, Ms. ROS-LEHTINEN, Mrs. ROUKEMA, Mr. RUSH, Mr. TANNER, Mr. TOWNS, Mr. TRAFICANT, Mr. WATT of North Carolina, Mr. WAXMAN, and Ms. WOOLSEY):

H. Res. 484. A resolution expressing the sense of the House of Representatives with respect to epilepsy; to the Committee on Government Reform.

By Ms. DELAULO (for herself, Mrs. BIGGERT, Ms. MILLENDER-McDONALD, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. BROWN of Florida, Ms. MCCARTHY of Missouri, Mrs. CLAYTON, Mrs. CAPPS, Mrs. MINK of Hawaii, Mr. FROST, Ms. WATERS, Mr. LARSON of Connecticut, Ms. WOOLSEY, Mrs. CHRISTENSEN, Ms. SANCHEZ, Ms. MCCOLLUM, Mrs. MALONEY of New York, Ms. PELOSI, Mr. BACA, Mr. KILPATRICK, Mr. GONZALEZ, Mr. ROTHMAN, Ms. DUNN, Ms. BALDWIN, Ms. CARSON of Indiana, Mr. FILNER, Ms. NORTON, Mr. PAYNE, Mr. KENNEDY of Rhode Island, Ms. WATSON, Mrs. JONES of Ohio, Mr. FOLEY, Mr. GRUCCI, Mrs. MEEK of Florida, Mrs. LOWEY, Mr. KILDEE, Ms. ROYBAL-ALVARADO, and Ms. SCHAKOWSKY):

H. Res. 485. A resolution recognizing the importance of sports in fostering the leadership ability and success of women; to the Committee on Government Reform.

By Mr. SULLIVAN (for himself, Mr. OTTER, Mr. BRADY of Texas, Mr. RYAN of Kansas, and Mr. POMBO):

H. Res. 486. A resolution amending the Rules of the House of Representatives to establish a discretionary spending ledger and a mandatory spending ledger; to the Committee on Rules.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

327. The SPEAKER presented a memorial of the General Assembly of the State of Wisconsin, relative to Assembly Resolution No. 46 memorializing the United States Congress to take the following actions: to insist that the United States abide by the Anti-Ballistic Missile Treaty; to respect the 1996 ruling of the International Court of Justice on nuclear weapons; to ratify the CTBT; to fulfill all of the United States' pledges made at the May 2000 Nuclear NPT review; and to reject the national administration's "Nuclear Posture Review"; to the Committee on International Relations.

328. Also, a memorial of the Legislature of the State of Kansas, relative to Senate Concurrent Resolution No. 1620 memorializing the United States Congress to adopt United States House of Representatives Concurrent Resolution No. 3 providing for a national holiday honoring Cesar Chavez and that this holiday be celebrated on Cesar Chavez's birthday, March 31; to the Committee on Government Reform.

329. Also, a memorial of the Legislature of the State of Wyoming, relative to a Joint Resolution memorializing the United States Congress to request the Bureau of Land Management to develop and implement a coordinated resource management plan for the Jack Morrow Hills area that allows multiple use in accordance with the Federal Land Policy and Management Act of 1972; to the Committee on Resources.

330. Also, a memorial of the Legislature of the State of Illinois, relative to House Joint Resolution No. 54 memorializing the United States Congress to authorize funding to construct 1,200-foot locks on the Upper Mississippi and Illinois River System; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 287: Mr. WYNN, Mr. LAHOOD, Mr. EHLERS, and Mr. BOOZMAN.
H.R. 664: Mr. HILLEARY.
H.R. 858: Mr. KLECZKA.
H.R. 1037: Mr. HOEKSTRA.
H.R. 1109: Mr. GOSS.
H.R. 1122: Mr. CLYBURN, Mrs. CHRISTENSEN, Mrs. JONES of Ohio, Mr. KUCINICH, Ms. BROWN of Florida, Mr. OWENS, Mr. CUMMINGS, and Mr. FALEOMAVAEGA.
H.R. 1184: Mr. CALVERT, Mr. SHAYS, Mr. KANJORSKI, Mr. THOMPSON of Mississippi, and Mr. FRANK.
H.R. 1296: Mr. BROWN of Ohio and Mr. SWEENEY.
H.R. 1305: Mr. BAIRD.
H.R. 1425: Mr. MCGOVERN.
H.R. 1433: Mr. HOLT.
H.R. 1452: Mr. BROWN of Ohio.
H.R. 1475: Mr. PRICE of North Carolina.
H.R. 1541: Mr. FROST.
H.R. 1604: Ms. MCCARTHY of Missouri.
H.R. 1861: Mr. WEXLER.
H.R. 1990: Mrs. MALONEY of New York.
H.R. 2035: Mr. KANJORSKI.
H.R. 2322: Mr. BAIRD.
H.R. 2349: Mr. SPRATT.
H.R. 2380: Mr. FROST.
H.R. 2484: Mr. BACA.
H.R. 2638: Mr. PAYNE.
H.R. 2677: Ms. BALDWIN.
H.R. 2807: Mr. HULSHOF.
H.R. 2820: Mr. PASCRELL.
H.R. 3109: Mr. SOUDER, Mr. BAIRD, and Mr. BACA.
H.R. 3131: Mrs. THURMAN.
H.R. 3201: Mr. GEKAS.
H.R. 3320: Mr. MCHUGH and Mr. JONES of North Carolina.
H.R. 3360: Ms. MCCARTHY of Missouri.
H.R. 3368: Mr. STARK, Ms. DELAURO, Ms. BROWN of Florida, and Mrs. DAVIS of California.
H.R. 3388: Mr. WILSON of South Carolina and Mr. GRUCCI.
H.R. 3407: Mr. GALLEGLEY.
H.R. 3469: Mr. BLAGOJEVICH, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. BONIOR.
H.R. 3552: Mr. FILNER and Mr. SANDERS.
H.R. 3580: Mr. KENNEDY of Minnesota.
H.R. 3612: Mr. NADLER.
H.R. 3771: Mr. KING.
H.R. 3831: Mr. BOEHLERT.
H.R. 3834: Mrs. MINK of Hawaii.
H.R. 3884: Mr. BERRY, Mrs. DAVIS of California, and Mrs. MCCARTHY of New York.
H.R. 3932: Mr. LUTHER.
H.R. 3945: Mr. PAYNE, Mr. ACEVEDO-VILA, Mr. BRADY of Pennsylvania, Mr. CONYERS, Mrs. CHRISTENSEN, Mr. FROST, Mr. KUCINICH, Mr. MCGOVERN, and Ms. BERKLEY.
H.R. 4010: Mr. LINDER and Mr. JEFF MILLER of Florida.
H.R. 4014: Mr. SAWYER.
H.R. 4025: Mrs. EMERSON.
H.R. 4026: Mr. RYAN of Wisconsin.
H.R. 4046: Mr. BONIOR.
H.R. 4066: Mr. MOORE.
H.R. 4075: Mr. POMEROY.

H.R. 4084: Mr. GEORGE MILLER of California and Ms. LEE.
H.R. 4098: Mr. SCOTT.
H.R. 4515: Mr. LAHOOD.
H.R. 4575: Mr. DIAZ-BALART and Mr. DINGELL.
H.R. 4582: Mr. TIBERI and Ms. RIVERS.
H.R. 4600: Mr. LEWIS of Kentucky, Mr. REGULA, Mr. KOLBE, Mr. SENSENBRENNER, Mrs. NORTHUP, Mr. WALSH, and Mr. LAHOOD.
H.R. 4643: Mr. CAPUANO.
H.R. 4646: Mr. DELAHUNT and Mr. ROTHMAN.
H.R. 4653: Mr. BENTSEN.
H.R. 4669: Mr. STARK.
H.R. 4693: Mr. ENGEL, Mr. FRELINGHUYSEN, Mr. SWEENEY, Mr. MATSUI, and Ms. BERKLEY.
H.R. 4701: Mr. HOYER, Mr. HASTINGS of Washington, Mr. STENHOLM, Mr. ENGEL, Mr. PRICE of North Carolina, Mr. BALDACCIO, Mr. LEACH, Mr. BACHUS, Mrs. MYRICK, Mr. ROYCE, Mr. REYNOLDS, Mrs. BONO, Mr. SHAYS, Mr. SHUSTER, Mr. MCKEON, and Ms. NORTON.
H.R. 4711: Ms. SCHAKOWSKY.
H.R. 4715: Mr. BACA.
H.R. 4720: Mr. PRICE of North Carolina.
H.R. 4738: Mr. HALL of Texas and Mr. FOSSELLA.
H.R. 4748: Mr. McDERMOTT, Ms. MCCOLLUM, Mr. WU, and Ms. MCCARTHY of Missouri.
H.R. 4760: Mr. GREEN of Texas.
H.R. 4764: Mr. GUTIERREZ, Mrs. NAPOLITANO, and Mr. BONIOR.
H.R. 4793: Mr. TOWNS.
H.R. 4840: Mr. PETERSON of Minnesota and Mr. HAYWORTH.
H.R. 4857: Ms. HARMAN and Ms. WATSON.
H.R. 4865: Mr. DOYLE.
H.R. 4939: Mr. SHOWS.
H.R. 4964: Mr. ENGLISH.
H.R. 4965: Mr. FLETCHER, Mr. LAHOOD, Mr. BALLENGER, Mrs. CUBIN, Mr. SHADEGG, Mr. COOKSEY, and Mr. RILEY.
H.R. 5022: Mr. CAMP and Mr. COSTELLO.
H.R. 5033: Mr. CALVERT, Mrs. NORTHUP, Mr. YOUNG of Florida, Mr. HEFLEY, Mr. PENCE, and Mr. BARR of Georgia.
H.R. 5047: Mr. DOYLE.
H.R. 5050: Mr. KOLBE.
H.R. 5064: Mr. BLUNT, Mr. PENCE, Mr. SOUDER, Mr. DELAY, Mr. RYUN of Kansas, and Ms. PRYCE of Ohio.
H.R. 5070: Mr. SKELTON, Mrs. CAPPS, Mr. WEXLER, and Mr. BARRETT.
H.R. 5076: Ms. SCHAKOWSKY.
H.R. 5081: Mr. LEWIS of California.
H.R. 5082: Mr. RAHALL.
H.R. 5090: Mr. RYUN of Kansas, Mr. OTTER, and Mrs. MYRICK.
H.R. 5095: Mr. McINNIS.
H.R. 5100: Mrs. ROUKEMA.
H.R. 5107: Mr. DINGELL, Ms. KILPATRICK, and Ms. EDDIE BERNICE JOHNSON of Texas.
H.R. 5112: Mr. FROST and Ms. BROWN of Florida.
H.R. 5113: Mr. YOUNG of Alaska.
H.J. Res. 21: Mrs. CHRISTENSEN.
H.J. Res. 97: Mr. JACKSON of Illinois.
H. Con. Res. 60: Mr. LIPINSKI, and Ms. EDDIE BERNICE JOHNSON of Texas.
H. Con. Res. 114: Mr. RUSH and Ms. BERKLEY.
H. Con. Res. 127: Mr. KING, Mr. NEAL of Massachusetts, Mr. WEXLER, Mr. McNULTY, Mr. DAVIS of Illinois, Mrs. CHRISTENSEN, Mr. MCGOVERN, Mr. HONDA, and Ms. BERKLEY.
H. Con. Res. 182: Mr. FALEOMAVAEGA, Mr. PAYNE, Mr. ENGLISH, Mrs. CHRISTENSEN, and Mrs. JONES of Ohio.
H. Con. Res. 199: Ms. NORTON, Mr. BROWN of Ohio, Ms. LEE, Mr. LYNCH, Mr. STRICKLAND, Mrs. CHRISTENSEN, Mr. WATT of North Carolina, and Mr. BACA.
H. Con. Res. 269: Mr. LEVIN and Mr. SPRATT.

H. Con. Res. 291: Mr. ROTHMAN.
H. Con. Res. 349: Mrs. SLAUGHTER, Mrs. CAPPS, and Mr. BONIOR.
H. Con. Res. 367: Mr. RYUN of Kansas, Mr. SMITH of New Jersey, Mr. PETRI, Mr. HAYES, and Mr. HUNTER.
H. Con. Res. 385: Mr. BACHUS.
H. Con. Res. 396: Ms. KAPTUR, Mr. PAYNE, Mr. ACEVEDO-VILA, Mr. BRADY of Pennsylvania, Mr. DAVIS of Illinois, and Mr. BACA.
H. Con. Res. 410: Mr. EHLERS and Mr. MEEKS of New York.
H. Con. Res. 439: Mrs. THURMAN, Mr. ROSS, Mr. SWEENEY, Mrs. EMERSON, Mr. WATTS of Oklahoma, Ms. KAPTUR, Mrs. BONO, and Mr. KILDEE.
H. Res. 50: Mrs. MEEK of Florida, Mr. HILLIARD, and Mr. CLYBURN.
H. Res. 126: Mr. FROST, Mrs. CHRISTENSEN, Ms. WATSON, Mr. KING, Ms. BROWN of Florida, Mr. SABO, Mr. OWENS, Mr. MCGOVERN, Ms. BERKLEY, and Mr. BACA.
H. Res. 253: Ms. BERKLEY.
H. Res. 410: Mr. GILMAN, Mr. LANTOS, Mr. MCGOVERN, Mr. ACKERMAN, Mr. DOYLE, Mr. BERMAN, and Mr. ENGLISH.
H. Res. 437: Mr. SCOTT, Mr. ISSA, Mr. PETERSON of Minnesota, and Mr. SMITH of Texas.
H. Res. 448: Mr. REHBERG, Mr. OSBORNE, Mr. HINOJOSA, and Mr. BACA.
H. Res. 460: Mr. KILDEE, Mr. KENNEDY of Rhode Island, and Mr. OWENS.
H. Res. 482: Mr. GEKAS and Mr. STEARNS.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1577: Mr. LUCAS of Oklahoma.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 5093

OFFERED BY: Mr. BLUMENAUER

AMENDMENT No. 1: Add at the end, before the short title, the following new section:

SEC. ____ None of the funds appropriated or otherwise made available by this Act may be used to enter into any new commercial agricultural lease on the Lower Klamath and Tule Lake National Wildlife Refuges in the States of Oregon and California that permits the growing of row crops or alfalfa.

H.R. 5093

OFFERED BY: Mrs. CAPPS

AMENDMENT No. 2: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. ____ None of the funds provided in this Act may be expended by the Department of the Interior to approve any exploration plan, any development and production plan, any application for permit to drill or to permit any drilling on Outer Continental Shelf Southern California Planning Area leases numbered OCS-P0443, OCS-P0445, OCS-P0446, OCS-P0449, OCS-P0499, OCS-P0500, OCS-P0210, OCS-P0527, OCS-P0460, OCS-P0464, OCS-P0409, OCS-P0396, OCS-P0397, OCS-P0402, OCS-P0403, OCS-P0408, OCS-P0414, OCS-P0319, OCS-P0320, OCS-P0322, OCS-P0323-A, OCS-P0426, OCS-P0427, OCS-P0432, OCS-P0435, OCS-P0452, OCS-P0453, OCS-P0425, OCS-P0430, OCS-P0431, OCS-P0433, OCS-P0434, OCS-P0415, OCS-P0416, OCS-P0421, and OCS-P0422.

H.R. 5093

OFFERED BY: MR. ISSA

AMENDMENT NO. 3: At the end of the bill (before the short title), insert the following:

SEC. _____. Of the funds appropriated in title I under the heading "Insular Affairs—Assistance to Territories", not more than \$23,012,058 may be made available before September 30, 2003, for grants to the Government of American Samoa.

H.R. 5093

OFFERED BY: MR. ISSA

AMENDMENT NO. 4: At the end of the bill (before the short title), insert the following:

SEC. _____. Of the funds appropriated in title I under the heading "Insular Affairs—Assistance to Territories", not more than \$22,012,058 may be made available before September 30, 2003, for grants to the Government of American Samoa.

H.R. 5093

OFFERED BY: MRS. MINK

AMENDMENT NO. 5: Page 74, after line 23, insert the following new section:

SEC. 142. To the Office of Insular Affairs, for partial reimbursement to the State of Hawaii for the costs incurred as a result of the Compact of Free Association from increased demands on educational and social services to migrants from the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, \$10,000,000.

H.R. 5093

OFFERED BY: MR. MORAN of Kansas

AMENDMENT NO. 6: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. _____. None of the funds made available in this Act may be used to implement any sanction imposed by the United States on private commercial sales of agricultural commodities (as defined in section 402 of the Agricultural Trade Development and Assistance Act of 1954) or medicine or medical supplies (within the meaning of section 1705(c) of the Cuban Democracy Act of 1992) to Cuba (other than a sanction imposed pursuant to agreement with one or more other countries).

H.R. 5093

OFFERED BY: MS. NORTON

AMENDMENT NO. 7: Page 113, line 24, after the dollar amount, insert the following: "(reduced by \$5,500,000)".

H.R. 5093

OFFERED BY: MR. SANDERS

AMENDMENT NO. 8: Page 95, line 14, insert "(reduced by \$3,000,000) (increased by \$3,000,000)" after "\$984,653,000".

H.R. 5093

OFFERED BY: MS. SLAUGHTER

AMENDMENT NO. 9: Under the heading "DEPARTMENTAL MANAGEMENT—SALARIES AND EXPENSES" in title I, insert after the dollar amount on page 49, line 16, the following: "(reduced by \$9,000,000)".

Under the heading "NATIONAL FOREST SYSTEM" in title II, insert after the dollar amount on page 76, line 13, the following: "(reduced by \$6,000,000)".

Under the heading "NATIONAL ENDOWMENT FOR THE HUMANITIES—GRANTS AND ADMINISTRATION" in title II, insert after the dollar amount on page 114, line 18, the following: "(increased by \$5,000,000)".

Under the heading "CHALLENGE AMERICA ARTS FUND—CHALLENGE AMERICA GRANTS" in title II, insert after the dollar amount on page 115, line 14, the following: "(increased by \$10,000,000)".

H.R. 5120

OFFERED BY: MR. FLAKE

AMENDMENT NO. 1: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. _____. (a) None of the funds made available in this Act may be used to administer or enforce part 515 of title 31, Code of Federal Regulations (the Cuban Assets Control Regulations) with respect to any travel or travel-related transaction.

(b) The limitation established in subsection (a) shall not apply to the issuance of general or specific licenses for travel or travel-related transactions, and shall not apply to transactions in relation to any business travel covered by section 515.560(g) of such part 515.

H.R. 5120

OFFERED BY: MR. FLAKE

AMENDMENT NO. 2: At the end of the bill (before the short title), insert the following:

SEC. _____. None of the funds made available in this Act may be used to provide any grant, loan, loan guarantee, contract, or other assistance to any entity (including a State or locality, but excluding any Federal entity) identified specifically by name as the recipient in a report of the Committee on Appropriations of the House of Representatives or the Senate, or in a joint explanatory statement of the committee of conference, accompanying this Act unless the entity is also identified specifically by name as the recipient in this Act.

H.R. 5120

OFFERED BY: MR. MORAN of Kansas

AMENDMENT NO. 3: At the end of title I of the bill, insert after the last section (preceding the short title) the following:

ADDITIONAL GENERAL PROVISIONS—
DEPARTMENT OF THE TREASURY

SEC. 151. Section 620(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)(1)) is amended—

(1) in the first sentence, by striking the period at the end and inserting the following: "; except as needed to promote and facilitate commercial exports of agricultural commodities from the United States to Cuba."; and

(2) in the second sentence, by striking the period at the end and inserting the following: "; except that any such embargo shall not apply with respect to the commercial export of any agricultural commodity or with respect to travel or financing (or other transactions) incident to the commercial marketing, sale, or delivery of agricultural commodities. As used in this paragraph, the term 'agricultural commodity' has the meaning given the term in section 102 of the Agricultural Trade Act of 1978.".

SEC. 152. Upon the enactment of this Act, any regulation, proclamation, or provision of law, including Presidential Proclamation 3447 of February 3, 1962, the Export Administration Regulations (15 CFR 730 and following), the Cuban Assets Control Regulations (31 CFR 515), and section 102(h) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6032(h)), that authorizes sanctions with respect to, prohibits, or otherwise restricts exports to Cuba or transactions involving exports to Cuba and that is in effect on the date of the enactment of this Act, shall not apply with respect to the commercial export to Cuba of agricultural commodities, with respect to travel or financing (or other transactions) incident to the commercial marketing, sale, or delivery of agricultural commodities, or with respect to the receipt of payment for agricultural exports.

SEC. 153. After the enactment of this Act, the President may not restrict the commercial exportation to Cuba of agricultural commodities—

(1) under the Export Administration Act of 1979; or

(2) under section 203 of the International Emergency Economic Powers Act.

SEC. 154. (a) TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT OF 2000.—

(1) INAPPLICABILITY.—The Trade Sanctions Reform and Export Enhancement Act of 2000 (title IX of H.R. 5426, as enacted into law by section 1(a) of Public Law 106-387, and as contained in the appendix of such Public Law) shall not apply with respect to commercial exports to Cuba of agricultural commodities.

(2) CONFORMING AMENDMENTS.—The Trade Sanctions Reform and Export Enhancement Act of 2000 is amended—

(A) in section 906(a)(2)—

(i) by striking "export of agricultural commodities" and inserting "commercial export of agricultural commodities to Cuba, or with respect to the export of agricultural commodities"; and

(ii) by adding at the end the following: "The commercial export of agricultural commodities to Cuba shall be allowed without the issuance of a specific license therefor.";

(B) in section 908—

(i) by striking subsection (b);

(ii) in subsection (a)—

(I) by striking "PROHIBITION" and all that follows through "(1) IN GENERAL.—" and inserting "IN GENERAL.—";

(II) by redesignating paragraph (2) as subsection (b) and conforming the margin accordingly; and

(IV) by redesignating paragraph (3) as subsection (c) and conforming the margin accordingly; and

(iii) in subsections (b) and (c) (as redesignated), by striking "paragraph (1)" each place it appears and inserting "subsection (a)"; and

(C) in section 910—

(i) in subsection (a), by striking "The Secretary of the Treasury" and all that follows and inserting "The Secretary of the Treasury shall authorize travel to, from, or within Cuba for purposes of the marketing, sale, delivery, or financing of a sale of agricultural commodities to Cuba, and any related transactions thereto, without the issuance of a specific license therefor."; and

(ii) in subsection (b)(2), by adding at the end before the period the following: "or that does not relate to travel to, from, or within Cuba incident to the marketing, sale, delivery, or financing of a sale of agricultural commodities to Cuba, or any related transactions thereto"

(b) SANCTIONS UNDER CUBAN DEMOCRACY ACT OF 1992.—

(1) INAPPLICABILITY.—Section 1706(b) of the Cuban Democracy Act of 1992 (22 U.S.C. 6005(b)); prohibiting certain vessels from entering United States ports) shall not apply with respect to vessels that transport agricultural commodities to Cuba on a commercial basis or that transport persons whose travel is incident to the delivery of agricultural commodities to Cuba on a commercial basis.

(2) CONFORMING AMENDMENTS.—Section 1705(b) of the Cuban Democracy Act of 1992 (22 U.S.C. 6004(b)) is amended—

(A) in the subsection caption by striking "DONATIONS" and inserting "EXPORTS"; and

(B) by striking "donations of food to non-governmental organizations or individuals in Cuba" and inserting "commercial exports of agricultural commodities to Cuba".

SEC. 155. Subparagraph (A) of section 901(j)(2) of the Internal Revenue Code of 1986 (relating to denial of foreign tax credit, etc., with respect to certain foreign countries) is amended by adding at the end thereof the following new flush sentence:

“Notwithstanding the preceding sentence, this subsection shall not apply to Cuba with respect to income or excess profits taxes paid to Cuba that are attributable to activities with respect to articles permitted to be exported to Cuba, or travel or financing (or other transactions) incident thereto that is permitted, by virtue of the enactment of the Treasury Department Appropriations Act, 2003. The preceding sentence shall apply after the date which is 60 days after the date of the enactment of this sentence.”

SEC. 156. (a) STUDY.—The Secretary of Agriculture shall conduct a study of United States agricultural export promotion and credit programs in effect as of the date of enactment of this Act to determine if changes to current law are needed to improve the ability of the Secretary of Agriculture to utilize United States agricultural export promotion and credit programs with respect to the consumption of United States agricultural commodities in Cuba, and to otherwise enhance, assist, and remove any limitations on, commercial sales and other agricultural exports to Cuba.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the study conducted under subsection (a).

SEC. 157. In this title, the term “agricultural commodity” has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

H.R. 5120

OFFERED BY: MS. NORTON

AMENDMENT NO. 4: AT THE END OF THE BILL (BEFORE THE SHORT TITLE), INSERT THE FOLLOWING:

SEC. _____. None of the funds made available in this Act may be used to maintain the closure to public traffic of E Street, NW, in the District of Columbia, south of the White House.

H.R. 5120

OFFERED BY: MR. RANGEL

AMENDMENT NO. 5: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. _____. None of the funds made available in this Act may be used to implement, administer, or enforce the economic embargo of Cuba, as defined in section 4(7) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104-114), except those provisions that relate to the denial of foreign tax credits or to the implementation of the Harmonized Tariff Schedule of the United States.

H.R. 5120

OFFERED BY: MR. RANGEL

AMENDMENT NO. 6: In title I, in the item relating to “TAX LAW ENFORCEMENT”, after the aggregate dollar amount, insert the following: “(increased by \$9,000,000)”.

In title I, in the item relating to “EARNED INCOME TAX CREDIT COMPLIANCE INITIATIVE”, after the aggregate dollar amount, insert the following: “(reduced by \$10,000,000)”.

H.R. 5120

OFFERED BY: MR. SANDERS

AMENDMENT NO. 7: At the end of the bill before the short title, insert the following new section:

SEC. _____. None of the funds appropriated by this Act may be used by the Internal Revenue Service for any activity that is in contravention of Internal Revenue Service Notice 96-8 issued on January 18, 1996, section 411(b)(1)(H)(i) or section 411(d)(6) of the Internal Revenue Code of 1986, section 204(b)(1)(G) or 204(b)(1)(H)(i) of the Employee Retirement Income Security Act of 1974, or section 4(i)(1)(A) of the Age Discrimination in Employment Act of 1967.

H.R. 5120

OFFERED BY MR. WYNN

AMENDMENT NO. 8: At the end of the bill (before the short title), insert the following new section:

SEC. _____. (a) CENTRALIZED REPORTING SYSTEM.—Not later than 180 days after the date of the enactment of this Act, each agency shall establish a centralized reporting system in accordance with guidance promulgated by the Office of Management and Budget that allows the agency to generate periodic reports on the contracting efforts of the agency. Such centralized reporting system shall be designed to enable the agency to generate reports on efforts regarding both contracting out and contracting in.

(b) REPORTS ON CONTRACTING EFFORTS.—(1) Not later than 180 days after the date of the enactment of this Act, every agency shall generate and submit to the Director of the Office of Management and Budget a report on the contracting efforts of the agency undertaken during the 2 fiscal years immediately preceding the fiscal year during which this Act is enacted. Such report shall comply with the requirements in paragraph (3).

(2) For the current fiscal year and every fiscal year thereafter, every agency shall complete and submit to the Director of the Office of Management and Budget a report on the contracting efforts undertaken by the agency during the current fiscal year. Such reports shall comply with the requirements in paragraph (3), and shall be completed and submitted not later than the end of the first fiscal quarter of the subsequent fiscal year.

(3) The reports referred to in this subsection shall include the following information with regard to each contracting effort undertaken by the agency:

(A) The contract number and the Federal supply class or service code.

(B) A statement of why the contracting effort was undertaken and an explanation of what alternatives to the contracting effort were considered and why such alternatives were ultimately rejected.

(C) The names, addresses, and telephone numbers of the officials who supervised the contracting effort.

(D) The competitive process used or the statutory or regulatory authority relied on to enter into the contract without public-private competition.

(E) The cost of Federal employee performance at the time the work was contracted out (if the work had previously been performed by Federal employees).

(F) The cost of Federal employee performance under a Most Efficient Organization plan (if the work was contracted out through OMB Circular A-76).

(G) The anticipated cost of contractor performance, based on the award.

(H) The current cost of contractor performance.

(I) The actual savings, expressed both as a dollar amount and as a percentage of the cost of performance by Federal employees, based on the current cost, and an explanation of the difference, if any.

(J) A description of the quality control process used by the agency in connection with monitoring the contracting effort, identification of the applicable quality control standards, the frequency of the preparation of quality control reports, and an assessment of whether the contractor met, exceeded, or failed to achieve the quality control standards.

(K) The number of employees performing the contracting effort under the contract and any related subcontracts.

(c) REPORT ON CONTRACTING EFFORTS.—(1) For the current fiscal year and every fiscal year thereafter, every agency shall complete and submit to the Director of the Office of Management and Budget a report on the contracting efforts undertaken by the agency during the current fiscal year. Such reports shall comply with the requirements in paragraph (2), and shall be completed and submitted not later than the end of the first fiscal quarter of the subsequent fiscal year.

(2) The reports referred to in paragraph (1) shall include the following information for each contracting in effort undertaken by the agency:

(A) A description of the type of work involved.

(B) A statement of why the contracting in effort was undertaken.

(C) The names, addresses, and telephone numbers of the officials who supervised the contracting in effort.

(D) The cost of performance at the time the work was contracted in.

(E) The current cost of performance by Federal employees or military personnel.

(d) REPORT ON EMPLOYEE POSITIONS.—Not later than 30 days after the end of the current fiscal year and every fiscal year thereafter, every agency shall report on the number of Federal employee positions and positions held by non-Federal employees under a contract between the agency and an individual or entity that has been subject to public-private competition.

(e) COMMITTEES TO WHICH REPORTS MUST BE SUBMITTED.—The reports referred to in this section shall be submitted to the Committee on Government Reform of the House of Representatives and to the Committee on Governmental Affairs of the Senate.

(f) PUBLICATION.—The Director of the Office of Management and Budget shall promptly publish in the Federal Register notices including a description of when the reports referred to in this section are available to the public and the names, addresses, and telephone numbers of the officials from whom the reports may be obtained.

(g) AVAILABILITY ON INTERNET.—After the excision of proprietary information, the reports referred to in this section shall be made available through the Internet.

(h) REVIEW.—The Director of the Office of Management and Budget shall review the reports referred to in this section and consult with the head of the agency regarding the content of such reports.

(i) DEFINITIONS.—As used in this section:

(1) The term “employee” means any individual employed—

(A) as a civilian in a military department (as defined in section 102 of title 5, United States Code);

(B) in an executive agency (as defined in section 105 of title 5, United States Code), including an employee who is paid from non-appropriated funds;

(C) in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service;

(D) in the Library of Congress;

(E) in the Government Printing Office; or
(F) by the Governors of the Federal Reserve System.

(2) The term “agency” means any department, agency, bureau, commission, activity, or organization of the United States, that employs an employee (as defined in paragraph (1)).

(3) The term “non-Federal personnel” means employed individuals who are not employees, as defined in paragraph (1).

(4) The term “contractor” means an individual or entity that performs a function for an agency under a contract with non-Federal personnel.

(5) The term “privatization” means the end result of the decision of an agency to exit a business line, terminate an activity, or sell Government owned assets or operational capabilities to the non-Federal sector.

(6) The term “outsourcing” means the end result of the decision of an agency to acquire services from external sources, either from a non-Federal source or through interservice support agreements, through a contract.

(7) The term “contracting out” means the conversion by an agency of the performance of a function to the performance by a non-

Federal employee under a contract between an agency and an individual or other entity.

(8) The term “contracting in” is the conversion of the performance of a function by non-Federal employees under a contract between an agency and an individual or other entity to the performance by employees.

(9) The term “contracting” means the performance of a function by non-Federal employees under a contract between an agency and an individual or other entity. The term “contracting”, as used throughout this Act, includes privatization, outsourcing, contracting out, and contracting, unless otherwise specifically provided.

(10)(A) Subject to subparagraph (B), the term “critical for the provision of patient care” means direct patient medical and hospital care that the Department of Veterans Affairs or other Federal hospitals or clinics are not capable of furnishing because of geographical inaccessibility, medical emergency, or the particularly unique type of care or service required.

(B) The term does not include support and administrative services for hospital and clinic operations, including food service, laundry services, grounds maintenance, transpor-

tation services, office operations, and supply processing and distribution services.

(j) APPROPRIATION.—There is appropriated \$2,000,000 for fiscal year 2003 to carry out this section, to be derived by transfer from the amount appropriated in title I of this Act for “Internal Revenue Service—Tax Law Enforcement”. The Director of the Office of Management and Budget shall allocate such amount among the appropriate accounts, and shall submit to the Congress a report setting forth such allocation.

(k) APPLICABILITY.—(1) The provisions of this section shall apply to fiscal year 2003 and each fiscal year thereafter.

(2) This section—

(A) does not apply with respect to the General Accounting Office;

(B) does not apply with respect to depot-level maintenance and repair of the Department of Defense (as defined in section 2460 of title 10, United States Code); and

(C) does not apply with respect to contracts for the construction of new structures or the remodeling of or additions to existing structures, but shall apply to all contracts for the repair and maintenance of any structures.

SENATE—Monday, July 15, 2002

The Senate met at 12 noon and was called to order by the Honorable JON S. CORZINE, a Senator from the State of New Jersey.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, strong source of strength for those who stretch the human limits and go beyond, we praise You for courage to stand firm for truth as You have revealed it to us. Give us convictions that require Your courage. We know that courage is fear that has said its prayers. Here we are, Lord, relinquishing any fears that may cripple us in being bold leaders. We can take hold of courage because You have taken hold of us. You give us power to overcome rather than overreact. We accept the admonition of the psalmist: *Wait on the Lord, be of good courage, and He shall strengthen your heart. Wait, I say, on the Lord—* (Psalm 27:14).

Bless the women and men of this Senate as You solidify their convictions and then give them the gift of courage. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JON S. CORZINE led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 15, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JON S. CORZINE, a Senator from the State of New Jersey, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CORZINE thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Mr. President, the Chair will announce that the time until 1 o'clock will be evenly divided between Republicans and Democrats, with the Republicans having the first hour and Democrats having the second half hour.

At 1 o'clock, we will again go to the resumption of the accounting reform bill, with 5 hours remaining under postcloture proceedings.

MEASURES PLACED ON THE CALENDAR—H.R. 4954, H.R. 4635, H.R. 5017

Mr. REID. Mr. President, it is my understanding there are three bills at the desk that have been read for the first time. They are H.R. 4954, H.R. 4635, and H.R. 5017.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. REID. I ask unanimous consent that it be in order, en bloc, for these bills to receive a second reading, but I object to any further proceedings at this time.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, the clerk will read the titles of the bills.

The assistant legislative clerk read as follows:

A bill (H.R. 4954) to amend Title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize and reform payments and the regulatory structure of the Medicare Program, and for other purposes.

A bill (H.R. 4635) to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

A bill (H.R. 5017) to amend the Temporary Emergency Wildlife Suppression Act to facilitate the ability of the Secretary of the Interior and the Secretary of Agriculture to enter into reciprocal agreements with foreign countries for the sharing of personnel to fight fires.

The ACTING PRESIDENT pro tempore. Objection to further proceedings having been heard, the bills will be placed on the calendar.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction

of morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for up to 10 minutes each.

Under the previous order, the first half of the time shall be under the control of the Republican leader or his designee.

The Senator from Wyoming is recognized.

THE USE OF SNOW MACHINES IN YELLOWSTONE NATIONAL PARK

Mr. THOMAS. Mr. President, I will take a few minutes to talk about an important issue specifically to Wyoming, the Yellowstone National Park. In a broader sense, it is an issue that affects all kinds of parks and Federal public lands. It has to do with the question of access to these lands. Particularly, I am very interested in national parks, having grown up just outside of Yellowstone. I served as chairman of the National Parks Subcommittee for a long time. So I am very interested in parks.

We are in the process of working on an issue that I think has broader implications. It is the ability to use snow machines to see Yellowstone National Park in the wintertime. It is something that has been done, of course, for a number of years, and certainly there have to be changes that take place with use, and, as people are involved, unfortunately, those changes have not taken place as much as they should. Now we find ourselves in a dilemma with efforts made to eliminate the opportunity for people to use these machines in the wintertime.

As I mentioned, I think the purpose of the park is to maintain the resource, and all of us would agree to that. It is one of the national treasures that we have. We spend a lot of time here on parks—to establish new parks, and so on.

The second purpose of having a park, of course, in addition to saving the resource, is to give the opportunity for the park's owners to enjoy it—the people of America. And of course it needs to be done in an orderly way so there is not a problem with destroying those resources.

As I mentioned, snow machines in Yellowstone Park have been used for a good number of years. They are limited to the roads that are prepared for snow machining. You cannot go off the road; you stay on those roads. That has been the rule through the years. They enter, basically, in three of the entryways that come into Yellowstone Park, which is fewer than there are in the summer.

Of course, the wildlife remains in the park in the winter, for a good part of the time at least, and so one of the problems or complaints has been that the idea of preparing the roads for the use by snow machines provides an exit for the buffalo, and they go into Montana. There are concerns about brucellosis, and so on, and they don't like to have that happen.

The fact is that the roads are going to be prepared for use, whether visitors can use them or others, because they have to be used by the rangers and the people who are in the park.

In any event, this issue kind of came to a head about 2, 3 years ago when the Clinton administration had prepared a regulation that there would be no more use of snow machines in the wintertime. Well, many of us do not agree with that. We think there can be ways in which snow machines can be managed so that they can be changed if they need to be, that would take away the problems of that exit, and rather than to eliminate them, we think there ought to be a way to change them.

Indeed, during the course of this time, there have been a number of changes being made, partly by the manufacturers. Of course, there can be a regulation and a standard as to how the machines would be allowed to reduce emissions they have had in the past. They would also reduce the noise, which has been something people have been concerned about.

So we are prepared—and the manufacturers are prepared—to go into the market with machines, probably four-cycle engines rather than two, that would change both the emissions and the noise.

As this went on, of course, as the Clinton administration pushed their regulation, there were lawsuits brought. Then there was a change in the administration. The original EIS that was done was extended, and we took action in the Congress to extend the use period for another couple of years, and another supplemental EIS was held so there could be some additional alternatives.

The alternatives, of course, could be: Continue as it is now; eliminate it entirely; allow for coaches rather than individual snow machines; or change the rule so there could be some combination of the two.

The time is down now pretty close to where there should be, in this month, as a matter of fact, a reestablishment of the options that would be available, any favored option by the administration.

I met recently with the superintendents of the two parks, both the Grand Teton and Yellowstone, and they are prepared to do that. I think they are prepared to favor the option that would allow for the changes to be made in the machines and also for additional noise, but they could potentially have limitations on the numbers that could travel.

It is kind of interesting because those who oppose it, of course, do not want to include any machines, regardless of the situation. There are now machines that have less emissions than an automobile. There are only about 600,000 of these machines and 1.6 million cars in the summer, so it is quite hard to figure out how they are going to do extensive damage.

As I mentioned, there was a lawsuit. The snowmobile manufacturers, the State of Wyoming, and others brought a suit over the ban last summer. The settlement was agreed to. It called for a supplemental EIS, which I mentioned, which now has been done, and it called for some reasonable and commonsense resolutions and changes to the debate.

The public process has been open. There have been lots of responses. Because the environmentalists organized it, they had more people against it send in a card than those who were for it, but those who really took time to examine the issue and come up with alternatives, that was pretty evenly divided between those who want to continue and those who do not.

We are down now to making some decisions, and I think that is what we ought to do, and we are in this process.

I am disappointed that since then, a bill has been introduced in the Senate to eliminate snow machines in the park. It seems to me that is entirely inappropriate when we go through this whole process that has been laid out where people can be involved in this decision, and then suddenly we decide we are going to make the decision here. I hope that is not the case. I think we have had, as I said, an opportunity, and we can continue to talk about it and we ought to certainly let that process work its way through, which I think it will.

Everyone is for the protection of our parks. We all want to do that, and we can do that. We have had this sort of a problem in public lands, where you have to get a balance between usefulness and protection, and we can do that.

We are into another thing now on limiting roads in the forests. Obviously, there ought to be some limitation, but there also has to be access. It is not only access to people who want to hunt or do those kinds of things. I have received lots of communications from veterans, for instance, who say: Gosh, I cannot hike 5 or 10 miles to get there.

So we have to find a balance, and this is one of the areas in which a balance is necessary—not the only one. But I am saying that our resources of public lands and public uses also have to have access for a number of reasons. It also is an economic issue for people who live around the parks, as we do in Wyoming. So we hope we can go ahead with this and that the administration will

continue to pursue the idea of having a resolution that provides for management, provides for protection, but provides people an avenue to still continue to enjoy the park.

I thought it was kind of interesting that one of the complaints about the noise—and I understand that—is people who go there do not want to have noise in the wintertime. Well, there is nobody there unless they go on machines because there is no place they can go without them. It is too far away. I wanted to raise that point. I feel very strongly about it, of course, as do many of us.

We certainly hope we can go on through this process and end up with an alternative that allows for the use of visitors to Yellowstone Park in the winter. It is a beautiful place. When one goes up there by Old Faithful and goes up the river, talk about the wildlife. One of the things that is sort of interesting is you drive along and if you want to stop, there is a buffalo right alongside the road in about 2 or 3 feet of snow, and they move right along in this little place pushing the snow out of the way so they can eat what is left of the grass below. They are not concerned whether someone is there with a snow machine.

I see my friend from Alaska is present to speak, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

LEGAL SYSTEM REFORM

Mr. MURKOWSKI. Mr. President, I wish to indicate my concern about the recent ruling of the Ninth Circuit Court of Appeals in regard to the recitation of the Pledge of Allegiance in school as unconstitutional, noting its reference to "one nation under God."

I think we were all a bit surprised at that particular ruling. Perhaps for more years than I care to acknowledge, I have witnessed one bizarre decision after another arising from what I consider a very troubled court. During that time, a number of us in the Senate have worked to bring about fundamental reform in our legal system, including a wholesale restructuring of the Ninth Circuit.

I quote from the court's decision on the pledge, and this was Judge Alfred T. Goodwin who wrote:

A profession that we are a nation "under God" is identical, for establishment clause purposes, to a profession that we are a nation under Jesus, a nation under Vishnu, a nation under Zeus, or a nation under no god, because none of these professions can be neutral without respect to religion.

I find that troubling because it is totally inconsistent. It tries to establish a parallel that there is virtually no difference whether we are under Zeus, under Vishnu, or under no god because, as is stated in the opinion, none of these professions can be neutral with

respect to religion. This is a type of extremism carried out by individuals who want to eradicate any reference to religion in public life. It is clearly wrong. I am confident this ruling will be overturned. After all, it is quite common for a ruling from the Ninth Circuit to be overturned.

It is fair to take a few minutes and look at the record of the Ninth Circuit. Part of the problem is the Ninth Circuit is simply too large. It extends from the Arctic Circle to the Mexican border and spans the tropics from Hawaii, Guam, the Marianna Islands, the International Date Line, back to Montana and encompasses some 14 million square miles. It is the largest circuit by any measure. It is larger than the First, Second, Third, Fourth, Fifth, Sixth, Seventh, and Eleventh Circuits combined.

For these reasons and more, I am going to be introducing legislation in the balance of this Congress to split the Ninth Circuit. I will now be offering an amendment to all legislation for the remainder of this Congress to enact this commonsense legislation until such time as I can get a vote. I am joined by a number of our colleagues: Senators STEVENS, BURNS, CRAIG, GORDON SMITH, INHOFE, and CRAPO.

A little history will show this is not the first attempt to solve the crisis of the Ninth Circuit. I believe the need for change, however, has never been greater. The Ninth Circuit has grown so large and has drifted so far from prudent legal reasoning that sweeping changes are in order. Congress has already recognized that the change is needed. Back in 1997, we commissioned a report on structural alternatives for the Federal court of appeals. The commission was chaired by the former Supreme Court Justice, Byron R. White. They found numerous faults within the Ninth Circuit. In its conclusion, the commission recommended major reforms and a drastic reorganization of the court.

This legislation divides the Ninth Circuit into two independent circuits. The new Ninth would contain basically California. I understand there is an interest from Nevada to stay with California. Basically, we propose to leave the Ninth containing California and perhaps Nevada. A new Twelfth Circuit would be composed of the following: Arizona, Alaska, Hawaii, Idaho, Montana, Oregon, Washington, Guam, and the Northern Marianna Islands. Immediately upon enactment, concerns of the White commission would be addressed. A more cohesive, efficient, and predictable judicial group would emerge.

The circuit serves a population of more than 54 million, almost 60 percent more than are served by the next largest circuit. By 2010, the Census Bureau estimates that the population of the Ninth Circuit will be more than 63 mil-

lion people. How many people does this court have to serve before the Congress of the United States realizes the Ninth Circuit is overwhelmed by its population? Congressional Members are not alone in advocating a split.

In 1973, a congressional commission on the revision of Federal Court Appellate System Commission, commonly known as the Hruska Commission, recommended the Ninth Circuit be divided. Also that year, the American Bar Association adopted a resolution in support of the split. In 1990, the U.S. Department of Justice endorsed legislation to split the Ninth Circuit in a surprising reversal of the official "no position" approach it had previously assumed. That is significant in relationship to a fair evaluation based on facts in the White commission on the need for splitting the court.

In 1995, a bill was reported from the Senate Judiciary Committee to go ahead and split the Ninth Circuit. There were objections. Most of those objections came from California and were simply based on the theoretical concept that California has been the headquarters of the Ninth, and there is a certain amount of prestige associated with having the largest court, so it is quite natural that there should be such a response from California. But it was not necessarily based on what is good for justice.

Supreme Court Justice Kennedy, a former member of the Ninth Circuit for 12 years, testified before a Senate Appropriations Committee and stated he has increasing doubts about the wisdom of retaining the circuit's current size.

Arguments in support of a divided Ninth Circuit are both qualitative and quantitative. The magnitude of cases filing in the Ninth Circuit creates a slow and cumbersome docket. In 2001, the caseload of the Ninth Circuit Court of Appeals was 10,342 filings.

I refer now to a chart which shows the filings of the court relative to the Ninth Circuit. We have the various circuits: The First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, and Eleventh Circuits. The Ninth has a population of 54 million; the caseload is 10,000 filings. The nearest would be the Eleventh Circuit. Clearly, the workload is significant in this court.

I refer you now to chart 2, which shows the current size of the court. This gives a better understanding showing the makeup of the Ninth Circuit covering Alaska, Washington, Idaho, Montana, Oregon, California, Nevada, and Arizona. It covers a population of 54 million. The caseload is 10,000 cases. The Ninth Circuit area is 1.4 million square miles.

It is interesting to reflect on the east coast. On the east coast, we have Maine, the eastern States, with their own court in red on the chart in the

First Circuit. The green is the Second District. Third is in the raspberry color. The Fourth Circuit includes the Carolinas. We have five circuit courts covering a significant population. Clearly, this chart points out the difference between the size of the area of the Ninth and the caseload.

I will quote from various Justices relative to their views on splitting the court. It is imperative we reflect on those who have studied this issue and evaluated it on its merits.

From retired U.S. Supreme Court Chief Justice Warren Burger: I strongly believe the Ninth Circuit is far too cumbersome and it should be divided.

Justice Anthony M. Kennedy:

I have increasing doubts and increasing reservations about the wisdom of retaining the ninth circuit in its historic size, and with its historic jurisdiction. We have very dedicated judges on that circuit, very scholarly judges. . . . But I think institutionally, and from the collegial standpoint, that it is too large to have the discipline and control that's necessary for an effective circuit.

We go to the Honorable Diarmuid O'Scannlain, a Ninth Circuit judge:

We—the ninth circuit—cannot grow without limit. . . . As the number of opinions increases, we judges risk losing the ability to know what our circuit's law is. In short, bigger is not necessarily better. The ninth circuit will ultimately need to be split. . . .

Former Alabama Supreme Court Chief Justice Howell Heflin, one of our former colleagues:

Congress recognized that a point is reached where the addition of judges decreases the effectiveness of the court, complicates the administration of uniform law, and potentially diminishes the quality of justice within a Circuit.

Last, former U.S. Senator Mark O. Hatfield, State of Oregon:

The increased likelihood of intracircuit conflicts is an important justification for splitting the court.

These are gentlemen who have reviewed this issue and evaluated it objectively on its merits.

We see here the Supreme Court agrees that reform is needed. Here is a quote from Justice Scalia:

The disproportionate segment of this court's discretionary docket that is consistently devoted to reviewing ninth circuit judgments, and reversing them by lop-sided margins, suggests that this error-reduction function is not being performed effectively.

That is a pretty strong statement on the manner in which the Ninth Circuit has been conducting itself. As the reference is from Justice Scalia, he cites a disproportionate segment of the Supreme Court's discretionary docket that is devoted to reviewing Ninth Circuit judgments reversing them by lop-sided margins. That is certainly a critique against the Ninth Circuit's performance.

Supreme Court Justice Sandra Day O'Connor:

With respect to the ninth circuit in particular, in my view the circuit is simply too large.

Finally, Supreme Court Justice John Paul Stevens:

In my opinion, the arguments in favor of dividing the circuit into either two or three smaller circuits overwhelmingly outweigh the single serious objection to such a change.

So there you have three Justices indicating that in their opinion the court is too large, there have been too many reversals coming to the Supreme Court. It is the criticism of the function of the court.

Let me continue because I think it is important to reflect on just what these figures are, relative to the filings and the increase. The number of filings continues to increase in the Ninth, from 8,415 in 1995 to 9,070 in 1998, and now 10,342 in the year 2001. We have seen the chart with the caseloads increasing. Here is a vivid comparison of the years, as this caseload jumps, particularly from 2000 to 2001, as one can see, in the red.

The ever increasing, expanding docket in the Ninth Circuit creates an inherent difficulty in keeping abreast of legal developments within its own jurisdiction, rendering inconsistency in constitutional interpretation within the court. Interestingly, the statistical opportunities for inconsistency on a 28-panel court calculate out to about 3,276 combinations of panels that could resolve any given issue.

I have had conversations with judges on the Ninth Circuit who have indicated the caseload is such that it is impossible for them to communicate among themselves on the activities going on within the court, as opposed to the usual process of judges having an opportunity to review other judges' opinions. As a consequence, the caseload is simply too big to allow, not for leisure, but it is a necessity, given the manner in which judges reflect upon their observation.

I would like to point out to my colleagues an article from the June 30 New York Times entitled "Court That Ruled on Pledge Often Runs Afoul of Justices." I would like to read highlights. Obviously, there is too much material in it, but specifically I quote: . . . judges on the court said that they did not have time to read all of the decisions it issued.

According to the commission's 1998 report, 57 percent of judges in the Ninth Circuit, compared with 86 percent of federal appeals court judges elsewhere, said they read most or all of their court's decisions.

That does not take place in the Ninth Circuit.

Critics say the Ninth Circuit's procedure for full-court review accounts for much of the reversal rate. All other circuits sit as one to hear full-court, or en banc, cases. The Ninth Circuit sits in panels of 11.

The procedure injects randomness into decisions. If a case is decided 6 to 5, there is no reason to think it represents the views of the majority of the court's 23 active members.

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One only needs to review the appallingly high reversal rate of Ninth Circuit cases to appreciate the severity of the problem.

During the 1995-1996 session, the Supreme Court overturned an astounding 83 percent of the cases heard from the Ninth Circuit—83 percent, Mr. President, a figure which is 30 percent higher than the national average reversal rate.

In the 1996-97 session alone, an astounding 95 percent of its cases reviewed by the Supreme Court were overturned. This number should raise more than a few eyebrows.

A split in the circuit would enable a more complete and sound review, thereby reducing the circuit's rate of reversal before the Supreme Court.

The uniqueness of the Northwest cannot be overstated. An effective appellate process demands mastery of State law and State issues relative to geographic land mass, population, native cultures that are unique to the relevant region, and particularly public land issues.

Presently, California is responsible for almost 50 percent of the appellate court's filings, which means that California judges and California judicial philosophy dominate judicial decisions on issues that are fundamentally unique to the Pacific Northwest.

Let me show on this chart the specifics of where all the cases come from. Nearly half of them—46 percent—come from California; Arizona, 7 percent; Alaska 1.3 percent; Hawaii, 1.9 percent; Idaho, Montana, Nevada, 5.6 percent.

Clearly, you see the significant overwhelming evidence that most of the cases, of course, are from California.

As a consequence, this need for greater regional representation is demonstrated by the fact that the east coast of the United States is composed of five Federal circuits. I wonder what the justification for that was. Clearly, it was justified in the sense of good judicial decision. But here we have on the west coast one court. The division of the Ninth Circuit would enable judges, lawyers, and parties to master a more manageable and predictable universe of relevant case law.

Establishing a circuit comprised solely of States in the West would adhere certainly to congressional intent. Alaska, Washington, Oregon, Hawaii, Idaho, and perhaps Nevada—although I understand Nevada, in the minds of some, is in the State of California. In any event, we share similar land-based populations and economics. Each State contains a high percentage of public land, a fairly comparable population, is financially dependent on tourism and is blessed with an abundance of natural resources.

In conclusion, while I may believe even more sweeping changes are in order, I strongly urge that this body address the crisis in our judiciary system. It is the 54 million residents of the Ninth Circuit who suffer from our inaction. These Americans wait years before their cases are heard, and, after those unreasonable delays, justice may not even be served by an overstretched and out of touch judiciary.

Congress has known about the problem in the Ninth Circuit for a long time. Justice has been delayed too long. The time for reform has come. I urge action on this legislation. I will be offering it on every bill until we obtain a vote on this issue.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. CORZINE. Thank you, Mr. President.

ECONOMIC SECURITY FOR ALL AMERICANS

Mr. CORZINE. Mr. President, today I want to talk about the corporate scandals and financial problems we have been experiencing, and discuss how these problems highlight the importance of keeping the "security" in Social Security.

Last week, American financial markets plunged dramatically in response to the ongoing litany of corporate scandal and earnings restatements. The New York Times called the current 2½-year slide in the stock market the "worst bear market in a generation." For ordinary investors, retirees, and near-retirees—last week, and certainly the year—the post-bubble environment has been a financial nightmare. What felt like a hard-earned, secure retirement for many became an open question filled with uncertainty for many Americans. People are feeling compelled to go back to work and evaluate when they will retire, continue their careers, or cut back on their standard of living. They are experiencing a real sense of economic insecurity.

U.S. equity markets have lost nearly \$7.5 trillion since the peak of the market—that is a mind-boggling number, frankly—and roughly \$2.5 trillion in market value has been lost this year alone.

That loss has created a profound sense of insecurity among American families. We are seeing it in the real economy, we are seeing it in consumer confidence, and in a whole series of measures.

Trees don't grow to the sky. We sometimes lost track of that in the 1990s. Markets will not fall to zero either. But markets pose real risk and real challenges to the economic security of all Americans. That is, of course, why we must pass the accounting reform measure before the Senate, the Investor Protection Act. I hope we

will do that today. We must also stand firm on the principles and elements of this legislation as we continue in the conference committee, which will try to piece together this strong piece of reform legislation with a fairly weak and tepid response in the House.

Obviously, investors are deeply affected by the wave of corporate scandals and financial restatements that infect too much of the corporate world: The so-called Enron Syndrome, WorldCom, Global Crossing, to Adelphia—the litany goes on, and, unfortunately, appears to be lengthening. I think we may just be at the head of this wave.

What we have is not merely a few bad apples but a systemic breakdown—a breakdown in our accounting system, a breakdown in our auditing structures, and, more fundamentally, a breakdown in the trust that is the foundation of our entire market-based economic system—trust in our corporate leadership and trust in the truthfulness of their word.

As a former businessman and a CEO, I must say I am ashamed of this wave of corporate corruption. As a Senator, I am appalled at the continuing attempt of some lobbyists and too many in public office to substitute a token response for a strong and effective governmental response.

Frankly, I was disappointed with President Bush's response last week, which was long on rhetoric and short on reform. Nothing was really said about the accounting industry conflicts, the conflicts with regard to research in investment banks, as Attorney General Spitzer has brought to light, the expensing of options, or about many other serious steps that will be needed to restore public confidence.

The President also failed to face up to the urgent need for major strengthening of the SEC, which today is drastically outgunned in the battle against corporate fraud. We need not define the SEC by who is leading the SEC, but we need to make sure we speak to the scope of the resources they have and the tools they have to deal with the issues that are involved in problems that have led to the crisis of consumer confidence that we have today.

Many of my colleagues have expressed similar concerns in recent days, and I believe the American people are watching us closely today, and will see how this process unfolds as the 107th Congress proceeds to completion, and whether we can put this strong reform legislation on the President's desk not only by passing a strong bill in the Senate but by making sure that when we get to conference, we put the public's interest ahead of special interests.

With that said, there is another very important question that is reinforced by these events. It is really where the

dots connect and what I will focus on today. That is something I have been speaking about often here on the floor—the implications of a market meltdown and the President's drive to move toward the privatization of Social Security.

For anyone who has any doubt about the importance of providing a guaranteed safety net—a bedrock safety net—for America's retirees, recent events prove how that is absolutely necessary.

In just the past week, millions of Americans have seen the value of their 401(k)s plunge dramatically. For some, this decline will mean their retirement will have to be delayed. For others already retired, it will bring a real decline in their standard of living. I have read about and talked to people who will have to return to work. And for millions of Americans, recent events have highlighted the risk of relying on the stock market as the primary guarantor of retirement security.

We have always talked in this Nation about a three-legged stool to support people in their retirement: Certainly, individual savings, and some of that undoubtedly is well spent in the stock market; then there are pension benefits that are provided by employers; and then there has always been this bedrock of Social Security. That is the three-legged stool.

I think we need to make sure we reinforce that fundamental leg, Social Security. The purpose of Social Security is to ensure, despite the inherent uncertainties of the marketplace, that retirees who have contributed to our Nation will be guaranteed a basic level of retirement income. In other words, the Social Security system guarantees a degree of certainty, a certainty that will give people that sense of security.

Privatizing the program, as the Bush Social Security Commission has proposed, will undermine that security and tear apart a program that has been successful—enormously successful—for the American people for over 70 years. In fact, we have gone from where we had more than 50 percent of the American population retired and living in poverty down to almost 10 percent in recent years. In my view, moving away from that would be a mistake.

For 50 percent of working Americans, the whole of their retirement security is Social Security; they have no other means of retirement security. And for about 70 percent, the primary means of their retirement security is Social Security. So we are really talking about putting at risk something that I think is very vital for most Americans.

Ever since Franklin Roosevelt signed it into law, Social Security has been critically important for our Nation's seniors. Its importance has grown even more in recent years. That is because fewer and fewer Americans now have access to traditional defined-benefit pension plans. Those plans have de-

clined from 175,000 programs in 1983 to just about 50,000 programs today. There has been a dramatic decline in these defined-benefit programs—ones that were secure. Increasingly, companies have switched from traditional plans, under which the company bears the investment risks, to defined-contribution plans, under which workers and retirees are themselves the risk takers—market risk takers.

Proponents of privatizing Social Security would compound those defined-contribution or 401(k) market risks by making Social Security benefits equally dependent on the uncertainties of the stock market. In my view, that would be a cruel betrayal of America's senior citizens and a denial of the promise of Social Security.

Consider what has happened to the employees at MCI. MCI is another telecommunications company that was merged into WorldCom about 2½ years ago. Before the takeover by WorldCom, MCI maintained a traditional defined-benefit plan; that is, the retirement security risks were borne by MCI and guaranteed by a Government institution called the Pension Benefit Guaranty Corporation. But that plan was abolished after WorldCom merged, except, by the way, for senior management; they continued to have defined-benefit programs for their retirements. Instead, MCI employees, as most WorldCom employees, were offered only one type of retirement program, a 401(k) plan.

I am not against 401(k) plans. They are a great idea for an additional element, on top of Social Security, a guaranteed benefit. But I think when we mix apples and oranges, we undermine economic security for Americans.

By the end of 1999, over 103,000 workers and retirees participated in this WorldCom 401(k) program. Their accounts at that time held more than \$1.1 billion of WorldCom stock, about one-third of the plan's assets. At that time, the stock was worth \$54 a share.

Today, that stock and their retirement funds are almost worthless. And we read in the paper today that WorldCom is about to file its bankruptcy petitions. After WorldCom's massive accounting scam, the stock is not at \$54 a share but 3 cents a share. The WorldCom stock in WorldCom 401(k) plans is not worth \$1.1 billion, but it is now worth \$20 million.

By the way, the 401(k) plan isn't guaranteed by the Pension Benefit Guaranty Corporation. It is actually imposing a cruel reduction in the security of all those 104,000 folks. I say, as an aside, this situation certainly argues for diversification in pension plans as well. The WorldCom plan started with about one-third concentration in WorldCom stock. It now has less than 1 percent in the WorldCom stock, but that is just because of the loss of value. It is really a

very difficult situation for a lot of working Americans.

These are not just numbers or abstract entries on a corporate balance sheet or somebody's notification of what their 401(k) plan returns are, they represent the destruction of people's hopes and dreams for a secure retirement life, after working responsibly and contributing responsibly to their retirement.

Last week we had one WorldCom employee say:

I put all my money in WorldCom stock, and I'm pretty sure I've lost everything. I knew what happened at Enron, but I thought we [at WorldCom] were different.

Management told them they were different, and, as most people, employees trusted the executives they worked for and wanted to be proud of their company and its leadership.

The experience of WorldCom employees, and those of hundreds of other companies—some of them, by the way, not falling prey to the whims of fraud but just simply market realities—shows that diversification is an absolute essential in pension reform. I hope we have that debate also on the floor.

When retirees lose all their money through no fault of their own, when nothing is left in their retirement portfolio, one thing, and one thing only, stands in the way of total economic devastation. Social Security. Because no matter the state of the stock market, Social Security is always there—not with enough to live in luxury but enough to make a real difference for millions who have little or no savings on which to rely. Social Security is the ultimate safety net. We must not let the administration shred it.

Privatization schemes would irresponsibly gamble with the guarantee of security for retirees, present and future. The average Social Security benefit last year was only about \$10,000 a year—not the princely sums received by executives who have failed their companies—and not enough in some parts of our country to have a secure retirement. In New Jersey, for instance, \$10,000 a year can only get you so far given the high cost of living in our part of the country.

Yet President Bush's Social Security Commission called for substantial cuts in guaranteed benefits. Cuts for some workers would amount to 25 percent and future cuts could exceed 45 percent. If anyone wants to apologize for privatization by disputing these numbers, I just encourage them to read the report of the nonpartisan actuaries at the Social Security Administration themselves. For more evidence, let me refer you to the recent economic analysis by Professor Peter Diamond of MIT and Dr. Peter Orszag of the Brookings Institution.

The Bush Commission parades its proposals as promoting choice. But if the Bush privatization plans were ever

approved, seniors would have no choice. Their benefits would be cut. They would be cut if they shifted to privatized accounts, and they would be cut if they did not. The only choice is this: If they opted for privatized accounts, their guaranteed benefits would be cut more deeply.

The effective destruction of Social Security's guaranteed benefits recommended by the Bush Commission is bad economics and bad social policy. Fifty Senators have written the President urging him to publicly reject his Commission's proposals. So far, his response has been the same kind of silence we heard for months after the corporate scandals first broke with Enron.

Sometimes facts and reality ought to bring about a change in thinking for individuals, for corporations, and for an administration on important topics of the day.

Cutting guaranteed Social Security may have sounded like a good idea when the stock market was only going up, but now the fallacy of that assumption is clear to everybody. I hope the Bush administration will reconsider its plans to privatize and cut Social Security.

Let's not take the security out of Social Security.

Mr. President, before I leave the floor, I would like to take a few minutes to discuss a different matter but one that I believe is fundamentally important as we seek to address the structural problems facing our economy and what we need to face in the financial world to straighten out some of the problems we have. We need to better account for employee stock options.

This, too, is an issue that regardless of where one may have been historically, facts and reality ought to bring about a change in reasonable folks' thought with regard to options.

While the depth of liquidity and efficiency of our markets is still unrivaled, our markets need to make sure they are based on a presumption of integrity and accuracy in the information provided to the country. Our entire financial system depends on the broad availability of timely, truthful and transparent information. To secure that and restore the confidence of investors, it is absolutely urgent that we address this treatment of employee stock options.

The fact is, in many instances where we continue to allow this without an acknowledgment of what is going on, two things are happening: Earnings are overstated, and there is an enormous amount of dilution going on to the ownership of shares.

People may argue that you can derive this from financial statements and footnotes that are highly complicated even for the most sophisticated investor to read. But I argue that there is no

common sense in making it as difficult to understand what the earnings statements of a company state and, more importantly, protecting investors from the dilution that comes from the whole premise of issuing more stock without having an understanding of when that is going to happen. This needs to be put in the context of the asymmetrical incentives it gives management that has undermined confidence in our corporate executives.

To be brief: We have a chance to address this issue in a very serious manner in the next few hours before we take our final vote on this legislation. I compliment Senator LEVIN and all those who stand to straighten out and put into responsible format what needs to be done with option accounting. We should do that not by writing option rules, at which I do not think the Senate has the capacity to be effective, but making sure that an independent body, which we will independently finance, has the ability to deal with a very complicated issue.

I hope with the help of all my colleagues, we can get around to straightening out something that, as we saw today in news reports, even corporate executives understand can lead to misallocation of resources and certainly misunderstanding of the performance of companies. We ought to get to real economic performance being reflected, not accounting performance. I am glad to see Coca-Cola take the steps they did. We need to move firmly and surely by passing the Levin amendment which would facilitate a solution that would make this permanent for everyone.

All three of these are important issues—accounting reform and corporate responsibility, the treatment of stock options, and protecting Social Security and rejecting privatization. The stakes are high for our economy. I hope we will move swiftly and certainly to reform and provide economic security to all Americans.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PUBLIC COMPANY ACCOUNTING REFORM AND INVESTOR PROTECTION ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2673, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for

public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

Pending:

Edwards modified amendment No. 4187, to address rules of professional responsibility for attorneys.

Reid (for Carnahan) modified amendment No. 4286 (to amendment No. 4187), to require timely and public disclosure of transactions involving management and principal stockholders.

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan, Mr. LEVIN, is recognized.

Mr. LEVIN. Mr. President, I wonder if I might inquire as to how much time I have on my allotted time under postcloture rules.

The PRESIDING OFFICER. The Senator has 36 minutes remaining.

Mr. LEVIN. I thank the Chair.

I will at a later time ask unanimous consent that the pending second-degree amendment be laid aside so I can offer a germane second-degree amendment relative to stock options.

My amendment, which is at the desk, would direct the independent accounting standards board to review the accounting rule on stock options and adopt an appropriate rule within 1 year.

It should not be necessary to seek unanimous consent. The whole purpose of our postcloture rules is to allow those of us who have germane amendments such as this one to offer that amendment, to have it voted on. It is a frustration of the clear intent of our rules to not allow germane amendments to be voted on after cloture is invoked.

We have a strict rule. It is called cloture. It ends debate. When cloture was invoked, I had pending an amendment which would have given the Securities and Exchange Commission greater powers to impose civil fines administratively. It is an important addition to SEC powers. They now have that power over brokers, but they don't have it over corporate directors. They don't have it over corporate managers. They ought to have the power to impose civil fines administratively—subject, of course, to appeal to the courts—relative to corporate directors and corporate officers.

That amendment, as relevant as it is to this bill, was frustrated when cloture was invoked and when all the time up to that vote was utilized so that my SEC amendment was not allowed to come up for a vote.

Now we are in postcloture. Now we are under postcloture rules. The question is whether or not the intent of

those rules is going to be carried out, which is to allow those of us who have germane amendments to have a vote on those amendments.

The amendment on which I would like to have a vote cannot be voted on because there is a pending first-degree amendment and a pending second-degree amendment. So the second-degree amendment would have to be laid aside in order to allow a vote. As long as the opponents of this stock option accounting amendment don't allow the first- and second-degree amendments that are pending to come to a vote, we are foreclosed from offering germane amendments.

That is not the intent of our postcloture rule. I believe it is an abuse of the intent of our postcloture rule. I hope it will not happen here. I am hoping against hope that there will not be an objection to my unanimous consent request so that this most critical issue can be addressed by the Senate.

If we don't address this issue, it seems to me we are leaving a significant gap in the reforms we are struggling so hard to adopt to try to restore honesty to accounting rules.

In 1994, the Financial Accounting Standards Board issued a tentative rule which said that stock options should be expensed like all other forms of compensation. That is what they decided was the right thing to do.

Well, Congress intervened. The executives intervened strongly, beat back FASB with huge pressure, all set out in the FASB account of its rule. By the way, one of the most extraordinary documents I have ever read, as a matter of fact, in 24 years in the Senate, is that Financial Accounting Standards Board history of their effort to bring honesty to accounting for stock options, in their judgment, and how that effort was beaten back by pressure from executives and from Congress so that their very existence was at stake if they proceeded in a way which they thought was right. All set forth in the record. It is quite an amazing document.

So what FASB did was, they said: We can't survive if we do what we think is right. So what we will do instead is we will urge people to expense options. We will urge corporations to expense their options, but we will not mandate it.

FASB said: If you don't expense options, at least disclose the cost of the options as a footnote in your financial statements.

That was the way they decided to survive. This body voted, put some of the pressure on FASB, basically told them to leave stock option accounting alone. So we intervened on an accounting issue with a vote of something like 90 to 10 or thereabouts.

The executives weighed in. I was at one of the meetings in Connecticut when the executives weighed in heavily on this issue. So I saw the pressure

that was brought to bear on what should be an independent accounting standards board.

Now we are doing something different in this bill. We are saying to the board that we are going to give you an independent source of funding. We are not going to make you dependent directly for your funding from the very people you are seeking to regulate through your accounting standards. So we are making some progress now by giving them an independent source of funding.

What my amendment would do is take what is the most significant post-Enron issue that is left open, which is accounting for these huge amounts of stock options that go mainly to executives, and direct this board that now has an independent source of funding to review—"review" is the key word—this matter and make an appropriate decision within 1 year.

Mr. MCCAIN. Will the Senator yield for a question?

Mr. LEVIN. I wonder if I can yield on the time of the Senator from Arizona, because time is so limited here that I am going to have very little. I think the Senator has a half hour and, assuming that the Senator can be recognized, I believe that I only have about 10 or 15 minutes of time remaining. I wonder if the Senator from Texas would permit that I be allowed to yield to the Senator from Arizona, if the Senator from Arizona is willing to ask a question to be taken out of his own time.

Mr. GRAMM. Reserving the right to object, the Senator started out with a unanimous consent request and then launched into a speech.

The PRESIDING OFFICER. There is no request pending.

Mr. GRAMM. Maybe if the Senator would do his unanimous consent request and then yield, that would be fine.

Mr. LEVIN. I would rather do my unanimous consent request at the end of the time, rather than at the beginning of the time. I make a parliamentary inquiry. If I make a unanimous consent—

Mr. GRAMM. I don't object to the Senator yielding. I wanted to be sure we had the time we were supposed to have.

Mr. LEVIN. I ask unanimous consent that the Senator from Arizona, if he is willing, be able to ask a question on his time. I yield to the Senator from Arizona for that question and then I retain the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I will be very brief, due to the shortness of time. I wonder if the Senator from Michigan remembers my comments last Thursday when I referred to an old boxing term, "the fix is in." There was no vote allowed on my amendment, which is a

clearcut, absolutely unequivocal statement about the use of stock options for accounting. Does the Senator really believe that, since my amendment was blocked by that side, his amendment is not going to be blocked by this side?

The fix is in, I say to the Senator from Michigan. I hope he knows that. This is a terrible mistake, a terrible mistake, because we are not addressing what every observer knows is a vital and critical aspect of reforming this system, which continues to so badly erode the confidence of the American people, the investors, which is over half of the American people.

I wonder if the Senator from Michigan remembers what I said last week, that the fact is the fix is in. I didn't get a vote on my amendment and the Senator from Michigan won't get one on his. Very frankly, since that side blocked my vote, I can understand them blocking this vote. I think it is wrong on both sides.

The American people deserve to know how we stand on the issue of stock options. Does the Senator understand that?

Mr. REID. Will my friend yield for a question on my time?

Mr. LEVIN. I am happy to.

Mr. REID. The Senator will recall the Senator from Arizona talking about the fix being in, and the RECORD will clearly reflect that the Senator from Arizona asked that his amendment be in order postcloture, and, as the Senator from Michigan will recall, I objected to that because at that time we had 56 other amendments that were pending. They also wanted them to be in order.

Mr. MCCAIN. If the Senator will yield, that is not correct. Mine was a motion to recommit.

Mr. REID. I am talking about the objection about which I was involved, and does the Senator from Michigan recall that objection to the unanimous consent request by the Senator from Arizona?

Mr. LEVIN. I believe I do recall the objection to the request, and I would rather let the RECORD speak for itself as to the other matters because I think the issue before us is a somewhat different issue than we faced on the McCain-Levin amendment last week. Now we have a Levin-McCain-Corzine amendment, which is somewhat different. I supported Senator MCCAIN's amendment, and, indeed, I have been very active in trying to get this accounting rule adopted in the way the independent accounting board wants to have it adopted. That is the key emphasis.

Mr. SARBANES. Will the Senator yield on my time for a question?

Mr. LEVIN. I am happy to yield.

Mr. SARBANES. As I understand the Senator's amendment—the one he will be seeking to offer.

Mr. LEVIN. I will be seeking unanimous consent to have the second-de-

gree amendment laid aside so that I can do so.

Mr. SARBANES. As I understand it, this amendment is not the Congress trying to legislate what the accounting standard should be; is that correct?

Mr. LEVIN. The Senator is correct.

Mr. SARBANES. I think that is important because I, frankly, do not think that the Congress should get into the business of trying to legislate accounting standards. I don't think we have the expertise or the competence to do it. And it turns established accounting standards into a straight-out political exercise, and I don't think that is wise.

As I understand the Senator's amendment, it would simply reference the issue of the treatment of stock options to the financial accounting standards board, for them to make their own independent judgment as to how this matter should be treated, is that correct?

Mr. LEVIN. The Senator is correct.

Mr. SARBANES. And I understand that the terms of reference are such that it does not presuppose a particular substantive conclusion; it is, in effect, left open, or even level, however you want to describe it—a level playing field for FASB, the expert body that has been established to make these judgments to make its own independent judgment as to how these matters should be addressed, is that correct?

Mr. LEVIN. The amendment directs FASB to review the issue and adopt an appropriate standard. Those are the words in the amendment. I must tell my good friend from Maryland, however, that there is a history here that cannot be ignored.

The history is that FASB tried to adopt a standard in 1994. They said what the right standard was. They were beaten back and brow-beaten and pressured, so they had to give up what they believed was right. That is in their own history. Then they recommended to corporations to expense options, because that is the right thing to do. But they offered an option to corporations to simply disclose the value of options in their financial statement in a footnote. They left that option open.

So I have two hopes here. One is that there will not be an objection to a vote on this amendment. For the life of me, I cannot see how anybody can object to a vote on an amendment, which simply tells the independent accounting standards board to reach an appropriate decision.

Now, we did intervene 8 years ago, and I believed it was wrong for us to intervene. Nine of us voted no; 90 voted yes. We told them: Do not change the rule; do not expense options.

In my judgment, it was wrong procedurally and it was wrong in terms of the substance. But it is my hope that,

No. 1, we will be allowed to have a vote, and, No. 2, it would be my expectation, however, if it is left to the independence of FASB, that FASB would continue to do what they said was the right thing, which is to expense options.

It is left to their independent judgment to reach an appropriate conclusion under the language of my amendment.

Mr. SARBANES. So it would be FASB's call?

Mr. LEVIN. It would be FASB's call.

Mr. SARBANES. Mr. President, I simply want to say I am supportive of this amendment. I think this is the right way to go about it.

Let me repeat. I do not think the Congress itself should be in the business of legislating accounting standards, but this amendment does not do that. It references the issue to the very body that has been established to accomplish that, which has the expertise and the competence. The amendment also helps to underscore the independence of FASB and a congressional perception that they should call it as they see it. I hope at the appropriate time the Senator will be able to obtain permission to bring his amendment before the body.

I thank the Senator for yielding.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DASCHLE. I am sorry. I think the Senator from Michigan has the floor.

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. LEVIN. I ask unanimous consent that I yield to the majority leader for whatever time he wishes to take and that time not be taken from the few minutes I have remaining, and that the floor be returned to me at that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I will use my leader time so as not to take any time still allotted to the Senator from Michigan.

I hope we can get the unanimous consent request that the Senator from Michigan is propounding. I will also say that this is not a question of if he can get consent and ultimately bring the amendment to the floor. One way or the other we will have a vote on the Levin amendment. It may not be on this bill this afternoon if we fail, but our colleagues need to know we will have a vote on this amendment. This will occur. If I have to offer it myself, we will have a vote on this amendment. So we can do it this afternoon, we can do it tomorrow, or we can do it next week. We are going to have a vote on this amendment. Senators need to take that into account before they object.

Let me say as strongly as I can, this amendment belongs on this bill. This is exactly what I think we ought to be doing, and I think on a bipartisan basis

there is strong support for what Senator LEVIN is proposing.

I want to speak briefly this afternoon, in my leader time, on the amendment itself. I think it is important, as my colleagues have been noting, that the Levin amendment contains precisely the right solution to the difficult problems of determining the proper accounting treatment for stock options. It reserves that judgment for the appropriate body, the Financial Accounting Standards Board. They are the ones given the authority, they are the ones with the credibility, they are the ones with the standing to make the right decisions about this very important and complex matter.

I argue this is the heart of our ability to deal with the accounting reforms that are in the Sarbanes and Leahy bills.

It has become all too clear that accounting standards are complex and can be easily manipulated by aggressive and sometimes unscrupulous corporate executives. Unfortunately, FASB's weak, dependent condition has contributed to those manipulations. In fact, it is arguable that the undermining of FASB's independence was the necessary precondition to the crisis in confidence afflicting our capital markets today.

One of the many virtues of the Sarbanes bill is that it corrects that situation. It provides for a new, improved FASB, giving it for the first time full financial independence from the accounting industry. That certainly is the first and most vital improvement we need with respect to establishing clarity and regularity of accounting standards.

Another needed improvement is for those of us in Congress to allow FASB to do its job. In 1994—and my colleagues have referenced this—when this issue was last taken up by the Senate, I am proud to say I was one of nine Senators who voted against the Senate intruding itself on FASB's decisionmaking process. That is the only reason I opposed my colleague's amendment last week. As well intended as it is, in my view it did the same thing on the other side that they were trying to do 9 years ago. It asserts Congress's authority to undermine the independence of that board. I opposed it 9 years ago, and I oppose it today, but for obviously different results.

At the same time, the Senate was coming at the options issue from the direction of prohibiting expenses back in 1994, and as I said today the momentum is the opposite, but the right course is the same. Let the experts on the accounting standards board do their job and make the appropriate decision. Eight years ago, the technical accounting questions were essentially the same as they are today, although obviously 8 years have given us an entirely different perspective than the

one we had back then. Nonetheless, the questions are still real. Accountants still debate the relative merits of the opposing sides. We still have expert opinion going both ways. On the one hand, the argument is made that if options are not expensed, bottom lines look far more attractive than they actually should be, and the investors can be deceived by the distorted financial pictures that result.

On the other hand, we hear that it is inherently impossible to value options with no concrete reality behind what the options will actually be worth when they are exercised. There is also a real debate about the incentive effects of options.

Supporters argue that they better align an employee's interests with the company's. Opponents contend they result in a "pump and dump" mentality, with senior executives seeking to inflate their stock prices at any cost so they can quickly and cynically enrich themselves.

In contrast to those complex questions, the Levin amendment is simplicity itself. It is one sentence. It says that FASB shall:

Review the accounting treatment of employee stock options and shall, within one year of enactment, adopt an appropriate generally-accepted accounting principle for the treatment of employee stock options—

End of issue.

The business of setting accounting standards is lodged, by the Levin amendment, in the board that the Sarbanes bill expressly seeks to strengthen and improve. I fully support the Levin amendment and the philosophy behind it. Congress should not be engaged in setting technical accounting rules. We should be seeking to do the reverse: Establish an independent FASB that can help restore confidence in the accuracy of financial information.

I observe in this context that because of that principle, as I said a moment ago, while well intended, I believe the McCain amendment went too far and did exactly what we were trying to do in 1994 but on the flip side. Restoring independence to the accounting standards is one of the overriding objectives of the Sarbanes bill, and that is one of my main reasons for supporting it as strongly as I do. That was my primary reason for voting in 1994 against a previous attempt to direct FASB in its decision about expensing, and it is the primary reason for supporting the Levin amendment today.

So I will end on this particular issue where I began. There will be a vote on the Levin amendment. It will be today, tomorrow, next week, or at some point in the future, but Senators should not be misled. If there is an objection today, it by no means ends the debate. We might as well have it. We might as well get it. We might as well include it in the Sarbanes bill because it will be

included in one fashion or another, ultimately, before the work has been done in the Senate on this very important, complex, and comprehensive challenge we face.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 25 minutes remaining.

Mr. LEVIN. Mr. President, I quote from a few observers what the stakes are in this vote and what the stakes have been in terms of the way in which stock options have not been expensed, have been stealth compensation, have fueled the incredible increase in terms of executive pay, and have been a driving force behind the deceptive accounting practices which have bedeviled this Nation and undermined public confidence in the credibility of our financial statements.

Robert Samuelson, an economist, said the following:

The point is that the growth of stock options has created huge conflicts of interest that executives will be hard-pressed to avoid. Indeed, many executives will coax as many options as possible from their compensation committees, typically composed of "outside" directors. But because "directors are [manipulated] by management, sympathetic to them, or simply ineffectual," the amounts may well be excessive. . . .

Stock options are not evil, but unless we curb the present madness, we are courting continual trouble.

This is what a retired vice president at J.P. Morgan and Company said: There can be no real reform without honest accounting for stock options. A decade ago, the Financial Accounting Standards Board recommended options be counted as a cost against earnings like all other forms of compensation, but corporate lobbyists resisted and Congress did their bidding. Alan Greenspan and Warren Buffett, among others, are calling for the same change now, but it remains to be seen whether the accounting profession can act without congressional interference. Treating options like other forms of pay would make executive compensation transparent, diminish the temptation to cook the books, and make managers less inclined towards excessive risk taking.

Warren Buffett, who was quoted by Senator MCCAIN last week, said the following: If options aren't a form of compensation, what are they? If compensation isn't an expense, what is it? If expenses shouldn't go into the calculation of earnings, where in the world should they go?

A New York Times editorial of March 31 of this year stated:

We have no quarrel with the business lobby's claim that stock options have helped fuel America's entrepreneurship, particularly in Silicon Valley. But in the interest of truthful accounting and greater financial integrity, options should be treated as what they are, a worthy form of compensation that companies must report as an expense.

Robert Felton, director of McKinsey & Company's Seattle office, said:

Because they have so much at stake with these huge grants, options are likely to have encouraged some managers to cheat and cook the books.

Allan Sloan of Newsweek:

... options are a free lunch for companies.

I'm all in favor of employees becoming millionaires via options—I'm an employee, after all—but I'm also in favor of companies providing profit-and-loss statements that show the real profit and loss. Ignoring options' costs and low-balling CEO packages are simply outrageous. When campaigns start expensing options and disclosing true CEO and director compensation numbers, I'll believe that they've seen the light.

According to the Economist, last year, stock options accounted for 58 percent of the pay of chief executives of large American companies. So over half the compensation of our CEOs of major companies now comes from stock options. To leave that expense off the financial statements' bottom line is to distort what is going on at companies. It is part of the reason we have not had accurately reflective financial statements at our corporations. It is part of the reason for the soup we are in right now.

Where financial statements have been giving a false picture of what a company's financial situation is, it has provided stealth compensation in huge amounts to executives, it has watered down the value of stock to the owners of a corporation. That is why now we have such tremendous support from the organizations which represent stockholders.

That is why, for instance, TIAA-CREF, the largest pension fund in the United States for teachers is supportive of changing the accounting for stock options. It is why the Council for Institutional Investors, which is the leading shareholders organization for pension funds, now favors expensing stock options in order to give an accurate reflection of what a company's financial statement is. It is why the AFL-CIO supports the amendments offered last week and the amendment which hopefully will be offered today if we are allowed to have a vote on this.

Alan Greenspan says this is the top post-Enron reform. Expensing stock options is the top post-Enron reform. That is the Chairman of the Federal Reserve. Paul Volcker, former Federal Reserve Chairman, supports a change in stock option accounting. Arthur Levitt, former SEC Chairman, supports the change; Warren Buffett, as we mentioned; and a host of economists. Standard & Poor's believes you have to expense stock options if you are going to show an accurate earnings calculation; Citizens for Tax Justice; Consumer Federation of America; Consumers Union, and on and on.

The Washington Post of April 18 says the following:

... expert consensus favors treating options as a corporate expense, which would mean that reported earnings might actually reflect

reality. . . . But nobody wants to ban this form of compensation; the goal is merely to have it counted as an expense.

That is the end of that particular quote. I would like the entire quote printed in the RECORD, and I ask unanimous consent that all the editorials and comments that I referred to be printed in the RECORD in full.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 30, 2002]

STOCK OPTION MADNESS

(By Robert J. Samuelson)

As the Enron scandal broadens, we may miss the forest for the trees. The multiplying investigations have created a massive whodunit. Who destroyed documents? Who misled investors? Who twisted or broke accounting rules? The answers may explain what happened at Enron but not necessarily why. We need to search for deeper causes, beginning with stock options. Here's a good idea gone bad—stock options foster a corrosive climate that tempts many executives, and not just those at Enron, to play fast and loose when reporting profits.

As everyone knows, stock options exploded in the late 1980s and the '90s. The theory was simple. If you made top executives and managers into owners, they would act in shareholders' interests. Executives' pay packages became increasingly skewed toward options. In 2000, the typical chief executive officer of one of the country's 350 major companies earned about \$5.2 million, with almost half of that reflecting stock options, according to William M. Mercer Inc., a consulting firm. About half of those companies also had stock-option programs for at least half their employees.

Up to a point, the theory worked. Twenty years ago, America's corporate managers were widely criticized. Japanese and German companies seemed on a roll. By contrast, their American rivals seemed stodgy, complacent and bureaucratic. Stock options were one tool in a managerial upheaval that refocused attention away from corporate empire-building and toward improved profitability and efficiency.

All this contributed to the 1990's economic revival. By holding down costs, companies restrained inflation. By aggressively promoting new products and technologies, companies boosted production and employment. But slowly stock options became corrupted by carelessness, overuse and greed. As more executives developed big personal stakes in options, the task of keeping the stock price rising became separate from improving the business and its profitability. This is what seems to have happened at Enron.

The company adored stock options. About 60 percent of employees received an annual award of options, equal to 5 percent of their base salary. Executives and top managers got more. At year-end 2000, all Enron managers and workers had options that could be exercised for nearly 47 million shares. Under a typical plan, a recipient gets an option to buy a given number of shares at the market price on the day the option is issued. This is called "the strike price." But the option usually cannot be exercised for a few years. If the stock's price rises in that time, the option can yield a tidy profit. The lucky recipient buys at the strike price and sells at the market price. On the 47 million Enron options, the average "strike" price was about \$30, and at the end of 2000, the market price

was \$83. The potential profit was nearly \$2.5 billion.

Given the huge rewards, it would have been astonishing if Enron's managers had not become obsessed with the company's stock price and—to the extent possible—tried to influence it. And while Enron's stock soared, why would anyone complain about accounting shenanigans? Whatever the resulting abuses, the pressures are not unique to Enron. It takes a naive view of human nature to think that many executives won't strive to maximize their personal wealth.

This is an invitation to abuse. To influence stock prices, executives can issue optimistic profit projections. They can delay some spending, such as research and development (this temporarily helps profits). They can engage in stock buybacks (these raise per-share earnings, because fewer shares are outstanding). And, of course, they can exploit accounting rules. Even temporary blips in stock prices can create opportunities to unload profitable options.

The point is that the growth of stock options has created huge conflicts of interest that executives will be hard-pressed to avoid. Indeed, many executives will coax as many options as possible from their compensation committees, typically composed of "outside" directors. But because "directors are [manipulated] by management, sympathetic to them, or simply ineffectual," the amounts may well be excessive, argue Harvard law professors Lucian Arye Bebchuk and Jesse Fried and attorney David Walker in a recent study.

Stock options are not evil, but unless we curb the present madness, we are courting continual trouble. Here are three ways to check the overuse of options.

(1) Change the accounting—count options as a cost. Amazingly, when companies issue stock options, they do not have to make a deduction to profits. This encourages companies to create new options. By one common accounting technique, Enron's options would have required deductions of almost \$2.4 billion from 1998 through 2000. That would have virtually eliminated the company's profits.

(2) Index stock options to the market. If a company's shares rise in tandem with the overall stock market, the gains don't reflect any management contribution—and yet, most options still increase in value. Executives get a windfall. Options should reward only for gains above the market.

(3) Don't reprice options if the stock falls. Some corporate boards of directors issue new options at lower prices if the company's stock falls. What's the point? Options are supposed to prod executive to improve the company's profits and stock price. Why protect them if they fail?

Within limits, stock options represent a useful reward for management. But we lost those limits, and options became a kind of free money sprinkled about by uncritical corporate directors. The unintended result was a morally lax, get-rich-quick mentality. Unless companies restore limits—prodded, if need be, by new government regulations—one large lesson of the Enron scandal will have been lost.

[From the Washington Post, April 18, 2002]

MONEY TALKS

Alan Greenspan, perhaps the nation's most revered economist, thinks employee stock options should be counted, like salaries, as a company expense. Warren Buffet, perhaps the nation's foremost investor, has long argued the same line. The Financial Accounting Standards Board, the expert group that

writes accounting rules, reached the same conclusion eight years ago. The London-based International Accounting Standards Board recently recommended the same approach. In short, a rather unshort list of experts endorses the common-sense idea that, whether you get paid in cash or company cars or options, the expense should be recorded. Yet today's Senate Finance Committee hearing on the issue is likely to be filled with dissenting voices. There could hardly be a better gauge of money's power in politics.

Why does this matter? Because the current rules—which allow companies to grant executives and other employees millions of dollars in stock options without recording a dime of expenses—make a mockery of corporate accounts. Companies that grant stock options lavishly can be reporting large profits when the truth is that they are taking a large loss. In 2000, for example, Yahoo reported a profit of \$71 million, but the real number after adjusting for the cost of employee stock options was a loss of \$1.3 billion. Cisco reported \$4.6 billion in profits; the real number was a \$2.7 billion loss. By reporting make-believe profits, companies may have conned investors into bidding up their stock prices. This is one cause of the Internet bubble, whose bursting helped precipitate last year's economic slowdown.

It is not surprising, therefore, that the expert consensus favors treating options as a corporate expense, which would mean that reported earnings might actually reflect reality. But the dissenters are intimidated by neither experts nor logic. They claim that the value of options is uncertain, so they have no idea what number to put into the accounts. But the price of an option can actually be calculated quite precisely, and managers have no difficulty doing the math for the purposes of tax reporting. The dissenters also claim that options are crucial to the health of young companies. But nobody wants to ban this form of compensation; the goal is merely to have it counted as an expense. Finally, dissenters say that options need not be so counted because granting them involves no cash outlay. But giving employees something that has cash value amounts to giving them cash.

The dissenters include weighty figures in both parties. Sen. Joe Lieberman (D-Conn.) is the chief opponent of options sanity in the Senate, and last week President Bush himself declared that Mr. Greenspan is wrong on this issue. What might be behind this? Many of the corporate executives who give generously to politicians are themselves the beneficiaries of options—often to the tune of millions of dollars. High-tech companies, an important source of campaign cash, are fighting options reform with all they've got. But if these lobbyists are allowed to win the argument, they will undermine a key principle of the financial system. Accounting rules are meant to ensure that investors get good information. Without good information, they cannot know which companies will best use capital, and the whole economy suffers in the long run.

[From the New York Times, March 31, 2002]
STOCK OPTION EXCESSES

In his Congressional testimony last month, Jeffrey Skilling, Enron's former chief executive, offered a primer on the misuses of stock options. Options, he said, are the most egregious way for companies to pump up their profits artificially. They also netted him a tidy \$62.5 million in 2000 and helped Enron pay no income taxes in four of the last five years.

Stock options, in theory, aren't a bad idea. By giving employees the chance to buy a company's stock in the future at today's price, corporations can provide an extra incentive for hard work and can augment compensation. The New York Times Company awards option to its top executives. But like other rational business practices that got out of hand during the boom years of the late 1990's, options have been abused by some companies and are in need of reform.

A good place to start would be for Congress to end the conflict between how the tax laws and the accounting rules treat employees options. Alan Greenspan, the Federal Reserve chairman, has identified that as one of the most pressing post-Enron reforms affecting corporate governance.

That conflict creates a loophole that has allowed companies to treat stock options as essentially free money during the recent dot-com bubble. A company does not have to report grants of stock options as an expense on its profit-and-loss statements, as it does with other forms of compensation, but it can deduct the options as an expense from its tax liability when employees exercise them.

As a result, corporate executives can award themselves oodles of stock options without fear of denting their profit reports. Once the options are exercised, the company can treat the appreciation in the shares' value—the employees' profit—as an expense for tax purposes. At Enron, stock option deductions alone turned what would have been a federal income tax bill of \$112 million in 2000 into a \$278 million refund. Mr. Greenspan said last week that Federal Reserve Board research found that the average earnings growth rate of the S&P 500 companies between 1995 and 2000 would have been reduced by nearly a quarter if the companies had reported their stock options as expenses on financial statements.

A decade ago, the accounting industry proposed a sensible rule to make companies report options as expenses, but it was beaten back by fierce corporate lobbying. Now Senators John McCain and Carl Levin have proposed a bill that would end the double standard, disallowing the tax deduction for any company that fails to report options as an expense.

They are backed in that effort by investors like Warren Buffett and big institutions like pension plans, which are rightly incensed by abusive executive compensation schemes. They are tired of unseemly practices like the repricing of options to ensure that executives still get windfalls if the stock price falls. Making interest-free loans for executives to acquire stock (often forgiven if the bet does not pay off) is another dubious compensation practice.

We have no quarrel with the business lobby's claim that stock options have helped fuel America's entrepreneurship, particularly in Silicon Valley. But in the interest of truthful accounting and greater financial integrity options should be treated as what they are: a worthy form of compensation that companies must report as an expense.

Congress must end the dot-com-era notion that options equal free money. That would be a first step toward reassuring investors that top executives cannot treat publicly traded companies as Ponzi schemes created for their own enrichment.

[From Newsweek, May 20, 2002]
SHOW ME THE MONEY (ALL OF IT)
(By Allan Sloan)

Watching corporate America these days is like watching drunks at a revival meeting.

They're vowing to sin no more, to tell shareholders the straight truth instead of playing accounting games, to embrace "transparency" so outsiders can see what's going on. But talk is cheap. When it comes to action on two key reforms—accounting for stock options, and showing the value of chief executives' compensation packages—corporations are as opaque as ever.

The accounting first. As things stand now, options are a free lunch for companies—employees place a high value on them, but companies can issue as many as they want without hurting corporate profits. That's because companies don't have to count options value as an expense. With reform in the air because of Enron, old-math types like Warren Buffett and Alan Greenspan are pushing to change accounting rules to force companies to count the value of stock options as an expense in their profit-and-loss statements. Accounting rule makers proposed this a decade ago, but backed down under political pressure generated by corporations, especially in options-happy Silicon Valley. Then there's a second, little-known aspect of the options-accounting debate. If companies have to count the value of options as an expense, they would come under huge pressure to report their value as compensation to the CEO, and to members of the board. Under current rules, a company has to show shareholders a table that includes how much it gave the CEO in salary, bonus, long-term compensation and other benefits. But the table has to show only the number of options granted to the CEO, not their economic value. To find that, you have to hunt on other pages—and you may not find it at all if the company opts to report a different way. "The original idea was to have the value of options in the table, not the number of options," says Graef Crystal, a compensation expert who worked on the disclosure rules. But, he says, the SEC backed down after companies objected.

It's easy to see why companies would have been upset at having to count options as compensation. In most pay filings I see these days, the economic value of CEO and directors' options exceeds their cash payments. So counting options would more than double the typical package.

To see how this works, let's look at Dell Computer and Knight Ridder, two companies I just happen to have looked at recently. Dell's most recent statement shows that Michael Dell, its billionaire owner and founder, earned \$2.6 million in salary and bonus. Not starvation wages, but not much for a big-time CEO. On a different page, you see that he got options the company valued at \$26 million. That's major mooah. Dell directors were paid a \$40,000 annual retainer fee, but also got options on \$850,000 worth of Stock. The option's economic value: around \$300,000. Note that I'm not accusing Dell of hiding anything—it's following the rules.

Dell shows why options have economic value when they're granted, even if the stock subsequently falls. The directors got their options when Dell stock was about \$52, double today's price. By getting options on \$850,000 of stock rather than buying 16,298 shares, directors avoided losing money—and didn't have to tie up \$850,000. Meanwhile, they had the same upside as regular investors who risked \$850,000. The company says its compensation packages are skewed toward options, so that employees and directors don't make out unless regular stockholders do.

Now to Knight Ridder, which has been on a cost-cutting kick for years. Last year chairman Tony Ridder got \$935,720 in salary and

no bonus. He also got options on 150,000 shares. Knight Ridder values the options at about \$1.6 million, but by most rules of thumb, they were worth twice that much. Knight Ridder directors got a \$40,000 annual fee—and 4,000 options. The options were worth about \$42,500 by Knight Ridder's math, about \$85,000 by conventional math. Knight Ridder says its figures are lower because it assumes its options are exercised much quicker than other analysts assume.

I'm all in favor of employees becoming millionaires via options—I'm an employee, after all—but I'm also in favor of companies providing profit-and-loss statements that show the real profit and loss. Ignoring options' costs and low-balling CEO pay packages are simply outrageous. When companies start expensing options and disclosing true CEO and director compensation numbers, I'll believe they've seen the light. Until then, I'll assume that they're still on the bottle.

[From the Wall Street Journal, May 3, 2002]

ACCOUNTING FOR OPTIONS

(By Joseph E. Stiglitz)

Déjà vu. The post-Enron imbroglío over stock options is a reminder that history—if forgotten—does indeed repeat itself. Eight years ago, while serving on President Clinton's Council of Economic Advisers, I was involved in a heated debate over information disclosure. The Financial Accounting Standards Board had proposed a new standard that would require firms to account for the value of executive options in their balance sheets and income statements.

When FASB made its proposal for what would have clearly been an improvement in accounting practices, Silicon Valley and Wall Street were united in their opposition. The arguments put forward then are the same as those put forward today, and they are as specious and self-serving now as they were eight years ago.

OUTRAGEOUS

The most outrageous argument—but the one that had the greatest impact—was that disclosing the information would adversely affect share prices. That is, if people only knew how much their equity claims on the firm could be diluted by options, they would pay less for their shares! True, and that is precisely why the disclosure is so important. Markets can only allocate resources efficiently when prices accurately reflect underlying values, and that requires as good information as possible. If markets overestimate the value of a particular set of ventures, resources will mistakenly flow in that direction. This is partly what caused the dot-com and telecom bubbles. Irrational exuberance played its part, but so too did bad accounting—i.e., distorted information.

To be sure, information will never be perfect and asymmetries of information are pervasive. But one of the key insights of the modern theory of information is that participants do not always have an incentive to disclose fully and accurately all the relevant information, and so it is important to have standards.

This is where the second specious argument enters: Critics of FASB's proposal claimed that it is impossible to value options accurately, and accordingly, it would be misleading to include the options within the standard accounting frameworks. To better understand the falsity of this argument, let's take a closer look at how stock options really work.

The basic economics of stock options are simple. Issuing stock options does not create

resources out of thin air. Executives like stock options because they have value. But the value however measured, comes at the expense of other shareholders. The right of managers to buy shares is the right to dilute the ownership claims of existing shareholders. When markets work well—when information is good—the market will value today the issuance of a right to dilute, even when that dilution may never occur, and if it does occur, would happen sometime in the future.

The existing owners of the firm will participate less in the upside potential of the market than they would have in the absence of the options. In principle, they can calculate the circumstances when the executives are likely to exercise their options, and therefore can calculate the diminution in their potential gains from owning shares in the company. That is why when this information is disclosed in ways that can easily be understood by investors, it will lead to a fall in the company's share price.

Making such calculations, however, is not easy or costless. In principle, each shareholder could go through each of the items in the firm's accounts to construct his own "estimates" but that would be a foolish waste of resources, and the transaction costs would put a major damper on capital markets and the market economy. That is why we have accounting standards. Such information is like a public good: Better standards—more transparency—lead to better resource allocation and better functioning markets; and if participants have more confidence in markets, they will be more willing to entrust their money to markets.

Which brings us back to the argument that it is "impossible" to value options. Companies do, of course, have ways of calculating the value of options and do it themselves all the time for their own internal planning purposes.

AS for the question of whether an estimate based on a publicly-disclosed formula would be misleading, because it is only an estimate, that is true of many line items that are central to our accounting frameworks, such as depreciation. Calculations about the value of options would be just as, or even more, accurate than standard depreciation estimates are of the market value of the declines in asset values that come with use and obsolescence—something which is a line item on every accounting framework in corporate America and most of the world. Of this much we can be sure: zero, the implied valuation used by companies now when describing the cost of options in their balance sheets and income statements, is a vast underestimation.

Those who argue against including options within the standard accounting frameworks try to have it both ways: They believe that market participants are smart enough to read through dozens of footnotes to figure out the implications of options for the value of their shares, but so dumb that they would be misled by the more accurate numbers that would be provided under the reform proposals, and unable to redo the calculations themselves.

TRANSPARENCY

There is one more reason for the U.S. to be resolute in improving our accounting standards by including better accounting for options. During the East Asia crisis the U.S. preached the virtues of transparency but then refused to do anything about regulating the murky world of offshore banking. America also preached the virtues of our accounting standards only to find that the world was

laughing at Enron and Arthur Andersen. Tightening our rules on accounting of options would signal that the U.S. is serious about openness, serious about improving its accounting standards—despite the special interests opposed to changes—and willing to learn from its mistakes.

Many of the same forces that allied themselves in the 1990s against changes in accounting for options are now trying to suppress this attempt to make our market economy work better. In the earlier episode, the National Economic Council, the U.S. Treasury, and the Department of Commerce intervened in what was supposed to be an independent accounting board, and put pressure on FASB to rescind its proposed regulations. They won, and the country lost. Today, there is a risk once again of political intervention. At least this time, the voices of responsible economic leadership, such as Alan Greenspan, are speaking out. I only hope that this time they will succeed.

Mr. LEVIN. Mr. President, the Republican staff of the Joint Economic Committee put out a report called, "Understanding the Stock Option Debate."

They have gone through a lengthy analysis dated July 9, 2002, in which they conclude the following:

Existing accounting principles provide an unambiguous answer. Stock option awards should indeed be treated as a cost in financial statements.

It is quite clear to me that two things are true. No. 1, that how we treat stock options is an essential part of the post-Enron reform effort. That is No. 1. No. 2, it seems clear to me that there is at least a likelihood that a majority of this body, if allowed to vote on this amendment, will vote to refer this matter to an independent accounting standards board which has its own source of revenue, free from the kind of pressure which it was under in 1994 and 1995, to reach an appropriate conclusion.

Do I believe that conclusion will be the same as they reached in 1994? I do. It is very clear to me they would reach such a conclusion and should reach such a conclusion. But as our colleagues have pointed out, that is up to the board under this amendment. We would not be adopting a standard.

In all honesty, I expect they would continue on the same course they were on 8 years ago when they were violently thrown off course by people who had control over the purse strings of the organization. I would expect that would happen. But under this amendment, it is their call, not ours.

I support the McCain amendment because I believe, as I believed then, that the accounting standards board wanted to expense options and that we, in executive pressure, interfered with that decision on their part. That is why I believe Senator MCCAIN's amendment is also appropriate. But we cannot even get a vote on that amendment. Last week, we were not able to bring that amendment to a vote.

But this amendment is different. This amendment says to the independent board: review this issue. Make an appropriate decision within a year.

For the life of me I not only do not see how folks—regardless of the side of this particular issue that they are on—could vote against such an amendment when it does not tell them what to do but just asks them to review it and decide within a year as to what the appropriate accounting method is. I do not understand why, in the middle of a debate on the reforms which are essential to restore public confidence after the Enron fiasco, this Senate should not be allowed to vote on this issue on this bill.

When the majority leader announced that one way or another we will get to a vote on this amendment, I was glad to hear that. I didn't know he was going to say that, but I certainly was glad he said that. But it seems to me that adds a reason we ought to vote for this amendment on this bill.

This is the right place. Surely it is the right time. There has perhaps never been a more critical moment in our economic history in the last few decades than we are facing right now, to help us restore public confidence. It will be an additional contribution to that restoration of public confidence if we take this action. If we say yes, 8 years ago we did intervene, but now we don't want to tell the accounting standards board that they should not expense options. That was 8 years ago. What we are telling them now is: Do the right thing.

We know what they tried to do 8 years ago. It is laid out in the record by them. They wanted to do what they believed was the right thing. If they had done so, they would have been put out of business.

Now we have an opportunity, it seems to me, to do the right thing ourselves, which is to tell the board that has the responsibility to adopt accounting standards, to adopt what they believe is the appropriate standard. That is the right thing to do.

Mr. REID. Will the Senator yield for a question on my time?

Mr. LEVIN. I will be happy to.

Mr. REID. Is the Senator aware that the stock market, the Dow as of now is down 338 points as of today?

Mr. LEVIN. I was not aware of that. But it surely adds an additional urgency, if we need additional urgency, for why we should do everything in our power to restore public confidence in the financial systems in this country.

I left off one of my cosponsors before. Senator BIDEN is a cosponsor of the amendment, which is at the desk.

I will ask unanimous consent we be able to vote on that at a later moment. I wonder if I could ask the Chair how much time I have remaining.

The PRESIDING OFFICER. The Senator has 12 minutes remaining.

Mr. LEVIN. I understand Senator MCCAIN would like to speak at this time. I see the Republican manager on the floor, so I do not know if this fits his particular timetable or not.

I ask unanimous consent I be allowed to yield to Senator MCCAIN on his—

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LEVIN. Mr. President, at this time I ask unanimous consent to lay aside the pending second-degree amendment, No. 4286, and call up for consideration my amendment 4283, on stock options, which is a second-degree amendment to the Edwards amendment No. 4187.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Mr. President, reserving the right to object, let me say there is something on which I agree with the majority leader. That is, at some point we are going to make a judgment on this issue. But we are currently in a situation where we have 97 first-degree amendments that have been filed. We have 24 second-degree amendments. We have 3 different approaches to this issue.

Senator MCCAIN wants to make a decision and set a policy.

Senator LEVIN, as I read it, wants a fair trial and then a hanging.

And Senator ENZI and others would simply like to have a fair trial.

What is the right outcome? I think that is subject to debate. That is why I think we ought to have the debate. The idea that when we have three different approaches, we are going to decide that one of them is going to be debated on, voted on, but not all three of them is something we should not expect to happen.

I do not support Senator MCCAIN's amendment, but he has every right, it seems to me, to have it considered. And I am certainly willing to vote on it. There may be people who do not want to vote on this issue, but I am not one of them. So I certainly do object. I object.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. LEVIN. Mr. President, the only way we are going to get to debate and votes is if we allow the pending amendments which are the first- and second-degree amendments to be voted on so we can move to other amendments without having one gatekeeper denying opportunity for all the others on this floor to offer amendments and have them voted on. That is not the intention of cloture and postcloture.

I do not believe this process has been used in this way before, where, postcloture, germane amendments are supposed to be taken up and voted on,

where first- and second-degree amendments have not been disposed of so they can be used, not with the consent of their sponsors, but they are used by others to block consideration of the amendments.

The Senator from Texas says he would like to have a debate and vote. There is one way to do it. Let's dispose of the second-degree amendment, take up the Carnahan amendment and vote on it, take up the Edwards amendment and vote on it.

Mr. GRAMM. Will the Senator yield?

Mr. LEVIN. I will be happy to yield on the Senator's time.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Reserving the right to object, Mr. President, the Senator from Michigan is claiming his 1 hour. I understand he has been yielding back and forth. I assume we could, under these circumstances, have one Senator run the entire 30 hours, as long as they keep yielding to other Senators.

There are others of us, of course, who want to be heard and who want to offer amendments.

Mr. GRAMM. I think that is fair. I withdraw my request.

Mr. LEVIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I think if we want to deal with this issue today, probably the way to deal with it is to have a unanimous consent agreement and have a vote on all three amendments—have a vote on Senator MCCAIN's amendment, have a vote on the Levin amendment, have a vote on Senator ENZI's amendment so that we would have the full range of choices. But to suggest that nothing is standing in the way except a few obstacles to everybody having their will is to neglect the fact that 97 amendments have been filed as first-degree amendments and 24 second-degree amendments.

So, therefore, by definition, I assume if I suggest and ask unanimous consent that each and every amendment be voted on, someone would object since our leadership has plans for this week and next week. I think it might be possible if we want to deal with this issue today to have a unanimous consent agreement where Senator MCCAIN would get a vote on his amendment, where the Senator from Michigan would get a vote on his amendment, and where Senator ENZI would get a vote on his amendment. Then we would have a range of choices.

I would be amenable to such an agreement if the Senator wanted to shop that around on his side of the aisle. We could do a hotline and see if it would fly. But in the absence of some agreement where the other two gradations on this spectrum of opinion would have their day to debate this amendment and have it voted on, I don't think we are going to be able to

do that. It might very well be that we need a separate bill to deal with this issue. If a Senator were to offer this amendment in earnest, I would want an opportunity to amend it. I think having FASB look at this issue—which they are certainly going to do after this bill is agreed to because this is going to be a self-funded agency, and they are going to have greater independence—I think having them look at it is something that we ought to do. But I think we shouldn't pretend to ourselves that the Levin amendment is a neutral amendment.

Asking them to look at it when it mandates by law after having looked at it that within 12 months they adopt in appropriate generally accepted accounting principles for the treatment of employee stock options—there is nothing neutral about that; in other words, study it and within a year adopt a rule.

As I understand it, Senator ENZI and others would have the SEC do a study and make a recommendation based on their study.

If this amendment were going to be dealt with in isolation, I would want an opportunity to at least leave it to FASB as to what they determine rather than mandating that they ought to issue a new accounting principle. It may be that they would determine not to do that.

Let me reiterate that I don't have any concern about voting on this issue. Maybe I should reserve my time. I want to speak on this at some point. We have several Members here who are going to speak. I have to be here for the whole time.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. I don't think this is necessary. But so there is no question about it, I ask unanimous consent that the time Senator DASCHLE used be counted against the 30 hours.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Reserving the right to object, I did not hear.

Mr. REID. I wanted Senator DASCHLE's time to be counted against the 30 hours.

Mr. GRAMM. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

Mr. DORGAN. Mr. President, we are in a postcloture period of some 30 hours. I understand we will complete that at 6 o'clock or so this afternoon.

What is happening here is really an outrage, from my standpoint. We are in postcloture. I have a germane amendment. I have been here every single day since this bill came to the floor of the Senate prepared and ready to offer my amendment. Now, postcloture, I have a germane amendment. And the only way, apparently, that I can offer my

amendment is if the Senator from Texas is willing to allow me to offer it. That is not the way the Senate should work.

I want to briefly describe my amendment.

My amendment requires the disgorgement of profits, bonuses, incentives and so on that the CEOs of corporations receive 12 months prior to bankruptcy.

That is not in the bill at the present time. It ought to be in the bill.

The bill contains a disgorgement provision requiring the return of incentives and bonus payments received prior to a restatement of earnings. I support that being in the bill, but there is nothing about the requirement to divest all those bonuses and incentive payments 12 months prior to bankruptcy. That ought to be in this bill.

Let me describe some of the problems that we are dealing with. We have been holding some hearings over in the Commerce Committee on the subject of Enron. Here is what some Enron officers got before Enron went bankrupt:

Kenneth Lay, \$101 million; Ken Rice, \$72.7 million; Jeffrey Skilling, \$66.9 million; Stan Horton, \$45 million; Andy Fastow, \$30.4 million.

They did pretty well at the top. Of course, they have already filed bankruptcy with their corporation.

Should some of this be given back?

I have a constituent in North Dakota who wrote to me and said: I worked for Enron for a good many years. I built up a retirement fund of \$330,000. It is now worth \$1,700. That was my family's retirement fund. What am I to do? I have lost it all.

But not everybody lost it all with respect to Enron. Those close to the top made a fortune, and the folks at the bottom lost their shirts. Most of the investors and employees lost everything.

The question I ask with my amendment is, Should we include a provision in this bill that requires the give-back of this unwarranted compensation in the form of bonuses, incentives, and various things 12 months prior to bankruptcy? The answer is, of course, we should require it. We ought not to be debating this. This amendment ought to be accepted.

Let me describe some of the other folks who believe this ought to be done.

Mr. Richard Breeden, former SEC Chairman from 1989–1993 says:

We have long required officers and directors to disgorge "short-swing" profits for purchases and sales within a six-month period . . . we should consider disgorgement to the company of any net proceeds of stock sales or option exercises within six-months or a year prior to bankruptcy filing.

That is Mr. Breeden, former SEC Chairman.

Henry Paulson, CEO, Goldman Sachs, who worked in the Nixon administration, said:

The business community has been given a black eye by the activities of and behavior of some CEOs and other notable insiders who sold large numbers of shares just before dramatic declines in their companies' share prices . . . in the case of CEOs and other inside directors, we should raise the bar and mandate a one year "claw-back" in the case of bankruptcy, regardless of the reason.

He is right. This bill doesn't require it. There is no "claw-back" in this bill. There ought to be 1 year prior to bankruptcy.

I don't mean to diminish the importance of other issues that we have just discussed. The other issues are very important. On the issue of how stock options are treated, in 1994, I was one of nine Senators who voted against the proposal back then that would handcuff FASB. I come to that issue with fairly clean hands.

Let me say that while that issue is important, I have been here every single day this bill has been on the floor to offer this simple amendment on disgorgement in the face of bankruptcies. If there are people in corporations at the top of those companies who make \$100 million or \$70 million or \$50 million, and then the company files for bankruptcy, do you not believe that some of that ought to be required to be given back? The folks at the bottom lost everything they had. They lost their life savings. They lost everything, and the folks at the top got rich. Shouldn't there be a requirement in this bill to disgorge those profits? Does anybody think that is unreasonable?

The Senator from Texas left the Chamber as I was beginning to speak. I was hoping I might get his attention. But as I understand where we are, we have a first- and a second-degree amendment. The first-degree amendment is the Edwards amendment. It is followed by a second-degree amendment, which is the Carnahan amendment.

In order for anyone to offer an amendment postcloture today, we must ask consent to set aside these amendments so we can offer our amendment. My understanding is, if someone here does not agree with that, then he can prevent that from happening. My understanding is that that is precisely what would happen.

So the result is, for the next 5 hours, we will have gatekeepers who require us to say: Captain, may I? May I offer an amendment? And they will say: No, you may not. We will not allow the setting aside of the pending amendments.

So we will limp along to the end of the 30 hours not being able to offer germane amendments to this bill. It is outrageous, simply an outrageous process that puts us here. I think there will be a good number of Members of the Senate who, in the future, will consider this and find ways to avoid our being put in this position again.

But what I would like to do is have a debate about this amendment at some

point. And perhaps there are people in the Senate who want to stand up and say: Do you know what I think? I think if somebody takes home \$50 or \$80 million 6 months before bankruptcy, in the form of incentive payments and bonuses, they ought to be able to keep it, even if they drove this company right straight into the ground.

Is there one person who will stand up in the Senate today to support that? Does one person want to support that position? Well, we will see.

In the year before the Enron Corporation filed for bankruptcy, Kenneth Lay, the chairman of that company, and 140 other company officials received \$310 million in salaries, bonuses, long-term incentives, loan advances, and other payments.

Does anybody here want to stand up and say: "That makes a lot of sense."? Anybody? Does anybody agree they should keep all that money? Do we hear nothing because they don't have the floor, or is it that nobody here believes the top officials of Enron should keep \$310 million prior to filing for bankruptcy, where their employees lost their jobs, lost their life savings in their 401(k)s, their investors lost their money?

How about NTL, Incorporated? It is a Manhattan TV cable operator that filed for bankruptcy in May, just several months after it gave its chief executive officer \$18.9 million. It made him one of the 30 highest paid CEOs in New York, putting him ahead of IBM's Louis Gerstner. That company had \$14 billion in losses. And the CEO, Mr. Knapp, had a salary of \$277,000, a bonus of \$561,000, and stock options worth \$18 million.

So does anybody here think he ought to keep all that money, just let the investors and the employees lose, but the people at the top keep it—just walk away on some gilded, golden carpet?

There are plenty of other examples, of course.

In recent months, we have heard all of these discussions about what has happened at the top in the boardroom by companies that wanted to find the line, and then go right to it, and then go across it, if they could. And there are accounting firms that were the enablers, who said: Yes, go ahead and do that. And the law firms were on the side, collecting big fees, saying: Yes, go ahead and do that—and the CEOs without moral conscience. The result is, they got rich and the little folks got broke.

My amendment is very simple. My amendment says that 1 year prior to bankruptcy, if you are getting the big bucks, big bonuses, big incentives, big stock options, and you want to take off with \$50 or \$100 million, and leave everybody else flat on their back, you cannot do it; you have to give it back. Very simple.

No one can misunderstand the amendment. This amendment is not

strange or foreign to anyone. This bill will fall short of the mark, this bill will be incomplete, if we just proceed now to the final vote this afternoon and we are told: You cannot offer this amendment. We will not consider this amendment. And we do not want to require the give-back of millions of dollars by CEOs who receive that money prior to bankruptcy.

If that is the message this Senate sends from this bill this afternoon, this Senate has a lot of explaining to do.

We came to this debate with great promise. I have been to the floor a couple of times complimenting the Banking Committee, complimenting all on the Banking Committee who worked to put this bill together. But I said there were areas where it needed to be improved. This is one of them. This is the lightest load you will ever be asked to carry, in my judgment, to support an amendment of this type: The disgorgement of ill-earned profits by CEOs who led their corporations to bankruptcy but waltzed off with millions of dollars in their pockets and left everyone else—the bondholders, the stockholders, the employees—holding the bag.

This is not heavy lifting, to do this amendment. It is absurd if the Senate says: No, we will have nothing to do with that. Our position is, let's call this corporate responsibility. Let's change the accounting standards. But, by the way, let's let those people who essentially looted the corporation from the top—drove it into bankruptcy, and then left town—let's give them a big wave and say: So long, God bless you, and I hope your future is a good one with all those millions of dollars. If we do that, this Senate has a lot of explaining to do.

A good many corporate leaders, respected business officials in this country, have said this must be in a bill, this should be in a bill, there is no excuse for it not being in a bill.

So I have amendment No. 4214 at the desk. Let me ask unanimous consent that we set aside the Carnahan amendment, which is a second-degree amendment to the Edwards amendment, for the purpose of allowing consideration of amendment No. 4214. Let me make the first unanimous consent request first.

I ask unanimous consent that we set aside the Carnahan second-degree amendment for the purpose of considering my amendment.

The PRESIDING OFFICER (Mr. WYDEN). Is there objection?

Mr. ENZI. On behalf of the ranking member of the Banking Committee, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DORGAN. Mr. President, let me say, again, I think the process is an outrage—an outrage. We are in a situation today where we have 4 or 5 hours

left postcloture, and we are told that no one in the Senate has a right to offer an amendment because someone has set himself up as a gatekeeper saying: I will object to setting aside the Carnahan second-degree amendment.

What kind of a way is that to legislate? Is someone afraid he will lose on this amendment, that he will lose the vote? Is that the purpose of the objection, that he is afraid we will have a vote, Senators will vote for my amendment, and therefore he will lose, so the words "I object" become a proxy for avoiding a loss on an important amendment?

How many votes do you think would exist in the Senate for saying: We want to enable CEOs, who ran the corporation into the ground and took \$20 million out and then filed bankruptcy, to keep the money; we want them to keep the bonus, to keep the stock option, to keep the commission payment, to keep the money? How many votes do you think exist for that? Ten, maybe 12? Probably zero.

I think the Senator from Virginia is correct. Probably no one would stand up and support that proposition. So the question is why are we not allowing amendments to be voted on this afternoon? I would be happy to yield to someone to answer that. Is there someone who can answer that? Perhaps we could find out on whose behalf the Senator from Wyoming objected.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator from North Dakota has 29 minutes remaining.

Mr. DORGAN. Parliamentary inquiry: Are we entitled, as a Senator, to 1 hour postcloture, those of us who are recognized?

The PRESIDING OFFICER. The Senator from North Dakota is correct.

Mr. DORGAN. Several of my colleagues wish to speak. I want them to be able to speak. I hope they will offer amendments.

I will guarantee them this: I will not be objecting to an amendment if they want to offer them. They have a right to offer an amendment today. They have a right to get a vote on the amendment. I will not object to that.

The parliamentary inquiry is, I have just made a unanimous consent request that has been objected to. Am I prevented from making an identical request following the presentation by the two Senators on the floor?

The PRESIDING OFFICER. The Senator is not prevented from making unanimous consent requests.

Mr. DORGAN. That will give me some time then to snoop around the cloakrooms and the corners and the nooks and crannies in the Capitol to find out who won't come to the floor and answer the question I have asked.

Why will we not get a vote on the simple proposition that those corporate leaders who run their corporation into bankruptcy and who take \$10,

\$20, \$30, or \$50 million out of it just prior to bankruptcy—why will we not allow a vote on an amendment that would require them to disgorge themselves of that profit? Why should that ill-gotten gain not be used to help the employees, help the investors, help others recover, who lost everything? Why should one group in this circumstance walk off into the sunset with a pocketful of gold, leaving everyone in their wake, employees, investors, and others who lost everything they had?

Perhaps in the next hour or so, I will find someone in the Chamber or in the anterooms who will say: I am the one who decided you should not get a vote because I believe that those CEOs ought to be able to get away with that money; that is the American way.

My guess is the Senator from Virginia was right when he shook his head. I think this amendment passes 100 to nothing or very close to that, and I hope he and others will help me get it to a vote before 6 o'clock.

Obviously I am a little irritated about the process. It stinks. That is not a genteel way to say that. But postcloture, if we have germane amendments, we should be able to be here to offer those amendments. That is not now the case.

I will be here the next couple of hours trying to see if we can find a way to cause enough trouble in as short a time as possible to allow these amendments to be offered.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I would like to use a portion of my 1 hour of time to say I agree with the purpose and the intent of the Dorgan amendment. I understand Senator GRASSLEY of Iowa has a similar amendment that would disgorge or claw back into some ill-gotten gains of executives for the benefit of creditors and victims of their malfeasance or illegal acts.

I wish to speak not on process. Although, process seems to drive a lot of what happens in this body.

I would like to talk to my colleagues and the American people about the merits of certain ideas or the demerits of certain ideas that have been raised. There have been several measures dealing with the issue of stock options.

Senator MCCAIN's measure was a direct hit. I don't like it, but it was an accountable approach in getting rid of or killing stock options. We had Senator LEVIN's amendment, with Senator MCCAIN, which was more of an indirect or ricochet killing of stock options by granting that study to FASB, when everyone knows what FASB's position is.

There is another option regarding stock options which I would like to discuss as the approach that ought to be taken. The majority leader, Senator DASCHLE, mentioned that we may have

a vote on it today. We may have a vote on it tomorrow, but some day we will have a vote. There ought to be a full and fair discussion of the approach we ought to take as well as what the potential adverse impacts could be if either the study by FASB or the direct killing of stock options, as far as requiring the expensing of them, were to occur.

The more wise and prudent approach is one that was chiefly sponsored by my good friend Senator ENZI of Wyoming, along with Senators LIEBERMAN, BOXER, myself, and others who joined with us, Senators MURRAY, CANTWELL, BENNETT, WYDEN, LOTT, BURNS, FRIST, CRAIG and ENSIGN. Our amendment is a more comprehensive, reasonable alternative that has the Securities and Exchange Commission review and make regulatory or legislative recommendations to Congress.

Clearly, in today's climate, with the stock market dropping again today, with the scandals from Global Crossing, Enron, the crisis at WorldCom, it is axiomatic that there is a pressing need for accounting reform to address the corporate abuses and accounting firm malfeasance. The bill, as it is presented, is a very good bill. I think it addresses the two key areas that need to be addressed.

It is focused, number one, on transparency. That means that people can readily and easily discern the true financial condition of a company in which they may want to invest.

Secondly, you need deterrence, stiffer criminal and civil sanctions for illegal actions by corporate officers. There may be a few things added to make it better, but this bill essentially addresses those two focused goals. Indeed, enhanced transparency and improved corporate governance may restore some investor confidence and foster proper disclosure for investment decisions. More stringent penalties will provide a deterrence and substantial disincentive for the corporate wrongdoing that has led to this understandable firestorm of skepticism as a fallout from the scandalous, fraudulent misrepresentations by executives in many companies.

In our effort to reform, we must not enact measures that stifle innovation and endanger the American entrepreneurial spirit. Congress should not harm future opportunities for employees to own a part of their company for whom they work. Unfortunately, the Levin-McCain amendment does just that by unjustifiably upsetting the current tax treatment of stock options. It is unnecessary and unwise to change these particular accounting policies.

It is virtually impossible to accurately determine the worth or value of a stock option.

Now, how are you going to predict the future performance of a company? How are you going to predict the future share value of a company, espe-

cially with the vicissitudes of the stock market these days? For example, somebody is granted a stock option by a company—a new company—and the stock is trading, after an IPO, at \$5 a share. The option to this employee is to be able to purchase 1,000 shares of that company at \$10 a share.

Now, nobody is going to exercise a stock option until the share value reaches the strike price, or \$10, and it may never get to \$10. It may take 5 years before that share value gets above \$10 a share, where somebody would exercise the option. So it is very difficult to determine what is the actual value of that stock option when it is granted.

The amendment Mr. LEVIN has proposed will affect current law. Currently employers are not required to expense stock option grants on their financial statements. But they are permitted to deduct the employees' gains at exercise—that is, down the road—as a compensation expense.

Now, this makes good sense. After all, a stock option grant does not require a cash outlay like other expenses such as wages.

Moreover, there is no transparency problem with failing to expense stock option grants because they are disclosed on the company's financial statement. If somebody says there ought to be better disclosure, or it should be in bolder print, or it should be highlighted more and the disclosure needs to be more clear, that is fine. But I don't think it is necessary, in the midst of better disclosure and transparency, to kill this otherwise largely salutary idea and beneficial idea of stock options. Nonetheless, the amendments by Senators MCCAIN and LEVIN mandate that any company taking a deduction must report the stock option as an expense on their income statement, profit and loss statement, and the deduction may not exceed the reported expense.

Mr. LEVIN. Will the Senator yield for a question?

Mr. ALLEN. I yield.

Mr. LEVIN. Is the Senator aware that the Levin-McCain amendment he is referring to is not the amendment being offered at this time? There is another amendment, and they are totally different matters involving the taxation issue. This is not a taxation amendment at all. Hopefully, it will come before the Senate today.

Mr. ALLEN. Mr. President, I say to the Senator from Michigan, I understand his amendment offered today was one to have FASB study the issue. Senator MCCAIN's amendment was one to require the expensing of stock options. I realize they are two different matters.

Mr. LEVIN. And that neither one addresses tax issues. That is a totally separate bill, not in either the McCain-Levin or the Levin-McCain accounting standard.

Mr. ALLEN. I say to the Senator that in the event you, in effect, require the expenses of stock options, that does affect the tax treatment and the desirability of stock options.

Mr. LEVIN. Thank you.

Mr. ALLEN. I thank the Senator from Michigan.

Now, the problematic aspect of these ideas is that, if you take away the current method of accounting and taxation of stock options, a company can only take a deduction up to the amount they expense at the time of the grant. Since the expense would be taken at the time of the grant, the tax deduction would be taken at the time of the exercise. If the value was too low at the time of the grant, then you are not going to get the full extent of your deduction. So the point is that if we are not careful here, with all these approaches of changing the tax treatment, changing the expensing rules, or having it be done by FASB, the result is a convoluted tax increase on companies.

Now, what will happen if these tax increases or this inability to actually determine the value of the stock option occurs, which may or may not be exercised at some unknown future date, all of this consternation, inaccuracy, unpredictability—the potential of actually a tax increase, in effect—many companies will find this tax and accounting scheme is so onerous they will discontinue offering options to all but maybe a few senior executives who can bargain for them.

I think the idea of doing away with stock options, or making them less desirable, is a substantial detrimental impact on not only companies but many, particularly those companies in the high-tech sector and small startups. New businesses have powered our economy in the last decade and, hopefully, they will do so in the future. Small companies motivate employees with stock options. That is the way they keep employees. Especially the startups who will get folks to serve on the board and pay them for that service in stock options.

I think it is a good idea for people to care about a company doing well in the future; not only looking for a paycheck, but also caring about how well a company will do.

Indeed, in the last 10 years, the number of workers who received stock options has grown dramatically—from about 1 million in 1992 to 10 million today. First, as I said, the benefits of stock options has enabled companies to recruit and keep quality workers. Absent stock options, many smaller companies lack the capital. They don't have the money to attract top-notch talent. Investors will be less likely to invest in companies that retain stock option plans because the company's earnings will be artificially deflated by this phantom expense.

Finally, and perhaps most important, stock options enhance productivity by providing employees with a greater stake in their company's performance.

Mr. President, these options are particularly important to rank and file employees who receive relatively modest salaries and wages. There is one company that has a pretty good presence in Virginia—Electronic Arts—which recently told me that stock options enabled many of its employees to purchase their first homes, to send their children to college, or to provide for their aging parents. Thus, the desirability of stock options as incentives is readily apparent, and we should not adopt any measure that would effectively eliminate their use as a form of employee compensation.

That is not to say that I oppose all stock option reform. In fact, I fully support President Bush's proposal that requires shareholder approval for stock option plans. I think the idea of equitable treatment in the exercise of options by employees or executives is well founded. But I am joining with Senators LIEBERMAN, BOXER, ENZI, and others in offering the amendment that directs the Securities and Exchange Commission to conduct a comprehensive study and to make recommendations regarding the accounting treatment of stock options, which is the way to go.

We may introduce this proposal as a free-standing bill. Maybe we will not vote on it today but here is the approach that we ought to take. The SEC will conduct an analysis and make regulatory and legislative recommendations on the treatment of stock options in which the Commission shall analyze the following: No. 1, the accounting treatment for employees' stock options, including the accuracy of available stock option pricing models; No. 2, the adequacy of current disclosure requirements to investors and shareholders on stock options; No. 3, the adequacy of corporate governance requirements, including shareholder approval of stock option plans; No. 4, any need for new stock holding period requirements for senior executives; No. 5, the benefit and detriment of any new option expenses rules on, A, the productivity and performance of large, medium, and small companies and startup enterprises and, B, the recruitment and retention of skilled workers.

The Commission shall submit its regulatory and legislative recommendations to Congress and supporting analyses of those matters as far as any changes indicated in the treatment of stock options within 180 days.

In my view, this is the reasonable alternative we ought to be taking. I urge my colleagues to support this approach rather than adopting, whether it is today or in the future, Senator MCCAIN's measure that he introduced last week or Senator LEVIN's study

today. I think either of those would be harmful and damaging to both American industry and to working men and women.

The Senator from Michigan mentioned evidence, or observations, of others as to the impact of his recommendations and his amendment. I think it is very good for us to look at what people who will be affected say about the measures that are passed in the Senate. I think it is important that we be accountable to those who are affected and we should listen to them.

I have some other observations, as far as the issue of stock options is concerned. This first I will share is the views of the Information Technology Industry Council. They expressed their support for the potential alternative amendment cosponsored by Senators LIEBERMAN, ENZI, BOXER, and ALLEN that would direct the Securities and Exchange Commission to examine the accounting treatment of stock options and make recommendations.

The Information Technology Industry Council stated that, in particular, those entrepreneurial high-tech companies that are willing to take the risk in the pursuit of technological innovation have offered stock options as an incentive to attract and retain employees.

Unfortunately, the expensing of options would end the practice of providing most employees with stock options. The result would be a reversal of the trends toward employee ownership and a significant reduction in financial opportunities for thousands of workers.

Let me share another observation, and this comes from the Telecommunications Industry Association, and I read, in part:

This sense of personal ownership referring to stock options helps develop the innovative entrepreneurial spirit that has characterized the high tech industry over the last decade. Should the rules for options suddenly change and be treated as a cash expense, the number of employees that receive the benefit would be drastically reduced, most likely leaving only members of the top management as recipients.

They conclude with this comment:

Adoption of this type of measure is a knee jerk reaction to situations such as occurred with Enron, which is not what we need. It is not in the best long-term interest of our country.

Another observation from a large group of trade associations: American Electronic Association, Bankers Association, Alabama Information Technology Association, the Arizona Software and Internet Association, Biotechnology Industry Organization, Business Software Alliance, Information Technology Association of America, National Association of Manufacturers, the Retail Federation, Semiconductor Equipment and Materials International, as well as the Semiconductor Industry Association, Software and Information Industry Association, Software Finance and Tax Executives

Council, the Tax Council, the Technology Network, and the U.S. Chamber of Commerce wrote me and said that the stock options tax bill—not the Levin amendment but, rather, the tax treatment changes—that legislation would, if enacted, discourage broad-based rank and file access to stock options. It would lead to investor confusion, less accurate financial statements, and raise taxes on companies issuing stock options.

Now we have heard also some scholarly points of view. It is nice to hear what some of these esteemed individuals may say from time to time on the issue of stock options. Others in the body have quoted from Warren Buffett, a person for whom we all have a great deal of respect. But in another scholarly work from two gentlemen, economics professors at Princeton University and New York University, Dr. Malkiel, professor of economics at Princeton, and Dr. Baumol, professor of economics at New York University, say this:

Warren Buffett and other critics suggest that the income statement should reflect an expense to the firm measured by the cash equivalent value of options. There are two problems with these views. First, if we were to consider the expense of options to be equivalent to that of cash wages, there is no way to measure that cost, the value of options at the time they are issued, with any reasonable precision. The Nobel Prize winning Black-Scholes model does an excellent job of predicting the prices at which short-term options trade in the market, but the Black-Scholes formula does not provide reliable estimates for longer term options such as those lasting 6 months to one year, and market prices often differ substantially from predicted values. Because employee stock options have durations of 5 to 10 years, are complicated by not investing immediately, are contingent on continuing employment and subject to various restrictions, it is virtually impossible to put a precise estimate on the options value. Moreover, employees' options cannot be sold, violating one of the key Black-Scholes assumptions.

They conclude by saying that by targeting all stock options rather than stock option abuses, politicians are risking destruction of equity compensation instruments that have been engines of innovation and entrepreneurship.

Finally, an observation today from the Software Finance and Tax Executives Council. They call themselves by the acronym SoFTEC.

SoFTEC believes that Senator LEVIN's amendment essentially dictates a pre-determined result without requiring the FASB to analyze other relevant issues surrounding stock options. Rather than mandate FASB to achieve a predetermined result, SoFTEC believes that the SEC currently has the ability and authority to properly study all of the issues surrounding stock options and make recommendations based upon not only the technical accounting issue but the public policy implications as well.

So I will conclude my time by requesting of my colleagues, whether we

vote on it today, this afternoon, this evening, or in the future, that we act responsibly. It is fine to be worrying about the details of procedure and accounting minutia, but it is important also to understand the impact of this on our free enterprise system. While we are doing a lot of good as far as greater scrutiny, greater transparency, and greater punishment for wrongdoers are concerned, let us make sure we do no harm because the way that this stock market is going to change is with more investment, more risk taking, more jobs being created, and that entrepreneurial spirit that rewards people who take risks, who are creative, who are innovative. That is what is going to improve our economy, our competitiveness as a country, as well as the stock market eventually.

The point is we do not need to come up with new, convoluted ways to increase taxes on companies that we want to invest in and improve our country, and I hope we will support the free enterprise system and, in doing so, look at reasonable, logical, wise, and fully comprehended decision-making as we move forward in these very uncharted waters of making major changes in stock options.

The bill as it stands now is an outstanding bill. There can be improvements made to it, such as the amendments of Senator GRASSLEY and Senator DORGAN, but let us not have the perfect be the enemy of the very good, and let us make sure we do no harm. By fouling up stock options for many men and women working in this country, it would certainly do a great deal of harm.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. I think the Senator from Delaware was first to seek recognition.

Mr. BIDEN. Mr. President, I say to my friend from Iowa if he has a time constraint, I will yield to him. Just so he knows, I was in the Chamber before he came. I took a phone call and came back. But if the Senator has a time constraint, I have 10 to 12 minutes, but I will be happy to yield.

Mr. GRASSLEY. If I only have to listen to a 10- or 12-minute speech, I will be glad to wait.

Mr. BIDEN. I hope the Senator listens very closely. He may learn something. I know I learn when I listen, and I do not always listen enough.

Mr. President, let me begin where the Senator from Virginia ended, and that is that I think the bill fashioned by Senator SARBANES and this committee does exactly what the Senator from Virginia was suggesting. That would be balanced; we do not do more harm than good.

If you look at other times—and I have been a Senator for a while—we faced crises such as this, we have had

occasion to overreact. We have found sometimes that the cure is worse than the disease. I note we probably did that in my early days here with Senate campaign financing and other issues.

There is a real balance that the Senator from Maryland has struck. I compliment the Senator. I cannot think of any Senator better positioned to be chief spokesman for the Senate and Congress on this issue, not only for the American people but all our allies and the investors worldwide.

The dollar now has weakened drastically. In my capacity as chairman of the Foreign Affairs Committee, I have had occasion to meet with leading government officials from European countries and from Asia, asking me, as if I were some kind of broker: Can we continue to invest in your market? Is it real? What is going on? How much more is coming?

We are fortunate to have the steady and always cautious voice of the Senator from Maryland, whose background academically as well as politically suits him well, and in this moment, as probably no one else in this place is better prepared, to take on this issue. I compliment the Senator and his quiet, reasoned voice, and his profound understanding of the problem we face as well as his determination to move ahead and try to restore confidence. It is a welcome circumstance at the moment. I compliment the Senator.

I realize from listening to him and knowing him as well as I do, as a point of personal privilege, some will discount my remarks because they know the Senator and I are close personal friends and I admire him as much as anyone I have served in all my years in the Senate. I understand there are other things that he may or may not have wanted to put in the bill to strengthen our position and the Nation's position and the economy, but he wants to make sure there is consensus and overwhelming support of whatever we do. This is not a circumstance of questioning motives and wondering whether it is more for show than for serious reconstruction of the circumstances.

I say at the outset, I have one disagreement with the President of the United States. Although there probably, pray God, are only a "few really bad apples"—I think that was his phrase—in the corporate world, I do think we have a systemic problem. The marvel is that there are so many men and women in corporate America who have high moral standards and have overcome a fairly overwhelming temptation that exists in the way business is being done, the way in which we have loosened some of the not regulations, loosened some of the oversight on corporate America. It is a testament to the fact that there are so many honorable people running America's major corporations and multinational corporations.

The fact is, we have a systemic problem which leads me to my friend from Michigan, Senator LEVIN. Senator LEVIN, Senator MCCAIN, Senator CORZINE, Senator EDWARDS, myself, and several others, in varying degrees, think what this debate is all about is fundamental fairness and efficiency of our economy. A lot of what we read about these days is focused on corporate scandals, individual villains, their schemes, their greed. There is plenty of that and maybe more than I can remember any time in my Senate career.

I believe we need to focus on the behavior of corporate executives who have betrayed their positions of power, recklessly endangering the careers of tens of thousands of employees and the savings of millions of Americans. That is why it was so important the Senate unanimously adopted my amendment last week and the amendment which was contained in that of the Senator from Vermont for stronger penalties for corporate crime.

In the hearings I have held in my criminal law subcommittee in the Judiciary Committee, I made clear from the outset—and I try never to overpromise what criminal law can do, even though we are only now finally beginning to rectify and make our criminal justice system reflect our values more clearly—that is not a solution. It is a part of a solution. The Senator from Iowa and I conducted hearings in that subcommittee. We have asked for stronger penalties. We have passed them. One small example: If you were to violate the Federal law relating to pension security, ERISA, it is a misdemeanor that could cost someone their entire pension or 1,000 people their pensions, totaling hundreds of millions of dollars. It is a misdemeanor. All you get is up to 1 year in jail. Yet if you steal my automobile—I live 2 miles from the Pennsylvania State line, in Delaware—and you drive across the State line into Pennsylvania, you get 10 years under Federal law. Something is awry.

Criminal penalties are not the answer. They are just rectifying this incredible inequity within our system. Hopefully we are beginning to reestablish some sense of faith in the system where average people think big guys get away with it and little guys go to jail.

Punishing and deterring corporate crime, although it is a major part of our response to excesses committed by some of the most privileged and powerful corporate executives, is not enough. We face another fundamental problem. It is the loss of trust in our system, most apparent, perhaps, in the recent drop in the stock market. More than 200 off the DOW in the days following the President's speech, and when I came to the floor the DOW was down 300 points. I don't know where it is

right now. I hope and pray to God it has moved up.

The fact is, there is a profound lack of confidence at the moment in our economy. There used to be a chairman of the board of the Dupont Company, a big, old farm boy from Ohio. He had great big hands. I remember, he was a wonderful guy, a first-rate chemist, first-rate scientist, as well as corporate executive. I was meeting with him one day and said: We have a problem; we are in the hole. And he turned and looked at me and said: My father always said, Joe, when you get in the hole, stop digging.

Maybe the President should stop making speeches for a couple of days. He has spoken twice and the market went down 500 points while he was speaking. It is not because of a lack of anything in the President, but people are looking for real change. They assume that if there is any rhetoric, it must not be likely to be followed by something real.

The Senator from Maryland has done something real. What the Senator from Utah and his committee has done is real. This is real. This underlying bill is real; it is positive; it is substantial. The bottom line is, no pun intended, there is a profound lack of confidence at the moment and that our economy can be shaken right now to the very foundations of our market democracy. For a market democracy to work, we have to have faith in our economy that will continue to create opportunities for job advancement and that our Government will continue to promote, as our Constitution requires, the general welfare.

In recent months, to be reminded how much we have in common, how much of our unique blessings we have come to take for granted prior to September 11, we were reminded that in the end we are all in this thing together. Among those blessings we had come to take for granted was the most dynamic economy in the world, that had just come off the longest, strongest expansion in history. In the new economic arena, we are now reminded how much we depend on trust in each other to make our markets work.

That sounds silly. No one was using the word trust before when we talked of the market economy. We talked innovation, the new economy, productivity, et cetera, but when you cut it all aside, it is all based upon trust, which is based upon transparency. If you cannot get out there and make your judgment to invest or not invest in a corporation with a clear sense that you have been told everything that is reasonable to tell you about the state of affairs of that company, then you might as well play the lottery.

You might as well come on over to Delaware and play the slot machines at Delaware Park. You have about the same shot, unless you are on the inside.

The task we are debating today is how to restore the strength of our economy, which is to restore the trust. At the core of that task is revival of confidence that consumers and investors, including foreign investors, need to get back into the market.

This is going to turn around, Mr. President. You and I both know it. I am absolutely sure it is going to turn around. The question is, how many bodies will be littered along the way; how many pensions will be lost; how many jobs will be lost; how long is it going to take? It will turn around.

I am sure the greatest strength of our system continues to be its resiliency: Our ability to see change as opportunity. I am sure of that because we have met this kind of adversity before. Every time we have come out stronger.

I remember when the Senator from Maryland and I were on the Banking Committee in those dark days of the savings and loan crisis. We made it through. We made some very difficult decisions that, I might add, Japan and other countries have not made, and it resulted in an even stronger economy. So I am confident we can come out of this stronger.

After the glare from all the glitter during the boom phase and as our vision becomes a lot clearer, we know that our economy is, in fact, fundamentally stronger than it was, notwithstanding what is going on now. Productivity gains were real. Information technology and corporate reorganization created real growth. It was not imaginary. It was not like these profit margins that people were suggesting they had on the balance sheets that were a lie. There actually was growth.

The economy, the marketplace has created real growth. In what economists like to call the real economy where jobs are created, where goods are produced, the real economy is faster and more efficient today than it was a decade ago. Even old industries in our manufacturing sector have gained from advances in new materials, as well as improvement in information sharing and organization.

We also know that a lot of what looked like growth, particularly in the financial sector, was only paper profits and a lot of it was written in disappearing ink. Profits and paper valuations were all too often inflated by wishful thinking, by self-dealing analysts, by accounting gimmicks, and by outright fraud.

The amendment I am proud to support offered by Senators LEVIN and CORZINE and others addresses one of the most glaring problems behind those inflated profit statements that fueled the stock boom that is now unwinding.

Stock options are, as advocates tell us, a useful device. They can reward employees when companies are so young that they have little else to

offer. Of course, we all want to encourage startup companies in every responsible way we can. Also, stock options in theory, and sometimes in practice, keep employees' and corporate officers' incentives tied to the growth of their companies, but unlike virtually every other kind of compensation the firm can give its employees, stock options do not have to be listed on annual reports as an expense, and that means the more stock options you give, the less compensation you have to report, the lower your reported expenses, the higher your reported bottom line.

That part is simple, and that is a big reason stock options became so attractive not only for the good things they can do, but also for the convenient way they inflated earnings statements and I would even say, if I want to go overboard and defend corporate America, even defending those corporate executives who when they take the train up to Wall Street and have some 30-year-old or 35-year-old guy sitting around a table saying: OK, what are you going to do next quarter? And giant companies that are strong and mature would say: We are going to do as well as last quarter. That is not good enough. We are going to downgrade your stock and your company.

I remember one CEO of a major Fortune 10 company telling me, I have to do one of three things: I have to say, so be it, and keep on the long-term course or go out there and find some new product on the shelf, which I wish I had, that could increase productivity and profit, or go home and do something. The "do something" usually meant go home and cut the number of employees you have, cut expenses.

Guess what. I do not think these are bad, evil, and venal people. They went home, and there is an easy way to do it. Let's make sure compensation is not reflected as an expense. So instead of paying the top executives an additional \$15 million in compensation, give them stock options. Guess what. The bottom line looked \$15 million better than it did before.

That is not rocket science, and it may have been produced by Wall Street's desire for immediate gratification, immediate response. Whatever the reason, it turned out to be as much of a liability in the literal sense, as much as a damaging impact as the good things it could do by tying the employees' fate as well as the CEO's fate to their company.

I see my friend from Utah standing. Does he want to ask me a question?

Mr. BENNETT. Mr. President, will the Senator yield for a question?

Mr. BIDEN. I will be happy to yield.

Mr. BENNETT. Mr. President, the Senator is going into territory I will deal with in my statement, but to keep it all in context as he is talking, I must raise this question. The Senator is one of the historians of the Senate. He has

been around a good long time and probably will be around for longer than I will.

Does the Senator from Delaware remember that in 1993 when we increased taxes in the Clinton tax increase, we also put a limit of \$1 million on the total amount of deductions a company could take for salary for its employees?

In other words, that CEO could not be paid over \$1 million for his or her services and have the company deduct that as a legitimate expense for tax purposes.

Mr. BIDEN. To be honest with the Senator, I do not remember that.

Mr. BENNETT. Will the Senator agree that might have been part of the reason why companies, in an effort to attract and hold the best executive talent, would have moved away from traditional compensation, that the Senator and I both understood when we were growing up and applying for jobs, and into the more esoteric area of stock options because stock options were, in fact, not deductible; whereas, good old-fashioned pay for services rendered was given a tax disadvantage as a result of the Clinton tax bill?

Mr. BIDEN. In response to the Senator, I have to check more closely. I have great respect for my friend from Utah. Based on what he says, it seems to me it would have had a negative impact rather than a positive impact. That is one of the things we talk about at the front end.

Whatever we do here should have a positive impact. There is something else stock options do, too. Because stock options are predominantly awarded to top executives, they are a great way to give yourself a sweetheart deal, with a powerful incentive for executives to look for ways to inflate stock prices so their stock options, at least for a while, are worth millions, even hundreds of millions of dollars.

Here is what Business Week said about stock options back in March:

Options grants that promised to turn caretaker corporate managers into multimillionaires in just a few years encourage some to ignore the basics in favor of pumping up stock prices.

And pump they did. Here is how much stock options distorted the bottom line for some of the biggest and best companies in America. One study by a London-based consulting firm, Smither and Company, looked at the use of stock options by 145 of the largest U.S. companies.

They found that those firms overstated profit by 30 percent in 1995, 36 percent in 1996, 56 percent in 1997, and 50 percent in 1998.

Other analysts, including the Federal Reserve, have found the same thing.

These are huge distortions in the picture the public was given about these companies and a huge distortion in information investors were using to allocate capital. That kind of distortion

was clearly a big factor, maybe in addition to what my friend from Utah says, in driving up those stock prices that are now falling back to Earth.

This is no simple problem. The 200 biggest firms now allocate more than 16 percent of their stock in options. Let me repeat that.

The 200 biggest firms now allocate more than 16 percent of their stock in options, mostly for their very top executives.

The potential for distortion and the temptation to distort is great.

Remember these stock options are predominantly given to top executives.

One study in 1998 found that 220 of the top managers at Fortune 500 firms received an average of 279 times the number of stock options awarded to each of the firms' other employees.

Two hundred and seventy-nine times what ordinary employees got.

Despite the increased use of stock options this is clearly a device top management has largely preserved for itself, and the kind of incentives they created are now all too clear.

This amendment takes what I believe is the most restrained and most careful approach to the problem of stock options.

It does not legislate accounting standards, and it does not dictate outcomes.

It tells the Financial Accounting Standards Board that it is given new resources and new independence by the underlying Sarbanes amendment. It provides for FASB to come up with appropriate techniques to account for stock options, it does not dictate a one-size-fits-all at this moment, and it gives them a year to do it.

This is not about Government intervention this is about getting us out of the way of what every expert from Alan Greenspan to Warren Buffett and FASB itself says should be done.

It does nothing to interfere with the issuing of stock options.

It is about giving shareholders and investors the information they need to reassert their control over America's corporations. That will help to promote companies' long-term value, and reduce the temptation to pump up short-term stock prices.

This amendment can help promote a stronger form of stockholder democracy, to cure a system that a greedy few have turned to their own personal advantage. That kind of democracy needs openness and clarity—honest information to make informed decisions.

This amendment is real reform, and I urge my colleagues to support it.

I thank my friend from Utah for his intervention, and I thank my friend from Iowa for listening.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I yield to the Senator from Virginia, just to make a unanimous consent request.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Virginia.

Mr. ALLEN. Mr. President, I yield the remainder of my hour to Senator GRAMM, the Senator from Texas, who is the Republican manager of this bill.

The PRESIDING OFFICER. The Senator has that right. Time is yielded. The Senator from Iowa.

Mr. GRASSLEY. Before I forget, Mr. President, I make the request that the unused portion of my hour that I will not be using here, I would like to also have given to the Senator from Texas.

The PRESIDING OFFICER. The Senator has that right.

Mr. GRASSLEY. Mr. President, I have five amendments I filed: (i) An amendment providing for a team of oversight auditors, (ii) an amendment providing for prebankruptcy bonuses paid to top executives be pulled back into the bankrupt corporation's estate, (iii) an amendment providing the Securities Exchange Commission with disgorgement remedies, (iv) an amendment providing that auditors who sell tax shelter products cannot opine on the financial effects of the tax shelter deal; and, (v) last, an amendment providing whistleblower protection to the accountants and others who want to disclose financial statement misconduct.

I am pleased, in regard to the last amendment I just announced about whistleblowers, Senators LEAHY and HATCH accepted that proposal as part of their amendment which has been adopted.

I am not going to speak about the other four. I am just going to speak about one of those. It is the first amendment I put on my list, an amendment providing for a team of oversight auditors.

As I said, I congratulate my colleagues, Senators SARBANES and ENZI on their hard work in moving S. 2673 out of Committee and bringing the bill to the floor for further debate. The reform bill is a great step in the right direction for tackling some of the difficult accounting problems our Nation currently faces. Nevertheless, I believe the reform bill isn't quite tough enough on several issues and should be strengthened further, consequently, the amendment.

In my view, the recent rash of accounting scandals did not result from incompetency or lack of rigorous training of accounting professionals. Neither has the problem lied principally with misguided auditing standards known as GAAS or ill-considered accounting rules known as GAAP.

The Worldcom debacle, among others, further demonstrated that the problem does not rest entirely with a company's external auditors—whose best efforts may not detect financial misrepresentations if fraud is repeatedly covered up by corporate insiders

or contrived to defeat established internal controls. Instead, each of the most recent corporate accounting scandals appear to have arisen from egregiously bad behavior of corporate insiders and internal accountants—with varying degrees of complicity by those companies' external auditors.

Thus, as a matter of principle, I agree with the "bad apples" theory being offered by many. However, I believe addressing those bad apples requires additional oversight—and not just of a company's external accountants but of the internal accounting function itself.

To that end, I further respond to the President's call for increased oversight and would like to offer an amendment that would strengthen the provisions Sarbanes-Enzi bill by expanding the powers of the oversight board to require the performance of "spot audits." The underlying bill which focuses on monitoring external auditors would be amended to provide additional board oversight of internal corporate accounting.

Specifically, my amendment would charge the Board with responsibility for conducting oversight audits or "spot audits" of public companies. The board would serve in a role analogous to the Internal Revenue Service or the Federal Bank Examiner. The IRS, for example, achieves voluntary public compliance through review of a very limited number of federal tax returns each year. The IRS does not verify each and every tax return. Similarly, the Federal Bank Examiner sporadically and randomly audits various banks throughout the country. Such "spot auditing" has been an extremely effective oversight tool for the banking industry and one which has resulted in higher levels of regulatory compliance. In similar fashion, I believe that accountants and corporate America will prepare more carefully their financial statements if exposed to the risk of compliance review by the board's oversight auditors.

Even in self-regulated form, the accounting industry has long recognized the need for a second level of review. To that end, 24 years ago the ACIPA established the peer review process by which one accounting firm would review audit work of another accounting firm. For example, Deloitte & Touche was for many years the assigned peer reviewer of Arthur Andersen. Industry-wide self-checking on top of industry self-regulation seems ill-conceived and has been widely criticized for its effectiveness by lawmakers and the SEC.

Over the past 25 years, a Big Five accounting firm has never issued a qualified report against another Big Five accounting firm at the end of any peer review despite the subsequent discovery of numerous irregularities including numerous conflicts of interest from stock ownership in audit clients. This

recognized need for a second level of review is longstanding although the mechanism originally established by the accounting industry seems to have proven largely inadequate.

Some may ask why the Board should be granted powers which may be exercised currently by the SEC. The answer is simply resources. Providing an effective mechanism for spot checking the books of various issuers requires a dedicated audit staff to carry out those purposes. Having resources dedicated to a regulatory review process would allow the oversight board to take a proactive approach in reviewing for accounting irregularities and take the SEC out of a purely reactive posture with respect to corporate accounting fraud. The SEC has done a great job of investigating corporate scandals once detected. Unfortunately, by the time many of the recent scandals were discovered, things had progressed too far. We were unable to salvage the companies and the life savings of thousands of employees and shareholders. I believe the oversight auditor would provide a deterrent to committing fraud when coupled with tougher criminal sanctions. I further believe that earlier detection could prevent the absolute destruction of companies in which fraud remains uncovered for too long a period of time.

I note that the concept of an oversight auditor within the public oversight board was rejected in the accounting reform proposal offered by the SEC and Harvey Pitt on June 20. The draft emphasized that the SEC's vision of a newly created public oversight board reassured corporate America that the newly-created oversight board would require the cooperation of audited corporations "only to the extent necessary to further . . . reviews or proceedings regarding the [audit corporation's] accountant." The draft further promised that the new oversight board would not conduct "roving investigations" of audited corporations nor would the board sanction those corporations. It occurs to me that by shifting exclusive focus and responsibility to accounting firms, we ignore the underlying behavior of corporate wrongdoers who have principal responsibility for fair and accurate financial reporting to corporate shareholders.

Under my proposal, the newly created oversight board would be charged with reviewing the financial statements of issuers and focusing its resources on highest-risk audit areas and questionable accounting practices of which it is aware from the SEC Division of Enforcement or other sources such as whistleblowers under provisions I heartily supported.

Upon discovery, the board would refer findings of possible accounting or auditing irregularity to the Division of Enforcement with respect to issuers or

other appropriate federal and state enforcement officials such as the President's newly-created Fraud Task Force within the Department of Justice. This referral mechanism would ensure that those agencies continue to have primary authority and responsibility for conducting comprehensive corporate investigations of possible wrongdoing. The oversight board, of course, would have authority to conduct investigations of possible wrongdoing with respect to the involvement of accounting firms within its jurisdiction.

That is a basic summary of what this amendment would accomplish. I urge my colleagues to support establishment of an oversight auditor as a means of improving the compliance of corporate issuers and their external accounting firms and detecting irregularities at a much earlier point in the system when a shareholder value remains salvageable.

It seems to me that my amendment comes down to just a simple case of common sense. As I think proven so many times before, auditors need to be audited in the same way the IRS does it for tax returns and in the same way bank examiners do it in the case of bank audits. If auditors know their work will itself be audited, they will think twice about looking the other way on shady deals, as we have seen.

My amendment would put some very specific teeth in the Sarbanes-Enzi bill.

At this point, I was hoping the Senator from Texas was going to be here because I have done so much for him on a lot of Finance Committee bills. I'm referring to tax bills, including the recent CARE bill and the recent energy bill. I have helped him with so many amendments that he wanted. I was sure he would be willing to help me get unanimous consent to get my amendment up, particularly in light of the fact that last week I was assured when it wasn't on the list that it would be on the list. Then I came back and found that it meant being last on the list.

Now we are getting down to the end. I would like to have what I consider kind of a commitment, although it probably is not an ironclad commitment, that I be on the list, and, obviously, I would be able to get a vote on my amendment.

At this point, I ask unanimous consent that the pending amendment be laid aside for the purpose of taking up my amendment just described, which is amendment No. 4232.

The PRESIDING OFFICER. Is there objection?

Mr. ENZI. In light of the discussions, I have to object.

Mr. GRASSLEY. Was the President going to put my unanimous consent before the Senate?

The PRESIDING OFFICER. I did.

Mr. GRASSLEY. I did not hear the President do that.

The PRESIDING OFFICER. The Senator from Wyoming objects.

Mr. GRASSLEY. Mr. President, before I yield the floor, I would like to have just a short discussion of something that bothers me. In the Senate we have a right to be, and a responsibility to be, intellectually honest about these issues with which we are faced here.

I have heard so much during this debate—not so much during the debate, because that wouldn't be fair, but more probably in news conferences held by Senators on the other side of the aisle—about the Democrats wishing to use Enron and WorldCom events very much as, I think, political issues. I think maybe the Democrats are hoping for a “November storm” in which our economy is weak and no progress is made on accounting reforms.

As this bill goes through the Senate, through conference, and comes back, I hope we will realize that there is enough blame to go around. But, most importantly, I think it is wrong. For instance, the distinguished majority leader on “Face the Nation” recently attributed the current crisis to the alleged “permissive” attitude in the Bush administration toward business. I didn't see any “permissiveness” in the President's speech last week. I don't think very many people did.

But I think we also need to remember, while a lot of this mischief was going on by corporations, that during the decades of the 1990s and now in the 21st century there were 2 years in which Democrats controlled Congress. In those two years, we had a Republican President. That was the first Bush Presidency. There was a period of time when the Democrats controlled both Houses of Congress and the White House. That was 1993–1994. Then there were 6 years that Republicans controlled the Congress—1994–2000, and the Democrats controlled the Presidency. Then there were 135 days last year that Congress was controlled by Republicans, and the President of the United States, but only 135 days out of a 12-year period of time, if you want to use the 1990s plus now. And what has happened has happened on the watch of both Republicans and Democrats.

I think that to say a President has been President 18 months and this crisis before us is because of a “permissive” attitude in the Bush administration toward business just doesn't hold water.

I have a chart behind me. I hope I am very clear in making this more accurate than what I just said. The yellow is the 2 years of the Bush administration going back to 1994, and the other color covers the Clinton administration. But let's forget about the Bush administration and the Clinton administration. Let's just realize what the facts are.

In the case of Enron, it became public in the year 2001, but the restated earnings and the mischief went on all

the way back to at least the beginning of 1997 because 1997, 1998, 1999, 2000, and the first two quarters of 2001 were restated earnings.

Adelphia: Half of 1998, all of 1999, all of 2000—before they were public in 2001—but restated earnings for all those.

Go down to Xerox. It was found by the end of the year 2000 everything that was done wrong in Xerox. The restated earnings of 1997, 1998, 1999, and 2000 came before there was ever a President George Bush.

There were restated earnings for Rite Aid for 1998, 1999, and 2000. You can go down the list. What the chart says, better than I can say, is that it is not a permissive attitude by this President that has put us in this position. It is because of the lack of transparency that was implied in what the accounting profession and audit committees and boards of directors, who ought to be watching management, were doing, and the Securities Exchange Commission under the spirit of the 1933 law of what they should have been doing. I suppose there are a lot of others as well.

But now politics should be put to the side. We should not be making these statements. We ought to be correcting the situation so that people have confidence and so that the crooks who are running our corporations and doing these things that are evidenced here. When I say “crooks running our corporations,” I mean the ones who would do this sort of thing to their stockholders and to the country and to the economy—so that they cannot get away with that in the future.

That is what this bill is all about. I complimented Senator SARBANES and Senator ENZI about this bill. I think it would have been improved with my amendment. But, quite obviously, that is not the way the game is being played. So I am sorry that my amendment could not be put to a vote.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I have spent most of the afternoon in the Chamber listening to this debate, which I have found to be illuminating, occasionally informative. I want to do what I can to perhaps add to the information, if not to some of the light.

I made reference, in my colloquy with the Senator from Delaware, to the decision that was made by the Congress back in 1993 to put a limit on the amount of compensation that executives could receive in terms of traditional dollar salary. And the limit was \$1 million.

I remember some of the rhetoric that flew around this floor at that time, filled this Chamber—how terrible it was that people were being paid these outlandish salaries and that somehow it would benefit the people at the bottom of our economic ladder if there

was a limit placed on those salaries. And so recognizing that they could not outlaw the salaries, Congress could do the next best thing—or, if I might say, the next worst thing—and say: All right, they can pay themselves these big salaries, but, by George, we will not allow a tax deduction for anything over \$1 million.

Then, recognizing that would probably produce all kinds of difficulty, Congress said: Except in a number of areas. And one of the areas of exceptions was that nonsalary compensation could exceed \$1 million and be expensed if it were approved by the shareholders.

In my view, this was a strong incentive to move toward stock options. After all, if you are running a public company and your services are worth \$5 million or \$10 million on the open market, you are not going to stay with a company that will only pay you \$1 million in cash if a competing company will come along and offer you the \$5 million or \$10 million you think you are worth in the form of other compensation.

So as we get lyrical around here about how terrible stock options are, and how stock options lead to all kinds of excess, we should remember that Congress, in its excess of enthusiasm for a form of wage and price controls, helped contribute to this situation.

We do not like to have institutional memory. We do not like to be held accountable for our actions 4 or 5 years after those actions are taken. But, in this case, I think it is appropriate for us to remember the past while we are getting so exercised about what it is we plan to do in the future.

If I might, Mr. President, be a little autobiographical for a moment, I would like to trace my own experience with stock options. I have reflected on this, and I think it has perhaps some value in this debate.

I was working for the JC Penney Company in the mid-1960s. I was interested, when I went to work for the Penney Company, to find out that company had a tremendously innovative and singular form of compensation; that is, no one in the company was paid more than \$25,000 a year—no one. The president, the chairman of the board, none of the vice presidents—no one was paid more than \$25,000 a year.

There was a pool of profits that was created, and in addition to your \$25,000 salary, you were given points in the pool. It was assumed that the pool was divided up in such a way that any one point in the pool was worth \$1. So when I went to work for the Penney Company in 1964, my salary was, as I recall, \$10,000 a year. I was not important enough to get to the exalted \$25,000 a year stage. But I was given 2,500 points in the pool, which meant that if the company met its earnings objectives, I would get another \$2,500; in other words, my real salary would be \$12,500.

So I did everything I could to make sure that every point in the pool was, in fact, worth \$1. I did what I could to turn off the lights. I did what I could to save expenses. I did what I could to drive sales so that the company would meet its goal.

My memory is that in one of those years each point was worth 93 cents; that is, the company fell 7 percent short of its projection. And every one of us in the company who was having that kind of a salary circumstance felt that 7 percent hit. In the example I have just given, instead of getting another \$2,500 at the end of the year, I would have that \$2,500 shaved by 7 percent. I would get my \$10,000 salary, plus 93 percent of the additional \$2,500.

There were stories in the Penney Company that were legendary about managers who would get transferred from one Penney store to another. At the time, as I recall, the limit was not \$25,000, it was \$10,000. So \$10,000 per year was the maximum anyone in the company was paid. A store manager who was transferred from a relatively small store to a relatively large one in a large city was sure he was going to get a big raise. He got his first check, and it was for \$10,000 a year. And he said: But my expenses are higher. I am running a store that is two or three times bigger. It doesn't matter; you get \$10,000 a year. At the end of the year, when they added up the profits of that store, he got a bonus based on the profits of the store he was managing, and the bonus was about \$100,000. Well, he had an obvious incentive to see to it that store was profitable.

What does any of this have to do with stock options? That system that was followed by the Penney Company that helped drive its growth all those years—where compensation was tied to performance, not only your personal performance as in the case of the store manager I described but in the company's performance, as in my own case—that program was scrapped. We went to a more traditional kind of compensation. As part of the traditional kind of compensation, we had stock options.

I got a little comfortable with the old system because I remember 1 year where each point in the pool was worth \$1.23. The company did much better than it had anticipated, and I got a 23 percent upward kick in my compensation.

I questioned: Why are we getting away from this because it seems to me this works?

The answer was: Wall Street requires it.

Well, that wasn't enough of an answer for me. I said: What do you mean Wall Street requires it?

They said: The analysts at Wall Street have said to us, until you give stock options, we are not going to believe that you are serious about the fu-

ture of your company because stock options are not tied to immediate profits. Stock options are tied to future profits. And until you put some of your compensation to your executives and key employees in the form of stock options, we will not believe that you believe the future of your company is as bright as you say it is. We want them to have a stake in the future.

So as it was explained to me, in the scrapping of this unique compensation plan that I think the JC Penney Company was the only company in the country, if not the world, that followed it, in the scrapping of that plan, you had to adopt some form of stock options. So they did adopt stock options.

I didn't stay around long enough to take advantage of them. I entered the Nixon administration in 1969 and gave up my vesting in a number of circumstances at the Penney Company. Frankly, I was a little nervous about that because I thought I had a bright future financially if I had stayed at the Penney Company. And again, as I say, at the end of the year, when they sent me the money that had been accumulating in my behalf during the part of the year I worked there, each point was worth \$1.23. That said to me, once again, how much more money I would have had if I had stayed with Penney instead of coming with the Government. That is a separate issue. I will not go down that road any further. I am glad I made the decision I made. I probably would not be a Senator if I had not.

The point is, the compensation of employees should be tied to the future and benefit and prosperity of the company, and stock options were created with that in mind. What we have seen them become, since 1993, when they were not available as part of an intelligent compensation mix, but they were made more valuable by tax treatment by the Congress making an accounting decision, what we have seen is that stock options have accumulated the bad name we have been hearing about here on the floor. I am not sure I agree with everything that has been said about how terrible stock options are, but I do recognize they have led to some excesses.

In the New York Times, on July 12, there was an editorial signed by Walter Cadette, senior scholar at the Levy Institute of Bard College and retired vice president of J.P. Morgan. With a background at J.P. Morgan, in my view, he has a little bit more credibility than some of the people who write editorials for the New York Times. But he made the same point that has been going around the floor here in some of the rhetoric when he says:

Options . . . hold out the promise of wealth beyond imaging. All it takes is a set of books good enough to send a stock price soaring, if only for a while. If real earnings are not there, they can be manufactured—for long

enough, in any case, for executives to cash out. This, in essence, is what happened at Enron, WorldCom, Xerox—indeed, at quite a long list of companies.

That is not congruent with the explanation about stock options I received back in the 1960s, when I had my first opportunity to participate in stock options in a Fortune 500 company. That is something that is new, that has come along.

So we are back to the fundamental question of this bill, which is, How do we account for the performance of a company in a way that will allow investors to make an intelligent judgment about the value of the company?

That is the fundamental issue here. It is fundamental enough that I think I ought to repeat it: How do we account for the performance of the company in an accurate enough manner to allow investors to make an intelligent decision about the future of that company?

Some will say to us: That is a very easy question to answer. Congressman GEPHARDT has been quoted in the press as suggesting that accounting is a science. It is a simple matter of black and white, of adding 1 and 1 and getting 2.

That is not the case, however much we would like to believe that is the case. Yes, when you are talking about some aspects of accounting for a company's performance, it is a simple matter of adding up the numbers and reporting them. But in a company as complex as today's modern industrial corporation, there are a whole series of judgment calls that must be made. It is not just a matter of adding up all of the sales. It is not just a matter of adding up all of the costs.

Back to my example of the JC Penney Company, this is a matter of a judgment call being made. What is the judgment of the value of this company if it does not trust its executives enough with stock options?

Analysts on Wall Street who are trained and experienced came to one judgment call: that the Penney Company was not worth as much without stock options as it would be with them—nothing whatever to do with the bottom line, nothing whatever to do with how many socks we sold or how many shoes we sold or how many shirts we sold. It was a judgment call on the value of the company based on accounting decisions.

Are we going to account for compensation strictly on the basis of the Penney Company's system or are we going to make a judgment call based on stock options?

Well, the Penney Company did what it believed it had to do under those circumstances and, of course, went forward in its history.

The point here is that there are judgment calls to be made every day in every circumstance with respect to accounting, and they will determine how

the public, the investing public, will respond to the company that makes them.

That raises the question of what should those calls be and who should determine what those calls should be.

There is a term we use. It is called GAAP. It stands for generally accepted accounting principles. The very phrase itself defines what it is we are talking about. If we want to make an accounting decision as to what something is worth, we should make the decision within the parameters of GAAP; that is, we should make the decision on the basis that is generally accepted.

Let me give an example of what happens when you go outside the basis of what is generally accepted accounting principles. I was involved with an investor and he put out appropriate balance sheets, accounting information, profit and loss statements, and so on. He got a very angry call from one of the subinvestors. This was the kind of man who would sell shares in his overall project primarily to doctors and dentists.

He said to me once:

I will not sell shares to lawyers.

I said:

Why not? Isn't a lawyer's money just as good as a doctor's or a dentist's money?

He said:

No, because lawyers are trained to find problems and I don't want sub-investors who spend all of their time looking for problems.

Well, he got a phone call from a physician who said to him:

I have looked at your financial information and you are lying to me.

He said:

What do you mean I am lying to you?

He said:

It is right here in your documents. You said this particular venture made X hundreds of thousands of dollars last year. Now you have given me your financial statements and I have found out you didn't make a penny.

The man said:

What are you talking about?

He said:

I have it right here. Here is a list of your assets and a list of your liabilities and they match each other to the exact cent. You didn't make any money.

Well, generally accepted accounting principles say that a balance sheet always has to balance, that the number on one side and the number on the other side must equal each other to the penny. This man did not understand generally accepted accounting procedures, he wanted to keep books a different kind of way, and he was misled. The solution, of course, was to educate him on what those generally accepted accounting procedures ought to be. Once he generally accepted what those procedures were, he could read the profit and loss statement, the balance sheet, and he could discover that the man, in fact, was not lying to him and

that, in fact, the venture had made several hundreds of thousands of dollars that year.

Now, let's come to Wall Street, let's come to Enron, let's come to all of the things that we are talking about here. One of the things we have heard in many of the hearings that I have attended on this subject is that if you were a sophisticated analyst of financial statements, you could, in fact, find all of the information that you needed in the footnotes of the various financial statements that were published. You did not need the kinds of disclosure that this bill is calling for.

Well, I examined that, listened to that testimony, listened to the people who made that point, and came to the conclusion that they are right. If you are sophisticated enough to be able to go through every single footnote, examine every single side comment, and plow through all of the boilerplate that makes up a standard financial release, you could create an accurate picture of that corporation—except in those cases where there was outright fraud. In my opinion, Enron was a case of outright fraud, not a case of hiding things in footnotes; it was a case of lying.

Quite frankly, there is nothing we can do in this Chamber, or anywhere else in a legislative forum, to stop people who determine that they are going to lie, who are determined they are going to commit fraud. That will happen no matter what kind of a bill we pass. We can raise the penalty and thereby discourage it a little more—and there are proposals to do that—but we cannot stop it. If someone is determined he is going to break the law, and he thinks he can lie and get away with it, he will still do it regardless of the bills that we pass here.

But what we can do, what we should do, and what this bill is crafted to do is to make it easier for the ordinary investor to understand what a company is worth, make it so that the generally accepted accounting principles conform with generally understood activities with respect to the business world.

The question is, how can we establish accounting rules that will make it possible for the ordinary investor to understand what is going on and not restrict understanding to those who can read the footnotes, who can decipher all of the boilerplate. I don't think we will ever get there in a perfect world. Life being what it is, with the lawyers coming in and requiring careful terms of art to be spelled out, we will never get to the point where someone who does not have any kind of legal understanding of the terms of art can read this as easily as he or she could read Harry Potter. However, we can move in that direction, and I feel this bill does so move.

The one thing that we should be most careful of, however, is to avoid having Congress set the accounting rules.

Why? If Congress sets the accounting rules, it will—to use a phrase we use here derisively sometimes—take an act of Congress to turn that around. And having set the rules, Congress is very reluctant to come back in an act of Congress and change them. But if the rules are set by the regulatory bodies over which Congress exerts some oversight responsibility, they can be changed much more easily as more information comes along and as people begin to discover that what they did previously maybe doesn't make as much sense.

I offer as exhibit A Congress's action to outlaw the deductibility of cash compensation above a million dollars—something that, in retrospect, now looks like it was a pretty stupid thing for us to have done. But we have done it, and the chances of trying to get a bill through that would undo it are very slim. If we stay out of the business—we in Congress—of making these kinds of accounting decisions, we will be better off, the economy will be better off, more people will keep their jobs, et cetera.

Let me close on that particular subject with that particular idea in mind, and that is that Congress from time to time wants to step into the marketplace, repeal the law of supply and demand, and assert our judgment over the judgment of the marketplace. I have said many times, and will say many times hence, if I could add to what we have carved in marble around here, I would say: "You cannot repeal the law of supply and demand." But we keep trying to do it with wage and price controls. We keep trying to repeal the law of supply and demand.

We tried to do it in 1993 when we said we will do something about the excessive compensation of executives. We won't say that the marketplace and the law of supply and demand will determine what people get paid; we will legislate it. We will legislate it with tax policy. We will do some social engineering through tax policy. We keep trying to do that all the time, and it almost always produces a perverse effect.

Let me address this question of overwhelmingly big salaries and compensation—as if there was something really evil about that, really corrupting about that. Maybe there is, in terms of the impact that that sort of compensation has in the lives of an individual, but it is the marketplace at work.

Let me give an example with which I think everybody might be familiar. I am not talking about Jack Welch, the CEO of GE. I am not talking about Ken Lay at Enron. Let's talk about somebody with whom most people can identify. Let's talk about Wayne Gretzky.

Wayne Gretzky has been called, accurately in my view, the greatest hockey player who ever lived. Along with that, Wayne Gretzky is the highest paid

hockey player who ever lived. At the time the decision was made by the hockey team that brought Wayne Gretzky into the United States and paid him an incredible sum of money, there was a great hue and cry: How can one individual be worth this much money? For what? Knocking a solid piece of whatever hockey pucks are made out of around on the ice, for that he is worth \$20 million, \$30 million, \$50 million—whatever it was—a year?

The owner of the team came out of some obscurity long enough to say: Yes, he is worth that much money, and let me explain to you why. Then he outlined what the ticket sales for his team were the year before he hired Wayne Gretzky and what the ticket sales for his team were the year he announced the hiring of Wayne Gretzky. The number was several times the total amount that Wayne Gretzky was being paid.

The owner said: On a percentage basis, he is a bargain. He is a steal at the price I got him.

These numbers are representative rather than absolute, but they stick in my memory that they were paying Gretzky something like \$40 million or \$50 million and the increase in ticket sales was going to be something like \$120 million to \$150 million.

The owner said: If I had to, I would pay him twice as much because I am getting the benefit.

People say: But that is measurable. Michael Jordan did the same thing for the Washington Wizards. We can figure that out with accounting. But what these chief executive officers are being paid is obscene.

If you are a shareholder of General Electric, Mr. President, and you looked at what Jack Welch, the CEO of General Electric, did with that company during the time he had it in his stewardship, would you look back on that total period and say we paid Jack Welch too much money? Or would you look back on the amount of the value of General Electric that was generated under his stewardship and say he was a bargain; he was a steal; we could have paid him twice what we paid him and still come out well ahead?

You say: But look at all of the executives who flew their companies right into the sea. Look at the executives who destroyed their firms. Yet they got this same amount of money.

If I may go back again to the sports world, have we not seen sports teams pay very large salaries, responding to the law of supply and demand, for coaches who had losing seasons? For quarterbacks who ended up being on the waiver list? Those of us in the Washington, DC, area have had a lot of experience with quarterbacks. Does that mean we are going to stop trying to get the right quarterback for the Washington Redskins by saying we will pay them average salaries in the Na-

tional Football League so that there will not be any more of these obscene salaries and failures?

Several things will happen if the Washington Redskins take that point of view. No. 1, they will start to lose even more than they have lost in the past. And, No. 2, the fans will stop coming and the savings that you will make in buying a quarterback that you can get for \$400,000 or \$500,000 a year, compared to the one that you are gambling \$10 million or \$20 million on will all disappear as the ticket sales fall off, the television revenue disappears, and people do not want to come anymore.

Yes, there have been corporate executives who have been vastly overpaid. There have been CEOs who have been hired on the basis of their reputation, just as football coaches who have been hired on the basis of their reputation, who, to lure them into the company, have been given great packages and then failed to deliver. But there are also the Jack Welch of this world who have turned out to be bargains no matter how much they were paid.

Who should make the decision as to how much they should be paid? The answer is, The marketplace should do it. The law of supply and demand should do it. Someone who has demonstrated that he or she has the capacity to build, maintain, and expand a corporation with tremendous value for the shareholders is someone who can demand very high salaries because he or she is in very short supply.

We can complain all we want to about the social inequity of a CEO who is earning \$20 million, \$30 million, \$40 million a year and someone who is working in that company for minimum wage, but it is the same principle as saying: Look at the difference between Wayne Gretzky down on the ice earning \$20 million, \$30 million, \$40 million a year and someone selling hot dogs in the stands. If Wayne Gretzky were not on the ice, there would not be anybody in the stands to buy the hot dogs. Wayne Gretzky and his skills are in much shorter supply than someone who can stand in the stands and sell hot dogs.

We should not in our frenzy in this whole debate get so carried away with our desire to deal with those who have damaged the system by their failure to live up to their responsibilities that we, once again, make any statements that would cause us to try to repeal the law of supply and demand.

I see my colleagues are seeking recognition. I have carried on long enough. I leave with this one last thought: If we are going to deal with these issues, we should deal with them in the way this bill deals with them and not in the proposal that Congress itself should set accounting standards or should set wages or caps or compensation.

Past history tells us Congress can act in a hurry but repent at great leisure.

Mr. GRAMM. We have a unanimous consent request and a request for the yeas and nays that I want to make while we have at least a handful of Members here. I ask for the yeas and nays on the Edwards amendment.

The PRESIDING OFFICER. It is not in order to request the yeas and nays.

Mr. GRAMM. I ask unanimous consent that it be in order to request the yeas and nays on both pending amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is in order to seek the yeas and nays at this point.

Mr. GRAMM. I ask for the yeas and nays on the pending Edwards amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAMM. I now ask for the yeas and nays on the Carnahan amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAMM. The Democrat floor leader had a unanimous consent request he wants to propound.

Mr. REID. Mr. President, we are in the process of working that out now. I think we will be able to do that later.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I ask unanimous consent that I be allowed to speak for up to 10 minutes as in morning business, with the time consumed counting against the postcloture debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

Mr. REID. Mr. President, it is also my understanding that the Senator from Nevada is going to yield an hour to the manager of the bill; is that right?

Mr. ENSIGN. If you require the 50 minutes that will be left against.

Mr. REID. Or whatever time is left.

Mr. ENSIGN. Yes.

Mr. REID. Mr. President, I understand he has a right to do that; is that true?

The PRESIDING OFFICER. The Senator has a right to yield time. The manager of the bill may receive up to 44 additional minutes. The Senator from Nevada.

Mr. ENSIGN. Mr. President, at the end of my remarks, I will yield whatever time the Senator from Texas can receive.

Mr. President, I want to talk about something a little different than what we have been talking about today, although I have very strong feelings about the bill and think that both the managers of the bill, along with Sen-

ator ENZI from Wyoming, have done a terrific job in addressing some very serious problems out there. I still believe there are a few problems with the bill we need to clean up in conference.

I do think the overall legislation has some positive reforms that must be implemented to try to restore some confidence back in the investing public.

PREScription DRUGS

Mr. ENSIGN. Mr. President, what I want to talk about is something we are going to be dealing with later this week—as early as tomorrow from what I understand—and that is the whole idea of prescription drugs within Medicare. Earlier today, Senators HAGEL, GRAMM, LUGAR, INHOFE, and I all introduced a new prescription drug bill. It is the compilation of work mainly that Senator HAGEL and I have been doing for the last couple of years. We think it is a proposal that deserves the attention of our colleagues, and I encourage them to study this proposal.

I want to start by reading an e-mail I received from a senior citizen back in Nevada. This e-mail came in at 11:21 p.m. Pacific standard time, so obviously this person was up late at night thinking about the whole issue of prescription drugs. Let me read it:

I urge you to ponder very honestly the proposed prescription coverage with Medicare. Many social problems arise due to the fact that many persons who need medication to maintain some sort of life existence are not able to purchase the needed medications. Must we continue to choose housing or our medications? Please step back and consider if an elderly or disabled person in your own family were in this precarious situation. Would you not step up to the moral plate and fight to find funding for Medicare covered prescriptions?

I think this person summed up very well what a lot of seniors are feeling: They are having to choose sometimes between the type of food they eat and prescription drugs; sometimes between whether they can turn their air-conditioner on in the summertime or their heat on in the wintertime and prescription drugs; sometimes between rent and prescription drugs.

There are several proposals, and I commend the people who have been working on their proposals, but, frankly, the reason we decided to introduce this bill is that some of the other bills, especially when one looks into the out-years, are so costly that they literally could bankrupt the Medicare system in and of itself.

Our bill does a few things. First, it is available to every beneficiary, and it is also available faster than any of the other prescription drug proposals. Our bill can be implemented as early as January 1, 2004, whereas the earliest the other proposals can be implemented is 1 full year later.

Our bill is also the most affordable bill, especially to the taxpayer. We are

waiting for the final score from CBO, but we think it is going to come in somewhere around \$150 billion over the next 10 years. The next cheapest proposal, that we are aware of, is around \$370 billion, and when one looks at the full cost of a 10-year program, other programs can be up to a trillion dollars.

A trillion dollars is not something this country can afford, especially under current economic conditions, and especially when we think about young people who would like to see Medicare as a benefit to them someday.

So we must enact a reform that not only America can afford but also senior citizens can afford, and we think we have come up with that balance. Basically, the way the program would work is, every senior on a voluntary basis would be able to get a prescription drug discount card. For a \$25 annual fee, they would sign up and get this prescription drug discount card. They would then go buy their prescription drugs, and all seniors would save because of volume discount buying. We would use the private sector to do this. They would save, on average, 25 to 40 percent on their drugs. That is a huge savings right upfront that every senior could achieve.

On top of that savings, seniors up to 200 percent of poverty would next spend, on average, about \$100 a month out-of-pocket; then after that, other than a very small copay, the Federal Government would cover the rest of their prescription drug costs.

This is what seniors are looking for. In my campaign in the year 2000, I took this plan all over the State of Nevada and talked to low-income, moderate-income, and higher income seniors groups about it. I told them that people who are in the lower income bracket are going to get most of the benefit, and for people in the higher income bracket, it is going to cost them more money, as it should.

In some of the other programs, no matter whether one is a lower income or higher income senior, they basically are treated the same. I personally do not think Ross Perot or somebody in his income category should be treated the same as somebody who makes \$15,000 a year. There should be some difference. Under our bill, there is a great difference in the way those two categories of people would be treated.

The reason our bill is less costly to the taxpayer is one simple fact: All the other bills give a percentage of first dollar coverage. Whether it is 50 percent or whatever the coverage, after a very small deductible, they all start covering right away. Our bill says the senior is going to pay about the first \$100 a month out of pocket, and then after that, our coverage kicks in.

About 50 percent of the seniors do not have \$1,200 worth of prescription drug

costs per year, so about half the seniors, other than the discounts they will get because of the prescription drug discount card, actually will not use it. But, frankly, most seniors can afford about \$100 a month for prescription drugs. It is for that diabetic patient or that heart patient or that cancer patient who has maybe about \$500, or \$300, or \$400, or whatever it is, a month that they are paying in current prescription drug costs. These are the people that really cannot afford their prescription drugs, and our bill helps that person much more than most of the other plans.

The reason our bill saves so much money is that we keep the patient accountable for the drugs they are getting. They do not have somebody else paying for it and as they get the benefit. That is one of the biggest problems we have with our current health care system: There is no accountability with patients. They are receiving the benefit regardless of the cost, and so they do not think about shopping because somebody else is paying the bill.

We do not have market forces working in the health care field today, and if we enact a prescription drug benefit without utilizing market forces, someday we are really going to regret it because we will have severely out of control costs.

The bill we have introduced, we believe, is more fiscally responsible and targets most of the benefit for those who truly need it the most. We can enact it a lot more quickly than some of the other programs, and it is permanent. It is because of those factors that we believe this bill is the bill that our colleagues should take a look at supporting.

We would be happy to meet with anybody to talk to them about the bill and possibly about cosponsoring the bill. Do not be turned off because one political party may be offering one bill and the other party offering another bill. We are offering an alternative to either of those bills, and we think this bill, with its fiscal responsibility to the taxpayer, is the bill that people should support.

In closing, I look forward to engaging in a meaningful debate on prescription drugs after we deal with this accounting reform issue—and this issue is so important, and I see my friend from Wyoming who has done so much work on the bill, and I applaud him and the others who have worked on this bill. But later in the week as we are debating this prescription drug benefit proposal, we need to take a serious look and not play politics because seniors cannot afford for us to play politics with the prescription drug issue. We need to work together in a bipartisan, rather, in a nonpartisan fashion, so seniors can get the help they so deserve.

I ask unanimous consent that under the provisions of rule XXII, I may yield

whatever time I can yield back to Senator GRAMM. I understand it is 44 minutes, and I yield that amount of time to Senator GRAMM.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator has that right.

The Senator from Georgia.

Mr. KENNEDY. Will the Senator yield?

Mr. CLELAND. I am happy to yield.

Mr. KENNEDY. We have had two speakers from the other side. I ask unanimous consent to follow the Senator from Georgia.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming.

Mr. ENZI. Reserving the right to object, and I will not object, some of us have been on the floor all this time waiting to speak, as well. We hope for a chance to speak before we reach the end of the day.

I will not object.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CLELAND. Madam President, I ask recognition to discuss my amendment No. 4236. This amendment addresses the accountability of corporate officers and directors. I strongly support the legislation before us which addresses the critical need to create an environment of accountability within corporate America. We need to send a strong message to corporate executives that the days of living large while lying, cheating, and stealing from the American people are over. Control of a company certainly has its advantages, but it also carries important obligations and duties. My amendment would address a situation like Enron where officers cashed in on bonuses, severance packages and millions of dollars in stock sales as they saw the light of the train coming through the tunnel. Unfortunately for thousands of Enron employees and investors, they had no similar warning and were not able to bail themselves out before many lost not just their jobs, but their life savings as well. My amendment would make sure that officers and directors who know what is happening, who know that financial reports are being manipulated, can't cash in on this knowledge while leaving employees and investors holding the bag. It is the duty of officers and directors to know what is happening in the corporation and to blow the whistle when they know there is wrongdoing.

In the case of Enron, 10 executives or directors joined CEO Ken Lay and Chief Financial Officer Andrew Fastow in siphoning off company proceeds and reaping millions of dollars when they sold their Enron shares high. Together these 12 individuals made stock profits totaling more than \$30 million before the company took a public nose dive at the end of last year. These corporate high rollers were reaping huge profits

at the same time thousands of hard working Americans were losing more than a billion dollars in retirement savings, including \$127 million in lost retirement savings in my home State alone by teachers and State employees.

Corporate greed, should not be rewarded. The underlying bill requires that when a corporation has to file a restated financial report because of misconduct in the original report, the CEO and CFO have to give back any profits they have made from bonuses and stock sales for a year after the original report. My amendment would expand on the bill by calling into account all officers and directors who know about the misconduct in filing the financial report and through that knowledge abuse the company's trust and the trust of their employees. It would also mandate that officers and directors who have knowledge of wrongdoing in their financial reports would not only have to give up bonuses and profits but also their severance packages. Why should someone like Jeff Skilling get a parachute as he bails out of a disaster he helped to create?

This amendment, my amendment, deserves support. It is endorsed by Arthur Levitt, one of this nation's most distinguished financial authorities. It is high time we call corporate executives on the carpet and hold them accountable. It is time we create an atmosphere that encourages responsible behavior and restores the confidence of the American people in the economy of this country.

The PRESIDING OFFICER. Under the previous order, the Senator from Massachusetts is to be recognized.

Mr. KENNEDY. I am happy to yield.

Mr. REID. I will take a couple of minutes.

Mr. KENNEDY. I guess I just yielded the floor.

I yield to the Senator and ask recognition afterwards.

Mr. REID. We have had some very long speeches by those on the other side and I thought it appropriate we respond.

The ranking member of the Finance Committee had all these charts indicating that all the problems were not the problems of this administration. The fact is, we realize there is a lot of blame to go around. With do not try to whitewash this issue.

The fact is, the President of the United States appointed the SEC Commissioner, who stated in the hearings he wanted a friendlier, a more gentle Securities and Exchange Commission.

That statement speaks for itself.

We also have to understand that actions speak louder than words. What I mean is, we have a Federal Government today, this administration, that is basically run like corporate America. That has to change. That is what this legislation is all about.

When there is a situation where the President of the United States is being written up in editorials all over the country and news articles throughout the country over his dealings with stock, borrowing money that basically he did not have, to pay back the principle until you sell your stock—no one else gets deals like that. The commentators are looking at that, as they should. Of course, the dealings that the Vice President had with Halliburton, we would like to know more about that. But the Vice President is treating that like he treated his energy task force: in complete secrecy, contrary to how we should be running this Government.

I believe we have a situation that cries out for passing this legislation as quickly as possible. This administration must step forward and recognize they are part of the problem, until they start talking about supporting this legislation, as I understand the President did today. I think that is wonderful. I understand he is going to help us get this through conference. I think that is important. I would like to see it before the August recess. It is important this legislation move forward.

Actions speak louder than words. This administration has to do more than talk about what needs to be done. They have to work with us in solving the problems of corporate America today.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, there are many important provisions in the legislation before the Senate to increase corporate accountability. I had hoped to offer an amendment to make workers' retirement plans whole again when the corporate executives cheat.

After the collapse of Enron—the largest bankruptcy in U.S. history—the President and many Republicans in Congress suggested that it was an isolated example of corporate wrongdoing. Since that time, the nation has witnessed a continuing series of corporate scandals which have demonstrated otherwise.

The lack of corporate responsibility in the United States has undermined the credibility of our markets and devastated the retirement savings of millions of Americans. This widespread abuse of corporate power has also jeopardized our nation's economic recovery and hurt the legitimacy of our fundamental institutions. We must take bold action this week to ensure that corporations are made accountable and that workers and investors are protected against these abuses.

In the past month, we have seen a jury criminally convict the Arthur Andersen accounting firm for engaging in the obstruction of justice to cover up the Enron debacle. We have seen WorldCom admit that it wrongly re-

ported its true financial condition by nearly \$4 billion. Just last week, the Wall Street Journal reported that Merck recorded \$12.4 billion in revenue from a subsidiary that it never actually collected.

In response to these scandals the President gave a speech last week, which the White House likened to the words of former President Teddy Roosevelt. Unlike our nation's great trust-buster, the President failed to lay out a comprehensive plan to restore America's confidence in our economic system.

Hard-working Americans and their families have suffered immensely as a result of these scandals and the failure of the Administration to take decisive action. Workers have lost their jobs, their health benefits, and their retirement savings. Today, over 47 million workers rely on 401(k) plans and the stock market for retirement security. We can't wait for the next report of corporate fraud, the next round of layoffs, and retirement losses before we take serious action.

This wave of corporate scandals is undermining the confidence of investors in the U.S. economy. Mutual fund investors have lost about \$700 billion in just the last 15 months. In May of this year, new investments in stock funds declined by nearly two-thirds from the previous month. As foreign investors lose confidence in the transparency of U.S. corporations, these investors are pulling out of the U.S. market and the value of the dollar is now falling against foreign currency. With an unemployment rate of 5.9 percent, America's workers can ill afford to have their economic prospects dimmed by corporate corruption.

Its time—in fact its long past time—to pass tough new laws to prevent future abuses of corporate power. We must reform our accounting system, enact criminal penalties for corporate wrongdoers, and pass new protections for workers.

Senator SARBANES' accounting bill is critical to reforming our public accounting system and ensuring transparency and accountability for corporations in the United States. The legislation creates an independent oversight board; it restricts the non-audit services than an accounting firm can provide to the public companies that it audits; it holds corporate executives responsible for the accuracy of corporate financial statements; it requires corporate insiders to report stock sales and corporate loans to the SEC; and it provides additional resources to the SEC to improve its investigation and enforcement capabilities. We all owe a debt of gratitude to our colleague, Senator PAUL SARBANES, for shepherding this legislation through the Banking Committee and bringing it before the Senate.

In addition to these accounting reforms, we must hold corporate execu-

tives accountable when they mislead workers and undermine their retirement security. At Enron, executives cashed out more than a billion dollars of stock while Enron workers lost nearly a billion dollars from their 401(k) retirement plans. Thousands of Enron workers lost virtually all of their retirement savings. Enron executives got rich off stock options even as they drove the company into the ground and systematically misled workers about the true financial state of the company. Ken Lay now has a pension of nearly half a million dollars a year for life. Many Enron workers have nothing at all.

These are all statements that were made by Mr. Lay. Ken Lay's lies encouraged workers to buy Enron stock at \$49. He "never felt better about the prospects of the company." He predicted to employees a "significantly higher stock price," saying it was "an incredible bargain" as it was going down. Mr. Lay has a pension of nearly half a million dollars a year. At WorldCom, the workers lost more than half of their retirement savings as the stock dropped from \$60 to just 6 cents. Workers across the country also lost big as a result of corporate wrongdoing at WorldCom. The brave firefighters and police officers of New York City lost \$100 million from their pension fund. Over 20,000 workers have been laid off in the last few weeks because of the actions of WorldCom executives. Yet, those same executives made out like bandits. Former WorldCom CEO Bernie Ebbers is guaranteed a million and a half dollars for the rest of his life while WorldCom workers face a bleak financial future.

Sadly, Enron and WorldCom are not just isolated tales of corporate greed that hurt America's workers. At Kmart, 22,000 workers were laid off. At Lucent, 16,000 workers were laid off. At Xerox, over 13,000 workers were laid off. At Tyco, almost 10,000 workers were laid off. At Global Crossing, over 9,000 workers were laid off.

These corporate debacles reveal a much deeper crisis of corporate values. In America, people who work hard all their lives deserve retirement security in their golden years. It is wrong—dead wrong—to expect Americans to face poverty in retirement after decades of working and saving.

For far too long, corporate executives have been obsessed with their own compensation instead of the long-term health of the companies they lead. Executives, like those at Enron and WorldCom, should not put their own short-term gain ahead of the long-term interests of workers and shareholders. They must not be rewarded for doing so. At Enron, workers were systematically misled by Enron executives about the financial situation of the company. For years, Enron, like many other companies, pushed its workers to buy

company stock with their own 401(k) contributions.

Until the bitter end, Enron executives continued to promote Enron stock to workers in a series of e-mails. On August 14, Enron CEO Kenneth Lay told workers that he "never felt better about the prospects for the company." On August 27, Lay predicted to workers a "significantly higher stock price." And on September 26, Lay called Enron stock "an incredible bargain." Even as they promised the moon, Lay and other executives were cashing out their stock for a billion dollars.

If Enron and WorldCom scandals teach us anything, it's that we must stop rewarding corporate misbehavior.

Our amendment—it is cosponsored by Senator GREGG of New Hampshire—makes it clear that executives who give workers misleading information about the company stock in their 401(k) plans face serious penalties. The amendment is the civil law parallel to the Leahy criminal provisions, which punish executives for defrauding investors. The amendment is also the ERISA civil law parallel to the Biden amendment, which increases the ERISA criminal penalties. When executives lie and mislead workers about company stock, they must face real penalties.

Under current pension law, Enron executives, like Ken Lay, and Arthur Anderson, cannot be held responsible for workers' losses in their 401(k) plan. The amendment makes a corporate "insider"—an officer or director or the independent public accountant—responsible under pension law if the insider misleads workers about the company's stock.

America's workers need this amendment to hold Ken Lay and other executives engaged in wrongdoing accountable. The amendment empowers workers to seek restitution when executives knowingly abuse workers' pensions. If workers lose their retirement savings due to deliberate corporate mismanagement, then they should have the right under our laws to hold those top executives accountable in a court of law, and recover what they lost. This right could make the difference for a family between an impoverished retirement and a comfortable retirement that they earned.

The economic health of our nation depends on reigning in the abuses of corporate power which we have witnessed in recent months. Restoring the credibility of accounting standards, as the Sarbanes bill would do, is critical to restoring confidence in our markets. At the same time, we must also restore basic fairness to our system.

When corporations like Enron fail because of executive wrongdoing, corporate executives get golden parachutes but workers are left with a tin cup when it comes to their retirement. Corporate criminals must be made to pay for their misdeeds.

We see from this chart what has happened: Ken Lay, \$457,000 a year for life, retirement savings were decimated, 4,200 layoffs; former WorldCom CEO, Bernard Ebbers, \$1.5 million a year, retirement savings decimated, 20,000 layoffs; Richard McGinn, \$12.5 million lump sum pay for Lucent, retirement savings decimated, layoffs for 16,000; Charles Conway, \$9 million lump sum pension, retirement savings decimated 22,000 layoffs.

This has to stop. Today we have a critical opportunity to protect workers and investors against future abuses of corporate power. We must not let these hard-working Americans down.

Madam President, I ask unanimous consent to temporarily lay aside the pending amendment in order that I may offer the Kennedy-Gregg amendment, which I send to the desk at this time.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Massachusetts retains the floor.

Mr. KENNEDY. Madam President, I have heard objection. We tried to get this amendment up during the period of the last week and were closed out. It is a simple amendment. It is an amendment that can do more to protect workers' interests than many other proposals. I think we ought to have some accountability for those who willingly mislead, willingly and knowingly mislead workers, and then benefit from insider information.

It would just give them a cause of action, a specific case, no punitive damages. It would be a factual situation which would have to be decided in the courts of law. But it does seem to me to offer a real meaningful opportunity to protect workers and the savings of workers from the kind of gross abuse we have seen currently here in the Senate.

Mr. DORGAN. Madam President, will the Senator yield for a brief question?

Mr. KENNEDY. I am glad to yield for a question.

Mr. DORGAN. Madam President, the Senator from Massachusetts has just propounded a unanimous consent request on an amendment that makes good sense to me, and it certainly should be added to this bill. I assume it is a germane amendment. We are postcloture. At the very least, he should have gotten a vote on the amendment. But I wonder if the Senator from Massachusetts knows that this has gone on all afternoon. I offered an amendment a couple of hours ago that was simple and germane. It should have had a vote. It said that if the CEOs and directors of a corporation waltz out the door with millions of dollars of bonuses, stock options, and incentive pay, and then the company goes bankrupt, they have to give it

back. I couldn't get that amendment up for a vote because of the same objection.

I wonder if the Senator from Massachusetts might conclude from this that the things here in the final hour which are germane have a right to be considered and heard on behalf of the workers and the shareholders and the folks who didn't get rich but the folks who lost everything. I wonder if there is not a pattern here that the Senator from Massachusetts sees and that others see to shut down those amendments and protect the folks at the top while the folks at the bottom lost everything.

Mr. KENNEDY. Madam President, this amendment is relevant. But under the strict rules of the Senate, it would not be considered germane, although I think a commonsense evaluation or review of the amendment's purpose and what the underlying bill is about would certainly appear to I think most people to be an important strengthening provision if we are interested in corporate responsibility and protection for workers. It is certainly relevant, but under the technical rules it is not germane.

But I think anyone who knows what this bill is really all about understands what is happening in these circumstances. This would certainly be a very strengthening provision in the underlying provisions. We were unable to get the opportunity to have the consideration because we were foreclosed from that opportunity at the end of last week and we are getting objections this week.

I think that is unfortunate. As I understand it, the most current support for this is overwhelmingly among Republicans and Democrats alike across this country. They understand. It doesn't take a lot of debate or discussion to understand what accountability is all about. Under the existing laws, they can only have accountability, not for those who are at the CEO level, who are really the ones making these judgments and decisions upon which workers are relying, but they would only be able to sue lesser figures in the corporate ladder. Therefore, this is not an effective remedy for workers.

We are trying to provide an effective remedy for workers who are being shortchanged. It makes eminently good sense. It is eminently fair. It is eminently responsible. It is eminently relevant. But there has been objection to it.

I want to give assurance to the Senator that we look forward to offering this amendment at another time at the first opportunity.

Mr. REID. Madam President, I ask unanimous consent that Senator BYRD be recognized today at 5 until 15 after the hour to speak.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INSIDER TRADING

Mr. GRAMM. S. 2673 includes provisions prohibiting insider trading of company stock during so-called blackouts—or periods during which pension plan participants are unable to exercise control over the assets in their accounts. In order to implement the insider trading prohibition, it was necessary to provide a definition of a blackout period. The Banking Committee also provided a 30-day notice requirement prior to a blackout, so workers and executives alike would know when the insider trading prohibition would be effective.

Mr. GRASSLEY. Mr. President, there appears to be broad consensus that pension plan administrators should be required to provide 30 days' notice to affected plan participants before limiting their ability to exercise the rights provided through their pension plans. These advance blackout notices will become integral requirements for how pension plans will operate in the future. Because of this, notice requirements were included both in the pension bill reported by the Health, Education, Labor, and Pensions, HELP, Committee on March 21, and in the bill reported by the Finance Committee unanimously on July 11.

Mr. GREGG. I agree with the Senator from Iowa. Although the general concepts are agreed upon, however, there are differences between these provisions in all three bills that affect the operations of pension plans, and will clearly need to be worked out before the bill is sent to the President's desk. Harmonizing these requirements will require a careful balance between the rights of pension participants and the financial burdens on plan administrators.

Mr. KENNEDY. I certainly agree with the remarks of my colleagues. My bill provides pension plan participants with written notice 30 days before a plan blackout begins, and prohibits blackouts from continuing for an unreasonable time. This important disclosure to pension plan participants is within the jurisdiction of the HELP Committee.

Mr. BAUCUS. I also agree with the remarks of my colleagues. As chairman of the Finance Committee, which also has jurisdiction over pension plans, I join the chairman of the HELP Committee and the ranking members of both the Finance and HELP Committees in urging the chairman and ranking member of the Banking Committee to work with us as you go to con-

ference on S. 2673, to ensure that the blackout provisions are drafted in such a way as to ensure the proper operation of the pension system.

Mr. SARBANES. I look forward to consulting with both the Finance Committee and the Health, Education, Labor, and Pensions Committee as we go to conference to make sure the provisions are appropriately drafted.

CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS

Mr. GRAHAM. Section 302 of S. 2673 involves Corporate Responsibility for Financial Reports. I am concerned that in subsection (b), where the CEO and CFO sign documents to verify the accuracy of financial reports, the bill's language says they shall "certify" the accuracy of the financial documents. In my view, this language should read "certify under oath" in order to be consistent with current Securities and Exchange Commission, SEC, regulations. You can clearly see that the SEC currently requires that these statements to be under oath. Let's not create a lower standard in this bill than currently exists in regulation.

Mr. SARBANES. I appreciate the Senator's interest, and I hope his concerns can be addressed in conference.

Mr. GRAHAM. I thank the Senator for his assistance on this issue and his leadership on this legislation.

I ask unanimous consent that Exhibit A of the order be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From SEC website www.sec.gov, June 27, 2002, OMB Number: 3235-0569; Expires: January 31, 2003]

Exhibit A—Statement Under Oath of Principal Executive Officer and Principal Financial Officer Regarding Facts and Circumstances Relating to Exchange Act Filings

I, [Name of principal executive officer or principal financial officer], state and attest that:

(1) To the best of my knowledge, based upon a review of the covered reports of [company name], and, except as corrected or supplemented in a subsequent covered report: no covered report contained an untrue statement of a material fact as of the end of the period covered by such report (or in the case of a report on Form 8-K or definitive proxy materials, as of the date on which it was filed); and no covered report omitted to state a material fact necessary to make the statements in the covered report, in light of the circumstances under which they were made, not misleading as of the end of the period covered by such report (or in the case of a report on Form 8-K or definitive proxy materials, as of the date on which it was filed).

(2) I [have/have not] reviewed the contents of this statement with [the Company's audit committee] [in the absence of an audit committee, the independent members of the Company's board of directors].

(3) In this statement under oath, each of the following, if filed on or before the date of this statement, is a "covered report":

[Identify most recent Annual Report on Form 10-K filed with the Commission] of [company name];

all reports on Form 10-Q, all reports on Form 8-K and all definitive proxy materials of [company name] filed with the Commission subsequent to the filing of the Form 10-K identified above; and

any amendments to any of the foregoing.

GUIDANCE TO STATE REGULATORY AUTHORITIES

Mr. ENSIGN. Mr. President, the purpose of this amendment is to ensure that State regulators do not automatically apply the provisions of this bill to accounting firms and firms that service small businesses without first looking at the possible harmful unintended consequences to those small businesses. The standards applied by the board under this act could create undue burdens and cost if applied to nonpublic accounting companies and other accounting firms that provide services to small business clients.

Mr. GRAMM. I agree with my friend, the Senator from Nevada, and want to add that what we need to avoid is a possible cascading effect, starting with the Federal Government, that could eventually hurt the small accounting businesses in this country.

Mr. ENSIGN. Many of these small businesses rely on their CPA or auditor to provide objective, trusted advice and counsel on a broad range of tax and business related issues. Without this amendment, we will end up harming thousands of American accounting firms and their small business clients.

Mr. GRAMM. Mr. President, I think the Senator from Nevada is right about the harmful affects this legislation could have on small businesses, not only the small accounting firms in this country, but also the small business clients of those companies. This amendment says to the State regulators to look very carefully at the effects this legislation could have for smaller and medium-sized firms, and also on small businesses that may rely on larger firms for their audit work.

Mr. ENSIGN. I thank the Senator from Texas for his comments.

Mr. KOHL. Mr. President, as a businessman, I have been deeply concerned about the reports of fraudulent and even criminal behavior at prominent American corporations. When I worked in business on a daily basis, this is not the kind of behavior I saw or expected from my peers. It is imperative that we respond to the corporate malfeasance which has been roiling our markets. The impact of these acts, all for the sake of boosting short-term profits, has been broad, costing many their jobs and others their savings.

The free market is the underpinning of our economic system, the key to the growth and development of our Nation in the last two centuries. The many creative and dynamic businesses which make up our democratic capitalism make important contributions in the form of good paying jobs and the taxes which pay for critical services, such as our national defense. Above all, these

businesses are good citizens in their communities. As a result, businessmen are important and highly valued people in our society. The vast majority of businessmen act in good faith and with integrity. It is the bad apples who give the rest a bad name.

Our system has been abused. Unfortunately, those who have raped the system have reaped financial gain, while the rest have lost jobs, savings and pensions. They and their boards violated the public trust.

Those who are lucky enough to be in positions of leadership have an enormous responsibility to enhance and not damage our economy. Unfortunately, the current system of regulation has not been sufficient to prevent bad actors from abusing their positions. That is why we are taking action today. We must build more accountability into our economy because the bad actors—even if they are not in great numbers—have impacted our whole economy. The stock market is no longer the playground of the rich: We are now in an era when as many as 50 percent of the American people have some of their assets in the stock market, meaning enormous repercussions if companies are misrepresenting their financial positions.

I agree with the President that ethical behavior and corporate responsibility are essential if we are to restore the confidence of the American people in our free markets. However, the colossal corporate wrongdoing we have seen uncovered—in 2001 alone, 270 public companies had to restate the numbers in their financial statements—requires that we step up to the plate and address some of the structural problems which have allowed these frauds to occur.

That is why I support S. 2673, the Public Accounting and Corporate Reform Investor Protection Act of 2002.

There are those who have said this legislation is too strong. I disagree. This legislation will not have a negative impact on people doing their jobs as they should. We have an obligation to protect investors, employees, citizens. We are saying to CEOs, their fellow executives, and their boards: We expect you to do your jobs correctly, with integrity, and if you don't, you will be held accountable.

It is not enough to challenge corporate America to do better. We must make clear that there is a cost to engaging in accounting and securities fraud. That is why I supported the Leahy amendment, a version of the Corporate and Criminal Fraud Accountability Act. This amendment strengthens existing criminal penalties for corporate crime, creates a securities fraud felony punishable by up to 10 years in prison, and creates a new crime for schemes to defraud shareholders. The amendment also would establish a new felony antishredding pro-

vision and would protect corporate whistleblowers.

The strength of the Sarbanes bill is not in the penalties alone. The bill addresses conflicts of interest which have permitted these crimes to occur and is a balanced approach which will help prevent corporate fraud from occurring in the first place.

The bill sets up a strong, independent, and full-time oversight board with broad authorities to regulate auditors of public companies, set auditing standards, and investigate violations of accounting practices. The Public Accounting Oversight Board proposed in the bill is a better alternative to the part-time board currently being pushed by the SEC. That board would leave standard setting to the accounting profession and would most likely perpetuate the status quo. It is the lack of clear standards coming from the current system of self-regulation which has been the root of many of the frauds being revealed today.

The Sarbanes bill also restricts the nonaudit services a public accounting firm may provide to its clients that are public companies. These consulting services are clear conflicts of interest for independent auditors. We cannot rely on auditors to serve as the watchdogs of publicly traded companies if they are deeply invested in these same companies. If we cannot rely on the auditors, than how are we to rely on the markets?

Finally, the Sarbanes bill addresses the problem of stock analyst conflicts of interest. The Merrill Lynch case recently settled in New York is an egregious example of stock analysts pushing stocks that they actually thought had little value. Most often the motive for pushing stocks of questionable value is to boost their own investment banking departments which are underwriting these stocks. The bill before us today addresses this problem and requires the SEC to adopt rules designed to protect the independence and integrity of securities analysts.

I have no illusions that one bill will be the panacea for all that currently ails corporate America. For example, I believe there is more we should do, beyond the corporate disclosures in this bill, to address problems with corporate boards. We have a responsibility, however, to restore confidence in our markets and in the solid businesses which make up these markets so that our economy can thrive. Only decisive action can prevent this fraud on the American people from happening again.

Mrs. MURRAY. Mr. President, over the past year as Americans have worked hard to restart our economy, we have been hit by report after report of irregularities, misconduct, and blatant conflicts of interest by corporate executives, auditors, and brokerage firms.

The current corporate and auditing scandals are hurting American families. Thousands of jobs and retirement accounts have disappeared. Millions of current investors have watched their gains evaporate. Our economic recovery looks more distant. And most importantly for our long-term prosperity, investors are no longer confident that the financial information provided by public companies and their auditors is accurate.

Congress cannot restore the jobs and retirement savings caused by this wave of corporate and auditing scandals. It can act to strengthen oversight of the accounting industry, to demand greater responsibility from corporate executives, and to address conflicts of interest in brokerage firms.

Today I am voting for reform. We need to send a strong message to working and retired Americans, to investors, and to the executives and auditors of publicly held companies that this Senate will act to restore accountability and faith in our free market system. The Senate's bipartisan accounting reform bill will do just that.

First, the bill limits its scope to publicly held companies. The bill does not attempt to federalize accounting oversight. Instead, it strengthens the Federal Government's historic role of regulating publicly traded companies and their auditors. The State boards of accountancy will continue their important role of regulating accountants who audit private companies.

Second, the legislation establishes a strong, independent Public Company Accounting Oversight Board. The board is empowered to set auditing, quality control, and ethics standards, to inspect registered accounting firms, to conduct investigations, and to take disciplinary actions. As a check on the board's power, its decisions are subject to oversight and review by the Securities and Exchange Commission, SEC.

Third, this bill seeks to ensure that auditors are fulfilling their public duties by ending potential conflicts of interest. Large accounting firms typically provide both audit and nonaudit services to their public company clients. The legislation would prohibit auditors from performing specific non-auditing services, unless those services are approved on a case-by-case basis by the Public Company Accounting Oversight Board. All legal nonaudit services would need to be approved by a public company's audit committee.

Fourth, the Senate legislation demands that corporate leaders take greater responsibility. The bill requires that chief executive officers, CEOs, and chief financial officers, CFOs, certify financial reports, outlaws fraud and deception by managers in the auditing process, prevents CEOs and CFOs from benefitting from misstatements made in their financial reports, and prohibits corporate decisionmakers from selling

company stock at a time when their employees are prohibited from doing so.

Fifth, the Senate bill would limit the growing pressure and conflicts of interest that affect the independence of stock analysts. Just as investors need to know that a company's financial reports are accurate, so should investors expect objective opinions from stock analysts.

Finally, the bill would authorize additional funding for the SEC and would establish independent sources of funding for the new oversight board and FASB. As a member of the Senate Appropriations Committee, I will support full funding for the SEC.

We need to work to prevent future scandals. We also need stronger criminal laws and penalties to address fraud and abuse by corporate executives and auditors. During last week's debate I voted for three amendments, including an amendment by Senator LEAHY, that would close gaps in current law.

I know some of my constituents in the accounting and business communities are concerned by a few of the steps in the Senate bill. As I talk to certified public accountants in my State, they have emphasized that it is critical to encourage greater competition in the public accounting field. I agree investors would be better served by more competition. The bill requires the Comptroller General, in consultation with various agencies and organizations, to identify the factors that have led to the consolidation of public accounting firms since 1989, the impact of consolidation, and ways to address it. While a study does not guarantee action, I look forward to reviewing its findings.

It is time to restore confidence in corporate financial statements. It is time to hold people accountable who violate the public trust. I urge my colleagues to join me in supporting this legislation.

Mrs. BOXER. Individual investors, saving for their retirement or their children's education, count on business leaders to play by the rules. They also count on financial industry professionals including accountants and research analysts to produce reliable, professional, and honest work.

But recent business scandals at Enron, Tyco, Merrill Lynch, WorldCom and others are proving that without strong government oversight and regulation, greed will lead executives, accountants, and investment analysts to abuse the trust that American workers and investors have placed in them.

We have to restore that trust. This bill is a good first step. It has the necessary teeth to clamp down on corporate irresponsibility. First, it creates a full-time independent board to set ethical auditing standards. Second, it prevents companies from providing most consulting services for the very

same companies that they audit. Third, if enforced, it would send corporate executives who mislead shareholders to jail. Fourth, it forces Wall Street investment research analysts to disclose any conflicts of interest that they or their financial institution might have in the investment recommendations that they make. And finally, it protects whistleblowers who reveal unethical acts by the companies for which they work.

I support this bill and would have supported even stronger legislation. I remain concerned that the public members on the board created in this bill are not chosen according to specific independence standards. I am also concerned that disclosure requirements do not include the holdings of family members of influential research analysts on Wall Street. And most importantly I had hoped we could do more to get funds to workers who lose their jobs as a result of executive misconduct. Those concerns aside, this bill is a good first step in restoring confidence in the system.

Unfortunately, the House recently passed a bill that is weak and will not get the job done. It fails to establish a full-time board to design and enforce auditing standards, does not mandate jail time for securities fraud, and fails to protect whistleblowers. On the conflicts of interests that investment analysts are forced to disclose in the Senate bill, the House bill calls only for a study of the issue.

I urge the President to go beyond rhetoric and endorse the Senate accounting reform bill so that we can get a strong bill out of conference. I also urge the President to join us in fighting for meaningful pension reform to ensure that American's retirement savings are protected.

Mr. SMITH of Oregon. Mr. President, I rise today to take a few moments to praise the Banking Committee for bringing the Public Company Accounting Reform and Investor Protection Act of 2002 to the floor and all the hard work they have done in the past week. In the weeks before this bill came to the floor I thought that what we needed was some type of Investors' Bill of Rights.

I had worked with colleagues on both sides of the aisle to come up with bipartisan goals to prevent corporate abuse and protect investors. I feel that much of the bill on the floor fulfills these goals. I feel that there are a few things that investors should see happen when we pass this bill. I believe that much of this bill will help, and in other areas we may have to work further.

I believe that investors must have access to information about a company. We should ensure that every investor has access to clear and understandable information needed to judge a firm's financial performance, condition and risks. The SEC will have the power to

make sure companies provide investors a true and fair picture of themselves. A company should disclose information in its control that a reasonable investor would find necessary to assess the company's value, without compromising competitive assets.

I believe that investors should be able to trust the auditors. Investors rely on strong, fair and transparent auditory procedures and the concept of the Oversight Board in the Sarbanes bill is a sound one.

I believe investors should be able to trust corporate CEOs. Unlike shareholders or even directors, corporate officers work full-time to promote and protect the well-being of the firm. A CEO bears responsibility for informing the firm's shareholders of its financial health. I support the concept of withholding CEO bonuses and other incentive-based forms of compensation in cases of illegal and unethical accounting. Further, I do believe that CEOs must vouch for the veracity of public disclosures including financial statements.

I believe that investors should be able to trust stock analysts. Investors should be able to trust that recommendations made by analysts are not biased by promises of profit dependent on ratings. It is only common sense that there should be rules of conduct for stock analysts and that there must be disclosure requirements that might illuminate conflicts of interest.

Finally, I believe that we should be able to rely on the Securities and Exchange Commission to protect investors and maintain the integrity of the securities market. Current funding is inadequate and should be increased to allow for greater oversight, ensuring investors' trust in good government.

During the debate on this bill my attention has been called to the plight of public pension systems, such as Oregon's Public Employment Retirement System, known by the acronym PERS. PERS you see was invested in both Enron and WorldCom stock and has been hit hard by the debacles that occurred in each company. The PERS system lost about \$46 million after Enron self-destructed and another \$63 million following the WorldCom scandal.

These losses occurred because false profits were inflated and corporate books were doctored. Under the PERS system, an 8 percent rate of return is guaranteed for the 290,000 Oregon active and retired members of PERS. Oregon taxpayers have to make up the difference following an ENRON debacle or WorldCom scandal, and my State's budget is not prepared for this kind of loss.

While this bill goes far in creating accountability, I am interested in finding out if there is more we can do and am asking the General Accounting Office, in consultation with the Securities and Exchange Commission and the

Department of Labor, to report to Congress on the extent to which Federal securities laws have led to declines in the value of stock in publicly traded companies and in public and private pension plans.

I believe this study is necessary because many public and private pension plans continue to rely on the continued stock growth in publicly traded companies, much like the PERS system. I hope this study will provide the needed information so public and private pension plans can reevaluate future investments in publicly traded companies.

We cannot stand by and watch our hard working Americans ruin their pension systems while corrupt corporate executives take advantage of investors. I am proud of the work the Senate has done in the last week in creating accountability and responsibility in corporate America and look forward to working on this issue in a way that will help the investors and pensioners in the PERS system in Oregon.

Mr. AKAKA. Mr. President, I rise today to express my support for the Public Company Accounting Reform and Investor Protection Act of 2002. I thank Chairman SARBANES for his leadership and the Banking Committee's staff for their efforts which have resulted in a measure which is fair, realistic, and protects investors. The steady disclosure of accounting scandals and corporate misdeeds underscores the need for legislation to protect investors and to restore public trust in the accounting industry and financial markets. Chairman SARBANES has been the leading voice for reform. Our Banking Committee held ten hearings on accounting and investor protection issues in February and March. These hearings produced extremely valuable information from which S. 2673 was developed.

Public confidence has been shaken by the incidences of fraud and misrepresentations revealed in the financial statements of companies. Enron, Xerox, and WorldCom are just a few examples of corporations which have misled investors with their financial statements. Since 1997, there have been almost 1,000 restatements of earnings by companies. Investors have suffered substantial financial losses and are unsure of the validity of the audits of public companies. There is a lingering fear that there will be additional revelations of corporate fraud or misrepresentation. This has already harmed investor confidence and could continue to have an adverse impact on the financial markets.

I support this bill because it takes the appropriate steps to help restore public trust in the accounting industry and financial markets. S. 2673 would create an independent Public Accounting Oversight Board to provide effective oversight over those in the ac-

counting industry responsible for auditing public companies. Previous attempts at regulation have been complex and ineffective. As the numerous auditing failures demonstrate, there is a need for an independent Board with authority to adopt and enforce auditing, quality control, ethics, and independence standards for auditors.

The legislation also requires additional corporate governance procedures to make Chief Executive Officers and Chief Financial Officers more directly responsible for the quality of financial reporting made to investors. After the numerous misstatements and corporate abuses that have occurred, this is a necessary step to ensure that corporate executives are held accountable for the financial statements of their companies. A particularly important provision in the bill would require that CEOs and CFOs forfeit bonuses, incentive-based compensation, and profits from stock sales if accounting restatements result from material noncompliance with SEC financial reporting requirements.

Rules to limit and disclose conflicts of interests for stock analysts are included in the legislation. There is a concern that firms pressure their analysts to provide favorable reports on current or potential investment banking clients. This provision would provide protection to those individual investors who often depend on analysts for making investment decisions without being aware of the potential conflicts of interest that the analysts may have with companies whose stock they evaluate.

The Public Company Accounting Reform and Investor Protection Act also authorizes additional appropriations for the Securities and Exchange Commission in order to provide the resources necessary to protect investors. According to the General Accounting Office, approximately 250 positions were vacant last year because the Commission was unable to attract qualified candidates. Additional funding is needed to attract and retain qualified employees. S. 2673 would authorize appropriations of \$776 million for the Commission, which is much greater than President Bush's original budget request of \$467 million. I am pleased that the President is moving closer to supporting the dollar amount included in the bill.

I also want to thank Chairman SARBANES for including an amendment in the bill which I have worked closely with the Committee staff in developing. The amendment would require the General Accounting Office, GAO, to conduct a study of the factors that have led to consolidation in the accounting industry and the impact that this has had on the securities markets. Since 1989, the Big 8 accounting firms have narrowed down to the Big 5 and may soon become the Final 4. This

study is necessary to evaluate the impact that consolidation has had on quality of audit services, audit costs, auditor independence, or other problems for businesses. In addition, the study is necessary to determine what can be done to increase competition among accounting firms and whether federal or state regulations impede competition.

I am pleased that the Senate has worked in a strong bipartisan fashion to strengthen this bill. Extremely valuable amendments have been added to the original committee bill. In particular, the LEAHY and BIDEN amendments strengthen penalties for corporate fraud. These two amendments will help provide much needed additional protection for investors and retirement plan participants.

I encourage my colleagues to support the Public Accounting Reform and Investor Protection Act of 2002 to restore public trust in the accounting industry and the financial markets.

Mrs. FEINSTEIN. Mr. President, I rise to offer my support and cosponsor an amendment to S. 2673 offered by the senior Senator from New York, which would prohibit all loans by a corporation to its directors or executive officers.

Among the abuses committed by senior executives and directors at companies such as WorldCom, Enron, and Global Crossing is the practice of issuing large, favorable loans to those executives and directors.

Those loans can create conflicts of interest that limit that the ability of outside directors, in particular, to voice their criticism of the institution.

Many years ago, I served on the board of directors of a bank, and noted that at the time, several of the directors had hundreds of thousands of dollars worth of outstanding loans at that bank.

At the time, this occurred to me to be wrong, and I could not understand why these directors did not take out loans at another bank, thereby avoiding any conflicts of interest.

The only conclusion I could draw was that the loans to these directors were either easier to procure or made on more favorable terms than loans from another bank would be.

I see no justification for providing loans to corporate directors or executive officers. The goal of the reforms that we are currently debating should be to create an environment in which outside directors and major corporate officers act in as pure and honest a manner as possible.

They should not enter into any appearance of conflict, such as the conflict that occurs when the corporation that they serve extends them a personal loan.

When an individual investor chooses to buy a stock, he or she does so with the full knowledge that it might turn

out to be a bad investment. The stock may appreciate in value, but it might also go sour.

Anyone who makes that investment knows that the only way to be sure not to lose any money is to keep the money in cash or buy a T-bill.

But that is not the way it worked for the CEOs and directors of some of the largest public companies in this country.

For example, Bernard Ebbers, the former CEO of WorldCom, took out \$430 million in loans from his company between September 2000 and the end of 2001.

When the SEC began investigating WorldCom earlier this year, \$343 million in loans were still outstanding, most of which may never be recovered by WorldCom's investors.

Those loans to Ebbers are far from unique in corporate America today. One of the most egregious examples of this type of abuse in recent months is the disclosure of \$3.1 billion in loans extended to family members and affiliated business interests of the Rigas family by Adelphia Communications, a publicly traded company controlled by the Rigas family.

These loans were never disclosed to shareholders, and were apparently used to shore up a wide variety of business deals involving Rigas family members, including a golf course and an infusion of cash into the Buffalo Sabres hockey team.

On July 9, President Bush went to Wall Street and called for, among other things, "an end to all company loans to corporate officers."

I believe that the President was right, and have cosponsored this amendment with that goal in mind.

Investors have a right to know exactly how much of their dividends are going to pay for excessive pay packages. They also have a right to expect that the board of directors is truly independent and that no directors are tied too closely to the corporation they serve because of loans they have received from it.

Ms. SNOWE. Mr. President, I rise today to speak in support of the legislation we are considering, S. 2673, the Public Company Accounting Reform and Investor Protection Act of 2002.

Last fall, we watched as a company once in the top 10 of the Fortune 500 imploded from the weight of its own complex efforts to mask debt and hide losses. We watched as the company stock-laden retirement plans of Enron's loyal employees dwindled by \$1 billion. Meanwhile, company executives cashed out their own shares while these employees were barred from doing so. And finally, in congressional hearings, we watched and listened as former Enron executives either chose to remain silent, or pointed fingers of blame at everyone's actions except their own.

Tragically, the bankruptcy of Enron was no anomaly in the business sector. Rather, it was only the beginning. It ultimately proved to be a watershed event, as several other companies have reevaluated their own business and accounting methods, and found significant indiscretions. Global Crossing, a telecommunications company, is being investigated by the SEC and FBI in regard to questionable accounting practices used to artificially inflate revenue. Adelphia Communications, a cable company, is now in bankruptcy proceedings due to investigations by the SEC and two federal grand juries for off-balance sheet loans to the company's founders.

More recently, Xerox announced that it would restate 5 years of results which could affect the true nature of what had been reported as \$6 billion in revenues. And on June 25, WorldCom announced that it had misrepresented \$3.8 billion in expenses over five quarters, therefore allowing the company to report financial gain, when in reality, the company was experiencing a net loss.

While the downward spiral of each of these companies was unique, common threads are woven through each of their failures. First, the insistence by executives that, above all else, stock price remain high was an integral part of the creation of the financial woes of each company; in essence, this short-term focus compromised the long-term viability of these entities.

What has also been disturbing as these revelations have come to light is the role played by the so-called independent auditors of the companies under investigation. While the accountants are not the sole perpetrators of the financial deception that has occurred, the apparent lack of scrutiny of the financial statements of the aforementioned companies has created an inherent mistrust in the accuracy and integrity of the true nature of corporate earnings.

Furthermore, the practice of allowing auditing companies to perform non-audit services can have the ultimate effect of allowing such companies to audit the work of their own personnel. This practice defeats the purpose of having an unbiased entity objectively reviewing the merits and accuracy of financial statements.

The legislation we are considering in the Senate includes crucial provisions that will play a pivotal role in restoring confidence in our market system, and enhancing the public and private sector controls that are in place to monitor the relevant entities. The legislation creates a Public Accounting Oversight Board, which will be an entity solely focused on companies that audit and account for publicly traded firms. This oversight authority will include the ability to investigate and punish any wrongdoing by companies

under SEC jurisdiction as well as their auditors. The bill also disallows simultaneous auditing and consulting, while providing for the Board to approve certain exceptions to non-specified non-audit services under this rule.

The pending legislation also makes important strides in ensuring that any gain made by company executives be subject to retrieval if the company has to prepare an accounting restatement due to certain noncompliance with SEC regulations. As Treasury Secretary Paul O'Neill so aptly states in response to the actions of Enron executives, "I really do believe that the CEO is in effect the steward for all the people who work in their organization. And that with that responsibility goes a commitment that the people come first and that the practices are open and above board and without reproach." These executives should not be able to leave their beleaguered companies, pockets stuffed with profits from cashed out stock options, while investors and employees suffer the consequences of questionable company practices.

With the unanimous passage of the Leahy amendment, the Senate recognized the need to strengthen penalties for the punishment of those involved in corporate crime. For example, the amendment created a new felony for persons involved in the destruction of evidences—to address in the future such indiscretions as the document shredding perpetrated by Arthur Andersen's Enron Audit team. In addition, the Leahy amendment grants important whistleblower protections to company employees—like Enron's Sherron Watkins—who bravely report wrongdoing occurring within their own corporation.

The bottom line is that integrity and trust are at the core of a successfully functioning market system. These recent business scandals have severely damaged this foundation. And as with any foundation in disrepair, leaving unaddressed the damage caused by lost faith in the system will lead to continued instability, or worse.

Therefore, we in Congress have an obligation to do what we can to maintain and build investor confidence and faith in our free market system. I believe that the legislation we are considering today is a crucial first step toward that end, as well as ensuring the full rebound of our floundering economy.

Mrs. FEINSTEIN. Mr. President, I rise in support of S. 2673, the Public Company Accounting Reform and Investor Protection Act of 2002.

Nearly every day, it seems, the front pages of our newspapers are awash in stories about the latest corporate accounting scandal. Just 3 weeks ago we learned that WorldCom hid \$3.8 billion in expenses in the last five quarters alone.

And WorldCom is merely the latest member of an increasingly large group

of public corporations that have knowingly deceived shareholders, directors, and, in some cases, their own auditors. WorldCom, Enron, Tyco, Global Crossing, Xerox—the list goes on and on.

Much attention has been focused on the huge sums that CEOs and other senior executives have extracted from these companies in the form of incentive pay, but even those large sums pale in comparison to the total shareholder value that has been destroyed as a result of these disclosures. At its peak, WorldCom's market capitalization exceeded \$190 billion, making it, for a time, the most valuable telecommunications services company in the world. Now, WorldCom shares are effectively worthless.

Despite a slowdown in the telecom industry, some of the value of those shares might have been preserved had its executives relied on sound management, instead of deceptive accounting, to make their numbers.

Who will suffer most from the immense value decline associated with WorldCom and other companies that have deceived their investors? Not the senior executives, most of whom have stashed away enough of their pay to let them spend the rest of their days in comfort. The people who will really suffer are the thousands of employees whose retirement savings were proudly invested in company stock; or the millions of public employees whose pension funds held shares in these companies. Those are the people who will bear the brunt of this value decline.

CalPERS, the pension fund set up to invest the retirement savings of 1.3 million public employees in my home State, has estimated that it suffered a \$580 million loss on WorldCom stocks and bonds. That means that the average California public employee lost over \$440, not including any investments in WorldCom they may have held independently.

To give you some perspective on that amount, the amount of money lost by California public employees due to the WorldCom fraud alone is likely to exceed the entire sum of the tax rebate checks they received as part of the President's tax cut last year.

In fact, every American who invests in our stock markets will suffer as a result of these scandals, because every scandal further tarnishes the reputation of American corporate honesty for investors around the world. In recent months, those investors have pulled billions of dollars in investments out of our country, further reducing the value of stocks and weakening the dollar.

The only way that we can turn this culture around is by fostering a corporate environment that rewards honest management by senior executives and severely punishes fraudulent activities. That is exactly what would be achieved by the bill proposed by Senator SARBANES.

The Sarbanes bill tackles many of the major problem areas associated with recent corporate scandals. Most importantly, the bill would make it much more difficult for public companies to bypass or trample over auditors in attempt to produce inaccurate or deceptive financial statements.

For the first time, the Sarbanes bill creates a truly independent accounting oversight board, staffed with objective, unbiased overseers, who can enforce rules and prosecute violators without having to vet their decisions elsewhere. Unlike the Public Oversight Board, which depended on fees from the very auditors it was meant to regulate, this new board will be funded by mandatory fees paid by all public companies. These are fees that cannot be withheld at the whim of those who have the greatest interest in undermining the work of the board.

The Sarbanes bill does not stop at the creation of this new board, however. Rather, the bill strengthens areas of the law that have proven inadequate to prevent the fraudulent corporate behavior that has become so prevalent today.

The Sarbanes bill prevents auditors from controlling the entire financial reporting system at an individual company by both designing the internal audit system, and then purporting to offer an unbiased external audit. The bill will also stiffen the resolve and oversight of board of director audit committees by requiring, among other provisions, that all committee members be independent and that they be given free reign to question auditors without executive officers present.

But rather than rely solely on increased oversight, the bill moves to reduce conflicts of interest at their source, by requiring the CEO and CFO of a company that has had to restate its financial accounts to disgorge any bonuses or other incentive pay they received in the year prior to the misstatement.

Moreover, under an amendment sponsored by Senator SCHUMER and myself, company loans to executive officers are now prohibited, sharply limiting the types of "hidden" compensation that can be offered to executives without being fully disclosed to shareholders. Our amendment passed by a voice vote and will go a long way toward preventing the types of loan-related abuses prevalent at WorldCom, Global Crossing, and other companies now under investigation by the SEC for loan-related abuses.

When Senator SARBANES drafted this bill, he focused on the single reform that matters most: increased transparency. Unfortunately, we may witness more corporate failures like those of Enron or WorldCom. These are failures that are brought on by over-investment, the accumulation of excessive debt, or an ill-conceived belief in

markets or services that never live up to expectations.

What we cannot abide by, and what the Sarbanes bill goes a long way toward preventing, is the ability of senior executives to hide those bad decisions in misleading financial statements. By ensuring true auditor oversight, creating meaningful penalties for senior executives who defraud investors, and putting in place new disclosure requirements, this bill will dramatically increase the quality and timeliness of the information available to individual investors.

The United States is blessed with the best-regulated markets in the world, and for that we have been rewarded with tremendous foreign investment and a leadership position in world financial markets.

A vote in favor of this legislation is a vote to strengthen our position and avoid a wholesale loss of investor confidence that would be perilously difficult to restore.

Mr. HATCH. Mr. President, I wish today to express my support for S. 2673, the Public Company Accounting Reform and Investor Protection Act of 2002. I am pleased that the Senate is acting decisively to impose harsh, swift punishment on those corporate executives who exploit the trust of their shareholders and employees while enriching themselves. The recent corporate scandals demonstrate just how important it is to hold corporate executives accountable. I believe it is equally important for prosecutors to be provided with the tools necessary to aid in the investigation of these forms of fraud.

During this debate, our colleagues on both sides have consistently called for increased penalties for corporate fraud offenses. This week, as the Dow Jones index plummeted nearly 300 points—representing the biggest single day point drop since the week following the attacks of September 11 we voted unanimously to adopt a series of amendments that will strengthen criminal fraud penalties and create new criminal fraud offenses. I cosponsored an amendment with Senator BIDEN to enhance white collar penalties. And I supported an amendment offered by Senator LOTT, which incorporated the President's proposal by enhancing white collar penalties, supplementing existing criminal laws, and increasing the Security and Exchange Commission's administrative powers to enforce this nation's securities laws. I also supported Senator LEAHY's amendment, a measure I worked to improve in committee. This amendment includes new criminal and civil provisions that I believe will also assist in deterring and punishing future corporate wrongdoing.

Further, I am glad to see the Senate finally considering legislation that will overhaul government regulation of the

accounting industry. I agree with my distinguished colleague from Maryland that there is an inherent conflict of interest between internal and external auditing. The same people should not be installing the internal control system, performing the internal audits, and then reporting on the financial statements. The external auditor sometimes has to be tough as nails, and willing to disagree with its client's top executives. It is hard to be the bad cop when you are also the personal trainer.

However, Congress cannot always second-guess the desires of investors. In some cases, stockholders, bondholders, and other stakeholders will be worse off if Congress imposes too strict a barrier between consulting and auditing. This is especially true for small businesses that may not be able to afford to hire both a consulting firm and a separate accounting firm. And, as the President has noted, in our fast-changing economy, Congressionally-imposed barriers between different business practices can end up becoming Congressionally-imposed barriers to productivity growth.

I think the bill before us represents an effort to strike a good balance between these two competing goals of auditor independence and business innovation. It prevents internal and external audit work from being done by the same firm, and it establishes clear lines of responsibility and accountability. At the same time, the corporation's independent audit committee will be permitted to authorize certain consulting services if they are convinced it is in the shareholders' best interest. This audit committee, consisting of members of the client's board of directors, will be required by law to be completely independent of the corporation itself. This will mean that if the CEO and other top corporate officials believe it is in their company's best interests to have their accounting firm help with, for example, tax consulting and preparation, the corporate officials will have to argue the merits of their case before the independent audit committee. That kind of independence makes good sense, and it makes good law.

The Federal Government needs to help investors whether banks, pension funds, or individual investors in their quest for accurate information about the financial condition of America's businesses. Doing so is crucial for our economic long-term health. While Enron's and WorldCom's financial shenanigans contain many differences, the similarities are far more important. These were both firms that borrowed too much money during the expansion years of the late 1990s. And when it started getting tough to make the debt payments, both firms tried to hide their financial difficulties through creative bookkeeping, cooked up at company headquarters. They succeeded for

a time, but the combination of investor vigilance, media investigations, and government scrutiny are eventually bringing the facts to light.

If there had been real financial transparency, both current stockholders and potential investors could pierce the veil of bookkeeping to immediately see these companies' true financial situation. This may not have prevented the painful layoffs and tragic loss of retirement assets by thousands of employees. However, with more accurate and timely information, investors, directors, analysts, financial institutions, and others could have intervened earlier and helped to restructure these firms before all-out catastrophe threatened. When it comes to business information, knowing sooner is always better than knowing later.

And even more importantly, if corporate officials had faced the threat of serious jail time and the certain knowledge that their financial and accounting capers would be exposed to the world, they would have been much less likely to have overborrowed and underdisclosed in the first place. Mr. President, the bill on which we will vote today, on which Senator SARBANES and many of our colleagues have worked so hard, contains solid provisions that I believe will put real fear of serious consequences into the minds of corporate wrongdoers.

Does this bill represent a perfect solution to the corporate accountability issues presently facing our country? Of course not. I would have written a different bill in several respects. However, I believe that the bill is a good attempt to balance competing interests and different political philosophies. As the bill goes to conference with a House-passed bill that has some significant differences, I expect the balance to improve even further.

Strengthening corporate accountability is crucial to our nation's long-term welfare. If Congress and the President can act together to help increase corporate transparency and restore investor confidence, then businesses will be better able to raise investment capital. Greater access to capital will enable U.S. businesses to fund the groundbreaking research and to purchase the high-tech equipment that is the foundation of America's long-term prosperity. And Americans from all walks of life will reap the rewards.

Mr. MCCAIN. Mr. President, I rise today as a proud cosponsor of amendment No. 4283 that is being offered by Senator LEVIN. The amendment says that the standard-setting body for accounting principles that is set up in this bill shall review the accounting treatment of employee stock options and shall within a year of enactment of this act adopt an appropriately generally accepted accounting principle for the treatment of employee stock options.

Unfortunately, this body is not going to get the opportunity to vote on this reform or the reform I proposed last week requiring the expensing of stock options. We want to help restore investors' confidence for the long run, but we are being denied an opportunity to do this. A simple vote on this amendment is all we ask. And yet, we are being denied, and that is truly regrettable. I see no reason that a vote should not be permitted on this amendment, but let's face it—the fix is in.

I want to talk more about the expensing of stock options.

Americans have heard from the President and practically every Member of the Senate about the vital need to restore trust and transparency in business practices so we can begin to repair investors' faith in the honesty of our companies and in our markets. We need more transparency on a company's books so that any person wanting to invest their hard-earned money has a true financial picture of the company they are planning to invest in.

This issue of expensing stock options is not going to go away. Look at what has just happened. Coca-Cola, a Fortune 100 company, just announced that it will begin in the fourth quarter to treat all employee stock options as an expense. And I believe more companies will follow Coca-Cola's lead. It is only a matter of time.

Before I yield the floor, I would like to read a quote from a July 22, 2002 Weekly Standard article, "Big Businesses Bad Behavior," in which economist Irwin Stelzer, Director of Regulatory Studies at the Hudson Institute, eloquently explains why governmental action is needed to restore faith in our financial institutions. The "opposition of important segments of the business and accounting communities to reform," he writes, "means that government must take on the burden of revising the institutional framework within which business operates—setting the rules of the game that will allow markets to do their job of allocating human and financial capital to its highest and best uses. As Milton Friedman, no fan of big government, has written, society needs rules and an umpire 'to enforce compliance with rules on the part of those few who would otherwise not play the game.'" I couldn't agree more.

I ask unanimous consent that the following articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Weekly Standard, July 22, 2002]

BIG BUSINESS'S BAD BEHAVIOR

(By Irwin M. Stelzer)

No sensible person can quarrel with what the president told the Wall Street biggies when he addressed them last week. Crooks should be forced to disgorge their ill-gotten gains, and should go to a jail for extended periods. Enforcement agencies should be given

adequate resources. Corporate executives should be held responsible for the accuracy of what they tell shareholders, disclose their compensation in annual reports "prominently and in plain English," and explain what their "compensation package is in the best interest of the company." Board members should be independent and "ask tough questions." Shareholders should speak up. Most important, chief executive officers should crate a "moral tone" that ensure the company's top managers behave in accordance with the highest ethical standards.

The quarrel comes not with what the president said, but with what he didn't say. In the game of matching his laundry list of reforms against the inevitably longer list generated by the Daschle-Leahy-Sarbanes-Gephardt crowd the president inevitably loses, as last week's unanimous vote of Senate Republicans for the Democrat's bill proves. Longer sounds better if you're just compiling a laundry list of items aimed at punishing politically unpopular corporate bad guys. Only if there is a conceptual framework within which specific reforms can be created and defended is there any hope that a sensible corporate governance system will emerge from the congressional legislation factory.

Start with the fact that it is important to distinguish the role of government from that of the private-sector institutions that monitor corporate America. The latter can be relied upon to act when the integrity of the system is threatened, not because these private sector players are a bunch of goodie-two-shoes, but for the more reliable reason that honest markets and accurate profit reporting are in their interest. Just as gamblers won't put their bets down when they know a wheel to be rigged, so investors won't put their money into shares if prices can be manipulated by inflated profit reporting or special treatment of insiders.

Hence we have a stream of quite sensible reforms proposed by the Business Roundtable and the New York Stock Exchange, some going beyond those being pushed by the president. And we have companies scrambling to adopt governance rules and accounting practices that will reassure investors that the game is not rigged against them. No CEO wants to see his company's stock battered by investors who fear that share values will evaporate as profits are restated to eliminate the imaginative counting of revenues (claim them now, before the customer pays or even considers paying) and of costs (capitalize rather than expense every outlay, regardless of the life of the item purchased). Plummeting share prices are dangerous to the careers of chief executives.

But, as the president recognized when he called for higher ethical standards, self-interest cannot be relied upon to produce honest business dealings unless that self-interest includes what Adam Smith called a "desire to be both respected and respectable," and such esteem is seen to flow not from "wealth and greatness" but from "wisdom and virtue." Which may be what Bush had in mind when he said that we need "men and women of character, who know the difference between ambition and destructive greed" to lead our major corporations. And it may be what he had in mind when, immediately after delivering talk, he returned to Washington to award the Presidential Medal of freedom—America's highest civilian honor—not to the nation's richest (Intel founder Gordon Moore may have been the one exception), but instead to folks who have enriched our national life with their sharp iconoclasm (Irving Kristol), gentle humor (Bill Cosby),

and quiet devotion of family and good causes (Nancy Reagan).

Still, neither self-interest reform nor a new emphasis on business ethics can be relied upon to save capitalism from the capitalists. Immediately after the president's speech the White House was bombarded with calls from CEOs protesting his demand that they disclose their compensation packages in easily accessible terms. I well recall the reaction when, several years ago, I made a similar suggestion at a think-tank-sponsored meeting of top business and government officials. One captain of industry replied that he would not tell his shareholders how much he earns lest he encourage kidnappers (as if they would only become aware of his affluence if he revealed it in his company's annual report).

Nor did anything the president said persuade the accountants to call off their lobbyists, who continue to oppose reforms that would make their devotion to the accuracy of their audit statements unambivalent. Or convince CEOs of Silicon Valley and other high-tech companies to bow to Alan Greenspan's call for them to report their share options as the expenses they most certainly are. Again, I recall a discussion that followed a similar proposal I made several years ago. One CEO said that he couldn't place a value on these options for purposes of reporting to shareholders, even though he could value those same options for the purpose of deducting their cost from his profits for tax purposes. Another claimed that if he treated options as an expense, he would wipe out his entire reported earnings, an argument, I suppose, for refusing to account for almost any expense that constitutes a threat to reported profits—what might be called the WorldCom excuse. (For the economy as a whole, experts estimate that expensing of options would reduce aggregate corporate profits by about 8 percent.) Note that the issue is not whether companies, especially start-ups, should be allowed to use options to attract talented staff, but whether they should have to treat this compensation as an expense when reporting profits. As Greenspan points out, refusing to deduct the cost of options diverts capital and other resources from truly profitable to only apparently profitable firms.

This opposition of important segments of the business and accounting communities to reform means that government must take on the burden of revising the institutional framework within which business operates—setting the rules of the game that will allow markets to do their job of allocating human and financial capital to its highest and best uses. As Milton Friedman, no fan of big government, has written, society needs rules and an umpire "to enforce compliance with rules on the part of those few who would otherwise not play the game."

To keep rules to a Friedmannesque minimum, we need a conceptual framework for reform rather than competing laundry lists. The first step is to understand the limits of criminal sanctions. Yes, it makes sense for the Senate to insist, as it did unanimously last week, that the crimes perpetrated by some corporate managers and accountants be defined as precisely as possible. Yes, criminal sanctions can be used to make life miserable for those caught with their fingers in the till and to deter from evil-doing those for whom Adam Smith's "desire to be respectable and to be respected" is insufficient inducement to decent behavior. But, as law professors David Skeel and William Stuntz recently pointed out in the *New York Times*, "Criminal laws lead people to focus on what

is legal instead of what is right. . . . In today's world, executives are more likely to ask what they can get away with legally than what's fair and honest." The Senate was pleased with itself for toughening the laws under which executives will operate, but criminalizing bad behavior is no guarantee of future good behavior—behavior that is not merely indictment-avoiding, but is efficiency- and wealth-enhancing.

Instead, policymakers should turn to that trusty guideline, "Get the incentives right." The problems we are facing stem from the fact that we have provided the four guardians of shareholder interests—auditors, analysts, directors, and corporate managers—with the wrong incentives.

Auditors know that success or failure in their profession depends not so much on the accuracy and realism of their audits, as on their ability to conduct themselves so as not to imperil the flow of consulting fees to their firms. Enron paid Arthur Andersen as much or more in consulting than in auditing fees; Andersen's \$12 million in consulting fees from WorldCom dwarfed its \$4 million audit fee. It would have taken a brave auditor indeed to fly in the face of these clear incentives and tell Enron's management that placing some item off-balance-sheet might be technically legal, but would obscure the company's true financial condition, or to insist on access to documents that might have revealed WorldCom's recording of current expenses as capital investments. Rather than rely on such strength of character, some 70 percent of the directors surveyed by McKinsey & Co. now say they will in the future oppose the granting of such contracts, a policy that Arthur Levitt, Bill Clinton's SEC chairman, was unable to push through over the massed opposition of the accountants' lobbyists. All of which makes Bush's silence on this subject rather odd, and the Senate Democrats' insistence on a broader prohibition on consulting than is contained in the House Republicans' bill more likely to get the auditors' incentives lined up with shareholder interests.

Once those incentives are in place, other provisions of the House and Senate bills become unnecessary. Both bills call for still more regulation of auditors, and create still another regulatory body to set and oversee accounting standards. One need not be an apologist for the accounting profession to suggest that such a move would merely continue the failed practice of attempting to control auditors by closely supervising them. There is no reason to believe that such supervision will be any more successful in the future than it has been in the past, especially since in the end auditors are required only to say that they followed often complex and arcane rules that necessarily involve the exercise of judgment.

Instead of such ongoing regulation, including half measures that merely restrict auditors from engaging in some specified form of consulting activity, let's get the incentives right by complete, mandated separation of the audit and consulting businesses, as John McCain proposes. Lead the CPAs not into temptation, and reliance on porous Chinese walls becomes unnecessary. Auditors will compete for business on the basis of their ability to provide a product that gives investors confidence in the transparency and accuracy of the company accounts, with the uplifting effect that will have on the prices of their clients' shares. (Audit firms are unlikely to compete on price, since the risks associated with the audit business have risen. There are only four major firms, and

rotation of auditors on something like the five-year basis favored by Senate Democrats, although necessary to prevent over-identification between client and auditor, is a classic cartel market-sharing arrangement—all legal, in this case.)

Analysts are another group who now face perverse incentives. Investors may have been naive to believe that these students of income statements, balance sheets, and other economic data would provide honest advice about a company's financial condition and prospects. But they had a right to such a belief, since the commissions they pay their brokers are supposed to be in return for such advice. Along comes New York State Attorney General Eliot Spitzer and revelations that some of these supposed agents of the shareholders' interests are recommending stocks they know to be "shitty" in order to win investment banking business for their partners and increased compensation for themselves. All of this in the presence of Chinese walls erected to separate bankers from analysts. It took no Joshua-plus-trumpet to bring these walls down; the prospect of hefty banking fees was quite enough. Jack Grubman, the Salomon Smith Barney (a division of Citigroup) analyst famous for his enthusiastic recommendations of WorldCom stock, last week told the House Financial Services Committee, "No one can sit here on Wall Street and deny to anybody on this committee that banking is not a consideration in the compensation of analysts of a full-service firm." Forget the double negative: Grubman was conceding that part of his salary, which reached \$20 million per year, came from the \$140 million in underwriting fees that his firm received from WorldCom over the past five years.

Again, get the incentives right. One way, now preferred on Wall Street, is to write contracts that make analysts' compensation independent of the fees flowing into the investment banking divisions of the large firms. But just how analysts can prosper if the banking division isn't earning enough to pay the rent is unclear. Besides, unless analysts suddenly become willing to issue "sell" recommendations just when their investment banking partners are pitching a company for business, this proposed reform is unlikely to be effective, especially after the current heat is off and congressional attention turns to other matters. True or not, bankers believe that CEOs, being human (yes, most are), are likely to take into account what a firm's analysts are saying about their stock when selecting an investment banker. It would be an unusual CEO, indeed, who would cheerfully receive an investment banker after reading in the morning papers that the banker's analyst-partner had just downgraded his company's stock from a "buy" to a "sell." Many investment bankers—not all, but many—will find ways to persuade their partner-analysts to be team players. Banking fees are large enough to give them an enormous incentive to do just that.

So, let's get the incentives right and mandate a separation of the investment banking and stock-picking businesses, another McCain proposal. Analysts would then have an unambiguous incentive to make the best "buy" and "sell" recommendations they possibly can, so as to build reputations that will attract investors to them. And investors will get something in return for their commission dollars—honest advice from men and women expert in the analysis of corporate financial data, competing with one another to attract clients by creating a track record of picking winners.

Which brings us to Directors. Again, we have a case of skewed incentives. Directors are hired by managers to protect shareholders from, er, those same managers. To make sure the directors remain friendly, executives often shower them with perks and consulting fees, the continuation of which depend on the goodwill of the CEOs they are supposed to be supervising. It is the rare director who chooses to feast on the hand that feeds him, not merely because he is venal, but because the courtesies lavished upon him genuinely persuade him that the CEO is a decent chap, deserving of every million he is paid.

To get the incentives right, directors must be selected by vigorously participating shareholders, most especially institutional shareholders, from a slate of demonstrably independent people who, although well compensated, have reputations worth protecting. Nominations for that slate should come from sources other than the company management, to avoid a you-sit-on-my-compensation-committee-and-I'll-sit-on-yours, selection process. The directors should not accept anything within the gift of the CEO; their directors' fees should be compensation enough, and high enough to provide an incentive to accumulate a record that will persuade shareholders to reelect them at reasonably regular periodic intervals—perhaps throwing in term limits to make sure that directors and management don't develop too cozy a relationship.

Finally, we come to the CEO's and top managers. How to create incentives to induce managers to act in the interests of the shareholders who own the business has bedeviled students of corporate governance ever since 1932, when Adolph A. Berle Jr. and Gardiner C. Means published their classic "The Modern Corporation and Private Property," detailing the potential for managerial abuse created by the separation of ownership from control of large corporations. Managers placing self-interest above the interests of owners were immune to retaliation by far-flung and essentially powerless shareholders. That situation was partially corrected when Mike Milken and his debt-financed corporate raiders snatched control of many companies from the worst abusers of shareholders' interests, grounded fleets of corporate jets, sold off hunting lodges, and generally sweated the fat out of expenses—a wonderful example of markets working to correct abuses that seemed beyond the reach of regulators.

But nowadays there aren't many people who want to be like Mike, so it is incumbent on policymakers to get managers' incentives right. President Bush's proposal for publication of compensation arrangements in an accessible format would be a step in the right direction, its effectiveness attested to by the howls of outrage it produced from some CEOs. Truly independent boards, created along the lines described above, would be another advance, since compensation committees not beholden to corporate managements are more likely to relate pay to performance than the supine committees that now exist on some boards. Add in the requirement that options be treated as profit-reducing expenses—another McCain proposal that so horrified senators that it has for now been derailed—and you will have a new parsimony that will keep salaries to levels commensurate with effort and performance. Under such a regime, executives would have a clear incentive to spend their time creating efficiencies and new markets, rather than figuring out how to cash in options, and how to persuade their boards to revalue options if

poor company performance has driven the stock price below the price at which the options may be exercised, rewarding executives whether or not they have delivered long-term value for shareholders.

This may sound like an awful lot of regulation. But it is of a special, self-liquidating sort. If we adopt policies that get the incentives of all the players right, government can then get out of the way so that the various actors can do their thing—audit, advise on investments, monitor management performance in the interests of owners, and manage the company in a world in which managers' interests coincide with those of shareholders. The right kind of regulation can be a model of minimal—and effective—government.

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LEADING THE NEWS: COKE TO EXPENSE EMPLOYEE OPTIONS

MOVE MAY SPUR OTHERS TO FOLLOW AND COULD
SHAPE CURRENT TALKS IN SENATE

(By Betsy McKay)

Atlanta—Coca-Cola Co. said it will begin in the fourth quarter to treat all employee stock options as an expense, a move that could accelerate debate in corporate boardrooms over whether to adopt that accounting practice.

The beverage company's decision also could shape the outcome of discussions today in the Senate over whether to instruct a new accounting-oversight board to study the fate of stock options—in particular, whether they should be expensed as other forms of compensation.

Republicans tried Friday to block the measure, offered as an amendment to an accounting-overhaul bill. But Democrats say they will try again before final passage of the underlying accounting bill, expected late today.

"We are in a new environment," Gary Fayard, Coke's chief financial officer, said in an interview. "There had been a loophole in the accounting, and we thought it was the right time to step up to the plate."

"There's no doubt that stock options are compensation," he added. "If they weren't, none of us would want them."

Coke said its decision, announced yesterday morning, will reduce earnings only slightly—by about a penny a share—for 2002. That reflects the fact that Coke doesn't grant options as extensively as do some other companies. And while Coke isn't the first public concern to make the accounting change—Boeing Co. and Winn-Dixie Stores Inc. in recent years began calculating stock options as an expense—its high profile could prompt other businesses to consider calls from investors, regulators and politicians for greater financial candor.

Last week, AMB Property Corp., a San Francisco-based owner of industrial real estate, also said it would record stock options as an expense.

Proponents of expensing say options are compensation and should be treated as such, especially since generous option awards dilute the value of shares outstanding. Opponents say options are difficult to value and argue that expensing would confuse investors, not enlighten them. Changing accounting rules would reduce earnings at some companies.

In 1993, the Financial Accounting Standards Board tried to mandate the expensing of

options but retreated in the face of stiff opposition from business leaders and Congress. The issue flared up again after Enron Corp's demise late last year and has taken on new life with recent disclosures of earnings misstatements at WorldCom Inc.

Coke's Chairman and Chief Executive Douglas Daft raised the idea of recording stock options as an expense about two months ago, Mr. Fayard said, as news of financial scandals continued to unfold. About 10 days ago, with lawmakers calling for tougher accounting standards, Mr. Daft fielded the idea in phone calls to Warren Buffett and some other Coke directors. Mr. Buffett, Coke's largest shareholder, for years has been an outspoken proponent of expensing options.

Mr. Daft pressed ahead with his proposal to make the accounting change last week after President Bush called in a speech for better corporate governance. Mr. Bush didn't embrace the idea of forcing companies to expense options, but numerous economists and financial experts, including Federal Reserve Board Chairman Alan Greenspan, have endorsed the move, and growing investor unease sent stocks plummeting last week.

Mr. Daft convened a meeting at 7 a.m. Thursday in Sun Valley, Idaho, where he and several other directors were attending a conference. The discussion, over breakfast in the condominium of director Herbert Allen, was short. It wasn't hard to win the directors' support; Mr. Buffett, in particular, applauded the move.

"Our management's determination to change to the preferred method of accounting for employee stock options ensures that our earnings will more clearly reflect economic reality when all compensation costs are recorded in the financial statements," Mr. Daft said in a statement. A spokeswoman said he wasn't available for further comment.

"I'm delighted," Mr. Buffett said in a telephone interview. "This tells shareholders what really happens in terms of costs." The new plan, he said, also eliminates bias in structuring compensation packages, encouraging Coke to design packages that fit its and employees' needs without regard for accounting.

While Mr. Buffett said he never pushed Coke to treat stock options as an expense, he said he did encourage the company last week to take a further step and use independent investment banks to determine the fair value of stock options that Coke grants. The move is intended to ease concerns over whether options that are expensed are being properly valued. Coke will ask two investment banks, Goldman Sachs & Co. and Citibank, to price options, and will expense the option value based on the average of those firms' quotes.

Coke said stock options will be expensed over the period in which they vest, based on the value the day they are granted. Coke's 2002 options plan authorizes as many as 120 million shares, or 4.8% of the company's share outstanding. The company usually issues 25 million to 30 million shares a year, however.

For 2001, Coke's top five officers received options on 3.7 million shares, including options on one million shares for Mr. Daft. About 8,200 of Coke's 38,000 employees received options during 2001.

Mr. Buffett predicted Mr. Daft's move could make him "unpopular" among other CEOs, but he also said that while business leaders had managed to quash efforts in 1993 to force expensing of stock options, the cur-

rent environment could force them now to accept it.

"I'm sure a few others will do it," he said. "It may be that good practices drive out the bad."

Sen. John McCain (R., Ariz.) issued a statement applauding Coke's decision and expressing hope that "other companies will follow suit."

Judy Fischer, managing director of Executive Compensation Advisory Services, in Alexandria, Va., said she believes other corporations will follow Coke. "If a corporation can do it without a lot of problems to their bottom line, I think a lot will follow suit," she said.

However, it wasn't clear how other companies will react, particularly high-tech businesses that rely heavily on stock options. A spokesman for Santa Clara, Calif., semiconductor maker Intel Corp., where all employees are eligible for stock options, said he couldn't comment on Coke's move. One lobbyist was skeptical. "I doubt just because one company made this decision that other companies will follow suit," said Ralph Hellmann, top lobbyist for the Information Technology Industry Council, a high-tech trade association in Washington. "Each individual company is going to make its own determination." Looking beyond 2002, Coke's Mr. Fayard said earnings per share will be reduced by about three cents in 2003, with the reduction gradually increasing to about nine cents a share by 2006, he said. But the change won't affect the company's cash flow, he said.

Mr. DOMENICI. Mr. President, I rise first in support of our free market economy. The revelations over the last few months of corporate officials having betrayed the trust of their employees and their investors is simply unacceptable. These corporate officials must be prosecuted to the full extent of the law and if additional penalties are required, then we should enact them.

But let us not forget, that despite these terrible, unconscionable acts perpetrated by some CEOs on their workers and investors, the principles of our free market economy remain the envy of the world. These principles have allowed our economy to be the most productive, most innovative, most creative system, that has created income and employment only dreamed of in other parts of the world.

One of these principles is property rights. But it seems that some corporate managers have forgotten that the companies they run are not their personal property to operate however they see fit or for their own benefit. The exuberance of the 1990s that Chairman Greenspan warned us about and the extraordinary income and wealth generated during that period, allowed for unethical persons in our business sector to exploit this time of growth for their own selfish purposes and to bend the rules for their own benefit.

So as we pursue new rules to punish those who have betrayed a trust—and we must—let us not allow the pendulum to swing so far that it jeopardizes the innovation and vitality of our economic system for the future. Rather than working against the principles

that make our economic system so great, our actions should affirm these principles.

I am angry, shocked and extremely concerned about the revelations that have emerged in the past 6 months concerning the accounting practices of a number of public companies. To operate efficiently our free market system requires a high level of honesty and trustworthiness among its participants, especially among its key decisionmakers.

In the long run our economy—our stand of living—reflects not only our inventiveness and hard work but our moral character. Corporate executives have to be worthy of the key role they play. With all their wealth and high position comes responsibility. Sadly, some executives were not worthy of this responsibility.

Restoring the public's trust is of paramount importance. America's system of corporate governance and its trust in our financial reporting mechanisms have been shaken and restoring this trust is of critical importance. It will take more than words to restore that confidence and trust. It will take something that I, Senator DODD and others have been lecturing on for many years, and this is something not easily legislated. It will take a renewed awareness of the ethics of responsibility. It will take a reaffirmation that "Character Counts."

Reaffirming that "Character Counts" means not only encouraging our young people to live by the six pillars—trustworthiness, respect, responsibility, fairness, caring, and citizenship—but expecting that our corporate leaders adhere to these traits and conduct themselves accordingly.

Cooking the books has hurt thousands and thousands of hard-working Americans. American companies must adhere to the highest standards of public accounting ethics. Despite these abuses, as I have said our economy remains strong and the vast majority of CEOs are honest and abide by the rules. Unfortunately, a few bad characters have tainted the reputation of our enterprise system.

The President and the Congress are addressing reform. I will support these reform efforts that are aimed at regaining trust and confidence in our Nation's financial markets and ensure that American workers are protected from unscrupulous corporations. No violation of the public's trust can be tolerated.

But I also believe more can be done, and this bill before us moves us in that direction. I support:

Full and accurate disclosure: I endorse the SEC's proposals to require CEOs to certify that their financial statements completely and accurately reflect the true condition of the company.

Trust and accountability: Corporate leaders must be held accountable for

any abuse of public trust. I believe that executives should be required to return moneys they received as a result of fraudulent accounting practices, as embodied in the Senate bill.

Independence: Boards of directors must exercise independent judgment and a substantial majority of board members must be independent of management.

Auditing reform: Strong oversight of the accounting profession is essential if we are to ensure independence of auditors and credibility of the auditing process.

Pension protection: I fully support steps that will protect the retirement savings of American workers. Workers should have freedom to diversify and monitor their own retirement funds, giving confidence that their investments will not fall prey to unethical executives.

I urge the SEC to move forward with the implementation of its proposed reforms. And, I strongly believe that the NYSE and the NASDAQ must proceed to improve their listing standards. I support the reform that works to strengthen our free enterprise system. It is our obligation as a Congress and as a country to ensure that the unethical few that are causing hardship for so many hard-working Americans, be swiftly brought to justice and face jail time. We will restore faith in our economic system for it is the greatest in the world. I support passage of the Senate bill.

Mr. COCHRAN. Mr. President, while I support the passage of this bill, I think we ought to recognize the role the Administration is already playing to deal with these serious problems of corporate responsibility.

I was pleased that President Bush announced last week his suggestions for corporate accounting reform. The President forcefully argued that higher ethical standards are an imperative to restore confidence in corporate America. Those standards should, in his words, "be enforced by strict laws and upheld by responsible business leaders" and that "corporations should not be disconnected from the values of our country."

I also support the President's executive order to create the Corporate Fraud Task Force. Combined with new criminal penalties for corporate fraud, this taskforce can help bring stability to our Nation's economy. The President has also asked the Securities and Exchange Commission to adopt new rules to make sure that auditors are truly independent from the businesses which they audit.

We also need to be sure the SEC has the resources it needs to carry out its other important responsibilities.

I am hopeful that the Appropriations Committee will be able to provide the necessary amount of funding for the SEC to hire the enforcement officers it

needs and to acquire state-of-the-art technology that is necessary for the performance of its duties.

With the passage of this bill by the Senate, we will be able, in conference, to work with the other body to produce a good bill that deals effectively with the problems in this area of very legitimate concern to our country.

Mr. LEAHY. Mr. President, I want to compliment the majority leader for turning to the Sarbanes bill and the issue of corporate responsibility. I also want to thank Chairman SARBANES for his leadership on the impressive bill that he has produced in the Banking Committee.

So many times all that the public hears about Congress is about turf and partisanship. This comprehensive reform effort disproves those claims. Thanks to the leadership of the Majority Leader and Senator SARBANES, the bill that we are about to vote on is a tough, comprehensive reform package that enjoys broad bipartisan support in the Senate. It brought together the best ideas from many Senators, from many Committees, and from both parties.

From my standpoint, as Chairman of the Judiciary Committee, this has been an opportunity to benefit once again from the wonderful partnership that we have forged between the Banking Committee and the Judiciary Committee. After September 11, our two Committees worked together to write the anti-terrorism provisions of the USA Patriot Act that dealt with money laundering. Here, with the 97-0 vote to adopt of the provisions of the Corporate and Criminal Fraud and Accountability Act, as a Leahy-McCain amendment to this bill, Senator SARBANES and I have again united the forces and expertise of our Committees. This time we have done so to craft comprehensive laws to deal with financial wrongdoing, and again done so with bipartisan support in both Committees. I think that the final product is better and more complete because of our joint work. Thank you Chairman SARBANES.

But the joint effort did not stop with Senator SARBANES and myself. Senators BIDEN, HATCH and the Minority Leader offered provisions that were also adopted by the Senate, adding aspects of the President's recent proposal. That is an impressive show of bipartisanship because those proposals were only made after the Senate had already begun debate on this bill. Despite the White House's refusal to help us shape our more comprehensive proposal, we did not hesitate to include the President's suggestions in our final product.

The bill was further perfected by Senator EDWARDS' thoughtful amendment dealing with the conduct of corporate attorneys. Once again, we were able to draw on the expertise of a par-

ticular Senator to enlist the help of lawyers in stopping corporate fraud, not designing it. In short, we started with a fine bill from Senator SARBANES, and have strengthened even further, never losing our strong bipartisan support.

We need to remind ourselves of the underlying reasons for the bipartisan support behind these measures. Enron brought it to light, but it goes deeper. It's about a basic fairness and equity that transcends party lines. It's about rewarding people who play by the rules and punishing people who don't. It's about the basic American ideal of treating all people equally under the law.

We cannot have a system where a pickpocket who steals \$50 faces more jail time than a CEO who steals \$50 million. The integrity of our financial system depends on accountability. The mounting scandals and declining stock market have damaged the integrity of our public markets and we must restore it.

I was proud that the Judiciary Committee, joined by the Majority Leader and a bipartisan group of Senators including Senator MCCAIN and others was able to make such an important contribution to this effort by contributing the provisions of S. 2010, the "Corporate and Criminal Fraud Accountability Act," as it was unanimously reported out of the Judiciary Committee in April, as an amendment to the Sarbanes bill. Both in Committee in April and again last week on the floor, not a single Senator from either party has voted against the provisions of the Corporate and Criminal Fraud Accountability Act.

We worked hard to reach across party lines on this measure, and I hope that the House of Representatives acknowledges that fact. I was glad to see in last Friday's newspapers that Speaker HASTERT also endorsed the joint Sarbanes-Leahy measure after its adoption. I hope that the President can follow the leadership of Speaker HASTERT and support the Senate measure as this bill moves forward.

Recent events have served as a stark reminder that we need to reexamine our laws to make sure that they reflect our important and shared values of honesty and accountability. Enron has become a symbol for the torrent of corporate fraud scandals that have hit the front pages and battered our financial markets. Tyco, Xerox, WorldCom, Adelphia, Global Crossings, the list goes on.

The things that happened at Enron did not happen by mistake. They were not the result of one or two "bad apples." Senior management at Enron, assisted by an army of accountants and lawyers spun an intricate web of deceit. They engaged in a systematic fraud that allowed them to secretly take hundreds of millions of dollars out

of the company. This kind of fraud is not the work of a lone fraud artist. Rather, it is symptomatic of a corporate culture where greed has been inflated and honesty devalued.

Unfortunately, as I have said and as the experts warned at our February 6 hearing, Enron does not appear to have been alone. Each week we read of corporation after corporation that has engaged in misconduct, and these are not small or marginal corporations. These are major mainstays of corporate America. The web of deceit woven by such publicly traded companies ensnares and victimizes the entire investing public who depend on the transparency and integrity of our markets for everything from their retirement nest eggs to their children's college funds. That is why this comprehensive reform is urgently needed to restore accountability in our markets.

The Leahy-McCain amendment to the Sarbanes bill, approved 97-0 by the Senate, provided important provisions to ensure just such accountability.

The Corporate and Criminal Fraud Accountability Act which I authored provides tough new criminal penalties to restore accountability and transparency in our markets. It accomplishes this in three ways:

punishing criminals who commit fraud, preserving evidence to prove fraud, and protecting victims of fraud.

Here are some of its major provisions as adopted by the unanimous Judiciary Committee in April and the unanimous Senate last week: It establishes a new crime of securities fraud, with a tough ten year jail sentence. It breaks the "corporate code of silence" by providing, for the first time, federal protection for corporate whistleblowers who report fraud to the authorities or testify at trial. It closes loopholes and toughens penalties for shredding documents as we learned had occurred at Arthur Andersen. It requires audit documents to be preserved for 5 years and provides tough criminal penalties for their destruction. It protects victims the right to recoup their losses by preventing fraud artists from hiding in bankruptcy or concealing their crime and using an unfair statute of limitations to hide.

With these bipartisan provisions and others incorporated, this bill we have produced is truly a comprehensive measure. It tightens regulation of corporate misconduct, but it now also provides an important deterrent to fraud artists. This bill is going to send wrongdoers to jail and save documents from the shredder, which sends a powerful and clear message to potential corporate wrongdoers "don't do it." As a former prosecutor, I have discovered that nothing focuses attention to morality like the prospect of a long prison sentence.

In the Senate, as we have been debating and shaping specific and com-

prehensive reform proposals, we had been trying for months unsuccessfully to get the President's support. The Administration had stayed on the sidelines during this important debate.

For whatever reason, perhaps the mounting scandals or the declining market, the President decided last week to speak out against corporate fraud. He spoke again today on our economy. I welcome his participation and hope that he will follow up his speeches by supporting real reform. It is amazing to me that with such broad bipartisan support and now on the verge of Senate passage, that the Administration has still not given a clear statement supporting the bill on which we are now about to vote.

Although I now understand that a White House official reportedly said that they agreed with the "goals" of this reform bill, I was disappointed that the President has not yet voiced his support for this bipartisan measure about to pass the Senate. Supporting the "goals" is a good first step but it is nonetheless a baby step. I read in the paper last week that the President does not want to "tip his hand." This is not a game of poker, however. This is the time for Presidential leadership with the integrity of our markets at stake. When there are specific proposals passing the U.S. Senate by an overwhelming majority of Senators from both parties and the Speaker of the House is supporting the measures as well one wonders what it will take for the President to express his opinion.

For those of us in the Senate, like myself, Senator SARBANES, Senator MCCAIN, Majority Leader DASCHLE, and others who have worked hard to come up with specific and bipartisan reform proposals, the "goals" have been clear for a long time. It is now time for comprehensive action.

While the President's proposal was short on details, some of it did sound familiar to those of us on the Judiciary Committee. Three of the President's proposals are found in S. 2010, the Corporate and Criminal Fraud Accountability Act, which we adopted 97-0 in the Senate: One, The President advocates for strengthening the laws punishing document shredding and obstruction of justice. That is in our bill. Two, The President wants the Sentencing Commission to raise penalties for corporate misconduct. That is in our bill. Three, The President wants the Sentencing Commission to raise the penalties for the existing fraud laws. That is in our bill as well.

I am glad the President adopted three proposals from my bill, even if he will only say that he supports the "goals." As I said, we were also quick to write up his ideas into concrete proposals and include them in our bill. Unfortunately, the President's proposal failed to include many of the important provisions in the bipartisan Leahy

amendment. It fails to create a new crime to punish securities fraud to directly punish corporate wrongdoers. It fails to provide whistleblowers with protection that will break the corporate code of silence. Remember, you can put whatever criminal laws you want on the books but unless there are witnesses who are not scared to help prosecutors prove what happened no one will be held accountable. It fails to protect victims of fraud by allowing them to recover their losses from a fraud artist who declares bankruptcy. It fails to establish a realistic statute of limitations to allow victims to recoup their losses when a fraud artist can manage to conceal his crimes for long enough, a change that has received strong bipartisan support dating back to the SEC under former President Bush.

As I said, I was glad to hear the President finally join this reform debate. Now is not the time, though, for half measures. We need comprehensive action. We were glad to include the President's proposals in the Senate bill, but we unanimously agreed to more comprehensive reform, including the Leahy bill.

Now I hope that the President will support such comprehensive reform as is found in this bill. I hope that his rhetoric is backed by action and that his generalities are backed with specifics.

Speaker HASTERT has now publicly supported the Sarbanes bill and the Leahy amendment. I hope that the President will support the bill's provisions as it moves forward to conference and will appeal to other Republican House members not to water it down. That will be the true test of his resolve to restore accountability to our markets.

It is time for action, comprehensive action that will restore confidence and accountability in our public markets. The Sarbanes bill, including the unanimously approved Leahy-McCain amendment incorporating the Corporate and Criminal Fraud Accountability Act, provides just such action.

Let's pass this comprehensive bill and send the President a strong measure to sign into law. Congress must act to restore integrity in our capital markets to strengthen our economy.

Mr. REID. Madam President, I ask unanimous consent that at 5:45 p.m. today all time postcloture expire, and that all the time available, not counting the time available for Senator BYRD, be equally divided and controlled between the two managers or their designees; that without further intervening action, the Senate proceed to vote on or in relation to the Carnahan amendment No. 4286, to be immediately followed by a vote in relation to the Edwards amendment No. 4187, as amended, if amended; that upon disposition of these amendments, the bill

be read a third time, and the Senate vote on passage of the bill; that upon passage, the Banking Committee be discharged from further consideration of H.R. 3763, the House companion, and that the Senate then proceed to its consideration; that all after the enacting clause be stricken and the text of S. 2673, as passed, be inserted in lieu thereof; that the bill be read a third time, passed, and the motion to reconsider be laid upon the table; that upon passage of H.R. 3763, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate; that all succeeding votes in this vote sequence, after the first vote, be limited to 10 minutes; that there be up to 2 minutes of explanation prior to each vote, with no further intervening action or debate, with the 2 minutes equally divided in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Madam President, reserving the right to object, I would like to propound a parliamentary inquiry. Under this agreement, when 5:45 comes, we would begin to vote on the two amendments, and then vote on final passage, and no other amendment would be in order under the agreement; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAMM. Madam President, I do not object. I think under this agreement we will have time to go back and forth. I would say that if it saves anyone time, we do not need a vote on the two pending amendments. We could do them by voice vote and proceed to final passage.

Mr. REID. We will be happy to discuss that after the UC is entered.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent that upon disposition of H.R. 3763, passage of S. 2673 be vitiated and the bill be returned to the calendar.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, I want to begin by very briefly responding to Senator KENNEDY. I was somewhat taken aback at his suggestion that we set aside the two amendments and allow a nongermane amendment to be offered when, in fact, on a bipartisan basis, earlier this week, we decided not to deal with pension reform.

So I want to make it clear to my colleagues that I am perfectly happy to deal with pension reform. I think a bipartisan consensus is evolving on pension reform. But we made a decision,

on a bipartisan basis, earlier this week, not to put pension reform on this bill. Its day will come. I want to make that clear.

Madam President, let me try to respond to several points that were made earlier today. I will try to be brief so that my other colleagues will have an opportunity to speak on my side of the aisle.

I want, first, to talk about stock options. Then I want to talk about the bill before us and where we go from here. And I will try to be brief on all of them.

First, let me make it clear that stock options are pretty important to the American economy. More than 6 million nonexecutive workers in America receive stock options every year. So when we finally get around to having a policy set on stock options—which I hope will be done by FASB, the accounting board, based on logic and reason—we need to take into account that 6 million people who are not executives of companies get stock options every year.

We want to be sure that we are not endangering their ability to own a piece of America with the reforms designed to deal with a few people who violated the law in some cases, who did not act honorably in some cases.

We want to be sure we do not deprive or preclude 6 million workers who are not executives—or people who did not violate the law, did not act dishonorably—from the ability to get stock options.

Let me also say, in areas such as biotechnology and the computer programming industries, that 55 percent of rank and file employees get stock options.

So I just want to urge, as we are going about our business here, with all this talk about people who have made millions, that we do not forget that millions of Americans benefit from this, and we need to be careful about what we are doing.

Let me say, secondly—and Senator BENNETT made the point today; I made it last week—if you listen to what is being said in this debate, a big point is made of the fact that in 1994 we saw an explosion in the use of stock options and low-interest loans and other non-conventional forms of executive compensation.

What happened to trigger that is in 1993, as a gratuitous provision in the 1993 tax bill, we changed the law so that if you are compensating an executive in corporate America and you pay that executive more than \$1 million a year, you cannot count that compensation as a business expense. Of the top 30 companies in America, the level of compensation at that point was already substantially above the million-dollar mark. So because of what Congress did in 1994, having passed a law that said you could not pay people with

a paycheck above a certain level and have it count as a business expense, we should not have been surprised that accountants and financial planners and people who were smart enough to make over \$1 million a year found other ways to receive compensation.

So I want to make it clear that the point I am making is, if you are looking for somebody to point the finger of blame at here—and many people are trying to do that—I think Congress is a good institution to point at because Congress eliminated the ability of companies to pay their executives the old-fashioned way.

A lot has been made about who is at fault in all this. I would just simply make the following points. If somebody said to me: I know you don't know what caused all these current problems, but tell me; I am going to force you to tell me what you think the cause was. I would say: The inadequacy of GAAP accounting, which, in its current incarnation, works very well for old-style companies with assets that are written off.

GAAP accounting fits the steel industry perfectly. It fits the automobile industry pretty well. But the problem in the 1990s—when productive power became knowledge, when companies with relatively little in the way of assets gained huge market caps because of people's assessment of their know-how and the technology embodied by the company—was that GAAP accounting did not keep pace with the reality of the world that we live in today and that we lived in the 1990s.

It is very complicated to try to figure out what the values of these companies actually are by any conventional method where you are adding up their acquisition cost of assets and depreciating those assets.

This created a giant void in GAAP accounting in the 1990s, and people pushed the envelope within that void. In some cases, it appears they violated the law; in other cases, they have certainly violated standards of ethics.

Nothing we are doing in this bill is going to solve the problem in GAAP accounting. I am confident that over time we will find new ways of developing generally accepted accounting principles that don't rely on concepts such as goodwill, which don't make a lot of sense economically. But I do believe the bill before us is a step in the right direction.

There are differences of opinion. Before we go to final passage, I want to make clear what those differences are. Senator SARBANES and I both believe that we should have an independent accounting board. We both believe that that board should set and enforce ethics standards. We both believe that part of setting ethics standards is looking at auditor independence.

Senator SARBANES believes that we should write in law in some great detail what is entailed in auditor independence. I believe the problem with that is that while the law might fit General Motors, there are 16,254 publicly traded companies in America, and I am concerned that there is no law that Congress can write that will fit all 16,254 companies.

My second problem is, if you make a mistake in writing the law, then you have to go back and pass another law to correct it. If we had set out Glass-Steagall, separating banking and securities, by regulation, my guess is that by the mid 1950s, we would have concluded that that was a mistake, and we would have fixed it. But since it was written into law, it couldn't be fixed by regulation. Regulators tried to make marginal changes. We ended up with a very unstable system, and we were only able to fix it by law in 1999.

A second problem with writing the details of these different standards such as auditor independence into law is if you make a mistake, it is hard to fix it; whereas if you set up a board and, based on their expertise, they set out a regulation, if they make a mistake, they can fix it.

My final point on setting these standards by law is, one size fits all never works. What we need is the flexibility for this board to set a standard and then determine, based on the circumstance of the individual company, what makes sense.

I intend to vote for the bill on final passage. There are probably 10 things in the bill I am opposed to. But we are going to conference with a House bill that is very different. I am confident that in conference we can write a bill that will be supported by both Houses of Congress and signed by the President. I think we can strengthen the bill where it needs to be strengthened. I think we can provide flexibility where it is needed to bring in reason and responsibility.

Our objective has to be to fix what is broken in American capital markets and do it while minimizing the cost we impose on businesses, investors, and workers that did not violate the law and did not act in a nonethical manner.

The sooner we can get to conference, the sooner we can write this bill and see the bill signed into law. We have reached the point where we have a bill before us that addresses the major issues that we decided to address.

I know people have been unhappy about the inability to offer amendments today. The plain truth is, we have 97 first-degree amendments that have been filed and 24 second-degree amendments, and there was never any possibility that those amendments could be offered. We tried to come up with amendments that were agreed to and in the process, ended up excluding some people.

Let me conclude my remarks, at least for the time being, by congratulating Senator SARBANES on his leadership on this bill. Overall, he has done a good job. I do not agree with him on each and every part of it, but he has always been open. We have had many good discussions. I am confident that in the end we will write a bill that will be broadly supported and that will be in the interest of the country.

The PRESIDING OFFICER. Under the previous order, the hour of 4:55 having arrived, the Senator from West Virginia is recognized.

SUPPLEMENTAL BILL

Mr. BYRD. Madam President, there is a game being played with the critical issue of homeland security. It is a political game which could have disastrous consequences.

The White House is talking big about homeland security, exhibiting strong presidential interest in homeland security, trotting out proposals for a whole new Department of Homeland Security, and publicizing alerts.

It is strange, then, strange indeed that despite its public pronouncements on homeland security, the White House refuses to back the rhetoric up with resources.

Twice—once last year, and currently—large bipartisan majorities in both Houses of Congress have withstood veto threats from this administration and insisted on significant funding increases for homeland security.

President Bush's own appointees have all but begged the President's OMB Director for additional funds to fight the war on terrorism here at home. Many of these requests are urgent and quite compelling, yet the OMB has continually rejected a surprising number of these pleas. It is as if this administration has delivered an internal unfunded mandate to its own cabinet secretaries and Federal workers. Fight the war on terrorism on every front here in the homeland. Fight vigorously. Spare nothing, but make sure you do it on a shoestring. Protect our people here at home, but protect them on the cheap.

The Department of Energy proposed a total of \$380 million to fund projects to enhance the security of radioactive materials here at home and overseas, including: better security measures to safeguard the transport of nuclear weapons within the United States; improvements in the ways in which we secure and store plutonium; cleaning up, transporting, and protecting low-level radioactive materials that could be used in a "dirty bomb."

For these and similar activities \$380 million was asked for by the Secretary of Energy. But do you know what? That request fell on deaf ears at the Office of Management and Budget. Despite all of the worrying and nail biting about what would happen if some luna-

tic obtained radioactive material and detonated a "dirty bomb" on the mall in Washington or in some other large city, the OMB provided less than \$27 million or about 7 percent of the Energy Department's request. Let me say that again: The OMB provided less than \$27 million or about 7 percent of the Energy Department's request. This urgent supplemental bill contains \$361 million for the Department to dedicate to securing these dangerous and vulnerable materials. That is \$334 million above the amount requested by the President.

Another striking omission from the Bush supplemental request for homeland security involved efforts to deport those individuals who entered the country on visas that have now expired. Currently there are an estimated 8 million undocumented immigrants in the United States and only 2,000 interior immigration enforcement officers nationwide. This is a very dangerous situation. We know that terrorists live and plot their crimes among us. The Immigration and Naturalization Service requested \$52 million for analysts to help find, arrest and deport high-risk individuals who have disregarded the departure dates on their visas.

OMB said no, nada, nix. It denied the entire request. The supplemental bill, now stuck in conference because of the administration's latest demands, contains \$25 million that the Appropriations Committee believes the INS can usefully spend this year to address the need to locate some of these individuals. We also include \$88 million for construction and equipping of border facilities, and for improved border inspections.

Last fall, OMB denied \$1.5 billion in funding which the FBI requested in the wake of the attack on the twin towers in New York. Part of the FBI's funding request was for acceleration of a new computer system that will be at the heart of all communications within the bureau. Also included in the request were funds to enhance the internal security of the FBI's systems and procedures; for "cyber cops" and for hazardous materials personnel. The Congress provided \$212 million above the President's request to permit completion of the new computer system much earlier than would be allowed under the Bush plan. In addition, we have included—the Appropriations Committee—\$175 million for cyber security and counter terrorism in the supplemental that the White House is now delaying—delayed at the last minute last Thursday evening.

I could go on, but suffice it to say that this administration talks a good game about homeland security but it is unwilling to put its money where its mouth is.

Over this past weekend, during his radio address, the President said that, "Strengthening our economy and protecting the homeland and fighting the

war on terror are critical issues that demand prompt attention." I agree. I only wish that the same message would be made clear to the Office of Management and Budget.

We have worked diligently in the Congress to get these critical homeland security monies out to federal and local personnel charged with protecting our people. Yet, we have been met by objection after objection by this administration.

In March, the President insisted he needed more money for national defense in an urgent supplemental. We gave him every dollar he requested. In addition, the House and Senate provided more money for critical homeland defense needs.

Instead of letting the House and Senate work out our differences and get the funding out, the White House started issuing veto threats before the Senate bill was even off of the floor. And last Thursday evening, just as all differences appeared to be worked out, the White House bomb throwers blew up the agreement with new demands.

It makes one wonder how much the White House really needs that defense money and it certainly causes one to wonder how serious this administration really is about homeland security.

Senator STEVENS and I have beseeched the White House over and over again to have the Homeland Security Director come before our Committee to tell us about the needs for Homeland Security. Our requests were denied. We held days of hearings with administration officials, local firefighters, policemen, mayors and governors. We did our best and funded the needs as testimony we heard indicated.

We wrote a good bill, and we were ready to convene the conference Friday. But our efforts were blown up by the OMB Director, suddenly and completely and with no warning until the very last minute, Thursday evening.

So needs go wanting in our military and in our homeland defense effort. There is no excuse for such irresponsibility. Such tactics are not in the best interests of our people. Hollow rhetoric on homeland security will never replace solid funding for these needs.

Political gamesmanship over issues so critical to our Nation and our people is irresponsible, arrogant and totally out of line.

I deplore the arrogance with which the good faith efforts of both Houses of Congress have been treated by this White House. Apparently the security and safety of this nation and its people have taken a back seat to gamesmanship by a White House that has no respect for the people's representatives or for the people's urgent needs.

Under OMB Director Mitch Daniels' stewardship, the Federal budget has gone from a surplus of \$127 billion in FY 2001 to an estimated deficit for the

current fiscal year of \$165 billion. This is a swing of \$292 billion in just one year.

The President is now threatening to veto the urgent national defense and homeland defense supplemental appropriations bill based on Mr. Daniels recommendation. Why? Because Mr. Daniels asserts that the bill spends too much money. Yet the conference report's spending levels that have been agreed to on a bipartisan and bicameral basis would increase the deficit by only about \$600 million compared to the President's request.

Mr. Daniels believes that the critical port security, border security, firefighting, law enforcement, nuclear security and other homeland defense programs funded in the supplemental can wait because the bill would increase the deficit by about \$600 million, when his failed fiscal policy has resulted in a \$292 billion swing in the deficit.

The OMB Director seems to have forgotten, or perhaps never learned, that the appropriations process is about more than just numbers. Maybe at OMB, they can be bean counters, but here in Congress we are responsible for understanding what the numbers mean for the American people.

Mr. Daniels is cynically focused only on the bottom line. In an effort to make the supplemental bill look smaller, he has proposed rescinding the balance of funds under the airline loan guarantee program. He asserts that this would produce \$1.1 billion of savings. Yet these funds under the law can not be spent. There are no real savings here. The Congressional Budget Office would not score savings for this proposal. This is the kind of phony accounting that is getting our nation's corporations in trouble.

This phony accounting is proof that Mr. Daniels does not care about homeland defense or about our national defense, or about fiscal discipline. This phony accounting proves that the President's veto threat is only about proving that he can force the Congress to hit some arbitrary bottom line. And the unmitigated gall of a high White House official coming to the Congress with an accounting gimmick at a time when that same White House is decrying phony accounting practices and scandals in the business community is beyond belief.

We should not delay this conference one more day. There are some in Congress who suggest that we should throw our hands up on this bill and wait until the next fiscal year to address these priorities. Such statements ignore the critical needs facing the nation for defense and homeland security. Our fighting men and women need this money to prosecute the war on terrorism. Dr. Dov Zakheim—the Defense Department comptroller—said in a briefing on Friday that the Defense Department is hitting a wall and that our people in

uniform cannot be paid if the Supplemental Bill is not enacted by the August break. He said in that briefing that there is good will on Capitol Hill, and he is right. We are trying to do the right thing for our people here at home and our fighting men and women in the field. It is deplorable that good will, hard work, and good intentions can be trashed by OMB Director with reckless abandon. I do not think this President or this nation are well-served by tactics and gamesmanship when the stakes are so high.

Mr. President, I ask unanimous consent that a memorandum be printed in the RECORD which sets forth the highlights of the \$7.2 billion for homeland defense in conference funding levels.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HIGHLIGHTS OF \$7.2 BILLION FOR HOMELAND DEFENSE IN CONFERENCE FUNDING LEVELS

The tentative conference funding levels are \$1.9 billion above the President's request. A summary of the \$1.9 billion increase with examples of changes to the President's homeland defense proposal follows:

\$701 million for first responder programs, \$343 million above the President's request, including:

\$150 million for firefighters, with the funds going directly to the local firefighters. The President did not request supplemental funds despite the fact that over \$3.0 billion in applications from 18,000 fire departments were received for the \$360 million currently available.

\$100 million for State and local governments for improving interoperability of communications equipment for fire, police and emergency medical technicians, none of which was requested. The funding flows through existing FEMA and Justice program, rather than the new, centralized program at FEMA, proposed by the President for FY 2003. In addition, we are directing the National Institute of Standards and Technology to take the lead in developing uniform standards for interoperable State and local law enforcement, firefighting and emergency medical communications equipment.

\$151 million for the Justice Department, \$151 million above the President's request to give to State and local governments for improved training and equipment for law enforcement personnel (rather than through FEMA). Funds would also be used to improve the processing of security clearances for state and local first responders so that State and local governments can have information on potential security risks and to promote mutual aid agreements to coordinate the response of State and local governments to a terrorist attack.

\$193 million, \$134 million below the request for FEMA grants to State and local governments to update their emergency operations plans and to improve State emergency operations centers. \$25 million is approved for a new, unauthorized program requested by the President, \$25 million below the request. The proposal establishes a Citizen Corps within FEMA to promote volunteer service for emergency preparedness.

\$54 million, \$22 million above the President's request for FEMA's search and rescue teams. Currently, there are 28 FEMA search and rescue teams around the country that

can be deployed to major disasters to assist local first responders in search and rescue operations. Funding will be used to upgrade equipment and training for responding to events involving a biological, chemical or radiation attack.

\$37.1 million of unrequested funding for the National Institute of Standards and Technology for developing uniform guidelines for chemical, biological and radiation detection equipment (\$17.1 million) and for developing best practice guidance for homeland security technologies (\$20 million).

\$15.9 million for the Federal Law Enforcement Training Center to expand training capacity for law enforcement personnel of the new Transportation Security Administration.

\$739 million for port security programs, \$465 million above the President's request, including:

\$125 million for port security grants through the Transportation Security Administration. Last Fall, Congress approved \$93 million of unrequested funds for port security grants. DOT received \$692 million of applications for the \$93 million we provided. Despite this, the President did not request additional funds.

\$528 million for the Coast Guard for port and maritime security, \$273 million above the President's request. Increased funds would be used to: expedite vulnerability assessments at our nation's ports, rather than follow the Administration's current plan to do the assessments over the next five years; add two new maritime safety and security teams; purchase a total of six homeland security response boats; and expand aviation assets as well as the shore facilities to support them.

\$39 million for Customs to target and inspect suspect shipping containers at overseas ports before they reach U.S. ports. The Administration requested no funds for this activity.

\$19.3 million, as requested for 34 additional personnel for improved background checks for truck drivers, for improved fraud detection for truck licensing and for improved fraud detection for driver's licenses.

\$28 million of unrequested funding for the Safe Commerce program to develop better procedures for securing the contents of the 6 million containers that enter U.S. ports each year.

\$251 million for bioterrorism funding, \$251 million above the President's request, including:

\$251 million for the Centers for Disease Control for improved and secure facilities, including toxicology and infectious disease labs, an emergency operations center and for information technology security.

\$235 million, \$209 million above the President's request to improve security at our nuclear weapons facilities (Energy requested the funds, but the White House did not request them). Funding would be used to improve security of the nuclear weapons stockpile, the national nuclear labs and our nuclear weapons plants. Funds are included to establish a 911 system for local first responders to call when confronted with nuclear hazards, enhanced funding for the National Center for Combating Terrorism, expansion of radiological search teams, and establishment of a National Capital Area Response Team at Andrews Air Force Base. Funds would also be used to consolidate nuclear materials sites so fewer locations need to be protected. Several requested items that are approved include funds to improve security on the electrical grid and funds to improve our capability to detect radiation.

\$147 million, \$128 million above the President's request for cyber security to help deal with the threat to Federal and private information systems. \$82.6 million is provided to Justice to improve the investigation and prosecution of cyber crime, research to improve the detection of cyber crime, "data warehousing" and "data mining" to help expose cyber crime and for information sharing. \$20 million is provided to Commerce to develop unified Federal guidelines and procedures for system security certification and to develop guidelines and benchmarks for secure information systems. Funding is also provided to improve wireless intrusion detection systems. \$25 million is provided to the Energy Department to improve cyber security at our nuclear weapons plants and labs. \$19.3 million, as requested, is included for NSF for scholarships to develop cyber security skills.

\$120 million for border security, \$78 million more than requested by the President, including \$32 million for Immigration and Naturalization Service Construction to improve facilities on our nation's borders, \$25 million for better equipment for the additional personnel that are being hired with the funds Congress provided at Fall and \$5.7 million for the Justice Department to deploy to 30 more ports the IDENT/IAFIS system for rapid response criminal background checks by the INS of suspect aliens prior to their admission into the country. \$57 million for INS for identifying and removing immigration felons from the country and for information technology enhancements.

\$140 million of unrequested funding for the Department of Agriculture to enhance our nation's food safety capabilities and to protect against devastating plant and animal disease; to increase support for the Food Safety and Inspection Service, especially to ensure the safety of imported products; for improved security at USDA labs in order to secure bio-hazardous materials; funding for the Extension Service to provide emergency training for first response in rural areas; for FDA to improve the ability to inspect imported products such as medical devices that contain or are susceptible to being contaminated with radiation; and for vulnerability assessments and security improvements to protect rural water systems.

471 million of unrequested funding for airport security, including \$150 million to insure that all small and medium hub airports have all of the funds necessary to implement the FAA's new airport security guidelines and that large airports have some additional funding to meet those requirements; \$225 million is provided above the President's request for explosives detection equipment; \$42 million is provided to improve the security of the FAA air traffic control system; \$17 million is provided to improve airport terminal security for our nation's airports; and \$7.5 million is provided to FAA to repair long range radar systems that the Department of Defense believe must be continued for several years because these assets are the only FAA radar capable of continually tracking aircraft with disabled transponders. In addition, \$15 million is provided for improved air to ground communications for the air marshals, \$4 million for radiation detection equipment for air cargo and \$10 million is included for improved technology for air cargo safety and other cargo modes.

\$100 million for unrequested nuclear non-proliferation programs. The best opportunity to stop a potential "dirty" bomb is to minimize the opportunity for terrorists to get their hands on nuclear material. Funds are

included to protect fissile material abroad, purchase radiation detectors and to establish international standards for securing fissile material.

\$108 million of unrequested funding for the Corps of Engineers to improve security at Corps water projects.

\$92 million, \$82 million above the President's request for the FBI for counter terrorism and information technology enhancements. In total, FBI receives \$175 million when cyber security funding is included.

\$50 million of unrequested funds for EPA to provide funds to local governments to conduct vulnerability assessments on our drinking water systems.

Examples of the remaining \$273 million, most of which was unrequested include: \$12 million for security at the Smithsonian; \$17.7 million for the National Park Service for installation of bollards at the Jefferson Memorial and an in-ground retaining wall at the Washington Monument (requested by the President in FY 2003); \$26 million for the US Geological Survey for high resolution mapping and imagery of the nation's major cities for use in developing vulnerability assessments of infrastructure and for expanded data storage capacity; \$28.5 million to expand Secret Service capacity to combat electronic crimes; \$23.6 million for the Legislative branch for Capitol Police and for the Library of Congress to cover part of the lost copyright fees from the slowed mail and for costs associated with cleaning up the Hart building after the anthrax attack; \$19 million to improve response capacity to chemical attacks and for research on the impact of the release of toxic substances at the World Trade Center; \$15 million for improved bus safety; \$7.2 million for NOAA to develop back-up capacity for the supercomputers that support our weather forecasting system; \$17 million for security and renovations of the Federal courts, \$3 million above the request; and \$44 million for the District of Columbia and the Washington Metro to improve security; consistent with the congressionally-mandated District emergency operations plan and FEMA's emergency plan for the National Capital Region, and to construct decontamination and quarantine facilities at Children's Hospital and the Washington Hospital Center.

The conference funding levels include \$4.1 billion for the new Transportation Security Administration, \$331 million below the request (\$439 million of which is for unrequested items highlighted under port security and airport security).

The conference funding levels also include the \$87 million President's Budget request for the Postal Service to improve protection of postal customers and postal employees from a bioterrorist attack, the \$52 million President's Budget request for improved security of Federal buildings and \$3.8 million for the Office of Homeland Security, \$1.2 million below the President's request.

Mr. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I yield 10 minutes to the distinguished Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I thank the chairman of the committee. Let me begin by stating that which I have said on several occasions: We are all deeply

indebted to the Senator from Maryland for the tremendous work he has done as the chairman of the Banking Committee in fashioning this legislation. He has worked with many of us to put this bill together. My guess is that, within an hour or so, we will overwhelmingly pass this bill before us. The chairman will be largely responsible for the result.

I also commend my colleague from Wyoming, Senator ENZI, and others who have worked very hard and have made it a bipartisan bill. Without his leadership, I don't think that would have happened. We may have had a partisan vote coming out of committee. That would not have boded well for the handling of this matter on the floor. So I commend him and others for reaching an accommodation that made this a strong, good bill.

Mr. President, I want to take a few minutes toward the close of this debate to urge our colleagues to be supportive of this bill, and I hope Members of the other body will support what we have done in the Senate.

The House passed legislation a number of weeks ago, prior to a lot of the events that have unfolded over the last 2 or 3 weeks. The argument today for a stronger Senate bill hardly needs to be made in light of events that occurred over the past number of days. Just today, the Dow is down some 40 points; Nasdaq is even. But over the last week, we have seen a continued decline in investor confidence and, of course, how that is reflected in the stock markets.

Investors, both domestic and foreign, are losing confidence in our financial markets. Investor trust is contagious. I also point out the corollary to that: Investor mistrust is also contagious. What we are watching is an erosion of trust that has begun and is almost impossible to stop once it gets rolling. Obviously, a lot of factors will contribute to stemming this tide of continued erosion of investor trust and confidence.

One of the things we can do is what we are doing today. Other people will have to add their voices to the debate. In my view, the President still has to be stronger than he has been. The House will have to rise to the occasion as we have endorsed in large measure what we have accomplished here, but our step, the first step, is the one we are taking this afternoon. Therefore, I think this is critically important.

This is not just another bill we are passing. This is far more important. In fact, the impact of how people react may be more important than the actual wording and language of the bill. It is critically important we have as strong a vote as possible.

If we fail to enact serious reforms—and this bill is serious reform—then I believe we endorse dangerous and discredited accounting practices that we have seen in the last 7 months alone

cost shareholders and workers billions of dollars in their savings and pensions.

The Nasdaq has fallen over 37 percent, and the Dow has fallen 17 percent since the beginning of the year. Both Nasdaq and the Dow have dropped over 10 percent each in the past week alone. So Congress must act today, Mr. President, and act with a very strong voice to stem the rising tide of investor apprehension.

Passage of this bill will not and cannot of itself restore investor confidence. More must be done to win back consumer faith, but this bill is a critical piece of the overall effort and, therefore, it is essentially important we adopt it.

The part of the rationale of the original securities law in the 1930s was to increase public trust in America's financial markets and reliability of disclosed corporate financial information. Those laws over the past 70-plus years were a part of the modern economic foundation of our Nation, and they were designed to promote market efficiency and inspire investor confidence.

The resulting market confidence in the statements of financial health of publicly traded companies has paved the way for America's rise as an economic superpower.

I could make a strong case that the vote we are going to take today is for one of the most important bills impacting the Nation's financial markets since the 1930s. I say that because this legislation will fundamentally change the way publicly traded companies will do business and how the accounting profession performs its statutorily required audit function.

Much has been said about what this legislation does not accomplish. Briefly, I wish to focus my remarks on what it does do and repeat, we are not solving every problem with this bill. There are a lot of other issues that need to be addressed, but we have to begin the process, it seems to me, by getting the accounting part of this equation right, and we will not know ultimately whether we have done all we could, but I think this is a major step in that direction.

The bill, we now know, creates a new independent regulator for the accounting profession. The new body will act as a strong, independent, full-time board with significant authority to regulate auditors of public companies. The independent board will have clear authority for setting auditor standards and important investigative standards. It strengthens audit reporting standards for the accounting profession and contains significant prohibitions for accountants performing nonaudit services for audit clients, and it addresses the growing conflicts of interest that have been too pervasive throughout the accounting profession.

It provides for the first time an independent funding source for the Finan-

cial Standards Accounting Board, which I think is also extremely important and one of the major reforms in this bill.

There are additional dollars to provide the SEC with more firepower, if you will, to have more cops on the street so we might avoid some of the problems that have occurred in the past.

It also improves corporate governance requirements and improves corporate disclosures. The bill grants additional authority and responsibility to the audit committees of publicly traded companies.

Those are very important steps. The provisions contained in the legislation were carefully considered. We had 10 hearings, and by a vote of 17 to 4, the committee—the Presiding Officer being one—passed out this very fine legislation.

Additionally, during floor consideration of this bill, Senator LEAHY of Vermont added new criminal penalties for securities fraud. I commend him and strongly endorse the provision that won the overwhelming support of the Members. I hope it will add to our efforts of restoring investor confidence.

One of the last issues I would like to address, because it has been talked about so much, is the stock options issue, which involved a lot of debate and discussion of the last number of days. I commend our colleague from Michigan, Senator LEVIN, who has made an extraordinary effort to find a resolution to this issue we all can support. Obviously, this question inspires more questions than answers in many ways, but I commend him for his thoughtfulness and energy that he has brought to this debate.

The issue of whether or not stock options should be expensed is not an issue that is going to go away. It has to be addressed. I must admit, I am swayed by those who have a great deal of expertise in this area: Alan Greenspan, Warren Buffett, Paul Volcker, all of whom support the expensing of stock options.

I also recognize the danger when Congress begins the process of legislating accounting standards.

My friend from Texas and I have been involved in the past when there have been efforts by people who wanted to have us vote on some of these matters. I recall 3 or 4 years ago the debate was over pooling and purchasing accounting standards. I was very sympathetic to the arguments made by those advocating pooling. Certainly, if I were a member of FASB, I think I would have voted to allow that accounting standard to go forward, but the idea that the Senate might vote by 51 to 49 to pick one accounting standard over another is just ludicrous on its face. We do not want to set a precedent, in my view, of the Congress of the United States deciding what accounting practices ought

to be. That is why we set up these boards to do the job.

The approach taken by having the Accounting Standards Board, the SEC, and others look at these matters and get back to us with their recommendations is the appropriate and proper way to go. Despite the temptation of others to want to legislate these matters explicitly on the floor, I remind my colleagues who have done that in the past, we inevitably regret doing it when we set precedents such as those and are only duplicated by other ideas that temporarily may be very popular, may be politically attractive, but may be terrible economics as well.

I applaud the effort to approach the stock option issue in the manner in which it has been addressed. I mentioned Senator ENZI. I mentioned my colleague from Texas as well. He and I worked many years on a lot of matters affecting the financial services sector of our economy. He does not have that many days left with us, and I am going to miss him. I told him that privately, and I tell him publicly that he is a valued Member of this institution. Whether we agree or disagree on matters he always brings a great deal of thought to the debate. He has been a fine member of the Banking Committee, and I have enjoyed my service with him for many years. I do not want to be too complimentary. I will reserve any final glowing accolades for when we have completed the process. We have a conference to go through yet.

Again, my compliments to Senator SARBANES.

What we are doing is important. This is extremely important legislation. I said earlier it may be more important what message it is we are sending; that we are not sitting in the bleachers, we are not just standing by as these events unfold. All Members of this Chamber can take great pride that the Senate of the United States has responded with a responsible bill we think is going to make a difference. I yield the floor.

Mr. SARBANES. What is the time situation?

The PRESIDING OFFICER. The Senator from Maryland controls almost 14 minutes, and the Senator from Texas controls just under 12 minutes.

Mr. SARBANES. I yield 4 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 4 minutes.

Mrs. CARNAHAN. Mr. President, my amendment requires that when corporate insiders, such as CEOs, trade the stock of the companies they manage, they must take reasonable steps to disclose those transactions to their shareholders. Current law requires that insiders file disclosure forms with the Securities and Exchange Commission. However, almost all of these forms are filed on paper and average investors have no practical way of seeing these

disclosures. My amendment requires that these disclosure forms be filed electronically and that the SEC make these disclosures available to the public over the Internet.

This amendment also requires that corporations disclose insider transactions on their own Web sites. Investors have a right to know if corporate officers are dumping their stock. However, it is meaningless to require these disclosures if investors have no practical way of ever seeing these disclosures. Without this amendment, the disclosure forms simply sit in a file cabinet at the SEC in Washington. My amendment ensures that investors have access to this important information.

In the 3 years leading up to its bankruptcy, as Enron's top officers touted the company's stock, they sold more than \$1.1 billion worth of their own holdings. Ken Lay alone sold more than \$100 million worth of Enron stock while telling others to buy it. Enron's vice president of human resources, Cindy Olsen, was asked by employees if they should invest 100 percent of their retirement funds in Enron. She replied: "Absolutely." But within 3 months she personally unloaded \$1 million worth of Enron stock. Had Enron employees only known, they might have been skeptical about this advice.

Investors are entitled to know how executives are acting with their own shares of their company's stock, and my amendment will ensure they will.

I yield my remaining time back to the Senator from Maryland.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, I yield 8 minutes to Senator ENZI, and might I say on my time, not his 8 minutes, that I want to thank Senator ENZI for his contribution to this bill, for his work from beginning to end. He has been a major contributor to the bill. He has proven that knowledge sometimes is a nice thing to have.

Our standard in Washington for objectivity is that you came in off the turnip truck and you know absolutely nothing and therefore you are objective, but I would say that Senator ENZI proves that it is nice every once in awhile to have somebody who knows what he is talking about. I think in many ways, large and small, the good things in this bill he has had a very positive impact on and the bad things in the bill he could not do anything about anyway—that was a joke, I would say to the Senator from Maryland.

In any case, I do want to congratulate Senator ENZI for all the contributions he has made.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 8 minutes.

Mr. ENZI. I thank the Senator from Texas for his gracious comments.

It has been mentioned several times today that there is nervousness in the stock market. There has been since we started debating this issue. I am very convinced that some of that is because people may read some of the amendments that have been suggested and recognize the legislative principle that, if it is worth reacting to, it is worth overreacting to. That ought to be enough to scare anybody.

We have had extensive debate. In fact, one reporter I talked to asked me if we were going to pass the McCain bill. The reporter talked about the accounting reform, and I had to say, no, that is the Sarbanes bill we have been working on. It is not stock options, in spite of the threat we had the other day.

We usually do bills the way we have done this one—with a lot of cooperative talk. We then make arrangements to develop the best possible outcome. The accounting reform bill before us is designed in such a way that we set up processes that people with accountability and responsibility and knowledge have to oversee. This bill does not tell them exactly how to do the details of accounting. It gives a fair process for accountants to be able to do the details of accounting.

In past years, we have decided we knew more than the people who had the expertise in the area of accounting and we have given them direction on how to do it. We almost made that mistake again. For instance, the McCain amendment was very simplistic. In one paragraph it told people how to do accounting that may actually take about 500 pages to explain. It would have caused the most massive restatements in the history of the United States, and restatements right now make everybody nervous. People ought to realize that some restatements are caused by changes in rules, not by people doing things wrong. So investors should always review restatements and determine the actual cause. I certainly hope it is never Congress, but I suspect it very well could be.

Another proposal that was going to be put before us was one telling FASB, this Financial Accounting Standards Board, exactly what they were supposed to examine next and what they were supposed to resolve in the next year. I have to say, FASB is working on some important things because they have been examining what Congress has been debating and they know in greater detail than we do what caused the massive restatements. I have to say, I do not believe it was stock options. It was likely a number of other things that need to be investigated.

This Financial Accounting Standards Board is diligently looking at these issues. They are looking at some high-profile rules in the areas of accounting for intangibles and accounting for special purpose entities. We have talked a

lot about special purpose entities, and our hearings showed that they may have been a cause for the Enron collapse. Also, they are looking at accounting for guarantees and examining a final rule on liabilities and equity. They are also studying whether to create a rule on revenue recognition.

Those five things probably put one to sleep, but they are important to have resolved to make sure we do not have problems with companies in the future. We have to be careful now and in the days to follow that we ensure we use all of FASB's expertise, knowledge, and staff to resolve high publicity problems of accounting.

In this bill, we have made the Financial Accounting Standards Board more independent. We have provided them with independent funding so they no longer must beg for donations and perhaps encounter a conflict of interest. Through this process, we should not insert ourselves and say we are going to tell them exactly what is important.

I would like to thank Senator SARBANES and Senator GRAMM for the extraordinary work they have put into the process. Last week was an extremely difficult week. I thank them for the careful work and review they have done on every single one of the amendments that has been submitted, and the process they established to make sure this bill would not get out of hand, that it would not be an overreaction, and that when we finish it tonight and we can reassure America it is still okay to invest in the stock market.

We are fortunate on the Banking Committee to have these two people I consider to be the finest public servants in Congress. They have worked long and hard to assure that the product that came out was bipartisan and reflected the views of as many Members as possible. I also thank the members of the staff who worked diligently on the bill.

From my own staff, Katherine McGuire, Kristi Sansonetti, and Michael Thompson. From Senator GRAMM's staff, Wayne Abernathy, Linda Lord, Stacie Thomas, and Michele Jackson. And from Chairman SARBANES' staff, Steve Harris, Steve Kroll, Dean Shahinian, Marty Gruenberg, and Lindsey Graham and Vince Meehan. All of these staffers have spent many late nights and weekends working to build this legislation.

This legislation is badly needed. The markets have been in a steady decline for several months now. While I do not believe it is Washington's job to step in every time the market is in a decline, I do believe that when markets move as a reaction to illegal or unethical acts, then we have obviously not made penalties severe enough to dissuade this type of behavior. Congress had to act in this climate.

However, I would also like to comment on a few things happening out-

side of the real debate—namely the attacks on SEC Chairman Harvey Pitt. I have to say that Chairman Pitt and I may not always agree, but I believe the recent attacks on him to be unwarranted. Mr. Pitt has come under fire for having represented some of the accounting firms who have been criticized in recent restatements. I believe Chairman Pitt's work in the private sector is a great asset to investors. We need individuals who are willing to work in government who know and understand the industries they regulate. I do not want lifelong government bureaucrats monitoring these companies.

These restatements did not all of a sudden appear when Chairman Pitt was confirmed. In most cases, they begun during the late 1990s when companies became intent on not seeing the Internet bubble burst. I have to ask what was going on at the SEC while these companies were filling all of these false financial statements? What I imagine happened was that the companies, who are very familiar with who is at the Commission and where the resources are being devoted, thought they could take advantage of the situation because no one was paying attention.

Look at what has happened since Chairman Pitt has taken office. He has opened a record number of investigations of restatements filed by public companies. He has taken steps to break the relationship between research analysts and investment bankers. He has supported legislation that will increase penalties on corporate executives engaged in fraudulent behavior. And, he has indicated his support of this legislation, which by the way, I anticipate to be supported by the majority of the Senate later today.

The numbers are clear. In Chairman Levitt's last year as Chairman, 503 total enforcement actions were filed. Already this year, Chairman Pitt has filed 415. Officer and Director Bars for 2000 were 38—this year so far 71. Subpoenaed enforcement proceedings in 2000 were 9—this year 18. The numbers go on and on. My point is that Chairman Pitt seems to be left cleaning up the mess his predecessor left in corporate America.

I offer my support for these actions taken by Chairman Pitt. Instead of attacking him, I am more concerned about what was happening at the SEC that bred this climate where executives felt compelled to engage in this unethical behavior. Why weren't some of these actions taken three or four years ago? Did the SEC Chairman not see the potential conflicts that could arise out of research analysts getting compensation based on investment banking business?

Therefore, I would say that I commend Chairman Pitt for the work he is doing. From what I understand, the actions he is taking at the SEC have struck fear throughout the corporate

community that they had better get their act together.

This legislation before us now will also go far in restoring faith in the markets. It will provide assurances to investors that we will not sit by and watch executives shatter the retirement dreams of workers while leaving themselves with millions of dollars. It will show the American people that we will work to make financial statements transparent and accurate to make sure they know as much about the company's financial state as possible.

The legislation builds an accounting oversight board to oversee the accountants who prepare financial statements of public companies. This board will have broad authority to enforce and discipline rules by which accountants must live. The board will have full access to accounting firms' records and policies to require uniformity throughout the industry when it comes to ethics and independence. Accountants must know that someone is watching over them to require that their work is in the best interest of investors. This legislation will also provide for the SEC to have the resources they need to enforce the law.

However, I also do not want this legislation to provide a payday for the trial lawyers. The competitiveness of the accounting industry is at stake and we can ill afford to lose another firm solely because we didn't offer proper protections in this legislation. I am in no way indicating that accounting firms should have new, special protections. The only thing I am asking is that accounting firms aren't exposed to more liability after this bill is enacted than they were before.

I am not sure some Members truly understand the situation facing accounting firms. We are down to the final four firms. These are the only firms that have the expertise and resources to audit companies such as Microsoft, Coca Cola, and the thousands other large companies. If we subject them to the will of the trial bar, it will only be a matter of time before we lose the rest of the firms one by one.

I know that, given what has happened recently with the restatements, it is easy to be critical of accountants and easy to legislate them. I agree we do need legislation, but what also needs to be understood is that over-legislating could be drastic to the economy. In the long run, if we over-legislate, it could be detrimental for the future of capital formation in this country.

Once again, I thank the Chairman for all of the work he and his staff have done with this legislation. I think it is a good bill, and I do intend to support it. I also think it will continue to improve through the Conference process and when all is said and done, investors will respond positively to passage of this legislation.

I wish to speak about the Financial Accounting Standards Boards, known as FASB, which has been referenced many times throughout the course of discussion on the underlying accounting bill, the Public Company Accounting Reform and Investor Protection Act of 2002.

Some of the pending amendments have referenced FASB and directed or mandated it to change how companies must expense stock options or to perform a study on how to expense stock options. In addition, the McCain amendment sets the accounting standard for expensing stock options, without allowing FASB to set rules on this form of expensing. The Levin amendment mandates FASB conduct a one-year study on expensing stock options, and then adopt a rule based on a narrow set of external parameters. The Levin amendment implicates a desire to have such expensing done.

In order to understand some of the problems with these types of amendments, it is important to understand exactly what FASB does. Since 1973, FASB has been the designated organization in the private sector for establishing standard of financial accounting and reporting. In short, those standards govern the preparation of all financial reports.

The mission of FASB is "to establish and improve standards of financial accounting and reporting for the guidance and education of the public, including issuers, auditors and users of financial information."

To accomplish this mission, FASB acts to improve the usefulness of financial reporting; keep standards current to reflect changes in the methods of doing business and the economic environment; consider any significant areas of deficiency in financial reporting; promote the international convergence of accounting standards together with improving the quality of financial reporting; and improve the common understanding of the nature and purposes of information contained in financial reports.

FASB follows certain precepts in its activities. One is to be objective in its decision making. Another is to carefully weigh the views of its constituents in developing concepts and standards. But its ultimate determination must be the Board's, based on research, public input and careful deliberation. It also aspires to promulgate standards only when the expected benefits exceed the perceived costs.

Overall, FASB was created to serve as an independent agency with an independent agenda. However, FASB is currently funded by companies and accounting firms. The long standing concern was that FASB did not act wholly independently, and succumbed to industry pressures in order to get the funding it needed to operate. Back in 1993 and 1994, when expensing of stock

options was an issue, some critics say FASB succumbed to pressure by industry and Congress when it created a dual method of either expensing stock options at the time of grant, or placing the information in a footnote as a form of public disclosure of possible stock dilution.

The underlying accounting reform bill fixes this perceived problem of independence and autonomy by providing FASB with funding from both issuers and the accounting firms. Because of this change, FASB will be completely independent from the very companies it will set standards for in the future. This is a good start.

It is also important to understand that, historically, FASB has never been directed by Congress through legislation to adopt one particular standard for accounting, including expense accounting. It has also never been directed by Congress to perform a study. FASB's role is not to perform studies for Congress and they should not be bogged down performing them for political purposes.

Following that precedent, the Senate Banking Committee made certain nothing in the bill directs FASB to take any particular action. In other words, there is no federal mandate to FASB, nor should there be, if it is to remain an independent authority. In addition, why should Congress, a body without expertise in accounting standards for publically traded companies, set these standards?

I, and many other members, as well as Federal Reserve Chairman, Alan Greenspan, believe that Congress has no business setting accounting standards. Instead, the Securities and Exchange Commission and FASB are the entities with the expertise needed to make these types of determinations.

Ordinarily, FASB establishes plans with milestones it works towards. Congress should not dictate what plans and milestones it should work towards or address. FASB also never sets artificial deadlines on when to reach a conclusion. As an independent agency, it carefully and deliberately makes its determinations and sets rules, without adhering to outside pressures or timetables. Just as Congress should not set accounting standards for FASB to follow, it also should not set artificial deadlines for FASB to adhere to either.

Nevertheless, some members have filed amendments asking FASB to not only take a specific action, but instructing it as to a specific timetable. One amendment actually sets an accounting standard, thereby instructing FASB to immediately change expensing standards. Another mandates FASB complete an expensing study within a year. These amendment set unrealistic timetables and mandates.

It is important to remember that FASB already has its hands full with important projects to help improve fi-

nancial standards and reporting. It is currently working towards promulgating high profile rules in the areas of accounting for intangibles; accounting for special purpose entities; accounting for guarantees; and a final rule on liabilities and equity. FASB has also added to its agenda a project to research and create a rule on revenue recognition.

Let us not forget that the improper use of special purpose entities played a role in the downfall of Enron. Stock options had nothing to do with Enron's bankruptcy.

The projects FASB is concentrating on are important projects which will help clarify financial statements for investors. FASB itself needs to cue up and prioritize its projects based on what is more important to financial accounting and reporting. Congress should not dictate what those priorities should be or the timetable it must adhere to.

If some of the amendments we are looking at are accepted, Congress will establish a bad precedent of setting up a timetable and prioritizing projects for FASB. Congress will be putting stock option expensing—an accounting standard which did not cause the collapse of Enron or the demise of other big companies—at the front of the cue.

And another question we need to ask ourselves is whether FASB has the manpower to perform the mandates and timetables Congress would be providing through the McCain and Levin amendments. Already, FASB is shifting its personnel to different projects to try to timely promulgate needed rules. While the underlying accounting bill will help these staffing problems by providing independent funding, in the short term, FASB cannot possibly perform the mandates of some of the amendments within the time frames given.

I hope I have given members some solid reasoning on why Congress should not begin setting accounting standards. Should we really be doing something we do not fully understand? There are already agencies to perform this type of rulemaking, and they are the SEC and FASB. They are fully aware of the debate surrounding stock options. We don't need to mandate FASB to make a new rule. I am certain if FASB deems it appropriate, it will be looking at this issue in the future.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. Mr. President, I yield 4 minutes to the junior Senator from North Dakota.

Mr. DORGAN. Mr. President, in the final moments, I hope again to persuade my colleagues to accept by unanimous consent my amendment dealing with corporate bankruptcy. Let me again say what this amendment is.

It says that during the 12 months preceding a bankruptcy, CEOs who

have received stock options, bonuses and other performance-based payments shall not be able to keep that kind of compensation. If they ride a company down to bankruptcy, they know the inside details of that company and got incentive-based compensation, including stock options, they ought not ride off in the sunset with a pocketful of gold while the employees and investors lose everything they have. That is not the right thing. A bankruptcy disgorgement proposal ought to be part of this bill. Everyone in this Chamber knows it should be part of this bill. Former SEC Chairman Breeden, a Republican, says it ought to be in this bill. I quoted other CEOs who say it should. Pass this bill without it and this bill is incomplete.

My colleague said he thought maybe the market, which has been so volatile recently, has been frightened by amendments that have been considered by Congress. I don't think so. I think the market has been volatile, up and down like a yo-yo, because we have story after story on the news in this country about financial crooks. These are crooks who have cooked the books of their corporations, cheated investors, pulled the rug out from under their employees, and ruined some good companies. They did it in broad daylight, under the nose of their accounting firms and law firms.

It seems to me those CEOs who made millions, in some cases over \$100 million prior to bankruptcy, ought to give that money back. That money ought to go to help those who lost their live savings and those who lost their jobs.

We have in this bill a provision that says if there is a restatement of earnings, you have to give back some of these incentive-based compensation packages. However, the bill is silent on the issue of bankruptcy. What about top executives who ride their company right into the ground and run off with \$50 million in their pockets and leave everyone else flat on their back? How about asking those executives to disgorge themselves of their ill-gotten gains? How about telling them in this legislation that they must give that money back? That is what my amendment would do.

I want to talk about the SEC, but I don't have time at the moment. I will save that for another day.

This process has been a travesty of the Senate, in my judgment, having someone as a gatekeeper and preventing us from bringing up germane amendments. It does not make sense. That is not the way the Senate is supposed to work.

I ask unanimous consent to lay aside the Edwards and Carnahan amendments so I may offer amendment 4214 on bankruptcy disgorgement.

Mr. GRAMM. I object.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. How much time remains?

The PRESIDING OFFICER. Forty seconds.

Mr. DORGAN. Mr. President, this is, of course, the last chapter on amendments, and a pretty sad book. I know people will go up to the gallery—and I understand someone is at a press conference from the other side—claiming credit for this bill. I want to know who wants to run up to the press conference and claim credit for preventing an amendment that says you must disgorge ill-gotten gains, incentive-based compensation, if you ran a company into bankruptcy. I want somebody to go to the press gallery and take credit for blocking that kind of legislation. Tomorrow I want to read about it. Who takes credit? Someone ought to take credit for blocking an amendment that ought to be passed in the Senate by a 100 to zero vote.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, I will not get into a debate with the Senator. There is nothing ill-gotten in this amendment. This amendment does not belong in this bill.

We have a provision in this bill. If you violate the law, then you have to give back what you have earned from the company in terms of any kind of incentive in bonus.

But to say that people who work for a company that goes bankrupt has to give back compensation is to guarantee that a company that is in trouble would never get anybody to go to work for them. They would never have an opportunity to be saved. That amendment does not belong in this bill. It makes no sense in the logic.

Mr. DORGAN. Will the Senator yield?

Mr. GRAMM. I will not yield.

If you did something wrong, making you give back what you earned belongs in this bill. And it is in this bill. Not only belongs, it is here.

But to simply say because somebody worked for a company that goes broke, that they have to give back compensation, that sounds great in the environment we are in, but, look, I have a company, we are in deep trouble, and we try to go out and hire a top-notch person to come in and save us, and we pay him a compensation to try to do it. To say we will take it back if he fails, as if that is an ill-gotten gain, I am sorry, I don't think that is good economic policy. I don't think it is smart. It has nothing to do with the provisions of this bill.

Mr. DORGAN. Mr. President, perhaps the Senator from Texas would like a explanation.

Mr. SARBANES. I yield 1 minute.

Mr. DORGAN. I deeply appreciate the Senator from Maryland yielding.

What the Senator from Texas misses is we are talking about incentive-based

compensation. Should someone who gets incentives for running the corporation into bankruptcy be able to keep that? I don't think so for somebody that gets a big bonus while he runs the company into bankruptcy, or for someone that gets big stock options while she runs the company into bankruptcy.

The Senator tried to win a debate we were not having. He says we will take compensation away from someone who is engaged in working for a corporation that went into bankruptcy. No, this is about incentive-based compensation and profits. It is not about taking away their salary. It is about saying if you are paid on an incentive basis and you are running that corporation into bankruptcy, you ought not to be getting the bonus. If you did, you ought to give it back. You ought not get stock options; if you did, you ought to give it back.

This is simply about something my friend has missed. It is about incentive-compensation and the fact that you ought not walk out of a corporation you ran into bankruptcy with a pocketful of gold while you left the employees and the investors flat on their back. This is not an amendment that is hard to understand.

I regret very much it has been blocked. I regret especially we were not allowed to vote on this amendment. That is the travesty, in my judgment.

Mr. GRAMM. Mr. President, I think you could debate whether the amendment is understood or not. I think I understand it perfectly. In fact, there are people in this country who are turnaround specialists, who are hired to try to save companies. If somebody did something wrong, if they violated the law, then make them give back compensation. You put them to death, if you want to put them to death. But to simply say, if you hire somebody with an incentive package to save the company, and the company goes broke, that you are going to take it back, that is up to the bankruptcy court to decide.

So this ill-gotten gain business is good rhetoric, but it has absolutely nothing to do with this amendment. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? Just 29 seconds remain to the Senator from Texas, and 5½ minutes remain to the Senator from Maryland.

Mr. SARBANES. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Maryland has 5 minutes remaining, the Senator from Texas has 30 seconds.

Mr. GRAMM. Mr. President, the Senator from Maryland should have the right to end the debate.

I think we have two bills: One in the Senate, one in the House. We can come up with a better bill than either. I

think America will survive under either bill. Given the environment we are in, that represents some achievement, and I am proud of it.

I think we will come out of conference with a better bill than the House bill and a better bill than the Senate bill. I think people will be proud of what we did.

If I were an investor today, and I had a lot of money, I would invest in the stock market today.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Maryland has 4 minutes 45 seconds remaining.

Mr. SARBANES. Mr. President, we have been trying to clear amendments. We have yesterday—not yesterday, but on Friday we adopted three amendments on the basis of a unanimous consent request. We have worked through two additional amendments. I am going to offer them now.

One is an amendment by Senator SHELBY for a study with respect to aider and abettor violations of the Federal securities law. I ask unanimous consent that the pending amendment be set aside; that the Shelby amendment, No. 4261, be called up and modified with a modification that I send to the desk; that the amendment as modified be agreed to; and then we then return to the regular order which, as I understand it, would be the Edwards as modified by the Carnahan amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 4261, AS MODIFIED

Mr. SARBANES. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Maryland (Mr. SARBANES) for Mr. SHELBY, proposes an amendment numbered 4261, as modified.

The amendment is as follow:

(Purpose: To require the SEC to conduct a study and submit a report to the Congress on aider and abettor violations of the Federal securities laws)

On page 108 after line 15, insert the following:

“(c)(1) The Commission shall conduct a study to determine based upon information for the period from January 1, 1998 to December 31, 2001—

“(A) the number of “securities professionals,” which term shall mean public accountants, public accounting firms, investment bankers, investment advisers, brokers, dealers, attorneys, and other securities professionals practicing before the Commission—

“(i) who have been found to have aided and abetted a violation of the Federal securities laws, including rules or regulations promulgated thereunder (hereinafter collectively referred to as “Federal securities laws”), but who have not been sanctioned, disciplined, or otherwise penalized as a primary violator in any administrative action or civil proceeding, including in any settlement of such

actions or proceedings (referred to herein after as “aiders and abettors”) and

“(ii) who have been found to have been primary violators of the Federal securities laws;

“(B) a description of the Federal securities laws violations committed by aiders and abettors and by primary violators, including—

“(i) the specific provisions of the Federal securities laws violated;

“(ii) the specific sanctions and penalties imposed upon, such aiders and abettors and primary violators, including the amount of any monetary penalties assessed upon and collected from such persons;

“(iii) the occurrence of multiple violations by the same person or persons either as an aider or abettor or as a primary violator; and

“(iv) whether as to each such violator disciplinary sanctions have been imposed, including any censure, suspension, temporary bar, or permanent bar to practice before the Commission; and

“(C) the amount of disgorgement, restitution or any other fines or payments the Commission has (i) assessed upon and (ii) collected from aiders and abettors and from primary violators.

“(2) A report based upon the study conducted pursuant to subsection (c)(1) shall be submitted to the Senate Committee on Banking, Housing, and Urban Affairs no later than six months after the date of enactment of the “Public Company Accounting Reform and Investor Protection Act of 2002.”.

Page 78 strike lines 15–24 and insert the following:

In supervising non-registered public accounting firms and their associated persons, appropriate State regulatory authorities should make an independent determination of the proper standards applicable, particularly taking into consideration the size and nature of the business of the accounting firms they supervise and the size and nature of the business of the clients of those firms. The standards applied by the Board under this Act should not be presumed to be applicable for purposes of this section for small and medium sized nonregistered public accounting firms.

The PRESIDING OFFICER. Without objection, the amendment as modified is agreed to.

The amendment (No. 4261), as modified, was agreed to.

Mr. SARBANES. Was the Ensign amendment also on that amendment?

I urge the adoption of the amendments.

The PRESIDING OFFICER. The amendments have been agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SARBANES. Mr. President, in the regular order we are back with the Edwards and Carnahan amendments pending?

The PRESIDING OFFICER. That is correct.

Mr. SARBANES. I have a couple of minutes?

The PRESIDING OFFICER. There remains 1 minute.

Mr. SARBANES. Mr. President, I think the Senate is about to take a

major step to contributing to the restoration of investor confidence.

This legislation establishes a strong independent board to oversee auditors of the public companies. The board can set standards, investigate, and discipline accountants. It will be overseen by the SEC, but it will have independent funding and membership. I think this marks the end of weak self-regulation with respect to public company auditors.

It addresses pervasive conflicts of interest by ensuring auditor independence by restricting them from providing a defined list of consulting services. Other consulting services on the part of the auditor can be permitted if preapproved by the company's audit company.

This legislation strengthens corporate responsibility. It establishes safeguards to protect investment/analyst conflicts, and it gives the SEC expanded staff resources so it has the resources to carry out its mandate of protecting investors in this critical time.

It is no exaggeration to say the crisis in our markets has put the plans and hopes and dreams of millions of Americans at risk. To restore market integrity on which investor confidence depends, we should move expeditiously to move this legislation into law.

I want to express my deep appreciation to my colleagues with whom we have worked for many weeks: To Senator GRAMM, the ranking member of the committee with whom we interact in an interesting and, on occasions, exciting fashion; to Senator ENZI, who made a major contribution; to Senators DODD and CORZINE on our side of the aisle who played an essential role and introduced vital legislation on this issue very early on; to Senator DURBIN who also introduced significant legislation on this subject, and to many other colleagues; and to Senator REID, who has been extraordinarily helpful here on the floor of the U.S. Senate.

Mr. REID. Mr. President, I ask unanimous consent the 1 minute Senator CARNAHAN has—she is not going to be using it—that it be given to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland has an additional minute.

Mr. SARBANES. Mr. President, we don't do this work by ourselves. We all know that very well. We rely very heavily on dedicated, absolutely dedicated staff members. I am going to take the closing time I have to simply read their names into the RECORD: Dean Shahinian, Steve Kroll, Lynsey Graham, Vincent Meehan, Sarah Kline, Judy Keenan, Jesse Jacobs, Aaron Kline, Marty Gruenberg and Steve Harris of the Banking Committee staff; Wayne Abernathy and Linda Lord of Senator GRAMM's staff on the committee. There has also been the staff of the individual Members.

I particularly want to acknowledge Mike Thompson and Katherine McGuire of Senator ENZI's staff, and Alex Sternhell and Naomi Camper, Jon Berger, Jimmy Williams, Catherine Cruz Wojtasik, Leslie Wooley, Margaret Simmons, Mat Young, Roger Hollingsworth and Matt Pippin.

I express my very deep appreciation. The dedication these staff members demonstrated over the last few months was just extraordinary: Long nights, weekends, day in and day out. I hope very much they will take a measure of satisfaction in the sense that they have made a very important and significant contribution to better public policy in this country.

I yield the floor.

VOTE ON AMENDMENT NO. 4286

The PRESIDING OFFICER. All time has expired. The question is on agreeing to amendment No. 4286. The yeas and nays have been ordered. The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Idaho (Mr. CRAIG), the Senator from Idaho (Mr. CRAPO), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 174 Leg.]

YEAS—97

Akaka	Edwards	McConnell
Allard	Ensign	Mikulski
Allen	Enzi	Miller
Baucus	Feingold	Murkowski
Bayh	Feinstein	Murray
Bennett	Fitzgerald	Nelson (FL)
Biden	Frist	Nelson (NE)
Bingaman	Graham	Nickles
Bond	Gramm	Reed
Boxer	Grassley	Reid
Breaux	Gregg	Roberts
Brownback	Hagel	Rockefeller
Bunning	Harkin	Santorum
Burns	Hatch	Sarbanes
Byrd	Hollings	Schumer
Campbell	Hutchinson	Sessions
Cantwell	Hutchison	Shelby
Carnahan	Inhofe	Smith (NH)
Carper	Inouye	Smith (OR)
Chafee	Jeffords	Smith (OR)
Cleland	Johnson	Snowe
Clinton	Kennedy	Specter
Cochran	Kerry	Stabenow
Collins	Kohl	Stevens
Conrad	Kyl	Thomas
Corzine	Landrieu	Thompson
Daschle	Leahy	Thurmond
Dayton	Levin	Torricelli
DeWine	Lieberman	Voinovich
Dodd	Lincoln	Warner
Domenici	Lott	Wellstone
Dorgan	Lugar	Wyden
Durbin	McCain	

NOT VOTING—3

Craig	Crapo	Helms
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The amendment (No. 4286) was agreed to.

Mr. DASCHLE. I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mrs. LINCOLN). The majority leader.

Mr. DASCHLE. Madam President, under an earlier agreement, the next

four votes will all be 10-minute votes. I urge Senators to stay in the well. We are going to cut it off at 10 minutes. If you are not here in 10 minutes, you have lost the opportunity to vote. I urge Members to move forward, and we will take on the next vote.

VOTE ON AMENDMENT NO. 4187, AS MODIFIED, AS AMENDED

The PRESIDING OFFICER. The question is on agreeing to amendment No. 4187, as modified, as amended.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Idaho (Mr. CRAPO), the Senator from Idaho (Mr. CRAIG), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 175 Leg.]

YEAS—97

Akaka	Edwards	McConnell
Allard	Ensign	Mikulski
Allen	Enzi	Miller
Baucus	Feingold	Murkowski
Bayh	Feinstein	Murray
Bennett	Fitzgerald	Nelson (FL)
Biden	Frist	Nelson (NE)
Bingaman	Graham	Nickles
Bond	Gramm	Reed
Boxer	Grassley	Reid
Breaux	Gregg	Roberts
Brownback	Hagel	Rockefeller
Bunning	Harkin	Santorum
Burns	Hatch	Sarbanes
Byrd	Hollings	Schumer
Campbell	Hutchinson	Sessions
Cantwell	Hutchison	Shelby
Carnahan	Inhofe	Smith (NH)
Carper	Inouye	Smith (OR)
Chafee	Jeffords	Smith (OR)
Cleland	Johnson	Snowe
Clinton	Kennedy	Specter
Cochran	Kerry	Stabenow
Collins	Kohl	Stevens
Conrad	Kyl	Thomas
Corzine	Landrieu	Thompson
Daschle	Leahy	Thurmond
Dayton	Levin	Torricelli
DeWine	Lieberman	Voinovich
Dodd	Lincoln	Warner
Domenici	Lott	Wellstone
Dorgan	Lugar	Wyden
Durbin	McCain	

NOT VOTING—3

Craig	Crapo	Helms
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The amendment (No. 4187), as modified, as amended, was agreed to.

Mr. SARBANES. Madam President, I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The bill having been read the third time, the question is, Shall it pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Idaho (Mr. CRAPO), the Senator from Idaho (Mr. CRAIG), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote "yea".

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 176 Leg.]

YEAS—97

Akaka	Edwards	McConnell
Allard	Ensign	Mikulski
Allen	Enzi	Miller
Baucus	Feingold	Murkowski
Bayh	Feinstein	Murray
Bennett	Fitzgerald	Nelson (FL)
Biden	Frist	Nelson (NE)
Bingaman	Graham	Nickles
Bond	Gramm	Reed
Boxer	Grassley	Reid
Breaux	Gregg	Roberts
Brownback	Hagel	Rockefeller
Bunning	Harkin	Santorum
Burns	Hatch	Sarbanes
Byrd	Hollings	Schumer
Campbell	Hutchinson	Sessions
Cantwell	Hutchison	Shelby
Carnahan	Inhofe	Smith (NH)
Carper	Inouye	Smith (OR)
Chafee	Jeffords	Smith (OR)
Cleland	Johnson	Snowe
Clinton	Kennedy	Specter
Cochran	Kerry	Stabenow
Collins	Kohl	Stevens
Conrad	Kyl	Thomas
Corzine	Landrieu	Thompson
Daschle	Leahy	Thurmond
Dayton	Levin	Torricelli
DeWine	Lieberman	Voinovich
Dodd	Lincoln	Warner
Domenici	Lott	Wellstone
Dorgan	Lugar	Wyden
Durbin	McCain	

NOT VOTING—3

Craig	Crapo	Helms
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The bill (S. 2673), as amended, was passed.

Mr. SARBANES. Madam President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Banking Committee is discharged from further consideration of H.R. 3763, which the clerk will report by title.

The legislative clerk read as follows:

A bill (H.R. 3763) to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause will be stricken and the text of S. 2673, as passed, is inserted in lieu thereof.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 3763), as amended, was passed, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the “Public Company Accounting Reform and Investor Protection Act of 2002”.

(b) *TABLE OF CONTENTS.*—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Commission rules and enforcement.

TITLE I—PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

Sec. 101. Establishment; administrative provisions.

Sec. 102. Registration with the Board.

Sec. 103. Auditing, quality control, and independence standards and rules.

Sec. 104. Inspections of registered public accounting firms.

Sec. 105. Investigations and disciplinary proceedings.

Sec. 106. Foreign public accounting firms.

Sec. 107. Commission oversight of the Board.

Sec. 108. Accounting standards.

Sec. 109. Funding.

TITLE II—AUDITOR INDEPENDENCE

Sec. 201. Services outside the scope of practice of auditors.

Sec. 202. Preapproval requirements.

Sec. 203. Audit partner rotation.

Sec. 204. Auditor reports to audit committees.

Sec. 205. Conforming amendments.

Sec. 206. Conflicts of interest.

Sec. 207. Study of mandatory rotation of registered public accounting firms.

Sec. 208. Commission authority.

Sec. 209. Considerations by appropriate State regulatory authorities.

TITLE III—CORPORATE RESPONSIBILITY

Sec. 301. Public company audit committees.

Sec. 302. Corporate responsibility for financial reports.

Sec. 303. Improper influence on conduct of audits.

Sec. 304. Forfeiture of certain bonuses and profits.

Sec. 305. Officer and director bars and penalties.

Sec. 306. Insider trades during pension fund blackout periods prohibited.

TITLE IV—ENHANCED FINANCIAL DISCLOSURES

Sec. 401. Disclosures in periodic reports.

Sec. 402. Enhanced conflict of interest provisions.

Sec. 403. Disclosures of transactions involving management and principal stockholders.

Sec. 404. Management assessment of internal controls.

Sec. 405. Exemption.

Sec. 406. Code of ethics for senior financial officers.

Sec. 407. Disclosure of audit committee financial expert.

TITLE V—ANALYST CONFLICTS OF INTEREST

Sec. 501. Treatment of securities analysts by registered securities associations.

TITLE VI—COMMISSION RESOURCES AND AUTHORITY

Sec. 601. Authorization of appropriations.

Sec. 602. Appearance and practice before the Commission.

Sec. 603. Federal court authority to impose penny stock bars.

Sec. 604. Qualifications of associated persons of brokers and dealers.

TITLE VII—STUDIES AND REPORTS

Sec. 701. GAO study and report regarding consolidation of public accounting firms.

Sec. 702. Commission study and report regarding credit rating agencies.

TITLE VIII—CORPORATE AND CRIMINAL FRAUD ACCOUNTABILITY

Sec. 801. Short title.

Sec. 802. Criminal penalties for altering documents.

Sec. 803. Debts nondischargeable if incurred in violation of securities fraud laws.

Sec. 804. Statute of limitations for securities fraud.

Sec. 805. Review of Federal sentencing guidelines for obstruction of justice and extensive criminal fraud.

Sec. 806. Protection for employees of publicly traded companies who provide evidence of fraud.

Sec. 807. Criminal penalties for defrauding shareholders of publicly traded companies.

TITLE IX—WHITE-COLLAR CRIME PENALTY ENHANCEMENTS

Sec. 901. Short title.

Sec. 902. Criminal penalties for conspiracy to commit offense or to defraud the United States.

Sec. 903. Criminal penalties for mail and wire fraud.

Sec. 904. Criminal penalties for violations of the Employee Retirement Income Security Act of 1974.

Sec. 905. Amendment to sentencing guidelines relating to certain white-collar offenses.

Sec. 906. Corporate responsibility for financial reports.

Sec. 907. Higher maximum penalties for mail and wire fraud.

Sec. 908. Tampering with a record or otherwise impeding an official proceeding.

Sec. 909. Temporary freeze authority for the Securities and Exchange Commission.

Sec. 910. Amendment to the Federal sentencing guidelines.

Sec. 911. Authority of the Commission to prohibit persons from serving as officers or directors.

TITLE X—CORPORATE TAX RETURNS

Sec. 1001. Sense of the Senate regarding the signing of corporate tax returns by chief executive officers.

SEC. 2. DEFINITIONS.

(a) *IN GENERAL.*—In this Act, the following definitions shall apply:

(1) *APPROPRIATE STATE REGULATORY AUTHORITY.*—The term “appropriate State regulatory authority” means the State agency or other authority responsible for the licensure or other regulation of the practice of accounting in the State or States having jurisdiction over a registered public accounting firm or associated person thereof, with respect to the matter in question.

(2) *AUDIT.*—The term “audit” means an examination of the financial statements of any issuer by an independent public accounting firm in accordance with the rules of the Board or the Commission (or, for the period preceding the adoption of applicable rules of the Board under section 103, in accordance with then-applicable generally accepted auditing and related stand-

ards for such purposes), for the purpose of expressing an opinion on such statements.

(3) *AUDIT COMMITTEE.*—The term “audit committee” means—

(A) a committee (or equivalent body) established by and amongst the board of directors of an issuer for the purpose of overseeing the accounting and financial reporting processes of the issuer and audits of the financial statements of the issuer; and

(B) if no such committee exists with respect to an issuer, the entire board of directors of the issuer.

(4) *AUDIT REPORT.*—The term “audit report” means a document or other record—

(A) prepared following an audit performed for purposes of compliance by an issuer with the requirements of the securities laws; and

(B) in which a public accounting firm either—

(i) sets forth the opinion of that firm regarding a financial statement, report, or other document; or

(ii) asserts that no such opinion can be expressed.

(5) *BOARD.*—The term “Board” means the Public Company Accounting Oversight Board established under section 101.

(6) *COMMISSION.*—The term “Commission” means the Securities and Exchange Commission.

(7) *ISSUER.*—The term “issuer” means an issuer (as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)), the securities of which are registered under section 12 of that Act (15 U.S.C. 78l), or that is required to file reports pursuant to section 15(d) of that Act (15 U.S.C. 78o(d)), or that will be required to file such reports at the end of a fiscal year of the issuer in which a registration statement filed by such issuer has become effective pursuant to the Securities Act of 1933 (15 U.S.C. 77a et. seq.), unless its securities are registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) on or before the end of such fiscal year.

(8) *NON-AUDIT SERVICES.*—The term “non-audit services” means any professional services provided to an issuer by a registered public accounting firm, other than those provided to an issuer in connection with an audit or a review of the financial statements of an issuer.

(9) *PERSON ASSOCIATED WITH A PUBLIC ACCOUNTING FIRM.*—

(A) *IN GENERAL.*—The terms “person associated with a public accounting firm” (or with a “registered public accounting firm”) and “associated person of a public accounting firm” (or of a “registered public accounting firm”) mean any individual proprietor, partner, shareholder, principal, accountant, or other professional employee of a public accounting firm, or any other independent contractor or entity that, in connection with the preparation or issuance of any audit report—

(i) shares in the profits of, or receives compensation in any other form from, that firm; or

(ii) participates as agent or otherwise on behalf of such accounting firm in any activity of that firm.

(B) *EXEMPTION AUTHORITY.*—The Board may, by rule, exempt persons engaged only in ministerial tasks from the definition in subparagraph (A), to the extent that the Board determines that any such exemption is consistent with the purposes of this Act, the public interest, or the protection of investors.

(10) *PROFESSIONAL STANDARDS.*—The term “professional standards” means—

(A) accounting principles that are—

(i) established by the standard setting body described in section 19(b) of the Securities Act of 1933, as amended by this Act, or prescribed by the Commission under section 19(a) of that Act (15 U.S.C. 17a(s)) or section 13(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78a(m)); and

(ii) relevant to audit reports for particular issuers, or dealt with in the quality control system of a particular registered public accounting firm; and

(B) auditing standards, standards for attestation engagements, quality control policies and procedures, ethical and competency standards, and independence standards (including rules implementing title II) that the Board or the Commission determines—

(i) relate to the preparation or issuance of audit reports for issuers; and

(ii) are established or adopted by the Board under section 103(a), or are promulgated as rules of the Commission.

(11) **PUBLIC ACCOUNTING FIRM.**—The term “public accounting firm” means—

(A) a proprietorship, partnership, incorporated association, corporation, limited liability company, limited liability partnership, or other legal entity that is engaged in the practice of public accounting or preparing or issuing audit reports; and

(B) to the extent so designated by the rules of the Board, any associated person of any entity described in subparagraph (A).

(12) **REGISTERED PUBLIC ACCOUNTING FIRM.**—The term “registered public accounting firm” means a public accounting firm registered with the Board in accordance with this Act.

(13) **RULES OF THE BOARD.**—The term “rules of the Board” means the bylaws and rules of the Board (as submitted to, and approved, modified, or amended by the Commission, in accordance with section 107), and those stated policies, practices, and interpretations of the Board that the Commission, by rule, may deem to be rules of the Board, as necessary or appropriate in the public interest or for the protection of investors.

(14) **SECURITY.**—The term “security” has the same meaning as in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).

(15) **SECURITIES LAWS.**—The term “securities laws” means the provisions of law referred to in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), as amended by this Act, and includes the rules, regulations, and orders issued by the Commission thereunder.

(16) **STATE.**—The term “State” means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, or any other territory or possession of the United States.

(b) **CONFORMING AMENDMENT.**—Section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)) is amended by inserting “the Public Company Accounting Reform and Investor Protection Act of 2002,” before “the Public”.

SEC. 3. COMMISSION RULES AND ENFORCEMENT.

(a) **REGULATORY ACTION.**—The Commission shall promulgate such rules and regulations, as may be necessary or appropriate in the public interest or for the protection of investors, and in furtherance of this Act.

(b) **ENFORCEMENT.**—

(1) **IN GENERAL.**—A violation by any person of this Act, any rule or regulation of the Commission issued under this Act, or any rule of the Board shall be treated for all purposes in the same manner as a violation of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the rules and regulations issued thereunder, consistent with the provisions of this Act, and any such person shall be subject to the same penalties, and to the same extent, as for a violation of that Act or such rules or regulations.

(2) **INVESTIGATIONS, INJUNCTIONS, AND PROSECUTION OF OFFENSES.**—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended

(A) in subsection (a)(1), by inserting “the rules of the Public Company Accounting Over-

sight Board, of which such person is a registered public accounting firm or a person associated with such a firm,” after “is a participant,”;

(B) in subsection (d)(1), by inserting “the rules of the Public Company Accounting Oversight Board, of which such person is a registered public accounting firm or a person associated with such a firm,” after “is a participant,”;

(C) in subsection (e), by inserting “the rules of the Public Company Accounting Oversight Board, of which such person is a registered public accounting firm or a person associated with such a firm,” after “is a participant,”; and

(D) in subsection (f), by inserting “or the Public Company Accounting Oversight Board” after “self-regulatory organization” each place that term appears.

(3) **CEASE-AND-DESIST PROCEEDINGS.**—Section 21C(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3(c)(2)) is amended by inserting “registered public accounting firm (as defined in section 2 of the Public Company Accounting Reform and Investor Protection Act of 2002),” after “government securities dealer.”.

(c) **EFFECT ON COMMISSION AUTHORITY.**—Nothing in this Act or the rules of the Board shall be construed to impair or limit—

(1) the authority of the Commission to regulate the accounting profession, accounting firms, or persons associated with such firms for purposes of enforcement of the securities laws;

(2) the authority of the Commission to set standards for accounting or auditing practices or auditor independence, derived from other provisions of the securities laws or the rules or regulations thereunder, for purposes of the preparation and issuance of any audit report, or otherwise under applicable law; or

(3) the ability of the Commission to take, on the initiative of the Commission, legal, administrative, or disciplinary action against any registered public accounting firm or any associated person thereof.

TITLE I—PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

SEC. 101. ESTABLISHMENT; ADMINISTRATIVE PROVISIONS.

(a) **ESTABLISHMENT OF BOARD.**—There is established the Public Company Accounting Oversight Board, to oversee the audit of public companies that are subject to the securities laws, and related matters, in order to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports for companies the securities of which are sold to, and held by and for, public investors. The Board shall be a body corporate, operate as a nonprofit corporation, and have succession until dissolved by an Act of Congress.

(b) **STATUS.**—The Board shall not be an agency or establishment of the United States Government, and, except as otherwise provided in this Act, shall be subject to, and have all the powers conferred upon a nonprofit corporation by, the District of Columbia Nonprofit Corporation Act. No member or person employed by, or agent for, the Board shall be deemed to be an officer or employee of or agent for the Federal Government by reason of such service.

(c) **DUTIES OF THE BOARD.**—The Board shall, subject to action by the Commission under section 107, and once a determination is made by the Commission under subsection (d) of this section—

(1) register public accounting firms that prepare audit reports for issuers, in accordance with section 102;

(2) establish or adopt, or both, by rule, auditing, quality control, ethics, independence, and other standards relating to the preparation of audit reports for issuers, in accordance with section 103;

(3) conduct inspections of registered public accounting firms, in accordance with section 104 and the rules of the Board;

(4) conduct investigations and disciplinary proceedings concerning, and impose appropriate sanctions where justified upon, registered public accounting firms and associated persons of such firms, in accordance with section 105;

(5) perform such other duties or functions as the Board determines are necessary or appropriate to promote high professional standards among, and improve the quality of audit services offered by, registered public accounting firms and associated persons thereof, or otherwise to carry out this Act, in order to protect investors, or to further the public interest;

(6) enforce compliance with this Act, the rules of the Board, professional standards, and the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, by registered public accounting firms and associated persons thereof; and

(7) set the budget and manage the operations of the Board and the staff of the Board.

(d) **COMMISSION DETERMINATION.**—The members of the Board shall take such action (including hiring of staff, proposal of rules, and adoption of initial and transitional auditing and other professional standards) as may be necessary or appropriate to enable the Commission to determine, not later than 270 days after the date of enactment of this Act, that the Board is so organized and has the capacity to carry out the requirements of this title, and to enforce compliance with this title by registered public accounting firms and associated persons thereof.

(e) **BOARD MEMBERSHIP.**—

(1) **COMPOSITION.**—The Board shall have 5 members, appointed from among prominent individuals of integrity and reputation who have a demonstrated commitment to the interests of investors and the public, and an understanding of the responsibilities for and nature of the financial disclosures required of issuers under the securities laws and the obligations of accountants with respect to the preparation and issuance of audit reports with respect to such disclosures.

(2) **LIMITATION.**—Two members, and only 2 members, of the Board shall be or have been certified public accountants pursuant to the laws of 1 or more States, provided that, if 1 of those 2 members is the chairperson, he or she may not have been a practicing certified public accountant for at least 5 years prior to his or her appointment to the Board.

(3) **FULL-TIME INDEPENDENT SERVICE.**—Each member of the Board shall serve on a full-time basis, and may not, concurrent with service on the Board, be employed by any other person or engage in any other professional or business activity. No member of the Board may share in any of the profits of, or receive payments from, a public accounting firm (or any other person, as determined by rule of the Commission), other than fixed continuing payments, subject to such conditions as the Commission may impose, under standard arrangements for the retirement of members of public accounting firms.

(4) **APPOINTMENT OF BOARD MEMBERS.**—

(A) **INITIAL BOARD.**—Not later than 90 days after the date of enactment of this Act, the Commission, after consultation with the Chairman of the Board of Governors of the Federal Reserve System and the Secretary of the Treasury, shall appoint the chairperson and other initial members of the Board, and shall designate a term of service for each.

(B) **VACANCIES.**—A vacancy on the Board shall not affect the powers of the Board, but shall be filled in the same manner as provided for appointments under this section.

(5) **TERM OF SERVICE.**—

(A) **IN GENERAL.**—The term of service of each Board member shall be 5 years, and until a successor is appointed, except that—

(i) the terms of office of the initial Board members (other than the chairperson) shall expire in annual increments, 1 on each of the first 4 anniversaries of the initial date of appointment; and

(ii) any Board member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of that term.

(B) **TERM LIMITATION.**—No person may serve as a member of the Board, or as chairperson of the Board, for more than 2 terms, whether or not such terms of service are consecutive.

(6) **REMOVAL FROM OFFICE.**—A member of the Board may be removed by the Commission from office, in accordance with section 107(d)(3), for good cause shown before the expiration of the term of that member.

(f) **POWERS OF THE BOARD.**—In addition to any authority granted to the Board otherwise in this Act, the Board shall have the power, subject to section 107—

(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel, with the approval of the Commission, in any Federal, State, or other court;

(2) to conduct its operations and maintain offices, and to exercise all other rights and powers authorized by this Act, in any State, without regard to any qualification, licensing, or other provision of law in effect in such State (or a political subdivision thereof);

(3) to lease, purchase, accept gifts or donations of or otherwise acquire, improve, use, sell, exchange, or convey, all of or an interest in any property, wherever situated;

(4) to appoint such employees, accountants, attorneys, and other agents as may be necessary or appropriate, and to determine their qualifications, define their duties, and fix their salaries or other compensation (at a level that is comparable to private sector self-regulatory, accounting, technical, supervisory, or other staff or management positions);

(5) to allocate, assess, and collect accounting support fees established pursuant to section 109, for the Board, and other fees and charges imposed under this title; and

(6) to enter into contracts, execute instruments, incur liabilities, and do any and all other acts and things necessary, appropriate, or incidental to the conduct of its operations and the exercise of its obligations, rights, and powers imposed or granted by this title.

(g) **RULES OF THE BOARD.**—The rules of the Board shall, subject to the approval of the Commission—

(1) provide for the operation and administration of the Board, the exercise of its authority, and the performance of its responsibilities under this Act;

(2) permit, as the Board determines necessary or appropriate, delegation by the Board of any of its functions to an individual member or employee of the Board, or to a division of the Board, including functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting as to any matter, except that—

(A) the Board shall retain a discretionary right to review any action pursuant to any such delegated function, upon its own motion;

(B) a person shall be entitled to a review by the Board with respect to any matter so delegated, and the decision of the Board upon such review shall be deemed to be the action of the Board for all purposes (including appeal or review thereof); and

(C) if the right to exercise a review described in subparagraph (A) is declined, or if no such review is sought within the time stated in the rules of the Board, then the action taken by the holder of such delegation shall for all purposes,

including appeal or review thereof, be deemed to be the action of the Board;

(3) establish ethics rules and standards of conduct for Board members and staff, including a bar on practice before the Board (and the Commission, with respect to Board-related matters) of 1 year for former members of the Board, and appropriate periods (not to exceed 1 year) for former staff of the Board; and

(4) provide as otherwise required by this Act.

(h) **ANNUAL REPORT TO THE COMMISSION.**—The Board shall submit an annual report (including its audited financial statements) to the Commission, and the Commission shall transmit a copy of that report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, not later than 30 days after the date of receipt of that report by the Commission.

SEC. 102. REGISTRATION WITH THE BOARD.

(a) **MANDATORY REGISTRATION.**—Beginning 180 days after the date of the determination of the Commission under section 101(d), it shall be unlawful for any person that is not a registered public accounting firm to prepare or issue, or to participate in the preparation or issuance of, any audit report with respect to any issuer.

(b) **APPLICATIONS FOR REGISTRATION.**—

(1) **FORM OF APPLICATION.**—A public accounting firm shall use such form as the Board may prescribe, by rule, to apply for registration under this section.

(2) **CONTENTS OF APPLICATIONS.**—Each public accounting firm shall submit, as part of its application for registration, in such detail as the Board shall specify—

(A) the names of all issuers for which the firm prepared or issued audit reports during the immediately preceding calendar year, and for which the firm expects to prepare or issue audit reports during the current calendar year;

(B) the annual fees received by the firm from each such issuer for audit services, other accounting services, and non-audit services, respectively;

(C) such other current financial information for the most recently completed fiscal year of the firm as the Board may reasonably request;

(D) a statement of the quality control policies of the firm for its accounting and auditing practices;

(E) a list of all accountants associated with the firm who participate in or contribute to the preparation of audit reports, stating the license or certification number of each such person, as well as the State license numbers of the firm itself;

(F) information relating to criminal, civil, or administrative actions or disciplinary proceedings pending against the firm or any associated person of the firm in connection with any audit report;

(G) copies of any periodic or annual disclosure filed by an issuer with the Commission during the immediately preceding calendar year which discloses accounting disagreements between such issuer and the firm in connection with an audit report furnished or prepared by the firm for such issuer; and

(H) such other information as the rules of the Board or the Commission shall specify as necessary or appropriate in the public interest or for the protection of investors.

(3) **CONSENTS.**—Each application for registration under this subsection shall include—

(A) a consent executed by the public accounting firm to cooperation in and compliance with any request for testimony or the production of documents made by the Board in the furtherance of its authority and responsibilities under this title (and an agreement to secure and enforce similar consents from each of the associated persons of the public accounting firm as a

condition of their continued employment by or other association with such firm); and

(B) a statement that such firm understands and agrees that cooperation and compliance, as described in the consent required by subparagraph (A), and the securing and enforcement of such consents from its associated persons, in accordance with the rules of the Board, shall be a condition to the continuing effectiveness of the registration of the firm with the Board.

(c) **ACTION ON APPLICATIONS.**—

(1) **TIMING.**—The Board shall approve a completed application for registration not later than 45 days after the date of receipt of the application, in accordance with the rules of the Board, unless the Board, prior to such date, issues a written notice of disapproval to, or requests more information from, the prospective registrant.

(2) **TREATMENT.**—A written notice of disapproval of a completed application under paragraph (1) for registration shall be treated as a disciplinary sanction for purposes of sections 105(d) and 107(c).

(d) **PERIODIC REPORTS.**—Each registered public accounting firm shall submit an annual report to the Board, and may be required to report more frequently, as necessary to update the information contained in its application for registration under this section, and to provide to the Board such additional information as the Board or the Commission may specify, in accordance with subsection (b)(2).

(e) **PUBLIC AVAILABILITY.**—Registration applications and annual reports required by this subsection, or such portions of such applications or reports as may be designated under rules of the Board, shall be made available for public inspection, subject to rules of the Board or the Commission, and to applicable laws relating to the confidentiality of proprietary, personal, or other information contained in such applications or reports, provided that, in all events, the Board shall protect from public disclosure information reasonably identified by the subject accounting firm as proprietary information.

(f) **REGISTRATION AND ANNUAL FEES.**—The Board shall assess and collect a registration fee and an annual fee from each registered public accounting firm, in amounts that are sufficient to recover the costs of processing and reviewing applications and annual reports.

SEC. 103. AUDITING, QUALITY CONTROL, AND INDEPENDENCE STANDARDS AND RULES.

(a) **AUDITING, QUALITY CONTROL, AND ETHICS STANDARDS.**—

“(1) **IN GENERAL.**—The Board shall, by rule, establish, including, to the extent it determines appropriate, through adoption of standards proposed by 1 or more professional groups of accountants designated pursuant to paragraph (3)(A) or advisory groups convened pursuant to paragraph (4), and amend or otherwise modify or alter, such auditing and related attestation standards, such quality control standards, and such ethics standards to be used by registered public accounting firms in the preparation and issuance of audit reports, as required by this Act or the rules of the Commission, or as may be necessary or appropriate in the public interest or for the protection of investors.

(2) **RULE REQUIREMENTS.**—In carrying out paragraph (1), the Board—

(A) shall include in the auditing standards that it adopts, requirements that each registered public accounting firm shall—

(i) prepare, and maintain for a period of not less than 7 years, audit work papers, and other information related to any audit report, in sufficient detail to support the conclusions reached in such report;

(ii) provide a concurring or second partner review and approval of such audit report (and

other related information), and concurring approval in its issuance, by a qualified person (as prescribed by the Board) associated with the public accounting firm, other than the person in charge of the audit, or by an independent reviewer (as prescribed by the Board); and

(iii) describe the scope of the auditor's testing of the system of internal accounting controls of the issuer required by section 13(b)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(b)(2)), and present (in such report or in a separate report)—

(I) the findings of the auditor from such testing;

(II) an evaluation of whether such system of internal accounting controls—

(aa) complies with the requirements of that section 13(b)(2); and

(bb) provides reasonable assurance that receipts and expenditures of the issuer comply with applicable law, and are being made in accordance with proper authorizations of the management and directors of the issuer; and

(III) a description of significant defects in such internal controls, and of any material non-compliance, of which the auditor should know on the basis of such testing; and

(B) shall include, in the quality control standards that it adopts with respect to the issuance of audit reports, requirements for every registered public accounting firm relating to—

(i) monitoring of professional ethics and independence from issuers on behalf of which the firm issues audit reports;

(ii) consultation within such firm on accounting and auditing questions;

(iii) supervision of audit work;

(iv) hiring, professional development, and advancement of personnel;

(v) the acceptance and continuation of engagements;

(vi) internal inspection; and

(vii) such other requirements as the Board may prescribe, subject to subsection (a)(1).

(3) **AUTHORITY TO ADOPT OTHER STANDARDS.**—

(A) **IN GENERAL.**—In carrying out this subsection, the Board—

(i) may adopt as its rules, subject to the terms of section 107, any portion of any statement of auditing standards or other professional standards that the Board determines satisfy the requirements of paragraph (1), and that were proposed by 1 or more professional groups of accountants that shall be designated or recognized by the Board, by rule, for such purpose, pursuant to this paragraph or 1 or more advisory groups convened pursuant to paragraph (4); and

(ii) notwithstanding clause (i), shall retain full authority to modify, supplement, revise, or subsequently amend, modify, or repeal, in whole or in part, any portion of any statement described in clause (i).

(B) **INITIAL AND TRANSITIONAL STANDARDS.**—The Board shall adopt standards described in subparagraph (A)(i) as initial or transitional standards, to the extent the Board determines necessary, prior to a determination of the Commission under section 101(d), and such standards shall be separately approved by the Commission at the time of that determination, without regard to the procedures required by section 107 that otherwise would apply to the approval of rules of the Board.

(4) **ADVISORY GROUPS.**—The Board shall convene, or authorize its staff to convene, such expert advisory groups as may be appropriate, which may include practicing accountants and other experts, as well as representatives of other interested groups, subject to such rules as the Board may prescribe to prevent conflicts of interest, to make recommendations concerning the content (including proposed drafts) of auditing, quality control, ethics, independence, or other

standards required to be established under this section.

(b) **INDEPENDENCE STANDARDS AND RULES.**—The Board shall establish such rules as may be necessary or appropriate in the public interest or for the protection of investors, to implement, or as authorized under, title II of this Act.

(c) **COOPERATION WITH DESIGNATED PROFESSIONAL GROUPS OF ACCOUNTANTS AND ADVISORY GROUPS.**—

(1) **IN GENERAL.**—The Board shall cooperate on an ongoing basis with professional groups of accountants designated under subsection (a)(3)(A) and advisory groups convened under subsection (a)(4) in the examination of the need for changes in any standards subject to its authority under subsection (a), recommend issues for inclusion on the agendas of such designated professional groups of accountants or advisory groups, and take such other steps as it deems appropriate to increase the effectiveness of the standard setting process.

(2) **BOARD RESPONSES.**—The Board shall respond in a timely fashion to requests from designated professional groups of accountants and advisory groups referred to in paragraph (1) for any changes in standards over which the Board has authority.

(d) **EVALUATION OF STANDARD SETTING PROCESS.**—The Board shall include in the annual report required by section 101(h) the results of its standard setting responsibilities during the period to which the report relates, including a discussion of the work of the Board with any designated professional groups of accountants and advisory groups described in paragraphs (3)(A) and (4) of subsection (a), and its pending issues agenda for future standard setting projects.

SEC. 104. INSPECTIONS OF REGISTERED PUBLIC ACCOUNTING FIRMS.

(a) **IN GENERAL.**—The Board shall conduct a continuing program of inspections to assess the degree of compliance of each registered public accounting firm and associated persons of that firm with this Act, the rules of the Board, the rules of the Commission, or professional standards, in connection with its performance of audits, issuance of audit reports, and related matters involving issuers.

(b) **INSPECTION FREQUENCY.**—

(1) **IN GENERAL.**—Subject to paragraph (2), inspections required by this section shall be conducted—

(A) annually with respect to each registered public accounting firm that regularly provides audit reports for more than 100 issuers; and

(B) not less frequently than once every 3 years with respect to each registered public accounting firm that regularly provides audit reports for 100 or fewer issuers.

(2) **ADJUSTMENTS TO SCHEDULES.**—The Board may, by rule, adjust the inspection schedules set under paragraph (1) if the Board finds that different inspection schedules are consistent with the purposes of this Act, the public interest, and the protection of investors.

(c) **PROCEDURES.**—The Board shall, in each inspection under this section, and in accordance with its rules for such inspections—

(1) identify any act or practice or omission to act by the registered public accounting firm, or by any associated person thereof, revealed by such inspection that may be in violation of this Act, the rules of the Board, the rules of the Commission, the firm's own quality control policies, or professional standards;

(2) report any such act, practice, or omission, if appropriate, to the Commission and each appropriate State regulatory authority; and

(3) begin a formal investigation or take appropriate disciplinary action, if any, with respect to any such violation, in accordance with this Act and the rules of the Board.

(d) **CONDUCT OF INSPECTIONS.**—In conducting an inspection of a registered public accounting firm under this section, the Board shall—

(1) inspect and review selected audit and review engagements of the firm (which may include audit engagements that are the subject of ongoing litigation or other controversy between the firm and 1 or more third parties), performed at various offices and by various associated persons of the firm, as selected by the Board;

(2) evaluate the sufficiency of the quality control system of the firm, and the manner of the documentation and communication of that system by the firm; and

(3) perform such other testing of the audit, supervisory, and quality control procedures of the firm as are necessary or appropriate in light of the purpose of the inspection and the responsibilities of the Board.

(e) **RECORD RETENTION.**—The rules of the Board may require the retention by registered public accounting firms for inspection purposes of records whose retention is not otherwise required by section 103 or the rules issued thereunder.

(f) **PROCEDURES FOR REVIEW.**—The rules of the Board shall provide a procedure for the review of and response to a draft inspection report by the registered public accounting firm under inspection. The Board shall take such action with respect to such response as it considers appropriate (including revising the draft report or continuing or supplementing its inspection activities before issuing a final report), but the text of any such response, appropriately redacted to protect information reasonably identified by the accounting firm as confidential, shall be attached to and made part of the inspection report.

(g) **REPORT.**—A written report of the findings of the Board for each inspection under this section, subject to subsection (h), shall be—

(1) transmitted, in appropriate detail, to the Commission and each appropriate State regulatory authority, accompanied by any letter or comments by the Board or the inspector, and any letter of response from the registered public accounting firm; and

(2) made available in appropriate detail to the public (subject to section 105(b)(5)(A), and to the protection of such confidential and proprietary information as the Board may determine to be appropriate, or as may be required by law), except that no portions of the inspection report that deal with criticisms of or potential defects in the quality control systems of the firm under inspection shall be made public if those criticisms or defects are addressed by the firm, to the satisfaction of the Board, not later than 12 months after the date of the inspection report.

(h) **INTERIM COMMISSION REVIEW.**—

(1) **REVIEWABLE MATTERS.**—A registered public accounting firm may seek review by the Commission, pursuant to such rules as the Commission shall promulgate, if the firm—

(A) has provided the Board with a response, pursuant to rules issued by the Board under subsection (f), to the substance of particular items in a draft inspection report, and disagrees with the assessments contained in any final report prepared by the Board following such response; or

(B) disagrees with the determination of the Board that criticisms or defects identified in an inspection report have not been addressed to the satisfaction of the Board within 12 months of the date of the inspection report, for purposes of subsection (g)(2).

(2) **TREATMENT OF REVIEW.**—Any decision of the Commission with respect to a review under paragraph (1) shall not be reviewable under section 25 of the Securities Exchange Act of 1934 (15 U.S.C. 78y), or deemed to be "final agency action" for purposes of section 704 of title 5, United States Code.

(3) **TIMING.**—Review under paragraph (1) may be sought during the 30-day period following the

date of the event giving rise to the review under subparagraph (A) or (B) of paragraph (1).

SEC. 105. INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS.

(a) **IN GENERAL.**—The Board shall establish, by rule, subject to the requirements of this section, fair procedures for the investigation and disciplining of registered public accounting firms and associated persons of such firms.

(b) **INVESTIGATIONS.**—

(1) **AUTHORITY.**—In accordance with the rules of the Board, the Board may conduct an investigation of any act or practice, or omission to act, by a registered public accounting firm, any associated person of such firm, or both, that may violate any provision of this Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under this Act, or professional standards, regardless of how the act, practice, or omission is brought to the attention of the Board.

(2) **TESTIMONY AND DOCUMENT PRODUCTION.**—In addition to such other actions as the Board determines to be necessary or appropriate, the rules of the Board may—

(A) require the testimony of the firm or of any person associated with a registered public accounting firm, with respect to any matter that the Board considers relevant or material to an investigation;

(B) require the production of audit work papers and any other document or information in the possession of a registered public accounting firm or any associated person thereof, wherever domiciled, that the Board considers relevant or material to the investigation, and may inspect the books and records of such firm or associated person to verify the accuracy of any documents or information supplied;

(C) request the testimony of, and production of any document in the possession of, any other person, including any client of a registered public accounting firm that the Board considers relevant or material to an investigation under this section, with appropriate notice, subject to the needs of the investigation, as permitted under the rules of the Board; and

(D) provide for procedures to seek issuance by the Commission, in a manner established by the Commission, of a subpoena to require the testimony of, and production of any document in the possession of, any person, including any client of a registered public accounting firm, that the Board considers relevant or material to an investigation under this section.

(3) **NONCOOPERATION WITH INVESTIGATIONS.**—

(A) **IN GENERAL.**—If a registered public accounting firm or any associated person thereof refuses to testify, produce documents, or otherwise cooperate with the Board in connection with an investigation under this section, the Board may—

(i) suspend or bar such person from being associated with a registered public accounting firm, or require the registered public accounting firm to end such association;

(ii) suspend or revoke the registration of the public accounting firm; and

(iii) invoke such other lesser sanctions as the Board considers appropriate, and as specified by rule of the Board.

(B) **PROCEDURE.**—Any action taken by the Board under this paragraph shall be subject to the terms of section 107(c).

(4) **REFERRAL.**—The Board may refer an investigation under this section—

(A) to the Commission;

(B) to any other Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)), in the case of an investigation that concerns an audit report for an

institution that is subject to the jurisdiction of such regulator; and

(C) at the direction of the Commission, to—

(i) the Attorney General of the United States; and

(ii) the attorney general of 1 or more States; and

(iii) the appropriate State regulatory authority.

(5) **USE OF DOCUMENTS.**—

(A) **CONFIDENTIALITY.**—Except as provided in subparagraph (B), all documents and information prepared or received by or specifically for the Board, and deliberations of the Board and its employees and agents, in connection with an inspection under section 104 or with an investigation under this section, shall be confidential and privileged as an evidentiary matter (and shall not be subject to civil discovery or other legal process) in any proceeding in any Federal or State court or administrative agency, and shall be exempt from disclosure, in the hands of an agency or establishment of the Federal Government, under the Freedom of Information Act (5 U.S.C. 552a), or otherwise, unless and until presented in connection with a public proceeding or released in accordance with subsection (c).

(B) **AVAILABILITY TO GOVERNMENT AGENCIES.**—All information referred to in subparagraph (A) may, in the discretion of the Board, when determined by the Board to be necessary to accomplish the purposes of this Act or to protect investors, and without the loss of its status as confidential and privileged in the hands of the Board, be made available to the Commission, the Attorney General of the United States, to the appropriate Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)), other than the Commission, with respect to an audit report for an institution subject to the jurisdiction of such regulator, to State attorneys general in connection with any criminal investigation, and to any appropriate State regulatory authority, which shall maintain such information as confidential and privileged.

(6) **IMMUNITY.**—Any employee of the Board engaged in carrying out an investigation under this Act shall be immune from any civil liability arising out of such investigation in the same manner and to the same extent as an employee of the Federal Government in similar circumstances.

(c) **DISCIPLINARY PROCEDURES.**—

(1) **NOTIFICATION; RECORDKEEPING.**—The rules of the Board shall provide that in any proceeding by the Board to determine whether a registered public accounting firm, or an associated person thereof, should be disciplined, the Board shall—

(A) bring specific charges with respect to the firm or associated person;

(B) notify such firm or associated person of, and provide to the firm or associated person an opportunity to defend against, such charges; and

(C) keep a record of the proceedings.

(2) **PUBLIC HEARINGS.**—Hearings under this section shall not be public, unless otherwise ordered by the Board for good cause shown, with the consent of the parties to such hearing.

(3) **SUPPORTING STATEMENT.**—A determination by the Board to impose a sanction under this subsection shall be supported by a statement setting forth—

(A) each act or practice in which the registered public accounting firm, or associated person, has engaged (or omitted to engage), or that forms a basis for all or a part of such sanction;

(B) the specific provision of this Act, the securities laws, the rules of the Board, or professional standards which the Board determines has been violated; and

(C) the sanction imposed, including a justification for that sanction.

(4) **SANCTIONS.**—If the Board finds, based on all of the facts and circumstances, that a registered public accounting firm or associated person thereof has engaged in any act or practice, or omitted to act, in violation of this Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under this Act, or professional standards, the Board may impose such disciplinary or remedial sanctions as it determines appropriate, subject to applicable limitations under paragraph (5), including—

(A) temporary suspension or permanent revocation of registration under this title;

(B) temporary or permanent suspension or bar of a person from further association with any registered public accounting firm;

(C) temporary or permanent limitation on the activities, functions, or operations of such firm or person (other than in connection with required additional professional education or training);

(D) a civil money penalty for each such violation, in an amount equal to—

(i) not more than \$100,000 for a natural person or \$2,000,000 for any other person; and

(ii) in any case to which paragraph (5) applies, not more than \$750,000 for a natural person or \$15,000,000 for any other person;

(E) censure;

(F) required additional professional education or training; or

(G) any other appropriate sanction provided for in the rules of the Board.

(5) **INTENTIONAL OR OTHER KNOWING CONDUCT.**—The sanctions and penalties described in subparagraphs (A) through (C) and (D)(ii) of paragraph (4) shall only apply to—

(A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or

(B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

(6) **FAILURE TO SUPERVISE.**—

(A) **IN GENERAL.**—The Board may impose sanctions under this section on a registered accounting firm or upon the supervisory personnel of such firm, if the Board finds that—

(i) the firm has failed reasonably to supervise an associated person, either as required by the rules of the Board relating to auditing or quality control standards, or otherwise, with a view to preventing violations of this Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission under this Act, or professional standards; and

(ii) such associated person commits a violation of this Act, or any of such rules, laws, or standards.

(B) **RULE OF CONSTRUCTION.**—No associated person of a registered public accounting firm shall be deemed to have failed reasonably to supervise any other person for purposes of subparagraph (A), if—

(i) there have been established in and for that firm procedures, and a system for applying such procedures, that comply with applicable rules of the Board and that would reasonably be expected to prevent and detect any such violation by such associated person; and

(ii) such person has reasonably discharged the duties and obligations incumbent upon that person by reason of such procedures and system, and had no reasonable cause to believe that

such procedures and system were not being complied with.

(7) EFFECT OF SUSPENSION.—

(A) ASSOCIATION WITH A PUBLIC ACCOUNTING FIRM.—It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any registered public accounting firm, or for any registered public accounting firm that knew, or, in the exercise of reasonable care should have known, of the suspension or bar, to permit such an association, without the consent of the Board or the Commission.

(B) ASSOCIATION WITH AN ISSUER.—It shall be unlawful for any person that is suspended or barred from being associated with an issuer under this subsection willfully to become or remain associated with any issuer in an accountancy or a financial management capacity, and for any issuer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission.

(d) REPORTING OF SANCTIONS.—

(1) RECIPIENTS.—If the Board imposes a disciplinary sanction, in accordance with this section, the Board shall report the sanction to—

(A) the Commission;

(B) any appropriate State regulatory authority or any foreign accountancy licensing board with which such firm or person is licensed or certified; and

(C) the public (once any stay on the imposition of such sanction has been lifted).

(2) CONTENTS.—The information reported under paragraph (1) shall include—

(A) the name of the sanctioned person;

(B) a description of the sanction and the basis for its imposition; and

(C) such other information as the Board deems appropriate.

(e) STAY OF SANCTIONS.—

(1) IN GENERAL.—Application to the Commission for review, or the institution by the Commission of review, of any disciplinary action of the Board shall operate as a stay of any such disciplinary action, unless and until the Commission orders (summarily or after notice and opportunity for hearing on the question of a stay, which hearing may consist solely of the submission of affidavits or presentation of oral arguments) that no such stay shall continue to operate.

(2) EXPEDITED PROCEDURES.—The Commission shall establish for appropriate cases an expedited procedure for consideration and determination of the question of the duration of a stay pending review of any disciplinary action of the Board under this subsection.

SEC. 106. FOREIGN PUBLIC ACCOUNTING FIRMS.

(a) APPLICABILITY TO CERTAIN FOREIGN FIRMS.—

(1) IN GENERAL.—Any foreign public accounting firm that prepares or furnishes an audit report with respect to any issuer, shall be subject to this Act and the rules of the Board and the Commission issued under this Act, in the same manner and to the same extent as a public accounting firm that is organized and operates under the laws of the United States or any State, except that registration pursuant to section 102 shall not by itself provide a basis for subjecting such a foreign public accounting firm to the jurisdiction of the Federal or State courts, other than with respect to controversies between such firms and the Board.

(2) BOARD AUTHORITY.—The Board may, by rule, determine that a foreign public accounting firm (or a class of such firms) that does not issue audit reports nonetheless plays such a substantial role in the preparation and furnishing of such reports for particular issuers, that it is nec-

essary or appropriate, in light of the purposes of this Act and in the public interest or for the protection of investors, that such firm (or class of firms) should be treated as a public accounting firm (or firms) for purposes of registration under, and oversight by the Board in accordance with, this title.

(b) PRODUCTION OF AUDIT WORKPAPERS.—

(1) CONSENT BY FOREIGN FIRMS.—If a foreign public accounting firm issues an opinion or otherwise performs material services upon which a registered public accounting firm relies in issuing all or part of any audit report or any opinion contained in an audit report, that foreign public accounting firm shall be deemed to have consented—

(A) to produce its audit workpapers for the Board or the Commission in connection with any investigation by either body with respect to that audit report; and

(B) to be subject to the jurisdiction of the courts of the United States for purposes of enforcement of any request for production of such workpapers.

(2) CONSENT BY DOMESTIC FIRMS.—A registered public accounting firm that relies upon the opinion of a foreign public accounting firm, as described in paragraph (1), shall be deemed—

(A) to have consented to supplying the audit workpapers of that foreign public accounting firm in response to a request for production by the Board or the Commission; and

(B) to have secured the agreement of that foreign public accounting firm to such production, as a condition of its reliance on the opinion of that foreign public accounting firm.

(c) EXEMPTION AUTHORITY.—The Commission, and the Board, subject to the approval of the Commission, may, by rule, regulation, or order, and as the Commission (or Board) determines necessary or appropriate in the public interest or for the protection of investors, either unconditionally or upon specified terms and conditions exempt any foreign public accounting firm, or any class of such firms, from any provision of this Act or the rules of the Board or the Commission issued under this Act.

(d) DEFINITION.—In this section, the term “foreign public accounting firm” means a public accounting firm that is organized and operates under the laws of a foreign government or political subdivision thereof.

SEC. 107. COMMISSION OVERSIGHT OF THE BOARD.

(a) GENERAL OVERSIGHT RESPONSIBILITY.—The Commission shall have oversight and enforcement authority over the Board, as provided in this Act.

(b) RULES OF THE BOARD.—

(1) DEFINITION.—In this section, the term “proposed rule” means any proposed rule of the Board, and any modification of any such rule.

(2) PRIOR APPROVAL REQUIRED.—No rule of the Board shall become effective without prior approval of the Commission in accordance with this section, other than as provided in section 103(a)(3)(B) with respect to initial or transitional standards.

(3) APPROVAL CRITERIA.—The Commission shall approve a proposed rule, if it finds that the rule is consistent with the requirements of this Act and the securities laws, or is necessary or appropriate in the public interest or for the protection of investors.

(4) PROPOSED RULE PROCEDURES.—The provisions of paragraphs (1) through (3) of section 19(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)) shall govern the proposed rules of the Board, as fully as if the Board were a “registered securities association” for purposes of that section 19(b), except that, for purposes of this paragraph—

(A) the phrase “consistent with the requirements of this title and the rules and regulations

thereunder applicable to such organization” in section 19(b)(2) of that Act shall be deemed to read “consistent with the requirements of title I of the Public Company Accounting Reform and Investor Protection Act of 2002, and the rules and regulations issued thereunder applicable to such organization, or as necessary or appropriate in the public interest or for the protection of investors”; and

(B) the phrase “otherwise in furtherance of the purposes of this title” in section 19(b)(3)(C) of that Act shall be deemed to read “otherwise in furtherance of the purposes of title I of the Public Company Accounting Reform and Investor Protection Act of 2002”.

(5) COMMISSION AUTHORITY TO AMEND RULES OF THE BOARD.—The provisions of section 19(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(c)) shall govern the abrogation, deletion, or addition to portions of the rules of the Board by the Commission as fully as if the Board were a “registered securities association” for purposes of that section 19(c), except that the phrase “to conform its rules to the requirements of this title and the rules and regulations thereunder applicable to such organization, or otherwise in furtherance of the purposes of this title” in section 19(c) of that Act shall, for purposes of this paragraph, be deemed to read “to assure the fair administration of the Public Company Accounting Oversight Board, conform the rules promulgated by that Board to the requirements of title I of the Public Company Accounting Reform and Investor Protection Act of 2002, or otherwise further the purposes of that Act, the securities laws, and the rules and regulations thereunder applicable to that Board”.

(c) COMMISSION REVIEW OF DISCIPLINARY ACTION TAKEN BY THE BOARD.—

(1) NOTICE OF SANCTION.—The Board shall promptly file notice with the Commission of any final sanction on any registered public accounting firm or on any associated person thereof, in such form and containing such information as the Commission, by rule, may prescribe.

(2) REVIEW OF SANCTIONS.—The provisions of sections 19(d)(2) and 19(e)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78s (d)(2) and (e)(1)) shall govern the review by the Commission of final disciplinary sanctions imposed by the Board (including sanctions imposed under section 105(b)(3) of this Act for noncooperation in an investigation of the Board), as fully as if the Board were a self-regulatory organization and the Commission were the appropriate regulatory agency for such organization for purposes of those sections 19(d)(2) and 19(e)(1), except that, for purposes of this paragraph—

(A) section 105(e) of this Act (rather than that section 19(d)(2)) shall govern the extent to which application for, or institution by the Commission on its own motion of, review of any disciplinary action of the Board operates as a stay of such action;

(B) references in that section 19(e)(1) to “members” of such an organization shall be deemed to be references to registered public accounting firms;

(C) the phrase “consistent with the purposes of this title” in that section 19(e)(1) shall be deemed to read “consistent with the purposes of this title and title I of the Public Company Accounting Reform and Investor Protection Act of 2002”;

(D) references to rules of the Municipal Securities Rulemaking Board in that section 19(e)(1) shall not apply; and

(E) the reference to section 19(e)(2) of the Securities Exchange Act of 1934 shall refer instead to section 107(c)(3) of this Act.

(3) COMMISSION MODIFICATION AUTHORITY.—The Commission may enhance, modify, cancel, reduce, or require the remission of a sanction imposed by the Board upon a registered public

accounting firm or associated person thereof, if the Commission, having due regard for the public interest and the protection of investors, finds, after a proceeding in accordance with this subsection, that the sanction—

(A) is not necessary or appropriate in furtherance of this Act or the securities laws; or

(B) is excessive, oppressive, inadequate, or otherwise not appropriate to the finding or the basis on which the sanction was imposed.

(d) CENSURE OF THE BOARD; OTHER SANCTIONS.—

(1) RESCISSION OF BOARD AUTHORITY.—The Commission, by rule, consistent with the public interest, the protection of investors, and the other purposes of this Act and the securities laws, may relieve the Board of any responsibility to enforce compliance with any provision of this Act, the securities laws, the rules of the Board, or professional standards.

(2) CENSURE OF THE BOARD; LIMITATIONS.—The Commission may, by order, as it determines necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act or the securities laws, censure or impose limitations upon the activities, functions, and operations of the Board, if the Commission finds, on the record, after notice and opportunity for a hearing, that the Board—

(A) has violated or is unable to comply with any provision of this Act, the rules of the Board, or the securities laws; or

(B) without reasonable justification or excuse, has failed to enforce compliance with any such provision or rule, or any professional standard by a registered public accounting firm or an associated person thereof.

(3) CENSURE OF BOARD MEMBERS; REMOVAL FROM OFFICE.—The Commission may, as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act or the securities laws, remove from office or censure any member of the Board, if the Commission finds, on the record, after notice and opportunity for a hearing, that such member—

(A) has willfully violated any provision of this Act, the rules of the Board, or the securities laws;

(B) has willfully abused the authority of that member; or

(C) without reasonable justification or excuse, has failed to enforce compliance with any such provision or rule, or any professional standard by any registered public accounting firm or any associated person thereof.

SEC. 108. ACCOUNTING STANDARDS.

(a) AMENDMENT TO SECURITIES ACT OF 1933.—Section 19 of the Securities Act of 1933 (15 U.S.C. 77s) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

“(b) RECOGNITION OF ACCOUNTING STANDARDS.—

“(1) IN GENERAL.—In carrying out its authority under subsection (a) and under section 13(b) of the Securities Exchange Act of 1934, the Commission may recognize, as ‘generally accepted’ for purposes of the securities laws, any accounting principles established by a standard setting body—

“(A) that—

“(i) is organized as a private entity;

“(ii) has, for administrative and operational purposes, a board of trustees (or equivalent body) serving in the public interest, the majority of whom are not, concurrent with their service on such board, and have not been during the 2-year period preceding such service, associated persons of any registered public accounting firm;

“(iii) is funded as provided in section 109 of the Public Company Accounting Reform and Investor Protection Act of 2002;

“(iv) has adopted procedures to ensure prompt consideration, by majority vote of its members, of changes to accounting principles necessary to reflect emerging accounting issues and changing business practices;

“(v) considers, in adopting accounting principles, the need to keep standards current in order to reflect changes in the business environment, the extent to which international convergence on high quality accounting standards is necessary or appropriate in the public interest and for the protection of investors; and

“(B) that the Commission determines has the capacity to assist the Commission in fulfilling the requirements of subsection (a) and section 13(b) of the Securities Exchange Act of 1934, because, at a minimum, the standard setting body is capable of improving the accuracy and effectiveness of financial reporting and the protection of investors under the securities laws.

“(2) ANNUAL REPORT.—A standard setting body described in paragraph (1) shall submit an annual report to the Commission and the public, containing audited financial statements of that standard setting body.”.

(b) COMMISSION AUTHORITY.—The Commission shall promulgate such rules and regulations to carry out section 19(b) of the Securities Act of 1933, as added by this section, as it deems necessary or appropriate in the public interest or for the protection of investors.

(c) NO EFFECT ON COMMISSION POWERS.—Nothing in this Act, including this section and the amendment made by this section, shall be construed to impair or limit the authority of the Commission to establish accounting principles or standards for purposes of enforcement of the securities laws.

(d) STUDY AND REPORT ON ADOPTING PRINCIPLES-BASED ACCOUNTING.—

(1) STUDY.—

(A) IN GENERAL.—The Commission shall conduct a study on the adoption by the United States financial reporting system of a principles-based accounting system.

(B) STUDY TOPICS.—The study required by subparagraph (A) shall include an examination of—

(i) the extent to which principles-based accounting and financial reporting exists in the United States;

(ii) the length of time required for change from a rules-based to a principles-based financial reporting system;

(iii) the feasibility of and proposed methods by which a principles-based system may be implemented; and

(iv) a thorough economic analysis of the implementation of a principles-based system.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report on the results of the study required by paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

SEC. 109. FUNDING.

(a) IN GENERAL.—The Board, and the standard setting body designated pursuant to section 19(b) of the Securities Act of 1933, as amended by section 108, shall be funded as provided in this section.

(b) ANNUAL BUDGETS.—The Board and the standard setting body referred to in subsection (a) shall each establish a budget for each fiscal year, which shall be reviewed and approved according to their respective internal procedures not less than 1 month prior to the commencement of the fiscal year to which the budget pertains. The budget of the Board shall be subject to approval by the Commission.

(c) SOURCES AND USES OF FUNDS.—

(1) RECOVERABLE BUDGET EXPENSES.—The budget of the Board (reduced by any registration or annual fees received under section 102(e) for the year preceding the year for which the budget is being computed), and all of the budget of the standard setting body referred to in subsection (a), for each fiscal year of each of those 2 entities, shall be payable from annual accounting support fees, in accordance with subsections (d) and (e).

(2) FUNDS GENERATED FROM THE COLLECTION OF MONETARY PENALTIES.—Subject to the availability in advance in an appropriations Act, and notwithstanding subsection (h), all funds collected by the Board as a result of the assessment of monetary penalties shall be used to fund a merit scholarship program for undergraduate and graduate students enrolled in accredited accounting degree programs, which program is to be administered by the Board or by an entity or agent identified by the Board.

(d) ANNUAL ACCOUNTING SUPPORT FEE FOR THE BOARD.—

(1) ESTABLISHMENT OF FEE.—The Board shall establish, with the approval of the Commission, a reasonable annual accounting support fee (or a formula for the computation thereof), as may be necessary or appropriate to establish and maintain the Board.

(2) ASSESSMENTS.—The rules of the Board under paragraph (1) shall provide for the equitable allocation, assessment, and collection by the Board (or an agent appointed by the Board) of the fee established under paragraph (1), among issuers, in accordance with subsection (f), allowing for differentiation among classes of issuers, as appropriate.

(e) ANNUAL ACCOUNTING SUPPORT FEE FOR STANDARD SETTING BODY.—The annual accounting support fee for the standard setting body referred to in subsection (a)—

(1) shall be allocated in accordance with subsection (f), and assessed and collected against each issuer, on behalf of the standard setting body, by 1 or more appropriate designated collection agents, as may be necessary or appropriate to pay for the budget and provide for the expenses of that standard setting body, and to provide for an independent, stable source of funding for such body, subject to review by the Commission; and

(2) may differentiate among different classes of issuers.

(f) ALLOCATION OF ACCOUNTING SUPPORT FEES AMONG ISSUERS.—Any amount due from issuers (or a particular class of issuers) under this section to fund the budget of the Board or the standard setting body referred to in subsection (a) shall be allocated among and payable by each issuer (or each issuer in a particular class, as applicable) in an amount equal to the total of such amount, multiplied by a fraction—

(1) the numerator of which is the average monthly equity market capitalization of the issuer for the 12-month period immediately preceding the beginning of the fiscal year to which such budget relates; and

(2) the denominator of which is the average monthly equity market capitalization of all such issuers for such 12-month period.

(g) CONFORMING AMENDMENTS.—Section 13(b)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(b)(2)) is amended—

(1) in subparagraph (A), by striking “and” at the end;

(2) in subparagraph (B), by striking the period at the end and inserting the following: “; and

“(C) notwithstanding any other provision of law, pay the allocable share of such issuer of a reasonable annual accounting support fee or fees, determined in accordance with section 109 of the Public Company Accounting Reform and Investor Protection Act of 2002.”.

(h) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to render either the Board, the standard setting body referred to in subsection (a), or both, subject to procedures in Congress to authorize or appropriate public funds, or to prevent such organization from utilizing additional sources of revenue for its activities, such as earnings from publication sales, provided that each additional source of revenue shall not jeopardize, in the judgment of the Commission, the actual and perceived independence of such organization.

TITLE II—AUDITOR INDEPENDENCE

SEC. 201. SERVICES OUTSIDE THE SCOPE OF PRACTICE OF AUDITORS.

(a) **PROHIBITED ACTIVITIES.**—Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1) is amended by adding at the end the following:

“(g) **PROHIBITED ACTIVITIES.**—It shall be unlawful for a registered public accounting firm (and any associated person of that firm, to the extent determined appropriate by the Commission) that performs for any issuer any audit required by this title or the rules of the Commission under this title or, beginning 180 days after the date of commencement of the operations of the Public Company Accounting Oversight Board established under section 101 of the Public Company Accounting Reform and Investor Protection Act of 2002 (in this section referred to as the ‘Board’), the rules of the Board, to provide to that issuer, contemporaneously with the audit, any non-audit service, including—

“(1) bookkeeping or other services related to the accounting records or financial statements of the audit client;

“(2) financial information systems design and implementation;

“(3) appraisal or valuation services, fairness opinions, or contribution-in-kind reports;

“(4) actuarial services;

“(5) internal audit outsourcing services;

“(6) management functions or human resources;

“(7) broker or dealer, investment adviser, or investment banking services;

“(8) legal services and expert services unrelated to the audit; and

“(9) any other service that the Board determines, by regulation, is impermissible.

“(h) **PREAPPROVAL REQUIRED FOR NON-AUDIT SERVICES.**—A registered public accounting firm may engage in any non-audit service, including tax services, that is not described in any of paragraphs (1) through (9) of subsection (g) for an audit client, only if the activity is approved in advance by the audit committee of the issuer, in accordance with subsection (i).”.

(b) **EXEMPTION AUTHORITY.**—The Board may, on a case by case basis, exempt any person, issuer, public accounting firm, or transaction from the prohibition on the provision of services under section 10A(g) of the Securities Exchange Act of 1934 (as added by this section), to the extent that such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors, and subject to review by the Commission in the same manner as for rules of the Board under section 107.

SEC. 202. PREAPPROVAL REQUIREMENTS.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1), as amended by this Act, is amended by adding at the end the following:

“(i) **PREAPPROVAL REQUIREMENTS.**—

“(1) **IN GENERAL.**—

“(A) **AUDIT COMMITTEE ACTION.**—All auditing services (which may entail providing comfort letters in connection with securities underwritings) and non-audit services, other than as provided in subparagraph (B), provided to an issuer by the auditor of the issuer shall be preapproved by the audit committee of the issuer.

“(B) **DE MINIMUS EXCEPTION.**—The preapproval requirement under subparagraph (A) is waived with respect to the provision of non-audit services for an issuer, if—

“(i) the aggregate amount of all such non-audit services provided to the issuer constitutes not more than 5 percent of the total amount of revenues paid by the issuer to its auditor;

“(ii) such services were not recognized by the issuer at the time of the engagement to be non-audit services; and

“(iii) such services are promptly brought to the attention of the audit committee of the issuer and approved by the audit committee prior to the completion of the audit, by 1 or more members of the audit committee who are members of the board of directors to whom authority to grant such approvals has been delegated by the audit committee.

“(2) **DISCLOSURE TO INVESTORS.**—Approval by an audit committee of an issuer under this subsection of a non-audit service to be performed by the auditor of the issuer shall be disclosed to investors in periodic reports required by section 13(a).

“(3) **DELEGATION AUTHORITY.**—The audit committee of an issuer may delegate to 1 or more designated members of the audit committee who are independent directors of the board of directors, the authority to grant preapprovals required by this subsection. The decisions of any member to whom authority is delegated under this paragraph to preapprove an activity under this subsection shall be presented to the full audit committee at each of its scheduled meetings.

“(4) **APPROVAL OF AUDIT SERVICES FOR OTHER PURPOSES.**—In carrying out its duties under subsection (m)(2), if the audit committee of an issuer approves an audit service within the scope of the engagement of the auditor, such audit service shall be deemed to have been preapproved for purposes of this subsection.”.

SEC. 203. AUDIT PARTNER ROTATION.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1), as amended by this Act, is amended by adding at the end the following:

“(j) **AUDIT PARTNER ROTATION.**—It shall be unlawful for a registered public accounting firm to provide audit services to an issuer if the lead audit partner (having primary responsibility for the audit) or the audit partner responsible for reviewing the audit that is assigned to perform those audit services has performed audit services for that issuer in each of the 5 previous fiscal years of that issuer.”.

SEC. 204. AUDITOR REPORTS TO AUDIT COMMITTEES.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1), as amended by this Act, is amended by adding at the end the following:

“(k) **REPORTS TO AUDIT COMMITTEES.**—Each registered public accounting firm that performs for any issuer any audit required by this title shall timely report to the audit committee of the issuer—

“(1) all critical accounting policies and practices to be used;

“(2) all alternative treatments of financial information within generally accepted accounting principles that have been discussed with management officials of the issuer, ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the registered public accounting firm; and

“(3) other material written communications between the registered public accounting firm and the management of the issuer, such as any management letter or schedule of unadjusted differences.”.

SEC. 205. CONFORMING AMENDMENTS.

(a) **DEFINITIONS.**—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end the following:

“(58) **AUDIT COMMITTEE.**—The term ‘audit committee’ means—

“(A) a committee (or equivalent body) established by and amongst the board of directors of an issuer for the purpose of overseeing the accounting and financial reporting processes of the issuer and audits of the financial statements of the issuer; and

“(B) if no such committee exists with respect to an issuer, the entire board of directors of the issuer.

“(59) **REGISTERED PUBLIC ACCOUNTING FIRM.**—The term ‘registered public accounting firm’ has the same meaning as in section 3 of the Public Company Accounting Reform and Investor Protection Act of 2002.”.

(b) **AUDITOR REQUIREMENTS.**—Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1) is amended—

(1) by striking “an independent public accountant” each place that term appears and inserting “a registered public accounting firm”;

(2) by striking “the independent public accountant” each place that term appears and inserting “the registered public accounting firm”;

(3) in subsection (c), by striking “No independent public accountant” and inserting “No registered public accounting firm”; and

(4) in subsection (b)—

(A) by striking “the accountant” each place that term appears and inserting “the firm”;

(B) by striking “such accountant” each place that term appears and inserting “such firm”; and

(C) in paragraph (4), by striking “the accountant’s report” and inserting “the report of the firm”.

(c) **OTHER REFERENCES.**—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended—

(1) in section 12(b)(1) (15 U.S.C. 78l(b)(1)), by striking “independent public accountants” each place that term appears and inserting “a registered public accounting firm”; and

(2) in subsections (e) and (i) of section 17 (15 U.S.C. 78q), by striking “an independent public accountant” each place that term appears and inserting “a registered public accounting firm”.

(d) **CONFORMING AMENDMENT.**—Section 10A(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(f)) is amended—

(1) by striking “DEFINITION” and inserting “DEFINITIONS”; and

(2) by adding at the end the following: “As used in this section, the term ‘issuer’ means an issuer (as defined in section 3), the securities of which are registered under section 12, or that is required to file reports pursuant to section 15(d), or that will be required to file such reports at the end of a fiscal year of the issuer in which a registration statement filed by such issuer has become effective pursuant to the Securities Act of 1933 (15 U.S.C. 77a et seq.), unless its securities are registered under section 12 of this title on or before the end of such fiscal year.”.

SEC. 206. CONFLICTS OF INTEREST.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1), as amended by this Act, is amended by adding at the end the following:

“(l) **CONFLICTS OF INTEREST.**—It shall be unlawful for a registered public accounting firm to perform for an issuer any audit service required by this title, if a chief executive officer, controller, chief financial officer, chief accounting officer or any person serving in an equivalent position for the issuer was employed by that registered independent public accounting firm and participated in any capacity in the audit of that issuer during the 1-year period preceding the date of the initiation of the audit.”.

SEC. 207. STUDY OF MANDATORY ROTATION OF REGISTERED PUBLIC ACCOUNTING FIRMS.

(a) **STUDY AND REVIEW REQUIRED.**—The Comptroller General of the United States shall

conduct a study and review of the potential effects of requiring the mandatory rotation of registered public accounting firms.

(b) **REPORT REQUIRED.**—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study and review required by this section.

(c) **DEFINITION.**—For purposes of this section, the term “mandatory rotation” refers to the imposition of a limit on the period of years in which a particular registered public accounting firm may be the auditor of record for a particular issuer.

SEC. 208. COMMISSION AUTHORITY.

(a) **COMMISSION REGULATIONS.**—Not later than 180 days after the date of enactment of this Act, the Commission shall issue final regulations to carry out each of subsections (g) through (l) of section 10A of the Securities Exchange Act of 1934, as added by this title.

(b) **AUDITOR INDEPENDENCE.**—It shall be unlawful for any registered public accounting firm (or an associated person thereof, as applicable) to prepare or issue any audit report with respect to any issuer, if the firm or associated person engages in any activity with respect to that issuer prohibited by any of subsections (g) through (l) of section 10A of the Securities Exchange Act of 1934, as added by this title, or any rule or regulation of the Commission or of the Board issued thereunder.

SEC. 209. CONSIDERATIONS BY APPROPRIATE STATE REGULATORY AUTHORITIES.

In supervising nonregistered public accounting firms and their associated persons, appropriate State regulatory authorities should make an independent determination of the proper standards applicable, particularly taking into consideration the size and nature of the business of the accounting firms they supervise and the size and nature of the business of the clients of those firms. The standards applied by the Board under this Act should not be presumed to be applicable for purposes of this section for small and medium sized nonregistered public accounting firms.

TITLE III—CORPORATE RESPONSIBILITY

SEC. 301. PUBLIC COMPANY AUDIT COMMITTEES.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78f) is amended by adding at the end the following:

“(m) **STANDARDS RELATING TO AUDIT COMMITTEES.**—

“(1) **COMMISSION RULES.**—

“(A) **IN GENERAL.**—Effective not later than 270 days after the date of enactment of this subsection, the Commission shall, by rule, direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that is not in compliance with the requirements of any portion of paragraphs (2) through (6).

“(B) **OPPORTUNITY TO CURE DEFECTS.**—The rules of the Commission under subparagraph (A) shall provide for appropriate procedures for an issuer to have an opportunity to cure any defects that would be the basis for a prohibition under subparagraph (A), before the imposition of such prohibition.

“(2) **RESPONSIBILITIES RELATING TO REGISTERED PUBLIC ACCOUNTING FIRMS.**—The audit committee of each issuer, in its capacity as a committee of the board of directors, shall be directly responsible for the appointment, compensation, and oversight of the work of any registered public accounting firm employed by that issuer (including resolution of disagreements between management and the auditor regarding financial reporting) for the purpose of preparing

or issuing an audit report or related work, and each such registered public accounting firm shall report directly to the audit committee.

“(3) **INDEPENDENCE.**—

“(A) **IN GENERAL.**—Each member of the audit committee of the issuer shall be a member of the board of directors of the issuer, and shall otherwise be independent.

“(B) **CRITERIA.**—In order to be considered to be independent for purposes of this paragraph, a member of an audit committee of an issuer may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee—

“(i) accept any consulting, advisory, or other compensatory fee from the issuer; or

“(ii) be an affiliated person of the issuer or any subsidiary thereof.

“(C) **EXEMPTION AUTHORITY.**—The Commission may exempt from the requirements of subparagraph (B) a particular relationship with respect to audit committee members, as the Commission determines appropriate in light of the circumstances.

“(4) **COMPLAINTS.**—Each audit committee shall establish procedures for—

“(A) the receipt, retention, and treatment of complaints received by the issuer regarding accounting, internal accounting controls, or auditing matters; and

“(B) the confidential, anonymous submission by employees of the issuer of concerns regarding questionable accounting or auditing matters.

“(5) **AUTHORITY TO ENGAGE ADVISERS.**—Each audit committee shall have the authority to engage independent counsel and other advisers, as it determines necessary to carry out its duties.

“(6) **FUNDING.**—Each issuer shall provide for appropriate funding, as determined by the audit committee, in its capacity as a committee of the board of directors, for payment of compensation—

“(A) to the registered public accounting firm employed by the issuer for the purpose of rendering or issuing an audit report; and

“(B) to any advisers employed by the audit committee under paragraph (5).”.

SEC. 302. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

(a) **CERTIFICATION OF PERIODIC REPORTS.**—Each periodic report containing financial statements filed by an issuer with the Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934, shall be accompanied by a written statement by the chief executive officer and chief financial officer (or the equivalent thereof) of the issuer.

(b) **CONTENT.**—The statement required by subsection (a) shall certify the appropriateness of the financial statements and disclosures contained in the periodic report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer.

(c) **FOREIGN REINCORPORATIONS HAVE NO EFFECT.**—Nothing in this section 302 shall be interpreted or applied in any way to allow any issuer to lessen the legal force of the statement required under this section 302, by an issuer having reincorporated or having engaged in any other transaction that resulted in the transfer of the corporate domicile or offices of the issuer from inside the United States to outside of the United States.

SEC. 303. IMPROPER INFLUENCE ON CONDUCT OF AUDITS.

(a) **RULES TO PROHIBIT.**—It shall be unlawful, in contravention of such rules or regulations as the Commission shall prescribe as necessary and appropriate in the public interest or for the protection of investors, for any officer or director of an issuer, or any other person acting under the direction thereof, to take any action to fraudulently influence, coerce, manipulate, or mislead

any independent public or certified accountant engaged in the performance of an audit of the financial statements of that issuer for the purpose of rendering such financial statements materially misleading.

(b) **ENFORCEMENT.**—In any civil proceeding, the Commission shall have exclusive authority to enforce this section and any rule or regulation issued under this section.

(c) **NO PREEMPTION OF OTHER LAW.**—The provisions of subsection (a) shall be in addition to, and shall not supersede or preempt, any other provision of law or any rule or regulation issued thereunder.

(d) **DEADLINE FOR RULEMAKING.**—The Commission shall—

(1) propose the rules or regulations required by this section, not later than 90 days after the date of enactment of this Act; and

(2) issue final rules or regulations required by this section, not later than 270 days after that date of enactment.

SEC. 304. FORFEITURE OF CERTAIN BONUSES AND PROFITS.

(a) **ADDITIONAL COMPENSATION PRIOR TO NONCOMPLIANCE WITH COMMISSION FINANCIAL REPORTING REQUIREMENTS.**—If an issuer is required to prepare an accounting restatement due to the material noncompliance of the issuer, as a result of misconduct, with any financial reporting requirement under the securities laws, the chief executive officer and chief financial officer of the issuer shall reimburse the issuer for—

(1) any bonus or other incentive-based or equity-based compensation received by that person from the issuer during the 12-month period following the first public issuance or filing with the Commission (whichever first occurs) of the financial document embodying such financial reporting requirement; and

(2) any profits realized from the sale of securities of the issuer during that 12-month period.

(b) **COMMISSION EXEMPTION AUTHORITY.**—The Commission may exempt any person from the application of subsection (a), as it deems necessary and appropriate.

SEC. 305. OFFICER AND DIRECTOR BARS AND PENALTIES.

(a) **UNFITNESS STANDARD.**—

(1) **SECURITIES EXCHANGE ACT OF 1934.**—Section 21(d)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(2)) is amended by striking “substantial unfitness” and inserting “unfitness”.

(2) **SECURITIES ACT OF 1933.**—Section 20(e) of the Securities Act of 1933 (15 U.S.C. 77t(e)) is amended by striking “substantial unfitness” and insert “unfitness”.

(b) **EQUITABLE RELIEF.**—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

(2) by inserting after paragraph (1) the following:

“(2) **EQUITABLE RELIEF.**—In any action or proceeding brought or instituted by the Commission under any provision of the securities laws, the Commission may seek, and any Federal court may grant, any equitable relief that may be appropriate or necessary for the benefit of investors.”.

SEC. 306. INSIDER TRADES DURING PENSION FUND BLACKOUT PERIODS PROHIBITED.

(a) **PROHIBITION.**—It shall be unlawful for any director or executive officer of an issuer of any equity security (other than an exempted security), directly or indirectly, to purchase, sell, or otherwise acquire or transfer any equity security of the issuer (other than an exempted security), during any blackout period with respect

to such equity security, in accordance with any exception provided by rule of the Commission pursuant to subsection (d).

(b) **EFFECTIVENESS.**—

(1) **NOTICE REQUIREMENTS.**—Except as provided in paragraph (2), no blackout period may take effect earlier than 30 days after the date on which written notice of such blackout period is provided by the plan administrator to the participants or beneficiaries.

(2) **EXCEPTION.**—The 30-day notice requirement in paragraph (1) shall not apply, and notice under paragraph (1) shall be furnished as soon as is reasonably possible, in any case in which—

(A) a deferral of the blackout period would violate the requirements of subparagraph (A) or (B) of section 404(a)(1) of the Employment Retirement Income Security Act of 1974, and a fiduciary of the plan so reasonably determines in writing; or

(B) the inability to provide the 30-day notice is due to events that were unforeseeable, or circumstances beyond the reasonable control of the plan administrator, and a fiduciary of the plan so reasonably determines in writing.

(3) **WRITTEN NOTICE.**—The notice required to be provided under paragraph (1) shall be in writing, except that such notice may be in electronic form to the extent that such form is reasonably accessible to the recipient.

(c) **REMEDY.**—

(1) **IN GENERAL.**—Any profit realized by a director or executive officer referred to in subsection (a) from any purchase, sale, or other acquisition or transfer in violation of this section shall inure to and be recoverable by the issuer, irrespective of any intention on the part of such director or executive officer in entering into the transaction.

(2) **ACTIONS TO RECOVER PROFITS.**—An action to recover profits in accordance with this section may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and in behalf of the issuer if the issuer fails or refuses to bring such action within 60 days after the date of request, or fails diligently to prosecute the action thereafter, except that no such suit shall be brought more than 2 years after the date on which such profit was realized.

(d) **RULEMAKING AUTHORIZED.**—The Commission may issue rules to clarify the application of this subsection, to ensure adequate notice to all persons affected by this subsection, and to prevent evasion thereof.

(e) **DEFINITIONS.**—For purposes of this section—

(1) the term “blackout period”, with respect to the equity securities of any issuer—

(A) means any period during which the ability of not fewer than 50 percent of the participants or beneficiaries under all applicable individual account plans maintained by the issuer to purchase, sell, or otherwise acquire or transfer an interest in any equity of such issuer held in such an individual account plan, is suspended by the issuer or a fiduciary of the plan; and

(B) does not include—

(i) a period in which the employees of an issuer may not allocate their interests in the individual account plan due to an express investment restriction—

(I) incorporated into the individual account plan; and

(II) timely disclosed to employees before joining the individual account plan or as a subsequent amendment to the plan; or

(ii) any suspension described in subparagraph (A) that is imposed solely in connection with persons becoming participants or beneficiaries, or ceasing to be participants or beneficiaries, in an applicable individual account plan by reason of a corporate merger, acquisition, divestiture, or similar transaction; and

(2) the term “individual account plan” has the same meaning as in section 3(34) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(34)).

TITLE IV—ENHANCED FINANCIAL DISCLOSURES

SEC. 401. DISCLOSURES IN PERIODIC REPORTS.

(a) **DISCLOSURES REQUIRED.**—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

“(i) **ACCURACY OF FINANCIAL REPORTS.**—Each financial report that is required to be prepared in accordance with generally accepted accounting principles under this title and filed with the Commission shall reflect all material correcting adjustments that have been identified by a registered public accounting firm in accordance with generally accepted accounting principles and the rules and regulations of the Commission.

“(j) **OFF-BALANCE SHEET TRANSACTIONS.**—Not later than 180 days after the date of enactment of the Public Company Accounting Reform and Investor Protection Act of 2002, the Commission shall issue final rules providing that each annual and quarterly financial report required to be filed with the Commission shall disclose all material off-balance sheet transactions, arrangements, obligations (including contingent obligations), and other relationships of the issuer with unconsolidated entities or other persons, that may have a material current or future effect on financial condition, changes in financial condition, results of operations, liquidity, capital expenditures, capital resources, or significant components of revenues or expenses.”.

(b) **COMMISSION RULES ON PRO FORMA FIGURES.**—Not later than 180 days after the date of enactment of this Act, the Commission shall issue final rules providing that pro forma financial information included in any periodic or other report filed with the Commission pursuant to the securities laws, or in any public disclosure or press or other release, shall be presented in a manner that—

(1) does not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the pro forma financial information, in light of the circumstances under which it is presented, not misleading; and

(2) reconciles it with the financial condition and results of operations of the issuer under generally accepted accounting principles.

(c) **STUDY AND REPORT ON SPECIAL PURPOSE ENTITIES.**—

(1) **STUDY REQUIRED.**—The Commission shall, not later than 1 year after the effective date of adoption of off-balance sheet disclosure rules required by section 13(j) of the Securities Exchange Act of 1934, as added by this section, complete a study of filings by issuers and their disclosures to determine—

(A) the extent of off-balance sheet transactions, including assets, liabilities, leases, losses, and the use of special purpose entities; and

(B) whether generally accepted accounting rules result in financial statements of issuers reflecting the economics of such off-balance sheet transactions to investors in a transparent fashion.

(2) **REPORT AND RECOMMENDATIONS.**—Not later than 6 months after the date of completion of the study required by paragraph (1), the Commission shall submit a report to the President, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, setting forth—

(A) the amount or an estimate of the amount of off-balance sheet transactions, including assets, liabilities, leases, and losses of, and the use of special purpose entities by, issuers filing periodic reports pursuant to section 13 or 15 of the Securities Exchange Act of 1934;

(B) the extent to which special purpose entities are used to facilitate off-balance sheet transactions;

(C) whether generally accepted accounting principles or the rules of the Commission result in financial statements of issuers reflecting the economics of such transactions to investors in a transparent fashion;

(D) whether generally accepted accounting principles specifically result in the consolidation of special purpose entities sponsored by an issuer in cases in which the issuer has the majority of the risks and rewards of the special purpose entity; and

(E) any recommendations of the Commission for improving the transparency and quality of reporting off-balance sheet transactions in the financial statements and disclosures required to be filed by an issuer with the Commission.

SEC. 402. ENHANCED CONFLICT OF INTEREST PROVISIONS.

(a) **PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.**—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by this Act, is amended by adding at the end the following:

“(k) **PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.**—

“(1) **IN GENERAL.**—It shall be unlawful for any issuer, directly or indirectly, to extend or maintain credit, or arrange for the extension of credit, in the form of a personal loan to or for any director or executive officer (or equivalent thereof) of that issuer.

“(2) **LIMITATION.**—Paragraph (1) does not preclude any home improvement and manufactured home loans (as that term is defined in section 5 of the Home Owners Loan Act), consumer credit (as defined in section 103 of the Truth in Lending Act), or any extension of credit under an open end credit plan (as defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)), that is—

“(A) made in the ordinary course of the consumer credit business of such issuer;

“(B) of a type that is generally made available by such issuer to the public; and

“(C) made by such issuer on market terms, or terms that are no more favorable than those offered by the issuer to the general public for such loans.”.

SEC. 403. DISCLOSURES OF TRANSACTIONS INVOLVING MANAGEMENT AND PRINCIPAL STOCKHOLDERS.

Section 16(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78p(a)) is amended—

(1) by striking “security, shall file,” and inserting the following:

“(1) shall file”; and

(2) by striking “beneficial owner, and” and all that follows through the end of the subsection and inserting the following: “beneficial owner; and

“(2) if there has been a change in such ownership, or if such person shall have purchased or sold a security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) involving such equity security, shall file with the Commission (and if such security is registered on a national securities exchange, shall also file with the exchange), a statement before the end of the second business day following the day on which the subject transaction has been executed, or at such other time as the Commission shall establish, by rule, in any case in which the Commission determines that such 2-day period is not feasible, indicating ownership by that person at the date of filing, any such changes in such ownership, and such purchases and sales of the security-based swap agreements as have occurred since the most recent such filing under this paragraph.”.

SEC. 404. MANAGEMENT ASSESSMENT OF INTERNAL CONTROLS.

(a) **RULES REQUIRED.**—The Commission shall prescribe rules requiring each annual report required by section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) to contain an internal control report, which shall—

(1) state the responsibility of management for establishing and maintaining an adequate internal control structure and procedures for financial reporting; and

(2) contain an assessment, as of the end of the most recent fiscal year of the issuer, of the effectiveness of the internal control structure and procedures of the issuer for financial reporting.

(b) **INTERNAL CONTROL EVALUATION AND REPORTING.**—With respect to the internal control assessment required by subsection (a), each registered public accounting firm that prepares or issues the audit report for the issuer shall attest to, and report on, the assessment made by the management of the issuer. An attestation made under this subsection shall be made in accordance with standards for attestation engagements issued or adopted by the Board. Any such attestation shall not be the subject of a separate engagement.

SEC. 405. EXEMPTION.

Nothing in section 401, 402, or 404, the amendments made by those sections, or the rules of the Commission under those sections shall apply to any investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8).

SEC. 406. CODE OF ETHICS FOR SENIOR FINANCIAL OFFICERS.

(a) **CODE OF ETHICS DISCLOSURE.**—The Commission shall issue rules to require each issuer, together with periodic reports required pursuant to sections 13(a) and 15(d) of the Securities Exchange Act of 1934, to disclose whether or not, and if not, the reason therefor, such issuer has adopted a code of ethics for senior financial officers, applicable to its principal financial officer, comptroller or principal accounting officer, or persons performing similar functions.

(b) **CHANGES IN CODES OF ETHICS.**—The Commission shall revise its regulations concerning matters requiring prompt disclosure on Form 8-K (or any successor thereto) to require the immediate disclosure, by means of the filing of such form, dissemination by the Internet or by other electronic means, by any issuer of any change in or waiver of the code of ethics of the issuer.

(c) **DEFINITION.**—In this section, the term “code of ethics” means such standards as are reasonably necessary to promote—

(1) honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships;

(2) full, fair, accurate, timely, and understandable disclosure in the periodic reports required to be filed by the issuer; and

(3) compliance with applicable governmental rules and regulations.

(d) **DEADLINE FOR RULEMAKING.**—The Commission shall—

(1) propose rules to implement this section, not later than 90 days after the date of enactment of this Act; and

(2) issue final rules to implement this section, not later than 180 days after that date of enactment.

SEC. 407. DISCLOSURE OF AUDIT COMMITTEE FINANCIAL EXPERT.

(a) **RULES DEFINING “FINANCIAL EXPERT”.**—The Commission shall issue rules, as necessary or appropriate in the public interest and consistent with the protection of investors, to require each issuer, together with periodic reports required pursuant to sections 13(a) and 15(d) of the Securities Exchange Act of 1934, to disclose

whether or not, and if not, the reasons therefor, the audit committee of that issuer is comprised of at least 1 member who is a financial expert, as such term is defined by the Commission.

(b) **CONSIDERATIONS.**—In defining the term “financial expert” for purposes of subsection (a), the Commission shall consider whether a person has, through education and experience as a public accountant or auditor or a principal financial officer, comptroller, or principal accounting officer of an issuer, or from a position involving the performance of similar functions—

(1) an understanding of generally accepted accounting principles and financial statements;

(2) experience in—

(A) the preparation or auditing of financial statements of generally comparable issuers; and

(B) the application of such principles in connection with the accounting for estimates, accruals, and reserves;

(3) experience with internal accounting controls; and

(4) an understanding of audit committee functions.

(c) **DEADLINE FOR RULEMAKING.**—The Commission shall—

(1) propose rules to implement this section, not later than 90 days after the date of enactment of this Act; and

(2) issue final rules to implement this section, not later than 180 days after that date of enactment.

TITLE V—ANALYST CONFLICTS OF INTEREST**SEC. 501. TREATMENT OF SECURITIES ANALYSTS BY REGISTERED SECURITIES ASSOCIATIONS.**

(a) **RULES REGARDING SECURITIES ANALYSTS.**—Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) is amended by adding at the end the following:

“(m) **RULES REGARDING SECURITIES ANALYSTS.**—

“(1) **ANALYST PROTECTIONS.**—The Commission, or upon the authorization and direction of the Commission, a registered securities association or national securities exchange, shall have adopted, not later than 1 year after the date of enactment of this subsection, rules reasonably designed to address conflicts of interest that can arise when research analysts recommend equity securities in research reports and public appearances, in order to improve the objectivity of research and provide investors with more useful and reliable information, including rules designed—

“(A) to foster greater public confidence in securities research, and to protect the objectivity and independence of securities analysts, by—

“(i) restricting the prepublication clearance or approval of research reports by persons employed by the broker or dealer who are engaged in investment banking activities, or persons not directly responsible for investment research, other than legal or compliance staff;

“(ii) limiting the supervision and compensatory evaluation of securities analysts to officials employed by the broker or dealer who are not engaged in investment banking activities; and

“(iii) requiring that a broker or dealer and persons employed by a broker or dealer who are involved with investment banking activities may not, directly or indirectly, retaliate against or threaten to retaliate against any securities analyst employed by that broker or dealer or its affiliates as a result of an adverse, negative, or otherwise unfavorable research report that may adversely affect the present or prospective investment banking relationship of the broker or dealer with the issuer that is the subject of the research report, except that such rules may not limit the authority of a broker or dealer to discipline a securities analyst for causes other than

such research report in accordance with the policies and procedures of the firm;

“(B) to define periods during which brokers or dealers who have participated, or are to participate, in a public offering of securities as underwriters or dealers should not publish or otherwise distribute research reports relating to such securities or to the issuer of such securities;

“(C) to establish structural and institutional safeguards within registered brokers or dealers to assure that securities analysts are separated by appropriate informational partitions within the firm from the review, pressure, or oversight of those whose involvement in investment banking activities might potentially bias their judgment or supervision; and

“(D) to address such other issues as the Commission, or such association or exchange, determines appropriate.

“(2) **DISCLOSURE.**—The Commission, or upon the authorization and direction of the Commission, a registered securities association or national securities exchange, shall have adopted, not later than 1 year after the date of enactment of this subsection, rules reasonably designed to require each securities analyst to disclose in public appearances, and each registered broker or dealer to disclose in each research report, as applicable, conflicts of interest that are known or should have been known by the securities analyst or the broker or dealer, to exist at the time of the appearance or the date of distribution of the report, including—

“(A) the extent to which the securities analyst has debt or equity investments in the issuer that is the subject of the appearance or research report;

“(B) whether any compensation has been received by the registered broker or dealer, or any affiliate thereof, including the securities analyst, from the issuer that is the subject of the appearance or research report, subject to such exemptions as the Commission may determine appropriate and necessary to prevent disclosure by virtue of this subparagraph of material non-public information regarding specific potential future investment banking transactions of such issuer, as is appropriate in the public interest and consistent with the protection of investors;

“(C) whether an issuer, the securities of which are recommended in the appearance or research report, currently is, or during the 1-year period preceding the date of the appearance or date of distribution of the report has been, a client of the registered broker or dealer, and if so, stating the types of services provided to the issuer;

“(D) whether the securities analyst received compensation with respect to a research report, based upon (among any other factors) the investment banking revenues (either generally or specifically earned from the issuer being analyzed) of the registered broker or dealer; and

“(E) such other disclosures of conflicts of interest that are material to investors, research analysts, or the broker or dealer as the Commission, or such association or exchange, determines appropriate.

“(3) **DEFINITIONS.**—In this subsection—

“(A) the term ‘securities analyst’ means any associated person of a registered broker or dealer that is principally responsible for, and any associated person who reports directly or indirectly to a securities analyst in connection with, the preparation of the substance of a research report, whether or not any such person has the job title of ‘securities analyst’; and

“(B) the term ‘research report’ means a written or electronic communication that includes an analysis of equity securities of individual companies or industries, and that provides information reasonably sufficient upon which to base an investment decision.”.

(b) **ENFORCEMENT.**—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–

2(a)) is amended by inserting "15A(n)," before "15B".

(c) **COMMISSION AUTHORITY.**—The Commission may promulgate and amend its regulations, or direct a registered securities association or national securities exchange to promulgate and amend its rules, to carry out section 15A(n) of the Securities Exchange Act of 1934, as added by this section, as is necessary for the protection of investors and in the public interest.

TITLE VI—COMMISSION RESOURCES AND AUTHORITY

SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended to read as follows:

"SEC. 35. AUTHORIZATION OF APPROPRIATIONS.

"In addition to any other funds authorized to be appropriated to the Commission, there are authorized to be appropriated to carry out the functions, powers, and duties of the Commission, \$776,000,000 for fiscal year 2003, of which—

"(1) \$102,700,000 shall be available to fund additional compensation, including salaries and benefits, as authorized in the Investor and Capital Markets Fee Relief Act (Public Law 107-123; 115 Stat. 2390 et seq.);

"(2) \$108,400,000 shall be available for information technology, security enhancements, and recovery and mitigation activities in light of the terrorist attacks of September 11, 2001; and

"(3) \$98,000,000 shall be available to add not fewer than an additional 200 qualified professionals to provide enhanced oversight of auditors and audit services required by the Federal securities laws, and to improve Commission investigative and disciplinary efforts with respect to such auditors and services, as well as for additional professional support staff necessary to strengthen the programs of the Commission involving Full Disclosure and Prevention and Suppression of Fraud, risk management, industry technology review, compliance, inspections, examinations, market regulation, and investment management."

SEC. 602. APPEARANCE AND PRACTICE BEFORE THE COMMISSION.

(a) **IN GENERAL.**—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 4B the following:

"SEC. 4C. APPEARANCE AND PRACTICE BEFORE THE COMMISSION.

"(a) **AUTHORITY TO CENSURE.**—The Commission may censure any person, or deny, temporarily or permanently, to any person the privilege of appearing or practicing before the Commission in any way, if that person is found by the Commission, after notice and opportunity for hearing in the matter—

"(1) not to possess the requisite qualifications to represent others;

"(2) to be lacking in character or integrity, or to have engaged in unethical or improper professional conduct; or

"(3) to have willfully violated, or willfully aided and abetted the violation of, any provision of the securities laws or the rules and regulations issued thereunder.

"(b) **DEFINITION.**—With respect to any registered public accounting firm, for purposes of this section, the term 'improper professional conduct' means—

"(1) intentional or knowing conduct, including reckless conduct, that results in a violation of applicable professional standards; and

"(2) negligent conduct in the form of—

"(A) a single instance of highly unreasonable conduct that results in a violation of applicable professional standards in circumstances in which the registered public accounting firm knows, or should know, that heightened scrutiny is warranted; or

"(B) repeated instances of unreasonable conduct, each resulting in a violation of applicable

professional standards, that indicate a lack of competence to practice before the Commission.

"(c) **STUDY AND REPORT.**—(1) The Commission shall conduct a study to determine based upon information for the period from January 1, 1998 to December 31, 2001—

"(A) the number of 'securities professionals', which term shall mean public accountants, public accounting firms, investment bankers, investment advisers, brokers, dealers, attorneys, and other securities professionals practicing before the Commission—

"(i) who have been found to have aided and abetted a violation of the Federal securities laws, including rules or regulations promulgated thereunder (hereinafter collectively referred to as 'Federal securities laws'), but who have not been sanctioned, disciplined, or otherwise penalized as a primary violator in any administrative action or civil proceeding, including in any settlement of such actions or proceedings (referred to hereinafter as 'aiders and abettors'); and

"(ii) who have been found to have been primary violators of the Federal securities laws;

"(B) a description of the Federal securities laws violations committed by aiders and abettors and by primary violators, including—

"(i) the specific provisions of the Federal securities laws violated;

"(ii) the specific sanctions and penalties imposed upon, such aiders and abettors and primary violators, including the amount of any monetary penalties assessed upon and collected from such persons;

"(iii) the occurrence of multiple violations by the same person or persons either as an aider or abettor or as a primary violator; and

"(iv) whether as to each such violator disciplinary sanctions have been imposed, including any censure, suspension, temporary bar, or permanent bar to practice before the Commission; and

"(C) the amount of disgorgement, restitution or any other fines or payments the Commission has (i) assessed upon and (ii) collected from, aiders and abettors and from primary violators.

"(2) A report based upon the study conducted pursuant to subsection (c)(1) shall be submitted to the Senate Committee on Banking, Housing, and Urban Affairs no later than 6 months after the date of enactment of the 'Public Company Accounting Reform and Investor Protection Act of 2002'.

"(d) **RULES OF PROFESSIONAL RESPONSIBILITY FOR ATTORNEYS.**—Not later than 180 days after the date of enactment of this section, the Commission shall establish rules, in the public interest and for the protection of investors, setting forth minimum standards of professional conduct for attorneys appearing and practicing before the Commission in any way in the representation of public companies, including a rule requiring an attorney to report evidence of a material violation of securities law or breach of fiduciary duty or similar violation by the company or any agent thereof to the chief legal counsel or the chief executive officer of the company (or the equivalent thereof) and, if the counsel or officer does not appropriately respond to the evidence (adopting, as necessary, appropriate remedial measures or sanctions with respect to the violation), requiring the attorney to report the evidence to the audit committee of the board of directors or to another committee of the board of directors comprised solely of directors not employed directly or indirectly by the company, or to the board of directors."

(b) **ELECTRONIC FILING.**—Notwithstanding the provisions of section 403 of this Act, section 16(a)(2) of the Securities and Exchange Act of 1934, as added by section 403, is amended to read as follows:

"(2) if there has been a change in such ownership, or if such person shall have purchased or

sold a security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) involving such equity security, shall file electronically with the Commission (and if such security is registered on a national securities exchange, shall also file with the exchange), a statement before the end of the second business day following the day on which the subject transaction has been executed, or at such other times as the Commission shall establish, by rule, in any case in which the Commission determines that such 2 day period is not feasible, and the Commission shall provide that statement on a publicly accessible Internet site not later than the end of the business day following that filing, and the issuer (if the issuer maintains a corporate website) shall provide that statement on that corporate website not later than the end of the business day following that filing (the requirements of this paragraph with respect to electronic filing and providing the statement on a corporate website shall take effect 1 year after the date of enactment of this paragraph), indicating ownership by that person at the date of filing, any such changes in such ownership, and such purchases and sales of the security-based swap agreements as have occurred since the most recent such filing under this paragraph."

SEC. 603. FEDERAL COURT AUTHORITY TO IMPOSE PENNY STOCK BARS.

(a) **SECURITIES EXCHANGE ACT OF 1934.**—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)), as amended by this Act, is amended by adding at the end the following:

"(7) **AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM PARTICIPATING IN AN OFFERING OF PENNY STOCK.**—

"(A) **IN GENERAL.**—In any proceeding under paragraph (1) against any person participating in, or, at the time of the alleged misconduct who was participating in, an offering of penny stock, the court may prohibit that person from participating in an offering of penny stock, conditionally or unconditionally, and permanently or for such period of time as the court shall determine.

"(B) **DEFINITION.**—For purposes of this paragraph, the term 'person participating in an offering of penny stock' includes any person engaging in activities with a broker, dealer, or issuer for purposes of issuing, trading, or inducing or attempting to induce the purchase or sale of, any penny stock. The Commission may, by rule or regulation, define such term to include other activities, and may, by rule, regulation, or order, exempt any person or class of persons, in whole or in part, conditionally or unconditionally, from inclusion in such term.

(b) **SECURITIES ACT OF 1933.**—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following:

"(g) **AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM PARTICIPATING IN AN OFFERING OF PENNY STOCK.**—

"(1) **IN GENERAL.**—In any proceeding under subsection (a) against any person participating in, or, at the time of the alleged misconduct, who was participating in, an offering of penny stock, the court may prohibit that person from participating in an offering of penny stock, conditionally or unconditionally, and permanently or for such period of time as the court shall determine.

"(2) **DEFINITION.**—For purposes of this subsection, the term 'person participating in an offering of penny stock' includes any person engaging in activities with a broker, dealer, or issuer for purposes of issuing, trading, or inducing or attempting to induce the purchase or sale of, any penny stock. The Commission may, by rule or regulation, define such term to include other activities, and may, by rule, regulation, or order, exempt any person or class of persons, in whole or in part, conditionally or unconditionally, from inclusion in such term."

SEC. 604. QUALIFICATIONS OF ASSOCIATED PERSONS OF BROKERS AND DEALERS.

(a) **BROKERS AND DEALERS.**—Section 15(b)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78b) is amended—

(1) by striking subparagraph (F) and inserting the following:

“(F) is subject to any order of the Commission barring or suspending the right of the person to be associated with a broker or dealer;”; and

(2) in subparagraph (G), by striking the period at the end and inserting the following: “; or

“(H) is subject to any final order of a State securities commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that—

“(i) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

“(ii) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.”.

(b) **INVESTMENT ADVISERS.**—Section 203(e) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(e)) is amended by striking paragraphs (7) and (8) and inserting the following:

“(7) is subject to any order of the Commission barring or suspending the right of the person to be associated with an investment adviser; or

“(8) is subject to any final order of a State securities commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that—

“(A) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

“(B) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.”.

(c) **CONFORMING AMENDMENTS.**—

(1) **SECURITIES EXCHANGE ACT OF 1934.**—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended—

(A) in section 3(a)(39)(F) (15 U.S.C. 78c(a)(39)(F)), by inserting “, or is subject to an order or finding,” before “enumerated”; and

(B) in each of sections 15(b)(6)(A)(i) (15 U.S.C. 78b(b)(6)(A)(i)), paragraphs (2) and (4) of section 15B(c) (15 U.S.C. 78b-4(c)), and subparagraphs (A) and (C) of section 15C(c)(1) (15 U.S.C. 78b-5(c)(1)) by striking “or omission” each place that term appears, and inserting “, or is subject to an order or finding,”; and

(C) in each of paragraphs (3)(A) and (4)(C) of section 17A(c) (15 U.S.C. 78q-1(c)), by inserting “, or is subject to an order or finding,” before “enumerated” each place that term appears.

(2) **INVESTMENT ADVISERS ACT OF 1940.**—Section 203(f) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(f)) is amended, by inserting “or (3)” after “paragraph (2)”.

TITLE VII—STUDIES AND REPORTS**SEC. 701. GAO STUDY AND REPORT REGARDING CONSOLIDATION OF PUBLIC ACCOUNTING FIRMS.**

(a) **STUDY REQUIRED.**—The Comptroller General of the United States shall conduct a study—

(1) to identify—

(A) the factors that have led to the consolidation of public accounting firms since 1989 and the consequent reduction in the number of firms capable of providing audit services to large national and multi-national business organizations that are subject to the securities laws;

(B) the present and future impact of the condition described in subparagraph (A) on capital formation and securities markets, both domestic and international; and

(C) solutions to any problems identified under subparagraph (B), including ways to increase competition and the number of firms capable of providing audit services to large national and multinational business organizations that are subject to the securities laws;

(2) of the problems, if any, faced by business organizations that have resulted from limited competition among public accounting firms, including—

(A) higher costs;

(B) lower quality of services;

(C) impairment of auditor independence; or

(D) lack of choice; and

(3) whether and to what extent Federal or State regulations impede competition among public accounting firms.

(b) **CONSULTATION.**—In planning and conducting the study under this section, the Comptroller General shall consult with—

(1) the Commission;

(2) the regulatory agencies that perform functions similar to the Commission within the other member countries of the Group of Seven Industrialized Nations;

(3) the Department of Justice; and

(4) any other public or private sector organization that the Comptroller General considers appropriate.

(c) **REPORT REQUIRED.**—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report on the results of the study required by this section to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

SEC. 702. COMMISSION STUDY AND REPORT REGARDING CREDIT RATING AGENCIES.

(a) **STUDY REQUIRED.**—

(1) **IN GENERAL.**—The Commission shall conduct a study of the role and function of credit rating agencies in the operation of the securities market.

(2) **AREAS OF CONSIDERATION.**—The study required by this subsection shall examine—

(A) the role of credit rating agencies in the evaluation of issuers of securities;

(B) the importance of that role to investors and the functioning of the securities markets;

(C) any impediments to the accurate appraisal by credit rating agencies of the financial resources and risks of issuers of securities;

(D) any barriers to entry into the business of acting as a credit rating agency, and any measures needed to remove such barriers;

(E) any measures which may be required to improve the dissemination of information concerning such resources and risks when credit rating agencies announce credit ratings; and

(F) any conflicts of interest in the operation of credit rating agencies and measures to prevent such conflicts or ameliorate the consequences of such conflicts.

(b) **REPORT REQUIRED.**—The Commission shall submit a report on the study required by sub-

section (a) to the President, the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate not later than 180 days after the date of enactment of this Act.

TITLE VIII—CORPORATE AND CRIMINAL FRAUD ACCOUNTABILITY**SEC. 801. SHORT TITLE.**

This title may be cited as the “Corporate and Criminal Fraud Accountability Act of 2002”.

SEC. 802. CRIMINAL PENALTIES FOR ALTERING DOCUMENTS.

(a) **IN GENERAL.**—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

“§1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy

“Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 10 years, or both.

“§1520. Destruction of corporate audit records

“(a)(1) Any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(a)) applies, shall maintain all audit or review workpapers for a period of 5 years from the end of the fiscal period in which the audit or review was concluded.

“(2) The Securities and Exchange Commission shall promulgate, within 180 days, after adequate notice and an opportunity for comment, such rules and regulations, as are reasonably necessary, relating to the retention of relevant records such as workpapers, documents that form the basis of an audit or review, memoranda, correspondence, communications, other documents, and records (including electronic records) which are created, sent, or received in connection with an audit or review and contain conclusions, opinions, analyses, or financial data relating to such an audit or review, which is conducted by any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(a)) applies.

“(b) Whoever knowingly and willfully violates subsection (a)(1), or any rule or regulation promulgated by the Securities and Exchange Commission under subsection (a)(2), shall be fined under this title, imprisoned not more than 5 years, or both.

“(c) Nothing in this section shall be deemed to diminish or relieve any person of any other duty or obligation, imposed by Federal or State law or regulation, to maintain, or refrain from destroying, any document.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new items:

“1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy.”.

“1520. Destruction of corporate audit records.”.

SEC. 803. DEBTS NONDISCHARGEABLE IF INCURRED IN VIOLATION OF SECURITIES FRAUD LAWS.

Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking “or” after the semicolon;

(2) in paragraph (18), by striking the period at the end and inserting “; or”; and

(3) by adding at the end, the following:

“(19) that—

“(A) arises under a claim relating to—

“(i) the violation of any of the Federal securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), any State securities laws, or any regulations or orders issued under such Federal or State securities laws; or

“(ii) common law fraud, deceit, or manipulation in connection with the purchase or sale of any security; and

“(B) results, in relation to any claim described in subparagraph (A), from—

“(i) any judgment, order, consent order, or decree entered in any Federal or State judicial or administrative proceeding;

“(ii) any settlement agreement entered into by the debtor; or

“(iii) any court or administrative order for any damages, fine, penalty, citation, restitutionary payment, disgorgement payment, attorney fee, cost, or other payment owed by the debtor.”.

SEC. 804. STATUTE OF LIMITATIONS FOR SECURITIES FRAUD.

(a) IN GENERAL.—Section 1658 of title 28, United States Code, is amended—

(1) by inserting “(a)” before “Except”; and

(2) by adding at the end the following:

“(b) Notwithstanding subsection (a), a private right of action that involves a claim of fraud, deceit, manipulation, or contrivance in contravention of a regulatory requirement concerning the securities laws, as defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), may be brought not later than the earlier of—

“(1) two years after the discovery of the facts constituting the violation; or

“(2) five years after such violation.”.

(b) EFFECTIVE DATE.—The limitations period provided by section 1658(b) of title 28, United States Code, as added by this section, shall apply to all proceedings addressed by this section that are commenced on or after the date of enactment of this Act.

(c) NO CREATION OF ACTIONS.—Nothing in this section shall create a new, private right of action.

SEC. 805. REVIEW OF FEDERAL SENTENCING GUIDELINES FOR OBSTRUCTION OF JUSTICE AND EXTENSIVE CRIMINAL FRAUD.

Pursuant to section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend, as appropriate, the Federal Sentencing Guidelines and related policy statements to ensure that—

(1) the base offense level and existing enhancements contained in United States Sentencing Guideline 2J1.2 relating to obstruction of justice are sufficient to deter and punish that activity;

(2) the enhancements and specific offense characteristics relating to obstruction of justice are adequate in cases where—

(A) documents and other physical evidence are actually destroyed, altered, or fabricated;

(B) the destruction, alteration, or fabrication of evidence involves—

(i) a large amount of evidence, a large number of participants, or is otherwise extensive;

(ii) the selection of evidence that is particularly probative or essential to the investigation; or

(iii) more than minimal planning; or

(C) the offense involved abuse of a special skill or a position of trust;

(3) the guideline offense levels and enhancements for violations of section 1519 or 1520 of title 18, United States Code, as added by this title, are sufficient to deter and punish that activity;

(4) the guideline offense levels and enhancements under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) are sufficient for a fraud offense when the number of victims adversely involved is significantly greater than 50;

(5) a specific offense characteristic enhancing sentencing is provided under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) for a fraud offense that endangers the solvency or financial security of a substantial number of victims; and

(6) the guidelines that apply to organizations in United States Sentencing Guidelines, chapter 8, are sufficient to deter and punish organizational criminal misconduct.

SEC. 806. PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES WHO PROVIDE EVIDENCE OF FRAUD.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by inserting after section 1514 the following:

“§1514A. Civil action to protect against retaliation in fraud cases

“(a) WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES.—No company with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l), or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)), or any officer, employee, contractor, subcontractor, or agent of such company, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee—

“(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders, when the information or assistance is provided to or the investigation is conducted by—

“(A) a Federal regulatory or law enforcement agency;

“(B) any Member of Congress or any committee of Congress; or

“(C) a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct); or

“(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed (with any knowledge of the employer) relating to an alleged violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders.

“(b) ENFORCEMENT ACTION.—

“(1) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c), by—

“(A) filing a complaint with the Secretary of Labor; or

“(B) if the Secretary has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

“(2) PROCEDURE.—

“(A) IN GENERAL.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

“(B) EXCEPTION.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the employer.

“(C) BURDENS OF PROOF.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

“(D) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 90 days after the date on which the violation occurs.

“(c) REMEDIES.—

“(1) IN GENERAL.—An employee prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the employee whole.

“(2) COMPENSATORY DAMAGES.—Relief for any action under paragraph (1) shall include—

“(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

“(B) the amount of back pay, with interest; and

“(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

“(d) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law, or under any collective bargaining agreement.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by inserting after the item relating to section 1514 the following new item:

“1514A. Civil action to protect against retaliation in fraud cases.”.

SEC. 807. CRIMINAL PENALTIES FOR DEFRAUDING SHAREHOLDERS OF PUBLICLY TRADED COMPANIES.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

“§1348. Securities fraud

“Whoever knowingly executes, or attempts to execute, a scheme or artifice—

“(1) to defraud any person in connection with any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)); or

“(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property in connection with the purchase or sale of any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)); shall be fined under this title, or imprisoned not more than 10 years, or both.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following new item:

“1348. Securities fraud.”.

TITLE IX—WHITE-COLLAR CRIME PENALTY ENHANCEMENTS

SEC. 901. SHORT TITLE.

This title may be cited as the “White-Collar Crime Penalty Enhancement Act of 2002”.

SEC. 902. CRIMINAL PENALTIES FOR CONSPIRACY TO COMMIT OFFENSE OR TO DEFRAUD THE UNITED STATES.

Section 371 of title 18, United States Code, is amended by striking “If two or more” and all that follows through “If, however,” and inserting the following:

“(a) *IN GENERAL.*—If 2 or more persons—
“(1) conspire to commit any offense against the United States, in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined or imprisoned, or both, as set forth in the specific substantive offense which was the object of the conspiracy; or

“(2) conspire to defraud the United States, or any agency thereof in any manner or for any purpose, and 1 or more of such persons do any act to effect the object of the conspiracy, each person shall be fined under this title, or imprisoned not more than 10 years, or both.

“(b) *MISDEMEANOR OFFENSE.*—If, however,”.

SEC. 903. CRIMINAL PENALTIES FOR MAIL AND WIRE FRAUD.

(a) *MAIL FRAUD.*—Section 1341 of title 18, United States Code, is amended by striking “five years” and inserting “10 years”.

(b) *WIRE FRAUD.*—Section 1343 of title 18, United States Code, is amended by striking “five years” and inserting “10 years”.

SEC. 904. CRIMINAL PENALTIES FOR VIOLATIONS OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by striking “\$5,000” and inserting “\$100,000”;

(2) by striking “one year” and inserting “10 years”; and

(3) by striking “\$100,000” and inserting “\$500,000”.

SEC. 905. AMENDMENT TO SENTENCING GUIDELINES RELATING TO CERTAIN WHITE-COLLAR OFFENSES.

(a) *DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.*—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this title.

(b) *REQUIREMENTS.*—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses and the penalties set forth in this title, the growing incidence of serious fraud offenses which are identified above, and the need to modify the sentencing guidelines and policy statements to deter, prevent, and punish such offenses;

(2) consider the extent to which the guidelines and policy statements adequately address—

(A) whether the guideline offense levels and enhancements for violations of the sections amended by this title are sufficient to deter and punish such offenses, and specifically, are adequate in view of the statutory increases in penalties contained in this title; and

(B) whether a specific offense characteristic should be added in United States Sentencing Guideline section 2B1.1 in order to provide for stronger penalties for fraud when the crime is committed by a corporate officer or director;

(3) assure reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 906. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

(a) *IN GENERAL.*—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

“§ 1348. Failure of corporate officers to certify financial reports

“(a) *CERTIFICATION OF PERIODIC FINANCIAL REPORTS.*—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chairman of the board, chief executive officer, and chief financial officer (or equivalent thereof) of the issuer.

“(b) *CONTENT.*—The statement required under subsection (a) shall certify the appropriateness of the financial statements and disclosures contained in the periodic report or financial report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer.

“(c) *CRIMINAL PENALTIES.*—Notwithstanding any other provision of law—

“(1) any person who recklessly and knowingly violates any provision of this section shall upon conviction be fined not more than \$500,000, or imprisoned not more than 5 years, or both; or

“(2) any person who willfully violates any provision of this section shall upon conviction be fined not more than \$1,000,000, or imprisoned not more than 10 years, or both.”.

(b) *TECHNICAL AND CONFORMING AMENDMENT.*—The section analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

“1348. Failure of corporate officers to certify financial reports.”.

SEC. 907. HIGHER MAXIMUM PENALTIES FOR MAIL AND WIRE FRAUD.

(a) *MAIL FRAUD.*—Section 1341 of title 18, United States Code, is amended by striking “five” and inserting “ten”.

(b) *WIRE FRAUD.*—Section 1343 of title 18, United States Code, is amended by striking “five” and inserting “ten”.

SEC. 908. TAMPERING WITH A RECORD OR OTHERWISE IMPEDING AN OFFICIAL PROCEEDING.

Section 1512 of title 18, United States Code, is amended—

(1) by re-designating subsections (c), (d), (e), (f), (g), (h), and (i) as subsections (d), (e), (f), (g), (h), (i) and (j);

(2) by inserting after subsection (b) the following new subsection:

“(c) Whoever corruptly—

“(1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or

“(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so; shall be fined under this title or imprisoned not more than 10 years, or both.”.

SEC. 909. TEMPORARY FREEZE AUTHORITY FOR THE SECURITIES AND EXCHANGE COMMISSION.

(a) *IN GENERAL.*—The Securities Exchange Act of 1934 is amended by inserting after section 21C(c)(2) (15 U.S.C. 78u-3(c)(2)) the following:

“(3) *TEMPORARY FREEZE.*—(A) Whenever, during the course of a lawful investigation involving possible violations of the Federal securities laws by an issuer of publicly traded securities or any of its directors, officers, partners, controlling persons, agents, or employees, it shall appear to the Commission that it is likely that the issuer will make extraordinary payments (whether compensation or otherwise) to any of the foregoing persons, the Commission may petition a Federal district court for a temporary order requiring the issuer to escrow, subject to court supervision, those payments in an interest-bearing account for 45 days. Such an order

shall be entered, if the court finds that the issuer is likely to make such extraordinary payments, only after notice and opportunity for a hearing, unless the court determines that notice and hearing prior to entry of the order would be impracticable or contrary to the public interest. A temporary order shall become effective immediately and shall be served upon the parties subject to it and, unless set aside, limited or suspended by court of competent jurisdiction, shall remain effective and enforceable for 45 days. The period of the order may be extended by the court upon good cause shown for not longer than 45 days, provided that the combined period of the order not exceed 90 days.

“(B) If the individual affected by such order is charged with violations of the Federal securities laws by the expiration of the 45 days (or the expiration of any extended period), the escrow would continue, subject to court approval, until the conclusion of any legal proceedings. The issuer and the affected director, officer, partner, controlling person, agent or employee would have the right to petition the court for review of the order. If the individual affected by such order is not charged, the escrow will terminate at the expiration of the 45 days (or the expiration of any extended period), and the payments (with accrued interest) returned to the issuer.”.

(b) *TECHNICAL AMENDMENT.*—Section 21C(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3(c)(2)) is amended by striking “This” and inserting “Paragraph (1) of this”.

SEC. 910. AMENDMENT TO THE FEDERAL SENTENCING GUIDELINES.

(a) *REQUEST FOR IMMEDIATE CONSIDERATION BY THE UNITED STATES SENTENCING COMMISSION.*—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission is requested to—

(1) promptly review the sentencing guidelines applicable to securities and accounting fraud and related offenses;

(2) expeditiously consider promulgation of new sentencing guidelines or amendments to existing sentencing guidelines to provide an enhancement for officers or directors of publicly traded corporations who commit fraud and related offenses; and

(3) submit to Congress an explanation of actions taken by the Commission pursuant to paragraph (2) and any additional policy recommendations the Commission may have for combating offenses described in paragraph (1).

(b) *OTHER.*—In carrying out this section, the Sentencing Commission is requested to—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of securities, pension, and accounting fraud and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) assure reasonable consistency with other relevant directives and with other guidelines;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements;

(4) make any necessary conforming changes to the sentencing guidelines; and

(5) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) *EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.*—The Commission is requested to promulgate the guidelines or amendments provided for under this section as soon as practicable, and in any event not later than the 120 days after the date of the enactment of this Act, in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not expired.

SEC. 911. AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.

(a) In section 21C of the Securities Exchange Act of 1934, add at the end a new subsection as follows:

“(f) **AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.**—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b) of this title or the rules or regulations thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to section 15(d) of this title if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.”.

(b) In section 8A of the Securities Act of 1933 add at the end a new subsection as follows:

“(f) **AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.**—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) of this title from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to section 15(d) of that Act if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.”.

TITLE X—CORPORATE TAX RETURNS

SEC. 1001. SENSE OF THE SENATE REGARDING THE SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICERS.

It is the sense of the Senate that the Federal income tax return of a corporation should be signed by the chief executive officer of such corporation.

The PRESIDING OFFICER. The Senate insists on its amendment and requests a conference with the House.

EXECUTIVE SESSION

NOMINATION OF LAVENSKI R. SMITH OF ARKANSAS, TO BE UNITED STATES CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT

The PRESIDING OFFICER. The Senate will proceed to executive session.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 903, the nomination of Lavenski R. Smith, of Arkansas, to be United States Circuit Judge for the Eighth Circuit:

ZELL MILLER, FRITZ HOLLINGS, KENT CONRAD, BYRON L. DORGAN, HARRY REID, JEFF BINGAMAN, DEBBIE STABENOW, JACK REED, BARBARA BOXER, PATRICK LEAHY, BARBARA MI-

KULSKI, BLANCHE R. LINCOLN, BOB GRAHAM, JEAN CARNAHAN, JAY ROCKEFELLER, CHARLES SCHUMER.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Madam President, I understand that no one is asking for a rollcall vote on confirmation if we can reach the cloture vote. So if we reach cloture, this will be the last vote of the evening.

The PRESIDING OFFICER. Under the unanimous consent, the mandatory quorum call under the rule is waived. The question is, Is it the sense of the Senate that debate on Executive Calendar No. 903, the nomination of Lavenski R. Smith of Arkansas to be United States Circuit Judge for the Eighth Circuit, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Idaho (Mr. CRAIG), the Senator from Idaho (Mr. CRAPO), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The PRESIDING OFFICER (Mr. DAYTON). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 94, nays 3, as follows:

[Rollcall Vote No. 177]

YEAS—94

Akaka	Edwards	McConnell
Allard	Ensign	Mikulski
Allen	Enzi	Miller
Baucus	Feinstein	Murkowski
Bayh	Fitzgerald	Murray
Bennett	Frist	Nelson (FL)
Biden	Graham	Nelson (NE)
Bingaman	Gramm	Nickles
Bond	Grassley	Reed
Boxer	Gregg	Reid
Breaux	Hagel	Roberts
Brownback	Harkin	Rockefeller
Bunning	Hatch	Santorum
Burns	Hollings	Sarbanes
Byrd	Hutchinson	Schumer
Campbell	Hutchison	Sessions
Cantwell	Inhofe	Shelby
Carnahan	Inouye	Smith (NH)
Carper	Jeffords	Smith (OR)
Chafee	Johnson	Snowe
Cleland	Kennedy	Specter
Clinton	Kerry	Stabenow
Cochran	Kohl	Stevens
Collins	Kyl	Thomas
Conrad	Landrieu	Thompson
Corzine	Leahy	Thurmond
Daschle	Levin	Torricelli
DeWine	Lieberman	Voinovich
Dodd	Lincoln	Warner
Domenici	Lott	Wyden
Dorgan	Lugar	
Durbin	McCain	

NAYS—3

Dayton	Feingold	Wellstone
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NOT VOTING—3

Craig	Crapo	Helms
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The PRESIDING OFFICER (Mr. DAYTON). On this vote, the yeas are 94, the nays are 3. Three-fifths of the Senators duly chosen and affirmed having voted in the affirmative, the motion is agreed to.

Mr. FEINGOLD. Mr. President, I will support the nomination of Lavenski R.

Smith, of Arkansas, to be a U.S. Circuit Judge. I did so as a member of the Judiciary Committee, and I will do so again on the floor. But I will also support the effort made by the Senator from Arizona, Mr. McCAIN, to advance the long overdue appointment of a commissioner to the expired position on the Federal Elections Commission, and in doing so I opposed the cloture motion to bring debate on the Smith nomination to a close. As we have seen, the FEC commissioners have a direct impact on Federal election laws, even to the extent of obstructing the will of Congress. Given the recent behavior of the FEC, it is reasonable for us to take every appropriate step to facilitate the filing of the expired position.

Mr. HATCH. Mr. President, I rise today in support of Justice Lavenski Smith to the Eighth Circuit Court of Appeals. Before I speak directly about him and his nomination, however, I would like to take just a moment to explain where the Senate stands on its job of considering and confirming President Bush's judicial nominees during this Congress.

The Senate has not confirmed a single judge since May 13, exactly 9 weeks ago today. This is nothing short of irresponsible considering the vacancy rates and backlogs around the country.

There were 31 vacancies in the Federal courts of appeals when President Bush sent us his first 11 circuit nominees on May 9, 2001, and there are 31 today. We are barely keeping pace with the rate of attrition.

The Sixth Circuit is half-staffed with 8 of its 16 seats vacant. The DC Circuit is two-thirds staffed, with 4 of its 12 seats sitting vacant. Meanwhile, seven of President Bush's first 11 nominees have not even been scheduled for hearings—despite having been pending for 432 days as of today. A total of 23 circuit court nominations now sit pending for those 31 vacancies. But we have confirmed only 3 circuit judges this year, and only 9 since President Bush took office.

It is bad enough that the Judiciary Committee has been slow to even begin the process of consideration by scheduling hearings. It is even worse that the Democrat leadership can't do what is necessary to move the 17 judges that are still pending for a floor vote. Of course, I applaud the leadership for bringing Lavenski Smith to a vote, but I think everyone has to admit that 1 out of 17 is, at most, a low start. Many of my colleagues have noted with displeasure the Judiciary Committee's wholesale slow-walking of President Bush's nominees, but now I must bring some attention to the Senate leadership's role as well. It is high time for them to demonstrate their leadership, and their control of the floor, by setting votes on the rest of the 16 judicial nominees who are awaiting a final vote.

Mr. President, let me put the current situation into context. Historically, a President can count on seeing all of his first 11 circuit court nominees confirmed. Presidents Reagan, Bush, and Clinton all enjoyed a 100 percent confirmation rate on their first 11 circuit court nominees. In stark contrast, 7 of President Bush's first 11 nominations are still pending without a hearing for over 1 whole year.

History also shows that Presidents can expect almost all of their first 100 nominees to be confirmed swiftly. Presidents Reagan, Bush and Clinton got 97, 95 and 97, respectively, of their first 100 judicial nominations confirmed. But the Senate has confirmed only 57 of President Bush's first 100 nominees.

Some try to blame Republicans for the current vacancy crisis. That is bunk. In fact, the number of judicial vacancies decreased by 3 during the 6 years of Republican leadership. There were 70 vacancies when I became chairman of the Judiciary Committee in January 1995, and there were 67 at the close of the 106th Congress in December 2000.

Now I know that some try to justify the current wholesale delay as payback for the past. That is just a sleight of hand. Look at the facts: During President Clinton's 8 years in office, the Senate confirmed 377 judges—essentially the same, 5 fewer as for Reagan, 382. This is an unassailable record of non-partisan fairness, especially when you consider that President Reagan had 6 years of a Senate controlled by his own party, while President Clinton had only 2. Furthermore, almost 50 percent of all Federal judges currently serving are Clinton judges.

Finally, some suggest that the Republicans left an undue number of nominees pending in committee without hearings at the end of the Clinton administration. Well, we left 41, which is 13 less than the Democrats left without hearings in 1992 at the end of the Bush administration.

Mr. President, the President's nominees deserve better; President Bush deserves better; and most importantly, the American people—the people who own this Government and who rely on the judicial branch for their rights and freedoms—deserve much better.

Now, Mr. President, I would like to turn to the matter directly at hand, the confirmation of Lavenski Smith to the Eighth Circuit Court of Appeals. Justice Smith is a highly qualified jurist who has distinguished himself through his service to the poor, his service in the public sector, and his service on the State bench. His experience includes working for legal services, running his own law firm, serving with distinction on the Arkansas Supreme Court, and holding his current position on the Arkansas Public Service Commission.

Justice Smith began his legal career at Ozark Legal Services in Fayetteville, AR, specializing in consumer defense and the representation of juveniles as a guardian ad litem. He worked with those who are traditionally under-represented: low-income individuals, families, and children. After 4 years, he opened his own law firm in the Arkansas town of Springdale, where he handled all sorts of cases, including business law, real estate, domestic relations, worker's compensation, public benefits, and estates. Notably, his firm was the first minority-owned firm in the history of the town.

Justice Smith's excellence as a lawyer and his commitment to public service did not go unnoticed: in 1999 Governor Huckabee appointed Justice Smith to the Arkansas Supreme Court. During his tenure on the bench, Justice Smith wrote opinions on a range of legal issues, including criminal, tort, worker's compensation, insurance, contract, civil procedure, oil and gas, tax, probate and attorney discipline matters.

Currently, Justice Smith serves on the Arkansas Public Service Commission, which is responsible for regulating the State's electric, gas, and telecommunications industries. In this position, Justice Smith has become an expert in understanding and interpreting a wide variety of complex Federal regulations, including the Federal Power Act and the Federal Telecommunications Act of 1996.

Chief Justice Arnold of the Arkansas Supreme Court, Justice Smith's former colleague, praises his intelligence and the quality of his service on the court, saying, "I think he'll make a great Federal judge." Justice Smith has wide, bipartisan support in his home State, but I think the Arkansas Democrat-Gazette summed it up well: It said that Justice Smith possesses "integrity, intelligence, and compassion." I agree, and I urge my colleagues to join me in supporting this qualified candidate for the Eighth Circuit. I think that each of us can be proud about voting for the first African-American Arkansan to serve on a circuit court of appeals.

Thank you, Mr. President. I yield the floor.

Mr. LEAHY. Mr. President, Lavenski Smith is a young Arkansas political appointee, who has had a total of 7 years experience practicing law, has had minimal Federal experience, minimal appellate experience, and no experience at all arguing in front of the Federal Court of Appeals for the Eighth Circuit to which he has been nominated. He is nominated to the judgeship held by Judge Richard Arnold, one of the most distinguished judges ever to serve on the 8th Circuit.

Mr. Smith served a brief term on the Arkansas Supreme Court, after being appointed by the Governor and before

running for election to a lower State court judicial vacancy and losing. He also spent several years as the volunteer executive director of the Arkansas chapter of the Rutherford Institute, an organization devoted to, among other things, doing away with a woman's constitutional right to choose, and supporting efforts against Governor, and then President, Bill Clinton."

The following is what the Arkansas Times had to say about Mr. SMITH's qualifications:

Lavenski Smith of Little Rock is not the best-qualified Arkansan President Bush could have chosen for the U.S. 8th Circuit Court of Appeals, nor even close. Marginally acceptable, if that, Smith was nominated by Bush, on the recommendation of Senator TIM HUTCHINSON, because Smith is racially, ideologically and politically correct—a black conservative Republican, avidly anti-abortion and anti-Clinton, whose nomination will, it is hoped, aid HUTCHINSON's re-election effort. Not much there to suggest a distinguished judicial career. Still, there are worse things than mediocrity, and Bush has nominated them, too.

It is difficult to vote in favor of a nominee to a lifetime appointment on a Federal appellate court with this kind of record, but he is supported by both of his home-State Senators. Senator BLANCHE LINCOLN worked hard to be sure that Mr. Smith was included in a hearing earlier this year and she supports his nomination. Based on Senator LINCOLN's confidence in this nominee's ability to do the job and based on the nominee's assurances that he will not seek to impose his personal views in his legal decisions, I have reluctantly decided to vote in favor of this nomination.

Smith seems like an honorable person, and despite his political views and political activism, I am hopeful that he will be a person of his word: that he will follow the law and not seek out opportunities to overturn precedent or decide cases in accord with his private beliefs rather than his obligations as a judge.

This is one of 17 nominations that have been reported by the Judiciary Committee to the Senate but were stalled for the last 2 months. In addition, nearly two dozen Executive Branch nominees reported by the Judiciary Committee are also awaiting action.

The delay in final Senate action on these nominees has been due to the failure of the administration to fulfill its responsibility to work with the Senate in the naming of members of bipartisan boards and commissions. Last week I congratulated the majority leader for overcoming this impediment and for his patience and determination in achieving some movement on these matters.

I understand that he hopes to be able to resume voting on judicial nominations once cloture is achieved on the Smith nomination today.

Democrats are taking extraordinary efforts to overcome impediments to action on nominations. Had the administration not caused this delay, and had Republican Senators not placed "holds" over the last several months, I am confident that the Senate would have confirmed more than 70 judicial nominees by now.

We were able to overcome the other obstacles created by the administration and proceed to confirm 57 judicial nominees in our first 10 months in the majority, a record outpacing any Republican total in any 10-month period in which they held the majority.

We have also addressed long-standing vacancies on circuit courts caused by Republican obstruction of President Clinton's judicial nominees. We held the first hearing for a Fifth Circuit nominee in 7 years, the first hearings for Sixth Circuit nominees in almost 5 years, the first hearing for a Tenth Circuit nominee in 6 years, and the first hearings for Fourth Circuit nominees in 3 years.

We have reformed the process for considering judicial nominees.

For example, we have ended the practice of anonymous holds that plagued the period of Republican control, when any Republican Senator could hold any nominee from his home State, his own circuit or any part of the country for any reason, or no reason, without any accountability. We have returned to the Democratic tradition of holding regular hearings, every few weeks, rather than going for months without a single hearing.

With a positive vote on the nomination of Lavenski Smith, the Senate will have confirmed its 10th Court of Appeals nominee of President Bush since the reorganization of the Senate Judiciary Committee a year ago, on July 10, 2001. During their recent 6½ years of majority control, Republicans averaged seven Court of Appeals confirmations a year.

The Democratic-led Judiciary Committee has had a record-breaking first year fairly and promptly considering President Bush's nominees, which I detailed last Friday. For example, in 1 year, we have held hearings for 78 of the President's nominees.

That is more hearings for this President's district and circuit court nominees than in 20 of the past 22 years.

Under Democratic leadership, the Senate confirmed more circuit and district court judges, 57, than were confirmed during all 12 months in each of 2000, 1999, 1997, 1996, and 1995, 5 of the prior 6 years of Republican control of the Senate. The Judiciary Committee has since last July voted on 15 circuit court nominees. In our first year, we held more hearings for more of President Bush's circuit court nominees than in the first year of any of the past three Presidents.

More of President Bush's nominees have also been given committee votes

than in the first year of any of the past three Presidents.

Unfortunately, one-sixth of President Clinton's judicial nominees—more than 50—never got a committee hearing and committee vote from the Republican majority, which perpetuated long-standing vacancies into this year. If the Republicans had not left more than 50 of President Clinton's nominees without a hearing or a vote, the current number of vacancies might be closer to 40 than 90.

In addition, large numbers of vacancies continue to exist on many Courts of Appeals, in large measure because the recent Republican majority was not willing to hold hearings or vote on more than half—56 percent—of President Clinton's Courts of Appeals nominees in 1999 and 2000 and was not willing to confirm a single judge to the Courts of Appeals during the entire 1996 session.

From the time the Republicans took over majority control of the Senate in 1995 until the reorganization of the Committee last July, circuit vacancies increased from 16 to 33, more than doubling.

Democrats have broken with that recent history of inaction. During our first year in control of the Judiciary Committee, we held 16 hearings for circuit court nominees. That is almost the same number of circuit court nominees, 17, who were never given a Committee vote by Republicans in 2000.

Democrats are working hard to reduce judicial vacancies and we have moved quickly on these nominees, as well as many, many others. I have noted that we could have been even more productive with a little cooperation from the White House, but that has not been forthcoming.

Moreover, of the current vacancies, more than half do not have a nominee. We are almost out of district court nominees ready to be included at hearings, because the President has been so slow to nominate district court nominees and insists on delaying the ABA peer review process until after the nominations are made.

Today's vote on the nomination of Lavenski Smith to the United States Court of Appeals for the Eighth Circuit is the third Eighth Circuit nominee the committee has considered in the past year. This is in sharp contrast to the treatment of Eighth Circuit nominee Bonnie Campbell by Republicans.

Ms. Campbell is now a partner at the distinguished Washington law firm of Arent Fox Kintner Plotkin & Kahn, where she acts as an adviser, negotiator, advocate, and litigator, representing employers in personnel, labor relations, employment discrimination, benefits, and other employment-related matters. A graduate of Drake University and Drake's law school, Ms. Campbell has an outstanding record of public service.

She was nominated by President Clinton early in 2000 to serve on the U.S. Court of Appeals for the Eighth Circuit.

She was supported by both of her Senators, Democrat TOM HARKIN and Republican CHUCK GRASSLEY, given a "Qualified" rating by the ABA, and afforded a hearing before the Judiciary Committee a few months later, in May of 2000. However, despite a non-controversial hearing, Ms. Campbell was never scheduled for a committee vote. No explanation for this failure to give her a vote was ever given, and her nomination was eventually returned at the end of the 106th Congress. Other individuals nominated after Ms. Campbell were given committee hearings and votes and were confirmed later that year, while Ms. Campbell's nomination languished.

She seems to have been the victim of the Republican practice of anonymous, indefinite holds. In January of 2001, President Clinton re-nominated Ms. Campbell, but President Bush failed to seize the opportunity for bipartisanship, and withdrew her nomination shortly thereafter.

At the time of her nomination Ms. Campbell was nearing the end of a distinguished term at the U.S. Department of Justice, where she served as Director of the Violence Against Women Office, a position to which she was appointed by President Clinton in 1995.

In that capacity, she oversaw a \$1.6 billion program to provide funding to States to strengthen their efforts in the areas of domestic violence and sexual abuse. She also directed the Federal Government's efforts to implement the new criminal statutes created by the 1994 Violence Against Women Act. Ms. Campbell oversaw the Justice Department's efforts to combine tough new Federal criminal laws with assistance to states and localities to fight against violence against women.

Bonnie Campbell had, before coming to Washington, served as the Attorney General of Iowa, the first woman ever elected to that position. During her tenure in office, she was instrumental in pushing the State legislature to strengthen Iowa's domestic abuse statute, and in 1992 she authored one of the Nation's first anti-stalking laws. In 1997 Bonnie Campbell was named by Time magazine as one of the 25 most influential people in America.

Ms. Campbell's record of distinguished public service and her experience in private practice combined to make an excellent nominee to the Court of Appeals for the Eighth Circuit, a fact with which both of her Senators obviously agreed. Yet once afforded a hearing, Bonnie Campbell was left to linger in an indefensible limbo. She was not granted a committee vote, but neither was she confronted with any objections to her nomination to the Eighth Circuit proceeding.

Contrasting the treatment of the nominations of Bonnie Campbell and Lavenski Smith to the Eighth Circuit evidences the difference in how the Republican majority and the current Democratic majority have handled judicial nominations and highlights the fairness that has been restored to the confirmation process.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Lavenski R. Smith, of Arkansas, to be United States Circuit Judge for the Eighth Circuit?

The nomination was confirmed.

Mr. HUTCHINSON. Mr. President, I rise to speak about Judge Lavenski Smith who has been confirmed this evening for the eighth circuit court of appeals. This is a great evening for him and his family. He is going to be a great jurist. I congratulate Judge Smith tonight.

I thank President Bush for making an excellent choice, a choice that I think Arkansas can feel good about, the Eighth Circuit can feel good about, and, indeed, the country can feel good about. Judge Smith is an excellent choice. He is the first African American to represent the State of Arkansas in the Eighth Circuit Court of Appeals. He will do so with great distinction.

I will speak, very briefly, about his career. But the hallmark of Judge Smith's entire career has been one of service. It has been a storybook tale.

He is a native of Hope, AR. He earned both his bachelor's degree and his law degree from the University of Arkansas in Fayetteville. He worked his way through college. Following law school, he clerked for 3 years, and then he served the poorest citizens of Arkansas as the staff attorney for Ozark Legal Services, representing abused and neglected children.

After working with Ozark Legal Services, he opened the first minority-owned firm in Springdale, AR, handling primarily civil cases. He then taught business law at John Brown University and took several positions in public service, including Regulatory Liaison for Governor Huckabee. Currently Judge Smith serves as the commissioner of the Arkansas Public Service Commission.

In 1999, he was appointed to the Arkansas supreme court and served on the Arkansas supreme court with distinction for 2 years. As a supreme court justice, he presided over hundreds of cases and authored several dozen majority opinions. He was highly praised by all his colleagues in the Arkansas supreme court.

In June of 2001, the American Bar Association reviewed Justice Smith's qualifications and made a "unanimous qualified" determination.

Beyond all of his obvious legal qualifications, I want to point out that he has had a long history of community

service. Whether it was as a board member of the Northwest Arkansas Christian Justice Center, a nonprofit organization dedicated to providing mediation and conciliation services, working with the Partners for Family Training, a group that recruits and trains foster parents, or whether it was raising funds for the School of Hope, a school for handicapped children in Hope, AR, at every stage of his life there has been this hallmark of service.

This outstanding record of service is the most outwardly visible sign of something the people in Arkansas know well; that he is a good and honorable man who will serve his country well. We can all be proud of the vote that occurred this evening.

It is a storybook tale, but it is a storybook tale that has not yet had the last chapters written. There are going to be a lot of wonderful chapters in the years ahead as he, as a young man, has a long time to serve on the Federal bench.

It will be a wonderful culmination to what has already been a great story and a great career. I stand with Arkansas this evening in pride.

I thank Senator BLANCHE LINCOLN for her cooperation, for her support, and all that she has done over the last year to make tonight's vote possible.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I thank my colleague from Arkansas for those kind words.

I rise to express my gratitude to all of my colleagues tonight for their support of the cloture motion before the Senate this evening of the nomination of Judge Lavinski Smith of Arkansas to fill a vacancy on the Eighth Circuit Court of Appeals.

I am certainly pleased that the majority leader has taken a step which demonstrates a commitment of the Democratic leadership in the Senate to move the nomination process forward and to fulfill our obligation under the Constitution.

As one of those who signed the cloture motion to bring forward Judge Smith's nomination, I am proud of my colleagues for joining in with an excellent vote in supporting this fine Arkansas to the bench.

I want to say a special thanks to the chairman of the Judiciary Committee for his hard work over the last year to reduce the number of judicial vacancies which will ensure our Federal courts can operate efficiently. He has tirelessly worked in the Judiciary Committee to be fair and to be expeditious.

There has certainly been a good deal of heated debate surrounding the pace of judicial confirmations in recent months. However, I can say from personal experience that the chairman has

been highly responsive to my inquiries regarding this nomination. I am grateful for his efforts and those of the committee staff in trying to move the process forward expeditiously and fairly.

I also thank my colleague, Senator HUTCHINSON from Arkansas, for his work in this arena.

For the benefit of my colleagues who are not familiar with Judge Smith, I am pleased to offer a few words of introduction.

As my colleague from Arkansas mentioned, Lavinski Smith is a lifelong resident of Hope, Arkansas, as many people from Arkansas have been recognized being from Hope. After graduating from high school, Judge Smith moved north to Fayetteville, where he received both his BA and JD from the University of Arkansas in Fayetteville.

Since that time, Judge Smith has enjoyed an impressive career as a practicing attorney, as my colleague mentioned, with great service through the legal services to the indigent, a State supreme court judge, a professor, and, most recently, a member of the Arkansas Public Service Commission.

This would be an impressive list of accomplishments for anyone, but at the age of 43, Judge Smith's record is a good indication that he has many years of productive service in his future.

Since President Bush announced the appointment of Judge Smith last year, I have heard from dozens of Arkansans from across the political spectrum who support his nomination. In fact, my support for Judge Smith's nomination is based in large part on the enthusiastic endorsement he has received from those who know him the best: his colleagues and friends who have firsthand knowledge of his professional and personal attributes, those who have worked with him in the legal field who have sent their recommendations to me.

Those who have indicated strong support for Judge Smith in Arkansas include Arkansas supreme court chief justice "Dub" Arnold and Arkansas NAACP president Dale Charles. In addition, I believe it is important to note that Judge Smith received a unanimous "qualified" rating for this position by the ABA Standing Committee on the Federal Judiciary.

Even though Judge Smith and I may not agree on every issue, that is not the test I apply to determine an individual's fitness for the Federal judiciary. I evaluate judicial nominees based on skill, experience, and ability to understand and apply established precedent, not on any one particular point of view a nominee may hold. Fundamentally, I am interested in knowing that a nominee can fulfill his responsibility under the Constitution in a court of law.

I am satisfied that Judge Smith has met that standard, and I, therefore, thank my colleagues for supporting his

nomination and the cloture motion to move that forward.

The PRESIDING OFFICER. The majority leader.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

PASSAGE OF S. 2673

Mr. DASCHLE. I thank all of my colleagues for the tremendous work done in the past week. I especially compliment the distinguished Senator from Maryland, the chairman of the Banking Committee, for the extraordinary leadership he has shown in getting us to this point. I am sure there were few who have ever guessed this could have passed so overwhelmingly as it did tonight.

That is the accounting legislation. I am very grateful to all who had a significant role to play. I thank the staff of the Banking Committee and so many of my colleagues. I also acknowledge the fine work done by Senator LEAHY on the enforcement aspects of this legislation.

The combination of the contribution made by the Judiciary Committee, along with the Banking Committee, makes this a historic moment for the Senate, a historic moment for corporate governance, and a real recognition that at long last we are going to be rebuilding the confidence and trust we need in our free enterprise system.

We made a contribution in that regard today. I am very hopeful we can get this work done very soon.

It would be my hope, given the President's support for the Sarbanes bill, and Speaker HASTERT's support, as he indicated just last week, that the House consider taking up the Sarbanes bill and passing it free-standing so we could send it directly to the President in time to afford the President the opportunity to sign it very quickly. That would be the quickest way, and given the broad bipartisan support this legislation now enjoys, and given Speaker HASTERT's support for the legislation, I would think this would be a tremendous opportunity to demonstrate in a bipartisan way how quickly we can respond as we did today. But more than how quickly, how effectively we can respond to the needs of our Nation when it comes to restoring that confidence.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Motion To Proceed

Mr. DASCHLE. Having disposed of the banking legislation, it is now our intent to turn to the whole issue of prescription drugs. We will deal with both cost containment as well as Medicare benefits. The bill passed out of the

Labor Committee, S. 812, Calendar No. 491, will be the vehicle for our debate.

It is my intention now to ask unanimous consent the Senate proceed to the consideration of Calendar No. 491, S. 812, to provide greater access to affordable pharmaceuticals at 10:30 a.m., Tuesday, July 16.

Mr. GREGG. This bill was reported out of the committee on which I am ranking member. At the time it was reported out, which was last Thursday—so it has been a very quick turnaround and no report has been filed on the bill—there was an understanding within the committee that there would be two issues resolved before it came to the floor. One involved bioequivalency and the other involved the 45-day rule.

There are other issues with the bill. There are other issues which may require further work, but those two issues need to be resolved before this bill comes to the floor. As I believe was the understanding when the bill was passed out of committee, it would be passed with those being resolved before it got to the floor.

I understand it is being moved to the floor quickly to be the vehicle addressing the other issues involved in drug coverage.

The bill itself has some very strong points in it; I have drafted a fair amount of it so I recognize that. But at this time I have to object to the motion to proceed.

The PRESIDING OFFICER. Objection has been heard.

Mr. KENNEDY. Will the Senator yield?

Mr. DASCHLE. I am happy to yield.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, in regard to the language to which the Senator has referred on the question of the bioequivalence, a whole new section was added, subsection (C) of section 7, dealing with bioequivalency. It was sent out to the good Senator on Thursday evening.

We had indicated if we did not hear back from the Senator or his staff, we would assume that language reflected what was discussed in the course of the markup. We had similar kinds of clarifications with regard to certain procedures and filings.

As far as we are concerned, at least on our side, these particular provisions have been dealt with in the legislation and we are prepared to move ahead with the consideration.

This is extraordinarily important legislation. It relates to not only the quality of prescription drugs but accessibility and affordability of prescription drugs. We are seeing today the significant abuses of the Hatch-Waxman legislation. If we were able to just go back to the full intent of Hatch-Waxman, conforming with that, this legislation would not be necessary. But it is necessary.

The best estimate is it would save consumers \$71 billion over the period of 10 years. It is very important. We ought to be about it. I hope we can get to the legislation and start debating it.

We had a strong bipartisan vote in the committee, and we are ready to go and consider amendments. If there is further clarification that is necessary, we are glad to consider it, but I regret very much we are going to have to delay legislation which is as important as this to our seniors as well as to other Americans who believe they need to be able to get fairness in the consideration of generic drugs.

The PRESIDING OFFICER. The majority leader.

Mr. GREGG. Will the Senator yield for a question?

Mr. DASCHLE. I think I retain the floor. I will be happy to yield to the Senator from New Hampshire.

Mr. GREGG. Yes. That is why I was asking.

The question is this—rhetorical in nature. Unfortunately, in order to reach an agreement, you have to have both sides agree. Senator FRIST, who is concerned about the bioequivalency, has not agreed to the language. I have not agreed to the 45-day language. I am sure it could be worked out, and worked out rather promptly, so we would not have to go through the exercise of delaying this bill, and I would be happy to do that. But until we have worked out that issue, I have to reserve my rights and object to the proceeding.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, obviously, I am disappointed. I looked at the vote. I think it was 16 to 5—similar in magnitude, on a bipartisan basis, to the Sarbanes bill that passed out of the Banking Committee. We ended up with a unanimous vote on the floor.

I hope we can get the same kind of unanimity ultimately on this legislation. But a 16-to-5 vote would seem to me to indicate very strong bipartisan support for this legislation as well. Senators are welcome to offer amendments. We oftentimes negotiate issues on the floor and accommodate Senators' concerns, both in the managers' amendment as well as in individual votes. So we will certainly have that opportunity once again.

I have no doubt if there is an interest in resolving these outstanding questions, we ought to be able to do so. But we do need to move on. That was my hope, that we could lay the bill down and begin the debate and have these discussions.

CLOTURE MOTION

Mr. DASCHLE. Mr. President, I have no choice, of course, but to move to proceed to Calendar No. 491. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented

under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on the motion to proceed to Calendar No. 491, S. 812, the Greater Access to Affordable Pharmaceuticals Act of 2001:

Senators Harry Reid, Jon Corzine, Byron L. Dorgan, Ron Wyden, Maria Cantwell, Paul Sarbanes, Debbie Stabenow, Dick Durbin, Thomas Carper, Tom Daschle, Jack Reed, Daniel K. Akaka, Kent Conrad, Zell Miller, Charles Schumer, Ernest Hollings, and Hillary Clinton.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I ask unanimous consent that Senators Lincoln and Hutchinson have the opportunity to speak for up to 8 minutes each with respect to the Smith nomination, to appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will include in this part of the RECORD the sections relating to the bioequivalence. It is on page 53. The effect of the section is:

This section shall not be construed to alter the authority of the Secretary of Health and Human Services to regulate biological products under the Food, Drug, and Cosmetics Act. Any such authority shall be exercised under that Act as in effect on the day before the day of enactment of this Act.

Effectively, we are restating the current law.

I will also have printed in the RECORD the language which was questioned earlier—I think an explanation and how it conforms with what we had agreed to in terms of the exchange.

If it is necessary, we will be glad to work with our friends and colleagues on the other side during the remainder of the evening and certainly tomorrow to try to find out, if this language is not satisfactory, what language would be satisfactory.

We did have areas of differences, but not with regard to these two particular provisions. There was an agreement on it. It was just trying to find the appropriate language which would reflect the opinion of the committee. We believed we had done so, and we are glad to work with our colleagues on the other side. If that is not the case, we are glad to make those adjustments and changes so we can begin the debate on this extremely important piece of legislation.

We recognized when this was introduced—and I give great respect to my friends and colleagues, Senator SCHU-

MER and Senator MCCAIN, for developing the basic legislation which was the core of the debate we had in our committee—it was modified to try to respond to some of those who had some concerns. We had Senator EDWARDS and Senator COLLINS in a bipartisan way develop an approach which had strong bipartisan support. We had good discussion and debate in our committee on this matter and a strong committee outcome.

This is a very important piece of legislation. It is one which deals, not so much with the availability and the accessibility of drugs but as to the question of whether they are going to be reasonably affordable alternatives to brand name drugs and whether we are going to follow the agreement that was made at the time of the Hatch-Waxman legislation, which was enacted, which really was based upon the idea that we would have new breakthrough drugs rather than rehashing of older drugs.

What we have seen is in recent times those who have the patents are using the Hatch-Waxman legislation in ways that work to the significant disadvantage of the consumers in this country. It is to change those abuses that this legislation has been developed. It is very important. We will continue to work with our colleagues to try to clarify any of the language that needs to be clarified. We look forward to the debate at the earliest possible time.

I thank the majority leader for giving the attention and priority that he has to this legislation. I think for most of us, as we travel around to our constituencies, we find the availability, the accessibility, and the cost of prescription drugs are on the minds of just about every family in this country. You don't have to be sick, although that is certainly something that every person who is ill understands very well. But it is the total family. So much of the challenge and the burden of health care costs goes to all the members of the family.

As we are particularly in the period of what I consider to be the life-science century where we have enormous opportunities for major breakthroughs and extraordinary kinds of positive impact on the lives of people in this country, we must make sure these prescription drugs and the generics are going to be available and accessible. The faster that we have a chance to engage in this debate and pass this legislation, the better the health of the American people is going to be.

I note on the floor the prime sponsor, the Senator from New York, Mr. SCHUMER. He has probably heard that there was objection to taking up this legislation because of certain language clarifications. We reviewed and put in the RECORD clarifications which, quite frankly, conform to the issues that were raised. They are not areas of dif-

ference but areas of clarification. We sent those to our colleagues last Thursday night indicating that we understand they would be satisfactory unless we heard back. We did not hear back until just minutes ago.

We want to work with our colleagues. We certainly invite the Senator who has been such a driving force on this issue. We hope that overnight and certainly in the early morning we could have a clarification which would remove the reasons for not proceeding; that at some time tomorrow we could begin the debate in full and move ahead to considering this legislation.

Mr. SCHUMER. Will my colleague yield for a question?

Mr. KENNEDY. Yes.

Mr. SCHUMER. I thank my colleague from Massachusetts who has been such a great leader on this issue. I guess, as I understand it, our friend from New Hampshire has objected to moving forward.

We have spent a very long time talking about this issue—of course the issue of availability of drugs, and of course the issue of the cost of drugs but even the specifics of the generic drugs.

We had extensive hearings on this bill 10 weeks ago or 8 weeks ago. There has been a great deal of discussion. This is not a last minute something that someone wrote on the back of an envelope and said here, take it. There has been tremendous discussion on this issue. There are differences of opinion. That is fair. That is legitimate. That is why we have a Senate.

But to prevent the bill from moving forward when the cost of drugs goes through the roof, when the people are clamoring for us to bring down those costs, and when there is a proposal that passed in a very bipartisan way in Senator KENNEDY's committee, it just strikes me as missing the forest for the trees—the forest being the great need to do something and the trees being the details that we should be debating on the floor in open debate.

I will just say to my colleague that I am as disappointed as he is—maybe not quite as disappointed; nobody works harder than he does on bringing these issues to the floor, but almost as much.

Is this something that is brand new? Where do these objections come from? These are issues that we have discussed and agreed on. It is my understanding that the Senator from New Hampshire simply didn't have the votes when he decided not to bring forward his amendments when the committee marked up.

Is that a correct or an unfair characterization?

Mr. KENNEDY. The reason the Senator objects is in behalf of the Senator from Tennessee who wanted clarification in terms of the ability of the FDA to regulate biological products. We have included a new section on page 52.

This section shall not be construed to alter the authority of the Secretary to regulate biological products under the FDA act. So we added that just for clarification.

It is difficult for me to understand why that doesn't work.

Mr. HUTCHINSON. Will the Senator yield?

Mr. KENNEDY. I will in just a moment.

Then there was another question with regard to the timing and procedures to be able to bring civil action. We added on page 35 a new section for the Senator from New Hampshire.

As I mentioned earlier, we don't have a difference. We would be glad to work through the evening, if we had the opportunity to proceed to this on tomorrow.

If this language isn't clear—we are not facing a difference on it. What I am troubled by is the fact that there is objection to moving to the legislation and moving to it in a timely way when it is legislation which is of such importance and relevance to every family in this country.

I see my friend from Michigan on the floor, but I will yield to the Senator from Arkansas.

Mr. HUTCHINSON. I ask the Senator from Massachusetts. I pose the question because as a member of the committee and someone who was very glad to join in a positive way the bipartisan vote for the legislation, it was my clear understanding as we came to that decisive vote that a point was reached in working out the two outstanding issues which Senator GREGG mentioned in his objection. There is no desire on anybody's part to slow this legislation down. But it was with the understanding that there would be that agreement.

While it seems the issues are relatively minor and that it can be done in a very expeditious way, the fact is that Senator FRIST and Senator GREGG have not yet signed off on that language.

So I can't stand here and listen to my colleagues being characterized as obstructing the progress of this legislation when in fact they want to honor the agreement that was made at the time that bipartisan vote took place.

I ask the chairman if that is his recollection of the vote that occurred.

Mr. KENNEDY. No. The Senator has not understood correctly. I will stand by the record. There was never a conditioning of reporting this out for an agreement. I have been either chairman or ranking member for some period of time. I know those words are stated. But there was never a conditioning of reporting out based upon getting agreement. I would not have accepted that. This is too important. There was not a difference.

You will find that the language we have included with regard to biologics

basically is a restatement of what Senator FRIST said. If it isn't, I am glad to make that kind of adjustment. What we did say—as we say in virtually the passage of all legislation—is that we will authorize technical corrections to be made by the staff.

If you have an agreement in principle, you do not have a difference. We have an agreement in principle.

If this language isn't carried forward—and it is language which I believe should be—give us the language, and we will work on it tonight. But I think to delay something that is as important as this is not justified. This subject matter is too important to families in my State, as I am sure it is in Arkansas. That is why I am surprised the Senator from Arkansas is standing with the Senator from New Hampshire and urging delay of this legislation, because it is of such importance. I welcome the fact that he supported it, but we want to get on with this legislation. And I think the sooner we can get on it, the better.

If the Senator wants to work with us and be the agent for the other Senators and work through the evening, we would welcome his intervention in doing that because we want to get on it.

I would be glad to yield to the Senator from Michigan. Then I would be glad to yield the floor and let the Senator speak.

Ms. STABENOW. I thank you the Senator.

First, I commend our chairman, Senator KENNEDY, for his work in bringing this important bill to the floor. I also commend Senator SCHUMER for his leadership.

I say to my friend from Massachusetts, it is my understanding the leader, because of the importance of the issue of not only lowering drug prices for everyone but providing Medicare coverage for prescription drugs, has actually allocated up to 2 weeks on this subject. I would assume we would have ample opportunity to work out any issues and problems that colleagues would have on the other side of the aisle.

But the clock is ticking on the 2 weeks. The sooner we can get to the bill, the sooner we can begin to move through a number of different amendments to be able to get this bill in good shape, to be able to deal with a number of issues, such as those that deal with increasing competition and providing Medicare coverage, and so on.

This is so critical that our leader has, in fact, allocated 2 weeks. So I am very surprised that our colleague from New Hampshire would stop even the beginning of the debate when he knows that it is not a 1-day debate. We are talking about having 2 weeks and as many hours as it takes in that time to be able to work out all of the kinks and to be able to get it right.

I know, coming from Michigan today, working and being in Battle Creek at a senior center and in Kalamazoo at a senior center, that they are watching us very closely. We have had a lot of talk, and if talk bought medicine, people would have a lot of medicine.

It is time to act. I commend the chairman of the committee for acting. I am looking forward to working with him.

Mr. KENNEDY. Mr. President, I will yield the floor in just a moment. I want to be very clear on the RECORD; that is, that the language was provided both to Senator FRIST and Senator GREGG on Thursday afternoon at around 4:15. The first I have heard there was objection to it was 5 minutes before the majority leader's request. I did not hear any objection to it Friday. There was not any objection to it Saturday. There had been no objection to it today, Monday.

It seems to me that if there are objections to it, we ought to be able to clarify the language and move forward it. If people have objections to this legislation, let's hear it. Let's debate it.

I pay special tribute to Senator SCHUMER and Senator MCCAIN. Seniors have been paying too high a price for too long. This is going to make a difference. We have delayed too long in addressing this issue.

So I indicate that we are prepared to work on the language over the evening or tomorrow. But we believe we ought to get about the business of dealing with this legislation.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I will be brief.

First, a specific point. One of the objections was on the language for what we call bioequivalence. In other words, what makes the drug the same drug? I am not a member of the committee, but I sat there as Chairman KENNEDY presided. As I recall, there was a consensus on that issue, which was, let us codify what the FDA does now.

That is what the language was supposed to do. There was not supposed to be a change. There was not supposed to be a wrinkle. There was not supposed to be anything different. And now, all of a sudden, we are hearing an objection based on that provision. I do not quite understand it because there was some discussion early on in the bill that the Senator from Arizona and I introduced about whether bioequivalence was the same. We intended it to be the same, but we were silent. Adding this provision just clarified it.

So there is no new change here, none. To not move forward on the bill on that basis, when there seems to be a complete meeting of the minds of what to do, does not make sense.

The second point is this, and both my colleague from Massachusetts and my able colleague from Michigan, who has

been such a leader on this bill, have made it clear: The people are waiting. Every day, every minute, someone—a senior citizen, a family with a child who is ill—approaches the prescription drugstore counter with trepidation wondering what that bill will be.

They want the best drugs for themselves and their loved ones. Yet they are afraid they cannot afford it. They are afraid it means not paying the rent. They are afraid it will mean not buying gasoline for their car.

Here we have a solution. I would not say it is the most breathtaking solution. I would like to see prescription drugs added to Medicare. We are going to have a big fight about that. But it is a solution that makes a real difference, that reduces prices on a large number of drugs, that has some consensus, that does not get into the free market versus price control argument that has plagued us as we have tried to come to some kind of agreement.

So we have a proposal. We are ready to debate it. The majority leader, realizing its importance, has given us plenty of time. And the first thing we hear is objection to moving forward.

Again, as Senator KENNEDY has said, I am willing, as a sponsor of the bill, to be amenable. The more, the merrier. I do not want a partisan victory. I want to get something passed. We have spent a long time trying to work this out, and it is complicated. We know that. But when I hear the first thing done is objection to proceeding—as opposed to somebody calling up the chairman or myself and saying, what did you really mean by this? Shouldn't we dot the i's, cross the t's, and put together an amendment?—I get a little worried.

So I hope this is not an indication of anything in the future. I hope this is an indication that we can try to come together, despite some of our differing views, to work on how to reduce the costs of these wonderful drugs that are so expensive and together bring up a good bill.

With that, Mr. President, I yield the floor.

Mrs. LINCOLN. Mr. President, I rise to applaud the majority leader for his attempt to bring forward this possible solution to help our elderly address the enormous problem that seniors face in drug costs and in getting prescription drug care, to use that bill and that tool of generics and others to try to assist our seniors in dealing with the phenomenal cost and concerns they have in being able to provide for themselves the prescription drugs they actually need for the quality of life we all know they deserve.

We all have parents and grandparents, we have neighbors and loved ones who are suffering from the unbelievable dealings of the increase in cost of prescription drugs. For us in Arkansas, where we don't have many tools at all; we have lost all of the

Medicare+Choice plans that served Arkansas. The last two or three left in December, none of which provided a prescription drug package, which means our seniors in Arkansas are basically subsidizing other seniors across this country in their tax dollars. Other seniors in other areas, where a Medicare+Choice plan fits can actually get a prescription drug package because our seniors are subsidizing that. So our seniors in Arkansas are paying top dollar, more than you or I or anybody else who has insurance or who has a program like Medicare+Choice or something else, a Medigap program that is helping to pay for that, are paying more than anybody else for prescription drugs.

That is unheard of. Sixty percent of our seniors in Arkansas tend to need more prescription drugs because, unfortunately, their availability to health care is less. The other thing is their availability to prescription drugs out in rural areas is a lot more difficult. These are people who need assistance. They don't need, as Senator STABENOW mentioned, a lot more discussion, a lot more talk, and a lot more promises. What they need is action.

Unfortunately, what happened tonight was a roadblock that would prevent the kind of action we need in moving forward. We have 2 weeks to debate and talk about the initiatives here for the generics bill and some of the other proposals for prescription drugs but to move this debate forward. That is what seniors are waiting on; they are waiting on a solution. But more importantly, they are waiting on us to begin the debate. Unfortunately, that is what was stopped tonight.

I hope we can all come together and work out whatever differences they may have found from the committee, a bill that passed out in a bipartisan way, but work those details out, hopefully tonight, so maybe we can bring forward, without having to go through the unusual procedural cloture motion to bring something up, that we can begin the debate in earnest and begin to honestly look at the ways we can help the seniors of the Nation.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ACCOUNTING REFORM

Mr. BROWNBACK. Mr. President, I wish to address the body on an issue of some significant importance to the country. First, good business was done by the Senate today dealing with the

accounting situation, the financial trust crisis that we have going on in our country with some of the heads of corporations. I think we have taken a positive step on dealing with that problem.

NORTH KOREA

Mr. BROWNBACK. I want to address the body quickly and briefly but importantly on what is happening in North Korea and to North Korean refugees coming out of that country.

Prior to the July 4th recess, my colleagues, Senator KENNEDY and Senator ALLEN, and I brought to light the plight of North Korean refugees in a hearing before the Immigration Subcommittee. The hearing capped a month of activity that involved the passage of resolution on North Korean refugees in both the House and the Senate. Both resolutions strongly urged the Chinese government not to repatriate North Korean refugees back to North Korea. The House version passed by 406 to 0 and our resolution passed by unanimous consent on June 19, 2002.

At our hearing, we heard some very moving testimony from Ms. Lee Soon-Ok, a North Korean defector who suffered more than five years in a prison camp. We also heard from Ms. Helie Lee, a Korean American writer whose memoir, *In the Absence of the Sun*, movingly highlighted a largely hidden and painful secret shared by hundreds of thousands of Korean Americans and millions of Koreans—more than 50 years of separation among family members and loved ones since the outbreak of the Korean War. Few other country and its people has suffered as much.

In addition, Mr. President, I urged Secretary Powell in both a formal consultation and by correspondence on the need of our Department of State to allow the processing of North Korean refugees together with the Chinese government and the Beijing office of the United Nations High Commissioner on Refugees.

The plight of North Korean refugees, of course, is merely a symptom of a far more pressing issue—how to deal with one of the most repressive and totalitarian states in the world, the isolated country of North Korea ruled by one man, Kim Jong-il.

Although news regarding the efforts of many in the NGO community and countless others working in North East China have been slowly filtering into the West, the true nature of the North Korean regime is largely hidden and inaccessible.

It was not until the showing of a dramatic video of five members of the Han-mee family being forcibly removed from the Japanese consulate in Beijing that the world began to pay attention. Since then, several other asylum bids

have drawn the attention of mainstream media, including the horrifying story of baby-killings in North Korean prison camps reported in the New York Times and based on the testimony of Ms. Soon Ok Lee, who, as I indicated before, testified at our hearing.

In June 2002, ABC Nighttime broadcast a three-part documentary of the North Korean refugee in China by Ms. Kim Jung-eun whose schedule did not permit her to testify before our committee. I was told by ABC News staff that thousands of Americans have responded to the broadcast with e-mails in disbelief and in rage against the North Korean regime. I understand that the three programs drew high response from viewers.

It is estimated that between 2 to 3 million people died of starvation and persecution in North Korea from 1995 through 1998 and that up to up to 300,000 North Korean refugees in China are living a precarious and dangerous life, hiding by day, begging by night, in an effort to avoid being captured and repatriated back to North Korea by Chinese and North Korean agents brazenly operating inside China.

Of the 300,000 refugees, only 518 refugees successfully defected to South Korea this year through June 2002, many of them by taking refuge at foreign missions in Beijing and in Shenyang, China.

These actions by the Chinese are simply unacceptable, not only to basic principles and tenets of international human rights, but also by the fact that China is a signatory of the International Refugees Convention. Hundreds of South Korean, Japanese and western NGO's are working inside China to help the refugees, risking their lives and capture by the Chinese police. A German doctor who also testified before our committee worked in North Korea for a year and a half but was evicted by the North Korean regime for disclosing the tragedies of the NK people. People like him and others on the ground in China and Korea have been some of the most vocal and active in their effort to make the whole world aware of the conditions in North Korea and China. Many NGO's have taken care of refugee families full-time with their own money.

I've met with many of these people, all of whom are now effectively shut down from operating in China. And what they tell me over and over is that they simply cannot not ignore what they saw. All of them said to me that they could not look away and ignore the refugees, many of whom were too scared to even beg for help.

These NGO's from South Korea, Japan, the U.S., France, and Germany, first reported the tragedy of the North Koreans to the outside world. These NGOs who are in the best position to know report that food aid from South Korea, the U.S., and Japan, simply are

not reaching the dying people. As I mentioned in a previous statement, I believe it is absolutely necessary to condition stringent monitoring of the delivery of food aid by NGOs in an effort to determine that they are being distributed appropriately. Much of this aid is apparently being diverted to feed the million-plus North Korean army and to reward the elites and the inner circle around Kim Jong-il in Pyongyang. For this reason, many well-respected NGOs, including Doctors Without Borders have withdrawn from North Korea.

More troubling is that these NGO's have confirmed reports of more than a dozen prison camps in North Korea, where the prisoners are starved, forced to work at hard labor, and tortured to death.

Aside from the troubling refugee issue, we cannot forget that North Korea is a threat to regional and global security. North Korea continues its procurement of materials and components for its ballistic missile programs from foreign sources, especially through North Korean firms based in China. In addition, North Korea has become a "secondary supplier" of missile technology and expertise to several countries in the Middle East, South Asia and North Africa. The CIA's 2001 report assesses that North Korea is capable of producing and delivering via missile warheads or other munitions a variety of chemical agents and possibly some biological.

Furthermore, North Korea refuses to carry out its obligations under the Nuclear Nonproliferation Treaty, NPT and the 1994 Agreed Framework. Initial IAEA, International Atomic Energy Agency, inspections and intelligence reports in the early 1990s triggered concerns regarding a clandestine nuclear weapons program. U.S. and foreign intelligence have concluded that the DPRK government of North Korea probably has sufficient plutonium for 1 to 5 nuclear weapons. Despite its obligations under the NPT and the Agreed Framework, North Korea continues to refuse inspections.

So while it would be reason enough to continue our pressure on North Korea and China for the humanitarian violations alone, there are also the pressing security threats that the current North Korean government poses to U.S. interests which must be dealt with. While refugee and nuclear weapons issues will necessitate very different responses—the thing they share in common is the alarms they raise about ignoring the North Korean problem in all its complexity.

While I am mindful of the diplomatic sensitivities regarding the need to reach out to the North Korean regime, there comes a time when we have to confront the truth and tell the truth. Moreover, reconciliation efforts have yet to yield any results. There was

much hope after the historic meeting between President Kim Dae Jung and Jong-il in June 2000, that such a gesture would bring about some meaningful change.

As the naval skirmish last month and the continuing problems with the North Korean refugees show, the North Korean issue has simply worsened. It's time for the North Korean regime to immediately allow international monitoring of food aid into the country and to work with the international NGO community to alleviate the suffering of its people. That may at least stem the tide of refugees crossing over into China and being prey to human traffickers and other difficulties faced by refugees. But more fundamentally, the North regime itself must begin to change itself and join the rest of the world in giving hope and freedom to its people.

The U.S. can not afford to give into the slow-walking of reforms in North Korea. For our own security, for the stability of the region and for the sake of basic human rights—North Korea must remain a top policy focus for U.S. foreign policy. We must keep clear and constant pressure on NK and neighboring countries to bring new leadership into being. This is a daunting task, but one that we can not afford to shirk.

We have significant refugee flight taking place out of North Korea. We have had hearings in the Senate Immigration Committee on this particular topic. We have a humanitarian crisis, probably the largest in the world, that is taking place. We estimate that there are between 2 to 3 million people who have died of starvation and persecution in North Korea from 1995 to 1998, in a 3-year time period—2 to 3 million people. Nobody knows for sure because outside observers are not allowed.

This Nation is the most repressive, closed regime in the world today. The world community is feeding those who are left in North Korea. The United States and a number of other donating countries are feeding about half of the population in North Korea. Much of the food aid we are giving North Korea is not getting out to where it is needed. It is still held by the leadership in that country.

We estimate that some 300,000 North Korean refugees are living in China today in a precarious and dangerous lifestyle. They are hiding by day and begging by night, trying to keep from being caught and sent back into North Korea, which is what China does. If they catch people from North Korea, they treat them as economic migrants and ship them back into starvation, refugee camps, persecution, and probably death.

Of the 300,000 refugees in China, only 518 refugees have successfully defected, gotten out of China and into South Korea or into another third country—

that is this year, through June of 2002. Many of them have done it by taking refugee status at foreign missions in Beijing and Shenyang, China. They have rushed embassies in those communities, gotten inside, asked for political asylum, it has been granted, and they passed to South Korea, generally through a third country—many times through the Philippines. I say only 518 this year. If you look at the history since the Korean conflict has ended—now 50 years ago—there have been only several thousand who have defected from North Korea into South Korea. Generally, each year, it has been a trickle—maybe in the teens.

The North Korean regime has been able to keep people in a dogmatic system, saying this regime is the best in the world and saying they are being fed by the President and the leadership. Now that trickle is beginning to really move. They believe it may be up to a thousand; there may be a thousand or more defecting this year alone, which is a massive number considering the history.

Mr. President, the issue I want to bring to light is the role of China and the importance of China in allowing these people to live. If China will allow these people to pass through, or if China will allow the U.N. Commission, or the High Commission on Refugees to establish a processing center to determine if these are people who need to be allowed to pass into third countries, thousands if not millions of people will not have to live in North Korea. If China does not, you are going to see thousands, possibly millions more, die of starvation, persecution, and other causes.

China has a choice. They will choose what the status is going to be, whether these people will live or die. They need to be confronted directly and asked to let these people live, to let them pass through. Let them pass through to Mongolia, to South Korea, to other places; but don't send them back. If they don't want to have them stay in China, allow some place for them to go through, such as a refugee center. But, China, make the choice. It is your responsibility and their blood that will be on your call as to what you determine you are going to do in this particular situation.

North Korea is a country that is difficult for us or anybody else in the world to influence. China is the only country in the world that has some influence on North Korea. So it is going to be their choice as to whether these people will live or die.

North Korea needs to change its regime. I don't need to remind Members of the Senate of the other problems we have with North Korea. They are a supplier of weapons. North Korea has become a secondary supplier of missile technology and expertise to several countries in the Middle East, South

Asia, and North Africa. The CIA's 2001 report assesses that North Korea is capable of producing and delivering via missile warheads, or other munitions, a variety of chemical agents and possibly some biological agents as well.

Mr. President, I draw this to the attention of my colleagues because we need to allow refugees to pass and come into the United States as well. We will be bringing this issue up again in front of this body. I hope we will put pressure on China, which doesn't have a good human rights record, so that they can act to save people's lives—if they will only allow these people to pass through.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

PRESCRIPTION DRUG COVERAGE FOR SENIORS

Mr. WYDEN. Mr. President, I am very hopeful the Senate will be able to get on the issue of prescription drug coverage very soon. This is an urgent issue for seniors and the people of this country. I want to spend a few minutes tonight talking about why this is so important and what I think the real challenge is to the Senate in the next couple of weeks.

Mr. President, for the last quarter of the 20th century, the standard Government line on prescription drugs for older people was a little bit like the marquee of the big, old-fashioned theaters you would see downtown. The marquee sign was all lit up and it always read: "Coming soon." But, for seniors, that "soon" just never seems to arrive.

Years ago, when I was director of the Oregon Gray Panthers—I had the honor to be co-director for about 7 years before I was elected to the House—I got many of the questions then that all of us in the Senate get now. Seniors asked then, just as they do now at our town meetings, if anybody in Washington is ever going to provide some real help in paying for prescription medicines.

I am very pleased that Senator DASCHLE has made this a priority issue for the Senate. He has made it very clear to me that he is willing to work with anybody in the Senate to finally get this job done and to get it done right.

I think we know what this issue is all about for seniors, and that is the cost of medicine and coverage for medicine. In effect, cost and coverage really go hand in hand because if you are able to get seniors coverage, but you have not held down the cost, then you are not getting a whole lot for the Government's money. Of course, if you take steps to control costs, but many seniors still don't have the ability to meet even those costs, we will continue to have more and more older people fall between the cracks.

So it is important that the Senate addresses both of these issues and addresses them right. I want to talk for a few minutes about what I think some of the key components are first of holding costs down. First, I think it is important that it be done with bargaining power in the private sector. In discussing this—and we will do this over the next couple of weeks—I want to describe what I was involved in back in the 1970s when I was co-director of the Oregon Gray Panthers.

I remember one rainy night standing with a swarm of seniors around a labor union pharmacy that was barely bigger than a pill box. We were kicking off a program that night where seniors, through labor unions and others in the community, had been able to bargain with pharmaceutical concerns, and seniors were able to get their drugs at cost, plus a small monthly fee. It worked for the company, it worked for the seniors.

The community pulled together, and in this little pharmacy, which I have said was really no bigger than a pill box, we saw that you could set up bargaining power right in the private sector. I think tonight, how many more older people in this country need the benefits of bargaining power today? So I am very hopeful that on this question of cost containment we focus on bargaining power.

Senator DASCHLE made it clear that it is a priority to him. He will work with all our colleagues to make sure that is in a final bill and that we remember that across this country, and that what happened in Eugene, OR, more than 25 years ago has been duplicated elsewhere, and that what happened there is all about making sure people could have bargaining power in the private sector so that senior citizens can afford their medicine.

The underlying legislation that is going to give all Americans—not just seniors, but all Americans—quicker access to generic drugs is another step toward private sector cost containment. I commend my colleagues—Senator SCHUMER, Senator MCCAIN, and others—who have worked so hard on this legislation.

After I had the honor of serving as codirector of the Gray Panthers, I served on the Health Subcommittee in the House of Representatives, and we had a chance to work on what I thought was historic legislation. It was drafted by our distinguished colleague, the senior Senator from Utah, ORRIN HATCH, and Congressman WAXMAN. It struck a good balance between holding down costs for seniors by making it easier to get access to generic medicine, while at the same time promoting innovation and research in the breakthrough products that are so important to seniors in this country.

I believed the Congress got it right in that Hatch-Waxman legislation and

that the legislation we will be considering over the next couple of weeks is going to continue that kind of balance. We may try to refine it, and I am certainly open to that, but I think it will continue that crucial balance that was put together in the historic Hatch-Waxman legislation of helping to contain the costs for seniors and others through access to generic medicine, while at the same time promoting the new cures, the new research, the exciting breakthrough products that are so important.

What I have tried to contribute to the Senate on prescription drugs has been an effort to come up with solutions that are going to work in the real world for Americans trying to navigate our health care system. In the past two sessions of the Congress, Senator SNOWE and I have introduced bipartisan legislation. Tonight for just a few minutes, I want to express my appreciation to Senator DASCHLE and others in the leadership because the bill they will try to offer when we get to the question of Medicare coverage for seniors has been a genuine effort to address each of the concerns Senator SNOWE and I have focused on in our legislation.

When we get to that question, we are sure to have Members say this country cannot afford such coverage. They are going to say that the costs have already accelerated today; that we are having a demographic tsunami coming in just a few years, with millions of more older people in 2009, 2010, and 2011 retiring, and they are going to say the country cannot afford for the Congress to cover prescription drugs for older people.

I want to make it clear that, in my opinion, the Congress cannot afford not to cover senior citizens, and I want to give a short example of why this is so urgently needed.

Not long ago, a physician in Hillsboro, OR, in the metropolitan area surrounding Portland, wrote to me that he put a senior citizen in a hospital for a 6-week course of antibiotics because it was the only way the patient could afford the treatment.

Of course, when the senior goes into the hospital, Medicare Part A, which covers institutional services, picks up the bill, no questions asked. The check gets written by the program to cover the costs in the hospital. Of course, that same condition could have been treated under Medicare Part B, the outpatient portion of Medicare. Our assessment is that to spend 6 weeks in an Oregon hospital probably cost the Medicare Program \$40,000, \$50,000, \$60,000, to pick up those huge costs for an individual who had to be hospitalized to get the benefit, whereas it probably would have cost a few hundred dollars to have treated that person on an outpatient basis under Part B of the Medicare Program.

When we hear in this Chamber and elsewhere that America cannot afford to cover prescription drugs for seniors, I am going to do my best to remind people about what I heard from that physician in Hillsboro, OR, and it has been repeated all over this country, because I think it is clear we cannot afford not to have this important program.

We know what needs to be done in the next few weeks. We ought to promote easier access to generics. It is one of the key parts of the equation of doing this right. We ought to make sure that seniors have bargaining power in the private sector.

The model that will be used in the legislation Senator GRAHAM and Senator MILLER have drafted incorporated much of what I and Senator SNOWE have been concerned about, and that is to make sure that bargaining power is structured in the private sector so that costs are not shifted to millions of other Americans. There is no Senator who wants, in the effort to come up with a prescription drug proposal for seniors, to end up shifting costs on to their children and their grandchildren. That is why private sector bargaining power, something about which I and Senator SNOWE have felt strongly, and Senator DASCHLE has graciously worked with us on, is included in what the Senate is going to have a chance to vote for.

Those are some of the key questions. I will wrap up by way of saying that as we move into this discussion over the next couple of weeks, we have one principal challenge as we try to pass a comprehensive bill and then have it go to discussions with our colleagues in the House, and that is to make it clear to the country that this is a real effort to help, and not just an exercise in election-year rhetoric. The seniors who have come to us at our meetings have watched this Congress and other Congresses debate this topic and come back to it sporadically from time to time. They want to know: Is this on the level? Is this a real effort now to do the job right? I believe it is. I believe the commitment is there now and that this is not just an election-year exercise.

There are key principles. We have an opportunity to address the questions of cost and coverage in a way that can win the support of colleagues on both sides of the aisle. The question of private sector bargaining power, ensuring that the program is voluntary so that any senior who is comfortable with their existing coverage can continue it if they choose to do otherwise—these are principles that are going to be in the Graham-Miller proposal that can win the support of colleagues on both sides of the aisle.

These are principles that can bring the Senate together. Let us make sure that at the end of this 2-week period,

when we have had the opportunity to help seniors and help all Americans with respect to the cost of medicine, we do not let this opportunity slip away once again.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business, with Senators allowed to speak therein for a period not to exceed 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

IN MEMORY OF LEW WASSERMAN

Mr. DASCHLE. Mr. President, this is not a happy day for America. On this day occurs a memorial service for Lew Wasserman, who died in his 89th year. He is one of the two giants of the American free enterprise system who for over 60 years helped shape and build one of America's greatest export trade prizes and an extraordinary engine of economic and creative growth: The American film industry. He was a pioneer of great intellect and innovation. He could see what others could not, for he had the gift of vision, both rare and valuable.

He was more than that. He was a patriot in a shining sense of that word. He cared about his country and all who live in it. He believed in the American free market system. He was appalled at the behavior of those executives who knowingly soiled the honor and integrity of that system.

He and his wife, Edie, believed in young people and lavished millions of dollars in scholarships on them at a dozen universities on a continuing basis. His heart and his purse went without hesitation to the Motion Picture Home and Hospital, giving it millions of dollars so that those in the movie industry, hard-working craftsmen, artisans, and creators, when they became old and sick, could be cared for.

More millions were conferred anonymously. Lew never sought the spotlight because fame was not his goal nor publicity his guide. He had an old-fashioned view about loyalty. He never turned his back on a friend nor did he ever break his word once given to an individual, to a cause, to his country. Those who worked with him revered him because he never considered himself their leader but, rather, one who

served his employees and their company.

There are many in this Congress today who can bear personal witness to his commitment to be of service to the Nation. He was the personal friend of Presidents from John Kennedy, Lyndon Johnson, to Bill Clinton. I daresay if God granted him the time, he would have known and served George W. Bush. To me, personally, he was invariably kind, thoughtful, responsive to my requests for counsel and his wise judgment. He never asked me for a thing. He was, to my mind, the exemplar of the man who wants to give back more than he gained, to give back to his neighborhoods, his industry, to the young whose hopes are slender, to offer more than he has asked for, to strive always to try to make the future of this country a favorite and favorable place for generations of Americans yet unborn.

He shunned tributes, but he was proud of the Presidential Medal of Freedom bestowed on him by President Clinton. If he had not just bought Universal Studios, he would have accepted the Cabinet post offered to him by President Johnson. He is truly one of those unique human beings whose like is seldom found, which is why his loss is so profound to this Nation. I miss him. I thank him for being my friend. And I wish his family Godspeed during these difficult times.

I yield the floor.

Mrs. CLINTON. Mr. President, on June 3, our Nation lost one of its finest citizens. Lew Wasserman, long time president and chairman of MCA and friend of Presidents, died at the age of 89.

Lew came from humble roots, but never forgot those less fortunate than he. An entertainment industry visionary and modern day mogul, Lew Wasserman, along with his wonderful wife, Edie, used their position and resources to support hospitals and cultural institutions; to provide scholarships to young people; to fund research to prevent blindness; and to support political candidates in whose leadership they believed. In a rough and tumble industry, he believed in fairness and thoughtful mediation, and he cared passionately about our political system and democratic ideals.

Lew Wasserman was a mentor and role model to an entire industry and a great friend to Presidents of both parties, including my husband. I was honored that he was my friend; but, even more than that, I was grateful for his many contributions to America.

On September 29, 1995, my husband awarded Lew Wasserman the Presidential Medal of Freedom. In his remarks, the President said of Lew:

I have met a lot of philanthropists and successful people in my life. I don't know that I ever met anybody that more consistently every day looked for another opportunity to

do something for somebody else, to give somebody else the chance to enjoy the success that he had in life. I thank you, Lew Wasserman.

UNIVERSITY OF DREAMS

Mr. DASCHLE. Mr. President, I recently attended the ribbon-cutting of an exciting new store in Bristol, SD. It was a joyous occasion. The entire town turned out and it looked as good as I've ever seen it look in more than a quarter-century.

The "South Dakota Made Store" will sell foods, crafts, and art from all over our beautiful State. It is an exciting addition to Bristol and northeastern South Dakota.

The program included a recitation of an inspirational poem by its author. He is a very young man whose name is Ryan A. Anderson. The title of the poem is "University of Dreams."

I know my colleagues will be as impressed with his beautiful words as I was. His talent and extraordinary ability as a poet of any age is an inspiration to us all.

I ask unanimous consent that "University of Dreams" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNIVERSITY OF DREAMS

(By Ryan A. Anderson)

One seed can bear a stunning bloom
One spice can blend some revitalizing perfume
One individual can devise an entire scheme
One coach can pilot a basketball team
One gift can heal a hurting soul
One smile can let another's day unroll
One picture can explain an entire stance
One song can exchange for your last dance
One god can create massive seas
One god can produce ceaseless trees
One god can establish geographical extremes
One god, our God, can establish a
University of Dreams

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred June 10, 2000, in Albuquerque, NM. A man in a minivan yelling obscenities ran down participants in a gay pride parade. One victim was hit twice in the knees and thrown off the hood. The perpetrator tried to swerve into the crowd three times before police finally pulled him out of the vehicle and arrested him.

I believe that government's first duty is to defend its citizens, to defend them

against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

Mr. SARBANES. Mr. President, I rise to note the release on July 15, 2002 of the first annual report of the U.S.-China Security Review Commission.

Shortly after the enactment in the year 2000 of legislation giving China Permanent Normal Trade Relations, PNTR, the Congress, thanks to the leadership of Senator ROBERT C. BYRD, passed legislation creating the U.S.-China Security Review Commission. According to the law that established the Commission, its purpose is to "monitor, investigate and report to the Congress on the national security implications of the bilateral trade and economic relationship between the United States and the People's Republic of China". The legislation which created the Commission charges it to submit an annual report to the Congress with recommendations for action, if any.

The bi-partisan Commission is composed of twelve commissioners, three of whom were appointed by each of the Congressional leaders in both the House and Senate. To prepare itself to issue its first Report the Commission held nine open hearings and took testimony from 115 witnesses on 35 separate panels. It also contracted for new research on China from a variety of sources including extensive translation and analysis of articles on economic, political, and trade issues that are appearing in influential Chinese publications. Members of the Commission also traveled to China, Taiwan, Japan, and the headquarters of the World Trade Organization, WTO, in Geneva. During its deliberations the Commission developed a broad bi-partisan agreement on the issues it was charged by Congress to study, and it adopted its first report by a vote of 11-1.

Among its key findings are that the United States, by acting as China's largest export market and a key investor in the Chinese economy, has been a major contributor to China's rise as an economic power. It further notes that our trade relationship with China is not only our largest trade deficit in absolute terms, but is the most unbalanced trading relationship maintained by the United States.

The Report further notes that while U.S. imports from China constitute over 40 percent of China's exports, U.S. exports to China represent only two percent of our total exports. It finds that the U.S. trade deficit with China is not only in low-skilled labor intensive items, but also in a majority of items found on the Commerce Department's list of advanced technology products. It further finds that there is

plausible evidence that our burgeoning trade deficit with China will worsen regardless of China's entry into the WTO.

The Report also discusses the fast increasing trade and investment linkages between China and Taiwan which the Commission notes "could ameliorate tensions between the two", but which are also increasing "U.S. dependence on the items made in China for our computer electronics and other high technology products".

The Report makes a number of recommendations to better the chances for building a better long-term mutually beneficial economic and political relationship with China. Among these are: 1. That we put in place new programs to build a much wider expertise about China both in our society and among policymakers, and 2. that we take new measures to keep our industrial, scientific, and technological base from eroding as a result of our economic relations with a China whose government has adopted policies to expand its own base even at our expense.

I think this first Report of the Commission makes a very valuable contribution to our policy deliberations on China. It will be very helpful to the Congress as we examine how to respond to the challenges to our country posed by China's strengthening economic, military, and political profiles. We can best craft sensible policies if we better understand the perceptions that Chinese leaders have of us and what their long-term goals are. Judging the Commission's Report will help us do both.

I salute Senator BYRD for his wisdom in calling for the creation of the Commission and thank all of its Commissioners for the important contributions that their first Report makes to our knowledge of the U.S.-China economic and political relationship. I commend the Report to my fellow Senators.

CLEARING THE AIR IN THE SMOKIES

Mr. FRIST. Mr. President, the Great Smoky Mountains National Park is truly the crown jewel of our national park system. With towering mountains, clear streams, and a diversity of wildlife, Tennessee is fortunate to have such a tremendous treasure in our own backyard. During the Senate's July break, I returned to the Smokies, to once again hike Mt. LeConte, this year with my oldest son, Harrison. Our hike up the Alum Cave trail was exhilarating, and we spent the night at LeConte Lodge, watching the sunset, and enjoying the hearty meals and good fellowship of fellow hikers.

My trip to the Smokies this month had another purpose, too. This year, I invited EPA Administrator Christie Whitman to join me in order for her to see first-hand the air quality problem that plagues our beautiful park. Over the coming months, Congress and

President Bush's Administration will analyze and pursue policies to improve our nation's air quality. As this process moves forward, I wanted to make sure that the President's top official responsible for protecting our environment heard directly from park officials and saw for herself the unique challenge facing the Smokies.

As the first EPA Administrator to ever visit the park, Administrator Whitman demonstrated her personal commitment to address the pollution problem. We hiked to the park's highest point, Clingman's Dome, where Administrator Whitman looked out on a vista where natural visibility should be about 77 miles, but on the hot July day we visited, was reduced to only 15 miles. Air entering the southern Appalachians is trapped by geography and weather patterns, capturing pollution and harmful emissions in the park, and no where is that point made more clear than at Clingman's Dome.

Any plan to clean up the air in the Great Smoky Mountains National Park must contain two essential elements. First, we must reduce harmful emissions of sulfur dioxide and nitrogen oxides. President Bush has proposed a plan, the Clear Skies Initiative, that contains the most dramatic reductions in these harmful emissions ever proposed by an administration. The plan would reduce power plant emissions by 70 percent by the year 2018. I will continue to closely study the Clear Skies Initiative and its potential impact on our mountains and across our state.

Second, we must reduce emissions in the most efficient and effective manner possible. Our quality of life and future economic development depends on how we pursue these reductions. Tennessee's families, businesses and communities depend on affordable and reliable energy. A thoughtful and responsible approach to address the park's air quality issue requires us to closely examine any proposal and to ensure it is based on sound science. Tennesseans and all Americans deserve no less from their elected officials.

It is also important to remember that air quality is a comprehensive problem that requires a comprehensive response. Roughly, one-half of the problems in the Smokies are caused by power plants, one third by cars and trucks, and the rest from various other sources. As we review solutions, we must address every source of emissions. For example, I want to commend local officials for Pigeon Forge's recent Clean Air Week which promoted reducing emissions through the use of low emissions public transportation. Park officials are looking at alternatives to transportation problems in the park, which will not only clean up the air, but enhance the overall visitor's experience. Continued discussion by all, local, State and federal officials along with concerned citizens, will ensure the

most innovative, common-sense solutions and ensure we do what's right for the Smokies.

Tennesseans are blessed with an abundance of natural resources, and the Great Smoky Mountains National Park is world-renowned. However, we must be mindful that if we are to continue to enjoy the Smokies, all of us have a responsibility to be good stewards of the park. I am committed to fight for what is best for the Smokies, and I am encouraged by Administrator Whitman's recent visit. The Smokies are a unique American experience that must be preserved for generations to come, so that fathers and sons, just like Harrison and I, can know the joys of spending time together on a hike in the woods.

CRIMINAL PENALTIES RELATING TO TERRORIST ATTACKS

Mr. LEAHY. Mr. President, due to time constraints, the Congressional Budget Office, CBO, estimate was not included in the report to accompany S. 2621, an act to provide a definition of vehicle for purposes of criminal penalties relating to terrorist attacks and other acts of violence against mass transportation systems. The report is now available and, therefore, I ask unanimous consent that the attached CBO estimate be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 27, 2002.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary, U.S.
Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2621, an act to provide a definition of vehicle for purposes of criminal penalties relating to terrorist attacks and other acts of violence against mass transportation systems.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

BARRY B. ANDERSON,
[FOR DAN L. CRIPPEN, DIRECTOR.]

Enclosure.

Congressional Budget Office cost estimate—S. 2621—an act to provide a definition of vehicle for purposes of criminal penalties relating to terrorist attacks and other acts of violence against mass transportation systems.

As passed by the Senate on June 25, 2002.

The USA PATRIOT Act of 2001 (Public Law 107-56) established a new federal offense for acts of violence against mass transportation systems. S. 2621 would clarify the definition of the term "vehicle" as used in that act. CBO estimates that implementing S. 2621 would result in no significant costs to the federal government. The legislation could affect direct spending and receipts through greater collections of criminal fines, so pay-as-you-go procedures would apply. However, CBO estimates that any effects on direct

spending or receipts would be insignificant because of the small number of cases likely to be affected.

S. 2621 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Mark Grabowicz. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

ADDITIONAL STATEMENTS

RETIREMENT OF DR. VAN KIRKE NELSON

• Mr. BAUCUS. Mr. President, I rise today to recognize an outstanding Montanan whose distinguished career has literally changed the course of two generations of families in the Flathead Valley. In the 1950's a college student from Southern California came to Montana to be a camp counselor on Flathead Lake. As many do, he fell in love with the area and pledged to return after completing medical school to begin his practice in Kalispell, MT.

True to his word, Dr. Van Kirke Nelson, his wife Helen and their children Greg, Julie and Kathy packed all their belongings in a beer truck and moved to Kalispell where Kirke became the town's first medical specialist, opening his practice as an OB-GYN in 1962.

Forty years, two children, Nancy and Doug, and ten grandchildren later, my dear friend Kirke Nelson retired from active medical practice on July 1, 2002, leaving behind a legacy that has enriched the very fabric of the community to which he and his family mean so much.

For 40 years, Dr. Van Kirke Nelson delivered the town's babies. Lots of babies. So many, in fact, that it is not unusual for him to look at a list of Flathead High graduates and determine that he has delivered a majority of them.

Think of it this way. At 10 babies a month, 12 months a year, for 41 years, Kirke delivered roughly 4,920 babies in his career. To put that in perspective, those 4,920 new Montanans are a larger group than the entire population of 22 of Montana's 56 counties.

But the quality of Kirke's career cannot be measured in numbers. Every day he changed lives and made the Flathead Valley and Montana a better place to live. Partners, co-workers, patients and their families all know what I mean. There are more stories than one can possibly tell, and you can be assured that although he is retired, there will be many, many more stories yet to come.

Because you see, Kirke Nelson will never retire from making a difference in the world around him. The phone may not ring in the middle of the night anymore, but knowing Kirke as I do,

that just means he'll just be better rested for the challenges that lay ahead.

I know no better Montanans than Kirke and Helen Nelson. I wish for them in this retirement an enriched life with each other and their wonderful family. There are not thanks enough for this kind of career that Kirke has shared with us, but that's what makes America so great. Ours is a country where dreams come true. Where promises are our bond. And where ordinary careers become extraordinary because of the people who live them.

Kirke Nelson's career has been truly extraordinary. And on behalf of a grateful community, State and nation, it is my honor to rise today to say thank you.●

IN RECOGNITION OF WESLEY COLLEGE ATHLETICS, COACH RICK MCCALL AND CHRIS NOLL, 2002 NCAA NATIONAL GOLF CHAMPIONS

• Mr. CARPER. Mr. President, I rise today to congratulate Wesley College's Chris Noll, the 2002 NCAA National Golf Champion. His victory demonstrates the success that comes from hard work, perseverance, experience of a remarkable team, a dedicated coach, and the support of an outstanding college.

The championship competition held in Nebraska last month ended a dramatic, record-breaking season for the Wolverines. After a stellar overall performance throughout the year, the Wolverines were selected by a committee to play in the NCAA Championships. At the championship, they scored their highest finish in both Wesley records and in Pennsylvania Athletic Conference history. The team dominated the Conference and won the Pennsylvania Athletic Conference Tournament.

Throughout the season, Chris Noll set Wesley College records. He finished first in the Glen Health Ship Builders, the Wesley College Invitational, the King's College National Invitational tournaments and the District II Championships. The Dover sophomore was named Pennsylvania Athletic Conference Player of the Week for four consecutive weeks in addition to a Ping All-American. He closed the season as the 2002 NCAA National Golf Champion.

For the past decade Wolverine Coach Rick McCall has worked tirelessly to successfully build and strengthen the men's golf program. McCall was named All-Middle Atlantic Region Coach of the Year this season, as well as the Pennsylvania Athletic Conference Coach of the Year. In 1989 he won the Delaware State Golf Association Annual Golf Award. Later he was given the Pat Knight Award for his lifetime

contribution to junior golf and two Philadelphia P.G.A. Junior Golf Awards. He is dedicated to the game.

The success of Wesley's golf team is indicative of the depth of the community's support, and the caliber of students, faculty, and staff at the College. I commend those associated with Wesley College athletics for their commitment to preparing athletes for success both on and off the court.

Today, I congratulate Coach Rick McCall, Chris Noll and all of the fine athletes on the golf team. Athletics play a vital role in the development and integrity of students. Wesley College athletes prove that the school's emphasis on the "carry-over value of athletics" is warranted. I am proud of their achievements as student-athletes.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting treaties and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 5:30 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it request the concurrence of the Senate:

H.R. 4687. An act to provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

H.R. 4635. An act to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

H.R. 4954. An act to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize and reform payments and the regulatory structure of the Medicare Program, and for other purposes.

H.R. 5017. An act to amend the Temporary Emergency Wildfire Suppression Act to facilitate the ability of the Secretary of the

Interior and the Secretary of Agriculture to enter into reciprocal agreements with foreign countries for the sharing of personnel to fight wildfires.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2. A bill to amend title XVIII of the Social Security Act to provide for a medicare voluntary prescription drug delivery program under the medicare program, to modernize the medicare program, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-7861. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to State Implementation Plan" (FRL7244-5) received on July 9, 2002; to the Committee on Environment and Public Works.

EC-7862. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to State Implementation Plan" (FRL7244-7) received on July 9, 2002; to the Committee on Environment and Public Works.

EC-7863. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Indiana" (FRL7235-2) received on July 9, 2002; to the Committee on Environment and Public Works.

EC-7864. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Designation of Areas for Air Quality Planning Purposes; Deletion of Total Suspended Particulate Designations in Michigan" (FRL7242-8) received on July 9, 2002; to the Committee on Environment and Public Works.

EC-7865. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Designation of Areas for Air Quality Planning Purposes; Deletion of Total Suspended Particulate Designations in Minnesota" (FRL7242-6) received on July 9, 2002; to the Committee on Environment and Public Works.

EC-7866. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for polyvinyl Chloride and Copolymers Production" (FRL7243-9) received on July 9, 2002; to the Committee on Environment and Public Works.

EC-7867. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances" (FRL7244-1) received on July 9, 2002; to the Committee on Environment and Public Works.

EC-7868. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "1259 Short Sale" (Rev. Rul. 2002-44, 2002-28) received on June 24, 2002; to the Committee on Finance.

EC-7869. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Tax Avoidance Using Inflated Basis" (Notice 2002-21) received on June 26, 2002; to the Committee on Finance.

EC-7870. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Update of Mortality Tables for 417(e)" (Rev. Rul. 2001-67) received on July 9, 2002; to the Committee on Finance.

EC-7871. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "EGTTA Changes in User Fees" (Notice 2002-1) received on July 9, 2002; to the Committee on Finance.

EC-7872. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Questions and Answers Regarding Dividend Elections Under Section 404(k)" (Notice 2002-2) received on July 9, 2002; to the Committee on Finance.

EC-7873. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Section 846 Discount Factors for 2001" (Rev. Proc. 2001-60) received on July 9, 2002; to the Committee on Finance.

EC-7874. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "CPI Adjustment for Section 7872(g) for 2002" (Rev. Rul. 2001-64) received on July 9, 2002; to the Committee on Finance.

EC-7875. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Section 832 Discount Factor for 2001" (Rev. Proc. 2001-61) received on July 9, 2002; to the Committee on Finance.

EC-7876. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "2002 CPI Adjustment for Certain Loans Under Section 1274A" (Rev. Rul. 2001-64) received on July 9, 2002; to the Committee on Finance.

EC-7877. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Coordinated Issue: Replacement of Underground Storage Tanks at Retail Gasoline Stations" (UILN 263.23-00) received on July 10, 2002; to the Committee on Finance.

EC-7878. A communication from the Chief of the Regulations Branch, U.S. Customs

Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Elimination of the Tariff-Rate Quotas on Imported Lamb Meat" (RIN1515-AD09) received on July 11, 2002; to the Committee on Finance.

EC-7879. A communication from the Director, Employment Service, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Reduction in Force Retreat Rights" (RIN3206-AJ14) received on June 26, 2002; to the Committee on Governmental Affairs.

EC-7880. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled "Debt Collection" (RIN3095-AA77) received on July 9, 2002; to the Committee on Governmental Affairs.

EC-7881. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled "Nixon Presidential Materials; Reproduction" (RIN3095-AB07) received on July 9, 2002; to the Committee on Governmental Affairs.

EC-7882. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the Office of the Inspector General for the period from October 1, 2001 to March 31, 2002; to the Committee on Governmental Affairs.

EC-7883. A communication from the Administrator, General Service Administration, transmitting, pursuant to law, the report of the Office of the Inspector General for the period from October 1, 2001 through March 31, 2002 together with a report providing management's perspective on the implementation status of audit recommendations; to the Committee on Governmental Affairs.

EC-7884. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-388, "College Savings Program Temporary Act of 2002"; to the Committee on Governmental Affairs.

EC-7885. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-389, "Mental Health Commitment Clarification Temporary Act of 2002"; to the Committee on Governmental Affairs.

EC-7886. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-387, "Excepted and Executive Service Domicile Requirement Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC-7887. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-385, "Washington Convention Center Authority Oversight and Management Continuity Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC-7888. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-384, "Capitol Hill North Expansion and Expansion of Business Improvement Districts Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC-7889. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-399, "Human Rights Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC-7890. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report

on D.C. Act 14-398, "RLA Revitalization Corporation Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC-7891. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-403, "Fiscal Year Budget Support Act of 2002"; to the Committee on Governmental Affairs.

EC-7892. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Mesotrione; Pesticide Tolerances for Emergency Exemptions" (FRL7184-2) received on July 9, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7893. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Halosulfuron; Pesticide Tolerances for Emergency Exemptions" (FRL7283-2) received on July 9, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7894. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Extension of Tolerances for Emergency Exemptions Multiple Chemicals" (FRL7183-6) received on July 9, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7895. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Hazel-nuts Grown in Oregon and Washington; Establishment of Interim Final and Final Free and Restricted Percentages for the 2001-2002 Marketing Year" (Doc. No. FV02-982-1 FIR) received on July 9, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7896. A communication from the Administrator, Research and Promotion Branch, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Rules of Practice and Procedure Governing Proceedings Under Research, Promotion, and Education Programs" (Doc. No. FV-02-709) received on July 9, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7897. A communication from the Under Secretary for Food, Nutrition, and Consumer Services, Food and Nutrition Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Food Stamp Program: Work Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and Food Stamp Provisions of the Balanced Budget Act of 1997" (RIN0584-AC45) received on July 3, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on Foreign Relations:

Report to accompany S. 2487, A bill to provide for global pathogen surveillance and response. (Rept. No. 107-210).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first

and second times by unanimous consent, and referred as indicated:

By Mr. GRASSLEY (for himself, Ms. SNOWE, Mr. JEFFORDS, Mr. BREAUX, Mr. HATCH, Ms. COLLINS, Ms. LANDRIEU, Mr. HUTCHINSON, and Mr. DOMENICI):

S. 2. A bill to amend title XVIII of the Social Security Act to provide for a medicare voluntary prescription drug delivery program under the medicare program, to modernize the medicare program, and for other purposes; read the first time.

By Mr. DAYTON (for himself and Mr. WELLSTONE):

S. 2728. A bill to provide emergency agricultural disaster assistance; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRASSLEY (for himself, Ms. SNOWE, Mr. JEFFORDS, Mr. BREAUX, Mr. HATCH, Ms. COLLINS, Ms. LANDRIEU, Mr. HUTCHINSON, and Mr. DOMENICI):

S. 2729. A bill to amend title XVIII of the Social Security Act to provide for a medicare voluntary prescription drug delivery program under the medicare program, to modernize the medicare program, and for other purposes; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 490

At the request of Mr. EDWARDS, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 490, a bill to provide grants to law enforcement agencies that ensure that law enforcement officers employed by such agencies are afforded due process when involved in a case that may lead to dismissal, demotion, suspension, or transfer.

S. 554

At the request of Mrs. MURRAY, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 554, a bill to amend title XVIII of the Social Security Act to expand medicare coverage of certain self-injected biologicals.

S. 677

At the request of Mr. HATCH, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 701

At the request of Mr. BAUCUS, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 701, a bill to amend the Internal Revenue Code of 1986 to provide special rules for the charitable deduction for conservation contributions of land by eligible farmers and ranchers, and for other purposes.

S. 913

At the request of Ms. SNOWE, the names of the Senator from Hawaii (Mr.

INOUE) and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

S. 917

At the request of Ms. COLLINS, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 917, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 1042

At the request of Mr. INOUE, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1042, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 1394

At the request of Mr. ENSIGN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1394, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 1581

At the request of Mr. MURKOWSKI, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1581, a bill to amend the Internal Revenue Code of 1986 to allow a business deduction for the purchase and installation of qualifying security enhancement property.

S. 1678

At the request of Mr. MCCAIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1678, a bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services or the Foreign Service shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

S. 1686

At the request of Mr. KENNEDY, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1686, a bill to amend title XVIII of the Social Security Act to provide for patient protection by limiting the number of mandatory overtime hours a nurse may be required to work in certain providers of services to which payments are made under the medicare program.

S. 1868

At the request of Mr. BIDEN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1868, a bill to establish a national center on volunteer and provider

screening to reduce sexual and other abuse of children, the elderly, and individuals with disabilities.

S. 2204

At the request of Mr. EDWARDS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2204, to amend the Public Health Service Act to improve treatment for the mental health and substance abuse needs of women with histories of trauma, including domestic and sexual violence.

S. 2219

At the request of Mr. EDWARDS, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2219, a bill to provide for compassionate payments with regard to individuals who contracted the human immunodeficiency virus due to provision of a contaminated blood transfusion, and for other purposes.

S. 2425

At the request of Mr. BAYH, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2425, a bill to prohibit United States assistance and commercial arms exports to countries and entities supporting international terrorism.

S. 2480

At the request of Mr. LEAHY, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 2480, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.

S. 2528

At the request of Mr. DOMENICI, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 2528, a bill to establish a National Drought Council within the Federal Emergency Management Agency, to improve national drought preparedness, mitigation, and response efforts, and for other purposes.

S. 2533

At the request of Mrs. FEINSTEIN, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 2533, a bill to amend title II of the Social Security Act to provide for miscellaneous enhancements in Social Security benefits, and for other purposes.

S. 2559

At the request of Mr. EDWARDS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2559, a bill to expand research for women in trauma.

S. 2611

At the request of Mr. REED, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2611, a bill to reauthorize the Museum and Li-

brary Services Act, and for other purposes.

S. 2613

At the request of Mr. LIEBERMAN, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Tennessee (Mr. FRIST) were added as cosponsors of S. 2613, a bill to amend section 507 of the Omnibus Parks and Public Lands Management Act of 1996 to authorize additional appropriations for historically black colleges and universities, to decrease the cost-sharing requirement relating to the additional appropriations, and for other purposes.

S. 2626

At the request of Mr. KENNEDY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2626, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 2647

At the request of Ms. SNOWE, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2647, a bill to require that activities carried out by the United States in Afghanistan relating to governance, reconstruction and development, and refugee relief and assistance will support the basic human rights of women and women's participation and leadership in these areas.

S. 2663

At the request of Mr. MCCAIN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2663, a bill to permit the designation of Israeli-Turkish qualifying industrial zones.

S. 2671

At the request of Mr. EDWARDS, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 2671, a bill to amend the Child Care and Development Block Grant Act of 1990 to provide for child care quality improvements for children with disabilities or other special needs, and for other purposes.

S. 2672

At the request of Mr. BINGAMAN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2672, a bill to provide opportunities for collaborative restoration projects on National Forest System and other public domain lands, and for other purposes.

S. 2714

At the request of Mrs. CLINTON, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 2714, a bill to extend and expand the Temporary Extended Unemployment Compensation Act of 2002.

S. 2715

At the request of Mrs. CLINTON, the names of the Senator from New Jersey

(Mr. CORZINE) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 2715, a bill to provide an additional extension of the period of availability of unemployment assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the case of victims of the terrorist attacks of September 11, 2001.

S. RES. 242

At the request of Mr. THURMOND, the names of the Senator from Rhode Island (Mr. REED), the Senator from Kansas (Mr. BROWNBACK), the Senator from North Carolina (Mr. HELMS), the Senator from Illinois (Mr. FITZGERALD) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. Res. 242, a resolution designating August 16, 2002, as "National Airborne Day".

S. CON. RES. 11

At the request of Mrs. FEINSTEIN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. Con. Res. 11, a concurrent resolution expressing the sense of Congress to fully use the powers of the Federal Government to enhance the science base required to more fully develop the field of health promotion and disease prevention, and to explore how strategies can be developed to integrate lifestyle improvement programs into national policy, our health care system, schools, workplaces, families and communities.

S. CON. RES. 107

At the request of Mr. CRAIG, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. Con. Res. 107, a concurrent resolution expressing the sense of Congress that Federal land management agencies should fully support the Western Governors Association "Collaborative 10-year Strategy for Reducing Wildland Fire Risks to Communities and the Environment", as signed August 2001, to reduce the overabundance of forest fuels that place national resources at high risk of catastrophic wildfire, and prepare a National Prescribed Fire Strategy that minimizes risks of escape.

S. CON. RES. 122

At the request of Ms. SNOWE, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. Con. Res. 122, a concurrent resolution expressing the sense of Congress that security, reconciliation, and prosperity for all Cypriots can be best achieved within the context of membership in the European Union which will provide significant rights and obligations for all Cypriots, and for other purposes.

AMENDMENT NO. 4235

At the request of Mr. ALLEN, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of

amendment No. 4235 intended to be proposed to S. 2673, an original bill to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

AMENDMENT NO. 4240

At the request of Mr. ALLEN, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of amendment No. 4240 intended to be proposed to S. 2673, an original bill to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

AMENDMENT NO. 4241

At the request of Mr. ALLEN, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of amendment No. 4241 intended to be proposed to S. 2673, an original bill to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

AMENDMENT NO. 4283

At the request of Mr. LEVIN, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of amendment No. 4283 intended to be proposed to S. 2673, an original bill to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate re-

sponsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

NOTICES OF HEARINGS/MEETINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. LEVIN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Government Affairs will hold hearings entitled "The Role of the Financial Institutions In Enron's Collapse." These hearings are a continuation of Subcommittee hearings on the collapse of Enron Corp., focusing on the role of major financial institutions and how they contributed to Enron's use of complex transactions to make the company look better financially than it actually was.

The hearing will take place on Tuesday, July 23, and Tuesday, July 30, 2002, at 9:30 a.m. each day, in room 342 of the Dirksen Senate Office Building. For further information, please contact Elise J. Bean of the Subcommittee staff at 224-9505.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, July 23, 2002, at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of the hearing is to receive testimony on the following bills: S. 2494, to revise the boundary of the Petrified Forest National Park in the State of Arizona, and for other purposes; S. 2598, to enhance the criminal penalties for illegal trafficking of archaeological resources, and for other purposes; S. 2727, to provide for the protection of paleontological resources on Federal lands, and for other purposes; and H.R. 3954, to designate certain waterways in the Caribbean National Forest in the Commonwealth of Puerto Rico as components of the National Wild and Scenic Rivers System, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact David Brooks of the Committee staff at (202) 224-9863.

PRIVILEGES OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that Deborah Forbes of the Labor Committee be given access of the floor during deliberation of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. Mr. President, I ask unanimous consent that privilege of the floor be granted to Joe Laird during the remainder of the debate and the votes on this bill we are considering.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENTS NOS. 107-12 AND 107-13

Mr. REID. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaties transmitted to the Senate today by the President of the United States:

Treaty with Sweden on Mutual Legal Assistance in Criminal Matters, Treaty Document No. 107-12;

Treaty with Belize on Mutual Legal Assistance in Criminal Matters, Treaty Document No. 107-13.

I further ask unanimous consent that the treaties be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The messages of the President are as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of the Kingdom of Sweden on Mutual Legal Assistance in Criminal Matters, signed at Stockholm on December 17, 2001. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activities more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of crimes, including terrorism, drug trafficking, and fraud and other white-collar offenses. The Treaty is self-executing.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: locating or identifying persons or items; serving documents; taking the testimony or statements of persons; transferring persons in custody for testimony or other purposes; providing documents, records,

and items; executing requests for searches and seizures; assisting in proceedings related to immobilization and forfeiture of assets and restitution; initiating criminal proceedings in the Requested State; and any other form of assistance consistent with the purposes of this Treaty and not prohibited by the laws of the State from whom the assistance is requested.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

THE WHITE HOUSE, July 15, 2002.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of Belize on Mutual Legal Assistance in Criminal Matters, signed at Belize on September 19, 2000, and a related exchange of notes signed at Belize on September 18 and 22, 2000. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activities more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of crimes, including drug trafficking, money laundering, and terrorism offenses. The Treaty is self-executing.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the providing documents, records, and articles of evidence; locating or identifying persons; serving documents; transferring persons in custody for testimony or other purposes; executing requests for searches and seizures; assisting in proceedings related to immobilization and forfeiture of assets, restitution to the victims of crime and collection of fines; and any other form of assistance not prohibited by the laws of the State from whom the assistance is requested.

I recommend that the Senate give early and favorable consideration to the Treaty, and give its advice and consent to ratification.

THE WHITE HOUSE, July 15, 2002.

MEASURE READ THE FIRST TIME—S. 2

Mr. REID. Mr. President, I understand that S. 2, the 21st Century Medicare Act, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2) to amend title XVIII of the Social Security Act to provide for a medicare

voluntary prescription drug delivery program under the medicare program, to modernize the medicare program, and for other purposes.

Mr. REID. I ask for its second reading and then would object to my own request.

The PRESIDING OFFICER. The objection having been heard, the bill will receive its second reading on the next legislative day.

MEASURE RETURNED TO THE CALENDAR—S. 2673

The PRESIDING OFFICER. Under the previous order, passage of S. 2673 is vitiated. The bill is returned to the calendar.

ORDERS FOR TUESDAY, JULY 16, 2002

Mr. REID. Mr. President, I appreciate the Senator from Alabama allowing us to do the closing before his remarks.

I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Tuesday, July 16; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until 10:30 a.m., with Senators permitted to speak for up to 10 minutes each; with the first half under the control of the Republican leader or his designee and the second half of the time under the control of the majority leader or his designee; that at 10:30, the Senate resume consideration of the motion to proceed to S. 812 regarding affordable pharmaceuticals; further, that the Senate recess from 12:30 to 2:15 p.m. for the weekly party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment following the remarks of the Senator from Alabama, Mr. SESSIONS, under the previous order.

The PRESIDING OFFICER (Mr. DURBIN). Without objection, it is so ordered.

PRESCRIPTION DRUGS

Mr. SESSIONS. Mr. President, I thank the Senator from Nevada for his courtesies, as always.

Mr. President, I serve on the Health, Education, Labor and Pensions Committee and am pleased that we reported out a bill to improve generic drug competition in America and to ad-

dress the high cost of prescription drugs. The Hatch-Waxman Act, which passed in 1984, is considered to be a remarkable piece of legislation. It strives to provide patent protection to companies that invests hundreds of millions of dollars to develop new drugs. At the same time, it limits that protection by allowing generic competition. It allows generic drug manufacturers to take a patented drug, produce it, and sell it at a much lower price, a competitive price, driving down the price of the drug for consumers.

Since 1984 the scales, it appears, have tilted too much in favor of the name-brand producer of the drug, the patent holder of the drug, and too much against the generic manufacturers. There have been some problems on both sides of this issue. Loopholes of the Hatch-Waxman Act are being exploited, giving one side an advantage over the other. In fact, one of the things that has occurred is some generic companies have challenged patents and have gotten the right to produce patented drugs, because they have challenged it using the procedures of the act. Then they enter into an agreement with the original patent holder to not produce the generic drug—thereby agreeing to not compete with the name-brand manufacturer. This is a loophole that needs to be eliminated.

I believe S. 812 will help recover the delicate balance that was originally intended by the Hatch-Waxman Act. I believe it will help contain the rising costs of prescription drugs. I believe it will also encourage production of drugs the way we intended, but at the same time will eliminate unfair patent extensions. I believe that by reporting this bill out of committee, we are moving in the right direction. I salute Senators EDWARDS, COLLINS, SCHUMER, and MCCAIN who have worked to produce this legislation. I think it is going to be something we can all support.

I know we will be beginning to talk about prescription drugs in general later this week, and I think it is time to do so. This Congress voted—I voted—for a budget last year that set aside \$300 billion for a prescription drug benefit. However, we were not able to pass a prescription drug benefit last year, and it remains to be seen whether we will be successful this year.

There are a lot of different views about how prescription drugs should be handled. Over the Fourth of July weekend, I visited two assisted care living facilities in Alabama: Chateau Vestavia near Birmingham and Westminster in Mobile, Alabama. I talked with seniors who have high drug bills and listened to what they had to say. I wanted to have their input as the Senate moved toward considering a prescription drug proposal. They told me that they are most concerned about high drug prices. I spoke with seniors

that are struggling to pay for their drugs.

My mother is in her eighties. She has a \$300-a-month drug bill. She is in relatively good health, although she has arthritis and high blood pressure. Her sister's drug bill is even higher than that each month. They are both in an assisted living center. They are getting by, but it is not easy. For people who rely on their Social Security as their sole income, they are not able to get by with those drug prices.

We know we have a problem. The theory is this: If this federal government, through Medicare, will pay for the removal of a kidney, or will pay for the amputation of a leg, is it not irrational that we would not pay to fund drugs that would keep people from having to have a kidney removed or keep people from having to have an amputation because they are diabetic?

We are at a point where drugs are such a central part of health care in America, that we cannot leave them out of Medicare.

The seniors I visited with in Alabama want us here in the Senate to address the high cost of drugs. They believe they are higher than they need to be—and I agree. They would like to see less paperwork in the process, less bureaucracy, and less fraud. They would also like to see that they can go to their local pharmacy and buy the drugs there and talk to a pharmacist about them if they choose. They would like to be able to buy through direct mail and mail order if they choose. Those are things we will have to wrestle with. I intend to be talking with more seniors as time goes by so we can listen to their concerns and desires and see what we can do to pass a responsible bill.

We are not doing anything to help Medicare beneficiaries pay for drugs today. We should not fail to act at all and do nothing simply because we can't do everything we would like to do today.

We need to have some relief now. We have people this day who are having to choose between food and rent and drugs. They often are not able to buy the drugs they need to keep themselves healthy, and that leads to complications and even greater health care costs.

We need to quit putting this off. If we cannot afford the Cadillac, we need a

Ford. We need to do something to move forward. Seniors need help now.

People who need drugs, seniors who need drugs, all Medicare beneficiaries who need them and simply cannot afford them need help. We can do that through the budget we passed last year. There is, through President Bush's plan, an idea of using group purchasing power to reduce the cost through a prescription drug discount card. A number of my pharmacist friends are concerned that could hurt them. That was not the intent. They have challenged this card. But a card plan should not harm our pharmacists. We ought to be able to drive down the cost of prescription drugs by up to 20, 30, or 40 percent. That would be a tremendous savings. It would be good if we could do that today—and not wait any longer. It would be a monumental step forward.

We want our seniors to have choice and to not have to give up their current coverage plans. We do not want them to have to enter into some sort of mandatory plan that costs them more and provides less benefits.

Beneficiaries should have information and the choice to choose between whether they want generic drugs or name-brand drugs. That is a choice that many can make. We need to make sure that option is available to them.

We did vote for a budget last year that provides for \$300 billion for prescription drugs. We have allowed our spending here to get out of control. Our discretionary spending last year hit about a 7 percent increase. This year, likewise, with defense and supplementals, it could be greater than that. If we get our spending under control and contain excessive spending, we ought to be able to fund a plan that would meet the needs of thousands of seniors who are in a crisis situation today.

Politics should be put on the back burner. It is time to ask ourselves how we can accomplish passing a piece of legislation that we all can support, that the American people would like to see passed, and that we can afford. We can do this, if we watch our cost and do not let it get out of control. If we are smart and work at it and do it in a way that is bipartisan as this generic bill we passed out of the HELP Committee last week, we can make good progress for America. I look forward to the de-

bate and hope we can achieve that before the recess.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under a previous order, the Senate stands in adjournment until 9:30 a.m., Tuesday, July 16, 2002.

Thereupon, the Senate, at 8:12 p.m., adjourned until Tuesday, July 16, 2002, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 15, 2002:

NATIONAL COUNCIL ON DISABILITY

GLENN BERNARD ANDERSON, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2002, VICE YERKER ANDERSSON, TERM EXPIRED.

GLENN BERNARD ANDERSON, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2005. (REAPPOINTMENT)

MILTON APONTE, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2003, VICE AUDREY L. MCCRIMON, TERM EXPIRED.

BARBARA GILLCRIST, OF NEW MEXICO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2002, VICE LILLIAM RANGEL POLLO, TERM EXPIRED.

BARBARA GILLCRIST, OF NEW MEXICO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2005. (REAPPOINTMENT)

GRAHAM HILL, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2002, VICE HUGHEY WALKER, TERM EXPIRED.

GRAHAM HILL, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2005. (REAPPOINTMENT)

JOEL KAHN, OF OHIO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2004, VICE DAVE NOLAN BROWN, TERM EXPIRED.

PATRICIA POUND, OF TEXAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2005. (REAPPOINTMENT)

MARCO A. RODRIGUEZ, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2002, VICE EDWARD CORREIA.

MARCO A. RODRIGUEZ, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2005. (REAPPOINTMENT)

DAVID WENZEL, OF PENNSYLVANIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2004, VICE BONNIE O'DAY, TERM EXPIRED.

LINDA WETTERS, OF OHIO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2003, VICE GERALD S. SEGAL.

CONFIRMATION

Executive Nomination Confirmed by the Senate July 15, 2002:

THE JUDICIARY

LAVENSKI R. SMITH, OF ARKANSAS, TO BE UNITED STATES CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT.

EXTENSIONS OF REMARKS

PAYING TRIBUTE TO JEAN- JACQUES CARQUILLAT

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. HINCHEY. Mr. Speaker, I am pleased to congratulate my constituent and dear friend, Jean-Jacques Carquillat, on the occasion of his attainment of United States citizenship. Mr. Carquillat is a valued and well-respected member of our community, and I am proud to welcome him as a full citizen to the 26th Congressional District of New York State.

I became acquainted with Jean-Jacques, as well as his family, through his businesses in the Uptown Historic District in Kingston, NY. In 1994, Jean-Jacques established Le Carnard Enchaîne, a Zagat-rated, fine dining restaurant. He also started a dance club and special events catering business in 2000. The success of these businesses led to his more recent opening of Luke's Place, a gourmet restaurant, in the Town of Shandaken, named after his young son.

I have witnessed the hard work, strong character and integrity that Jean-Jacques has brought to the projects he has undertaken. His businesses have had positive impacts on our local area, including creating jobs in the City of Kingston and enhancing the city's efforts to promote tourism in the historic district. Jean-Jacques has been an active member of the Uptown Kingston Business Association and received its Excellence Award for 1999. In addition, he has been a consistent and strong supporter of various local nonprofit community organizations.

Mr. Speaker, it is my pleasure to join Jean-Jacques Carquillat's colleagues, friends and family in extending my congratulations on his naturalization. His personal and professional enthusiasm has made him a valuable asset to our community, and I am confident that he will continue to serve in the most admirable way both his community and our great nation.

HONORING THE NAMING OF THE DOUGLAS MORRISSON THEATER IN RECOGNITION OF DOUGLAS F. MORRISSON'S 40 YEARS AS A BOARD MEMBER OF THE HAY- WARD AREA RECREATION AND PARK DISTRICT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. STARK. Mr. Speaker, on July 28, 2002, the Hayward Area Recreation and Park District will rename their theater in honor of Board Member Douglas F. Morrisson. In his 40 years

of service, Douglas Morrisson has honorably served the park and recreation field on the local, regional, state, and national levels.

Douglas Morrisson was first elected to the Board of Directors of the Hayward Area Recreation and Park District in November of 1962. Since then, he has been re-elected to nine consecutive four-year terms. This year, his 40th year of service, he is serving as vice-president of the District.

The Hayward Area Recreation and Park District has seen unprecedented growth during Douglas Morrisson's tenure. The District boasts beautiful parks and fine recreation facilities, including community parks, swim centers, linear parks, playgrounds, community centers, athletic fields, and senior centers. Additionally, the park district has gone beyond traditional park features to include special interest facilities for theater, art, nature study, camping and golf.

A graduate of San Jose University and a former high school teacher, Douglas Morrisson is currently an independent business owner. In the past he has served in the leadership of many park and recreation organizations, notably as President of the California Association of Parks and Recreation Commissioners and Board Members and President and Vice-President of the Commissioners and Board Members Branch of the National Park and Recreation Association. He is the recipient of the 1993 California Association of Recreation and Park Districts Outstanding Board member award and the 1993 California Special Districts Association Outstanding Board Member Award.

In the community, Douglas Morrisson has been active as a board member of the Castro Valley Fire District, and a member of the Hayward Rotary Club. He has served as chairperson and vice-chairperson of the Alameda County Local Agency Formation Commission (LAFCO) and as President and board member of the Hayward Sun Gallery. In 1999 he received the city of Hayward's Mayor's Award.

I am honored to join the colleagues of Douglas Morrisson in commending him for his 40 years of service to the city of Hayward. Douglas Morrisson's dedicated work with the Park District has provided every member of the Hayward community spectacular state-of-the-art park facilities to enjoy.

MEMORIALIZING MS. GEORGIA BALL TRAVIS

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. HONDA. Mr. Speaker, I rise today to ask my colleagues to join me in honoring the life and work of Ms. Georgia Travis, whose amazing life came to a peaceful end on March

12, 2002, after 94 wonderful years. Ms. Travis committed her extraordinary life to the betterment of others, through social work, teaching, writing, and countless other endeavors, culminating in the creation of the Georgia Travis Center for homeless women and children. This shelter, along with the indelible imprint she left on so many lives, will stand forever as the legacy left by this amazing woman.

Georgia Travis dedicated her personal and professional life to helping others. Born in 1908 in Kansas City, Missouri, Georgia was brought up in a family with a keen awareness of social injustice and inequity. She was taught to lend a helping hand to those in need, a notion that would dictate the course of her long life. After becoming one of the first students to earn a master's degree from the University of Chicago School of Social Service Administration, she began working in the relatively new field of medical social work, helping stress patients in Chicago and disabled children in Seattle. By the late 1930s. Ms. Travis was traveling the country as a consultant for the new Washington, DC, based Crippled Children Service Department and the U.S. Transient Bureau. In 1953, Georgia was awarded a Fulbright Scholarship which sent her to Sydney, Australia, to teach. Shortly after returning to the States, she settled into what would eventually become her permanent home: the Bay Area of California.

The State of California may never fully realize the full extent of Ms. Travis' contributions, but I would like to take moment to share some of the many highlights. By 1962, just a few years after arriving in the Bay Area, she was name California Social Worker of the year. A year later she became a professor of Social Services at San Diego State University, teaching graduate level courses until her retirement in 1970. But Georgia's idea of "retirement" was as unconventional as it was prolific.

Ms. Travis lived in retirement with the same spirit and ideals of her childhood and professional life; she could sense injustice and suffering, create solutions, and see the process through to the end. After the passing of her mother in 1971. Georgia found solace and balance in the Quaker faith, and became a member of the Quaker Society of Friends. Strengthened by her new faith, Georgia focused her efforts on the plight of the homeless community, a pursuit that would lead her to some of the biggest accomplishments of her life. She started out with fundamentals like providing meals at the Family Center in Agnews Hospital and distributing clothing at the Family Shelter in East San Jose. Then, with the help of the American Association of University Women, Georgia organized a committee that develops and provides the homeless, especially women and children, with improved services and outreach. She convinced Stanford University to conduct a major study on homeless children, and helped initiate educational programs for the children as well. Mr.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Speaker, the list of her successes, of the tangible changes she made for thousands of people, is far too long to describe here. But I would like to make note of perhaps her greatest accomplishment of all: the establishment of the Georgia Travis Center.

In 1992, the nonprofit San Jose shelter agency InnVision honored the wishes of Ms. Travis by opening a new shelter for homeless women and children, to be named after the woman who perhaps had done more for their cause than anyone else in the city's history. At the Center, volunteers help women and children get back on their feet by providing meals, medical care, childhood-development courses, and classes on computers and career planning. The Center provides them not only with new hope for the future, but a sense of a security and value that may have been taken away from them when their homes were lost. Ever humble, Ms. Travis was embarrassed by the attention of having her name immortalized, but the Georgia Travis Center will forever be a working tribute to Georgia's insatiable desire to empower, enlighten, and improve the lives of those in need of help.

Mr. Speaker, I rise today to mourn the loss of a friend and a role model. I had many opportunities to work with Ms. Travis, and what amazed me most about her was the ability she had to instill in others the same passion and resolve that she herself had in everything she set out to accomplish. The Bay Area should feel fortunate to be chosen as the beneficiary of her great works, and I personally feel fortunate to represent a district so deeply touched by her.

PLEDGE OF ALLEGIANCE

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. STEARNS. Mr. Speaker, I rise today to remind Americans why the Pledge of Allegiance is so important in light of the 9th Circuit Appeals Court decision. I'd like to submit Chief Justice of the Alabama Supreme Court Roy S. Moore's July 1998 statement titled "Our American Birthright." At that time, Justice Moore was a Circuit Court Judge.

OUR AMERICAN BIRTHRIGHT

(By Roy S. Moore)

One nation under God was their cry and declaration,
Upon the law of nature's God they built a mighty nation.
For unlike mankind before them who had walked this earthen sod,
These men would never question the sovereignty of God.
That all men were "created" was a truth "self-evident,"
To secure the rights God gave us was the role of government,
And if any form of government became destructive of this end,
It was their right, their duty, a new one to begin.
So with firm reliance on Divine Providence for protection,
They pledged their sacred honor and sought His wise direction.

They lifted an appeal to God for all the world to see,
And declared their independence forever to be free.

I'm glad they're not here with us to see the mess we're in,

How we've given up our righteousness for a life of indulgent sin.

For when abortion isn't murder and sodomy is deemed a right,

Then evil is now called good and darkness is now called light.

While truth and law were founded on the God of all Creation,

Man now, through law, denies the truth and calls it "separation."

No longer does man see a need for God when he's in full control,

For the only truth self-evident is in the latest poll.

But with man as his own master we fail to count the cost,

Our precious freedoms vanish and our liberty is lost.

Children are told they can't pray and they teach them evolution,

When will they learn the fear of God is the only true solution.

Our schools have become the battleground while all across the land,

Christians shrug their shoulders afraid to take a stand.

And from the grave their voices cry the victory has been won

Just glorify the Father as did His only Son.

When your work on earth is done, and you've traveled where we've trod,

You'll leave the land we left to you, One Nation Under God

RECOGNIZING RICHARD P. SESSLER

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. BOEHLERT. Mr. Speaker, I rise today to recognize Richard "Dick" Sessler for his 12 years of dedicated service to the Mohawk Valley Resource Center for Refugees. On June 28th, 2002, Mr. Sessler retired from his post as Executive Director for the Refugee Center. During his tenure, he was instrumental in the successful resettlement of close to 10,000 refugees from Bosnia, Russia, Vietnam, Burma, and Sudan to the Utica, NY area. Mr. Sessler is a visionary and a truly remarkable leader. Under his leadership the Mohawk Valley Resource Center for Refugees expanded significantly, initiated innovative services and formed many meaningful partnerships with a large number of community organizations.

Mr. Sessler's work with the center dates back to 1990 when he was first hired as Associate Director and later promoted to Executive Director in 1993. During that time the Center has grown tremendously. The Refugee Center now offers three well staffed and well developed programs that have been made more effective: a health program, an education program, and an excellent job placement program. In addition, Mr. Sessler was involved in the establishment of an on-site clinic, night-time English classes (ESL), a dental program, a community relations program and citizenship classes.

Upon his retirement, Mr. Sessler plans to continue to offer his services to the refugee community. His plans include consulting and serving as an active member of the Lutheran Immigration Service (LIRS). I am confident that he will continue to offer his knowledge and experience and serve as a tremendous asset to the LIRS.

Mr. Sessler's commitment to the Refugee Center should serve as an inspiration to all. Mr. Sessler was and will remain to be well respected and well liked by all that have the pleasure to work with him. He has touched and reshaped the lives of many war-torn men, women and children across the globe by helping them escape brutal religious and political persecution—I commend him for his efforts. I am confident that the Mohawk Valley Resource Center for Refugees will continue to maintain its excellent reputation, level of professionalism, and success that Mr. Sessler worked so diligently to instill within it.

VFW VOICE OF DEMOCRACY CONTEST

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. HINCHEY. Mr. Speaker, I am pleased to congratulate my constituent Allegra Guarino, New York's recent winner of the Veterans of Foreign Wars' Voice of Democracy Scholarship Contest. This very talented young writer from Marlboro, New York has written an essay entitled "Reaching Out to America's Future" that bears reading and reflection by all of us. I am very proud to represent her in Congress, and I'm sure that her family and friends are very proud of her accomplishment. I am certain that she has a very bright future and will go on to do great things for her community and our nation. We need more young people like her.

REACHING OUT TO AMERICA'S FUTURE

(By Allegra Guarino)

When I hear the phrase . . . "reaching out to America's future" . . . I think of an outreach trip that I took this summer to Harlan County, Kentucky. Harlan County is one of—if not the poorest counties in America. The people here don't have running water, some of them don't have electricity, and what is even more shocking is that some of them don't have a sewage system. They live in hills of the Appalachian Mountains in conditions that many people wouldn't dream exist in our great country. One of the volunteers on the trip found a beautiful stone on the ground and gave it to a little girl that he met. He told her that it was a dream stone, and that if she held onto it when she was dreaming of the future, it would hold inside of it all of her hopes and her dreams. The six-year-old girl looked up at him with questioning eyes and said, "But I don't know how to hope and dream." How do you teach a child to dream? Most people don't have to be taught. Because they are lucky enough to live in part of our country where the reach of their dreams has no limitations.

Another child I met in Kentucky is named Bailey. She is a four-year-old that loves to play on the swing set, so on the third day of the trip I decided to teach her how to butterfly swing. I sat down on the swing and

placed her on my lap so that she was facing me. I kicked off from the rocky soil and we began swinging. I told her to be sure and watch the shadow that we were casting on the ground. I watched her eyes light up as she saw the butterfly shaped shadow on the ground. As we pulled away from each other and then back towards each other the shadow was an image of a butterfly flapping its wings. I told her that she might not be able to fly like the butterfly but she could do lots of great things in her life. She thought about the butterfly and what I had said and then she looked at me with these big blue eyes and said you can be the wings. I know that she didn't mean it as deeply as I took it. She was probably only referring to the shadow that we were making on the ground. But to me it meant something more.

Today our country is at war and once again many brave people have gone off to fight in defense of freedom. They are truly the wings of the butterfly. Just as I picked up Bailey and placed her safely on my lap the troops fighting now, and the troops that have fought for us in the past picked up America, and started to fly. In order to start us swinging I had to push hard off the rocky ground. The American soldiers don't have an easy task ahead of them. We are just now, just kicking off of the rocky ground. But I have no doubt that we will fly. A butterfly has two wings. Each equally important. The soldiers will no doubt put 110% into flying our country to the freedom of the open skies. But we the American people must put equally as much effort into flying the country higher. All of us as a team must reach out to America's future. Without knowing us people have laid down their lives so that we would be able to enjoy the freedoms that are now being threatened. America too has a dream stone. Only it comes in a different form. It is tri-colored in red, white, and blue. Red for the blood shed yesterday, White for the pure freedoms we enjoy today and Blue for the endless clear skies of tomorrow.

Our flag is our dream stone holding inside of it the very hopes and dreams of our Nation. We held tightly to it as it was proudly carried through World War One, World War Two, Desert Storm, Vietnam and Korea. While we were enjoying a time of great prosperity we tucked our stone away in our pocket. On September 11th we pulled it out of our pockets when firefighters proudly raised it high at ground zero, athletes displayed it on their jerseys, and average Americans flew it from their cars and homes. My generation knows how to dream. Will the generation after us be able to say the same? We must reach out and place the knowledge of the past into the hands of the future. When we empower the future generations with knowledge our country is sure to thrive. It is estimated that over one million men and women have died in service to our great country. Let us, America's present, take pride in our history and reach out to the future by passing along our knowledge and our great American dream stone. Because without a doubt America's future is whatever America dreams it to be.

PERSONAL EXPLANATION

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. RILEY. Mr. Speaker, I was unavoidably detained for Rollcall No. 295, on H.R. 4687,

EXTENSIONS OF REMARKS

the National Construction Safety Team Act. Had I been present, I would have voted "yea."

THE UNINSURED

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. CONYERS. Mr. Speaker, last week, on July 11, 2002, several of my colleagues, Ms. BALDWIN, Ms. LEE, Mr. MCDERMOTT, and Ms. CARSON, declared that it was time for this Congress to place universal health care at the top of the nation's political agenda. This declaration, I believe, was a defining moment for the universal health care movement in America. Not since 1994 have we seen such a visible and strong nationwide movement for universal health care.

Two years ago, in an attempt to create momentum and a unified strategy to achieve universal health care in Congress, I founded, along with Members of the Congressional Black Caucus, the Progressive Caucus, the Hispanic Caucus, and the Asian Pacific American Caucus, the "Congressional Universal Health Care Task Force," which now has 44 Members. For over two years we have sponsored briefings on Capitol Hill, attended town meetings on universal health care in cities across the country, and learned from health care experts about different ways to achieve universal health care.

Mr. Speaker, I introduced House Concurrent Resolution 99 with several of my colleagues from the "Congressional Universal Health Care Task Force," in order to build the momentum for passage of universal health care legislation by 2004.

We currently have 86 co-sponsors for this bill. There are over 325 national, state, and local organizations who support it as well. House Concurrent Resolution 99 does not specify how to pay for universal health care, nor does it spell out how a health care for all system would be administered. Instead, the resolution explicitly states what universal health care should be—affordable, comprehensive, and accessible for all Americans.

America is on the road to universal health care. How can we as members of Congress justify the fact that we have one of the best health insurance plans available, yet we allow 40 million Americans to have no health insurance coverage at all? Mr. Speaker, we cannot defend something that is clearly indefensible.

In the world's wealthiest country, my colleagues somehow can sleep at night knowing that right now in America, there are millions of patients, many of the children and families, that are having serious heart problems, lung problems, headaches, dental problems, mental illness, or other maladies, but are delaying treatment, not because they do not care about their health, but because the system does not care about them.

We now know empirically, based on the recent Institute of Medicine's 2002 report on the uninsured, that 18,000 Americans die each year because they were uninsured. If we truly care about the health and well being of working families, and those with serious illnesses

who are too sick to work, we would ensure that all Americans would have peace of mind, as they do in Europe and Canada, to accessible, affordable, high quality, and comprehensive health care for all guaranteed by law.

In Michigan, thousands of uninsured HIV/AIDS patients can not afford the necessary cocktail of life sustaining drugs due to budget cut backs of government subsidized HIV/AIDS prescription drug programs. Can we continue to allow the uninsured chronically ill, those who have serious physical or mental health problems to go without needed health care for long periods of time, jeopardizing their lives, and needlessly suffering due to having untreated illnesses? For Congress to ignore these health care injustices and continue to "wish our health crisis away" is both immoral and cold hearted.

Plain and simple, if you do not have health insurance, you will receive "second class medicine," as Consumer Reports magazine highlighted in an in depth story published last year. This is particularly true if you are African American or Hispanic. Might I remind you that the first question a nurse or hospital intake administrator asks the patient is not, "May I help you," but rather, "Do you have health insurance?" Health care in America for the most part is a business, and therefore, health care providers and physicians that are making money do not have an incentive to provide charity care.

The Kaiser Family Foundation recently reported that the majority of the uninsured do not receive comprehensive charity care in hospital emergency rooms or community clinics. Because there is no such thing as "universal charity care" in this country, we need universal health care and we need it now. Most uninsured patients with serious illnesses need long term health care treatment, prescription drugs, or medical equipment. Currently, millions of uninsured chronically ill patients must suffer the indignities of spending days and weeks searching for charity care. They often borrow money from relatives or friends just to purchase prescription drugs or to see a doctor. This is wrong and we all know it.

For the past two years, the "Congressional Universal Health Care Task Force" has sponsored several briefings with my colleagues from the Congressional Black Caucus, Progressive Caucus, Hispanic Caucuses, and the Asian Pacific American Caucus on the uninsured crisis in America. We have heard story after story of untold suffering by uninsured or under-insured Americans. We have also heard from numerous physicians who saw patients after their illness were full blown, many of them who died, because they delayed treatment only because they were uninsured. I urge Members of Congress to read "As Sick As it Gets," by Rudolph Mueller, M.D., a ground breaking book about the shocking reality of America's healthcare system. The book documents case after case of Dr. Mueller's patients who tragically became chronically ill, or died, as a result of delaying health care only because they were uninsured.

The Task Force has heard from numerous Americans whose credit was ruined for life, and went into bankruptcy due to thousands of dollars of unpaid medical bills. There are approximately 200,000 bankruptcies in America

each year due to unpaid medical bills. Individuals and families should not have to experience the pain and humiliation of declaring bankruptcy just because they got sick. I heard testimony last year from two Washington D.C. residents, a husband and wife with cancer, both high school teachers, who declared bankruptcy due to the high costs of chemotherapy. They were both insured at the time, but had to rely on their credit cards to cover the costs of treatment, due to inadequate private health insurance coverage. Their daughter, who has Hepatitis C, called dozens of doctors but was denied access because she was uninsured. She is having a difficult time returning to work, because she needs long term therapy and treatment in order to be productive again. This is a national disgrace.

Mr. Speaker, I do not believe, unlike many of my colleagues, that universal health care means the federal government provides vouchers so Americans can purchase costly and inferior or private health insurance, that in most cases, will not adequately cover one's health care needs, especially if an individual or family has a chronic illness. Universal health care is not a system where health decisions are made by HMO bureaucrats instead of physicians. Furthermore, it is not a system where the patient receives some kind of health insurance coverage through an HMO or a private health insurance plan, but does not have the freedom to choose their physician.

It is my hope that we will achieve universal health care one day by extending, strengthening, and expanding Medicare to all Americans. Medicare has a 2-3 percent administrative overhead, versus the 20-30 percent administrative overhead costs of an HMO or private health insurance plan. The CBO in 1991 reported that we would save \$ 100 billion dollars a year if we established a public health insurance program for all Americans. Many health care economists contend that a taxpayer financed national health insurance program would cost the average family of three a total of \$739 dollars a year for all of their health care costs, as opposed to the thousands of dollars needlessly wasted on premiums, co-pays, and high deductibles of a private health insurance plan. If we continue to support the idea that health care must be run like a business, and we continue to worship at the altar of private health insurance, it will be difficult if not impossible to cover the skyrocketing costs of primary care, prescription drugs, mental health services, and long term care through a private health insurance dominated system.

National health insurance would save billions of dollars through reduced emergency room visits, reduced chronic illnesses, and a dramatic reduction in uncompensated care for public hospitals which treat the uninsured after they have developed full blown chronic illnesses. Prevention is the key here. All Americans would have access to affordable primary care, and therefore, illnesses such as hypertension, cancer, heart conditions, pre-natal health conditions, respiratory, or kidney problems would be dramatically reduced due to having access to regularly scheduled check-ups.

Mr. Speaker, every sector of the American public is calling for health care coverage for

all. Citizens, business, labor, the faith community, civil rights organizations, community clinics, public hospitals, the media, physicians, state and local officials; all are calling for health care for all. The time has come for Congress to act on the crisis of the uninsured. Let's join the rest of the industrialized West, and ensure that all Americans receive high quality and affordable health care.

I urge my colleagues to co-sponsor House Concurrent Resolution 99. Let's show the American people that we truly care about their health. We can not allow another 18,000 Americans to die next year because they are uninsured.

DEATH OF DHIRUBHAI AMBANI

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. McDERMOTT. Mr. Speaker, as the current Co-Chairman of the Congressional Caucus on India and Indian American, I note with great sadness the recent death of Dhirubhai Ambani, the founder of The Reliance Group, India's largest and most profitable company.

Dhirubhai Ambani began his illustrious business career as a small trader of fabrics in rural Gujarat. Over the next half decade, he transformed his small business into a diverse economic powerhouse which included vibrant businesses in petrochemicals, petroleum, polyesters, telecommunications, securities and cutting edge technologies. Unlike many older Indian businesses, however, Reliance chose a new path on its ascendancy to becoming a Fortune World 500 Company, and Dhirubhai Ambani was the architect of Reliance's success. Dhirubhai Ambani chose not to keep his businesses as a family concern. Instead, he floated equity shares and thereby allowed millions of middle-class Indians to join with him in enjoying Reliance's decades of economic success. Indeed, there are now more than three million investors in India's largest and most widely held company, which is also the largest exporter from India, as well as the largest private sector source of revenue to the Indian government.

Mr. Speaker, Dhirubhai Ambani was a legend in India. He was also a role model for entrepreneurs around the world, as well as having served as a shining example of India's economic potential. I am confident that all of the Members of the India Caucus join with me in expressing our sympathy to the entire Ambani family. In particular, we send our heartfelt condolences to his widow, Kokilaben Ambani, and her two sons, Mukesh and Anil, who have assumed the helm of India's largest economic vessel. Dhirubhai Ambani's legacy is large, but his sons will continue to build on their father's many achievements.

IN SUPPORT OF H.R. 4687, NATIONAL CONSTRUCTION SAFETY TEAM ACT

SPEECH OF

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 12, 2002

Mr. CROWLEY. Mr. Speaker, I rise in support of H.R. 4687, the National Construction Safety Team Act. And I especially want to recognize my friend from New York, Anthony Weiner for his work on the bill.

As we all know, September 11th changed New York. It changed our world. Since September 11th, brave workers, volunteers, and scientific experts have traveled to Ground Zero in the name of recovery and understanding.

These workers, volunteers, and experts have all pushed themselves and their skills to the ultimate limit to deal with an unusually grave situation. And I commend them all.

In particular, the National Institute of Standards and Technology, NIST, had to deftly work with a myriad of concerned New Yorkers. There are thousands of affected family members who are both grieving and seeking answers. People like John and Kathy Ashton of Woodside, Sally Regenhart of Co-op City, and Arthur Taub of Co-op City. Some, like Mr. Taub, had concerns about the NIST investigation itself.

NIST has worked with constituents who wanted answers—and with constituents who had information.

Even seasoned NIST employees admitted they were covering new ground as no one could ever imagine such an event as 9/11 happening.

In the immediate aftermath of September 11th, NIST had to try to do its job amidst emergency respondents, police officers, and incomprehensible loss.

In this extraordinarily challenging situation, critical evidence—like beams, steel work, and cables—was being carted off before the NIST team had a chance to even catalogue or identify it.

Given the fact that the scope of this tragedy had never been seen before, it is understandable that the investigation would be less than ideal.

But it is important that we learn from this tragedy.

And there are several lessons to be learned from September 11th. One lesson is the importance of a swift and thorough investigation of a building failure.

NIST's response teams must have access to building debris as soon as it's safe to enter a site.

And they must be able to move and preserve this critical evidence. This bill gives NIST that authority.

Looking toward the future, it is important to do all we can to prevent a building failure of any kind from ever happening. This bill will allow us to obtain information to help prevent building failures.

And it is important for us to swiftly and thoroughly respond to the community when building failures, God forbid, happen. And this bill does that also.

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I urge your support of H.R. 4687.

IN RECOGNITION OF JOSE L.
LASTRA

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. SHAW. Mr. Speaker, I rise today to pay tribute to Jose L. Lastra, a man who has served with distinction in the Social Security Administration in South Florida for 30 years.

Born in Cardenas, Cuba in 1948, Jose Lastra arrived in the United States on September 28th, 1961, speaking no English and carrying with him nothing but a strong work ethic and determination. Graduating from Miami Edison High School in 1966, Jose continued his education, earning a degree in History with a minor in Political Science from Florida Atlantic University, with post-graduate studies at the University of Miami School of Hispanic American Studies and Florida International University's School of Public Administration.

Mr. Lastra entered public service on July 17, 1972, when he was hired for the position of Service Representative in the Miami Beach Social Security Office. This month marks his 30th anniversary with the Social Security Administration. Over the last three decades, Jose has served with distinction in a number of positions in the South Florida Area, including: service, claims and field representative, Hispanic Program Officer, and manager of the Cuban-Haitian Emergency Processing Office and the Riverside Branch Office. In recognition of his outstanding work, Jose was awarded the Commissioner's Citation in 1980, 1991, and 1992, and the Commissioner's Team Award in 1997.

In 1990, Mr. Lastra was appointed Area Director of South Florida. In this capacity, he oversees thirty-three Social Security field offices with a total staff of 978 employees. The South Florida Area includes more than 2 million Social Security beneficiaries, many of whom reside in my district. As Chairman of the House Social Security Subcommittee, I am especially grateful for all of Mr. Lastra's hard work on behalf of my senior constituents.

Today, I am pleased to recognize a man who has taken full advantage of what America offers. Coming to this country as a young immigrant from Cuba, he studied hard, worked tirelessly and rose from an entry level position to one of leadership in the Social Security Administration. A true sign of his character, Jose is held in the highest regard by those who work with him and for him. Jose L. Lastra's life and achievements represent the dream of opportunity that America so proudly boasts.

ON THE RETIREMENT OF JOHN
DURANT OF CUSTOMS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. CRANE. Mr. Speaker, it is my honor today to acknowledge the retirement of John

EXTENSIONS OF REMARKS

Durant, Director of Commercial Rulings for the U.S. Customs Service. Mr. Durant retires after 33 years of federal service, with almost 31 years of that time with Customs. John Durant served in Customs field offices in Boston and Houston, before coming to Headquarters office in Washington DC. John is well known to all members of the international trade community and the trade bar as a preeminent expert on Customs matters and has been instrumental in the effort to modernize Customs' procedures for the benefit of trade and our economy.

Thirty years has seen remarkable changes in how trade has taken on an ever more important role in our country's economic success. Just in the last decade, trade has grown 132 percent, and by 2004, Customs will be processing more than 30 million commercial entries a year. This is up from 12.3 million in 1994 more than double the level of 10 years earlier. John has had the unenviable but critical role in overseeing more than 12,000 commercial rulings that Customs issues each year on such arcane topics as tariff classification, country of origin and marking. He was also the liaison with the trade community for Customs during discussions leading up to the passage and implementation of the Customs Modernization Act of 1993.

For the Congress, however, Mr. Durant will always be known as Customs point man, and sometimes lightening rod, on trade legislation. For the past 14 years, Mr. Durant has been invaluable to the Congress in providing timely and useful technical comments on draft legislation. Much of trade legislation is not exciting or entertaining. It requires people who are professional, dedicated, and very attentive to detail. Mr. Durant is the leader of such men and women at Customs and he does so with a sense of humor. He has been the "man to see" at Customs for answers on trade matters. His retirement will be sorely felt by Customs, Congress, and the trade community.

I am very grateful for all of his help throughout the years. John is a delightful man to work with. We wish him the best in his retirement and his future endeavors. We hope Mr. Durant will return to the nation's Capital and lend his considerable talents to the private sector.

TRIBUTE TO MR. JOHN WALLACH

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. KNOLLENBERG. Mr. Speaker, today I join the chorus of voices around the world to express my admiration and respect for Mr. John Wallach. On July 10, 2002, John Wallach passed away after a life of passion, hope, and heart. I offer my condolences to the family and friends of this truly great man.

Throughout his life, John Wallach approached all things with heartfelt passion. As an award-winning journalist, peace activist, and friend to so many individuals throughout the world, Mr. Wallach inspired those around him to believe in themselves and achieve their dreams.

I had the opportunity to meet Mr. Wallach through his work as founder of, and force be-

hind, the organization Seeds of Peace. Seeds of Peace promotes understanding and long-term stability by uniting teenagers from areas of regional conflict for a unique mediating program at its neutral site in Otisfield, Maine. It was John Wallach's confidence that hope and progress can succeed that enabled Seeds of Peace to grow from simply an idea into the world leader in conflict resolution for youth. I have personally visited this camp in Maine, and seen first-hand the positive effect it has on the participants. Seeds of Peace has established a network of peace builders, who now serve as an inspirational part of John Wallach's legacy.

Before embarking on a second career as an ambassador of peace and mutual understanding, Mr. Wallach had a distinguished career in journalism and as an author. From 1968 to 1994, he served as diplomatic correspondent, White House correspondent, and foreign editor for the Hearst Newspapers. His articles earned many prizes, including two Overseas Press Club awards, the Edward Weintal Prize and the Edwin Hood Award, the highest honor presented by the National Press Club. In 1979, President Carter presented Mr. Wallach with the Congressional Committee of Correspondents Award for his coverage of the Egyptian-Israeli Camp David summit. As an author, he co-authored with his wife Janet Wallach, three books, Arafat: In The Eyes of the Beholder, Still Small Voices, and The New Palestinians. Mr. Wallach has also written The Enemy has a Face.

John Wallach was a man with an enormous heart. Throughout his life he took chances to make progress, and motivated others to follow their hearts. The world is a better place because of John Wallach, and I join many people around the world to commend him and thank him for what he has done.

STATEMENT ON INTERNATIONAL
AIDS CONFERENCE

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. CONYERS. Mr. Speaker, last week in Barcelona, Spain, 15,000 people came together for the 14th International AIDS Conference for "Knowledge and Commitment for Action."

We know that in 2001, there were 5 million new AIDS infections across the globe. Today there are 40 million people living with AIDS worldwide, and there are 14 million AIDS orphans. Currently, in Africa more than 28 million people are living with HIV/AIDS, however, only 30,000 are in treatment.

In comparison, in the United States, nearly 100 percent of the people who need treatment receive it. 99 percent of the African people living with AIDS do not have access to Antiretroviral drugs because they are simply too poor to purchase them.

In Barcelona, thousands came together to call for treatment now, and presented the "Barcelona Declaration," which was also read during the opening session of the Conference. Nelson Mandela and former President Clinton

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have pledged their assistance to help raise awareness and funding for the UN Global AIDS Trust Fund.

This declaration called for securing donations of \$10 billion per year for global AIDS; Antiretroviral (ARV) treatment for at least two million people with HIV/AIDS in the developing world by 2004; lower, affordable ARV drug prices and universal access to generics in the developing world; and a new global partnership between government and NGOs.

I am urging that Congress and the President in a bi-partisan spirit, bolster UN efforts to combat the AIDS pandemic, provide 2 billion dollars to the United Nations Global Aids Fund, to help pay for the costs of HIV/AIDS treatment and prevention programs. This Administration has allocated \$200 million to fight global AIDS. I wholeheartedly agree with the activists in Barcelona that \$200 million is not enough to combat "the Plague" of the 21st century.

The United States must put at least \$2 billion into the Global Trust Fund. Dr. Peter Piot, the Director of UNAIDS said that a \$10 billion effort will only begin to make a dent in the crisis. It is a falsehood to say that spending money on AIDS in Africa would simply be a waste of money. Critics of the fund incorrectly say that corrupt dictators will take the money and use it to enrich themselves. In Uganda, Thailand and Senegal, for example, strong national leadership partnered with a community-wide response are reducing new HIV infections and AIDS diagnoses and focusing on treatment measures for their people. There are hundreds of AIDS organizations and government officials around the world that are monitoring the progress of the Fund. Please . . . let's give it a chance to work.

I am urging today that my colleagues in Congress, the Bush Administration, the private sector, and the celebrity community begin lobbying the more affluent nations of the European Community and Asia to provide the remaining 8 billion necessary to combat the AIDS pandemic. France, Germany, Japan, Taiwan, and the oil rich Countries of the Middle East are not providing enough funding to the UN Global AIDS Trust.

I have often heard the argument that we can not afford to treat and prevent HIV/AIDS patients around the world who have AIDS, or will contract it in the future. Nobody on the planet can persuade me that America, and the industrialized countries of the East and West, nations with trillion dollar economies, do not have the resources to combat the AIDS pandemic. But the truth of the matter, and I have seen this for decades, is that the international community will follow our lead if we provide the moral and financial leadership on HIV/AIDS. Again, this has not been the case.

I am also urging my colleagues to call a meeting with the pharmaceutical companies, and begin the much needed discussion on how to bring the price of HIV/AIDS prescription drugs down so that the poorer nations, in particularly those in Africa, can afford to buy them or generic drugs. In times of international health disasters, we must put the lives of people first; and profits second. Sadly, this has not been the case.

In the United States, 950,000 people have been diagnosed with AIDS. African Americans

make up only 13 percent of the total U.S. population but 54 percent of new infections. 82 percent of women who are newly infected with HIV are African-American and Latino.

In Michigan, AIDS patients who are dependent on federal programs to help cover the costs of HIV/AIDS drugs are now saying that due to budget cuts, they are having difficulty affording HIV/AIDS drugs. We can not allow this to happen.

It is imperative that we as a nation provide the requisite funds necessary to provide adequate treatment and prevention for HIV/AIDS both at home and abroad.

COMMEMORATING THE 40TH WEDDING ANNIVERSARY OF JOE AND BARBARA SALTZMAN

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. HONDA. Mr. Speaker, I rise today to congratulate Joe and Barbara Saltzman who were married on July 1, 1962, and are now celebrating their 40th wedding anniversary. They are the children of Ruth and Murray Saltzman and Sid and Lillian Epstein, the parents of David and Michael Saltzman, the parents-in-law of Jennifer Saltzman, and the grandparents of Samantha and Sarah Saltzman.

Joe and Barbara Saltzman have been active as professional journalists in the community for four decades, with Joe Saltzman having won more than 50 awards as a broadcast journalist including the Columbia University-Pontiac broadcast journalism award, four Emmys, four Golden Mike's, two Edward R. Murrow Awards, a Silver Gavel, and one of the first NAACP Image Awards, and Barbara Saltzman having been a member of the Los Angeles Times staff for 22 years and editor of the daily Calendar section.

When their son David, a Chadwick School graduate, tragically died of Hodgkin's disease after graduating from Yale, Joe and Barbara could have turned their backs on the world. Instead, they mortgaged their house to keep a promise they had made to David. They promised that if he finished his children's book, *The Jester Has Lost His Jingle*, they would make sure it would be published in the way he envisioned it and would donate it to children who were suffering from illnesses.

Joe and Barbara made that promise a reality producing more than 40,000 Jester books and 35,000 Jester & Pharley Dolls that have been donated to ill and special-needs children. The book has also become a national best-seller and there are more than 300,000 copies in circulation. To further their efforts, Joe and Barbara Saltzman have created The Jester & Pharley Phund, a non-profit charity so that they can continue the mission of giving every child a sense of hope, a feeling of empowerment, a love of learning, the joy of laughter, and the desire to live up to The Jester & Pharley's motto: "It's up to us to make a difference, it's up to us to care. . . ."

Barbara has become "The Jester's Mom" bringing the Jester & Pharley's message of

hope and laughter to thousands of children in hospitals and schools throughout the country. Joe has served the community as a professor of journalism at the University of Southern California Annenberg School for Communication for more than 35 years and continues to serve as an educator, academic, journalist and administrator.

Mr. Speaker, Joe and Barbara Saltzman have dedicated their lives to helping children who need to hear the Jester's message and have made a significant difference in the lives of so many people who need to find hope and laughter. I commend their commitment in bringing a little more happiness to all our lives.

TRIBUTE TO CARDINAL WILFRID NAPIER, OFM, OF DURBAN, SOUTH AFRICA AND THE ARCHDIOCESE OF DETROIT

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. BONIOR. Mr. Speaker, I rise today to recognize the Archdiocese of Detroit, which has joined with the U.S. Conference of Catholic Bishops and Catholic Relief Services to stand in solidarity with Africa through the Africa Rising: Hope and Healing Campaign. Encouraging members of the Metro Detroit Catholic community to engage in advocacy, dialogue, and prayer, they have joined this campaign to truly put their faith to work. On Sunday, June 30, 2002, the Archdiocese of Detroit had the distinguished honor of hosting Cardinal Wilfrid Napier, OFM, of Durban, South Africa, as part of their Africa Rising: Hope and Healing Campaign.

Born in Matatiele, South Africa, in 1941, Cardinal Napier studied in Ireland and France and completed a Masters Degree in Philosophy and Theology. Ordained a priest in 1970 and then appointed Administrator Apostolic of the Diocese of Kokstad and made Bishop of Kokstad in 1981, Cardinal Napier's vibrance and leadership was apparent from the start. Serving two terms as President of the Southern African Catholic Bishops' Conference from 1987-1994, Cardinal Napier went on to be appointed Archbishop of Durban in 1992. In 1998 Pope John Paul II appointed him as Consultor to the Congregation for the Evangelization of the Peoples, and in February of 2001, he was named Cardinal. An outspoken advocate for HIV-AIDS treatment, poverty eradication, debt relief, and development, Cardinal Napier's outstanding work to create innovative new programs and initiatives for these social justice issues is truly unparalleled. He has taken up the challenge to fight for the people of sub-Saharan Africa and continues to work hard for the advancement of his region and beyond.

I applaud Cardinal Napier for the work he has accomplished and continues to do, and I welcome him to the United States and to Detroit, Michigan. I also applaud the Archdiocese of Detroit for its leadership, commitment, and service, and for encouraging our community to stand in solidarity with our brothers and sisters in Africa. I urge my colleagues to join me in

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saluting Cardinal Napier, and pay tribute to him as he embarks on this historic visit.

**THE FREE HOUSING MARKET
ENHANCEMENT ACT**

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. PAUL. Mr. Speaker, I rise to introduce the Free Housing Market Enhancement Act. This legislation restores a free market in housing by repealing special privileges for the housing-related government sponsored enterprises (GSE). These entities are the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the National Home Loan Bank Board. According to the Congressional Budget Office, the housing-related GSEs received 13.6 billion worth of indirect federal subsidies in Fiscal Year 2000 alone.

One of the major government privileges granted the GSEs is a line of credit to the United States Treasury. According to some estimates, the line of credit may be worth over \$2 billion dollars. This explicit promise by the Treasury to bail out the GSEs in times of economic difficulty helps the GSEs attract investors who are willing to settle for lower yields than they would demand in the absence of the subsidy. Thus, the line of credit distorts the allocation of capital. More importantly, the line of credit is a promise on behalf of the government to engage in a massive unconstitutional and immoral income transfer from working Americans to holders of GSE debt.

The Free Housing Market Enhancement Act also repeals the explicit grant of legal authority given to the Federal Reserve to purchase the debt of the GSE. GSEs are the only institutions besides the United States Treasury granted explicit statutory authority to monetarize their debt through the Federal Reserve. This provision gives the GSEs a source of liquidity unavailable to their competitors.

Ironically, by transferring the risk of a widespread mortgage default, the government increases the likelihood of a painful crash in the housing market. This is because the special privileges of Fannie and Freddie have distorted the housing market by allowing Fannie, Freddie and the home loan bank board to attract capital they could not attract under pure market conditions. As a result, capitol is diverted from its most productive use into housing. This reduces the efficacy of the entire market and thus reduces the standard of living of all Americans.

However, despite the long-term damage to the economy inflicted by the government's interference in the housing market, the government's policies of diverting capital to other uses creates a short-term boom in housing. Like all artificially-created bubbles, the boom in housing prices cannot last forever. When housing prices fall, homeowners will experience difficulty as their equity is wiped out. Furthermore, the holders of the mortgage debt will also have a loss. These losses will be greater than they would have otherwise been had government policy not actively encouraged over-investment in housing.

EXTENSIONS OF REMARKS

Perhaps the Federal Reserve can stave off the day of reckoning by purchasing the GSE's debt and pumping liquidity into the housing market, but this cannot hold off the inevitable drop in the housing market forever. In fact, postponing the necessary, but painful market corrections will only deepen the inevitable fall. The more people invested in the market, the greater the effects across the economy when the bubble bursts.

No less an authority than Federal Reserve Chairman Alan Greenspan has expressed concern that the government subsidies provided to the GSEs make investors underestimate the risk of investing in Fannie Mae and Freddie Mac.

Mr. Speaker, it is time for Congress to act to remove taxpayer support from the housing GSEs before the bubble bursts and taxpayers are once again forced to bail out investors who were misled by foolish government interference in the market. I therefore hope my colleagues will stand up for American taxpayers and investors by cosponsoring the Free Housing Market Enhancement Act.

**INTRODUCTION OF THE DEFICIT
REDUCTION SAFEGUARD RESOLUTION**

HON. JOHN SULLIVAN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. SULLIVAN. Mr. Speaker, I rise today to introduce the Deficit Reduction Safeguard Resolution. The House Deficit Reduction Safeguard Resolution will allow Members of Congress to reduce the federal deficit by crediting money to the Deficit Reduction Safeguard Balance.

Under current budget and House Rules, when a Member offers an amendment to reduce spending the money saved is left on the table and available for someone else to spend on another program. Members are not allowed to offer amendments and direct the savings to deficit reduction. As a result, there is little incentive to reduce wasteful spending in order to reduce the deficit.

The Deficit Reduction Safeguard Balance would correct this problem by amending House Rules to permit a Member to dedicate the money saved from any amendment to be dedicated to reducing the deficit. The Deficit Reduction Safeguard Balance only amends House Rules. It does not require approval by the Senate. This Resolution applies to both mandatory and discretionary spending. We have maxed out Uncle Sam's credit card and until we pay down the debt it is shortsighted for us to continue spending without restraint.

This Resolution is about honesty with the American public. A dollar saved should actually be a dollar saved, not a dollar added to another program. I urge my colleagues to co-sponsor this Resolution.

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PERSONAL EXPLANATION

HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. TIAHRT. Mr. Speaker, on Friday, July 12, I was unavoidably detained and missed roll call vote numbered 295.

Rollcall vote 295 was on passage of H.R. 4687, legislation which would provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life.

Had I been present, I would have voted "yea" on this bill.

**TRIBUTE TO DIOCESE BISHOP
CHARLES M. LASTER 20TH PASTORAL
ANNIVERSARY PENTECOSTAL
TEMPLE CHURCH**

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. BONIOR. Mr. Speaker, as the congregation of the Pentecostal Temple Church gathered together on Sunday July 14, 2002, they celebrated the 20th Pastoral Anniversary of Diocese Bishop Charles M. Laster. A life-long leader and devoted pastor, Bishop Laster has truly demonstrated his commitment to advancing the mission of Pentecostal Temple Church across southeastern Michigan. As the members and friends of Bishop Laster and Elect Lady Jacqueline Laster gathered to celebrate this special anniversary, they paid tribute to their outstanding years of activism, leadership, and faith.

Bishop Laster has been preaching the Gospel to the congregation of Pentecostal Temple Church, located in Detroit Michigan, since 1982. As his glorious message and ministry has been received, he has shown a special dedication to making a positive difference in the lives of others. An active force in his community, he has worked tirelessly with the Pentecostal Temple Church throughout the years in organizing several programs and ministries as well as working with many organizations around the State of Michigan. With community outreach programs, social and religious events, charity work for those in need, and statewide and national conferences, his involvement with church and beyond has been an inspiration to all. In fact, Bishop Laster's leadership has truly become a legacy, as he has led his congregation and community to greatness.

Bishop Laster's distinguished service and outstanding dedication to improving the lives of people through faith will continue to serve as an example to communities across this Nation. I applaud Bishop Laster for his leadership, commitment, and service, and I urge my colleagues to join me in saluting him for his exemplary years of faith and service on this very special 20th Pastoral Anniversary.

H.R. 5017

SPEECH OF

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Ms. McCOLLUM. Mr. Speaker, I rise in strong support of H.R. 5017, a bill that creates an opportunity for the United States to implement agreements with foreign countries to assist us as we battle severe wildfires.

During the devastating wildfires two years ago, both Australia and New Zealand provided the United States much needed help. Following the 2000 fire season, long-term agreements for firefighting assistance were negotiated with these countries. Unfortunately, these agreements have not been implemented because of concerns that foreign firefighters could be held liable for actions taken while providing assistance in the United States. H.R. 5017 removes this barrier and extends liability protection to foreign firefighters providing service to our nation by treating them the same as U.S. employees. At the same time, it requires those countries with which we enter reciprocal firefighting agreements to extend the same protection to U.S. firefighters who lend support overseas, or across our borders.

The valuable assistance firefighters from other countries provide to the United States is not new. For years, the collaborative relationship we have developed with Canada has protected property, resources and lives. Forest fires do not recognize international boundaries. It is vital we continue to work with other countries to ensure that wild fires are prevented and contained.

Just last week lightening started a 450-acre wildfire in the northeast corner of Minnesota, north of the small town of Hovland. Since the risk of wildfire is low in Minnesota, much of the state's firefighting resources had been sent west to help with the forest fires there leaving us shorthanded. Because of our close working relationship with Ontario's natural resource agency, Canadian firefighters were able to bring the Hovland fire quickly under control.

Unfortunately, not every country has the unique and special relationship that the United States has with Canada in fighting wildfires. H.R. 5017 will allow the U.S. Government to develop similar firefighting relationships with other countries around the world and enhance the relationship we have with one of our neighbors. We must help each other. I am pleased the House addressed this issue today and am proud to lend my support.

REGARDING H.R. 5068, ALLOWING UNINSURED WOMEN TO OBTAIN TREATMENT FOR OVARIAN AND UTERINE CANCER

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mrs. MINK of Hawaii. Mr. Speaker, Congress passed the Breast and Cervical Cancer

Treatment Act (P.L. 106-354) to help low-income, uninsured women with breast and cervical cancer.

Before passing this act, low-income women could receive free mammograms and pap smears through the CDC's National Breast and Cervical Cancer Early Detection Program. However, women who were diagnosed with cancer could not obtain financial assistance for treatment. The government found diseases that could kill these women, but it did not help them obtain the medical treatment they needed.

P.L. 106-354 corrected this problem by providing federal funds to treat any breast or cervical cancer detected by the CDC's early detection program.

Congress passed P.L. 106-354 so poor women suffering from breast and cervical cancer could focus on dealing with their illness rather than paying for expensive medical bills. The law allows these women to obtain medical coverage for cancer treatments and medicine.

My bill, H.R. 5086, amends the Breast and Cervical Cancer Treatment Act to include ovarian and uterine cancer. It will provide medical treatment for women who are screened by the CDC's early detection program and who are found to have ovarian and uterine cancer.

My bill takes the next logical step by helping low-income women with ovarian and uterine cancer, two of the most devastating cancers faced by women. Ovarian cancer is the 5th leading cause of cancer death in women. Every year almost 40,000 new cases of uterine cancer are diagnosed in the U.S., and approximately 6,600 women will die from uterine cancer.

I urge my colleagues to help women who live in poverty and cannot obtain the cancer treatments they desperately need.

TO HONOR MR. VINCENT ROIG FOR HIS MERITORIOUS ACHIEVEMENTS

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. PASTOR. Mr. Speaker, it is with great pleasure that I rise before you today and take this opportunity to recognize the meritorious achievements of an outstanding Arizonan and American, Mr. Vincent Roig.

Mr. Roig has distinguished himself as a leader in the essential work of providing educational opportunities for qualified citizens. From his early years as an educator and financial aid administrator at a number of universities, he dedicated himself to helping young people gain the knowledge and skills that they would need throughout their life.

In 1982, he was one of the founders of the Arizona Educational Loan Marketing Corporation, the state's secondary market for Federal student loans, which is now an affiliate of the Southwest Student Services Corporation.

Although the Congress of the United States had the foresight to create the Federal Family Education Loan Program, it takes the leadership and dedication of a person such as Mr. Roig, Chairman and Chief Executive Officer of

Southwest Student Services Corporation, to effectively implement the Congress' intended goal. The Southwest Companies initially supported only students at Arizona colleges and universities. However, to date, they have provided more than \$3 billion to more than one million parents and students nationally in support of providing financial access to post-secondary education.

Under the initiative and leadership of Mr. Roig, not only have the Southwest Companies facilitated the availability of student financial support, they have reduced costs to the borrowers and provided the critically important informational services that ensure that low-income families understand that educational opportunity is available to them. Mr. Roig has worked tirelessly with the U.S. Department of Education, Congressional Subcommittees and the many organizations supporting student financial assistance to bring about useful change and modernization to improve service to educational institutions and students alike. In recognition of his efforts, in 2001 he was awarded the Jean S. Frohlicher Outstanding Service Award by the National Council of Higher Education Programs. This is a prestigious award for which he was chosen by his peers for his exceptional service.

Today, on the occasion of the celebration of Southwest Companies' 20th Anniversary, I ask my colleagues to join me in extending our heartiest congratulations to Southwest Student Services Corporation and to Mr. Vincent Roig for his 20 years of leadership and dedication.

TRIBUTE TO RAY TOWNSHIP

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 2002

Mr. BONIOR. Mr. Speaker, today I rise to recognize Ray Township, whose outstanding dedication and commitment to the service of its community has led to a great accomplishment. On Sunday, June 30, 2002, Ray Township will be celebrating its 175th Anniversary.

Ray Township today is a flourishing center of civic and social activities and resources for families of the community. With a great emphasis on community service, Ray Township has opened its doors throughout the years to welcome community members to civic gatherings, conferences, club meetings, and events for the entire family. Ray Township's Historical Committee will be honoring the many years of service by presenting the State of Michigan's Registered Historical Site Plaque.

Community will always serve as the cornerstone of Ray Township. While maintaining this community spirit, Ray Township is expanding, by bringing in new levels of technology and resources. The community of Ray Township has dedicated its time and talents to bring its community into the 21st Century, and they have been successful. While continuing to progress, Ray Township's roots will forever be memorialized by the Historical Plaque that will be unveiled at the anniversary celebration. The

plaque will represent the First Religious Society of Ray built in 1869, currently the township's Town Hall, and the Ray Township District School House of 1863, currently the township's library. Because of this community unwavering support throughout its remarkable history, Ray Township has become a place that will continue to cultivate its historic roots as well as reach out to younger generations.

Ray Township is a true testament to the hard work and dedication of community members and their families. I applaud the people of Ray Township for their leadership, commitment, and service, and I urge my colleagues to join me in congratulating them on this landmark occasion.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 16, 2002 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 17

9:30 a.m.
Commerce, Science, and Transportation
Consumer Affairs, Foreign Commerce, and
Tourism Subcommittee
To hold hearings on proposed legislation
authorizing funds for the Federal Trade
Commission.

SR-253

10 a.m.
Indian Affairs
To hold oversight hearings to examine
the protection of Native American sacred
places.

SR-485

Judiciary
Constitution Subcommittee
To hold hearings on S.J.Res.35, proposing
an amendment to the Constitution of
the United States to protect the rights
of crime victims.

SD-226

Health, Education, Labor, and Pensions
Business meeting to consider S.2394, to
amend the Federal Food, Drug, and
Cosmetic Act to require labeling containing
information applicable to pediatric
patients; S.2499, to amend the Federal
Food, Drug, and Cosmetic Act to
establish labeling requirements regarding
allergenic substances in food;

EXTENSIONS OF REMARKS

S.1998, to amend the Higher Education Act of 1965 with respect to the qualifications of foreign schools; proposed legislation authorizing funding for the Child Care and Development Block Grant; and the nomination of Richard H. Carmona, of Arizona, to be Medical Director in the Regular Corps of the Public Health Service, and to be Surgeon General of the Public Health Service.

SD-430

Finance
To hold hearings to examine schemes, scams, and cons regarding fuel tax fraud.

SD-215

Joint Economic Committee
To hold hearings to examine economic outlook issues. 2226, Rayburn Building
10:30 a.m.

Foreign Relations
To resume hearings on the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002 (Treaty Doc.107-08).

SD-419

2 p.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine Homeland Security.

SH-216

Governmental Affairs
To hold hearings to examine the nomination of Mark W. Everson, of Texas, to be Deputy Director for Management, Office of Management and Budget.

SD-342

2:30 p.m.
Banking, Housing, and Urban Affairs
Housing and Transportation Subcommittee
To hold oversight hearings to examine public mass transit systems.

SD-538

JULY 18

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine the role of Enron Corporation energy services in the western state electricity crisis.

SR-253

Aging
To hold hearings to examine issues with respect to identify theft.

SD-628

10 a.m.
Indian Affairs
To hold hearings to examine proposed legislation to approve the settlement of water rights claims of the Zuni Indian Tribe in Apache County, Arizona.

SR-485

Judiciary
Business meeting to resume markup of H.R.3375, to provide compensation for the United States citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001; and S.486, to reduce the risk that innocent persons may be executed; and to begin mark up of S.862, to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2002 through 2006 to carry out the State Criminal Alien Assistance Program; S.2395, to prevent and punish counterfeiting and copyright piracy; S.2513, to assess the

extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence; and S.Res.293, designating the week of November 10 through November 16, 2002, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

SD-226

Banking, Housing, and Urban Affairs
To hold hearings on the nominations of Paul S. Atkins, of Virginia, and Harvey Jerome Goldschmid, of New Jersey, each to be a Member of the Securities and Exchange Commission.

SD-538

Intelligence
To hold joint closed hearings with the House Permanent Select Committee on Intelligence to examine events surrounding September 11, 2001.

S-407, Capitol

Environment and Public Works
To hold hearings on the nominations of John S. Bresland, of New Jersey, to be a Member, and Carolyn W. Merritt, of Illinois, to be a Member and Chairperson, both of the Chemical Safety and Hazard Investigation Board.

SD-406

2 p.m.
Indian Affairs
To hold hearings on proposed legislation to ratify an agreement to regulate air quality on the Southern Ute Indian Reservation.

SR-485

Judiciary
To hold hearings to examine pending nominations.

SD-226

Agriculture, Nutrition, and Forestry
Production and Price Competitiveness Subcommittee
To hold hearings on S.532, to amend the Federal Insecticide, Fungicide, and Rodenticide Act to permit a State to register a Canadian pesticide for distribution and use within that State.

SR-332

Appropriations
Business meeting to markup H.R.5010, making appropriations for the Department of Defense for the fiscal year ending September 30, 2003; proposed legislation making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2003; proposed legislation making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2003; and proposed legislation making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2003.

S-128, Capitol

2:15 p.m.
Foreign Relations
Business meeting to consider pending calendar business.

SD-419

2:30 p.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of Frederick W. Gregory, of Maryland, to be Deputy Administrator of the National Aeronautics and Space Administration; and Kathie L. Olsen, of Oregon,

and Richard M. Russell, of Virginia, each to be an Associate Director of the Office of Science and Technology Policy.

SR-253

Energy and Natural Resources
National Parks Subcommittee

To hold hearings to examine S.1865, to authorize the Secretary of the Interior to study the suitability and feasibility of establishing the Lower Los Angeles River and San Gabriel River watersheds in the State of California as a unit of the National Park System; S.1943, to expand the boundary of the George Washington Birthplace National Monument; S.2571, to direct the Secretary of the Interior to conduct a special resources study to evaluate the suitability and feasibility of establishing the Rim of the Valley Corridor as a unit of the Santa Monica Mountains National Recreation Area; S.2595, to authorize the expenditure of funds on private lands and facilities at Mesa Verde National Park, in the State of Colorado; and H.R.1925, to direct the Secretary of the Interior to study the suitability and feasibility of designating the Waco Mammoth Site Area in Waco, Texas, as a unit of the National Park System.

SD-366

JULY 19

10 a.m.

Intelligence

To continue joint closed hearings with the House Permanent Select Committee on Intelligence to examine events surrounding September 11, 2001. S-407, Capitol

JULY 23

9:30 a.m.

Governmental Affairs
Investigations Subcommittee

To hold hearings to examine the role of financial institutions in the collapse of Enron Corporation, focusing on the contribution to Enron's use of complex transactions to make the company look better financially than it actually was.

SD-342

JULY 24

9:30 a.m.

Veterans' Affairs

To hold hearings to examine mental health care issues.

SR-418

10 a.m.

Indian Affairs

To hold hearings on S. 1344, to provide training and technical assistance to Native Americans who are interested in commercial vehicle driving careers.

SR-485

Joint Economic Committee

To hold hearings to examine the measuring of economic change. 311, Cannon Building

JULY 25

2:30 p.m.

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine S. 2672, to provide opportunities for collaborative restoration projects on National Forest System and other public domain lands.

SD-366

JULY 30

9:30 a.m.

Governmental Affairs

Investigations Subcommittee

To resume hearings to examine the role of financial institutions in the collapse of Enron Corporation, focusing on the contribution to Enron's use of complex transactions to make the company look better financially than it actually was.

SD-342

10 a.m.

Indian Affairs

To hold hearings on proposed legislation concerning the Department of the Interior/Tribal Trust Reform Taks Force; and to be followed by S. 2212, to establish a direct line of authority for the Office of Trust Reform Implementations and Oversight to oversee the management and reform of Indian trust funds and assets under the jurisdiction of the Department of the Interior, and to advance tribal management of such funds and assets, pursuant to the Indian Self-Determinations Act.

SR-485

JULY 31

9:30 a.m.

Finance

To hold hearings to examine the Report of the President's Commission to Strengthen Social Security.

SD-215

10 a.m.

Indian Affairs

To hold oversight hearings to examine the application of criteria by the Department of the Interior/Branch of Acknowledgment.

SR-485

Governmental Affairs

Oversight of Government Management, Restructuring and the District of Columbia

Subcommittee

To hold hearings to examine consumer safety and weight loss supplements, focusing on the extent of the use of supplements for weight loss purposes, the validity of claims currently being made for and against weight loss supplements, and the structure of the current federal system of oversight and regulation for dietary supplements.

SD-342

AUGUST 1

10 a.m.

Indian Affairs

To hold oversight hearings to examine the Secretary of the Interior's Report on the Hoopa Yurok Settlement Act.

SR-485

2 p.m.

Indian Affairs

To hold oversight hearings to examine problems facing Native youth.

SR-485

POSTPONEMENTS

JULY 18

9:30 a.m.

Energy and Natural Resources

To hold hearings to examine the effectiveness and sustainability of U.S. technology transfer programs for energy efficiency, nuclear, fossil and renewable energy, and to identify necessary changes to those programs to support U.S. competitiveness in the global marketplace.

SD-366

10:30 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine Food and Drug Administration regulation of tobacco products.

SD-430